

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable John C. Hayes, Circuit Court Judge

RECEIVED

JUN 22 2017

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL GLENN HALL,

APPELLANT

APPELLATE CASE NO 2016-001778

RECORD ON APPEAL

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State of South Carolina.,)
)
)
 County of York.)

In the General Sessions
 Court of York
 Case No.: 2016-GS-46-00870

State of South Carolina.,)
)
 Plaintiff.,)
)
)
 -vs-)
)
 Michael Glenn Hall.,)
)
 Defendant.)
)

Transcript of Record

August 10, 2016
 York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III., judge , and a jury.

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

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

1 (COURT IN SESSION IN THE MATTER OF STATE VERSUS
2 MICHAEL GLENN HALL, WEDNESDAY, AUGUST 10, 2016 AT 10:55
3 AM.)

4 THE COURT: Thank you. You may take your seats.

5 Mr. Fleming, is the State ready to proceed?

6 SOLICITOR PLEMING: Yes, sir, your Honor.

7 THE COURT: All right. Defense, Mr. Merritt?

8 MR. MERRITT: Yes, your Honor.

9 THE COURT: All right. This is the case of the State
10 versus Michael Glenn Hall for domestic violence second
11 degree. We've had a pretrial conference and served -- not
12 served, but given some motions by the Defense some of which
13 I don't believe I'll be able to really handle until we get
14 into the trial itself. But let's go over the pretrial
15 motions.

16 For the record is this Mr. Hall?

17 MR. HALL: Yes, sir.

18 THE COURT: Mr. Hall is present. All right. Pretrial
19 motions, Mr. Fleming, the defense wants to know whether you
20 -- list of witnesses criminal histories.

21 SOLICITOR PLEMING: Yes, sir. We have provided a
22 witness list. It was brought to my attention, your Honor,
23 that -- I did not put on the witness list a couple of
24 individuals. I know have spoken to the victim in the case
25 since that could possibly be called as reply witnesses

1 based on what she may or may not testify to. But I have
2 told Mr. Merritt who those people are I believe would be
3 our victim advocate -- Latona Walker our victim advocate.

4 THE COURT: You got a list for me to ask about for the
5 jury?

6 SOLICITOR PLEMING: Yes, sir, your Honor, I have.

7 I thought I handed that up. I have a witness list
8 here and my voir dire.

9 THE COURT: Okay. Now, the second one is the
10 sequestration for the witnesses. I'll make that
11 reciprocal. Motion to order the State to disclose any
12 prior statements known by the State that may be used when
13 examining it's witnesses pursuant to Rule 6-1-3(a).

14 Doesn't say which -- I guess that's the Rule of
15 Evidence?

16 MR. MERRITT: Yes, your Honor. That's the prior
17 inconsistent statement rule. You know and just to kind of
18 give an idea in regards to the basis of some of these
19 motions it's our understanding that most of the elements of
20 this offense are solely proved by calling a witness up who
21 has informed all of us that she will testify as to one
22 thing and then impeaching her with prior inconsistent
23 statements which in our view are otherwise inadmissible
24 hearsay.

25 I understand that there can be changes to the prior

1 inconsistent statement rule that have allowed you I guess
2 this opportunity sometimes to call your own witness solely
3 to impeach them. But the protections that we still have
4 against that would still be something like hearsay so we
5 just want to be really clear that we weren't aware of any
6 potential prior inconsistent statement that any of his
7 witnesses might be ask to refer to that the prosecutor
8 knows about.

9 And we would also ask that that's not raised until he
10 actually gets it properly admitted

11 THE COURT: Well, of course it's not a prior
12 inconsistent statement until we hear what the statement on
13 the stand is, so.

14 MR. MERRITT: I know, your Honor. It just goes and
15 with the uniqueness of this case where even the officer or
16 anybody who observed it wasn't even at the crime scene.
17 It's simply her accusations from the day after that
18 everything is

19 THE COURT: That was kind of discussed in chambers and
20 we'll kind of see where the testimony goes.

21 MR. MERRITT: Thank you, your Honor.

22 THE COURT: I skipped number three by mistake and that
23 was whether or not the state complied with discovery.

24 SOLICITOR PLEMING: Yes, sir, we have, your Honor.

25 THE COURT: All right. Number five is a motion

1 inlimine which is also a separate motion on that regard and
2 based on my conversations that -- with counsel I don't I
3 believe I can rule on inadmissible hearsay until I hear
4 what the proposed hearsay is, so, I'll have to take number
5 five up during the trial.

6 Any impeachment? Number six, impeachment evidence on
7 Mr. Hall?

8 SOLICITOR PLEMING: Yes, your Honor, basically what we
9 mentioned before. Oh, on Mr. Hall? Excuse me.

10 He does not have any impeachable offenses, your Honor.

11 THE COURT: All right. Lyle testimony?

12 SOLICITOR PLEMING: No, sir, your Honor.

13 THE COURT: All right.

14 MR. MERRITT: We just want to note for the Court in
15 regards to the motion and hearsay, we -- the two -- the two
16 statements that every accusation, every facts, accept for
17 the injuries come from have been transcribed for you in
18 that motion for your reference as you consider whether or
19 not its hearsay or whatever other issue may come up.

20 I'm not aware of any other statements at all where
21 what's alleged in this statements could be proven by the
22 State through any means other than calling a witness for
23 her to tell them the opposite and then impeach her with
24 those statements.

25 THE COURT: Well, I'm a little bit lost. You

1 apparently have the substance of both of the things you're
2 asking me to exclude them but I really can't again make a
3 determination until I hear how they are presented.

4 MR. MERRITT: I understand but even -- I just don't
5 want it -- we get into opening statements and we say three
6 children perceived this well that's not -- if that's truly
7 inadmissible hearsay except for the fact that you get in
8 through a prior inconsistent statement that should have
9 never been said to a jury. That's the only reason I'm
10 trying ot make it as clear as possible early on.

11 THE COURT: Well I ask based on your concerns that the
12 State make a very general opening statement and try to stay
13 away and be cautious about things that --

14 Of course the indictment alleges that he did it while
15 preceived by a minor. They can certainly take the position
16 that that's what he's charged with and that's what they
17 intend to prove and then they have to prove it.

18 SOLICITOR PLEMING: Yes, sir, your Honor.

19 That -- And I wanted to speak on that. I would intend
20 my opening statement to mention that is an element of the
21 offense.

22 THE COURT: I think --

23 MR. MERRITT: As of now --

24 THE COURT: I get into very difficult, Mr. Merritt,
25 and I understand your postion, but trying to tailor

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1 everybody's questions, everybody's statements, that's why we
2 have the opportunity during a trial to address those things
3 rather than trying to have the judge micromanage how a case
4 is presented because I don't know how in fact how it's
5 gonna be presented. We can anticipate that we really don't
6 know so again with that request all I can say regarding any
7 of the admissible -- the alleged inadmissible hearsay and
8 the impeachment, any of those issues, I -- up in trial and
9 I'll ask Mr. Fleming to stay away from things that --
10 obviously he wouldn't be bringing up anything that he
11 doesn't think is relevant but I think he can bring up what
12 the State intends -- try to prove. Now whether they prove
13 it, they don't, and your client gets a directed verdict.

14 So with that said we can proceed.

15 MR. MERRITT: The one thing that has come up that's
16 not in that motion is unless it is the possibility of
17 appointing a lawyer for Ms. Blake.

18 THE COURT: Well you brought that up and I told you I
19 just can't do that with something that's not charged with a
20 crime and I can't compose an attorney plus a public
21 defender would have a conflict and I just can't start
22 appointing witnesses witness attorneys. If she wants an
23 attorney she can certainly get one but I --

24 MR. MERRITT: I apologize, your Honor, I meant just
25 moving to at lease advise her fully on the Fifth Amendment

1 rights and what that means.

2 THE COURT: I just can't do it.

3 MR. MERRITT: Not me but --

4 THE COURT: Well I'll advise her.

5 MR. MERRITT: Yeah, that's what I meant. I apologize.

6 THE COURT: All right. Anything else before we get
7 the jury up?

8 SOLICITOR PLEMING: No, sir, your Honor, other than
9 just one thing. You did say that the sequestration motion
10 would be reciprocal and there is just one individual on his
11 witness list.

12 THE COURT: Do we have a voir dire, Mr. Merritt ---

13 MR. MERRITT: I do.

14 THE COURT: --- request?

15 (DOCUMENTS RECEIVED UP BY THE COURT.)

16 THE COURT: Both of these look fine. And I don't see
17 any problems with any on behalf of the State either.

18 Defense ready, or State ready for the jury to come up?

19 SOLICITOR PLEMING: Yes, sir, your Honor.

20 THE COURT: Defense ready?

21 MR. MERRITT: Yes, your Honor.

22 THE COURT: All right. Strikes will be five and five.
23 We'll draw one alternate and strikes on that will be one
24 and two.

25 All right, let's bring up the panel.

1 (JURY ENTERS COURTROOM AT 11:09 AM.)

2 THE COURT: Members of the jury panel, I'm John Hayes
3 from Rock Hill along with Judge Couch from Spartanburg I'm
4 holding General Sessions Court this week and we're starting
5 our first trial in this courtroom. At this time it is the
6 case of the State versus Michael Glenn Hall.

7 Mr. Hall is represented by Zach Merritt from the
8 Public Defender's Office. And the State is represented by
9 Solicitor Blaine Fleming.

10 Mr. Hall would you please stand and let the jury see
11 who you are?

12 (DEFENDANT, MICHAEL HALL, STOOD.)

13 THE COURT: This is Mr. Hall. Just turn and face --
14 This is Mr. Hall. You can have a seat.

15 Mr. Hall is charged in an indictment --

16 And this is Ms. Desch with the Solicitor's office.

17 (MS. DESCH STOOD WITH MR. PLEMING.)

18 THE COURT: Mr. Hall is charged with committing
19 domestic violence, the victim being named Jasmine Frances
20 Blake. It's alleged that this occurred on January 3rd of
21 2016 here in York County. He has to this charged entered a
22 plea of not guilty which places on the State the burden of
23 proving his guilt beyond a reasonable doubt he is presumed
24 innocent.

25 Similarly to what Judge Couch did yesterday I have

1 some questions to go over with you. If you need to address
2 any of these, please stand, as we go through the list and I
3 will have a dialogue with you from here.

4 First are any of you related by blood or marriage to
5 Mr. Hall, Ms. Blake, or any of the three attorneys; if so,
6 please stand?

7 No one stands.

8 Are any of you a personal friend of any of those
9 individuals; if so, please stand?

10 No one stands.

11 Were any of you members of the Grand Jury which passed
12 on this indictment at an earlier time; if so, please stand?

13 No one stands.

14 Were any of you -- What was the location of this?

15 SOLICITOR PLEMING: It was at [REDACTED] Nuthatch Drive in
16 Rock Hill.

17 THE COURT: [REDACTED] what?

18 SOLICITOR PLEMING: [REDACTED].

19 THE COURT: [REDACTED] Nuthatch Drive in Rock Hill on
20 January 3rd, 2016 and when this allegedly occurred. Do you
21 any of you know anything about it, heard about it from any
22 source whatsoever, or, have any of you formed or expressed
23 an opinion about any matter or issue involved in this case;
24 if so, please stand?

25 No one stands.

THE COURT: All right. Just remain standing.

1 Yes, sir.

2 (WHITE MALE STANDING.)

3 A. Chris Mahar, One twenty-five. My brother is a deputy
4 in Michigan.

5 THE COURT: All right. Would this fact -- Let me
6 phrase it like this. In spite of the fact that you have
7 law enforcement relations would you still be able to be
8 fair and impartial in the trial of this case; if not, raise
9 your right hand?

10 Neither do so you will remain with us. Thank you.

11 Are any of you or a member of your immediate family
12 members of or contributors to organizations such as
13 Mother's Against Drunk Drivers; Students Against Drunk
14 Drivers; Citizens Against Violence, Troopers Association;
15 Sheriff's Association or Fraternal Order of Police; if so,
16 please stand?

17 No one stands.

18 Are any of you or a member of your immediate family,
19 to your knowledge obviously, a friend of or related to
20 anyone who works for Mr. Brackett? That is anyone who
21 works in the Solicitor's office or is a solicitor? Or
22 anyone who works for Mr. Harry Dest or in his office; if
23 so, please stand?

24 No one stands.

25 The following are possible witnesses in this case.

1 Michael Hall, Jasmine Blake, Paul Keifer, Michael
2 Long, Rals Merchant, Sarah Arrington, Bernadette Blake and
3 Harry Blake. Are any of you related by blood or marriage,
4 or, know any of those individuals; if so, please stand?

5 No one stands.

6 Anything further from the State?

7 SOLICITOR PLEMING: Nothing from the State, your
8 Honor.

9 THE COURT: Anything further from the Defense?

10 MR. MERRITT: No, your Honor.

11 THE COURT: Finally, do any of you know of any reason
12 whatsoever why you could not or should not serve as a fair
13 and impartial juror in the trial of this case against Mr.
14 Hall; if so, please stand?

15 No one stands.

16 Now the way we draw jurors in this courtroom is as
17 follows: Each side has the opportunity to excuse up to
18 five individuals. And if you hear your name called please
19 just stand where you are and the - - face first the table
20 where Mr. Pleming is seated and he will say either excuse
21 the juror or present the juror. If you hear the word
22 excuse the juror simply sit down. If you hear the words
23 present the juror turn and face the table where Mr. Hall
24 and Mr. Merritt are seated and Mr. Merritt will say either
25 excuse the juror; again, that means you may take your seat.

1 Or he will say swear the juror. If you hear those words
2 pick up any belongings that you may have with you and come
3 forward the bailiff will show you where to have a seat in
4 the jury box.

5 Counsel. You may proceed, Madam Clerk.

6 MADAM CLERK: Number Ninety-two, Leah Holbert.

7 (WHITE FEMALE STANDS.)

8 MADAM CLERK: What say you for the State?

9 SOLICITOR PLEMING: Please present Ms. Holbert.

10 MADAM CLERK: And the Defense?

11 MR. MERRITT: Please present the juror.

12 MADAM CLERK: Please have a seat in the jury box.

13 Number Thirty-two, Sherri Carvalho.

14 (WHITE FEMALE STANDS.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR PLEMING: Please present Ms. Carvalho.

17 MADAM CLERK: And the Defense?

18 MR. MERRITT: Please strike the juror.

19 MADAM CLERK: You are excused from this case.

20 Number Two forty-four, Jacob Windham.

21 (WHITE MALE STANDS.)

22 MADAM CLERK: What say you for the State?

23 SOLICITOR PLEMING: Please present Mr. Windham.

24 MADAM CLERK: And the Defense?

25 MR. MERRITT: Please present the juror.

1 MADAM CLERK: Please have a seat in the jury box.

2 Number Ninety-four, Trayce Howe.

3 (WHITE FEMALE STANDS.)

4 MADAM CLERK: What say you for the State?

5 SOLICITOR PLEMING: Please present Ms. Howe.

6 MADAM CLERK: And the Defense?

7 MR. MERRITT: Please strike the juror.

8 MADAM CLERK: You're excused from this case.

9 Number Two thirty, Zandra Ward.

10 (BLACK FEMALE STANDS.)

11 MADAM CLERK: What say you for the State?

12 SOLICITOR PLEMING: Please present Ms. Ward.

13 MADAM CLERK: And the Defense?

14 MR. MERRITT: Please present the juror.

15 MADAM CLERK: Please have a seat in the jury box.

16 Number One sixty-seven, Johnny Parker.

17 (WHITE MALE STANDS.)

18 MADAM CLERK: What say you for the State?

19 SOLICITOR PLEMING: Please present Mr. Parker.

20 MADAM CLERK: And the Defense?

21 MR. MERRITT: Please present the juror.

22 MADAM CLERK: Please have a seat in the jury box.

23 Number One ninety-seven, Jayne Scarborough.

24 (WHITE FEMALE STANDS.)

25 MADAM CLERK: What say you for the State?

1 SOLICITOR PLEMING: Please present Ms. Scarborough.

2 MADAM CLERK: And the Defense?

3 MR. MERRITT: Please strike the juror.

4 MADAM CLERK: You're excused from this case.

5 Number Sixty-nine, Grant Fredell.

6 (WHITE FEMALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR PLEMING: Please present Mr. Fredell.

9 MADAM CLERK: And the Defense?

10 MR. MERRITT: Please present the juror.

11 MADAM CLERK: Please have a seat in the jury box.

12 Number Eighteen, Brett Bounds.

13 (WHITE MALE STANDS.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR PLEMING: Please present the juror.

16 MADAM CLERK: And the Defense?

17 MR. MERRITT: Please present the juror.

18 MADAM CLERK: Please have a seat in the jury box.

19 Number One fifty-six, Dawn Morneault.

20 (WHITE FEMALE STANDS.)

21 MADAM CLERK: What say you for the State?

22 MR. MERRITT: What was that number?

23 MADAM CLERK: Number One fifty-six.

24 MR. MERRITT: Thank you.

25 SOLICITOR PLEMING: Please present Ms. Morneault.

1 MADAM CLERK: And the Defense?

2 MR. MERRITT: Please strike the juror.

3 MADAM CLERK: You're excused from this case.

4 Number Seventy-two, Shanderra Garvin.

5 (BLACK FEMALE STANDS.)

6 MADAM CLERK: What say you for the State?

7 SOLICITOR PLEMING: Please excuse Ms. Garvin.

8 MADAM CLERK: You're excused from this case.

9 Number One fifty-eight, William Mourey.

10 (WHITE MALE STANDS.)

11 MADAM CLERK: What say you for the State?

12 SOLICITOR PLEMING: Please present Mr. Mourey.

13 MADAM CLERK: And the Defense?

14 MR. MERRITT: Please present the juror.

15 MADAM CLERK: Have a seat in the jury box.

16 MADAM CLERK: Number Two eighteen, Katrina Thomas.

17 (WHITE FEMALE STANDS.)

18 MADAM CLERK: What say you for the State?

19 SOLICITOR PLEMING: Please present Ms. Thomas.

20 MADAM CLERK: And the Defense?

21 MR. MERRITT: Please present the juror.

22 MADAM CLERK: Please have a seat in the jury box.

23 Number Two thirty-six, Sonya Hernandez.

24 (WHITE FEMALE STANDS.)

25 MADAM CLERK: What say you for the State?

1 SOLICITOR PLEMING: Please present Ms. Hernandez.

2 MADAM CLERK: And the Defense?

3 MR. MERRITT: Please strike the juror.

4 MADAM CLERK: That's five strikes for the defense.

5 Number One twenty-five, Christopher Mahar.

6 (WHITE MALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR PLEMING: Please present Mr. Mahar.

9 MADAM CLERK: And the Defense?

10 MR. MERRITT: Please present the juror.

11 MADAM CLERK: Please have a seat in the jury box.

12 Number Seven, Michael Baker.

13 (WHITE MALE STANDS.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR PLEMING: Please present Mr. Baker.

16 MADAM CLERK: And the Defense?

17 MR. MERRITT: Please present the juror.

18 MADAM CLERK: Please have a seat in the jury box.

19 Number Seventy-three, Nancy Gerber.

20 (WHITE FEMALE STANDS.)

21 MADAM CLERK: What say you for the State?

22 SOLICITOR PLEMING: Please present Ms. Gerber.

23 MADAM CLERK: And the Defense.

24 MR. MERRITT: Please present the juror.

25 MADAM CLERK: Please have a seat in the jury box.

1 MADAM CLERK: Number One twenty-six, Heather Manning.

2 (WHITE FEMALE STANDS.)

3 SOLICITOR PLEMING: Please strike Ms. Manning.

4 MADAM CLERK: You're excused from this case.

5 Number Four, Christopher Altonen.

6 (WHITE MALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR PLEMING: Please present Mr. Altonen.

9 MADAM CLERK: And the Defense?

10 MR. MERRITT: Please seat the juror.

11 MADAM CLERK: Please have a seat in the jury box.

12 THE COURT: All right, we'll draw one alternate and
13 strikes will be one and two.

14 MADAM CLERK: Number Two thirty-two, Laves Weeks.

15 (BLACK FEMALE STANDS.)

16 MADAM CLERK: What say you for the State?

17 SOLICITOR PLEMING: Please present Ms. Weeks.

18 MADAM CLERK: And the Defense?

19 MR. MERRITT: Please seat the juror.

20 MADAM CLERK: Please have a seat in the jury box.

21 THE COURT: All right, anything from the State
22 involving the striking of the panel?

23 SOLICITOR PLEMING: No, sir, your Honor.

24 THE COURT: Anything from the Defense involving the
25 striking of the panel?

1 MR. MERRITT: We have one motion, your Honor.

2 THE COURT: All right. I'm gonna let those of you how
3 were drawn to go into the jury room but do not start
4 discussing the case at this time. You really don't know
5 enough to discuss it but I got to take up a matter of law
6 outside your presence so I'm gonna let you go to the jury
7 room but don't discuss anything about the case or about the
8 procedure for the drawing a jury or anything. Just be at
9 ease for a few minutes. You may follow the bailiff.

10 Those of you who were not chosen I'm gonna ask you to
11 step out into the hallway and just congregate out there and
12 don't disappear on me. I can't let you go yet but just - I
13 wish I had other places to put you but I don't so the
14 bailiff will be out there with you, or a bailiff, and just
15 congregate in the hall for a few minutes if you would.

16 (PETIT JURY EXITS COURTROOM AT 11:28 AM.)

17 (JURY EXITS COURTROOM TO HALLWAY AT 11:28 AM.)

18 THE COURT: All right, Mr. Merritt.

19 MR. MERRITT: Your Honor, we would just ask for a race
20 neutral reason for striking number seventy-two. There is
21 less than ten African American's on the entire panel by my
22 first count so we would just raise it under Batson.

23 THE COURT: All right. What's your race neutral
24 reason for striking Ms. Garvin?

25 SOLICITOR PLEMING: She's nineteen years old, your

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1 Honor. And I -- That's my reason. She appeared to be --
2 She appeared young. I have a concern that she would be
3 less of effect to my victim who I believe pled and I think
4 -- I'd also like just to note that the other person we
5 struck was also a young person as well, early in age.

6 THE COURT: How old is the other one you struck?

7 SOLICITOR PLEMING: She also had a record and I had
8 that noted as well. Number One twenty-five.

9 THE COURT: What's her age?

10 SOLICITOR PLEMING: She's twenty-five years old, your
11 Honor.

12 THE COURT: All right. Well, Mr. Merritt, that is a
13 race neutral reason. Do you have any way to show -- could
14 you show the court why that is protectual, pretectual?

15 MR. MERRITT: No, your Honor. I wanted to know the
16 reason and I'm satisfied with the reason they provided.

17 THE COURT: Okay. All right. Is the State ready to
18 go forward?

19 SOLICITOR PLEMING: Yes, sir, your Honor.

20 THE COURT: The Defense?

21 MR. MERRITT: Yes, your Honor.

22 THE COURT: All right. What we'll do is go forward
23 with my opening remarks and the opening statements of
24 counsel and then we'll break for lunch. We're gonna
25 probably take a little longer lunch break today because I

1 have a commitment at lunch. And then we'll come back
2 around two to do the -- start into the testimony.

3 Bring in the jury.

4 Mr. Lord, --

5 MADAM COURT REPORTER: Wait just a minute, Judge, he's
6 went off and left you.

7 Just a minute.

8 THE COURT: Listen, tell them to tell Mr. Baker to
9 sit, to take the Foreman's seat.

10 MADAM COURT REPORTER: Okay.

11 THE COURT: And I hope someone is telling the --

12 SOLICITOR DESCH: Do you want me to go tell them
13 something?

14 THE COURT: If you don't mind, Ms. Desch.

15 SOLICITOR DESCH: That they're excused, to call back?

16 THE COURT: Stephanie?

17 MADAM CLERK: Just have them call back at one.

18 THE COURT: Call back at one.

19 SOLICITOR DESCH: Thank you.

20 THE COURT: Thank you.

21 (JURY DISMISSED AT 11:32 AM.)

22 THE BAILIFF: Judge, do you want the jury?

23 THE COURT: Yes, sir.

24 (PETIT JURY REENTERS COURTROOM AT 11:34 AM.)

25 THE COURT: Now that you all are comfortably seated if

1 you'll stand the Clerk will swear you in.

2 MADAM CLERK: Please raise your hand.

3 (WHEREUPON, PETIT JURY SWORN
4 AT 11:34 AM.)

5 MADAM CLERK: Thank you. Please be seated.

6 THE COURT: Members of the jury panel, I'm gonna talk
7 to you for a few minutes and then the attorneys will make
8 their opening statements and then we'll break for lunch.

9 Mr. Baker, I've appointed you the Foreperson so you
10 will be the liaison between the jury and preside over the
11 jury's deliberation and ultimately sign the jury's
12 unanimous verdict. I mentioned earlier and I restate and
13 emphasize the fact that Mr. Hall has entered a plea of not
14 guilty to this charge of domestic violence and he is
15 presumed innocent of this charge, he does not have to prove
16 his innocence. The State must prove his guilt beyond a
17 reasonable doubt before you as the trial jury in this case
18 could convict him.

19 I am the sole judge of the law in this case and you
20 must take, accept, and apply the law as I charge it to you.
21 You are the sole judges of the facts in this case. You are
22 to determine what are the true facts apply the law and you
23 will be in a position to return a verdict that speaks the
24 truth. Please pay close attention to what the witnesses
25 testify to and in addition to listening to what they have

1 to say about the facts of this case you are to judge their
2 credibility. That is you determine whether their testimony
3 is believable or whether their testimony not believable.

4 Once you have determined what you consider to be the
5 true facts in this case apply the law you can return a
6 verdict that speaks the truth.

7 Do not discuss the case among yourselves or try to
8 make up your own mind about the case until such time as I
9 instruct you to jointly deliberate and return a unanimous
10 verdict. Prior to that time you are not equipped to make a
11 fair and reasonable decision. So don't discuss the case
12 among yourselves or even try to make up your own mind.

13 Do not let anyone discuss this case with you outside
14 the courtroom. If anyone tries to discuss this case with
15 you tell them you cannot do so as you're serving as a
16 juror. And report back to me if anyone tries to discuss
17 the case with you outside of the courtroom.

18 Do not let yourself be exposed to any news coverage if
19 there is any. Don't read, listen, or watch anything that
20 could remotely deal with this case. Do not use any
21 electronic devices to obtain any information about this
22 case. Don't go to Google or the Cloud or anywhere to
23 obtain any information about Mr. Hall, about his attorney,
24 about the solicitor, about me, about trial procedure. That
25 is, do not access any information that could relate to this

1 trial because you have to base your verdict solely on the
2 law and the evidence that's developed here in the
3 courtroom.

4 Do not even go on Face book -- I'm not gonna tell you
5 to go on Faceblkk but don't go on Face book and tell your
6 Face book friends I'm serving on a juror -- serving as a
7 juror even if you don't say anything about the case because
8 someone may respond by making a statement or giving
9 information that would not be healthy for your serving as a
10 juror. This case may go into tomorrow so just stay off of
11 that type of social media at least to the extent of not
12 letting someone know that you're serving as a juror.

13 We take breaks about every hour and a half but if any
14 of you need a break at any time simply raise your right
15 hand and with no questions ask we'll take a break. If you
16 need a break let me know and I extend that to counsel and
17 to Mr. Hall. Again, we want to move the case along but
18 we're not in such a hurry that we won't take a break if we
19 need to.

20 If you can't see or you can't hear let me know. Cup
21 your ear or give me a voice raising gesture or nudging
22 gesture and I'll try to correct whatever it is that's
23 interfering with your ability to see and hear.

24 Now in just a moment I'll turn the case over to the
25 attorneys. They have a right but no obligation to come

1 before you at this time and make what are known as opening
2 statements. These are not arguments. You haven't heard
3 the evidence, you hadn't heard my charge on the law, so
4 you're not in a position to hear arguments. That is,
5 you're not in a position to hear the attorneys tell you why
6 your verdict should be a certain verdict. They will be
7 able to do that in the trial.

8 At this time they're just giving you an outline or a
9 blueprint of the trial, sort of an over view, so listen
10 carefully to them and after you've received those opening
11 statements we'll stop before we get into the testimony and
12 take our luncheon break.

13 Mr. Fleming.

14 SOLICITOR PLEMING: Thank you, your Honor, may it
15 please the court.

16 THE COURT: Yes, sir.

17 OPENING STATEMENT BY MR. PLEMING:

18 MR. PLEMING: Good morning, ladies and gentlemen. As
19 his Honor just told you the purpose of the opening
20 statements is for me to basically tell you what the State
21 intends to prove during the course of this trial and for me
22 to ask you what I'd like for you to pay attention to and
23 keep in mind as we move forward.

24 We're all here today because on January 3rd of this
25 year the defendant in this case, Michael Hall, assaulted

1 the mother of his three children Jasmine Blake.

2 MR. MERRITT: We object to that.

3 THE COURT: I over rule the objection.

4 Just make sure you understand that's your position.

5 SOLICITOR PLEMING: Yes, sir.

6 The evidence that we will seek to prove or that we
7 will introduce to you through the course of this trial will
8 seek to prove that he did in fact assault the mother of his
9 three children, Jasmine Blake, on January 3rd, and that he
10 did so in front of his children. Now, he's now charged
11 with domestic violence second degree.

12 Domestic violence is defined under the law as an
13 attempt or harm or injury caused upon a household member
14 and that household member is defined a number of different
15 ways. And his Honor will instruct you on the law at the
16 conclusion of this trial but because they have children
17 together, in common, Ms. Blake and Mr. Hall are household
18 members with one another. So any assault by him on Ms.
19 Blake makes this domestic violence third degree. What
20 makes a domestic violence second degree is the fact that
21 his children were present or perceived the event.

22 The evidence will show that he choked her, bashed her
23 head against the wall of his mother's living room and while
24 making threats to kill her.

25 Now at some point during the assault Ms. Blake was

1 able to get out and get her kids to the car to get away.
2 She went to her parent's house. And shaken by fear she did
3 not report the incident that night. But the next day she
4 did call 911. Then Officer Long who you will hear from
5 from the Rock Hill Police Department responded to her
6 parents house to talk to her about what occurred that
7 previous day. He took a sworn statement from her and he
8 took three very telling photographs that display the
9 injuries that she received from Mr. Hall.

10 Throughout the course of this trial I ask that you use
11 your common sense. In every trial, every trial consist of
12 testimony from various witnesses to serve as evidence for
13 the State and it's your job as the finder of the fact to
14 discern which of that evidence is credible and which is
15 not. Every day we're bombarded by messages from all sorts
16 of different people. People trying to sell us things,
17 people trying to convince us of things and everyday you
18 have to use common sense to determine what is trustworthy
19 and what is reliable and what is not.

20 And the same is true in this courtroom so I just ask
21 that throughout this trial that you not check your common
22 sense at the door, that you use it to determine which of
23 the statements that are presented to you are believable and
24 which are not.

25 With the burden of proof in this case does rest on the

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1 State to prove Mr. Hall's guilt beyond a reasonable doubt.
2 That is our burden and we won't have it any other way. His
3 Honor will instruct you more about what that means the
4 definition of reasonable doubt. But I want to tell you
5 that it does not mean beyond all doubt, all possible doubt.
6 That would be virtually impossible. The question is is
7 there any reasonable doubt left in your mind at the
8 conclusion of this trial to what happened. And as long as
9 the evidence that we present leaves you firmly convinced of
10 his guilt then we have met our burden.

11 Now in that same vein let me put forth to you that
12 this trial is not about a search for doubt. It's about a
13 search for the truth. As I mentioned you are the finders
14 of fact and as the finders of fact it is your job to
15 discern the truth in this case.

16 And I'd like to now tell you where you can find the
17 truth. Well this trial is gonna be different from many
18 others that I've presented because in this trial I can't
19 tell you exactly what our victim's gonna say to you. I'm
20 not able to say what her testimony is gonna be. We're
21 gonna call her as a witness but I don't have control over
22 what she says did or did not happen that day. But what we
23 do have is the statements that she gave to law enforcement
24 when she reported this. Well after the sworn --

25 MR. MERRITT: Objection to the reference being

1 inadmissible hearsay.

2 THE COURT: Yeah, I sustain the objection.

3 SOLICITOR PLEMING: You will be presented with
4 evidence about what happened that day and among that
5 evidence you will have three photographs which speak very
6 plainly about what happened on January 3rd. I'm gonig to
7 do my best to make sure that the truth of what happened on
8 January 3rd doesn't get lost in whatever lies may or may
9 not be said in court today. And I'm going to do my best to
10 make sure that the truth is presented to you as clearly as
11 it was when the bruises that he left on her neck is viewed
12 in those pictures that we taken on January 3rd. Thank you.

13 THE COURT: Mr. Merritt.

14 MR. MERRITT: May it please the court.

15 THE COURT: Yes, sir.

16 OPENING STATEMENT BY MR. MERRITT:

17 MR. MERRITT: Good morning. My name is Zach Merritt
18 and I and Phil Smith over here represent Mr. Michael Hall
19 and Mr. Michael Hall has been accused of committing
20 domestic violence.

21 I wanted to go ahead and be clear about waht the issue
22 is that you have to decide today. Your issue or you need
23 to know or you need to be firmly convinced of for the State
24 to prove this case is whether or not Michael Hall did this.

25 There will be no dispute that Ms. Jasmine Blake the

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1 mother of Mr. Hall's children was assaulted or had an
2 incident that caused her injuries. The question that you
3 have to decide and that is very uncertain at this point is
4 how did that happen. Who will the State produce in this
5 courtroom today, who will they bring in this room who will
6 explain to us what happened that night? But that's the
7 question of fact to decide.

8 Other references, he references domestic violence laws
9 sometimes other issues are in play. That's the issue in
10 play. Now please keep in mind as you consider this case
11 that it's the easiest thing in the world to accuse somebody
12 of doing something. But sometimes the consequences of that
13 accusation are incredible but an accusation alone in our
14 justice system can't be enough. And we have the highest
15 standard in the law that I'm aware of that's beyond a
16 reasonable doubt standard where you've got to sit here and
17 listen to what actual evidence the State puts forth that
18 comes out of folk's mouths who sit in that witness box that
19 tells you what happened that night.

20 What will be clear is that to you the evidence will
21 show is that only one person could possibly take that stand
22 who has any clue what happened. That's the one person to
23 listen to. That's the one person to look at what they're
24 saying under direct in a courtroom and listen hard to what
25 they say. And listen to how they describe what is said and

1 access their credibility.

2 You will be left with the statements of individuals
3 likely coming from that witness chair to make your
4 decision. You won't see anything to corroborate those
5 statements one way or the other in this case. Please keep
6 that in mind that all sorts of types of evidence can
7 corroborate the existence of something. And you never know
8 what somebody says whether they remember correctly; whether
9 they're accurately telling it. You never quite know
10 whether or not it's an accurate -- whether or not it's a
11 fact. They alleged this thing took place on January 3rd.
12 We're more than eight months out from that point.

13 So that's the amount of time the State has had to put
14 this case together and they should be presenting some
15 evidence to prove whatever specific allegation they claim.

16 Now there was some reference of the allegations in
17 opening statement. Those are allegations at this point.
18 We're looking for things that are trustworthy, we're
19 looking for things that are reliable, we're looking for
20 things that can withstand the standard in this courtroom.

21 The place that you're gonna be able to find proof in
22 this case is gonna come from that witness box. Be careful
23 of attorneys leading that witness somewhere. Listen to
24 their statements and what they say. Don't be led by our
25 words in this case. Listen to what they say and make your

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1 assessment. It's my view that once all the evidence is
2 presented to you the clearest picture we're gonna have at
3 the best is that we don't know what happened.

4 Thank you.

5 THE COURT: Members of the jury panel, we're gonna
6 break for lunch. We're gonna break 'til two o'clock. I
7 know that's a long, extra long lunch hour but I have
8 something I have to do over the luncheon period and I'd
9 rather you not come back and sit in the jury room for a
10 while. You can come back whenever you're ready but I'm
11 gonna ask you to be back at two o'clock and we'll start
12 into the testimony. Have a pleasant lunch.

13 (JURY EXITS COURTROOM ON LUNCH RECESS AT 11:50 AM.)

14 THE COURT: Mr. Hall can stay out on bond. All right,
15 we'll see you back at two o'clock.

16 SOLICITOR PLEMING: Thank you, your Honor.

17 MR. MERRITT: Thank you, your Honor.

18 (COURT IN LUNCH RECESS AT 11:51 AM.)

19 (COURT BACK IN SESSION AT 02:00 PM.)

20 THE COURT: We've received a note from one of the
21 jurors, Number Seventy-three, Nancy Gerber, who indicated
22 she has now recalled an incident from over thirty-one years
23 ago and I've gone over the note with the attorneyes.

24 I'm gonna bring Ms. Gerber in in just a minute.

25 Would you bring Number Seventy-three, Nancy Gerber,

1 in?

2 THE BAILIFF: Yes, sir.

3 (JUROR SEVENTY-THREE, WHITE FEMALE, ENTERS COURTROOM.)

4 THE COURT: Ms. Gerber, thank you for your note.

5 MS. GERBER: Yes, sir.

6 THE COURT: We just need to put on the record what --
7 I'm having your note made an exhibit, but you indicate
8 therein in your note that you inspite of this part of your
9 history that you still could be fair and impartial to both
10 the State and Mr. Hall.

11 MS. GERBER: I do. I didn't even remember wehn you
12 said that. I apologize for that.

13 THE COURT: It's not the kind of thing we like to
14 remember if we have had a history so I understand that but
15 you did the right thing by letting us know. But you do - -
16 Do you still believe that you can be fair and impartial?

17 MS. GERBER: I do. I do.

18 THE COURT: All right. Thank you. I'll let you
19 return.

20 (JUROR SEVENTY-THREE, EXITS COURTROOM.)

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

23 THE COURT: I did not read the note into the record
24 but it will be a part of the record. It indicated that she
25 had -- did not earlier but now recalls an incident thirty-

1 one years ago with her ex-husband, an altercation which to
2 me indicates on altercation and they have been divorced
3 since 1985 and it had slipped her mind.

4 Anything from the State regarding her ability to be a
5 juror?

6 SOLICITOR PLEMING: Nothing from the State.

7 THE COURT: Mr. Merritt?

8 MR. MERRITT: Your Honor, yeah just in good nature we
9 would make a motion to relieve her and use an alternate.
10 It was the question that was asked and something between
11 when it was asked and now triggered her memory throughout
12 our opening statement the discussion of domestic violence.
13 As of now what I know about the incident is very vague. I
14 just know that it was triggered or that something made her
15 remember based off of the kind of just tense enviornment
16 relating to domestic violence. So just to be safe we would
17 ask to relieve her. Thank you.

18 THE COURT: All right. If she had answered in the --
19 this by indicating -- Well, I won't ask you that.

20 I'm gonna let her stay. I believe she can be fair and
21 impartial. She took the time and effort to acknowledge
22 that this happened. These things are painful for sure.
23 Sometimes I'm sure people put them out of their minds.
24 Whatever triggered it I don't know but obviously it's
25 enough. Your motion is to seat the alternate?

1 MR. MERRITT: That is my motion, your Honor.

2 THE COURT: All right. That motion is denied.

3 All right, bring in the jury.

4 MR. MERRITT: Thank you.

5 (JURY REENTERS COURTROOM AT 02:10 PM.)

6 MR. MERRITT: Its my understanding is bringing Ms.
7 Blake to the stand, I didn't know if we wanted to take some
8 time to

9 THE COURT: We should. Would that be your first
10 witness?

11 SOLICITOR PLEMING: Yes, sir, your Honor.

12 THE COURT: I'm sorry, I just received some
13 information. I'm gonna have to let you step back out just
14 a minute while I take up a matter the lawyer's didn't tell
15 me about until we started.

16 (JURY EXITS BACK OUT THE COURTROOM.)

17 THE COURT: Jasmine Blake here?

18 A. Yes, sir.

19 THE COURT: Ms. Blake, you want to come forward.
20 Their gonna call you as the first witness but I want to
21 make sure you -- Come on up and be sworn and take the
22 witness stand. Based on some conversations I've had with
23 Mr. Hall's attorney and the State I need to go over some
24 matters with you. Raise your right hand.

25 (WHEREUPON, JASMINE BLAKE,

JASMINE BLAKE: BY THE COURT

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

2 THE COURT: You may be seated.

3 Ms. Blake, of course you're not charged with anything
4 in regard to this offense and so I would not think that you
5 had any attorney. Do you have an attorney representing
6 you?

7 MS. BLAKE: No, sir.

8 THE COURT: Now, I am told by the attorney and I can't
9 remember which told me what, but that you -- Well I'll
10 start like this. I've got here a 911 call that you made.
11 It doesn't say the date on it but I'm told it was the date
12 after the incident that Mr. Hall's on trial for which would
13 have made it January 4th of this year. In there you
14 indicate that you'd been assaulted by Mr. Hall and I
15 understand you maybe made a statement to law enforcement
16 that that in fact occurred.

17 I am told now that you are -- may now take the
18 position that what you told -- what you said on the 911
19 what you told Officer Long was in fact not true.

20 Is that the case?

21 (WITNESS HESITATES.)

22 THE COURT: Well the reason I'm asking it is because
23 -- and I'm not threatening you, I'm just warning you since
24 you don't have an attorney but if you told law enforcement
25 something happened, reported a crime to law enforcement,

1 that was not in fact true, then that's a crime called
2 filing a false police report, you could be charged with
3 that, if in fact that happened. And I don't know that it
4 did of course. But I want you to know that if you are now
5 going to testify to something - - testify to what you told
6 the 911 operator and law enforcement was not in fact true,
7 you have exposed yourself to a criminal charge and
8 therefore you have a right to remain silent regarding this
9 entire matter. That is you have the right to remain silent
10 regarding and not testify against yourself; that is, not
11 give any testimony that would incriminate yourself. That
12 is you need not -- You have a right to be protected from
13 testifying that it did not happen after you said it did
14 happen because that would expose you to a crime.

15 So you have the right to remain silent and do not have
16 to answer any questions that the State poses to you if in
17 fact the case is that you are going to tell something
18 different now from what you told law enforcement.

19 Do you understand that?

20 MS. BLAKE: I think I do.

21 THE COURT: Okay. Do you want to exercise your right
22 to remain silent or do you intend to testify in this case?

23 MS. BLAKE: No, I'm gonna testify.

24 THE COURT: Okay. All right, well you have to testify
25 truthfully. So you go back and have a seat with -- And I

JASMINE BLAKE: BY THE COURT

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1 will call you up as a witness as soon as the jury comes in.

2 MS. BLAKE: All right.

3 THE COURT: Thank you.

4 MS. BLAKE: Thank you.

5 THE COURT: Sorry to put you through that but you did
6 good.

7 (WITNESS LEAVES WITNESS STAND.)

8 THE COURT: All right. You can bring the jury in now.

9 (JURY REENTERS COURTROOM AT 02:15 PM.)

10 THE COURT: Mr. Fleming, you can call your first
11 witness.

12 SOLICITOR FLEMING: Thank you, your Honor. The State
13 calls Jasmine Blake.

14 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
15 THE JURY AT 02:15 PM.)

16 THE COURT: Call your first witness.

17 SOLICITOR FLEMING: Thank you, your Honor. The State
18 calls Jasmine Blake.

19 THE COURT: If you'll step up here there's a Bible,
20 put your left hand on the Bible and raise your right.

21 (WHEREUPON, JASMINE BLAKE, BEING
22 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

23 THE COURT: Just come up and have a seat.

24 DIRECT EXAMINATION

25 JASMINE BLAKE BY SOLICITOR FLEMING:

1 Q. Good afternoon, Ms. Blake. Would you please state
2 your name for the jury?

3 A. Jasmine Blake.

4 Q. And, Ms. Blake, how old are you?

5 A. Twenty-seven.

6 Q. And are you from this area?

7 A. From Rock Hill.

8 Q. And you've lived there all your life?

9 A. Mostly.

10 Q. Okay. Do you have any children?

11 A. Five including my stepdaughter but four.

12 Q. Four of your own?

13 A. Uh-huh.

14 Q. And do those children live with you?

15 A. Yeah.

16 Q. What are the ages of your children?

17 A. Eight, five, four, two.

18 Q. And what is the relationship or what is your
19 relationship to Michael Hall the defendant in this case?

20 A. Michael Hall is -- I been with Michael for eleven
21 years on and off. Close to being my husband but by law we
22 still single but we're together.

23 Q. Okay.

24 A. As a family. We have kids together.

25 Q. Okay. And how many children do you have together?

JASMINE BLAKE: DIRECT BY SOLICITOR PLEMING

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1 A. We have three.

2 Q. And you said that y'all are together. Is that the
3 nature of your current relationship?

4 A. Meaning as a family like parent together we're
5 together.

6 Q. Okay. And were you together in January of this year?

7 A. Uh -- We had broke up.

8 Q. Okay. Where do you currently live?

9 A. A few places.

10 Q. Okay. Where were you living in January of this year?

11 A. I had my own apartment. I was living in Deerfield
12 Run.

13 Q. And Deerfield Run, what's the exact address for that
14 residence?

15 A. It was 2063 Apartment ■, McGee Road, Rock Hill.

16 Q. And were you living there on January 3rd to be more
17 specific?

18 A. No. Yes, I was living there. I'm sorry. I was
19 living there.

20 Q. Okay.

21 A. On January 3rd.

22 Q. And let's talk about that day. What did you and
23 your children been donig that day?

24 A. That day we were just doing normal things, you know.
25 And actually I had went to the Apple I store that day to

1 get me a new phone. I remember asking Michael to ride
2 with me but he didn't want to ride so I didn't make it a
3 big deal. I took the girls with me.

4 Q. And were you and Michael living together at that time?

5 A. We were staying together in an apartment but we were
6 like -- He would leave, come back, leave, come back.

7 Q. When he would leave where would he go?

8 A. To his parents.

9 Q. Okay. And where do his parents live?

10 A. In Rock Hill.

11 Q. Do you know the specific address?

12 A. [REDACTED] Nuthatch Drive.

13 Q. Nuthatch Drive?

14 A. Uh-huh.

15 Q. After you had gone to the Apple store that day what
16 did you do?

17 A. I came to Michael's parents house.

18 Q. Okay. And was anybody else there at the time?

19 A. My children were there but they were outside playing
20 and his parents was there and me and him was there.

21 Q. His parents were there too?

22 A. Yes.

23 Q. And what were y'all doing? Well what did you do once
24 you got there?

25 A. He had been in a room just playing his video game

JASMINE BLAKE: DIRECT BY SOLICITOR FLEMING

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1 as he normally does.

2 Q. Now is - - Is that where he was while you were at
3 the Apple store?

4 A. I believe so. I'm at the Apple store so I can't see
5 from the Apple store.

6 Q. Fair enough. When you returned there he was in his
7 room playing video games, what were you during that time?

8 A. I went in there to talk to him, you know, we had been
9 going through some things and just wanted to honestly
10 confront him about talking to another female. He wasn't in
11 a mood to talk so I kept asking him like can he talk to me.
12 He didn't want to talk, you know, so I'm getting aggravated
13 cause I want to know what's going on. He's getting
14 aggravated cause he don't want to talk.

15 Q. And did you - - At any point did you let it go and
16 walk away or did you continue to try to talk to him about
17 the situation?

18 A. I continued. I didn't walk away.

19 Q. Okay. And as you continued to want to talk about it,
20 how did he respond?

21 A. He ask me to move from in front of him.

22 Q. And did you?

23 A. Not immediately. No I stood right there cause I
24 wanted him to explain to me what was going on cause he had
25 kept leaving and coming back and I finally found out why,

1 you know. So I didn't fully give him his space but I
2 didn't touch him at that time.

3 Q. You said you did touch him?

4 A. I didn't.

5 Q. You did not?

6 A. I was just like standing in front of him.

7 Q. Okay. And what happened next?

8 A. We got into an argument.

9 Q. About the girl that you thought that he was seeing
10 and talking to?

11 A. About everything.

12 Q. And how far did that argument escalate that day?

13 A. How far meaning?

14 Q. Meaning what ultimately did that argument lead to
15 between you and Mr. Hall?

16 A. I got into a physical altercation.

17 Q. With Mr. Hall?

18 A. Uh-huh.

19 Q. And where exactly did that physical altercation take
20 place?

21 A. In his room.

22 Q. In his room?

23 A. Yeah.

24 Q. Was there anyone else present to witness that?

25 A. No.

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1 Q. And more specifically how did the altercation become
2 physical? And what I mean by that what did he or you do to
3 one another that was physical?

4 A. Michael ask me to get out of his way and I wouldnd't
5 get out of his way. He got angry, pushed me, I hit the
6 wall and we just started going from there. I started
7 fighting back he stated fighting back I started saying some
8 disrespectful stuff his mother heard it, you know, it just
9 -- it wasn't good.

10 Q. Okay. When you said that he pushed you against the
11 wall, where did he place his hands on you?

12 A. I don't remember. It was eight months ago. I mean
13 he was -- we was fighting. We were fighting.

14 Q. Okay.

15 A. When you get into a physical fight --

16 Q. Do you recall him placing his hands in your neck area?

17 A. Yes.

18 Q. All right.

19 SOLICITOR PLEMING: For the record my co-counsel has
20 just shown what had been previously marked for
21 identification State's Exhibits Number One through Three to
22 defense counsel.

23 At this time, your Honor, I'd like to approach the
24 witness.

25 THE COURT: All right.

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1 BY SOLICITOR PLEMING

2 Q. Ms. Blake, could you see yourself after this
3 altercation, could you see yourself in the mirror?

4 A. No I didn't want to look in a mirror. I didn't look
5 right away.

6 Q. Okay. And the day that followed this incident did you
7 happen to see yourself and see if you were injured?

8 A. Uh-huh.

9 Q. Okay.

10 THE COURT: You've got to say yes or no.

11 A. Yes.

12 Q. All right. I'm gonna hand you three photographs
13 that have been marked as State's Exhibits One through
14 Three.

15 And this might be difficult to look at but if you'd
16 just take one moment to look at each one of those for me.

17 (WITNESS COMPLIES.)

18 Q. And do you recognize the images depicted in each of
19 these three photographs?

20 A. Yes.

21 Q. And how are you familiar with what's depicted here?

22 Are these -- How are you familiar with -- Are these
23 pictures of you?

24 A. Yes.

25 Q. And do you recall when these pictures were taken?

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1 A. Yes.

2 Q. And who took these pictures?

3 A. The officer that I called to my parents house when
4 I made the report.

5 Q. And when did you make that report?

6 A. It was January. It was the next day after the
7 incident had occurred.

8 Q. So that would be January the 4th? Okay.

9 A. Yes.

10 Q. And do these photographs, these three photographs,
11 fairly and accurately depict the way that your neck looked
12 on January 4th?

13 A. Yes.

14 SOLICITOR PLEMING: Your Honor, at this time the
15 State moves State's Exhibits Number One through Three into
16 evidence.

17 THE COURT: Any objection?

18 MR. MERRITT No objection.

19 THE COURT: In without objection.

20 (WHEREUPON, STATE'S EXHIBIT NUMBERS ONE THROUGH THREE,
21 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

22 SOLICITOR PLEMING: Your Honor, the State would like
23 to publish the photographs at this time to the jury.

24 THE COURT: You may.

25 (STATE'S EXHIBITS ONE THROUGH THREE PUBLISHED TO THE

1 JURY AT 02:29 PM.)

2 BY SOLICITOR PLEMING:

3 Q. We're now showing State's Exhibit Number one.

4 Can you identify -- Well, tell us what can we see here
5 on the right side of your neck?

6 A. Scratches.

7 Q. And were those scratches -- When did you receive
8 those scratches?

9 A. When we were fighting.

10 Q. Okay. And that's when you were fighting on January
11 3rd of this year?

12 A. Yes.

13 Q. I'm showing you now State's Exhibit Number Two.

14 Showing what appears the left side of your neck,
15 describe to the jury what's depicted here.

16 A. Scratches, redness.

17 Q. And lastly I'm showing you State's Exhibit Number
18 Three. Describe what's depicted in this photograph.

19 A. Scratches.

20 Q. Okay. Now you said that you did not report this
21 until the following day.

22 THE COURT: Are you through with the ---

23 SOLICITOR PLEMING: Yes, sir, your Honor.

24 Q. Why did you wait until the next day to report this?

25 A. I didn't want to report it cause I felt like I can

JASMINE BLAKE: DIRECT BY SOLICITOR PLEMING

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1 handle the situation myself.

2 Q. And did something change your mind the next day?

3 A. I just had -- needed time to think about it.

4 Q. Okay.

5 A. Sometimes doing things right away too fast.

6 Q. Let me just go back to that incident again. How many
7 times did he put his hands on you during that altercation?

8 A. I don't remember.

9 Q. Was it more than once?

10 (PAUSE.)

11 Q. Do you not recall?

12 A. I don't.

13 Q. Okay. Do you remember giving a statement to the
14 officer?

15 SOLICITOR PLEMING: I beg the Court's indulgence for
16 just a moment.

17 (PAUSE.)

18 Q. All right, Ms. Blake, how did that altercation
19 conclude? I mean how did it ultimately end? How were you
20 able to get out of that situation?

21 A. Uh - We were fighting, you know, each other broke
22 loose and I was just at that point where I was like okay
23 it's time to go. It just got too serious and I just, you
24 know, told the kids it's time for us to go; let's just
25 leave before things get worse.

1 Q. Okay.

2 A. We left out the house.

3 Q. And where were your children during the time that
4 this was going on?

5 A. They were outside playing.

6 Q. Okay. And once you got away from him what did you do
7 with your kids?

8 A. I put 'em in the car. I got in my car and went to my
9 parent's house.

10 Q. Before you left his house and went to your parents
11 house did anything else happen while you were in the car?

12 A. In the car? Not that I remember.

13 Q. Because you don't recall him - - Did he stay in the
14 house when you left?

15 A. No he didn't. I don't know where he went. I wasn't
16 even thinking about it. I was upset; I wasn't looking, I
17 was just trying to make sure I got my kids in the car and
18 left before things got worse.

19 Q. Okay.

20 A. That's all I remember.

21 Q. And did you - - And where did you go, where did you
22 take your kids after that?

23 A. To my parent's house.

24 Q. All right. And when you got to your parent's house
25 that night was anyone else there?

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1 A. I took my kids to my parent's house dropped them off.
2 I went back to my apartment for a little bit.

3 Q. Okay.

4 A. I woke up the next day and that's when I went back
5 to my parent's house.

6 Q. Okay. And where - - Did you kids stay with your
7 parents that night while you were at your apartment?

8 A. They did and once I came my parents left so it was
9 just me and my children there ---

10 Q. Okay.

11 A. --- alone.

12 Q. Do you recall Mr. Hall saying anything to you during
13 that physical altercation?

14 A. It was a lot of hurtful things said. I'm gonna be
15 honest, I really don't remember exactly every single thing
16 he said but when you're fighting you say a lot of hurtful
17 stuff. I don't even remember the things that I was saying.

18 Q. I understand.

19 A. But I remember that day in January but we're a way
20 in August.

21 Q. I understand. Do you recall - - I know you said you
22 don't recall anything specifically, but do you recall any
23 sort of threats being made?

24 A. Said I hate you. Stuff you say to hurt somebody
25 when you're angry.

1 Q. Okay. When you returned to your parent's house the
2 following day, did you talk to your parents about what
3 happened the night before?

4 A. No.

5 Q. Did they say or do anything to indicate to you that
6 they noticed the marks on you?

7 MR. MERRITT: We'd object to that ---

8 A. My mom --

9 MR. MERRITT: -- question.

10 THE COURT I sustain, I sustain the objection.

11 A. My mother --

12 THE COURT: You don't have to answer that. He's gonna
13 ask you something else.

14 BY SOLICITOR PLEMING:

15 Q. Ms. Blake, do you recall about what time it was that
16 you called 911 that day?

17 A. I don't remember. Maybe morning, afternoonish. I'm
18 not sure.

19 Q. Okay.

20 A. I don't remember the time. I don't watch the clock.

21 I just know I was thinking about if I should call or
22 not and when I decided to call is when I called.

23 Q. Okay. And do you recall speaking to the 911 operator?

24 A. Yes I do.

25 Q. Okay.

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1 SOLICITOR PLEMING: I'm showing Defense counsel what's
2 been previously been marked as State's Exhibit Number Four.

3 MR. MERRITT: May we approach?

4 THE COURT: Yes, sir.

5 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
6 THE JURY AT 02:35 PM.)

7 By SOLICITOR PLEMING:

8 Q. Ms. Blake, I'm showing you a disc marked as State's
9 Exhibit Number Four. Have you seen this disc before?

10 A. Earlier today.

11 Q. And did you listen to the contents of what's recorded
12 on this disc?

13 A. Yes.

14 Q. Okay. And is -- Tell the jury what was recorded on
15 this disc.

16 A. I was just making a 911 call the day after the
17 incident happened letting them know what happened.

18 Q. And was that recording that you heard this morning a
19 fair and accurate depiction of the phone call that you made
20 to 911?

21 A. Yes.

22 Q. Okay.

23 SOLICITOR PLEMING: At this time the State moves
24 State's Exhibit Number Four into evidence.

25 MR. MERRITT: We would just note our objection as to

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1 hearsay and bolstering.

2 THE COURT: Over objection I'll allow it in.

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

5 MR. MERRITT: Thank you, your Honor.

6 SOLICITOR PLEMING: Thank you, your Honor.

7 At this time, your Honor, the State wishes to publish
8 State's Exhibit Number Four.

9 THE COURT: All right.

10 (WHEREUPON, STATE'S EXHIBIT NUMBER FOUR, PUBLISHED TO
11 THE JURY AT 02:37 PM.)

12 SOLICITOR PLEMING: I beg the Court's indulgence for
13 just a moment. I'd like to try to get this volume a little
14 bit louder. It will only take just a moment.

15 (WHEREUPON, STATE'S EXHIBIT NUMBER FOUR, PUBLISHED TO
16 THE JURY.)

17 BY SOLICITOR PLEMING:

18 Q. Ms. Blake, after you placed that 911 call what's the
19 next thing that happened that day?

20 A. I was waiting on them for forty-five minutes to even
21 show up but I just stayed at my parent's house; spent time
22 with the kids and I made my report on the incident that had
23 occurred.

24 Q. And you said after forty-five minutes someone did
25 respond?

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1 A. Yes.

2 Q. And do you recall the name of that officer?

3 A. I -- No I don't.

4 Q. Okay.

5 A. But I remember his face.

6 Q. Okay. And do you see him in this courtroom today?

7 A. Yes.

8 Q. Okay.

9 A. He's behind you.

10 Q. Okay. Where did you speak to him at your parent's
11 house?

12 A. Outside cause I didn't want my children to hear
13 anything about what was going on ---

14 Q. Okay.

15 A. --- so I stepped outside to speak with him.

16 Q. All right. And did you tell him about what happened
17 the night before?

18 A. Briefly, yes.

19 Q. Okay. And is that when he took the photographs of
20 your injuries?

21 A. Yes.

22 Q. And what else did he do after you finished telling
23 him about what happened?

24 A. He ask me to write a statement and I wrote a statement
25 and he gave me some paperwork or something for me if I

1 needed to call.

2 Q. That statement that you gave was it -- it was a
3 written statement?

4 A. Yes.

5 Q. And where did you write that statement?

6 A. Outside.

7 Q. And did you write that entire statement on your own?

8 A. Yes I did.

9 Q. Okay. So is it in your handwriting?

10 A. Yes.

11 Q. And did you explain to Officer Long why you waited
12 until the next day to report this?

13 A. Like I said I didn't want to jump the gun. I needed
14 some time to think about what had actually happened. I
15 remember telling him a little something like that.

16 Q. Okay.

17 A. Did you tell him who it was that caused your injuries
18 from the day before?

19 A. Yes.

20 Q. And who did you say did that?

21 A. Michael.

22 Q. Okay. And when you spoke to Officer Long did you tell
23 him that anyone else was present to witness it?

24 A. I told him my kids were there but I don't know if we
25 got it mixed up; if he thought they were in the home but

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1 they were outside playing when the incident occurred so ---

2 Q. Okay.

3 A. --- I wanted to clear that up. Let him know -- Like
4 I let him know that the kids were there at the home.

5 Q. And do you recall telling him that Michael did
6 something after you had gotten in the car --

7 MR. MERRITT: We'd object to leading.

8 THE COURT: That's a leading question. I sustain
9 the objection.

10 BY SOLICITOR PLEMING:

11 Q. What else did you tell Officer Long about that
12 incident?

13 A. I just remember telling him about what happened
14 between me and Michael and who was there.

15 Q. Okay. And that written statement, let's talk about
16 the statement that you gave.

17 MR. MERRITT: We would object to referencing the
18 written statement.

19 THE COURT: I sustain the objection.

20 By SOLICITOR PLEMING

21 Q. Do you recall what you said in that statement?

22 MR. MERRITT: We renew our objection.

23 THE COURT: I sustain the objection. I believe that
24 under Rule 801(d) I don't believe this comes in.

25 SOLICITOR PLEMING: May I approach, your Honor?

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1 THE COURT: I mean if you've got a point of law we'll
2 let the jury go out.

3 SOLICITOR PLEMING: Yes, sir.

4 THE COURT: All right, let the jury go go to the jury
5 room.

6 (JURY EXITS COURTROOM AT 02:45 PM.)

7 THE COURT: This witness has testified, for what
8 purpose are you presenting a statement?

9 SOLICITOR PLEMING: Well certainly after her testimony
10 today are inconsistent with what she included in the
11 statement and I first intended to ask her if she recalled
12 what she put in the statement and then I --

13 THE COURT: Can I see a copy of the statement?

14 SOLICITOR PLEMING: Yes, sir, your Honor.

15 (DOCUMENT RECEIVED UP AND REVIEWED BY THE COURT.)

16 THE COURT: The Rule 801(d)(b) which I believe is what
17 we're looking at, "A declarant testifies at trial ... and
18 is subject to cross-examination concerning the statement" -
19 - would be - - you would certainly be entitled to that --
20 "and it's consistent with the ... testimony and is offered
21 to rebut an express or implied charge against the declarant
22 of recent fabrication or improper influence or motive."

23 I haven't had any indication that the charge as to any
24 recent fabrication or improper motive.

25 SOLICITOR PLEMING: Well, your Honor, that's what I'm

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1 trying to get into. I'm trying to ask her --

2 MS. BLAKE: Can I ask a question?

3 THE COURT: Not yet, no.

4 SOLICITOR PLEMING: Your Honor, she's denied certain
5 things which are actually an element of the charge that
6 we're seeking to prove namely that her children were
7 present and in the statement she says that he did this in
8 front of her children. And I'm seeking to introduce the
9 statement not to publish the statement but to use it under
10 801(d)(1)(a) as a prior and inconsistent statement.

11 MR. MERRITT: Your Honor, can we respond to that?

12 THE COURT: Yeah, of course.

13 MR. MERRITT: I -- One thing I do note here is that
14 they are saying that the reason they're trying to get this
15 in right now is to prove an element of the crime and for
16 the truth of the matter asserted. Regardless of the prior
17 inconsistent statement they would have to lay the
18 foundation properly there and it would be for impeachment
19 purposes, so, it is 801(d)(1)(b) right now. That is the
20 problem because we haven't raised any idea of the
21 fabrication yet but if we go to a prior inconsistent area
22 stage what we have really though is bolstered the testimony
23 through a prior statement. Testimony that could only be
24 proven now through less of reliable means by means of t
25 hings that she says an officer was instructed here how to

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1 complete the written statement. We would ask that the
2 written statement which does not absent the prior
3 inconsistent statement foundation would not meet any
4 exception to the hearsay rule and is inadmissible hearsay,
5 we'd ask for the exclusion for that purpose.

6 We would even unless she outright denies the fact that
7 the kids were present I guess --

8 THE COURT: Well she pretty much denied that.

9 SOLICITOR PLEMING: Well, your Honor, there --

10 THE COURT: I mean she said they were outside and they
11 were inside. I don't think that's subject to a lot of
12 interpretation but go ahead.

13 SOLICITOR PLEMING: Your Honor, she also has said that
14 he didn't do anything after the incident which in the
15 statement she said that he did. And I have multiple cases
16 that I can pass up at the appropriate time which indicate
17 where the courts have established that in order for a
18 person to make -- to admit to making a prior statement it's
19 got to be an unequivocal admission and in this case she's
20 admitted that she made a prior written statement but it's
21 clearly not unequivocal and at this point we're just trying
22 to lay the foundation so that I can then bring in
23 extrinsic evidence under the rule which the rule permits
24 under 613(b) through Officer Long.

25 MR. MERRITT: That's fine, your Honor, if he lays a

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1 foundation. You know I just want it that we still object
2 because this is an instance where the only reason they're
3 using a prior inconsistent statement is because they cannot
4 otherwise prove a fact if she were to testify that this did
5 not occur. She did testify that it occurred and now
6 they're trying to use the statement to glean whatever
7 detail they can out of it which is a statement that was
8 taken under the instruction of a law enforcement officer
9 and the law enforcement officer knows that this is a on
10 going crime and is asking open ended questions.

11 THE COURT: You don't know what kind of questions he
12 ask.

13 MR. MERRITT: That's true but that is the practice to
14 ask those --

15 THE COURT: No. He probably don't even know that's
16 the practice so be cautious where you go with the argument.

17 MR. MERRITT: I understand, your Honor. I'm not just
18 saying that out of thin air. There have been multiple
19 videos where the officers are making arrest and it's not
20 uncommon -- it is a thing to say it's relevant to their
21 investigation. I'm not saying they're doing anything wrong
22 by doing that but I don't, -- If anything maybe they should
23 admit through the officer that describes how the statement
24 was done because it's not -- the approbative value is doing
25 everything they can to get this out and I think we get a

1 better understanding how it was taken through the officer's
2 testimony his practice of taking statements.

3 THE COURT: What -- I don't understand about -- I'm
4 gonna allow it in because it does go into twice saying that
5 it happened in front of the children but she has indicated
6 now and I guess it's subject to interpretation but this is
7 pretty clear that she says it happened in front of the
8 children and she uses the word again, so I'm gonna allow it
9 in. I believe it does fall within 801(b) -- I mean (a).

10 But I don't see anything -- You said something about
11 Mr. Fleming, about having something that happened hit
12 by a car.

13 SOLICITOR PLEMING: Right. That's what I'm referring
14 to, your Honor.

15 THE COURT: Drew up a bat and hit my car. He's not
16 charged with that.

17 SOLICITOR PLEMING: Well I would -- My argument would
18 be that her --

19 THE COURT: You got the --

20 SOLICITOR PLEMING: Yes, sir, I'm sorry I missed it.

21 THE COURT: Well I'm gonna let it in. I'm not gonna
22 let it in as to -- It has to be redacted. I'm only gonna
23 let it in in regard to the children.

24 SOLICITOR PLEMING: Yes, sir. And, your Honor, I'm
25 not asking to introduce the statement itself as an exhibit

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1 at this time. I'm just giving her the opportunity to admit
2 or deny the statements that she made in the statement.

3 THE COURT: All right. But that's gonna be limited to
4 the ones involving the children by my ruling.

5 SOLICITOR PLEMING: Yes, sir, your Honor.

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

7 MR. MERRITT: Yes, she gets the opportunity to explain
8 the statement and everything else before it's published to
9 her. I just wanted to remind the court of that. Sorry.
10 The circumstances it was made.

11 THE COURT: I think you've already ask for some of
12 those questions but we'll see. If you don't believe he's
13 laid a proper foundation let me know.

14 (JURY REENTERS COURTROOM AT 02:54 PM.)

15 THE COURT: You may proceed.

16 DIRECT EXAMINATION - CONTINUES

17 JASMINE BLAKE BY SOLICITOR PLEMING:

18 Q. Ms. Blake, when you gave that written statement to
19 -- When you gave that written statement on January 4th do
20 you recall saying in that statement whether or not your
21 children were present during the assault?

22 A. In the statement yes. I did put that in the
23 statement.

24 Q. Okay.

25 A. I forgot to put that they were playing. They were

1 in and out of the house. When you ask me when that
2 incident occurred were they right there they were not right
3 there but they were in the home and outside like they were
4 around.

5 Q. Okay.

6 A. So I put that in there to let you know who was all
7 there at the time.

8 Q. Okay. I got you. And do you recall the reason
9 that you gave to Officer Long as for why you waited to call
10 911?

11 A. Like I said I needed some time to think about it. I
12 wasn't sure I was - You know I'm pretty shaken up. I
13 didn't know what I wanted to do at that time and I went to
14 sleep and thought about it and I felt like that would be
15 the correct thing to do.

16 Q. All right.

17 SOLICITOR PLEMING: Beg the Court's indulgence just a
18 moment.

19 Q. I just have one final question. Do you see Mr.
20 Hall in the courtroom today?

21 A. Yes I do.

22 Q. And can you identify him?

23 A. He's right there.

24 (WITNESS INDICATED TOWARD DEFENDANT MICHAEL HALL.)

25 Q. Okay.

JASMINE BLAKE: DIRECT BY SOLICITOR PLEMING
CROSS BY MR. MERRITT

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1 A. Sitting.

2 SOLICITOR PLEMING Your Honor, --

3 Q. And that's Michael Hall the defendant who we've been
4 talking as the one that put his hands on your neck that
5 day?

6 A. Yes.

7 THE COURT: Cross?

8 SOLICITOR PLEMING: No further questions.

9 CROSS-EXAMINATION

10 JASMINE BLAKE BY MR. MERRITT:

11 Q. Ms. Hall, how are you doing today?

12 A. Good. How are you?

13 Q. I'm good. I'm good.

14 THE COURT: It's not Ms. Hall.

15 MR. MERRITT: Ms. Blake. I apologize.

16 Q. Now it is your testimony today that Mr. Hall did this?

17 A. Uh-huh.

18 Q. Okay.

19 A. Yes.

20 Q. Now on the day in question you did call the police;
21 right?

22 A. Yes.

23 Q. And that was the day after we were discussing; right?

24 A. Yes.

25 Q. Okay. And it's that phone call that triggered this

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1 particular proceeding; correct?

2 A. Correct.

3 Q. Now between -- Now and last week have you had any
4 further contact with law enforcement?

5 A. No.

6 Q. Have you had any further contact with Victim's
7 Advocates?

8 A. Within this last week?

9 Q. Outside of this last week ---

10 A. Oh, no.

11 Q. --- before? So, since January 4th when you initially
12 called law enforcement ---

13 A. Uh-huh.

14 Q. --- until Thursday of last week there's no contact
15 with law enforcement; correct?

16 A. No.

17 Q. No Victim's Advocate you were sent to?

18 A. No.

19 Q. You didn't speak to any prosecutors?

20 A. No.

21 Q. Okay. The first time you spoke with the prosecutor
22 was last Friday; correct?

23 A. Correct.

24 Q. And that was after Mr. Hall was noticed for trial;
25 correct?

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1 SOLICITOR PLEMING: Objection, your Honor. What's the
2 relevance of ---

3 THE COURT: This is cross-examination; I'll allow it.

4 SOLICITOR PLEMING: Yes, sir.

5 THE COURT: See where it goes.

6 BY MR. MERRITT:

7 Q. And you explain -- And that was after Mr. Hall was
8 noticed for this trial; correct?

9 A. I believe so, yes.

10 Q. Okay.

11 A. Yes.

12 Q. And after you came up here you met with the prosecutor
13 in this case?

14 A. Yes.

15 Q. And that would be Mr. Blaine Fleming?

16 A. Correct.

17 Q. Okay. And you explained to the prosecutor that
18 Michael did not abuse at the time; correct? In that
19 meeting.

20 A. I did.

21 Q. Okay. And they explained to you that charges could
22 be pressed against you --

23 SOLICITOR PLEMING: Objection, your Honor.

24 THE COURT: I sustain the objection.

25 BY MR. MERRITT:

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1 Q. Now during that same eighth month period you did
2 speak with folks from our office; correct?

3 A. Correct.

4 Q. Did you speak with Investigator Pat Keifer?

5 A. Once.

6 Q. Okay. And there you did explain the same thing you
7 did for Mr. Keifer; correct? The same thing you did
8 explain to the prosecutor you explained the same story to
9 Mr. Keifer; right?

10 A. I did.

11 Q. Okay. And that story was that Michael did not do
12 this; right?

13 A. That was the story.

14 Q. And that conversation was two days ago?

15 A. Yes.

16 Q. You explained that y'all were going through things
17 at the time; right?

18 A. Right. Yes.

19 Q. That you thought he was cheating on you?

20 A. Yes.

21 Q. That you got into an altercation with another person;
22 correct?

23 A. Correct.

24 Q. A physical altercation with a female?

25 A. Correct.

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1 Q. By the name of Charlene?

2 A. Correct.

3 Q. And even though you got into that altercation with
4 Charlene you blamed Michael for this incident; right, as
5 part of the explanation of this?

6 A. Correct.

7 Q. And you explained that the injuries did come from
8 Charlene; correct?

9 A. That's what I told him?

10 Q. Yes.

11 A. Yes.

12 Q. And that they happened at the apartment complex;
13 right?

14 A. Yes.

15 Q. And this time Michael was actually at his parent's
16 house; correct?

17 A. Yes.

18 Q. And part of the argument you were having, y'all were
19 going through tough times either way; right?

20 A. Yes.

21 Q. And was part of the reason that you were getting
22 mad was the possibility maybe talking to somebody else?

23 A. Yes.

24 Q. Now other than the meeting last Friday the only other
25 time you met with folks from either law enforcement or the

1 prosecutors office was today; correct?

2 A. Correct.

3 Q. And you met two victim's advocates; correct?

4 A. Correct.

5 Q. And it's these ladies right over here?

6 A. Yes.

7 Q. And you met with another prosecutor you'd never seen
8 before; correct?

9 A. In the past but for this situation ---

10 Q. Okay.

11 A. --- I just started seeing her again.

12 Q. And that would be Jenny Desch the other prosecutor;
13 correct?

14 A. Uh-huh.

15 THE COURT: You've got to say yes or no.

16 A. Yes. I'm sorry.

17 Q. Okay. And they've been with you all day; correct?

18 A. Correct.

19 Q. Since you got here this morning you've been meeting
20 individually with them; correct?

21 A. Correct.

22 Q. You've been there in their office during lunch. Did
23 you feel free to leave at this time?

24 A. Yes.

25 Q. But none of these folks ever reached out to you

JASMINE BLAKE: CROSS BY MR. MERRITT

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1 before now; right?

2 A. No.

3 SOLICITOR PLEMING: Objection, your Honor.

4 THE COURT: Over ruled.

5 BY MR. MERRITT:

6 Q. Now one thing that Mr. Fleming brought up was the
7 presence of the children during the altercation as has been
8 testified today; correct? And it is firmly your testimony
9 that the children did not perceive this event; correct?

10 A. Correct.

11 Q. It's firmly your testimony that the children were
12 actually outside when the incident itself took place;
13 right?

14 A. Right. They were in and out of the house but they
15 were not in the room.

16 Q. When you -- Do you think they saw it?

17 A. No.

18 SOLICITOR PLEMING: Objection, your Honor,
19 speculation.

20 THE COURT: Yeah, I sustain the objection.

21 BY MR. MERRITT:

22 Q. It is your testimony that they weren't at least
23 present; correct?

24 A. Correct.

25 Q. Okay. And you explain that by saying that was the

1 full details you were trying to give the officer just the
2 full details of the folks present; correct?

3 A. Yes.

4 Q. Now the mother and the father of Mr. Hall were in the
5 house at the time?

6 A. Yes.

7 Q. Okay. And by this time you had gone, you left. You
8 went to your parent's house to drop the kids off; right?

9 A. Yes.

10 Q. Went to the apartment; correct?

11 A. Yes.

12 Q. And then you came back to your parent's house; right?

13 A. The next day.

14 Q. And there was no contact with Michael or his parents
15 during that time period; correct?

16 A. Not to my knowledge.

17 Q. Okay. So you don't -- Were you concerned that
18 they would call the police?

19 A. No.

20 Q. Okay. Now you did mention that during the actual
21 altercation that occurred in the room between the two of
22 y'all you don't really remember the actual back and forth
23 that went on specifically do you?

24 A. It -- I remember some things but not everything.

25 Q. Okay. You couldn't say with any certainty what you

JASMINE BLAKE: CROSS BY MR. MERRITT

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1 did to Mr. Hall if there was anything physical done to him?

2 A. When he was grabbing me I was grabbing him back
3 trying to get him off of me.

4 Q. Okay. And you heard the 911 call.

5 A. I did.

6 Q. The 911 call indicated it may have happened a little
7 earlier that day. Was that incorrect?

8 A. That was incorrect because I was upset. That was
9 incorrect. It happened the night before.

10 Q. Okay.

11 A. The day before.

12 Q. Okay. Now you've known Mr. Hall for a long time;
13 right?

14 A. Yes.

15 Q. You've known him for nine years?

16 A. Eleven.

17 Q. Eleven years. And you've got three children together?

18 A. Yes.

19 Q. You love Mr. Hall?

20 A. I do.

21 Q. You did not want to press charges against Mr. Hall?

22 A. I did not.

23 Q. Did -- Does Mr. Hall keep long fingernails?

24 A. They grow pretty fast.

25 Q. Okay. You're only here today by subpoena of the

JASMINE BLAKE: CROSS BY MR. MERRITT
REDIRECT BY SOLICITOR BLAKE

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1 Solicitor; correct?

2 A. Correct.

3 Q. Otherwise you wouldn't have come; correct?

4 A. I would have come.

5 Q. The day that this happened you were trying to address
6 a problem in y'all's relationship; correct?

7 A. Correct.

8 Q. Do you feel like you addressed it in the most
9 reasonable manner that day or do you feel as though you
10 also are partially --

11 A. I --

12 SOLICITOR PLEMING: Objection, your Honor.

13 THE COURT: I over rule the objection.

14 Go ahead.

15 A. I feel like it was partially my fault.

16 Q. Thank you, Ms. Blake.

17 A. No problem.

18 THE COURT: Cross? No, redirect.

19 REDIRECT EXAMINATION

20 JASMINE BLAKE BY MR. PLEMING:

21 Q. Ms. Blake, so you just said that there was a point
22 in time or there were points in time since this happened
23 when you didn't want to do this?

24 A. Correct.

25 Q. In fact you don't want to be here today.

JASMINE BLAKE: REDIRECT BY SOLICITOR PLEMING

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1 A. I don't.

2 Q. If you had a choice this isn't where you would be
3 spending this Wednesday?

4 A. No.

5 Q. And we've established that there was a point in
6 time in which you gave an alternate account of what
7 happened that day?

8 A. Correct.

9 Q. Why have you chosen to tell the truth today?

10 A. Cause - Because I have to do the right thing and I
11 want everybody to know the truth, the full truth and so it
12 can be fair amongst everybody here today.

13 Q. Okay.

14 SOLICITOR PLEMING: I have no further questions.

15 THE COURT: Recross?

16 MR. MERRITT: No further questions, your Honor.

17 THE COURT: You can step down. Thank you. We
18 appreciate your time.

19 MS. BLAKE No problem. Thank you.

20 (WITNESS LEAVES WITNESS STAND.)

21 THE COURT: Call your next witness.

22 SOLICITOR PLEMING: Your Honor, at this time the State
23 calls Officer Long from the Rock Hill Police Department.

24 (WHEREUPON, STATE'S EXHIBIT NUMBER FIVE, PREMARKED FOR
25 IDENTIFICATION.)

OFFICER MICHAEL LONG: DIRECT BY SOLICITOR PLEMING

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1 THE COURT: Please come up and be sworn.

2 (WHEREUPON, MICHAEL LONG,
3 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

4 DIRECT EXAMINATION

5 OFFICER MICHAEL LONG BY SOLICITOR PLEMING:

6 Q. Good afternoon. Would you please state your name and
7 occupation?

8 A. Officer Michael Bryson Long. I'm a police officer
9 with Rock Hill City.

10 Q. And how long have you been with the Rock Hill Police
11 Department?

12 A. For one year now.

13 Q. And where were you working prior to joining Rock Hill
14 PD?

15 A. South Carolina Highway Patrol.

16 Q. And how long were you with the Highway Patrol?

17 A. Two years.

18 Q. Are you from this area originally?

19 A. Yes, sir.

20 Q. Are you married?

21 A. Yes, sir.

22 Q. Any children?

23 A. One on the way.

24 Q. What are your duties as a police officer with Rock
25 Hill?

OFFICER MICHAEL LONG: DIRECT BY SOLICITOR PLEMING

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1 A. To protect and serve the community; answer calls for
2 service, enforce traffic and criminal code of laws and make
3 sure that the community is safe at all times.

4 Q. Thank you. And is that how you were employed on
5 January 4th of this year?

6 A. Yes.

7 Q. What sort of specialized training have you received
8 to be a law enforcement officer?

9 A. Certified police one. I been certified in radar and
10 livar. I am data master certified. I'm also verbal de-
11 escalation certified and also traffic collision
12 reconstruction one certified.

13 Q. As a police officer have you had occasion to respond
14 to and investigate matters of domestic violence?

15 A. Yes, sir.

16 Q. About how many times?

17 A. Several times. More than I can count.

18 Q. And is that a normal part of your job?

19 A. Yes, sir.

20 Q. And has that experience given you the opportunity to
21 examine injuries that individuals sustain in those sorts of
22 domestic disputes?

23 A. Yes, sir.

24 Q. Going back to the date of January 4th of this year
25 did you have the opportunity to respond to a call at [REDACTED]

1 Midvail Avenue?

2 A. Yes, sir.

3 Q. Is that in Rock Hill?

4 A. Yes, sir, it is.

5 Q. Is that also within York County?

6 A. Yes, sir, it is in York County.

7 Q. And what was the nature of that call?

8 A. For domestic.

9 Q. When you arrived there on the scene what did you
10 observe?

11 A. I observed Ms. Blake standing outside of [REDACTED] MidVail
12 on the front porch.

13 Q. And what did you do when you approached her?

14 A. I exited my vehicle approached her and announced
15 myself as a police officer with Rock Hill and ask her what
16 I could do for her.

17 Q. I didn't get the past part. What was that?

18 A. And ask her what I could help her with today.

19 Q. Okay. Did you go inside?

20 A. No, sir.

21 Q. And why not speak to her inside?

22 A. She didn't want to go inside.

23 Q. Okay. What did you first notice about her when you
24 saw her that day?

25 A. The marks around her neck; the bruises and the

OFFICER MICHAEL LONG: DIRECT BY SOLICITOR PLEMING

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1 scratches.

2 Q. Did you talk to her about how she got those marks?

3 A. Yes, sir.

4 Q. And did you document those injuries?

5 A. Yes, sir, I took three photographs of the injuries.

6 Q. At this time I'd like to show you what's been marked
7 as State's Exhibit and already introduced into evidence as
8 State's Exhibits Number One through Three.

9 Dim the lights please.

10 And do you recognize State's Exhibit Number One as
11 displayed here?

12 A. Yes, sir, I do.

13 Q. And if you will describe what you observed and what
14 is visible on State's Exhibit Number One.

15 A. In my experience I observed what appears to be finger
16 marks on Ms. Blake's neck.

17 Q. Okay.

18 SOLICITOR PLEMING: And at this time, your Honor, I'd
19 like to approach the witness to provide him with a laser
20 pointer.

21 MR. MERRITT: Your Honor, we would just like to object
22 to eliciting expert testimony without a proper foundation.

23 THE COURT: Well I sustain the objection based on the
24 fact that the pictures speak for themselves.

25 And you don't need any explanation by a witness.

1 SOLICITOR PLEMING: Yes, sir, your Honor.

2 Q. I'm showing you State's Exhibit Number Two. Well
3 let me ask you this. The marks that you observed on her
4 were they on -- On which side of her neck did you observe
5 the marks?

6 A. Both sides.

7 Q. And --

8 SOLICITOR PLEMING: Beg the Court's indulgence.

9 Q. Were the marks that you observed on her consistent
10 with the account she gave you?

11 A. Yes, sir, it was.

12 SOLICITOR PLEMING: You can bring the lights back up.

13 Q. When you spoke with her about the incident did she
14 say whether there was anyone present there during the
15 assault?

16 A. She stated her children were there.

17 Q. And did she talk more specifically about where they
18 were?

19 MR. MERRITT: Your Honor, we'd object to hearsay.

20 THE COURT: I over rule the objection on hearsay but
21 --

22 What was the question again?

23 SOLICITOR PLEMING: Whether she said specifically
24 where her children were at the house.

25 THE COURT: Just -- I think a more appropriate

OFFICER MICHAEL LONG: DIRECT BY SOLICITOR PLEMING

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1 question is to ask him what she did say.

2 BY SOLICITOR PLEMING

3 Q. Well, what all did she say about where the children
4 were located?

5 A. They were with her.

6 Q. And did she tell you where this incident took place?

7 A. I recall she stated it happened in the living room of
8 his parent's house at [REDACTED] Nuthatch.

9 Q. Okay. And is that in York County?

10 A. It is in the city limits of Rock Hill, York County,
11 South Carolina.

12 Q. After you took this statement from her and took these
13 photographs of her, what did you decide to do?

14 A. I decided I had enough probable cause to issue a
15 warrant for Mr. Hall's arrest.

16 Q. And did you receive an arrest warrant for him at
17 that time?

18 A. I did go back to the police department and type up an
19 arrest warrant for Mr. Hall at that time and had it signed
20 by the judge.

21 Q. And were you able to serve that arrest warrant?

22 A. Not that day.

23 Q. Okay. And did you ever serve that warrant?

24 A. No, sir.

25 Q. Did you make any attempts to?

OFFICER MICHAEL LONG: DIRECT BY SOLICITOR PLEMING

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1 A. Yes, sir. I made three attempts to serve the warrant.

2 Q. And when did you attempt to serve the warrant and
3 where?

4 A. The next consecutive days I worked at his work place
5 of Platinum Hair Cuts.

6 Q. Okay. And why were you unable to serve the warrants?

7 A. He was not there.

8 Q. And when you spoke to Ms. Blake in front of her
9 parent's house that morning how would you describe her
10 demeanor?

11 A. Scared and upset.

12 Q. And did she provide you with any - And when did she
13 say this event occurred?

14 A. The day before around five o'clock.

15 Q. And did she provide any explanation for why she
16 waited until the next day to report it?

17 A. She stated that she was scared of what Mr. Hall might
18 do.

19 Q. Is that all she said?

20 MR. MERRITT: Eliciting more hearsay.

21 THE COURT: I sustain the objection.

22 SOLICITOR PLEMING: No further questions.

23 THE COURT: All right. Cross?

24 MR. MERRITT: Give me one second.

25 CROSS-EXAMINATION

OFFICER MICHAEL LONG: CROSS BY MR. MERRITT

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1 OFFICER MICHAEL LONG BY MR. MERRITT:

2 Q. Congratulations on the baby on the way.

3 A. Thank you, sir.

4 Q. You were the primary investigating officer in this
5 case; correct?

6 A. Yes, sir.

7 Q. And you also wrote the police report in this case?

8 A. Yes, sir.

9 Q. Okay. And you were one of two officers that responded
10 to the scene?

11 A. Negative, sir. Just one.

12 Q. Only one officer responded to the scene. Now you were
13 informed that this occurred at the -- in Mr. Hall's
14 parent's residence; correct?

15 A. Yes, sir, at [REDACTED] Nuthatch Drive.

16 Q. And you responded to Ms. Blake's parent's residence;
17 correct?

18 A. Yes, sir.

19 Q. Now, when this -- Do you remember this incident
20 really well?

21 A. I recall most of the details yes, sir.

22 Q. Okay. It was eight months ago; correct?

23 A. Yes, sir.

24 Q. This was a relatively quick visit to the home;
25 correct?

OFFICER MICHAEL LONG: CROSS BY MR. MERRITT

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1 A. Relatively?

2 Q. Twenty minutes would you agree?

3 A. Yes, sir.

4 Q. Okay. You were there for twenty minutes and you got
5 a statement from her; correct, that's been referred to;
6 correct? You took some pictures; correct? And --

7 MADAM COURT REPORTER: I'm sorry, I'm not getting a
8 response here.

9 THE COURT: Yeah. No, he's not letting him answer.

10 When you ask a question you must pause to give the
11 witness a chance to answer.

12 MR. MERRITT: I will slow down, my apologies.

13 Q. During this twenty minute period you took pictures;
14 correct?

15 A. Yes, sir.

16 Q. You talked to her about the incident as well?

17 A. Yes, sir.

18 Q. And at some point you realized that you wanted to
19 take a written statement; correct?

20 A. Yes, sir.

21 Q. This is a written statement that you help her fill
22 out; correct?

23 A. Negative, sir.

24 Q. You don't? Do you help her fill out any details on
25 this statement?

OFFICER MICHAEL LONG: CROSS BY MR. MERRITT

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1 A. The very top portion but the whole entire statement
2 of what she writes about what happened is her own.

3 Q. Okay. And how do you present the statement to her?

4 A. I ask her to just put into detail what happened to her
5 at that given time.

6 Q. Okay. But you had before she read the statement
7 discussed it fully with her?

8 A. As far as filling out the top and as I said what
9 usually go in the statements are her own words.

10 Q. Well she at least explained to you what happened;
11 correct?

12 A. Yes.

13 Q. Okay. So within that time period the twenty minutes
14 you were able to get the full -- all the information from
15 her take pictures and do the written statement; correct?

16 A. Yes, sir.

17 Q. And that was the end of your contact with her;
18 correct?

19 A. Yes, sir.

20 Q. Have you seen her again since today?

21 A. No, sir.

22 Q. Okay. Now while your history is with traffic
23 enforcement; correct?

24 A. Yes, sir.

25 Q. Before you were with the Rock Hill City police you

1 were with the Highway Patrol?

2 A. Yes, sir.

3 Q. How many years ago was that?

4 A. One year ago, sir.

5 Q. One year ago? Okay. You were not responding to
6 many domestic violence calls as a highway patrol; correct?

7 A. No, sir.

8 Q. So this is a relatively new thing, would you agree?

9 A. Yes, sir.

10 Q. Now you mentioned you did have probable cause based
11 off your conversation with her to make an arrest of Mr.
12 Hall; correct?

13 A. Yes, sir.

14 Q. You knew where the incident occurred; correct?

15 A. Yes, sir.

16 Q. You knew how this was carried out?

17 A. Yes, sir, by her statement, yes, sir.

18 Q. You had enough to formulate the rational to go get a
19 warrant and make an arrest of Mr. Hall; correct?

20 A. Yes, sir.

21 Q. And similarly you would have had enough to go get a
22 search warrant to go investigate the premises; correct?

23 A. Yes, sir.

24 Q. The arrest warrant you never attempted to serve that
25 on Mr. Hall's house did you?

OFFICER MICHAEL LONG: CROSS BY MR. MERRITT

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1 A. No, sir.

2 Q. Now you are the primary investigating officer in this
3 case; right?

4 A. Yes, sir. I believe you ask me that before.

5 Q. And you have to work with the prosecutor when cases
6 go to trial and testify; correct?

7 A. Yes, sir.

8 Q. And you are the prosecutions witness. That's why
9 you're here today; correct?

10 A. Yes, sir.

11 Q. And you've heard all the testimony, at least you've
12 heard the testimony from the victim before now; correct?

13 A. Yes, sir.

14 Q. You were in the courtroom during all that; right?

15 A. Yes, sir.

16 Q. You did not observe any of this as far as the incident
17 did you?

18 A. No, sir.

19 Q. And as far as you know it took place the day before;
20 correct?

21 A. Yes, sir. By her statement yes, sir.

22 Q. And a location you never went to; right?

23 A. Yes, sir.

24 Q. Okay. So you couldn't offer any direct testimony
25 as to what occurred that day; correct?

OFFICER MICHAEL LONG: CROSS BY MR. MERRITT

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1 A. No, sir. Not the day before no, sir.

2 Q. Not the day before. Thank you. And you -- And you
3 haven't spoke with Mr. Hall since this incident occurred
4 either have you?

5 A. No, sir.

6 Q. There was no attempt to really speak to him about the
7 case itself, just to serve the warrant; correct?

8 A. Yes, sir.

9 Q. And -- But he did turn himself in; correct?

10 A. Yes, sir. From my knowledge yes, sir.

11 Q. It's your understanding he turned himself in once he
12 was informed about the warrant; correct?

13 A. From the narrative of Ms. Arrington, yes.

14 Q. Okay.

15 MR. MERRITT: No further questions. Thank you,
16 Officer.

17 THE COURT: Redirect?

18 SOLICITOR PLEMING: No redirect, your Honor.

19 THE COURT: You can step down and thank you.

20 OFFICER LONG: Thank you, sir.

21 (WITNESS LEAVES WITNESS STAND.)

22 THE COURT: Call your next witness.

23 SOLICITOR PLEMING: Your Honor, at this time the State
24 rest.

25 THE COURT: All right. Members of the jury panel, the

1 State is resting. That means the State has presented it's
2 case. At this point we have to take up some matters
3 outside your presence so we'll take our afternoon break at
4 this time. We'll send for you in about -- probably about
5 fifteen minutes because we have some matters to take up and
6 we probably need a little break too.

7 (JURY EXITS COURTROOM AT 03:23 PM.)

8 THE COURT: Anything from the State?

9 SOLICITOR PLEMING: No, sir.

10 THE COURT: Mr. Merritt, anything on behalf of Mr.
11 Hall?

12 MR. MERRITT: Your Honor, we would ask for a directed
13 verdict motion on the one aggravating circumstance that has
14 been raised in the indictment. The only evidence that's
15 been presented in regards to the minor actually perceiving
16 it it would be through the attempt of the prosecution to
17 use the one prior inconsistent statement of the written
18 statement.

19 That was never introduced into evidence; they never
20 satisfied the foundation to lay as extrinsic evidence. She
21 was well unequivocal about it but in cross-examination was
22 absolutely certain that the kids did not actually perceive
23 the event at all. So we would ask for on the aggravated
24 factor a directed verdict and that is my directed verdict.

25 THE COURT: Okay. Mr. Pleming.

1 SOLICITOR PLEMING: Your Honor, I don't believe that
2 she did say for certain that they did not see it. I think
3 she -- She at one point during her direct questioning did
4 say that she told the officer that this happened in front
5 of them. She also ask about her prior statement in which
6 she said the same. And also I'd just like to make mention
7 of the fact that under the statute just that the children
8 must be present or perceive. It doesn't make it clear to
9 the extent that they didn't perceive the altercation. As
10 long as they're present I believe that that gets us there.

11 MR. MERRITT: I'm sorry, I just -- Just two things.
12 One, if your decision wise is all on the use of the
13 statement we would just ask that it never got in, it is
14 absolutely inadmissible hearsay and it -- It was never --
15 they never got -- They never got to it through the victim.
16 But in regards to present and presence, its our
17 understanding that or at least my argument is the language
18 there is for minor children that, you know, may not
19 actually perceive it because they're so young.

20 That's my understanding of why that language is there
21 or my argument as to . . .

22 THE COURT: Under 16-25-20 where is the exact language
23 about presence of children?

24 MR. MERRITT: The offenses committed - Its under
25 16-25-20(b)(5)(b). Of course that's first degree. That is

1 the same language but let me give it to you under third
2 degree. I'm sorry.

3 THE COURT: (B) (5)?

4 MR. MERRITT: Yeah.

5 THE COURT: Mine doesn't have a (b) (5).

6 MR. MERRITT: I am very sorry. He has (d). Its under
7 (d).

8 THE COURT: That doesn't --

9 SOLICITOR PLEMING: Your Honor, I have --

10 THE COURT: I have the --

11 MR. MERRITT: I'm just gonna look for it.

12 THE COURT: No, I do. This is still criminal domestic
13 violence for one thing. Somebody had me up the statute.

14 SOLICITOR PLEMING: Yes, sir, your Honor.

15 Your Honor, I direct you to 16-25-20 (b) (5).

16 THE COURT: All right, (b) (5) under that act on 16-25-
17 20 it does state second degree if offense is committed
18 quote in the presence of - - it goes on -- kind of all
19 while being perceived by a minor. The fact that it makes
20 the distinction between presence and perceiving indicates
21 to me that it's talking about two things, two different
22 things; one being something that's perceived. That is,
23 seen by as opposed to something that's done in the presence
24 of. Maybe that's kind of splitting hairs but I believe
25 under the testimony that there is sufficient evidence

1 within the case and the evidence in the light most
2 favorable to the prosecution that the - - there is evidence
3 that a jury could find that the State has carried it's
4 burden of proof in proving that this occurred in the
5 presence of a -- it says of a minor, so I deny your
6 directed verdict motion.

7 MR. MERRITT: And I just wanted to note one - maybe
8 it's a novel argument for the record but it's our position
9 that the State can't prove this prior inconsistent
10 statement which they're using essentially for impeachment
11 purposes. They can't do it for substan---- in the case.
12 The only reason they're - - the only place they're getting
13 that from is either by statements by her made through the
14 officer or statements made on a piece of paper both of
15 which our position is it still is inadmissible hearsay.

16 So that's our argument when the State puts up a
17 witness for the sole purpose of impeaching them with their
18 prior inconsistent statement that information they don't
19 get from a witness but it's just in that prior inconsistent
20 statement cannot be used as substantive evidence. That's
21 just my argument on that issue.

22 THE COURT: Do you have any law on that?

23 MR. MERRITT: The only law I would have is that the
24 prior inconsistent statement is the way it's described in
25 the rules of evidence is that you actually have to be

1 impeaching that person. It goes through the steps that you
2 have to do which I think is 613. And those steps are
3 describing an impeachment process. Impeachment is another
4 reason we let evidence in outside the world of relevance.
5 They're using it not really for impeachment. They're using
6 it only to substantive evidence in this case and that
7 because it's not evidence that one was even properly -- a
8 foundation was properly laid under 613. But unless it
9 comes in under some other form of hearsay that that
10 statement which is even further after the phone call it's
11 our belief that's - It's my belief that's impeachment
12 evidence; that impeaching them with something they've said
13 and showing a prior statement is not inaccurate for one
14 reason or the other either they didn't remember correctly
15 because they're lying because whatever -- whatever it is
16 is not an actual substantive evidence in the case.

17 That's my position on that.

18 THE COURT: Well, I'll be glad to hear from the State
19 but it does appear that they're in separate articles under
20 the Rules of Evidence, Article VI, it has 613 in it,
21 pertains to witnesses. Article VIII which is regarding a
22 later is hearsay so they're -- I don't see anywhere that it
23 indicates to me that the rules are written such that a
24 prior inconsistent statement cannot be both hear - both
25 impeachment and substantive.

1 MR. MERRITT: If I can respond. I'm not trying - What
2 I was about to say the only thing I would say is that I
3 think that it would be irrelevant if there was any piece of
4 corroborative evidence in this entire case that would help
5 us with this but that if the crime scene for example were
6 investigated. This is unique because all of the evidence
7 is in this one person and there is nothing to corroborate
8 it.

9 THE COURT: No it doesn't need to be corroborated. I
10 don't know why you're getting into corroboration. That's
11 not required. Hearing something happens or some -- only
12 one person saw somebody murder somebody else that that one
13 person couldn't come in and testify and that wouldn't be
14 enough to get it to the jury because nobody else saw it or

15 MR. MERRITT: That's not what my position is but if
16 that person took the stand and affirmative said I did not
17 see it and the only evidence they had was an otherwise
18 completely inadmissible piece of hearsay and that was the
19 only way they were able to get that one piece in then
20 that's what I would be saying if there was absolutely
21 nothing they could point to at least it would put the
22 ownness of the jury to be able to consider this in play.

23 That's my only point. It's only because they'er
24 trying to prove a substantive element by nothing more than
25 a prior inconsistent statement which is unreliable hearsay.

1 That's the only -- And I think it's something that would be
2 clear in other jurisdictions than in our jurisdiction where
3 we allow unsworn statements to be used as prior
4 inconsistent statements and you aim to call your own
5 witness for the sole purpose of doing nothing but that
6 which is relatively unique that it is protected in other
7 areas. This is an area where this level of unreliable
8 evidence but we are only getting this in by saying
9 something you said that's not reliable in this courtroom
10 eight months ago indicated that it might be true.

11 THE COURT: You lost me. You've lost me.

12 MR. MERRITT: Sure. Sure.

13 THE COURT: In any event I'm denying the motion for a
14 directed verdict.

15 MR. MERRITT: Thank you, your Honor.

16 THE COURT: Thank you. We'll take a break.

17 (COURT IN RECESS AT 03:35 PM.)

18 (COURT BACK IN SESSION AT 03:54 PM.)

19 THE COURT: Thank you. You may take your seats.

20 Is the State ready?

21 SOLICITOR PLEMING: Yes, sir, your Honor.

22 THE COURT: All right, you might want to come up and
23 get this. And the Defense?

24 MR. MERRITT: Yeah, your Honor. We would like to
25 renew all of our previous objections. We would like to

1 note our objection to the third party guilt. We requested
2 a third party guilt. The rational being that there was
3 evidence that another person did indeed tentatively caused
4 the injuries and that was introduced through a prior
5 inconsistent statement.

6 THE COURT: Do you have a charge on third party guilt?

7 I thought third party guilt was just a question of
8 evidence.

9 MR. MERRITT: Let me pull mine up really quick, your
10 Honor.

11 THE COURT: I thought that was an evidence issue not a
12 jury issue. You can certainly argue that to the jury.

13 SOLICITOR DESCH: Your Honor, while we're on that
14 subject can we just clarify a few things?

15 THE COURT: Let's do one thing at a time. Let Mr.
16 Merritt see what he can find.

17 MR. MERRITT: Your Honor, I thought I had a charge.
18 You might be right on that.

19 THE COURT: Well I'll ---

20 MR. MERRITT: My apologies.

21 THE COURT: --- I'm not gonna charge it.

22 All right. Yes, ma'am, Ms. Desch.

23 SOLICITOR DESCH: I understand that a large portion of
24 their closing argument is going to be about that she told a
25 different story to the investigator. But if there is no

1 further testimony --

2 THE COURT: Well they can't testify --

3 SOLICITOR DESCH: That's what I want to clarify.

4 I just want to know how far they can go on closing
5 because I think --

6 THE COURT: They got to stay within the record. If
7 she testified that she told something, she said something
8 to the investigator then that's --

9 SOLICITOR DESCH: So the record she was talking about
10 yes I agree with you I did tell a story to other people but
11 today I'm telling the truth. I just want to make sure that
12 we're staying within that realm and not saying that because
13 she said something to Pat Keifer therefore it's true and
14 now she's lying and that's what I'm worried out.

15 THE COURT: No, I think you have to stay within the
16 record. I mean that's up to the jury on credibility of a
17 witness.

18 SOLICITOR DESCH: Thank you, your Honor.

19 MR. MERRITT: I don't know that there were any -- Is
20 there any specific limitations on that? And I wouldn't
21 argue anything that's not in the record but the fact that I
22 can infer that that story could possibly be true is --

23 THE COURT: No, no, no. You can't start in dealing on
24 inferences. You're calling an inference a supposition.

25 You can't start -- You can't go there. Just give your

1 argument and then if you go outside the record I'm sure
2 they will object and we'll rule on it then.

3 MR. MERRITT: Okay. So I can -- As of -- Okay. I
4 just know the ruling I guess is the --

5 THE COURT: All right. Mr. Hall.

6 MR. HALL: Yes, sir.

7 THE COURT: We've reached the point in the trial where
8 you have a right to present a defense if you wish, you do
9 not have to because you are presumed innocent of the charge
10 against you and the State has to prove your guilt beyond a
11 reasonable doubt and you do not have to testify.

12 If you exercise your right to remain silent I will
13 tell the jury you have done that. I will tell the jury
14 that you have a Constitutional right to remain silent. I
15 will tell them they cannot use that against you anyway
16 whatsoever; that they cannot discuss that among themselves
17 in the jury room; that they cannot factor into their own
18 deliberation your exercise of your right to remain silent.
19 And I will remind the jury that you have the right to
20 remain silent and you're presumed innocent and that your -
21 - that you're presumed innocent and the State has to prove
22 your guilt beyond a reasonable doubt, you do not have to
23 prove your innocence. Do you understand all that?

24 MR. HALL: Yes, sir.

25 THE COURT: Do you have any questions about that?

CLOSING ARGUMENT: BY SOLICITOR PLEMING

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1 MR. HALL: No, sir.

2 THE COURT: Are you gonna testify or exercise your
3 right to remain silent?

4 MR. HALL: I'm gonna exercise my right to remain
5 silent.

6 THE COURT: All right. Now, you can be seated. Thank
7 you. But any witnesses for the Defense?

8 MR. MERRITT: No, your Honor, the Defense rest.

9 THE COURT: All right. Well, the Defense, I'll let
10 you rest on the record when the jury comes in and you'll
11 have the right to close. Or the right to closing -- the
12 last closing.

13 All right, bring in the jury.

14 (JURY REENTERS COURTROOM AT 04:00 PM.)

15 THE COURT: Mr. Merritt, I understand the defense is
16 resting.

17 MR. MERRITT: Yes, your Honor, the Defense rest.

18 THE COURT: Now you've heard all the evidence, the
19 State's rested and the Defense has rested so now you will
20 hear the closing arguments first from the State and then
21 from the Defense.

22 CLOSING ARGUMENT BY SOLICITOR PLEMING:

23 SOLICITOR PLEMING: Thank you, your Honor, may it
24 please the Court.

25 Good afternoon, ladies and gentlemen. At the

CLOSING ARGUMENT: BY SOLICITOR PLEMING

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1 beginning of this trial during our opening statements I
2 said some things that I'm gonna remind you of in just a
3 moment. But I also want to remind you of something that
4 Mr. Merritt said to you. He said that during this trial
5 there is only one person that can possibly know what
6 happened that day and that's the person you continue to
7 listen to, that's where the truth is gonna come from and
8 that's -- he was exactly right about that.

9 And I told you that I couldn't tell you what the
10 victim in this case was gonna say to you today. But that's
11 what made this trial different from so many others and
12 that's also true. I didn't know what she was gonna say
13 today because she has given two different stories about
14 what happened that night.

15 And you can know that what she said today is the truth
16 because it's corroborated regardless of what he tries to
17 tell you by not only the original statement she gave, but
18 these photographs.

19 Your job is to determine the truth in this case. The
20 truth is in these photographs. You will get to take these
21 back to the deliberation room. I ask that you look at
22 them, okay, because this -- the injuries on her neck tell
23 you exactly that what she said happened in this courtroom
24 today and what she reported on that 911 call and what she
25 told Officer Long is the truth.

CLOSING ARGUMENT: BY SOLICITOR PLEMING

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1 There are bruises on both sides of her neck. Notice
2 the nature of the bruises. There's individual separate
3 lines. What does that indicate to you? I submit to you
4 that that means that he had both hands on her neck on both
5 sides of her throat. There is a place here in the middle
6 of her neck where you don't see any bruising and I submit
7 that's where his palms were. He had her by the neck. He
8 shoved her against the wall just like she said he did
9 today, just like she said that he did the day after this
10 happened.

11 Another thing I can't tell you is exactly what Mr.
12 Merritt is gonna say to you because he hasn't said
13 anything. I don't know what he's gonna say but I
14 anticipate that he's going to talk about and hammer home
15 the fact that she did give a false statement at one point
16 in time in the last eight months since this happened. But
17 she did -- She did tell a story as she admitted to you
18 today. She accepted that, she admitted it to you, and I
19 ask that you not hold that against her because what she did
20 today was hard.

21 All right, this is the man she's got three kids with;
22 she's building a life with. They're still together. She
23 has a lot at stake here. She has a lot of reasons to come
24 in here and not tell you the truth and to tell you a story
25 and to -- to protect him. She has many reasons to do that.

CLOSING ARGUMENT: BY SOLICITOR PLEMING

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1 The last question that I ask her was why did you
2 choose to come here and do this even though this is not
3 where you want to be today. And she said that it was
4 because she needed to do the right thing for the future,
5 for every one. I'm paraphrasing and I can't tell you
6 exactly word for word what her response was, but that's how
7 I recall the gist of it. She recognizes that the right
8 thing for her to do today is to speak to the truth.

9 She talked about how she's living in different places.
10 She's gone -- that at the time this happened she had her
11 own apartment. Consider the fact that this was not easy
12 for her to do and recognize the truth that you heard on
13 that witness stand today.

14 You'll have the opportunity, if you want to, to listen
15 to the 911 call again. In fact let's go ahead and listen
16 to it one time now before you go back there. And I submit
17 to you that there's also truth in the sound of her voice
18 and the demeanor that's conveyed across that telephone line
19 that tells you that what she is telling that operator was
20 the truth. That's what happened -- that's -- what she told
21 the operator is what happened that day before. She's
22 emotional. She's not angry. She's not vindictive. She's
23 not -- That is not the voice of a woman who has over the
24 last nineteen, twenty hours or so has come up with this
25 scheme to get back at her boyfriend because she thinks that

CLOSING ARGUMENT: BY SOLICITOR PLEMING

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1 he's been cheating on her. It's the voice of a woman who
2 is scared.

3 And Officer Long, Officer Long testified that she told
4 him that's the reason why she didn't call immediately. You
5 can trust that. Let's listen.

6 (STATE'S EXHIBIT FOUR/AUDIO PUBLISHED TO THE JURY AT
7 04:07 PM.)

8 SOLICITOR PLEMING: Ladies and gentlemen, if all the
9 reasons that she had to not testify to the truth today, she
10 found the most important reason and the courage to come in
11 here and testify to what he did. If she found the truth
12 and she found the courage to do it the following day might
13 have taken some time but I think that 911 call makes it
14 very clear just how scared she was and it underscores the
15 fact that that's why it took her so long to call 911.
16 Right in the middle of that call you hear her fighting back
17 sobs as she says he threatened to kill me. She can barely
18 get the word out because that's how scared she was.

19 Now, we talked about the statement that she gave, that
20 written statement that she signed. She said she couldn't
21 recall everything that she said that day and I don't think
22 anyone should expect someone to recall every single detail
23 perfectly from an event like that but there were plenty of
24 consistencies. And what she said in that statement is
25 consistent with what she said in court today.

CLOSING ARGUMENT: BY SOLICITOR PLEMING

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1 Now, today she said that her children were outside.
2 His Honor will instruct you that in order to find the
3 defendant's guilty of domestic violence second degree that
4 he must have committed domestic violence third degree which
5 we talked about in the opening statement is committed, you
6 can cause physical harm or injury to a household member
7 when in addition to that children were present or perceived
8 the event. You don't have to -- I submit to you we don't
9 have to prove that they actually perceived every single
10 thing that he did but they were present there at the house
11 and at some point during the time that he's got his hands
12 around her neck and he's shoving her against the wall and
13 he's threatening to kill her she's able to get away from
14 him, go round up her children get in the car and flee.

15 So I submit to you that you should not believe for a
16 second that they did not perceive what was going on that
17 day. They may not have seen every single thing that
18 happened, but children are perceptive, and they knew that
19 something very bad was happening.

20 Officer Long based on the statements and these
21 photographs took out a warrant charging Mr. Hall with
22 domestic violence. When he couldn't serve it on him for
23 three days, in fact he never served on him, he didn't show
24 up for three days straight. I submit to you that that's
25 evidence. That's evidence of a consciousness of guilt that

CLOSING ARGUMENT: BY SOLICITOR PLEMING
BY MR. MERRITT

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1 he chose to avoid his work place. And there might be other
2 explanations for that. I'm not saying that's the only one
3 but I believe that it's evidence.

4 Ladies and gentlemen, as you go back there and
5 deliberate I just ask that you take this seriously and you
6 consider the importance of this case and I just ask that at
7 the conclusion of this trial you use your common sense.
8 Those injuries weren't caused by a woman. They weren't
9 caused by someone that he was having an affair with. These
10 injuries, you know, they were caused by Mr. Hall. Ms.
11 Blake she knows that and she had to finally accept that and
12 admit it to you because she knew that was the right thing
13 so I just ask that you do the right thing too and find him
14 guilty of domestic violence second degree. And if you
15 don't believe that we've proven that the children were
16 present that you find him guilty of domestic violence third
17 degree. Thank you.

18 CLOSING ARGUMENT BY MR. MERRITT:

19 MR. MERRITT: Thank you for taking the time to listen
20 to listen to the case today. You just got a lesson in how
21 to get, I guess, a conviction for domestic violence. How
22 we do this is eight months ago we have an investigation
23 that lasted twenty minutes where they respond to a call
24 made by an individual who has accused Mr. Hall of
25 committing domestic violence. They respond to the call,

CLOSING ARGUMENT: BY MR. MERRITT

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1 they take her statement, they take the pictures, and then
2 they leave.

3 For eight months she's not contacted by anybody.
4 She's not contacted by any member of law enforcement to try
5 to provide her some for of services; not contacted by the
6 prosecutor's office; not contacted by a victim's advocate.
7 She's left out there. During this time period she recants,
8 says that phone call I made I lied. She tells that to
9 employees of our office.

10 When the case gets called for trial she goes into the
11 prosecutor's office and she tells them I was mad at
12 Michael. I was mad at Michael because he was texting a
13 girl in the apartment complex we lived in; I confronted her
14 about it. That was the story she told to a prosecutor in
15 his office.

16 Now this case is going to trial at that point. This
17 week its gonna go to trial. She knows this when she goes
18 into that office. She sitting in there with the
19 prosecutor, she leaves this Friday of last week.

20 Now if she tells the story she just told the
21 prosecutor when she takes that stand today --

22 SOLICITOR DESCH: Your Honor, objection.

23 SOLICITOR PLEMING: Objection, your Honor.

24 THE COURT: Just stay within the record. We've
25 discussed that. Just stay within the record.

CLOSING ARGUMENT: BY MR. MERRITT

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1 MR. MERRITT: Can we approach briefly?

2 THE COURT: You know what's in the record.

3 MR. MERRITT: No contact with these people. The folks
4 prosecuting the case, these are the individuals they call -
5 - they're supposed to call witnesses that they have raipur
6 in, that they believe in, that they know that they might
7 testify --

8 SOLICITOR DESCH: Your Honor, I'm gonna object to
9 that. He's way outside the record at this point.

10 THE COURT: Let's stick to the record.

11 MR. MERRITT: So as Blaine explained in his closing
12 statement they call the witness with absolutely no idea of
13 what they're gonna say. That was explained in closing
14 statement.

15 But here is a woman now who has recanted twice. She
16 now comes to the courthouse today to go sit in this trial
17 and immediately as she testified to is now welcome by
18 victim's advocates, advocates for the victim, prosecutor's
19 prosecuting her case and on the stand we go.

20 She's surrounded by these people the entire day. So
21 now this is what -- this is how we get a reliable
22 statement. What's a little bit different about this case,
23 I hope you see it, is that the officer responds to a scene
24 that is not a crime scene. The officer responds to the
25 lady's house. As we said the investigation was relatively

CLOSING ARGUMENT: BY MR. MERRITT

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1 short. And there is no attempt to corroborate with
2 anything. I mean it's hard to imagine a case where you
3 don't just go to the crime scene. You know I know training
4 so to try cases you would have been taught you go to a
5 crime scene. That would be, you know, like in this case
6 eight months after it occurred. If the officer had simply
7 gone to the crime scene which he testified on the stand he
8 had the probable cause to get the arrest warrant. He had
9 the probable cause to go get a search warrant. He had the
10 probable cause for Mr. Hall to go to that residence to go
11 inside that residence and see, hey, what happened.

12 It was very clear that the other statement that was
13 given, the statement that is attempting to be discredited
14 today, happened at a third location. It's very clear that
15 the statement given to the officer include the presence of
16 his parents. Simply talking to any of these individuals
17 whatsoever would have corroborated it. But that's fine.
18 She took the stand today and she told the story that she
19 told today.

20 The truth is gonna come from Ms. Blake, the truth as
21 you can see it. The truth is whatever happened happened.
22 We have no clue to exactly what happened. And even if you
23 take the testimony as it was testified to today we're not
24 clear on some of the stuff, and we'll get to that in a
25 second, but I would ask you to understand the testimony.

CLOSING ARGUMENT: BY MR. MERRITT

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1 This is the only time you're ever seeing this story told.
2 She's told the story at least four different times and
3 we've discussed. They're all a little different and we
4 don't count on people to be completely reliable every time
5 but at some point she felt that it was the proper thing to
6 do to tell a different story.

7 Now the prosecutors put a whole bunch of motivations
8 in her head. Well of course she would tell the truth today
9 and of course she wouldn't tell the truth before. Well
10 there's nothing in regards to these people's relationship
11 that you learned about today. I mean domestic violence is
12 something that occurs between families and they usually
13 admits strife. All you learned today that this couple has
14 any problem with it is that at some point she thought that
15 he might be cheating on her. And there's other issues.
16 And he plays video games I guess.

17 But none of that was proven and this was created as a
18 simply assault, okay, between two strangers where we don't
19 talk to the victim we just throw her up on the stand and
20 see what she says on the day we go to trial.

21 I would ask you under that theory of the case that our
22 standard doesn't allow you to do that. That there is a
23 possibility that the story you heard today you can believe
24 it cause it's the one you heard. But you do know what
25 other story would tell.

1 SOLICITOR PLEMING: Your Honor, I'm gonna object.
2 They don't know other stories. They know what was said
3 from the testimony in this courtroom.

4 THE COURT: Well I -- I over rule the objection.
5 Go ahead.

6 MR. MERRITT: We do know that other stories were told
7 and you did hear those stories. I would say that not one
8 single piece of corroborating evidence of this story at all
9 going to the crime scene just trying to interview the other
10 parties. If the State didn't even attempt to do it then he
11 does get that presumption of innocence.

12 But -- And I really do, I hope you can find in your
13 heart to return a verdict of not guilty based on that
14 theory. But you know if what it is is that she told the
15 story today and this story was true, let's consider that
16 separately. Okay. She did take the stand and she did tell
17 a story. And she did explain the other story that was
18 told. But the story she explained today it was not that
19 clear. He's sitting in his room, he's playing video games.
20 She very clearly said the children are outside playing at
21 least when she testified on direct. The -- She goes in the
22 room she confronts him, you know, and the details do get a
23 lot more difficult to discuss out. But the story today is
24 that ultimately the injuries that she had were caused by
25 Mr. Hall.

CLOSING ARGUMENT: BY MR. MERRITT

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1 However everything that gets up to that point I know
2 she said at some point she's standing right in his face and
3 he's trying -- He says please get out of my face or he's
4 trying to get her out of the way, but all that's very hazy.
5 If there was any proof whatsoever in regards to what Mr.
6 Hall -- I mean if -- Imagine, if the officer had just gone,
7 or anybody, had gone to Mr. Hall's house that night, well,
8 the theory he's be there and in theory at least his
9 parent's would be there. That in of itself is a
10 corroborating fact. It is a little shocking to have no
11 corroborating fact as simple as that whatsoever.

12 But regardless if they had gone there we would have
13 seen that were there any injuries on Mr. Hall. Is there
14 anything in regard to Mr. Hall in his side of the story
15 that is fresh and is current that night that is worth while
16 and worth mentioning in this case. We didn't get any of
17 that.

18 But the one thing we did get --

19 SOLICITOR PLEMING: I'm gonna object, your Honor.

20 THE COURT: Well I sustain the objection about not
21 hearing his side of the story.

22 MR. MERRITT: Thank you, your Honor.

23 The one thing I would note here is there was a moment
24 here where she testifies as to the way it happens when she
25 took the stand. Blaine's asking those questions on direct

CLOSING ARGUMENT: BY MR. MERRITT

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1 examination initially. He begins bringing up these
2 statements, these statements that were made to the officer
3 over eight months ago in a twenty minute conversation. If
4 you're gonna believe this story today that's the most of
5 the details that you ever got and any of the evidence you
6 heard was a story straight from her mouth. But now the
7 State tries to reach with these prior statements that were
8 made after a conversation with the police officer to try to
9 find some way to get this aggravating circumstance. It
10 happened in front of the presence of a minor had to. Well
11 the story she told did not include the presence of a minor.
12 As they tried to press her and they tried to say well you
13 said this and you said that they tried to find a way to get
14 it, you know, in the presence of a minor.

15 I submit to you the children in the back yard who did
16 not know this even occurred, there is no corroborating
17 evidence, any little bit of corroborating evidence could
18 help us sus out whether or not the children may have
19 perceived this. There were no observations testified to by
20 the officer the children were even in the house and went to
21 go visit Mr. Hall the next day. There is no independent
22 observation that the children whatsoever. She has her
23 testimony where she says clearly and defiantly that they
24 children were outside and they did not perceive this event.
25 And she was adamant about that. I ask you do not, please

CLOSING ARGUMENT: BY MR. MERRITT
CHARGE TO THE JURY:

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1 do not reach for that one. If there's any reasonable -- I
2 do think there's a lot of reasonable doubt to go around but
3 in regards to that aggravating circumstance I do believe
4 the State is reaching too far on that one.

5 But please take the time with this matter. It is very
6 important. Please try to look at it from both sides and
7 please return a verdict of not guilty. Thank you.

8 CHARGE TO THE JURY:

9 THE COURT: Members of the jury panel, I appreciate
10 the attention you've given to the attorneys and to the
11 witnesses and me. Now I do need to charge you the law in
12 this case and it is your duty to accept the law and apply
13 it as I charge it.

14 The indictment against Mr. Hall alleges that on
15 January 3rd, 2016 he committed domestic violence, the
16 victim being Jasmine Frances Blake. You will have with you
17 in the jury room this indictment but this indictment is not
18 evidence, it is the paperwork by way of which this case is
19 processed through our court system and contains the charge;
20 that is, the allegation against Mr. Hall but it is not
21 evidence. It does not create any presumption or inference
22 of guilt.

23 Now Mr. Hall as I told you is presumed innocent of the
24 charge against the indictment. His plea of innocence
25 places on the State the burden of proving his guilt beyond

CHARGE TO THE JURY:

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1 a reasonable doubt before you as a trial jury in this case
2 could convict him. The presumption of innocence is an
3 important rule of law. It is not a mere legal theory or a
4 mere legal phrase. It is a substantial right. Anyone
5 charged with any offense in our system is presumed innocent
6 of that charge until such presumption is removed by a jury
7 verdict of guilt.

8 The presumption of innocence attached to Mr. Hall at
9 the time of his arrest; has remained with him as the case
10 is processed through the court system, remains with him at
11 this moment. In fact the presumption of innocence remains
12 in his favor even as you deliberate. The presumption of
13 innocence in Mr. Hall's favor is removed if and when, and
14 only if and when, you determine that the jury - - if you
15 determine that the State has proven his guilt beyond a
16 reasonable doubt.

17 Now the State is not required to prove his guilt
18 beyond all or beyond every doubt but beyond a reasonable
19 doubt. Our courts have defined a reasonable doubt as the
20 kind of doubt that would cause a reasonable person to
21 hesitate to act. Proof beyond a reasonable doubt is proof
22 that leaves you firmly convinced of a person's guilt.
23 There are very few things in our world that we can know
24 with absolute certainty and our law does not require it in
25 a case such as this. If based on your consideration of the

CHARGE TO THE JURY:

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1 evidence you are firmly convinced that Mr. Hall is guilty
2 as charged, or, of a lesser offense which I'll talk to you
3 about later, then you would find him guilty of the charge
4 in the indictment or the lesser offense which again I talk
5 to you about in a moment.

6 If on the other hand you think that there is a real
7 possibility that he is not guilty of either offense of
8 which he's charged or the lesser offense you would find him
9 not guilty.

10 I remind you that I am the sole judge of the law in
11 this case and you must take accept and apply the law as I
12 charge it. And this is true even if you think I charge the
13 law in error, or, even if you think the law should be
14 different. Your oath requires you to take accept and apply
15 the law as I charge it.

16 You're not to infer from anything I have said or done;
17 anything I now say or do as being an opinion of mine on the
18 facts. Our law does not allow a trial judge to formulate
19 or express to a jury any opinion on the facts that is
20 solely your job. It is solely your job to examine the
21 evidence, give to the evidence the effect, the value, the
22 weight and the truth you believe it should have. In doing
23 this you may believe one witness as opposed to several;
24 several witnesses as opposed to one, you may believe all,
25 part, or none of a witnesses' testimony.

CHARGE TO THE JURY:

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1 Use your common sense, your sense of logic, your sense
2 of reason; use your experiences in life as you analyze the
3 evidence. As judges of the facts you necessarily must
4 judge the credibility; that is, the believability of the
5 witnesses who have testified. In accessing credibility use
6 those things we've already talked about. Use the things
7 that you find in your day to day life as being indicative
8 of truthfulness. And you use certain evaluators. Look at
9 a witnesses demeanor, how they act on the stand. Are they
10 hesitant or straight forward. Look at consistencies or
11 inconsistencies within their testimony. And look and see
12 whether they're inconsistencies in regard to their
13 testimony and the statements given at an earlier time.

14 You also can look at the bias or prejudice; that is,
15 whether a witness wished to help or hurt one side or the
16 other. And you can also consider the opportunity a witness
17 had to actually know those things to which the witness
18 testified. All these things you consider, determine the
19 true facts, apply the law, and you will be able to return a
20 verdict that speaks the truth.

21 There are two types of evidence generally presented
22 during a trial such as this, direct and circumstantial
23 evidence. Direct evidence directly proves the existence of
24 a fact and does not require deduction. Circumstantial
25 evidence is proof of a chain of facts and circumstances

CHARGE TO THE JURY:

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1 which indicate the existence of a fact. Crimes may be
2 proven by circumstantial evidence. Our law makes no
3 distinction between the weight or value to be given either
4 direct or circumstantial evidence. However to the extent
5 the State relies on circumstantial evidence all the
6 circumstances must be consistent with each other and when
7 taken together point conclusively to the guilt of the
8 accused beyond a reasonable doubt. If these circumstances
9 merely portray a defendant's behavior as suspicious the
10 State's proof has failed. The State has the burden of
11 proving Mr. Hall's guilt beyond a reasonable doubt and that
12 burden rest with the State whether it relies on direct
13 evidence, circumstantial evidence, or a combination of the
14 two.

15 In this case Mr. Hall has exercised his Constitutional
16 right to remain silent. The fact that he exercised his
17 right to remain silent is not a factor that can be
18 considered by you in any way whatsoever. You cannot
19 discuss in the jury room the fact that he exercised his
20 Constitutional right to remain silent. And you cannot
21 factor into your own individual deliberation that fact.
22 Mr. Hall does not have to testify, he is presumed innocent.
23 He has the right to remain silent. The State must however
24 prove his guilt beyond a reasonable doubt before you could
25 convict him.

CHARGE TO THE JURY:

-120-

1 He, Mr. Hall, is charged with second degree domestic
2 violence. Now I talked to you a moment ago about the
3 lesser included offense and that's now what I will tell you
4 that he is charged with what's called second degree
5 domestic violence and I'm going to define that for you in
6 just a moment. If you think about a set of stairs that
7 would be the top step. Then you can step down to a lower
8 step and that would be third degree, third degree domestic
9 violence. And I'll tell you the distinction between the
10 two in just a moment.

11 Here the State must prove as to second degree domestic
12 violence that Mr. Hall caused physical harm or injury to a
13 member of his own household, or, that he offered or
14 attempted to cause physical harm or injury to a member of
15 his own household with the apparent present ability to
16 cause harm or injury under circumstances reasonably
17 creating a fear of imminent danger.

18 Under our law a household members include a person
19 with whom a person has a child in common. Now as to second
20 degree domestic violence the State must prove what I just
21 said, and must also prove that the domestic violence was
22 committed in the presence of or while be perceived by a
23 minor. This last element that domestic violence was
24 committed in the presence of or while being perceived by a
25 minor raises a third degree domestic violence to a second

CHARGE TO THE JURY:

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1 degree domestic violence.

2 If you find the State has not proven Mr. Hall guilty
3 of second degree domestic violence beyond a reasonable
4 doubt you must then consider whether or not the State has
5 proven him guilty beyond a reasonable doubt to the lesser
6 included offense of third degree domestic violence. Here
7 the State must prove the same thing as it must in second
8 degree with the exception of the presence of a minor.

9 That is the State must prove beyond a reasonable doubt that
10 Mr. Hall caused physical harm or injury to a member of his
11 own household, or, that he offered or attempted to cause
12 physical harm or injury to a member of his own household
13 with the present ability to cause harm or injury under
14 circumstances reasonably creating a fear of imminent
15 danger. And the definition of a household member is the
16 same for both.

17 I'll go over the verdict form with you in just a
18 moment. Your verdict must be unanimous, all twelve jurors
19 must agree on the verdict. Once all twelve jurors have
20 agreed on the verdict unanimously then the foreman will
21 enroll the verdict on the verdict form that I'll go over
22 with you in just a moment.

23 Your verdict cannot be based on passion, prejudice,
24 public opinion, sympathy, or matters outside the record.
25 It must be based on the record and the law as I charge it

CHARGE TO THE JURY:

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1 to you. If while you're deliberating you have questions
2 write them down send 'em out. Just knock on the door and
3 tell the bailiff you have a question. The bailiff will
4 bring it to me. After conferring with the attorneys I will
5 respond. It may be that I can write an answer on that note
6 and send it back in to you. If I do that, Mr. Foreman,
7 keep that note and turn it in with the pictures which are
8 the only exhibits at the end of your deliberation because
9 the note has to be part of the record.

10 I can bring you back in and play -- replay testimony
11 for you if you wish. Just let me know if you wish that. I
12 can bring you back in and recharge you any part or all of
13 my charge on the law if you want. Just by a note let me
14 know if you want me to do that. We'll have provisions for
15 you, some type of player, so you will be able in the jury
16 room to listen to the 911 call because it is an exhibit
17 also if you wish. When you've reached a unanimous verdict,
18 Mr. Foreman, knock on the door tell the bailiff. I'm not
19 starting any other work this afternoon so I should be able
20 to send for you promptly. And we will send for you as
21 promptly as we can after you've reached a verdict.

22 Now when you go into the jury room do not start your
23 deliberations yet. I must go over with the attorneys my
24 charge and make sure I have not made an error. If I have
25 made an error in my charge I will bring you back in and

CHARGE TO THE JURY:

-123-

1 correct it. If I have not made an error I will send in the
2 verdict form and the exhibits and the bailiff will tell you
3 to start at that time deliberating.

4 Now the verdict form has on it, there's one, three
5 options. The order they're in is of no significance. I
6 have to put one in front of the other and that's -- I
7 always put them in this order. The -- Mr. Foreman, you
8 will on the verdict form put an x or a check in front of
9 the line which represents the jury's unanimous verdict.
10 The three options are first, we find the defendant guilty
11 of second degree domestic violence. That's what the
12 indictment charges.

13 The second is, we find the defendant guilty of the
14 lesser included offense, that's that step down, of third
15 degree domestic violence. Or if the State has failed to
16 prove Mr. Hall guilty of either second or third degree
17 domestic violence you would mark the third line that says
18 we find the defendant not guilty. Sign it and date it
19 today August 10th.

20 Now I'm gonna let you go into the jury room at this
21 time but do not start deliberating. Ms. Weeks, if you'll
22 stay with you you won't be participating any further.

23 (JURY EXITS COURTROOM TO DELIBERATE AT 04:38 PM.)

24 THE COURT: I'll be with you in just one minute.

25 Anything from the State involving the charge?

1 SOLICITOR PLEMING: No, sir, your Honor.

2 THE COURT: Defense?

3 MR. MERRITT: No, your Honor.

4 THE COURT: All right. If you'll check the verdict
5 form and the exhibits and send them in and tell the jury to
6 start deliberating.

7 And, Ms. Weeks, you're through for the week. It's
8 Wednesday afternoon and we're not gonna start another trial
9 tomorrow. We'll be doing pleas and motions and bond
10 hearings and probation matters. We've got plenty to do but
11 we won't need a jury so you can leave or you can stay
12 around if you wish to find out what the jury does. But
13 you're through for the week and you'll be mailed a check.

14 Thank you.

15 (ALTERNATE JUROR DISMISSED AT 04:39 PM.)

16 THE COURT: All right. We'll be at ease.

17 (COURT AT EASE AT 04:40 PM.)

18 (COURT BACK IN SESSION AT 05:20 PM.)

19 THE COURT: We've received a note from the jury that
20 they want to hear Ms. Blake's testimony.

21 Is the State ready?

22 SOLICITOR PLEMING: Yes, sir, your Honor.

23 THE COURT: The Defense ready?

24 MR. MERRITT: Yes, your Honor.

25 THE COURT: Ms. Nelson's ready so bring in the jury.

1 (JURY REENTERS COURTROOM AT 05:22 PM.)

2 THE COURT: Mr. Foreman, and members of the jury,
3 we're gonna play Ms. Blake's testimony.

4 (WHEREUPON, JASMINE BLAKE'S TESTIMONY PUBLISHED TO THE
5 JURY/STOP AT 06:05 PM.)

6 THE COURT: You can go back to the jury room.

7 (JURY EXITS COURTROOM AT 06:05 PM.)

8 THE COURT: Anything from the State?

9 SOLICITOR PLEMING: No, sir.

10 THE COURT: Defense?

11 MR. MERRITT: No, your Honor.

12 THE COURT: We'll be at ease.

13 (COURT AT EASE AT 06:05 PM.)

14 (WHEREUPON, COURT'S EXHIBIT NUMBER TWO, IDENTIFIED AND
15 MARKED, RECEIVED INTO THE RECORD.)

16 (COURT BACK IN SESSION AT 06:19 PM.)

17 THE COURT: Thank you. You may be seated.

18 We've received a note that the jury is having trouble
19 reaching a unanimous verdict and I'm gonna bring 'em in and
20 give 'em a Allen Charge. Any comments on that, Mr.
21 Pleming?

22 SOLICITOR PLEMING: None from the State.

23 MR. MERRITT: Nothing from the Defense.

24 THE COURT: All right. Let's bring in the jury.

25 (JURY REENTERS COURTROOM AT 06:20 PM.)

ALLEN CHARGE:

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1 THE COURT: Members of the jury panel, I've received
2 your note about the inability to reach a verdict and I'm
3 gonna talk to you just a moment, reminding you of course as
4 you already know and your note indicates that your verdict
5 must be unanimous. When a matter is in dispute it isn't
6 always easy for even two people to agree so when twelve
7 people need to agree it becomes more difficult. In most
8 cases absolute certainty cannot be reached or expected.
9 However a jury has a duty to make every reasonable effort
10 to reach a unanimous verdict. In doing this each of you
11 should consult with one another, express each's views and
12 listen to the opinions of your fellow jurors, and express
13 to each other how you feel, why you feel that way, and
14 discuss the differences you have to this point with open
15 minds.

16 Although your verdict must be unanimous everyone has a
17 right to have an opinion. The verdict you agree on must be
18 your own, the results of your own conviction and you should
19 not give up any firmly held beliefs merely to be in
20 agreement with your fellow jurors. The majority should
21 consider the manority's postion and the minority should
22 consider the majority's position. You should carefully
23 consider and respect the opinions of each other and
24 reevaluate your position with reasonableness, correctness,
25 and impartiality. You must lay aside all outside matters

ALLEN CHARGE:

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1 and reexamine the question before you based on the law and
2 the evidence presented during the trial.

3 If you do not agree on a verdict in this case I will
4 declare a mistrial. In that case it doesn't create a
5 winner. It just means that in some future time me or some
6 other judge will try this case with some other jury sitting
7 where you're sitting. I imagine the same participants will
8 be here, the same lawyers will be here and ask basically
9 the same questions and I believe get the same answers and
10 we will go through this process again.

11 You were selected in the same manner and from the same
12 source as any future jury will be and there is no reason
13 for me to suppose that the case ever will be submitted to
14 twelve more intelligent and impartial conscientious and
15 competent jurors than the twelve of you, or, that different
16 more or clearer evidence will be produced on one side or
17 the other. I am therefore going to ask you to return to
18 deliberate further. Thank you.

19 (JURY EXITS COURTROOM TO CONTINUE DELIBERATIONS AT
20 06:23 PM.)

21 (WHEREUPON, COURT'S EXHIBIT NUMBER THREE, IDENTIFIED
22 AND MARKED, RECEIVED INTO EVIDENCE.)

23 THE COURT: Anything from the State?

24 SOLICITOR PLEMING: No, sir, your Honor.

25 THE COURT: The Defense?

1 MR. MERRITT: No, your Honor.

2 THE COURT: All right. Continue to wait.

3 (COURT AT EASE AT 06:24 PM.)

4 (COURT BACK ON THE RECORD AT 06:40 PM.)

5 THE COURT: Thank you. You may take your seats.

6 We've received a note that indicates the jury has
7 reached a verdict. Anything from the State before the jury
8 comes in?

9 SOLICITOR PLEMING: Sir?

10 THE COURT: Anything from the State?

11 SOLICITOR PLEMING: No, sir, your Honor.

12 THE COURT: Defense?

13 MR. MERRITT: No, your Honor.

14 SOLICITOR PLEMING: We would like to get the victim
15 here.

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

17 (WHEREUPON, COURT'S EXHIBIT NUMBER FOUR AND FIVE,
18 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

19 (JURY REENTERS COURTROOM AT 06:43 PM.)

20 THE COURT: Mr. Foreman, I understand the jury's
21 reached a verdict.

22 MR. FOREMAN: We have, your Honor.

23 THE COURT: If you'll hand it to the bailiff he'll
24 hand it up to me.

25 (VERDICT RECEIVED UP BY THE COURT.)

VERDICT:

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1 THE COURT: Madam Clerk.

2 MADAM CLERK: Indictment 2016-GS-46-870 the State
3 versus Michael Glenn Hall we find the defendant guilty of
4 the lesser included offense of third degree domestic
5 violence. Signed by the Foreperson dated today's date.

6 Ladies and gentlemen of the jury, if this be your
7 verdict so say you all by raising your right hand.

8 Let the record show all jurors affirmed this verdict.

9 (ALL JURORS AFFIRMED THE VERDICT.)

10 THE COURT: Anything from the State before the jury's
11 dismissed?

12 SOLICITOR PLEMING: No, sir, your Honor.

13 THE COURT: Anything from the Defense?

14 MR. MERRITT: We would move to poll the jury.

15 THE COURT: All right. Members of the jury panel the
16 Clerk's gonna ask you to confirm your verdict. She'll tell
17 you how to do I.

18 MADAM CLERK: If everyone will please stand.

19 Juror Seven, is this your verdict?

20 A. Yes.

21 MADAM CLERK: Is this still your verdict?

22 A. Yes.

23 MADAM CLERK: You may be seated.

24 Juror Seventy-three, is this your verdict?

25 A. Yes.

VERDICT:

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1 MADAM CLERK: Is this still your verdict?
2 A. Yes.
3 MADAM CLERK: You may be seated.
4 Juror Four, is this your verdict?
5 A. Yes.
6 MADAM CLERK: You may have a seat.
7 Juror Ninety-two.
8 A. Yes.
9 MADAM CLERK: Is this your verdict?
10 A. Yes.
11 MADAM CLERK: Is it still your verdict?
12 A. Yes.
13 MADAM CLERK: You may have a seat.
14 Two-forty-four.
15 A. Yes.
16 MADAM CLERK: Is this your verdict?
17 A. Yes.
18 MADAM CLERK: This still your verdict?
19 A. Yes.
20 MADAM CLERK: You may have a seat.
21 Two-thirty.
22 A. Yes.
23 MADAM CLERK: Is this your verdict.
24 A. Yes.
25 MADAM CLERK: Is this still your verdict?

VERDICT:

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1 A. Yes.

2 MADAM CLERK: You may have a seat.

3 One sixty-seven. Is this your verdict?

4 A. Yes.

5 MADAM CLERK: Is this still your verdict?

6 A. Yeah.

7 MADAM CLERK: You may be seated.

8 Juror Sixty-nine.

9 A. Yes.

10 MADAM CLERK: Is this your verdict?

11 A. Yes.

12 MADAM CLERK: Is it still your verdict?

13 A. Yes.

14 MADAM CLERK: You may be seated.

15 Juror Eighteen.

16 A. Yes.

17 MADAM CLERK: Is this your verdict?

18 A. Yeah.

19 MADAM CLERK: Is it still your verdict?

20 A. Yes.

21 MADAM CLERK: You may be seated.

22 One fifty-eight.

23 A. Yeah.

24 MADAM CLERK: Is this your verdict?

25 A. Yes.

VERDICT:

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1 MADAM CLERK: Is this still your verdict?

2 A. Yes.

3 MADAM CLERK: You may be seated.

4 Number Two-eigheten.

5 A. Yes.

6 MADAM CLERK: Is this your verdict?

7 A. Yes.

8 MADAM CLERK: Is it still your verdict?

9 A. Yes.

10 MADAM CLERK: You may be seated.

11 Number nine. Is this your verdict?

12 (PAUSE.)

13 A. Since I'm the only juror yes.

14 MADAM CLERK: Is this still your verdict?

15 A. Yes.

16 THE COURT: Anything else before the jury's dismissed?

17 SOLICITOR PLEMING: No, sir, your Honor.

18 MR. MERRITT: No, your Honor.

19 THE COURT: This finishes your work for the week.

20 We're gonna do non-jury matters the next day. We'll be
21 doing pleas, bonds, motions, probation matters, so this
22 concludes your week. Thank you for your help.

23 Mr. Foreman, we need to get you to sign something on
24 the indictment before you leave. Everybody else feel free
25 to go at this time. Thank you.

SENTENCE:

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1 (JURY DISMISSED AT 06:46 PM.)

2 THE COURT: Now that the jury has been dismissed
3 anything from the State?

4 SOLICITOR PLEMING: No, sir, your Honor.

5 THE COURT: Now tell me again --

6 Anything from the Defense?

7 MR. MERRITT: No, your Honor. We would renew all of
8 our objections.

9 THE COURT: Denied. And over ruled.

10 Tell me again if he has any prior record. I can't
11 recall. Yes, sir.

12 SOLICITOR PLEMING: Your Honor, he has from 2002
13 convictions for unlawful carrying and sell of a pistol;
14 unlawful sale of a pistol, PWID cocaine first offense and a
15 proximity convictions on that PWID charge.

16 THE COURT: Okay.

17 SOLICITOR PLEMING: And also the victim does wish to
18 be heard at the appropriate time.

19 THE COURT: Now would be the time. Do we have a
20 sentencing sheet?

21 SOLICITOR PLEMING: Yes, sir, we have just emailed it
22 to ...

23 THE COURT: Ms. Blake.

24 MS. BLAKE: Yes. I would just like to say that I
25 would like to ask that the sentencing just be lenient. I

SENTENCE:

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1 rely on Michael for financial stability for my children.
2 And he's a great father and my children look up ot him and
3 they love him very much. They see him everyday.

4 THE COURT: Well, I understand. Thank you.

5 MS. BLAKE: Thank you.

6 THE COURT: Anything else from the State?

7 SOLICITOR PLEMING: Nothing more from the State, your
8 Honor.

9 THE COURT: Mr. Merritt, I'll be glad to hear from you
10 and then from your client.

11 MR. MERRITT: Yes, your Honor, we wanted to say --
12 speak towards sentencing. We wanted to note that Mr. Hall
13 does not have anything that could be considered violent on
14 his record and he is -- he's never been in that sort of
15 trouble before. And we also want to note that he has when
16 he did get the convictions that Blaine is mentioning which
17 he did plead Alford to at the -- at the advisement of his
18 lawyer at the time. He did receive probation and he did
19 complete it my understanding successfully.

20 He currently does have a job where he works five --
21 four days a week from 7:00 am to 4:00 pm. That job is a
22 good consistent income for him and his family at nine
23 dollars an hour. He works Monday through Thursday there.
24 Three children as you heard ages two, four and five who he
25 does see everyday. We want to note that he does have a

SENTENCE:

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1 high school diploma. He did play basketball at Rock Hill
2 High School when he attended there. He's never been to
3 SCDC or anything like that. He -- And he has intimated to
4 me that there is no -- he doesn't perceive any problems.
5 He understands what went on here, you know, it was his
6 decision to go to trial and he doesn't hold it against the
7 victim in any way is my understanding.

8 We would ask for probation in this case. He has done
9 well on probation in the past. The offense carries ninety
10 days. He would be willing to do six months probation if
11 the court thought it was appropriate.

12 THE COURT: Well what if I don't give it? Do you want
13 to be willing to do more? You said he would be willing to
14 do six months probation.

15 MR. MERRITT: He has told me that appro -- that he
16 does feel that probation is appropriate to him.

17 THE COURT: Well are you telling me he won't do more
18 than six months probation?

19 MR. MERRITT: I am not telling you that, no. I'm
20 sorry if I phrased it that way with the willingness.

21 THE COURT: Anything else?

22 Mr. Hall, do you want to say anything?

23 MR. HALL: No, sir, not really.

24 THE COURT: Well, this looks like somewhat of a
25 anomaly although it was pretty violent. Ms. Blake received

SENTENCE:

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1 some pretty significant scratches fortunately nothing that
2 needed stitching or anything like that. It appears you do
3 have a lady that loves you and she does support you and it
4 appears you're a good family man and that's why I say this
5 is a nominally. Y'all've been together for like eleven
6 years and maybe something like this has happened before and
7 she's just not reported it.

8 So I'm gonna sentence you to ninety days and I'm gonna
9 suspend that and keep you on probation for a year with
10 domestic violence protocol as part of your probation. And
11 in addition to other fees and cost you owe five hundred
12 dollars for having an appointed attorney. Do you
13 understand that?

14 MR. HALL: Yes, sir.

15 THE COURT: All right. Thank you.

16 SOLICITOR DESCH: Thank you, your Honor.

17 MR. MERRITT: Thank you, your Honor.

18 THE COURT: Oh, and Mr. Hall, let's go back --

19 Mr. Hall, Mr. Hall, also under the laws of our state
20 and the federal laws you hereafter will not be able to
21 receive, ship, transport, possess a firearm and ammunition.
22 Do you understand that?

23 MR. HALL: Yes, sir.

24 THE COURT: And you've already been in trouble for
25 messing with a firearm one time before now that this is - -

SENTENCE:

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1 You do it again you might be looking at federal people
2 coming after you and not just the state people. Do you
3 understand that?

4 MR. HALL: Yes, sir.

5 THE COURT: All right. Thank you. Thank everybody
6 for their curtesies.

7 SOLICITOR PLEMING: Thank you, your Honor.

8 (COURT ADJOURNED IN THE MATTER OF STATE VERSUS MICHAEL
9 GLENN HALL AT 07:00 PM.)

10 (END OF TRANSCRIPT.)

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CERTIFICATE OF REPORTER

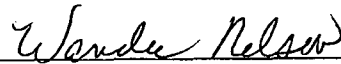
State of South Carolina)

)

County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 18th day of August, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



Wanda Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: November 30 / 2016

County: YorkDate: August 10, 2016VOIR DIRE/BATSON SHEETCase No.: 2016-GS-46-00870Judge: Honorable John C. Hayes, IIIPl./State: State of South CarolinaPl./State Atty's.: Sol. Blaine Pleming
Sol. Jenny DeschDefendant: Michael Glenn HallDefense Atty.: Zachary MerrittCourt Reporter: Wanda Nelson, CVR-M

<u>Juror No.</u>	<u>Name</u>	<u>Sex</u>	<u>Race</u>	<u>STRIKES</u>			
				<u>*Court</u>	<u>Plaintiff</u>	<u>Defense</u>	<u>Accept</u>
92	Leah N. Holbert	F	W				X -1
32	Sherri H. Carvalho	F	W			X-1	
244	Jacob S. Windham	M	W				X-2
94	Trayce S. Howe	F	W			X-2	
230	Zandra W. Ward	F	B				X-3
167	Johnny P. Parker	M	W				X-4
197	Jayne E. Scarborough	F	W			X-3	
69	Grant R. Fredell	M	W				X-5
18	Brett G. Bounds	M	W				X-6
156	Dawn D. Morneault	F	W			X-4	
72	Shanderra D. Garvin	F	B		X-1		
158	William K. Mousey, Jr.	M	W				X-7
218	Katrina I. Thomas	F	W				X-8
236	Sonja C. Hernandez	F	W			X-5	
125	Christopher R. Mahar	M	W				X-9
7 **	Michael H. Baker	M	W				X-10
73	Nancy J. Gerber	F	W				X-11
126	Heather J. Manning	F	W		X-2		
4	Christopher R. Altonen	M	W				X-12
232	Laves R. Weeks	F	B				X-13

*For the Court column, indicate who made the motion to strike the jurors for cause.

C-Court, P-Plaintiff, D-Defense

** Foreperson

York Circuit Court RANDOM STRIKE SHEET

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JUDGE NAME : Hayes, III, John C.

TRIAL TYPE : Criminal

JEL ID : 8-10-16 CRT1

DESCRIPTION : 8-10-16 CRT1

Sorted by: Random Nbr

Trial

COURTROOM CRT1

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
Holbert, Leah N	92	W	F	()	()	()	<u>Seated</u> -1
Carvalho, Sherri H	32	W	F	()	(X)-1	()	
Windham, Jacob S	244	W	M	()	()	()	<u>Seated</u> -2
Howe, Trayce S	94	W	F	()	(X)-2	()	
Ward, Zandra W	230	B	F	()	()	()	<u>Seated</u> -3
Parker, Johnny P	167	W	M	()	()	()	<u>Seated</u> -4
Scarborough, Jayne E	197	W	F	()	(X)-3	()	
Fredell, Grant R	69	W	M	()	()	()	<u>Seated</u> -5
Bounds, Brett G	18	W	M	()	()	()	<u>Seated</u> -6
Morneault, Dawn D	156	W	F	()	(X)-4	()	
Garvin, Shanderra D	72	B	F	(X)-1	()	()	
Mourey, William K JR	158	W	M	()	()	()	<u>Seated</u> -7
Thomas, Katrina I	218	W	F	()	()	()	<u>Seated</u> -8
Hernandez, Sonja C	236	W	F	()	(X)-5	()	
Mahar, Christopher R	125	W	M	()	()	()	<u>Seated</u> -9
Baker, Michael H <i>Foreman</i>		W	M	()	()	()	<u>Seated</u> -10
Gerber, Nancy J	73	W	F	()	()	()	<u>Seated</u> -11
Manning, Heather J	126	W	F	(X)-2	()	()	
Altonen, Christopher R	4	W	M	()	()	()	<u>Seated</u> -12
Weeks, Lavesa R	232	B	F	()	()	()	<u>Seated</u> -13
Norton, Patrick J	161	W	M	()	()	()	
Corn, Stephanie Q	37	W	F	()	()	()	
Westbrook, Jerline	235	B	F	()	()	()	
Hinson, Brittany R	89	W	F	()	()	()	

York Circuit Court
RANDOM STRIKE SHEET

-141-141

JUDGE NAME : Hayes, III, John C.

TRIAL TYPE : Criminal

FILE ID : 8-10-16 CRT1

COURTROOM CRT1

DESCRIPTION : 8-10-16 CRT1

Sorted by: Random Nbr

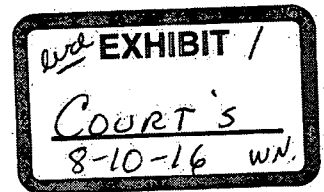
Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Williams, Amanda J	238	W	F	()	()	()	
26 Roddey, Hubert H	191	W	M	()	()	()	
27 Mcguirt, Barron T	139	W	M	()	()	()	
28 Johnson, Margaret T	104	W	F	()	()	()	
29 Bell, Janice M	12	W	F	()	()	()	
30 Brown, Marti B	25	W	F	()	()	()	
31 Bowen, Thomas P	19	B	M	()	()	()	
32 Bowman, Gary E	20	W	M	()	()	()	
33 Huggins, Jeremiah J	95	W	M	()	()	()	
34 Cabe, Marsha R	29	W	F	()	()	()	
35 Cox, Katherine R	39	W	F	()	()	()	

Total Number of Jurors:

35

** END OF REPORT **



73 Nancy Gerber

Sir,

I did not even think of this when you asked. However, it dawned on me afterward, there was an altercation between myself and my ex husband. It occurred over 31 yrs ago and it does not cross my mind. We have been divorced since 1985 and I barely recall the two year marriage. This has no effect on my judgement but it did occur and I don't want to misrepresent myself.

Nancy Gerber

WITNESSES

RHPD

Witnessing Officer: *Felnet*

ARREST WARRANT NUMBER

2016A4620300044

ACTION OF GRAND JURY

[Signature] **TRUE BILL**
Foreperson of Grand Jury
Date: *3-24-16*

VERDICT

Guilty DV 3rd Degree

[Signature]
Foreperson of Grand Jury
Date: *8/10/2016*

DOCKET NO. 2016-GS46-00870

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 24, TERM 2016

THE STATE

VS.

MICHAEL GLENN HALL

INDICTMENT FOR

DOMESTIC VIOLENCE, 2ND DEGREE

SC Code: § 16-25-0020(A)
CDR Code: 3812

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF YORK

At a Court of General Sessions, convened on March 24, 2016, the Grand Jurors of York County present upon their oath:

DOMESTIC VIOLENCE, 2ND DEGREE

The defendant, Michael Glenn Hall, did on or about January 3, 2016, in York County, did cause physical harm or injury to Jasmine Frances Blake, a household member, or did offer or attempt to cause physical harm or injury to said household member with apparent present ability under circumstances reasonably creating fear of imminent peril. In addition, the defendant committed domestic violence in the third degree in the presence of, or while being perceived by, a minor, all in violation of Section 16-25-0020(A), 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.


JESSICA E. HOLLAND
ASSISTANT SOLICITOR

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
16-MUG-22-M-12-55
CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK

STATE VS.

MICHAEL GLENN HALL

AKA:

Race: Black

Sex: M

Age: 34

DOB:

SS#:

Address:

City, State, Zip: H

DL#

SID# SC01445504

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Domestic Violence, 3rd Degree

In violation of § 16-25-0020(A) of the S.C. Code of Laws, bearing CDR Code # 3813

INDICTMENT/CASE#: 2016GS4600870

A/W: 2016A4620300044

Date of Offense: 01/03/2016

S.C. Code §: 16-25-0020(A)

CDR Code #: 3811

RECEIVED

AUG 25 2016

SC Court of Appeals

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lowd Act)The charge is: ☐ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Blaine Fleming
T. Blaine Fleming, Assistant Solicitor SC Bar # 78406

Defendant

Attorney for Defendant

102079
SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☒ County Detention Center, for a determinate term of 90 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 _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Del. Waives Hearing

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ 500§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 625

Clerk of Court/Deputy Clerk: David Hamilton

Court Reporter: Wanda Nelson

SCCA/217 (07/2016)

☐ Ordered 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 Fund

Other: DV Protocol

☒ Appointed PD or appointed other counsel,

Proviso §61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge: John C. Hamilton

Judge Bar ID: 2467 Judge Code: 2049

Sentence Date: 8/10/16

CERTIFIED TRUE COPY
16 AUG 22 PM 12:55
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, S.C.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

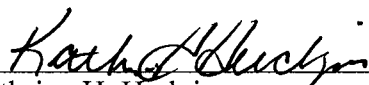
ATTORNEY FOR APPELLANT

This 22nd day of June, 2017.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of June, 2017.

RECEIVED
JUN 22 2017
SC Court of Appeals

 ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

JUN 22 2017

SC Court of Appeals

Appeal from York County

Honorable John C. Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

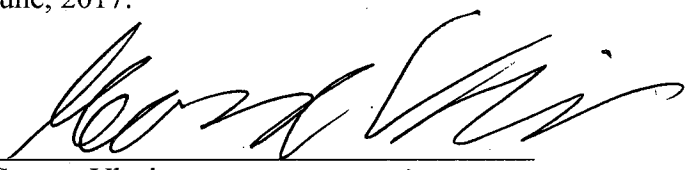
V.

MICHAEL GLENN HALL,

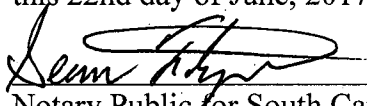
APPELLANT

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of June, 2017.


George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 22nd day of June, 2017.

 (L.S.)
Notary Public for South Carolina

My Commission Expires October 30, 2022