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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Newberry County

Honorable Donald B. Hocker, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TERRANCE LAMAR TYSON,

APPELLANT

APPELLATE CASE NO 2017-000295

RECORD ON APPEAL

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State of South Carolina)
 vs.) Transcript of Record
)
Terrance Lamar Tyson)
)
 Defendant)

February 6th and 7th, 2017
Newberry, South Carolina

B E F O R E:

Honorable Donald B. Hocker, Judge

A P P E A R A N C E S:

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Official Court Reporter

I N D E X O F W I T N E S S E S

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(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

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1 THE COURT: Let's go ahead and do the arraignment on
2 the burglary charge. Y'all can remain at the table. Mr.
3 Tyson, would you please stand, sir. Madam Clerk, would
4 you swear Mr. Tyson in, please.

5 TERRANCE TYSON, being
6 first duly sworn, testified as follows:

7 THE COURT: Mr. Tyson, I am looking at indictment
8 2016-GS-36-667 which charges you with the offense of
9 burglary first degree. You want to waive the reading of
10 this indictment?

11 MR. TYSON: Yes, sir.

12 THE COURT: Okay. And how do you wish to plead,
13 guilty or not guilty?

14 MR. TYSON: Not guilty.

15 THE COURT: And will you be tried by God and by your
16 Country?

17 MR. TYSON: Yes, sir.

18 THE COURT: Okay, thank you very much, you can have a
19 seat. We will be in a short recess.

20 (Whereupon, a short break was taken.)

21 THE COURT: Ladies and gentlemen of the jury panel,
22 the first case that the State is calling for trial is the
23 State of South Carolina versus Terrance Lamar Tyson. Mr.
24 Tyson, if you would stand, face the jury panel for just a
25 brief moment so they can see you. Thank you very much,

1 you can have a seat. Ladies and gentlemen, Mr. Tyson has
2 been indicted with two criminal offenses. Let me first
3 tell you, the fact that a person has been indicted by a
4 Grand Jury is in no way evidence of any kind concerning
5 the allegations that are made against the Defendant. They
6 are not proof of any of the allegations concerning these
7 two charges. The indictment is the process to get the
8 case to the point where we are today and that is the trial
9 of the case. Mr. Tyson has exercised his constitutional
10 right and has plead guilty to these two charges and has
11 requested a jury trial. But I need for you to know what
12 he is charged with for purposes of our selection of the
13 trial jury in this case. So I am going to read both
14 indictments. But, again, the indictments and the
15 allegations contained in the indictments in no way is
16 proof whatsoever of these two crimes. The first
17 indictment is 15-GS-36-544 and it alleges as follows, that
18 Terrance Lamar Tyson did on or about June 19th, 2015 in
19 Newberry County willfully and unlawfully injure another
20 person and the act occurred during the commission of a
21 robbery, burglary, kidnapping or theft or did offer or
22 attempt to injure another person with the present ability
23 to do so and the acts was accomplished by means likely to
24 produce death or great bodily injury or occurred during
25 the commission of a robbery, burglary, kidnapping or theft

1 to wit, Terrance Lamar Tyson did choke, bite and strike
2 Tyrone Ruff during the commission of a burglary in
3 violation of provisions of section 16-3-600, Code of Laws
4 for South Carolina.

5 The second indictment is 2016-GS-36-667 and it
6 alleges as follows. That Terrance Lamar Tyson did on or
7 about June 19th, 2015 in Newberry County willfully and
8 unlawfully enter a dwelling without consent and with
9 intent to commit a crime therein, when in effecting entry
10 or while in immediate flight therefrom he or another
11 participant in the crime caused physical injury to a
12 person who is not a participant in the crime or the
13 entering or remaining occurred in the nighttime, said
14 dwelling being owned and/or occupied by Tyrone Ruff also
15 known as Kenneth Ruff in violation of section 16-11-311,
16 Code of Laws for South Carolina. I am going to be asking
17 you some questions that are particular to this case. And
18 the same rules apply. If you need to respond to a
19 question but are reluctant for whatever reason then I will
20 give you an opportunity at the conclusion to speak with me
21 privately. In addition, there are some questions that I
22 am going to ask you that I am going to specifically
23 instruct not to answer in front of everybody but speak to
24 me privately if you need to respond. Any member of the
25 jury panel related by blood or marriage to either Terrance

1 Lamar Tyson or Kenneth Tyrone Ruff. If so please stand.

2 (No response.)

3 THE COURT: Any member of the jury panel have or had
4 in the past a close, personal or social relationship with
5 either Terrance Lamar Tyson or Kenneth Tyrone Ruff. If so
6 please stand.

7 (No response.)

8 THE COURT: Next, I am going to read a list of
9 potential witnesses in this case and in connection with
10 some of the witnesses I am going to tell you place of
11 employment which would, and that is only being done to
12 assist you in you determining whether or not you have any
13 connection with these witnesses. Lisa Tyson employed with
14 Waffle House; Josh Wilbanks employed with Newberry County
15 Sheriffs Office; Remington Lee Watson; Robert Dennis with
16 the Newberry County Sheriffs Office; Odell Schumpert with
17 the Newberry County Sheriffs Office; Beth Parrish with 911
18 dispatch; Walter Bentley with the Eight Circuit
19 Solicitor's Office; Shawn Carnes with Newberry County
20 Sherrifs Office; Officer Connie Johnson; Lieutenant Richie
21 Moore; Jessie Snelgrove; Matthew Womack; Sierra Tyson;
22 Malverse Lane; Robert Wells; Jeremiah Ruff; Leah Tyson.
23 Any member of the jury panel related by blood or marriage
24 either now or formerly to any of those people I just
25 listed or any member of the jury panel have or had in the

1 past a close, personal or social relationship with any of
2 those individuals. If so please stand. Yes ma'am, your
3 name and your number, if you know it.

4 JUROR: Lori Frampton, juror number 44. Robert
5 Dennis, my husband was employed with the Sherrifs Office
6 for several years.

7 THE COURT: The fact that your husband was previously
8 employed with the Sherrifs Office and the fact that you
9 know Robert Dennis, do you believe you could still be fair
10 and impartial to both sides in this case?

11 JUROR: I don't believe so.

12 THE COURT: Okay, just remain with us, you will be
13 excused from the trial of this case. Yes ma'am, your name
14 and number if you know it.

15 JUROR: Kimberly Murphy, juror number 100. I am a
16 waitress and a lot of those folks are my customers. But
17 it wouldn't cause me--

18 THE COURT: You could still be fair and impartial to
19 both sides?

20 JUROR: Yes.

21 THE COURT: Thank you. I am going to give the
22 attorneys involved in this case on both sides to introduce
23 themselves. And I can tell you we have some excellent
24 attorneys on both sides. I will let the State proceed
25 first.

1 MR. SCOTT: Thank you, Your Honor. I will introduce
2 myself, I am Dale Scott, Deputy Solicitor for the Eighth
3 Circuit, primarily prosecute in Newberry and Laurens
4 Counties. Assisting me is going to be Assistant Solicitor
5 Taylor Daniel. This is my investigator, Walter Bentley.
6 This is Tyrone Ruff here, he is the victim in this case.
7 And look forward in trying this case.

8 THE COURT: All right, the Defense.

9 MR. MOBLEY: Good morning. My name is John Mobley, I
10 am an attorney from the John Mobley Law Firm in Columbia
11 and Greenville. Thank you.

12 THE COURT: Thank you.

13 MR. BAILEY: My name is Tyler Bailey, I am cocounsel
14 with John Mobley. My law firm is in Columbia, South
15 Carolina. I practice in Lexington County, Richland County
16 and Newberry County.

17 THE COURT: Thank you very much. Any member of the
18 jury panel ever been represented by any of the lawyers
19 involved in this case or anyone in their respective
20 offices or law firms. If so please stand.

21 (There was no response.)

22 THE COURT: Any member of the jury panel related by
23 blood or marriage either now or formerly, any member of
24 the jury panel have or had in the past a close, personal
25 or social relationship with any of the attorneys involved

1 in this case or anyone in their respective offices or law
2 firms.

3 (No response.)

4 THE COURT: Any member of the jury panel a friend of
5 anyone who is employed by the Eighth Circuit or Newberry
6 Solicitors office, Newberry County Sheriffs Office, Police
7 Departments of any municipality in the County of Newberry
8 or the South Carolina Law Enforcement Division known as
9 SLED. If so, please stand. Yes, ma'am.

10 JUROR: Kristine Pridgen, number 109. My husband
11 works at SLED.

12 THE COURT: The fact that your husband is employed at
13 SLED, can you still be fair and impartial to both sides in
14 this case?

15 JUROR: Yes, sir.

16 THE COURT: Okay. Thank you. Your name and number.

17 JUROR: Brian Lecompte, I don't know the number. I
18 am close friends with one of the deputies.

19 THE COURT: You are close friends with two Newberry
20 County Deputies, correct?

21 JUROR: Just one.

22 THE COURT: Oh, just one. The fact that you are
23 close friends with a Newberry County Deputy, do you
24 believe that you can still be fair and impartial to both
25 sides?

1 JUROR: Yes sir, I do.

2 THE COURT: Thank you. This is number 81.

3 Your name?

4 JUROR: Bryan Gresham, number 57. I am friends with
5 a Deputy Police in Whitmire and also my pastor is Todd
6 Johnson, he is the Chief Deputy in Newberry County.

7 THE COURT: Can you still be fair and impartial to
8 both sides?

9 JUROR: Yes, sir.

10 THE COURT: Thank you. Any member of the jury panel
11 previously or currently employed by any civilian or
12 military law enforcement agency. If so please stand.

13 (No response.)

14 THE COURT: Any member of the jury panel formed or
15 expressed any opinion about any issue or matter involved
16 in this case. If so please stand.

17 (No response.)

18 THE COURT: Any member of the jury panel read any
19 news article about this particular case. If so please
20 stand.

21 (No response.)

22 THE COURT: Any member of the jury panel currently
23 single and have never been married. If so please stand.
24 What I will do is just give me your name and your juror
25 number, if you know it, we will work our way beginning on

1 the front row and working our way back. Okay.

2 JUROR: Henrietta Lindler, 84.

3 THE COURT: Sir?

4 JUROR: Dale Broom, 14.

5 THE COURT: Yes, ma'am.

6 JUROR: Cynthia Stewart, number 133.

7 THE COURT: Yes, ma'am.

8 JUROR: Mary Wise, 155.

9 THE COURT: Yes, ma'am.

10 JUROR: Judy Rasnake, 112.

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

12 JUROR: Laura Wright, 157.

13 THE COURT: Thank you.

14 JUROR: Tina Holley, 64.

15 THE COURT: Yes, ma'am.

16 JUROR: Melissa Hare, 59.

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

18 JUROR: Amber Longshore, 88.

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

20 JUROR: Erin Addy, number 1.

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

22 JUROR: Krystal Nance, 102.

23 THE COURT: Thank you. Now, the next five questions
24 I do not want you standing and responding but if you need
25 to respond then speak with me privately. Okay, the next

1 five questions. Number one, any member of the jury panel,
2 any of your close friends or immediate family members ever
3 been a victim of a serious assault. That is question one.

4 Question two, any member of the jury panel or any of
5 your close friends or immediate family members ever been
6 the victim or complaining witness in a case currently
7 being prosecuted by the Eighth Circuit Solicitor's Office
8 or the Solicitor's Office in Newberry County.

9 Third question. Any member of the jury panel or any
10 of your close friends, immediate family members ever been
11 a victim or a witness in a case that was prosecuted by the
12 Fifth Circuit Solicitor's Office. That is question three.

13 Question four. Any member of the jury panel divorced
14 or gone through divorce proceedings.

15 And the fifth question. Any member of the jury panel
16 been the victim of a crime involving a handgun or some
17 other firearm.

18 So if you need to respond to one or more of those
19 five questions then I will speak to you privately in just
20 a moment.

21 Any member of the jury panel aware of any biased or
22 prejudiced towards either the State or the Defendant in
23 this case.

24 (No response.)

25 THE COURT: Any member of the jury panel who is a

1 member of or a contributor to any group which has as its
2 primary concern of the promotion of law enforcement or
3 victims rights. And I will give you some examples,
4 certainly not exclusive list but some examples and I will
5 give you the acronyms, MADD, SADD or CAVE. If that
6 applies to you please stand.

7 (No response.)

8 THE COURT: Any member of the jury panel know of any
9 reason whatsoever why he or she should not serve as a
10 juror in this case with particular emphasis being placed
11 on your ability to be fair and to be impartial to both the
12 State and the Defendant. That is the key, ladies and
13 gentlemen. We want jurors who are completely fair and
14 completely impartial to both sides in this case. But if
15 you believe that you cannot be, for some reason I will ask
16 that you speak with me privately at this time. So, six
17 questions that I asked, need to respond, speak with me
18 privately. Any other question that I asked, if you want
19 to speak with me privately get in the line or if you have
20 some concern or issue related to being a juror in this
21 particular case speak with me privately. Okay. Get in
22 line. All right.

23 JUROR: You asked if anybody was going through a
24 divorce or anything like that.

25 THE COURT: Just give me your name and your number,

1 if you know it.

2 JUROR: Blake Sheppard, 126.

3 THE COURT: Have a seat. Thank you, sir. Yes ma'am,
4 your name.

5 JUROR: Adela Wilber. I am divorced.

6 THE COURT: Thank you, have a seat. Yes, ma'am.

7 JUROR: Claire Wessinger. I am divorced.

8 THE COURT: That is fine. Thank you. Yes, ma'am.

9 JUROR: Karen Wyatt. I am divorced.

10 THE COURT: Thank you. Yes, sir.

11 JUROR: Mark Cronk, number 27. I went through a
12 divorce.

13 THE COURT: Thank you. Yes, ma'am.

14 JUROR: Juror number 142. Tyria Tuck. I have been
15 divorced.

16 THE COURT: Okay, have a seat.

17 JUROR: Steven Nagy, juror 101. I am divorced.

18 THE COURT: Okay, that is all I need to know. Thank
19 you.

20 JUROR: Corinthian Chaplin. My children's uncle is
21 in here.

22 THE COURT: Your children's is the--

23 JUROR: -- is in the courtroom.

24 THE COURT: Pick him out for me. He may be a
25 witness, he may be a Defendant. I don't know. Solicitor,

1 who is that gentleman?

2 MR. SCOTT: I don't know who that is.

3 MR. MOBLEY: Are you related to Mr. Ruff, the victim,
4 do you know him.

5 JUROR: No.

6 THE COURT: The fact that this gentleman, I am not
7 sure who that gentleman is back there. The fact that your
8 children's uncle is in the courtroom for some reason, can
9 you still be fair and impartial. If he is not connected
10 with this case.

11 JUROR: Okay, yes.

12 THE COURT: We are talking about your children's
13 uncle, if he is not connected to this case can you still
14 be fair and impartial?

15 JUROR: No.

16 THE COURT: Why can't you be fair and impartial?

17 JUROR: Well, I can.

18 THE COURT: I don't know that gentleman. There is a
19 Tyrone Ruff. The fact that you know Mr. Ruff, not related
20 to him, can you still be fair and impartial?

21 JUROR: No.

22 THE COURT: You cannot. Stay with us but I will
23 excuse you from the trial of this case. Your name and
24 number.

25 JUROR: Deedra Sons, 131. I have been divorced.

1 THE COURT: Have a seat, thank you. Yes, ma'am.

2 JUROR: Mary Zwart, I have been divorced.

3 THE COURT: Have a seat, thank you. Your name.

4 JUROR: Jerry Kinard, number 76. My son was involved
5 as a victim in an assault.

6 THE COURT: Your son was a victim, how long ago was
7 that?

8 JUROR: Eight or nine years ago.

9 THE COURT: The fact that your son was a victim of an
10 assault, can you still be fair and impartial?

11 JUROR: Yes. He was convicted of a criminal charge.

12 THE COURT: The fact that your son has a criminal
13 record can you still be fair and impartial?

14 JUROR: Yes.

15 THE COURT: To both sides?

16 JUROR: Yes, I think so.

17 THE COURT: Stay with us.

18 JUROR: Number 132, Robert Stapleton. Divorced.

19 THE COURT: That is all we need to know. Thank you.

20 Does the State have any objections to the Court's
21 voir dire or any additional questions?

22 MR. SCOTT: No, Your Honor.

23 THE COURT: The Defense?

24 MR. MOBLEY: None from the Defense, Your Honor.

25 THE COURT: Ladies and gentlemen, in just a few

1 moments we are going to select the trial jury in this
2 first case. If you hear your name called out you will
3 come around and you will stand right, with your back
4 facing the microphone there and the State and the Defense
5 will determine whether or not you will be selected or not.
6 You may hear terms such as swear this juror or we accept
7 this juror or excuse the juror from the trial of this case
8 or something of that nature. If you are not selected, if
9 you come down and one side or the other does not accept
10 you don't take that personally. Okay. Don't take offense
11 to it. The lawyers have certain reasons for selecting
12 jurors and certain reasons for not selecting jurors. So,
13 don't take it personally. Some of you may be
14 disappointed, some of you may be very glad. I don't know.
15 We will select two alternates. Let me explain to you the
16 role of the alternates. If you are selected as an
17 alternate your role is very, very important even though
18 you may not have the opportunity to participate in the
19 deliberations in reaching a verdict in the case. But it
20 is not unusual for one of the twelve to have to be excused
21 for an illness, emergency at home or something of that
22 nature. So we need a person to fill those shoes, a person
23 who has heard all the testimony, seen all the evidence and
24 that sort of thing, to be able to step into those shoes
25 and continue with the process. So if you are selected as

1 an alternate, just because you are an alternate you are
2 still very important to this whole process. All right,
3 five and ten on the main twelve. Madam Clerk, whenever
4 you are ready you can proceed, please.

5 CLERK OF COURT: Number 126, Michael Sheppard. What
6 says the State.

7 MR. SCOTT: Please present the juror.

8 THE COURT: The Defense.

9 MR. MOBLEY: Please seat Mr. Sheppard.

10 CLERK OF COURT: Have a seat in the jury box. Number
11 27, Mark Cronk. What says the State.

12 MR. SCOTT: Please present the juror.

13 CLERK OF COURT: The Defense?

14 MR. MOBLEY: Please seat Mr. Cronk.

15 CLERK OF COURT: Have a seat in the jury box. Number
16 57, Bryan Gresham. What says the State.

17 MR. SCOTT: Please present the juror.

18 CLERK OF COURT: The Defense.

19 MR. MOBLEY: Please excuse Mr. Gresham from the trial
20 of this case, Your Honor.

21 CLERK OF COURT: Number 66, Betsy Homesley. What
22 says the State.

23 MR. SCOTT: Please excuse this juror from this case.

24 CLERK OF COURT: Number 158, Karen Wyatt. What says
25 the State.

1 MR. SCOTT: Please present the juror.

2 CLERK OF COURT: The Defense.

3 MR. MOBLEY: Please excuse Ms. Wyatt.

4 CLERK OF COURT: Number 54, Carolyn Grant. What says
5 the State.

6 MR. SCOTT: Please excuse the juror from this trial.

7 CLERK OF COURT: Number 70, Tony Jackson. What says
8 the State.

9 MR. SCOTT: Please present the juror.

10 CLERK OF COURT: The Defense.

11 MR. MOBLEY: Please excuse Mr. Jackson.

12 CLERK OF COURT: Please have a seat back in the
13 audience. Number 133, Cynthia Stewart. What says the
14 State.

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: The Defense?

17 MR. MOBLEY: Please excuse Ms. Stewart.

18 CLERK OF COURT: Number 112, Judy Rasnake. What says
19 the State.

20 MR. SCOTT: Please present the juror.

21 CLERK OF COURT: The Defense.

22 MR. MOBLEY: Please excuse Ms. Rasnake.

23 CLERK OF COURT: Number 159, Mary Zwart. What says
24 the State.

25 MR. SCOTT: Please present the juror.

1 CLERK OF COURT: The Defense.

2 MR. MOBLEY: Please seat Ms. Zwart.

3 CLERK OF COURT: Number 121, Robert Young Schumpert.

4 What says the State.

5 MR. SCOTT: Please present Mr. Schumpert.

6 CLERK OF COURT: The Defense.

7 MR. MOBLEY: Please seat Mr. Schumpert.

8 CLERK OF COURT: Number 102, Krystal Nance. What
9 says the State.

10 MR. SCOTT: Please present the juror.

11 CLERK OF COURT: The Defense.

12 MR. MOBLEY: Please excuse Ms. Nance.

13 CLERK OF COURT: Number 1, Erin Addy. What says the
14 State.

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: The Defense.

17 MR. MOBLEY: Please seat Ms. Addy.

18 CLERK OF COURT: Number 71, Rena Johnson. What says
19 the State.

20 MR. SCOTT: Please present the juror.

21 CLERK OF COURT: The Defense.

22 MR. MOBLEY: Please seat Ms. Johnson.

23 CLERK OF COURT: Number 157, Laura Wright. What says
24 the State.

25 MR. SCOTT: Please present the juror.

1 CLERK OF COURT: The Defense.

2 MR. MOBLEY: Please seat Ms. Wright.

3 CLERK OF COURT: Number 147, Claire Wessinger. What
4 says the State.

5 MR. SCOTT: Please present the juror.

6 CLERK OF COURT: The Defense.

7 MR. MOBLEY: Please present Ms. Wessinger.

8 CLERK OF COURT: Number 117, Phyllis Ruff. What says
9 the State.

10 MR. SCOTT: Please present the juror.

11 CLERK OF COURT: The Defense.

12 MR. MOBLEY: Please excuse Ms. Ruff, Your Honor.

13 CLERK OF COURT: Number 154, Jimmy Willingham. What
14 says the State.

15 MR. SCOTT: Please present the juror.

16 CLERK OF COURT: The Defense.

17 MR. MOBLEY: Please excuse Mr. Willingham.

18 CLERK OF COURT: Number 14, Dale Broom. What says
19 the State.

20 MR. SCOTT: Please present the juror.

21 CLERK OF COURT: The Defense.

22 MR. MOBLEY: Please seat Mr. Broom.

23 CLERK OF COURT: Number 73, James Jones. What says
24 the State.

25 MR. SCOTT: Please excuse this juror.

1 CLERK OF COURT: Number 64, Tina Holley. What says
2 the State.

3 MR. SCOTT: Please present this juror.

4 CLERK OF COURT: The Defense.

5 MR. MOBLEY: Please seat Ms. Holley.

6 CLERK OF COURT: Number 101, Steven Nagy. What says
7 the State.

8 MR. SCOTT: Please seat this juror.

9 CLERK OF COURT: The Defense.

10 MR. MOBLEY: Please seat Mr. Nagy.

11 CLERK OF COURT: Number 127, Charles Skipper. What
12 says the State.

13 MR. SCOTT: Please present the juror.

14 CLERK OF COURT: The Defense.

15 MR. MOBLEY: Please seat Mr. Skipper.

16 THE COURT: We have our twelve, we will select two
17 alternates, two and one.

18 CLERK OF COURT: Our first alternate, number 142,
19 Tyria Tuck. What says the State.

20 MR. SCOTT: Please present the juror.

21 CLERK OF COURT: The Defense.

22 MR. MOBLEY: Please seat Ms. Tuck.

23 CLERK OF COURT: Second alternate, number 85, Aaron
24 Livingston. What says the State.

25 MR. SCOTT: Please present the juror.

1 CLERK OF COURT: The Defense.

2 MR. MOBLEY: Please seat Mr. Livingston.

3 THE COURT: We sometimes remind jurors that if you
4 bring your stuff with you and we just failed to do that.
5 We have our jury selected. Ladies and gentlemen, what I
6 am going to ask that you do, that is the jury room, that
7 is where you will be spending some time this week. I am
8 going to ask that you go back to the jury room for a few
9 minutes and let me talk with the lawyers. I am going to
10 instruct you on something and you are going to hear me say
11 this repeatedly throughout the course of this trial. Do
12 not begin any discussions among yourselves about anything
13 related to this case. I realize you know very little
14 other than my explanation to you of the two charges that
15 the Defendant has been indicted on. But anything that you
16 have heard, you have seen, anything connected with this
17 case do not begin any discussion among yourselves. And I
18 will remind you about that throughout this trial. Your
19 discussions can only start among yourselves when I tell
20 you to and that would be at the end of the case when I
21 tell you to begin your deliberations in order to reach a
22 unanimous verdict in this case. But until I tell you, no
23 discussion whatsoever. So, go back to the jury room. I
24 have a little container of candy. It is all sugar free
25 candy so if anybody is watching their weight or you just

1 can't have sugar, all of it is sugar free. Okay. Go back
2 to the jury room, we will get you back out shortly.

3 (Whereupon, the jury was excused from open court.)

4 THE COURT: Does the State have any objections or
5 exceptions to jury selection?

6 MR. SCOTT: None from the State, Your Honor.

7 THE COURT: From the Defense?

8 MR. MOBLEY: None from the Defense, Your Honor.

9 THE COURT: Thank you very much. Ladies and
10 gentlemen of the remaining jury panel, probably some of
11 you are glad you were not selected but certainly I hope
12 and assume that some of you are disappointed that you were
13 not selected. Again, as I told you at the outset, serving
14 on a jury is a very high civic responsibility that we
15 have. Jury's are such an important and integral part of
16 our judicial system. And so I hope that, even though I do
17 not anticipate that we will have any further trials this
18 week, I hope at some point and time you will have the
19 opportunity to sit on a jury whether it is in the criminal
20 arena where we are this week in Newberry or in the civil
21 arena. I have talked with a lot of jurors over the years
22 and the majority of people who have the opportunity to sit
23 on a jury find it to be a rewarding experience, a
24 difficult experience but a rewarding experience and
25 educational one. So I sincerely hope at some point and

1 time down the road you will have an opportunity to serve.
2 If you will look at your little card there is a number on
3 it, it is a call in number and I am going to ask that
4 after 6:00 o'clock this evening you call that number and
5 it will give you instructions on what to do. You are to
6 call back after 6:00 tomorrow evening or to come back. It
7 will give you instructions even though I do not anticipate
8 we will have any other cases called for trial. I don't
9 know that for certain but at least for today if you will
10 call that number after 6:00. You are free to leave.

11 (Whereupon, the remaining jury panel was excused from
12 open court.)

13 THE COURT: Are there any pretrial matters that we
14 are going to deal with, Mr. Mobley.

15 MR. MOBLEY: I think there is a couple of matters,
16 Your Honor.

17 THE COURT: Well, let's do this, let me go ahead and
18 excuse the jury for lunch. We can deal with the pretrial
19 matters. We can take a lunch break and get started back.
20 Bring the jury out.

21 (Whereupon, the jury came into open court at
22 approximately 11:46 a.m.)

23 THE COURT: Let the record reflect the jury is back
24 out. Ladies and gentlemen, we are going to break for
25 lunch. I have got some pretrial matters that I need to

1 deal with the lawyers on. So, we are going to go ahead
2 and break for lunch. I want you back at 1:30. Allow
3 yourself enough time to get back at 1:30. My instruction
4 to you concerning not beginning any discussion about this
5 case applies to anybody you come into contact with over
6 the break, whether you see a family member, friend,
7 whomever, don't have any discussions with them about this
8 case. You can tell them you have been picked on a jury.
9 But leave it at that and tell them the Judge has told the
10 jury not to have any discussions with anyone. Also, and I
11 will go into this a little more in detail when you come
12 back. During your break it may be real tempting for some
13 of you, maybe, to go on the internet, social media and try
14 to do a little research about this case. We have access
15 to a wealth of information and we all realize and know
16 that. But you can't do that. And I will give you some
17 explanation about that when you come back. So don't do
18 any of that research on your own. And lastly, if you
19 happen to go to a restaurant in town, if you will leave
20 that juror sticker visible. The reason for that is, that
21 if some of the lawyers or witnesses in the case or
22 whomever are at that same restaurant or that same location
23 and they may not recognize you in being on the jury and
24 they may start talking about this case and you may be able
25 to hear what they are talking about and we don't want that

1 to happen. So, if they see the sticker they will know to
2 not talk in earshot of you. So just leave that on if you
3 are out in public. We are going to break for lunch and be
4 back at 1:30. Have a good lunch.

5 (Whereupon, the jury was excused from open court for
6 a lunch break.)

7 THE COURT: Okay, Mr. Mobley, you indicated you a
8 couple of pretrial matters.

9 MR. MOBLEY: Yes, Your Honor, may it please the
10 Court. My first motion, Your Honor, in regarding the
11 statements of, the alleged statement of my client made to
12 law enforcement. Just so we are clear, I have not been
13 advised in discovery of any statements that my client has
14 made to law enforcement. I want to make sure there are no
15 surprises, that they have not turned over any. So, if
16 they plan to introduce I would move to exclude from the
17 trial. On that basis, that it has not been disclosed,
18 Your Honor.

19 THE COURT: Solicitor, are you aware of any
20 statements, written or oral that were allegedly made by
21 the Defendant to law enforcement?

22 MR. SCOTT: I know there is no written statements and
23 there are no oral statements to my knowledge.

24 THE COURT: Okay. That takes care of that. What
25 else.

1 MR. MOBLEY: Additionally, Your Honor, I wasn't
2 provided any discovery with a photograph of a screen shot
3 of a text message the alleged victim apparently gave to
4 the prosecution in this case. And according to the
5 prosecution the victim states that a third party, you
6 know, forwarded him that text message saying it came from
7 my client. I would move to exclude that text message from
8 the trial of this case on several different grounds.
9 Obviously it is hearsay, it is not an alleged statement
10 that was witnessed and testified to my client. It is
11 allegations that the third party, who was not my client,
12 sent the text or forwarded the text to the alleged victim
13 saying my client is the creator of that statement. So you
14 have a double hearsay issue and that is my first basis to
15 exclude that evidence, Your Honor.

16 THE COURT: Okay. Solicitor, presumably you would be
17 aware, all right. The Court Reporter is handing me a
18 State's exhibit that has been marked for identification
19 purposes at this time, number 3. And let's make sure what
20 I have got in my hand, Mr. Mobley, is what you are
21 referring to. It is dated January 2nd, forward. I am
22 going to kill Tyrone, I want to go to jail, I will pay
23 someone to do it. He will never know what hit him. You
24 love him and he destroyed my family. Is this the text
25 message?

1 MR. MOBLEY: Yes, Your Honor.

2 THE COURT: What is the position of the State?

3 MR. SCOTT: I don't think we are going to use that,
4 Your Honor.

5 THE COURT: Okay.

6 MR. MOBLEY: Thank you, Your Honor. I would also
7 move to exclude from the trial of this case allegations
8 that my client was put on trespass notice from the
9 residential location of the alleged victim in this case,
10 Your Honor. Just so we are clear, and I understand that
11 the State's position, in the course of discovery they
12 provided me with documentation that the alleged victim in
13 the case contacted law enforcement in order to put my
14 client on trespass notice of that location. However,
15 there is nothing to indicate that my client was actually
16 given actual notice that he was being put on trespass
17 notice. I don't have anything in discovery indicating
18 that he was personally served or otherwise notified, just
19 that the paperwork was completed. That being the case,
20 since they are unable to establish my client had actual
21 notice, to put somebody on trespass, if they are going to
22 trespass without having active notice of that person. And
23 that is the basis of that motion, Your Honor.

24 THE COURT: Solicitor.

25 MR. SCOTT: I think there was a receipt that law

1 enforcement gets whenever they send it certified, the
2 notice. And I don't have my captain here right now but I
3 think he would be able to better describe how they do the
4 trespass notices.

5 THE COURT: When you say a receipt, is there some
6 document that was allegedly signed by the Defendant. Is
7 that what you are eluding, Solicitor.

8 MR. SCOTT: Well, I think how it happens, and I have
9 got, I think it is number 4, but there is a certified mail
10 receipt that it was delivered to Mr. Terrance Tyson and
11 then a copy of the trespass notice, State's 4, I believe.

12 MR. MOBLEY: If so I have not been provided that in
13 discovery, Your Honor. I see the certified notice, no
14 trespassing, with the name of the person, my client's name
15 and it is completed but I don't see, it indicates that
16 this letter was, will be filed and will be sent. I don't
17 have anything indicating my client signed documentation of
18 receipt of trespass notice. If they have it I haven't
19 received it in discovery.

20 THE COURT: Are you suggesting that this receipt
21 would be like a green card when you mail something
22 certified, return receipt. There is a green card that a
23 person signs. Is that what you are saying?

24 MR. MOBLEY: Yes, sir.

25 THE COURT: Okay. And, Mr. Mobley indicates he

1 hasn't seen that.

2 MR. SCOTT: It is part of the discovery package, Your
3 Honor. Let me see if I can show it to him.

4 MR. MOBLEY: And just so we are clear, I am not
5 saying it is intentional. The second issue I have with
6 it, Your Honor, is, it indicates, says sent to. But once
7 again, there is nothing indicating my client actually
8 received a copy of this certified mail. It just says it
9 is put in the mail. That is what this document says, you
10 can look at it but it is nothing indicating being signed
11 by my client indicating that he received this, whatever
12 they sent him.

13 THE COURT: So, if we don't have any sort of matching
14 proof that he got it, even though law enforcement can say
15 we mailed it, certified mail but we don't have any proof
16 that he actually received it. The State's position would
17 be what?

18 MR. SCOTT: Just that is fertile ground, he is
19 obviously open to question law enforcement. To their
20 knowledge did he, was he put on notice. I just want to
21 establish that, sometime before this incident took place,
22 there was a need to get a trespass notice and went to
23 obtain one prior to this.

24 THE COURT: What would prevent the State, Mr. Mobley,
25 from having Mr. Ruff, the alleged victim in this case

1 testify as to any prior difficulties that he may have had
2 with the Defendant, and felt a need to have a trespass
3 notice.

4 MR. MOBLEY: I think we have, with all due respect to
5 the Court, we have a couple of different issues. First,
6 we have an issue that the State stands up in front of the
7 jury and say, my client was on trespass notice. And I
8 would ask that at this point it is very clear they cannot
9 establish that he was, in fact, put on actual trespass
10 notice. So, my first issue, I would ask the Court to rule
11 on is to prohibit the State from making the assertion that
12 my client was on trespass notice at the time of the
13 incident.

14 THE COURT: Unless we got proof that he actually
15 received the trespass notice I don't think the State can
16 get into the fact that, there was a trespass notice.
17 However, unless I hear something that convinces me
18 otherwise I don't see why the victim can't testify as to
19 any sort of prior difficulties with the Defendant and
20 wanted a trespass notice, whether or not, there is not
21 going to be any evidence that there was notice to the
22 Defendant. What would be the problem with the State
23 getting into testimony from the victim.

24 MR. MOBLEY: Well, that would be another motion, Your
25 Honor, regarding my motion to exclude any prior bad acts.

1 It would be difficult for me to give you an exact basis
2 without the State, the alleged victim testifying to the
3 circumstances and the foundation of that alleged prior
4 difficulty, Your Honor.

5 THE COURT: Let's do this, unless the State and you
6 may need to talk with law enforcement, Solicitor, apart
7 from it not being provided in discovery. But check and
8 see if there is, sort of, any documentation indicating
9 that he did sign the green card receipt. And I don't
10 think the State would be able to argue that the Defendant
11 was on trespass notice if you don't have any proof that he
12 was made aware of it. I will reserve ruling on any
13 evidence concerning any sort of prior difficulties between
14 a Defendant and an alleged victim, or is often times
15 treated a little different than prior bad acts in general
16 terms that the Defendant may have been engaged in. So,
17 let me do a little thinking on that and see how we want to
18 handle that. Anything else, Mr. Mobley, concerning
19 pretrial?

20 MR. MOBLEY: I believe that is it, Your Honor.

21 THE COURT: If you think of something else we can
22 certainly deal with it before we swear the jury in. All
23 right. Let's break for lunch and we will start back at
24 1:30.

25 MR. MOBLEY: Thank you, Your Honor.

1 (Whereupon, a lunch break was taken.)

2 (Whereupon, State exhibits 1 through 23 were marked
3 for identification only.)

4 THE COURT: Okay, gentlemen, we are back on the
5 record. The issue concerning any evidence from the State
6 as it relates to any sort of prior bad acts or prior
7 difficulties as concerns the Defendant and the alleged
8 victim, probably have to take some in-camera testimony
9 from Mr. Ruff, I think that is his name. Do you plan on
10 calling him first?

11 MR. SCOTT: Yes, sir.

12 THE COURT: You were?

13 MR. SCOTT: Yes, sir.

14 THE COURT: Well, let's do this, let's go ahead and
15 do our opening and then we can take a break and then take
16 some in-camera testimony so I can do somewhat an analysis
17 of whether or not we are going to allow that in. Mr.
18 Mobley.

19 MR. MOBLEY: Thank you, Your Honor. Also, if it
20 please the Court, I am of the impression that the Court
21 made a preliminary ruling barring the State from taking,
22 asserting my client was on trespass notice at the time of
23 the incident. And based on some conversation I had with
24 the prosecutors during the break, I don't believe that
25 they plan to adhere to that. But they still trying to get

1 in trespass information and I want to get that clear
2 before we start the trial. Because I believe the Court's
3 ruling was, they could not get into that or try to make
4 that allegation assertion. And I understand it, and if I
5 am mistaken I stand corrected. But as I understand it
6 they still planning to go down that road.

7 THE COURT: It was my understanding, at least before
8 we broke for lunch, that the State did not have any proof
9 that Mr. Tyson actually received that trespass notice from
10 the sheriffs office. I may have suggested, I can't
11 remember, the State was going to talk to law enforcement
12 to see what they had. But assuming they don't have any
13 proof that he knew that there was a trespass notice and I
14 didn't feel like it would be proper to have that brought
15 out. With that said, assuming I will allow some evidence
16 from Mr. Ruff concerning prior difficulties, that sort of
17 thing, I don't think the State should be permitted from
18 Mr. Ruff testifying, I feel like I needed some sort of
19 trespass protection because of these difficulties. Again,
20 assuming I allow those prior bad acts, prior difficulties
21 in. But insofar as the State saying, he is on trespass
22 notice. Unless there is proof that he got something then
23 my ruling was that they cannot bring that out.

24 MR. MOBLEY: Thank you, Your Honor.

25 MR. SCOTT: Judge, the physical document that Mr.

1 Ruff obtained from the sheriffs department, I am going to
2 introduce that. There is no way I can say, climb in his
3 head and say he knew it or didn't know it, I am unable to
4 do that. In fact, it is showing that he refused service,
5 they attempted to mail it to him and he, I am not signing
6 this, kind of deal. So I cannot say that he had notice in
7 his mind but I will say that Ruff did take efforts to get
8 that.

9 THE COURT: And, again, assuming I allow evidence
10 concerning those prior difficulties, as far as whatever
11 actions Mr. Ruff took, I think certainly would be brought
12 out but I wanted to specifically, there is no proof that
13 the Defendant actually received that or was put on notice
14 of the trespass process. Okay. Anything else?

15 MR. MOBLEY: In that scope, Your Honor, there are two
16 different ways that the State would try to develop that.
17 One is the witness' testimony to the effect of he felt the
18 need to take action to put my client on trespass. And the
19 second would be the actual document itself, that was not
20 served on my client. To the extent that the Court allows
21 the Defendant to testify regarding his, him feeling the
22 need to take some effort to put my client on trespass, I
23 would object and move to exclude the actual document that
24 he signed and completed from the trial of this case. It
25 was not served on my client, it has no probative value.

1 The Court must allow balance, the probative value weighed
2 against the substantial risk of unfair prejudice, not just
3 prejudice, Judge Anderson has called me down on this same
4 prejudice. But the Rule is, the substantial risk of
5 unfair prejudice versus the value. And I do believe that
6 the document itself that has my client's name all over it,
7 without being served on my client there is the substantial
8 risk of unfair prejudice to my client. And I would ask
9 the Court, if the Court is inclined to allow the
10 testimony, to limit it to, exclude the actual document
11 that has my client's name on it in this case, Your Honor.

12 THE COURT: Well, let's, and I tend to agree with you
13 but let me wait until I hear from Mr. Ruff, exactly what
14 we are going to allow in concerning prior difficulties.
15 And I do tend to agree with you as far as the document in
16 and of itself, although I have not seen it I will probably
17 need to take a look at it. We will deal with that.

18 MR. MOBLEY: Thank you, Your Honor.

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

20 (Whereupon, the jury came into open court at
21 approximately 1:55 p.m.)

22 THE COURT: Let the record reflect the jury is back
23 in. Good afternoon, ladies and gentlemen, hope you had a
24 good break. We have got a couple of housekeeping matters
25 that we need to tend to before we actually start the trial

1 of the case. Madam Clerk, will you swear the trial jury
2 in, please.

3 (WHEREUPON, the jury was sworn at approximately 1:56
4 p.m.)

5 THE COURT: The second housekeeping matters, ladies
6 and gentlemen, that we need to tend to. I need to appoint
7 a foreperson of this jury. Now, if it is a male it is a
8 foreman, if it is a female it is a forelady. And let me
9 emphasize that the vote, when you receive this case to
10 begin your deliberations in order to reach a verdict, the
11 vote of the foreperson carries no greater weight than the
12 vote of the other eleven. But I need someone to serve or
13 to wear several hats during this trial. One, I need a
14 spokesperson, someone to serve as go between, between the
15 jury and the Court. I also need someone to make sure that
16 all of my instructions are being followed even though that
17 is kind of everyone's responsibility. And thirdly, when I
18 do tell you to begin your deliberations in order to reach
19 a verdict in this case, I need someone to start that
20 process and to oversee the process in order for you to
21 reach a verdict. Now, I am confident that all 14 of you
22 would make excellent forepersons but I can only have one
23 foreperson of the jury. Ms. Wessinger, I am appointing
24 you as forelady of this jury. Now, you come back out
25 after the next break, Madam Forelady, you will always

1 maintain and actually that seat is empty. You will always
2 maintain that seat on the front end there. My two
3 alternates, you will always maintain these two end seats
4 on the second row. Everybody else can sit where ever you
5 like. Now, it has been my experience, jurors like to sit
6 in the same seat. That is up to you, you don't have to.
7 It is kind of like in church, you have got your own seat
8 and your own pew and that is where you are going to sit
9 every Sunday. That is going to be left up to you. I am
10 going to give you for the next couple of minutes some
11 preliminary instructions, things to think about as we
12 begin this case. First of all it is crucial that you
13 remain attentive throughout the whole trial of this case,
14 and one primary reason is you are not permitted to take
15 any notes. So you need to have a good memory of what is
16 brought out in this trial when you do go back to the jury
17 room to begin your deliberations. So be very attentive,
18 be very clearheaded. When you go home tonight, always
19 make sure you get some good rest. Understand that we have
20 different roles to play in this trial. I, of course,
21 being the Judge, I preside over the trial of this case and
22 I always determine what the law is applicable to this
23 case. I am the sole Judge of the law. But you, the jury,
24 are the sole judge of the facts. You determine the facts
25 in this case. So we have different roles to play and I

1 will explain that more in detail at the conclusion of this
2 case. As I told you before you broke for lunch about no
3 discussions among yourself until I tell you to. No
4 discussion among people you come into contact with and
5 don't do any independent research into this case. The
6 primary reason for that is, is that your verdict has to be
7 based one-hundred percent on what is brought out in this
8 courtroom. So if you go out and do some independent
9 research, even though you may be receiving some incorrect
10 information then you are going to have information that
11 is not brought out in this courtroom that the twelve of
12 you or the fourteen of you have heard. And even though,
13 again, it may be incorrect information it is not
14 information brought out in this courtroom so that is why
15 we prohibit jurors from doing that kind of activity,
16 getting on the internet, social media and the like trying
17 to research this case. Understand that the Defendant, Mr.
18 Tyson, has exercised his constitutional right and has
19 plead not guilty to these two charges. Therefore that
20 plea of not guilty has put the burden on the State to
21 prove these two charges beyond a reasonable doubt
22 standard. That is the highest of standard of proof or
23 burden of proof that we have in the law. And it is up to
24 the State to prove to you, the jury, beyond a reasonable
25 doubt the allegations behind both of these charges.

1 Please recognize this, that once Mr. Tyson, the time he
2 was charged with these offenses, he was automatically
3 presumed innocent and that presumption of innocence has
4 carried with him all the way up until today and throughout
5 this entire proceeding. So please recognize that Mr.
6 Tyson has a constitutional right for this body to declare
7 him or presume him to be innocent of these charges. Now,
8 there may be times throughout this trial that I will have
9 to send you to your jury room because I will have one of
10 the lawyers may say, Judge, I have an objection or I have
11 a matter of law and we will try to resolve that particular
12 issue by having what we call a sidebar conference.
13 Generally I will just go down here in the corner with the
14 lawyers to discuss that point and we can resolve it in
15 that fashion, good, I won't have to send you out. But if
16 I can't then I will have to send you out and the primary
17 reason for that is, I might have to discuss some of the
18 facts with the lawyers and I don't want to discuss those
19 facts in your presence. Because again, you are the sole
20 judge of the facts in this case. It is of equal
21 importance along with everything I told you to keep an
22 open mind, don't make any decisions in this case until all
23 of the evidence has come in, the lawyers have made their
24 closing arguments to you and I have instructed you the law
25 applicable to this case. Does the State have any

1 objections to the Court's preliminary charge?

2 MR. SCOTT: No, Your Honor.

3 THE COURT: The Defense?

4 MR. MOBLEY: No, Your Honor.

5 THE COURT: Thank you very much. Is the State ready
6 to make their opening?

7 MR. DANIEL: Yes, Your Honor.

8 THE COURT: You may proceed.

9 MR. DANIEL: May it please the Court.

10 THE COURT: Certainly.

11 MR. DANIEL: Good afternoon ladies and gentlemen.

12 Thank you first and foremost for being here, answering the
13 call and serving on this jury. We know jury duty is
14 burdensome, it's time consuming and that is not lost upon.
15 So we don't want to waste your time, so I am going to be
16 as brief and concise as I can be with my opening remarks.
17 But at the end of the day, Mr. Terrance Tyson, who is
18 standing before you on trial, has a right to his day in
19 court. And a jury trial is the bedrock of our criminal
20 justice system. And really your job, simply put, we're
21 asking you to answer one question at the conclusion of
22 this case: Are you firmly convinced of Mr. Tyson's guilt.
23 Just one question. And if all of you agree, yes, we are
24 firmly convinced, the verdict is guilty. If all of you
25 say no, we're not firmly convinced, not guilty. It has to

1 be unanimous either way. Now what I submit to you, is
2 there ample amount of evidence to find him guilty. The
3 verdict is kind of like your evidence and the evidence
4 helps you see the truth. It's kind of like with your GPS,
5 your guidance system, and you have one destination that
6 you have got to get to. And we want a verdict from you
7 guys when you go back there to deliberate, we want a
8 verdict that's consistent with the evidence, that's
9 consistent with the truth, that speaks the truth because
10 this is your community, because you have to be a resident
11 of Newberry County to serve on this jury. So only you can
12 determine if he's guilty or not. Not me, it is not
13 Investigator Robert Dennis, it is not Deputy Solicitor
14 Dale Scott and not His Honor. That's your role. You're
15 the fact finder. So briefly, I'll go over this case. The
16 State of South Carolina vs. Terrance Tyson. And I
17 represent the State, prosecution, district attorney, and
18 we are going to present our case to you. This is going to
19 be a relatively short trial. This is not something I
20 anticipate us being here all week. We have roughly four
21 to five witnesses, give or take, that you'll hear from.
22 And everything that you'll have to decide in this case is
23 going to come from that witness box in the form of
24 photographs and 911 calls and of course the actual live
25 in-person testimony. June 19th of 2015 is our date in

1 question. It's a date that our victim, Mr. Tyrone Ruff
2 will never forget. The old adage, old saying, that every
3 person's home is their castle, every, a man's home is his
4 castle, right. We've all heard that at some form or
5 fashion. Simply put, your home is your sanctuary, your
6 place of refuge. And no matter what's going in the
7 outside world, you go to your home, and you feel protected
8 and know that the law will protect you. The law protects
9 these private property rights. Mr. Ruff had those rights
10 violated. He had those rights violated by one man and
11 that's Mr. Tyson, who didn't show any respect for his
12 home, the sanctity of his home. And on the night of June
13 19th 2015, it's about nineteen months ago now, he suffered
14 a horrific injury. An injury to the sanctity of his home
15 and also a physical injury. A very serious injury to his
16 right ear. His right ear was partially bitten off. A
17 large portion of his right ear is gone. Horrific injury,
18 very savage injury caused by Mr. Tyson. Now this didn't
19 happen in a vacuum, so kinda give you a quick background.
20 Mr. Ruff is our victim. In June of 2015, Mr. Ruff, he
21 lives off Highway 34 as you're going out towards Fairfield
22 County, not too far from the City of Newberry. He's
23 living there, still lives there today. And periodically
24 Mr. Tyson's estranged wife, Lisa Tyson, she would stay
25 with Mr. Ruff. They had a relationship. We're not here

1 to talk about infidelity necessarily or anything like
2 that. But I have to talk about it because that explains
3 why Mr. Tyson showed up at his house. And this is Mr.
4 Ruff's house. And I submit to you he's there to exact
5 some sort of revenge. Shouldn't have been there, had
6 prior run-ins with Mr. Ruff. Mr. Ruff felt threatened
7 enough to where he barred Mr. Tyson from the property.
8 And you'll hear about efforts to bar him from the
9 property. But on that night, Mr. Tyson's looking for his
10 wife, Lisa. Shows up at Mr. Ruff's house, enters the
11 house without permission and seriously assaults him. A
12 very brutal assault and left Mr. Ruff missing a large
13 portion of his right ear, other bite marks, other injuries
14 and we'll show you some photos and we'll talk about it.
15 Mr. Ruff, he's a man who, you know, he has a respiratory
16 condition. He is in no condition to defend himself from
17 such an attack and he got, he got pretty beaten up,
18 battered. Mr. Tyson kind of took the law into own, in his
19 own hands when he looked for his wife, kind of vigilante
20 justice he was looking for. And I guess he got it to a
21 certain extent. That's not, we don't live in a society
22 where vigilante justice prevails. We live in a civil
23 society and it was very uncivilized what transpired that
24 night. But Lisa Tyson was there, she was at Mr. Ruff's
25 house. And you'll hear on the 911 call, she calls 911 on

1 her husband for attacking her friend, Mr. Ruff, who she
2 did have a relationship with. But that's essentially the
3 testimony. You'll hear, you'll hear from one of the
4 responding officers, Officer Josh Wilbanks. And then
5 you'll hear from Investigator Robert Dennis and you'll
6 hear, of course, from our victim, first and foremost. And
7 you'll hear from Lisa Tyson. And the 911 call, that's in
8 real time, so you'll kind of have a feel for what played
9 out that night. And this is serious business obviously
10 because it's someone's home. And in this particular
11 scenario, Mr. Ruff would've been justified in using deadly
12 force because this was his home, and he's defending
13 himself against an intruder. And you'll hear about that
14 as well. And I'm not encouraging anyone to take the law
15 into their own hands and use self defense because that,
16 it's a Defense. But in this particular case, is all I'm
17 saying, Mr. Ruff would have been justified in using deadly
18 force to prevent this attack because we're dealing with
19 the sanctity of somebody's home. So lastly, as I kinda
20 alluded to, all we're asking for is you to render a
21 verdict that's consistent with the evidence. And the
22 evidence is going to show you, and it's gonna take you
23 back to that night. And all we ask for you is to go back
24 there and listen to each other and reach a fair, just and
25 true verdict that speak volumes about what happened that

1 night. And I submit to you that the verdict that does
2 that, that speaks the truth, the truth as you know it, is
3 going to be a guilty verdict. Thank you.

4 THE COURT: Thank you Solicitor. Mr. Mobley, you
5 ready?

6 MR. MOBLEY: Thank you Your Honor. May it please the
7 Court?

8 THE COURT: Certainly.

9 MR. MOBLEY: Good afternoon. I am John Mobley. I am
10 the attorney for my client, Mr. Terrance Tyson. First
11 thing I want to say to you, is thank you for taking time
12 away from your jobs and your family to be here today.
13 This is not just another case for my client. This is the
14 biggest case in the world for him. And I will say
15 emphatically, for the crimes for which he is accused, he's
16 absolutely one-hundred percent not guilty. Now, before I
17 even go into opening statement in more detail, one of the
18 most glaring things that I did not hear from Mr. Daniel's
19 opening statement, unless of course, my hearing is not so
20 good anymore in my old age, I don't think he told you that
21 the so-called victim pulled a gun on my client that night
22 and tried to shoot him. If he said that, I missed it.
23 But I'm pretty sure when he stood up here in front of you,
24 talking about evidence, and talking about the truth, and
25 giving a fair verdict, and the man's home is his castle,

1 he forgot to mention that part to you. Pretty glaring
2 omission, wouldn't you say? He didn't mention to you that
3 the alleged victim was a boyfriend of my client's wife.
4 And yes, my client and his wife are having marital
5 difficulties. Now, what do you think about marriage
6 nowadays. Some people take a position on marriage that,
7 hey, when things get tough and it's not working out pack
8 your bags and go. Everyone doesn't take that position.
9 Some people still believe that, hey, your marriage, your
10 marriage is gonna have tough times. But sometimes your
11 wife or your husband is the last person you want to be
12 with sometimes. Sometimes your wife and your husband are
13 gonna do things to make you upset but you still try to
14 work it out. Some people still believe that. Terrance
15 Tyson believes that. The only thing he's guilty of is
16 going to his wife's boyfriend's house and try to get his
17 wife to come home. That is the short version. I'm going
18 to give you the long version, but the short version is
19 this. When this happened, Terrance Tyson, my client, and
20 his wife, Lisa Tyson, and honestly, I can't tell you if
21 they are still together, back together, separated, who
22 knows. I don't think they know quite frankly, okay, but
23 she lied to him about where she was. She went to her
24 boyfriend's house. He figured that out. He went to her
25 boyfriend's house to get his wife. The boyfriend, they

1 want to call him the victim. But the boyfriend, who had
2 my client's wife at his house saw my client, pulled the
3 gun on him and pulled the trigger. He tried to shoot and
4 kill my client. And just so we're clear, something else
5 Mr. Daniel didn't discuss with you when he's talking to
6 you about truth and fairness, and my client didn't have
7 any weapons when he went to his house. He went to get his
8 wife, and the boyfriend pulled a gun on him and pulled the
9 trigger. He tried to shoot my client. He tried to shoot
10 him dead and kill him, okay. Let him tell you otherwise.
11 I challenge him to try to tell you otherwise. That is
12 what happened. Fortunately for my client, fortunately for
13 everyone, the gun misfired and jammed up. And at that
14 point you can imagine what my client did, he did what
15 anybody would do if somebody's trying to shoot you, he
16 fought. He wasn't gonna stand there. Conceivably, Mr.
17 Daniel would have you believe that in the State of South
18 Carolina, if a person pulls a gun on you and tries to
19 shoot you, you got to stand there and give him another
20 shot. Well, my client wasn't gonna do that. Now, I'm
21 going to give you the long version. My client, Terrance
22 Tyson, and his wife, estranged wife, they are all
23 estranged it appears, during their marriage, have been
24 together for about 20 years. And they have had some very,
25 very, very difficult times throughout their marriage.

1 Most of us do. Their's are pretty bad. Bad financial
2 issues. A lot of marriages have that. I think at one
3 point they almost lost their home in foreclosure. They
4 have family issues. You know, he's black, she is white.
5 In certain words, her family didn't like that. In certain
6 words, his family didn't like her. His family wants him
7 to leave, her family wants her to leave, you can imagine
8 how that would cause stress in the marriage, In-laws.
9 Black or white. In-laws are In-laws. They had a lot of
10 bad arguments, mean arguments and fights. She would say
11 mean things to him, he would say mean things to her.
12 Things that people do in their marriage, and sometimes
13 quite frankly, you know, you have to be married to
14 understand things like that. And sometimes the person
15 that you're supposed to love the most, the person you're
16 supposed to spend your life with, is the person that gets
17 on your nerves the most. The person you want to hate,
18 hurt the most rather and that happens a lot. One issue
19 they had was the wife leaving and reconnecting with her
20 old boyfriend. Matter of fact, historically, in fact
21 before they got married, I believe that my client thought
22 that she dated the boyfriend and left him to be with my
23 client which she later married. And they, they obviously
24 had some good times. They had three, three lovely
25 children. But on this particular time they were going

1 through some marital turmoil. His wife moved out and for
2 about a year and a half, she's kinda going back and forth
3 between the boyfriend and my client. Unfortunately, and
4 I'm very, very mindful about how I make my next statement.
5 Some people, through relationships, kinda like to stir
6 things up between two different people. And my client's
7 wife would do that. Go to my client, and said she wanted
8 to be with him, but the other guy wouldn't let her go.
9 She would go to the boyfriend and said she wanted to be
10 with him, but oh my God, he's so scary, he scares me.
11 He's trying to make me come back and people, they do that
12 for whatever reason. Sometimes they do it for kicks.
13 Sometimes they do it for attention. Sometimes they don't
14 know what they want to do day to day, but there are people
15 that do that in relationships and my client's wife did
16 that for about a year and a half. But as I indicated to
17 you, Terrance believed in marriage, he was gonna try to
18 work it out. And there's an old song that if you leave me
19 one-hundred times, a one-hundred times I'll take you back.
20 For better for worse, he was gonna try to make his
21 marriage work. Now, on the day this happened, she was
22 actually back with my client. This was one of the periods
23 where they are together. It was a good day. It was their
24 daughter's birthday and they were celebrating. For all
25 accounts or by all accounts, it's a very nice family day.

1 The family's together. He was putting the work in. Hey,
2 maybe things are gonna work out after all. His wife tells
3 him she's going to get some food. And after a couple of
4 hours and her not responding to telephone calls, and not
5 responding to texts, he's got a pretty good idea at this
6 point she's not still getting food. And he's got a pretty
7 good idea where she is. Then he goes to her boyfriend's
8 house and he calls her name because he knows she's there.
9 Doesn't call the boyfriend's name. He calls his wife's
10 name. Doesn't have a weapon, doesn't have a knife,
11 doesn't have a gun. He goes there and calls his wife's
12 name. Now, the boyfriend tends to drink a little bit. A
13 little bit, a lot, I guess it's all relative depending on
14 who's doing the drinking. You combine that with a little
15 jealousy, and the head games that the wife tells the
16 boyfriend, he's gonna get you. What does he do? He goes
17 and gets his gun and he tells my client yeah, you come on
18 in, I got something for you. He has the gun behind his
19 back. Yeah, come on in. At which point he pulls the gun
20 on my client, and pulls the trigger, and once again,
21 that's when my client did what most people would do, he
22 tried to make sure that he wouldn't be shot or give him
23 another chance. Now, you're gonna hear about the fighting
24 that ensued and what's gonna happen, is you gonna see some
25 very big graphic photos because yes, my client did a Mike

1 Tyson and bit the boyfriend's ear, okay. Now, I will tell
2 you right now that the photos are very graphic. You're
3 gonna see this bloody ear, blood all over the boyfriend's
4 face, but what you're not gonna see, there will be no
5 evidence of, of any other injuries. He didn't, he didn't
6 have a busted up lip, no other broken bones, no black eye,
7 no knocked out teeth, no other injuries. Stand up Mr.
8 Tyson. My client's not a small man. He's a very strong
9 man. But this big strong person, man, biting the ear and
10 we'll talk about how that came to happen, he didn't
11 otherwise try to assault the boyfriend. What you're gonna
12 hear from the testimony is when he went for the boyfriend
13 who pulled the gun on him, the boyfriend is on the floor
14 trying to get the gun. And my client was on his back
15 trying to make sure he didn't get the gun. And while he
16 is on his back and opened his arms, he bit his ear. And
17 yes, once again, it's very, very bloody. But hey, he
18 didn't try to punch him, he didn't try to kick him, he
19 didn't try to hurt him and put him in the hospital in any
20 other way, he didn't try to assault him. And once that
21 happened, and he knows he has got the gun, my client left.
22 That's what happened. My client is not guilty of the
23 crimes which he is accused. You know, the word verdict is
24 from the Latin word veredictum, which means to speak the
25 truth and I'm asking you to let your verdict speak the

1 truth in this case and find my client not guilty. Thank
2 you very much for your attention in this case.

3 THE COURT: Thank you Mr. Mobley. Ladies and
4 gentlemen, there's a matter of law that I need to take up
5 with the lawyers. So, and I failed to mention to you
6 prior to the opening statements by the lawyers, the
7 opening statements are not evidence in this case, it's
8 just each side's position as far as what they believe the
9 evidence will show. But they are not to be considered by
10 you for any evidentiary purpose whatsoever. But if you
11 will go back to the jury room, again, remind you of no
12 discussion about this case and we'll get you back out in
13 just a little bit. Thank you very much.

14 (Whereupon, the jury was excused from open court.)

15 THE COURT: Okay. Let's take some in-camera
16 testimony from Mr. Ruff as it relates specifically to any
17 prior difficulties or prior acts with the Defendant.

18 MR. SCOTT: Yes, sir.

19 THE COURT: So Solicitor, if you'd just kinda cover
20 the current situation or the situation as it relates to
21 the charge, and then any prior situations, and so I can
22 determine the existence of any similarities or lack
23 thereof.

24 MR. SCOTT: Okay.

25 Kenneth Tyrone RUFF, being

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 By Mr. Scott:

4 Q Mr. Ruff, on June 19, 2015, is the incident date of
5 the allegations that arise here in court today. You
6 remember that day?

7 A Yes, I do.

8 Q On that date, I guess you, you knew who Mr. Tyson was
9 before?

10 A No, not until that day.

11 Q Okay.

12 A Not until that night.

13 Q You didn't know who he was until that night?

14 A No, I didn't.

15 Q Alright. We're here to talk about your trespass
16 notice. How did you have a trespass notice against him if
17 you didn't know him?

18 A Oh, well, in that case, yes. In that case, yes.

19 Q Wait a minute. Listen to my questions, okay?

20 A Alright.

21 Q If you didn't know him that day, until that day, why
22 would you of had a trespass notice against him?

23 A Well, that was incorrect. I did know him because of
24 the trespass I did put on him.

25 Q Okay. Are you nervous?

1 A Kind of.

2 Q This is your shot, I want you to listen to my
3 questions and answer to the best of your knowledge. How
4 did you know him before that day?

5 A I know, I knew he was her husband.

6 Q Okay. Had you met him before?

7 A No.

8 Q Had he ever been to your property?

9 A Yes.

10 Q You just said you never met him before, but he's been
11 to your property before. That's make no sense.

12 A I mean, I didn't know him until that day he came to
13 my property.

14 Q When had he been to your property before that day?

15 A It was prior, I don't know the specific time.

16 Q Okay.

17 A Whenever the --

18 Q Go ahead.

19 A -- trespassing was put in order. It was like the
20 week before that when he came to my property.

21 Q You see this, State's number 4? Do you know what
22 this is?

23 A Yes.

24 Q What is it?

25 A That's the trespass.

1 Q Okay. When did you get the trespass notice?

2 A Well, I didn't get it. I took it out at the
3 Sheriff's Office.

4 Q When was that?

5 A And they take it out. Like again, I say I don't know
6 the exact time.

7 Q This is your handwriting?

8 A No.

9 Q That's not your handwriting?

10 A No, that's not.

11 Q Alright, tell us about going to the Sheriff's
12 Department and asking for a no trespass notice.

13 A Well, I went down there, and asked them to take a no,
14 actually, I think Lisa done the trespassing. We was
15 together and went down to the Sheriff's Office.

16 Q Okay. Tell us about that.

17 A And we filled out a trespassing notice.

18 Q Alright. Do you see a date on the trespass notice in
19 State's 4?

20 A March the 27th.

21 Q March 27th, what year?

22 A '15.

23 Q Okay. Do you remember going to the Sheriff's
24 Department?

25 A Yes.

1 Q Okay. You said you were with Lisa Tyson?

2 A Yes.

3 Q Why did you go March 27th of 2015 to ask them for a
4 trespass notice against Mr. Tyson?

5 A Because he had--

6 Q Speak up. What?

7 A Prior he was in my property.

8 Q Okay. Tell us about that.

9 A He came to my property. She went to the door and
10 talked to him. She came back inside. He left.

11 Q And, okay.

12 A Then, I was like, you know, that's not kosher. I
13 don't like that. That's not kosher with me, not by him
14 coming to my home. So then I put a no trespassing in
15 place.

16 Q Okay. Based on that incident, why did you not want
17 him coming back to your house?

18 A I don't need him to come to my house. I'm, you know,
19 the solidity of what he was probably gone try to do or
20 whatever.

21 Q Did he threaten you?

22 A No, not me. Not at that moment.

23 Q Alright. Help us understand because when the jury's
24 out here and you're testifying, they need to understand
25 why him coming to the door and talking with Lisa--

1 A -- apparently, that's when he came to talk to me.

2 Q Okay. But why? What is it about that incident that
3 inspired you to drive to the Sheriff's Office and ask for
4 a no trespass notice?

5 A I mean, because, I didn't want that, you know, I
6 didn't want that to happen again.

7 Q What?

8 A For him coming to my house looking for her.

9 Q Okay. Was she not supposed to be at your house?

10 A Yeah. She was welcome to my house.

11 Q Alright. One more time, why, what, what was it about
12 him coming to your house and speaking with Lisa that
13 offended you?

14 MR. MOBLEY: I object. This witness has answered
15 this question on multiple occasions. I think it's fairly
16 clear that the Prosecutor does not like his answer and he
17 is asking the same question over and over again. He's
18 answered it pretty clearly.

19 THE COURT: Well, this is outside the jury's
20 presence. I'll allow it.

21 MR. SCOTT: Alright.

22 THE COURT: But I have heard what he's testified to
23 up to this point.

24 MR. MOBLEY: Thank you very much, Your Honor.

25 Q What was it about him coming to your house that day

1 that, that motivated you to go to the Sheriff's Department
2 to get the trespass notice?

3 A What was it that motivated me --

4 Q Alright.

5 A -- to go.

6 Q You got to speak up too. She got to hear it.

7 A What was it that motivated me to go to get a
8 trespassing?

9 Q Yeah. I don't understand it. Apparently, the
10 Defense already does.

11 A He was on my property.

12 Q Why did that offend you?

13 A And plus my landlord also, you know, he didn't want
14 him on my property.

15 Q Why?

16 A Because he, he thought it would, you know, stir up.

17 Q Okay. Did he threaten you? Did he say anything
18 while he was there?

19 A Not to me. I didn't go outside. She went out and
20 talked to him. I don't know what was said.

21 Q Okay. Did you feel threatened or were you scared of
22 him?

23 A In a sense. No, I'm not scared of anybody.

24 Q Okay. But you felt threatened?

25 A In a sense.

1 Q Explain that.

2 A You know, like he would probably come back or
3 something, you know.

4 Q Alright. What was your understanding of their
5 marital situation at the time?

6 MR. MOBLEY: Objection. That's really not relevant
7 to the nature of this witness' testimony. The whole
8 issue, Your Honor, I think is whether or not the, the
9 purpose of this in-camera hearing as I understand it is
10 for the witness to take, to give testimony so the Court
11 can determine whether or not there's any evidence of prior
12 bad act that might be admissible or, or the extent of the
13 trespass notification. But the witness has indicated
14 there really is no prior bad act. He said over and over,
15 that this prior occasion when my client came to his house
16 and talked to his wife, he didn't have any conversations
17 with my client. He just didn't like him coming to his
18 house and he's got a right to say who he wants to be at
19 his house, and the guy left.

20 THE COURT: The relevancy of what he understood the
21 status of the marital relationship between the Defendant
22 and his wife, how does that factor into whether or not
23 there exist any, any sort of bad acts?

24 MR. SCOTT: I don't understand why, his version of
25 the story, why he would get a trespass notice.

1 THE COURT: I understand, and you've asked that, and
2 he's given that answer. So the objection is for --

3 MR. MOBLEY: Relevancy.

4 THE COURT: -- whether or not you should be allowed
5 to ask him his understanding as to the marital status.

6 MR. SCOTT: The question is, and I'm trying to figure
7 out his thinking. If he understands that they are still
8 legally married and together, then perhaps he's putting
9 him on trespass notice because he knows he shouldn't be
10 with Lisa or at the house.

11 MR. MOBLEY: Well, Your Honor, with all respect to
12 Mr. Scott, I mean, that's not the purpose of this hearing.
13 The purpose of the hearing is to take the testimony. He
14 can try to make whatever arguments he wants to make later,
15 but it's his witness, you know, we've had the testimony of
16 that issue.

17 THE COURT: Alright. For purposes of what we're
18 doing right now, I'll allow you to ask it. I will put the
19 perimeters around what the State's gonna be able to elicit
20 from him and what, what he can't. So, for our purposes
21 right now, go ahead and ask him and we'll see what, see
22 what he says.

23 Q Alright. What was your understanding of their
24 marital, I guess, situation at that time?

25 A She was trying to get away from him. He was abusive.

1 Q Okay. So, they were separated, was your
2 understanding?

3 A Yeah.

4 Q Okay. Just one more time, why did you not want him
5 at your house?

6 MR. MOBLEY: Judge, asked and answered like --

7 THE COURT: That has been asked several times,
8 Solicitor.

9 MR. SCOTT: Okay.

10 THE COURT: I can understand your, your confusion but
11 it has been asked, he has testified.

12 MR. SCOTT: Okay. Well, I don't think I can do
13 anything else with this witness right now. So, anything
14 else that Mr. Mobley has for you.

15 THE COURT: Alright. Mr. Mobley any examination of
16 this witness on the limited purpose of this in-camera
17 testimony?

18 MR. MOBLEY: Thank you. Just briefly, Your Honor.

19 CROSS-EXAMINATION

20 By Mr. Mobley:

21 Q Good afternoon, Mr. Ruff. I wanna ask you a question
22 about your testimony okay, sir. And I'm not trying to
23 trip you up, but I just want to ask you about the answers
24 you gave in response to his questions, okay?

25 A Sure.

1 Q Okay. When Mr. Scott was asking you about the
2 trespass notice, you started saying something to the
3 effect of, actually, it wasn't you, but my client's wife
4 that tried to initiate the whole trespass process. Is
5 that correct?

6 A Yes.

7 Q Okay. So, you didn't initiate the trespass process,
8 my client's wife did?

9 A Yes, cause I thought that was, would be a threat to
10 me down the road.

11 Q Okay. But you didn't, you didn't feel the need, as
12 you indicated, hey, while you may not of wanted him coming
13 over there to your house, you weren't afraid of him?

14 A No.

15 Q Okay and you didn't individually feel the need to put
16 him on trespass notice, that was something that his wife,
17 Lisa, wanted to do and you went down there with her to do
18 it?

19 A Yes.

20 Q Okay. So, you, okay so. Thank you, Your Honor,
21 that's, that's all I have.

22 THE COURT: Okay. Solicitor, anything in follow-up?

23 REDIRECT EXAMINATION

24 By Mr. Scott:

25 Q So, was she living with you at the time?

1 A With me?

2 Q Yeah.

3 A No.

4 Q Okay. You were the homeowner so you would've had to
5 go with her to get the trespass notice, right?

6 A Correct. Correct.

7 Q Cause you're the homeowner?

8 A Yes.

9 Q Okay. Did you verbally say anything to Mr. Tyson
10 about him not being allowed on your property?

11 A No.

12 Q Okay. Let me show you, you ever seen that before?

13 A Yes. I did.

14 Q Okay. How did you come to see that?

15 A It was forwarded to my phone.

16 Q From who?

17 A I, I guess Lisa.

18 Q Okay. What effect did this have on you?

19 A That's a really benign statement. It does affect me.

20 Q Okay.

21 A To know that someone would say things like that.

22 Q Okay. When did you see that? Was it before the
23 incident where he came in your house?

24 A Yes.

25 Q Okay. Okay. So, let me ask you again, had he

1 threatened you before?

2 A Yes, multiple times.

3 Q And did you receive threats from Mr. Tyson?

4 A I have.

5 Q Okay, and did that have any effect on you getting
6 your trespass notice?

7 A Yes, it did.

8 Q Okay. What were the threats? What was he
9 threatening to do to you?

10 A Kill me.

11 Q Okay. Why didn't you say that earlier when I was
12 asking you, I was having so much trouble asking you these
13 questions?

14 A Sorry, I--

15 Q Are you nervous?

16 A Just a tad.

17 Q Okay. So, you felt threatened by him?

18 A Yes, I did.

19 Q Okay.

20 THE COURT: Alright, let me make sure I understand.

21 Alright, when the Defendant comes to the property, he
22 doesn't even talk with Mr. Ruff, there's no threats made
23 to Mr. Ruff, he doesn't feel afraid of Mr., of the
24 Defendant. And then, all of a sudden, we've got some
25 prior threats prior to this time? You are going to have

1 to hone in on that, Solicitor. I need to have more
2 specifics as far as now I'm hearing, as you have just
3 heard, that there were some threats. When? How? Where?

4 Q Alright, so, if this incident is June 19th of 2015,
5 can you put a date, how much earlier than that June date
6 did you initially get the threats from Mr. Tyson?

7 A I'm not good with time. How soon did I get the
8 threats from June?

9 Q Yeah. When was the first time he threatened you?

10 A It was like the next episode he came to my house, or
11 she would even tell me things he says.

12 Q Alright. Alright. This is the summer of 2015, when
13 was the first time he threatened you? How much earlier in
14 time was it? Was it the month before, the year before?

15 A I would go with the month.

16 Q What?

17 A A month.

18 Q A month before?

19 A Yeah.

20 Q So, approximately May of 2015?

21 A Yes.

22 Q Is that the time when he came to your house?

23 MR. MOBLEY: Your Honor, I object in leading this
24 witness. I mean, he is leading this witness.

25 THE COURT: Let's do this, and I'm certainly not

1 going to suggest by my questioning him is any way my
2 commentary on your ability to conduct the direct
3 examination of a witness of yours. Alright, prior to him
4 coming to the house, Mr. Ruff, did he ever threaten you
5 directly?

6 MR. RUFF: No.

7 THE COURT: Okay. I am going to find that there is
8 no evidence of any prior bad acts on, on the part of the
9 Defendant. I find that there's no prior difficulties
10 between, between the victim and the Defendant. The one
11 instance of coming on the property about a week prior to
12 Mr. Ruff and the wife going to the Sheriff's Office, there
13 was no contact between Mr. Ruff and the Defendant. No
14 threats, he was not afraid and the fact that this trespass
15 notice was not even in his handwriting, that the wife
16 initiated that, I'm not going to allow any evidence of any
17 trespass notice to come in. You have a, the actual
18 trespass notice marked for identification, so the record
19 is protected. I think by way of this in-camera testimony,
20 the State would be protected as well as far as this
21 proffered evidence. But I'm not going to allow anything
22 related to this trespass notice to come into evidence.
23 Anything further on this point, Solicitor?

24 MR. SCOTT: No sir.

25 THE COURT: Okay. Alright. You can go ahead and step

1 down, sir. Let's take a five minute break.

2 (Whereupon, a short break was taken.)

3 THE COURT: Are we ready to bring the jury out?

4 MR. SCOTT: Yes, sir.

5 MR. MOBLEY: Yes, Your Honor.

6 THE COURT: Madam Bailiff.

7 (Whereupon, the jury came into open court at
8 approximately 3:00 p.m.)

9 THE COURT: Let the record reflect that the jury is
10 back in. Solicitor, are you ready to call your first
11 witness?

12 MR. SCOTT: I am, Your Honor. Kenneth Ruff.

13 KENNETH RUFF, being
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Scott:

17 Q Mr. Ruff, where do you live?

18 A [REDACTED] Highway 34.

19 Q Is that in Newberry County?

20 A Newberry.

21 Q How long have you lived there?

22 A Four years.

23 Q So June 19th of 2015 you would have had that same
24 address?

25 A That's correct.

1 Q Who lived there with you at that time, was it just
2 you or anybody else?

3 A Just me.

4 Q We heard the opening arguments but who is Lisa Tyson?

5 A She is sitting there.

6 Q Woman with the red dress on?

7 A That's correct.

8 Q How did you know her?

9 A I was a longtime friend.

10 Q Girlfriend?

11 A Not exactly, just really friendly.

12 Q Okay. But at some point did y'all have a romantic
13 relationship?

14 A That's correct.

15 Q Okay. And Terrance Tyson, do you know him?

16 A Yes.

17 Q How do you know him?

18 A With her.

19 Q Okay. Those two were married once upon a time?

20 A That's correct.

21 Q In June of 2015 did she stay at your house from time
22 to time?

23 A Yes.

24 Q Did she have her own room?

25 A Yes.

1 Q She did?

2 A Yes.

3 Q Okay. Did you share a room with her or did she have
4 a separate room?

5 A We shared a room.

6 Q And then, does she have children?

7 A That's correct.

8 Q Have you met her children?

9 A Yes.

10 Q Would they stay at your home from time to time?

11 A The youngest and the middle.

12 Q The youngest child and the middle child, is that what
13 you are saying?

14 A Yes.

15 Q They would stay at your house?

16 A That's correct.

17 Q When would they stay at your house?

18 A She brought them by, you know, it was periodically.

19 Q Okay. Did she live with you full time?

20 A At one time.

21 Q I am talking June of 2015, did she live with you full
22 time?

23 A No, I don't think she was living with me then in
24 June.

25 Q Where was she living?

1 A She told me at her mother's.

2 Q At her mother's house?

3 A Yeah.

4 Q Did, was she married in June of 2015, to your
5 knowledge?

6 A Yes.

7 Q She was still married?

8 A Yes, sir.

9 Q Okay. Were they separated or do you have any
10 knowledge of that?

11 A There were going to, she was being battered--

12 MR. MOBLEY: Objection, Your Honor.

13 THE COURT: The nature of your objection?

14 MR. MOBLEY: Sidebar, Your Honor.

15 (Whereupon, a bench conference was held in the
16 presence of the jury but out of the hearing of the
17 jury.)

18 THE COURT: The last answer given by the Defendant
19 will be stricken from the record. Ladies and gentlemen,
20 Mr. Ruff's last answer should not be considered by you and
21 has been stricken from the record. Solicitor, you may
22 proceed.

23 Q But it was your understanding they were separated at
24 the time?

25 A Yeah.

1 Q I just want to be, you weren't carrying on a romantic
2 relationship with somebody you knew to be married. Is
3 that what you are saying?

4 MR. MOBLEY: He is leading the witness, Your Honor.

5 THE COURT: Try to rephrase, Solicitor, if you would,
6 please.

7 Q Okay. You're understanding of her, was she married
8 at the time to your understanding or was she not married,
9 or was she going through a divorce? What was your
10 understanding of their marital situation?

11 A She was seeking a divorce.

12 Q Okay. And had you of known her for years, is what
13 you said?

14 A Yes.

15 Q Okay. And you did or did not know Mr. Tyson?

16 A Well,--

17 Q Really just kind of a yes or no question.

18 A I didn't know him, but he had been to my house.

19 Q Okay. So, you had seen him at least before?

20 A Yes.

21 Q Okay. June 19, 2015, what was going on that day?

22 A Could you rephrase that?

23 Q What, do you remember the day of June 19, 2015?

24 A I do.

25 Q What were you up to that day?

1 A Nothing, just sitting around enjoying my home.

2 Q Okay. Was Lisa there all day?

3 A No.

4 Q Okay. Did she show up there at some point?

5 A She did.

6 Q Do you remember was it dark outside, was it daytime?

7 A Sunset.

8 Q Sunset?

9 A Yes.

10 Q Okay. And when she got there, how did that happen?

11 Did she knock on the door, or does she have a key or what?

12 A She had to knock on the door.

13 Q Okay. Did you let her inside?

14 A Yes.

15 Q Alright. What did you guys do?

16 A She came in, I greeted her and she sat down and I
17 sat.

18 Q Okay.

19 A And commenced to conversating.

20 Q Okay. Where'd y'all sit?

21 A In the kitchen area.

22 Q Okay. Let me show you State's number 8. What's that
23 a picture of?

24 MR. MOBLEY: Let me make sure I can see what that is.

25 THE COURT: Wait a minute. Let Mr. Mobley take a

1 look at it.

2 MR. MOBLEY: Thank you.

3 MR. SCOTT: Typically I'll have him ID it and then
4 I'll make sure you look at it.

5 MR. MOBLEY: Thank you.

6 A This is a picture of my, of the kitchen area.

7 Q Okay.

8 A But it wasn't, it was other furniture in there.

9 Q Okay.

10 A It's not the same.

11 Q Okay. That's, that's a more recent photograph of
12 your kitchen?

13 A Yes, it is.

14 MR. SCOTT: The State offers number 8 for admission
15 into evidence.

16 THE COURT: Okay. What says the Defense?

17 MR. MOBLEY: No objection, Your Honor.

18 THE COURT: Alright. Without objection, number 8
19 will be into evidence on behalf of the State.

20 (WHEREUPON, State's exhibit 8 was admitted into
21 evidence.)

22 Q Okay. So, this was the general area that you and
23 Lisa were sitting in?

24 A Yes.

25 Q Alright. And how long do you think she was there

1 sitting at the table talking with you?

2 A Before he--

3 Q Yeah, before anything happened.

4 A I don't even think it was an hour.

5 Q Okay.

6 A Less than an hour.

7 Q Alright. But then at some point, did somebody else
8 show up at the house?

9 A Yes, the Defendant.

10 Q Okay. Tell us about that. Nobody was there, you got
11 to tell us what happened. All right.

12 A Okay.

13 Q So, the Defendant, you talking about Mr. Tyson?

14 A Yes.

15 Q Alright. He showed up?

16 A Yes.

17 Q Tell us about that.

18 A I was on my back patio and I, I came inside. And
19 there was a knock at the door, that was Lisa. I let her
20 in. We sat and conversated. While we were sitting there
21 conversating, someone ran up to the door yelling
22 obscenities or something.

23 Q You're yelling what?

24 A Obscenities and her name. Then she went in the back
25 room.

1 Q Yelling obscenities and yelling Lisa's name?

2 A Yes.

3 Q Alright. How did the voice sound? Was it happy, was
4 it angry, what'd the voice sound like?

5 A Not happy.

6 Q Okay. Did you know who it was?

7 A Not at first.

8 Q Okay and so, what door was it that the, you could
9 hear the person outside of?

10 A The back, slide door.

11 Q Okay, and is that kinda just from this angle, the
12 State's number 8, you see kind of some sunshine coming
13 into the lower portion, is that--

14 A Yes. That's the--

15 Q --is that the sliding glass door you're talking
16 about?

17 A Yes.

18 Q Right.

19 MR. SCOTT: John.

20 MR. MOBLEY: Thank you, no objection.

21 Q State's number 9, do you recognize that?

22 A I do.

23 Q And what is it?

24 A That's my home.

25 Q And specifically, do you see the sliding glass door

1 you're talking about?

2 A That's correct.

3 MR. SCOTT: State offers number 9 for admission, Your
4 Honor.

5 MR. MOBLEY: No objection, Your Honor.

6 THE COURT: Without objection, number 9 for the State
7 into evidence.

8 (WHEREUPON, State's exhibit 9 was admitted into
9 evidence.)

10 Q Okay, so this is sorta, I guess, looking at your
11 house from the back yard?

12 A Yes.

13 Q Alright. And so, this is the sliding glass door
14 you're saying you could hear the voice coming from?

15 A That's correct.

16 Q Okay. Did you look outside at all?

17 A Not immediately. I went to retrieve my weapon.

18 Q Okay. Why, what made you, okay, I guess you already
19 said the voice sounded not too happy.

20 A Right.

21 Q So, what did you, did you have any fears at that
22 time?

23 A Yes, I did.

24 Q Okay. What was your fear?

25 A You know, someone's coming to, you know, coming to

1 hurt me or something.

2 Q Okay. Were they yelling at you specifically or, or
3 was it about Lisa?

4 A It was about her.

5 Q Okay. Did you say, were they hitting on the glass
6 window or anything like that?

7 A No. There was no beating, knocking--

8 Q Okay.

9 A -- whatsoever.

10 Q But you could tell the voice was in your back yard?

11 A Correct.

12 Q Okay. You said, so, go to that last one, I think 7 or
13 8 rather. You said, alright, you're sitting there, and
14 the voice is heard outside, you said that Lisa went to a
15 back room. Do you see the back room in this picture?

16 A She was sitting here, she ran down this hall.

17 Q Okay. She ran down this back hallway?

18 A Yes.

19 Q Alright, and then you said, did you look outside at
20 that time?

21 A No.

22 Q Okay, but you went and got your pistol?

23 A Yes. I was sitting in the swivel chair.

24 Q Uh-huh.

25 A I then went to get it.

1 Q Alright, so she went down the hallway, you went to
2 this room with the, I guess, double doors to get your
3 pistol?

4 A Correct.

5 Q Okay, and then when you, did you get your pistol?

6 A Yes, I did.

7 Q Alright. What happened when you came back out into
8 the living room there?

9 A I came to the door. I opened the blind. I presented
10 my weapon in this nature, to let him know I had a weapon.

11 Q Did you see him?

12 A Yes, standing right there in the door.

13 Q So when you opened, let's go to, go back to number 9
14 then. Alright, so you stood at the back inside the house
15 at the sliding glass door, looking out and he was, was he
16 on those steps there?

17 A Correct.

18 Q Alright, and did you open the glass door at that
19 time?

20 A I didn't open the door.

21 Q You did not?

22 A No, sir.

23 Q Okay, and you showed him a pistol?

24 A I opened the blind and showed him.

25 Q Okay, and was that, what was that, kind of a warning,

1 I guess?

2 A I mean, yes.

3 Q This is just another picture.

4 A Trying to ward him off.

5 Q This is State's number 10. What is that, just a
6 close up of the sliding glass doors?

7 A Correct.

8 Q State's number 11, what is that?

9 A That is the back, sliding door.

10 Q Okay.

11 MR. SCOTT: Your Honor, the State offers 10 and 11
12 for admission.

13 THE COURT: What says the Defense?

14 MR. MOBLEY: No objections.

15 THE COURT: Alright. Without objection, 10 and 11
16 for the State into evidence.

17 (WHEREUPON, State's Exhibits 10 and 11 was admitted
18 into evidence.)

19 MR. SCOTT: Thank you. Let me see number 11, Walter.

20 Q Alright, so this view looking at number 11, that
21 would be looking out into your back yard?

22 A Correct.

23 Q Okay, and you're saying that at that point, you
24 pulled the blinds back and just sort of showed him the
25 pistol?

1 A Correct.

2 Q What were your hopes when you showed him the pistol?

3 What were you hoping what effect that would have?

4 A I mean to let him know that I had a automatic
5 handgun, and that maybe he would flee.

6 Q Okay. Alright. So, did he, did he leave at that
7 point?

8 A Yes. He attempted to run off.

9 Q Okay. Then what happened?

10 A I closed the blind back.

11 Q Okay.

12 A Then I, securing the bar right there and then I
13 thought, you know, I want to go outside and secure my,
14 secure my land. So I let the bar up and I turned to go
15 fetch my asthma to go outside, but before I even got
16 there, he was coming into my house.

17 Q Okay. So, alright, so you were going outside to
18 check to see where he had gone?

19 A Correct.

20 Q Alright. And, well tell me the first, how did he,
21 how did he enter your home?

22 A All I know the door was open, and then he was coming
23 through the blinds.

24 Q Okay. Did you invite him in your house?

25 A No, sir.

1 Q Okay. Alright. Well what happened with the gun?

2 A I then jacked another bullet into the chamber, which
3 made it two bullets was the reason why it jammed.

4 Q Okay. So, you already had one in the chamber?

5 A That's because it was so sudden.

6 Q Did you just forget you already had one in the
7 chamber?

8 A I did.

9 Q Okay. So, you pulled the slide back and I guess that
10 jammed your pistol?

11 A Correct.

12 Q Alright. Well when he was inside of your house, and
13 you had your pistol, did you intend to shoot him once he
14 came in your house?

15 A I did.

16 Q Okay, and why was that?

17 A Cause he was intruding my home.

18 Q Okay. And you said he was not invited in?

19 A No.

20 Q Alright. At this point, is it daytime or nighttime?

21 A It's night.

22 Q Okay. Did you actually try to pull the trigger?

23 A I did.

24 Q And it, it was just jammed up?

25 A Yes, sir.

1 Q Okay. Alright. At that point what happened?

2 A As I was, at this point, and it jammed, he slipped on
3 his feet or a threshold and fell.

4 Q Okay.

5 A That's when I, you know, took the opportunity since
6 this gun was jammed, I was gonna pistol whip him.

7 Q Okay.

8 A During that time, it hit the couch where his head was
9 laying and dropped out of my hand.

10 Q Okay. So, he comes in, you are trying, tried to pull
11 the trigger, but it's jammed. He tripped you said coming
12 in, so he's down on his hands and knees?

13 A No, he's down flat.

14 Q Okay. And you said you attempted to strike him with
15 the pistol?

16 A Correct.

17 Q Okay. What did you say, it hit the couch?

18 A Yes.

19 Q And it fell out of your hand?

20 A Yes.

21 Q Alright. And what happens then?

22 A I guess he grabbed my legs and try to deter me from
23 getting the gun, but I knew I had to get that situation
24 under control to get the weapon, regain the weapon.

25 Q Okay. Are you down on the ground at this point too?

1 A No, not at this point.

2 Q Okay. So, has he stood up yet?

3 A No. He grabbed my legs and tried to throw me when I
4 fell onto the weapon.

5 Q Okay.

6 A That's when I got into the position holding the
7 weapon.

8 Q Trying to secure the weapon so he didn't get it?

9 A Securing the weapon.

10 Q Okay. And what is he doing while you're on top of
11 the gun?

12 A Okay. Then he come crawling up my back trying to get
13 the weapon, bit me in the back and then he bit my ear.

14 Q Okay.

15 A And then attacks me hitting me in the back area.

16 Q Okay. Were you able to hit him back?

17 A No, sir.

18 Q Were you able to hit him with the gun?

19 A No, sir.

20 Q Okay. What was Lisa doing during this time?

21 A She was on the phone with 911.

22 Q Okay. Let me show you State's 13, 15, 16 and 17.
23 What are those pictures of?

24 A This is the broken chair.

25 Q How'd the chair get broken?

1 A She hit him with it.

2 Q Who's she?

3 A Lisa.

4 Q Say what?

5 A Lisa.

6 Q She hit who with what?

7 A She hit him with the chair.

8 Q Okay.

9 MR. SCOTT: State offers number 13 for admission into
10 evidence.

11 THE COURT: Alright. What says the Defense?

12 MR. MOBLEY: No objection, Your Honor.

13 THE COURT: Without objection, 13 into evidence for
14 the State.

15 (WHEREUPON, State's exhibit 13 was admitted into
16 evidence.)

17 Q Okay, did you see her hit him with the chair?

18 A Yes, I did.

19 Q Alright. What effect did that have on Mr. Tyson?

20 A Obviously, none.

21 Q Okay. What are we looking at in State's 15?

22 A Oh that's, this is my back like, I guess where he
23 came through, the blind fell on the floor.

24 Q Alright. And then State's 17?

25 A The same.

1 MR. SCOTT: Okay. The State offers 15 and 17 for
2 admission into evidence.

3 THE COURT: Okay.

4 MR. MOBLEY: No objection, Your Honor.

5 THE COURT: Without objection, 15 and 17 for the
6 State into evidence.

7 (WHEREUPON, State's exhibits 15 and 17 were admitted
8 into evidence.)

9 Q Alright. So, those blinds were not torn up before
10 that night?

11 A No.

12 Q Okay. So, you're saying that happened when he came
13 into the house?

14 A That's correct.

15 Q And what is that on the floor there beside the blinds
16 or on the ground near the blinds?

17 A Which one am I on?

18 Q Come on down. Let's see, look up there at the
19 camera, the TV. Just real quick, what is this right here
20 all over the floor?

21 THE COURT: Now Mr. Ruff, since you're away from the
22 microphone, you need to be very careful to speak up loud,
23 okay, so everybody can hear you.

24 MR. RUFF: Sure.

25 A This is blood splatter.

1 Q Okay. Do you know where that came from?

2 A My ear.

3 Q You can sit down now.

4 A Thank you.

5 Q And then State's number 16.

6 A That's when the EMS and the authority got there.

7 Q Okay. Is that you in the picture?

8 A Yes.

9 Q Alright.

10 MR. SCOTT: The State offers number 16 for admission
11 into evidence.

12 THE COURT: What says the Defense?

13 MR. MOBLEY: No objection, Your Honor.

14 THE COURT: Alright. 16 into evidence for the State.

15 (WHEREUPON, State's exhibit 16 was admitted into
16 evidence.)

17 Q Okay. And again, is that blood coming from your ear
18 in the picture?

19 A That's correct.

20 Q And what are those broken pieces of wood on the
21 ground?

22 A Obviously, they came from the chair.

23 Q Okay. What is the, what are those tubes that we are
24 looking at?

25 A I'm on oxygen.

1 Q Okay. Is that, that's what you brought with you
2 today?

3 A Yes, but I was on the, it's another one, it's
4 Albuterol.

5 Q Okay. What is your, what is your condition that you
6 need the oxygen?

7 A I'm Sarcoidosis.

8 Q Okay. What is that?

9 A That's a rare lung disease.

10 Q Okay. And it affects, you have difficulty breathing
11 sometimes?

12 A That's correct.

13 Q Alright. What effect, if any, did this incident have
14 on your Sarcoidosis that night?

15 A A whole lot.

16 Q Well, tell me.

17 A I mean, he pummeled me until I, I was almost out of
18 breath.

19 Q You were what?

20 A I was almost out of breath.

21 Q Okay. Alright. Well, tell me about the ear thing.
22 Did that kinda hurt?

23 A You know, actually, I didn't feel a thing.

24 Q Really?

25 A No.

1 Q It's like adrenaline or something?

2 A Apparently.

3 Q Well when did you know that, how severe the injuries
4 were?

5 A When did I notice?

6 Q Yeah.

7 A Can you rephrase that?

8 Q I mean, at what point did you realize you were
9 missing the majority of your ear?

10 A Oh, I saw it when he spit it out his mouth.

11 Q Did you say anything?

12 A No.

13 Q State's number 22. What is that?

14 A That's me and my ear.

15 Q Alright.

16 MR. MOBLEY: No objection, Your Honor.

17 THE COURT: Alright. Without objection, number 22
18 for the State.

19 (WHEREUPON, State's exhibit 22 was admitted into
20 evidence.)

21 Q Okay. Now clearly, there's a lot of blood. And then
22 State's number 12?

23 A Same, my ear.

24 Q Different angel? Let me see 12, Walter.

25 THE COURT: What number is that Solicitor?

1 MR. SCOTT: 12.

2 THE COURT: 12.

3 MR. SCOTT: The State offers 12 for admission as
4 well.

5 THE COURT: Okay. What says the Defense?

6 MR. MOBLEY: No objection, Your Honor.

7 THE COURT: Alright. Without objection, number 12
8 into evidence for the State.

9 (WHEREUPON, State's exhibit 12 was admitted into
10 evidence.)

11 Q Okay. What was, during the attack, was he saying
12 anything?

13 A Yeah. He was saying some things. I don't quite
14 remember what it was.

15 Q Okay.

16 MR. MOBLEY: No objection.

17 Q State's 19 and 20. Do you recognize those?

18 A Yeah. Yes.

19 Q What are those?

20 A It's a bite, the bite mark that he put on my back.

21 Q Okay.

22 MR. SCOTT: The State offers 19 and 20 for admission,
23 Your Honor.

24 THE COURT: 19 and 20, Defense?

25 MR. MOBLEY: No objection, Your Honor.

1 THE COURT: Okay. Into evidence for the State.

2 (WHEREUPON, State's exhibits 19 and 20 were admitted
3 into evidence.)

4 Q Okay. What is that? It's a bite mark?

5 A Yes.

6 Q Alright. Who did that to you?

7 A The Defendant.

8 Q Mr. Tyson?

9 A Yes.

10 Q Alright. It was during this same assault?

11 A Yes.

12 Q Do you remember about how long it lasted?

13 A It seemed like an eternity.

14 Q Okay. And did anybody give him consent to be in your
15 house that night?

16 A No.

17 Q Okay. You know of approximately what time it was?
18 You said it was dark.

19 A I want to say anywhere from 7:30 to 9:00 maybe.

20 Q Was it daylight or dark outside?

21 A It was dark. It was eastern time.

22 MR. MOBLEY: Your Honor, at this point, I've been
23 shown some additional photographs that the Solicitor would
24 like to offer into evidence. At this point I would
25 object. I have not objected to a number of the same

1 photographs, at different angles, and at different
2 distances. But it gets to a point where it becomes
3 cumulative, to the point of being unfairly prejudicial.
4 And I object to any more of these graphic photographs to
5 be entered, Your Honor. They've seen a good 7, 8, 9
6 different photographs.

7 MR. SCOTT: This is not necessarily for the injury,
8 but we don't have a picture like this yet.

9 THE COURT: Well, if you hand it up here and let me
10 take, take a look at it.

11 MR. MOBLEY: I mean, I'm not even, I don't even know
12 what that depicts.

13 THE COURT: Okay. Well, let's see if we can maybe
14 resolve it temporarily by having a little sidebar.

15 MR. MOBLEY: Thank you, Your Honor.

16 (Whereupon, a bench conference was held in the
17 presence of the jury but out of the hearing of the
18 jury.)

19 THE COURT: That's 18 and 21, Solicitor. Is that
20 correct?

21 MR. SCOTT: Yes, sir.

22 Q Let me show you 21, Mr. Ruff. Who is that? Who is
23 that?

24 A I am not sure. Well, it's me I guess.

25 Q Did anything, to your knowledge, happen to your shirt

1 that night?

2 A I mean, it was blood, it was blood all over it.

3 Q Okay. Did, anything, I mean, did you, did you keep
4 all your, did your clothes stay intact throughout this
5 assault?

6 A Yes.

7 Q Okay. As far as the ear, what have you had to
8 undergo in order to have it repaired?

9 A Surgery and reconstruct which is not done totally.

10 Q It's not completely done?

11 A No.

12 Q This is State's 18. What is that, just having it
13 repaired?

14 A Yes.

15 Q Okay.

16 MR. SCOTT: The State offers 18 for admission into
17 evidence.

18 THE COURT: Okay. Alright. Subject to objection
19 from the Defense, 18 will be into evidence.

20 (WHEREUPON, State's exhibit 18 was admitted into
21 evidence.)

22 THE COURT: 21 is not being offered at this time,
23 Solicitor?

24 MR. SOCTT: No, sir.

25 Q Okay, and do you have any upcoming surgeries

1 scheduled for your ear?

2 A Yes, I have to make arrangements with the surgeon.

3 Q Okay. Is the bite marks on your back?

4 A I don't think so. No.

5 Q Okay. Will you step down. I just want the jury to
6 see your ear as it looks today. Okay. And that's, that's
7 a result from this night?

8 A Correct.

9 Q What about Lisa after this night, did you have any
10 more contact with her?

11 A Yes.

12 Q Okay. Do you still have contact with her now?

13 A No. Not, she did, you know, she called me to see how
14 I'm doing.

15 Q Okay. But she doesn't stay with you anymore?

16 A No.

17 Q Okay.

18 MR. SCOTT: Beg the Court's indulgence one minute.

19 THE COURT: Sure. Take your time.

20 Q Did you see where he went after the attack was over?

21 A I did not.

22 Q Okay. You went to the hospital that night?

23 A Yes.

24 Q Answer any questions Mr. Mobley has for you.

25 THE COURT: Cross-examination.

1 MR. MOBLEY: Thank you, Your Honor. May it please
2 the Court?

3 CROSS-EXAMINATION

4 By Mr. Mobley:

5 Q Good afternoon Mr. Ruff. Is it Ruff or Roof?

6 A -- I go by Ruff.

7 Q Alright. Mr. Ruff, I just have a question or two for
8 you. You've known my client's wife for a long time,
9 correct?

10 A Correct.

11 Q And in fact, I think you, didn't you two date about
12 20 years or so ago back in college around the time you
13 guys were college age?

14 A We were good friends.

15 Q Okay. But you knew her back then?

16 A Yes.

17 Q Okay. And you guys reconnected a couple of years
18 before all this started going down, or a year and a half
19 or so, correct?

20 A Correct.

21 Q And you knew she was married?

22 A Correct.

23 Q And you knew she had children?

24 A Correct.

25 Q And I'm certain that you talked about the status of

1 her marriage with her?

2 A Correct.

3 Q And I think at times, you know, she communicated to
4 you she was going to leave her husband?

5 A Correct.

6 Q And that he was trying to work things out and get her
7 to stay?

8 A No.

9 Q Okay. And there are times that she was staying with
10 you while she was married, correct?

11 A Correct.

12 Q Okay. And there are times that when she stayed with
13 you, she actually had her kids there as well?

14 A Correct.

15 Q Okay. And I think you indicated there are two
16 separate rooms in that house, right?

17 A Correct. Three to be exact.

18 Q And she, I'm sorry, sir.

19 A Three to be exact.

20 Q Okay. Thank you for the correction and, and when she
21 stayed there, she stayed in the same room with you,
22 correct?

23 A Correct.

24 Q Okay. And the kids stayed in a different room?

25 A Correct.

1 Q And she had a daughter named Leah, correct?

2 A Correct.

3 Q Pretty nice girl?

4 A Yes.

5 Q And she would stay there sometimes?

6 A Correct.

7 Q While her mom was living there with you?

8 A Correct.

9 Q Alright. And would it be fair to say that during the
10 time period you were seeing my client's wife, that she was
11 kinda going back and forth a little bit between you two?

12 A Well, I don't know.

13 Q Okay. You don't know?

14 A No. She came and go when she pleased.

15 Q Okay.

16 A And she tells me she goes to her mother's.

17 Q Okay. But you didn't always believe her, correct?

18 A I believe what she tells me.

19 Q Okay. Well, but you were aware that she was still,
20 even when she was staying with you, she would still have
21 contact with her husband, my client, correct?

22 A No, I'm not.

23 Q You did not know that?

24 A No.

25 Q Okay. So, it's your testimony that you didn't know

1 that when she was still staying with you, she never had
2 contact with her husband, you saying you didn't know that?

3 A I mean, things of like, she talked to him about the
4 kids only.

5 Q Okay. Well, that's contact.

6 A Okay.

7 Q Okay. Communication is contact.

8 A Correct.

9 Q Okay. So, you knew while she was staying with you,
10 that she still had contact with him?

11 A Correct.

12 Q And isn't it true that you, you really didn't like
13 her having too much contact with him when she was staying
14 with you?

15 A I never said anything about her and her marriage.

16 Q You never said anything to her about, about her
17 having contact with Terrance?

18 A At all.

19 Q So, you're saying you weren't jealous of her having
20 contact with Terrance?

21 A Not. No.

22 Q So, you're saying you didn't ever say to her you
23 didn't like her talking to him?

24 A No.

25 Q So, are you telling the jury that you weren't jealous

1 at all when it came to Lisa Tyson?

2 A No, I'm not a jealous person.

3 Q You're not a jealous person. Okay. So, what you're
4 saying is you didn't ever accuse her of seeing other
5 people?

6 A I mean, when the, when the thing came down, when I--

7 Q -- my question is this, I just want to be clear,
8 okay. My question is this, I asked you a couple different
9 questions. I asked you if you were jealous when it came
10 to my client's wife and you said no. Okay. And I also
11 asked you if you accused her of seeing other people while
12 y'all were together. And I'd like your answer to that
13 question, please, sir.

14 A I didn't accuse. It was just things that happened.
15 It looked certain way, I asked the question as in, you
16 know, what's going on with this.

17 Q Okay. But you didn't like her talking to other
18 people, other men?

19 A No, that's not true.

20 Q So, it be your testimony, that, are you saying that
21 you weren't jealous of her co-workers? When she talked to
22 her co-workers, weren't you jealous? You didn't like
23 that, did you?

24 A No, I only gave her advice.

25 Q Okay. And she had children that often stayed there

1 with you as well, correct?

2 A Correct.

3 Q Okay. Isn't it true that you were often jealous of
4 the time she spent with her children?

5 A No.

6 Q Not at all?

7 A No.

8 Q In fact, isn't it true that you would go through her
9 telephone to see who she was talking to?

10 A No. She go through her own phone.

11 Q Isn't it true that you would call her co-workers at
12 her job to make sure she was at work when she said she was
13 at work?

14 A I have called to see was she there so I could come
15 there to have lunch or dinner.

16 Q You have any nephews?

17 A Excuse me?

18 Q You have any nephews?

19 A I do.

20 Q Is one of your nephew's name Bruce?

21 A That's correct.

22 Q Isn't it true that you accused, that she was nice and
23 she was pleasant to your nephew, Bruce. And you accused
24 her of having an affair with your nephew, Bruce?

25 A Not necessarily an affair. I just seen text messages

1 going on. And I just wondered what was really going on.

2 Q Does Lisa Tyson and Terrance Tyson, they also have a
3 daughter named Sierra?

4 A Correct.

5 Q Okay. And she has a boyfriend, doesn't she?

6 A Correct.

7 Q Isn't his name Remington?

8 A Yes.

9 Q Okay. Isn't it true that you accused Lisa of having
10 a boyfriend, of having an affair with her daughter's
11 boyfriend, Remington?

12 A I just say things like, hey, what's going on.

13 Q But you're not jealous?

14 A What are you and him, you know, they always have this
15 thing going, so I just wanted to know.

16 Q But you're not a jealous person?

17 A I'm not.

18 Q Okay. So, isn't it true that you went through her
19 telephone and got numbers from her telephone?

20 A No.

21 Q You didn't go through her telephone and call and get
22 a co-worker's phone number and call the co-worker and tell
23 him to stay away from Lisa?

24 A No.

25 Q Now, let's talk about the day that this happened.

1 A Uh-huh.

2 Q You'd been drinking that day, hadn't you?

3 A No.

4 Q You had not been?

5 A No.

6 Q Alright. You understand what it means to be under
7 oath, sir?

8 A Yeah.

9 Q Okay. What does that mean?

10 A I mean, under oath is being truthful.

11 Q Okay. And you understand that when you take an oath
12 and get on the witness stand to tell the truth--

13 A Uh-huh.

14 Q -- that means you tell the whole truth?

15 A Correct.

16 Q Okay. And the question I asked, did you understand
17 the question that I asked you, sir, about drinking?

18 A No, I hadn't been drinking.

19 Q Okay. And when I say drinking--

20 A -- we drank later.

21 Q Just so we're clear, I meant alcoholic beverages.

22 A We drank later.

23 Q Okay. Before this happened, before the time that my
24 client came to, to the residence, had you been drinking
25 alcohol, yes or no?

1 A No.

2 Q You certain about that?

3 A Yeah. I'm kinda certain.

4 Q Alright.

5 A Cause I was outside on the patio.

6 Q And you went to the hospital when this happened, sir?

7 A Correct.

8 Q Okay. I'm showing you State's Exhibit number 5.

9 They haven't actually formally put it in yet, but this is
10 an affidavit regarding the authenticity of your medical
11 records. You did go to Newberry County Hospital, correct?

12 A Correct.

13 Q Alright. And I'm gonna give you a minute, sir, and
14 I'm sorry, I wanna make sure, is it okay if I just stand
15 close to you for a second?

16 A Sure.

17 Q Alright. Thank you. Why don't you go ahead and take
18 a look at these, familiarize yourself with them, and I
19 believe you have these medical records in your power
20 point. Is that correct? And I think one of your
21 assistant's was kind enough to say that if I need
22 something, he would blow something up.

23 MR. SCOTT: It hasn't been offered into evidence.

24 MR MOBLEY: I'm gonna, at this point, I'm gonna
25 cross-examine him about his medical records.

1 Q But take a look, does those appear to be your medical
2 records for your injuries, sir? When you went to the
3 hospital? Is your name all throughout those medical
4 records? Take your time. I'm not trying to trip you up.

5 A Actually. I don't see my name on nothing.

6 Q You don't see your name anywhere? Let me take a
7 look, sir. Alright. What is that name there?

8 A That's my name.

9 Q Okay. So, your name is on these records?

10 A Okay.

11 Q Okay.

12 A If that's what you're saying.

13 Q Well, that's, well, is that the case? I mean, you
14 saw it with your own eyes, right?

15 A Yes.

16 Q Alright. I'm not making anything up, right?

17 Alright. Let's take a look just to make sure. Okay. This
18 says what, patient registration form, right?

19 A Correct.

20 Q Is there a name there?

21 A My name.

22 Q Okay. Is there a birthdate?

23 A Correct.

24 Q Is that your birthdate?

25 A It is.

1 Q Is that your social security number?

2 A It is.

3 Q Alright. Is that your address?

4 A Correct.

5 Q Alright. This another record with a name on it?

6 A Correct.

7 Q Is that your name?

8 A Correct.

9 Q Alright. Would it be fair to say though, are you
10 satisfied that these are your medical records?

11 A Yes.

12 Q Okay. Alright. I'm gonna ask you to take a look at
13 your medical records, sir, and ask you some questions
14 about the information in your medical records that pertain
15 to the night of this incident. Alright. Now, these
16 pages, they are not numbered. So I don't know that I need
17 to identify specifically, but I'm gonna just indicate to
18 you and get you to clarify to the jury, that I just turn
19 to a page in your medical records, correct?

20 A Correct.

21 Q Alright. Now, at the bottom of that page, is there a
22 paragraph that states physical assessment?

23 MR. SCOTT: Judge, I think at this time, he's going
24 to need to have it marked as a Defense exhibit.

25 MR. MOBLEY: That's fine. I'll mark it as Defense

1 exhibit. I'll offer it as Defense exhibit number 1.

2 THE COURT: You're offering that into evidence, Mr.
3 Mobley?

4 MR. MOBLEY: Yes, Your Honor.

5 THE COURT: Okay. Since it's been marked as State's
6 exhibit for identification, you have any objections for it
7 going into evidence?

8 MR. SCOTT: No, Your Honor.

9 THE COURT: Alright. If you'll just hand what he's
10 looking at to the Court Reporter so she can mark it as
11 Defendant's whatever number.

12 (WHEREUPON, Defendant's exhibit 1 was admitted into
13 evidence. Also marked as State's exhibit number 5 in
14 evidence.)

15 MR. MOBLEY: Certainly.

16 Q Alright, sir. I'm gonna ask you to take a look at
17 the medical records and refer to the bottom paragraph, and
18 there's a paragraph that states physical assessment. Is
19 that correct?

20 A That's correct.

21 Q Okay. And it has information about you, correct?

22 A Yes.

23 Q Alright. Now, I would ask you to look down to the
24 first line, talks about you being transported by a
25 wheelchair, correct? After physical assessment, does it

1 say to room via wheelchair?

2 A Oh. Correct.

3 Q Alright. And the next sentence is titled, begins
4 with the word general, correct?

5 A Correct.

6 Q And the next sentence begins with the words, appears
7 in pain, correct?

8 A Correct.

9 Q And is there a sentence that follows that, sir?

10 A Um--

11 Q -- is there a line after that, right below it?

12 A Appears frightened.

13 Q Okay. There's a line that says, appears in pain,
14 correct?

15 A Yes.

16 Q Directly below it, are there words?

17 A Oh, smells of alcohol.

18 Q Okay. Please read the words from your medical
19 records from that night in the emergency room, please read
20 for the jury what those three words are under your
21 physical assessment.

22 A Okay. It says smells of alcohol.

23 Q Okay. Thank you. So, your medical records, just so
24 we're clear, I asked you very, very clearly--

25 A Yes.

1 Q -- whether or not you'd been drinking that night.

2 A Correct.

3 Q I asked you that question, correct.

4 A Correct.

5 Q And just so we're clear, I believe I gave you the
6 opportunity to reconsider your answer because I wanted to
7 make sure that you understood the question, correct?

8 A Correct.

9 Q And, also, before I let you answer again, I talked to
10 you about perjury and, and understanding the whole point
11 of telling the truth and how you're on the witness stand,
12 and you took an oath to tell the truth, correct?

13 A Correct.

14 Q And you said you understood all that, right?

15 A Yes. I wasn't drinking.

16 Q And I asked you again, okay Mr. Ruff, so
17 understanding, you know, you have a, you know, you're
18 under oath. You're supposed to tell the truth. Do you
19 understand my question? I asked you again if you were
20 drinking, and you said, no, you were not drinking. You
21 were certain you were not drinking, correct?

22 A Correct.

23 Q Okay. And your medical records from the night you
24 went to the emergency room, your medical records from the
25 night of the assault, they indicate in your records they

1 smelled alcohol on you. Isn't that correct?

2 A Prior maybe but--

3 Q -- prior. What do you mean, prior?

4 A Like an hour or two.

5 Q Okay. Just so we're clear. Is that what you said
6 when I asked you if you were drinking?

7 A No, it's not.

8 Q You said you were not drinking at all, correct?

9 A Within an hour.

10 Q Okay. No. I'm asking what, what you just told this
11 jury when I asked you the question.

12 A Yes, that's correct.

13 Q I asked you to tell this jury whether or not you had
14 been drinking, correct?

15 A Correct.

16 Q And you were emphatic that you had not been drinking.
17 Isn't that correct?

18 A Correct.

19 Q And I sat there, we discussed perjury, and you
20 understood what it means to tell the truth under, and be
21 under oath. You said yep, I understand and I understand
22 that. And you looked at this jury, and when I asked you
23 if you'd been drinking, you looked at all twelve of these
24 jurors that are standing here about my client and you
25 said--

1 MR. SCOTT: Alright, Your Honor, objection.

2 THE COURT: A little argumentative even though this
3 is cross and I allow a lot of leeway on cross, but it's
4 getting a little argumentative.

5 MR. MOBLEY: Alright.

6 THE SCOTT: And the issue is he is testifying at this
7 point, he's not even asking questions anymore.

8 THE COURT: Ask a question.

9 Q You sat here, and after multiple opportunities to
10 change your answer, you told this jury you had not been
11 drinking. Correct?

12 A I don't recall drinking.

13 Q Okay. Hold on, a minute ago--

14 A -- I mean, if I did drink, it was like an hour or two
15 prior.

16 Q Okay. A minute ago, okay, first you said you don't
17 recall drinking. And then a couple minutes ago you said,
18 well you drank an hour or two earlier. There's a
19 difference between not drinking, and an hour or two
20 earlier, right?

21 A Yes.

22 Q And just so we're clear, you only admitted possibly
23 drinking an hour or two earlier after I showed you your
24 medical records.

25 A I mean,--

1 Q -- so, had you not been shown your medical records,
2 which indicated you smelled of alcohol, you would've sat
3 here all day and told this jury you hadn't been drinking
4 and been lying.

5 A I never seen anything on my records saying--

6 Q Okay. Let's--

7 A -- alcohol. I don't know where this come from.

8 Q I tell you, I don't know where it came from either.
9 Let's take a look at them again. I'm showing you some
10 other portions of your records. Once again, Newberry
11 County Hospital, correct?

12 A Correct.

13 Q Your name?

14 A Yes.

15 Q Alright. So, these are your records. There's a
16 column to the left, correct?

17 A Correct.

18 Q Does that column say, and let's do this, just so we
19 can make it easier for the jury to understand. There's a
20 column on the left that talks about lab work. That's
21 called lab reports, correct? Does it say lab reports?

22 A Yes. Correct.

23 Q Okay. And there are a lot of different numbers and
24 things underneath, correct?

25 A Correct.

1 Q Okay. And these are just clearly different things
2 they kinda tested for, and the results?

3 A Correct.

4 Q Aright. Now on the next page, is there another
5 column that says lab reports?

6 A Yes.

7 Q Okay. What does it say in that column, the lab, lab
8 results?

9 A Ethyl alcohol.

10 Q Ethyl alcohol.

11 A Ethyl.

12 Q And on that date, the date this happened, June 19th,
13 it has the date on there, right? Correct? June 19th? Is
14 it right next to where it says lab results?

15 A Yes.

16 Q Okay. And it has the time the test was run?

17 A Yes.

18 Q Okay. And it has a number for that result, doesn't
19 it?

20 A 21.

21 Q It has 21. I hate to do this, but I'm not as young
22 as I used to be. 21.00 mg, which presumably stands for
23 milligrams, correct?

24 A Correct.

25 Q And underneath that it has some numbers in

1 parathesis, correct?

2 A Yes.

3 Q And that number in parathesis are 3 to 10?

4 A Correct.

5 Q And there's an, a letter by that, right?

6 A Correct.

7 Q H., okay, for high. So, the alcohol level in your
8 system was 21.0 milligrams at the time. And once again,
9 you sat here and told this jury that you hadn't been
10 drinking, and led them to believe that until faced with
11 the information in your medical records. So, getting back
12 to the details of the incident, sir. My client comes to
13 the house, and you indicated, just so we're clear, when he
14 got to the house, he wasn't calling your name, correct?

15 A Correct.

16 Q He was calling his, his wife's name, correct?

17 A Correct.

18 Q Okay. He didn't say I'm coming to get you, Tyrone.

19 A He have--

20 Q -- he didn't say it that night, did he?

21 A No.

22 Q Alright. He didn't say I'm coming to get you,
23 Tyrone. And he didn't have a weapon, correct?

24 A I didn't know that at first.

25 Q Okay. My question is this --

1 A -- correct.

2 Q Alright. And just so we also clear, there was, I
3 think, the Prosecutor asked you whether or not he had been
4 hitting on the glass, pounding on the door. And in fact,
5 he had not been doing either of those things. Isn't that
6 correct?

7 A Correct.

8 Q Okay. And just so we're clear, he did not force his
9 way into the home, correct?

10 A I, the door just opened.

11 Q Okay. There's, there's no broken glass?

12 A No.

13 Q There's no damaged door?

14 A No.

15 Q There's no forced entry? There's no sign of forced
16 entry?

17 A Correct.

18 Q And, just so we're clear, he didn't have a weapon,
19 he's calling for his wife, you went and got your gun?

20 A Correct.

21 Q Just so we're clear, you pointed that gun at my
22 client, correct?

23 A Only when he was coming in.

24 Q Okay. You pointed the gun--

25 A -- but I presented it as he was there to let him know

1 that I had a weapon, so maybe he'd leave the premises.

2 Q Okay.

3 A But when he came into my home, yes, I did point at
4 him.

5 Q Pointed the gun at my client and you pulled the
6 trigger?

7 A Correct.

8 Q Okay. And at the time you pulled the trigger, my
9 client did not attempt to assault you or attempt to attack
10 you, correct?

11 A He was coming toward me.

12 Q Okay. That's not my question. My question is this,
13 at the time you took your gun, when you've been drinking,
14 when you took your gun and pointed at my client and pulled
15 the trigger with the intent to kill him, correct?

16 A No. I had it pointed at his bodily.

17 Q At his body?

18 A Yeah.

19 Q Okay. But, so, you pointed the gun at his body with
20 the intent not to kill him, just to shoot him in the
21 stomach or in the heart, presumably, when you were
22 drinking. And you pointed the gun at my client and you
23 pulled the trigger, correct?

24 A Correct.

25 Q And once again, just so we're clear, at the time you

1 pulled the trigger he had not attacked you, correct?

2 A Correct.

3 Q Okay. And he had not threatened you, correct?

4 A No. He was coming toward me.

5 Q Okay. And he didn't have any weapons, correct?

6 A I didn't know at the time.

7 Q Did you see any weapons, sir?

8 A No.

9 Q Did he have a, so he didn't have a gun?

10 A Correct.

11 Q Didn't have a knife?

12 A Correct.

13 Q Didn't have numchucks?

14 A Correct.

15 Q Didn't have a sword?

16 A Correct.

17 Q Okay. He was completely unarmed and you pulled the
18 trigger to shoot him, correct?

19 A Yes. Cause he was entering my home.

20 Q Okay. And after you pulled the trigger, that's when
21 he fell down, correct?

22 A Correct.

23 Q Okay. So, you pulled the trigger on my unarmed
24 client who comes to get his wife and even then, he falls
25 to the ground. And, so, he's on the ground at this point,

1 correct?

2 A Correct.

3 Q And you're standing above him with the gun in hand?

4 A Correct.

5 Q Correct? And at this point, my client still has not
6 tried to attack you in any way, correct?

7 A He grabbed my legs.

8 Q Okay but he only grabbed your leg after you tried to
9 hit him with the pistol, correct?

10 A Correct.

11 Q In fact, I think your testimony was once he fell to
12 the ground, you decided you were gonna try to pistol whip
13 him?

14 A Yes, cause I wanted to get the situation under
15 control.

16 Q And just so we're clear --

17 A -- I know with my condition, I didn't have no,
18 physically can tussle with anybody.

19 Q Okay.

20 A So,--

21 Q -- and just so we're clear, when you say pistol whip,
22 you mean beat him with the gun, correct?

23 A Correct.

24 Q Okay. And just so we're clear, and just so the
25 jury's clear, the only reason you did not pistol whip him

1 is because the gun hit the sofa and fell out of your hand?

2 A Correct.

3 Q Okay. And only then, after you tried to shoot him
4 while he was unarmed and then when he fell to the ground,
5 and you tried to pistol whip him and the gun fell out of
6 your hand, only then did he actually grab your leg?

7 A Correct,--

8 Q -- that was the first time--

9 THE COURT: Wait a minute, wait a minute. Let him
10 finish his answer, Mr. Mobley.

11 A Because he was in my home. Nothing can come in my
12 home, invade my home, I'm going to protect that to the
13 fullest.

14 Q Okay. And just so we're clear, it was only after you
15 tried to shoot him and tried to pistol whip him that my
16 client ever touched you?

17 A He was in my home. He didn't have to.

18 Q That's not my question.

19 A My answer is he was in my home.

20 Q Okay.

21 A I didn't have to.

22 Q You have a right, just so we're clear, under South
23 Carolina law, you have a right to explain your answer.
24 But you still have to answer the question. So, my
25 question, Mr. Ruff, isn't it true that it was only after

1 you tried to shoot my client and only after you tried to
2 pistol whip him that night that he ever put his hands on
3 you?

4 A Correct.

5 Q Okay. And that was when he grabbed your leg?

6 A Yeah.

7 Q Okay. And you testified, at that point, you was
8 trying to get the gun?

9 A Correct.

10 Q And I think it'd be fair to say that my client did
11 not want you to get that gun?

12 A I suppose not.

13 Q He was trying to keep you from getting the gun,
14 correct?

15 A I suppose not.

16 Q Okay. And you were down on all fours on the ground?

17 A After I recovered the gun.

18 Q Okay. And, so you were on the ground when you
19 recovered the gun?

20 A Correct.

21 Q So, you have the gun in your hand?

22 A Correct. In my possession.

23 Q Okay. So, the gun was at that point, in your
24 possession and my client at that point, he jumped on your
25 back, correct?

1 A Correct.

2 Q Okay. And once again, I think, I know things are
3 probably kind of crazy, cause there's a struggle going on.
4 But at that point, you've got the gun in your hand, he's
5 on your back. My guess is he's, he's trying to hold your
6 arms, trying to hold you down to make sure you can't turn
7 around and shoot him?

8 A No. Actually, he was up biting my ear and my back.

9 Q Okay.

10 A And pummeling me in the back.

11 Q Okay. But just so we're clear, my client's fairly,
12 he is larger than you, correct?

13 A Correct.

14 Q And wouldn't you say he's physically stronger than
15 you?

16 A No. I wouldn't say.

17 Q Oh, you wouldn't say that?

18 A I don't know.

19 Q You don't know? I mean, alright, cause you indicated
20 shortly a little while ago that you were in no condition
21 to have this struggle with this guy because of all your
22 health issues.

23 A Correct.

24 Q Okay.

25 A You know, I'm just saying, if you saying--

1 Q -- excuse me.

2 A I'm just saying that, you know--

3 Q -- what are you saying?

4 A I have to take a, grab him with my condition.

5 Q Okay. On that night, was he physically stronger than
6 you?

7 A Yes.

8 Q Okay. Thank you. Now, and although you had the bite
9 on your ear and the bite on your back.

10 A Correct.

11 Q Okay. He didn't punch you in the face?

12 A He did.

13 Q Okay. Well, just, just so we're clear, you don't
14 have, you didn't suffer any significant physical trauma to
15 your face, correct?

16 A Correct.

17 Q You don't, you didn't have any busted up eyes?

18 A Correct.

19 Q You didn't have any busted up lip?

20 A Correct.

21 Q No teeth got knocked out?

22 A Correct.

23 Q Okay. In fact, except for your ear and that mark on
24 your back, you didn't require any kind of medical
25 treatment at all, besides for your ear.

1 A Correct.

2 Q As a matter of fact, sir, let's take a look at the
3 medical records again. Alright. I'm going to show you a
4 document that's got the title, Emergency Room
5 Consultation, on the top. Do you see that?

6 A Yeah.

7 Q Alright. And there's a, there are a number of
8 statements that pertain to your condition, correct?

9 A Correct.

10 Q Okay. Is there a statement as to whether or not you
11 lost consciousness?

12 A No.

13 Q Okay. What does the statement say?

14 A No loss of consciousness.

15 Q Alright. So, you didn't lose consciousness during
16 the assault?

17 A No.

18 Q Alright. And is there another statement that
19 describes the injuries on your head? Right there.

20 A Oh. Okay.

21 Q Is that it?

22 A Yes.

23 Q Does it say and just to kinda expedite things, does
24 that statement say, you look at the last two words of that
25 sentence starting there, no clear swelling or deformity.

1 Does it say that?

2 A It does.

3 Q Does it say no facial swelling?

4 A It does, but it's wrong.

5 Q Okay. But the medical records that are, and I guess
6 they're wrong about the alcohol. They're wrong about a lot
7 of things. But the medical records say no facial
8 swelling, tenderness or deformity noted. That's what the
9 records say, correct?

10 A Correct.

11 Q Two lines down, is there a line that starts off, ENT?

12 A Correct.

13 Q Doesn't that say no dental injury?

14 A Correct.

15 Q So, once again, according to your medical records,
16 you didn't lose consciousness, there is no facial
17 swelling, no knocked out teeth, no facial deformity. In
18 fact, they say no tenderness. Now that's the emergency
19 room report. Alright. Well, let's take a look at what we
20 got.

21 MR. MOBLEY: That's odd. It's in my copies, but I
22 don't see it in yours.

23 Q Alright. I'm gonna show you the, the portion that's
24 titled, Physician Clinical Report. Is that what that
25 says?

1 A Correct. Yes.

2 Q And it has your name?

3 A Yes.

4 Q Okay. It has your age at the time?

5 A At the time. Yes.

6 Q Alright. And it discusses or describes the fact that
7 you were assaulted physically, correct?

8 A Correct.

9 Q Okay. So, this is a separate report from the
10 emergency report. This is a physician clinical report.
11 Okay. This is different than the last one. Okay. Does
12 it state the results of the examination of your head?

13 A Yes.

14 Q And it also says again, no clear swelling or
15 deformity.

16 A Yes.

17 Q No facial swelling.

18 A Yes.

19 Q No dental injuries.

20 A Correct.

21 Q So, your emergency room record and your physician
22 clinical for both separately indicate the lack of any
23 significant injury that you suffered, correct? And as you
24 indicated, my client is substantially bigger than you or
25 bigger than you, correct?

1 A Correct.

2 Q And on this night, he was definitely stronger than
3 you?

4 A Correct.

5 Q And although you tried to shoot him, and tried to
6 pistol whip him, except for biting you in the ear, he
7 otherwise didn't inflict any serious injuries on you,
8 correct?

9 A Correct.

10 MR. MOBLEY: I beg the Court's indulgence, Your
11 Honor.

12 THE COURT: Sure, take your time.

13 MR. MOBLEY: Your Honor, I don't have any further
14 questions. Thank you, Mr. Ruff.

15 THE COURT: Thank you. Solicitor, any redirect?

16 REDIRECT EXAMINATION

17 By Mr. Scott:

18 Q Did you give Mr. Tyson consent to be in your home
19 that night?

20 A Yes.

21 Q Did you give him consent to be in your home?

22 A Oh. No, sir. No, sir.

23 Q Listen to my questions.

24 A Sorry.

25 Q You gotta listen.

1 A Correct.

2 Q Did he have permission to be in your home that night?

3 A No. He did not.

4 Q Alright. How'd your ear get torn off?

5 A He entered my home.

6 Q He what?

7 A Entered and bit--

8 Q -- okay. What happened?

9 A -- my ear.

10 Q Alright. How did that bite mark get on your back
11 that night?

12 A He, the Defendant.

13 Q Alright. And how did that broken furniture happen in
14 your house?

15 A It was, Lisa used it to hit him.

16 Q Okay. How did the blinds get ripped off the, off the
17 frame?

18 A From him entering.

19 Q Okay. Did, once again, listen to my question, did he
20 have consent to be in your home?

21 A No.

22 Q Alright. Thank you.

23 THE COURT: Recross?

24 MR. MOBLEY: Nothing further, Your Honor.

25 THE COURT: Okay. Thank you, sir. You can step

1 down.

2 MR. RUFF: Thank you.

3 THE COURT: Alright. Ladies and Gentlemen, let's
4 take, it's five after four. Let's take about a ten minute
5 short break, and again, I remind you no discussion among
6 yourselves about this case, and get you back out shortly.
7 And I'll talk with the State, and see what other witnesses
8 we have that we can put up this afternoon. Okay.
9 Alright. So, go back to the jury please.

10 (Whereupon, the jury was excused from open court for
11 a break.)

12 THE COURT: Okay. Solicitor, what's your plan as far
13 as the rest of the afternoon regarding witnesses?

14 MR. SCOTT: Lisa would be my next witness.

15 THE COURT: Okay. Alright. Okay. That's fine. I'm
16 just kinda getting a, get an idea as far as what we'll do
17 this afternoon.

18 MR. SCOTT: I think we should be able to handle her
19 fairly quickly.

20 THE COURT: Okay. Alright. Okay. Very good.
21 Alright. We'll be in recess about ten minutes.

22 (Whereupon, a short break was taken.)

23 THE COURT: Okay. Madam Bailiff, bring the jury out
24 please.

25 (Whereupon, the jury came into open court at

1 approximately 4:18 p.m.)

2 THE COURT: Alright. Let the record reflect the jury
3 is back in. Solicitor, you ready to call your next
4 witness?

5 MR. SCOTT: Your Honor, the State calls Lisa Tyson.

6 LISA TYSON, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 By Mr. Scott:

10 Q Okay. Ms. Tyson, where are you living now?

11 A With my mother.

12 Q With your mother?

13 A (Witness nods in the affirmative).

14 Q Okay. Where were you living in June--

15 THE COURT: Please respond instead of nodding your
16 head, okay ma'am.

17 A Yes.

18 THE COURT: Thank you.

19 Q Where were you living in June of 2015?

20 A [REDACTED] Griffin Road with my husband.

21 Q Okay. [REDACTED], what was the road?

22 A Griffin.

23 Q Okay. What was the, were y'all still married at the
24 time?

25 A Yes.

1 Q Okay. But you were seeing other men?

2 A Yes.

3 Q Okay. Was that something that Mr. Tyson knew about?

4 A He knew that I was talking to Tyrone.

5 Q Say again.

6 A He knew that I was talking with Tyrone.

7 Q Okay. How did he know that?

8 A I told him.

9 Q You told him? Were you guys separated?

10 A We had, were having some marital problems. So yes, I
11 had left the home.

12 Q Okay.

13 A And moved into a home that I rented at, on [REDACTED]
14 Highway 34.

15 Q Say that, I can't hear what you're saying.

16 A I rented the house, I moved out and moved into a
17 house, the one that Tyrone is staying at now.

18 Q Okay.

19 A And I rented it from Mr. Lane.

20 Q Okay. So, you and Tyrone lived together?

21 A I moved into the house and I asked Tyrone to move in
22 with me.

23 Q Okay.

24 A A couple days later.

25 Q I don't think anybody can hear you.

1 A My voice--

2 Q Just almost talk like the microphone isn't there, and
3 you gotta talk loud enough where I can hear you over here.

4 A Okay.

5 Q Alright. So, you said you moved in with Tyrone Ruff?

6 A No. He moved in with me. I rented the house on [REDACTED]
7 Highway 34 by Mr. Lane.

8 Q Okay. But y'all lived together?

9 A Correct.

10 Q Okay. Why did you ask Mr. Ruff to move in with you?

11 A I needed somebody to move in with me to help me with
12 bills and stuff, and we were really good friends.

13 Q Okay. And Mr. Tyson still lived at the Griffin Road
14 address?

15 A Yes.

16 Q Okay. Did your children live there with you and
17 Tyrone?

18 A For a short period of time, yes, they did.

19 Q Okay. How was custody arranged with you and Mr.
20 Tyson?

21 A At the time, there was nothing in order, so we, they
22 just kinda went back and forth.

23 Q Okay. And is that your daughter over here?

24 A Yes.

25 Q Okay. And is that your new boyfriend, Mr. Wells?

1 A No.

2 Q Okay.

3 A He's a good friend of mine.

4 Q Okay. He's another friend of yours? He's another
5 friend?

6 A He is a friend of mine.

7 Q Is it a friend like Mr. Ruff was a friend of yours?

8 A No.

9 Q Okay. You and Mr. Ruff, though, y'all had a romantic
10 relationship?

11 A Yes.

12 Q Okay. And did Mr. Tyson know about that aspect of
13 y'all's friendship?

14 A Yes.

15 Q Okay. How did he say, did he say anything to you
16 about that?

17 A Yes. He wanted me to come back home and be a family
18 with the kids.

19 Q And that wasn't, you weren't interested in doing
20 that?

21 A Not at the time, no.

22 Q Okay. Is your name still Tyson?

23 A It is.

24 Q Okay. Have y'all not gotten formally divorced yet?

25 A We're legally separated.

1 Q Okay. Are y'all, have y'all reconciled?

2 A No, sir.

3 Q Okay. I have noticed you, you sat beside him today,
4 throughout the day, and spoken a number of times. So
5 y'all are on friendly terms again?

6 A We are. We have three kids together, and we are on
7 friendly terms. And I just want the truth to be told.

8 Q Okay. And we are going to get to the truth.

9 A Yeah.

10 Q Is your truth that you're gonna tell us today a
11 different truth than what you've given in the past?

12 A I've told the truth, as far as this case is
13 concerned, all along.

14 Q Okay. Okay. Good. So, if you wrote a statement--

15 A -- I want to clarify things on it.

16 Q What now?

17 A I just wanna clarify things to make sure.

18 Q Okay.

19 A It's accurate.

20 Q And, and you talk about and the jury's gone get to
21 hear, I know you're ready to talk about clarifying things.
22 How many times have you spoken with Mr. Tyson's lawyer? I
23 saw y'all speaking earlier today.

24 A Two times.

25 Q Okay. And did he call you?

1 A Yes, he did.

2 Q Okay. And did you go to his office in Columbia, or
3 did he come to your home?

4 A I went to his office in Columbia.

5 Q Okay. Okay. And you were wanting to tell him some
6 things that you thought might be able to help Mr. Tyson?

7 A It wasn't to help either one.

8 Q Okay.

9 A I didn't tell him anything to help, I told him the
10 truth as what I knew had happened.

11 THE COURT: She's fading in and out, and I don't know
12 if it's because of the microphone.

13 A No, I had just went down there to--

14 THE COURT: Wait a minute. Wait a minute.

15 Q Alright. What now?

16 A I had met with him two times down there at his office
17 where once I had to go down there, and just kinda clear
18 things up and get things accurate as to what things had
19 actually happened that night.

20 Q Okay.

21 A And, also had to take my daughter down there to be
22 interviewed by him.

23 Q Okay. And did he work with you on getting it
24 accurate, your story?

25 A No, I just wanted to tell what had happened.

1 Q Okay. But you told the truth all along, is what you
2 said a minute ago though.

3 A I have told the truth all along.

4 Q Okay.

5 A I just wanna clarify some things that were not
6 correct--

7 Q Okay.

8 A -- that were not accurate as to what I said in the
9 report.

10 Q Alright. Who told you not to speak with my office
11 about this case?

12 A Nobody had told me not to speak to y'all.

13 Q Alright. Well, Investigator Bentley, I don't know,
14 he's back behind the TV. You see him right beside you?

15 A Yes.

16 Q Do you remember when he came to your house last, just
17 last week. Maybe Friday?

18 A That was you that came to the house or him that came
19 to the house?

20 THE COURT: You can't ask--

21 A Oh. I don't, I don't remember him.

22 Q Was it this one?

23 A Yes.

24 Q Assistant Solicitor?

25 A He came to my mother's house.

1 Q Okay. And what did you tell him when he even asks--

2 A -- I told him I didn't want to talk to him and he
3 said did they tell you not to and I said yes.

4 Q Okay.

5 A I meant to say they didn't tell me not to.

6 Q Okay.

7 A I just did not want to talk with him.

8 Q Okay. So, his lawyer advised you not to speak with
9 us?

10 A He didn't advise me not to speak with y'all.

11 Q Okay. But you just said that?

12 A I felt it was in my best interest not to speak with
13 y'all.

14 Q Well, you're not on trial though, are you?

15 A No.

16 Q Okay.

17 A Sir.

18 Q Okay. But you and Mr. Tyson, I guess, have
19 reconciled and you sit behind him, and I've seen you
20 speaking with him a little bit.

21 MR. MOBLEY: Objection. He characterized her
22 statement saying they've reconciled, and she made it clear
23 they have not reconciled. She says that they're on
24 friendly terms.

25 THE COURT: Right. I think that was her testimony.

1 MR. SCOTT: Yeah. And that's what I mean.

2 A That's correct.

3 Q You back, in June of 2015, y'all may not have been on
4 very friendly terms. Is that accurate?

5 A We weren't on the best of terms, no.

6 Q Okay. But relationships have, have improved since
7 then?

8 A Due to the fact that I have my kids, I decided on my
9 own that we needed to be better at communicating with each
10 other.

11 Q And I think that's a great idea. State's number 6,
12 you listened to some of that in my office just this
13 morning, didn't you?

14 A That's correct.

15 Q As a matter of fact, do you remember the time when
16 Investigator Bentley tried to schedule a meeting and then
17 you didn't show up after saying you would come speak with
18 us?

19 A That's correct.

20 Q Okay. Why didn't you show up that day?

21 A I had to go pick my kids up from school and I
22 actually forgot that I needed to be there by 3 something.
23 3:10 to pick them up, and I could not make it to the
24 schools.

25 Q So, despite a few different attempts--

1 A -- two times.

2 Q -- that we tried to speak with you, you were
3 uninterested in speaking with us?

4 A You called me once and then he came to my mother's
5 house.

6 Q And you didn't want to speak. You didn't want to
7 speak to us about the truth that you now want to tell
8 people.

9 A It's not the truth that I wanna now tell people, it's
10 always been the truth as it is.

11 Q Okay.

12 A I'm not sure what you're talking about.

13 Q Okay. Alright. The 911 tape.

14 A Right.

15 Q You recognized your voice on that?

16 A Yes.

17 Q And you, do you remember making the call that night?

18 A Yes.

19 Q Okay. Tell me, I don't know, I guess, were you
20 hysterical, were you frantic that night, or what was kinda
21 your--

22 A -- when that happened, I was hysterical. Yeah.

23 Q Okay. And had you ever seen anything like that
24 happen before?

25 A No.

1 Q Okay. Well, why did you, were you, on that
2 particular date, and I'm talking about June 19th, the
3 night of this incident, 2015, were you living there then
4 at Mr. Ruff's house?

5 A No.

6 Q Alright. What made you go over there that night?

7 A I had to stop by there after I was on my way to get
8 the kids something to eat for my daughter's birthday. She
9 had a sleep over, and I was supposed to go get the food
10 and come right back, and I didn't. I stopped by Mr.
11 Ruff's house.

12 Q What were you hoping to do?

13 A I was just talking.

14 Q Okay. Did you forget about your daughter's birthday?

15 A No.

16 Q Did you forget about the food?

17 A No. I was gonna leave like shortly, within an hour
18 or so and go on and get the food.

19 Q So what inspired you to go over there and speak with
20 him at that hour of that night?

21 A I would always go, I mean, I would always go by there
22 every now and again.

23 Q Okay. Was there something on your mind that night?

24 I'm just trying to figure out why, you're going and
25 getting your daughter some food that you just say I wanna

1 go sit in Kenneth's house.

2 A I just stopped by there to check on him. I usually
3 do that, I did that often.

4 Q Okay, how long were you over there?

5 A That wasn't something unusual.

6 Q Alright. How long were you over there?

7 A It wasn't unusual. About two hours.

8 Q Okay. Did it take that long to check on him?

9 A But, I mean, I was only gone be there an hour, but
10 then that happened, so I was there a little bit longer
11 than the hour.

12 Q Okay. So, you were there an hour before Mr. Tyson
13 showed up?

14 A Yes.

15 Q Alright. What were y'all talking about for an hour?

16 A We were just sitting there talking, seeing how his
17 health was, talking about things.

18 Q Okay. On your daughter's birthday?

19 A It wasn't her birthday, but yeah, it was her
20 birthday, because she had sleepovers.

21 Q It wasn't her birthday but it was her birthday?

22 A It was her birthday weekend. That day wasn't her
23 birthday.

24 Q Okay.

25 A She had company over.

1 Q Alright.

2 A And my husband was at the house, you know, with them.

3 Q Okay. And did you tell Mr. Tyson you were gonna go
4 see Mr. Ruff?

5 A No.

6 Q Okay. Would he of been happy about that?

7 A No.

8 Q Okay. So, you knew you probably shouldn't of been
9 over there? Is that what you're saying?

10 A That's correct.

11 Q But you still just needed to go speak with him?

12 A I just thought I--

13 Q -- do you have a cell phone?

14 A I do.

15 Q Okay. Wonder why you didn't just call him on the
16 phone?

17 A I couldn't tell you. Probably should have maybe but
18 I just decided I'd stop by to see how he was doing.

19 Q How long would it take when you left at the Griffin
20 Road address to drive to Mr. Ruff's house?

21 A About 5 minutes.

22 Q Okay. So close? And you were over there an hour and
23 tell me what you remember next. What, after sitting in,
24 where were you sitting?

25 A We were sitting at the kitchen table.

1 Q Okay. And you don't remember what y'all were talking
2 about, but after an hour, what happened?

3 A There was a knock on the sliding glass doors and he
4 said, Terrance said, I see you, Lisa.

5 Q I see you, Lisa?

6 A Uh-huh.

7 Q Okay. So, the front door or the backdoor?

8 A The back, sliding glass doors.

9 Q Okay. Do you know why he was in the back yard?

10 A No. You could see through the sliding glass door, so
11 I assume that's how he was able to see that I was in
12 there, because the garage door was closed, and there is no
13 other way to see in that front area so.

14 Q Okay.

15 A He probably walked around back to see if I was in
16 there.

17 Q Okay.

18 A Cause you couldn't tell if my car was there or not.

19 Q You couldn't, what did you say?

20 A You couldn't tell if my car was there or not so he
21 would have no idea if I was there or not.

22 Q Oh. It was in the garage?

23 A Yes. My car was under the garage.

24 Q And then you shut the garage door?

25 A That's correct.

1 Q So, you really didn't want him to know you were
2 there?

3 A That's correct.

4 Q Alright. Were you doing anything else other than
5 just talking?

6 A No.

7 Q Okay. And so, he says I see you, Lisa. Does he
8 sound happy or angry or what?

9 A No. He knocked on the sliding glass door and says I
10 see you, Lisa.

11 Q Okay. And then it was over after that?

12 A He didn't say anything else. I told him to go away.

13 Q Okay.

14 A And you want me to--

15 Q -- why?

16 A I just told him to leave cause I didn't want no
17 trouble.

18 Q Okay. Why didn't you just go out with him?

19 A I told him to just leave cause I wasn't gonna go
20 outside.

21 Q Why not?

22 A I was afraid to go outside.

23 Q Why were you--

24 A -- I was where I was not supposed to be at, so I
25 didn't really wanna get fussed at.

1 Q Okay. You think maybe something else other than
2 getting fussed at was gonna happen?

3 MR. MOBLEY: Objection, Your Honor.

4 THE COURT: Well, I mean, he can ask her what was in
5 her mind at the time.

6 MR. MOBLEY: I mean, a couple different things, you
7 know, one, it's not relevant. He's trying to take this
8 witness down a road it doesn't need to go. She's a fact
9 witness. She was present. She can certainly testify
10 about what happened, but he is trying to open a door to
11 some issues that are not relevant in the trial of this
12 case about their relationship. And that's the problem
13 with that question, Your Honor. Trying to elicit an
14 inappropriate answer. To open a door--

15 MR. SCOTT: -- I don't know what--

16 THE COURT: Wait a minute. Don't talk over each
17 other.

18 MR. SCOTT: Yeah. I'm unclear of what he thinks I'm
19 asking her what, what she was in fear of.

20 THE COURT: Well, let's see if we can resolve it this
21 way. Come over here please.

22 (Whereupon, a bench conference was held in the
23 presence of the jury but out of the hearing of the
24 jury.)

25 THE COURT: Solicitor, you want to repeat the

1 question?

2 Q Okay. You said, I asked you why didn't you just go
3 out there if he's calling for you? Why didn't you go
4 outside with your estranged husband?

5 A I was afraid I was gonna get yelled at, and possibly
6 go through another turmoil divorce and with the kids and
7 stuff.

8 Q Okay. Well, I mean, well, did he sound angry?

9 A No. Actually, he didn't. He just knocked on the
10 window and said I see you, Lisa.

11 Q Well that doesn't make, well, why weren't you, why
12 were you afraid to go outside then? I don't, if he didn't
13 sound angry.

14 MR. MOBLEY: Answered.

15 THE COURT: She's already answered that question,
16 Solicitor.

17 Q Alright. Okay. So, what were your plans then? Were
18 you just going to hide out in Mr. Ruff's home for the rest
19 of the night?

20 A No. I was gonna leave.

21 Q Where were you gonna go?

22 A To my husband's house.

23 Q Okay. I thought you just said you were afraid.

24 A Or to my mother's one, whichever. I wasn't afraid, I
25 just didn't wanna argue right there. That's, I didn't,

1 there are neighbors right next, I live way out in the
2 country, there's like neighbors all right around there. I
3 didn't wanna cause no scene right there.

4 Q Right. And, now how was your daughter gonna get that
5 food you were supposed to get them?

6 A We would've got it. I would've got it.

7 Q You were going to get it?

8 A Yeah.

9 Q Okay. And then you were going to take it back to Mr.
10 Tyson's home?

11 A That or either give it to my mom.

12 Q Okay. Alright. So, but whenever he came to the
13 glass window, did you go anywhere, or did you just stand
14 there looking at him through the glass?

15 A I stood right there for a second.

16 Q Okay. And then what happened?

17 A I told, I said go away Terrance. You shouldn't be
18 here.

19 Q Okay. You shouldn't be here. Why shouldn't he be
20 there?

21 A Because I didn't wanna have any arguments going on.

22 Q Okay. Alright. And then did he leave?

23 A No. He didn't. I don't guess. No, cause Tyrone
24 wouldn't open the sliding glass doors. Well, Tyrone went
25 and got the gun and then opened the sliding glass doors.

1 Q Okay.

2 A Opened the blinds.

3 Q And then what happened?

4 A And then he pulled open the door and then I ran kinda
5 to, well, I didn't run, I just kinda went behind the--

6 Q -- where?

7 A Right here is the like little bathroom behind the
8 kitchen area. I was kinda right there.

9 Q So, you ran in the bathroom?

10 A Not in the bathroom, but right there in the doorway
11 to the bathroom in that area.

12 Q Okay. And did you see Mr. Tyson when he came inside?

13 A No.

14 Q Well, tell me what you did see.

15 A I just saw Tyrone pull that, get the gun, pull back
16 the blinds, and open the door. And then that's when I got
17 the phone and went to call 911.

18 Q Well, why were you calling 911 at that point?

19 A I didn't want anybody to get hurt.

20 Q Okay. Alright. Well, you've identified it.

21 MR. SCOTT: Your Honor, the State would offer State's
22 number 6 for admission into evidence and permission to
23 publish.

24 THE COURT: Is that the 911 call?

25 MR. SCOTT: Yes, sir. It is.

1 MR. MOBLEY: No objection from the Defense, Your
2 Honor.

3 THE COURT: Alright. Alright. Number 6 into
4 evidence on behalf of the State.

5 (WHEREUPON, State's exhibit 6 was admitted into
6 evidence.)

7 THE COURT: Just for my information, Solicitor, about
8 how long is the call?

9 MR. SCOTT: Six or seven minutes, I think.

10 THE COURT: Okay. That's fine. I just wanted to find
11 out.

12 (Whereupon, 911 tape was played starting at 4:38
13 p.m.)

14 MR. MOBLEY: Your Honor, at this point, I would ask
15 that the tape, it appears that the altercations concluded
16 and it's just the dialogue, it doesn't at this point
17 reflect the--

18 THE COURT: -- does the State wanna play the
19 remainder of the call?

20 MR. SCOTT: Yes, sir. I think she's going to
21 identify him.

22 THE COURT: Okay. Alright. I'll overrule the
23 objection. You may proceed.

24 MR. MOBLEY: Thank you, Your Honor.

25 (Whereupon, the tape continued to play.)

1 Q Alright. That was your voice from that night?

2 A Yeah. Yes.

3 Q Okay. And now you mentioned on the 911 tape that he
4 had broken into the house.

5 A I said that he busted into the house. Yeah.

6 Q Okay. And you said something about him trespassing.

7 A I thought he was on a trespass notice but he wasn't.

8 Q Okay. But that, that was your voice from that night
9 explaining what happened?

10 A Yes. And at the end when I said he broke in, well he
11 then I said came in.

12 Q Oh. What, really?

13 A On the 911 tape, he, at the very end, I said well, he
14 broke in, I said well, he came in the house.

15 Q Okay. What is the difference between that to you?

16 A He didn't break in. He didn't just--

17 Q -- what is that--

18 A -- he didn't bust in.

19 Q Okay.

20 A He just came in.

21 Q Alright. So, he didn't break glass?

22 A And that was because--

23 MR. MOBLEY: He's interrupting and she's trying to
24 answer the question.

25 THE COURT: Allow the witness to finish her answer.

1 A Yeah. I said that he came in. He didn't break in.
2 He didn't push his way through. He came in. The door was
3 open and he came in.

4 Q Okay. So, breaking to you is if you actually shatter
5 the glass?

6 A No. Breaking to me is if you come in, you know,
7 without anybody helping you open the door or come in the
8 house.

9 Q Did you help him in there?

10 A No.

11 Q Okay. Okay. But he came in though. That's a
12 distinction in your mind?

13 A To me yeah, yeah, he did not break in.

14 Q Okay.

15 A He did not break in the house.

16 Q Okay. Even though on the beginning of the 911 tape,
17 the jury gets to hear it as much as they want.

18 A Yeah.

19 Q You say he broke in. My husband broke in.

20 A He busted in. But I'm not saying that--

21 Q -- you're not saying that now?

22 A I'm kinda spastic and I was upset and I was very, it
23 was in a very--

24 Q -- okay.

25 A -- messed up situation.

1 Q Right. But, and now have you talked with, have you
2 talked with his lawyer about the difference between
3 breaking and busting and just coming in?

4 A No. I haven't talked to him about that.

5 Q Okay. Alright. Well so about, this is about 10:00
6 o'clock or so that night. Are you gonna dispute if
7 dispatch said they got there at 10:30 p.m., do you dispute
8 that as being about the time this happened?

9 A I'm not sure what time exactly it happened.

10 Q Okay. But do you remember it around 10:30, 10:00
11 o'clock?

12 A It was in the evening, yeah.

13 Q Okay. And you had been over there I guess about
14 9:00, is that right?

15 A Probably about 8:30.

16 Q Okay. So, you were there two hours.

17 A Or 8:00 o'clock.

18 Q About midnight, do you remember giving this written
19 statement to officers?

20 A Yes, I do. It was taken at the hospital when I was
21 in the ER.

22 Q State's number 23. Alright. And I know you want to
23 explain that too, don't you? Is this different? You got
24 a different story today?

25 A It's not really a different story. It's just

1 clarifying what was said on here cause when I was taken to
2 the hospital, the officers said can you just write down--

3 Q Okay.

4 A -- what happened. So, I just wrote down what
5 happened. He didn't ask for no descriptions.

6 Q Okay.

7 A He just said please write down, can you just write
8 down a statement on what happened that night.

9 Q Alright. So, about 12:01 a.m., about a hour and a
10 half after this happened, you put pen to paper and write
11 that statement?

12 A Yeah. In the hospital on the emergency room, yes,
13 and I was worried.

14 Q Alright.

15 MR. SCOTT: The State offers 23 for admission into
16 evidence.

17 MR. MOBLEY: Objection. I don't understand under
18 what rule he can get that into evidence, Your Honor.

19 THE COURT: Alright.

20 MR. MOBLEY: The witness has testified.

21 THE COURT: Alright.

22 MR. MOBLEY: Under what basis, the witness statement
23 that she made prior to that, unless he can--

24 THE COURT: --hold that thought for just a second.

25 MR. MOBLEY: And just so we're clear, I mean, I, you

1 know, with regard to rules of evidence in this case,
2 there's a couple different rules that don't apply. The
3 most basic one is 801(d) regarding hearsay. And just so
4 we're clear, it's not a prior inconsistent statement
5 because she has, you know, she has indicated she said
6 that. And she's, and she's indicated through her
7 testimony, that that's what she said and she is not saying
8 that's not what happened, but she is clarifying what that
9 statement meant.

10 THE COURT: Just hold that thought for just a minute.

11 MR. MOBLEY: Certainly, Your Honor. I apologize.

12 THE COURT: Solicitor, for what purpose are you
13 wanting to use and potentially get into evidence this
14 statement that she made around midnight at the hospital?

15 MR. SCOTT: She's giving a version of what happened.
16 That's closest in time to when it happened. Other than
17 the 911, that's what we've got as far as her statement.
18 What she's telling law enforcement happened that night. I
19 understand she's, she's planning on testifying somewhat
20 inconsistently. She says she wants to clarify. That's
21 the way she's termed it, but I just want to get on the
22 record what she was telling officers that night, an hour
23 and a half after the incident occurred.

24 MR. MOBLEY: Well, if I can respond briefly, Your
25 Honor.

1 THE COURT: Alright. Madam Forelady and Ladies and
2 Gentlemen of the jury, let me impose on you for just a
3 moment, and I need for you to go back to the jury room.
4 Let me deal with this particular legal issue with the
5 lawyers. Hopefully I can get you right back out, and we
6 can proceed forward. And then I need to kinda figure out
7 about how long we're gonna go today as well. So if you'll
8 go back to the jury room and get you back out hopefully
9 shortly.

10 (Whereupon, the jury is excused from open court.)

11 THE COURT: Okay. If we look at 613, that deals with
12 prior statements of witnesses and she's admitted to having
13 made the statement, written statement at the hospital
14 around midnight to law enforcement in written form. She's
15 admitted to that. I think you can ask her, without
16 admitting the statement into evidence, ask her did she say
17 such and such and then the Rule is pretty clear that if
18 she admits to making the prior statement, then extrinsic
19 evidence in the prior statement is not admissible. It is
20 inadmissible. And then, I'm sure, that if there's some
21 plan to have her clarify or explain, certainly Mr. Mobley
22 on cross-examination, you can, you can do that. But
23 unless she denies saying whatever is in that statement, I
24 don't think you, you can put it into evidence. Okay.
25 Alright. So, but you can certainly examine her about the

1 contents if she, and she admits to it, then it doesn't go
2 further.

3 MR. SCOTT: Yes, sir.

4 MR. MOBLEY: Thank you, Your Honor.

5 THE COURT: Now, certainly, you guys take as long as
6 you need to with this witness. How much longer you think
7 you gone be on direct, and I realize there's going to be
8 some cross, I don't know to what extent. I'm just trying
9 to get an idea as far as time.

10 MR. SCOTT: Ten more minutes.

11 THE COURT: Okay. Alright. You anticipate lengthy
12 cross?

13 MR. MOBLEY: No. I want take long, Your Honor.

14 THE COURT: You don't think you'll take long? Okay.
15 Alright. Very good. Let's bring the jury back out then.

16 (WHEREUPON, the jury came into open court at
17 approximately 4:56 p.m.)

18 THE COURT: Let the record reflect the jury is back
19 in the courtroom, and Solicitor, you may proceed.

20 CONTINUE DIRECT EXAMINATION

21 By Mr. Scott:

22 Q Okay. So, you did give the statement about midnight
23 the same night?

24 A Yes.

25 Q Alright. And tell me again, you know, how he entered

1 the house. What's your story today how he entered the
2 house, Tyson.

3 A Tyrone opened the door--

4 Q Okay.

5 A -- and he came in the house.

6 Q And he came in? Alright. 12:07 a.m. is when you
7 completed this statement the night of. What did you mean
8 when you said Tyrone went to the door and Terrance pushed
9 him out the way to get in the house?

10 A When Terrance went to the, when Tyrone went to the
11 door and pointed the gun at Terrance, Terrance went to
12 push the gun out of the way.

13 Q Okay. That's the clarification that you were talking
14 about?

15 A Yes.

16 Q Okay.

17 A One of them.

18 Q But that night, you don't deny what you said Terrance
19 grabbed the gun from Tyrone's hands and they struggled?

20 A That the gun never left Tyrone's hands that I seen.

21 Q Okay.

22 THE COURT: Can you speak up a little bit, please
23 ma'am?

24 A The guns never left, the gun never left Tyrone's hand
25 that I saw.

1 Q Okay. But you see your statement?

2 A Yes.

3 Q Alright.

4 A That's why I needed to clarify the statement.

5 Q You, you need to clarify it?

6 A Yes. The gun never did leave Tyrone's hand.

7 Q Okay. But you don't deny this night that you said
8 that Terrance grabbed the gun from Tyrone's hands and they
9 struggled?

10 A He never got the gun from Tyrone's hands.

11 Q That's your story today.

12 THE COURT: Ma'am, you need to speak up.

13 A He never received the gun. He never got the gun out
14 of Tyrone's hands.

15 Q Okay. And did you talk with Tyson's lawyer about
16 that?

17 A No.

18 Q Okay. And describe again, because in the statement
19 it says he went to the door and Terrance pushed him out
20 the way to get in the house.

21 A He pushed his arm out of the way cause he pointed the
22 gun and pulled the trigger. So when he pushed his arm out
23 the way to get in the house, that's how they had fallen.

24 Q Okay. But he did enter the house?

25 A Yeah. When Tyrone opened the door and pointed the

1 gun at him.

2 Q Okay.

3 A Terrance is stepping down on the bottom step of the
4 step. Tyrone is up here.

5 Q Right.

6 A And he pointed the gun at Terrance to, and cocked it
7 and pulled, shot, you know, went to shoot. It didn't
8 shoot. And then Terrance pushed the gun with his arm
9 inside of the door out of the way, so he wouldn't get
10 shot. But the gun never left Tyrone's hands.

11 Q Okay. And then he came on in the house?

12 A Yes.

13 Q Okay. Well, why didn't the struggle occur on the
14 back porch, cause you're describing everything happened on
15 the back porch?

16 A It happened, right here's the step and right here's
17 the sliding glass door. So it happened right in there.
18 That's why the blinds are like that.

19 Q Okay.

20 A And they were already broke anyway, but they just
21 kinda, they were like plastic blinds. They were already
22 broken. That's why the blinds were right there because it
23 was in between Terrance, Tyrone has the gun right here,
24 Terrance was below him, Terrance saw him point the gun,
25 pull the trigger and the gun jammed. Tyrone went to

1 reload it or something, and cock it back again or
2 something and he pushed his hand out of the way.

3 Q And then they come inside and they fight inside the
4 house?

5 A They fell inside.

6 Q They fell inside the home? Okay.

7 A Basically.

8 Q Alright.

9 A Because that's when Tyrone fell down and Terrance
10 started.

11 Q Okay. And then at what point did you pick up the
12 chair and hit it over your husband's back?

13 A That was later on.

14 Q Okay. Cause, I mean, we listened to the 911 tape.
15 It went on for a while, didn't it?

16 A Yeah.

17 Q Okay. And then what was the statement that Terrance
18 made to you, or rather to Tyrone, during this whole thing?

19 A He said Lisa, get the gun so I could leave.

20 Q Okay. What about the part where he said he has
21 nothing to lose?

22 A He never said that, that night.

23 Q You, were you lying to the cops when you said he said
24 that?

25 A No. I wasn't lying to the cops. What I had meant to

1 say, yes, I was worried about my kids. I was not with my
2 kids. I didn't know the state of mind my husband was in.
3 I did not how, know how Tyrone was. I was spastic and I
4 was concerned in general about everybody at the time.

5 Q Okay.

6 A And I wanted to make sure, look, just find Terrance
7 cause I'm worried about my kids.

8 Q Okay. So, you lied to the cops?

9 A No. I didn't lie.

10 Q Well, read the statement.

11 A He has said that before, but he did not say that that
12 night, and that's what I had meant. He didn't say
13 anything that night.

14 Q Okay.

15 A He had said that before in the past.

16 Q Terrance--

17 A -- but he never said that, that night.

18 Q Terrance stated he had--

19 A -- he didn't say anything that night, and that's on
20 the 911 call.

21 Q Terrance stated--

22 A -- oh. The only thing he said that night, was Lisa,
23 the only thing I heard him say was get the gun so I can
24 leave. He never said anything that night, other than when
25 he knocked on the door, and said Lisa, I see you.

1 Q Okay. I want you to explain though. Terrance stated
2 he had nothing to lose and would kill Tyrone and his
3 family. Terrance stated he would also kill my mama, Neal,
4 (phonetic), Corley and my brother. Stated he would not
5 stop until Tyrone was dead.

6 A He didn't say that that night.

7 Q Okay. When did he say that?

8 A In the past.

9 Q Okay. I continued to pull and hit Terrance with the
10 chair. Okay. But what you're saying now, is he was
11 saying Lisa, help me get the gun so we can go?

12 A No. He said Lisa, get the gun so I can leave.

13 Q Okay.

14 A He didn't want to get shot.

15 Q Okay.

16 A I didn't want him shot. I didn't want Tyrone to be
17 shot either. But I wasn't touching the gun cause I'm
18 scared of guns.

19 Q But then the struggle lasted a while. I mean, we
20 listened to the 911--

21 A -- Tyrone still had the gun in his hand.

22 Q Okay.

23 A And Terrance just wanted him to let go of the gun so
24 he wouldn't shoot him so he could leave.

25 Q Did you see him bite his ear off?

1 A I didn't know where the blood had came from. I had
2 no idea.

3 Q Did you see when he was biting him on his back?

4 A No.

5 Q Okay.

6 A I just saw blood. I didn't know where the blood had
7 came from or anything like that.

8 Q Are you gonna go back over there and sit by Mr. Tyson
9 when you get down from the stand?

10 A I'm gonna sit where I always would sit when I first
11 came in here.

12 Q Okay.

13 A It's not really by him. It's just there.

14 Q Alright.

15 A My daughter's sitting over there cause that's her
16 father.

17 Q What?

18 A That's her father, so yeah.

19 Q Yeah. And this is difficult for you, I guess, to be
20 here and talk about this, isn't it?

21 A Well, it's not the easiest thing to do.

22 Q Well, I mean, do you feel, do you feel any remorse
23 for Mr. Ruff's ear?

24 A I do.

25 MR. MOBLEY: Objection.

1 THE COURT: Sustained.

2 Q Well, and the reason Mr. Tyson's over there, is cause
3 you were over there? Is that right?

4 MR. MOBLEY: Objection, Your Honor. I mean, he wants
5 her to testify regarding the witness' state of mind. She
6 can testify to what she observed, what she had done.

7 THE COURT: You can ask her if he said, the Defendant
8 said the reason why he was over there, but this witness
9 cannot, I'm not going to allow speculation.

10 Q Do you have any personal knowledge why Tyson was
11 there? Did he say why he was there?

12 A No.

13 Q Okay. Okay. Did you invite him over there?

14 A No.

15 Q I think that's all. Answer any questions Mr. Mobley
16 has for you.

17 THE COURT: Alright. Cross-examination.

18 MR. MOBLEY: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 By Mr. Mobley:

21 Q Alright Ms. Tyson. And just so we're clear, you
22 know, the Prosecutor has asked you about sitting with
23 Terrance Tyson and about whether you're with him, or
24 you're not with him. Are you back with Terrance Tyson?

25 A No, sir.

1 Q Are you living with him?

2 A No, sir.

3 Q Matter of fact, have you filed for separation?

4 A Yes, sir.

5 Q And I want to start a little bit by just going
6 straight to the statement. He spent a lot of time asking
7 you about your statement, and the statement you made that
8 night to the police and the 911 tape. And just so we're
9 clear, would it be fair to say that this is a fairly
10 traumatic experience to witness?

11 A Very much.

12 Q Alright. And you're not a lawyer, correct?

13 A Correct.

14 Q Okay. And you don't work in law enforcement,
15 correct?

16 A Correct.

17 Q Okay. So, you don't know the elements of burglary
18 first degree, correct?

19 A No.

20 Q Okay. Or the elements of assault first degree,
21 correct?

22 A Correct.

23 Q Okay. And when you gave this statement that he's
24 asked you about, okay, did anybody sit down with you and
25 ask you very specific questions about the details of the

1 events?

2 A No.

3 Q Okay. Or did they just tell you to write down what
4 happened?

5 A They just said write down, give me a description of
6 what happened that night.

7 Q Okay. So, at that time, I mean, the things that you
8 are trying to clarify today, at the time you made that,
9 and what time did you make the statement?

10 A 12, what time?

11 Q Yes.

12 A 12, it says 12:07 a.m. in the emergency room.

13 Q Okay. So, you gave this statement in the emergency
14 room at 12:00 o'clock in the morning?

15 A Correct.

16 Q Okay. And what time did you get up that day
17 probably? You're a mom, so I'm guessing you got up fairly
18 early?

19 A 6:00.

20 Q I'm sorry.

21 A About 6:00 o'clock in the morning.

22 Q Alright. You witnessed this traumatic event. It's
23 12:00 o'clock in the morning. You're in the hospital, no
24 one said hey, why don't you come down to the police
25 station and give us a statement?

1 A No, sir.

2 Q No one said ma'am, I know this is, been very
3 traumatic for you, go home, get a good night sleep, come
4 back tomorrow morning so we can talk to you?

5 A No, sir.

6 Q Alright. And just so we're clear, when you were
7 making your statement, because you're not being asked
8 specific questions, the details and the specifics of what
9 was in your statement, did they seem that important to you
10 at the time?

11 A No.

12 Q Okay. Alright. So, just so we're clear, now, one of
13 the elements of burglary is entering a home without
14 consent. Did anybody explain that to you when you were
15 giving your, when they asked you to give a statement?

16 A No.

17 Q So, at the time you gave that statement, did you feel
18 that it was important at 12:00 o'clock, in the hospital,
19 to specify the exact manner in which your husband got into
20 the residence?

21 A I wasn't even thinking about that. No, sir.

22 Q Okay. Did anybody from law enforcement ever sit down
23 with you and say alright, Ms. Tyson, we want to make sure
24 we understand exactly how your husband got into the
25 residence?

1 A No, sir.

2 Q Anyone ever do that?

3 A No, sir.

4 Q They just said write a statement?

5 A Yes, sir.

6 Q And you wrote this statement in June of 2015,
7 correct?

8 A That's correct.

9 Q Alright. From June of 2015, at 12:00 o'clock in the
10 morning, from that time period, when was the next time
11 anybody from law enforcement, the Solicitor's Office, the
12 Sheriff's Department, their investigator, when was the
13 next time anybody from their office and from law
14 enforcement ask you about the details of your statement?

15 A Not until a week before the trial. Like January,
16 they called me once when I was at my job.

17 Q Okay.

18 A And for court.

19 Q When was the first time they asked you about these
20 details?

21 A Today actually.

22 Q Alright.

23 A Was the first time they asked me about the details.

24 Q Okay. And did they interview you prior to you taking
25 the witness stand?

1 A No, sir.

2 Q Okay. Did they talk to you about your statement?

3 A Only when they took me back there when I got here
4 this morning.

5 Q And what did you tell them when they asked you about
6 your statement? What did you tell them?

7 A I told them that I, I needed to clarify some things
8 that was in my statement that's not quite accurate.

9 Q Alright. And what was their response when you tried
10 to clarify the information in your statement?

11 A That they asked me, they said why, asked me why are
12 you lying, and you could go to jail for perjury. You know
13 what perjury is.

14 Q Did you feel intimidated?

15 A A little bit, yeah.

16 Q But just so we're clear, clarify for the jury how
17 Terrance Tyson go into that home.

18 A Tyrone pulled back the blinds and opened up the
19 sliding glass door.

20 Q Okay. And I know that, just so we're clear, he also
21 asked you, the Prosecutor, Dale Scott, asked you a lot of
22 details about the sequence of events that night. About
23 when Terrance got the gun, and when somebody fell down,
24 some very fine details. Okay. I mean, has anybody, when
25 was the first time anybody asked you those kind of details

1 from the Prosecutor's office? When was the first time?
2 This happened June of 2015, late at night. When was the
3 first time you were asked from the Solicitor's office or
4 law enforcement to recall details to that degree?

5 A Today.

6 Q Okay. And are you giving answers to the best of your
7 memory and recollection?

8 A Yes, sir.

9 Q Okay. And just so we're clear, at some point early
10 in the case, in August, this happened in June, correct?

11 A Correct.

12 Q And, as you indicated, honestly, to the jury, that
13 had conversations with individuals from my office a long
14 time ago.

15 A Yes.

16 Q That someone tried to contact you, correct?

17 A Yes.

18 Q Alright. And did you give a interview to someone who
19 was not working with the Solicitor's Office about this
20 case?

21 A No.

22 Q Did you give a statement about this case?

23 A Yes.

24 Q Alright. In 2015, did someone else, do you recall
25 talking to an investigator at my office?

1 A Yes, sir.

2 Q Alright. In that interview, did that person ask you
3 very detailed, very specific questions about what
4 happened, or more detailed than what's in your initial
5 statement?

6 A Yes, sir.

7 Q Okay. And in that statement, did you indicate that,
8 specifically, were you asked how Terrance Tyson got into
9 the home?

10 A Yes.

11 Q And when you were asked specifically, in August of
12 2015, if I can approach, I can just and I don't think I
13 need to mark it, I'm just offering it to refresh her
14 memory and to rebut the inference of a changing statement,
15 but in August, is this statement dated August 2015?

16 A Yes, sir.

17 Q Alright. There's no year on here. It says August
18 20. But it does state, in this statement, you were asked
19 about specifically how Terrance Tyson got in the
20 residence?

21 A Yes, sir.

22 Q Okay. And when you were asked specifically back in
23 August of 2015, what was your answer?

24 A Tyrone opened the door.

25 Q Alright. Just so we're clear, thank you. Now, I

1 wanna kinda go back and go over a few things with you.
2 But since the Prosecutor went into such a detail about
3 your statement, I wanted to kinda clarify that first.
4 Now, let's kinda go back a little bit, and how long have
5 you known Tyrone?

6 A How long have I known Tyrone?

7 Q Yes.

8 A About 30 years.

9 Q Okay. And you knew him when you were in college,
10 correct?

11 A Correct.

12 Q Okay. Did you date when you were in college?

13 A Yes, sir.

14 Q Okay. And I believe that you ended your relationship
15 with Tyrone to be with Terrance back then.

16 A That's correct.

17 Q Alright. And you ultimately, of course, married
18 Terrance?

19 A Yes, sir.

20 Q And how long have you and Terrance been married?

21 A 20 years.

22 Q Okay. You have any children?

23 A Three.

24 Q How old are they?

25 A Sierra is 19. She's a junior at Clemson. Leah is

1 14. She's in middle school. And Caden is 13--

2 Q Do you need some--

3 A -- he's at the middle school as well.

4 Q Okay. I'm sorry?

5 A He's at Mid Carolina middle school as well. He's in
6 middle school. I hope somebody picked them up from
7 school.

8 THE COURT: You need to speak up, ma'am.

9 A I'm sorry. Which one you want me to start with.
10 Sierra is 19. She's a junior at Clemson. Leah is 14
11 years old. She is an 8th grader at Mid Carolina Middle
12 School. And Caden is the 7th grade. He's 13 at Mid
13 Carolina Middle School.

14 Q Would you like some water?

15 A No. But I need to make sure somebody picked up my
16 son from school.

17 Q What time do you need to leave by?

18 A I needed to make sure he got picked up.

19 Q Oh.

20 A But that's okay.

21 Q Alright. Would it be fair to say that, that you and
22 your husband had some marital issues?

23 A Yes.

24 Q Financial problems?

25 A Yes.

1 Q Probably some pretty bad arguments?

2 A Yes.

3 Q And I think you, people in your family didn't like
4 Terrance, correct?

5 A Correct.

6 Q Okay. And to be fair, I guess some people in his
7 family weren't too crazy about you?

8 A Correct.

9 Q It caused a fair amount of stress on the
10 relationship?

11 A Very much.

12 Q Would it be fair to say that generally, you know,
13 there were times when you weren't sure you wanted to stay
14 married to Terrance?

15 A That's correct.

16 Q And you would leave or tell him you were leaving?

17 A That's correct.

18 Q In general, would Terrance always want to try to work
19 things out with you?

20 A Always.

21 Q For better or for worse?

22 A That's what he says.

23 Q Alright. Now let's talk about issues between your
24 family and Terrance. There's a fair amount of animosity
25 between your family and Terrance, correct?

1 A That's correct.

2 Q And would it be fair to say, I know this is hard to
3 admit that, you know, there are times you'd probably be
4 pretty mean to Terrance when you guys would fight?

5 A Yes, sir.

6 Q And say some pretty mean things to him?

7 A Yes, sir.

8 Q Okay. I'm not trying to embarrass you, but you, you
9 said some pretty mean, hurtful things to Terrance,
10 correct?

11 A Correct.

12 Q But would there be times that you would tell him that
13 people in your family were going to kill him?

14 A Correct.

15 Q And he didn't like that of course.

16 A No, sir.

17 Q And you would say things like that to get him riled
18 up, just to make him mad.

19 A Yes, sir.

20 Q And once again, he didn't care for you saying things
21 like that.

22 A Yes, sir.

23 Q Okay. And I think you told him you had a cousin that
24 killed some people and things like that, and he would kill
25 him too?

1 A Yes, sir.

2 Q And you would say mean things to him like you'd just
3 be another body missing. Nobody miss you.

4 A Yes, sir.

5 Q And when he would say, when you would tell him things
6 like that, how would he respond?

7 A Back with the same thing.

8 Q What would he say?

9 A I'll kill you and your family too.

10 Q Alright. So, when he made statements like that, was
11 that a response to you egging him on and making those kind
12 of statements to get him going?

13 A Yes, sir.

14 Q Okay. But, and so, just so we're clear, he did make
15 those statements to you in the past?

16 A Yes, sir.

17 Q But it was in, but it was in response to you making
18 those kind of threats toward him?

19 A Yes, sir.

20 Q Alright. Now, when you guys started going through
21 your rough patch, that's when you reconnected with Tyrone,
22 correct?

23 A That's correct.

24 Q Would it be fair to say that Terrance did not like
25 you reconnecting with Tyrone?

1 A That would be correct.

2 Q Okay. Didn't like it at all?

3 A No, sir.

4 Q Okay. I believe he felt that if you guys were going
5 to work things out, work things out as a couple, Tyrone
6 could not be in the picture?

7 A That's correct.

8 Q And would it also be fair to say, and I apologize for
9 trying to get too much into your personal life, ma'am, but
10 under the circumstances, would it be fair to say that for
11 a good year, year and a half, you weren't sure who you
12 wanted to be with?

13 A Yes, sir.

14 Q Okay. Sometimes you'd be with Tyrone?

15 A Yes, sir.

16 Q Sometimes you'd be with Terrance?

17 A Yes, sir.

18 Q And would it also be fair to say that you didn't
19 always tell Terrance when you were going to be with
20 Tyrone?

21 A Yes, sir.

22 Q And you wouldn't always tell Tyrone when you were
23 going to be with Terrance?

24 A Yes, sir.

25 Q So, you were kinda playing both ends against the

1 middle?

2 A Yes, sir.

3 Q You admit that?

4 A I do.

5 Q Tyrone's a fairly jealous person, wasn't he?

6 A He was.

7 Q Now, I asked him certain questions when he testified,
8 he denies being jealous. Isn't it true that Tyrone was
9 always accusing you of seeing somebody else?

10 A Yes, sir.

11 Q Isn't it true that he went through your telephone,
12 and he would call your co-workers to see who you were
13 talking to?

14 A Yes, sir.

15 Q And he has a nephew, doesn't he?

16 A Yes, sir.

17 Q What's his nephew's name?

18 A Bruce.

19 Q Were you, were you nice to Bruce and polite to Bruce?

20 A Yes, sir.

21 Q Was there a time when Tyrone accused you of having an
22 affair with Bruce?

23 A Yes, sir.

24 Q And a, and your daughter, Sierra, has a boyfriend.

25 A Yes, sir.

1 Q What's his name?

2 A Remington.

3 Q Did Tyrone accuse you of having an affair with him?

4 A Yes, sir.

5 Q When you would go to work, would Tyrone call your job
6 to make sure you were still working, and where you said
7 you were going to be?

8 A Yes, sir.

9 Q Well, in addition to, to other men, was he jealous of
10 the, wasn't Tyrone also jealous if you spent time with the
11 children?

12 A Yes, sir.

13 Q And he didn't like, he didn't like you putting the
14 children first, did he?

15 A Not really. No, sir.

16 Q So, if you made their food first, he didn't like it?

17 A Yes, sir.

18 Q And if you spent time with your kids without him, he
19 didn't like it?

20 A Yes, sir.

21 Q And if you talked to your daughter in the room with
22 the door shut, and your daughter, Leah, stayed there with
23 you at some point, correct?

24 A Yes, sir.

25 Q And if you talked to her privately in her room with

1 the door shut, he didn't like that either, did he?

2 A No, sir.

3 Q Would he check your mail, your email, things like
4 that?

5 A Yes, sir.

6 Q Very jealous man.

7 A Yes, sir.

8 Q Now, on the night this happened, had Tyrone been
9 drinking?

10 A Yes, sir. Yes, sir.

11 Q Just so we're clear, did anybody from law enforcement
12 ask you whether or not he'd been drinking that night?

13 A No, sir.

14 Q Does he drink frequently?

15 A Yes, sir.

16 Q How frequently?

17 A Just, when I was around him, just, we, every day.

18 Q Would he start early in the day, in the afternoon,
19 the evening?

20 A Yes, sir.

21 Q Well, when?

22 A Yeah. Early in the day.

23 Q And what was he like when he started drinking?

24 A He'd just be a different person.

25 Q Mean?

1 A Yes. Yes, sir.

2 Q Jealous?

3 A Yes, sir.

4 Q And he was drinking the day this happened?

5 A Yes, sir.

6 Q Was he doing anything else besides drinking?

7 A Not while I was there.

8 Q Well, what do you mean not while you were there?

9 A I mean, I don't know what he was doing earlier. I
10 can't assume that. I can't assume that he was doing
11 anything else, but not while I was there.

12 Q Now, when Terrance came to the house that night, he
13 called your name?

14 A Yes, sir.

15 Q He said Lisa, I know you're in there or something to
16 that effect?

17 A Yes, sir.

18 Q Lisa, I see you. Lisa, I know you're in there.

19 A Yes, sir.

20 Q And he didn't call Tyrone's name?

21 A No, sir.

22 Q And, just so we're clear, how did Terrance gain entry
23 into the house?

24 A Tyrone opened the door, sliding glass doors.

25 Q Did Tyrone have the gun in his hand?

1 A Yes, sir.

2 Q How was he holding it when he first went to the door?

3 A It was down beside his leg.

4 Q Did you see Tyrone point the gun at Terrance and pull
5 the trigger?

6 A Yes, sir.

7 Q Now, at the time, we all heard the 911 call, and it
8 sounded obviously, pretty graphic. You were fairly upset.

9 A Yes, sir.

10 Q Okay. And, but let's describe what you actually saw,
11 just so we're clear. Okay. Because the tape sounded
12 very, very scary. Okay.

13 A Yes, sir.

14 Q But isn't it true that the struggle that you saw,
15 involves Terrance being on Tyrone's back when Tyrone was
16 on the ground with the gun?

17 A Yes, sir.

18 Q Okay. And despite your frantic voice and screams--

19 A Yes, sir.

20 Q -- in the 911 tape, except for the bite on Tyrone's
21 ear --

22 A -- yes, sir.

23 Q -- Terrance didn't inflict any major injuries on
24 Tyrone's face?

25 A No, sir.

1 Q Terrance, is he fairly, strong big guy?

2 A Yes, sir.

3 Q Definitely bigger and stronger than Tyrone?

4 A Yes, sir.

5 Q Okay. And even though he was bigger and stronger
6 than Tyrone, and Tyrone tried to shoot him, and you were
7 frantic, and the tapes sound bad, I understand that.

8 A Yes, sir.

9 Q But, he didn't inflict any serious injuries on
10 Tyrone's face. He didn't punch him in the face, he didn't
11 kick him and he wasn't bleeding or cut anywhere else,
12 correct?

13 A No, sir.

14 Q So, once he bit Tyrone's ear, took that big bite out
15 of his ear, what happened? What did Tyrone do at that
16 point? Did he stop going for the gun?

17 A Did Tyrone stop?

18 Q Yeah.

19 A What did Tyrone do--

20 Q Yeah.

21 A -- or Terrance do?

22 Q Once Terrance bit Tyrone's ear, did that more or less
23 stop Tyrone from trying to get the gun?

24 A Tyrone already had the gun. It was still in his
25 hand.

1 Q Okay.

2 A Yeah.

3 Q So once Terrance bit Tyrone' ear--

4 A -- he still had the gun.

5 Q Okay. And Terrance just got up and left?

6 A Yeah. After that, he just got up and left.

7 Q Okay. That's all I have. Thank you.

8 THE COURT: Redirect?

9 REDIRECT EXAMINATION

10 By Mr. Scott:

11 Q When you were talking about the first time you spoke
12 with my office was today, but you made yourself difficult
13 for us to speak with you, didn't you?

14 A No, sir.

15 Q What about when you stood us up when we tried to
16 schedule that meeting with you?

17 A I had to pick my kids up from school. I couldn't
18 make it.

19 Q You didn't even call us.

20 A I tried, there was nobody that answered the phone.

21 Q Okay. And you never followed up with that?

22 A No, sir.

23 Q And then when we show up to your house, you say you
24 don't want to talk with us. I mean, that is true, right?

25 A I told, when you called me, I told you exactly where

1 I was at, and you said you want to bring the subpoena to
2 me. I said, told you my address and everything.

3 Q Right.

4 A He didn't say that he wanted to talk to me when he,
5 he, when he came there, he said now can you sit down and
6 talk to me about this. And I said no, I don't wanna talk
7 about it.

8 Q Okay. So, just to be clear --

9 A -- and he said well you have to be, you have to talk
10 to me when you get on that witness stand. That's what you
11 told me. Well, that's what he told me.

12 Q Right. Exactly, but you didn't wanna--

13 A -- and I said okay. I'll talk to you on the witness
14 stand.

15 Q Alright. The point is though we tried to schedule a
16 meeting.

17 MR. MOBLEY: Objection. He's trying to lead the
18 witness, Your Honor. It's his witness.

19 THE COURT: Alright. Rephrase.

20 Q What did you tell our office when we came to your
21 mother's house to speak with you?

22 A I didn't wanna talk with you about it.

23 Q Okay. Alright. You got in your car and drove on down
24 to Columbia twice to speak with Tyson's lawyer.

25 A I drove down to Columbia once for myself and once I

1 had to take my daughter down there because she was
2 subpoenaed.

3 Q Okay. But, you didn't just drive over here to the
4 Newberry Courthouse, which is a couple miles from your
5 house.

6 A I can't just drive over here, I also have a job.

7 Q Well, I just wanted to be clear that we tried to
8 speak with you, and you had an opportunity to tell your
9 version.

10 A Once, yeah.

11 Q Okay.

12 A That y'all try to speak to me.

13 Q Alright. And we talked about Kenneth being very
14 jealous. You were talking about that just a minute ago,
15 right?

16 A Yes, sir.

17 Q Well if he's jealous of your kids why did he let them
18 live in his house for some period of time?

19 A That was my house. I rented the house out. Not
20 Tyrone.

21 Q Tyrone's names on the lease.

22 A Now it is, but I rented out first and asked Tyrone to
23 move in with me.

24 Q Why would he live with the kids if he was jealous of
25 them?

1 A I wanted my kids there so he was gonna stay with me,
2 my kids had to be there too. And actually, my kids left
3 because of the reason, Tyrone.

4 Q Okay. But if he's, and he's jealous and he's mean,
5 why did you go over to his house so much?

6 A I like, me and Tyrone were very good friends.

7 Q Okay. Okay. That night, you were talking about he
8 had been drinking. You said he gets mean when he drinks?

9 A Yes.

10 Q Okay. Why'd you stay over there for two hours?

11 A It wasn't that I was there for two hours, I was there
12 an hour and then that happened.

13 Q Okay.

14 A So, I was just stopping by basically.

15 Q Why. Why stay an hour though when you could have
16 been back home with your daughter and your family?

17 A I was on my way back to get, I was on the way to get
18 the food, and I was fixing to leave.

19 Q Okay. You'd rather hangout with mean--

20 A -- when Terrance knocked on the window.

21 Q Okay. But you'd rather hangout with mean Tyrone
22 whose been drinking for an hour than your family?

23 A He wasn't mean that night.

24 Q Okay. Well, that's what I wanna know.

25 A Okay.

1 Q He wasn't mean that night?

2 A To me, no.

3 Q Okay. Who was he mean to?

4 A He wasn't mean to me that night.

5 Q What?

6 A I was the only one there. He wasn't mean to me that
7 night.

8 Q Okay. Well, but now on the night this happened, you
9 did tell officers that other than the biting, he was
10 hitting him in the head, right?

11 A I told them that--

12 Q -- you still got your statement up there?

13 A Yes. This was taken in the hospital.

14 Q Okay.

15 A Okay. Like I said, there was some things I needed to
16 clarify.

17 Q Right. And you drove down to Columbia twice to
18 clarify it with his lawyer?

19 A I drove to Columbia once to talk with his attorney.
20 No, the second time was so my daughter could be--

21 Q Okay.

22 A -- interviewed by him cause she was subpoenaed to the
23 Court.

24 Q Alright. But you don't deny that night at the
25 hospital, I know the hospital is a hard place for you to

1 give a statement.

2 A Yeah.

3 Q But you didn't get your ear bitten off that night,
4 did you?

5 A No sir, I didn't get my ear bitten off.

6 Q Anybody bite you in the back?

7 A Not that night. No, sir.

8 Q Okay. That night though Terrance kept hitting and
9 beating Tyrone in the head with his fist and bit his ear.

10 A Yes, sir.

11 Q Do you deny making that statement?

12 A No. I don't deny anything that's in this statement.

13 Q Okay. But you want to clear some things up today?

14 A I had to clarify the stuff that was in this
15 statement.

16 Q Okay. That's part of the clarification. That didn't
17 happen is what you're saying?

18 A He did bite his ear.

19 Q He didn't hit him in the head then?

20 A When I saw it, he was not hitting him in the head.

21 Q Wonder why you said that that night?

22 A That's the way it looked when Tyrone was, the way it
23 looked to me, so I don't know. I just said that. I
24 needed to clarify what I said in my statement.

25 Q Okay. Alright. So, what are the main clarification

1 points that you want to tell this jury today? What are
2 the main things that you've changed?

3 A How he entered the house.

4 Q Cause that's important, right?

5 A No. Yeah, it's, it is kind of important.

6 Q Okay.

7 A I assume. How he entered in the house, and the fact
8 that he didn't say those things that night--

9 Q Okay.

10 A -- about my family.

11 Q Is it your testimony today though that Mr. Ruff said,
12 come on in Terrance, I'd like for you to come inside of my
13 home?

14 A He did not say come on in.

15 Q Okay. Did he invite him though to come on in the
16 house?

17 A He opened the door.

18 Q What does that mean?

19 A And pointed the gun at him.

20 Q Does that mean come into my house?

21 MR. MOBLEY: Objection, Your Honor. She can describe
22 what she observed verses trying to interpret.

23 THE COURT: Alright. You can ask her if he made any
24 statements about coming in or not coming in.

25 A He didn't make a statement as to coming or not

1 coming.

2 Q Okay. And I think that's, that's all I need. Thank
3 you very much.

4 THE COURT: Any recross, Mr. Mobley?

5 MR. MOBLEY: No, Your Honor.

6 THE COURT: Okay. You can step down ma'am. Okay
7 Madam Forelady, and Ladies and Gentleman of the jury, it's
8 about 5:30 p.m., so it'd be a good time to break for the
9 evening. And we will start back at 9:30 a.m. in the
10 morning. Again, I remind you no discussion among
11 yourselves about anything related to this case. No
12 discussion with anybody that you come into contact this
13 evening or in the morning before you get here. Don't do
14 any independent research into anything related to this
15 case. Have a good evening, get some good rest and see you
16 in the morning at 9:30 a.m.

17 (Whereupon, the jury is excused from open court for
18 the day.)

19 THE COURT: Okay. We'll be at recess till 9:30 a.m.
20 in the morning.

21 MR. SCOTT: Thank you, Your Honor.

22 MR. MOBLEY: Thank you, Your Honor.

23 (Whereupon, the trial will resume the next morning at
24 9:30 a.m.)

25 FEBRUARY 7, 2017.

1 THE COURT: We do need to put a couple of things on
2 the record. Mr. Mobley, if you will remember yesterday
3 you had an objection, you had an objection to two
4 photographs but the State elected not to put one in. You
5 did have an objection to exhibit 18. I think your
6 argument was it was cumulative to some other photographs.
7 I denied your objection and allowed that in. And your
8 other sidebar objection was, it was with respect to the
9 wife's testimony related to being afraid.

10 MR. MOBLEY: Well, just so we are clear, she didn't
11 actually testify to that. The Solicitor, on his direct
12 examination repeatedly asked her why she wouldn't go
13 outside of the house. And she gave various answers. And
14 it appeared that he was trying to elicit responses that
15 she may have been afraid of her husband. And I objected
16 in an preempted matter to make sure nothing like that came
17 out.

18 THE COURT: And I allowed it but if I recall
19 correctly, I don't think really anything came out that you
20 had concerns about.

21 MR. MOBLEY: That is correct, Your Honor.

22 THE COURT: You did make that preemptive objection
23 which I overruled.

24 MR. MOBLEY: Thank you, Your Honor.

25 THE COURT: Very good. Anything else on the record

1 before we bring the jury out.

2 MR. SCOTT: Nothing from the State, Your Honor.

3 THE COURT: Let's bring the jury out, please.

4 (Whereupon, the jury came into open court at
5 approximately 9:47 a.m.)

6 THE COURT: Let the record reflect the jury is back
7 in. Good morning, ladies and gentlemen. She is probably
8 going to shoot me for saying this but this is my Court
9 Reporter's birthday. Is the State ready to call it's next
10 witness?

11 MR. DANIEL: We are, Your Honor.

12 THE COURT: Okay.

13 MR. DANIEL: The State would call Officer Josh
14 Wilbanks.

15 JOSH WILBANKS, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Daniel:

19 Q Officer Josh Wilbanks of the Whitmire Police
20 Department, correct?

21 A Correct.

22 Q How long have you been with Whitmire?

23 A Since May of last year.

24 Q May of last year?

25 A Yes, sir.

1 Q Where were you employed prior to May of last year?

2 A Newberry County Sheriff's Office.

3 Q Okay. That's what I'm interested in. How long were
4 you with the Newberry Sheriff's Office?

5 A A little over four years or right at four years.

6 Q Okay. A little over four years with the Sheriff's
7 Office?

8 A Yes, sir.

9 Q Alright. June 19th of 2015, were you employed with
10 the Sheriff's Office at that time?

11 A Yes, I was.

12 Q And were you working on that date?

13 A Yes, I was.

14 Q What shift were you working?

15 A I was working the night shift. 6:00 p.m. to 6:00
16 a.m.

17 Q And according to my calendar, that would of been a
18 Friday night?

19 A Correct.

20 Q Okay. Did you receive a call or were you dispatched
21 out to a residence located [REDACTED] Highway 34 in Newberry
22 County?

23 A I was.

24 Q Alright. And what was the nature of that call?

25 A It was given out as a active domestic.

1 Q What other information did you receive?

2 A That was all we received. Just active domestic and
3 while I was in route, we were advised that the, one of the
4 parties had left the scene.

5 Q One of the parties had left the scene?

6 A Yes, sir.

7 Q Okay. How long did it take you to get out there once
8 you received the call?

9 A Approximately seven minutes.

10 Q Seven minutes, and exactly what time did you arrive
11 at this location?

12 A I arrived on the scene at 10:24.

13 Q 10:24 p.m.

14 A Yes, p.m., correct.

15 Q And was it a house, trailer, apartment?

16 A It was a brick home.

17 Q Brick home. Okay. I'm going to hand you what's been
18 marked for ID purposes. It's State number 1.

19 THE COURT: What number is that Solicitor?

20 MR. DANIEL: State's number 1, Your Honor.

21 Q You recognize this?

22 A I do.

23 Q Okay. And what is that?

24 A That is the, it's the aerial view of the residence.

25 Q Just an aerial view?

1 A Correct.

2 Q Okay. And that's a very residential area?

3 A It is.

4 Q Neighboring houses?

5 A Correct.

6 Q Okay.

7 MR. DANIEL: Your Honor, I'd offer State's number 1
8 for admission into evidence.

9 THE COURT: Alright. And what says the Defense?

10 MR. MOBLEY: No objection, Your Honor.

11 THE COURT: Okay. Thank you. Without objection,
12 number 1 into evidence for the State.

13 (WHEREUPON, State's exhibit 1 was admitted into
14 evidence.)

15 MR. DANIEL: Walter, if you could zoom in a little
16 bit.

17 Q Officer Wilbanks, if you could, step down with the
18 Court's permission.

19 THE COURT: Okay. And just make sure you speak up
20 loud enough since you're away from the microphone,
21 Officer.

22 A Yes, sir.

23 Q Okay. Did you have backup?

24 A Not when I first arrived on the scene, no.

25 Q Okay. So, you pull in in your patrol car.

1 A Correct.

2 Q Where exactly do you pull in?

3 A I stopped about right here. As I pulled in, I could
4 see the garage door was closed. There was no lights on on
5 the front of the house and I proceeded around to the back.
6 The garage was closed and there was no lights on in the
7 front of the house so I proceeded to the back.

8 Q Okay. Now point to where you proceeded exactly.

9 A This patio area here to the sliding door.

10 Q Okay. So that's a concrete, concrete slab and that's
11 the patio area in the back?

12 A Correct.

13 Q Alright. You can sit back down. And you said there
14 was a sliding glass door. Is that correct?

15 A That's correct.

16 Q Alright. Was it opened, closed?

17 A It was closed.

18 Q Alright. Tell us what you observed next.

19 A As I approached the door, I observed the blinds for
20 the sliding door. Numerous pieces of the blinds laying in
21 the floor. Also, observed blood all over the floor along
22 with a, appeared to be a dining room chair in pieces in
23 the floor.

24 Q Okay. And who was present?

25 A Mr. Ruff and Ms. Tyson.

1 Q Okay. I'm going to show you what's been admitted
2 into evidence, State's number 17. That's what you were
3 just describing?

4 A Yes, sir.

5 Q Okay. And what's that indicate to you in that scene?

6 A It indicated to me there was definitely a struggle
7 that took place.

8 Q Signs of a struggle?

9 A Yes, sir.

10 Q Just the torn blinds?

11 A No, sir. The blood as well. Also, Mr. Ruff was, he
12 was on the, the sofa with his oxygen mask around his mouth
13 and he was having extreme troubles breathing. Ms. Sligh,
14 (phonetic), Ms. Tyson was extremely hysterical. As I
15 actually approached, she was on the phone.

16 Q Okay. And who was, who was Ms. Tyson on the phone
17 with?

18 A I think she was back on the phone with
19 communications, our dispatch.

20 Q Okay. And what did you proceed to do at that point?

21 A That point in time, as I entered, I spoke with Ms.
22 Tyson trying to find out what the, the other party was,
23 had left in and what direction, she possibly had the
24 direction so I could relay the information to other
25 officers.

1 Q And did Ms. Tyson or anyone on scene give you a name
2 of the suspect?

3 A Yes. She, you mind if I, can I look at my notes?

4 Q Sure.

5 THE COURT: Sure.

6 A She actually advised, her words were, the subject
7 done this. Which is Mr. Tyson.

8 Q Ms. Tyson told you Mr. Tyson had done this?

9 A Yes, sir.

10 MR. MOBLEY: Objection, objection to hearsay.

11 MR. DANIEL: Excited utterance?

12 THE COURT: Excuse me?

13 MR. DANIEL: Excited utterance, Your Honor.

14 THE COURT: Okay. Repeat the question again and
15 don't answer, Officer, until I can hear the question.

16 A Yes, sir.

17 Q Did you, did you say Ms. Tyson appeared to be
18 hysterical, distraught?

19 A Correct.

20 Q And you were trying to develop a suspect?

21 A Correct.

22 Q And did Ms. Tyson identify a suspect?

23 THE COURT: Alright. I'll reconsider and overrule
24 the objection. I find that it does fall within the
25 hearsay exception of excited utterance.

1 A She did. She advised Mr. Tyson.

2 Q Okay. She gave you a full name?

3 A Yes, sir.

4 Q And that was?

5 A Terrance Tyson.

6 Q Okay. So, do you provide that name to
7 communications?

8 A I do.

9 Q Okay. Alright. And so, you see blood on the floor,
10 correct?

11 A Correct.

12 Q And you see torn blinds?

13 A Correct.

14 Q Anything else indicative of a struggle?

15 A Again, Mr. Ruff was, he was extremely, having real
16 extreme difficulties breathing. His shirt was torn. I
17 saw blood on his, his face, on his chest area.

18 Q I'm going to hand you what's been admitted into
19 evidence, it's State's 13, 15 and 16. Tell me if you
20 recognize those three photographs?

21 A I do.

22 Q Okay. Go through them. What's number 13?

23 A Number 13 is, appears to be a dining room chair
24 that's in pieces. Also has blood along the seat cushion
25 and one of the blinds from the door.

1 Q And that's still in the living room?

2 A It is. It's kind of a open area. It's in the, like
3 the living room and kitchen and the living room is kinda
4 open to each other sorta, and it was in that area.

5 Q And was the, I guess this broken chair, the blood and
6 the blinds, was it all in one area?

7 A It was all mostly in the living room area.

8 Q So, it was contained within that living room area?

9 A Yes, sir.

10 Q Did you notice any blood droplets or torn blinds on
11 the exterior of the property, on the patio?

12 A No. I did not. No, sir.

13 Q Nothing on the patio?

14 A No, sir.

15 Q Okay. And the other photograph I gave you, 15, was
16 it?

17 A Yes, sir.

18 Q Again, just another photograph of the sliding glass
19 door?

20 A Yes, sir.

21 Q Alright. And the next photograph please.

22 A This the, number 16 is actually the picture of Mr.
23 Ruff on the sofa with the oxygen tank there. Also, blood
24 droppings all around between his feet along with the other
25 parts, pieces of the chair.

1 Q And you arrived there before EMS? Is that correct?

2 A Yes, sir.

3 Q Alright. So, that oxygen tank was presumably already
4 there?

5 A Correct.

6 Q Mr. Tyson's or excuse me, Mr. Ruff's oxygen tank?

7 A Correct.

8 Q And could Mr. Ruff communicate with you freely?

9 A No. He could not. Not in that point in time.

10 Q What was his condition?

11 A He was, as again, as I stated, he was having a real
12 hard time breathing. He was really, you could tell he's
13 really upset.

14 Q Okay. Alright. So, EMS does arrive.

15 A After I secured the scene. Advised that it was okay
16 for EMS to arrive, that's correct.

17 Q Okay. What happens next?

18 A EMS looks at Mr. Ruff. They were going to transport
19 him, but he refused to be transported to the ER by EMS.

20 So he was, he stated he would go to the ER if Ms. Tyson
21 would take him. Ms. Tyson did take him to the Newberry

22 County Emergency Room. And I, myself and Lieutenant

23 Shumpert then responded to the Emergency Room.

24 Q And did you take these photographs?

25 A I did.

1 Q At the, at the scene?

2 A I did.

3 Q And did you also take photographs at the hospital?

4 A I did.

5 Q And I'm going to show you what's been marked for ID
6 purposes, it's State's 21. You recognize State's 21?

7 A Yes, sir. I do.

8 Q And what is depicted in that?

9 A That is a picture of Mr. Ruff in the ER room with his
10 bloody shirt torn to his waist.

11 MR. DANIEL: Your Honor, I'd offer State's 21 for
12 admission.

13 THE COURT: Okay. And what says the Defense?

14 MR. MOBLEY: Objection to relevance, Your Honor.
15 We've once again, this issue came up early with this
16 photo. The State has presented numerous photographs of
17 the injuries that the witness suffered, the crime scene.
18 And at this point, it becomes cumulative to the point of
19 being unfairly prejudicial to my client.

20 THE COURT: Is this the one we looked at with 18
21 yesterday?

22 MR. MOBLEY: Yes.

23 THE COURT: And yesterday, Solicitor Scott, you did
24 not offer it in.

25 MR. SCOTT: That's correct. It was identified but not

1 offered.

2 THE COURT: Overruled. Allow it into evidence. 21
3 on behalf of the State.

4 (WHEREUPON, State's exhibit 21 was admitted into
5 evidence.)

6 MR. MOBLEY: Thank you, Your Honor.

7 Q Again, that's Mr. Ruff at the Newberry County ER?

8 A Yes, sir.

9 Q And that was the shirt he was wearing?

10 A That's correct.

11 Q And appeared to be torn?

12 A Correct.

13 Q With blood?

14 A Correct.

15 Q Okay. And what injuries, where exactly on his body
16 was he bleeding from did you observe?

17 A His ear area. His right ear.

18 Q Did you notice any other particular injuries?

19 A No. I did not.

20 Q Okay. I know it's already been admitted into
21 evidence. State's number 12 and 22, do you recognize
22 these photographs?

23 A Yes, sir. I do.

24 Q And those are photographs that you took, correct?

25 A That's correct.

1 Q And that's just, that documents the injury you just
2 described?

3 A That's correct.

4 Q Show 22, Walter. And you took that photograph at the
5 hospital again?

6 A That's correct.

7 Q Okay. And who accompanied Mr. Ruff to the hospital?

8 A Ms. Tyson.

9 Q Okay. And did you interview her about what occurred?

10 A I did.

11 Q Okay. And did she agree to provide a written
12 statement?

13 A She did.

14 Q Okay. I'm going to hand you what's been marked for
15 ID as State's 23. Do you recognize this?

16 A I do.

17 Q And what is that?

18 A This is her voluntary statement that Ms. Tyson filled
19 out of her, for the incident that took place.

20 Q Did you witness that statement?

21 A I did.

22 Q And what, what's the date and time that statement was
23 provided?

24 A June 20th and it was completed at 12:07 a.m.

25 Q At the hospital?

1 A That's correct.

2 Q Was, was Mr. Tyson taken into custody that evening on
3 your shift?

4 A No. No, he wasn't.

5 Q Okay. Do you know if deputies were in the process of
6 trying to find him that night?

7 A Yes, sir. We had numerous deputies looking for him
8 that night.

9 Q What address did you have for Mr. Tyson?

10 A [REDACTED] Griffin Road.

11 Q In what, what area?

12 A Pomaria. A section of Newberry County.

13 Q And did deputies go to that residence or address?

14 A That's correct.

15 Q Okay.

16 A That's correct.

17 Q And they couldn't find him?

18 A No, sir.

19 Q Okay. Beg the Court's indulgence. Was that the
20 extent of your role in this case?

21 A That's correct.

22 Q Please answer any questions the Defense has.

23 MR. MOBLEY: No questions, Your Honor.

24 THE COURT: Okay. Alright. Thank you, sir. You can
25 step down. Next witness, Solicitor.

1 MR. DANIEL: Your Honor, can we have a sidebar?

2 (Whereupon, a bench conference was held in the
3 presence of the jury but out of the hearing of the
4 jury.)

5 THE COURT: Madam Forelady and Ladies and Gentlemen
6 of the jury, the lawyers have informed me that they have a
7 legal issue that I'm going to have to deal with. So, if
8 you will go back to the jury room, and we'll get you back
9 out just as soon as we can. Again, remind you, no
10 discussion about anything related to this case among
11 yourselves.

12 (Whereupon, the jury was excused from open court for
13 a break.)

14 THE COURT: Alright. Solicitor, you indicated that
15 you anticipated an issue with respect to your next
16 witness.

17 MR. DANIEL: Yes, Your Honor.

18 THE COURT: Okay.

19 MR. DANIEL: We would, I guess, go ahead and proffer
20 Captain Dennis' testimony. It's related to the trespass
21 notice, but we have a alternate theory that it would come
22 in and totally different than what we addressed yesterday.

23 THE COURT: Okay.

24 MR. DANIEL: It's going to be, as you will see from
25 Captain Dennis, relevant to this case.

1 THE COURT: Okay. Alright. Well, let's put him up
2 and elicit the testimony and we'll go from there.

3 ROBERT DENNIS, being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 By Mr. Daniel:

7 Q Captain Dennis, you were the lead investigator on
8 this case we're here for?

9 A That is correct.

10 Q Alright. When did you first become involved with
11 this case?

12 A Became involved on this the following Monday, which
13 would've been June the 22nd. One of the roles that I play
14 at the Sheriff's Office is I look at all the incident
15 reports that are generated by road patrol. We set aside
16 reports that need follow-up investigations that range from
17 burglary, larceny, assault and battery case, anything that
18 we deem that we would need to follow-up. So I would pull
19 those reports and assign investigators. And I happened to
20 be the one to catch this case on Monday.

21 Q Alright. So, that would've been June 22nd. That
22 Monday morning you become involved?

23 A That is correct.

24 Q And you're reviewing these incident reports generated
25 by the patrol officers?

1 A That is correct.

2 Q Alright. So, did you determine what kind of case
3 this was after reviewing the report?

4 A Yes. This was an assault and battery case. Also,
5 titled as a burglary case, as well as a trespassing case.

6 Q And y'all had developed a suspect at this point?

7 A The actual, the road deputies, what you'll find is
8 all incident reports that are generated, the patrol deputy
9 is the first individual to actually process and record
10 information and investigate the information. So, the road
11 patrol had developed Mr. Tyson, Terrance Tyson, as the
12 suspect in this case.

13 Q And was it your job to obtain arrest warrants?

14 A It was. Based off of the information that was
15 generated in the report, as well as the, excuse me, as
16 well as the statement that was attached that had been
17 obtained from Ms. Lisa Tyson, I decided to do a follow-up.
18 I attempted to call Ms. Tyson. I could not leave a
19 message on her because of the voice mail being full. So,
20 my, my next opt was to go out and speak with the victim in
21 the case, Tyrone Ruff.

22 Q And you have a database you access whenever you
23 develop a suspect?

24 A Basically, what we, our system is called Law Track.
25 Within Law Track, we generate individuals, which is called

1 a master person file. Those are individuals that are
2 complainants, victims, subjects. Those individuals that
3 we put in information pertaining to their home addresses,
4 their physical description, their phone numbers, whether
5 it's a home phone, whether it's a cell phone. We also
6 have it where we can list incident reports that once that
7 person has been assigned to a report, we're able to do
8 what's called find all occurrences. So, I can pull up any
9 person's name and find out any reports that's been filed
10 by them or against them. We also have what's called
11 active notices. This can be anywhere from a trespass
12 notice or a civil action that would be against them.

13 Q Okay. So, you ran Terrance Tyson's name through this
14 particular database?

15 A We did. Just to follow-up on his information as well
16 as to see if there was any type of notices filed against
17 him.

18 Q Alright. What did, what, if any, notices had been
19 filed against Mr. Tyson?

20 A There was an active notice for trespassing against
21 him. Give me just a moment please.

22 Q Captain Dennis, I'll show you State's number 4. It
23 might save you some time.

24 A There you go. This a trespass notice that was
25 entered, looks like it was received and entered into our

1 database on 6/2 of '15. The initials, they are SB, which
2 is Sheila Bannister. She is one of our dispatchers.

3 Q Okay. So, Terrance Tyson was on trespass notice for
4 the property in question?

5 MR. MOBLEY: Objection to that conclusion. He can
6 identify what the document states. But that's a
7 conclusion, a legal conclusion.

8 THE COURT: That's fine, I can, since we are
9 in-camera, I can cherry pick what I want to rely on, and
10 what I don't want to rely on.

11 MR. MOBLEY: Thank you, Your Honor.

12 Q Alright. The contents of that trespass notice, what
13 does it indicate? Who's on trespass notice for what
14 particular property?

15 A The information received is at the top. Terrance
16 Lamar Tyson, [REDACTED] Griffin Road, Pomaria. The date that the
17 notice filed or mailed, March 27th 2015. And it was
18 basically notifying Mr. Tyson, you are hereby notified
19 that you're not allowed upon the property located at [REDACTED]
20 Highway 34, Newberry, South Carolina belonging to Kenneth
21 T. Ruff, Landlord Mr. Lane. And it's signed by Malverse
22 Lane. And notarized by Ms. Betty Honeycutt, which is a
23 secretary for the Newberry Sheriff's Office.

24 Q And what is the process of obtaining a trespass
25 notice? Are you familiar with that process?

1 A Yes, sir. We have a system in place that individuals
2 now can go online at the Newberry Sheriff's Office and get
3 a trespass notice. And with that trespass notice, comes
4 an instruction sheet giving them an instruction of how to
5 fill out a trespass notice and then what to do with it.

6 Q And that trespass notice was on record at the
7 Sheriff's Office?

8 A It was actually documented, received and entered into
9 the system on June the 2nd, 2015.

10 Q And is there any documentation related to mailing of
11 this trespass notice?

12 A There is a second part to this, which is a certified
13 mail receipt. And you got to pay the postage, which looks
14 like maybe out on 3/30 of 2015.

15 Q So, a trespass notice is a record that's regularly
16 stored by the Sheriff's Office?

17 A It is.

18 Q Do you consider that public record?

19 A We do.

20 MR. DANIEL: Your Honor, I'd offer this admission
21 into evidence as a, it's a public record. It's 803,
22 subsection 8, Rules of Evidence, and this, of course,
23 would be highly relevant in a burglary investigation.
24 Highly probative.

25 MR. MOBLEY: I'd be happy to respond to the--

1 THE COURT: -- and I'm going to give you an
2 opportunity. Let me take a look. Okay. Mr. Mobley.

3 MR. MOBLEY: May it please the Court, Your Honor.
4 When this matter was taken up before the Court initially,
5 there was no real issue regarding the authenticity of the
6 document or the hearsay nature. The Court's ruling
7 specifically addressed that the trespass issue was
8 inadmissible, specifically because there was no evidence
9 by the State that the Defendant had actually received
10 notice of the trespass. And I don't see how that has
11 changed by this witness just making it a public record.

12 THE COURT: Alright. Solicitor Daniel, your
13 response.

14 MR. DANIEL: Your Honor, the only way we would know
15 if Mr. Tyson received notice, would be to compel him to
16 testify, which we cannot do. And, also, Your Honor, it's
17 already, the door has been opened because of the 911 call.
18 It's alluded to the trespass notice. It was in the 911
19 call, she said Terrance, you're on trespass notice. You
20 could, you could hear that from the 911 call. Captain
21 Dennis confirmed the trespass notice when he interviewed
22 the victim as well. It is too probative in a burglary
23 case.

24 THE COURT: Yeah. Well, the problem I still have is
25 that we don't have, and I realize the reality of these,

1 sending out these trespass notices, certainly the better
2 course of action, which I realize is probably not
3 practical, is to hand deliver it to the person, get him to
4 sign something, some sort of receipt acknowledging that
5 they got it as opposed to mailing it, even though it's
6 certified. But we still have the issue of whether or not
7 Mr. Tyson received the notice. I know why you want it in,
8 so you can argue to the jury, look a here, Mr. Tyson knew
9 he wasn't supposed to be over there, and he went over
10 there anyways. I understand that and you're making good
11 efforts of trying to get this in. But I'm still not going
12 to allow it in. Coupled with that, is the fact I don't
13 believe this trespass notice is a type of public record or
14 report even though kept by the Sheriff's Office. I don't
15 believe it is the type of public record that is
16 contemplated by 803, subsection 8. So, I'm still not
17 going to allow it in, Solicitor. You've got it marked for
18 identification, so it's, it's part of the record. You've
19 proffered that so you're protected on the record if it is
20 ever discussed later on.

21 MR. DANIEL: Thank you, Your Honor.

22 THE COURT: Thank you.

23 MR. DANIEL: That's all I have.

24 THE COURT: Okay. Are you going to, other than what
25 you've testified to in-camera, is he going to be a witness

1 in your case-in-chief?

2 MR. DANIEL: Yes, sir. Briefly.

3 THE COURT: Okay. Alright. That's fine. Alright.
4 Officer Dennis, if you would just go back to your seat,
5 and then they can call you back up when I bring the jury
6 out.

7 OFFICER DENNIS: Yes, sir.

8 THE COURT: Thank you. Alright. Madam Bailiff, if
9 you'll bring the jury back out.

10 (Whereupon, the jury came into open court at
11 approximately 10:17 a.m.)

12 THE COURT: Let the record reflect the jury is back
13 in the courtroom. Solicitor, you're free to call your
14 next witness.

15 MR. DANIEL: Yes, Your Honor. The State calls
16 Captain Robert Dennis.

17 THE COURT: Okay. Come around Captain Dennis.

18 ROBERT DENNIS, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 By Mr. Daniel:

22 Q Captain Dennis, you're an investigator with the
23 Sheriff's Office?

24 A I am. Yes, sir.

25 Q How long have you been with the agency?

1 A I been with Newberry Sheriff's Office since May of
2 1999. I started my law enforcement career at Newberry
3 City Police Department in 1991.

4 Q Alright. I want to go, of course, we're talking
5 about this case, and you've been in here. Did you become
6 involved in this case involving Mr. Tyson?

7 A I did. This case was generated on June the 19th
8 2015, on a Friday, after hours. And I became involved
9 that following Monday, which was Monday, June the 22nd,
10 2015.

11 Q Okay. And at that point, Mr. Tyson had been
12 developed as a suspect?

13 A Yes. Within the report, the road deputy that
14 actually took the report had generated information from
15 witnesses and victim testimony, that Mr. Terrance Tyson
16 was the subject in the report.

17 Q So, you were reviewing incident reports that the
18 patrol officers had generated?

19 A That is one of my job duties at the Sheriff's Office
20 is to review all reports that are generated by our road
21 patrol. Once those reports are reviewed, we pull reports
22 that need follow up investigation that range from
23 burglary, petty larceny, scams, identity, assault and
24 battery, domestic violence cases.

25 Q Did you listen to any 911 calls?

1 A I did. I was able to go to the 911 center, which I
2 frequent pretty much every day. Usually sometimes six
3 days a week. I'm able to listen to calls, I'm able to
4 take calls as well as I dispatched in the, in the past.

5 Q And did you listen to a specific 911 call for this
6 case?

7 A I did. Actually, I pulled that report to listen or
8 recording to listen to it as well as to gather information
9 to put it together for a case.

10 Q Did you review any photographs?

11 A I did. I reviewed photographs that the road patrol
12 had taken, as well as followed up with the victim on, on
13 how his recovery was.

14 Q You met with Tyrone Ruff?

15 A I did. On that following Monday morning.

16 Q And, at that point, Monday morning, June 22nd, had
17 Mr. Tyson been formerly charged?

18 A No. He had not. What we do is, is go in to make
19 sure, talking to complainant, which the complainant in
20 this was Ms. Lisa Tyson. The victim, which was Mr. Ruff.
21 Try to make contact with them to verify the information.
22 Also, to see if they remember anything new that they can
23 relay to us.

24 Q So, you interviewed Mr. Ruff?

25 A I was. Mr. Ruff was at his home on Monday the 22nd,

1 that morning. I went out and sat down with him, talked to
2 him, as well as took some photographs of him.

3 Q Okay. I want to hand you three photographs that have
4 already been admitted into evidence, 18, 19 and 20. You
5 recognize those three photographs?

6 A I do. These are three photographs that I was able to
7 take of Mr. Ruff at his home.

8 Q And this is obviously after Mr. Ruff had been
9 discharged from the hospital?

10 A It is. State's number 18 is a picture of Mr. Ruff's
11 ear, right ear. I'm holding a scale up around it. It's
12 got stitches. State's number 19 is a picture of Mr.
13 Ruff's back. I'm holding a scale up around it to take the
14 photograph. And then State's 20 is just another kind of
15 distant shot of Mr. Ruff's back.

16 Q Alright. So, when you're reviewing the reports,
17 photographs, 911 call, did you decide to pursue criminal
18 charges against Mr. Terrance Tyson?

19 A Yes. With the information presented to me by Mr.
20 Ruff and then going before the Magistrate, warrants were
21 issued for burglary first as well as assault and battery.

22 Q Okay. And when did you obtain those arrest warrants?

23 A Those arrest warrants were obtained on the 23rd,
24 which was that following Tuesday morning.

25 Q And I guess between June 19th and the time you got

1 arrest warrants, were y'all aware where Mr. Tyson was at
2 that point?

3 A No. Did not know where he may have been. However,
4 on the 22nd, attorney John Mobley sent me a facsimile
5 indicating that he was pre-arrest counsel to Mr. Terrance
6 Tyson and that he was formally invoking his Fifth
7 Amendment right as well as his--

8 MR. MOBLEY: Objection, Your Honor. Objection, Your
9 Honor.

10 THE COURT: Okay.

11 MR. MOBLEY: May we approach?

12 THE COURT: Sure.

13 (Whereupon, a bench conference was held in the
14 presence of the jury but out of the hearing of the
15 jury.)

16 Q Alright. Captain Dennis, June 22nd you received a
17 letter of representation from Mr. John Mobley?

18 A That is correct.

19 THE COURT: Alright. Ladies and Gentlemen of the
20 jury, concerning anything else related to this letter of
21 representation from Mr. Mobley, you are not to consider
22 anything else other than the fact it existed and was sent
23 to Captain Dennis. You may proceed.

24 (Whereupon, Court's Exhibit 1 was marked for
25 identification only.)

1 MR. DANIEL: Thank you, Your Honor.

2 Q Captain Dennis, you said that letter is dated June
3 22nd, correct?

4 A That is correct.

5 Q I believe you said earlier you obtained arrest
6 warrants June 23rd, correct?

7 A That's correct.

8 Q So, you received that letter prior to even obtaining
9 the arrest warrants, correct?

10 A That is correct.

11 Q And at that time, had y'all been able to locate Mr.
12 Tyson's whereabouts?

13 A No, we had not. And within the body of the letter it
14 was--

15 MR. MOBLEY: Objection, Your Honor.

16 Q Don't go into contents of the letter.

17 THE COURT: Yeah. Don't go into the contents.

18 A Okay. Once I got the warrants, I contacted Mr.
19 Mobley again for him to assist in making arrangements for
20 Mr. Tyson to turn himself in.

21 Q And did Mr. Tyson eventually turn himself in?

22 A He did. He turned himself in on July the 6th, 2015
23 at 2:00 a.m. at the Newberry Sheriff's Office, the jail
24 out on Louis Rich Road and then the warrants were actually
25 served on him that morning at 4:25 a.m.

1 Q Okay. Going back, you interviewed the victim in this
2 case, Mr. Tyrone Ruff, correct?

3 A I did. Yes, sir.

4 Q And during that interview did you learn about a
5 firearm being involved in this case?

6 A I did, yes.

7 Q And did Mr. Ruff explain the significance of that
8 firearm?

9 A Mr. Ruff had, had--

10 MR. MOBLEY: Objection, hearsay.

11 MR. DANIEL: Your Honor, I'm not offering this for
12 the truth of the matter asserted.

13 THE COURT: Okay. Then you're offering it in for
14 what purpose?

15 MR. DANIEL: To show the effect on the listener about
16 why he didn't pursue charges on the victim. It's not, I
17 guess I have to ask the next question for it to make
18 sense.

19 THE COURT: Alright. Ask the next question. Captain
20 Dennis, don't answer it until I hear the question. And
21 then maybe I, that will aid me in making a ruling on the
22 objection.

23 MR. DENNIS: Yes, sir.

24 Q Did Mr. Ruff indicate he possessed a firearm on the
25 incident date?

1 THE COURT: I mean that's, that's already been into
2 evidence.

3 MR. MOBLEY: Yeah. Yeah. That, yeah, that part is--

4 THE COURT: Do you withdraw the objection at this
5 point?

6 MR. MOBLEY: At this point, correct.

7 THE COURT: Okay. Alright. You may, may answer the
8 question, Captain Dennis.

9 A Can you ask it one more time please?

10 Q When you interviewed Mr. Ruff, did Mr. Ruff indicate
11 that he had a firearm during this altercation?

12 A He did, yes.

13 Q Did Mr. Ruff indicate he pointed it or presented it
14 or tried to use it in anyway shape or form against Mr.
15 Tyson?

16 A He did.

17 Q And why didn't you charge Mr. Ruff with any type of
18 criminal offense?

19 MR. MOBLEY: Objection, Your Honor.

20 THE COURT: Okay. I'll overrule. You may answer the
21 question.

22 A Yes, sir. The reason no charges were pursued is
23 because Mr., well, number one, Mr. Ruff could legally
24 possess the firearm. Number two, Mr. Ruff has the legal
25 right to protect himself within his home as well as on his

1 property. So, based off of that--

2 MR. MOBLEY: Your Honor. Your Honor. I'm gonna
3 renew my objection because these statements are getting
4 very broad with regard to legal conclusions and matters of
5 law that pertains to the castle doctrine and self defense.
6 There are limitations on that and, and first and foremost,
7 it's not relevant to the matters in this trial, Your
8 Honor. So, I renew my objection, and ask the Court to
9 sustain my objection and ask the jury to disregard that
10 portion of the testimony.

11 THE COURT: Well, I mean, I've allowed it. I don't
12 think we need, notwithstanding Captain Dennis' many years
13 in law enforcement, I don't think we need a recitation of
14 the right or the lack thereof to, to have and possess a
15 gun in one's home. The fact is he elected not to bring
16 charges against Mr. Ruff. And I think that probably we
17 need to end it, leave it at that.

18 MR. MOBLEY: Thank you, Your Honor.

19 THE COURT: Okay. Alright.

20 Q Captain Dennis, no charges were filed against Mr.
21 Ruff?

22 A No. No, sir. No charges were filed against Mr. Ruff
23 in this.

24 Q Thank you, Captain Dennis. Please answer any
25 questions the Defense has.

1 THE COURT: Alright. Mr. Mobley, any questions,
2 cross-examination?

3 MR. MOBLEY: No questions, Your Honor.

4 THE COURT: Thank you very much. Captain Dennis, you
5 can step down. Alright. The State have any further
6 witnesses?

7 MR. SCOTT: No, Your Honor. The State rests.

8 THE COURT: Okay. Alright. Madam Forelady and
9 Ladies and Gentlemen of the jury, this would be a good
10 time to take a short morning break. The State has rested
11 its case. Please go back to the jury room, and again,
12 don't begin any discussions related to this case and we'll
13 get you back out shortly. Okay.

14 (Whereupon, the jury is excused from open court for a
15 break.)

16 THE COURT: Okay. The Defense have any motions they
17 would like to place on the record?

18 MR. MOBLEY: Yes, Your Honor. First, at this time,
19 I'd like to renew all prior motions that I made in this
20 case. Second Your Honor, I'd like to make a motion for a
21 directed verdict of not guilty. First and foremost, on
22 all charges, I do not believe that there was testimony
23 from the record that the incident location actually
24 occurred in Newberry County.

25 THE COURT: It was brought out. I always make a note

1 of that, but it was, I think it was brought out with two
2 witnesses. I know one for sure and I'll be glad to go
3 back through my notes, but I always for some reason, when
4 the State asked a witness, was this in Newberry County,
5 whatever county that we are in. And it was with Mr. Ruff,
6 and I made a notation of that.

7 MR. MOBLEY: Alright. Thank you, Your Honor.

8 THE COURT: Okay. Thank you.

9 MR. MOBLEY: Next Your Honor, I move for directed
10 verdict in the burglary charge, on the grounds that in the
11 light most favorable to the State there is no evidence
12 that the Defendant, my client, effected entry with the
13 intent to commit a crime. That is at least one of the
14 critical elements of the burglary charge. There has been
15 no evidence in the trial of this case of any prior
16 difficulty between my client and the alleged victim in the
17 case. There's been no evidence of any other type of
18 active trespass notice. The only evidence in this case is
19 my client's wife disappeared from the children's birthday
20 party and he went to the house looking for her and called
21 her name. The alleged victim in the case testified my
22 client didn't have any weapons, didn't make any threats
23 toward him or directed at him. But he simply, once he
24 pulled the gun on him, he rushed him. So, with that being
25 said, Your Honor, there is, once again, even in the light

1 most favorable to the State, and I do understand the Court
2 is not concerned with the weight of the evidence, merely
3 the existence of it. But there's not even the existence
4 of any evidence to indicate that when my client went to
5 that location it was with the intent to commit a crime.

6 THE COURT: Alright. Thank you very much. Will the
7 State have any position to the contrary, I trust that you
8 do.

9 MR. SCOTT: Yes. Well, we got the threats from
10 before that he was going to kill Tyrone when he got a
11 chance. We've got him at his wife's paramour's house in
12 dark hours looking through a back window in the back yard.
13 And then you've got him entering the home without consent.
14 You know, of course we know the injuries thereafter. So I
15 think the intent to commit a crime, the assault and
16 battery second and then coupled with trespassing,
17 potentially Peeping Tom type incident where he's in the
18 back yard. I see you Lisa, as he's looking through a back
19 window with blinds on it. There's plenty of criminal
20 activity going on that night.

21 THE COURT: Okay. Alright. I will deny the motion.
22 I believe that there does exist enough evidence to send
23 this case to the jury on both charges. And I'm going, at
24 this time, Mr. Mobley, I'm gonna advise your client
25 concerning his right to testify or not to testify. If you

1 want to take a moment, if you haven't already, if you want
2 to take a moment to explain what I'm going to be doing.

3 MR. MOBLEY: Alright, Your Honor.

4 THE COURT: Okay. Alright. Mr. Tyson, if you would
5 please stand and Madam Clerk, if you would swear Mr. Tyson
6 in please.

7 TERRANCE TYSON, being
8 first duly sworn, testified as follows:

9 THE COURT: Alright. Mr. Tyson, at this time I'm
10 going to explain to you certain of your rights. If you do
11 not understand anything I say please let me know that. If
12 you want me to explain anything in more detail please let
13 me know that as well. Do you understand, sir?

14 MR. TYSON: Yes, sir.

15 THE COURT: We've now reached the stage of the trial
16 where you may present your defense. You have the right to
17 claim the protections given to you by the Fifth Amendment
18 through the Constitution of the United States. And this
19 Amendment states in part, no person shall be compelled in
20 any criminal case to be a witness against himself. This
21 means that you cannot be required to testify in this case.
22 You certainly have the right to testify on your own
23 behalf, however, no one can make you testify. This is a
24 personal right and no one can waive this right except you,
25 sir. If you decide to testify you'll be subject to the

1 same rules that govern other witnesses and you may be
2 examined and cross-examined on any relevant issue in this
3 case. And in addition, if you have any convictions
4 involving dishonesty or false statement or crimes
5 punishable by imprisonment for more than one year, and
6 this Court determines that probative value of admitting
7 this evidence outweighs it's prejudicial effect to you,
8 the Solicitor would be able to introduce your record to
9 attack your credibility. If you decide to testify this
10 decision on your part must be freely, voluntarily and
11 intelligently made with knowledge of the protections given
12 you by the Fifth Amendment and the consequences of your
13 decision to testify. If you decide not to testify I will
14 instruct the jurors that they cannot give the fact that
15 you did not testify any consideration whatsoever and that
16 there is to be absolutely no prejudice to you because you
17 elected not to testify. Of course, this decision not to
18 testify also must be made freely, voluntarily and
19 intelligently by you. This decision is left entirely up
20 to you whether or not you testify. You certainly have the
21 right and I'm sure you already have talked with your
22 attorneys. You have the right to talk with family,
23 friends, anyone else, but the final decision is left
24 entirely up to you, sir. Have you understood what I've
25 explained to you?

1 MR. TYSON: Yes, sir.

2 THE COURT: You have any questions about what I've
3 explained to you?

4 MR. TYSON: No. I do not.

5 THE COURT: Have you had ample time to discuss this
6 matter with your lawyer and other people?

7 MR. TYSON: Yes. I have.

8 THE COURT: Okay. Are you prepared at this time to
9 tell me whether or not you will testify?

10 MR. TYSON: I choose not to testify.

11 THE COURT: You choose not to testify?

12 MR. TYSON: Yes, sir.

13 THE COURT: Okay. Alright. And is that decision made
14 by you freely, voluntarily and intelligently?

15 MR. TYSON: Freely and intelligently.

16 THE COURT: Well, I need all three. Freely,
17 voluntarily and intelligently.

18 MR. TYSON: Yes. Freely, voluntarily and
19 intelligently.

20 THE COURT: Okay. Thank you very much, sir. Now you
21 you can sit down. Mr. Mobley, does the Defense intend to
22 put up a case?

23 MR. MOBLEY: No, Your Honor. There's another motion
24 I'd like to make prior to receiving the closing arguments.

25 THE COURT: Okay. Alright. Let's go ahead and, let's

1 take a little break and then we will bring the jury out
2 for you to rest. And I'll probably, because we'll still
3 need to have a charge conference, and I may just send the
4 jury out early to take a longer lunch break to give us an
5 opportunity to have our charge conference and also to get
6 a little bit of lunch. So, we can kind of decide about
7 what time we want to bring them back. Okay.

8 MR. MOBLEY: Thank you, Your Honor.

9 THE COURT: And then you can certainly make any
10 motions you need to make on the record. Alright. Let's
11 take a little break.

12 (Whereupon, a short break was taken.)

13 THE COURT: Okay. We're back on the record. What
14 we'll do is bring the jury out, let the Defense rest on
15 the record and then I'll send them for a longer lunch
16 break. Probably have them come back at 1:00 p.m. Then we
17 can go back and just have an informal charge conference.
18 Work on the charge, which we've already got a draft, and
19 then can submit it to you lawyers for review. I think we
20 can then have lunch. I think we can get everything
21 accomplished by 1:00 o'clock. So, I'll have the jury back
22 at 1:00 p.m. Alright. And then once I send the jury out,
23 then anything you need to put on the record, Mr. Mobley.
24 Okay. Let's bring the jury out.

25 (Whereupon, the jury came into open court at

1 approximately 10:56 a.m.)

2 THE COURT: Let the record reflect the jury is back
3 in the courtroom. Is the Defense ready?

4 MR. MOBLEY: The Defense is ready, Your Honor.

5 THE COURT: Okay.

6 MR. MOBLEY: The Defense rests at this time, Your
7 Honor.

8 THE COURT: Okay. Alright. Very good. The
9 evidentiary record in this case is now closed. Ladies and
10 Gentlemen, what that leaves us to do, and we're gonna do
11 it after lunch, is the lawyers will make their closing
12 arguments to you and then I will charge you the law
13 applicable to this case. The only law that you will
14 consider in this case is the law that comes from me and
15 from no other source. But we are going to do that after
16 lunch. So what I'm going to do, is go ahead and send you
17 for a little early lunch break and an extended one and
18 have you back at 1:00 o'clock. And, so, and again, you
19 remember yesterday, and I tell you again, no discussion
20 with anybody that you come into contact with over your
21 lunch break. If you are out in public, keep your sticker
22 visible and have a good early lunch and we'll see you back
23 at 1:00 o'clock. Okay.

24 (Whereupon, the jury was excused from open court for
25 a lunch break.)

1 THE COURT: Okay. Mr. Mobley, anything you need to
2 put on the record?

3 MR. MOBLEY: Yes, Your Honor. I have two motions
4 regarding the State's closing argument.

5 THE COURT: Okay.

6 MR. MOBLEY: Based on the, the testimony of Captain
7 Dennis and the nature thereof, my first motion is I'm
8 requesting the Court to bar the State from arguing any
9 type of negative inference at the result of my client
10 exercising his right to counsel and the Sixth Amendment.
11 On the sidebar Mr. Scott making the statement about oh, he
12 got a lawyer, it being evidence of guilt instead of
13 turning himself in. That is completely improper. It's
14 completely improper for the State or the jury to make a
15 negative inference from a Defendant exercising his
16 constitutional right to counsel. And I would ask they'd
17 be barred from making such an argument at closing
18 arguments, Your Honor.

19 THE COURT: Okay. Solicitor Scott, Daniel, you want
20 to respond to that?

21 MR. SCOTT: Well, I wouldn't make that argument.
22 That was between us lawyers and Your Honor. What I would
23 note though, however, that is how he came into custody.
24 It wasn't that he showed up and nobody told him that he
25 was being sought after. That to me shows knowledge that

1 what he had done that night was not all together legal
2 and, in other words, how would he know that he was being
3 looked for. So he goes through Mr. Mobley and contacts
4 law enforcement. Really, that's just telling the story
5 and how he comes to be served his warrants. I make no
6 inference that he invoked any of his constitutional rights
7 and I won't speak to those.

8 THE COURT: Okay. I'm going, that's an interesting
9 issue. I've never, I don't think I've ever had it
10 presented before. I'll take that under advisement, just
11 consideration over lunch and certainly advise you lawyers
12 of my ruling after lunch but prior to closing.

13 MR. MOBLEY: And just so we're clear, from the
14 standpoint of after the investigation, his attorney
15 contacted law enforcement, he turned himself in. I
16 wouldn't have any, object to that part specifically. But
17 Mr. Scott trying to say, well, that's the only way he
18 could've known. That's not the case because there was no
19 attempt on his part to try to develop any testimony,
20 present any witnesses that, you know, as to whether or not
21 my client knew law enforcement was looking for him or
22 anything like that. So he put that one witness up. So
23 that's my motion, Your Honor. I don't have any problem or
24 any specific objection to him stating that's how the
25 Defendant was taken into custody. But him trying to say,

1 well, you know, he must've known he was guilty because he
2 got a lawyer.

3 THE COURT: Right.

4 MR. MOBLEY: There is no, there is no other inference
5 or possible inference he can try to make it certain of
6 that, Your Honor.

7 THE COURT: Okay.

8 MR. SCOTT: Yeah. I do note that. That is
9 pre-arrest warrants being issued is when he contacts law
10 enforcement. So, I don't know that he even has those
11 rights that he's arguing because this is pre-charging.
12 The warrants are not even an issue at this point.

13 THE COURT: Right.

14 MR. SCOTT: He's gone and hired Mr. Mobley who
15 contacts law enforcement and says basically, let me know
16 if you decide to issue any warrants. Yeah. The day
17 before arrest warrants are issued.

18 MR. MOBLEY: And just so we're clear, Your Honor, the
19 contents or correspondence were not made by the Defendant.
20 They are made by the Defendant's attorney.

21 THE COURT: Right. Right.

22 MR. MOBLEY: So, he's trying to attribute a legal
23 strategy or a legal language that his attorney put and
24 then communicates with law enforcement to the Defendant,
25 which is another basis for why this would not apply. It

1 really has no relevance in this trial.

2 THE COURT: Okay. I'll take that under advisement
3 and give it a little more thought. You have a second
4 matter, Mr. Mobley?

5 MR. MOBLEY: Yes, Your Honor. This also came out
6 through Captain Dennis' testimony. There appeared to be
7 some attempt by the State to improperly bolster the
8 conduct or gratify the conduct of the witness, Tyrone
9 Ruff, in this case regarding the shooting. Basically you
10 may recall that they asked Captain Dennis about his
11 decision not to charge Mr. Ruff based on shooting and how
12 he exercised his discretion. And my concern is, you know,
13 once again, I'm asking the Court to bar the State from
14 arguing in the closing argument that Captain Dennis'
15 individual decision not to charge Mr. Ruff somehow
16 justifies the shooting because that's what they want to
17 try to argue. The shooting was justified based on the
18 Castle Doctrine. Well, if the Court knows, just so we're
19 clear, why the Castle Doctrine, you know, technically
20 called the protection of person and property act in this
21 State. It only applies when a person has been charged,
22 and even then, he still required to have a judicial
23 hearing by a Judge as to whether or not it applies in a
24 particular case. So for them to try to basically take one
25 individual's decision not to charge the witness and argue

1 in front of the jury the shooting was justified without
2 all the other mechanisms that are in place, to make the
3 Doctrine apply is improper, Your Honor. They are trying
4 to improperly bolster witnesses. They going to tell the
5 jury he was justified legally.

6 THE COURT: Okay.

7 MR. MOBLEY: And I'm asking the Court to bar them
8 from making that argument, Your Honor.

9 THE COURT: Okay. Alright.

10 MR. MOBLEY: I mean, I don't have any problems with
11 the general statement, a man's home is his castle, blah,
12 blah, blah. That's a very common generic--

13 THE COURT: Right.

14 MR. MOBLEY: -- statement. That's not a statement of
15 law but getting into the law from that standpoint is also
16 error or inappropriate because it's not the law of the
17 case. The only laws discussed should be the laws that
18 applies to the case as the Judge instructs the jury.

19 THE COURT: Right. And the reason why I didn't go
20 any further about Captain Dennis giving his opinion as to
21 what the law is and how it was applied in not charging the
22 victim, the fact that I do charge the jury that the only
23 law considered comes from me and no other source. And I
24 felt like that would take care of it. Alright. Solicitor
25 Scott, they don't want you to make this an issue about

1 Captain Dennis making the decision, a law enforcement
2 decision not to charge Mr. Ruff with any gun offenses.

3 MR. SCOTT: Your Honor, with all due respect, I think
4 it's the Defense that made the gun the issue. If you
5 recall opening statement, what did the State leave out.
6 They left out the fact this man picked up a gun and aimed
7 it at my client. Of course he did and he had every right
8 to do so. For them to basically imply that he had
9 committed some crime and he should be criminally charged.
10 I think that, that's been their inference all along. And
11 I do intend to say, you know, he pulled out a gun. He had
12 every right to do it if somebody comes in your house at
13 night without consent. He had every right to aim the gun
14 at him. There was not a shooting. I know he was just
15 mentioning a shooting occurred. He aimed the gun at him
16 and attempted to fire the weapon. It never was
17 discharged. But he certainly, I think everybody in this
18 courtroom knows he had every right to do that. So for
19 them to imply otherwise, I feel it necessary to note that
20 he had every right to aim the gun, if indeed this man came
21 into his house at night without consent.

22 THE COURT: Mr. Mobley?

23 MR. MOBLEY: A couple different things. Number one,
24 I mean, any reference to something I said in opening
25 statement about the firearm and opened the door to an

1 issue is completely absurd. Because as everyone knows,
2 what's said in opening statement is in no way evidence.
3 So, I can't open the door to in opening statements, first
4 and foremost. And once again, in that same, from that
5 same standpoint, he did fire the gun at him. And that was
6 never, that's never been or pulled the trigger and tried
7 to discharge the weapon. That's never been an issue or
8 dispute in this case. So, just so we're clear, on what
9 I'm asking them not to be allowed to do. I don't want, if
10 he wants just to use the general terms that a man has a
11 right to defend his home and things like that. I don't
12 have any specific objection to that. What I don't want is
13 him trying to use the testimony of Captain Dennis to argue
14 that the witness' conduct was legal from that standpoint.
15 There's a very fine line, but there should be no legal
16 argument by the State regarding the--

17 THE COURT: Right.

18 MR. MOBLEY: -- the witness using that firearm.

19 THE COURT: Okay.

20 MR. MOBLEY: Because that's not the law of the case.

21 THE COURT: Alright. Was it the State's intention to
22 argue to the jury, to consider the fact that Captain
23 Dennis made a law enforcement decision not to charge?

24 MR. SCOTT: No. Not necessarily.

25 THE COURT: Right. And I think what Mr. Mobley's

1 objection is, is for you to argue that hey, Captain, he
2 was, Mr. Ruff was not charged with any criminal offenses.
3 Decision made by, you know, made by law enforcement. I
4 think that's the objection. And I kind of tending to
5 agree that, I mean, you can certainly argue, you know,
6 it's the State's position he had every right to defend his
7 home. He had every right to have a gun, that sort of
8 thing. But not to get in the fact, hey, consider the fact
9 that law enforcement made the decision not to charge.

10 MR. SCOTT: I could agree to do that. I think the
11 only concern would be if in his closing, he starts going
12 down that road. Why don't we look at Kenny Ruff, he's the
13 one aiming the gun, you know, and then criminalize him for
14 being in his home when he had every right to be. If they
15 go down that road, I may feel the need to respond to that.
16 But as of right now I will allude to the fact that, you
17 know, a man has the right to protect his home. But I will
18 not allude to Captain Dennis' testimony.

19 THE COURT: No. No reference to Captain Dennis'
20 testimony. So, is that, do you feel like that would take
21 care of your concern. I realize things happen
22 unintentionally maybe during closing that may, you know,
23 may need to revive this discussion. But for purposes
24 right now, are you comfortable with Solicitor Scott's
25 statement that he's not going to get into Captain Dennis'

1 testimony at all about not bringing charges?

2 MR. MOBLEY: Yes, Your Honor.

3 THE COURT: Okay. Alright. So, we got that resolved.

4 I still will take under advisement this other issue about

5 the, about trying to create some inference the fact that

6 Mr. Tyson hired Mr. Mobley before the arrest. I'll give

7 that some consideration. Any other motions?

8 MR. MOBLEY: That's all I have at this time, Your

9 Honor.

10 THE COURT: Okay. Alright. Let's do this, let the

11 lawyers, let's come back in my office and let's just have

12 a little informal charge conference. And then we'll try

13 and get you a draft. Okay.

14 (Whereupon, an In-Camera conference was held in the

15 Court's Chambers.)

16 (Whereupon, a lunch break was taken.)

17 THE COURT: Okay. We are back on the record and

18 gentlemen, it's my understanding that both sides are fine

19 with the jury charge. The State?

20 MR. SCOTT: Yes, Your Honor.

21 THE COURT: Defense?

22 MR. MOBLEY: The Defense is fine with the jury

23 charge, Your Honor.

24 THE COURT: Okay. Alright. Concerning the one

25 remaining issue that we've got. The Defense has requested

1 the State be prevented from arguing any inferences that
2 comes about as a result of Mr. Mobley's letter to Captain
3 Dennis indicating that, that you were representing Mr.
4 Tyson. I'm gonna deny your request and here's the reason
5 why. I think the basis for your argument was based upon
6 the Sixth Amendment right to counsel. Based upon the case
7 of Rothgery, that's R-O-T-H-G-E-R-Y vs. Gillespie,
8 G-I-L-L-E-S-P-I-E County. The site for that is 128
9 Supreme Court 2578, that the Sixth Amendment right to
10 counsel would not attach pre-arrest warrants. It was my
11 understanding that the letter was received the day prior
12 to the warrants being issued, I think is what was brought
13 out. So the letter indicating representation is in
14 evidence, not the actual letter, but testimony concerning
15 the letter is in evidence. I think I instructed the jury
16 to disregard any of the contents that maybe Captain Dennis
17 brought out. So it's in evidence, certainly either side
18 can argue whatever inferences they believe are appropriate
19 to the jury. Of course, it's up to the jury to determine
20 whether those inferences are correct or not. So I'm going
21 to deny the request to bar the State from making that,
22 that argument.

23 MR. MOBLEY: Okay. And just so we're clear--

24 THE COURT: Sure.

25 MR. MOBLEY: --Your honor. The State is allowed to

1 argue that the jury can infer guilt by the Defendant,
2 Defendant's attorney sending the law enforcement a letter
3 indicating he, he's represented by counsel?

4 THE COURT: I mean, I'm not sure exactly specifically
5 what inferences that the State intends to argue. I
6 realize the sidebar conference, I think Solicitor Scott
7 had maybe alluded to some argument that well, the
8 Defendant thought maybe he, he had done something wrong
9 and that's why he hired counsel. I think that statement
10 was maybe alluded to.

11 MR. SCOTT: It's odd. He's caught up in this
12 incident and he doesn't go to law enforcement and makes
13 himself difficult to be found. And then they receive a
14 letter from a lawyer out of Columbia. And they hadn't
15 even issued arrest warrants yet. So I don't usually see
16 that so I think it's relevant and I think the jury can
17 make whatever inference they see fit.

18 MR. MOBLEY: Okay. And I guess a couple different
19 things, Your Honor, that's regarding the basis of my
20 objection. There were multiple basis for my objection,
21 Your Honor. There was, the first, of course, one that I
22 made was the improper comment on my client's Sixth
23 Amendment right. But there are other basis that the Court
24 did not address in the Court's ruling with regarding
25 admissibility of that evidence and to my arguments. And

1 first and foremost, as with any evidence, Your Honor, you
2 have threshold issue of relevance. And I specifically
3 asking the Court to rule on relevance of the fact that
4 after my client's involved in the altercation and is
5 aware, I mean, he's present when his wife calls law
6 enforcement. He knows law enforcement is called even
7 prior to an arrest warrant being issued. So the Court has
8 a, from a threshold standpoint rule on the relevancy under
9 401. And just for the record, I know the Court knows what
10 relevance is, but I want to make sure I protect the record
11 regarding.

12 THE COURT: I think and correct me if I'm wrong, I
13 think the letter, receipt of the letter indicting
14 representation was not objected to. What was objected to
15 was for Captain Dennis to go into the contents of the
16 letter relating to the implication of the Fifth Amendment
17 right not to say anything to law enforcement. So if the
18 Court's memory is correct, then the letter, the letter
19 indicating representation is in evidence.

20 MR. MOBLEY: But not the letter, but the fact that he
21 was contacted by the Defendant's attorney.

22 THE COURT: Right.

23 MR. MOBLEY: Just so we're clear, what I indicated
24 and I think the record will reflect what my exact
25 statement was, that I didn't have any issue with or any

1 specific objection to him stating that he was contacted by
2 the Defendant's attorney.

3 THE COURT: Right, the letter itself is not in.

4 MR. MOBLEY: Okay.

5 THE COURT: But Captain Dennis' statement as to that
6 was not objected to. But then when he got into the
7 portion of the letter wherein you said, hey, my, you know,
8 my guy's not going to testify, he's invoking his Fifth
9 Amendment right. That's what you objected to. I agree.
10 I gave an instruction to the jury to disregard that. So
11 the existence of the letter of representation is in
12 evidence.

13 MR. MOBLEY: Correct.

14 THE COURT: Okay.

15 MR. MOBLEY: Correct.

16 THE COURT: So since it's in evidence, then I'm not
17 so certain that you can argue relevance as far as any
18 inference argument that the State may want to make. You
19 can certainly make counter inference arguments as well.
20 But go ahead so you can protect the record.

21 MR. MOBLEY: And just so we're clear, the arguments
22 regarding relevance and the 401, and even if the Court
23 made the threshold determination of relevance, the Court
24 would still have to find and conduct a 403 analysis as to
25 whether or not the probative value outweighs the

1 substantial risk of unfair prejudice to my client and to
2 the extent necessary. I'll renew that objection regarding
3 the testimony and the introduction of the letter by
4 Captain Dennis. But also, once again, my biggest
5 objection has to do with the inference the State is
6 allowed to make. And I do understand and the case the
7 Court cited was specific South Carolina Law regarding a
8 critical stage, you know, what point the right to counsel
9 applies during the legal proceedings. And I understand
10 that and I don't contest that, the proper analysis as to,
11 the issue is whether or not, you know, at that stage my
12 client had a right to counsel. But that's not the issue.
13 I'm not arguing as to whether or not my client had the
14 actual right to counsel at that stage, at a critical stage
15 of proceedings. My position is that anytime the, a
16 Defendant decides to seek representation, for the State to
17 somehow argue that's an admission of guilt or that's an
18 admission of guilty, it's just per se unconstitutional.
19 And I respectfully submit to the Court that for the State
20 to be allowed to make such an inference in this case would
21 be so severely prejudice to my client in such that he be
22 denied a fair trial. That's all I have, Your Honor.

23 THE COURT: Okay. And let me just address too, with
24 respect to the Court doing a, you know, a relevance and
25 prejudice probative value analysis, that goes to evidence

1. and we're not dealing with evidence. We're dealing with
2. argument. Now, what I will do is, and I know this doesn't
3. make you feel any better, okay. But what I will do is
4. instruct the jury, before you make, before both sides
5. makes their closing arguments, that these arguments are
6. not evidence. They're just statement, kinda like what I
7. do for opening, is the statement, both sides, if they
8. believe the evidence did show and their attempts to try to
9. advocate for their respective clients and, but it is not
10. evidence. Nothing that the lawyers say in closing is
11. evidence in this case, and they're to remember the
12. evidence that was presented at trial. So I'll do that,
13. and again, I know you may not even consider that throwing
14. you a bone. But my ruling will stand. Now, let's make
15. sure we're on the same page as far as order of closings.
16. We have the Beaty case. I believe the last trial we did
17. here a couple weeks ago, the State opens in full, Defense
18. then closes in full and then any new matters that the
19. Defense brings out, the State can address that. Are we
20. all on the same page? State in full, Defense in full and
21. then any new matters, the State can argue.

22. MR. SCOTT: Well, I am reading that case. It's up to
23. the party with the second and the middle argument, which
24. would be Mr. Mobley, in asking for that. Otherwise it and
25. again it's still not law yet. It's not settled law.

1 THE COURT: Right. I know they, they petition for a
2 rehearing on the case.

3 MR. SCOTT: Well, if he wants me to have two closing
4 arguments he can elect for that. And then once he does, I
5 think that's kind of what triggers the new postdated
6 order.

7 THE COURT: Mr. Mobley, do you, do you have a
8 position on this?

9 MR. MOBLEY: I do agree, Your Honor, that from the
10 standpoint I believe I have a right to elect. I disagree
11 that it's not law. It's not been reversed, that is the
12 decision at this time, Your Honor. And as I understand
13 it, once again, I can elect to require them to only reply
14 to new matters that I raise in my opening, I'm sorry,
15 closing argument.

16 THE COURT: Right.

17 MR. MOBLEY: And that's what, what I'd like to do,
18 Your Honor.

19 THE COURT: Okay. Alright. So, the State opens, I
20 mean, closes in full first. The Defense in full, any new
21 matters the State. Correct?

22 MR. MOBLEY: Only on new matters raised by the
23 Defense.

24 THE COURT: Right. Okay. Alright. Very good.
25 Anything else before we bring the jury out?

1 MR. SCOTT: Taylor has some concern. I don't know if
2 it's conversations they've had. But just, I don't think
3 there's gonna be any reference to penalties involved with
4 these crimes.

5 MR. MOBLEY: No.

6 MR. SCOTT: Okay. Just want to address that. I see
7 a couple displays over here. I had not seen there. And
8 I'm sure they're fine, but I just want to preview those
9 before we get rolling.

10 THE COURT: Take a look at them.

11 MR. SCOTT: Judge, I don't have any objection to
12 those displays.

13 THE COURT: Okay. Alright. Very good. Mr. Mobley,
14 just for your information, I do not place any time
15 restrictions on closing.

16 MR. MOBLEY: Thank you, Your Honor.

17 THE COURT: You have not tried a case before me and
18 they have. I just wanted to let you know I don't place
19 any time restrictions. You do whatever you feel like you
20 need to do and the same for the State.

21 MR. MOBLEY: I don't usually take long, Your Honor.

22 THE COURT: Maybe that's what you told me when I
23 asked you about how long your cross would take. Alright.
24 Madam Bailiff, if you would bring the jury out please.

25 (Whereupon, the jury came into open court at

1 approximately 1:23 p.m.)

2 THE COURT: Let the record reflect the jury is back
3 in the courtroom. Ladies and Gentlemen, the lawyers will
4 make their closing arguments to you now and I just want to
5 emphasize with you that their arguments are not evidence
6 in this case. This is their opportunity to argue to you
7 what they believe the evidence has shown. It's their
8 opportunity to be advocates for the parties that they
9 represent. But again, the evidence in this case has been
10 presented to you. You make that determination but give
11 them your undivided attention. The State will go first.
12 Solicitor.

13 MR. SCOTT: Your Honor, may it please the Court?

14 THE COURT: Certainly.

15 MR. SCOTT: June 19th 2015, I think it was probably a
16 night like a lot of Friday nights for Mr. Kenneth Ruff.
17 He's usually at his house on Highway 34, he was watching
18 TV. He is alone, he lives there by himself at the time.
19 And there's a knock at the door and it's Lisa. And I
20 don't know that he was surprised as he opened the door and
21 she pulled her car into the garage and closed the door
22 behind, behind her. They have been friends for years.
23 They have dated on and off. At some point she gets
24 married. And at some point that marriage goes sour and
25 she began a relationship with Mr. Ruff again. In fact,

1 she testified and, you know, various witnesses have
2 testified that she lived with him from time to time. Her
3 kids lived there with them. Other parts of the time she
4 was living with her mother. But the point is, she was out
5 of the marital home and she had moved on. She had made it
6 very clear she had no interest in being in that marriage
7 with Mr. Tyson. Openly living outside of the home.
8 Openly sharing a home with Mr. Ruff. Moved the kids out.
9 So she had made it very clear that she no longer wanted to
10 be with this man and he had not taken it the same way as
11 she did. Apparently, he was not so much ready to give up
12 the marriage as she was. But that was her choice and I
13 guess like a lot of marriages it didn't work out. And
14 here she is today. She's reconciled with him and we got
15 to hear from her yesterday. But getting back to the night
16 of June 19th she shows up about 9:30 p.m. That was her
17 testimony. Dark outside and she comes in the house. And
18 the testimony is they began speaking or talking with one
19 another. And really, just out of nowhere you hear Mr.
20 Tyson out back in that dark back yard and he's yelling and
21 he's angry and Mr. Ruff recognized his voice. They had
22 had run-ins before and knew one another. But now he is
23 sitting in his home with Ms. Tyson and there's her
24 ex-husband outside screaming and yelling in the back yard.
25 Right here is the front door, he's in this man's back yard

1 at night looking in through the blinds. Okay. You can't
2 do that. We all know that. He's looking in through the
3 guy's blinds telling him I see you Lisa, I see you Lisa.
4 And he's angry. And Mr. Tyson does what or excuse, Mr.
5 Ruff does what he's entitled to do. He gets a firearm
6 that he legally possesses and he shows the man the gun. In
7 other words, do not do anything further, leave the
8 premises. And it appeared to work. I assume Mr. Ruff
9 thought. It appeared that Mr. Tyson had gotten the
10 warning that I have a firearm, you're not welcome in my
11 back yard at 10:30 at night, because it's about 10:30 by
12 the time dispatch gets the first 911 call. You're not
13 welcome here. I don't think many of us like to get a
14 stranger in our back yard at 10:30 at night screaming and
15 yelling. But he made it clear, he showed him the weapon,
16 thought he'd left. He's worked up, he's getting his
17 inhaler. And then, you know, depending on who you ask how
18 it happened, here comes Mr. Ruff and he's coming in
19 through that sliding glass door and he's breaking the
20 blinds and he could have been dead. I mean, because Mr.
21 Ruff had that pistol. He had it aimed at the man. He had
22 every right to shoot him dead right there when he comes in
23 the house uninvited and he panics. And I think, I think
24 that shows how startled Mr. Ruff was when this man is
25 barreling in his home towards him. He already had one in

1 the chamber, but he pulled the slide again and put two
2 bullets in the chamber so it jammed. I think the, that's
3 another interesting effect. This has, you know, the
4 effect it would have on most people would stop them dead
5 in their tracks if they had a pistol aimed at them. He is
6 so enraged that he's still advancing on him. Knocks him
7 to the ground. Mr. Ruff testified that he took the pistol
8 on a last ditch efforts trying to smack Mr. Tyson in the
9 head with it, pistol whip him. Hits the gun on the side
10 of the couch and it falls out of his hand and then really,
11 it's every man for himself. And then we get to see the
12 attack and I have talked about it. You got Lisa back
13 there screaming and yelling, crying and begging him to
14 stop. And you'll hear this 911 tape. I want y'all to
15 listen to that a lot when y'all are back there, and try to
16 listen as close as you can because you can hear Mr. Tyson
17 in the background too. Listen to what everybody is
18 saying. Listen to the emotions going on right there and
19 the viciousness of the attack is evident he's on the guy's
20 back and biting him. He's pummeling in the head. The
21 man's missing half his ear now. This is a man who was
22 enraged, who is gone inside another man's house in the
23 dark of night when this happened. That's the case.
24 That's the case. I mean, I could just play the 911 tape
25 for y'all and sit down and y'all have just about

1 everything you need for this case. Where does Mr. Tyson
2 go after that? I don't know. I don't know and neither
3 does law enforcement because they go to his home and he's
4 not there. Where did he go that night? June 19th is our
5 incident date. June 22nd law enforcement gets a letter
6 from Mr. Mobley, the lawyer, saying I'm representing him
7 now. The next day arrest warrants are issued. You know
8 when he finally turns himself in? Seventeen days after
9 the incident on July 6th. We don't know where he went or
10 what he did. But I want, I want you guys to listen. I'll
11 play about a minute of it here, but when you go back
12 there, just kind of, I know Lisa, you know, as she sits
13 over there with the Defendant. I know she's, what was her
14 words? She had some things to clarify. She had some
15 things to clarify. And those have been after she has
16 taken two trips down to Columbia to meet Mr. Tyson's
17 lawyer. I don't know how they reconciled. I don't know
18 what the agreement they have where they reconciled, so.

19 MR. MOBLEY: And just so we're clear, I object
20 because the witness was very clear that they had not
21 reconciled. He said numerous times already and he's tried
22 to make that implication during the cross, the direct
23 examination. But the witness testified very clearly they
24 had not reconciled.

25 THE COURT: Alright. What I typically do in a

1 situation like this, I just remind the jury that you are
2 the sole and complete finders of the facts in this case
3 and it's up to you to recollect what a witness may have
4 testified to in the case. So we will leave it up to your
5 memory as to whether or not whatever the Solicitor is
6 saying is correct or not. If it's incorrect, I'm certain
7 it's not intentional, but it's up to you, the jury, to
8 make that determination. Okay. You may proceed.

9 MR. SCOTT: And you know what I did, I picked this
10 jury to represent all of Newberry County. I got Whitmire
11 people here. I got Newberry people here. I got people
12 here from Pomaria, from Prosperity, from Chapin, from
13 Silverstreet sitting on this jury because you are
14 conscious of Newberry County. And you got eyeballs and
15 you're very smart people and when you look over there you
16 see they have reconciled. There ain't no doubt about it.
17 You heard her testimony yesterday and how she clarified a
18 few things. Let's listen to the 911 tape. Let's hear how
19 she felt that night when she's watching her ex-husband
20 pummeling this man, this innocent man in his own home.
21 Alright. And didn't she kind of bring it in on him. They
22 might have these marital issues. That's between them.
23 They're bringing it in Mr. Ruff's house that night. Okay.
24 A man in his own home, in his own living room, minding his
25 own business. Go ahead and play it Walter.

1 (Whereupon, a portion of the 911 tape was played for
2 the jury.)

3 MR. SCOTT: Pause it. My husband busted in the house
4 and he's beating. That was an interesting thing. That was
5 one of the things she wanted to clarify yesterday. Yeah,
6 I said busted in when I'm watching it happen that night.
7 But I spoke with his lawyer a couple times since then and
8 now I need to clarify he busted in. He came in the house.
9 He just came in. Y'all are going to hear it doesn't
10 matter. If you didn't have consent to be there, it
11 doesn't matter if he busted in, kicked the door open or
12 else just slid the opening or the sliding glass door
13 opened and just walks in. He didn't have consent and then
14 he committed a crime inside. That's burglary. That's
15 what he's charged with. Did that dawn on y'all yesterday?
16 That was one thing she really wanted to clarify. That was
17 something she wanted to clarify. But very clearly here on
18 the 911, my husband busted in the house and he's beating
19 up my boyfriend. Play it Walter.

20 (Whereupon, the 911 tape continues to play.)

21 MR. SCOTT: Walter you can pause it. They need to
22 step it up. That's right because even the dispatch woman
23 could tell how serious this thing has gotten. And she has
24 to break a chair over his back to finally get this man to
25 stop. Do you see him coming in through the blinds,

1 ripping them off as he's coming in the house? Does that
2 sound like somebody who was given consent to come in?
3 Then why would Mr. Ruff give him consent to enter his home
4 that night? When all the evidence, no matter who you ask,
5 is that he showed up uninvited in the back yard, in the
6 dark and he's screaming and yelling in the back yard, I
7 see you Lisa. And that's just not a vicious attack. So,
8 he gets these charges, he's got a burglary first and he's
9 got the assault and battery first. And I want to talk to
10 y'all a little bit about what those charges mean. Let's
11 start with the assault and battery first. This is assault
12 and battery in the first degree, that's a beating okay. A
13 person commits this offense if they unlawfully injure
14 another person. Alright. That's element number one. And
15 I don't mean to show y'all over and over. We got the
16 injury, ain't no doubt about it. And the man is maimed
17 for life. It occurred during the commission of a robbery,
18 a burglary, a kidnapping or theft. Burglary, I'm going to
19 get there in a minute. But the State's theory is that
20 this assault occurred when he's in this man's home without
21 consent to be in the home. Okay. That's what, we have
22 different flavors of assault and battery. I don't need to
23 get into all the different ones. But first degree, you
24 can have that if it, if the injury occurred during a
25 burglary. Or, you see or, it is accomplished by means

1 likely to produce death or great bodily injury. I have
2 great bodily injury in bold there because that's what the
3 ear injury is, it's a great bodily injury. We're not
4 alleging that it was accomplished by means to produce
5 death. I want to explain to you the great bodily injury.
6 Under the law in South Carolina, permanent disfigurement
7 is considered great bodily injury. Y'all saw the man's
8 ear yesterday, it ain't getting any better, it is
9 permanent. And that's the, that's the assault and battery
10 first degree. The Judge is going to explain a little more
11 in detail, he's even going to give you, I think Judge
12 Hocker typically does, but gives you his jury instructions
13 which talk about the different elements for assault and
14 battery first. But that's really what it is. It's the
15 injury inside the home during the burglary as an
16 alternative, the injury producing great bodily injury. If
17 you find that, assault and battery first, if you believe
18 Mr. Tyson's guilty of that, you must find him guilty of
19 assault and battery first degree. Then let me explain
20 burglary first degree. Okay. And again, Judge Hocker's
21 instructions on the law is going to be the ultimate ones
22 you go by. But and I submit to you that the law in South
23 Carolina for burglary first, to enter the home of another,
24 and Judge Hocker's going to call it a dwelling. A
25 dwelling essentially is where somebody goes and sleeps at

1 night, at home, is your dwelling. So if you enter a home
2 of another person without consent and with the intent to
3 commit a crime. I hadn't heard anybody say that Mr. Tyson
4 had consent to come in that house that night. Okay. The
5 crime he committed inside was the assault and he went
6 directly to, I think the testimony was, immediately coming
7 in the house and immediately advancing on Mr. Ruff and
8 immediately beating him. Now, again, burglary is another
9 one that's got different varieties. There's burg first,
10 second, third, this is burglary first because it occurred
11 at night. Alright. That was the uncontradicted evidence.
12 Roughly about 10:30 is when dispatch, the first 911 call
13 goes out, fairly dark. Or an alternative, physical injury
14 is caused to a person who is not a participant to the
15 crime. Okay. Mr. Ruff was not a participant. Mr. Ruff
16 sustained rather significant injuries. Again, we have met
17 all the elements of the burg first. Pretty simple. You
18 know, this is a case, I think, what did we put up, four
19 witnesses. Not a whole lot, and there was only two
20 people, three people there that night rather. Then we
21 have a couple law enforcement agents. But, you know, we
22 all know you cannot just go into somebody else's house and
23 just letting yourself in their home whether by use of
24 force. And the Judge will tell you, force is not needed
25 for a burglary. You don't have to enter by force, you

1 have to enter without consent with the intent to commit a
2 crime. If this is not an easy case to understand, a
3 jealous ex-husband, estranged from his wife, showing up to
4 the new boyfriend's house, entering and then just beating
5 him to a bloody pulp. If we don't all understand that is
6 illegal, if we don't all understand there's something
7 very, very wrong with that, then I'm in the wrong line of
8 work. That's what the case is about though. That's a
9 burg first and he's guilty of it. I want to address the,
10 and I know it's been kind of woven throughout the dynamic
11 of this relationship. Early on, you know, and I just
12 talked about, I guess, if you boil it down, it's a pretty
13 simple case. We all know it's not good to go in
14 somebody's house at night and bite their ear off. I've
15 always understood that the jury, even if it is one that
16 represents all of Newberry like you guys, you may only be
17 bothered by the fact that this woman still shares the
18 Defendant's last name and then she's over at Kenneth
19 Ruff's house. Now, my understanding is that they are
20 separated, living in different homes at this point. She
21 said she lived with her mother, sometimes she lived with
22 Tyrone. So, these two were open about their relationship
23 but I always knew that a jury might just be a little bit
24 put off about it. You know, this man was carrying on with
25 this woman that isn't fully legally divorced, at least not

1 that I know of. And then she said yesterday, they still
2 were legally separated. I submit to you, it would be
3 improper for you to base your case on emotion. Alright.
4 It would be improper for you to find all these elements,
5 but then somehow say well, you know, maybe Terrance Tyson
6 knew that was something he should've done. Because under
7 the law, if you find it meets these elements, you must
8 convict him, you must find him guilty of this crime. And
9 we don't know, you know, it appears that Mr. Tyson knew
10 about this relationship, with his kids and Ms. Lisa to
11 move in with Tyrone for some period of time. But I
12 understand that, that's one thing that she may speak of,
13 under the law, that has no bearing on this case. The
14 Judge will say it's your duty as jurors to accept and
15 apply the law. If you find that he entered without
16 consent into that home, if you find that he committed a
17 crime inside, then you must find him guilty of it. And
18 that's the law. I got to prove it to you beyond a
19 reasonable doubt. I say this every time because, not
20 something we talk about I guess in everyday speaking, but
21 prosecutors from here all the way to California, anytime
22 they convict anybody, they got to prove them guilty beyond
23 a reasonable doubt. It's a high standard in the law and
24 that's fine. Every case I have, I have to find the person
25 guilty beyond a reasonable doubt. It doesn't mean beyond

1 any doubt, it means beyond a reasonable doubt. Okay. So,
2 when you get back there, and you're all talking about the
3 case, you need to respect everyone's point of view and if
4 they feel a certain way about the case, you need to talk
5 it through. Be on the lookout if somebody has a theory
6 that's just not reasonable because you can have doubts
7 about the case. None of us were there that night. We are
8 not going to know one-hundred percent certainty about this
9 case and that's not what reasonable doubt requires. It
10 doesn't require one-hundred percent certainty. The Judge
11 is going to tell you that. As long as you're firmly
12 convinced of his guilt, as long as you're firmly convinced
13 that each one of those elements were met that we went over
14 then you must find him guilty. If, I am going to tell you
15 this on the flip side, if you think it's reasonable, maybe
16 Mr. Ruff did invite him in. And, you know, maybe Mr. Ruff
17 sustained those injuries on his own. If you think that's
18 reasonable then you must find him not guilty. I don't see
19 how in the world that would be a reasonable doubt but I
20 don't get to go back there and deliberate either. He's
21 going to give you instructions. Y'all are going to get
22 taken back there. But again, he doesn't mean beyond all
23 doubt. He will tell you there are very few things in life
24 that you know with one-hundred percent certainty, that's
25 not what reasonable doubt requires. I think that's the,

1 this Judge probably gets tired of hearing me, but this is
2 the best way I can boil down reasonable doubt. If you're
3 firmly convinced of guilt, you must find him guilty and
4 that is going to be in his instructions. I think he'll
5 say that twice. Firmly convinced. Firmly convinced of
6 his guilt, you must find him guilty. Alright. You may
7 hear from me again, you may not. He's going to get to
8 have his closing argument now. Sometimes I get to stand
9 up afterwards and have sort of a rebuttal. That'll be
10 real quick if I decide to do that. I'm not going to keep
11 y'all too much longer though. From my perspective, from
12 the State's perspective, easy case, pretty simple set of
13 facts. Thank you guys for listening. Thank you for being
14 patient. When this is all said and done, the only verdict
15 that will give any justice, the only verdict that would
16 speak to, I think the values Newberry County has, is a
17 verdict of guilty on both counts, the burglary first and
18 assault and battery first degree. Thank you.

19 THE COURT: Thank you, Solicitor. Mr. Mobley, you
20 ready, sir?

21 MR. MOBLEY: Yes, Your Honor. May it please the
22 Court?

23 THE COURT: Certainly.

24 MR. MOBLEY: Ladies and Gentlemen of the jury, first
25 and foremost, on behalf of my client, Mr. Tyson, I want to

1 thank you for the attention you've given to this case for
2 the last two days. And, you know, my good friend, Mr.
3 Scott, made some statements, made some comments in his
4 closing argument something to the effect of this is an
5 open and shut case, this is such a simple case, this is
6 such an easy case, it's not all that hard, it's open and
7 shut, more or less telling you, it's that easy, you kind
8 of have to convict or you should convict because that's
9 open and shut. It's not that big of a deal. And
10 obviously, I think that to the extent that he's trying to
11 imply that, he's doing a lot of people in this courtroom a
12 disservice. He's doing Mr. Tyson a disservice because
13 while this may be just another case on the docket for him,
14 I can guarantee you this is the biggest case in the world
15 for that man sitting right there, Terrance Tyson. And
16 quite frankly I believe it's a disservice to you. You're
17 not a rubber stamp. I mean this process now, they have a
18 lot of privileges, you know. They go and get the
19 indictment by the Grand Jury and things like that. There
20 is no jury, there is no attorney, there is no Judge that
21 can rule on the evidence and witnesses can't be
22 cross-examined. That's all for you and that is a very
23 important part of this process. He does not have to deal
24 with this or have his evidence challenged or his witnesses
25 challenged up until now. So, for him to try to suggest

1 it's still open and shut, somehow just some kind of rubber
2 stamp I think does you and your role in this process a
3 disservice. Okay. And just so we are clear, you do not
4 owe him a conviction in this case. Now, in the beginning,
5 in my opening statement I talked about me giving a short
6 version of this case and I talked about how on the night
7 this happened my client, Terrance Tyson, was celebrating
8 his daughter's birthday with his wife who at the time he
9 was reconciled with, who was living with him. She had
10 disappeared and he had stayed home with the kids and when
11 she didn't come back, he went looking for her and that's
12 what happened. There's no dispute that's what happened.
13 Now, at this point, what I want to do is talk to you in a
14 little more detail about the law in general in criminal
15 cases. The law of the facts in this case and go into the
16 testimony and what it means. But ultimately, if you sat
17 through the same trial that we all sat through, and you
18 ask yourself whether or not Dale Scott put up a strong,
19 reliable, credible witnesses such that you're comfortable
20 convicting Terrance Tyson and branding him a criminal,
21 well, me and my good friend Mr. Scott differ on that
22 because if you look at the evidence and the testimony they
23 presented, you've got to find my client not guilty. I
24 want to talk about a few things and read some general
25 concepts that apply to all criminal cases. The first of

1 course is the presumption of innocence. And I believe we
2 all heard that, but what it means is when a person is
3 accused of a crime, he stands before you or in this case,
4 sits before you an innocent man and that presumption stays
5 with him throughout the trial unless, and at the
6 conclusion of all the evidence, and you are satisfied that
7 the State has met their burden of proof, and we're going
8 to talk about what that burden of proof is. Regarding the
9 burden of proof, the State has the complete and total
10 burden of proof. What that means is the accused, the
11 Defendant has to prove nothing. A Defendant can stand
12 before you with his arms closed and if the State can't
13 establish every element of every crime of which they are
14 accused, then you are required to find them not guilty.
15 That's the law in every criminal case and the burden of
16 proof by which they must meet that burden is beyond all
17 reasonable doubt. And as you heard, time and time again
18 during the course of this trial, that is the highest
19 burden of proof that this Country recognizes. There are
20 different levels. In civil cases, there's something
21 called preponderance which means more likely than not.
22 There's another standard called clear and convincing and
23 above that is beyond all reasonable doubt. One analogy I
24 like to use is a football analogy about trying to get a
25 touchdown. You know, it really kind of doesn't matter how

1 close you get to the goal line. The other night, in
2 overtime, they got seven or eight yards from the goal
3 line. The rules aren't well, we're going to give you the
4 touchdown any way. It doesn't work that way. They must
5 establish each and every element beyond all reasonable
6 doubt. If they cannot do that with any element, you are
7 required by law to find my client not guilty. Now, I want
8 to talk about the two crimes of which he is accused.
9 First, there's the burglary first charge. Very serious
10 charge. There are two critical elements in this case.
11 They've got to prove and he's talked to you about some,
12 the first is entry without consent. As he indicated, he's
13 got to prove beyond all reasonable doubt that on the night
14 this happened, that Mr. Tyson entered the home without
15 someone's consent or the homeowner's consent. The second
16 one, and just so we're clear on the burglary, at the time
17 of entry, at the time of entry, there must be an intent to
18 commit a crime. The law is very clear and the Judge will
19 tell you, entering a home without consent is not in itself
20 burglary. At the time you make entry, you have got to
21 have the intent to commit a crime and that's important.
22 Regarding the assault charge, they've given you
23 alternative theories, and not just one, but they've given
24 you different theories about the assault charge. One
25 theory is it occurred during the commission of a burglary.

1 The other theory is that he committed unlawful assault
2 against the boyfriend, Tyrone. But if you find that the
3 assault was not unlawful, and that is an element, the
4 definition is you must unlawfully assault some person.
5 But if you find that the conduct during the assault, the
6 alleged assault was not unlawful, then you must find my
7 client not guilty. Let's talk about the evidence in the
8 case a little bit. And I want to talk about the burglary
9 charge specifically and this is just an exhibit and once
10 again, this is not evidence, this is my exhibit which
11 demonstrates some of the points I'm going to make to you
12 about why I believe the State has not established my
13 client is guilty of burglary, which is why it says not
14 guilty of burglary. Alright. A couple different things
15 about their lack of ability to prove entry without
16 consent. One thing that's interesting in this case, and I
17 put and I have here no fingerprints on the door, I mean,
18 that was a major issue in this case. The manner of entry.
19 There were two witnesses that testified. The boyfriend
20 testified, initially, he wasn't sure how my client got in
21 the house. Lisa Tyson testified that the boyfriend opened
22 the door for him. Two dramatically different versions
23 from the same witnesses. And quite frankly, considering
24 they put up those two witnesses, and they can't give you a
25 clear picture or a clear indicator, I think that alone is

1 reasonable doubt regarding how he got entry in the house.
2 But secondly, law enforcement was called. There was a
3 crime scene. They had photos. Every law enforcement
4 agency has a crime scene processing department. The most
5 basic thing to do is check for fingerprints. You may of
6 been wondering or asking yourself, were any fingerprints
7 on the door. Were my client's fingerprints on the door
8 because I can guarantee you if his fingerprints are on the
9 door, Mr. Scott would be jumping up and down yelling and
10 screaming his fingerprints are all over the door. You
11 see. He let himself in. He went inside the house. That
12 is the most basic, fundamental tool of investigation. Did
13 you hear any testimony whatsoever that any crime scene
14 individual was called to process the scene? Did you hear
15 any testimony there was an attempt, any attempt to try to
16 find my client's fingerprints on that door to prove or
17 establish that he entered that door on his own? Any,
18 none. Basic, fundamental, fundamental investigation. And
19 they can't give you any reason to justify not checking.
20 That's basic. Once again, no fingerprints of my client on
21 the door, and they can give and offer you no explanation
22 to why they didn't at least attempt to find the
23 fingerprints. Secondly, I indicate there's no sign of
24 forced entry and the Judge is going to tell you that the
25 law does not require forced entry for a burglary. But I

1 think you can consider that based on their theory, that
2 would be evidence of my client going to the home to commit
3 a burglary with the intent to commit a crime if he busted
4 in the door or he broke in the house. He didn't do that.
5 There was no broken glass. The blinds were broken during
6 the struggle. There was no forced entry into the home.
7 And once again, as I alluded to, the eye witness and keep
8 in mind, Lisa and Tyrone, the witnesses, they called them
9 to the witness stand. The Defense didn't call them, they
10 did. They put up a witness that conflicted with another
11 witness. By virtue of doing that they themselves create
12 the reasonable doubt regarding the manner in which my
13 client entered the home and I guess they are going to ask
14 you to kinda pick and choose, believe this part of this
15 witness' testimony and not this part of this one's and it
16 doesn't work that way. They can't present to you a clear
17 cohesive theory or evidence establishing the manner in
18 which Terrance client, Terrance Tyson entered that home.
19 That's their job to do that. They can't just throw up
20 witnesses and this person says this, this person says that
21 and then stand before you and say well, it's open and
22 shut. Go back there and do your job and give us our
23 conviction. Well, that's what he wants you to do. He
24 wants to sit here over and over and tell you this is so
25 simple. This is so open and shut. Don't look at these

1 details, don't look at that fact, don't examine the
2 evidence into great detail, just listen to me, trust me.
3 The same people that didn't tell you in opening statements
4 that the boyfriend pulled a gun on my client when my
5 client came to the house unarmed. Another element of the
6 burglary is entry with the intent to commit a crime and
7 once again, even if, for whatever reason you believe my
8 client entered the home without consent, they must also
9 prove beyond all reasonable doubt that he entered the home
10 with the intent to commit a crime at the time of entry.
11 And I've got a few facts that from the testimony that are
12 inconsistent with that. I mean, first and foremost, I
13 don't know what crime they are trying to tell you he went
14 there to commit. I mean, I didn't hear it, I didn't hear
15 that. I mean, I tried to pay attention and if you heard
16 something I didn't hear, but when he got up here and
17 talked to you he didn't tell you what crime he was
18 alleging my client was there to commit. We all agree that
19 he went there looking for his wife. When he got there,
20 what was the testimony. Was he calling, he can't try to
21 argue he went there to assault the boyfriend. And when he
22 got there, what was the testimony by the boyfriend and my
23 client's wife. He was calling her name. Lisa, I know
24 you're in there. Lisa, I see you in there. He wasn't
25 yelling Tyrone, I'm going to beat you, Tyrone. It's me

1 and you, Tyrone. I'm going to take you out, Tyrone. I'm
2 going to beat, nothing. He was there to get his wife.
3 That's not a crime. He didn't take a weapon. You heard
4 the testimony. He didn't go there with a weapon. He
5 didn't go there with a gun. He didn't go there with a
6 knife. He didn't go there with a billy club or mace or
7 numchucks. He went there completely unarmed. Something
8 else that's significant about my client's intent or
9 evidence of my client's lack to commit a crime, was when I
10 talked about the injuries to the face, or lack thereof.
11 Now, keep in my, I understand that the photos of the ear
12 are very graphic and I told you they would be. There's
13 blood all over the place. The 911 tape, oh, his wife is
14 hysterical. When you listen to that tape, wouldn't you
15 think, based on how hysterical she was, and what they
16 would like you to believe, that my client is much larger,
17 stronger man was just imposing and inflicting a severe
18 beating on Tyrone Ruff. I mean, isn't that what it sounds
19 like if you listen to her screaming, oh my god, oh my god,
20 and what was the evidence. The evidence was yeah, he bit
21 his, back of his ear and he bit on the back. But when he
22 went to the hospital, otherwise, no broken skin. No eyes
23 that are swollen, no bloody nose, no fat lip, no knocked
24 out teeth, no broken bones, no fractures. If he really
25 went there with the intent to commit a vicious assault on

1 this much smaller, weaker man, he would have some serious
2 injuries and there were none. As a matter of fact, you
3 heard from the testimony, he didn't take an ambulance. He
4 rode in the car with Lisa Tyson. There is no loss of
5 consciousness. Where is the intent to commit a crime. I
6 want to talk to you about their witnesses and once again,
7 I'm going to ask you, if the crimes which my client is
8 accused, did they give you credible, reliable witnesses on
9 which you're comfortable convicting him. Let's talk about
10 Lisa Tyson first. I mean, you know, the funny thing is
11 there are three main people involved in this. You have
12 Tyrone Ruff, you have Lisa Tyson and you have my client,
13 Terrance Tyson. And the thing that I think is odd, it
14 appears that of all those three people, the one that is
15 the most innocent really is the one that's on trial. He
16 was the guy home at the birthday party for the daughter
17 while the wife was out in the street sneaking off to the
18 boyfriend's house. He wasn't going there planning on
19 having a fight. He just wanted to get his wife back home
20 to the birthday party. Yet he's the one on trial. Now,
21 you heard Lisa Tyson testify and you saw she had a rather
22 intense relationship with the prosecution in this case,
23 because they didn't like her testimony. And as you heard
24 from her testimony, at the time this happened, she was
25 actually living with Terrance. She was not living with

1 Tyrone, the boyfriend, at the time. She had in the past,
2 yes, with her child. But at the time they were back
3 reconciled. And as she indicated to you on the witness
4 stand she has done a lot of things in her past that she is
5 not proud of. And she got on the witness stand and she
6 owned it. She sat up there, and I can assure you that was
7 not something she enjoyed doing. Sitting up here, a
8 married woman admitting to twelve strangers the fact that
9 she had significant marital problems over the course of
10 her marriage. The fact that she lied to her husband. The
11 fact that she took her child and moved in with the
12 boyfriend while she was still married. The fact that they
13 had financial problems. I mean, she admitted all of that.
14 I mean, she didn't just air dirty laundry. When she was
15 questioned by me and the prosecutor, she allowed us to
16 back the garbage truck up to the Court House because she
17 owned it. She never said none of that was true, not true.
18 She owned every bit of it. Now, let's look at her
19 statement, and of course as indicated, the prosecutor had
20 some issues with her statement. They seemed like they
21 wanted to kind of pick and choose the parts of the
22 statements that they, they wanted you to believe and not
23 believe. And the part of the testimony they wanted you to
24 believe or not believe, believe this part, don't believe
25 that part. The part they liked to help their case, they

1 want you to focus on that and disregard everything else
2 because then it's simple. But she indicated to you, she
3 admitted the statement she made on the night this
4 happened. She admitted that she was hysterical and yeah,
5 she was upset. She also admitted to you and it's
6 uncontradicted even from their own witnesses, that they
7 had her give this statement at 12:00 a.m. in the morning,
8 at midnight in the hospital after this traumatic event.
9 They didn't say, Ms. Tyson, it's 12:00 o'clock at night,
10 why don't you go home and get some sleep so we can come
11 back when you can come and talk to us in the morning.
12 They didn't say, Ms. Tyson, let's go down to the Sheriff's
13 Department so we can take a statement. Nothing. They
14 interviewed her at 12:00 o'clock in the morning at the
15 hospital. You recall her interview, let's talk about
16 that. There are different ways a person can give a
17 statement and the manner in which they had her give a
18 statement is they gave her a pen and a piece of paper and
19 said write down what happened. Give us a statement and
20 she wrote a statement. You heard. They did not ask
21 specific questions. Questions that would be relevant on
22 the issues in this case. The manner of entry. The order
23 and context of statements. They didn't ask her those
24 questions. They just said write this, write it down.
25 Well, Lisa Tyson is not a lawyer, she is not a cop. A lay

1 person does not know which details of a statement are
2 significant. And we, as we all know, you can take a
3 general statement and people can twist it or interpret it
4 in different ways, even unintentionally, which is why it's
5 important that when you conduct an interview of a witness
6 to a crime, you conduct it properly. You take them down
7 to the police station, you make sure they've had enough
8 sleep so their memories are liable, so their state of mind
9 is stable. You ask specific questions and get specific
10 answers. You don't let the witness, I mean, that's law
11 enforcement 101. You don't let the witnesses decide what
12 facts are important or not important. That's the
13 investigator's job. They didn't do that. Probably for
14 the same reason Mr. Scott wants to get up here and tell
15 you, oh, it's all open and shut, simple case. And then,
16 after no contact with law enforcement for a year and a
17 half, when she finally does talk with them, when they
18 finally try to talk to her rather, when she tries to
19 clarify her statement, how did she say they respond. When
20 asked how they responded when she tried to clarify her
21 statement, she said they accused her of being a liar and
22 threaten her with perjury. That is their response to the
23 witness who is trying to tell the truth and clarify an
24 improperly taken statement. And then, in some type of
25 prosecutorial arrogance, they try to make an issue out of

1 the fact that even though they sat up here and called her
2 a liar and threaten her with perjury back in their office,
3 they can't understand why when she has her daughter in the
4 courtroom, she's not sitting behind them trying to be on
5 their team. And once again, that's the attitude they've
6 had this entire case. Everybody got to be on our side.
7 This is open and shut. You have to convict. This is an
8 easy case. That's the approach they want you to take, and
9 I'm asking you not to take in this case. Don't let them
10 drop their lack of preparation on her lap. The
11 information she had was available for a year and a half.
12 You heard her. She did come to my office and give me,
13 give us a statement with details regarding what happened.
14 In August of 2015. Well, they chose to wait a year and a
15 half. That's their job. It's not her job to make their
16 case for them and do their job for them. It's not her job
17 to make it for their lack of preparation and their poor
18 investigation and they want to somehow drop that in her
19 lap and make her the bad guy because they didn't do their
20 job. Next, I want to talk about also her statements, what
21 she put in context. I think I'm going to move on at this
22 point. At this point, I'm going to talk about my good
23 friend, Tyrone Ruff. Tyrone Ruff. They call him the
24 victim. He is the face of the State's case, but he is
25 also the face of narcissism. This man, as you saw from

1 his testimony, doesn't respect anybody. You heard him,
2 you heard the testimony during the trial. Whether she was
3 married or with him or not, whatever, but he's controlling
4 with her. Doesn't want her talking to her friends.
5 Doesn't want her talking to co-workers. Accusing her of
6 having an affair with his nephew. Accusing her of having
7 an affair with her daughter's boyfriend. Jealous when she
8 spends too much time with her young daughter, but he's not
9 jealous, he's about control. Calls her at work to make
10 sure she's at work when she says she's going to work.
11 He's not jealous. He's not controlling. He lied to you
12 and that's significant in this case because, I mean, this
13 is a credibility case. I mean, ultimately, you've got to
14 believe Tyrone Ruff completely in order to convict my
15 client. I mean, there's no two ways about, you've got to
16 believe him completely. He is their case. He is their
17 strongest witness. He is what they want to call their
18 victim. Is he honest. Now, let's talk about his
19 testimony. There's certain things he did admit. He did
20 admit that my client came to the house unarmed looking for
21 his wife and he admits that at the time he fired the
22 weapon at my client, Terrance Tyson had not made any
23 attempt to threaten him, verbally or physically. It was
24 only once he fired the weapon, Terrance Tyson moved, and
25 that's when he fell on the ground. And once Terrance

1 Tyson, who at that point, had not threatened Tyrone or
2 tried to assault Tyrone in any way, once Tyrone fell to
3 the ground, I'm sorry, once Terrance fell to the ground,
4 what was Tyrone's next move. He said in his own words.
5 He was going to pistol whip him. Yeah, I'm going to
6 pistol whip him. Well, he's down on the ground, he's at
7 my house, I'm going to pistol whip him. He actually is
8 proud of that. But, only after he fired the shot at my
9 unarmed client, or tried to shoot him, and tried to pistol
10 whip him, then at that point my client said I can't just
11 lay here and do nothing. And once again, I guess my good
12 friend Mr. Scott, my good friend Mr. Scott would love for
13 you to believe that's the law in South Carolina, that if a
14 person pulls a gun on you and tries to shoot you and the
15 gun misfires and then try to pistol whip you, I guess you
16 kinda got to lay there and take the beating. Mr. Scott's
17 words in South Carolina, and that's when, according to
18 Tyrone, my client grabbed his leg to make sure he didn't
19 get another chance to get that gun. That was not an
20 unlawful assault. That was a man trying to make sure he
21 didn't get killed. Now, I talked to you about Tyrone's
22 testimony. He got on the witness stand and you heard Lisa
23 talk about Tyrone and how he drinks quite a bit. And when
24 he drinks he gets mean. We asked him about that. He's on
25 the witness stand. I asked him, Mr. Ruff, tell the jury,

1 had you been drinking that night? He sat there and looked
2 at all twelve of you and said no. I said Mr. Ruff, when I
3 say drinking, you understand I mean consuming alcoholic
4 beverages. He understood that. I asked him about whether
5 or not he understood what his oath meant, to tell the
6 truth. You swear to tell the truth. You know the jury is
7 listening to your testimony trying to make a decision on
8 what's the right thing to do. You understand all that?
9 Yes, sir. Well, were you drinking, Mr. Ruff? No, I was
10 not. Then only, only after being confronted with the
11 evidence in his own medical records did he finally confess
12 and admit to you, yes, he'd been drinking that night and
13 that's important for a few different reasons. Number one,
14 obviously if you drank too much, that can impair your
15 memory about what happened and the sequence of events like
16 anybody. Secondly, as Lisa indicated, when he drinks a
17 lot, that's when he gets mean, which would explain the
18 motivation for him deciding when he sees Terrance Tyson,
19 this jealous boyfriend, who doesn't like Lisa talking to
20 anybody besides him, when he sees her husband coming to
21 the house, when he's drinking, when he's in that mean
22 mood, the first thing he does is go get his gun, and yes,
23 that's when he lets him in. I got something for you, come
24 on in. That explains it, but he lied to you about that
25 and let's, just so we're clear, the medical records are in

1 evidence, I've blown up different portions for you because
2 at the time of his testimony, we didn't have these. But
3 you'll see his name, Kenneth Ruff, labs, Newberry
4 Hospital, date the incident of June 19th, and you'll see
5 that they have different substances they've tested. Blood
6 count, hemoglobin, monocytes, creatinine level, sodium
7 level and they have the results. And then they have an
8 indicator flagging the result, H, N, L. High, Normal, Low
9 for every result, and you see at the bottom, and I've
10 blown it up bigger for you just so you don't think I'm
11 trying to trick you. This is the date. There's a run
12 date of these, this record request back in November, five
13 months later. But it has the date of the lab result which
14 is the date of the incident, June 19th, but it states
15 ethyl alcohol and beneath it, it has a range. 3.0 to 10
16 and what is the level in his system, 21. What is
17 indicated by that, H for high which means that on the
18 night this happened, Tyrone Ruff, their witness, had
19 somewhere between seven times and two and a half times the
20 normal levels of alcohol that a person has in their
21 system.

22 MR. SCOTT: Judge, I would object to that. This is
23 his words. He had no medical person testify to this.

24 THE COURT: I'll sustain and ladies and gentlemen of
25 the jury, that last argument concerning the alcohol

1 content be disregarded. You may proceed Mr. Mobley.

2 MR. MOBLEY: Okay. I mean, are you saying I can't
3 argue what the document says? The document has the
4 levels.

5 THE COURT: I think the objection was is to place a,
6 put the normal limit, I think that's the words you used,
7 normal limit of those--

8 MR. SCOTT: Yes, sir.

9 THE COURT: -- the alcohol reading.

10 MR. SCOTT: Yes, sir. It's not typical blood alcohol
11 content reading as we're accustomed to seeing, and he is
12 interpreting it himself. He's not a medical doctor.

13 MR. MOBLEY: Well, just so we're clear, Your Honor.

14 MR. SCOTT: I don't think--

15 MR. MOBLEY: I believe, with all respect to Mr.
16 Scott, we've had this issue about arguing reasonable
17 inferences for things that are in evidence. This is a
18 document in evidence. I believe that based on the numbers
19 they have and the way the results are coded, that I can,
20 there's a reasonable inference that his blood alcohol is
21 high.

22 THE COURT: I think you are arguing facts not in
23 evidence, it would not be an inference. So I sustain the
24 objection.

25 MR. MOBLEY: Thank you, Your Honor.

1 THE COURT: Thank you.

2 MR. MOBLEY: Thank you. But, he had significant
3 amounts of alcohol in his system, that's critical because
4 he lied to you. He lied to you under oath. Now, Mr.
5 Scott, I'm certain, would love to tell you oh, don't you
6 worry about that. Everything is fine. This is a open and
7 shut case. This is a simple case. The fact that he lies,
8 the fact that he gets mean when he's drunk, the fact that
9 he has this pattern of jealous behavior regarding Lisa
10 Tyson, don't listen to any of that. We don't want to look
11 at that. This is a open and shut case. Tyrone, they want
12 to wrap him, they are going to parade him up in front of
13 you, and wrap him in integrity and use you to try to
14 convict a good man. Disregard the fact that he committed
15 perjury. What's funny is they threaten Lisa Tyson with
16 perjury. No mention of Tyrone Ruff's perjury. So, now
17 they can pick and choose when it's okay to commit perjury
18 or when they are going to take action. It's okay to
19 perjure yourself if you're helping us, but if we don't
20 like what you're saying, it's perjury, you're a liar. He
21 didn't call Tyrone Ruff a liar. I called Tyrone a liar
22 and I'm telling you, you can't believe Tyrone Ruff because
23 if he lies to you in small things, he will lie to you in
24 all things. He is the face to their case. If you cannot
25 trust the messenger, then you cannot trust the message.

1 Find my client not guilty. Thank you.

2 THE COURT: Thank you, Mr. Mobley. Solicitor, you
3 have any rebuttal?

4 MR. SCOTT: I do. Couple things guys, just briefly.
5 Lisa was the State's witness. Lisa made a number of
6 statements that night. What they want you to do is
7 disregard it. But what I'm going to tell you she said at
8 12:01 a.m., Terrance pushed Mr. Tyrone out of the way and
9 came in the house. That's what she's saying that night.
10 You heard the 911. He broke into the house. My office as
11 you heard, attempted to contact her and get her side of
12 the story. The problem is, his lawyer got to her first.
13 So she's willing to drive to Columbia and talk with him.
14 She stood us up on one occasion when we wanted to get this
15 new story. Just last week, we went to talk to her and she
16 said I've been advised not to speak with you.

17 MR. MOBLEY: Objection, Your Honor. That is, I mean,
18 I know the Court will tell the jury they can call the
19 facts, but she specifically stated that's not what she was
20 advised. She made that choice not to speak to them.

21 THE COURT: And again, your objection is noted and
22 ladies and gentlemen, it is up to you to rely on your
23 memory as far as what the testimony and evidence was and
24 not what the, the lawyers indicate what they believe the
25 testimony and evidence to be. You may proceed.

1 MR. SCOTT: Refused to speak with us twice. I wonder
2 what happened. I wonder what happened. And I say, she's
3 reconciled. She's sitting over there now. I wonder what
4 happened. Okay. I'm going to leave that up to you guys
5 to decide. She's clearly on there, asking him to leave,
6 so, the idea that he has any consent to be there is
7 ridiculous. It's ridiculous. I mean it, and I will say
8 it's a simple case because it is. Am I missing something
9 here? If we use our logic, how does it make any sense at
10 night if he's in this man's house and he's biting his ear
11 and he's biting his back and he's breaking the blinds off
12 the door and people having to hit chairs against his back,
13 how's that make any sense? If he wanted his wife, call
14 her on her cell phone. And she got up there and testified
15 to that night, I said why didn't you go out when he called
16 for you? Were you, no, I wasn't scared, I just, I didn't
17 want him to fuss at me. Does that make any sense? It is
18 an easy case. Guys this is the, I thought the fairly
19 despicable part of the closing, and I'm going to sit down.
20 The most innocent person here is Terrance Tyson. Y'all
21 remember when he said that? He is the most innocent
22 person here and he's yelling and screaming in Newberry,
23 you know, he lives in Pomaria on the night, 10:30 at night
24 and he's in a man's back yard and he's looking in through
25 the blind and he's letting himself in the house and then

1 he's perpetrating these terrible injuries. But he is the
2 most innocent person. This is probably y'all's first
3 criminal trial. The only circumstance in a criminal trial
4 where you can take the victim, a man sitting in his home
5 minding his own business when he gets a visitor, he is
6 viciously attacked in the sanctity of his own home and
7 he's being put on trial. I don't think Mr. Ruff likes
8 being here. I don't think he likes missing half of his
9 ear, but let's all feel sorry for Mr. Tyson because he's
10 the most innocent person. How despicable. Let's make him
11 the bad guy. He's controlling, he's jealous, when he
12 drinks he gets mean. And Dr. Mobley, with all due respect
13 to Dr. Mobley, seven times the legal limit. You're dead
14 if you're seven, seven times the legal limit. It makes no
15 sense. Mobley, sorry. But Dr. Mobley wants you to
16 believe that. It's wrong. We didn't hear any nurses. We
17 didn't hear any doctors. He said he didn't remember
18 drinking, maybe he did, it's irrelevant. He did not ask
19 for anybody to come in there that night and beat him to a
20 bloody pulp. And now you hear about her talking about how
21 mean he gets when he drinks. Why is she finding herself
22 in his house 10:30 at night hanging out for two hours when
23 she should be with her daughter? And she didn't leave,
24 live with Terrance at the time. She said she lived with
25 her mother. But why is she there if he's so mean and

1 jealous and controlling and he's so drunk, he's gotta be
2 real mean but she's just hanging out with him voluntarily.
3 He had every legal right in the world to blow his head off
4 when he came through that door. You are in your home,
5 somebody comes in without consent, you have every legal
6 right to shoot him dead. You have every legal right to
7 pistol whip. He's not the victim okay. I want to be
8 clear, this is the victim. He is not on trial, Terrance
9 Tyson is. I resubmit to you this is a simple case. For
10 logical people, for reasonable people, this is a simple
11 case. The only verdict that speaks any truth is guilt.
12 Burglary first and assault and battery first. Thank you.

13 THE COURT: Okay. Madam Forelady and ladies and
14 gentleman of the jury, we are going to take a short break,
15 kinda catch our breath a little bit and then I'll bring
16 you back out and I will charge you the law applicable to
17 this case. So, don't begin your deliberations yet. Don't
18 begin any discussion about this case, and we'll get you
19 back out shortly. Okay.

20 (Whereupon, the jury was excused from open court for
21 a break.)

22 THE COURT: We'll be in recess about ten minutes.

23 (Whereupon, a short break was taken.)

24 THE COURT: Bring the jury in, please.

25 (Whereupon, the jury came into open court at

1 approximately 2:45 p.m.)

2 THE COURT: Let the record reflect the jury is back
3 in the courtroom. Madam Forelady and ladies and gentlemen
4 of the jury, I will now charge you the law applicable to
5 this case and you must consider the charge as a whole and
6 not focus on some portions to the exclusion of other
7 portions.

8 And once again, the two indictments charges the
9 Defendant with two crimes, assault and battery in the
10 first degree and burglary in the first degree. And I
11 remind you the fact the Defendant was arrested, charged
12 and indicted in this case is not evidence in this case and
13 cannot be considered by you as evidence of guilt in this
14 case nor does it create any presumption or inference of
15 guilt. These documents are simply the formal written
16 instruments which contain the charges made against the
17 Defendant. They are the formal documents by which this
18 case is brought into this court. Each indictment charges
19 a separate and distinct defense. You must decide each
20 indictment separately on the evidence and the law
21 applicable to it uninfluenced by your decision as to the
22 other indictment. The Defendant may be convicted or
23 acquitted on any or all of the offenses charged. You will
24 be asked to write a separate verdict of guilty or not
25 guilty for each indictment. And I will explain to you how

1 that works at the end of my charge.

2 The Defendant has pled not guilty to these
3 indictments and that plea of not guilty puts the burden on
4 the State to prove the Defendant guilty. A person charged
5 with committing a criminal offense in South Carolina is
6 never required to prove himself innocent. I charge you
7 that it is an important rule of the law that the Defendant
8 in a criminal trial, no matter what the seriousness of the
9 charge may be, will always be presumed to be innocent of
10 the crime for which the indictment was issued unless guilt
11 has been proven by evidence satisfying you of that guilt
12 beyond a reasonable doubt. This presumption of innocence
13 does not end when you begin your deliberations but it
14 accompanies the Defendant throughout the entire trial
15 unless you reach a verdict of guilt based on evidence
16 satisfying you of that guilt beyond a reasonable doubt.
17 Now, it has been said that this presumption of innocence
18 is like a robe of righteousness placed about the shoulders
19 of the Defendant which remains with the Defendant unless
20 it has been stripped from the Defendant by evidence
21 satisfying you of the Defendant's guilt beyond a
22 reasonable doubt. Now, this presumption of innocence is
23 not mere legal theory. It is not just a legal phrase that
24 we use in a courtroom. It is a substantial right to which
25 every Defendant is entitled unless you, the jury, are

1 satisfied from the evidence of the Defendant's guilt
2 beyond a reasonable doubt.

3 Now, concerning reasonable doubt. Some of you may
4 have served as jurors in civil cases where you were told
5 that it is only necessary to prove that a fact is more
6 likely true than not true, such as by the greater weight
7 or the preponderance of the evidence. However, in
8 criminal cases the State's proof must be more powerful
9 than that, it must be beyond a reasonable doubt. Proof
10 beyond a reasonable doubt is proof that leaves you firmly
11 convinced of the Defendant's guilt. Now, there are very
12 few things in this world that we know with absolute
13 certainty. And in criminal cases the law does not require
14 proof that overcomes every possible doubt. If based on
15 your consideration of the evidence you are firmly
16 convinced that the Defendant is guilty of the crimes
17 charged then you must find the Defendant guilty. If on
18 the other hand, you think there is a real possibility that
19 the Defendant is not guilty you must give the Defendant
20 the benefit of the doubt and find him not guilty.

21 Now, as I have already explained to you, you and I
22 have had certain duties to perform. As the trial Judge it
23 has been my responsibility to preside over the trial of
24 this case. And I also have the duty to rule on the
25 admissibility of evidence offered during this trial. You

1 are to consider only the competent evidence before you.
2 If there was any testimony ordered stricken from the
3 record in this case during this trial you must disregard
4 that testimony. You are to consider only the testimony
5 which has been presented from the witness stand, any
6 exhibits which have been made a part of the record in this
7 case and any stipulations of counsel. I have the
8 additional duty to charge you the law applicable to this
9 case. As the presiding Judge I am the sole Judge of the
10 law of this case. As I have already told you and remind
11 you once again, it is your duty as jurors to accept and
12 apply the law as I now state it to you. If you already
13 have any idea as to what the law is or what the law ought
14 to be and it does not agree with what I now tell you the
15 law is, you must abandon your idea because you are sworn
16 to accept the law and apply the law exactly as I state it
17 to you. As I also have told you, in every case tried in
18 this court before a jury, the jury becomes the sole and
19 exclusive judge of the facts in a case. A trial Judge
20 cannot intimate, state, comment on, or make any statement
21 to a trial jury about the facts in a case. Since you, the
22 jury, are the sole judge of the facts in this case, you
23 are not to infer from what I have said during the progress
24 of this trial in ruling upon the admissibility of
25 evidence, or otherwise, or anything that I say now during

1 the course of this instruction to you that I have any
2 opinion about the facts in this case. I do not have an
3 opinion about the facts in this case. The law does not
4 allow me to have an opinion about the facts in this case.
5 This is a matter solely for you, the jury, to determine.
6 As jurors, it is your duty to determine the effect, value
7 and weight of the evidence presented during this trial.

8 Madam Forelady and ladies and gentlemen of this jury,
9 there are two types of evidence which are generally
10 presented during a trial, that being direct evidence and
11 that being circumstantial evidence. Direct evidence
12 directly proves the existence of a fact and does not
13 require deduction. Circumstantial evidence is proof of a
14 chain of facts and circumstances indicating the existence
15 of a fact. Crimes may be proven by circumstantial
16 evidence. The law makes no distinction between the weight
17 or value to be given to either direct or circumstantial
18 evidence. However, to the extent the State relies on
19 circumstantial evidence, all of the circumstances must be
20 consistent with each other, and when taken together point
21 conclusively to the guilt of the accused beyond a
22 reasonable doubt. If these circumstances merely portray
23 the Defendant's behavior as suspicious, the proof has
24 failed. Once again, the State has the burden of proving
25 the Defendant guilty beyond a reasonable doubt. This

1 burden rests with the State regardless of whether the
2 State relies on direct evidence, circumstantial evidence,
3 or some combination of the two. Necessarily, ladies and
4 gentlemen, you must determine the credibility of witnesses
5 who have testified in this case and the evidence
6 presented. Credibility simply means believability. It
7 becomes your duty as jurors to analyze and to evaluate the
8 witnesses and the evidence and determine the credibility
9 of witnesses and the evidence. In determining the
10 credibility of witnesses who have testified in this case
11 you may believe one witness over several witnesses or
12 several witnesses over one witness. You may believe a
13 part of the testimony of a witness and reject the
14 remaining part of the testimony of that same witness. You
15 may believe the testimony of a witness in its entirety or
16 reject the testimony of a witness in its entirety. You
17 may consider whether any witness has exhibited to you any
18 interest, bias, prejudice or other motive in this case.
19 You may also consider the appearance and manner of a
20 witness while on the witness stand.

21 Now, there has been evidence presented that witnesses
22 may have made prior statements which are not consistent
23 with a witness' present testimony. You may use this
24 evidence to decide whether to believe the witness or not.
25 You may also use evidence of the earlier contradictory

1 statements to determine the truth of those statements. It
2 is up to you to decide whether to believe the earlier
3 statements or the testimony given at trial. If a witness
4 is shown to have knowingly testified untruthfully
5 concerning any material matter you may consider this in
6 determining whether to trust the witness' testimony as to
7 other matters. You may reject all testimony of that
8 witness or give all or part of the testimony the weight
9 you think it deserves.

10 Madam Forelady and ladies and gentlemen of the jury,
11 I instruct you and emphasize the fact that the Defendant
12 elected not to testify is not a factor to be considered by
13 you in any way in your deliberations and in your
14 consideration on the question of the guilt or innocence of
15 the Defendant. It must not be considered by you in any
16 manner whatsoever. A Defendant has the constitutional
17 right to remain silent. And the assertion of this right
18 must not be considered by you in your deliberations. I
19 repeat, under the oath that you took yesterday you are to
20 draw no conclusion whatsoever from the fact that the
21 Defendant in this case did not testify. The fact that
22 this Defendant did not testify should not even be
23 discussed in the jury room during your deliberations. The
24 burden of proof, as I have already stated to you is on the
25 State. The Defendant is not required to prove his

1 innocence. The burden of proof remains on the State to
2 prove guilt beyond a reasonable doubt.

3 Now, in order to establish criminal liability,
4 criminal intent is required. For example, the mental
5 state required to be proven by the State for a particular
6 crime might be purpose, intent, knowledge, recklessness,
7 or criminal negligence. Criminal intent must be proven by
8 the State beyond a reasonable doubt. Criminal intent is
9 always a matter that must be determined by the jury from
10 the circumstances surrounding the situation. Now, there
11 is no way to prove intent to a mathematical certainty.
12 There is no way medical science can dissect a person's
13 brain and determine what the person had in mind. So the
14 law says that criminal intent may be inferred from the
15 circumstances shown to have existed. This is how you make
16 a determination of whether or not the element requiring
17 intent was present. It is not necessary to establish
18 intent by direct and positive evidence, but intent may be
19 established by inference in the same way as any other fact
20 by taking into consideration the acts of the parties and
21 all the facts and circumstances of the case. Criminal
22 intent is a mental state, a conscious wrongdoing. It is
23 up to you to determine what the Defendant intended to do
24 based on the circumstances shown to have existed.
25 Criminal intent can arise from action or a failure to act.

1 It may arise from negligence, recklessness, or an
2 indifference to duty or to consequences that is considered
3 by the law to be the equivalent of criminal intent.

4 Now, let me explain to you the two charges that are
5 involved in this case, assault and battery in the first
6 degree and burglary first degree. Let me discuss with you
7 first the assault and battery charge.

8 A person commits the offense of assault and battery
9 in the first degree if the person unlawfully injures
10 another person and the act occurred during the commission
11 of a robbery, burglary, kidnapping or theft. A person may
12 also commit the offense of assault and battery in the
13 first degree if the person unlawfully offers or attempts
14 to injure another person with the present ability to do so
15 and the act either is accomplished by means likely to
16 produce death or great bodily injury, or occurred during
17 the commission of a robbery, burglary, kidnapping or
18 theft. Great bodily injury is defined and means bodily
19 injury which causes a substantial risk of death or which
20 causes serious, permanent disfigurement or protracted loss
21 or impairment of the function of a bodily member or organ.
22 Burglary first degree, the State must prove beyond a
23 reasonable doubt that the Defendant entered a dwelling
24 without consent. A dwelling is any building or portion of
25 a building in which a person ordinarily sleeps. A

1 building constructed as a dwelling that has never been
2 occupied cannot be considered a dwelling for purposes of
3 the charge of burglary. But a building is a dwelling even
4 if the residents are temporarily absent from the building.
5 In order to prove that the Defendant entered the dwelling
6 the State does not have to show that the Defendant's
7 entire body entered the dwelling. The smallest entry is
8 sufficient. It may be any part of the body such as a hand
9 or a foot or even an instrument such as a hook or other
10 instrument. In addition, the State does not have to prove
11 that force was used to gain entry. If a person enters a
12 building by using deception, artifice, trick, or
13 misrepresentation to get consent to enter, this is entry
14 without consent.

15 Next, the State must prove beyond a reasonable doubt
16 that the Defendant intended to commit a crime, either a
17 felony or a misdemeanor at the time of entry. The mere
18 entry into a dwelling without consent is not burglary. If
19 the intent to commit a crime, to commit a crime is formed
20 after the entry it is not burglary. On the other hand, if
21 the Defendant intended to commit a crime at the time of
22 the entry it is a burglary even if the intent was
23 abandoned after the entry. It does not matter that the
24 intended crime was not completed. Intent may be shown by
25 acts and conduct of the Defendant and other circumstances

1 from which you may naturally and reasonably infer intent.

2 Finally, the State must prove beyond a reasonable
3 doubt that when entering while in the dwelling or when
4 fleeing the Defendant or an accomplice caused physical
5 injury to anyone not participating in the crime or the
6 Defendant entered or remained in the dwelling in the
7 nighttime. Nighttime is the period between sunset and
8 sunrise during which there is not enough daylight to
9 recognize a person's face except by artificial light or
10 moonlight.

11 Now, Madam Forelady and ladies and gentlemen of the
12 jury, there are two possible verdicts for each charge,
13 guilty or not guilty. And your verdict must be unanimous
14 among the twelve of you as to each charge. And, Madam
15 Forelady, when you have reached a verdict as to each
16 charge you will write that on the verdict form which I am
17 going to come down and show you in just a second and then
18 you will knock on the door and notify the bailiff that a
19 verdict has been reached. And also I think one of the
20 lawyers alluded to this, and I recognize what I have just
21 read to you for about the last twenty minutes or so is a
22 lot. That is why I give jurys a copy of what I just read
23 to you for your use in whatever manner that you want to
24 use, if any, in connection with your deliberations.

25 Madam Forelady, this verdict is pretty simple and I

1 just want to kind of go through it with you. This is just
2 the name of the case and the indictment numbers. And the
3 first, number one, is as to the indictment number which
4 charges the Defendant with assault and battery in the
5 first degree. We, the jury, find the Defendant and you
6 will put your initials either guilty or not guilty. The
7 fact that guilty is listed first is of no significance.
8 Okay. And likewise you will do the same as to the other
9 indictment on the burglary first degree charge. You will
10 put your initials as to the verdict that you have reached.
11 You will sign it and put today's date. Once again, your
12 verdict as to each charge must be unanimous among the
13 twelve of you. Now, I am going to send all fourteen of
14 you back to the jury room, do not begin your deliberations
15 yet. I need to talk to the lawyers to make sure, even
16 though we have discussed my charge with them, need to make
17 sure that I don't need to make any corrections or add
18 anything or take away anything from the jury charge. And
19 once I have done that I will either bring you out and
20 recharge but if I don't do that and the bailiffs bring to
21 you the verdict form, the charge and all of the exhibits
22 in this case that will be your cue for two things to
23 happen, I will need the two alternates to come into the
24 courtroom for further instructions. And the second thing
25 would be your cue to begin your deliberations. Okay.

1 Don't start yet, the fourteen of you go back.

2 (Whereupon, the jury was excused from open court.)

3 THE COURT: Does the State have any objections or
4 exceptions to the final charge?

5 MR. SCOTT: No, Your Honor.

6 THE COURT: And the Defense?

7 MR. MOBLEY: No, Your Honor.

8 THE COURT: Thank you very much. We are off the
9 record and the lawyers make sure we have all the exhibits
10 together.

11 (Whereupon, the Court Reporter and attorneys went
12 over exhibits.)

13 (Whereupon, the jury begin deliberations at
14 approximately 3:05 p.m.)

15 (Whereupon, the two alternates were excused from the
16 trial of the case.)

17 THE COURT: Let's bring the jury in, please.

18 (Whereupon, the jury came into open court at
19 approximately 3:50 p.m.)

20 THE COURT: Madam Forelady, I understand that you
21 informed the bailiff that you have reached a unanimous
22 verdict on one charge but not the other, I don't want to
23 know anything yet. But is that the case, you have reached
24 a unanimous verdict on one charge but not on the other?

25 MADAM FORELADY: Yes, sir.

1 THE COURT: Okay. And, of course, as you know, your
2 verdicts must be unanimous so I just want to bring you out
3 and ask that you just go back to the jury room and
4 continue working hard, which you have done, and continue
5 with your deliberations. Okay. Thank you very much.

6 (Whereupon, the jury continues deliberations at
7 approximately 3:55 p.m.)

8 THE COURT: One of the juror's, as filing back in the
9 jury room, asked the bailiff about asking a question and
10 she instructed him the questions have to be written. So,
11 we will see what we get. Okay.

12 (Whereupon, a break was taken while waiting on the
13 jury's verdict.)

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

15 (Whereupon, the jury came into open court at
16 approximately 4:17 p.m.)

17 THE COURT: Let the record reflect that the jury is
18 back in the courtroom. Madam Forelady, I have been
19 presented a question from the jury which reads as follows,
20 will they consider a lessor charge on the assault and
21 battery. Ladies and gentlemen, there are only two charges
22 for your consideration, that being assault and battery in
23 the first degree and that being burglary first degree.
24 There are only two charges for you to consider. So with
25 that said if you will return back to the jury room and

1 continue with your deliberations. Thank you very much.

2 (Whereupon, the jury continues to deliberate at
3 approximately 4:20 p.m.)

4 THE COURT: We are back on the record, let me just
5 inform the lawyers, just a minute or so after the jury
6 went back to the jury room the Forelady informed the
7 bailiff that they were unable to reach a unanimous verdict
8 on one of the charges. Mr. Mobley, you want to put
9 something on the record, sir.

10 MR. MOBLEY: Yes, I am sorry.

11 THE COURT: I was not given in written form. Is that
12 correct, Madam Bailiff, the Forelady indicated to you
13 really right after they went back into the jury room this
14 last time, indicated that they were unable to reach a
15 unanimous verdict on the remaining charge. Is that
16 correct?

17 MADAM BAILIFF: Yes, sir.

18 THE COURT: Okay. So what my inclination to do now
19 is to give the Alan Charge. You had briefly alluded to
20 maybe, wanting to ask the Court to recharge part of the
21 law.

22 MR. MOBLEY: Either recharge them or state it another
23 way because the question regarding the lessor charge or
24 lessor included suggest that the jurors may not be
25 satisfied that the State has met some of the more serious

1 elements or some of the elements of the offense for which
2 the Defendant is charged. And I was wanting to
3 respectfully request the Court to read, not recharge but
4 instruct the jury that the State is required to establish
5 each and every element of the offense beyond all
6 reasonable doubt and to remind the jurors that in the
7 event that the State is unable to establish each or some
8 elements beyond all reasonable doubt then by law they must
9 find the Defendant not guilty. That was going to be the
10 request that I made, Your Honor.

11 THE COURT: Well, I have already charged that to
12 them, they have got the written charge back in the jury
13 room. I am not going to recharge that again but your
14 request is so noted on the record.

15 MR. MOBLEY: Thank you very much, Your Honor.

16 THE COURT: Does anyone have any objection to the
17 Court giving an Alan Charge?

18 MR. SCOTT: No, Your Honor.

19 THE COURT: Understanding your initial request and
20 based upon my ruling does the Defense have any objection
21 to an Alan Charge?

22 MR. MOBLEY: No, Your Honor.

23 THE COURT: Okay, thank you very much. Madam
24 Bailiff, if you will bring the jury out.

25 (Whereupon, the jury came into open court at

1 approximately 4:40 p.m.)

2 THE COURT: Let the record reflect the jury is back
3 in the courtroom. Madam Forelady, without giving me any
4 specifics, it is my understanding that still you have
5 reached a unanimous verdict on one charge and unable to
6 reach a unanimous verdict on another, of the other charge.
7 Is that correct?

8 MADAM FORELADY: Yes, sir.

9 THE COURT: Okay. When a matter is in dispute,
10 ladies and gentlemen, it isn't always easy for even two
11 people to agree. So when we have twelve people that must
12 agree it becomes even more difficult. In most cases
13 absolute certainty cannot be reached or expected.
14 However, you have a duty to make every reasonable effort
15 to reach a unanimous verdict on that one remaining charge.
16 And in doing this you should consult with one another,
17 express your own views and listen to the opinions of your
18 fellow jurors, tell each other how you feel and why you
19 feel that way, discuss your differences with open minds.
20 Although the verdict of the jury must be unanimous every
21 one of you has the right to your own opinion. The verdict
22 you agree to must be your own verdict, the result of your
23 convictions and you should not give up your firmly held
24 beliefs merely to be in agreement with your fellow jurors.
25 Each side should consider the other side's position. You

1 should carefully consider and respect the opinions of each
2 other and reevaluate your position for reasonableness,
3 correctness and impartiality. You must lay aside all
4 outside matters and reexamine the questions before you
5 based on the law and evidence in this case. Now there is
6 no reason for me to suppose that the case will ever be
7 submitted to twelve more intelligent, impartial,
8 conscientious and competent jurors than you, or more or
9 clear evidence will be produced on one side or the other.
10 I therefore ask you, Madame Forelady and ladies and
11 gentlemen of this jury to return to the jury room and
12 return to your deliberations with the hope that you can
13 arrive at a unanimous verdict on the remaining charge
14 within a reasonable time. Let me thank you for your hard
15 work and your diligent work in this matter. If you will
16 go back to the jury room, please.

17 (Whereupon, the jury continued to deliberate at
18 approximately 4:45 p.m.)

19 THE COURT: Everybody be at ease.

20 (Whereupon, a break was taken waiting on the jury's
21 verdict.)

22 THE COURT: Okay, gentlemen, I have been informed
23 that the jury has reached a verdict, now, presumably on
24 the other charge that they had not initially. I just want
25 to make sure, we have got a few people on each side. When

1 you feel like, when the verdict is announced by the clerk,
2 if you cannot control your emotions then I am going to ask
3 that you exit the courtroom at this time otherwise you are
4 welcome to remain here. Let's bring the jury.

5 (Whereupon, the jury came into open court with the
6 verdict at approximately 5:05 p.m.)

7 THE COURT: Let the record reflect the jury is back
8 in. Madame Forelady, without telling me what your verdict
9 is, is your verdict unanimous on both charges?

10 MADAM FORELADY: Yes.

11 THE COURT: Okay. Would you hand the verdict form to
12 the bailiff and she can hand it to me.

13 (Whereupon, Madam Forelady hands the verdict to the
14 bailiff and the bailiff hands the verdict to the
15 Court.)

16 THE COURT: All right, Madam Clerk, if you will
17 publish the verdict. And, Mr. Tyson, if you will please
18 stand.

19 CLERK OF COURT: The State of South Carolina versus
20 Terrance Tyson. As to indictment number 2015-GS-36-544,
21 which charges the Defendant with assault and battery in
22 the first degree. We, the jury, find the Defendant
23 guilty.

24 As to indictment number 2016-GS-36-667 which charges
25 the Defendant with burglary first degree. We, the jury,

1 find the Defendant not guilty. Signed, Claire Wessinger,
2 Foreperson.

3 Ladies and gentlemen of the jury, if this is your
4 verdict please indicate by raising your right hand.

5 (Whereupon, all jurors raised their hand.)

6 THE COURT: Let the record reflect that all twelve
7 jurors raised their right hand. Either side want
8 individual polling of the jury. The State?

9 MR. SCOTT: Not from the State, Your Honor.

10 THE COURT: The Defense?

11 MR. MOBLEY: Yes, Your Honor.

12 THE COURT: Okay. Ladies and gentlemen, when your
13 name is called out the Clerk will ask you if that is, was
14 and is your verdict. Madam Clerk.

15 CLERK OF COURT: Yes, sir. Michael B. Sheppard. Was
16 that your verdict and is it still your verdict?

17 MR. SHEPPARD: Yes, Ma'am.

18 CLERK OF COURT: Mark A. Cronk. Is that your verdict
19 and is it still your verdict?

20 MR. CLUNK: Yes, ma'am.

21 CLERK OF COURT: Mary Zwart, is that your verdict and
22 is it still your verdict?

23 MS. ZWART: Yes, ma'am.

24 CLERK OF COURT: Robert young Schumpert, is that your
25 verdict and is it still your verdict?

1 MR. SCHUMPERT: Yes.

2 CLERK OF COURT: Erin Addy, is that your verdict and
3 is it still your verdict?

4 MS. ADDY: Yes, ma'am.

5 CLERK OF COURT: Rena Johnson, is that your verdict
6 and is it still your verdict?

7 MS. JOHNSON: Yes, ma'am.

8 CLERK OF COURT: Laura Wright, is that your verdict
9 and is it still your verdict?

10 MS. WRIGHT: Yes, ma'am.

11 CLERK OF COURT: Claire Wessinger, is that your
12 verdict and is it still your verdict?

13 MS. WESSINGER: Yes, ma'am.

14 CLERK OF COURT: Dale Broom, is that your verdict and
15 is it still your verdict?

16 MR. BROOM: Yes, ma'am.

17 CLERK OF COURT: Tina Holley, is that your verdict
18 and is it still your verdict?

19 MS. HOLLEY: Yes, ma'am.

20 CLERK OF COURT: Steven Nagy, is that your verdict
21 and is it still your verdict?

22 MR. NAGY: Yes, ma'am.

23 CLERK OF COURT: Charles Skipper, is that your
24 verdict and is it still your verdict?

25 MR. SKIPPER: Yes, ma'am.

1 THE COURT: Thank you, Madam Clerk. Ladies and
2 gentlemen, let me first of all thank you for your service
3 to Newberry County Judicial System and the Judicial System
4 for the State of South Carolina. Serving on a jury is not
5 easy work and I think probably you will attest to that.
6 But your service here is extremely important, vital part
7 of our system. And the verdict that you reached in this
8 case matters not to me. Verdicts that other jurors have
9 reached in other cases that I have presided over matters
10 not to me. What does matter to me is that the jury
11 performs their services consciously, diligently, that you
12 are attentive, you are open minded and that you do work
13 hard and I am confident that you have done that in this
14 case and that is what I thank you for. I hope this has
15 been an educational experience for you and that some time
16 down the road hopefully some of you at least will want to
17 serve on a jury again. We have no further business for
18 jury's this week so you are excused, it doesn't mean that
19 we will not be working, I will be working here every day
20 for the rest of the week. But we have no further trials
21 scheduled where we will need a jury so you will be free
22 for the rest of the week. Your work statements you can
23 get from the security desk downstairs if you need one for
24 work purposes. The check for your service will be mailed
25 to you. Now, there will be a sentencing phase in this

1 case. If you want to wait around for that you are more
2 that welcome to, just have a seat out in the gallery.
3 However, if you need to head on you are free to do that.
4 I typically make a habit to shake the hands of my jury's
5 so if you will permit me to do that as you are exiting
6 out, if you will allow me to do that. And the, Madam
7 Forelady, you need to stay for just a second because there
8 will be something you need to sign. You can come on out
9 and they will show you what you need to sign.

10 (Whereupon, the jury was excused from the trial of
11 the case at approximately 5:15 p.m.)

12 THE COURT: All right, this is the sentencing
13 proceeding of the case of the State of South Carolina
14 versus Terrance Lamar Tyson. The jury has returned a
15 verdict of guilty on the assault and battery first degree
16 charge. I will be glad to hear from the State first as to
17 sentencing and anybody that wants to speak on behalf of
18 the State and then likewise for the Defense.

19 MR. SCOTT: Yes, sir. You heard the facts and you
20 seen the injuries are fairly gruesome. The nature of the
21 attack is what concerns me and he has no real prior
22 record. Of course, we know that he was on trespass notice
23 and was not suppose to be there. So obviously the
24 homeowner felt worried enough for his safety that he
25 undertook actions to get that trespass warning. There was

1 evidence of prior threats. And I thought it was
2 interesting during trial, I don't think he really fully
3 understood the gravity of the situation. The fact that he
4 blamed it on the victim in this case throughout the trial
5 which was puzzling to me. But anyway, I ask for the max,
6 Your Honor, just, it is ten years, it is fifty-five
7 percent. A turnaround sentence to me is not justice.
8 Attacked a man who is disabled to some extent, went into
9 his house. Here is what is lost I think on this thing, he
10 could be dead, I mean, just really by the grace of God he
11 is alive. Because you understand what happens, it is
12 chambered, he racks another bullet and that is what jammed
13 it, otherwise he should have a hole in his chest. But,
14 Judge, Kenneth, Mr. Ruff, I think he wants to address the
15 Court as far as victim impact. Of course, you know about
16 his ear and everything.

17 MR. RUFF: Yes.

18 MR. SCOTT: Come up here.

19 KENNETH RUFF, being
20 first duly sworn, testified as follows:

21 THE COURT: Yes sir, Mr. Ruff, I will be glad to hear
22 from you.

23 MR. RUFF: I just want to say this has been a
24 horrific experience for me, first time I ever went through
25 anything this way and the disfigurement of my body and the

1 nature of the way it happened. It is horrifying to me. I
2 don't know how, I jump at night, please don't come to my
3 house late or unannounced because you may get a gun pulled
4 on you. And I didn't like that at all, the character that
5 he was and is. Thank you.

6 THE COURT: Thank you, sir. Anything further,
7 Solicitor Scott?

8 MR. SCOTT: No, Your Honor.

9 THE COURT: Mr. Mobley, I will be glad to hear from
10 you and anybody who would like to speak on behalf of Mr.
11 Tyson.

12 MR. SCOTT: Briefly, Your Honor, before he does get
13 started, I do, it is \$15,000.00 dollars that Medicaid has
14 not paid, they are disputing that but I have passed up a
15 restitution sheet. That represents the balance that was
16 not paid by Medicaid for Mr. Ruff's injuries,
17 approximately \$32, \$33,000.00 dollars in hospital bills.
18 I think they paid like \$17,000.00, so it is about a
19 \$15,000.00 dollar balance, they are disputing that.

20 MR. MOBLEY: Just so we are clear on the disputing
21 thing, we were handed that about six minutes ago, that was
22 the first time we have been given any indication of any
23 outstanding documentation.

24 THE COURT: Regardless what was sent, concerning
25 restitution, I will not sign this order and give Defense

1 an opportunity to look into it and if it remains in
2 dispute I will certainly give both sides an opportunity
3 for a restitution hearing. So, we will just, if you will
4 just, as soon as you can you can just inform the State and
5 the Court concerning his position on restitution and then
6 we can go from there. At least for today I will not
7 execute this order because you, at least right now it is
8 in dispute. Okay.

9 MR. MOBLEY: Thank you, Your Honor. May it please
10 the Court.

11 THE COURT: Certainly.

12 MR. MOBLEY: I certainly ask the Court to impose a
13 sentence substantially lower than the statutory maximum
14 ten years in this case, Your Honor. I don't believe that
15 the facts in this case warrant a sentence in that range.
16 The Court heard the same facts the jury heard regarding
17 the circumstances that this took place, Your Honor. It is
18 indicated there was an issue, you know, and we still to
19 this day, Mr. Scott just won't let go of this whole
20 trespassing, that the Defendant, my client, never got
21 notice of. Even to this day, after two days of arguing
22 about it he is not been able to produce a single document
23 to reflect that my client had knowledge of it and he wants
24 to continue to argue and try to somehow get the Court to
25 hold that against my client to say he normally went there

1 when he had an active trespass notice that he knew about.
2 He didn't. He didn't and he is not, has not been able to
3 produce a single document or witness to suggest that. So
4 to the extent that Mr. Scott is asking the Court to hold
5 that fact or consider that as a factor in my client's
6 sentence, I would ask the Court not to do that for that
7 very reason. Next, Your Honor, with regard to the
8 significance of the verdict. The jury clearly determined
9 that my client did not go to the resident with the intent
10 to commit a crime, to start a fight or to harm anyone. I
11 think we can all understand, while it may have been
12 perhaps poor judgment to go there, he didn't go there with
13 the intent to commit any harm. But I think we all
14 probably agree is that once Mr. Ruff pulled out the
15 firearm things really spun out of control at that point
16 and I think we all agree with that. And irrespective of
17 whether or not he was justified in doing so and whether or
18 not my client was justified and respond the way he did, I
19 think we all agree that that is what changed the nature of
20 that encounter on that evening because my client did not,
21 in fact, take any weapon or make any threats at that time.
22 So, additionally, Your Honor, I want to highlight to the
23 Court some of the same points that I made during the
24 trial, was that, during the struggle in which my client
25 bit Mr. Ruff's ear, Mr. Ruff was trying to get the gun and

1 shoot him again and he bit his ear but he didn't inflict,
2 and once again I acknowledge that the photos and the
3 injuries to the ear are very graphic and very serious. I
4 do not mean to suggest that they are not, that my client
5 does not understand that, we do understand that, Your
6 Honor. But I am only highlighting that if my client had
7 the desire or the intent to do real harm to Mr. Ruff, it
8 would have been a lot worse, each much bigger or stronger
9 man, he didn't punch him about the face to the extent that
10 he caused serious injuries, he didn't break any bones,
11 none of that happened. Once the ear was bit, once again i
12 concede it as graphic, but once that rendered Mr. Ruff
13 unable to get the firearm my client left. I would ask the
14 Court to consider that. I would also ask the Court to
15 consider that my client is 45 years old, he will be 46 in
16 March. As you heard from the testimony he actually has
17 three children with his wife. And the Court is aware and
18 has heard that he and his wife have had a very volatile
19 marriage over the last few years which obviously was in
20 the background and the factor in this. He has no prior
21 record, that this case would suggest that he is a danger
22 to the community or a dangerous person or drug user. So
23 all of those things being considered, Your Honor, also he
24 has had the same job for the last 17 years. Even during
25 the course of the trial he was working, he would want me

1 to let him know when the trial was going to be so he could
2 let his employers know what days he could not be at work
3 and things like that. That was so very important for him
4 to do that even understanding that this day was going to
5 be coming and he understood that this was a possibility
6 that he could be facing a period of incarceration. Even
7 with that he has tried to maintain a positive relationship
8 with someone, you know, who was a witness for the State
9 against him. His estranged wife, she indicated they have
10 still tried to maintain a positive, while they haven't
11 reconciled, they have tried to maintain a positive
12 relationship which I think speaks of my client. He has
13 made no contact or made no attempt to contact Tyrone Ruff
14 since this happened or go to the residence. He has tried
15 to maintain throughout this entire process a normal home
16 life for his children and maintain gainful employment. He
17 has appeared at every court appearance without fail. So,
18 once again, certainly on that evening we can see that he
19 exercised some poor judgment and trying to bring home his
20 wife and going some place. And you are correct, sometimes
21 you go, when you go places you probably shouldn't go bad
22 things are going to happen and that is what happened in
23 this case. But I would ask the Court to keep in mind that
24 this was not my client's intent when he went to that
25 location. So, based on that I would ask the Court to give

1 my client a sentence on the lower end, under five years in
2 this case, Your Honor.

3 THE COURT: Thank you, Mr. Mobley. Anybody else want
4 to speak.

5 MS. TYSON: Yes, sir.

6 THE COURT: You need to come up.

7 LISA TYSON, being
8 first duly sworn, testified as follows:

9 THE COURT: Yes Ma'am, will be glad to hear from you.

10 MS. TYSON: Your Honor, all of this is my fault. I
11 am sorry that this happened. But I have three kids, one
12 is at Clemson and he is a great father.

13 THE COURT: Get in front of the microphone, we can't
14 hear you.

15 MS. TYSON: I have three children, one is a Junior at
16 Clemson. And I have a 14-year-old daughter that is back
17 there. And he is a great father and then I have a son
18 that is 13 that is waiting on his daddy to come home.
19 Terrance has never been in trouble, he hasn't ever gotten
20 a speeding ticket. This is all of my fault. And I beg
21 you to please have as much leniency as possible on him.
22 He has to maintain a job and he helps take care of the
23 kids and everything and the household. Everything that I
24 did, it was wrong. I am sorry. I would rather do the
25 time than put him in jail.

1 THE COURT: Mr. Mobley, anything further?

2 MR. MOBLEY: Your Honor, my client would like to make
3 a brief statement to the Court.

4 THE COURT: Okay.

5 MR. TYSON: I made poor judgment and I would like to
6 apologize to the Court, to Mr. Ruff. My intent was not to
7 hurt you or anything. No one deserves their ear to be bit
8 off. And I mean, I did a bad thing, used poor judgment
9 but I did not mean to hurt him like I hurt him. And again
10 I would like to apologize to the Court for basically
11 wasting your time or whatever. Like my wife said, I have
12 never been in any trouble, not violent. I work and this
13 is one incident in my life. So, if you could, if you
14 could see fit please sentence me to something, you know, I
15 know I done wrong, please sentence me to something, be
16 fair and be lenient, please.

17 THE COURT: Anything further, Mr. Mobley?

18 MR. MOBLEY: No, Your Honor.

19 THE COURT: Any days in jail before he bonded out?

20 MR. MOBLEY: It was about three days, Your Honor.

21 THE COURT: Anything further from the State?

22 MR. SCOTT: No, Your Honor.

23 THE COURT: Okay, first of all let me commend the
24 lawyers on both sides for all of your hard work and your
25 representation of your respective clients in this case.

1 Let me assure the Defense that the existence or lack
2 thereof of this trespass notice is not factoring in at all
3 in my decision as far as sentencing. So I am going to
4 assure the Defense of that. I think my ruling probably
5 should be indicative of that. You know, I look at this,
6 at this act and it is pretty barbaric as far as biting
7 someone's ear and then biting their back, not that I am
8 advocating there is a better mode of assault and battery.
9 But this is a pretty horrific and barbaric act that you
10 committed. And, you know, it just seems like to me the
11 size you are, Mr. Tyson, and the condition of Mr. Ruff,
12 the size he is and his health problems, I don't quite
13 understand what motivated you to do this biting. You
14 know, when the jury comes back with a guilty verdict I
15 don't ever question them, I don't really, without my views
16 concerning the facts of the case, I accept their verdict
17 and I go accordingly. So, what I have to do is to look
18 at, is there any sort of mitigation that should be
19 considered by this Court, is there any aggravation that
20 should be considered by this Court during sentencing. I
21 think in your favor there is some mitigation. The fact
22 that you don't have a prior record, if it is it is
23 certainly insignificant to where the State has not brought
24 it out. So certainly that mitigates in your favor. But
25 we have a very serious injury that took place. Solicitor,

1 did you tell me about \$35,000.00 dollars in medical bills
2 and even though I am certainly not a doctor, but using
3 some common sense, to run up \$35,000.00 dollars you are
4 going to have to have a pretty serious injury. So I think
5 that certainly aggravates the situation. Certainly
6 consider the fact that you are gainfully employed which a
7 lot of people in this court, that appear before me are
8 not. That certainly goes in your favor. Certainly not
9 taking into consideration the fact that your wife is, even
10 though as admirable as it may be, taking the blame for
11 this, you are the one that made the decision to go to the
12 max, bottom line. I am not going to impose the maximum,
13 even though I am going to impose a sentence that I feel
14 like is commensurate with the, with this offense. And I
15 tell people a lot of times, people in your situation right
16 now, you can always pick your sins but you can never pick
17 your consequences. Mr. Tyson, the sentence of the Court
18 is you be committed to the State Department of Corrections
19 for a period of seven years. You get credit for three
20 days. Restitution will be determined by either order or a
21 hearing. Good luck to you, sir.

22 (Whereupon, Court's Exhibit 2 was marked for
23 identification only.)

24 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
25

1 CERTIFICATE OF REPORTER
2
34 State of South Carolina)
5 County of Newberry)
6
78 I, Joy E. Holston, Official Court Reporter for the
9 Eighth Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete transcript of record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Newberry, South
14 Carolina on the days of February 6th and 7th, 2017.15 I do further certify that I am neither of kin,
16 counsel nor interest to any party hereto.
17
1819 August 4, 2017
2021 
2223 Joy E. Holston, Court Reporter
24

25 My Commission expires: May 2, 2026

WITNESSES

Robert Dennis
Newberry County Sheriff

WARRANT NUMBER

2015A3610100385

TRUE BILL

Phyllis Anderson
Foreman of the Grand Jury
Date: 10-9-15

VERDICT

Guilty
Chaine R. Weasing
Foreman 2/7/17

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

October Term, 2015
Indictment # 15GS36-0544

THE STATE

vs.
Terrance Lamar Tyson

INDICTMENT FOR

Assault / Assault & Battery, 1st degree
§16-03-0600

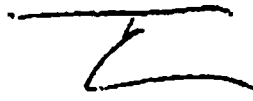
CDR: 3412

THE STATE OF SOUTH CAROLINA**COUNTY OF NEWBERRY****INDICTMENT FOR****Assault / Assault & Battery, 1st degree
§16-03-0600**

At a Court of General Sessions, convened on the 9th day of October, 2015, the Grand Jurors of Newberry County present upon their oath:

That Terrance Lamar Tyson did, on or about June 19, 2015, in Newberry County, willfully and unlawfully injure another person, and the act occurred during the commission of a robbery, burglary, kidnapping, or theft, or did offer or attempt to injure another person with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury, or occurred during the commission of a robbery, burglary, kidnapping, or theft, to wit; Terrance Lamar Tyson did choke, bite, and strike Tyrone Ruff during the commission of a burglary in violation of the provisions of Section 16-3-600 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Taylor Daniel
Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Newberry
 STATE VS.
Terrance Lamar Tyson
 AKA:
 Race: AFRICAN AME Sex: M Age: 45
 DOB: [REDACTED]
 Address: [REDACTED]
 City, State, Zip: [REDACTED]
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 15GS36-0544A/W#: 2015A3610100385Date of Offense: 6/19/2015S.C. Code §: 16-03-0600CDR Code #: 3412

FEB 16 2017

SENTENCE SHEET

SC Court of Appeals
yr 5*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Assault / Assault & Battery, 1st degreein violation of § 16-03-0600 of the S.C. Code of Laws, bearing CDR Code # 3412
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

100588
State Deale Taylor Daniel SC Bar# 100588 Defendant

66470
Attorney for Defendant SC Bar# 66470
WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 7 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 Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. CREDIT 3 Days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: Restitution to be determined by order of hearing.☐ Set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/ Deputy Clerk Beverly BrichmanCourt Reporter: Gpy Holston

SCCA/217 (07/2016)

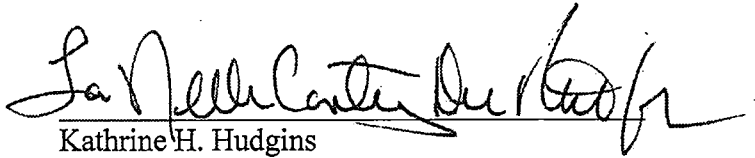
Presiding Judge

Judge Code: 2167Sentence Date: 2/17/17

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,

A handwritten signature in black ink, appearing to read "Kathrine H. Hudgins", written over a horizontal line.

Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

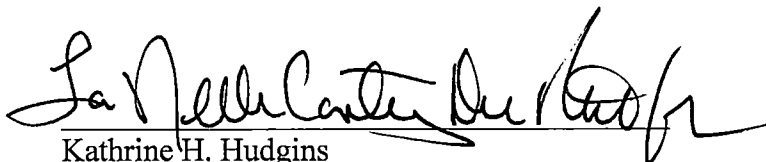
ATTORNEY FOR APPELLANT

This 5th day of February, 2018.

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 5th day of February, 2018.

RECEIVED

FEB 05 2018

SC Court of Appeals