

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Court of General Sessions
Letitia Verdin, Circuit Court Judge

Appellate Case No. 2016-002335

RECEIVED

JUN 04 2018

SC Court of Appeals

The State, ... Respondent,
v.
Joseph Austin Carpenter, ... Appellant.

RECORD ON APPEAL

Alan Wilson
Attorney General

V. Henry Gunter, Jr.
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

William W. Wilkins, III
Solicitor, Thirteenth Judicial Circuit

305 East North Street, Suite 325
Greenville, SC 29601
(864) 467-8647

ATTORNEYS FOR RESPONDENT

J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

Counsel for Appellant

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
)
COUNTY OF GREENVILLE) Case No(s) : 2014GS2310158;
) 2015GS2302729A
)
State of South Carolina,)
)
Plaintiff,)
)
-VS-) TRANSCRIPT OF RECORD
)
Joseph Austin Carpenter,)
)
Defendant.)
)

November 8 - 9, 2016
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

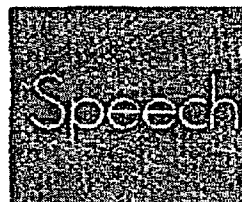
A P P E A R A N C E S:

JUDY M. MUNSON, Esquire
Attorney for the Plaintiff

SYMME CULBERTSON, Esquire
Attorney for the Defendant

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

Records are
taken and
produced via



CAT 7

I N D E X

DIRECT CROSS REDIRECT RECROSS

November 8, 2016

Jury Qualification	6		
Jury Selection	20		
Court Remarks	29		
Motions	41		
Opening Statement			
by Ms. Munson	47		
by Mr. Culbertson	49		
Plaintiff Witnesses:			
Derek Watson			
by Ms. Munson	56		
by Mr. Culbertson		59	
Maureen Phend			
by Ms. Munson	62		
by Mr. Culbertson		73	
Harold Sexton			
by Ms. Munson	76		
by Mr. Culbertson		81	
Jessica Frady			
Ms. Munson	84		
Mr. Carpenter		88	

I N D E X

DIRECT CROSS REDIRECT RECROSS

November 8, 2016 (con't)

Plaintiff Witnesses (con't):

John McCloud

by Ms. Munson	92		
by Mr. Culbertson		100	
by Ms. Munson			105

James Leathers

by Ms. Munson	109		
by Mr. Culbertson		116	

Pat Sanders

by Ms. Munson	123		

Requests for Charge	131		

DIRECT CROSS REDIRECT RECROSS

November 9, 2016

Plaintiff Witnesses (con't):

Phyllis Sanders

by Ms. Munson	139		
by Mr. Culbertson		176	

Plaintiff Rest

Motions	204		

Remarks to Defendant	208		

I N D E X

DIRECT CROSS REDIRECT RECROSS

November 9, 2016 (con't)

Defense Witnesses:

Joseph Carpenter

by Mr. Culbertson 214

by Ms. Munson 243

Defense Rest 266

Closing Argument

by Mr. Culbertson 270

by Ms. Munson 282

Jury Charge 294

Jury Deliberation 320

Question of the Jury 321

Verdict 327

Motions 329

Sentencing of the Court 331

Certificate of Reporter 339

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
STATE EXHIBITS			
S-1	Aerial Map	6	68
S-2	Photo	6	68
S-3	Photo	6	169
S-4	Photo	6	169
S-5	Photo	6	169
S-6	Photo	6	169
S-7	Photo	6	169
S-8	Baseball Bat	6	69
S-9	Photo	6	174
S-10	Photo	138	167
S-11	Photo	138	167

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

C-1	Jury Note	324
C-2	Jury Note	324

P R O C E E D I N G S

(WHEREUPON, Proceedings begin on the 8th day of November, 2016 at approximately 1:25 p.m.)

(WHEREUPON, State's Exhibits 1 through 9 are marked for identification purposes.)

THE COURT: Good afternoon, Ladies and Gentlemen. My name is Letitia Verdin. I think that you met Judge Miller yesterday, and he qualified you to serve as jurors this week in Greenville County, and he found that you were all qualified. I need to find out if you are qualified to serve as a juror on this particular case, so I'm going to have a few questions for you that I'm going to go over in just a moment. I'll give you some instructions about that.

First of all, I want to thank you. I know sometimes calling in and having some uncertainty is difficult, and I apologize about that, especially on a day when I know the school is out. But I thank you so much for your cooperation with us. I noticed that a number of you have an "I voted" sticker on, so you have double done your duty, civic duty here today. I thank you for that too.

1 I'm going to go through a list of
2 questions. Most of them are going to deal with
3 whether or not you know anybody involved in
4 this particular case. Some of them might -- you
5 might have a personal reason that you might
6 want to mention to us about why you know
7 someone or something about this case. And if
8 you don't want to stand and answer out loud,
9 perfectly fine. Just let me know you want to
10 approach the bench, and we'll talk about it up
11 here.

12 Otherwise, I'm just going to ask you that
13 if you need to respond to any of my questions,
14 if you will stand, and then I will call on you
15 one by one, and you give me your name and your
16 juror number. And this is the moment where
17 everybody looks down at their juror number. It
18 makes me laugh. But if you will, just give me
19 your name and juror number, then we can talk
20 about it.

21 Some of the names of folks I'm going to
22 call out are pretty common names. If you even
23 think that you know someone by that name, if
24 you would, just stand, and then let's talk
25 about it and work it out and figure it out now.

1 It's better to know now.

2 All right. This is the State of South
3 Carolina versus Joseph A. Carpenter. I'm going
4 to first introduce you -- let the prosecutor in
5 this case introduce herself.

6 MS. MUNSON: May it please the Court, Your
7 Honor.

8 THE COURT: Yes.

9 MS. MUNSON: I'm Judy Munson. I'm one of
10 the prosecutors in the 13th Judicial Circuit.
11 Working with me on the case is Melissa Bishop.
12 She's one of our investigators.

13 Thank you, Your Honor.

14 THE COURT: Thank you.

15 Ladies and Gentlemen of the jury, any
16 member of the jury panel related by blood or
17 marriage or otherwise acquainted with Ms.
18 Munson or Ms. Bishop from the 13th Circuit
19 Solicitor's Office in any way? If so, please
20 stand.

21 (No audible response.)

22 And none are standing.

23 To cast just a little wider net on it, any
24 member of the jury panel related by blood or
25 marriage or otherwise acquainted with anyone

1 who is employed with the 13th Circuit
2 Solicitor's Office. The 13th Circuit
3 Solicitor's Office is Greenville and Pickens
4 County, and the Solicitor's Office is the
5 Prosecutor's Office or, in some states, they
6 call it the District Attorney's Office. If you
7 think you are acquainted with someone there,
8 please stand.

9 Yes, ma'am. Tell me your name and juror
10 number.

11 **THE JUROR:** Eugenia Craig, 57.

12 **THE COURT:** Yes, ma'am.

13 **THE JUROR:** I'm related to C. Victor
14 Pyle, the judge. Does that matter?

15 **THE COURT:** Oh, okay. Thank you. I'm glad
16 that you told me that. You just said you're
17 related to him?

18 **THE JUROR:** He's my uncle.

19 **THE COURT:** He's your uncle. All right.
20 Thank you very much.

21 **MR. CULBERTSON:** Your Honor, I'm sorry. I
22 did not hear.

23 **THE COURT:** She's related to Judge Pyle.

24 **MR. CULBERTSON:** Oh, okay.

25 **THE COURT:** She's Judge Pyle's niece.

1 **MR. CULBERTSON:** Good.

2 **THE COURT:** All right. Very good. He's
3 fantastic, by the way.

4 All right. Anyone else related by blood or
5 marriage or otherwise acquainted with in any
6 way anyone at the 13th Circuit Solicitor's
7 Office? If so, please stand.

8 (No audible response.)

9 All right. None are standing.

10 Mr. Culbertson, would you please introduce
11 yourself?

12 **MR. CULBERTSON:** Yes, ma'am.

13 Hi. My name is Symmes Culbertson. I'm an
14 attorney here in Greenville. I represent Joseph
15 Carpenter.

16 **THE COURT:** All right. Any member of the
17 jury panel related by blood or marriage or
18 otherwise acquainted with Mr. Symmes
19 Culbertson? If so, please stand.

20 (No audible response.)

21 Or have you ever been involved in a case
22 with, he's ever represented you, ever been on
23 the other side of a case with Mr. Culbertson?
24 If so, please stand.

25 Yes, sir. Tell me your name and juror

1 number.

2 THE JUROR: Victor Huskey, 123.

3 THE COURT: Yes, sir.

4 THE JUROR: I'm just an acquaintance of
5 Mr. Culbertson.

6 THE COURT: All right. And tell me this,
7 how often do you think you see Mr. Culbertson?

8 THE JUROR: Not much.

9 THE COURT: Okay. And knowing that he is
10 the attorney in this case, do you think you
11 could still be a fair and impartial juror in
12 the trial of this case?

13 THE JUROR: Yes, ma'am.

14 THE COURT: All right. Thank you. I
15 appreciate it.

16 Any member of the jury panel related by
17 blood or marriage or otherwise acquainted with
18 Joseph A. Carpenter, the defendant in this
19 case? If so, please stand.

20 (No audible response.)

21 And none are standing.

22 I'm going to go through a witness list with
23 you, a potential witness list. I will tell you
24 that the attorneys have listed every possible
25 witness. Not all of them might testify, but I

1 need to go through any possible witness that
2 may testify.

3 Any member of the jury panel related by
4 blood or marriage, otherwise acquainted with,
5 in any way, John McCloud of the Greenville
6 County Sheriff's Office, James Leathers of the
7 Greenville County Sheriff's Office, Phyllis
8 Joan Sanders, Pat Sanders, Harold Lee Sexton,
9 Maureen Phend -- is that right, Phend --
10 Jessica Frady of Greenville County EMS, and Dr.
11 Derek Watson of the Greenville Health System?
12 Any member of the jury panel related by blood
13 or marriage, otherwise acquainted with in any
14 way any of these potential witnesses?

15 Yes, sir. I'll start with you.

16 **THE JUROR:** Bradley Moody, 160. Harold
17 Sexton was my lieutenant at the fire
18 department.

19 **THE COURT:** And tell me your juror number
20 again.

21 **THE JUROR:** 160.

22 **THE COURT:** 160. Okay. Thank you. And he
23 was your lieutenant?

24 **THE JUROR:** Yes, ma'am, and I know Ms.
25 Frady.

1 **THE COURT:** Okay. All right. And I guess
2 through your employment?

3 **THE JUROR:** Yes, ma'am.

4 **THE COURT:** When -- when was the last time
5 you saw Mr. Sexton?

6 **THE JUROR:** Probably six months ago.

7 **THE COURT:** Six months?

8 **THE JUROR:** Yes, ma'am. We talk maybe
9 once or twice a month.

10 **THE COURT:** Okay. All right. So let me
11 just ask you this, do you think you could be a
12 fair and impartial juror in the trial of this
13 case knowing that his testimony may be a part
14 of it?

15 **THE JUROR:** No, ma'am.

16 **THE COURT:** I appreciate your candor.
17 Thank you so much.

18 Yes, sir.

19 **THE JUROR:** Clinch Ballew, number 12. Is
20 Pat Sanders short for Patricia Sanders?

21 **MS. MUNSON:** Yes, ma'am.

22 **THE COURT:** All right. Patricia Sanders,
23 and how do you know Patricia Sanders?

24 **THE JUROR:** My mother.

25 **THE COURT:** Okay. Where does your mother

1 live?

2 **THE JUROR:** Travelers Rest, Jamison Road.

3 **THE COURT:** That's -- I totally -- that's
4 the reason I wanted you to do that. I'm
5 checking it over here.

6 **MR. CULBERTSON:** Did you say Juror number
7 112? Sorry, Your Honor. Juror number 112?

8 **THE COURT:** Juror number 12, I believe.

9 **MS. MUNSON:** Sorry, Your Honor.

10 **THE COURT:** That's fine. Let me ask you
11 this, do you know Phyllis Joan Sanders?

12 **MS. MUNSON:** Phyllis Joan Sanders is
13 Patricia Sanders' daughter.

14 **THE COURT:** Okay. I think we're talking
15 about a different one, but that's exactly what
16 I wanted you to do. That's exactly what I
17 wanted you to do. No, that's good. Thank you
18 because that would have been bad if we had
19 gotten into the trial and it was your mother.
20 All right.

21 All right. If you actually serve on the
22 trial of this case, you're going to hear a lot
23 about what an indictment is and what an
24 indictment is not. I will tell you for our
25 purposes here today, an indictment is in no

1 sense evidence of anyone's guilt in any way.

2 All it simply is is the document by which

3 someone is charged and brought into court.

4 That's it. Okay.

5 But for our purposes right now, it gives
6 the barest bones of the allegations that the
7 State has made against the defendant. I'm going
8 to read these indictments to you, but I want
9 you to consider them only for the purpose of
10 finding out whether or not you know something
11 about this alleged incident. All right.

12 Indictment 1 is for Attempted Murder, and
13 it alleges that Joseph Austin Carpenter did in
14 Greenville County on or about the 28th day of
15 September, 2014 unlawfully with malice
16 aforethought and with intent to kill attempt to
17 kill Billy Sanders in violation of the Code of
18 Laws of South Carolina, and an indictment for
19 Domestic Violence of a High and Aggravated
20 Nature alleges that Joseph Austin Carpenter did
21 in Greenville County on or about the 28th day
22 of September, 2014 intentionally commit an
23 assault and battery which involved the use of a
24 deadly weapon or resulted in serious bodily
25 injury to a household member, Phyllis Sanders,

1 and/or Joseph Austin Carpenter did
2 intentionally commit an assault with or without
3 an accompanying battery, which would reasonably
4 cause a person to fear imminent, serious bodily
5 injury in violation of the Code of Laws of
6 South Carolina. Any member of the jury panel
7 know anything about the allegations in this
8 case whatsoever? And if so, please stand.

9 (No audible response.)

10 And none are standing.

11 All right. Ladies and Gentlemen, you've
12 heard a little bit about the allegations in the
13 case. You've met the lawyers in the case.
14 You've met the defendant. You've heard the
15 witnesses' names. We've talked about it. You
16 know a little bit about the nature of the case
17 itself. Is there any reason --

18 And, sir, you don't need to stand.

19 -- any reason any member of the jury panel
20 whatsoever believes he or she could not be a
21 fair and impartial juror in the trial of this
22 case? That means keep an open mind about this
23 case, not decide any fact whatsoever until
24 you've heard all the testimony and evidence and
25 the closing arguments from the attorneys? Any

1 member of the jury panel believe he or she
2 couldn't be a fair and impartial juror for any
3 reason whatsoever? And if so, please stand.

4 (No audible response.)

5 And none are standing.

6 All right. Will the attorneys approach just
7 very briefly?

8 (WHEREUPON, a bench conference is held off the
9 record.)

10 THE COURT: All right. Ladies and
11 Gentlemen, one other question. Is there any
12 member of the jury panel -- and again, if
13 anybody wants to speak with me about this
14 privately, certainly fine -- any member of the
15 jury panel ever been charged with or accused of
16 domestic violence or ever been the victim
17 yourself of domestic violence? If so, either
18 stand or please step to the front.

19 All right. Ladies, y'all want to step up
20 here? All right. I'll ask the attorneys to
21 approach too.

22 (WHEREUPON, the following bench conference is
23 held Juror number 233, Kimberly R. Terry.)

24 THE COURT: What's your name and juror
25 number?

1 **THE JUROR:** Kimberly Terry.

2 **THE COURT:** Yes, ma'am.

3 **THE JUROR:** My juror number is 233.

4 **THE COURT:** Got you.

5 **THE JUROR:** When I was 16 and pregnant, I
6 was beat up by the child's father.

7 **THE COURT:** Okay.

8 **THE JUROR:** And I'm 55, so that's been a
9 long time ago.

10 **THE COURT:** I appreciate your candor.
11 Thank you. Let me ask you this, do you think
12 you could be a fair and impartial juror in the
13 trial of this case ---

14 **THE JUROR:** Yes, ma'am.

15 **THE COURT:** --- knowing the allegations?

16 **THE JUROR:** Yes, ma'am.

17 **THE COURT:** Thank you.

18 (WHEREUPON, Juror number 233, Kimberly Terry,
19 exits the bench.)

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

21 (WHEREUPON, the following bench conference is
22 held with Juror number 197, Laura A. Reese.)

23 **THE JUROR:** 197.

24 **THE COURT:** Laura Reese.

25 **THE JUROR:** Just by a boyfriend like,

1 gosh, when I was in high school.

2 **THE COURT:** Okay. Tell me this, knowing
3 the allegations in this case, do you think
4 you ---

5 **THE JUROR:** Sure..

6 **THE COURT:** --- could be a fair and
7 impartial juror? Thank you so much. I
8 appreciate.

9 **THE JUROR:** Yeah.

10 **THE JUROR:** Thank you, ma'am.

11 (WHEREUPON, Juror number 197, Laura A. Reese,
12 exits the bench.)

13 **THE COURT:** Anybody else?

14 (No audible response.)

15 All right. Ladies and Gentlemen, we have
16 now come to the portion where we're actually
17 going to seat you as jurors. What's going to
18 happen is you're going to hear the clerk call
19 your -- potentially call your name and juror
20 number. You'll come forward. We'll show you
21 exactly where to stand. Stand about right here.
22 Turn and face your fellow jurors. Don't face
23 me. Face your fellow jurors.

24 You'll hear the attorney for the State say
25 something like, "Present the juror" or "Excuse

1 the juror". You'll hear the attorney for the
2 defense say something like, "Seat the juror" or
3 "Swear the juror" or "Excuse the juror."
4 Something like that. We'll give you
5 instructions of what to do next.

6 A couple of things. When you come up here,
7 bring everything with you. That way, if you're
8 seated, you'll just go right to the jury box
9 and you won't have to go back to your seat and
10 get your things. The other thing is -- I always
11 hesitate to even say this -- but sometimes,
12 people who are excused, they say, well, why did
13 I get excused. Believe me, it's nothing
14 personal. I don't think anybody is going to get
15 their feelings hurt, but it's nothing personal.
16 Attorneys strike jurors for a multitude of
17 reasons. It's just so very rarely ever anything
18 personal whatsoever.

19 All right. With that being said, we're
20 ready to begin. 10 and 5 -- excuse me -- 5 and
21 10.

22 **THE CLERK:** Juror number 12, Clinch
23 Ballew.

24 What says the State?

25 **MS. MUNSON:** Please present the juror.

1 THE CLERK: What says the defendant?
2 MR. CULBERTSON: Excuse this juror please.
3 THE CLERK: You may take your seat.
4 Juror number 112, Daniel Hicks.
5 What says the State?
6 MS. MUNSON: Please present the juror.
7 THE CLERK: What says the defendant?
8 MR. CULBERTSON: Please swear the juror.
9 THE CLERK: You may take a seat in the
10 jury box.
11 Juror number 198, Neil Reini.
12 What says the State?
13 MS. MUNSON: Please present the juror.
14 THE CLERK: What says the defendant?
15 MR. CULBERTSON: Please swear the juror.
16 THE CLERK: You may take a seat in the
17 jury box.
18 Juror number 149, Vickie McCall.
19 MR. CULBERTSON: 149?
20 THE CLERK: Yes, sir.
21 MR. CULBERTSON: Thank you, ma'am.
22 THE CLERK: What says the State?
23 MS. MUNSON: Please present the juror.
24 THE CLERK: What says the defendant?
25 MR. CULBERTSON: Please swear the juror.

1 **THE CLERK:** You may take a seat in the
2 jury box.

3 Juror number 233.

4 What says the State?

5 **MS. MUNSON:** Please present the juror.

6 **THE CLERK:** What says the defendant?

7 **MR. CULBERTSON:** Please excuse the juror.

8 **THE CLERK:** You may take your seat.

9 Juror number 138, Kansas Koran.

10 What says the State?

11 **MS. MUNSON:** Please present the juror.

12 **THE CLERK:** What says the defendant?

13 **MR. CULBERTSON:** Please swear the juror.

14 **THE CLERK:** You may take a seat in the
15 jury box.

16 Juror number 150, Jason McCarthy.

17 What says the State?

18 **MS. MUNSON:** Please present the juror.

19 **THE CLERK:** What says the defendant?

20 **MR. CULBERTSON:** Please swear the juror.

21 **THE CLERK:** You may have a seat in the
22 jury box.

23 Juror number 71, Shadrian Dixon.

24 What says the State?

25 **MS. MUNSON:** Please present the juror.

1 THE CLERK: What says the defendant?
2 MR. CULBERTSON: Please swear the juror.
3 THE CLERK: You may have a seat in the
4 jury box.
5 Juror number 70, Gerald -- Jerry Nicholls.
6 MR. CULBERTSON: I'm sorry. That number?
7 THE CLERK: 170.
8 MR. CULBERTSON: Thank you.
9 THE CLERK: What says the State?
10 MS. MUNSON: Please present the juror.
11 THE CLERK: What says the defendant?
12 MR. CULBERTSON: Please excuse the juror.
13 THE CLERK: You may take your seat.
14 Juror number 203, Jess Rich.
15 What says the State?
16 MS. MUNSON: Please present the juror.
17 THE CLERK: What says the defendant?
18 MR. CULBERTSON: Please swear the juror.
19 THE CLERK: You may take a seat in the
20 jury box.
21 Juror number 57, Eugenia Craig.
22 What says the State?
23 MS. MUNSON: Please present the juror.
24 THE CLERK: What says the defendant?
25 MR. CULBERTSON: Please swear the juror.

1 **THE CLERK:** You may have a seat in the
2 jury box.

3 Juror number 114, Michael Hindman.
4 What says the State?

5 **MS. MUNSON:** Please excuse the juror from
6 the trial of this matter.

7 **THE CLERK:** You may take your seat.
8 Juror number 46, Nancy Chandler.
9 What says the State?

10 **MS. MUNSON:** Please present the juror.

11 **THE CLERK:** What says the defendant?

12 **MR. CULBERTSON:** Please excuse the juror.

13 **THE CLERK:** You may take your seat.
14 Juror number 7, Julie Anne Antworth.
15 What says the State?

16 **MS. MUNSON:** Please present the juror.

17 **THE CLERK:** What says the defendant?

18 **MR. CULBERTSON:** Please excuse the juror.

19 **THE CLERK:** You may take your seat.
20 Juror number 53, Todd Coleman.
21 What says the State?

22 **MS. MUNSON:** Please present the juror.

23 **THE CLERK:** What says the defendant?

24 **MR. CULBERTSON:** Please swear the juror.

25 **THE CLERK:** You may take a seat in the

1 jury box.

2 Juror number 74, Ashley Drew.

3 What says the State?

4 MS. MUNSON: Please present the juror.

5 THE CLERK: What says the defendant?

6 MR. CULBERTSON: Please swear the juror.

7 THE CLERK: You may take a seat in the
8 jury box.

9 Juror number 262, Cory Byers.

10 What says the State?

11 MS. MUNSON: Please excuse the juror from
12 the trial of this matter.

13 THE CLERK: You may take your seat.

14 Juror number 78, Amber Ellis.

15 What says the State?

16 MS. MUNSON: Please present the juror.

17 THE CLERK: What says the defendant?

18 MR. CULBERTSON: Please swear the juror.

19 THE CLERK: You may take a seat in the
20 jury box.

21 Juror number 257, Angela Young.

22 What says the State?

23 MS. MUNSON: Please present the juror.

24 THE CLERK: What says the defendant?

25 MR. CULBERTSON: Please excuse the juror.

1 **THE CLERK:** You may take your seat.
2 Juror number 167, Joseph Nardulli.
3 What says the State?
4 **MS. MUNSON:** Please present the juror.
5 **THE CLERK:** What says the defendant?
6 **MR. CULBERTSON:** Please excuse the juror.
7 **THE CLERK:** You may take your seat.
8 Juror number 124, Trudy Hutchison.
9 What says the State?
10 **MS. MUNSON:** Please present the juror.
11 **THE CLERK:** What says the defendant?
12 **MR. CULBERTSON:** Please swear the juror.
13 **THE CLERK:** You may take a seat in the
14 jury box.
15 **THE COURT:** Let's do two alternates. One
16 and two.
17 **MR. CULBERTSON:** Yes, ma'am.
18 **THE CLERK:** Juror number 163, Willard
19 Moore.
20 What says the State?
21 **MS. MUNSON:** Please present the juror.
22 **THE CLERK:** What says the defendant?
23 **MR. CULBERTSON:** Please excuse the juror.
24 **THE CLERK:** You may take your seat.
25 Juror number 197, Laura Reese.

1 What says the defendant?
2 I'm sorry. What says the State? I'm sorry.
3 **MS. MUNSON:** Please present the juror.
4 **THE CLERK:** What says the defendant?
5 **MR. CULBERTSON:** Please excuse this juror.
6 **THE CLERK:** You may take your seat.
7 Juror number 247, Michael Williams.
8 What says the State?
9 **MS. MUNSON:** Please present the juror.
10 **THE CLERK:** What says the defendant?
11 **MR. CULBERTSON:** Please seat the juror.
12 **THE CLERK:** You may take a seat in the
13 jury box.
14 Juror number 82, Melissa Finley.
15 What says the State?
16 **MS. MUNSON:** Please present the juror.
17 **THE CLERK:** What says the defendant?
18 **MR. CULBERTSON:** Please swear the juror.
19 **THE CLERK:** You may take a seat in the
20 jury box.
21 **THE COURT:** All right. Any objection to
22 the manner in which the jury was selected from
23 the State?
24 **MS. MUNSON:** Nothing from the State, Your
25 Honor.

1 **THE COURT:** Any from the defense?

2 **MR. CULBERTSON:** No, ma'am.

3 **THE COURT:** All right. Ladies and
4 Gentlemen who were not selected for the trial
5 of this particular case, due to my schedule the
6 rest of this week, I'm not going to get to work
7 with you. I'm going to ask you that you be
8 excused in just a moment, but to call back in
9 after six o'clock for any further instructions.
10 Thank you so much for your service. If you any
11 of you have not voted, you'll have some time
12 maybe this afternoon when the polls are a
13 little lighter to go vote. Thank you so much,
14 and have a good afternoon.

15 (WHEREUPON, the jury exits at approximately
16 2:01 p.m.)

17 **THE COURT:** Ladies and Gentlemen -- he's
18 one of our local attorneys, and he's so
19 fantastic that you can't say anything about him
20 because he's just so great and sweet.

21 Well, some of you might have looked at your
22 fellow jurors with some envy, but let me tell
23 you something that I didn't tell them, they
24 have to call back in and go through this
25 process again this week and they are

1 potentially going to be on a jury -- another
2 jury in Judge Miller's courtroom. So I will say
3 to you here that the attorneys in this case
4 have assured me that this case will end
5 tomorrow. We won't finish it today, but it will
6 end tomorrow. I am -- I believe I am free to
7 tell you that that will end your jury service
8 for this week.

9 But I need to begin with a couple of
10 preliminary matters. Will you please swear the
11 jury?

12 **THE CLERK:** Will you please stand and
13 raise your right hand? The correct response to
14 the oath is, "I will.". You shall well and
15 truly try the case 2014-GS-23-10158, State
16 versus Joseph Austin Carpenter, indicted for
17 Domestic Violence of a High and Aggravated
18 Nature and 2015-GS-23-27298 for Attempted
19 Murder, and a true verdict render according to
20 the law and the evidence, so help you God? I
21 will?

22 (WHEREUPON, each juror responds.)

23 **THE CLERK:** Thank you. Have a seat.

24 **THE COURT:** Thank you. Ladies and
25 Gentlemen, what I'm going to say to you now is

1 not intended to be a charge on the law in this
2 case. It's just my -- it's just an introduction
3 to the procedures we'll follow during the trial
4 of this case. I will charge you on the law
5 applicable to this case at the end of the
6 trial. There is no need for you to worry about
7 that right now.

8 The defendant in this case is charged by
9 indictments filed in this court with the
10 charges of Attempted Murder and Criminal
11 Domestic Violence of a High and Aggravated
12 Nature, the elements of which will be explained
13 to you later, as I said. As I told you earlier,
14 an indictment is simply the document by which
15 someone is charged with a crime and brought
16 into court. It is not, in any sense, evidence
17 of anyone's guilt in any way.

18 The defendant has pled not guilty to these
19 indictments. Therefore, the State has the
20 burden of proving each of the elements of the
21 indictments beyond a reasonable doubt. It will
22 be your duty, Ladies and Gentlemen, to
23 determine whether or not the State has met its
24 burden.

25 Your purpose as jurors is to find and

1 determine the facts. You are the sole judge of
2 the facts. If, at any time, I make any comment
3 about the facts in this case, you are to
4 disregard it. A trial judge in our state can
5 not have an opinion on the facts of the case,
6 and I do not. You are to determine the facts
7 from the testimony you hear and other evidence
8 introduced in court. It's up to you to
9 determine the inferences you feel may be
10 properly drawn from that evidence.

11 As I said, you are the sole judge of the
12 facts. On the other hand, I'm the judge of the
13 law in the case. The law that you must accept
14 is the law as I give it to you. You have a
15 different idea as to what the law is or a
16 thought as to what the law ought to be. You
17 must disregard that and take the law as I give
18 it to you at the end of this case and apply the
19 facts as you find them to be, and from that,
20 you will come up with your verdicts in this
21 case.

22 Until I advise you to begin your
23 deliberations, you must not discuss this case
24 with anyone. That sometimes surprises folks
25 that you can not talk to your fellow jurors

1 about the case as it's progressing. It
2 surprises people because it looks different
3 from that on TV. Jurors are talking about the
4 case all the time on TV. But in South Carolina,
5 the law is that you may not discuss the case
6 with one another. You'll have this case
7 overnight. You can't discuss it with your
8 family members or friends in any way, and that
9 is because we don't want you to make your mind
10 up about any fact until you've heard all of the
11 testimony and evidence in this case.

12 If anyone involved in this case tries to
13 talk to you about this case in any way -- these
14 attorneys would never dream of doing anything
15 like that, not in a million years -- but if
16 anyone involved in the case, if they were
17 discussing the case in the courthouse while
18 you're here or if they try to talk to you about
19 it and you identified yourself as a juror in
20 this case and they do not immediately quit
21 talking to you, if you will, let one of these
22 folks in the red jackets right here know, they
23 will let me know, and I assure you will take
24 care of that matter right away. I do not
25 anticipate that to happen in any way.

1 In just a moment, you're going to hear the
2 Solicitor make what is called an opening
3 statement. That is what her contention is as to
4 what the issues are. The attorney for the
5 defendant may also make an opening statement,
6 although he's not required to do so. What the
7 attorneys tell you during their opening
8 statements is not evidence in any way, only
9 what their contention as to the issues are.

10 From time to time, you may hear the
11 attorneys say something like they need to
12 approach on a matter of law, we need to take up
13 a matter outside of your presence. I want you
14 to know that we're not hiding the ball from you
15 in any way. You heard me say earlier that I
16 can't have an opinion on the facts of the case.
17 Sometimes in ruling on a matter of law, I have
18 to make a comment about the facts in a case. So
19 as not to influence you in any way, we'll
20 either take up short matters up here at the
21 bench or I'll ask you to step to your jury
22 deliberation room while we take up the matter.
23 But I promise you that if you are in your jury
24 deliberation room, we will be in here working.
25 We will not trespass on your time any more than

1 is absolutely necessary.

2 In determining what the true facts are, you
3 sometimes will have to determine the
4 believability of a witness. Believability or
5 credibility of a witness is a fact -- is
6 something for you, the jury, to determine
7 solely. You determine believability or
8 credibility the same way you do in your
9 everyday lives. You look at how somebody acts.
10 You match it up with what other people say. You
11 look at the physical evidence in the case. You
12 think about whether somebody has a bias or
13 interest in the outcome of the case. And then
14 you determine who, if anyone, you believe is
15 telling the truth. You may use anything in the
16 record that will help you determine who you
17 believe in this case.

18 Ms. Dixon, Ms. Dixon, I'm going to ask you
19 to be our foreperson in this case. I will
20 explain to you what a foreperson is. Every --
21 your verdict has to be a unanimous one. No
22 one's opinion is any more important than
23 another's opinion. I need someone, however, who
24 can lead the discussions in the jury
25 deliberation room and who can sign the verdict

1 form at the end as the foreperson. If you would
2 be willing to do that, I certainly would
3 appreciate it. Thank you so much.

4 Mr. Williams and Ms. Finley, you are our
5 alternates. You probably know what an alternate
6 does. But just so I've said it, if I had to
7 remove a juror for some reason or there was
8 some sort of emergency, then you would be able
9 to step into the shoes of one of the 12 jurors
10 because you'll be with us throughout the
11 balance of the testimony and the evidence and
12 through closing statements. If we get to the
13 end, by the time the jury deliberates, and your
14 services are not needed, I will excuse you. I
15 thank you so much for your service as I thank
16 all of you for your service.

17 I will tell you this much, when I'm the
18 judge who's responsible for qualifying the jury
19 on a particular week, which I was not this
20 week, but when I am, I tell the juries the most
21 surprising thing -- or potential jurors, the
22 most surprising thing about my job is this:
23 Folks come in on Monday morning not happy to be
24 here, obviously. Nobody's thrilled when you get
25 a juror summons, let's be honest. But if they

1 actually do get to serve on a jury, folks tell
2 me it's one of the best experiences of their
3 lives. I hear that time and time and time
4 again. I think it is folks enjoy being a part
5 of our legal system and seeing our legal system
6 at work, but also giving back something to a
7 country that's given so much. So I appreciate
8 your service. I know that this is an imposition
9 on you. I know that. So we will -- these
10 attorneys will move this case along. And we
11 anticipate that you can return to your lives
12 tomorrow sometime -- sometime tomorrow.

13 All that being said, is there any -- any
14 objection to my initial charge from the State?

15 **MS. MUNSON:** No, ma'am, Your Honor.

16 **THE COURT:** Any from the defense?

17 **MR. CULBERTSON:** No, ma'am.

18 **THE COURT:** All right. Ladies and
19 Gentlemen, just to introduce you to a couple of
20 people who are here, this lady here from the
21 Clerk's office, her name is Jeanine. She's
22 second to none. And this is my court reporter,
23 Teresa Johnson. Some folks wonder what's going
24 on because she has a mask on, but she's taking
25 down everything that we say, and she is the

1 best in the business.

2 And these are my law clerks, Marchie
3 Newkirk and Ian Conits. They are law school
4 graduates. They are here to help me on my
5 charge on the law to you at the end. I have to
6 brag on them for just a minute. They are the
7 newest lawyers in South Carolina. They were
8 sworn in yesterday. So very glad. Yes, yes, it
9 was a big event.

10 All right. We're ready -- we're ready to
11 begin. Do y'all want a break?

12 MR. CULBERTSON: I just -- I hate to do
13 this, but I do need to -- a couple of things
14 I'd like to talk to Your Honor about before we
15 get started.

16 THE COURT: Okay. All right. And I forgot,
17 y'all have been sitting for a while, so it's
18 probably a good time for you to see your jury
19 deliberation room and you may want to take a
20 quick break. If you will, step to your jury
21 deliberation room for just a moment.

22 I'll ask everybody to remain seated.

23 (WHEREUPON, the jury exits at approximately
24 2:12 p.m.)

25 MR. CULBERTSON: Thank you, ma'am. If I

1 could, I'd like to be able to see the
2 indictments that are going forward for trial
3 today and then I may very well have a motion
4 based upon -- once I see the indictments.

5 **THE COURT:** Any motion based on the
6 indictments has to be made before the jury is
7 sworn, but I'll let you see the indictments.

8 **MR. CULBERTSON:** Well, I also thought I
9 was going to have an opportunity to view the
10 indictments before they were actually sworn.
11 I've seen a number of indictments about this
12 case. I was not clear exactly which one the
13 State intended to go forward with trial on. As
14 Your Honor knows, we had some discussions about
15 that. But I'm now looking at the indictment for
16 Attempted Murder and the indictment for
17 Domestic Violence of a High and Aggravated
18 Nature, and my motion would be based on the
19 indictment for Attempted Murder in that it
20 fails to specify exactly what the underlying
21 charge and the reason for the charge would be.

22 **THE COURT:** All right. Anything from the
23 State on that one?

24 **MS. MUNSON:** No, ma'am, Your Honor. It's
25 sufficient.

1 **MR. CULBERTSON:** Well, and again, just to
2 further explain, the indictment does not talk
3 about any of the actions or any events or
4 anything that may have justified this
5 indictment. As you know, Your Honor -- I think
6 you know by this time, initially, that's not
7 what my client was charged with. He was charged
8 with Assault and Battery High and Aggravated.
9 It might have been Assault and Battery with
10 Intent to Kill. I don't remember right now. But
11 this indictment clearly came after the initial
12 charge. My motion for the invalidity of this
13 indictment is primarily based on the fact that
14 it fails to specify what offense my client
15 engaged in that gave rise to this charge.

16 **THE COURT:** All right. Let me take a quick
17 look at the indictment.

18 **MS. MUNSON:** May I add something, Your
19 Honor?

20 **THE COURT:** Certainly.

21 **MS. MUNSON:** After the direct presentment,
22 we brought Mr. Carpenter in in May of -- May
23 the 8th of 2015 and served him the direct
24 presentment. I can give you the jail screen to
25 show he was booked in for direct indictment. No

1 objection was made then and no question was
2 made. And the other warrant has been dismissed.
3 It's just an upgraded charge.

4 **THE COURT:** Well, I've reviewed the
5 indictment in this case. Mr. Culbertson,
6 although your objection to the indictment, I
7 will deem it to be a timely objection to the
8 indictment and I've considered it; however,
9 it's respectfully denied but preserved for the
10 record.

11 **MR. CULBERTSON:** Thank you.

12 **THE COURT:** All right. And I did move to
13 have the -- I did proceed into having the jury
14 sworn probably before anybody realized I was
15 going to do that. So I certainly understand. As
16 I said, I'll deem it to be a timely motion. All
17 right. Let's -- y'all want to take a little 10-
18 minute break?

19 **MS. MUNSON:** I'm ready.

20 **THE COURT:** Let's do that. Okay. How about
21 I put it like this, I'd like to take a 10-
22 minute break.

23 **MS. MUNSON:** Okay.

24 **MR. CULBERTSON:** And I'm not opposed to a
25 20-minute break.

1 **THE COURT:** Let's try to stick to it
2 because I really do have to be done tomorrow.
3 I've got to go out of town Thursday. Let's
4 resume at 2:30. That gives us a minute more.

5 **MR. CULBERTSON:** Thank you, ma'am.

6 **(WHEREUPON,** the Court goes off the record at
7 approximately 2:16 p.m.)

8 **(WHEREUPON,** the Court goes on the record at
9 approximately 2:30 p.m.)

10 **MR. CULBERTSON:** Number one, I would move
11 to have all the potential witnesses sequestered
12 or barred from being in the courtroom during
13 everybody else's testimony. Number two -- and I
14 don't know if we got this on the record or not
15 -- but the Solicitor and I and Your Honor had a
16 brief conversation earlier about a conversation
17 with the jury concerning the victim's not being
18 here and how to deal with that -- how the Court
19 should -- how they should view all that. And
20 number three, my client's out on bond, has been
21 out on bond for a while, has not been any
22 problem with him being here. I know when we
23 took a break after the jury was sworn, deputies
24 took him into custody. I would ask that he be
25 allowed to remain out on bond until the

1 conclusion of this trial.

2 **THE COURT:** Okay. Well, I'll just start
3 with the last item. I'll do this, I'll just --
4 his bond is gone now that the jury's been
5 sworn. So what I'll do is I'll just give him a
6 PR trial bond. We'll just do it like that.

7 Next, yes, I will instruct the jury when
8 they come back in and I'm going to do that, if
9 there's no objection, first thing so that y'all
10 are free to talk. Having the witnesses
11 sequestered, is your responsible officer and
12 victim, are they --

13 **MS. MUNSON:** The officer's out in the
14 hallway, Your Honor. But there are two ladies
15 that are sitting in front that will be
16 testifying that I would object to them being
17 sequestered. One of them, in the blue, is
18 Phyllis Joanie Sanders, one of the victims ---

19 **THE COURT:** Okay.

20 **MS. MUNSON:** --- which allows her in the
21 courtroom. The other one is Pat Sanders who,
22 according to the Victims Rights Act, is a
23 victim as the mother of Joanie and the wife of
24 Mr. Sanders. Plus, she's not going to be
25 testifying about anything that happened on the

1 scene because she didn't see it.

2 THE COURT: All right. But all other
3 witnesses, you don't have --

4 MS. MUNSON: They're all out in the hall,
5 Your Honor.

6 THE COURT: Okay. They're all out in the
7 hall. All right. I think definitely the victim,
8 Ms. ---

9 MS. MUNSON: Sanders.

10 THE COURT: --- Sanders --

11 MS. MUNSON: Joanie Sanders.

12 THE COURT: -- the daughter, she --
13 definitely, she and the responding officer.
14 What about Pat Sanders? I think, by definition,
15 potentially is --

16 MR. CULBERTSON: Well, and I think that
17 kind of dovetails into my previous question
18 about how we were going to address the fact
19 that the victim is no longer with us. I
20 understand that she's also the victim, but to
21 the extent -- I'm not sure what she's going to
22 testify to or about since, by their admission,
23 she wasn't there. I'm not sure what she'd be
24 testifying to. So I'm concerned that what she
25 may ultimately testify to may be affected or

1 influenced by what she hears from other folks
2 on the stand.

3 **THE COURT:** I understand. I -- I -- I
4 think though, not having it right in front of
5 me, she -- she would be, if for no other reason
6 than as the widow of the deceased alleged
7 victim in this case, I think is covered and,
8 therefore, she has a right to remain in for all
9 proceedings. I'm going to let her -- I'm going
10 to let both the Sanders ladies stay in here and
11 then the other -- the other witnesses, we'll
12 just have them --

13 **MS. MUNSON:** None of them are --

14 **THE COURT:** Yeah.

15 **MS. MUNSON:** None of them are in the
16 courtroom, Your Honor.

17 **THE COURT:** Now, I do note that we've got
18 a fair number of folks in the courtroom and I'm
19 always happy to have folks in the courtroom. I
20 will let you just know a little bit about our
21 courtroom procedures. First of all, when the
22 jury is leaving, I'd ask everybody just to
23 remain seated -- everybody was very nice when I
24 asked you to do this just a moment ago -- just
25 so they don't inadvertently overhear something

1 or anything like that, if you will just remain
2 seated, then we'll break after they are out the
3 door. The other thing I will say is I'm going
4 to expect that folks on one side or another are
5 not going to agree with some of the stuff they
6 hear and I'm going to ask you to keep any kind
7 of nodding or facial expressions or anything
8 like that to yourselves.

9 If you feel like you can not handle hearing
10 particular testimony, no problem with your
11 excusing yourselves from the courtroom. But
12 making faces and doing that sort of thing is
13 the same thing as conveying your thoughts to
14 the jury. I don't -- I can't allow you to do
15 it. All right. With all that being said, we'll
16 bring the jury back in. All right. We're ready
17 to go.

18 (WHEREUPON, the jury enters at approximately
19 2:35 p.m.)

20 THE COURT: All right. Ladies and
21 Gentlemen, we are now about to begin with
22 opening statements from the attorneys. I need
23 to discuss one matter with you before we get
24 started. One of the alleged victims in this
25 case who's named Billy Sanders, Billy Sanders

1 has, since this incident occurred, passed away.
2 I want to tell you that both the attorneys in
3 this case have agreed and I talked with them
4 about speaking with you about this, there is no
5 allegation whatsoever that this incident led to
6 or is related to the death of Billy Sanders.
7 You are not to consider that in any way.

8 The only reason I'm mentioning it to you is
9 that you might have -- might hear through the
10 course of this trial that he had died. And
11 furthermore, you might wonder why he is not
12 here. So I only tell you this by way of
13 explanation as to the absence of Billy Sanders,
14 but to tell you you need not consider his
15 absence from here and his death in your
16 consideration of the facts in this case.

17 Any objection to my instruction on the
18 stipulation in this case?

19 MS. MUNSON: No, ma'am, Your Honor.

20 THE COURT: Any from the defense?

21 MR. CULBERTSON: I think you did about as
22 well as possible. Thank you.

23 THE COURT: Thank you. I appreciate it.

24 All right then. We're ready to begin. Yes,
25 ma'am.

1 MS. MUNSON: May it please the Court.

2 THE COURT: Yes.

3 MS. MUNSON: Mr. Culbertson.

4 How do you know what a person intends? How
5 do you know what's in their head? Sometimes by
6 what they say, but more accurately, by what
7 they do. September the 28th of 2014, Billy
8 Sanders had gone over to his daughter's home,
9 his daughter Joanie Sanders, to pick her up to
10 take her to church. The defendant, who was
11 living with Joanie at the time, in a romantic
12 relationship, really wasn't very happy about
13 that. An argument ensued. Joanie eventually did
14 leave the house. But when Joanie left the
15 house, her dad, in his 80's, was standing
16 outside of his truck and had a bat.

17 The defendant responded to that by charging
18 at the 80-year-old man, pushing him up against
19 the fence, kicking him in the head several
20 times, kicking and pushing him hard enough to
21 knock him through the fence into the neighbor's
22 yard. During this, Joanie is trying to get the
23 defendant off of her dad. She ends up getting
24 bitten. It was a pretty bad scene.

25 At the close of the case, based not on what

1 I'm telling you now, but based on the facts,
2 what you're going to hear from the stand, I'm
3 going to ask you to find the defendant guilty
4 of attempted murder and guilty of aggravated
5 domestic violence. Now, before you can do that,
6 each and every one of you has to be firmly
7 convinced that he's guilty of each element of
8 each offense. Your Honor will go into great
9 detail with you about the elements of the
10 offenses. You're going to have to be firmly
11 convinced that he was trying -- that that
12 defendant was trying to kill Billy Sanders that
13 day.

14 You're going to have to be convinced that
15 he committed an assault and battery, an assault
16 with or without a battery, that he assaulted
17 Joanie Sanders in such a way that she was put
18 in reasonable fear of serious harm. There's not
19 going to be any testimony that Joanie was
20 seriously injured. She was bitten, had a little
21 mark on her nose. It's not the serious injury
22 that makes it an aggravated domestic violence,
23 it's the fear that he put in her.

24 Like we said earlier, I'm Judy Munson. I'm
25 one of the prosecutors. It's my duty and it's

1 my great privilege to represent the people of
2 Greenville County in this matter. At the close
3 of the case, I'm going to ask you on behalf of
4 the people of Greenville County to find the
5 defendant guilty. Thank you for your time.

6 THE COURT: Thank you.

7 Mr. Culbertson.

8 MR. CULBERTSON: May it please the Court,
9 Your Honor.

10 THE COURT: Yes, sir.

11 MR. CULBERTSON: Ms. Munson.

12 MS. MUNSON: Yes, sir.

13 MR. CULBERTSON: Y'all have to excuse me.
14 They've had me walking around too much today,
15 so I'm going to need to use this cane every
16 once in a while. Again, as I think I stated to
17 you guys earlier, my name is Symmes Culbertson.
18 It's my privilege today to represent Mr.
19 Carpenter.

20 A couple of things I want to talk to you
21 guys about. I won't take too long and bore you
22 all too badly. A couple of things Ms. Munson
23 mentioned to you, I feel the need to address
24 now. Before I do that, I noticed a lot of us
25 have these little "I voted" stickers on today.

1 I want to tell you guys that it is considered
2 three great things that every citizen should
3 feel a right and obligation to do: either to
4 serve in the military, serve this country;
5 number two is vote, which some of us have
6 already done and hope everybody else gets a
7 chance to do today; and third, and I think more
8 importantly, is serve on jury duty. I think
9 those are the three greatest things any
10 American can do in furtherance of obligation. I
11 thank y'all, all those of y'all that have
12 voted, thank y'all. All those that have served
13 in the military, I thank y'all. For everybody
14 sitting on the jury today, I thank y'all.

15 All that having been said, it's a
16 regrettable fact that Mr. Sanders is not here
17 today. And as Her Honor told you, nothing,
18 absolutely nothing about this scuffle between
19 Mr. Sanders and my client, in any way, led to
20 his death. As you've already heard and you'll
21 hear more about later, I'm sure, he was 80-
22 something years of age. I hope I live that
23 long. But the fact that he's not here today, I
24 don't think anybody is going to take that into
25 consideration. It's a great tragedy.

1 My client, Mr. Carpenter, and Mr. Sanders
2 were friends. They had, the weekend before this
3 event, actually gone out together to play some
4 music together. My client is a lifelong
5 resident of Greenville County. He went to
6 Easley High School. He -- as a living, he's a
7 carpenter. He does a bunch of stuff, but,
8 primarily, he's a carpenter and he's a
9 musician. He plays music. He and Mr. Sanders
10 had done that the weekend before this event.

11 Her Honor is going to tell you a lot of
12 stuff about what the law is in the state of
13 South Carolina. Here's where I feel a little
14 sorry for a lot of y'all, it's going to be much
15 like a law school exam. You're going to hear a
16 lot during this trial about what the law is and
17 what the law isn't. I can't speak to that.
18 That's up to the judge to tell you what the law
19 is. What the judge tells you the law is in this
20 case, you guys need to apply to the facts of
21 this case.

22 I feel rather confident when I say a few
23 things about what is known as the Castle
24 Doctrine or the right to defend oneself in
25 one's home. You're going to hear about intent,

1 what somebody's intent was. And number three,
2 the presumption defense.

3 I know what Ms. Munson spoke about briefly
4 in her opening statement and I'll tell you
5 that's not necessarily the facts in this case.
6 The facts in this case are for y'all to decide,
7 much like what I'm about to say to you are not
8 necessarily the facts in this case. It's up to
9 y'all to decide.

10 But here's what I believe happened. My
11 client and Joanie Sanders been together for 20-
12 some-odd years. They'd never gotten married.
13 They lived together as husband and wife for 22
14 years. Joanie's father, for whatever reason,
15 was upset this day. He had called his daughter
16 up about going to church. He came by my
17 client's house to pick up Joanie Sanders and
18 take her to church with him.

19 I'm not sure how willing she was to go to
20 church but, in any event, she decided to go out
21 and get in the car with her father to go to
22 church. They had a few words. She comes back
23 into the house where she and Mr. Carpenter
24 lived. They had a few words with one another
25 inside the house, not necessarily an argument.

1 Just talking.

2 She then walks back out of the house. My
3 client, Mr. Carpenter, walks out with her.
4 Prior to that, Mr. Sanders had gone in the
5 house. Apparently, there were some words
6 exchanged between the three of them. Mr.
7 Sanders walks back out to his truck. Joanie
8 Sanders subsequently goes back out along with
9 her dad.

10 My client walks outside the front door,
11 stands at the front door on the porch and he
12 sees Billy Sanders get out his truck with a
13 baseball bat. He sees Mr. Sanders coming up to
14 his house with this baseball bat in hand and
15 comes up to the steps with the baseball bat in
16 hand. My client walks out, has a discussion, is
17 talking with Mr. Sanders out there on the porch
18 of his house.

19 Joseph attempts to take the baseball bat
20 away from Mr. Sanders. In fact, he's successful
21 in removing the baseball bat from Mr. Sanders.
22 Despite the fact that Joanie Sanders had jumped
23 on his back and scratched at him, hitting on
24 him, doing all this other stuff. Gets her off.
25 Takes the baseball bat away. Walks back into

1 the house and sets it on the counter.

2 He then walks back out on the porch and
3 sees Billy Sanders still over here by the
4 fence, by these trees where the fussing and
5 fighting and everything had taken place, where
6 he removed the baseball bat and taken it back
7 in the house, he sees Joanie running back up
8 the front towards the house. He goes back into
9 the house. My client is back in the house. He
10 sits down and he just waits. He waits for the
11 police to come knocking on the door. He knows
12 the police had been called by some of the
13 neighbors. He sits down and waits until he
14 hears the knock. The police are there. He talks
15 to them and they arrest him for the fight that
16 had taken place outside. That's what happened.

17 Y'all are going to hear today from all
18 sorts of folks about what their version of the
19 facts are. You're going to hear from folks
20 about what our version of the facts are. You
21 guys are going to have to decide. Then you're
22 going to hear what the law is in this state
23 that pertains to this case. You're going to
24 hear about the Castle Doctrine, the right of
25 self-defense, the right of this, the right of

1 that that any person has when they are at home
2 defending themselves, their person or their
3 loved ones that live there with them.

4 This Castle Doctrine, the right to self-
5 defense that's applied in this state means that
6 my client, Mr. Carpenter, can not be
7 prosecuted, should not be here today, when he
8 is defending himself and his property and his
9 loved ones in his house. Castle is right
10 according to the laws in this state. Listen to
11 what the judge tells you. He's got a right to
12 defend himself and his property under the law.

13 It's a terrible, terrible thing that Billy
14 Sanders passed away. My client, despite the
15 fact that he was involved in this little fight
16 outside trying to take the baseball bat away,
17 had absolutely nothing to do with Billy Sanders
18 passing away. Understand that he has a right,
19 Mr. Carpenter has a right, the defendant has a
20 right to defend himself and his property. Thank
21 y'all.

22 **THE COURT:** Thank you. The State ready to
23 proceed?

24 **MS. MUNSON:** Yes, ma'am, Your Honor. The
25 State calls Dr. Derek Watson. I'm having to

1 call him a little out of order, Your Honor.

2 THE COURT: That's fine. Certainly.

3 THE CLERK: If you would, please come
4 forward. Will you please put your left hand on
5 the Bible and raise your right?

6 DEREK WATSON

7 having first been duly sworn, testifies as follows:

8 THE CLERK: Please have a seat. Will you
9 state your full name for the record?

10 THE WITNESS: Derek Watson.

11 DIRECT EXAMINATION

12 BY MS. MUNSON:

13 Q Who do you work for, Dr. Watson?

14 A The Greenville Health System.

15 Q What do you do?

16 A I'm a trauma surgeon and associate
17 professor for the University of South Carolina School
18 of Medicine.

19 Q All right. How long have you been
20 practicing medicine?

21 A 20 years.

22 Q And you're licensed to practice in South
23 Carolina?

24 A I am.

25 Q Were you working at the Greenville Health

1 System in September of 2014?

2 A I was.

3 Q And did you become involved in this case?

4 A I was.

5 Q And how did that happen? How did you get
6 involved?

7 A I was the trauma attending on call. So each
8 day, we have a -- one of my colleagues or myself is
9 on call covering for any incoming trauma, emergency
10 room trauma. That was my day.

11 Q Okay. And the particular patient that you
12 have been called here to testify about, do you
13 remember his name?

14 A Yeah, Mr. Sanders, Billy Sanders.

15 Q About what his age was?

16 A He was in his early 80's.

17 Q And did you examine him?

18 A I did.

19 Q And what did you find to be his problem on
20 that day when you saw him?

21 A When he came in, the main concern was he
22 had alteration in his mental status. The report we
23 had from the paramedics who brought him in was that
24 he had declining mental status on the scene. When
25 they first saw him, he was slightly decreased. And en

1 route, his mental status deteriorated more. When he
2 came into the trauma bay, he had weakness on one
3 side. He was having difficulty communicating,
4 slightly confused. Not combative, but not following
5 all commands. That's indicative to us that there's
6 possible head injury.

7 Q All right. And what did you do to determine
8 whether or not there was a head injury?

9 A We did a CT scan of the head.

10 Q And what were the results of the CT scan
11 for Mr. Sanders?

12 A It demonstrated that he had a cerebral
13 hemorrhage or bleed in the brain. His was in the
14 central portion of the brain and was leaking into the
15 ventricles of the brain, which are fluid-filled
16 cavities in the center of the brain.

17 Q Is that something that's easy to do?

18 A No, not at all.

19 Q If I bang my head on the table right now,
20 is that probably going to happen?

21 A There's several different types of bleeds
22 you can get; a central bleed takes a little bit more
23 force for that to occur.

24 Q And how is he treated?

25 A Unfortunately, that type of bleed is not.

1 one that can be really treated surgically. It has to
2 be treated with medical support, which involves
3 trying to keep his blood pressure under control,
4 trying to limit the amount of swelling in the brain.
5 He was admitted to the intensive care unit. My team,
6 who was the trauma team, after evaluating him, hands
7 him off to the critical care team who took over care
8 along with neurosurgeons and neurologists who took
9 over his care. But we treated him with special IV
10 solutions to limit swelling, medications to limit
11 seizures and try to keep his blood pressure under
12 control.

13 MS. MUNSON: All right. Thank you, Dr.
14 Watson.

15 I have nothing further, Your Honor.

16 THE COURT: Any questions for this
17 witness?

18 MR. CULBERTSON: Yeah, just real briefly,
19 Your Honor.

20 CROSS-EXAMINATION

21 BY MR. CULBERTSON:

22 Q When Mr. Sanders came into your emergency
23 room, you had been told or you discovered or somehow
24 figured out he had been involved in a fight, is that
25 correct?

1 A Yes.

2 Q All right.

3 A We were told it was an assault.

4 Q Well, an assault, whatever term you want,
5 it was a fight between him and another person?

6 A Correct.

7 Q You don't know the particulars about that
8 fight. You were just told he had been in a fight?

9 A No, the only particulars that were relayed,
10 and this is just what we were told by paramedics was
11 that they thought he had blows to the head. That was
12 the extent of it.

13 Q And specifically though, once he got there,
14 and your testimony today would be that regardless of
15 that fight, nothing about that fight led to his
16 ultimate death?

17 A I'm not sure I understand the question. Did
18 I state that?

19 Q No, I don't know if you stated that or not.

20 A Okay.

21 Q But I'm asking you, did anything about that
22 fight that he may or may not have been involved in
23 the day he came in there, did anything about that
24 fight, would that lead to his ultimate death?

25 A I wasn't taking care of him beyond that, so

1 there were many factors, I think, that led to his
2 ultimate death, but the fact that he had the bleed in
3 the brain was the primary thing, I think, that led to
4 the constellation of things down the line.

5 Q Is that what --

6 A I'm sorry.

7 Q Is that what killed him?

8 A From what I understand, he had a heart
9 attack.

10 Q Thank you, sir.

11 MS. MUNSON: Nothing further, Your Honor.
12 We ask that this witness be excused.

13 MR. CULBERTSON: No objection.

14 THE COURT: Any objection?
15 Thank you so much for being here.

16 THE WITNESS: You're welcome.

17 MS. MUNSON: The State calls Maureen
18 Phend.

19 THE COURT: Okay.

20 THE CLERK: Please come forward -- I'm
21 sorry -- and put your left hand on the Bible and
22 raise your right.

23 MAUREEN PHEND

24 having first been duly sworn, testifies as follows:

25 THE CLERK: Please have a seat. Will you

1 state your full name for the record?

2 THE WITNESS: I'm Maureen Phend.

3 DIRECT EXAMINATION

4 BY MS. MUNSON:

5 Q Where do you live, Ms. Phend?

6 A 114 East Scenic Lane.

7 Q How long have you been living there?

8 A I think maybe 11, 12 -- maybe 8, 9 years.

9 Q Okay. Anybody live with you?

10 A No.

11 Q Do you work outside the home?

12 A I do.

13 Q What do you do?

14 A I'm a middle school teacher.

15 Q Which school?

16 A Lakeview.

17 Q And what do you teach?

18 A I am an ELA teacher, 7th grade.

19 Q I'm sorry. A what?

20 A ELA, English Language Arts.

21 Q Oh, okay. Now, do you know your neighbors
22 on either side of you?

23 A Yes, I know most of the neighbors in the
24 neighborhood.

25 Q Okay. And in particular, do you know Joanie

1 Sanders?

2 A Yes.

3 Q How long have you been living next to her?

4 A As long as -- they were living there when I
5 moved in, she and her -- and her boyfriend, I think.

6 Q Okay. Do you remember the day that brings
7 us all here?

8 A Yes.

9 Q Okay. How did you -- do you remember about
10 what time of the day or night it was?

11 A It -- it may have been -- I think it was
12 close to 10:00, 11:00 in the morning, maybe noon. I'm
13 really not sure. It's been a while.

14 Q Okay. How did you know that something was
15 going on?

16 A My dogs were barking.

17 Q All right. And when you heard your dogs
18 barking, what did you do?

19 A I went outside. The first thing I did was I
20 got my camera on my phone out because I'm always
21 concerned about anything going on next door.

22 Q Okay. Well, let's just get it out. You're
23 not really good friends with the neighbors, correct?

24 A No. We do not get along.

25 Q All right. As you are coming out of your

1 house beginning to record, what did you see?

2 A I saw somebody laying down on the ground
3 and a couple of people leaning over him.

4 Q Okay. Had you ever seen -- the person on
5 the ground, had you ever seen that person before?

6 A Well, I wasn't sure who it was at first. I
7 mean, I thought at first that it was some --
8 something -- I thought that it was something that
9 they were doing, that it was maybe Joseph on the
10 ground with some conniving plan. That's honestly what
11 I thought. But it turned out to be an older gentleman
12 who turned out to be Joanie's father.

13 Q Okay. When you saw the older gentleman on
14 the ground, was anybody else around him?

15 A Yes. The guy across the street and Joanie
16 were both leaning over him.

17 Q Okay. And you said that he was in the yard.
18 Whose yard was he in?

19 A A combination, my yard and their yard.
20 There were three fences between our yards. But they
21 had been knocked down and he was laying kind of in
22 the middle right there between our yards.

23 Q So through the fence into your yard?

24 A Yes.

25 Q All right. Now, did you walk over to them?

1 A Yes.

2 Q As you were walking over to them, did you
3 see anybody other than Joanie and your neighbor?

4 A I could see feet through the bottom of the
5 cypress trees and I could hear Joseph on the other
6 side making kind of threatening comments.

7 MR. CULBERTSON: I object.

8 BY MS. MUNSON:

9 Q Okay. So you say Joseph, who are you
10 talking about when you say Joseph?

11 A The boyfriend of Joanie.

12 Q Okay. Had you seen him in and around the
13 neighborhood before?

14 A Yes. I mean, he lived next door.

15 Q Okay. Did you ever have a conversation with
16 him?

17 A Yes.

18 Q Ever talked to him on the phone?

19 A Not really on the phone. But in person,
20 they have a -- they yell things over the fence a lot.
21 Joseph would sit on top of his roof when I cut my
22 grass and --

23 Q Let's not go that far. The point is you've
24 heard his voice enough times to recognize it when you
25 hear it?

1 **A** Yes, definitely.

2 **Q** And so you have also seen him. Would you
3 recognize him if you saw him?

4 **A** Yeah.

5 **Q** Is he in the courtroom today?

6 **A** Uh-huh.

7 **Q** Could you point him out for the jury?

8 **A** Right over there in the blue shirt.

9 **MS. MUNSON:** Okay. Your Honor, will the
10 record show that she has identified the
11 defendant.

12 **THE COURT:** It so reflects.

13 **BY MS. MUNSON:**

14 **Q** Now, Ms. Phend, when you are approaching
15 the scene where there's Joanie, the neighbor, and
16 Joanie's dad on the ground, first of all, did you see
17 -- notice anything about Joanie's dad?

18 **A** He was -- God, you could tell he was very -
19 - he was semi-unconscious. I would -- he couldn't --
20 his head was twitching and he wasn't really
21 responding.

22 **Q** Okay. Now, you said you heard the
23 defendant, but did you see him come on your side of
24 the fence?

25 **A** At that point, no. Huh-uh.

1 Q Okay. And you said that he was yelling?

2 A Yeah, he was threatening -- he was saying,
3 I'm gonna kick your ass. He was just making comments
4 like that.

5 Q Okay. All right. When you heard him doing
6 that, what did you do?

7 A Continued videotaping. Like I said, I came
8 out with my camera. Then, I think, at that point, I
9 called 911 because I wasn't sure if anybody else had
10 called 911 yet.

11 Q Okay. Now, I'm going to show you, Ms.
12 Phend, State's Exhibits 1 and 2. Will you take a look
13 at those?

14 A (Reviewing.)

15 Okay.

16 Q Do you recognize these items?

17 A Yes. It's the driveway going up into
18 Joanie's house and that's my driveway there.

19 Q Are these -- are State's Exhibits 1 and 2
20 true and accurate depictions of the location of your
21 residence in relation to Joanie's?

22 A Yes.

23 Q Thank you.

24 MS. MUNSON: Your Honor, I move these into
25 evidence.

1 THE COURT: Any objection?

2 MR. CULBERTSON: No, ma'am.

3 THE COURT: All right then. They are
4 admitted as -- you said State's 1 and 2?

5 MS. MUNSON: Yes, ma'am.

6 THE COURT: Without objection.

7 MS. MUNSON: Thank you.

8 (WHEREUPON, State's Exhibits 1 and 2 are admitted
9 into the record.)

10 BY MS. MUNSON:

11 Q While we're waiting on that, let me also
12 show you -- let me show you State's Exhibit Number 8,
13 Ms. Phend. Did you take a look at this, State's
14 Exhibit Number 8, today in the courtroom?

15 A Yes.

16 Q And is it an accurate recording of what you
17 have on your cell phone?

18 A Yes.

19 MS. MUNSON: Your Honor, this has been
20 provided to the defense in discovery. At this
21 time, we're going to move it into evidence.

22 MR. CULBERTSON: No objection.

23 THE COURT: State's 3?

24 MS. MUNSON: This is 8.

25 THE COURT: 8, I'm sorry. It's so admitted

1 as State's 8.

2 (WHEREUPON, State's Exhibit 8 is admitted into
3 the record.)

4 MS. MUNSON: Not quite sure what the
5 problem is here, Your Honor. (Pause.)

6 Well, at this time, Your Honor, I request
7 permission to play State's Exhibit Number 8.

8 BY MS. MUNSON:

9 Q Now, Ms. Phend, you've seen this before. Is
10 it a long, drawn-out, hours-long clip?

11 A No, it's a fairly short clip.

12 Q Okay.

13 MR. CULBERTSON: Your Honor, I don't mean
14 to interrupt.

15 Y'all keep doing what you're doing. Just so
16 I'm clear, State's 8 is the CD disk that was
17 provided earlier, the film, the pictures, the
18 photographs that this witness took the day of
19 this event?

20 THE WITNESS: It's a video.

21 MS. MUNSON: Correct.

22 THE COURT: That's correct.

23 THE WITNESS: Video, not pictures.

24 THE COURT: Okay.

25 (WHEREUPON, State's Exhibit 8 is played.)

1 BY MS. MUNSON:

2 Q Now, the white, the person in white, who is
3 that, Ms. Phend?

4 A That's the neighbor across the street, the
5 gentleman across the street.

6 Q Okay. And on the left, I guess at the
7 bottom of the screen but the whitish hair?

8 A That would be Joanie.

9 Q Okay. (Pause.)

10 MS. MUNSON: For some reason, I'm having
11 difficulty with the volume, Your Honor.

12 THE COURT: No way to turn it?

13 MS. MUNSON: We've tried every way I know
14 how.

15 THE COURT: Everybody's doing like this.
16 (Demonstrating).

17 MS. MUNSON: Your Honor, if I could figure
18 out --

19 THE COURT: Sure.

20 MS. MUNSON: -- I don't want to stop. But
21 if I could figure out the volume later on, I
22 would request permission to play it fully for
23 the jury.

24 THE COURT: Certainly.

25 MS. MUNSON: Right, we'll just move on

1 with this witness.

2 THE COURT: Sure.

3 I think, Mr. Culbertson, are you wanting --
4 you'd like to see the video with the volume?

5 MR. CULBERTSON: (Indiscernible.)

6 THE COURT: It may be just a minute. We
7 can try it, too.

8 MS. MUNSON: All right.

9 BY MS. MUNSON:

10 Q Now, what we're looking at here is State's
11 Exhibit Number 1, Ms. Phend. If you could, take the
12 laser pointer and light up your house.

13 A That's my house right here. (Indicating.)

14 Q And where is Joanie's house?

15 A That's Joanie's house right there.
16 (Indicating.)

17 The fence continues right up to about in
18 here. (Indicating.)

19 Q Okay.

20 A They had another one, a taller one, put up
21 between us. The cypress trees are right there. There
22 were two panels afterwards and it was this third
23 panel right here that he was knocked through.

24 Q Okay. And can you see --

25 MR. CULBERTSON: Your Honor, I'm sorry.

1 **THE COURT:** Yes.

2 **MR. CULBERTSON:** I have to object to all
3 that because I don't know what panels, when they
4 may have been put in, who knocked through it or
5 any of that stuff.

6 **THE COURT:** Overruled. You've got plenty
7 of time to ask her that later on.

8 All right. Go ahead.

9 **MR. CULBERTSON:** Thank you, ma'am.

10 **BY MS. MUNSON:**

11 **Q** Ms. Phend, do you see on State's Exhibit
12 Number 1 where Lee's house is?

13 **A** He is right here.

14 **Q** Okay. Let's look at State's Exhibit Number
15 2. If you can, tell us what this depicts.

16 **A** This is the row of cypress trees right
17 here. The cypress trees are here. And there is an --
18 I don't know -- eight-foot fence. It's a really tall
19 fence that they had put up all the way between and
20 all the way through to the back of the yard. There's
21 -- that's where it is. That's where -- on this side
22 is where Mr. Sanders was laying right over there. In
23 the, kind of like a dipped out, hollowed area.

24 **Q** Okay. So on State's Exhibit Number 2, the
25 residence that has the white truck in it, is that

1 Joanie's or yours?

2 A That's Joanie's house.

3 Q All right. And then to the left is yours?

4 A Yes.

5 Q Okay. Were -- did you remain outside when
6 law enforcement got there?

7 A Yes, I did.

8 Q And when law enforcement got there, did you
9 ever see the defendant again?

10 A No, he -- no, he wasn't -- he apparently
11 had gone either in the house -- I didn't know if he
12 had gone into the house or if he left or what he did,
13 but he was no longer there.

14 Q Thank you. I have nothing further.

15 THE COURT: All right. Mr. Culbertson?

16 MR. CULBERTSON: Okay. Thank you, Your
17 Honor.

18 CROSS-EXAMINATION

19 BY MR. CULBERTSON:

20 Q A couple of things I would like to try to
21 clear up in my head, if nothing else. You had
22 mentioned earlier, when you were testifying, that you
23 heard some -- heard the dogs barking and heard
24 commotion. That's what made you go outside to check
25 to see what was going on.

1 A My dogs were inside with me and they
2 started barking.

3 Q Okay. But anyway, because of that, you were
4 curious what the heck was going on outside?

5 A Yes.

6 Q And you mentioned something -- what I was
7 getting to is you mentioned something earlier when
8 the Solicitor was talking to you about some conniving
9 plan. Can you explain to me what you meant?

10 A Yeah, I don't trust my neighbors.

11 Q All right.

12 A They are always up to something, so when I
13 saw that happening, I honestly thought that it was
14 probably something that -- you know, that they were
15 going to say that they fell into my yard and try to
16 sue me. That's the first thing I thought. I thought
17 it was Joseph laying on the ground. That's why I
18 started videotaping. I was afraid that it was
19 something that he was up to and I didn't feel safe
20 going out there.

21 Q Okay. I got that. But the truth of the
22 matter is, in the past, you and Joanie are the two
23 that had some problems with one another; is that
24 right?

25 A Both Joanie and Joseph as well. Joseph,

1 very much, as well.

2 Q And in fact, there had previously been a
3 restraining order granted by the court between you
4 and Joanie; is that correct?

5 A I know about no restraining order.

6 Q All right. You don't know about a court
7 order that told you and Joanie to stay away from one
8 another?

9 A I know of no restraining order. I've never
10 gotten anything telling me I had a restraining order.

11 Q Okay. Fair enough. But you certainly didn't
12 know about anything between you and Joseph that would
13 have prevented y'all from -- legally been barred from
14 being in contact with one another?

15 A I mean, I like to stay away from them as
16 much as possible because I didn't feel safe around
17 him.

18 Q In fact, you didn't like either one of
19 them?

20 A No, I did not. I do not.

21 Q Okay. All right. Thank you, ma'am.

22 A You're welcome.

23 MS. MUNSON: Nothing further, Your Honor.
24 We ask that this witness be excused.

25 THE COURT: Any objection to that?

1 **MR. CULBERTSON:** No, ma'am.

2 **THE COURT:** All right. Thank you for being
3 here.

4 **THE WITNESS:** Thank you.

5 **THE CLERK:** Please come forward. Place
6 your left hand on the Bible and raise your
7 right.

8 **HAROLD SEXTON**

9 having first been duly sworn, testifies as follows:

10 **THE CLERK:** Please have a seat. Will you
11 state your full name for the record.

12 **THE WITNESS:** Harold Lee Sexton.

13 **THE CLERK:** Thank you.

14 **DIRECT EXAMINATION**

15 **BY MS. MUNSON:**

16 **Q** Mr. Sexton, what do you do for a living?

17 **A** I'm a lieutenant at North Greenville Fire
18 Department.

19 **Q** And what are your duties?

20 **A** Fight fire, run EMS calls.

21 **Q** Okay. Are you -- are you a paramedic?

22 **A** I'm a first responder.

23 **Q** Okay. Did you have specialized training as
24 a first responder?

25 **A** We do one step below EMT.

1 Q Okay. And where were you living back in
2 September of 2014?

3 A 115 East Scenic Lane.

4 Q Are you still living there?

5 A Yes, ma'am.

6 Q And who do you live there with?

7 A My wife and my son.

8 Q Now, do you remember the day that brings us
9 here?

10 A Vaguely.

11 Q Okay. How did you know that something was
12 going on?

13 A I was cooking eggs and my wife told me that
14 there was a man across the street on the ground and
15 somebody kneeled over top of him.

16 Q Okay. So what did you do?

17 A Went to the bedroom, grabbed a set of
18 gloves and then started out the door. That's when the
19 neighbor was hollering that she needed help.

20 Q Which neighbor was hollering for help?

21 A It would be the man's daughter.

22 Q Okay. Do you know her name?

23 A No.

24 Q And that's okay.

25 A No. I mean, when I get on scene, it's

1 Patient A, Patient B and Patient C.

2 Q Okay.

3 A So I don't know them.

4 Q The neighbor's daughter or the daughter
5 that was asking for help, had you seen her before?

6 A Yes.

7 Q In the neighborhood?

8 A Yes, she lives at that house.

9 Q Had you ever seen your patient before?

10 A No.

11 Q All right. So when you got across the
12 street, what did you see?

13 A He was laying there. He was in and out of
14 consciousness. I was trying to keep him with me. I
15 was trying to talk to him. I had no medical gear at
16 that time. I told my wife to call 911. She called,
17 and, I think, Maureen, my next door neighbor was on
18 the phone with them, so I told them to go ahead and
19 clear the fire department to come in, that way I
20 could have some medical equipment.

21 Q Okay. When Mr. -- the person, your patient,
22 was on the ground, had you ever seen him before?

23 A No.

24 Q Okay. But you've seen Joanie before?

25 A Yes.

1 Q Could you kind of describe for the jury
2 where he was, like where were his legs, where was the
3 rest of his body in relation to the fence?

4 A He was maybe about a foot off the fence. He
5 was very close. I just had enough to get my foot in
6 between the fence and his body.

7 Q Okay.

8 A And his head was up towards the other
9 fence, and his feet was towards the road.

10 Q Okay. So kind of sideways, not exactly
11 perpendicular to the fence?

12 A No, he was more like that. (Demonstrating.)

13 Q Okay. What did you start -- what did you
14 notice about Mr. Sanders -

15 A Mr. Sanders --

16 Q -- your patient?

17 A -- he was in and out of consciousness.

18 Q Uh-huh.

19 A He wasn't -- he wasn't really talking. And
20 he -- at one time, I had to kind of -- he started
21 puking, so I had to try to clean him up just a little
22 bit just to make sure that he was still breathing and
23 make sure he stayed with me and talking with me.

24 Q Okay. And you seen Joanie before?

25 A Yes.

1 Q She stayed right there with you?

2 A Joanie was on the back side of me.

3 Q Okay. Did you see anybody else right there
4 around your patient?

5 A No.

6 Q Did you hear anybody else?

7 A I heard Mr. Carpenter go back in the house
8 and slam the door.

9 Q Okay. How do you know that it was him?

10 A I don't.

11 Q Okay. So you just turned --

12 A I heard another noise go back inside the
13 house and slam the door.

14 Q Okay. Good. And then how long were you with
15 your patient before other emergency personnel got
16 there?

17 A I'd say 7 to 13 minutes.

18 Q Okay.

19 A Until the cops got there to clear the
20 scene.

21 Q And then you stayed with him the whole
22 time?

23 A Yes.

24 Q All right. And did an ambulance come?

25 A The fire department and EMS.

1 Q Okay. Did they take him away?

2 A Yes.

3 Q Did you go with him?

4 A No.

5 MS. MUNSON: Okay. I have nothing further
6 at this time, Your Honor.

7 THE COURT: All right.

8 MR. CULBERTSON: Your Honor, if I could
9 just, real quick.

10 THE COURT: Sure.

11 CROSS-EXAMINATION

12 BY MR. CULBERTSON:

13 Q How are you today?

14 A I'm doing great.

15 Q All right. I want to be sure I understand.

16 You, your wife, family live basically across the
17 street from where Joanie and Mr. Carpenter lived?

18 A Ms. Maureen lives straight across from me.
19 They live there. (Indicating.)

20 Q Okay. So kind of --

21 A Kind of diagonally.

22 Q Diagonally. In any event, not just next
23 door neighbor, but still kind of neighbors?

24 A Yeah.

25 Q You and your wife and some other folks are

1 in your house. You were cooking eggs, I think you
2 said. You saw some fellow on the ground?

3 A Yes.

4 Q So you, being the good first responder that
5 you are, realized somebody might need some help. You
6 went across to try to assist that person?

7 A Yes.

8 Q Is that right? And when you walked over
9 there, you saw one person on the ground and you saw
10 -- you can say yes or no.

11 A Yes.

12 Q And you saw another person knelt down
13 beside him or standing over him trying to help him
14 out?

15 A Yes.

16 Q So you saw two people out there?

17 A Uh-huh.

18 Q A person on the ground and a person
19 standing over him?

20 A Uh-huh.

21 Q A female person standing over him?

22 A Uh-huh.

23 Q Did you not see Mr. Carpenter?

24 A No.

25 Q You didn't see anybody else out there?

1 A No.

2 Q You heard a door close at the house?

3 A Yes.

4 Q And that's when you realized that somebody
5 may well have gone back inside the house at that
6 point?

7 A Yes.

8 Q So two people out there, one on the ground,
9 one standing over them apparently trying to help them
10 out, right? You heard a door close and somebody going
11 back inside the house?

12 A Yes.

13 Q You didn't see anybody else out there. Did
14 you see a baseball bat out there?

15 A No, sir.

16 MR. CULBERTSON: All right. Thank you, sir.
17 That's all I have, Your Honor.

18 MS. MUNSON: Nothing further, Your Honor.
19 We ask that this witness be excused.

20 THE COURT: Any objection?

21 MR. CULBERTSON: No, ma'am.

22 THE COURT: Thank you, sir.

23 THE WITNESS: Thank you.

24 MS. MUNSON: The State calls Jessica
25 Frady.

1 **THE CLERK:** Come forward. Would you put
2 your left hand on the Bible and raise your
3 right.

4 **JESSICA FRADY**
5 having first been duly sworn, testifies as follows:

6 **THE CLERK:** Have a seat. Will you state
7 your full name for the record.

8 **THE WITNESS:** Jessica Frady.

9 **DIRECT EXAMINATION**

10 **BY MS. MUNSON:**

11 **Q** Who do you work for, ma'am?

12 **A** Greenville County EMS.

13 **Q** How long have you been with EMS?

14 **A** A little over eight years.

15 **Q** What is your current position?

16 **A** I'm a para -- a part-time paramedic with
17 Greenville County.

18 **Q** Part-time. Is there something else you do
19 the rest of the time?

20 **A** I am a flight paramedic. I fly over the US
21 transporting patients.

22 **Q** Okay. How long have you been doing that?

23 **A** Two years.

24 **Q** Do you have any specialized training to
25 become a paramedic?

1 A Yes, I have two-year college, two-year
2 advanced certifications in critical care and flight
3 physiology classes.

4 Q Okay. You went to Greenville County as a
5 paramedic in September of 2014?

6 A Yes.

7 Q And did you get a call in reference to this
8 case?

9 A Yes.

10 Q Do you remember the date?

11 A I'd have to look at the chart.

12 Q Okay.

13 A Do you have the actual report?

14 Q I'll show you this.

15 A Thank you.

16 Q Take a look at that. Now what is that that
17 you're looking at, Ms. Frady?

18 A This is my chart that I documented.

19 Q And when do you document a chart after you
20 see a patient?

21 A Usually right after the call. If not, some
22 time during our trip.

23 Q And is the information that you put down in
24 your report, is it fresh in your mind at the time?

25 A Yeah.

1 Q Okay. Now, right now, do you have any
2 recollection specifically of this particular call?

3 A No, I don't. I've had thousands of calls
4 since.

5 Q That's fine. So after looking at your
6 report, can you tell the jury the date that this
7 happened?

8 A September 28th, 2014.

9 Q And where did you go?

10 A We went to 115 East Scenic Lane, Travelers
11 Rest.

12 Q Okay. And is that in Greenville County?

13 A Yes.

14 Q About what time were you called out there?

15 A We were dispatched at 10:16.

16 Q In the morning?

17 A Yes.

18 Q Was someone else with you?

19 A Jimmy Kelley was my partner that day.

20 Q And do y'all have different roles when
21 there's two of you in an ambulance?

22 A Yes, on this particular call -- I just have
23 to look to see. Jimmy was still a basic EMT at this
24 time and I was the paramedic on the truck, so he
25 drove that day.

1 Q Okay. So you were responsible for the care
2 of the patient. All right. When you got to the scene,
3 where did you find the patient?

4 A According to this, he was laying on the
5 grass on the lawn.

6 Q All right. And did he -- did you notice
7 anything physically? Any injuries on him?

8 A Yes. I had documented that I found
9 abrasions to his head, bruising to the left temple. I
10 had documented that patient kicked multiple times on
11 the left side of the head and face. I noted abrasions
12 to his chest and bruising noted to the left shoulder.

13 Q Okay. Was he able to interact with you?

14 A According to my chart, that he would --
15 responded to voice. He was disoriented, speaking
16 slowly. Slow to respond. His eye opening was slow to
17 open, and he only opened his eyes to pain.

18 Q Okay. How long did you stay on the scene
19 that day?

20 A Our scene time was approximately 13
21 minutes.

22 Q Okay. While you were working on the patient
23 -- first of all, was the patient male, female, old,
24 young?

25 A Older gentleman.

1 Q While you were working on him, did you
2 notice if anybody else was around him?

3 A I can't recall. I don't have anything in my
4 chart.

5 Q That's fine. Then, when you got him in the
6 ambulance, where did you take him?

7 A We took him to Greenville Memorial.

8 Q All right. And when you got to Greenville
9 Memorial, was there any further involvement you had
10 with Mr. Sanders?

11 A When I got to Greenville Memorial, I went
12 to the trauma bay and I gave the report to the
13 physicians and nurses in the room and transferred
14 care.

15 Q Okay. Thank you.

16 MS. MUNSON: Your Honor, I have nothing
17 further.

18 THE COURT: Any questions for this
19 witness?

20 MR. CULBERTSON: Just very briefly, Your
21 Honor.

22 THE COURT: Certainly.

23 CROSS-EXAMINATION

24 BY MR. CULBERTSON:

25 Q How are you doing today?

1 A I'm great.

2 Q As I understand it, you don't really have a
3 clear memory today of what it is happened back then?

4 A No, I have to go by my chart.

5 Q You have to -- that's why you're looking at
6 your notes and looking at your chart?

7 A Yeah.

8 Q And that's fine. What I'm going to ask you
9 then is, there was nothing particularly memorable to
10 you about this event that would have kept it going in
11 your memory? That's why you have to look at your
12 charts today?

13 A I would have to look at my charts for
14 probably all thousand calls since.

15 Q Exactly. You had thousands and thousands of
16 calls during the course of the --

17 A That's why we do --

18 Q And that's why you make -- right. And for
19 that very reason is why you make notes?

20 A Uh-huh.

21 Q My question was, nothing specifically about
22 this event that stood out in your mind?

23 A No, we have too many calls for that.

24 Q And I got that and I appreciate it. But one
25 thing you did testify about and I want to make sure

1 I'm clear on this, and you can look at your notes if
2 you need to, when you got to the scene ---

3 A Uh-huh.

4 Q -- you found the victim, I think you said,
5 laying on the grass in the front yard.

6 A Uh-huh.

7 Q Is that correct?

8 A This note doesn't say anything about front
9 lawn. It just says in the lawn.

10 Q In the lawn. So you found him laying on the
11 grass on the lawn?

12 A Patient is laying in grass in lawn.

13 Q Thank you, ma'am.

14 A Uh-huh.

15 MR. CULBERTSON: That's all I have, Your
16 Honor.

17 THE COURT: Any questions for this
18 witness?

19 MS. MUNSON: No questions, Your Honor,
20 specifically, but I'd move to introduce her
21 report into evidence.

22 MR. CULBERTSON: And I'd object to that at
23 this point in time, Your Honor.

24 MS. MUNSON: 803(e), it's a recorded
25 recollection. She has no recollection of it. I'd

1 just offer that for what it's worth.

2 THE COURT: She -- she -- I think she
3 testified to the contents of it and she was
4 questioned fully, so I think we're fine without
5 it. Thank you.

6 MS. MUNSON: Thank you, Your Honor. I have
7 nothing further then.

8 THE COURT: All right. And you want her to
9 be excused?

10 MS. MUNSON: Yes, ma'am.

11 MR. CULBERTSON: Without objection.

12 THE COURT: Thanks very much.

13 MS. MUNSON: Your Honor, the State calls
14 John McCloud.

15 THE COURT: All right. Everybody okay?
16 Y'all okay? Now, listen, anytime you need a
17 break, you let me know. Okay. We'll take a break
18 at any time.

19 MS. MUNSON: He's going to be a little bit
20 longer than the other ones.

21 THE COURT: Y'all okay? All right.

22 MS. MUNSON: Okay.

23 THE COURT: If you can't get my attention,
24 let Ms. Katrina know. Okay?

25 THE CLERK: Come forward. Put your left

1 hand on the Bible and raise your right.

2 **JOHN MCCLLOUD**

3 having first been duly sworn, testifies as follows:

4 **THE CLERK:** Have a seat.

5 **THE WITNESS:** Thank you.

6 **THE CLERK:** Will you state your full name
7 for the record.

8 **THE WITNESS:** John Louis McCloud, III.

9 **DIRECT EXAMINATION**

10 **BY MS. MUNSON:**

11 **Q** Who do you work for, sir?

12 **A** I work for the Greenville County Sheriff's
13 Office.

14 **Q** How long have you been with the Sheriff's
15 Office?

16 **A** Five years coming up pretty soon.

17 **Q** All right. What are your current duties?

18 **A** I work with Vice and Narcotics. I'm an
19 investigator.

20 **Q** All right. Did you have anything that you
21 were doing prior to Vice and Narcotics?

22 **A** Yes, prior to that, I was a road deputy. I
23 respond to calls on the road. If you call 911, I show
24 up.

25 **Q** Okay. So were you with the Sheriff's Office

1 back in September of 2014?

2 A Yes, I was.

3 Q As a road deputy or Vice?

4 A As a road deputy.

5 Q All right. And did you get a call about
6 this case?

7 A Yes, I did.

8 Q On what date did you get that call?

9 A September 28th.

10 Q 2000 what?

11 A 2014 at about -- probably about 9:00, at
12 the nine o'clock hour in the morning.

13 Q All right. And were you on duty when you
14 got the call?

15 A Yes. I was a uniform in a marked patrol
16 car.

17 Q Okay. Was anybody with you in the car?

18 A No.

19 Q All right. In response to the call that you
20 got, where did you go?

21 A I responded to 112 East Scenic Lane. That's
22 in Greenville County, Travelers Rest.

23 Q All right. About how long did it take you
24 to get there?

25 A I don't recall, but I was in that area

1 probably, at most, 15 minutes.

2 Q All right.

3 A 20 minutes.

4 Q When you get on the scene, Investigator
5 McCloud, were there any other emergency personnel
6 around that you saw?

7 A None that were uniform, I believe. I was
8 advised when I was on the scene -- I don't remember
9 from who -- but that there was a neighbor that was
10 helping out an elderly gentleman that was on the
11 ground. He was a volunteer firefighter or firefighter
12 of some sort.

13 Q Okay. So when you got to the scene, where
14 did you go?

15 A I initially went to the residence next door
16 where an elderly gentleman was on the ground and
17 there were some people working with him and helping
18 him out. I was just trying to figure out what was
19 going on.

20 Q Okay. Did you have any conversation with
21 the elderly guy on the ground?

22 A I did not at that time, no.

23 Q Did you take a look at him?

24 A Yeah. He -- at this time, he was throwing
25 up. He was unable to speak. He was looking in pretty

1 rough shape, having issues, again, throwing up. He
2 couldn't sit himself up, so we helped him out with
3 that.

4 Q Okay. Was there anybody else on the scene
5 that looked injured?.

6 A Yes. There was a female. Later, I found her
7 name was Phyllis Sanders. She was bleeding from her
8 left hand, I believe. I think she had a scratch
9 somewhere, I can't remember, on her face maybe,
10 perhaps.

11 Q Okay. After speaking with her, was there a
12 particular -- without saying what anybody said --

13 A Right.

14 Q -- after speaking with Joanie Sanders or
15 Phyllis Sanders, was there another person that you
16 wanted to talk to?

17 A Yes.

18 Q And who was that?

19 A The male party that's involved in this
20 incident.

21 Q Okay. And did she tell you what his name
22 was?

23 A Yes. I think she told me it was Joseph
24 Carpenter.

25 Q All right. What was the relationship

1 between Joseph Carpenter and Phyllis Sanders?

2 A I was advised that they were living
3 together, residents at 112 East Scenic.

4 Q Okay. Where did you go look for him?

5 A At that residence.

6 Q Were you able to go into the residence to
7 look for him?

8 A No, we -- I believe the front door was
9 locked. We knocked on the door for a long time. We
10 had somebody at the front door for a while trying to
11 get in touch with him.

12 Q Why not just ask the female part of the
13 domestic partnership if you could just go in and ask?

14 A We did. She did not want us in the house at
15 that time.

16 Q Okay. Did she ever let you in?

17 A No.

18 Q All right. Eventually, did any other law
19 enforcement personnel arrive?

20 A Yes, I had a partner that day and a K-9
21 deputy arrived. We were receiving conflicting reports
22 about where he might be.

23 Q Conflicting reports from whom?

24 A Ms. Phyllis.

25 Q Okay. And whenever Deputy Leathers arrived

1 on scene, what did y'all do?

2 A At this time, we -- I think we surmised
3 that we were pretty sure he was in the house. I
4 believe one deputy stayed on the front door and
5 Leathers went to the back door just to keep the house
6 so he couldn't run out. It was obvious that whoever
7 was in the house, if there was someone, wasn't
8 cooperating. We attempted several times to make
9 contact. So we just kept the house surrounded and
10 after we felt like we had enough probable cause, we
11 attempted to make entry in the house. At that time,
12 we made contact with Mr. Carpenter.

13 Q When you said you made contact with him,
14 what does that mean?

15 A We were attempting to force entry on the
16 rear of the house, the back door. We figured that
17 would be the easiest door to get in. While we were
18 beating on the door, he came to the door.

19 Q Okay. Was he armed when he came to the
20 door?

21 A No, he was not armed.

22 Q Let me ask you this, Investigator McCloud,
23 how much time did you spend with him?

24 A Mr. Carpenter?

25 Q Correct.

1 A I actually drove him to jail. We probably
2 spent an hour and a half together.

3 Q Okay. Would you recognize him if you saw
4 him again?

5 A Yes.

6 Q Is he in the courtroom?

7 A Yes, he's seated over there in the blue
8 shirt.

9 MS. MUNSON: Okay. Your Honor, will the
10 record show that he's identified the defendant?

11 THE COURT: All right. It so reflects.

12 BY MS. MUNSON:

13 Q When you -- when he came out of the house,
14 it was a back door?

15 A Yes.

16 Q Was anybody back there with you?

17 A Deputy Leathers was back there with me.

18 Q All right. When the defendant came out, how
19 did he appear?

20 A He was extremely agitated and extremely
21 uncooperative.

22 Q All right. Did he say anything to you?

23 A Yes. He -- he said -- initially during our
24 initial contact, he said just shoot me already. Just
25 shoot me. Just shoot me already. Something to those

1 effects.

2 Q Okay. Were you pointing a gun at him at the
3 time?

4 A I was not. Deputy Leathers, I believe, was.

5 Q Okay. Did he -- so after you get him out of
6 the house, did he ask for anything? Did he need
7 medical attention?

8 A No.

9 Q Did he ask for any medical attention?

10 A No.

11 Q The whole time you were taking him down to
12 the jail, did he ask for any --

13 A Medical history?

14 Q Yes.

15 A No.

16 Q All right. Let me ask you this, how many
17 times have you taken someone to the detention center?

18 A A lot.

19 Q Okay.

20 A Maybe 500, 600.

21 Q Has it ever happened that you'd taken
22 someone to the detention center who's in custody and
23 the detention center turns you away, says no you
24 can't bring --

25 A Oh, yeah. Yeah.

1 Q Why does that happen?

2 A Almost for medical. If they are involved in
3 an incident and they obviously need medical
4 attention, most of the time, we don't even make it
5 down there. If they -- if they -- if someone asks to
6 go to the hospital, we take them to the hospital. We
7 get them checked out. Then we take them to jail.

8 Q Okay. And did any of that go on with this
9 defendant?

10 A No, I don't believe we had any issues
11 getting him into jail.

12 Q Okay. Nothing further.

13 THE COURT: Any questions for this
14 witness?

15 MR. CULBERTSON: One or two.

16 CROSS-EXAMINATION

17 BY MR. CULBERTSON:

18 Q Hi.

19 A How are you?

20 Q Pretty good. How are you today?

21 A I'm good.

22 Q Did you vote?

23 A Not yet.

24 Q All right. Officer McCloud, and I promise I
25 won't try to keep you -- I won't try to keep you up

1 here too long.

2 A Oh, that's fine.

3 Q It's fair to say that you were the first
4 law enforcement officer to arrive at this scene?

5 A Yes.

6 Q And you actually got there with a partner
7 for the day?

8 A Yeah, he arrived probably 10 minutes after
9 I was there.

10 Q Okay. And at the time, the day you got
11 there when this event took place, what was your role
12 with the Greenville County Sheriff's Office?

13 A I was a deputy on the road. I was just in a
14 uniform and marked blue patrol car.

15 Q All right. You were a uniform deputy in one
16 of the blue sheriff deputy cars?

17 A Yes. Yes.

18 Q You showed up in that car at the scene?

19 A Yes, sir.

20 Q I understand that since that time, your
21 role has changed.

22 A Yes.

23 Q You're now on the Vice and Narcotics squad.

24 A Yes.

25 Q Are you in an undercover capacity with them

1 or are you plain clothes?

2 MS. MUNSON: Objection, Your Honor. I don't
3 think he should answer anything about his --

4 THE COURT: I agree.

5 MR. CULBERTSON: And I a -- I'm sorry.

6 THE COURT: That's okay.

7 BY MR. CULBERTSON:

8 Q You're now assigned to the narcotics unit
9 at the sheriff's department?

10 A Yes.

11 Q You investigate -- now, your job is to
12 investigate crimes concerning narcotic drug activity?

13 A Yes, for the most -- primarily.

14 Q And I don't plan to -- I'm not -- I just
15 want to be sure I know what your job is.

16 A Oh, yeah. That's fine.

17 Q Okay. That wasn't your job at the time this
18 happened?

19 A No.

20 Q When you got to this scene, you found the
21 gentleman laying on the ground?

22 A Yes.

23 Q You found a couple of other people out
24 there also?

25 A Yes, I did.

1 Q One of which turned out to be the person on
2 the ground's daughter?

3 A Yes.

4 Q As you came to discover another person or
5 two out there at the scene were relative neighbors to
6 where the event took place?

7 A Yes.

8 Q You talked with some of the people who were
9 actually out there that day on the scene?

10 A Yes, I did.

11 Q And one of those people you talked to was
12 Joanie Sanders, who was out there at that time?

13 A Yes.

14 Q And you came to discover that she was -- it
15 was her father that was on the ground?

16 A That's correct.

17 Q And that she actually lived in the house
18 there where he was laying on the ground?

19 A Yeah, the house to the right of the fence
20 we were next to, yes.

21 Q Okay. And you were led to believe that her
22 boyfriend slash husband slash live-in partner was in
23 the house also?

24 A Yes.

25 Q And you asked her as -- in your role as a

1 Greenville County deputy sheriff, you looked at her
2 knowing she just told you her father was on the
3 ground and that her boyfriend may have had something
4 to do with it, that he had gone into the house, you
5 asked her, Joanie's permission to go into the house
6 with him; is that correct?

7 A Yes, sir.

8 Q And you actually asked her that more than
9 once?

10 A Most likely.

11 Q And on all those times you asked her,
12 Joanie, can I go in the house and look for the fellow
13 that you said beat up your dad, she always said no,
14 you can not go in my house. Is that correct?

15 A As I recall, I would say that sounds
16 correct, yes.

17 Q That, in fact, is what's reflected in your
18 report that you're looking at; is that correct?

19 A Yeah.

20 Q So you're talking to the person who's
21 telling you that her father had just been assaulted
22 and went into her house, and you asked her several
23 times can I go in the house and look for him. And
24 every time you said can I go look for him, she said
25 no, you can not go in my house. Is that correct?

1 **A** Yeah.

2 **MR. CULBERTSON:** Thank you, sir.

3 That's all, Your Honor.

4 **MS. MUNSON:** Your Honor, I have some
5 redirect ---

6 **THE COURT:** Certainly.

7 **MS. MUNSON:** --- since Mr. Culbertson
8 brought up this investigator's report and things
9 that were said between Joanie and the
10 investigator.

11 **REDIRECT EXAMINATION**

12 **BY MS. MUNSON:**

13 **Q** Did Joanie tell you what had happened?

14 **A** I believe she did. Give me one second.

15 (Reviewing.)

16 **MR. CULBERTSON:** Your Honor, I'm not sure
17 where Ms. Munson wants to go with this, but my
18 understanding of the law of redirect is it's
19 limited to the scope of my cross-examination.

20 **THE COURT:** Yes.

21 **MS. MUNSON:** But I did not -- Mr.
22 Culbertson said to this deputy, Joanie said he
23 may have had something to do with it. I didn't
24 bring that up on direct, so I feel like I should
25 be entitled to --

1 **THE COURT:** I'll allow you to go into that
2 on your redirect, sure.

3 **BY MS. MUNSON:**

4 **Q** So did she tell you what happened?

5 **A** Yes. I asked her -- I'll just read directly
6 from the report, if that's fine.

7 **THE COURT:** Yeah, go ahead.

8 **THE WITNESS:** I asked her again exactly
9 what happened. She gave a more detailed account
10 of events. She stated she was going to church
11 with her father, Billy, Mr. Sanders, and the
12 subject, Mr. Carpenter, did not want her to. She
13 advised he was really angry. Mr. Carpenter was
14 really angry. Followed her in and out of the
15 residence several times. Mr. Sanders, Billy, had
16 seen this and left the house, walked outside to
17 his truck, had a baseball bat that he had behind
18 his back. She advised the subject, Mr.
19 Carpenter, saw that the -- Mr. Sanders had a bat
20 and approached him and confronted him about it
21 in an oppressive manner. I asked her do you feel
22 like Mr. Carpenter was the aggressor in the
23 situation. She said yes. She gave an account of
24 events that a struggle ensued over the bat. I
25 wasn't able to get a lot of details on how it --

1 how it occurred or what started the struggle
2 other than Mr. Sanders was outside waiting on
3 her at the truck and Mr. Carpenter was the
4 aggressor. It was basically what I was given. **BY**
5 **MS. MUNSON:**

6 **Q** Did she tell you how he ended up through
7 the fence on the ground?

8 **MR. CULBERTSON:** I object. I object.

9 **THE COURT:** I'm sorry. I'm going to be
10 very honest with you, I didn't hear your
11 question.

12 **MS. MUNSON:** Okay.

13 **THE COURT:** Could you repeat it?

14 **MS. MUNSON:** I was just sort of following
15 up. Did she tell you how he ended up through the
16 fence and on the ground?

17 **MR. CULBERTSON:** I object to that question.

18 **THE COURT:** What's your objection? You
19 don't need to stand. You don't need to stand.

20 **MR. CULBERTSON:** Fine. Thank you.

21 **THE COURT:** Okay. I just wanted to be
22 sure.

23 **MR. CULBERTSON:** He can't testify to this.
24 He wasn't there. He wasn't a witness to any of
25 this. Everything she's talking about they have

1 other witnesses they may or may not get to that
2 actually describe what, where and when. This
3 officer, other than looking at his report that
4 reflects other people's comments to him, it's a
5 hearsay objection. It's beyond the scope of
6 cross-examination. It's a whole list of things.

7 THE COURT: I got you.

8 MR. CULBERTSON: Thank you, ma'am.

9 THE COURT: I think we've hit the two
10 biggest ones.

11 Yes, ma'am.

12 MS. MUNSON: You ruled on the beyond the
13 scope of cross.

14 THE COURT: Yes.

15 MS. MUNSON: I'm just following up.

16 MR. CULBERTSON: And --

17 THE COURT: Hold on just a second.

18 MR. CULBERTSON: I'm sorry.

19 THE COURT: As to hearsay.

20 MS. MUNSON: As to hearsay, Your Honor,
21 he's testified that -- excited utterance would
22 be the exception. Plus, I'm just following up on
23 what he started on cross-examination.

24 THE COURT: All right. I understand where
25 you're going with it. I'm going to sustain his

1 objection.

2 MS. MUNSON: Okay.

3 THE COURT: Let's just move on from this.
4 You have other witnesses that can --

5 MR. CULBERTSON: Thank you, Your Honor.

6 MS. MUNSON: All right. Thank you. I have
7 nothing further.

8 THE COURT: Okay. Anything else?

9 MS. MUNSON: We ask that he be excused.

10 THE COURT: All right. Any objection?

11 MR. CULBERTSON: No.

12 THE COURT: All right. Thank you, sir, for
13 being here.

14 THE WITNESS: Thank you, ma'am.

15 THE COURT: All right.

16 MS. MUNSON: Your Honor, the State calls
17 James Leathers.

18 THE COURT: All right.

19 THE CLERK: If you'd come forward. Put
20 your left hand on the Bible and raise your
21 right.

22 JAMES LEATHERS

23 having first been duly sworn, testifies as follows:

24 THE CLERK: Please have a seat. Will you
25 state your full name for the record?

1 **THE WITNESS:** James Leathers.

2 **DIRECT EXAMINATION**

3 **BY MS. MUNSON:**

4 **Q** Who do you work for, sir?

5 **A** The Greenville County Sheriff's Office.

6 **Q** How long have you been with them?

7 **A** All told, about 16 and a half years.

8 **Q** All right. What are your current duties?

9 **A** I'm a K-9 handler.

10 **Q** And is that what your duties were in
11 September of 2014?

12 **A** Yes, ma'am.

13 **Q** Did you get a call in reference to this
14 case?

15 **A** I did.

16 **Q** Why were you called out? Why did they call
17 out K-9?

18 **A** At that point, we believed that the suspect
19 might still be inside the house. Often, they will
20 call for a K-9 because a lot of folks will give up
21 for a dog that won't give up for just us.

22 **Q** Okay. And so did you go to the scene?

23 **A** Yes, ma'am.

24 **Q** Did you have your K-9 partner with you?

25 **A** I had him with me in the vehicle, and

1 initially when I got out, I had him. But I did put
2 him up because, as time went on, we realized that he
3 wasn't going to be necessary.

4 Q All right. Was there anything on the scene
5 that helped you decide you should put your K-9 --
6 your K-9 back?

7 A There was another dog in the back yard. The
8 dog was friendly with us, but I didn't wish to
9 antagonize the situation by adding my dog to the back
10 yard with that dog.

11 Q Okay. So when you got there, was it kind of
12 late in the progression of things?

13 A It was -- it was late enough that the
14 incident had already happened. The ambulance was
15 there and they were loading up an older gentleman ---

16 Q Okay.

17 A --- to transport him to the hospital.

18 Q So you didn't have any contact with him?

19 A No, ma'am.

20 Q You were just there to see if you could get
21 somebody out of the house?

22 A I was there to help to make an arrest if
23 possible.

24 Q All right. Now, the dog that was in the
25 back yard -- first of all, do you know the address of

1 the house that you were at?

2 A I don't remember off the top of my head but
3 I have it in my report.

4 Q That's fine.

5 A 112 East Scenic Lane in Travelers Rest.

6 Q Okay. That was at -- what kind of dog was
7 it or size dog?

8 A It was a good size dog. But you could tell
9 it was an older dog, but it was a pretty good sized
10 dog. I don't know exactly how big, but I would say
11 probably in the 70 to 90-pound range.

12 Q Okay. It made no aggressive movements
13 toward you at all?

14 A Not toward us, no. But at that point, all
15 we had done was say hey to him.

16 Q Okay. Were you dressed as you are now?

17 A Yes, ma'am.

18 Q All right. When you went into the back
19 yard, was the dog still loose in the back yard?

20 A He was.

21 Q Did he give you any trouble?

22 A No, but we did put him in the building so
23 he wouldn't be in the way.

24 Q Okay. How did you put him in the building?

25 A We encouraged him to come with us. And we

1 were able to open up -- there was an outbuilding that
2 we'd already been told about.

3 Q Okay.

4 A And we were able to temporarily put him in
5 there.

6 Q All right. No trouble?

7 A No, ma'am.

8 Q All right. So eventually you went to the
9 back door of the house?

10 A Yes, ma'am.

11 Q Who all was back there?

12 A Deputy McCloud and myself.

13 Q All right. Was he dressed in uniform?

14 A He was.

15 Q Were you -- how were you going about trying
16 to get the person in the house to come out?

17 A Well, prior to that, we used our PA system
18 and tried multiple times to call the suspect by name
19 and to try to get him to come to the door. There was
20 -- we still had reason to believe that he might
21 likely be inside, but we weren't getting any response
22 inside. Based on the situation overall, we determined
23 that we were going to force our way into the house to
24 check to make sure that -- to either be able to find
25 him or not find him.

1 Q Okay.

2 A And there was a sledgehammer in the back.
3 We were using that on the door.

4 Q Sledgehammer in the back of the yard that
5 you were in?

6 A In that building.

7 Q So did you strike the door?

8 A Yes.

9 Q Okay.

10 A A couple of times -- the way the door was
11 set up, there's glass in the middle and then there's
12 a wooden frame around it. Not trying to bust out the
13 glass, but trying to force the lock open enough so
14 that we could get the door open, we did hit it a
15 couple of times. If we just wanted to smash the glass
16 out, we would have, but that wasn't our intent. That
17 prompted movement from the inside.

18 Q Okay. And this movement that was prompted
19 from the inside, describe that.

20 A Well, the suspect pulled the curtain back
21 and we could see him.

22 Q Okay. The suspect on --

23 A Inside. Inside. From the inside of the
24 house.

25 Q Okay. But on the door that you were trying

1 to answer?

2 A Yes.

3 Q What happened when the curtain comes back
4 and you see somebody?

5 A Well, based on the circumstances of what I
6 knew about him and what we had been told about that
7 he would have access to firearms as well as any other
8 weapons that he might have in the house. Most every
9 house has knives in it. I've never been in one that
10 didn't have them. I did -- I pointed my pistol at the
11 suspect. I told him to come out, and he did.

12 Q Okay. And when he came out, how was he
13 behaving towards y'all?

14 A He kept telling us to shoot him.

15 Q Okay.

16 A He was verbally very belligerent, but he
17 would comply with the commands that we were giving
18 him.

19 Q Okay. So he didn't strike at y'all or try
20 to kick you or none of that?

21 A No, ma'am. He followed our instructions
22 explicitly, but he kept saying that he wanted us to
23 shoot him and that he was going to sue us.

24 Q Okay. And who took actual physical custody
25 of him?

1 **A** Deputy McCloud did. I ordered him to get on
2 the ground, and he did. Prone handcuffing, it's often
3 the safest way to go about these things. And he was
4 handcuffed.

5 **Q** When you say prone handcuffing, what --

6 **A** I'm sorry. He was laying down, face down on
7 the deck.

8 **Q** Okay. Thank you. So after he was
9 handcuffed, did you have anything else to do with him
10 that day?

11 **A** With him, no. Just making sure that they
12 were able to get him to the car. I let the dog, and
13 secured the back fence.

14 **Q** Okay.

15 **A** To make sure that the dog wasn't going to
16 be able to get out.

17 **MS. MUNSON:** Okay. Thank you. I have
18 nothing further, Your Honor.

19 **THE COURT:** Any questions for this --

20 **MR. CULBERTSON:** Real quick. I promise.

21 **THE COURT:** Sure.

22 **CROSS-EXAMINATION**

23 **BY MR. CULBERTSON:**

24 **Q** Hey, how are you today?

25 **A** I'm doing great. How are you, sir?

1 Q Ah, you know, so far so good. You show up
2 at this scene with your partner, K-9 partner, with
3 you?

4 A Yes, because he's always with me.

5 Q Right. You and your K-9 partner get out of
6 the car, walk up to the house, walk up to the scene.
7 And at some point, you realize, cause there was a dog
8 barking in the back yard, that it may not necessarily
9 be of anybody's benefit to add another dog into the
10 situation. Is that a fair assessment?

11 A I'd say that's accurate, yes, sir.

12 Q So you then decided to put your K-9 partner
13 back into your patrol car?

14 A Yes, sir.

15 Q And you also -- there was another dog
16 running around in the back yard. You put that dog
17 inside the garage?

18 A It was like a garage building.

19 Q All right. Okay. And you -- another officer
20 went up to the door, trying to get somebody to answer
21 the door, trying to get somebody to come out of the
22 house?

23 A We knocked on the front and the back. We'd
24 given multiple call outs on the PA system of the
25 patrol vehicles.

1 Q So at some point in time, you decided to
2 pick up the sledgehammer and y'all were going to go
3 in the back door.

4 A We needed to force the door. That seemed to
5 be a decent tool to attempt it.

6 Q Before you do that though, the curtains
7 pulled apart?

8 A No, sir. Not before. We actually struck the
9 door a couple of times with the hammer.

10 Q Oh, okay.

11 A And then probably from inside, it would
12 have sounded like really loud knocking.

13 Q And then the curtain pulls aside and you
14 saw a gentleman standing inside there. He,
15 subsequently, opened the door and you guys came in?

16 A He opened the door after we -- I pointed a
17 pistol at him and told him to come out.

18 Q You pulled --

19 A I was in uniform and identified myself and
20 demanded that he come out.

21 Q I understand. Did you point a pistol at him
22 and said come out here, we need to talk to you or
23 whatever?

24 A Correct.

25 Q He then came to the door, opened the door,

1 came outside and talked to you guys?

2 A Correct.

3 Q And at some point in time, he said just
4 shoot me, just shoot me, just shoot me?

5 A Correct.

6 Q Okay. You then asked him to lay down on the
7 ground, behave, quit acting up. Y'all were there to
8 arrest him. Everything would be okay.

9 A Correct.

10 Q He complied with everything and did
11 everything y'all -- you and the other officers asked
12 him to do?

13 A Well, from the point that we saw him, yes.
14 But prior to that, he hadn't been.

15 Q He hadn't answered the door?

16 A Correct.

17 Q He had not answered the door?

18 A Yes, sir. All I'm saying is that I don't
19 know what he did while he was inside the house.

20 Q He never got a weapon and pointed it back
21 to you?

22 A No, sir.

23 Q He never picked up a baseball bat and swung
24 it around?

25 A No, sir.

1 Q He laid down on the ground and stuck his
2 hands out, was compliant as soon as you guys had a
3 chance to talk to him?

4 A Yes, sir.

5 Q Is that basically what happened?

6 A Yes, sir.

7 Q All right. Did y'all find any guns inside
8 the house?

9 A I don't know if there were any guns found
10 inside the house or not. I didn't go in.

11 Q Did you find a baseball bat inside the
12 house?

13 A Sir, I didn't go in the house. I didn't
14 find anything in the house.

15 Q So you don't know about anything that may
16 or may not have been found in the house, do you?

17 A I do not.

18 Q Fair enough. My guy was compliant, did
19 everything you asked him to do, was not resisting,
20 not fighting with you guys, didn't swing at anybody,
21 hit anybody, do anything other than what y'all asked
22 him to do?

23 A At the point he finally came to the door,
24 yes, sir.

25 Q Okay. Thank you, sir. That's all.

1 MS. MUNSON: Nothing further, Your Honor.
2 THE COURT: All right.
3 MS. MUNSON: We'd ask that this witness be
4 excused.
5 THE COURT: Any --
6 MR. CULBERTSON: No objection.
7 THE COURT: -- objection? Thank you for
8 being here.
9 MS. MUNSON: The next two witnesses, Your
10 Honor, might be kind of lengthy.
11 THE COURT: All right. I'll tell you what,
12 Ladies and Gentlemen, I'm going to ask you to
13 step in your jury deliberation room for just a
14 moment for a quick break. We won't keep you in
15 there long, but I just want to take up a matter
16 with the attorneys.
17 (WHEREUPON, the jury exits at approximately
18 3:58 p.m.)
19 THE COURT: How long do you anticipate
20 these witnesses will be?
21 MS. MUNSON: Your Honor, Ms. Pat Sanders,
22 15 minutes; but Joanie might be like 30 or 40.
23 THE COURT: I'm sort of thinking --
24 MS. MUNSON: That's just my part.
25 THE COURT: I'm sort of thinking about

1 maybe doing Pat and then picking back up
2 tomorrow morning with your last witness.

3 MS. MUNSON: Suits me, Your Honor.

4 THE COURT: And then, that way, I know we
5 -- sounds like we'll be arguing and charging
6 tomorrow in the morning anyway. All right. Let's
7 take a brief break, about 10 minutes, and then
8 we'll start back up with that -- that witness.

9 (WHEREUPON, the Court goes off the record at
10 approximately 3:59 p.m.)

11 (WHEREUPON, the Court goes on the record at
12 approximately 4:11 p.m.)

13 THE COURT: All right. Y'all ready to
14 bring the jury back in?

15 MS. MUNSON: The State's ready, Your
16 Honor.

17 THE COURT: All right.

18 (WHEREUPON, the jury enters at approximately
19 4:13 p.m.)

20 THE COURT: All right, Ladies and
21 Gentlemen. Just wanted to tell you about our
22 schedule for the remainder of the day. I don't
23 know about y'all, but if I know how long my
24 preacher is going to preach, somehow or another,
25 it seems shorter. Okay. But here's what we're

1 going to do, we've got another witness, one
2 witness, maybe about 15 or so minutes, give or
3 take a few minutes. Then we're going to break
4 for the day. Let y'all get home a little bit
5 early. Then we're going to pick back up tomorrow
6 morning at 9:30. We anticipate just having maybe
7 a couple of witnesses in the morning, then
8 you'll hear from the attorneys in this case for
9 final arguments. We anticipate -- I talked with
10 these lawyers about it -- I think we all
11 anticipate the case would likely be in your
12 hands around lunchtime or a little before
13 lunchtime tomorrow. All right.

14 Yes, ma'am.

15 MS. MUNSON: May it please the Court, Your
16 Honor. The State calls Pat Sanders.

17 PAT SANDERS

18 having first been duly sworn, testifies as follows:

19 THE CLERK: Please have a seat. Will you
20 state your full name for the record?

21 THE WITNESS: Patricia Sanders.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MS. MUNSON:

25 Q All right. Ms. Sanders, where do you live?

1 **A** 206 Surwood Circle in the Berea area of
2 Greenville.

3 **Q** Who do you live with?

4 **A** I live alone. I'm a widow.

5 **Q** Do you have any children?

6 **A** I have four children: Julie, Joanie, Mack
7 and David.

8 **Q** All right. Any grandchildren?

9 **A** I have five grandchildren and seven great-
10 grandchildren.

11 **Q** All right. And you said you're a widow?

12 **A** I'm a widow.

13 **Q** Who was your husband?

14 **A** Billy Mack Sanders, Sr.

15 **Q** All right. And when did he die?

16 **A** November 19th, 2014.

17 **Q** Which was about how long after this
18 incident?

19 **A** Seven and a half weeks after the attack.

20 **Q** Okay. Let's go back to that day. Did you
21 see your husband that morning?

22 **A** Sunday morning, about nine o'clock. He,
23 Joanie and myself played at Scenic Hills Baptist
24 Church on Sunday mornings. That particular morning, I
25 was on a committee at Berea First Baptist to vote in

1 our Minister of Worship. So at about nine o'clock, he
2 loaded his guitar and his amp into the truck. I got -
3 - well, we said our goodbyes; we'll meet at West
4 Restaurant after services, and we will have lunch. He
5 never came home again.

6 Q You said you played.

7 A Music.

8 Q Describe for the jury what you're talking
9 about.

10 A Gospel music, country gospel.

11 Q Certain instruments?

12 A Joanie played guitar; Bill played guitar;
13 and I just went along for support.

14 Q Okay. Did Bill play any other instruments
15 besides the guitar?

16 A No, he didn't.

17 Q Okay. Now, so you said your goodbyes that
18 morning.

19 A That's right.

20 Q Did you know where he was going when he
21 left the house?

22 A Yes, he was going to pick Joanie up like we
23 did on Sundays. Pick her up to ride up to Scenic
24 Hills.

25 Q Okay. And how far away is Scenic Hills from

1 where Joanie lived?

2 A It's about 25 -- 20 to 25 minutes.

3 Q All right. Was that an unusual thing for
4 your husband to go get Joanie?

5 A No, he did it every Sunday since her truck
6 had been wrecked back in February.

7 Q Okay. February of?

8 A 2014.

9 Q Okay. Did she wreck her truck?

10 A No, she did not.

11 Q Okay. Who wrecked her truck?

12 A Joseph Carpenter.

13 Q All right. Now, when your husband was going
14 over there to get Joanie, you had plans to meet him
15 later?

16 A Yes, we were going to meet after their
17 service. Their service ended about 12:00. So we were
18 going to meet about 12:30 at West Restaurant.

19 Q All right. How did you find out that
20 something had happened over at Joanie's house?

21 A Well, I had naturally put my phone up and
22 turned it off for the service, so I did not go back
23 to my phone until about a quarter til 12:00. That's
24 when I saw the texts and things that she had sent.

25 Q That who sent?

1 A Joanie had sent to me.

2 Q Okay.

3 A Telling me that he had been attacked and
4 was on the way to the hospital.

5 Q All right. Now, how long had you been
6 married to Mr. Sanders?

7 A 63 and a half years.

8 Q Okay. So when you got these text messages
9 from Joanie, where were you?

10 A I was at Berea First Baptist Church. My
11 son-in-law came and drove me to the hospital.

12 Q Which hospital?

13 A Greenville downtown, Memorial.

14 Q And were you able to see your husband?

15 A Well, I walked into the emergency room. I
16 saw him laying there. He had a collar around his neck
17 and was just out of it. I looked at my son-in-law and
18 I said, why is he here, what are we doing here? The
19 next thing I know, a friend of mine came and kissed
20 me on the forehead and I woke up and I was hooked up
21 to machines. They thought I had had a stroke or
22 something.

23 Q So you passed out in the hospital?

24 A I guess I went into shock.

25 Q Okay. So after you recovered a little bit,

1 was it the same day that you were able to see him?

2 A Yes, it was within an hour or so. They
3 unhooked me.

4 Q Okay.

5 A I went on with them up to -- they were
6 committing him into ICU.

7 Q Okay. How long was he in ICU?

8 A He was at Greenville Memorial for probably
9 9 to 10 days, and then was transferred to Greenville
10 -- North Greenville Hospital, the LTAC division,
11 which is Long-Term Acute Care.

12 Q Okay. From the -- I'm not going to ask
13 that. Did you notice any -- other than he wasn't
14 responding to you, did you notice any injuries on
15 your husband?

16 A He had an injury. He kept rubbing his head.
17 He rubbed his head and his leg constantly.

18 Q Uh-huh.

19 A Was very much out of it. He would come to,
20 I would call, the present, occasionally. He would
21 speak, recognize me. As far as that goes, he stayed
22 mostly in a coma.

23 Q Okay. Now, you say Joseph Carpenter wrecked
24 Joanie's car?

25 A Yes, sir.

1 Q You know him?

2 A Yes, I do.

3 Q How long has he been around your family?

4 A Around 20 years, 22 years, something like
5 that.

6 Q You ever seen him interact with your
7 husband?

8 A Yes, they had a fairly good relationship.
9 There were times when there were problems. Most of
10 the time, they were just little small things. Billy
11 Sanders was an encouraging person. He encouraged
12 people.

13 Q Okay.

14 A He didn't condemn people.

15 Q Okay.

16 A He tried to help.

17 Q All right. Did you have any conversations
18 with the defendant after your husband was
19 hospitalized?

20 A No, ma'am. I have not seen him. This is the
21 first I've seen him since then.

22 Q Since 2014?

23 A Since 2014, yes, ma'am.

24 Q Thank you.

25 MS. MUNSON: I have nothing further, Your

1 Honor.

2 THE COURT: Mr. Culbertson?

3 MR. CULBERTSON: Sorry for your loss.

4 I have no questions, Your Honor.

5 THE COURT: All right.

6 MS. MUNSON: Nothing further, Your Honor.

7 THE COURT: Ma'am, you can step down.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you.

10 All right, Ladies and Gentlemen. We've come
11 to a point for maybe a little earlier break than
12 we had anticipated for today. As I said, if you
13 will, be back in your jury deliberation room
14 tomorrow morning at 9:30. If you will, be back
15 there at 9:30 tomorrow morning. We'll get
16 started very quickly thereafter.

17 As I instructed you earlier, you may not
18 discuss the case with anyone. Now, you may go
19 home and naturally, family members or friends
20 are going to say, did you get picked for a jury
21 and they're going to ask you about it. You can
22 say I got picked for a jury. You can tell them
23 that it's a case where somebody's charged with a
24 crime. Other than that, don't discuss it with
25 them any further. The reason is I don't want to

1 elicit any sort of comments from them that might
2 influence you in any way.

3 You will probably have other things this
4 evening to distract you from this. Just go home
5 and forget that you're a juror on this case. And
6 then we'll see you back tomorrow morning at
7 9:30. Thank you so much.

8 (WHEREUPON, the jury exits at approximately
9 4:21 p.m.)

10 THE COURT: All right. Let's talk a little
11 bit about the charge preliminarily. You know, so
12 much of -- so much of a mutual combat charge and
13 ones like them involve death and talking about
14 being mutually armed and things like that. But I
15 think that we've come up with a way to talk
16 about mutual combat in a way that complies with
17 the law but also fits the facts of this case. As
18 I said, don't know -- the case is not over.
19 Don't know if we're -- we really hadn't heard
20 from the State's main witness yet so we don't
21 know where we are on the charge, but
22 anticipating that there could be those two
23 charges, we've put them in.

24 I can email you a sort of preliminary
25 charge. I'm happy to do that so you'd have it

1 this evening to prepare with or think about, get
2 a chance to look over. Anything else we need to
3 take up?

4 **MS. MUNSON:** Nothing from the State, Your
5 Honor.

6 **THE COURT:** Okay.

7 **MS. MUNSON:** That would be great if you
8 could email it.

9 **THE COURT:** All right. Will do.

10 **MR. CULBERTSON:** Your Honor, I'm just -- I
11 guess I'm a little curious. This is on me. My
12 understanding is between the mutual combat law
13 in this state, as it exists, as I understand it
14 today, and a self-defense argument, there may be
15 some conflict in claiming both of those in one
16 case. If there was ever a case where I think
17 it's appropriate to charge both, I think this
18 well may be it.

19 **THE COURT:** I think we've got it so that -
20 - I see where you're going with that. If I were
21 to charge both, I think we've got a way to
22 distinguish the two for the jury. It's -- it's
23 -- Ian has been up here -- if you've seen him
24 talking to me, he's been up here really, really
25 working on this thing.

1 MR. CULBERTSON: He's a smart guy.

2 THE COURT: He's a smart guy. He's a smart
3 guy.

4 MR. CULBERTSON: He knows all this stuff.

5 THE COURT: Yeah, he's a brand new lawyer.
6 He knows more law than we'll ever know.

7 MR. CULBERTSON: So that -- I had that
8 concern, Your Honor. I didn't mean to cut you
9 off.

10 THE COURT: No, that's right. I agree with
11 you. There are certain things in conflict, and
12 sometimes -- and sometimes they may not fit in
13 the same case.

14 MR. CULBERTSON: If you think you have
15 worked it out, I'd love to take a look at --

16 THE COURT: I think we have worked it out.

17 MR. CULBERTSON: If you do, that'd be
18 great. I'd love to take a look at it.

19 THE COURT: Okay.

20 MR. CULBERTSON: I'm also curious, and I
21 mentioned it in my opening and I'm assuming that
22 there's going to be a charge on Castle Doctrine.

23 THE COURT: You know, when you said that,
24 I have to tell you, it puzzled me a little bit.
25 I wanted to ask. This was not a case that was --

1 this was not a case with a hearing on Castle
2 Doctrine. Is that -- am I right about that?

3 **MR. CULBERTSON:** Yes, ma'am. That's
4 correct.

5 **THE COURT:** Okay.

6 **MR. CULBERTSON:** You mean a hearing about
7 whether or not it was an appropriate defense?

8 **THE COURT:** Yeah, whether or not the case
9 should be dismissed pursuant to the Castle
10 Doctrine.

11 **MR. CULBERTSON:** There had been no prior
12 pretrial motions and/or hearings concerning --

13 **THE COURT:** I'll look at it and just see
14 how that will play in. We, of course, have got,
15 you know, that -- you know, the defense of
16 dwelling and defense of habitation and all that.
17 I mean, we've got all -- we've got that. I'll --
18 I'll take a look at that to see if there's
19 something.

20 **MR. CULBERTSON:** I'll encourage you, Your
21 Honor, to take a look at the Castle Doctrine and
22 as have been applied in this state, especially
23 as I understand there's some -- of course, I
24 can't recite them all to you today, but I can
25 get it to you prior to the charge. There's some

1 new case law about the charge and the way the
2 law stands currently in South Carolina.

3 **THE COURT:** We'll take a look -- we'll
4 take a look at it and see if we can't -- if we
5 can't find some recent -- some recent cases that
6 talk about the charge and see if we need to
7 tweak it.

8 **MR. CULBERTSON:** As you noted, I mentioned
9 it in my opening only because I believed, in
10 research I was doing prior to trial, that may
11 well be applicable in this case.

12 **THE COURT:** Okay.

13 **MR. CULBERTSON:** I would urge you to take a
14 look at it.

15 **THE COURT:** I'll look at it and see.
16 What's your email address?

17 **MR. CULBERTSON:** Gosh.

18 **THE CLERK:** Do you want to write it down?

19 **MR. CULBERTSON:** No. No. It's Culbertson
20 law, all one word, @gmail.com.

21 **THE COURT:** @gmail.com.

22 Okay. And then you're JMunson?

23 **MS. MUNSON:** Yes, ma'am.

24 **THE COURT:** Gotcha, @greenvillecounty.org.

25 All right. Well, we'll email that to you at some

1 point. It might be late because Ian's got
2 basketball practice.

3 MR. CULBERTSON: My understanding is I've
4 been committed to at least one, if not several,
5 events for this evening.

6 THE COURT: I had no doubt that you would
7 be making the political rounds this evening.

8 MR. CULBERTSON: So late night is better.

9 THE COURT: Might be the best time to
10 catch you. All right. Well, we'll get this --
11 we'll get it sent on to you. Hopefully -- and it
12 may not have the Castle Doctrine in it quite
13 yet. That might be something we're still working
14 on ---

15 MR. CULBERTSON: Okay.

16 THE COURT: --- on into the evening, so
17 we'll see. But we'll get to you what we've got.
18 And I don't mind -- I don't remember the last
19 time I tried a case with y'all. I know I've
20 tried a case with both of you, but I don't mind
21 if you argue from my charge. It doesn't bother
22 me at all.

23 MS. MUNSON: Okay.

24 THE COURT: So feel free to use it however
25 you want. Probably putting it up on the screen

1 maybe not as much, but other than that, we're
2 good. All right. Well, we'll break until 9:30
3 tomorrow morning.

4 MS. MUNSON: See you then.

5 THE COURT: All right.

6 MR. CULBERTSON: Thank you, Your Honor.

7 MS. MUNSON: Have a good night.

8 (WHEREUPON, the Court recesses for the day at
9 approximately 4:28 p.m.)
10

P R O C E E D I N G S

(WHEREUPON, the Court resumes on the 9th day of November, 2016 at approximately 9:34 a.m.)

(WHEREUPON, State's Exhibits 10 and 11 are marked for identification purposes.)

THE COURT: I think our jury is all here. Is everybody ready to pick back up?

MS. MUNSON: Yes, ma'am.

THE COURT: All right. Very good.

All right. Bring them in.

(WHEREUPON, the jury enters at approximately 9:35 a.m.)

THE COURT: Good morning, Ladies and Gentlemen. Thank y'all so much for being here so promptly this morning. I appreciate your service so much. We're ready to -- to begin.

MS. MUNSON: Yes, ma'am. The State's ready.

THE COURT: All right.

MS. MUNSON: The State calls Phyllis Joan Sanders.

PHYLLIS SANDERS

having first been duly sworn, testifies as follows:

THE CLERK: Please have a seat. Please state your full name for the record.

1 **THE WITNESS:** Phyllis Joan Sanders.

2 **DIRECT EXAMINATION**

3 **BY MS. MUNSON:**

4 **Q** Hi, Ms. Sanders. What do you go by?

5 **A** Joanie.

6 **Q** All right. Where do you live?

7 **A** 112 East Scenic Lane, Travelers Rest, South
8 Carolina.

9 **Q** And what county is that?

10 **A** Greenville.

11 **Q** How long have you lived there?

12 **A** Almost -- let's see, since '97.

13 **Q** Okay.

14 **A** Almost 20 years.

15 **Q** Who used to live there with you?

16 **A** Joseph Carpenter.

17 **Q** All right. How long did he live with you?

18 **A** The whole time that I lived there.

19 **Q** All right. What is the nature -- what was
20 the nature of your relationship with Joseph
21 Carpenter?

22 **A** It was not good.

23 **Q** Is he your son, your brother, what's his --

24 **A** My boyfriend.

25 **Q** Okay. How long was he your boyfriend?

1 A Since '93.

2 Q All right. Is he in the courtroom?

3 A Yes.

4 Q Can you point him out for the jury?

5 A Yes, he's sitting over there besides Mr.
6 Symmes.

7 MS. MUNSON: Your Honor, let the record
8 show that she's identified the defendant.

9 THE COURT: It so reflects.

10 BY MS. MUNSON:

11 Q All right. Were y'all ever married?

12 A No.

13 Q You have any children together?

14 A No.

15 Q So let's -- let me ask you some other stuff
16 first, Joanie. How far did you go in school?

17 A To the 12th grade.

18 Q Do you work outside the home?

19 A Right now?

20 Q Uh-huh.

21 A Right now, I'm continuing a nursing home
22 ministry.

23 Q Okay. And besides the nursing -- what is
24 the nursing home ministry? What do you do?

25 A I play in a band at nursing homes every

1 month.

2 Q Okay. What -- what instruments do you play?

3 A I play just about everything with strings
4 on it.

5 Q Okay. How long have you been doing that?

6 A All my life so far.

7 Q All right. So I want to -- I want to call
8 your attention back to September of 2014. Do you
9 remember that event?

10 A Yes, ma'am.

11 Q Did you see your dad on that day?

12 A Yes, I did.

13 Q Was -- about what time of the day or night
14 was it?

15 A I remember exactly. It was 9:38.

16 Q You remember exactly?

17 A Exactly.

18 Q Okay. How do you remember exactly?

19 A When I was woke up, I ran out the door to
20 let the dog out and I looked at the clock on the
21 stove and it said 9:38.

22 Q Okay. What made you get up?

23 A Joseph woke me up.

24 Q How did he wake you up?

25 A Abruptly, telling me that my old daddy was

1 knocking at the door.

2 Q All right. So after you let the dog out,
3 what did you do?

4 A I went to the door and went to hug my
5 daddy.

6 Q He was outside?

7 A Yes.

8 Q Did he come in the house?

9 A No, he stayed there on the porch. I hugged
10 him. I told him that I slept late. He asked me if I
11 could be ready in 10 minutes, and I said yes.

12 Q All right. So did you go back in the house?

13 A Yes.

14 Q And where was your dad when you stepped
15 back in the house?

16 A He was still standing on the porch.

17 Q All right. Now, the -- your front door, the
18 door that your father came to, is it just one door or
19 a main door and a screen door? Describe that.

20 A There's a screen door and a main front
21 door.

22 Q All right. So when you went back in the
23 house after you told your dad I can be ready in 10
24 minutes, when you went back in, how were the doors?

25 A I left the front door open and the screen

1 door was shut on its own.

2 Q All right. So when you left the front door
3 to go get ready for church, where was the defendant?

4 A He was running around in the house.

5 Q Running around in the house, what does that
6 mean?

7 A He was chasing me around.

8 Q Was he saying anything to you?

9 A Yes.

10 Q What was he saying to you?

11 A He told me that if I went, I needed to pack
12 a bag and (Indiscernible.)

13 Q And what?

14 A He said if I went, there would be a problem
15 and I needed to pack a bag.

16 Q There would be a problem. Did he tell you
17 what the problem was?

18 A No, he did not.

19 Q All right. And while this is going on,
20 about how long did this go on where you're in the
21 house with him trying to get ready?

22 A About three or four minutes.

23 Q Okay. During this time, where was your dad?

24 A He was on the porch.

25 Q Okay. Did he ever come in the house?

1 A Yeah, he stepped in after he heard my
2 yelling and things.

3 Q Okay. So the conversation between you and
4 the defendant before you left to go to church, it was
5 loud, is that what you're saying?

6 A Yes, ma'am.

7 Q When your dad stepped in the house, what
8 happened?

9 A My dad asked Joseph what was wrong.

10 Q And did he answer?

11 A Yes.

12 Q What'd he say?

13 A He said, you got a gun, Bill?

14 Q Okay. Did your dad have a gun?

15 A No.

16 Q How did your dad respond to it?

17 A He said, no, I don't have a gun, Bill -- he
18 said, no, I don't have a gun.

19 Q All right. And then what did your dad do?

20 A He just stood there.

21 Q Did the defendant say anything else to your
22 father?

23 A Yes.

24 Q What did he say to him?

25 A He grabbed --

1 **MR. CULBERTSON:** I object, Your Honor.

2 **MS. MUNSON:** These are the words of the
3 defendant, Your Honor.

4 **THE COURT:** I'm going to allow it. Let's
5 hear it.

6 **MR. CULBERTSON:** Well, Your Honor, I'd like
7 to be heard outside the presence of the jury.

8 **THE COURT:** All right. Ladies and
9 Gentlemen, if you would, please step to your
10 jury deliberation room for just one moment.

11 (WHEREUPON, the jury exits at approximately
12 9:41 a.m.)

13 **MR. CULBERTSON:** We're getting close to
14 what I was afraid of, and that is that this
15 conversation that apparently she's about to talk
16 about is a conversation that happened between my
17 client and Mr. Sanders, who is no longer here
18 today and can not testify. I'm concerned about
19 the hearsay portions of this conversation that
20 might have taken place without somebody else
21 there to verify or confirm conversation actually
22 took place with the person who now can not be in
23 the courtroom.

24 **THE COURT:** Well, let me just hear --
25 let's just hear what this conversation is. Go

1 ahead and tell me.

2 THE WITNESS: He grabbed this mask that he
3 had carved. It's called a booger mask. And it
4 looks really scary.

5 THE COURT: All right.

6 THE WITNESS: It has horns on it. He put
7 it over his face and he repeated some sort of
8 words I couldn't understand. It was a curse. He
9 acted like he was cursing my father. Then my
10 father said, I have God on my side. That was it.

11 THE COURT: That was all that was going to
12 be said?

13 MS. MUNSON: That's it, Your Honor.

14 THE COURT: I -- I mean, is that offered
15 for the truth of the matter asserted? I don't
16 even know where to start with that.

17 MS. MUNSON: It is offered for the truth
18 of the matter asserted, Your Honor, but it goes
19 towards the defendant's attitude, frame of mind.

20 MR. CULBERTSON: Which is a-whole-nother
21 set of objections.

22 MS. MUNSON: Which is relevant.

23 THE COURT: I don't - I'm not
24 understanding -- I guess I'm having a hard time
25 grasping in an argument like this or in a

1 situation like this, these things that he's
2 saying -- I'm having a hard time grasping where
3 you're going with this objection.

4 **MR. CULBERTSON:** Like I said, it's a
5 hearsay objection. This conversation was not --
6 as I understand, this was not with her. I don't
7 even know where she would have been to have
8 overheard this conversation. The person that
9 this conversation apparently took place is not
10 here.

11 **THE COURT:** I understand. I understand.
12 I'm going to overrule your objection. It's noted
13 for the record. I'm going to overrule your
14 objection.

15 **MR. CULBERTSON:** Your Honor, if I could
16 just briefly be heard. They are trying to bring
17 in testimony, in my opinion, hearsay, about my
18 client's character. That's what I understand
19 this was going to be. It's talking about his
20 frame of mind, his character, his attitude.
21 Clearly inadmissible.

22 **THE COURT:** Not character, state of mind.
23 These are two very different things. So he puts
24 on the mask and he said something that you
25 interpreted to be like he was acting like he was

1 trying to put a curse on this person. All right.
2 Is there any other -- so that we can kind of
3 deal with it now, is there any other
4 conversation, any other utterances or anything
5 like that that you are intending to elicit?

6 **MS. MUNSON:** Once they get outside, yes.

7 **THE COURT:** Okay. Let's go ahead and move
8 to that for just a moment so we can go ahead and
9 deal with all of that at once.

10 **BY MS. MUNSON:**

11 **Q** All right. Joanie, once -- once you got
12 outside --

13 I'm just going to lead like the devil, Your
14 Honor, since the jury is not in here so we can focus.

15 -- once you got outside, the second time,
16 okay -- after you went back in for your cell phone,
17 that's where I want you to focus -- and you were
18 headed outside, where did the defendant go?

19 **A** The defendant chased me out the door.

20 **Q** Okay. And what did he say as he was chasing
21 you out the door?

22 **A** The way it happened was I ran out the door
23 and jumped in the truck. I saw my dad standing in
24 front of the truck in the driveway.

25 **Q** Okay. Did you hear the defendant say

1 anything to your dad?

2 A Yes, ma'am.

3 Q What did he say?

4 A I looked up and I saw him standing with the
5 bat like this. Joseph ran and said, oh, Bill, you got
6 a bat. Then he, like, came running up to my dad and
7 hit him so hard it slammed him up against the fence
8 in between two Leyland cypress trees.

9 Q After the initial encounter, did you hear
10 the defendant say anything else to your dad?

11 A When they were struggling for the bat?

12 Q Yes. Yes.

13 A No.

14 Q After -- after your dad went through the
15 fence, did the defendant say anything?

16 A Yes.

17 Q What did he say?

18 A He said, who else wants their ass kicked.

19 MS. MUNSON: I don't think I'm going to
20 ask her anything else about what the defendant
21 said, Your Honor.

22 THE COURT: All right. And is it your same
23 objection to hearsay on those?

24 MR. CULBERTSON: I'm not sure why it's
25 being offered. Clearly, I have a hearsay

1 objection to it. It's bordering on -- my concern
2 is that it's going to cross over into talking
3 about his character, talking about -- she wasn't
4 even a party to these conversations. The fact
5 that she may have overheard it is one thing. But
6 I'm just real nervous about where this may
7 potentially lead to. I don't want to have to be
8 standing up and down while the jury's in here.

9 **THE COURT:** I see your -- your objection
10 is noted. I find that it falls under the
11 exception of an excited utterance and existing
12 mental, emotional or physical condition. I -- so
13 your objection is overruled. It's noted for the
14 record though. All right. Let's bring the jury
15 back in.

16 **(WHEREUPON, the jury enters at approximately**
17 **9:50 p.m.)**

18 **THE COURT:** All right. Yes. Your objection
19 is overruled.

20 Go ahead.

21 **MS. MUNSON:** Thank you.

22 **BY MS. MUNSON:**

23 Q Joanie, let me step back one bit. How often
24 would your dad come over on a Sunday to take you to
25 church?

1 A Every Sunday.

2 Q Okay. Now, let's go back to the point where
3 he's in the house and the defendant says to your dad
4 -- asked him what?

5 A Asked him, Bill, you got a gun?

6 Q Okay. And how did your dad respond?

7 A No, I don't have a gun.

8 Q And at this point, your dad is where?

9 A He's standing in the hallway.

10 Q So he's moved from the front door into the
11 hallway?

12 A Yeah, he's walked in. When he first came
13 in, Joseph was standing at the bedroom door.

14 Q Okay.

15 A And he walked into the hallway and asked
16 him what's wrong.

17 Q Okay. And how was your dad approaching the
18 defendant?

19 A Very calmly.

20 Q Okay. Once the defendant -- once your dad
21 said, no, I don't have a gun, what happened next?

22 A Joseph grabbed the mask and said some
23 words. It sounded like (Demonstrating). I couldn't
24 understand it. It was like a curse.

25 Q All right. What sort of mask are you

1 talking about?

2 A It was a mask that he made called an Indian
3 booger mask and it's made out of cedar, and it's big
4 and it has horns, it has a snake on it, and it's very
5 scary.

6 Q Where did he get that from?

7 A He made it hisself.

8 Q Where was it in the house before he put it
9 in front of his face and showed it to your dad?

10 A It was laying on the back -- on the side of
11 the couch, the arm of the couch right there. Very
12 conveniently located. Right there at the hall.

13 Q Okay. So after Joseph did that and uttered
14 whatever words, what did your dad do?

15 A He told him God was on his side.

16 Q Did he stay in the house?

17 A Did my dad stay in the house?

18 Q Yes.

19 A Yes.

20 Q All right. What was the next thing that you
21 remember happening?

22 A The next thing that happened, Joseph took
23 the mask and swung it and broke a very beautiful
24 plant, a pot -- planter of mine.

25 Q Okay.

1 A Just smashed it.

2 Q Where were you when that happened?

3 A I was standing right there.

4 Q When you say "right there"?

5 A Right there within just a couple of feet
6 from him, right beside the couch ---

7 Q Okay.

8 A --- right at the end of the hall.

9 Q So he wasn't swinging it at you?

10 A No, he swung it just to try -- I think just
11 to --

12 MR. CULBERTSON: Objection.

13 THE COURT: Overruled. Go ahead.

14 BY MS. MUNSON:

15 Q Once he did that, what was the next thing
16 that happened?

17 A Our dog tried to attack him.

18 Q All right. Now, earlier, you said you put
19 the dog out.

20 A Uh-huh.

21 Q So how did the dog get back in the house?

22 A When I let him out to go to the bathroom, I
23 barely pushed the door. He pushed the door and came
24 in on his own.

25 Q Okay. And when you say he tried to attack,

1 who was he trying to attack?

2 A Joseph.

3 Q And what do you mean when you say he tried
4 to attack him?

5 A He was going to bite him.

6 Q Okay. And did he bite him?

7 A No, because I grabbed the dog and put him
8 outside.

9 Q Okay. When you left to put the dog back
10 outside, where was your dad?

11 A He was still in the house.

12 Q Okay. At some point, did your dad walk back
13 out of the house?

14 A Yes.

15 Q And when did he do that? At what point?

16 A Right after I put the dog out.

17 Q Okay. So after you come back in the house
18 from putting the dog out, what was the next thing
19 that happened inside the house?

20 A I begged Joseph to go back to bed.

21 Q Okay. And did he go?

22 A No.

23 Q And how -- how was y'all's conversation?
24 Without saying a whole lot about what anybody said,
25 how was y'all's conversation after your dad walked

1 out?

2 A He was kind of -- he said just go, just go
3 ahead and go.

4 Q Okay.

5 A I said, okay, I'll see you in a little
6 while. Have a good day.

7 Q All right. And so then what did you do?

8 A I left and went outside and got in the
9 truck.

10 Q Okay. When you left to go outside and get
11 in the truck, where was your dad?

12 A He was in the truck with me.

13 Q All right. And did y'all leave to go to
14 church right then?

15 A Well, I looked for my -- looked for my cell
16 phone and I said, I think I left my cell phone in the
17 house. I'm going to go in and get it.

18 Q Okay. And did you do that?

19 A Yes.

20 Q Where was your dad when you went back in
21 the house to get your cell phone?

22 A He was sitting in the truck when I went
23 back in.

24 Q All right. And what happened when you went
25 back in for your cell phone?

1 A Joseph grabbed my purse and dumped it out
2 on the ground.

3 Q Okay. The ground?

4 A Yeah, on the floor ---

5 Q Okay.

6 A --- in the house.

7 Q And how did he get your purse?

8 A He grabbed it out of my hand.

9 Q All right. Why did he -- I'm not going to
10 ask that. After everything was dumped out on the
11 ground, what did you do?

12 A I picked it up and ran out the door afraid.

13 Q What were you afraid of?

14 A Of Joseph.

15 Q Okay. How long were you in the house when
16 you went back in to get your cell phone?

17 A Just a couple of minutes.

18 Q And when you went out of the house after
19 getting your purse back together, how were you
20 leaving the house?

21 A In a hurry.

22 Q All right. And when you got out of the
23 house, did you see Joseph anymore before you got to
24 the car?

25 A Joseph was behind me ---

1 Q Okay.

2 A --- running after me.

3 Q Okay. And what happened when you got to the
4 car?

5 A I came out and I saw my dad standing in
6 front of the truck.

7 Q All right. When you saw your dad standing
8 in front of the truck, where did you go?

9 A I jumped in the truck.

10 Q Okay. And how close behind you was Joseph?

11 A Pretty close.

12 Q When you got in the truck, what was the
13 next thing that you saw?

14 A I looked up and I heard Joseph say -- I
15 said come on, let's go, dad. And I looked up and I
16 heard Joseph say, oh, you've got a bat, Bill.

17 Q And what tone of voice did he have when he
18 was saying, oh, you got a bat?

19 A Very agitated.

20 Q Okay. What kind of volume?

21 A Very loud.

22 Q All right. Once he said that, what happened
23 next?

24 A He slammed into him so hard.

25 Q Who slammed into who?

1 A Joseph slammed into my father so hard that
2 it knocked him back about -- from the driveway to the
3 fence, which is about probably almost 10 feet and
4 slammed him into an eight-foot tall privacy fence in
5 between two Leyland cypress trees.

6 Q Did you see where your dad had the bat before
7 Joseph slammed into it?

8 A I did not even see him with the bat. I didn't
9 even see the bat until I looked up and I heard Joseph
10 say, oh, you got a bat and I saw my dad standing there
11 with a bat like this. (Demonstrating.)

12 Q Like this. (Demonstrating.)

13 A Yes, ma'am.

14 Q When you say like this, your hands are --

15 A He was holding the bat this way.

16 (Demonstrating.)

17 Q Vertical?

18 A Yes, ma'am.

19 Q After you saw the defendant slam your dad into
20 the fence, what did you do?

21 A I got -- jumped out of the car as fast as I
22 could. I ran around there to try to diffuse the
23 situation.

24 Q And how did you try to do that?

25 A I tried to just calmly tell him to let go of

1 the bat and go back in the house.

2 Q Okay. Did that work?

3 A No.

4 Q What were the two men doing?

5 A They were struggling for it.

6 Q Okay. Back and forth?

7 A Dad was up against -- he had his back up
8 against the fence. Joseph had slid so hard he slid -- he
9 was laying on his back.

10 Q Flat on his back?

11 A Flat on his back. He had his feet up in the
12 air.

13 Q Okay. What happened when Joseph is on the
14 ground? What was the next thing that you saw happen?

15 A He started kicking my dad in the head with both
16 -- one side and then the other side. Hit him probably
17 about four or five times in the face and here.

18 (Indicating.)

19 Q Okay. And how did your dad react when that
20 happened?

21 A He didn't flinch.

22 Q All right. How long did they stay at the fence?

23 A It seemed like forever. Probably about five
24 or ten minutes, maybe something like that. I can't
25 really say exactly.

1 Q So what were you trying to do to get the
2 two guys apart?

3 A I tried to stop Joseph.

4 Q And how did you try to stop him?

5 A I hit him in the head with my fist. I tried
6 to pry his fingers off the bat.

7 Q Did you have any success?

8 A No, he -- he had my two fingers in his
9 mouth and clamped down on them. He clamped down on
10 them it seemed like for two minutes and almost bit
11 them off.

12 Q Okay. He was biting down on you. All right.
13 Eventually, did the position of the two men change?

14 A Eventually, it did when he pushed so hard
15 that it -- the fence broke loose and my dad fell
16 through.

17 Q Fell through where?

18 A The fence where it came apart. One of the
19 sections.

20 Q Okay.

21 A It came apart. He fell through it.

22 Q So the fence didn't go flat on the ground?

23 A Yeah, it just kind of opened up. One side
24 of it kind of ---

25 Q Okay.

1 A --- opened up. He fell through it. But it
2 eventually did fall.

3 Q Now, who fell through?

4 A My dad.

5 Q And where was Joseph when your dad fell
6 through it?

7 A He was still in the same spot.

8 Q Okay.

9 A Laying down.

10 Q And who had the bat at that point?

11 A Joseph.

12 Q So what did you do when you saw your dad go
13 through the fence?

14 A I ran around the fence. The whole time, I
15 was screaming, please help, somebody help. He's
16 killing my dad.

17 Q Okay.

18 A I went -- ran around the fence to my dad.

19 Q Was anybody else around there when you
20 first got there?

21 A As soon as I ran around the fence, I saw
22 Lee Sexton come across the street. He had his gloves
23 on. He had a bag with him. I know he was a fireman.

24 Q Okay.

25 A So he came over to assist.

1 Q So he came over as you were running around
2 the fence?

3 A Yes, ma'am.

4 Q Did you see anybody else out there?

5 A I saw Stacy, his wife, and she called 911.

6 Q Okay.

7 A And then I saw Maureen Phend come down her
8 steps. She was on the phone with somebody.

9 Q Okay. Now, you don't get along real good
10 with Maureen, do you?

11 A No, ma'am, not really.

12 Q And that video that she took, when was the
13 first time that you saw that?

14 A It was a couple of days later.

15 Q And how did you see it?

16 A On my mom's cell phone.

17 Q On your mom's cell phone?

18 A Yes.

19 Q Okay. So after -- how was your dad while he
20 was on the ground?

21 A He was throwing up. He was going in and out
22 of consciousness.

23 Q Okay. And where was Joseph while you were
24 on the other side of the fence?

25 A At that point, he was still over there.

1 When Lee was -- first got over to him ---

2 Q Uh-huh.

3 A --- he was still over on the other side of
4 the fence.

5 Q So while your dad was on -- in Maureen's
6 yard, the defendant was still on y'all's property?

7 A Yes, ma'am.

8 Q Okay. Was he saying anything while he was
9 over there?

10 A Yes.

11 Q What did he say?

12 A He said, who else wants their ass kicked?

13 Q All right. How long did he stay outside?

14 A Not very long.

15 Q All right. Where was Lee when the defendant
16 said that? ?

17 A He was ---

18 Q Do you know?

19 A --- leaning over my dad.

20 Q Okay.

21 A He was assisting my dad.

22 Q All right. Did the defendant ever come over
23 to Maureen's yard?

24 A No.

25 Q So where did he go?

1 A I assumed he went back in the house.

2 Q You didn't see him go?

3 A No.

4 Q All right. So when law enforcement got
5 there, did you tell them what had happened?

6 A Yes.

7 Q And what did they ask you about if they
8 could -- where to find Joseph?

9 A Well, I knew he was in the house.

10 Q So did they ask you where he was?

11 A Yes.

12 Q Did they ask if they could go in the house?

13 A Yes.

14 Q And how did you respond?

15 A I told them that I didn't want them to go
16 in the house.

17 Q Okay. Now, you need to explain why you
18 wouldn't let them in the house.

19 MR. CULBERTSON: I object, Your Honor.

20 THE COURT: To what?

21 MR. CULBERTSON: What she thought -- I
22 mean, I don't know --

23 MS. MUNSON: I'll rephrase it, Your Honor.

24 MR. CULBERTSON: Thank you.

25 THE COURT: All right.

1 BY MS. MUNSON:

2 Q Why didn't you want law enforcement in your
3 house?

4 A He had told me he had left the house.

5 Q But why didn't you want them in your house?

6 A Cause I think I was protecting him.

7 Q Okay. Was there something in the house that
8 you didn't want them to know about?

9 A Yes.

10 Q What's that?

11 A Marijuana.

12 Q Okay. Did you ever see that bat again?

13 A It was in my house.

14 Q Okay. When did you see it in your house?

15 A That day.

16 Q That day?

17 A That very same day that I went back in the
18 house after everyone left.

19 Q All right. What did you see your dad do
20 aggressively towards the defendant?

21 A Nothing.

22 Q I'm going to show you State's Exhibit
23 Number 8, that very brief video. I want you to show
24 the jury where you are in the video.

25 I can't reach that. I can't reach that. I'm

1 vertically challenged.

2 THE COURT: Good job.

3 MS. MUNSON: Thank you.

4 BY MS. MUNSON:

5 Q If you would, Joanie, take that laser
6 pointer. And when the video comes up, I want you to,
7 with the laser pointer, show where you are.

8 A Okay.

9 (WHEREUPON, State's Exhibit 8 is played.)

10 THE WITNESS: Right -- right -- I believe,
11 right there.

12 MS. MUNSON: Okay.

13 THE WITNESS: That's Lee and that's me
14 right there.

15 BY MS. MUNSON:

16 Q Okay. And where is your dad?

17 A Laying on the ground.

18 Q Can you see him in this video?

19 A He's laying -- I think that's his head.

20 He's laying kind of diagonally.

21 Q Okay. But that's not you to the left of it?

22 MR. CULBERTSON: I object, Your Honor.

23 THE WITNESS: I can't tell from his
24 clothes.

25 THE COURT: You're objecting to leading?

1 **MR. CULBERTSON:** Yeah.

2 **THE COURT:** And it's sustained.

3 **THE WITNESS:** That's my hair. That's my
4 hair right there.

5 **BY MS. MUNSON:**

6 **Q** Okay.

7 **A** That's mine.

8 **Q** All right. Now, let me show you -- let me
9 show you, Joanie, State's Exhibits Number 10 and 11.
10 If you will, take a look at those. Do you recognize
11 those?

12 **A** Yes.

13 **Q** Are they true and accurate depictions of
14 what your face and your hand looked like that day?

15 **A** Yes.

16 **MS. MUNSON:** We move State's 10 and 11
17 into evidence.

18 **THE COURT:** Any objection?

19 **MR. CULBERTSON:** No.

20 **THE COURT:** All right. They are admitted.
21 You said what numbers? I'm sorry.

22 **MS. MUNSON:** 10 and 11, Your Honor.

23 **THE COURT:** 10 and 11, State's 10 and 11
24 are admitted without objection.

25 **(WHEREUPON, State's Exhibits 10 and 11 are**

1 admitted into the record.)

2 BY MS. MUNSON:

3 Q All right. Joanie, this is State's Exhibit
4 Number 10. If you could, take a laser pointer and
5 just explain for the jury what is this right here.
6 There. (Indicating.)

7 A That is a claw mark.

8 Q And where did you get that?

9 A During the altercation.

10 Q Who gave you the claw mark?

11 A Joseph Carpenter.

12 Q Okay. And what about the area depicted in
13 State's 10 around your eye there?

14 A He also -- he grabbed my glasses off my
15 face and took my glasses from me while holding onto
16 the bat.

17 Q Okay. Let me show you State's Exhibit
18 Number 11, what does this show?

19 A This is my finger where he almost bit them
20 off.

21 Q Okay. Now, Joanie, let me show you some
22 other -- I'm showing you now State's Exhibits Number
23 3, 4, 5, 6, and 7. If you could, just one at a time,
24 take a look at those.

25 A Okay. (Reviewing.)

1 Q All right. Are these exhibits true and
2 accurate depictions of the layout of the inside of
3 your house and the area where the altercation took
4 place?

5 A Yes.

6 MS. MUNSON: So, Your Honor, I'm going to
7 move into evidence 3, 4, 5, 6, 7, yeah.

8 THE COURT: All right. Any objection?

9 MR. CULBERTSON: No, ma'am.

10 THE COURT: They are so admitted.

11 (WHEREUPON, State's Exhibits 3, 4, 5, 6 and 7 are
12 admitted into the record.)

13 BY MS. MUNSON:

14 Q Let's look at State's Exhibit Number 3
15 here. Okay. This is State's Exhibit Number 3, Joanie.
16 Can you show me on State's Exhibit Number 3 where you
17 went to answer the door when your dad came?

18 A Right here. (Indicating.)

19 Q Okay. And then let's look at State's
20 Number 4. What does this show?

21 A This shows where - Joseph was standing
22 here.

23 Q And in what particular room does -- are we
24 looking at on State's Number 4?

25 A That was the bedroom.

1 Q Okay. And what is the main area that's
2 shown in State's Exhibit Number 4?

3 A This is the couch and where the booger mask
4 was laying, probably on the back of the couch right
5 there.

6 Q Okay. And you say on the back of the couch
7 is where the mask was. Where were you and where was
8 the defendant when the booger mask incident happened?

9 A I was standing about right here.

10 Q Okay.

11 A The defendant was about right there.

12 Q All right. And where was the planter that
13 got broken?

14 A It was -- it was over -- one over here.

15 Q Okay. And so about where on State's Exhibit
16 Number 4 was your dad?

17 A He was right around in here.

18 Q Okay. And at what point did he leave?

19 A I'm not exactly sure, exactly.

20 Q Okay. Where was the defendant standing when
21 your dog got after him?

22 A He was standing behind the couch right
23 there.

24 Q Okay.

25 A And the dog came up on this side of the

1 couch after him.

2 Q All right. So the dog, describe the dog.

3 A He was a 13-year-old pit bull, weighed
4 about 100 pounds.

5 Q Okay. He's no longer around, is he?

6 A No, he's passed away.

7 Q Okay. Now, let's look at State's Number 5.
8 What does this show?

9 A That's my kitchen.

10 Q Where on -- State's Exhibit Number 5, which
11 direction is your bedroom?

12 A Going that way.

13 Q And the front door is which way?

14 A It's towards this way.

15 Q Okay. So where did you go to let the dog
16 out when your dad first got there?

17 A That way.

18 Q Okay. And does it show on State's Exhibit
19 Number 5 from where the dog came back in the house?

20 A He came back in from this way.

21 Q Okay. Now, let's look -- this is State's
22 Exhibit Number 6. What does this show?

23 A That's showing my front porch and sidewalk
24 going to the driveway.

25 Q All right. Is -- is this the door where

1 your dad came up?

2 A Yes.

3 Q About where would he had been parked?

4 A He was parked right in there.

5 Q Let me show you -- let's go back just for a
6 second to State's Exhibit Number 2. On State's
7 Exhibit Number 2, about where would your dad have
8 parked?

9 A About -- around where that truck is, a
10 little further back.

11 Q Okay. So now we're back to State's number
12 6. You went out after -- after you went back in for
13 your cell phone and you're leaving, where did you go?

14 A Jumped straight in the truck.

15 Q Okay. About how many steps are there from
16 the porch to the driveway - I'm sorry -- from the
17 porch down to the sidewalk?

18 A Maybe 10.

19 Q Okay. Real steep?

20 A Those steps there?

21 Q Yes, ma'am.

22 A There was like three or four steps.

23 Q Okay. And as you are going down the stairs,
24 where is the defendant?

25 A He was right behind me.

1 Q When you got out and were headed to the
2 sidewalk, did you see your dad?

3 A I saw him standing there.

4 Q Your dad was standing there?

5 A In front of the truck ---

6 Q Okay.

7 A --- right around, you know, in front of the
8 truck in the driveway.

9 Q How was he parked in the driveway?

10 A Just like he always did.

11 Q Was the front -- which way was the front of
12 the truck facing?

13 A It was facing in. He just pulled in.

14 Q Okay. All right. Let's go to State's
15 Exhibit Number 7. On State's Exhibit 7, where is the
16 front of your house? Which way?

17 A It would be -- well -- it would be this
18 way.

19 Q Is that thing not working? There we go.
20 Okay.

21 A It would be, like, going back that way.

22 Q Okay. So on State's Exhibit Number 7,
23 that's about where your dad was parked?

24 A Yes, ma'am. Somewhere right in there.

25 Q Okay. And let me ask you about this area

1 from the driveway to the fence. Okay. From the
2 driveway to the fence, is that completely flat?

3 A No, it's angled.

4 Q Okay. Where is the angle?

5 A You mean -- it wouldn't be...

6 Q So it's not completely flat from the
7 driveway up to the fence?

8 A No, it's a slant.

9 Q Okay. Where does the slant start? That's
10 what I'm asking.

11 A It's about right in here.

12 Q All right. So when you described the
13 defendant as being on his back, was it in the slant?

14 A Yes.

15 Q Okay.

16 A Yes.

17 Q So is he -- describe how he was. Completely
18 flat or up?

19 A He was up on his back.

20 Q In the slant area?

21 A Yes, his legs were in there.

22 Q Okay. All right. Can you show the jury on
23 State's Exhibit Number 7 about where the fence went
24 through?

25 A Probably right here.

1 **MS. MUNSON:** Okay. Beg the Court's
2 indulgence.

3 **THE COURT:** Certainly.

4 **MS. MUNSON:** You can turn that off.

5 **BY MS. MUNSON:**

6 **Q** All right. I'm going to show you something
7 else, Joanie. This is State's Exhibit Number 9. You
8 recognize this?

9 **A** I do.

10 **Q** How do you recognize it?

11 **A** That's the bat that my daddy had.

12 **Q** Have you ever seen this before?

13 **A** Yes.

14 **Q** And how often have you seen it?

15 **A** He kept it in his truck all the time.

16 **Q** Okay. You ever seen him use it?

17 **A** No.

18 **MS. MUNSON:** All right. Your Honor, at
19 this time, I move State's 9 into evidence.

20 **THE COURT:** Any objection?

21 **MR. CULBERTSON:** No, ma'am.

22 **THE COURT:** All right then.

23 **(WHEREUPON, State's Exhibit 9 is admitted into**
24 **the record.)**

25 **BY MS. MUNSON:**

1 Q Joanie, I'm going to ask you to stand down
2 and show the jury what you saw your dad do with the
3 bat.

4 A He was standing like this. (Demonstrating.)

5 MR. CULBERTSON: Your Honor, I hate to keep
6 doing this, but I'm going to object to this
7 because there's been no foundation laid yet to
8 where she might have -- how she saw this, where
9 she was when she saw it.

10 THE COURT: Well, I see your objection. I
11 understand where you're coming from. I think she
12 -- she testified she was there. She put herself
13 there. I certainly will allow you, and I know
14 you will cross-examine her thoroughly on this.

15 MS. MUNSON: I beg the Court's indulgence.

16 THE COURT: Certainly.

17 MS. MUNSON: I have nothing further at
18 this time, Your Honor.

19 THE COURT: All right. Mr. Culbertson.

20 CROSS-EXAMINATION

21 BY MR. CULBERTSON:

22 Q Joanie, how are you doing today?

23 A Hanging in there.

24 Q I'm a little confused by a couple of things
25 in your testimony. Let's go back to inside the house

1 to begin with. All right. You're in bed asleep.

2 Joseph comes and wakes you up and says your dad's at
3 the door and wants you to go to church with him.

4 A No, he woke me up and said your old daddy's
5 knocking at the door.

6 Q All right. Wants you to go to church with
7 him?

8 A Yeah, just like always.

9 Q Well, we're going to talk about that in a
10 minute. He wakes you up. It takes you a minute or
11 two. You get up, you get dressed. You go out. Your
12 dad's still standing in the house. When you get up
13 and get dressed, where is your dad?

14 A When I was getting dressed, my dad was
15 still out on the porch.

16 Q Prior to you getting dressed, did he ever
17 come inside the house? Did your dad ever come inside
18 the house?

19 A I was already dressed when my dad walked
20 in.

21 Q Okay. Did you talk to your dad inside the
22 house?

23 A Yes.

24 Q Talked to Joseph inside the house?

25 A Yes.

1 Q Your dad and Joseph were talking inside the
2 house?

3 A Yes.

4 Q Your dad then walks back outside the house?

5 A Yes.

6 Q Apparently goes out to his truck?

7 A Yes.

8 Q Right. You and Joseph are still inside the
9 house?

10 A No, my -- we had both gone out to the car.

11 Q You and your dad had gone out to the car?

12 A Yes.

13 Q All right. You then come back inside the
14 house?

15 A Yes.

16 Q Your dad didn't come with you?

17 A No.

18 Q So you and Joseph are standing inside the
19 house?

20 A Yes.

21 Q Y'all talk a little bit?

22 A He grabbed my purse and dumped it out.

23 Q Where -- here's where I'm confused, how
24 many times did you walk out and walk back into the
25 house?

1 A I don't understand.

2 Q How many times did you walk out of the
3 house to go to your dad's car and come back into the
4 house?

5 A I walked out the door twice.

6 Q Twice. All right. The first time you walked
7 outside the house to go to your dad's car, what
8 brought you back inside the house?

9 A I was looking for my cell phone.

10 Q All right. And the second time you walked
11 outside the house and came back into the house, what
12 brought you back in that second time?

13 A I'm not understanding the question.

14 Q I'm not understanding a lot. You said you
15 went out and back twice.

16 A I went outside to get in the car to leave.
17 Then I forgot my cell phone and I went back in and
18 then I came back out.

19 Q All right. I thought you just said you went
20 inside, went outside and inside twice.

21 A I went out the door and got in the car, put
22 down my cell phone. Went back in, dumped my purse
23 out, then I came back outside.

24 Q And did you go back inside the house at any
25 point?

1 A I did not.

2 Q Okay. When you walked outside the house
3 that first time to get in the car with your dad,
4 where was your dad?

5 A In the car.

6 Q And here's where I'm confused, maybe you
7 can explain it to me, this whole testimony about your
8 dad being inside the house and this mask thing being
9 swung around, where were you? I thought you said you
10 walked outside the house to get in the car.

11 A Will you repeat that question please?

12 Q Sure. You testified earlier that you, your
13 dad and Joseph were inside the house and that your
14 dad -- that Joseph had this mask that he was swinging
15 around, broke a plant.

16 A Uh-huh.

17 Q Your dad was inside the house at that point
18 in time?

19 A Yes.

20 Q All right. You walked out of the house to
21 get in the car with your dad?

22 A Well, after he swung the mask around, the
23 dog tried to attack him.

24 Q You walked out of the house to get in the
25 car with your dad?

1 A Yes, yes.

2 Q You come back in the house with your dad?

3 A No.

4 Q Just by yourself?

5 A By myself.

6 Q To get your cell phone?

7 A Uh-huh.

8 Q Which was in your purse?

9 A Uh-huh.

10 Q Which was in the car?

11 A Right. No, I had my purse with me when I
12 went back in the house, because he took it from me
13 and dumped it out on the floor.

14 Q The cell phone was in the purse?

15 A Correct.

16 Q Why did you have to go back in the house?

17 A Cause I didn't know that the cell phone was
18 in the purse because I couldn't find it.

19 Q I'm still confused about how many times you
20 went in and out of the house.

21 A Okay. I left out of the house.

22 Q Uh-huh.

23 A And then I looked in my purse and I
24 couldn't find my cell phone. I went back in the house
25 to try to get -- find my cell phone. He dumped my

1 purse out. Then I grabbed my stuff and just run out
2 the door.

3 Q Where was the dog during this time?

4 A I had put the dog out.

5 Q So there was another time you walked
6 outside the house to put the dog up?

7 A No, I just walked out the back door. I
8 didn't go outside the house.

9 Q Your dad was inside the house when the dog
10 came out?

11 A The dog -- the dog was in the house. The
12 dog let itself back in after I --

13 Q The question was, was your dad inside the
14 house when the dog came out.

15 A Yes.

16 Q So the dog jumps up on Joseph and bites
17 Joseph at that time?

18 A He tried to.

19 Q Okay. Your dad's in the house when that
20 happens?

21 A Yes.

22 Q And your dad walks out of the house at that
23 time?

24 A Yes.

25 Q He goes and gets in his truck?

1 **A** Yes.

2 **Q** Here's what bothers me --

3 **MS. MUNSON:** Objection, Your Honor.

4 **MR. CULBERTSON:** All right. Here's the
5 question.

6 **THE COURT:** Hold on just one second.
7 What's your objection?

8 **MS. MUNSON:** The objections are to the
9 continual comments by defense counsel.

10 **MR. CULBERTSON:** I'll try to refrain.

11 **THE COURT:** All right. Thank you.
12 Sustained.

13 **BY MR. CULBERTSON:**

14 **Q** Your dad is in the house when the dog jumps
15 on Joseph?

16 **A** Right.

17 **Q** Is that -- your dad then leaves the house?
18 After you get the dog off of Joseph, the dog -- your
19 dad leaves out?

20 **A** I put the dog out and I begged Joseph to go
21 back to bed. He said you guys just go on.

22 **Q** And your dad goes out and gets in his
23 truck?

24 **A** Yeah.

25 **Q** Then there's another time where your dad

1 comes in the house with you and Joseph in the house?

2 A No, he only came in one time.

3 Q All right. All right. Is that the same
4 time, according to you, he's got this mask in his
5 hands?

6 A Yes, sir.

7 Q That's the same time the dog is jumping on
8 him?

9 A Yes.

10 Q Okay. And is Joseph saying anything to your
11 father at that time?

12 A I can't remember exactly what, but he was
13 yelling and ---

14 Q Okay.

15 A --- cussing and being belligerent.

16 Q Towards the dog, towards you, towards your
17 dad?

18 A Towards both of us.

19 Q Okay. Your dad goes outside and gets in the
20 truck?

21 A Yes, sir.

22 Q You finally go outside and get in the truck
23 with your dad?

24 A Yes.

25 Q At some point, you come back in the house,

1 for whatever reason, get this phone that was in the
2 truck?

3 A Right. Well, I had my purse with me. I
4 didn't leave the purse in the truck.

5 Q The phone is in the purse?

6 A Right.

7 Q The purse is with you?

8 A Yes.

9 Q You bring the purse from the car back
10 inside the house looking for the phone.

11 A Uh-huh.

12 Q And you then walk back out the house to go
13 get in the car with your dad?

14 A I didn't walk.

15 Q Did you skip? Do you run? What do you do?

16 A I ran.

17 Q Ran out of the house. You get in the car
18 with your dad to go to church, right?

19 A I jumped in the truck.

20 Q All right. To run back in the house to get
21 your purse to get the phone inside the house?

22 A No, I gathered my stuff up before I ran out
23 the door.

24 Q Yes, ma'am. I got that. Maybe I -- I
25 apologize for that. You walk out of the house, purse

1 in hand, get in the truck with your dad to go to
2 church?

3 A I got in the truck and my dad was standing
4 in front of the truck the second time I came out.

5 Q Yes, ma'am. I appreciate that. First time,
6 you said you left the house to go get in the truck
7 with your dad ---

8 A Right.

9 Q --- to go to church.

10 A Right.

11 Q Had your purse with you?

12 A Right.

13 Q You get in the car, the truck, with your
14 dad and your purse. You look through the purse, can't
15 find your cell phone.

16 A Right.

17 Q You, the purse, the cell phone and
18 everything in there go back into the house?

19 A Yeah.

20 Q You go back in the house and realize -- you
21 and Joseph talk. He looks at the purse, dumps it out,
22 does whatever. You find your purse, find your cell
23 phone, put it all back in there and go back out to
24 the truck?

25 A I never found my cell phone.

1 Q Never found your cell phone?

2 A Not at that moment.

3 Q At what point did you find the cell phone?

4 A I found my cell phone when I was sitting
5 across the street waiting for them to try to get him
6 out of the house.

7 Q Where did you find your cell phone?

8 A It was in my purse. There was a text that
9 came in from Joseph Carpenter and I heard it.

10 Q Bear with me just a moment.

11 A Yes, sir.

12 Q I'm going to let you explain all that ---

13 A Okay.

14 Q --- but answer my question first, please.

15 You get in the car with your dad and realize you
16 don't have your phone that's in your purse. You go
17 back in the house. Joseph dumps the thing out. You
18 find your cell phone and get your cell phone and put
19 everything back in your purse.

20 A No, I didn't just find my cell phone at
21 that moment.

22 Q You didn't find it at that moment?

23 A I did not know that I had my cell phone
24 until he texted me.

25 Q All right.

1 A It was in my purse.

2 Q We're going to get to that. The purse gets
3 dumped out?

4 A Yes.

5 Q Pick it all back up and put it back,
6 everything back in your purse and go back out to get
7 in the truck?

8 A Yes.

9 Q And you're telling me that Joseph was
10 following you back out at that point?

11 A He chased me out the door.

12 Q Chased you out the door. Okay. Were you
13 running that time also?

14 A I was in a hurry.

15 Q You were running the first time and you
16 were running the second time?

17 A The first time, I wasn't running. He had
18 said just go ahead and go, just go ahead and go.

19 Q Okay.

20 A So I just walked out.

21 Q So you now got everything back in your
22 purse going back out in a hurry or running or
23 whatever and get in the car with your dad to go to
24 church.

25 A Correct.

1 Q The second time. And when you go out the
2 door that second time, where did you see your father?

3 A I said he was standing in front of the
4 truck.

5 Q With a baseball bat in hand?

6 A I did not see a bat. I didn't see a bat.

7 Q Did you see Joseph?

8 A He was behind me.

9 Q He was behind you. You're going to the car
10 -- go in the truck, with your purse and everything in
11 your purse. You go and get in the truck?

12 A I jumped in the truck.

13 Q Your dad's still standing out there with
14 the baseball bat?

15 A I didn't realize he had a baseball bat
16 until I heard Joseph say, oh, Bill, you got a bat.

17 Q All right. Did you see a bat?

18 A I looked up and then I saw one at that
19 point.

20 Q The bat was in your dad's hand?

21 A Correct.

22 Q He and Joseph were talking?

23 A They weren't talking.

24 Q Your dad was swinging the baseball bat?

25 A It happened like that.

1 Q Your dad pointed the baseball bat at him?

2 A No, dad was standing there with the bat
3 like this. He did not move the bat.

4 Q And you see your dad and Joseph wrestling
5 around over the bat?

6 A No, they -- whenever I looked up and heard
7 Joseph say, oh, Bill, you got a bat, and he slammed
8 into him so hard it knocked my dad, like, 10 foot
9 backwards.

10 Q Well, Joanie, here's -- you've got to
11 explain this to me. You see the bat. You don't see
12 the bat. You don't know where the bat is. Now, you're
13 telling me you see the bat, you can see everything
14 else happening about Joseph hitting your dad so hard,
15 but you don't see a lot of the other stuff that I'm
16 asking you about?

17 A Well, I ran out really quick and jumped in
18 the truck, and I saw my dad standing there, but I
19 didn't see a bat.

20 Q Okay.

21 A And I didn't know there was a bat until I
22 heard Joseph say, oh, you got a bat, Bill. He slammed
23 into him so hard. He grabbed ahold of that bat and
24 slammed him into that fence so hard that he slid down
25 on the ground on his back. Joseph slid down on his

1 back and they both had a hold of the bat like this
2 and were struggling for the bat.

3 Q And you're telling us that Joseph came out
4 of the door and ran up and hit your father so hard
5 that it knocked him through the air 10 feet up
6 against the fence?

7 A Yeah. He hit him and he slammed him up
8 against the fence, from the middle of the driveway
9 where he was standing in front of the truck all the
10 way over to that privacy fence.

11 Q Ten feet?

12 A At least.

13 Q About the distance from me to that jury
14 box?

15 A No, it was about from, say, here from where
16 I'm standing to about the jury box, to that rail
17 right there. It was a pretty good ways. It was loud.

18 Q Like a linebacker hitting a quarterback?

19 A Yes, sir.

20 Q And then where is the bat?

21 A They are both holding on to it.

22 Q You then hop out of your car --

23 A Yes, sir.

24 Q -- your dad's car?

25 A Yes.

1 Q You go over and you jump on Joseph's back?

2 A Joseph was laying on his back, so how could
3 I jump on his back?

4 Q I don't know. That's what I'm asking.

5 A That's what I'm asking you.

6 Q Let's try it this way.

7 A Okay.

8 Q What did you do?

9 A I ran over and I tried to calmly tell
10 Joseph to let go of the bat and go back in, go back
11 to bed. Let go of the bat. Go back in. Stop. I tried
12 to just not escalate the situation or not scream or
13 yell or cause any other chaos.

14 Q All right. And what did Joseph do?

15 A He continued to hold on to the bat.

16 Q One hand, both hands?

17 A They had both hands -- he had both hands on
18 the --

19 Q He had both hands on the bat. Your dad had
20 both hands on the bat and they're both on the ground?

21 A No, my dad is up against the fence kind of
22 in a sort of really bad predicament. You know?

23 Q All right.

24 A And Joseph's laying on the ground.

25 Q All right.

1 A They both have their hands on the bat like
2 this.

3 Q Joseph and --

4 A Joseph's got it like this. (Demonstrating.)

5 Q All right. Joseph gets up off the ground?

6 A No.

7 Q I'm just trying to figure out how -- Joseph
8 does not get up off the ground -- how your fingers
9 got bitten.

10 A He was laying on the ground when he bit my
11 fingers cause he -- then he --

12 Q So he's laying on the ground with your dad.
13 Both of them got hands on a bat and he just leans
14 over and bites your fingers?

15 A No.

16 Q That's what I'm asking.

17 A He kicked my dad in the head about four,
18 three times. Then that's when I --

19 Q My question was --

20 MS. MUNSON: Objection, Your Honor. She
21 was answering him.

22 THE COURT: I will allow her to finish
23 her answer, then you can ask the question. Go
24 ahead.

25 MR. CULBERTSON: I would like my question

1 answered first.

2 **THE COURT:** She was finishing answering
3 it, but you cut her off. So I'm going to allow
4 her to finish her answer and then you can ask
5 your question.

6 Go ahead.

7 **THE WITNESS:** Would you repeat the
8 question please?

9 **BY MR. CULBERTSON:**

10 **Q** Joseph and your dad are on the ground
11 holding this bat?

12 **A** No. Joseph's on the ground.

13 **Q** Joseph's on the ground and your dad's
14 sitting on the ground, back against the fence?

15 **A** My dad is not sitting down. He's leaned
16 over with his back up against the fence. Joseph's on
17 the ground with his feet up in the air.

18 **Q** Both of them are on their back?

19 **A** Correct.

20 **Q** How did Joseph bite the fingers?

21 **A** When I tried to -- I tried to beat him in
22 the head. I tried to pry his fingers. I tried to
23 choke him. I tried to do anything I could to stop
24 him. Then I got my fingers a little too close to his
25 mouth. He clamped down, it seemed like forever.

1 Q So when --

2 A It hurt so bad.

3 Q So when I asked you when you jumped on
4 Joseph's back, when was that?

5 A I didn't jump on his back. He was laying on
6 his back, sir.

7 Q Okay. All right. You start choking him?

8 A Only after he kicked my dad in the head.

9 Q You started scratching him, hitting him in
10 the head, trying to do whatever to get him to let go
11 of your dad. He's got his hands on the bat. Your
12 dad's got his hands on the bat. You're scratching and
13 clawing and everything.

14 A I hit him in the head, tried to choke him,
15 pry his fingers loose. Couldn't do anything.

16 Q And that's when he bites your fingers?

17 A Uh-huh.

18 Q As you are choking him like you showed?

19 A No, I didn't choke him. I tried to do
20 anything I could do to make him stop.

21 Q All right. At some point, Joseph gets up
22 off the ground?

23 A After he pushes Dad through the fence with
24 the bat.

25 Q And he walks where?

1 A I assumed he walked back in. I did not see
2 him walk back in because I had to run around on the
3 other side of the fence to assist my dad.

4 Q And did you hear a door close, did you hear
5 anything that --

6 A I didn't hear anything.

7 Q You didn't hear anything?

8 A I heard my dog barking.

9 Q All right. You heard your dog barking?

10 A My dog wanted at him, to get him.

11 Q Mean dog?

12 A No, he didn't like Joseph.

13 Q Okay. All right. You thought Joseph had
14 gone back inside the house?

15 A I assumed he had.

16 Q And you're assuming he took the bat with
17 him back inside the house?

18 A Yes.

19 Q You never actually saw him pick up the bat
20 and go in the house with it?

21 A No, I was over there with my dad.

22 Q All right. And the police ultimately get
23 there, is that correct?

24 A Yes.

25 Q And you told the police about what had

1 happened?

2 A Yes.

3 Q And they wanted to go find Joseph?

4 A Yes.

5 Q You told them he was back in the house?

6 A Yes.

7 Q An they wanted to go in the house and look
8 for Joseph?

9 A Yes, they did.

10 Q And you told them no, you can't go inside
11 the house?

12 A Yes, I did.

13 Q Yes, you did tell them that?

14 A Yes.

15 Q Okay. You didn't want them to go inside the
16 house?

17 A No.

18 Q You were afraid about what they might find
19 inside the house?

20 A Yes.

21 Q And at some point, you told the police
22 Joseph wasn't in the house?

23 A Yes.

24 Q Cause you had gotten a text from Joseph?

25 A Yes.

1 Q On your cell phone?

2 A Yes, I heard my cell phone go off. That's
3 when I realized it was in my purse.

4 Q The same cell phone that you had gone back
5 in the house to look for?

6 A Right.

7 Q The same cell phone that was in your purse
8 and got dumped out on the floor?

9 A It didn't get dumped out on the floor, just
10 my makeup and stuff got dumped out on the floor,
11 earrings and things like that.

12 Q Everything except the cell phone?

13 A Yeah, it was a great big purse.

14 Q Yeah.

15 A Big purse.

16 Q And you told the police they couldn't go in
17 the house to look for Joseph?

18 A He told me he had left the house. He said
19 he left the house.

20 Q And you didn't want the police to go in the
21 house anyway?

22 A I was afraid of what Joseph might do to me.

23 Q With the police in the house looking around
24 finding stuff you didn't want them to find?

25 A I was just mainly afraid of what Joseph

1 would do to me if I let them in.

2 Q Why would they do something to you -- no.
3 My question is this, you were afraid for the police
4 to go inside your house and look around because you
5 were afraid of what they might find in the house?

6 A Yes. Yes.

7 Q Cause you knew what was in that house?

8 A I had an idea.

9 Q These photographs we looked at with some
10 scratches on your face and some blood on your
11 fingers, did you go to the hospital to get treated
12 for those injuries?

13 A I went to the emergency room with my dad.

14 Q My question was, did you go to the hospital
15 to get treated for those injuries?

16 A I did not.

17 Q Did you seek any sort of medical assistance
18 for help with those injuries?

19 A Yes.

20 Q Who?

21 A The people in the triage assisted me with
22 some antibiotic cream.

23 Q Didn't stitch anything up?

24 A No.

25 MR. CULBERTSON: One moment please, Your

1 Honor.

2 THE COURT: Certainly.

3 (WHEREUPON, there is a pause.)

4 BY MR. CULBERTSON:

5 Q You and Joseph had lived in that house
6 together for how long?

7 A 20 years or so. Almost 20 years. We moved
8 in in '97.

9 Q Y'all were a family, fair to say?

10 A At one time, we were.

11 Q Dad goes to the hospital. You go to the
12 hospital. Joseph goes with the police. Has Joseph,
13 since that day, ever been back in the house?

14 A Not to my knowledge.

15 Q So a lot of the stuff over 20 years that
16 you and he had collected together, a lot of his stuff
17 like his car and other equipment, all that stuff is
18 still inside the house?

19 A Right now?

20 Q Right now.

21 A No.

22 Q What happened to it?

23 A It had to be sold.

24 Q You sold it?

25 A Uh-huh.

1 Q Did you tell him about it?

2 MS. MUNSON: Objection, Your Honor.

3 Relevance.

4 THE COURT: Overruled. I'll allow her to
5 answer the question.

6 BY MR. CULBERTSON:

7 Q Did you tell him about it?

8 A Had to pay the bills.

9 Q Did you ask him permission to sell his
10 stuff?

11 A It's our stuff. It belonged to me too, and
12 I had to pay his bills. He left me two months behind
13 on all bills. Four guitars in the pawn, four loan --
14 loans at loan offices. They were all in my name that
15 I had to pay. I was all responsible for it.

16 Q So you got your fingers bit and got your
17 face scratched when you jumped in the middle of this
18 fight between two other people?

19 A Yes.

20 Q You did not let him back in his house,
21 y'all's house where all his stuff is?

22 A It's not his house. It's -- his name is not
23 on the house. He does not -- he does not pay any
24 utilities. He did not pay any bill or any house
25 payment at all whatsoever.

1 Q And after 20 years of being together,
2 you're not real fond of Joseph now, are you?

3 A No, I have left him several times.

4 Q You're not real fond of Joseph, are you?

5 A No.

6 Q You weren't that day either?

7 A No.

8 Q That's why you didn't care if the dog came
9 in and jumped on him?

10 A I stopped the dog from attacking him. The
11 dog had attacked him, like, several times. He's gone
12 to the emergency room twice to have, like, stitches
13 on his leg because the dog bit him because he was
14 running up behind me trying to attack me. The dog
15 hated him.

16 Q When?

17 A Throughout the years.

18 Q Did you ever call the police for any of
19 those times that the dog attacked him?

20 A We took him to the emergency room.

21 Q Took Joseph to the emergency room?

22 A Uh-huh.

23 Q Did you ever call the police or tell
24 anybody about Joseph being mean to you, being
25 aggressive towards you, doing anything towards you?

1 A I've talked to some people, but I've never
2 called the police.

3 Q Who did you tell?

4 A My parents.

5 Q Did you tell the neighbors next door? The
6 neighbors next door --

7 A The neighbors knew everything that was
8 going on. They could hear everything.

9 Q Is that why they got a restraining order
10 against you?

11 A They didn't get a restraining order against
12 me.

13 Q All right.

14 A That was determined yesterday.

15 Q Thank you, ma'am.

16 THE COURT: Any redirect?

17 MS. MUNSON: No, ma'am. Thank you, Your
18 Honor.

19 THE COURT: All right. Ma'am, you can step
20 down.

21 THE WITNESS: Thank you.

22 THE COURT: Ms. Munson?

23 MS. MUNSON: Please the Court, Your Honor,
24 that's the State's case.

25 THE COURT: All right. Ladies and

1 Gentlemen, I now need for you to step to your
2 jury deliberation room. There's a couple of
3 matters I need to take up with the attorneys.
4 We'll be with you shortly.

5 I'd ask everyone to remain seated please,
6 other than the jury.

7 (WHEREUPON, the jury exits at approximately
8 10:44 a.m.)

9 **THE COURT:** All right. Any matters we need
10 to take up?

11 **MS. MUNSON:** Nothing from the State, Your
12 Honor.

13 **THE COURT:** All right.

14 **MR. CULBERTSON:** Obviously, I'm going to
15 have some motions for directed verdict at this
16 time.

17 **THE COURT:** All right.

18 **MR. CULBERTSON:** And -- oh, I'm sorry, Your
19 Honor.

20 **THE COURT:** Certainly. Go ahead.

21 **MR. CULBERTSON:** I'd like to be sure that
22 my motion about the sufficiency of the
23 indictment, I want to be sure that's reserved
24 and protected.

25 **THE COURT:** It is.

1 **MR. CULBERTSON:** I renew that objection and
2 ask that it be allowed in at this time.

3 **THE COURT:** All right.

4 **MR. CULBERTSON:** I also would further move
5 at this time for directed verdict based on the
6 evidence presented. I haven't heard anything
7 about my client causing injuries to a household
8 member, but for her jumping in the middle of it.
9 I'm not quite sure where the domestic violence
10 came in.

11 **THE COURT:** All right. All right. Anything
12 from the State?

13 **MS. MUNSON:** We would respectfully ask
14 that you deny the motion, Your Honor. There's
15 plenty of evidence that the household member was
16 put in reasonable fear of harm -

17 **THE COURT:** All right.

18 **MS. MUNSON:** -- of serious harm, with the
19 mask and all of that.

20 **MR. CULBERTSON:** And again, my motion is I
21 haven't heard any testimony about any kind of
22 serious harm that took place towards her during
23 this event but for her sticking herself in the
24 middle of somebody's fight where she was a
25 physical aggressor in the matter. I don't know

1 where --

2 **THE COURT:** What about the fear of serious
3 bodily injury or serious harm? What about that,
4 Ms. Munson?

5 **MS. MUNSON:** She had seen him go after her
6 father, push him up against the fence and then
7 he had the bat after that. Inside the house, he
8 was not acting in a rational manner with the
9 booger mask, had slung the mask, not at her, but
10 in a manner that put her in reasonable fear.

11 **THE COURT:** I gotcha.

12 **MR. CULBERTSON:** And she goes back inside
13 the house, twice.

14 **THE COURT:** Well, fully understanding all
15 the nuances of that situation is not the
16 standard, of course. The standard is to any
17 evidence upon which the jury could base a
18 verdict, and I do find that there is at least
19 some evidence that a jury could find against the
20 defendant on these two charges. Thus, I'm going
21 to allow -- excuse me -- I'm going to deny your
22 motion for directed verdict at this time. And
23 your earlier motion on the sufficiency of the
24 indictment is certainly preserved for the record
25 and is, again, respectfully denied.

1 **MR. CULBERTSON:** And again, I have a motion
2 for directed verdict on the attempted murder
3 charge.

4 **THE COURT:** Yes, sir.

5 **MR. CULBERTSON:** The testimony, as I
6 understood it, the victim was the initial
7 aggressor in this manner. He got out of the car
8 with the baseball bat. As I stated earlier,
9 Joseph was just trying to defend himself.
10 Clearly, no evidence about what his intent was,
11 what his attitude was towards the defendant and
12 towards the victim at that point in time. He was
13 defending himself. I failed to renew that motion
14 for directed verdict on the attempted murder
15 charge.

16 **THE COURT:** Okay. Ms. Munson, anything you
17 want to say in reply to that?

18 **MS. MUNSON:** Just, Your Honor, that that's
19 for the jury to decide. There's plenty of
20 circumstantial evidence that he had the intent.

21 **THE COURT:** I think there is at least some
22 evidence that they could find -- infer intent
23 from. Therefore, I'm going to deny your motion
24 for directed verdict as to the attempted murder.
25 Any other motions we need to take up at this

1 time?

2 MS. MUNSON: Nothing from the State, Your
3 Honor.

4 THE COURT: All right. Anything from the
5 defense? I do know one matter we need to take
6 up. So if you want to think for just a minute
7 about your motions, I can take up one matter.
8 Mr. Carpenter, will you stand please.

9 MR. CARPENTER: Yes, ma'am.

10 THE COURT: Okay. Raise your right hand
11 for me.

12 (WHEREUPON, the defendant is first duly sworn.)

13 THE COURT: Okay. You can put your hand
14 down but remain standing please. Have you
15 discussed with your attorney whether or not you
16 intend to testify in the trial of this case?

17 MR. CARPENTER: We haven't discussed that.

18 THE COURT: Okay. Y'all have not had
19 discussions about whether or not you plan to
20 testify?

21 MR. CARPENTER: No, ma'am.

22 THE COURT: Okay. Mr. Culbertson?

23 MR. CULBERTSON: Well, we've had a brief
24 conversation. I don't mean to contradict my
25 client ---

1 **MR. CARPENTER:** Yeah.

2 **MR. CULBERTSON:** --- but we have had a
3 brief conversation about whether he would need
4 to take the stand in this matter. We probably
5 need to talk about it a little bit further.

6 **THE COURT:** Okay. Let's take a break.

7 **MR. CULBERTSON:** He's been made aware of
8 the need for him possibly to testify.

9 **THE COURT:** Okay.

10 **MR. CARPENTER:** Yeah, we just hadn't
11 discussed whether or not --

12 **THE COURT:** I'll tell you what, let's take
13 -- it looks like the jury is going to need to
14 have lunch. So we're sending out for some forms
15 for them to fill out, so let's take a little bit
16 longer break. Let's take about a 15-minute
17 break. That will give you time to discuss -- I
18 want you to discuss with your attorney fully
19 your decision about whether or not you intend to
20 testify. That means you don't have time for much
21 else than to talk to your lawyer about it.

22 **MR. CARPENTER:** Okay.

23 **THE COURT:** All right?

24 **MR. CARPENTER:** Yes, ma'am.

25 **THE COURT:** Yes, ma'am.

1 **MS. MUNSON:** To add, Your Honor, there's
2 nothing in his record that I believe I'd be able
3 to use to impeach him.

4 **THE COURT:** Okay. Thank you. Thank you.
5 All right. Very good. Let's be in recess for 15
6 minutes.

7 **MR. CULBERTSON:** Thank you, ma'am.

8 **(WHEREUPON,** the Court goes off the record at
9 approximately 10:51 a.m.)

10 **(WHEREUPON,** the Court goes on the record at
11 approximately 11:09 a.m.)

12 **THE COURT:** All right. Mr. Carpenter?

13 **MR. CARPENTER:** Yes, ma'am.

14 **THE COURT:** You're still under oath. Will
15 you stand for me?

16 **MR. CARPENTER:** Yes, ma'am.

17 **THE COURT:** Have you had an opportunity to
18 discuss with your attorney whether or not you
19 will testify in the trial of this case?

20 **MR. CARPENTER:** Yes, ma'am.

21 **THE COURT:** All right. You feel like
22 you've understood your conversations with him?

23 **MR. CARPENTER:** Yes, ma'am.

24 **THE COURT:** I have to ask this, are you
25 under the influence of drugs or alcohol?

1 **MR. CARPENTER:** No, ma'am.

2 **THE COURT:** Has anybody forced you to make
3 this decision or promised you anything to get
4 you to make this decision?

5 **MR. CARPENTER:** No, ma'am.

6 **THE COURT:** You understand you have an
7 absolute right to remain silent. You don't have
8 to testify at all in the trial of this case. I
9 will instruct the jury that they may not even
10 consider the fact that you did not testify. They
11 can't even talk about it in the jury
12 deliberation room whatsoever. Did you know that?

13 **MR. CARPENTER:** Yes, ma'am.

14 **THE COURT:** Also, by the same -- the other
15 side of the same coin is that this is your one
16 chance to tell your side of the story. You have
17 an absolute right to do that as well. Do you
18 know that?

19 **MR. CARPENTER:** Yes, ma'am.

20 **THE COURT:** And have you made a decision?

21 **MR. CARPENTER:** Yes, ma'am.

22 **THE COURT:** What is that?

23 **MR. CARPENTER:** I will testify.

24 **THE COURT:** All right. All right.

25 Mr. Culbertson, have you discussed this

1 with your client?

2 MR. CULBERTSON: Yes, ma'am.

3 THE COURT: And you feel like he's
4 understood your conversations?

5 MR. CULBERTSON: I believe so, yes, ma'am.

6 THE COURT: And do you agree with his
7 decision?

8 MR. CULBERTSON: Yes.

9 THE COURT: All right. And well, let me
10 just say this -- that's kind of an unfair
11 question. Let me just say in another way, you
12 believe he understands fully the pitfalls and
13 the possible downside to testifying as well as
14 the benefit. You think he understands all that?

15 MR. CULBERTSON: Yes, ma'am.

16 THE COURT: All right then. Anything else?

17 MR. CULBERTSON: Not on the record, no,
18 ma'am.

19 THE COURT: All right. All right. Do y'all
20 need to -- let's go off the record.

21 (WHEREUPON, the Court goes off the record at
22 approximately 11:11 a.m.)

23 (WHEREUPON, the Court goes on the record at
24 approximately 11:36 a.m.)

25 MS. MUNSON: One thing before the jury

1 comes in, Your Honor, I'd like to move, as we
2 talked about up at the bench, State's 9 into
3 evidence.

4 THE COURT: All right. Any objection to
5 that?

6 MR. CULBERTSON: No, ma'am.

7 THE COURT: All right then. State's 9 is
8 admitted.

9 (WHEREUPON, the jury enters at approximately
10 11:38 a.m.)

11 (WHEREUPON, State's Exhibit 9 is admitted into
12 the record.)

13 THE COURT: All right. Mr. Culbertson?

14 MR. CULBERTSON: I believe the State's
15 rested, Your Honor?

16 THE COURT: Yes, sir.

17 MR. CULBERTSON: In that case, we -- I'd
18 like to call Joseph Carpenter to the stand.

19 THE COURT: Sir, if you would, come
20 forward and be sworn please.

21 And Ladies and Gentlemen, I just want to
22 say thank you so much for your patience. I
23 assure you we were in here working while you
24 were there.

25 JOSEPH CARPENTER

1 having first been duly sworn, testifies as follows:

2 **THE CLERK:** Please have a seat. Will you
3 state your full name for the record.

4 **THE WITNESS:** Joseph Austin Carpenter.

5 **DIRECT EXAMINATION**

6 **BY MR. CULBERTSON:**

7 **Q** Hey, Joseph. How you doing today?

8 **A** I'm doing okay. Thank you.

9 **Q** Just so I'm clear and everybody over here
10 is clear, tell us your full name please.

11 **A** Joseph Austin Carpenter.

12 **Q** Joseph, how old are you?

13 **A** 43 years old.

14 **Q** And where are you from?

15 **A** Greenville, South Carolina.

16 **Q** Did you go to school in Greenville?

17 **A** I went to school in -- I graduated from
18 Easley High School, right outside of Greenville.

19 **Q** And what have you done after graduating
20 high school?

21 **A** I've been an artist, musician. I've done
22 carpentry work. I've done all kinds of bonsai
23 landscaping work, worked in the landscaping shrubbery
24 business.

25 **Q** And would you consider that -- is that what

1 you do for a living?

2 A That's what I did for a living for many
3 years. Right now, I'm a kitchen prep manager for
4 Aldi's over on Woodruff Road at Magnolia Park.

5 Q Okay. At some point in time after you
6 graduated high school, you came to know a young lady
7 by the name of Joanie?

8 A Yes. Yes, sir.

9 Q What's Joanie's full name?

10 A Phyllis Joan Sanders.

11 Q And she's the lady that's testified earlier
12 today?

13 A Yes, sir.

14 Q You and she had been an item together for
15 how long?

16 A We were together for about 22 years.

17 Q And y'all lived together?

18 A Yes, sir.

19 Q Never got married?

20 A Never got married.

21 Q Never had any kids?

22 A Never had any kids.

23 Q But y'all had a house together that y'all
24 both lived in?

25 A Yes, sir.

1 Q And where was that house located?

2 A At 112 East Scenic Lane, Travelers Rest, on
3 the back side of Paris Mountain.

4 Q How long did y'all live there?

5 A Between -- it was somewhere around 18
6 years.

7 Q And I keep talking about this place y'all
8 have lived together, that's -- you've been here for
9 this whole trial. You've heard testimony about the
10 events that happened.

11 A Yes, sir.

12 Q That's the house that you and she
13 considered home that y'all lived in together?

14 A Yes, sir.

15 Q That was y'all's house?

16 A Yes, sir.

17 Q You thought it was your house, you acted
18 like it was your house?

19 A Right. I received mail there and paid on
20 the house payments and utility bills.

21 Q You've heard some of the parts of this
22 trial about an event that happened a couple of months
23 ago?

24 A Well --

25 Q Actually, a few years.

1 A A couple of years, yes, sir.

2 Q You were there that day?

3 A Yes, sir.

4 Q Tell me in your words what you recall
5 happening that day?

6 A Well, I awoke some time after 9 a.m. I
7 remember it being somewhere right around or before
8 9:30. I awoke to a sound that sounded like the fire
9 department or police department kicking through my
10 front door. So I woke and I went to the front door.

11 Q Was it the fire department or the police
12 coming in your front door?

13 A No, it --

14 Q Who was it?

15 A It was Billy Sanders attempting to kick
16 through the door.

17 Q Okay. Billy Sanders would be Joanie's
18 father?

19 A Yes, sir.

20 Q And when you got to the door, you found
21 Billy standing there?

22 A Right. Well, he was standing there on the
23 other side. I looked through the blinds.

24 Q Okay.

25 A Saw it was him and I went back to the

1 bedroom and I told Joanie your daddy's here and he's
2 real upset. She said don't open the door. Go to the
3 back door. Go outside and I'll take care of it.

4 Q Okay. Did that happen?

5 A (No audible response.)

6 Q Did that happen?

7 A She opened the door and he came inside and
8 I was standing at the back door. I could hear him
9 saying, Joanie, what's wrong? What's wrong, Joanie?

10 Q And what did you then do?

11 A Well, I stood at the back door for a few
12 more minutes. She had called her mother, right as she
13 was opening the door, on the telephone to tell her
14 mother that she didn't have plans to go to church. It
15 wasn't an issue of her oversleeping. There were just
16 no plans to go to church and she had not gone to
17 church the week before that. She had not been for
18 about three weeks. She went about once a month to
19 perform music with her father at church. That was
20 about the average.

21 Q Okay. So speaking of performing music with
22 her father, had you ever done that?

23 A Yes, sir.

24 Q When's the last time you and he had -- you
25 and her father had been together?

1 A Two days before the incident.

2 Q So two days before this incident, you and
3 he had been together playing music together?

4 A Yes, sir.

5 Q Did you do anything else other than play
6 music?

7 A We worked on my '64 Cadillac Coupe DeVille.
8 He brought an owner's manual over. We both worked on
9 the car together.

10 Q Okay. So you worked on the car together,
11 you played music together --

12 A We sat and -- we sat and had a lunch snack
13 together.

14 Q Y'all got along okay?

15 A Yes, sir.

16 Q Is that typically how you would describe
17 your relationship with Billy Sanders?

18 A For the most part, we got along well and
19 were friends. We had known each other quite some
20 time. So it wasn't -- you know, it was a family, so
21 it wasn't picture perfect, but he was my good friend.

22 Q Okay. So anyway, let's get back to the day.
23 Billy is knocking on the door. You go wake up Joanie.
24 Joanie goes to the door, correct?

25 A Right. Well, he was kicking at it, banging

1 at it, trying to make ---

2 Q Had he come inside the house at that point?

3 A Not -- not -- he had not come through the
4 house. The door frame was coming apart at the point
5 that I went and told Joanie, your daddy is freaking
6 out. He's kicking in through the door.

7 Q Okay. When you told her that, she got up
8 and went out to be with -- to talk to her dad?

9 A Well, she asked me to go step out back
10 first as she was calling her mother. I did hear her
11 telling her mother, Mom, I'm not going to make it.
12 Her mother said something back to her. Couldn't hear
13 because I was obviously not on the line. But Joanie
14 said, he really needs me -- he's real upset. He
15 really needs me to go to church with him, so I'm
16 going to go.

17 Q Okay. Joanie got dressed to go to church?

18 A She started to get dressed.

19 Q Was her dad inside or outside of the house?

20 A He was inside the house.

21 Q Did you and he have a conversation at that
22 time?

23 A We did, but he came over to me
24 aggressively. Bucked up and being real confrontative
25 in front of me asking me what was wrong. I said,

1 look, man, there's nothing wrong. She had no idea
2 that you were coming to get her. You didn't even come
3 last weekend.

4 Q All right. What were you -- were you
5 scared, worried, concerned, at that point?

6 A I wasn't used to him acting this way. He
7 had always been a really calm, peace-loving
8 individual that would diffuse an argument or any type
9 of disagreement. He always wanted to --

10 Q Get along?

11 A Yeah, he wanted to make peace.

12 Q That day when he's knocking on the door,
13 Joanie's back getting dressed, he comes in the house,
14 you and him are talking a little bit?

15 A Right.

16 Q Is that correct?

17 A Yes, sir.

18 Q And did you have any concerns at that point
19 in time during your conversation with Billy at that
20 point?

21 A Yes, I felt like he had been having issues
22 with dementia and his memory and his behavior had
23 become inconsistent. And over the course of -- it had
24 been persistently getting worse over the course of
25 the six months predating this. But over the course of

1 the two months prior to this, it had just
2 aggressively got a lot worse to where he would go
3 places, forget where he was, not really know who he
4 was, forget who he was talking to, couldn't remember
5 his guitar parts. He was having issues with his
6 memory.

7 Q Two days before that when you and him were
8 together working on the car ---

9 A Right.

10 Q --- was he okay that day?

11 A He was having a pretty good day. He was
12 having some issues remembering his songs and a few
13 senior problems, but it was a better day for him. I
14 had been around him a few days prior to that where he
15 didn't even recall ever going to birthday parties at
16 Flat Rock Grill, and we had gone there every year for
17 about 12 years. He had no recollection of ever having
18 been there before.

19 Q Okay. But the day, the two days before this
20 event, you thought he was okay?

21 A Yeah, he -- he was doing a lot better. It
22 was a good day for him.

23 Q That day was a good day for him?

24 A Right.

25 Q Worked on your truck -- worked on the car

1 and everything. His attitude that day compared to the
2 day in question?

3 A Night and day difference.

4 Q And were you concerned about what his
5 reaction was going to be the day in question when he
6 came inside?

7 A Yes, that's why I asked him to leave as
8 soon as he came up to me in an aggressive confrontive
9 manner. I asked him to go outside and wait on Joanie
10 to get ready.

11 Q All right. And did he leave?

12 A Not at that point, no. He followed me into
13 my bedroom and stood over the bedroom door.

14 Q All right. And at some point, did Joanie
15 get dressed and ready to go to church?

16 A Yes, she was working on getting ready while
17 this was going on.

18 Q All right. And Joanie then came out of the
19 room she was getting dressed in?

20 A Yes, she came out of the bathroom. Yes,
21 sir.

22 Q And were you and her father still inside
23 the house at that point?

24 A Yes, sir. We were in the living room area
25 at that point. I had gotten out of the bedroom area.

1 That is when I told him that I was concerned that he
2 had a concealed weapons permit and he had brought
3 guns in the house before and I didn't like the fact
4 that he would bring guns in the house with him. So
5 because of that concern, I felt uneasy and afraid.

6 Q You thought he might have a gun on him at
7 that point?

8 A Yeah, I was afraid he had one on him, yes.

9 Q And is that one of the reasons you asked
10 him to leave the house?

11 A Yes, that's one of the reasons, that and
12 his behavior.

13 Q Did he leave the house at that point?

14 A No, sir.

15 Q Did there come a point where he and Joanie
16 both walked out of the house together?

17 A There came a point where she asked him to
18 go outside after the incident with the dog. The dog
19 attempted to bite me and lunged at me, but I grabbed
20 it and held it. Had it of the back of the neck. And
21 Bill looked over at me and he said, well, you'll kill
22 that dog if you keep holding it like that. And then
23 Joanie came and got the dog and carried the dog
24 outside.

25 Q So Joanie puts the dog outside. She, her

1 dad and you are still inside the house?

2 A Right. And the dog runs back -- pushes the
3 door open and runs back into the house. She had asked
4 her dad at that point to please go out to the truck
5 and wait on her.

6 Q And did he do so?

7 A Not at first. And then after she took the
8 dog out, the dog runs back in, we go through that
9 whole number. I ran into the bathroom, shut the
10 bathroom door because the dog's stirred up. I had
11 been bit by the dog before. I got multiple scars on
12 my leg and records from the hospital because of the
13 dog.

14 Q I appreciate it. I don't want to cut you
15 off.

16 A I understand.

17 Q Here's what I want to ask you about, at
18 some point, the dog gets put outside?

19 A Right.

20 Q You come out of the bathroom?

21 A Right.

22 Q Joanie and her father's still in the house?

23 A Right.

24 Q At some point, did her father leave the
25 house?

1 A He did, but Joanie and I continued to have
2 a discussion. We were at about a distance of probably
3 seven or eight feet from one another.

4 Q Okay.

5 A The front door was still open and he barged
6 back in ---

7 Q Okay.

8 A --- while we were having this discussion.

9 Q So he comes in the house for a second time?

10 A Right.

11 Q And y'all are still talk -- you and Joanie
12 are still talking?

13 A Right.

14 Q He joins that conversation?

15 A Not so much. Not really. At that point,
16 they both go outside.

17 Q Okay.

18 A And the front door is open this entire
19 time.

20 Q All right.

21 A It's just kind of --

22 Q When they -- when they both walk out of the
23 house that time, did they both go and get in the
24 truck?

25 A They both went towards the truck.

1 Q Okay.

2 A I know that he went to the truck. I don't
3 recall him getting in the truck and sitting down.
4 What I basically recall is her whizzing back by me
5 saying she had forgotten her phone.

6 Q Okay.

7 A And goes whizzing back by me. Then when I
8 looked the other direction, here he came across the
9 front of the truck and up the little walkway with a
10 bat swinging with a look on his face that -- it was
11 anger and amusement together. Almost like an I'm
12 going to show you type ---

13 Q All right.

14 A --- thing.

15 Q So Joanie is back inside the house at this
16 point?

17 A She had gone back into the house. The doors
18 go open.

19 Q With her purse?

20 A I recall -- I don't recall if she had her
21 purse or not.

22 Q Okay. And somewhere during that time, you
23 see her father get out of the truck and he's
24 walking --

25 A Yeah, he walked to the truck and got the

1 bat. He didn't get in the truck to leave. He just
2 basically walked to the truck, opened it up, got his
3 bat out of the back, came around the truck with the
4 bat. I really didn't see what he had until he was
5 around the front of the truck. I mean, he didn't say,
6 I'm going to get a bat out of --

7 Q You saw a bat in his hand?

8 A Yes, sir.

9 Q And he was out in front of his truck?

10 A Yeah.

11 Q You and Joanie are inside the house?

12 A I was actually out on the little walkway
13 and bottom step at that point.

14 Q Okay. And what's he doing with the bat?

15 A Swinging it.

16 Q All right.

17 A And going forward with it like that.

18 (Demonstrating.)

19 Q When did Joanie come back out of the house?

20 A I never saw Joanie again until she jumped
21 me from behind. Basically, the first thing she did
22 was pull my hair and dig her claws in my forehead and
23 peel my skin open in this area here.

24 Q Let's talk about that. Let me walk through
25 this so I don't get confused. There was some

1 testimony earlier about Joanie and you talking about
2 the cell phone and her purse and dumping the purse
3 out.

4 A Right.

5 Q You heard all that?

6 A I heard all that.

7 Q Were you present when all that happened?

8 A I only remember her going back to saying
9 that she had forgot her phone and whizzing by me. I
10 do recall telling her to pack her stuff and just go
11 and not come back. I do recall saying that.

12 Q Did you dump her purse out?

13 A I have no recollection of doing that.

14 Q All right. At some point in time after that
15 event may or may not have happened, she leaves the
16 house or you walk out of the house?

17 A Right.

18 Q At that time, you see Billy Sanders with
19 bat in hand walking towards you?

20 A Right. Well, he was approaching me at a
21 pretty fast rate. It wasn't so much walking.

22 Q Okay. And Joanie at that point in time was
23 where?

24 A She was still in the house or behind me.
25 She was out of my line of sight. We were locked up,

1 wrestling and over the bat by the time she came back
2 behind me.

3 Q Now, when you and Bill started wrestling
4 over the bat, where were you standing at that point
5 in time?

6 A When we first started wrestling on the bat,
7 at the bottom step, right where the walkway begins.

8 Q You saw these photographs earlier and they
9 showed the back door and the side door, some door to
10 the house --

11 A Yeah, that's -- that was the front door.

12 Q The front door?

13 A Yeah, it's a short little -- very short
14 little sidewalk.

15 Q Okay. So you're standing on that landing---

16 A Right.

17 Q --- when you see Bill coming towards you
18 with the bat?

19 A Yes, sir.

20 Q Is that the spot where y'all first started
21 wrestling around?

22 A Yes, sir. He swung the bat and actually hit
23 me right above my left knee. I grabbed the bat.
24 That's when we began to --

25 Q All right. And y'all were, at that point in

1 time, still on that little stoop area, or y'all had
2 gotten down to the lawn area?

3 A When we began wrestling, we worked our way
4 to where we were in front of the truck. The driveway
5 is not very wide at all.

6 Q Okay.

7 A So we both went off of that little drop-off
8 and ended up in between two Leyland cypress and up
9 against this fence that was already delapidated and
10 starting to come apart.

11 Q Right. Well, you heard some testimony
12 earlier about you charging at her father and hit him
13 so hard it knocked him 10 feet through the air up
14 against the fence. Did that happen?

15 A No. I don't even think that the distance of
16 10 feet would have -- no. It didn't happen like that.
17 We locked up. We locked up wrestling over the bat. It
18 was kind of back and forth. I was surprised at how
19 strong and aggressive he was with it. I thought it
20 would have been easier to take the bat.

21 Q All right. But it wasn't easy?

22 A No.

23 Q At some point during that wrestling around,
24 both of y'all ended up on the ground?

25 A Yes, sir.

1 Q And were you on top or was he on top?

2 A He was -- he was kind of on top of me. We
3 split down this little drop-off where the two
4 different lots were graded off. It drops off and
5 there is the fence right at the bottom of it. These
6 Leyland cypress were in front of it. Of course, in
7 the pictures they had taken, the Leylands had been
8 all chopped down.

9 Q Okay.

10 A They were thick at the time and grown
11 together.

12 Q Okay. And so you're telling me that the two
13 of y'all ended up kind of between the Leyland cypress
14 all against the fence.

15 A Yes, sir. The top of the fence fell down on
16 both of us because it was a tall eight-foot fence. It
17 had a decorative header on the top of it.

18 Q Okay.

19 A All of that ---

20 Q Had fallen down?

21 A --- fell down on both of us.

22 Q Who was outside in front of the truck next
23 to the fence wrestling around? Who was outside at
24 that time?

25 A Joanie Sanders appeared after we were on

1 the ground. I was kind of laying backwards like this.
2 I had slid, skidded down. I didn't have shoes on. I
3 had, at first, had Birkenstock sandals on. They had
4 slipped off.

5 Q Okay.

6 A So I was in bare feet and socks kind of
7 laid back like this. He's kind of leaned down on top
8 of me over me.

9 Q Was there anybody else out there at that
10 time?

11 A Not at that time, no.

12 Q When did Joanie show up?

13 A Joanie showed up at some point. I started
14 to try to sit up. I was down like this. I started to
15 sit up. We're struggling over this bat trying to pry
16 it -- pry it away from each other.

17 Q Right.

18 A Like, you know, both doing that. She
19 appears and the first thing that she does is grabbed
20 my hair and started pulling my hair out. The next
21 thing she did was claw my forehead and peel my
22 forehead back. While she was doing that, she was also
23 clawing up -- had gone under the back of my shirt
24 somehow and was clawing my back up. While this was
25 going on, I'm wrestling with him with this bat that

1 he's jabbing at me.

2 Q At some point --

3 A He had the handle side and I had ahold of
4 the fat side of the bat.

5 Q All right. At some point in time, there's
6 been testimony that Joanie's fingers got bitten.

7 A Right. Well, she --

8 Q Stop.

9 A Okay.

10 Q Do you recall biting her fingers?

11 A I don't -- I recall her screaming saying
12 he's trying to bite my fingers off. Basically, she
13 began to suffocate me first, you know, around my
14 throat and had her hands over my mouth. I do remember
15 that. I won't say I went unconscious, but I
16 definitely -- I'm an epileptic so I kind of began to
17 see what you would call aura. At that point, I felt
18 like I was losing consciousness because of not
19 getting any oxygen.

20 Q Did you ever lose consciousness that day?

21 A Not completely. No, sir.

22 Q Do you recall biting Joanie's hands?

23 A I don't recall biting her fingers, but I
24 recall her screaming saying he's trying to bite my
25 fingers off and coming to and then letting go. I do

1 recall letting go, but I don't recall doing it so
2 much. She was suffocating me and I did it because I
3 couldn't breathe.

4 Q Okay. At some point in time, she lets go
5 and is no longer choking you, scratching you or doing
6 any of that stuff?

7 A Right. Still struggling with the bat while
8 this is going on.

9 Q All right. Did there come a point, though,
10 where all that ended and you were in charge of -- you
11 had control of the bat?

12 A She got up and ran down to the end of the
13 driveway.

14 Q All right.

15 A I got the bat and got up and staggered in
16 the house with it and put it on the kitchen table.

17 Q Did you ever go back outside?

18 A I did go back outside, but not with the
19 bat.

20 Q Where did you go when you went back
21 outside?

22 A I went outside and I stood on the -- on the
23 steps. I did walk down to the edge of the little
24 walkway, but I didn't come any closer than that.

25 Q Did you ever go back down and talk to Bill

1 or see Bill?

2 A No.

3 Q You left with the bat in hand. You tried to
4 remove yourself from the situation?

5 A Right. When I left, Bill was still upright
6 looking at me and we were still talking when I got
7 the bat and took it inside.

8 Q Where was Joanie at that point?

9 A Joanie at that point had run down the
10 driveway to the end of the driveway and kind of
11 vanished from sight. But I could still hear her down
12 there.

13 Q At that point is when you walked back into
14 the house with the bat in hand?

15 A Yes, sir. As soon as I got possession of
16 the bat, I took it inside, put it on the table and
17 went back outside and had a few words with one of the
18 guys that were out there. I just said, hey, man, he
19 came at me with the bat. I'm going to be inside to
20 wait for the authorities to get here. I was
21 aggravated, agitated at that point, certainly.

22 Q You told somebody else who was out there,
23 some guy who was out there with Bill at that point.
24 I'm just trying to understand --

25 A I told him, yes, that Bill had come at me

1 with the bat.

2 Q And you told that fellow what?

3 A I just told him that I didn't consider him
4 a legal official and that I was going to go back
5 inside. I think something like screw you, he came at
6 me with a bat, I don't have anything to discuss with
7 you, I'm going to wait on the authorities to get
8 here.

9 Q At that point --

10 A He wanted me to come over there.

11 Q Let me ask a question. At that point, did
12 you walk back inside the house?

13 A Yes, sir.

14 Q When did you then come back out of the
15 house?

16 A I came back out of the house when the
17 police were at the back door pounding on the back
18 door real loud after I had a conversation with Joanie
19 on my iPad, texting her.

20 Q When you heard the police knocking on the
21 back door, you open the curtains, correct?

22 A Yes, sir.

23 Q You saw it was the police?

24 A Right.

25 Q Were they pointing a gun at you at that

1 time?

2 A Yes, sir. They -- one of them was pointing
3 a gun at me.

4 Q All right. Did you then open the door and
5 make contact with --

6 A Yes, sir.

7 Q Did you do everything they asked you to do?

8 A Yes, sir.

9 Q They asked you to sit down?

10 A They told me to get on the ground face
11 first.

12 Q Did you do that?

13 A Yes, sir.

14 Q Did you do everything else they asked you
15 to do?

16 A Yes, sir.

17 Q Were you ever aggressive towards the police
18 or disrespectful?

19 A No, sir.

20 Q Any manner that --

21 A No, sir.

22 Q They put you in handcuffs?

23 A Yes, sir.

24 Q They took you out and put you in a patrol
25 car?

1 A Right.

2 Q Took you to the LEC?

3 A Yes, sir.

4 Q Bleeding?

5 A I had -- I had marks on my forehead. I had
6 marks on my back. Yeah, it had been bleeding. I had
7 asked for medical attention to Officer McCloud.

8 Q Did you ever get medical attention?

9 A No. I got medical attention later at the
10 Law Enforcement Center after the fact because I
11 requested it.

12 Q That medical attention was to address the
13 injuries that you had sustained during this
14 altercation where Joanie had jumped on your back and
15 was choking and scratching you?

16 A Yes, sir.

17 Q That's the injuries that required
18 attention?

19 A Yes, sir.

20 Q Did you have a gun?

21 A Did I have a gun?

22 Q Yes.

23 A No, sir.

24 Q Did you have a baseball bat?

25 A No, sir..

1 Q Well, I thought you took the bat away from
2 him.

3 A I took the bat away from him, but it wasn't
4 my bat.

5 Q That was Billy's bat.

6 A It was Billy's bat, yes.

7 Q The one he came at you with?

8 A The one he came at me with, yes, sir.

9 Q You took it away from him and took it back
10 inside your house?

11 A I took it away, took it inside and put it
12 on the table.

13 Q That day, that day when all this happened,
14 how would you describe your relationship -- prior to
15 all this happening, how would you describe your
16 relationship with Billy?

17 A We were good friends.

18 Q All right. Were you surprised by the
19 aggressive manner of the events that took place that
20 day?

21 A Yes, sir. I was surprised. It caught me off
22 guard.

23 Q Were you worried?

24 A Yes, sir.

25 Q Scared?

1 **A** Yes, sir.

2 **Q** When -- after the event happened that day,
3 had you been back to your house?

4 **A** Not at all.

5 **Q** You came to find out that Billy
6 subsequently passed away, is that correct?

7 **A** Yes, sir. He lived between 45 and 50 days.
8 I was told by my mother that he had passed away on
9 November the 19th. She told me early the next day.

10 **Q** How did you feel at that time?

11 **A** I was devastated.

12 **Q** You heard the doctor testify yesterday?

13 **A** Yes, sir.

14 **Q** And did you -- were you lead to believe
15 prior to and or including that testimony that y'all's
16 wrestling over the bat, the little ruckus out there,
17 was it your understanding that had nothing to do with
18 Billy's ultimately passing away?

19 **A** Yes. It was my understanding that --

20 **MS. MUNSON:** Objection, Your Honor. That
21 would be going too far to continue that answer.

22 **THE COURT:** All right. I sustain that
23 objection. We've had testimony about that.

24 **MR. CULBERTSON:** Well -- all right.

25 **BY MR. CULBERTSON:**

1 Q Did the police, when they finally made
2 contact with you, did the police come inside the
3 house?

4 A They didn't enter the house.

5 Q Did they ever look around the house?

6 A They did look around the house and in the
7 building.

8 Q Was there anything illegal, illicit
9 contraband inside the house?

10 A Yes, sir.

11 Q What?

12 A Marijuana.

13 Q Whose?

14 A Both -- both parties.

15 Q Both parties, being you and Joanie?

16 A Yes, sir.

17 Q Did you ever have any guns in the house?

18 A No, sir.

19 Q The day all this happened, were you ever
20 the aggressive party in any of this?

21 A No, sir.

22 Q Were you attacked by others during this
23 fight?

24 A Yes, sir.

25 Q And were you in fear of your life and your

1 property during this time?

2 A Yes, sir.

3 Q Did you do anything that day that would
4 have been different than trying to protect yourself
5 or your property?

6 A No, sir.

7 Q Thank you. Appreciate it. Answer any
8 questions from the other side.

9 CROSS-EXAMINATION

10 BY MS. MUNSON:

11 Q Mr. Carpenter, what -- about what size
12 fellow are you?

13 A What size?

14 Q Yeah. What size?

15 A What height or weight?

16 Q Height, weight?

17 A Okay. I'm six foot two and I weigh about
18 198 pounds.

19 Q You weighed more back then, didn't you?

20 A According to my license that I have, it
21 says that I weighed 189 pounds in ---

22 Q Okay.

23 A --- 2014, like a month or two before that.

24 Q I'm going to try again. Mr. Carpenter, your
25 size right now, you weigh less right now than you did

1 on September the 25th of 2014? Yes or no?

2 A About the same.

3 Q About the same. And you're 40-how-old now?

4 A 43.

5 Q So a couple of years ago, you would have
6 been 42?

7 A I think I was 41 at the time it happened.

8 Q 41 when it happened. You described for the
9 jury a bunch of things you did. Carpentry, playing
10 instruments, landscaping, things like that. Is that
11 physical work?

12 A Yes, ma'am.

13 Q You in pretty good shape?

14 A Decent shape. I had been in a wreck about
15 three and a half or four months before that and was
16 in critical condition and ICU for a short period of
17 time. I was still recovering from a lot of abdominal
18 injuries. I had collapsed lungs, ruptured colon,
19 punctured bladder. So I was still weak in my trunk,
20 central area.

21 Q So you're telling this jury that you got
22 into this violent physical struggle with Mr. Sanders
23 three months after almost dying in a car wreck?

24 A Yes, ma'am. Three -- yeah, four, however
25 many months it was.

1 Q So you were in really good shape then,
2 correct?

3 A I was in really good shape?

4 Q Just generally.

5 A I was in fair condition.

6 Q Now, the wreck you had, that was when you
7 wrecked Joanie's truck, correct?

8 A Well, it was our truck. But yes, I wrecked
9 the truck.

10 Q How did you wreck that truck?

11 A I ran into a tree.

12 Q In the middle of the night?

13 A Five o'clock in the afternoon.

14 Q You just ran into a tree?

15 A I really don't recall. I had head injuries.

16 Q Okay. So it is your testimony that you were
17 totally surprised by Mr. Sanders' actions?

18 A Yes, ma'am.

19 Q Never seen him act like that before?

20 A Never.

21 Q And he was 83 at the time?

22 A 82, I believe. Almost 82, 81.

23 Q He was 80 years old, at least?

24 A Oh, yeah. For sure.

25 Q Okay. And you're saying that he had this

1 bat, State's Number 9, by the handle side?

2 A Yes, ma'am. By the handle side.

3 Q Swinging it in one hand and coming at you?

4 A Like the -- he did it forward like so and
5 then swung it around like that.

6 Q Like a conductor? Swinging it like this?

7 A It was a lot more hostile than a conductor,
8 I mean.

9 Q So he was coming --

10 A I've seen passionate conductors that are
11 really into what they are doing. But nah, he was
12 coming fast and furious.

13 Q You've been together with Joanie, you say,
14 20-something years?

15 A Yes, ma'am.

16 Q You split up from time to time?

17 A She left me for about four months. That's
18 the only time that we ever officially split up. When
19 she left, she didn't say she was leaving and after
20 the fact has said, oh, no, I just went -- heard
21 conflicting tales as to whether she really left or
22 not.

23 Q Mr. Carpenter, did you split up more than
24 once while y'all were in this long relationship?

25 A Just once.

1 Q One time?

2 A Just one time.

3 Q All right. And she left you?

4 A Right, for four months.

5 Q With no explanation?

6 A Yeah, well, she basically said that she was
7 going down to Florida to work to help get bills
8 caught up because she had been terminated from a
9 part-time temporary job she had doing merchandising
10 with Willie Nelson's group. She helped do
11 merchandising and she been terminated from the
12 position a couple of months before that. So between
13 my income and her income, we were having some
14 shortcomings. She said she was going down to work for
15 her ex-sister-in-law and Mark Morris down in Florida.
16 And that was her reason she said she was going down
17 there and that she would be down there two and a half
18 to three weeks and didn't return.

19 Q So that's not a split up then? She was
20 going to take a job for a while, not leaving.

21 A Well, she didn't say at the time that she
22 was splitting up, but I went to a friend's funeral in
23 November. I believe it was on November the 12th, John
24 Gosnell's funeral. I had five or six different people
25 come up to me and say, I'm sorry to hear about Joanie

1 leaving you. That's terrible. I said I didn't know
2 she left me. I thought she went down there to work.
3 She had evidently informed these other folks that she
4 had left and was telling me a different story.

5 Q All right. Mr. Sanders, you didn't expect
6 him that day?

7 A No. I wasn't expecting him. Joanie and I
8 had gone out to eat at Molina's Mexican Restaurant
9 about a mile from the house the night before and she
10 had no intention --

11 Q That night -- that morning, did you expect
12 Mr. Carpenter -- I mean, Mr. Sanders at your house?

13 A No.

14 Q Yes or no?

15 A No.

16 Q Okay. And he was almost breaking the door
17 down and it was ---

18 A Yes, ma'am.

19 Q --- coming off the frame?

20 A Yes, ma'am.

21 Q And you acknowledge you asked him, do you
22 have a gun?

23 A I did -- I did ask him if he had a gun and
24 I told him I didn't want him in my house because he
25 had a concealed weapons permit and I felt that ---

1 Q So you tried to throw him out.

2 A --- he was being threatening. I asked him
3 to leave multiple times.

4 Q All right. Good. So he leaves. You told Mr.
5 Culbertson that you didn't want to talk to anybody
6 outside after Mr. Sanders went through the fence with
7 a brain bleed.

8 MR. CULBERTSON: Objection.

9 MS. MUNSON: You didn't want to talk to
10 anybody --

11 THE COURT: I'm sorry? What's that?

12 MR. CULBERTSON: Objection to the form of
13 the question.

14 THE COURT: I thought that she was just
15 asking ---

16 MS. MUNSON: It's cross-examination.

17 THE COURT: -- his -- a question. I'll
18 allow it. Go ahead.

19 BY MS. MUNSON:

20 Q After he went through the fence with a
21 brain bleed, you testified --

22 MR. CULBERTSON: That's what I object to,
23 Your Honor, the editorial comments during her
24 questioning. I'm going to be objecting a lot.

25 THE COURT: All right.

1 **MS. MUNSON:** That's what Dr. Watson said.

2 **MR. CULBERTSON:** I don't care. It's still
3 improper questioning.

4 **THE COURT:** All right. I allowed you a
5 little leeway on it. I'm going to allow her a
6 little leeway on it. Go ahead.

7 **BY MS. MUNSON:**

8 **Q** Your testimony was that you didn't want to
9 talk to anybody outside because they were not the
10 authorities. You were going to wait for the
11 authorities.

12 **A** Exactly.

13 **Q** Why?

14 **A** Because I felt like my rights had been
15 violated. I felt like I had been put in harm's way. I
16 felt like I was safer going inside and there would be
17 no further conflict, disagreement. And I waited for
18 the authorities to arrive.

19 **Q** But you didn't come out when the
20 authorities got there.

21 **A** Well, I actually was in my room, which is a
22 it was set up to be a soundproof studio. I was in
23 my room when the door closed. I was actually texting
24 Joanie at the time.

25 **Q** Let's talk about those texts.

1 A Yes, ma'am.

2 Q Did you tell her, your father came at me
3 multiple times, he threatened me with a gun?

4 A I felt like he did threaten me with a gun.
5 He continued to reach into his coat ---

6 Q Oh.

7 A --- and had, obviously, some type of strap.

8 Q Okay. But those --

9 A And he cornered me in my bedroom and stood
10 over the doorway. You know, I'm like, this is my
11 house Bill. I have a right to ask you to leave. I
12 want you to go outside and wait on your daughter
13 please.

14 Q Could those straps have been suspenders
15 holding up an old man's pants?

16 A (No audible response.)

17 Q Could have? Did you also tell her, I was
18 merely defending myself? Did you tell Joanie that?

19 A I did say that. She replied that she knew
20 that I was.

21 Q Did you text her that you left the house
22 and you were at the old cursed Indian cemetery?

23 A I did text that, but I had not left the --
24 I had not left the house. That was -- that was an
25 encrypted statement.

1 Q An encrypted statement?

2 A Right.

3 Q I'm sorry. I have no idea what that means.

4 A Well, I was trying to imply to her in code
5 that, like, look, I'm -- she wanted me to come
6 outside. She said, if you come outside, there won't
7 be a problem or we can handle this outside. I said,
8 well, no, I'm, you know, -- I told her that I was,
9 you know, basically trying to say that I was leaving
10 and was going to try to cover -- I didn't want the
11 cops coming in the house.

12 Q Okay.

13 A She obviously didn't want the cops in the
14 house.

15 Q Right. Did you tell them that if they do
16 kick the door down, they better be ready to face Tsul
17 Kalu?

18 A Yeah, Tsul Kalu.

19 Q So you texted her if they break the door
20 down, they better be ready to face --

21 A They didn't break the door down. I went
22 outside.

23 Q All right. Can I please finish my question
24 please?

25 A I'm just trying to answer your question.

1 Q Did you tell them -- did you tell Joanie in
2 a text that if they broke in the house, they better
3 be ready to face Tsul Kalu? Did you text her that?

4 A I remember -- I remember some of this, but
5 it's very well possible.

6 Q Do you know what Tsul Kalu is?

7 A Oh, I most certainly do.

8 Q Okay. What is that?

9 A It's the Cherokee Lord of the Hunt.

10 Q And what is -- what is the -- what are the
11 powers of Tsul Kalu that the authorities should be
12 afraid of Tsul Kalu?

13 MR. CULBERTSON: I'm going to object to
14 that, Your Honor.

15 THE COURT: Well, he --

16 THE WITNESS: Tsul --

17 THE COURT: -- he says that -- hold on one
18 second.

19 MR. CULBERTSON: Stop.

20 THE COURT: I'm going to allow you to go
21 into this just briefly to lay a little
22 foundation for the jury. That's it. All right.

23 BY MS. MUNSON:

24 Q That was the only question I was asking is,
25 why -- why should -- what are the powers that are --

1 why should they be afraid of Tsul Kalu is all I'm
2 saying. That's all I'm asking.

3 A If -- it had to do with me feeling like I
4 was violated. Someone had attacked me in my own home
5 with a bat. I was defending myself. I was very
6 agitated, you know, very upset.

7 Q Sure. Sure.

8 A A lot of drama, conflict went on. Joanie is
9 well aware of who Tsul Kalu is. She now is professing
10 all this Christianity and going to church, but she
11 knew what all that was. I'm a Cherokee. Tsul Kalu is
12 sacred to the Cherokee. The masks are sacred to the
13 Cherokee and actually used for healing and not used
14 for aggression or evil.

15 Q So Mr. Carpenter, please understand. I am
16 not attacking or downgrading any of your religious
17 beliefs. That's none of my business. I'm just asking
18 you questions about what happened that day. Do you
19 deny that you took a Tsul Kalu mask and broke some
20 pottery in the house?

21 A Oh, I deny that. I didn't break any pottery
22 in the house with the mask.

23 Q Did you have the mask?

24 A Yes, ma'am.

25 Q Did you put it in front of your face and

1 say something to Mr. Sanders?

2 A In Tsalagi, yes.

3 Q Is that a type of a language?

4 A It's -- the Cherokee language is formerly
5 called Tsalagi.

6 Q So what did you say to him in that --

7 A I basically asked that what affliction or
8 confusion had come over him to be dispersed.

9 Q Okay.

10 A You know? To essentially --

11 Q Do you think that mask is scary looking?

12 A No.

13 Q You don't?

14 A I mean, not to me it's not.

15 Q Do you think that it would be scary to
16 other people?

17 A Give or take -- I guess it is a form of
18 opinion. He had expressed to me before that he felt
19 that the masks were idols and a type of -- they were
20 sacrilegious to him.

21 Q Okay.

22 A He had expressed that he thought they were
23 idolatry or a form of sorcery, something of that
24 nature.

25 Q Okay. So you knew that --

1 **A** He had expressed that before.

2 **Q** Okay. So you didn't go to church with
3 Joanie or Mr. Sanders or -- whenever they did go to
4 church, you didn't go with them?

5 **A** No. I didn't go to church with them. She
6 went to church semi-infrequently, but mainly to play
7 music ---

8 **Q** Okay.

9 **A** --- when they had plans to go before.

10 **Q** Okay. Can you show the jury what you did
11 with the masks?

12 **MR. CULBERTSON:** I object, Your Honor.

13 **THE WITNESS:** It --

14 **THE COURT:** What's your objection? Hold on
15 one second.

16 **MR. CULBERTSON:** Stop.

17 **THE COURT:** What's your objection?

18 **MR. CULBERTSON:** I don't know what mask
19 she's talking about. I don't know what --

20 **MS. MUNSON:** He knows, Your Honor, because
21 I sent him a picture of it.

22 **MR. CULBERTSON:** It's not evidence. I don't
23 know what she's going to do with it. I object to
24 this whole thing.

25 **THE COURT:** Are you asking him to identify

1 it while it's still somewhat in the bag?

2 **MS. MUNSON:** Yes.

3 **THE COURT:** All right.

4 **MS. MUNSON:** I was going to let him look
5 at it first.

6 **THE COURT:** All right. If you will let him
7 identify it with the jury not able to see it, he
8 can look in the bag and see if he can identify
9 it.

10 **THE WITNESS:** That's not the correct mask.

11 **BY MS. MUNSON:**

12 **Q** Did you even, like, look at it?

13 **A** Yeah, that's not the correct mask.

14 **Q** Okay. But is that one of your masks?

15 **A** That's a mask I made, right there.

16 **Q** Okay.

17 **A** Yes, I made that mask.

18 **Q** All right. This is not the one that you had
19 that day?

20 **A** (No audible response.)

21 **Q** Is that right?

22 **A** That's right.

23 **Q** That's not the one you put in front of your
24 face and spoke --

25 **MR. CULBERTSON:** Objection, Your Honor.

1 **THE COURT:** What's the objection?

2 **MR. CULBERTSON:** Well, she already talked
3 about this mask. Now, it's coming in. It's not
4 in evidence. She keeps going back to some mask
5 that ---

6 **THE COURT:** Overruled.

7 **MR. CULBERTSON:** --- nobody --

8 **THE COURT:** She's asking him a question
9 about the mask. I'm going to allow it. All
10 right.

11 Go ahead.

12 **BY MS. MUNSON:**

13 **Q** So that's not the mask that you used to
14 hold in front of your face and say something to Mr.
15 Sanders?

16 **A** No, that's not the correct mask.

17 **Q** But you did do that?

18 **A** Yeah, I put a mask on and said something.

19 **Q** And it's your testimony that you were sort
20 of, for lack of a better term, praying for him?

21 **A** Yes, ma'am.

22 **Q** Okay. Now, the struggle that took place
23 between you and Mr. Sanders, you say it started at
24 the steps? At the porch?

25 **A** Yes, ma'am.

1 Q And y'all -- two of you are locked with the
2 bat all the way to the fence?

3 A Yes, ma'am.

4 Q And you -- are you both standing up at this
5 point?

6 A For the most part, yes, ma'am.

7 Q Okay.

8 A It was kind of a back and forth. Almost a
9 tug-of-war-type effect.

10 Q But you would agree. Is he walking
11 backwards and you're walking forwards?

12 A He was pulling that way.

13 Q He was pulling you?

14 A Right.

15 Q And he got you at least one time in the
16 knee?

17 A He hit me multiple times with the bat.

18 Q With the bat?

19 A Right. He jabbed me.

20 Q Okay.

21 A But the first time he hit me was right
22 above the knee on what would be my left side.

23 Q Did it hurt?

24 A It -- it concerned me enough to where I
25 grabbed him -- I didn't want him to hit me again with

1 it.

2 Q But it didn't concern you enough that when
3 the authorities did get there that you didn't say,
4 thank God you're here, this crazy old man just beat
5 me with a bat?

6 A Well, I -- I told them that -- I told them
7 that when I did see them.

8 Q But it didn't concern you enough to ask for
9 help?

10 A I don't understand where you're coming
11 from.

12 Q It didn't concern you enough to say to the
13 deputies, that old man over there almost killed me?

14 A I did tell them that.

15 Q Oh, you did tell them?

16 A I did tell them that.

17 Q Okay. And you didn't ask for medical help?

18 A I did ask for medical help.

19 Q Did you tell the deputies to shoot you? You
20 deny that as well?

21 A No, I don't deny that.

22 Q Okay.

23 A I said if you're going to point a gun at
24 me, just go ahead and shoot me, you know.

25 Q And then you could sue them. Is that what

1 you told them, too?

2 A No, I told them I was going to sue them for
3 kicking through my fence and doors and --

4 Q Did they kick in your door?

5 A They kicked in the gate. They destroyed the
6 gate on the outside of the house to get in.

7 Q And you're saying that you sort of maybe
8 felt like that you were about to have a seizure when
9 Joanie was strangling you or suffocating you?

10 A It brought on an aura that --

11 Q Okay.

12 A -- it's almost like shooting stars or
13 seeing stars when you get disoriented or hit in the
14 head.

15 Q Uh-huh.

16 A That was -- that was linked with the
17 suffocation and the fact that I was getting jabbed
18 with a bat continually.

19 Q Okay. Jabbed with it. What do you mean?

20 A That was when we were on the ground and
21 Joanie had me from behind. Mr. Sanders was -- he had
22 the handle of the bat. He was jabbing me with the bat
23 while this was going on.

24 Q Okay. Let me ask you something else here.
25 Mr. Sanders, would you consider him frail at the

1 time?

2 **A** Mentally, yes. Physically, he was rather
3 strong.

4 **Q** Okay. To acknowledge that Mr. Sanders said
5 to you that day -- after the dog came in and started
6 getting after you, Mr. Sanders said, you're going to
7 kill the dog if you don't stop holding him that way?

8 **A** Right, because I had the dog by its neck
9 with its head turned like that because it was -- it
10 was attempting to maul me.

11 **Q** Okay.

12 **A** And it could have potentially harmed him as
13 well. The dog was an unpredictable, vicious pit bull.
14 I was actually the owner of the dog.

15 **Q** Listen, Mr. Sanders -- I mean, Mr.
16 Carpenter, was there another dog in your back yard
17 that day?

18 **A** No.

19 **Q** Only that one?

20 **A** Right.

21 **Q** That you describe as unpredictable and
22 vicious. That's the only dog that was in your back
23 yard. And that's the same dog that the deputies
24 referred to as friendly. Is that the same dog?

25 **A** It's the same dog, but it's -- you know,

1 it's an unpredictable, vicious pit bull.

2 Q Okay.

3 A Or was. It's since passed.

4 Q Do you think that Joanie was not justified
5 in being afraid of you that day?

6 A I did not attempt to stop Joanie from going
7 to church whatsoever.

8 Q Okay.

9 A I had no problem with that. The bulk amount
10 of the actual discussions I had with Bill to begin
11 with was over a refrigerator that she had -- that he
12 had pressured her to buy that I had said, no, don't
13 by a side-by-side that's used. Just to go get a
14 standard new unit and when we'll, when we can afford
15 it, buy a side-by-side.

16 Q Okay.

17 A And he had talked her into buying this used
18 unit and there was a problem with that unit and it
19 had issues and I was just like, you took my money. I
20 gave her money to go get this thing, but I asked her
21 to get a brand-new unit. She rode with Bill in his
22 truck to get it.

23 Q All right. So you weren't -- there was no
24 argument at all about church? You and Joanie were
25 fighting about a refrigerator?

1 A Yeah. It was about a refrigerator. The
2 disagreement about church all stemmed from the fact
3 that she had no plans to go to church with him.

4 Q She wanted to go.

5 A Well, she decided after the fact because
6 her mother had said that he's not doing well, he
7 really needs you to go to church.

8 Q Okay. You didn't like all that church
9 stuff, do you? Which is fine.

10 A I don't have a problem with church. I don't
11 have a problem with church, whatsoever.

12 Q What I asked you is this, do you think that
13 Joanie was justified in being afraid of you that day?

14 A No, because I was used to her going to
15 church infrequently when she would plan to play, but
16 there was no plans this particular day. We both had
17 slept in. We had an enjoyable evening the night
18 before.

19 Q So there's nothing that you did or said
20 that day that would put her in fear?

21 A Not that -- not that I'm aware of. I mean,
22 she was fully knowledgeable. Those masks were on her
23 wall as well. All that stuff, she was familiar with
24 what it was. I don't really understand -- I don't
25 feel like she was threatened or potentially harmed in

1 any way.

2 Q Okay. So she wouldn't be justified in being
3 afraid of you that day?

4 A No. I don't -- I don't think so, no.

5 MS. MUNSON: I beg the Court's indulgence.

6 THE COURT: Certainly.

7 (WHEREUPON, there is a pause.)

8 MS. MUNSON: Thank you, Mr. Carpenter. I
9 have nothing further, Your Honor.

10 THE COURT: Mr. Culbertson, anything?

11 MR. CULBERTSON: No, ma'am.

12 THE COURT: Sir, you can step down.

13 THE WITNESS: Okay. Thank you.

14 THE COURT: All right.

15 Mr. Culbertson, anything else?

16 MR. CULBERTSON: Would you bear with me
17 just one moment, Your Honor?

18 THE COURT: Certainly.

19 MR. CULBERTSON: I want to have a brief
20 conversation with my client. It won't take more
21 than 30 seconds.

22 THE COURT: That's fine.

23 (WHEREUPON, there is a pause.)

24 MR. CULBERTSON: Thank you, ma'am. We're
25 done.

1 **THE COURT:** All right. So the defense is
2 going to rest. That's good timing for us because
3 your lunch is here. I'm going to ask you to step
4 to your jury deliberation room even though I
5 believe we've come to the end of the defense's
6 case. It's not time to discuss this case yet.
7 We'll still have a few more matters to take up
8 right after lunch. But feel free to go in there
9 and relax. Take a few minutes. Eat your lunch. I
10 think if somebody needs to step outside or
11 something like that, that's certainly fine, too.
12 We'll take a -- we'll take a break. It will be
13 close to 1:30 when we'll start back. Okay. All
14 right. Thank you so much.

15 I'll ask everyone else to remain seated.

16 **(WHEREUPON, the jury exits at approximately**
17 12:36 p.m.)

18 **THE COURT:** Ms. Munson, do you anticipate
19 any reply testimony?

20 **MS. MUNSON:** Unfortunately, Your Honor.

21 **THE COURT:** Okay. All right. That's fine.
22 That's fine. All right. Well, their lunch is
23 here so I'm going to let them eat. We'll take a
24 break until about 1:30, and then come back, do
25 the reply testimony, if necessary, and then

1 argue and charge.

2 We've added ABHAN and Assault and Battery
3 first degree as lesser includeds in the charge.
4 We've also fixed the portion about intent.
5 That's it so far. Any other matters we need to
6 take up before we break for lunch?

7 **MS. MUNSON:** Not from the State, Your
8 Honor.

9 **MR. CULBERTSON:** No, ma'am, not at this
10 time.

11 **THE COURT:** There's one thing I want to
12 bring up with the folks in the gallery. I want
13 to be real clear about this. I'm not talking to
14 one side over the other. When this jury comes
15 back in, I -- I -- I was very, very lenient and
16 resorted to stern looks when I saw faces being
17 made and comments being made and eyes rolling
18 and things like that, which I specifically asked
19 everyone not to do. I was - I gave some stern
20 looks. Next time, I'm going to embarrass
21 somebody. All right? It does not help anybody's
22 case in any way, but I'm going to have to
23 embarrass someone next time. And if I can not
24 get your attention with that, I need to tell you
25 that my contempt powers for contempt of court of

1 my order carries up to 10 years in jail. All
2 right. I want to be clear. I'm not going to have
3 this, because once that starts, then the
4 problems start in the courtroom. This jury
5 should not be subjected to that, period. All
6 right. As long as everybody's crystal clear on
7 that, then I'll see you back at 1:30.

8 MR. CULBERTSON: Thank you, ma'am.

9 THE COURT: Thank you.

10 (WHEREUPON, the Court goes off the record at
11 approximately 12:37 p.m.)

12 (WHEREUPON, the Court goes on the record at
13 approximately 1:51 p.m.)

14 THE COURT: All right. Do you still
15 anticipate some reply testimony?

16 MS. MUNSON: After consultation with
17 people smarter than me, no, Your Honor.

18 THE COURT: All right.

19 MS. MUNSON: I'm not.

20 THE COURT: Okay. All right. Very well
21 then. We'll go ahead and bring the jury back in.
22 (WHEREUPON, there is a pause.)

23 THE COURT: We just did a verdict form. Of
24 course, we won't send back the indictments on
25 this one. But it just says, as to Criminal

1 Domestic Violence High and Aggravated Nature, we
2 unanimously find the defendant not guilty,
3 guilty or guilty of Criminal Domestic Violence,
4 and as to the charge of Intent to Murder, we
5 unanimously find the defendant not guilty,
6 guilty or guilty of Assault and Battery of a
7 High and Aggravated Nature or guilty of Assault
8 and Battery in the first degree. Signed,
9 foreperson. That was it.

10 MR. CULBERTSON: Do you mind if I take a
11 look at that real quick?

12 THE COURT: No, I don't mind at all.

13 MR. CULBERTSON: I would just -- I couldn't
14 exactly follow.

15 THE COURT: Sorry. I think it's pretty --

16 MR. CULBERTSON: I'm sure it is. (Pause.)
17 Thank you, ma'am.

18 (WHEREUPON, the jury enters at approximately
19 1:54 p.m.)

20 THE COURT: Ladies and Gentlemen, I need
21 to apologize to you all for keeping you waiting.
22 That had nothing to do with these attorneys.
23 That had to do with another matter that was
24 going on in the courthouse. I said yes, I would
25 do something when I probably should have said

1 no. So I apologize. It's on me, in other words.
2 But we are now ready to go to closing arguments
3 and then my final charge on the law. The case
4 will be in your hands. So we are ready to go.

5 Mr. Culbertson?

6 **MR. CULBERTSON:** Thank you, Your Honor. May
7 it please the Court?

8 **THE COURT:** Certainly.

9 **MR. CULBERTSON:** Hope everybody had a good
10 lunch. I get to talk to you for a few minutes
11 now. Hopefully, I won't be here too long.
12 That's it. Y'all have heard everything there is
13 to hear. In my mind, basically, it comes down to
14 this, a husband/wife, boyfriend/girlfriend
15 relationship, the two of these people had. My
16 client, Joseph, and Joanie had been together for
17 20, 22 years. They'd been living together for a
18 while acting as husband and wife. They had a
19 house together.

20 Whether Joanie went to church every single
21 Sunday with her father or not every single
22 Sunday, if that really happened, in my mind, it
23 doesn't matter. In any event, on the day in
24 question, her father came by and knocked on the
25 door wanting her to go to church with him. Some

1 version of that happened. Obviously, there was a
2 little disagreement about how quickly, how fast
3 he went where. But in any event, Joanie gets up,
4 gets dressed. Goes outside -- or prepares to
5 church with her father. I don't think anybody
6 disputes that.

7 Where the day comes into question, where
8 the argument, discussion and disagreement of the
9 facts are is how willing Joseph, my client, was
10 to have Bill come into his house and what he
11 felt like, what Joseph felt like when Billy came
12 into his house. Was he fearful of that meeting?
13 I'll submit to you initially, maybe not,
14 probably not.

15 But shortly after Joseph and Billy started
16 talking, Joanie comes out. Joseph told you that
17 he had concerns, was worried about Billy's
18 attitude, mental state, his reaction. He told
19 you that he knew that Billy had a concealed
20 weapons or firearms permit, and that was
21 concerning to him and made him somewhat
22 apprehensive for what was going to happen that
23 day. So you heard Joanie goes ahead and gets
24 dressed to go to church.

25 Whether there was a conversation or not

1 about going to church or not going to church or
2 the dog or not the dog, being bitten or any of
3 this stuff doesn't really matter. What matters
4 is that my client, Joseph, in his house was
5 somewhat concerned for his safety from dealing
6 with the facts and situations and circumstances.
7 So he again asked Billy to leave. At some point
8 in time, Billy and Joanie leave to go to church.

9 For some reason, Joanie comes back in the
10 house. I don't care if it was for her cell
11 phone. I don't care if it was to have more
12 conversation with Joseph. I don't care what the
13 reason was. It doesn't really matter, because
14 that level, that element of fear and concern
15 that my client, Joseph, had still existed. It
16 was still in his mind in his house.

17 She comes back in. Billy is at the truck
18 with a baseball bat and comes toward my client.
19 That level of fear, that level of concern, that
20 level of worry that he had before they walked
21 out probably was still there. Now that he sees
22 this guy coming at him with a baseball bat, it
23 may have gone up a little bit.

24 My client, Joseph Carpenter, and Billy had
25 been together a couple of days before. They had

1 enjoyed the day together. They told you they
2 were working on a car together. They've done
3 everything together in a normal situation that
4 you would expect family members to have
5 together. That day was different than the two
6 days before. I don't know why. I don't know what
7 was going on.

8 But you heard Joseph say that he thought
9 things were a little different, especially as it
10 related to Billy's attitude, mental state,
11 physical and aggressive nature. Didn't mean they
12 weren't friends. Didn't mean they didn't
13 consider one another family. Families fuss from
14 time to time. They have disagreements. They get
15 over it. This day was different.

16 This day, Joseph tells you he felt
17 threatened. Especially when a guy regardless of
18 how old he is, regardless of his mental state,
19 regardless of his sanity or not sanity,
20 whatever, Joseph has this guy come after him
21 with a baseball bat. He's scared. In defending
22 himself and his property, he tries to take the
23 baseball bat away from the man that he was
24 concerned about.

25 Now, what happened then? Y'all understand

1 as well as I do, nobody really knows. None of us
2 were there. There was a struggle over this
3 baseball bat. At some point, the two of them,
4 two men end up on the ground still wrestling
5 around over this baseball bat. Whether they went
6 through the fence, did not go through the fence,
7 ended up on the lawn, did not end up on the lawn
8 or whatever, it doesn't really matter. It's
9 clear that they were both wrestling around for
10 this bat, just the two of them.

11 Then, Joanie jumps in the middle of the
12 situation. Then she jumped on my client, Joseph.
13 Then she begins scratching and clawing and
14 hitting Joseph in the head. I don't think
15 there's any dispute about that. He's got
16 injuries. He's been hurt. She's clawing. He --
17 while he's wrestling on his back with the man he
18 was afraid of, she starts doing all this, and he
19 bites her finger. I'm not sure that's
20 (Indiscernible.) I don't think anybody would
21 bite somebody's finger if they're just
22 scratching them. But you guys have got to
23 decide. You have to decide if he was defending
24 himself or that he just went up and bit her
25 fingers. I don't know of any evidence that

1 that's what happened, but you guys have to
2 decide. Regardless, the injuries that she
3 sustained weren't serious enough for her to go
4 see a doctor. I don't know. I wasn't there. It
5 was not my injuries. Nobody bit my finger. I
6 don't know.

7 At some point, things start to calm down a
8 little bit. My client, Joseph, then picks up
9 this baseball bat, walks back over to his house,
10 puts the bat on the counter and goes into his
11 room that apparently had been soundproof such
12 that he and whoever else could play music and
13 not disturb. So he's sitting in there waiting
14 for the police to show up.

15 The police get there, knock on the door.
16 He's in his room, and he can't hear them. He
17 can't hear them, don't hear them, whatever. He
18 then looks out the window and sees the police
19 are there. He opens the door, goes out and talks
20 to the police.

21 He does every single thing they asked him
22 to do. He's not adamant towards the police. He's
23 not aggressive towards the police. He's not
24 doing anything to put any of the police officers
25 in fear or be concerned about how he's going to

1 act. He's doing what, I submit, anybody would do
2 when the police are knocking on the door and
3 saying come here. He walked out. They said get
4 down on the ground. He gets down on the ground.
5 He does everything the police asked him to do in
6 a normal, sane, responsible manner. They
7 handcuffed him. They put him in the patrol car
8 and take him to the police station.

9 The police don't find any gun. They don't
10 find any marijuana. They don't find anything in
11 the house. I submit to you cause there was
12 nothing in the house for them to find. If there
13 had been, you may have very well heard about it.
14 We can only assume that there was nothing found,
15 no guns, no knives, no weapons, no drugs, no
16 nothing of that sort.

17 Now, there's been all these allegations
18 about there were things over there that were
19 weird and strange and he was scaring people. If
20 it was there, you would have seen it. There was
21 nothing scary or out of the ordinary or unusual
22 about anything in that house that relates to
23 what y'all have to decide today. You would have
24 heard about it.

25 It's a terrible thing what happened. It's a

1 terrible thing that Billy Sanders passed away.
2 My client feels (Indiscernible). It's a
3 terrible, terrible, terrible thing for an 80-
4 something-year-old man to be involved in
5 something like this to begin with and to
6 subsequently pass away. But it's important for
7 you guys to remember that the doctor doing that
8 scan said there was nothing about the events of
9 that day that lead to Billy Sanders' death. No
10 connection whatsoever.

11 Yeah, he was hurt. Yeah, he had been
12 bleeding. Yeah, he had been scuffed up and
13 bashed around and whatnot, so did everybody
14 else. The doctor said nothing about that event
15 contributed to or led to Billy's death. So don't
16 consider that, because it's not a factor in
17 this. It's a terrible thing that Billy passed
18 away. It really is, and we all feel for that.
19 But the fact that he passed away in no way
20 should relate to what happened that day. The two
21 are not connected.

22 I can't, nor am I going to, speak about
23 Joanie's personality, character or anything
24 else. I'm not clear despite a couple of attempts
25 to try to understand what she saw that day, what

1 all happened. I'm still not clear exactly what
2 she's telling us happened. I think I understand.
3 I think I understand what she's saying and why
4 she's saying it.

5 I know that she wants to hold Joseph
6 responsible for everything that happened that
7 day. He's not responsible for everything bad
8 that happened that day. He didn't call anybody
9 to come by. He didn't call anybody to bring a
10 bat up there and wave it around. He didn't cause
11 anybody to jump on him and his face. He didn't
12 cause any of that.

13 He gets on the stand -- he, being Joseph --
14 comes up here, gets on the stand and tells you
15 his version of what happened that day. He and
16 Joanie had been out the night before. Had a
17 great time. She was in bed. She didn't really
18 have a plan or interest in going to church with
19 her father. So when her father came knocking on
20 the door, she was a little surprised by all
21 that.

22 But when Joseph came back and said your
23 dad's at the door, there was no argument about
24 it. There was no confrontation between anybody
25 about going to church. There was none of that.

1 He said your dad's here for y'all to go to
2 church. She gets up, and gets dressed to go to
3 church. He doesn't prevent her from doing that.
4 Doesn't say I don't want you to go. You
5 shouldn't go. None of that. He tells her, your
6 dad's here to pick you up. She starts getting
7 dressed to go to church.

8 Her dad, Billy, comes in the house. Again,
9 the attitude, the change in personality or
10 thought process, I don't know. He may not have
11 been the same as he was two days before. Joseph
12 was concerned because he felt that -- he knew
13 that Billy had come in the house before with a
14 firearm, concealed weapon permit. He was
15 concerned.

16 At some point in time, Joanie and Billy
17 both leave the house to go get in the car and go
18 to church. For some reason, looking for a cell
19 phone or whatnot, Joanie comes back in the
20 house. Empties out her purse. Everything is
21 gathered and put back in her purse. She goes
22 back outside. He doesn't stop her. He doesn't
23 tell her don't go with him. He didn't say
24 anything except, "Go to church with your dad.
25 Y'all have a good time. I'll see you later."

1 When he walks out the door to see her leave
2 to go get in the car with her dad, Joseph sees
3 her dad, Billy, again coming at him with this
4 baseball bat and waving it around. Nothing good
5 happens after that. Nothing good happened after
6 that.

7 What we do know is the two of them wrestled
8 around on the ground or whatever. He got knocked
9 10 feet away or through a fence or through
10 whatever. Who knows. But from what we've heard
11 from everybody that was there and has testified
12 is that they were still wrestling around over
13 this baseball bat that had been used to attack
14 Joseph. Ultimately, through everybody else's
15 involvement, things calm down after all the
16 fighting and biting, struggling and swinging
17 bats. Things calm down enough to where Billy
18 took the bat and walks back in his house.
19 Event's over. No other conflict. No other
20 confrontation. No ever -- no further need of any
21 sort between Joseph and Billy or Joseph and
22 Joanie or anybody else. It's over. It's done.

23 The police show up. They come and knock on
24 the door. Billy opens the -- Joseph opens the
25 door and complies with everything they tell him.

1 Y'all have heard it. That's what the evidence is
2 in this case.

3 I submit to you Joseph Carpenter, my
4 client, did absolutely nothing wrong, did
5 nothing malicious, did nothing with an intent to
6 cause harm to anybody else, did nothing to
7 provoke anything that happened that day. Joseph
8 Carpenter talked to his wife about her going to
9 church with her father and when he was
10 threatened, when he felt threatened -- people
11 came at him with a baseball bat, he did nothing
12 but defend himself. That's what you've heard.

13 Again, it's a terrible thing that happened.
14 Nobody is happy that Billy is no longer with us.
15 The two should not be considered when y'all
16 deliberate and reach your decision. Their
17 loving, 20-some-odd year relationship may well
18 have been on a down slide. That's for the two of
19 them to figure out. What you guys have to
20 decide, the jury has to decide is if Joseph
21 Carpenter did anything that day other than try
22 to defend himself. I think after you look at the
23 evidence, the only -- only solution, only answer
24 is that Joseph Carpenter is not guilty of these
25 charges. Thank you.

1 **THE COURT:** Thank you.

2 Ms. Munson?

3 **MS. MUNSON:** Please the Court, Mr.
4 Culbertson.

5 **MR. CULBERTSON:** Yes, ma'am.

6 **MS. MUNSON:** Mr. Culbertson and I don't
7 agree on pretty much anything, but we did agree
8 on y'all. Both of us know that you will go back
9 there in your jury room and after careful
10 deliberation and without hesitation come back in
11 here and render a verdict that speaks the truth.
12 You have no friends to reward, no enemies to
13 punish. You don't have to make one side happy or
14 the other. We both agreed on that.

15 In a few minutes, Her Honor is going to
16 charge you on the law. I'm going to spend a very
17 brief part of this time going over some of the
18 parts of the law. One thing she's going to talk
19 to you about is circumstantial evidence. That's
20 one of the things you hear on TV all the time.
21 "That case is no good. That's purely
22 circumstantial." Well, what the law happens to
23 be, as Her Honor will tell you, is that
24 circumstantial evidence is no less valuable than
25 direct evidence. So just because there's

1 circumstantial evidence involved doesn't mean
2 that you have to throw it out. You can if you
3 want to because you're the jury, but you don't
4 have to just because it's circumstantial.

5 Here's kind of a mistake that sometimes
6 people make. They make an analogy to
7 circumstantial evidence as links in a chain.
8 Each link in the chain makes the chain. The
9 chain is real strong and all that. The problem
10 with that analogy is if one link breaks, you
11 totally lose the chain. Circumstantial evidence,
12 Ladies and Gentlemen, is more like a rope, a
13 rope that is made up of several strands.

14 For example, in this case, that video that
15 Maureen Phend took and sent to Joanie's mother,
16 that's not enough to convict the defendant.
17 Y'all may as well throw it out all together. But
18 if you accept it as true evidence, then that's
19 part of the rope.

20 The doctor testified that Mr. Sanders
21 suffered a deep brain bleed in the center of his
22 head that was very serious. He was in a coma. He
23 was so bad they couldn't even operate on it.
24 That's not enough to convict the defendant. But
25 if you accept that as true, that's another

1 string that goes to the rope and on and on it
2 goes. What I'm saying to you, Ladies and
3 Gentlemen, is with direct and circumstantial
4 evidence, you'll have enough strands at the end
5 of this case when you come back out of your jury
6 room that will demonstrate that the State has a
7 strong enough, well, a considerable burden of
8 proof.

9 Her Honor is going to tell you, already has
10 and will tell you a lot more about the burden of
11 proof, beyond a reasonable doubt. Don't be
12 afraid of that. It is a heavy burden. No doubt
13 about it. The State has to prove it. He doesn't
14 have to prove anything. Sitting there right now,
15 he's an innocent man. It's said sometimes the
16 defendant wears a robe of righteousness about
17 his shoulders. It stays with him unless and
18 until the jury is convinced by evidence that
19 proves him guilty beyond a reasonable doubt.
20 That's the only time that that robe was removed.

21 It's a heavy burden no doubt, but it
22 doesn't mean beyond all doubt. We can know few
23 things in this world to an absolute certainty.
24 The law does not require that. You must be
25 firmly convinced. What I'm going to submit to

1 you is that the evidence in this case has one by
2 one by one cut away every thread that binds that
3 robe of righteousness. You will be able to
4 remove it and find him guilty.

5 Credibility. Her Honor is going to talk to
6 you about credibility. Believability. Do you
7 believe what somebody's saying? How do you
8 figure out if somebody's telling you the truth?
9 Just like Judge Verdin said, you do it the same
10 way you do it when you are in outside life --
11 outside this jury box. If I told you right now
12 that the bailiff had on a blue coat, y'all
13 wouldn't believe that. You can see it. Right? So
14 I'm not being truthful when I say he has on a
15 blue coat. Just like everyday stuff.

16 I'll get, in a minute, a great deal to the
17 credibility of this defendant. Now, he didn't
18 have to say anything. He had no burden. He
19 didn't have to say anything. But he did. And
20 because he did, we're going to have to talk
21 about that.

22 One other thing that I going to let you
23 know about is Her Honor is going to charge you
24 on self-defense. She's going to give you four
25 elements of self-defense. It's a lot of

1 legalese. It's difficult for even lawyers to
2 understand. But in a nutshell, there are two
3 particular elements of self-defense that I want
4 you to consider when considering his guilt. One
5 of them is that the defendant must not be at any
6 fault in bringing on the problem. Now, he
7 doesn't have to prove that he wasn't at fault. I
8 don't want to intimate that. We have to prove
9 that he was at fault in bringing on the problem.

10 Another part of self-defense is that there
11 was no other option other than what he did. He
12 had to do it. A reasonable conclusion you can
13 draw from the facts is this, Mr. Sanders went to
14 pick up his daughter for church. It was a normal
15 thing. Now, the defendant wants you to believe
16 that he just sort of showed up, and his showing
17 up was so upsetting and so disturbing that Mr.
18 Sanders had to get on -- that Joanie had to get
19 on her cell phone and call her mother and say,
20 "What is going on? He's not supposed to be here.
21 I don't want to go." And Mrs. Sanders responded
22 by saying, he's in bad shape.

23 Is it believable that a man and woman --
24 woman married to same man for almost 63 years is
25 going to, number one, go to a different church

1 and turn off her cell phone, which is what she
2 testified she did, while she was in her meeting,
3 knowing that her brain-addled, dementia'ed, out-
4 of-his-mind husband is just riding around all
5 over the place? Is that wife going to do that?
6 No, she's not. She told you when she got to her
7 meeting, turned her cell phone off, put it away
8 because that's what you do. Is that going to
9 happen? No. So when he tells you that he heard
10 Joanie on the phone with her mother, that's not
11 true. That's not believable. That's not credible
12 because of the other evidence you have.

13 He was mad about that. And you know what's
14 funny about something else the defendant said? I
15 didn't hear the police knocking on the door. I
16 was in my soundproof bedroom, which is exactly
17 where he was when Mr. Sanders came to the door.
18 I can hear Mr. Sanders on the door, but I can't
19 hear the police who had a sledgehammer? I heard
20 that, but I didn't hear the police. That is not
21 believable. That is not credible.

22 Joanie is upset and she's scared. And this
23 wonderful loving relationship that we heard
24 about, the defendant told you at one point that
25 she left. She was gone and he didn't even know

1 that she left him. Why would a woman do that?
2 Why would a woman just pick up and leave and not
3 even tell him but tell all the friends? I'll
4 tell you why, cause she's scared of him.

5 So she gets ready to go to church. She goes
6 back in for the cell phone. You women who have
7 pocketbooks, you know how that goes. Think
8 something's in there. You don't know if it's in
9 there. She goes back in the house and things get
10 even worse. Mr. Carpenter did not want to admit
11 that what I took up there to him was the mask
12 that he used to damage the property in front of
13 Joanie, scaring her further. But did you notice,
14 when I put it up there he kept his hands to
15 himself and just looked over. He wouldn't even
16 touch that thing. Body language and how a person
17 behaves up there is also something you can use
18 to determine their credibility.

19 Mr. Sanders, he went into the house. Mr.
20 Sanders that the defendant even describes as
21 peace-loving, always tried to diffuse
22 situations, suddenly on this day, he's some kind
23 of maniac. An 83 or 80 -- 80-something-year old
24 man who's going to go in a house -- and y'all
25 will have this bat back there -- is going to be

1 able to grab by the handle and swing it around -
2 - it's kind of heavy -- is going to be able to
3 swing it around for no reason, for no reason at
4 all. He's going to do that?

5 A more reasonable conclusion that you can
6 draw from the facts, Ladies and Gentlemen, is
7 that, as usual, this defendant did not want
8 Joanie going to church with her dad. He didn't
9 want her dad up in the house. He didn't want
10 nothing to do with it. So when he gets there,
11 Joanie's in the house. Mr. Sanders hears the
12 commotion in the house, so he steps in hoping
13 that he can calm things down. What's wrong,
14 Joseph?

15 And the answer he gets is ridiculous. The
16 mask and the trying to pray over him or whatever
17 he was trying to do. It was a scary situation.
18 Things got heated and things got more heated.
19 Then the dog comes in and attacks Joseph. Isn't
20 it funny that the only person that dog attacks
21 is him? A wild, vicious, unpredictable dog is
22 going to to let two officers come in the back
23 yard. You saw Deputy Leathers, the big vest. He
24 looks scary to me. But that dog is going to let
25 that go on and those two officers who had never

1 met this dog had no trouble. Why was that dog
2 attacking him? Because he was attacking Joanie.
3 That's why the dog did that.

4 So at this point, Mr. Sanders thinks maybe
5 I better just go back outside. Things got louder
6 and louder and louder. So yeah, he got his bat
7 out of the car, out of the truck. He thought he
8 was going to need it. Doesn't that make sense?
9 He already had some kind of wild shenanigans in
10 the house. He could still hear it. When this
11 defendant came out of the house and saw Mr.
12 Sanders with this bat, how dare he. It wasn't
13 "I've got to protect myself." It was, "What does
14 that foolish old man think he's doing on my
15 property with that bat trying to take my girl to
16 church?"

17 And he charged him. He pushed him up
18 against that fence with such force that they
19 ended up going through the fence. Now,
20 Mr. Carpenter, on the stand didn't want to talk
21 at all about how Mr. Sanders ended up with that
22 serious life-threatening head injury. He didn't
23 tell you about that. We know that he was struck
24 in the face. We know that because Jessica Frady,
25 the EMS person, who doesn't have -- she doesn't

1 know anybody here. Why would she lie?

2 She noted -- I've got to add this first.

3 If I tell you -- if I quote somebody's testimony
4 and I get it wrong, your version matters, not
5 mine. So I don't do that on purpose. But Jessica
6 Frady, as I recall, told you that he had
7 abrasions and bruising on his temple. How did
8 that happen? From struggling over the bat?

9 And then we have poor Mr. Carpenter who
10 gets up in the morning, is in a really good
11 mood. I mean, you can almost envision little
12 blue birds singing around him. He got his skin
13 pulled back by Joanie for no reason. He's beaten
14 with this bat by this crazy wild old man in the
15 knee. He said he was hit with it several times.
16 His little buddy, his good friend, Mr. Sanders,
17 he described him. Mr. Sanders is laying through
18 the fence, vomiting, not being able to talk to
19 anybody.

20 Does he go check on his good friend? Does
21 he even go around the fence and say, "Oh, crap,
22 Joanie is he okay? What's going on? Should I
23 call for help?" No. He wanted that old man gone.
24 That's exactly what he tried to do. All of his
25 actions put Joanie in reasonable fear that

1 something was going to happen to her, too,
2 something bad, because he got the bat and he ran
3 in the house.

4 He showed no care, no concern. Let me tell
5 you, the struggle at the fence, it was so loud
6 and scary. You remember Joanie's testimony? She
7 was coming around the fence to see about her
8 dad, and Lee Sexton was already coming across
9 the street, the firefighter who was off duty.
10 Wife says, "Lee, there's something going on out
11 there." He has time to go get some gloves, go
12 get his equipment and he's coming across the
13 street before Joanie even got around the fence.
14 That's how loud and awful and terrible and scary
15 this thing was.

16 Without just cause or excuse, he attacked
17 Mr. Sanders. It made him mad that he had that
18 bat. Things were going so bad in the house, Mr.
19 Sanders heard it. That's why he got there.

20 He told you -- Mr. Carpenter told you that
21 he skin was pulled back, all kinds of things. I
22 can't remember. He was beaten with the bat, was
23 afraid he was going to have a seizure, was
24 blacking out from Joanie suffocating him. Then
25 he gets to the detention center and they take

1 him. You remember the testimony of Deputy
2 McCloud. It happened to him on a regular basis
3 that a person who is obviously injured or ill is
4 not going into the detention center until they
5 get medical attention. The defendant went right
6 in. The defendant, who was refusing to open the
7 door, the defendant who said just go ahead and
8 shoot me, I'll sue you, did he ask the deputies,
9 how's Mr. Sanders? He knew or he was hoping.

10 Her Honor is going to give you something
11 called lesser included offenses as well, which
12 means that he's charged with attempted murder on
13 Mr. Sanders, which is the State's position that
14 we have proven beyond a reasonable doubt that
15 he, with malice, which is a wicked condition of
16 the heart, an evil intent, acting with just
17 cause or excuse, that he did that with the
18 intent to kill Mr. Sanders. Why else are you
19 going to knock an 83-year-old man through a
20 fence, kicking him in the head to the point that
21 his brain is bleeding and he's in a coma?

22 Her Honor is going to tell you, though, if
23 you don't believe that he had the specific
24 intent to kill, you're going to be allowed to
25 consider a lesser included offense. She'll give

1 you two other ones. I'm not going to go into
2 that. I'm not going to go into that because it
3 will take too long and she's the judge of the
4 law and I think y'all have probably heard
5 enough, so I'm going to leave that to her.

6 When you consider the credibility of
7 Joanie -- not just Joanie, but the funny thing
8 is Maureen, Lee Sexton, all of the people that
9 were around, the things that they tell you match
10 up. Nothing that he's telling you makes sense.
11 You don't have to like Joanie. You don't have to
12 like Joanie's lifestyle. You don't have to like
13 or dislike Mr. Carpenter. That's not what this
14 is about. Again, we know you're not going to do
15 that. And if I've done anything to upset or
16 offend you, I apologize. Write a letter to my
17 boss, but don't take it out on the case. On
18 behalf of the people of Greenville County, I
19 urge you please to find this defendant guilty of,
20 attempted murder and aggravated domestic
21 violence. Thank you.

22 **THE COURT:** Madam Foreperson, Ladies and
23 Gentlemen of the jury, you have seen and heard
24 the evidence presented, as well as the arguments
25 of counsel. It now becomes my duty and

1 obligation to instruct you on the law applicable
2 in this case. It will then be your duty and
3 obligation to begin your deliberations, through
4 which process you will decide the facts, apply
5 the law as instructed by the Court, and render
6 fair and impartial decisions.

7 It is your exclusive duty to determine the
8 facts in this case. You do that based upon your
9 own common sense examination and evaluation of
10 the testimony and other evidence received during
11 the trial of this case. You, twelve jurors
12 alone, will decide what weight, value, and
13 effect that is to be given to any particular
14 testimony or other evidence received. Your
15 ultimate goal is to simply reach the truth in
16 this matter, and in doing so, you will have
17 fulfilled your obligations as jurors, and that
18 is to give both the State and the defendant a
19 fair and impartial trial based upon the evidence
20 presented and the law applicable to this case.

21 In this case, the State of South Carolina,
22 through the circuit Solicitor, has charged the
23 defendant with the criminal offenses known as
24 Domestic Violence of a High and Aggravated
25 Nature and Attempted Murder. The allegations

1 charging the defendant with these crimes are set
2 forth in the indictments that have been
3 previously explained to you. As I have
4 previously explained, the indictments are not
5 evidence in this case and may not be considered
6 by you as evidence against the defendant.

7 As to each of the charges set forth in the
8 indictments, the defendant has entered a plea of
9 not guilty. That plea of not guilty is,
10 therefore, placed upon the State the burden of
11 proving each of the essential elements of any
12 crimes charged; and therefore, the burden of
13 proving the guilt of the defendant to the
14 satisfaction of you twelve jurors beyond a
15 reasonable doubt before a verdict of guilty
16 could be returned as to any indictment.

17 The burden is never upon a defendant to
18 prove that he is not guilty or to prove that he
19 is innocent because, in some cases, that might
20 be possible. The burden is always upon the
21 State, because they have made the allegations,
22 to prove the defendant guilty beyond a
23 reasonable doubt.

24 You are further instructed that it is a
25 vital, important, and cardinal rule of law that

1 every defendant in a criminal trial, no matter
2 how serious the offense might be for which he
3 stands charged, shall always be presumed
4 innocent of that charge, and that presumption of
5 innocent shall be with the defendant from the
6 moment of his arrest and throughout the course
7 of the criminal process, and even throughout the
8 course of the actual trial.

9 The presumption of innocence shall be with
10 the defendant even as you go into the jury room
11 to begin your deliberations, and that
12 presumption of innocence shall be with him there
13 and be with him forever, unless you twelve
14 jurors determine that he is no longer entitled
15 to that presumption of innocence. It is only if,
16 unless, and until you are satisfied of the
17 defendant's guilt beyond a reasonable doubt that
18 he would no longer be entitled to the
19 presumption of innocence.

20 I remind you that, during this trial, you
21 and I have certain duties to perform. As the
22 trial judge, it is my responsibility to preside
23 over the trial of this case, and I also have the
24 duty to rule on the admissibility of the
25 evidence offered during this trial. You are to

1 consider only the competent evidence before you.
2 If there was any testimony ordered stricken from
3 the record in this case during this trial, you
4 must disregard that testimony. You are to
5 consider only the testimony which has been
6 presented from this witness stand, any exhibits
7 which have been made a part of the record in
8 this case, and any stipulations of counsel.

9 I have the additional duty to charge you
10 the law applicable in this case. As the
11 presiding judge, I am the sole judge of the law
12 of this case, and it is your duty, as jurors, to
13 accept the law and apply the law as I now state
14 it to you. If you already have any idea as to
15 what the law is or what the ought to be and it
16 does not agree with what I now tell you the law
17 is, you must abandon this idea because you are
18 sworn to accept the law and apply the exactly as
19 I state it to you.

20 In every case tried in this court before a
21 jury, the jury becomes the sole and exclusive
22 judge of the facts in this case. A trial judge
23 can not intimate, state, comment on or make any
24 statement to a trial jury about the facts of the
25 case. Since you, the jury, are the sole judges

1 of the facts in this case, you are not to infer
2 from what I have said during the progress of
3 this trial in ruling upon the admissibility of
4 evidence, or otherwise, or anything that I say
5 now during the course of this instruction to you
6 that I have any opinion about the facts in this
7 case. I do not. The law does not allow me to
8 have an opinion about the facts in this case.
9 This is a matter solely for you, the jury, to
10 determine. As jurors, it is your duty to
11 determine the effect, value, weight, and truth
12 of the evidence presented during this trial.

13 The State has the burden of proving the
14 defendant guilty beyond a reasonable doubt. Some
15 of you may have served as jurors in civil cases,
16 where you were told that it is only necessary to
17 prove that a fact is more likely true than not
18 true, such as by the greater weight or
19 preponderance of the evidence. In criminal
20 cases, the State's proof must be more powerful
21 than that. It must be beyond a reasonable doubt.
22 Reasonable doubt is the kind of doubt that would
23 make a reasonable person hesitate to act. Proof
24 beyond a reasonable doubt is proof that leaves
25 you firmly convinced of the defendant's guilt.

1 There are very few things in this world
2 that we know with absolute certainty, and in
3 criminal cases the law does not require proof
4 that overcomes every possible doubt. If, based
5 on your consideration of the evidence, you are
6 firmly convinced that the defendant is guilty of
7 the crimes charged, you must find the defendant
8 guilty. If, on the other hand, you think there
9 is a real possibility that the defendant is not
10 guilty, you must give the defendant the benefit
11 of the doubt and find him not guilty.

12 There are two types of evidence which are
13 generally presented during a trial: direct
14 evidence and circumstantial evidence. Direct
15 evidence is the testimony of a person who claims
16 to have actual knowledge of a fact, such as an
17 eyewitness. It is evidence which immediately
18 establishes the main fact to be proved.

19 Circumstantial evidence is proof of a chain
20 of facts and circumstances indicating the
21 existence of a fact. It is evidence which
22 immediately establishes collateral facts from
23 which the main fact may be inferred.
24 Circumstantial evidence is based on inference
25 and not on personal knowledge or observation.

1 The law makes absolutely no distinction
2 between the weight or value to be given to
3 either direct or circumstantial evidence; nor is
4 a greater degree of certainty required of
5 circumstantial evidence than of direct evidence.
6 You should weigh all of the evidence in the
7 case. After weighing all the evidence, if you
8 are not convinced of the guilt of the defendant
9 beyond a reasonable doubt, you must find the
10 defendant not guilty.

11 Necessarily, you must determine the
12 credibility of witnesses who have testified in
13 this case. Credibility simply means
14 believability. It becomes your duty as jurors to
15 analyze and to evaluate the evidence and
16 determine which evidence convinces you of its
17 truth.

18 In determining the believability of
19 witnesses who have testified in this case, you
20 may believe one witness over several witnesses
21 or several witnesses over one witness. You may
22 believe a part of the testimony of a witness and
23 reject the remaining part of the testimony of
24 that same witness. You may believe the testimony
25 of a witness in its entirety or reject the

1 testimony of a witness in its entirety. You may
2 consider whether any witness has exhibited to
3 you any interest, bias, prejudice, or other
4 motive in the case. You may also consider the
5 appearance and manner of a witness while on the
6 witness stand.

7 In order to establish criminal liability,
8 the State must also prove criminal intent. For a
9 particular crime, the mental state required
10 might be purpose, intent, knowledge,
11 recklessness, or criminal negligence. The State
12 must prove criminal intent beyond a reasonable
13 doubt. Criminal intent is a matter that must be
14 determined by the jury from the facts of the
15 case. There is no way to prove criminal intent
16 to a mathematical certainty, so the law says
17 that criminal intent may be inferred from the
18 circumstances shown to have existed. This is how
19 you determine whether or not the element
20 requiring intent was present. It is not
21 necessary to establish intent by direct
22 evidence. Intent may be established by
23 circumstantial evidence or by taking into
24 consideration the acts of the parties and all
25 the facts and circumstances of the case.

1 Criminal intent is a mental state of
2 conscious wrongdoing. It is up to you to
3 determine what the defendant intended to do
4 based on the circumstances shown to have existed
5 in this case. Criminal intent can arise from
6 action or failure to act or from negligence,
7 recklessness or an indifference to duty or
8 consequences which is considered by the law to
9 be the equivalent of criminal intent.

10 The defendant is charged with domestic
11 violence of a high and aggravated nature. The
12 State must prove beyond a reasonable doubt that
13 the defendant committed an assault and battery
14 on a household member which involves the use of
15 a deadly weapon or results in serious bodily
16 injury to the victim; or an assault, with or
17 without an accompanying battery, which would
18 reasonably cause a person to fear imminent
19 serious bodily injury or death.

20 A "household member" is a spouse, former
21 spouse, parent, child, grandparent, brother or
22 sister, grandchild, person with whom the
23 defendant has a child in common, and a person of
24 the opposite sex with whom the defendant is
25 living or has lived in the past. "Serious bodily

1 injury" means bodily injury which causes a
2 substantial risk of death or which causes
3 serious, permanent disfigurement or protracted
4 loss or impairment of the function of a bodily
5 member or organ.

6 If you find that the State has not met the
7 burden of proof for the charge of criminal
8 domestic violence of a high and aggravated
9 nature, you may consider the lesser included
10 charge of criminal domestic violence. The State
11 must prove beyond a reasonable doubt that the
12 defendant caused physical harm or injury to a
13 member of the defendant's own household or that
14 the defendant offered or attempted to cause
15 physical harm or injury to a member of the
16 defendant's own household with the apparent
17 present ability to cause harm or injury under
18 circumstances reasonably creating a fear or
19 imminent danger. A household member is as I
20 defined for you earlier.

21 The defendant is charged with attempted
22 murder. In order to prove this crime, the State
23 must prove the defendant attempted to kill
24 another person with malice aforethought, either
25 express or implied. Malice is hatred, ill-will,

1 or hostility towards another person. It is the
2 intentional doing of a wrongful act without just
3 cause or excuse and with an intent to inflict an
4 injury or under circumstances that the law will
5 infer an evil intent.

6 Malice aforethought does not require that
7 malice exists for any particular time before the
8 act is committed, but malice must exist in the
9 mind of the defendant just before and at the
10 time that the act is committed. Therefore, there
11 must be a combination of the previous evil
12 intent and the act.

13 Malice aforethought may be express or
14 inferred. These terms, "express" or "inferred"
15 do not mean different kinds of malice but merely
16 the manner in which malice may be shown to
17 exist. That is either by direct evidence or from
18 inference from the facts and circumstances which
19 are proved. Express malice is shown when a
20 person speaks words which express hatred or ill
21 will for another or when the person prepared
22 beforehand to do the act which was later
23 accomplished; for example, lying in wait or
24 other acts of preparation. Malice may be
25 inferred from conduct showing a total disregard

1 for human life. If facts are proved beyond a
2 reasonable doubt sufficient to raise an
3 inference of malice to your satisfaction, this
4 inference would be simply an evidentiary fact to
5 be considered by you, the jury, along with the
6 other evidence in the case, and you may give it
7 the weight you decide it should receive.

8 Specific intent to commit a murder is an
9 element of attempted murder. This means that the
10 act constituting the attempt must be done with
11 the intent to commit that particular crime.
12 Excuse me. In the context of an attempt,
13 specific intent means that the defendant
14 consciously intended the completion of acts
15 comprising the attempted offense. In other
16 words, the completion of such acts is the
17 defendant's purpose.

18 Assault and Battery of a High and
19 Aggravated Nature. If you find that the State
20 has not met the burden of proof for the charge
21 of attempted murder, you may consider the lesser
22 included charge of assault and battery of a high
23 and aggravated nature. A person commits the
24 offense of assault and battery of a high and
25 aggravated nature if the person unlawfully

1 injures another person, and a great bodily
2 injury to another person results, or the act is
3 accomplished by means likely to produce death or
4 great bodily injury. Great bodily injury is
5 defined as I've defined serious bodily injury
6 earlier in my charge.

7 Assault and Battery in the first degree. If
8 you find that the State has not met the burden
9 of proof for Assault and Battery of a High and
10 Aggravated Nature, you may consider the lesser
11 included charge of Assault and Battery in the
12 first degree. A person commits the offense of
13 Assault and Battery in the first degree if the
14 person offers or attempts to injury another
15 person with the present ability to do so, and
16 the act is accomplished by means like to produce
17 death or great bodily injury.

18 The defendant has raised the defense of
19 self-defense. Self-defense is a complete defense
20 and, if established, you must find the
21 defendant not guilty. The State has the burden
22 of disproving self-defense beyond a reasonable
23 doubt. If you have a reasonable doubt of the
24 defendant's guilt after considering all the
25 evidence, including the evidence of self-

1 defense, then you must find the defendant not
2 guilty. On the other hand, if you have no
3 reasonable doubt of the defendant's guilt after
4 considering all the evidence, including the
5 evidence of self-defense, then you must find the
6 defendant guilty.

7 The following elements are required to
8 establish self-defense: First, the defendant
9 must be without fault in bringing on the
10 difficulty. If the defendant's conduct was the
11 type which reasonably -- was reasonably
12 calculated to, and did, provoke a deadly
13 assault, the defendant would be at fault in
14 bringing on the difficulty and would not be
15 entitled to an acquittal based on self-defense.

16 The next element of self-defense is the
17 defendant was actually in imminent danger of
18 death or serious bodily injury or that the
19 defendant actually believed he was in imminent
20 danger of death or serious bodily injury. If the
21 defendant was actually in imminent danger, it
22 must be shown that the circumstances would have
23 warranted a person of ordinary firmness and
24 courage to strike the blow to prevent death or
25 serious bodily injury. If the defendant believed

1 he was in imminent danger of death or serious
2 bodily injury, it must be shown that a
3 reasonably prudent person of ordinary firmness
4 and courage would have had the same belief.

5 In deciding whether the defendant actually
6 was, or believed he was, in imminent danger of
7 death or serious bodily injury, you should
8 consider all the facts and circumstances
9 surrounding the crime, including the physical
10 condition and characteristics of the defendant
11 and victim.

12 The defendant does not have to show that he
13 was actually in danger. It is enough if the
14 defendant believed he was in imminent danger and
15 a reasonably prudent person would have the same
16 belief. The defendant has the right to act on
17 appearances even though the defendant's beliefs
18 may have been mistaken. It is for you to decide
19 whether the defendant's fear of immediate danger
20 of death or serious bodily injury was reasonable
21 and would have been felt by an ordinary person
22 in the same situation.

23 Words, accompanied by hostile acts, may,
24 depending on the circumstances, establish self-
25 defense. The relative sizes, ages, and weights

1 of the defendant and the victim may be
2 considered in deciding the apparent or actual
3 need for force in self-defense and the amount of
4 force needed. Threats made by the victim may
5 be considered in determining whether the
6 defendant actually was, or believed he was, in
7 imminent danger.

8 The final element of self-defense is that
9 the defendant had no other probable way to avoid
10 the danger of death or serious bodily injury
11 than to act as the defendant did in this
12 particular instance. If the defendant was on his
13 own premises, the defendant had no duty to
14 retreat before acting in self-defense.

15 The defendant has also raised the defense
16 of habitation. The defense of habitation is the
17 defense of one's dwelling -- one's dwelling
18 house. If the defendant or a member of the
19 defendant's household is attacked in the
20 defendant's own home, the defendant may use the
21 force which appears to be needed to protect
22 himself or his household from death or serious
23 bodily injury. When attacked in his own house,
24 the defendant may justify or excuse the killing
25 of his assailant if such act is apparently

1 necessary to save his own life or to protect
2 himself from great bodily harm.

3 If a trespasser refuses to leave the
4 dwelling at the request of the householder
5 defendant, the defendant may use the necessary
6 force to eject the trespasser. If, in the effort
7 to eject the trespasser, the life or safety of
8 the defendant or a member of the defendant's
9 household is jeopardized, the defendant may kill
10 the trespasser. However, the defendant may not
11 use more force than is reasonably necessary to
12 eject the person from the premises. The
13 defendant should not, in the first instance,
14 resort to immediate force to repel the intruder.
15 The kind and degree of force which are justified
16 depend on the conduct of the intruder.

17 Even though a person has entered the
18 dwelling at the invitation of the defendant or a
19 member of the household, his subsequent conduct
20 may be such as to justify the defendant in
21 ordering his departure. The person becomes a
22 trespasser if the person refuses to leave when
23 asked. Upon the person's refusal to depart, the
24 defendant is not required to yield as a mode of
25 avoiding an altercation and apprehended

1 violence, but may use force reasonably necessary
2 or apparently necessary to eject him, and no
3 more. The defendant should not, in the first
4 instance, resort to force to repel the intruder.
5 The kind and degree depend on the conduct of the
6 intruder.

7 If, while legitimately exercising in good
8 faith the right to eject a trespasser, the
9 defendant is attacked by the trespasser and
10 fears death or serious bodily harm, the
11 defendant would be without fault in bringing on
12 the difficulty. An element that is necessary to
13 the defense of habitation is that the defendant
14 be without fault in bringing about the
15 difficulty. Whether the defendant was acting in
16 good faith in attempting to eject the victim and
17 was attacked in the process is a question for
18 you to determine.

19 The law permits the occupant of the home to
20 use such force even to the taking of a human
21 life, as may be reasonably necessary to
22 accomplish the expulsion. If engaged in the
23 exercise in good faith of his right to eject
24 such trespasser, he is without fault in bringing
25 on the difficulty and would not have to retreat.

1 The belief in the necessity of using deadly
2 force in the defense of habitation must be
3 reasonable. This right of an occupant to expel a
4 trespasser and to use such force as is
5 necessary, even to killing him, is limited to
6 the place of habitation and curtilage.

7 There is no duty to retreat where the
8 attack occurs in one's home. The absence of a
9 duty to retreat also extends to the curtilage of
10 a home. Curtilage is such space as is necessary
11 and convenient, and is habitually used for
12 family purposes, including an adequate yard and
13 garden and room for necessary outbuildings.
14 Curtilage includes outbuildings, yard around
15 dwelling, and garden. It also includes garages,
16 driveways, courtyards, and parking area. Yards,
17 courtyards, driveways and parking areas usually
18 and customarily used in common by occupants of
19 apartment houses, condominiums and other such
20 complexes with other occupants thereof
21 constitute a part of the curtilage of a
22 specifically described apartment or condominium
23 or other living unit thereof.

24 Ladies and Gentlemen, your verdict must be
25 a unanimous one. I am required by law to have

1 given you these instructions as I did. Please
2 do not infer by anything that I may have said
3 that I have any opinion about this case or the
4 outcome of this case because I do not.

5 Madame foreperson, when the jury agrees on
6 the verdict, if you will, write the verdict on
7 the verdict form and sign and date it as the
8 foreperson. Then you will knock on the door or,
9 I think turn on the light -- turn the light on
10 in the jury room and inform the bailiff you have
11 reached a verdict, who will then bring you back
12 into the courtroom for your verdict.

13 This verdict form is pretty self-
14 explanatory. It just goes through the charges
15 that the defendant is charged with and has
16 included in each section the lesser included
17 offenses.

18 I thank you so much for your service in the
19 case. I ask that you return to your jury
20 deliberation room, but do not begin
21 deliberations quite yet. There's a matter I need
22 to take up with the attorneys. All right. Thank
23 you so much.

24 (WHEREUPON, the jury exits at approximately
25 2:53 p.m.)

1 **THE COURT:** Any objection to my charge on
2 the law from the State?

3 **MS. MUNSON:** Not necessarily an objection,
4 Your Honor, but the stuff about household
5 member, parent, child, that's no longer the law.
6 I don't know that you need to bring them out and
7 call attention to it. As a matter of fact, I
8 would ask you not to.

9 **THE COURT:** Okay. And I'm sorry. We were
10 trying to figure out which one to use and I
11 apologize.

12 **MS. MUNSON:** Other than that, the State's
13 fine with it, Your Honor.

14 **THE COURT:** All right. Here's the question
15 I've got. I didn't ask y'all about sending the
16 -- about sending the charge back. I don't know
17 how y'all feel about sending the charge back to
18 the jury. I didn't instruct them on it, but I
19 can send it back in written form, if you'd like.

20 **MR. CULBERTSON:** I'm not sure what form
21 you're talking about. Are you talking about the
22 arrest warrant versus the indictment or whatever
23 -- what other charging form you might be talking
24 about. I'm not clear what that is that you're
25 talking about.

1 **THE COURT:** The charge -- I'm -- the
2 charging form? I'm just sending back the verdict
3 form. I'm not going to send back the
4 indictments.

5 **MR. CULBERTSON:** Oh, okay. So when you said
6 the charging form, you're speaking to the
7 verdict form?

8 **THE COURT:** Oh, my charge on the law. I'm
9 sorry. My charge on the law. That's what I was
10 asking about.

11 **MR. CULBERTSON:** It has been my experience
12 that generally it's not sent back to the jury.
13 It's also been my experience that if they have
14 questions, they could then submit that question.

15 **THE COURT:** Oh, sure. I mean, we -- I
16 mean, yeah. I will say this. I do not send it
17 back unless both parties consent. That's the
18 only time I ever send it back.

19 **MR. CULBERTSON:** Your Honor, again,
20 briefly. It's been my experience that is not
21 normally sent back to the --

22 **THE COURT:** If you don't consent, that's
23 fine. I won't send it back.

24 **MR. CULBERTSON:** My understanding is the
25 concern being that they might be concerned or

1 confused over the legal terms.

2 THE COURT: Yeah.

3 MR. CULBERTSON: So I will object to that
4 being sent back.

5 THE COURT: I only do it if both sides
6 consent.

7 MS. MUNSON: Get ready for this, Your
8 Honor.

9 THE COURT: Okay.

10 MR. CULBERTSON: Personally --

11 MS. MUNSON: I agree with Symmes.

12 THE COURT: I don't do it unless both
13 sides consent. I will tell you this, the very
14 the last time I didn't send it back -- now, I'm
15 not predicting anything -- the very first
16 question I got was can we have your charge on
17 the law in written form.

18 MR. CULBERTSON: And that's -- in
19 anticipating that, again, it's been my
20 experience that normally that question is
21 handled by bringing them back and recharging
22 them.

23 THE COURT: That's fine, and I've done
24 that too. Believe we, we've done it a lot.

25 MR. CULBERTSON: Again, Your Honor, back to

1 the initial question that I was not yet asked---

2 THE COURT: Yes.

3 MR. CULBERTSON: ... do I have any
4 objections to it?

5 THE COURT: Yes, do you have any
6 objections?

7 MR. CULBERTSON: I have not a specific
8 objection, although I would have a request, and
9 that is that when we started this trial, I
10 believe that you charged the jury or informed
11 the jury something along the lines of being sure
12 that they were not to consider the fact that the
13 victim, Mr. Billy Sanders was not here today,
14 nor should they draw any inference from the fact
15 that his not being here today was because of any
16 of the events that took place. I believe --

17 THE COURT: There was -- in part of the
18 self-defense -- I think I know where you're
19 going.

20 MR. CULBERTSON: I was just going to ask
21 you to recharge that language that you gave at
22 the beginning of the trial.

23 THE COURT: All right.

24 MS. MUNSON: I would object to that, Your
25 Honor. That's not a charge on the law.

1 **THE COURT:** Yeah.

2 **MS. MUNSON:** That's more of a statement on
3 the facts.

4 **THE COURT:** I think that -- I said in
5 here that they must consider any stipulations
6 and I -- I think they are pretty clear on that
7 and we went over it. I think we've gone over it
8 time and time again although I appreciate your
9 caution. Anything else we need to take up?

10 **MR. CULBERTSON:** Yeah, just -- I'm sorry.

11 **MS. MUNSON:** Nothing from the State.

12 **THE COURT:** Okay.

13 **MR. CULBERTSON:** And just so you know, I
14 was sitting her looking at my cell phone
15 scrolling through it while you were charging. It
16 was not in an attempt to distract the jury in
17 any way. It was simply my ability to look at the
18 charging form that you had sent to us.

19 **THE COURT:** Oh, sure. I didn't notice you
20 were doing it. I didn't notice you were doing it
21 and that was perfectly fine. We're good. Okay.
22 All right. I will not send back the charge on
23 the law. I'll hold on it. If I need to, I can
24 always fix that little section that I said that
25 was wrong. Here's the verdict form. Will y'all

1 get -- are the exhibits all together?

2 MS. MUNSON: I think they are all
3 together.

4 THE COURT: Do y'all have some means that
5 if they want to watch that video, they can?

6 MS. MUNSON: They can take it back there
7 or we can bring them back out.

8 MR. CULBERTSON: Turn it sideways.

9 MS. MUNSON: Turn it sideways.

10 (WHEREUPON, there is a pause.)

11 THE COURT: All right. We think we've got
12 it all together?

13 MR. CULBERTSON: We're double checking,
14 Your Honor.

15 THE COURT: Good. Thank you.

16 MR. CULBERTSON: I don't think there will
17 be a problem.

18 (WHEREUPON, there is a pause.)

19 THE BAILIFF: Judge, are you ready for it
20 to go back?

21 THE COURT: Yes, would you bring the
22 alternate in the hall?

23 (WHEREUPON, the Court goes off the record at
24 approximately 2:59 p.m.)

25 (WHEREUPON, deliberation of the jury begins at

1 approximately 3:00 p.m.)

2 (WHEREUPON, the Court goes on the record at
3 approximately 3:35 p.m.)

4 THE COURT: I don't know what else to --

5 MR. CULBERTSON: Just to recharge them.

6 THE COURT: I'm not going to recharge
7 them.

8 MS. MUNSON: Nobody wants to sit through
9 that again.

10 MR. CULBERTSON: Your Honor, I think it's
11 up to you, but obviously I'm object -- I object
12 to them being handed the written version of it.
13 I certainly don't mind if you --

14 THE COURT: I think the case law supports
15 that --

16 Can y'all hold it down? We're on the
17 record. I'm sorry.

18 The case law -- the case law, I think, says
19 where you get into trouble with this is if
20 you're sending parts back.

21 MS. MUNSON: Okay.

22 THE COURT: Parts, and not all.

23 MS. MUNSON: Okay.

24 THE COURT: And now that they've asked for
25 it, I'll send it back. I'll bring them back in

1 and recharge them on that section of domestic
2 violence unless you just want me to send the
3 charge back.

4 MS. MUNSON: That answers the question, I
5 think.

6 THE COURT: I can just put on the note
7 that -- I can just respond it and tell them that
8 if -- I think we need to bring them back in.
9 Probably too much to --

10 MS. MUNSON: Okay.

11 THE COURT: I think it's too much to write
12 on the note.

13 (WHEREUPON, the jury enters at approximately
14 3:37 p.m.)

15 THE COURT: All right. Ladies and
16 Gentlemen, thank you for -- for bearing with us
17 for just a moment. I've got three questions from
18 you all. One is asking a question about domestic
19 violence. And I -- I've given you my charge. I
20 am now going to give you my written instructions
21 as a whole. It does have the domestic violence
22 section in there. So if you feel, Madam
23 Foreperson, that that satisfies your question
24 about it, all I can explain to you is what is
25 the law in this state and I've given you what

1 the particular statute is.

2 On this clarity of size of Billy Sanders, I
3 will tell you this, if you can remember any
4 particular portion of testimony that you would
5 like replayed, I can do that, but I can not
6 answer any factual questions for you,
7 unfortunately. But if there are portions of the
8 -- of testimony that you want me to play, I can
9 do that.

10 We don't -- a lot of times, folks will ask
11 for a transcript of the testimony but,
12 unfortunately, the technology is not quite there
13 yet. It has to be transcribed by the court
14 reporter, and that sometimes takes several weeks
15 to do on a trial.

16 And you want the written definition of all
17 charges. I'm going to give you my written charge
18 that I read to you. I was required by law to
19 read it to you as I did, but I'm going to give
20 you my written charge. Let me give you some
21 instructions on how to handle it.

22 You may not consider part of the charge and
23 ignore other parts of the charge. You must take
24 it as a whole. Don't let it get you distracted
25 from your duties of discussing this case and

1 discussing your understanding of the facts in
2 this case. If you will, return it when you
3 return the exhibits when you complete your
4 deliberations. I will make this written charge a
5 part of the record.

6 All right. So we'll send that right back to
7 you. If you will, just return to your jury
8 deliberation room and resume your deliberations.
9 Thank you.

10 (WHEREUPON, the jury exits at approximately
11 3:39 p.m.)

12 (WHEREUPON, Court's Exhibit 1 is marked for
13 identification purposes.)

14 THE COURT: Yes, sir.

15 MR. CULBERTSON: Your Honor, thank you,
16 ma'am. I just want to be sure that it's clear on
17 the record that -- my objection to the Court
18 about sending the written charging form back to
19 the jury. I just want to make sure my objection
20 is on the record.

21 THE COURT: It's noted. It is definitely
22 noted for the record. And I did not do it to
23 begin with, but they have specifically asked for
24 it, so I'm going to send my written charge back.

25 MR. CULBERTSON: Yes, ma'am. And just one

1 further thing I'd like to be clear about. As I
2 recall, there was some concern by the
3 Solicitor's Office about a portion of your
4 charge that was initially given to the jury and
5 an objection to what you charged the jury at the
6 conclusion of the case. Now that you're sending
7 your charge back to them, I want to be sure
8 that --

9 THE COURT: Ian Conits is one step ahead
10 of you. Ian Conits is one step ahead of you. I'm
11 kidding around with you. We've already changed
12 it to reflect it. It was just the definition of
13 a household member.

14 MS. MUNSON: Yes, Your Honor.

15 THE COURT: And it is a household member
16 is a spouse form -- spouse or person with whom
17 the defendant has a child in common and a person
18 of the opposite sex with whom the defendant is
19 living or has lived in the past. That's the
20 current -- and that's what I -- but I charged
21 before included other people, parents and that
22 sort of thing in it, but a person with whom they
23 live together was included in the charge.

24 MR. CULBERTSON: Of course, I would have
25 further objection to the paperwork that you are

1 sending back to them now since they asked for
2 the charge.. That's not -- as I understand that's
3 not the same as what you initially charged them
4 from the bench.

5 **THE COURT:** Okay. The only applicable
6 section is about folks who live together or who
7 -- who live together or have lived together in
8 the past. I charged it before. It's in this
9 charge this time. I did correct it. I'll send my
10 initial regular -- my charge that I charged
11 them. I'll send that back to them. I really --
12 it matters not to me because the relevant
13 portion, I charged exactly the same.

14 **MR. CULBERTSON:** Are you asking me a
15 question, which one I prefer?

16 **THE COURT:** Yeah, if you want to -- I'm
17 asking you --

18 **MR. CULBERTSON:** Obviously, I would prefer
19 that you not send any of it back, but if you are
20 going to send something back, I would prefer it
21 be what you charged them to begin with.

22 **THE COURT:** Okay. It's -- I think it's the
23 same. It's the previous statement -- I guess to
24 be absolutely clear, it's the previous
25 statement. The relevant -- I mean the previous

1 law and it's -- the relevant section is exactly
2 the same. So I'll just send my previous charge
3 back. We'll do it. All right. And that will be
4 Court's Exhibit Number 2.

5 (WHEREUPON, Court's Exhibit 2 is marked for
6 identification purposes.)

7 (WHEREUPON, the Court goes off the record at
8 approximately 3:41 p.m.)

9 (WHEREUPON, the Court goes on the record at
10 approximately 4:33 p.m.)

11 (WHEREUPON, the jury enters at approximately
12 4:33 p.m.)

13 THE COURT: All right. It's my
14 understanding you've reached a verdict. Is that
15 correct?

16 THE JUROR: (Nods head.)

17 THE COURT: Would you please give the
18 verdict form to the bailiff?

19 (WHEREUPON, the verdict form is passed to the
20 Court.)

21 THE COURT: All right. The verdict form
22 appears to be in order.

23 Will you publish to the jury?

24 THE CLERK: Yes. In Indictment 2014-GS-23-
25 10158 and 2015-GS-23-27298, the State versus

1 Joseph A. Carpenter, as to the charge of
2 Criminal Domestic Violence of a High and
3 Aggravated Nature, we, the jury, unanimously
4 find the defendant not guilty. As to the charge
5 of Attempted Murder, we, the jury, unanimously
6 find the defendant guilty.

7 **THE COURT:** Ladies and Gentlemen, thank
8 you so much for your service.

9 Is there anything else that we need to take
10 up before I release the jury? Anything from the
11 State?

12 **MS. MUNSON:** Nothing from the State.

13 **THE COURT:** Anything from the defense?

14 **MR. CULBERTSON:** No, ma'am.

15 **THE COURT:** All right then. Ladies and
16 Gentlemen, if you will, step to your jury
17 deliberation room. They will give you back your
18 phones and belongings. I want to just say
19 goodbye to you before you leave. Thank you so
20 much.

21 (WHEREUPON, the jury exits at approximately
22 4:34 p.m.)

23 (WHEREUPON, the Court goes off the record at
24 approximately 4:35 p.m.)

25 (WHEREUPON, the Court goes on the record at

1 approximately 4:36 p.m.)

2 **THE COURT:** They were very nice and
3 thought you both did a very good job, and I did
4 too. All right. You want to --

5 **MR. CULBERTSON:** Obviously, I'd have a few
6 motions at this time.

7 **THE COURT:** Sure.

8 **MR. CULBERTSON:** Obviously, I'd have a
9 motion for a mistrial at this point in time.
10 It's my opinion that, given the two verdicts the
11 jury returned, they were somewhat confused, at
12 best, about what they were actually being told
13 during this trial. I think that makes it alone
14 that we're entitled to a mistrial.

15 **THE COURT:** Okay. Your motion is
16 respectfully denied. I could see from the
17 testimony that their verdict could -- that they
18 could have an interpretation of the facts and
19 evidence that would lead them to the two
20 different verdicts in this case.

21 **MR. CULBERTSON:** Yes, ma'am. And in
22 addition, given the questions that they sent out
23 during their deliberations, I move again my
24 objection to them being sent back a copy of the
25 complete jury charge form. I would object to

1 that again on the record. Also, my motion again
2 that they were confused as to application of the
3 law and the facts that were presented to them on
4 that charge.

5 **THE COURT:** Okay. All right. Well, I think
6 their question was regarding the one they found
7 not guilty on. But that was the charge they had
8 a question about, I believe, other than they did
9 have a question about size of the victim in this
10 case. But your motion is respectfully denied
11 and, of course, your objection to sending back
12 the charge is preserved for the record.

13 **MR. CULBERTSON:** Yes, ma'am.

14 **THE COURT:** All right. Anything else we
15 need to take up before we move to sentencing?

16 **MS. MUNSON:** Nothing from the State, Your
17 Honor.

18 **THE COURT:** All right. Y'all want to -- do
19 y'all want to move to sentencing? We can do that
20 -- I'm happy to do it now if you'd like.

21 **MR. CULBERTSON:** Will you do it next week?

22 **THE COURT:** I -

23 **MS. MUNSON:** I would prefer to go forward
24 now, Your Honor.

25 **THE COURT:** Okay.

1 **MR. CULBERTSON:** I'm just joking, Your
2 Honor. I apologize.

3 **THE COURT:** All right. No, it's fine. It's
4 fine. We'll go ahead and do it now.

5 (WHEREUPON, the parties approach the bench.)

6 **THE COURT:** Well, y'all think I need to
7 hear -- I don't think I need to hear any more
8 about facts unless there's anything you want to
9 particularly highlight.

10 **MS. MUNSON:** No, ma'am.

11 **THE COURT:** So far as his prior record, I
12 know he had largely -- seem like he had largely
13 magistrate level offenses from some time ago.

14 **MS. MUNSON:** December 28th, '94, Breach of
15 Peace and Resisting Arrest in magistrate level
16 court; Possession of Marijuana in 2002; Driving
17 Under the Influence in 2013; and we talked about
18 this in chambers, the 1993, NOLO to Assault and
19 Battery in the state of Georgia. I do believe
20 that Mrs. Sanders would like to address the
21 Court at the proper time.

22 **THE COURT:** All right.

23 **MS. MUNSON:** And just from my prospective
24 -- I want to give Mr. Culbertson the last word,
25 but we were knocking around some ideas about

1 possible sentences. I made offers. No one
2 expects any judge to punish a person for
3 exercising their right to a trial, and I'm not
4 saying that. What I'm saying is I want for the
5 Court to consider what he said on that stand.

6 **THE COURT:** I understand.

7 **MS. MUNSON:** He accepted no
8 responsibility, blamed it all on Joanie and
9 blamed it all on the old man. So in your
10 consideration, Your Honor, I would like for you
11 to consider that.

12 **THE COURT:** All right, and I certainly
13 will.

14 **MS. MUNSON:** Thank you.
15 You've got to speak way up, Mrs. Sanders.

16 **VICTIM'S WIFE:** During his
17 hospitalization, he was -- as soon as he was in
18 the hospital, they had to do a tracheotomy, they
19 had to do a (Indiscernible). The whole time that
20 this process -- he was under that. He never got
21 -- he never regained any real functions of his
22 body. He never had a drop of water or a bite of
23 food from the day this happened until the day he
24 passed away.

25 **THE COURT:** Thank you, ma'am. I'm so sorry

1 for your loss.

2 **VICTIM'S WIFE:** Thank you so much. I'd
3 been married 63 and a half years. He was my high
4 school sweetheart. He took away my husband, my
5 children's father, my children's grandfather and
6 great-grandfather, which he spent a lot of time
7 with. They love him and miss him very much.
8 Thank you.

9 **THE COURT:** Well, he's, from all accounts,
10 he sounds like he was a wonderful man.

11 **VICTIM'S WIFE:** He was. He was a friend,
12 helper, encourager. More or less, he was --
13 everything was either right or wrong. He didn't
14 have any gray error area in his life where he
15 was willing to belong to one side or the other.
16 Everything was either right or wrong.

17 **THE COURT:** Thank you.
18 Anything else from the State?

19 **MS. MUNSON:** No, ma'am.

20 **THE COURT:** All right. Thank you.
21 Mr. Culbertson?

22 **MR. CULBERTSON:** Thank you, Your Honor. I
23 don't know if this is still in the record or
24 not, again, we have an objection to the -- we'd
25 still have a motion for a mistrial at this point

1 in time.

2 THE COURT: Oh, sure, and that is
3 preserved for the record and noted for the
4 record.

5 MR. CULBERTSON: Thank you, ma'am. As I
6 think Your Honor's aware, my client and Mr.
7 Sanders got along.

8 THE COURT: Yeah.

9 MR. CULBERTSON: I'm not aware of any
10 testimony that was presented to the jury that
11 indicated that they had a long-standing grudge
12 against one another or that they were ever
13 combative towards one another. I think what --
14 and I hope what the judge heard today and I
15 believe what the jury probably heard was that
16 this was a unique day. While tempers might have
17 been heightened on everybody's part, there was
18 certainly no ill-will on behalf of my client
19 directed towards Mr. Sanders.

20 I point that out Your Honor, not only
21 because of my motions, but also because he and
22 Mr. Sanders got along well together. Like I
23 said, this was a day that was very unusual.
24 Things got out of hand. He -- today, my client
25 does not feel that he was ever aggressive

1 towards Mr. Sanders, certainly does not think
2 that anything he did that day, certainly, was
3 not his intent to be aggressive towards Mr.
4 Sanders. While this was a regrettable outcome,
5 it was not his intent to cause any harm, serious
6 or otherwise, to Mr. Sanders. He certainly did
7 not intend for him to pass away. He understands
8 that having gotten in this fight, for whatever
9 reason, the outcome was not good.

10 He stood up here, went to trial. We tried
11 to talk to the jury about that. Your Honor, he
12 understands what happened. He understands there
13 was a jury decision today that has found him
14 guilty of the charges that were brought against
15 him. He accepts the fact that this jury found
16 him that way and accepts those charges.

17 I will tell the Court that he and I have
18 had many conversations about a potential
19 sentencing options from both the Solicitor's
20 office -- I think we communicated that to the
21 judge, to Your Honor before the trial even
22 started. It was my understanding, my impression
23 that the Solicitor's office was comfortable with
24 a sentencing range. I know we've been to trial
25 for a day -- two days now on this case. I

1 understand that while I don't necessarily expect
2 the stuff we talked about, the pretrial, to
3 necessarily apply, I don't know that there is
4 any reason to deviate too far from that
5 sentencing range we talked about then.

6 Your Honor, my client understands that
7 having now been found guilty of attempted
8 murder, the sentencing range is pretty high. I
9 don't really know where I'm going other than to
10 say nobody necessarily expected that. It was
11 certainly not my client's intention to cause any
12 serious physical harm to anybody that day. I'm
13 just asking Your Honor to take into
14 consideration what we talked about pretrial, the
15 fact that my client has no record of any sort of
16 violence in his past, has no substantial record
17 of any sort of mischief or mayhem in his past.

18 Effectively, his life has been turned
19 upside down, has been shattered because of this.
20 I just -- he's a good fellow, a good productive
21 member of society. He's got family and friends
22 in the courtroom with him here today to stand
23 beside him. I know he looks forward to being
24 able to depend on them and count on them as he
25 goes forward. I just ask Your Honor to be as

1 considerate towards him as possible. I don't
2 know if he'd like to address the Court right now
3 at all or not.

4 **MR. CARPENTER:** I just think what happened
5 is horrible. I have to accept the verdict.

6 **THE COURT:** I understand. Well, this is a
7 kind of unique situation. When I first heard
8 about this case, it wasn't that I did not think
9 it was serious, I think I did not understand the
10 seriousness of the injury to the victim.

11 I have to say, Mr. Carpenter, in light of
12 your testimony and what you said about what you
13 did, it just -- it just -- it just doesn't match
14 up with the physical evidence. I do not, in any
15 way, hold it against you for exercising your
16 right to a jury trial, but I do take into
17 consideration that this man suffered a deep
18 brain bleed as a result to this. By all
19 accounts, this was by several blows to the head
20 and kicks to an elderly man in the head. He was
21 -- the testimony that we heard is that he was on
22 the ground and not responding -- not fighting
23 back, but getting kicked.

24 I do take into account that you have a very
25 minimal, if we can even count it as much as any,

1 prior record at all. I do take into account
2 that. I do take into account that evidentially
3 you were friends with this man or had some type
4 of relationship with this man. I take all those
5 things into account, but I -- frankly, the
6 injury to the victim and the victim's age and
7 the description of how he is on the ground, I
8 think, was very shocking frankly.

9 How long has he -- did he spend in jail?
10 Did I hear 23 days?

11 **MS. MUNSON:** 23 days, Your Honor.

12 **THE COURT:** Furthermore, at one time, you
13 talked about possibly a lesser offense
14 potentially, but the jury considered that lesser
15 offense and they still found you guilty of the
16 greater offense. I have to take that into
17 consideration as well. Therefore, the sentence
18 of the Court is eight years, credit for 23 days,
19 no contact with the victim's family.

20 Best of luck to your family.

21
22 (Proceedings conclude at approximately
23 4:39 p.m.)
24
25

CERTIFICATE

339

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 23rd day of April, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B. Johnson

Official Court Reporter

WITNESSES

J W McCloud

Greenville County Sheriffs Office

9/28/2014

ARREST WARRANT NUMBER
DIRECT PRESENTMENT

REDACTED

ACTION OF GRAND JURY

TRUE BILL

Wayne Thompson
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Madison 11.9.16
Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-23-

JMM

002729A

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April TERM 2015

THE STATE

vs.

JOSEPH AUSTIN CARPENTER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ENTERED
ACCT.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on
County present upon their oath:

the Grand Jurors of Greenville

APR 21 2015

That JOSEPH AUSTIN CARPENTER did in Greenville County, on or about the 28th day of September 2014, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Billy Sanders. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR

BAR # 64040

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Joseph Austin Carpenter

AKA:

Race: WHITE Sex: M Age: 43

DOB: REDACTED

Address: 112 East Scenic Lane

City, State, Zip: Travelers Rest, SC 29690

DL#: REDACTED SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Att. M. V. 9/1in violation of § 16-3-29 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

64040

Munson, Judy

SC Bar#

Defendant

Attorney for Defendant
Symmes, Liberton

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 8 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. 23 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: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter: John

SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2302729A

A/W#: 2015GS2302729A

Date of Offense: 9/28/2014

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSPresiding Judge JHLJudge Code: 2162Sentence Date: 11/9/16

Is domestic violence intimidation or
just physical? *Madison* 11.9.16

Clarify size of Billy Sanders if possible
Madison 11.9.16

Can we get the written definition of all
charges? *Madison* 11.9.16

PENGAD 800-631-6889	COURT'S
	EXHIBIT NO. <u>1</u>
	IDENTIFICATION/EVIDENCE
	DKT.#
DATE: <u>11/09/16</u> <u>03</u>	

State of South Carolina v. Joseph A. Carpenter

MADAME FOREPERSON, LADIES AND GENTLEMEN OF THE JURY,
YOU HAVE SEEN AND HEARD THE EVIDENCE PRESENTED AS WELL AS
THE ARGUMENTS OF COUNSEL. IT NOW BECOMES MY DUTY AND
OBLIGATION TO INSTRUCT YOU ON THE APPLICABLE LAW IN THIS CASE.
IT WILL THEN BE YOUR DUTY AND OBLIGATION TO BEGIN YOUR
DELIBERATIONS, THROUGH WHICH PROCESS YOU WILL DECIDE THE
FACTS, APPLY THE LAW AS INSTRUCTED BY THE COURT, AND RENDER
FAIR AND IMPARTIAL DECISIONS.

IT IS YOUR EXCLUSIVE DUTY TO DETERMINE THE FACTS IN THIS
CASE. YOU DO THAT BASED UPON YOUR OWN COMMON SENSE
EXAMINATION AND EVALUATION OF THE TESTIMONY AND OTHER
EVIDENCE RECEIVED DURING THE TRIAL OF THE CASE.

YOU TWELVE JURORS ALONE WILL DECIDE WHAT WEIGHT,
VALUE, AND EFFECT THAT IS TO BE GIVEN TO ANY PARTICULAR
TESTIMONY OR OTHER EVIDENCE RECEIVED. YOUR ULTIMATE GOAL IS

PENGAD 800-631-6689	COURT'S
	EXHIBIT NO. <u>2</u>
	IDENTIFICATION/EVIDENCE
	DKT.#
DATE: <u>11/09/16</u>	

TO SIMPLY REACH THE TRUTH IN THIS MATTER AND IN SO DOING YOU WILL HAVE FULFILLED YOUR OBLIGATIONS AS JURORS AND THAT IS TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL BASED UPON THE EVIDENCED PRESENTED AND THE LAW APPLICABLE TO THIS CASE.

IN THIS CASE THE STATE OF SOUTH CAROLINA, THROUGH THE CIRCUIT SOLICITOR, HAS CHARGED THE DEFENDANT WITH THE CRIMINAL OFFENSES KNOWN AS:

DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE
ATTEMPTED MURDER

THE ALLEGATIONS CHARGING THE DEFENDANT WITH THESE CRIMES ARE SET FORTH IN THE INDICTMENTS THAT HAVE BEEN PREVIOUSLY EXPLAINED TO YOU. AS I HAVE PREVIOUSLY EXPLAINED, THE INDICTMENTS ARE NOT EVIDENCE IN THIS CASE AND MAY NOT BE CONSIDERED BY YOU AS EVIDENCE AGAINST THE DEFENDANT. THE INDICTMENTS WILL BE IN THE JURY ROOM WITH BUT SERVE ONLY ONE

PURPOSE AND THAT IS TO SERVE AS THE VERDICT FORMS ON WHICH THE JURY'S UNANIMOUS DECISIONS WILL BE WRITTEN.

AS TO EACH OF THE CHARGES SET FORTH IN THE INDICTMENTS THE DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY. THAT PLEA OF NOT GUILTY HAS THEREFORE PLACED UPON THE STATE THE BURDEN OF PROVING THE ALLEGATIONS THAT ARE SET FORTH IN THE INDICTMENTS; THE BURDEN OF PROVING EACH OF THE ESSENTIAL ELEMENTS OF ANY CRIMES CHARGED; AND THEREFORE THE BURDEN OF PROVING THE GUILT OF THE DEFENDANT TO THE SATISFACTION OF YOU TWELVE JURORS BEYOND A REASONABLE DOUBT BEFORE A VERDICT OF GUILTY COULD BE RETURNED AS TO ANY INDICTMENT.

THE BURDEN IS NEVER UPON A DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR TO PROVE THAT HE IS INNOCENT BECAUSE IN SOME CASES THAT MIGHT NOT BE POSSIBLE. THE BURDEN IS ALWAYS UPON THE STATE, BECAUSE THEY HAVE MADE THE ALLEGATIONS, TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.

YOU ARE FURTHER INSTRUCTED THAT IT IS A VITAL, IMPORTANT, AND CARDINAL RULE OF LAW THAT EVERY DEFENDANT IN A CRIMINAL TRIAL, NO MATTER HOW SERIOUS THE OFFENSE MIGHT BE FOR WHICH HE STANDS CHARGED, THE DEFENDANT SHALL ALWAYS BE PRESUMED INNOCENT OF THAT CHARGE, AND THAT PRESUMPTION OF INNOCENCE SHALL BE WITH THE DEFENDANT FROM THE MOMENT OF HIS ARREST, AND THROUGHOUT THE COURSE OF THE CRIMINAL PROCESS, AND EVEN THROUGHOUT THE COURSE OF THE ACTUAL TRIAL. THE PRESUMPTION OF INNOCENCE SHALL BE WITH THE DEFENDANT EVEN AS YOU GO INTO THE JURY ROOM TO BEGIN YOUR DELIBERATIONS, AND THAT PRESUMPTION OF INNOCENCE SHALL BE WITH HIM THERE AND BE WITH HIM FOREVER, UNLESS YOU TWELVE JURORS DETERMINE THAT HE IS NO LONGER ENTITLED TO THAT PRESUMPTION OF INNOCENCE. IT IS ONLY IF, UNLESS, AND UNTIL YOU ARE SATISFIED OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT, THAT HE WOULD NO LONGER BE ENTITLED TO THE PRESUMPTION OF INNOCENCE.

DUTIES OF JURY AND TRIAL JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD IN THIS CASE DURING THIS TRIAL, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATIONS OF COUNSEL.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU

ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN A CASE. A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY OF EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. I DO NOT. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A MATTER

SOLELY FOR YOU, THE JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL.

REASONABLE DOUBT

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES, WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE. IN CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE DOUBT. REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD MAKE A REASONABLE PERSON HESITATE TO ACT.

PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE

CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL - DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION.

THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE. AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT GUILTY.

CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH.

IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS CASE. YOU

MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF A WITNESS WHILE ON THE WITNESS STAND.

CRIMINAL INTENT

IN ORDER TO ESTABLISH CRIMINAL LIABILITY, THE STATE MUST ALSO PROVE CRIMINAL INTENT. FOR A PARTICULAR CRIME, THE MENTAL STATE REQUIRED MIGHT BE PURPOSE, INTENT, KNOWLEDGE, RECKLESSNESS, OR CRIMINAL NEGLIGENCE. THE STATE MUST PROVE CRIMINAL INTENT BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS A MATTER THAT MUST BE DETERMINED BY THE JURY FROM THE FACTS OF THE CASE. THERE IS NO WAY TO PROVE CRIMINAL INTENT TO A MATHEMATICAL CERTAINTY, SO THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW YOU DETERMINE WHETHER OR NOT THE ELEMENT REQUIRING INTENT WAS PRESENT. IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT EVIDENCE. INTENT MAY BE ESTABLISHED BY CIRCUMSTANTIAL EVIDENCE OR BY TAKING INTO CONSIDERATION

THE ACTS OF THE PARTIES AND ALL THE FACTS AND CIRCUMSTANCES OF THE CASE.

CRIMINAL INTENT IS A MENTAL STATE OF CONSCIOUS WRONGDOING. IT IS UP TO YOU TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE EXISTED IN THIS CASE.

CRIMINAL INTENT CAN ARISE FROM ACTION OR A FAILURE TO ACT. IT CAN ARISE FROM NEGLIGENCE, RECKLESSNESS, OR AN INDIFFERENCE TO DUTY OR CONSEQUENCES, WHICH IS CONSIDERED BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL INTENT.

DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE

THE DEFENDANT IS CHARGED WITH DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED AN ASSAULT AND BATTERY ON A HOUSEHOLD MEMBER WHICH INVOLVES THE USE OF A DEADLY WEAPON OR RESULTS IN SERIOUS BODILY INJURY TO THE

INCLUDED CHARGE OF CRIMINAL DOMESTIC VIOLENCE. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT CAUSED PHYSICAL HARM OR INJURY TO A MEMBER OF THE DEFENDANT'S OWN HOUSEHOLD OR THAT THE DEFENDANT OFFERED OR ATTEMPTED TO CAUSE PHYSICAL HARM OR INJURY TO A MEMBER OF THE DEFENDANT'S OWN HOUSEHOLD WITH THE APPARENT PRESENT ABILITY TO CAUSE HARM OR INJURY UNDER CIRCUMSTANCES REASONABLY CREATING A FEAR OF IMMINENT DANGER. A HOUSEHOLD MEMBER IS AS I DEFINED FOR YOU EARLIER.

ATTEMPTED MURDER

THE DEFENDANT IS CHARGED WITH ATTEMPTED MURDER. IN ORDER TO PROVE THIS CRIME, THE STATE MUST PROVE THE DEFENDANT ATTEMPTED TO KILL ANOTHER PERSON WITH MALICE AFORETHOUGHT, EITHER EXPRESS OR IMPLIED.

MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL ACT

WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO INFLICT AN INJURY OR UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME OF THE ACT IS COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT.

MALICE AFORETHOUGHT MAY BE EXPRESS OR INFERRED. THESE TERMS, "EXPRESS" AND "INFERRED" DO NOT MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE

PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER ACCOMPLISHED; FOR EXAMPLE, LYING IN WAIT FOR A PERSON OR ANY OTHER ACTS OF PREPARATION GOING TO SHOW THAT THE DEED WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESS MALICE.

MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR SATISFACTION, THIS INFERENCE WOULD BE SIMPLY AN EVIDENTIARY FACT TO BE CONSIDERED BY YOU, THE JURY, ALONG WITH THE OTHER EVIDENCE IN THE CASE, AND YOU MAY GIVE IT THE WEIGHT YOU DECIDE IT SHOULD RECEIVE.

SPECIFIC INTENT TO COMMIT A MURDER IS AN ELEMENT OF ATTEMPTED MURDER. THIS MEANS THAT THE ACT CONSTITUTING THE ATTEMPT MUST BE DONE WITH THE INTENT TO COMMIT THAT PARTICULAR CRIME. IN THE CONTEXT OF AN 'ATTEMPT' CRIME,

SPECIFIC INTENT MEANS THAT THE DEFENDANT CONSCIOUSLY INTENDED THE COMPLETION OF ACTS COMPRISING THE ATTEMPTED OFFENSE. IN OTHER WORDS, THE COMPLETION OF SUCH ACTS IS THE DEFENDANT'S PURPOSE.

ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE

IF YOU FIND THAT THE STATE HAS NOT MET THE BURDEN OF PROOF FOR THE CHARGE OF ATTEMPTED MURDER, YOU MAY CONSIDER THE LESSER INCLUDED CHARGE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE IF THE PERSON UNLAWFULLY INJURES ANOTHER PERSON, AND A GREAT BODILY INJURY TO ANOTHER PERSON RESULTS OR THE ACT IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY.

ASSAULT AND BATTERY IN THE FIRST DEGREE

IF YOU FIND THAT THE STATE HAS NOT MET THE BURDEN OF PROOF FOR ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, YOU MAY CONSIDER THE LESSER INCLUDED CHARGE OF ASSAULT AND BATTERY IN THE FIRST DEGREE. A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY IN THE FIRST DEGREE IF THE PERSON OFFERS OR ATTEMPTS TO INJURE ANOTHER PERSON WITH THE PRESENT ABILITY TO DO SO, AND THE ACT IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY.

SELF-DEFENSE

THE DEFENDANT HAS RAISED THE DEFENSE OF SELF-DEFENSE. SELF-DEFENSE IS A COMPLETE DEFENSE AND, IF IT IS ESTABLISHED, YOU MUST FIND THE DEFENDANT NOT GUILTY. THE STATE HAS THE BURDEN OF DISPROVING SELF-DEFENSE BY PROOF BEYOND A REASONABLE DOUBT. IF YOU HAVE A REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND

THE DEFENDANT NOT GUILTY. ON THE OTHER HAND, IF YOU HAVE NO REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT GUILTY.

THE FOLLOWING ELEMENTS ARE REQUIRED TO ESTABLISH SELF-DEFENSE.

FIRST, THE DEFENDANT MUST BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. IF THE DEFENDANT'S CONDUCT WAS THE TYPE WHICH WAS REASONABLY CALCULATED TO, AND DID, PROVOKE A DEADLY ASSAULT, THE DEFENDANT WOULD BE AT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT BE ENTITLED TO AN ACQUITTAL BASED ON SELF-DEFENSE.

THE NEXT ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY OR THAT THE DEFENDANT ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY.

IF THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER, IT MUST BE SHOWN THAT THE CIRCUMSTANCES WOULD HAVE WARRANTED A PERSON OF ORDINARY FIRMNESS AND COURAGE TO STRIKE THE BLOW TO PREVENT DEATH OR SERIOUS BODILY INJURY. IF THE DEFENDANT BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, IT MUST BE SHOWN THAT A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF.

IN DECIDING WHETHER THE DEFENDANT ACTUALLY WAS, OR BELIEVED HE WAS, IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, YOU SHOULD CONSIDER ALL THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIME, INCLUDING THE PHYSICAL CONDITION AND CHARACTERISTICS OF THE DEFENDANT AND THE VICTIM.

THE DEFENDANT DOES NOT HAVE TO SHOW THAT HE WAS ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT BELIEVED HE

WAS IN IMMINENT DANGER AND A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN MISTAKEN. IT IS FOR YOU TO DECIDE WHETHER THE DEFENDANT'S FEAR OF IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY WAS REASONABLE AND WOULD HAVE BEEN FELT BY AN ORDINARY PERSON IN THE SAME SITUATION.

WORDS ACCOMPANIED BY HOSTILE ACTS MAY, DEPENDING ON THE CIRCUMSTANCES, ESTABLISH SELF-DEFENSE.

THE RELATIVE SIZES, AGES, AND WEIGHTS OF THE DEFENDANT AND THE VICTIM MAY BE CONSIDERED IN DECIDING THE APPARENT OR ACTUAL NEED FOR FORCE IN SELF-DEFENSE AND THE AMOUNT OF FORCE NEEDED.

THREATS MADE BY THE VICTIM MAY BE CONSIDERED IN DETERMINING WHETHER THE DEFENDANT ACTUALLY WAS, OR BELIEVED HE WAS, IN IMMINENT DANGER.

THE FINAL ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT HAD NO OTHER PROBABLE WAY TO AVOID THE DANGER OF DEATH OR SERIOUS BODILY INJURY THAN TO ACT AS THE DEFENDANT DID IN THIS PARTICULAR INSTANCE.

IF THE DEFENDANT WAS ON HIS OWN PREMISES, THE DEFENDANT HAD NO DUTY TO RETREAT BEFORE ACTING IN SELF-DEFENSE.

DEFENSE OF HABITATION

THE DEFENDANT HAS RAISED THE DEFENSE OF HABITATION. THE DEFENSE OF HABITATION IS THE DEFENSE OF ONE'S DWELLING HOUSE. IF THE DEFENDANT OR A MEMBER OF THE DEFENDANT'S HOUSEHOLD IS ATTACKED IN THE DEFENDANT'S OWN HOME, THE DEFENDANT MAY USE THE FORCE WHICH APPEARS TO BE NEEDED TO PROTECT HIMSELF

OR HIS HOUSEHOLD FROM DEATH OR SERIOUS BODILY INJURY. WHEN ATTACKED IN HIS OWN HOUSE, THE DEFENDANT MAY JUSTIFY OR EXCUSE THE KILLING OF HIS ASSAILANT IF SUCH ACT IS APPARENTLY NECESSARY TO SAVE HIS OWN LIFE OR TO PROTECT HIMSELF FROM GREAT BODILY HARM.

IF A TRESPASSER REFUSES TO LEAVE THE DWELLING HOUSE AT THE REQUEST OF THE HOUSEHOLDER DEFENDANT, THE DEFENDANT MAY USE THE NECESSARY FORCE TO EJECT THE TRESPASSER. IF, IN THE EFFORT TO EJECT THE TRESPASSER, THE LIFE OR SAFETY OF THE DEFENDANT OR A MEMBER OF THE DEFENDANT'S HOUSEHOLD IS JEOPARDIZED, THE DEFENDANT MAY KILL THE TRESPASSER. HOWEVER, THE DEFENDANT MAY NOT USE MORE FORCE THAN IS REASONABLY NECESSARY TO EJECT THE PERSON FROM THE PREMISES. THE DEFENDANT SHOULD NOT IN THE FIRST INSTANCE RESORT TO IMMEDIATE FORCE TO REPEL THE INTRUDER. THE KIND AND DEGREE OF FORCE WHICH ARE JUSTIFIED DEPEND ON THE CONDUCT OF THE INTRUDER.

EVEN THOUGH A PERSON HAS ENTERED THE DWELLING AT THE INVITATION OF THE DEFENDANT OR A MEMBER OF THE HOUSEHOLD, HIS SUBSEQUENT CONDUCT MAY BE SUCH AS TO JUSTIFY THE DEFENDANT IN ORDERING HIS DEPARTURE. THE PERSON BECOMES A TRESPASSER IF THE PERSON REFUSES TO LEAVE WHEN ASKED. UPON THE PERSON'S REFUSAL TO DEPART, THE DEFENDANT IS NOT REQUIRED TO YIELD AS A MODE OF AVOIDING AN ALTERCATION AND APPREHENDED VIOLENCE, BUT MAY USE FORCE REASONABLY NECESSARY OR APPARENTLY NECESSARY TO EJECT HIM, AND NO MORE. THE DEFENDANT SHOULD NOT, IN THE FIRST INSTANCE, RESORT TO FORCE TO REPEL THE INTRUDER. THE KIND AND DEGREE OF FORCE WHICH ARE JUSTIFIED DEPEND ON THE CONDUCT OF THE INTRUDER.

IF, WHILE LEGITIMATELY EXERCISING IN GOOD FAITH THE RIGHT TO EJECT A TRESPASSER, THE DEFENDANT IS ATTACKED BY THE TRESPASSER AND FEARS DEATH OR SERIOUS BODILY HARM, THE DEFENDANT WOULD BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. AN ELEMENT THAT IS NECESSARY TO THE DEFENSE OF

HABITATION IS THAT THE DEFENDANT BE WITHOUT FAULT IN BRINGING ABOUT THE DIFFICULTY. WHETHER THE DEFENDANT WAS ACTING IN GOOD FAITH IN ATTEMPTING TO EJECT THE VICTIM AND WAS ATTACKED IN THE PROCESS IS A QUESTION FOR YOU TO DETERMINE.

THE LAW PERMITS THE OCCUPANT OF THE HOME TO USE SUCH FORCE EVEN TO THE TAKING OF HUMAN LIFE, AS MAY BE REASONABLY NECESSARY TO ACCOMPLISH THE EXPULSION. IF ENGAGED IN THE EXERCISE IN GOOD FAITH OF HIS RIGHT TO EJECT SUCH TRESPASSER, HE IS WITHOUT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT HAVE TO RETREAT. THE BELIEF IN THE NECESSITY OF USING DEADLY FORCE IN THE DEFENSE OF HABITATION MUST BE REASONABLE. THIS RIGHT OF AN OCCUPANT TO EXPEL A TRESPASSER AND TO USE SUCH FORCE AS IS NECESSARY, EVEN TO KILLING HIM, IS LIMITED TO THE PLACE OF HABITATION AND CURTILAGE.

THERE IS NO DUTY TO RETREAT WHERE AN ATTACK OCCURS IN ONE'S HOME. THE ABSENCE OF A DUTY TO RETREAT ALSO EXTENDS TO

THE CURTILAGE OF A HOME. CURTILAGE IS SUCH SPACE AS IS NECESSARY AND CONVENIENT, AND IS HABITUALLY USED FOR FAMILY PURPOSES, INCLUDING AN ADEQUATE YARD AND GARDEN AND ROOM FOR NECESSARY OUTBUILDINGS. CURTILAGE INCLUDES OUTBUILDINGS, YARD AROUND DWELLING, AND GARDEN. IT ALSO INCLUDES GARAGES, DRIVEWAYS, COURTYARDS, AND PARKING AREAS. YARDS, COURTYARDS, DRIVEWAYS AND PARKING AREAS USUALLY AND CUSTOMARILY USED IN COMMON BY OCCUPANTS OF APARTMENT HOUSES, CONDOMINIUMS AND OTHER SUCH COMPLEXES WITH OTHER OCCUPANTS THEREOF CONSTITUTE A PART OF THE CURTILAGE OF A SPECIFICALLY DESCRIBED APARTMENT OR CONDOMINIUM OR OTHER LIVING UNIT THEREOF.

JURY VERDICT

LADIES AND GENTLEMEN, YOUR VERDICT MUST BE A UNANIMOUS ONE. MADAME FOREPERSON, WHEN THE JURY AGREES ON THE VERDICT, YOU WILL WRITE THE VERDICT ON THE BACK OF THE

INDICTMENT AND SIGN YOUR NAME AS FOREPERSON. THEN KNOCK ON THE JURY ROOM DOOR AND INFORM THE BAILIFF THAT YOU HAVE REACHED A VERDICT. AT THAT TIME, WE WILL RECEIVE YOU BACK INTO THE COURTROOM.

I ASK THAT YOU NOW RETURN TO YOUR JURY ROOM BUT DO NOT BEGIN DELIBERATIONS UNTIL YOU ARE TOLD BY THE BAILIFF TO DO SO. THERE ARE SOME MATTERS WHICH MUST BE DISCUSSED WITH THE ATTORNEYS BEFORE YOU BEGIN YOUR DELIBERATIONS.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions
Letitia Verdin, Circuit Court Judge

Appellate Case No. 2016-002335

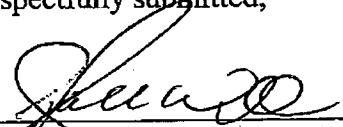
The State, ... Respondent,
v.
Joseph Austin Carpenter, ... Appellant.

CERTIFICATE OF SERVICE

I certify that on May 9, 2018, I served the Record on Appeal on the Respondent by
placing a copy of same in the United States Mail, first class postage prepaid, addressed to counsel
of record as indicated below and by facsimile or email if so indicated:

V. Henry Gunter, Jr., Assistant Attorney General
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Respectfully submitted,


J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)
Counsel for Appellant

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Court of General Sessions
Letitia Verdin, Circuit Court Judge

Appellate Case No. 2016-002335

The State, ... Respondent,
v.
Joseph Austin. Carpenter, ... Appellant.

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal contains all of the matter designated by the parties and
no irrelevant matter.

I further certify that the Record on Appeal has been redacted in accordance with the
Supreme Court's Order on the redaction of records and private data.


J. Falkner Wilkes (SC Bar #12893)
414 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)
Counsel for Appellant