

ORIGINAL

VOLUME I OF III

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable R. Knox McMahon, Circuit Court Judge

RECEIVED

JUL 05 2018

THE STATE,

SC Court of Appeals

RESPONDENT,

V.

DAVID RICHARD WALKER, JR.,

APPELLANT

APPELLATE CASE NO. 2017-000550

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

CAROLINE SCRANTOM
Assistant Attorney General

P.O. Box 11549
Columbia, SC 290211
(803) 734-6305

ATTORNEYS FOR RESPONDENT

PAGES 1-500

INDEX

INDEX	i
TRIAL TRANSCRIPT (FEBRUARY 21, 2017)	1
 <u>BLAIR HEARING</u>	
DONNA SCHWARTZ-MADDOX	
Direct Examination by Mr. Graham	5
 STAND YOUR GROUND HEARING	
DAVID RICHARD WALKER, JR.	
Direct Examination by Mr. Walker	19
Cross Examination by Mr. Graham	66
 THOMAS BANTY	
Direct Examination by Mr. Walker	178
 DUSTIN SMITH	
Direct Examination by Mr. Walker	190
Cross Examination by Mr. Graham	201
Redirect Examination by Mr. Walker	202
 CASSIDY	
Direct Examination by Mr. Walker	205
 DONNA SCHWARTZ-MADDOX	
Direct Examination by Mr. Walker	211
Cross Examination by Mr. Graham	220
Redirect Examination by Mr. Walker	225
 CHRISTOPHER WATKINS	
Direct Examination by Mr. Walker	251
 OFFICER MARK WHARTON	
Direct Examination by Mr. Walker	261
 OFFICER DARRELL KOSTYK	
Direct Examination by Mr. Walker	271

JANICE ROSS

Direct Examination by Mr. Graham	294
Cross Examination by Mr. Walker	304

TOMMY HINES

Direct Examination by Ms. Davis	321
Cross Examination by Mr. Walker	326

JUDY BANTY

Direct Examination by Ms. Davis	330
Cross Examination by Mr. Walker	332

JACKSON V. DENNO HEARING

DARRELL KOSTYK

Direct Examination by Ms. Davis	346
Cross Examination by Mr. Walker	365

JAMES KEMFORT

Direct Examination by Mr. Graham	373
Cross Examination by Mr. Walker	381

PAGE MCCRAW

Direct Examination by Mr. Graham	388
Cross Examination by Mr. Walker	396

BRUCE WADE

Direct Examination by Mr. Graham	398
Cross Examination by Mr. Walker	400
Redirect Examination by Mr. Graham	406

DAVID RICHARD WALKER, JR.

Direct Examination by Mr. Walker	422
Cross Examination by Mr. Graham	453

STAND YOUR GROUND HEARING (CONTINUED)

DAVID RICHARD WALKER, SR.

Direct Examination by Mr. Walker	489
Cross Examination by Mr. Graham	491
Redirect Examination by Mr. Walker	493

KYLE WALKER

Direct Examination by Mr. Walker	496
Cross Examination by Ms. Davis	504
Redirect Examination by Mr. Walker	506

ARGUMENT BY MR. WALKER	512
ARGUMENT BY MR. GRAHAM	513
RULING BY THE COURT	537
OPENING STATEMENT BY MS. DAVIS	570
OPENING STATEMENT BY MR. WALKER	574
TESTIMONY	
EUGENE RAY	
Direct Examination by Ms. Davis	583
Cross Examination by Mr. Walker	604
JAMES SULLIVAN	
Direct Examination by Ms. Davis	615
Cross Examination by Mr. Walker	703
COLLEEN BELK	
Direct Examination by Mr. Graham	712
Cross Examination by Mr. Walker	724
SARAH WALKER	
Direct Examination by Mr. Graham	725
Cross Examination by Mr. Walker	727
TOMMY HINES	
Direct Examination by Ms. Davis	729
Cross Examination by Mr. Walker	731
Direct	735
Cross	744
TENETIA INABINETT	
Direct Examination by Ms. Davis	747
Cross Examination by Mr. Walker	755
Redirect Examination by Ms. Davis	768
Recross Examination by Mr. Walker	769
DUSTIN SMITH	
Direct Examination by Mr. Graham	773
Cross Examination by Mr. Walker	782

JUDY BANTY	
Direct Examination by Ms. Davis.....	792
Cross Examination by Mr. Walker	797
DONNA SCHWARTZ MADDUX	
Direct Examination by Mr. Graham	854
Cross Examination by Mr. Walker	861
Examination by the Court	880
Redirect Examination by Mr. Graham.....	887
Ruling by the Court.....	891
JOHNNY LEE DARBY, III	
Direct Examination by Mr. Graham	927
Cross Examination by Mr. Walker	933
DARRELL JAMES KOSTYK	
Direct Examination by Ms. Davis.....	934
Cross Examination by Mr. Walker	949
Redirect Examination by Ms. Davis	991
Recross Examination by Mr. Walker.....	992
JANICE EDWARDS ROSS	
Direct Examination by Mr. Graham	1003
Cross Examination by Mr. Walker	1030
Redirect Examination by Mr. Graham.....	1043
Recross Examination by Mr. Walker.....	1044
DIRECTED VERDICT MOTION BY MR. WALKER.....	1048
RULING BY THE COURT.....	1084
DAVID RICHARD WALKER, JR.	
Examination by the Court	1084
CLOSING ARGUMENT BY MR. GRAHAM	1109
CLOSING ARGUMENT BY MR. WALKER.....	1119
CHARGE ON THE LAW	1142
VERDICT	1162
RENEWAL OF ALL PRIOR MOTIONS BY MR. WALKER	1165
MOTION FOR A NEW TRIAL BY MR. WALKER	1165

RULING BY THE COURT.....	1165
SENTENCING	1195
INDICTMENT.....	1196
ORDER GRANTING DEFENDANT’S MOTION TO PROCEED <u>PRO SE</u>	1198
NOTICE OF APPEAL.....	1200
CERTIFICATE OF COUNSEL	1202

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #2 (CD IN-CAR VIDEO) AND
STATE’S EXHIBIT #45 (REDACTED CD IN-CAR VIDEO)**

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

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 DAVID RICHARD WALKER,) 2015-GS-32-02341
7 JR.,) FEBRUARY 21, 2017
8 DEFENDANT.) LEXINGTON, SOUTH CAROLINA

9
10
11 B E F O R E:

12 THE HONORABLE R. KNOX MCMAHON, JUDGE. ; And a Jury.
13
14

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

16 D. SHAWN GRAHAM, ASSISTANT SOLICITOR
17 ATTORNEY FOR THE STATE

18 SHANNON DAVIS, ASSISTANT SOLICITOR
19 ATTORNEY FOR THE STATE

20 MR. DAVID RICHARD WALKER, JR..
21 APPEARING PRO SE

22 SARAH MAULDIN, ASSISTANT PUBLIC DEFENDANT
23 APPEARING AS STANDY COUNSEL
24

25 MICHAEL R. WATTS
CIRCUIT COURT REPORTER

INDEX

(FEBRUARY 21, 2017)

WITNESSES

PAGE

(BLAIR HEARING)

DR. DONNA SCHWARTZ-MADDOX (SW)

DIRECT EXAMINATION BY MR. GRAHAM

5

(NO CROSS EXAMINATION)

JURY VENIRE -- PAGE 22

(STAND YOUR GROUND SUPPRESSION HEARING)

DAVID RICHARD WALKER, JR. (DW)

DIRECT EXAMINATION BY MR. WALKER

73

CROSS EXAMINATION BY MR. GRAHAM

120

EXHIBITS

1	NO.	DESCRIPTION	ID.	EV.
2				
3	CT-1	PSYCHIATRIC EVALUATION	9	
4	CT-2	COMPETENCY TO STAND TRIAL EVALUATION	9	
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1 (PROCEEDINGS, FEBRUARY 21, 2017)

2 THE COURT: All right, solicitor, Mr. Walker.

3 MR. GRAHAM: Yes, Your Honor.

4 Your Honor, I believe at this time before we can
5 move on to the jury selection or the trial of the case we
6 have to address the competency of Mr. Walker for the record.

7 THE COURT: All right. Are you prepared to go
8 forward with that hearing, Mr. Walker?

9 MR. WALKER: Yes, sir, Your Honor, I feel that --

10 THE COURT: You are going to have to speak up, not
11 only for me but for our court reporter, and please stand
12 when you are address the court.

13 MR. WALKER: Yes, sir, Your Honor.

14 Yes, sir, Your Honor. I spoke with Ms. Maddox a
15 few minutes ago and I believe she's completed her --

16 THE COURT: All right. Thank you.

17 Solicitor, you may call your first witness.

18 MR. GRAHAM: The State calls Dr. Maddox.

19 THE COURT: All right, doctor, if you would come
20 around and join us please.

21 DR. DONNA SCHWARTZ-MADDOX, having been first duly
22 sworn, testified as follows:

23 THE CLERK: You may have a seat.

24 Once you are seated, doctor, please state your
25 full name, spelling your last.

1 THE WITNESS: Donna Hillman Schwartz,
2 S-C-H-W-A-R-T-Z, last name Maddox, M-A-D-D-O-X.

3 DIRECT EXAMINATION BY MR. GRAHAM:

4 Q. Good morning Dr. Maddox. How are you?

5 A. Good morning.

6 Q. You are a forensic psychiatrist, is that correct?

7 A. Yes, sir.

8 Q. And you have been qualified and testified as a forensic
9 psychiatrist in South Carolina courts how many times?

10 A. Around ten times.

11 MR. GRAHAM: For the purposes of this hearing,
12 Your Honor, the State would have Dr. Maddox be qualified as
13 a forensic psychiatrist.

14 THE COURT: Any objections, Mr. Walker?

15 MR. WALKER: No, sir, Your Honor.

16 THE COURT: All right. She is so qualified and
17 accepted as an expert in the field of forensic psychiatry.

18 BY MR. GRAHAM:

19 Q. Dr. Maddox, have you had an opportunity pursuant to a
20 court order to evaluate Mr. Walker for competency?

21 A. Yes, sir.

22 Q. And part of that evaluation, did you incorporate or did
23 you review the findings of Dr. Frierson in a report that he
24 issued from evaluations of Mr. Walker on March 20th and
25 April 23rd of 2014?

1 A. I did.

2 Q. And have you reviewed his findings?

3 A. I did.

4 Q. And what were Dr. Frierson's findings?

5 A. His opinion was that Mr. Walker was competent to stand
6 trial.

7 Q. How many times have you had an opportunity to speak
8 with Mr. Walker?

9 A. I evaluated him originally, Mr. Graham, on October
10 31st, 2015.

11 Then I saw him again when we had a Blair Hearing not
12 too long ago.

13 I also evaluated him this past Friday. I came here and
14 met with him an hour and a half.

15 And then I met with him again today.

16 So I have seen him a total of four times.

17 Q. And before when you testified at a Blair Hearing, that
18 was in front of Judge Griffith?

19 A. Yes, sir.

20 Q. And your findings at that time, your opinion as to Mr.
21 Walker's competency to stand trial was what?

22 A. It was my opinion that he was competent to stand trial
23 and, therefore, represent himself.

24 Q. And since that time and that hearing you have met him
25 two more times or met with him two more times?

1 A. Yes.

2 Q. Okay. Do you have an opinion today about his
3 competency to stand trial?

4 A. I do.

5 Q. And what is that opinion?

6 A. It's my opinion that he remains competent. He clearly
7 has rational and factual understanding of these proceedings.

8 The concern I have had, Your Honor, over the period of
9 time, and he's doing well, is that I'm more concerned about
10 his capacity to assist, his ability to pay attention.

11 In the last hearing we had he actually cross-examined
12 me, and based on my experience, he was spot on. He was
13 following testimony. He was asking currently questions, so
14 he certainly even demonstrated that capacity in the
15 courtroom.

16 Then I met with him Friday and I noticed on his
17 condition. I noticed Friday very briefly Mr. Graham, he
18 had -- he was having difficulty recalling information. He
19 took a quick break and was able to recall a number of cases
20 that are pertinent to his defense and we had a very rational
21 discussion about those things.

22 The only issue that I need to bring to the court's
23 attention that there has been some concern about, Your
24 Honor, Mr. Walker has a history of deep feeling thrombosis.
25 He has blood clots in his leg and that comes from a genetic

1 condition. He lacks a factor that helps your blood thin.
2 And Friday, when we saw him, he had extreme swelling in his
3 right leg and it looks like he has a huge blood clot. He
4 has a filter in his veins that -- to prevent those blood
5 clots from going to his lungs and he actually had that
6 happen to him last year in 2015. He actually had blood
7 clots to both of his lungs during his incarceration.

8 We called the prison, Your Honor, on Friday, everyone
9 including Judge Griffith. We contacted the Department of
10 Corrections and tried to arrange for him to be medically
11 seen because of the concern.

12 I just want to bring to the court's attention. I met
13 with Mr. Walker today, he was not seen at all on Friday. He
14 returned from court here. There was evidently he says a
15 riot at Broad River. I have not been able to confirm that
16 because I just learned that information, but he looked well.
17 He's got a compression stocking on, which should help, but I
18 would just put for the court's notice that he developed some
19 shortness of breath. That probably wouldn't be, in my
20 opinion, a medical emergency, and he may have to stop at
21 some point and have medical attention for him, if he
22 develops any of those symptoms.

23 Q. Other than that physical ailment, would you discuss
24 right then any questions about his competency to stand
25 trial?

1 A. No, not at all. If anything were to happen during the
2 week, I'm glad -- I'll be glad to come look at him, but he
3 looked good, Your Honor. His -- he's paying attention.
4 He's able to remember things. He's self-protective. He
5 understands what he's doing.

6 MR. GRAHAM: Your Honor, I don't know. I believe
7 Dr. Frierson report is in the file. I have had access to
8 that. We can make that a court exhibit, if Your Honor
9 wants.

10 THE COURT: Yes, sir, please.

11 MR. GRAHAM: And then I have got a copy of that.

12 As far as Dr. Maddox's report, I'm not sure how
13 many reports she's issued and where they all have been, so I
14 don't have possession of those. I've had them make those.

15 A. Your Honor, I updated one. I e-mailed it to you last
16 night, but I do have an updated one yesterday for everyone's
17 purpose and I'm glad to provide my copies and share --

18 MR. GRAHAM: With the court permission, Your
19 Honor, I'll take that from Dr. Maddox and make that a court
20 exhibit as well.

21 THE COURT: All right. Thank you.

22 (Psychiatric Evaluation marked as Court's Exhibit
23 No. 1 for identification)

24 (Competency to Stand Trial Evaluation marked as
25 Court's Exhibit No. 2 for identification)

1 MR. WALKER: May I have a copy of that, Your
2 Honor?

3 THE COURT: Of course.

4 MR. GRAHAM: Your Honor, could the State have a
5 copy of that as well?

6 THE COURT: Of course.

7 (Off the record).

8 (Back on the record).

9 MR. GRAHAM: Your Honor, other than Dr. Maddox's
10 testimony and these two represents the State has nothing
11 else to offer on the matter.

12 THE COURT: All right. Thank you.

13 I will see the reports after you get them marked.
14 Have you had the opportunity to review Dr.
15 Maddox's current report, Mr. Walker?

16 MR. WALKER: Yes, sir, Your Honor, I did.

17 THE COURT: And, Mr. Walker, as I understand Dr.
18 Maddox's testimony, you have a genetic condition with
19 thrombosis. So with that being said, you do not have to
20 stand, if you do not want to when I address you. You may
21 remain seated, if that helps alleviate your physical
22 condition in any manner. I don't know if it does or not.

23 MR. GRAHAM: Yes, sir, Your Honor, I would try to
24 keep -- I'll try to stand as much as possible.

25 THE COURT: I'm saying if it would alleviate any

1 symptoms caused to your medical condition and I do not
2 consider it disrespectful for you to remain seated. Do you
3 understand what I'm saying?

4 MR. WALKER: Yes, sir, Your Honor.

5 THE COURT: All right. Do you have any questions
6 you would like to ask Dr. Maddox?

7 MR. WALKER: No, sir.

8 THE COURT: All right. And do you have any
9 objection to the reports being offered as court's exhibits?

10 MR. WALKER: No, sir, Your Honor.

11 THE COURT: All right. Thank you. Thank you very
12 much.

13 You may be seated.

14 Anything further, solicitor?

15 MR. GRAHAM: Does he have any objection to the
16 State having an a copy of it? I haven't reviewed it. I
17 just --

18 THE COURT: Do you have objection to the State
19 having a copy of the --

20 MR. WALKER: Yes. Yes, sir, Your Honor, I would
21 like something eradicated out of it and then the State is
22 more than welcome to have a copy of it.

23 THE COURT: All right. All right. And when you
24 say eradicated, that's a great word, by the way, but you are
25 talking about -- you are talking about having it redacted,

1 removed from the report?

2 MR. WALKER: Yes, sir, I would like to redact
3 something out of there, Your Honor.

4 THE COURT: All right. Well, we will address that
5 issue momentarily, okay?

6 MR. WALKER: Thank you, Your Honor.

7 THE COURT: All right. Anything further for Dr.
8 Maddox?

9 MS. DAVIS: No, sir, Your Honor.

10 THE COURT: Thank you. Thank you for being with
11 us this morning, Dr. Maddox, as always.

12 THE WITNESS: Thank you.

13 THE COURT: Yes, ma'am.

14 Any other witnesses as to the issue of competency?

15 MR. GRAHAM: Not from the State, Your Honor.

16 THE COURT: All right. Relying on both of Dr.
17 Maddox's expertise in the area and her testimony and also
18 Dr. Frierson's report of March 20th, 2014, it appears there
19 has been five different -- or findings of competency.

20 As I say, March 23rd, '14, October 31st, '15,
21 Blair Hearing in front of Judge Griffith this past Friday,
22 and today, although all of those may have not resulted in
23 court hearings, I find today that under the standard of
24 Blair, he has the competency, he has the rational and
25 factual understanding of the proceedings.

1 Further, the doctor testified that he has
2 cross-examined her before, if he tracks, asks reasonable
3 questions and elicits the response. He's very
4 self-protective. He may have some memory issues. He is
5 attentive. And based on all the evidence before this court,
6 I find that he is competent to stand trial.

7 Mr. Walker, one further thing, however. I realize
8 that other judges have reviewed the dangers and the
9 standards under Faretta v. California with you of a person
10 representing himself or herself.

11 Obviously you have a Constitutional Right to
12 represent yourself under both the federal and the state
13 constitutions.

14 There are certain dangers and disadvantages of
15 self-representation. Do you understand that, Mr. Walker?

16 MR. WALKER: Yes, sir, Your Honor, I do.

17 THE COURT: And you have reviewed those both with
18 Judge Russo and Judge Griffith?

19 MR. WALKER: Yes, sir, that's correct, Your Honor.

20 THE COURT: And with those, you know, you will be
21 held to the standard of an officer of the court to know the
22 rules of court and the Rules of Evidence. Do you
23 understand?

24 MR. WALKER: Yes, sir, Your Honor. I believe
25 that, but I also believe it is the standard that a pro-se

1 inmate has to abide by a rule that was -- that was invented
2 for a lawyer or a solicitor.

3 THE COURT: I know of no waiver of the rules of
4 court or the Rules of Evidence.

5 MR. WALKER: I'm talking about the professional
6 conduct -- professional conduct rule, Your Honor. I plan to
7 follow all the rules -- just in case it becomes a mishap or
8 something and I never -- you can't predict the future.

9 THE COURT: Well, I can -- Mr. Walker, I can
10 predict anything but the future.

11 MR. WALKER: That's correct, Your Honor.

12 THE COURT: And I can't predict what may or may
13 not come forward in court, or anywhere else for that matter,
14 so it's very difficult for me to try to answer that
15 question.

16 You have been very respectful and I'm sure that
17 you will remain to be. And, of course, I'll allow you to
18 try your case. And, you know, if there is an objection on
19 some issue, whether by you or whether by the solicitor, I
20 will certainly address that at that time. Generally I do
21 that outside of the presence of the jury. That does not
22 mean there may not be times when there is a bench
23 conference, but generally I do that outside of the presence
24 of the jury.

25 MR. WALKER: Your Honor, if I may, may I move to

1 have all bench conferences transcribed?

2 THE COURT: Well, unless -- rather than that,
3 let's do this. We won't have any bench conferences.

4 MR. WALKER: No, sir, Your Honor, I think that's
5 relevant.

6 THE COURT: All right. Then we will just do
7 everything outside of the presence of the jury. If at any
8 time you have a matter of law, or solicitor, just bring it
9 up and our jury will be excused to go to their jury room.

10 MR. GRAHAM: All right.

11 THE COURT: I don't particularly like them anyway.
12 I do them, but I don't -- I don't have a problem with that
13 whatsoever, Mr. Walker.

14 MR. WALKER: Thank you so much, Your Honor.

15 THE COURT: But you understand, though, the
16 dangers of self-representation?

17 MR. WALKER: Yes, sir, that's correct.

18 THE COURT: And you understand you have the
19 absolute right to be represented by an attorney?

20 MR. WALKER: That's correct, Your Honor. I do
21 understand.

22 THE COURT: And you have standby counsel?

23 MR. WALKER: That's correct, Your Honor, I have
24 Ms. Mauldin. She's here as my standby counsel.

25 THE COURT: All right. You knowingly and

1 intelligently waive your right to an appointed attorney?

2 MR. WALKER: That's correct, Your Honor.

3 THE COURT: All right. Thank you. Thank you very
4 much. Mr. Walker.

5 Now, as far as the redaction in the document, if
6 you would just mark it for me, please, and have someone hand
7 it up to me and let me look at it.

8 THE CLERK: Your Honor, may I check his mike real
9 quick? I don't think it's working.

10 THE COURT: Sure.

11 THE CLERK: If it is not, I can possibly have IT
12 work on it after lunch.

13 (Off the record).

14 (Back on the record).

15 THE CLERK: Your Honor, his mike is not working on
16 his table. I'll get somebody to work on that over the lunch
17 break.

18 (Off the record).

19 (Back on the record)

20 THE COURT: All right. Ms. Mauldin, would you --
21 solicitor, do you have a copy of this report?

22 MR. GRAHAM: I do, Your Honor.

23 THE COURT: The report being the report of Dr.
24 Maddox.

25 Would you turn it over to Ms. Mauldin and you may

1 redact that part, Ms. Mauldin.

2 MR. WALKER: Thank you so much, Your Honor.

3 THE COURT: All right. Are there any other
4 matters to take up before jury selection, solicitor?

5 MR. GRAHAM: No, judge. The defense has handed
6 up -- I don't know -- it's requested voir dire examination
7 questions.

8 THE COURT: All right.

9 MR. GRAHAM: Does Your Honor have one?

10 THE COURT: Yes, I do have one. I got one that
11 says further.

12 MR. GRAHAM: That's the second one we have, Your
13 Honor.

14 THE COURT: All right.

15 MS. MAULDIN: May I approach, Your Honor?

16 THE COURT: You can have this back.

17 All right, as to defendant's request for voir
18 dire, solicitor, do you have any objections?

19 MR. GRAHAM: No, not in particular, Your Honor.
20 There is some that I think are redundant from what you
21 already ask and a lot of them I don't see the relevance of
22 them, but I don't have any specific objection.

23 THE COURT: All right. As to what is your age,
24 that is on the jury list. I will not ask that.

25 I will not ask how do you -- and/or --

1 THE COURT: All right. Anything from the State
2 before we take our luncheon recess, solicitor?

3 MR. GRAHAM: No, Your Honor.

4 THE COURT: From the defense, Mr. Walker?

5 MR. WALKER: No, sir, Your Honor.

6 THE COURT: All right. I said 2:00. Y'all make
7 it back by 2:15. All right, 2:15. Thank you very much.

8 (Whereupon, proceedings were recessed).

9 (Whereupon, proceedings were reconvened)

10 THE COURT: All right, the first order of business
11 would be a stand your ground hearing, is that correct.

12 MR. GRAHAM: That's my understanding, Your Honor.

13 THE COURT: All right, Mr. Walker?

14 MR. WALKER: Yes, sir, Your Honor.

15 THE COURT: Do you want to call your first
16 witness, Mr. Walker?

17 MR. WALKER: Your Honor --

18 THE COURT: Speak up for me, please.

19 MR. WALKER: Yes, sir, Your Honor.

20 If I may, I was going to call some witnesses, but
21 I was going to call them later on. I guess I may call
22 myself now.

23 THE COURT: All right.. You may come around and be
24 sworn.

25 MR. WALKER: If you would give me one -- one

1 moment, sir.

2 (Off the record).

3 (Back on the record)

4 MR. WALKER: Your Honor, I believe -- I have
5 been -- I have a motion for -- to use papers on the stand.
6 I've been granted that.

7 THE COURT: You may do that. You may take notes
8 to the stand.

9 DAVID RICHARD WALKER, JR., having been first duly
10 sworn, testified as follows:

11 THE CLERK: Have a seat, sir.

12 As soon as you have a seat state your full name on
13 the record.

14 THE WITNESS: Okay.

15 DIRECT EXAMINATION BY MR. WALKER:

16 MR. WALKER: Yes, sir. For the record my name is
17 David Richard Walker.

18 I'm here to testify on my behalf in the stand your
19 ground hearing.

20 As I proceed, I guess I've been granted "naurea"
21 testimony, so, therefore, I guess I'm going to start by
22 stating what happened at 1:35 a.m. on December the 10th, the
23 year 2012.

24 MR. GRAHAM: Your Honor, I'm having trouble
25 hearing him. If he would pull the microphone closer to him

1 and speak up?

2 MR. WALKER: I think I can get in more closer,
3 Your Honor.

4 For the record, when I speak of Carrie, she's the
5 alleged victim in this case.

6 THE COURT: You can move around if you want to,
7 solicitor. I think you could hear better. You can move
8 around, if you want to. You can come and sit in the jury
9 box, if you want.

10 Mr. Walker, you are soft spoken. You are going to
11 have to speak up where the parties can hear you, where I can
12 hear you, and where the court reporter can hear you, okay?

13 MR. WALKER: Yes, sir, Your Honor.

14 MR. GRAHAM: Thank you, judge.

15 MR. WALKER: So, therefore, Carrie is going to be
16 the alleged victim. Her name is Catherine Carrie Banty.

17 Also you will hear the testimony of Cassidy, which
18 is our biological daughter. Her full name is Cassidy
19 [REDACTED]. She was approximately three years old
20 at the time. She was born [REDACTED], 2008.

21 So here I'm going to start with what happened
22 in -- what happened when Carrie usually pulls -- comes home
23 from work at approximately 11:30. This certain night she
24 never arrived until about 12:30, one o'clock, and maybe
25 1:30 -- no later than 1:30 when Carrie pulls up from work.

1. I greet her. I opened the door. Once I do -- once I come
2 through the trailer door I see -- I see that she has her
3 light on inside of her car. And as I approach I see -- I
4 see what is known as child abuse. Cassidy is being popped
5 in the face, in the side, in the hands and in her arms, and
6 I asked Carrie what's going on.

7 She basically says nothing. This fuckin bitch.
8 This fuckin, that fuckin bitch.

9 And then I asked what do you mean?

10 I was -- and then I was -- therefore, I was trying
11 to get to Cassidy's side -- and her side to the car to
12 protect her, make sure she wasn't going -- wasn't going to
13 be harmed any further and to see about her health and her
14 condition. And she looked very red and dazed and also white
15 and very confused. I think maybe Carrie had ridden her
16 around and maybe when spanking her, Carrie was very abusive
17 to her.

18 So I go back and she seems like she -- she
19 seemed -- it looked like she was taking some very serious
20 blows from the view of her appearance, so she may have
21 took -- you know, she may have took a few.

22 So as I get to Cassidy's side I yelled what did
23 she do.

24 Cassidy then says she did nothing -- or, no,
25 Carrie states -- I asked Carrie what did she do?

1 Carrie states she did nothing. I don't care.

2 About twenty seconds -- about twenty seconds goes
3 on. At this point she storms in towards the house and goes
4 inside.

5 I asked Cassidy what's going on? I used the words
6 what's going on, Angel? And then I say "why did momma hit
7 you.

8 Her answer was I didn't do anything. She is so
9 mean.

10 And then I say why did she hit you?

11 She says --

12 And then I asked her further -- I asked Cassidy
13 further do you know why?

14 And then her answer was she just started hitting.
15 She is mean to me.

16 And I questioned why -- well, what do you want?
17 Are you okay?

18 And then she stated -- Cassidy stated I need to go
19 to the bathroom.

20 I said are you okay?

21 She said yes, I'm okay.

22 Well, it momma hit you again when we go -- when we
23 go to take you to the bathroom I want you to do something.
24 You take off and run and go wherever you want to. Just
25 don't leave the yard. If you are going to leave, just if

1 you need to, then if you can. Then I asked her if she
2 understood and her words were okay, I will.

3 And then -- then I told her -- I told her further,
4 I said I'll save you, okay?

5 She says yes, dad. You are so cool. Momma is so
6 mean.

7 And Cassidy's statement was I know mom needs help,
8 in general.

9 So further -- I further questioned do you want to
10 get mom help.

11 She said yes.

12 Your Honor, I'm sorry, my testimony was confused.
13 If I can -- no, that's correct. Your Honor, I'm sorry. I'm
14 sorry. I -- I thought this testimony was something else.

15 So we went to the house and I took her into the
16 bedroom, informed her to use the bathroom, but later go out
17 in the hall and I will be right there waiting to save her.

18 So she used -- she used the bathroom and I went --
19 and she finished. She went to the living room.

20 I started a conversation on her stay at her
21 grandmomma's. The conversation went a little like this:

22 How was your night at grandma's?

23 It was good, dad.

24 Well, did you have fun?

25 Yeah, I got to play with toys.

1 I'm not sure what toys she named, but she named
2 some toys.

3 Well, did you get anything to eat I asked her. I
4 asked this question basically because she was looking
5 confused, weird, you know, and basically something tragical
6 (sic) had happened, like she was sick or hungry, alone, you
7 know.

8 And then I further asked well, why didn't --

9 I believe at this point in time she states that --

10 I asked her then why didn't grandma feed you?

11 She still no answer. Well, she looked sad, like
12 she acknowledged the answer, but she didn't want to, but she
13 was severely scared to do so and she just -- was just abused
14 for this, you know, for this question or something of that
15 nature.

16 I inquired a little further into the point of the
17 questioning Cassidy did you eat anything today at grandma's?
18 No one is going to hurt you or spank you.

19 Her answer was no.

20 So I said well, you know, I have got -- got you to
21 eat anything, to cook you anything, anything that you want
22 or need, cereal, pizza, eggs, pancakes, anything, you name
23 it.

24 She states she wanted pizza.

25 I looked at my phone trying to order pizza. I

1 grabbed my phone and tried to locate a pizza delivery
2 service, like Pizza Hut, and then Carrie appeared from the
3 bedroom through the hallway stated you are not calling
4 anyone.

5 I stated excuse me? I can call whomever I please.
6 I live in a free country. I was born in this free country.
7 That makes me a citizen to this free country, and she is
8 too, addressing Cassidy.

9 THE COURT: You will have to speak up, Mr. Walker.

10 MR. WALKER: And I said she is too, a citizen free
11 when I was addressing Cassidy.

12 And then Carrie commented well, do not call any
13 more, especially not in my house on my phone I paid for. I
14 do not feed -- do not feed her. I do not care how sick or
15 abused she is. I feel she's going to bed and that's final
16 and so are you.

17 And I stated excuse me?

18 And Carrie's comment was none. You heard what I
19 said. You heard what I fuckin said now.

20 I stated -- I stated well, Carrie, I'm not going
21 to listen to you. I'm tired of you abusing Cassidy and I
22 think you are being psycho-abusive causing trauma and
23 physical emotional conditions, physically are causing abuse
24 and purposefully, aren't you?

25 Her statement was oh, yeah. Well, I am and what

1 are you going to do about it? Well, tell this Mr. Walker --
2 she called me P. Walker, leave me alone, leave me alone with
3 her and I will show you. I'll cover it up and I will
4 continue to and you can't prove it or a damn thing, a good
5 damn thing. Uncover that P. Walker.

6 And she goes on.

7 Then I state Carrie, please for tonight I do not
8 have a car. I can't take Cassidy with me and I feel I
9 should and I have given notice to you of the guaranteely
10 moving from this residence from you and I will not live with
11 you. It's one o'clock at night, or you can go to your mom's
12 and dad's for the night, but no problem. I can't take a 100
13 to 150 mile trip back to Charleston or Walterboro and I have
14 no going to get there otherwise because you have all my
15 money in your account at your bank. And then you said what
16 you said and give me a chance to stay here tonight with
17 Cassidy. You know what you've said and done.

18 Carrie, well, do you want or do what you will, but
19 I will get you. I will get revenge and I will get even with
20 all of you. If you stop me and getting in my way, my mom,
21 your mom, my dad, and especially you, I will get her, abuse
22 her, and get what and when I want, but I will leave and I
23 will leave tonight and so will you. I will kill her and
24 both of you. I mean I will kill Cassidy, your mom, and
25 mine, and fuck your daddy, okay?

1 And then -- then about fifteen -- about five, ten
2 seconds later she -- Carrie stated I'm leaving. I'm
3 packing, yeah. That's what -- that's what I'm going to do.

4 And then Carrie hollered give me your phone. I
5 will leave. And to make sure that you ain't cheating on me
6 and are going anywhere tonight or tomorrow, you better be
7 gone and tomorrow and have Cassidy gone from here and me.

8 And she grabbed my phone from the counter table
9 and proceeded to walk to the hall, down the hall to the
10 bathroom occupied by us. While me and Cassidy stood in the
11 kitchen, me at the kitchen counter near the sink, Cassidy
12 nearby in the walking area, but she departed, and I didn't
13 have a phone, so I walked to the hallway and stalked wily
14 down it and asked Carrie for my phone. I didn't want to
15 stir her up further and cause further problems. If she left
16 with the phone I was going to my neighbors to use hers to
17 call my grandmother to find someone to come and get me, as I
18 tried to get everyone else, every other person to come and
19 get me, but they would not. Kyle was my brother. My dad
20 was David, Sr., and my mother, who is Sarah Hughes, I
21 contacted them that night and I contacted a few things
22 before prior trying to get them to come and get me from
23 what's going to be, because Carrie -- I explained to my mom
24 that Carrie was being abusive to Cassidy and that she was
25 also threatening me and I felt for my safety and my concerns

1 and whether or not I explained this to my mother and my
2 mother said I had -- I made a decision and I had to live
3 with it. My father said that he had no more dealings with
4 her or me, and my little brother said he had to work and he
5 didn't have no interest in coming to get me. I did try to
6 get -- to leave before this furthered, so -- so back at the
7 residence.

8 I get no answer from Carrie. She didn't get --
9 she answered but you ain't getting your fuckin phone. No,
10 ma'am, no, sir.

11 So I get back to the kitchen with Cassidy. You
12 know, Cassidy stood in there and asked her so if we can't
13 get pizza -- if we can't get pizza until later, then what --
14 I asked Cassidy so if we can't get pizza until later, do you
15 want cereal, breakfast, eggs, bagels, pancakes, grilled
16 cheese? She said she wanted eggs. So eggs is what it's
17 going to be.

18 Then I asked her, I said do you want some meat?
19 And I know little girls don't always like meat, but I
20 guarantee you that if you are the hungriest little girl on
21 the planet, or the world, and little girls in that condition
22 needs some sausage or bacon. And I just -- I made for some
23 breakfast and she said no, dad, I just want eggs.

24 I cooked sausage, bacon and eggs and grilled
25 cheese and started -- I asked Cassidy if she wanted to help

1 cook dinner breakfast, so we started with placing sausage
2 and bacon in the pan.

3 So we washed our hands, got to the front porch.
4 We exited the house, got to the front porch, me to smoke a
5 cigarette and Cassidy to play, because she -- she's a very
6 outdoors person, even in the middle of the night, but she
7 was being casual tonight just sitting and standing near the
8 outdoor furnishings in the outdoor area.

9 And then Carrie exited the trailer house abruptly
10 and starts stating get your ass in the house Cassidy
11 Lillian. Get your ass in there right now or I'll give you
12 some more of what I give you earlier and I will cut your ass
13 so hard, talking about your grandma will feel it.

14 Then -- then I comment Carrie, she needs to go
15 anywhere. I am sitting right here with her and she isn't
16 bothering a soul or fly. I just got to say -- I just got
17 so -- I just got to say so in her. Her life, her
18 well-being, her discipline, and you are not going to hurt
19 her disciplining her by unnecessary or excessive abuse. And
20 that's final. You won't put your hands on her again. And
21 if you do, I will call DSS and have you committed for
22 abusive behavior towards others by the courts. And I was
23 standing my ground here and I always against you or anyone
24 else when it comes to my -- when it comes to her.

25 Then Carrie comments I do not give a fuck what

1 you -- what you think, what your momma said, your dreams or
2 your thoughts. Fuck you, Cassidy. Get inside now. Go to
3 the fuckin bed.

4 And I follow it Carrie, she's eaten nothing and it
5 looks like nothing all day. I'm cooking dinner. It will be
6 done soon. I have cooked you a portion too. Let's just eat
7 and when she comes -- when she goes to bed, let's talk about
8 some serious matters and concerns and we both need to say
9 and speak about, but for now she seems to be sick, let's
10 take her to the doctor or just watch her. She may have a
11 concussion or some type of trauma it seems and looks --
12 she's dazed and confused like a hit to the head or a fall.

13 And Carrie comments go to fuckin sleep, you
14 fucker. I'm not leaving and -- I'm not leaving and neither
15 are you.

16 I said Carrie, that's a threat. And I was cut
17 short.

18 And she said no, that's a promise, a fuckin
19 promise to you there, Mr. Walker, or Sir Walker. A real
20 fuckin promise is the word she used.

21 You know I will keep this promise. You better ask
22 my dad, a promise keeper. I am your promise -- I am your
23 promise keeper.

24 Then I said thanks, Carrie. More trouble. I
25 asked for one thing on these conditions that I move out here

1 with you to get you out of your mom's house and those
2 conditions was no trouble, no arguments, no lying, and you
3 just about maxed every one of those to a max level
4 considerably to any man or person's limit.

5 And then Carrie comments Cassidy, go to your
6 fuckin room now.

7 I comment Carrie, why don't you go into your room
8 and leave us alone? Do you want something to eat?

9 Cassidy says -- Cassidy says -- Cassidy goes to
10 the door of the trailer. She says I have got to pee. Can I
11 go use the bathroom?

12 Carrie comments you ain't going to use the
13 bathroom. You are going to bed, straight to bed, nothing.

14 Then I comment you are not going to send our
15 daughter to bed screaming. She needs to use the bathroom
16 and she hasn't eaten anything considerably all day. She
17 seemed like she's getting a concussion considerably.

18 She grabs her -- she grabs Cassidy by one arm and
19 starts striking Cassidy very hard in the leg, back, neck,
20 side, buttocks. Then picks her up by one arm while still
21 striking her, abusing her, drags her forcefully in the house
22 striking and spanking and slapping her, popping her in the
23 head and the face several times as she drags her up the
24 steps and into the house and in the living room area towards
25 her room. She gets to the hallway and where I tell Carrie

1 either stop or I'll force you to stop, and I was trying to
2 locate my phone at the same time, but in the location of the
3 living room area to call my mom, who would call the police
4 and get proper help.

5 Carrie comments I told you what the fuck I was
6 going to do. I will do what I want. I do not give a fuck,
7 a flying fuck about who knows or what they are, anyone
8 thinks about it or thinks what they will do about it, as she
9 said this she releases Cassidy. You know, it goes kind
10 of -- briefly falls to the ground, not all the way to the
11 ground, but kind of catches herself as she falls at the same
12 time. Then she gets up and she kind of moves towards the
13 couch area.

14 And then -- then I comment Carrie, just please
15 stop and give me my phone.

16 And then comment by Carrie, I will kill you and
17 kill her. I will kill her.

18 Please, Carrie, just give me my phone is what I
19 said.

20 Carrie leave. Please just leave. You will not
21 attack her again. I will attack you to save her by force
22 and all means to stop you, even if it means getting hurt or
23 you getting hurt.

24 Carrie commented like I give a fuck.

25 Comment by me, Carrie, please leave. You are

1 being -- you are bringing on difficulty.

2 So I tell Cassidy to come here. We both go back
3 outside for approximately one to two minutes.

4 I inquire to Cassidy's need to use the bathroom
5 and I look to see if Carrie has gone so we can get Cassidy
6 to the bathroom and check on breakfast. She's gone out of
7 the living room to the back of the house. I surprised
8 Cassidy -- I supervised Cassidy to the hallway, then to the
9 bathroom. I stationed myself safely in the hallway to make
10 sure that if Carrie attacks, I can't meet force -- I can
11 meet force with or against her force of the attack.

12 I figures -- excuse me, I figured it's safe enough
13 to finish cooking breakfast and at least eat and get Cassidy
14 some dinner breakfast so she is stable and healthy enough to
15 move in our travel, if needed to be, and then I -- I will
16 try to phone -- and then I will try to phone my mother for
17 help.

18 Then I make a comment to Cassidy and says the
19 sausage -- the sausage and bacon is done. Let's cook the
20 eggs and grilled cheese. So let's get the butter and let's
21 cook the eggs and the sandwiches and see if mom wants some
22 one -- wants some one last time.

23 So we -- we are cooking and Carrie comes into the
24 living room and says she's already ate at my fuckin mom's.
25 I called her. She's already ate at my fuckin mom's.

1 And then I comment, well, Carrie, she's sick and
2 looking pale and red all over and she said she's hungry.
3 Well, we are going to eat and have breakfast dinner.

4 Then Carrie -- Carrie -- Cassidy, go to your cell,
5 I mean your room, and she screams now.

6 And then I comment Carrie, please, please listen.
7 She can stay up, eat breakfast. And if you need her in bed,
8 I see no issues to her bedtime, but I will get her to bed.
9 I will get her in bed as soon as she finishes eating. She
10 has a little time to unwind and relax and to especially let
11 her stomach settle and let her get ready for bed.

12 Carrie comments I do not give a fuck what she
13 wants. It's her bedtime. She's going to bed.

14 Then I comment, no, Carrie, she's going to eat and
15 I will send her to bed and I will put a movie on for her to
16 watch so she can get to sleep soon after she finishes eating
17 and settles down.

18 Carrie comments well, do what the fuck you want to
19 do. I got a plan for you. I'm going to put you away like
20 your momma does. I will kill you. You got a choice. I
21 will kill you right now, and then she walks away.

22 She goes to the bathroom and then to the master
23 bedroom a few minutes later.

24 Then we finish the -- then the breakfast is cooked
25 and we eat and I get Cassidy to her bedroom where she

1 chooses a movie, which is Shrek, and she watches -- she puts
2 her Shrek on. I put her to bed and tell her good night.

3 I go to the living room area and I'm watching down
4 the hall sitting on the living room floor waiting to see if
5 Carrie is going to attack either one of us, and basically
6 keep an eye on Cassidy's doorway so Carrie can't get in
7 there.

8 And then about approximately ten minutes later
9 Carrie comes down -- Carrie comes down the hall and says
10 let's go to bed.

11 I say no, I will not come to bed, but I will talk
12 to you privately and rationally in the bedroom, if you can
13 calm down, or calm yourself.

14 She said I will talk. Let's talk in the bedroom.
15 We agreed.

16 I made a comment. I said let's talk in the
17 bedroom. Cassidy is still up.

18 So we go to the bedroom and then she comments and
19 states and says Carrie, what's your problems and concerns?
20 I have asked you to not to abuse Cassidy, but you do anyway.
21 We spoke just the day before yesterday and you stated you
22 won't abuse Cassidy any more or any further. We agreed that
23 hitting, popping and spanking Cassidy is unnecessary and
24 when you do it continuously without cause or provocation you
25 are child abusing.

1 And, for the record, I have never hit, popped, or
2 spanked my daughter and she can testify to that.

3 So -- so I continued -- so why have you
4 continuously did this? Since I have been home from North
5 Carolina you've did it very excessively since we spoke about
6 it being abusive and unnecessary -- being unnecessary to
7 hit, spank and pop Cassidy without informing her she is
8 doing something wrong and are giving her a chance to correct
9 what she is incompleated or doing wrong, and then if she
10 refuses to obey or comply to something, then place her in
11 her room.

12 My next comment let's commit teach her what
13 disciplinary restrictions is when she misbehaves and doesn't
14 comply to a command and order by basically putting her on
15 room restriction rather than physical abuse.

16 And in the approximate month that we lived
17 together, I never seen Cassidy misbehave or fail or refuse
18 to obey a command. Further, she's basically abused, popped
19 or snapped immediately and basically wasn't doing anything
20 wrong, especially out of the ordinary and in the entirety.

21 It was -- it was the stipulated abuse where she,
22 Carrie, would abuse Cassidy because Carrie thought Cassidy
23 was going to do something or was thinking about doing
24 something and basically provoked abuse in general. And
25 Cassidy -- Cassidy, absent-minded as to doing wrong, was

1 absent of doing anything wrong. Carrie would discipline her
2 abusively and then say don't even think about it. I told
3 you not to think about it.

4 So at this point Carrie follows yelling well, let
5 me tell you this. I can spank her, pop her. I will do this
6 and no one will stop me. She is my child. You don't -- you
7 didn't make her. You didn't have her or conceive her. And
8 let me tell you this mother fuckin thing. She is my child.
9 And let me tell you this other mother fuckin thing. I was
10 abused. I come up abused, like I told you, and I was
11 taught -- I was taught by abusive discipline, popping and
12 spanking, and I would be lucky to be told what to do and we
13 must have come up with two very different upbringings
14 childhoods, and I do not care if your mom taught you to pee
15 right or poop right and then put you on restriction. Mine
16 didn't and I'm fuckin proud, really fuckin proud of dad and
17 who am I?

18 And then I said well, Carrie, that's fine and
19 cool, but let me inform you that that's my daughter in there
20 in her bedroom sleeping and dreaming and I'll tell you no
21 person, place or thing is going to abuse my daughter, not
22 even her own mother.

23 Then I stated her mom is abusive. Her mom is
24 abusing her. She is confused, improperly taken care of by
25 you and I have watched the abuse enough.

1 So here on, then she spit on my face, in my eye.
2 Carrie attacked me. She -- she spit on me. She spit on my
3 face, spit in my eyes, jumped back and swung with a closed
4 fist at me approximately two to five times in this eye, the
5 head, the neck and the face, while screaming fuck you and
6 that bitch. So she attacked again. And at the same time
7 she was scratching for my eyes, my nose, my face, and
8 sometimes closed fists at my eyes, my nose, my throat and my
9 face area.

10 So I maneuvered and tried to block and stop the
11 hits and attacks accompanying with hostile words and I began
12 to feel for my safety.

13 So I maneuvered and tried to move from her attacks
14 out of harms way by maneuvering and using my hands to block
15 and place them in a protective fashion trying to cover my
16 eyes and my face and my neck, but she was acting and
17 maneuvering violently, in a violent fashion. She was
18 attacking and screaming I'll kill you you son-of-bitch.
19 I'll kill you and that fuckin little girl. Fuck you. Fuck
20 that little bitch. I'll kill you. I'll kill that little
21 bitch and that she thinks she's spoiled. I will kill her
22 right now. I will do her in right now. Well, you can't
23 sleep forever. Wait until tonight. I'll do her, you, and
24 your fuckin momma. Watch me, asshole.

25 She was still directly attacking me, aggressively

1 attacking me and become very aggressive, so I thought she
2 may have, or will kill me or Cassidy, so I felt the need to
3 protect myself and Cassidy from great bodily harm and death.

4 So I maneuvered to guard and protect myself by
5 wrestling with her and in violent fiery feud and so I have
6 to protect myself and Cassidy.

7 So I maneuvered and wrestled against her in a
8 protective fashion. So I maneuvered and tactfully gained
9 weight in the conflict for my life by wrapping my arms
10 around her and maneuvering her body opposite from mine so
11 she can't swing or gouge at my eyes, my nose, and my face.
12 So I tried to direct her opposite from the ability to attack
13 and did so protectively me for my protection and thereof she
14 become even more violent and then already.

15 And then the already violent situation, her words,
16 and halfway into maneuvering and turning she become so
17 violent gouging at my eyes, my mouth and my ears and my nose
18 and my face. She violently maneuvered back grabbing at my
19 throat, gouging for my face and my eyes, my mouth, my ears
20 and my nose, and she even went for my testicles. So I
21 quickly jumped and maneuvered behind her. And then so I
22 placed my arm around her upper body to wrap around her chest
23 area and maneuvered her to the ground from behind as a
24 normal person of normal interest and size would do and tried
25 to maneuver her from attacking and trying to keep myself and

1 my daughter safe.

2 I got her halfway down through to run -- I got her
3 halfway down and thought to run but the master bedroom door
4 was locked and it would be difficult to get the door open.
5 It was extremely hard to open via its current condition or a
6 certain condition. And then to take the -- then to take the
7 thirty seconds to one minute it would take to open the door
8 she assuredly would be right behind me attacking me again
9 and it would be extremely worse because she would be behind
10 me and could grab my throat or any other maneuver or attack
11 she chooses.

12 So hereof, I, at this point I thought to shove her
13 run but the door was locked and this was about -- and I
14 thought of my daughter's safety and if I felt -- if I left
15 her there and took this fiery violent altercation near her
16 or her bedroom, it surely would engulf into violence near
17 her and/or result in Carrie being able to attack Cassidy.

18 So, hereof, she kept her hostile and violent acts
19 accompanied with the hostile threats, I engaged in the
20 self-defense and continued to force the attack and engage to
21 keep safe, so, thereof, as I put my arm around her upper
22 body to her face to face her in the opposite -- I didn't say
23 two face. I said her upper body to face her in the opposite
24 direction from face to face and did so.

25 So as I did she began to kick violently and

1 forcefully and kick around and wrangle and as the
2 altercation violently continued, she was kicking violently
3 into walls, the plastic folding closet doors, the chest of
4 drawers and into our dresser. And it got so violent and the
5 situation intensified so that the only way to calm her, to
6 cease the hostile acts, accompanied with hostile threats,
7 was to apply pressure to her neck, so I did so. I applied
8 pressure adjusted to the throat, basically compression to
9 the carotid arteries and the jugular veins and not so to the
10 larynx or trachea. And presentable and slight pressure and
11 did so until she ceased attacking and quit being hostile.

12 So, therefore, all pressure was released. I asked
13 her to keep calm and do not attack me or threaten to kill me
14 or Cassidy, so we started the following conversation:

15 Can we please stop fighting? I commented again
16 can we please stop fighting and please do not attack me?

17 Carrie said fuck you.

18 Comment by me, Carrie, I'm going to leave from --
19 I'm now going to leave with Cassidy via your hostility
20 actions, especially the child abuse. I will be homeless
21 because my mom will not let me stay with her. My dad told
22 me I can't stay with him, if I move up here, if I move up to
23 West Columbia, and I can't live -- I can't leave you with
24 Cassidy, since you are contemplating killing Cassidy by
25 running her off the bridge and abuse and hurt -- and hurt

1 her every day for no reason. Now you are threatening to
2 kill her again, so I need my phone. I need to know where it
3 is, or where it's at, or what's probably -- and it's
4 probably out of juice now.

5 You are not using mine. You are going to get the
6 fuck out of my house. I'm going to move back in with my
7 mom. That's a comment Carrie said.

8 Comment by me. Well, I didn't ask -- I didn't ask
9 to use your phone. I'm simply stating I can't leave you
10 alone with Cassidy. Please do not violently and
11 hostilely attack me any more. I fear for my life or
12 well-being and my daughter and I told you I will meet force
13 with force when it comes to someone attacking or trying to
14 kill me or my daughter.

15 Now we have got into the conflict where it is not
16 safe for either of us, and especially not safe for Cassidy
17 and her well-being.

18 Carrie's comment was well, you ain't calling the
19 cops.

20 I thought -- my comment was okay.

21 Approximately one minute passed.

22 Let's go see if my phone is in the living room was
23 my comment.

24 Well -- Carrie commented well, it's not in there.
25 It's in the car. Don't worry about me or what the fuck I

1. do. You heard me.

2. Comment by me, Carrie, I do not care about what
3. you think and I do not care about your mind or thought. I
4. just care about my daughter and her safety and Carrie or
5. mine secondly.

6. I don't know you. I met you at the hospital. We
7. moved in together. We had sex. You become psycho, lying,
8. stealing, and I asked you to leave my house and move out.
9. You were psycho. And when I told you -- you would or should
10. go -- we should go our separate ways, you lied and decided I
11. tried to hit you in the stomach while you was pregnant, and
12. we had a little girl together. It's the one you are trying
13. to kill right now and contemplated to kill before.

14. Carrie's comment was I'm not trying to kill her.
15. I'm trying to kill both of you.

16. Comment by me, Carrie, let's go get my phone so I
17. can call my mom and someone to come get us and you can go
18. check yourself in and get some help.

19. Carrie's comment was no, I'm not going to no
20. fuckin where. You are -- and you can get the fuck out of my
21. residence now.

22. I said I will. Let's go to the car so I can.

23. She attacked me again. I protected myself and
24. used the same basic maneuver before, getting her face
25. opposite or close to opposite as possible and wrapped around

1 her, her upper body, and tried to gain protection by this
2 way because she couldn't hit and gouging my eyes and my nose
3 and my ears or my face or tried to grab my throat and choke
4 me and threatened to kill me and Cassidy.

5 So I maneuvered her down so that she's on her
6 knees and she's still attacking me. I figured she would
7 choke me and gouge my eyes out and relieve or capable get an
8 object to use as a deadly weapon that could cause death or
9 great injury, great bodily injury, or even choke me with it
10 and cause death or gouge my eyes causing great bodily harm.

11 So I wrestled her to the knees, position her --
12 she still is violent and hostile, so I tried to diffuse her
13 violent and hostile actions by again applying pressure to
14 the throat area for approximately ten seconds.

15 She ceased the attacks and threats.

16 So at this point I urgently need to get my phone.
17 I thought to myself if it was actually in the car, she had
18 time to go out the back door and go to her car when I was
19 cooking and in the front yard with Cassidy.

20 So I asked her to go to the car with me so that I
21 could get my phone.

22 So I asked her to go outside so I can get my
23 phone, my money, and so I can get prepared to leave and call
24 help, or if I had my money to pay someone to take me to
25 Charleston and if I could get safely out of the proximity of

1 Carrie to be save.

2 So we agreed to go outside and retrieve my cell
3 phone. Within the conversation following:

4 Carrie, can we agree to go outside to get my
5 phone. You can give me my money so I can get out of here.

6 We can go outside but you ain't getting your
7 money. It's rent and rent is due.

8 My comment was well, Carrie, I need my phone and
9 my money and to leave ASAP, as soon as possible.

10 Well, let's go outside and you can have your
11 fuckin phone and money and you can get the fuck out of here
12 and I will leave and I'm going to my mom's and I am probably
13 going to get high and I then probably will get drunk and
14 then find my boyfriend and screw him, was the comment Carrie
15 said.

16 My comment was well, Carrie, those are your
17 preferences. I have nothing on my mind but getting out of
18 here safe and stopping you from killing me and my daughter
19 in the process.

20 Comment -- Carrie commented well, I'm going to
21 get -- I'm going to get fucked up and I then I'll try to
22 call -- I'll try to kill all of you. I'll get fucked up and
23 then think about it and then try.

24 So we walked to the car.

25 On the way to the car we had a brief conversation

1 about Cassidy.

2 Carrie -- where was -- Carrie, I'm going to get my
3 phone and money. I'm going to call my mom was my comment to
4 Carrie. She will come and get me and hopefully Cassidy,
5 too, but my mom's demands is going to be what's happening
6 and the whole demeanor of the situation. Then she's
7 logically going to call the police and make a great deal out
8 of this situation.

9 So at this time we get to the car and we are
10 talking and I search for my money. And then at the same
11 time I was searching for my money I was saying -- we were
12 saying but if you just let me -- I said but if you just let
13 me and Cassidy go safely, I'll find a way to a motel and we
14 will see what tomorrow brings.

15 Then as I was concluding my search and shut the
16 car up, then Carrie states you and her can go straight to
17 hell.

18 And then she attacked me again, threatened to kill
19 me and Cassidy, threatened I kill you. I'll kill that --
20 I'll kill that fuckin bitch. Yeah, that's right, you and
21 that fuckin bitch. You fuckin loser. Fuckin wimp. I'll
22 put my G on it. Kill all you fuckers.

23 So as she attacked me again, the hostile acts and
24 all the threats again caused me to fear for my life and my
25 daughter's life and I was scared she would cause death or

1 great bodily harm to us both.

2 So I protected myself and her when Carrie attacked
3 me.

4 So this time she attacked me punching me in the
5 throat, the side of my throat, and trying to strangle me
6 with her hands. And so I met force with force and she
7 attacked harder and more often, but going for my eyes and my
8 throat I feared great bodily harm.

9 So I wrestled her to the ground where I again
10 wrestled her -- wrestled her to her knees. She still kept
11 hostile acts with hostile threats. So as I got her down,
12 the only maneuver I could do was to apply pressure to her
13 throat for again approximately ten seconds and she ceased
14 the hostile acts.

15 So upon this I demand to her words where is my
16 phone?

17 She refused to answer, but mumbles in the house
18 very slightly.

19 So I asked where at in the house?

20 She said in the bedroom, in the living room at the
21 same time. So she said the bedroom and the living room at
22 the same time, the same word.

23 So we walked together to the house and get to the
24 steps, which is cinder blocks, and there Carrie states you
25 know what? I'm thinking about killing you both right now.

1 And this house, it's yours. You can keep it. I'm moving to
2 Hawaii, the sun state. As soon as I get drunk enough to
3 kill you.

4 And she lunged towards me and tried to punch me,
5 but it missed the first one, and then tried to strangle me,
6 but I overpowered her and we tussled on the blocks, the
7 steps in the area at the bottom and on the steps more until
8 I -- until I gained -- until I again wrestled her toward the
9 opposite directions and downward until I had to get my arms
10 around her body and down around her neck and then apply
11 pressure to cease her very violent actions. I feared for my
12 life and my daughter's life and great bodily injury to us
13 both. I applied pressure for about five seconds this time
14 and generally because she ceased pretty quick this time.

15 My next comment was Carrie, this is nonsense. We
16 need to work this out.

17 Actually before I stated this comment we go -- we
18 both go into the master bedroom where we both slept at and
19 we agreed to try to work this out. And I said Carrie, this
20 is nonsense. We need to work this out. I spent all night
21 wrestling and fighting to save my life and my daughter's
22 life because you want to be abusive to her, to our daughter,
23 and you and I must get this right. We need to go into the
24 house and get something to drink and eat and cool our nerves
25 and rationalize the situation, so let's -- so let's go in.

1 And -- let's go in. I am --

2 So Carrie said okay, I want to talk. Let's go
3 inside.

4 So we go inside and we talk about Cassidy. We
5 need to talk about this.

6 I am sorry. I just can't help myself. I am
7 abusive towards Cassidy sometimes. This is what Carrie
8 commented.

9 Well, we spoke numerous times. I then said -- we
10 spoke numerous times about not being abusive to Cassidy.

11 And then Carrie's comment was well, I want to talk
12 but I need -- I need something to drink.

13 And my comment was well, I will get you something
14 to drink. What would you prefer, Coke, water, Ginger Ale?

15 Carrie commented I want some water, so I get her
16 some water.

17 So we talk again after I get the water, Carrie, we
18 can't live together, I say, no further. I got to separate
19 here from our abuse and lies and take care of myself so I
20 can take care of Cassidy.

21 I do understand your thoughts and your theories.
22 I just think I lose it at times, no matter what, is what
23 Carrie said.

24 And she stopped and she stayed in a very
25 consistent but awkward position for about one minute. She

1 just stopped what she said and she kind of reared up and she
2 was consistent with her awkward position. And for about
3 one -- about thirty seconds to a minute she reared her body
4 straight back and then she reared her head straight back and
5 arched her body very straight. And when she reared, she
6 rammed her head directly into the chest of drawers and then
7 fell halfway to the ground and then charged at me. And then
8 she charged. Then she changed her course immediately right
9 before me and then grabbed for a metal rod that was under
10 the chest of drawers. So I lunged towards her and I lunged
11 on her back and grabbed for her hand to stop her to try to
12 get her hand so she can't grab the weapon and she
13 consistently still went for a weapon. And so I immediately
14 forcefully tried to get her to release the weapon, but I
15 hadn't no luck in about twenty seconds, so I applied
16 pressure to her throat just slightly, but being
17 semiconsciously realized that she was choking already, I
18 immediately released pressure and I lunged back and she
19 wouldn't move or respond and then about thirty seconds,
20 forty-five seconds later I heard a very loud pop noise come
21 from her body and realized she was dead and deceased.

22 I then become semi-unconscious and got serious hot
23 spells and flashes and derived breathing and lost
24 consciousness and so that I couldn't move and I could see my
25 body went limp and my functions went dim. I tried to sit

1 down but I couldn't. It was intensified and my body was
2 actually very painful.

3 I stuck my ear to her chest to see if she had a
4 heart beat and she didn't, so I went to wake Cassidy. She
5 wouldn't wake. So I went to the living room in search of my
6 phone, found it at the sofa and I left.

7 I went for a ride to go to the convenience store
8 to get some sodas and some chips and to grab Cassidy some
9 breakfast, but I got approximately a quarter to a half mile
10 down the street and couldn't stay conscious and I was hot
11 spelling with flashes and losing body function, so I
12 returned to the house, tried to awake Cassidy again but
13 didn't force her to wake. She wouldn't even acknowledge my
14 presence, so I stuck a milk and a soda on her chest of
15 drawers and I left walking trying to get my thoughts
16 together.

17 I walked to the train track. There was a train.
18 I stayed in the woods that night and then next -- the very
19 early that morning there was a train and I got on the train
20 car and the way it moved the next day, I just rode it and
21 then realized I left Cassidy and what happened. As soon as
22 the train slowed enough so I could jump off, I jumped off
23 the car, which ended me in Graniteville, South Carolina, and
24 that is where the historical train wreck was that killed a
25 lot of people. That's exactly where I jumped off the train.

1 And I stayed there in the woods nearby for a few
2 days. I stayed in a cabin. There was a hunting cabin there
3 on a lake and then I tried to find my way out, because it
4 was very -- a very secluded country back there, and so I
5 asked someone at the post office. They had a very small
6 post office where I was and where the next city was that was
7 pretty large she said it was Aiken. It was about thirty
8 miles away, so I tried to walk there, but I have a leg
9 condition that I can't walk very fast or very long.

10 So as I left, I went to a church. That was a
11 Mexican church. It was a Mexican pastor. There was nobody
12 there when I arrived at the church and I was sleeping on the
13 picnic table that was under a carport within the church, and
14 about 7:30 one evening, I was thinking it was a Wednesday,
15 all the church members come to the service and some people
16 seen me basically leaving the church and sleeping on the
17 picnic table, and there was some construction work being
18 done and they thought I was a construction worker, so they
19 told the pastor that I was a construction worker and that I
20 was sleeping on the table. So I walked down. And once they
21 told the pastor -- before I didn't handle the knowledge that
22 a pastor knew I was there or I didn't acknowledge that they
23 was following me, so -- so I left when they arrived and I
24 started walking down the road. I went to a public baseball
25 field down the street and the pastor -- about thirty,

1 forty-five minutes later I was sitting on the bleacher there
2 at the ball field and the pastor come up with this guy
3 driving him and asked if I needed a ride or some help. I
4 told him I was trying to get to Aiken. So he and the guy
5 who drove me -- who drove the pastor took me to a homeless
6 shelter in Aiken County. They refused -- the homeless
7 shelter refused to allow me to come in because I had no ID.
8 And the pastor spoke with him and got them to agree to allow
9 me to stay overnight and leave in the morning after a
10 shower.

11 I left that morning and went to Aiken city and
12 went to return to the homeless shelter. And as I did, I
13 went to the supermarket and Aiken County sheriffs stopped me
14 and questioned me and there they did some unlawful tactics.
15 From there basically they asked me -- they told me West
16 Columbia wanted to see me, so I agreed to go talk to West
17 Columbia, but they still questioned me and West Columbia
18 finally give me a ride to Exit 44 Truck Stop, which is Aiken
19 County, and -- Aiken County and West Columbia border after
20 some things happened there.

21 And from there I went -- I went to West Columbia
22 Police Department. I went to talk to the investigator, Mr.
23 Wade. He simply related to me that there was a -- I didn't
24 agree with what he said and I was very sick, so I didn't
25 agree to give testimony on my behalf. I told him I was very

1 sick. Then he took me -- they took me to the ER, emergency
2 room via EMS and I went to the hospital.

3 And from there my father and his girlfriend come
4 and got me and then I went and checked myself into MUSC,
5 which is the Medical University of South Carolina, and I
6 stayed there in the psychiatric hospital for a little while.
7 And once I was released from there I moved to my father's.
8 And from there I was arrested at the hospital getting a CT
9 scan on March 4th, 2012.

10 Your Honor, if I may I would like to go ahead and
11 put on the record and also notify the court of a CDV that
12 took place between me and Carrie Banty. I'm not sure of the
13 exact date, but it's alleged throughout this case and I'm
14 just going to give my testimony on what happened that day.
15 It would be character of the victim. I was not, and also
16 allegations for myself, the defendant.

17 As you know, or will know, that I and Carrie met
18 at the Columbia hospital during, or stay at rehabilitation
19 on the date of her arrival to the hospital. I kept -- I
20 kept noticing her interests into my character. I introduced
21 myself. Upon my introduction I had learned that she was
22 relevantly staying with her mother and dad. She kept citing
23 her mom was a lunatic bitch and who kept locking the door
24 shut every night while Carrie was out through the streets
25 partying, doing drugs and solicitating with friends, and

1 that she and her mom -- and then her mom would only unlock
2 the door on rent payday to collect her rent and -- and/or
3 approximately two or three days before her rent collection
4 they --

5 On that same day Carrie -- I met Carrie -- I
6 learned from her -- I learned from my mother -- my mom that
7 my grandmomma's -- that -- that my grandmother's mobile home
8 park had a vacant mobile home in it. My grandmother was
9 going to cut the rent price and my mother was going to pay
10 my rent and bills until I could get back on my feet from
11 being down. She was in the process -- in the progress of
12 obtaining me some furniture and some bedding and household
13 items as a computer, dishes, curtains, linens.

14 So Carrie also informed me her mother had just
15 invited her -- had just invaded her and her personal items,
16 her property due to Carrie not complying to her rent
17 agreement and not paying rent and arguing.

18 And further past conversation with Carrie, she had
19 just got into too for fighting with her mother because her
20 mom wanted back rent and took and left all Carrie's items on
21 her bed, left Carrie's bed, furniture, and stereo, clothing,
22 and other items in the rain. But Carrie also stated she was
23 on drugs and used her money to buy drugs. And she
24 further -- this is talking about Carrie. She further
25 prostituted for drugs, the money, and she stated that the

1 cops weren't called because Carrie didn't call the cops and
2 her mom grew marijuana in the house in large amounts and
3 this was Carrie's too and she fought her mom also because
4 she claimed all the marijuana and because -- because the
5 marijuana was in her house and she didn't pay her rent.

6 But before I learned this I told Carrie I was a
7 good guy and I even hate to see a dog or animals outside on
8 the street without a house or a home or a place to go.

9 I told her I will speak to my mother and see if
10 it's relevant possibly that she could stay at my new home
11 until she could get her life and self together. So I spoke
12 to my mother and decided she didn't care -- my mom decided
13 she didn't care. It was my home, as long as there was no
14 problems and trouble, she didn't mind. She stated that it
15 was great that I was looking out for someone and inquired
16 into Carrie's traits.

17 So we spoke a few minutes -- we spoke a few more
18 days at the hospital and I was released to go first and then
19 Carrie was released a few days after.

20 So Carrie -- Carrie brings her personal items to
21 Walterboro, South Carolina where I live and to my mobile
22 home by the way of her friend Julie and Julie's boyfriend.

23 So they arrived and that night I observed Carrie
24 very -- a very antimistic and provoked and obnoxiousness.
25 She was hormone and in an excited ill feelings to me. So I

1 asked her to leave and go back to her friends -- go back
2 with her friends, who had stayed the night and was scheduled
3 to depart the next morning from the night that she arrived.
4 So basically her friends would give her a ride.

5 She asked why I wanted her to leave and provoked
6 that I caused her trouble, caused her to be homeless and
7 caused her not to schedule or find another home, be given
8 Carrie a place to stay. She provoked her and her friends
9 were arguing. She stated her and her friends were arguing
10 and she didn't want to invoke that they give her a ride back
11 to West Columbia.

12 And further -- and then she felt she was acting a
13 little -- and further that she was acting a little
14 preposterous and felt she could and would change. She
15 stated that she felt a little preposterous and felt she
16 could and would change and it most likely was from the
17 medications she took.

18 So I allowed that and allowed Carrie to stay on
19 the condition that she would start looking for another place
20 and she didn't entice me and not cause any more problems,
21 via she got hostile and intense when I asked her to leave on
22 the first occasion.

23 I allowed her to stay and she seemed to change her
24 attitude, but she looked as if she held or kept something
25 perponderant (sic) pre-positioned and likely outlandish,

1 like retaliation or ill will to harm me, so I kept my guard
2 open.

3 Well, the following day went normal except a few
4 interruptions, like my father knocking on my door very late
5 who was -- or roughly arguing with his common law wife and
6 came up on his ATV vehicle and wanted to come into the
7 mobile home and then got angry and excited. He had been in
8 cold weather and I didn't offer him any comforter or quilt
9 to cover with and -- then to cover to gain warmth, as I
10 didn't know, and -- I told him I didn't know he was cold or
11 if he was to stay the night, being he was arguing with his
12 wife. I relevantly didn't prepare any accommodations to or
13 for him to stay, but he got very angry with me, one of the
14 conditions.

15 So outside this it went smooth for a couple of
16 days until I called my mom and told her Carrie's strange
17 character and personalities. She seemed to be okay -- I
18 stated she seems to be okay, seems to be holding something
19 inside, like a scheme or a preponderant plan, or whatever it
20 is, it seemed outlandish. So she -- so my momma tells me
21 ask her to leave and ask her to make accommodations to leave
22 and tells me to be cautious and inform her in advance
23 anytime I wish to bring her to my mother's house, as a
24 precaution. My mother is very cautious and very
25 self-protective, as she is a police officer, a cop, so it's

1 like we come with the profession. And that's end of the
2 conversation.

3 I asked her to let me know how I will be getting
4 groceries, as my groceries was getting a little low and I
5 will need groceries in the near or close future.

6 So she tells me -- she calls me back in
7 approximately thirty minutes to one and a half to hours to
8 get ready to go somewhere.

9 So I called her back at approximately one hour and
10 fifteen minutes later. She invites me -- my mom invites me
11 to her home to eat dinner, to pick up some groceries, and
12 tells me she's going shopping within a week and will
13 purchase me an abundant amount of groceries. So I take the
14 invitation and invite Carrie to come with me and informed my
15 mom -- and informed her my mom would like to meet her and
16 invite her to a dinner tonight. So Carrie accepted. My
17 mom's house is approximately a quarter mile from this
18 trailer that me and Carrie was staying in and me and Carrie
19 traveled and we walked -- we traveled by walking. And we
20 went to my mother's house and had dinner.

21 Everything was in its demeanor until me and Carrie
22 left. Once we left my mom's house I was toting a sack of
23 groceries, a handful, and a plate of food -- and I had a
24 handful and a plate of food and I was taking from my
25 original plate and suddenly Carrie asked me about New York.

1 I answered her I don't know much about New York, but I have
2 never been there, but my mom has and she's told me about it,
3 but she said she likes the Statue of Liberty moreover than
4 the city.

5 So she cites well, where is your hat? Your hats,
6 or side -- and it's on your hat and not on your hat.

7 I said Carrie, I'm not wearing a hat, because I
8 wasn't wearing a hat.

9 She states I know I am lying. I am a liar and I
10 am -- stopped in mid sentence and jumped at me with a
11 fist -- like a fist and in a stance like a major league
12 baseball pitcher and saying you trying to hit me, telling me
13 that I was trying to hit her, and yet you are trying to hit
14 and hurt -- and you are trying to hurt me. I'll fuckin kill
15 you.

16 And she was still beside me and I was star struck.
17 I didn't see it coming. Even with the stars on my -- on
18 full blast, so we walked because I just -- I'm just that
19 type of guy. I walk away from you if I feel like you are
20 trouble or if you have caused me trouble or cause trouble
21 before, as long as I can.

22 So I walked and she followed standing behind me
23 and mocking my walk. I informed her that I don't want to
24 talk to her any more and please don't -- please don't hit me
25 again.

1 So she still keeps acting extremely bizarre and
2 foolish and we are walking and she asked for a hug. I tell
3 her I will give her a hug on one condition, she stops acting
4 foolish and trying to find somewhere -- and she tries to
5 find somewhere else to stay and in the near future. She
6 agrees and cites I will if you promise not to kick me out
7 like my bizarre and crazy fuckin mom. She informs me she
8 will pay rent to me. I didn't tell her I did not -- I did
9 not need her money.

10 So we are walking through in close approximately.
11 I get -- I get to the yard of my home and she isn't
12 following me. She -- so we are walking at close proximity
13 and I actually get to my home and her still following me
14 because of what happened now is we turn into the yard of my
15 mobile home. My neighbors are throwing a cookout, drinking
16 alcohol, and soft playing music. When we are halfway
17 through that home in the yard my neighbor called my name, so
18 I stopped in my travel. As soon as I do, my neighbor shows
19 me a Budweiser beer and offers for me to come over and join
20 the cookout and drink. I do not drink beer, only liquor,
21 and occasionally, so I declined.

22 So at this time Carrie comes up behind me and my
23 neighbor is putting a beer back in the cooler and Carrie
24 spits in my face and swings very hard at me with a closed
25 fist. I jump back and throw my hands up to protect and

1 block and she starts circling, making allegations that I
2 tried to kill her and I was trying to punch her in the
3 stomach to kill that baby. I see my neighbor catching a
4 glimpse, so -- she does too and screams, calls the cop, so
5 my neighbor does so.

6 So out of disgust and protection I walk away so to
7 not bring any more trouble and allow her -- and allow her to
8 abuse me in the situation any further I walked down to my
9 grandmother's house, who is not home. I don't -- my
10 grandmother is not home or doesn't come to the gate, which
11 is the door bell. Basically it's a gate bell, because it's
12 on the outside of her -- the vicinity of her yard. It's a
13 door bell that's on her fence and her gate, which is wired
14 to operate as a door bell which is located there.

15 So I leave and I travel back and go to my -- go to
16 my mother's home, but I -- I go towards my mother's home, so
17 I thought it would cease, would cause trouble to my mom and
18 that situation might explode or find my mother and with the
19 way Carrie's actions are, she might try something towards my
20 mom. And to be blunt, my mom might take action and use her
21 service weapon to dissolve Carrie's actions. If so, that is
22 so that got to the point.

23 I'm traveling by way of walking and I get to my
24 cousin's house, which is approximately a quarter mile
25 opposite direction of my mom's. I inform them what's going

1 on and I inform them that Carrie is coming up and I'm going
2 to leave and told them who she is and the situations going
3 on and the situation between us. So I leave approximately a
4 half -- so as I'm approximately halfway completed I look and
5 see Carrie up the drive. So I informed them that I'm going
6 to leave and I was going to go into the woods to get away
7 and to protect myself and Carrie until I could figure out
8 what I wanted to do on the situation in a safe and adequate
9 move. And so I leave and I go to the woods for
10 approximately thirty, forty-five minutes and return to my
11 house via the woods, on the woods side -- on the woods side
12 the dirt road next to my mobile home. I go to my yard and
13 return to my house then, my back door.

14 I get inside, lie on my bed for approximately --
15 for approximately five minutes and then I hear someone
16 breaking into my house through the back door. Well, at this
17 time I tried to run through the hall and through the house
18 but the back door slams open with wooden pieces flying
19 because the neighbor's brother William -- by the way, my
20 neighbor's name is Charles. So his brother William grabs me
21 and throws me down and drags me outside and he and the
22 police deputies, who respond due the neighbors calling the
23 police, throw me into the air conditioning unit and the
24 officer arrests me in handcuffs. And I tell him I didn't do
25 anything and that guy just broke into my home. While he

1 watched, he decided he's not the judge. The judge will make
2 a decision and he will speak to the judge as soon as we get
3 to the detention center and have me arranged to speak to the
4 judge immediately to get to the bottom of the situation.

5 So I get to the jail and find out the police isn't
6 following -- isn't allowing me to talk to the judge
7 immediately, but I spoke with a bail judge, who gave me a
8 personal recognizance bond.

9 And I was told -- I was told that that's all that
10 mattered -- that all matters will be heard in the court of
11 law abiding judge and I was given a court date approximately
12 fifty days later, which was rescheduled by the presiding
13 judge to approximately fifty days later. Carrie refused to
14 appear at the court date and the charges were dismissed.

15 That's the end of my testimony.

16 THE COURT: All right. Thank you.

17 Solicitor?

18 MR. GRAHAM: Your Honor, can we get a copy of his
19 notes, since he read directly from them?

20 THE COURT: All right.

21 MR. WALKER: Let me put in an order for you and
22 I'll get them to you.

23 Your Honor, can I -- can I object to him getting
24 my notes until I actually take the stand at trial, because,
25 I mean, it's irrelevant.

1 THE COURT: There is a case directly on point.
2 Let me see if I can find it. State v. Harrison.

3 MR. WALKER: Do you feel it's relevant, Your
4 Honor?

5 THE COURT: Sir?

6 MR. WALKER: Do you feel it's relevant for me
7 to -- do you think it's relevant for me to turn the notes
8 over to the State?

9 THE COURT: I'm looking up the case right now.
10 All right.

11 (Off the record).

12 (Back on the record)

13 THE COURT: Are you all right, Madam Court
14 Reporter?

15 COURT REPORTER: Yes, sir.

16 THE COURT: I can't find the case right now, but I
17 will, solicitor.

18 I think he's entitled to review whatever notes
19 that you have with you on the witness stand that you used in
20 your testimony, Mr. Walker.

21 MR. WALKER: Yes, sir, Your Honor. I agree with
22 there, but my -- my situation is that if I'm not granted
23 immunity, I just -- I don't want the solicitor to have
24 pre-knowledge of my testimony.

25 THE COURT: What?

1 MR. WALKER: I don't want the solicitor or the
2 State to have basically my testimony that I will be -- that
3 I may be using at trial, if not granted immunity.

4 THE COURT: Well, you're not -- I can't grant you
5 immunity, number one. When the witness takes the witness
6 stand, whether it's a defendant or not, the witness is
7 subject to cross-examination.

8 I have ruled you must provide the notes that you
9 used to testify to the solicitor.

10 MR. WALKER: Okay. I will. Can I give them to
11 the Madam Clerk and then she make copies of them?

12 THE COURT: Sir?

13 MR. WALKER: Thank you, Your Honor.

14 CROSS EXAMINATION BY MR. GRAHAM:

15 Q. Do you need those notes to testify, Mr. Walker?

16 A. I may.

17 Q. Well, let's start and if you need them, we will stop
18 when she brings them back in.

19 A. You may continue.

20 Q. Thank you.

21 The prior CDV that you started talking about, did you
22 hit Carrie or not?

23 A. No. No, sir.

24 As I said, we was walking and my neighbor offered me to
25 join his party and basically Carrie tried to hit me. I

1 jumped back, and whether she did -- I don't know if she
2 intentionally tried to hit me or if she was basically trying
3 to get me -- you know, make it look like I was hitting her.
4 She seemed pretty provoked, cause trouble, so basically
5 she -- she swung at me. I jumped back. I reared back and
6 when I reared back, by that time my hands was up in the air
7 like this. I -- I think my left hand went approximately
8 like this. And when I did, she screamed to the neighbor to
9 call the police, and basically --

10 Q. Now, you say that you don't know whether she tried to
11 hit you or not, or she did?

12 A. Yes, sir, she tried to hit me --

13 Q. Okay.

14 A. -- because I don't know if she intentionally like had
15 hostile intentions at that time. I know she -- she tried to
16 hit me, but I don't know what it was --

17 Q. She tried to hit you twice, right?

18 A. She -- no, she tried -- yeah, she -- in my yard she
19 swung at me. She tried to hit me, yes.

20 Q. But you don't know if she was trying to harm you?

21 A. Yeah, she was trying to harm me.

22 Q. Right, because you testified that she said I'll f'n
23 kill you, right?

24 A. Correct.

25 Q. Okay. And that's the woman that you decided to move in

1 with in December of -- or November of 2012?

2 A. No, sir, I -- I -- I met her at -- at a mental health
3 faculty. And upon meeting her, Carrie walked up to me. She
4 was like dancing around the floor and I was just -- that's
5 kind of why I paid attention to her. And she walked up to
6 me and asked me my name, or something, and we spoke -- we
7 spoke of maybe -- you know, we had a very brief conversation
8 at that mental health facility. We got the -- they
9 separated the males and the females and at that time they
10 separated us and males went to the male housing and females
11 went to the female housing.

12 The next day I met after -- come back out there. I
13 don't recall whether me and Carrie had a conversation. My
14 memory I think of the second today after that
15 conversation -- the first conversation, we had a
16 conversation, that's when she basically told me her mother
17 had evicted her. And she told me her mother was hostile and
18 that her mother only basically left her in the rain and only
19 collected -- only -- she only collected money, rent money
20 from her.

21 And Carrie -- Carrie also told me that -- that's when
22 she told me she had marijuana in the house saying one night
23 and she moved in talking about --

24 Q. May I interrupt you for a second?

25 The question I asked you was the person --

1 You are saying that prior to this incident, prior you
2 killing her, when you all were down in Colleton County, is
3 that right?

4 A. Yes.

5 Q. All right. That you got arrested for CDV?

6 A. Yes.

7 Q. She lied about it, correct?

8 A. That's correct.

9 Q. All right. You are saying that she attacked you twice,
10 swinging her fists trying to hit you?

11 A. That is correct.

12 Q. And she told you she was a liar, correct?

13 A. That's correct.

14 Q. And she acted like she was going to harm you, correct?

15 A. That's correct.

16 Q. And during one or both of the times that she tried to
17 hit you, she said I'll f'n you, correct?

18 A. That's correct.

19 Q. Okay. My question was, knowing all that, that's the
20 person that you decided to come up and live with in West
21 Columbia in November of 2012, is that correct?

22 A. No, she provoked her situation on me.

23 Q. My question is, knowing her background, you knowing her
24 background, you chose to go live with her in West Columbia
25 in November of 2012, isn't that right?

1 A. Yeah, because she provoked -- she provoked --

2 The situation was like that. I asked my mother and my
3 father not to bring Carrie around me when I left the mental
4 hospital up there. My father and his girlfriend
5 intentionally brought Carrie with them. I -- I objected to
6 it but she was already in North Carolina. My father told me
7 to walk -- have a nice walk or get in the truck with Carrie
8 was the situation, so I got there.

9 At that time Carrie had given my daughter approximately
10 \$100, and me and Carrie spoke very briefly, and basically it
11 was -- to my best of my knowledge, I forget exactly what we
12 talked about, but it was basically her wanting to -- her
13 threatening me and her prior contact because she was
14 threatening me on -- on the Internet via Google Mail and
15 Facebook.

16 THE COURT: Back up a minute. That's not
17 responsive to the question at this point.

18 Ask the next question, solicitor.

19 MR. GRAHAM: Thank you.

20 BY MR. GRAHAM:

21 Q. Did you tell your mother about Carrie saying that I
22 will f'n kill you and tried to hit you twice when you got
23 arrested for CDV? You didn't, did you?

24 A. What -- what are you talking about? Can you put
25 details into your question?

1 THE COURT: No, that's a valid question.

2 Ask the question again. That's a good question.

3 Give him a response.

4 Ask the question, solicitor.

5 BY MR. GRAHAM:

6 Q. You testified about the incident in Colleton where she
7 tried to hit you two times, said that she would f'n kill you
8 and had you falsely arrested for CDV?

9 A. Right.

10 Q. Okay. My question is did you tell your mother about
11 that? You did not, did you?

12 A. Yeah, I did on prior -- and after I got locked up and
13 Carrie -- my dad give Carrie a ride back to West Columbia,
14 basically I evicted her through process of telling her to
15 get our of my house, my father give her a ride back to West
16 Columbia because nobody would come and get her. And upon
17 that time Carrie -- upon that time --

18 What was your question again?

19 Q. Did you tell your mom?

20 A. Did I tell my ma'am? Yeah, I eventually told my mom.
21 I can't -- I don't know -- I don't recall the time and date
22 that I told my mom, but, yes, I eventually told y mom.

23 Q. Isn't it true that you actually told your mom that you
24 did hit Carrie and you punched her in the stomach while she
25 was pregnant?

1 A. No, sir.

2 Q. You did not tell your father that Carrie tried to
3 attack you two times, did you?

4 A. Yeah, I told my father on -- I believe I made -- my
5 free phone call at the county jail was to my father and I
6 told my father that and what happened and I explained that
7 he needed to get her out of my house as soon as possible and
8 he basically said he would see what he could do. And he
9 said -- basically he said he acknowledged her demeanor and
10 that she was -- you know, the words that he used is he
11 acknowledged her demeanor. He thought she was kind of
12 psycho and lectured me on, you know, women from a mental
13 hospital.

14 Q. And you didn't tell your brother that Carrie struck
15 you, did you?

16 A. I -- I'm pretty sure me and my little brother is
17 close -- not close, but eventually, but it may have been a
18 year. It may have been six months.. It could have been any
19 time. I eventually told my little brother.

20 Q. So it's your story today that you told your brother,
21 you told your dad, and you told your mother that Carrie
22 tried to attack you down in Colleton when you got arrested
23 for CDV and that she said I was going to f'n kill you? You
24 told all three of them?

25 A. In casual relationship contact I told them what was

1 going on.

2 Q. Any reason why when our office spoke with them they
3 denied having any knowledge about it? Why would they lie?

4 A. Why they lied? They -- well -- well, for one thing, my
5 mother has told me that I killed Carrie and she was going to
6 lie and she's going to do whatever it takes all the way to
7 the end and she doesn't care, because that's her personality
8 as a law enforcement officer, and that's what her demeanor
9 and personality brings and she -- she's going to get me to
10 the end is what she said and I'll never get justice because
11 they don't care what she has to do.

12 My father has basically told me the same thing.

13 Basically he doesn't want nothing to do with me and he
14 doesn't care and he's very -- being very psychedelic to the
15 situation and he's also causing -- causing great harm.

16 They are both hostile towards me since the death of
17 Carrie and they are typically to lie and state their --

18 Q. So what about your brother?

19 A. My brother, he has told me that basically the same
20 thing, that he doesn't -- basically he doesn't want me in
21 the situation -- or he doesn't want to get into the
22 situation and he's going to do what he has to do. He
23 chooses Carrie over me and he's going to tell whoever
24 whatever to get Carrie justice, is what he told me.

25 Q. Isn't it true that your mother asked you about what

1 happened to Carrie and you refused to answer? Isn't that
2 correct?

3 A. Excuse me?

4 Q. When your -- after Carrie was murdered --

5 A. Right.

6 Q. -- and you are arrested, at some point -- or after the
7 murder you talked to your mother, your mother asked you what
8 happened and you didn't tell her anything, did you?

9 A. Umm --

10 Q. You refused to answer the question, isn't that true?

11 A. When are you -- when are you referencing?

12 Q. The conversation with your mom after you killed Carrie.

13 A. Yeah, I haven't -- I haven't spoke with anybody. I
14 choose that in justice. I haven't spoke with my mom or my
15 dad. I spoke about it --

16 Let me sum something up with you, solicitor. I spoke
17 on a CDV, but as far as the actions that -- we -- between me
18 and Carrie, I spoke with no one about that the entire four
19 years that I have been waiting to see justice.

20 Q. You would agree with me, though, that your mother asked
21 you about you killing Carrie?

22 A. Yeah, I didn't answer.

23 Q. And --

24 A. No, I wanted her to be because we have an awful
25 conflict.

1 Q. You didn't try to explain to her the story that you had
2 today that she was abusing Cassidy and threatening to kill
3 Cassidy and you?

4 A. No, because my mother was refusing to talk to me,
5 refusing contact with me, so you can't talk to somebody who
6 is absent.

7 Q. But you agree that she did ask you what happened and
8 you wouldn't answer her question?

9 A. To my knowledge she's never asked me.

10 Q. Your brother Kyle asked you what happened. When did
11 you tell Kyle?

12 A. Basically in whenever I have a trial and when justice
13 is served he will see the truth.

14 Q. You didn't tell him about the story that you testified
15 to today, did you?

16 A. No.

17 Q. Okay. Your father asked you what happened to Carrie.
18 You didn't tell him either, did you?

19 A. For the record, I have told no one, and I have already
20 told you that, solicitor.

21 Q. Right.

22 Why haven't you told anybody?

23 A. Because I choose not to. Typically when you state
24 something to someone, they know the demeanor of the
25 situation and they can use that against you.

1 You know, people can say that they heard that, or it
2 went one way, because you tell somebody and you have people
3 in society who is provoked to cause harm and illness.

4 And, you know, it's one thing I choose to keep quiet.
5 If you knew my personality and my truth, I would still --
6 I'm a quiet person. I'm a calm person and I'm very easy
7 going and I don't choose to talk to nobody and I don't cause
8 no trouble.

9 Q. How tall are you?

10 A. 5'11".

11 Q. You weigh -- back at this time you weighed about 185,
12 is that correct?

13 A. I believe I weighed a little more than that because I
14 was out of the hospital and I was on medication that
15 typically caused weight increase.

16 Q. So how much do you think that you weighed on December
17 10th of 2012?

18 A. I probably weighed about 200. I think I weighed about
19 203 to 205 pounds, if I'm not mistaken.

20 Q. So you were back then 5'11" tall, 203 pounds?

21 A. Approximately.

22 Q. Carrie was 5'4" or 5'5"?

23 A. I think she was taller than that. She was
24 approximately about -- she was about 5'7", 5'8" and about
25 190 pounds after she had childbirth. She was probably about

1 170 or 160 before childbirth.

2 Q. So how much was she December 10th, 2012? How much did
3 she weigh?

4 A. She was very hostile.

5 Q. No, how much did she weigh?

6 A. Oh, I didn't have a weight scale. She did weigh
7 herself but I'm not sure of her weight. I believe she
8 weighed approximately -- I don't know. I think -- I'm
9 pretty sure it was over 200. It was right at 210.

10 Q. She weighed 210?

11 A. I'm guessing. I'm --

12 Q. And you were three inches taller than she was?

13 A. That's correct.

14 Q. You weren't working at the time, were you?

15 A. She wasn't -- she wasn't -- to me she was about one --
16 she was about one and a half inches, two inches at the most
17 shorter than me.

18 Q. So you have got her at 5'9" now, 5'9" and a half?

19 A. In my guesstimation.

20 Q. Okay. What kind of shape was she in?

21 A. She was -- at that time, or at any time?

22 Q. When she had her -- when she had Cassidy she was
23 overweight. She didn't lose her baby fat. She didn't work
24 out because she was working for --

25 A. She was very unhealthy.

1 Q. Very healthy.

2 You were not employed at the time, were you?

3 A. I was receiving SSI and trying to find employment.

4 Q. Okay. Did you work out at home? Did you walk, do
5 pushups?

6 A. Did I work out? No, because I was too sedated.

7 Q. You were sedated. Why were you sedated?

8 A. I -- I -- I attempted to -- I didn't attempt, but I
9 thought to run. I thought to jog because that's the type of
10 person I am. I love to jog. I love to exercise.

11 As you know, I was incarcerated. I did some prison
12 time. Upon that prison time I learned to exercise, show
13 pullups and all that, but whenever I sat -- I sat about
14 three years in the county jail in solitary lockup in North
15 Carolina. And then after that I went to the hospital for a
16 year, and then I was released and that's when me and Carrie
17 got together. And during that time I was very immobile. As
18 a matter of fact, I had doctors tell me that I was so
19 immobile, that's what was causing my legs and my lungs to
20 collapse like that.

21 Q. Were you stronger than Carrie? You weren't, correct?

22 A. No.

23 Q. She was stronger than you?

24 A. She was very stronger than me.

25 Q. Very strong.

1 But she was very unhealthy and didn't work out?

2 A. She was -- she was very what you call -- she had a very
3 aggressive psychedelic -- she -- she was very aggressive and
4 she was very psychotic. She weighed a lot of pounds and she
5 threw her weight around. I'm not saying that she threw it
6 completely around. She threw her mind and her demeanor and
7 kept her weight right there. When she falls -- when she got
8 into it, she -- she was very aggressive and she used that
9 aggression.

10 Q. When did you -- when did you move into the -- when did
11 you move into the house at [REDACTED] Alexandria Street in West
12 Columbia?

13 A. It was sometime November, I think.

14 Q. Do you think that you lived there for a month, four
15 weeks?

16 A. Maybe four weeks.

17 Q. You knew all this about Carrie and you came and lived
18 with her anyway, correct?

19 A. No, on the condition she tempted me and told me that --
20 she told me that basically --

21 This was what she told me, Mr. Solicitor. When I --
22 when I got to the -- she wanted me to move in. When I told
23 her no, whatever, she threatened me on the telephone. I
24 said -- I told her then, I said, no, you know, don't even
25 talk to me no more. I said don't call me, because she kept

1 aggressively calling me, calling me at my father's house. I
2 said, look, don't -- you know, don't call any more. Don't
3 contact me no more. I said we have a child together. You
4 know, I would deal with it my way. You deal with it your
5 way. We are going our separate ways. If you threaten me --
6 you know, you are psycho. You are very psycho. You are
7 hostile and you have some pretty bad -- pretty bad past and
8 I don't want no part of it, and I give her time to say what
9 she had to say and it was like three words of like -- I
10 don't know what she said. I don't recall what she said, and
11 she -- we hung up the phone.

12 And basically she called back and talked with my
13 father. And basically she talked to my father and my father
14 kept -- my father come to me and said look, man, this girl
15 keeps calling me, and, you know, she's repeated -- she's the
16 mother of your child. She's out there. She has nowhere to
17 live. She doesn't have no money. You know, you need to
18 step forward and take care of her. He said if you don't
19 talk to her and get right with her right now, I'm going to
20 kick you out, so I had no place.

21 So I got on the phone with Carrie and upon that time
22 Carrie begged me -- Carrie begged me, or whatever, and my
23 dad provoked and said look, man, you got two weeks to get
24 out of my house. He said I'm not putting up with you taking
25 this medication. I have to chase -- you know, you are not a

1 child no more. I'm not forcing you to take this medication.
2 I'm not being your, you know, your child. You are grown.
3 You have a kid out there. And basically he said I don't
4 care what you do. I got a life and I got a wife and you
5 have got to get out of my house.

6 So, therefore, I was -- I had been provoked to go to
7 West Columbia. Carrie begged me. She said look, man, I
8 have been at my mom's for three -- she said now on four
9 years. Three years. She said I have been living with
10 my mom three years and already you already know the
11 situation there. It's bitching and fighting. She said we
12 have been physically fighting forever. She said every time
13 my mom looks at me, I have to go over there and slap her, is
14 what she told me.

15 So I asked her, I said do you slap your mom physically?

16 She said no, sometimes I do. I go over there and beat
17 her ass and she knows when it's over, and that's what she
18 told me.

19 So I said, I said Carrie, what about Cassidy, you know?
20 What's going on with Cassidy?

21 She said -- she said well, Cassidy is all right when
22 she's not getting her ass cut.

23 I said why is she getting her ass cut?

24 She said because she does things. She provokes things.

25 I said no, she doesn't. I said I can tell by the way

1 you are talking. You are being childish and you have got a
2 demeanor that's ludicrous, you know.

3 And she -- so then she keeps telling me, she is like --
4 she's like will you come back and she said this is what we
5 are going to do. You are talking about wanting to spend
6 time with your little girl and your daughter and get your
7 daughter. And so to sum everything up, I'm trying to find a
8 place to stay. You are trying to find a place to stay.
9 Your dad just kicked you out. Let's just find a three
10 bedroom house. You can come to West Columbia. And once we
11 get a three bedroom house, I can have a room, you can have a
12 room and Cassidy can have a room and then you can have your
13 time with Cassidy. I can have my time with Cassidy and
14 there will be no trashing between me and you. And basically
15 it would be like a welfare situation and we can -- we can --
16 you know, I'll stay in my room at certain hours and you can
17 come out and watch TV, or whatever. She said whatever it
18 may be.

19 So I said Carrie, look, I said my has kicked me out. I
20 don't want to be homeless. I said so it's like this. I
21 said you find a three bedroom house that we can afford and
22 you try to stay legit. Then I will move in. I will move in
23 on one condition and that's to see my little girl.

24 And she was like okay, so I'm going to find a house.

25 So she called me and tells me she's got a three bedroom

1 house.

2 So once she gets there, she goes -- she says she has a
3 three bedroom house. So right before -- I'm -- I'm in the
4 middle -- I've gotten myself back. I'm getting -- and then
5 she calls me and says well, it's a two bedroom house.

6 I said, man, there is no way of a two bedroom house.

7 So I told my dad, I said, you know, here is the
8 situation. She says it's a two bedroom house.

9 So my dad is like well, I don't care. You don't got
10 this stuff packed and I ain't waiting around. I'm going to
11 West Columbia and you ain't unpacking that stuff. He said
12 you got one week gone and one week train and that's to West
13 Columbia and that's where you are going.

14 So I got him and I said okay. I said it is what it is.
15 I said when something happens it's your fault. That's what
16 I told my dad.

17 My dad said well, I don't care whose fault. You know,
18 it's your fault. You got the key down there. You know,
19 that's what he told me.

20 Q. So let me ask you a question. When you -- you told
21 your dad you knew something was going to happen, did he
22 already know that you were going to kill her?

23 A. No, I didn't mention -- I didn't -- I didn't -- I
24 didn't meditate any killing.

25 Q. What did you mean by saying that? You are saying it's

1 basically on your head that was going to happen.

2 A. Well, because if you are dealing with a girl, she's
3 psychotic. Once something happens, that could mean
4 anything. That could be from that clock falling to a car
5 accident. I mean, a car could fall out of the sky. It call
6 fall on a jetliner and a jetliner could fall clean through
7 this building. Anything is capable. Anything is possible.

8 Q. So it's going to be your dad's fault when Carrie
9 attacked you?

10 A. Yeah, because he provoked -- I asked -- my dad made me
11 get out of the home. And once I -- and once I -- anyways,
12 my dad provoked the situation, as well as Carrie.

13 Q. So you are a grown man. How old were you at this time?

14 A. How old was I?

15 Q. Yeah.

16 A. I have no idea.

17 Q. How old were you -- how old are you right now?

18 A. I'm 34.

19 Q. Okay. So back in 2012, in December, how old were you?

20 A. I have no idea..

21 Q. Four years ago? 31?

22 A. I was 31.

23 Q. All right. And you had an SSI check?

24 A. Yes.

25 Q. And you were looking for a job?

1 A. Yeah, I had an SSI check because -- the stipulation to
2 be released from the hospital was you have to have financial
3 income. If you don't have financial income, they talk to
4 the Social Security office and mandate to get Social
5 Security. So that's why I had Social Security.

6 And the answer to your second question was I looking
7 for a job? Yes, I was.

8 Q. Okay. So your dad, when he kicked you out of the
9 house, you could have gone somewhere else and lived?

10 A. No, my father said I have a one way boat to West
11 Columbia. I don't -- I don't know about you but I usually
12 don't, you know, scare my dad. Whatever my dad tells me I
13 do, I have to do, because if not, he provokes the situation
14 that causes me to lean on him and then he provokes his --

15 Q. So it's your dad's fault that you went to West
16 Columbia, correct?

17 A. It was provoked by him and it was provoked by Carrie.

18 Q. And Carrie tricked you saying come up and we will have
19 a three bedroom house and she ended up with a two bedroom
20 house?

21 A. Correct.

22 Q. And all we have is your prior behavior and that she was
23 psycho, I think to use your words, you moved in with her?

24 A. Yeah.

25 Q. You had no somewhere else to go?

1 A. Right. I also informed my mother. I also informed my
2 father, and I also informed my little brother that if the
3 situation deters and that we can't be friends and we can't
4 keep ourselves occupied and out -- safe and out of trouble
5 while we are trying this, to ask somebody immediately come
6 and get me. My little brother agreed. He said I'll be
7 right here. And he said as soon as you current text me I
8 will be on -- I'll be on 95 and I'll be further, if it ain't
9 smokin.

10 My dad said all you got to do is call. I'll come and
11 get you and she -- leave your belongings there. He said
12 just go up there and have the little girl, because I hadn't
13 met my daughter. That was the first time I had met my
14 daughter. I had been incarcerated in a psychiatric hospital
15 her whole life. So -- so my --

16 And then my mother knew the situation also. My
17 mother -- I told my mother the situation. She knew that --
18 she knew who Carrie was and that because Carrie had
19 contacted her, but I spoke to my mom. I was actually in the
20 hospital numerous times. My mom -- I -- I e-mailed mom all
21 the threats. Every time Carrie would call me, my mom was
22 very acknowledged of who Carrie was, how many times she
23 threatened me, which was numerous and plentiful times of her
24 threatened my life, threatened my little girl's life,
25 threatened my mom. And I told my mom all this. My mom was

1 well aware of this, and once I got to West Columbia they all
2 stipulated that they would be there, no matter what. All I
3 had to do was walk away and that would be over. So nobody
4 provoked the situation that would end to self-defense
5 homicide.

6 Q. And the four weeks that you lived with Cassidy -- and
7 Cassidy was three at the time, right?

8 A. Yes.

9 Q. In the four weeks or month that you lived with Cassidy
10 and Carrie at [REDACTED] Alexandria Street, how many times did
11 Carrie attack you?

12 A. I believe five.

13 Q. Okay. Do you remember when they were?

14 I'm not -- other than -- other than the night that you
15 killed her, the morning that you killed her, how many times
16 did she attack you?

17 A. I didn't kill her. It was -- but she attacked me --

18 Q. Well then why are we having a stand your ground hearing
19 if you didn't kill her?

20 A. Well, why -- the same reason West Columbia arrested me.
21 I mean, that's -- because I'm entitled to immunity. I was
22 protecting myself and my counsel, under the a counsel
23 doctrine.

24 Q. So are you saying that you did not kill her?

25 A. I didn't kill -- I don't know what your definition of

1 kill is.

2 Q. Your actions caused her death, yes or no?

3 A. That's a homicide, is that correct?

4 Q. Don't worry about the terms.

5 My question is did you cause her death by your actions?

6 THE WITNESS: May I refuse to answer that, Your
7 Honor?

8 THE COURT: No, sir, not once you take the witness
9 stand, you don't have on Fifth Amendment right then.

10 THE WITNESS: All right.

11 THE COURT: If that's what you were trying to
12 impose, the Fifth Amendment Right.

13 THE WITNESS: Can you make him entirety or define
14 his word? He's asking me to --

15 THE COURT: If you don't understand the question,
16 that perhaps could be the answer. "I don't understand your
17 question, solicitor."

18 A. I don't understand the question, solicitor.

19 BY MR. GRAHAM:

20 Q. The purpose of a stand your ground hearing is because
21 you are claiming self-defense, isn't that correct?

22 A. That's correct.

23 Q. All right. Self-defense only applies if you are
24 responsible for her death.

25 A. Correct.

1 Q. Okay. Are you responsible for her death, yes or no?

2 A. No.

3 Q. Then why are we having this hearing?

4 A. Because you -- you -- the State says killing as
5 killing. I -- I formed homicide, which is the death by the
6 hands of another as is not mine -- is not involuntary
7 manslaughter. And typically, you know, it has it's own --

8 I don't know what the State calls killing. I can't --
9 I can't vouch for what the State's definition is. I have no
10 entirety of what their knowledge and what your knowledge and
11 what your positive theories are or whatnot. I don't know
12 what you are -- what your objection is.

13 Q. Let's go back.

14 How many times did Carrie strike you, other than that
15 night, in the month that you lived with her? How many times
16 did she physically assault you?

17 A. This night, or the entirety?

18 Q. Well, let's just talk about at the time that you lived
19 in West Columbia, that month of four weeks, that time
20 period. Not counting the morning that she was killed, or
21 when she died. Five other times?

22 A. No, not -- I said that -- the night she died, but five
23 times that she attacked me.

24 Q. The other four weeks that you lived there prior to that
25 she had not attacked you at all?

1 A. No.

2 Q. Okay. The other four weeks that you had lived there
3 with her did she abuse Cassidy?

4 A. Yes.

5 Q. Tell me about it.

6 A. My -- I can't really recall. She -- she was -- she
7 would pop Cassidy. She would --

8 Like we was at Wal-Mart one day and Cassidy just looked
9 at a toothbrush and she started spanking her. She popped
10 her and like back of the head and told her don't even think
11 about it and she dragged her -- she started dragging her out
12 of the Wal-Mart spanking her and popping her and I said look
13 here, all she was doing was looking and she didn't put her
14 hands up to touch or anything. All she did was look at it.
15 It was like a pool toothbrush. I said Carrie, look man, I
16 said there is no -- there is no necessary that -- you can't
17 pop a child for looking at something. It's a toy, you know,
18 and she got the right to hold it. She's at Wal-Mart, so
19 what's the problem?

20 And she was like the fuckin problem is I'm her mother
21 and that's all -- fuck you, you know, blah, blah, whatever
22 she said, but she -- she continued to provoke, you know,
23 cussing and saying -- you know, using hostile threats and --

24 Q. Let me interrupt you for a second.

25 How many times did she pop Cassidy, either in Wal-Mart

1 or in the Wal-Mart packing lot, that incident?

2 A. In the entire -- I mean, visually, a lot.

3 Q. Give me a number.

4 A. I can't.

5 Q. A lot?

6 A. A lot.

7 Q. Like ten?

8 A. I would -- I would say below.

9 Q. Did it leave bruising?

10 A. No, I don't think it left bruising. I don't think she
11 stipulated to bruising.

12 Q. Did it leave red marks?

13 A. Yeah, it left red marks.

14 Q. Did anybody -- any Wal-Mart employee or any customer
15 intervene and say that she was abusing Cassidy?

16 A. Someone did at Wal-Mart. I'm not exactly sure. It was
17 a female, a young girl, blond hair and a skirt. She --
18 basically when that happened she kind of looked at Cassidy
19 and said are you all right, and I just looked at her. I
20 said yeah, everything is all right.

21 Cassidy was like --

22 And then Carrie, after the girl left, said I'll fuckin
23 kill that bitch if she ever look at me again or try to touch
24 my kid.

25 Q. All right. Were you in fear of Cassidy's life at the

1 Wal-Mart incident?

2 A. No.

3 Q. No?

4 A. I was in fear of the situation provoked, but I didn't
5 think it would provoke for --

6 Q. But you thought -- you thought that she was abusive to
7 your daughter?

8 A. She was abusing and it was getting very extent -- it
9 was very excessive.

10 Q. And you called the police yourself to report that
11 incident?

12 A. No.

13 Q. You called DSS to report that incident?

14 A. No.

15 Q. You called your mom to tell her what happened?

16 A. Not in four years my memory is very bad. I think I
17 did.

18 Q. You called your dad to tell him what happened?

19 A. I don't think I called my dad because at that time my
20 dad provoked so much and I really -- the only thing me and
21 my dad was really talking about was money, because my dad
22 was my payee and we -- we was -- he was sending me money.
23 You know, he would send me like 2,500, and then like 500,
24 and he had more money of mine. He was basically wiring me
25 money and that's all me and my father was basically talking

1 about, until the night of her death -- or a in couple days
2 before that I had talked to him. I was calling my dad and
3 telling him the situation was bad.

4 Q. How many other times did Carrie abuse Cassidy that you
5 saw and know?

6 A. Well, there was a Wal-Mart. There was a -- there was a
7 Wal-Mart.

8 There was a K-Mart.

9 There was a time that -- again, she come in with her
10 from work. I had just about every time I think she come
11 back from work Cassidy was always very red and white with
12 marks all over her, like she was abusive, and she was like
13 sedated and it looked like she had been psycho popping. And
14 I brought it to Carrie's attention, but relevantly I just --
15 you know, I asked Carrie, I said why did she always look
16 like that, and Carrie was like I don't know, you know.

17 Q. So how many times did you actually see it?

18 A. How many?

19 Q. How many times did you see Carrie abuse Cassidy, not
20 counting that night, that morning?

21 A. I can't say off the top of my head.

22 Q. You said Wal-Mart and K-Mart?

23 A. No, K-Mart. Like I said, it was probably, you know,
24 below ten. Approximately ten. You know, I would say -- I
25 would say ten is probably excessive, but ten is probably

1 right. Somewhere about six -- six to ten.

2 Q. Six to ten times you saw Carrie physically abuse
3 Cassidy, correct?

4 A. Yes.

5 Q. And in any of those times were you in fear for her life
6 for, Cassidy's life?

7 A. That night that --

8 Q. No, not that night. Let's talk about all the other
9 times.

10 A. No.

11 Q. Okay. So you did not in the six and ten times that you
12 observed, you never reported to law enforcement or DSS that
13 Cassidy -- that Carrie was abusing your daughter, did you?

14 A. Can you repeat that question?

15 Q. The six or ten times that you saw in your story that
16 Carrie abused Cassidy, you never called West Columbia Police
17 Department, you never called 911, you never called DSS and
18 told them Carrie Banty is abusing my daughter, did you?

19 A. No, sir, because the situation -- I have been taught in
20 my likelihood of growing up that DSS is very provoked and
21 don't call DSS because they come and take your kids away, no
22 matter what happens.

23 And I also -- as far as police go or law enforcement
24 goes, I didn't see it necessary to call and report a child
25 abuse and the child was three years old. I basically I knew

1 once the police there and Carrie said she didn't hit her
2 like that, or she didn't, all she did was discipline her and
3 then what is discipline, even though I thought it was
4 abusive, and it was abusive, who was to say I'm the only
5 person there. So, I mean, I can't -- I can't -- I can't
6 acknowledge for a police officer, but I know that what the
7 police officer is going to say, they are going to say well,
8 she was disciplining, but, you know, whatever, whatever.

9 Q. So you didn't call because nobody would believe you,
10 correct?

11 A. I -- I thought that it was stipulate the situation into
12 a minor rather than what it was.

13 Q. Did you ever have to take Cassidy to the hospital for
14 any of the injuries she sustained from Carrie?

15 A. No, and I tried to.

16 Q. Did you ever call an ambulance for any of her injuries
17 that she sustained?

18 A. No, but I thought about one that night.

19 Q. Why didn't you call an ambulance then? You had a
20 phone.

21 A. Because I -- I have a mental condition and mental
22 issues and I -- I am basically brain dead and my thought was
23 very far and scattered. It takes me approximately a minute
24 to process a thought and if I want to do something, a lot of
25 times I'll think of doing something and then I'll completely

1 forget and that's -- that's the end, completely honest there
2 solicitor.

3 And at that time I -- I seen what happened and it -- it
4 basically, you know, with her provoking it every day and
5 being abusive, I figured it was just day of abusive, deal
6 with it tomorrow and I can sort through it and basically do
7 the best I could to do for me and my daughter and that's for
8 well and safety and for both of us, but on that night it
9 just happened that way..

10 Q. You had a phone that night and you could have called an
11 ambulance for your daughter that night, couldn't you?

12 A. At the time basically I checked in the situation, I
13 could have, but it didn't -- I didn't -- my -- my foresight
14 didn't get that far.

15 Q. You didn't call the police that night either, did you?

16 A. No, but I tried.

17 Q. You tried. How did you try?

18 A. When -- when Carrie was -- when Carrie was dead, I went
19 and got my phone. It was completely dead. It was -- it was
20 completely dead and I -- I stuck it on the charger. I think
21 I stuck it on the charger and when I went the store, and
22 whatnot. Somehow that morning I charged phone for like five
23 minutes. I'm not exactly sure when, but I charged my phone
24 for like five minutes, ten minutes at the most, and -- but
25 it was -- it was completely dead at the time of her death.

1 Q. So the early morning hours of Monday, December 10th,
2 2012, your phone was completely dead and you couldn't use
3 it?

4 A. That's correct, and periodically, not completely.

5 Q. Okay. You could have used her phone, though, right?

6 A. No, her phone was locked.

7 Q. Her phone was locked.

8 You had a chance to look at the AT&T records for your
9 phone, right?

10 A. Excuse me?

11 Q. You had a chance to look at the AT&T records for your
12 phone?

13 A. Yes, I viewed them.

14 Q. And your phone number is [REDACTED] [REDACTED]-7398?

15 A. I don't have a phone. I think that was one of my phone
16 numbers.

17 Q. At the time that was your phone number, correct?

18 A. Say that one more time.

19 Q. [REDACTED] [REDACTED]-7398.

20 A. That was Carrie's phone.

21 Q. Okay. Carrie had a phone of [REDACTED] [REDACTED] 4134, isn't that
22 correct?

23 A. That's not -- I thought my number was --

24 Q. Excuse me?

25 A. I thought my number was like [REDACTED] [REDACTED], something like

1 that.

2 Q. You don't know what your phone number was at the time?

3 A. No.

4 Q. How many phones were there at the house?

5 A. It was like four or five. Or -- I had a main phone.
6 Carrie had two phones, one with service.

7 Q. Your phone number was [REDACTED] -0248?

8 A. That sounds more right.

9 Q. Does that sound right?

10 A. Right.

11 Q. You have had a chance to look at those phone records,
12 right?

13 A. I viewed them.

14 Q. I'm sorry?

15 A. Yes, I viewed them.

16 Q. You know that the guy at SLED named Tommy Hines went
17 through and spotted the use of that phone, right, from those
18 phone records?

19 A. No.

20 Q. You have seen this map in discovery, right?

21 This was sent to you in discovery? Do you recognize
22 that map?

23 A. May I see it?

24 Q. Sure.

25 A. I -- I don't know. I had it somewhere. I lost it, so

1 I forgot it.

2 Q. You have seen it before and you understand the purpose
3 of that map?

4 A. I believe it's cell phone towers, is that right?

5 Q. It's --

6 A. May I have a copy of that map so I can --

7 Q. Okay. I will give you another copy when we are done,
8 sure?

9 A. I need it now.

10 Q. You can hold this one right now.

11 A. Thank you.

12 Q. What that is is taking a your AT&T phone records and
13 it's looking at the cell tower that it's hitting. So your
14 phone has to be on for it to register with the cell tower
15 for a location. Do you understand that?

16 A. Yes.

17 Q. Okay. On December 10th, 2012 it shows that it hits the
18 location at 12:49. That would have been before Carrie came
19 home?

20 A. I'm not sure.

21 Q. Well, 1:49 it shows the location a.m., in the morning.
22 What time did Carrie get home?

23 A. 1:30.

24 Q. And what time did you kill her?

25 A. I didn't kill her.

1 Q. What time did she die?

2 A. About -- I want to say it was -- it was right at dawn.

3 Q. Right at dawn.

4 If you will look on this, would you agree with me it
5 shows locations at 2:49, 3:49, 4:49, 5:49, 8:46 a.m., 8:49
6 a.m., 9:04 a.m.. Do you see all those times?

7 A. Right.

8 Q. So your phone was on and hitting a tower during all
9 that time.

10 A. May I see those times?

11 Q. I'm going to have a copy made for you.

12 A. I need it now before you go any further.

13 THE COURT: No, sir. Make a copy. Don't ask
14 another question until a copy is made.

15 (Off the record).

16 (Back on the record).

17 THE COURT: In fact, we are going to take a
18 fifteen minute recess.

19 You may step down Mr. Walker.

20 Madam Clerk, if you will make that copy for Mr.
21 Walker so he can -- where he can get it. Give it to Mr.
22 Walker and he can review it at the recess.

23 (Whereupon, proceedings were recessed).

24 (Whereupon, proceedings were reconvened)

25 THE COURT: Mr. Walker, if you would come back

1 around and take the stand.

2 Before we begin, Mr. Walker, I understand you have
3 a couple of people subpoenaed?

4 MR. WALKER: Yes.

5 THE COURT: Mrs. Maddox and a child also
6 identifies to me as a child.

7 Dr. Maddox would like to leave for the day. Do
8 you have any objections to that?

9 MR. WALKER: Yes, I'm going to need her.

10 THE COURT: What time?

11 MR. WALKER: As soon as I get off the stand.

12 Probably six.

13 THE COURT: What time?

14 MR. WALKER: Later.

15 THE COURT: What about the child?

16 (Off the record).

17 (Back on the record)

18 THE COURT: All right. Solicitor, you may ask
19 your next question.

20 MR. GRAHAM: Thank you, Your Honor.

21 BY MR. GRAHAM:

22 Q. So, Mr. Walker, my understanding is you had your phone,
23 but your testimony is that your phone was dead?

24 A. Yes, that's correct.

25 Solicitor, that's data. That's for data I believe is

1 the one from --

2 Q. I didn't ask you to interpret it. I'm just asking you
3 to --

4 A. Right.

5 Q. Your phone was dead and you couldn't use it to make the
6 call, or text, or do anything else?

7 A. Yeah, but you are stipulating that these records show
8 that -- that the phone was on, and they are showing what the
9 data and instant messages and basically they -- they -- they
10 take very, very little power and also they go through --
11 they go through, no matter whether your phone is on or off.

12 Q. Your testimony is it can transmit texts and send data
13 when the phone has no power and your phone is off?

14 A. Yeah, some phones because of memory.

15 Q. Okay. That night -- well, that morning when you turned
16 your phone and you went to the convenience store, right?

17 A. Right.

18 Q. When you were at the convenience store did you tell the
19 clerk my baby momma beat my child and threatened to kill her
20 and she might be dead? Did you tell her that?

21 A. No, I never went to the convenience store. I attempted
22 to go to the convenience store.

23 Q. Why didn't you go to a convenience store? What stopped
24 you?

25 A. Because I become very ill and sick. I had hot flashes

1 and my body started hurting and I was losing bodily
2 function. I was unconscious.

3 Q. Did you drive or walk?

4 A. I drove.

5 Q. So that's when Bernell Farwell saw you get into
6 Carrie's car and drive?

7 A. I'm not -- I'm not here to testify for another witness,
8 even if she is deceased.

9 Q. You did it the morning of the 10th, Monday morning is
10 when you got in the car and drove to a convenience store?

11 A. Approximately.

12 Q. Okay. You didn't make it there because you got sick?

13 A. That's correct, and I was only gone for three or four
14 minutes.

15 Q. Did you call 911 and ask for help for yourself?

16 A. No, sir, I don't recall. I was very -- I was -- I was
17 gone. I lost consciousness. When I realized the person --
18 when I realized she died and was dead and I -- I lost
19 everything, man. I couldn't -- I couldn't even breath. I
20 couldn't -- my whole body -- my air -- just everything went
21 away.

22 Q. You didn't ask anybody for help?

23 A. No, I -- I couldn't. I parked the car back. I parked
24 the car and went back. The only place that I -- I tried to
25 get Cassidy up. And when I was walking there was a lady at

1 the church, she had a child and she was approximately -- I'm
2 going to say probably two hundred yards, three hundred yards
3 away and I was going to go to her and basically tell -- you
4 know, I ask her for help and ask her if I could -- if I
5 could, you know, talk with her and tell her what was going
6 on. But, no, I didn't. I had my cell phone on me, but, you
7 know, I was -- I was too -- I was too duped, if that's a --
8 you know, if that's a --

9 Q. You weren't taking drugs then, were you?

10 A. No, I don't -- I don't do drugs.

11 Q. You weren't doing drugs.

12 Any idea about the cocaine in the syringe in the herbie
13 curbey, where that came from?

14 A. No, I think it was hers, because she told me numerous
15 times she was on cocaine, opiates, and Aderol and some other
16 things she said she was on. And I think it was hers and she
17 may or may have been shooting up. I'll bring toxicology in
18 in a few minutes to --

19 Q. So you never saw her shooting up, but you think she
20 did?

21 A. Well, I thought I seen her shooting up one day. She
22 was -- she was out there in the hall area in the bathroom
23 and she -- she was basically jerked away and I could tell
24 that she was hiding something to her arm or whatnot, but
25 then I asked her, I said Cassidy (sic), what are you doing,

1 shooting up, and she denied it.

2 Q. So the syringe outside that was near her might be hers?

3 A. Yes, there it could be anyone else.

4 Q. There was a belt that was your belt, because in prior
5 testimony in court -- not testimony, but words from your
6 mouth, you said it wouldn't have DNA, that it was your belt.

7 Do you know what belt they were talking about?

8 A. Yeah, my personal belt.

9 Q. Right. Your personal belt that was made into a
10 tourniquet by being pressed through the bucket, right?

11 A. I don't know if it was made a tourniquet or whatnot. I
12 don't want you to stipulate to that.

13 Q. I'm not stipulating to anything. I'm asking you a
14 question about your belt looked like a tourniquet that was
15 at the crime scene. Do you know anything about that?

16 A. No. I know that I owned a belt and I know that I was
17 produced discovery and my belt on there and I objected to it
18 being -- objected to it being entered into evidence because
19 I wanted to check it for skin cells so that it was -- so
20 that it was cleared as it wasn't used and, you know,
21 manipulated away.

22 Q. So if the crime scene showed those photos with it made
23 into a tourniquet, you have no idea why your belt was made
24 into a tourniquet?

25 A. I'm pretty sure that my belt wasn't used in a

1 tourniquet, unless it was done out of my opinion, but in my
2 opinion it wasn't ever used, and the coroner tested to the
3 skin so, therefore, it was -- it made contact to the skin.

4 Q. You said that you don't use cocaine, correct?

5 A. I have in the past.

6 Q. Were you using it during the month that you have stayed
7 with Carrie and Cassidy?

8 A. No, I had been clean for numerous, numerous years.
9 Probably six, seven.

10 Q. Can you explain to me why there is a text from your
11 phone from a number that you said was yours to Carrie's
12 phone asking her to get an eight ball of cocaine for you?

13 A. May I see that?

14 Q. Did you say it didn't happen?

15 A. I'm saying may I see that.

16 Q. No, I'm just asking you a question right now.

17 A. I know. Can you show me what you just said and I'll
18 answer your question.

19 Q. This was a portion of your phone -- or Carrie's phone,
20 correction. Do you see where on the 2012 coming from your
21 phone number, [REDACTED] -2158, shows you and your phone is "my
22 love." You sent an outgoing text to her that says -- or she
23 sent one to you saying "do you need cigarettes?" Do you see
24 that?

25 A. You said that's Carrie's phone?

1 Q. Carrie is sending that to you, "do you need
2 cigarettes?"

3 A. So you are saying wrote this on the --

4 Q. The one going and outgoing are hers. The one that says
5 incoming is an incoming text from you.

6 A. Okay.

7 Q. Do you see the outgoing text that says "do you need
8 cigs?" That's from her to you.

9 A. Yes.

10 Q. Do you --

11 A. Cigarettes?

12 Q. I assume cigs, C-I-G-S.

13 A. I'm assuming cigarettes.

14 Q. The response that came from your phone was "Newports,
15 yeah. Some crown and a line? 8-ball." Do you so that?

16 A. Yeah, I'm not denying that.

17 Q. You are denying that you made that?

18 A. No, I'm not denying it.

19 Q. So did you make that?

20 A. Yes, I made that text.

21 Q. So you asked her for cocaine?

22 A. No, I didn't ask her for cocaine.

23 Q. Read it out loud to me and explain to me what it means.

24 A. She wrote me. I didn't ask her for cocaine.

25 THE COURT: No, sir, read --

1 A. She --

2 THE COURT: -- the text out loud.

3 THE WITNESS: Sorry, Your Honor.

4 A. It says "incoming text from [REDACTED] [REDACTED]-0258. Newports,
5 yeah. Some Crown and a line? 8-ball."

6 Q. What does that mean?

7 You sent that text, correct?

8 A. Did I send it? Yeah, I sent that.

9 Q. What does that mean? If it doesn't mean cocaine, what
10 does it mean?

11 A. I don't know what that means. A line 8 -- a line means
12 cocaine and an 8-ball can mean cocaine, or it can mean
13 anything. It could mean a game of pool, a game of ball.

14 Q. Her response -- do you remember getting a text back
15 that says "no, powder."

16 A. Yeah, because that's -- because she couldn't
17 purchase -- she couldn't -- she couldn't find any cocaine.

18 I'm not denying that it was for the cocaine.

19 Q. Well, you told me that you weren't using any cocaine,
20 that you didn't use cocaine while you were there, but yet --

21 A. I had no cocaine, but you can't stipulate because I
22 sent a text message about cocaine that I was on cocaine or
23 that I used cocaine.

24 Q. I was just asking you a question.

25 A. And I answered your question.

1 Q. And you don't know anything about the cocaine that the
2 toxicologist found in the syringe in the herbie curbie?

3 A. No, I don't. I don't know what a herbie curbie is.

4 Q. Trash can outside up against the trailer?

5 A. Okay. I guess that's what you call it?

6 Q. You don't know anything about that?

7 A. No, sir.

8 Q. Facebook -- you have a Facebook account under the name
9 of David Walker, correct?

10 A. Correct. I had no access on it.

11 Q. You did back on December 10th, 2012, that morning,
12 didn't you?

13 A. Most likely did.

14 Q. Let me show you something and ask if you recognize
15 this. Do you recognize that as being a screen shot of your
16 Facebook account?

17 A. No, it's not a screen shot of what I know my account
18 looked like.

19 Q. Let me show you a photograph of a rose. Do you
20 recognize this?

21 A. Yeah, I recognize that.

22 Q. You downloaded that on the morning of December 10th,
23 2012, after Carrie was dead, correct?

24 A. That's correct.

25 Q. And then you uploaded it on your Facebook account and

1 posted it on your Facebook account that says the word "to"
2 and then it said ":" And then it said "Cassidy and free",
3 correct?

4 A. Yeah, I downloaded numerous pictures that day of what
5 was going at that time because I was trying to get my mind
6 right and I was looking -- you know, in most people when
7 they -- when they get fit from their mind, they are trying
8 to find something that might help be characteristic.

9 Q. So your answer is yes, you posted it on Facebook with
10 that message?

11 A. Yeah, I basically intended that rose for Carrie because
12 she was deceased.

13 Q. So you got this rose off the Internet when you didn't
14 have -- your phone was working, so you could have called
15 911, you could have called an ambulance, you could have
16 called the police, but you said you downloaded a rose,
17 correct?

18 A. Yes, I was on my phone. I didn't -- I didn't -- i
19 stipulate about not calling the police. I never had
20 interest in calling the police because I was trying to calm
21 my nerves and trying to calm myself so I could speak to the
22 police.

23 And I went and I was very dazed and I waited and I went
24 and stayed over there in the woods. And once I stayed in
25 the woods, I guess I stayed there about a day, and I got on

1 the train car. And when I got on the train car, I ended up
2 in Aiken and Graniteville because that's the only place I
3 could get off because the train car wouldn't slow.

4 Q. So my question was that you downloaded the rose, you
5 posted it on your Facebook page?

6 A. When she died -- Mr. Solicitor, when she died -- when
7 she died I thought I intended that rose for her. I was too
8 looking for a rose and I was also going to call my mom all
9 the time but my phone did die at that time. And once it
10 died, I took the battery out of it and basically it's a
11 charge, let the battery charge back up. And periodically I
12 was putting the battery back in there and I think that's why
13 your cell tower was hitting numerous, or whatever, is the
14 battery being in and out of it.

15 Q. Let me ask you a question. You had enough battery to
16 download the picture and post it on Facebook, correct?

17 A. And that's why it was very little time that I had with
18 the battery.

19 Q. And you chose to put out there the rose on your
20 Facebook page that says "to Cassidy and free," correct?

21 A. Right. It was intended for Carrie, but it was also I
22 wanted to -- like I say, I was itself very -- I was going to
23 try and put more into Carrie's rose and left a message, but
24 I never did because I couldn't -- I couldn't get my mind and
25 thoughts right and I was basically was very -- very ill.

1 Q. So how many times that night did Carrie attack Cassidy
2 the morning of December 10th, 2012?

3 A. I can look at my records and tell you.

4 Q. You don't remember?

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

6 Q. Do you remember what happened that night?

7 A. Yeah.

8 Q. Why do you need to look at your notes?

9 A. Because I'm brain dead.

10 Q. You're brain dead? What does that mean?

11 A. I'm brain dead.

12 Q. What does that mean?

13 A. Because I have a condition that is medically called
14 brain dead. I have --

15 Q. What does it mean?

16 A. What it means? It means my brain feels like it's just
17 dry and it feels like it's -- feels like it's hard, like a
18 sponge, aren't it's actually hard and -- it's hard.

19 Q. So do you really remember what happened that night, or
20 are you just going from the script that you have written?

21 A. I -- I -- I -- it took me a very long time, sir, to
22 write this and I had to very, you know, present myself. I
23 had to think about what thoughts in there. It takes -- it
24 took -- sometimes I can't even write my name. I write other
25 people's name. I'm very far fetched from -- from normal.

1 Q. Is what you testified what really happened that you
2 really remember?

3 A. That's correct, it does.

4 Q. Or is it that's the way that you wish it happened?

5 A. No, that's correct.

6 Q. How many times did Carrie attack Cassidy that night?

7 A. I don't know. I have to look and see. Do you want me
8 to look?

9 Q. No.

10 More than four times?

11 A. I'm going to say approximately three, four times, maybe
12 four, more than four, but seven or eight.

13 Q. The very first time you said that Cassidy was out in
14 the car and you saw Carrie beat her out in the car, correct?

15 A. That's correct, and it looked like it was very fierce.

16 Q. You said at that time --

17 A. Fierce and angry.

18 Q. You said the worst you had seen?

19 A. From the looks of Cassidy, yeah, but from my view --
20 but from the condition of Cassidy, yeah. I think -- I
21 think, too, that she rode Cassidy around and basically was
22 abusing her and hitting with a --

23 Q. The very first time when you went out and confronted
24 Carrie outside, did she say that she was going to kill you
25 and kill her if you interfered?

1 A. Can you repeat that?

2 Q. The very first time when she pulled up in the car and
3 you see Cassidy outside getting beat, you go outside
4 correct?

5 A. Correct.

6 Q. Is that the first time that Carrie says that she's
7 going to kill you and kill Cassidy?

8 A. No.

9 Q. She didn't say it then?

10 A. She -- she said -- I think she said something of that
11 manner. She said it before, but I'm not positive.

12 Q. The first time that morning.

13 A. It was the first time that -- I'm thinking it was -- I
14 think she may have said something -- I don't think we argued
15 that day, but we did have earlier that day before she went
16 to work we had some words and I don't think they was -- I
17 think it was just a harsh situation and I don't recall what
18 it was, but I do recall that we had a conversation about
19 Cassidy, but I don't recall exactly what the conversation
20 occurred.

21 Q. When was the first time that you choked her?

22 A. Choked her? When she attacked me in the room.

23 Q. That's inside when you are in a locked bedroom?

24 A. Yeah, we -- we was locked in the bedroom.

25 Q. And who locked the door?

1 A. I'm not sure. It could have been any one of us.

2 Q. And I think that's when you said that she was -- and
3 there might be different, but she was punching you with a
4 closed fist up side the head, correct?

5 A. That's correct, and a few other times too.

6 Q. How many times that night did she punch you up side the
7 head with closed fists?

8 A. I'm not real good with guessing. I'm not real good
9 with number. I'm going to say seven times, if you are
10 talking about actually issues of being punched in the head.

11 Q. Yeah. But she punched you seven times that night in
12 the head?

13 A. Yes.

14 Q. Approximately seven times.

15 Did you have any bruises from those?

16 A. No, my head was swollen. My -- my head hurt and
17 swollen.

18 Q. Did you go to the hospital?

19 A. No, like I said I went to the woods, I got on the train
20 and got stranded in the country over there in Aiken.

21 Q. Did you take any pictures of your injuries?

22 A. No, I didn't. It was bruising.

23 Q. How many -- it's not relevant, but do you agree with me
24 that it would be relevant now to show that she attacked you?
25 It would corroborate your story, wouldn't it?

1 A. It was quite aggressive.

2 Q. How many times did she kick you the whole night?

3 A. When we was at -- I know she -- I think she kicked me
4 when we was at the car and she kicked me when we was on the
5 steps two times and she may have kicked me some other times.

6 Q. Did you have bruising from those?

7 A. No, I'm very hard -- it's hard for me to bruise.

8 Q. So she kicked you but it didn't really hurt you?

9 A. It hurt me.

10 Q. Why would it not have left a bruise? You just said it
11 was just hard, so it didn't hurt, correct?

12 A. I had -- like I have a blood factor. I have a skin
13 factor that I don't bruise. I might red, but I don't
14 bruise.

15 Q. Nothing bad enough for you to go to the hospital?

16 A. No, sir. I typically don't go to the hospital unless
17 I'm very ill.

18 Q. How, you said that she was punching you, scratching you
19 in the throat and the face, and what else did she do to you?
20 What put you in fear for your life?

21 A. Put me in -- her gouging for my eyes, my testicles,
22 trying to choking me -- trying to choke me. Trying to gouge
23 for my mouth, and the physical abuse. Like her punching me
24 and the super-aggressive. She was -- she was super -- very
25 if I could use super-super-aggressive. She was

1 super-super-aggressive.

2 Q. Did she cut your skin?

3 A. Did she cut my skin?

4 Q. Yes.

5 In any of the times that she's clawing at you or
6 grabbing you?

7 A. I don't think she -- I don't think she had a razor or a
8 weapon.

9 Q. No, with her fingernails.

10 A. Yeah, she cut my -- she cut my face and she also cut --
11 I think she cut me one time right here, but my hands -- I
12 think the pictures of Aiken County took of my wounds.

13 Q. Right.

14 A. But they was when I was in the woods and like --

15 Q. Eight days later when you see Deputy Kostyk you don't
16 have any injuries left from what Carrie did to you?

17 A. I had some. And the officer also pressing very hard on
18 my hands and make it look like out of color than what it
19 was.

20 And also I think them pictures was taken illegal,
21 because I never contested for them to take pictures and I
22 did --

23 Q. He didn't need your permission to take the pictures?

24 A. That's all I asked -- that's all I will stipulate.

25 Q. So there was nothing -- she didn't do anything bad

1 enough to put you in the hospital, correct?

2 A. Yeah, she did, but I didn't go to the hospital because
3 I was stranded. My head hurt. I was swollen.

4 I don't know. I think the fact that she died was the
5 reason I was ill and out of consciousness, but -- but
6 during -- during that day I knew I had my head hurt very bad
7 and it was -- like I said, I have brain damage, so, you
8 know, they can call it -- I have been hit in the head too
9 many times by people. I have -- my brain usually in my head
10 does get sore, but that day it was sore.

11 Q. But you are not -- you don't have any -- I know -- we
12 are not talking about your head getting sore.

13 A. No, I'm not talking about medical.

14 Q. It was bad enough for you to go to the doctor but you
15 didn't go?

16 A. Correct.

17 Q. You didn't call -- you didn't call yourself an
18 ambulance. You didn't call one for Carrie?

19 A. I tried --

20 Q. You did not do it, though?

21 A. But I'm not -- I'm not God. I can't create my self.

22 Q. You didn't go to a neighbor and say call 911?

23 A. I tried to talk to the lady at the church to call 911.

24 Q. But you didn't, did you? 911 did not get called for --

25 A. No, because -- well, like I said, I am obviously --

1 solicitor, I was very sick. I was very ill and hot flashes.
2 I couldn't breath. I was unconscious. I was semiconscious
3 and I tried to get the lady who was at the church to
4 contact -- I'm going to tell her to call the police. My
5 phone died and I was going to get her and she had a child
6 and she basically looked very occupied with -- and content
7 with her child and she looked like she didn't want to be
8 bothered. Therefore, I didn't bother her.

9 Q. So what you did -- you didn't want to bother her
10 because your child --

11 A. She made contact with --

12 Q. Right. There were other people. You could have gone
13 and knocked on other doors, correct?

14 A. No, and I don't knock on -- I don't know on doors at
15 7:30 in the morning, especially not in the condition I was
16 in. I might get shot or someone might attack me. You knock
17 on somebody's door and --

18 Q. You started to go to a convenience store but you didn't
19 make it because you started feel ill and you went back to
20 the trailer?

21 A. Yeah, I went to go -- I went to go get something --
22 something to try to make me feel better and also provide
23 food and nutrition for my daughter.

24 Q. Did you do that?

25 A. No, because I didn't -- I couldn't make it. I was too

1 ill.

2 Q. So you went back home?

3 A. I returned.

4 Q. So were Monday morning you back home. Do you go to
5 sleep?

6 A. No, I --

7 Q. You talked about leaving consciousness and being ill,
8 is that right?

9 A. I think -- I think that's -- when I got back I
10 remember -- I remember waking up -- trying to wake up
11 Cassidy. I think I laid on the couch for like a minute, two
12 minutes at the most, and maybe five minutes -- maybe five
13 minutes and I remember that. I think that's when I charged
14 my phone and that's when I got up and left. I was duped. I
15 couldn't think. I really couldn't. I had no thoughts.

16 Q. You were okay to walk away and that's what you chose to
17 do, right?

18 A. I didn't choose to walk away. I didn't walk away.

19 Q. You left the house and walked away and went into the
20 woods and got on the train, right?

21 A. Tried to get my mind correct. I was very ill. I had
22 no thought process. I'm explaining is I had no -- I
23 couldn't think.

24 Q. In all that time you never called the police and said
25 my daughter is left in the house?

1 A. No, my phone was dead.

2 Q. Your phone was not dead.

3 A. My phone died and it was -- it was -- yes, it was.

4 Q. You still had -- you were still doing stuff.

5 A. Yeah, I took my battery out of -- when my phone died I
6 took it out to charge it. If you take a battery out of a
7 phone it will charge itself back up. I took it so it was
8 away from the home and I had it in case of emergency. In
9 case I needed -- or whatever. I say emergency, but I meant
10 whatever. I can get myself together and to do as I felt the
11 right to do and that was either contact the cops, contact my
12 mother. How or when I -- however I wanted to deal with it.

13 And to answer your question, my battery was completely
14 and I periodically placed it and retracked it and put it
15 back in there.

16 Q. When you left the house -- what time did you leave the
17 house Monday?

18 A. I don't know. I had no watch and my phone was dead.

19 Q. Was it that day -- was it December 10th, the day that
20 you killed Carrie, or Carrie died, if we want to dicker
21 about it?

22 A. Your question?

23 Q. Did you leave the same day that she died?

24 A. Yeah, I left that -- when she died that morning and I
25 left that evening.

1 Q. All right,

2 A. I mean, you know, approximately -- I say she died and I
3 left within no more than an hour after she died.

4 Q. Any reason why the cell tower shows you still being
5 around that house up until eleven o'clock that night?

6 A. Yes, sir. Like I said, I was in the woods near the
7 train station and then cell towers go for miles and I was in
8 the same proximity and my house -- my home is on
9 approximately the wooded area I was in and that -- that
10 residence in West Columbia where that homicide took place it
11 was only approximately a mile.

12 Q. Where were you at? What woods?

13 A. I can point it out on the map for you. I can't -- I
14 can't -- I can show you. This map is not clear enough.

15 Q. That's all right.

16 Then you got on a train and you left?

17 A. I got on a train and took off and I was on it and the
18 train was very fast and you can't stop a train.

19 Q. You didn't run into anybody that you could have told
20 about what happened on the way to the train?

21 A. No, I was on a train. That was -- I was going to
22 Aiken.

23 Q. When you get off, where did you get off at? Not Aiken,
24 but --

25 A. Graniteville.

1 Q. Graniteville?

2 A. Correct.

3 Q. When you got off in Graniteville did you tell somebody
4 then my little girl is by herself in a house in West
5 Columbia and she needs help?

6 A. No, I believe -- I -- when I got off the train, it was
7 like -- and I -- about a 200 foot drop off within about
8 six-foot. I had to -- I actually ended up going through
9 there and I didn't know which way to go. I was lost. I was
10 traveling in any direction.

11 Q. Why don't you answer my question?

12 My question --

13 A. I'm getting to the end of your question. I can't
14 answer your --

15 THE COURT: Mr. Walker, don't interrupt me. Don't
16 be argumentative. Answer his question.

17 A. Repeat your question.

18 BY MR. GRAHAM:

19 Q. My question is when you got off the train did you call
20 anybody and tell them that your daughter was abandoned in
21 the house and needed help?

22 THE WITNESS: If I may add, Your Honor, am I
23 allowed to answer in detail?

24 THE COURT: Sir?

25 THE WITNESS: Am I allowed to detail my answer?

1 THE COURT: Yeah, answer the question and then you
2 can explain yourself.

3 The question is did you call. The answer is
4 either yes or no. You can explain your answer.

5 A. No, I -- can you repeat your question?

6 BY MR. GRAHAM:

7 Q. When you got off the train in Graniteville did you go
8 tell anybody my daughter is abandoned in a home in West
9 Columbia with her dead mother and she needs help? Yes or
10 no?

11 A. No, because I was -- I was stranded out there in
12 Graniteville and when I -- when I was stranded --

13 Like I said, I got off the train and it was country.
14 It nothing but woods. I went many directions. I went
15 through swamps, all types of stuff. It took me about a day
16 and a half to find a city, a civilized -- the city that was
17 next there.

18 I come across one road and didn't know which way. I
19 didn't know to go to the left or get to go to the right and
20 I traveled and I walked. My leg was hurting me so bad, I
21 couldn't -- I couldn't -- I had laid up in a swamp. I
22 couldn't move. And finally, you know, I was -- I was
23 very -- I was thoughtless. I really was, if that's the
24 answer to your question, and I was -- I was out there in the
25 country and I had no means -- I didn't make contact. I

1 don't even know -- I think the first contact I made was the
2 lady at the post office and that was probably two days after
3 I was in Graniteville because I was trying to find.

4 Q. When you made contact with the lady in the post office
5 did you tell her about what happened, your daughter --

6 A. No, I didn't think about it. And the reason I didn't
7 is because she was very quick. You -- you know, I asked her
8 a question and she said she was shutting up. She was
9 shutting the office and basically she answered my question
10 and locked the door.

11 Q. All right. So it was important enough Cassidy was
12 being abused, you had to save her life by killing Carrie,
13 but when you were in a post office and you have abandoned
14 your daughter, it was unimportant enough to interrupt the
15 lady who is a hurry to close to tell her your daughter needs
16 help, is that correct?

17 A. Like I said, my state of mind --

18 Q. Is that correct?

19 A. Repeat your question.

20 Q. You thought it was important enough that you have no
21 choice but to kill Carrie to protect your daughter and
22 yourself, correct?

23 A. That's correct.

24 Q. When you leave and don't tell anybody you abandoned
25 your daughter in a house with her dead mother, correct?

1 A. I wasn't in the right state of mind. I'm not saying --
2 I'm not saying -- I wasn't in the right state of mind. I
3 was ill. I was sick. I was medically sick.

4 Q. The answer is then yes, you abandoned your daughter
5 with her dead mother and you ran?

6 A. I tried -- no, I didn't run. I didn't ran and I didn't
7 abandon. I left my residence. I have a right to leave.
8 The victim died of homicide and if you can show me a law
9 that tells me that when a homicide --

10 THE COURT: Like I said, don't be argumentative.

11 Ask your question, solicitor.

12 You answer the question.

13 THE WITNESS: Yes, sir, Your Honor.

14 THE COURT: This is question and answer.

15 Ask your question.

16 MR. GRAHAM: Thank you, Your Honor.

17 BY MR. GRAHAM:

18 Q. When you were at the post office and the lady was in a
19 hurry to close up, why didn't you tell her that your
20 daughter needed help?

21 A. I -- I'm not going to tell you now, but I know my
22 daughter was okay.

23 Q. How do you know?

24 A. I'm not going to answer that question.

25 Q. You have no chance but to answer the question.

1 A. I can't answer that question.

2 Q. You can't because you don't know, or you are not going
3 to tell me?

4 A. No, I can't. I can't answer your question.

5 MR. GRAHAM: Judge, would you direct him to answer
6 the question?

7 THE COURT: You know, then answer the question.

8 A. I do not know the answer to the question. I just know
9 in my heart she was safe and I know that it was -- she --
10 she was safe.

11 BY MR. GRAHAM:

12 Q. You knew in your heart, but you didn't really know it
13 from anybody telling you, correct?

14 A. I had no actual fact that told me that.

15 Q. When you left there the next place you went to was a
16 church and people thought that you were a construction
17 worker, correct?

18 A. That's correct.

19 Q. And at some point you ran into the pastor of that
20 church, correct?

21 A. After I left the church and walked, I ended up being
22 around it and --

23 Q. Is that correct, you ran into the pastor?

24 A. That's correct.

25 Q. The pastor asked you if you needed any help?

1 A. The pastor asked me what I was doing out there, if I
2 needed some money and if I was hungry and if I needed to go
3 anywhere. That's what you consider help.

4 Q. I think your testimony --

5 A. Is that what you consider help?

6 Q. When you testified you said he asked you if you needed
7 anything.

8 A. That's what I consider help. I don't know if that's
9 what you consider help.

10 Q. What did you ask him for?

11 A. I didn't ask him for anything. He asked me if I needed
12 a ride. I explained yes, I needed a ride. My leg was hurt
13 and I needed to get to a city.

14 Q. You didn't ask him to call the police to report what
15 happened at your home or check on your daughter, did you?

16 A. No, because I -- I -- no, I didn't.

17 Q. Okay. Then you make it into Aiken and you run into
18 your Gurley's I think, which is a closed grocery store,
19 under a canopy. Then you run into an Aiken County officer,
20 is that correct?

21 A. That's correct, and I would like to explain myself. I
22 was walking back from Aiken and --

23 THE COURT: There is no explanation for that
24 question that you ran into some officers at that location.

25 Next question, solicitor.

1 BY MR. GRAHAM:

2 Q. You ran into the officers, is that correct?

3 A. That's correct. I didn't run into them. They
4 apprehended me, if that's what you getting at.

5 Q. The officer comes up to you -- it's on videotape, so we
6 are going to get a chance to watch it later, and you watched
7 it, right?

8 A. I viewed it, yes.

9 Q. The officer asked you what are you doing, correct?

10 A. Yes. If I may explain?

11 Q. Answer my question first, if you can.

12 A. Repeat your question.

13 Q. The officer -- the very first thing the officer asked
14 you, it says what are you doing, correct?

15 A. From -- my memory is very disturbed. I mean, I'm not
16 sure if I view it. It's -- they got a video. I think it's
17 been tampered with, but you say they have a video. I'm not
18 real sure.

19 Q. At no time that you were with them did you tell them
20 anything about what happened?

21 A. They already knew, because they -- they started asking
22 me questions about -- about Carrie and my girlfriend and all
23 this, so they questioned me pretty abruptly about Carrie, so
24 I figured they already knew.

25 Q. They asked you what are you doing, and you didn't tell

1 them on your own at the very beginning. The first time that
2 you see a police officer -- the first time that there is an
3 officer there so you can tell your story to, you don't step
4 up to the officer and start blurting out about what
5 happened, do you?

6 A. No, that -- that officer come on me very aggressively
7 and very hostile. He come up there and pulled up there and
8 said he -- immediately told me to take my -- take my face
9 out of my hand and put my hands up high. I complied to that
10 order. And once -- once I complied to that order, he told
11 me to stand. I stood. He come over -- he come over and
12 asked me something -- I'm not exactly sure what he asked me
13 and he asked me my identification. I give him my name. And
14 he asked me a few more questions and then he asked me -- I'm
15 not exactly sure what the question was.

16 Upon that he -- he -- I asked the -- I asked a few
17 questions and then he got to the point where he asked me was
18 I wanted for anything, had any warrants. He did ask me
19 questions before then about issuing my rights, but he --
20 then he got to where he stated that was I wanted, was I
21 wanted for anything. I explained, yeah, I was wanted on --
22 he said did I have any warrants?

23 I said, no, I don't have any warrants.

24 He said is anybody out there against you?

25 I said no, there is -- nobody is out there to get me.

1 He said are you sure there is nobody out there looking
2 for you for no special reason, no entity, no person who
3 wants to harm you or hurt you?

4 I said -- I said no. I said no, there is no one out
5 there to harm me, but I said somebody may be out there
6 looking for me.

7 And he said for what?

8 And I said for murder.

9 And that's -- then -- then he -- basically they put me
10 into -- that's when he got pulled. At that time he tried to
11 question me again. I told him I wanted a lawyer. He
12 continued questioning me and pulled me out of the car and
13 put me in another car and started questioning me.

14 Q. So if I understand, at some point he asked you if you
15 had warrants and you said, in fact, I have murder, correct?

16 A. No, not in the same answer. He asked me did I have
17 warrants and then I said no.

18 He asked me was I -- was anybody out -- was anybody
19 there looking for me, and then I said -- I said no.

20 Q. So if the videotape and the officer testifies --

21 A. I -- that videotape has been tampered with.

22 Q. So the videotape has been tampered with that you
23 watched?

24 A. That's correct.

25 Q. And you are testifying to it being a different version,

1 so --

2 A. That's correct.

3 Q. So the videotape was tampered with. If the officer
4 gets up and says what the videotape shows, then he's lying,
5 is that correct?

6 A. If it's the same video I viewed, the same video I had.

7 Q. Okay. Do you remember him asking you -- so he's --

8 You seen the video and in the video it shows you
9 asking -- he's asking about warrants. At some point you
10 tell him a murder warrant, correct?

11 A. A few questions later.

12 Q. And he asked you you done murdered somebody, correct?

13 Do you remember him asking you that?

14 A. He said who did you murder.

15 Q. Before that he asked you, you done murdered somebody?

16 A. He said something about it. That's why I'm saying it's
17 been tampered with. He said something else. He said --
18 that's when he said -- he said who did you murder? That's
19 the question he asked me.

20 Q. Did he later. I agree he asked -- so do you deny if he
21 asked you you done murdered somebody and you answered yes?
22 Do you deny that or do you admit it?

23 A. No, I deny. -- I mean, it's -- repeat the question and
24 give me a second to answer.

25 Q. Do you admit or deny that you were asked you done

1 murdered somebody and you responded yes?

2 A. The evidence -- my memory doesn't recall that.

3 Q. And if it says it on the tape, then it would be
4 tampered with?

5 A. I'm pretty sure that video has been tampered with.

6 Q. Do you remember -- so you asked for a lawyer at that
7 time, correct?

8 A. Yeah, I asked for a lawyer and I was questioned.

9 Q. He asked you who you done killed and you said you
10 wanted a lawyer?

11 A. No, he -- he -- he asked who did you kill? And I said
12 I want to talk to my lawyer.

13 Q. Right.

14 Eventually they checked. There was no warrants on you.
15 They take you to the hospital to have them check you out,
16 correct?

17 A. No, they -- they continued questioning me. They take
18 me out the side of the car and yu can't see me. I'm getting
19 out of the car. And I get out of the car and they bring me
20 over there and then they take me and they questioned me
21 about three minutes, possibly. They tell me that -- that --
22 that if I -- they would not let me out of the car unless I
23 tell them who I killed and I asked to get out of the car and
24 they said no, you are not getting out of the car, but this
25 video doesn't show that.

1 They put me back in that car and they asked me a bunch
2 of other questions. They basically tell me if I don't sit
3 inside the other car, the one that is viewed, they tell me
4 that -- they state that even you want to tell us who you
5 murdered or we going to do something. I forget what they
6 provoked, but some type --

7 Q. They threatened this upon you?

8 A. -- punishment and they threatened me. I believe it was
9 physical harm. I'm pretty sure it was.

10 Q. Did they do anything to you?

11 A. No, they was just aggressive. They backed off -- they
12 backed off their demeanor in a couple of their questions.

13 Q. Did you ever tell them who you murdered?

14 A. At that point in time when that officer was in that
15 conduct, I refused to talk to any officer.

16 Q. You would agree with me that they then took you to
17 Aiken Hospital, correct?

18 A. Yeah, but at this time I'm going to say I object to it
19 because they were taken in violation of Miranda Rights and
20 also violation of a Terry stop.

21 Q. I'm not asking you anything about what was said about
22 at the hospital.

23 A. I'm talking about at the Gurley Supermarket.

24 Q. Well, you have already testified to it now, so it's a
25 little bit late.

1 A. Well, --

2 Q. You went to the hospital and they checked you out to
3 make sure that you weren't a danger to yourself or others,
4 correct?

5 A. Can you repeat your question with a little more detail?

6 Q. The officer who stopped you at the supermarket that you
7 say physically threatened you and altered the tape, he took
8 you to the hospital, correct?

9 A. Personally against my will.

10 Q. Doctors checked you out and you were released, correct?

11 A. No, they continued forcibly, still had me in handcuffs.
12 They tried to get me committed as a mental patient. The
13 hospital told me I wasn't psychotic, didn't meet psychology
14 standards, so I wasn't homicidal, I wasn't suicidal and,
15 therefore, they had to release me. And they basically kept
16 me in handcuffs and let me go.

17 They put me back in the cop car. At that time I was --
18 I was asking them aggressively please let me go. They put
19 me in the car and I asked them where they was going and they
20 said to jail. You are being arrested for murder.

21 And I said well, you haven't read my rights.

22 They said we just did.

23 They put me in the car. And once they took me to the
24 car, then they took me to a vacant truck stop. It was
25 somewhere between Aiken and -- I think it's in Aiken around

1 the hospital. It was probably like five miles, maybe. They
2 take me to a vacant car lot. They pulled me out and asked
3 me a few questions, put me back in there and take me to exit
4 44. Keep me in that car for 45 minutes and then they
5 finally released me after I had been interrogated this whole
6 time.

7 Once they released me I get -- I'm out of there -- I'm
8 out of their -- I'm out of their apprehension for
9 approximately -- I want to say probably three minutes at the
10 most and a cop pulls up on me and tells me to freeze. And
11 once I freeze, once I complied to his command, he's got a
12 bit spotlight in my eyes and I'm right there on the dirt
13 road. He tells me, he says -- he says freeze.

14 I says well, why am I freezing?

15 I'm out there about a minute and I said what am I
16 standing here for? You done told me I got released. Are
17 you going to arrest me? Are you going to interrogate me all
18 night?

19 He said that's not me. I have no part in that. He
20 said maybe you could just sit tight.

21 So I sat there for like, I don't know, twelve, fifteen
22 minutes and finally he comes.

23 I said man, I said can I please go?

24 He said well, hang on. Let me check with my supervisor
25 and I'll find out what's going on.

1 Q. Let me interrupt you for a second.

2 A. All right.

3 Q. You got a little way ahead of where I was at.

4 The Aiken officer who drove you there, your testimony
5 is that you were still in custody and he told you that you
6 were getting ready to be arrested? You are not free to go,
7 correct?

8 A. Which one?

9 Q. I'm sorry?

10 A. Which Aiken County?

11 Q. The people who stopped you and took you to the hospital
12 and then took you to the 44 Truck Stop, it's your testimony
13 that you were in custody and handcuffs, you were not free to
14 go, and that they told you that you were getting ready to be
15 arrested for murder, is that correct?

16 A. Yeah. Can I finish with what I was saying?

17 Q. Answer my question.

18 THE COURT: Let me stop you for a minute.

19 You are free to go. You be back tomorrow?

20 DR. MADDOX: Yes, sir.

21 THE COURT: All right. I can't quite hear you.

22 I'm sorry.

23 DR. MADDOX: I'm sorry. Do you have an idea what
24 time tomorrow?

25 THE COURT: 9:30?

1 MR. WALKER: Your Honor, could we be here a little
2 bit earlier?

3 THE COURT: I'm sorry?

4 MR. WALKER: Nothing, Your Honor.

5 THE COURT: I just didn't hear.

6 MR. WALKER: I was making a comment that I was
7 going to be here earlier, but I don't stipulate anything to
8 the court.

9 THE COURT: All right. And the little girl, 9:30
10 in the morning. Thank you.

11 Thank you, doctor.

12 All right, solicitor, I apologize for interrupting
13 you.

14 MR. GRAHAM: Thank you, Your Honor.

15 BY MR. GRAHAM:

16 Q. Mr. Walker, is it your testimony, if I understand it
17 correctly, that the Aiken officer who you met at the grocery
18 store forcefully took you to the hospital; after the
19 hospital told you that you were going to be arrested for
20 murder, had you in cuffs and drove you against your will
21 to the 44 Truck Stop and dropped you off there, is that
22 correct?

23 A. They held me and interrogated me longer and --

24 Q. And he interrogated you on the whole way there? That's
25 your testimony?

1 A. Not the whole way there. He interrogated me at the
2 hospital. He interrogated me on the sidelines of a truck
3 stop, and there was a sergeant who asked me a few questions.
4 They switched drivers out there at that truck -- that vacant
5 truck stop, not exit 44, but the one in Aiken. They
6 switched drivers and then he no longer -- he asked me a few
7 questions and then the new driver I think did ask --

8 Q. Let me catch up to you.

9 So you deny that the Aiken officer told you that you
10 were free to go?

11 A. Yeah, he did. He never -- he -- he held me -- he held
12 me con -- consistently.

13 Q. When he released you at the 44 Truck Stop you were free
14 to go, isn't that correct?

15 A. No, I thought I was free to go and then I went to the
16 dirt road and then they shined their little light and told
17 me to freeze, the police officer. I froze. I complied to
18 him.

19 Q. Let me interrupt you and let's talk about that for a
20 second.

21 A. May I finish?

22 THE COURT: Why are y'all continuing to argue with
23 each other?

24 Ask the question, solicitor.

25 You answer the question, Mr. Walker.

1 THE WITNESS: I'm trying to, but he keeps
2 interrupting me and asking me another question and then
3 going back to the same question I'm trying to answer.

4 THE COURT: Don't interrupt me.

5 THE WITNESS: Sorry, Your Honor.

6 THE COURT: And don't -- don't keep interrupting
7 me and thereafter say you are sorry. You got to do it on
8 the front end. Don't interrupt me again.

9 Solicitor, ask your question.

10 Mr. Walker, answer the question.

11 The court reporter can't get both voices down at
12 the same time and I can't hear both of you at the same time.

13 Ask your next question, solicitor.

14 BY MR. GRAHAM:

15 Q. Mr. Walker, the person who told you to freeze and
16 shined the light on you, do you know whether that was a
17 Lexington County deputy?

18 A. It was not. Not from my knowledge.

19 Q. Do you know who it was?

20 A. I -- I believe it was associated with Aiken County, if
21 I'm correct.

22 Q. Do you remember running into a Lexington deputy at the
23 44 Truck Stop?

24 A. I thought that officer was from Lexington County, to my
25 knowledge.

1 Q. And do you remember him telling you that you were free
2 to go?

3 A. No, he never did. He asked me -- he held me there and
4 basically told me that -- that I was being apprehended until
5 West Columbia come and got me, so I stood and I stood and
6 then he said well, there has been a change of plans.

7 I said so I'm free to go?

8 And he said no. He said this is the situation. West
9 Columbia would like to speak with you. Are you willing to
10 go talk to West Columbia?

11 And I said let me think about it for a second. I
12 thought about it for a second. I said let West Columbia
13 know that as long as they are compliant and they are easy
14 and they are willing to come and get me, then I don't have
15 no ride to go to West Columbia and they are willing to come
16 and get me, then I'll go speak with them, because that's
17 they where was working from, wish to me to go speak with
18 them is what he told me.

19 Q. So when you went to go meet with West Columbia, you did
20 that by your own choice, correct?

21 A. Yes, sir.

22 Q. You weren't in custody. That was your choice. They
23 asked you to come talk to them and you said yes, I'll come
24 talk to you?

25 A. I was in custody.

1 Q. Well, you said that you were free to go, but you chose
2 to go with them.

3 A. Well, he zigzagged his custody.

4 Q. Okay. So is it your testimony that when you rode back
5 with West Columbia, they asked you if you wanted to go, you
6 said that -- you did say that -- you did want to go,
7 correct?

8 A. He told me that -- Mr. Solicitor, they told me that
9 someone needed to talk to me. It wasn't -- it wasn't
10 Investigator Page Moore, but it was Investigator Bruce Wade.
11 They were the two investigators I talked to, but it was a
12 female investigator. They give me that name and said she
13 wanted to speak with me and that she was already on the
14 scene and she just wasn't at my -- at my proximity.

15 I said okay, I said if she's willing to talk to me,
16 come up here.

17 And he says -- he says well, it's going to change, you
18 know, it's going to change. He said that they are actually
19 on the interstate and they will be here in a few minutes,
20 but uninformatly he kept telling me they were on their way.

21 Finally about -- they was five minutes out the area and
22 I said man, can I please go. I don't want to talk to West
23 Columbia any more but I -- yes, I did. I agreed to speak
24 with West Columbia, but they told me a different name. Then
25 they finally told me at the end I Page Moore was coming into

1 the thing, that it was Page Moore and she would like to
2 speak with me. And I voluntarily rode with them under the
3 condition that they come get me and they was relatively
4 under -- because of the contact -- because of the conduct of
5 the other police, I stipulated to them to tell West
6 Columbia, as long as they was polite and courteous and they
7 did exactly what they were supposed to do, then I would
8 speak with her is what I said.

9 Q. So if I understand what you are saying, when you chose
10 to go to West Columbia, you knew that you were free to go.
11 They asked you nicely if you would come talk to them and you
12 agreed to go talk to them, is that right?

13 A. Did I agree? Repeat the question.

14 Q. By the time Page Moore from West Columbia came to the
15 truck stop, you agreed to go on your own to go speak with
16 them in West Columbia, you knew that you were free to go,
17 but as long as they were nice to you, you would go with them
18 and you would talk with them, correct?

19 A. I wasn't free to go, but I voluntarily --

20 Like I said, they zigzagged their custody. They
21 zigzagged. I was not -- they told me to stay. He never
22 relieved me from being under his custody. He just politely
23 told me that West Columbia was coming, would I speak with
24 West Columbia, and they had basically told me -- he never
25 told me I was free to go.

1 Q. So you believed that you were still in custody?

2 A. I'm not going to say -- I can't say that I was. I
3 already stipulated that -- yeah, I was still in custody,
4 and, yes, I thought I was free at the same time.

5 Q. Okay. Regardless of the how you felt about that, you
6 voluntarily went with them to go talk to them? You agreed
7 to go talk with them? Nobody made you go talk with them,
8 correct?

9 A. Correct.

10 Q. When you go to the West Columbia Police Department, you
11 meet with Bruce Wade and Page Moore in an interview room,
12 correct?

13 A. That's correct, I met Page Moore at the 44 Truck Stop.

14 Q. Correct, at the 44 Truck Stop.

15 A. I did not meet Bruce Wade until I arrived at West
16 Columbia?

17 Q. And your rights were read to you?

18 A. No, no, they -- what happens is I come in -- they bring
19 you in the sally port and Bruce Wade comes out there and he
20 asks me all kind of questions. He starts interrogating me.
21 He tells mess basically --

22 When we get inside West Columbia, he tells me you might
23 as well talk, tell me what's going on. He keeps
24 interrogating me. He keeps interrogating me.

25 He tells me that I will give you the death penalty,

1 that -- and I might as well go ahead and talk. I might buy
2 myself some time.

3 And I said, man, I know better than that.

4 He said, well, if you talk and, you know, we might be
5 able to do with the death penalty.

6 I said, man, don't I now have some type of rights, you
7 know? I don't have to talk to you?

8 He said yeah, but we have Cassidy, and they said some
9 other things.

10 And he induced me. He induced me very aggressively and
11 basically he was inducing me about threats of a life
12 sentence. He was inducing me of threats of me not seeing my
13 daughter, and he was inducing me of -- like I say, if I
14 didn't say a life sentence. And he induced me with
15 aggressive prosecution; basically no judge is in the
16 prosecution.

17 And then eventually we got to the point where he would
18 like me come away from him. I walked with Page Moore and
19 Page Moore said are you willing to let him talk to you, we
20 read your Miranda Rights, or whatever.

21 I said I'm willing to talk, but I'm very sick and I
22 don't know if I can. And they handed me a Miranda Warning.
23 I said I don't really want to sign it right now.

24 So they pull me into their little old interrogation
25 room and then Bruce Wade come in there and he asked me to

1 sign the papers now.

2 The Miranda Warning that you have is not the Miranda
3 Warning that I signed on that night that they interrogated
4 from. The Miranda Warning that you have is not the same
5 Miranda Warning that I signed that night, but the warning I
6 signed I write -- and I write on there that I am sick, I
7 can't read, I can't right due to sickness and medical
8 conditions, and I can't talk to the man due to the same. I
9 write that on the Miranda Warning. Something -- and once I
10 write that on the Miranda Warning, they -- they accept that
11 Miranda Warning and I write I do not agree -- I write that I
12 can't read and I can't write, but everything else I agree
13 to.

14 Now, even in Page Moore's reports she said that I said
15 I can't read and I can't right and I'm too sick to
16 acknowledge it, and she doesn't say it was posted on
17 my Miranda, but it written on that Miranda.

18 Now, the Miranda that you have is the Miranda that I
19 signed when I come back from Waltherboro later on.

20 Q. Can you read and can you write?

21 A. I couldn't at that time. It was comprehension.

22 Q. The audiotape -- well, when Bruce Wade was threatening
23 you, was Page Moore present, or was it just Bruce Wade?

24 A. Page Moore was -- she was present at the end and maybe
25 present -- she -- she was present during some of it, not all

1 of it.. I believe she made -- made her presence. I believe
2 she left and then she like made her presence nearby and then
3 like -- like just walked like a few steps and then come in.

4 Q. Did she ever hear any of the threats? Was she present
5 when the threats were made?

6 A. I'm not Page Moore. I can't --

7 Q. You know. You were there?

8 You were there. Do you remember her being present when
9 Bruce Wade threatened you?

10 A. Yes, she was present.

11 Q. Okay. Now, there is an audiotape of an interview that
12 I guess happens what you are talking about, is that correct?

13 A. That's correct.

14 Q. And that's -- Page Moore came to you and said hey, we
15 are going to calm down. Will you talk to us? Is that
16 right?

17 A. That's right.

18 My hearing -- like I say, I'm going to object because
19 the Miranda Rights was not produced in the discovery. The
20 Miranda Warning wasn't produced in the discovery and in open
21 court I'm not sure what judge asked for that Miranda
22 Warning, but the State has known that that doesn't exists.

23 Q. You listened to the audio tape, correct?

24 A. Yeah. I'm objecting to asking the judge to make a
25 decision.

1 Q. Understood.

2 There is a Miranda Warnings read on that audiotape, is
3 that correct?

4 A. I don't believe so. I believe it's stipulated but not
5 read.

6 Q. What does that mean?

7 A. I don't think it's even addressed. It's just basically
8 do you understand something. It's not the five or six ones
9 that have to be given.

10 Q. So you have no memory of your rights being read to you?

11 A. No, not being read to me. I recall signing to
12 agreement, but I -- I did under the stipulations that I was
13 able to note my sickness and my illnesses and my
14 comprehension level.

15 Q. So your testimony today is the interview by Bruce Wade
16 that's recorded was taken in violation of your Miranda
17 Rights, right?

18 A. I'm saying that he induced me and then took me into an
19 interrogation room and read -- or did -- I don't even think
20 he read the Miranda Rights. He produced a Miranda Warning
21 that I signed. And like I say, I signed on there my
22 sickness and my illnesses and my comprehension level.

23 Q. You did agree to talk to him freely and voluntary of
24 your own will, right? You could you have not talked to him.
25 Your mom is a police officer. You have been arrested

1 eighteen times. You know your rights, correct?

2 A. I didn't know I had been arrested eighteen times.

3 My mom is irrelevant. She's never helped me out with
4 Miranda my whole life. I have never know what Miranda was
5 until then.

6 Q. If I remember your testimony, it is that Page Moore
7 said if we tone this down you will talk, correct, and you
8 chose to talk?

9 A. Correct.

10 Q. And you chose to talk?

11 A. I agreed -- I agreed. Like I said, I was under the
12 stipulation.

13 Q. During at that conversation with you where you agreed
14 to talk, do you remember Bruce Wade asking you what your
15 girlfriend's name is?

16 A. I don't recall, but I recently reviewed the video so
17 I'm -- I'm not --

18 Q. Would you agree with me that it says I don't have a
19 girlfriend?

20 A. Yeah, a girlfriend is -- what do you mean -- think a
21 girlfriend? A girlfriend to me is a relationship, you know,
22 an intimate thing. Some people a girlfriend may just be a
23 female friend.

24 Q. It asked "the last time that you saw Catherine," and
25 you answered "I haven't seen her in a awhile. I don't

1 know." Is that correct? Do you remember saying that?

2 A. That's correct, I haven't seen her in a while.

3 Q. You did not tell the officer at that time what
4 happened? You are telling a different story today.

5 A. No, I didn't -- I have a Fifth Amendment Right that
6 I -- that I took. I have a right to remain silent and I
7 remained silent.

8 Q. You didn't remain silent. You agreed to talk to them
9 and you answered questions.

10 A. Under certain stipulations. That wasn't evidently
11 stipulated.

12 Q. You were specifically asked how did Catherine die. Do
13 you remember that?

14 A. Yeah. Like I said, my conditions wouldn't render me
15 was to acknowledge it and also I have a Fifth Amendment
16 Right to talk and revoke, revoke that right at any time, and
17 I choose to do it, and I have.

18 Q. At the time you said "I don't know, sir," is that
19 correct? You didn't invoke your Fifth Amendment Right. You
20 said "I don't know, sir."

21 THE WITNESS: May I -- may I speak with my standby
22 counsel real quick? Is that a problem?

23 THE COURT: May you what?

24 THE WITNESS: May I speak with my -- may I have a
25 pause and speak with my other -- legal question for my

1 standby?

2 THE COURT: EBATT. Quoting United States Supreme
3 Court. You have no right to counsel at this time. You are
4 on the witness stand.

5 THE WITNESS: May I address my question to the
6 court?

7 THE COURT: You address the question to the court,
8 Mr. Walker, the solicitor will also hear it.

9 THE WITNESS: That's correct, I agree to that.

10 THE COURT: Do you think that's in your best
11 interests?

12 THE WITNESS: Yes, it is.

13 THE COURT: What is your question?

14 THE WITNESS: I would like to know what's wrong
15 if -- do I have a right to -- well, me and my Fifth
16 Amendment. Do I have a right to get off the stand, or do I
17 have to answer every question that the State --

18 THE COURT: You have to answer every question that
19 the State puts to you, unless -- if you are representing
20 yourself pro-se, unless you have an objection to it. Then
21 you state the grounds of the objection and allow me the
22 opportunity to either allow question or disallow the
23 question.

24 THE WITNESS: I'm -- I'm -- I'm objecting, Your
25 Honor, to him asking questions with Miranda because it was

1 took in the Miranda and in violation of the Rule Five quid
2 pro procedure. I wasn't -- I never got the actual Miranda
3 Warning. Therefore, it's irrelevant. And it's not
4 consistent with the case I was produced -- actual later one
5 that I went in there and signed a waiver with West Columbia
6 and never spoke with them and that the waiver and I have
7 addressed it to the court and I have addressed it to the
8 State that there is a missing Miranda Warning and he's
9 addressing questions about this -- about testimony that was
10 took in violation that I've read because it's never been
11 produced under the Fifth Amendment -- or I mean under Rule
12 Five.

13 THE COURT: Well, under -- of course, you said
14 something earlier today about a Jackson v. Denno hearing and
15 that is to determine by the preponderance of the evidence
16 whether any statements, if any statements were given, was
17 given freely and voluntarily in compliance with Miranda.
18 That requires a trial judge to take testimony and listen and
19 review the totality of the facts and circumstances.

20 A lawyer can ask any question for which he has a
21 reasonable foundation in the evidence or the allegation or
22 the record that is well founded. So if -- if in the case
23 file the State -- the incident reports, the supplemental
24 reports the solicitor has a reasonable foundation to ask a
25 question, he may ask that question.

1 It would be ultimately up to me to determine the
2 credibility based on the preponderance of the evidence of
3 the totality, looking at the totality of the circumstances
4 of whether or not there was a statement made, number one.

5 THE WITNESS: Right.

6 THE COURT: If that statement was given
7 post-Miranda, in compliance with Miranda, and three, is it
8 voluntary.

9 So I apologize. I would have to go back and ask
10 the solicitor to repeat the last question. It's far from
11 partial of the totality that may be asked and it may be
12 answered. It should be answered, if you know the answer.

13 THE WITNESS: Right.

14 But I'm saying it's in violation of -- if I may,
15 it's come to my attention that is it relevant that we should
16 have had -- I'm objecting to this -- I'm objecting to this
17 stand your ground in ruling for whole another stand your
18 ground under condition that we didn't do a Jackson v. Denno
19 hearing before we did the stand your ground and, therefore,
20 I think it's a mistrial.

21 THE COURT: To make sure I'm hearing what you are
22 saying, now you objecting to this line of questioning
23 because it does not go to the issue of whether or not you
24 should have immunity under stand your ground statute,
25 correct?

1 THE WITNESS: No, sir, I'm moving -- I'm moving
2 for a mistrial -- not a mistrial, but a mishearing, but in
3 the same stipulated as a mistrial. I think I'm saying that
4 this hearing is not Constitutional because a Jackson v.
5 Denno hearing wasn't completed and also whether the evidence
6 wasn't ruled on like --

7 THE COURT: I hadn't ruled on any --

8 THE WITNESS: I understand. I understand, I'm
9 sorry, but whether they have provided a Denno hearing on
10 some of the stuff that the solicitor is getting to and I
11 objected to it and he's still continuing with the questions,
12 and, therefore, I think that Jackson v. Denno Hearing should
13 be completed before this hearing and, therefore, I move for
14 a --

15 THE COURT: That's not what you asked for. You
16 asked for a stand your ground hearing --

17 THE WITNESS: I did, Your Honor.

18 THE COURT: -- first, and then a Jackson v. Denno.
19 I'm not ruling on a Jackson v. Denno until I have heard all
20 evidence and all the testimony to be offered by the parties
21 during that hearing.

22 THE WITNESS: No, sir, I understand I just --

23 THE COURT: Go ahead.

24 THE WITNESS: I thought it was relevant that a
25 Jackson v. Denno hearing be completed on things that the

1 State can get -- bring up things that the parties would then
2 just bring up later, because the Jackson v. Denno motion was
3 completed before the stand your ground, and I'm just -- I'm
4 not the court, Your Honor. I can't -- I just stating my
5 grounds for what I'm saying.

6 THE COURT: I know -- I know of no rule of law
7 that requires a particular manner in which an in-camera
8 hearing, particular outline of which one should be heard
9 from the other, or vice versa, whether it's one, or five, or
10 ten. I don't know how many pretrial hearings there are.

11 So I would deny your motion for a new hearing or a
12 mistrial for several reasons. I do not think it's a
13 manifest necessity for that.

14 As far as the ends of justice I don't think it
15 prejudices you in any manner because we are outside of the
16 presence of the jury at this time, so I don't think it
17 prejudices you in any manner.

18 And number three, I told you before, Mr. Walker, I
19 can't predict the future. You don't know how and the
20 solicitor doesn't know how I may rule on stand your ground
21 or Jackson v. Denno. I won't know how I'm going to rule
22 until I have heard everything, because I take everything
23 into account before I make any rulings.

24 THE WITNESS: Yes, sir.

25 Now --

1 THE COURT: Do you still have the objection about
2 these questions about Jackson v. Denno and their relevancy
3 to stand your ground, solicitor, what is the relevancy of
4 the questions concerning the Miranda Rights and statements,
5 as far as stand your ground, solicitor?

6 MR. GRAHAM: The interview that he gave with Bruce
7 Wade is relevant as impeachment evidence to what he
8 testified to, Your Honor.

9 THE COURT: So it's only -- it's only being
10 offered in the in-camera hearing for purposes of a prior
11 inconsistent statement?

12 MR. GRAHAM: Correct, Your Honor.

13 I believe by his own testimony, even if you assume
14 it was taken in violation of Miranda, he is still -- he has
15 previously testified by sitting on the stand that he agreed
16 to talk to them the second time we are talking about right
17 now. It was voluntary, that it was free.

18 He is saying it was taken in violation of Miranda,
19 but he acknowledged that he did it of his own free will.

20 THE WITNESS: Well, Your Honor, I'm not here to
21 stipulate -- I'm not expert in the law and I'm not expert on
22 that. I'm just saying that I -- I stipulated -- I made an
23 agreement. I'm not a law enforcement officer and I had no
24 knowledge the those Miranda Warnings and I had no -- no
25 acknowledgements over the law, and so -- and at that time I

1 did what the law officer told me to do. And, therefore
2 under the stipulations I agreed to talk to the officer and I
3 signed a statement and I placed on the statement that I was
4 very ill. I was very sick. I couldn't concentrate and,
5 therefore, I wrote a note on there and that was stipulated
6 that I could write on there and tell them that. And I also
7 scratched out that I couldn't read and I couldn't write on
8 that Miranda Warning. Now, that Miranda Warnings has not
9 been produced and, therefore, it's a violation of Rule Five.
10 And what he's saying is under the rule -- under evidence of
11 Rule Five violation, a Brady violation.

12 And also I think back to what I was saying, Your
13 Honor, on this mistrial, I was just stipulating that it
14 violates my due process and that's my main concern on there.
15 I think it's a violation of due process and I'll leave it at
16 that, Your Honor.

17 THE COURT: Well, here is my ruling, as far as
18 this is concerned. If testimony is going to be elicited
19 during the course of the stand your ground hearing and part
20 of that testimony goes -- is offered for impeachment
21 purposes, but it also goes to the Jackson v. Denno hearing,
22 I will not rule on stand your ground prior to hearing the
23 full and complete Jackson v. Denno hearing.

24 I cannot assume that the statements given that are
25 used at this point for impeachment purposes, I don't know if

1 I may or may not find any or all of those statements
2 voluntary or involuntary. Obviously if I find parts of
3 those statements involuntary, I would have to not allow them
4 into evidence and also not allow them to be part of my
5 ruling on stand your ground. So I will slice it pretty
6 thin. It's so intertwined together. If you get an
7 opportunity read the First Mark by Nathaniel Hawthorne.

8 Be that as it may, solicitor, ask your next
9 question.

10 THE WITNESS: Your Honor?

11 THE COURT: Yes, sir, I'm sorry, I didn't mean
12 to --

13 THE WITNESS: I understand what you are saying and
14 just because I objected, I'm going to -- I'm going to object
15 one more time, as far as that, to conclude my objections,
16 because I think again it was a violation of my due process,
17 as far as Jackson v. Denno hearing should have been
18 completed before the stand your ground, so it was relevant
19 and we are not getting into -- you're not giving the verdict
20 until after the Jackson v. Denno, but my objection.

21 THE COURT: All right. Thank you. Thank you very
22 much. I think the record is protected in your regards,
23 should there be a record.

24 All right, solicitor, you may ask your next
25 question. I'm going to quit no later than about 6:15,

1 solicitor.

2 MR. GRAHAM: Thank you, Your Honor.

3 BY MR. GRAHAM:

4 Q. The next question you were asked by Investigator Wade
5 was did you kill her, and you said no, I didn't. Isn't that
6 correct?

7 A. That's correct. I state again I didn't kill -- she
8 died homicide.

9 Q. The next question he asked you was what happened to her
10 and your answer was nothing happened to her. Isn't that
11 correct?

12 A. Maybe something to that line, that nature.

13 Q. You didn't tell him the story that you testified to
14 today?

15 A. I didn't tell him any story.

16 Q. Right. You told him you didn't know.

17 A. I mean, yeah, I told him I didn't know, because
18 beforehand I told him I was sick and I was tired and I
19 didn't want to answer any more of his questions and he
20 continued questioning me.

21 Q. The audiotape that he has you have listened to,
22 correct?

23 A. I viewed it and heard it.

24 Q. Is that a fair and accurate audiotape or did
25 Investigator Wade manipulate it and change it?

1 A. I'm not real sure. I believe it may have been
2 manipulated, but only -- only to certain standards. I think
3 the vocals volume have been tampered with and the periods
4 between the vocals and whatnot is then actual. I believe I
5 was more or less alerted. I believe I was more -- I was
6 more in a depressed mood or depressed condition and I
7 just -- I was -- I was a different person than what that
8 audio views, but to my knowledge it's been four years and my
9 memory is very bad. From my best recollection, it's proper
10 besides what I just stated.

11 Q. You have a 2010 conviction for breaking and entering?

12 A. I have a what?

13 Q. A conviction from North Carolina for breaking and
14 entering from October of 2010?

15 A. I do.

16 Q. You have a conviction from North Carolina in 2010 for
17 larceny after breaking and entering?

18 A. I do, after a guilty plea.

19 Q. You also have a conviction the same year for larceny of
20 a motor vehicle, is that correct?

21 A. If that's what the record shows.

22 Q. Is it true or not?

23 A. That's what the record shows. I'm not -- from my
24 recollection I don't know. No memory of it I mean.

25 Q. How did Carrie's body end up where it ended up? You

1 have seen the crime scene photos, right?

2 A. Yeah, I believe that's where she died.

3 Q. And it's your testimony that --

4 A. If I may, I don't choose to view those, whatever you
5 have.

6 Q. So you are --

7 A. I don't want to view any autopsy. I don't to see no
8 naked and gruesome pictures. I don't want to see all them
9 gruesome pictures. I mean, if it's just covered up, you
10 know, I can deal with that, but I can't deal with no blood
11 or nothing like that.

12 Q. You have seen this picture? That's a picture showing
13 the way the police found Carrie?

14 A. That's correct.

15 Q. Okay. Do you remember that?

16 A. That's correct.

17 Q. Is that the way that you left her?

18 A. I'm guessing that's the way it looks like the way she
19 was left, yeah. The way she died.

20 Q. That's where she collapsed?

21 A. Exactly where she collapsed.

22 Q. All right. You didn't move her body after she
23 collapsed?

24 A. No, I didn't.

25 Q. Do you have any reason why it looks like her body is

1 dragged, because her shirt is pulled up, there are abrasions
2 on her ankle at her postmortem and the pant leg of her pants
3 have been shoved up. Any reason for how that happened?

4 A. I'm not -- I'm not a pathologist.

5 Q. I'm asking you if you know why it ended up that way?

6 A. No.

7 Q. You didn't move her body?

8 A. I'm thinking of trial testimony. No, I didn't move the
9 body.

10 Q. So once she arched her back in an upper position and
11 threw her head back and slammed her own head down into the
12 dresser and then came and attacked you for the last time,
13 you got her down on her knees and you choked her until she
14 passed out?

15 A. No, she didn't attack me and she -- she was coming at
16 me. And when she was coming at me and the dresser and all
17 that, into that dresser right there, there was a metal rod
18 that was approximately about twelve, twelve and a half
19 inches. She went for that metal rod and she had that -- I'm
20 not sure if she had her hand on it or she was -- she had her
21 hand placed over the object. I don't know if she actually
22 made contact, but she -- where her hand was at was within an
23 inch of the object for no longer than twenty, thirty seconds
24 and that's when I progressed.

25 Q. So she has the metal rod that was on the dresser and

1 her hand for twenty to thirty seconds?

2 A. No, it wasn't on the dresser. It was under the
3 dresser.

4 Q. It was under the dresser?

5 A. That's correct.

6 Q. So she grabbed it from under the dresser and had it in
7 her hand for twenty or thirty seconds?

8 A. No, she was going for the object. She had her hand --
9 she had her hand under the dresser or at the borderline
10 between -- there is a hole underneath the dresser. She had
11 her hand right there and she either had her hand collapsed
12 on it or had her hand around ultimately, like in a circle
13 hovering approximately within an inch of the object.

14 Q. That's when you choked her the last time?

15 A. In the process of her coming and attacking me and going
16 for that object, that's the way -- I didn't immediately
17 choke her. I -- I jumped on her and when she went -- I
18 lunged on her. And when I lunged on her, she went for that
19 object, I believe I told her, I said Carrie move, and she
20 went for the object. And when she did, I -- that's when I
21 progressed and I choked her and -- I didn't choke her. I --
22 you know, I applied pressure and -- in a manner. And upon
23 that, then I realized that she was already choking, so I
24 immediately released pressure.

25 Q. All right. She never brought that rail out from under

1 the bed, or under the dresser, I'm sorry?

2 You said she was reaching for it under the dresser.

3 You felt threatened and that's when you applied pressure to
4 her throat, correct?

5 A. Right, I don't think she -- I think it come out
6 partial. I don't think it come out completely.

7 Q. She never swung it at you?

8 A. No, she never -- she never -- she never got -- like I
9 said, she was -- when she got out --

10 Mr. Solicitor, when she -- she started choking me. And
11 I think her larynx collapsed when -- right before she hit
12 her head on the dresser. That's why she reared back. Her
13 larynx collapsed. And once it did, she basically --

14 She come at me and tried to attack me. And when she
15 did, she changed her mind, went to go for the object. And
16 when she went to go for that object, that's when I lunged on
17 her and applied pressure to her throat, because I felt for
18 my life, my safety, and also my daughter's life and my
19 safety.

20 Q. She never brought the rail out from under the dresser,
21 is that correct?

22 A. She reached to and it -- it come out. It was partially
23 moved. I'm not sure exactly. I don't recollect.

24 Q. You didn't -- you didn't move it?

25 A. No, I didn't move it until after she -- after the death

1 had happened. It was postmortem movement. I moved it
2 from -- I moved it to check to see what she had. I knew it
3 was a metal rod in there and I made sure it was a metal rod
4 that she was going for after I realized she was dead.

5 Q. So you didn't know what she was reaching for? At the
6 time she was reaching --

7 A. Yeah, I knew she --

8 Q. Let me finish my question.

9 Your testimony just now was when she was reaching under
10 there you didn't know what it was because after she was dead
11 you looked under the dresser to see what it was. Isn't that
12 what you testified to?

13 A. No, I did not. I said that there was an object under
14 there. I knew there was a metal rod object under there and
15 once it's postmortem I checked to make sure that the metal
16 rod was still under there and that's what she went for, to
17 make sure that that's what she went for.

18 I already knew there was a metal rod under there. I
19 placed that metal rod under there so my little girl didn't
20 get it and poke somebody's eye out or mess the trailer up
21 and I have to buy a new trailer because she poked holes
22 through the wall or she drops it on her foot and I had to
23 take her to the hospital, so I placed the metal rod under
24 there. I knew a metal rod was under there. I didn't
25 relevantly made sure that she was going for the metal rod.

1 I pulled -- after she had died and everything, I grabbed the
2 metal rod and I put it up.

3 I think I went to the store and come back. And once I
4 went to the store, I come back and I think that I went and
5 checked on that rod and I grabbed the rod and picked it up
6 and I think I stuck it right there on the top of the dresser
7 right above where it laid.

8 Q. After she was dead, after you went to the convenient
9 store, you looked under there and saw the metal rod that you
10 weren't sure was there, you thought it was there?

11 A. I may have.

12 Q. And then you moved it?

13 A. At some point I think either immediately after her
14 death or after I put it back under. It was somewhere in
15 that time frame relevantly I was waiting and check to make
16 sure that it was a metal rod that she was going for and to
17 make sure that the metal rod was still under there.

18 Q. Okay. And you did that after she was dead?

19 A. That's correct.

20 Q. At the time she reached for it, when you decided to put
21 your arms around her or your hands around her and choked her
22 to death, you didn't know what she was reaching for, did
23 you, because you didn't see it and you had to check
24 afterwards, didn't you?

25 A. No, I -- I seen it and I'm not going to answer your

1 leading question.

2 Q. That's exactly what you are going to answer are my
3 leading questions.

4 A. No, you are leading. L-e-a-d-i-n-g, leading questions.

5 Q. You testified under oath that you didn't know what was
6 under there, that you had to check later, that there was a
7 rail under there, isn't that correct?

8 A. No, I think you misunderstood what I was saying.

9 Q. You had no idea, even under your own story --

10 A. Solicitor --

11 THE COURT: Don't talk at the same time.

12 A. Solicitor, that I know -- I know and the rod was under
13 there and I told you that six times.

14 BY MR. GRAHAM:

15 Q. But you had to check afterwards to see if it because
16 you didn't know at the time you killed her?

17 A. I have a right to recollect my memory at any time that
18 I want to.

19 Q. You change your story. --

20 A. I didn't change any story.

21 THE COURT: Mr. Walker, let him finish asking his
22 question. I'm going to listen to you all the time that you
23 want to, okay?

24 Ask your question, please, solicitor.

25 MR. GRAHAM: I don't have any more, Your Honor.

1 Thank you.

2 THE COURT: Anything further, Mr. Walker.

3 MR. WALKER: No, sir, I guess -- not at this time.

4 If I could go back through -- go over.

5 THE COURT: You may step down.

6 MR. WALKER: Thank you.

7 THE COURT: All right, thank you very much.

8 Court will be in recess until 8:30 in the morning.

9 8:30 in the morning. Thank you. Thank you very much. I
10 hope everyone has a pleasant evening.

11 MR. WALKER: Your Honor?

12 THE COURT: I'm in recess until 8:30 in the
13 morning, unless you have something to do with tonight?

14 MR. WALKER: It does.

15 THE COURT: What's that, Mr. Walker?

16 MR. WALKER: I was wondering that, Your Honor, if
17 I could possibly come here about thirty, forty-five minutes
18 early in the morning?

19 THE COURT: Sheriff, can y'all take care of that?

20 COURTROOM SECURITY OFFICER: Eight o'clock?

21 THE COURT: Eight o'clock?

22 MR. WALKER: About a quarter to eight would be
23 perfect for me.

24 THE COURT: Jeff? I feel like I'm a mediating.

25 7:45, sheriff?

1 COURTROOM SECURITY OFFICER: We will work it out,
2 judge.

3 MR. WALKER: Thank you, Your Honor.

4 THE COURT: All right. Thank you. Usually the
5 sheriff will work that out for you, Mr. Walker.

6 Thank you very much.

7 Court will be in recess until 8:30 in the morning.

8 (Whereupon, proceedings were adjourned to February
9 22, 2017)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF LEXINGTON) IN THE COURT OF GENERAL SESSIONS
3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 DAVID RICHARD WALKER,) 2015-GS-32-02341
7 JR.,) FEBRUARY 22, 2017
8 DEFENDANT.) LEXINGTON, SOUTH CAROLINA

9
10
11 B E F O R E:

12 THE HONORABLE R. KNOX MCMAHON, JUDGE. ; And a Jury.
13
14

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

16 D. SHAWN GRAHAM, ASSISTANT SOLICITOR
17 ATTORNEY FOR THE STATE

18 SHANNON DAVIS, ASSISTANT SOLICITOR
19 ATTORNEY FOR THE STATE

20 MR. DAVID RICHARD WALKER, JR.
21 APPEARING PRO SE

22 SARAH MAULDIN, ASSISTANT PUBLIC DEFENDER
23 APPEARING AS STANDBY COUNSEL

24
25 MICHAEL R. WATTS
CIRCUIT COURT REPORTER

INDEX

(FEBRUARY 22, 2017)

(STAND YOUR GROUND HEARING. CONT'D)

WITNESSES	PAGE
THOMAS BANTY (DW)	
DIRECT EXAMINATION BY MR. WALKER	232
(NO CROSS EXAMINATION)	
SLED AGENT DUSTIN SMITH (DW)	
DIRECT EXAMINATION BY MR. WALKER	245
CROSS EXAMINATION BY MR. GRAHAM	255
REDIRECT EXAMINATION BY MR. WALKER	256
CASSIDY [REDACTED] (DW)	
DIRECT EXAMINATION BY MR. WALKER	260
(NO CROSS EXAMINATION)	
DR. DONNA SCHWARTZ-MADDOX (DW)	
DIRECT EXAMINATION BY MR. WALKER	265
CROSS EXAMINATION BY MR. GRAHAM	274
REDIRECT EXAMINATION BY MR. WALKER	279
CHRISTOPHER WATKINS (DW)	
DIRECT EXAMINATION BY MR. WALKER	305
(NO CROSS EXAMINATION)	
OFFICER MARK WHARTON (DW)	
DIRECT EXAMINATION BY MR. WALKER	315
(NO CROSS EXAMINATION)	

1	INDEX	
2	WITNESSES	PAGE
3	OFFICER DARRELL KOSTYK (DW)	
4	DIRECT EXAMINATION BY MR. WALKER	326
5	(NO CROSS EXAMINATION)	
6	DR. JANICE ROSS (SW)	
7	DIRECT EXAMINATION BY MR. GRAHAM	348
8	CROSS EXAMINATION BY MR. WALKER	358
9	SLED AGENT THOMAS HINES (SW)	
10	DIRECT EXAMINATION BY MS. DAVIS	375
11	CROSS EXAMINATION BY MR. WALKER	380
12	JUDY BANTY (SW)	
13	DIRECT EXAMINATION BY MS. DAVIS	384
14	CROSS EXAMINATION BY MR. WALKER	386
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

INDEX

(JACKSON V. DENNO HEARING)

WITNESSES PAGE

OFFICER DARRELL KOSTYK (SW)

DIRECT EXAMINATION BY MS. DAVIS 400

CROSS EXAMINATION BY MR. WALKER 419

OFFICER JAMES KEMFORT (SW)

DIRECT EXAMINATION BY MR. GRAHAM 427

CROSS EXAMINATION BY MR. WALKER 435

OFFICER PAGE MCCRAW (SW)

DIRECT EXAMINATION BY MR. GRAHAM 442

CROSS EXAMINATION BY MR. WALKER 450

OFFICER BRUCE WADE (SW)

DIRECT EXAMINATION BY MR. GRAHAM 452

CROSS EXAMINATION BY MR. WALKER 454

REDIRECT EXAMINATION BY MR. GRAHAM 460

		EXHIBITS		
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-1	PHOTOGRAPH	351	
4	S-2	COMPLETE CD IN-CAR VIDEO	410	
5	S-3	CD INTERVIEW OF DEFENDANT	448	
6				
7	CT-3	SUBPOENA OF DAVID WALKER, SR.	311	
8	CT-4	SUBPOENA OF KYLE WALKER	311	
9	CT-5	PHONE NUMBER LIST	314	
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 (PROCEEDINGS, FEBRUARY 22, 2017)

2 THE COURT: Anything before the next witness is
3 called, solicitor?

4 MR. GRAHAM: No, Your Honor.

5 THE COURT: Defense, Mr. Walker?

6 MR. WALKER: Yes, sir, Your Honor. May I have
7 chance to --

8 THE COURT: Sir?

9 MR. WALKER: You asked my next witness?

10 THE COURT: I asked you if there was anything from
11 the defense before you called your next witness.

12 MR. WALKER: Oh, not at this moment, Your Honor.

13 THE COURT: All right. You may call your next
14 witness.

15 MR. WALKER: May I have one moment to prepare? I
16 just walked in.

17 THE COURT: All right. Yes, sir.

18 (Off the record).

19 (Back on the record).

20 MR. WALKER: Your Honor, if I may?

21 THE COURT: Yes, sir.

22 MR. WALKER: I'm waiting for my PI, my private
23 investigator. He has my evidence. He has -- he has all my
24 evidence in his file, besides his computer, and I'm planning
25 to call a witness and --

1 THE COURT: Well, why isn't he here?

2 MR. WALKER: I have no idea.

3 THE COURT: I allowed him to sit with you. I
4 announced and he was in court yesterday afternoon that I was
5 starting court at 08:30 hours.

6 MR. WALKER: That's correct, Your Honor.

7 I can't vouch for him time, but I can say he's not
8 here. My standby counsel is trying to contact him right
9 now.

10 THE COURT: Do you have other witnesses that you
11 could call without the presence of Mr. Watkins?

12 MR. WALKER: No, sir, Your Honor, because I have
13 to do it in an order.

14 THE COURT: You have to what?

15 MR. WALKER: I have to do it in a specific order.

16 THE COURT: No, sir, you don't have to do it in a
17 specific order. You can call witnesses out of order.

18 MR. WALKER: My intentions are that I have to --

19 THE COURT: Your what?

20 MR. WALKER: My intention -- as -- my defense --
21 my testimony is -- per se, I need to call the defense
22 witnesses.

23 THE COURT: Well, call Mr. Watkins and have him
24 here and tell him he needs to bring a lawyer with him or
25 he can make arrangements to get a lawyer, once he gets here.

1 MR. WALKER: Yes, sir.

2 THE COURT: I start at 8:30 in the morning because
3 y'all tell me this is going to resolve yesterday afternoon.
4 I bring the jury back at 9:30 this morning and the jury is
5 sitting back there held captive, once they get here.

6 MR. WALKER: Yes, sir. Your Honor I -- our
7 agreement --

8 THE COURT: I can't hear you.

9 MR. WALKER: My agreement between me and my PI was
10 that he was supposed to be here at 7:45 also was our
11 agreement, so I have no earthly idea why he is entirely
12 late.

13 THE COURT: I have no idea why people don't follow
14 my orders. Half of the solicitor's office came in late this
15 morning after 8:30. If they come late tomorrow, they can
16 bring their checkbook. That's not a joke.

17 MR. WALKER: No, Your Honor.

18 THE COURT: Not only is it not following
19 directions of the court, it's disrespectful.

20 MR. WALKER: That's correct.

21 THE COURT: Y'all let me know when you are ready.
22 Thank you very much.

23 (Off the record).

24 (Back on the record).

25 THE COURT: Thank you. Good morning. Please be

1 seated.

2 All right, Mr. Walker, are you prepared to call
3 your next witness?

4 MR. WALKER: Yes, sir, Your Honor.

5 THE COURT: All right. You may call your witness.

6 MR. WALKER: The defense calls Thomas Banty.

7 THOMAS BANTY, having been first duly sworn,
8 testified as follows:

9 THE CLERK: Have A seat, sir.

10 Once you are seated, state your full name,
11 spelling your last, please.

12 THE WITNESS: Okay. My name is Thomas Banty,
13 B-A-N-T-Y.

14 DIRECT EXAMINATION BY MR. WALKER:

15 Q. Mr. Banty, I'm David Richard Walker. I'm a pro-se
16 defendant. I'm trying to --

17 THE COURT: Speak up. Speak into the microphone
18 for me, please, Mr. Walker.

19 MR. WALKER: Yes, sir.

20 BY MR. WALKER:

21 Q. Yes, sir, Mr. Banty, I'm trying to -- my name is David
22 Richard Walker. I'm trying to --

23 I would like to know within your time did you give a
24 statement to West Columbia Police Department?

25 A. I don't recall giving a statement.

1 Q. You don't recall giving a statement to West Columbia?

2 A. I don't think I did.

3 Q. No, not at all. All right.

4 If I may, I want to play a statement and you can tell
5 me if it's not your voice or if you didn't give that
6 statement, okay?

7 MR. GRAHAM: Judge, if I can object. I don't know
8 the purpose of playing his statement. If he has a question
9 for Mr. Banty, he can ask Mr. Banty questions.

10 THE COURT: Ask him your -- I'm not tracking what
11 you are asking, Mr. Walker.

12 MR. WALKER: Right now -- right now I'm impeaching
13 him because it's inconsistent. I know he give a statement.

14 THE COURT: He is not impeaching him when he says
15 I don't remember. He has not denied giving a statement. He
16 says I don't remember giving a statement.

17 MR. WALKER: All right.

18 Now --

19 THE COURT: So I -- I'm just not tracking what you
20 are trying to do, Mr. Walker.

21 MR. WALKER: Your Honor, I'm basically getting to
22 the victim's demeanor and I ask. As -- within this
23 hearing, the stand your ground, and this would be on the
24 self-defense and you have to give self-defense grounds.
25 Therefore, the self-defense obligations and the law kicks

1 in, stipulation, and I'm going to be basically trying for --
2 trying to give -- he give testimony on her character and
3 her -- some things -- drug abuse, aggressiveness, certain
4 things like that I think is relevant to that defense and,
5 therefore, I'm playing -- I'm starting with his testimony.

6 THE COURT: Oh, all right.

7 Solicitor?

8 MR. GRAHAM: Your Honor, I think -- my
9 understanding is West Columbia did do a recorded interview
10 with Mr. Banty and other witnesses in the case, but I don't
11 think it's appropriate for him to play that without giving
12 Mr. -- I mean, he needs to ask Mr. Banty some questions
13 before he can play.

14 The rules require him to ask the witness a
15 question. And if the answer is the way that he answered
16 before, we move on. If it doesn't, then he can do -- you
17 know, he can ask him -- he can try to impeach him with the
18 recorded statement, but I don't think he can just come in
19 and play a recorded statement of every witness who
20 testifies.

21 THE COURT: Do you know the rule number?

22 MR. GRAHAM: That would be 613(b), Your Honor.

23 THE COURT: Yes, that's what I was reading.

24 613(b).

25 Yes, sir, Mr. Banty, did you want to say

1 something?

2 THE WITNESS: Yes. I don't recall. I'm sure I
3 did, because we were all there. I was under doctor's care
4 at the time at Keystone, so I had a little medication thing
5 happening, so my recollection can be kind of foggy and I
6 apologize for that.

7 MR. WALKER: Your Honor, may I play for
8 recollection?

9 THE COURT: Sir?

10 MR. WALKER: May I play the statement for
11 recollection?

12 THE COURT: All right.

13 MR. WALKER: Thank you.

14 THE COURT: Wait a minute.

15 Solicitor?

16 MR. GRAHAM: I don't know that it's important. I
17 would object, Your Honor. I don't know that -- for time, I
18 don't know that it's important whether he remembers making
19 it. The question is he needs to ask him question, whatever
20 he wants to ask. And then if it -- if it contradicts what's
21 recorded on there, then he can play it. Then he can play it
22 to refresh his memory.

23 MR. WALKER: Your Honor, I don't understand the
24 objection to the recollection.

25 THE COURT: I can't hear you.

1 MR. WALKER: I don't understand why the State is
2 objecting to recollection.

3 THE COURT: You haven't laid the proper foundation
4 for that. There is no reason why you can't ask Mr. Banty
5 questions. Ask him questions.

6 MR. WALKER: I will and then I can play the
7 recollection?

8 BY MR. WALKER:

9 Q. Mr. Banty, did you give testimony as to your daughter,
10 who is known as Catherine Carrie Elizabeth Banty? Did you
11 give testimony stating that she was on drugs a certain
12 period of time in her life and she was known to use drugs?
13 She was also known to have a very short temper, a very
14 short --

15 THE COURT: Ask him one at a time.

16 BY MR. WALKER:

17 Q. Do you understand -- did -- do you understand the
18 question I was asking the witness?

19 A. Not completely, but she had a dabble in recreational
20 drugs in her youth.

21 Q. Recreational, meaning to -- what to you? What does
22 recreational mean to you?

23 A. Marijuana specifically.

24 Q. And in your statement you stated that she smoked
25 Adderall and she also was heavy on Oxycontin, opiates.

1 A. I couldn't confirm that, no.

2 Q. You couldn't confirm that.

3 I can't confirm that either, but I'm trying to
4 elicit --

5 THE COURT: Ask your question.

6 BY MR. WALKER:

7 Q. All right. At any time can you say that your daughter
8 was abusive to your granddaughter Cassidy?

9 A. Absolutely not.

10 Q. Okay. And in this case you stated she had -- she had a
11 short temper. Can you -- can you explain that?

12 A. Well, I mean, it was -- it was not out of the ordinary,
13 you know. Anything excessive she just had a natural ability
14 to defend herself. She -- most any obstacle that got in her
15 way, whether it be work, or relationships, or anything, you
16 know. She wasn't excessive, no.

17 Q. So you are saying she wasn't aggressive or wasn't --
18 didn't have a demeanor in her character? She was adverse
19 and ordinary, is that what you are saying?

20 A. Not on the average, no.

21 Q. Okay. What are you saying? Can you explain yourself?

22 A. Well, if she was provoked, someone made her mad, she
23 would voice her opinion in a verbal way. I never saw her
24 get violent or physical with anybody whatsoever, even in
25 school.

1 Q. All right. So from your recollection she never fought
2 with her sibling or sister or anyone in her childhood or
3 never had any violence?

4 A. No.

5 Q. And you never known her to be taken from school for
6 fighting or anything like that or disciplinary problems?

7 A. Not for physical stuff. She got in trouble with
8 marijuana, like I mentioned, in high school and that's --
9 that's a known fact.

10 Q. All right. She also had a lot more drug issues and
11 violations in her past. Would you say that she had a drug
12 abuse problem?

13 THE COURT: You have already asked that question.
14 It's been answered.

15 MR. WALKER: Okay, Your Honor, I'll move on.

16 Your Honor, may I play this for recollection of
17 myself and also for the witness?

18 THE COURT: No, sir. You haven't laid the proper
19 foundation. You can play it for recollection for yourself
20 whatever time that you review it outside of the courtroom.

21 MR. WALKER: All right.

22 May I speak with my standby counsel?

23 THE COURT: May you what?

24 MR. WALKER: May I speak with my standby? May I
25 speak with --

1 THE COURT: Of course.

2 (Off the record).

3 (Back on the record).

4 BY MR. WALKER:

5 Q. Okay, Mr. Banty. Are you saying that she never -- are
6 you saying that she never did -- drove like opiate drugs,
7 never used opiates? Is that what you are saying?

8 A. Not to my knowledge.

9 Q. Okay. I have a statement here that says that you
10 testified that it was -- that she had the opiates. Can I
11 play that statement for you?

12 A. I don't think I did.

13 MR. WALKER: May I play the statement, Your Honor?

14 THE COURT: Only that part of the statement that
15 refers specifically to opiates.

16 MR. WALKER: It's going to take a little time. I
17 have to go back and get it there, because I don't have it
18 marked. I don't have a lot of access to these files, Your
19 Honor.

20 MR. GRAHAM: Your Honor, I would object to
21 relevance anyway. I don't know that the fact that -- even
22 if she did smoke opiates in high school, I don't see how
23 that's relevant to what happened --

24 MR. WALKER: He didn't say high school. He didn't
25 say high school, no, sir.

1 MR. GRAHAM: Unless she smoked opiates that night,
2 I don't see that it's relevant.

3 MR. WALKER: I don't think he can vouch for the
4 victim, Your Honor. I don't think the State can vouch for
5 the victim.

6 THE COURT: I didn't take that as vouching. No
7 party has to vouch for a witness, and clearly --

8 MR. WALKER: His testimony was --

9 THE COURT: The victim is deceased.

10 MR. WALKER: I object to that. That's hearsay,
11 Your Honor.

12 THE COURT: The victim is deceased. She won't be
13 testifying.

14 MR. WALKER: That's correct.

15 May I request to play the whole video, or can I go
16 back --

17 THE COURT: I just told you you can only play that
18 part that you claim is impeachable under 613(b).

19 MR. WALKER: Your Honor, I have a motion for a
20 fifteen minute recess so I can get this audio correct?

21 THE COURT: No, sir, you can continue your
22 examination of him. And once you are finished with the
23 remainder of your examination and the solicitor is finished
24 with cross-examination, I'll allow you to recall Mr. Banty
25 specifically for that one question.

1 MR. WALKER: All right.

2 THE COURT: You may ask your next question.

3 BY MR. WALKER:

4 Q. So earlier, Mr. Banty, you said that your daughter was
5 ordinary and when she had an issues, she wasn't out of the
6 ordinary, is that correct?

7 A. In my opinion, yes.

8 Q. All right. When you say your opinion, you don't think
9 anybody could vouch for that, other than you?

10 A. I can't speak for what someone else may feel or think.
11 I can only tell you what I know or see.

12 MR. WALKER: Your Honor, may I play the video for
13 my recollection? I -- I need to what's on there. My memory
14 he not --

15 THE COURT: You have had four years.

16 MR. WALKER: I just got this.

17 THE COURT: Excuse me, don't interrupt me, Mr.
18 Walker.

19 MR. WALKER: Sorry.

20 THE COURT: You have had four years to prepare
21 your case. Tuesday you said that you were ready for trial.
22 You are not going to prepare your case on the court's time.
23 You can prepare your case, as you tell me you already have
24 and you are ready for trial when court is not in session.

25 MR. WALKER: Your Honor, I have had -- in the four

1 years I just received this testimony --

2 If I may, Your Honor, for the record?

3 THE COURT: No, sir.

4 MR. WALKER: Can I put something on the record,
5 Your Honor?

6 THE COURT: Yes, sir, Mr. Walker, please put
7 something on the record.

8 MR. WALKER: For the record I received this video
9 approximately -- approximately -- maybe about a month ago,
10 approximately a month ago, and due to incarceration and due
11 to my accommodations I wasn't -- I didn't have access to a
12 computer to view this. I have had one opportunity to view
13 this testimony and that was approximately a month ago and
14 under the stipulations that was very fast and I'm not even
15 sure if the whole thing was viewed in the time frame because
16 I was under -- I had -- at Leath, the institution I was in
17 and I consult with everything in that matter of time. So,
18 therefore, I have only had this -- able to view partial of
19 this testimony due to accommodations. Thank you.

20 THE COURT: Thank you, Mr. Walker.

21 Ask your next question, please.

22 MR. WALKER: That's it for me, Your Honor.

23 THE COURT: Sir?

24 MR. WALKER: That's it for me. I'm going to move
25 on.

1 THE COURT: Thank you.

2 Solicitor?

3 MR. GRAHAM: Your Honor, for the record, if I can
4 say this, he was initially provided a copy of that recording
5 of Mr. Banty's interview on dated June 4th, 2013. He then
6 stated that he lost it and we re-provided it to him by his
7 signature January 22nd of this year.

8 THE COURT: Thank you, solicitor.

9 MR. WALKER: Your Honor, if I may?

10 If I may, Your Honor, I had no recollection of
11 getting June 2013, and have I addressed it to the court the
12 State seems to stipulate that when they give stuff to my
13 standby counsel, that is to me. I have no control over my
14 chain of evidence when they give it to my standby counsel
15 and she has neglected me numerous times evidence and
16 proceeded on my trial basically saying I can get it before
17 trial or at trial and, therefore, she held onto them and I
18 never -- I never viewed them, as far as Mr. Banty's.

19 And also there was issue that was given to a
20 private investigator was very effective and basically I
21 advised her this never come, so I never got to view this
22 video until one time, as I have stated. And on the 2006
23 date that he stated, that may be correct I was given, but,
24 therefore, it wasn't given. I don't think it was given
25 directly to me. And if it was given directly to me, as far

1 as accommodations went, through my incarceration I didn't
2 have access to a laptop to view them. So, therefore, it's
3 not legit to say that I have had an opportunity to prepare
4 on this testimony.

5 THE COURT: Thank you, Mr. Walker.

6 MR. WALKER: Thank you, Your Honor.

7 MR. GRAHAM: Your Honor, the State has no
8 questions for Mr. Banty.

9 THE COURT: Thank you Mr. Banty. You may step
10 down.

11 Mr. Walker, you may call your next witness.

12 MR. WALKER: The defense calls Dustin Smith to the
13 stand.

14 THE COURT: Dustin, come around and be sworn for
15 us, please.

16 SLED AGENT DUSTIN SMITH, having been first duly
17 sworn, testified as follows:

18 THE CLERK: Have a seat, please, sir.

19 Once you are seated, state your full name,
20 spelling your last name, please.

21 THE WITNESS: My name is Lieutenant Dustin Wilson
22 Smith, S-M-I-T-H.

23 THE COURT: All right, Mr. Walker.

24 MR. WALKER: Thank you, Your Honor.

25

1 DIRECT EXAMINATION BY MR. WALKER:

2 Q. How are you doing, Mr. Smith?

3 My name is David Walker. I'm the defendant in this
4 case. I'm pro-se representing myself.

5 I understand that you work for the South Carolina Law
6 Enforcement Division, is that correct?

7 A. That's correct.

8 Q. All right. You're a forensic scientist, is that
9 correct?

10 A. That's correct.

11 Q. Within your duties and employment at South Carolina Law
12 Enforcement Division, also known as SLED, you currently do
13 toxicology, is that correct?

14 A. That's correct, I'm currently the chief toxicologist,
15 yes.

16 Q. All right. Thank you, Mr. Smith.

17 And you did a toxicology on Catherine Carrie Banty, is
18 that correct?

19 A. That is correct.

20 Q. All right. And that was on the agenda of Mr. --
21 Investigator Bruce Wade, is that correct, of West Columbia
22 Police Department?

23 A. The case was submitted to us by Investigator Bruce
24 Wade, that is correct.

25 Q. All right. Thank you.

1 And within toxicology, can you explain exactly what is
2 tested in toxicology in general usually, just --

3 A. Sure. Some of the toxicology, we analyze blood, urine,
4 bodily fluids for the presence of alcohol, drugs, poisons.
5 And then we make interpretations in those findings either in
6 court or to the investigating parties.

7 Q. All right. So -- let's see.

8 So can you explain exactly what was tested in
9 toxicology of Catherine Banty's blood sample and show me how
10 it was tasked and completed?

11 A. Sure. So the first thing that was done is we completed
12 a volatile analysis. This is where we look for ethanol and
13 other common volatiles to include methanol, acetone, and
14 isopropanol.

15 The next thing we did on this particular case is we did
16 enzyme linked immunoassay, which is a drug screen where we
17 looked for specific classes or specific drugs. And this
18 particular time that panel consisted of amphetamines;
19 benzodiazepines, which includes drugs such as Valium, Xanax;
20 Bufanophine; Carisoprodol, which is a muscle relaxant;
21 cocaine metabolyte, methadone, methamphetamine; opiates,
22 which includes drugs, such as morphine and codeine;
23 Oxycodone, Tramadol.

24 And after that was completed we did what we referred to
25 as a general, which is a broad standing acid-based neutral

1 screen performed by gas chromatography mass spectrometry
2 where we can detect approximately three hundred
3 over-the-counter prescription panels of medication. And so
4 that's what we did on this particular case.

5 Q. And within the toxicology she tested negative for all
6 kind of medications, is that correct?

7 A. She did. The only positive finding we had in her -- in
8 her blood was 0.016 percent grams per deciliter ethanol.
9 All other tests came back negative.

10 Q. And what generates ethanol?

11 A. Ethanol is drinking alcohols, the alcohol that's found
12 in wine, beer and spirits.

13 Q. Would you say that's a pretty high result?

14 A. No, this is equivalent to approximately one alcoholic
15 beverage.

16 Q. Okay. Basically she may have been drinking at the time
17 of her deceasement?

18 A. Well, it would appear that she has been drinking, but
19 then there is also this possibility that this low level.

20 Our impression of her ethanol is a 0.010 grams per
21 deciliter, so this is just above our threshold.

22 There is always a potential for some amount of
23 postmortem production of ethanol. And given the fact that
24 our ocular test, which is the fluid in the eye, came back
25 completely negative for ethanol, this is either indicative

1 of she had had a drink immediately prior to death, or that
2 this very low level of ethanol could have and from a
3 postmortem production due to early onset of decomposition.

4 Q. So she may have been drinking maybe an hour, two to
5 four hours maybe before she was deceased?

6 A. No, given the fact that the ocular fluid was completely
7 negative and the absorption of ethanol into ocular fluid
8 lags slightly behind the absorption into the blood, it would
9 be my interpretation that either she was drinking
10 immediately prior to death, within a few minutes, or this
11 low level of ethanol is not due to ethanol consumption, but
12 rather due to a postmortem production.

13 Q. Back to -- I want to pronounce it as alecia (phonetic)
14 where it was a common drug, is that correct?

15 A. That's correct, that's where we do a drug screen, which
16 is a presumptive test to give us an indication as to whether
17 or not a specific drug or a class of drugs is present.

18 If that screen comes back positive, then we will go
19 forward and perform a confirmation for more specific method
20 and we typically provide a quantitation so we can determine
21 the concentration at that point, again, by a more specific
22 method.

23 Q. Right. And within all the number drugs listed on the
24 toxicology, what would you say would be the timeline of all
25 these drugs to be out of her system?

1 Basically if she had taken one of these medications,
2 or any of them, which one would last the longest?

3 A. I'm not completely sure that I understand your
4 question, but I'll try to answer it in a general fashion.

5 That depends on quite a few factors. Different drugs
6 deposit differently within the body, require different
7 therapeutic concentrations, and so it's very difficult to
8 determine on a wide class of drugs, such as this, the
9 approximate time frame that you might expect to see the drug
10 bottom.

11 Typically if you were taking the drug therapeutically
12 in a therapeutic level, we would expect to see the majority
13 of drugs for approximately twelve to twenty-four hours
14 post-ingestion.

15 Q. So would you say basically through toxicology anything
16 that was taken over twelve hours probably is not going to
17 show you up twelve hours post-consumption, is that correct?

18 A. Well, again, it depends on the drug. It depends on the
19 dosage taken. It depends upon chronicity of taking the
20 drug, how often you take the drug. If you are taking it
21 every day and you are at a steady state, it may stay around
22 for a little bit longer. But if you are taking a drug
23 therapeutically at a therapeutic level, most drugs, and it
24 certainly doesn't include all drugs, you would expect to
25 have been removed from the body certainly about twenty-four

1 hours, at a level that we can detect.

2 Q. All right. So twenty-four hours is the main time.

3 What would you say would be the least -- can you
4 basically give me a -- what would you say the least would be
5 on these drugs? Basically which one would be the fastest
6 one to deteriorate out of the test?

7 A. Well, the drugs that are taken at very low doses would
8 be the drugs that would dissipate the most quickly. So out
9 of this list of drugs, that would be your Bufanophine. It's
10 taken at a very, very low dose. You would expect to not see
11 that drug after about twelve hours at a therapeutic level.

12 Q. And which one would you say would be -- would hold in
13 the bloodstream the longest?

14 A. This is largely speculation just based on generalities.
15 There is drug known as Valium and it does stay in the blood
16 for quite a long time. It requires a relatively high
17 therapeutic dose.

18 You know, my supposition at this point would probably
19 be the benodiazepines. Valium specifically you would expect
20 to see twenty-four to thirty-six hours post-ingestion.

21 Q. All right.

22 A. But certainly any of these drugs could be eliminated
23 faster than that and these drugs could stay around for
24 longer than that. It really depends again on dose, on how
25 long you take it, and the specific drug.

1 Q. All right. Thank you.

2 So did you conclude Adderall as one of the most common
3 medications, and that medication being a common medication,
4 to treat mental health, Adderall?

5 A. Well, Adderall is prenamed for the drug amphetamine.
6 We did test specifically for amphetamine and that
7 amphetamine screen was negative.

8 Q. What -- if I said the patient smoked Adderall, how long
9 would you say that your toxicology could screen detect
10 Adderall? Notice I did say smoke.

11 A. Right, so when you smoke a drug, the onset of action is
12 quite a bit. You absorb the drug much more quickly than you
13 would absorb the drug if you had taken it orally, as
14 intended to be ingested. So what you would expect to see is
15 you would expect to see a higher spike in concentration in
16 your blood and you would expect to see the onset of action
17 be quite a bit earlier.

18 Given those two facts, you know, again, it's difficult
19 to say specifically, but you would expect that drug to clear
20 from the body, based on dose, again, if you smoked a little
21 bit versus you smoked a whole lot, that makes a big
22 difference. But in generality when you are comparing oral
23 ingestion to smoked ingestion, you would expect the smoked
24 ingestion to clear faster because of the fact that you
25 absorb it much faster and your body begins to eliminate it

1 more quickly.

2 Q. All right. I'm not -- I'm not a person smoked against
3 ingestion. I'm just asking if how long is your toxicology
4 screen to detect Adderall if it was smoked and how long --
5 could it defect it, if it was smoked, and how long would be
6 the time frames relevant to smoking Adderall for a
7 toxicology?

8 MR. GRAHAM: Your Honor, if I could object. He's
9 already testified -- he did not testify that the victim
10 smoked Adderall. I don't understand the relevancy at this
11 point in the questioning.

12 MR. WALKER: Your Honor, if I may?

13 THE COURT: Yes, sir.

14 MR. WALKER: Mr. Banty did say that she smoked
15 Adderall in his testimony. That's why I'm trying to get
16 through that and that's why I called Mr. Banty first.
17 That's why I wanted to play what I wanted to play, Your
18 Honor.

19 THE COURT: Well, as I understand the lieutenant's
20 role, he's a forensic toxicologist with SLED that performed
21 numerous toxicological tests on body fluids from Ms. Banty
22 that were -- although they were submitted by West Columbia
23 and they were all postmortem.

24 THE WITNESS: That's correct.

25 THE COURT: Is that correct?

1 THE WITNESS: Yes.

2 THE COURT: So given that, if there is -- and
3 given the lieutenant's testimony concerning speculation,
4 generalities -- this is no criticism of the lieutenant
5 whatsoever, suppositions, that there is no testimony from
6 anyone that I have heard in the record that Ms. Banty smoked
7 Adderall equaling amphetamine, is that correct?

8 THE WITNESS: Yes, sir.

9 THE COURT: On the early morning hours up to dawn
10 on 10 December 2012. Therefore, it's not relevant.

11 MR. WALKER: Your Honor, I -- I think it's
12 relevant.

13 THE COURT: I have ruled it's not relevant.
14 Unless I ask for additional argument --

15 MR. WALKER: May I -- I'm not --

16 THE COURT: Don't interrupt me, Mr. Walker.

17 MR. WALKER: Yes, sir.

18 THE COURT: Don't interrupt me.

19 MR. WALKER: Yes, sir.

20 THE COURT: I don't know why we are not
21 communicating at that level. You look at the rules. Once
22 the court has ruled, I don't entertain arguments.

23 MR. WALKER: If I may, Your Honor?

24 THE COURT: Ask your next question. That's what
25 you may do.

1 MR. WALKER: Yes, sir.

2 May -- may I just for the record object?

3 THE COURT: Ask your next question, Mr. Walker.

4 MR. WALKER: Thank you, Your Honor.

5 Your Honor, may I speak with my standby counsel?

6 THE COURT: Yes, sir.

7 (Off the record).

8 (Back on the record)

9 MR. WALKER: Your Honor, I close with Mr. Dustin
10 Smith.

11 Thank you Mr. Dustin Smith.

12 THE COURT: All right, solicitor.

13 MR. GRAHAM: No questions, Your Honor.

14 THE COURT: May I ask -- I missed -- I think I
15 missed a decimal point.

16 Would you please give me the results of the
17 toxicology as to ethanol?

18 THE WITNESS: Yes, sir. It is 0.016 percent grams
19 per deciliter.

20 THE COURT: Give me the standard which you also
21 referred to.

22 THE WITNESS: Our screening -- our testing
23 threshold, we consider anything below this threshold
24 negative 0.010.

25 THE COURT: Okay. Thank you.

1 Any followup to those questions I asked?

2 MR. GRAHAM: Yes, Your Honor, very briefly.

3 CROSS EXAMINATION BY MR. GRAHAM:

4 Q. You talked about postmortem production --

5 A. Yes, sir.

6 Q. -- of ethanol of alcohol?

7 A. Yes.

8 Q. Would it affect your opinion as to the presence of
9 alcohol whether it was from postmortem production or from
10 consumption if it was learned that the victim was killed or
11 died on December 10th, 2012, about sunrise, and the autopsy
12 was not performed for over forty-eight hours later?

13 A. Well, it's difficult to say definitively which way the
14 ethanol was created or was stored, but it certainly lends
15 more credence to potential for postmortem production, given
16 the fact that it was forty-eight hours later before the
17 sample was drawn.

18 Q. Thank you Mr. Smith.

19 MR. GRAHAM: That's all.

20 THE COURT: Did you have any followup on those
21 questions? I just wanted to get my notes straight.

22 MR. WALKER: Your Honor, may I ask one more
23 question?

24 THE COURT: Yes, sir.

25

1 REDIRECT EXAMINATION BY MR. WALKER:

2 Q. Mr. Smith, would you say in general, as the State asked
3 you, did results to the test, the toxicology and the autopsy
4 being done forty-eight hours after the time of death, would
5 that result in any results in your resulted toxicology,
6 meaning that it would -- would it render anything in the
7 toxicology from if it was immediately taken from
8 immediate -- taken and tested and -- if it was immediately
9 tested, or whether it wasn't tested for forty-eight hours
10 and the blood was drawn forty-eight hours, would that render
11 anything on this test, as far as new to your positives in
12 your results?

13 A. It's my understanding you are asking if given the fact
14 that the autopsy was performed forty-eight hours after
15 death, would it change our results in any manner, is that
16 correct?

17 Q. That's correct.

18 A. Well, ideally blood would be drawn immediately after
19 death. This is almost never the case.

20 There is always the potential for some amount of what's
21 called postmortem redistribution and that happens when a
22 person's cellular material begins to break down immediately
23 at death and drugs that are found in the tissues begin to
24 blend with the drug that is in the blood vessels and
25 arteries, which is where the samples are drawn from

1 typically.

2 Now, in order to alleviate the potential for this
3 having any effect on our findings, blood is typically drawn
4 from a peripheral source, which means away from the central
5 cavity. In this particular case the drugs from the iliac
6 vein, which is in the very bottom of your stomach. So quite
7 a bit away from the majority of your central organs.

8 Typically what we see with postmortem redistribution is
9 we don't see the decrease in drugs in the system. We see an
10 increase, because of the fact that drugs are depoted and
11 stored at higher concentrations to the tissues. And as
12 someone dies and those systems begin to break down, it
13 allows for those drugs to leach into the surrounding areas
14 causing the potential for higher drug levels than what may
15 have been present at the time of death.

16 In most instances you do not see a decrease in drug
17 levels, or certainly -- or we seen or a mention of a drug
18 that is present. It does not go away. It still persists
19 and if the drug is there, we will detect it.

20 Q. For the record, do you know of any toxicology that's
21 been done in your department or maybe in the United States
22 that actually was decreased rather than increased, as far as
23 results of taking the blood from the instance of death?

24 A. I do not have any documentation of that.

25 I can say that it would not surprise me if that were to

1 have happened in some instances. There are always extremes
2 to everything, but it's certainly the norm and the
3 established norm that drug will have increased postmortem.

4 Q. Do you know of any factors that would contribute to the
5 question that I just asked you?

6 A. Well, there is always the potential for accelerated
7 decomposition which would be caused by heat. If it were
8 extremely hot, it would accelerate the decomposition
9 process, which would accelerate the postmortem
10 redistribution process.

11 Q. Right.

12 A. But I'm not aware of any other factors that would
13 contribute to that.

14 Q. All right. Thank you. I appreciate it.

15 MR. WALKER: Nothing further, Your Honor.

16 THE COURT: All right. Thank you. Thank you very
17 much. You may step down.

18 All right. Mr. Walker, you may call your next
19 witness.

20 (Off the record).

21 (Off the record)

22 THE COURT: All right, Mr. Walker, you may call
23 your next witness.

24 MR. WALKER: Yes, sir, Your Honor.

25 If I may, may I have one moment with my witness?

1 May I have one moment with somebody in my defense and then I
2 will call my next witness? It's relevant, Your Honor.

3 THE COURT: What do you call one moment?

4 MR. WALKER: Approximately ninety seconds, Your
5 Honor?

6 THE COURT: All right. Yes, sir.

7 MR. WALKER: Thank you.

8 (Off the record).

9 (Back on the record).

10 MR. WALKER: May I call Cassidy [REDACTED], Your Honor?

11 THE COURT: All right. Come around, please.

12 Who did you call?

13 MR. WALKER: Cassidy [REDACTED], a minor. My daughter.

14 MS. DAVIS: Your Honor, we have her back at the
15 solicitor's office. We've gone to get her.

16 MR. WALKER: Your Honor, if I may?

17 I'm not stipulating anything on this, Your Honor,
18 but I'm -- I'm objecting to the child -- to the witness
19 being in the solicitor's office. I mean, because it may
20 deter them coaching her, or whatnot, but it only takes place
21 in the courthouse. I can understand, but I am objecting to
22 her being at the solicitor's office. Thank you.

23 THE COURT: I don't know where she is, except
24 she's not in the courtroom.

25 MR. WALKER: The solicitor just stated that she is

1 being housed in the solicitor's office.

2 Thank you, Your Honor.

3 CASSIDY [REDACTED], having been first duly sworn,
4 testified as follows:

5 THE CLERK: Have a seat right up there.

6 I need you to speak up.

7 State your name.

8 THE WITNESS: My name is Cassidy [REDACTED].

9 DIRECT EXAMINATION BY MR. WALKER:

10 Q. How are you doing, Ms. Cassidy?

11 A. I am doing fine.

12 Q. All right. Do you want to help us today?

13 A. Yes, I am.

14 Q. Okay. Do you recall who I am?

15 A. No, I do not.

16 Q. Okay. I'm your daddy. My name is David.

17 A. Hello.

18 Q. Hello.

19 So you don't know -- you don't remember me in any way,
20 and especially when you was a child, our baby?

21 A. A little bit, yes.

22 Q. A little bit?

23 Are you -- are you willing to tell us a little bit
24 about -- do you recall who I am and what may have happened
25 and your childhood?

1 A. Yes.

2 Q. All right. Thank you.

3 Do you want to start or do you want me to ask you some
4 questions?

5 MR. GRAHAM: Your Honor, I would object to that.
6 He needs to ask her questions.

7 THE COURT: Yes, sir.

8 The order of the presentation of evidence under
9 611, and the law itself additionally to the rule is question
10 and answer, not narrative.

11 MR. WALKER: Your Honor, if I make my motion for
12 narrative for her being a minor and as a child?

13 THE COURT: Although there are certain protections
14 under the special witnesses, whether they be of a young age
15 or not, this young lady seems to be very bright, very
16 intelligent, very responsive to the questions that have been
17 asked so far, so I see no reason with her, what is apparent
18 to the court her abilities, to sway from the question and
19 answer, so you may ask your questions, Mr. Walker.

20 MR. WALKER: Thank you, Your Honor.

21 BY MR. WALKER:

22 Q. Do you remember December of 2012, Ms. Cassidy?

23 A. No, sir.

24 Q. Would you like somebody to move your mike down a little
25 bit so --

1 THE COURT: Pull that chair up, please.

2 Thank you. Thank you, sheriff.

3 BY MR. WALKER:

4 Q. So you don't remember that date, December 2012?

5 A. No, I do not.

6 Q. And any time -- and from the time that you was born to
7 this day do you recall of me being with your mother Carrie?

8 A. Not much.

9 Q. Not much.

10 Do you know how long a month is?

11 A. About thirty days.

12 Q. That's right. That's how long I have known you, thirty
13 days.

14 In that time that I have known you can you remember any
15 facts that when me and your mom was together, your mom being
16 Carrie?

17 A. No, sir.

18 Q. Okay. At any time in your childhood do you recall your
19 mom being abusive -- your mother being abusive, like
20 spanking or popping you, or anything to that nature?

21 A. No, sir.

22 Q. So, therefore, you have no recollection of your momma
23 being abusive of anyway with you?

24 A. No, I do not.

25 Q. All right. Thank you so much. Thank you so much for

1 your time, Cassidy. It's very nice meeting you.

2 MR. WALKER: I'm going -- I'm going to leave that,
3 Your Honor.

4 And if I may, may I play the video or may I motion
5 of mine for the video -- her video to be of the Dickerson
6 Center to be took out of evidence, basically striking the
7 evidence, or if not played because it was very recent that
8 she made the testimony that she knew what was going on with
9 her mother and she knew who I was and said very consistent
10 statements throughout that forensic investigation that
11 basically is inconsistent of what she's stating on the stand
12 at this point.

13 THE COURT: Well, the motion in limine, you have
14 made it for the record. I'm not going to rule on it now.

15 MR. WALKER: Yes, sir.

16 THE COURT: Thank you.

17 Solicitor, any questions?

18 MR. GRAHAM: No questions.

19 THE COURT: Thank you. Thank you very much young
20 lady.

21 MR. WALKER: Thank you so much Cassidy.

22 THE COURT: Excuse me?

23 MR. GRAHAM: Your Honor?

24 MR. WALKER: Yes, Your Honor.

25 MR. GRAHAM: Can she be released from her subpoena

1 for the trial?

2 THE COURT: Any objections?

3 MR. WALKER: No, sir, Your Honor.

4 THE COURT: All right. Yes. She may step down.

5 MR. WALKER: Your Honor, may we keep her on
6 standby?

7 THE COURT: All right. She will be on standby.
8 She does not have to remain.

9 Thank you very much. You did fine. You didn't do
10 anything wrong. Thank you. Thank you very much.

11 All right, Mr. Walker, you may call your next
12 witness.

13 MR. WALKER: If I may, Your Honor, may I have
14 about approximately about three minutes?

15 THE COURT: Yes.

16 MR. WALKER: Thank you.

17 (Off the record).

18 (Back on the record).

19 MR. WALKER: Your Honor, if I may?

20 THE COURT: Yes, sir.

21 MR. WALKER: The defense calls Dr. Donna
22 Schwartz-Maddox.

23 THE COURT: All right, Dr. Maddox, come around for
24 us, please. Thank you for being with us again today, Your
25 Honor.

1 She's already been sworn in front of me.

2 You are still under oath, doctor.

3 All right.

4 MR. WALKER: Your Honor, if I may, the reason I'm
5 calling Dr. Schwartz-Watts is I'm going to basically ask
6 her -- I'm going to interrogate or inquire into some of the
7 questions of my state of mind at the time of the death.

8 THE COURT: Well, ask your first question.

9 MR. WALKER: Okay.

10 DIRECT EXAMINATION BY MR. WALKER:

11 Q. Ms. Maddox, for the court and for the honorable judge,
12 Judge McMahon, could you -- could you explain, due to the
13 testimony that I have given, as given yesterday on the
14 witness stand, and also your recollection of all the records
15 that I have viewed and everything that you know of me as a
16 defendant and my history, could you basically give a
17 consistent statement for -- for my state of mind around --
18 in general, basically who you might predict that I am as a
19 person and what type of state of mind I have and also
20 consistent on specifics right around the time of the death
21 and what type -- what type state of mind I had and any facts
22 that you see relevant of the testimony that I give testimony
23 into -- into those facts, as far as my state of mind at that
24 time after leaving the scene or if I was provoked or
25 aggressed and the manner and fashion that I was? If you

1 could give testimony on that.

2 MR. GRAHAM: Your Honor, I'm going to object. He
3 testified to what his state of mind was. Dr. Maddox wasn't
4 there, so I don't know how she can answer that question.

5 THE COURT: Dr. Maddox, solicitor, as you know, as
6 we all know, is an expert in forensic psychology. Although
7 she may not look it, she has testified for many years in
8 that particular field, both -- I know this isn't in the
9 record, but both on behalf of -- not on behalf -- called as
10 a witness by the State and called as a witness by the
11 defense.

12 She would not -- she would not be able to give her
13 opinion as to the ultimate issue under a certain line of
14 cases, but with her training and experience, I think --
15 under Rule 702 I think she can give her opinions and give
16 the basis of her opinions based on her knowledge.

17 And I know she remained yesterday in the courtroom
18 and also observed Mr. Walker's testimony. If that's the
19 type of information experts in her field would take into
20 account, I think she can testify to it. It may go to the
21 weight, but I don't think it goes to the admissibility, as
22 far as in this in-camera hearing, so I -- I would allow it.

23 Doctor, if you can respond without repetition of
24 the question?

25 THE WITNESS: Yes, sir.

1 A. The question was a little bit long, but I'll do the
2 best that I can.

3 BY MR. WALKER:

4 Q. Thank you.

5 A. I think I am able to answer that question to a degree,
6 Mr. Walker.

7 I -- when I originally evaluated you for your
8 competency to stand trial, you did give me some details
9 about some of the events that happened on that evening. I
10 need to preface this by stating that you said your memory
11 was poor for that time of the evening when the offense
12 occurred, but I did -- I was present for your testimony
13 yesterday and grewed much more in depth than anything that
14 you had spoken with me previously about what you were
15 thinking and what your thoughts were at that time.

16 I think that I can best help the court by explaining
17 your behavior in my opinion afterwards. You -- you left the
18 scene of the crime. You were found wandering for some days.
19 I cannot speak to your state of mind for those issues, but I
20 can tell you that based on your prior psychiatric history
21 there have been times when you have been deemed mentally ill
22 and psychotic when you were found wandering. There have
23 been periods of time where you have been confused and that
24 you have difficulty putting your thoughts together. So I
25 think some of your behavior could be explained by perhaps

1 psychosis, but it also could be explained by the additional
2 behavior you recognizing what you had done was wrong and
3 fleeing the scene.

4 Q. So you are saying basically it's both -- I can't -- in
5 your opinion that it could have been -- in your opinion that
6 it may have been -- it may have been that I could have left
7 in the sense of flight and also I could have left just being
8 sensible and trying to get -- trying to get my mind correct,
9 is that what you are saying?

10 A. What I'm saying is it could have been consistent with
11 you being a psychotic. That is certainly consistent with
12 your behaviors in the past.

13 And, if I may, you had been seen the evening before
14 this offense. I believe that you had gone to the emergency
15 room. Your girlfriend had taken you at the time. At that
16 time you were evaluated and the doctor opined that you were
17 not committable. He did not think that you were so
18 psychotic at that time that you required in-patient
19 psychiatric treatment...

20 The crime occurred. There were a number of days where
21 you were -- no one saw you and there was no evidence of your
22 mental state, but once you were apprehended and evaluated
23 again, there was some evidence that you were having some
24 symptoms of psychosis.

25 So some of your thoughts on the stand could be

1 consistent with psychotic behavior and it could be
2 consistent with you being very self-protective and
3 recognizing what you had done was wrong at that time.

4 So I can't give an ultimate opinion, but certainly some
5 of your behaviors could be explained by both. I can't say
6 which. I'm not able to do that.

7 Q. All right, just for the record, Dr. Schwartz-Watts --
8 Dr. Schwartz-Maddox, you stated that I went to the hospital.
9 My girlfriend went to the hospital. Basically I went to the
10 hospital voluntarily. I had to basically beg Catherine
11 to --

12 THE COURT: That's not -- that's not a question.

13 MR. WALKER: It's not a question. I'm sorry, Your
14 Honor. I'm sorry.

15 BY MR. WALKER:

16 Q. All right. Would you have -- in your expert opinion,
17 would you have any -- would you have any opinion as to
18 Catherine Banty? I don't know if you have viewed her
19 records. I have asked Your Honor to release the records to
20 me so I can grant them to you as an expert. Maybe you can
21 review them.

22 Do you have any opinion on her, as far as her
23 psychosis?

24 A. Not at all. I have not seen any records of Ms. Banty.

25 Q. Okay. All right. That's what I was asking.

1 So basically in your further opinion you stated that --
2 that everything -- your opinion basically was an equal
3 contested attitude, basically a positive factor and a
4 negative factor, in the sense as far as maybe
5 personalities -- not necessarily personalities, but maybe in
6 state of mind, is that correct?

7 A. Yes and no.

8 The problem is in forensic psychiatry, we can assess
9 behavior. We can understand what motivates it, but no one
10 is able to tell whether someone is telling the truth or they
11 are being self-protective.

12 Some of your behaviors that you were describing
13 yesterday would certainly be consistent with your history of
14 mental illness, but they may also be consistent with -- it's
15 very consistent in situations where persons have mental
16 illness that they may recognize something happened and they
17 are protective, so I just can't give the weight to it, but
18 either one would be possible.

19 Q. So are you -- in your opinion are you -- are you saying
20 that my mental -- in my mental capacity that it may have --
21 it may have rendered me to lie on the stand or give
22 inconsistent testimony? Is that what you are stating?

23 A. No, your mental illness doesn't have anything to do
24 with that. Mental illness doesn't preclude or make someone
25 lie more. There is one form of mental illness that does,

1 but you don't have that, so, no, no one can say. I don't
2 have the -- we don't have the science. We don't have the
3 medical knowledge to know those things, but, again, as I
4 state, your behaviors afterwards you describe, they could be
5 consistent with your history of mental illness.

6 Q. All right. When you say consistent with my mental
7 behavior, could you get a little more detailed in your
8 opinion on that?

9 A. Certainly. Again, in the past I believe on one of your
10 psychiatric commitments you were found wandering.

11 I think there has also been plenty of entries in the
12 records where you become confused when you are psychotic.

13 There is also Dr. Frierson's reports specifically talks
14 about that there are times when you are psychotic, that you
15 are aggressive and that that's not your baseline behavior.

16 Q. If I was to say that someone in my family, in general,
17 like my mother gave inconsistent statements to the mental
18 health providers that I was wandering and that I was off on
19 medications basically because that was their opinion and
20 they was not around me to observe me and they just give that
21 opinion, would you say that that would still be consistent
22 to testify on?

23 A. I don't know. I wouldn't have a way of knowing, you
24 know, your mother's credibility.

25 Normally what our methodology is in forensic

1 psychiatry, we look at prior records and prior behaviors.
2 But, again, we don't have the ability to know who is being
3 more honest or not. There is just no way to know those
4 things.

5 Q. So when you give the testimony I was wandering, I mean,
6 would that be -- would that be opinion as to a matter of a
7 fact, or would that be an opinion as to a movement or a
8 definition of -- of a physical -- physical stance or a
9 physical -- physical movement?

10 A. Well, the basis of my opinion about your wandering is
11 based on your testimony yesterday. I listened and you
12 reported that you were on a train. You got off. You didn't
13 know where you were. You didn't know which road to take,
14 that you were in the woods I believe a number of days. So
15 the first part of my opinion is based on your testimony
16 yesterday.

17 And the second -- and I'm sorry, I'll try to be
18 specific. I don't have all of your records. I wasn't sure
19 of the nature of my testimony today, but I think there has
20 been one other admission that you have had where the
21 question was that you may have been wandering. So it was
22 based on a past history and listening to your testimony
23 yesterday.

24 Q. For your consideration, like I said, if someone gives
25 inconsistent statements so that maybe I'm wandering, would

1 you -- would it be relevant to testify as to that?

2 A. I don't think it would be helpful to you. I think it
3 was helpful that you have been found wandering in the past,
4 but I -- I don't know.

5 Q. I beg you -- I beg you -- I'm just getting at in my
6 opinion that a lot of times in mental health records, and
7 the mental health -- in the mental health there is persons
8 or people who inconsistently give statements to their
9 providers and the basis of providers have no choice but to
10 act on them testimonies, and, therefore, I feel that I'm one
11 of those people who have -- have abundant -- a large amount
12 of people who consistently --

13 THE COURT: Is there a question in there, Mr.
14 Walker?

15 MR. WALKER: Yes, sir, I was just relevant her --
16 relevant to her -- relevant to her on her testimony.

17 THE COURT: What's the question?

18 You were -- you were telling -- I was hearing what
19 you thought your opinion of yourself in the system. What is
20 your question to the doctor? That's what I wasn't hearing.

21 MR. WALKER: All right.

22 BY MR. WALKER:

23 Q. Is it true it comes back -- I'm sorry, I'm -- I'm
24 finished.

25 THE COURT: All right.

1 Solicitor?

2 MR. GRAHAM: Thank you, Your Honor.

3 CROSS EXAMINATION BY MR. GRAHAM:

4 Q. Good morning, Dr. Maddox.

5 A. Good morning.

6 Q. One of the things that you referenced was you had
7 reviewed a report from Lexington Medical Center from the
8 night before?

9 A. Yes.

10 Q. And it's my understanding, and you correct me if I'm
11 wrong, that Mr. Walker just said that he went there
12 voluntarily, correct?

13 A. Yes.

14 Q. Isn't it true that he went there voluntarily thinking
15 that he was going to get treatment for a headache and a sore
16 throat?

17 A. That's correct.

18 Q. And in actuality what happened is his girlfriend,
19 Carrie Banty, took him there to have him committed or to get
20 him back on medication?

21 A. Yes, that's my -- looking at the records, that's my
22 opinion, yes.

23 Q. And the doctors looked at him, doctor or social worker
24 looked at him --

25 MR. WALKER: I object, Your Honor. It's hearsay,

1 is it not?

2 THE COURT: Excuse me?

3 MR. WALKER: Isn't that testimony not hearsay that
4 he's offering?

5 THE COURT: An expert can -- your objection is
6 overruled. It is not hearsay.

7 MR. WALKER: Thank you, Your Honor.

8 THE COURT: It would be 803(5).

9 BY MR. GRAHAM:

10 Q. Dr. Maddox, they determined, I think as you testified,
11 that for a doctor or social worker spoke to him and he was
12 not psychotic, he wasn't -- he didn't have suicidal
13 ideations or homicidal ideations at that time and they saw
14 no reason to commit him?

15 A. That's correct.

16 Q. They offered Mr. Walker Geodon, is that -- I don't know
17 how to pronounce it.

18 A. Geodon.

19 Q. What is that?

20 A. That's a -- that's a short acting neuroleptic that you
21 can give in an injection.

22 THE COURT: A short acting what, doctor?

23 THE WITNESS: Neuroleptic. And antipsychotic
24 medication that you can give in a shot.

25 BY MR. GRAHAM:

1 Q. And they offered that to him and from the records it's
2 your understanding that Mr. Walker refused that?

3 A. That's correct.

4 Q. Okay. You have talked about self-protective behavior.
5 What is that?

6 A. Yes, that's -- and I have referred to that adjective
7 when describing Mr. Walker. I think that he -- he -- some
8 of the mental illness sometimes don't act in a protective
9 manner. They use judgment that perhaps hurts them and
10 that's not been Mr. Walker's characteristic. He's very --
11 he's very -- he uses very good judgment when trying to prove
12 his case. He's trying to prove that he's innocent. He --
13 he doesn't volunteer things that would perhaps get him in
14 trouble. And the best examples I can give would be, for
15 example, when he -- on cross-examination with me yesterday
16 when he said he didn't tell anyone his statement because he
17 was concerned that people can misconstrue thoughts and those
18 sorts of things and that he waited until his day in court to
19 get those statements. That would be an example of being
20 self-protective, but he's aware of his legal rights. He's
21 trying to advocate for his opinion and he's doing that in a
22 manner that helps him and not hurts him.

23 Q. The fact that he ran away from the house and abandoned
24 his child, you cannot offer an opinion as to whether that
25 was self-protective behavior because of his mental health,

1 or whether it was because he realized what he did and he was
2 running away to not get caught, can you?

3 A. That's correct.

4 Q. In addition, you had referenced that he has a history
5 of violent behavior, is that true?

6 A. He has a history of aggressive behavior when he's
7 psychotic, yes.

8 Q. And you saw that -- is that the report from himself, or
9 are those from reports that you have reviewed?

10 A. It came from two sources.

11 Number one, I think Dr. Frierson put it in his report,
12 but what had happened more specifically back in 2000, I
13 believe it was '13, when he went to Correct Care Solutions
14 for treatment. It was noted in his record that he had been
15 pretty calm and then in the course of his hospitalization he
16 became acutely psychotic and was aggressive towards one of
17 the patients. He thought he was being poisoned and that his
18 food was being poisoned and there was a specific incidence
19 in that hospitalization. And then I believe Dr. Frierson
20 also made reference to that in his opinion to the court.

21 Q. You said 2013. Did you mean earlier when he was in
22 North Carolina receiving treatment?

23 A. No, sir, this would have been his more recent at Bryant
24 Forensics Hospital admission.

25 Q. Have you reviewed his records from North Carolina?

1 A. A long time ago. I don't have those with me, but I
2 don't recall if he would have been aggressive there or not.

3 Q. You don't remember any incidents of aggression?

4 A. No, not offhand.

5 Q. You would agree with me that there are many studies
6 that state that individuals diagnosed with schizophrenia
7 have a higher incidents of assaultive and violent behavior?

8 A. They absolutely do. It's very specific circumstances
9 when they do. Generally they are not, but there are,
10 absolutely,.

11 Q. And the major predictors of violent behaviors include
12 things like male versus female, males are more likely?

13 A. Yes.

14 Q. The age?

15 A. Yes.

16 Q. So the younger the more likely, the past history of
17 violence?

18 A. Yes.

19 Q. And noncompliance with antipsychotic medication?

20 A. Yes, and there -- there is more.

21 And very specifically and very acutely the three things
22 that you look for is someone has command hallucinations, if
23 they are hearing voices and the voices are familiar to them
24 and instructing them to do harm. And then if there is an
25 associated delusion, that explains why the person should

1 listen to the voices.

2 You are correct, all of these are general and there is
3 also some very specific factors as well.

4 Q. Thank you Dr. Maddox.

5 MR. WALKER: May I?

6 THE COURT: Redirect?

7 MR. WALKER: Yes, sir.

8 THE COURT: All right.

9 REDIRECT EXAMINATION BY MR. WALKER:

10 Q. And in the solicitor's statement or in the solicitor's
11 question to you, he questioned you on a hospital stay and he
12 said that Catherine Banty evaluated me and thought that I
13 was off medication and I was being psychotic. How was it
14 you give testimony that that was correct? How did you --
15 how would you make that relevant that that is true and in
16 fact?

17 A. Yes, and I make no -- no -- I can't speak to the truth
18 of the matter.

19 What your medical records said, my understanding was,
20 and then listening to the testimony yesterday, is that you
21 went to the hospital and had a sore throat and you went to
22 the emergency room and at some point Ms. Banty had contact
23 with one of the doctors, or someone, and they had offered
24 you a shot, an injection shot.

25 I certainly know -- you have spoken with me about that

1 incidence and your report to me is you were compliant with
2 your Clozaril. You had been receiving the medication
3 Clozaril and you had been taking it. You had informed me
4 that your doctor had cut your medicine down and you were in
5 the process of tapering it, that you had been compliant with
6 those meds, but the medical records did state that they --
7 there was a question about being mentally enough to be
8 committed. The doctor did not think that you needed civil
9 commitment and that they offered you a shot of medicine.

10 Q. If I told you that my sole reason was to go to that
11 hospital was to get treatment for -- for not being able to
12 hold foods down, I was vomiting and consistently vomited
13 seven or eight times in two hours and basically all day for
14 like three days, and my bowels was giving up in both water.
15 And when I went there, when I -- that's the reason I went to
16 the hospital and then Catherine basically just asked to be
17 excused out of the room and went and talked to the social
18 worker. And when she went and talked to the social worker,
19 she basically gives testimony that I was off my pills and
20 she was trying to get me committed to that social worker.

21 Would you agree -- would you agree with me that maybe
22 Catherine's -- Catherine's demeanor may be psychotic because
23 I wasn't in -- in the factor of -- there was no factor that
24 I was at the hospital for psychedelic treatment and that was
25 the only reason, due to the -- and the social worker took

1 Catherine's testimony and basically give -- basically asked
2 the hospital doctors to offer me a medication. Would you
3 say that that's normal procedure and would you agree that --
4 that -- and basically that that could be signs of her
5 psychosis?

6 A. I think I can answer that.

7 The first question about normal procedure, that happens
8 very commonly. There will be persons with mental illness
9 that will go into the emergency room for medical issues and
10 that happens quite often at the hospital where I work.
11 Patients then come to the emergency room and have a medical
12 condition, but then maybe the doctor or some informant
13 during the course of treatment recognizes that there is
14 mental illness and they can offer treatment.

15 The second part of your question, there are times -- I
16 think what your question is are there times that people with
17 the history of mental illness and informants come to the
18 emergency room and have an agenda. They want the person
19 admitted to a psychiatric facility and it may or may not be
20 reliable history? That's correct. That can happen too.
21 Usually, though, the doctor will interview those people and
22 the doctor has to make the determination of whether they
23 think those symptoms are likely or not, or based on a
24 history and physical. So it can happen. There are times
25 when people want persons admitted to the hospital and it may

1 not be credible history.

2 Q. Would you say -- in your knowledge and profession as a
3 doctor and as a psychiatrist, would you say it's normal
4 procedure for if someone was to give testimony to a provider
5 in the sense of mental health person employed at a hospital,
6 would you say that the hospital provider would normally
7 offer drugs, like Geodon, in a normal -- basically as a
8 substance of someone giving their testimony that alleged
9 Catherine Banty gives?

10 A. Yes, after a physical.

11 What would happen -- say, for example, if you would
12 come to the emergency room and I was working that night and
13 Ms. Banty had come to me and said I was concerned about Mr.
14 Walker, I would listen to her concerns. Then I would go to
15 you as your physician, examine you, ask you questions. If I
16 thought that you needed treatment, I would offer it to you.
17 If you were well enough to refuse treatment and I could not
18 commit you, I would let you go, very similar to what the
19 doctor would have done on that evening, so that is normal
20 methodology.

21 Q. And as a medical provider they confronted me about the
22 testimony that Catherine supposedly gives, if I denied that
23 testimony, and I did, I denied the fact that I was psychotic
24 at the time and I was off medications for specific reasons,
25 would you agree that it's normal procedure to offer somebody

1 Geodon in that situation?

2 A. Yes, only if the doctor thought it might -- I can't
3 speak for the doctor that saw you, but if he was concerned
4 that you may have psychosis, but I think what's more
5 important and what's normal is that he let you go.

6 There are times if someone is in the emergency room and
7 the doctor got information that perhaps the person is
8 psychotic and they offered the person treatment and this
9 person did not accept the treatment, if the doctor felt that
10 you were mentally ill or commitment, they could have treated
11 you against your will, and they did not do that.

12 So, yes, I think everything that evening was normal
13 procedure, that the doctor offered you treatment, you didn't
14 want it, he didn't think you were committable, so he let you
15 go.

16 Q. Wouldn't you say it's normal procedure to go through a
17 probate court to have someone admitted to a hospital
18 involuntarily?

19 A. Yes. What the doctor would have done, had he thought
20 that you were psychotic and dangerous, he would have filled
21 out civil commitment papers and they would have been able to
22 detain you into the emergency room until you had probate
23 papers issued.

24 Q. But that wasn't -- that wasn't the procedure that
25 happened there. Would you -- in your opinion, do you see

1 any facts that that would be relevant to that reason he
2 didn't have a voluntary commitment said would have happened?

3 A. Yes. He didn't -- he didn't think that you were
4 dangerous at that time due to mental illness.

5 Q. All right. The State asked you some questions on
6 self-protective behavior. Could you repeat your earlier
7 testimony as to what was said on that?

8 THE COURT: No, sir, you ask her a question.

9 BY MR. WALKER:

10 Q. In that testimony you felt protective behavior, you
11 said it was certain types of uses of judgment. Could you
12 predict -- could you -- in your opinion -- could you state
13 something that would be relevant to what I was asking?

14 A. Sure, and I thought of another. I think what some of
15 the information I gave Mr. Graham, what I consider
16 self-protective, that's a form of judgment.

17 There is illnesses and there is conditions where people
18 don't use good judgment. Example, you can have attention
19 deficit disorder and people are very impulsive. They blurt
20 out the first thing that comes to their mind. That's poor
21 judgment.

22 There are persons who are psychotic that perhaps they
23 are hearing voices and they hit people or they do things
24 that voices tell them to do. That's poor judgment.

25 Self-protective judgement is that you make decisions

1 that are helpful to you. You are not doing things that are
2 impulsive. You are not doing things that are endangering
3 other people at this point.

4 An example of protective behavior that I gave was,
5 number one, that you never talked to the police. You did
6 not give a statement about your crime. You waited until
7 court. You told Mr. Graham yesterday that you were not
8 trusting of officials. You didn't want your words to be
9 minced, basically, and that you waited until the appropriate
10 time to give that judgment.

11 Other examples of self-protective judgment that you
12 have used, when you cross-examined me back in January, I
13 thought that your questions on cross-examination were using
14 good judgment. You were asking pertinent things.

15 So self-protective judgement is that you are not doing
16 things based on mental illness. You are not doing things
17 based on impulsivity, and you are trying to protect
18 yourself.

19 And the best example I can give you is when I first met
20 you. The first time that I evaluated you, I asked you why
21 were you not using your attorney. And sometimes persons
22 with mental illness will give psychotic reasons for that,
23 and you didn't. Your answer to me was "I know this case
24 better than anybody else and I care the most about it and I
25 want to present it." That would be self-protective

1 judgment.

2 Q. And, if I may, Dr. Schwartz-Watts, I prefer not to give
3 any testimony between me and you.

4 THE COURT: No, sir. No, sir, you have called her
5 as a witness. She has testified as to the basis of her
6 opinion.

7 MR. WALKER: Inside the examination, Your Honor?

8 THE COURT: Please don't -- Mr. Walker, please
9 don't interrupt me again.

10 MR. WALKER: I don't know what --

11 THE COURT: Please don't interrupt me again.

12 I'm going to refer you to the South Carolina Rules
13 of Civil Procedure. "No attorney shall interrupt another in
14 the course of his argument." It is implicit that no
15 attorney shall interrupt the court.

16 Don't interrupt me, Mr. Walker.

17 MR. WALKER: I didn't say anything, Your Honor.

18 THE COURT: That is nonverbal conduct. Do you
19 understand?

20 MR. WALKER: I do not --

21 THE COURT: Don't say anything. Don't do
22 anything. Don't interrupt me.

23 That is the basis of her opinions. That is
24 responsive to the question that you asked.

25 Ask your next question, Mr. Walker.

1 MR. WALKER: Can I put something on the record,
2 Your Honor?

3 THE COURT: I'm going to refer you to Rule 18,
4 argument on objections. I objected -- I overruled your
5 objection to strike something from the record.

6 MR. WALKER: Well --

7 THE COURT: Don't interrupt me, Mr. Walker.

8 "Counsel shall not attempt further arguing any
9 matter after he has been heard and the ruling of the court
10 has been announced."

11 You have been heard. I have pronounced my ruling.
12 I want no further argument.

13 Ask your next question.

14 MR. WALKER: Your Honor, I'm trying to put
15 something on the record.

16 THE COURT: Ask your next question, Mr. Walker.

17 MR. WALKER: All right. My next question is for
18 you, doctor.

19 BY MR. WALKER:

20 Q. We was talking about the self-protective behavior and
21 you gave some testimony as it may have been stipulated as
22 self-protective behavior contributed to the time of the
23 victim's death.

24 Could you -- could you -- what does that say?

25 MR. WALKER: Before you give that testimony, Your

1 Honor, I have an emergency. I have to use the restroom in
2 an emergency.

3 THE COURT: Ask your next question, Mr. Walker.

4 MR. WALKER: I'm about to use the restroom on
5 myself, Your Honor. Can I use the restroom?

6 THE COURT: Court will be in recess fifteen
7 minutes, Mr. Walker.

8 MR. WALKER: Thank you so much, Your Honor.

9 THE COURT: Doctor, you may step down. Please do
10 not discuss your testimony during this brief recess.

11 MR. WALKER: Thank you so much, Your Honor.

12 (Whereupon, proceedings were recessed)

13 (Whereupon, proceedings were reconvened).

14 THE COURT: Thank you.

15 How many more witnesses do you have on the stand
16 your ground hearing, Mr. Walker?

17 MR. WALKER: Give me a second, Your Honor.

18 (Off the record).

19 (Back on the record)

20 MR. WALKER: Anywhere up to nine.

21 THE COURT: Nine?

22 MR. WALKER: Anywhere up to nine.

23 THE COURT: All right. Nine more?

24 MR. WALKER: Yes, sir.

25 THE COURT: All right. Thank you, Mr. Walker.

1 How many more witnesses -- how many witnesses, if
2 any, does the State intend to call on the stand your ground?

3 MR. GRAHAM: I wasn't planning on calling any
4 witnesses, unless Your Honor needed to hear something.

5 THE COURT: Unless what?

6 MR. GRAHAM: Unless your Your Honor needed to hear
7 something.

8 THE COURT: Oh. To quote Justice Sotomayor,
9 "people may not think I quo marriott." The judge rules on
10 the records. I don't ask for witnesses to be called. I
11 rule on what's in the record. And I always like to quote
12 Justice Sotomayor. I read some of her cases. It's
13 fascinating, and I'm sure that you have read them all,
14 solicitor.

15 MR. GRAHAM: I have not, Your Honor.

16 THE COURT: Well, once you finish your copy of the
17 the Federal Inspectors, perhaps you can start with Justice
18 Sotomayor's opinions.

19 Nine more witnesses, at the rate we have gone --
20 of course, we had Mr. Walker's testimony. We had Mr.
21 Banty's testimony. We had appearance by Ms. Banty, the
22 young lady. Lieutenant Smith's, and now Dr. Maddox that we
23 have not yet completed. So four witnesses took us about
24 four hours yesterday. Well, actually four hours yesterday
25 and about an hour. Five hours, or so. I'm not going to

1 hold this jury captive any longer and I'm trying to
2 determine whether to bring them back later on this afternoon
3 or not, quite frankly.

4 Do you have -- I will be delighted to listen to
5 your opinion on that, Mr. Walker, because we then have the
6 Jackson v. Denno hearing.

7 MR. WALKER: Your Honor, if I may, these witnesses
8 should be pretty quick. I'm not saying that it's going to
9 go quick. I'm just saying that they should periodically go
10 very quick through witnesses, if I can get there.

11 THE COURT: Solicitor?

12 MR. GRAHAM: I would suggest for Your Honor to
13 consider maybe that we have the jury go and either they call
14 back at some point this afternoon, or they call back at the
15 end of the day. We are still -- in addition to his, we
16 still have the Jackson v. Denno, which we have four people
17 from the State to call on that issue.

18 THE COURT: All right. Thank you.

19 Would you bring us our jury, please?

20 THE BAILIFF: Yes, sir.

21 (The following takes place in the presence of the
22 jury panel)

23 THE COURT: I said 10:50, right?

24 THE JURY: Yes, sir.

25 THE COURT: Ladies and gentlemen of the jury

1 panel, I apologize for holding you captive as long as I have
2 this morning. The parties -- it's not the fault of the
3 parties. They were not here on time, but they were here
4 earlier working -- earlier than 9:30. We started at 8:30
5 this morning, working very diligently to get the case in the
6 position to begin the trial.

7 It's very difficult to estimate the time it takes
8 to have these as they call it in-camera hearings. They are
9 outside the presence of the jury and I have to listen to
10 testimony and make certain rulings and certain decisions
11 that affect the flow of the trial of the case. I have not
12 yet completed those hearings and do not want to -- I guess
13 I'm too much of an optimist and I'm too hard headed. I
14 should have learned forty something years ago that good
15 trial lawyers, parties, can't tell time. A good trial judge
16 told me that one time and I just never got that through my
17 hard head.

18 So rather than hold you captive, I'm going to
19 release you and ask you to call the phone number provided at
20 1:30 today. At 1:30 today the phone number at the clerk's
21 office. Don't go on the Internet because she tells the
22 clerk then has to go through IT and post it, but if you
23 would call at 1:30 today, I would be in a better position to
24 have a message on there to either have you report at two
25 o'clock -- if you call by 1:30, can you be here by two?

1 Anybody have a problem with that, or it will tell you to
2 back in the morning. It would be one of the two. I don't
3 want to keep you coming back and forth. I want you here
4 working, just like I want to be here working.

5 It's an important case. It's important to Mr.
6 Walker and it's important to the State, and it's not some
7 type of judicial marathon. I allow the parties to present
8 whatever evidence and testimony that is compliant with the
9 Rules of Evidence, of course, so -- so that I can make my
10 decision, so it would be in a position to go to court and
11 trial jury.

12 Again, I apologize. I know y'all won't hold it
13 against any of the parties. If you hold it against anyone,
14 which I don't think that you will, hold it against me. We
15 have all heard the wheels of justice move slow, sometimes
16 they're flat, sometimes they are running on the hub. It
17 means it's just the nature of the criminal and the civil
18 justice system.

19 We lost one of our jurors because of a medical
20 emergency with a parent. I have excused that juror. So
21 outside of your presence we have had an election to promote
22 one of our alternate jurors to the primary jury. And the
23 law is very scientific and precise in how you conduct that
24 election. You put three numbers in a cup and you pull one
25 out, so they are randomly selected. Not in the order in

1 which they were chosen, but in whoever number comes out of
2 the -- I call it the milk shaker cup for other reasons, but,
3 at any rate, in this case our first alternate's name came
4 out. So juror number 36 -- I like that smile. Juror number
5 36, you have now been promoted to a member of the primary
6 jury.

7 Again, remember my instruction. Don't talk about
8 the case with anyone, fellow jurors, family, friends, lunch
9 mates, anyone else. Don't read, watch, listen to any news
10 reports. Do not do any independent research or any research
11 on the Internet or otherwise...

12 And madam Clerk -- do y'all have the phone numbers
13 to call?

14 THE BAILIFF: I'll give it to them.

15 THE COURT: All right. Mr. Neal will take care of
16 it. Thank y'all. Thank y'all very much. Thank you for
17 your patience.

18 (The following takes place outside the presence of
19 the jury panel)

20 THE COURT: All right. Doctor, please come up.

21 All right, Mr. Walker, you may ask your next
22 question.

23 BY MR. WALKER:

24 Q. The -- I haven't -- I don't exactly recall what I --
25 where I left off. Do you? Do you recall the last question

1 I give you? Can you -- can you give that testimony?

2 A. I don't recall. I'm sorry.

3 Q. Okay.

4 A. I do, actually. I believe the last question we were
5 discussing had to do with you being self-protective, using
6 self-protective judgment.

7 Q. All right. Do you recall what factors go along with
8 that?

9 A. Yes, and I believe I answered those. I'm glad to do
10 that again if you would like.

11 Q. No, I'm going to move on to the next question.

12 The solicitor brought up the issues about a runaway was
13 consistent of -- of basically what's known in the law as
14 flight, basically running -- running from prosecution of the
15 charge. In your opinion, would you say that -- that my
16 state of mind concluded I flight -- I believe that's what
17 the solicitor was getting at, that I believe you were giving
18 him a positive opinion as to that?

19 A. Oh, no, no, I -- I can't give an opinion. I'm -- I'm
20 not saying that your behaviors afterwards indicated flight.
21 I'm saying that your --

22 All I can do is look at what your behaviors were and
23 know what your mental illness is and know there is symptoms
24 and my opinion was it could be either. You certainly have
25 had periods of time where I think confusion would be sort of

1 some of those difficulties you have had in the past, or it
2 could be that you were delusional. I think either one of
3 those are reasonable explanations for some of your conduct
4 after that -- after the offense.

5 Q. And in the solicitor's testimony, did he -- or the
6 solicitor's question to you, he inquired that -- that as I
7 run away, do you think that I run away not to get caught and
8 you give a positive opinion on that?

9 A. I said that could be possible.

10 Q. Possible. All right.

11 A. Yes.

12 Q. So there is no factor in that, is that correct?

13 A. That's correct. Again, the best I can do -- I can't
14 know somebody's mind. I certainly know the things that you
15 have told me and I certainly know your history of illness,
16 your behaviors that are associated when you are ill and you
17 reported on the stand yesterday that you were certainly
18 confused and that you -- you had had some physical
19 sensations and so that would be consistent with symptoms of
20 illness, or it could be consistent with someone trying to
21 flee, so either one, and I can't say which.

22 Q. All right. And during the solicitor's -- and during
23 the solicitor's testimony on the stand the solicitor asked
24 you on violent -- or violent and aggressive behavior and he
25 asked you basically the demeanor and the mean and aggressive

1 behavior and violent and you come to the conclusion that in
2 2013 I was -- you come to the conclusion that I was very
3 violent and had -- I had a very past and violent and
4 aggressive behavior and the solicitor asked how do you come
5 to that opinion and you gave the fact that in 2013 I was
6 admitted to Correct Care, and the only stipulations that you
7 give was that I was very calm at first and then there was
8 like an episode that you -- that the psychotic -- or the
9 psychiatric providers thought that I was -- that it maybe
10 psycho and that I -- that a patient -- that I hit a patient
11 and it was in that place. Do you relevantly think in your
12 opinion that that would be what you give testimony as actual
13 a state of mind, that I have a violent and aggressive
14 behavior state of mind that carries with me due to the
15 facts?

16 A. I don't think so at all. I -- I think you are
17 general -- when you are psychotic, there has been a history
18 of you being aggressive associated with psychosis, but not
19 when you are not suffering symptoms of your illness. I
20 don't have any evidence to the otherwise.

21 Q. All right. So basically in your opinion you wouldn't
22 say that I'm aggressive or violent?

23 A. With the caveat when you are not having symptoms of
24 your mental illness.

25 I don't have a history that would indicate that your

1 natural -- that your nature is to be aggressive, but I do
2 have a history that when you are acutely psychotic, you have
3 had aggressive behavior.

4 Q. Does your opinion -- do you opinion -- in your opinion
5 that my -- my -- my condition is -- what is known to you as
6 your opinion my conditions, as far as psychiatric?

7 A. I diagnosed you with schizophrenia.

8 I also diagnosed you with a neurocognitive impairment,
9 as you have some difficulties with some of your cognitive
10 functions, your ability to pay attention, your ability to
11 remember things, and I have those further assessed.

12 And you also have, of course, the genetic mutation that
13 causes you to have the blood clots and the pulmonary emboli.
14 Those have been your major conditions.

15 Q. All right. And you stated that my conditions basically
16 at certain periods would make me violent and aggressive.

17 Is there any factors which you can think of that would
18 set these aggressive behaviors or to episode that would lead
19 to a violent or aggressive behavior?

20 A. That's a really good question. The best that I can
21 talk about -- and I also was looking for things that would
22 maybe predict when those events happen. I couldn't
23 really -- in reviewing the records of certainly Dr.
24 Frierson's report and Correct Care, the discharge summary
25 from Dr. Griswold, I'm not sure that anyone knew kind of the

1 specifics that cause that. I know that in the past you have
2 had some delutes that people are trying to hurt you. The
3 best that I could tell is that it's been in conjunction when
4 you were paranoid about other people, and it's specifically
5 in that hospitalization you -- you -- your report was I
6 believe that you thought your roommate was spitting on you
7 and trying to harm you.

8 Q. All right. I believe he did spit on me.

9 Now, when I asked you that question, you give testimony
10 that -- that people -- that people generally -- or that I --
11 that you have no fact to state your opinion on that I
12 have -- that I need any factuls in the last question I
13 asked you. Could you give an opinion as to -- is there any
14 facts that would set off a violent or aggressive behavior to
15 someone in my condition that is not me? Do you know of any
16 facts that would stipulate -- like can you stipulate -- and
17 you can use the testimony that's been -- that you have given
18 this court. You can use that in your opinion and -- and
19 address -- would any of those facts that you have heard be
20 relevant to set off aggressive behavior that are -- violent
21 behavior?

22 A. Yes, certainly. Whether someone is psychotic or not --
23 and Mr. Graham had done that. He's kind of going through
24 those factors when people have mental illness.

25 I did want you to understand we can't predict

1 dangerousness, but we are experts in exacting that. So when
2 you have an aggressive act, you look at the magnitude of the
3 act. How great was it? Was it tripping someone, snapping
4 someone versus killing them or checking them? So we look at
5 the magnitude of the aggression.

6 You look at how frequently it happens. Is it something
7 that happens every day? Is it something because a person is
8 impulsive? Is it episodic kind of acts of aggression?

9 So your history has been that you have had episodic
10 acts of aggression.

11 In looking at your record, it's noted that usually when
12 you have been aggressive, you have either been in treatment,
13 you were deemed to be very psychotic, that you were not in
14 your normal state of mind, okay?

15 Q. Okay.

16 A. You -- that's -- that's factor specific to you.

17 There are certain general factors that people were
18 being assaulted or people are defending themselves, that
19 isn't necessarily -- that's not explained by mental illness.
20 That can be anyone. If they perceive they are being
21 attacked, then they defend themselves.

22 So you have general factors that -- in your situation,
23 but you also have specific factors because of your mental
24 illness.

25 Q. Could you pinpoint any factors that would be relevant

1 to me or someone else in the testimony that you have heard
2 in this court that would pinpoint aggressive or violent
3 behavior towards the victim or the victim towards me?

4 A. Yes, I listened to your testimony yesterday. I
5 certainly have your testimony and your perception was that
6 you were in danger. That could be the product of mental
7 illness. That could just be your perception without being
8 mentally ill.

9 Q. So you think my mental illness would be relevant in the
10 fashions of the fact that the deceased died in the manner
11 she did?

12 A. I have given an opinion you had -- one of the things I
13 have been asked to do over the course of -- certainly not
14 what I've done. It's the court. My role in evaluating you
15 was to determine whether you were competent to represent
16 yourself and it's been my opinion that you have been.

17 I did not look at your criminal responsibility
18 evaluation, per say. Dr. Frierson did that, but I have
19 shared his opinion. Dr. Frierson and I -- I looked at your
20 records and it's been my opinion that you would have had a
21 mental illness event, but certainly my opinion was that you
22 knew right from wrong, but that certainly that your illness
23 could have played a part in your misperceptions.

24 MR. GRAHAM: Your Honor, I would object to that
25 and move to strike that answer. From the beginning the

1 defendant has claimed that he's not going to interject any
2 kind of mental health defense, be it either insanity or
3 guilty but mentally ill, and that's the history throughout,
4 so I would ask you to strike it. It's not relevant to your
5 decision or would it be available to go to the jury during
6 the trial itself.

7 THE COURT: All right. Mr. Walker?

8 MR. WALKER: Yes, Your Honor. I was -- I
9 understand what the State is getting at.

10 My -- my reason for asking that question in the
11 form I did is basically because I -- I didn't address
12 insanity in there. I addressed basically my state of mind.

13 Now, the State has stipulated as to the insanity.
14 Therefore, it's not relevant to what he has -- he's already
15 been on objection, but as I was getting at, I was getting at
16 she -- she addressed that -- that -- I mean, I have
17 tendencies to violent and aggressive behavior, and,
18 therefore, violent and aggressive behavior can be,
19 therefore, stand on its own part. It also can be effect for
20 a state of mind, and I was bringing it into conclusions
21 as -- as to -- in her expert opinion does she see any
22 violent or aggressive behavior that would factuate any
23 conditions or anything that happened within the testimony to
24 view.

25 THE COURT: May I see Court's 1, Madam Court

1 Reporter?

2 All right, I would overrule the objection and
3 decline to strike that.

4 You may ask the next question.

5 MR. WALKER: Thank you, Your Honor.

6 I have no more questions.

7 THE COURT: Recross, solicitor?

8 MR. GRAHAM: No, Your Honor. Thank you.

9 THE COURT: Thank you. Thank you very much, Dr.
10 Maddox.

11 THE WITNESS: You are welcome.

12 May I be excused?

13 THE COURT: Any objections to the doctor being
14 excused, Mr. Walker?

15 MR. WALKER: Excused from this hearing. She is
16 still standby for trial.

17 THE COURT: All right. Thank you. Thank you very
18 much, doctor.

19 All right, you may call your next witness, Mr.
20 Walker.

21 MR. WALKER: Defense calls Sara Hughes.

22 THE COURT: Ms. Hughes.

23 MR. GRAHAM: The last time we talked to Ms.
24 Hughes, she said she was going to Florida during the trial
25 and wasn't going to be here, so I don't know anything about

1 her being subpoenaed.

2 THE COURT: All right.

3 MR. WALKER: Your Honor, if I may, I would like to
4 motion for -- I don't know if she's --

5 May I approach -- not approach. May I approach
6 the podium?

7 THE COURT: Yes.

8 MR. WALKER: Your Honor, I would like -- I motion
9 for her to be compelled to be here. I think it's relevant
10 for my defense for her to be here. I don't know if she's
11 actually in Florida, although the stipulations would be.

12 I spoke with my PI and he just told me that he has
13 tried to serve her but she is refusing to be served and
14 would -- what facts within that I do not know. Maybe he can
15 tell us more about that.

16 THE COURT: So your next witness, the person that
17 you just called to be your next witness, has not been served
18 with a subpoena,

19 MR. WALKER: She was tried to -- she was -- she
20 was served but --

21 THE COURT: Answer my question.

22 The next witness you called to be a witness has
23 not been served with a subpoena?

24 MR. WALKER: She was tried to -- attempted to
25 serve.

1 THE COURT: Answer my question. The last name you
2 called is a witness for trial.

3 Step back up here, Mr. Walker.

4 MR. WALKER: Sorry.

5 THE COURT: Has not been served with a subpoena,
6 yes or no?

7 MR. WALKER: No, Your Honor. I thought she was
8 served. The private investigator attempted to serve her but
9 she refused service, so I motioning for compulsion.

10 THE COURT: All right. Well, I would deny that
11 motion if she has not been served.

12 MR. WALKER: Is it irrelevant that she was tried
13 to be served and she refused service? She refused to --

14 THE COURT: It would be relevant only if you made
15 a motion that the court issue a bench warrant. That would
16 only be if she had been served. A person who has not been
17 served is not required to attend court. It has to be proper
18 service.

19 MR. WALKER: All right. Let me see -- let me ask
20 my PI and see if she was properly served.

21 THE COURT: Excuse me?

22 MR. WALKER: May I see how she was properly
23 served?

24 THE COURT: You just told me she wasn't served.

25 MR. WALKER: May I have him give testimony? May

1 he explain the situation real quick?

2 THE COURT: He could have given testimony at 8:30
3 this morning, but you can call him now, if you would like
4 to, Mr. Walker.

5 MR. WALKER: May I put him on the stand, Your
6 Honor?

7 THE COURT: Did you not hear me either?

8 MR. WALKER: I'm -- Your Honor --

9 THE COURT: I said you may call him if you would
10 like to.

11 MR. WALKER: The defense calls Christopher
12 Watkins.

13 CHRISTOPHER WATKINS, having been first duly sworn,
14 testified as follows:

15 THE CLERK: Have a seat, sir.

16 Once you are seated, state your full name,
17 spelling your last, please.

18 THE WITNESS: Christopher James Watkins,
19 W-A-T-K-I-N-S.

20 DIRECT EXAMINATION BY MR. WALKER:

21 Q. Welcome, Mr. Watkins.

22 Relevantly speaking with the court on subpoenas,
23 relevantly did you serve Sarah Ann Hughes and what was --
24 what was the facts in servicing her?

25 A. Service on Sarah Hughes was attempted.

1 I'm going to refer to my notes.

2 On the date that she was -- that service was attempted
3 there were vehicles present at that residence. There were
4 people present within the residence. They would not come to
5 the door.

6 Upon leaving the residence I got a text message from
7 the number associated with your mother that were at -- and I
8 quote "I am so sorry."

9 My further attempts to make contact with her by phone
10 were ignored.

11 I can't compel her to accept a subpoena and why she
12 opens her door.

13 Q. All right. Was there any other witnesses that was
14 attempted to be served and was not served, potential
15 witnesses?

16 A. Yes, and you have a list that I provided you yesterday
17 the witnesses that were served and the witnesses that were
18 not served.

19 I have a list here of twenty-four witnesses.

20 Q. That's correct. There has been some witnesses that
21 have testified here that you served. Is there any potential
22 witnesses that you tried to serve and that would not accept
23 service via an facts or stipulations?

24 A. Would you like me to go through the list of names that
25 were not served and explain --

1 THE COURT: What is the relevance of this
2 testimony as regards to Ms. Hughes?

3 MR. WALKER: Nothing, Your Honor. I'm sorry.

4 THE COURT: All right. If you have questions as
5 to Ms. Hughes, you may ask them.

6 BY MR. WALKER:

7 Q. Can -- for the record can you state a foundation to
8 your attempts to address her?

9 A. That was on February 19th, and that was approximately
10 1:30 in the afternoon.

11 Q. Thank you, Mr. Watkins.

12 MR. WALKER: The defense has no more questions.

13 MR. GRAHAM: Nothing, Your Honor.

14 THE COURT: All right. Thank you. Thank you, Mr.
15 Watkins. You may step down.

16 THE WITNESS: May I step down?

17 THE COURT: Yes, I'm sorry. I thought I said
18 that. I apologize.

19 All right. Anything further, Mr. Walker?

20 MR. WALKER: I have another witness, Your Honor.

21 THE COURT: All right. You may call your next
22 witness.

23 MR. WALKER: The defense calls David Richard
24 Walker, Sr..

25 THE COURT: Mr. Walker?

1 (No response)

2 THE COURT: Do you see Mr. Walker in the
3 courtroom?

4 MR. WALKER: I do not, Your Honor.

5 THE COURT: All right.

6 All right. You may call your next witness.

7 MR. WALKER: Your Honor, may I bench warrant that
8 witness?

9 THE COURT: All right. Do you have a copy of the
10 subpoena for proof of service?

11 MR. WALKER: If you give me one second I'm pretty
12 sure my PI has it.

13 (Off the record).

14 (Back on the record).

15 MR. WALKER: Your Honor, may I approach?

16 THE CLERK: Yes, sir.

17 THE COURT: Was Mr. Walker, Sr. Present yesterday?

18 MR. WALKER: Not to my recollection, Your Honor.

19 THE COURT: Do you have a phone number for Mr.
20 Walker, Sr.? Is there a phone number for him, a contact
21 number?

22 MR. WALKER: One second, Your Honor.

23 (Off the record).

24 (Back on the record).

25 MR. WALKER: Your Honor, telephone for David

1 Walker, Sr. Is --

2 THE COURT: Can you get that phone number, Madam
3 Clerk?

4 THE CLERK: Yes.

5 THE COURT: Just copy it down, Madam Clerk.

6 THE CLERK: Just make you a copy of it, Your
7 Honor?

8 THE COURT: I don't want all of it. I just want
9 the number. I want the clerk to have the number for Mr.
10 Walker, Sr..

11 MS. MAULDIN: Yes, sir.

12 THE COURT: And Mr. Walker, it appeared you have
13 asked for certain information to be produced on
14 February 21st, which was yesterday, it appears 9:30 a.m..
15 Were these items produced to you or your investigator or any
16 of your agents, your standby counsel?

17 MR. WALKER: No, sir. No, Your Honor. Nothing
18 was produced.

19 THE COURT: Was there any contact between you or
20 your investigator or standby counsel with Mr. Walker between
21 the 19th -- the 19th would have been Sunday. The 19th of
22 February and the 21st of February at 9:30 a.m. as to whether
23 or not Mr. Walker, Sr. Had these items that there was a
24 request for them to be produced? With that being an or
25 yourself, but I'm just asking about these items.

1 MR. WALKER: Your Honor, he -- Your Honor,
2 Christopher Watkins asked for me that he spoke with Mr.
3 Walker, Sr. And that he said that he would be here, but he
4 would not produce them items is what he told the
5 investigator.

6 THE COURT: So from Mr. Watkins speaking to Mr.
7 Walker, Mr. Walker, Sr. Indicated that he would be here?

8 MR. WALKER: That's correct, Your Honor.

9 THE COURT: Okay. Madam Clerk, would you call Mr.
10 Walker at that number at the appropriate time and see if he
11 can appear in court this afternoon? Just talk with him.

12 I'm going to have the clerk's office make contact
13 with him.

14 We don't know if he was here or not yesterday, is
15 that correct, Mr. Walker?

16 MR. WALKER: I'm pretty sure he wasn't. I viewed
17 the courtroom and I did not see him in here, but that's
18 not -- I'm not a --

19 THE COURT: I will have the clerk's office follow
20 up on it.

21 MR. WALKER: Thank you, Your Honor.

22 THE COURT: It does appear to be proper service.
23 All right. You may call your next witness.

24 MR. WALKER: My next witness is going to be Kyle
25 Walker.

1 THE COURT: Kyle Walker?

2 (No response).

3 THE COURT: As I recall from the testimony, that
4 is your younger brother?

5 MR. WALKER: That is correct, Your Honor.

6 THE COURT: And did you have a copy of the
7 subpoena and proof of service?

8 MR. WALKER: If I may approach, Madam Clerk?

9 THE COURT: Madam Clerk, would you --

10 I'm sorry, if that subpoena on Mr. Walker, Sr. Is
11 the same date and time as this one, it has an 8:30 a.m. on
12 February 21st. That may be an 8. I thought it was a 9, but
13 I'm not sure.

14 MR. WALKER: Your Honor, may I move for the
15 exhibit subpoena --

16 THE COURT: I couldn't quite hear you.

17 MR. WALKER: May I move to exhibit and be provided
18 a copy of the subpoena.

19 THE COURT: They can be Court's Exhibits.

20 MR. WALKER: That's fine.

21 THE COURT: I don't have any objection to that.

22 (Subpoena of David Walker, Sr. Was marked as
23 Court's Exhibit No. 3 for identification0.

24 (Subpoena of Kyle Walker was marked as Court's
25 Exhibit No. 4 for identification)

1 MR. WALKER: Also, Your Honor, may have I exhibit
2 Mr. Christopher Watkins notes on David, Sr., which
3 includes --

4 THE COURT: I apologize, Mr. Walker. I can't hear
5 you. It's no criticism of you. I can't hear you.

6 MR. WALKER: Yes, sir.

7 Can you hear me now?

8 Your Honor, I would like to exhibit Charles
9 Watkins notes, investigator notes, and basically just his
10 information on Sara Hughes, Kyle Walker and David Walker,
11 Sr..

12 THE COURT: David Wilkerson?

13 MR. WALKER: Walker. David Walker, Sr..

14 THE COURT: I guess subpoena -- I'm glad to have
15 those notes, number one, marked as a Court's Exhibit, if you
16 allow me to see them, please, Madam Clerk.

17 And as to the subpoena served on Mr. Kyle Walker,
18 it appears -- it appears that they were just items that were
19 subpoenaed, a number of items.

20 Have any of those items been produced to either
21 you or any of your paid investigator, standby counsel?

22 MR. WALKER: Nothing I requested, Your Honor.

23 THE COURT: It appeared -- in the subpoena of Mr.
24 Kyle Walker, it appeared it was served also 2-19-2017.

25 Did that subpoena request certain items?

1 MR. WALKER: Yes.

2 THE COURT: Has any of those items been presented
3 to either you or any of your agents, your investigator,
4 standby counsel, or anyone else acting on your behalf?

5 MR. WALKER: No. No, Your Honor.

6 THE COURT: Have there been conversations between
7 you, your investigator, standby counsel, or any other person
8 acting on your behalf with Mr. Kyle Walker concerning these
9 items?

10 MR. WALKER: Your Honor, my investigator Chris
11 Watkins has stated that he attempted to call him in regards
12 to the items, but he has not made any contact, so there have
13 been no issues as far as him actually just being subpoenaed
14 with an actual subpoena. He was served.

15 Your Honor, if I may?

16 THE COURT: Yes, sir.

17 MR. WALKER: Yes, sir, Your Honor. Mr. Watkins
18 asked -- informed me that he has attempted to call Kyle
19 Walker, but he's not answering his phone call.

20 THE COURT: All right. And these -- this document
21 that you have handed up to me -- handed up to me through
22 Madam Clerk, that's got the phone numbers of Kyle Walker,
23 David Walker, Sr., Sara Hughes, and also what looks like
24 some kind of Internet account for Mr. Kyle Walker, is that
25 correct?

1 MR. WALKER: Yes, sir, Your Honor.

2 THE COURT: All right. I will have the clerk call
3 Mr. Kyle Walker and find out why he has not responded to a
4 validly issued and served subpoena.

5 All right. Anything further, Mr. Walker?

6 (Phone Number List marked as Court's Exhibit No. 5
7 for identification)

8 MR. WALKER: Yes, sir, Your Honor, I would like to
9 call Eugene Ray, but I would like just one second. I was
10 going to call another witness, but I have just been told
11 that my PI wasn't available -- or couldn't find him and he
12 was supposed to check over night and I haven't had time to
13 speak with him until now on this issue.

14 THE COURT: So who do you want to call now?

15 MR. WALKER: Eugene Ray.

16 THE COURT: Eugene Ray?

17 MR. WALKER: Yes, sir.

18 THE COURT: Is Mr. Ray in the courtroom?

19 (No response).

20 MR. WALKER: I'm sorry, Your Honor, he wasn't
21 served. The PI said he was avoiding service of the
22 subpoena.

23 THE COURT: Is there another witness that you have
24 that you want to call? Is there any witness in the
25 courtroom that you want to call, Mr. Walker?

1 MR. WALKER: Mark Wharton, West Columbia Police
2 Department.

3 THE COURT: Officer Wharton seems to be present.
4 Officer, come forward please.

5 OFFICER MARK WHARTON; having been first duly
6 sworn, testified as follows:

7 THE CLERK: Have a seat, sir.

8 Once you are seated, state your full name,
9 spelling your last, please.

10 THE WITNESS: My name is Mark Wharton,
11 W-H-A-R-T-O-N.

12 DIRECT EXAMINATION BY MR. WALKER:

13 Q. If you would bear with me one second, Mr. Wharton. I'm
14 trying to find some evidence.

15 (Off the record).

16 (Back on the record).

17 BY MR. WALKER:

18 Q. Yes, sir, how are you doing today?

19 A. Just fine.

20 Q. All right. I'm David Walker. As you may have heard,
21 I'm a pro-se defendant.

22 Within the stipulations of your subpoena asked you for
23 any and all reports, documents and objects in the
24 above-captioned case and are David Richard Walker, Jr., and
25 Catherine Carrie Banty? Did you bring any reports with you?

1 A. I have the reports.

2 Q. May I have them?

3 THE COURT: You haven't received these reports
4 during discovery?

5 MR. WALKER: I did, Your Honor, but they were
6 damaged.

7 THE COURT: They what?

8 MR. WALKER: They was damaged. That's why I
9 resubpoenaed them.

10 THE COURT: Well, why are you wasting the court's
11 time if you have received them and just didn't ask for
12 copies of reports that were damaged?

13 MR. WALKER: Because I was told by the State I'm
14 not getting anything else and the State is only one that
15 hold the records and I don't want --

16 THE COURT: You have an investigator.

17 MR. WALKER: I asked them, Your Honor, last night
18 to produce them this morning and he refused to produce them.
19 They didn't produce them.

20 There are certain tasked I asked and many tasks --

21 THE COURT: I'm sitting up here -- I'm sitting up
22 here wasting the court's time, not my time, because the
23 court's time is not my time.

24 MR. WALKER: Right.

25 THE COURT: It doesn't have anything to do with me

1 personally over a copy of reports?

2 Madam Clerk, will you make copies of whatever
3 report this officer has brought, please, clerk?

4 (Off the record).

5 (Back on the record).

6 MR. WALKER: Your Honor, may I bring something to
7 the court's attention?

8 THE COURT: Of course, Mr. Walker.

9 MR. WALKER: Ms. Christopher Watkins, he has
10 tasked and to do a lot of tasks and I -- he told me he
11 couldn't do them, but he hasn't did it. It's been numerous
12 tasks I have asked him to do.

13 THE COURT: Look, I'm not playing games with
14 either side, but I'm not going to sit up here and mediate
15 over copies being made.

16 MR. WALKER: I'm not --

17 THE COURT: And I don't expect any judge in South
18 Carolina to do that. I expect when parties say they are
19 ready, they are prepared for trial, to try their case. And
20 I'm not going to waste this court's time and that jury's
21 time mediating this. This isn't directed to you, Mr.
22 Walker, solely. It's directed to the parties, that's
23 plural. That's not -- that's not what I'm going to do.

24 Sheriff, would you make copies for me, please, of
25 any reports that have to do with this case?

1 That's what that is, officer?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. If you would make copies
4 for me, please.

5 Do you have further questions that you want to ask
6 Officer Wharton.

7 MR. WALKER: Not at this time until I receive the
8 report.

9 THE COURT: May I see the damaged reports?

10 MR. WALKER: I don't think I have them with me.
11 If I had them, I would have used them. I don't have -- I
12 believe they are in my cell.

13 THE COURT: I want them produced to this court
14 before the end of the week, the damaged reports.

15 MR. WALKER: Yes, if I still have them, Your
16 Honor, I will produce them to the court. I'm not sure.

17 THE COURT: I thought you just said you didn't
18 have them with you. Did you shred them, Mr. Walker?

19 MR. WALKER: Yeah, I said -- I said they was
20 damaged and I --

21 THE COURT: You said they were damaged. That's
22 all you said.

23 MR. WALKER: May I repeat what I said, Your Honor?

24 THE COURT: I want to see the damaged reports
25 before the end of the week.

1 MR. WALKER: May I repeat what I said, Your Honor?

2 THE COURT: If you have already said it, I have
3 already heard it. Do I have to have repeat what I hear?

4 MR. WALKER: If Your Honor is not offended, I
5 don't think that you heard me properly.

6 THE COURT: I did hear you properly and you said
7 they were damaged.

8 MR. WALKER: Your Honor, I stated they were
9 damaged and that I may or may not have them in my cell.

10 THE COURT: That's the second -- that's the second
11 time, Mr. Walker.

12 I want to see those reports before this week is
13 completed, period. Do you understand me? You got me?

14 MR. WALKER: I'm going to try to.

15 (Off the record).

16 (Back on the record).

17 THE COURT: That's the copies of --

18 THE WITNESS: Yes, sir.

19 THE COURT: -- that you provided and shared for
20 me, please. Thank you, officer.

21 Yes, sir.

22 MR. GRAHAM: For the record, Your Honor, I would
23 like to say that we have provided discovery related to Mr.
24 Wharton's, Officer Wharton's, involvement I believe on two
25 different batches of discovery May 21st, 2013, and November

1 4th of 2015, at numerous discovery hearings with Judge
2 Griffith, and he has never claimed that any report by
3 Officer Wharton that come out of office was damaged.

4 THE COURT: Thank you. Thank you, solicitor.

5 All right. Mr. Walker, you had the opportunity to
6 review those reports?

7 MR. WALKER: That's correct, Your Honor.

8 THE COURT: All right. You may ask your next
9 question.

10 MR. WALKER: All right.

11 BY MR. WALKER:

12 Q. All right, Mr. Mark Wharton, you are employed with the
13 West Columbia Police Department, correct?

14 A. Yes, I am.

15 Q. Correct.

16 On 12-17-2012, at approximately 2200 hours of a
17 twenty-four hour clock you responded to a call that was
18 given to you by West Columbia dispatch, is that correct?

19 A. Correct.

20 Q. Within that -- within that -- within that call could
21 you tell me a little bit about what happened?

22 A. I responded to an original call at [REDACTED] Alexandria
23 Street of a complaint of someone that was going to burn down
24 the house.

25 I talked to a Tonya Banty and -- the mother of

1 Catherine Banty, and said there was a problem with a David
2 Walker, that he was off his medication and acting crazy and
3 not to send a child. She said she didn't know him very well
4 and couldn't give me the address, but gave me the general
5 direction from where he lived. And at that time I came and
6 spoke with you at that time at your residence.

7 Q. Once you spoke with me, did you basically seen I was on
8 the cell phone just casually enjoying the outdoors on my --
9 on my outdoor patio, and you come up to me and stated
10 that -- you inquired into me about me burning down a
11 residence or wanting to hurt someone and also mental health
12 medications, is that correct?

13 A. I asked you if there was a -- if you made any inquiries
14 or statements or was planning on doing any harm and you
15 stated no.

16 Q. All right. And then did you talk to Catherine Carrie
17 Banty prior to speaking to me?

18 A. Not prior to speaking with you, no.

19 Q. All right. Would it not be protocol for West Columbia
20 to speak with the caller first rather than straight to --

21 A. The caller was the mother of the perilous, because I
22 went there first, to that address.

23 Q. All right. I was --

24 Okay. Next question. You say that in your report that
25 David's demeanor was calm and unsurprised that we were

1 there. Can I inquire -- can I inquire as to why you said
2 that I was unsurprised?

3 A. Dealing with the public sometimes they like officers
4 and sometimes they don't. Your demeanor was fine. No
5 apparent threat. Even when we go to residents, sometimes
6 they are not happy to see us and the demeanor can be
7 different. Yours was calm and collected.

8 Q. So just -- just for your consideration, unsurprised was
9 basically not acknowledging or not -- not -- not -- not
10 being surprised and wanting to irritate the situation, is
11 that right?

12 A. Correct.

13 Q. Thank you.

14 When you spoke with Ms. Banty, what did she inform you?

15 A. She informed me that she wanted you committed, that you
16 were off your medications.

17 Q. Did she inform you that that was a lie as irrelevant
18 because she also stated that she lied to you about me
19 stating that I burned down -- making that allegations that I
20 burned down a house? Did she acknowledge that she was lying
21 at that point?

22 A. She made no statements to you burning down a house.

23 Q. Well, here in the report you say that -- that Ms. Banty
24 made a report that I threatened to burn down a residence
25 that we cohabitated in.

1 A. Stated that you had done things in the past, that she
2 was concerned.

3 Q. But before she said that she did acknowledge to you
4 about burning down the home, is that correct?

5 A. No, there was no -- there was no -- no threat from
6 that. That was the original call that came out.

7 Q. How did you get the -- or, I'm sorry.

8 How did you get the information about the burning down
9 a residence?

10 A. That's how the call came out on the radio.

11 Q. You don't have that with you today, do you, the
12 recording of your call?

13 A. I don't know if it came in on 911 or a regular call.

14 Q. And West Columbia dispatch record calls, especially
15 after they turn out to be on the side -- maybe have a
16 database that you can go back and -- you are -- basically
17 your radio communication is recorded and in cases like this,
18 do you record and produce them and save them as evidence to
19 produce these? Do you somehow or other?

20 A. Dispatch phone records are recorded, along with 911.
21 Whether they are kept for a certain time, whether those were
22 saved, I do not know.

23 Q. Then you are saying you didn't bring them with you, is
24 that correct?

25 A. No.

1 Q. Thank you.

2 A. But if you read the statement, I did ask the victim if
3 you had made any -- if you made any threats and she stated
4 that you did not make any threats to the statement there.

5 Q. So from your knowledge you don't know who come up with
6 the conclusion that I was threatening to burn down a house,
7 whether it was Robin Banty or whether it was Catherine or
8 some other person, is that correct, or outside person?

9 A. I have no idea. When it comes over the radio, I
10 just -- I respond to it.

11 Q. All right.

12 MR. WALKER: I have nothing further, Your Honor.

13 THE COURT: Solicitor?

14 MR. GRAHAM: No questions, Your Honor.

15 THE COURT: Can you tell me the date again? I
16 didn't get that.

17 THE WITNESS: 12-17.

18 THE COURT: Thank you.

19 Any objections to the officer being excused, Mr.
20 Walker?

21 MR. WALKER: He is excused from the stand your
22 ground, but he's not excused from the trial, Your Honor.

23 THE COURT: All right. Thank you. You may step
24 down.

25 All right, you may call your next witness.

1 All right, you may call your next witness.

2 MR. WALKER: Yes, Your Honor. Give me one second,
3 please.

4 (Off the record)

5 (Back on the record)

6 MR. WALKER: I call Darrell Kostyk. The defense
7 calls Darrell Kostyk from the Aiken County Sheriff's
8 Department.

9 THE COURT: All right. You can come around,
10 please.

11 OFFICER DARRELL KOSTYK, having been first duly
12 sworn, testified as follows:

13 THE CLERK: Have a seat, sir.

14 Once you are seated, state your full name,
15 spelling your last, please, on the record.

16 THE WITNESS: Darrell James Kostyk, K-O-S-T-Y-K.

17 THE COURT: All right, Mr. Walker.

18 MR. WALKER: Your Honor, I'm looking for the file
19 before I -- I thought I had it in one place and I didn't.
20 It's somewhere else, Your Honor.

21 (Off the record).

22 (Back on the record).

23 MR. WALKER: I found it, Your Honor.

24 Is he under oath, Your Honor?

25 THE COURT: I'm sorry?

1 MR. WALKER: If the court may answer that
2 question?

3 THE COURT: Sir?

4 MR. WALKER: Is he under oath?

5 THE COURT: Madam Clerk?

6 THE CLERK: Yes, sir, Your Honor.

7 MR. WALKER: All right. Thank you, Your Honor.

8 DIRECT EXAMINATION BY MR. WALKER:

9 Q. Mr. Kostyk, you responded to a supermarket in
10 Warnerville in Aiken County on 12-17, the year 2012, is that
11 correct?

12 A. I was there. I didn't respond to a call there.

13 Q. Right.

14 Could you tell me relevantly why you was in that area?

15 A. I was on routine patrol in the area I'm assigned to
16 supervise and I was observing a convenience store that
17 frequently is the victim of robbery around the Christmas
18 holidays.

19 Q. All right. When you say assigned, are you speaking
20 with a supervisor or some outside party of your government
21 entity, Aiken County Sheriff's Office?

22 A. I am the road patrol supervisor, but I'm assigned to
23 one half of the county or the other.

24 Q. Okay. All right.

25 Relevantly you say that you was in the area. You -- in

1 the recording that I reviewed of the interaction between me
2 and you, you state that you was blacked out in reference to
3 a robbery somewhere, or in the robberies that you are
4 concerned about in that convenience store that you just
5 announced?

6 THE WITNESS: I'm not sure I understand the
7 question, Your Honor.

8 BY MR. WALKER:

9 Q. I'm saying in -- in the statement -- in the video that
10 was produced to me through chain of evidence by the State
11 there was interactions between me and you basically when I
12 was apprehended. In that video you state you was blacked
13 out observing assumption -- something I believe inaudible,
14 but you stated that you was blacked out and you was blacked
15 out because you was observing a robbery, attempted robbery
16 that you was talking about.

17 A. I was observing a convenience store, being as
18 inconspicuous as I could possibly be, meaning I had all my
19 lights out.

20 Q. All right. From your knowledge is it lawful to have --
21 to make public surveillance in that process?

22 A. Of course.

23 Q. Okay. All right.

24 Can you tell me in your own words basically the first
25 part of the interaction between me and you, basically just

1 legitimately and as brief as possible how we interacted and
2 the reason we interacted together?

3 A. Sure. I was observing a convenience store. It was
4 next to a grocery, a small supermarket grocery store. It's
5 a -- it's not a large chain grocery store. It's a privately
6 owned business. I was doing so because the convenience
7 store is frequently robbed over the Christmas time of the
8 year.

9 While doing so I observed a person, who I later
10 identified as you, Mr. Walker, in the parking lot of the
11 grocery store that I observed for a little bit of time. It
12 appeared to be consistent with casing out the convenience
13 store to conduct a robbery, so I approached you and intent
14 on finding out what you were doing there. But at the time
15 the business was closed.

16 And I would also point out to you that this was a high
17 crime area.

18 When I began interacting with you, your behavior was
19 odd to me. I asked you several questions, namely what were
20 you doing there. You really didn't have any answer for me.
21 And due to your behavior, I asked you -- eventually asked
22 you if you were wanted, at which you responded -- I asked
23 you if you had a warrant and you responded to me that you
24 did.

25 At that point in time I placed you at a position of

1 disadvantage of basically off balance against my patrol
2 vehicle and asked got your name and date of birth to check
3 for the warrant you told me that you had. I relayed that
4 information to my dispatcher. And while I was waiting, I
5 asked you what you thought that you were wanted for and you
6 told me for murder.

7 Q. All right. You said that you placed me in a protective
8 position after I asked you do you have any warrants.
9 Lawfully is that correct procedure for law enforcement?

10 A. I have every legal right to protect myself.

11 Q. Even without -- what -- on that certain date what was
12 your -- what was your issues to protect yourself?

13 A. You told me that you were wanted. I observed you
14 behaving in a manner that I found consistent with someone
15 who was potentially going to rob a convenience store.

16 Q. If I told you that your statement was inconsistent to
17 what the video shows, what would you say to that?

18 A. I don't know what that means.

19 Q. Inconsistent means not the same.

20 I'm saying that I have a video that should show that
21 once you asked do I have any warrants, I do not say yes, but
22 I say no.

23 And then you asked me if anyone is out to get me and a
24 couple of other questions, and then eventually I say at
25 your -- at your questioning -- I believe you inquire --

1 inquire -- inquiry was --

2 You first asked me if I had any warrants. I stated no.

3 And then -- and then you asked me if I was wanted or
4 anybody was out to get me for any reason or if anybody
5 wanted to harm me and I said no.

6 And then you said is any entity or any person, specific
7 person, trying to harm you, or looking for you for a
8 specific reason and I stated yes; murder. Would that be
9 consistent?

10 A. I would tell you that you saying all those things is
11 completely false.

12 Q. All right. So -- all right. What gives you -- back --

13 In law enforcement you say that you was protecting
14 yourself because I had a warrant and you stated that that
15 was your sole reason for putting me in the protective
16 position.

17 Would you say that it is common procedure that anybody
18 that's wanted for a warrant to put them in a protective -- I
19 mean, basically force them and handcuff them and put them in
20 a car because they are wanted for a warrant? Is that proper
21 procedure?

22 A. If they are found to be actually wanted for the
23 warrant, then all of those things do occur, yes.

24 Q. So if -- if just saying out of the ordinary, out of
25 relevantness to this case, but irrelevant to that question,

1 but relevant to this question, if -- if someone was arrested
2 for -- for -- if someone was under suspicion of --

3 Specifically if you stopped somebody lawfully or
4 interacted with the public and you went up and asked that
5 person if they had a warrant and -- and once that person
6 says I may have a warrant, or I do have a warrant, then your
7 typical -- you say in law enforcement typical reason is to
8 protect yourself and place them in handcuffs and/or force
9 them in any position that fits to protect themselves? Is
10 that what you are saying, because I'm saying it's
11 consistently -- because earlier you said you have all rights
12 to protect yourself -- all rights to protect yourself in
13 general, and I believe that's so, as many issues go with
14 police officers, but I'm not saying that you have a -- that
15 you have the right to --

16 THE COURT: Mr. --

17 MR. WALKER: Yes, sir, Your Honor.

18 THE COURT: Mr. Walker, is there a question in
19 there?

20 MR. WALKER: There is a question.

21 THE COURT: Well, ask your question.

22 BY MR. WALKER:

23 Q. All right. So would you say that it's -- I mean, you
24 said it was substantial to place someone to help protect
25 yourself. And I -- you say -- in your statement I said what

1 kind of warrants and you say -- and for the record, are --
2 me and you are inconsistent of what --

3 THE COURT: Ask -- get to the question, Mr.
4 Walker.

5 MR. WALKER: Yes, sir, Your Honor.

6 BY MR. WALKER:

7 Q. In -- I have a video that will show that you further --
8 further interrogated me after -- in your statement.

9 MR. WALKER: All right. I'm going to start with a
10 question, Your Honor. I'm trying to do this properly. I
11 know I'm pro se. I'm not a skilled attorney, so I'm trying
12 to --

13 THE COURT: Sir, I agree with that, but you have
14 chosen to represent yourself. I understand that, but you
15 have chosen to represent yourself. That's your choice
16 freely, voluntary, knowingly and intelligently.

17 MR. WALKER: Thank you, Your Honor.

18 BY MR. WALKER:

19 Q. If I said that our statements are -- that your report
20 says do you have any warrants and then I -- I, Mr. Walker,
21 responded yes. And then you inquired what kind of warrants
22 and what for? And then -- and then I responded murder. You
23 would say that's -- that's -- you would agree that that's in
24 your report, correct?

25 A. The gist of what you said is, yes.

1 Q. All right. And then it further -- further in your
2 report that Mr. Walker verbally states his name, David
3 Richard Walker, Jr., [REDACTED]-1982, and immediately after I want
4 an attorney. Is -- did that -- does that give cause to
5 further inquire into -- I mean, in your profession in your
6 knowledge of law enforcement would you further question
7 someone after that?

8 A. I certainly could if they are not under arrest.

9 Q. Are you -- are you -- all right.

10 So would you not think that it would be typical to read
11 them their Miranda Warnings at that point?

12 A. If they are not under arrest, then I'm not -- they are
13 not charged with any crime, there is no reason for Miranda.

14 Q. Would you say that this would be consistent to what a
15 normal -- in the law and -- in law enforcement as a Terry
16 stop?

17 A. Absolutely.

18 Q. And you would say it just was a legit Terry stop?

19 A. I would.

20 Q. And within a Terry stop you don't think that -- in your
21 profession and your opinion you don't think that after
22 someone asks for a warrant, that it should be conceded that
23 they be read their Miranda Warnings?

24 A. I'm not charging any crime. I have no concern with
25 Miranda, sir.

1 Q. But you do, for the record, know what Miranda Warning
2 is, is that correct?

3 A. Certainly, sir.

4 Q. All right. And is there any facts that you can produce
5 that --

6 THE COURT: Is there any what?

7 BY MR. WALKER:

8 Q. Is there any facts that the witness -- that you can
9 produce that may be relevant to why you didn't produce a
10 Miranda Warning?

11 A. I did not charge you with any crime, sir. I conducted
12 an interaction with you. It led to the unexpected statement
13 that you had murdered someone. Nothing about this
14 interaction was normal from that point on.

15 Q. All right. So to interrogate somebody, to ask
16 questions, you are saying -- your opinion is to ask somebody
17 questions they should be read their Miranda Warnings, but at
18 this point it was not present, is that correct?

19 A. If you are charged with a crime and the law enforcement
20 entity wants to question you about such crime, then, yes,
21 you need to be read -- advised of your Miranda Rights.

22 Q. Outside of the stipulation that -- outside of the
23 stipulation that I wasn't being arrested -- all right.

24 All right. Outside it was stipulated I wasn't being
25 arrested, would you give any reasoning as to why not to read

1 Miranda Warnings?

2 THE COURT: No, sir, I don't understand the
3 relevancy of this. Miranda applies to custodial --

4 MR. WALKER: That's what I was getting at, Your
5 Honor. I'm sorry I interrupted you.

6 THE COURT: -- custodial interrogation. It's at
7 least those two prongs. Taken into custody does not trigger
8 Miranda. It's interrogation.

9 MR. WALKER: Your Honor, by State v. Terry,
10 anybody that is placed in handcuffs is therefore --

11 THE COURT: State v. Terry is a death penalty case
12 out of Lexington County.

13 MR. WALKER: I think -- I got it somewhere in this
14 stack.

15 THE COURT: And that was Terry v. Ohio. This is
16 classic. Detective McFadden of the Cleveland Police
17 Department when he arrested Terry and Chilton.

18 MR. WALKER: What was that last part, Your Honor?
19 I didn't hear you.

20 THE COURT: Chilton was the co-defendant of Terry.
21 Detective McFadden was the detective that arrested Terry and
22 Chilton. He was observing them casing out a liquor store,
23 and this is classic. This officer is observing.

24 How is this relevant to stand your ground?

25 MR. WALKER: All right. I -- because it was

1 produced as discovery, Your Honor, and as evidence to me and
2 I don't know if Your Honor may be able to view it and it
3 maybe taken into consideration the statements and I believe
4 that they're very inconsistent from I say what happens and
5 what the officer said. And --

6 THE COURT: How is it consistent with what
7 occurred on 10 December 2012?

8 MR. WALKER: Because -- I'm trying to -- I'm
9 trying to understand. I asked my standby counsel, if I may?
10 Your Honor, if I may, I'll answer your question.

11 THE COURT: I mean, it may be -- it may be
12 relevant to Jackson v. Denno.

13 MR. WALKER: It -- it -- I'm not getting into
14 that, Your Honor.

15 THE COURT: You may talk to your standby counsel.
16 I'm just not tracking you, Mr. Walker. I apologize.

17 MR. WALKER: Your Honor, I wasn't --

18 THE COURT: You may talk to your standby counsel.

19 MR. WALKER: If I may, Your Honor?

20 THE COURT: Yes.

21 MR. WALKER: I was saying that I wasn't stating
22 that I needed to talk to her. I was stating that I did talk
23 to her and I was trying to relevantly understand.

24 You said earlier that you was going to make a
25 verdict -- you was speaking with the State and you was going

1 to make a verdict off the record and I was understanding
2 that this --

3 THE COURT: Off the record? I have never said I'm
4 going to make a verdict off the record.

5 MR. WALKER: I mean off the -- I'm sorry, I didn't
6 say off. I said on.

7 THE COURT: All right.

8 MR. WALKER: If I may --

9 THE COURT: Sir?

10 MR. WALKER: Isn't my opportunity further, further
11 my -- what I'm telling you, I'm stating to you -- what I'm
12 stating to you when --

13 THE COURT: Yes, sir, I'm not tracking you at all,
14 Mr. Walker.

15 MR. WALKER: What I'm saying is I'm getting at
16 that -- that this -- this report right here that has been
17 produced by the State as discovery and as evidence against
18 me, I know that Your Honor is going to view certain evidence
19 in this case to make your verdict. Therefore, I'm not --
20 I'm pinpointing straight points to produce of evidence that
21 has been produced, because it's under my understanding, even
22 though there is a difference between stand your ground and
23 there is a difference between a criminal trial, all evidence
24 which is inside is capable of being used. And, therefore,
25 Your Honor has said that you were going to make a verdict of

1 what is produced, and I do not understand whether you are
2 saying what is produced in open court or whether you was
3 produced in whole, and, therefore, I'm pinpointing -- I'm
4 pinpointing strength in my defense and I'm producing
5 defense.

6 And I do understand what you are at, Your Honor,
7 but I don't understand if this will be relevant -- if -- if
8 his testimony or this report would not be relevant to your
9 view -- views to make a verdict, then I'm nowhere, but if
10 you were -- if you are going to review this stuff, Your
11 Honor, for your verdict, then I have to stand on the strong
12 parts.

13 THE COURT: I'm not the one not tracking. You are
14 the one not tracking.

15 For a stand your ground hearing you have the
16 preponderance of the evidence.

17 For a Jackson v. Denno hearing, the State has the
18 burden of proving the voluntariness of the statement to the
19 court first by a preponderance of the evidence. So the
20 State would have to call witnesses first. Then you could
21 call witnesses in reply. You could testify yourself. They
22 bear the burden on the Jackson v. Denno.

23 You bear the burden on the immunity under the
24 protection of property and persons act.

25 So I'm just asking you what does this officer's

1 testimony have to do with the Jackson v. Denno hearing? How
2 does it -- how does it relate to the Jackson v. Denno
3 hearing?

4 MR. WALKER: I didn't say Jackson v. Denno. I
5 don't know why --

6 THE COURT: Sir?

7 MR. WALKER: I don't know why the court is
8 addressing Jackson v. Denno. I don't -- I never addressed
9 Jackson v. Denno. I addressed Terry versus -- Terry -- the
10 State v --

11 THE COURT: The second thing that you said up here
12 to me was I have two motions; stand your ground, Jackson v.
13 Denno.

14 MR. WALKER: At what time is Your Honor speaking
15 of?

16 THE COURT: The day before -- the same day we drew
17 the jury. Before we drew the jury you said you had two
18 pretrial motions; stand your ground and Jackson v. Denno.
19 We also discussed it yesterday.

20 MR. WALKER: From my understanding, Your Honor, we
21 are not at a Jackson v. Denno hearing.

22 THE COURT: Exactly.

23 MR. WALKER: Well, what are you --

24 THE COURT: That's my understanding too. So why
25 is this officer testifying in the stand your ground hearing?

1 What does he have to do -- no disrespect to this officer
2 whatsoever. What does he have to do with 10 December 2012,
3 on Alexandria Street in West Columbia?

4 MR. WALKER: I -- Your Honor, I have no more
5 questions and I -- I have no more testimony to produce. I'm
6 finished, Your Honor.

7 THE COURT: If he -- Mr. Walker, if you think this
8 officer is relevant to the stand your ground questioning,
9 I'm not tracking it.

10 MR. WALKER: Well, the reason I think it's
11 relevant, Your Honor, is because there is -- there is
12 statements about murder, Your Honor, and, therefore -- the
13 State has alleged murder, and, therefore, this --

14 THE COURT: You think that's good for you?

15 MR. WALKER: No, I -- I never said anything about
16 good or --

17 THE COURT: You called him as a witness.

18 MR. WALKER: Yeah, I'm trying to clear up being
19 contested. I already stated that, Your Honor, that his
20 statement and my statements are inconsistent.

21 Police reports could be falsified, Your Honor.
22 Videos can be falsified. I'm trying to --

23 THE COURT: You testified to that.

24 MR. WALKER: Your Honor, excuse me?

25 THE COURT: I believe you testified to that,

1 either during your direct or your cross-examination by the
2 solicitor. And I think part of during the cross-examination
3 you objected to the solicitor asking you about that.

4 MR. WALKER: I now hereby close, Your Honor. I
5 close my -- I close -- I have no further witnesses and I
6 close with this witness, and, therefore, you are able to
7 proceed with the Jackson v. Denno, unless the State has
8 something to say.

9 THE COURT: What about Mr. Walker, Sr. And Kyle
10 Walker and Sarah Hughes?

11 MR. WALKER: It -- it would be relevant. Their
12 testimony -- all three of their testimonies would be very
13 strong and very relevant testimony as to what happened at
14 that time and within close proximity of this homicide.

15 THE COURT: But are you closing down your stand
16 your ground?

17 MR. WALKER: No, I'm not -- I'm not -- I'm not
18 taking it -- I still want the court to make a verdict on
19 this. I'm not sure --

20 THE COURT: I'm not saying I'm not going to make a
21 decision. Are there other witnesses that you want to call?

22 MR. WALKER: No, sir, Your Honor. I just stated I
23 no longer want any more witnesses and I no longer at this
24 point have any more testimony, unless the State has
25 something.

1 THE COURT: Well, what about Mr. Walker, Sr., Kyle
2 Walker and Sarah Hughes?

3 MR. WALKER: Their testimony would be very
4 relevant, Your Honor, to what happened basically as far
5 as -- as far as -- their testimony was -- the testimony that
6 I'm trying to extract from them is very close to the time
7 and it would be right at pinpoint as to the deceased and
8 death and my stand your ground.

9 If Your Honor can't bench warrant, or whatnot,
10 then, I mean -- you know, I don't know how the court is
11 going to address this. I don't know. I have given it to
12 the court. There has been service. I don't know what I can
13 do. I can't make them be here, Your Honor. I'm not God.
14 I'm not Jesus, Your Honor.

15 THE COURT: Madam Clerk, did you talk to Mr.
16 Walker, Sr.?

17 THE CLERK: Yes, sir, I did.

18 THE COURT: Can he be here at 8:30 in the morning?

19 THE CLERK: He said he could be here at 9:15.
20 He's trying to get things squared away. They are at the
21 house. He was not aware he had to be here.

22 Per him, he was told by the investigator when he
23 was served that he would be notified when he needed to be
24 here. He said he would need at least a day, so please let
25 him know ahead of time.

1 And he said he also told that same information to
2 the solicitor, that they said they would call -- put him on
3 phone standby.

4 THE COURT: All right.

5 THE CLERK: I cannot get in touch with Mr. Kyle
6 Walker. His phone's voicemail is not set up and I tried it
7 six times and it kept going to saying it was no mailbox.

8 THE COURT: Where is this, Colleton County or
9 Dorchester? Colleton?

10 THE CLERK: I believe it's Colleton. It's
11 Walterboro. He's in the town of Walterboro, so he didn't
12 even know how to get here, so I gave him directions. He
13 wrote the directions down on how to get here.

14 THE COURT: You got any questions for this officer
15 at this time, solicitor?

16 MR. GRAHAM: Not for the stand your ground
17 hearing, Your Honor.

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

19 THE WITNESS: Thank you.

20 THE COURT: Yes, sir, Mr. Walker.

21 MR. WALKER: Your Honor, I just wanted to
22 acknowledge that it may be relevant, that I acknowledged
23 that the court that I -- that the witnesses, Kyle, Sarah and
24 also David, Sr., will be pretty quick. So that's -- it
25 should only take a few seconds. Maybe they could be

1 compelled to be here today? And I know what time it is, but
2 I don't know what's going on.

3 THE COURT: Have you given the jury notice, Madam
4 Clerk?

5 THE CLERK: I have not. I have been waiting for
6 you to tell them what to tell them.

7 THE COURT: Tell them to call back after six
8 o'clock tonight.

9 THE CLERK: Yes, sir, Your Honor.

10 THE COURT: Please.

11 THE CLERK: May I be excused just for a minute to
12 put the message on?

13 THE COURT: Yes, ma'am.

14 Solicitor, have y'all had contact with Kyle
15 Walker?

16 MR. GRAHAM: Your Honor, we spoke with Kyle
17 Walker. I don't remember the exact date. It probably would
18 have been last week sometime, or maybe the week before. He
19 has a job in a manufacturing plant, I believe, and is only
20 available at breaks and lunch hour, so we had trouble
21 getting him on the phone.

22 THE COURT: Only available what?

23 MS. DAVIS: He was only available to talk by phone
24 during his breaks, or lunch hour, or whatever. I think he
25 had a manufacturing job and he was on the floor. We last

1 spoke to him on the 9th of February. We had served him a
2 subpoena prior to that date and -- we served a subpoena on
3 the 6th. We spoke to him on the 9th. And in our
4 conversation on the 9th we told him, as far as the State was
5 concerned, he was on standby. We would call him if we
6 wanted him.

7 THE COURT: Can you have him up here at 8:30 in
8 the morning?

9 MR. GRAHAM: We will do our best to have contact
10 with him and get him here at 8:30 tomorrow morning.

11 THE COURT: Let me know by the end of the day.

12 MR. GRAHAM: Yes, sir, Your Honor.

13 THE COURT: Does the State have any evidence or
14 testimony to present in the stand your ground hearing?

15 MR. GRAHAM: My thought was -- at this particular
16 moment, no. My thought was that we would do the Jackson v.
17 Denno and then you would make your ruling, as far as what
18 was admissible or not to your petition on the stand your
19 ground, and I was going to make a motion for a directed
20 verdict on the stand your ground motion. And if it was
21 denied, then I would -- that's my understanding of how it
22 works. If I'm wrong, I apologize to the court.

23 THE COURT: I think yesterday -- you may be saying
24 the same thing, solicitor. I'm not sure, but I said I
25 wanted to hear all the stand your ground and then I will

1 hear the Jackson v. Denno and will not make a decision on
2 either one until I have heard all of it, because Mr. Walker
3 brought up issues that some of the testimony that had been
4 elicited during the stand your ground, his allegation is it
5 is not voluntary, so I have to hear it all, both all the
6 State's Jackson v. Denno and all of his, of course, before I
7 could rule on the stand your ground, because part of the
8 rule that it was not voluntary, then I couldn't make it part
9 of my decision on the stand your ground. We may have just
10 said the same thing. I'm not sure.

11 MR. GRAHAM: I think -- yes, Your Honor, I think
12 you did.

13 THE COURT: Well, let's take about an hour recess.
14 I have already notified the jury to call back after six
15 o'clock.

16 MR. GRAHAM: Yes, sir.

17 THE COURT: All right. Thank you.

18 Thank you, Mr. Walker.

19 We are going to take about an hour recess.

20 MR. WALKER: Yes, Your Honor.

21 (Whereupon, proceedings were recessed)

22 (Whereupon, proceedings were reconvened)

23 THE COURT: All right. I think, solicitor, we are
24 at the point, Mr. Walker, of the Jackson v. Denno, is that
25 correct?

1 MR. GRAHAM: Wherever you want me to go. I can do
2 Jackson v. Denno, or I can call witnesses for stand your
3 ground from the State, Your Honor.

4 THE COURT: Thank you. Great answer.
5 Anything before the solicitor calls his witness,
6 Mr. Walker?

7 MR. WALKER: I didn't hear that. He was coughing,
8 Your Honor.

9 THE COURT: You didn't hear the solicitor or you
10 didn't hear me?

11 MR. WALKER: I didn't hear you, Your Honor.

12 THE COURT: Anything before the solicitor calls
13 his first witness in the Jackson v. Denno?

14 MR. WALKER: No, sir, Your Honor.

15 THE COURT: All right. Thank you.

16 You may call your witness, solicitor.

17 MR. GRAHAM: If Your Honor wouldn't mind, I did
18 have Dr. Ross here for the stand your ground.

19 THE COURT: Oh, okay. All right. So you --

20 MR. GRAHAM: I could do her out of order so that
21 we could let her get back to Newberry.

22 THE COURT: Yes, sir, I thought we finished stand
23 your ground, but you may call Dr. Ross, of course.

24 MR. GRAHAM: Okay. I'm sorry, Your Honor.

25 To be clear, we have three witnesses that we are

1 going to call in the stand your ground.

2 THE COURT: All right. I misunderstood that.

3 Thank you.

4 You may call your first witness.

5 MR. GRAHAM: Thank you, Your Honor.

6 The State calls Dr. Janice Ross.

7 DR. JANICE ROSS, having been first duly sworn,
8 testified as follows:

9 THE CLERK: Have a seat, doctor.

10 Once you are seated state your full name, spelling
11 your last name.

12 THE COURT: Good afternoon, doctor.

13 THE WITNESS: Hi.

14 Janice Edwards Ross, R-O-S-S.

15 DIRECT EXAMINATION BY MR. GRAHAM:

16 Q. Dr. Ross, you're a forensic pathologist?

17 A. Correct..

18 Q. How many autopsies have you done?

19 A. Over eleven thousand.

20 Q. How many times have you testified as an expert as a
21 forensic pathologist?

22 A. About two hundred and thirty times in South Carolina.

23 MR. GRAHAM: Your Honor, the State would offer Dr.
24 Ross as an expert in the field of forensic pathology.

25 THE COURT: Any objections, Mr. Walker?

1 MR. WALKER: I didn't hear that, Your Honor. I'm
2 sorry.

3 THE COURT: Sir?

4 MR. WALKER: I didn't hear that.

5 THE COURT: All right. The State has offered Dr.
6 Ross as an expert in forensic pathology. Do you have any
7 objections?

8 MR. WALKER: No, sir, Your Honor.

9 THE COURT: All right. Thank you.

10 She is qualified. Dr. Ross is certainly qualified
11 as an expert in the field of forensic pathology.

12 BY MR. GRAHAM:

13 Q. Dr. Ross, did you have an opportunity to do an autopsy
14 on Carrie Banty?

15 A. Yes.

16 Q. What was the date of that autopsy?

17 A. That was December 12th, 2012, at 9:30 a.m..

18 Q. Initially what was your understanding from information
19 that you gained to the police as the potential cause or --
20 what was your understanding from the police about their
21 investigation as the cause of your autopsy?

22 A. That the coroner called for and gives history that Ms.
23 Lee (sic) was found dead in her residence; that her five
24 year old daughter was found outside by a passerby. There
25 was some drug paraphernalia around. Had a history of

1 bipolar disorder and drug abuse.

2 Q. In addition to that, did officers bring you --

3 Let me show you a photograph and ask if you recognize
4 this?

5 A. Yes. There were two contusions or bruises on the left
6 upper arm and a belt nearby and it appeared that possibly
7 the belt was used as a tourniquet.

8 MR. WALKER: Objection, Your Honor.

9 THE COURT: What's the basis of your objection?

10 MR. WALKER: I can't see what he's providing the
11 witness.

12 THE COURT: Well, he will show it to you before he
13 offers it for identification purposes. He's only asked the
14 officer -- excuse me, he's only asked the doctor can you
15 identify this and what it shows. It's not in evidence yet.

16 MR. GRAHAM: Your Honor, at this time the State
17 would offer it into evidence for the purpose of the stand
18 your ground hearing.

19 THE COURT: All right. Would you show it to Mr.
20 Walker, please?

21 Any objections, Mr. Walker?

22 MR. WALKER: I -- I object to it being as
23 evidence. He's says due to the fact that it only was
24 produced -- when was it produced, Your Honor? Basically
25 that -- I chose to -- basically the evidence has been

1 destroyed via -- I was going to test it for skin cells test.

2 THE COURT: No, sir, we are not talking about
3 evidence destroyed. We are talking about this photograph.
4 Do you have objections to this photograph being offered into
5 evidence for purposes of this hearing?

6 MR. WALKER: No, sir, Your Honor.

7 THE COURT: All right. For purposes of this
8 hearing. What would be the number, solicitor?

9 MR. GRAHAM: I believe that's the State's piece of
10 evidence, Your Honor.

11 (Photograph marked as State's Exhibit No. 1 for
12 identification)

13 THE COURT: State's 1 for identification purposes
14 only is entered.

15 BY MR. GRAHAM:

16 Q. Dr. Ross, looking at State's No. 1 for this, what was
17 the purpose of that belt being brought to you and what were
18 your conclusions?

19 A. Just to identify whether this belt could have made the
20 bruises. It is the same size, but it's consistent with it,
21 but that's not the only thing that could have made those
22 bruises.

23 Q. Where were you bruises on that you say that that belt
24 would have been consistent with?

25 A. The left upper arm above the elbow.

1 Q. In addition to that, were there any marks on Ms.
2 Banty's arms that appeared to be puncture wounds?

3 A. There was one underneath that, yes.

4 Q. And what does that appear to be? Is that underneath
5 the same arm that the belt was on?

6 A. It's possible, yeah.

7 Q. In addition to that, when you did your external
8 examination of Ms. Banty, what did you find?

9 A. Multiple bruises. I found what we call petechiae in
10 the eyes, which occurs when there is pressure around the
11 neck. It has to do with pressure built up in the blood
12 vessels and blood tries to come back down from the head
13 towards the heart. Blood backs up and leaks out of small
14 capillaries and causes little red dots and that's what we
15 call petechiae.

16 She had other bruises on her arms, on her knees, on the
17 top of her feet.

18 And as we did the autopsy, underneath the skin we could
19 see a lot of bruising around the collarbones and in that
20 area.

21 Q. Did she have any -- when I say defensive wounds, what
22 am I referring to?

23 A. Defensive wounds are usually seen -- what we call
24 defense wounds are seen on the forearms or the hands just
25 indicating that the person saw something coming at them and

1 tried to defend themselves.

2 Q. Did you see any -- when you looked to Carrie's hands,
3 did you see any evidence, for instance, that she had thrown
4 punches, or anything like that?

5 A. No, the hands were clean. There was some bruising and
6 abrasions on the forearms.

7 Q. Do you have an opinion as to how those happened?

8 A. Some of them -- they weren't patterned, but some of
9 them -- for instance, the right upper arm were small and
10 round and could be fingertips, as if somebody was holding --
11 squeezing the arm.

12 Q. What other injuries on the external examination did you
13 find? I think there was -- what was on her left upper
14 shoulder?

15 A. That was a bruise that was about -- it was oval shaped.

16 Q. Do you know the approximate size of that one?

17 A. It's -- let's see the picture.

18 Approximately an inch and a quarter in the greatest
19 dimension.

20 Q. Any opinion as to how that was caused?

21 A. No. Again, it could be from a fist, or it could be
22 from an elbow, or being held down across her collarbones.

23 Q. On her -- does that accurately describe her upper body
24 on the external examination? Have you covered everything,
25 as far as bruising that you noticed and abrasions on the

1 upper body?

2 A. Yes, those little bruise on the nose, bridge of the
3 nose. Otherwise the mouth was clean and no injury inside
4 the mouth.

5 Q. How about her lower body? What did you find on
6 external examination?

7 A. She had -- she had abrasions over both knees that were
8 not patterned. They -- it's difficult to tell what they
9 were caused by.

10 There was abrasion on the top of her left foot, almost
11 at the ankle, and there was some small bruises on the
12 anterior right ankle and foot.

13 Q. Were any of those abrasions on her foot postmortem?

14 A. One looked to be postmortem. That was the one on the
15 left foot.

16 Q. Can you describe that one, what that looked like?

17 A. Well, it's no pattern to it.

18 From say postmortem, it looks more yellow based than
19 red, so it indicates that the circulation was not going --
20 was not intact at the time. There was no circulation, so
21 there was no blood to cause a red color.

22 Q. Did you at some point get a toxicology report back?

23 A. Yes.

24 Q. And what were the results of the toxicology report?

25 A. It was negative except for a very, very small amount of

1 alcohol.

2 Q. Now, let's talk about the -- what is an internal
3 examination?

4 A. When we open up the body and look at the organs of the
5 chest and abdomen and the neck and head.

6 Q. Could you describe to the judge what you found during
7 the internal examination?

8 A. Just mostly was intact. Most of the bruising was
9 superficial, and there was some -- there was no natural
10 disease of the heart blockage, etcetera.

11 Q. Did you see any evidence of contusions that showed up
12 on the dissection that didn't show up externally?

13 A. Well, over the collarbones mostly.

14 Q. Could you describe those and what you mean by that?

15 A. Bruises, they were in the fat over the collarbones that
16 were not totally visible external, on the top of the skin.
17 They were deep.

18 Q. How about around her neck? What did you find there on
19 the dissection?

20 A. There was a -- there was no -- no bruising there.

21 Q. The trachea and larynx, what did you find there?

22 A. They were intact, no fractures.

23 Q. So as an expert in the field of forensic pathology,
24 after your examination, the results of the toxicology
25 report, do you have an opinion as to the cause and manner of

1 Ms. Banty's death?

2 A. Yes.

3 Q. And what is that?

4 A. This was asphyxiation. The brain was not getting
5 oxygen due to the strangulation.

6 Q. There was a -- one thing I think we didn't talk about.
7 Was there a contusion to her head when you did the internal
8 examination?

9 A. There was --

10 Q. I'm sorry -- yeah, I meant internal.

11 A. Yes, there was, sort of on top of the head.

12 Q. Can you describe that?

13 A. It was -- it was no pattern to it. It was towards the
14 front middle area and there was a little bit more on the
15 right side.

16 Q. Did you find any medical evidence of seizures?

17 A. Well, seizures, the only evidence you ever see is --
18 sometimes, not in all seizures, is a biting of the tongue,
19 so you see bruises, but I did not see that.

20 Q. What is -- hypothetically, if someone applies
21 pressure --

22 Well, explain to me what causes a loss of consciousness
23 regarding pressure on the neck?

24 A. Yes, the pressure on the neck very rarely fractures
25 any -- the larynx or any bones, or even bruises the muscles

1 of the neck. What it does is collapses the blood vessels,
2 and especially the veins. The veins bring blood back from
3 the brain down towards the heart. And when you close those
4 off, then there is a lot of blood left in the brain and the
5 head. The brain is inside a closed house, so that the --
6 the skull, and it cannot withstand a lot of extra space
7 taken up or extra volume. And when that happens, you go
8 unconscious because the nerves can't work.

9 If you -- if somebody is strangling somebody and they
10 release the pressure say within thirty seconds to a minute,
11 then the person can wake back up.

12 If they maintain that pressure say a couple of minutes,
13 the person can become brain dead.

14 They continue to put the pressure on and maintain that
15 pressure over three or four minutes, they can be -- they are
16 permanently dead.

17 Q. Is there an accumulative effect, and by that
18 hypothetically I mean if someone applies pressure cutting
19 off the flow of blood from the brain to the body by putting
20 pressure on the vein causing unconsciousness and then
21 releases the pressure allowing that person to regain
22 consciousness again, let's say that same scenario happens
23 over four times over the course of five or six hours, is
24 there accumulative effect and that can equal strangulation,
25 or do you have to apply pressure for three or four minutes

1 continuously to have strangulation death?

2 A. It has to be continuously, but you can do it three or
3 four times and have them wake up and go back unconscious,
4 etcetera.

5 MR. GRAHAM: Your Honor, I think that's all the
6 questions that I have. Thank you, Dr. Ross.

7 THE COURT: Thank you, solicitor.

8 Mr. Walker?

9 CROSS EXAMINATION BY MR. WALKER:

10 Q. How are you doing today, Ms. Ross?

11 A. Fine. Thank you.

12 Q. My name is David Walker. I'm the defendant. I'm also
13 accused -- I'm the defendant. I'm also pro-se. I'm also
14 pro-se, as you may know. I'm pretty sure you know what pro
15 se is, is that right?

16 A. Yes.

17 Q. Thank you.

18 I have a few questions for you today.

19 So you said that you completed autopsies, and you
20 completed one on Catherine Carrie Banty, is that right?

21 A. Correct.

22 Q. So I'm entitled to ask again.

23 I'm going to ask, within the autopsy what were your
24 facts and findings and conclusions and basis?

25 A. Multiple contusions and abrasions of the head and neck,

1 chest, upper and lower extremities. Petechiae in the eyes
2 consistent with asphyxia due to the strangulation.

3 Q. All right. And I'm going to get right to the point.
4 If I told you that me and Ms. Banty was fighting over a
5 period of an hour to two hours, approximately, and that time
6 not said, but approximately during that time frame, and
7 during -- during the times that we was fighting, if -- is it
8 true that if I -- if I applied pressure to her neck and to
9 the trachea and also the side of the jugular and thyroid,
10 or -- in this area here, the side of her neck, would that
11 indicate, if that was done several times over the course of
12 ten minutes, approximately five times -- I mean ten seconds,
13 and basically the person being aggressive so their heart
14 would be -- you know, it would be physical and the person
15 being aggressive, so their heart is, you know, more -- more
16 motivated and more movement and going to apply more
17 pressure. And if I applied pressure to the throat area,
18 would that generally -- would that generally -- could --
19 could you say that it would cause either the larynx to swell
20 up and basically some type of interaction, something that --
21 something to make the throat swell up?

22 A. I did not see that in my autopsy.

23 Q. But in your conclusion -- in your opinion -- in your
24 opinion, if someone was choked approximately five times for
25 a few seconds --

1 MR. WALKER: Hold on one second, Your Honor.

2 (Off the record).

3 (Back on the record).

4 BY MR. WALKER:

5 Q. If -- if -- if I was to apply forceful pressure and
6 hard forceful pressure to the victim for about ten seconds
7 for five times in a period of about two hours, would that
8 cause -- that wouldn't cause any type of -- any type of --
9 you said that the throat was swollen -- or was not there was
10 swelling in the throat, around the throat area and the
11 muscles or whatnot, would you indicate as to whether that
12 there is a possibility that due to the factors that she --
13 due to the strangulation for that period of time that the --
14 that there could have been some type of swelling in the
15 throat that caused the blocking of her airway?

16 A. No, I have never seen that. I have done hundreds of
17 hangings and so-called type deaths and you do not see
18 fractured hyoid bones. Well, you don't see fractured larynx
19 and you don't see swelling. You don't see bruising.

20 You can see it in a ligature type of strangulation
21 where there is maybe a wire or something around the neck and
22 held very, very tightly, but in the normal hanging or
23 so-called type of situation you don't see fracturing. You
24 don't see bruising or swelling.

25 We look at the inside of the trachea, as well as the

1 outside. There was no swelling of the tissue there.

2 Q. How soft is a trachea? I mean, in tissue?

3 A. It depends on the age, but it's cartilage, so it's
4 firm. Not as firm as bone, but it's very firm and
5 withstands a lot of pressure.

6 Q. All right. How about any of the nerves or any of the
7 flesh or any of the tissue around the trachea or the voice
8 box, anything that -- is there any type of soft tissue that
9 would be very -- very -- very irritated due to pressure?

10 A. All that tissue is around the larynx, but, no, the most
11 common thing is the blood vascular supply.

12 Q. How about the larynx? Is it possible that if I applied
13 pressure to the larynx for that approximate of time that it
14 could cause swelling and cut of the airway?

15 A. The nerves? I'm sorry, is that what you asked?

16 Q. The larynx rather than the trachea?

17 A. The larynx?

18 Q. Yes.

19 A. It does not collapse the larynx. It does not block --
20 cause any kind of blockage of the airway.

21 Q. If the larynx swolled, would it cause blockage in the
22 airway?

23 A. It would, and I would have seen that.

24 Q. So your autopsy showed that there was no swelling in
25 the neck area?

1 A. Correct.

2 Q. Correct?

3 A. Yes.

4 Q. Okay. The solicitor has said that there was a belt --
5 there was a belt, or whatnot, and that it was relevant, and
6 you testified that -- that it may -- it could have been used
7 for a tourniquet, or whatnot. Is there any proof in your
8 examination as the coroner -- or as a pathologist that that
9 belt could have caused any injury? Is there any physical --
10 is there any proof that that belt caused any injury to the
11 victim?

12 A. Only as to the kind of parallel lines of bruising that
13 could have -- was the size of the belt, but it could also be
14 made by, for instance, fingers, or some other weapon.

15 Q. I'm saying he showed you a picture of the belt that was
16 consistent with some of the markings and bruising on the
17 victim. Is there any -- do you have any proof or anything
18 that would indicate in your opinion that that would be proof
19 rather than fact in relation of bruising that would indicate
20 the uses of the belt to the victim in a homicide?

21 A. No, sir, I have no other proof.

22 Q. Okay. And you indicated that it was the bruises and
23 whatnot were the same size as the -- as for the markings on
24 the arm, but whenever you seen the -- whenever you seen
25 that, what was your -- what was your -- what was your

1 opinion as to how -- what's caused that bad bruising -- if
2 the belt did cause that bruising, as you are suggesting,
3 what did -- what was the factors in there?

4 A. The size. The size, the width of the belt sort of
5 matched those bruising, but like I say, it's consistent with
6 but it's not proof of that being the cause of those bruises.

7 Q. Would you agree that if there was pressure applied on
8 for ten -- or ten seconds, twenty seconds at the latest,
9 within -- within applying pressure to the throat area for
10 approximately five times within a two hour period, would
11 that show the issues in the eye? I believe it's called
12 petechiae, or something?

13 A. No, not -- I don't believe so. Those take probably a
14 minute or so of consistent pressure.

15 Q. All right. And you concluded that Catherine Carrie
16 Banty was the victim in the case died from the homicide by
17 the hands of another human being, is that correct?

18 A. Correct.

19 Q. All right. And this is -- this is relative to my next
20 question. Now, she's a victim and died due to homicide.
21 Your findings concluded the death was a homicide due to
22 blunt trauma to the head and strangulation, is that correct?

23 A. Well, asphyxia due to strangulation.

24 Q. And asphyxia is the lack of oxygen, is that right?

25 A. Yes, the oxygen doesn't get to the brain.

1 Q. I know it's not the findings that the victim died by
2 murder, but the manner of death was homicide, which are
3 greatly two separate things and very different things under
4 law and conclusions and basically -- in your case and two
5 different laws -- in your case two different relevant laws
6 and law of the nature, so basically I'm saying is -- is --

7 MR. WALKER: I'm sorry, Your Honor, may I strike
8 that question?

9 THE COURT: Yes, sir.

10 MR. WALKER: Thank you.

11 BY MR. WALKER:

12 Q. Now, in your -- there was testimony that the child was
13 alone with the victim and that she said she jumped on her
14 mother and whatnot. Is there any factors that's in there
15 that may conclude that the child -- the child did damage to
16 the victim, either postmortem or right at the time of --
17 pretty soon at the time of death that made it look like it
18 was postmortem?

19 MR. GRAHAM: Objection, Your Honor. There is
20 nothing in the record to indicate that.

21 THE COURT: Doctor's report.

22 MR. WALKER: Yes, it's in the Dickerson report.

23 THE COURT: You can't cross-examine -- unless she
24 took that into account -- unless Dr. Ross took it into
25 account at the time she performed her autopsy or the basis

1 of her opinion in forensic pathology, she can't be
2 cross-examined on another person's report.

3 A. The only indication I had that there was a child there
4 was because there was some red and -- I'm sorry, blue and
5 green marker coloring of an arm and the side, and I asked
6 the investigator where that came from and they told me the
7 child was in the scene, but that's all I know about the
8 child.

9 BY MR. WALKER:

10 Q. All right. Would you find that -- so you wouldn't find
11 a logic and -- a strangulated victim, you wouldn't -- you
12 wouldn't relate that that is consistent with self-defense,
13 right?

14 A. I didn't see any evidence of, like I say, on the hands
15 if there was a counter fight.

16 Q. You are saying the defensive wounds, is that right?

17 A. Yes.

18 Q. All right. Now, the defensive wounds logically is just
19 wounds in a sense, right?

20 A. Correct.

21 Q. And there is no stipulation that they have to be a
22 certain way? It's just something that y'all use generally
23 in nature to understand that they are on the hand area and
24 they may be -- they may have their percentage as in fighting
25 and -- or in -- in a conflict between two people being

1 aggressive with each other, is that right?

2 A. They are on the forearms and that's right.

3 Q. The forearms, meaning this area?

4 A. Correct.

5 Q. So that would indicate that she was in close proximity
6 of someone? Is that all that would indicate, or would it
7 indicate more?

8 A. It can indicate that she was trying to defend herself
9 and put her arms up and was hit by whatever.

10 Q. But couldn't it also indicate that she was attacking
11 someone and that person was in between her arms and they was
12 trying to basically get out of her arms?

13 A. It doesn't tell me exactly how the wounds were
14 received, but, again, there was no wounds on her hands and I
15 think the hands would have had some injury, had she been
16 physical with the other person.

17 Q. But when you punch somebody, you normally -- I mean, do
18 you see bruises when you punch somebody?

19 A. You can, yes.

20 Q. But it's not really relevant to the fact. I know many
21 people who punch items and stuff and no bruising whatsoever,
22 even brick walls, so it's not that --

23 THE COURT: That's not relevant if you don't know
24 people. Ask the next question.

25 BY MR. WALKER:

1 Q. If I said that someone -- someone of her size and
2 whatnot punched a wall, in your opinion would that person
3 bruise?

4 A. It depended on the force and if there was clothing in
5 between. It's dependent on a lot of things.

6 Q. But in your opinion -- so does your opinion normally
7 indicate that in most cases someone bruises when they punch
8 something or someone in a conflict?

9 A. Most often, but, again, if there is something soft in
10 between, like a pillow, you don't always get a bruise.

11 Q. And you did many, many years of autopsy, Ms. Ross, and
12 within your autopsies there is people and persons who
13 normally interests in homicides and aggressive --
14 aggressive -- I guess it would -- aggressive sex, due to
15 their death, or whatnot, what it may be, and the only --
16 when you are addressing somebody's hands and that are --
17 that are -- when you are addressing somebody's hands and you
18 are stipulating that they may have punched something, in
19 your many years of autopsy, how many persons would you say
20 that actually had hands bruised out of not had hands
21 bruised?

22 A. I couldn't tell you, but there was more -- more often
23 there are bruises on the hands, on the knuckles and backs of
24 the hands.

25 Q. And death wouldn't have no -- wouldn't take that

1 bruising away at all? I mean --

2 A. No, after death actually they may be enhanced because
3 of the blood is slowing down and the blood is going by
4 gravity towards the back, towards the -- towards wherever
5 your body is. If the body is laying on its back, then the
6 blood by gravity goes to the back.

7 Q. All right. What would you say this crisis on the
8 victim is due to?

9 A. There was no pattern to injury.

10 In forensic pathology we look at the whole body. We
11 look for patterns of injury and identifying bruises,
12 abrasions. These -- the ones on her did not have a specific
13 pattern, so I couldn't tell you exactly what weapon was
14 used, but it's very consistent with something like a fist.

15 Q. You stated there was a blunt trauma to the head. In
16 that punch, how many hits to the head? Could a child could
17 have did that?

18 A. It's significant bruising. I don't know what the size
19 of the child was, or whatnot, but it was significant force.
20 That's all I can say.

21 Q. All right. I look to you saying there was a lot of
22 trachea and contusion around the collarbone, is that
23 correct?

24 A. Yes.

25 Q. Now, your first autopsy report before amended, none of

1 this was in there, is that correct?

2 A. Yes, it was when I reviewed it and I added what was on
3 my diagram.

4 Q. All right. For the record, do you typically have
5 videos? Do you typically video? Is it not the law that all
6 autopsies have to be videotaped?

7 A. No, the law -- we used to. We don't do it any more,
8 but we take pictures.

9 Q. All right. Thank you.

10 Now, back to the contusion and the trachea around the
11 collarbone, what did you say that was consistent with?

12 A. There were contusions around both collarbones
13 consistent with somebody putting pressure on the top of the
14 chest and neck.

15 Q. So basically what type of pressure would be needed to
16 call a factor, not necessarily the fact, but a factor in her
17 death?

18 A. I would say a significant factor. It's hard to put it
19 in words. You can't experiment on that because you can't
20 pick a lot of people and kill them that way and just
21 identify the bruising, but it is significant force to cause
22 that much bruising.

23 Q. All right. I said pressure. I meant -- pressure. My
24 words in there was pressure.

25 I ask again, I asked you what type of -- what type of

1 pressure was needed to cause this contusion in the trachea
2 in the effect of her death? Not necessarily the actual
3 factor of death. I'm not saying that whatever pressure was
4 applied to the collarbone area caused the death, but how
5 much pressure and what kind of conditions would need to
6 cause a factor or attribution to her death?

7 A. Pressure, again, I can't -- significant pressure. That
8 the pressure could be by someone sitting on her chest, lying
9 on her chest and neck, or putting a choke hold around her,
10 that kind of thing.

11 Q. When you say choke hold, is there any specific area as
12 in the top of the neck, the middle of the neck, the bottom
13 of the neck, or actually around the collarbone?

14 A. It's usually around the neck, but there was no bruising
15 there.

16 Q. But if you apply pressure to the -- around the jugular
17 area vein rather than the larynx, isn't that two different
18 areas than what would cause great -- two different --

19 A. The jugular veins go side by side on either side of the
20 larynx.

21 So, again, the larynx is tough enough that it's not --
22 it doesn't collapse, but the vein wall is less than a rubber
23 band and it will collapse and it will cause the vein to be
24 blocked so that blood does not come down from the brain into
25 towards the heart.

1 Q. Was there any indication in collapsing in her neck
2 collapsing?

3 A. Once the pressure is released it's not collapsed any
4 more. I don't -- I cannot see anything on the autopsy.

5 Q. I'm asking your findings. Was there any -- was
6 there -- were there any collapsing of the neck?

7 A. That's what I just said. After you take the pressure
8 off, it's not collapsed any more. At autopsy it will be
9 open.

10 Q. I'm not asking --

11 THE COURT: Ask your next question. And read the
12 rule that you cited to me one time already in a motion, Rule
13 611(a).

14 Ask your next question..

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

16 BY MR. WALKER:

17 Q. So this contusion and trachea into the neck area and
18 the collar, that wouldn't be consistent with, you know,
19 somebody being strangled in the course of different fights?

20 THE COURT: It's been asked and answered several
21 times.

22 MR. WALKER: Yes, sir, Your Honor.

23 BY MR. WALKER:

24 Q. Can you explain the brunch (sic) on the head one more
25 time, or where it was, and your opinion of how it was?

1 A. It was some --

2 THE COURT: If you can say one more time, it has
3 been asked and it's been answered.

4 Ask your next question.

5 BY MR. WALKER:

6 Q. I said, Ms. Ross, ten seconds. Actually it's about
7 thirty seconds. Would that change any of your opinion is
8 what I asked?

9 Basically what I asked if someone applied pressure to
10 the neck for a period of thirty seconds -- if somebody
11 applied pressure for thirty seconds for five times, would
12 that cause the neck to strangulate, or larynx, or any
13 trachea, or swelling of the neck? And if I may add,
14 block -- eventually block the airways?

15 A. No, it would not.

16 Q. If someone was choked five times for approximately
17 thirty seconds, there is no indications in your opinion or
18 in the pathology that the throat would swell and --

19 THE COURT: She just answered that question.

20 MR. WALKER: Your Honor --

21 THE COURT: She just answered that question, Mr.
22 Walker. Are you going to go through 30, to 31, to 32, to
23 33? No, sir, look at Rule 611(a).

24 MR. WALKER: Yes, sir, Your Honor.

25 611(a), she is testifying as an expert, is that

1 correct?

2 THE COURT: 611(a) is control of questioning by
3 the court.

4 MR. WALKER: Okay.

5 THE COURT: Ask your next question.

6 MR. WALKER: Yes, sir, Your Honor.

7 THE COURT: 701, 702, 703 are the court rules on
8 expert testimony.

9 MR. WALKER: Sorry, I'm not familiar. I'll go to
10 the next.

11 BY MR. WALKER:

12 Q. In your opinion, Ms. Ross, you indicated that there was
13 meds of the deceased that was Abilify and a few other
14 medications. Is that medication that was found in her blood
15 system, or how did you come across that that was her
16 medication?

17 A. That's -- we are talking about medication. You mean
18 toxicology report, there was no medication. There was a
19 little bit of alcohol.

20 Q. That's correct, but somewhere in a report, the autopsy
21 report it indicates that -- in one of your reports it
22 indicates that meds of the deceased were Abilify,
23 Pristiq-EK, I can spell it, P-R-I-S-T-I-Q space capital E
24 capital K, and then goes onto the size, which is
25 50 milligrams, and then it has a date and of 8-11 I'm

1 guessing an expiration date. That shows -- I believe it
2 shows up in the digital file and it doesn't show up on any
3 of the actually printed files that's been circulating
4 around.

5 A. I'm not sure where you are getting that. I know she
6 had a history of drug abuse.

7 Q. If I may, Ms. Moss, I believe it is indicating
8 medications that she has taken, but I'm -- I want to ensure
9 that I don't know if it's medications that were found -- I
10 have the toxicology and -- but I don't have --

11 MR. WALKER: I'm going to move on, Your Honor.

12 I have no more questions for Ms. Ross.

13 THE COURT: Redirect, solicitor?

14 MR. GRAHAM: Nothing, Your Honor.

15 THE COURT: Thank you very much, doctor. Thank
16 you for being with us. You may step down.

17 All right, solicitor, you may call your next
18 witness.

19 MS. DAVIS: Thank you, Your Honor, the State calls
20 Tommy Hines.

21 SLED AGENT TOMMY HINES, having been first duly
22 sworn, testified as follows:

23 Have a seat, sir.

24 Once you are seated, state your full name,
25 spelling your last name.

1 THE WITNESS: George Thomas Hines, H-I-N-E-S.

2 DIRECT EXAMINATION BY MS. DAVIS:

3 Q. Good afternoon, Agent Hines..

4 Where are you employed?

5 A. The South Carolina Law Enforcement Division.

6 Q. And what is your position there?

7 A. I'm a special agent on the State Surveillance and
8 Intelligence Unit.

9 Q. What are your duties in that position?

10 A. I gather, analyze, and interpret intelligence as it
11 relates to criminal investigations.

12 Q. Would that include cell phone information?

13 A. Yes, ma'am.

14 Q. Have you ever testified as an expert before in South
15 Carolina?

16 A. Yes, ma'am.

17 Q. Were you certified as an expert in cell phone record
18 interpretation?

19 A. Yes, ma'am.

20 MS. DAVIS: Your Honor, at this time the State
21 would offer the witness as an expert in cell phone record
22 interpretation.

23 THE COURT: All right. Mr. Walker, any objection?

24 MR. WALKER: No, sir.

25 THE COURT: All right. Thank you.

1 He is qualified as an expert in cell phone record
2 interpretation.

3 MS. DAVIS: Thank you, Your Honor.

4 BY MS. DAVIS:

5 Q. Agent Hines, in this case were you asked to review some
6 AT&T records?

7 A. Yes, ma'am.

8 Q. Do you have those with you today?

9 A. Yes, ma'am, I do.

10 Q. Can you tell me the phone number that was associated
11 with the records that you reviewed?

12 A. Yes, ma'am. It's [REDACTED]-0258.

13 Q. Can you tell me the date of the records that you have?

14 A. It's from 12-7 of 2012, through 12-11 of 2012.

15 Q. Were you provided a second set of documents?

16 A. Yes, ma'am.

17 Q. And would those have been for later dates?

18 A. Yes, ma'am.

19 Q. Okay. With regard to the dates of December the 10th of
20 2012, were you able to review the phone usage for that date?

21 A. Yes, ma'am.

22 Q. Looking at the records, what can you tell us about the
23 phone usage on December the 10th of 2012?

24 A. So as far as voice usage for calls that were made or
25 received, there were only four transactions on the 10th of

1 December. None of those four connected with the tower.

2 Q. Okay. And was there any other type of phone usage?

3 A. Yes, there were also data transactions. There were
4 several data transactions during that time that did connect
5 to a tower.

6 Q. Can you tell the times of each of those and the
7 duration?

8 A. Yes, ma'am.

9 The first transaction on the 10th occurred at 12:49
10 a.m. and lasted for approximately a minute and 45 seconds.

11 The second was at 1:49 a.m. for a minute and 29
12 seconds.

13 The next at 2:49 a.m. for approximately two minutes and
14 two seconds.

15 At 3:49 for approximately one minute and 46 seconds.

16 At 4:49 a.m. for a minute and thirty seconds.

17 At 5:49 a.m. for a minute and 19 seconds.

18 At 8:46 a.m. for two minutes and 35 seconds.

19 At 8:49 a.m. for one minute and 18 seconds.

20 At 9:04 a.m., for two minutes and five seconds.

21 At 5:09 p.m., for approximately eight seconds.

22 And then at 6:09 p.m., for approximately a minute and
23 45 seconds.

24 Q. And I know that you referred to these as data usage.

25 What would that include?

1 A. It could be a number of different things; applications
2 on the phone for surfing the Internet on the phone, checking
3 e-mails. It could be from a number of different places.

4 Q. And for all of those data times that you just read for
5 us, can you tell us based on the tower GPS location where
6 approximately that cell phone would have been located?

7 A. There are three towers that it connects to during that
8 time and all three of them put it in the area between
9 Charleston Highway and Highway 378.

10 Q. Would that be consistent with [REDACTED] Alexandria Street?

11 A. Yes, ma'am.

12 Q. Were there any other types of communications by the
13 phone on December 10th text messages?

14 A. There was one text message during that time frame at
15 4:09 p.m..

16 Q. Did you happen to see one at 11:10 p.m.?

17 A. Yes, ma'am, there was one also at 11:10 p.m..

18 Q. Was the 11:10 p.m.; was that GPS consistent with [REDACTED]
19 Alexandria Street?

20 A. Yes, ma'am.

21 Q. Was that the last location that you were ever able to
22 determine based on the records that you were provided?

23 A. Yes, ma'am.

24 Q. If the person using the phone was able to use the data
25 and send text messages and calls on December the 10th of

1 2012, could they have done that with their phone turned off?

2 A. No, ma'am.

3 Q. Or their battery dead?

4 A. No, ma'am.

5 Q. Or their battery taken out?

6 A. No, ma'am.

7 Q. Is there any way that one would be able to connect to
8 the Internet but not be able to text or make a phone call?

9 A. Not in my experience.

10 Q. And if the phone is turned off or the battery is dead
11 or the battery is taken out, are you able to get GPS
12 locations?

13 A. No, ma'am.

14 Q. What will happen in that instance?

15 A. Basically how the network works, when a phone is
16 manually powered down or turned off, the device sends a
17 signal through the network that lets the system know that
18 the device is off, so that any calls that are incoming are
19 directed directly to voicemail.

20 Now, if the battery is removed or dies suddenly, then
21 that signal is not sent. When that happens, the network is
22 constantly searching for the device, which could extend the
23 amount of time that the call takes, but it's still not
24 connecting to a tower.

25 Q. So if the phone is off, you are not getting calls or

1 texts?

2 A. Right.

3 Q. Based off of the records that you reviewed, is the last
4 usage of the phone that 11:10 p.m. text message on December
5 10th of 2012?

6 A. That's the last one that connects to a tower, yes,
7 ma'am.

8 Q. And that would be consistent with the [REDACTED] Alexandria
9 Street address?

10 A. Yes, ma'am.

11 MS. DAVIS: No further questions.

12 THE COURT: Thank you, solicitor.

13 Mr. Walker?

14 MR. WALKER: Yes, sir, Your Honor.

15 CROSS EXAMINATION BY MR. WALKER:

16 Q. How are you doing today?

17 A. Doing all right.

18 Q. All right. You indicated that you are with SLED, is
19 that correct?

20 A. I'm sorry, sir?

21 Q. You indicated that you are with SLED? You are the head
22 intelligence officer, is that correct?

23 A. I'm with SLED, yes, sir.

24 Q. All right. You stated that you was an intelligence
25 officer who deals with communication devices and whatnot, is

1 that correct?

2 A. That's one of my functions, yes, sir.

3 Q. All right. And the State asked you -- how -- how did
4 you come across this cell phone that you tested?

5 A. The records are the only thing that I can attest to.
6 Those were provided to me by the solicitor's office.

7 Q. All right. And upon them records, they showed -- how
8 did you indicate the cell phone locations from them records?

9 A. They were consistent with an area between Highway 378
10 and Charleston Highway in West Columbia.

11 Q. All right. How did you indicate what -- they produced
12 record to you. How did you indicate from the records
13 that -- that there was a cell phone in that area?

14 A. It's listed on the records. The towers and location
15 information for the towers are listed on the records.

16 Q. By numbers, signal, picture?

17 A. It gives you a latitude and longitude along with the
18 tower number, tower name. It also lists the orientation of
19 that sector that the transaction took place on. And based
20 off of that I was able to create a map.

21 Q. Great.

22 And that record that the State produced to you, isn't
23 it generally -- was it the AT&T -- the standard AT&T data
24 sheet on cell phone attractions?

25 A. It's just typical records provided by AT&T for that

1 target number.

2 Q. And so that target number is where you indicated from
3 our -- you got the cell location from the target number?

4 A. It's provided on the records.

5 Q. Okay. Fair enough.

6 You were stating -- you stated that these phones, that
7 they was -- the State asked you questions as to whether if
8 the battery was taken out -- if the battery was taken out
9 of a cell phone, would these towers indicate -- could you go
10 back on that question and could you show some definite --
11 more definite detail to that question?

12 A. I don't know that I fully understand your question, but
13 if you are asking if the battery is taken out and there is
14 a -- because the records only indicate when there is a
15 transaction. So -- if it's an outgoing or incoming. So if
16 the battery is taken out, it's only going to indicate that
17 there was a transaction attempt and it's not going to
18 indicate a tower.

19 Q. All right. If it -- is there any type of memory --
20 memory in the cell phone towers or memory in the cell phone
21 that would basically save this data and indicate once they
22 are repowered, or if it's -- go ahead. You can answer that.

23 Is there any -- is there any memory in the cell phone
24 towers -- or in the phone that could store that memory and
25 once they are indicated -- once they indicated back whatever

1 they was tracking, however they track, unique with our --
2 could that -- is there any type of memory associated with
3 that if there was no -- if there was interaction between
4 there and there was no signal left?

5 A. The network stores all information as it occurs so that
6 it doesn't --

7 I'm trying to figure out exactly what you are asking,
8 but from my understanding of your question, you are asking
9 whether the network saves information and then pushes it out
10 later, or how are you asking your question?

11 Q. What I'm saying -- what I'm getting at -- what I'm
12 getting at is, is there any type of memory that would --
13 that would allow these records to be produced at a later
14 time, as far as cell phone indications, like maybe this cell
15 tower knew that this phone was here, this battery was taken
16 out, therefore there was a memory log and it showed that
17 that -- that that was that place that it was and it's
18 sending -- and the records continue to show?

19 A. The network shows on the records every transaction as
20 it occurred, so based on place and staging.

21 Q. All right. And can you think of any default that
22 basically -- or any situation that basically gives signals
23 but these signals can continue or be memorized as in memory
24 and basically produced on that record at a later date?

25 A. I'm still not understanding what you are asking, sir.

1 Q. All right.

2 MR. WALKER: I have no further questions, Your
3 Honor.

4 THE COURT: Thank you, Mr. Walker.
5 Redirect, solicitor?

6 MS. DAVIS: No, sir, Your Honor.

7 THE COURT: All right. Thank you, Agent Hines.
8 You may step down.

9 MS. DAVIS: May he be excused, judge?

10 THE COURT: Any objection, Mr. Walker?

11 MR. WALKER: No, sir.

12 THE COURT: You may be excused.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Do you have another witness?

15 MS. DAVIS: Yes, sir. One more, judge.

16 THE COURT: All right. Call your next witness.

17 MS. DAVIS: The State calls Judy Banty.

18 JUDY BANTY, having been first duly sworn,
19 testified as follows:

20 THE CLERK: Have a seat, ma'am.

21 Once you are seated, speak up loud and clear and
22 state your full name, spelling your last, please.

23 THE WITNESS: Judy Banty, B-A-N-T-Y.

24 DIRECT EXAMINATION BY MS. DAVIS:

25 Q. Ms. Banty, how are you related to Carrie Banty?

1 A. She was my stepdaughter.

2 Q. How long have you been married to her father?

3 A. I don't know.

4 Q. It's been a little while?

5 A. Yes.

6 Q. Was there any point in time that Carrie and Cassidy
7 lived with you?

8 A. She did. They did about -- I think it was about a year
9 before she moved in with David.

10 Q. Okay. So she was living -- so she and Cassidy were
11 living with you and your husband --

12 A. Yes.

13 Q. -- for a year before they moved into the trailer --

14 A. Yes.

15 Q. -- with the defendant?

16 A. Yes.

17 Q. Were you able to spend a lot of time with Carrie and
18 Cassidy at that point in time?

19 A. Yes, I did.

20 Q. Did you ever see Carrie abuse Cassidy?

21 A. No, never.

22 Q. Did you ever see her violent with Cassidy?

23 A. No. I have heard her call her Cassidy [REDACTED],
24 which means she is aggravated at her, but I have never seen
25 her hit her or punish her.

1 Q. Have you ever seen Carrie violent at all?

2 A. No.

3 Q. How did Carrie usually respond to stressful situations
4 like that?

5 A. She cried.

6 Q. Did you spend a lot of time with Carrie and Cassidy
7 once they moved in with David?

8 A. I only saw them -- they came over to our house one day
9 just for a few minutes, and then we took some furniture to
10 them one day, and that's the only time that I saw her after
11 she moved out.

12 Q. So once she moved in with the defendant she kind of
13 lost touch?

14 A. Yes.

15 MS. DAVIS: Judge, I have no further questions,
16 judge.

17 THE COURT: Thank you, solicitor.

18 Mr. Walker?

19 CROSS EXAMINATION BY MR. WALKER:

20 Q. How are you doing today?

21 A. Okay.

22 Q. In the -- in the time that you have known me, I never
23 come to you as a violent person or whatnot, or you never
24 seen me act violently, is that correct?

25 A. I only saw you twice.

1 Q. Okay. And you have never seen me and Carrie fight, is
2 that correct, in the month that we was together that you
3 knew me and her together?

4 A. No.

5 Q. And you never seen anything that indicated that there
6 was a fight?

7 A. No.

8 Q. All right. Thank you.

9 MR. WALKER: I have no more questions, Your Honor.

10 THE COURT: Redirect, solicitor?

11 MS. DAVIS: No, sir, Your Honor.

12 THE COURT: Thank you.

13 MS. DAVIS: May she be excused as well?

14 THE COURT: Any objection?

15 MR. WALKER: No, sir, Your Honor.

16 THE COURT: All right. Yes, she may be excused.

17 Any other evidence and testimony from the State?

18 MR. GRAHAM: Other than maybe at the Jackson v.

19 Denno, Your Honor.

20 THE COURT: Do you have any evidence and testimony
21 you want to put up in reply in the stand your ground
22 hearing, Mr. Walker?

23 MR. WALKER: Yes, sir, Your Honor.

24 THE COURT: Call your first witness.

25 MR. WALKER: Well, not -- if I may, I need to

1 speak to my standby counsel, Your Honor.

2 THE COURT: Yes, sir, of course.

3 MR. WALKER: Thank you so much.

4 THE COURT: Let's take about fifteen minutes.

5 Thank you. Thank you very much.

6 (Whereupon, proceedings were recessed)

7 (Whereupon, proceedings were reconvened)

8 THE COURT: All right, Mr. Walker, you may call
9 your witness.

10 MR. WALKER: Yes, sir, Your Honor.

11 I wasn't -- I wasn't trying to call a witness. I
12 was trying to make argument.

13 THE COURT: All right. So you do not have another
14 witness? You do not have a witness you intend to call in
15 reply?

16 MR. WALKER: You said call in comply?

17 THE COURT: You are not going to call another
18 witness in reply?

19 MR. WALKER: No, sir, Your Honor.

20 THE COURT: All right. I'll be glad to hear from
21 you.

22 MR. WALKER: All right, Your Honor, as this is a
23 stand your ground hearing, I basically -- I believe under
24 the Statute 16-11-440, at subsection C, where a person is
25 not engaged in unlawful activity who is attacked on another

1 place where he has the right to be, and so forth, I believe
2 I'm entitled to immunity under that statute.

3 I believe I have indicated self-defense. The
4 victim attacked me numerous times in that incident. She --
5 she attacked me very violently. She was -- she attacked me
6 very aggressively. I -- I had immediate fear of losing my
7 life.

8 Also I had -- I had also immediate fear of
9 sustaining great bodily injuries, and at the time I was also
10 protecting my daughter Cassidy from the same, of losing her
11 life and sustaining bodily injury.

12 And from the testimony that I give, I think that
13 it's substantial that I admit self-defense. I believe that
14 I had no fault on bringing on the difficulties, due to the
15 fact that she was attacking me, and I never -- I never got
16 hostile with her. I never violated her or I never showed
17 violence to her, and I wasn't breaking any rules of law or
18 anything to that nature.

19 I -- I believe I was in actual immediate danger of
20 losing my life and sustaining serious bodily injury.

21 And -- and as I did so, I think anybody, you know,
22 ordinary firmness and courage of a preponderant person would
23 have acted the same way. In being attacked you typically
24 defend yourself, even if you are using self-defense tactics
25 and it comes to the conclusion that you have to apply a

1 choke hold, or whatnot, or, you know, what it may be under
2 the circumstances:

3 And I do think under -- under circumstances that I
4 wanted to -- the immunity, and I believe --

5 I believe -- I believe as well it's well
6 acknowledged in the law under -- under many case law
7 throughout the nation and also through our jurisdiction in
8 South Carolina that a person in my predicament is entitled
9 to immunity and also entitled to self-defense cause, and as
10 the State of South Carolina has the Castle Doctrine, the
11 Castle Doctrine under the stipulation that I was cohabitated
12 with the victim, and upon -- I was -- upon cohabitation when
13 she attacked me, I was protecting my premises and inside my
14 castle, and, therefore, I think I should be granted immunity
15 under 16-11-450.

16 That's it, Your Honor. Thank you.

17 THE COURT: Thank you, Mr. Walker.

18 Solicitor?

19 MR. GRAHAM: Your Honor, at this stage in the
20 stand your ground hearing the defense has the burden of
21 proving by a preponderance of evidence self-defense to the
22 court's satisfaction.

23 If you look at elements two and three, he must
24 have actually believed he was in imminent danger of losing
25 his life or sustaining serious bodily injury, or he actually

1 was.

2 The defense is based on his belief that a
3 reasonable prudent man of ordinary firmness and courage
4 would have had the same believe that he was in imminent
5 danger of circumstances such would warrant a man of ordinary
6 prudence and firmness and courage to strike the fatal blow.
7 He has failed to meet that burden, Your Honor.

8 Dr. Ross is a forensic pathologist says that the
9 way that Mr. Walker testified what happened that night
10 didn't happen. The physical injuries that Carrie Banty have
11 don't match up to the story that Mr. Walker said.

12 Mr. Walker testified to applying ten seconds to
13 fifteen seconds, I think is his testimony when he took the
14 stand. He was asking questions about thirty seconds. The
15 doctor says that petechiae wouldn't be present, in her
16 opinion, until at least a minute of continued force at one
17 time on Carrie's neck, causing her to pass out, before the
18 petechiae was present. That's inconsistent with Mr.
19 Walker's testimony.

20 Dr. Ross says that it would take three to four
21 minutes for somebody to die from asphyxiation, from
22 strangulation. Nowhere in the story that Mr. Walker has
23 said does it count for three to four minutes of continued
24 force that would be required.

25 His credibility is in question. On the stand

1 during cross-examination he talks about Carrie reaching
2 under the dresser. He didn't know what she was reaching
3 for. It's under that circumstances there was nothing that
4 she did that would have put him in fear of imminent death or
5 serious bodily injury. He didn't know. Later he admitted
6 that he went afterwards to see what was under there and that
7 it was a rail that was under there, changing his story to
8 fit the circumstances.

9 MR. WALKER: Objection, Your Honor.

10 THE COURT: You don't need to object. I'll come
11 back and hear from you, Mr. Walker.

12 MR. WALKER: Okay.

13 MR. GRAHAM: The only evidence that he's offered
14 for the violent nature of the victim is himself and he
15 opened the door to who the possible first aggressor was, who
16 would be abusing Cassidy.

17 The State has called Judy Banty up. There is
18 nothing to impeach her and there is nothing to contradict
19 her, other than the defendant's testimony up on the stand.
20 She saw no abuse to Cassidy during the year that they were
21 together.

22 The defendant testifies he has access to his cell
23 phone and claiming that his cell phone was dead is why he
24 couldn't make phone calls to the police, or to DSS, or to
25 911, or to whoever. And his own phone records and the

1 testimony, which he acknowledged his number, the phone
2 records of AT&T under the expert opinion of Tommy Hines
3 shows that that was not true. He said that phone was able
4 to -- it was on Facebook. It was doing some kind of
5 Internet applications at multiple times; at 1:49, 2:49,
6 3:49. Whatever the different times were, either things were
7 being sent to the phone or things were being sent from the
8 phone, because it was accessing the tower, which contradicts
9 what the defendant said.

10 It also puts him in the area between Charleston
11 Highway and 378 as late as 11:10 p.m., which I believe
12 contradicts what the defendant said. He claims to be in the
13 woods near a railroad track, but he gave us no more specific
14 location where that was.

15 Looking at the totality of the evidence from the
16 defendant's testimony and this, absent, because we still,
17 Your Honor, we have a Jackson v. Denno ruling for you to
18 consider the statements of law enforcement, so at this point
19 I can't ask you to consider that, but even without those the
20 defendant has failed to prove by a preponderance of evidence
21 self-defense as a matter of law.

22 THE COURT: Thank you, solicitor.

23 Mr. Walker?

24 MR. WALKER: Yes, sir, Your Honor.

25 The State says that I have failed to produce

1 accurately -- accurately uncontradicted testimony.

2 The State states that I did give contradiction
3 testimony yesterday on the stand. I definitely didn't do
4 that. They are saying that object -- I didn't know the
5 object was under there. I explained about six times
6 yesterday to the State that I knew the object was under
7 there beforehand, knew at approximately a week's time before
8 the deceasement of the victim, because that's when I placed
9 the object under there, and I knew at that time. And I
10 explained yesterday and I was up under it numerous times to
11 the State yesterday so --

12 Also the State keeps contradicting that I took --
13 that the cell phone and text messages. I'm not stating at
14 any time that I wasn't in the location that these cell
15 towers are saying I was there. I just -- I -- yesterday I
16 just stated that there was periodic -- periods of -- periods
17 of time that I had took my batteries out of my cell phone.
18 And once I took the batteries out of my cell phone, there
19 is -- you know, I don't know how these still produced, but
20 I'm not -- I'm not an expert and I don't know, but my
21 batteries -- the battery was periodically taken.

22 Now, at times I don't know when the battery was
23 taken out. And the reason the battery was taken out of it
24 was because people had taught me and numerous people have
25 cell phones and you run into a lot of conditions on cell

1 phones. 'So people have learned basically that you can take
2 a battery out of a cell phone and it will -- if you set it
3 aside for a few minutes, which is about thirty to
4 forty-five minutes, or so, some longer, some shorter, under
5 them circumstances the battery will retain energy again, or
6 juice, and it will recharge itself, and that's basically
7 what I was doing at that time. So -- but I have never
8 contradicted what the -- what the cell towers are saying and
9 I don't know why the State keeps getting to that.

10 And also -- also I'm under the impression that in
11 a hearing that -- in this hearing specifically, Your Honor,
12 that I'm basically -- my motion for immunity basically, I'm
13 entitled to that immunity, but the consideration here today
14 is to give the State a chance to refute any evidence that is
15 within my immunity. And, therefore, even I have the burden
16 of presumption -- of presumption of evidence, which is not
17 very much, and it's in general by law a little over half,
18 and the State has to refute any evidence testimony. So
19 anything -- anything -- anything inconsistent on whatever
20 the State just can't give testimony and saying it's
21 inconsistent, but they have to provide evidence that it was
22 actually inconsistent. And you may find that it is, but --
23 and the record may show that they tried, but I don't think
24 they did.

25 And -- and, again, Your Honor, on -- as far as

1 Janice Ross goes and her expert opinions, I don't think that
2 she -- her opinions is consistent and as she feels that my
3 questions wasn't consistent -- or I'm not stating her
4 opinion, but I'm saying that she -- her testimony was not
5 consistent because, Your Honor, I was there and I seen what
6 happened. I know what happened and whatever she says I
7 think is basically out of proportion, if you may. So what
8 normal conclusions was because --

9 And one thing I will bring to Your Honor, I know
10 of someone is strangled for approximately thirty seconds,
11 especially a child, or somebody who is very soft tissue,
12 it's logic to cause swelling and it's logic to cut off
13 airway. Even a little bit of pressure could lodge anything
14 inside the neck, the nerves, or anything like that. And
15 anything could happen betwixt a little bit of pressure to
16 the throat and that would cause a blockage of airway or
17 cause swelling to block eventually and cause.

18 You know, when someone was fighting as
19 aggressively as we were, it's just definitely going to be an
20 aggressive thing and the body is going to be focusing a lot
21 different. The heart is going to be accelerating. The
22 veins are going to be more open. The tissue is going to be
23 a lot more delicate because it's going to have blood flow.
24 It's going to have oxygen flow, and it's going to have a lot
25 more whatnot. So I -- I don't think that Janice Ross'

1 findings were consistent.

2 And in my view of the pathology study I found that
3 applied pressure to the throat and many conditions, and even
4 case law, have stated you can apply pressure to the throat
5 for thirty to forty seconds and basically -- and basically
6 it can block the airways. And sometimes it can crush the
7 larynx or crush the trachea. And when that happens, I --
8 and it doesn't -- and some studies have showed that it
9 doesn't actually have to be crushed. It can be basically
10 I'm going to say tempered. And then once it's tempered it
11 can -- it can swell. And upon the swelling it can -- it
12 can -- it can block airways.

13 And in the situation, you know, we fought numerous
14 times and there was a lot of aggression and she -- she was
15 basically talking as me and you are, Your Honor, and she was
16 talking and she just stopped talking and she reared back --
17 she reared back for a minute and rammed her head into the
18 chest of drawers and fell down and immediately went for
19 the weapon -- went for me, changing the direction and went
20 for the weapon. And as I said, I knew where the weapon was
21 and, therefore, I protected myself. And I -- I -- I
22 self-defensed me and tactfully applied pressure to her
23 throat and neck. And that's, you know --

24 And I think that she -- before that she was
25 already choking, Your Honor, and I think that her -- some

1 kind of condition. If you may, Your Honor, she had drunk
2 some -- a cup of water approximately -- I -- I could not --
3 I'm not real good with time frames sometimes. I want to
4 say, you know, thirty seconds to a minute and a half. It
5 could have been two minutes. It could have been three
6 minutes. Somewhere in that time frame she had drunk some
7 water and her -- her throat seemed to be very swollen at
8 that time. And I think that water had -- and reaction and
9 basically it caused some type of either chemical reaction in
10 her body that set off tension in the muscles, or the nerves,
11 in the tissues, or basically whenever it hit the throat
12 something happened. I think it caused circumstances, sir,
13 for something to block in her airways. And once the airway
14 is blocked, then basically she -- she tried to attack me.
15 She went for the weapon and I believe that she was already
16 choking, because I didn't choke her and she -- she -- there
17 was a loud popping and -- you know, because I didn't choke
18 her, so she had to -- somehow she had to die. It was no
19 applied pressure. There was no nothing. She just basically
20 hit her head, attacked me and died. And I did -- I applied
21 pressure to her throat, but it was very, very -- a very
22 small amount of time. Maybe three or four seconds, Your
23 Honor, if that, and then I heard a loud pop and that was it.

24 Thank you so much, Your Honor.

25 THE COURT: Thank you, Mr. Walker.

1 All right. As I had said earlier, I'll take it
2 under advisement until I have heard all the Jackson v.
3 Denno.

4 Solicitor, are you prepared to go forward with
5 your witnesses on Jackson v. Denno?

6 MR. GRAHAM: Yes, Your Honor, we are.

7 THE COURT: All right. Do you want to call your
8 first witness, please?

9 MS. DAVIS: Thank you, Your Honor.

10 The State calls Darrell Kostyk.

11 THE COURT: All right. If you would come around.
12 You are still under oath, Officer Kostyk.

13 MR. GRAHAM: Your Honor, if I may, two people are
14 in this courtroom on the defense's subpoenas, Colleen Belk,
15 formerly with the West Columbia Police Department, and Chris
16 Morris of the West Columbia Police Department. Can they be
17 released on their subpoenas here?

18 MR. WALKER: I didn't understand.

19 THE COURT: Do you need Ms. Belk?

20 Who is the other?

21 MR. GRAHAM: Officer Morris.

22 THE COURT: Officer Morris.

23 MR. WALKER: Yes, sir, Your Honor. I don't need
24 them for -- but there might be something that happens that I
25 may need them.

1 THE COURT: Do you need them to remain this
2 afternoon for the Jackson v. Denno hearing?

3 MR. WALKER: That's correct, Your Honor.

4 THE COURT: Sir?

5 MR. WALKER: Yes, sir.

6 THE COURT: Okay. All right. Thank you.

7 THE COURT: All right, solicitor.

8 DIRECT EXAMINATION BY MS. DAVIS:

9 Q. Officer Kostyk, where are you employed?

10 A. The Aiken County Sheriff's Office.

11 Q. How long have you been there?

12 A. I think about eight years.

13 Q. Eight years?

14 A. Yes, ma'am.

15 Q. And what is your position there?

16 A. I'm a staff sergeant assigned as a road patrol
17 supervisor.

18 Q. Were you working at that same position in December of
19 2012?

20 A. I was.

21 Q. Were you working the night of December the 17th, 2012?

22 A. I was, ma'am.

23 Q. At that time did you encounter the defendant in this
24 case?

25 A. I did.

1 Q. Can you tell us the circumstances surrounding that?

2 A. I can. I was assigned at the western end of the
3 county, patrol supervisor.

4 In the time period usually between Halloween through
5 Christmas we have elevated crime in Aiken County in the
6 Christmas time frame, which includes armed robberies of the
7 convenience stores.

8 That particular night and that particular time I was
9 watching a convenience store in the event that it possibly
10 was going to be robbed. While doing that I observed Mr.
11 Walker at a grocery store adjacent to the convenience store
12 behaving in a manner that drew my attention. You know, he
13 was -- the store was closed. He was concealing himself
14 under an awning and he appeared to be watching the
15 convenience store.

16 Q. What type of day was this?

17 A. It was around 10:00, 10:30, quarter to 11:00 at night.
18 I can give you the exact time. I think it was 22:40, 10:40
19 p.m..

20 Q. Was it late evening?

21 A. Yes, ma'am.

22 Q. And where the defendant was located was already closed?

23 A. Yes.

24 Q. There was no reason he should have been there?

25 A. Correct.

1 Q. And the store that you were watching for robbery is a
2 24/7?

3 A. Yes, it is. It's a Circle K, I believe. It's a
4 convenience store and it's open all night.

5 Q. Okay. And when you saw the defendant in the -- I guess
6 there was an awning, you said, under a picnic table?

7 A. It's like one of those tin garages that you can set up
8 with a picnic table under it.

9 Q. And when you saw him there, what did you do?

10 A. I watched him for a little while.

11 When it aroused my suspicion enough I called another
12 deputy and I told him I was going to approach the suspicious
13 male and find out what he was doing.

14 Q. And did you approach the defendant?

15 A. I did.

16 Q. What did you say to him when you saw him?

17 A. I asked him what he was doing.

18 Q. And did he respond to you?

19 A. He didn't really respond. He was -- he still behaved
20 oddly, so I motioned for him to turn around to see if he had
21 any weapon on him that I could see from a distance.

22 Q. Is that something that you would typically do with a
23 suspicious person?

24 A. At that time of night at that location, probably, yes,
25 ma'am.

1 Q. And that would be for your safety?

2 A. Yes.

3 Q. At that time was the defendant in custody?

4 A. He was not.

5 Q. After you asked him what he was doing --

6 Let me back up. When you got there, tell me about the
7 defendant and how he was acting, his demeanor.

8 A. I felt his demeanor was odd. Normally whenever we
9 approach someone, it's a little shocky to them. They ask
10 "what did I do," or, you know, "did I do something wrong?"
11 If they did, explain it to them what the violation was. If
12 they didn't, explain why you are talking to them. It could
13 be they were doing something legitimate. You have no idea
14 until you ask them. That's -- that's how we check on
15 suspicious persons.

16 Q. Okay. Did you detect any odor of alcohol from the
17 defendant?

18 A. I did not.

19 Q. Did he seem to understand the questions that you asked
20 him?

21 A. He did.

22 Q. Did he respond appropriately to your questions?

23 A. Very brief, curtly. Briefly, but appropriate, yes.

24 Q. So you have no question that he understood what you
25 were asking him?

1 A. No question.

2 Q. And that he voluntarily responded?

3 A. Yes, ma'am.

4 Q. Did you threaten him in any way to get him to talk to
5 you?

6 A. Absolutely not.

7 Q. Did you promise him anything to get him to talk to you?

8 A. I did not promise him anything.

9 Q. Okay. During this time did you have any type of
10 surveillance equipment?

11 A. No, ma'am.

12 Q. You didn't have a dash cam going?

13 A. I did have an in-car camera, yes, ma'am.

14 Q. Okay. Was your encounter with the defendant on that
15 in-car camera?

16 A. Yes, it was.

17 Q. The entire encounter with the defendant?

18 A. From the time I -- from just before I approached him
19 you can observe on the video me approaching him, until I
20 transported him to the hospital is all -- that entire
21 portion is on camera.

22 Q. And did you have any conversation with him while you
23 were transporting him to the hospital?

24 A. He did not -- he would not say anything.

25 Q. Okay. And did you transport him anywhere else?

1 A. After we were done at the hospital I asked him if he
2 wanted a ride anywhere, that I would provide transportation,
3 and I offered -- he didn't say anything and I offered him a
4 ride to either Augusta or to Lexington County. He told me
5 he would take a ride to Lexington County.

6 Q. Okay. And did you also have videotape of your travel
7 to Lexington?

8 A. I did not videotape our travel to Lexington, because
9 there is no -- no law enforcement action going on. I'm just
10 a taxicab.

11 Q. Was he under arrest?

12 A. No, ma'am.

13 Q. Was he in custody?

14 A. No, ma'am.

15 Q. He went where he said he wanted to go?

16 A. Correct.

17 Q. Did you have any conversation with him on the trip from
18 Aiken to Lexington?

19 A. From shortly after our initial contact in Warnerville,
20 he wouldn't speak to us, other than we offered him a
21 cigarette and he accepted that.

22 Q. Okay. Let's go back to when he was at the supermarket.
23 Tell me what you asked him.

24 A. When I approached him I asked him what he was doing.
25 He didn't really respond, other than he walked toward me.

1 He was putting his arms behind his back before I even asked
2 him to do anything. I stopped him and had him spin around.
3 I then approached him and lifted his arms up and actually
4 physically patted him down for a weapon. He didn't have
5 one. I asked him -- I thought he was behaving oddly, so I
6 asked him if he had a warrant or something and he responded
7 that he did.

8 Q. Would that be a typical question that you would ask of
9 someone?

10 A. If their behavior is concerning me, absolutely.

11 Q. Would you continue your conversation with him?

12 You said that you asked him if he had a warrant and he
13 said yes?

14 A. Yes.

15 Q. Did you ask him anything else?

16 A. I did. At that point in time I asked him to place his
17 hands on the patrol car and he complied. I wanted him off
18 balance for my safety at that point, so I asked him to draw
19 his feet backwards towards me. That took a little bit of
20 doing, but he did finally understand and comply with that.

21 Q. Was he in custody at that time?

22 A. No, ma'am, he was being -- he was being detained to
23 check on what -- to verify what he had told me, if he had a
24 warrant.

25 Q. Okay. Did you have any other conversation with him?

1 A. Well, I asked him his name and date of birth and I
2 relayed that information to our dispatcher.

3 While I was waiting for the response to come back, I
4 asked him what he thought he had a warrant for and he
5 responded for murder.

6 Q. And did you ask him anything else following that?

7 A. I did. I -- it took me back a little bit. I think I
8 asked him the same question twice. I said "for what," and
9 he again responded to me. And I asked him who he had killed
10 or murdered, and I can't -- his response wasn't -- I
11 couldn't hear. It's hard to hear with traffic noise that
12 you will hear on the video and dogs were barking and
13 everything else. And I asked him that question again also
14 and he immediately responded again "no one," or something to
15 that effect, and then I just made a comment that "I don't
16 know why you tell me that you are wanted for murder but you
17 you didn't hurt anyone."

18 Q. Okay. At some point --

19 A. Something to that effect.

20 Q. At some point did you ask him if he had killed someone?

21 A. I did. At that point that's -- I think that was my
22 exact quote was "who did you kill," or --

23 Q. And his response to you was "yes, sir"?

24 A. Yes, the first one.

25 Q. And then do you recall asking him "who did you kill?"

1 A. Yes.

2 Q. And his response to you was what?

3 A. At that point in time I believe he told me "no one."

4 Q. Did he ever ask you for a lawyer?

5 A. Immediately after that he said "I'm not saying anything
6 else until I talk to a lawyer," or "I want to speak to my
7 lawyer."

8 Q. Okay.

9 A. Something to that effect.

10 Q. At that point did you handcuff him?

11 A. I did.

12 Q. And put him in the patrol car?

13 A. Yes.

14 Q. Did you question him any further?

15 A. I think we did ask him some other brief questions later
16 on while we were trying to -- still trying to sort out what
17 was going on.

18 The information -- the whole encounter, like I told you
19 earlier, was very odd.

20 We found out he was listed as a missing person,
21 endangered, listed as endangered and violent tendency, which
22 isn't a warrant by any means.

23 So now at this point we are switching gears, so we are
24 still trying to figure out what is going on with him, you
25 know, what do we need, what course of action does the Aiken

1 County Sheriff's Office need to take for his protection and
2 for the protection of our citizens in Aiken County.

3 It was determined then after speaking with West
4 Columbia that there was some suspicious -- suspicions about
5 him. There were no charges, so that was out, but, you know,
6 we weren't going to -- obviously we weren't going to arrest
7 him without any charges. I had no charges. They had no
8 charges, so I switched over to more of a civil mode of his
9 mental well-being. You know, he -- he's displayed to me
10 that his behavior is odd. He's listed as a missing
11 endangered person and he's become almost zombie like. He
12 wouldn't speak or answer any kind of questions.

13 Q. But that was following your -- his actions that way
14 were following the conversation with him prior?

15 A. Well after, yes.

16 Q. Okay. So when you spoke with him, he understood what
17 you were asking him and responded appropriately?

18 A. Yes, the whole initial conversation, by my
19 recollection, took place in an initial thirty, forty-five
20 seconds, maybe a minute of coming into contact with him.

21 Q. Okay. If I may approach the witness, Your Honor?

22 THE COURT: Yes, ma'am.

23 BY MS. DAVIS:

24 Q. I would like to show you the CD. Can you tell me if
25 you recognize that?

1 A. I do.

2 Q. And what would that be?

3 A. That would be a copy of the in-car video from my patrol
4 car.

5 Q. And has this been altered or tampered with in any way?

6 A. Absolutely not.

7 Q. This is exactly what happened that night?

8 A. Correct.

9 MS. DAVIS: Your Honor, at this point I would
10 offer this as -- I guess it would be State's Exhibit No. 2.

11 MR. WALKER: Your Honor, may I object to his
12 testimony -- it's at this time the video has been tampered
13 with. There is a recollection and due to viewing it.

14 THE COURT: All right. I would overrule that
15 objection at this point.

16 You may offer it as State's 2 for identification
17 for purposes only for this in-camera hearing, solicitor.

18 MS. DAVIS: Thank you, Your Honor.

19 (CD marked as State's Exhibit No. 2 for
20 identification)

21 BY MS. DAVIS:

22 Q. Did the video that is now State's Exhibit No. 2, has it
23 been tampered with in any way?

24 A. Absolutely not.

25 Q. Have you taken anything out?

1 A. No.

2 Q. Have you added anything in?

3 A. No.

4 Q. Were you present yesterday for the defendant's
5 testimony?

6 A. I was.

7 Q. I believe that he testified that you were aggressive
8 with him.

9 A. I believe so too.

10 Q. Were you aggressive with him?

11 A. No.

12 Q. Did you harm him in any way?

13 A. Not in any way.

14 Q. Did you threaten him physically?

15 A. I did not threaten him at all. Offered to take him to
16 the hospital.

17 Q. And I believe he testified you took him against his
18 will?

19 A. I did take him to the hospital. He didn't indicate
20 whether it was against his will or not.

21 I will, however, say my duty as -- part of my duties at
22 that time that night, due to what we found out, his mental
23 condition and everything else, my observation of his
24 behavior, is to determine if he's a threat to himself or
25 others, and if I think that he possibly is, I must take him

1 for an evaluation.

2 Q. Did he ever tell you no, I don't want to go to the
3 hospital?

4 A. Not that I recall, no.

5 Q. I believe the defendant also testified that you
6 questioned him about the victim Carrie Banty. Did you know
7 who the victim was at the time that you encountered the
8 defendant?

9 A. At the time I encountered him, no, but later on I did.

10 Q. Later on you found out?

11 A. Yes.

12 Q. Did you question him?

13 A. I asked him who Carrie was and if Carrie was his
14 girlfriend, I believe.

15 Q. And did he respond to that?

16 A. No.

17 Q. I believe the defendant testified that you physically
18 threatened him if he wouldn't tell you who he killed, is
19 that correct?

20 A. That's incorrect, no.

21 Q. Did you question him at the hospital?

22 A. I don't even think I spoke to him at the hospital.

23 Q. Was anyone else present with you at the hospital?

24 A. Investigator Charles Cain, Chuck Cain, did respond to
25 the hospital.

1 Q. Do you recall him asking any questions of the
2 defendant?

3 A. I don't -- I don't recall him asking him anything. I'm
4 sure he probably might have, but I don't recall.

5 Q. At any time did you question him --

6 MR. WALKER: Objection, Your Honor.

7 THE COURT: What's the basis of your objection?

8 MR. WALKER: He can't vouch -- he stated, but the
9 State can't ask questions to vouch -- to make the witness
10 vouch for other witnesses.

11 THE COURT: Restate your question, solicitor.

12 BY MS. DAVIS:

13 Q. Were you with Detective Cain at the hospital?

14 A. Some length of time, yes.

15 Q. In your presence did you observe Detective Cain ask him
16 any questions?

17 A. I don't recall a hundred percent.

18 Q. Okay. I believe that he testified about some
19 questioning in a parking lot. Do you know anything about
20 that?

21 A. I know nothing about that.

22 Q. At any time did he ask for you to let him go and you
23 told him no, that he was under arrest?

24 A. Never.

25 Q. Did you tell him he was under arrest at any time?

1 A. Never.

2 Q. Was he ever under arrest?

3 A. Never.

4 Q. Was he handcuffed on the way to Lexington?

5 A. I don't recall, but I don't think so.

6 Q. I also believe he said that he was questioned in a
7 vacant car lot. Do you know anything about that?

8 A. I have no knowledge of that.

9 Q. And he said that he was also questioned on the ride to
10 Lexington. Do you recall that?

11 A. No.

12 Q. To sum it up, your encounter with him, you asked him if
13 he was wanted for any warrants, is that correct?

14 A. I did.

15 Q. And that would be a typical question that you would ask
16 of someone in the circumstances in which you found the
17 defendant?

18 A. Absolutely.

19 Q. Okay. And he answered "yes, for murder," and then
20 asked him if he killed someone?

21 A. Yes.

22 Q. And he said yes, sir?

23 A. Yes.

24 Q. And then you asked "who did you kill?"

25 A. I did.

1 Q. And he responded that he wanted a lawyer?

2 A. That would be correct.

3 Q. Is that your full conversation with the defendant?

4 A. Pretty much. I mean, there might have been another
5 word or two that might not be verbatim, but that is
6 certainly the gist of the entire encounter.

7 MS. DAVIS: Beg the court's indulgence..

8 THE COURT: Yes, ma'am.

9 (Off the record).

10 (Back on the record).

11 MS. DAVIS: Your Honor, at this time the State
12 would move to publish State's Exhibit No. 2.

13 THE COURT: All right. You may publish it.

14 (Whereupon, State's Exhibit No. 2 was started).

15 (Whereupon, State's Exhibit No. 2 was stopped)

16 BY MS. DAVIS:

17 Q. So Officer Kostyk, I know that we have paused it, but I
18 believe that the question that you asked is "what do you
19 think that you got a warrant for, bud" is that correct?

20 A. Correct.

21 Q. And his response was "murder"?

22 A. That would be correct.

23 Q. And your response was "huh"?

24 A. Exactly.

25 Q. And he said "murder"?

1 A. He did.

2 Q. And you questioned him and said "for murder? You done
3 murdered somebody"?

4 A. I did.

5 Q. And he said "yes"?

6 A. He did.

7 Q. And you said "no, then why do you think that you got a
8 murder warrant"?

9 A. That's what I said.

10 Q. And he said "I said yes, sir"?

11 A. Correct.

12 MR. WALKER: Objection.

13 THE COURT: Your objection?

14 MR. WALKER: Yes, sir, it's a little late on the
15 objection, but the video -- my observance did not show me
16 saying I was wanted for murder twice. The first time -- as
17 I say, again, the video is not consistent from my
18 reflection, but the video shows that I stated murder one
19 time, judge. It does not say second time it says murder.

20 THE COURT: All right. That goes to its weight,
21 not its admissibility. I would overrule the objection.

22 MR. WALKER: Thank you so much, Your Honor.

23 BY MS. DAVIS:

24 Q. At that time did you ask him "did you murder somebody?
25 Who did you murder"?

1 A. I did.

2 Q. And at that time, is that when he requested a lawyer?

3 A. He did.

4 Q. Did you have any further conversation with him?

5 A. Briefly here and there while we were sorting out
6 whether there were actually any charges, whether there
7 actually was a murder, which, as I said, deteriorated into
8 there were no charges, us making a determination on if he
9 needed to go to the hospital.

10 MR. GRAHAM: We acknowledge that he's in custody
11 and we acknowledge when he says he wants a lawyer, that
12 should probably end where it's at. We don't know if he
13 wants to see the rest of the tape or not.

14 It was never our intent to use anything. Our
15 intent was to use for direct evidence to the part where he's
16 asked about warrants and him saying murder warrants, and
17 then for impeachment when he's asked "did you murder
18 somebody," and he says "for murder." I think yes, he did
19 murder somebody. Once we are past there we don't plan on
20 using any of the evidence.

21 THE COURT: So if it's admissible at all, this is
22 the only part that you are offering?

23 MS. DAVIS: Yes, sir.

24 THE COURT: What you have shown me?

25 MS. DAVIS: Yes, sir.

1 THE COURT: Well, there is no need for me to
2 review it, unless someone offers it into evidence the
3 remainder.

4 MR. GRAHAM: Correct. We have a redacted copy
5 that we plan on publishing to the jury, Your Honor.

6 THE COURT: Thank you.

7 Mr. Walker?

8 MR. WALKER: Your Honor, I would ask the State if
9 I could -- if they have that eradicated (sic) copy, or could
10 I get a number -- I guess I could see a number there. I
11 just need to know the pinpoint number of where they are
12 planning to eradicate at.

13 THE COURT: Give him a copy of the eradicated.

14 MR. GRAHAM: Yes, sir.

15 THE COURT: I mean the redacted.

16 MR. WALKER: Excuse me, Your Honor.

17 THE COURT: Sir?

18 MR. WALKER: I thought you had said something.

19 THE COURT: All right. Thank you.

20 MS. DAVIS: Your Honor, we will provide the
21 defendant with a redacted copy. We just put in evidence the
22 entire video.

23 THE COURT: I understand.

24 MS. DAVIS: Which is State's No. 2.

25 I have no further questions for Officer Kostyk.

1 THE COURT: All right, Mr. Walker.

2 MR. WALKER: Your Honor, I'm sorry to take so much
3 time. Thank you for being patient with me.

4 THE COURT: Yes, sir.

5 CROSS EXAMINATION BY MR. WALKER:

6 Q. Mr. Kostyk, you were saying that interrogation is
7 defined by expressive questions or functional equivalent, is
8 that correct? Was that -- is that legitimate?

9 A. Say that again please, sir.

10 Q. That interrogation is defined as expressed question or
11 a functional equivalent. Is that correct, in your opinion?

12 A. It could be part of the definition.

13 Q. In interrogation? All right.. Fair enough..

14 In the video that the solicitor just showed before this
15 one you had patted me down, and immediately upon --
16 immediately upon coming to me you never observed anything
17 for me to have a weapon or anything, is that correct?

18 A. I'm not sure I understand your question..

19 Q. Before patting me down, did you observe anything, any
20 indication that I had a weapon?

21 A. Did I observe a weapon?

22 Q. Right, a weapon.

23 A. I'm not -- I'm confused. Did I observe a weapon, or an
24 indication that you had a weapon?

25 Q. Before patting me down did you have any indication of a

1 weapon?

2 A. Yes.

3 Q. And what indication was that?

4 A. We are in a high crime area at night in a dark,
5 darkened portion of a parking lot, a location to a
6 convenience store that gets robbed, particularly gets robbed
7 at this time of the year that we are in in the video.

8 So I had a -- I had a suspicion that you could be armed
9 at that time, based on my suspicion that you were casing the
10 store to rob it.

11 Q. All right. Do you know what reasonable suspicion is?

12 A. I have a fair idea.

13 Q. In your opinion, what would be your reasonable
14 suspicion to conduct a Terry stop, other than what you just
15 stated?

16 A. The only thing I can state to the facts here, sir. I
17 observed you next to a convenience store that gets robbed,
18 particularly gets robbed frequently at the time of the year
19 that we are in.

20 You are -- you are in a location perfect to observe the
21 store, behaving in a suspicious manner, back and forth
22 watching -- it appeared to me to be watching the store.

23 You came from a direction where the store -- people
24 have put getaway vehicles prior to get to after they have
25 robbed the store.

1 All these factors made me believe that your behavior
2 was suspicious and indicated if possible looking to rob the
3 store.

4 Q. All right. Have you ever heard of United States v.
5 Sokalow, and that is a United States Supreme Court case?

6 A. I have never heard that, no.

7 Q. Okay. In that case it says that the Fourth
8 Amendment -- are you familiar with the Fourth Amendment
9 Constitution?

10 A. I am.

11 Q. All right. And so --

12 MS. DAVIS: Your Honor, objection.

13 THE COURT: All right. What question? I hadn't
14 heard this one.

15 MS. DAVIS: I'm sorry, he's not asking factual
16 questions. He's asking the officer about the law.

17 MR. WALKER: No, I haven't asked any questions
18 about the law. I asked him a question about --

19 THE COURT: You asked him about the Fourth
20 Amendment. Describe to me what the Fourth Amendment is if
21 it ain't the law.

22 MR. WALKER: It's a Constitutional Right. I'm
23 addressing --

24 THE COURT: The Constitution ain't the law?

25 MR. WALKER: If I may, Your Honor, I'm addressing

1 it as a right, not the law. There is a difference in
2 demeanor of --

3 THE COURT: I think the Constitution is the law.
4 That question has been asked. The officer
5 answered it. Yes, he's familiar with it.

6 MR. WALKER: Okay.

7 THE COURT: Ask your next question.

8 MR. WALKER: Okay. I'm going to say the Fourth
9 Amendment, but I'm not asking the Fourth Amendment.

10 THE COURT: If you are not asking about the Fourth
11 Amendment, I'm going to tell you in advance rephrase the
12 question.

13 MR. WALKER: Yes, sir.

14 THE COURT: If that's not part of your question.

15 BY MR. WALKER:

16 Q. All right. Do you know -- do you know that the Fourth
17 Amendment requires that you must be fair -- that there must
18 be a fair probability that contraband or evidence of a crime
19 will be found for a stopping and frisk?

20 MS. DAVIS: Same objection, Your Honor.

21 THE COURT: Mr. Walker, I can read the law. I
22 interpret the law. This officer is here to testify about
23 the facts. He's a fact witness.

24 MR. WALKER: Right.

25 THE COURT: All right. And when we have heard all

1 the testimony in the Jackson v. Denno, I'll listen to you,
2 just like I did previously on the statement that you made
3 concerning the stand your ground, and I'll listen to your
4 whatever statement that you give concerning Jackson v. Denno
5 and you can address the law and the facts at that time.

6 MR. WALKER: All right.

7 BY MR. WALKER:

8 Q. Now, if I told you that I was walking down the street
9 at this time and I was talking -- I don't know, you said
10 your eyes was on the convenience store. If -- if right
11 before you apprehended me would it be consistent if I -- I
12 was walking down the street and right before I walked to the
13 supermarket. The supermarket was not closed, but it was
14 closing, and a person come out -- the manager was a female
15 manager, I believe. Her husband actually owned it, but she
16 was co-owner. She was working that night and she basically
17 said come in and shop. And then when she said come in and
18 shop, she said you may come in and shop, but we are closing
19 down and she invited me -- she invited me in there --

20 MS. DAVIS: Objection, Your Honor?

21 THE COURT: Did that happen? I don't know.

22 MS. DAVIS: That's not in evidence, Your Honor. I
23 believe that the defendant is testifying and not asking any
24 questions.

25 MR. WALKER: I'll move on, Your Honor.

1 THE COURT: I'm processing it, Mr. Walker. Hold
2 on.

3 (Off the record).

4 (Back on the record)

5 THE COURT: Do you have a reasonable foundation
6 for asking that question, you can ask it, if you have a
7 reasonable foundation, but ultimately someone would have to
8 testify to it.

9 I was trying to process through your testimony in
10 the stand your ground hearing. I know you called this
11 officer and there was testimony for a while about this
12 event.

13 Ask your next question, Mr. Walker.

14 MR. WALKER: Yes, sir.

15 BY MR. WALKER:

16 Q. All right. Can you go back to visit --

17 MR. WALKER: Your Honor, I want to go and I want
18 to play the video back to that point and --

19 THE COURT: You want to republish the video?

20 MR. WALKER: That's correct.

21 THE COURT: Yes, sir, you may.

22 MR. WALKER: Thank you.

23 THE COURT: Do you know how to do it?

24 MR. WALKER: Yes, sir, I learned earlier today.

25 (Whereupon, the videotape was started)

1 (Whereupon, the videotape was stopped)

2 BY MR. WALKER:

3 Q. What -- the video showed that you pulling in right
4 there and me calmly sitting under the porch. What
5 articulable fact give you reason to obstruct my --

6 A. We are sitting across the street when you didn't know
7 that I was for a period of time observing. I observed you
8 at the grocery store, which was closed, and you appeared to
9 me to be observing the convenience store as if you were
10 casing it to rob it.

11 Q. Why didn't you just -- once -- at this point you seen
12 that I was acting -- I wasn't acting suspicious. I was
13 under a carport sitting there, and why didn't you just view
14 me from -- rather than interrogating me from -- why didn't
15 you just view me from a standing point rather than a
16 football field length away from me and then ride in there
17 and make your presence known or observe me from a closer
18 rather than taking my public interests, because I have a
19 right to be free from -- from search and seizure and,
20 therefore, once you indicated this without putting this --
21 acknowledging this, you violated my rights. What was
22 your -- what was your articulable facts?

23 THE COURT: You have answered that. That's the
24 same question that you answered before. The officer has
25 answered what he observed from the position he was in.

1 MR. WALKER: But I'm getting at, Your Honor, why
2 did -- what articulable fact of why he --

3 THE COURT: Why did he --

4 MR. WALKER: Why did he do what he did?
5 Basically --

6 THE COURT: He's answered that on direct and now
7 twice on cross of what his position was, why he was in that
8 position, what he observed, the behavior he observed, and
9 the actions that he took. That's been asked and it's been
10 answered.

11 MR. WALKER: Thank you so much, Your Honor. I'll
12 move on.

13 (Whereupon, the videotape was started)

14 (Whereupon, the videotape was stopped)

15 MR. WALKER: Your Honor, I'm going to wait for --
16 I'm going to present argument at the end of that issue on
17 this video.

18 THE COURT: All right. Do you have other
19 questions?

20 MR. WALKER: No, sir, Your Honor.

21 THE COURT: Redirect, solicitor?

22 MS. DAVIS: No, sir, Your Honor.

23 THE COURT: Thank you.

24 Thank you, sergeant. You may step down.

25 MS. DAVIS: May he be excused from this hearing,

1 judge?

2 THE COURT: Yes, he may be excused from the
3 hearing. You have him under subpoena?

4 MS. DAVIS: Yes, we do.

5 THE COURT: Do you need him in your presentation
6 on this in-camera hearing, Mr. Walker?

7 MR. WALKER: No, sir, Your Honor.

8 THE COURT: Okay. Yes, sir, you may be excused.
9 All right, you may call your next witness.

10 MR. GRAHAM: James Kemfort.

11 THE COURT: If you would come around and be sworn
12 for us, please.

13 OFFICER JAMES KEMFORT, having been first duly
14 sworn, testified as follows:

15 THE CLERK: Have a seat, sir.

16 Once you are seated, state your full name,
17 spelling your last, please.

18 THE WITNESS: James Kemfort, K-E-M-F-O-R-T.

19 DIRECT EXAMINATION BY MR. GRAHAM:

20 Q. Deputy Kemfort, where are you employed?

21 A. Lexington County Sheriff's Department.

22 Q. And how long have you been in law enforcement?

23 A. Fifteen years.

24 Q. Do you remember running into Mr. Walker before on the
25 early morning hours of December 18th, 2012?

1 A. I do.

2 Q. Would you -- how did that come about?

3 A. I was working as a road patrol supervisor for the west
4 region of Lexington County and I received a request for a
5 phone call from Sergeant Kostyk with Aiken County.

6 After speaking with him on the phone, the information
7 that I obtained was that he had -- he was with an
8 individual, later identified as Mr. Walker, who had an NCIC
9 entry for being missing endangered out of West Columbia
10 Police Department and that he was giving him a ride to the
11 44 Truck Stop and that he was not in custody, but he was
12 just offering him a service and giving him a ride to the 44
13 Truck Stop, which is in Lexington County and he wanted to
14 meet with us, me.

15 Q. Did you, yourself, speak to anybody in West Columbia at
16 that time?

17 A. I did. I contacted West Columbia Police Department and
18 I spoke with a corporal there who stated that what -- I
19 spoke with a corporal there and he gathered some information
20 about the nature of Mr. Walker. Well, there was some back
21 and forth between me and the corporal.

22 There was a couple of different phone calls trying to
23 decide whether they were going to -- that they needed to
24 speak to him now, what the nature of their interaction
25 exactly was and how they wanted to go. I was sort of the

1 liaison between West Columbia and Aiken County.

2 Q. After your conversations with Sergeant Kostyk and then
3 with West Columbia, were there any warrants or any reason
4 for you to take Mr. Walker into custody?

5 A. No, absolutely not.

6 Q. So at some point did Sergeant Kostyk arrive at the 44
7 Truck Stop with Mr. Walker?

8 A. He did. We arrived at the 44 Truck Stop, which is at
9 2120 Pond Branch Road in Lexington County. I met Sergeant
10 Kostyk, and Mr. Walker was -- he got out of the vehicle. He
11 was not handcuffed. He was not in custody.

12 Mr. Kostyk -- Sergeant Kostyk informed me, you know,
13 "he's not in custody. He wanted a ride. I'm here."

14 Q. Let me interrupt you for a second. That statement by
15 Sergeant Kostyk, was that made in front of Mr. Walker?

16 A. Yes, it was.

17 Q. Okay. Continue. What happened next?

18 A. I asked -- I just simply asked Mr. Kostyk -- I mean Mr.
19 Walker, I simply asked him basic information. I tried to
20 talk to him and he wouldn't respond. He just didn't reply.
21 He was aloof would be a good description and not -- he just
22 didn't really want to talk. He did ask for a cigarette. We
23 managed to get him a cigarette.

24 And Sergeant Kostyk and I spoke about various things
25 not even related to this incident and we just kind of stood

1 there in the parking lot. As I was going and talking
2 between West Columbia, deciding what they wanted to do,
3 trying to find out if they had any information, whether or
4 not they needed to talk to Mr. Walker or not.

5 Q. And where was Mr. Walker during that time?

6 A. He was just lingering around, hanging around, just
7 standing there.

8 Q. What did you tell him about this?

9 A. I informed him that he was not being a danger. He was
10 free to go. We had nothing to hold him for. If he wanted
11 to leave, he could leave.

12 Q. And he just continued to linger in the area?

13 A. Yes, he did.

14 Q. And then what's the next thing that happens?

15 A. This went on for a long while, at least twenty, thirty
16 minutes we were out there talking. He stayed around and
17 smoking a cigarette.

18 I eventually had to get in touch with my watch
19 commander and other people that could make the proper phone
20 calls to get the proper communication between the two
21 agencies done and accomplished.

22 About that point Mr. Walker then began to sort of
23 meander around the truck stop, the building. We were on one
24 end of the building and it's a long building. He just kind
25 of started to walk and slowly just meander around the

1 building, not really in any particular direction.

2 Q. Is it a 24 hour truck stop or was it closed at the
3 time?

4 A. It was closed at that time, yes.

5 About the time he -- Mr. Walker had made it to the
6 other side of the truck stop, he kind of rounded the corner,
7 I received a call from West Columbia and they said that they
8 do want to speak to him and if there is any way that I can
9 keep him around, let me talk to them, they asked me to try
10 to do that.

11 Q. And did you attempt to do that?

12 A. I did. I drove around -- I got in my vehicle and I
13 drove around the other side of the truck stop of the
14 building, which is right there and Jessie Pond Road, and as
15 soon as I drove around --

16 THE COURT: Juniper Springs?

17 THE WITNESS: I'm sorry, Juniper Springs, yes,
18 sir, thank you.

19 THE COURT: I just don't want to get lost.

20 THE WITNESS: That's correct. It's on Juniper
21 Springs, yes, sir. My mistake.

22 A. As I pulled around Mr. Walker saw my vehicle and
23 actually approached me.

24 BY MR. GRAHAM:

25 Q. Can you tell the judge about the conversation that

1 happened? Are you in your car and he's outside?

2 A. I pulled over and got out. He's standing outside. He
3 had just crossed over -- over the road and I pulled over. I
4 got out of my vehicle.

5 I explained to him, I said that the West Columbia
6 Police Department would like to come out and talk to him
7 about the incident and he kind of hesitated. He didn't
8 really say anything. He just hesitated and left. He said
9 no offense.

10 I said, "you know, buddy, I don't know what you did."
11 I said "I don't know what you did or what you didn't do," I
12 said, "but it's not going to go away and you will probably
13 feel a whole lot better if you just sit down and talk to
14 somebody about it."

15 His response to that was "yeah, I want to talk."

16 I then asked him if he would talk to West Columbia if
17 they responded and he said he would wait for them and talk
18 to them.

19 While waiting Mr. Walker then started removing his
20 clothing. He took off his jacket. He laid it on the ground
21 and took off his sweatshirt and then took off another shirt.

22 Q. What did he do with it?

23 A. He started laying it on the ground. And as he got off
24 the sweatshirt, I said -- I mentioned to him "man, don't put
25 those -- I actually asked him, I said "are you warm or

1 getting hot," and he said "no."

2 I said -- I told him that he could place his clothes on
3 my trunk if he wanted to and not leave them on the ground.
4 He did place the last piece of clothing on my trunk. So
5 some was on the ground and some was on the trunk of my car.
6 And he looked at me and he said "I don't want them any
7 more."

8 Q. Referring to his clothes?

9 A. Referring to his clothes, yes.

10 Q. What did you do with his clothes at that time?

11 A. I didn't touch them. I had observed what appeared to
12 be blood or some other type of fluid or stains on the
13 clothes, and not being familiar with the actual incident, I
14 understood that there could be some evidentiary value to it
15 and I did not want to be caught in the middle of a chain of
16 custody, so I left them there until West Columbia could come
17 and collect them.

18 Q. How long was it before West Columbia showed up?

19 A. It was just a few minutes. It wasn't long at all.

20 Q. And anything else happen between you and Mr. Walker
21 during the time?

22 A. Because it was -- the temperature was cool. It was in
23 the forties. It was a cool night in December. I knew he
24 had to be getting cold with taking the clothes off, so I
25 asked him if he wanted to sit inside the car and I'll run

1 the heater, and so I opened the door and let him sit inside
2 my patrol car and ran the heater for him until West Columbia
3 got there.

4 Q. Was he in custody?

5 A. Absolutely not.

6 Q. Did you force him into the car?

7 A. No, I did not.

8 Q. Did you make any threats?

9 A. No.

10 Q. Promise him anything?

11 A. No, sir.

12 Q. Put him in cuffs?

13 A. No, sir.

14 Q. Did West Columbia show up?

15 A. They did.

16 Q. And who from West Columbia appeared?

17 A. Detective Moore.

18 Q. Do you know Detective Moore?

19 A. I had never met this person before.

20 Q. That was the first time?

21 A. Correct.

22 Q. Can you describe -- did you have any more conversations
23 with Mr. Walker at that time?

24 A. Not at that time.

25 Once West Columbia arrived, I opened the back door so

1 that he could get out, if he wanted to get out, and I walked
2 over to West Columbia and explained to them everything that
3 I had observed and seen up to that point and everything that
4 happened and about the clothes for them to collect, which
5 they did.

6 Q. Did you have any knowledge that he had asked for an
7 attorney when he was --

8 A. I did not.

9 Q. -- in Aiken?

10 A. I did not.

11 Q. Did he ask for an attorney when he was with you?

12 A. At no time.

13 Q. Did you ever question him about the case itself?

14 A. I did not.

15 Q. To the best of your knowledge, did he freely and
16 voluntarily of his own will choose to go with West Columbia
17 when he left your presence?

18 A. Yes, he did.

19 MR. GRAHAM: No further questions for this
20 witness, Your Honor.

21 Than you, Deputy Kemfort.

22 THE COURT: Thank you.

23 Mr. Walker?

24 CROSS EXAMINATION BY MR. WALKER:

25 Q. All right. For the record, Officer Kemfort, did you

1 say that I wasn't in handcuffs when you arrived at Exit 44
2 Truck stop, is that correct?

3 A. That's what I recall, yes.

4 Q. And you stated the reason that is so is because you was
5 already placed at that truck stop before I arrived?

6 A. The reason that was so is because I was told you were
7 not in custody.

8 Q. Right, but did you -- was you already at the truck
9 stop, or did I arrive before or after your arrival to the
10 truck stop?

11 A. That is a detail I don't remember which one of us
12 arrived first.

13 Q. All right. I'm going to move on.

14 And so you was just told that I was not in any
15 handcuffs and you did not -- you never observed me in the
16 handcuffs or out of the handcuffs?

17 A. That's not correct. You were still in the vehicle.
18 Whether I arrived before him or after him, you were not --
19 you did not get out of the patrol vehicle until I was there,
20 so I saw you exit the vehicle. You were not in handcuffs.

21 Q. Right. And how long was I and you at this truck stop
22 before I exited the vehicle?

23 A. Seconds.

24 Q. So it was in a minute's time?

25 A. Way less, yeah.

1 Q. But you don't recall who arrived there first?

2 A. I don't know if you arrived before me or I arrived
3 before him. We arrived pretty close to about the same time
4 and it was either -- whichever one of us got there first, as
5 soon as the second one got there, we exited the vehicles
6 and --

7 Q. All right. So, therefore, immediately when I arrived
8 there, there was -- you never observed handcuffs on me, and
9 you say that I -- I exited -- when I exited how long was I
10 at the truck stop, from your opinion, when I exited?

11 A. From the time -- from the time you exited Sergeant
12 Kostyk's vehicle until West Columbia arrived, or until when?

13 Q. I believe you just answered this question. I don't
14 think I -- I don't think I absorbed it.

15 What I'm asking is, what time frame -- from the time
16 that you and I arrived within minutes time frame, so I'm
17 going to say it was -- from the time that we arrived there,
18 how long before did you observe me get out of the vehicle?

19 A. It was just a few seconds.

20 Q. A few seconds. Okay.

21 And then you state that we sat around -- from your
22 recollection did we sit around -- didn't you say we sat
23 around and smoked cigarettes and drank coffee, intended
24 nature --

25 A. No, we didn't sit at all. We were standing in the --

1 on the side of the building in a lot, and actually in the
2 middle of the lot between where the building is and the old
3 peach stand that's on the other side of the parking lot. We
4 were in the middle of the lot standing outside.

5 Q. All right. And the cars was parked there?

6 A. Yes.

7 Q. So it was relevantly officers parked in the middle of
8 the parking lot?

9 A. Yeah, when it closed like that, absolutely.

10 Q. All right. So, therefore, after that when you state
11 that we -- why were we generally there? I mean, I just
12 stood around? From your opinion I just wouldn't leave, so
13 you just --

14 A. You just stood there and then after a cigarette -- we
15 provided you a cigarette and you smoked it.

16 Q. I have a video that shows the officers that I had
17 cigarettes already --

18 A. Uh-huh.

19 Q. -- and I had -- at this time frame I had never
20 generally left the police's custody, in general, so I
21 already had cigarettes on me, so you said I didn't have
22 cigarettes.

23 A. That's not what I said. You asked if you could smoke a
24 cigarette.

25 Q. All right. So now you are saying I asked if I could

1 smoke a cigarette, not that -- not that I -- not that I
2 asked you for a cigarette, is that correct?

3 A. You asked for a cigarette.

4 Q. Well --

5 A. Whether it was your own or someone else's, you asked
6 for a cigarette.

7 Q. If I may, you are not supposed to be giving
8 inconsistent statements. You have given an inconsistent via
9 that you are saying that -- it's one thing that I'm asking
10 you for a cigarette, and another time you're saying I'm
11 asking to smoke a cigarette. They are two different things.

12 A. I think they are the same.

13 MR. WALKER: May I impeach, Your Honor?

14 THE COURT: All right.

15 MR. WALKER: I'm sorry, I'm not sure exactly how
16 to impeach, Your Honor. I'm trying to impeach, but I will
17 carry on from here, Your Honor.

18 THE COURT: All right.

19 BY MR. WALKER:

20 Q. So -- so upon -- upon that you state that -- you state
21 I detoured from -- I wondered or detoured from you and the
22 persons there, is that correct, after I asked you for a
23 cigarette?

24 A. After you -- after you had a cigarette and you smoked
25 it and you hung around a little bit longer and you just kind

1 of meandered off.

2 Q. All right. And then -- then what happened after that,
3 from your recollection?

4 A. I explained that's when I got a phone call from West
5 Columbia and they asked that they wanted to speak to you and
6 that's when I drove around to where you were and you
7 approached me.

8 Q. From your recollection where was I again?

9 A. You were just across the street on Juniper Springs and
10 right there at Pond Branch Road.

11 Q. And Pond Branch Road is a dirt road, is that correct?

12 A. No, these weren't dirt roads. There is a -- there is a
13 I would say an old dirt road that comes off of Juniper
14 Springs at an angle. We were near that as well, but on the
15 side of Juniper Springs.

16 Q. All right. So on that -- and then -- and then you
17 state that I -- you know, I knew -- what did you ask me in
18 general at that time? And do you know --

19 A. Okay. I explained to you that West Columbia was
20 wanting to come around and talk to you about the incident.
21 That's all I said. And you hesitated and that's when I
22 stated to you, I said "I don't know what you did or didn't
23 do, but I know that this isn't going to go away and you
24 would feel a lot better if you talked to someone about it."

25 And your response was "yeah, I want to talk."

1 Q. All right.. If I told you that my recollection of was
2 different from that statement, that I did not give that
3 statement to you at the end of your questioning, what would
4 you say to that?

5 THE COURT: That was asked. What's your next
6 question?

7 MR. WALKER: Next question.

8 BY MR. WALKER:

9 Q. After -- after this you did you -- from your observance
10 I went freely and voluntarily with West Columbia, is that
11 correct?

12 A. Yes, you did.

13 Q. All right.

14 MR. WALKER: I have no further questions, Your
15 Honor.

16 THE COURT: Redirect?

17 MR. GRAHAM: Nothing, Your Honor.

18 THE COURT: Thank you.

19 Thank you, detective.

20 THE WITNESS: Yes.

21 THE COURT: You may step down.

22 Two more witnesses? Let's take about a ten minute
23 recess, okay?

24 (Whereupon, proceedings were recessed)

25 (Whereupon, proceedings were reconvened)

1 THE COURT: All right, Mr. Solicitor, you may call
2 your next witness.

3 MR. GRAHAM: The State calls Page McCraw.

4 OFFICER PAGE MCCRAW, having been first duly sworn,
5 testified as follows:

6 THE CLERK: Have a seat, please.

7 Once you are seated, state your name, spelling
8 your last.

9 THE WITNESS: It's Page McCraw, and Page is
10 P-A-G-E. And McCraw is M-C-C-R-A-W.

11 DIRECT EXAMINATION BY MR. GRAHAM:

12 Q. Where are you employed, ma'am?

13 A. I'm employed at the West Columbia Police Department.

14 Q. And what do you do there?

15 A. Right now I'm in crime scene and evidence.

16 Q. How long have you been in law enforcement?

17 A. I have been in law enforcement over twenty years, but I
18 have been at West Columbia for eleven and a half.

19 Q. December 18th, 2012, where were you employed and what
20 did you do there?

21 A. I was with the West Columbia Police Department at the
22 time and I was an investigator was my title at the time.

23 Q. Did you respond to the 44 Truck Stop?

24 A. I did, yes, sir.

25 Q. Why?

1 A. I had received a call from one of our road patrol
2 units, Corporal Griffin, and stated that Lexington County
3 was out with David Walker.

4 Q. Okay. And who was David Walker to you?

5 A. At that time we had this incident and we had him listed
6 as a missing person and endangered and that we just needed
7 to talk to him, and they just told me that they had come in
8 contact with him and had him at the Truck Stop 44.

9 Q. And what was your understanding from --

10 Okay. From talking -- did you talk with anybody from
11 Aiken County yourself?

12 A. I worked a four to midnight shift. I believe I spoke
13 briefly with Investigator Cain and that they were out with
14 him and that I explained to him at that time we did not have
15 warrants or anything on him.

16 Q. So you told him that you didn't have anything to
17 actually detain him on?

18 A. Right, that we just needed to talk to him.

19 Q. Did you -- when you went to the 44 Truck Stop, did you
20 have warrants?

21 A. No, sir, I did not.

22 Q. When you got to the 44 Truck Stop what did you observe?

23 A. I had spoke to I believe it was Sergeant Kemfort and
24 spoke with him, first of all, and David was there at the
25 truck stop. Sergeant Kemfort said that he had shed his

1 clothes and that's over by the patrol car. He said he
2 didn't want them any more, so I collected those, and then I
3 proceeded to walk and talk to David Walker.

4 Q. Where was Mr. Walker at the time when you pulled up?

5 A. He was standing outside near one of the patrol cars
6 just kind of standing there and I just told him that we
7 wanted to talk to him, would he be willing to go back to
8 West Columbia to talk to us.

9 Q. Did he have handcuffs on him?

10 A. No, he did not.

11 Q. Did you put handcuffs on him?

12 A. No, I did not.

13 Q. Did you tell him that he was in custody?

14 A. No, I did not.

15 Q. You asked him if he would be willing to come and speak
16 with you?

17 A. Yes, sir.

18 Q. And what did he say?

19 A. He said sure, okay.

20 Q. Anything else, as far as conversations between yourself
21 and Mr. Walker?

22 A. No, sir, he was very quiet.

23 Q. Did you observe any other conversations between Mr.
24 Walker and any other law enforcement officer at the 44 Truck
25 Stop?

1 A. I did not observe anything else.

2 The only other thing that he asked me, he said he was
3 thirsty and I went inside the Truck Stop 44 and bought him a
4 water.

5 Q. So the truck stop was open at this point?

6 A. Yes, sir, uh-huh.

7 Q. Do you remember what time it was?

8 A. I have my notes.

9 It was approximately around four o'clock when I got
10 there.

11 Q. Now, he was transported by another officer, is that
12 correct?

13 A. Yes, sir, that's correct, because he had video and just
14 for observance that was it. I -- I didn't have a caged car.
15 I was coming from my house and so we -- as soon as I got
16 there another officer from -- I think it was Corporal King
17 at the time, he arrived at the Truck Stop 44 and I asked
18 David would he be willing to ride with him and he said sure.

19 Q. Was he handcuffed?

20 A. No, sir, he was not.

21 Q. Did he get into the vehicle of his own free will?

22 A. He did.

23 Q. And was he transported to West Columbia Police
24 Department?

25 A. Yes, sir, I followed them.

1 Q. Okay. Did you view the in-car camera of Corporal King?

2 A. I did.

3 Q. And was there any conversation between Corporal King
4 and Mr. Walker?

5 A. No, there was not.

6 Q. Did you threaten him in any way?

7 A. No, sir, I did not.

8 Q. Did you make him any promises?

9 A. I did not.

10 Q. Did he appear to be under the influence of alcohol or
11 drugs?

12 A. No.

13 Q. Did he appear to understand the conversations with you?

14 A. He did.

15 Q. When you arrived at the West Columbia Police Department
16 would you tell the judge about Mr. Walker's arrival there?

17 A. He arrived with Corporal King. He pulled in the sally
18 port. He walked him in. They come through a little hallway
19 where we have holding cells and then into our squad room,
20 which we have an interview room, and he was set down in the
21 interview room and Corporal King was actually on the
22 outside. I come around to the front of the building and
23 stopped the car again. I waited on Investigator Wade to get
24 there.

25 Q. And when Investigator Wade arrived did y'all go into

1 the room?

2 A. We did, we went in together.

3 Q. Did you have any conversations with Mr. Walker at that
4 time?

5 A. We introduced ourselves and then we spoke to him and
6 said he can't read or write, so we told him that we were
7 going to record the interview.

8 Q. Let me show you a disk and ask if you recognize this
9 disk?

10 A. Yes, sir, it has my initials on it.

11 Q. So you have looked at this before?

12 A. Yes, sir.

13 Q. And is it a fair and accurate depiction of the
14 interview that you and Investigator Wade had with Mr.
15 Walker?

16 A. Yes, sir.

17 Q. Prior to this recording started did Investigator Wade
18 threaten Mr. Walker?

19 A. No, sir, not at all.

20 Q. Did you threaten Mr. Walker?

21 A. No, I did not.

22 Q. Did either of you make any promises to him to get him
23 to speak with you?

24 A. No, we did not.

25 Q. Did you have any knowledge of him asking for an

1 attorney earlier the night before?

2 A. No, I did not.

3 Q. Did he ever say that he didn't want to speak to you
4 prior to the interview beginning?

5 A. No, he did not.

6 Q. You stated that he told you that he couldn't read or
7 write --

8 A. Right.

9 Q. -- and that's why this is recorded?

10 A. Yes, sir.

11 MR. GRAHAM: Your Honor, the State would offer
12 this into evidence at this time.

13 THE COURT: All right.

14 Mr. Walker?

15 MR. WALKER: He may, Your Honor.

16 THE COURT: All right. Thank you.

17 You have no objections?

18 MR. WALKER: At this time no objections.

19 MR. GRAHAM: Number 3, I believe.

20 THE COURT: State's 3.

21 (CD Interview marked as State's Exhibit No. 3 for
22 identification)

23 MR. GRAHAM: Your Honor, the State would ask to
24 publish this at this time.

25 THE COURT: All right. Yes, sir. You may

1 publish.

2 BY MR. GRAHAM:

3 Q. We are going to hear three voices on this -- or on this

4 CD. Whose voices are we going to hear?

5 A. Captain Wade's, and myself, and David Walker.

6 (Whereupon, the CD was started)

7 (Whereupon, the CD was stopped)

8 BY MR. GRAHAM:

9 Q. Detective McCraw, has that audiotape been altered or
10 changed?

11 A. No, sir, it has not.

12 Q. Is that the way it is that Mr. Walker sounded that
13 morning when you interviewed him?

14 A. Yes, sir, it is.

15 Q. Does he appear to understand your conversation -- now
16 Captain Wade's conversation with him that morning?

17 A. Yes, sir, he answered questions.

18 Q. Was he there freely and voluntarily?

19 A. Yes, sir.

20 Q. Did you say or do anything, you or Detective Wade, or
21 anybody else in West Columbia to make him think that he had
22 to speak with you?

23 A. No, sir.

24 Q. Thank you. Please answer any questions that Mr. Walker
25 has for you.

1 THE COURT: Thank you, solicitor.

2 Mr. Walker?

3 CROSS EXAMINATION BY MR. WALKER:

4 Q. Yes, ma'am, how are you?

5 A. Good.

6 Q. I have a question for you. Upon arriving to West
7 Columbia, once I arrived there, I -- I observed what in the
8 law is known as induced. Are you familiar with that?

9 A. No, I'm not.

10 Q. It basically means I was promised or threatened in a
11 way to be interrogated.

12 THE COURT: Speak up a little bit for me, please,
13 Mr. Walker. Thank you.

14 BY MR. WALKER:

15 Q. It means that I was -- it means I was threatened or
16 promised something for the -- at the interrogation.

17 So that means that -- do you recall Mr. Bruce Wade
18 inducing me at any point?

19 A. As far as threatening you, no.

20 Q. Do you recall him -- recall him saying anything to the
21 fact that -- that he would work with me in my -- work with
22 me on the sentencing or anything before we went to the
23 interrogation room?

24 A. No, not at all.

25 Q. You didn't observe him inform me that if I didn't talk,

1 he was going to take Cassidy away from me and also he was
2 going to -- he was going to -- they was going to seek the
3 death penalty and a few other adverbs?

4 A. No.

5 MR. WALKER: And at this time I have no more
6 questions, Your Honor.

7 THE COURT: Thank you. Thank you, Mr. Walker.
8 Redirect, solicitor?

9 MR. GRAHAM: No, Your Honor.

10 THE COURT: Thank you.

11 Detective McCraw, you may step down.

12 You can call your next witness.

13 MR. GRAHAM: Thank you, Your Honor.

14 The State calls Captain Bruce Wade.

15 THE COURT: All right. If you would come around
16 and be sworn, please.

17 And I do want to quit about 6:15 today.

18 MR. GRAHAM: I'm sorry, Your Honor.

19 THE COURT: I want to quit about 6:15 today. When
20 y'all get finished, I'm going to start back early in the
21 morning.

22 MR. GRAHAM: I believe we can, Your Honor.

23 THE COURT: All right.

24 OFFICER BRUCE WADE, having been first duly sworn,
25 testified as follows:

1 THE CLERK: Have a seat, sir.

2 Once you are seated, state your full name,
3 spelling your last.

4 THE WITNESS: My name is Bruce Wade, W-A-D-E.

5 DIRECT EXAMINATION BY MR. GRAHAM:

6 Q. Captain Wade, how long have you been in law
7 enforcement?

8 A. Nineteen years.

9 Q. How long have you been with West Columbia?

10 A. Eleven years.

11 Q. December 18th, 2012, what was your job responsibilities
12 with the West Columbia Police Department?

13 A. An investigator.

14 Q. And were you involved with an interview of David
15 Walker, who is present in court today?

16 A. I was.

17 Q. Were you in the courtroom just now when the audiotape
18 was played?

19 A. Yes.

20 Q. When Investigator McCraw was up on the stand?

21 A. That's correct.

22 Q. That's State's No. 3, is that a fair and accurate
23 depiction of the interview that you and Investigator Moore
24 had with Mr. Walker December 18th, 2012?

25 A. Yes, sir.

1 Q. Prior to you going into the interview room with
2 Investigator Moore at the time, did you have any contact
3 with Mr. Walker?

4 A. No.

5 Q. Did you go into the interview room -- were you ever at
6 any time alone with Mr. Walker?

7 A. No, I was not.

8 Q. When you went into the interview room with Investigator
9 Moore and yourself, was there a conversation with Mr. Walker
10 prior to the recording beginning?

11 A. Prior to the recording beginning, I pulled out a
12 Miranda form and tried to explain it to him. I pulled out a
13 Miranda form with him and I told him I needed to put his
14 address on it and basic information where he lived at and
15 his phone number, social security number, date of birth, and
16 his level of education, if he can or cannot read. And at
17 that time he told us he could not read and write and that's
18 when we decided to go get our recorder to record him.

19 Q. Okay. Was there any other -- during the conversation
20 prior to it being recorded, did you threaten him in any way?

21 A. No, sir.

22 Q. Did you make any promises to him?

23 A. No, sir.

24 Q. Nothing to do with leniency on his charges?

25 A. No.

1 Q. And no threats about how he would be prosecuted if he
2 didn't cooperate?

3 A. No, sir.

4 Q. His decision to speak with you, was that freely and
5 voluntarily?

6 A. Yes, sir.

7 Q. The audio recording we heard is accurate?

8 A. It's accurate.

9 Q. It has not been tampered with in any way?

10 A. No, sir.

11 Q. You read him his rights?

12 A. Yes, sir.

13 Q. Do you have an opinion of whether he understood his
14 rights?

15 A. In my opinion he understood his rights.

16 Q. And do you have an opinion about whether he made a free
17 choice, a voluntary choice to have a conversation with you
18 and Investigator Moore at that time?

19 A. Yes, I think it was free and voluntary.

20 Q. Thank you, captain.

21 Please answer any questions Mr. Walker has for you.

22 THE COURT: All right. Thank you, solicitor.

23 Mr. Walker?

24 CROSS EXAMINATION BY MR. WALKER:

25 Q. Hello Mr. Wade.

1 A. How are you doing?

2 Q. I got a question for you.

3 The State asked you in regards that you had no contact
4 with me prior to contacting you, your question was no.
5 Could you in definite -- could you explain the definition of
6 no contact to me?

7 A. Meaning I didn't speak to you or see you before I went
8 to the interview room, because I didn't see you until I went
9 to the interview room, but hadn't spoke to you until I went
10 to the interview room.

11 Q. So at any no point in time did you induce me?

12 A. My definition of induce would be influence and I hadn't
13 influenced you to do anything. I advised you of your rights
14 and you freely talked to me.

15 Q. All right. So at no point in time did you ask me to --
16 did you state that you wasn't going to give me my daughter
17 back or also -- also that you was going to seek the death
18 penalty, along with the State? And also if I did talk,
19 maybe I could get a life sentence or a lesser sentence?

20 A. No, sir, I didn't have that conversation with you.

21 Q. Okay. And could you state basically how we got -- how
22 from the start that you made contact to me until how we got
23 into the interrogation room?

24 A. Yeah, I received a call approximately 3:30, 3:45 at my
25 house. I live out on Simpson Road in that area, and I was

1 told that they were out with you at the truck stop and they
2 were going to bring you back to the police department for an
3 interview and they asked me would I come do the interview
4 and I told them sure.

5 I got up and got dressed and came to West Columbia
6 around 4:25, 4:30, right there in that area, and from there
7 I asked Investigator Moore at that time what all did we have
8 and she basically told me that you had abandoned your
9 clothes and that you hadn't said anything to anybody else.

10 And we went into the interview room and at that time I
11 decided to read you your Miranda Rights. You said you
12 couldn't read and write and that's when we got the recorder
13 and we decided to record you, and from there that's what's
14 on the recording.

15 Q. All right.

16 MR. WALKER: Your Honor, may I have a chance to
17 review the -- or can I see the actual Miranda? I have a
18 copy of it, but the actual signed Miranda?

19 THE COURT: Are you talking about you want to see
20 the original?

21 MR. WALKER: Yes, sir.

22 THE COURT: Do you have the original, solicitor?

23 MR. GRAHAM: The only Miranda we have, Your Honor,
24 is from a different date when he came back. I can give him
25 a copy of that. It will take me a second to locate it.

1 THE COURT: Was not a Miranda form executed on
2 this morning?

3 THE WITNESS: I can answer that, Your Honor.

4 On this particular date when he told us he
5 couldn't read and write, he was never given a Miranda form
6 to sign because he told us he couldn't read and write and
7 that's why it was actually audio recorded.

8 THE COURT: All right. If I understand your
9 question to the court, you want a Miranda form -- a blank
10 Miranda form that the captain and the detective were going
11 to use that morning?

12 I want to make sure I'm tracking, because
13 according to the captain's testimony before the court, you
14 said you couldn't read or write, that's when they went to
15 recording your statement.

16 MR. WALKER: Yes, sir, Your Honor.

17 THE COURT: If I'm understanding it.

18 I want to make sure I understand what you are
19 asking me to ask them to do, Mr. Walker.

20 MR. WALKER: Yes, sir.

21 From my recollection, Your Honor, the -- I signed
22 a waiver, but the waiver had writing on it that I was sick,
23 I was ill and there was certain considerations. And there
24 was other writing on it. I don't remember all the writing
25 on there, but I placed notes on the Miranda Warnings and

1 that was the agreement to sign it and also to -- for the
2 what you call it.

3 THE COURT: Is there such a document, solicitor,
4 from any time?

5 MR. GRAHAM: The only -- that says what he says,
6 no.

7 The only Miranda Warning we have, there was a
8 Miranda Rights warning form that was executed on
9 January 8th, 2013, where he came saying that he was going to
10 speak, signed the Miranda form, and then immediately said he
11 didn't want to speak without an interview being done. I
12 have that form, but I have no other form.

13 THE COURT: Is there any notes by Mr. Walker on
14 that form, besides his initials and perhaps signature?

15 MR. GRAHAM: Correct, Your Honor. He -- it has
16 his name, the date and time. He is basically homeless. He
17 gives his date of birth, his social. He says he has his
18 GED, 10th grade. He says he can read. He initials by all
19 the rights saying -- circles yes and initials saying he
20 understands his rights. Initials saying he can have an
21 attorney and then he says "I'm willing to make a statement."
22 Bruce Wade's signature is on here and Mr. Walker signs it,
23 and then it's my understanding that he then invokes his
24 rights as soon as he -- understands his rights and says he
25 will speak and then invokes his rights and there is no

1 actual interview on January the 8th, 2013.

2 THE COURT: Well, you heard what I heard, Mr.
3 Walker. The State is informing the court that there is no
4 Miranda form from the morning -- it's 4:25 in the morning
5 that you were interviewed by Captain Wade and Detective
6 McCraw.

7 MR. WALKER: Yes, sir.

8 My recollection was --

9 THE COURT: I'm not questioning you one way or the
10 other. I'm selling it like I bought it. I mean, the
11 officer is testifying to it. They are saying it doesn't
12 exists. I'm trying to respond to you.

13 MR. WALKER: Yes, sir. I mean, all I can do is
14 object to it if it's going to come in.

15 Is that relevant, Your Honor? I don't think it
16 is.

17 I'm going to move on.

18 THE COURT: Yes, sir, you may ask your next
19 question.

20 MR. WALKER: Thank you.

21 BY MR. WALKER:

22 Q. At -- the point that I was getting at earlier, Mr.
23 Bruce, at any time did I ask for a lawyer before I went into
24 this -- before this report is taken?

25 A. Yes.

1 Not in conversation with me you didn't ask for an
2 attorney.

3 Q. All right. Do you know of anybody beforehand -- do you
4 know anybody beforehand before making contact with me in law
5 enforcement relevant that -- that I -- that you received --
6 that I asked for a lawyer before speaking with you?

7 A. Not on that particular night.

8 As of now I know you asked earlier I think to the Aiken
9 officer about an attorney, but not that night. I didn't
10 learn that until maybe a couple weeks ago that you had asked
11 for an attorney.

12 Q. All right.

13 MR. WALKER: No further cross-examination.

14 THE COURT: Thank you. Thank you Mr. Walker.

15 Redirect, solicitor?

16 MR. GRAHAM: Only briefly, Your Honor, just so
17 Your Honor understands.

18 REDIRECT EXAMINATION BY MR. GRAHAM:

19 Q. Did you have an arrest warrant for Mr. Walker at that
20 time?

21 A. No, sir.

22 Q. After that tape ended what happened with Mr. Walker?

23 A. He was transported by EMS to -- I think to Richland
24 Memorial, but he was transported to the hospital by EMS.

25 Q. And do you know what happened to him from there?

1 A. I'm not a hundred percent sure, but I think that he was
2 actually taken to Richland and from Richland his father
3 picked him up and signed him into MUSC at a later date.

4 Q. And then did you see him again January the 8th?

5 A. I did.

6 Q. You didn't interview him on that time?

7 A. No. I advised him of his rights and he -- that's when
8 I discharged him after waiving his rights.

9 Q. And that interview ended and he was released again?

10 A. Yeah.

11 Q. The toxicology report came back, you got a final
12 autopsy report, and if I told you that warrants were gotten
13 and he was served with warrants on March 4th, 2013, is that
14 accurate?

15 A. That sounds accurate.

16 MR. GRAHAM: Thank you, Your Honor. Nothing else.

17 THE COURT: Any recross, Mr. Walker?

18 MR. WALKER: No, sir, Your Honor. No other
19 questions.

20 THE COURT: Thank you. Thank you very much.

21 Thank you, captain.

22 Any other evidence or testimony on behalf of the
23 State?

24 MR. GRAHAM: No, Your Honor.

25 THE COURT: Any evidence or testimony on behalf of

1 the defense?

2 MR. WALKER: I ask the court to indulge me.

3 THE COURT: Sir?

4 MR. WALKER: I ask the court to indulge, give me a
5 second, Your Honor, so I can speak with my standby counsel?

6 THE COURT: Yes, sir.

7 And if you are going to present any evidence or
8 testimony, I'm going to probably let you -- I am going to
9 let you do it in the morning. You don't have to tonight,
10 but I would like to know so we can get a time frame.

11 (Off the record).

12 (Back on the record).

13 THE COURT: Yes, sir.

14 MR. WALKER: Yes, sir, Your Honor.

15 THE COURT: Sir?

16 MR. WALKER: The defense has a potential witness
17 and since it's going to convene in the morning, can I answer
18 that question in the morning, Your Honor?

19 THE COURT: Yes, sir.

20 MR. WALKER: Thank you so much.

21 THE COURT: Now, Mr. David Walker, Sr. Is supposed
22 to be here in the morning, is that correct, Madam Clerk?

23 THE CLERK: Yes, sir, Your Honor.

24 THE COURT: And what time is he supposed to be
25 here?

1 THE CLERK: He is here between nine and ten.

2 THE COURT: All right. Give me an update,
3 detective, on Kyle Walker -- solicitor, on Kyle. Just tell
4 me.

5 MS. DAVIS: I had text messages back and forth and
6 he stated that -- he responded okay. And I threw it out
7 there that he could ride with his father and be here at 9:15
8 as well.

9 THE COURT: All right. So David Walker, Sr.
10 Apologized to the court through the clerk's office for not
11 being here. He said he didn't know. He needs a day's
12 notice, but that he would be here in the morning, so we will
13 hope that Mr. Walker, Sr. And Kyle will be here in the
14 morning.

15 Yes, sir, Mr. Walker?

16 MR. WALKER: Your Honor, earlier you said that you
17 were going to give -- you said that you was going to allow a
18 video of -- the audio of Thomas Banty. Is that still
19 relevant?

20 You made a ruling that it was audio and you was
21 going to allow to -- basically he was saying that there was
22 nothing about certain testimony and you was going to allow
23 that testimony -- that audio to be played because it was
24 contradictory.

25 THE COURT: Solicitor?

1 MR. GRAHAM: If I may remember that when Mr. Banty
2 was testifying, we objected because he was trying to play it
3 without the proper foundation, and my understanding was that
4 you would allow him to listen to the tape and if there was
5 something on the tape that he could use impeachment on Mr.
6 Banty, that he could call Mr. Banty back.

7 THE COURT: Correct. Thank you, solicitor.

8 It's not like me to make anticipatory rulings at
9 all. I'm the judge. We try to avoid making decisions.
10 That's what a judge does.

11 I ruled that I would allow something in the
12 future. I said -- I think that is correct, that you could
13 look at it, because you couldn't identify that particular
14 part of the video that you wanted to use to impeach Mr.
15 Banty on. So you may review it, however that is
16 accomplished with your custody status. If it's part of it
17 you want to key up, I'll allow you to recall Mr. Banty and
18 we will cross that bridge, if we have to.

19 Does that make sense to you, Mr. Walker?

20 MR. WALKER: Yes, sir.

21 At this time, Your Honor, the defense will rest on
22 that issue.

23 THE COURT: On the issue of Mr. Banty?

24 MR. WALKER: That's correct.

25 THE COURT: All right. So you may have other

1 witnesses and hopefully Mr. Walker, Sr. And Kyle Walker will
2 be here in the morning, all right?

3 MR. WALKER: That's correct. Thank you so much,
4 Your Honor.

5 THE COURT: All right. So let's plan on starting
6 about 9:15.

7 I'm going to have the jury report at eleven
8 o'clock and see where we are at at that point. All right?

9 MR. WALKER: All right.

10 If I may, may you direct that I be here earlier?

11 THE COURT: Sir?

12 MR. WALKER: May you direct that the bailiffs
13 would allow me to come in earlier in the morning?

14 THE COURT: What time do you want to be here?

15 I apologize. Yesterday I didn't speak to the
16 officers from corrections.

17 What time do you want to be here in the morning,
18 Mr. Walker?

19 MR. WALKER: You said you are going to start at
20 9:15, Your Honor. That means at least 8:30.

21 THE COURT: One of the officers that's
22 transporting, please?

23 TRANSPORTING POLICE OFFICER: Yes, sir, that would
24 be fine. We will have him here.

25 THE COURT: Tell me again, Mr. Walker, what time

1 do you want the officers to have you here?

2 MR. WALKER: By at least 8:30.

3 THE COURT: Thank you. Thank you very much.

4 And thank you for all you all do.

5 TRANSPORTING POLICE OFFICER: You are welcome.

6 THE COURT: Yes, sir. I appreciate you being
7 here.

8 MR. WALKER: Your Honor, just for a time can you
9 agenda that in the court's addressing every afternoon before
10 you close so as --

11 THE COURT: I can't tell you what I'm going to do
12 every afternoon, Mr. Walker. You know how I am. You remind
13 me.

14 MR. WALKER: Yes, sir. Thank you so much.

15 THE COURT: I'll try to make sure I address it,
16 but it's important to you and it's important to me. All
17 right?

18 MR. WALKER: Yes, sir.

19 THE COURT: All right. Anything further?

20 MR. WALKER: No, sir, Your Honor.

21 THE COURT: Thank you very much.

22 Solicitor?

23 MR. GRAHAM: Nothing from the State, Your Honor.

24 THE COURT: Thank you. At 9:15.

25 (END OF REQUESTED TRANSCRIPT OF RECORD)

1 STATE OF SOUTH CAROLINA
 2 COUNTY OF LEXINGTON

COURT OF GENERAL SESSIONS

4 STATE OF SOUTH CAROLINA,
 5 PLAINTIFF,
 6 VS.
 7 DAVID RICHARD WALKER, JUNIOR
 8 DEFENDANT.

TRANSCRIPT

OF

RECORD

2015-GS-32-2341

10 February 23rd and 24th, 2017
 11 Lexington, South Carolina

12 B E F O R E:

13 THE HONORABLE R. KNOX MCMAHON, Judge; and a jury.

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

15 D. SHAWN GRAHAM and SHANNON A. DAVIS
 16 ASSISTANT SOLICITORS
 17 Attorneys for the State

18 DAVID RICHARD WALKER, JUNIOR
 19 Pro Se

20 SARAH MAULDIN
 21 ASSISTANT PUBLIC DEFENDER
 22 Standby counsel for the defendant

23 MARGARET WOODS
 24 Circuit Court Reporter

25 Transcribed by Pamela E. Green, Circuit Court Reporter

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

WITNESSES

PAGE

Jackson versus Deno Hearing

DAVID WALKER, Jr.

Direct examination By Mr. Walker 10

Cross-examination by Sol. Graham 40

Stand Your Ground Motion

DAVID WALKER, Sr.

Direct examination by Mr. Walker 77

Cross-examination by Sol. Graham 79

Redirect examination by Mr. Walker 81

KYLE WALKER

Direct examination by Mr. Walker 84

Cross-examination by Sol. Davis 92

Redirect examination by Mr. Walker 94

Ruling by the Court 125

Opening by the Court 150

Opening by Solicitor Davis 158

Opening by Mr. Walker 162

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	EUGENE RAY	
4	Direct examination by Sol. Davis	173
5	Cross-examination by Mr. Walker	192
6	JAMES SULLIVAN	
7	Direct examination by Sol. Davis	203
8	Cross-examination by Mr. Walker	291
9	COLLEEN BELK	
10	Direct examination by Sol. Davis	300
11	SCOTT NEEL	
12	Direct examination by Sol. Graham	304
13	Cross-examination by Mr. Walker	312
14	SARAH WALKER	
15	Direct examination by Sol. Graham	313
16	Cross-examination by Mr. Walker	315
17	TOMMY HINES	
18	Direct examination by Sol. Davis	317
19	Cross-examination by Mr. Walker	319
20	Direct examination by Sol. Davis	323
21	Cross-examination by Mr. Walker	332

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	TENETIA INABINETT	
4	Direct examination by Sol. Davis	335
5	Cross-examination by Mr. Walker	343
6	Redirect examination by Sol. Davis	356
7	Recross examination by Mr. Walker	357
8	DUSTIN SMITH	
9	Direct examination by Sol. Graham	361
10	Cross-examination by Mr. Walker	370
11	JUDY BANTY	
12	Direct examination by Sol. Davis	380
13	Cross-examination by Mr. Walker	385
14		
15	Certificate	437
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Court's Exhibits</u>		
C-1	Psychiatric Evaluation		
C-2	Psychiatric Evaluation		
C-3	Subpoena - David Walker, Sr.		
C-4	Subpoena - Kyle Walker		
C-5	Phone List		
C-6	Miranda Rights Form		70
C-7	Defendant's Notes		122
C-8	Subpoena - Samantha Gutknecht		141
C-9	Psychiatric Evaluation		
C-10	Psychiatric Evaluation		
C-11	Psychiatric Evaluation		
C-12	Note from Jury		
C-13	CD		
C-14	Note from Jury		
C-15	Neuropsychological Evaluation		
C-16	SCDMH Evaluation		

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>State's Exhibits</u>		
3				
4	S-1	Photograph		
5	S-2	CD		
6	S-3	CD		
7	S-4	Photograph	173	184
8	S-5	Photograph	173	184
9	S-6	Photograph	173	184
10	S-7	Photograph	173	184
11	S-8	Photograph	189	191
12	S-9	Photograph	209	220
13	S-10	Photograph	209	222
14	S-11	Photograph	209	
15	S-12	Photograph	209	
16	S-13	Photograph	209	
17	S-14	Photograph	209	226
18	S-15	Photograph	209	226
19	S-16	Photograph	209	226
20	S-17	Photograph	209	
21	S-18	Photograph	209	226
22	S-19	Photograph	209	
23	S-20	Diagram	209	227
24	S-21	Photograph	209	231
25				

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2				
3	S-22	Photograph	209	
4	S-23	Photograph	209	
5	S-24	Photograph	209	
6	S-25	Photograph	209	231
7	S-26	Photograph	209	234
8	S-27	Photograph	209	236
9	S-28	Photograph	209	243
10	S-29	Photograph	209	243
11	S-30	Photograph	209	247
12	S-31	Photograph	209	247
13	S-32	Photograph	209	
14	S-33	Photograph	209	
15	S-34	Photograph	209	252
16	S-35	Photograph	209	252
17	S-36	Photograph	209	
18	S-37	Photograph	209	253
19	S-38	Defendant's Identification	213	245
20	S-39	Toxicology	213	253
21	S-40	AT&T Cell Phone Records	324	325
22	S-41	AT&T Cell Phone Records	324	325
23	S-42	Diagram	326	327
24	S-43	Diagram	326	327
25	S-44	December 2012 calendar	336	

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2				
3	S-45	CD		
4				
5				
6				
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P R O C E E D I N G S

THE COURT: All right. I understand Mr. Walker, Senior is present and Kyle Walker.

Thank y'all. Thank y'all very much for being here.

All right. Mr. Walker -- Mr. Walker, Junior, is there any other witnesses you would like to call?

MR. WALKER: Yes, sir, on the, on the Jackson versus Deno, I'm gonna call myself as a witness.

THE COURT: All right. All right. You may do so.

And are there any others -- witnesses you're gonna call?

MR. WALKER: No, sir, after that I'm gonna rest.

THE COURT: So, you're not gonna call Mr. Walker, Senior nor Kyle Walker?

MR. WALKER: Not on, not on the Jackson versus Deno but, on the other, I am.

THE COURT: On what?

MR. WALKER: I'm not gonna call them on the Jackson versus Deno but I am gonna call them on the, on, on the Stand Your Ground.

THE COURT: So -- all right. So, you're gonna call Mr. Walker, Senior and Kyle --

MR. WALKER: That's correct, Your Honor.

THE COURT: -- Walker on Stand Your Ground and yourself

1 on Jackson versus Deno?

2 Is that correct?

3 MR. WALKER: Yes, sir, that's correct.

4 THE COURT: Any other witnesses you're gonna call?

5 MR. WALKER: Not at this time.

6 THE COURT: All right. Well, come around and be sworn
7 please, Mr. Walker.

8 MR. WALKER: Thank you, Your Honor.

9 DAVID WALKER, JUNIOR, being first
10 duly sworn, testified as follows:

11 THE CLERK: Please be seated.

12 THE COURT: State your full name.

13 MR. WALKER: Thank you.

14 THE COURT: And make sure you speak up and talk---

15 MR. WALKER: Louder than this.

16 THE COURT: Talk---

17 MR. WALKER: Yes, sir.

18 THE COURT: speak up and talk slowly.

19 DIRECT EXAMINATION

20 BY MR. WALKER:

21 All right. For the record, my name is David Richard
22 walker. I'm about to give testimony on what happened with
23 Aiken County Sheriff's Office in the apprehension with,
24 with, with me on the night with Sergeant Kowalski (sic) and
25 also others, Civil Masters, Civil Masters, and other

David Walker - Direct examination
by Mr. Walker

1 within -- after, after something happened with the deceased,
2 I, I left, I left Lexington County and I went to Aiken
3 County by a train, via train and I ended up in Warrentonville,
4 Warrentonville, South Carolina. And, upon that, I was stranded
5 in the middle of the woods and I stayed out there for a few
6 days.

7 And upon them few days, I, I, I, I left. I caught -- I
8 went to a church. And I, after that, a passenger give me a
9 ride to Aiken County. And once I arrived in Aiken County, I
10 left a homeless shelter there by foot and I walked to Aiken
11 City, in the city jurisdiction, and I went out there. I'm
12 not sure for how long and I went to in -- went to go back to
13 the homeless shelter.

14 And as I, as I was walking down the road, as, as is
15 been given testimony, I have chronic DVTs in my legs and
16 also pulmonary embolism in my lungs, and, therefore, at --
17 with them basis, my legs was hurting and also I was having
18 trouble breathing. So, I went to go try to get some water
19 from the supermarket there.

20 Upon arrival at the supermarket, they was closing down.
21 The lights was still on. There was still cars in there.
22 There was still customers inside there.

23 I walked to the door. I was -- there was a few females
24 sweeping the outside, the outer perimeter. A lady come up
25 and spoke with me.

David Walker - Direct examination
by Mr. Walker

1 Upon that conversation, she basically asked me who I
2 was. I informed her my name. She said -- asked me if I was
3 here to conduct business. I said yes, I was. I said I was
4 trying to get something real quick. She said we're -- she
5 said we're closing up. She said but you're more than happy
6 to come in and shop and just be courtesy to my employees.
7 They are sweeping and we're getting ready to close. And she
8 said if you need anything -- she said I, I have to go back
9 to my office and count money but any of my female employees,
10 I guess all her employees was female, will be more than
11 happy to help you.

12 And, at that time, I, I told her I declined because I
13 didn't want to get in the way. And, from there, I walked --
14 there, there was a car parked right there.

15 Upon declining, she says well, it looks like you're
16 come via foot. So, she said if you want to go over there,
17 she said my employees, my customers usually sit over there,
18 drink sodas, and smoke cigarettes. And I said where's that
19 that you're spoking (phonetic) up? She said there's an
20 awning and she pointed at that awning. And I said okay.

21 I said I'm going -- I'd be more than happy to do that.
22 I, I am trying -- I'm trying to get back to Aiken County,
23 the homeless shelter there. And she said well, it's getting
24 late. I have to -- I have to hurry.

25 So, I went and I sat in this awning and I sat there for

David Walker - Direct examination
by Mr. Walker

1 approximately three minutes, four minutes maybe at the most,
2 and I -- basically I, I, I walked around it and I, I walked,
3 walked around into the awning and I sat down. And as I was
4 sick, I put my hands in my shoulder and I also had a lot of
5 things on my mind. So, I rested my head in my hands and I
6 sat down and immediately, as I sat down, the Aiken County
7 come up pretty quickly. And soon as they come up, they,
8 they did what was shown on the video.

9 They, they, they run up and they, they -- soon as they
10 pulled up with me, they told me to freeze, put my hands up,
11 take my hands out of my face -- take my face out of my
12 hands, stand up, put my hands up in the air. And then
13 immediately, after I put my hands in the air, I was
14 turned -- I was told to put my hands behind my back, get up
15 against the car, and my hands was placed behind my back.

16 I then -- then I was put in an awkward position, and I
17 was never readed (sic) and then I was questioned and more
18 questions than what that video showed, and then, them
19 questions were typically. The, the officer asked me whether
20 I was -- did I have any warrants. I said -- I -- and then I
21 said no. He said well, what is your name? I said my name
22 is David. He said do you have a birthdate? I said my
23 birthdate is [REDACTED]. He said, he said okay, hang on, and
24 got on his radio.

25 Once he got on, once he got on his radio, he, upon

David Walker - Direct examination
by Mr. Walker

1 getting on his radio, he, he called in my name or whatnot,
2 and then I -- he asked me some more questions. And then
3 questions were was anybody out there looking for me and I
4 stated no. He said is anybody out there to get you or any
5 entities, government entities, looking for you. I said
6 yeah, maybe. And he said what, is somebody out there to get
7 you or government entities? I said maybe an entity is
8 looking for me for murder.

9 And, upon that, he -- I think -- I'm not sure exactly
10 where I was due to my recollection. But, at that time, I,
11 I, I believe I was either already in handcuffs or handcuffs
12 were immediately placed on me and I was stuck in a car and
13 the whole time I was integrigated (phonetic) unlawfully.

14 And so, upon, upon sitting in the car, they took me
15 from that car, stuck me in another car, questioned me again.
16 Then -- and that, that question was very intense. I also,
17 inside that car, I, I asked again for a lawyer and also, for
18 the record, upon, upon him answering -- upon him asking
19 me -- right after I said that I was wanted for murder or
20 that a entity was looking for me for murder, I stated I
21 wanted a lawyer and I was put in that car, the first car,
22 and then the second car -- they stuck me in a second car.
23 They integrigated (phonetic) me very strongly without any
24 rights or anything.

25 I, I informed them that I wanted a lawyer. I informed

David Walker - Direct examination
by Mr. Walker

1 them that they had no right to place me in handcuffs as they
2 did, and I informed them that they had no right to induce me
3 or tell me that I couldn't get out their car and too I, and
4 too I indicated who I murdered, when I murdered, and then I
5 stated I didn't murder anybody. I said -- I, I said
6 something happened but it wasn't murder.

7 And they said well, you, you already said what you
8 said. You done said that. And you're gonna tell us right
9 now or we gonna murder you is what I'm -- what is told and
10 then, immediately after that, I said, sir, please just let
11 me out this car. And he said; he said well, I'm not -- I'm
12 gonna put it like this. He said you just -- you, you just
13 tell us who, who you murdered and, and we'll let you go and
14 I said no. I said no, sir, it doesn't work like that. And
15 he said, he said well, you can either tell us who you
16 murdered or I'm not sure exactly what he said due to
17 recollection.

18 But he said something and they questioned me a little
19 bit more questions and it was very vague questions and it
20 was very threatening. I believed my life was threatened. I
21 believe I was, I was threatened for incarceration and a few
22 other things. And then they finally -- he, he told me that
23 I could -- I was free to go. I opened -- I went to open the
24 door. The car was locked. He laughed. And I said sir, can
25 you please let me out the car? He said well, get out. It's

David walker - Direct examination
by Mr. Walker

1 your, it's your f-ing car. I said sir, there's -- you know
2 it's not my car. And then, after that, he said well, that's
3 how we do it and -- around here and he popped his latch on
4 the left side and opened the door and unlocked the door and
5 an officers escort -- escorted me out of his car into --
6 back into that car.

7 And it was, it was very brief and this happened very
8 fast. Approximately three minutes if tops, maybe four most,
9 and he -- and I was put back in that car. And, upon that, I
10 was still in handcuffs the whole time. And, as, as a matter
11 of fact, be -- when I was switching from the first car to
12 the second car, I was double handcuffed where I had two
13 handcuffs on me at -- on restraints and I asked the officer
14 why he was doing that. He informed me that he was giving
15 his other officer handcuffs back and then he never removed
16 the second set of handcuffs. I asked him can you please
17 remove the handcuffs. He said no and I -- he said get in
18 that car. I said okay.

19 So, I got in the car, and upon coming back out of that
20 car, he took the second set of handcuffs off me and actually
21 he took the second handcuffs at -- off me as I was getting
22 back into the first car and he -- so, from there, he -- from
23 there, I was left in that car. I was integrigated
24 (phonetic), and, as the video stops, the officer, when that
25 video stops that, that is on there, it was -- I was further

David Walker - Direct examination
by Mr. Walker

1 left there. I was left in that car. All the officer did,
2 when that video stops, is he got in the car, he put it in
3 drive, and once he put it in drive, I think he put it in
4 reverse rather than drive, he put it in gear. And once he
5 did, he act like he was leaving, excuse me, but he never --
6 he, he hit the gas and he just rolled and he rolled -- he,
7 he just rolled for a few foot and stopped the car, hit the
8 latch again, and stopped right there.

9 Matter of fact, that Officer Kowalski, he didn't even
10 drive me to the hospital. The female officer, who was Civil
11 Masters, drove me to the hospital. But once he stopped
12 right there, after the video ends, he stopped and got out.
13 They switched drivers. He took -- he, he -- I asked him
14 again, can you please release me from your custody? He
15 started asking me more questions, integrigating (phonetic)
16 me more about Carrie, Carrie's death, where my kids -- well,
17 he didn't say kid. He said where's my kids and started
18 asking me in a formal manner how I killed the person and
19 started throwing -- he said something about suicide,
20 something about strangulation, and a few other words that I
21 recall.

22 And then, and then civil drove me to the Aiken County
23 Regional Hospital. I was still in handcuffs. I asked him
24 again what happened, what was going on, why, why, why am I
25 being taken (sic) to a hospital. They said I'm being

David Walker - Direct examination
by Mr. Walker

1 committed. I said you have to have papers to commit me.
2 Can you please release me? He said no, sir, we're law
3 enforcement. We do what we want and we, we got this under
4 control.

5 I said can you please show me the papers and said no,
6 you're going to be questioning (sic) at the hospital.
7 Somebody's there to meet you. I said man, you're -- this is
8 unlawful questioning. This is unlawful what you're doing.

9 So, they said that's irrelevant. So, they -- then they
10 took me inside the hospital. That was, that was either
11 inside the -- I was inside the car and also right outside
12 the car at Aiken County Hospital. And then they pulled me
13 into a hospital bed and/or they pulled me in -- into the
14 hospital. They take me in to some type of psychology --
15 psychiatric ward.

16 The officers then tried to get the nurse to keep me and
17 just drop me off and they wanted to come back at a later
18 time. The nurse says no, that's not possible. Said we're
19 gonna, we're gonna go talk to security and we're gonna go
20 talk to on call doctor.

21 So, the nurse comes back in. Another nurse comes back
22 and speaks with the officers and I, I hear them talk about
23 he, he wants to be committed so that he can do whatever he
24 wants was the words that he used. And the lady was like no,
25 we can't get into this. And then the other -- another

David Walker - Direct examination
by Mr. Walker

1 officer, I think he was a superior officer, I'm not sure who
2 he was or where he come from or if he was actual superior,
3 but one of the officers talked -- pulled the nurse to the
4 side and spoke with her. And I could hear a little bit of
5 the conversation, and it was basically have me committed
6 under circumstances so that I heard them talking about
7 homicide and suicide.

8 So, so, they pulled me in this room in a, in a hospital
9 room. I go into the hospital room. I'm still in handcuffs.
10 They, they basically pulling me. I'm not, I'm not
11 discouraging. I'm not trying to force them or fight them
12 but I'm not wanting to go with them.

13 So, they, they pull me, they pull me into that room.
14 I'm still in handcuffs. They -- about three of them circle
15 around me. They, they beefing me up or, or intimidatig
16 (phonetic). Not really intimidatig (phonetic) me but
17 basically just stirring me.

18 So, they -- I asked if I could sit down and that was
19 the only thing I said to them after, after, after I got
20 out -- asked them to leave again in the car. So, they, they
21 keep -- they questioning me. I'm not answering.

22 So, they said well, we got something for you. So, they
23 call a doctor and then a doctor asked me questions. So, he
24 walks out and then a nurse comes in there and says hang on.
25 We're gonna get the doctor to talk to you.

David Walker - Direct examination
by Mr. Walker

1 So, they bring another doctor in and he basically asked
2 me or the -- no, the doctor -- that doctor never come in.
3 It was a nurse that come in and she asked me was I
4 homicidal, suicidal, whether I had -- whether I wanting to
5 kill anyone or whether I had -- whether I was -- whether I
6 had any medication or I -- or any kind of mental health
7 needs. I said -- and I didn't answer.

8 The only two questions I answered and them was with
9 affirmative or negative head movement where I said basically
10 no. Then, then the questions were are you homicidal, are
11 you suicidal and them -- but only two questions I answered
12 out of their questions. And they was, and they was
13 whatever.

14 So, upon, upon answering them questions, an
15 investigator come in and I'm guessing he was Investigator
16 Cain with Aiken County Sheriff's Office. They forced me,
17 held me. They was pressing hard on my hands. I think he
18 was making red marks. He was basically squeezing so hard it
19 was pinching the nerves. It felt like pep original
20 (phonetic). It felt like nerve pain in there and he had
21 gloves on.

22 And so, once he was -- he was pushing on the, my hands
23 real hard. I asked him to stop and -- or I kind of deterred
24 (sic). I don't know if I said a word to him but I meant
25 stop. And I deterred (sic) from him and he, he stated

David Walker - Direct examination
by Mr. Walker

1 something about -- he was clicking pictures or whatever and
2 he asked me for consent to take pictures. I shook my head
3 no and I -- and then he said well, you can have it your way
4 or my way and they kind of forced me right -- to put -- you
5 know, was pulling my arms up and whatnot, and the, the
6 investigator was squeezing my hand very, very hard with his
7 gloves and they started snapping pictures of me. And that,
8 that lasted for about five minutes. And I'm pretty sure
9 they took a lot more pictures than, than what was produced
10 but they might of not been relevant.

11 And he -- upon that, he, he, he would go back to --
12 upon that, about ten minutes later, the investigator asked
13 me to go to Aiken County Police Department for integration
14 (phonetic). I said no, sir, I'm not going with you. I'm
15 not going with anyone else.

16 He says, he says, again, you can have it your way and I
17 believe he, he walked out and then he comes back in and
18 they, they escort me. They kind of rough me up, you know,
19 pulling -- forcefully. Not really ruffing me up.
20 Forcefully pulls me out that -- out the hospital, takes me,
21 sticks me in a car. And once -- as I'm walking out the
22 door, I asked him one more time. I said sir, where am I
23 going this time? And they said you're going to Aiken County
24 Jail. You're being arrested for murder. You said you
25 murdered or that's, that's all he said.

David Walker - Direct examination
by Mr. Walker

1 And then once -- as I was getting in the car, he
2 said -- the only words he said -- another officer, I'm not
3 sure what officer said that -- one of the officers said you
4 murdered somebody and as I was getting in the car.

5 So, so, they put me into the car and the officers
6 stating just casual talking to me, telling me, saying --
7 telling me, saying -- I believe they asked me about Clemson
8 football game. I didn't, I didn't say anything to them.
9 And then he started having kind of casual conversation. He
10 was a young guy. I guess he was kind of a rookie guy, and
11 he takes me -- he, he, he, he gets ready to drive off and
12 the -- yeah. Nah, I don't -- if my recollection is right
13 from here, I believe they, they switched drivers right there
14 but somehow a sergeant got into the car with me.

15 But I know, from about five minutes after I left Aiken
16 County Hospital, they take me to a vacant parking lot and I
17 could tell it was a truck stop because it had like the gas
18 pumps. It was -- had very large gas pumps and very high gas
19 pumps and it, and it was very large like a truck stop out
20 there but it wasn't the Exit 44.

21 They take me there. They put me out the car. They
22 asked me a few questions. It was relevant to murder and
23 they, they really wasn't too enthusiast as, as if they
24 wanted answers but they was more being like I had violent
25 tendencies. And they basically -- that's when they switched

David Walker - Direct examination
by Mr. Walker

1 drivers and they took me to Exit 44 from there.

2 They put me back in the car. They pulled me out the
3 car, took me to the back of that car at that vacant truck
4 stop. Then they take me to Exit 44 Truck Stop still in
5 handcuffs. I sit there for like 45 minutes. They take me
6 out the car probably -- I'm, I'm saying they take me out.
7 They take me out the car one time to ask me what my job
8 occupation was, what I did my whole, my whole life, all this
9 questions, and then I, I don't recall what I said.

10 I do remember he asked me what my hobbies was and what
11 I like to do. I said I like to build things. I like
12 carpentry. And as far as hobbies goes, I like swimming. I
13 like water. And that's the only things that I answered out
14 of his questions and I don't remember -- I, I do recall he
15 asked me -- he said do you still not want to talk about the
16 murder, and I don't recall what I said to him, but it was in
17 a negative sense. So, he -- I know it was not affirmative.

18 So, he takes me. He puts me back in the car. He's a
19 young guy. He's got another little young guy with him, a
20 partner. I have no idea who they are. And so, after that,
21 then they stick me in the car. I sit there for like four to
22 five minutes and that -- the young guy comes to the gate,
23 comes to the door cause I'm knocking on the thing and I did
24 this several times, knocked on the window, asked them to be
25 released, and, finally, this time, he says we spoke with

David Walker - Direct examination
by Mr. Walker

1 your father and I said yeah, what did he say? He said that
2 he said you are carpenter and I said so, what does that have
3 to do? He said nothing. Just hang on for a second.

4 He come back in like two minutes, offered me some
5 peanuts, offered me if I wanted some peanuts. I said no, I
6 don't want any peanuts. He said well, well, it's your day.
7 I said what you mean it's my day? He said you're free to
8 go. I said okay.

9 So, so, they, they popped the handcuffs. I walked --
10 immediately start walking away from him, and the, the truck,
11 the truck stop -- we was like in the front of the truck
12 stop. I was in the front of the truck stop. I know the
13 officer testified that we was on the side of the truck stop
14 but we was actually on the side but we was on the front side
15 of it.

16 So, so, I walk around just trying to get away from the
17 police cause I'm integrigated (phonetic). I'm scared of
18 them. I walk around and immediately there's probably maybe
19 500-foot from the truck stop itself. It's a road that runs
20 adjusent (phonetic) to the thing. Not the main road but
21 there's one -- a side road. And I cross that side road and
22 there's a dirt road right over there. And to get away, just
23 to try to get my mind right, I start veying (phonetic) down
24 the dirt road. And once I get down the dirt road, I'm
25 probably down the dirt road probably a hundred foot and the

David Walker - Direct examination
by Mr. Walker

1 officer shines a bright light on me, asked me to freeze. I
2 freeze.

3 He identifies himself as a Lexington County, and he
4 identified himself. Later I tried, I tried to ask him
5 again. I said are you Aiken -- if you're Lexington County,
6 you know, what are you doing out in Aiken County cause I
7 didn't know I was in, in Lexington County or I didn't -- I
8 was still in -- I'm not sure where the truck stop is. I
9 know it's on the border of Aiken County and Lexington County
10 but I don't know if it's on the Lexington side or the Aiken
11 County side. So -- but wherever I was, I knew that he
12 would -- he wasn't in his right thing.

13 So, he basically makes me freeze, stay there, and, and
14 then, after that, he, he, he asked me a few questions or
15 whatnot and I -- he was very polite and he was about the,
16 most interesting one and he, he, he just made me stand out
17 there. And I was, I was real hot and I had cigarettes and I
18 had smoked like four cigarettes in like 15 minutes. And he
19 was like what, are you chain smoking? I was like no. And
20 he said well, just for our safety, put your cigarettes on,
21 on the trunk of my car because he pulled up and I stuck my
22 cigarettes on the trunk of his car.

23 He said do you have any phones, communications,
24 anything like that? I said I have a cell phone. He said
25 well, put that up there. I said okay. I said, I said

David Walker - Direct examination
by Mr. Walker

1 that's my cell phone. I said can I have it back whenever
2 I'm finished, and, by the way, what am I doing here?

3 He was like well, we're about to take you in for
4 integrigation (phonetic) for event. He said -- he used the
5 word integrigation (phonetic) and he said investigation and
6 I said okay. I said I wish this would stop cause I've been
7 in handcuffs all night and I'm hurt, I'm tired, I'm very
8 sick. And he said well, it's gonna be, it's gonna be
9 stopped. It's gonna be over in a minute.

10 So, I said okay. So, upon that, he, he -- we sit there
11 like ten more minutes and he asked me. He said is -- West
12 Columbia wants to talk to you. I said so, what's that got
13 to do anything? He said they're, they're asking to come
14 talk to you and I think that they'll either do it forcefully
15 or they'll do it voluntarily.

16 I said well, I don't want no trouble. I'll do it
17 voluntarily. And so, after that, then he says, he says
18 well, just sit tight and I said okay. I said is, is -- are
19 they coming? He was like yeah, they're like five minutes
20 out.

21 So, so, eventually West Columbia gets there and they
22 asked me are you -- I believe it was Page Moore come and
23 spoke with me or it might of been another officer. Someone
24 come and asked me if I was willing to go talk to West
25 Columbia, and I did -- I asked that officer for my cell

David Walker - Direct examination
by Mr. Walker

1 phone back and he said no, we're using that for evidence.

2 And I -- he asked me what I wanted to do with the clothes

3 that I shredded. I said can you please donate them, throw

4 them away? He said can we use them for evidence? I said

5 no, you're -- you don't have my consent to have my clothes.

6 He said well, we're taking them anyway and we're taking

7 your cell phone. And then I believe he, he took the cell

8 phone and I believe he give it to Ms. Page Moore and I

9 believe she ended up giving it back to me at West Columbia

10 but the clothes were confiscated. And I didn't -- I went to

11 West Columbia. And once I arrived at West Columbia, I, I

12 was, I was basically -- Mr. Lieutenant Bruce Wade, he, he,

13 he run up on me. It was like really mean with me,

14 threatening me.

15 He told me that he was, he was -- that I was gonna get

16 the death penalty was the first thing he started with, and

17 then the second thing he started with was Cassidy, my little

18 girl, I was never gonna see her again, I was gonna die, and

19 then he says you need to talk now. I said no. He says

20 well, you're gonna get the death penalty and, and he

21 threatened me a few more times.

22 My, my recollection is a little, a little staticy

23 (sic). I can't recall everything but, but I do remember at

24 least parts of it, and then basically he said something

25 about a life, a life sentence, that he, he was gonna give me

David walker - Direct examination
by Mr. Walker

1 a life, a life sentence if I talked.

2 So, then I don't want to talk. I said I have nothing
3 to say and especially with you acting this way. Can you --
4 you know, I'm tired, I'm tired of you keeping me here and he
5 said something like that in a threatening manner with
6 something to do with law enforcement like, like this is what
7 we do, this is how we do it, and you ain't got no control,
8 and you ain't got no say so and, and another other thing.

9 And he said something about a judge that does what he
10 wants and, and we do what we want is what he said. And I
11 said well, I know what -- I'm pretty sure -- I've been
12 around my mother long enough. He said and I know, I know
13 your mother and I said whatever. And I started to walk away
14 and then Ms. Page Moore, she was either right there or very
15 near, and she walked in and said please come with me,
16 Mr. walker, and we'll have you out in a minute.

17 And she took me into an integrigation (phonetic) room
18 and I walked into the integrigation (phonetic) room. And,
19 you know, I sat there for like, I don't know, like 30
20 seconds and Mr. -- Lieutenant Wade come in there, asked me
21 to sign a waiver. I refused to sign a -- the waiver. He
22 said well, you can either do it this way or you can do it
23 the other way and the door was locked. I don't, I don't
24 recall who locked the door. And I sat in there for a minute
25 and me said sign the papers. I said man, I know better than

David Walker - Direct examination
by Mr. Walker

1 to sign these papers.

2 He said well, you know, you can sign the papers or I
3 can sign them and, you know, I said well, whatever. I said
4 just I -- I'll do whatever. And then he said sign. I said
5 man, I'm sick. I said if I can, if I can put on there what
6 I want, I will sign them papers, and on the condition that
7 I'm, I'm ready, I'm ready to go is the word I used and, you
8 know, he said something or another.

9 He said okay and then I, I signed the papers and we
10 spoke about the papers, handed them, whatever. I written on
11 there. He said you can use that in Court. It will be
12 relevant to whatever you got to say. And then he throws up
13 a recorder and there was a few times in the conversations
14 that he would take the tape recorder, and I would say
15 something and he would stop the tape and redo the whole
16 thing and say start back over and then -- none of them
17 extractions were produced.

18 And also, again, I, I believe if -- someone gave
19 testimony. I believe the State asked me if that, if that
20 recording was extantial (phonetic). I said, after viewing
21 it yesterday and hearing it, I don't think it was -- I think
22 it was worse than what I said on the stand the other day. I
23 think it's, it's got a few words and it also says -- there's
24 a -- there's, there's one thing, like I say, I use a, I use
25 a statement and I think that statement has been placed at

David Walker - Direct examination
by Mr. Walker

1 another time to a same question. I believe it's deformed
2 and been tampered with.

3 But after that, I -- after that integrigation
4 (phonetic), they integrigated (phonetic) me and I told them
5 I was very sick, and the integrigation (phonetic), as I was
6 in the room, and not the whole process, but as I was in the
7 room lasted probably 20 to -- 20 minutes, 25 minutes, and
8 then I -- they, they left and then it took maybe 20 or 30
9 minutes after they left for EMS to come and EMS come and
10 they, they did whatever.

11 Now -- and there was some reports sent to me. There
12 was some reports sent to me about EMS and EMS putting in
13 their report that I'd spoke with EMS and that is also false.
14 I never spoke with EMS. EMS has -- EMS tried to speak with
15 me. They say something about to the effects that I'm asking
16 for a counselor or a doctor. I never asked for a counselor
17 or doctor.

18 He was asking me about my health and whatnot and I
19 wouldn't talk to him. He said why don't you talk? I said I
20 don't want to talk. He said well, every day people talk. I
21 said yeah, I said but sick people don't always talk and
22 his -- I said I'm very sick. I said I just need to get to a
23 hospital.

24 And he said well, what about counselor? And I didn't
25 answer his question. He said why don't you talk to me? I

David Walker - Direct examination
by Mr. Walker

1 said, I, I said -- he, he said why don't, why don't you talk
2 to me? I said a counselor, a counselor's gonna -- is not
3 gonna do me no good. Are you any good? And, and typically
4 they do what they want like peoples being doing all night.
5 And I said, if I can, can I just leave it at that? He said
6 sure. He said I respect that and there was no more
7 conversation, and I got to, I got to the hospital.

8 The officer's there. I got to the hospital. They put
9 me in some type of ward that is for inmates. It's for
10 inmates at the thing there. They tried to force medication
11 on me there. I told them that they had no right to force
12 medication. They held me down and was getting ready to
13 stick me and with an injection, and the doctor come in and
14 said man -- there was already a doctor there. That doctor
15 said hang on, hang on, and cause the whole time they was
16 trying to -- I was trying to just ask them.

17 I said man, why are you people holding me here cause it
18 was an officer, and I asked numerous times when I was at
19 that hospital to please leave. And there was a lady at --
20 she was a -- I guess what you might call a rough neck. I
21 don't know if that's an actual good description to use. But
22 she was an older lady, kind of thick lady, with short curly
23 hair, gray hair. She was being very, very mean and very
24 destructive and she, every time I'd ask to leave, she said
25 you're, you're confined. You're arrested. This is a, an

David Walker - Direct examination
by Mr. Walker

1 arrestee place. It's where we put arrestees at and
2 basically, right now, you're, you're, you're being committed
3 and we can do whatever we want to do. And they kept
4 threatening me trying to make me put on red socks. They was
5 telling me they was gonna beat me up and put the socks on
6 me.

7 And, finally, finally, the, I guess, administrative
8 person from the hospital cause I kept asking to talk to an
9 administrator. They kept telling me that there's none on --
10 none here. They all gone. It's the middle of the night.
11 And, after that, they hold me there. I -- they, they --
12 after I keep declining, keep declining their medication,
13 keep declining, put on their clothes, that they testify to
14 an officer. They asked the officer, says are you -- is he
15 actually incarcerated and then the officer says yeah, we
16 guarantee it. Our, our, our officers done got arrest
17 warrant for the judge, signed the judge, or I done talked to
18 my supervisor and the officer with me has done --
19 double-check. He's, he's been arrested. He's under arrest.

20 And then the lady said well, hang on. I got to talk to
21 my supervisor. Then, immediately, the officer changed his
22 whole story. Said no, he's not under arrest. We can't do
23 anything about it.

24 I say can I leave? And I asked the lady, I said what
25 is your name so I can have you as a witness for what they're

David Walker - Direct examination
by Mr. Walker

1 doing to me? She said I'm not -- I'm decline -- she said I
2 decline. I said well, that's your, that's your personal
3 right and you got, you got rights and I got rights too. I
4 need to leave.

5 She's like, she's like you got a right to leave. She
6 said but I don't think they gonna let you leave, and the
7 officer said you're, you're here to get help. Will you
8 please go with us? If not, we're gonna have to arrest you.

9 I said man, I'm tired of being arrested. I been --
10 that's all I been all night is been arrested, and they said
11 well, don't even talk. They said just, just sit right
12 there, don't talk, and come with us. And there was a black
13 lady come in. I believe her name was -- last name was
14 Bright.

15 She come up and she said hey, how are you doing and
16 introduced herself. She said I'm a such and such person.
17 I'm not sure what she said. She said I'm a, I'm a counselor
18 or employee at the hospital here. She said they had you in
19 the wrong spot. They thought you was under arrest or
20 whatever. Come with me. She says I don't know if the
21 hospital's gonna give you a bed. She said but right now we
22 just got to do what we got to do to get you some help.

23 So, I said okay. So, they take me, stick me in the
24 bed, and they place the officer at my door, and the whole
25 time they asking me Thomas Banty can come in and talk to me.

David Walker - Direct examination
by Mr. Walker

1 If somebody named James can come in and talk to me.

2 I said man, I said there's, there's allegations that I
3 killed somebody. I said these people is logically gonna
4 hurt me. I said I don't want nobody here. They said well,
5 you got an officer at that door. I said I don't need an
6 officer at my door. I need to be released and she went and
7 asked the officer. Said can he go. He's like no, he can't
8 go. He's, he's not under arrest he said, but we have -- I
9 forgot what he said. He used some kind of -- some type of
10 physical word for restraint, and he said I'm -- he's being
11 restrained right now for investigation. He has to be in
12 here but he's not under arrest.

13 So, I, I asked the officer a few times and they -- when
14 I asked the lady, the nurse comes in there and she's, she's
15 not taking care of me but she's, she's basically doing what
16 she's suppose to be doing but she's jabbed me with needles
17 real hard. She's like -- I know there's a medication they
18 used to clean the IV filter, and it comes in big tubes and
19 large tubes and she pumped about 12 fluid ounces all the way
20 in my veins of this stuff that they use that they only
21 suppose to produce about an ounce at the most to clean an
22 IV. She was being very malpractice with me.

23 I -- and so, after that, I asked to leave. They said
24 you -- they said you gonna leave in two, three minutes. As
25 soon as they did, they said well, your father's here to talk

David Walker - Direct examination
by Mr. Walker

1 to you. Do you want to talk to your father?

2 I said I don't want to talk to anyone. I said I'm just
3 wanting to go and then they said okay. They said well, have
4 it your way, and, you know, I said okay, and I started to
5 walk out. They said hang on, hang on. The officer's like
6 get back in there, get back in there, and he like went for
7 his weapon, and I was like hold up, man.

8 He said, he said listen, your daddy's coming in, and,
9 within like a minute, my father walked in with his
10 girlfriend and said look, son, you know, it's, it's been a
11 long time. It's been a hard time, a hard road. He said
12 just sit back and listen to what I have to say, and then he
13 said I don't want to hear what happened. I don't want to
14 know what happened. Don't even talk about what happened.

15 He said just, just, you know, just be -- I'm, I'm here
16 for you and I said okay. I said I just hope you mean that.
17 I said there's been a lot of people in my life and a lot of
18 times that you haven't been here when you should of been
19 here. I said but I'm, I'm willing to ride with you on this
20 one and he said okay.

21 He said well -- he said what do you want to do? I said
22 right now I just need to go to a hospital and get some help.
23 I said I just need medical help and these hospitals ain't
24 giving it to me.

25 So, he said all right. He said well, we'll do

David walker - Direct examination
by Mr. Walker

1 whatever. So, I leave the hospital with my father, and on
2 the trip to my father, my father's like well -- I believe
3 his girlfriend stated --.

4 SOLICITOR GRAHAM: Your Honor, if I can object here?

5 THE COURT: Sir?

6 SOLICITOR GRAHAM: For purpose of this hearing, we're
7 way past, time wise, of his, his release from the police and
8 any type of statements that we're introducing. The last
9 statement that we had discussed with the Jackson v. Deno
10 purposes was at the West Columbia Police Department, the
11 audiotape by Detective, then Detective Wade and Detective
12 Moore, and he is now left that facility by EMS, gone to a
13 hospital, been released from a hospital, and is now with his
14 dad.

15 So, I don't know that this has any---

16 THE COURT: All right.

17 SOLICITOR GRAHAM: ---bearing.

18 THE COURT: I believe Captain Wade testified to that.
19 Captain Wade testified he left with EMS and ended up at
20 MUSC.

21 MR. WALKER: Your Honor, I don't---

22 THE COURT: I don't know why---

23 MR. WALKER: I'm entitled to my own testimony.

24 Is that correct?

25 And if you -- if the Court will provide me with one---

David walker - Direct examination
by Mr. Walker

1 THE COURT: Wait.

2 MR. WALKER: ---with one---

3 THE COURT: Wait on me to rule on his objections.

4 MR. WALKER: Sorry, Your Honor. Sorry for
5 interrupting.

6 THE COURT: I overrule the objection.

7 You may continue.

8 MR. WALKER: Thank you, Your Honor.

9 Shall, shall I proceed for two more minutes?

10 THE COURT: Sir?

11 MR. WALKER: I said I shall proceed for two more
12 minutes.

13 THE COURT: All right.

14 MR. WALKER: Thank you.

15 And upon, upon leaving with my father and his
16 girlfriend, they -- I asked who is riding back in the
17 vehicle and all. He stopped at a store and basically my --
18 I told my father that -- I told my father that, that I
19 needed some help. I needed to go to a hospital. He said
20 something or another and I said well, just -- I said EMS --
21 MUSC is a, is a good place. I said I been there before.
22 They seem to be a good hospital, good care.

23 I said right now I just, I just need to get to the
24 hospital. I said I'm gonna try and see if they can do
25 anything. I said but, right now, I just want to be alone.

David Walker - Direct examination
by Mr. Walker

1 I said just drop me off there and I'll handle it from here,
2 and he told me, he said nah, I'm gonna help you through
3 this. He said we're gonna get you there, and, if you don't
4 mind, we'll get you admitted and make sure they admit you so
5 you're not stranded.

6 And so, we get to MU, MUSC and I stayed there for a
7 couple of days and then, upon, upon release from MUSC, I go
8 back to my father's house. During this time, a few times
9 that Investigator Wade calls me and asked me to be
10 integrigated (phonetic) and I, I complied to his commands
11 numerous timings.

12 I go -- I travel all the way to west Columbia, and
13 every time I get there, he tells me I'm not entitled to a
14 lawyer and that the State will not provide no lawyer to me
15 in any way, shape, or form. I stated well, the only way
16 that they could provide for a lawyer or somebody who has no
17 money, and he said what are you talking about, indigent?

18 I said I guess that's the word that's used, and that he
19 said -- he said well, you want to talk anyway and I said --
20 I kept declining to talk. I said well, man, it, you know,
21 it's got to a point that you gonna have to handcuff me and
22 drag me in there, and you're probably gonna have to have
23 some people and some restraints cause I'm tired of dealing
24 with you people. And he said well, you're free to go.

25 So -- but this happened a few times and a few occasions

David Walker - Direct examination
by Mr. Walker

1 that he pulled me into West Columbia, integrated
2 (phonetic) me, and every time I asked for a lawyer he
3 wouldn't do it. And there was one time -- there was one
4 time that he, he put me in the room and he, and he
5 instructed (phonetic) some questions and I answered a few of
6 his questions but I don't think they was produced.

7 And then I was arrested on March the 4th, 2013, at
8 Colleton County Medical Center getting CT Scan on my chest
9 for my pulmonary embolism, and they arrested me and tried
10 not to allow me to have medical -- for my medical procedures
11 to continue but the hospital said we're, we're not gonna be
12 liable, and if you're gonna do what you -- if you're gonna
13 try to drag him out of here, then we're gonna have to call
14 the FBI or somebody.

15 So, they proceeded -- would allow me to finish what
16 they was doing and they asked for my doctor, my, my
17 family -- I'm gonna say family doctor but the doctor's care
18 that I was under. They asked for her to, to allow them to
19 relieve her from under my care so that I could be arrested
20 and she declined to do so. And Lexington County said oh,
21 well, we got all jurisdiction, all power to arrest you, and
22 I was arrested anyway, and then I was taken (sic) to
23 Lexington County Detention Center and I spoke with no
24 investigators at anytime.

25 I then asked to speak with Solicitor Shawn Graham on

David walker - Direct examination
by Mr. Walker

1 the stense (phonetic) of letting him know what happened and
2 in hopes of getting a, getting acquitted, acquitted from the
3 charges. Mr. Graham informed me thereof that he, he, he was
4 willing to talk to me and listen to what I had to say but
5 anything would be -- anything I stated to him he would use
6 against me at trial. And I didn't think it was relevant for
7 me to just give pretrial testimony and him just to use it in
8 trial and I didn't think he was gonna work with me.

9 So, therefore, I declined to speak with him and I've
10 also kept my Fifth Amendment right at the whole proceeding.
11 I haven't spoken to anybody about this case. I did speak
12 with Mr. Stacy Wade.

13 THE COURT: I don't want to hear that.

14 MR. WALKER: Thank you, Your Honor.

15 THE COURT: That's not part of the Jackson versus Deno.

16 MR. WALKER: All right. Your Honor, therefore, I'm
17 finished.

18 THE COURT: All right.

19 MR. WALKER: Thank you, sir.

20 THE COURT: Solicitor.

21 Keep your seat please, Mr. Walker.

22 Solicitor.

23 SOLICITOR GRAHAM: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY SOLICITOR GRAHAM:

David walker - Cross-examination
by Solicitor Graham

1 Q Mr. walker, let's start at the end.

2 The only conversation that you and I had is when you
3 came up to me and told me that you -- there was no malice in
4 this case and that you wanted to sit down and talk to me and
5 convince me that it was a voluntary manslaughter.

6 Isn't that correct?

7 A Can you repeat your questions?

8 Q Sure.

9 In Court, your attorney at the time, Sarah Mauldin, was
10 present and I was present and you came over and said that
11 you wanted to convince me that malice didn't exist in this
12 case and that it was a voluntary manslaughter and you wanted
13 to sit down and talk to me.

14 Isn't that true?

15 A No, sir, solicitor. I, I spoke with Ms. Mauldin
16 numerous times in reference of me talking to the State on
17 these charges cause I believe I should be acquitted from the
18 charges, and that there -- that these charges would -- had
19 held no malice or anything, anything to that nature and I --
20 Ms. Mauldin declined to let me talk to him under her
21 authorities numerous times. And then once she agreed to,
22 she said that you declined to talk to me, and eventually she
23 come back to me and said that you was willing to speak with
24 me, and, therefore, we was in the courtroom with a
25 proceeding.

David Walker - Cross-examination
by Solicitor Graham

1 And before that hearing, Ms. Mauldin informed me that
2 you was willing to talk to me and I believe it was this
3 courtroom. And you come over to the defense table and
4 basically informed -- told me that you was thinking about
5 listening to me and then you come back about two, three
6 minutes later and you said I -- that I -- I'm gonna hear you
7 and I'll listen to what you got to say but on the conditions
8 that I'm gonna warn you that any conditions, I have the
9 authority and the power under any, any conditions that you
10 speak will be used against you in, in trial and I will use
11 them against you. And, therefore, I declined to any
12 furtherance -- a conversation with you or to speak with you.

13 Q Okay. How many officers told you you were arrested?

14 A I'm not good with -- I can't count, sir.

15 Q Sergeant Kostyk, from Aiken County, told you you were
16 under arrest?

17 A You can count, yeah. I'm not sure if he said -- yeah,
18 I'm not, I'm not sure with discretion. I can't, I can't
19 answer that question from recollection.

20 Q Did Deputy Kemfort at the 44 Truck Stop, Lexington
21 County deputy, he told you you were under arrest?

22 Yes or no?

23 A In a sense. I'm not sure if he used that exact words
24 but I, I -- he may have. He may have not. My recollection
25 is very far and faint on, on what happened as far as trying

David Walker - Cross-examination
by Solicitor Graham

1 to go back and I've, I've thought, if I may, I've thought
2 numerous times that, that I --.

3 Q You're not sure?

4 A Yeah.

5 Could you repeat your question if you want an answer to
6 that question?

7 Q No, that's okay.

8 A Okay.

9 Q Investigator Page Moore, the female at the West
10 Columbia Police Department who drove out to the 44 Truck
11 Stop and then interviewed you at West Columbia, you remember
12 her?

13 A Yeah, I, I recall Ms. Page Moore. I don't -- I
14 remember -- I don't recall all details but most details but
15 I recall her and what I---

16 THE COURT: The question was do you remember her.

17 THE WITNESS: I do remember her, yeah.

18 THE COURT: That was the question.

19 THE WITNESS: Yes, sir.

20 THE COURT: Ask your next question, solicitor.

21 Q Did she tell you you were under arrest?

22 A Ms., Ms. Moore did not, no.

23 Q Investigator Wade, the one who testified yesterday, you
24 remember him?

25 A Yes, he did. And he did inform me I was under arrest

David Walker - Cross-examination
by Solicitor Graham

1 when he did so, I -- in approximately second statement he
2 give to me, maybe third.

3 Q Okay. So, of the four people that we've talked about,
4 you're sure that one of them said you were under arrest and
5 that was Investigator Wade?

6 A One of those people was Investigator Wade, yes.

7 Q Anybody else tell you you were under arrest?

8 A I know the guy in the car did out, out of Aiken County,
9 the second car. I'm not, I'm not even sure who he was. He
10 was some type of -- I know he had a sergeant rank, that's
11 all I know, and he, he, he -- I know he had black hair.

12 THE COURT: I believe that's irrelevant.

13 Ask your next question.

14 MR. WALKER: Next question.

15 THE COURT: He said he knew the officer in the second
16 car told him he was under arrest.

17 Q Anybody else?

18 A May, may have, solicitor. I'm not sure. From my
19 recollections, I don't know.

20 Q The video that Sergeant Kostyk showed, you watched it
21 yesterday, and you got it in discovery, right?

22 A The -- it's been irradiated. So, I only seen, you
23 know, what you shown.

24 Q Right.

25 what you, what you saw in Court that Sergeant Kostyk

David Walker - Cross-examination
by Solicitor Graham

1 said is to what happened and is accurate, it's your
2 testimony that he altered that and changed it, correct?

3 A Yes, he altered -- I, I don't -- I'm not saying
4 Sergeant Kowalski (sic) altered it. I'm saying the video
5 has been altered.

6 Q Okay. What he said was accurate you're saying was
7 changed?

8 A I'm not saying his testimony is accurate, no, sir.

9 Q No, that's not what I said. He says the tape is
10 accurate.

11 You've heard him say that, right?

12 A Yeah, I heard his testimony.

13 Q And it's your testimony that somebody has changed the
14 tape?

15 A That's correct.

16 Q Okay. You testified about going into a convenience
17 store, the one where -- the grocery store where Sergeant
18 Kostyk found you after the store was closed but you've
19 talked about going in before the store was closed, right?

20 A Can you repeat your question, solicitor?

21 Q Sure.

22 A few minutes ago you testified that you were at that
23 grocery store and you went in before it was closed, correct?

24 A Hang on.

25 Objection, Your Honor, on the conditions that he's

David Walker - Cross-examination
by Solicitor Graham.

1 jumping around. He's going from one timeline to another
2 timeline.

3 THE COURT: Answer the question, Mr. Walker.

4 A Repeat your question, solicitor.

5 Q Before Sergeant Kostyk found you under the carport at
6 Gurley's Grocery Store, you testified that you'd gone into
7 the grocery store.

8 Is that correct?

9 A No, sir, I went to the grocery store.

10 Q You never, you never went inside the grocery store?

11 A No, I went under their -- I guess that -- I'm not
12 really sure. I went to the front entrance. I went to the
13 front entrance but I looked in the store. I went to the
14 door of the store. I'm not -- I may have went in a foot. I
15 may have went in 2-foot. I may not. I may of stood 2-foot
16 outside the door. I know I was at the entrance.

17 Q And the -- somebody who worked at the store asked you
18 if you intended to conduct business there?

19 A That's correct. She introduced herself as the, the
20 manager and also the owner of the, the store.

21 Q You didn't have any money on you at the time, did you?

22 A I may have. I believe I had some change. I was trying
23 to get some water.

24 Q Did you get water?

25 A No, sir, Ms. Page Moore give me some water after the

David walker - Cross-examination
by Solicitor Graham

1 fact.

2 Q Okay. The truth is you didn't have any money on you at
3 the time, did you?

4 A I don't know.

5 Q Okay. So, when you told the lady that you were gonna
6 conduct business, you lied?

7 A No.

8 Q Cause you didn't have any money to buy anything?

9 A I may have had money. I mean I -- do you know the
10 contimsence (sic) of my pockets, solicitor?

11 Q Sergeant Kostyk and other members of the Aiken County
12 Sheriff's Department violated your rights, correct?

13 A Violated my rights?

14 Q Yes.

15 A I was under arrest.

16 Q No, I said they -- you have testified that they
17 violated your rights, correct?

18 A Yeah, they have. All, all of them have, the ones that
19 I give testimony on.

20 Q Let's just talk about Aiken for a second.

21 A Okay.

22 Q At least one of the officers threatened your life and
23 threatened to murder you?

24 A That's---

25 Q Is that correct?

David Walker - Cross-examination
by Solicitor Graham

1 A That's correct.

2 Q Okay. Did you file any reports with any law
3 enforcement or government agency making charges---

4 MR. WALKER: Objection.

5 Q ---or lawsuit---

6 THE COURT: Don't, don't, don't, don't interrupt.

7 MR. WALKER: Objection.

8 THE COURT: Don't interrupt until I hear the question
9 and then you can object and then I'll rule on it,
10 Mr. Walker.

11 A Proceed.

12 Q Did you file any lawsuits, did you file any complaints,
13 did you file any police reports about a police officer
14 threatening to kill you?

15 MR. WALKER: Objection, Your Honor. I don't have to do
16 that by law. It's unlawful.

17 THE COURT: I overrule your objection.

18 A Say your question again, solicitor.

19 Q Did you file any police reports, did you file any
20 complaints, did you file any lawsuits against a police
21 officer from Aiken County who threatened to murder you?

22 A No, only, only details that I, I don't feel that I have
23 to and my civil rights, as far as proceeding with a civil
24 action, is my right and at my discretion.

25 Q You would agree with me that, if you would of filed a

David walker - Cross-examination.
by Solicitor Graham

1 complaint, it would of been more helpful to you today to
2 confirm that something happened in 2012, wouldn't it?

3 A Can't give affirmative answer on that.

4 Q You would agree with me that, when you had a chance to
5 speak with your father and your brother and your mother
6 about this, not about what happened to Carrie, but about how
7 the police treated you, you never told the police that an
8 Aiken County officer threatened to kill you?

9 A Can't give an affirmative answer on that.

10 Q Does that mean no?

11 A It means I can't give an affirmative answer on that.

12 SOLICITOR GRAHAM: Judge, can you direct him to answer?

13 THE COURT: What was your answer, Mr. Walker?

14 THE WITNESS: I told him I couldn't give an affirmative
15 answer on his question.

16 THE COURT: So, your answer is negative?

17 THE WITNESS: If, if---

18 THE COURT: Affirmative means---

19 THE WITNESS: If the Court may---

20 THE COURT: If you can't give an affirmative, then your
21 answer is negative?

22 THE WITNESS: But I choose how I give testimony and I
23 choose to say affirmative -- I can't give affirmative and be
24 kind of like a nolo if I may, Your Honor.

25 THE COURT: Ask the question again, solicitor.

David Walker - Cross-examination
by Solicitor Graham

1 Q When you had a chance to speak with your brother, your
2 father, and your mother, you did not tell them that an Aiken
3 County officer threatened to kill you, did you?

4 A I didn't think I was entitled to tell anybody that,
5 that I may have feared for my life.

6 THE COURT: Mr. Walker?

7 THE WITNESS: Yes or no, Your Honor?

8 THE COURT: The question---

9 THE WITNESS: Is, is -- if I may, Your Honor?

10 THE COURT: Of course.

11 THE WITNESS: Do I just -- can I give -- I understand
12 what you're -- what the Court is getting at, that I must
13 answer yes or no, but may I give detail after I answer that
14 question as far as---

15 THE COURT: You haven't answered yes or no yet and I've
16 told you, each time you took the witness stand, you have the
17 right to explain your answer.

18 THE WITNESS: Okay. That's all I ask for.

19 THE COURT: All right.

20 A Ask your question again, solicitor.

21 Q Isn't it true, after you were out of police custody and
22 you had a chance to speak with your father, your brother,
23 and your mother, you didn't tell any of them that an Aiken
24 County officer had violated your rights and, in fact, had
25 threatened to kill you, did you?

David walker - Cross-examination
by Solicitor Graham

1 A No, because I didn't think I needed to or I didn't want
2 to. And I don't think they would of helped me on the
3 situation at all. I think they probably would of progressed
4 worse if I did.

5 Q The first time that you've told anybody this story,
6 other than maybe Ms. Mauldin or somebody else on your
7 defense---

8 THE COURT: I'm gonna strike that part about Ms.
9 Mauldin.

10 SOLICITOR GRAHAM: Right.

11 I don't want to know what Ms. -- what you told Ms.
12 Mauldin or not. That's not what I'm asking.

13 MR. WALKER: Then I object to the question because it
14 was striked (sic). Part of it was striked (sic).

15 THE COURT: Say again, Mr. Walker.

16 MR. WALKER: I object to the question because part of
17 it was striked (sic).

18 THE COURT: Rephrase your question, solicitor.

19 Q Not talking about any conversations you had with your
20 defense team.

21 Coming into the courtroom, this is the first time
22 you've talked about an Aiken officer threatening to murder
23 you, isn't that true, to anybody?

24 A Under my Fifth Amendment right, I have the right to
25 remain silence (sic) and, therefore---

David Walker - Cross-examination
by Solicitor Graham

1 THE COURT: No, sir, you do not. We've been through
2 that, Mr. Walker.

3 THE WITNESS: I---

4 THE COURT: Once you take the witness stand---

5 A Repeat your---

6 THE COURT: ---you have to answer the question.

7 A Repeat your question, solicitor, please, sir, without
8 the defense attorney or whatnot.

9 Q Sitting on the stand today and yesterday, this is the
10 first time you told anybody that an Aiken County officer
11 threatened to kill you.

12 Isn't that true?

13 A From my recollection -- answer the question -- state
14 the question one more time and I'll give you a direct
15 answer.

16 Q Coming into the courtroom today or yesterday, this is
17 the first time that you have ever told anybody that an Aiken
18 County officer threatened to murder you?

19 A Most likely.

20 Q When you went from the hospital to the 44 Truck Stop,
21 you with me?

22 A Yes, sir..

23 Q Okay. You were free to go, weren't you?

24 A No.

25 Q You had an evaluation at the hospital because the

David walker - Cross-examination
by Solicitor Graham

1 officers were concerned for your safety, correct?

2 A No.

3 Q You talked to the doctor.

4 They asked you if you had suicidal thoughts or
5 homicidal thoughts and you told them no, and they agreed
6 that you weren't committable and they released you, correct?

7 A No, the hospital -- the law enforcement officer did
8 not---

9 Q Okay.

10 A ---then.

11 Q Who drove you to the 44 Truck Stop?

12 Was it Sergeant Kostyk or was it a different person?

13 A There was a guy---

14 THE COURT: Was it Sergeant Kostyk or a different
15 person is the --.

16 A I -- from my recollection, I don't recall.

17 Q You don't remember Sergeant Kostyk driving you to the
18 44 Truck Stop?

19 A Like are you asking from the hospital to 45 (sic)?

20 I mean---

21 Q Let's just, let's just make it simple and say at, at
22 the 44 Truck Stop.

23 Who drove you -- who is the last Aiken officer that you
24 had contact with?

25 Was it Sergeant Kostyk or just yes or no to Sergeant

David Walker - Cross-examination
by Solicitor Graham

1 Kostyk?

2 A Sergeant Kostyk was not at the 44 Truck Stop.

3 Q Okay. Were you in handcuffs when you are at the 44
4 Truck Stop?

5 A That's correct.

6 Q At some point you were released by the Aiken County
7 people, correct?

8 whatever officer that was, you were released. They
9 undid your cuffs and they let you out of the car and they
10 told you you were free to go.

11 A Stipulative (phonetic), no.

12 Q I'm sorry?

13 A Stipulative (phonetic), no.

14 Q Well, let's do this.

15 They took your handcuffs off that you say that they had
16 on you, correct?

17 A Yeah, but they -- go ahead. Proceed.

18 Q Is that a yes or a no, they took your handcuffs off?

19 A At Exit 44 Truck Stop, eventually.

20 Q Before the deputy from Lexington came, you did not have
21 cuffs on you or you did?

22 A I didn't hear you, Your Honor -- solicitor. Somebody
23 was coughing.

24 Q Let me ask it clearer.

25 Did the Lexington deputy see you in handcuffs?

David Walker - Cross-examination
by Solicitor Graham

1 A I can't vouch for Lexington County.

2 Q Did the Aiken officer tell you that you were free to
3 go?

4 A Which one?

5 Q The one that drove you to the 44 Truck Stop.

6 A No.

7 Q Did the Aiken officer who drove you to 44 Truck Stop
8 actually ask you where you wanted to go, if you wanted to go
9 to Lexington or if you wanted to go to Augusta, and gave you
10 a choice?

11 Isn't that true?

12 A No, he -- there was something said about Augusta but I
13 don't recall where or when.

14 Q Okay. You don't remember that the officer---

15 A I do recall what happened about Augusta. I believe I
16 was at -- this was after I was exiting the hospital. A City
17 guy who was offering, talking about Clemson or whatnot, he,
18 he got, he got into the car and he asked me, he said
19 something about are you from -- you from Georgia? I said
20 no, I'm not, I'm not from Georgia and he said, he said
21 something another are you, are you going back to Augusta? I
22 said I just told you I'm not from Augusta.

23 And he was getting ready to say something and the
24 officer knocked on the door, on the window, and he rolled
25 down the window and cut in -- it was a cutoff of his radio.

David Walker - Cross-examination
by Solicitor Graham

1 He had his radio on. And they stipulated something about
2 transporting me to the, to the police station and he said
3 take him straight there. And then he said well, let me
4 drive and I think that's when they switched drivers.

5 Q So, you deny that some officer from Aiken gave you a
6 choice of where you wanted to go, to either Augusta or
7 Lexington?

8 A From my recollection, yeah, I, I -- he, he stipulated
9 something -- someone, someone -- he stipulated something
10 about Augusta but that's all I recall on Augusta.

11 Q When you got to the 44 Truck Stop and your handcuffs
12 were off, and you were out of the Aiken car, you were not
13 under arrest, correct?

14 A I'm not sure what you're getting at, solicitor. I
15 can't answer that detail at this point.

16 Q Well, you didn't have handcuffs on anymore?

17 A Where at?

18 I mean I had handcuffs---

19 THE COURT: We're at 44 Truck Stop. Track it.

20 THE WITNESS: I'm trying to stay but he keeps jumping.
21 That's why I objected.

22 THE COURT: We're at 44 Truck Stop.

23 Is that what you're asking about, solicitor?

24 SOLICITOR GRAHAM: Yes, Your Honor.

25 THE COURT: Ask your question.

David Walker - Cross-examination
by Solicitor Graham

1 Q At the parking lot of the 44 Truck Stop, you were free
2 to go.

3 Isn't that true?

4 A No. No.

5 Q Didn't you testify earlier that an Aiken officer told
6 you you were free to go?

7 Do you not remember saying that?

8 A Comfort (phonetic) did but he, he did not -- they
9 didn't release me. He said it but they didn't.

10 Q Okay. You said Kemfort was nice to you, correct?

11 A That's correct.

12 Q Okay. He did not tell you you were under arrest.

13 That's what you said earlier.

14 Correct?

15 A Said I was being detained. I don't know what nature he
16 used---

17 THE COURT: That wasn't the question.

18 The question is Detective Kemfort tell you you were
19 under arrest.

20 THE WITNESS: Maybe.

21 Q And now it's maybe?

22 A Well, I, I -- as, as you know, solicitor, I have
23 recollection problems. I have memory problems. My memory
24 is very faint and far and, at certain times, at anytime, I
25 can -- I'm subject to losing memory.

David Walker - Cross-examination
by Solicitor Graham

1 Q So, when you don't remember something, do you make
2 things up?

3 A No, sir.

4 Q Okay. You don't change your story and make it sound
5 better?

6 A No, sir, I -- sometimes I progress my notes and try to
7 stipulate. It takes me days to figure out a whole sentence.
8 So, 50 -- 40 pages of notes.

9 Q You don't remember Detective Kemfort telling you that
10 you were free to go?

11 A As, as I've testified numerous times, I've, I've said
12 he did -- Mr. Kemfort did say something about detaining me.
13 He say -- yeah, he said I was free to go but that he never,
14 he never released me. He didn't -- he told me I was -- I
15 had to stay there. I was being under investigation or
16 something of that nature.

17 Q He told you you couldn't leave is your testimony?

18 A Yeah, he, he said I, I need to, I need to stay there.
19 I, I have to stay there cause I'm being taken (sic)
20 somewhere for investigation.

21 Q The West Columbia Police Department comes up to the 44
22 Truck Stop, right?

23 A Um --.

24 Q Do you remember that?

25 A It's Aiken that---

David Walker - Cross-examination
by Solicitor Graham

1 Q Aiken, Aiken is gonna be gone now. They left Deputy
2 Kemfort, the Lexington deputy there, and West Columbia comes
3 up. Investigator Moore and another officer from West
4 Columbia came up.

5 Do you remember that?

6 A Yeah, it was---

7 Q All right.

8 A Go ahead.

9 Q Did Investigator Moore, at the 44 Truck Stop, tell you
10 you were under arrest or that you had to come with her.

11 A No, she stipulated that -- she stipulated I was, I
12 needed to come with her. Now, an officer, I'm not sure if
13 it was Page Moore, did stipulate that there was -- there
14 would be proceedings maybe if, that they would have me
15 integrigated (phonetic) if I did not proceed with them but
16 it was, it was under voluntary basis.

17 Q All right. So, did you leave voluntarily with the west
18 Columbia officers to go to west Columbia?

19 A I didn't.

20 Q Okay. So, you got to the West Columbia Police
21 Department.

22 That was your choice to go there, correct?

23 A Under stipulate, yes.

24 THE COURT: Under stipulation, explain that to me.

25 THE WITNESS: The stipulations was the reason I was

David Walker - Cross-examination
by Solicitor Graham

1 kind of induced, enticed to---

2 Q Go ahead.

3 THE COURT: You said you went voluntarily and then you
4 said under stipulation.

5 THE WITNESS: That's---

6 THE COURT: Explain to me under stipulation.

7 THE WITNESS: The, the stipulations, Your Honor, is the
8 reason I went there is because of the facts that happened
9 before. I wasn't really sure if I was out of custody. You
10 know, I did acknowledge that they was being kind, the West
11 Columbia or Ms. Page Moore herself, was being kind and, and
12 being -- proceeding as that -- as it should proceed. And
13 she asked me to go. I did not object to going and I didn't
14 voluntarily go.

15 But under the stipulations that, that they also induced
16 or, or -- and those that, that another officer did. I think
17 it was kind of a heavy, heavyset guy. He said that there
18 would be proceedings if you didn't go, that we would have
19 you integrigated (phonetic) by, by the, the, by the Courts,
20 by the power of the Courts.

21 THE COURT: Thank you, Mr. Walker.

22 You may ask your next question, solicitor.

23 SOLICITOR GRAHAM: Thank you, Your Honor.

24 And then I think, once you get to West Columbia,
25 Detective Bruce Wade threatened you with the death penalty.

David Walker - Cross-examination
by Solicitor Graham

1 Is that correct?

2 A That is correct.

3 Q Okay. Earlier on the Stand Your Ground, when you
4 testified, you said Detective Moore was present when
5 Detective Wade threatened you.

6 Is that correct?

7 A Partially.

8 Q What threats did Investigator Moore hear?

9 A I can't vouch for Ms. Moore.

10 Q So, Detective Wade threatened you more than the death
11 penalty?

12 A Yes, they did.

13 Q Did he physically harm you?

14 A He threatened, he threatened something. I don't know
15 if it went to actual---

16 THE COURT: No, answer the question.

17 THE WITNESS: Maybe.

18 THE COURT: Did Captain Wade physically harm you?

19 THE WITNESS: Maybe. No, he didn't -- no, he didn't
20 physical (sic) harm me. No, I already answered that
21 question, Your Honor. He moved on to a next question was
22 did he threaten to and the answer to that was maybe.

23 Q And then Detective Moore asked you if you will be
24 interviewed, correct?

25 A She asked me at the truck stop. I don't think she

David Walker - Cross-examination
by Solicitor Graham

1 asked me there. Once I got there, basically I was turned
2 over to Lieutenant Wade and Lieutenant Wade did what he did
3 as I've testified to, and, upon that, Ms. Page Moore come
4 back into the scene and asked me if I would come to the
5 investigation room with her. I proceeded to the
6 investigation room with her. And, upon that, at that time,
7 that's when Mr. -- Lieutenant Bruce Wade jumped in there and
8 said what I've already testified to.

9 Q Okay. When you sit down at the -- in the interview
10 room at the table, you chose to do that, correct?

11 A Semi-voluntarily.

12 Q Right.

13 with the understanding that if nobody threatened you
14 you would be glad to talk to them, correct?

15 A I, I was, I was associating with Ms. Moore. I was not
16 associating with Mr. Wade.

17 Q I understand.

18 So, you were okay talking with Investigator Moore as
19 long as nobody threatened you anymore?

20 A No.

21 Q You weren't?

22 A No.

23 Q Okay. They gave you a written Miranda rights form and
24 you testified that you wrote on the form that you were too
25 sick to talk, correct?

David Walker - Cross-examination
by Solicitor Graham

1 A Correct.

2 Q And they now say that that form doesn't exist.

3 You heard him say that, right?

4 A That's correct.

5 Q And it never existed?

6 A That's what they stated.

7 Q Okay. So, they have destroyed evidence that would help
8 you, correct?

9 A I'm not sure if they destroyed them but they didn't
10 occupy it through, through discovery.

11 Q Okay. Have you filed any complaints, any reports, or
12 any lawsuits against Investigator, now Captain Bruce Wade,
13 for him threatening to kill you and for destroying your
14 Miranda form?

15 A I attempted to at the Lexington County Detention
16 Center, and I believe I spoke with Ms. Mauldin, and you may
17 question Ms. Mauldin about this. She may inconsistent what
18 I've said but I, I did speak with her about maybe suing
19 Lieutenant Wade on, on the conditions but I never proceeded.
20 I think the reason that I couldn't proceed is cause I, I
21 couldn't -- I had no, no, no recollection of how to sue and
22 I, I had no access to the Courts at the detention center,
23 and, therefore, I kept trying and I believe I spoke with Ms.
24 Mauldin. She told me she couldn't give me advice on civil
25 proceedings and I, I had no access to materials to, to

David Walker - Cross-examination
by Solicitor Graham

1 proceed with it.

2 Q And what about writing a letter to SLED saying that
3 Detective, now Captain Wade, threatened to kill you?

4 Did you do that?

5 A I'm not sure if I did or if I didn't.

6 Do you have that for evidence?

7 Q No, I would love to see it.

8 A why are you---

9 Q I'm asking you.

10 A why are you -- objection, Your Honor.

11 THE COURT: what's your objection?

12 what's the basis of your objection?

13 MR. WALKER: He's, he's stating testimony on something
14 that doesn't exist.

15 THE COURT: Oh, so, you didn't write a letter to SLED?

16 MR. WALKER: I'm asking him to produce that before he
17 asks his questions about it.

18 THE COURT: No. No, he asked you did you write a
19 letter---

20 MR. WALKER: And I an---

21 THE COURT: ---to SLED and make any complaints.
22 what's your answer?

23 MR. WALKER: I answered the question as I don't recall.

24 THE COURT: Okay. All right. Ask your next question,
25 solicitor.

David Walker - Cross-examination
by Solicitor Graham

1 Q You did not tell your brother, your father, or your
2 mother that Detective Wade had threatened to kill you, did
3 you?

4 A I answered that question already.

5 THE COURT: Did, did you say threaten to kill you?

6 I thought he just threatened with the -- I thought he
7 said---

8 SOLICITOR GRAHAM: This is---

9 THE WITNESS: Objection.

10 THE COURT: I'm sorry.

11 Go ahead, solicitor.

12 SOLICITOR GRAHAM: I'm sorry, Your Honor.

13 At this time I'm asking about Detective Wade.

14 THE COURT: Correct.

15 SOLICITOR GRAHAM: I just---

16 THE WITNESS: I thought he---

17 THE COURT: And that's Captain Wade.

18 SOLICITOR GRAHAM: Now Captain Wade. Thank you, Your
19 Honor.

20 THE COURT: And I thought his testimony was -- I didn't
21 know his testimony was threatened to kill. I thought his
22 testimony was did Captain Wade threaten you with the death
23 penalty.

24 SOLICITOR GRAHAM: You are correct. I misstated it,
25 Your Honor.

David Walker - Cross-examination
by Solicitor Graham

1 THE COURT: That's okay. I just -- I wanted to make
2 sure I was tracking.

3 SOLICITOR GRAHAM: Thank you, Your Honor.

4 THE COURT: Thank you.

5 SOLICITOR GRAHAM: Let me rephrase that question.

6 Mr. Walker, after you were released, after you left
7 police presence and went to the hospital, and you made
8 contact again with your family, with your dad, your brother,
9 and your mother, you never told them that Captain Wade, with
10 the West Columbia Police Department, threatened you with the
11 death penalty, did you?

12 A I, I never spoke with my family about Lieutenant Bruce
13 Wade other than -- I, I believe I -- actually I did. I
14 spoke with them about them doing whatnot, about, about,
15 about the situation and I do recall speaking of Lieutenant
16 Bruce Wade to them but I'm not sure if I used the word --
17 what you're getting at there, solicitor.

18 Q The audiotape that was introduced yesterday of the
19 interview with Page Moore and Detective Wade, you remember
20 that one?

21 A I recall.

22 Q Okay. Is that accurate?

23 A I just---

24 Q Just what's on the tape.

25 A I just testified, I just testified on that, solicitor.

David Walker - Cross-examination
by Solicitor Graham

1 Objection, Your Honor. I just testified as to -- I
2 just answered that question. I mean I testified on that.

3 THE COURT: I'm directing you to answer that question.
4 That's a valid question is the audiotape played in Court
5 yesterday accurate recording of, what you would say is not
6 the full and complete conversations, but of that
7 conversation with Detective Wade and Detective McCraw?

8 A I answered your question but no. Did he tell his -- I
9 believe it's been tampered with and cut with and, and added.

10 Q Okay. How many times, after you left that day from
11 that taped interview, you went to the hospital, you went
12 home with your dad, how many times did you say that you came
13 up and Detective Wade interviewed you again?

14 A Again, solicitor, I have very bad memory with numbers.
15 So, I, I'm not -- I can't recollect. I'm gonna say three
16 maybe.

17 Q All right. And one of those times you say that you
18 actually answered questions but you never got those in
19 discovery either.

20 Is that correct?

21 A That's correct. Again, solicitor, I'm not good with
22 numbers.

23 Q I wasn't asking for a number that time. I'm asking, if
24 I understood your testimony, one of those times you came up
25 and spoke with Investigator Wade again and he interrogated

David Walker - Cross-examination
by Solicitor Graham

1 you, and you came in of your own free will that time I
2 guess, but you were interrogated, you gave answers, correct?

3 That's what you said.

4 A Yeah, I gave -- I, I gave Investigator Wade answer to
5 his questions.

6 Q Okay. But you have not been supplied that in discovery
7 either?

8 A There was one that was supplied to me but I'm not sure
9 what date and I don't even believe that that's accurate. It
10 may have been. I haven't acknowledged it enough. I did
11 look at it a few times but I'm not -- I don't, I don't
12 recall -- as I'm on the stand, I don't recollect what date
13 is on there and I don't recollect when it, when it is
14 suppose to be agendin (phonetic).

15 Q Let me show you a document and ask if you recognize
16 this document.

17 A It, it looks exstantial (phonetic) but it's -- that's
18 not necessarily all the way through. It's not the full, the
19 full exstantial (phonetic).

20 Q Do you recognize that as one of the Miranda form rights
21 that you filled out on January 8th of 2013?

22 Yes or no.

23 A It looks close or affirm.

24 Q All right. The initials besides the rights, those are
25 your rights -- I mean those are your initials?

David Walker - Cross-examination
by Solicitor Graham

1 A Yes.

2 Q Okay. What's not accurate on this?

3 A Well, it -- may I give detail on, on -- so, the reason
4 I can explain that?

5 That -- my answer to your question would be the reason
6 it's not accurate is because Lieutenant Bruce or Lieutenant
7 Bruce Wade advised me how to fill this out.

8 Q Okay. So, did he explain it to you or he told you what
9 you had to do?

10 A He, he -- no, he told me how to do it. Like I, I
11 forget. Like I know I was gonna -- I, I, I -- intentionally
12 I said -- it said, it said leave that. I said do you want
13 me to put the crime scene or whatnot? He said no, you're to
14 put homeless. I said well, I'm not necessarily homeless.
15 He said well, you told me you was homeless and you have to
16 put homeless. He also, right here, I, I told him -- I, I
17 answered his first question as, as affirmative. His
18 other---

19 Q And that way -- just for the judge. That's where it --
20 so, you're pointing to you have the right to remain silent.
21 You put your initials by it.

22 A Right. I answered the first one after affirmative and
23 then Mr. Wade advised me to continue. I said can I read the
24 questions. He said just sign the paper so we can go. We're
25 in a hurry. I signed the papers and then, right here, on

David Walker - Cross-examination
by Solicitor Graham

1 number five, it says do you understand your rights. I was
2 advised to put yes or no because I, I wanted to put maybe
3 and -- or, or stipulate that I didn't and I did. It was
4 partial. And he advised me that I had to put yes.

5 Q Okay. So, the handwriting on there is yours?

6 A Yes.

7 Q But he made you, except for number one, he made you
8 write the other ones and told you what you had to do?

9 A Generally.

10 Q Okay. And you signed it. That's your signature at the
11 bottom.

12 A It looks legit.

13 Q You've been -- can I introduce this as a Court's
14 Exhibit for this hearing, Your Honor?

15 THE COURT: Yes, sir.

16 (WHEREUPON, the Miranda rights form was marked as
17 Court's Exhibit No. 6 and received into evidence for
18 purposes of this hearing only at this time.)

19 SOLICITOR GRAHAM: And I'm almost done, Your Honor.

20 Mr. Walker, when I looked at your rap sheet, it's shown
21 that you've been arrested about 18 times.

22 So, you had a lot of contact with law enforcement,
23 correct?

24 MR. WALKER: Objection, Your Honor. Past criminal
25 records.

David Walker - Cross-examination
by Solicitor Graham

1 THE COURT: You may, you may -- you must answer that
2 question.

3 MR. WALKER: Can I object under bad acts?

4 THE COURT: Well, I don't -- explain to the Court,
5 solicitor, the purpose of the question.

6 SOLICITOR GRAHAM: The purpose of that question, Your
7 Honor, is to just explain his experience with law
8 enforcement and his understanding of the process and his
9 rights.

10 THE COURT: For that limited purpose only.

11 MR. WALKER: May I explain further, Your Honor?

12 THE COURT: You may.

13 MR. WALKER: I don't really---

14 THE COURT: You must answer the question.

15 MR. WALKER: Say again, Your Honor?

16 THE COURT: For the purposes of----

17 MR. WALKER: His, his---

18 THE COURT: ---showing that you've had contact with law
19 enforcement, potentially your familiarity with the criminal
20 justice system, and potentially your familiarity with
21 Miranda rights, for that limited purpose only, you must
22 answer the question.

23 MR. WALKER: May I object, again, on the stipulations
24 that he can ask -- he can ask that -- he can ask that I, I
25 made contact with the law enforcement officers before but he

David Walker - Cross-examination
by Solicitor Graham

1 can't say that I was arrested because---

2 THE COURT: All right. Rephrase that question --

3 Q Have you---

4 THE COURT: -- prior law enforcement contact---

5 Q Have you had---

6 THE COURT: ---as opposed to arrest.

7 SOLICITOR GRAHAM: I'm sorry, Your Honor.

8 THE COURT: As opposed to arrest.

9 SOLICITOR GRAHAM: Yes, sir.

10 THE COURT: Right.

11 Q Have you had contact with law enforcement numerous,
12 numerous, numerous, numerous times?

13 A I've had contact with law enforcement many times in my
14 life. My mother was in law enforcement. I grew up around
15 law enforcement and I have been approached by law
16 enforcement for different reasons. So, that may need to
17 exceed your number actually, Your Honor.

18 Q Thank you.

19 You have had Miranda rights read to you numerous,
20 numerous, numerous, numerous times, correct?

21 A No, I believe I -- I'm not even -- I can't give
22 positive or affirmative answer on that. I've never been
23 around Miranda warnings or rights.

24 Q Your mother, who is a port authority officer, did she
25 ever discuss Miranda rights with you?

David walker - Cross-examination
by Solicitor Graham

1 A No, my mother discussed warrants and how, how I form --
2 how to form of a warrants and how Court motions, and she
3 didn't really say Court motions, but how, how a form --
4 Court forms is pretty much basically that the stipulation of
5 the proceedings of a Court and forms of whatnot but them,
6 them were warrants cause my mother was a, a, a warrants
7 divisional officer in, in her jurisdiction.

8 Q Prior to running into Aiken County December 18th or
9 17th, 2012, you knew what your Constitutional rights were
10 as far as whether you had to speak with officers or not,
11 didn't you?

12 A No.

13 Q You did not?

14 A No.

15 Q You did not know that you had the right to a lawyer?

16 A No, sir.

17 Q You did not know that you had the right to remain
18 silent?

19 A I know, stipulative (phonetic), that you're, you're
20 allowed a lawyer when you're dealing with the police.
21 That's all. I don't know when, why, or where.

22 Q All right.

23 A Or didn't know. Let me correct.

24 Q How did you know to ask for an attorney when Sergeant
25 Kostyk put you in investigative detention?

David Walker - Cross-examination
by Solicitor Graham

1 A Because I watched Matlock.

2 Q So, from TV, you knew that you could ask for an
3 attorney?

4 A Stipulative (phonetic).

5 Q I don't understand what that means.

6 A It means agendaableive bly (phonetic). Agen --
7 agendaableive (phonetic).

8 Q Okay. Your general belief was that---

9 A No, not belief. Agenda. Like agenda, able, I-V-E.
10 Agendaableive (phonetic) is that it's not proper for the
11 statement to be taken as you see fit.

12 Q You knew to ask -- you knew that you had the right to
13 ask the police to stop talking to you and ask for a lawyer
14 just like you did with Sergeant Kostyk, correct?

15 A No, I can't affirm that.

16 SOLICITOR GRAHAM: That's all, Your Honor.

17 MR. WALKER: Thank you so much.

18 THE COURT: Anything further, Mr. Walker?

19 MR. WALKER: Not at this time, Your Honor.

20 THE COURT: Thank you. You may, you may return to your
21 seat.

22 MR. WALKER: Your Honor, if you may, I took a little
23 note on the, on the -- up to the stand. If it may be
24 relevant or whatnot. It just says Aiken County on a Post-it
25 Note.

1 THE COURT: Well, you may, you may take that with you.

2 MR. WALKER: Thank you so much.

3 THE COURT: All right. Mr. walker, do you intend to
4 present any additional evidence or testimony in the Jackson
5 versus Deno hearing?

6 MR. WALKER: I wish to argue on the Deno, Your Honor,
7 on you may proceed.

8 THE COURT: My question is do you intend to present any
9 additional witnesses on the Jackson versus Deno hearing?

10 MR. WALKER: I -- no, sir, Your Honor.

11 THE COURT: Solicitor, does the State intend to offer
12 any witnesses or testimony in reply on the Jackson versus
13 Deno hearing?

14 SOLICITOR GRAHAM: No, Your Honor.

15 THE COURT: Now, as I understand it -- and, again,
16 thank you, Mr. walker, Senior, and Kyle walker, thank y'all
17 very much for being with us this morning.

18 You intend to call Mr. walker, Senior and Kyle walker
19 as witnesses in the Stand Your Ground hearing, Mr. walker?

20 MR. WALKER: That's correct, Your Honor. And if the
21 Court may allow, I'd like to take a five, five minute recess
22 to get prepared for them.

23 THE COURT: I would advise -- we will take a recess, of
24 course. We've been out here about an hour and a half.

25 MR. WALKER: Thank you.

1 THE COURT: I would advise both of the parties, and as
2 I tell everybody, this is not a judicial marathon. However,
3 I have missed the mark again with our jury. They are to
4 report at eleven o'clock this morning. With that being
5 said, y'all take all the time y'all need to take to complete
6 the Stand Your Ground hearing.

7 So, we'll take about a 15 minute recess.

8 Thank you. Thank you very much.

9 MR. WALKER: Thank you so much, Your Honor.

10 (WHEREUPON, a short recess was taken at this time.)

11 THE COURT: All right. Mr. Walker, you may call your
12 first witness.

13 MR. WALKER: Thank you, Your Honor.

14 Defense calls David Senior.

15 THE COURT: All right.

16 MR. WALKER: David Walker.

17 THE COURT: Mr. Walker, if you'd come around and be
18 sworn for us please.

19 DAVID WALKER, SENIOR, being first
20 duly sworn, testified as follows:

21 THE CLERK: Have a seat please, sir. Once you're
22 seated, speak up loud and clear. State your full name
23 spelling your last please.

24 THE WITNESS: My name's David Walker, Senior. Last
25 name's spelled W-A-L-K-E-R.

David Walker, Sr. - Direct examination
by Mr. Walker

1 DIRECT EXAMINATION

2 BY MR. WALKER:

3 Q How you doing, Mr. Walker?

4 I'm, I'm your son, David Richard Walker, Junior.

5 Is that correct?

6 A Correct.

7 Q All right. You're here today. I'm, I'm pro se. I'm
8 representing myself. So, I'm here to ask you a couple
9 questions, and as I'm the defendant, I'm accused of, of, of,
10 of murdering by the State and that the victim in that case
11 is Catherine Carrie Banty.

12 You're familiar with her, right?

13 A Yes.

14 Q All right. So, so, within the time that you've known
15 me and Miss Banty, you recall what happened between --
16 interactions between you and me prior to her death.

17 Is that correct?

18 A Yes.

19 Q And that would be recent, is that correct, recently
20 before today?

21 A Well, I remember some things. I mean I don't remember
22 everything.

23 Q All right. Can you give us testimony as to what you
24 remember prior?

25 THE COURT: You have to, you have to ask a question,

David Walker, Sr. - Direct examination
by Mr. Walker

1 Mr. Walker.

2 Q Okay. Did -- sorry, Your Honor.

3 Did you -- did, did I make contact with you, prior to
4 her death and recent -- and anytime I ask you a -- anytime I
5 ask you a question, it's gonna be the terminology of
6 recently, right, recently before the death.

7 Did I make contact with you recently --

8 A Yes.

9 Q -- before the -- and, upon that, upon that contact --
10 how did I make contact to you?

11 A You called me.

12 Q I called you and that was via cell phone?

13 A Yes.

14 Q Okay. And, upon that, what, what did, what -- what did
15 I speak with you about and what did you speak with me about?

16 A You were speaking about the way -- how Cassie was
17 discipling the child, that you did not like the way she was
18 disciplining, and you needed money to get out of there. And
19 I told you that you'd been running from everything all your
20 life. That's what you do. You need to stand up and be a
21 man and deal with it.

22 MR. WALKER: Thank you, Your Honor. I would have no
23 more questions for Mr. Walker, Senior.

24 THE COURT: Thank you, Mr. Walker.

25 Any questions, solicitor?

David Walker, Sr. - Cross-examination
by Solicitor Graham

1 SOLICITOR GRAHAM: Briefly, Your Honor.

2 CROSS-EXAMINATION

3 BY SOLICITOR GRAHAM:

4 Q Mr. Walker, how long did you know Carrie?

5 A I want to say about a year. I mean I can't really --.

6 Q Did you ever know her to be violent?

7 A Not really violent, but to raise her voice, yes.

8 Q No physical violence though?

9 A No, I'm --.

10 Q She stayed with you and Cassidy I think was with her,
11 was with her for a week after your son got out of the North
12 Carolina facility.

13 Is that correct?

14 A Correct.

15 Q And, during that time, did you see Carrie interact with
16 Cassidy?

17 A Yes.

18 Q Now, I think the word you use was your son wasn't happy
19 about the disciplining.

20 Did you see her discipline Cassidy?

21 A Yes.

22 Q You would not describe that as abuse though, would you?

23 A No.

24 Q Nothing concerned you enough that you felt like you
25 needed to call any kind of DSS or anybody to report that

David Walker, Sr. - Cross-examination
by Solicitor Graham

1 Carrie---

2 A No.

3 Q ---was abusing Cassidy?

4 A No.

5 Q The last conversation you had with your son, prior to
6 him going missing and Carrie being found dead, he told you
7 that he was not happy with how Carrie was disciplining
8 Cassidy?

9 A Correct.

10 Q Is that the word he used---

11 A Yes.

12 Q ---was disciplining?

13 A Yes, disciplining and treating.

14 Q I'm sorry?

15 A Disciplining and treating.

16 Q He never complained to you that she was -- that Carrie
17 was abusing Cassidy?

18 A No.

19 Q And, in fact, I think you told him that Carrie had been
20 mothering Cassidy since she was born and before he got out
21 and he needed to let her be the mother?

22 A Correct. We had dealt with her before his -- before
23 he'd come into their life. So, evidently she was doing a
24 good job.

25 Q And after you told him that, what he said was I'll take

David Walker, Sr. - Cross-examination
by Solicitor Graham

1 care of it?

2 A He said he needed to get out. And I -- when I told him
3 that he needed to stay there, he really didn't have no reply
4 to me.

5 Q Okay. You don't remember him saying to you that he
6 would take care of it?

7 A No.

8 Q Thank you, sir.

9 THE COURT: Redirect, Mr. Walker?

10 MR. WALKER: Yes, sir, Your Honor.

11 May I prepare a question?

12 THE COURT: Yes, sir.

13 MR. WALKER: Thank you so much, Your Honor.

14 (Pause.)

15 REDIRECT EXAMINATION

16 BY MR. WALKER:

17 Q Yes, sir, I -- how you doing?

18 You, you ready to answer my question?

19 A Yeah.

20 Q All right. My question is you gave -- you give
21 testimony just a second ago to the solicitor in regards of
22 Carrie being the only parent or caregiver of Cassidy.

23 why, why, why did you stipulate that Cassidy should
24 only have one parent or caregiver?

25 Is there a reason for that?

David Walker, Sr. - Redirect examination
by Mr. Walker

1 A I did not, I did not stipulate that she should only
2 have one parent. I stipulated that she had raised her by
3 herself for four years before you come into the picture and
4 she had done a pretty good job. Cassidy loved Carrie and
5 she didn't act scared. So, that was what I was basing that
6 on.

7 MR. WALKER: All right. I'm, I'm gonna object, Your
8 Honor, just to the end of that basically where he says that
9 he was vouching for Cassidy in there.

10 THE COURT: I would overrule that objection.

11 MR. WALKER: Thank you so much, Your Honor.

12 All right. So, so, I'm gonna, I'm gonna further into
13 the question and I'm gonna ask him more directly.

14 All right. What was, what was the detail on the
15 stipulation due to the fact that your opinion -- that you
16 opinionated that Carrie shall be the only caregiver or
17 parent to Cassidy?

18 A I didn't stipulate that.

19 Q At, at -- if I may. If I may, at the end of his
20 question, you added that Carrie had taken (sic) care of the
21 child through most of her life, and that I should leave --
22 that, that she should be the only one who takes care of her.

23 A No.

24 THE COURT: Now, Mr. Walker, I, I think you have---

25 MR. WALKER: May---

David Walker, Sr. - Redirect examination
by Mr. Walker

1 THE COURT: ---miss -- misinterpreted Mr. Walker,
2 Senior's answer. You---

3 MR. WALKER: Can we have the reporter---

4 THE COURT: That was not the response.

5 MR. WALKER: Can we have the reporter to announce that,
6 that -- his testimony?

7 THE COURT: Ask your next question.

8 MR. WALKER: We no longer have questions for him.
9 Thank you.

10 THE COURT: Thank you.

11 Recross, solicitor.

12 SOLICITOR GRAHAM: No, Your Honor.

13 Thank you, Mr. Walker.

14 THE COURT: Thank you then, Mr. Walker.

15 THE WITNESS: Uh-huh. (Affirmative).

16 THE COURT: Again, thank you for being here with us
17 this morning.

18 All right. You may call your next witness, Mr. Walker.

19 MR. WALKER: All right. The defense calls Kyle Walker.

20 THE COURT: All right. Mr. Walker, if you'd come
21 around and be sworn for us please.

22 KYLE WALKER, being first duly
23 sworn, testified as follows:

24 THE CLERK: Have a seat please, sir. Once you're
25 seated, speak up, state your full name spelling your last

Kyle Walker - Direct examination
by Mr. Walker

1 please.

2 THE WITNESS: My name's Kyle Walker. Last name's
3 spelled W-A-L-K-E-R.

4 THE COURT: All right. Mr. Walker.

5 DIRECT EXAMINATION

6 BY MR. WALKER:

7 Q How you doing, Kyle? I'd like to ask you a few
8 questions.

9 Are you relevant with, with Catherine Carrie Banty?

10 Is that correct?

11 A Correct.

12 Q All right. And, and in the timeframe of knowing
13 Carrie, are you familiar with her last name is Carrie (sic)?

14 Is that correct?

15 A Yes.

16 Q All right. In that time did you know, did you know
17 of -- did you know of anytime that I contacted you in
18 regards of Carrie?

19 A Yes.

20 Q And, at that time, this was prior to her death, do you
21 recall any time of that?

22 A Yes.

23 Q All right. And, during that time, do you recall how I
24 and when I called you?

25 A Yes, you, you and Carrie both wanted me to come up

Kyle Walker - Direct examination
by Mr. Walker

1 there for a weekend and I ended up having to work and Carrie
2 was scared that you was gonna do something to the house.

3 Q All right. And you rather to believe that wouldn't be
4 burn down the house?

5 would that be---

6 A I---

7 Q Would you agree with that?

8 A Something with the house. Mess the house up.

9 Q When you say mess the house up, do you mean damage or
10 take the house away or, or --?

11 A I don't know what she meant by all of it.

12 Q Okay. Did she ever tell you that she made a police
13 report on me damaging her house or our house?

14 A I don't remember.

15 Q Did she ever say that she contacted the police for any
16 reason in regards to the house?

17 A I think so.

18 Q And, in that conversation, do you recall what she said?

19 A Not, not directly.

20 Q Just to let you know that you can answer no if you
21 don't recall.

22 A No, I don't.

23 Q Okay. And -- all right. Back to, back to me.

24 Did I contact you recently before her death?

25 A Yes.

Kyle Walker - Direct examination
by Mr. Walker

1 Q All right. And do you recall how I contacted you?

2 A My cell phone.

3 Q All right. Your cell phone.

4 All right. And was that text or was that voice?

5 A I don't remember.

6 Q So, you don't, you don't recall.

7 Do you recall -- do you -- did, did the text of, of
8 what was said?

9 A No, I remember you saying you wanted to -- me to come
10 down there and chill and see y'all or whatever and I -- as I
11 said before, I ended up having to work. I was planning on
12 coming down but I didn't.

13 Q All right. So, at that time, you, you, you didn't
14 realize and acknowledge that I, I wanted you to come to West
15 Columbia.

16 Is that correct?

17 A Yes.

18 Q All right. And earlier you give testimony that Carrie
19 also wanted you to come to West Columbia.

20 Is that correct?

21 A Yes.

22 Q All right. And, at that point, you, you testified or
23 at that -- at this point, could you testify and tell me,
24 tell me exactly what I said to you recently before her
25 death.

Kyle walker - Direct examination
by Mr. Walker

1 A I really -- at the moment, I don't remember.

2 Q If I gave you some time to recall and the Court would
3 allow, could you recall what you needed to say?

4 A I could try.

5 MR. WALKER: Your Honor, may the witness have a few
6 moments?

7 THE COURT: Do you need a few moments, Mr. Walker?

8 THE WITNESS: I'm -- I mean I been trying to think of
9 it for some---

10 THE COURT: Speak up a little bit for me.

11 THE WITNESS: I been trying to think since I've been --
12 I've talked to them and his private investigators and stuff,
13 and it's still a little fuzzy, and I don't remember it. I
14 mean it's been so many years ago.

15 THE COURT: And do you think a few moments will change
16 that?

17 THE WITNESS: No, sir.

18 THE COURT: You may ask the next question, Mr. Walker.

19 MR. WALKER: All right. Your Honor, if I need to ask
20 him questions to try to entice his memory, it may be
21 relevant to some of the questions I already asked him.

22 THE COURT: Ask your next question and it may or may
23 not be an objection.

24 MR. WALKER: Thank you so much, Your Honor.

25 THE COURT: I'll have to rule on it.

Kyle Walker - Direct examination
by Mr. Walker

1 MR. WALKER: Thank you so much, Your Honor.

2 The, the fact is I contacted you, Mr. Walker.

3 Would you, would you agree that I, I requested to
4 leave, to leave with Carrie -- I mean to leave from, from
5 the proximity of Carrie and under the, under the care or the
6 affiliations with Carrie due to the fact that she was under
7 care of me or trying to be abusive to Cassidy?

8 SOLICITOR GRAHAM: Objection. Leading.

9 MR. WALKER: Your Honor, I---

10 THE COURT: I'll allow the question.

11 MR. WALKER: Your Honor, he is a hostile witness.

12 THE COURT: I've allowed the question.

13 You can answer that question, Mr. Walker.

14 THE WITNESS: What was the question?

15 MR. WALKER: Anyway, with that, Your Honor, defense
16 needs one second if you may?

17 THE COURT: Sir?

18 MR. WALKER: I said the defense needs one, one moment
19 for a second if you may.

20 (Pause.)

21 MR. WALKER: All right. All right. I'm, I'm ready to
22 proceed on, Your Honor.

23 At, at the time, would you, would you say -- would you
24 agree that, upon, upon the time that, that I contacted you,
25 would you agree that the reason I contacted you was to, to