

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Roger L. Couch, Circuit Court Judge

RECEIVED
JUL 13 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ASHLEY PRICE TINDALL, III

APPELLANT

APPELLATE CASE NO 2017-000808

RECORD ON APPEAL

LAURA R. BAER
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

V. HENRY GUNTER, JR.
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street, Suite 400
Charleston, SC 29401
(843) 958-1900

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRANSCRIPT OF TRIAL HELD MARCH 20, 2017	1
STATE'S MOTION <i>IN LIMINE</i>	6
COURT'S RULING	16
DEFENSE OBJECTION AND MOTION FOR MISTRIAL	18
COURT'S RULING GRANTING MISTRIAL	34
TRANSCRIPT OF TRIAL HELD MARCH 21-23, 2017	35
DAY ONE- March 21, 2017	
SWEARING OF THE JURY	41
COURT'S PRELIMINARY REMARKS TO JURY	42
STIPULATIONS AND REDACTION AGREEMENT	59
STATE'S MOTION TO INCREASE BOND	61
OPENING STATEMENT BY MS. GINSBURG	65
OPENING STATEMENT BY MR. LOIGNON	71
TESTIMONY	
ROBERT ESCOFFIER	
Direct Examination by Ms. Ginsburg	77
Cross Examination by Mr. Loignon	90
ANGELA CASEY	
Direct Examination by Mr. Osborne	94
TERESA ESCOFFIER	
Direct Examination by Ms. Ginsburg	98

DEFENSE OBJECTION TO ADMISSION OF 911 CALL	106

COURT'S RULING	113

TESTIMONY

TERESA ESCOFFIER

Direct Examination by Ms. Ginsburg (resumed)	114
Cross Examination by Mr. Loignon	124

SARA TINDALL

Direct Examination by Mr. Osborne	128

STATE'S MOTION TO DESIGNATE HOSTILE WITNESS	132

COURT'S RULING	132, 182

TESTIMONY

SARA TINDALL

Direct Examination by Mr. Osborne (resumed)	132
Cross Examination by Mr. Loignon	159
Redirect Examination by Mr. Osborne	176
Recross Examination by Mr. Loignon	180

CHRISTOPHER HILDING

Direct Examination by Mr. Osborne	184
Cross Examination by Mr. Loignon	203
Redirect Examination by Mr. Osborne	210

RICHARD HILDING

Direct Examination by Ms. Ginsburg	212
Cross Examination by Mr. Loignon	232
Redirect Examination by Ms. Ginsburg	240

DAY TWO- March 22, 2017

TESTIMONY

JON CARTER

Direct Examination by Mr. Osborne	244
Cross Examination by Ms. Runey	254

RAY HAUPT

Direct Examination by Mr. Osborne	258

DANA BRADWELL	
Direct Examination by Ms. Ginsburg	263
Cross Examination by Mr. Loignon.....	274
Redirect Examination by Ms. Ginsburg.....	280
DANIEL MOORE	
Direct Examination by Ms. Ginsburg	282
Cross Examination by Mr. Loignon.....	295
Redirect Examination by Ms. Ginsburg.....	303
JEFF PHILLIPS	
Direct Examination by Mr. Osborne.....	305
Cross Examination by Mr. Loignon.....	328
Redirect Examination by Mr. Osborne	346
STATE RESTS	347
MOTION FOR DIRECTED VERDICT.....	348
COURT'S RULING	351
STATE'S MOTION TO ELICIT CHARACTER EVIDENCE	351
COURT'S RULING	356
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	356
TESTIMONY	
JAMES DOUGLAS	
Direct Examination by Mr. Loignon.....	364
Cross Examination by Mr. Osborne.....	376
DENISE BELL	
Direct Examination by Mr. Loignon.....	379
Cross Examination by Mr. Osborne.....	386
Redirect Examination by Mr. Loignon	394
Recross Examination by Mr. Osborne	395
JOHN SAGER	
Direct Examination by Mr. Loignon.....	396
Cross Examination by Ms. Ginsburg	400

ASHLEY TINDALL	
Direct Examination by Mr. Loignon.....	402
Cross Examination by Ms. Ginsburg.....	430
DEFENSE RESTS	449
DAY THREE- March 23, 2017	
CHARGE CONFERENCE.....	455
CLOSING ARGUMENT BY MS. GINSBURG.....	457
CLOSING ARGUMENT BY MR. LOIGNON.....	478
CLOSING ARGUMENT REBUTTAL BY MS. GINSBURG.....	491
JURY CHARGE	494
RECHARGE UPON STATE'S REQUEST	520
RECHARGE IN RESPONSE TO JURY QUESTION	531
RECHARGE IN RESPONSE TO JURY QUESTION	534
VERDICT	539
SENTENCING	542
INDICTMENTS	554
SENTENCING SHEETS.....	558
CERTIFICATE OF COUNSEL	560

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 7 (911 CALL)**

1 In The Court of General Sessions for the
2 State of South Carolina, County of Charleston

3

4 Case No.:

5 2016GS1005793+

6

7 State of South Carolina,

8 Plaintiff(s),

9 vs.

10 Ashley Price Tindall, III,

11 Defendant(s).

12

13

14 TRIAL TRANSCRIPT

15

16

17 March 20, 2017

18 Charleston, South Carolina

19

20

21

22

23 BEFORE:

24 The Honorable ROGER L. COUCH

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 APPEARANCES

2
3 REPRESENTING PLAINTIFF(S):

4 Alexandra Ginsburg, Esquire

5 David Osborne, Esquire

6 9th Circuit Solicitor's Office

7 Charleston, SC

8 ginsburg@scsolicitor9.org

9
10
11 REPRESENTING DEFENDANT(S):

12
13 Michael Loignon, Esquire

14 Martha Kent Runey, Esquire

15 Public Defender's Office

16 Charleston, SC.

17 mloignon@charlestoncounty.org

18

19

20

21

22

23

24

25

1 INDEX

2 WITNESSES:

3 PAGE: EVENT:

4 ROBERT ESCOFFIER

5 92 Direct Examination By Ms. Ginsburg

6 104 Cross Examination By Mr. Loignon

7 112 Redirect Examination By Ms. Ginsburg

8

9 ANGELA CASEY

10 115 Direct Examination By Mr. Osborne

11

12 TERESA ESCOFFIER

13 120 Direct Examination By Ms. Ginsburg

14 EXHIBITS:

15 State's Exhibit No. 7 (911 call

16 CD) Page 130

17

18

19

20

21

22

23

24

25

JURY SELECTION

1 service on this jury, report that to us as soon as
2 possible. Do not engage in those activities.

3 So, I'm going to release you at this point to go
4 to lunch. And as I told you, it'll be a little bit
5 longer lunch than I normally would do because of the
6 matters I'll take up with the lawyers. I'll ask you to
7 be back in the jury room at 2:30 this afternoon. We
8 should be in a position to begin shortly thereafter.

9 Now, the bailiffs are going to show you out.
10 They'll tell you how to get back to your jury room, so
11 how to return when you come back to the courthouse
12 after our break.

13 Again, I want to thank you very much for your
14 willingness to serve on this jury. We look forward to
15 presenting the case to you once we get started this
16 afternoon.

17 So, at this time the bailiffs will show you out.
18 And, again, thank you very much for your cooperation.

19 (Jury exits the courtroom at 12:40 p.m.)

20 THE COURT: All right. Any objection from the
21 State concerning my instructions to the jury?

22 MS. GINSBURG: None, Judge.

23 THE COURT: Any from the defense?

24 MR. LOIGNON: No, Your Honor.

25 THE COURT: There is an issue that we do need to

PRE-TRIAL MATTERS

1 take up, and let's go ahead and just handle that right
2 now. And I believe the State had raised this question.
3 I'll be happy to hear from you.

4 MS. GINSBURG: Thank Your Honor.

5 The State is seeking to elicit testimony
6 concerning the 4th of July incident that took place at
7 the Escoffier residence, as well as the 911 call that
8 occurred moments before the actual assault in this
9 case, under the theory of res gestae.

10 And I know you read the motion, Judge, but just a
11 brief synopsis of the facts. Before the altercation of
12 the victim that happened on Fickling Hill Road, the
13 Defendant came over to the Escoffier's residence, which
14 is a neighbor of his. They were throwing that July 4th
15 get-together. The Defendant then gets into a verbal
16 altercation with his wife because she was supposed to
17 be home earlier.

18 Witnesses will testify to that verbal altercation.
19 They'll testify to the Defendant punching Bob Escoffier
20 and making threats to guests. Specifically, others
21 will testify that the Defendant said, I'm coming back
22 for all of y'all, which resulted in Ms. Teresa
23 Escoffier calling 911.

24 While on the phone with 911, the victim in this
25 case, Rick Hilding, was walking back to his residence,

PRE-TRIAL MATTERS

1 which just so happens to be right across from the
2 Defendant's. He overhears the Defendant arguing with
3 his wife, and it clicks in his mind that, oh, my gosh,
4 that's the guy that they called 911 on.

5 So he approaches him and he explains to him to
6 calm down, that the 911 was called, that law
7 enforcement is arriving, and that's when he was
8 assaulted.

9 So it's the case -- it's a safe position under res
10 gestae that this paints the whole picture, the eventual
11 assault to Escoffier, as well as the 911 call. It
12 explains why the victim approached the Defendant, why
13 the Defendant was irate. Without it, it would appear
14 that the victim just approached the Defendant for no
15 apparent reason. However --

16 THE COURT: As I read your pretrial brief, it's
17 alleged that the Defendant went to this neighbor's
18 house because his wife was there at a party; is that
19 right?

20 MS. GINSBURG: Yes, Judge.

21 THE COURT: And I think you'd indicated that she
22 should have returned by 8:00 p.m. and did not?

23 MS. GINSBURG: Yes, Judge.

24 THE COURT: Now, the -- I don't know, I didn't get
25 from reading that though, the entire time frame we're

PRE-TRIAL MATTERS

1 talking about. I gather that things happened in some
2 type of sequence from what I read, but I don't know if
3 it took five hours for that to occur, or 30 minutes.
4 It was hard for me to get that out of that. So, help
5 me with the time frame we're talking about.

6 MS. GINSBURG: Right. I think what can help us
7 with the time frame is the CAD report. So immediately
8 after the threat, I'm coming back to take care of all
9 of y'all, Ms. Escoffier then gets on the phone with
10 911. According to the CAD report, that call began at
11 9:21.

12 At 9:25, in the CAD report, it explains that the
13 Defendant allegedly assaulted the victim in the case.
14 And when the CAD reporter wrote in the notes that that
15 assault occurred approximately five minutes earlier.
16 So, essentially, Judge, it was literally back-to-back,
17 right after the other.

18 THE COURT: And I don't know about the testimony
19 concerning. Apparently, he went to the party, an
20 argument ensued, it was loud. That's what I read in
21 the thing; is that right?

22 MS. GINSBURG: Yes, it was, Judge.

23 THE COURT: And so there was some excited
24 situation?

25 MS. GINSBURG: Yes, it was.

PRE-TRIAL MATTERS

1 THE COURT: Tell me about it.

2 MS. GINSBURG: So, according to the testimony that
3 we're going to elicit, the Defendant gets in a verbal
4 altercation with his wife. There's yelling, there's
5 cussing.

6 THE COURT: This is publicly at the party, you're
7 alleging?

8 MS. GINSBURG: Yes, it is, Judge.

9 My victim overhears it, but doesn't know who the
10 individual is. Because of the altercation, and then
11 the assault on Mr. Escoffier, as well as threats that
12 he made, I'm coming back to the take care of all of
13 y'all, this was all a giant scene, Your Honor. That's
14 when 911 was called. And then moments later, the
15 assault occurred, when my victim was trying to explain
16 to him to calm down because 911 was called.

17 THE COURT: I see. All right. I'll hear from the
18 defense.

19 MR. LOIGNON: Thank Your Honor. May it please the
20 Court.

21 THE COURT: Yes, sir.

22 MR. LOIGNON: It's our position, we would concede
23 that the prior incident was close enough in time and
24 basically provides the context for which the next
25 incident takes place. I don't think there's any

PRE-TRIAL MATTERS

1 argument that in order to fully understand the
2 situation, there should be some mention of that
3 incident.

4 However, we would seek to limit the specifics of
5 that incident. And I think there is some case law on
6 the matter, Your Honor. And I'm referring to a case
7 from 2007, State V Gillian, where the Court held
8 that -- it was a murder case actually. And the
9 Defendant's participation in two prior burglaries was
10 established by clear and convincing evidence. It was
11 admissible to show his identity, but the specifics of
12 the burglary and the amount of detail that the State
13 went into was deemed unnecessary by the Court.

14 Now, the error was found to be harmless, but I
15 think it does show that the Court's intention that the
16 State does not always need to go into the specifics of
17 prior acts, alleged prior bad acts, and that's because
18 those prior bad acts can be extremely prejudicial to
19 the Defendant, and they can tend to confuse the jury as
20 to which situation we're talking about.

21 So, for those reasons, Your Honor, we would
22 concede that.

23 THE COURT: Do you have a copy of that case you're
24 referring to?

25 MR. LOIGNON: Yes, Your Honor.

PRE-TRIAL MATTERS

1 THE COURT: Thank you.

2 (Reading.)

3 THE COURT: I'll hear from the State, about the
4 case.

5 MS. GINSBURG: Judge, I'm sorry. I'm currently
6 reading it at the moment.

7 But I think this hysteria is pertinent in this
8 case. Without knowing the exact details of what
9 happened at the Escoffier's residence, I believe the
10 jury gets confused even more because it's
11 fragmentized -- it's fragmentized to display the facts.

12 The hysteria in this case is incredibly pertinent.
13 Mr. Loignon also explained that this would be unfairly
14 prejudicial.

15 Also, Judge, before I get back to prejudice, that
16 case deals specifically with Lyle evidence. This is
17 res gestae.

18 Additionally, under --

19 THE COURT: Well, this case does talk in terms of
20 prior bad acts as opposed to -- your case seems to be
21 one where there's a continuum of the event. It just
22 keeps --

23 MS. GINSBURG: Yes, Your Honor.

24 THE COURT: He was told to leave one place where
25 an argument, you allege, was ensued with his wife. And

PRE-TRIAL MATTERS

1 apparently that argument went down the street or --

2 MS. GINSBURG: Yes, sir, on the road. So, it's a
3 continuum of the original incident.

4 THE COURT: And it was within moments, really,
5 because she immediately was calling. And you're saying
6 that that's when the fellow was -- realized who it was.

7 MS. GINSBURG: Yes, sir.

8 THE COURT: He was still arguing with his wife.

9 MS. GINSBURG: Yes, Your Honor.

10 In the 911 call, you will hear that within moments
11 of being on the call, there is a situation where
12 they're like, He just assaulted my father.

13 That's heard in the 911 call.

14 THE COURT: So, you could hear that on the 911
15 call?

16 MS. GINSBURG: Yes, you can, Judge.

17 THE COURT: Oh, okay.

18 In this particular case, the one you handed up, it
19 looks like the burglaries took place on January 26th of
20 2001?

21 MR. LOIGNON: I believe that's correct, Your
22 Honor.

23 THE COURT: And the murder took place on January
24 28th, two days later?

25 MR. LOIGNON: That's correct.

PRE-TRIAL MATTERS

1 And I would agree that obviously there's a great
2 discrepancy in time there, but I would still say that
3 these are two separate incidents. And if we look at it
4 as one incident, then we're allowing the State to get
5 out facts of another assault that -- alleged assault
6 that Mr. Tindall is not charged with, which is highly
7 prejudicial. An assault they allege he perpetrated on
8 the neighbor and was the purpose of the 911 call.

9 THE COURT: Right now, I'm considering it as an
10 exception to the hearsay rule and as part of the res
11 gestae occurrence, is what she's saying.

12 Are you asking me to analyze, that according to
13 you, that while it may be admissible, that its
14 probative value is exceeded by the prejudicial effect?

15 MR. LOIGNON: Yes, Your Honor.

16 THE COURT: Which is a different objection.

17 MR. LOIGNON: Yes, Your Honor. I mean, I'm asking
18 for both. But, yes, I mean, I think ultimately that
19 would be my overall argument. That all of this, the
20 911 call and the allegations of the first assault would
21 be highly prejudicial, and its probative value is
22 outweighed by its prejudicial effect.

23 Now, as I stated before, I would concede that
24 there is -- some reference to it is likely necessary in
25 order to give the jury a full explanation of what

PRE-TRIAL MATTERS

1 happened, what the Defendant's actually charged with,
2 of course. But this 911 call was made by someone who's
3 not a victim in this case, did not witness the assault
4 that we're here to discuss, and that we're here to try.

5 THE COURT: Well, I understand that the 911 call
6 was made by someone who witnessed the -- I guess a
7 verbal altercation between your client and his spouse
8 at their home.

9 MR. LOIGNON: She's alleged to have witnessed the
10 verbal altercation and an alleged assault that my
11 client was not charged with against the neighbor, her
12 husband. That's why she called 911, and that's why I
13 believe --

14 THE COURT: One punch thrown, supposedly.

15 MR. LOIGNON: Correct.

16 That's why I believe that the 911 call is not only
17 extremely confusing, there are multiple voices calling
18 out different things on the call in the background,
19 making allegations. But, you know, this person is not
20 a witness to the assault that we are here on.

21 THE COURT: Well, I haven't heard that call. I
22 mean, were the people yelling and shouting and --

23 MR. LOIGNON: Yes, Your Honor.

24 THE COURT: So, there was a ruckus going on, I
25 guess I would describe that.

PRE-TRIAL MATTERS

1 MR. LOIGNON: That's correct.

2 THE COURT: Okay. All right.

3 Yes, ma'am?

4 MS. GINSBURG: Judge, just to respond quickly, I
5 think the case State V McGee, explains unfair prejudice
6 pretty well. And as the Court is well aware, unfair
7 prejudice is an undue tendency to suggest a decision on
8 an improper basis.

9 However, McGee states, Under prejudice does not
10 mean the damage to a Defendant's case that results from
11 the legitimate probative force of the evidence.

12 It's the State's position that the damage to the
13 Defendant's case, if there is any, is purely a result
14 of the probative force of the evidence.

15 This is a continuous event. It's not something
16 that happened two days, and then another two days
17 later. It was continuous.

18 The 911 call is incredibly important because it
19 corroborates how quickly the initial incident with
20 Escoffier happened, the Escoffier incident occurred, to
21 then the assault in this case. Without it, a jury
22 cannot have a full picture of what we're dealing with
23 here.

24 THE COURT: All right. And as the evidence has
25 been described to me, if presented that way at trial,

PRE-TRIAL MATTERS

1 it would be my finding that the res gestae exception
2 would apply in this case. Because of the continuous
3 nature of the event, it appears the closeness in
4 space -- they were all in the same area, neighborhood,
5 I'd say, and then on the street in front of the
6 houses -- I do find that it also would serve to
7 identify the Defendant because he was involved in an
8 argument with his wife on the premises and on the
9 street. And it happened so quickly, I mean, from what
10 I've been described to me.

11 So, if that's the way the evidence bears out, then
12 I'm not going to exclude it. I'll allow it.

13 MS. GINSBURG: Thank Your Honor.

14 THE COURT: I do find that the probative value you
15 get with those factors would outweigh the prejudicial
16 effect.

17 All right. Anything else we need to consider
18 before we begin the trial?

19 MS. GINSBURG: Nothing from the State, Judge.

20 THE COURT: Anything from the Defense?

21 MR. LOIGNON: Your Honor, we'd just make a motion
22 to sequester the witnesses. We'd ask though, and I
23 know it's a little out of the ordinary, if the Court
24 grants that motion, to allow Mr. Tindall's wife to be
25 here in support during the entirety of the trial. And

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 Q So, they're pretty close?

2 A Oh, yeah..

3 Q Okay.

4 A You can hear them from the back door, from
5 the -- you know, on my screened-in porch, right here where
6 we usually sit.

7 Q Okay. So Mr. Tindall yells at Sara, punches
8 your husband in the face, yells at your daughter, and says,
9 I'm coming back to take care of all y'all. And then what do
10 you do after that?

11 A In a panic, I find a phone and call 911, and
12 try to get all the children into the house. And, of
13 course, they're all crying, too.

14 Q Okay.

15 MS. GINSBURG: Your Honor, at this time, I'd like
16 to admit State's 7 into evidence.

17 *(Whereupon, State's Exhibit No(s). 7 marked for*
18 *identification and received in evidence.)*

19 THE COURT: Subject to your prior objections?

20 MR. LOIGNON: Yes, Your Honor.

21 THE COURT: All right. Subject to those
22 objections, my ruling would be the same. It will be
23 admitted.

24 MS. GINSBURG: Thank you, Your Honor.

25 Publish this to the jury?

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 THE COURT: You may do so.

2 MS. GINSBURG: Thank you, Judge.

3 THE COURT: Ladies and gentlemen of the jury, when
4 we say "publish," that means I'm going to allow her to
5 play the exhibit so you can hear it.

6 BY MS. GINSBURG:

7 Q Ms. Teresa, while this is queuing up, get some
8 water if you need to.

9 (Playing the 911 call.).

10 MR. LOIGNON: Objection, Your Honor.

11 MS. GINSBURG: Your Honor, may we approach?

12 THE COURT: You may..

13 (Off-the-record discussion held.)

14 THE COURT: Ladies and gentlemen of the jury, this
15 is one of those times I'm going to need to talk over
16 something with the lawyers, and you'll need to step
17 back to the jury room. So, don't discuss anything
18 about the case while you're outside of the courtroom.
19 Thank you very much.

20 (Jury exits the courtroom at 4:18 p.m.)

21 THE COURT: Yes. The objection to this?

22 MR. LOIGNON: Yes, Your Honor. The State and I
23 stipulated to some redactions to the 911 call. They
24 provided me with a copy of the redacted version of the
25 911 call.

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 THE COURT: When you say a copy, you mean a
2 recording?

3 MR. LOIGNON: recording of this 911 call.

4 THE COURT: Okay. Yes, sir.

5 MR. LOIGNON: I reviewed it, I contacted the State
6 and told them there are a couple of things that I'd
7 like to change. I gave them my -- the pieces that I
8 wanted changed. We had a discussion about it. Some of
9 the things that I wanted the State wasn't willing to
10 provide, but we came to an agreement on what I would
11 like to change. And it was my understanding that after
12 that conversation those changes would be made to the
13 redacted version. And the State has just played in
14 front of the jury a completely unredacted version.
15 The -- nothing, it looks like, was redacted at all.

16 I think the jury has been exposed to information
17 that's highly prejudicial and is certainly against the
18 consent agreement that we had when we -- when I
19 consented before the trial to these redactions. I
20 think it's highly prejudicial, and I think it violates
21 my client's right to a fair trial. And I'd move for a
22 mistrial.

23 THE COURT: Counsel.

24 MS. GINSBURG: Your Honor, I have the 911 call
25 transcript in front of me. I also have the email that

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 I sent to Mr. Loignon. I explained to him in that
2 phone conversation, You need to look at the original
3 911 call because it's going to be difficult to look at
4 the redactions -- the redacted call, and then my
5 investigator to redact it further. So, look at the
6 complete call, and then come back to me with what you'd
7 like redacted.

8 In the email, I said, Just to reiterate our
9 conversation, I have agreed to take out the following
10 from the 911 call. I don't want a bullet in my head,
11 because they're all traumatized, as well as any other
12 statement talking about this Defendant having been in
13 jail before, or will be going to jail, or any
14 collateral consequence because of the incident.

15 Mr. Loignon submits that nothing has been taken
16 out of the 911 call. That's completely incorrect.

17 The beginning of the 911 call starts out, My
18 pregnant daughter, he threatened my pregnant daughter.
19 I'm sorry he's going to jail. He's going to jail.

20 That was redacted.

21 MR. LOIGNON: No, it wasn't. Actually, Your
22 Honor, that was just played in front of the jury.

23 MS. GINSBURG: I could not hear, I'm sorry he's
24 going to jail. That was not --

25 MR. LOIGNON: It was just played in front of the

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 jury. I just heard it.

2 THE COURT: Well, is it still in the machine?
3 Play it.

4 (The audio was played.)

5 MS. GINSBURG: That's it, redacted -- that was
6 redacted. I'm sorry, he's going to jail, that was
7 redacted.

8 THE COURT: Stop. Stop the tape. Now, this lady
9 is not going to be able to take down things if you're
10 going to be talking while that thing is playing.

11 MS. GINSBURG: Yes, sir. I apologize.

12 THE COURT: And so you can't do that.

13 MS. GINSBURG: Yes, sir. I'm sorry.

14 THE COURT: So now that we've gone that far, tell
15 me what's been taken out.

16 MS. GINSBURG: I'm sorry, Judge. I apologize.

17 It starts with, My pregnant daughter, he
18 threatened my pregnant daughter. You then hear silence
19 and within that silence it says, I'm sorry, he's going
20 to jail. He's going to jail.

21 She then -- then there's another additional piece
22 redacted of a woman in the background. Then Teresa,
23 says, Oh, my God, oh, my God, she can't go back home,
24 he's going to beat the shit out of her.

25 In our email conversation, this was nothing that

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 he said to redact. It remains in there. If we
2 continue on with the 911 call, there's other things
3 that he asked to be redacted that were redacted. I
4 gave him ample time, I told him to listen to the
5 original 911 tape and then get back to me. These are
6 the three things that he told me to do.

7 MR. LOIGNON: Your Honor, I'm not sure -- I mean,
8 this -- what was just played.

9 THE COURT: I didn't hear anything about somebody
10 going to jail. Was that in the original?

11 MS. GINSBURG: That was --

12 MR. LOIGNON: This is the original. This is what
13 was just played in court, and you can hear it.

14 THE COURT: Well, I didn't hear it. So let's play
15 it again. Maybe I missed something. Tell me to stop
16 it when she says he's going to jail.

17 (Audio tape played.)

18 THE COURT: Have we passed the point where he says
19 it?

20 MS. GINSBURG: Yes, Judge, we have passed the
21 point immediately.

22 THE COURT: Do we have the original?

23 MS. GINSBURG: Yes, I do have the original
24 transcript, Judge. My investigator can testify to the
25 fact that he redacted every statement Mr. Loignon

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 explained to us should be redacted.

2 THE COURT: You want to look at the transcript of
3 the original?

4 MS. GINSBURG: Or would you like to hear the
5 original, Judge?

6 MR. LOIGNON: Your Honor, I think that the main
7 issue is this...

8 THE COURT: Well, no, the issue was, you said
9 nothing had been redacted. That was the unredacted
10 version. I'm trying to get to the facts. You tell me
11 the very first sentence has been redacted. And she
12 says --

13 MR. LOIGNON: Well, if I --

14 THE COURT: Let me talk. Let me talk for a
15 second. Don't try to talk over me.

16 MR. LOIGNON: My apologies, Your Honor.

17 THE COURT: Thank you.

18 She says that in the original, there's a statement
19 that he's going to go to jail within the first two
20 sentences. I don't hear that in what has been played.
21 Did you listen to the original?

22 MR. LOIGNON: I did, Your Honor.

23 THE COURT: Was there a statement like that in the
24 first two sentences?

25 MR. LOIGNON: Yes, there was. Yes.

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 THE COURT: So it appears that this is a redacted
2 version.

3 Now, it may not be the way you wanted it redacted,
4 we'll get to that in a second, but this is not an
5 unedited tape that I'm listening to.

6 MR. LOIGNON: The one that you're listening to now
7 appears to have been edited, yes.

8 THE COURT: Well, this is the one that I listened
9 to in the beginning. It's still in the machine. You
10 just pushed the button.

11 MR. LOIGNON: Yeah.

12 THE COURT: You want to go check, check and see if
13 he's got another disc over there? Is that what you're
14 accusing him of?

15 MR. LOIGNON: No, I'm not accusing him of that at
16 all.

17 THE COURT: Okay. Well, I'm watching him, and I
18 don't see him changing discs.

19 MR. LOIGNON: I think that there is a
20 misunderstanding about what my expectation was when I
21 agreed to these redactions.

22 THE COURT: Listen to the redacted version.

23 MR. LOIGNON: I did, Your Honor.

24 THE COURT: Okay. And do you have that with you
25 that she supplied to you?

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 MR. LOIGNON: I do. I have it somewhere. I don't
2 have it --

3 THE COURT: Well, let's get it out.

4 MS. GINSBURG: Your Honor, there is a difference
5 between the redacted version that I gave him initially.
6 That's why I told him he needed to listen to the entire
7 911 version so we would come together, asking what
8 should be on the redacted.

9 After I instructed Mr. Loignon to listen to the
10 entire 911 call, that is when we had this discussion
11 that these three things should be taken out, and that
12 is what I asked my investigator to redact, because we
13 finally were on the same page.

14 THE COURT: I'm having a hard time following you
15 that.

16 MR. LOIGNON: Your Honor, if I may. It was my
17 understanding that when I'm given a redacted version of
18 the 911 call, and then I tell the State there's a
19 couple of changes that I'd like to make from what
20 you've presented to me, that the changes will be made
21 to the redacted version that they planned on playing at
22 trial. Not, okay, now we're going back to the original
23 version, and just these two sentences that I requested
24 be changed is the only thing we're going to change.
25 That's what it sounds like to me is what happened.

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 The State misinterpreted my saying, I would like
2 to make changes to the redacted version, as to me
3 saying, Forget the whole redacted version, I just want
4 these two changes to the original and that's it. Which
5 is preposterous.

6 MS. GINSBURG: Judge, if I may. And I apologize
7 earlier for being a little too heated about this.

8 I specifically told Mr. Loignon, You need to
9 review the whole 911 call because there's going to be
10 issues with looking at the prior redacted, and then
11 having my investigator continue to redact things on the
12 redacted because he might have wanted a particular
13 comment.

14 Example: He asked -- I believe he asked for
15 certain things that he wanted in the transcript that I
16 originally thought were prejudicial. So then I told
17 him, Please look at the whole 911 call, so then we can
18 start from fresh and my investigator can then make
19 those redactions. That's why we're here today. I told
20 him to look at the whole thing.

21 THE COURT: Well, do you have a printout of that
22 email or something that I can read?

23 MR. LOIGNON: About -- to look at the whole 911
24 call?

25 THE COURT: Yeah. Or something that says that.

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 MR. LOIGNON: Judge, I legitimately just told him
2 over the phone to look at the whole 911 call. And then
3 I memorialized part of the conversation. Obviously I
4 should have said, Please look at the whole 911 call.
5 But I said, I agree to take out the following from the
6 911 call. And I listed the three things that he asked
7 to be redacted.

8 After I told him, Please look at the full one so
9 we can get on the same page.

10 THE COURT: Well, prior to that, you had sent him
11 a redacted version.

12 MS. GINSBURG: That is correct.

13 THE COURT: That you had redacted yourself, things
14 that you thought shouldn't be in there.

15 MS. GINSBURG: Correct. But he also in that
16 moment was again, I asked again, if he had any issues
17 with redaction, nothing happened. Then he calls me,
18 and then since we haven't had a discussion about the
19 original redactions I figured we should start from
20 square one and look through the whole 911 call, which I
21 asked him to do. I should have put that in the email,
22 but, Judge, officers of the court, I explained to him
23 one thing, and that's what I thought was happening.

24 MR. LOIGNON: Your Honor, for me to receive a
25 redacted version and then just think that because I

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 want to make some changes we're going to go back to the
2 original where nothing is taken out at all, I mean,
3 this is -- I don't know how anyone would assume that
4 that is what the State's intent was. And I think that
5 it's almost disingenuous for them to say that they
6 believe that I would want all of this stuff in there.
7 It's highly prejudicial.

8 I was under the impression that the latest
9 version, the redacted version, is what we were making
10 changes to. I don't think that any competent defense
11 attorney in their right mind would want all of this
12 other information in the 911 call that was played to
13 the jury.

14 THE COURT: Well, what I would hope that we would
15 do in the future is that you would review whatever
16 recording is going to be played to the jury before it's
17 played. Which hasn't happened.

18 MR. LOIGNON: That's correct, Your Honor.

19 MS. GINSBURG: Judge --

20 THE COURT: I've heard some stuff on there that I
21 would object to, if I were him.

22 MS. GINSBURG: I understand that, Your Honor. But
23 it was my understanding, after I explained to him on
24 the phone, yes, I probably should have memorialized
25 that in the email, that he needed to look at the full

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 911 call just so I could make sure that we're on the
2 same page.

3 THE COURT: Well, it sounds like we don't have a
4 meeting of the minds, as to what was supposed to be on
5 the tape.

6 MS. GINSBURG: Apparently not, Judge. And that's
7 why I wanted the whole call, for him to listen to the
8 whole call, so then we will have a meeting of the
9 minds, simply put.

10 THE COURT: Well, how much of it has been played
11 and what was said that was objected to? Something
12 about -- I think you objected when she made the
13 statement that he's going to shoot her or something.

14 MS. GINSBURG: I believe Mr. Loignon objected to,
15 He's going to beat the shit out of her. Excuse my
16 language, Judge.

17 The call starts -- we've listened to 20 seconds,
18 and the only things that have been said thus far, and
19 I'm looking at my redactions from my investigator with
20 the times is, My pregnant daughter, he threatened my
21 pregnant daughter. Oh, my God, oh, my God, she can't
22 go back home, he's going to beat the shit out of her.
23 And that is when Mr. Loignon objected.

24 MR. LOIGNON: Your Honor, I actually objected
25 later on, when she said, And he might kill his wife

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 right now. That's when I objected.

2 THE COURT: Maybe that's what was being said. I
3 heard something about shoot her or kill or --

4 MR. LOIGNON: And that was the statement that was
5 originally redacted, as was the whole first part. The
6 first part, where she's talking about her pregnant
7 daughter. Can't go home, he's going to beat the shit
8 out of her. Assault, he's going to kill somebody --
9 all of that was voluntarily redacted in the original
10 version by the State. And they just played it in front
11 of the jury.

12 THE COURT: Oh, yeah, they did.

13 MS. GINSBURG: And, Your Honor --

14 THE COURT: Of course, it's into evidence.

15 MR. LOIGNON: This, again, was my attempt to bend
16 over backwards so we can get on the same page. That's
17 why I said on the phone call, please listen to the
18 whole 911 call. These are the only --

19 THE COURT: Well, I understand that. And, again,
20 I would hope that in the future before you play
21 recordings, that y'all have listened to whatever is
22 going to go in front of the jury, and have agreed on
23 it. I thought you had.

24 MR. LOIGNON: I thought we had, too, Your Honor.
25 And as far as the -- it was my impression that the

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 recording that is in evidence was the redacted one, of
2 course.

3 THE COURT: All right.

4 MS. GINSBURG: Judge, I apologize. I'm looking
5 through my emails, because the case has been on the
6 docket multiple times.

7 THE COURT: I understand.

8 MS. GINSBURG: Unfortunately, I had an emergency
9 the last time. However, I do recall emailing
10 Mr. Loignon, Hey, please listen again to the 911 call.
11 We need to get redactions. Have you listened to
12 things? Have you done anything?

13 Not getting a response, I don't believe. That's
14 why I said, Please listen to all of it.

15 THE COURT: Well, after hearing -- after hearing
16 what was heard, I would have expected that you would
17 have expected he would have objected to those things.
18 And probably did, because you took it out of the
19 original.

20 And when he didn't raise the objection, that would
21 have made me a little curious as to what was going on.

22 MS. GINSBURG: Judge, Mr. Loignon's theory of this
23 case is that everyone had it out for him, that
24 everyone's lying. I mean, possibly -- because I
25 believed he was looking through the whole 911 call.

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 This might have gone to the theory that people were
2 just causing hysteria.

3 THE COURT: Well, part of the reason that I was
4 letting it in to begin with was it was part of the
5 ongoing event that was occurring at that time.

6 But when things were said as prejudicial as those
7 things -- you didn't point them out to me because you
8 didn't know they were in there. I assume.

9 MR. LOIGNON: That's correct, Your Honor.

10 THE COURT: You would have pointed them out to me.
11 And then I could have made a ruling on whether or not
12 the prejudicial effect outweighed the probative value.
13 Didn't get a chance to do that because it wasn't
14 pointed out to me. That's where we are.

15 MS. GINSBURG: Judge, I don't understand, I guess,
16 how it could be a mistrial in the sense that --

17 THE COURT: Oh, I can understand how it could be a
18 mistrial.

19 MR. LOIGNON: I -- Ms. Teresa was talking about
20 what she was feeling at the time, knowing -- I --
21 Judge, this just goes to the meaning of how I said,
22 Please look at the whole thing, please look at the
23 whole thing and tell me what you want redacted.

24 THE COURT: I'm willing to look at printouts of
25 your correspondence and that sort of thing --

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 MS. GINSBURG: God.

2 THE COURT: -- if it bears out what you're telling
3 me.

4 And, you know, I'm just thinking, when I practiced
5 law if somebody had sent me a redacted version and I
6 said, do you have any other changes, and I said I got
7 two other things, I would have expected we'd have been
8 working off the working document, not off the original
9 document. That's what I would have expected.

10 MS. GINSBURG: I understand that, Your Honor.
11 But, yet again, and I'm looking for these emails, I
12 believe I had communications or correspondence before
13 about the redactions --

14 THE COURT: Oh, I'll give you a minute to look.

15 MS. GINSBURG: -- and there was no
16 correspondence back.

17 THE COURT: Well, right now, I'm leaning towards
18 giving him a mistrial.

19 MS. GINSBURG: Judge, I'm sorry. I'm looking,
20 trying to find my email.

21 THE COURT: Okay. We'll take a short recess. I'm
22 going to step back to my chambers.

23 Once you're ready to discuss it with me, I'll ask
24 both attorneys to step back in my office.

25 Ma'am, you can step down. Don't discuss your

DIRECT EXAMINATION OF T. ESCOFFIER BY MS. GINSBURG

1 testimony with anybody, though, while you're moving
2 about. Okay?

3 THE WITNESS: Yes, sir.

4 THE COURT: Thank you, ma'am.

5 (Whereupon, a brief recess was taken.)

6 THE COURT: Thank you very much. You can be
7 seated.

8 All right. I have reviewed the situation in the
9 case, and I have decided to declare a mistrial in the
10 case. From what I can tell there was a
11 miscommunication between the attorneys concerning the
12 content of the 911 tape to be played to the jury.

13 What I heard was some matters that I would
14 consider objectionable, had it been presented to the
15 jury and I was the defense counsel. So I do not
16 believe that -- and I don't believe that a corrective
17 instruction or striking it from the record at this time
18 will cure that.

19 I find that this mistrial is granted, mainly
20 because of a problem in the communication of counsel.
21 I find that it was not procured by the State for any
22 purpose, intentional purpose. So, I will declare it a
23 mistrial.

24 Now, what I am going to do, apparently there are
25 enough jurors in the jury pool at this time that we can

1 In The Court of General Sessions for the
2 State of South Carolina, County of Charleston

3

4 Case No.: 2016GS1005793+

5

6 State of South Carolina,

7

8 Plaintiff(s),

9 vs.

10 Ashley Price Tindall, III,

11 Defendant(s).

12

13

14 TRIAL TRANSCRIPT

15

16

17 March 21-23, 2017

18 Charleston, South Carolina

19

20

21

22

23 BEFORE:

24 The Honorable ROGER L. COUCH

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

REPRESENTING PLAINTIFF(S):

Alexandra Ginsburg, Esquire

David Osborne, Esquire

9th Circuit Solicitor's Office

Charleston, SC

ginsburg@scsolicitor9.org

REPRESENTING DEFENDANT(S):

Michael Loignon, Esquire

Martha Kent Runey, Esquire

Public Defender's Office

Charleston, SC

mloignon@charlestoncounty.org

1

INDEX

2

WITNESS:

3

ROBERT ESCOFFIER

4

Direct Examination by Ms. Ginsburg

Page 80

Cross Examination by Mr. Loignon

Page 94

5

ANGELA CASEY

6

Direct Examination by Mr. Osborne

Page 97

7

TERESA ESCOFFIER

Direct Examination by Ms. Ginsburg

Page 101

8

Cross Examination by Mr. Loignon

Page 128

9

SARA TINDALL

Direct Examination by Mr. Osborne

Page 132

10

Cross Examination by Mr. Loignon

Page 163

Redirect Examination by Mr. Osborne

Page 180

11

Recross Examination by Mr. Loignon

Page 184

12

CHRISTOPHER JOHN HILDING

Direct Examination by Mr. Osborne

Page 188

13

Cross Examination by Mr. Loignon

Page 207

Redirect Examination by Mr. Osborne

Page 214

14

RICHARD HILDING

15

Direct Examination by Ms. Ginsburg

Page 217

Cross Examination by Mr. Loignon

Page 236

16

Redirect Examination by Ms. Ginsburg

Page 244

17

DR. JON CHRISTOPHER CARTER

Direct Examination by Mr. Osborne

Page 249

18

Cross Examination by Ms. Runey

Page 260

19

INVESTIGATOR RAY HAUPT

Direct Examination by Mr. Osborne

Page 264

20

DANA BRADWELL

21

Direct Examination by Ms. Ginsburg

Page 269

Cross Examination by Mr. Loignon

Page 280

22

Redirect Examination by Ms. Ginsburg

Page 286

23

DANIEL MOORE

Direct Examination by Ms. Ginsburg

Page 287

24

Cross Examination by Mr. Loignon

Page 301

Redirect Examination by Ms. Ginsburg

Page 309

25

INDEX PAGE

1

2

INDEX PAGE (CONTINUED)

3

DEPUTY JEFF PHILLIPS

Direct Examination by Mr. Osborne

Page 310

4

Cross Examination by Mr. Loignon

Page 334

Redirect Examination by Mr. Osborne

Page 352

5

JAMES DOUGLAS

6

Direct Examination by Mr. Loignon

Page 369

Cross Examination by Mr. Osborne

Page 382

7

DENNIS BELL

8

Direct Examination by Mr. Loignon

Page 385

Cross Examination by Mr. Osborne

Page 392

9

Redirect Examination by Mr. Loignon

Page 400

Recross Examination by Mr. Osborne

Page 401

10

JOHN SAGER

11

Direct Examination by Mr. Loignon

Page 402

Cross Examination by Ms. Ginsburg

Page 406

12

ASHLEY TINDALL

13

Direct Examination by Mr. Loignon

Page 408

Cross Examination by Ms. Ginsburg

Page 436

14

15

16

17

18

19

20

21

22

23

24

25

INDEX PAGE

EXHIBIT INDEX

2 State's Exhibits:

3 Exhibit No.:	Description	Marked	Received
1-6	photos	63	63
4 8-12	photos	63	63
14-16	photos	63	63
5 17	in-car video	63	63
7	911 CD	118	118
6 13	head photo	233	233
19	S. Tindall statement	144	
7 20	S. Tindall 2nd statement	152	
21-29	hammer photos	445	

8

9 Defendant's Exhibits:

10 1-2	photos	176	176
3	photo	242	242
11 4-5	photos	339	

12

13 Court's Exhibits:

14 1	stipulation	528	528
2	jury question	540	540
15 3	jury question	544	544
4	jury question	544	544

16

17

18

19

20

21

22

23

24

25

INDEX PAGE

1 PROCEEDINGS

2 THE COURT: Good morning. We're ready to begin
3 the retrial of the case of Ashley Price Tindall, III on
4 assault and battery, high and aggravated nature, and
5 possession of a weapon during the commission of a
6 violent crime. Yesterday I had received witness lists
7 and requested voir dire for jury selection.

8 Any additions or changes to those requests from
9 the State?

10 MS. GINSBURG: None from the State, Your Honor.

11 THE COURT: Any from the Defense?

12 MR. LOIGNON: Your Honor, we actually are just
13 going to subpoena one of the State's witnesses, Chris
14 Hilding, so that just in case they don't call him he
15 will be under subpoena for the defense.

16 THE COURT: But he's on the list; is that correct?

17 MR. LOIGNON: He's on the list.

18 MS. GINSBURG: Yes, he is, Judge.

19 THE COURT: All right. Now, I understand that
20 some of the jurors in the pool were in the pool
21 yesterday when we selected the jury. I will inform
22 them that because of a legal matter, I have been
23 required to restart the case. We will -- but I am also
24 informed by the clerk that perhaps there are members of
25 the jury panel who were not present yesterday.

JURY SELECTION

1 this morning, and the bailiff will show you out. Thank
2 you very much.

3 (Remaining members of the voir dire panel exited
4 the courtroom.)

5 THE COURT: Any pretrial matters from the State
6 before we begin?

7 MS. GINSBURG: None, Your Honor.

8 THE COURT: Any from the Defense?

9 MR. LOIGNON: No, Your Honor.

10 THE COURT: All right. In that regard, my
11 pretrial rulings that I made earlier in this case would
12 stand concerning those issues, unless you wish to take
13 up something different.

14 MR. LOIGNON: No, Your Honor. I would just renew
15 those.

16 THE COURT: And same from the State?

17 MS. GINSBURG: Yes, sir.

18 THE COURT: All right. Well, at this time, I'll
19 ask the clerk to place the jury under oath.

20 (The Jury panel was sworn.)

21 THE CLERK: If you've accepted this oath, please
22 take your seat.

23 (Jurors sit.)

24 THE CLERK: Please let the record reflect that all
25 13 jurors took their seat.

OPENING COMMENTS BY THE JUDGE

1 THE COURT: All right. Ladies and gentlemen, one
2 little housekeeping matter. As you come and go, you'll
3 be coming and going from the jury box throughout the
4 trial. There are no assigned seats in the jury box.
5 You can sit anywhere you like when you come and go.

6 Except for you, sir. You're the alternate, and
7 you're required to sit in that seat away from
8 everybody. So, be sure you're in that seat every time.
9 Other than that, the jury can sit anywhere you like.

10 Now, before we begin the trial of the case,
11 there's some things that I would like to discuss with
12 you. I do this because it's my belief, based on the
13 answers I got from you, there's a couple of you who
14 were on juries earlier. But for most of you, this is
15 your first experience serving on a jury in a trial of a
16 criminal case. And I want to go over some things with
17 you, so that I'm sure we have an understanding of the
18 roles and responsibilities that you have, the
19 procedures that you will follow, and so you'll have a
20 little better understanding of what's going on as the
21 trial moves along.

22 It's my personal belief that most people who've
23 never been on a jury before probably don't know much
24 about how juries work. Most of what you have learned,
25 you probably got from television shows you've watched

OPENING COMMENTS BY THE JUDGE

1 or movies you've seen, or things of that nature. Maybe
2 a book that you read.

3 Unfortunately, I don't think they teach civics in
4 the schools anymore. It's not a subject, and so that
5 doesn't come up very much in your formal education.

6 But at any rate, if that's your source of
7 information, television and movies, I hope you realize
8 that when you watch a television show, an event occurs
9 and they try the case and they wrap it up in the space
10 of an hour, and they still have time to stop about five
11 times for commercials in the meantime, but maybe that's
12 not exactly how it really works, you know.

13 Because those are intended to entertain you.
14 Supposed to keep your attention, make you want to watch
15 that television show so that -- they get paid based on
16 how many watch commercials. They want you to stick
17 around and watch those commercials when they come on.
18 Those things are intended to entertain you.

19 I hope you have an understanding that what you're
20 involved in at this time is a fundamental part of our
21 governmental structure. I like to go over this with
22 jurors so you have a little perspective.

23 You know, if you look around the world today at
24 most of the countries that exist in this world, and
25 then look at the justice systems that exist in those

OPENING COMMENTS BY THE JUDGE

1 countries, how their citizens are tried, or how their
2 citizens resolve their disputes and differences, you'll
3 find that in most countries in this world, citizens are
4 not allowed to directly participate in the
5 decision-making process that goes on in those
6 countries.

7 Most countries in this world use a court system
8 that's appointed by the government or the bureaucrat or
9 the dictator that's running that country. And they
10 don't allow citizens to directly participate in those
11 decisions that are made.

12 We're different. Our system of juries is
13 guaranteed in our Constitution. Every citizen is
14 guaranteed the right to a trial by a jury, both in the
15 state constitution and in the United States
16 Constitution. That tradition goes back to a document
17 that was signed in a place called Runnymede, England.
18 That's the first time there was a legal document that
19 required that juries be the ones who try citizens for
20 important matters in courts.

21 Now, that was signed in England in the year 1215.
22 That means, last year that document experienced its
23 800th anniversary.

24 You know, there aren't many things in this world
25 that were instituted by man that exists for 800 years.

OPENING COMMENTS BY THE JUDGE

1 That's one of them. So it's a system that's been
2 tried, it's been tested. It's not perfect -- nothing
3 instituted by man is ever perfect -- but we believe
4 it's the best way to resolve these disputes. And,
5 again, it's required in our Constitution.

6 You see, this courtroom is a place of honor. It's
7 dedicated to the preservation of citizens' rights,
8 through that system of justice that I just described to
9 you.

10 Now, each of us will have a role in this trial as
11 we go forward. The attorneys that are here are here to
12 represent their client's interest. They're here to
13 present their case to you during the trial.

14 But one thing that lay people don't realize
15 sometimes is that attorneys, while they're here to
16 represent their client's interest, first and foremost
17 are officers of this court. At some point in time,
18 they appeared before some judge or some court and they
19 took an oath that is prescribed by law. Part of that
20 oath includes an oath to assist you in your search for
21 the facts in this case.

22 Because of that, you could expect that they're
23 going to act in a reasonable or professional and an
24 ethical manner in presenting their cases to you during
25 this trial.

OPENING COMMENTS BY THE JUDGE

1 I'm going to remind you, too, that you just came
2 in front of this court. You just took an oath. Your
3 oath is to decide this case based upon the law and the
4 evidence presented during the trial. So you now have
5 an equal obligation to act in a reasonable, a
6 professional, and an ethical manner in the discharge of
7 your duties as jurors in this case.

8 I want to thank you very much for your willingness
9 to participate in the system this week. I hope it's
10 something that you learn from as we go through this
11 process.

12 Now, what I'm telling you now is not intended to
13 be a charge on the law in this case. I'll give you the
14 charge on the law that pertains to the charges involved
15 in this case at the close of the trial. Once all the
16 arguments have been made and all the evidence has been
17 presented, at that time I will go over the law with you
18 in this case.

19 I am, again, trying to go over with you the
20 procedure that we'll follow in our responsibilities in
21 this case.

22 Now, earlier I went over with you the two
23 indictments we have in this trial. Those two
24 indictments are for the offenses of assault and battery
25 of a high and aggravated nature, and for possession of

OPENING COMMENTS BY THE JUDGE

1 a weapon during the commission of a violent crime.

2 I'll go over them with you again in detail when I
3 charge you on the law in the case.

4 But, again, those are the charges that are here.
5 These documents inform us of the charges to be tried.
6 They inform the Defendant of the charges that have been
7 lodged against him in this case. And to these
8 indictments, this defendant has pled not guilty.

9 Now, under our system of justice, that plea places
10 the burden of proof in this trial solely upon the
11 State. It's the State's obligation to prove the
12 allegations that are conveyed in the indictments to you
13 by proof beyond a reasonable doubt. And at the close
14 of the trial, it's your responsibility as jurors to
15 make a determination as to whether or not the State has
16 met its burden of proof in this case.

17 Now, I'll go over all of those concepts with you
18 in greater detail when I charge you on the law at the
19 close of the trial. But suffice it to say again, the
20 burden of proof in the case is solely upon the State,
21 and that is to prove these allegations, as I said, by
22 proof beyond a reasonable doubt.

23 The Defendant in this case is presumed to be
24 innocent, and I'll explain that presumption of
25 innocence to you again at the close of the trial. But,

OPENING COMMENTS BY THE JUDGE

1 again, these indictments are just informational
2 documents, they're not evidence of anything and cannot
3 be used by you to determine the guilt or innocence of a
4 defendant in a case.

5 Now, your purpose here as jurors will be to find
6 and determine the facts. It's been said many times by
7 many courts that a jury in a case is the sole judge of
8 the facts. I will be presiding over the trial, it'll
9 be my responsibility to serve as a gatekeeper, so to
10 speak. I'll decide what evidence comes into the
11 record, what evidence does not come into the record if
12 there's some argument about that between the parties.

13 I'll be ruling on the appropriateness of questions
14 that are asked, if they follow the rules of evidence
15 that we have or the rules of procedure that we have.
16 So I'll be making some rulings on some things as we go
17 through the case, and I'll be presiding over the case.

18 But you will serve as the sole judges of the
19 facts. And it is your job to determine those facts
20 from the testimony or the evidence that you hear. And
21 you remember that oath that you took to decide the case
22 based on the evidence. I will tell you, the only
23 evidence in any trial is the testimony of the witnesses
24 that comes from the witness stand. They've been sworn
25 to tell the truth with any documents, pieces of

OPENING COMMENTS BY THE JUDGE

1 evidence or other information that goes into the
2 record, with the testimony of those witnesses, or by
3 agreement of the lawyers for it to come into the
4 record. That's the only evidence in the case, that
5 testimony and what comes into the record through that
6 testimony.

7 It's very important that you perform your duty as
8 the fact finders in this case intelligently and
9 diligently and conscientiously because ordinarily,
10 under our system of justice, there's no means by which
11 an erroneous determination of facts that's been made by
12 a jury can be corrected.

13 So I want you to pay close attention to what goes
14 on during the trial. Try not to let your thoughts
15 wander. Pay attention to the testimony you hear, the
16 way it's delivered, how the witnesses speak, what they
17 say. Listen carefully so that you'll be in a position
18 to evaluate that testimony when you begin your
19 deliberations in this case.

20 Now, the same law that makes you the sole judges
21 of the facts makes me the sole judge of the law in this
22 case. At the close of the trial, it will be my
23 responsibility to charge you, or give you, the law that
24 you're to consider in this matter. Just as I am not
25 allowed an opinion concerning the facts of this case,

OPENING COMMENTS BY THE JUDGE

1 and I have no opinion as to how you determine the facts
2 of this case, you are not allowed an opinion as to what
3 the law is or what the law ought to be.

4 You're required by your oath to take the law
5 exactly as I give it to you, then apply that law to the
6 facts as you determine the facts to be. That should
7 put you in a position to render a fair verdict in this
8 case.

9 Now, as I go through this process of presiding
10 over the case, please don't take from anything that I
11 say or do during the trial of this case to somehow
12 indicate to you that I might have an opinion as to how
13 you should determine the facts in this case. I have
14 told you, the law doesn't allow me such an opinion, and
15 I have no opinion as to how you should determine the
16 facts. It's just me doing my job, and that job is to
17 decide those issues that are placed in front of me
18 during the trial of the case.

19 I will caution you about one thing. If there's an
20 objection that's made, or if someone offers a piece of
21 evidence and it's controversial, there's going to be an
22 argument or a discussion with the lawyers as to whether
23 it ought to come in or not come in under the rules of
24 evidence. So, if that discussion is beginning, and I
25 believe that discussion may touch on matters that would

OPENING COMMENTS BY THE JUDGE

1 not be admissible under the rules -- in other words,
2 shouldn't go into the record of the case -- if I think
3 the discussion's going to go in that direction, I'll
4 ask you to step out of the courtroom while I discuss
5 that issue with the lawyers.

6 Don't think because I've asked you to step outside
7 that I'm trying to influence your decision on the
8 facts. It's just me doing my job as I told you, as the
9 gatekeeper in this case. Once I've made the ruling
10 I'll bring you back into court, I'll announce my
11 decision in the matter, and we'll proceed with the
12 trial. But don't think that because I've sent you
13 outside that somehow I'm trying to influence your
14 decision on the facts.

15 Again, it's just me doing my job, and one of my
16 jobs is to see that you decide this case based solely
17 upon evidence that's been properly admitted into the
18 record under the rules that govern what goes into the
19 record of the trial of the case.

20 Now, I've told you that you're going to be the
21 sole judges of the facts in this case. And as such,
22 you have the necessary duty of determining the
23 credibility of the witnesses you hear. That's going to
24 be a necessary function in finding the facts. You'll
25 have to determine what evidence you believe is

OPENING COMMENTS BY THE JUDGE

1 credible, believable.

2 Now, in determining the credibility or the
3 believability of the testimony that you're going to
4 hear, I'm going to ask you to use your own good common
5 sense in doing that. You know, every single day,
6 whether you realize it or not, you make common sensical
7 decisions as to what you choose to believe and what you
8 choose not to believe. You do it all of time, without
9 sometimes even thinking about those decisions.

10 Being on a jury is no different than that ordinary
11 experience that you have outside of the courtroom. I
12 want you to listen to what's being said, watch what's
13 being said, how it's delivered. Use your good common
14 sense and make a determination as to what testimony you
15 choose to believe and what you choose not to believe.

16 As the sole judges of the facts, you can believe
17 all of, part of, or none of what a witness may testify
18 to. You can believe one witness against all the others
19 that testify, or all the others against the one.
20 Because you're the sole judges of the facts, you're the
21 sole judges of the credibility or the believability of
22 the testimony you hear.

23 Using that good common sense, you have the right
24 to consider whether or not a witness might have a stake
25 in the outcome in the trial, whether a witness might

OPENING COMMENTS BY THE JUDGE

1 exhibit a bias or a prejudice in favor of one side or
2 the other, whether or not the witness actually had the
3 ability to know what that witness is attempting to
4 testify about. And, you know, I've been coming into
5 courtrooms, I hate to say it, but it's about 42 years
6 now. And every courtroom I have ever been in in this
7 state or any other state, the witness stand is always
8 right in front of the jury box.

9 There's a reason for that. We want you to observe
10 the witnesses as they testify, the way they speak, how
11 they deliver their testimony, be in a position to
12 observe them as they're testifying. Again, use that
13 good common sense that you have to make a determination
14 as to the credibility and believable of the testimony
15 that you hear. Be in a position to discuss that with
16 your fellow jurors at the close of the trial because
17 it's your job to evaluate, listen to, assign weight to
18 the testimony that you've heard as the case moves
19 along.

20 And, again, try not to let your thoughts wander,
21 try to pay attention because it will be your solemn
22 responsibility at the close of this trial to determine
23 the guilt or the innocence of the defendant, and your
24 verdict must be based solely upon the evidence as it's
25 presented to you in the trial, and the law as I

OPENING COMMENTS BY THE JUDGE

1 instruct you at the close of the trial.

2 Now, in just a few minutes we're going to start
3 this case. The lawyers are going to be allowed to talk
4 to you directly. In other words, walk up and talk
5 directly to you twice during the trial. Once at the
6 beginning of the trial in an opening statement, then
7 once all the evidence has been put in, all the
8 testimony and whatever documents come into the record
9 or other pieces of evidence, once that's done they'll
10 be given a chance to make a closing argument, or what's
11 sometimes referred to as a summation, in which they sum
12 up the evidence that you've heard.

13 At the beginning of the trial they'll try to tell
14 you what the case is about, perhaps what they intend to
15 prove. At the close of the trial they'll go over the
16 evidence that you've heard and ask you to draw certain
17 inferences from that evidence and present their
18 client's position in regard to the evidence.

19 So that's the only two times the lawyers will talk
20 directly to you. I will point out to you, statements
21 by lawyers do not constitute evidence. Therefore, they
22 cannot be used directly by you to determine the guilt
23 or the innocence of the defendant. That verdict must
24 be based upon the law and the evidence.

25 And, again, statements of lawyers do not

OPENING COMMENTS BY THE JUDGE.

1 constitute evidence in a case. They, again, serve a
2 purpose, but they aren't evidence, and I just want to
3 point that out to you.

4 So, we'll begin with the opening statements. Once
5 the opening statements are completed, we'll have
6 testimony or evidence presented by the State. And if
7 the defense wishes to present any evidence, then it may
8 do so after the State completes the presentation of its
9 evidence.

10 Once all the evidence is in the record, the
11 lawyers will sum up the case to you, the closing
12 arguments. After that argument, I charge you on the
13 law. Once I've completed my charge on the law, the
14 case is turned over to you for your deliberations and
15 your verdict in the case. So those are the steps that
16 we're going to go through as we proceed in the trial.

17 There's one thing I want to point out to you. I
18 know on Perry Mason and all those old lawyer shows,
19 they appoint the foreperson of the jury, and that
20 person is seated during the trial. I don't do it that
21 way. And I do it my way for a purpose.

22 At the close of the trial, when we discuss your
23 verdict, I'll be telling you that your verdict has to
24 be unanimous. That means each of you has to agree upon
25 the verdict before it's the verdict of the jury. I

OPENING COMMENTS BY THE JUDGE

1 don't want anyone to think as this trial goes along
2 that because I've appointed one of you as the
3 foreperson, that I believe that person's smarter or
4 that person ought to be the person that everybody has
5 to listen to, because that's not the case.

6 Since the verdict has to be unanimous, each of you
7 must agree upon it before it's the verdict of the jury,
8 so no one juror is more important than any other juror.
9 I don't want you to feel that way as the trial goes
10 along.

11 Also, I want you to have in the back of your mind
12 that I might appoint you as the foreperson of the jury.
13 And if I do that, it'll be your job to lead the
14 discussions, it'll be to formulate questions for the
15 Court, if that's necessary. It will be your job, then,
16 to write the verdict once the verdict is reached.

17 So I want all of you to pay attention as if you've
18 got to do that at the close of the trial. That way, I
19 believe we'll get a little better participation during
20 discussions and deliberations. And I'll make the
21 appointment of the foreperson before it's sent back to
22 you for your deliberations. That person will be in
23 place at that time.

24 In the meantime, if there's something you feel
25 that needs to be reported to me that's going on on the

OPENING COMMENTS BY THE JUDGE.

1 jury, if someone's discussing the case against my
2 directions or some issue has come up, just let the
3 bailiffs know about that problem. They'll bring it to
4 me and I'll deal with it directly with you and the
5 jury. I don't have to have a foreperson for us to deal
6 with any problems you might have as the case goes
7 along. So let me know if you have those problems as we
8 proceed.

9 I've gone over a good bit with you. I want to be
10 sure I haven't violated anyone's rights in what I've
11 said thus far.

12 Does the State have an objection to my opening
13 comments?

14 MS. GINSBURG: No, Your Honor.

15 THE COURT: Any objection from the Defense?

16 MR. LOIGNON: No, Your Honor.

17 THE COURT: Now, I told you the State would be
18 allowed to go first with the opening statements,
19 followed by the Defense. But before we do that, we've
20 been going now for about an hour and a half. So,
21 probably you could stand a little break.

22 So, we're going to let you step back to the jury
23 room, stretch your legs for just a minute. The
24 bailiffs will take care of any needs that you might
25 have.

OPENING COMMENTS BY THE JUDGE

1 While you're back there, you're going to hear me
2 say this until you're sick of me saying it, but I'll
3 say it every time. When you leave the courtroom, my
4 instructions are that you should not discuss this case
5 even among yourselves until I ask you to begin your
6 deliberations. I want you to keep an open mind about
7 this case until we begin to discuss the case in
8 deliberations.

9 If you begin to talk it over among yourselves,
10 even what the case is about and personalities, who is
11 involved, that might begin to color your decision. At
12 this point in time, you haven't heard the first word of
13 evidence, you don't know anything about the case. So,
14 again, don't discuss anything about the case until I
15 ask you to begin deliberations, and that includes among
16 yourselves.

17 You may step back to the jury room. Thank you
18 very much.

19 (Jury exits the courtroom at 11:00 a.m.)

20 THE COURT: All right. We'll take about a
21 ten-minute recess, and then we'll get started with
22 opening statements.

23 (Whereupon, the court was in recess.)

24 THE COURT: The State ready to proceed?

25 MS. GINSBURG: Yes, we are -- oh, I'm sorry, Your

COLLOQUY

1 Honor.

2 MR. OSBORNE: We just have a couple of matters,
3 Your Honor, to bring up.

4 THE COURT: Oh, sure.

5 MR. OSBORNE: First, and I believe, if this is the
6 appropriate time we'd like to move some items into
7 evidence I think that have been stipulated to.

8 THE COURT: Okay.

9 MR. OSBORNE: Exhibits 1 through 6. And the
10 Defense has --

11 THE COURT: These are State's exhibits?

12 MR. OSBORNE: State's exhibits, yes, Your Honor.
13 Photographs.

14 All right. So State's Exhibits 1 through 6, 8
15 through 12, and 14 through 17. Okay. That's it, Your
16 Honor.

17 *(Whereupon, State's Exhibit No(s). 1-6 marked for*
18 *identification and received in evidence.)*

19 *(Whereupon, State's Exhibit No(s). 8-12 marked for*
20 *identification and received in evidence.)*

21 *(Whereupon, State's Exhibit No(s). 14-16 marked*
22 *for identification and received in evidence.)*

23 *(Whereupon, State's Exhibit No(s). 17 marked for*
24 *identification and received in evidence.)*

25 THE COURT: Any objection to those?

COLLOQUY

1 MR. LOIGNON: No, Your Honor.

2 THE COURT: Are those all photographs; is that
3 what they are?

4 MR. OSBORNE: They are, Your Honor, except 17 is
5 an in-car video of a meeting between the defendant and
6 the deputy.

7 THE COURT: All right. And you've agreed to all
8 those exhibits?

9 MR. LOIGNON: Yes, Your Honor.

10 THE COURT: All right. They'll be admitted as
11 they've been marked.

12 MR. OSBORNE: And, Your Honor, there was a lot of
13 discussion regarding the 911 call. I just wanted to
14 bring it to the Court's attention. Yesterday we went
15 late into the evening. We went through the 911 call
16 painstakingly, going through every minute of it, making
17 certain clips, redacting certain portions. An exact
18 copy of that was given to the Defense, which we intend
19 to play at trial.

20 THE COURT: Has it been marked for identification?

21 MR. OSBORNE: It has been marked for
22 identification. It's my understanding that the Defense
23 is not stipulating to the admitting that 911 call in
24 evidence.

25 THE COURT: He's objected to it, so ...

COLLOQUY

1 MR. OSBORNE: But if it is admitted, then they do
2 agree to the redactions that were made.

3 THE COURT: Is that a correct statement of where
4 we are?

5 MR. LOIGNON: That is correct, Your Honor. I
6 would also ask that if the Court finds it appropriate
7 to have the State proffer that 911 call outside of the
8 presence of the jury so that I can make further
9 objections.

10 THE COURT: Sure. Just let me know when you're
11 ready to do it.

12 MR. OSBORNE: All right. And the last issue, Your
13 Honor, and I feel like we have to bring this up.

14 THE COURT: Sure.

15 MR. OSBORNE: Yesterday, the question came up
16 regarding the Defendant's bond. Something happened
17 yesterday after trial that we have to bring to the
18 Court's attention that has changed our position in that
19 regard.

20 Our office received a phone call from Bob
21 Escoffier yesterday afternoon. It's my understanding
22 in what he told my investigator in a recorded
23 interview, is that he went to the liquor store
24 yesterday after trial, probably to buy Bacardi. He was
25 in there, when he came back out, he saw the defendant.

COLLOQUY

1 The defendant was in a car along with three other
2 individuals. They had parked so close to Ms.
3 Escoffier's vehicle to prevent her from opening the car
4 door and exiting the car. They also took pictures of
5 Ms. Escoffier, along with Mr. Escoffier.

6 Now, I do want to say that, to try to get into his
7 mind, I think he may have thought, I'm gathering
8 evidence to show that Bob is a drunk. So I don't know
9 that was necessarily, like ominous, but with this being
10 the first day of trial and he's already contacting the
11 victim, intimidating them, scaring them, the more
12 testimony that comes out I think it's only going to get
13 worse for him. And I'm afraid he might take it to the
14 next level. So we request you to go up on his bond.

15 MR. LOIGNON: Thank you, Your Honor. I did hear
16 the call. I was in the Solicitor's office doing the
17 911 call redactions. And I spoke with my client
18 immediately after that. He informed me that he and his
19 family were heading home. They stopped at the Food
20 Lion for dinner, and the Escoffiers just happened to
21 pull up into the exact Food Lion. They were already
22 there. The Escoffiers pulled up in front of the liquor
23 store, and my client has informed me that his daughter
24 noticed that Teresa Escoffier was driving, and
25 apparently, she was recently charged with a DUI, and

COLLOQUY

1 they believe that she shouldn't have been driving. So
2 his daughter was taking a picture of that.

3 I don't know why. Obviously, it was ill-advised.
4 But Mr. Tindall was simply in the car, it was
5 happenstance, and he did not speak to nor did he make
6 any type of motions or anything towards the witnesses.
7 He did not violate any provisions of his bond.

8 I have a picture. The picture that was taken, and
9 it shows -- Your Honor, if I may approach.

10 THE COURT: Show it to the State.

11 MR. OSBORNE: I've seen it, Your Honor.

12 THE COURT: All right. Pass it up.

13 MR. LOIGNON: It shows where the Tindalls were
14 parked in relation to the Escoffiers' vehicle. They
15 were actually in the parking lot, and the Escoffiers
16 were parked directly in front of the liquor store, in
17 the driveway area.

18 THE COURT: Have you shown that to them?

19 MR. OSBORNE: I have not, Your Honor. But --
20 because he's on his way here right now. The only thing
21 I would add to that is -- I mean, that's a picture
22 taken at a certain point in time. We don't know what
23 happened before or after that.

24 THE COURT: Exactly. I understand that.

25 MR. OSBORNE: And the other thing, I wanted to

COLLOQUY

1 just make sure that I mention is, regardless of what
2 happens in regards to the outcome of this trial, they
3 are still neighbors, they are very close to one another
4 geographically. Mr. Escoffier nor Ms. Escoffier asked
5 us to ask Your Honor for him to go up on -- this is
6 something that I feel we need to do as representatives
7 of the State.

8 THE COURT: I understand. I'll decide that at the
9 appropriate time.

10 MR. LOIGNON: Thank Your Honor.

11 MR. OSBORNE: And, Your Honor, the only issue we
12 have is we are scrambling now to try to get Mr. and
13 Mrs. Escoffier here. They had child care issues and
14 they're rushing to have the two-year-old be watched by
15 someone else.

16 THE COURT: All right.

17 Ready to do your opening statement?

18 MS. GINSBURG: Yes, Your Honor.

19 MR. LOIGNON: Yes, sir.

20 THE COURT: Now, I would caution the Defense about
21 your opening statement. Yesterday, I did not stop you.

22 Opening statements are not meant to be
23 argumentative in nature or testimonial in nature. You
24 went into a great deal of detail about the case and the
25 trial and the facts. I normally would stop an attorney

COLLOQUY

1 as far as you went yesterday, but I'm not -- you don't
2 appear in front of me regularly, and I'm not from this
3 circuit, but I would caution you.

4 Again, the opening statement is to tell the jury
5 about the case and what you expect to prove. But not
6 to testify from, and certainly not to be argumentative.
7 There's not -- you're not supposed to be arguing the
8 facts -- there's no facts in the record to argue
9 against at this time. So I just caution you.

10 I don't want to interrupt your opening statement.
11 I've tried to avoid doing that, but I will caution you
12 that I had a concern yesterday.

13 Bring the jury in.

14 (Jury enters the courtroom.)

15 THE BAILIFF: All jurors present, Your Honor.

16 THE COURT: Thank you.

17 All right. The record will reflect the jury has
18 returned to the courtroom. I told you that when you
19 returned, we'd be starting with the opening statements.

20 The State will be going first. You may proceed.

21 OPENING STATEMENT BY STATE

22 MS. GINSBURG: Thank you, Your Honor.

23 Control, that's what this case is about. It's
24 about making it, it's about having it, it's about
25 losing it.

OPENING STATEMENT BY THE STATE

1 On July 4th, 2014, that man, Ashley Tindall, lost
2 control, and evidence will show you that he could have
3 killed a man.

4 The Escoffiers, Bob and Teresa, who you'll meet
5 soon, were hosting a family neighborhood get-together.
6 Bob was cooking a pig in his smoker, Teresa was
7 attending to her guests. There were kids swimming in
8 their pool. They were going to shoot off fireworks
9 later in the evening.

10 Everyone was enjoying themselves. But
11 unfortunately, we're here today because that evening
12 soon turned into a nightmare. As people were settling
13 in, enjoying themselves, a loud commotion erupts. And
14 the defendant ventures over from his residence over
15 here, to the Escoffiers', fuming.

16 Witnesses will testify that the defendant made his
17 way to the blacktop, or the driveway of the Escoffier
18 residence, furious. It's past 8:00 p.m. His wife,
19 Sara Tindall, should have been home already.

20 Witnesses will testify that the defendant gets in
21 a verbal altercation with his wife. He's yelling at
22 her, he's cursing at her. Mind you, there are children
23 in the pool. This is supposed to be a family function..
24 And on top of things, Sara Tindall is Ms. Teresa
25 Escoffier's best friend.

OPENING STATEMENT BY THE STATE

1 So, Bob and Teresa will testify to you that they
2 tried to intervene, that they asked the defendant to
3 leave, to stop cussing in front of the children, to
4 take his business elsewhere. But he loses control. He
5 uppercuts Bob Escoffier in the jaw. He falls to the
6 ground. All of the guests see this unfold.

7 Then Missy, that's Bob and Teresa's daughter,
8 she's nine months pregnant at that time, rushes to her
9 father's aid. And witnesses will tell you that she's
10 met with even more threats from the defendant.

11 911 is about to be called, Ms. Teresa will testify
12 to you. At that point, that's when the defendant says,
13 Maybe it's time I should leave. But not before
14 pointing at the children swimming in the pool and the
15 families there, not before saying, I'm coming back to
16 take care of all y'all. I'm coming back to take care
17 of all of y'all. And he disappears from the front of
18 the Escoffiers' residence. His wife follows.

19 Ladies and gentlemen, this isn't the end of the
20 case. It's is just the beginning.

21 I'm coming back to take care of all of y'all. And
22 Mr. Tindall lives 50, 100 feet away, not even.

23 Panic erupts. Ms. Teresa calls 911. You'll
24 listen to her testimony about how she rushed the
25 children into her house, how her and her guests were on

OPENING STATEMENT BY THE STATE

1 high alert that the defendant was going to come back,
2 that she asked men to make a protective barrier between
3 her house and his house because there's children
4 present. He's not coming back. They don't want any
5 trouble.

6 But here comes the victim in this case, Rick
7 Hilding. Rick will testify to you that he's the newest
8 member to the Fickling Hill community, that he was just
9 approached by Bob hours before this to invite him to
10 this family neighborhood get-together.

11 He hears that loud commotion on the blacktop at
12 the Escoffiers' residence, but it's none of his
13 business. That's why he is going to testify. None of
14 his business, he doesn't know anyone. So he heads to
15 the back.

16 He actually walks through a cut-through, in back
17 of the Escoffiers' residence, a cut-through straight to
18 his house. That white one right there (indicating),
19 which so happens to be right across the street from
20 Mr. Tindall's trailer. A man, he will testify to you,
21 that he didn't know prior to this incident, and didn't
22 even know lived in the trailer across from him.

23 Rick starts walking down the road to his home, and
24 he hears the defendant yelling at his wife, Sara.

25 Witnesses will testify that Mr. Tindall's truck

OPENING STATEMENT BY THE STATE

1 was somewhere around this point. He's first sitting in
2 his car with the window down yelling at his wife. And
3 in that moment, you'll hear from Mr. Hilding that it
4 clicks, this is the guy that they just called 911
5 about. So, in an attempt to de-escalate the situation,
6 he starts walking towards the truck.

7 At this point, witnesses will also tell you that
8 the defendant gets out of his vehicle, grabs a blunt
9 object, and Mr. Hilding was walking up, and he'll
10 testify to this, something like this, Man, you need to
11 calm down, 911 was just called.

12 Witnesses will testify, Rick will testify that
13 moments later he takes that blunt object and hits him
14 over the head. Rick falls to the ground. And he'll
15 tell you right now, he does not know anything else that
16 happened beyond that point. But you will hear from
17 witnesses who were there that night. You will hear
18 from witnesses who attempted to help Rick, and who saw
19 Rick fall in between the front and the back tire of the
20 Defendant's truck.

21 You'll hear from witnesses who in the nick of time
22 had to grab him out from under that truck and pull him
23 away as the defendant started to drive away.

24 The next thing that Rick remembers after being
25 cracked over the head, and he'll tell you this, is

OPENING STATEMENT BY THE STATE

1 waking up back at the Escoffiers' residence under an
2 awning, sitting on a pool table, covered in blood. You
3 will see those pictures. You will hear from Rick. You
4 will hear from his son Chris, from the Escoffiers, and
5 from the witnesses that were there that night.

6 You will hear about what happened on the blacktop
7 that night, and then what happened on this gravel road.
8 And you'll also hear that that blunt object that Rick
9 was hit over the head with, well, it could have been
10 nunchucks, it could have been the trimming hammer, it
11 could have been a pistol. But we'll explain to you
12 later how that doesn't matter, not in the eyes of the
13 law. Witnesses will testify that he had a weapon.

14 Ladies and gentlemen, this case isn't something
15 that you're going to see on Law and Order. It's not a
16 who done it. It's not something where a forensic
17 analysis is needed. This case is simply about a man
18 who was control driven, a man who snapped because he
19 lost it.

20 At the end of this trial, after hearing all the
21 testimony and seeing evidence, listening intently, and
22 tapping into your common sense, because that's the
23 biggest tool that each and every one of you have, we're
24 going to ask that you hold the defendant accountable
25 for his actions that night. For losing control. And

OPENING STATEMENT BY THE STATE

1 that you find him guilty for both assault and battery
2 of a high and aggravated nature, and possession of a
3 weapon during the commission of a violent crime.

4 Thank you.

5 THE COURT: The Defense may proceed.

6 MR. LOIGNON: Thank Your Honor.

7 THE COURT: Yes, sir.

8 OPENING STATEMENT BY DEFENSE

9 MR. LOIGNON: A man has a right to defend himself,
10 and that's what Ashley Tindall did.

11 Ashley Tindall defended himself when a man he
12 hardly knew came out of the dark, got in between him
13 and his wife while he was sitting in his truck, and
14 started fighting him. Wouldn't leave him alone.
15 Ashley Tindall defended himself, and that's why he's
16 not guilty.

17 Now, I'm not here to tell you that Ashley Tindall
18 is going to win husband of the year, but he's a family
19 man. He lives for his wife and his kids. He's a
20 grandfather. And you'll hear from his wife, Sara,
21 about their relationship. Sara will tell you -- she'll
22 tell you what happened. She'll tell you that she loves
23 her husband.

24 I'm also not here to tell you that Ashley
25 Tindall's going to win neighbor of the year, because

OPENING STATEMENT BY THE STATE

1 neighbors are most likely going to get up here and
2 testify about this evening and maybe about how
3 Mr. Tindall just wasn't very friendly. But
4 unfortunately, Mr. Tindall's neighbors' opinions or
5 feelings towards him and everything else seemed to get
6 the better of him that night. Because as these events
7 started unfolding, they let those opinions color their
8 ideas of what was actually happening.

9 Some of these witnesses didn't even see the event
10 that we're here to talk about. And there's an
11 important distinction, you've already heard the State
12 talk about this event on the blacktop, some altercation
13 preceded the event we're here to talk about.

14 But it's an important distinction, it's not one
15 that should be combined or just thought of as one
16 singular event. It's not.

17 Mr. Hilding -- excuse me, Mr. Tindall is charged
18 with assaulting Richard Hilding. That's it. He's not
19 charged with assaulting Robert Escoffier.

20 Now, some of you may have heard of what's called a
21 fish story, or a fisherman's tale. And the reason it's
22 called a fisherman's tale is because of a fisherman's
23 tendency to exaggerate the size of his catch.

24 So, when he first catches the fish, maybe it's
25 this big, and then the first time that he tells the

OPENING STATEMENT BY THE STATE

1 story, it's this big, then the next time he tells the
2 story; it's this big, until finally, you know, the
3 story becomes -- well, the fish was so big I could
4 barely get it into the boat. And that's what we have
5 here.

6 An event that happened nearly three years ago in a
7 small trailer park community out in John's Island, with
8 neighbors who have been talking, the rumor mill has
9 been churning, and now they're going to come in here
10 and tell you a story. And I think the evidence will
11 show that by the end of this trial, that story is going
12 to be too big for the boat.

13 You've already heard from the State, and they've
14 told you a little bit about what happened on this 4th
15 of July evening. But while you're listening to the
16 testimony in the case, I'd like for you to just think
17 about it from this lens as well. Mr. Tindall loves his
18 wife. He appreciates the time that they have together,
19 and he wants to have dinner with her like they do every
20 night. And that's why he goes over to the party to see
21 what's going on. Are we still planning on having
22 dinner tonight?

23 There is an altercation that happens there, and it
24 is important because what it does is it compels people
25 that are at that party, other party goers, it compels

OPENING STATEMENT BY THE STATE

1 them to make decisions that set in motion this whole
2 chain of events. Because you will hear from the
3 evidence that after that incident in the Escoffiers'
4 driveway -- that Mr. Tindall was not charged with --
5 after that incident, Ashley Tindall goes home.

6 Let me say that again, because I feel that this is
7 the most important thing in this case. Ashley Tindall
8 went home. He left. He wasn't bothering anybody. He
9 was in his truck, he was about to go out and get some
10 dinner.

11 Several men from the party, the evidence will
12 likely show that several men from the party then went
13 over and confronted Ashley Tindall. One in particular
14 decided to intervene directly in between him and his
15 wife. That was Richard Hilding. And unfortunately,
16 after several attempts to de-escalate the situation,
17 Mr. Tindall was forced to defend himself.

18 Ashley Tindall didn't want any more trouble. He
19 didn't want any trouble in the first place. But he
20 certainly didn't want any more trouble when he's trying
21 to leave, when he's in his truck trying to leave. And
22 somebody comes out of the darkness, someone you barely
23 know, gets in between you and your wife, starts a fight
24 with you, what else is a man to do but to defend
25 himself?

OPENING STATEMENT BY THE STATE

1 Now, while this event is happening in the
2 driveway, while Ashley Tindall is defending himself,
3 the evidence will show that a 911 call is being placed,
4 and that's when the rumor mill starts churning. That's
5 when the facts of this case start to get distorted in
6 witnesses' minds, because people are calling out
7 different things. There's plenty of people at that
8 party, it's not just, you know, a handful. There are
9 maybe 20, 30 people at the party. They haven't left
10 yet, they're still there.

11 People running this way and that, still drinking.
12 And people calling out different things about what's
13 going on, people that maybe weren't even there to
14 witness the event.

15 You'll hear from the evidence, it was pitch black
16 dark out there. There was hardly any lights. So,
17 you're going to have to decide whether or not Ashley
18 Tindall had the right to defend himself in front of his
19 driveway, in front of his house.

20 And I think that once you hear all the evidence
21 you will know that the story that these witnesses come
22 in and tell you here, that story, see how it's grown
23 and grown and grown until it's too big for the boat.

24 I'm going to ask you at the end of all of this
25 evidence and at the end of this case to find Ashley

OPENING STATEMENT BY THE STATE

1 Tindall not guilty.

2 Thank you.

3 THE COURT: The State may call its first witness.

4 MS. GINSBURG: Your Honor, the State calls Bob
5 Escoffier.

6 THE COURT: Now, ladies and gentlemen of the jury,
7 I have issued a sequestration order for witnesses to
8 remain outside of the courtroom while the trial
9 proceeds. So you'll be getting them from the hall as
10 we proceed.

11 Sir, come forward to be sworn, please.

12 MR. OSBORNE: He's the investigator, Judge.

13 MS. GINSBURG: Oh, that's our investigator, Judge.

14 THE COURT: Okay. I'm sorry.

15 MS. GINSBURG: The State calls Bob Escoffier.

16 THE COURT: Sir, come forward and be sworn,
17 please, up here to my right.

18 Thereupon,

19 ROBERT ESCOFFIER

20 was called as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 THE COURT: Once you're seated, sir, please state
23 your name on the record.

24 THE WITNESS: Robert Escoffier.

25 THE COURT: And could you spell that last name for

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 us?

2 THE WITNESS: E-S-C-O-F-F-I-E-R.

3 THE COURT: Thank you, sir.

4 Counselor, your witness.

5 MS. GINSBURG: Thank Your Honor.

6 DIRECT EXAMINATION

7 BY MS. GINSBURG:

8 Q Hi, Mr. Bob.

9 A Hey.

10 Q Mr. Bob, are you from here in Charleston?

11 A Originally from Aiken, South Carolina, but I moved
12 here in the middle of the first grade.

13 Q So how many years, off the top of your head, do
14 you think you've been in Charleston? First grade.

15 A Since the middle of first grade, and I'll be 61 in
16 October.

17 Q Okay. So, for a while?

18 A Yes.

19 Q And, Mr. Bob, are you married?

20 A Yes, I am.

21 Q And who are you married to?

22 A Teresa, with an E.

23 Q Teresa, with an E. Okay.

24 And do you and Ms. Teresa have any children?

25 A Yes, we do.

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 Q And do you have any grandchildren?

2 A Yes, we do.

3 Q Mr. Bob, are you currently working?

4 A No, ma'am, I'm not.

5 Q Why are you not working?

6 A I'm disabled.

7 Q Can you describe a little bit more about your
8 disability?

9 A Yes. I mean, hard years, and years of working,
10 climbing telephone poles, did tree work, fell off a
11 telephone pole, with cable TV -- Comcast. And I crushed my
12 L4 and my L5, and it got into my sciatic nerve and gave me
13 degenerative arthritis.

14 Q Okay. Mr. Bob, what area do you live in?

15 A I live in John's Island.

16 Q And how long have you been living in John's
17 Island?

18 A Since 1999.

19 Q 1999, a long time.

20 Mr. Bob, do you recall an event that occurred
21 on July 4th, 2014 at your house?

22 A Yes, ma'am.

23 Q What were you doing July 4th, 2014? Let the jury
24 know.

25 A We were have -- every 4th of July, I cook a pig.

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 I have a cooker and we were cooking a pig. And I invite
2 families in my immediate neighborhood over. Probably about
3 three families, with their little kids, because I have a
4 swimming pool and I have a pool table. And we're all treed
5 in, and there's only one area behind my house where you can
6 shoot fireworks off.

7 So, I was going to cook the pig all day, the
8 kids played in the pool. We shot pool at the pool table,
9 and that's what we were doing that day.

10 Q Okay. Mr. Bob, you said you invite three
11 families. How many people are you thinking --

12 A Three males, three females. All of them's got
13 anywhere from two to three kids.

14 Q Okay. Did you invite -- or do you know a Dennis
15 Bell?

16 A No. I never heard of Dennis Bell before.

17 Q Mr. Escoffier, I'm just going to show you what's
18 been marked and admitted as State's Exhibit 1.

19 THE COURT: Ladies and gentlemen, let me make you
20 aware, by agreement of the attorneys, I have already
21 admitted into evidence the photographs that are
22 numbered. So the photographs have already been put
23 into the record outside of your presence. They are
24 exhibits in the case.

25 You may proceed.

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 MS. GINSBURG: Thank you, Your Honor.

2 BY MS. GINSBURG

3 Q Mr. Bob, what are we looking at here?

4 A This is my backyard.

5 Q Okay. Can you tell us what was happening in each
6 area during your family neighborhood get-together?

7 A The swimming pool's behind these bushes right
8 here. The pool table is under that awning right there. And
9 I was cooking a pig behind the shed back here, back behind
10 it. And the cars were parked right out by these steps right
11 here.

12 But the only cars that were there was my two.
13 Everybody else -- like that yellow trailer, they came over.

14 Q Okay. I'm now going to show you what's been
15 marked and admitted as State's 2. Just let the jury know
16 what we're seeing here.

17 A What are we seeing here?

18 Q Yes, sir.

19 A Just a closer view of my house. That's my back
20 steps going up. And there's a gate there, and there's a
21 walkway to a bigger deck, and that's my swimming pool right
22 there. And just a closer view of it.

23 Q Okay. So that's just a more zoomed-up view of
24 this exhibit, State's 1.

25 A Correct, correct.

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 Q Mr. Bob, can you tell the jury what happened that
2 night at the July 4th party?

3 A Can you elaborate more about it, please?

4 Q Yes, Mr. Bob. Why you're here today. Why -- what
5 happened at this party.

6 A The pig was done, and it was about 7:00, ten after
7 seven, something like that. Some food was already in the
8 house. I was still pulling the rest of it off the pig, and
9 I was pulling it off and I heard some yelling from over
10 here.

11 Q Okay.

12 A And over here, it's just pitch black dark over
13 there. I have a street light back here, but from here over
14 to here, it doesn't shine.

15 Q Okay. So you heard yelling over near the stairs?

16 A Over by the stairs. Those are the stairs to my
17 screened-in porch.

18 Q Okay. And what did you do after you heard
19 yelling?

20 A So I heard yelling. I noticed it was my wife's
21 voice. So I said, What's going on? I walked over there and
22 I said, What's going on, and I seen like a silhouette of her
23 back.

24 Q Okay.

25 A And then, Mr. Tindall came around her and says --

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 MR. LOIGNON: Objection. Hearsay.

2 THE COURT: He said, he came around her; is that
3 what he said?

4 MS. GINSBURG: Yes. He said he came around her,
5 Mr. Tindall --

6 THE COURT: Okay. Overruled.

7 BY MS. GINSBURG:

8 Q Just before we get into this, Mr. Bob, who is
9 Ashley Tindall?

10 A My next-door neighbor.

11 Q And do you see Mr. Tindall in the courtroom today?

12 A Yes, I do.

13 Q Can you point him out and say what he's wearing?

14 A Black suit and a red tie.

15 MS. GINSBURG: Let the record reflect that Mr.
16 Escoffier pointed and identified the defendant.

17 THE COURT: The record will reflect the witness
18 has identified the defendant.

19 You may proceed.

20 MS. GINSBURG: Thank you, Your Honor.

21 BY MS. GINSBURG:

22 Q What was your relationship like with Mr. Tindall?

23 A Cordial friends.

24 Q And how long have you known Mr. Tindall?

25 A Since we lived on James Island, probably 1996.

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 Q Okay. And how did he get to be your neighbor
2 here?

3 A I bought my trailer and the people next to me was
4 selling their trailer. And I let him know that they were
5 selling their trailer, and they bought that trailer next
6 door to me.

7 Q Okay. How else do you know Mr. Tindall? In other
8 avenues? Through business or --

9 A He worked for me for about a year and a half in
10 Hilton Head, South Carolina.

11 Q Okay. So, we'll just get back to this now.

12 So, you hear Ms. Teresa yelling, and you see
13 the back of her -- the silhouette of her back.

14 And do you know what happens next, Mr. Bob?

15 A And then as I got closer to her, he came -- I
16 didn't even see him. He came from around the front of her
17 and said, Do you want some, too?

18 And I said, Well, what's going on? And just
19 right then, he hit me and knocked me back. My dog was
20 behind me. He weighed 101 pounds, and I tripped over him.
21 I got back up, and he left and said he was coming back with
22 something for everybody.

23 MR. LOIGNON: Objection, Your Honor. I'd object
24 to that statement as hearsay.

25 THE COURT: Well, I believe he was quoting the

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 defendant.

2 MS. GINSBURG: Yes, Judge.

3 THE COURT: Well, clear that up as to who he
4 said -- who said that.

5 MS. GINSBURG: Yes, Your Honor.

6 BY MS. GINSBURG:

7 Q Who just said, I'm coming back with something?

8 A Ashley Tindall.

9 Q Who said, Do you want something, too?

10 A Ashley Tindall.

11 THE COURT: All right. Overrule the objection.
12 You may proceed. It's a statement by the defendant.

13 MS. GINSBURG: Thank Your Honor.

14 BY MS. GINSBURG:

15 Q Mr. Bob, when you saw Ashley when he was coming at
16 you, how did he appear to you?

17 A Inebriated.

18 Q And how do you know he is inebriated?

19 A I've known him many years.

20 Q What -- did he have a -- did he look a specific
21 way?

22 A He looked like he was real drunk.

23 Q And what exactly made you think that?

24 MR. LOIGNON: Objection, Your Honor. He's
25 already -- this witness has already testified this is

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 his knowledge of the Defendant's appearance on that
2 day. I don't think he's a medical doctor or is able to
3 get into any more specifics on how he knows that the
4 defendant may or may not have been inebriated.

5 THE COURT: Well, normally, lay witnesses are
6 allowed to testify about knowledge that was directly
7 observed by them. I believe that's what you're asking
8 for is observations.

9 MS. GINSBURG: Yes, sir.

10 THE COURT: I'll allow you to proceed. Overruled.

11 MS. GINSBURG: Thank you, Your Honor.

12 BY MS. GINSBURG:

13 Q The question again, Mr. Bob, was: What did you
14 notice that made you think he was drunk?

15 A He never acted towards me like that. I mean, he
16 was just a loose cannon. He was out of control.

17 Q Okay. We're going to go back to this exhibit in
18 front of you, I believe, Mr. Bob.

19 So you told me that -- you told the jury
20 today that Mr. Tindall, he pushed you over, and then what
21 happened next?

22 A He hit me.

23 Q Okay. And you fell to the ground, and then what
24 happened after that?

25 A Then he started heading towards my daughter, and I

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 jumped up -- as quick as I could, because I'm disabled. I
2 have to roll over on my side to get up. And that's when he
3 stopped and said -- Mr. Tindall said he was going to go home
4 and come back with something for everybody.

5 And he pointed on the porch, where we were
6 herding the little -- anywhere from five to nine-year-old
7 kids in the house and said, and he pointed on the porch
8 said, And y'all, too. And pointed at them.

9 Q Okay. You just testified that Mr. Tindall said he
10 was going back to his house. I'm showing you what's been
11 marked and previously admitted as State's Exhibit 3.

12 Can you orient yourself with this map,
13 Mr. Bob? Can you show us where your house is?

14 A I'm going to say where all these trees are, but
15 you can't see my house.

16 Q Okay. And where is Mr. --

17 A Ashley Tindall's house is the first house right
18 here.

19 Q Okay. So when he said, I'm coming back to take
20 care of all y'all, where did you think he was going?

21 A He headed back to his house. He came around the
22 front of my house -- he started on the front of my house,
23 heading back to his house.

24 Q Okay. And, now, I'm going to show you what's been
25 marked and previously admitted as State's 4.

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 Can you circle your house, Mr. Bob?

2 A Yes, right here.

3 Q And can you circle Mr. Hilding's -- I mean,
4 Mr. Tindall's? Excuse me.

5 A Yes.

6 Q And how -- what's your best estimate how far your
7 house is from the Defendant's?

8 A 100 to 150 feet.

9 Q Okay. So, you just testified that the defendant
10 said, I'm coming back to take care of all y'all. He then
11 starts walking to his house. What happens after that?

12 A My wife yells, Please don't let him come back over
13 here. And I got a horseshoe stake, which was one of the
14 stakes that you drive in the ground and throw horseshoes at.
15 And I hid by a tree in the front yard, and three other guys
16 went around the pool table. And there's a little driveway
17 there I had a 24-foot boat I used to park under the awning.
18 And they went that way. And just figured I'd see how far
19 they went. And I stayed by an oak tree in the front yard
20 and not let him come back that way.

21 Q Okay. I'm showing you what's been marked and
22 previously admitted as State's Exhibit 5.

23 But, Mr. Bob, when he said I'm coming back to
24 take care of all of y'all, what did you think that meant?

25 A Ma'am, you know, I don't know. I mean, you know,

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 like I -- like I said, I'm sure he wasn't coming back with
2 popsicles or ice cream or something. You know, he was -- I
3 don't know what he was coming back with.

4 Q Okay. But what are we looking at here, Mr. Bob?

5 A That's just the tree right here that I was hiding
6 behind. And that's his trailer right there. This is my
7 screened-in porch. And I was standing right there with a
8 horseshoe stake.

9 Q Okay. So you're standing there, making sure that
10 Mr. Tindall doesn't come back?

11 A Correct.

12 Q What happens next?

13 A About ten minutes went by, maybe 5, 10 minutes, I
14 heard some screaming back by the pool table. And I went,
15 oh, no, he's coming back that way. So, I went running back
16 there, and two guys had ahold of Rick, and I don't know
17 Rick's last name because I just met him that night.

18 And his feet were behind him, and they were
19 dragging him down that little driveway I got where the boat
20 used to go, and sat him in a chair by the pool table. And
21 he finally came to, but he was in bad shape. He was covered
22 from head to toe, blood.

23 Q Covered head to toe.

24 Mr. Bob, I'm going to show you what's been
25 marked and previously admitted as State's 6. Is this the

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 pool table that you're talking about?

2 A Yes, ma'am. It's covered up -- it's covered up in
3 this picture.

4 Q Okay. And where is this little driveway that
5 you're talking about?

6 A It comes down this way, straight on out that way.

7 Q Okay. And I'm going to show you what's been
8 marked as and previously admitted as State's 8. Maybe this
9 will help you get your bearings.

10 This little driveway?

11 A Yes. I used to pull my boat up -- down the line,
12 and back it down through here and back it under the awning.
13 And this is where I saw them dragging him to the chair that
14 was right there.

15 Q Do you know where Rick lives?

16 A Yes, I do.

17 Q Where does Rick live on that photo?

18 A Right here.

19 Q Okay. So you see two guys drag Rick to underneath
20 that awning, and he comes to. What happens next?

21 A My wife calls the police and the EMS.

22 Q And do the police arrive?

23 A Very, very quickly.

24 Q And do you tell the police everything that you
25 just told us right now?

DIRECT EXAMINATION OF R. ESCOFFIER BY GINSBURG

1 A Yes.

2 Q Mr. Bob, we heard you say that Mr. Tindall punched
3 you. Why didn't you press any charges?

4 A To tell you bluntly, I'm not that kind of guy. I
5 handle things in my own way. You know. He didn't hurt me.
6 I mean, the only reason I fell down is because, you know, I
7 tripped over my dog. But he did hit me, and the police
8 looked at it, they could see the marks here, you know, marks
9 under there.

10 Q Okay. One last question, Mr. Bob: Were you drunk
11 that night?

12 A No.

13 Q No further questions, Your Honor.

14 THE COURT: You may cross-examine.

15 CROSS EXAMINATION

16 BY MR. LOIGNON:

17 Q You do drink alcohol though?

18 A Yes, sir.

19 Q Rum and coke?

20 A Yes, sir.

21 Q And because of that unfortunate injury, you take
22 medication?

23 A Correct.

24 Q Painkillers.

25 A Prescribed.

CROSS EXAMINATION OF R. ESCOFFIER BY LOIGNON

1 Q Everyday?

2 A Uh-huh (indicating affirmatively.) And amongst
3 other, blood pressure, cholesterol. Diabetes, Metformin,
4 tremors.

5 Q This is the 4th of July. You started cooking the
6 pig at what time, did you say?

7 A 7:00.

8 Q Seven in the morning?

9 A Uh-huh. (Indicating affirmatively.) I cook it at
10 250 degrees. It takes a while to cook it, 90-pound pig.

11 Q And by this time, it was evening. It was dark,
12 right?

13 A It was ten after seven. The pig was ready at
14 seven, but I did let it cool off a little bit so I could
15 start pulling it apart.

16 Q Now, we heard you testify about the incident that
17 happened in your driveway. But after that, you also
18 testified that you saw Ashley Tindall go home, right?

19 A Uh-huh. (Indicating affirmatively.)

20 Q And then you said that three men --

21 A No, no. I didn't.

22 Q You said --

23 A I saw him head home.

24 Q Head home. Sorry.

25 A Uh-huh. (Indicating affirmatively.)

CROSS EXAMINATION OF R. ESCOFFIER BY LOIGNON

1 Q And then you said that you saw three men go around
2 the other side, this way, by this cut-through.

3 A Yes. I didn't see how far they got. I know they
4 got past the awning, but I don't know if they went all the
5 way down to Still Life Drive or they stopped there. If you
6 stop in the middle, you can see it. You can see there's a
7 streetlight. Can you see it here, that streetlight?

8 Q Yes, sir.

9 A All that's just lit up right there.

10 Q Okay. Now, you stayed back at your house?

11 A Uh-huh. (Indicating affirmatively.)

12 Q You did not go over to Still Life Drive.

13 A No, I did not.

14 Q You did not witness anything that happened on
15 Still Life Drive?

16 A No, I did not.

17 Q You did not witness anything that happened between
18 Richard Hilding and Ashley Tindall?

19 A No, I did not.

20 Q You did say that you saw Mr. Hilding afterwards,
21 correct?

22 A I saw him. He was about right there. I heard the
23 screaming, and they was dragging him, like I say, with his
24 feet behind him. He was passed out.

25 Q You said he was passed out.

CROSS EXAMINATION OF R. ESCOFFIER BY LOIGNON

1 A Oh, yeah.

2 Q He was unconscious.

3 A Unconscious, feet behind him. And he came to
4 after they sat him in the chair.

5 MR. LOIGNON: Okay. Thank you, Mr. Escoffier. No
6 further questions.

7 THE COURT: Redirect.

8 MS. GINSBURG: None, Your Honor.

9 THE COURT: You may step down, sir. Thank you
10 very much.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 The State may call its next witness.

14 MR. OSBORNE: The State calls Angela Casey.

15 If you would, come forward please, to my right.

16 Thereupon,

17 ANGELA CASEY

18 was called as a witness, having been first duly sworn,

19 was examined and testified as follows:

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

22 THE WITNESS: Angela Casey.

23 THE COURT: Thank you.

24 Your witness, Counsel.

25 MR. OSBORNE: Thank you, Your Honor.

DIRECT EXAMINATION OF CASEY BY OSBORNE

1 DIRECT EXAMINATION

2 BY MR. OSBORNE:

3 Q All right. Ms. Casey, let's take a second to
4 introduce you to the jury. Where do you work?

5 A Charleston County Consolidated 911 Center.

6 Q The 911 center?

7 A Yes.

8 Q And what's your position there?

9 A A CDC analyst.

10 Q How long have you been there?

11 A October 1st, 2013.

12 Q Okay. So as a CDC analyst, you said?

13 A Yes.

14 Q What are some of your duties and responsibilities?

15 A Retrieving 911 audio, radios of 911, read CAD
16 reports, serving -- I'm sorry. Answering subpoenas, Rule 5
17 and 40s.

18 Q Okay. All right. So let's talk about -- well,
19 let's talk about the 911 calls in general. Is it or is it
20 not true that anytime someone calls the 911 in Charleston
21 County, that call is recorded?

22 A Yes.

23 Q Tell the jury how that call is stored.

24 A That call is stored in a recorded system that we
25 record in our system. It's stored in that system for a year

DIRECT EXAMINATION OF CASEY BY OSBORNE

1 from the date that it's received. Once -- after a year,
2 it's purged unless it's requested from the Solicitor's
3 office or a person. Then it's stored for however long you
4 can receive it from our CAD system.

5 Q Okay. All right. And I assume you have some sort
6 of way of categorizing and storing that call?

7 A Yes. We either categorize it by the incident
8 number, a case number, the date of the incident, or the
9 address.

10 Q All right. And you said that sometimes you
11 receive subpoenas for specific calls?

12 A Yes.

13 Q Did you receive a subpoena for this case?

14 A Yes.

15 Q And I think that was from my office?

16 A Yes.

17 Q The call that we're talking about in particular,
18 on Fickling Hill Road, the date on that was what, July the
19 4th?

20 A July 4th, 2014.

21 Q Now, after receiving that subpoena, how did you go
22 about retrieving that call?

23 A Once I received the subpoena and had the case
24 number for the incident, I went into the CAD system,
25 retrieved the case number, the date of the incident, and

DIRECT EXAMINATION OF CASEY BY OSBORNE

1 associated with their video transmission and the 911 call.

2 Q Okay. Did you have the opportunity to listen to
3 the original 911 call?

4 A Yes.

5 MR. OSBORNE: Your Honor, may I approach?

6 THE COURT: You may.

7 BY MR. OSBORNE:

8 Q I'm showing you what's been marked as State's
9 Exhibit 7. Can you take a look at that and tell me if you
10 recognize it?

11 A Yes, I recognize it. It has my initials.

12 Q What is it?

13 A It's a CD from -- for the version of the 911 and
14 radio transmission.

15 Q Okay. Thank you.

16 And you said you recognize that because it
17 has your initials on it?

18 A Yes.

19 Q And just to clarify, I think I interrupted you,
20 this is not the entire 911 call, this is clips from the 911
21 call.

22 A Correct.

23 Q Is that correct?

24 A Correct.

25 Q And you know that because you compared it to the

DIRECT EXAMINATION OF CASEY BY OSBORNE

1 original?

2 A Correct.

3 Q Has it been altered or tampered with in any way?

4 A No.

5 Q Other than the redactions?

6 A Other than the redaction, no.

7 MR. OSBORNE: No further questions, Your Honor.

8 THE COURT: You may cross-examine.

9 MR. LOIGNON: No questions for this witness.

10 THE COURT: Ma'am, you may step down. Thank you
11 very much.

12 Wish to excuse the witness?

13 MR. OSBORNE: Yes, Your Honor.

14 THE COURT: Any objections?

15 MR. LOIGNON: No, Your Honor.

16 THE COURT: You're free to go, ma'am. Thank you
17 very much.

18 The State may call its next witness.

19 MS. GINSBURG: The State calls Teresa Escoffier.

20 THE COURT: Ma'am, come forward to the bailiff and
21 be sworn over here to my right, please.

22 Thereupon,

23 TERESA ESCOFFIER

24 was called as a witness, having been first duly sworn,

25 was examined and testified as follows:

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 THE COURT: Ma'am, once you're seated, state your
2 name, please.

3 THE WITNESS: My name is Teresa Sue Escoffier.

4 THE COURT: Thank you.

5 You may proceed, Counsel.

6 DIRECT EXAMINATION

7 BY MS. GINSBURG:

8 Q Ms. Teresa, are you from Charleston originally?

9 A No, ma'am.

10 Q Where are you from?

11 A Pittsville, Illinois.

12 Q And when did you make it here in Charleston?

13 A To live here permanently?

14 Q Yes, ma'am.

15 A About 20 years.

16 Q Twenty years. Ms. Teresa, are you married?

17 A Yes, ma'am.

18 Q And who are you married to?

19 A Robert J. Escoffier.

20 Q And do you and Mr. Escoffier have any children?

21 A Yes, we do.

22 Q And how many children do you have?

23 A Four.

24 Q And do you have any grandchildren?

25 A Four.

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 Q So, you're busy..

2 A Very.

3 Q Ms. Teresa, do you currently work?

4 A Taking care of a two-year-old and my husband would
5 be a yes.

6 Q Where did you work prior to taking care of a
7 two-year-old and your husband?

8 A At Waffle House for five years.

9 Q And what area do you live in, Ms. Teresa?

10 A John's Island.

11 Q And how long have you lived at John's Island?

12 A Eighteen years.

13 Q And do you know what county that's in?

14 A Charleston.

15 Q Ms. Teresa, do you recall an event that occurred,
16 July 4th, 2014 at your house?

17 A Yes, I do.

18 Q Can you tell the jury what you all were doing on
19 that July 4th, 2014?

20 A We were having a small get-together with our
21 neighbors. My husband cooks a pig on what we call Smokey,
22 and he starts it early in the morning. And then one of the
23 neighbors brought over fireworks, and we had a lot of
24 children there, and we were having just a 4th of July
25 get-together with the pool, pig, lots of food.

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 Q So, who did you invite to that get-together?

2 A It was just the neighbors.

3 Q And their children?

4 A Uh-huh. Oh, yes..

5 Q Did you invite a Dennis Bell?

6 A I do not know a Dennis Bell.

7 Q Okay. Ms. Teresa, I'm going to show you what's
8 been marked and admitted as State's 1. Can you tell the
9 jury what we're looking at here?

10 A That is my back yard and driveway.

11 Q Okay. And what was happening during this 4th of
12 July party in each of these areas? You can mark on the
13 screen in front of you.

14 A Okay. Back here is where our pool table is. Our
15 smokey was right there, the cooker with the pig. We have a
16 pool table behind these bushes, and we were just all out
17 there. There's a clearing above these trees, that's where
18 the fireworks would be shot off at.

19 Q Okay. And I'm showing you what's been marked as
20 State's -- marked and admitted as State's 2. Can you tell
21 the jury what we're looking at here?

22 A That's the back of our house where you have the
23 view of the pool. Our back door, uh-huh.

24 Q So, Ms. Teresa, can you tell us what happened
25 during that party?

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 A We were having a good time, playing pool. The
2 kids were in the pool table -- or in the pool. We were at
3 the pool table. My husband was getting the food off. We
4 had food in the house. It's 4th of July, there was bugs,
5 it's better to go in the house to eat.

6 Keith was getting ready to start fireworks.
7 And Sara and I, we just got done playing pool. And we had
8 to step back to watch the fireworks because they were just
9 stacking, ready to start them.

10 And I heard some noises, some yelling. And I
11 looked around and Sara wasn't beside me. And I looked over,
12 I saw her and her husband over here on the blacktop yelling
13 at each other and using really bad words.

14 Q Okay. Ms. Teresa, can you tell us who Sara
15 Tindall is?

16 A Sara Tindall --

17 Q Yes, ma'am.

18 A -- is Ashley Tindall's wife and our neighbor. And
19 she was a dear, dear friend of mine.

20 Q Can you tell us how long you've known Sara?

21 A Eighteen -- 18 years, 20 years.

22 Q Did you and Sara work together?

23 A Yes, we did.

24 Q And where did y'all work together at?

25 A At first, we worked together at Easter Bees on

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 James Island, and then Easter Bees closed. We went to 61,
2 and I got a job with her there later on. And then I got
3 her -- helped her get a job at Waffle House. It was closer
4 and she could make more money.

5 Q Okay. So how often did you see Sara back then,
6 since you were dear, dear friends?

7 A Almost everyday.

8 Q Almost everyday. Where would she see --

9 A At work, after work.

10 Q At work and after work?

11 A Uh-huh. (Indicating affirmatively.)

12 Q Okay. So -- and Sara is -- you said Sara is
13 Ashley Tindall's wife.

14 A I assume, yeah.

15 Q Did Ashley come over, since you and Sara are such
16 dear friends?

17 A To socialize?

18 Q Any time.

19 A Unless he wanted his boat worked on or his truck
20 worked on, he would bring it over and have Bob look at it,
21 but he never came to socialize, no.

22 Q Okay. So let's just get back to this incident.

23 So you're over playing pool. And then Sara
24 disappears and you hear yelling. And then the defendant is
25 right there on the blacktop yelling.

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 Do you recall what Ashley was saying to Sara,
2 or why he was so upset?

3 A Why he was upset, I assume, is she was not home.

4 Q Okay. How did Sara appear to you?

5 A Well, happy before he showed up.

6 Q And -- okay. And then what happened on that
7 blacktop? How did she appear to you then?

8 A Well, she was going inside, when I finally got up
9 here.. She was running up to the steps, or going inside the
10 house, and that's where we had prepared a plate of food for
11 him. Because we always make food for him when we have
12 get-togethers, so he can, you know, enjoy our meals as well..

13 Q Okay. So she's running inside to get some food --

14 A Or walking. I mean --

15 Q Oh, walking inside.. I'm sorry.

16 How did Mr. Tindall appear to you?

17 A Very agitated, enraged. He had started to walk
18 off and it was -- it's dark over here. There's a
19 screened-in porch and a vehicle, and there's no light and it
20 was dark. And I told him to stop screaming at the girls,
21 that it was uncalled for, you know. I just had enough of
22 him yelling at you, you know, every time he comes over, it's
23 always yelling. And I maybe shouldn't have said anything,
24 and I think that he might have got past one of those cars,
25 and he turned, he had turned and started coming back. And I

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 thought he was coming back for me, when I realized my
2 husband was standing next to me, and he turned and punched
3 my husband in the face.

4 Q Did he say anything to you or Mr. Bob?

5 A He was -- it was a lot of, Do you want some of
6 this? Do you want some of this?

7 Q And you said that you first thought he was coming
8 after you?

9 A I thought he was, yes. Then my husband was there,
10 and he kind of like diverted, and turned -- and I don't even
11 know if my husband knew what was going on. He just got
12 there and then he was on the ground.

13 Q Okay. So, after Mr. Tindall is coming after -- or
14 approaching y'all, then punches your husband in the face, he
15 falls. What happens next?

16 A My daughter appears, and he goes to her, and then
17 he's telling her, Do you want some of this as well? And
18 then he was -- I can't remember. It's been so long. I
19 can't remember exactly what he was saying. He uses a lot of
20 profanity. It was just -- it was frightening.

21 Q Okay. So after he then goes to your daughter,
22 what happens next?

23 A I hear Sara, and I look and Ashley turns around.
24 And he points at -- he actually doesn't turn around yet, but
25 he's pointing at her and my husband, and then he points

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 around to the kids in the pool. And he says, I'm coming
2 back. I'm coming back with something for all of you.

3 And Sara had came down the stairs. At this
4 point, he had left and she said --

5 MR. LOIGNON: Objection. Hearsay. She's about to
6 --

7 THE COURT: Sustain that objection.

8 BY MS. GINSBURG:

9 Q Ms. Teresa, let's just focus on what you saw and
10 what you heard anything from Mr. Tindall.

11 A From Mr. Tindall?

12 Q Yes, yes. But we're going to continue with that.
13 When he said, I'm coming back to take -- what was that?

14 A Take care of all of us; something for all of us.

15 Q What did you take that to mean?

16 A I mean, what would take care of a whole bunch of
17 kids and parents? I mean, you know, I was thinking the
18 worst.

19 Q And what kind of tone did he say it in?

20 A Anger. It was -- I've never seen him that mad
21 before. I've seen him mad, but not that mad before.

22 Q Okay. So, he says, I'm coming back to take care
23 of all of y'all, then where does he go?

24 A He leaves the blacktop. I don't know which
25 direction he went.

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 Q Okay. Ms. Teresa, I'm going to show you what's
2 been marked as State's 4.

3 Can you tell us where your house is? You can
4 mark on the paper, yeah.

5 A Right here (indicating).

6 Q And then where is Mr. Tindall's house?

7 A Right here (indicating).

8 Q So you saw him disappear around the front of your
9 house?

10 A Yes, ma'am.

11 Q So, after you hear him yelling at you, punching
12 your husband, threatening your daughter, and saying, I'm
13 coming back to take care of all of y'all, what do you do
14 after that?

15 A I go in the house and try to get as many children
16 as I can out of the pool and into the house, and get them
17 into safety. And I call 911.

18 MS. GINSBURG: Your Honor, at this time, the State
19 seeks to admit State's 7.

20 THE COURT: All right. Ladies and gentlemen of
21 the jury, there's a matter I have to take up with the
22 attorneys at this point in time. I'm going to ask you
23 to step back to the jury room. As always, when you
24 leave the courtroom, don't discuss anything about the
25 case.

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 You may retire.

2 (Jury exits the courtroom.)

3 THE COURT: All right. Yes, sir. You indicated
4 you wish to take something up with the court. And I
5 think she's tendering the redacted 911 tape as an
6 exhibit.

7 MR. LOIGNON: Yes, Your Honor. I would ask that
8 the State play the 911 tape to the court so that we can
9 make some objections regarding its content.

10 THE COURT: All right. Play it for me.

11 (Audio tape played.)

12 MR. OSBORNE: Would you like me to play each clip
13 individually and take them up, or do them all at once?

14 THE COURT: I'm not sure where his objections are.

15 MR. LOIGNON: It's regarding just the entirety of
16 the tape. So I think it would probably be best just to
17 go through all of them.

18 THE COURT: So you don't have any objection to any
19 particular part of it? I'd like to know what to be
20 listening for. So, please clue me in.

21 MR. LOIGNON: Yes, Your Honor. Sure. Yes, Your
22 Honor.

23 Essentially, I'm going to be objecting to the
24 entirety of the tape as it specifically references --
25 well, the entirety of the tape as hearsay, and then

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 specific references as hearsay. I'm going to be
2 objecting to portions of the tape on the grounds of
3 inadmissible character evidence. I'm going to be
4 objecting to portions of the tape and the tape in its
5 entirety as prejudicial and confusing to the jury. So,
6 those are the main grounds, Your Honor.

7 THE COURT: All right. Play the whole thing.

8 (Audio tape resumed.)

9 MR. OSBORNE: I've got to figure out why it's
10 starting the same clip again, Your Honor, but that's
11 Clip 2.

12 (Audio tape resumed.)

13 MS. GINSBURG: That concludes the clips, Your
14 Honor.

15 MR. LOIGNON: Thank Your Honor. As I stated
16 before, my main objection, overall objection is that
17 this 911 call, aside from the res gestae issue, which I
18 would renew my objection under, I do believe that just
19 individually, by itself this tape is -- its probative
20 value is outweighed by its prejudicial effect and the
21 danger of unfair prejudice to my client and confusion
22 to the jury, and it violates his fifth and 14th
23 amendment rights to due process, and his sixth and 14th
24 amendment rights to a fair trial.

25 I believe that there are specific references in

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 the 911 call that constitute inadmissible hearsay,
2 specifically, any references to what is taking place
3 outside of this witness's view.

4 The incidents on Still Life Drive, what weapons
5 may be involved are all inadmissible hearsay. And I
6 believe that any references to my client's having lots
7 of guns, being crazy, are all improper character
8 evidence. And I think that the tape should be excluded
9 on those bases, Your Honor.

10 THE COURT: Your response?

11 MS. GINSBURG: Thank you, Your Honor. First and
12 foremost, this 911 call is incredibly pertinent to res
13 gestae in this case. It's why the victim approached
14 the defendant. Its probative value most definitely
15 outweighs its prejudicial effect as this goes to the
16 elements of the crime.

17 The Defense's theory, first of all, is that all
18 the neighbors conspired against this man. But, we're
19 hearing firsthand what happened right then, right in
20 that moment, of a gun. And it also goes to her
21 possession of a weapon during the commission of a
22 violent crime as well as to the injury.

23 Additionally, it's well settled in the law that
24 this is not hearsay. First of all, it's non
25 testimonial. And then, second of all, I believe it's

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 Crawford V Washington that states that this is non
2 testimonial. And it's not hearsay because it's an
3 ongoing emergency. She is relaying to the police
4 officers for their safety as well as EMT. That there's
5 possibly a gun, that there's injuries, and it's -- it
6 continues to go on that line of helping officers and
7 EMT with an ongoing emergency.

8 Additionally, it also can be found in hearsay
9 exceptions, excited utterance, present sense
10 impression, and business record. For those reasons,
11 Your Honor, it's the State's position that this 911
12 call should be admitted.

13 THE COURT: Mr. Loignon.

14 MR. LOIGNON: Just to respond to the hearsay
15 point, Your Honor. I think those -- what Ms. Ginsburg
16 is referring to, those exceptions apply if this person
17 is witnessing an event and not just relaying what other
18 people are --

19 THE COURT: Well, she referred to three exceptions
20 under the hearsay rule, Rule 803.

21 MR. LOIGNON: Yes, sir.

22 THE COURT: Number one is present sense
23 impression. And that says a statement describing or
24 explaining an event or condition may follow declarant
25 with receiving the event or condition or immediately

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 thereafter.

2 Then she said, excited utterance, I heard her say,
3 and that's a statement relating to a startling event or
4 condition made while the declarant was under the stress
5 of excitement caused by the event or condition. And
6 then thirdly, she cited the then existing mental or
7 emotional or physical condition, and that's defined as
8 a statement of the declarant's then existing state of
9 mind, the emotional sensation, or physical condition
10 such as intent, plan, motive, design, mental feeling,
11 pain, and bodily health, but not including a statement
12 of memory or belief to prove the fact remembered or
13 believed, unless it relates to the execution,
14 revocation, or identification of items in declarant's
15 will, which is not an issue here.

16 So, those are the things that she discussed and
17 it's a regularly kept record, governmental or business
18 record.

19 MR. LOIGNON: Yes, Your Honor. My only argument
20 to that would be that she did not perceive the event
21 that the bulk of this call, it is testimony -- she --
22 it would be played to show to the jury or prove to the
23 jury, she did not witness it, she did not perceive it
24 in any way other than second, third hand. Who knows?

25 But she was not perceiving the incident at the

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 time that she's talking about -- the portions of the
2 call where she's talking about the incident that
3 happened in the driveway are irrelevant. That under
4 the res gestae doctrine, I understand if they're
5 allowed in at this point. But I feel like they're
6 irrelevant to the State's case in proving what they're
7 trying to prove with this 911 call.

8 So, essentially they're trying to get in her
9 perceptions of an event that she did not perceive. So,
10 that would be my only argument, Your Honor.

11 MS. GINSBURG: Your Honor, in the hearsay
12 exceptions, I don't believe it explains anything about
13 you having to perceive the event. I mean, this is a
14 similar situation as to an incident occurring and then
15 someone yelling at someone else to call 911. In those
16 cases, it's similar to the fact that this is a present
17 sense impression.

18 THE COURT: But it doesn't say how you perceive
19 it. It doesn't say whether you perceived it because
20 you saw it yourself or --

21 MS. GINSBURG: I'm sorry, Judge?

22 THE COURT: It doesn't say how someone perceived
23 the event. How do you perceive it?

24 In other words, you could hear things.

25 MS. GINSBURG: Right. Exactly. And that's --

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 THE COURT: Hear people talking in the yard. Then
2 he says, well, that's hearsay, double hearsay. I don't
3 believe she's quoting, she's stating her belief of
4 what's occurring. That's not hearsay, that's her
5 belief. A statement of her then existing emotional or
6 mental condition.

7 MS. GINSBURG: I agree, Judge.

8 THE COURT: I'm going to let it in under one of
9 the -- those three exceptions, and as a regularly kept
10 record.

11 Certainly, you could cross-examine her on the
12 strength of her beliefs or impressions when it
13 happened. Or her beliefs -- now, I do find that the
14 probative value outweighs its prejudicial value. So --
15 and, of course, because I believe it does describe the
16 excitement, the upset, the concern that she apparently
17 experienced with this incident. So, I find it
18 probative on all of those issues.

19 And she identifies who was involved and where they
20 were, and the risk they posed. So I find that this
21 probative value outweighs the prejudicial value.

22 I'm going to deny the motion to suppress.

23 How much longer do you want to go, with this?

24 MS. GINSBURG: Your Honor, we're just going to
25 listen through the 911 calls, and then I believe that I

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 have just a few questions.

2 THE COURT: Yeah. We'll probably get through your
3 direct, and then I'll -- we'll cross-examine after
4 lunch.

5 MS. GINSBURG: Okay. Thank you.

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

7 (Jury enters the courtroom.)

8 THE BAILIFF: All jurors present, Your Honor.

9 THE COURT: Thank you very much.

10 The jury has returned to the courtroom. I have
11 overruled an objection and have admitted the playing of
12 the 911 call.

13 You may proceed.

14 *(Whereupon, State's Exhibit No(s). 7 marked for*
15 *identification and received in evidence.)*

16 MS. GINSBURG: Thank Your Honor. May I publish
17 this to the jury?

18 THE COURT: You may publish it, yes, ma'am.

19 (Audio recording played.)

20 BY MS. GINSBURG:

21 Q Ms. Teresa, when did you make this 911 call?

22 A When I went in the house.

23 Q Immediately after the incident? And you just
24 heard in there, it says, And he has a gun.

25 But let's get this clear. Did you see that

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 gun?

2 A No, I did not.

3 (Audio recording resumed.)

4 BY MS. GINSBURG:

5 Q Ms. Teresa, do you know of your personal knowledge
6 that the defendant has guns?

7 A Well, how could he deer hunt or turkey hunt if he
8 doesn't have guns?

9 Q Okay. So, you know that he hunts.

10 A Yeah, he hunts.

11 (Audio recording resumed.)

12 BY MS. GINSBURG:

13 Q Ms. Teresa, if you need water or anything, just
14 feel free.

15 A I'm fine, thank you.

16 Q You said that the defendant, Ashley Tindall, made
17 threatening comments to your daughter. Who's your daughter?

18 A Melissa Escoffier.

19 Q And what does she go by?

20 A Missy.

21 Q And how old was Missy during this event?

22 A Oh, let's see. Three years ago, almost three
23 years ago -- 27.

24 Q Was Missy threatening the defendant before he
25 threatened her?

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 A No.

2 Q Was Bob threatening the defendant before he
3 punched him in the face?

4 A No.

5 Q Okay.

6 (Audio recording resumed.)

7 BY MS. GINSBURG:

8 Q Actually, Ms. Teresa, who are you asking, are you
9 okay?

10 A My husband. He's my baby.

11 Q Okay.

12 (Audio recording resumed.)

13 BY MS. GINSBURG:

14 Q Ms. Teresa, I know that this is all really
15 difficult to hear again.

16 A Yeah.

17 Q We just heard the 911 operator tell you to go
18 outside. When you walked outside again, what did you see?

19 A They were all underneath the pool table awning,
20 and Rick was sitting in a chair, and someone had come inside
21 to get towels -- my good towels. And they had him wrapped
22 up holding his head, and it was just standing around waiting
23 for the ambulance and the cops. They got there, waited for
24 the ambulance to come.

25 Q Okay.

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 A And just pray that he was okay.

2 (Audio recording resumed.)

3 BY MS. GINSBURG:

4 Q Ms. Teresa, you said, in the head or behind the
5 ear, I don't know. Why was that?

6 A Because his head was covered in towels.

7 Q Okay. Ms. Teresa, I'm going to show you, it's
8 been marked and admitted as State's 6. What is this?

9 A That's the very back of the house.

10 Q Okay. And is that the location where you were at
11 with all the people?

12 A This is the pool table, and I believe that was --
13 there was chairs here. I think Rick was sitting right there
14 close by the pool table.

15 Q Okay. After you get off the phone with 911, what
16 happens next?

17 A That was just so long ago.

18 Q Well, did police or EMT arrive?

19 A Oh, yes. Yes. They took Rick in an ambulance,
20 you know, put him on a stretcher and put him in the
21 ambulance, and then the police came over and asked all of us
22 to fill out affidavits of what happened that evening.

23 Q Okay. And did you tell the police what happened
24 that night? Did you tell them the same thing that you've
25 said today?

DIRECT EXAMINATION OF T. ESCOFFIER BY GINSBURG

1 A Yeah.

2 Q Okay. Sorry. That was a bad question.

3 Ms. Escoffier, I just have one question for
4 you. This was a 4th of July celebration. Were you drunk?

5 A I was not drunk. Did I sound drunk on the 911?

6 MS. GINSBURG: Thanks, Ms. Teresa. No further
7 questions.

8 THE COURT: All right. Ladies and gentlemen,
9 we're going to stop and go to lunch. We'll have
10 cross-examination after lunch. As you're leaving the
11 courthouse, I have some specific instructions for you.

12 First of all, it would -- again, it would be
13 improper for you to discuss anything about this case
14 with anyone else. If you're talking to friends or
15 family members or acquaintances, it's okay to say
16 you've been picked on a jury in a case, and that's as
17 far as the discussion should go.

18 So don't discuss it with anyone, don't allow
19 anyone to discuss it with you. You've taken an oath to
20 decide this case based upon the law and the evidence.
21 The only place you're going to hear evidence is in this
22 courtroom, and the only law you can consider will also
23 be given in this courtroom.

24 So, it would be a violation of your oath for you
25 to try to gather any information about this case on

COMMENTS TO THE JURY

1 your own from any source outside of this courtroom.

2 So don't try to do any Google searches, don't try
3 to do any news searches, don't try to gather any
4 information on your own. Again, it would be a
5 violation of your oath for you to do that.

6 It's against the law for someone to try to
7 influence your decision. So, I will tell you should
8 someone contact you about your service on this jury in
9 an attempt to try to discuss it with you, please report
10 that to this court. I will see that the appropriate
11 action is taken should someone try to influence your
12 decision in this case.

13 Now, so, in a nutshell, what I'm telling you is,
14 don't attempt to gather any information on your own.
15 Don't listen to, watch, or read any media reports,
16 should those exist. Don't discuss the case with
17 anyone. Don't allow anyone to discuss it with you.
18 And if someone tries to contact you, please let me
19 know.

20 Now, it's about 1:00, so we'll start back at,
21 let's see, 2:15. So be back in the jury room at that
22 time. We should be in a position to start shortly
23 thereafter.

24 Hope you have a good lunch. You're free to go at
25 this time.

COMMENTS TO THE JURY

1 (Jury exits the courtroom at 1:27 p.m.)

2 THE COURT: Ma'am, I'll caution you during the
3 break, you'll be allowed to move about, don't discuss
4 your testimony, either what you've already said, what
5 you might say in the future with anyone.

6 Do you understand that?

7 WITNESS: Yes. Yes, Your Honor.

8 THE COURT: Now, to the defendant, sir, I'm going
9 to place you under a no contact provision on your bond.
10 I'm adding that as a condition of your bond.

11 What that means is that you're not to have any
12 contact with anyone involved in this trial other than
13 people that are involved on your side of the case, your
14 family, that sort of thing.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, when I say no contact, let me
17 explain to you what I mean. Because some people don't
18 understand this.

19 It's my belief that people over the age of 18
20 control who they have contact with. So, if something
21 were posted on a web site, either about someone
22 involved in this case or directly to them, that would
23 be a violation of my no contact order. Should you send
24 someone a text message, that would be a violation of my
25 order. An email would be a violation of my order.

COLLOQUY

1 So, it governs both direct and indirect forms of
2 contact. If you ask a family member or a friend to
3 deliver a message to someone, that would violate my
4 order.

5 Now, actual contact is very simple. If you see
6 someone involved in this case in the public, you turn
7 and leave. Run from them like they have the plague.

8 Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You don't pull up beside them and
11 park, you don't pull up beside them at a red light, you
12 don't have any contact or get in their vicinity.

13 THE DEFENDANT: No, sir.

14 THE COURT: Do you and I have an understanding as
15 to what I mean by no contact?

16 THE DEFENDANT: No, sir.

17 THE COURT: No contact means exactly that, right?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: No contact whatsoever.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, that's a court order at this
22 point in time.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: If you violate that order, and I want
25 to caution you, I will punish you as if you're in

COLLOQUY

1 contempt of this court. I have the authority to
2 incarcerate someone for up to one year for contempt,
3 separate and apart from these charges.

4 Do you understand that?

5 THE DEFENDANT: Yes, sir, I do.

6 THE COURT: And if I sentence you to a year of
7 contempt, it's a day-for-day sentence. There won't be
8 any good time. You'll serve 365 days.

9 Do we have an understanding?

10 THE DEFENDANT: Yes, sir, we do.

11 THE COURT: Very good. Then we should not have a
12 problem then, should we?

13 THE DEFENDANT: No, sir.

14 THE COURT: All right. Thank you very much.

15 THE DEFENDANT: Thank you, Your Honor.

16 THE COURT: Court will be in recess until 2:15.

17 (Whereupon, a lunch recess was taken.)

18

19

20

21

22

23

24

25

COLLOQUY

VOLUME 2.

In The Court of General Sessions for the
State of South Carolina, County of Charleston

Case No.: 2016GS1005793+

State of South Carolina,

Plaintiff(s),

vs.

Ashley Price Tindall, III,

Defendant(s).

TRIAL TRANSCRIPT

March 21, 2017

Charleston, South Carolina

BEFORE:

The Honorable ROGER L. COUCH

COLLOQUY

1 THE BAILIFF: The jurors are present, Your Honor.

2 THE COURT: Thank you, sir. The record will
3 reflect the jury has returned to the courtroom. I
4 trust everyone had a good lunch.

5 If any of you had any problems or difficulty in
6 complying with my instructions during our break, please
7 stand.

8 (No response.)

9 THE COURT: It appears that all jurors have been
10 able to comply with my instructions thus far.

11 When we took our break we had finished the direct
12 examination of this witness. At this time, the defense
13 may cross-examine.

14 You may proceed.

15 MR. LOIGNON: Thank Your Honor.

16 THE COURT: Yes, sir.

17 CROSS EXAMINATION

18 BY MR. LOIGNON:

19 Q Ms. Escoffier, you were talking about the 4th
20 of July party at your house, right?

21 A Right.

22 Q And you all were celebrating the 4th of July?

23 A Yes.

24 Q The party started early in the day?

25 A Around one or two.

CROSS EXAMINATION OF T. ESCOFFIER BY LOIGNON

1 Q And people were swimming?

2 A Mostly children were swimming. Adults were
3 swimming. It was hot.

4 Q People were drinking.

5 A A few.

6 Q We heard a 911 call, right, earlier?

7 A Yes, sir.

8 Q And on the 911 call, the operator asked if
9 anyone had been drinking alcohol?

10 A Yes.

11 Q And you said, We're having a few drinks.

12 A Yes.

13 Q So, you were drinking alcohol?

14 A Yes.

15 Q Rum and cokes?

16 A Yes.

17 Q More than one?

18 A Yes.

19 Q And you talked about this incident on the
20 blacktop, testified on everything that happened there. By
21 that time, it was dark outside?

22 A It was getting dark, yes.

23 Q And when that incident was over, you said
24 Mr. Tindall walked back to his house.

25 A Now, what incident? Explain. I'm sorry.

CROSS EXAMINATION OF T. ESCOFFIER BY LOIGNON

1 Q The incident on the blacktop.

2 A Right.

3 Q At the conclusion of that, Mr. Tindall went to

4 his house.

5 A Yes -- well, I don't know.

6 Q He walked towards his --

7 A He -- yeah, he walked towards the front of the

8 house. I don't know where he went.

9 Q You didn't follow him?

10 A Well, no.

11 Q Right. You mentioned that, I think, some

12 other people did go around towards Mr. Tindall's house?

13 A Towards which way?

14 Q The cut, I guess.

15 A In the back?

16 Q In the back.

17 A They may have. I did tell -- holler at them

18 and say, He says he's coming back with something else.

19 Please try not to let him come back over here with children

20 here.

21 Q So you --

22 A And where they went, I don't know.

23 Q So -- okay. Because you stayed back at your

24 house and did not see anything that happened on Still Life

25 Drive?

CROSS EXAMINATION OF T. ESCOFFIER BY LOIGNON

1 A Oh, no.

2 Q And on the 911 call that we heard there were a
3 lot of voices in the background, right?

4 A Yes.

5 Q And you -- someone yelled to you, Tell them he
6 has a gun?

7 A As I recall, possibly, yes.

8 Q And then you tell the operator, And he has a
9 gun?

10 A Yes.

11 Q But you never saw a gun.

12 A Oh, no.

13 Q You just repeated what somebody had told you.

14 A Yes.

15 Q And later on in the call, you tell the
16 operator that Mr. Tindall had hit somebody?

17 A Yes.

18 Q Again, just repeating what someone had told
19 you?

20 A Yes.

21 MR. LOIGNON: Court's indulgence?

22 THE COURT: Yes.

23 MR. LOIGNON: Nothing further, Your Honor.

24 THE COURT: You wish to redirect?

25 MS. GINSBURG: Nothing further at this time.

CROSS EXAMINATION OF T. ESCOFFIER BY LOIGNON

1 THE COURT: All right. You may step down. Thank
2 you very much, ma'am.

3 Wish to excuse the witness?

4 MS. GINSBURG: Yes, Your Honor.

5 THE COURT: Any objections?

6 MR. LOIGNON: No, Your Honor.

7 THE COURT: You're free to go, ma'am.

8 The State may call its next witness.

9 MR. OSBORNE: The State calls Sara Tindall.

10 THE COURT: Come forward, ma'am, to the clerk.

11 Thereupon,

12 SARA TINDALL

13 was called as a witness, having been first duly sworn,

14 was examined and testified as follows:

15 THE COURT: All right, ma'am. State your name,
16 please.

17 THE WITNESS: State my -- Sara Tindall.

18 THE COURT: Thank you.

19 THE WITNESS: Sara Tindall.

20 THE COURT: All right. Counselor, your witness.

21 MR. OSBORNE: Thank Your Honor.

22 DIRECT EXAMINATION

23 BY MR. OSBORNE:

24 Q Good afternoon, Ms. Tindall. My name is David
25 Osborne. I'm one of the prosecutors in this case. Let's go

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 ahead and introduce yourself to the jury and to me.

2 Where were you born?

3 A Detroit, Michigan.

4 Q All right. Where were you raised?

5 A Here in Charleston, South Carolina.

6 Q All right. When did you move to Charleston?

7 A When I was five.

8 Q What brought you here?

9 A My mom had trouble breathing from, I guess,
10 the cold. She needed to find a warm climate.

11 Q Okay. So you and your whole family moved
12 here?

13 A Yes. Because my grandmother lived here, so we
14 come down.

15 Q Okay. Where did you go to high school?

16 A James Island High.

17 Q All right. Graduate?

18 A No.

19 Q Any college?

20 A No.

21 Q Okay. You've had jobs in the past, I take it?

22 A Yes.

23 Q What are some of the jobs that you've held?

24 A I've been a bartender and a server.

25 Q Okay. Where -- do you work now?

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

- 1 A Yes.
- 2 Q Where do you work?
- 3 A Waffle House.
- 4 Q Are you married?
- 5 A Yes.
- 6 Q To whom?
- 7 A Ashley Tindall.
- 8 Q The Defendant in this case?
- 9 A Yes.
- 10 Q How long have you been married to him?
- 11 A 32 years.
- 12 Q Do you have any children together?
- 13 A Yes, sir.
- 14 Q Y'all are still married?
- 15 A Uh-huh. (Indicating affirmatively.)
- 16 Q Live together?
- 17 A Yes, sir.
- 18 Q And I think you came to the courthouse here
- 19 today with him, correct?
- 20 A Yes.
- 21 Q All right. . And like I said, we've never
- 22 talked before, have we?
- 23 A No.
- 24 Q And you've never spoken to Ms. Ginsburg?
- 25 A No.

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Q But we have tried to talk to you, haven't we?

2 A The one guy tried. I was at work at the time.

3 Q That guy there?

4 A Yes. I was at work.

5 Q When he came, that was sometime in, what, the
6 summer of last year, I think?

7 A I believe so.

8 Q And I think when he came by and wanted to talk
9 to you, you told him something like you couldn't talk to him
10 because Ashley wouldn't let you do that?

11 A No, I did not say that.

12 Q You didn't tell that to Investigator Hobbs?

13 A No, I did not.

14 Q Okay. You didn't tell him, I shouldn't talk
15 to you?

16 A I might have said I shouldn't talk to you.

17 Q Ashley wouldn't like that?

18 A No, I never said that.

19 Q Okay. All right. He did try to talk to you
20 and say, Why don't you just -- you're at work now, so why
21 don't you come on by and talk to us at our office. He
22 offered that, didn't he?

23 A Uh-huh, yes, he did.

24 Q And he also offered that we could meet you
25 anyplace --

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 MR. LOIGNON: Objection, leading.

2 THE COURT: I'll ask you not to lead the witness.

3 MR. OSBORNE: Your Honor, under 611C, I request
4 permission to lead her since she's been identified to a
5 hostile or an adverse party witness?

6 THE COURT: Any objection to her designation as a
7 hostile witness?

8 MR. LOIGNON: I don't see how she's displayed
9 herself as a hostile witness at this point, Your Honor.

10 THE COURT: Beg your pardon?

11 MR. LOIGNON: Yes, Your Honor, I would object to
12 that at this point. She has not displayed any hostile
13 actions during questioning so far.

14 THE COURT: Well, it has to do with her position
15 in the case and whether or not she's apparently not
16 been willing to talk to them up to this point in time.
17 So I'll make that designation.

18 That'll allow this attorney to ask what is called
19 leading questions, when a witness has been declared to
20 be hostile.

21 I made that designation. You may proceed.

22 BY MR. OSBORNE:

23 Q Ms. Tindall, I won't harp on it too much
24 longer, but you have a cell phone number, correct? Or a
25 cell phone?

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 A Yes, sir.

2 Q Is it ?

3 A Yes, it is.

4 Q Okay. We've left several messages with that
5 number. Did you get any of those messages?

6 A No, sir.

7 Q Okay. But you have spoken to members from the
8 defense team, correct? Mr. Loignon?

9 A Yes, sir.

10 Q Okay. All right. Do you still live on
11 Fickling Hill Road?

12 A Yes, sir.

13 Q With Mr. Tindall? Ashley?

14 A Yes, sir.

15 Q Who else do you live with?

16 A My brother, John.

17 Q John Sager?

18 A Uh-huh, yes, sir.

19 Q And you lived at that residence back on July
20 the 4th of 2014?

21 A Yes, sir.

22 Q Okay. And your brother lived with you back
23 then, too, right?

24 A Yes, sir.

25 Q Okay. Now, let's go -- go ahead on into the

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 date of July the 4th. And just so the jury is aware, you
2 haven't been in here throughout any of this testimony,
3 correct?

4 A No, sir.

5 Q So you have no idea what was said in this
6 courtroom?

7 A No, sir.

8 Q All right. Did you have the occasion to go
9 over to your friend's house that evening?

10 A Yes, sir.

11 Q And what's her name?

12 A Teresa Escoffier.

13 Q Ms. Escoffier. How long have you known her?

14 A About 20 years.

15 Q Are y'all best friends; fair to say?

16 A We were.

17 Q Did that change as a result of this?

18 A Yes, sir.

19 Q And y'all still live side by side now, right?

20 A Yes, sir.

21 Q All right. What time did you go over to the
22 party, about?

23 A It was about three, 3:30.

24 Q When you got there, who all was there? Do you
25 remember?

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 A Everybody. It was me, Teresa, Bobby, my
2 brother John, some kids and neighbors. I don't know the
3 neighbors..

4 Q Okay. So, John went with you over there?

5 A No. John was there early that morning.

6 Q Okay. Do you remember Melissa being there?

7 A Missy -- yeah, Missy was there.

8 Q Missy. Sorry. And who is she?

9 A That's Teresa's daughter.

10 Q Okay. And I think at that time she was
11 pregnant?

12 A Yes, sir.

13 Q About nine months pregnant, pretty pregnant?

14 A Uh-huh, yes, sir.

15 Q Okay. And so there were neighbors there as
16 well, right?

17 A Yes, sir.

18 Q And you've been to her house several times, I
19 take it, right?

20 A Uh-huh, yes, sir.

21 Q So they were having -- and they've had this
22 July 4th celebration before?

23 A Uh-huh. (Indicating affirmatively.)

24 Q I'm sorry. You're going to have to say yes.
25 She's writing it all down.

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 A Yes, sir, uh-huh.

2 Q And so, it starts off, I guess, people bring
3 food? Maybe a plate or something?

4 A No. Bobby usually grills out. Does the
5 barbecue and hamburgers and stuff.

6 Q And he provides all the food?

7 A Uh-huh, yes.

8 Q Okay. And then shoot off fireworks?

9 A Yes, sir.

10 Q Were there children there?

11 A There was about -- yeah.

12 Q About ten or so?

13 A Yes.

14 Q Everybody was playing in the pool?

15 A Uh-huh, yes, sir.

16 Q That's good. Everyone was having a good time?

17 A Yes, sir.

18 Q Nobody was having any issues or anything like
19 that?

20 A No, sir.

21 Q At least not at first?

22 A Right.

23 Q And people were drinking?

24 A Yes.

25 Q But no one was really overly inebriated or

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 anything, were they?

2 A We were all drunk.

3 Q You were all drunk? Okay. Were y'all
4 fighting it up?

5 A Oh, no.

6 Q Nothing physical?

7 A Huh-uh. (Indicating negatively.)

8 Q But you and everyone else was drunk?

9 A Oh, yes.

10 Q Oh, yeah.

11 A We had been drinking since -- since I got
12 there, about three, 3:30, we had been drinking.

13 Q All right. But not the kids, right?

14 A No.

15 Q All right. They weren't drinking.

16 A No.

17 Q All right. So the fireworks, it took a little
18 delay, right, to get the fireworks started?

19 A Uh-huh, yes.

20 Q But everyone was looking forward to seeing the
21 fireworks, I take it, right?

22 A Uh-huh. (Indicating affirmatively.)

23 THE COURT: Ma'am, you have to answer yes or no.

24 THE WITNESS: Yes.

25 THE COURT: Thank you.

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 BY MR. OSBORNE:

2 Q The delay in starting the fireworks, that
3 caused a little problem for you in particular, didn't it?

4 A There was no delay in the fireworks.

5 Q Okay. So, there was no delay. Okay.

6 You had to be home at a particular time that
7 night; did you not?

8 A I made an agreement with my husband I'd be
9 home by eight.

10 Q So, that was a self-imposed curfew?

11 A Yes.

12 Q Now, as the night started to wane on, you
13 missed your curfew, didn't you?

14 A Yes. It's not a curfew, it's just an
15 agreement.

16 Q To be home at a certain place at a certain
17 time?

18 A Uh-huh. (Indicating affirmatively.)

19 Q That place being home?

20 A Yes.

21 Q But you didn't make it home at 8 o'clock. In
22 fact, you stayed past until about almost 9:30, right?

23 A Yes, sir, yes.

24 Q And it was around that time that your husband
25 came to the party looking for you, correct?

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 A Yes, sir, yes.

2 Q And he was mad, wasn't he?

3 A He was upset.

4 Q He was mad because you weren't home at 8
5 o'clock.

6 A Uh-huh, yes.

7 Q And he started yelling?

8 A No, he didn't start yelling.

9 Q He wasn't yelling?

10 A No. He came up to me and grabbed my arm and
11 asked if he could speak to me, and we went to the side.

12 Q So, he never yelled?

13 A No, he wasn't yelling.

14 MR. OSBORNE: Your Honor, may I approach?

15 THE COURT: You may.

16 *(Whereupon, State's Exhibit No(s). 19 marked for*
17 *identification.)*

18 BY MR. OSBORNE:

19 Q You do remember speaking to that deputy right
20 there, right, Deputy Phillips, on the night of the incident?

21 A Sort of.

22 Q Okay. I'm showing you what's been marked as
23 State's Exhibit No. 19. Can you take a look at that and
24 tell me if you recognize it?

25 A (Witness complies.)

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Uh-huh. (Indicating affirmatively.)

2 Q You have to say yes or no. Sorry.

3 A Yes, yes. I'm sorry.

4 Q Okay. I want to just -- you don't have to
5 read it out loud, I just want to draw your attention, and
6 read it to yourself --

7 A Okay.

8 Q -- to about the fifth line, where it says,
9 There's kids over. Read that line and the next line.

10 A (Witness complies.)

11 Q Is that document that you're holding there the
12 statement that you wrote in your own handwriting?

13 A I did write it, but I wrote a second statement
14 the next day because I was drunk when I wrote this one.

15 Q I understand. We'll get to the second
16 statement.

17 But on that night, on the night of July the
18 4th, did you not say that he came over yelling?

19 A Yes.

20 Q Okay. I'll take it back -- you know what,
21 just hang on to it.

22 A Okay.

23 Q Now, when he came over -- and I understand
24 you're testifying today that he wasn't yelling, so back on
25 July the 4th you said that he was -- isn't it true that you

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 thought maybe the best way to calm him down was to fix him a
2 plate of food?

3 A No. I didn't fix him a plate of food.

4 Q You never did?

5 A No.

6 Q Now, at some point, your best friend, Teresa,
7 came over when the Defendant was talking to you then?

8 A Uh-huh. (Indicating affirmatively.)

9 Q And didn't she come over to help you?

10 A She came over to tell him not to be loud,
11 cussing and everything in the yard.

12 Q Right. She said, Stop it, didn't she?

13 A Uh-huh. (Indicating affirmatively.)

14 Q She said, There's kids over here, didn't she?

15 A Yes, yes.

16 Q But that was only because he was talking to
17 you?

18 A Because he asked me why I didn't come home on
19 the agreement at 8 o'clock, and I told him I lost track of
20 time, and he yelled, B.S.

21 Q Okay. So, he did yell.

22 A And that's when she said he can't -- Stop it.

23 Q You were trying to -- sorry, go ahead.

24 A I'm sorry.

25 Q You were trying to explain to him why you were

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

- 1 late?
- 2 A Yes.
- 3 Q And he didn't want to hear it?
- 4 A Right.
- 5 Q Now, when Ms. Escoffier came over, she came
- 6 over with her husband, Bob, correct?
- 7 A No.
- 8 Q It was just her?
- 9 A Yes.
- 10 Q You never saw Bob come over?
- 11 A No. She called him over. She called him,
- 12 told him to come get him.
- 13 Q To come get him?
- 14 A Uh-huh. (Indicating affirmatively.)
- 15 Q Yes?
- 16 A Yes.
- 17 Q So, when Teresa came over, didn't your husband
- 18 then direct his attention, his anger, toward her?
- 19 A He told her to mind her own business and to go
- 20 back to the party, he was talking to his wife.
- 21 Q It wasn't exactly in a friendly voice, was it?
- 22 A He was upset.
- 23 Q And then Bob came over with Teresa, and said,
- 24 Don't talk to my wife like that, right?
- 25 A Bob came at him.

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Q Came at him?

2 A Uh-huh. (Indicating affirmatively.)

3 Q Saying, Don't talk to my wife like that.

4 A Yes. When Teresa called him over to come get
5 him, him and some other guys came by.

6 Q Some other guys came by then?

7 A Came at him, yes.

8 Q So, when Bob makes the comment, Don't talk to
9 my wife like that, the Defendant upper cut him, right?

10 A He hit him whenever Bob -- Bob goes, Hey, hey.
11 And then that's when he hit him, because he thought he was
12 going to hit him, I guess. I don't know.

13 Q You're not sure why he hit him, are you?

14 A Because, I mean, Bob was coming at him. It
15 looked like he was going to come after him.

16 Q Aggressively, right?

17 A Uh-huh. (Indicating affirmatively.)

18 Q Now, Missy, seeing her dad get punched and
19 laying on the ground, then she came up, right?

20 A Uh-huh. (Indicating affirmatively.)

21 Q The nine-month old -- or nine-month pregnant
22 woman?

23 A Yes.

24 Q And your husband got in her face, too, right?

25 A No, he didn't.

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Q He didn't get in her face and yell at her,
2 too?

3 A No, he did not.

4 Q Did Melissa, or Missy, approach him
5 aggressively as well?

6 A She told him to get out of her -- get out of
7 her yard.

8 Q Missy was aggressive, too?

9 A Uh-huh. (Indicating affirmatively.) She was
10 upset.

11 Q The pregnant woman?

12 A Yes.

13 Q Seeing her dad on the ground?

14 A Yes.

15 Q All right. After punching Bob, your husband
16 then went back home, right?

17 A Yes.

18 Q And you followed him?

19 A Yes.

20 Q But before he left, he had a parting comment,
21 a parting threat to everyone there, didn't he?

22 A I didn't hear that threat.

23 Q You never heard him?

24 A I did not hear a threat.

25 Q Never heard him say, I'm coming back to take

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 care of all y'all.

2 A I didn't hear that comment.

3 Q How far away was he?

4 A He was right next to me.

5 Q But you never heard hear him say that?

6 A I honestly did not hear him say that.

7 Q Okay. All right. Let's talk about what
8 happened when you got to the trailer.

9 You and your husband are walking to the
10 trailer. And y'all get there --

11 A No. I'm walking over to the trailer, he's in
12 his truck. And he was getting ready to leave and I knocked
13 on the passenger side window. He rolled it down, and I
14 said, Where are you going? He says, I'm going to get
15 something to eat before I go to jail.

16 Q So, he was in the process of leaving, and
17 you're the one that stopped him?

18 A Uh-huh, yes.

19 Q Because you wanted to know where he was going.

20 A Yes.

21 Q Look back at your statement.

22 A (Witness complies.)

23 Q When you got home with your husband, did he
24 not start screaming at you? It's about the eighth line.

25 A He screamed at me that he was going to get

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 something to eat. Said he's fixing to go to jail.

2 Q And you told him, Please go, please go.

3 A I told him please go because I seen a guy
4 coming up towards the truck, and I didn't want no problems.

5 Q That's not exactly the way you said it in here
6 though, is it?

7 A No. I told you I was drunk when I wrote this.

8 Q Okay. On here, and stop me at any point if
9 I'm wrong, in your statement before, and I'm going to start
10 it, Then I followed.

11 Then I followed him home. He got in his
12 truck, started screaming at me and drove off. Backed up. I
13 told him, Please go. He said, Why? I said, Just go, leave.
14 And he looked back and saw the guy -- then we'll keep going
15 from there.

16 MR. LOIGNON: Objection, Your Honor. I didn't
17 hear a question in there.

18 BY MR. OSBORNE:

19 Q Those were your words, correct?

20 A Yes.

21 THE COURT: That's a question.

22 BY MR. OSBORNE:

23 Q But he ended up getting out of the car after
24 yelling, right?

25 A He ended up getting out of the truck to find

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 out what he wanted.

2 Q Right. And then he approached you, correct?

3 A My husband didn't approach me.

4 Q Your husband never approached you?

5 A No. The guy came up to him. He told him to
6 leave, and he come up to him. They had some words, and my
7 husband brought his hand up like this (indicating) and
8 pushed him back, and he fell down.

9 Q Okay. All right. We'll get to that.

10 Now, the person that came up, you don't know
11 him, right?

12 A No.

13 Q Or you didn't know him?

14 A Right.

15 Q Have you since learned who he is?

16 A Mr. Richards.

17 Q Mr. Richard?

18 A (Nods in the affirmative.)

19 Q And I think he's a neighbor, correct?

20 A He was a neighbor.

21 Q Was a neighbor. In fact, if you're facing
22 your front door and you turn around, Mr. Richard lives right
23 across the street?

24 A Uh-huh. (Indicating affirmatively.)

25 Q Yes?

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 A Yes.

2 Q So this man, Mr. Richard, you didn't know him,
3 you've never had any words with him before, correct?

4 A Correct.

5 Q Now, is it fair to say that when Mr. Richard
6 approached, the first thing he said was something like, Sir,
7 sir, we're not going to have any of this?

8 A Yes.

9 Q Now, when Mr. Richard said, Sir, sir, we're
10 not going to have any of this, you then told your husband,
11 again, Please leave, correct?

12 A No. My husband told him that this is between
13 me and my wife, and you need to leave.

14 MR. OSBORNE: Your Honor, may I approach?

15 THE COURT: You may.

16 *(Whereupon, State's Exhibit No(s). 20 marked for*
17 *identification.)*

18 BY MR. OSBORNE:

19 Q I'm showing you what's been marked as State's
20 Exhibit 20. Can you take a look at that and tell me if you
21 recognize it?

22 A I told him to leave before the guy came up.

23 Q Do you recognize the document?

24 A I already said that.

25 I'm sorry?

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Q Do you know recognize that document?

2 A Uh-huh. (Indicating affirmatively.)

3 THE COURT: Is that a yes?

4 THE WITNESS: Yes. I'm sorry. Yes.

5 THE COURT: Thank you.

6 BY MR. OSBORNE:

7 Q What is that document?

8 What is that document, Ms. Tindall?

9 A What's it -- I'm not understanding your
10 question.

11 Q You said you recognize that document. How do
12 you recognize it?

13 A This is the second one I wrote.

14 Q It's the second statement you wrote?

15 A Uh-huh. (Indicating affirmatively.) I was
16 sober then.

17 Q I understand. And that was in the presence of
18 Deputy Phillips?

19 A I guess so.

20 Q Okay. And so, now we're talking about that
21 second statement. I'll get back to it in a second.

22 It was in the presence of Deputy Phillips,
23 but it was also in the presence of your husband, correct?

24 A Yes.

25 Q He was not present during the first statement,

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 was he?

2 A No.

3 Q He had already left, correct?

4 A Yes.

5 Q I want to direct your attention to about the
6 eighth line, right in the middle -- and stop me at any point
7 if you didn't say this, or write this.

8 I saw the guy come around the corner,
9 yelling, Sir, sir, we're not going to have this. I told my
10 husband, Leave, please just go. He jumped out of the truck.

11 And I'll stop there. Is that all correct?

12 A Uh-huh. (Indicating affirmatively.)

13 Q You have to say yes or no.

14 A Yes.

15 Q So, when Rick approached you, a man you didn't
16 know, saying, Sir, sir, we're not going to have any of this,
17 your reaction was to tell your husband to leave?

18 A Yes. I told him to leave before he approached
19 the truck though.

20 Q I understand.

21 A That's when my husband was still in the truck.

22 Q But he didn't leave. He jumped out of the
23 truck, correct?

24 A Yes.

25 Q And he then got in the middle between you and

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Rick, correct?

2 A Rick was coming towards my husband. I was
3 over -- like he was here, I was over here, and my husband
4 was right here by the bed of the truck.

5 Q It was kind of like a triangle or something?

6 A Yeah.

7 Q Okay. And your husband got out of the truck
8 and then he approached you, and he pushed you?

9 A No. He pushed me at the end.

10 Q He pushed you at the end?

11 A After -- yes. After Mr. Richards put his arms
12 around me, wrapped his arms around me and pulled me into
13 him, my husband untangled him from me and then pushed me
14 this way and then pushed him that way. And he fell down
15 again.

16 Q Okay. Let's go back to the July the 4th
17 statement. They both kind of cover it. We'll start with
18 that one.

19 A Okay.

20 Q If you go down toward the bottom, and just
21 go -- I'll start there.

22 I told him, Please go. He said, Why --
23 you're referring to the Defendant -- I said, Just go, leave.
24 He looked back and saw the guy. Jumped out and said some
25 words. I got in the middle to stop the fight. He pushed me

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 and swung at the guy with nunchucks on the head and left.

2 A Uh-huh. (Indicating affirmatively.)

3 Q So, that's when he hit Rick in the head?

4 A After the guy came back up and threatened his
5 life. He come charging after my husband, and that's when my
6 husband tried to get him off of him and --

7 Q All right. On the July 4th statement, can you
8 point out on there where you mentioned that your husband --
9 that Rick threatened your husband's life?

10 A No.

11 Q Okay. So you didn't mention that on the July
12 4th statement. But at the July 6th statement, with your
13 husband there, the story does change a bit, doesn't it?

14 A My husband wasn't by me when I wrote the
15 second statement. He was over here writing a statement, I
16 was over here writing a statement.

17 Q And that statement, that second statement was
18 made two days after the Defendant was released, correct?

19 A Yes. The next day, I believe.

20 Q July the 4th was this incident, July the 6th

21 --

22 A Uh-huh. (Indicating affirmatively.)

23 Q -- was the second statement?

24 Now, you think it was nunchucks, correct?

25 A I thought it was, yes.

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Q Okay. Not a gun?

2 A I know it wasn't a gun. He's never owned a
3 handgun in his life.

4 Q Now, at that point, when Rick's on the ground,
5 he then points -- there were a couple of the guys there,
6 correct?

7 A Yeah, they were coming up. They were coming
8 up to him.

9 Q And he pointed at them, Y'all want some, too,
10 right?

11 A No, he did not do that.

12 Q And they responded, Just calm down, just calm
13 down.

14 A No, sir.

15 Q You never saw Rick's head under the truck?

16 A When he went -- when Rick -- or -- that's his
17 name, Rick, when he fell down, he fell on his butt and he
18 held his head. And that's when I told my husband, Get in
19 the truck and go. And that's when the other guys were
20 coming around the corner.

21 Q And then pulled him out from underneath the
22 truck?

23 A No, he wasn't under the truck. He wasn't even
24 near the truck.

25 Q All right. Your husband, he did flee in the

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 truck, right; or left in the truck?

2 A Yes, yes.

3 Q Leaving you there.

4 A Yes.

5 Q With the same individual who supposedly just
6 put you in a bear hug, right?

7 A Uh-huh, yes.

8 Q Left you to fend for yourself?

9 A Well, he couldn't have got to me.

10 Q He couldn't have gotten to you?

11 A No.

12 Q What about those other --

13 A He was down -- he was down on the ground
14 holding his head.

15 Q I got it. He took care of him.

16 What about those other two or three scary
17 people that were there?

18 MR. LOIGNON: Objection, Your Honor. Move to
19 strike Counsel's last statement.

20 THE COURT: Beg your pardon?

21 MR. LOIGNON: Move to strike Counsel's last
22 statement, which is editorializing on this witness'
23 testimony.

24 THE COURT: Just specifically, what are you
25 saying? What are you talking about? He said there

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 were two or three other people there, was the last
2 statement he said.

3 MR. LOIGNON: The statement that he said before
4 that was something to -- I can't remember exactly.

5 May we approach, Your Honor?

6 THE COURT: Certainly.

7 MR. LOIGNON: Yeah, it was something to the effect
8 of, Yeah, he sure got him, or something like that. It
9 was not a direct question.

10 MS. GINSBURG: He said, Yeah, he was taken care
11 of.

12 MR. LOIGNON: It was either, He was taken care of,
13 or Yeah, he got him. It was a statement by Counsel
14 that was not a question directed --

15 THE COURT: I took it as a questioning statement.
16 I didn't take it as a statement.

17 MR. LOIGNON: He then moved on to another question
18 right afterward without a response from the witness.

19 THE COURT: He did? Well, do you want him to ask
20 it again?

21 MR. LOIGNON: No, sir. I'd move to have it
22 stricken from the record.

23 THE COURT: I'm not going to strike it.

24 You may proceed.

25 BY MR. OSBORNE:

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Q All right. I'll move on.

2 So you spoke to the police that night and
3 gave them a statement, right?

4 A Yes, sir.

5 Q Now after -- okay. After you spoke to the
6 police, you did have the occasion to go talk to Rick, right?

7 A No, I didn't talk to him.

8 Q Are you sure you didn't go across the street
9 and go talk to Rick that night?

10 A No. I went over to Teresa's, but he wasn't
11 over there.

12 Q You didn't thank Rick for helping you?

13 A No.

14 Q You didn't hug him?

15 A No.

16 Q You didn't tell Rick that, Thank you for
17 helping me, had you not intervened, I would have certainly
18 gotten hurt?

19 A No, sir, I did not.

20 Q Okay. So, we're still on the night of July
21 the 4th. Something else happens after that, right? The
22 police come back out?

23 A Yes.

24 Q And that was because your brother called
25 Teresa?

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

- 1 A My brother called Teresa.
- 2 Q John Sager called Teresa?
- 3 A John was over there.
- 4 Q Telling Teresa that your husband had returned?
- 5 A I don't know if he told her that.
- 6 Q Okay. But the police did show up.
- 7 A The police did show up. Teresa told me the
- 8 next day at work that her daughter called the police.
- 9 Missy.
- 10 Q Okay.
- 11 A Because she saw him. I don't know.
- 12 Q Okay. So, there was a knock at your door?
- 13 A There was a knock on the door, and then they
- 14 came in.
- 15 Q Okay. And this deputy, and I think he might
- 16 have had another deputy with him, correct?
- 17 A There -- I think there was two deputies.
- 18 Q And you knew they were there to try to find
- 19 your husband?
- 20 A Uh-huh, yes.
- 21 Q And you knew he'd be going -- or may be going
- 22 to jail?
- 23 A Yes.
- 24 Q And you told them to come in?
- 25 A I did not tell them to come in. I told them

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 he was not there. I lied to them.

2 Q Right. I understand that. They said, Is
3 Ashley here? And you said, No.

4 A I said, No, he's not.

5 Q But then you kind of motioned that he was in
6 the back room?

7 A No, sir, I did not.

8 Q You never did?

9 A Not that I'm aware of, no, sir.

10 Q Okay. So you might have?

11 A I don't believe I did.

12 Q Because he was, in fact, hiding in the back
13 room, wasn't he?

14 A Yes, he was.

15 Q And after motioning, the deputy went back
16 there and found him, correct?

17 A They just came through. Walked through to the
18 bedroom.

19 Q Okay. You didn't want the deputy (SIC) to
20 know that you had motioned to them indicating where the
21 Defendant was, did you?

22 A I didn't motion to them. I told them that he
23 wasn't there.

24 Q Okay.

25 MR. OSBORNE: No further questions, Your Honor.

DIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 THE COURT: You may cross-examine.

2 CROSS EXAMINATION

3 BY MR. LOIGNON:

4 Q Hey, Sara.

5 A Hey.

6 Q Tell me a little bit about your everyday
7 routine when you get up in the morning.

8 A When I get up in the morning?

9 Q Yes.

10 A I get up, get dressed, get ready for work, go
11 to work.

12 Q And around what time is that?

13 A I have to be to work at seven in the morning,
14 so I get up about 5:45 to get ready.

15 Q You up by yourself?

16 A No. My husband gets up with me.

17 Q Why does he do?

18 A He just gets up, watches a little bit of the
19 news, waits for me to leave and walks me to the door.

20 Q He walks you to the door?

21 A Yeah, every morning.

22 Q Sees you off to work?

23 A Yes, sir.

24 Q What time do you get home normally in the
25 afternoon from work?

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

- 1 A Usually about three, 3:30.
- 2 Q And that's the time you got home on this day,
- 3 right?
- 4 A Yes, sir.
- 5 Q You went over to the party at the Escoffiers'?
- 6 A Yes, sir.
- 7 Q Took some beer over there?
- 8 A Yes, sir.
- 9 Q How much?
- 10 A I took a case.
- 11 Q Did you come home with any?
- 12 A No, sir.
- 13 Q Was anybody else drinking that beer?
- 14 A My beer? Oh, yeah.
- 15 Q You were sharing some of it?
- 16 A Uh-huh. (Indicating affirmatively.)
- 17 Q Who else was drinking?
- 18 A Oh, everyone was drinking over there except
- 19 for Missy, because she was pregnant. And, of course, not
- 20 the kids.
- 21 Q Ashley didn't go over there with you though,
- 22 right?
- 23 A No, sir. He doesn't drink. He doesn't really
- 24 socialize too much.
- 25 Q So, let's jump back to just a typical day.

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 Removing ourselves from the 4th of July for just a moment.

2 You generally eat dinner together as a
3 family?

4 A Yes, sir.

5 Q And do you generally prepare dinner as a
6 family?

7 A Yes, sir. We usually either cook together, or
8 he'll cook.

9 Q And do you sit down and eat together as a
10 family?

11 A Yes, sir.

12 Q So, that's something that's a normal part of
13 your day?

14 A Yes, sir.

15 Q Back to the 4th of July. You mention that you
16 had an agreement to have dinner at eight?

17 A To be home at eight.

18 Q To cook dinner?

19 A To have -- he was going to take me out to
20 dinner.

21 Q Okay. And you also said that when Ashley came
22 over, he took your arm and asked you to step over to the
23 side so that you could talk, right?

24 A Uh-huh, yes, sir.

25 Q He didn't yell at you in front of everybody at

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 the party, did he?

2 A No, sir.

3 Q And he didn't yell at you when he asked --

4 MR. OSBORNE: Objection, leading.

5 MR. LOIGNON: This is cross-examination.

6 THE COURT: You called it -- called her. I'm
7 going to let him lead.

8 BY MR. LOIGNON:

9 Q He didn't yell at you when he asked what was
10 taking so long, right?

11 A No, sir.

12 Q He just wanted to know --

13 A Why I wasn't --

14 Q Go ahead. He wanted to know what?

15 A Why I wasn't home when I agreed to be home at
16 eight.

17 Q And at that point, you were intoxicated,
18 weren't you?

19 A Yes, sir.

20 Q And Ashley did get a little irritated, right?

21 A Yes, sir. A little.

22 Q You said he yelled out, That's B.S.

23 A Yes.

24 Q And that's -- that comment is what started
25 this whole thing?

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 A Then I started into Teresa's.

2 Q Okay. Now, after this incident, you already
3 testified about the incident on the blacktop, right?

4 A Yes, sir.

5 Q And it's pitch black dark right there, isn't
6 it?

7 A Yes, sir.

8 Q But you were close by?

9 A (Nods in the affirmative.)

10 Q To this incident that was going on?

11 A Uh-huh -- yes. I'm sorry.

12 Q And you saw Bobby Escoffier coming at your
13 husband?

14 A Yes, sir.

15 Q Aggressively.

16 A Yes, sir.

17 Q And then after that incident there, several
18 other men from the party started to crowd around?

19 A Yes, sir.

20 Q And that's when Ashley left?

21 A Yes, sir.

22 Q And he went back home?

23 A Yes.

24 Q And you followed shortly thereafter.

25 A Yes.

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

- 1 Q And then you meet him out at the truck.
- 2 A Yes.
- 3 Q When you're at the truck, Ashley is sitting
- 4 inside the truck.
- 5 A Yes.
- 6 Q And he rolls down the window and you have a
- 7 conversation.
- 8 A Yes.
- 9 Q It's a heated conversation.
- 10 A (Nods in the affirmative.)
- 11 Q At that point, Mr. Hilding, Richard Hilding,
- 12 starts to come your way, right?
- 13 A Yes.
- 14 Q Now, tell me, did he say anything else as he
- 15 was coming up? I know you testified as to one thing he
- 16 said, but did he say everything that he said when he was
- 17 walking up?
- 18 A He said, I'm not going to have this here.
- 19 Q Okay. And how close did he get to you before
- 20 Ashley got out of the truck?
- 21 A He was just -- he was just --
- 22 Q Was he this close?
- 23 A He was walking up. I was still by the
- 24 passenger door.
- 25 Q Okay.

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 A When Ashley got out of the truck he -- and
2 Mr. Hilding was coming towards Ashley. That's when I walked
3 over here on the other side.

4 Q Okay. So, Mr. Hilding's walking up towards
5 Ashley's truck?

6 A Uh-huh. (Indicating affirmatively.)

7 Q And you step off to the side.

8 A Uh-huh, yes.

9 Q Okay. Thank you.

10 Now, why do you think your husband got out of
11 the car?

12 A To ask him what he wanted, and that me and him
13 was having a discussion between us, that he didn't need to
14 be there.

15 Q Did Mr. Hilding come towards Ashley in an
16 aggressive manner?

17 A Yes.

18 Q But he didn't just come up and try to grab
19 Ashley immediately, did he?

20 A No.

21 Q They were arguing. There were some words
22 going back and forth, correct?

23 A Yes.

24 Q And what was Ashley telling him?

25 A Telling him to mind his own business, he

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 needed to leave, this is between me and my wife.

2 Q And what was Mr. Hilding saying?

3 A I really can't remember what he was saying.

4 Q So then at some point Mr. Hilding moves from
5 whatever position he was in arguing, closer to Mr. Tindall,
6 right, your husband?

7 A Yes, sir.

8 Q And how close did he come? Let's just say,
9 this is Mr. Tindall, this is Ashley, and I'm Mr. Hilding.
10 How close were they when they were arguing?

11 A When they were first arguing, he was a little
12 bit back, but as he was coming towards my husband, my
13 husband brought his arm out like this (indicating).

14 Q So he -- so he came close enough to where
15 Ashley had to put his arm out to stop him. So this close,
16 at least, an arm's length?

17 A Yes, sir.

18 Q And you're saying that Ashley put his arm out
19 and stopped him?

20 A (Nods head affirmatively.)

21 Q And Mr. Hilding fell down?

22 A Yes.

23 Q Then what happened?

24 A Then he got back up and come towards my
25 husband again. My husband says, You really need to leave,

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 and told the guys that was watching, Come get this S.O.B.

2 Q And this is after Mr. Hilding had gotten back
3 up off the ground?

4 A Uh-huh. (Indicating affirmatively.)

5 Q And there was guys just down the street
6 watching?

7 A Uh-huh. (Indicating affirmatively.)

8 Not really down the street, but -- I mean,
9 they were close by, but the tree is over here. I don't know
10 if you can see -- the tree's like over here, they were over
11 by the trees. And the truck would be like right over here.

12 Q Well, let's see if we got a picture of that.

13 A Okay.

14 Q Maybe we can describe it a little better.

15 I'm going to show you State's Exhibit 8. Do
16 you recognize this picture?

17 A Uh-huh. (Indicating affirmatively.)

18 Q Do you know what it's a picture of?

19 A Yeah.

20 Q Is that the cut-through that goes to Still
21 Life Drive right there?

22 A Yeah, it is.

23 Q Is that where the men were standing? Were
24 they standing at the cut-through on Still Life Drive?

25 A They were by the oak tree.

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 Q Okay.

2 A Like you're coming out of Bobby and Teresa's
3 driveway in front of us, not behind us but in front of us,
4 there's an oak tree. They were right there by that oak
5 tree.

6 Q Okay.

7 MR. LOIGNON: Court's indulgence.

8 THE COURT: Yes.

9 BY MR. LOIGNON:

10 Q While I'm getting this marked, Ms. Tindall,
11 excuse me for a moment.

12 Now, you just finished telling me that Ashley
13 called out to these men. How many men were there over
14 there?

15 A About five or six. I mean, it was -- it was a
16 group.

17 Q And he said, Somebody needs to come -- could
18 you repeat what he said?

19 A Someone needs to come get this S.O.B.

20 THE COURT: I'm sorry, I couldn't hear that
21 response. Somebody needs to?

22 THE WITNESS: Come get this S.O.B.

23 THE COURT: Oh, okay.

24 BY MR. LOIGNON:

25 Q And then what happened after that?

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 A Nothing. He came up to -- came after Ashley
2 again, like coming towards Ashley again. Ashley brought his
3 hand out again, and fell down again. And then he got back
4 up, I got in the middle.

5 Q So, you're saying the second time he got back
6 up and came to Mr. Tindall; Mr. Tindall put his hand up to
7 stop him?

8 A Uh-huh, yes.

9 Q Did he fall down?

10 A Yes, he did.

11 Q And he gets up and you step in between them?

12 A Uh-huh. (Indicating affirmatively.)

13 Q Is that when Mr. Hilding grabbed you?

14 A No. I faced Mr. Hilding, and I told him,
15 Look, I don't know you, you don't know me, you really need
16 to leave. And then I turned around to face my husband.
17 That's when he grabbed me. That's when he wrapped his arms
18 around me and pulled me to him.

19 Q From behind?

20 A Uh-huh. (Indicating affirmatively.)

21 Q Pulled you into his body?

22 A Yes. Kind of like a bear hug.

23 Q And what did Mr. Tindall do?

24 A He told him, Do you realize that's my wife you
25 got your f'ing hands wrapped around? And the guy just kind

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 of chuckled and my husband come up to him and unwrapped his
2 arms, pushed me this way, and pushed him that way. Then he
3 fell down again, and that's when he come charging after my
4 husband. That's when the fight began.

5 Q Did you hear -- were there any threats made?

6 A He told my husband --

7 Q Who's he?

8 A Mr. Hilding.

9 Q Okay.

10 A You hit me again, I'll f'ing kill you, and
11 that's when he came charging after him.

12 Q He said that while he was charging or ...

13 A As he was getting up.

14 We have rocks on our road, on our -- in our
15 yard instead of grass, and he kept skinning his knees pretty
16 bad. And then he got up that last time and that's when he
17 come after him.

18 Q Why do you think he kept falling over?

19 A He -- we -- he was drinking. We were all
20 drinking. He was losing his balance.

21 Q And then when he came at Ashley the last time,
22 what did he do?

23 A He wrapped his arms around him and ...

24 Q Just like he had you?

25 A Well, he was facing my husband forward, and he

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 had his arms wrapped around him. My husband tried to get
2 him off of him. And the next thing I know, he falls on the
3 ground on his butt and holds his head like this
4 (indicating).

5 Q And it was at that time that you saw these
6 other men that were standing over there by the oak tree
7 starting to --

8 A When he -- when he came down and was holding
9 his head, that's when they were coming.

10 Q Okay. I'm going to show you what's been
11 marked as Defendant's Exhibits 1 and 2. And I'd like for
12 you to just look at these photos and tell me if you know
13 what those photos are.

14 A Yes.

15 Q Could you --

16 A It's my yard.

17 Q Is that a picture of Still Life Drive?

18 A Yes.

19 Q Is the picture taken from the other side of
20 this cut that we're looking at up on the screen?

21 A Yes.

22 Q And in the picture -- is that -- does that
23 accurately represent what your street and front yard looked
24 like?

25 A Yes, sir.

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 MR. LOIGNON: Your Honor, the Defendant would
2 offer Exhibits 1 and 2 into evidence and request to
3 publish to the jury.

4 MR. OSBORNE: No objection.

5 THE COURT: Without objections, they'll be
6 admitted. You may publish.

7 *(Whereupon, Defendant's Exhibit No(s) 1-2 marked*
8 *for identification and received in evidence.)*

9 MR. LOIGNON: Thank Your Honor.

10 BY MR. LOIGNON:

11 Q So this first picture, is this the oak tree
12 that you're talking about?

13 A Yes.

14 Q They were standing beneath that oak tree,
15 these men?

16 A Yes. Right there by my car.

17 Q That's your car in the picture?

18 A Yes, it is.

19 Q Okay. What's that on the far left of the
20 picture?

21 A What's what?

22 Q That trailer. Sorry.

23 A That's the neighbor's trailer.

24 Q Okay. And the street is Still Life Drive that
25 we're looking at?

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 A Yes, sir.

2 Q Is this just a little bit different angle at
3 that same location?

4 A Yes, sir.

5 Q It's moved out into the street a little bit
6 more, pointing more towards your house, right?

7 A Yes, sir.

8 Q You can see the cut-through on the right, and
9 Still Life Drive straight ahead, and Ashley's truck and your
10 car are kind of parked right in your driveway, right?

11 A Yes, sir.

12 Q Is Ashley's truck parked in a similar position
13 as it was that evening?

14 A That's how it was parked.

15 Q In the exact same spot? Right there --

16 A Right by the boat.

17 Q Right by the boat.

18 A Uh-huh. (Indicating affirmatively.)

19 Q So, when Mr. Hilding went down, and those men
20 started running from the oak tree to the truck, that's when
21 you told Ashley, You better go?

22 A Yes.

23 Q And why did you think he better go?

24 A Because they were -- in my mind, I thought
25 they were all going to jump him. I can't say for sure, but

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 I believed they were going to jump him.

2 Q Now, when Mr. Tindall left, was your brother
3 right there as well?

4 A I believe he was next door.

5 Q At some point, did he come over and kind of
6 escort you away from that situation?

7 A Yes.

8 Q Was that around the same time that Ashley was
9 driving off?

10 A It was a little after.

11 MR. LOIGNON: Court's indulgence.

12 THE COURT: Yes, sir.

13 (Pause.)

14 BY MR. LOIGNON:

15 Q Ms. Tindall, you gave two separate statements?

16 A Yes, sir.

17 Q And you mentioned that first statement you
18 gave was on the night of July 4th?

19 A Yes.

20 Q It was a written statement, and you gave
21 that -- you gave that to the sheriff's office, correct?

22 A Yes, sir.

23 Q And on that evening, you admit that you were
24 intoxicated?

25 A Yes, sir.

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 Q But in that statement, you did say that Ashley
2 swung at the guy with nunchucks?

3 A Yes, sir.

4 Q Where did that come from?

5 A Because after the -- after he left and the
6 guys come up, they started saying, He had a gun, he had a
7 bat, and -- and then my neighbor yelled --

8 Q Were you talking about the guys -- sorry for
9 interrupting.

10 Were you talking about the guys that were
11 running up?

12 A Uh-huh, yeah.

13 Q What were they saying?

14 A He had a gun. No, it was a bat. And then one
15 of the neighbors said, It was nunchucks. I knew he didn't
16 have a gun. Like I said earlier, he's never owned a handgun
17 in his life. I would have seen a bat. And nunchucks just
18 seemed like the right thing in my mind at the time. But I
19 didn't see the weapon.

20 Q In that statement the night of, you said you
21 were asked whether you were in fear for your life or your
22 safety from that accident. You said no.

23 A Uh-huh. (Indicating affirmatively.)

24 Q Is that a yes?

25 A I wasn't scared.

CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 Q You then gave the second statement two days
2 later.

3 A Uh-huh. (Indicating affirmatively.)

4 Q And there were two officers that came out to
5 the house, right?

6 A Yes, sir.

7 Q Two deputies. And one of those deputies took
8 a statement from Ashley Tindall?

9 A Yes, sir.

10 Q That was actually Deputy Phillips, right?

11 A (Shrugs.)

12 Q Can't remember?

13 A No.

14 Q That's okay. But there was a separate deputy
15 that took you aside and took your statement, right?

16 A Yes, sir.

17 Q So, you were not in the same room with Ashley
18 leering over you while you were writing the statement?

19 A No, sir.

20 MR. LOIGNON: That's all I have.

21 THE COURT: Redirect.

22 MR. OSBORNE: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. OSBORNE:

25 Q Let's go back to Defense Exhibit 1. I think

REDIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 this is one.

2 What is this -- what's that right there in
3 front of that truck?

4 A Where?

5 Q With all the leaves and the bark. Does it
6 look like a tree?

7 A Yes.

8 Q And in your statement on July the 4th, you
9 said, Then I followed him home, he got out of his truck,
10 started screaming at me and drove off, then backed up.
11 Correct?

12 A Uh-huh, yes.

13 MR. OSBORNE: May I approach, Your Honor?

14 THE COURT: You may.

15 BY MR. OSBORNE:

16 Q Mr. Loignon asked you a lot of questions about
17 these two documents, and I think you've already identified
18 them.

19 MR. OSBORNE: Your Honor, at this time, I'd seek
20 to admit State's 19 and 20 into evidence.

21 THE COURT: Objections?

22 MR. LOIGNON: Court's indulgence.

23 THE COURT: Yes, sir.

24 (Pause.)

25 MR. LOIGNON: Yes, Your Honor. We'd object to the

REDIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 fact that he's already cross-examined Ms. Tindall about
2 the statement.

3 THE COURT: Oh, I'll sustain the objection.
4 Generally statements are not admissible unless the
5 witness somehow denies having said it. She's admitted
6 having said it thus far. I don't think I've heard a
7 denial of any of the statements.

8 You have the right to ask her about specific
9 statements within it, you know. But if she admits it,
10 that's the end of the proof. You can't admit it
11 afterwards.

12 So I've not heard her deny that she made those
13 statements.

14 BY MR. OSBORNE:

15 Q Ms. Tindall, Mr. Loignon asked you, if I
16 remember correctly, you weren't harmed in any way that
17 night?

18 A No, sir.

19 Q You weren't? But isn't it true you told
20 detectives that, when they asked you point blank, Did your
21 husband hit you at all during the incident? Do you remember
22 telling them, No, he only pushed me.

23 A Uh-huh. (Indicating affirmatively.)

24 THE COURT: Is that a yes?

25 THE WITNESS: Yes. I'm sorry.

REDIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 BY MR. OSBORNE:

2 Q All right. Now, you testified to Mr. Loignon
3 that two or three individuals came up while you were with
4 your husband outside of the trailer, correct?

5 A Uh-huh, yes.

6 Q And by your perspective, these two or three
7 individuals were together, correct?

8 A Yes.

9 Q They approached together, at least, right?

10 A Yes.

11 Q And at some point you say that the Defendant
12 said, Come get this S.O.B., while he lay on the ground?

13 A No, not while he's laying on the ground.

14 Q Okay. But at some point?

15 A While they're still arguing with each other.

16 Q Okay. So, he told the other two individuals
17 to come get the S.O.B., referring to Rick, correct?

18 A Uh-huh, yes.

19 Q Okay. So, I would assume, you were there, not
20 me, that he was left with the same perspective, that those
21 three individuals were together, correct?

22 A Yes.

23 Q One of those three individuals then put his
24 arms around you and assaulted you, correct?

25 A Yes.

REDIRECT EXAMINATION OF S. TINDALL BY OSBORNE

1 Q Okay. And then your husband left you there
2 with the other two, right?

3 A He left me with my brother.

4 Q With your who?

5 A My brother.

6 Q And the other two individuals, correct?

7 A Yes.

8 MR. OSBORNE: No further questions.

9 MR. LOIGNON: Just briefly, Your Honor.

10 RE-CROSS EXAMINATION

11 BY MR. LOIGNON:

12 Q You already explained the push, right,
13 Ms. Tindall?

14 A Yes, sir.

15 Q You explained the push as in separating you
16 from Mr. Hilding, correct?

17 A Yes, sir.

18 Q And when Ashley left you, you weren't right
19 next to Mr. Hilding on the ground, you were --

20 A No, sir.

21 Q -- over by --

22 MR. OSBORNE: Objection, beyond the scope.

23 THE COURT: Sir?

24 MR. OSBORNE: Beyond the scope.

25 THE COURT: Is this something new that he brought

RECROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 up in his redirect?

2 MR. LOIGNON: He -- yes, Your Honor. He just
3 asked -- may we approach?

4 THE COURT: Yes, please.

5 (Off-the-record
6 discussion held.)

7 THE COURT: I'll let you ask one or two more
8 questions, and let's move on.

9 BY MR. OSBORNE:

10 Q When Ashley left, were you away from the
11 incident?

12 A Yes. I walked away from it.

13 Q Did you feel like you were in danger?

14 A No.

15 MR. OSBORNE: Thank you, ma'am.

16 THE COURT: You may step down.

17 We're going to take a short break at this time,
18 ladies and gentlemen. I'll let you go back to the jury
19 room, clear your head, stretch your legs, but don't
20 discuss the case until I ask you to begin
21 deliberations. You may retire to the jury room.

22 (Jury exits the courtroom at 3:32 p.m.)

23 THE COURT: All right. We'll take a short break.
24 I'll remain on the bench. Thank you.

25 (Whereupon, a brief recess was taken.)

RE CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 THE COURT: All right. The State ready to
2 proceed?

3 MS. GINSBURG: We are, Your Honor. I believe our
4 next witness just got here, so it will just take him a
5 second to get through the garage and that kind of
6 stuff. If you don't mind waiting a little bit longer.

7 THE COURT: No.

8 Defense ready?

9 MR. LOIGNON: Yes, Your Honor.

10 THE COURT: I do want to put one thing on the
11 record regarding the last witness, Mrs. Tindall. She
12 was offered by the defense after they began to examine
13 her as a hostile witness. I did not require them at
14 that time to make a proffer to indicate that she was --
15 her testimony was either a surprise or would indicate
16 actual harm.

17 But after having heard her testimony, her
18 testimony was that she had refused to talk to the State
19 between the time of the giving of her statements and
20 the time of her testimony. Her testimony was at odds
21 with and varied from her statements. So my finding
22 would have been that there would be surprise and actual
23 harm.

24 It doesn't affect the ruling, and my ruling would
25 have been the same had I taken a proffer at that time.

RECROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 So, I just wanted to put that on the record that I
2 see the result would have been the same.

3 Now, ready for the jury, ma'am? Is that your
4 witness?

5 MS. GINSBURG: No, Your Honor. Just he's walking
6 in right now.

7 THE COURT: Oh, okay. I keep mistaking him for a
8 witness. I'm sorry. I'm going to get you on the stand
9 eventually.

10 Just let me know when you're ready.

11 (Pause.)

12 THE COURT: State ready?

13 MS. GINSBURG: Yes, Your Honor.

14 THE COURT: Defense ready?

15 MR. LOIGNON: Yes, Your Honor.

16 THE COURT: Bring the jury in.

17 THE BAILIFF: All jurors present, Your Honor.

18 THE COURT: Thank you very much. The record will
19 reflect the jury has returned to the courtroom.

20 The State is in the process of calling its
21 witnesses. You may call your next witness.

22 MR. OSBORNE: Thank Your Honor. The State calls
23 Chris Hilding.

24 THE COURT: Come forward, sir.

25 THE CLERK: This way, please.

RE CROSS EXAMINATION OF S. TINDALL BY LOIGNON

1 Thereupon,

2 CHRISTOPHER JOHN HILDING

3 was called as a witness, having been first duly sworn,

4 was examined and testified as follows:

5 THE COURT: Once you're seated sir, I'd ask that
6 you state your name.

7 THE WITNESS: Christopher John Hilding.

8 THE COURT: Thank you very much. Counselor, your
9 witness.

10 MR. OSBORNE: Thank Your Honor.

11 DIRECT EXAMINATION

12 BY MR. OSBORNE:

13 Q Mr. Hilding, let's just get this out of the
14 way; what is your relationship with Rick?

15 A He's my father.

16 Q He's your father. Okay.

17 How old are you?

18 A I'm 24.

19 Q Are you from Charleston?

20 A Originally from Long Island, New York; lived
21 in Charleston for six years.

22 Q All right. What brought you here?

23 A lot of different factors. Schooling, family,
24 bunch of different reasons.

25 Q Was your dad already here?

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 A When I moved here in 2010, yes.

2 Q Do you work?

3 A We lived here before, I moved to New York for
4 college, and I came back.

5 Q Okay. Do you work now?

6 A Yes, sir.

7 Q What do you do?

8 A I am a mover. I am a terminal mobile captain
9 for a moving capital.

10 Q Okay. Are you married?

11 A No, sir.

12 Q Any kids?

13 A No, sir.

14 Q All right. Where are you -- and you don't
15 have to give the exact address. Where do you live now?

16 A Out in Ladson.

17 Q All right. In July of 2014, where did you
18 live then?

19 A We were living in John's Island.

20 Q And the address?

21 A Fickling Hill Road.

22 Q That's in Charleston County, I take it?

23 A I believe so, yes.

24 Q Okay. Who did you live with?

25 A My mother, my father, and for a short time, my

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 brother.

2 Q Okay. And how old is your brother?

3 A He is -- just turned 35.

4 Q And his name?

5 A Paul Fanning, (phonetic) Junior.

6 Q Paul Fanning, Junior. Okay.

7 All right. So let's go right into the
8 incident on July the 4th. On July 4th of 2014, how long had
9 you lived at that trailer, about?

10 A Roughly a year.

11 Q Roughly a year. Did you know any of your
12 neighbors?

13 A I had seen them before, but I did not know
14 them personally.

15 Q Okay. Never hung out with them, didn't know
16 their names, anything like that?

17 A No, sir.

18 Q Okay. But did you have the occasion to attend
19 a July 4th party?

20 A Yes, we were invited.

21 Q And how did that come about?

22 A We were outside playing with fireworks on the
23 road, outside the trees, and the neighbor saw us and invited
24 us to come over and hang out.

25 Q Okay. And that was on July 4th?

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 A Correct.

2 Q Do you remember who those neighbors were that
3 invited you to come over?

4 A It was Mr. Bob. He was the gentleman that
5 invited us over, and his wife.

6 Q Okay. And you said you were out shooting
7 fireworks with whom?

8 A My dad.

9 Q Okay. So y'all two, Bob invites y'all, and
10 y'all go over?

11 A Uh-huh. (Indicating affirmatively.)

12 Q Do you remember about what time you arrived at
13 the party?

14 A No. It was earlier in the day, but I do not
15 remember the exact time.

16 Q Okay. And Mr. Bob, he lives pretty close to
17 you; is that correct?

18 A About two houses down.

19 Q All right. I'm showing you what's already
20 been marked and admitted as State's 3. Can you orient
21 yourself looking at this map and point out where your house
22 was back then?

23 A It should be --

24 THE COURT: If you touch the screen, it'll put a
25 mark on it.

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 THE WITNESS: Yeah. That is our house right
2 there.

3 BY MR. OSBORNE:

4 Q Okay. You can go ahead and put a big circle
5 around it.

6 A Yes, sir.

7 Q All right. So, you and your dad went to the
8 party?

9 A At first, yes, it was just me and my dad. And
10 then we came back to the house and grabbed my mom, and she
11 came with us.

12 Q Wanted to see what it was like, see if it was
13 okay, I guess?

14 A Yeah.

15 Q Okay. And so do you remember how you -- well,
16 first, where's -- do you know where Bob's trailer is on that
17 map?

18 A It's about there. I can see part of the back
19 yard.

20 Q All right. So how -- so you walked over
21 there, I take it. How did you get there? Just draw a
22 little line indicating the path that you took to get there.

23 A (Witness complies.)

24 Q And you took that pathwhy?

25 A Because they were all in the backyard, and we

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 were right about there, right about where that street is, I
2 guess. Still Life Drive is what it's called.

3 Q And then Fickling Hill Road is the
4 intersection?

5 A Yes, sir.

6 Q So you went -- is that the shortest distance
7 between your two houses?

8 A Yes, sir. Well, there's actually a little
9 path right where I just drew that line, through the yard
10 directly into Mr. Bob's back yard.

11 Q So -- and you said you went there. Just, you
12 know, we weren't there, so tell the jury what was the scene.
13 What did it look like when you got there?

14 A A few people hanging out. You know, they were
15 adults having a couple drinks, nothing crazy or belligerent.
16 There were kids in the pool. You know, a few other people
17 had brought fireworks over as well, so we were just
18 introducing ourselves. You know, having a good time meeting
19 people. Then we realized that, okay, we're going to stay
20 here for a few minutes. We went back, grabbed my mom, said,
21 hey, we're hanging out with the neighbors, want you to come
22 with us.

23 Q Okay. So while you were over there hanging
24 out, talking to people, you said people were drinking. Did
25 anyone seem drunk?

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 A Not at first, no. Everything was calm,
2 mellow. Everyone was just having a good time.

3 Q And you said that you were drinking?

4 A No, sir.

5 Q Oh, you weren't drinking?

6 A I do not drink.

7 Q You don't drink.

8 A No, sir.

9 Q Okay. So, everyone's hanging out and having a
10 good time. And you said, at first. Did something change?

11 A Yes.

12 Q Tell the jury what happened.

13 A There's a little awning right where I drew the
14 circle, we were hanging out there. Myself, my mom, and a
15 couple of other people. I don't know exact names.

16 Q Let me stop you for one second. I might be
17 able to help illustrate this.

18 I'm going to show you State's 6. Tell me
19 which pictures help. Does that help?

20 A Yes. Myself, my mom, and my dad, we were
21 actually under the awning with a couple of people, including
22 Mr. Bob's wife.

23 Over on the side of the house, which is
24 actually out of frame on this picture, I guess there was
25 some commotion going on. I don't know the exact details of

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 it. I just know something happened that people started
2 getting, you know, nervous and like, oh, my God, something's
3 going on.

4 Q You say, commotion. Did you hear anything, or
5 was it just the way people were behaving then?

6 A It was the way people were behaving at first.
7 And then something happened, I saw people moving around in a
8 -- you know, kind of like not -- it kind of changed from,
9 you know, friendly, mellow, to serious.

10 Q Okay. What happened then?

11 A We saw people coming around from past the
12 awning where we are down the -- to the little pathway, and
13 said something about someone, you know, getting violent.
14 Someone getting pushed.

15 MR. LOIGNON: Objection.

16 MR. OSBORNE: We're not offering it for the truth
17 of the matter.

18 THE COURT: Okay.

19 BY MR. OSBORNE:

20 Q All right. I'm showing you State's Exhibit 8.
21 Does that help?

22 A Yes, sir. That's actually the pathway. The
23 house right at the very front of the picture back there is
24 my house.

25 Q All right. Go ahead and circle that.

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 A (Witness complies.)

2 Q Okay. So, you said, commotion. And so
3 something else is going on. Did you make your way in that
4 direction? Do you see what's going on?

5 A It's kind of hard to see exactly what's going
6 on, because at this point it is nighttime. But some of the
7 people that were hanging out here with us under the awning
8 started going that way. So, of course, my dad's with them,
9 so I followed.

10 Q Did you know why they were going that way?

11 A Not at this point in time.

12 Q All right. So, you started heading that way,
13 your dad's heading that way. Who else was headed that way?

14 A couple of people. I do not know their names
15 at this point.

16 Q All right. What happens then?

17 A Down -- it's not in this picture, but the
18 house that's directly across from ours, which is
19 Mr. Tindall's.

20 Q All right. I'm showing you State's 4.

21 A Yes, sir.

22 Q Does that help? I have a couple more.

23 A Yeah, that's a different view.

24 Q Let's try State's 9 -- you know what, I'm
25 sorry. Let's do State's 12. Does that help?

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 A Yes.

2 Q All right. So just the jury understands,
3 where is this pathway on this map that you were just
4 referring to?

5 A I'm going to try to draw a line to it as close
6 as I can.

7 Q Okay.

8 A So, it's right about here.

9 Q So, I'm going to go back to State's 8. And,
10 now, show the jury where that pathway was on here.

11 A (Witness complies.)

12 Q Okay. So back to State's 12. The trailer
13 would then be on the right, if we were coming down that
14 path, right?

15 A Correct.

16 Q So what happened then?

17 A Two people were in the front of the trailer,
18 out closer here towards the street. Right around this area.

19 Q Who were they?

20 A Mr. Tindall and his wife.

21 Q Did you know them at the time?

22 A I did not know them personally, but I knew
23 they were the people that lived in that trailer. But I did
24 not know their names at this point.

25 Q Oh, so you didn't know their names. You never

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 talked to them or anything?

2 A No, sir.

3 Q So, you just seen them in and out of the
4 trailer, I guess?

5 A Yes.

6 Q All right. So you put a circle there. Was
7 there -- you said they were there. Was there anything else
8 there?

9 A The truck was facing that way. The truck
10 that's in this picture, this truck right here, was facing
11 towards the intersection.

12 Q Was it in the road, or was it off the road
13 closer to the tree back there?

14 A More closer to the road. Not in the middle of
15 the road, but on the side of the road.

16 Q Okay. So, maybe a couple of tires on, off,
17 whatever?

18 A Correct.

19 Q All right. So, you said that you saw Mr. and
20 Ms. Tindall, who you would later learn their identity?

21 A Correct.

22 Q At that time, just a man and a woman?

23 A Yes.

24 Q What was going on?

25 A They were having a heated argument.

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 Q All right. What was being said?

2 A I could not hear exact words.

3 Q What makes you think it was heated then?

4 A Because I could hear raised voices. You could
5 hear -- I could hear their voices, but I didn't know exactly
6 what was being said, because there were other people, there
7 was commotion going on. From the back of the house, where
8 the party was, there was more commotion going on, so I could
9 not hear exactly what was going on. Plus, I was a little
10 behind. There were people out in front of me.

11 Q Would you say or -- if you don't know, that's
12 fine -- would you say that one of the individuals was more
13 aggressive, louder than the other? Or were they both about
14 equal?

15 A One was more aggressive.

16 Q Who was more aggressive?

17 A The gentleman.

18 Q All right. And where are you now?

19 A Out here towards the tree line.

20 Q And who are you with again?

21 A I don't remember the gentleman's name, but I
22 know he was one of the people at the party.

23 Q Okay. So, Mr. and Mrs. Tindall are having
24 this heated argument. You're there; what happened next?

25 A My dad was out in front. He went and was

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 trying to calm this down. Saying, you know, Hey, let's calm
2 this down. This is getting out of control.

3 And then the next thing I see is Mr. Tindall
4 take a swing, and my dad going down.

5 Q All right. When -- we'll just use this one,
6 but I want to clear those and zoom in just a little bit.

7 Now, can you put an X where the vehicle was?

8 A It was roughly about right here.

9 Q When your dad began to approach the man and
10 the woman?

11 A Uh-huh. (Indicating affirmatively.)

12 Q Was the man inside the truck or outside the
13 truck?

14 A Outside the truck.

15 Q When you first started hearing the argument
16 between the man and the woman, was the man inside the truck
17 or outside the truck?

18 A They were outside next to -- right by the
19 driver's side, but they were out. None of them were in the
20 truck, but they were next to it.

21 Q Okay. Both he and the woman?

22 A Correct.

23 Q So, if the car -- the car would be facing away
24 from you now, right?

25 A Correct. The back-end is facing -- the

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 tailgate of the truck is facing me.

2 Q Okay. How close is the man from the woman?

3 A It's close. I don't know exactly how close,
4 but it wasn't like directly in their face, but they were
5 close.

6 Q Prior to your dad walking over, were -- based
7 on your observations, did it seem as though the argument was
8 de-escalating or escalating?

9 A Escalating.

10 Q So, when your dad walked over, you said he was
11 trying to calm down the situation.

12 A Correct.

13 Q When he walked over, did he approach them also
14 on the driver's side or did they -- what happened?

15 A He came around. So, it was like he come -- he
16 came almost a little bit around the street, to not startle
17 everybody. It was kind of like, Hey, let's just say
18 everybody, let's calm down.

19 Q You're doing that with your hands, that
20 gesture.

21 A Yes.

22 Q Did your dad do that, or is that what you're
23 doing now?

24 A Yeah. That -- that's, you know, the tone was
25 everybody calm down, this got out of control. Everybody

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 needs to calm down.

2 Q All right. Did your dad run towards him?

3 A No.

4 Q The pace at which he was walking, was it
5 relatively slow? Hurry? How would you describe it?

6 A It was quick. It was like a little bit of a
7 fast walk. I mean, he wasn't running towards -- he wasn't
8 running at them, but it was -- you know, he was trying to
9 catch up to them. Like, hey, you know, guys, this is
10 getting crazy.

11 Q Okay. Now, you say that the Defendant struck
12 your dad?

13 A Correct.

14 Q Did he say anything prior to striking him?

15 A I did not hear. I couldn't hear. Like at
16 this point, I couldn't hear what was being said between
17 them. I'm farther out, so I can't hear that well.

18 Q Okay. Now, could you see what he struck him
19 with?

20 A No. Not clearly.

21 Q When he hit your dad, what happened to him?

22 A Dad fell. I mean, he just went down.

23 Q When your dad started to approach him, did
24 he -- did the Defendant, or the man, approach your dad, or
25 did he wait for your dad to completely get to him?

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 A He waited for my dad to come up to him. He
2 didn't go and approach my dad.

3 Q And when your dad approached, did he have a
4 weapon?

5 A No. My dad did not have a weapon.

6 Q Did you see what he was doing with his hands
7 or no?

8 A Like I said, just hands up. Kind of just
9 like, hey, whoa, you know, almost like a stop.

10 Q And I know you kind of said this, but I want
11 to ask you a couple of questions. Okay? And if you didn't
12 hear it, I understand, but I still want to ask.

13 Did the Defendant say or did you hear him
14 say, Get away from my wife, talking to your dad?

15 A No.

16 Q Did the Defendant push your dad?

17 A I did not see a push.

18 Q Did your dad fall to the ground prior to being
19 hit?

20 A No.

21 Q Did your dad fall to the ground and get back
22 up?

23 A No.

24 Q Did your dad bear hug the woman?

25 A No.

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 Q Did your dad bear hug the woman, then try to
2 pull her away?

3 A No.

4 Q Did he touch the woman at all?

5 A Not that I saw.

6 Q All right. Now that your dad is on the
7 ground, what happens next?

8 A Two other people from the party that were
9 coming around ran up to get my dad away. Because they saw
10 he was on the ground, and they needed to move him away.

11 Q Where was he on the ground in relation to the
12 truck?

13 A He was close to it. Like close enough to the
14 point where he could have been run over. If the truck had
15 gone forward, he could have been hit.

16 Q And you said they grabbed ahold of him. Did
17 they drag him or --

18 A Correct. They dragged him away.

19 Q Where did y'all go then?

20 A We went back under the awning at Bob's house,
21 which was in one of the pictures that was in here.

22 Q Now, when they dragged him from out from
23 underneath the car, did your dad get up and go back to the
24 awning?

25 A Not of his own accord. He needed a lot of

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 help.

2 Q Okay. Did it seem like the blow knocked him
3 unconscious, or was it hard for you to say?

4 A I don't know about unconscious, but it
5 definitely -- you know, unbalanced.

6 Q Okay. Could you see if your dad had been
7 injured?

8 A When he got closer, yes.

9 Q And what did you see?

10 A Blood.

11 Q Coming from where?

12 A I just saw it up top, and it was all over his
13 T-shirt coming down.

14 Q All right. So EMS comes, arrives; is that
15 correct?

16 A Correct. Officers and the ambulance.

17 Q And your dad was sent to the hospital; is that
18 correct?

19 A Correct.

20 Q And then y'all came back later on that night
21 after he was discharged?

22 A Correct.

23 Q So, do you remember about what time you got
24 back home after leaving the hospital?

25 A It was late at night. I mean, it was probably

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 around one, two in the morning.

2 Q Did you end up getting a visit at your trailer
3 from the same woman later that night?

4 A The woman being -- the same woman from this?

5 Q Yes.

6 A Yes.

7 Q All right. Tell the jury what happened.

8 A She had come over with another gentleman who
9 I'd seen, whose name was John. I didn't know last name,
10 anything like that. And all I could hear them say, you
11 know, they were talking to us and all they said was, Thank
12 you, thank you. That's when she introduced herself as, you
13 know, this gentleman's wife.

14 Q Thanking your dad?

15 A Correct. Thank you for helping. You know,
16 I'm Mrs. Tindall, this is my brother -- or brother-in-law,
17 John.

18 MR. LOIGNON: Objection. Hearsay.

19 THE COURT: I'm going to sustain that objection.
20 Can't quote what they said.

21 THE WITNESS: Yes, Your Honor.

22 BY MR. OSBORNE:

23 Q Were the lights on the truck on when your dad
24 was on the ground?

25 A I saw the cabin lights, the interior lights,

DIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 meaning the door was open.

2 Q All right. So -- and I didn't really -- the
3 way I put -- the way I asked this to you might have been a
4 little bit confusing. How fast did all this happened?

5 A It was pretty quick. It was definitely not
6 something that dragged out. I mean, it was probably like
7 within a couple minutes that this whole thing occurred, I
8 mean, from the point when I walked out to the point they
9 were bringing him back. I mean, it was probably about five
10 minutes.

11 Q How fast did it take from your dad to walk
12 over with his hands up before he was on the ground?

13 A Maybe a minute or two.

14 MR. OSBORNE: No further questions.

15 THE COURT: You may cross-examine.

16 CROSS EXAMINATION

17 BY MR. LOIGNON:

18 Q You care about your father?

19 A What's that, sir?

20 Q You care about your father?

21 A Very much so.

22 Q You care about his well-being.

23 A As any son would to his father, of course.

24 Q You don't want to see anything bad happen to
25 him?

CROSS EXAMINATION OF C.J. HILDING BY LOIGNON

1 A I don't want to see anything bad happen to
2 anybody, to be perfectly honest.

3 Q You love your father?

4 A Yes, sir.

5 Q If he asked you to help him out, would you
6 help him out?

7 A Yes, sir.

8 Q You gave a statement to police the night of
9 the incident.

10 A Yes, sir.

11 Q written statement.

12 A Correct.

13 Q Shortly after this occurred.

14 A Yes.

15 Q Everything was fresh in your mind.

16 A Correct.

17 Q Hadn't been drinking.

18 A No, sir.

19 Q You gave that statement to one of the
20 deputies.

21 A Correct.

22 Q And they gave you instructions on how to fill
23 out the form.

24 A Yes, sir.

25 Q And told you the statement should be accurate.

CROSS EXAMINATION OF C.J. HILDING BY LOIGNON

1 A As accurate as possible.

2 Q It should be your complete statement.

3 A Yes, sir.

4 Q Put everything in it.

5 A Yep. As much as I can recall, and everything
6 that was factual.

7 Q Everything that you saw, put it in the
8 statement, right?

9 A Yes, sir.

10 Q Everything you know about what happened, put
11 it in the statement, right?

12 A Yes, sir.

13 Q Did you have a chance to review your statement
14 before you came in?

15 A It's been a long time. Just because of the
16 length of this, you know, the duration of this. But, yes, I
17 have.

18 Q Well, I'm going to ask you some questions
19 about it. And if you need to refresh your memory, I got it
20 right here. Okay?

21 A Yes, sir.

22 Q Your statement says that you and your family
23 were having a good time at the party.

24 A Yes, sir.

25 Q And then there was a disturbance..

CROSS EXAMINATION OF C.J. HILDING BY LOIGNON

1 A Yes.

2 Q And you write, My father and I ran to the
3 other side.

4 A Correct.

5 Q So you left the party that was at the
6 Escoffiers' house?

7 A Yes, sir.

8 Q And you left with your dad?

9 A Uh-huh. (Indicating affirmatively.)

10 Q And ran over to this disturbance.

11 A Yes.

12 Q And you were right there with your dad.

13 A He was a little in front of me, but we left
14 roughly at the same time.

15 Q You were close by, you could see your dad,
16 right?

17 A Uh-huh. (Indicating affirmatively.) I could
18 see him, yes.

19 Q And your dad didn't appreciate what was going
20 on there. He didn't like that there was an argument going
21 on.

22 A He just didn't like it for the fact that he
23 just wanted everything to be calm and mellow. He didn't --
24 you know, he didn't appreciate the fact that the disturbance
25 occurred.

CROSS EXAMINATION OF C.J. HILDING BY LOIGNON

1 Q Safe to say he was not happy that Mr. Tindall
2 was yelling at his wife?

3 A Yes.

4 Q Now, you said you were aware of an altercation
5 that happened before that, too, close by the party?

6 A I was aware of something that went on. It
7 wasn't until after the incident occurred that I learned what
8 happened.

9 Q It was your impression that the men that were
10 leaving the party were going to a separate altercation,
11 right?

12 A Yes.

13 Q Did your dad say anything to you before you
14 got over there?

15 A No, he didn't say anything directly to me.
16 All I saw was the people's emotions and reactions change to
17 having a good time, mellow, to all of a sudden very serious
18 and concerned.

19 Q But your dad was kind of encouraging the other
20 guys to come with him, right?

21 A Wasn't exactly encouraging, no. The other
22 gentlemen did it, you know, of their own accord. My dad
23 went to try and keep everything calm. He was not looking
24 to, you know, start anything, he was looking to actually end
25 it before it escalated any further.

CROSS EXAMINATION OF C.J. HILDING BY LOIGNON

1 Q But it was your understanding that they were
2 going over there to deal with this situation?

3 A Yes, sir.

4 Q You and your dad weren't going home, right?

5 A No.

6 Q Now, your statement goes on to say that when
7 you and your father got to the other side, meaning around
8 the corner, through that cut, right?

9 A Yes, sir.

10 Q You saw a Chevy Silverado with brake lights.

11 A Yes.

12 Q Now, you also say a man and a woman were
13 arguing.

14 A Yes.

15 Q And then you write: My father intervened for
16 the woman's safety. Right?

17 A Yes.

18 Q So your dad went over to them and got in the
19 middle of it, right?

20 A Correct.

21 Q And then you say in your statement, The man
22 assaulted my father.

23 A Yes, sir.

24 Q You actually say that, He assaulted my father
25 with a weapon.

CROSS EXAMINATION OF C.J. HILDING BY LOIGNON

1 A Yes.

2 Q But you didn't see what kind of weapon it was.

3 A No, sir.

4 Q Have no idea.

5 A No.

6 Q And your statement is actually a one-page

7 paper, right?

8 A Yes.

9 Q It doesn't take up even half the page, does

10 it?

11 A No, sir.

12 Q There's a line through the bottom half of it,

13 isn't there?

14 A I believe so.

15 Q And that's because you didn't have anything

16 else to say about the event, right?

17 A Correct.

18 Q Your statement is actually three sentences

19 long.

20 A Yes, sir.

21 MR. LOIGNON: Court's indulgence?

22 THE COURT: Yes, sir.

23 (Pause.)

24 MR. LOIGNON: Nothing further.

25 THE COURT: Redirect.

CROSS EXAMINATION OF C.J. HILDING BY LOIGNON

1 MR. OSBORNE: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. OSBORNE:

4 Q Mr. Hilding, do you have any law enforcement
5 experience?

6 A No, sir.

7 Q Do you have any idea what was important or
8 wasn't important to put in the statement?

9 A I'm sorry?

10 Q Do you have any training or experience as to
11 what -- how much detail should be put in a written
12 statement?

13 A No, sir. That was my first time ever actually
14 writing a statement.

15 Q First time. So, you've never given a criminal
16 statement before?

17 A No, sir.

18 Q You just did the best you could?

19 A Yes, sir.

20 Q Did you say anything in that statement that
21 was different than what you testified to?

22 A Not that I believe, sir.

23 Q Now, Mr. Loignon asked you would you do
24 anything to help your father. I mean, did your father ask
25 you to come in here and say anything other than the truth?

REDIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 A No, sir.

2 Q Mr. Loignon asked you when your father was
3 walking down the path, you saw him walking with a couple
4 other individuals.

5 A He went up to the couple alone, but there were
6 people around, including myself.

7 Q Were you privy to any conversation between
8 your dad and anyone else concerning why they were walking
9 down the path, or where they were headed to?

10 A No, sir.

11 Q So, you just saw your dad walking and you
12 followed?

13 A Yes, sir.

14 Q All right. Mr. Loignon asked, Your dad didn't
15 appreciate the disturbance.

16 Did you appreciate the disturbance?

17 A No.

18 Q Did you talk to anyone else at the party who
19 appreciated the disturbance?

20 A Nobody that appreciated it.

21 Q And Mr. Loignon asked, Your dad wasn't happy
22 that the man was arguing with his wife.

23 Were you happy with the man arguing with his
24 wife?

25 A No, sir.

REDIRECT EXAMINATION OF C.J. HILDING BY OSBORNE

1 Q Did you talk to anyone else who was happy
2 about the man arguing with his wife?

3 A No, sir.

4 MR. OSBORNE: No further questions.

5 THE COURT: Recross?

6 MR. LOIGNON: Nothing, Your Honor.

7 THE COURT: You may step down. Thank you very
8 much.

9 Do you wish to excuse the witness?

10 MR. OSBORNE: Yes, Your Honor.

11 THE COURT: Any objections to his being excused?

12 MR. LOIGNON: No, Your Honor.

13 THE COURT: You're free to leave the courthouse,
14 sir.

15 THE WITNESS: Thank you, sir.

16 THE COURT: Thank you.

17 The State may call its next witness.

18 MS. GINSBURG: Thank Your Honor. The State calls
19 Richard Hilding.

20 Thereupon,

21 RICHARD HILDING

22 was called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 THE COURT: Sir, once you're seated, state your
25 name on the record.

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 THE WITNESS: Richard Hilding.

2 THE COURT: Thank you.

3 Counselor, your witness.

4 MS. GINSBURG: Thank Your Honor.

5 THE COURT: Yes, ma'am.

6 DIRECT EXAMINATION

7 BY MS. GINSBURG:

8 Q Hey, Rick.

9 A Hey.

10 Q How old are you, Rick?

11 A Fifty-six.

12 Q Fifty-six. And what do you do for a living?

13 A Right now, I am part owner of a service repair
14 shop.

15 Q Okay. And how long have you been in the
16 automotive business?

17 A Thirty-seven years.

18 Q Wow. And were you always in the automotive
19 business?

20 A Since I was about 22, yes.

21 Q Okay. Are you from here, Rick?

22 A No.

23 Q Where are you actually from?

24 A Born Long Island, New York.

25 Q And so when did you make it down to

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 Charleston?

2 A '03.

3 Q Okay. And in what area do you currently live
4 in now? You don't have to give me the address, but where?

5 A Ladson, Summerville.

6 Q And what area or road did you live in prior to
7 living in Ladson?

8 A John's Island.

9 Q Did you live on Fickling Hill Road?

10 A For a while, yes.

11 Q What was that address?

12 A Fickling Hill Road.

13 Q Okay. On July 4th, 2014, were you invited to
14 a July 4th family party with your neighbors?

15 A Yes.

16 Q And who invited you there?

17 A Bob.

18 Q Bob Escoffier?

19 A Yes, yes.

20 Q How well did you know Bob?

21 A Did not.

22 Q Can you tell us how you were invited that day?

23 A Yeah. It was 4th of July, it was late
24 afternoon. Myself and my son started shooting off a couple
25 of fireworks. He heard it, walked over, introduced himself,

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 and then said he was kind of like the go-between between
2 management and the whole area, and that he always has these
3 great 4th of July parties, would myself and my family like
4 to come join.

5 Q Can you describe to the jury, when you first
6 got to Escoffiers' residence, how that 4th of July party was
7 going?

8 A Great. I mean, kids were playing. They had a
9 big table set up over here where everybody was bringing
10 fireworks and laying them down. And Bob was running around,
11 We're going to have the best spareribs ever cooked in the
12 world, in South Carolina. It was just fun. Everybody was
13 just chilling out, shooting pool, and relaxing.

14 Q Was there something that happened at the party
15 that then changed the mood?

16 A Yes.

17 Q Can you describe to the jury while you were at
18 the party what you heard?

19 A Okay. Honestly, word for word, no. We were
20 all in the back, like they just said. We were all by the
21 awning.

22 Q Okay. Let me get some pictures up so you
23 can -- this might be able to help you.

24 I'm going to show you what's been marked as
25 State's 6.

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 Will this help you, Rick? Is that where you
2 were at, the awning -- oh, I'm sorry.

3 A Yes.

4 Q And so you were back here at the awning, and
5 I'm just going to take a zoomed-out picture here.

6 In State's 1, can you tell us what was
7 happening while you were at the awning?

8 A Yeah. Well, we were back here. We were all
9 back by the pool table. That's where the fireworks, because
10 there's a clearing over here. So, we were over here. Can't
11 really tell you what happened. All's I know is right in
12 this whole area, a huge commotion went on. I could hear
13 screaming, yelling. Could I tell you actually what they
14 said, no. It just sounded like a ra, ra, ra, ra, ra, and
15 there was a couple of F you's and B.S. and this. And next
16 thing we knew, everything got crazy.

17 Q So after you hear this commotion, you just
18 hear yelling, you're not there, what do you do next?

19 A I actually started asking people back here,
20 what's going on?

21 Q Okay. Back at the awning?

22 A I was still at the awning. We stayed at the
23 back.

24 Q Okay. So I'll give you back the State's 6.
25 Maybe that will help it.

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 You were just hanging out here at the awning,
2 talking to people about what's happening, and then what did
3 you do after that?

4 A The next thing is, I start hearing a bunch of,
5 back here, by the back deck, people screaming, Get the kids
6 out of the pool. Get the kids out of the pool. Get them
7 into the house.

8 Q Okay. And then what do you do after hearing
9 all these things?

10 A Started talking to the people over here about
11 what's going on. Then we heard, through other people coming
12 this way, that Bob just got knocked --

13 MR. LOIGNON: Objection, hearsay.

14 THE WITNESS: Well, they told it to me personally.

15 THE COURT: Sir. Sir, just one second. Let me
16 explain.

17 I'm sure that she'll ask you specifically about
18 someone's statement that you can quote, but generally
19 you're not allowed to state what people said. You
20 understand what I'm saying?

21 THE WITNESS: Okay. Yes, sir.

22 THE COURT: That's a hearsay rule, we call it.

23 THE WITNESS: Okay. Yes, sir.

24 THE COURT: Okay. Thank you. You may proceed.

25 BY MS. GINSBURG:

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 Q Did you learn how that -- what occurred on the
2 blacktop?

3 A Correct.

4 Q Okay. And after you learned what happened,
5 then what did you do next?

6 A Actually, we started going down the easement.

7 Q Okay. And why were you going down the
8 easement?

9 A There was two reasons. One, we had heard that
10 there was a big commotion going on in the street that
11 separates pretty much the front of my side of my house and
12 my front and the house next to me. So, I wanted to see what
13 was going on there.

14 Then, two, I do have a dog that's over there
15 that is petrified of the 4th of July, and I got nervous
16 about what's going on in the street next to my house and my
17 dog's there.

18 Q Okay. So, I'm going to show you what's been
19 marked as State's 8. So, you're talking about this
20 easement.

21 Is this the easement that you're talking
22 about right here?

23 A Yes, ma'am.

24 Q And can you, in this picture, draw a circle
25 around where your house is.

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 A (Witness complies.)

2 Q Okay. So, you start walking through the
3 easement because you know that there is -- you've heard
4 there's a disturbance, and your dog's also terrified of the
5 fireworks. So you're going to check on your dog.

6 A Correct.

7 Q So, while you're walking over, what do you
8 notice?

9 A I was walking over, so I -- you have to make a
10 little bit of a little turn to go to the house. There was a
11 big commotion going on in front of my neighbor's house. Or,
12 I should say, in the street, in between my house and my
13 neighbor's.

14 Q Okay. Mr. Hilding, I want to show you State's
15 9. This might help.

16 So, you're talking about then you have to
17 take a little turn. Is this the little turn that you're
18 talking about?

19 A Yeah. Because you got to come out here, and
20 my front door is up here.

21 Q Okay. So, you're walking --

22 A So, you take a little turn that way, and
23 that's where I was headed.

24 Q And so you're heading to your house to check
25 on your dog, and then you see what?

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 A Well, this truck was turned sideways that way,
2 running, and there was a man and woman having an argument.
3 Not going to say in the middle of the street, but in the
4 street, on the side of the street.

5 Q All right. Mr. Rick, let me try to find a
6 better picture for you. This is State's 12. It's been
7 marked and admitted.

8 Does this help a little bit, help you explain
9 what was happening? So, you said the truck was where?

10 A The truck was faced -- it was right about
11 here, facing that way, facing Fickling Hill Road.

12 Q And what do you see when you see that truck
13 facing Fickling Hill? So, like it's exiting, is that right?

14 A Correct.

15 Q And what do you see?

16 A There was this argument going on between a man
17 and a woman.

18 Q And you didn't know who that man and woman
19 was.

20 A (Shakes head in the negative.)

21 Q Do you now know who was in that residence?

22 THE COURT: Sir, you have to answer verbally.

23 THE WITNESS: I'm sorry. No, I did not. I
24 apologize. I just picked that up. I apologize.

25 THE COURT: That's okay. Just wanted to remind

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 you.

2 THE WITNESS: No, I did not know; yes, now, I do
3 know.

4 BY MS. GINSBURG:

5 Q So, you don't know Ashley Tindall?

6 A No.

7 Q You didn't know Ashley Tindall prior to this
8 event?

9 A No, ma'am.

10 Q You had no idea who lived there at that
11 moment?

12 A Not his name, no, ma'am.

13 Q Actually, how -- did you know Sara Tindall,
14 the woman?

15 A We had never met personally, we just knew by
16 sight. I see -- I watched them come in all the time because
17 we're that close.

18 Q Okay. So, you didn't have a friendship with
19 them?

20 A No, ma'am.

21 Q You didn't hate them, did you?

22 A No, ma'am.

23 Q Okay. So, you see the car pulled up, you see
24 a man and a woman arguing. What do you do after that?

25 A I started towards my house, then I walked

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 towards the truck.

2 Q And you're walking towards the truck, what are
3 you seeing and hearing, the Defendant and his wife?

4 A Just fighting. You should leave. I thought I
5 heard something about, But we made you a plate. It was very
6 odd, it was happening very quick. And I just walked up and
7 I said, Whoa, dude, you got to calm down, they've already
8 called 911.

9 Q Can you show us by standing up how you walked
10 up to Mr. Tindall?

11 A Yes. Like this. I said, dude, you got to
12 calm down.

13 Q They already called 911?

14 A They've already dialed 911. The police are on
15 the way.

16 Q How did the Defendant appear to you? Happy?

17 A Aggravated.

18 Q Okay. So, you're telling the Defendant, Calm
19 down, they just called 911. What's the next thing that you
20 remember?

21 A It happened so quickly. The next thing I
22 remember was approaching the side of the car, and then
23 waking up in the backyard.

24 Q Okay. Did you -- did you touch the Defendant?

25 A No, ma'am. No. Sorry.

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 Q Did you grab his wife?

2 A No, ma'am.

3 Q Did you tell the Defendant, If you grab me
4 again, I'm going to f'ing kill you?

5 A No, ma'am.

6 Q Did you bear hug him?

7 A No, ma'am.

8 Q Did you bear hug his wife?

9 A No, ma'am.

10 Q Okay. Were you yelling at the Defendant?

11 A Just, Calm down! I wouldn't say screaming, I
12 said, Calm down, dude. That's how I talked. Hey, dude,
13 just calm down, they dialed 911.

14 Q So then the next thing that you remember -- or
15 you first remember raising something over your head?

16 A It happened very quick, yes. The hand went up
17 and that was it.

18 Q Did you see what he was holding in his hand?

19 A All's I saw was a huge flash of light.

20 Q What did you believe it was when you saw it?

21 A Something really hard, because it cut my melon
22 right open. I can't tell you what it was. It happened
23 (snaps fingers) like that.

24 Q So, after you were hit over the head, the next
25 thing you remember is being underneath the awning?

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 A Correct.

2 Q How did you get to the awning?

3 A The day of the incident, I could not tell you.

4 Q Okay. That's all we're talking about, the day
5 of the incident.

6 A Right. That's why I answered it.

7 Q I appreciate that.

8 While you're under the awning, what was
9 happening?

10 A People are panicking, they're running at me.
11 They're screaming, Get towels, he's bleeding like a pig.
12 Are you all right? You know. How do you feel? And I was
13 like, What's going on?

14 Q Okay. Back to when -- the assault that
15 occurred on the street. How many times did you fall?

16 A Once.

17 Q So, people are concerned about you in the
18 awning, 911 and EMTs arrive?

19 A Yes.

20 Q Did you speak to the police or 911 about what
21 happened?

22 A Yes.

23 Q Were you drunk when this happened?

24 A No.

25 Q Mr. Hilding, did you drink?

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 A I had a couple beers, yes.

2 Q Were you -- on a scale of one -- or zero,
3 actually, not drinking, to ten being black out drunk, where
4 would you put yourself?

5 A Two and a half, three.

6 Q How long were you at the Escoffiers' party?

7 A About maybe two hours. Maybe.

8 Q Okay. So EMT arrives, and then you were taken
9 to the hospital?

10 A Correct.

11 Q Which hospital were you taken to?

12 A Roper.

13 Q And can describe to the jury how you were
14 feeling at that time?

15 A Extremely angry..

16 Q Angry. Okay. What was your pain level; do
17 you remember?

18 A Extremely high.

19 Q Were you conscious or ...

20 A I was conscious.

21 Q Okay. Do you recall the doctors, did they
22 treat you?

23 A Yes.

24 Q Can you tell the jury about that experience.

25 A Well, the ambulance pulled in, they started

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 screaming, We have a bleeder. They shot me right into one
2 of the rooms, got the towels off my head. Started jamming
3 gauze at my head. The nurse walked up with the doctor.
4 They took a look at me and said, Okay, we're going to have
5 to do something very fast on this.

6 And the next thing they asked me, could I
7 please put my head down. I did, and they took a staple gun
8 and put eight staples in my head.

9 Q Were you under anesthesia?

10 A No.

11 Q Okay.

12 A They had to stop the bleeding was the reason
13 they told me they didn't give me anything.

14 Q Okay.

15 MS. GINSBURG: Your Honor, may I approach?

16 THE COURT: You may.

17 BY MS. GINSBURG:

18 Q I'm showing you just for ID purposes only,

19 State's Exhibit 13. Do you recognize this?

20 A Yes, that's my head.

21 Q Okay. You recognize it as your head. When?

22 What was this --

23 A This happens when we got home from the
24 hospital, give or take one or two in the morning. So, I
25 guess, the early July 5th, and my wife snapped this with her

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 phone.

2 MR. LOIGNON: Objection.

3 MS. GINSBURG: Oh, you can't show it.

4 THE WITNESS: Oh, I didn't know.

5 THE COURT: Just one second, sir.

6 The objection?

7 MR. LOIGNON: It's to the photo being published to
8 the jury before it's been entered into evidence.

9 THE WITNESS: I didn't know.

10 MS. GINSBURG: Oh, it's okay. You didn't
11 understand.

12 THE COURT: Yes, ma'am. Do you intend to
13 introduce the photo?

14 MS. GINSBURG: Yes, Your Honor, I do.

15 THE COURT: Have you seen it?

16 MR. LOIGNON: I have, Your Honor.

17 THE COURT: Is there an objection?

18 MR. LOIGNON: There is.

19 THE COURT: Okay. I'll hear it from you.

20 MR. LOIGNON: The objection is basically to the
21 angle that -- and the proximity that the photo was
22 taken. I think it mischaracterizes the extent of the
23 injury and does not give full perspective to the size.

24 THE COURT: Can I see the photo?

25 MS. GINSBURG: Yes, Your Honor. May I approach?

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 THE COURT: Yes.

2 MS. GINSBURG: It's just like an overhead shot of
3 his head.

4 THE COURT: This is after it was cleaned up.

5 MS. GINSBURG: Yes, it was, Judge.

6 (Discussion off the record.)

7 THE COURT: Okay. I understand the objection.

8 I forget, has he said that that fairly represents
9 what happened to his head yet?

10 MS. GINSBURG: Yes, Judge. But I can ask it
11 separately.

12 THE COURT: Why don't you ask that question
13 directly?

14 BY MS. GINSBURG:

15 Q Mr. Hilding, does this fairly and accurately
16 depict your head that -- I believe it was that morning, that
17 evening of July 4th, July 5th, 2015?

18 A Yes.

19 THE COURT: The objection is overruled. Is it
20 marked already?

21 MS. GINSBURG: Yes, it is, Judge. It's State's
22 13.

23 THE COURT: All right. It will be admitted as
24 it's been marked. You may proceed.

25 MS. GINSBURG: May I publish it for the jury?

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 THE COURT: You certainly may.

2 *(Whereupon, State's Exhibit No(s). 13 marked for*
3 *identification and received in evidence.)*

4 (Photo published to jury.)

5 BY MS. GINSBURG:

6 Q Mr. Hilding, can you tell us what we're
7 looking at right here?

8 A It is my face, down like this (indicating),
9 and right along where my -- the part is, if you're looking
10 straight up, that's where I got hit.

11 Q And what are these? Are those the staples you
12 had?

13 A Staples.

14 Q Were you prescribed anything after this?

15 A Yeah, a couple of basically high-powered
16 aspirins, ibuprofen or something.

17 Q Okay. And how long did you stay in the
18 hospital?

19 A They released me again one, 1:30 that morning,
20 being now the 5th of July.

21 Q On the 5th of July.

22 And did you ever have to go to the hospital
23 again for this?

24 A Yes. I ended up in the hospital the very next
25 afternoon.

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 Q And why did you go to the hospital then?

2 A Just because of the loss of blood I suffered
3 from the night before, I passed out about 3:00 o'clock, 4:00
4 o'clock in my house. And my son had to drive me back to the
5 emergency room for lack of blood.

6 Q And so what did they do to you then at the
7 hospital?

8 A They had to do the whole battery of series
9 again, another CAT scan, another head scan, another x-ray,
10 and then they ended up putting me on IVs for about two, two
11 and a half hours.

12 Q When did you start feeling back to normal
13 after all this, Mr. Hilding?

14 A Three, four, five days, maybe.

15 Q I don't want to get into the specifics of what
16 was said, but did you see Ms. Sara Tindall again?

17 A That night, when I got home from the hospital.

18 Q And how was that encounter, was it a -- what
19 happened then?

20 A I came home from the hospital. We do not
21 smoke cigarettes in the house, so when we got home from the
22 hospital, myself and my wife sat on our front porch, was
23 having a cigarette. Sara Tindall's brother came over and
24 approached me.

25 Q Okay. And without saying anything that Sara

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 or Mr. Sager said, what did they do while they were at your
2 house?

3 A Sat down and had a cigarette. He thanked me.
4 He said, If it wasn't for you --

5 MR. LOIGNON: Objection.

6 THE COURT: Again, you can't quote what he said.
7 You can state what he did.

8 BY MS. GINSBURG:

9 Q Yeah. You can -- don't --

10 A What he did?

11 Q Right.

12 A He sat next to me and had a cigarette.

13 Q All right. And what did Ms. Tindall do?

14 A She wasn't there with us.

15 Q Okay. And when did she come to your house?

16 A He left, went across the street, got her, and
17 they both came back.

18 Q And without saying what Ms. Tindall said, what
19 did she do?

20 A She hugged me and kissed me on the cheek and
21 said, Thank you -- oop, can't say that. Sorry.

22 Q That's okay. This is in your -- this is your
23 first time in this position.

24 A Correct.

25 MS. GINSBURG: No further questions for this

DIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 witness.

2 THE COURT: You may cross-examine.

3 CROSS EXAMINATION

4 BY MR. LOIGNON:

5 Q Mr. Hilding, you mentioned that you went to
6 the party with your family, right?

7 A Yes.

8 Q Your wife was there?

9 A Yes.

10 Q Your son Chris?

11 A Yes.

12 Q You were meeting neighbors.

13 A Yes.

14 Q Celebrating the 4th of July.

15 A Correct.

16 Q You mentioned that people were drinking.

17 A Yes.

18 Q Alcohol.

19 A Yes.

20 Q And you were drinking alcohol.

21 A Yes.

22 Q You said that you had a couple beers, I think
23 you said?

24 A Correct.

25 Q You gave -- you spoke to the EMTs later that

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 evening, correct?

2 A Correct.

3 Q And you gave them some statements while they
4 were treating you, didn't you?

5 A Correct.

6 Q You told them you had --

7 MS. GINSBURG: Objection, hearsay.

8 THE COURT: Do you want to finish the question or
9 rephrase it?

10 MR. LOIGNON: I'll rephrase it.

11 THE COURT: Okay.

12 BY MR. LOIGNON:

13 Q You had more than a couple beers, didn't you?

14 A No, sir.

15 Q You had at least a six-pack that night?

16 A No, sir.

17 Q But you and your family were having a good
18 time at the party.

19 A Yes, sir.

20 Q Having a few beers. Then there's this
21 disturbance on the blacktop.

22 A Correct.

23 Q And you become aware that it's an incident
24 involving Bob Escoffier.

25 A Correct.

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 Q And at that point, you decided that you wanted
2 to do something about it.

3 A No.

4 Q You wanted to go over there and stop this,
5 whatever it was.

6 A No.

7 Q Over on the blacktop.

8 A No.

9 Q You talked to some of the guys about what
10 happened.

11 A Overheard, yes.

12 Q And then you encouraged everyone to go over to
13 Still Life Drive, didn't you?

14 A No, sir.

15 Q You actually said, What are we, mice or men?

16 A I don't remember saying that, sir.

17 Q Your son Chris went over there with you when
18 you went out to Still Life Drive.

19 A He was behind me.

20 Q Your wife wasn't there, was she?

21 A She was trying to deal with, I believe,
22 getting kids into the house.

23 Q But you were going home without your wife.

24 A It was 100 feet away.

25 Q And there's a disturbance going on, and you're

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 going to leave your wife.

2 A Yeah. She was in the home.

3 Q When you get up to Still Life Drive, you said
4 you saw a man and woman arguing.

5 A Correct.

6 Q It's dark outside, right?

7 A Correct.

8 Q And there's not any lights on that road at
9 all.

10 A No, sir.

11 Q There's a Chevy Silverado there, and the brake
12 lights were on?

13 A I never said that.

14 Q There was a truck there.

15 A Correct.

16 Q And Mr. Tindall was in the driver's seat of
17 the truck at first, right?

18 A I believe so, yes.

19 Q Sara Tindall, the woman, was outside the
20 truck, right?

21 A Correct.

22 Q And the argument was going on through the
23 window of the truck.

24 A Correct.

25 Q But you felt like you needed to get in the

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 middle of that.

2 A Not -- I walked up to the left side of the
3 truck.

4 Q Now, we just spoke about this, but you told
5 the EMS what happened while they were treating you, right?

6 A I told as much as I knew.

7 Q You just testified that you woke up in the
8 backyard, right?

9 A Correct.

10 Q Meaning you were unconscious.

11 A Correct.

12 Q So, when you spoke to EMS immediately after
13 the incident, you denied that you were unconscious.

14 A I might have said that, yes.

15 Q And in fact, you were up walking around, and
16 Teresa Escoffier had to tell you to sit down, didn't she?

17 A I remember verbatim, but, yeah. Could have
18 happened very well, yes.

19 Q Matter of fact, you were still drinking at
20 that time, weren't you?

21 A No, I wasn't. What had happened is when I was
22 in the chair, they were over sipping a beer and said, You
23 should sit right down here. No, I wasn't, sir.

24 THE COURT: You may approach the witness.

25 MR. LOIGNON: All right.

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 THE COURT: Thank you.

2 BY MR. LOIGNON:

3 Q Okay.

4 A Okay. So, I'm missing a question, sir.

5 Q I'm about to ask it.

6 Now, does that picture fairly and accurately
7 represent the scene that we were just talking about, where
8 you're seated immediately after this incident?

9 A Yes.

10 MR. LOIGNON: Your Honor, at this time the defense
11 would move to admit this photograph into evidence.

12 THE COURT: Any objections?

13 MS. GINSBURG: Your Honor, I make the objection
14 relevance.

15 THE COURT: I haven't seen it yet. Will you show
16 it to me?

17 MR. LOIGNON: Yes, sir. This is Defense Exhibit
18 3, Your Honor.

19 THE COURT: You're saying it's not relevant?

20 MS. GINSBURG: Your Honor, I don't believe it goes
21 to the material facts of any of this. Mr. Hilding
22 already explained that he was drinking, and that
23 someone else approached him with a beer and a cigarette
24 after the incident.

25 THE COURT: Well, I understand what he's testified

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 to, and that shows -- I can't see the face of that
2 individual, but I think he acknowledged that was
3 correctly showed to him at the time. So I'm going to
4 allow it in.

5 MS. GINSBURG: Okay. Thank Your Honor.

6 THE COURT: It's admitted. What number is it?

7 MR. LOIGNON: I apologize. This is Defense
8 Exhibit 3, and I think it would be --

9 THE COURT: So it will be admitted as marked, and
10 you may publish it if you'd like.

11 *(Whereupon, Defendant's Exhibit No(s). 3 marked*
12 *for identification and received in evidence.)*

13 MR. LOIGNON: Thank Your Honor.

14 (Photo admitted and published to jury.)

15 BY MR. LOIGNON:

16 Q And, Mr. Hilding, that's you seated on that
17 pool table?

18 A Yes. This one, yes.

19 Q And that's your wife here in front of you?

20 A Yes. And she was the one drinking the beer,
21 sir.

22 Q That is a beer, it's a --

23 A Yes, it is. I mean, as far as my -- yeah.

24 Yeah, it was 4th of July.

25 Q You also spoke to police after this incident?

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 A Yes.

2 Q You spoke to the doctor who proceeded to treat
3 you.

4 A Yes.

5 Q And you denied loss of consciousness to them
6 throughout the time.

7 A If I did, then I was mistaken. I had just
8 been hit in the head with an object, so I guess I misspoke.

9 Q You also were unable to describe what type of
10 object it was.

11 A Correct.

12 Q hidden object. Now, at the time, you thought
13 it could have been a gun, right?

14 A It could have been, yes.

15 Q But you don't know that for sure.

16 A I do not.

17 Q You didn't describe the type of weapon to
18 anyone, right?

19 A No, sir.

20 Q Because you didn't see it.

21 A I didn't see it.

22 MR. LOIGNON: Court's indulgence.

23 THE COURT: Yes, sir.

24 MR. LOIGNON: Nothing further, Your Honor.

25 THE COURT: Redirect.

CROSS EXAMINATION OF R. HILDING BY LOIGNON

1 MS. GINSBURG: Just briefly. Thank you, Your
2 Honor.

3 REDIRECT EXAMINATION

4 BY MS. GINSBURG:

5 Q Rick, whose hand is that leaving the beer?

6 A The hand in front of me?

7 Q Uh-huh. (Indicating affirmatively.) Whose
8 hand is that?

9 A My wife's.

10 Q That's your wife's hand. Okay.

11 And, Mr. Loignon was talking about how you
12 left your wife at the party. Let's just clarify.

13 Where was the original disturbance?

14 A Over on the blacktop.

15 Q At the Escoffiers' place.

16 A Correct. Only on that side.

17 Q But then you hear another disturbance -- where
18 was that again?

19 A It would be to the right side, towards the
20 street.

21 Q So, you left your wife at a place where the
22 disturbant left.

23 A Correct.

24 Q Okay. With several other people?

25 A Correct.

REDIRECT EXAMINATION OF R. HILDING BY GINSBURG

1 Q With you son, who was a little far behind you.

2 A Correct.

3 Q Let's get back to the Escoffier incident.

4 Did you see the argument between the
5 Defendant and his wife that Bob said?

6 A No.

7 Q So you didn't even know that the Defendant was
8 involved at that time, when you decided to go to your --

9 MR. LOIGNON: Objection, beyond the scope.

10 THE COURT: Has to be the scope of the
11 cross-examination.

12 MS. GINSBURG: Yes, Your Honor.

13 BY MS. GINSBURG:

14 Q Let's -- we'll move on from that.

15 So you walk through the cut-through; is that
16 what you said?

17 A Correct.

18 Q What was your intent? Why were you walking
19 through the cut-through?

20 A To go to my house.

21 Q It wasn't to attack Mr. Tindall?

22 A No.

23 Q To show him a lesson.

24 A I didn't even know who he was.

25 MS. GINSBURG: No further questions.

VOLUME 3

VOLUME 3

In The Court of General Sessions for the
State of South Carolina, County of Charleston

Case No.: 2016GS1005793+

State of South Carolina,

Plaintiff(s),

vs.

Ashley Price Tindall, III,

Defendant(s).

TRIAL TRANSCRIPT

March 22, 2017

Charleston, South Carolina

BEFORE:

The Honorable ROGER L. COUCH

VOLUME 3

1 THE COURT: Okay. The State ready to proceed?

2 MS. GINSBURG: Yes, Your Honor.

3 THE COURT: The Defense ready?

4 MR. LOIGNON: Yes, Your Honor.

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

6 THE BAILIFF: All jurors present. Your Honor.

7 THE COURT: The record will reflect that all
8 jurors returned to the courtroom. I hope that everyone
9 had a nice evening last night, and if anyone had any
10 difficulty in complying with my instructions please
11 stand.

12 (No response.)

13 THE COURT: It appears that all jurors have been
14 able to comply thus far. When we stopped yesterday the
15 State was getting ready to call a witness.

16 MR. OSBORNE: Thank you. Your Honor, the State
17 calls Dr. Jon Carter.

18 THE COURT: Sir, state your full name.

19 THE WITNESS: John Christopher Carter.

20 Thereupon,

21 JON CHRISTOPHER CARTER

22 was called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 THE COURT: Your witness, counselor.

25 MR. OSBORNE: Thank you, Your Honor.

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 DIRECT EXAMINATION

2 BY MR. OSBORNE:

3 Q Doctor, what is your occupation?

4 A Emergency physician.

5 Q Okay. Are you a duly licensed physician?

6 A I am.

7 Q In what state or states?

8 A This might take a minute. South Carolina,

9 Florida, North Carolina, Kentucky, Missouri, Texas.

10 Q All right. Where did you receive your education
11 and training?

12 A Medical school, University of Missouri, Kansas
13 City, six-year medical program entered from high school.
14 So, you combine BA in Biology and the MD. Graduated, 1994.

15 Q Are you a member of any specialized medical or
16 scientific groups or associations?

17 A I am a Fellow of the American College of Emergency
18 Physicians.

19 Q All right. And are you board certified?

20 A I am.

21 Q And what does that mean?

22 A That means, appropriate residency training,
23 appropriate working, and in testing.

24 Q And where do you work now?

25 A Currently, I am in a local tenens position where I

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 travel, but I'm still on staff at St. Francis.

2 Q Okay. And back in 2014, you were an ER doctor
3 then?

4 A I was.

5 Q And just tell the jury, as an ER doctor what are
6 some of your duties and responsibilities.

7 A You see people who come into the emergency
8 department, whatever their complaint is. And you see,
9 treat, evaluate and then people who need to be admitted or
10 if they need surgery, to surgery. And just take care of
11 most people and discharge them home.

12 Q All right. Your Honor, we seek to qualify Dr. Jon
13 Carter as an expert in the field of emergency general
14 medicine?

15 THE COURT: Any objection?

16 MS. RUNEY: No, objection.

17 THE COURT: Okay. Ladies and gentlemen, let me
18 digress for a moment and explain what we are doing at
19 this time. I have talked to you about the Rules of
20 Evidence and generally the Rules of Evidence require
21 that when witnesses testify they testify about facts
22 within their knowledge and witnesses testifying without
23 giving their opinions about things, so generally
24 witnesses, lay witnesses, are not allowed to state
25 their opinions during testimony.

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 There's an exception to that general rule, and
2 that is for any witness that is qualified by the Court
3 as an expert. And that is within some profession or
4 field or calling. For witnesses who are so qualified,
5 they are allowed to state their opinions within their
6 area of expertise. They are allowed to state the
7 reasons why they have those opinions once they have
8 been qualified.

9 So, we are qualifying this gentleman as an expert
10 in emergency room medicine. That means that he will be
11 allowed to state his opinions within that field of
12 expertise and the reasons why he holds those opinions.
13 Later on when I charge you on the law concerning the
14 case, I'll give you some additional information
15 concerning expert witnesses generally and how you, the
16 jury, have the right to view their testimony.

17 But suffice it to say, at this time without
18 objection, he is qualified as an expert in that field.

19 You may proceed.

20 BY MR. OSBORNE:

21 Q On July the 4th, 2014, were you working as an ER
22 doctor then?

23 A Yes.

24 Q At St. Francis?

25 A Yes.

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 Q Is that the one in West Ashley?

2 A Yes.

3 Q Okay. So, did you have the occasion to treat a
4 Richard Hilding that night?

5 A I did.

6 Q Can you tell the jury how you came into contact
7 with Mr. Hilding?

8 A He came in by ambulance about 10:20 that night.

9 Q And how -- you met with him?

10 A I did..

11 Q And when you met with him, how did he appear to
12 you?

13 A I believe that he walked in with the ambulance,
14 but he was walking and talking; he answered all of my
15 questions.

16 Q Okay.

17 A Sorry. He had a dressing on his head.

18 Q Okay. And could you -- with your initial
19 diagnosis, could you tell what injury he had received?

20 A He had a laceration on his head.

21 Q Okay. And so, when you noticed that laceration,
22 what did you first do?

23 A Well, the first thing that you do on everybody is
24 ABC. See if their airway is okay, if they are breathing, if
25 they are not having a hemorrhage or something like that.

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 That takes about ten seconds to do. Somebody who they walk
2 in and you say hello to and they say hello back, and then
3 you can say everything is okay from a life threatening
4 standpoint. And then you start kind of top to bottom, and
5 depending on where they direct you, figure out what their
6 injuries are.

7 Q An the injury here you said was a laceration to
8 the head?

9 A To the head, to the scalp, yes.

10 Q And how large was that laceration?

11 A Four centimeters.

12 Q Would that be consistent with Mr. Hilding being
13 hit with a blunt object across the head?

14 A Yes.

15 Q Where was it?

16 A It was on the top of the head.

17 Q Would it be consistent with a fall?

18 A You would have to fall on the top of your head. I
19 would think that the back of the head if you fall.

20 Q And when you say "the top," you literally mean the
21 crown?

22 A The top, yes.

23 Q Okay. Once you saw the laceration, what did you
24 do?

25 A The first thing, you make sure that it's not

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 bleeding and then if it is you put a dressing on it and
2 sometimes you sew them up right away. But I ordered a CAT
3 scan of his head to make sure that there's not an injury.

4 Q Okay. And is that normal? I mean, why would you
5 order a CAT scan?

6 A It is pretty normal. It was a big laceration and
7 he had been hit in the head, so.

8 Q And with that type of injury, what were your
9 concerns?

10 A So, kind of from the top you can see the
11 laceration and you can see if there is any foreign bodies or
12 anything in there, but then the skull underneath that, you
13 can see if the skull is fractured. And see if there's any
14 bleeding around that. You can see if there's any bleeding
15 below the skull but above the brain. And you can see if
16 there is any bleeding in the brain. So, bruising in the
17 brain. You can also get a little bit of a look at the neck.
18 If you get hit on the top of the head you can have force
19 onto the neck so you can have some neck injuries, so you get
20 a decent look at the top of the neck too.

21 Q What were the results of the CAT scan?

22 A It was normal.

23 Q That type of injury, could it lead to death and be
24 fatal?

25 A If one of those things that I was looking for,

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 sure.

2 Q But you did not?

3 A Did not, as far as I know..

4 Q All right. Once you got the CAT scan back, then

5 what did you do?

6 A Staple his head...

7 Q Okay. And that is literally stapling it together?

8 A Clean it up, wash it out and staple it.

9 Q And there was something about, he was given Norco.

10 What is that?

11 A It is a pain pill, just because his head hurt.

12 Q All right. And I assume that you put dressing and

13 everything on the head?

14 A Right.

15 Q Okay. What happened next?

16 A He went home.

17 Q All right. Did that end your involvement with

18 Mr. Hilding?

19 A No, I saw him the next night.

20 Q Let me go back and ask you something else, though,

21 about your meeting with him that night. You spoke to him?

22 A Yes.

23 Q Did you have a conversation with him?

24 A Yes.

25 Q Did you detect any order of alcohol on him?

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 A I think he did.

2 Q Did he appear -- I know that intoxication is a
3 loaded word -- was he able to talk to you and relay to you
4 what happened?

5 A Sure, he answered all of the questions and walked
6 and talked.

7 Q Walked and talked. Was he so intoxicated, or if
8 he were, that he was unable to talk to you and relate to you
9 in a normal fashion?

10 A No.

11 Q Okay. All right. So, sorry for getting off base..
12 All right. You said that you met with him again; why is
13 that?

14 A He came back in the next night, right about the
15 same time.

16 Q For what reason?

17 A Dizzy, nausea, and he had some bleeding from the
18 wound.

19 Q Okay. What were your concerns with those types of
20 complaints?

21 A Well, it is unusual. But you can have a delay
22 injury that you can see later on. You could also have
23 something that may have been minor, something that we missed
24 on the CAT scan before. The other possibilities, when you
25 have a scalp wound you can bleed a lot and so you could

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 potentially lose quite a bit of blood and that could make
2 you dizzy.

3 Q Do you recall, did he complain of dizziness on the
4 night of the injury?

5 A I don't think so, I think most was pain from the
6 sutures.

7 Q And how did you treat him with regard to the
8 second visit?

9 A Re-scanned his head just to make sure that there
10 wasn't anything, something that we didn't see the firrst
11 time. And I took a look at his wound. He had, well,
12 staples. And you try to take a bite with the staples with
13 equal amounts of skin on each side and it looked like one
14 had a little bit less skin on one and it kind of pulls
15 because the staple is on one side, so the wound is open a
16 little bit and that is where he was bleeding from.

17 Q Okay. So what did you do then?

18 A You just dress it. It is too late to sew back, so
19 you just redress it.

20 Q Okay. You said that you had ordered another CAT
21 scan?

22 A I did.

23 Q All of that came back --

24 A It was normal.

25 Q Okay. So, what did you conclude with regard to

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 Mr. Hilding at that time?

2 A He probably had -- he did have a bleed from the
3 scalp wound that needed to heal up and then he had kind of a
4 post-concussion where you get dizzy and headaches and that
5 type of stuff after you have been hit in a head.

6 Q Post concussion. So, an individual that suffers
7 from a concussion, what are some of the ways that that is
8 exhibited in the patient?

9 A Well, up to a week or two, you can have some
10 headaches, dizziness, light sensitivity, almost some vertigo
11 kind of stuff, all stuff that shows with a normal CAT scan.
12 So, it's stuff that goes away, but you can have up to a week
13 or so of symptoms.

14 Q Can you lose consciousness from a concussion?

15 A Yes.

16 Q All right. Dr. Carter, in your expert medical
17 opinion, can you draw any conclusions regarding the amount
18 of force that would be needed to cause the type of injury
19 that was sustained by Mr. Hilding?

20 A He was hit pretty hard.

21 Q Not a light tap?

22 A No.

23 Q And would striking someone in the skull with a
24 blunt force object using that amount of force likely to
25 cause serious or permanent disfigurement?

DIRECT EXAMINATION OF DR. CARTER BY OSBORNE

1 A It could.

2 Q And lastly, do you believe that that type of
3 injury posed a substantial risk of death to Mr. Hilding?

4 A If any of those things that I was looking for were
5 there, yes.

6 MR. OSBORNE: No further questions.

7 THE COURT: You may cross-examine.

8 MS. RUNEY: Thank you.

9 CROSS EXAMINATION

10 BY MS. RUNEY:

11 Q Good morning Dr. Carter.

12 A Good morning.

13 Q I believe that you testified just a minute ago
14 that Mr. Hilding walked in from the EMS vehicle?

15 A I think that he walked in, or he walked in my
16 department, one or another.

17 Q Okay. So, he wasn't on a stretcher or gurney?

18 A I don't remember, but oftentimes people do walk in
19 from the ambulance.

20 Q Okay. At that point is when you gather
21 information about his injury?

22 A That is right.

23 Q And because of the information given to you, or
24 the information given to you at that time, you treat that
25 patient?

CROSS EXAMINATION OF DR. CARTER BY RUNEY

1 A That is right.

2 Q And he reported to you that he had a laceration?

3 A Yes.

4 Q And you could obviously see that?

5 A Right.

6 Q So, your next question to him was, Did he lose
7 consciousness?

8 A Yes.

9 Q And he had not lost consciousness?

10 A That is correct.

11 Q And he was awake and alert?

12 A Yes.

13 Q And after you get the CT scan, you send him for
14 the CT scan and it comes back normal?

15 A Right...

16 Q And at that point is when you give him the
17 medication and tell him it's okay to go home?

18 A Stapled his head.

19 Q Stapled his head.

20 A Gave him the medication and told him that he could
21 go, yes.

22 Q He is discharged around 11:25?

23 A Probably.

24 Q So, he's not there for very long?

25 A Not very long.

CROSS EXAMINATION OF DR. CARTER BY RUNEY

1 Q And you could smell alcohol on Mr. Hilding?

2 A Yes.

3 Q Did he report to you that he had been drinking?

4 A He didn't report to me. I don't think that I
5 asked him. But he reported to a nurse when they asked all
6 of the questions about alcohol, tobacco, medical history.

7 Q And you usually can smell the alcohol?

8 A Usually.

9 Q I'm sure that you deal with that quite often,
10 don't you?

11 A Sometimes.

12 Q Yes. And you dealt with Mr. Hilding again the
13 next day, when he came in complaining of dizziness?

14 A Yes.

15 Q And what did -- you gave him another scan?

16 A Right.

17 Q And that came back normal?

18 A Right.

19 Q And so, when you see that those scans are normal,
20 you are not worried about an injury that can cause death;
21 correct?

22 A Not anymore.

23 Q And was Mr. Hilding given an IV the second day
24 that he appeared?

25 A Yes.

CROSS EXAMINATION OF DR. CARTER BY RUNEY

1 Q And what is that for?

2 A Well, he had had some general fluids. One of my
3 thoughts about, when we talked about things that could
4 happen is losing blood, you can replace bloods with fluids
5 while you are waiting for the labs to come back. And, you
6 know, alcohol can act as a diuretic, so a little bit of
7 fluid helps.

8 Q Sure. And he was given instructions to take home
9 with him that day?

10 A That's right.

11 Q And those instructions were to leave the dressing
12 alone, rest and drink lots of non-alcoholic fluids, right?

13 A Right.

14 MS. RUNEY: Beg the Court's indulgence.

15 (Pause.)

16 MS. RUNEY: That is all I have. Thank you, Dr.
17 Carter.

18 THE COURT: Redirect?

19 MR. OSBORNE: None, Your Honor.

20 THE COURT: You may step down, sir. You wish to
21 excuse the witness?

22 MR. OSBORNE: Yes, Your Honor.

23 THE COURT: Any objection?

24 MS. RUNEY: No.

25 THE COURT: You are free to leave the courthouse

CROSS EXAMINATION OF DR. CARTER BY RUNEY

1 if you like. Thank you, sir.

2 Call your next witness.

3 MR. OSBORNE: The State calls Investigator Haupt.

4 THE COURT: Come forward, sir, to be sworn.

5 Thereupon,

6 INVESTIGATOR RAY HAUPT

7 was called as a witness, having been first duly sworn,

8 was examined and testified as follows:

9 THE COURT: Sir, once you are seated state your
10 full name.

11 THE WITNESS: Ray Haupt.

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

13 DIRECT EXAMINATION

14 BY MR. OSBORNE:

15 Q All right. Investigator Haupt, this won't take
16 long. Where do you work?

17 A The Ninth Circuit Solicitor's Office.

18 Q How long have you worked there?

19 A About two and a half years.

20 Q And prior to that you were in law enforcement?

21 A Yes.

22 Q Where was that?

23 A Mt. Pleasant Police Department for 12 years.

24 Q All right. And so, in the Ninth Circuit

25 Solicitor's Office you work as an investigator; you are my

DIRECT EXAMINATION OF R. HAUPT BY OSBORNE

1 investigator?

2 A Yes.

3 Q And coincidentally you are also Ms. Ginsburg's
4 investigator?

5 A Yes.

6 Q All right. And as an investigator, what are some
7 of your duties and responsibilities?

8 A Whenever a case came in we take everything that
9 came from the law enforcement agency that made the arrest
10 and then we prepare it for trial. That could be anything
11 from going to serve subpoenas for witnesses, re-interviewing
12 them, tracking down new evidence, things like that.

13 Q And part of that is, if the Solicitor asks you to
14 locate a witness, that is part of your duties as well?

15 A Correct.

16 Q And you did that in this case?

17 A I did.

18 Q Let's talk specifically about Sara Tindall. Were
19 you asked to go locate Ms. Tindall?

20 A Yes.

21 Q That would have been around, what, summer of last
22 year?

23 A That I believe that I received a copy of the
24 subpoena to serve. Also I tried to talk to her in
25 August 2016.

DIRECT EXAMINATION OF R. HAUPT BY OSBORNE

1 Q Okay. And were you able to locate her?

2 A I was.

3 Q Where was that?

4 A At the Waffle House on John's Island.

5 Q Okay. I know -- and another part of your duties
6 is to usher witnesses and keep them all on track to keep it
7 moving?

8 A Yes.

9 Q Were you in here doing Ms. Tindall's testimony?

10 A I was.

11 Q Why don't you tell us in your own words what
12 happened when you met with Ms. Tindall.

13 A I went to the Waffle House on John's Island, I
14 believe that it was on the main road at the intersection. I
15 walked in. I already knew what Ms. Tindall looked like from
16 the DMV photo I saw her working in there. I asked her to
17 step aside, speak with me for a second, introduced myself,
18 who I was, where I worked, what I was there for. And I
19 asked if she would speak with me about the incident that
20 occurred near her residence, Fickling Hill Road, back in
21 2014.

22 Q And what did she say?

23 A At first she didn't really say anything. It
24 seemed like she wanted to talk to me. And then she said,
25 No, that she didn't believe that Ashley would like that.

DIRECT EXAMINATION OF R. HAUPT BY OSBORNE

1 Q Okay. And did you provide her with an
2 alternative, maybe meeting with her at a different location
3 or a different time?

4 A I did. I gave her a copy of her subpoena. She
5 signed for it, accepted it. And I told her that all of my
6 contact information is on the subpoena. It has my name, my
7 number, and everything related to the case on it, and that I
8 would like for her to call me. We can either do a phone
9 conference or we can meet in person at our office.

10 Q What was her response to that?

11 A It was the same answer again, No, she didn't think
12 that Ashley would like that.

13 Q She didn't think that the Defendant would like
14 that?

15 A Correct.

16 Q Now, you said that you were in here whenever she
17 testified. Did you hear Ms. Tindall say that her phone
18 number was ?

19 A I did.

20 Q Did that number peak your interest or alert you in
21 any way?

22 A It did.

23 Q Why?

24 A We had the number before, and we called the number
25 again at a later date to, again, try to speak with her about

DIRECT EXAMINATION OF R. HAUPT BY OSBORNE

1 the incident. When we did the Defendant, Ashley Tindall,
2 answered the phone.

3 Q Okay. So, when you -- but Ms. Tindall says that
4 she has a phone, correct?

5 A That's correct.

6 Q And that was her phone number?

7 A That is correct.

8 Q And the Defendant also has a phone?

9 A I believe so, yes.

10 Q A separate phone number?

11 A Yes.

12 Q Yet, when we called Ms. Tindall, we spoke to who?

13 A The defendant, Mr. Ashley.

14 Q What was Ms. Tindall told?

15 A We need to speak to Sara Tindall and we were
16 trying to call, we thought that that was her number, and we
17 needed to speak with her and for her to call us back.

18 Q All right. Did we receive a call from

19 Ms. Tindall?

20 A No, we didn't.

21 Q Did we try to call back Ms. Tindall's phone again?

22 A Yes, we did.

23 Q Did anyone answer the second time?

24 A No, it went to voicemail basically stating the
25 same thing.

DIRECT EXAMINATION OF R. HAUPT BY OSBORNE

1 MR. OSBORNE: No further questions.

2 THE COURT: You may cross-examine.

3 MR. LOIGNON: No questions for this witness.

4 THE COURT: You may step down. The State may call
5 its next witness.

6 MS. GINSBURG: The State calls Dana Bradwell.

7 THE COURT: All right.

8 Thereupon,

9 DANA BRADWELL

10 was called as a witness, having been first duly sworn,
11 was examined and testified as follows:

12 THE COURT: Once you have a seat, if you will
13 state your name please.

14 THE WITNESS: Danielle Bradwell.

15 THE COURT: Your witness.

16 MS. GINSBURG: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. GINSBURG:

19 Q Ms. Bradwell, you go by Dana?

20 A I do.

21 Q Okay. Dana, how old are you?

22 A Forty-three.

23 Q Are you from Charleston?

24 A I am.

25 Q How long -- well, excuse me, what do you do for a

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 living?

2 A I am a painter.

3 Q You are a painter.. And are you married,

4 Ms. Bradwell?

5 A I am.

6 Q Do you have any kids?

7 A I do.

8 Q How many kids do you have?

9 A We have five altogether.

10 Q Five. What area of Charleston do you live?

11 A John's Island.

12 Q Have you lived in John's Island for how long?

13 A My whole life.

14 Q Your whole life. We will just cut to the chase,

15 Dana. Did you have occasion to attend a July 4th party in

16 2014 thrown by the Escoffiers?

17 A I didn't hear you.

18 Q Sorry. Did you go to the July -- did you have

19 occasion to go to a July 4th party in 2014 thrown by the

20 Escoffiers?

21 A I did.

22 Q Okay. Can you please tell the jury what the party

23 was initially like when you got there?

24 A It was about dark, or just before dark, and we

25 went to do fireworks with the kids. And they were blowing

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 off the fireworks in the backyard. And there were a bunch
2 of kids around and we are all having a blast. We are
3 cooking out, having good food. Everybody is having food.
4 Of course, there were children around, nobody was having too
5 much fun. It was mainly for them. And it was starting to
6 get really dark outside and that, of course, is when we
7 finished the fireworks.

8 Q You said that originally it was a really good
9 time?

10 A Yes.

11 Q Is there something that maybe happened to make it
12 not a good time?

13 A Absolutely.

14 Q What was that?

15 A Well, someone came to the party and he was
16 aggressive with his girlfriend, who I didn't know either one
17 of them. I know who they are now, but I didn't know who
18 they were before. And it brought attention to a lot of
19 people at the party who did not like what was happening, so
20 they asked them to take it to wherever their house was, to
21 go away with it.

22 Q Okay. You said that someone came over to the
23 party; do you see that man here today?

24 A Yeah, it was Ashley Tindall.

25 Q Okay. And who was the woman that he was

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 getting -- I am sorry, what did you say?

2 A His wife or girlfriend.

3 Q Okay. And do you recall what her name is?

4 A I think that it's Sara.

5 Q Okay. So, you are saying that they are at the
6 party and they are having an argument; can you explain to us
7 what that argument was?

8 A I know Teresa went inside to get a plate of food
9 that she was going to send over with her to take home to
10 him. And I believe that it was just probably past her
11 bedtime or maybe she shouldn't have been there with all of
12 the guys that were at the party. I don't know. But he just
13 didn't like the fact that she was there, and he was very
14 aggressive.

15 Q Sorry. Where were you when all of this was
16 happening at the Escoffiers'?

17 A We were between the pool table and porch in the
18 backyard. There's like a little pool area and the porch and
19 a place where a pool table is and where the kids were firing
20 off fireworks here. And, of course, bar-b-queing here and
21 going in and out to make plates and stuff.

22 Q Okay. I'll show you what has been marked as
23 State's 1, and can you show the jury where you were?

24 A Closer to the basketball court. Like where that
25 basketball thing is standing.

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 Q You can actually mark on the thing in front of
2 you.

3 A Right there pretty much is where I was.

4 Q Okay. So, you are standing there, and just walk
5 us through what you see at that point?

6 A Well, at that point Bob was like right over here
7 and Missy and I are sitting here like talking about what was
8 going on. And Ashley comes up through this way and starts
9 yelling and screaming to the point where I called Bob to
10 come over and help, you know, escort him away because he was
11 not -- and Missy, his daughter, was pregnant at the time.
12 And like I said, he was just really loud and obnoxious so we
13 wanted him to go home. And so he was asked to leave, which
14 he didn't do. And he hit Bob over the table and said, Oh
15 man, what are you going to do.

16 Q You saw him?

17 A I saw him hit Bob in the chin and I saw him knock
18 him over -- his dog was right behind him because the dog was
19 there like, What is going on, so the dog really tripped Bob
20 and he landed on his picnic table, which was scooted up a
21 little farther in the driveway.

22 Q Okay. So, Bob falls on the ground and you said
23 that the Defendant said something?

24 A It wasn't right at that point when Bob fell down
25 to the ground. It was when I screamed for everyone to come

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 and get him out and that he hit Bob. And then all of the
2 guys kind of ran up and I guess he felt intimidated 'at that
3 point. And he said that he was going to get something for
4 all of us and he would be back with his gun.

5 Q What did you take, He is going to get something
6 and come back?

7 A It was a gun, he was going to shoot us. And we
8 have all of these kids here, so that was it. All I wanted
9 to know was where he lived then.

10 Q Did you know at that point where he lived?

11 A No, I did not. And when I found out where he
12 lived, which was only two trailers over from where I lived,
13 that made me get my kids inside now. It turned into, Let's
14 get all of the kids in the house, this is crazy. I can't
15 believe all of this is happening. It was a good 4th of July
16 and then all of a sudden, This is nuts. No one expected
17 this.

18 Q So, when you learned that Mr. Tindall actually
19 lives like two trailers down from you, you start rushing the
20 kids out --

21 A Oh, absolutely.

22 Q Then what did you do then?

23 A I peeked my head out of the door just to see what
24 was going on. I could hear a lot commotion happening. It
25 had moved over from Bob's house to Ashley's house for some

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 reason. And I am not for sure why, but I do know that I
2 heard people screaming and yelling and I heard the sound of
3 metal on someone's head. And I know that sound. I have
4 seen someone get beat with a pole before, so I will never
5 forget that sound.

6 And I thought that it might have been my
7 brother because I heard him scream, Someone has a gun. So,
8 I didn't know if he was getting beat at that point, so I ran
9 around to see what I could do. And --

10 Q I am going to have to stop you there.

11 A Okay.

12 Q Can I show you maybe a picture to see if it may
13 help?

14 A Sure.

15 Q Did you hear the noise from the front of the
16 Escoffiers' house?

17 A Yes.

18 Q Can you point out on this picture the Escoffiers'
19 residence?

20 A That is right here. Right here.

21 Q Okay. And where were you when you heard that
22 noise, that metal hitting bone?

23 A Right here in the front yard. I had already heard
24 the commotion and I was coming towards it, running this way.

25 Q Okay.

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 A And about right here is where I hear that bam,
2 bam, bam.

3 Q So you hear this noise and you are worried that
4 it's your brother and you run around, and what do you see
5 when you run around? And I will grab a picture that may
6 help. But you can continue telling the story.

7 A Okay. I go right about here and there is a truck
8 parked in the front of Ashley's house. I didn't know that
9 it was him, or who was in the truck or whose it was or
10 anything. I just know that I'm looking for my brother at
11 this point. My brother comes from Ashley's, from behind the
12 back of the truck and back around. And what I saw
13 immediately coming from the truck was one of our other
14 neighbors, Rick, laying on the ground bloody, just bloody.
15 He was laying at the foot of the open truck door.

16 Q Okay.

17 A And my brother comes around basically right behind
18 me. And at the time, when I'm looking down at the ground I
19 didn't pay attention to what Ashley was doing, but he was
20 leaned over in his truck like this. When he leaned back to
21 us he had a gun in his hand.

22 Q Okay.

23 A And he pointed it right at my brother's face.

24 Q Okay. Ms. Dana, did you see how Rick fell on the
25 ground?

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 A I didn't see him fall. He was on the ground. I
2 believe that he was passed out at the point, knocked
3 completely out.

4 Q Okay. And you said that the truck door was open?

5 A Yes.

6 Q Was the key in the ignition?

7 A Yes.

8 Q Was the car running?

9 A I'm almost positive that it was.

10 Q Where did Rick fall, was he near the truck?

11 A In the doorway, right in the doorway. In the
12 doorway of the truck. I don't know if he was trying to keep
13 him from leaving before the cops came, I don't know that.
14 But I do know that Rick was right down on the ground like he
15 was trying to get into the truck to get Ashley, but he was
16 on the ground.

17 Q Okay. I am going to show you what was marked as
18 State's 12 and was previously admitted. Does this picture
19 help you get your bearings on what was happening that night?

20 A Yes, that was the truck that was there. And it
21 was backed out and pointed that way. And his door was open
22 on the side. And if I came around this way and saw Rick on
23 the ground right here, my brother came around right behind
24 me and Ashley takes the gun and points it right at his face,
25 click, click, and I am just frozen. I didn't know what to

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 do.

2 Q Can you describe the gun for the jury?

3 A It was just a black gun like most metal black
4 guns. I am not sure if it had a revolver or not. But it
5 seems like he was loading bullets into it at the top. He
6 was like that. He was doing something with it and when he
7 came back over there was a gun. It was just that fast.

8 Q Once you see all of this happen, the Defendant was
9 pointing a gun at your brother, what happens?

10 A He just click, click, nothing comes out. And he
11 turns around, one hand, puts it in drive and starts to take
12 off. My brother, very fast reaction, he just grabbed Rick
13 as fast as he could and pulled him because he was basically
14 under the tires, collapsed head first under the truck with
15 his head out toward my feet where I was standing.

16 Q If your brother didn't do that, what do you think
17 would have happened?

18 A It would have ran right over his head, face, neck.
19 I don't know. I don't think that Rick would be here in any
20 shape or form that he is now. He would be a different
21 person probably.

22 Q So, your brother has to drag him out from under
23 the truck?

24 A Drag him.

25 Q What does he do after that? He is dragging this

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 guy out from under the truck, and what happens next?

2 A At that point we are no longer caring about where
3 this guy is or where he went or wherever. We needed to get
4 him help. Everyone was calling 911. And I'm freaking out.
5 I have never seen so much blood. I am not a squimish
6 person, but I saw a lot of blood. And his blood was very
7 thick. They tried to say that he was drinking, but blood
8 doesn't come out that thick when you are drinking, so he
9 couldn't have been to that point of free bleeding. It was
10 thick, thick, thick blood.

11 Q Where did you -- where did y'all take Rick at that
12 point?

13 A Back to Bob and Teresa's house to where the pool
14 table was, there was most light there so you could see what
15 was going on. He was collapsing the whole time we were
16 dragging him over there. I was about to gag myself. I
17 couldn't hardly even look at Rick's head at that point. It
18 was, Oh my God. Everybody just started crying and screaming
19 and the kids were trying to figure out what was going on.
20 It was just not a good situation at all. The ambulance
21 came.

22 Q Okay. The police officer came as well?

23 A The police came.

24 Q Did you write a statement, Ms. Dana?

25 A I did. I might not have given it that night. I

DIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 think that I told them if they needed more information or
2 something, let me know. I don't know if I wrote a statement
3 or not. I know that I turned one in with you guys, but
4 other than that -- it's been three years ago.

5 Q Ms. Dana, did you know Rick before all of this?

6 A Nope never met Rick.

7 Q Did you -- I am sorry.

8 A No, it is fine. I have never met Rick and I never
9 met Ashley.

10 Q You never met Sara Tindall?

11 A I have seen her. She works at Waffle House, I go
12 in there, and I have seen her. That is why I couldn't
13 remember her name. It is Sa-Sa in there.

14 Q Okay. But you have never met this Defendant
15 before?

16 A Never.

17 MS. GINSBURG: Thank you.

18 THE COURT: You may cross-examine.

19 MR. LOIGNON: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 CROSS EXAMINATION

22 BY MR. LOIGNON:

23 Q Ms. Bradwell, you just testified that you did not
24 know Ashley Tindall?

25 A Yep.

CROSS EXAMINATION OF BRADWELL BY LOIGNON

1 Q You did not know Sara Tindall prior to this?

2 A Nope.

3 Q You also testified as to somehow knowing the
4 reason why Mr. Tindall was upset with his wife that night,
5 didn't you?

6 A Yes.

7 Q That is because of things that you heard from
8 other people?

9 A Not necessarily. I mean, I know of him. I have
10 never met him before.

11 Q You have never met him before that night?

12 A (Nods in the negative.)

13 Q And in that moment, that evening, without ever
14 meeting him or ever seeing him, you hear a commotion and you
15 know why he's upset?

16 A Yes.

17 Q You also testified that it was really dark
18 outside, right?

19 A Yeah, it was just after dark when we set off the
20 fireworks, so it wasn't completely dark outside, to the
21 blackness that you can't see anything outside.

22 Q Now, you testified that your brother was somehow
23 involved in this, right?

24 A Yes.

25 Q Your brother's name was Daniel Moore?

CROSS EXAMINATION OF BRADWELL BY LOIGNON

1 A Yes.

2 Q He gave a statement to the police that night?

3 A I do believe he did.

4 Q So, he spoke with the deputies that came out
5 there?

6 A As far as I know.

7 Q And when he spoke with them, they asked him to
8 write a written statement, right?

9 A I guess they did. I left, I was dealing with my
10 children when the cops came. They were very emotionally
11 distressed at that point.

12 Q So, you were not there when the cops came?

13 A When the cops came I was there. I told them I was
14 going to my house, I would be with my kids and if they
15 needed a statement they could get one.

16 Q Well, you care about your brother, right?

17 A Absolutely.

18 Q You care about his well-being?

19 A Yes.

20 Q You care about what happens to him?

21 A One hundred percent.

22 Q You don't want to see anything bad happen to him?

23 A Nope.

24 Q But you didn't actually give a written statement
25 to police that night?

CROSS EXAMINATION OF BRADWELL BY LOIGNON

1 A Nope, I don't think I did. I don't believe I did.

2 I may have, but I don't know.

3 Q You didn't talk --

4 A It was three years ago.

5 Q I understand.

6 A Yeah.

7 Q It was three years ago?

8 A Uh-huh. (Indicating affirmatively.)

9 Q At night?

10 A Yep.

11 Q Fourth of July?

12 A Right.

13 Q You testified that you saw someone point a gun in
14 your brother's face?

15 A I did.

16 Q And pull the trigger?

17 A Yes, twice.

18 Q And you didn't think that that was important
19 enough to talk to the police that night?

20 A Are you trying to say something? I mean, is there
21 a point to that question? I didn't think that it was
22 important. I told them that if they thought that it was
23 important, that if they needed any other evidence -- there
24 was plenty of evidence -- that they could come talk to me.

25 Q Until a few months ago, no one in this courtroom

CROSS EXAMINATION OF BRADWELL BY LOIGNON

1 aside from maybe, maybe Mr. Hilding --

2 A Who is that?

3 Q Oh, you don't know Mr. Hilding?

4 A (Nods in the negative.)

5 Q Okay. So, until a few months ago no one in this
6 courtroom even knew who you were, right?

7 A Right, probably.

8 Q And the Solicitor's office didn't speak with you a
9 few months ago -- until a few months ago?

10 A Right.

11 Q And now you are claiming to be an eye witness in
12 this case?

13 A It is not a claim, I am an eye witness in this
14 case.

15 Q You said that you were right there when it
16 happened?

17 A I was right there when it happened.

18 Q You didn't think that someone might want to know
19 that you were there?

20 A Is there a problem with the police not coming to
21 question me?

22 Q You also said that you saw Mr. Hilding, the
23 gentleman over there?

24 A Okay, Rick. That's how I know him.

25 Q Rick?

CROSS EXAMINATION OF BRADWELL BY LOIGNON

1 A First name basis.

2 Q And he was unconscious?

3 A Unconscious.

4 Q You were right there?

5 A Right there while the blood was pouring out of the
6 back of the poor man's head and the top of his head, yeah, I
7 was right there.

8 Q And, again, we are relying completely on your
9 memory today?

10 A Okay.

11 Q I'm asking you. Is that a yes?

12 A I don't know. Are you relying on my memory today?

13 MS. GINSBURG: Objection, argumentative.

14 THE COURT: It is becoming argumentative and you
15 have asked her this question previously. She
16 acknowledged that it's based on her memory.

17 MR. LOIGNON: Thank you, Your Honor.

18 THE COURT: It has been asked and answered.

19 MS. GINSBURG: Thank you.

20 MR. LOIGNON: Thank you, Your Honor. Court's
21 indulgence.

22 THE COURT: Yes, sir.

23 (Pause.)

24 MR. LOIGNON: Thank you, Ms. Bradwell.

25 THE COURT: Redirect?

CROSS EXAMINATION OF BRADWELL BY LOIGNON

1 MS. GINSBURG: Yes, Your Honor, just briefly.

2 REDIRECT EXAMINATION

3 BY MS. GINSBURG:

4 Q Ms. Dana, how do you know Mr. Hilding?

5 A I know him from the 4th of July party. It was
6 nice to meet him on the ground that night.

7 Q How do you know him; what is his first name?

8 A Rick. Okay, I know him by Rick.

9 Q Let's get back to that commotion at the
10 Escoffiers'. You said that you heard the commotion, it was
11 loud and you saw Ashley Tindall and he was yelling. Do you
12 recall what he was saying to Sara?

13 A I recall seeing him shove her and push her and he
14 wanted to know why she wasn't home yet.

15 Q All right. Mr. Loignon pointed out that we got in
16 contact with you a few months ago; is that right?

17 A Yes.

18 Q Isn't it true that this, my investigator, Ray
19 Haupt, that we have tried to get in touch with you before
20 then?

21 A Yes, absolutely.

22 Q And it wasn't until this case was heading where it
23 is that you felt the need to talk to us; is that because you
24 lived two trailers down from him?

25 A Absolutely. And, you know, I don't live far away

REDIRECT EXAMINATION OF BRADWELL BY GINSBURG

1 from this man at all and it is pretty much, you know, he
2 exhibited very strong signs of a very unstable individual,
3 so I don't particularly feel safe all of the time with him
4 being my neighbor.

5 MS. GINSBURG: Thank you very much.

6 THE COURT: Recross.

7 MR. LOIGNON: Nothing, Your Honor.

8 THE COURT: You may step down, ma'am. Do you wish
9 to excuse the witness?

10 MS. GINSBURG: Yes, Your Honor.

11 THE COURT: Any objections?

12 MS. GINSBURG: No, sir.

13 THE COURT: You are free to leave the courthouse
14 if you like.

15 THE WITNESS: Thank you so much.

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

17 MS. GINSBURG: The State calls Daniel Moore.

18 Thereupon,

19 DANIEL MOORE

20 was called as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 THE COURT: Sir, once you are seated, I ask that
23 you state your name for the record.

24 THE WITNESS: Daniel William Moore.

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

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 MS. GINSBURG: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. GINSBURG:

4 Q Daniel, let's get this right out in the open, Dana
5 is your sister; is that correct?

6 A Correct.

7 Q How old are you Daniel?

8 A Forty-one.

9 Q And are you from Charleston originally?

10 A Yes, I am.

11 Q What do you currently do for work?

12 A I work for the Iossi (phonetic) Film Unit as a
13 prop maker.

14 Q Oh, cool. What kind of movies and things have you
15 worked on?

16 A Locally, we worked on Reckless here in the
17 Charleston. It was a TV series. More recently Mr.
18 Mercedes is being filmed here. Also, Netflix, a couple of
19 Netflix movies have been here.

20 Q Are you married?

21 A Oh, no.

22 Q Do you have any children?

23 A Yes.

24 Q How old are they?

25 A My youngest is 11. And I have a 22 year old

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 daughter and an 18 year old son.

2 Q Okay. And your youngest is 11?

3 A Yes.

4 Q Do you have a nickname that you go by?

5 A Bubba.

6 Q Bubba. And that is what Dana calls you?

7 A Yes.

8 Q In what area of Charleston do you currently live?

9 A On John's Island.

10 Q Daniel, did you have occasion to attend the July
11 4th party in 2014 at the Escoffiers'?

12 A Yes.

13 Q Can you please tell the jury what the party was
14 initially like?

15 A It was a kid's party, pretty much a pool party.
16 My daughter hangs out with these two girls that live, well,
17 close to there and they are all friends with Bob and
18 everyone who is in that little area. So, just a kid's party
19 I guess it was pretty much.

20 Q Were there people drinking?

21 A I think that there were a few maybe light
22 drinking.

23 Q Were you drinking?

24 A No, I wasn't.

25 Q So, you were completely sober?

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 A Yes, I was watching my daughter and the kids in
2 the pool.

3 Q Okay. Was there anything that happened at that
4 party that grabbed your attention?

5 A Absolutely.

6 Q Can you go into what grabbed your attention?

7 A Well, I was up, up on the pool deck and I just
8 started hearing some yelling. So, I didn't really know what
9 was going on. I was watching the kids in the pool, like I
10 said. And so I heard some yelling and I started coming down
11 the stairs of the deck, which is in the back of Bob's house.
12 So, I started coming down the stairs and a guy approaches
13 me, he is coming from the right where the kind of pool table
14 and shed area is over here. The guy approaches me, runs up
15 on me, Do you want some too. And I am like -- so, I threw
16 my hands up, I am like, I don't know you dude, I don't know
17 what is going on. I don't know if he is a family member or,
18 you know, at the time I didn't know, so I said, I am cool.

19 Q Okay. I am going to show you what has been marked
20 as State's Exhibit 2. Maybe this will help in explaining
21 things to the jury. Does this help?

22 A Yes, that is the stairs that I came down. Right
23 when I got to the bottom of the stairs --

24 Q So you got to the bottom of the stairs and then
25 someone that you didn't know just comes up, bows up at you?

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 A Yes, and like I said, I didn't know if it was
2 Bob's brother or some family issue going on. I don't want
3 to get involved in that.

4 Q Do you see that individual in the courtroom today?
5 That is okay.

6 A I mean, you know, it's been a long time. I saw
7 him once that night.

8 Q All right. That night. All right. So, you run
9 down the pool -- run down the stairs and you see this
10 individual and he tells you, Do you want -- what?

11 A Yeah, he is like, Oh, do you want some too, huh,
12 you got a problem.

13 Q Okay. What was that person doing then?

14 A Well, right after that he just basically just kept
15 going. And if you see where the steps are, if you imagine
16 heading off to the right it goes around to the front of
17 Bob's house, so he just kept going to the front.

18 Q Okay. I'm going to show you what has been marked
19 as State's 1. This might help you.

20 A Okay.

21 Q What was this individual saying; was he saying
22 anything to anyone at the party?

23 A Yeah. Well, I -- when I come off of the steps
24 after confronting him, when I took a right where there was
25 some cars at to go -- because I heard some commotion and I

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 think that I heard somebody say like, Bob got punched or
2 something. So, as I'm walking towards the right to go see
3 if Bob is okay, I'm hearing the guy that, you know,
4 confronted me that started walking around and he is like,
5 you know, saying that he's going to come back and he's got
6 something for all of us, basically.

7 Q What did you take that to mean?

8 A I took that as a threat, that, hey, I you have
9 something for all of us you must be going to get a gun. And
10 that ain't going to happen.

11 Q Okay. What do you do after this individual says,
12 I'm coming back to take care of all of y'all?

13 A Well, we all heard it so, collectively. I said,
14 I'm going around to the front, I am going to follow him
15 around to the front of the house. And there were a couple
16 of people around where Bob was and they said, We are going
17 up the driveway. And I said, He is not coming back over
18 here where the kids are, that is not going to happen.

19 Q Okay. I just want to clear something up. You are
20 talking about, this is State's 8 and you are talking about
21 the driveway. Are you talking about this cut-through in the
22 back; is that where you are talking about?

23 A I'm trying to see. Yeah, yeah, the driveway
24 coming up to -- where Bob has the pool table and little
25 shed.

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 Q Okay. And you said that you started going out
2 front the Escoffiers' residence. I'll show you what's been
3 marked as State's 4. Is this where you are heading?

4 A Yes. Yes, I went around the front of the house.

5 Q So, tell us what you were doing when you were
6 running around the front of the house?

7 A I was going around the front just to make sure
8 that he was not going to come back around the front. So,
9 basically I went around the front of the house and walked
10 towards the driveway where everybody else was at coming up.

11 Q You can actually mark on that like a tablet.

12 THE COURT: If you put your finger on the screen
13 it'll make a mark.

14 A I love technology. I was walking around this way
15 and I cut right back up through here where everyone was
16 coming from the back of the house and we all kind of got
17 back together right there.

18 Q Okay. So, when you get back to, I guess the
19 driveway or cut-through area, what do you do after that?
20 You see everyone and then what?

21 A Yeah. I started walking up the driveway with
22 Rick, who was another neighbor. And we were just coming up
23 this way around the -- which would be behind Ashley's
24 trailer here.

25 Q Okay, I'll show you a State's exhibit, what's been

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 marked as State's 12. Is this what you are talking about,
2 you were walking around, or tell me if this one actually --
3 this helps better?

4 A No, I kind of like your other one.

5 Q Okay.

6 A There you go.

7 Q All right.

8 A So, as you can see we all kind of meet back up
9 over here and we are walking this way. Now, that night
10 there was a car parked here, turned this way. I don't know
11 whose car it was or whatever, but there was a car parked
12 there and we all walked out to the end of the driveway right
13 here.

14 Q Okay. When you get to the end of the driveway
15 right there, what do you see?

16 A As we are coming down the road we are hearing, I
17 guess Ashley and it sounded like his wife, arguing, you
18 know, over here at the trailer. And as we get about right
19 here where this tree is at, I noticed that this truck backed
20 out this way, right, and it starts -- has the front of the
21 truck heading towards the street.

22 Q So you notice the defendant and his wife yelling?

23 A Uh-huh. (Indicating affirmatively.)

24 Q What happens after that? You said that you were
25 with Rick and what does Rick do?

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 A Yes, we are walking up the driveway and the
2 defendant backs the truck up right here and he gets out of
3 the truck. He gets out of the truck with a gun.

4 Q How did you know that it was a gun?

5 A I saw it, everybody saw it.

6 Q Do you have previous familiarity with guns?

7 A Absolutely.

8 Q How is that?

9 A I am a veteran, I was in the military four years
10 and I also, I don't know, grew up shooting guns living in
11 Charleston.

12 Q Okay. So, you see him have a gun; where is Rick
13 at this point?

14 A Well, Rick is walking right next to me at this
15 point, and whenever I see that he's got a gun, I'm like, Hey
16 he has a gun, Rick, come over here. So, I kind of got
17 behind this car and Rick continued to walk toward the truck.

18 Q Is Rick walking in an aggressive manner?

19 A No, not at all.

20 Q What is Rick doing?

21 A He is walking with his hands up like this, like,
22 Hey man, you know, I just want to talk to you, let's, you
23 know, calm this down, let's calm this down or whatever. He
24 didn't have any kind of attitude or he didn't seem
25 aggravated.

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 Q Okay. So, he wasn't yelling?

2 A No.

3 Q So, we see Rick walking up saying, Hey, man, calm
4 down?

5 A Yeah.

6 Q What happened after that?

7 A You know, they started to struggle, started to
8 fight. As soon as he gets close enough to Ashley, they make
9 contact.

10 Q Who makes contact first?

11 A Ashley did. Like, as soon as Rick walks up Ashley
12 I think kind of pushed his left arm down or whatever and
13 then when he did Rick kind of grabbed his arm and as soon as
14 he did that I think that Ashley busted him in the head with
15 the gun, with the butt of the gun.

16 Q What happened to Rick then, after he got busted in
17 the head with the gun?

18 A Well, he he hit the ground with one knee I think.
19 And then I could see that he was bleeding and it sliced his
20 head pretty good. It looked like Rick was trying to get
21 back up and they were tussling around a little bit.

22 Q He was grabbing him and he -- was it because he
23 had just got hit in the head?

24 A Yes, yes, he was like trying to stand up, keep
25 from falling over; keep his balance really.

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 Q But Rick eventually falls over?

2 A Yes.

3 Q What happens after that?

4 A Well, when I saw him get hit in the head and they
5 were still kind of wrestling around a little bit I
6 thought -- I was like, Well, I don't want to sit back here
7 while Rick gets beat up any further, I'm not going to sit
8 here and let the guy get hurt. So I left from around --
9 from behind the car and the truck is right here so -- and so
10 when I came around I used the truck as cover to try to keep
11 Ashley from seeing me. So, I went around the passenger's
12 side of the truck and I went around the front like this so I
13 could come from behind him to break the fight up, you know,
14 to keep anybody from getting hurt.

15 Q Uh-huh. (Indicating affirmatively.)

16 A Further. So, by the time I got around the door,
17 Ashley had already hit Rick again and Rick pretty much fell
18 out under the truck.

19 Q Okay.

20 A I mean, he just, you know, pretty much, I guess,
21 almost knocked out.

22 Q So, when you come around the truck, Rick is on the
23 ground?

24 A Uh-huh.

25 Q What do you see right then?

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 A At that time Ashley turned right around and
2 pointed the gun right at me, pointed it right on me and all
3 of a sudden I was like, This might not be a good idea. So,
4 as soon as I am around the truck, Ashley put the gun on me
5 and I had my hands up. I said, Look, man, calm down, this
6 is getting out of hand kind of thing, and Ashley turned at
7 that point and gets in the truck and shuts the door and
8 takes off.

9 Well, as soon as he shuts the door I grabbed
10 Rick and slid him out from under the truck. He was really
11 close to the back wheel. I can't say that he was really
12 under the truck but he was close enough and I knew that
13 Ashley was about to take off.

14 Q If you couldn't have done that, what do you think
15 would have happened?

16 A I think that he would have ran over him.

17 Q Once you drag Rick from underneath the truck,
18 where did you take him?

19 A Well, we were helping him to stand up because as
20 Ashley took off then I noticed, you know, my sister is there
21 and everybody else kind of came up there to help Rick. We
22 all sort of help him walk over to Bob's house where the pool
23 table was.

24 Q So, you take him to the pool table, and then what
25 happens next?

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 A The ambulance was called.

2 Q The police as well?

3 A Police as well, yes.

4 Q Did you write a statement for the police that
5 night?

6 A Yes, I did.

7 Q Did you include in your statement that he pointed
8 the gun at you?

9 A I don't -- I think so, I'm not sure. And I might
10 not have.

11 Q So, you might not. If you didn't, why did you not
12 write it in his statement?

13 A Well, we were there for -- I mean, it must have
14 been an hour and a half, two hours after this incident
15 happened and I was ready to go.

16 Q You also had your daughter there?

17 A I had my daughter with me and there was already so
18 much drama. Like Bob's wife had to take the kids inside
19 after it started happening and everything, so at that point
20 we were just ready to go.

21 MS. GINSBURG: Beg the Court's indulgence.

22 THE COURT: Yes, ma'am.

23 (Pause.)

24 BY MS. GINSBURG:

25 Q When Ashley hit Rick, did it appear as though he

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 was in any danger?

2 A Who?

3 Q The defendant, that he was in danger?

4 A That Ashley was in danger, no, not at all.

5 Q Did it look like the defendant's life was being
6 threatened in any way by Rick when he hit him with the
7 pistol?

8 A No, it was not.

9 Q Did Rick walk up with the gun?

10 A No.

11 Q Any weapon?

12 A No.

13 Q Did the defendant have any other options that
14 night other than hitting Rick in the head with the pistol?

15 A He had plenty options.

16 Q Why don't you name a couple.

17 A First option, not to come over there all hostile
18 and screaming at everybody and punching Bob in the face for
19 absolutely no reason.

20 Q What about when we get to the gravel road, you
21 said initially that his truck was backed up?

22 A Yes. He was already in the truck, he could have
23 just left.

24 Q Okay. And that is his trailer right there?

25 A Yes.

DIRECT EXAMINATION OF MOORE BY GINSBURG

1 Q Okay.

2 MS. GINSBURG: No further questions.

3 THE COURT: You may cross-examine.

4 CROSS EXAMINATION

5 BY MR. LOIGNON:

6 Q You mentioned that you talked with police?

7 A Yes.

8 Q The night of the incident?

9 A Yes.

10 Q You told them what you saw?

11 A Uh-huh. (Indicating affirmatively.)

12 Q They asked you questions?

13 A Some of them, yeah.

14 Q And you wrote a statement?

15 A Uh-huh. (Indicating affirmatively.)

16 Q When you wrote that statement, the deputy gave you
17 instructions on how to write it?

18 A Uh-huh. (Indicating affirmatively.)

19 Q Not what to say, but how to fill out the form.

20 A Yeah. Somewhat. I mean, they weren't very
21 thorough to be honest with you.

22 Q But you knew that that statement should be
23 accurate, right?

24 A Yes.

25 Q And the statement should be complete?

CROSS EXAMINATION OF MOORE BY LOIGNON

- 1 A Sure.
- 2 Q And everything that is important that you saw
3 should go in the statement?
- 4 A Right.
- 5 Q And at the bottom, you signed the statement?
- 6 A Right.
- 7 Q Just below the part where it says, It is true and
8 correct to the best of my knowledge. And this was written
9 on July 4th while the incident was fresh in your mind?
- 10 A Yeah.
- 11 Q Have you had a chance to review that statement?
- 12 A Yes, I have.
- 13 Q So, in the statement you start out by saying, I
14 noticed an elderly man yelling?
- 15 A Uh-huh. (Indicating affirmatively.)
- 16 Q And a scuffle?
- 17 A Yep.
- 18 Q So, I left the front porch and confronted said
19 person.
- 20 A That is when I came off of the pool porch, you
21 know, deck.
- 22 Q Said person was Mr. Tindall?
- 23 A Uh-huh. (Indicating affirmatively.)
- 24 Q The next thing you say is, At that time he left.
- 25 A Right.

CROSS EXAMINATION OF MOORE BY LOIGNON

1 Q Mr. Tindall?

2 A Right, around front of the house.

3 Q Mr. Tindall left around the front of the house?

4 A Right. And you will see on my statement there was
5 a lot of things that I didn't go into too much detail with,
6 that is why the statement was pretty short, because I was
7 ready to go.

8 Q Yes, sir. You were right there when Mr. Tindall
9 walked back towards his trailer?

10 A Right.

11 Q And there is nothing in this statement about a
12 threat from Mr. Tindall, is there?

13 A I'm not sure.

14 Q You said that you reviewed it. Would you like to
15 refresh your recollection?

16 A Sure. It is still not going to change anything,
17 but yeah, I'll look at it.

18 Q May I approach the witness?

19 THE COURT: Yes, sir.

20 (Pause.)

21 BY MR. LOIGNON:

22 Q Please read it to yourself, Mr. Moore.

23 A Okay.

24 Q Is there anything in there about Mr. Tindall
25 making a threat?

CROSS EXAMINATION OF MOORE BY LOIGNON

1 A No, sir.. There's also a lot of other things that
2 are not in there. That statement is about five sentences
3 so

4 Q Then you said that once Mr. Tindall left a
5 friend -- you and a friend walked toward the driveway and
6 noticed the same gentleman get out of the truck.

7 A Right, you know. It was Rick who was the victim.
8 That was the first night that I met him.

9 Q He is the friend that you are referring to?

10 A Right.

11 Q That is about the time that Rick said, What are
12 we, mice or men?

13 A Right.

14 Q Meaning what to you?

15 A You know, meaning if you are just going to stand
16 here and let him come back to a kid's party with a weapon
17 when Mr. Tindall was clearly somewhat either intoxicated or
18 just raging for sure, so I don't know --

19 Q If you -- excuse me. Are you finished?

20 A I said, I don't know if he was drinking or what
21 was going on, but he was definitely raging for some reason.

22 Q And it was your understanding that you were going
23 over there to do something about it?

24 A No, we were going over there to make sure that he
25 didn't come back to the party with the kids around with a

CROSS EXAMINATION OF MOORE BY LOIGNON

1 weapon. That is for sure. Because he said that he was
2 going to.

3 Q And when you got there you saw him sitting in a
4 truck at first, right?

5 A No, when I got there he was backing out with the
6 truck. As we were walking down the driveway, he backed out.

7 Q Sorry?

8 A Yeah, backed out onto the road and turned like he
9 was going to face to leave.

10 Q So, he is in the truck?

11 A (Nods in the affirmative.)

12 Q You also testified that this happened at night, so
13 it was dark outside?

14 A Uh-huh. (Indicating affirmatively.)

15 Q Not many lights around?

16 A There was definitely enough light for everyone to
17 see what was going on.

18 Q Right here on Still Life Drive?

19 A Uh-huh. (Indicating affirmatively.)

20 Q And you lived here at the time, right?

21 A No.

22 Q You did not?

23 A No. I don't live there.

24 Q So, you are not real familiar with where light
25 posts are or anything in this area, are you?

CROSS EXAMINATION OF MOORE BY LOIGNON

1 A Not so much. I spent a lot of time over there.
2 With my daughter who is friends with the two little girls
3 that live back there and another gentleman that lives there.

4 Q You said that you were just down the road when you
5 saw this incident occur with Rick?

6 A Yes, I was -- I mean, if you look at his picture
7 here you can see where the driveway is. Right here is where
8 I was at and the truck, okay, and this incident happened
9 with Rick right here, so it wasn't very far. It wasn't hard
10 to see.

11 Q It wasn't close either, though, was it?

12 A I mean, could I touch him? No. But was it far
13 enough to see? Yes, I could see exactly what was going on.
14 And I could see that it was a black handgun, a 45 or a 9
15 millimeter.

16 Q You were far enough away to where you had to run
17 to the vehicle afterwards is what you said, right?

18 A You know, I had to move quickly towards the truck,
19 yes, I did, to try to help Rick; is that what you mean?

20 Q Yes, sir. I'm just trying to make sure that you
21 weren't close enough to where you could see right in front
22 of you.

23 A Okay.

24 Q It was a distance to where you had to run to get
25 there, correct?

CROSS EXAMINATION OF MOORE BY LOIGNON

1 A Yes. Probably like, if you were standing in the
2 hall holding the doors open I would be able to see if you
3 had a gun.

4 Q All right. Now, in the statement you did mention
5 the gun, didn't you?

6 A Yes, I believe I did.

7 Q You said that you saw a gentleman strike another
8 person with a gun. So you talk about the gun in your
9 statement?

10 A Correct.

11 Q You didn't describe the gun in your statement
12 though?

13 A (Nods in the negative.)

14 Q You didn't say what color the gun was in your
15 statement?

16 A No.

17 Q You didn't say how big or small the gun was in
18 your statement?

19 A No.

20 Q You didn't say whether the gun was a revolver or a
21 semiautomatic pistol in your statement?

22 A Right.

23 Q And there's nothing in your statement about a gun
24 being pointed at you?

25 A No, I didn't put in the statement that he pointed

CROSS EXAMINATION OF MOORE BY LOIGNON

1 a gun at me or in my face, what happened.

2 Q You also -- you didn't testify that he pulled the
3 trigger either, did you?

4 A No.

5 Q Okay.

6 A And honestly, and just like I told everyone else,
7 I don't know if he pulled the trigger of the gun. I didn't
8 notice that at all. Now that, I can't attest to. I didn't
9 notice that at all. All I saw was the gun. And think
10 about, you know, my kids growing up without a dad and 11
11 years old.

12 Q Understood. So, a gun pointed in your face would
13 be a serious event?

14 A Yes, it was serious.

15 Q Significant?

16 A Uh-huh. (Indicating affirmatively.)

17 Q Something that you would likely put in your
18 statement that you wrote to the police, correct?

19 A Not necessarily.

20 Q Something that you would even tell police
21 verbally?

22 A I'm sure that I did tell them.

23 MR. LOIGNON: Nothing further.

24 THE COURT: Redirect?

25 MS. GINSBURG: Just briefly, Your Honor.

CROSS EXAMINATION OF MOORE BY LOIGNON

1 THE COURT: Yes, ma'am.

2 REDIRECT EXAMINATION

3 BY MS. GINSBURG:

4 Q You didn't write a novel in your statement, did
5 you?

6 A Not at all.

7 Q Your 11 year old daughter was there?

8 A Right.

9 Q How long had you been there?

10 A A long time at this point. By the time -- I
11 guess, when the police first got there they were looking for
12 the defendant and doing other things. It just -- it was a
13 long, drawn-out process by the time that they actually gave
14 us a statement and asked us to write it, and I was ready to
15 go.

16 Q Okay. But on that statement, you provided your
17 number, didn't you?

18 A Yes.

19 MS. GINSBURG: Thank you. No further questions.

20 MR. LOIGNON: Nothing.

21 THE COURT: All right, sir. You may step down.

22 Thank you very much. Do you wish to excuse the
23 witness?

24 MS. GINSBURG: Yes.

25 THE COURT: Any objections?

REDIRECT EXAMINATION OF MOORE BY GINSBURG

1 MR. LOIGNON: No.

2 THE COURT: You are welcome to leave the
3 courthouse, if you would like. Let's take a short
4 break. We have been going for an hour and a half and
5 I'll let you move around and stretch for a little bit.
6 Do not discuss anything about the case until you begin
7 deliberations. You may retire to the jury room. Thank
8 you very much.

9 (The Jury exits the courtroom at 10:25 a.m. and
10 re-enters the courtroom at 10:50 a.m.)

11 THE COURT: Okay. We are in the process of
12 receiving evidence from the State. You may call your
13 next witness.

14 MR. OSBORNE: Thank you, Your Honor. The State
15 calls Deputy Jeff Phillips.

16 Thereupon,

17 DEPUTY JEFF PHILLIPS

18 was called as a witness, having been first duly sworn,
19 was examined and testified as follows:

20 THE COURT: Sir, once you get seated if you would
21 state your full name.

22 THE WITNESS: Jeffrey Phillips, P-H-I-L-L-I-P-S.

23 THE COURT: Your witness, counselor.

24 DIRECT EXAMINATION

25

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 BY MR. OSBORNE:

2 Q Deputy Phillips, where are you currently employed?

3 A Charleston County Sheriff's Office.

4 Q How long have you been with the Sheriff's Office?

5 A Since 2011.

6 Q Okay. So, for that six-year period, what have
7 been some of your various assignments?

8 A I started out in the jail as a detention officer.
9 2012, I was brought out on the road. Up until February of
10 2016 I was a patrol deputy. And I am a K9 handler.

11 Q Okay. So, you have been a K9 handler for about a
12 year?

13 A Yes, sir.

14 Q And what is your partner's name?

15 A Bostick.

16 Q Bostick, okay. So, what was your involvement in
17 this case?

18 A In this case I was actually the lead deputy for
19 that first initial night. I was the one who took the report
20 and handled pretty much the bulk of this at that point in
21 time.

22 Q And back in 2014, you were a road deputy?

23 A Yes, sir.

24 Q So, this was part of your duties and
25 responsibilities, to respond to calls of this nature?

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 A Yes, sir.

2 Q And where did you respond to this incident?

3 A That night we responded to Fickling Hill
4 Road.

5 Q The Fickling Hill Road, was that an area that you
6 normally patrolled; was that your beat or assignment?

7 A It was part of it. Back then I was mainly what we
8 list as Districts 9 and 10 which would include James Island,
9 John's Island, Wadmalaw, Seabrook and Kiawah.

10 Q Okay. This area of Fickling Hill Road, in fact,
11 all of John's Island, that is in Charleston County?

12 A Yes, sir.

13 Q You responded. What was the nature of the call?

14 A It came out as a disturbance with a weapon.

15 Q Okay. While en route, did you learn the suspect's
16 name?

17 A Yes, we did.

18 Q What was that?

19 A Ashley Tindall..

20 Q All right. Did you learn that there were any
21 weapons involved, or a report of any weapon?

22 A We were told that a firearm was involved, yes.

23 Q Okay. How did you initially respond to the scene?

24 A Well, we started out, basically, when we first get
25 the call, we start just generally en route until we get all

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 of the information. Once it is updated and we are told by
2 the dispatcher that a weapon was involved in the disturbance
3 we step it up to a code three in which we activate our
4 lights and our sirens in order to get through traffic and
5 try to respond a little more quickly.

6 Q Okay. Your first code in responding was, what, a
7 code one or two?

8 A Code one.

9 Q That is just general driving?

10 A General driving.

11 Q Okay. Obeying all traffic rules?

12 A Yes, sir.

13 Q All right. I am going to show you what's been
14 marked and admitted as State's Exhibit 1. Do you recognize
15 that area?

16 A Not particularly that side. I recognize the back
17 area there, and it was a lot darker.

18 Q Okay. And in relation to State's 3, that
19 residence; where is that located?

20 A I believe that it is going to be right in this
21 area here.

22 Q Okay. Tell the jury when you first responded, how
23 did you respond to the scene and where did you come; where
24 did you go?

25 A You mean coming on to the scene?

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 Q Yes.

2 A Okay. Generally, when we come to anything like
3 that we are going to take more caution, especially when a
4 firearm is involved. We don't know, one, where the suspect
5 is. Two, if there actually is a weapon. And, three, if he
6 might be able to potentially use it on us.

7 So, my partners and I actually came down to
8 Patton Avenue where it turns into Fickling Hill Road here
9 right after Stud Way (phonetic). We came down and actually
10 parked a little bit off from the residence. That way we had
11 a tactical advantage. That way we could see what was going
12 on and possibly if the suspect wanted to possibly harm us
13 for responding to the scene.

14 So, we came down Patton here and stopped just
15 shy, not knowing that that was actually the suspect's
16 residence right next door here off of Still Life, so that
17 way we could maneuver slightly up and at an angle and see
18 everything at the residence that we were responding to at
19 the time.

20 Q And that was the circle, the residence?

21 A Yes, sir,

22 Q Okay. And you responded to there because that is
23 where the victim was located?

24 A That is where we were called to, yes.

25 Q And that is part of your duties and

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 responsibilities. Your first concern is the victim,
2 correct?

3 A It is for everybody's safety, yes.

4 Q Okay. And so that is what brings us back to
5 State's 1, which isn't that great of an image you said. So,
6 is State's 8 better?

7 A Yes.

8 Q All right. Tell the jury what happened when you
9 got there and what you saw.

10 A Well, when we came down, we actually came down
11 Still Life and walked around the suspect's -- again, we
12 didn't know that it was his residence at the time. We came
13 around this corner here and we were actually met by Bob
14 Escoffier. He met us here and then he got us back to the
15 awning area where we came upon Richard Hilding, the listed
16 victim.

17 Q All right. I am going to show you now what has
18 been marked and admitted previously as State's 14.

19 All right. Do you now recognize that photo?

20 A Yes, sir.

21 Q And who is that?

22 A That would be Richard Hilding.

23 Q Okay. Does this photo accurately depict the way
24 that he was when you first saw him?

25 A He seemed a little bit more relaxed by that time.

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 By the time that the EMS got there and patched him up. When
2 we first got there he was a little bit more in shock, I
3 would say.

4 Q All right. I'll show you State's 15, another
5 image of Mr. Hilding.

6 A Yes, sir.

7 Q So, EMS had already got there obviously?

8 A Yes, sir.

9 Q State's 16. Okay. Those are Mr. Hilding's knees?

10 A Based on the previous pictures, it appears to be
11 his, yes.

12 Q All right. Now, after you met with the victim did
13 you -- and other individuals, did you learn if the suspect
14 was still on scene?

15 A No, we were actually told when we got on scene and
16 met by Bob Escoffier that he had already departed on his
17 vehicle.

18 Q All right. Now, going back to the victim,
19 Mr. Hilding, you had occasion to speak to him; is that
20 correct?

21 A Yes, sir.

22 Q Okay. So, as a deputy I can only assume, with
23 six years' experience, you have spoken to intoxicated
24 individuals before?

25 A Sure.

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 Q Tell the jury, when you have spoken to intoxicated
2 individuals what kind of observations have you made while
3 speaking to them in the past?

4 A Slurred speech, use of their -- they might be a
5 little bit off balance, they have a hard time remembering
6 things and giving you exact details, and a strong odor of
7 alcohol is present as well.

8 Q So, just a hard time telling the story, basically,
9 of what happened?

10 A I'm sorry?

11 Q So, an intoxicated individual, through your
12 experience, just basically has a hard time telling the
13 story?

14 MR. LOIGNON: Objection, leading.

15 THE COURT: I'll sustain the objection and ask you
16 not to lead the witness.

17 BY MR. OSBORNE:

18 Q Did you find any of the traits that you see in
19 intoxicated individuals through your experience through your
20 conversation with Mr. Hilding?

21 A No, sir.

22 Q Did he have difficulty explaining the story about
23 what had happened?

24 A He seemed a little more taken back, but details
25 that I could get out of him at that point in time, they were

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 pretty much straight-edged and to the point, yes.

2 Q So, when you asked him a question he was able to
3 answer the question?

4 A Yes, they were direct.

5 Q All right. Was Mr. Hilding transported by EMS?

6 A Yes, sir.

7 Q Okay. What did you do after that?

8 A We started going around and had my other deputies
9 that were backing me up on scene start handling the scene.
10 I had them go off and talk to some of the witnesses. At
11 that time I actually met with Bob Escoffier, started
12 speaking with him and getting his side of the story and then
13 I moved to Sara Tindall.

14 Q Now, Sara Tindall is the defendant's wife?

15 A Yes, sir.

16 Q All right. Without getting into a lot of detail,
17 but I guess after speaking to witnesses, did you learn that
18 there were two incidents that had occurred?

19 A Yes, sir.

20 Q Okay. And they occurred within seconds, minutes
21 of each other?

22 A Yes, maybe minutes.

23 Q All right. Just tell the jury some of the victims
24 or witnesses or people that you and other deputies
25 interviewed that night?

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 A Well, when I met with Bob Escoffier he advised
2 that there was a disturbance which he went to break up, at
3 which time he was sucker punched by the suspect at that
4 point in time.

5 Q You shocked me right there. That was poorly
6 worded. Just name the individuals that you spoke to that
7 night, you and other deputies, but don't say what they told
8 you.

9 A Okay. I spoke with Bob Escoffier -- you want me
10 to just list names?

11 Q Uh-huh. (Indicating affirmatively.)

12 A Okay. Sara Tindall, the defendant's wife. And I
13 believe that spoke with Melissa Escoffier for a short period
14 as well.

15 Q Okay. Did anyone speak with Daniel Moore?

16 A That might have been another deputy.

17 Q Okay. Chris Hilding?

18 A One of my other deputies.

19 Q Okay. Of all of the individuals that were
20 interviewed that night, how many gave two statements?

21 A That night, we only received one statement from
22 each person as far as I know.

23 Q Okay.

24 A As in written or spoken?

25 Q Written statements.

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 A Written statements, only one.

2 Q And who was that?

3 A We have Chris Hilding's.

4 Q No, no, I'm sorry, you said that -- how many

5 people gave a second statement?

6 A Oh, nobody.

7 Q Ms. Tindall didn't give a second statement?

8 A At a later point, yes.

9 Q Okay. So, Ms. Tindall was the only person that
10 gave a second statement?

11 A Yes, sir.

12 Q All right. Did you make any efforts that night to
13 try to locate the defendant?

14 A Yes, we did.

15 Q What did you do?

16 A We had other deputies in the surrounding area,
17 they attempted to drive up and around to see if they could
18 locate the vehicle. We went around the property to see if
19 he might have snuck around or anything like that.

20 Q Did you have any luck?

21 A No, we didn't, not at that time.

22 Q What did you do after that?

23 A After we attempted to locate him? That was
24 throughout the entire time that we were there. So, you have
25 to be a little more specific. That is -- we try to

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 investigate the whole scene while we are there.

2 Q After you were unable to locate the defendant,
3 what did you do next?

4 A At that time, we cleared the scene after we had
5 gathered everything else that we needed.

6 Q What did you do after you cleared the scene, did
7 you do any paperwork?

8 A After we departed the scene we actually had a
9 couple more calls to go answer and then I tried to start the
10 process to file for affidavits to do the paperwork.

11 Q All right. Did that end your involvement in the
12 case?

13 A No, it didn't.

14 Q What happened next?

15 A Around midnight we got a call from Melissa
16 Escoffier indicating that the suspect, Ashley Tindall, had
17 returned to his residence.

18 Q Did you go back out there?

19 A We did.

20 Q All right. What happened then?

21 A Myself and, I believe that it was Deputy
22 Strongarm, approached the residence for Sara and Ashley
23 Tindall. We went up to knock on the door at which time,
24 after I banged on it it actually came open. It wasn't
25 secured properly. At that moment in time I identified

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 myself as Charleston County Sheriff's Office. I looked
2 around to make sure that there wasn't anything out of place
3 or anyone in immediate danger at which time I saw to my left
4 Sara Tindall standing in a doorway to a room and she was
5 looking off to her left and making a motion like telling or
6 something to get down.

7 Q Could you see off to the left to that room?

8 A I could not see in that room, no, sir.

9 Q It was a bedroom that she was looking into?

10 A It appeared to be a bedroom, yes, sir.

11 Q Okay. So you, from your vantage point, you
12 couldn't see what was going on but she was motioning to get
13 down?

14 A Right.

15 Q All right. So, what happened then?

16 A At that point, again, I identified myself as
17 Charleston County Sheriff's Office and she than began
18 waslking out of the room towards my person like, come here,
19 come here. She wasn't saying anything, but she was making
20 the motion though.

21 Q Okay. What did you do?

22 Q We entered. We asked her, Where is Ashley at. At
23 which time she said, He is not here. Well, actually she
24 began moving her eyes back toward the bedroom and making a
25 head nod.

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 Q What did you take that head nod to mean?

2 A Usually that means that someone is hiding in there
3 and she doesn't want them to know that she's telling us.
4 That is my best experience.

5 Q What did you do then?

6 A Myself and Deputy Strongarm, due to the actual
7 circumstances and both the danger, present danger and
8 possible danger to both Sara Tindall and myself and other
9 deputies, we went in to clear the room to ensure that there
10 was no immediate threat.

11 Q All right. So, when you went to go clear the
12 room, would you have had to walk past Ms. Tindall to get in
13 the room?

14 A Yes.

15 Q When you walked past Ms. Tindall did she say,
16 Stop, don't go in the room?

17 A No, she didn't say anything.

18 Q All right. What happened when you got in the
19 room?

20 A Once I entered the room I -- I first cleared the
21 doorway to make sure that there was nobody there to possibly
22 ambush me or hurt me or anything like that. At that time I
23 saw on the ground there were scratch marks and I noticed
24 that the bed frame had actually been moved. That is what it
25 appeared to have been, the scratch marks had come from. I

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 saw that the bed was actually close to the wall and the
2 mattress had been pulled off a little bit off of the box
3 spring. And as I slowly maneuvered around the bed I could
4 actually see two feet and an arm tucked in against the wall
5 and bed.

6 Q Okay. Were the feet moving; what were they doing?

7 A No, they were staying still trying to hide.

8 Q What did you do then?

9 A I ordered the suspect, whoever it was, out from
10 under the bed. He came out and identified himself as Ashley
11 Tindall when asked, at which point he was taken into
12 custody.

13 Q And that is the defendant in this case?

14 A Yes, sir.

15 Q And you may not remember. But that night did you
16 know what type of vehicle the defendant drove?

17 A We were told that it was a Chevy 2500.

18 Q When you came back out to Fickling Hill Road do
19 you remember seeing the vehicle at the trailer?

20 A I don't recall seeing it, no.

21 Q All right. After Mr. Tindall came out from under
22 the bed, what did you do then?

23 A He was taken into handcuffs and he was placed
24 in -- well, he was searched to make sure that he didn't have
25 any weapons or anything like that, placed in the back of my

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 patrol car and I transported him to the jail.

2 Q All right. Now, let's talk about, you made
3 charging decisions that night, right?

4 A Yes.

5 Q What to charge the defendant with?

6 A Yes, sir.

7 Q Let's talk about that briefly. You said that you
8 knew that there were two incidents that occurred that night,
9 or you had learned that?

10 A Correct.

11 Q But you only charged him with one incident, is
12 that correct?

13 A Correct.

14 Q That being the latter incident involving
15 Mr. Hilding?

16 A Correct.

17 Q Why did you decide not to charge him with the
18 first incident?

19 A Mr. Escoffier who reported that he was punched by
20 the defendant, he refused to press charges at that time.

21 Q All right. Is that normal?

22 A Fairly.

23 Q Usually if a victim don't want to prosecute you
24 don't charge?

25 A Correct.

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 Q In regards to the second charge, what charging
2 decision did you make to charge the defendant with the
3 second charge?

4 A Assault and battery first degree.

5 Q And that charge was later upgraded?

6 A Correct.

7 Q By the Solicitor's Office?

8 A Correct.

9 Q Why did you elect to go with the assault and
10 battery first degree?

11 A Based on my understanding of the law and reading
12 of the statute I felt that everything that occurred and
13 everything that I -- all of the evidence that I gathered
14 best fit that criteria for that charge.

15 Q Okay. All right. Now, let's get back to the
16 transport. So, you are taking Mr. Tindall to the jail. Was
17 there any comments made to you by Mr. Tindall once your
18 arrived at the jail?

19 A He asked me exactly what the victim had stated
20 that he had done. At which time I told him because he had,
21 he had the right to know. And his response to that was, I
22 am a fat old man, I don't use nunchucks, I used my fists to
23 beat him with.

24 Q He used his fists to beat him with?

25 A Yes.

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 Q All right. So, when he asked you what did the
2 victim say that I did or whatever, did you tell him that the
3 victim said that he had been hit with nunchucks?

4 A I told him that the victim had said that he had
5 struck him with -- I can't remember exactly what I told him.
6 It might have been nunchucks because that was the last thing
7 that I was told or it might have just been a weapon. I
8 can't remember exactly what I told him now.

9 Q Did that end your involvement in the case?

10 A No.

11 Q What happened next?

12 A July 6th, we actually got another phone call and
13 this time it was Ashley Tindall and he stated that -- we
14 were advised that he wanted to pursue charges of his own
15 taking the proper steps.

16 Q All right. This incident happened July the 4th,
17 when the defendant called for you to come back out?

18 A On July the 6th.

19 Q Okay. Now, were you equipped with a body camera?

20 A Not at this time. Not now, not until 2016 did we
21 actually get body cameras.

22 Q Did you have camera in your car though?

23 A Yes, I had an in-camera car video and I had an
24 audio recording device on my person.

25 Q Was the second encounter with the defendant

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 recorded by the camera in the car?

2 A Yes, it was, I activated it.

3 Q Your Honor, at this time, I think that it's been
4 stipulated, but we seek to publish State's 17.

5 MR. LOIGNON: Wihtout objection.

6 THE COURT: It'll be allowed. You may proceed.

7 Q Who is that walking toward you?

8 A It appears to be Mr. Tindall.

9 (Video playing.)

10 Q So, what is he wanting to do now?

11 A He is wishing to pursue charges of his own against
12 the victim, being he was assaulted as well.

13 Q It is hard to hear, but did he say, I would like
14 to extend the same hospitalities to him as he did to me?

15 A I can barely hear that as well, to be honest with
16 you.

17 (Video resumed playing.)

18 Q Just real quick. Did he tell you on the way to
19 the station that he was pushed by Mr. Hilding?

20 A Not to my recollection, no.

21 Q Okay. So, this would be the first time that you
22 are hearing this?

23 A Yes, sir.

24 (Video resumed playing.)

25 Q You said that you had multiple witnesses; was one

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 of those witnesses Ms. Tindall?

2 A Ms. Sara Tindall, yes, sir.

3 Q Ms. Tindall?

4 A Yes, sir.

5 (Video resumed playing.)

6 Q So, he's saying that his wife, Sara Tindall, all
7 you needed to do was to speak to her?

8 A Yes, sir.

9 Q But you had already spoke to her?

10 A Yes, sir.

11 Q He was saying that she was coerced?

12 A He was saying that that night she was coerced by
13 everyone else because they were inebriated.

14 (Video resumed playing.)

15 BY MR. OSBORNE:

16 Q All right. Deputy, throughout the rest of what we
17 are going to watch, or we don't have to watch it, he's
18 writing a statement?

19 A Yes, sir.

20 Q Does his statement significantly change at all
21 from what he just told you?

22 A Yes. He actually admits to using a weapon.

23 Q Okay. And what weapon does he say that he used?

24 A In the statement he says that he used a trimming
25 hammer.

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 Q Trimming hammer. So, I'm not really familiar with
2 that term; is that just a normal type of hammer, or do you
3 know?

4 A Actually, you have got me on that. I have never
5 used one before.

6 Q Okay. Now, at the beginning of the statement here
7 when you first pulled up, did he -- it seemed like he was
8 motioning for Ms. Tindall to come over?

9 A Like he wanted to say something to her. I can't
10 remember exactly what he was doing. I remember him going
11 over and looking at her like he wanted to say something to
12 her.

13 Q Okay. Was she on scene?

14 A Yes, she was actually up there where my deputy is
15 walking up those steps and she was actually on, I think that
16 is the porch area.

17 Q Did she provide a statement?

18 A Yes, she did. She provided a second statement.

19 MR. OSBORNE: May I approach?

20 THE COURT: You may.

21 BY MR. OSBORNE:

22 Q For ID purposes only, tell me if you recognize
23 State's 19 and State's 20. Yes or no?

24 A Yes, sir, I recognize them.

25 Q Okay. And what are they?

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 A They would be the written statements of Sara
2 Tindall.

3 Q Okay. The one, I think it is 19, was the
4 statement taken on July the 4th?

5 A Correct.

6 Q And 20 was a statement taken on July the 6th?

7 A Right.

8 Q Now, let's talk about your interaction with
9 Ms. Tindall on July the 4th, did you notice that she was
10 intoxicated?

11 A No.

12 Q Did she have difficulty relaying details?

13 A No.

14 Q When you asked her if she had a problem telling
15 you what happened?

16 A She seemed kind of scared, but no.

17 Q So, was she able to give you specific details, yes
18 or no?

19 A No.

20 Q July the 6th, you don't -- just -- did the
21 statement change significantly from July the 4th to July the
22 6th?

23 A Yes.

24 Q Was Mr. Tindall present during the July the 4th
25 statement?

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 A No.

2 Q Was Mr. Tindall present during the July the 6th
3 statement?

4 A Yes.

5 MR. LOIGNON: Objection, Your Honor, this
6 gentleman lacks personal knowledge and it
7 mischaracterizes the evidence.

8 THE COURT: I will consider the first one. The
9 second one doesn't have to do with the statement. You
10 can cross-examine him on any mischaracterizations of
11 the evidence. The first one I will consider, that has
12 to do with whether it ought to be allowed or not. And
13 your objection is?

14 MR. LOIGNON: This witness didn't take the
15 statement first.

16 THE COURT: You going to lay a foundation as to
17 how he would know who is present. I think that it is
18 the second statement that we are talking about now.

19 I'll ask you to do so.

20 MR. OSBORNE: Thank you.

21 BY MR. OSBORNE:

22 Q So, in regards to the July 4th statement, you did
23 have the occasion to speak to Ms. Tindall?

24 A I did.

25 Q Now, in relation to the July 4th statement, as the

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 case agent in this case, have you had the occasion to go
2 back and review Ms. Tindall's statement?

3 A The first or second?

4 Q July the 4th.

5 A Yes.

6 Q Was that in fact the statement that was made on
7 July the 4th?

8 A Yes, sir.

9 Q Was you provided with a copy of the July the 4th
10 statement on the night of July the 4th?

11 A I had the original.

12 Q The original?

13 A Yes.

14 Q The original, okay. Let me ask you this, when you
15 compared -- and I am not asking you to be a handwriting
16 expert, I know that you are not, but when you looked at that
17 handwriting does one appear to be more sloppy than the
18 other?

19 A They are both fairly the same.

20 Q The same?

21 A Yes.

22 Q Did you go back and charge Mr. Hilding?

23 A No, sir.

24 Q Why not?

25 A After reviewing everything that I had, including

DIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 the statements from Mr. Tindall it was found that from the
2 altercation Mr. Tindall was the primary aggressor, from what
3 is defined from what I learned at the academy, so he went
4 as -- he was the one charged.

5 MR. OSBORNE: No further questions.

6 THE COURT: You may cross-examine.

7 CROSS EXAMINATION

8 BY MR. LOIGNON:

9 Q I believe you said that you were a deputy for six
10 years; is that right?

11 A I was a detention officer until 2012, so
12 technically five.

13 Q Five years. And to become a deputy, you have to
14 go to the criminal justice academy?

15 A Yes, sir.

16 Q How long is that?

17 A Twelve weeks.

18 Q Okay, all right. So, while you are there you
19 received training on conducting investigations?

20 A A fair amount, basic, basic entry to it, yes.

21 Q You receive training on interviewing witnesses?

22 A Not much, it is -- like I said, it is basic stuff.
23 It is mostly entry level stuff.

24 Q Training on writing reports?

25 A Little bit, not much. Most of that comes from the

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 agency because every agency writes them a little bit
2 differently.

3 Q Training on taking written statements?

4 A I actually learned that through my FTI.

5 Q What is that?

6 A Field training instructor.

7 Q Okay. So, you had training after the criminal
8 justice academy as well?

9 A Yes, sir.

10 Q You said field training?

11 A Instructor.

12 Q Instructor. And also department specific
13 training?

14 A Right.

15 Q Something like annual training, recertification,
16 that sort of thing?

17 A Yes, sir.

18 Q Okay. And in that training you were taught the
19 importance of being thorough, correct?

20 A Correct.

21 Q In your investigations?

22 A Correct.

23 Q And in your reports?

24 A Correct.

25 Q To conduct a complete investigation?

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 A Yes.

2 Q Don't leave any loose ends?

3 A To the best of my ability, yes.

4 Q Follow all leads that seem at all plausible?

5 A To the best of my ability, yes.

6 Q Do you know how many investigations you have
7 conducted over the past five years?

8 A I have no idea.

9 Q A lot, I'm sure?

10 A A fair amount.

11 Q So you know what you are doing?

12 A I would say that I have a basic grasp on it, yes.

13 Q Are you being modest? I mean, five years of
14 experience.

15 A No, sir, in law enforcement everyday is a new
16 thing and you are always learning something new.

17 Q All right. But you are not some rookie, five
18 years experience?

19 A What do you define as a rookie in law enforcement?

20 Q I'm guessing someone who is new to the job.

21 A What is new?

22 Q You tell me, I don't work in law enforcement.

23 A If you want to go based on what I have learned
24 from the veterans, the older guys who have done this for a
25 while, they will say that most people don't get a good grasp

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 on the job until their 7th year.

2 Q Okay. You know how to conduct a complete and
3 thorough investigation, though, don't you?

4 A To the best of my ability I do.

5 Q You know how to speak to witnesses and determine
6 what information is relevant to your investigation, don't
7 you?

8 A Yes.

9 Q Now, when you responded to this incident, you said
10 that it was dark outside, right?

11 A Correct.

12 Q And you parked your car down the street out on
13 Fickling Hill Road, I think you said?

14 A We are talking the first night?

15 Q Yes.

16 A Yes, sorry.

17 Q Then you walked down Still Life Drive?

18 A Correct.

19 Q And it was dark out there?

20 A Correct.

21 Q Not a lot of lights around?

22 A Not a lot, no.

23 Q Did you have to use your flashlight when you were
24 walking up?

25 A We did. Well, we didn't use them directly until

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 we were met. We try not to give away our position too much.

2 Q And you have been here in the courtroom the past
3 couple of days and you have seen some of the photos showing
4 Still Life Drive in front of Mr. Tindall's trailer, right?

5 A Correct.

6 Q I am going to show you a couple more.

7 MR. LOIGNON: Court's indulgence?

8 THE COURT: Yes, sir.

9 (Pause.)

10 BY MR. LOIGNON:

11 Q I am going to show you a couple of photos and I
12 would just like you to take a look at them to yourself and
13 then I'm going to ask you some questions about them. Okay?

14 A Yes, sir.

15 MR. LOIGNON: May I approach, Your Honor?

16 THE COURT: You may.

17 BY MR. LOIGNON:

18 Q I'm showing you what's been marked as Defense
19 Exhibits 4 and 5.

20 A Okay.

21 Q Do you recognize what those photographs are of?

22 A Number 4 would appear to be in front of
23 Mr. Tindall's residence, it appears to be off of Still Life
24 Drive. And you want me to continue on?

25 Q Sure.

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 A And the second appears to be the pathway that we
2 took to the backyard of the Escoffiers' residence.

3 Q Okay. So, do those photos fairly and accurately
4 represent what that area looked like at night?

5 A It was three years ago, so I don't know if they
6 added more lights or not but you could say that it was
7 close.

8 MR. LOIGNON: Your Honor, at this time the defense
9 would move to admit Exhibits 4 and 5 into evidence.

10 MR. OSBORNE: Objection, lack of authentication.

11 THE COURT: Do we know when, where, and under what
12 circumstances they were taken? He is saying they have
13 not been authenticated.

14 MR. LOIGNON: Yes, Your Honor, I do know when they
15 were taken.

16 THE COURT: You can have them marked for
17 identification purposes and authenticate them later.

18 MR. LOIGNON: Certainly, Your Honor.

19 *(Whereupon, Defendant's Exhibit No(s). 4-5 marked*
20 *for identification.)*

21 BY MR. LOIGNON:

22 Q Just hang on to those for a moment.

23 A Yes, sir.

24 Q Is it safe to say the incident -- based on your
25 knowledge, the incident that occurred on Still Life Drive,

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 that it was closest to Mr. Tindall's home?

2 A Which incident are you referring to?

3 Q The one on Still Life Drive.

4 A You are referring to the one with Mr. Hilding?

5 Q Yes.

6 A You said off Still Life Drive?

7 Q The incident with Mr. Hilding that occurred, is it

8 safe to say that it occurred closest to Mr. Tindall's home?

9 A Yes, sir.

10 Q When you got out there, you rounded up everyone

11 that witnessed the incident, right, or they were gathered

12 together?

13 A We tried to talk to as many as we could, but there

14 were a lot of people and a lot of commotion going on though.

15 Q You talked to these witnesses that night?

16 A Not all of them. Not myself at least.

17 Q You took written statements from witnesses?

18 A I took written statements from a couple of them.

19 I couldn't tell you exactly who, but I remember Sara Tindall

20 specifically though.

21 Q Is it safe to say that you talked to any witness

22 that wanted to talk to you?

23 A Anybody that came up to talk to me I tried to talk

24 to them, yes, sir.

25 Q And you testified, I believe, you did not have a

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 body camera at the time?

2 A Not at the time, no, sir.

3 Q And your car was down the road so you didn't have
4 your dash camera?

5 A Correct.

6 Q And the witness statements were not audio recorded
7 that evening?

8 A Unfortunately, no, sir.

9 Q So, based on your training and experience then,
10 these written statements that you took would be extremely
11 important?

12 A Yes, sir.

13 Q And important that they are accurate?

14 A Yes.

15 Q And thorough?

16 A Yes.

17 Q Important that they are complete?

18 A Yes.

19 Q They should contain everything that the witness
20 saw?

21 A They should contain everything that they are
22 willing to give to law enforcement to help us, yes.

23 Q Because that will be the only lasting record of
24 what happened on that night, right?

25 A Not the only lasting record, no. I mean, whatever

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 they tell us vocally as well.

2 Q Sorry.

3 A Yes.

4 Q Okay. Let's talk a little bit about your report.

5 You mentioned that you had received a little bit of training
6 on writing reports?

7 A Yes, sir.

8 Q And you have been doing it for a while, writing
9 reports generally, at all of the incidents that you respond
10 to?

11 A Not all of them. Sometimes my deputies take the
12 reports.

13 Q Okay. It's safe to say that you have written a
14 lot of reports?

15 A Decent amount.

16 Q Now, did you get a chance to review your report
17 before you testified today?

18 A Yes, sir.

19 Q There's actually two separate reports but you
20 wrote another report when you came back out to his house a
21 couple of days later, correct?

22 A Yes, something like that.

23 Q Okay. I am going to talk about the first report.
24 I believe that you testified that you wrote it the night of
25 July 4th, between the time that you were out there the first

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 time and then when you came back to get Mr. Tindall --

2 A That is not what I said.

3 Q Oh, I'm sorry.

4 A I said that I attempted to start it.

5 Q Okay. So, did you start the report?

6 A I can't remember.

7 Q Did you write the report any time that evening?

8 A We talk -- you mean specific with the evening of
9 the 4th or can we go into the morning of the 5th?

10 Q That duty day.

11 A It was written during that shift, yes, sir.

12 Q Okay. And in that statement you talk about -- you
13 say that you spoke to several witnesses, right?

14 A I spoke to a couple of them, yes, sir.

15 Q And you took several statements from these
16 witnesses?

17 A Define "several".

18 Q I believe that it was four exactly.

19 A I don't remember if I took all of those, no.

20 Q Okay. Are you familiar with the statements that
21 were taken in this case?

22 A Yes, sir, I had a chance to review them.

23 Q Okay. And in your report you referenced those
24 statements?

25 A I believe so, yes, sir.

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 Q One of the four mentions there was a gun. One of
2 the four statements mentions that there was a gun, right?

3 A I think that two of them might have actually.

4 Q If I let you review your report, would that
5 refresh your recollection?

6 A Yes, please.

7 MR. LOIGNON: May I approach, Your Honor?

8 THE COURT: You may.

9 BY MR. LOIGNON:

10 Q I believe most of the pertinent information about
11 the statements is down towards the bottom of that page.

12 A Okay.

13 Q You finished?

14 A Yes.

15 Q Now, I'm talking about the written statements that
16 you took?

17 A Correct.

18 Q One of them mentioned a gun, right?

19 A Two of them.

20 Q Okay. You didn't take a statement from someone
21 named Dana Bradwell?

22 A Not that I can recall, no, sir.

23 Q Do you recall talking to her at all?

24 A No, sir, I can't remember that.

25 Q She didn't approach you with any information?

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 A I can't remember.

2 Q If she did approach you with information that was
3 relevant to the case, it would be in your report?

4 A I would hope so.

5 Q If you had any information that a gun was pointed
6 in somebody's face, that would be in your report?

7 A I would think so.

8 Q If you had any information from anyone that a
9 trigger was pulled, that would be in your report?

10 A If they had mentioned it to me, yes.

11 Q Because that would change your investigation,
12 right?

13 A It might, yes.

14 Q I mean, you might have to call out crime scene, do
15 forensics; right?

16 A Not necessarily, that would be a judgment call on
17 the sergeant or whoever the shift supervisor was at the
18 time.

19 Q But you didn't look -- you didn't call out crime
20 scene this night, right?

21 A No, sir.

22 Q Didn't look for any shell casings or anything like
23 that?

24 A Didn't find any.

25 Q You didn't test anyone for gun shot residue?

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 A No, sir.

2 Q Because no one was saying that the gun was fired
3 or anything like that?

4 A You don't have to test for gun shot residue if no
5 one said that a gun was fired.

6 Q Right. You mention that you originally charged
7 assault and battery first degree, right?

8 A Yes, sir.

9 Q That was because the evidence that you gathered on
10 that evening supported that, correct?

11 A I felt that it met the criteria, yes, sir.

12 Q You also mentioned that you went to Mr. Tindall's
13 trailer later that evening?

14 A Yes, sir.

15 Q When you knocked on the door, it opened by itself?

16 A Yes, sir.

17 Q And Sara Tindall was right there?

18 A She was off to the left in the trailer, yes, sir.

19 Q Okay. And I think that you said initially you saw
20 her motioning for someone like to get down, right?

21 A Yes, sir.

22 Q All right. And this is part of your first report.
23 It is later that evening you talk about going back and you
24 put that in your report, right?

25 A I believe so, yeah.

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 Q And in that report, you said that Sara motioned
2 for the deputies to come inside, right?

3 A She did like this, yes, sir.

4 Q The door had already opened so she knew that you
5 were there?

6 A We had announced ourselves twice.

7 Q So she knew that you were inside?

8 A Yes, sir.

9 Q And you also say that the deputies asked Sara
10 where Ashley was and she said that he wasn't there?

11 A Right.

12 Q But kept staring at her bedroom?

13 A She didn't stare directly at it, she would look
14 and make an eye motion towards the room along with moving
15 her head towards it, yes.

16 Q I'm just talking about what is in your report from
17 the night of the incident.

18 A Okay.

19 Q In your report it says that she said that Ashley
20 wasn't there but kept staring at her bedroom.

21 A Okay.

22 Q Is that correct?

23 A That is what I wrote. That is what is in there.

24 Q Now, you were inside Mr. Tindall's trailer, right?

25 A Correct.

CROSS EXAMINATION OF J. PHILLIPS' BY LOIGNON

1 Q You didn't see any guns in there?

2 A Not in my immediate vicinity of what I saw, no,
3 sir.

4 Q You walked through from the front door through the
5 living room, I assume?

6 A Whatever that living space was.

7 Q Back into the bedroom?

8 A Yes.

9 Q You didn't see any guns.

10 A Is that a question?

11 Q It is.

12 A Okay, no.

13 Q And there was no gun recovered in this case at
14 all.

15 A No, sir, we didn't find any.

16 Q Ms. Tindall, in her statement she said that the
17 weapon was nunchucks.

18 A Which statement, sir?

19 Q Her first statement.

20 A I believe that's what she wrote, yes.

21 Q And other witnesses said that it was just a
22 weapon.

23 A We had a couple specify a gun and another say he
24 didn't know what the weapon was.

25 Q Sir, I think, if you wouldn't mind I just want to

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 clarify because I want to get on the same page with you
2 here. When you are saying that a couple of witnesses said
3 gun, is one of those witnesses that you are referring to
4 Melissa Escoffier?

5 A That is one of the witness statements that we had,
6 yes, sir.

7 Q Okay. But in your report it says that Melissa
8 stated that he made a threat saying that he was going to
9 come back with his gun?

10 A That is the one that I'm referring to, yes, sir.

11 Q Okay. But she didn't actually report seeing a
12 gun?

13 A Oh, no, sir.

14 Q Just to be clear.

15 A Oh, sorry.

16 Q Thank you. So, only one witness statement reports
17 seeing a gun?

18 A One witness statement that we had on-hand, yes,
19 sir.

20 Q Okay. And at the end of your investigation that
21 evening, you have concluded that the witnesses were
22 uncertain as to what type of weapon was used?

23 A Yes.

24 Q In fact, when you testified in an earlier hearing
25 in this case, preliminary hearing before this Court, you

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 were under that same belief, that the witnesses were
2 uncertain as to what type of weapon was used?

3 A Yes, sir.

4 Q Now, Mr. Tindall then called you back out to his
5 house a couple of days later and we saw some of the video
6 from that, correct?

7 A On July 6th, yes, sir.

8 Q Okay. And he explained to you that he wanted to
9 press charges against Mr. Hilding?

10 A That is what he -- yes, that is what he was
11 pursuing.

12 Q The Solicitor made some mention that he didn't
13 tell you that same thing when he was being transported to
14 jail on the evening of the incident; is that right?

15 A He didn't. And watching the video and listening I
16 even stated that, I even asked him, Why didn't you tell me
17 this on the way there.

18 Q And he, Mr. Tindall, responded with, I am not a
19 lawyer or something like that. But --

20 A I don't remember exactly what he responded with.
21 I remember him telling me that he was more in fear of going
22 to jail and his monetary reasons weren't good or standing
23 wasn't good, something along those lines.

24 Q Do you encounter, when you arrest folks, that
25 sometimes they want to exercise their right to remain

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 silent?

2 A Some do, yes, sir.

3 Q Now, when you went back out there you took the
4 statement from Mr. Tindall at your car, correct?

5 A In front of my car, yes, sir.

6 Q And another deputy went inside the trailer to take
7 a statement from Mr. Tindall?

8 A I don't recall them going inside the trailer.

9 What I recall is him standing on the porch with her.

10 Q All right.. Fair enough. On the porch.

11 A Yes, sir.

12 Q So, your car is parked out on Still Life Drive and
13 they are a distance away over at the trailer, correct?

14 A They were away from us, yes, sir.

15 Q Those two statements were not taken in the same
16 location at all?

17 A Define location. I mean, because they were
18 taken -- they were in eye shot of each other. But they are
19 not immediately next to each other.

20 Q Let me rephrase that. The reason that you had
21 another deputy take the second statement is to basically
22 ensure that the statement wasn't coerced, correct?

23 A And also the fact that I was speaking with
24 Mr. Tindall at that time so I couldn't take both at the same
25 time.

CROSS EXAMINATION OF J. PHILLIPS BY LOIGNON

1 Q To the best of your understanding, Sara Tindall
2 was not intoxicated when she gave her second statement, was
3 she?

4 A I didn't speak to her directly so I don't know.

5 Q The second deputy said she didn't seem
6 intoxicated, did he?

7 A No, said she seemed more scared.

8 Q She didn't seem intoxicated?

9 A No.

10 Q Ashley Tindall, when you took him to jail that
11 evening, you didn't smell any alcohol on him?

12 A I can't remember to be honest with you. It was
13 marked in my report as yes, but I don't remember at this
14 moment in time.

15 MR. LOIGNON: Court's indulgence?

16 (Pause.)

17 MR. LOIGNON: Nothing further, Your Honor.

18 THE COURT: You may redirect.

19 MR. OSBORNE: Just briefly, Your Honor.

20 THE COURT: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MR. OSBORNE:

23 Q So, the assault and battery first charging
24 decision that you made back on July the 4th, 2014, how long
25 had you been a deputy back then?

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 A 2014, so I was on the road for about a year and a
2 half maybe.

3 Q So, you had only been a deputy for a year and a
4 half. Is it true that your knowledge of the assault and
5 battery has been made clearer now?

6 A: Oh, yes, it has been explained to me now.

7 Q Especially by our office?

8 A Oh, yes, sir.

9 MR. OSBORNE: Thank you.

10 THE COURT: Recross?

11 MR. LOIGNON: No, Your Honor.

12 THE COURT: You may step down.

13 I will ask the attorneys to approach.

14 (Off-the-record
15 discussion held.)

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

17 MS. GINSBURG: The State rests its case, Your
18 Honor.

19 THE COURT: All right. Ladies and gentlemen of
20 the jury, that means that the State has completed the
21 presentation of its evidence in the case. There are
22 some matters that I have to take up with the lawyers
23 before we move on in our trial, and of course you don't
24 have to be present or shouldn't be present for those
25 things, so I'll be discussing some things with the

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 attorneys for a while. I do note that it's almost noon
2 so it'll be a good time for you to get lunch and then I
3 can take those things up with the lawyers and it will
4 be out of the way when you come back.

5 You are leaving the courthouse so you know my
6 instructions, not to try to gather information, not to
7 discuss the case with anyone, not to allow anyone to
8 discuss it with you. Anyone try to contact you about
9 the case, please report it. And don't listen to or
10 watch any media reports about the case.

11 Let's see. Return to the courthouse at 1:30. We
12 should be in a position to start shortly thereafter.
13 You are free to go to lunch at this time.

14 (The jury exits the courtroom.)

15 MR. LOIGNON: Yes, Your Honor, at this time the
16 Defense would move for the directed verdict based on
17 the self defense doctrine. I believe that there's four
18 elements required under law by State V Davis to
19 establish a case of self-defense. Once the issue is
20 raised the State has the burden to disprove at least
21 one of those elements. In this case, those four
22 elements are, first, the defendant must be without
23 fault of bringing on the difficulty. And in this case
24 I believe that there's ample evidence to suggest that
25 in the case that we are here trying this week the

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 victim, Mr. Hilding, is the one who approached Mr.
2 Tindall, inserted himself into the situation and
3 started an altercation with Mr. Tindall.

4 Second, the defendant must have believed he was in
5 imminent danger of losing his life or sustain serious
6 bodily injury or that he was actually in such imminent
7 danger. There's been testimony from Mrs. Tindall, and
8 it came out through the video that we just watched on
9 the dash cam indicating that there was a threat made by
10 Mr. Hilding saying that I'm going to F'ing kill you and
11 then he grabbed Mr. Tindall. So, it is our position
12 that the defendant was actually in imminent danger.

13 The third is that a reasonable prudent man of
14 ordinary firmness and courage would have that same
15 belief. And as I stated Your Honor, the defendant
16 was -- there's been testimony that the defendant was
17 wrapped up in a bear hug with -- by the victim and that
18 he had to do whatever he could to get out of his grasp.
19 He had to strike that blow in order to save himself
20 from serious bodily harm. And finally, Your Honor, the
21 defendant had no other probable means of avoiding the
22 danger.

23 And specifically here, we are talking about the
24 danger of when he was in the grasp of Mr. Hilding and
25 not anything prior because that is when he becomes in

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 danger. He doesn't -- he's not --

2 THE COURT: Isn't there, though, evidence that
3 that's not what happened?

4 MR. LOIGNON: Yes, sir. The State has presented
5 some evidence, but I don't believe that they have met
6 their burden of disproving it.

7 THE COURT: Well, my job at this stage of the case
8 is not to weigh the evidence as to whether or not they
9 have met the burden of proof, but to determine the
10 existence of evidence upon which a jury could possibly
11 reach a verdict. And it seems to me that there's been,
12 as far as volume is concerned, there's been a larger
13 number of witnesses who indicated that the victim was
14 without fault in bringing on the difficulty, so there's
15 testimony both ways. I mean, if that is the case
16 normally, I mean, that is a jury question.

17 MR. LOIGNON: Yes, sir. And if that is the
18 Court's belief, then I know that it is unorthodox, but
19 I would also move under the protection of personal
20 properties act. I realize that, generally, is a
21 pretrial issue but I am going to raise it now just as I
22 think that there was testimony that this incident
23 happened on the cartilage of Mr. Tindall's property and
24 Mr. Hilding was an unwelcomed guest on that property.
25 Therefore --

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 THE COURT: I didn't hear any evidence as to where
2 the property lines were. It was on a road or a street,
3 some right of way that people use. Certainly not
4 enough evidence to determine whether he was on his
5 property or not on his property.

6 MR. LOIGNON: That is all of the argument that I
7 have, Your Honor.

8 THE COURT: Okay. Motion is denied. Now, does
9 the State intend to use any -- I don't know what
10 convictions that the defendant might have, but any
11 convictions that the defendant might have in trying to
12 attack his credibility?

13 MR. OSBORNE: No, Your Honor, we do not. I think
14 that this is probably an appropriate time to bring up
15 something else that has come up during this trial.
16 Normally, I think this is just in an abundance of
17 caution, we have already had one mistrial and we
18 certainly don't want to ask a question to have another.

19 But I do have to point out, during Mr. Loignon's
20 opening he brought character in. Which is fine, I'm
21 not suggesting that he introduced character evidence at
22 that point, but he certainly set the stage and that
23 caught my ear.

24 And during his cross, which basically was his
25 witness since he had spoken to Ms. Tindall before, he

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 not only opened a door, he ran right through it. And
2 he did it over and over again. I even objected to the
3 leading. And I know that it was not appropriate to try
4 to signal to him, but he kept asking these questions.
5 And some of the ones that I got was the defendant walks
6 Sara to the door every morning, the defendant sees her
7 off to work, the defendant eats dinner with her as a
8 family. They prepare dinner together, they sit down
9 together as a family, you love him, he loves you. All
10 of that evidence is nothing more than character
11 evidence to show that he is a good father and a good
12 husband. He opened that door. If Mr. Tindall takes
13 the stand, I think that we should be able to ask him,
14 you have hit Ms. Tindall before haven't you. That goes
15 directly to show that he's not such a good father and
16 good husband like Mr. Loignon is stating.

17 THE COURT: We will see what context it comes up
18 in.

19 MR. LOIGNON: Your Honor, I would obviously
20 strongly object to that, first of all for --

21 THE COURT: Is there a conviction of domestic
22 violence?

23 MR. OSBORNE: No, I think that's what 404
24 envisions because the rule says, and State v. Manor
25 kind of extrapolates on it a little bit. It says, When

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 the accused offers evidence of good character,
2 regarding a specific character trait relevant to the
3 crime charged, this State may cross-examine as to the
4 acts relating to the trait focused on by the accused.
5 Just cross-examine. We are not seeking to introduce
6 extrinsic evidence to prove. He can deny it and I
7 think that we are struck with it.

8 MR. LOIGNON: Your Honor, I didn't offer any
9 evidence of any specific trait at all.

10 THE COURT: What was the evidence intended to do?

11 MR. LOIGNON: The evidence was simply to explain a
12 normal day for Ms. Tindall and that this 4th of July
13 was simply like any other day.

14 THE COURT: So, that is the way that he acts
15 towards her all of the time?

16 MR. LOIGNON: Her day, not really his day. It was
17 to figure out, you know --

18 THE COURT: Talking about things that he did for
19 her.

20 MR. LOIGNON: I don't recall specifically what
21 specific things he said she did.

22 THE COURT: We can check the record and see what
23 you asked. But tell me the questions that you think he
24 asked.

25 MR. OSBORNE: The way I got it was, and this went

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 on for a little bit. The defendant walked Ms. Tindall
2 to the door everyday. The defendant sees her off to
3 work everyday. The defendant and her eat dinner
4 together as a family. They prepare dinner as a family.
5 They sit down to have dinner as a family.

6 THE COURT: I recall the preparing the dinner
7 thing. She said she and I cook together or he cooks.
8 I remember the answer to that one.

9 MR. OSBORNE: And, Do you love him? Yes. And he
10 loves you.

11 MR. LOIGNON: That is simply to rebut the
12 allegations by the State that Mr. Tindall is so
13 controlling that he has a curfew for Mrs. Tindall and
14 that his dinner wasn't prepared on time. I mean, it is
15 a specific point that they made in the case and I was
16 simply showing that they do this everyday, it was not
17 out of the ordinary occurrence; it had nothing to do
18 with Mr. Tindall's character.

19 MR. LOIGNON: That is character evidence, everyday
20 occurrences is character. And the only purpose to put
21 that in is to say that he is a good person and a good
22 father and a good husband. He could have rebutted that
23 testimony by asking those specific questions without
24 getting into what a good guy he was or a good husband
25 he was.

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 MR. LOIGNON: Your Honor, that is not character,
2 that is simply showing that the argument that the State
3 has made that Mr. Tindall required her to be home so
4 that his dinner was made is just not true. And the
5 statement --

6 THE COURT: Well, the evidence was that he came
7 there and apparently he was yelling at her and shouting
8 at her. If I recall what they said is he came because
9 she was supposed to come home at a certain time, that
10 they expected to eat together or have a dinner together
11 and she had overstayed that -- it was called a curfew,
12 I won't call it a curfew, but it was a time that was
13 appointed for her to return had passed and that he
14 apparently came there as a result of that is what --
15 several witnesses testified as to what the discussion
16 was there. And then you went into what they did at
17 home and in the mornings, walking her to the door, that
18 sort of thing, which is beyond what happened that
19 night.

20 MR. LOIGNON: Yes, Your Honor, that is correct.
21 And that was simply just to establish that Mr. Tindall
22 and Mrs. Tindall have a routine, it is not about his
23 specific character.

24 THE COURT: Walking her to the door, what does
25 that have to do with the routine about eating?

REDIRECT EXAMINATION OF J. PHILLIPS BY OSBORNE

1 MR. LOIGNON: They do certain things at certain
2 times throughout the day.

3 THE COURT: Okay. I'll probably allow you to
4 cross-examine him about that issue. It seems to me
5 that the door has been opened.

6 Now, but I was getting to whether or not there was
7 a conviction that could be used to attack his
8 credibility.

9 MR. OSBORNE: No, Your Honor.

10 THE COURT: You are telling me there's not any.

11 MR. OSBORNE: No.

12 THE COURT: I do want to inquire of your client
13 concerning his right to remain silent. I'll ask the
14 clerk to place him under oath at this time.

15 MR. LOIGNON: Your Honor, may we have a short
16 recess to confer with him about his decision?

17 THE COURT: I'll advise him of his right and then
18 I'll give him a chance if he wishes to consult with
19 anyone that he would like and we can talk to him again
20 after lunch.

21 Thereupon,

22 ASHLEY TINDALL
23 was called as a witness, having been first duly sworn,
24 was examined and testified as follows:

25 THE COURT: Have a seat, please sir. Mr. Tindall,

RIGHTS GIVEN TO ASHLEY TINDALL

1 we have come to the point in the trial that I need to
2 explain to you certain of your Constitutional rights.
3 Now, I understand that these are things that you have
4 discussed with your lawyer previously or as part of
5 your representation. But I want to be sure that you
6 and I have discussed these and I put on the record that
7 you have been advised of these particular rights. Do
8 you understand what I'm doing at this particular time?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. We have reached the stage
11 of the trial where you have the right to present your
12 defense in this case. And as part of that defense, I
13 want to advise you that you have certain protections
14 that are afforded to you or given to you under the
15 Constitution of the United States. I'm specifically
16 referring to the guarantees provided under the fifth
17 amendment to that Constitution, which reads in part
18 that no person shall be compelled in a criminal case to
19 be a witness against himself.

20 Now, what that means is that, while you have the
21 right to testify in this case, should you choose to do
22 that, you also have the right not to testify and no one
23 can make you testify against your wishes.

24 Now, I will tell you that if you decide to
25 testify, your testimony will be governed by the same

RIGHTS GIVEN TO ASHLEY TINDALL

1 rules that govern any other testimony by a witness.
2 That means that you would be examined by your lawyer
3 and cross-examined by the State's attorney in this
4 matter. And I will tell you that should you decide to
5 testify, the decision to do that should be made freely,
6 voluntarily and intelligently. And when I talk about
7 intelligently, what I'm saying is that that means that
8 you have knowledge of the protection given to you under
9 the fifth amendment and also whatever consequences
10 might result from that testimony. And there are some
11 consequences possibly otherwise, but your lawyer can
12 advise you of that.

13 I will tell you that should you decide not to
14 testify in the case, which you have the right to do,
15 that in that event I would instruct the jury that they
16 cannot give the fact that you did not testify any
17 consideration whatsoever in reaching a verdict in this
18 case. In fact, my instructions to them would be that
19 they could not even discuss that matter or that issue
20 during their deliberations.

21 So, that would mean that if you decide not to
22 testify that it should not affect your case adversely,
23 should that occur. Now, you have the right to talk to
24 your lawyer about the decision as to whether or not to
25 testify. You can discuss it with family members or

RIGHTS GIVEN TO ASHLEY TINDALL

1 friends or anyone else that you want to discuss it
2 with, but the final decision as to whether or not to
3 testify is your decision and your decision alone. Now,
4 I have a couple of questions. Do you understand the
5 rights that I have explained?

6 THE DEFENDANT: Yes, sir, I do.

7 THE COURT: Do you have any questions of me
8 concerning what I have said to you?

9 THE DEFENDANT: No, sir.

10 THE COURT: Now, your attorney indicated that they
11 would like to discuss this decision with you before you
12 testify. Would you like to discuss it with them
13 further?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. So, what I am going to do
16 is I will give you over the lunch break to consult with
17 your lawyers about that. And when we return to the
18 courtroom I'll be coming back and talking with you
19 about that further. Do you understand what we are
20 going to do?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. We are in recess then.
23 What time did I tell the jury to be back, 1:30?

24 MR. LOIGNON: Yes, sir.

25 THE COURT: All right. We will resume at 1:30.

RIGHTS GIVEN TO ASHLEY TINDALL

1 Thank you very much. (Lunch recess.)
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

VOLUME 4

VOLUME 4

In The Court of General Sessions for the
State of South Carolina, County of Charleston

Case No.: 2016GS1005793+

State of South Carolina,

Plaintiff(s),

vs.

Ashley Price Tindall, III,

Defendant(s).

TRIAL TRANSCRIPT

March 22, 2017

Charleston, South Carolina

BEFORE:

The Honorable ROGER L. COUCH

VOLUME 4

1 THE COURT: State ready to proceed?

2 MS. GINSBURG: Yes, Your Honor.

3 THE COURT: Defense ready to proceed?

4 MR. LOIGNON: Yes, Your Honor.

5 THE COURT: Mr. Tindall, when we broke before
6 lunch, I was going over some matters with you, and you
7 indicated that you wished to discuss these further with
8 your attorney. Did you have an opportunity to do that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And have you fully discussed those
11 matters with him now?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you need to consult with him any
14 further at this point in time?

15 THE DEFENDANT: No, sir, I don't believe so.

16 THE COURT: Is there anything you feel he ought to
17 do for you before we proceed?

18 THE DEFENDANT: No, sir.

19 THE COURT: All right. Now, as to the question of
20 your testimony, do you intend to testify in the case?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Very good. Now, are you ready
23 to proceed with the witnesses?

24 MR. LOIGNON: Yes, Your Honor.

25 THE COURT: All right. Let's bring the jury in.

VOLUME 4

1 (Jury enters the courtroom at

2 1:37 p.m.)

3 THE BAILIFF: All jurors present, Your Honor.

4 THE COURT: Thank you, ma'am. All right. The
5 record will reflect the jury's returned to the
6 courtroom, and I hope everyone had a good lunch break.
7 If any of you had any difficulty in complying with my
8 instructions during the break, please stand.

9 (No response.)

10 THE COURT: It appears that all jurors have been
11 able to comply thus far. Now, when we began our break,
12 the State had rested. It had completed the
13 presentation of its testimony in evidence. And at this
14 point in time, the Defense has the right to present
15 evidence. You may call your first witness.

16 MR. LOIGNON: Thank you, Your Honor. The Defense
17 calls Jim Douglas.

18 THE COURT: Would you call Jim Douglas for me,
19 please, sir?

20 Thereupon,

21 JAMES DOUGLAS

22 was called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 THE COURT: Sir, once you're seated, please state
25 your name for the record.

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 THE WITNESS: James Douglas.

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

3 DIRECT EXAMINATION

4 BY MR. LOIGNON::

5 Q Mr. Douglas, where are you employed?

6 A Charleston County EMS.

7 Q How long have you worked there?

8 A Since 2008, January.

9 Q So, while you were working at Charleston County
10 EMS, did you have the opportunity to respond to a call on
11 July 4th, 2014?

12 A Yes, I did.

13 Q And where -- where was that call to?

14 A Fickling Hill Road on John's Island.

15 Q And just to clarify, it's been almost three years
16 since then, correct?

17 A Uh-huh. (Indicating affirmatively.)

18 Q And did you write a report in this case?

19 A No, sir. My partner, Brian Johnson, was the
20 primary care, or medic. I was -- I drove the unit into the
21 hospital.

22 Q But in the course of your duties, did you have a
23 chance to review this report?

24 A Yes.

25 Q So, you're familiar with the report?

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 A Yes, sir.

2 Q And in this report, is this -- this report a
3 normal course of business type report that you do every time
4 you go out?

5 A Yes, sir.

6 Q What types of things are contained in this report?

7 A It's pretty much like a nature of the chief
8 complaint. You know, what the patient is complaining of,
9 what happened, and a basic physical assessment including,
10 you know, whether or not they're alert, oriented, able to
11 answer questions. These are all basic questions that we
12 have to answer -- or that we have to ask to make sure a
13 patient is fully conscious and responsive. And then we go
14 from there. Pretty much we do a head to toe examination to
15 look for any life threats or obvious gross injuries that
16 need to be immediately addressed.

17 Q So, are some of the things in the report based on
18 what the individual tells you?

19 A Yes.

20 Q The individual receiving treatment will report
21 something to you, and you will include that in the document?

22 A Yes, sir.

23 Q And then are some other things in the report based
24 on your own observations?

25 A Yes, they could be.

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 Q Or your partner's observations?

2 A Correct.

3 Q Now, in reviewing this report for your testimony
4 today, could you tell me how the patient was situated when
5 you arrived on the scene?

6 MR. OSBORNE: Objection, Your Honor. Calls for
7 hearsay.

8 MR. LOIGNON: Your Honor, this is, number one, a
9 -- it's a medical record. It's kept in the regular
10 course of business. And also, I think it falls under
11 the declarant --

12 THE COURT: I'm going to ask that the jury step
13 back to the jury room while I discuss this matter with
14 the attorneys. As always, I'll ask you not to discuss
15 the case even among yourselves.

16 (Jury exits the courtroom at
17 1:43 p.m.)

18 THE COURT: Now, my understanding is that this is
19 a report that was generated as a result of a run that
20 he was on, but he did not prepare the report; is that
21 what I understood?

22 MR. LOIGNON: That's correct, Your Honor.

23 THE COURT: He has reviewed it since that time.

24 MR. LOIGNON: Yes, Your Honor.

25 THE COURT: However, my understanding is if he is

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 using that report to refresh his recollection, he must
2 have an independent recollection of the event from
3 which he is refreshing the memory. Is that your
4 understanding how that works?

5 MR. LOIGNON: Yes, Your Honor. He would have had
6 to have been present and had some recollection of the
7 event.

8 THE COURT: Right.

9 MR. LOIGNON: I think he testified that he was
10 working and remembers actually having the call. He may
11 not remember the specifics of the actual event, but --

12 MR. OSBORNE: He might can get there, he just --
13 he hasn't got there like this. I mean, I think if he
14 wants to ask the witness, do you remember talking to
15 Mr. Hilding that night, do you remember his condition,
16 anything like that, and then if he says no, well, would
17 it help -- he could refresh his memory, I think, with
18 anything. That's okay. But he's asking him to refer
19 to the document and then look and see what the
20 documents says. That would be hearsay.

21 THE COURT: And he's saying that it's an exception
22 to the hearsay rule because it is a regularly kept
23 record?

24 MR. LOIGNON: Yes, Your Honor.

25 THE COURT: Or a public record or report?

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 MR. LOIGNON: It's a -- it's not only that, it is
2 a regularly kept record, but it's also -- it's also
3 generated based on receiving medical treatment. So, I
4 think it falls under the medical treatment exception.
5 I think it falls under the exception for when the
6 declarant witness is unavailable because Mr. Hilding
7 testified differently than I would expect this witness
8 to testify to so --

9 THE COURT: Well, now, I haven't seen the report.
10 Does it have a section where it states the -- what they
11 were told by the alleged victim?

12 MR. LOIGNON: Yes, Your Honor. It's in the
13 report. It has -- it's combined with their -- their
14 observations with his -- what he has reported to them,
15 in order to receive treatment.

16 THE COURT: All right. Looking at exception six,
17 which is records of regularly conducted activity. It
18 says it can be a memorandum, report, record, or data
19 compilation in any form of acts, events, conditions, or
20 diagnosis -- so it talks about medical matters -- made
21 at or near the time, by or from information transmitted
22 by a person with knowledge, if kept in the regularly
23 conducted business activity, and if it was the regular
24 practice of that business activity to make the -- I'll
25 just call it the report. All is shown by the testimony

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 of the custodian or other qualified witness. Now, this
2 gentleman is not the custodian of those records, is he?

3 MR. LOIGNON: He is not technically the custodian,
4 he is the partner --

5 THE COURT: Well, he's not the custodian, is he?

6 MR. LOIGNON: No. No, sir, he's not a custodian,
7 No, sir. He's an EMT.

8 THE COURT: All right. Unless the source of the
9 information or method or circumstances of preparation
10 indicate a lack of trustworthiness, provided, however,
11 that subjective opinions and judgments found in those
12 records are not admissible. And that's what I was
13 saying. If these are subjective opinions by somebody
14 else other than him, and you're having it introduced as
15 a regularly kept business record -- I don't mind if
16 there's statements of what the victim said in there.
17 The victim said head laceration, victim said got hit in
18 the head. You follow me? But if it's somebody else's
19 opinion based on -- then that's a problem in a business
20 record.

21 MR. LOIGNON: Yes, Your Honor. And I'm not trying
22 to introduce the document as a whole into evidence, I'm
23 simply just asking him about it.

24 THE COURT: Where are we going? Where are you
25 going with this line of questioning?

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 MR. LOIGNON: I'm just simply trying to get him to
2 talk about what observations were made about --

3 THE COURT: Can I see the record?. I'll read it
4 and see what it says.

5 MR. LOIGNON: Yes, sir.

6 MR. OSBORNE: Your Honor, I saw the records, and I
7 think what he's trying to get at, I'm not going to
8 speak for him, patient admits to consuming six-pack of
9 beer. I think that's what he really wants.

10 THE COURT: I'm sorry. What did you say?

11 MR. OSBORNE: The patient admits to consuming a
12 six-pack of beer, or something to that effect. I think
13 that's really --

14 THE COURT: So is that where we're headed?

15 MR. LOIGNON: I have several things highlighted,
16 Your Honor. It's not just that, but that's one of
17 them.

18 THE COURT: All right. Let me see what we're
19 talking about.

20 (Judge reading the report.)

21 THE COURT: All right. What's the objection?
22 He's highlighted a couple of things here. One is that
23 the patient was standing in a barn, that he denies --
24 what is LOC?

25 MR. LOIGNON: Loss of consciousness.

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 THE COURT: "Loss of consciousness. Patient has
2 small one-inch laceration on the top of his head. Has
3 abrasions bilaterally on the knees. Patient admits to
4 having consumed approximately six-pack of beer.
5 Patient walked to ambulance. Vitals normal. Patient
6 non emergent to St. Francis." So, that's what he's
7 highlighted.

8 MR. OSBORNE: So, my objection is this: I think
9 that he can get that in by saying, do you recall any of
10 these things happening? If the witness says, I don't
11 recall, then he could say, refresh your memory. Well,
12 would it help to take a look at the report? Then he
13 looks at the report, he takes the report back. Does
14 that help refresh your memory? If it doesn't, and he
15 has no personal knowledge of it, then it's out. Then
16 -- what he's doing, though, what Mr. Loignon is doing,
17 is he is reading the report and saying, does the report
18 say this? Well, that is introducing the content of the
19 report.

20 THE COURT: Oh, I understand.

21 MR. OSBORNE: So that's hearsay.

22 THE COURT: Do you follow what we're saying?

23 MR. LOIGNON: I follow, Your Honor.

24 THE COURT: So, you're going to have to ask him if
25 he has a recollection of the run and things that are

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 described here, and then he can use this to refresh
2 that recollection. You refresh your recollection, you
3 don't learn things from these. You got to have an
4 independent recollection to begin with. That's the way
5 I understand that works. And I'm not going to stop you
6 from bringing it in. I don't see anything in there
7 that would be someone else's conclusion or opinion.
8 These are observations. It is a normally, regularly
9 kept report. So, I mean, I don't find it to be -- to
10 violating of those rules. But, again, it can't be used
11 by him to refresh a recollection unless he has a
12 recollection to refresh.

13 MR. OSBORNE: I would only object to it being
14 admitted, Your Honor, only because, we, as the State,
15 we admit evidence all the time, so we run into this
16 constantly. We have to have a custodian or qualified
17 individual who, in the normal course of business,
18 prepares that document, obtains that document, just
19 like we did from Ms. Casey. So, this would be no
20 different than if we tried to introduce the 911 call
21 through Deputy Phillips. That's not part of his job.
22 Getting that report, providing that report, that's not
23 part of this gentleman's job either. If he wants to do
24 it, he can do it, he just needs a custodian of records
25 from the EMS.

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 THE COURT: Well, again, I'm going to allow him to
2 use it to refresh his memory. That doesn't mean the
3 report comes into evidence.

4 MR. OSBORNE: Oh, okay. I'm sorry, Your Honor.

5 THE COURT: I haven't said that. What I have said
6 is that he can use it to refresh his memory of the
7 circumstances. But, again, I think he's right about if
8 you're going to bring in a governmental report, you got
9 to bring the custodian in. That's what the rules say.

10 MR. LOIGNON: And it wasn't my intention to
11 introduce it as evidence.

12 THE COURT: Okay. All right. Bring the jury
13 back.

14 (Jury enters the courtroom at
15 1:54 p.m.)

16 THE BAILIFF: The jurors are all present, Your
17 Honor.

18 THE COURT: All right. Thank you very much. I
19 have offered direction to counsel concerning how the
20 examination will proceed. You may proceed.

21 MR. LOIGNON: Thank Your Honor.

22 BY MR. LOIGNON::

23 Q Now, Mr. Douglas, you mentioned before that you
24 responded to this incident with your partner, correct?

25 A Correct.

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 Q Do you, at this time, remember the details of that
2 event?

3 A No, not actually -- well, I mean, after going over
4 the report, yes, I would remember some of the details.
5 However, in the three and a half or three years that it's
6 been, I have literally seen 5,000 patients since then, in
7 that neighborhood.

8 Q So when you -- if you read the report, would that
9 refresh your memory of the event as it happened at the time?

10 A Yes, yes.

11 Q Do you need to do that now, or have you already
12 done that?

13 A I've already done that, yes.

14 Q So, your memory has been refreshed, and now you
15 remember from the time of the event what happened?

16 A Correct.

17 Q So, when you got to this address and located the
18 patient, what was he doing?

19 A Standing.

20 Q And did you ask him whether or not he lost
21 consciousness?

22 A That would be standard, yes.

23 Q And what did this patient tell you?

24 A He did not have loss of consciousness.

25 Q Did you assess the injury?

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 A Yes. . . That would be standard procedure.

2 Q And could you please explain what the injury was.

3 A It was an approximately one-inch laceration like
4 -- I believe it was, like, to top of his head. And he also
5 had a few abrasions on his knees.

6 Q During the course of treatment, did you ask him
7 whether or not he had consumed alcohol?

8 A That's standard procedure. We have to ask if
9 they've been on any drugs or alcohol. That's a standard
10 question. Every -- it's a question we ask every patient,
11 even if they were to stub their toe.

12 Q And what did this patient report?

13 A This patient told us that he had been drinking,
14 and that he had had some beers.

15 Q Did you say "some" beers?

16 A Six. Six-pack. I'm not a drinker, so, you know,
17 they give me one of these, I pretty much have to take them
18 at their word.

19 Q Now, how was the -- how did the patient get to the
20 ambulance?

21 A He walked into the ambulance.

22 Q And did you check his vitals?

23 A Yes.

24 Q What were the results of that?

25 A His vitals were within normal limits, meaning that

DIRECT EXAMINATION OF JAMES DOUGLAS BY LOIGNON

1 his pulse, respiration, blood pressure, oxygen saturation
2 were within normal limits. And that there was no indication
3 that there was any kind of life threat involved, or that the
4 patient was going into shock, or any other serious problem
5 related to his injury.

6 Q And after refreshing your recollection, did you
7 come to remember that this patient's name was Richard
8 Hilding?

9 A Yes.

10 MR. LOIGNON: Nothing further, Your Honor.

11 THE COURT: You may cross-examine.

12 MR. OSBORNE: Thank Your Honor.

13 CROSS EXAMINATION

14 BY MR. OSBORNE::

15 Q All right, sir. I want to show you a couple
16 pictures and see if this helps. I mean, I know -- how many
17 patients you said you deal with?

18 A Probably around five. You know, about ten calls a
19 night, seven nights every two weeks. You know, so easily a
20 couple, three, 4,000.

21 Q Okay. Do you happen to remember him?

22 A Yeah, his face looks familiar.

23 Q Okay. That's -- I'm showing you State's 14. And
24 State's 15?

25 A Yeah, he looks familiar to me.

CROSS EXAMINATION OF DOUGLAS BY OSBORNE

1 Q Now, Mr. Loignon asked about the laceration to the
2 head. I'll go back to State's 14. Where does that look --
3 it looks like you were treating the top of his head?

4 A Correct.

5 Q As an EMS technician, when you have a laceration
6 -- when you're treating a patient with a laceration to the
7 head, what are some of your concerns?

8 A Our -- my primary concern would be, has the
9 patient lost consciousness? And if he has, whether or not
10 he could potentially develop what's called either a subdural
11 or an epidural hematoma.

12 Q Right. Because sometimes there's all kind of
13 injuries that could happen from blunt force trauma, correct?

14 A Absolutely.

15 Q A contrecoup injury?

16 A Yes, sir.

17 Q And "contrecoup" meaning you get hit so hard on
18 one side of your head, that it can cause brain damage to the
19 other side, right?

20 A Correct, correct.

21 Q And you, as an EMS technician, I mean, your --
22 it's kind of triage, right?

23 A Yes, sir.

24 Q I mean, you're -- you see a head injury, you're
25 triaging, and you're getting him to the hospital. And

CROSS EXAMINATION OF DOUGLAS BY OSBORNE

1 that's -- correct?

2 A Correct.

3 Q And that's where a doctor is going to do a CAT scan
4 things of that nature, right?

5 A Correct.

6 Q And if there is some type of injury, like a
7 contrecoup or brain contusion, anything like that, that
8 would be discovered through a CAT scan, through a doctor?

9 A Yes, yes.

10 Q And you wouldn't have any way of knowing that on
11 the scene when you're treating someone like that, right?

12 A No.

13 Q In fact, an individual with a contrecoup or brain
14 contusion, he could be conscious, correct? I mean, he could
15 talk to you?

16 A Correct.

17 Q He could be in serious trouble, he may even be
18 dying right there and not know it, right?

19 A Yes. It's quite possible.

20 MR. OSBORNE: No further questions.

21 THE COURT: Redirect.

22 MR. LOIGNON: Nothing more of this witness.

23 THE COURT: All right, sir. You may step down.

24 Wish to excuse the witness?

25 MR. LOIGNON: Yes, Your Honor.

CROSS EXAMINATION OF DOUGLAS BY OSBORNE

1 THE COURT: Any objections?

2 MR. OSBORNE: No, Your Honor.

3 THE COURT: Sir, you're free to leave the
4 courthouse if you'd like. Thank you very much.

5 THE WITNESS: Thank you.

6 THE COURT: The Defense may call its next witness.

7 MR. LOIGNON: Dennis Bell.

8 THE COURT: Step outside and call Dennis Bell for
9 me.

10 Thereupon,

11 DENNIS BELL

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 THE COURT: State your name, sir.

15 THE WITNESS: Dennis Bell.

16 THE COURT: Thank you. Your witness, Counsel.

17 DIRECT EXAMINATION

18 BY MR. LOIGNON::

19 Q Mr. Bell, can you tell me a little bit about
20 yourself. How old are you?

21 A I'm 52.

22 Q And where do you live?

23 A I live in West Ashley. I've lived in Charleston
24 all my life.

25 THE COURT: Sir, if you'd move a little closer to

DIRECT EXAMINATION OF BELL BY LOIGNON

1 the microphone there, I'd appreciate that. Thank you
2 very much.

3 BY MR. LOIGNON::

4 Q Could you repeat that.

5 A I said, I live in West Ashley. I've lived in
6 Charleston all my life.

7 Q What do you do for a living?

8 A I'm a carpenter.

9 Q Did you have to work today?

10 A Oh, obviously, yeah.

11 Q Okay. Do you know the Defendant, Ashley Tindall?

12 A Yes, I do.

13 Q How do you know him?

14 A Well, I went to school with him.

15 Q How long ago was that?

16 A It's been 30-plus years. It's been a little
17 while.

18 Q Did y'all keep in touch?

19 A No.

20 Q So you haven't -- have you seen him for very long
21 prior to the night of this incident?

22 A No, I haven't.

23 Q Were you at Fickling Hill Road, the site of this
24 incident?

25 A Yes, I was.

DIRECT EXAMINATION OF BELL BY LOIGNON

1 Q And was that on July 4th, 2014?

2 A Excuse me?

3 Q Was that on the night of July 4th, 2014?

4 A Yes, sir.

5 Q And why were you there?

6 A Well, I went to my sister's house. She was having
7 a little get-together. She wasn't home, so I was sitting in
8 her driveway. I was in the back of my truck, and I heard
9 some arguing going on. It sounded like a man and woman
10 arguing.

11 Q Okay. I'm going to stop you for one second
12 because I want to determine where exactly you were. Okay?
13 You said you were at your sister's house?

14 A Yes.

15 Q Now, is -- where is her house?

16 A Her house is right across the street from --
17 pretty much across the street from where Ashley lives, Mr.
18 Tindall lives.

19 Q Okay. I'm going to show you a map and see if you
20 can kind of circle it on there where she -- where her house
21 is -- if I can find itself. There, it is, right up front.
22 Mr. Bell, could you take a look at this map and just kind of
23 orient yourself to it. I know you said you don't live
24 there. Are you able to determine from this map where your
25 sister's house is?

DIRECT EXAMINATION OF BELL BY LOIGNON

1 A I'm not quite sure because I didn't bring my
2 glasses in with me.

3 Q Is her house on Still Life Drive?

4 A Yes. Let's see. It's kind of hard for me to
5 determine what you got there, to be honest with you.

6 Q Okay. Let's take a look at -- what I was just
7 showing you, I apologize, was State's Exhibit 3. I'm going
8 to show you State's Exhibit 9, and does that look familiar
9 at all to you?

10 A Yes. That's -- yes, it does.

11 Q Where is your sister's house in relation to the
12 white house?

13 A If I ain't mistaken, I think it's right next to
14 it. She has like a long driveway, my sister does.

15 Q When you say "next do it," would that be to the
16 left in this picture?

17 A It would be to the left, I believe. I'm still
18 kind of confused about the picture though. I don't go there
19 too often, so I'm not quite sure.

20 Q Understood. So, now, if you could continue, I
21 think you were starting to tell me a little bit about what
22 you were doing at your sister's house that evening.

23 A Well, I went there. I drive a pickup truck, I was
24 waiting for her to get home. She wasn't home. I was
25 sitting on the tailgate drinking a few beers and I heard

DIRECT EXAMINATION OF BELL BY LOIGNON

1 some screaming and yelling going on. Sounded like a man and
2 woman. And I didn't think too much about it, people argue.
3 And then it just got a little louder, and then I was just
4 looking, you know. I walked halfway down the driveway, it's
5 kind of a long driveway, sort of long. So I went down
6 halfway of her driveway to get a better view of what was
7 going on. And there was a man that was beside this truck,
8 you know, hollering at the woman. She was in the house --
9 or I mean, outside of her house. They were arguing like
10 that. The next thing you know, people from the back, the
11 trailer beside them, in the back, back there, they were
12 having some kind of party or some kind of get-along or
13 something.

14 All the people from the back walked up on
15 this guy that was by his truck that was arguing with his
16 wife. Then they started arguing. And then the next thing I
17 know is I heard a couple pops, but it was -- could have been
18 firecracker or something like that, because it was on the
19 4th, you know. And then I seen this guy walk away, a couple
20 of people were holding him up. And one guy said, you got
21 helped up, or he helped you up. And next thing I know,
22 there was police and ambulance. That was pretty much what
23 went down.

24 Q Now, when you saw the man and woman arguing, did
25 you know that that was Ashley Tindall?

DIRECT EXAMINATION OF BELL BY LOIGNON

1 A I had no idea.

2 Q Okay. And you said shortly after that, a bunch of
3 people from the party came up on him?

4 A Yes. He was standing there by his truck arguing
5 with his wife. Like I said, I found out later it was his
6 wife and him, you know. I had no idea. But he was standing
7 beside his truck, and all the people from the back of this
8 get-together beside his home, all of them walked up on him.
9 They started arguing and stuff like that, you know. And
10 then it wasn't nothing but a couple minutes later, I seen
11 this guy with two people helping him, you know, and he got
12 -- he has to get up, whatever that meant. I don't know what
13 happened.

14 Q Now, what were you thinking at that time you saw
15 everyone coming from the back?

16 A Well, I didn't really know what to think, to be
17 honest about it, because I didn't know if it was a friend of
18 theirs, they were just trying to, you know, diffuse the
19 situation. I had no idea what -- really what was going on.
20 But now, when the other guy got hurt, obviously that told me
21 a little bit, then, you know, there was a problem.

22 Q Right. And when they started to -- what about
23 when the people came around the corner and started to
24 approach the man and woman arguing, did it look like they
25 were friendly at that time to you?

DIRECT EXAMINATION OF BELL BY LOIGNON

1 A They didn't look like they were too friendly to
2 me. But, again, I didn't know if they knew the guy or not.
3 I had no idea.

4 Q And so what were you thinking in that moment, as
5 far as when you saw everyone start arguing?

6 A Well, I thought there was going to be trouble,
7 that's what I thought. You know, I didn't really know what
8 to do, because I try to stay to myself and mind my own
9 business, you know. A problem comes up with me, I call the
10 police. That's what I do.

11 Q Trouble for whom?

12 A I'm just saying, for me, I call the police. Like
13 I said, I don't know if they knew each other, I had no idea.

14 Q Right.

15 A You know, I didn't know what -- really what was
16 going on.

17 Q Well, you said you thought there might be trouble,
18 and I'm just wondering who there might be trouble for.

19 A Well, it was obviously trouble for the one person
20 that was standing there when everybody come up on him, you
21 know.

22 MR. LOIGNON: Court's indulgence.

23 THE COURT: Yes.

24 MR. LOIGNON: Nothing further, Your Honor.

25 THE COURT: The State may cross-examine.

DIRECT EXAMINATION OF BELL BY LOIGNON

1 MR. OSBORNE: Thank Your Honor.

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION

4 BY MR. OSBORNE::

5 Q Good afternoon, Mr. Bell.

6 A Good afternoon.

7 Q My name's David Osborne. I'm one of the
8 prosecutors that's prosecuting the case. This is Alex
9 Ginsburg, Investigator Ray Haupt. I'm not familiar with
10 where your sister lives, so tell me what picture might help
11 you best tell the jury where your sister lives. This one's
12 not great, is it? State's 9?

13 A No, I'm not too quite sure about that one.

14 Q Okay. How about -- and I don't know, so State's
15 12, does that help?

16 A Well, I can tell that's her drive -- I mean,
17 that's the road that she lives on. But I think she lives on
18 the left-hand side of that.

19 Q Can you mark -- you can touch that screen right
20 there in front of you and everyone can see where you touched
21 it. Can you mark where her driveway is?

22 A Well, this looks like Ashley's place right here,
23 if I'm ain't mistaken. This one here. So, she lives right
24 here, just right in there. That would be her driveway, I
25 believe, if I'm looking at it right.

CROSS EXAMINATION OF BELL BY OSBORNE

1 Q Okay. We're going to have to use State's 12 then.

2 That's all we got. Now, do you know Bob Escoffier and
3 Teresa Escoffier?

4 A Excuse me?

5 Q Bob -- I think everyone calls him Mr. Bob, do you
6 know him?

7 A No.

8 Q And you don't know Teresa Escoffier, Missy, the
9 pregnant woman?

10 A No.

11 Q You don't know any of those individuals?

12 A No.

13 Q I mean, you haven't been sitting in here
14 throughout this entire trial, have you?

15 A No.

16 Q Okay. So, all right. Now, you said that -- all
17 right, you went to go visit your sister that night?

18 A Uh-huh. (Indicating affirmatively.)

19 Q All right. When you first pulled up into her
20 driveway --

21 A Uh-huh. (Indicating affirmatively.)

22 Q -- is that when you saw the man and the woman
23 arguing?

24 A No. I was just -- I was sitting there for about
25 ten, 15 minutes on the tailgate of the truck.

CROSS EXAMINATION OF BELL BY OSBORNE

1 Q All right. During that ten or 15 minutes, did you
2 see the man or the woman walking? Did you see a man or a
3 woman during that 15-minute period walking this way?

4 A When -- the only time I seen these people -- now,
5 I got a better picture, I believe. This right here is where
6 the people were having their get-together back here. This
7 is Ashley's house right here. This is where they was having
8 a cook out or something back here. I was over here. This
9 is my sister's driveway. Okay. His truck was right here.
10 Ashley's truck was right here. He was -- him and her were
11 hollering at each other, arguing.

12 Q Okay. So that's where I was going. Is that the
13 first thing that sort of drew your attention to that area?

14 A Yes.

15 Q Okay. All right. So, let's talk about that for a
16 second. So, the car's parked in the roadway?

17 A Yes.

18 Q All right. And it's facing away from you?

19 A The truck looked like, to me, as I recall, it was
20 heading out, like it was heading out to the main road, to
21 leave.

22 Q I'm not -- sorry. Is it heading that way, away
23 from you?

24 A As I recall, this truck, I had to face again this
25 way here, like if you had to go to on the main road, even

CROSS EXAMINATION OF BELL BY OSBORNE

1 out of the --

2 Q Okay. And so, the man is arguing with his woman
3 -- with this woman. Is he inside the truck yelling at her
4 or is he outside the truck?

5 A He was outside the truck..

6 Q Do you remember -- and I know I'm asking you some
7 questions you might not -- but do you remember if the
8 driver's side door was open?

9 A I don't remember that.

10 Q Okay. So you're not sure if the car was cranked
11 or anything at that moment?

12 A I wasn't. I was more -- started to listening to
13 the argument. Because, I mean -- I don't know.

14 Q And was getting louder, you said?

15 A Yeah, it's getting to arguing.

16 Q Okay. Was she getting louder? Was he getting
17 louder?

18 A Well, both of them were -- both of them were loud
19 enough I could hear them. I mean, you know.

20 Q And the woman, where was she standing then?

21 A If I ain't mistaken, she was up by the house here,
22 and his truck was, like I said, here.

23 Q Okay. Was there anything stopping him from
24 driving away, assuming that he had access to his keys?

25 A I don't --

CROSS EXAMINATION OF BELL BY OSBORNE

1 Q I mean, you didn't see any -- I'm sorry. Go
2 ahead. I don't mean to interrupt you.

3 A No, I don't think so. I mean, not that I could
4 tell. I mean, you know.

5 Q I mean, you didn't see anything in front of his
6 car, did you?

7 A No.

8 Q All right. I mean, at any point -- I'm going to
9 get to what they did -- but at any point, these individuals,
10 did they jump in front of his car and stop it from driving
11 away?

12 A Well, no. I mean, like I said, I -- when they all
13 -- my sister's driveway is a little bit long. And it's been
14 a little -- it's been quite some time.

15 Q Right.

16 A Okay. And as I recall, dark was setting in, you
17 know. It was getting dark. Now, I don't know if some of
18 the people -- all I saw was this gang of people coming from
19 the back, you know. Now, I don't know if someone got in
20 front of the truck, I have no idea. I didn't pay that much
21 attention.

22 Q I understand. And so when the individuals -- and
23 you think it was more than one?

24 A Oh, absolutely. Yes, yes.

25 Q Okay. And you haven't been privy to hear any of

CROSS EXAMINATION OF BELL BY OSBORNE

1 the conversation that's been going on during this trial?

2 A No.

3 Q Okay. All right. So from your perspective, it
4 appeared as though more than one approached the man?

5 A Yes.

6 Q And you didn't see the man -- did you see the man
7 hit anyone?

8 A No.

9 Q Okay. Did you see anyone lying on the ground?

10 A No. What I saw was, and like I said, when it --
11 it was -- it was quite a bit of people that came from the
12 back, back there. It wasn't -- it was probably six, maybe
13 even eight people or something. It was a lot of people came
14 from the back. And so they left in, and all of a sudden you
15 heard some screaming, and some more screaming, hollering. I
16 don't know who was doing what screaming and hollering, the
17 man and wife, these people, you know. And it was about five
18 minutes later. I seen a -- looked like an older guy and he
19 was bleeding, and two people were, like, helping him walk
20 away from it.

21 Q Okay. That older guy that was bleeding, you never
22 saw him bear hug the woman, did you?

23 A No.

24 Q No, because she was up on the -- on the porch,
25 right?

CROSS EXAMINATION OF BELL BY OSBORNE

1 A Right.

2 Q So you never saw him bear hug the woman and, like,
3 sling her around or anything like that, did you?

4 A No.

5 Q No. He never even got close to her, did he?

6 A I don't -- I don't think so. Like I said, I'm not
7 quite sure where the woman was at when they were doing all
8 this screaming and stuff, but she wasn't beside the truck.
9 She was in -- you know.

10 Q Yeah, she was on up.

11 A Yeah.

12 Q Okay. So, the older man that you later saw
13 bleeding, you never saw him approach the guy, going like
14 this?

15 A I -- I -- there was so many people around the one
16 person that they were arguing, I couldn't tell who was doing
17 what.

18 Q Right. Okay. But when he approached, you didn't
19 see him with his hands up?

20 A I don't -- when we approached the one guy by the
21 truck, I don't know exactly what confrontation took place.
22 But when I saw the two people coming, the older guy that got
23 hit with something, helped him walk away, and that's when
24 they called the ambulance for the guy.

25 Q After they helped him walk away, what did -- what

CROSS EXAMINATION OF BELL BY OSBORNE

1 did Mr. Tindall do?

2 A He left, I believe. I recall him leaving.

3 Q Okay. What about Ms. Tindall, what did she do?

4 A Oh, I -- I don't know. I mean -- I don't know.

5 Q The other individuals that were there, did you see
6 them go up to Ms. Tindall in any way after the car drove
7 away?

8 A I don't think they did. I'm not quite sure on
9 that part, to be honest with you. It's been a while.

10 Q Okay. You never saw anyone with a weapon?

11 A No.

12 Q Any of the individuals, including Mr. Tindall?

13 A I never seen anyone with a weapon.

14 MR. OSBORNE: Beg the Court's indulgence.

15 THE COURT: Yes.

16 (Pause.)

17 BY MR. OSBORNE::

18 Q Just briefly, the three pops, could you tell the
19 direction in which that sound was coming from? Or was it
20 hard to say?

21 A Well, I -- like I say, I believe it was on the
22 4th, and there was firecrackers, too. You know what I mean?
23 So it's hard to say if it was a gun or a firecracker or not.
24 Because there was a lot of excitement going on over there,
25 you know.

CROSS EXAMINATION OF BELL BY OSBORNE

1 Q Okay. So, there was a lot of excitement going on
2 over there, but you're not aware of what that excitement
3 was?

4 A No. I told you what I seen and what I know.

5 Q And by that same respect, you would have no
6 personal knowledge then as to whether the party had stopped
7 for some reason?

8 A No.

9 Q Okay.

10 MR. OSBORNE: No further questions.

11 THE COURT: Redirect.

12 REDIRECT EXAMINATION

13 BY MR. LOIGNON::

14 Q Mr. Bell, you testified that there was so many
15 people around you couldn't tell who was doing what, right?

16 A Right.

17 Q And you said you didn't see the man that was --
18 that ended up on the ground, getting carried off. You
19 didn't see him bear hug the woman, right?

20 A No.

21 Q But you can't say for sure that that didn't
22 happen?

23 A No, I can't say. There was a lot of people there.
24 And, I mean, I was just concentrating -- I was just trying
25 to see who was yelling at who and what was kind of going on

REDIRECT EXAMINATION OF BELL BY LOIGNON

1 because -- and that was it.

2 MR. LOIGNON: All right. Thank you, sir.

3 THE COURT: Anything to follow up?

4 MR. OSBORNE: Just one question.

5 RE-CROSS EXAMINATION

6 BY MR. OSBORNE::

7 Q I understand you can't say it didn't happen. But
8 State's -- I think it's State's 9. Can we put that one back
9 up? State's 12. I'm sorry. I understand you say that you
10 can't say that the man who was later drug away bleeding
11 didn't bear hug the woman, but is it fair to say that Mr.
12 Tindall was in the roadway with his car arguing, and then
13 the -- the minute you first -- when you first saw them over
14 here, in that general area?

15 A Yes.

16 Q And Ms. Tindall would have been over there, toward
17 the front porch, where the car is now?

18 A I would believe so, yes.

19 Q And when the men approached, they approached Mr.
20 Tindall on the driver's side of the car?

21 A They approached him at back of his truck, yes.

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

23 THE COURT: Anything further?

24 MR. LOIGNON: No, Your Honor.

25 THE COURT: All right, sir. You may step down.

RE CROSS EXAMINATION OF BELL BY OSBORNE.

1 Do you wish to excuse the witness?

2 MR. LOIGNON: Yes, Your Honor.

3 THE COURT: Any objections?

4 MR. OSBORNE: No, Your Honor.

5 THE COURT: Sir, you can leave the courthouse.

6 Thank you.

7 THE WITNESS: Yes, sir.

8 THE COURT: Defense may call its next witness.

9 MR. LOIGNON: John Sager.

10 Thereupon,

11 JOHN SAGER

12 was called as a witness, having been first duly sworn,

13 was examined and testified as follows:

14 THE COURT: Sir, once you're seated, I ask that
15 you please state your name for the record.

16 THE WITNESS: John Sager.

17 THE COURT: Thank you. Your witness, Counsel.

18 DIRECT EXAMINATION

19 BY MR. LOIGNON::

20 Q Mr. Sager; how old are you?

21 A Fifty-two.

22 Q What do you do for a living?

23 A Landscape construction.

24 Q Where do you live?

25 A I live on John's Island.

DIRECT EXAMINATION OF SAGER BY LOIGNON

1 Q Specifically where on John's Island do you live?

2 A I live with my brother-in-law and my sister.

3 Q Could you speak up a little bit.

4 A I live with my brother-in-law and my sister.

5 THE COURT: Sir, slide your chair forward so
6 you'll be closer to the mic.

7 (Witness complies.)

8 THE COURT: There we go. Thank you very much.

9 BY MR. LOIGNON::

10 Q And who is your sister?

11 A Sara. Sara Tindall.

12 Q And Ashley Tindall is your brother-in-law?

13 A Ashley's my brother-in-law.

14 Q How long have you lived with them?

15 A About four years.

16 Q And you lived with them around the time of July
17 4th, 2014?

18 A Yes, I did.

19 Q Do you still live with them now?

20 A Yes.

21 Q Have you ever seen a gun in the house?

22 A Not since I've been there.

23 Q Have you ever seen Ashley Tindall with a gun?

24 A A long time ago, when he was a deer hunter.

25 That's many years ago.

DIRECT EXAMINATION OF SAGER BY LOIGNON

1 Q And was that a handgun?

2 A No. I've known him for 30, 40 years, he's never
3 owned a handgun.

4 Q Were you at the party on the night of July 4th?

5 A Yes.

6 Q What time did you go over there?

7 A It was probably 11 in the morning.

8 Q Eleven in the morning?

9 A Yes, sir.

10 Q Were there other people out there?

11 A The neighbors. Bob Escoffier, the owner of the
12 house.

13 Q Anybody else?

14 A No.

15 Q And when did other people start getting there, do
16 you know?

17 A Just throughout the day, I guess.

18 Q And what did you do at the party?

19 A I started drinking when I got there, and that's
20 pretty much what I did.

21 Q Did you do anything else, take any --

22 A I took some painkillers.

23 Q What kind of painkillers?

24 A Oxycodone.

25 Q Do you have an alcohol problem?

DIRECT EXAMINATION OF SAGER BY LOIGNON

1 A I am an alcoholic.

2 Q So, did you start drinking right when you got over
3 there?

4 A Yes.

5 Q At 11?

6 A Yes.

7 Q And did you continue drinking throughout the day?

8 A Yes.

9 Q Do you remember an incident at the party?

10 A I have no recollection of what happened. I found
11 out the next day what had gone on.

12 Q Do you remember anything happening in front of
13 your trailer there on Still Life Drive?

14 A No, I don't.

15 Q Did you -- do you have any memory of anything for
16 the rest of that day?

17 A I have no memory of anything beyond starting to
18 drink. When the pills and alcohol kicked in, I got black
19 out drunk.

20 Q Now, you're Sara's older brother?

21 A Yes.

22 Q And is it safe to say that you're protective of
23 your sister?

24 A Yes.

25 Q If Mr. Tindall didn't treat her right, would that

DIRECT EXAMINATION OF SAGER BY LOIGNON

1 be -- would that be a problem for you?

2 A Yes.

3 Q Have you ever had a problem like that with Mr.
4 Tindall?

5 A No. They get along good.

6 MR. LOIGNON: The Court's indulgence.

7 THE COURT: Yes, sir.

8 MR. LOIGNON: Nothing further.

9 THE COURT: You may cross-examine.

10 CROSS EXAMINATION

11 BY MS. GINSBURG::

12 Q Mr. Sager, you said that you were so drunk that
13 you had memory loss?

14 A Yes.

15 Q So, potentially Mr. Tindall could have been
16 beating up your sister and you'd have no idea?

17 A Would not know.

18 MS. GINSBURG: No further questions.

19 THE COURT: Anything further?

20 MR. LOIGNON: No, Your Honor.

21 THE COURT: You may step down. Do you wish to
22 excuse the witness?

23 MR. LOIGNON: Yes, Your Honor.

24 THE COURT: Any objections?

25 MS. GINSBURG: Nothing from the State, Judge.

CROSS EXAMINATION OF SAGER BY GINSBURG

1 THE COURT: Sir, you're free to leave the
2 courthouse. Thank you very much. The Defense may call
3 its next witness.

4 MR. LOIGNON: I call Ashley Tindall.

5 THE COURT: I suspect he will be a long witness --

6 MR. LOIGNON: Yes, Your Honor.

7 THE COURT: -- in this case. Mr. Tindall, have a
8 seat, please. I'm going to let the jury and the
9 courtroom personnel primarily take a break, since the
10 jury had a break a few minutes ago but we didn't. So
11 I'm going to ask you to step back to the jury room.
12 Don't discuss the case until I ask you to do so. Thank
13 you very much.

14 (Jury exits the courtroom at
15 2:31 p.m.)

16 THE COURT: We'll be in recess for five to ten
17 minutes. Thank you.

18 (A recess was taken.)

19 THE COURT: State ready?

20 MS. GINSBURG: Yes, Your Honor.

21 THE COURT: Defense ready?

22 MR. LOIGNON: Yes, Your Honor.

23 THE COURT: Okay. Bring the jury in.

24 (Jury enters the courtroom.)

25 THE BAILIFF: All jurors present, Your Honor.

CROSS EXAMINATION OF SAGER BY GINSBURG

1 THE COURT: Thank you very much.

2 All right. The jury has returned to the
3 courtroom. At this time, the defense may call its next
4 witness.

5 MR. LOIGNON: The defense calls Ashley Tindall.

6 THE COURT: Come forward, sir, and be sworn.

7 Thereupon,

8 ASHLEY TINDALL

9 was called as a witness, having been first duly sworn,
10 was examined and testified as follows:

11 THE COURT: State your name, sir.

12 THE WITNESS: My name is Ashley Wes Tindall, III.

13 THE COURT: Thank you very much. Counsel, your
14 witness.

15 MR. LOIGNON: Thank Your Honor.

16 DIRECT EXAMINATION

17 BY MR. LOIGNON:

18 Q Mr. Tindall, how old are you?

19 A I am 52 years old.

20 Q How long have you lived in the Charleston
21 area?

22 A I've lived in Charleston all my life.

23 Q Do you have family in the area?

24 A Yes, I do have family in the area. Of course,
25 my wife and her brother, and we also have some other family

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 members that live close by. And I also have brothers and
2 sisters that aren't too far away.

3 Q Do you have children?

4 A Yes, I do have children. I have two beautiful
5 daughters. My first daughter is 32 years old. My second
6 daughter is right here in the courtroom with us today.
7 She's 27. She's given me three beautiful grandchildren.
8 Two of them are girls. My first granddaughter is eight
9 years old. My second granddaughter is two years old. And I
10 have a grandson, which is five years old -- or just turned
11 six, excuse me.

12 Q How far did you get in school?

13 A Unfortunately, I didn't do very well in
14 school, so I did not get very far. I qualify myself out
15 maybe as a sixth grade education.

16 Q What type of work did you do after that?

17 A Whew! All through my life, I've been taught
18 that if you want something in life, you got to work for it,
19 and you got to work for it hard. And I've done all kinds of
20 work in the tri-county areas, from roofing houses, to
21 building houses, to laying pipe and on. Even as far as
22 during 1989, during Hugo, I was here, and I was one of the
23 people that was cleaning up all the debris in the area. And
24 I was on Kiawah, Seabrook, Walhalla Island, John's Island.
25 And I'm here to tell you, ladies and gentlemen, I wasn't a

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 person that just drug limbs to the road. I was a person
2 that climbed trees. I climbed 150-foot pine trees to clear
3 them over top of custom homes. So, I'm here to tell you
4 today that I am a man.

5 Q Are you working now?

6 A Unfortunately, due to the financial situation
7 that I've been in lately from the seafood business and all,
8 apparently it's not a very good business to be in. It's
9 very rough, and here lately I've had some breakdowns and
10 stuff concerning my boat and all and I have not been able to
11 go back to work here lately.

12 Q So, how do you support yourself?

13 A Well, at the time, right now, my wife does
14 work at a Waffle House on 17 on John's Island, and she is
15 currently supporting us right now. And every now and again,
16 I may find an odd job or two here and there to, you know,
17 make me hundred, \$150 a week or something.

18 Q How long have you and Sara been married?

19 A Me and my wife have been married for 32
20 short-lived years. And we've been together for 36 years. I
21 dated my wife for four years before I married her.

22 Q So, how old does that make you when you got
23 married?

24 A I was married when I was around 19 years old.

25 Q You said you had two girls. One of them is

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 here in the courtroom. Is the other one a part of your
2 life?

3 A Yes, she is also a part of my life.

4 Unfortunately, our first daughter was born with an organic
5 brain disease. It was a bit challenging, you might say, at
6 first.

7 Q Why was that?

8 A Well, because of her situation and her
9 mental mentality, she just -- she has the mind of an infant
10 basically. And we was told that she probably wouldn't live
11 long. But bless her heart, she's still with us.

12 Q Did you -- go ahead and take a moment.

13 A Again, my first daughter was a bit
14 overwhelming and hard to manage and take care of. So, I,
15 myself ended up took it upon myself to manage the State to
16 intervene and help her with my child. And we was able to
17 get her the care and help she needs, and she is in a home
18 right now. And she basically collects her own assets and
19 objects. And the State has put her to work and she actually
20 does have a job, and she does work.

21 Q Where do you live now?

22 A I live in the same address I've lived in for
23 20-some odd years. It's Fickling Hill Road. I've
24 lived there, like I said, 23 years. I've known these
25 neighbors all my -- all the time I've lived there and even

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 longer. I've always considered them to be great friends and
2 all. Then unfortunately, due to the court order, I have not
3 been able to apologize to them or talk to them since this
4 incident has happened.

5 Q Do you own the trailer that you live in?

6 A Yes, I do. Me and my wife bought this
7 trailer, I want to say, 20 years ago. And I bought it from
8 a good friend of mine, whose name is Matt (phonetic) Glover.
9 He's also as young as I was at the time, and he was raising
10 a family as well as I was. And his family got to be too
11 big. He had five kids, I believe it was, and the
12 three-bedroom home we own now was too small for him, so he
13 graciously offered to sell it to us, and we took the offer.

14 Q Do you own the actual plot of land that the
15 trailer's on?

16 A No, I do not own the land that we sit on. We
17 actually pay a lot rent to our landlord.

18 Q And you were living there on the night of July
19 7th, 2014 -- or excuse me, July 4th, 2014?

20 A Absolutely.

21 Q So, tell me about a normal day for you then.

22 A Oh, a normal day for me would be, at this
23 time, I would get up early with my wife, of course. And if
24 she wanted breakfast this morning, then I would, you know,
25 get up and start breakfast while she's in the bathroom.

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 getting dressed. Because I'm sure you all know how long
2 women take to get dressed.

3 So I try to get up and try to help her, just
4 get her off to work and all. I'll see her to the door every
5 morning, give her a kiss goodbye and tell her I love her.
6 Tell her to please be safe while she's driving, you know.

7 Then the rest of the day I might be, you
8 know, taking care of the house, washing clothes or, you
9 know, dusting, mopping the floor. Of course, we got a few
10 dogs, I am a dog lover. We have five small dogs that stay
11 in the house with us, so they're quite a handful in there
12 themselves, just taking care of them.

13 So that pretty much consists of what my day
14 may be. Just keeping the house kind of clean and trying to
15 keep clean my dogs until my wife arrives back home.

16 Q What time does your wife leave in the morning?

17 A Oh, my wife leaves around 6:30 in the morning.
18 She has to be at work around seven.

19 Q Okay. And then you said you're just kind of
20 doing chores and stuff the rest of the day, running errands?

21 A Yes, sir. Chores or, you know, running any
22 errands that may need to be done, or wash clothes or, you
23 know, anything in that nature.

24 Q And does your brother-in-law live with you?

25 A Yes. My brother-in-law, John, does live with

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 us, and he has lived with us before this last four-year
2 period.

3 Q What time does he go off to work?

4 A John leaves earlier. He leaves around 5:30 in
5 the morning. He usually gets home around 4:30, 4 o'clock.

6 Q Now, what happens in the evenings, when
7 everybody gets home from work?

8 A Oh, everybody gets home. Of course, we do
9 like any other people. We just like to sit down and relax
10 and maybe take in a little bit of television. Just enjoy
11 each other's company, you know. And just sit and be with
12 each other. Just enjoy each other's company, maybe do
13 dinner together or something. Like me and my wife may
14 prepare dinner and, you know, I may be taking care of the
15 meat or something outside on the grill while she's inside
16 taking care of the side, you know, items, such as, you know,
17 anything she may find us to make.

18 Q Do you have a normal time when you generally
19 like to eat dinner?

20 A Of course. Just like anybody else, we try to,
21 like, eat dinner between, oh, 5:30 and six, before it gets
22 too late, you know. But we often like to try to eat between
23 5:30 and six, something like that.

24 Q Okay. Now, let's transition a little bit to
25 the day of this incident. Did it start off like a normal

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 day for you?

2 A Yes, it did, yes.

3 Q Did Sara have to work?

4 A Yes, Sara did have to work on the 4th fourth
5 of July. Yes, she did.

6 Q So, did you get up and see her off?

7 A Oh, of course, I got up and seen her off and
8 everything and -- just like a normal morning, you know, made
9 sure she was good to go and see her out the door, give her a
10 kiss goodbye and, you know, take care of the house and wait
11 for her to come home again.

12 Q And what time did she get home?

13 A Oh, she got home around regular time. She
14 usually gets home around 3:30 in the afternoon, so ...

15 Of course, right after she got home she
16 realized that they was having their 4th of July party and
17 she asked me, Do you mind if I go next door? And of course,
18 I didn't mind. I do not have my wife under my thumb, so to
19 say. I do not keep her from going anywhere. As you can
20 tell by the exhibits that you see in the pictures, my wife
21 does have her own car, she is a very independent person.
22 She has her own job. She's free to go any time she wishes.

23 Q And did -- what was the discussion with your
24 wife regarding the plan for that evening?

25 A Oh, like I said, we do like to eat a little

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 bit earlier. And she asked me, you know, do you mind if
2 I -- if I would mind if she went. And, of course, I told
3 her no, that I did not mind if she went. Just, you know, to
4 be careful about how much she drank, and to also to try to
5 be home at a decent enough time that we can have dinner
6 together or maybe go out for dinner. But I told her to try
7 not to make it no later than eight.

8 Q And did you come to an agreement with her
9 about it?

10 A Yes, of course, we came to an agreement. She
11 said that was no problem, that, you know, she would see me
12 back at the house at 8 o'clock, and that we would prepare
13 dinner or either go have dinner together.

14 Q So, that agreement was made that afternoon
15 before Sara went next door?

16 A Yes, sir, it was.

17 Q You don't have some kind of curfew for her?

18 A That is preposterous. My wife is a grown
19 woman. There's no curfew. Like I told you, she has her own
20 car, her own keys. She has her own mind. If she wants to
21 get up and go, trust me, she will get up and go.

22 Q Okay. So, what time did Sara leave to go next
23 door?

24 A Oh, she left, like I said, right after she got
25 home. So I'm going to say it was right at 4 o'clock,

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 because she got in the house at 3:30. So, she went around
2 there around four.

3 Q And what were you doing?

4 A I was just sitting at home, like I said,
5 enjoying a little bit of television and keeping an eye on
6 the dogs to make sure they didn't tear up or mess up too
7 much.

8 Q How many dogs do you have?

9 A I have five Pomeranians. And that's a very
10 huge dog lover.

11 Q So, why didn't you want to go to the party?

12 A Twenty-five years ago I chose to quit
13 drinking. I did drink one time, and I drank quite a bit.
14 But, like I said, that was in my younger days. 25 years ago
15 I would find myself in awkward situations and troublesome
16 situations and embarrassing situations because of drinking.
17 So, I decided 25 years ago that I would stop drinking, and I
18 also stopped smoking because I wanted to become a better
19 person. And I do believe that since I have quit all this
20 that I have become a better person and have a better being.

21 Q So, you didn't go to the party because you
22 don't drink. And what exactly did you do for the rest of
23 the night just --

24 A As I told you, I sat in my house and just
25 watched a little bit of television, tried to keep things

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 clean, keep an eye on the dogs and just be patient, you
2 know, and wait for my wife to come home.

3 Q Okay. And then when did you start to notice
4 that it was getting late?

5 A Oh, it was already after eight. It was
6 probably a quarter after eight whenever I realized it.
7 Well, she just ain't made it yet, you know. And I would
8 like to elaborate a little on these parties, you know. This
9 isn't just a 4th of July party now. This was a Christmas
10 party. This is a Thanksgiving party. This is a New Years
11 party. Mothers Day party. Fathers Day party. Every other
12 weekend party. I've had to deal with this before.

13 And like I said, I've lived there for 20
14 years.. Bobby and Teresa has been good friends of mine for
15 20 years, and I've had to deal with the last ten years of
16 them always having these parties. And, of course, they
17 invite my wife over, and this isn't the first time that I
18 had to go over and look for my wife.

19 As you can see, my wife is a very small,
20 petite, sweet, lovely woman, and her personality can be
21 rather infectious. And a lot of people like to have her
22 close by them, basically, because she is a wonderful person.
23 And sometimes whenever she goes to leave this party, of
24 course, there are people there, not mentioning no names,
25 who, Sara, where are you going, you just got here, you can't

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 leave yet. And, of course, her being sweet as she is she
2 don't want to feel -- make them feel bad or something so
3 she'll stay a little bit longer. And I've heard this excuse
4 before whenever I went over there, oh, I just let time get
5 away from me. And I've heard that quite a few times.

6 Q So, did you decide to go over there on that
7 night?

8 A Yes, I did, after around 8:30. Like I said,
9 8:15 she wasn't there, so around 8:30, I did decide to go
10 over and see what was taking her so long.

11 However, I was not going over there in
12 intentions of getting into any kind of altercation with
13 anybody. I was just going over there to find out where my
14 wife was and what was taking her so long.

15 I approached the party the first time.
16 You've seen the pictures in exhibits where there's a
17 shortcut through that goes to Mr. Escoffier's awning where
18 he keeps his boat and all.

19 The first time I approached the party, I came
20 from this side, coming down the cut-through there. And, of
21 course, there's all kind of party people there and
22 everything, doing the -- all kinds of stuff going on. My
23 wife's standing there with Teresa shooting a game of pool.
24 And I stood there for a minute or two before she actually
25 noticed me standing there. And, she looked, said, Oh, you

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 made it. And I gave her a look, that, yeah, I made it, but
2 you know it's that time. And I turned my back and walked
3 back to my home again.

4 And after that, maybe 15, 20 minutes later,
5 she still wasn't back. So, I knew then I was going to go
6 over here and ask her to come on back home, you know,
7 because maybe somebody was holding her up again.

8 Of course, the first time I came up the
9 driveway, I noticed how many people was there, and they was
10 all having a party and a good time. So I did not want to
11 disturb the party. So, whenever I came back the second
12 time, I came around the front of the Escoffiers' house to
13 the blacktop as you've seen in the exhibits and all. And
14 this blacktop is on the side of their yard, not the back of
15 their yard. It's actually the side of their yard.

16 And I walked up to my wife, who was
17 underneath the awning playing pool, and I grabbed her by her
18 arm, and I asked her, Sara, can you please come and let me
19 talk to you. And, of course, her friend Teresa is always
20 concerned about what's going on between me and Sara.

21 So, I put Sara off to the side, away from
22 everybody at the party, so that I could ask, you know,
23 what's going on, why haven't you came home yet? And, of
24 course, I heard the same line I've heard before: Oh, I let
25 time get away from me.

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 And it did aggravate me. I've had --

2 THE COURT: Is this in response to a question or
3 is this just a narrative?

4 MR. LOIGNON: Yes, Your Honor. I was just asking,
5 I think, about what he did when he went out to the
6 party.

7 THE COURT: Well, I understand that, but you're
8 not allowed to just give narratives. He has to testify
9 with questions and answers.

10 MR. LOIGNON: Of course, Your Honor.

11 THE COURT: So I'm going to ask you to ask a
12 question.

13 MR. LOIGNON: Yes, sir.

14 BY MR. LOIGNON:

15 Q So, when you get over to the blacktop and
16 you're speaking with your wife, what was the tone of that
17 conversation?

18 A Oh, it was just like any normal conversation.
19 It wasn't loud, like everybody is claiming it was. You have
20 to put yourself there, ladies and gentlemen. This is a
21 party. There are people in the pool, all the screaming they
22 heard, these are kids in the pool. Probably six, eight
23 kids. There's people playing pool, there's pool balls
24 clacking together. There's a stereo going loud. There's
25 fireworks going off. There's a lot of drinking going on, a

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 lot of social life. Of course, it was loud. This was a
2 party.

3 Q So, at some point, did you raise your voice?

4 A Yes, I did raise my voice to my wife. Like I
5 said, I've heard this excuse before. So whenever I heard it
6 again, the first thing I blurted out to her, and I probably
7 shouldn't, was, That's bullshit.

8 And, of course, whenever Teresa heard me say
9 that to my wife, the first thing she did was call out to her
10 husband, and I quote, Bobby, Bobby, come get him.

11 Now, ladies and gentlemen, I don't know if
12 you know or not, but if there's a bunch of inebriated people
13 around, and all of a sudden they hear, Come get him, trust
14 me, they are coming. And they're coming fast. Everything
15 happened so fast.

16 Q Okay. So, you mention that Ms. Escoffier came
17 over and called out, you're standing there on the blacktop.
18 What happened next?

19 A It's kind of hard to demonstrate while I'm
20 sitting down, but as soon as she said, Bobby, Bobby, come
21 get him, of course, here he comes. And he's not alone.
22 He's got people behind him coming also. And he's high
23 stepping, he's got his chest poked out, arms poked out. And
24 like I said, I've dealt with this before. And Bobby just
25 thinks, well, Ashley is just all bark and no bite. You

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 know, and I mean, how much is a man supposed to take, you
2 know?

3 Here he comes walking at me fast, I already
4 know he's inebriated, and here he comes. I'm thinking, oh,
5 Lord, he's about to blast me, you know. He's about to hit
6 me. He's coming quick. And he's, Hey, hey, hey. And, of
7 course, I just, you know, planted my feet, and I stuck this
8 fist jab up to stop him.

9 Because, as I said, I felt like he was fixing
10 to strike me. I felt like it was time to protect myself. I
11 did not approach him in any way. I was still on the
12 blacktop with my wife, conversating with her, whenever he
13 approached me and, Hey, hey, hey.

14 Q Now, Mr. Tindall, did you stick around after
15 that?

16 A Absolutely not. Like I said, there was
17 several people behind Bobby coming, and I knew they were not
18 coming to say, Mr. Tindall, you're making a little bit too
19 much ruckus here, you need to leave the party. I knew
20 better than that.

21 They were coming to get me. And I am no
22 fool, ladies and gentlemen. I know that I cannot fight
23 eight to ten to six to five, to however many people --

24 THE COURT: Just one second, sir.

25 I'll ask counsel to approach.

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 (Off-the-record

2 discussion held.)

3 BY MR. LOIGNON:

4 Q All right. Mr. Tindall, if you could, just
5 try to answer my questions and just kind of stick with what
6 I'm asking you. Okay?

7 A All right.

8 Q So, did you -- when you left the blacktop,
9 where did you go?

10 A I went straight back to the house.

11 Q Okay. So, you didn't walk anywhere else?

12 A No, sir. Like I said, whenever I seen these
13 people coming towards me, I immediately started backing up
14 so that I would not be surrounded, and immediately turned to
15 go back to my house. And I will admit that whenever they
16 was surrounding me and all, I took in the situation and let
17 them know that --

18 MS. GINSBURG: Objection, Your Honor. Again,
19 narrative.

20 THE COURT: Sustain. I'll ask you to be
21 responsive to the question.

22 BY MR. LOIGNON:

23 Q Did you say anything as you were walking away?

24 A Yes, I did.

25 Q What did you say?

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON.

1 A I told him, you know, Look, y'all want
2 something? Okay. I got something for you, I'll be right
3 back. And I turned my back. It was basically a bluff to
4 get away, to get out of there. And I bluffed them. And to
5 my --

6 MS. GINSBURG: Objection, Your Honor, narrative
7 again.

8 THE COURT: Sir, I'll ask you to be responsive to
9 the questions.

10 THE WITNESS: Yes, Your Honor.

11 BY MR. LOIGNON:

12 Q All right. So, when you went back to the
13 trailer, did you go inside?

14 A Yes, sir. I immediately went in the house to
15 get my keys to my truck because --

16 Q How long did you stay inside?

17 MS. GINSBURG: Objection -- withdrawn, Judge.

18 THE COURT: Okay. Thank you. Go ahead.

19 Why don't we do this. Ladies and gentlemen of the
20 jury, I'm going to ask you to step back to the jury
21 room. There's a matter I've got to talk to the parties
22 about. And don't discuss the case while you're outside
23 the courtroom.

24 (Jury exits the courtroom.)

25 THE COURT: Mr. Tindall, I've stopped your

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 attorney and I've stopped your testimony a couple of
2 times, but I haven't communicated directly with you.
3 So let me be sure you understand the issue that I have
4 with what's going on in the courtroom at this time.

5 You're allowed to testify, and you're allowed to
6 answer questions as posed to you by your attorney. And
7 I will see that you get an opportunity to fully answer
8 those questions, as long as you're responsive to the
9 questions that are being asked.

10 What's not allowed is for you to take the stand
11 and basically make your closing argument to the jury.
12 You're arguing points and arguing issues that have not
13 even been asked about yet. So, you're taking off on an
14 argument to the jury without giving the Plaintiff the
15 opportunity to object to the information that you might
16 be giving out.

17 They have a right to know what the question is and
18 what the potential answer might be so that they can
19 raise an objection if they want to. If you simply
20 start testifying about things that haven't been asked
21 about yet, and start giving information out that your
22 attorney has not elicited from you, they're not in a
23 position to be able to do anything about what's being
24 said, even if it is inadmissible information.

25 So, if you continue to get away from the

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 questions, go off on issues that haven't been asked
2 about, then I'm going to have to limit your testimony.
3 I don't want to do that.

4 Now, I'm going to take a short break and let you
5 discuss this with your lawyer so that we don't have
6 that issue. Because if I continue to interrupt your
7 testimony, if I continue to basically start telling you
8 what you can say and what you can't say, I don't think
9 that's going to look very good in front of the jury.
10 And I'm certainly not here to damage your case.

11 But I am not going to allow you to take control of
12 the courtroom and talk about things that you want to
13 talk about when your attorney has not asked about those
14 things.

15 Do you understand where we are?

16 THE WITNESS: Yes, Your Honor, I understand.

17 THE COURT: All right. I'm going to take a short
18 break. You can step down, and I'm going to make an
19 exception to the general rule -- generally, I'll tell
20 you not to talk about your testimony with anyone -- I'm
21 going to tell you to discuss this issue that I've
22 raised with your lawyer so that you have an
23 understanding of where we are.

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. We'll take a short break.

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 You may step down.

2 (Whereupon, a short recess was taken.)

3 THE COURT: You may resume the stand, Mr. Tindall.

4 Mr. Tindall, did you have an opportunity to talk to
5 your lawyer about the issue that I raised?

6 THE DEFENDANT: Yes, sir, I did.

7 THE COURT: Did he help you with that?

8 THE DEFENDANT: Yes, sir, he did.

9 THE COURT: All right. Let's bring the jury in.

10 (Jury enters the courtroom.)

11 THE BAILIFF: All jurors are present, Your Honor.

12 THE COURT: Thank you, ma'am. The record will
13 reflect the jury has returned to the courtroom. You
14 may continue with your examination.

15 MR. LOIGNON: Yes, Your Honor.

16 BY MR. LOIGNON::

17 Q Mr. Tindall, after you left the Escoffiers' house,
18 did you go back to your trailer?

19 A Yes, I did. Immediately.

20 Q And what did you do from there?

21 A I kind of felt that I might have been taking a
22 chance -- or I might have been taking a ride to the
23 Charleston County detention center, and I decided that I
24 might want to go get dinner before that happened.

25 Q So, did you go outside and get in your truck?

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 A Yes, I did. I got -- went and got in my truck and
2 I went to back out the driveway and leave. And that's
3 whenever I noticed my wife coming around the front side of
4 our trailer.

5 Q So, you get in your truck, you back out into the
6 driveway, and your wife, Sara, came up to you?

7 A Yes. She was coming around the front of the
8 trailer. And she basically asked me, you know, What are you
9 doing, where are you going?

10 Q Okay. And at this point, you're -- are you seated
11 in the truck?

12 A Yes. I was seated in the truck and she -- like I
13 said, she's coming from the front side of my house, and I'm
14 on the right side of the truck. So I rolled down my
15 passenger side window so that I could talk to her through
16 the window.

17 Q Okay. So, you're having a conversation through
18 the window, and did that conversation get heated?

19 A No, it wasn't heated. It was more or less
20 concerned about where I was going and what I was doing.

21 Q Sara was concerned about where you were going?

22 A Yes.

23 Q And at some point during that conversation, did
24 you notice anyone else?

25 A Yes, I did. Like I said, I was sitting in the

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 truck talking to Sara, and I happened to look in my rearview
2 mirror and I noticed Mr. Richard Hilding, who I do not know
3 personally, approaching my side of the truck.

4 Q Okay. Well, why didn't you drive away?

5 A Because my wife was right there on the outside of
6 the truck, and I do not know this gentleman or what his
7 intentions are.

8 Q What were you thinking?

9 A I was thinking he's getting ready to walk up to
10 the side of truck and try to punch me through my window. So
11 I immediately got out the truck to face him, and to not be
12 in, you know, such a confined area.

13 Q So you get out of the truck?

14 A Yes, sir.

15 Q All right. And what happened when Mr. Hilding
16 came up? Did he say anything to you?

17 A Oh, yes. He was very belligerent. I took it he
18 was drunk and he was babbling to me that, you know, Hey,
19 we're having a good time over here, you need to stop, we're
20 not going to have no fights. And I basically relayed to him
21 that, Look, this doesn't concern you, this is me and my
22 wife, you need to go back to where you came from.

23 Q Okay. So then at some point, did you have to
24 physically prevent him from approaching?

25 A Absolutely. Like I say, he kept coming forward.

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 And I thought he was trying to get close enough to hit me,
2 so where he would get close enough, I would put my left hand
3 up and stop him. You know, Hey, don't come no closer to me,
4 this is between my and my wife, go back to your party. And
5 whenever I would give him a little shove, he would fall on
6 his butt.

7 Q Okay. And how many times did that happen?

8 A Oh, that happened three times. I'd tell him to go
9 back and he'd fall down and he'd roll over on his hands and
10 knees and get back up, and to my amazement, come back again.

11 Q Now, were there any other men around at the time?

12 A Not around the immediate vicinity of the truck,
13 but they was all standing back in the cut-through area that
14 comes out beside my yard to see what was going on.

15 Q Okay. Now, you said after the third time that Mr.
16 Hilding approached you, you pushed him away. What did he do
17 next?

18 A Mr. Hilding wrapped his arms around my wife and
19 actually gave me a goofy look and tried to drag her back
20 away from me. I felt like he was trying to antagonize me.
21 He was -- he was trying to get me to fight with him.

22 Q Okay. And what did you do in response to that?

23 A Oh, I asked him, Do you realize you've got your
24 arms wrapped around my wife? And, of course, I jammed my
25 hands between them both and separated them. And, again, he

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 fell down.

2 Q When he fell down --

3 A I'm sorry, I'm sorry.. I believe he had already
4 fallen down three times. This time he did not fall down
5 when I pushed him back. He actually announced to me that if
6 I hit him again, that he would fucking kill me. And he come
7 at me and tried to grab me around the upper torso.

8 Q All right. So, you said he tried to grab you.

9 Was he successful?

10 A No. Like I said, he was pretty inebriated and I
11 was not, so I was able to basically push him away from me
12 again. And this time whenever I pushed away, I did not look
13 to see whether or not he was falling down or not. I
14 realized that this was a situation that I was going to have
15 diffuse myself.

16 Q Did he get his hands on you that last time?

17 A Yeah, he did wrap his arms around my upper torso.
18 Like I said, he -- he couldn't hold me basically because I
19 was a little stronger at the time, I want to say.

20 Q And that was the third or the fourth time that he
21 had come at you?

22 A No, this was -- this would be the fourth time he'd
23 come at me whenever he grabbed me. Like I say, I pushed him
24 away three different times and he kept coming up again and
25 back at me.

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 Q How did you end up having to diffuse the
2 situation?

3 A Unfortunately, I had to reach in the back of my
4 truck and retrieve a small trimming hammer I had. I did
5 strike him in the head, and he did go down. And as soon as
6 he went down I jumped in my truck and got out of there
7 because it sounded like a herd of buffalo coming at me.

8 Q And why was that?

9 A Oh, it was all the other party goers that was
10 standing on the side of the driveway watching. And I did
11 not know that people had actually approached me from the
12 north also, and from the testimony today. And I had people
13 coming in all directions apparently.

14 Q So, you got in your truck and drove away?

15 A Well, I didn't just exactly drive away. I mean, I
16 did get in the truck and hit the gas and get out of there.
17 Of course, I looked in the rearview mirror to make sure that
18 my wife was all right. And I seen my brother-in-law, John,
19 approaching her at the time and taking her by the arm and
20 saying, Sara, let's go back home or whatever they were
21 doing.

22 Q Did you notice where Mr. Hilding was when you
23 pulled off?

24 A Yes.

25 Q Where was he?

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 A He was right where I left him on the ground.

2 Q Okay. And was that underneath your truck?

3 A Absolutely not. It was not underneath the tires
4 of my truck or nothing. It was right beside my truck
5 because, as I testified, whenever he approached me I got
6 immediately out from my driver's side door to face him, and
7 he was in my face immediately.

8 Q Where did you go when you drove off?

9 A Oh, I went straight to McDonald's and got a meal,
10 a combo meal. And I sat in the parking lot and ate my
11 dinner and contemplated a little bit on what just conspired.

12 Q Did you eventually come back that evening?

13 A Yes, I did. I went back home.

14 Q Went back to your trailer?

15 A Yes, I did. Well, I stayed at -- I actually
16 stopped at a friend of mine's house and parked my truck in
17 his yard and then walked the rest of the way to the house
18 because I didn't want a brick to get thrown through my
19 window or anything while I was in the house sleeping.

20 Q When you got home, did the police eventually come?

21 A Yes. I expected them to come, and they did.

22 Q Did you hide from them?

23 A Yes. Shamefully, I did hide from them. I mean, I
24 was not prepared to go to jail. I mean, I knew that I was
25 going to go, but I was not prepared to go.

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 Q Now, you then, two days later, you made a report
2 of your own, right?

3 A Yes, sir, I did.

4 Q How -- and I think initially -- well, we saw the
5 officer come out to your house, but initially, did you go to
6 the police station?

7 A Yes. I went to the police station on John's
8 Island at the substation, and they turned a deaf ear to me.

9 Q Okay. And then did you end up calling the
10 sheriff's office?

11 A Yes. I ended up calling the sheriff deputy back
12 to my house to make an official report.

13 Q And that was, I think, July 6th, 2014?

14 A Yes, sir, it was. Because this was a Friday
15 night, July 4th, and I was incarcerated on a Saturday. Of
16 course, you don't get out until you talk to the judge and
17 all, so that's why it took a day or two. I was in the
18 detention center section.

19 Q So it was right after you got out of jail that you
20 made that report?

21 A Yes, sir. Yes, sir.

22 Q Did you get out of that truck and start a fight,
23 Mr. Tindall?

24 A Absolutely not. Absolutely not.

25 Q Did you feel like you had a choice in the matter?

DIRECT EXAMINATION OF A. TINDALL BY LOIGNON

1 A Oh, at first maybe I had a choice, but as it
2 progressed, I realized pretty quickly that I wasn't going to
3 have no choice but to protect myself and my wife.

4 MR. LOIGNON: Court's indulgence.

5 THE COURT: Yes, sir.

6 (Pause.)

7 MR. LOIGNON: Nothing further, Your Honor.

8 THE COURT: You may cross-examine.

9 MS. GINSBURG: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MS. GINSBURG::

12 Q Good afternoon, Mr. Tindall.

13 A Good afternoon.

14 Q So, you've lived in Charleston all of your life?

15 A Yes, ma'am, I have.

16 Q And you're married to Sara Tindall?

17 A Yes, ma'am, that's correct.

18 Q For 32 years; is that right?

19 A Yes, ma'am. Been married for 32 years, together
20 for 36.

21 Q And how old is your wife?

22 A Are you trying to get me in more trouble?

23 Q But how old is your wife though?

24 A My wife is 51 years old.

25 Q Fifty-one, okay. And Mrs. Tindall is the only one

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 that works?

2 A At the time, yes.

3 Q She works at Waffle House; is that right?

4 A Yes, ma'am, that is correct.

5 Q Okay. So that night, you did go to the
6 Escoffiers' residence, didn't you?

7 A Yes, I did.

8 Q You said at first you were just patiently waiting
9 on your wife; isn't that correct?

10 A Yes, it is.

11 Q But then you soon lost your patience, didn't you?

12 A No, I did not.

13 Q Okay. So you were patiently waiting on your wife,
14 but then you say 15 to 20 minutes later, that's when you
15 head over there?

16 A Yes.

17 Q Okay. The Escoffiers' residence is pretty close
18 to your house, isn't it?

19 A Approximately 100, 150 feet away.

20 Q So you go over to the Escoffiers' house because
21 your wife wasn't home when she was supposed to be?

22 A She wasn't home when we agreed to come home.

23 Q Okay. Even though she's at the house that's 100
24 feet away from you; is that right?

25 A Yes.

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 Q With her best friend at the time, Teresa
2 Escoffier; isn't that right?

3 A Supposedly.

4 Q Supposedly. And her husband, who y'all have known
5 collectively for about 20 years; isn't that right?

6 A Yes.

7 Q And then you go to the Escoffiers' residence and
8 you -- I believe you used the word "ruckus," you caused a
9 ruckus, didn't you?

10 A I caused a disturbance.

11 Q A disturbance. Okay. Actually, you caused more
12 than a disturbance; don't you think?

13 A Actually, I was not charged with anything at the
14 Escoffiers'.

15 Q Okay. But you did punch Bob, right?

16 A I did not punch him. I stuck a stiff hand out to
17 stop him from approaching me.

18 Q Okay. Stiff hand, I'm sorry. But you yelled at
19 Sara, didn't you?

20 A No.

21 Q Okay. You talked about how you're a good and
22 loving husband; isn't that right?

23 A Yes, it is.

24 Q And that you've never hit Sara before, ever.

25 A Absolutely not.

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 Q And you've never yelled at her; is that right?

2 A I'm not saying we've never yelled at each other. We are a
3 married couple, we've been married for 32 years, and just
4 like any other couple, we do have our little problems here
5 and there.

6 Q Okay. But you didn't yell at her that night; is
7 that right?

8 A No, absolutely not.

9 Q But somehow, Teresa was really concerned; isn't
10 that right?

11 A Of course.

12 Q Okay. That night you actually threatened Missy,
13 the pregnant daughter of Bob and Teresa; isn't that right?

14 A Again, that is not true.

15 Q Okay. You bowed up to Daniel Moore and asked if
16 he wanted some, too? A That is absolutely not true.

17 Q Okay. But you did say to everyone there -- which
18 was -- there were children there as well -- I'll come --
19 y'all I'll come back -- what was it you said, sir? What was
20 it?

21 A I was nowhere near the children at the time. The
22 children were in the pool, I was on the side of his house,
23 on the blacktop with my wife.

24 Q Okay. But what did you say again to everyone?

25 A When everybody approached me and started to

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 surround me, I started to feel threatened, and I told them
2 that "if you want to jump me, I have something for you, I'll
3 be right back." And I turned my back and walked away from
4 them.

5 Q "Have something for you, I'll be right back." Is
6 that what? And you want this jury to believe that that's a
7 bluff?

8 A It was absolutely a bluff. I'm not standing there
9 to try to fight eight to ten people to establish a fight, or
10 however many was around me. It was absolutely a bluff.

11 Q Okay.

12 A And it worked.

13 Q Let's get back to the actual incident on the road
14 there.

15 A Um-hmm -- yes, ma'am. I'm sorry.

16 Q No, you're fine. So you just testified that you
17 were first in your truck; isn't that right?

18 A Yes.

19 Q And that you were talking to your wife on the
20 passenger side. You had your window rolled down?

21 A Yes, ma'am.

22 Q And you just said that it wasn't a heated
23 discussion, right?

24 A No, it wasn't heated at that time. It was more or
25 less concern. You know, concern about where I was going and

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 what I was doing.

2 Q Okay. Didn't you speak to Deputy Phillips on July
3 6th, and write a statement?

4 A Yes, I did. Yes, I did.

5 Q And in that statement, didn't you say, "there was
6 a heated discussion between me and my wife."

7 A A heated discussion, yes; not an argument.

8 Q Okay. And I'm sorry, I just asked if it a heated
9 discussion.

10 A Yes, it was a heated discussion.

11 Q Oh, okay. So you had a heated discussion with
12 your wife through your car window; is that right?

13 A Basically.

14 Q Okay. And your truck's running, because you just
15 backed up?

16 A Yes, my truck is running.

17 Q Okay. And then you see Mr. Hilding approaching,
18 isn't that right?

19 A Yes. I did not see a badge on him. I knew he was
20 not an officer.

21 Q Okay. So you thought that he was going to punch
22 you through your window of your truck, that's what you just
23 testified, right?

24 A Absolutely. He was approaching my truck right
25 there on the side, coming right to me. I absolutely thought

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 he was going to punch me through my window.

2 Q Through your window, in your truck that's running.

3 A Yes.

4 Q Okay. So then you get out of your truck that's
5 running.

6 A Yes.

7 Q Okay. And your -- where are you in this -- in the
8 road? Was that 30 feet away from your trailer, you think?

9 A That is exactly 10 feet in front of my trailer, in
10 my front yard. I was not in the roadway, I was in my front
11 yard.

12 Q Okay. That's where you think you are, Mr.
13 Tindall. I understand.

14 A No. I, in fact, know that's where I'm at, not
15 where I think I'm at.

16 Q Okay. So we're here today, and you said that Mr.
17 -- or you said that the victim advanced towards you three
18 times; isn't that right?

19 A Yes.

20 Q You don't even know the victim, do you?

21 A Actually, he has introduced himself to me one time
22 whenever he first moved in. And whenever he come over on
23 time to introduce myself -- or hisself to me while I was in
24 the yard working on my boat, he was belligerently drunk
25 then, and his wife came over and got him immediately and

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 took him back home.

2 Q Okay.

3 A So, yes, I had met him before.

4 Q All right. So you met him before. Do you know
5 even know his name?

6 A At that time, no.

7 Q Okay. We're going to get to how you know Mr.

8 Hilding in a second. But you said that he fell in front of
9 you, right?

10 A Yes.

11 Q And you said that he wrapped his arms around your
12 torso; isn't that right?

13 A This was after three times of falling down, yes.

14 Q Three times of falling down. Okay. And then you
15 said that he also shoved your wife; isn't that right?

16 A No, I did not say he shoved my wife. I said he
17 wrapped his arms around my wife and tried to pull her away
18 from me back towards the party.

19 Q Oh, my bad. I'm sorry. I misspoke. So he
20 grabbed your wife and then pulled her back.

21 A With a goofy look on his face that he was giving
22 me, trying to antagonize me to start fighting with him.

23 Q Yeah. What's this goofy look you're talking
24 about?

25 A The kind of look you're giving me now.

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 Q I'm sorry. What?

2 A The kind of look that you're giving me.

3 Q Oh, okay.

4 A Goofy look. That off look. You know, when you're
5 trying to look at -- it's not usual.

6 Q Let's just get back to this, Mr. Tindall. So, he
7 advances towards you three times?

8 A Yes, ma'am.

9 Q And then he wraps his arms around you and your
10 wife. And he'd have to be pretty close to you to do that;
11 isn't that right?

12 A Yes, it is.

13 Q Okay. But you told Deputy Phillips that you
14 didn't know how to describe him, didn't you?

15 A No, I did not.

16 Q Okay.

17 A What do you mean "describe him." Describe him as
18 a person?

19 Q No. In your statement that you gave to Deputy
20 Phillips on July 6th, did you not say when asked "can you
21 describe the subject, what he was wearing, or what he looked
22 like," you said something to the affect of "no, I cannot,
23 but I can tell you he was drinking."

24 A Yes, I may have said that. I believe what I was
25 referring to, I could not remember what he was wearing.

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 Q Okay. When you told -- now, when the victim was
2 approaching actually, he didn't have a weapon, did he?

3 A No.

4 Q Okay. And then you told Deputy Phillips later on
5 July 6th that you hit the victim; isn't that right?

6 A Yes, it is.

7 Q And you said that you hit him with a trimming
8 hammer?

9 A Yes, that is what I said. And I would like to
10 clarify for the Court that I actually hit him with the wooden
11 end of the trimming hammer, not the business end.

12 Q Can you describe that trimming hammer for me, Mr.
13 Tindall?

14 A Small wooden hammer that's used for trim
15 carpentry. It's a small hammer that weighs no more than
16 anywhere from 12 to 14 ounces.

17 MS. GINSBURG: Judge, may I approach?

18 THE COURT: You may.

19 *(Whereupon, State's Exhibit No(s). 21-29 marked*
20 *for identification.)*

21 BY MS. GINSBURG::

22 Q I'm showing you, Mr. Tindall, what's been
23 marked as -- just for identification purposes only. So
24 please don't show it to the jury -- State's Exhibits 21
25 through 29. Can you look through these and see if any of

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 these look like that trimming hammer that you used that
2 night.

3 A Yes, I can.

4 Q Okay. And can you describe the trimming hammer
5 for me?

6 A I already have. It's the wooden handle hammer.

7 Q Okay. Well, what's the -- there's a hammer, there
8 the -- this is the wooden handle, what's the other part of
9 it? What's the "business end"?

10 A Oh, that would be the head of the hammer.

11 Q And what does that look like?

12 A It looks like a hammer.

13 Q Sorry. I'm not very familiar with hammers, so I
14 was just asking.

15 A Well, that's very unfortunate. I have no way to
16 explain to how a hammer looks. It looks like a hammer.

17 Q Okay. But you hit him with the wooden portion of
18 it?

19 A Yes, because I did not want to physically hurt him
20 badly. I mean, the last thing I want to do is hurt anybody.
21 I am a very sensitive person myself, and every night that I
22 go to bed, I pray for each and every one of us to come home
23 safe.

24 Q So, you're very scared, and then you hit him with
25 the wooden portion of it; is that what happened?

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 A Yes.

2 Q Okay. Mr. Tindall, you're here today, and you
3 want this jury to believe that the victim came after you,
4 threatened you; isn't that right?

5 A That is correct, and this jury will believe it.

6 Q Okay. But you didn't tell the deputies what
7 happened that night, did you?

8 A No, I did not.

9 Q Because you actually weren't there, right?

10 A Excuse me?

11 Q You weren't there when the deputies came that
12 night?

13 A No, I wasn't at the time.

14 Q Okay. And you fled in your truck, you said, to
15 your neighbor's house; is that right?

16 A That is wrong. I did not flee to my neighbor's.
17 I got in my truck and went to get dinner at McDonald's.

18 Q Okay. So after this incident, you go get
19 McDonald's, and that's to -- just to think a bit?

20 A No. To get dinner.

21 Q Oh, to get dinner.

22 A So I could have myself something to eat before I
23 was incarcerated. Because I figured what happened at the
24 Escoffiers' is why I would be arrested. Not for what
25 happened in front of my yard.

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 Q Okay. So you go to McDonald's, you don't go to a
2 police station, do you?

3 A No.

4 Q You didn't call the police or anything, did you?

5 A No. Would you like me to explain why?

6 Q I'm just asking questions, Mr. Tindall. Instead,
7 you actually come back to your house later that night,
8 right?

9 A Of course, I came back home.

10 Q And you leave your truck somewhere else?

11 A I left my truck at another friend's house down the
12 road, so it wouldn't get destroyed or vandalized.

13 Q Okay. So you come back to the house that's right
14 across the street from the man that told you that he's going
15 to f'ing kill you; is that right?

16 A I'm not a scared person. Of course, I came back
17 home.

18 Q Okay. You said that you were trying to protect
19 you and your wife; isn't that right?

20 A Absolutely.

21 Q And you were so worried for your wife's safety
22 that night that you left her and drove to McDonald's.

23 A Again, I did not leave my wife. We were in my
24 front yard. My brother-in-law, John, had already walked up
25 and took her by the arm and was escorting her back towards

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 the house.

2 Q Okay. Your brother-in-law, John, who said he was
3 -- I'm sorry, that he said he was really drunk and doesn't
4 remember anything, that brother-in-law, John?

5 A That's what he said, yes.

6 Q Okay. The police eventually come; isn't that
7 right?

8 A Yes.

9 Q But you didn't call them to tell your side of the
10 story, did you?

11 A Like I said, ma'am, I don't have very much
12 education. I'm not the smartest pencil in the drawer or the
13 sharpest. It takes a while for things to kind of register
14 in my mind as to what went on and what actually conspired.

15 Q Okay. But actually, someone else called the
16 police to come that night, didn't they? On July 6th -- or
17 excuse me, July 5th, sorry, in the morning; isn't that -- or
18 late, late evening or early morning; isn't that right?

19 A I don't know if somebody else called or not. I
20 can't tell you that.

21 Q Okay. But the police did come; is that right?

22 A Yes, the police did come to my residence.

23 Q And so when you saw them arrive, you came outside.
24 and greeted them; isn't that right?

25 A I was outside waiting on them to arrive because of

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 the dogs in the house. They raise all kind of cain if
2 somebody comes up on the porch or somebody comes in.

3 Q Oh, I'm sorry, Mr. Tindall. I'm talking about the
4 night that you were arrested. Did you come and meet the
5 police then?

6 A No.

7 Q Okay. You were actually found hidden behind your
8 bed --

9 A I'm in my bedroom whenever the knock happens at
10 the door, and yes, then, I kind of dive between the bed and
11 the wall at the time.

12 Q And you told the deputy right then what happened
13 that night?

14 A No. The deputy ordered me from behind the bed. I
15 immediately showed him my hands, and told him I have no
16 problem with y'all, and put my hands behind my back and I
17 was incarcerated.

18 Q Okay. And then you were transported; isn't that
19 right?

20 A Yes, I was.

21 Q And then you asked Deputy Phillips what the victim
22 said you did to him; isn't that right?

23 A I asked him what I was being charged with.

24 Q Then you said that you were too old and fat to use
25 nunchucks. Instead you beat him with your fist; isn't that

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 right?

2 A That is correct.

3 Q And you laughed; isn't that right?

4 A Oh, yeah. I found it kind of humorous at the
5 time. It was, like I said, it was a stressful situation.
6 People react in different ways.

7 Q Okay. So you get arrested around one in the
8 morning; isn't that right?

9 A I'm not sure what time it was. All I know it was
10 late in the evening.

11 Q Okay. And then you are released around 7 p.m. the
12 next day; isn't that right?

13 A Yes.

14 Q And then that's when you call Deputy Phillips?

15 A Of course.

16 Q Actually, so you called him right after you got
17 released from jail?

18 A Yes, I believe it was.

19 Q So it was July 5th or was it July 6th?

20 A I believe it was the 6th.

21 Q Okay. So you actually waited another 24 hours
22 until you told Deputy Phillips?

23 A Well, after I got out of jail. Of course, I mean,
24 I had to get a little sleep. Couldn't sleep inside that
25 place.

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 Q Okay.

2 MS. GINSBURG: Beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 (Pause.)

5 BY MS. GINSBURG::

6 Q Sorry, Mr. Tindall. I have a couple of pieces of
7 paper I'm going through. You heard your wife testify,
8 didn't you?

9 A Yes, I did.

10 Q And you weren't too happy with Sara testifying; is
11 that right?

12 A Well, I wouldn't say I wasn't too happy, but I
13 would say that I thought it could have went a little
14 different.

15 Q What do you mean by that?

16 A I felt like she may have been a little overwhelmed
17 by everything going on in the courtroom. We were, by no
18 means, in this situation that's going on.

19 Q Didn't you actually -- let's regress. Mr.
20 Tindall, did you go to the bathroom after your wife
21 testified?

22 A Yes, I did.

23 Q Okay. And didn't you say then that Sara was as
24 helpful as blank, as helpful as something?

25 A Oh, yes, I will say that I was a little frustrated

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 and I may have said something to myself in the restroom.

2 Q Okay. Didn't you say also that "all she had to
3 say was Rick was the primary aggressor;" isn't that right?

4 A I don't remember saying that.

5 Q Okay. But you didn't realize actually that Deputy
6 Phillips was in the bathroom?

7 A No, I did not realize he was in there.

8 Q You keep talking about how you have been praying
9 for everyone; isn't that right?

10 A Yes, I believe in a higher power, and I do pray.

11 Q And that you really wanted to apologize; isn't
12 that right?

13 A No.

14 Q Well, you -- I thought you just --

15 A I was talk -- I was talking about to my neighbor,
16 Bobby and Teresa. Not Richard Hilding.

17 Q Okay. Well, let's talk about Bob and Teresa. You
18 wanted to apologize to them; isn't that right?

19 A I actually did want to apologize to Bobby for what
20 happened.

21 Q Okay. So you apologized that night on July 4th?

22 A No, I did not.

23 Q You apologized that morning on July 5th, when you
24 got home?

25 A No, I did not. I have been ordered by the courts

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 not to have contact with Mr. Escoffier.

2 Q That was before you were arrested, wasn't it?

3 That was July 4th and July 5th, in the morning. You did not
4 have that contact order, did you, Mr. Tindall?

5 A July 4th I was arrested and put in jail. On the
6 5th, how can I have contact with anybody?

7 Q I believe Deputy Phillips testified that you were
8 arrested early morning July 5th; isn't that right?

9 A Yes.

10 MS. GINSBURG: Beg the Court's indulgence.

11 THE COURT: Yes, ma'am.

12 (Pause.)

13 BY MS. GINSBURG::

14 Q Mr. Tindall, if you wanted to apologize to Mr. Bob
15 and Ms. Teresa, then why were you taking pictures of them
16 the other day?

17 A I was not taking pictures of them. That was my
18 daughter that took a picture of them, because Teresa
19 Escoffier has been recently pulled over for drunk driving,
20 and we know that she is not supposed to be driving. My
21 daughter was considering exercising her rights to make a
22 citizen's arrest. I did not actually notice Teresa and
23 Bobby was in the parking lot.

24 Q But you were in the car, weren't you?

25 A Oh, yes, I was in the car, coming home from these

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 proceedings. My wife informed me that we did not pull out
2 anything for dinner, and I needed to stop at the Food Lion
3 so she could go in and get something for dinner.

4 MS. GINSBURG: Okay. Thank you, Mr. Tindall. No
5 further questions.

6 THE COURT: Redirect.

7 MR. LOIGNON: No, Your Honor.

8 THE COURT: You may step down.

9 THE DEFENDANT: Thank you, Your Honor. Thank you,
10 ladies and gentlemen.

11 THE COURT: Sir, you should not talk to the jury
12 direct.

13 THE DEFENDANT: I'm sorry. I'm sorry.

14 THE COURT: Thank you. You may call your next
15 witness.

16 MR. LOIGNON: The Defense rests, Your Honor.

17 THE COURT: Does the State wish to call any
18 witnesses in reply?

19 MS. GINSBURG: No, Judge. Thank you.

20 THE COURT: All right. Ladies and gentlemen, that
21 completes the presentation of evidence in the case.
22 There's some matters I want to talk over with the
23 attorneys, I'm going to ask you to step back to the
24 jury room. Don't discuss anything about the case until
25 I ask you to begin deliberations.

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 (Jury exits the courtroom at

2 4:00 p.m.)

3 THE COURT: I assume the Defense renews its'

4 motions previously made?

5 MR. LOIGNON: Yes, Your Honor.

6 THE COURT: Any additional motions?

7 MR. LOIGNON: No. Not at this time.

8 THE COURT: All right. I'll make the same ruling,

9 I'll deny motions for a directed verdict. It's about

10 4:00, I've got a feeling closing arguments will take us

11 past the 5:00 hour, let alone the charge. So, I'm

12 going to send the jury home in just a moment. Are

13 there any specific requests for charge from the State?

14 MS. GINSBURG: Your Honor, I believe I included

15 them in my trial brief.

16 THE COURT: I'll take a look at that. Anything

17 else?

18 MS. GINSBURG: Not that I know of, Judge. Thank

19 you.

20 THE COURT: Anything from the Defense?

21 MR. LOIGNON: I do have some, your Honor. I can

22 email them to you this afternoon.

23 THE COURT: Well, that'd be helpful so I can get

24 the charge ready.

25 MR. LOIGNON: Yes, sir. Yes, sir, I have it

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 prepared, I just need to go pull it up and get them to
2 you.

3 THE COURT: All right. If you'll do that, I'd
4 appreciate it. I'm going to start in the morning at
5 9:00, we'll be starting with the closing arguments. I
6 believe the Defense presented evidence, but you'll be
7 opening in full; is that right?

8 MS. GINSBURG: Yes, Your Honor.

9 THE COURT: And then followed by the Defense, and
10 then you'll have a chance of a brief rebuttal. All
11 right. We're in recess until 9:00 in the morning. I
12 remind the Defendant, should you fail to appear, we'll
13 complete the trial in your absence and I would issue a
14 bench warrant. Do you know understand that, sir?

15 THE DEFENDANT: Yes. Yes, sir, I do.

16 THE COURT: All right. Thank you very much.
17 We're in recess until 9:00. Let's bring the jury in
18 and have me dismiss them.

19 (Jury enters the courtroom at
20 4:05 p.m.)

21 THE BAILIFF: The jury is all present.

22 THE COURT: Thank you very much. The record will
23 reflect the jury has returned to the courtroom. Ladies
24 and gentlemen, we have completed the presentation of
25 evidence in the case at this time. I told you earlier,

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 when we reached this stage of the trial, the attorneys
2 will be given an opportunity to sum up in front of you,
3 and then I'll charge you on the law, and we'll turn the
4 case over to you for your deliberation once that's
5 completed. Looking at the clock, we've got about an
6 hour, and I've got a feeling closing arguments will
7 take at least that long, and then I'd have to charge
8 you after 5:00, and then I'd be sending you to begin
9 deliberations after six. That's probably not a good
10 idea. So we're going to start in the morning. Be back
11 in the jury room at 9:00.

12 We should start with closing arguments as soon as
13 we can after 9:00, and we'll try to get the case to you
14 as quickly as possible. You know my instructions when
15 you leave the courthouse, so don't try to gather any
16 information on your own, don't discuss the case with
17 anyone, don't allow anyone to discuss it with you.
18 Don't listen to, watch, or read media reports. And let
19 me know if anyone tries to contact you about the case.
20 9:00 in the morning, back in the jury room. I hope you
21 have a good evening. And you're free to go at this
22 time.

23 (Jury exits the courtroom at
24 4:06 p.m.)

25 THE COURT: Thank you very much. We are in

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1 recess.

2 (Whereupon, the Court recessed

3 for the day.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CROSS EXAMINATION OF ASHLEY TINDALL BY GINSBURG

1

2

VOLUME 5

3

In The Court of General Sessions for the

4

State of South Carolina, County of Charleston

5

6

Case No.: 2016GS1005793+

7

8

State of South Carolina,

9

Plaintiff(s),

10

vs.

11

Ashley Price Tindall, III,

12

Defendant(s).

13

14

15

TRIAL TRANSCRIPT

16

VOLUME 5

17

18

19

March 23, 2017

20

Charleston, South Carolina

21

22

BEFORE: The Honorable ROGER L. COUCH

23

24

25

COLLOQUY

1 THE COURT: All right. Is the State ready to
2 proceed?

3 MS. GINSBURG: Yes, Your Honor.

4 THE COURT: The Defense ready?

5 MR. LOIGNON: Yes, Your Honor.

6 THE COURT: I received request for charge from
7 both sides last night, and I've gone over those, and I
8 think I've included most of what you've requested in my
9 charge. Of course, the way I do my charge is that I
10 will charge the jury, then I will send them out before
11 I give them final instructions. If you have any
12 objections or corrections to the charge, I'll be glad
13 to discuss them with you at that point in time because
14 I'll bring them back into the courtroom and give them
15 final instructions before I send them back out.

16 So if I misspeak or if I say something that I
17 shouldn't have said, it'll give you an opportunity to
18 raise that issue and we'll discuss it. Now, one thing
19 I did note, the Defense requested a charge on A and B
20 second; is that correct?

21 MR. LOIGNON: That's, correct, Your Honor.

22 THE COURT: And that says a lesser-included
23 offense here, and I believe the State does not object
24 to me charging that or submitting that question to the
25 jury.

COLLOQUY

1 MS. GINSBURG: No, we do not.

2 THE COURT: Okay. I just want to be sure before
3 we argue that we cleared that up. So I will include
4 that as a possible verdict and include it in my charge.
5 Any other matters we need to discuss before we begin
6 closing arguments?

7 MS. GINSBURG: None from the State, Your Honor.

8 THE COURT: Any from the Defense?

9 MR. LOIGNON: No, Your Honor.

10 THE COURT: All right. Let's bring the jury in.

11 (Jury enters the courtroom at
12 9:08 a.m.)

13 THE BAILIFF: All jurors present, Your Honor.

14 THE COURT: Oh, thank you. The record will
15 reflect the jurors have returned to the courtroom. I
16 hope everyone had a good evening and is ready to get
17 started this morning. If any of you had any problems
18 or difficulty complying with my instructions overnight,
19 please stand.

20 (No response.)

21 THE COURT: It appears that all jurors have been
22 able to comply with my instructions thus far. When we
23 stopped yesterday afternoon, the evidence had been
24 fully presented. It is now -- we have reached the
25 stage of the trial where the attorneys will be given

COLLOQUY

1 their second opportunity to talk directly to you in the
2 form of their closing arguments, or summation. In this
3 case, the State will be going first, followed by the
4 Defense, and then the State will be allowed a brief
5 rebuttal. You may proceed.

6 MS. GINSBURG: Thank you.

7 CLOSING ARGUMENT BY THE STATE

8 MS. GINSBURG: On that night of this incident, the
9 Defendant was waiting. He was waiting in his house for
10 his wife to come home. Like a child who leaves the
11 house, the Defendant told his wife, you can go to that
12 party. You can go to the party that's a hundred feet
13 away from me, that I can see outside my window, that's
14 thrown by your best friend and by a man I've known for
15 20-plus years. You can go to that party, just come
16 back at a certain time.

17 And when she didn't return home at that time, the
18 Defendant told you that he waited. He waited for 20
19 minutes. He waited for 30 minutes. He began to lose
20 his patience. And you heard him tell you he began to
21 lose his patience. He also told you that he went to
22 that party, a party that he was invited to, a party he
23 didn't want to go to because Sara forced him to bring
24 her back.

25 And he told you that when he got to that party, he

CLOSING ARGUMENT BY THE STATE

1 waited there patiently and he gave Sara a look, and she
2 knew what that look meant. She knew she was supposed
3 to come home. And so he leaves, expecting her to
4 follow. But he turns around, and she's not there.
5 Sara knew what she was supposed to do.

6 And at that moment, she couldn't be controlled
7 anymore. That's why he got mad, that's why he hit Mr.
8 Bob, and that's why he later hit Mr. Rick in the road.
9 He's fuming now because of a curfew, or as they like to
10 call it, a time arranged to be home.

11 Control. This case isn't about a man's right to
12 defend himself, it's not about self-defense. It's
13 simply about self-control. So, before we get into the
14 crux of this case, I know the Judge just told that
15 right now I have the opportunity to address you about
16 the facts of the case, the law in this case, and then I
17 can rest and Mr. Loignon comes up and he gets to
18 explain to you his facts in this case, what he believes
19 applies to the law.

20 The Judge also told you that I can then come up
21 and rebut things. But I'm going to let you know right
22 now that I'm only going to do that if something needs
23 to be cleared up. I know that each and every one of
24 you have been paying attention to this case -- that
25 you've heard a lot of testimony, that you've seen a lot

CLOSING ARGUMENT BY THE STATE

1 of evidence. So, I'm not going to rehash things for
2 you. What I am going to do is point out a few things
3 that I think will be helpful when you look at the law
4 and you apply it to the facts of the case.

5 Before I do that, I want to discuss something that
6 the Judge has already talked about. It's credibility.
7 And the Judge said, as the judges of the facts, that
8 you are also judges of the witnesses' credibility or
9 believability. And like the Judge has mentioned
10 before, and probably will again, is that you can
11 believe all of a witness's testimony, some of a
12 witness's testimony, none of a witness's testimony.
13 But that is up to you and you alone.

14 So, to help with that determination of who's
15 credible, of who's believable, ask yourself is there
16 anything corroborating what they're saying? Are
17 witnesses saying the same things? Are witnesses saying
18 different things? Why? Ask yourself, does anyone have
19 a motivation to lie?

20 So, let's look at what happened on the blacktop
21 that night. You heard about that family neighborhood
22 get-together. Every single person on that stand talked
23 about how there were families there, that there were
24 children there, various ages, all swimming in the pool,
25 how everyone was enjoying themselves, getting a plate

CLOSING ARGUMENT BY THE STATE

1 of food, enjoying the fireworks. You've also heard
2 about there was drinking at that event, but no one was
3 overboard. And you heard that from two sober people,
4 Daniel and Chris. Who better to spot a drunk than
5 someone who is stone cold sober?

6 You then hear how that mood shifts, and it shifts
7 because the Defendant comes over. There's no testimony
8 of the Defendant waiting patiently to talk to his wife.
9 There's no testimony of a quiet discussion. It's
10 consistent with everyone that he comes over causing a
11 scene. It's not just, "That's BS", it's a drawn-out,
12 verbal altercation with his wife. It is so loud and so
13 abrasive that people in the awning of the Escoffiers'
14 residence, underneath that awning and the pool table,
15 the people on the porch watching children in the pool,
16 come over to see what's going on.

17 And you heard from Bob, Teresa, Daniel, and Dana,
18 that the Defendant came over mad. Teresa thought she
19 should have been home. You even heard Teresa say, I
20 told her she should have gone home. That's the only
21 thing that will appease him. But the Defendant didn't
22 leave just yet. And Bob approached to see what was
23 going on. He told you he just saw the silhouette of
24 his wife's back. He's met with the Defendant's fist.

25 But the Defendant doesn't quit right then. He

CLOSING ARGUMENT BY THE STATE

1 threatens Missy, a woman who is nine months pregnant,
2 all because his wife wasn't home when she was supposed
3 to be home. What are these people's motivations to
4 lie? Ask yourself because, ladies and gentlemen, at
5 the close of this case, regardless of what your verdict
6 is, Bob, Teresa, Dana, they will all still live next
7 door.

8 This place went from a mellow and enjoyable place
9 to chaotic in a matter of seconds. And that's when the
10 Defendant, as a bluff he likes to call it, after
11 several witnesses corroborate him hitting Mr. Bob,
12 threatening a pregnant woman -- no wonder why people
13 are coming to their aid -- he decides to let everyone
14 know that if they want some of him -- well, that's
15 fine, because he's got something for everybody, and he
16 will be back.

17 Ladies and gentlemen, that's just a bluff. That
18 type of comment isn't a threat. It shouldn't make
19 people panic. It shouldn't make parents be worried
20 about their children in the pool. It shouldn't make
21 the adults be placed on edge. It shouldn't have caused
22 the hysteria in Ms. Teresa's voice when she called 911,
23 especially when the Defendant only lives a hundred,
24 hundred feet away.

25 Ladies and gentlemen, that was no bluff. That was

CLOSING ARGUMENT BY THE STATE

1 a threat. That man was angry. That man was angry that
2 his wife wasn't doing what she was supposed to do, that
3 people were intruding on his business when he
4 confronted her, when he yelled at her, when he cursed
5 at her. Because he's adamant, that's my wife, it's my
6 business.

7 And then in comes Rick. He told you he was
8 heading home. He told you he didn't know these folks,
9 he had no clue what happened on the blacktop or who was
10 involved. You heard from Chris, he soon followed
11 behind. And then others were creating a protective
12 barrier. Don't let him come back here. It wasn't a
13 war front, it was a protective bubble.

14 Daniel said he wanted to make sure that he wasn't
15 coming back because there were children. There was his
16 child, his child's friends. But what you didn't hear
17 from witnesses was that the Defendant was being stalked
18 or hunted. You didn't hear that people grabbed those
19 horseshoe sticks behind Mr. Escoffier's shed and walked
20 over, bearing arms, heading to the Defendant's front
21 porch.

22 No one said anything about taking matters into
23 their own hands, because they called 911. Police was
24 -- were on their way. But what you did hear was you
25 heard there are people standing in the cut-through, a

CLOSING ARGUMENT BY THE STATE

1 place where the Defendant himself told you that he's
2 walked through in the past. They were waiting, waiting
3 to see if the Defendant was going to make good on his
4 promise. And as Rick walks up they hear a loud -- as
5 Rick and everyone else walks up, they hear a loud
6 commotion between the Defendant and his wife, Sara.

7 The Defendant calls it a heated discussion, but
8 witnesses have testified to its escalation, how the
9 male party was louder, how he was aggressive. So on
10 that gravel road, we hear about the Defendant's truck,
11 and witnesses point out that the Defendant's truck was
12 somewhere around here, close to the Defendant's
13 residence, but on Still Life Drive, the road.

14 Witnesses even said that the Defendant's truck was
15 on the road. Even their own witness, Dennis Bell,
16 places the truck on the road. Not just the road, but
17 backed up, facing like he's driving out of Fickling
18 Hill Road with his engine running, with him inside it.
19 Then, we talked -- you see witnesses talking about how
20 Rick approached the vehicle. He walks up like this.

21 Witnesses testify that the Defendant actually gets
22 out of his truck as Rick is walking up like this. Like
23 this, not aggressively as Daniel Moore or Chris Hilding
24 or Rick himself testifies, but with his hands down,
25 saying, man, calm down, 911 has been called.

CLOSING ARGUMENT BY THE STATE

1 But it's too late. He already lost control. The
2 Defendant then grabs a weapon from his truck and hits
3 Rick over the head with it. Chris saw it, Daniel saw
4 it. It all happened so fast. There's no bear hugging
5 of Sara Tindall or the Defendant. The Defendant's own
6 witness, Dennis Bell, who was hanging out over here in
7 the long driveway, he sees no bear hug. He even
8 testifies that the woman, who we eventually finds out
9 is Sara Tindall, is actually near the porch area, away.
10 And then Chris and Daniel, they further corroborate
11 this. Because they're standing near this tree.

12 You heard Chris say, He just went down. His dad
13 wasn't punching, he wasn't hitting, he wasn't grabbing.
14 You hear Daniel say he noticed that Rick, after getting
15 hit over the head, was attempting to catch himself, to
16 gain his balance after he falls to the ground. There's
17 no mention of Mrs. Tindall. And while others are
18 standing there behind that tree, Dana and Daniel ran up
19 there to help Rick. You heard Daniel say something
20 like, I just couldn't let Rick get beat up like that.

21 As Daniel approached the Defendant's truck, he
22 sees that gun. He sees that gun that he saw behind the
23 tree, and it gets pointed at point blank range to his
24 face. A semiautomatic, a.45, a.9 millimeter. Daniel
25 Moore knows guns. He's an Army veteran. He told you

CLOSING ARGUMENT BY THE STATE

1 that. Then his sister approaches and sees that same
2 gun being pointed at her brother's face.

3 Then they both testify the Defendant gets back in
4 his truck, he puts his foot on the gas, like he's ready
5 to go, he's ready to get out of there. And that's what
6 the Defendant said. And Daniel, the quick thinker,
7 like his sister told you, springs into action and grabs
8 Rick and takes him out from under the truck, right as
9 the Defendant put his foot ready to get out of there,
10 with Rick right underneath the truck.

11 Ask yourselves, what would Dana and Daniel -- why
12 would they lie? They don't have any motivation to lie.
13 They don't have an axe to grind. They didn't even know
14 the Defendant. They didn't know Rick during the
15 incident. And they still don't even know him well.

16 They didn't even know his last name was Hilding. All
17 they knew was that someone hit another person with a
18 gun, and that person, that person who wielded the gun,
19 who wielded that weapon was a man who they now know
20 lives two trailers down and will still live two
21 trailers down.

22 Next, every witness on that gravel road further
23 corroborates where Rick fell. He fell in between the
24 front and the back tire, next to the passenger side
25 door. Rick can't help him because he was cracked over

CLOSING ARGUMENT BY THE STATE

1 the head. But that's what Dana, Daniel, and Chris tell
2 you. And they all testify that but for Daniel Moore
3 pulling him out from underneath that truck, he would
4 have been seriously injured. He could have died. He
5 would have been a completely different person. That's
6 what Dana said yesterday.

7 And you've also heard from Sara Tindall in this
8 case. And it might be interesting to you that we
9 called her in our case-in-chief. But it's because she
10 gave two very different statements, and understandably
11 so. Mrs. Tindall is in a tough spot, it's pretty
12 obvious. It's pretty evident throughout this trial.
13 This is her July 4th statement right after the assault.
14 This is what Mrs. Tindall wrote. She went to that
15 party, she was supposed to be home. That her husband
16 was yelling, that he pushed Bob. That she followed him
17 home, that he got in his truck screaming at her, that
18 he drove off, then backed up. She told him, Go and
19 leave, and he jumped out of the truck when he saw that
20 guy, and that's when he hit him over the head with
21 nunchucks. She wrote this immediately after the
22 incident.

23 She wrote this while he was gone. You all know
24 where he went. He went to McDonald's to have his last
25 meal. She wrote this when she was out of his grip.

CLOSING ARGUMENT BY THE STATE

1 And it's consistent with Teresa, Bob, Chris, Rick, and
2 Daniel's testimony. But she testified that all of this
3 statement, that she was really drunk when she wrote it.
4 But you heard from Deputy Phillips, he's no handwriting
5 expert, but the handwriting doesn't look significantly
6 different. He remembers how Sara appeared that night.

7 He took her statement, she wasn't drunk, but she
8 is adamant that that statement that night, that was
9 when -- right when it was freshly committed -- that was
10 a product of alcohol. So I guess going over to the
11 Tindall residence that evening, that morning, before
12 the Defendant made his way home, hugging them, that was
13 just a part of drinking as well. Or it was because she
14 was out of his control.

15 So, then we get to the second statement. Because
16 two days later on July 6th, 2014, after 24 hours of
17 being under the same roof as the Defendant, Mrs.
18 Tindall writes this statement. You heard from Deputy
19 Phillips that no one else wrote a second statement that
20 night, but Mrs. Tindall had to.

21 You saw Deputy Phillips' in-car camera. You saw
22 the Defendant in that video motioning for her to come
23 on down, he has a witness, it's his wife over there,
24 come on down, write this statement. And in that
25 statement Mrs. Tindall could have been, according to

CLOSING ARGUMENT BY THE STATE

1 the Defendant, when she testified a little bit better,
2 because all she had to do was tell that Rick was the
3 primary aggressor. But this statement mirrors
4 everything that the Defendant said. Everything.

5 But there's a few -- there's some altered new
6 details from her first statement because he had to
7 write her script first. Her recollection of the
8 Escoffiers' party changes completely. Everyone is now
9 after her husband. Oh, he didn't yell. He didn't
10 yell. Both the Defendant and Mrs. Tindall testified
11 that she was just taken aside and said, that's BS.
12 Yet, somehow, Sara's best friend, Teresa, her husband
13 -- guests, people who didn't even know the Defendant or
14 Mrs. Tindall, head over to the commotion to see what's
15 going on.

16 And this time, just like the Defendant's testimony
17 and the statement, Bob advances towards them. Bob's
18 getting close to her husband. This is the same man who
19 has degenerative arthritis. He has issues with his L4
20 and L5 vertebrae. This is the same man that told you,
21 once he was hit by the Defendant that he tried to get
22 up as fast as he could, but he has to roll to get up.
23 That's the man that's running after him? Because
24 everyone is out to get him.

25 And then in comes the bluff. It's no bluff. I've

CLOSING ARGUMENT BY THE STATE

1 got something to take care of everybody. I'll be right
2 back. That's not a placeholder, that's not a let's
3 keep them at bay. It's a threat. The Defense wants
4 you to believe that this case is about self-defense,
5 that the Defendant truly feared for his life, and that
6 assaulting Rick with a trimming hammer or a gun or a
7 weapon was the only thing he could have done. That's
8 what the Defendant told you on the stand yesterday.

9 But what also came out on the stand yesterday was
10 his true colors. But before getting into his
11 testimony, we need to give a brief explanation of
12 self-defense, and how it applies to the facts in this
13 case, because it's been raised. The first thing is,
14 it's actually the State's burden to disprove
15 self-defense. And as the Judge will instruct, we only
16 have to disprove one element in order for self-defense
17 to fail. And we must do so with beyond a reasonable
18 doubt, which simply means that you have to be firmly
19 convinced that the Defendant was not acting in
20 self-defense.

21 Self-defense, ladies and gentlemen, is like this
22 table right here. There's four legs. If I knock down
23 one of these legs, the table falls. That is my job.
24 If I knock down one element of self-defense, one leg on
25 that table, self-defense fails. So, now let's look at

CLOSING ARGUMENT BY THE STATE

1 some of the elements of self-defense -- there's four --
2 and how it applies to the facts of this case. First,
3 the Defendant must be without fault in bringing on the
4 difficulty. Second, the Defendant must actually
5 believe that he was in imminent danger of losing his
6 life or sustaining serious bodily injury, or he was in
7 actual imminent danger. Third, any reasonable person
8 of ordinary firmness and courage would have entertained
9 the same belief. And lastly, that the Defendant had no
10 other probable means of avoiding danger.

11 Let's look at this first one. Without fault of
12 bringing on the difficulty, you've heard from witnesses
13 -- you even heard from the Defendant and his wife that
14 he was originally in his truck. The truck was running.
15 He backed it out. He was ready to leave. The
16 Defendant himself tells you that he just wanted to
17 leave to get a meal before he went to jail. He thought
18 he was going to jail that night. Already.

19 You've also heard that the truck is facing out
20 towards Fickling Hill Road, and witnesses corroborate
21 that. The Defendant and Mrs. Tindall even corroborate
22 that. Then the Defendant tells you that he backs out
23 of his driveway. I'm going to remind you where all
24 this occurred. Even in the defense's -- the Defense's
25 own witness, Dennis Bell, said he was in the street.

CLOSING ARGUMENT BY THE STATE

1 The Defendant admits to you that he jumped out of
2 the truck. When Rick was walking up, he gets out of
3 his truck that's ready to leave, that's ready to go.
4 There has been no testimony of a man running up crazy,
5 a man running up to the truck. It's actually quite the
6 opposite. There's been no testimony that Rick had a
7 gun or a weapon. But the Defendant felt the need to
8 jump out of his truck because he was fearful for his
9 safety. He jumps out of that truck.

10 After reviewing all of the statements, including
11 the Defendant's, you heard from Deputy Phillips that
12 the Defendant was the primary aggressor. Self-defense
13 fails on this point alone -- I have knocked that leg
14 off the table. But let's look at the second element.

15 The Defendant must have been in imminent danger or
16 actually believed he was in imminent danger of losing
17 his life or sustaining bodily injury.

18 We've talked about Rick's approach many times. He
19 got up and he showed you how his hands were positioned,
20 how he curved around a bit to not startle them.
21 Witnesses further corroborate that when he walked up,
22 it wasn't aggressively, he didn't have a weapon -- even
23 the Defendant admits this. But you heard it out of the
24 Defendant's mouth yesterday, he knew he was stronger
25 than him. Oh, he couldn't hold me because I was

CLOSING ARGUMENT BY THE STATE

1 stronger than him at this time. That came out of his
2 mouth. Does that sound like a man who's in actual
3 imminent danger, who believes he's in actual imminent
4 danger? I'm stronger than him.

5 Self-defense fails out on this element as well.
6 That leg is kicked off of the table. But then there's
7 a third element. And that third element is, would a
8 reasonably prudent person of ordinary firmness and
9 courage entertain the same belief that the Defendant
10 was in imminent danger? A reasonably prudent person,
11 let's just -- a sensible person. Look at those same
12 facts. Would a reasonably prudent person believe that
13 a man coming up with his hands like this, with no
14 weapon, not yelling, not screaming, telling someone to
15 calm down because 911 was called, think they were in
16 imminent danger of losing their life or sustaining
17 bodily injury? No. This element disproven.

18 Self-defense fails, even if you just find it on
19 this one alone. But there's one last element, that the
20 Defendant had no other choice, that he had no other
21 probable means of avoiding the danger. We could list
22 20 things that the Defendant could have done. But I
23 won't do that because each and every one of you has the
24 common sense that I told you about in my opening.

25 The Defendant got out of his truck. He told you

CLOSING ARGUMENT BY THE STATE

1 that. The keys were in the ignition, the truck was
2 running, he could have left. He could have gotten in
3 that vehicle. He didn't have to get out of the truck,
4 to begin with. He could have locked himself in. He
5 could have ran back to his house, which was 20 feet
6 away, and called 911. He could have ran away. He
7 could have driven to that neighbor's house that he went
8 to, he could have called 911 there. He could have
9 driven to the police station and told them right then
10 and there what just happened. Apparently he knows
11 where one is because he tried to go there to take
12 matters into his own hands. You heard that.

13 Don't fall into the trap that the Defendant stayed
14 because he was scared, because he needed to protect his
15 wife. This case isn't about self-defense or defending
16 another. Like I mentioned, it's about self-control.
17 And that was most evident when the State proceeded with
18 cross-examination of Mr. Tindall yesterday. You heard
19 his responses to my basic questions. You heard how he
20 reacted when I didn't ask the questions he liked. You
21 heard his tone, you saw his posture. You saw my need
22 to back away to get a sip of water. I can only imagine
23 -- or can you only imagine how Sara felt that night.
24 This is a man who is supposedly so fearful and so
25 scared -- did he look like that man to you?

CLOSING ARGUMENT BY THE STATE

1 This man wasn't in fear for his safety or his
2 wife's safety. Let's even say, for the benefit of the
3 doubt, that Rick was running up yelling, man, calm
4 down, calm down. If he was in fear of his life and his
5 wife's safety, why would he leave his wife with a man
6 who allegedly attacked him and threatened to kill him?
7 Why would he leave his wife with neighbors advancing?
8 Why?

9 You heard from Deputy Phillips that he didn't tell
10 you this side of the story. He didn't tell him
11 immediately. He was actually found hidden behind a bed
12 when officers arrived, because guess what, he went back
13 to the same house across the street from the man who
14 allegedly attacked him, who threatened to kill him.
15 He's not a scared man. That's what he said. He goes
16 back home, conveniently leaving his truck at a
17 neighbor's house, a truck that identifies him, so no
18 one knows that he's home. But he wants each and every
19 one of you to believe that he did that because he
20 didn't want his truck to be vandalized. Because
21 everyone's out there to get him. People who don't even
22 know him.

23 He didn't tell you his story. He only decided to
24 tell this story two days after this incident, after he
25 could speak with his wife so that he get on the same

CLOSING ARGUMENT BY THE STATE

1 page. But, no, it's because he needed a good night's
2 sleep. He had a lot on his mind.

3 You've heard from Rick, Chris, Daniel, Dana. They
4 didn't know the Defendant, yet everyone conspired
5 against him that night, because it was the worst night
6 ever. He was so scared that he went to McDonald's. He
7 was so scared that he didn't call police. He was so
8 scared that he came back to the same place where he was
9 allegedly assaulted in the late evening hours. He was
10 so scared that he hid from police and didn't tell his
11 story until 48 hours later.

12 You've heard a lot about the charges in this case,
13 and the Judge will instruct you on the charges. So, if
14 anything I say isn't exactly what the Judge said, then
15 you need to defer to him. The Defendant is charged
16 with possession of a weapon during the commission of a
17 violent crime. And assault and battery of a high and
18 aggravated nature is defined as a violent crime under
19 this South Carolina code section. Possession of a
20 weapon during the commission of a violent crime, it
21 sounds just like it is. That the Defendant possessed a
22 weapon, namely a firearm or something that looked like
23 a firearm, or a knife, or an instrument or tool that
24 consists of a sharp cutting blade.

25 And you heard from Dana and Daniel. Daniel, who

CLOSING ARGUMENT BY THE STATE

1 got the gun pointed to his head. You heard that it
2 could have been a trimming hammer. Weapons. And you
3 also heard that he's charged with assault and battery
4 of a high and aggravated nature. I just want to point
5 out that B is what you will be focusing on. A person
6 unlawfully injures another person, and the act is
7 accomplished by means likely to produce death or great
8 bodily injury. Read that statute. Pay close attention
9 to B.

10 See, there's an "or" there. You don't have to
11 find that great bodily injury actually existed, you
12 just have to find that the act was accomplished by
13 means likely to produce death or great bodily injury.
14 And great bodily injury is injury which causes a
15 substantial risk of death, or which causes serious
16 permanent disfigurement or loss or impairment to bodily
17 organ. Simply put, it means that a person injures
18 another person in a way that could have killed the
19 victim, or caused serious bodily injury to the victim.

20 So, just to break down the statute a little
21 further, a person injures another, it's pretty obvious,
22 there's a laceration to Rick's head. The Defendant
23 even admits to hitting Rick, and that there's witnesses
24 explaining where the victim fell. We're going to look
25 closer at means likely to cause death or serious bodily

CLOSING ARGUMENT BY THE STATE

1 injury.

2 You heard a lot about meetings. You've heard that
3 there could have been a gun, that there was -- could
4 have been a trimming hammer or nunchucks. Then you
5 also heard about the victim falling in between the
6 front and back tires of the truck. You also heard from
7 Dr. Carter that any of these blunt objects -- a blunt
8 object -- if used with enough force could cause these
9 things: Death, skull fracture, forces transmitted to
10 the neck, bleeding in the brain. That is why he looked
11 to the CT scan. That is why he did all those things,
12 because any of those blunt objects could have caused
13 it.

14 And the last thing you heard is about the truck.
15 I don't think we even need an expert to tell you that
16 what could have happened to Rick if he was run over by
17 a 5,000-pound truck. Ladies and gentlemen, in order
18 for you to find the Defendant guilty of assault and
19 battery of a high and aggravated nature and possession
20 of a weapon during the commission of a violent crime, I
21 have to prove to you beyond a reasonable doubt that I
22 met each of those elements that we just went over.

23 And I know that some of you have prior jury
24 experience, others do not. But beyond reasonable doubt
25 is simply this: It doesn't mean absolute certainty.

CLOSING ARGUMENT BY THE STATE

1 Because there's few things in this world that we know
2 are absolutely certain. What it does mean is that
3 you're firmly convinced that the Defendant did those
4 things that meet the statute. The law does not require
5 proof that overcomes every possible doubt.

6 The Defendant lost control on July 4th, 2014. I'm
7 not sitting here arguing to you that the Defendant is a
8 monster of a person. What the evidence does show is
9 that the Defendant made several poor decisions that
10 night. He threatened people, he pushed, he punched
11 Bob, he hit Rick on that gravel road, when he had other
12 options available. Just leave. That's what his own
13 wife told you. But it's your duty to hold the
14 Defendant accountable. I'm coming back to take care of
15 all of y'all.

16 Ladies and gentlemen of the jury, it is your turn
17 to take care of this. It is your turn to hold the
18 Defendant accountable for his actions that night and to
19 find him guilty of both counts. Thank you.

20 THE COURT: Defense may proceed.

21 MR. LOIGNON: Thank Your Honor.

CLOSING ARGUMENT BY THE DEFENSE

23 MR. LOIGNON: What are we, mice or men? Imagine
24 if Richard Hilding had not have gone after Ashley
25 Tindall that night. Just imagine for a moment. We

CLOSING ARGUMENT BY THE DEFENSE

1 wouldn't be here today. Ashley Tindall was in his
2 truck, he was ready to leave. Imagine if Richard
3 Hilding had stayed at the Escoffiers' house, or gone
4 home himself, like Ashley Tindall did. And imagine the
5 moment that Ashley Tindall is wrapped in Richard
6 Hilding's grasp. He's in a bear hug, he's trying to
7 get away. At what point does that become serious? How
8 long does he have to wait before he can take action?
9 Until he himself is injured?

10 Now, you may not like some of the things that
11 you've seen and heard about Ashley Tindall over the
12 last couple of days. And that's okay. That doesn't
13 mean he's guilty of a crime. I told you at the
14 beginning that he's not on trial for husband of the
15 year or neighbor of the year. He doesn't come off as
16 warm and fuzzy, and I get that. But he still has a
17 right to defend himself just like everybody does.
18 Ashley Tindall is a simple man. You heard he has a
19 fifth grade education. He grew up in the country.
20 He's not a sophisticated man. And I know that he may
21 come off as a bit gruff sometimes. And, of course,
22 he's upset about being here. Of course, answering
23 these questions.

24 I mean, he's a man who was wronged by the system.
25 He was arrested for defending himself, and now he's on

CLOSING ARGUMENT BY THE DEFENSE

1 trial for defending himself. He's had to sit here and
2 listen to the State pretend that they know him.
3 Pretend that they know his wife. Pretend that they
4 know about their 30-some-odd year relationship. They
5 figured it all out. They don't. They don't know
6 nothing. They don't know the Tindalls.

7 Of course, the State wants you to believe that Mr.
8 Tindall is this controlling monster over Sara. They
9 have to. They have to. They have to have you believe
10 that for their case to make sense, but it's just not
11 true. And Ashley, Sara, and her brother, John Sager,
12 who lives with them, all told you that. And you
13 probably caught the State's parting shot to Mr. Sager
14 yesterday, which implied that there could have possibly
15 been some domestic abuse in that relationship, but Mr.
16 Sager wouldn't know it because he was -- he's an
17 alcoholic.

18 Now, they -- they say that, but did they give you
19 a single shred of evidence to support that? A single
20 piece of evidence? That's desperation. That's
21 desperation to try to support their theory of the case.
22 And they bring their investigator up here to tell you
23 that Mrs. Tindall doesn't want to work with them to
24 prosecute her husband. They try to make that look
25 sinister for some reason, because a wife cares for her

CLOSING ARGUMENT BY THE DEFENSE

1 husband. That's grasping at straws. Ashley Tindall is
2 a man who has very little in life, folks. He doesn't
3 work. They don't have a lot of money. He has a simple
4 existence. He appreciates the little things in life.
5 Like family, like sitting down and having dinner with
6 his family. Maybe that's hard for some people to
7 believe, but it's simply the truth. And Ashley Tindall
8 did not go over to the Escoffiers' house to cause
9 trouble, just hoping his wife would come home and have
10 dinner with him.

11 Now, there's been a lot of talk about these two
12 incidents, and I think it's really important to
13 reemphasize that. They are two separate incidents,
14 just like I told you at the beginning. Because, as you
15 know, Mr. Tindall hasn't been charged with anything
16 that happened on the blacktop with Mr. Escoffier. He
17 wasn't indicted for that. He's not on trial for that.
18 So, it's important in your mind to separate those two
19 things because they're separate in time and location.

20 But the reason that we've talked about that first
21 incident for the last couple of days is because of the
22 motivations. And obviously, the State has their
23 beliefs. But I believe the evidence has shown you that
24 Mr. Tindall walked away from the Escoffiers' house, and
25 he went home. He told you that he -- he made a veiled

CLOSING ARGUMENT BY THE DEFENSE

1 threat, that he made a bluff. But he's in his truck,
2 getting ready to drive off. How could anybody believe
3 that he's coming to get them? And even if they did
4 believe that he was coming back, why would they go all
5 the way around the corner and approach him? Why not
6 just move the protective barrier back a little bit,
7 back by the Escoffiers' house?

8 What are we, mice or men? I mean, I just think
9 that's so pertinent. It doesn't sound like the words
10 of someone who was planning on walking home. And
11 Daniel Moore sat right there and told you, yep, Richard
12 Hilding, that's what he said when we were going over
13 there, what are we, mice or men? It just doesn't sound
14 like the words of someone who's walking home and
15 leaving his wife behind at the party. And it just
16 clicked, oh, there's -- that must be the guy that was
17 causing that trouble. It just clicked right when he
18 got out there and saw him.

19 It doesn't make sense, folks. It didn't just
20 click. It did not just click because he planned to go
21 over there, and he rallied the troops to come with him.
22 What are we, mice or men?

23 Now, the Solicitor talked a bit about credibility.
24 And I agree, it's extremely important in this case.
25 Credibility of these witnesses, especially the ones who

CLOSING ARGUMENT BY THE DEFENSE

1 wrote written statements on the night this happened,
2 because this was three years ago. And as I told you,
3 fish stories, grown and grown, and some of these
4 inconsistencies, I think, just do not support the
5 State's version of events here.

6 Now, Mr. Hilding, there was some testimony that he
7 was unconscious after this event. Mr. Hilding told
8 you, yeah, I think I was unconscious. Several other
9 witnesses said, he was unconscious. But Mr. Hilding
10 denied being unconscious when asked by EMS and by the
11 doctor when he was trying to seek medical attention.
12 He denied it. Said, nope, I wasn't unconscious. You
13 heard the doctor say how important that could be. He
14 wasn't unconscious. He was standing up when EMS
15 arrived. He walked to the ambulance, he walked into
16 the emergency room.

17 And I don't know if you caught this on the 911
18 call, but Teresa Escoffier has to tell him to sit down,
19 because the 911 operator is saying, tell him to sit
20 down. So, that was right after it happened. She's
21 still on the phone with 911, and he's up walking
22 around. You can hear him in the background. He's not
23 unconscious. Mr. Hilding says he only had two beers on
24 the 4th of July, on a Friday night, by 9:00 p.m. Only
25 two beers.

CLOSING ARGUMENT BY THE DEFENSE

1 And you heard the EMS technician up here, Mr.
2 Hilding reported having had at least six beers. At
3 least. The doctor said he smelled of alcohol in the
4 emergency room, that alcohol is a diuretic, meaning it
5 can dehydrate you. And you heard that he had to come
6 back the next day and get an IV. And what were his
7 instructions from the doctor when he went home? Not
8 get a lot of rest or, you know, don't walk around too
9 much, it was don't touch it, and drink a lot of non
10 alcoholic fluids.

11 Obviously we've heard some testimony about a gun,
12 and there were four witness statements taken on the
13 night of the incident, and only one of those someone
14 said they saw a gun. One. No other witness from the
15 night of the incident gives a written statement saying
16 they saw a gun. There was testimony that Mr. Tindall
17 has never owned a handgun in his entire life. There
18 was no gun recovered in this case, you don't have that
19 here. There were no guns seen in Mr. Tindall's trailer
20 by the deputy, and Deputy Phillips told you he can't --
21 he can't say what kind of weapon was used. No idea.

22 Dana Bradwell, heard from her. She said that she
23 heard the sound of metal on someone's head while she
24 was standing in the Escoffiers' front yard. And that
25 she knew what that sounded like, because she had seen

CLOSING ARGUMENT BY THE DEFENSE

1 people get hit on the head a lot before or something.
2 Seems kind of strange. She also said something about
3 Mr. Hilding's blood being so thick that he couldn't --
4 couldn't have been drinking because his blood was so
5 thick. She didn't talk to anybody about this case
6 until a few months ago. And she wants you to believe
7 that that's because she had to live in the same
8 neighborhood as Mr. Tindall. She didn't want any
9 trouble. That's just not true, folks, because she
10 didn't -- she knew that this case was going on. She
11 did not approach law enforcement or the Solicitor's
12 office. She had to be sought out. She had to be
13 sought out and questioned, and she was questioned over
14 two years later as the fish story had grown and grown
15 and grown.

16 Now, the State wants you to believe that the type
17 of weapon doesn't matter. But it does matter. It
18 matters a lot. And it matters how it was used, too. A
19 pillow can be a weapon if it's used to cover somebody's
20 face, but a pillow is not an inherently dangerous
21 object. A gun is. A knife is. A hammer, maybe that's
22 somewhere in the middle.

23 You can get hurt with a hammer, but it's used
24 primarily as a tool to hammer nails into wood. It's
25 not made as a weapon. And it really does depend on how

CLOSING ARGUMENT BY THE DEFENSE

1 the hammer is used. It could harm people, just like a
2 pillow, but it was the only thing that Ashley Tindall
3 could grab in that moment. It was in his truck, in the
4 bed of his truck, and he used it in the least harmful
5 way possible. He didn't hit Mr. Hilding with the head
6 of the hammer, the part that's used to hit the nail
7 into the wood, he didn't stab Mr. Hilding with the fork
8 end of the hammer that's used to pull nails out of the
9 wood. He took the wooden part, the wooden stick, just
10 one pop, to free himself. That's it. The doctor and
11 the EMT testified about Mr. Hilding's injury, and they
12 testified that it was -- I think one of them said an
13 inch, one of them said four centimeters, it's about the
14 same.

15 The general rule of thumb is, you know, this
16 little joint here, the tip of your finger is a little
17 over an inch for most people. That first crease right
18 there. That's the size of the injury we're talking
19 about. And I know it's hard to see on that picture
20 because it was so zoomed in that it looked like his
21 entire head was blown up. We're talking about this
22 big. Seven staples in there, because it was in the
23 head. If it were somewhere else, it would have been
24 stitches, same procedure. An hour in the hospital,
25 went home that night. The State's conceded that it's

CLOSING ARGUMENT BY THE DEFENSE

1 not great bodily injury, I believe. They're saying
2 that it could have been, and that's why the method, the
3 way that the handle of that hammer was used is so
4 important. Because anything could be a weapon, and you
5 can -- you can hurt your head in a number of different
6 ways. But the way that Mr. Tindall used that hammer
7 was the least dangerous way that he could in that
8 moment to free himself.

9 Now, Deputy Phillips responded that night and
10 gathered the witness statements. He was right there
11 after this happened. He testified that all the
12 evidence that he gathered at that time does fit the
13 criteria for a lesser charge. And he hadn't even heard
14 Mr. Tindall's side of the story yet. Mr. Tindall -- I
15 mean, to be honest, Mr. Tindall thought he was being
16 arrested for punching Mr. Escoffier. He certainly
17 didn't believe that he was being arrested for defending
18 himself, and that's why he didn't tell his story until
19 a couple days later, when he found out.

20 Excuse me, he actually told the story when he
21 asked the deputy, being booked into the jail, what am I
22 being charged with? What is he saying that I did? And
23 that's when he told him what happened. He told him
24 that Richard Hilding started a fight with him. He told
25 him during the struggle he was forced to defend

CLOSING ARGUMENT BY THE DEFENSE

1 himself, to get this man off of him. Yeah, I think
2 initially he said he used his fists. He's being booked
3 into jail. He didn't reveal everything that happened,
4 he was being booked in the jail. Trying not to -- just
5 trying, you know, not to do anything to get himself --
6 get himself in any trouble right then at that moment.

7 But Ashley Tindall defended himself. And as I
8 said in the beginning, I mean, this thing has kind of
9 snowballed over the past few years, the rumor mill has
10 been churning. And that's what's out of control,
11 folks. That's what this is all about. I think it's
12 pretty clear that these witnesses -- I mean, they don't
13 have -- their memories are not accurate. Their
14 memories are not good enough to remember all the
15 details of events that happened three years ago, late
16 night, 4th of July, drinking. So we have to rely on
17 the evidence from the night that it happened. It's
18 only logical.

19 But in the past three years, these folks have made
20 Mr. Tindall into their villain. And their fish story
21 has grown and grown until we have ended up here today.
22 But the facts that the State cannot change, the things
23 that no one denied, are that Ashley Tindall left the
24 Escoffiers' house, Ashley Tindall was in his truck
25 getting ready to leave when Richard Hilding and some

CLOSING ARGUMENT BY THE DEFENSE

1 other men had left the party and eventually approached.
2 Mr. Tindall. Ashley Tindall went home. The other men
3 followed.

4 So, getting to the self-defense, the reason that
5 separating the incidents is so important is because the
6 law of self-defense says that the Defendant must not be
7 at fault in bringing about the difficulty, and you
8 heard the Solicitor talking about kicking out the leg.
9 But we're not here for the first incident. A man
10 sitting in his truck talking to his wife, and then
11 getting out, is not bringing on difficulty to anyone.
12 That's not bringing on difficulty. The person that's
13 bringing on difficulty is the person who inserts
14 themselves into that situation. Ashley Tindall walked
15 away, Richard Hilding followed. They can't change
16 that. They know that. And the difficulty started when
17 Mr. Hilding approached. That's when the difficulty
18 started. Mr. Tindall and his wife arguing, that didn't
19 lead to the difficulty. Mr. Tindall's not accused of
20 doing anything -- you know, committing a crime against
21 his wife. The difficulty starts when Mr. Hilding
22 intervenes.

23 Now, the second part of the law of self-defense is
24 that the Defendant must have actually been in danger or
25 believed that he was in danger, and the State said they

CLOSING ARGUMENT BY THE DEFENSE

1 can kick that leg out because he got out of his truck.
2 If you think you're in danger, why do you get out of
3 your truck? But that's not when the danger starts.
4 You can't just pick and choose, you know, what facts to
5 believe and what facts not to believe. The danger
6 starts when Mr. Hilding makes the confrontation
7 physical and grabs Ashley Tindall. The danger is not
8 just them having an argument out front, and Mr. Hilding
9 walking by, the danger is when Mr. Hilding grabs him.
10 Then he's in danger. Right then. That's when he
11 knows. Of course, he's not in danger when Mr. Hilding
12 keeps coming up to him, and he's just putting his hand
13 out, and saying, go back to the party, go back to the
14 party. He's not in danger then. Agreed. But when Mr.
15 Hilding gets up and yells, if you push me again, I'll
16 f'ing kill you, and grabs him, danger.

17 And the third part, reasonable person.. I think
18 Dennis Bell was a reasonable person. He's an
19 independent witness. He testified that he knew Ashley
20 Tindall way back, 20-some-odd years ago, but hadn't
21 seen him in ages. And that he was next door at his
22 sister's house. No involvement in the party. And what
23 he said was, the gang of men that were coming up, and
24 there was one guy. He didn't even know it was Mr.
25 Tindall at the time, but that one guy looked like he

CLOSING ARGUMENT BY THE DEFENSE

1 was in danger. Seems reasonable to me.

2 Finally, no probable means to avoid the danger. I
3 already explained it, folks. The danger begins when he
4 is in the man's grasp. At what point -- at what point
5 does he have a right to do something? When? How long
6 does he have to wait? No other probable means of
7 avoiding Mr. Hilding, and so he acted.

8 Please just remember, Ashley Tindall is a simple
9 man. He's a father, he's a grandfather. He's not a
10 sophisticated man. And he's a man who, for almost
11 three years, has felt like he has been wronged by the
12 system. And he's an emotional guy, but that doesn't
13 mean that he's a criminal. Because Ashley Tindall
14 defended himself on that night, and he's not guilty.
15 Thank you.

16 THE COURT: The State may proceed.

17 MS. GINSBURG: Thank, Your Honor. Just briefly.

18 THE COURT: Yes, ma'am.

19 CLOSING ARGUMENT REBUTTAL BY STATE

20 MS. GINSBURG: We have not told you that the
21 Defendant is a mobster. I think I just came up right
22 before you and said, I, the State, we are not arguing
23 that the Defendant is a monster. The Defendant might
24 not like the evidence in this case, might not like the
25 testimony he's heard, but the witnesses testified only

CLOSING ARGUMENT RENUTTAL BY THE STATE

1 to the Defendant's behavior, to what he was doing that
2 night. And you saw his behavior. You saw his demeanor
3 yesterday, all afternoon.

4 Mr. Loignon points out about talking to Sara.
5 Nobody asked Sara to help prosecute her husband. She
6 was only asked to talk to us. She could have been
7 brought by Mr. Loignon, but she told you, she told us.
8 Maybe Ashley just didn't want her to. He wouldn't have
9 liked that.

10 The Defendant harps on this comment that Rick
11 possibly could have made. He got hit in the head. It
12 was three years ago. Maybe he said it, maybe he
13 didn't. What are we, mice or men? Well, this is the
14 situation. He's walking to his house. He sees people
15 congregating in that protective bubble, then he walks
16 over and he hears the Defendant yelling at his wife,
17 who's looking back. Why is no one trying to just
18 de-escalate the situation? Why is no one trying to
19 tell him to calm down? What are you, mice or men?
20 Well, let's just go over there and calm down.

21 He wasn't going to start a fight. He doesn't know
22 him. He doesn't know anyone in that neighborhood.
23 What is the benefit to him to going over there? We've
24 been talking a lot about statements, and witnesses
25 making statements, and the Defendant keeps -- the

CLOSING ARGUMENT RENUITTAL BY THE STATE

1 Defense keeps saying, oh, they didn't write a
2 statement, so don't believe them. Well, he's just
3 asking you to believe Dennis Bell, a man who didn't
4 write a statement. To ask John Sager, who didn't write
5 a statement.

6 And he just told you about imminent danger and why
7 this isn't self-defense. Because, think about it. Mr.
8 Loignon said he used the least dangerous way to free
9 himself. When you think you're going to die, you're
10 not going to use the least dangerous way to get out of
11 the situation. You don't take the time to flip over
12 the trimming hammer. You're going to die, you do
13 what's necessary.

14 Mr. Loignon keeps asking you, imagine this,
15 imagine that. Well, imagine if the Defendant just
16 drove away. Imagine if he hadn't attacked two innocent
17 people, threatened a pregnant woman, children in the
18 pool. Imagine that. But that's not hard to imagine
19 though, because we wouldn't be here today if that
20 didn't happen.

21 And lastly, the Defense brings up that you could
22 find him guilty of assault and battery of a second
23 degree, and that's a lesser charge. But the deputy
24 came up here yesterday and told you that he was
25 originally charged with A and B first, then my office

CLOSING ARGUMENT RENUTTAL BY THE STATE

1 upgraded that charge to assault and battery of a high
2 and aggravated nature. You'll have the option to find
3 the Defendant guilty of assault and battery of a second
4 degree, but that's even less than what the deputy
5 charged him with.

6 Ladies and gentlemen, this is common sense, your
7 biggest tool, why the 13 of you are here. Tap into
8 that. Remember the statement -- or the testimony.
9 Remember what you've heard and the evidence that you've
10 seen. It's plain, it's simple. Hold him accountable
11 for assault and battery of a high and aggravated nature
12 and possession of a weapon during the commission of a
13 violent crime. Thank you.

14 JURY CHARGE

15 THE COURT: Ladies and gentlemen of the jury, that
16 concludes the closing arguments or summations by
17 counsel. It's now my obligation to charge you
18 concerning the law. We've been going for about an hour
19 and a half, so I'm going to take a short break now, let
20 you go back and stretch your legs, clear your mind.
21 And then when we come back, I'll charge you concerning
22 the law. And you know, as you leave, I'm instructing
23 you not to discuss anything about the case until I ask
24 you to begin deliberations. You may retire to the jury
25 room.

JURY CHARGE

1 (Jury exits the courtroom at

2 10:22 a.m.)

3 THE COURT: We'll be in recess for about five or
4 ten minutes, and I'll stay on the bench.

5 (Recess from 10:22 a.m. to 10:34

6 a.m.)

7 THE COURT: State ready to proceed?

8 MS. GINSBURG: Yes, Your Honor.

9 THE COURT: Defense ready?

10 MR. LOIGNON: Yes, Your Honor.

11 THE COURT: Let's bring the jury in, ma'am.

12 (Jury enters the courtroom at

13 10:34 a.m.)

14 THE BAILIFF: All jurors present, Your Honor.

15 THE COURT: Thank you, ma'am. The record will

16 reflect the jury has returned to the courtroom. As I

17 told you, it is now my responsibility to charge you

18 concerning the law that you're to apply in this case.

19 And I want to remind you that the fact that a defendant

20 has been arrested, charged, and indicted in the case is

21 not evidence in the case, and it can't be considered by

22 you as evidence of guilt in the case nor does the fact

23 that a charge has been issued create any presumption or

24 inference of guilt.

25 The documents I'm about to go over, the

JURY CHARGE

1 indictments, are simply the documents that bring the
2 case into the court. They're the written instruments
3 that contain the charges against the defendant.
4 They're the formal documents that bring the case into
5 the court. And there are two indictments in this case
6 that have been issued, and the indictments are for
7 separate charges.

8 The first indictment that I'm going to go over
9 with you is Case Number 16GS-105793. This indictment
10 is for the offense of assault and battery of a high and
11 aggravated nature. The indictment states that, "In
12 Charleston County, South Carolina, on or about July the
13 4th of 2014, the Defendant, Ashley Price Tindall, III,
14 did commit an unlawful act of injury upon the victim,
15 Richard Hilding. And as a result, the victim suffered
16 great bodily injury, or the act was accomplished by
17 means likely to produce death or great bodily injury.
18 And that's in violation of a code section, Section
19 163600B1 of the South Carolina code of laws, 1976, as
20 amended, against the peace and dignity of the State and
21 contrary to the statute in such case made and
22 provided." That's the first indictment that's been
23 presented to you.

24 The second indictment -- and you'll have these
25 indictments in the jury room with you during your

JURY CHARGE

1 deliberations -- you could review the charges if you
2 find that to be necessary. The second indictment is in
3 Case Number 165794. That indictment states that, "In
4 Charleston County, South Carolina, on or about July the
5 4th of 2014, the Defendant, Ashley Price Tindall, III,
6 did possess a firearm, or did visibly display a
7 firearm, or what appeared to be a firearm, or did
8 visibly display a knife during the commission of, or
9 attempted commission of a violent crime, to wit,
10 assault and battery of a high and aggravated nature, in
11 violation of Section, 1623490 of the code of laws of
12 South Carolina, 1976, as amended, against the peace and
13 dignity of the State and contrary to the statute made
14 and provided."

15 Now, each of those indictments charges a separate
16 and distinct offense, and you will be required or asked
17 to write a verdict on those indictments separately,
18 according to the evidence, and law applicable to it,
19 uninfluenced by your decision as to any other
20 indictment in the case. And the Defendant may be
21 either convicted or acquitted on any or all of the
22 charges that are presented. You, again, will be asked
23 to write a verdict as to each charge.

24 I told you earlier that the Defendant has pled not
25 guilty to those indictments. That plea places the

JURY CHARGE

1 burden of proof upon the State. It's the State's
2 burden to prove the defendant guilty. I will tell you
3 that a person charged with the commission of any
4 criminal offense in this state is never required to
5 prove himself innocent. It's an important rule of our
6 law that defendants in criminal trials, no matter what
7 the seriousness of the crimes might be, will always be
8 presumed to be innocent of the charge for which an
9 indictment has been issued until and unless guilt is
10 shown to you, proven to you, the jury, beyond a
11 reasonable doubt.

12 Now, the presumption of innocence doesn't end when
13 you begin your deliberations. That presumption
14 continues throughout the trial. It continues into your
15 deliberations until such time as you might reach a
16 verdict of guilt based on evidence beyond a reasonable
17 doubt. Now, some people describe the presumption of
18 innocence that a defendant has like a robe that a Judge
19 wears into the courtroom. In other words, it's around
20 his shoulders, that presumption of innocence, at the
21 beginning of the trial. It remains about his shoulders
22 throughout the trial. It's still about his shoulders
23 as you go into your deliberations. It stays around his
24 shoulders until such time as it might be stripped from
25 him, and that is by evidence that satisfies you of the

JURY CHARGE

1 Defendant's guilt beyond a reasonable doubt.

2 The presumption of innocence, therefore, is not
3 just a legal theory, it's not just a legal phrase, it's
4 a substantial right that every citizen is entitled to,
5 unless you, the jury, are satisfied from the evidence
6 of the Defendant's guilt beyond a reasonable doubt.

7 Now, you've heard me refer to proof beyond a
8 reasonable doubt several times already in my charge.
9 It's an important concept in our law, that that is the
10 standard of proof. And you might ask yourself, well,
11 what do you mean by a reasonable doubt? What is a
12 reasonable doubt? And I will tell you that the cases
13 that have defined that phrase over the years have kind
14 of come down to the conclusion that a reasonable doubt
15 is that kind of doubt that would cause a reasonable
16 person to hesitate to act. And the State has the
17 burden of proving its case beyond a reasonable doubt.

18 Now, let me be sure I've cleared up one thing
19 before we go too much further. If you've ever been
20 involved in a civil case or an action where someone is
21 seeking monetary damages, and that can be because of a
22 breach of contract, personal injuries, it can be
23 failure to pay a debt. There's various reasons why
24 people seek monetary damages from people in courts.
25 And when there's a civil case, the standard of proof is

JURY CHARGE

1 different.

2 In a civil case, imagine the scales of justice, if
3 they tilt ever so slightly in favor of the plaintiff,
4 then the plaintiff is entitled to the verdict. If the
5 scales of justice, after weighing the evidence in a
6 civil case tilt ever so slightly in favor of the
7 defendant, then the defendant is entitled to a verdict.
8 So, the standard of proof is different in civil cases
9 than the standard of proof in a criminal case.

10 We're involved in a criminal case, the standard of
11 proof is proof beyond a reasonable doubt. It's a more
12 powerful level of proof than proof by the greater
13 weight of the evidence in a civil case. I will tell
14 you that proof beyond a reasonable doubt is that kind
15 of proof that would leave you firmly convinced of the
16 defendant's guilt.

17 And I'm going to tell you, there's very few things
18 that go on in human life that can be proven beyond any
19 doubt whatsoever. And the State is not put to that
20 level of the proof. The State doesn't have to produce
21 evidence that overcomes every possible doubt. What I
22 will tell you, if after you consider the evidence, and
23 you weigh the evidence, if you are firmly convinced of
24 the defendant's guilt beyond a reasonable doubt, you
25 then must find the defendant guilty.