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STATE OF SOUTH CAROLINA No Respondent's Brief Filed

In The Court of Appeals

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APPEAL FROM CHEROKEE COUNTY

Roger L. Couch, Circuit Court Judge

APR 18 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ASHLEY MARTIN

APPELLANT

APPELLANT CASE NO. 2015-001925

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED SEPTEMBER 3, 2015	1
MOTION TO SEQUESTER WITNESSES	6
RULING BY THE COURT	7
MOTION IN LIMINE	9
RULING BY THE COURT	10
JURY VOIR DIRE	11
JURY SELECTION	22
OPENING STATEMENT BY MR. BAIN	41
OPENING STATEMENT BY MR. THOMPSON	42
TESTIMONY	
GARY LYNN COOK	47
BRIAN BLANTON	50
TIFFANY MOSIER	63
DANIEL MOSIER	84
AMBER MOSIER	94
STATE RESTS	104
MOTION FOR A DIRECTED VERDICT	105
RULING BY THE COURT	105
COLLOQUY OF DEFENDANT ON HER RIGHT TO TESTIFY	106

TESTIMONY

LEYLONNE MARTIN	111
MICHELLE PATTERSON.....	122
DEFENSE RESTS	132
RENEWAL OF MOTION FOR A DIRECTED VERDICT	132
RULING BY THE COURT	132
CLOSING ARGUMENT BY MR. THOMPSON	133
CLOSING ARGUMENT BY MR. BAIN	139
CHARGE ON THE LAW.....	142
VERDICT	159
MOTION FOR A NEW TRIAL	161
RULING BY THE COURT	161
SENTENCING.....	163
SENTENCE SHEET AND INDICTMENT.....	167
STATE'S EXHIBIT NO. 1 (PHOTOGRAPH).....	171
STATE'S EXHIBIT NO. 2 (PHOTOGRAPH).....	172
STATE'S EXHIBIT NO. 3 (PHOTOGRAPH).....	173
STATE'S EXHIBIT NO. 4 (VOLUNTARY STATEMENT).....	174
COURT'S EXHIBIT NO. 1 (NOTE FROM JURY).....	175
CERTIFICATE OF COUNSEL.....	176

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Ashley Martin,) 2014-GS-11-0635
6 Defendant.) September 3, 2015
7 Gaffney, South Carolina

8
9
10 B E F O R E:

11 HONORABLE ROGER L. COUCH, JUDGE; and a jury
12
13

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1	<u>INDEX</u>	
2		<u>PAGE</u>
3	GARY LYNN COOK	
4	Direct examination by Mr. Bain	47
5	Cross-examination by Mr. Thompson	49
6	BRIAN BLANTON	
7	Direct examination by Mr. Bain	50
8	Cross-examination by Mr. Thompson	57
9	Redirect examination by Mr. Bain	60
10	TIFFANY MOSIER	
11	Direct examination by Mr. Bain	63
12	Cross-examination by Mr. Thompson	75
13	Redirect examination by Mr. Bain	81
14	Recross-examination by Mr. Thompson	83
15	DANIEL MOSIER	
16	Direct examination by Mr. Bain	84
17	Cross-examination by Mr. Thompson	89
18	Redirect examination by Mr. Bain	93
19	A.M.	
20	Direct examination by Mr. Bain	94
21	Cross-examination by Mr. Thompson	100
22	LEYLONNE MARTIN	
23	Direct examination by Mr. Thompson	111
24	Cross-examination by Mr. Bain	116
25		

INDEXPAGE

MICHELLE PATTERSON

Direct examination by Mr. Thompson

122

Cross-examination by Mr. Bain

126

1	Jury qualification	11
2	Jury sworn	28
3	Opening statements	41
4	Closing arguments	133
5	Jury charge	142
6	Verdict	159
7	Sentence	160
8	Certificate of reporter	166
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Photograph	11	53
S-2	Photograph	11	53
S-3	Photograph	11	53
S-4	Statement of Tiffany Mosier	66	67
C-1	Note from the jury	158	

MOTIONS AND MATTERS

1 THE COURT: Alright, we're on the record in the case the
2 State a South Carolina vs. Ashley Danielle Martin, uh, Case
3 Number 14-GS-11, uh, 635, the charge is a tattoo of a minor
4 person under the age of 18. Uh, Mr. Bain, the State seeking
5 to prosecute that charge?

6 MR. BAIN: Excuse me, Your Honor?

7 THE COURT: You prosecuting this charge?

8 MR. BAIN: Yes, sir, Your Honor.

9 THE COURT: Alright. I assume your client has
10 been arraigned on the charge, is that correct correct,
11 Mr. Thompson?

12 MR. THOMPSON: It is.

13 THE COURT: Is she still pleading not guilty?

14 MR. THOMPSON: Yes.

15 THE COURT: Does she demand trial by jury?

16 MR. THOMPSON: Yes, sir.

17 THE COURT: Alright, now is there any matters from the
18 State's perspective that we need to take up before we enter
19 jury selection?

20 MR. BAIN: Your Honor, the State's only request in this
21 case is that the witnesses all be sequestered. There's been,
22 uh, different statements given, one witness has recanted, uh,
23 we would just ask that possibly the victim be able to sit
24 through all the witness testimony ---

25 THE COURT: Alright.

MOTIONS AND MATTERS

1 MR. BAIN: --- but everybody else be sequestered.

2 THE COURT: Defense have a position in regard to the
3 motion?

4 MR. THOMPSON: I have no problem with that.

5 THE COURT: Alright. I will grant the State's motion to
6 sequester witnesses. Now what that means if you're in the
7 courtroom and you we -- are listed as a potential witness in
8 the case, I'm going to ask that you step outside the
9 courtroom, uh, don't leave this level, uh, want you to stay
10 where we can find ya, uh, is there a place where they can wait
11 in the courthouse?

12 MR. BAIN: We have two -- three chairs in our office, uh,
13 and I think we have three witnesses so they can sit in our
14 office.

15 MR. THOMPSON: I guess our witness'll sit in the
16 hall ---

17 THE COURT: Okay.

18 MR. THOMPSON: --- I mean, I don't know where else ---

19 THE COURT: Alright, ---

20 MR. THOMPSON: --- they would go.

21 THE COURT: --- then we'll -- you can, you can try to
22 make 'em comfortable out there, Ms. Bolin, if you can but be
23 sure that they're where we can locate them. During the trial
24 of the case I will order that none a the witnesses discuss
25 their testimony with any other witness, uh, that will only be

MOTIONS AND MATTERS

1 lifted upon the final, uh, verdict in the case and the case
2 ending. Uh, now as far as the State is concerned, is there
3 any person who is listed as a witness that you feel is
4 necessary to consult with you during the trial?

5 MR. BAIN: Your Honor, the State would just request that
6 the victim would be allowed to sit.

7 THE COURT: Alright. And who i -- the victim is ---

8 MR. BAIN: A.M. ---

9 THE COURT: --- let's see, ---

10 MR. BAIN: --- A.M. , Your Honor.

11 THE COURT: Alright, Am -- A.M. and her name
12 is now Mois -- A.M. ?

13 MR. BAIN: A.M. , Your Honor, yes.

14 THE COURT: Alright, she can stay in the courtroom, she's
15 alleged victim in the case, uh, other witnesses must leave,
16 you have, uh, your defendant, uh, can remain obviously ---

17 MR. THOMPSON: Yeah.

18 THE COURT: --- so that that's fine. Alright, the ---

19 MR. THOMPSON: The only other thing and I don't intend
20 for we have Michelle Patterson listed, ---

21 THE COURT: Right.

22 MR. THOMPSON: --- she's supposed to be here but I have
23 not been able to talk with her, I would like to briefly be
24 able talk to her, see what she is definitely ---

25 THE COURT: Alright, ---

MOTIONS AND MATTERS

1 MR. THOMPSON: --- gonna say.

2 THE COURT: --- when she arrives I'll allow you to talk
3 to her, ---

4 MR. THOMPSON: Yes.

5 THE COURT: --- Mr. Thompson. Alright, anyone who's a
6 potential witness leave the courtroom.

7 MR. THOMPSON: Oh, Your Honor, I understand she's here so
8 I might be able talk to her in just a minute 'fore ---

9 THE COURT: Alright, ---

10 MR. THOMPSON: --- we start.

11 THE COURT: --- step outside regardless, please, if
12 you're a potential witness.

13 THE BAILIFF: Judge, all our jurors are here.

14 THE COURT: Thank you. We've got a jury so we're ready
15 to go, just just one sec.

16 (Pause.)

17 THE COURT: Alright, now I think they've left the
18 courtroom, anything else from the State?

19 MR. BAIN: Nothing else from the State, Your Honor.

20 THE COURT: Alright, Mr. Thompson?

21 MR. THOMPSON: Your Honor, the only thing I have is I do
22 have a motion in limine. Uh, the statute that Ms. Martin's
23 charged under has various elements that could be a violation
24 of the tattooing ordinance and and one of 'em is not being a
25 licensed tattooer. Uh, the indictment though only alleges

MOTIONS AND MATTERS

1 that the vi -- the only violation alleged in the
2 indictment ---

3 THE COURT: Under age.

4 MR. THOMPSON: --- is under 18.

5 THE COURT: Right.

6 MR. THOMPSON: Now in some of the discovery I've got
7 there's some discussion that she's not a licensed tattooer so
8 since she's not charged with that and that that's not an
9 element of under 18, that's a a potential violation the
10 statute, they've got several listed there, we would simply
11 move that there be no mention of whether or not she's licensed
12 or certified or or anything like that.

13 THE COURT: The State intend to introduce that into the
14 trial?

15 MR. BAIN: No, sir, Your Honor, I tried long and hard
16 figure out the probative value of that this case but ---

17 THE COURT: Well as far as whether or not she tattooed an
18 under age person, that's that I don't think would have any
19 probative value I would agree and so motion granted.

20 MR. THOMPSON: Thank you.

21 MR. BAIN: Alright. May have a few moments to instruct
22 all my witnesses not to use that, uh, ---

23 THE COURT: Yes, sir.

24 MR. BAIN: --- whenever we finish.

25 THE COURT: Alright, you step back do that now.

JURY QUALIFICATION

1 MR. BAIN: Yes, thank Your Honor.

2 MR. THOMPSON: May I step back and talk to this ---

3 THE COURT: Please do. We'll take a short break, I'll
4 stay on the bench, come back in soon as you're ready.

5 MR. THOMPSON: Alright, sir.

6 THE COURT: Thank you.

7 (Whereupon, a recess was taken.)

8 THE COURT: Alright, gentlemen, are we ready for the jury
9 to come up?

10 MR. THOMPSON: Yes.

11 MR. BAIN: Yes, sir, Your Honor.

12 THE COURT: Alright, bring 'em in.

13 (Pause.)

14 (Photographs marked State's Exhibit Nos. 1, 2 and 3 for
15 identification.)

16 (Whereupon, a discussion was held off the record.)

17 (Whereupon, the jury pool entered the courtroom.)

18 THE COURT: Alright, good morning, ladies and gentlemen,
19 we're about to begin the trial of the State of South Carolina
20 vs. Ashley Danielle Martin, uh, I'm going to at this time go
21 over the indictment in this case with you so that you'll know
22 a little bit about this case and perhaps be in a better
23 position to answer the questions that I'm about to ask you
24 concerning this matter. Uh, the indictment in the case is
25 Case Number 14-GS-11-635, it's for the offense of, uh,

JURY QUALIFICATION

1 tattooing a minor person under the age of 18. The indictment
2 states that Ashley Danielle Martin did in Cherokee County
3 between April the 5th of 2014 and April 15th of 2014 perform
4 or offer to perform tattooing upon a person under the age of
5 18 years or if the person was at least 18 did not have
6 parental consent, to wit, by tattooing A.M. , all in
7 violation of Section 44-34-100 of the Code of Laws of South
8 Carolina 1976 as amended, against the peace and dignity of the
9 state and contrary to the statute and such case made and
10 provided, that's the indictment in this case, I go over it
11 with you so that you'll understand the charge that has been
12 lodged in this matter and I will remind you that an indictment
13 cannot be used by a jury in any fashion whatsoever in
14 determining the guilt or the innocence of someone named in
15 that indictment, it is simply an informational document that
16 informs this court of the charge to be tried, it informs the
17 defendant of the charge lodged against her. One other piece
18 of information I'll make you aware of the alleged victim in
19 the indictment is A.M. , I am informed that she has
20 changed her name since that time of the indictment and she is
21 now known as A.M. , uh, is her name.

22 Now, I'm gonna ask that the attorneys in the case
23 introduce themselves to you again, uh, and in the case of the
24 State if the victim is in the courtroom, please, uh, introduce
25 her to the, uh, jury panel, in the case of the defense

JURY QUALIFICATION

1 introduce the defendant. First of all for the State.

2 MR. BAIN: Thank Your Honor. Ladies and gentlemen, my
3 name is Chris Bain and I'm an assistant solicitor for the
4 Cherokee County Solicitor's Office. The victim in this case
5 is A.M. at the time a the case she was known as, uh,
6 Ms. A.M. .

7 THE COURT: Ma'am, if you'll stand and face the jury
8 panel so that they can put a face with that name.

9 (Whereupon, the victim stood.)

10 THE COURT: Thank you very much, you can be seated. Now
11 for the defense.

12 MR. THOMPSON: Alright. Good morning again, ladies and
13 gentlemen, I'm still Don Thompson, I'm a public defender here
14 at Cherokee County and I'm representing Ashley Martin.

15 THE COURT: Ma'am, if you'll stand, face the jury panel,
16 please.

17 (Whereupon, the defendant stood.)

18 MR. THOMPSON: This (indicating) is Ms. Ashley Martin.

19 THE COURT: Alright, thank you very much, you can be
20 seated. As always it's very important the information that
21 you supply me during my questioning is truthful and complete
22 information, for that reason it again is necessary that you be
23 sworn in this case to respond truthfully to my questions.
24 Madam clerk, please swear the jury panel for me.

25 THE CLERK: Ladies and gentlemen, please stand and raise

JURY QUALIFICATION

1 your right hand. Please raise your right hand.

2 (Whereupon, the jury was sworn.)

3 THE CLERK: You may be seated.

4 THE COURT: Now if there was any member of the jury panel
5 who either failed or refused to take the oath just
6 administered by the clerk, please stand.

7 (No response.)

8 THE COURT: Alright, the record in this case then will
9 reflect that all jurors have been sworn concerning the
10 responses that you're about to give to my questions, I'll
11 remind you we'll use the same procedure we've used in the
12 past: I'll ask questions, if you have a response, I'll ask
13 that you stand, I'll need your name and juror number before we
14 discuss any response you might have to the questions that I've
15 asked.

16 Alright, first question I have is there any member of the
17 jury panel who has ever been related by marriage or are you
18 related by blood or have you ever had a close, social,
19 personal or business relationship with either the defendant
20 Ashley Danielle Martin or the alleged victim A.M.

21 , if that's true please stand.

22 (No response.)

23 THE COURT: Now has anyone member of the jury panel ever
24 been represented by either of the attorneys involved in this
25 case or have they ever appeared on the other side of a legal

JURY QUALIFICATION

1 matter from you, if that's true please stand.

2 (No response.)

3 THE COURT: Has any member of the jury panel ever been
4 related by marriage or are you related by blood or have you
5 ever had a close, social, personal or business relationship
6 with either of the attorneys involved in the trial of the
7 case, if that's true please stand.

8 (No response.)

9 THE COURT: I'm now going to read a list of people who
10 have been identified as possible witnesses in the case, listen
11 carefully, I'll be asking you about these, uh, individuals
12 once I've completed going over their names. First of all, uh,
13 A.M. , Tiffany Mosier, Daniel Mosier, Brian
14 Blanton, who's employed with the Gaffney Police Department,
15 Gary Cook, Ashley Martin, Michelle Patterson, Le -- Leyonne
16 Martin, it's L-E-Y-L-O-N-N-E, is the first name and Tiffany
17 Mosier, I've told you that name already. Now as to the
18 individuals I've identified as possible witnesses in this
19 case, has any member of this jury panel ever been related by
20 marriage or are you related by blood or have you ever had a
21 close, social, personal or business relationship with anyone
22 that I identified as a possible witness in the case, if that's
23 the case or that's true, please stand.

24 THE COURT: Yes, ma'am, name and number.

25 JUROR NUMBER 92: Uh, Alice Porter 92.

JURY QUALIFICATION

1 THE COURT: Yes, ma'am.

2 JUROR NUMBER 92: I go to church with Brian Blanton and,
3 uh, I work with his mother at Gaffney High School.

4 THE COURT: Alright, would that fact affect your ability
5 to be fair and impartial if you were to serve as a juror on
6 the case?

7 JUROR NUMBER 92: No, sir.

8 THE COURT: Thank you, ma'am. Anyone else?

9 (No response.)

10 THE COURT: Has any member of the jury panel or a member
11 of your immediate family, uh, or a close personal friend of
12 yours ever been arrested for, charged with, or convicted of
13 any crime involving illegal tattooing, if that's true please
14 stand.

15 (No response.)

16 THE COURT: Is there any member of the jury panel or a
17 member of your immediate family who is currently being
18 prosecuted or has at any time in the past been prosecuted by
19 the Seventh Circuit Solicitor's Office, uh, the State Attorney
20 General's Office or the prosecuting authorities in some other
21 state, if that's true please stand. Name and number please,
22 ma'am.

23 JUROR NUMBER 19: April Butler Number 19.

24 THE COURT: Yes, ma'am.

25 JUROR NUMBER 19: Um, I'd like to speak with you

JURY QUALIFICATION

1 privately about it.

2 THE COURT: Alright, we'll do that. If you'll have a
3 seat, we'll do that once I finish my question. Thank you.
4 Anyone else?

5 (No response.)

6 THE COURT: Has any member of the jury panel or a member
7 of your immediate family ever been arrested by the Gaffney
8 City Police Department, if that's true please stand. Your
9 name and number, sir.

10 JUROR NUMBER 122: Billy Workman, uh, 122.

11 THE COURT: Yes, sir.

12 JUROR NUMBER 122: I've been arrested by the, uh, police
13 department before.

14 THE COURT: Has that case been ended at this time?

15 JUROR NUMBER 122: Oh, yes, sir.

16 THE COURT: Alright, now would that fact affect your
17 ability to be fair and impartial in the trial if you were to
18 be on the jury and that was the prosecuting police department?

19 JUROR NUMBER 122: No, sir.

20 THE COURT: Alright, thank you, sir. Yes, ma'am, I need
21 your name and number.

22 JUROR NUMBER 66: Teresa Knox, 66. I'd like, ---

23 THE COURT: Yes, ma'am.

24 JUROR NUMBER 66: --- I'd like to speak to you private.

25 THE COURT: That'll be fine. Thank you, have a seat,

JURY QUALIFICATION

1 please.

2 THE COURT: Has any member of the jury panel had any
3 experience with any law enforcement officer such that it would
4 cause you to hold a bias or grudge against law enforcement
5 officers generally, if that's true please stand.

6 (No response.)

7 THE COURT: Does any member of the jury panel hold any
8 opinions or beliefs about tattoos or the tattooing of persons
9 such that it would prevent you from giving both the State and
10 the defense a fair and impartial trial in this case, if that's
11 true please stand.

12 (No response.)

13 THE COURT: Has any member of the jury panel received or
14 gathered any information from any source such that it would
15 have caused you to either form or express an opinion about any
16 issue that might be involved in this trial, if you have
17 gathered such information or hold such an opinion, please
18 stand.

19 (No response.)

20 THE COURT: Is there any member of the jury panel who is
21 aware of a bias or a prejudice that you might have either for
22 or against either the State or the defense in this case such
23 that it would cause you, uh, to, uh, not be fair and impartial
24 in this matter, if that's true please stand.

25 (No response.)

JURY QUALIFICATION

1 THE COURT: Is there any member of the jury panel who is
2 a member of or a contributor to a group which has as its
3 primary concern the promotion of law enforcement and/or
4 victim's rights, these groups would include but not be limited
5 to such groups like Mother's Against Drunk Driving, Student's
6 Against Drunk Driving, Citizen's Against Violent Crime, the
7 South Carolina Sheriff's Association, South Carolina Trooper's
8 Association or any other similarly oriented organization, if
9 you're a contributor to or a member of such a group, please
10 stand. Yes, ma'am, name and number.

11 JUROR NUMBER 76: Bonnie Mabry, 76.

12 THE COURT: Yes, ma'am.

13 JUROR NUMBER 76: I have contributed to the Policemen's
14 Memorial.

15 THE COURT: Alright, ma'am, would that affect your
16 ability to be fair and impartial if you were selected on the
17 jury?

18 JUROR NUMBER 76: No, sir.

19 THE COURT: Thank you, ma'am. Anyone else?

20 (No response.)

21 THE COURT: Alright, this time I'm going to ask that the
22 two individuals that wish to speak with me in a more private
23 situation if you'll come down to Ms. Bolen here (indicating)
24 at the, at the gate, uh, and I'll ask you to step forward one
25 at a time. Attorneys can listen, can step up.

JURY QUALIFICATION

1 (Whereupon, the attorneys came forward.)

2 THE BAILIFF: Number 19, Your Honor.

3 THE COURT: Come forward, ma'am.

4 (Whereupon, Juror Number 19 came forward.)

5 THE COURT: Hi.

6 JUROR NUMBER 19: Hey.

7 THE COURT: Yes, ma'am.

8 JUROR NUMBER 19: Uh, uh, my husband's brother he was
9 brought before the Court, it wasn't a trial case ---

10 THE COURT: Um-hum.

11 JUROR NUMBER 19: --- but he pled pled guilty ---

12 THE COURT: Okay.

13 JUROR NUMBER 19: --- for touchin' my 12-year-old child.

14 THE COURT: I see. Okay, that case is over with.

15 JUROR NUMBER 19: Yes.

16 THE COURT: Now would that that fact affect your ability
17 to be fair and impartial if you were selected on a jury?

18 JUROR NUMBER 19: Absolutely not.

19 THE COURT: Okay, thank you very much.

20 JUROR NUMBER 19: Um-hum.

21 THE BAILIFF: Number 66, Your Hon ---

22 THE COURT: Alright, come forward please, ma'am.

23 (Whereupon, Juror Number 66 came forward.)

24 THE COURT: Hi.

25 JUROR NUMBER 66: Hi, I ---

JURY QUALIFICATION

1 THE COURT: Yes, ma'am.

2 JUROR NUMBER 66: --- I was convicted of a DUI in '08 ---

3 THE COURT: Okay, first ---

4 JUROR NUMBER 66: (Indiscernible cross-talk.)

5 THE COURT: --- first offense, right. First offense,
6 okay. Now would that affect your ability to be fair and
7 impartial in this case if you were to serve on a jury?

8 JUROR NUMBER 66: No, sir.

9 THE COURT: Okay, thank you, ma'am. Alright, is there
10 any member of this jury panel who knows of any reason
11 whatsoever why he or she should not serve as a member of this
12 jury with particular emphasis being placed upon your ability
13 to be both fair and impartial to both the State and the
14 defense, if you know of such a reason, please stand.

15 (No response.)

16 THE COURT: State have additional questions?

17 MR. BAIN: None from the state, Your Honor.

18 THE COURT: Defense have additional questions?

19 MR. THOMPSON: No, sir.

20 THE COURT: Alright, I'll declare the jury then is
21 qualified to proceed, uh, as members of this jury, I'll direct
22 the clerk to prepare a list of potential jurors. I like to
23 tell juries back when I started, I'm startin' to sound like my
24 father, grandfather now, when I started we didn't have
25 computers or random selection programs so we had a oak barrel

JURY QUALIFICATION

1 in every courthouse and we put the juror's names in capsules
2 and we'd spin the barrel and law required that we have a blind
3 person pull the names outta the, outta the bo -- outta the
4 barrel so we had to employ blind people at every courthouse to
5 pull juries, that was their job. Uh, there's a lady Ms. Ruth
6 over in Spartanburg who pulled juries, uh, I saw her in a
7 restaurant about two weeks ago, she's 97-years-old and she's,
8 a course still blind. She told me if we ever needed her she
9 was ready to c'mon back.

10 (Laughter.)

11 THE COURT: And we still have the barrel by the way. If
12 the computer breaks down, we can pick a jury.

13 (Laughter.)

14 THE COURT: Alright, we'll follow the same procedure that
15 we followed the last time. When your name is called, if
16 you'll come forward by Ms. Bolen and come right down here
17 (indicating) in front of, uh, of the clerk, face the back of
18 the courtroom, at that time the attorneys will be in a
19 position to exercise their strikes. In this case the State
20 has five strikes, the defense has five. We'll pick one
21 alternate, State having one strike, the defense having two.
22 Madam clerk, you can present for -- begin jury selection.

23 THE CLERK: Alright. Juror 2, Charles Alexander.

24 (Charles Alexander, a white male came forward.)

25 THE CLERK: What says the State?

JURY QUALIFICATION

1 MR. BAIN: Please present this juror.

2 THE CLERK: What says the defense?

3 MR. THOMPSON: Seat juror, please.

4 THE CLERK: Please take a seat in the jury box. Juror
5 92, Alice Porter.

6 (Alice Porter, a white female came forward.)

7 THE CLERK: What says the State?

8 MR. BAIN: Please excuse this juror.

9 THE CLERK: You've been excused. Juror 82, Allen
10 Montville.

11 (Allen Montville, a white male came forward.)

12 MR. BAIN: Brandy, what's the number?

13 THE CLERK: Eighty-two. What says the State?

14 MR. BAIN: Please present this juror.

15 THE CLERK: Says the defense?

16 MR. THOMPSON: Seat juror, please.

17 THE CLERK: Please take a seat in the jury box. Juror 33
18 Thomas Dell.

19 (Thomas Dell, a white male came forward.)

20 THE COURT: What says the State?

21 MR. BAIN: Please present this juror.

22 THE CLERK: Says the defense?

23 MR. THOMPSON: Seat juror, please.

24 THE CLERK: Please take a seat in the jury box. Juror
25 110, Sybil Talley.

JURY QUALIFICATION

1 (Sybil Talley, a white female came forward.)

2 THE CLERK: What says the State?

3 MR. BAIN: Please present this juror.

4 THE CLERK: Says the defense?

5 MR. THOMPSON: Seat juror, please.

6 THE CLERK: Please take a seat in the jury box. Juror
7 14, Ollie Bowen.

8 (Ollie Bowen, a white female came forward.)

9 THE CLERK: What says the State?

10 MR. BAIN: Please present this juror.

11 THE CLERK: Says the defense?

12 MR. THOMPSON: Seat juror, please.

13 THE CLERK: Please take a seat in the jury box. Juror
14 22, William Camp.

15 (William Camp, a black male came forward.)

16 THE CLERK: What says the state?

17 MR. BAIN: Please excuse this juror.

18 THE CLERK: You've been excused. Juror 29, Hollie
19 Crosby.

20 (Hollie Crosby, a black female came forward)

21 THE CLERK: What says the State?

22 MR. BAIN: Please present this juror.

23 THE CLERK: Says the defense?

24 MR. THOMPSON: Excuse the juror from trial a this case,
25 please.

JURY QUALIFICATION

1 THE CLERK: You've been excused. Juror 10, Jennifer
2 Bergeron.

3 (Jennifer Bergeron, a white female came forward.)

4 THE CLERK: What says the State?

5 MR. BAIN: Please present this juror.

6 THE CLERK: Says the defense?

7 MR. THOMPSON: Seat juror, please.

8 THE CLERK: Please take a seat in the jury box.

9 MR. THOMPSON: Juror 99, James Scruggs.

10 (James Scruggs, a white male came forward.)

11 THE CLERK: What says the State?

12 MR. BAIN: Please present this juror.

13 THE CLERK: Says the defense?

14 MR. THOMPSON: Seat the juror, please.

15 THE CLERK: Please take a seat in the jury box. Juror
16 38, Dustin Dover.

17 (Dustin Dover, a white male came forward.)

18 THE CLERK: What says the State?

19 MR. BAIN: Please present this juror.

20 THE CLERK: Says defense?

21 MR. THOMPSON: Seat juror, please.

22 THE CLERK: Please take a seat in the jury box. Juror
23 21, Daniel Cameron.

24 (Daniel Cameron, a white male came forward.)

25 THE CLERK: What says the State?

JURY QUALIFICATION

1 MR. BAIN: Please present this juror.

2 THE CLERK: Says the defense?

3 MR. THOMPSON: Excuse the juror from trial a this case,
4 please.

5 THE CLERK: You've been excused. Juror 116, Dallas
6 Vickers.

7 (Dallas Vickers, a white male came forward.)

8 THE CLERK: What says the State?

9 MR. BAIN: Please present this juror.

10 THE CLERK: Says defense?

11 MR. THOMPSON: Excuse juror from trial a this case,
12 please.

13 THE CLERK: You've been excused. Juror 9, Janice Benton.

14 (Janice Benton, a white female came forward.)

15 THE CLERK: What says the State?

16 MR. BAIN: Please present this juror.

17 THE CLERK: Says the defense?

18 MR. THOMPSON: Seat juror, please.

19 THE CLERK: Please take a seat in the jury box. Juror
20 30, Charles Allison.

21 (Charles Allison, a white male came forward.)

22 THE CLERK: What says the State?

23 MR. BAIN: Please present this juror.

24 THE CLERK: Says the defense?

25 MR. THOMPSON: Seat juror, please. Please take a seat in

JURY QUALIFICATION

1 the jury box. Juror 66, Teresa Knox.

2 (Teresa Knox, a white female came forward.)

3 THE CLERK: What says the State?

4 MR. BAIN: Please present this juror.

5 THE CLERK: Says the defense?

6 MR. THOMPSON: Seat juror, please.

7 THE CLERK: Please take a seat in the jury box. Juror
8 100, David Shehan.

9 (David Shehan, a white male came forward.)

10 THE CLERK: What says the State?

11 MR. BAIN: Please present this juror.

12 THE CLERK: Says defense?

13 MR. THOMPSON: Seat juror, please.

14 THE CLERK: Please take a seat in the jury box.

15 THE COURT: We're now picking the alternate.

16 THE CLERK: Juror 75, Michael Lowery.

17 (Michael Lowery, a white male came forward.)

18 THE CLERK: What says the State?

19 MR. BAIN: Please present this juror.

20 THE CLERK: What says the defense?

21 MR. THOMPSON: Seat juror, please.

22 THE CLERK: Please take a seat in the jury box.

23 THE COURT: Alright, is there any objection to the jury
24 selection process from the State?

25 MR. BAIN: None from the State, Your Honor.

JURY QUALIFICATION

1 THE COURT: Any from the defense?

2 MR. THOMPSON: No, sir.

3 THE COURT: Alright, then, uh, we've been able to seat a
4 jury.

5 (Whereupon, the jury pool was released.)

6 (Whereupon, a discussion was held off the record.)

7 THE COURT: Alright, anything from the State before I
8 swear the jury?

9 MR. BAIN: Nothing from the State, Your Honor.

10 THE COURT: Anything further from the defense?

11 MR. THOMPSON: No.

12 THE COURT: Alright, at this time I'm going to ask the
13 clerk to place you under oath concerning your responsibilities
14 in this case and once she finishes there's some things I'll go
15 over with you about that. Madam clerk.

16 (Whereupon, the jury was sworn.)

17 THE COURT: Alright, ladies and gentlemen, if there was
18 any of you who either failed or refused to take the oath, uh,
19 the clerk just administered, please stand.

20 (No response.)

21 THE COURT: Alright, the record will reflect that all
22 jurors have now been sworn concerning their responsibilities
23 in the case. I see a few familiar faces from the trial we had
24 earlier this week and so if I, if I bore ya by my comments at
25 this time, I'm sorry but there's s -- also some fresh faces on

JURY QUALIFICATION

1 the jury and for any of you who have never been in this
2 situation before I wanna go over some things about your
3 responsibilities and duties and also about the
4 responsibilities and duties of other people in the courtroom
5 during the trial so you'll understand perhaps a little bet --
6 better about the procedure that we follow in the courts. Uh,
7 first of all, I would think that if you've never been on a
8 jury before where a criminal trial was being tried, uh,
9 probably most of what you might know about what juries do and
10 how they operate you might have gathered from, uh, such things
11 as TV shows or movies or books, they don't teach much about
12 the jury process in school these days, not as much as I wish
13 they did, uh, but at any rate, uh, most of those sources of
14 in -- information that I just mentioned to ya I hope you
15 realize are intended to entertain you, uh, quite often they
16 change what goes on in the courtroom really, uh, so it fits
17 the storylines that they have to follow to make it more
18 interesting, to make you watch it because they're trying to
19 entertain you. I point out in the case of television you can
20 have a an event occur, the case will be tried and it's all
21 wrapped up in an hour and they still stop for about four or
22 five times and show ya about five or six commercials each time
23 so, uh, they they obviously they change some things because
24 things don't move quite that fast in the courtroom and in a
25 real trial of a case, uh, because I hope you understand that

JURY QUALIFICATION

1 those sources of information are intended to entertain you,
2 what you're involved in today is intended for anything but
3 your entertainment. Uh, what you're involved in is a basic
4 part of our governmental structure, uh, that is, in our system
5 as I've mentioned to you earlier we take citizens from their
6 ordinary s -- walks of life, we bring into the courtroom for a
7 week and then we put you on a jury and put you in important
8 decision-making situations, uh, in the courtroom and that
9 doesn't happen in very many justice systems in the world; in
10 fact, if you looked around the world today you'd find that
11 most countries don't allow citizens to participate in their
12 justice system directly such as we do, uh, 'cause, you see,
13 this courtroom is a place of honor, it's dedicated to the
14 preservation of citizen's rights to have a trial by a jury of
15 their peers, that right is guaranteed to each citizen under
16 both the Bill of Rights of our U. S. Constitution and under
17 the Constitution of this State, uh, in South Carolina. Some
18 people believe that our system is perhaps one of the best ever
19 devised and I'll tell ya that anything devised and run by
20 people or man is is not always perfect but what we have here
21 is a sincere effort to see that justice is done between the
22 parties that are involved in this case and the parties in this
23 case are the State a South Carolina and that entity has
24 brought a charge, a criminal charge against one of its
25 citizens, the defendant in this case, so those are the private

JURY QUALIFICATION

1 parties that we're here to, uh, to to do justice between.

2 Uh, I will tell you that your job here is to find and
3 determine the facts, our job is to seek the truth in this case
4 and I will tell you that any time you're trying to find out
5 what the truth is in a controversy and any time you try to do
6 justice between parties you'll find that that process won't go
7 as fast as television shows, it's sometimes slow, it's
8 sometimes deliberate, sometimes the lawyers and the witnesses
9 may go over the same information twice, even three times but,
10 you know, if I ask you how you, how you'd expect a search for
11 the truth to operate, you'd probably tell me that it oughta be
12 slow and deliberate and maybe we oughta go over it a few times
13 to be sure we get it right so that's what you're gonna be
14 faced with as far as a trial's concerned. Have patience,
15 listen carefully what's going on, the whole process is
16 intended to bring the truth out in whatever situation you're
17 presented with.

18 Now in a -- uh, the attorneys in this case in a few
19 minutes will start off by presenting their client's cases
20 before ya, uh, I wanna point out to you something that perhaps
21 you don't -- not aware of. Uh, attorneys in this state, uh,
22 while they represent client's interests in court, first and
23 foremost they are officers of the Court. At some point in
24 time they have appeared in front of a judge or some other
25 court in this state, they've taken an oath, they're required

JURY QUALIFICATION

1 to do so, uh, concerning their responsibilities and one of the
2 things in that oath is that they will assist you in your
3 search for the truth during this trial so you can expect that
4 during the process of the trial that they will per -- perform
5 in an ethical, a reasonable and a, and a re -- and a
6 reasonable manner in the presentation of their client's cases.
7 I'm going to remind you too now that you've come in this --
8 fronta this court, you took an oath just a few minutes ago to
9 decide this case based upon the law and the evidence presented
10 in this trial, you too are now expected to act in a reasonable
11 and professional and an ethical manner in the discharge of
12 your duties as jurors in the case and I wanna thank you very
13 much for your willingness to accept the responsibility of
14 making the determinations that you have to make, uh, during
15 this jury duty this week.

16 Now I've read to you as part of the jury selection
17 process the indictment in this case, I'm not going to read it
18 again right now, later on when I charge you on the law we'll
19 go over that indictment again and you'll be allowed to take
20 the indictment with you back into the jury room to consider
21 it, uh, during your deliberations. I have informed you that
22 the indictment is simply the charge that brings the case
23 before this court and I will tell you the defendant in this
24 case has pled not guilty to that indictment. Now that plea by
25 that defendant under the laws and the constitution of this

JURY QUALIFICATION

1 state and of the United States that plea places the burden of
2 proof in this trial solely upon the State. The State has the
3 obligation of proving the allegations contained in the
4 indictment by proof beyond a reasonable doubt. Your job as
5 jurors is to determine at the close of the trial whether or
6 not the State has met its burden of proof as it relates to the
7 allegations that have been made in this case so as we go
8 through the trial bear in mind that your your job is to
9 determine whether or not the State has met its burden of proof
10 in this case.

11 Now your purpose therefore as jurors is to find and
12 determine the facts in this case and I will tell you that many
13 courts have referred to the fact that the jury is actually the
14 sole judge of the facts in any trial so it will be your
15 responsibility to determine the facts when we get to the end a
16 the case, what the true facts are. I'm going to serve as the
17 presiding officer in the trial and I will perhaps be required
18 to make rulings concerning certain matters of evidence, things
19 a that nature. I'm going to caution you know since you're the
20 sole judges of the facts in the case the law does not allow me
21 an opinion concerning the facts. Don't take from anything
22 that I say or do during this trial to indicate somehow to you
23 that I have an opinion as to how you determine the facts in
24 this case, as I said the law doesn't allow me an opinion on
25 that subject, I can assure you I have no opinion as to how you

JURY QUALIFICATION

1 determine the facts in this case so don't take from what I say
2 or do to take -- to indicate to you otherwise, I can assure
3 you I do not have the facts that -- do not have an opinion on
4 the facts.

5 Now the same law that makes you the sole judges of the
6 facts makes me the sole judge of the law so at the close of
7 the trial once you've heard all the evidence and all the
8 arguments I will charge you concerning the law that you're to
9 apply to the facts as you decide those facts to be. The
10 I -- just like the law doesn't allow me to disagree with you
11 concerning your decisions concerning the facts, the law
12 doesn't allow you to disagree with me concerning the law to be
13 applied so the law as I give it to you is the only law that
14 you can use in deciding the case and if you have a notion as
15 to what the law is or what it ought to be leave those notions
16 outside the jury room before you begin deliberations 'cause
17 your job under your oath is to take the law exactly as I give
18 it to you, apply that law to the facts as you decide the facts
19 to be, that will put you in a position to render a just, a
20 true and a fair verdict between the parties at the close of
21 the trial.

22 Now I'm gonna caution you just for a moment here and I'll
23 get into this in more detail depending on the circumstances
24 but as you go about your business hope, I hope you realize
25 that whole exercise we went through for jury selection part a

JURY QUALIFICATION

1 that is to be sure that we have selected a jury that has an
2 open mind concerning the issues involved in this case. You
3 don't have any preconceived notions, you haven't decided any a
4 the issues at this point in time, you have an open mind about
5 what's going to come in front of you during this trial. I
6 hope you realize that if you during the trial begin to discuss
7 any aspect in this case with some other juror or even someone
8 out in the public if you're away from the courthouse those
9 discussions may begin to color your decision in the case and
10 that would be before you've heard all the evidence, you've
11 heard all the arguments or heard anything about the law in the
12 case and for that reason I'm going to ask you not to discuss
13 this case at any time even among yourselves until I ask you to
14 begin your deliberations, at that time you will have heard all
15 the arguments from the lawyers, all the evidence will have
16 been presented, I will have charged you concerning the law and
17 then you will have all of the tools you need to begin a
18 discussion about the case so don't discuss the case with
19 anyone or anything about the case. Don't talk about the
20 witnesses, the lawyers, anything about it. Talk about the
21 weather, uh, talk about, uh, the weekend, I would tell you to
22 talk about politics but I don't want any fights to start back
23 in the jury room but talk about anything but this case during
24 the trial, I'll tell you when to begin your discussions about
25 the case. Also, it would be improper for you to try to gather

JURY QUALIFICATION

1 any information outside a the courtroom, uh, I hope you
2 realize, I know that you can push a Google button or Yahoo
3 button or whatever you wanna push on your computer and get
4 information on about just about anything in the world, uh, I
5 hate to tell you this but I hope you realize that quite often
6 that information is flawed and also, it would be improper for
7 you to do that at all 'cause you've sworn to decide this case
8 based upon the law and the evidence, the only place you're
9 going to hear evidence is in this courtroom during this trial,
10 the only place you're gonna hear the law that you can apply is
11 in this courtroom during this trial so you should not attempt
12 to gather any information about any issue or party involved in
13 this case during the trial of the case, it be a violation of
14 your oath for you to try to do that, I'll be asking you about
15 that should you leave the courthouse as to whether or not
16 you've been able to follow my instructions in that regard.

17 In a few minutes I'm going to let the lawyers start the
18 trial with a opening statement to you, uh, I will tell you
19 that we allow the lawyers to talk to the jury directly on two
20 occasions during the trial: once at the beginning of the
21 trial, they'll tell you what the case is about, maybe what
22 they intend to prove and then at the close of the trial, after
23 you've heard all of the evidence they'll step up and they'll
24 begin to talk to you about that evidence, they'll ask you to
25 draw inferences from that evidence or conclusions from that

JURY QUALIFICATION

1 evidence but now I'll tell you the statements made by lawyers
2 both at the beginning and at the end of the trial those
3 statements of -- in and of themselves are not evidence, the
4 only evidence in this case is testimony from witnesses who are
5 sworn to tell the truth, who testify from the witness stand
6 and any documents or other evidence that comes into the record
7 through the testimony of those witnesses or by agreement of
8 the lawyers so that's the only evidence you should consider:
9 statements made by lawyers while they serve to tell you about
10 the case or urge you to draw certain conclusions, those are
11 not in and of themselves evidence, it can't be used directly
12 by you in determining the guilt or the innocence of a
13 defendant in the case.

14 Now I've told you you're the sole judges of the facts in
15 this case, now let me touch on one other thing about, a little
16 bit about that. Uh, if there's a question about the
17 admissibility of evidence during the case and I decide that
18 that discussion might begin to go into a discussion of some
19 matter that's not admissible into the record under the rules
20 that govern that, uh, I'll ask you to leave the courtroom
21 while I have those discussions with the lawyers. If I ask you
22 to leave the courtroom during those discussions, please don't
23 think I'm trying to influence your decision on the facts. I
24 have a job, my job is to see that you decide the case based on
25 evidence that's been properly admitted into the record under

JURY QUALIFICATION

1 the rules that govern the admission of evidence and if I think
2 we're gonna talk about somethin' that's not admissible, I'll
3 ask you to step outside the courtroom, I'll have that
4 discussion with the lawyers, I'll bring you back once I've
5 made a ruling, we'll proceed with the case but don't take from
6 that exercise somehow to indicate I've got an opinion as to
7 how you determine the facts, it's just me doing my job as the
8 gatekeeper deciding what comes in and deciding what doesn't
9 come in.

10 Now as the sole judges of the facts, it's gonna be
11 necessary that you decide the credibility of the testimony you
12 hear, the believability of the testimony you hear. Every
13 single day of your life whether you realize it or not you make
14 common sense decisions as to what you choose to believe and
15 what you choose not to believe, today's no different than any
16 other day. I want you to listen to the testimony, listen to
17 it critically, listen to it with an idea as to whether or not
18 you believe that testimony or you don't believe that testimony
19 because as the sole judges of the facts you have the right to
20 believe all of, part of or none of what a witness may testify
21 to. You have the right to believe one witness against all a
22 the others as the sole judge of the facts or all the others
23 against one, you have the right using your common sense to
24 decide whether or not a witness might have a stake in the
25 outcome of the trial or whether a witness might have a bias or

JURY QUALIFICATION

1 prejudice one way or the other or whether a witness actually
2 knows the facts about which the witness is testifying and we
3 always put the witness stand right in front of the jury box so
4 you can watch 'em as they testify, observe them as they
5 testify, use any a those factors I mentioned, use your common
6 sense but listen to the testimony with a view toward whether
7 or not it convinces you of your -- of its truth or whether or
8 not you believe that it is not credible. Uh, at the close of
9 the trial, I want you to be in a position to be able to
10 discuss those matters with your fellow jurors, for that reason
11 try not to let your thoughts wander, I know it's tough
12 sometimes, try to pay attention to what's going on in the
13 courtroom, be in a position to discuss the testimony you hear,
14 be in a position to decide whether you find it credible or not
15 credible as you go through the trial of the case.

16 Now at the close of the trial, I'm going to instruct you
17 that, uh, your verdict must be unanimous, all of you will have
18 to agree on whatever the verdict is before the jury has spoken
19 and reached a verdict in the case and for that reason there's
20 not one juror who's more important than any other juror, all
21 of you must agree before a verdict can be reached, for that
22 reason I don't, I don't appoint a foreperson of the jury until
23 I charge you on the law at the close of the trial, I do that
24 because I want you to have the belief that at any time during
25 the trial or when I do make that appointment it might be you,

JURY QUALIFICATION

1 you might be the person who's called upon to lead the
2 discussions of the jury, uh, and so be in a position to do
3 that. I think I've got my foreman from my last jury sittin'
4 up there in the corner and he can probly vouch for the fact he
5 had no idea he was gonna be appointed 'til he got appointed
6 so, uh, I'll appoint that at the close of the trial, in the
7 meantime if you have any issue or any problem that you think
8 oughta be brought to my attention about what's going on in the
9 trial or what's what's occurring, uh, let the bailiffs know
10 you have that question or that problem, they'll bring it to my
11 attention and I'll handle it in the appropriate manner, uh, to
12 see that we can go forward but if if you would please, just
13 let me know if you have any issues, don't think I've forgotten
14 about the foreperson, I haven't, I do that on purpose and I'll
15 appoint that person at the close of the trial when I charge
16 you on the law.

17 Now I wanna be sure I haven't violated anyone's rights by
18 what I've mentioned to you thus far, does the State have an
19 objection to my opening comments?

20 MR. BAIN: No objections, Your Honor.

21 THE COURT: Any objection from the defense?

22 MR. THOMPSON: No, sir.

23 THE COURT: Alright, now, ladies and gentlemen, I've told
24 you that because the defendant has pled not guilty the State
25 has the burden of proof in this case, that means the State

OPENING STATEMENTS

1 will be allowed to go first with its opening comments,
2 followed by the defense, then the State is allowed to go first
3 in the presentation of evidence, followed by any evidence the
4 defense wishes to put up and then at the close of the trial,
5 once all the evidence is in we'll have the closing arguments,
6 after those arguments are completed I'll charge you on the law
7 and once I've charged you on the law I'll turn the case over
8 to you for your deliberations and verdicts so that's the
9 process we will go through with order that we'll go through in
10 presenting the case to you so the State at this time may make
11 its opening statement. Mr. Bain.

12 MR. BAIN: Thank Your Honor, may it, may it please the
13 Court, ---

14 THE COURT: Yes, sir.

15 MR. BAIN: --- opposing counsel. Ladies and gentlemen of
16 the jury, I'll keep this opening statement brief. Uh, I'd
17 first like to thank ya'll, uh, in advance for your attention
18 in this matter and I want you to think about this: I know that
19 this case might not seem like a big deal to ya'll, uh, an
20 illeg -- illegal tattooing case or tattooing someone under the
21 age of 18 but the State a South Carolina has laws for a reason
22 and in South Carolina it says it is unlawful to give a tattoo
23 to someone under the age of 18 and in this case you'll hear
24 that that was, that the defendant gave a tattoo to A.M.

25 at the time, now A.M. , and her parents did not

OPENING STATEMENTS

1 give consent for that tattoo. It's your job as the jury to
2 listen to each witness and judge the credibility and at the
3 end of listening to all of 'em the State will prove beyond a
4 reasonable doubt that the defendant Ashley Martin gave A.M.

5 two tattoos between April 5th 2014 and April 15th 2014.

6 Ladies and gentlemen, I don't expect this to be a long
7 trial, as I told you this is a very brief opening statement,
8 uh, you'll hear from A -- uh, A.M. s husband, you'll hear
9 from, uh, Tiffany Mosier, you'll hear from A.M. father,
10 you'll hear from a police officer, uh, it should be a quick
11 trial but I ask that you just pay attention because this case
12 is important, it's important to the victim and it's important
13 to the defendant and we have laws in this state that must be
14 followed and when the State alleges that someone didn't follow
15 the law, it's up to the jury to listen to the law ju -- the
16 judge gives 'em and apply the facts and the evidence of what
17 they heard in the case to that law. Thank you for your time,
18 ladies and gentlemen.

19 THE COURT: Mr. Thompson, you may proceed for the
20 defense.

21 MR. THOMPSON: Thank you, Judge, counsel. Good mornin'
22 again, ya'll have won the lottery, some of ya won it twice
23 this week, gonna have to go convenience store up here and buy
24 me a lottery ticket, see if you win it a third time. Uh, my
25 openin' argument's probly gonna be a little bit longer than my

OPENING STATEMENTS

1 closing argument in this case 'cause I wanna tell you what you
2 need to look for. I don't think this isn't a case of what
3 happened, this is a case of who done it. Like most TV shows
4 the issue's who done it and how do we get to that point. Well
5 they usually show you TV show up front who did it, then they
6 show you how to try to get to it. In this case the State is
7 gonna present ev -- I I think the State's gonna present
8 evidence, we're not protesting the fact that Ms. Cook's
9 tattooed, we're not protesting the fact that she was probably
10 under 18 that time, okay, against the law to tattoo somebody
11 who's under 18 this state, that simple, issue's who did the
12 tattooin'. State's gonna put up witnesses that's gonna say
13 Ms. Martin did the tattooing, we're gonna put up witnesses
14 that say A.M 's husband did it or husband now, boyfriend
15 at the time, did the tattoo. Your whole job is to determine
16 credibility: which side do you believe. If you find that one
17 side is credible and the other side is not, that one side's
18 truthful and the other side's not, there's your answer for the
19 case. If you believe that the State's witnesses were truthful
20 and credible in our regard, it's a guilty verdict. If you
21 decide that ours truthful and credible and the State's has,
22 um, credibility problems then it's a not guilty verdict. You
23 know, as the judge told you Ms. Martin is not considered to be
24 guilty, she's presumed to be innocent at this time until the
25 State through it's burden a proof proves proves beyond a

OPENING STATEMENTS

1 reasonable doubt that that she's done what they say she's
2 done.

3 Now what happens if you can't decide credibility? What
4 happens if you can't decide who's telling the truth and who
5 isn't? What do we do then? That's real simple too, she's not
6 guilty because she's presumed to be not guilty, let's take and
7 prove beyond a reasonable doubt that she is guilty. All along
8 I want ya'll to do this point in time, it won't be a long
9 trial, there's several witnesses but they won't be long
10 witnesses, listen to the witnesses, listen to what they've got
11 to say, listen to what they said then, listen to what they say
12 now 'cause some of 'em gave statements then, some of 'em
13 didn't, listen and see if any of 'em have any reason to be
14 sayin' what they're sayin'. Is there a reason why they're
15 sayin' the way they're sayin'; in other words, are they
16 biased? are they prejudiced? Once that's over with and and
17 judge gives you the instructions and you go back to deliberate
18 as long as you have assessed all the witness's credibility and
19 you've looked at it and ya'll deliberate in what's best,
20 nobody can argue with your verdict which ever way it comes
21 back, all we're askin' is that you honestly listen to the
22 case, you weigh the credibility of witnesses and then you make
23 your decision and it has to be a unanimous decision and with
24 that I'm gonna sit down. Thank you.

25 THE COURT: Alright, before the State calls its first

MOTIONS AND MATTERS

1 witness I'm gonna give you a short break back in the jury
2 room, it won't be long but we will take a short break and as
3 you leave the courtroom, and I always do this every time you
4 leave the courtroom, don't discuss anything about this case
5 'til I ask you to begin your deliberations. You may retire to
6 the jury room, thank you.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: Alright, we'll be in recess for about five,
10 ten minutes.

11 MR. THOMPSON: Thank Your Honor.

12 MR. BAIN: Thank Your Honor.

13 (Whereupon, a recess was taken.)

14 THE COURT: Thank you very much, you can be seated.

15 (Whereupon, a discussion was held off the record.)

16 THE COURT: Alright, now before I bring the jury in I'll
17 remind the people in the gallery that if you intend to be a
18 witness in the case you should step outside the courtroom this
19 time. Bring the jury in.

20 (The following takes place in the presence of the jury.)

21 THE COURT: Alright, the record will reflect the jury has
22 returned to the courtroom at this time. Now as you come and
23 go from the courtroom there are no assigned seats in the jury
24 box so just sit anywhere you want to except the alternate, he
25 always has to sit in the same seat, that's the only assigned

MOTIONS AND MATTERS

1 seat you have, everybody else can sit anywhere you find a seat
2 so don't worry about where you're seated seated in the box.

3 Now I told you we'd begin the presentation of evidence,
4 the State may call its first witness.

5 MR. BAIN: Your Honor, the State calls Dan Cook.

6 THE COURT: Come forward, please.

7 MR. BAIN: Dan Cook he's in our office, Mr. Humphries.

8 THE CLERK: Mr. Humphries, will you let her know that
9 he's in the solicitor's office.

10 MR. BAIN: It's Gary Cook.

11 (Coughing.)

12 (Indiscernible talk.)

13 MR. BAIN: Gary Cook, ---

14 THE CLERK: Ok.

15 MR. BAIN: --- not Dan Cook.

16 THE COURT: Gary.

17 THE CLERK: Yeah, tell her that it's Gary ---

18 THE COURT: It's Gary Cook, not Dan Cook.

19 (Pause.)

20 THE COURT: Sir, come forward, please, thank you.

21 (Whereupon, the witness came forward.)

22 THE COURT: If you'll step over here (indicating) to my
23 left and be sworn in.

24 THE CLERK: Please raise your right hand.

25 GARY LYNN COOK, having been first

GARY LYNN COOK - DIRECT EXAMINATION BY MR. BAIN

1 duly sworn, testified as follows:

2 THE CLERK: Okay, watch your step.

3 THE COURT: Have a seat, please. State your name please,
4 sir.

5 THE WITNESS: Gary Lynn Cook.

6 THE COURT: Thank you. You're witness counsel.

7 MR. BAIN: Thank Your Honor.

8 DIRECT EXAMINATION BY MR. BAIN:

9 Q. Mr. Cook, how old are you?

10 A. How old am I? Fifty-one.

11 Q. Alright. How far'd you go in school?

12 A. Uh, got some college, graduate high school.

13 Q. Okay. Are you currently employed?

14 A. I am.

15 Q. Where you employed at?

16 A. Symmons Industry.

17 Q. Are you married?

18 A. No, sir.

19 Q. Ha -- were -- have you been married?

20 A. Yes.

21 Q. Who were you married to?

22 A. Uh, I've been married twice, the second was her mother
23 Brandy Bray (phonetic).

24 Q. Okay, so how many children do ya have?

25 A. One.

GARY LYNN COOK - DIRECT EXAMINATION BY MR. BAIN

1 Q. One? And who is your child?

2 A. A.M. .

3 Q. Can you please point her out. Is she in the courtroom?

4 A. She is.

5 Q. Can you please tell us what she's wearing.

6 A. A green and I guess that's a gray shirt.

7 MR. BAIN: Your Honor, please let the record reflect the
8 witness has pointed out Ms. A.M. ---

9 THE COURT: Alright, ---

10 MR. BAIN: --- as his daughter.

11 THE COURT: --- the record will so reflect. You may
12 proceed.

13 BY MR. BAIN:

14 Q. Now, Mr. Cook, does your daughter have any tattoos?

15 A. Yes, sir, she has two.

16 Q. Do you know how she got those tattoos?

17 A. It's my understanding it was done by Ashley I believe her
18 last name is Martin.

19 Q. How old was the -- she when she got those tattoos?

20 A. Seventeen.

21 Q. And did you give her consent to get those tattoos?

22 A. No, sir.

23 Q. Were you upset later when she -- you found out she got
24 those tattoo?

25 A. Yes, that's how we ended up here.

GARY LYNN COOK - CROSS-EXAMINATION BY MR. THOMPSON

1 MR. BAIN: Alright. No further questions, Your Honor.

2 THE COURT: Alright. Mr. Thompson, your witness.

3 CROSS-EXAMINATION BY MR. THOMPSON:

4 Q. You weren't present when the tattoos took place.

5 A. No, sir, I was not.

6 Q. So you can't say that you saw who did it.

7 A. No, sir, I did not see it.

8 Q. Okay, thank you.

9 THE COURT: Redirect?

10 MR. BAIN: None, Your Honor.

11 THE COURT: You may step down.

12 THE WITNESS: Yes, sir.

13 (Whereupon, the witness left the stand.)

14 THE COURT: Wish to excuse the witness?

15 MR. BAIN: Yes, sir, Your Honor.

16 THE COURT: Any objections?

17 MR. THOMPSON: None.

18 THE COURT: Sir, you're free to go if you'd like or
19 you're free to stay, however you'd like to do it, sir. State
20 may call next witness.

21 MR. BAIN: Your Honor, the State calls Sergeant Brian
22 Blanton.

23 THE COURT: Sir, come forward, please, over to my left
24 here (indicating) and be sworn in.

25 (Whereupon, the witness came forward.)

BRIAN BLANTON - DIRECT EXAMINATION BY MR. BAIN

1 BRIAN BLANTON, having been first
2 duly sworn, testified as follows:

3 THE COURT: Have a seat, sir, once you're seated I'm
4 going to ask that you state your name, please.

5 THE WITNESS: Brian Blanton.

6 THE COURT: Thank you. Mr. Bain, your witness.

7 MR. BAIN: Thank Your Honor.

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION BY MR. BAIN:

10 Q. Mr. Blanton, where are you currently employed?

11 A. Gaffney City Police Department.

12 Q. How long have you been employee there?

13 A. Uh, almost eighteen years.

14 Q. What are some a your duties as a police officer with the
15 Gaffney city?

16 A. Started out on patrol, worked patrol for about eleven
17 years and I've been in investigations for about six years
18 now.

19 Q. Okay. And back in April a 2014 were you acted -- were
20 you, uh, workin' at the Gaffney Police Department?

21 A. Yes, sir.

22 Q. On the dates in question, uh, April 5th 2014 through
23 April 15th 2014, you were workin' with the Gaffney Police
24 Department?

25 A. Yes.

BRIAN BLANTON - DIRECT EXAMINATION BY MR. BAIN

1 Q. Okay. Do you know why you're here today?

2 A. Yes, sir.

3 Q. Can you please tell us.

4 A. Reference to investigation.

5 Q. What kind of an investigation?

6 A. A tattooing investigation.

7 Q. Okay. And, uh, who called you to report this?

8 A. Uh, the victim and her father is who contacted us.

9 Q. Around what date was that?

10 A. Uh, May the 3rd 2014.

11 Q. And when you found out about this tattooing case, what
12 were some of the actions you took?

13 A. Uh, just to confirm victim's age at the time, uh, at the
14 time I was unfamiliar with the unlawful tattooing statute and
15 so I researched that a little bit, uh, and then I also took
16 statement.

17 Q. And how old was the victim?

18 A. At the time the, uh, incident report was taken, she was
19 17.

20 Q. And what day was that report taken?

21 A. May the 5th.

22 Q. 2014?

23 A. Yes.

24 Q. After you spoke with, uh, the victim in this case did you
25 take any further action?

BRIAN BLANTON - DIRECT EXAMINATION BY MR. BAIN

1 A. Yes, we, uh, after we spoke with the father, uh, I
2 actually took some tattoos of, I mean, some pictures of the
3 tattoos on the victim. Uh, we, uh, we went by the house of,
4 uh, Ashley Martin, kinda follow up on.

5 Q. You said you took pictures of the tattoos?

6 A. Yes.

7 MR. BAIN: Your Honor, may I approach the witness?

8 THE COURT: You may.

9 BY MR. BAIN:

10 Q. I'm handing you what's been premarked State's Exhibits 1,
11 2 and 3 for identification purposes only.

12 THE COURT: Alright.

13 Q. You please take a look at these photos.

14 (Whereupon, the witness complied.)

15 Mr. Blanton, you recognize those photos?

16 A. Yes.

17 Q. Did you take those photos?

18 A.. Yes.

19 Q. Are they a true and accurate reflection of the photos you
20 took back in May of 2014?

21 A. Yes, sir.

22 Q. And what are they photos of?

23 A. One a the tattoos, uh, it looks like on her right arm is
24 a heart with a, looks like a couple a piercings in it, then on
25 the, uh, left arm is a cross with some initials under it.

BRIAN BLANTON - DIRECT EXAMINATION BY MR. BAIN

1 MR. BAIN: Your Honor, this time I would like to admit
2 State's Exhibit 1, 2 and 3 into evidence.

3 THE COURT: Any objection?

4 MR. THOMPSON: No objection.

5 THE COURT: Without objection they'll be admitted into
6 the record as marked.

7 (State's Exhibit Nos. 1, 2 and 3, photographs, admitted
8 into evidence.)

9 MR. BAIN: May I approach the w ---

10 THE COURT: You may.

11 MR. BAIN: May I publish to the jury, Your Honor?

12 THE COURT: You certainly may.

13 BY MR. BAIN:

14 Q. Sergeant Blanton, can you see that (indicating) photo?

15 A. Yes.

16 Q. What is that a photo of?

17 A. That's the, uh, tattoo that was on victim's right arm I
18 believe it was.

19 Q. Okay. And whose arm is that in the picture?

20 A. The victim.

21 Q. Is she in the courtroom today?

22 A. Yes.

23 Q. Will you please point her out.

24 A. Sittin' right here (indicating) in the blue/gray stripe
25 shirt.

BRIAN BLANTON - DIRECT EXAMINATION BY MR. BAIN

1 Q. Okay. Well I'm showing you what's been marked State's
2 Exhibit 3, you please look at those two pictures.

3 (Whereupon, the witness complied.)

4 What is the picture on the right of?

5 A. It be the victim's left arm.

6 Q. And is that -- was that one a the tattoos in question?

7 A. Yes.

8 Q. And who's arm is that in the picture?

9 A. That's the victim.

10 Q. And both a these tattoos were the alleged tattoos the
11 defendant gave victim, is that correct?

12 A. Yes.

13 Q. Now, Sergeant Blanton, after you spoke with the victim
14 you mentioned you went to Ms. Martin's house, where was that
15 located?

16 A. It was, uh, Street.

17 Q. Is that in Cherokee County?

18 A. Yes, it's ---

19 Q. That's ---

20 A. --- within the city limits.

21 Q. --- within the city limits?

22 A. Um-hum.

23 Q. And on approximately what day did you arrive there?

24 A. Woulda been on, uh, May the 7th 'ccordin' to my notes.

25 Q. Okay. Now when you arrived can you -- was Ms. Martin

BRIAN BLANTON - DIRECT EXAMINATION BY MR. BAIN

1 there?

2 A. Yes, she was in the residence, she didn't come to the
3 door but she was in the residence.

4 Q. At at any point did you speak to the defendant?

5 A. Yes.

6 Q. Did you go inside the resident [sic]?

7 A. Yes, sir.

8 Q. Did the defendant tell you anything?

9 A. Uh, she made a comment soon as we, uh, the young lady
10 came to the door told us that she was there, she was in the
11 bedroom.

12 Q. Well who who came to the door?

13 A. Uh, Tiffany ---

14 Q. Yeah.

15 A. --- Tiffany Mosier, I I guess that's how you pronounce
16 the last name.

17 Q. And did Ms. Mosier give you permission to enter?

18 A. Yes, we explained to her what we were there for, she told
19 us we could come in, she would get, uh, Ashley get up come
20 talk to us.

21 Q. Di -- did you locate the defendant?

22 A. Yes, she was in a back bedroom. She came into the living
23 room where we were at.

24 Q. And what happened?

25 A. Uh, soon as she walked in there first thing she said was

BRIAN BLANTON - DIRECT EXAMINATION BY MR. BAIN

1 there's no tattoo, tattooing equipment in the house, no
2 tattooing.

3 Q. Had you said anything at that point?

4 A. Not at that point, no, sir.

5 Q. Did she even know why you were there?

6 A. Not that I -- we didn't tell her that, no, sir, I I mean,
7 detective mighta mentioned sumtin' to her, I I don't know.

8 Q. At any point were Tiffany apart from ya'll when she was
9 goin' to get ---

10 A. Not that ---

11 Q. --- defendant?

12 A. --- I recall, no.

13 Q. Did Tiffany know why you were there?

14 A. No, sir, not at that point, we just told her we needed to
15 speak to Ashley.

16 Q. Okay, and then what happened next?

17 A. Uh, we actually at the, we read the arrest warrant to
18 Ms. Martin at the time and, uh, Ms. Martin made a comment
19 that, uh, Amber tattooed herself basically.

20 Q. Okay. Now did they allow you to search the house?

21 A. Yes.

22 Q. Did you find anything in the house?

23 A. No, sir.

24 Q. Did you look everywhere?

25 A. Yes.

BRIAN BLANTON - CROSS-EXAMINATION BY MR. THOMPSON

1 Q. So that you found no tattooing equipment or anything in
2 the house?

3 A. No, sir.

4 Q. And this address 200 Russell Street was this where, uh,
5 the victim told you the incident occurred?

6 A. Yes, sir.

7 Q. So that's where the actual activities occurred?

8 A. Um-hum.

9 Q. Okay. Did you do any other investigation after that or
10 anything else you'd like to tell us about this case?

11 A. Um, not not that I can recall.

12 MR. BAIN: No further questions at this time, Your Honor.
13 Please answer any questions the defense counsel might have.

14 THE COURT: You may cross-examine, Mr. Thompson.

15 MR. THOMPSON: Thank Your Honor.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION BY MR. THOMPSON:

18 Q. Mornin', Sergeant.

19 A. How you doin'?

20 Q. Good. Uh, when you went out to Ms. Martin's house, ---

21 A. Um-hum.

22 Q. --- did you go by yourself?

23 A. No, sir.

24 Q. There were other officers there?

25 A. Yes, sir, that there at least, I know me and, uh,

BRIAN BLANTON - CROSS-EXAMINATION BY MR. THOMPSON

1 Detective Sizemore went, uh, I'm not sure if any of patrol
2 went with us or not, I know they came while we were there but
3 I'm not sure if they were initially with us.

4 Q. Okay. Are you the very first person that talked with
5 Ms. Martin?

6 A. I don't recall, believe it was Detective Sizemore. I was
7 in the room but I I think ---

8 Q. Detective Sizemore ---

9 A. --- Detective Sizemore spoke to ---

10 Q. Well, I mean, you you just said first thing she said to
11 you was that she hadn't done any tattooin', uh, is it possible
12 that whoever talked to her first told her what you was there
13 for and that's the reason she responded to you that way?

14 A. No, sir, I I was in the room, I just, I wasn't the one
15 initially speaking to her.

16 Q. Okay. You took statements from people, right?

17 A. Yes.

18 Q. And you took statements from Ms. Martin.

19 A. Yes.

20 Q. And she denied that she'd done any tattooin', right?

21 A. Yes, sir.

22 Q. Okay. And you took statements from Tiffany Mosier.

23 A. Yes, sir.

24 Q. And who is Tiffany Mosier?

25 A. At the ti -- at the time of the incident was, uh,

BRIAN BLANTON - CROSS-EXAMINATION BY MR. THOMPSON

1 Ashley's girlfriend.

2 Q. Okay. And in the statement that Ms. Mosier gave she, I
3 don't wanna get into hearsay, but she indicated who did the
4 tattooin', right?

5 A. Yes.

6 Q. Okay. And then you took statement from Daniel Mosier, is
7 that right?

8 A. Yes, sir.

9 Q. And what's his relationship to Tiffany Mosier?

10 A. Daniel was Tiffany's brother.

11 Q. Okay, and at that time was he A.M. s boyfriend?

12 A. Yes, sir.

13 Q. And they've since got married?

14 A. I don't know about the marriage, ---

15 Q. Well ---

16 A. --- at the time they were boyfriend ---

17 Q. --- they were boyfriend, girlfriend, ---

18 A. Yeah.

19 Q. --- okay. And you took a statement from A.M. .

20 A. Yes.

21 Q. Okay. Is there anything, I'm not gonna turn it back on,
22 but those tattoos is there any signature on there or anything
23 that would indicate who did 'em?

24 A. No, not that I seen.

25 Q. Okay. And were you present, I mean, I I think the

BRIAN BLANTON - REDIRECT EXAMINATION BY MR. BAIN

1 testimony has been that they took place in April a 2014 ---

2 A. Yes, sir, I ---

3 Q. --- and it was May the 5th when you did the incident
4 report or when when ---

5 A. May 3rd.

6 Q. --- incident report was filed.

7 A. Yes, May 3rd.

8 Q. So you weren't present when the tattooing took place.

9 A. No, sir.

10 Q. You have no personal knowledge of who did it.

11 A. No, sir.

12 Q. Okay. You you've made your charge simply based on what
13 you were told by A.M. and then and Daniel.

14 A. Yes.

15 Q. Okay. Thank you.

16 THE COURT: Redirect.

17 MR. BAIN: Thank Your Honor.

18 REDIRECT EXAMINATION BY MR. BAIN:

19 Q. When did you take Tiffany Mosier's Statement?

20 A. I'm not sure on an exact date. Uh, ---

21 Q. Was it the, was it the day you arrived at the house?

22 A. No, sir, it was after that.

23 Q. Did Tiffany Mosier ever approach you to give a
24 statement?

25 A. No, sir. At the time that we were at the house, she was,

BRIAN BLANTON - REDIRECT EXAMINATION BY MR. BAIN

1 uh, I don't know if irate's a good word but she was upset.

2 Q. Okay, but after that date did Tiffany Mosier ever come to
3 give a statement?

4 A. Yes.

5 Q. Okay. Did she come with anybody?

6 A. She came with Ashley.

7 Q. Came with defen ---

8 A. Yeah.

9 Q. Did she get -- do you recall if she gave a statement in
10 fronta the defendant?

11 A. Yes, sir, I I spoke with 'em in, uh, like a little
12 reportin' room at the police department, they were both, all
13 three of us were present at the same time.

14 Q. And there were other statements as well that were brought
15 to you after this incident date, correct?

16 A. Yes.

17 Q. And those were brought to you by the defendant.

18 A. Yes.

19 Q. And some a those people you never questioned.

20 A. No.

21 Q. Just written statements were brought?

22 A. Yes, sir.

23 Q. Okay. You said a minute ago nothing, uh, was indicated
24 about who did the tattoeing, is that correct?

25 A. What do you, what do you mean?

BRIAN BLANTON - REDIRECT EXAMINATION BY MR. BAIN

1 Q. Uh, I believe the defense counsel asked you were there
2 when the tattoos were given.

3 A. Oh, yes. No, sir, I was not.

4 Q. And there were no marks indicating who did 'em.

5 A. No, sir.

6 Q. Do you believe that victim coulda given 'em to herself?

7 A. Not with the, I mean, this is my opinion but not with the
8 location of the tattoos on the victim, I don't believe it
9 woulda been possible to.

10 Q. Just to clarify Detective Sizemore was doing the
11 questioning?

12 A. Yes, we we were both talking, you know, with Tiffany and
13 Ashley at the time, ---

14 Q. Did ---

15 A. --- both of us.

16 Q. So you entered the room together, ---

17 A. Yes, yes.

18 Q. --- there was no way Detective Sizemore saw the defendant
19 before you did but ---

20 A. No, sir.

21 Q. --- or talked to her before you did?

22 A. No.

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

24 MR. THOMPSON: None.

25 THE COURT: You may step down.

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 THE WITNESS: Thank.

2 (Whereupon, the witness left the stand.)

3 THE COURT: Wish to excuse the witness? Mr. Bain?

4 MR. BAIN: Not at this time, Your Honor.

5 THE COURT: Officer, if you'll step outside and wait,
6 please. Thank you very much. State may call its next
7 witness.

8 MR. BAIN: Uh, State calls Tiffany Mosier.

9 THE COURT: Come forward, please.

10 (Whereupon, the witness came forward.)

11 THE COURT: Right over here (indicating) to my left and
12 be sworn, please.

13 THE CLERK: Please raise your right hand.

14 TIFFANY MOSIER, having been first
15 duly sworn, testified as follows:

16 THE CLERK: Okay, watch your step.

17 THE COURT: Have a seat. State your name, please.

18 THE WITNESS: Tiffany Mosier.

19 THE COURT: Thank you. Your witness, Mr. Bain.

20 MR. BAIN: Thank Your Honor.

21 DIRECT EXAMINATION BY MR. BAIN:

22 Q. Ms. Mosier, how far did you go in school?

23 A. Twelfth grade.

24 Q. Okay. You currently employed?

25 A. No, sir.

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 Q. Back in April of 2014 and May 2014 where were you
2 livin'?

3 A. In Gaffney, South Carolina with Ashley Martin.

4 Q. Do you remember the address?

5 A. t.

6 Q. Okay. And what was your relationship to Ms. Mart -- to
7 the def -- Ms. Martin?

8 A. I was datin' her.

9 Q. So she was your girlfriend?

10 A. Yes, sir.

11 Q. Now while you lived there did anybody else live with
12 ya'll?

13 A. Yes, sir.

14 Q. Who?

15 A. My sister-in-law A.M. and my brother Daniel Mosier.

16 Q. And how -- when they move in with ya'll?

17 A. I can't remember that far. I don't remember exactly what
18 day the month it was.

19 Q. Do you know why they moved in?

20 A. Uh, they wanted to be together and they were, they were
21 talkin' on the phone a lot, A.M. asked if she could move in
22 with us. I talked Ashley into if she -- if they could, she
23 said yeah, my brother could, was livin' with us previously and
24 I went to orientation one day, the next thing I know I come
25 home Amber had already moved in.

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 Q. Okay. And in April 2014 and May 2014, were Daniel and
2 A.M. livin' at your -- at the house?

3 A. Yes.

4 Q. Alright. Now do you recall an incident occurring in
5 those months?

6 A. I do.

7 Q. Were the co -- did the cops ever come to your house?

8 A. Yes, they did.

9 Q. And why did they come?

10 A. They came couple a times actually. Uh, the first time
11 was because Ashley Martin had hit ---

12 (Indiscernible cross-talk.)

13 Q. Only tell us about -- do you know why you're here
14 today?

15 A. Yes.

16 Q. And why is that?

17 A. 'cause Ashley Martin had put a tattoo on A.M.

18 Q. Concerning that incident did the cops ever come to your
19 house?

20 A. They came with, uh, to address Ashley Martin.

21 Q. Okay. Now did you see -- did you ever give a statement
22 to the police?

23 A. I did.

24 Q. Okay. And can you tell us what that statement said.

25 A. At the time when I wrote the statement I had said that

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 Ashley Martin had not do it but she had forced me to write it,
2 uh, basically forced me to do pretty much everything I did and
3 everything I said in the statement was from her.

4 Q. Who did you accuse of givin' a tattoo in that
5 statement?

6 A. She had me say Daniel Mosier did it.

7 Q. Okay. Do you remember the specifics a that statement?

8 A. I do not.

9 Q. Would it help if I showed you a copy a that statement?

10 A. Yes, it would.

11 THE COURT: You may approach the witness.

12 MR. BAIN: Thank Your Honor.

13 (Whereupon, a discussion was held off the record.)

14 (Statement of Tiffany Mosier marked State's Exhibit No. 4
15 for identification.)

16 BY MR. BAIN:

17 Q. Ms. Mosier, I'm handing you what's been marked State's
18 Exhibit 4 for identification purposes only, will you take a
19 look at this statement and read over it.

20 (Whereupon, the witness complied.)

21 You had a chance to read over?

22 A. Yes, sir.

23 Q. Is that the statement you gave?

24 A. Yes, sir.

25 Q. Is that your signature at the bottom of the statement?

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 A. Yes, it is.

2 MR. BAIN: Your Honor, at this time I would like to
3 submit State's Exhibit 4 into evidence.

4 THE COURT: Any objection?

5 MR. THOMPSON: None.

6 THE COURT: Without objection will be admitted as marked.

7 MR. BAIN: Thank Your Honor.

8 (State's Exhibit No. 4, statement of Tiffany Mosier,
9 admitted into evidence.)

10 BY MR. BAIN:

11 Q. Ms. Mosier, will you please read that statement.

12 A. A.M. and Daniel Mosier lived with me and Ashley.
13 The reason Amber and Daniel were online was because ---

14 THE COURT: I'm gonna ask you if you would move a little
15 closer to the microphone, speak clearly now.

16 A. "The reason A.M. and Daniel were online we was
17 lookin' for a heart because me and Ashley told them ---

18 MR. BAIN: Ms. Mosier, will you read a little slower
19 'cause the jury's gotta understand ya so read it slower and
20 and kinda keep your head up towards the mic if you don't mind,
21 please.

22 THE COURT: Or hold it, hold it up by the microphone if
23 you don't mind.

24 (Whereupon, the witness complied.)

25 THE COURT: There you go.

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 MR. BAIN: Just read it slower.

2 THE COURT: Go slower.

3 A. Okay. "We told, we told them they had to move out and
4 that was on April the 30th but while they was livin' with us
5 Daniel Mosier had told me and Ashley that he put a cross on
6 his girlfriend's arm, that was the day that I took Ashley
7 Martin to Mary Black. Once we got home that night Daniel
8 bragged about how good a job he did for his first tattoo. The
9 day that we told them they had to move out A.M. , Ashley
10 Martin was arguin'. Ashley walked in, walked away and as soon
11 as she turned around A.M. hit Ashley in the back of her
12 head, that is when everything started with them. Daniel
13 Mosier told me that he will be leaving with his girlfriend."

14 Q. Alright. That statement's not true, is it?

15 A. No, it's not.

16 Q. Why'd you give that statement to police?

17 A. Ashley Martin had forced me to write that statement, said
18 that if I didn't things would not turn out good on my end.
19 She had threatened, basically she had threatened my life.

20 Q. And is the defendant in the courtroom today?

21 A. Yes, she is.

22 Q. Can you point her out to us. Can you please tell us what
23 she's wearin' or ---

24 A. A blue shirt, her hair's pulled back.

25 MR. BAIN: Your Honor, please let the record reflect that

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 the witness has identified the defendant.

2 THE COURT: It'll so reflect. Yes, sir, you may proceed.

3 BY MR. BAIN:

4 Q. She's bigger than you.

5 A. Yes, she is.

6 Q. How how big are you?

7 A. I'm a hundred and three pounds.

8 Q. What what kinda threat did she make?

9 A. Basically, that if I didn't write the statement that I
10 would not be, I would not be here right now. She had
11 threatened my family, uh, uh, she just and then she just kept
12 beatin' me until I decided to write it.

13 Q. And do you remember when you wrote that statement?

14 A. I don't, don't remember exactly when I wrote it.

15 Q. Was it the day the officers came to the house?

16 A. Okay, well I think it was a couple days after.

17 Q. And did you go to the police department?

18 A. I went with her.

19 Q. And she was with you.

20 A. Yes.

21 Q. Did she see ya write the statement?

22 A. Yes, she did.

23 Q. Did she know what you were writing?

24 A. Yes, she did, she told me everything to write.

25 Q. How are you related to Daniel?

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 A. He's my brother.

2 Q. Alright, and do you and Daniel have a good
3 relationship?

4 A. Yes, we do.

5 Q. Di -- did you say you did?

6 A. We do.

7 Q. Still do. Ya'll still have a good relationship?

8 A. Uh, it's okay right now.

9 Q. Are, uh, ya'll livin' together?

10 A. No, we're not.

11 Q. Did he -- when did he move out of the house, the the
12 house in question?

13 A. Uh, he moved out same day Amber Cook did, uh, think it
14 was, uh, I can't remember exactly what day it was, I tried --
15 I blocked all that out.

16 Q. Did you ever see the defendant threatening anybody else
17 to make a statement?

18 A. No, I did not.

19 Q. Let's go back to the dates in question, around April 5th
20 2014 through April 15th 2014, did you witness the defendant
21 give the victim A.M. a tattoo between those times?

22 A. Yes, I did.

23 Q. How many?

24 A. One.

25 Q. And what type tattoos were they? what they look like?

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 A. It was a cross on A.M. left arm.

2 Q. And then were there any more tattoos?

3 A. Not on A.M. . She put three on my brother same
4 night.

5 Q. But you only remember one tattoo.

6 A. On A.M. yes, sir.

7 Q. Okay. Do you know how many tattoos A.M. has now?

8 A. No, sir, I don't.

9 MR. BAIN: Your Honor, permission to show State's
10 Exhibit 3 to the witness?

11 THE COURT: I'm sorry, I didn't understand what you
12 said.

13 MR. BAIN: Permission to show State's Exhibit 3 to the
14 witness?

15 THE COURT: Yes, you may.

16 BY MR. BAIN:

17 Q. Ms. Mosier, will you take a look at those two pictures.

18 THE COURT: If you need to step down, you can to look at
19 that clearly.

20 Q. Which one of these two was the tattoo you witnessed being
21 placed on A.M. ?

22 A. The cross.

23 Q. Is that the picture on the right?

24 A. Yes, sir.

25 Q. And do you remember when exactly she put it on her?

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 A. Uh, yeah, I, all I remember is it was late night, ---

2 Q. Okay.

3 A. --- I don't happen to remember what day or month it was.

4 Q. What about the picture on the left, do you recognize
5 that?

6 A. I do now.

7 Q. Okay, and who has that tattoo?

8 A. A.M.

9 Q. And do you know how she got that tattoo?

10 A. Ashley Martin did that one as well.

11 Q. Did you actually witness that one?

12 A. I walked outta the room when she started on another
13 one.

14 Q. But you did actually witness her put the cross ---

15 A. Yes, I did.

16 Q. --- on Amber.

17 A. Yes, I did.

18 Q. Did the defendant ever tell you anything about these
19 tattoos?

20 A. She told -- I was drawin' tattoos out one night and she
21 said that she was gonna put one on A.M. , she had asked
22 for one and, uh, I was sittin' there just a drawin'. She
23 asked me to get, uh, her tattoo gun, her ink and everything
24 ready so she can put, so she could get a tattoo on A.M. .

25 Q. And where did she keep this tattooin' equipment?

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 A. She started off keepin' it in the bedroom beside our bed,
2 it was in a purple and white stand in the second drawer and
3 then it moved into the hallway between the two bedrooms.

4 Q. Okay. When the cops arrived at your house concerning
5 this incident, where was that tattoo kit?

6 A. Her brother Rocky Martin had it.

7 Q. And why did he have it?

8 A. He came and borrowed it from her and then when he
9 realized when the cops came and got her, he kept, he kept it
10 and hid it.

11 Q. So there was no tattooin' equipment in the house the day
12 the cops arrived.

13 A. No, sir.

14 Q. Okay. Now did Daniel Mosier ever give anybody a tattoo?

15 A. No, he did not.

16 Q. Did you ever see him give anybody a tattoo?

17 A. No, I did not.

18 Q. So he didn't give A.M. a tattoo.

19 A. No, sir.

20 Q. Why would ya indicate your brother in this?

21 A. Uh, what you mean?

22 Q. Why would you name your brother as a person who gave the
23 tattoo in your first written statement?

24 A. She wanted to put all the charges on him just so she
25 didn't go to jail and she made me do it, I didn't want to, I

TIFFANY MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 was, I was scared.

2 Q. Are you still scared?

3 A. Right now, yeah.

4 MR. BAIN: Beg the Court's indulgence, Your Honor.

5 THE COURT: Yes, sir.

6 BY MR. BAIN:

7 Q. Are you and the defendant on good terms?

8 A. No.

9 Q. You, back in April of 2014 you were?

10 A. Yes.

11 Q. Okay, but now you're not?

12 A. Correct.

13 Q. And without specifics why is that? Are ya'll broken
14 up?

15 A. We we are.

16 Q. So ya'll have ended ya'lls relationship?

17 A. Yes.

18 Q. Okay. But just because ya'll broke up doesn't mean
19 you're gonna -- you're you're lyin' today, is that correct?

20 A. I'm tellin' the truth on everything.

21 Q. And why'd you come forward tell the truth?

22 A. I felt like it was the right thing to do and I'm not
23 really that scared of her anymore and ---

24 Q. You don't ---

25 A. --- I I knew that if I came up here and said what she

TIFFANY MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 wanted me to say I would be doing the wrong thing.

2 Q. Okay. And you no longer live with her; ---

3 A. No, I don't.

4 Q. --- in fact, she doesn't even know where you live.

5 A. No, sir.

6 Q. Okay. And you no longer live in Cherokee County.

7 A. Correct.

8 MR. BAIN: No further questions at this time, Your Honor.

9 THE COURT: Mr. Thompson, your witness.

10 MR. THOMPSON: Thank Your Honor.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION BY MR. THOMPSON:

13 Q. Hi, Ms. Mosier, how you doin'?

14 A. Doin' good.

15 Q. Good. I think this is the third time you and I've seen
16 each other, is that right?

17 A. Yes, sir.

18 Q. Okay. You say you gave this statement that, the written
19 statement that's marked, uh, I believe you got in your hand,
20 uh, let me see what the number on that was, I think it's 4,
21 let me be sure, State's Exhibit No. 4, you say you gave that
22 statement just a couple days after Ms. Martin was arrested?

23 A. Yes, sir.

24 Q. Okay. So at that point in time you was willin' to throw
25 your brother under the bus?

TIFFANY MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 A. I was because I was scared.

2 Q. Okay. Well now I think you've testified that, uh,
3 Ms. Martin threatened your life if you didn't write the
4 statement, is that right?

5 A. She did.

6 Q. And that she kept beatin' you until you wrote the
7 statement?

8 A. She did.

9 Q. And you didn't, she she beat ya and you didn't call the
10 police.

11 A. I was always scared to call the cops on her and every
12 chance I had that I even had to call the cops, uh, that she
13 took all my phones out of my hand and kept them from me.

14 Q. Well now you gave a statement at the police station,
15 right?

16 A. Yes, sir.

17 Q. So you were in the police station with the policemen
18 there.

19 A. Yes, sir.

20 Q. So at that point in time you had a chance to talk to ---

21 A. She she was with me and once again I was, I'm -- I was
22 scared of her.

23 Q. And you and your brother have a good relationship.

24 A. Yes, sir.

25 Q. And in your statement that you gave you say that your

TIFFANY MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 brother and Ashley, I'm sorry, your brother and A.M. were
2 doin' this because they'd been asked to move out and they were
3 tryin' to get even with Ms. Martin, is that right?

4 A. Yes, sir.

5 Q. Okay. And that when ya'll came home from you takin'
6 Ms. Martin to a hospital, Mary Black, I assume it's Mary Black
7 hospital, is that right?

8 A. Yes.

9 Q. And when ya'll got home that your brother bragged about
10 doin' a good job, what a good job he had done on his first
11 tattoo, isn't that correct?

12 A. Yes, sir, that's what I said.

13 Q. Alright. Now it was, what, May of 2014 or so when you
14 gave this statement?

15 A. Yes, sir.

16 Q. Sometime in May, you don't know the exact date, it was
17 sometime in May, right, ---

18 A. Yes, sir.

19 Q. --- just a few days after the police came out to her
20 house.

21 A. Yes, sir.

22 Q. Okay. And I asked you to start with if this was the
23 third time we'd seen each other, right?

24 A. And I, if I remember correctly it is.

25 Q. Okay. First time was February a this year in my office,

TIFFANY MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 right?

2 A. Of this year?

3 Q. Of this year.

4 A. Um, I think so, I I don't remember.

5 Q. Well you remember comin' to my office, don't ya?

6 A. Yes, sir.

7 Q. Okay, uh, and it was earlier this year.

8 A. Yes, sir.

9 Q. Okay. And at that time we went over this statement,
10 didn't we?

11 A. Yes, sir.

12 Q. And at that time you said that statement was true.

13 A. That's the time I was still, I was still with her.

14 Q. Why didn't you tell me that you were not tellin' the
15 truth?

16 A. We both came -- I was -- she came with me and I knew what
17 she was capable of if I did tell the truth.

18 Q. Didn't we talk to each other individually though?

19 A. I think we was, I think we was with her when I was with
20 talkin'.

21 Q. Okay. Um, at one point we were all together, right, but
22 didn't I talk with each of ya individually?

23 A. No, sir, not that I can remember.

24 Q. Okay.

25 A. You didn't talk with me without her.

TIFFANY MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 Q. But that was your second time to say that what was in
2 that statement was not true, correct?

3 A. Yes, sir.

4 Q. So between May of last year when you gave the statement
5 to the police and February a this year when you was in my
6 office did you ever tell anybody in the middle there that the
7 statement wasn't true?

8 A. The only person I told at the time that I was datin', I
9 was datin' Ashley Martin, was my family. They kept tryin' to
10 get me to tell the truth, tell the truth and at the time I was
11 datin' her I knew what she was capable of and how hard she can
12 hit, I was always scared come come forward with it.

13 Q. Well did you show any bruising or anything to the police
14 when you went to the police station that day?

15 A. No, sir, I didn't.

16 Q. Did you show any to me?

17 A. No, sir, I didn't.

18 Q. Okay. When did you and Ms. Martin break up?

19 A. The ending of April thi -- ending of May this year.

20 Q. Okay. The end of May of this year.

21 A. It's been about four months.

22 Q. Okay. And the next time that that we saw each other was
23 believe it was last Friday in the solicitor's office, is that
24 right?

25 A. Yes, sir.

TIFFANY MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 Q. Okay. And is that the first time you told anybody that
2 involved in this case that this statement was not true?

3 A. Yes, sir.

4 Q. So it went for a over a year before you told anybody that
5 the statement you'd given was not true.

6 A. Correct.

7 Q. And it was after you and Ms. Martin had broken up that
8 you say the statement's not true.

9 A. Correct.

10 Q. Okay. And ya'll ya'll are not on good terms now, ---

11 A. Correct.

12 Q. --- that's bein' you and Ms. Martin.

13 A. Correct.

14 Q. Okay. Fact that didn't at some point in time after ya'll
15 broke up did you go to Georgia?

16 A. Yes, sir, I did.

17 Q. And did you go live with your brother?

18 A. I moved in with my mother.

19 Q. In with your mother, okay. Was your brother livin' down
20 there also?

21 A. He didn't move in 'til probly couple months after I moved
22 down there.

23 Q. Okay. Have you now changed your statement because you
24 now know that your brother would get in trouble?

25 A. I changed it 'cause I wanted to tell the truth.

TIFFANY MOSIER - REDIRECT EXAMINATION BY MR. BAIN

1 Q. What made ya'll of a sudden wanna tell the truth now when
2 ya hadn't told it for a year?

3 A. I'm not, I'm no longer really that scared of her anymore.
4 I know that tellin' the truth today I would feel better 'bout
5 myself.

6 Q. And you say you only witnessed one tattoo bein' put on
7 her.

8 A. Yes, sir.

9 Q. Thank you.

10 THE COURT: Redirect.

11 MR. BAIN: Thank Your Honor.

12 THE COURT: Yes, sir.

13 REDIRECT EXAMINATION BY MR. BAIN:

14 Q. Were you and the defendant in abusive relationship?

15 A. Yes, sir.

16 Q. She abuse ya often?

17 A. Yes, sir.

18 Q. What would she do?

19 A. Every time me and her get into an argument and she'd
20 always come and hit me in the back a the head, hit me pretty
21 much everywhere. She punched me in my stomach, my my my back,
22 my leg, everywhere.

23 Q. Would you have had anywhere else to go back in April a
24 2014 to live?

25 A. I wasn't on speakin' terms with my family.

TIFFANY MOSIER - REDIRECT EXAMINATION BY MR. BAIN

1 Q. So did ya have anywhere else to live?

2 A. No, sir.

3 Q. So when you gave all these statements, the defendant was
4 always there with you?

5 A. Yes.

6 Q. And if you would have recanted then and she kicked you
7 outta the house, you'd have nowhere to go?

8 A. No, sir.

9 Q. Were you scared that legal charges could be brought
10 against you if you recanted your story?

11 A. A little bit yes but I was more afraid of her.

12 Q. But you were scared that you could possibly get in
13 trouble for givin' a false statement.

14 A. Yes.

15 Q. Now in in your statement did ya'll actually go to Mary
16 Black that day?

17 A. On the night she did tattoos, no, we did not. We
18 was -- I -- it was the night that I had off work, I was
19 working at Walmart at the time, it was the night I had off
20 work and we was all up and that's when it all happened. We
21 stayed up so she could do 'em.

22 MR. BAIN: No further questions, Your Honor.

23 THE COURT: Recross.

24 MR. THOMPSON: Just one.

25 RECROSS-EXAMINATION BY MR. THOMPSON:

TIFFANY MOSIER - RECROSS-EXAMINATION BY MR. THOMPSON

1 Q. You're admitting that during the course of this this
2 you've give -- you've lied about it, correct?

3 A. Yes. Okay.

4 Q. Okay, thank you.

5 THE COURT: Alright, you may step down, sir -- ma'am.

6 (Whereupon, the witness left the stand.)

7 THE COURT: You wish to excuse the witness?

8 MR. BAIN: Yes, Your Honor.

9 MR. THOMPSON: No problem.

10 THE COURT: You're free to go, thank you very much. You
11 may call your next witness.

12 MR. BAIN: Your Honor, the State calls Daniel Mosier.

13 THE COURT: Come forward, please. Come to my right and
14 be sworn in.

15 (Whereupon, the witness came forward.)

16 THE CLERK: Please raise your right hand, place your left
17 hand on the Bible.

18 DANIEL MOSIER, having been first
19 duly sworn, testified as follows:

20 THE CLERK: Okay, watch your step.

21 THE COURT: Once you're seated state your name, please.

22 THE WITNESS: Daniel Mosier.

23 THE COURT: Thank you. Counselor, your witness.

24 MR. BAIN: Thank Your Honor.

25 DIRECT EXAMINATION BY MR. BAIN:

DANIEL MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 Q. Mr. Mosier, how old are you?

2 A. I'm 20-years-old.

3 Q. How far'd you go in school?

4 A. I graduated high school.

5 Q. Okay. Where'd you go to high school?

6 A. I went to Dorman High School and to Broome High School.

7 Q. Alright. Are you currently employed?

8 A. Yes, sir, I am.

9 Q. Okay. Where at?

10 A. Rocky Rhodes (phonetic) here in Augusta Georgia.

11 Q. Where are you currently livin'?

12 A. Augusta, Georgia.

13 Q. Okay. Who you live with?

14 A. My mom and my stepdad.

15 Q. Okay. Now back in April of 2014 and May of 2014 were you
16 livin' in Augusta?

17 A. No, sir.

18 Q. Where were ya livin'?

19 A. May and April a 2014?

20 Q. Yes, sir.

21 A. I was livin' in Spartanburg.

22 Q. In in April of 2014 and May of 2014?

23 A. Oh, April and May I was livin' in, uh, Gaffney.

24 Q. And where were you livin' at in Gaffney?

25 A. I was livin' with my sister Tiffany Mosier and her

DANIEL MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 girlfriend Ashley Martin.

2 Q. You livin' with anybody else?

3 A. I was also stayin' with my wife A.M. at the time,
4 she's now A.M. , but she didn't move in 'til April.

5 Q. So was she your girlfriend at the time?

6 A. At the time, yes, sir.

7 Q. And approximately how long did ya'll live there?

8 A. We lived there for about a month.

9 Q. Alright. Now while you lived there did you see any
10 tattooing?

11 A. Yes, sir, I did.

12 Q. And who gave tattoos?

13 A. Ashley Martin.

14 Q. Have you ever given a tattoo in your life?

15 A. No, sir.

16 Q. Do you know how to give a tattoo?

17 A. No, sir.

18 Q. Do you have tattoo equipment?

19 A. No, sir.

20 Q. At the time was A.M. you're fiancée or just
21 girlfriend?

22 A. She -- I would consider her my fiancée but she was just
23 my girlfriend.

24 Q. Okay. Would you have given your girlfriend a tattoo?

25 A. No, sir.

DANIEL MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 Q. Now are you familiar with the two tattoos that were given
2 that we're discussin' today?

3 A. Yes, sir, I am.

4 Q. And who gave those tattoos?

5 A. Ashley Martin.

6 Q. Who'd she give 'em to?

7 A. She gave 'em to A.M. which is now Mosier.

8 Q. If I showed you pictures of 'em, could you identify 'em?

9 A. Yes, sir, I could.

10 Q. At this time I'm gonna show you what's been admitted into
11 evidence as State's Exhibit 3. Mr. Mosier, you recognize
12 those two pictures?

13 A. Yes, sir, I do.

14 Q. What are in 'em?

15 A. That is the infinity heart with the infinity sign in it
16 and a cross with initials for my wife's ma.

17 Q. And those are the two tattoos the defendant gave?

18 A. Yes, sir.

19 Q. And about how far apart did she receive those two
20 tattoos?

21 A. I wanna say anywhere from a couple days to a week.

22 Q. They weren't given on the same day?

23 A. No, sir, they was not.

24 Q. Did you give a statement to police?

25 A. Yes, sir, I did.

DANIEL MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 Q. Okay. And in that statement did you ever tell 'em you
2 gave 'em -- gave tattoos?

3 A. No, sir, I did not.

4 Q. While you were livin' there did you ever see any, uh,
5 tattooin' equipment, tattoo kit?

6 A. Yes, sir, I did.

7 Q. And whose was that?

8 A. That was Ashley Martin's.

9 Q. Do you know where it was kept?

10 A. It was kept in several places: sometimes under the bed,
11 sometimes underneath the computer, sometimes underneath the
12 game, it was kept in several places in the house.

13 Q. And why did you and A.M. move out?

14 A. We moved out for several different reasons but, uh,
15 mainly because I felt like we was not safe to live there
16 anymore.

17 Q. Did you ever see the defendant be abusive to Tiffany
18 Mosier?

19 A. Yes, sir, I have.

20 Q. Was she abusive to you?

21 A. No, sir, she was not.

22 Q. She abusive to your girlfriend at the time A.M. ?

23 A. Yes, sir, she was.

24 Q. And after ya'll moved out where did ya'll go?

25 A. We went over to her dad, my -- A.M. dad's house which

DANIEL MOSIER - DIRECT EXAMINATION BY MR. BAIN

1 was Gary Cook.

2 Q. Okay. How he -- did he see the tattoos?

3 A. Yes, sir, he did.

4 Q. Did you -- who filed the police report?

5 A. My father-in-law and my wife both filed a police
6 report.

7 Q. Do you have any tattoos?

8 A. Yes, sir, I do.

9 Q. Where are they at?

10 A. I have a symbol for Israel, a cross and a live free
11 tattoo.

12 Q. And where'd you get those tattoos?

13 A. All three done by Ashley Martin.

14 Q. Was it while you were livin' at 200 Russell Street in
15 Cherokee County?

16 A. Yes, sir.

17 Q. The same house, uh, A.M. received her tattoos at ---

18 A. Yes, sir.

19 Q. --- on the same tattooing equipment?

20 A. Yes, sir.

21 MR. BAIN: Beg the Court's Court's indulgence, Your
22 Honor.

23 THE COURT: Yes, sir.

24 BY MR. BAIN:

25 Q. How long did you say you lived at that house?

DANIEL MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 A. I personally lived there for about two months but with
2 A.M. I lived there for only one month.

3 Q. Okay. And, uh, you, how many tattoos did you get?

4 A. I only got -- received three.

5 Q. Do you remember if the needle was switched out on the
6 tattoo job?

7 A. Not that I recall, I don't really remember.

8 Q. Have you been truthful today?

9 A. Yes, sir, I have.

10 Q. No further question at this time, Your Honor. Please
11 answer any questions defense counsel might have.

12 THE COURT: Mr. Thompson, your witness.

13 CROSS-EXAMINATION BY MR. THOMPSON:

14 Q. It's still morning, good morning, Mr. Mosier.

15 A. Mornin'.

16 Q. Now you say you did not give a tattoo to A.M. .

17 A. No, sir, I did not.

18 Q. And ya'll were you say you considered her your fiancée at
19 the time.

20 A. At the time, yes, sir.

21 Q. And then ya'll got married.

22 A. Yes, sir.

23 Q. When'd you get married?

24 A. We got married on July 18th 2014.

25 Q. July what?

1 A. Eighteen.

2 Q. Eighteenth. And you said she had two tattoos, one was a
3 cross with the initials of her mom in it, ---

4 A. Yes, sir.

5 Q. --- is that cross significant of anything?

6 A. To her it is because it stands for with the initials it
7 stood for her mother.

8 Q. Okay. Is it the same cross you say you have on your
9 arm?

10 A. No, sir, it's not.

11 Q. Okay. And you said the other's an infinity heart, what's
12 an infinity heart?

13 A. It means eternal love.

14 Q. It means eternal love.

15 A. Love forever.

16 Q. Okay. Do you know Michelle Patterson?

17 A. Yes, sir, I do.

18 Q. And how do you know her?

19 A. Through Ashley Martin, I don't know the relation between
20 those two though.

21 Q. But but you know her.

22 A. Yeah.

23 Q. Was she ever in the house?

24 A. No, sir, she was not.

25 Q. She wasn't in the house.

DANIEL MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 A. No, sir.

2 Q. Were you over at her house?

3 A. I have been over to her house.

4 Q. Okay. Do you know whether or not she's ever seen you
5 tattooing A, uh, A.M. ?

6 A. Sir, she has not seen me tattoo anybody.

7 Q. Okay. Do you know know Leylonne Martin?

8 A. Yes, sir, I do.

9 Q. How do you know her?

10 A. That is Ashley Martin's mother.

11 Q. I'm sorry?

12 A. Ashley Martin's mother.

13 Q. Okay. Have you ever -- she ever been in your house?

14 A. No, sir.

15 Q. She was never over there when ya'll were all livin'
16 together?

17 A. No, sir.

18 Q. And you ever been her house?

19 A. Yes, sir.

20 Q. Okay. Were you at her house at any time in April or May
21 of 2014?

22 A. Uh, not that I remember but we might have been.

23 Q. Do you remember her seein' the tattoo on Amber and askin'
24 questions about it?

25 A. Yes, sir.

DANIEL MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 Q. Alright. What kinda questions did she ask?

2 A. She asked, she asked Ashley, she's askin' her, When did
3 you do that one, and asking her about her work and stuff like
4 that.

5 Q. She was askin' Ashley that?

6 A. Yes, sir.

7 Q. Did she ever ask Amber about the tattoos?

8 A. No, sir, not that I recall.

9 Q. Not you recall. Did Ms. Martin ever get on you about
10 A.M. bein' tattooed?

11 A. Can you rephrase that question, please.

12 Q. Okay. Well did she ever fuss at you about A.M. be
13 havin' a tattoo?

14 A. No, sir.

15 Q. She never did. Did you ever tell her that you did it and
16 that you did a good job for your fast -- first tattoo?

17 A. No, sir.

18 Q. Did you ever say that to Tiffany?

19 A. No, sir.

20 Q. Did you tell Ms. Martin that her dad gave permission for
21 her to have a tattoo?

22 A. No, sir.

23 Q. So you deny all that?

24 A. Yes, sir, I do.

25 Q. And you realize that if if you were the one that had

DANIEL MOSIER - REDIRECT EXAMINATION BY MR. BAIN

1 given the tattoo that would be illegal, right?

2 A. Yes, sir.

3 Q. Okay. Thank you.

4 THE COURT: Redirect.

5 MR. BAIN: One question, Your Honor.

6 THE COURT: Yes.

7 REDIRECT EXAMINATION BY MR. BAIN:

8 Q. You've never given a tattoo in your life, have you?

9 A. No, sir, I have not.

10 MR. BAIN: No further questions.

11 THE COURT: Recross?

12 MR. THOMPSON: No.

13 THE COURT: You may step down.

14 (Whereupon, the witness left the stand.)

15 THE COURT: Wish to excuse the witness?

16 MR. BAIN: Yes, Your Honor.

17 THE COURT: Any objection?

18 MR. THOMPSON: No objection.

19 THE COURT: You're free to go, sir, or you're free to
20 stay. Ask the attorneys to approach briefly.

21 (Whereupon, a bench conference was held off the record.)

22 THE COURT: Mr. Bain, you may call your next witness.

23 MR. BAIN: State calls A.M.

24 THE COURT: Come forward please and be sworn.

25 THE CLERK: Please raise your right hand.

A.M. - DIRECT EXAMINATION BY MR. BAIN

1 A.M. , having been first
2 duly sworn, testified as follows:

3 THE CLERK: Okay, watch your step.

4 THE COURT: Have a seat, please. State your name.

5 THE WITNESS: A.M. .

6 THE COURT: Thank you. Mr. Bain, your witness.

7 DIRECT EXAMINATION BY MR. BAIN:

8 Q. Amber, how old are you?

9 A. I'm now nineteen.

10 Q. Back in April of 2014, May 2014, how old were ya?

11 A. Seventeen.

12 Q. Okay. How far'd you go in school?

13 A. All the way. I graduated, high school diploma.

14 Q. Okay, are you currently employed?

15 A. No, sir.

16 Q. Have any children?

17 A. Yes, sir.

18 Q. How many?

19 A. One.

20 Q. Who's the father a that child?

21 A. Daniel Mosier.

22 Q. Okay. Are you and Daniel still married?

23 A. Yes, sir.

24 Q. Okay. Do ya'll live together right now?

25 A. No, sir.

A.M. - DIRECT EXAMINATION BY MR. BAIN

1 Q. Are you separated?

2 A. I guess you could say so.

3 Q. So ya'll currently aren't livin' together.

4 A. No, sir.

5 Q. Now back in April of 2014 you got some tattoos,
6 correct?

7 A. Yes, sir.

8 Q. And where are those tattoos located?

9 A. On my left forearm, right forearm.

10 Q. Okay. Have you seen the pictures I've shown the other
11 witnesses?

12 A. Yes, sir.

13 Q. At this time I'm gonna show you what's been admitted into
14 evidence as State's Exhibit 3. A.M , will you please
15 take a look at those two pictures.

16 (Whereupon, the witness complied.)

17 Do you know what are in those two pictures?

18 A. Yes, sir.

19 Q. And what are they?

20 A. They're tattoos I got from Ashley Martin.

21 Q. In April of 2014?

22 A. Yes, sir.

23 Q. Did you get both of 'em at the same time?

24 A. No, sir, they were about a week apart.

25 Q. Alright. Which one ya get first?

A.M. - DIRECT EXAMINATION BY MR. BAIN

1 A. The one on the right, the cross.

2 Q. And do you remember who all was present when you got
3 those tattoos?

4 A. Yes, sir, it was Ashley Martin, Tiffany Mosier, Daniel
5 Mosier and me.

6 Q. Okay. And what about the one on the left?

7 A. Uh, same, everybody is, all four are present.

8 Q. You still have those tattoos?

9 A. Yes, sir.

10 Q. You show 'em to the jury?

11 A. Yes, sir.

12 (Whereupon, the witness complied.)

13 Q. Now ---

14 A. The the one on my left arm has been fixed, ---

15 Q. Okay.

16 A. --- it was fixed about a month after I turned 18.

17 Q. Okay. And who'd you get that -- you get that fixed by a
18 tattoo artist?

19 A. Yes, sir.

20 Q. At the time did you know, uh, at the time were you aware
21 that you couldn't get a tattoo at the age a 17?

22 A. Not pacifically. I I knew you couldn't, I guess you say
23 I knew I couldn't get one but I didn't know the rules of
24 parent consent and and so on and so forth.

25 Q. Okay. Uh, you asked the defendant to give you these

A.M. - DIRECT EXAMINATION BY MR. BAIN

1 tattoos.

2 A. Yes, sir.

3 Q. You weren't held down or anything.

4 A. No, sir.

5 Q. So so you wanted the tattoos at the time.

6 A. Yes, sir.

7 Q. Okay. Are you upset you got 'em?

8 A. The way I did yes, I wish I coulda gotten 'em
9 professionally and waited a while.

10 Q. Now can you please tell the jury how it -- how the
11 tattooing occurred.

12 A. Um, Ashley Martin one night offered to do me a tattoo and
13 all because I don't -- I think she she was talkin' about she'd
14 done one on Daniel and then she asked me if I wanted one and I
15 said sure and we picked out one and she tattooed me.

16 Q. Now how'd you pick it out?

17 A. Uh, we looked on the Internet.

18 Q. And then explain the process from there as you remember
19 it.

20 A. Uh, we looked on the Internet then basically think it was
21 Tiffany who sketched it out, put a tape on computer and
22 sketched it out and all and then Ashley did some kinda process
23 to put the ink part on my arm just as a line out and then she
24 proceeded to trace it with an actual tattoo gun.

25 Q. Okay. And what did that tattoo gun look like?

A.M. - DIRECT EXAMINATION BY MR. BAIN

1 A. Uh, they hid tattoo gun, couldn't couldn't specifically
2 what it looked like.

3 Q. Do you know -- you lived, uh, at the residence with ---

4 A. We's there from about April 7th through the end a the
5 month so around a month.

6 Q. Okay. And did you see any tattooin' equipment?

7 A. Yes, sir.

8 Q. Do you know where she kept the tattooin' equipment?

9 A. At one point in time she had kept in her closet and then
10 it was moved to in the hallway in between her and Tiffanys'
11 bedroom and my and Daniel's bedroom.

12 Q. Alright. Now at any time did you see the defendant was
13 she abusive?

14 A. Yes, sir.

15 Q. Did she hit anybody?

16 A. Yes, sir.

17 Q. And who'd she hit?

18 A. Uh, it started out where she would always hit Tiffany and
19 then at the end when it become relevant that we needed to move
20 out over a fight over \$20, uh, me and Daniel were packing and
21 all and she come in there and started arguin' with me but she
22 didn't know that Daniel was gonna leave with me as well and
23 she proc -- I I believe I said somethin' to her and made her
24 upset and she proceeded to hit me in the face and all. She
25 proceeded kick me out. She basically pushed me out the door,

A.M. - DIRECT EXAMINATION BY MR. BAIN

1 I couldn't get my shoes on or nothin'. I went, I happened to
2 have my phone with me and I went and locked myself in the car.
3 At the time me and her roommate know, dawned on me I can't
4 leave in a car with no license plate on it so I locked myself
5 in the car, called my dad, did not answer his phone, proceeded
6 to call 911 explain to them. Ashley proceeded to come out the
7 door ---

8 MR. THOMPSON: Your Honor, ---

9 A. --- and ---

10 MR. THOMPSON: --- can we approach for a moment?

11 THE COURT: No verbal response.

12 (Whereupon, a bench conference was held off the record.)

13 THE COURT: You may proceed.

14 BY MR. BAIN:

15 Q. Amber, was it at that time you moved outta the house?

16 A. Yes, sir.

17 Q. And did you move in with your father?

18 A. Yes, sir.

19 Q. Okay, and who reported this to police?

20 A. The tattooin' or the ---

21 Q. Tattooing.

22 A. Uh, my father and I.

23 Q. Okay. Did your father, your father want you to report
24 it?

25 A. I I also did as well. I I was not happy what had been

A.M. - CROSS-EXAMINATION BY MR. THOMPSON

1 done and and all.

2 Q. And when officers questioned you about tattoos who did
3 you say did 'em?

4 A. Ashley Martin.

5 Q. Did Daniel Mosier ever give you a tattoo?

6 A. No, sir.

7 Q. Uh, you're married to Daniel, correct?

8 A. I am now.

9 Q. So you know him pretty well?

10 A. Yes, sir.

11 Q. Have you ever seen him give a tattoo?

12 A. No, sir.

13 Q. Have you ever seen the defendant give someone else a
14 tattoo?

15 A. Yes, sir.

16 MR. BAIN: No further questions at this time, Your Honor.

17 THE COURT: You may cross-examine, Mr. Thompson.

18 MR. THOMPSON: Thank Your Honor.

19 CROSS-EXAMINATION BY MR. THOMPSON:

20 Q. You and Ms. Martin, Ms. Ashley Martin, didn't have a good
21 relationship, did you?

22 A. Not particularly.

23 Q. Okay. Why were you livin' there?

24 A. Because I at the time was havin' trouble with my father
25 and needed to get outta the house so I m -- they allowed me to

A.M. - CROSS-EXAMINATION BY MR. THOMPSON

1 move in with them.

2 Q. So you wasn't gettin' along with your dad?

3 A. No, sir.

4 Q. Okay. And you say at the time you wanted the tattoos.

5 A. Yes, sir.

6 Q. And you wasn't aware that you were too young get a
7 tattoo.

8 A. Not particularly.

9 Q. Okay. And Daniel Mosier was your boyfriend, ---

10 A. Yes, sir.

11 Q. --- he was livin' there with ya.

12 A. Yes, sir.

13 Q. Okay. And when you went back to live with your dad, ---

14 A. Yeah.

15 Q. --- is that when you found out that you wasn't
16 supposed -- you's too young to get a tattoo?

17 A. Yes, sir.

18 Q. And ya'll went to the police station.

19 A. Yes, sir.

20 Q. Is that when you realized the seriousness of what was
21 goin' on?

22 A. Yes, sir.

23 Q. Is that when you realized that whoever gave you the
24 tattoo was gonna be in trouble?

25 A. Yes, sir.

A.M.

- CROSS-EXAMINATION BY MR. THOMPSON

1 Q. Okay. So if you'd a told police that point in time that
2 your boyfriend gave you the tattoo, Daniel, he woulda been the
3 one in trouble, right?

4 A. Right, but he did not give me the tattoos.

5 Q. Well the question is if you had a told 'em that he'd be
6 the one to be in trouble.

7 A. Yes, sir.

8 Q. Okay. Now do you know Michelle Patterson?

9 A. No, sir.

10 Q. You don't know who she is?

11 A. No, sir.

12 Q. Would it surprise you that if she were to say that she
13 saw Daniel givin' you the tattoo?

14 A. No, sir, it would not.

15 Q. It wouldn't surprise you?

16 A. No, sir.

17 Q. Why not?

18 A. Because in my opinion I think Ashley's point in this is
19 to get anybody else other than her in trouble because, excuse
20 me, I'm not allowed to say it but she -- they even at one
21 point time had messaged my dad and text him sayin' I put
22 tattoos on myself and they said Tiffany's done it, so and so.

23 Q. So you don't know Michelle Patterson ---

24 A. No, sir.

25 Q. --- but you think she's she's makin' all this up.

A.M. - CROSS-EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. Okay. What about Leylonne Martin, do you know her?

3 A. No, sir.

4 Q. You don't know her?

5 A. No, sir.

6 Q. She she's never visited in your house ---

7 A. No.

8 Q. --- while you're there? You've never been to her
9 house?

10 A. Not that I recall.

11 Q. Okay. You've never gone over there and her quest -- to
12 her house and her question you about the tattoos on your
13 arm?

14 A. No, sir.

15 Q. And you never told her that it was your boyfriend Daniel
16 that that gave you tattoos?

17 A. No, sir.

18 Q. And you weren't present when Daniel, when told her that
19 first tattoo he'd ever given, he thought he'd done a good job
20 of it?

21 A. No, sir, he never said that.

22 Q. So your position is anybody that says Daniel gave you a
23 tattoo is wrong.

24 A. Yes, sir.

25 Q. Okay. He's your husband, you have a child by him.

AMBER MOSIER - CROSS-EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. Now you said Tiffany picked the tattoo out on
3 Internet, ---

4 A. Yes, sir.

5 Q. --- you didn't say, That's the one I want?

6 A. Well me and her both looked, I decided that I wanted that
7 tattoo.

8 Q. Okay, so wha'd she do, print it off on a printer or
9 sumtin'?

10 A. Um-hum.

11 Q. Okay. And what's the relationship with Tiffany to you?

12 A. She is now my sister-in-law.

13 Q. She's your sister-in-law.

14 A. Yes, sir.

15 Q. Okay. Okay, thank you, I have nothin' further.

16 THE COURT: Redirect.

17 MR. BAIN: Not from the State, Your Honor.

18 THE COURT: Alright, ma'am, you may step down, thank you
19 very much.

20 THE WITNESS: Yes, sir.

21 (Whereupon, the witness left the stand.)

22 THE COURT: The State may call its next witness.

23 MR. BAIN: At this time, Your Honor, the State rests.

24 THE COURT: Alright. Ladies and gentlemen of the jury,
25 that completes the presentation of evidence by the State. I'm

MOTIONS AND MATTERS

1 going to allow you to stop and, uh, go forward with your lunch
2 break at this point in time. As you leave the courthouse, I
3 will remind you of my instructions: don't attempt to gather
4 any information about this case from any source outside the
5 courtroom, don't discuss the case with anyone, don't allow
6 anyone to discuss it with you, should anyone try to contact
7 you about your service on the jury panel while you're away
8 from the courthouse please report that upon your return. I'll
9 check on whether you've been able to follow these instructions
10 when you return to the courthouse. I'll ask you to be back
11 here at 1:15, we should begin shortly thereafter, so be back
12 in the jury room by 1:15. You may retire this time, thank you
13 very much.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Any motions?

17 MR. BAIN: None from the State, Your Honor?

18 THE COURT: Any from the defense?

19 MR. THOMPSON: We would make make the normal motion for a
20 directed verdict.

21 THE COURT: Alright, that motion be noted; however, I
22 think there is sufficient evidence in the record justify case
23 going forward so I'm gonna deny the motion this time. I do
24 wanna inquire of your client concerning her right to, uh,
25 remain silent so I'd ask the clerk place the defendant under

MOTIONS AND MATTERS

1 oath, please.

2 THE CLERK: Please raise your right hand.

3 ASHLEY MARTIN, having been first
4 duly sworn, testified as follows:

5 THE CLERK: Put your ---

6 THE COURT: Alright, you can be seated, ma'am. At this
7 time, uh, Ms. Martin, I'm gonna go over certain things with
8 you that, uh, have to do with your defense in the case and
9 your right, uh, to testify in this matter. We've reached the
10 stage in this trial where you have the right to present your
11 defense to these charges and as part a that defense you have
12 the right to testify in this case should you choose to do so
13 but in doing that I do wanna make you aware of certain of your
14 constitutional rights, specifically I'm referring to the
15 constitutional right that's guaranteed by the Fifth Amendment
16 to the United States Constitution, that amendment reads in
17 part that no person can be compelled in any criminal case to
18 be a witness against himself. Now what that means is that
19 while you have the right to testify you also have the right
20 not to testify and no one can compel or make you testify in
21 this case unless you choose to do that. Now if you decide to
22 testify I will tell you that your testimony would be governed
23 by the same rules that govern the testimony of any other
24 witness: you'd be examined by your lawyer, you'd be
25 cross-examined by the State's attorney and should you have any

MOTIONS AND MATTERS

1 convictions upon your record for crimes which carry a term of
2 imprisonment for more than one year within the last ten years,
3 uh, or should you have any convictions on your record for
4 crimes involving falsehoods or deceptions or dishonesty and
5 this court makes a determination that the introduction of that
6 evidence on the question of your credibility, uh, I, if I find
7 that the probative value of that information outweighs its
8 prejudicial effect to you then in that situation those
9 convictions could possibly be used to attack your credibility.

10 Now I will advise you that should you decide not to
11 testify in this case that I will instruct the jury that the
12 fact that you did not testify in this case will not serve as
13 any prejudice to you; in fact, that my instruction will be
14 that they couldn't even discuss that factor among themselves
15 during their deliberations and the fact that you did not
16 testify should not be of any prejudice to your case at all.

17 Now, ma'am, the decision as to whether or not to testify
18 in a case belongs to you, the defendant, and you alone. You
19 have the right to consult with your lawyer, your family,
20 friends, anyone else you'd like to discuss the decision with
21 you have the right to do so but in the final analysis the
22 decision is your decision and your decision alone. Now,
23 ma'am, first of all, I'll ask you did you understand what I
24 just went over with you?

25 THE DEFENDANT: Yes, sir.

MOTIONS AND MATTERS

1 THE COURT: Have you discussed this question with your
2 lawyer in the past?

3 THE DEFENDANT: I have.

4 THE COURT: Alright. Do you feel that you need to
5 discuss this matter with anyone else any further at this time?

6 THE DEFENDANT: Yes.

7 THE COURT: Alright, well what I'll do is I'll come back
8 after lunch, our lunch break, I I'll resume my inquiry at that
9 time, that should give you an opportunity to consult with
10 other people in the meantime, ---

11 THE DEFENDANT: Okay.

12 THE COURT: --- alright. An ---

13 MR. BAIN: I would like to make the Court aware that she
14 has no prior record so ---

15 THE COURT: Okay, ---

16 MR. BAIN: --- nothing ---

17 THE COURT: --- no prior ---

18 MR. BAIN: --- would be used ---

19 (Indiscernible cross-talk.)

20 THE COURT: --- convictions I'm told so that's probly not
21 an issue but there are other factors consider as to whether or
22 not testify or not and I'd urge you to talk to your lawyer
23 before you make that decision.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Alright, anything further before we break for

MOTIONS AND MATTERS

1 lunch from the State?

2 MR. BAIN: Nothin' from the State, Your Honor.

3 THE COURT: Anything further from the defense?

4 MR. THOMPSON: The only thing I would say, Judge, and it
5 has to do with her testimony, uh, her testifying, we intend to
6 call two witnesses ---

7 THE COURT: Yes, sir.

8 MR. THOMPSON: --- and I had told her that that point in
9 time is when I think we should make the decision of whether
10 she ---

11 THE COURT: I see.

12 MR. THOMPSON: --- will testify.

13 THE COURT: Well I'll I'll I'll certainly defer her
14 announcing her decision until that point in time.

15 MR. THOMPSON: Alright, thank you, Judge.

16 THE COURT: Alright, thank you very much, we're in recess
17 until 1:15.

18 MR. BAIN: Thank Your Honor.

19 (Whereupon, a recess was taken.)

20 THE COURT: Thank you very much, you can be seated.

21 Okay, Mr. Thompson, you ready to proceed?

22 MR. THOMPSON: We are, Your Honor.

23 THE COURT: State ready?

24 MR. BAIN: Yes, Your Honor.

25 THE COURT: Bring the jury in.

MOTIONS AND MATTERS

1 (The following takes place in the presence of the jury.)

2 THE COURT: Alright, the record will reflect the jury has
3 returned to the courtroom, I hope everyone had a good lunch
4 break. If there's any of you that had any problems or
5 difficulty in complying with my instructions during your
6 absence from the courthouse, please stand.

7 (No response.)

8 THE COURT: Alright, the record will reflect that all
9 jurors have been able to comply with my instructions thus far.
10 When we stopped the State had presented its evidence, at this
11 time the defense has the right to call witnesses.
12 Mr. Thompson.

13 MR. THOMPSON: Thank Your Honor. We would call Leylonne
14 Martin.

15 THE BAILIFF: What's his name?

16 MR. THOMPSON: Leylonne Martin.

17 THE COURT: Come forward, ma'am. Come over here
18 (indicating) to my left and be sworn in, please, right over
19 here (indicating) Ms. Jolley.

20 (Whereupon, the witness came forward.)

21 THE CLERK: Raise your right hand, please, left hand on
22 the Bible.

23 THE WITNESS: Yeah.

24 THE CLERK: Left hand on the Bible.

25 THE WITNESS: Left hand, okay.

LEYLONNE MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 THE CLERK: Yes, ma'am.

2 LEYLONNE MARTIN, having been first
3 duly sworn, testified as follows:

4 THE CLERK: Okay.

5 THE COURT: Ma'am, have a seat, please.

6 THE WITNESS: Okay.

7 THE COURT: State your name.

8 THE WITNESS: Leylonne Martin.

9 THE COURT: Thank you. Mr. Thompson, your witness.

10 MR. THOMPSON: Thank Your Honor.

11 THE COURT: Yes, sir.

12 DIRECT EXAMINATION BY MR. THOMPSON:

13 Q. Ms. Martin, where do you live?

14 A. At, uh, Blacksburg, Street.

15 Q. Okay. How long have you lived there?

16 A. Uh, nine years.

17 Q. Alright. So you were livin' there in April/May of last
18 year?

19 A. Um-hum.

20 Q. Okay. Do you know Ashley Martin, the girl in blue
21 t-shirt over there (indicating)?

22 A. Uh-huh.

23 Q. And how do you know her?

24 A. She's my stepdaughter.

25 Q. She's your stepdaughter, okay. Do you know Ms. A.M. ,

1 uh, ---

2 A. Little bit, I don't know her too much.

3 Q. Okay. How do you know her?

4 A. She come by the house with Ashley, Tiffany and her
5 boyfriend.

6 Q. Alright. Do you know her boyfriend's name?

7 A. Daniel, Daniel I think.

8 Q. Okay. When when did they come by the house, do you
9 recall?

10 A. Hum?

11 Q. Do you recall when it was they came by your house?

12 A. It was in the evenin'.

13 Q. Well, I mean, what time of year was it?

14 A. Time a year?

15 Q. Yeah. Do you remember the month?

16 A. I was plantin' flowers at the time so it might have been
17 April or May.

18 Q. Okay. Did they come back more than once?

19 A. Uh, yeah, um-hum.

20 Q. Alright. At any point in time did you get a chance to
21 see A.M and she's she's a a A.M now, got
22 married, at any point in time you get a chance to see her
23 arms?

24 A. Yes, she showed it to me.

25 Q. What did she show to ya?

LEYLONNE MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Showed me a tattoo on her wrist.

2 Q. How many tattoos did she show ya?

3 A. I only seen one.

4 Q. You only seen one, ---

5 A. Um-hum.

6 Q. --- okay. I'm gonna show you what's marked as State's
7 Exhibit No. 1 and see if you can identify this.

8 A. I didn't know she had that.

9 Q. That's not the tattoo you saw?

10 A. No.

11 Q. Can I show you on the back State's Exhibit No. 2, ---

12 A. Yes, ---

13 Q. --- can you identify this?

14 A. --- that's her ma.

15 Q. That's the tattoo you saw?

16 A. Um-hum.

17 Q. And that's a tattoo of what?

18 A. A cross.

19 Q. A cross, okay. And and when was it she showed this to
20 ya?

21 A. Uh, what day?

22 Q. Well, I mean, was it the first time she came by your
23 house, the last time, in the middle? I realize we're talk ---

24 A. I, mighta been, but coulda been the first or the second,
25 I really didn't know. I think it was second time because I

LEYLONNE MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 knew her then, ---

2 Q. Okay.

3 A. --- I had met her.

4 Q. Did you ask her about the tattoo?

5 A. Yeah, I sorta was upset about it.

6 Q. I'm sorry, what now?

7 A. I was upset about it, yeah, I said sumtin' to her.

8 Q. Why were you upset about it?

9 A. Well it was homemade and I didn't like that, she was
10 underage and I ask her if her family knew that she had that
11 tattoo on her and she told me that her daddy had give her
12 permission to get one.

13 Q. Okay. Now was somebody with her at that time?

14 A. That, uh, Ashley was there, Tiffany was there and Daniel
15 was there.

16 Q. Okay, and Daniel was her boyfriend?

17 A. Yeah.

18 Q. Okay. Did Daniel say anything about the tattoo?

19 A. He asked me what I thought about it begin with because,
20 uh, that he said that was his first tattoo he had ever
21 done ---

22 Q. So Daniel, ---

23 A. --- so I I had sumtin' to say to him too.

24 Q. --- so Daniel told you he did the tattoo?

25 A. Told me he did it, said it was his first time.

LEYLONNE MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

- 1 Q. Okay. Did A.M. tell ya who did the tattoo?
- 2 A. Huh?
- 3 Q. Did A.M. ---
- 4 A. Yeah, ---
- 5 Q. --- tell you who did ---
- 6 A. Uh-huh.
- 7 Q. --- the tattoo? And who did A.M. say did the tattoo?
- 8 A. She said Daniel did it.
- 9 Q. Okay. And you said they told you they had her father's
- 10 permission to do it.
- 11 A. Yeah, she did.
- 12 Q. She did.
- 13 A. Yeah, she did.
- 14 Q. Okay. Has anybody told you what to say today?
- 15 A. No, uh.
- 16 Q. Did anybody threaten you if you didn't testify a certain
- 17 way today?
- 18 A. No.
- 19 Q. After that time did you ever see A.M. again?
- 20 A. I think I've seen her once after ---
- 21 Q. Okay.
- 22 A. --- that.
- 23 Q. And where was that at?
- 24 A. At my house.
- 25 Q. Okay. Uh, did she have any additional tattoos that

LEYLONNE MARTIN - CROSS-EXAMINATION BY MR. BAIN

1 time?

2 A. No, uh-uh.

3 Q. Okay. Thank you.

4 A. Um-hum.

5 THE COURT: Mr. Bain, your witness.

6 MR. BAIN: Thank Your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION BY MR. BAIN:

9 Q. Ms. Martin, did you gi -- did you give a
10 statement concerning what you -- did you give a statement
11 concerning ---

12 A. Yeah, ---

13 Q. --- this case?

14 A. --- um-hum.

15 Q. And who'd you give that statement to?

16 A. Who'd I give it to? I didn't give it to nobody. Well I
17 give it to Ashley to take to her lawyer.

18 Q. So you gave it to Ashley take to her lawyer.

19 A. Take to her lawyer.

20 Q. Did you ever go to the police?

21 A. No, uh-uh.

22 Q. So you never gave a statement to police, ---

23 A. No.

24 Q. --- you just gave a statement to take to her lawyer?

25 A. Yeah.

LEYLONNE MARTIN - CROSS-EXAMINATION BY MR. BAIN

- 1 Q. Okay. Who is Danny Martin?
- 2 A. He's my husband, ---
- 3 Q. Is he a, ---
- 4 A. --- her dad.
- 5 Q. --- is he the one that notarized this thing?
- 6 A. Yeah.
- 7 Q. Okay. Now how long has Ashley been your stepdaughter?
- 8 A. Eight years.
- 9 Q. Uh, do ya'll have a good relationship?
- 10 A. Um-hum.
- 11 Q. You love her?
- 12 A. Yeah. I'm not gonna lie for her, she knows that.
- 13 Q. But you love her.
- 14 A. Yeah.
- 15 Q. You wouldn't wanna see her get in any trouble.
- 16 A. No, I don't wanna see her get in no trouble.
- 17 Q. Okay. Now you knew Tiffany, uh, Daniel and A.M. ?
- 18 A. Um-hum. Well I didn't really know them, I knew Tiffany
- 19 and I've met them a a couple a times.
- 20 Q. How many times have you met them or seen them?
- 21 A. Two or three.
- 22 Q. Two or three, okay.
- 23 A. Um-hum.
- 24 Q. Has your stepdaughter ever given anybody a tattoo?
- 25 A. Yeah, um-hum.

LEYLONNE MARTIN - CROSS-EXAMINATION BY MR. BAIN

1 Q. Who's she given a tattoo?

2 A. I don't know, I've never seen her do it.

3 Q. Has she told you she's given tattoos?

4 A. Yeah.

5 Q. Okay, so she knows how to give a tattoo.

6 A. Um-hum.

7 Q. Does she have her own -- do you know if she has her own
8 tattoo equipment?

9 A. I've never seen any, ---

10 Q. But she's ---

11 A. --- I mean, ---

12 Q. --- told you she's given tattoos before.

13 A. Yeah.

14 Q. Okay. Now you've seen Daniel Mosier before, is that
15 correct?

16 A. Uh-huh.

17 Q. Does he have tattoos?

18 A. He -- not that I know of.

19 Q. He doesn't have any tattoos.

20 A. Not that I know of.

21 Q. What ---

22 A. He might, ---

23 Q. --- about Tiffany, does ---

24 A. --- he might have 'em now, I don't know.

25 Q. What about Tiffany, does she have any ---

LEYLONNE MARTIN - CROSS-EXAMINATION BY MR. BAIN

- 1 A. Tiffany does, ---
- 2 Q. --- tattoos?
- 3 A. --- um-hum.
- 4 Q. Okay. How'd she get those tattoos?
- 5 A. I don't know. That ---
- 6 Q. You ---
- 7 A. --- Ashley may have put one on her, she may not have, I
- 8 don't know.
- 9 Q. --- you describe A.M. tattoos as looking amateur, is
- 10 that correct?
- 11 A. Yeah.
- 12 Q. What about Tiffany's tattoo, they look amateur?
- 13 A. No, some does.
- 14 Q. Some of 'em do?
- 15 A. Some of 'em do.
- 16 Q. Okay. Do you think your stepdaughter coulda given
- 17 Tiffany one a those tattoos on her?
- 18 A. She may have.
- 19 Q. But you don't know ---
- 20 A. I don't, ---
- 21 Q. --- that for sure?
- 22 A. --- I don't know, I hadn't seen it. I don't, I dont' ---
- 23 Q. You never saw it.
- 24 A. --- I don't like it, they they know better than to do
- 25 that right around me anyway.

LEYLONNE MARTIN - CROSS-EXAMINATION BY MR. BAIN

1 Q. You never saw Daniel give these tattoos.

2 A. No. No, he just said that -- asked me what I thought
3 about his first tattoo, now he said that was first one he'd
4 ever done.

5 Q. Okay. Okay. How'd Daniel react when you fussed at him?

6 A. He didn't, he -- like the, I fussed at 'em like they were
7 children and I guess that's how they acted 'cause I went asked
8 him about it bein' clean and did they know what they were
9 doin' and I told 'em about germs, hepatitis and all this they
10 could have caught from that, you know, but ---

11 Q. So you think, ---

12 A. --- he just, he just listened.

13 Q. --- so you think A.M. tattoos are a bad thing?

14 A. Huh?

15 Q. Do ya think, uh, tattoos given by a nonprofessional is a
16 bad thing?

17 A. I don't like it, no, it's just ---

18 Q. That ---

19 A. --- not safe.

20 Q. --- it's not safe.

21 A. Uh-uh.

22 MR. BAIN: No further questions, Your Honor.

23 MR. THOMPSON: No redirect.

24 THE COURT: Alright, ma'am, you may step down then, thank
25 you very much.

LEYLONNE MARTIN - CROSS-EXAMINATION BY MR. BAIN

1 (Whereupon, the witness left the stand.)

2 THE COURT: Wish to excuse?

3 MR. THOMPSON: We have no issues.

4 THE COURT: Any objection?

5 MR. BAIN: No, objection, Your Honor.

6 THE COURT: You're free to go at this time, ma'am, ---

7 THE WITNESS: Okay, ---

8 THE COURT: --- thank you ---

9 THE WITNESS: --- thank you.

10 THE COURT: --- very much.

11 MR. THOMPSON: We call Michelle Patterson.

12 THE COURT: Come forward, ma'am, right over here
13 (indicating) to my left to Ms. Jolley, she will swear you in.

14 THE CLERK: Raise your right hand, left hand on the
15 Bible.

16 MICHELLE PATTERSON, having been
17 first duly sworn, testified as follows:

18 THE COURT: Have a seat, please, and state your name
19 please, ma'am.

20 THE WITNESS: Michelle Patterson.

21 THE COURT: Thank you. Mr. Thompson, your witness.

22 MR. THOMPSON: Thank Your Honor.

23 THE COURT: Ma'am, if you'll lean forward, I wanna be
24 sure you're close enough to the microphone for it to pick ya
25 up.

MICHELLE PATTERSON - DIRECT EXAMINATION BY MR. THOMPSON

1 THE WITNESS: Yes, sir.

2 THE COURT: Thank you.

3 DIRECT EXAMINATION BY MR. THOMPSON:

4 Q. Ms. Patterson, where do you live?

5 A. Uh, um, uh, I get nervous in front of people, I'm sorry,
6 over in Gaffney behind the Kangaroo.

7 Q. Alright. How long have you lived there?

8 A. Uh, past three years.

9 Q. Three years, okay, so you was livin' there in April or
10 May of last year.

11 A. Yes.

12 Q. Alright. Do you know Ashley Martin?

13 A. Yes.

14 Q. How do you know Ashley Martin?

15 A. She's my daughter.

16 Q. She's your daughter, okay. So you've known her all her
17 life then.

18 A. Right.

19 Q. Do you know A.M. ?

20 A. Vaguely.

21 Q. Alright, how do you know her?

22 A. Uh, she stayed at my daughter's, she moved ---

23 Q. Okay.

24 A. --- in with her.

25 Q. Do you know Daniel Mosier?

MICHELLE PATTERSON - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Vaguely, I know ---

2 Q. How ---

3 A. --- they lived with my daughter.

4 Q. He lived with your daughter also.

5 A. Um-hum.

6 Q. Okay. When was it, do do you remember that they lived
7 with your daughter?

8 A. I'm sorry?

9 Q. Do you remember when it was that they lived with your
10 daughter?

11 A. Um, I don't know how long they were there, it it was
12 probly a couple a months, it was April, May.

13 Q. Of this year or last year?

14 A. Last year.

15 Q. Last year?

16 A. Yes.

17 Q. Okay. Did you ever visit in their home?

18 A. Yes.

19 Q. Did they ever visit at your house?

20 A. Uh, I think they did come over once or twice.

21 Q. Okay. Are you aware that your daughter does tattooing?

22 A. I know she done some to herself.

23 Q. Okay. Have you ever observed in in her home, Ashley's
24 home, where she was livin' with Daniel, Amber, have you ever
25 observed any tattooing going on in that home when you were

MICHELLE PATTERSON - DIRECT EXAMINATION BY MR. THOMPSON

1 there?

2 A. Yes.

3 Q. Would you tell us about that, please.

4 A. I had, uh, walked -- went in the front door, I usually
5 just walk on in, uh, I went into the the hallway which was in
6 the middle a the house and it splits out and I looked to the
7 right and I saw Daniel tattooin' her and ---

8 Q. Daniel tattooin' who?

9 A. Uh, A.M. I'm sorry.

10 Q. Okay.

11 A. And I was like I'm next, you know, just jokin' around ---

12 Q. Okay.

13 A. --- and I just, I went on, ---

14 Q. Okay. Did ---

15 A. --- that's ---

16 Q. So you you didn't confront 'em or anything like that, you
17 jokingly said, I'm next?

18 A. Yes, sir.

19 Q. Are you certain Daniel was givin' her a tattoo?

20 A. Yes.

21 Q. How far away were you from them when you saw?

22 A. Um, probly from where I'm at to where you are.

23 Q. Okay. What part of her body was he tattooin'?

24 A. I don't recall. I know I seen her leg up and she had her
25 legs propped up but I don't, I don't recall what body part.

MICHELLE PATTERSON - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. Okay. How do you know that it was a tattoo?

2 A. Well the gun, you could hear the gun.

3 Q. Okay, did you see the gun ---

4 A. Yes.

5 Q. --- and hear the gun -- heard the gun.

6 A. Yes.

7 Q. Okay. Has anybody told you what to say here today?

8 A. No, sir.

9 Q. Had anybody threaten you in any form or fashion get you
10 to say anything ---

11 A. No.

12 Q. --- specifically? Has your daughter threatened you in
13 any way?

14 A. No.

15 Q. Is what you've testified to the truth?

16 A. Yes, sir.

17 Q. And this (indicating) young lady in the gray and blue
18 striped top is that -- do you recognize her?

19 A. A.M.

20 Q. A.M. That's A.M. ?

21 A. Yes, sir.

22 Q. Thank you, I have no further questions.

23 THE COURT: Mr. Bain, your witness.

24 MR. BAIN: Thank Your Honor.

25 CROSS-EXAMINATION BY MR. BAIN:

MICHELLE PATTERSON - CROSS-EXAMINATION BY MR. BAIN

1 Q. Did you ever give a statement to police concerning this
2 incident?

3 A. No.

4 Q. Is today the first time you're telling anybody about what
5 you saw?

6 A. It's been discussed in the past but, yes.

7 Q. Who have you discussed it with?

8 A. Family.

9 Q. Well have you discussed it with the defendant?

10 A. Yes, in the past, not today 'cause we were directed not
11 to discuss anything today.

12 Q. But in the past you discussed it with the defendant. Yes.

13 Q. Okay. On the evening you entered the house, who all was
14 there?

15 A. When I entered the house?

16 Q. Um-hum.

17 A. Uh, Ashley was there, uh, Tiffany and Daniel and A.M.
18 and there was several more people in the kitchen, I don't
19 recall exactly who was there, it's been a while.

20 Q. And where was Amber getting this tattoo? wha -- where in
21 the house?

22 A. It was in the bedroom.

23 Q. Was there anybody else in there while she was getting a
24 tattoo?

25 A. Daniel.

MICHELLE PATTERSON - CROSS-EXAMINATION BY MR. BAIN

1 Q. Was -- so Ashley wasn't in that room?

2 A. No.

3 Q. Tiffany wasn't in the room?

4 A. No.

5 Q. Okay. Your daughter does give tattoos though, correct?

6 A. I'll have to say no.

7 Q. Didn't you ---

8 A. She has done tattoos before.

9 Q. So so is it fair to say she knows how to give a tattoo?

10 A. Yeah.

11 Q. Does she have tattooin' equipment?

12 A. No.

13 Q. Okay. Do you know she get -- do you know where she would
14 get tattooing equipment for -- from?

15 A. No, I do not.

16 Q. And it was your testimony when the defense attorney was
17 questioning you that she gave tattoos to herself?

18 A. Yes.

19 Q. So she had to have access to the equipment.

20 A. Yes.

21 Q. Now her legs were up when you entered the room?

22 A. Yes.

23 Q. What are they propped up on?

24 A. Uh, seemed like there was an old couch in there, they
25 were -- she was just propped up and he was right beside her

MICHELLE PATTERSON - CROSS-EXAMINATION BY MR. BAIN

1 tattooin', I don't, I do not recall what body part.

2 Q. Okay, so how long were ya in there?

3 A. I just stopped in -- when I saw what they were doin' when
4 I walked through and looked, I just thought, I said, I'm next,
5 sumtin' to that effect and I went on 'bout my business.

6 Q. If -- where was your daughter in the house that time?

7 A. In the kitchen.

8 Q. Okay. If your daughter was in the kitchen, why'd you go
9 in the bedroom?

10 A. I didn't go in the bedroom, ---

11 Q. That's what ---

12 A. --- I -- when you walk into the living room, there's a
13 hall foyer-type like area and it splits splits off and goes
14 into the other room, straight to the bathroom and there's a
15 bedroom, another bedroom and then it goes out to the kitchen.

16 Q. Okay, do you describe you're about from me to you was how
17 far away the tattoo was bein' given ---

18 A. Right.

19 Q. --- and you said the tattooing was bein' done in the
20 bedroom, ---

21 A. Right.

22 Q. --- okay, how'd you get that close?

23 A. When you walk through fr -- from the livin' room into
24 that little hall area, that's -- it -- like I said, it splits
25 out and I I walk through there to go into the kitchen.

MICHELLE PATTERSON - CROSS-EXAMINATION BY MR. BAIN

1 Q. And the bedroom door was open?

2 A. Yes.

3 Q. And you talked to Daniel through the bedroom door?

4 A. Yes, I made the comment that I made, that ---

5 Q. And ---

6 A. --- I said I'm next.

7 Q. Okay. Why'd you say you were next?

8 A. Just jokin'.

9 Q. Do you love your daughter?

10 A. Yes.

11 Q. Ya'll have a good relationship?

12 A. Yes.

13 Q. You wouldn't want her to get in any trouble, would ya?

14 A. No, I don't.

15 MR. BAIN: No further question at this time, Your Honor.

16 MR. THOMPSON: No redirect.

17 THE COURT: You may step down, ma'am.

18 MR. THOMPSON: Ask that ---

19 THE WITNESS: Thank you.

20 (Whereupon, the witness left the stand.)

21 MR. THOMPSON: --- she be excused.

22 THE COURT: Any objections?

23 MR. BAIN: No objections, Your Honor.

24 THE COURT: You're free to go, ma'am, thank you very
25 much.

MOTIONS AND MATTERS

1 THE WITNESS: Thank you.

2 MR. THOMPSON: Your Honor, we have one issue.

3 THE COURT: We'll take a short break. Uh, ladies and
4 gentlemen of the jury, I'm gonna let you step back to the jury
5 room, there's a matter I've gotta take up with the lawyers and
6 as always I'm gonna ask you not to talk about the case or
7 discuss the case in any way during the break, you're free to
8 step back to the jury room.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: Mr. Thompson, after the first two witnesses
12 you indicated your client might be in a position to, uh, make
13 a decision about her testimony.

14 MR. THOMPSON: Yes, sir, and I'd like to talk to her
15 just ---

16 THE COURT: Alright, we'll ---

17 MR. THOMPSON: --- a couple minutes.

18 THE COURT: --- take a short break. I'll stay on the
19 bench, you let me know when you're ready.

20 MR. THOMPSON: Alright, thank you.

21 THE COURT: Alright.

22 MR. BAIN: Thank Your Honor.

23 THE COURT: Yes, sir.

24 (Whereupon, a recess was taken.)

25 MR. THOMPSON: I've talked to Ms. Martin, Judge.

MOTIONS AND MATTERS

1 THE COURT: Beg your pardon?

2 MR. THOMPSON: I've talked to Ms. Martin.

3 THE COURT: Okay. We can now, uh, let me speak to her
4 for just a second. Ma'am, uh, you don't mind standing, uh,
5 you're -- you you had indicated you wanted to consult with
6 your attorney further, uh, have you had an opportunity to do
7 that?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you need to talk with him anymore at this
10 time?

11 THE DEFENDANT: No, sir.

12 THE COURT: Alright, so, ma'am, have you reached a
13 conclusion as to how you wish to proceed?

14 THE DEFENDANT: I'm not gonna testify.

15 THE COURT: Okay, thank you very much. You can be
16 seated.

17 MR. THOMPSON: Judge, that's ---

18 THE COURT: Any other witnesses?

19 MR. THOMPSON: No, that'll be the only witness, want me
20 to go ahead and rest on the record ---

21 THE COURT: Alright, ---

22 MR. THOMPSON: --- then ---

23 (Indiscernible cross-talk.)

24 THE COURT: --- you can rest on the record and then if
25 you have some matters we need to take up, we can do that.

MOTIONS AND MATTERS

1 MR. THOMPSON: Alright, sir. Uh, at this time the State,
2 not State, been a long week, ---

3 THE COURT: I understand.

4 MR. THOMPSON: --- this time the defense would rest, ---

5 THE COURT: Um-hum.

6 MR. THOMPSON: --- uh, and I would renew my motion for
7 the directed verdict.

8 THE COURT: Alright, the motions are noted, uh, I will
9 issue the same order I issued earlier, I'll allow the case to
10 go to the jury. I believe you have presented testimony in
11 this one, uh, so ---

12 MR. THOMPSON: I I'm just first up.

13 THE COURT: --- you'll be going first followed by
14 Mr. Bain. Are we ready?

15 MR. THOMPSON: I'm ready.

16 THE COURT: Mr. Bain?

17 MR. BAIN: Ready, Your Honor.

18 THE COURT: Alright, let's bring the jury in. I'll ask
19 you if you have any additional witnesses ---

20 MR. THOMPSON: And ---

21 THE COURT: --- then we'll proceed.

22 MR. THOMPSON: --- and I'll I'll rest then.

23 THE COURT: Okay.

24 (The following takes place in the presence of the jury.)

25 THE COURT: Alright, the record will reflect that the

CLOSING ARGUMENTS

1 jury has returned to the courtroom. Uh, at this time the
2 defense has the right to call additional witnesses.

3 MR. THOMPSON: We have no further witnesses, Your Honor,
4 this time we, defense would rest.

5 THE COURT: Alright, that completes the presentation of
6 evidence. Does the State have any evidence in reply or
7 rebuttal?

8 MR. BAIN: None, Your Honor.

9 THE COURT: Okay, so at this point in time we'll go into
10 the next, uh, phase of the trial and that is the attorneys
11 will be allowed to give you their final or closing argument.
12 In this case the defense will be going first, you may proceed,
13 Mr. Thompson.

14 MR. THOMPSON: Thank Your Honor.

15 THE COURT: Yes, sir.

16 MR. THOMPSON: Please the Court, ---

17 THE COURT: Yes, sir.

18 MR. THOMPSON: --- Bain. Course I, uh, as I told you in
19 opening argument, this ain't a what happened, this is a who
20 done it and I think you realize that from the testimony.
21 State's position is that Ms. Martin admitted this tattoo, it
22 was tattooed on Ms. Cook. Our witnesses say that her then
23 boyfriend now husband's the person who put it on her, you
24 gotta weigh the credibility. Judge, is gonna go over some
25 things that you can consider in weighing the credibility of

CLOSING ARGUMENTS

1 witness but one a the things you can do is you can their
2 demeanor on the stand. How do they appear while they're
3 testifying to you? What would be the reason for sayin'
4 somethin' other than the truth? Now I may be jumping the gun
5 a little bit but I been in this a number of years and I would
6 imagine that one of the things the State's gonna raise is,
7 Well the two witnesses we put up were her mother and her
8 stepmother, they they love her, they don't wanna see her get
9 in trouble so they're willin' tell a untruth part. Well you
10 gotta decide if that's the case or not 'cause on the other
11 hand here's what we're sayin'. They put up first witness was
12 her daddy Gary Lynn Cook. What did he say? She came back to
13 live with him, saw the tattoos, he didn't like 'em. She told
14 him that that Ashley is the one that did it. He wasn't there,
15 he didn't see it, he doesn't know who did it, he's goin' on
16 what she told.

17 We talked to -- they put up Sergeant Blanton. Sergeant
18 Blanton's testimony, he ta -- I mean, his was that he didn't
19 even talk to 'em 'til A -- May 5th, the tattooing occurred
20 sometime in April. He wasn't present when the tattoos were
21 done, he doesn't have any personal knowledge who did it and
22 it's funny, I asked him and his answer was he based the
23 charges against Ms. Martin simply on what A.M. and Daniel
24 said, no other evidence whatsoever, simply what A.M. , Daniel
25 said. Well now why would A.M. and Daniel say that? Well if

CLOSING ARGUMENTS

1 Daniel did it, he's the one who's gonna get in trouble for it
2 and Daniel is her boyfriend at the time, now her husband, the
3 father of her child, so if he's the one put the tattoo on her
4 then he's the one police are lookin' for so he's got a reason
5 to say, I didn't do it, and she's got a reason to say he
6 didn't do it.

7 Tiffany Mosier, Daniel's sister. We know one person has
8 admitted lyin' and that's her. She gave a written statement
9 to the police and in her statement, well why don't I just pull
10 it up overhead, in her statement and she gave it a few days
11 afterwards, somewhere after that in May, early May of last
12 year, in her statement she says, uh, it was on April the 30th,
13 "While they were livin' with us Daniel Mosier," which is her
14 brother, "had told me and Ashley that he put a cross on his
15 girlfriend's arm, that was the day that I took Ashley Martin
16 to Mary Black. Once we got home that night Daniel bragged
17 about 'bout how good the job was," very small print, ya'll
18 read it yourselves, "about how good a job he did for his first
19 per -- tattoo," good job for his first tattoo, now this is
20 what Tiffany says. What did Ms. Martin, La -- Leylonne Martin
21 say that Daniel said to her when she confronted him about the
22 tattoo? He thought he did a good job for his first time. He
23 told her the same thing he told Tiffany, Tiffany's sayin'
24 that's not true now.

25 Tiffany's afraid a Ms. Martin, Oh, she abuses me, she

CLOSING ARGUMENTS

1 made me say this, she beat me and made me say this yet she
2 goes to the police station, gives that statement at police
3 station, not at the home but at the police station later, that
4 was in May of 2014. In February 2015 she's in my office
5 talkin' to me, tells me the same thing she says in that
6 statement. She's had two opportunities to say it aint
7 true, it ain't true. Then what happens? She's been datin'
8 Ms. Martin and they break up, they break up I believe she said
9 April this year and they're not on good terms so now all of a
10 sudden the statement I gave in May of last year and the
11 statement I gave to Ms. Martin's attorney in February of this
12 year is a lie, it's all a lie. Well yeah, Ms. Mosier, there's
13 a lie in there question is which one is it? Which one is it?
14 I submit to ya, you know, there's an old sayin' there's
15 nothin' like a, excuse me, ladies, there's nothin' like a
16 woman scorned, well we got Ms. Mosier bein' scorned and she's
17 gettin' even now. Why also did Amber and Daniel say what they
18 said? They were bein' kicked outta the house, they were being
19 evicted, that's that's in her statement, that's that's why
20 they were sayin' what they were sayin' at the time 'cause they
21 were bein' kicked outta the house where they lived and they
22 had to go live with her daddy.

23 I wanna talk to you about one a the tattoos, this tattoo
24 right here (indicating), State's Exhibit No. 1. Mr. Mosier,
25 don't get old, you can't see good without glasses, Mr. Mosier

CLOSING ARGUMENTS

1 said this was the infinity heart and I asked him, I said what
2 does an infinity heart mean, what what's that signify?
3 eternal love, eternal love. Who is it who was in love with
4 each other in this situation? It wasn't Ms. Martin and
5 Ms. Cook. Ms. Martin was dating Ms. Mosier, it was Daniel
6 Mosier and Ms. Cook who were in love and they were wound up
7 gettin' married. Why would Ms. Martin put a eternal love
8 tattoo on A.M ? Doesn't it make more sense that maybe
9 Mr. Mosier did that?

10 As I told you in openin', one of the things that you've
11 got to do is and I've told you this, you got to judge the
12 credibility of witnesses and when you do that if you decide
13 that, I mean, this is, this is, this is either black or it's
14 white, okay, it can't be both sides doin' it, one or the other
15 had to do it, but when you judge the credibility of witnesses
16 if you find beyond a reasonable doubt and are firmly
17 convinced, the judge is gonna define reasonable doubt for ya,
18 it's just a are you firmly convinced that the State has proven
19 its case, if there's a real possibility that it hasn't then
20 you're to find the person not guilty but if you're firmly
21 convinced, you need to find, bring back a guilty verdict, that
22 is, if you're firmly convinced that Ms. Martin tattooed
23 A.M now A.M . If there's a real possibility she
24 didn't, you're to find Ms. Martin not guilty. Now what
25 happens when you sit down and you weigh all this credibility

CLOSING ARGUMENTS

1 and you just can't decide one way or the other, that's a real
2 simple answer: it's a not guilty verdict. If you can't decide
3 who to believe, if the State has not proven its case, see, we
4 don't have to prove anything, we don't have to prove anything,
5 she she's innocent, she's innocent 'til proven guilty beyond a
6 reasonable doubt and when police officer, sergeant testified,
7 when he talked with her she said, I didn't do it, what else
8 could she say?

9 Judge is gonna instruct you you can't consider the fact
10 that she doesn't testify one way or the other, for her or
11 against her, you can only consider the evidence that you've
12 heard, but if you can't decide one way or the other on
13 credibility, she has this presumption of innocence so so not
14 guilty verdict.

15 Ladies and gentlemen, in this case, and I'm gonna sit
16 down just here in a second, the whole case turns on whether or
17 not you believe the State's witnesses, are they credible, do
18 they have a reason to tell the story different than what what
19 actually happened and as I say the State's gonna argue that
20 our witnesses, our two witnesses, are not telling you the
21 truth, that they have a reason to say something other than
22 what happened but you do have that one witness, I mean, mom
23 and stepmomma they aren't kids that are the age of all these
24 other people, they're not afraid of Ms. Martin, they said they
25 weren't. Ms. Patterson saw them doin' a tattoo and Ms. Martin

CLOSING ARGUMENTS

1 saw the tattoo and talked to him and A.M. afterwards and and
2 they admitted that he gave the tattoo, is that credible,
3 that's up to you to decide but I submit to you, ladies and
4 gentlemen, there's not enough evidence get beyond a reasonable
5 doubt in this case to determine a verd -- a guilty verdict and
6 I would ask you to return a verdict of not guilty. Thank you.

7 THE COURT: Mr. Bain, you may proceed for the State.

8 MR. BAIN: Thank Your Honor, may it please the Court, ---

9 THE COURT: Yes, sir.

10 MR. BAIN: --- opposing counsel.

11 MR. THOMPSON: Yes, sir.

12 MR. BAIN: Ladies and gentlemen, let's start with the
13 first witness Mr. Sergeant Blanton. He told you that when he
14 arrived at the defendant's house after A.M. father reported
15 this to the police and A.M. herself reported it that the
16 first thing the defendant said before he opened his mouth was,
17 I don't have any tattoo equipment here, she didn't even know
18 why the officers where there yet, then when she found out why
19 the officers were there she said A.M. gave it to herself,
20 well when those tattoos are there (indicating) on her arm,
21 there (indicating) on her arm, you saw in the pictures, she
22 didn't give those tattoos to herself, that story doesn't add
23 up so who do we blame? Daniel Mosier. You heard from the
24 defenses two witness the stepmother and the mother who both
25 said Daniel Mosier gave the tattoo but they have reason to not

CLOSING ARGUMENTS

1 tell the truth for their stepdaughter and daughter. Why was
2 the mother even in the bedroom, she said the tattoos were
3 bein' done in the bedroom, her daughter was in the kitchen. I
4 submit to you, ladies and gentlemen of the jury, she didn't
5 see a tattoo bein' given in the bedroom, I submit to you that
6 later on she was told Daniel Mosier gave this tattoo.

7 You heard from the stepmother. She gave a written
8 statement notarized by her husband on behalf of the defendant
9 but it was never give to police, it was given to the defense
10 attorney that said, Daniel Mosier told me he gave the tattoos.
11 Well why would Daniel tell her that? I submit to you, ladies
12 and jur -- ladies and gentlemen of the jury, he wouldn't.

13 So let's spend a little bit a time on Tiffany Mosier's
14 statement and I'll admit to you Tiffany admitted that she lied
15 in this statement but you heard testimony that she was in an
16 abusive relationship with the defendant, that she had been hit
17 and she had nowhere else to go. Yeah, she might have been at
18 the police department the day that she handed in the statement
19 but so was the defendant and what does she do once she leaves
20 the police station, police could protect her at that point,
21 but where was she gonna go, said she had nowhere to go. She
22 was scared, she was threatened, she was frightened so guess
23 who she blamed, Daniel Mosier.

24 The first statement made to cops that A.M. gave a tattoo
25 to herself that doesn't add up because of where the tattoos

CLOSING ARGUMENTS

1 were on so they've had to think over time decide who could
2 they blame it on and it was Daniel Mosier and Daniel Mosier
3 testified that he didn't give the tattoo to A.M. . I agree
4 with defense attorney a hundred percent it's your job to
5 determine the credibility of witness, it's your job as jurors
6 and it's your job to use common sense so let's look at this:
7 You've heard from Tiffany, Daniel and A.M. what do we know
8 about all three of? they all have three tat -- they all have
9 tattoos. Guess where all three of 'em live, with the
10 defendant. Ya heard the stepmother say, I believe one a
11 Tiffany's tattoos was from the defendant. You've heard the
12 mother say, I believe one of those tattoos on my daughter is
13 from herself. The only person that you've heard knows how to
14 give a tattoo is the defendant. Where'd all three of 'em get
15 the tattoos, you even saw 'em while they were on the stand,
16 they got 'em from the defendant just like Amber got both
17 tattoos on her arm from the defendant at the defendant's house
18 sometime in April of 2014.

19 Ladies and gentlemen of the jury, I told you this
20 wouldn't be a long case and hasn't been but I did tell ya it's
21 an important case, an important case for the victim and the
22 defendant and it's important 'cause in South Carolina we have
23 laws and in South Carolina it is unlawful to perform or offer
24 to perform a tattoo on someone under the age of 18. A.M.

25 now A.M. was 17 at the time she received this

JURY CHARGE

1 tattoo and I submit to you that she received it from the
2 defendant Ashley Martin. Just beca -- the cops said they
3 didn't find any tattooing equipment, Tiffany told ya it was
4 taken, it wasn't there, they weren't gonna find anything but
5 we hear from Daniel, Tiffany and A.M. that the tattoo was
6 given by Ashley Martin, she's the only person who's had
7 experience with giving amateur tattoos and the only person
8 they could blame, the only person that they can conceivably
9 blame was Daniel Mosier, that's what happened.

10 Ladies and gentlemen of the jury, in a few minutes you're
11 gonna go back and deliberate and I would ask you to find the
12 defendant guilty of unlawful tattooing of a person under 18.
13 I thank you for your time and your attention in this matter.

14 THE COURT: Alright, ladies and gentlemen of the jury,
15 that completes the closing arguments or statements by counsel
16 and I told you that when we reach this will stage of the
17 proceedings it would be my responsibility to charge you
18 concerning the law to be applied in this case. I go back to
19 the indictment that we talked about earlier this morning, the
20 indictment is in this Case Number 14-635, uh, it is for the
21 tattoo of a minor person under the age of 18. The indictment
22 states that Ashley Daniel Martin did in Cherokee County
23 between April the 5th of 2014 and April the 15th of 2014
24 perform or offer to perform tattooing upon a person under 18
25 years of age or if the person was at least 18 did not have

143

JURY CHARGE

1 Now the presumption of innocence doesn't end when you
2 begin your deliberations, it accompanies the defendant
3 throughout the trial and into your deliberations and it
4 remains with the defendant until such time as it is removed
5 from the defendant by proof satisfying you of the defendant's
6 guilt beyond a reasonable doubt. Now the presumption of
7 innocence is not just a legal phrase, it's not just a legal
8 theory, it's a substantial right that every defendant is
9 entitled to until and unless you, the jury, are satisfied from
10 the evidence of the defendant's guilt beyond a reasonable
11 doubt.

12 Now I've already mentioned to you a couple of times that
13 proof in this case must be proof beyond a reasonable doubt and
14 for those of you who've never been in this situation before
15 you probably are asking yourself well just what do you mean by
16 a reasonable doubt, how do you define a reasonable doubt, what
17 is that? Well I'll tell that the courts that have attempted
18 to define reasonable doubt have defined a reasonable doubt as
19 that kind of doubt that would cause a reasonable person to
20 hesitate to act and the State has the burden of proving guilt
21 beyond that doubt.

22 Now if you've ever been involved in a civil case, a civil
23 case where -- is is where someone is seeking monetary damages
24 and and those kinds of cases can be for things like failure to
25 pay debts, breach of contract, someone has injured someone and

JURY CHARGE

1 they're claiming dam -- damages as a result of injury,
2 somebody suffered property damage in an incident, they're
3 claiming money for their property that was damaged, that's a
4 civil case and in a civil case the standard of proof is
5 different so I don't want you to be can confused. In civil
6 cases for one side or the other to win you must win by the
7 greater weight, sometimes described as the preponderance of
8 the evidence. What that means is is if you visualize the
9 scales of justice, they tilt ever so slightly in favor of the
10 plaintiff, the plaintiff gets the judgment. If they tilt ever
11 so slightly in favor of the defendant, the defendant gets the
12 judgment, that's how it works in a civil case. In a criminal
13 case the standard of proof is more powerful than that standard
14 of proof.

15 Now proof beyond a reasonable doubt is that kind of proof
16 which would leave you firmly convinced of the defendant's
17 guilt. I'll tell you there's very few things that go on in
18 this world between people that can be proven beyond any doubt
19 whatsoever and the State doesn't have the burden of proving
20 its case beyond every possible doubt, that's not the standard
21 of proof. What I will tell you is if after you have
22 considered the evidence, all of the evidence and weighed that
23 evidence, if you are firmly convinced of the defendant's guilt
24 beyond a reasonable doubt, you must find the defendant guilty;
25 on the other hand, if you think there's a real possibility

JURY CHARGE

1 that the defendant is not guilty then you must give the
2 defendant the benefit of that doubt and find the defendant not
3 guilty.

4 I wanna point out to you again and touch on this again,
5 we talked about it earlier, we'll talk about it briefly now,
6 during the trial we have different duties to perform and I'm
7 gonna caution you again don't take from anything that I may
8 have said or done or as I might say or do during this charge
9 to indicate to you that I have an opinion as to how you
10 determine the facts in this case. I told you earlier you're
11 the sole judges of the facts in the case so I don't have an
12 opinion as to how you determine those facts so don't read into
13 anything I might say or do to to go otherwise. I do not have
14 an opinion about those facts because I'm not allowed such an
15 opinion and the same, uh, law, that makes you the sole judges
16 of the facts, and that's what you are, makes me the sole judge
17 of the law, it's my responsibility now to charge you
18 concerning the law and it's your duty to accept the law
19 without question. Uh, again, if you have a notion or idea as
20 to what the law is or somehow you got a belief as to what the
21 law ought to be, leave those notions outside the jury room,
22 your job is to simply take the law as I give it to you, apply
23 it to the facts as you determine those facts to be.

24 Now in deciding any case you have the right to consider
25 two types evidence, let me explain to ya what I mean by two

JURY CHARGE

1 types of evidence. There's -- the law divides evidence into
2 either "direct evidence" or what we call "circumstantial
3 evidence" and a jury can consider either of those types of
4 evidence. Uh, direct evidence is testimony from a witness who
5 claims to have direct knowledge of the facts about which that
6 witness testifies, that means that someone who a -- claims to
7 have actually experienced the events either heard it, saw it,
8 smelled it, uh, that sorta thing and claims to testify
9 directly on the facts sought to be proved, that's direct
10 evidence. Circumstantial evidence is proof of a chain of
11 facts or circumstances that in -- that indicate the existence
12 of another fact, it's been described by courts as as proof of
13 collateral facts from which a main fact could be reasonably
14 inferred. I use a simple example to, uh, illustrate to juries
15 what we mean by proof of a fact by circumstantial evidence.
16 The example I use is, uh, let's say last night when you went
17 to bed you walked over to the window in your bedroom, you
18 looked outside, beautiful night, stars were shining, climbed
19 into bed, slept well all night, didn't wake up at all, next
20 morning you got up and you walked over to that same window in
21 your bedroom. Now when you looked outside you noticed the
22 sun's up, it's shining but when you look a little closer you
23 notice there was water dripping out of all the trees, you
24 notice the grass in front of your house was soaking wet, you
25 notice that there were puddles in the road of the driveway in

JURY CHARGE

1 front of your house that weren't there the night before. Now
2 during the night you slept all night, you didn't hear it rain,
3 you did not see it rain but from the facts that you know to be
4 true you could reasonably infer that it did rain during the
5 night; in other words, there's water dripping out of the
6 trees, the grass is wet where it wasn't wet before, puddles in
7 the road that weren't there before so that's what we mean by
8 proof of collateral facts from which a main fact can be
9 reasonably inferred.

10 Now circumstantial evidence, uh, there is just no
11 distinction between the weight or the value that you can give
12 to either direct or circumstantial evidence, you are the jury,
13 you decide the weight that you think the evidence should have,
14 there's not a greater degree of certainty required of
15 circumstantial evidence than that of direct. As a juror you
16 should weigh all of the evidence in the case and I'll tell you
17 if after weighing all the evidence if you are firmly convinced
18 of the defendant's guilt beyond a reasonable doubt, you must
19 find the defendant guilty; on the other hand, if you think
20 there's a real possibility that the defendant is not guilty,
21 you must give the defendant the benefit of that doubt and find
22 the defendant not guilty.

23 Now I told you that it was gonna be necessary for you to
24 determine the credibility of the testimony that you heard
25 during this trial. Credibility means believability and in

JURY CHARGE

1 your duty as the finders of the fact is to determine which
2 evidence convinces you of its truth; therefore, it's your
3 responsibility to all -- analyze and evaluate the testimony and
4 the evidence that you've heard, you determine which evidence
5 convinces you that it's true. In determining believability of
6 witnesses who testified in the case, you have the right to
7 believe all of, part of or none of what any witness told you,
8 you can believe one against all the others or all the others
9 against one, you're the sole judges of the facts; therefore,
10 you make that determination as to credibility or believability
11 of the testimony that you've heard. You can consider whether
12 a witness has an interest, a bias, a prejudice or any other
13 motive in testifying in the case, you may consider the
14 appearance and the manner of the witnesses that testify,
15 again, use your good common sense, make a determination as to
16 the credibility or believability of the testimony you've
17 heard.

18 Now one thing I want to instruct you on and I wanna
19 emphasize this to you, the fact that the defendant did not
20 testify in this case is not a factor to be considered by you,
21 the jury, in any way in your deliberations and in your
22 consideration of the question of the guilt or innocence of the
23 defendant, it should not be considered by you in any manner
24 whatsoever, you see, every defendant has a constitutional
25 right to remain silent and the exercise or assertion of that

JURY CHARGE

1 right by defendant should not be considered by you in your
2 deliberations. Under your oath, I'll repeat to you, you're to
3 draw no conclusion whatsoever from the fact the defendant did
4 not testify in the case; in fact, the fact that the defendant
5 did not testify should not even be discussed by you in your
6 deliberations. I told you earlier it remains true the burden
7 of proof is solely upon the State in this case, uh, the
8 defendant is not required to prove that her innocence and the
9 burden of proof remains on the State to prove the defendant
10 guilty beyond a reasonable doubt.

11 Now my charge on the law in this case is going to be
12 fairly simple. The code section that's referred to in the,
13 uh, indictment is Code Section 44-30, uh, 44-34-100 and when
14 you refer to that code section, it will take me just a moment
15 to tell you what the law says about that, it has to do with
16 that has under the section of the code that has to do with
17 tattooing and it says Subsection A that, "It is unlawful for a
18 person to perform or offer to perform tattooing upon a person
19 under the age of 18 years," what the statute says. I will
20 go -- charge you also or make you aware that the code section,
21 the code -- that code section goes on to say that the minor
22 upon whom tattooing is performed, uh, or the parent or legal
23 guardian of that minor, uh, or any other minor is not liable
24 for punishment pursuant to this section, so those are the two
25 code section parts have to do with minors being tattooed and

JURY CHARGE

1 it simply states that it is unlawful for someone to either
2 offer or perform a ta -- tattooing upon a person under the age
3 of 18 years.

4 Now, Dustin Dover, raise your hand, ---

5 (Whereupon, the juror complied.)

6 --- you're going to be the foreperson of the jury, that
7 means I'm gonna ask you to lead the discussions of the jury.
8 If during deliberations the jury has a question, I'm going to
9 ask that you write that question down on a piece of paper,
10 knock on the door, give it to the bailiff, they'll bring it to
11 me and I'll decide how I should answer the question. You see,
12 I can't, I'm not allowed to answer every question you might
13 have in deliberations because I can't get involved in your
14 decisions on the facts, you're the sole judges of the facts
15 but I don't want you to edit any question. Uh, if the jury
16 has an inquiry or somethin' you'd like to submit to me, just
17 write it down, get 'em to agree on what the question is and
18 then write it down and submit it to me and then I'll decide
19 what the appropriate answer is. Also, I have a verdict form
20 and in just a couple a moments I'm gonna go over that verdict
21 form with ya, it's fairly simple, I'll show you how to fill
22 that out or how you go about filling it out so once the jury
23 reaches that unanimous verdict, you will simply note it in the
24 appropriate place on the verdict form, sign it, again, let the
25 bailiff know a verdict's been reached, we'll bring you back to

JURY CHARGE

1 the courtroom, uh, to receive the verdict. Again, I will
2 emphasize to you the fact that I've asked Mr. Dover to to lead
3 those discussions and handle those duties for me doesn't make
4 him anymore important than anyone else on the jury, all of you
5 have to agree on the verdict before it becomes the verdict of
6 the jury so each of you has an equal say in the outcome of
7 this case, uh, just because he's the foreperson, he has no
8 greater say than anyone else in the outcome of the trial.

9 Now I've gone over a a right good bit with you, I'll have
10 have to be sure that we've got everything in order for you to
11 begin your deliberations so there's a few matters I still have
12 to take up with the lawyers before I can ask you to begin the
13 deliberations, this'll be the last time though that I ask you
14 to go back to the jury room, don't begin your deliberations,
15 don't begin discussions, I'll bring you back shortly and give
16 you your final instructions, you may retire to the jury room.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Objections to the charge from the State?

20 MR. BAIN: None from the State, Your Honor.

21 THE COURT: Any from the defense?

22 MR. THOMPSON: No, sir.

23 THE COURT: Alright, gentlemen, I don't think there's
24 many exhibits but be sure we've only got the right ones
25 segregated so, uh, we'll pull those over to the side, I've got

JURY CHARGE

1 the verdict form up here if you wanna come take a look at
2 that.

3 (Whereupon, a discussion was held off the record.)

4 THE COURT: And I'm gonna send the indictment back if you
5 wanna look at it to be sure there's nothing on there that
6 shouldn't be.)

7 (Whereupon, a bench conference was held off the record.)

8 THE COURT: Alright, let's bring the jury back in.

9 (Whereupon, a discussion was held off the record.)

10 (The following takes place in the presence of the jury.)

11 THE COURT: Wayne, if you will hand this over to
12 Mr. Dover for me.

13 (Whereupon, the bailiff complied.)

14 THE COURT: Alright, the jury has returned to the
15 courtroom. Mr. Dover, I just had the bailiff hand you a
16 couple documents, uh, one of those documents is the indictment
17 in this case, I told you I'd let you have that to review it,
18 the other is the verdict form, let's look at that for just a
19 second. Uh, at the top a that verdict form you're gonna see
20 that it has the state and county that we're located in, the
21 Court that we're in and has the parties, the State vs. the
22 defendant, uh, Ms. Martin, down below that there's only one
23 question on there and that's, As to the indictment that's
24 before ya tattooing of a minor the jury unanimously finds the
25 defendant either not guilty or guilty, there's two choices,

JURY CHARGE

1 once the verdict has been reached you'll put an X or a check
2 on the blank next to the appropriate verdict then sign it and
3 then let the bailiff know the verdict's been reached. I'll
4 tell the jury don't take from the fact that I put those
5 choices as far as the verdict in any order on that form
6 somehow that I've got a preference one way or the other, uh,
7 every verdict form I've ever prepared has it in the same order
8 in every case I've tried, I've tried a good many of 'em, so,
9 uh, don't don't think that indicates I'm preferring one
10 verdict over the other, that's just always the way I put it on
11 the form.

12 Uh, now we're gonna ask you to step back and begin
13 deliberations, uh, there -- we'll bring the exhibits back and
14 allow you to look at the evidence, uh, while you're in the
15 jury room and again, once a unanimous verdict has been reached
16 let the bailiff know, we'll bring you back into the courtroom
17 and to receive the verdict. I'm gonna ask everyone to retire
18 and begin deliberations except for the alternate, sir, you
19 need to remain seated for me. You may retire to begin
20 deliberations.

21 (The following takes place outside the presence of the
22 jury.)

23 (Whereupon, the jury began deliberations at 2:26 p.m.)

24 THE COURT: Sir, you should be Michael Lowery, is that
25 right?

MOTIONS AND MATTERS

1 JUROR NUMBER 75: Yes, sir.

2 THE COURT: Mr. Lowery, you just have been kind of along
3 for the ride, I tell alternates sometimes they'd like to, that
4 you got invited to the dance but nobody let you dance so I
5 guess that's where you are now but at any rate what we're
6 gonna do is we're gonna release you at this time. I've told
7 you all along not to talk about the case, uh, I'll tell you
8 now you have the right to if you want to, you also have a
9 right not to, citizens don't owe anybody an explanation for
10 anything they do when they're in a jury box so if you don't
11 wanna talk about it and somebody tries to bother you about
12 that, let us know, uh, otherwise, you have the right to talk
13 about it if you want to. Have they taken care of your, uh,
14 voucher, that sorta thing?

15 JUROR NUMBER 75: Yes, sir.

16 THE COURT: You got all that information?

17 JUROR NUMBER 75: Yes, sir.

18 THE COURT: Alright, if you'll step over here
19 (indicating) and see Wayne, he'll check you out and you're
20 free to go, ---

21 (Indiscernible cross-talk.)

22 THE COURT: --- thanks for your help this week.

23 JUROR NUMBER 75: Thank you.

24 THE COURT: Yes, sir. Any objections to my final
25 instruction from the State?

MOTIONS AND MATTERS

1 MR. BAIN: None from the State.

2 THE COURT: Any from the defense?

3 MR. THOMPSON: No.

4 THE COURT: Alright, we're in recess in this case until a
5 verdict's reached, thank you very much.

6 MR. THOMPSON: Thank you.

7 (Whereupon, a recess was taken.)

8 THE COURT: Let's see, Mr. Thompson, Mr. Bain, if you'll
9 approach.

10 (Whereupon, a bench conference was held off the record.)

11 THE COURT: Alright, I've got a question from the jury
12 that's out so if I, if I can get order, please, let's bring
13 the jury back in. You can have, go ahead have those guys have
14 a seat.

15 (The following takes place in the presence of the jury.)

16 MR. THOMPSON: Judge, may we ---

17 MR. BAIN: May we approach, Your Honor?

18 THE COURT: Yes.

19 (Whereupon, a bench conference was held off the record.)

20 THE COURT: Alright, ladies and gentlemen of the jury, I
21 received an inquiry from you, that is how old is the baby now.
22 Uh, first of all, let me tell ya I can't comment on the facts
23 of the case so I can't comment as to whether or not that is in
24 the testimony or not in the testimony. What I will do is I'll
25 ask the court reporter to review the testimony that was given

MOTIONS AND MATTERS

1 and see if there's anywhere in the testimony that was
2 mentioned, I don't specifically recall it, but at any rate we
3 will check to see. If we're able to locate that portion of
4 the testimony, uh, would you like to hear that testimony again
5 I can, I can play parts of the testimony for you at your
6 request.

7 JURY FOREMAN: If it's not in the testimony, uh, that be
8 okay, Your Honor.

9 THE COURT: Well we're gonna check to see, ---

10 JURY FOREMAN: Okay.

11 THE COURT: --- I I -- so but if it is in the testimony,
12 does the jury want us to replay that portion of the testimony?

13 JURY FOREMAN: Yes, sir.

14 THE COURT: Okay. I'll ask you to return to your
15 deliberations, we'll check and see if we can locate that.
16 Thank you.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Mr. Bain, you indicated that your client felt
20 like she had testified as to that?

21 MR. BAIN: Yes, sir, Your Honor. She had said I asked
22 her how many children she had, she said one and I asked how
23 old and she answered 5 months.

24 THE COURT: Okay, well then that should be at the very
25 beginning of her testimony. Is that where we were?

MOTIONS AND MATTERS

1 MR. BAIN: It should be, Your Honor, ---

2 THE COURT: Okay, we'll take, ---

3 MR. BAIN: --- right at the start.

4 THE COURT: --- we'll take a few minutes recess, I'll
5 give the court reporter a chance to see if she locates where
6 there was a colloquy concerning her ch -- how many children
7 and maybe what age the child was. Court'll be in recess
8 briefly while the court reporter checks that out.

9 (Whereupon, a recess was taken.)

10 (Question from the jury marked Court's Exhibit No. 1 for
11 identification.)

12 (Whereupon, a verdict was reached at 3:33 p.m.)

13 (Whereupon, a discussion was held off the record.)

14 THE COURT: Anyway, I understand we've got a verdict so,
15 uh, I'll bring 'em in be sure that that's not a problem, I'll
16 tell 'em you tried to find it but couldn't find anything.
17 Alright, let's bring the jury in.

18 (The following takes place in the presence of the jury.)

19 THE COURT: Alright, the record will reflect the jury has
20 returned to the courtroom. Uh, before I ask you about the
21 verdict I will advise you that we reviewed the the trans --
22 not the transcript but the recording of testimony, uh, the
23 only mention of the, uh, child was, uh, that we were able to
24 locate was that there was an indication that there was one
25 child, uh, it did not indicate where we had checked any age or

VERDICT

1 any rate -- date of birth, uh, so we haven't been able to find
2 anything along those lines; however, I've been told that in
3 the meantime the jury's been able to reach a verdict, is that
4 correct, Mr. Foreman?

5 JURY FOREMAN: Yes, sir.

6 THE COURT: Alright, you wish to proceed without that
7 information.

8 JURY FOREMAN: Yes, sir.

9 THE COURT: Okay, pass it up.

10 (Whereupon, the jury foreman complied.)

11 THE COURT: Madam clerk, you may publish the verdict.

12 THE CLERK: 2014-GS-11-635 State a South Carolina vs.
13 Ashley Martin we, the jury, unanimously find the defendant
14 Ashley Martin concerning the offense of tattooing a minor
15 person under the age of 18 guilty, signed by foreperson Dustin
16 Dover. Ladies and gentlemen of the jury, if this is the
17 verdict of you all, please indicate by raising your right
18 hand.

19 (Whereupon, the jury complied.)

20 THE CLERK: Thank you.

21 THE COURT: Anything further from the State before I
22 release the jury?

23 MR. BAIN: Nothin' further from the State, ---

24 THE COURT: Anything ---

25 MR. BAIN: --- Your Honor.

MOTIONS AND MATTERS

1 THE COURT: --- from the defense?

2 MR. THOMPSON: No, sir.

3 THE COURT: Alright, ladies and gentlemen of the jury, I
4 wanna thank you very much for your assistance this week, a
5 couple of ya twice, uh, were able to help me so I do
6 appreciate that and all of you were of assistance to us. Uh,
7 I will tell you that there's a good many cases that are
8 handled that you're unaware of while when people are faced
9 with a choice of going to trial or not going to trial, uh,
10 both the State and the defense make decisions that, uh,
11 resolve cases so we've had a good many cases moved, I'm still
12 working on some and we'll be working on some to to get those
13 resolved so your presence has been of lot of assistance to the
14 court system, even though we only tried two cases this week,
15 we've had a lot more than that. Uh, I think you've already
16 gotten your vouchers as far as your pay is concerned, uh, and
17 that's been taken care of so we'll just check you out.

18 I'll just tell you I asked you not to talk about the case
19 up 'til now, I'll tell you that you have the right to do so,
20 you have the right also not to do so. You see, a citizen owes
21 no one explanation for their service on a jury or what goes on
22 within the jury itself, it's up to you as to whether you wish
23 to talk about that or not so if anybody were to bother you
24 about your service on the jury, please report it to the
25 clerk's office, we'll see appropriate action is taken should

SENTENCE

1 that occur so I'm gonna dismiss you at this time for the
2 remainder of the week, we're not gonna try to start another
3 jury trial and get it in before the end a the week so your
4 work has now ended. Mr. Foreman, you're gonna need to get
5 with the clerk, there's one thing you have to sign on the
6 indictment before you leave, for the rest of you thank you
7 very much, hope you have a good weekend, you're free to go.

8 THE COURT: Thank you.

9 JURY FOREMAN: Thank Your Honor.

10 THE COURT: Thank you.

11 (Whereupon, the jury exited the courtroom.)

12 THE COURT: Alright, anything further before we go to
13 sentencing?

14 MR. THOMPSON: We attempt to make a motion for a new
15 trial based on the, uh, Court's objection of our directed
16 verdict motions.

17 THE COURT: Alright, that motion is noted and the motion
18 would be denied at this time.

19 MR. THOMPSON: Yes.

20 THE COURT: Alright, get your paperwork ready for
21 sentencing, we'll talk about that.

22 (Pause.)

23 THE COURT: Alright, Ms. Martin, having been found guilty
24 by a jury of your peers, at this time the Court is going to
25 consider sentencing in your case, I'll now hear from you

SENTENCE

1 attorney and then I'll give you an opportunity to speak to me
2 as well. Mr. Thompson.

3 MR. THOMPSON: Thank you, Judge. Ms. Martin is
4 25-years-old, she's single, she has no children, she is a high
5 school graduate, has one year of college at Spartanburg Tech.
6 Uh, she's disabled, she suffers from diabetes, OCD, PDA and,
7 uh, so she's basically unemployed 'cause her disability. She
8 has no prior record whatsoever, I think the State's already
9 indicated that to you during the course of the trial. Uh, she
10 did one day in jail at the time of her arrest before making
11 bond, uh, we would ask you to consider probationary sentence
12 in this matter.

13 THE COURT: Alright. Ms. Martin, anything you'd like to
14 tell me?

15 THE DEFENDANT: No.

16 THE COURT: Prior record?

17 MR. BAIN: Your Honor, no prior record.

18 THE COURT: Alright, does the victim wish to be heard at
19 this time?

20 MS. AMBER MOSIER: No, sir.

21 THE COURT: Can we agree the potential sentence is up to
22 one year and/or a fine of up to \$2500?

23 MR. THOMPSON: Yes.

24 MR. BAIN: Yes, sir.

25 THE COURT: Ms. Martin, first of all, I'm gonna tell you

SENTENCE

1 my sentence includes a direction that you're to have no
2 contact with victim in this case and/or any witness who
3 appeared during the trial of the case. Now let me be sure you
4 and I have an understanding of what I mean by no contact.
5 When you read that order, it says no contact, direct or
6 indirect with those people. Now indirect contact includes
7 such things is if you send them a text message, if you send
8 them an email, if you post something on a social website
9 either directed to them or about them, those will be indirect
10 forms of contact. If you send a friend over to talk to them
11 on your behalf, if you send them a letter by regular mail,
12 those also are indirect forms of contact with someone, those
13 would violate my order. Direct contact is very, very simple,
14 it means that if you were to run into any a these individuals
15 out in the public at anytime, anywhere, you go in the opposite
16 direction as fast as you can go without saying a word. I like
17 to tell people to think of it as if those people have eboli
18 and you're trying to stay away from catching eboli and if you
19 saw somebody walking down the street with eboli, you might
20 turn and go in the opposite direction, that's how ya handle
21 that. Now
22 Mr. Thompson can tell you I have been consistent on this issue
23 now for about twelve years, I'm gonna remain consistent on it.
24 If you come in front of me and I determine you have violated a
25 no contact order that I put place, I will revoke your

SENTENCE

1 probation, I'll put you in jail for every day I can possibly
2 put you in jail for, maximum, you understand what I just said?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: It's not complicated, is it?

5 THE DEFENDANT: No.

6 THE COURT: So we've got an understanding, don't we?

7 THE DEFENDANT: Yes.

8 THE COURT: And so any time a violation comes up I'm
9 gonna know you intended to violate and I'll do what I said. I
10 hope we don't get to that point, hope you're smart enough to
11 stay away from that.

12 THE DEFENDANT: Absolutely.

13 THE COURT: Okay, good, then we've got an understanding.

14 THE DEFENDANT: Yes.

15 THE COURT: Won't have a problem, will we?

16 THE DEFENDANT: No, sir.

17 THE COURT: Okay.

18 MR. THOMPSON: Your Honor, may I clarify somethin' ---

19 THE COURT: Sure.

20 MR. THOMPSON: --- you just said. You said no contact
21 with the victim or any witness that appeared durin' the
22 trial ---

23 THE COURT: Well ---

24 MR. THOMPSON: --- of the case?

25 THE COURT: --- I'm talkin' about for the State.

SENTENCE

1 MR. THOMPSON: Okay, I just wanted to make sure 'cause
2 her mother and stepmother ---

3 (Indiscernible cross-talk.)

4 THE COURT: Yeah, I I -- she can talk to her mom, ---

5 MR. THOMPSON: Okay.

6 THE COURT: --- we'll let her do that, I'm talkin' about
7 for the State.

8 THE DEFENDANT: I have a question.

9 THE COURT: Well you talk to your lawyer when we finish
10 and I'm sure he'll be gled -- glad to help you. The sentence
11 is that you be confined to State Department Corrections for a
12 period of one year, I've suspended that to any time you've
13 served, probation for one year. I've ordered random alcohol
14 and drug testing while you're on probation, I've ordered the
15 no contact, uh, provision that I just discussed with ya and
16 I've ordered that you pay your public defender's fees during
17 the period of your probation. Good luck, ma'am, if you have a
18 question ask Mr. Thompson. Thank you very much.

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24
25

CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on September 3, 2015 at the time and place heretofore set forth; and that the foregoing pages numbered from 6 through 165, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

November 14, 2015

Margaret A. Woods

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

COUNTY OF
STATE

Cherokee

VS.

Ashley Martin

AKA:

Race: WHITE Sex: F Age: 25

DOB: SS#:

Address:

City, State, Zip: BLACKSBURG SC 29702

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Tattoo of a person under 18 - up to one year or fined up to \$2,500

INDICTMENT/CASE#: 2014GS1100635

A/W#: 2014A1120200202

Date of Offense: 4/5/2014

S.C. Code § : 44-34-100(A)

CDR Code #: 3018

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 44-34-100(A) of the S.C. Code of Laws, bearing CDR Code # 3018

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.ATTEST: [Signature] 101488 [Signature] [Signature] 5545
BAIN, CHRISTOPHER MIC 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 1 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of 75 days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 1months/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. 1 day☐ The Defendant is to be placed on the 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 ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$

§ 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 \$

§ 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) \$3 \$

3% to County (if paid in installments) \$ 18.90

TOTAL \$ 648.90

PTUP

 days/hours Public Service EmploymentObtain 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 FundOther: No contact direct or indirect
with the victim or any witness for the
state in the case.☒ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135

Sentence Date:

9/3/15

14-GS-11-00635

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 10 2014

TERM

THE STATE

vs.

Ashley Danielle Martin

Indictment for

TATTOO OF A MINOR/PERSON UNDER 18

SC Code: 44-34-100

CDR Code: 3018

Class MIS/C

WITNESSES

Gaffney Police Dept.

[Signature]

ARREST WARRANT NUMBER

2014A1120200202

ACTION OF GRAND JURY

TRUE BILL

Wayne Atkins

Foreperson of Grand Jury

Date: 7-10-14

VERDICT

Foreperson of Petit Jury

Date:

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

JUL 10 AM 9 26

BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

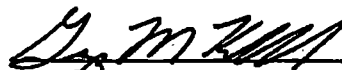
INDICTMENT

At a Court of General Sessions, convened on JUL 10 2014, the
Grand Jurors of Cherokee County present upon their oath:

TATTOO OF A MINOR/PERSON UNDER 18

That Ashley Danielle Martin, did in Cherokee County between April 5, 2014
and April 15, 2014, perform or offer to perform tattooing upon a person under
eighteen (18) years or if the person was at least eighteen, did not have parental
consent, to wit: by tattooing , all in violation of §44-34-100,
CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in
such case made and provided.

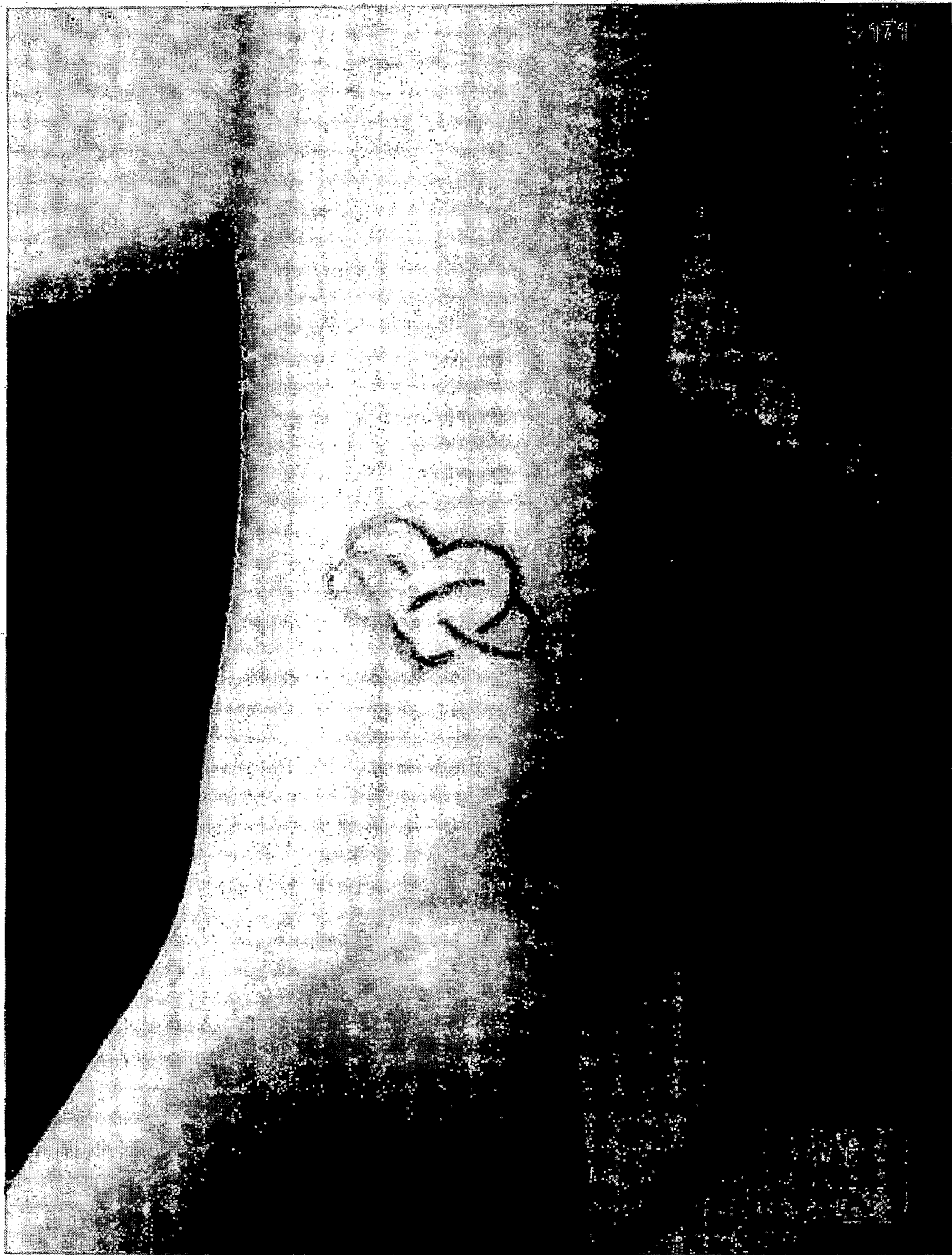

ASSISTANT SOLICITOR

170

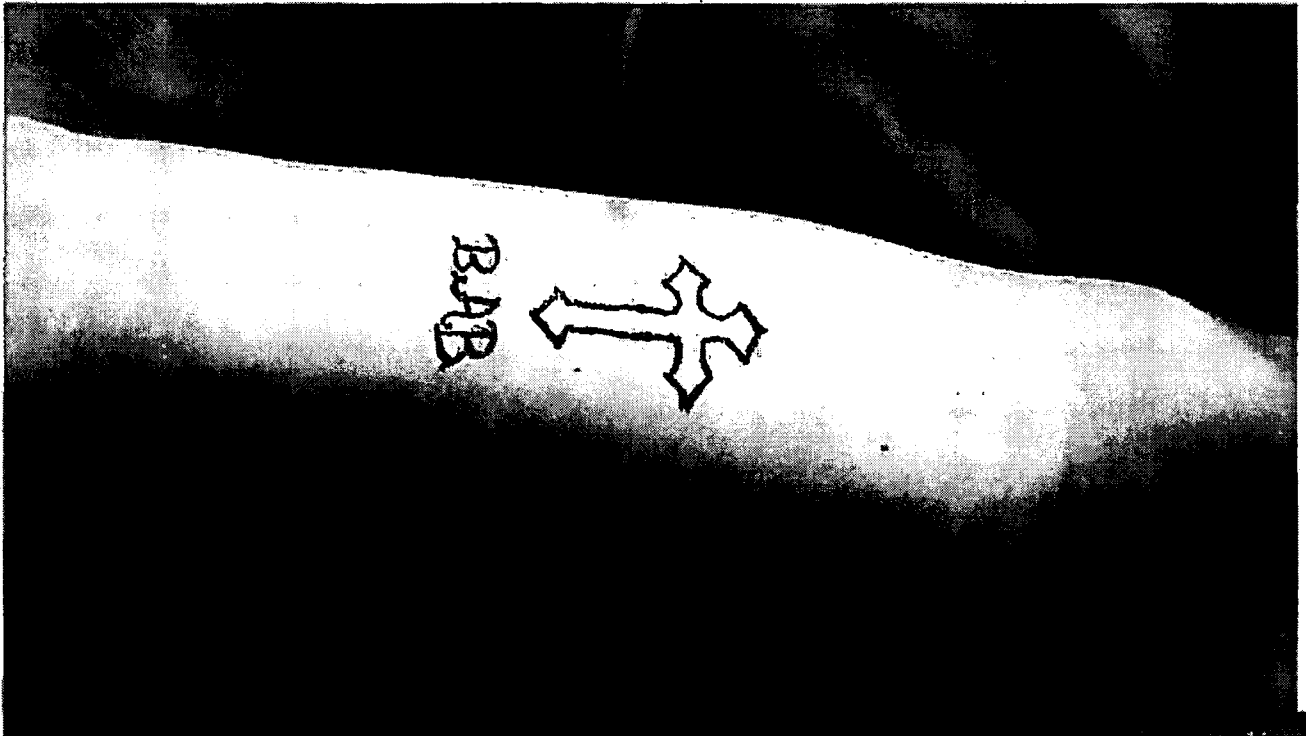
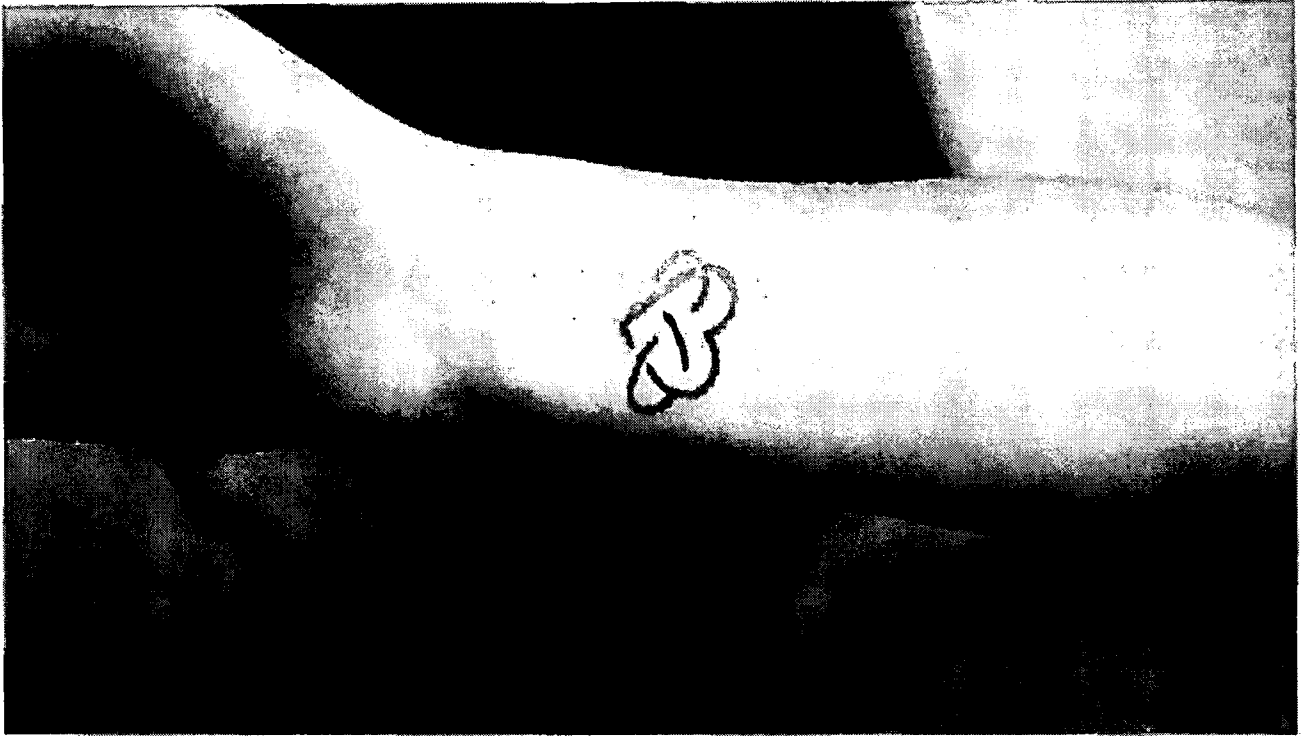
Plaintiff State Atty Chris Babin

Received from Maggie Woods, Circuit Court Reporter, the following exhibits:
P=Plaintiff, D=Defendant, S=State, C=Court, J=Joint

Received by Brandee McBeal, Clerk of Court
Date 9/3/2015







174

Gaffney Police Department
201 N. Limestone Street
Post Office Box 2109
Gaffney, South Carolina, 29342

VOLUNTARY STATEMENT

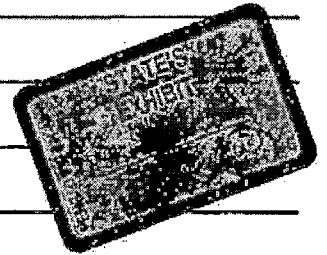
PAGE 1 OF 1

CASE NUMBER

14001384

NAME: T. Slany Mosier

(1.0) and Daniel Mosier lived with me and Ashley. The reason we filing all these police reports are because me and Ashley told them they had to move out and that was on April the 3rd. But while they was living with us Daniel Mosier had told me and Ashley that he put a cross on his girlfriend's name. That was the day that I took Ashley Martin to Mary Black. Once we got home that night Daniel brought about being good also just he did for his first girlfriend the day that we told them they had to move out. Daniel came and Ashley Martin was arguing, Ashley walked away and as soon as she turned around she hit Ashley in the back of her head. That is when everything started with Daniel Mosier and me that he will be leaving with his girlfriend. (1.0)



End of Statement

WITNESS:

WITNESS:

Signature of person giving voluntary statement

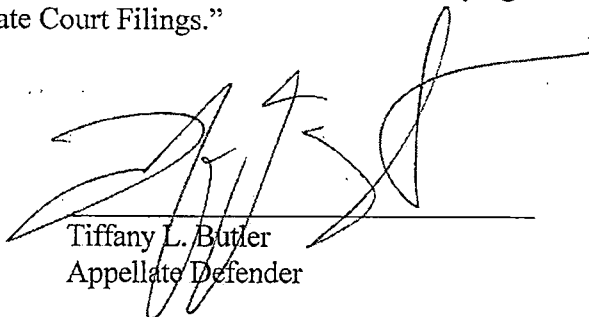
Court's exhibit
9-3-15 @

How old is the baby now?

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."

this, the 18th day of April 2016

A handwritten signature in black ink, appearing to read 'T. Butler', is written over a horizontal line.

Tiffany L. Butler
Appellate Defender

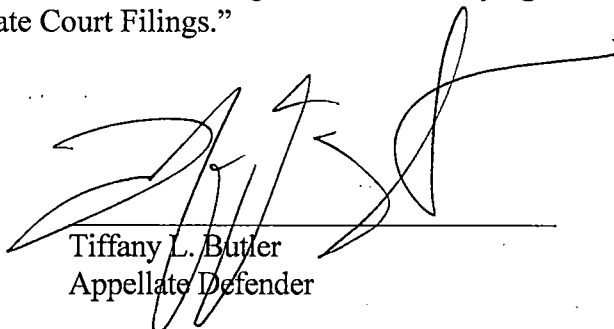
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

this, the 18th day of April 2016



Tiffany L. Butler
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

APR 18 2016

SC Court of Appeals