

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Court of General Sessions  
Letitia Verdin, Circuit Court Judge

Appellate Case No. 2016-002335

**RECEIVED**

JUN 04 2018

SC Court of Appeals

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

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

) COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

) Case No(s) : 2014GS2310158;  
) 2015GS2302729A

State of South Carolina,

Plaintiff,

-VS-

) TRANSCRIPT OF RECORD

Joseph Austin Carpenter,

Defendant.

November 8 - 9, 2016  
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

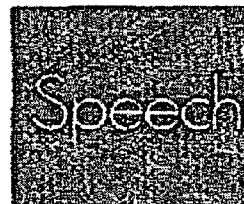
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P R O C E E D I N G S

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

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

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

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

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

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

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

1       It's better to know now.

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

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

8           **THE COURT:**     Yes.

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

13           Thank you, Your Honor.

14           **THE COURT:**     Thank you.

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

21           (No audible response.)

22           And none are standing.

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

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

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

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

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

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

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

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

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

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

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

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

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

1           **MR. CULBERTSON:**     Good.

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

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

8           (No audible response.)

9           All right. None are standing.

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

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

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

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

20          (No audible response.)

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

25          Yes, sir. Tell me your name and juror

1 number.

2 THE JUROR: Victor Huskey, 123.

3 THE COURT: Yes, sir.

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

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

8 THE JUROR: Not much.

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

13 THE JUROR: Yes, ma'am.

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

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

20 (No audible response.)

21 And none are standing.

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



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

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

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

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

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

21               **THE JUROR:**       160.

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

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

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

3           THE JUROR:     Yes, ma'am.

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

6           THE JUROR:     Probably six months ago.

7           THE COURT:     Six months?

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

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

15          THE JUROR:     No, ma'am.

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

18          Yes, sir.

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

21          MS. MUNSON:    Yes, ma'am.

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

24          THE JUROR:     My mother.

25          THE COURT:     Okay. Where does your mother

1 live?

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

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

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

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

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

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

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

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

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

1 sense evidence of anyone's guilt in any way.  
2 All it simply is is the document by which  
3 someone is charged and brought into court.  
4 That's it. Okay.

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

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

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

9 (No audible response.)

10 And none are standing.

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

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

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

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

4 (No audible response.)

5 And none are standing.

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

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

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

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

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

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

1           THE JUROR:       Kimberly Terry.

2           THE COURT:     Yes, ma'am.

3           THE JUROR:     My juror number is 233.

4           THE COURT:     Got you.

5           THE JUROR:     When I was 16 and pregnant, I

6           was beat up by the child's father.

7           THE COURT:     Okay.

8           THE JUROR:     And I'm 55, so that's been a

9           long time ago.

10          THE COURT:     I appreciate your candor.

11          Thank you. Let me ask you this, do you think

12          you could be a fair and impartial juror in the

13          trial of this case ---

14          THE JUROR:     Yes, ma'am.

15          THE COURT:     --- knowing the allegations?

16          THE JUROR:     Yes, ma'am.

17          THE COURT:     Thank you.

18          (WHEREUPON, Juror number 233, Kimberly Terry,

19          exits the bench.)

20          THE COURT:     Yes, ma'am.

21          (WHEREUPON, the following bench conference is

22          held with Juror number 197, Laura A. Reese.)

23          THE JUROR:     197.

24          THE COURT:     Laura Reese.

25          THE JUROR:     Just by a boyfriend like,

1       gosh, when I was in high school.

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

5           **THE JUROR:**     Sure..

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

9           **THE JUROR:**     Yeah.

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

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

13          **THE COURT:**     Anybody else?

14        (No audible response.)

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

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



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

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

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

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

24 What says the State?

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

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

1           **THE CLERK:**     You may take a seat in the  
2     jury box.  
3           Juror number 233.  
4           What says the State?  
5           **MS. MUNSON:**    Please present the juror.  
6           **THE CLERK:**     What says the defendant?  
7           **MR. CULBERTSON:**   Please excuse the juror.  
8           **THE CLERK:**     You may take your seat.  
9           Juror number 138, Kansas Koran.  
10          What says the State?  
11          **MS. MUNSON:**    Please present the juror.  
12          **THE CLERK:**     What says the defendant?  
13          **MR. CULBERTSON:**   Please swear the juror.  
14          **THE CLERK:**     You may take a seat in the  
15     jury box.  
16          Juror number 150, Jason McCarthy.  
17          What says the State?  
18          **MS. MUNSON:**    Please present the juror.  
19          **THE CLERK:**     What says the defendant?  
20          **MR. CULBERTSON:**   Please swear the juror.  
21          **THE CLERK:**     You may have a seat in the  
22     jury box.  
23          Juror number 71, Shadrian Dixon.  
24          What says the State?  
25          **MS. MUNSON:**    Please present the juror.

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

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

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

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

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

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

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

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

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

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

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

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

19          **THE CLERK:**     You may take your seat.  
20          Juror number 53, Todd Coleman.

21          What says the State?

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

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

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

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

1 jury box.

2 Juror number 74, Ashley Drew.

3 What says the State?

4 MS. MUNSON: Please present the juror.

5 THE CLERK: What says the defendant?

6 MR. CULBERTSON: Please swear the juror.

7 THE CLERK: You may take a seat in the

8 jury box.

9 Juror number 262, Cory Byers.

10 What says the State?

11 MS. MUNSON: Please excuse the juror from

12 the trial of this matter.

13 THE CLERK: You may take your seat.

14 Juror number 78, Amber Ellis.

15 What says the State?

16 MS. MUNSON: Please present the juror.

17 THE CLERK: What says the defendant?

18 MR. CULBERTSON: Please swear the juror.

19 THE CLERK: You may take a seat in the

20 jury box.

21 Juror number 257, Angela Young.

22 What says the State?

23 MS. MUNSON: Please present the juror.

24 THE CLERK: What says the defendant?

25 MR. CULBERTSON: Please excuse the juror.

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

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



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

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

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

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

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

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

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

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

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

22 (WHEREUPON, each juror responds.)

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

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

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

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

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

25 Your purpose as jurors is to find and

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

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

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

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

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

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

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

1 is absolutely necessary.

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

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

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

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

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



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

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

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

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

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

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

1 best in the business.

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

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

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

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

22 I'll ask everybody to remain seated.

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

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

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

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

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

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

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

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

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

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

20               **THE COURT:**     Certainly.

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

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

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

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

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

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

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

23 **MS. MUNSON:** Okay.

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

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

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

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

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

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

1 conclusion of this trial.

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

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

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

19 **THE COURT:** Okay.

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

1 scene because she didn't see it.

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

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

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

9 MS. MUNSON: Sanders.

10 THE COURT: --- Sanders --

11 MS. MUNSON: Joanie Sanders.

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

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



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

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

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

14 **THE COURT:** Yeah.

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

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

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

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

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

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

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

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

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

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

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

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

23 **THE COURT:** Thank you. I appreciate it.

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

1           **MS. MUNSON:**     May it please the Court.

2           **THE COURT:**    Yes.

3           **MS. MUNSON:**    Mr. Culbertson.

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

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

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

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

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

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

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

6 THE COURT: Thank you.

7 Mr. Culbertson.

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

10 THE COURT: Yes, sir.

11 MR. CULBERTSON: Ms. Munson.

12 MS. MUNSON: Yes, sir.

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

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

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

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

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

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

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



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

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

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

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

1 Just talking.

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

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

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

1 the house and sets it on the counter.

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

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

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

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

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

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

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

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

2 THE COURT: That's fine. Certainly.

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

6 DEREK WATSON

7 having first been duly sworn, testifies as follows:

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

10 THE WITNESS: Derek Watson.

11 DIRECT EXAMINATION

12 BY MS. MUNSON:

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

14 A The Greenville Health System.

15 Q What do you do?

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

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

21 A 20 years.

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

24 A I am.

25 Q Were you working at the Greenville Health

1 System in September of 2014?

2 A I was.

3 Q And did you become involved in this case?

4 A I was.

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

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

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

14 A Yeah, Mr. Sanders, Billy Sanders.

15 Q About what his age was?

16 A He was in his early 80's.

17 Q And did you examine him?

18 A I did.

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

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

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

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

9 A We did a CT scan of the head.

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

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

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

18 A No, not at all.

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

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

24 Q And how is he treated?

25 A Unfortunately, that type of bleed is not.

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

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

15 I have nothing further, Your Honor.

16 THE COURT: Any questions for this  
17 witness?

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

20 CROSS-EXAMINATION

21 BY MR. CULBERTSON:

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



1           A     Yes.

2           Q     All right.

3           A     We were told it was an assault.

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

6           A     Correct.

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

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

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

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

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

20          A     Okay.

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

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

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

5 Q Is that what --

6 A I'm sorry.

7 Q Is that what killed him?

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

10 Q Thank you, sir.

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

13 MR. CULBERTSON: No objection.

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

16 THE WITNESS: You're welcome.

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

19 THE COURT: Okay.

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

23 MAUREEN PHEND

24 having first been duly sworn, testifies as follows:

25 THE CLERK: Please have a seat. Will you

1 state your full name for the record?

2 THE WITNESS: I'm Maureen Phend.

3 DIRECT EXAMINATION

4 BY MS. MUNSON:

5 Q Where do you live, Ms. Phend?

6 A 114 East Scenic Lane.

7 Q How long have you been living there?

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

9 Q Okay. Anybody live with you?

10 A No.

11 Q Do you work outside the home?

12 A I do.

13 Q What do you do?

14 A I'm a middle school teacher.

15 Q Which school?

16 A Lakeview.

17 Q And what do you teach?

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

19 Q I'm sorry. A what?

20 A ELA, English Language Arts.

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

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

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

1 Sanders?

2 A Yes.

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

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

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

8 A Yes.

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

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

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

16 A My dogs were barking.

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

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

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

24 A No. We do not get along.

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

1 house beginning to record, what did you see?

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

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

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

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

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

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

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

23       Q     So through the fence into your yard?

24       A     Yes.

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

1           **A**     Yes.

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

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

7                   **MR. CULBERTSON:**     I object.

8           **BY MS. MUNSON:**

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

11          **A**     The boyfriend of Joanie.

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

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

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

17          **A**     Yes.

18          **Q**     Ever talked to him on the phone?

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

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

1       A     Yes, definitely.

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

4       A     Yeah.

5       Q     Is he in the courtroom today?

6       A     Uh-huh.

7       Q     Could you point him out for the jury?

8       A     Right over there in the blue shirt.

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

12           THE COURT:     It so reflects.

13 BY MS. MUNSON:

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

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

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

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

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

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

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

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

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

14 A (Reviewing.)

15 Okay.

16 Q Do you recognize these items?

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

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

22 A Yes.

23 Q Thank you.

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



1           **THE COURT:**   Any objection?

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

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

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

6           **THE COURT:**   Without objection.

7           **MS. MUNSON:**   Thank you.

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

10          **BY MS. MUNSON:**

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

15           **A**   Yes.

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

18           **A**   Yes.

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

22           **MR. CULBERTSON:**   No objection.

23           **THE COURT:**   State's 3?

24           **MS. MUNSON:**   This is 8.

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

1 as State's 8.

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

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

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

8 BY MS. MUNSON:

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

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

12 Q Okay.

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

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

20 THE WITNESS: It's a video.

21 MS. MUNSON: Correct.

22 THE COURT: That's correct.

23 THE WITNESS: Video, not pictures.

24 THE COURT: Okay.

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

1 BY MS. MUNSON:

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

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

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

8 A That would be Joanie.

9 Q Okay. (Pause.)

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

12 THE COURT: No way to turn it?

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

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

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

19 THE COURT: Sure.

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

24 THE COURT: Certainly.

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

1 with this witness.

2 THE COURT: Sure.

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

5 MR. CULBERTSON: (Indiscernible.)

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

8 MS. MUNSON: All right.

9 BY MS. MUNSON:

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

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

14 Q And where is Joanie's house?

15 A That's Joanie's house right there.

16 (Indicating.)

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

19 Q Okay.

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

24 Q Okay. And can you see --

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

1           **THE COURT:**     Yes.

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

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

8           All right. Go ahead.

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

10   **BY MS. MUNSON:**

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

13           **A**     He is right here.

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

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

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

1 Joanie's or yours?

2 A That's Joanie's house.

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

4 A Yes.

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

7 A Yes, I did.

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

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

14 Q Thank you. I have nothing further.

15 THE COURT: All right. Mr. Culbertson?

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

18 CROSS-EXAMINATION

19 BY MR. CULBERTSON:

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

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

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

5           A     Yes.

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

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

11          Q     All right.

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

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

25          A     Both Joanie and Joseph as well. Joseph,

1 very much, as well.

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

5 A I know about no restraining order.

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

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

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

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

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

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

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

22 A You're welcome.

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

25 THE COURT: Any objection to that?



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

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

4           **THE WITNESS:**     Thank you.

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

8                               **HAROLD SEXTON**

9           having first been duly sworn, testifies as follows:

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

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

13          **THE CLERK:**     Thank you.

14                               **DIRECT EXAMINATION**

15   **BY MS. MUNSON:**

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

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

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

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

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

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

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

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

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

3           A     115 East Scenic Lane.

4           Q     Are you still living there?

5           A     Yes, ma'am.

6           Q     And who do you live there with?

7           A     My wife and my son.

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

10          A     Vaguely.

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

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

16          Q     Okay. So what did you do?

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

20          Q     Which neighbor was hollering for help?

21          A     It would be the man's daughter.

22          Q     Okay. Do you know her name?

23          A     No.

24          Q     And that's okay.

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

1 Patient A, Patient B and Patient C.

2 Q Okay.

3 A So I don't know them.

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

6 A Yes.

7 Q In the neighborhood?

8 A Yes, she lives at that house.

9 Q Had you ever seen your patient before?

10 A No.

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

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

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

23 A No.

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

25 A Yes.

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

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

7           Q     Okay.

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

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

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

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

15          A     Mr. Sanders --

16          Q     -- your patient?

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

18          Q     Uh-huh.

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

24          Q     Okay. And you seen Joanie before?

25          A     Yes.

1 Q She stayed right there with you?

2 A Joanie was on the back side of me.

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

5 A No.

6 Q Did you hear anybody else?

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

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

10 A I don't.

11 Q Okay. So you just turned --

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

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

17 A I'd say 7 to 13 minutes.

18 Q Okay.

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

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

23 A Yes.

24 Q All right. And did an ambulance come?

25 A The fire department and EMS.

1 Q Okay. Did they take him away?

2 A Yes.

3 Q Did you go with him?

4 A No.

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

7 THE COURT: All right.

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

10 THE COURT: Sure.

11 CROSS-EXAMINATION

12 BY MR. CULBERTSON:

13 Q How are you today?

14 A I'm doing great.

15 Q All right. I want to be sure I understand.  
16 You, your wife, family live basically across the  
17 street from where Joanie and Mr. Carpenter lived?

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

20 Q Okay. So kind of --

21 A Kind of diagonally.

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

24 A Yeah.

25 Q You and your wife and some other folks are

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

3 A Yes.

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

7 A Yes.

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

11 A Yes.

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

15 A Yes.

16 Q So you saw two people out there?

17 A Uh-huh.

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

20 A Uh-huh.

21 Q A female person standing over him?

22 A Uh-huh.

23 Q Did you not see Mr. Carpenter?

24 A No.

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

1           A     No.

2           Q     You heard a door close at the house?

3           A     Yes.

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

7           A     Yes.

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

12          A     Yes.

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

15          A     No, sir.

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

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

20               THE COURT:       Any objection?

21               MR. CULBERTSON:   No, ma'am.

22               THE COURT:       Thank you, sir.

23               THE WITNESS:     Thank you.

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



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

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

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

8           **THE WITNESS:**     Jessica Frady.

9                           **DIRECT EXAMINATION**

10   **BY MS. MUNSON:**

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

12           **A**     Greenville County EMS.

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

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

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

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

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

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

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

23           **A**     Two years.

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

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

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

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

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

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

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

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

20          A     Our scene time was approximately 13  
21 minutes.

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

25          A     Older gentleman.

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

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

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

7           A     We took him to Greenville Memorial.

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

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

15          Q     Okay. Thank you.

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

18                THE COURT:     Any questions for this  
19 witness?

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

22                THE COURT:     Certainly.

23                                CROSS-EXAMINATION

24                BY MR. CULBERTSON:

25           Q     How are you doing today?

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

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

6           A     Yes.

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

9           A     Yes.

10          Q     Do you remember the date?

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

12          Q     Okay.

13          A     Do you have the actual report?

14          Q     I'll show you this.

15          A     Thank you.

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

18          A     This is my chart that I documented.

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

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

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

25          A     Yeah.

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

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

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

8           A     September 28th, 2014.

9           Q     And where did you go?

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

12          Q     Okay. And is that in Greenville County?

13          A     Yes.

14          Q     About what time were you called out there?

15          A     We were dispatched at 10:16.

16          Q     In the morning?

17          A     Yes.

18          Q     Was someone else with you?

19          A     Jimmy Kelley was my partner that day.

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

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

1           A     I'm great.

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

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

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

7           A     Yeah.

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

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

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

17          A     That's why we do --

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

20          A     Uh-huh.

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

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

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

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

3 A Uh-huh.

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

6 A Uh-huh.

7 Q Is that correct?

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

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

12 A Patient is laying in grass in lawn.

13 Q Thank you, ma'am.

14 A Uh-huh.

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

17 THE COURT: Any questions for this  
18 witness?

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

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

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

1 just offer that for what it's worth.

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

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

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

10 MS. MUNSON: Yes, ma'am.

11 MR. CULBERTSON: Without objection.

12 THE COURT: Thanks very much.

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

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

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

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

22 MS. MUNSON: Okay.

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

25 THE CLERK: Come forward. Put your left



1 hand on the Bible and raise your right.

2 **JOHN MCCLOUD**

3 having first been duly sworn, testifies as follows:

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

5 **THE WITNESS:** Thank you.

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

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

9 **DIRECT EXAMINATION**

10 **BY MS. MUNSON:**

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

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

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

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

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

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

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

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

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

1 back in September of 2014?

2 A Yes, I was.

3 Q As a road deputy or Vice?

4 A As a road deputy.

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

7 A Yes, I did.

8 Q On what date did you get that call?

9 A September 28th.

10 Q 2000 what?

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

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

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

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

18 A No.

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

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

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

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

1 probably, at most, 15 minutes.

2 Q All right.

3 A 20 minutes.

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

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

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

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

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

22 A I did not at that time, no.

23 Q Did you take a look at him?

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

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

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

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

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

13 A Right.

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

17 A Yes.

18 Q And who was that?

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

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

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

25 Q All right. What was the relationship

1 between Joseph Carpenter and Phyllis Sanders?

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

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

5 A At that residence.

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

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

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

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

16 Q Okay. Did she ever let you in?

17 A No.

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

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

23 Q Conflicting reports from whom?

24 A Ms. Phyllis.

25 Q Okay. And whenever Deputy Leathers arrived

1 on scene, what did y'all do?

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

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

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

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

21       A     No, he was not armed.

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

24       A     Mr. Carpenter?

25       Q     Correct.

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

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

5           **A**     Yes.

6           **Q**     Is he in the courtroom?

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

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

11           **THE COURT:**     All right. It so reflects.

12 **BY MS. MUNSON:**

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

15           **A**     Yes.

16           **Q**     Was anybody back there with you?

17           **A**     Deputy Leathers was back there with me.

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

20           **A**     He was extremely agitated and extremely  
21 uncooperative.

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

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

1 effects.

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

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

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

8 A No.

9 Q Did he ask for any medical attention?

10 A No.

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

13 A Medical history?

14 Q Yes.

15 A No.

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

18 A A lot.

19 Q Okay.

20 A Maybe 500, 600.

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

25 A Oh, yeah. Yeah.



1 Q Why does that happen?

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

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

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

12 Q Okay. Nothing further.

13 THE COURT: Any questions for this  
14 witness?

15 MR. CULBERTSON: One or two.

16 CROSS-EXAMINATION

17 BY MR. CULBERTSON:

18 Q Hi.

19 A How are you?

20 Q Pretty good. How are you today?

21 A I'm good.

22 Q Did you vote?

23 A Not yet.

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

1 here too long.

2 A Oh, that's fine.

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

5 A Yes.

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

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

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

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

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

17 A Yes. Yes.

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

19 A Yes, sir.

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

22 A Yes.

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

24 A Yes.

25 Q Are you in an undercover capacity with them

1 or are you plain clothes?

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

4 THE COURT: I agree.

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

6 THE COURT: That's okay.

7 BY MR. CULBERTSON:

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

10 A Yes.

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

13 A Yes, for the most -- primarily.

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

16 A Oh, yeah. That's fine.

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

19 A No.

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

22 A Yes.

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

25 A Yes, I did.

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

3           A     Yes.

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

7           A     Yes.

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

10          A     Yes, I did.

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

13          A     Yes.

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

16          A     That's correct.

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

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

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

24          A     Yes.

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

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

7 A Yes, sir.

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

10 A Most likely.

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

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

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

19 A Yeah.

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

1           **A**     Yeah.

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

3           That's all, Your Honor.

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

6           **THE COURT:**     Certainly.

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

11                               **REDIRECT EXAMINATION**

12    **BY MS. MUNSON:**

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

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

15    (Reviewing.)

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

20           **THE COURT:**     Yes.

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

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

3   **BY MS. MUNSON:**

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

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

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

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

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

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

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

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

12          **MS. MUNSON:**     Okay.

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

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

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

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

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

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

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



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

7 THE COURT: I got you.

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

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

11 Yes, ma'am.

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

14 THE COURT: Yes.

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

16 MR. CULBERTSON: And --

17 THE COURT: Hold on just a second.

18 MR. CULBERTSON: I'm sorry.

19 THE COURT: As to hearsay.

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

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

1 objection.

2 MS. MUNSON: Okay.

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

5 MR. CULBERTSON: Thank you, Your Honor.

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

8 THE COURT: Okay. Anything else?

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

10 THE COURT: All right. Any objection?

11 MR. CULBERTSON: No.

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

14 THE WITNESS: Thank you, ma'am.

15 THE COURT: All right.

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

18 THE COURT: All right.

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

22 JAMES LEATHERS

23 having first been duly sworn, testifies as follows:

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

1                   **THE WITNESS:**       James Leathers.

2                               **DIRECT EXAMINATION**

3   **BY MS. MUNSON:**

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

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

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

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

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

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

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

12          **A**     Yes, ma'am.

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

15          **A**     I did.

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

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

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

23          **A**     Yes, ma'am.

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

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

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

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

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

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

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

16 Q Okay.

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

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

19 A No, ma'am.

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

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

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

1 the house that you were at?

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

4 Q That's fine.

5 A 112 East Scenic Lane in Travelers Rest.

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

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

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

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

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

17 A Yes, ma'am.

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

20 A He was.

21 Q Did he give you any trouble?

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

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

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

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

3 Q Okay.

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

6 Q All right. No trouble?

7 A No, ma'am.

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

10 A Yes, ma'am.

11 Q Who all was back there?

12 A Deputy McCloud and myself.

13 Q All right. Was he dressed in uniform?

14 A He was.

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

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

1 Q Okay.

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

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

6 A In that building.

7 Q So did you strike the door?

8 A Yes.

9 Q Okay.

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

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

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

22 Q Okay. The suspect on --

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

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

1 to answer?

2 A Yes.

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

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

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

14 A He kept telling us to shoot him.

15 Q Okay.

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

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

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

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



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

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

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

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

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

14          **Q**     Okay.

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

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

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

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

21               **THE COURT:**     Sure.

22                               **CROSS-EXAMINATION**

23           **BY MR. CULBERTSON:**

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

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

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

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

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

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

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

14          A     Yes, sir.

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

18          A     It was like a garage building.

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

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

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

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

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

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

10          Q     Oh, okay.

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

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

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

18          Q     You pulled --

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

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

24          A     Correct.

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

1 came outside and talked to you guys?

2 A Correct.

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

5 A Correct.

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

9 A Correct.

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

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

15 Q He hadn't answered the door?

16 A Correct.

17 Q He had not answered the door?

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

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

22 A No, sir.

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

25 A No, sir.

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

4           A     Yes, sir.

5           Q     Is that basically what happened?

6           A     Yes, sir.

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

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

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

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

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

17          A     I do not.

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

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

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

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

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

3 MS. MUNSON: Suits me, Your Honor.

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

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

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

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

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

17 THE COURT: All right.

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

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

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

14 Yes, ma'am.

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

17 PAT SANDERS

18 having first been duly sworn, testifies as follows:

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

21 THE WITNESS: Patricia Sanders.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MS. MUNSON:

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



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

3           Q     Who do you live with?

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

5           Q     Do you have any children?

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

8           Q     All right. Any grandchildren?

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

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

12          A     I'm a widow.

13          Q     Who was your husband?

14          A     Billy Mack Sanders, Sr.

15          Q     All right. And when did he die?

16          A     November 19th, 2014.

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

19          A     Seven and a half weeks after the attack.

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

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

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

6 Q You said you played.

7 A Music.

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

10 A Gospel music, country gospel.

11 Q Certain instruments?

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

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

16 A No, he didn't.

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

19 A That's right.

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

22 A Yes, he was going to pick Joanie up like we  
23 did on Sundays. Pick her up to ride up to Scenic  
24 Hills.

25 Q Okay. And how far away is Scenic Hills from

1 where Joanie lived?

2 A It's about 25 -- 20 to 25 minutes.

3 Q All right. Was that an unusual thing for  
4 your husband to go get Joanie?

5 A No, he did it every Sunday since her truck  
6 had been wrecked back in February.

7 Q Okay. February of?

8 A 2014.

9 Q Okay. Did she wreck her truck?

10 A No, she did not.

11 Q Okay. Who wrecked her truck?

12 A Joseph Carpenter.

13 Q All right. Now, when your husband was going  
14 over there to get Joanie, you had plans to meet him  
15 later?

16 A Yes, we were going to meet after their  
17 service. Their service ended about 12:00. So we were  
18 going to meet about 12:30 at West Restaurant.

19 Q All right. How did you find out that  
20 something had happened over at Joanie's house?

21 A Well, I had naturally put my phone up and  
22 turned it off for the service, so I did not go back  
23 to my phone until about a quarter til 12:00. That's  
24 when I saw the texts and things that she had sent.

25 Q That who sent?

1           A     Joanie had sent to me.

2           Q     Okay.

3           A     Telling me that he had been attacked and  
4 was on the way to the hospital.

5           Q     All right. Now, how long had you been  
6 married to Mr. Sanders?

7           A     63 and a half years.

8           Q     Okay. So when you got these text messages  
9 from Joanie, where were you?

10          A     I was at Berea First Baptist Church. My  
11 son-in-law came and drove me to the hospital.

12          Q     Which hospital?

13          A     Greenville downtown, Memorial.

14          Q     And were you able to see your husband?

15          A     Well, I walked into the emergency room. I  
16 saw him laying there. He had a collar around his neck  
17 and was just out of it. I looked at my son-in-law and  
18 I said, why is he here, what are we doing here? The  
19 next thing I know, a friend of mine came and kissed  
20 me on the forehead and I woke up and I was hooked up  
21 to machines. They thought I had had a stroke or  
22 something.

23          Q     So you passed out in the hospital?

24          A     I guess I went into shock.

25          Q     Okay. So after you recovered a little bit,

1 was it the same day that you were able to see him?

2       A     Yes, it was within an hour or so. They  
3 unhooked me.

4       Q     Okay.

5       A     I went on with them up to -- they were  
6 committing him into ICU.

7       Q     Okay. How long was he in ICU?

8       A     He was at Greenville Memorial for probably  
9 9 to 10 days, and then was transferred to Greenville  
10 -- North Greenville Hospital, the LTAC division,  
11 which is Long-Term Acute Care.

12       Q     Okay. From the -- I'm not going to ask  
13 that. Did you notice any -- other than he wasn't  
14 responding to you, did you notice any injuries on  
15 your husband?

16       A     He had an injury. He kept rubbing his head.  
17 He rubbed his head and his leg constantly.

18       Q     Uh-huh.

19       A     Was very much out of it. He would come to,  
20 I would call, the present, occasionally. He would  
21 speak, recognize me. As far as that goes, he stayed  
22 mostly in a coma.

23       Q     Okay. Now, you say Joseph Carpenter wrecked  
24 Joanie's car?

25       A     Yes, sir.

1 Q You know him?

2 A Yes, I do.

3 Q How long has he been around your family?

4 A Around 20 years, 22 years, something like  
5 that.

6 Q You ever seen him interact with your  
7 husband?

8 A Yes, they had a fairly good relationship.  
9 There were times when there were problems. Most of  
10 the time, they were just little small things. Billy  
11 Sanders was an encouraging person. He encouraged  
12 people.

13 Q Okay.

14 A He didn't condemn people.

15 Q Okay.

16 A He tried to help.

17 Q All right. Did you have any conversations  
18 with the defendant after your husband was  
19 hospitalized?

20 A No, ma'am. I have not seen him. This is the  
21 first I've seen him since then.

22 Q Since 2014?

23 A Since 2014, yes, ma'am.

24 Q Thank you.

25 MS. MUNSON: I have nothing further, Your

1 Honor.

2 THE COURT: Mr. Culbertson?

3 MR. CULBERTSON: Sorry for your loss.

4 I have no questions, Your Honor.

5 THE COURT: All right.

6 MS. MUNSON: Nothing further, Your Honor.

7 THE COURT: Ma'am, you can step down.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you.

10 All right, Ladies and Gentlemen. We've come  
11 to a point for maybe a little earlier break than  
12 we had anticipated for today. As I said, if you  
13 will, be back in your jury deliberation room  
14 tomorrow morning at 9:30. If you will, be back  
15 there at 9:30 tomorrow morning. We'll get  
16 started very quickly thereafter.

17 As I instructed you earlier, you may not  
18 discuss the case with anyone. Now, you may go  
19 home and naturally, family members or friends  
20 are going to say, did you get picked for a jury  
21 and they're going to ask you about it. You can  
22 say I got picked for a jury. You can tell them  
23 that it's a case where somebody's charged with a  
24 crime. Other than that, don't discuss it with  
25 them any further. The reason is I don't want to

1        elicit any sort of comments from them that might  
2        influence you in any way.

3            You will probably have other things this  
4        evening to distract you from this. Just go home  
5        and forget that you're a juror on this case. And  
6        then we'll see you back tomorrow morning at  
7        9:30. Thank you so much.

8        (WHEREUPON, the jury exits at approximately  
9        4:21 p.m.)

10           THE COURT:     All right. Let's talk a little  
11        bit about the charge preliminarily. You know, so  
12        much of -- so much of a mutual combat charge and  
13        ones like them involve death and talking about  
14        being mutually armed and things like that. But I  
15        think that we've come up with a way to talk  
16        about mutual combat in a way that complies with  
17        the law but also fits the facts of this case. As  
18        I said, don't know -- the case is not over.  
19        Don't know if we're -- we really hadn't heard  
20        from the State's main witness yet so we don't  
21        know where we are on the charge, but  
22        anticipating that there could be those two  
23        charges, we've put them in.

24           I can email you a sort of preliminary  
25        charge. I'm happy to do that so you'd have it



1       this evening to prepare with or think about, get  
2       a chance to look over. Anything else we need to  
3       take up?

4           **MS. MUNSON:**     Nothing from the State, Your  
5       Honor.

6           **THE COURT:**     Okay.

7           **MS. MUNSON:**     That would be great if you  
8       could email it.

9           **THE COURT:**     All right. Will do.

10          **MR. CULBERTSON:**   Your Honor, I'm just -- I  
11       guess I'm a little curious. This is on me. My  
12       understanding is between the mutual combat law  
13       in this state, as it exists, as I understand it  
14       today, and a self-defense argument, there may be  
15       some conflict in claiming both of those in one  
16       case. If there was ever a case where I think  
17       it's appropriate to charge both, I think this  
18       well may be it.

19          **THE COURT:**     I think we've got it so that -  
20       - I see where you're going with that. If I were  
21       to charge both, I think we've got a way to  
22       distinguish the two for the jury. It's -- it's  
23       -- Ian has been up here -- if you've seen him  
24       talking to me, he's been up here really, really  
25       working on this thing.

1           **MR. CULBERTSON:**     He's a smart guy.

2           **THE COURT:**     He's a smart guy. He's a smart  
3           guy.

4           **MR. CULBERTSON:**     He knows all this stuff.

5           **THE COURT:**     Yeah, he's a brand new lawyer.  
6           He knows more law than we'll ever know.

7           **MR. CULBERTSON:**     So that -- I had that  
8           concern, Your Honor. I didn't mean to cut you  
9           off.

10          **THE COURT:**     No, that's right. I agree with  
11          you. There are certain things in conflict, and  
12          sometimes -- and sometimes they may not fit in  
13          the same case.

14          **MR. CULBERTSON:**     If you think you have  
15          worked it out, I'd love to take a look at --

16          **THE COURT:**     I think we have worked it out.

17          **MR. CULBERTSON:**     If you do, that'd be  
18          great. I'd love to take a look at it.

19          **THE COURT:**     Okay.

20          **MR. CULBERTSON:**     I'm also curious, and I  
21          mentioned it in my opening and I'm assuming that  
22          there's going to be a charge on Castle Doctrine.

23          **THE COURT:**     You know, when you said that,  
24          I have to tell you, it puzzled me a little bit.  
25          I wanted to ask. This was not a case that was --

1       this was not a case with a hearing on Castle  
2       Doctrine. Is that -- am I right about that?

3           **MR. CULBERTSON:**     Yes, ma'am. That's  
4       correct.

5           **THE COURT:**       Okay.

6           **MR. CULBERTSON:**     You mean a hearing about  
7       whether or not it was an appropriate defense?

8           **THE COURT:**       Yeah, whether or not the case  
9       should be dismissed pursuant to the Castle  
10       Doctrine.

11          **MR. CULBERTSON:**     There had been no prior  
12       pretrial motions and/or hearings concerning --

13          **THE COURT:**       I'll look at it and just see  
14       how that will play in. We, of course, have got,  
15       you know, that -- you know, the defense of  
16       dwelling and defense of habitation and all that.  
17       I mean, we've got all -- we've got that. I'll --  
18       I'll take a look at that to see if there's  
19       something.

20          **MR. CULBERTSON:**     I'll encourage you, Your  
21       Honor, to take a look at the Castle Doctrine and  
22       as have been applied in this state, especially  
23       as I understand there's some -- of course, I  
24       can't recite them all to you today, but I can  
25       get it to you prior to the charge. There's some

1 new case law about the charge and the way the  
2 law stands currently in South Carolina.

3 **THE COURT:** We'll take a look -- we'll  
4 take a look at it and see if we can't -- if we  
5 can't find some recent -- some recent cases that  
6 talk about the charge and see if we need to  
7 tweek it.

8 **MR. CULBERTSON:** As you noted, I mentioned  
9 it in my opening only because I believed, in  
10 research I was doing prior to trial, that may  
11 well be applicable in this case.

12 **THE COURT:** Okay.

13 **MR. CULBERTSON:** I would urge you to take a  
14 look at it.

15 **THE COURT:** I'll look at it and see.  
16 What's your email address?

17 **MR. CULBERTSON:** Gosh.

18 **THE CLERK:** Do you want to write it down?

19 **MR. CULBERTSON:** No. No. It's Culbertson  
20 law, all one word, @gmail.com.

21 **THE COURT:** @gmail.com.

22 Okay. And then you're JMunson?

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

24 **THE COURT:** Gotcha, @greenvillecounty.org.

25 All right. Well, we'll email that to you at some

1 point. It might be late because Ian's got  
2 basketball practice.

3 **MR. CULBERTSON:** My understanding is I've  
4 been committed to at least one, if not several,  
5 events for this evening.

6 **THE COURT:** I had no doubt that you would  
7 be making the political rounds this evening.

8 **MR. CULBERTSON:** So late night is better.

9 **THE COURT:** Might be the best time to  
10 catch you. All right. Well, we'll get this --  
11 we'll get it sent on to you. Hopefully -- and it  
12 may not have the Castle Doctrine in it quite  
13 yet. That might be something we're still working  
14 on ---

15 **MR. CULBERTSON:** Okay.

16 **THE COURT:** --- on into the evening, so  
17 we'll see. But we'll get to you what we've got.  
18 And I don't mind -- I don't remember the last  
19 time I tried a case with y'all. I know I've  
20 tried a case with both of you, but I don't mind  
21 if you argue from my charge. It doesn't bother  
22 me at all.

23 **MS. MUNSON:** Okay.

24 **THE COURT:** So feel free to use it however  
25 you want. Probably putting it up on the screen

1        maybe not as much, but other than that, we're  
2        good. All right. Well, we'll break until 9:30  
3        tomorrow morning.

4                MS. MUNSON:     See you then.

5                THE COURT:     All right.

6                MR. CULBERTSON:    Thank you, Your Honor.

7                MS. MUNSON:     Have a good night.

8                (WHEREUPON, the Court recesses for the day at  
9        approximately 4:28 p.m.)  
10

**P R O C E E D I N G S**

(WHEREUPON, the Court resumes on the 9th day of November, 2016 at approximately 9:34 a.m.)

(WHEREUPON, State's Exhibits 10 and 11 are marked for identification purposes.)

**THE COURT:** I think our jury is all here. Is everybody ready to pick back up?

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

**THE COURT:** All right. Very good.

All right. Bring them in.

(WHEREUPON, the jury enters at approximately 9:35 a.m.)

**THE COURT:** Good morning, Ladies and Gentlemen. Thank y'all so much for being here so promptly this morning. I appreciate your service so much. We're ready to -- to begin.

**MS. MUNSON:** Yes, ma'am. The State's ready.

**THE COURT:** All right.

**MS. MUNSON:** The State calls Phyllis Joan Sanders.

**PHYLLIS SANDERS**

having first been duly sworn, testifies as follows:

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

1                   **THE WITNESS:**     Phyllis Joan Sanders.

2                               **DIRECT EXAMINATION**

3   **BY MS. MUNSON:**

4           **Q**     Hi, Ms. Sanders. What do you go by?

5           **A**     Joanie.

6           **Q**     All right. Where do you live?

7           **A**     112 East Scenic Lane, Travelers Rest, South  
8   Carolina.

9           **Q**     And what county is that?

10          **A**     Greenville.

11          **Q**     How long have you lived there?

12          **A**     Almost -- let's see, since '97.

13          **Q**     Okay.

14          **A**     Almost 20 years.

15          **Q**     Who used to live there with you?

16          **A**     Joseph Carpenter.

17          **Q**     All right. How long did he live with you?

18          **A**     The whole time that I lived there.

19          **Q**     All right. What is the nature -- what was  
20   the nature of your relationship with Joseph  
21   Carpenter?

22          **A**     It was not good.

23          **Q**     Is he your son, your brother, what's his --

24          **A**     My boyfriend.

25          **Q**     Okay. How long was he your boyfriend?



1           A     Since '93.

2           Q     All right. Is he in the courtroom?

3           A     Yes.

4           Q     Can you point him out for the jury?

5           A     Yes, he's sitting over there besides Mr.  
6 Symmes.

7           MS. MUNSON:     Your Honor, let the record  
8 show that she's identified the defendant.

9           THE COURT:     It so reflects.

10          BY MS. MUNSON:

11          Q     All right. Were y'all ever married?

12          A     No.

13          Q     You have any children together?

14          A     No.

15          Q     So let's -- let me ask you some other stuff  
16 first, Joanie. How far did you go in school?

17          A     To the 12th grade.

18          Q     Do you work outside the home?

19          A     Right now?

20          Q     Uh-huh.

21          A     Right now, I'm continuing a nursing home  
22 ministry.

23          Q     Okay. And besides the nursing -- what is  
24 the nursing home ministry? What do you do?

25          A     I play in a band at nursing homes every

1 month.

2 Q Okay. What -- what instruments do you play?

3 A I play just about everything with strings  
4 on it.

5 Q Okay. How long have you been doing that?

6 A All my life so far.

7 Q All right. So I want to -- I want to call  
8 your attention back to September of 2014. Do you  
9 remember that event?

10 A Yes, ma'am.

11 Q Did you see your dad on that day?

12 A Yes, I did.

13 Q Was -- about what time of the day or night  
14 was it?

15 A I remember exactly. It was 9:38.

16 Q You remember exactly?

17 A Exactly.

18 Q Okay. How do you remember exactly?

19 A When I was woke up, I ran out the door to  
20 let the dog out and I looked at the clock on the  
21 stove and it said 9:38.

22 Q Okay. What made you get up?

23 A Joseph woke me up.

24 Q How did he wake you up?

25 A Abruptly, telling me that my old daddy was

1 knocking at the door.

2 Q All right. So after you let the dog out,  
3 what did you do?

4 A I went to the door and went to hug my  
5 daddy.

6 Q He was outside?

7 A Yes.

8 Q Did he come in the house?

9 A No, he stayed there on the porch. I hugged  
10 him. I told him that I slept late. He asked me if I  
11 could be ready in 10 minutes, and I said yes.

12 Q All right. So did you go back in the house?

13 A Yes.

14 Q And where was your dad when you stepped  
15 back in the house?

16 A He was still standing on the porch.

17 Q All right. Now, the -- your front door, the  
18 door that your father came to, is it just one door or  
19 a main door and a screen door? Describe that.

20 A There's a screen door and a main front  
21 door.

22 Q All right. So when you went back in the  
23 house after you told your dad I can be ready in 10  
24 minutes, when you went back in, how were the doors?

25 A I left the front door open and the screen

1 door was shut on its own.

2 Q All right. So when you left the front door  
3 to go get ready for church, where was the defendant?

4 A He was running around in the house.

5 Q Running around in the house, what does that  
6 mean?

7 A He was chasing me around.

8 Q Was he saying anything to you?

9 A Yes.

10 Q What was he saying to you?

11 A He told me that if I went, I needed to pack  
12 a bag and (Indiscernible.)

13 Q And what?

14 A He said if I went, there would be a problem  
15 and I needed to pack a bag.

16 Q There would be a problem. Did he tell you  
17 what the problem was?

18 A No, he did not.

19 Q All right. And while this is going on,  
20 about how long did this go on where you're in the  
21 house with him trying to get ready?

22 A About three or four minutes.

23 Q Okay. During this time, where was your dad?

24 A He was on the porch.

25 Q Okay. Did he ever come in the house?

1           A     Yeah, he stepped in after he heard my  
2 yelling and things.

3           Q     Okay. So the conversation between you and  
4 the defendant before you left to go to church, it was  
5 loud, is that what you're saying?

6           A     Yes, ma'am.

7           Q     When your dad stepped in the house, what  
8 happened?

9           A     My dad asked Joseph what was wrong.

10          Q     And did he answer?

11          A     Yes.

12          Q     What'd he say?

13          A     He said, you got a gun, Bill?

14          Q     Okay. Did your dad have a gun?

15          A     No.

16          Q     How did your dad respond to it?

17          A     He said, no, I don't have a gun, Bill -- he  
18 said, no, I don't have a gun.

19          Q     All right. And then what did your dad do?

20          A     He just stood there.

21          Q     Did the defendant say anything else to your  
22 father?

23          A     Yes.

24          Q     What did he say to him?

25          A     He grabbed --

1           **MR. CULBERTSON:**     I object, Your Honor.

2           **MS. MUNSON:**     These are the words of the  
3           defendant, Your Honor.

4           **THE COURT:**     I'm going to allow it. Let's  
5           hear it.

6           **MR. CULBERTSON:**   Well, Your Honor, I'd like  
7           to be heard outside the presence of the jury.

8           **THE COURT:**     All right. Ladies and  
9           Gentlemen, if you would, please step to your  
10          jury deliberation room for just one moment.

11          (WHEREUPON, the jury exits at approximately  
12          9:41 a.m.)

13          **MR. CULBERTSON:**   We're getting close to  
14          what I was afraid of, and that is that this  
15          conversation that apparently she's about to talk  
16          about is a conversation that happened between my  
17          client and Mr. Sanders, who is no longer here  
18          today and can not testify. I'm concerned about  
19          the hearsay portions of this conversation that  
20          might have taken place without somebody else  
21          there to verify or confirm conversation actually  
22          took place with the person who now can not be in  
23          the courtroom.

24          **THE COURT:**     Well, let me just hear --  
25          let's just hear what this conversation is. Go

1 ahead and tell me.

2 **THE WITNESS:** He grabbed this mask that he  
3 had carved. It's called a booger mask. And it  
4 looks really scary.

5 **THE COURT:** All right.

6 **THE WITNESS:** It has horns on it. He put  
7 it over his face and he repeated some sort of  
8 words I couldn't understand. It was a curse. He  
9 acted like he was cursing my father. Then my  
10 father said, I have God on my side. That was it.

11 **THE COURT:** That was all that was going to  
12 be said?

13 **MS. MUNSON:** That's it, Your Honor.

14 **THE COURT:** I -- I mean, is that offered  
15 for the truth of the matter asserted? I don't  
16 even know where to start with that.

17 **MS. MUNSON:** It is offered for the truth  
18 of the matter asserted, Your Honor, but it goes  
19 towards the defendant's attitude, frame of mind.

20 **MR. CULBERTSON:** Which is a-whole-nother  
21 set of objections.

22 **MS. MUNSON:** Which is relevant.

23 **THE COURT:** I don't - I'm not  
24 understanding -- I guess I'm having a hard time  
25 grasping in an argument like this or in a

1 situation like this, these things that he's  
2 saying -- I'm having a hard time grasping where  
3 you're going with this objection.

4 **MR. CULBERTSON:** Like I said, it's a  
5 hearsay objection. This conversation was not --  
6 as I understand, this was not with her. I don't  
7 even know where she would have been to have  
8 overheard this conversation. The person that  
9 this conversation apparently took place is not  
10 here.

11 **THE COURT:** I understand. I understand.  
12 I'm going to overrule your objection. It's noted  
13 for the record. I'm going to overrule your  
14 objection.

15 **MR. CULBERTSON:** Your Honor, if I could  
16 just briefly be heard. They are trying to bring  
17 in testimony, in my opinion, hearsay, about my  
18 client's character. That's what I understand  
19 this was going to be. It's talking about his  
20 frame of mind, his character, his attitude.  
21 Clearly inadmissible.

22 **THE COURT:** Not character, state of mind.  
23 These are two very different things. So he puts  
24 on the mask and he said something that you  
25 interpreted to be like he was acting like he was



1       trying to put a curse on this person. All right.  
2       Is there any other -- so that we can kind of  
3       deal with it now, is there any other  
4       conversation, any other utterances or anything  
5       like that that you are intending to elicit?

6               **MS. MUNSON:**     Once they get outside, yes.

7               **THE COURT:**    Okay. Let's go ahead and move  
8       to that for just a moment so we can go ahead and  
9       deal with all of that at once.

10   **BY MS. MUNSON:**

11       **Q**     All right. Joanie, once -- once you got  
12       outside --

13               I'm just going to lead like the devil, Your  
14       Honor, since the jury is not in here so we can focus.

15               --- once you got outside, the second time,  
16       okay -- after you went back in for your cell phone,  
17       that's where I want you to focus -- and you were  
18       headed outside, where did the defendant go?

19       **A**     The defendant chased me out the door.

20       **Q**     Okay. And what did he say as he was chasing  
21       you out the door?

22       **A**     The way it happened was I ran out the door  
23       and jumped in the truck. I saw my dad standing in  
24       front of the truck in the driveway.

25       **Q**     Okay. Did you hear the defendant say

1 anything to your dad?

2 A Yes, ma'am.

3 Q What did he say?

4 A I looked up and I saw him standing with the  
5 bat like this. Joseph ran and said, oh, Bill, you got  
6 a bat. Then he, like, came running up to my dad and  
7 hit him so hard it slammed him up against the fence  
8 in between two Leyland cypress trees.

9 Q After the initial encounter, did you hear  
10 the defendant say anything else to your dad?

11 A When they were struggling for the bat?

12 Q Yes. Yes.

13 A No.

14 Q After -- after your dad went through the  
15 fence, did the defendant say anything?

16 A Yes.

17 Q What did he say?

18 A He said, who else wants their ass kicked.

19 MS. MUNSON: I don't think I'm going to  
20 ask her anything else about what the defendant  
21 said, Your Honor.

22 THE COURT: All right. And is it your same  
23 objection to hearsay on those?

24 MR. CULBERTSON: I'm not sure why it's  
25 being offered. Clearly, I have a hearsay

1 objection to it. It's bordering on -- my concern  
2 is that it's going to cross over into talking  
3 about his character, talking about -- she wasn't  
4 even a party to these conversations. The fact  
5 that she may have overheard it is one thing. But  
6 I'm just real nervous about where this may  
7 potentially lead to. I don't want to have to be  
8 standing up and down while the jury's in here.

9 THE COURT: I see your -- your objection  
10 is noted. I find that it falls under the  
11 exception of an excited utterance and existing  
12 mental, emotional or physical condition. I -- so  
13 your objection is overruled. It's noted for the  
14 record though. All right. Let's bring the jury  
15 back in.

16 (WHEREUPON, the jury enters at approximately  
17 9:50 p.m.)

18 THE COURT: All right. Yes. Your objection  
19 is overruled.

20 Go ahead.

21 MS. MUNSON: Thank you.

22 BY MS. MUNSON:

23 Q Joanie, let me step back one bit. How often  
24 would your dad come over on a Sunday to take you to  
25 church?

1           A     Every Sunday.

2           Q     Okay. Now, let's go back to the point where  
3 he's in the house and the defendant says to your dad  
4 -- asked him what?

5           A     Asked him, Bill, you got a gun?

6           Q     Okay. And how did your dad respond?

7           A     No, I don't have a gun.

8           Q     And at this point, your dad is where?

9           A     He's standing in the hallway.

10          Q     So he's moved from the front door into the  
11 hallway?

12          A     Yeah, he's walked in. When he first came  
13 in, Joseph was standing at the bedroom door.

14          Q     Okay.

15          A     And he walked into the hallway and asked  
16 him what's wrong.

17          Q     Okay. And how was your dad approaching the  
18 defendant?

19          A     Very calmly.

20          Q     Okay. Once the defendant -- once your dad  
21 said, no, I don't have a gun, what happened next?

22          A     Joseph grabbed the mask and said some  
23 words. It sounded like (Demonstrating). I couldn't  
24 understand it. It was like a curse.

25          Q     All right. What sort of mask are you

1 talking about?

2       A     It was a mask that he made called an Indian  
3 booger mask and it's made out of cedar, and it's big  
4 and it has horns, it has a snake on it, and it's very  
5 scary.

6       Q     Where did he get that from?

7       A     He made it hisself.

8       Q     Where was it in the house before he put it  
9 in front of his face and showed it to your dad?

10      A     It was laying on the back -- on the side of  
11 the couch, the arm of the couch right there. Very  
12 conveniently located. Right there at the hall.

13      Q     Okay. So after Joseph did that and uttered  
14 whatever words, what did your dad do?

15      A     He told him God was on his side.

16      Q     Did he stay in the house?

17      A     Did my dad stay in the house?

18      Q     Yes.

19      A     Yes.

20      Q     All right. What was the next thing that you  
21 remember happening?

22      A     The next thing that happened, Joseph took  
23 the mask and swung it and broke a very beautiful  
24 plant, a pot -- planter of mine.

25      Q     Okay.

1           A     Just smashed it.

2           Q     Where were you when that happened?

3           A     I was standing right there.

4           Q     When you say "right there"?

5           A     Right there within just a couple of feet  
6 from him, right beside the couch ---

7           Q     Okay.

8           A     --- right at the end of the hall.

9           Q     So he wasn't swinging it at you?

10          A     No, he swung it just to try -- I think just  
11 to --

12               MR. CULBERTSON:     Objection.

13               THE COURT:        Overruled. Go ahead.

14           BY MS. MUNSON:

15          Q     Once he did that, what was the next thing  
16 that happened?

17          A     Our dog tried to attack him.

18          Q     All right. Now, earlier, you said you put  
19 the dog out.

20          A     Uh-huh.

21          Q     So how did the dog get back in the house?

22          A     When I let him out to go to the bathroom, I  
23 barely pushed the door. He pushed the door and came  
24 in on his own.

25          Q     Okay. And when you say he tried to attack,

1 who was he trying to attack?

2 A Joseph.

3 Q And what do you mean when you say he tried  
4 to attack him?

5 A He was going to bite him.

6 Q Okay. And did he bite him?

7 A No, because I grabbed the dog and put him  
8 outside.

9 Q Okay. When you left to put the dog back  
10 outside, where was your dad?

11 A He was still in the house.

12 Q Okay. At some point, did your dad walk back  
13 out of the house?

14 A Yes.

15 Q And when did he do that? At what point?

16 A Right after I put the dog out.

17 Q Okay. So after you come back in the house  
18 from putting the dog out, what was the next thing  
19 that happened inside the house?

20 A I begged Joseph to go back to bed.

21 Q Okay. And did he go?

22 A No.

23 Q And how -- how was y'all's conversation?  
24 Without saying a whole lot about what anybody said,  
25 how was y'all's conversation after your dad walked

1 out?

2 A He was kind of -- he said just go, just go  
3 ahead and go.

4 Q Okay.

5 A I said, okay, I'll see you in a little  
6 while. Have a good day.

7 Q All right. And so then what did you do?

8 A I left and went outside and got in the  
9 truck.

10 Q Okay. When you left to go outside and get  
11 in the truck, where was your dad?

12 A He was in the truck with me.

13 Q All right. And did y'all leave to go to  
14 church right then?

15 A Well, I looked for my -- looked for my cell  
16 phone and I said, I think I left my cell phone in the  
17 house. I'm going to go in and get it.

18 Q Okay. And did you do that?

19 A Yes.

20 Q Where was your dad when you went back in  
21 the house to get your cell phone?

22 A He was sitting in the truck when I went  
23 back in.

24 Q All right. And what happened when you went  
25 back in for your cell phone?



1           A     Joseph grabbed my purse and dumped it out  
2 on the ground.

3           Q     Okay. The ground?

4           A     Yeah, on the floor ---

5           Q     Okay.

6           A     --- in the house.

7           Q     And how did he get your purse?

8           A     He grabbed it out of my hand.

9           Q     All right. Why did he -- I'm not going to  
10 ask that. After everything was dumped out on the  
11 ground, what did you do?

12          A     I picked it up and ran out the door afraid.

13          Q     What were you afraid of?

14          A     Of Joseph.

15          Q     Okay. How long were you in the house when  
16 you went back in to get your cell phone?

17          A     Just a couple of minutes.

18          Q     And when you went out of the house after  
19 getting your purse back together, how were you  
20 leaving the house?

21          A     In a hurry.

22          Q     All right. And when you got out of the  
23 house, did you see Joseph anymore before you got to  
24 the car?

25          A     Joseph was behind me ---

1 Q Okay.

2 A --- running after me.

3 Q Okay. And what happened when you got to the  
4 car?

5 A I came out and I saw my dad standing in  
6 front of the truck.

7 Q All right. When you saw your dad standing  
8 in front of the truck, where did you go?

9 A I jumped in the truck.

10 Q Okay. And how close behind you was Joseph?

11 A Pretty close.

12 Q When you got in the truck, what was the  
13 next thing that you saw?

14 A I looked up and I heard Joseph say -- I  
15 said come on, let's go, dad. And I looked up and I  
16 heard Joseph say, oh, you've got a bat, Bill.

17 Q And what tone of voice did he have when he  
18 was saying, oh, you got a bat?

19 A Very agitated.

20 Q Okay. What kind of volume?

21 A Very loud.

22 Q All right. Once he said that, what happened  
23 next?

24 A He slammed into him so hard.

25 Q Who slammed into who?

1           A     Joseph slammed into my father so hard that  
2     it knocked him back about -- from the driveway to the  
3     fence, which is about probably almost 10 feet and  
4     slammed him into an eight-foot tall privacy fence in  
5     between two Leyland cypress trees.

6           Q     Did you see where your dad had the bat before  
7     Joseph slammed into it?

8           A     I did not even see him with the bat. I didn't  
9     even see the bat until I looked up and I heard Joseph  
10    say, oh, you got a bat and I saw my dad standing there  
11    with a bat like this. (Demonstrating.)

12          Q     Like this. (Demonstrating.)

13          A     Yes, ma'am.

14          Q     When you say like this, your hands are --

15          A     He was holding the bat this way.

16               (Demonstrating.)

17          Q     Vertical?

18          A     Yes, ma'am.

19          Q     After you saw the defendant slam your dad into  
20    the fence, what did you do?

21          A     I got -- jumped out of the car as fast as I  
22    could. I ran around there to try to diffuse the  
23    situation.

24          Q     And how did you try to do that?

25          A     I tried to just calmly tell him to let go of

1 the bat and go back in the house.

2 Q Okay. Did that work?

3 A No.

4 Q What were the two men doing?

5 A They were struggling for it.

6 Q Okay. Back and forth?

7 A Dad was up against -- he had his back up  
8 against the fence. Joseph had slid so hard he slid -- he  
9 was laying on his back.

10 Q Flat on his back?

11 A Flat on his back. He had his feet up in the  
12 air.

13 Q Okay. What happened when Joseph is on the  
14 ground? What was the next thing that you saw happen?

15 A He started kicking my dad in the head with both  
16 -- one side and then the other side. Hit him probably  
17 about four or five times in the face and here.  
18 (Indicating.)

19 Q Okay. And how did your dad react when that  
20 happened?

21 A He didn't flinch.

22 Q All right. How long did they stay at the fence?

23 A It seemed like forever. Probably about five  
24 or ten minutes, maybe something like that. I can't  
25 really say exactly.

1 Q So what were you trying to do to get the  
2 two guys apart?

3 A I tried to stop Joseph.

4 Q And how did you try to stop him?

5 A I hit him in the head with my fist. I tried  
6 to pry his fingers off the bat.

7 Q Did you have any success?

8 A No, he -- he had my two fingers in his  
9 mouth and clamped down on them. He clamped down on  
10 them it seemed like for two minutes and almost bit  
11 them off.

12 Q Okay. He was biting down on you. All right.  
13 Eventually, did the position of the two men change?

14 A Eventually, it did when he pushed so hard  
15 that it -- the fence broke loose and my dad fell  
16 through.

17 Q Fell through where?

18 A The fence where it came apart. One of the  
19 sections.

20 Q Okay.

21 A It came apart. He fell through it.

22 Q So the fence didn't go flat on the ground?

23 A Yeah, it just kind of opened up. One side  
24 of it kind of ---

25 Q Okay.

1           A     --- opened up. He fell through it. But it  
2 eventually did fall.

3           Q     Now, who fell through?

4           A     My dad.

5           Q     And where was Joseph when your dad fell  
6 through it?

7           A     He was still in the same spot.

8           Q     Okay.

9           A     Laying down.

10          Q     And who had the bat at that point?

11          A     Joseph.

12          Q     So what did you do when you saw your dad go  
13 through the fence?

14          A     I ran around the fence. The whole time, I  
15 was screaming, please help, somebody help. He's  
16 killing my dad.

17          Q     Okay.

18          A     I went -- ran around the fence to my dad.

19          Q     Was anybody else around there when you  
20 first got there?

21          A     As soon as I ran around the fence, I saw  
22 Lee Sexton come across the street. He had his gloves  
23 on. He had a bag with him. I know he was a fireman.

24          Q     Okay.

25          A     So he came over to assist.

1           Q     So he came over as you were running around  
2 the fence?

3           A     Yes, ma'am.

4           Q     Did you see anybody else out there?

5           A     I saw Stacy, his wife, and she called 911.

6           Q     Okay.

7           A     And then I saw Maureen Phend come down her  
8 steps. She was on the phone with somebody.

9           Q     Okay. Now, you don't get along real good  
10 with Maureen, do you?

11          A     No, ma'am, not really.

12          Q     And that video that she took, when was the  
13 first time that you saw that?

14          A     It was a couple of days later.

15          Q     And how did you see it?

16          A     On my mom's cell phone.

17          Q     On your mom's cell phone?

18          A     Yes.

19          Q     Okay. So after -- how was your dad while he  
20 was on the ground?

21          A     He was throwing up. He was going in and out  
22 of consciousness.

23          Q     Okay. And where was Joseph while you were  
24 on the other side of the fence?

25          A     At that point, he was still over there.

1 When Lee was -- first got over to him ---

2 Q Uh-huh.

3 A --- he was still over on the other side of  
4 the fence.

5 Q So while your dad was on -- in Maureen's  
6 yard, the defendant was still on y'all's property?

7 A Yes, ma'am.

8 Q Okay. Was he saying anything while he was  
9 over there?

10 A Yes.

11 Q What did he say?

12 A He said, who else wants their ass kicked?

13 Q All right. How long did he stay outside?

14 A Not very long. -

15 Q All right. Where was Lee when the defendant  
16 said that? ?

17 A He was ---

18 Q Do you know?

19 A --- leaning over my dad.

20 Q Okay.

21 A He was assisting my dad.

22 Q All right. Did the defendant ever come over  
23 to Maureen's yard?

24 A No.

25 Q So where did he go?



1           **A**     I assumed he went back in the house.

2           **Q**     You didn't see him go?

3           **A**     No.

4           **Q**     All right. So when law enforcement got  
5 there, did you tell them what had happened?

6           **A**     Yes.

7           **Q**     And what did they ask you about if they  
8 could -- where to find Joseph?

9           **A**     Well, I knew he was in the house.

10          **Q**     So did they ask you where he was?

11          **A**     Yes.

12          **Q**     Did they ask if they could go in the house?

13          **A**     Yes.

14          **Q**     And how did you respond?

15          **A**     I told them that I didn't want them to go  
16 in the house.

17          **Q**     Okay. Now, you need to explain why you  
18 wouldn't let them in the house.

19               **MR. CULBERTSON:**     I object, Your Honor.

20               **THE COURT:**     To what?

21               **MR. CULBERTSON:**     What she thought -- I  
22 mean, I don't know --

23               **MS. MUNSON:**     I'll rephrase it, Your Honor.

24               **MR. CULBERTSON:**     Thank you.

25               **THE COURT:**     All right.

1 BY MS. MUNSON:

2 Q Why didn't you want law enforcement in your  
3 house?

4 A He had told me he had left the house.

5 Q But why didn't you want them in your house?

6 A Cause I think I was protecting him.

7 Q Okay. Was there something in the house that  
8 you didn't want them to know about?

9 A Yes.

10 Q What's that?

11 A Marijuana.

12 Q Okay. Did you ever see that bat again?

13 A It was in my house.

14 Q Okay. When did you see it in your house?

15 A That day.

16 Q That day?

17 A That very same day that I went back in the  
18 house after everyone left.

19 Q All right. What did you see your dad do  
20 aggressively towards the defendant?

21 A Nothing.

22 Q I'm going to show you State's Exhibit  
23 Number 8, that very brief video. I want you to show  
24 the jury where you are in the video.

25 I can't reach that. I can't reach that. I'm

1 vertically challenged.

2 THE COURT: Good job.

3 MS. MUNSON: Thank you.

4 BY MS. MUNSON:

5 Q If you would, Joanie, take that laser  
6 pointer. And when the video comes up, I want you to,  
7 with the laser pointer, show where you are.

8 A Okay.

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

10 THE WITNESS: Right -- right -- I believe,  
11 right there.

12 MS. MUNSON: Okay.

13 THE WITNESS: That's Lee and that's me  
14 right there.

15 BY MS. MUNSON:

16 Q Okay. And where is your dad?

17 A Laying on the ground.

18 Q Can you see him in this video?

19 A He's laying -- I think that's his head.

20 He's laying kind of diagonally.

21 Q Okay. But that's not you to the left of it?

22 MR. CULBERTSON: I object, Your Honor.

23 THE WITNESS: I can't tell from his  
24 clothes.

25 THE COURT: You're objecting to leading?

1           MR. CULBERTSON:    Yeah.

2           THE COURT:       And it's sustained.

3           THE WITNESS:       That's my hair. That's my  
4       hair right there.

5   BY MS. MUNSON:

6           Q     Okay.

7           A     That's mine.

8           Q     All right. Now, let me show you -- let me  
9       show you, Joanie, State's Exhibits Number 10 and 11.  
10      If you will, take a look at those. Do you recognize  
11      those?

12          A     Yes.

13          Q     Are they true and accurate depictions of  
14      what your face and your hand looked like that day?

15          A     Yes.

16          MS. MUNSON:       We move State's 10 and 11  
17      into evidence.

18          THE COURT:       Any objection?

19          MR. CULBERTSON:    No.

20          THE COURT:       All right. They are admitted.  
21      You said what numbers? I'm sorry.

22          MS. MUNSON:       10 and 11, Your Honor.

23          THE COURT:       10 and 11, State's 10 and 11  
24      are admitted without objection.

25      (WHEREUPON, State's Exhibits 10 and 11 are

1 admitted into the record.)

2 BY MS. MUNSON:

3 Q All right. Joanie, this is State's Exhibit  
4 Number 10. If you could, take a laser pointer and  
5 just explain for the jury what is this right here.  
6 There. (Indicating.)

7 A That is a claw mark.

8 Q And where did you get that?

9 A During the altercation.

10 Q Who gave you the claw mark?

11 A Joseph Carpenter.

12 Q Okay. And what about the area depicted in  
13 State's 10 around your eye there?

14 A He also -- he grabbed my glasses off my  
15 face and took my glasses from me while holding onto  
16 the bat.

17 Q Okay. Let me show you State's Exhibit  
18 Number 11, what does this show?

19 A This is my finger where he almost bit them  
20 off.

21 Q Okay. Now, Joanie, let me show you some  
22 other -- I'm showing you now State's Exhibits Number  
23 3, 4, 5, 6, and 7. If you could, just one at a time,  
24 take a look at those.

25 A Okay. (Reviewing.)

1           Q     All right. Are these exhibits true and  
2 accurate depictions of the layout of the inside of  
3 your house and the area where the altercation took  
4 place?

5           A     Yes.

6           MS. MUNSON:     So, Your Honor, I'm going to  
7 move into evidence 3, 4, 5, 6, 7, yeah.

8           THE COURT:     All right. Any objection?

9           MR. CULBERTSON:     No, ma'am.

10          THE COURT:     They are so admitted.

11          (WHEREUPON, State's Exhibits 3, 4, 5, 6 and 7 are  
12 admitted into the record.)

13 BY MS. MUNSON:

14          Q     Let's look at State's Exhibit Number 3  
15 here. Okay. This is State's Exhibit Number 3, Joanie.  
16 Can you show me on State's Exhibit Number 3 where you  
17 went to answer the door when your dad came?

18          A     Right here. (Indicating.)

19          Q     Okay. And then let's look at State's  
20 Number 4. What does this show?

21          A     This shows where - Joseph was standing  
22 here.

23          Q     And in what particular room does -- are we  
24 looking at on State's Number 4?

25          A     That was the bedroom.

1 Q Okay. And what is the main area that's  
2 shown in State's Exhibit Number 4?

3 A This is the couch and where the booger mask  
4 was laying, probably on the back of the couch right  
5 there.

6 Q Okay. And you say on the back of the couch  
7 is where the mask was. Where were you and where was  
8 the defendant when the booger mask incident happened?

9 A I was standing about right here.

10 Q Okay.

11 A The defendant was about right there.

12 Q All right. And where was the planter that  
13 got broken?

14 A It was -- it was over -- one over here.

15 Q Okay. And so about where on State's Exhibit  
16 Number 4 was your dad?

17 A He was right around in here.

18 Q Okay. And at what point did he leave?

19 A I'm not exactly sure, exactly.

20 Q Okay. Where was the defendant standing when  
21 your dog got after him?

22 A He was standing behind the couch right  
23 there.

24 Q Okay.

25 A And the dog came up on this side of the

1 couch after him.

2 Q All right. So the dog, describe the dog.

3 A He was a 13-year-old pit bull, weighed  
4 about 100 pounds.

5 Q Okay. He's no longer around, is he?

6 A No, he's passed away.

7 Q Okay. Now, let's look at State's Number 5.  
8 What does this show?

9 A That's my kitchen.

10 Q Where on -- State's Exhibit Number 5, which  
11 direction is your bedroom?

12 A Going that way.

13 Q And the front door is which way?

14 A It's towards this way.

15 Q Okay. So where did you go to let the dog  
16 out when your dad first got there?

17 A That way.

18 Q Okay. And does it show on State's Exhibit  
19 Number 5 from where the dog came back in the house?

20 A He came back in from this way.

21 Q Okay. Now, let's look -- this is State's  
22 Exhibit Number 6. What does this show?

23 A That's showing my front porch and sidewalk  
24 going to the driveway.

25 Q All right. Is -- is this the door where



1 your dad came up?

2 A Yes.

3 Q About where would he had been parked?

4 A He was parked right in there.

5 Q Let me show you -- let's go back just for a  
6 second to State's Exhibit Number 2. On State's  
7 Exhibit Number 2, about where would your dad have  
8 parked?

9 A About -- around where that truck is, a  
10 little further back.

11 Q Okay. So now we're back to State's number  
12 6. You went out after -- after you went back in for  
13 your cell phone and you're leaving, where did you go?

14 A Jumped straight in the truck.

15 Q Okay. About how many steps are there from  
16 the porch to the driveway - I'm sorry -- from the  
17 porch down to the sidewalk?

18 A Maybe 10.

19 Q Okay. Real steep?

20 A Those steps there?

21 Q Yes, ma'am.

22 A There was like three or four steps.

23 Q Okay. And as you are going down the stairs,  
24 where is the defendant?

25 A He was right behind me.

1           Q     When you got out and were headed to the  
2 sidewalk, did you see your dad?

3           A     I saw him standing there.

4           Q     Your dad was standing there?

5           A     In front of the truck ---

6           Q     Okay.

7           A     --- right around, you know, in front of the  
8 truck in the driveway.

9           Q     How was he parked in the driveway?

10          A     Just like he always did.

11          Q     Was the front -- which way was the front of  
12 the truck facing?

13          A     It was facing in. He just pulled in.

14          Q     Okay. All right. Let's go to State's  
15 Exhibit Number 7. On State's Exhibit 7, where is the  
16 front of your house? Which way?

17          A     It would be -- well -- it would be this  
18 way.

19          Q     Is that thing not working? There we go.  
20 Okay.

21          A     It would be, like, going back that way.

22          Q     Okay. So on State's Exhibit Number 7,  
23 that's about where your dad was parked?

24          A     Yes, ma'am. Somewhere right in there.

25          Q     Okay. And let me ask you about this area

1 from the driveway to the fence. Okay. From the  
2 driveway to the fence, is that completely flat?

3 A No, it's angled.

4 Q Okay. Where is the angle?

5 A You mean -- it wouldn't be...

6 Q So it's not completely flat from the  
7 driveway up to the fence?

8 A No, it's a slant.

9 Q Okay. Where does the slant start? That's  
10 what I'm asking.

11 A It's about right in here.

12 Q All right. So when you described the  
13 defendant as being on his back, was it in the slant?

14 A Yes.

15 Q Okay.

16 A Yes.

17 Q So is he -- describe how he was. Completely  
18 flat or up?

19 A He was up on his back.

20 Q In the slant area?

21 A Yes, his legs were in there.

22 Q Okay. All right. Can you show the jury on  
23 State's Exhibit Number 7 about where the fence went  
24 through?

25 A Probably right here.

1           **MS. MUNSON:**     Okay. Beg the Court's  
2           indulgence.

3           **THE COURT:**     Certainly.

4           **MS. MUNSON:**     You can turn that off.

5   **BY MS. MUNSON:**

6           **Q**     All right. I'm going to show you something  
7           else, Joanie. This is State's Exhibit Number 9. You  
8           recognize this?

9           **A**     I do.

10          **Q**     How do you recognize it?

11          **A**     That's the bat that my daddy had.

12          **Q**     Have you ever seen this before?

13          **A**     Yes.

14          **Q**     And how often have you seen it?

15          **A**     He kept it in his truck all the time.

16          **Q**     Okay. You ever seen him use it?

17          **A**     No.

18          **MS. MUNSON:**     All right. Your Honor, at  
19          this time, I move State's 9 into evidence.

20          **THE COURT:**     Any objection?

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

22          **THE COURT:**     All right then.

23          **(WHEREUPON, State's Exhibit 9 is admitted into**  
24          **the record.)**

25   **BY MS. MUNSON:**

1. Q Joanie, I'm going to ask you to stand down  
2 and show the jury what you saw your dad do with the  
3 bat.

4 A He was standing like this. (Demonstrating.)

5 MR. CULBERTSON: Your Honor, I hate to keep  
6 doing this, but I'm going to object to this  
7 because there's been no foundation laid yet to  
8 where she might have -- how she saw this, where  
9 she was when she saw it.

10 THE COURT: Well, I see your objection. I  
11 understand where you're coming from. I think she  
12 -- she testified she was there. She put herself  
13 there. I certainly will allow you, and I know  
14 you will cross-examine her thoroughly on this.

15 MS. MUNSON: I beg the Court's indulgence.

16 THE COURT: Certainly.

17 MS. MUNSON: I have nothing further at  
18 this time, Your Honor.

19 THE COURT: All right. Mr. Culbertson.

20 CROSS-EXAMINATION

21 BY MR. CULBERTSON:

22 Q Joanie, how are you doing today?

23 A Hanging in there.

24 Q I'm a little confused by a couple of things  
25 in your testimony. Let's go back to inside the house

1 to begin with. All right. You're in bed asleep.  
2 Joseph comes and wakes you up and says your dad's at  
3 the door and wants you to go to church with him.

4 A No, he woke me up and said your old daddy's  
5 knocking at the door.

6 Q All right. Wants you to go to church with  
7 him?

8 A Yeah, just like always.

9 Q Well, we're going to talk about that in a  
10 minute. He wakes you up. It takes you a minute or  
11 two. You get up, you get dressed. You go out. Your  
12 dad's still standing in the house. When you get up  
13 and get dressed, where is your dad?

14 A When I was getting dressed, my dad was  
15 still out on the porch.

16 Q Prior to you getting dressed, did he ever  
17 come inside the house? Did your dad ever come inside  
18 the house?

19 A I was already dressed when my dad walked  
20 in.

21 Q Okay. Did you talk to your dad inside the  
22 house?

23 A Yes.

24 Q Talked to Joseph inside the house?

25 A Yes.

1           Q     Your dad and Joseph were talking inside the  
2 house?

3           A     Yes.

4           Q     Your dad then walks back outside the house?

5           A     Yes.

6           Q     Apparently goes out to his truck?

7           A     Yes.

8           Q     Right. You and Joseph are still inside the  
9 house?

10          A     No, my -- we had both gone out to the car.

11          Q     You and your dad had gone out to the car?

12          A     Yes.

13          Q     All right. You then come back inside the  
14 house?

15          A     Yes.

16          Q     Your dad didn't come with you?

17          A     No.

18          Q     So you and Joseph are standing inside the  
19 house?

20          A     Yes.

21          Q     Y'all talk a little bit?

22          A     He grabbed my purse and dumped it out.

23          Q     Where -- here's where I'm confused, how  
24 many times did you walk out and walk back into the  
25 house?

1           A     I don't understand.

2           Q     How many times did you walk out of the  
3 house to go to your dad's car and come back into the  
4 house?

5           A     I walked out the door twice.

6           Q     Twice. All right. The first time you walked  
7 outside the house to go to your dad's car, what  
8 brought you back inside the house?

9           A     I was looking for my cell phone.

10          Q     All right. And the second time you walked  
11 outside the house and came back into the house, what  
12 brought you back in that second time?

13          A     I'm not understanding the question.

14          Q     I'm not understanding a lot. You said you  
15 went out and back twice.

16          A     I went outside to get in the car to leave.  
17 Then I forgot my cell phone and I went back in and  
18 then I came back out.

19          Q     All right. I thought you just said you went  
20 inside, went outside and inside twice.

21          A     I went out the door and got in the car, put  
22 down my cell phone. Went back in, dumped my purse  
23 out, then I came back outside.

24          Q     And did you go back inside the house at any  
25 point?



1           A     I did not.

2           Q     Okay. When you walked outside the house  
3 that first time to get in the car with your dad,  
4 where was your dad?

5           A     In the car.

6           Q     And here's where I'm confused, maybe you  
7 can explain it to me, this whole testimony about your  
8 dad being inside the house and this mask thing being  
9 swung around, where were you? I thought you said you  
10 walked outside the house to get in the car.

11          A     Will you repeat that question please?

12          Q     Sure. You testified earlier that you, your  
13 dad and Joseph were inside the house and that your  
14 dad -- that Joseph had this mask that he was swinging  
15 around, broke a plant.

16          A     Uh-huh.

17          Q     Your dad was inside the house at that point  
18 in time?

19          A     Yes.

20          Q     All right. You walked out of the house to  
21 get in the car with your dad?

22          A     Well, after he swung the mask around, the  
23 dog tried to attack him.

24          Q     You walked out of the house to get in the  
25 car with your dad?

1           A     Yes, yes.

2           Q     You come back in the house with your dad?

3           A     No.

4           Q     Just by yourself?

5           A     By myself.

6           Q     To get your cell phone?

7           A     Uh-huh.

8           Q     Which was in your purse?

9           A     Uh-huh.

10          Q     Which was in the car?

11          A     Right. No, I had my purse with me when I  
12 went back in the house, because he took it from me  
13 and dumped it out on the floor.

14          Q     The cell phone was in the purse?

15          A     Correct.

16          Q     Why did you have to go back in the house?

17          A     Cause I didn't know that the cell phone was  
18 in the purse because I couldn't find it.

19          Q     I'm still confused about how many times you  
20 went in and out of the house.

21          A     Okay. I left out of the house.

22          Q     Uh-huh.

23          A     And then I looked in my purse and I  
24 couldn't find my cell phone. I went back in the house  
25 to try to get -- find my cell phone. He dumped my

1 purse out. Then I grabbed my stuff and just run out  
2 the door.

3 Q Where was the dog during this time?

4 A I had put the dog out.

5 Q So there was another time you walked  
6 outside the house to put the dog up?

7 A No, I just walked out the back door. I  
8 didn't go outside the house.

9 Q Your dad was inside the house when the dog  
10 came out?

11 A The dog -- the dog was in the house. The  
12 dog let itself back in after I --

13 Q The question was, was your dad inside the  
14 house when the dog came out.

15 A Yes.

16 Q So the dog jumps up on Joseph and bites  
17 Joseph at that time?

18 A He tried to.

19 Q Okay. Your dad's in the house when that  
20 happens?

21 A Yes.

22 Q And your dad walks out of the house at that  
23 time?

24 A Yes.

25 Q He goes and gets in his truck?

1           **A**     Yes.

2           **Q**     Here's what bothers me --

3           **MS. MUNSON:**     Objection, Your Honor.

4           **MR. CULBERTSON:**     All right. Here's the  
5     question.

6           **THE COURT:**     Hold on just one second.  
7     What's your objection?

8           **MS. MUNSON:**     The objections are to the  
9     continual comments by defense counsel.

10          **MR. CULBERTSON:**     I'll try to refrain.

11          **THE COURT:**     All right. Thank you.  
12     Sustained.

13     **BY MR. CULBERTSON:**

14           **Q**     Your dad is in the house when the dog jumps  
15     on Joseph?

16           **A**     Right.

17           **Q**     Is that -- your dad then leaves the house?  
18     After you get the dog off of Joseph, the dog -- your  
19     dad leaves out?

20           **A**     I put the dog out and I begged Joseph to go  
21     back to bed. He said you guys just go on.

22           **Q**     And your dad goes out and gets in his  
23     truck?

24           **A**     Yeah.

25           **Q**     Then there's another time where your dad

1 comes in the house with you and Joseph in the house?

2 A No, he only came in one time.

3 Q All right. All right. Is that the same  
4 time, according to you, he's got this mask in his  
5 hands?

6 A Yes, sir.

7 Q That's the same time the dog is jumping on  
8 him?

9 A Yes.

10 Q Okay. And is Joseph saying anything to your  
11 father at that time?

12 A I can't remember exactly what, but he was  
13 yelling and ---

14 Q Okay.

15 A --- cussing and being belligerent.

16 Q Towards the dog, towards you, towards your  
17 dad?

18 A Towards both of us.

19 Q Okay. Your dad goes outside and gets in the  
20 truck?

21 A Yes, sir.

22 Q You finally go outside and get in the truck  
23 with your dad?

24 A Yes.

25 Q At some point, you come back in the house,

1 for whatever reason, get this phone that was in the  
2 truck?

3 A Right. Well, I had my purse with me. I  
4 didn't leave the purse in the truck.

5 Q The phone is in the purse?

6 A Right.

7 Q The purse is with you?

8 A Yes.

9 Q You bring the purse from the car back  
10 inside the house looking for the phone.

11 A Uh-huh.

12 Q And you then walk back out the house to go  
13 get in the car with your dad?

14 A I didn't walk.

15 Q Did you skip? Do you run? What do you do?

16 A I ran.

17 Q Ran out of the house. You get in the car  
18 with your dad to go to church, right?

19 A I jumped in the truck.

20 Q All right. To run back in the house to get  
21 your purse to get the phone inside the house?

22 A No, I gathered my stuff up before I ran out  
23 the door.

24 Q Yes, ma'am. I got that. Maybe I -- I  
25 apologize for that. You walk out of the house, purse

1 in hand, get in the truck with your dad to go to  
2 church?

3 A I got in the truck and my dad was standing  
4 in front of the truck the second time I came out.

5 Q Yes, ma'am. I appreciate that. First time,  
6 you said you left the house to go get in the truck  
7 with your dad ---

8 A Right.

9 Q --- to go to church.

10 A Right.

11 Q Had your purse with you?

12 A Right.

13 Q You get in the car, the truck, with your  
14 dad and your purse. You look through the purse, can't  
15 find your cell phone.

16 A Right.

17 Q You, the purse, the cell phone and  
18 everything in there go back into the house?

19 A Yeah.

20 Q You go back in the house and realize -- you  
21 and Joseph talk. He looks at the purse, dumps it out,  
22 does whatever. You find your purse, find your cell  
23 phone, put it all back in there and go back out to  
24 the truck?

25 A I never found my cell phone.

1 Q Never found your cell phone?

2 A Not at that moment.

3 Q At what point did you find the cell phone?

4 A I found my cell phone when I was sitting  
5 across the street waiting for them to try to get him  
6 out of the house.

7 Q Where did you find your cell phone?

8 A It was in my purse. There was a text that  
9 came in from Joseph Carpenter and I heard it.

10 Q Bear with me just a moment.

11 A Yes, sir.

12 Q I'm going to let you explain all that ---

13 A Okay.

14 Q --- but answer my question first, please.

15 You get in the car with your dad and realize you  
16 don't have your phone that's in your purse. You go  
17 back in the house. Joseph dumps the thing out. You  
18 find your cell phone and get your cell phone and put  
19 everything back in your purse.

20 A No, I didn't just find my cell phone at  
21 that moment.

22 Q You didn't find it at that moment?

23 A I did not know that I had my cell phone  
24 until he texted me.

25 Q All right.



1           A     It was in my purse.

2           Q     We're going to get to that. The purse gets  
3     dumped out?

4           A     Yes.

5           Q     Pick it all back up and put it back,  
6     everything back in your purse and go back out to get  
7     in the truck?

8           A     Yes.

9           Q     And you're telling me that Joseph was  
10    following you back out at that point?

11          A     He chased me out the door.

12          Q     Chased you out the door. Okay. Were you  
13    running that time also?

14          A     I was in a hurry.

15          Q     You were running the first time and you  
16    were running the second time?

17          A     The first time, I wasn't running. He had  
18    said just go ahead and go, just go ahead and go.

19          Q     Okay.

20          A     So I just walked out.

21          Q     So you now got everything back in your  
22    purse going back out in a hurry or running or  
23    whatever and get in the car with your dad to go to  
24    church.

25          A     Correct.

1           Q     The second time. And when you go out the  
2 door that second time, where did you see your father?

3           A     I said he was standing in front of the  
4 truck.

5           Q     With a baseball bat in hand?

6           A     I did not see a bat. I didn't see a bat.

7           Q     Did you see Joseph?

8           A     He was behind me.

9           Q     He was behind you. You're going to the car  
10 -- go in the truck, with your purse and everything in  
11 your purse. You go and get in the truck?

12          A     I jumped in the truck.

13          Q     Your dad's still standing out there with  
14 the baseball bat?

15          A     I didn't realize he had a baseball bat  
16 until I heard Joseph say, oh, Bill, you got a bat.

17          Q     All right. Did you see a bat?

18          A     I looked up and then I saw one at that  
19 point.

20          Q     The bat was in your dad's hand?

21          A     Correct.

22          Q     He and Joseph were talking?

23          A     They weren't talking.

24          Q     Your dad was swinging the baseball bat?

25          A     It happened like that.

1 Q Your dad pointed the baseball bat at him?

2 A No, dad was standing there with the bat  
3 like this. He did not move the bat.

4 Q And you see your dad and Joseph wrestling  
5 around over the bat?

6 A No, they -- whenever I looked up and heard  
7 Joseph say, oh, Bill, you got a bat, and he slammed  
8 into him so hard it knocked my dad, like, 10 foot  
9 backwards.

10 Q Well, Joanie, here's -- you've got to  
11 explain this to me. You see the bat. You don't see  
12 the bat. You don't know where the bat is. Now, you're  
13 telling me you see the bat, you can see everything  
14 else happening about Joseph hitting your dad so hard,  
15 but you don't see a lot of the other stuff that I'm  
16 asking you about?

17 A Well, I ran out really quick and jumped in  
18 the truck, and I saw my dad standing there, but I  
19 didn't see a bat.

20 Q Okay.

21 A And I didn't know there was a bat until I  
22 heard Joseph say, oh, you got a bat, Bill. He slammed  
23 into him so hard. He grabbed ahold of that bat and  
24 slammed him into that fence so hard that he slid down  
25 on the ground on his back. Joseph slid down on his

1 back and they both had a hold of the bat like this  
2 and were struggling for the bat.

3 Q And you're telling us that Joseph came out  
4 of the door and ran up and hit your father so hard  
5 that it knocked him through the air 10 feet up  
6 against the fence?

7 A Yeah. He hit him and he slammed him up  
8 against the fence, from the middle of the driveway  
9 where he was standing in front of the truck all the  
10 way over to that privacy fence.

11 Q Ten feet?

12 A At least.

13 Q About the distance from me to that jury  
14 box?

15 A No, it was about from, say, here from where  
16 I'm standing to about the jury box, to that rail  
17 right there. It was a pretty good ways. It was loud.

18 Q Like a linebacker hitting a quarterback?

19 A Yes, sir.

20 Q And then where is the bat?

21 A They are both holding on to it.

22 Q You then hop out of your car --

23 A Yes, sir.

24 Q -- your dad's car?

25 A Yes.

1 Q You go over and you jump on Joseph's back?

2 A Joseph was laying on his back, so how could  
3 I jump on his back?

4 Q I don't know. That's what I'm asking.

5 A That's what I'm asking you.

6 Q Let's try it this way.

7 A Okay.

8 Q What did you do?

9 A I ran over and I tried to calmly tell  
10 Joseph to let go of the bat and go back in, go back  
11 to bed. Let go of the bat. Go back in. Stop. I tried  
12 to just not escalate the situation or not scream or  
13 yell or cause any other chaos.

14 Q All right. And what did Joseph do?

15 A He continued to hold on to the bat.

16 Q One hand, both hands?

17 A They had both hands -- he had both hands on  
18 the --

19 Q He had both hands on the bat. Your dad had  
20 both hands on the bat and they're both on the ground?

21 A No, my dad is up against the fence kind of  
22 in a sort of really bad predicament. You know?

23 Q All right.

24 A And Joseph's laying on the ground.

25 Q All right.

1           **A**     They both have their hands on the bat like  
2 this.

3           **Q**     Joseph and --

4           **A**     Joseph's got it like this. (Demonstrating.)

5           **Q**     All right. Joseph gets up off the ground?

6           **A**     No.

7           **Q**     I'm just trying to figure out how -- Joseph  
8 does not get up off the ground -- how your fingers  
9 got bitten.

10          **A**     He was laying on the ground when he bit my  
11 fingers cause he -- then he --

12          **Q**     So he's laying on the ground with your dad.  
13 Both of them got hands on a bat and he just leans  
14 over and bites your fingers?

15          **A**     No.

16          **Q**     That's what I'm asking.

17          **A**     He kicked my dad in the head about four,  
18 three times. Then that's when I --

19          **Q**     My question was --

20               **MS. MUNSON:**    Objection, Your Honor. She  
21 was answering him.

22               **THE COURT:**    I will allow her to finish  
23 her answer, then you can ask the question. Go  
24 ahead.

25               **MR. CULBERTSON:**   I would like my question

1           answered first.

2           **THE COURT:**     She was finishing answering  
3           it, but you cut her off. So I'm going to allow  
4           her to finish her answer and then you can ask  
5           your question.

6           Go ahead.

7           **THE WITNESS:**     Would you repeat the  
8           question please?

9   **BY MR. CULBERTSON:**

10          **Q**     Joseph and your dad are on the ground  
11          holding this bat?

12          **A**     No. Joseph's on the ground.

13          **Q**     Joseph's on the ground and your dad's  
14          sitting on the ground, back against the fence?

15          **A**     My dad is not sitting down. He's leaned  
16          over with his back up against the fence. Joseph's on  
17          the ground with his feet up in the air.

18          **Q**     Both of them are on their back?

19          **A**     Correct.

20          **Q**     How did Joseph bite the fingers?

21          **A**     When I tried to -- I tried to beat him in  
22          the head. I tried to pry his fingers. I tried to  
23          choke him. I tried to do anything I could to stop  
24          him. Then I got my fingers a little too close to his  
25          mouth. He clamped down, it seemed like forever.

1 Q So when --

2 A It hurt so bad.

3 Q So when I asked you when you jumped on  
4 Joseph's back, when was that?

5 A I didn't jump on his back. He was laying on  
6 his back, sir.

7 Q Okay. All right. You start choking him?

8 A Only after he kicked my dad in the head.

9 Q You started scratching him, hitting him in  
10 the head, trying to do whatever to get him to let go  
11 of your dad. He's got his hands on the bat. Your  
12 dad's got his hands on the bat. You're scratching and  
13 clawing and everything.

14 A I hit him in the head, tried to choke him,  
15 pry his fingers loose. Couldn't do anything.

16 Q And that's when he bites your fingers?

17 A Uh-huh.

18 Q As you are choking him like you showed?

19 A No, I didn't choke him. I tried to do  
20 anything I could do to make him stop.

21 Q All right. At some point, Joseph gets up  
22 off the ground?

23 A After he pushes Dad through the fence with  
24 the bat.

25 Q And he walks where?



1           A     I assumed he walked back in. I did not see  
2 him walk back in because I had to run around on the  
3 other side of the fence to assist my dad.

4           Q     And did you hear a door close, did you hear  
5 anything that --

6           A     I didn't hear anything.

7           Q     You didn't hear anything?

8           A     I heard my dog barking.

9           Q     All right. You heard your dog barking?

10          A     My dog wanted at him, to get him.

11          Q     Mean dog?

12          A     No, he didn't like Joseph.

13          Q     Okay. All right. You thought Joseph had  
14 gone back inside the house?

15          A     I assumed he had.

16          Q     And you're assuming he took the bat with  
17 him back inside the house?

18          A     Yes.

19          Q     You never actually saw him pick up the bat  
20 and go in the house with it?

21          A     No, I was over there with my dad.

22          Q     All right. And the police ultimately get  
23 there, is that correct?

24          A     Yes.

25          Q     And you told the police about what had

1 happened?

2       A     Yes.

3       Q     And they wanted to go find Joseph?

4       A     Yes.

5       Q     You told them he was back in the house?

6       A     Yes.

7       Q     An they wanted to go in the house and look  
8 for Joseph?

9       A     Yes, they did.

10      Q     And you told them no, you can't go inside  
11 the house?

12      A     Yes, I did.

13      Q     Yes, you did tell them that?

14      A     Yes.

15      Q     Okay. You didn't want them to go inside the  
16 house?

17      A     No.

18      Q     You were afraid about what they might find  
19 inside the house?

20      A     Yes.

21      Q     And at some point, you told the police  
22 Joseph wasn't in the house?

23      A     Yes.

24      Q     Cause you had gotten a text from Joseph?

25      A     Yes.

1 Q On your cell phone?

2 A Yes, I heard my cell phone go off. That's  
3 when I realized it was in my purse.

4 Q The same cell phone that you had gone back  
5 in the house to look for?

6 A Right.

7 Q The same cell phone that was in your purse  
8 and got dumped out on the floor?

9 A It didn't get dumped out on the floor, just  
10 my makeup and stuff got dumped out on the floor,  
11 earrings and things like that.

12 Q Everything except the cell phone?

13 A Yeah, it was a great big purse.

14 Q Yeah.

15 A Big purse.

16 Q And you told the police they couldn't go in  
17 the house to look for Joseph?

18 A He told me he had left the house. He said  
19 he left the house.

20 Q And you didn't want the police to go in the  
21 house anyway?

22 A I was afraid of what Joseph might do to me.

23 Q With the police in the house looking around  
24 finding stuff you didn't want them to find?

25 A I was just mainly afraid of what Joseph

1 would do to me if I let them in.

2 Q Why would they do something to you -- no.  
3 My question is this, you were afraid for the police  
4 to go inside your house and look around because you  
5 were afraid of what they might find in the house?

6 A Yes. Yes.

7 Q Cause you knew what was in that house?

8 A I had an idea.

9 Q These photographs we looked at with some  
10 scratches on your face and some blood on your  
11 fingers, did you go to the hospital to get treated  
12 for those injuries?

13 A I went to the emergency room with my dad.

14 Q My question was, did you go to the hospital  
15 to get treated for those injuries?

16 A I did not.

17 Q Did you seek any sort of medical assistance  
18 for help with those injuries?

19 A Yes.

20 Q Who?

21 A The people in the triage assisted me with  
22 some antibiotic cream.

23 Q Didn't stitch anything up?

24 A No.

25 MR. CULBERTSON: One moment please, Your

1 Honor.

2 THE COURT: Certainly.

3 (WHEREUPON, there is a pause.)

4 BY MR. CULBERTSON:

5 Q You and Joseph had lived in that house  
6 together for how long?

7 A 20 years or so. Almost 20 years. We moved  
8 in in '97.

9 Q Y'all were a family, fair to say?

10 A At one time, we were.

11 Q Dad goes to the hospital. You go to the  
12 hospital. Joseph goes with the police. Has Joseph,  
13 since that day, ever been back in the house?

14 A Not to my knowledge.

15 Q So a lot of the stuff over 20 years that  
16 you and he had collected together, a lot of his stuff  
17 like his car and other equipment, all that stuff is  
18 still inside the house?

19 A Right now?

20 Q Right now.

21 A No.

22 Q What happened to it?

23 A It had to be sold.

24 Q You sold it?

25 A Uh-huh.

1 Q Did you tell him about it?

2 MS. MUNSON: Objection, Your Honor.  
3 Relevance.

4 THE COURT: Overruled. I'll allow her to  
5 answer the question.

6 BY MR. CULBERTSON:

7 Q Did you tell him about it?

8 A Had to pay the bills.

9 Q Did you ask him permission to sell his  
10 stuff?

11 A It's our stuff. It belonged to me too, and  
12 I had to pay his bills. He left me two months behind  
13 on all bills. Four guitars in the pawn, four loan --  
14 loans at loan offices. They were all in my name that  
15 I had to pay. I was all responsible for it.

16 Q So you got your fingers bit and got your  
17 face scratched when you jumped in the middle of this  
18 fight between two other people?

19 A Yes.

20 Q You did not let him back in his house,  
21 y'all's house where all his stuff is?

22 A It's not his house. It's -- his name is not  
23 on the house. He does not -- he does not pay any  
24 utilities. He did not pay any bill or any house  
25 payment at all whatsoever.

1           Q     And after 20 years of being together,  
2     you're not real fond of Joseph now, are you?

3           A     No, I have left him several times.

4           Q     You're not real fond of Joseph, are you?

5           A     No.

6           Q     You weren't that day either?

7           A     No.

8           Q     That's why you didn't care if the dog came  
9     in and jumped on him?

10          A     I stopped the dog from attacking him. The  
11     dog had attacked him, like, several times. He's gone  
12     to the emergency room twice to have, like, stitches  
13     on his leg because the dog bit him because he was  
14     running up behind me trying to attack me. The dog  
15     hated him.

16          Q     When?

17          A     Throughout the years.

18          Q     Did you ever call the police for any of  
19     those times that the dog attacked him?

20          A     We took him to the emergency room.

21          Q     Took Joseph to the emergency room?

22          A     Uh-huh.

23          Q     Did you ever call the police or tell  
24     anybody about Joseph being mean to you, being  
25     aggressive towards you, doing anything towards you?

1           A     I've talked to some people, but I've never  
2 called the police.

3           Q     Who did you tell?

4           A     My parents.

5           Q     Did you tell the neighbors next door? The  
6 neighbors next door --

7           A     The neighbors knew everything that was  
8 going on. They could hear everything.

9           Q     Is that why they got a restraining order  
10 against you?

11          A     They didn't get a restraining order against  
12 me.

13          Q     All right.

14          A     That was determined yesterday.

15          Q     Thank you, ma'am.

16          THE COURT:     Any redirect?

17          MS. MUNSON:     No, ma'am. Thank you, Your  
18 Honor.

19          THE COURT:     All right. Ma'am, you can step  
20 down.

21          THE WITNESS:     Thank you.

22          THE COURT:     Ms. Munson?

23          MS. MUNSON:     Please the Court, Your Honor,  
24 that's the State's case.

25          THE COURT:     All right. Ladies and



1       Gentlemen, I now need for you to step to your  
2       jury deliberation room. There's a couple of  
3       matters I need to take up with the attorneys.  
4       We'll be with you shortly.

5       I'd ask everyone to remain seated please,  
6       other than the jury.

7       (WHEREUPON, the jury exits at approximately  
8       10:44 a.m.)

9       THE COURT:     All right. Any matters we need  
10      to take up?

11      MS. MUNSON:    Nothing from the State, Your  
12      Honor.

13      THE COURT:     All right.

14      MR. CULBERTSON: Obviously, I'm going to  
15      have some motions for directed verdict at this  
16      time.

17      THE COURT:     All right.

18      MR. CULBERTSON: And -- oh, I'm sorry, Your  
19      Honor.

20      THE COURT:     Certainly. Go ahead.

21      MR. CULBERTSON: I'd like to be sure that  
22      my motion about the sufficiency of the  
23      indictment, I want to be sure that's reserved  
24      and protected.

25      THE COURT:     It is.

1           **MR. CULBERTSON:**     I renew that objection and  
2           ask that it be allowed in at this time.

3           **THE COURT:**     All right.

4           **MR. CULBERTSON:**     I also would further move  
5           at this time for directed verdict based on the  
6           evidence presented. I haven't heard anything  
7           about my client causing injuries to a household  
8           member, but for her jumping in the middle of it.  
9           I'm not quite sure where the domestic violence  
10          came in.

11          **THE COURT:**     All right. All right. Anything  
12          from the State?

13          **MS. MUNSON:**     We would respectfully ask  
14          that you deny the motion, Your Honor. There's  
15          plenty of evidence that the household member was  
16          put in reasonable fear of harm -

17          **THE COURT:**     All right.

18          **MS. MUNSON:**     -- of serious harm, with the  
19          mask and all of that.

20          **MR. CULBERTSON:**     And again, my motion is I  
21          haven't heard any testimony about any kind of  
22          serious harm that took place towards her during  
23          this event but for her sticking herself in the  
24          middle of somebody's fight where she was a  
25          physical aggressor in the matter. I don't know

1       where --

2               **THE COURT:**     What about the fear of serious  
3       bodily injury or serious harm? What about that,  
4       Ms. Munson?

5               **MS. MUNSON:**     She had seen him go after her  
6       father, push him up against the fence and then  
7       he had the bat after that. Inside the house, he  
8       was not acting in a rational manner with the  
9       booger mask, had slung the mask, not at her, but  
10      in a manner that put her in reasonable fear.

11              **THE COURT:**     I gotcha.

12              **MR. CULBERTSON:**   And she goes back inside  
13      the house, twice.

14              **THE COURT:**     Well, fully understanding all  
15      the nuances of that situation is not the  
16      standard, of course. The standard is to any  
17      evidence upon which the jury could base a  
18      verdict, and I do find that there is at least  
19      some evidence that a jury could find against the  
20      defendant on these two charges. Thus, I'm going  
21      to allow -- excuse me -- I'm going to deny your  
22      motion for directed verdict at this time. And  
23      your earlier motion on the sufficiency of the  
24      indictment is certainly preserved for the record  
25      and is, again, respectfully denied.

1           **MR. CULBERTSON:**     And again, I have a motion  
2     for directed verdict on the attempted murder  
3     charge.

4           **THE COURT:**     Yes, sir.

5           **MR. CULBERTSON:**   The testimony, as I  
6     understood it, the victim was the initial  
7     aggressor in this manner. He got out of the car  
8     with the baseball bat. As I stated earlier,  
9     Joseph was just trying to defend himself.  
10    Clearly, no evidence about what his intent was,  
11    what his attitude was towards the defendant and  
12    towards the victim at that point in time. He was  
13    defending himself. I failed to renew that motion  
14    for directed verdict on the attempted murder  
15    charge.

16          **THE COURT:**     Okay. Ms. Munson, anything you  
17    want to say in reply to that?

18          **MS. MUNSON:**     Just, Your Honor, that that's  
19    for the jury to decide. There's plenty of  
20    circumstantial evidence that he had the intent.

21          **THE COURT:**     I think there is at least some  
22    evidence that they could find -- infer intent  
23    from. Therefore, I'm going to deny your motion  
24    for directed verdict as to the attempted murder.  
25    Any other motions we need to take up at this

1 time?

2 MS. MUNSON: Nothing from the State, Your  
3 Honor.

4 THE COURT: All right. Anything from the  
5 defense? I do know one matter we need to take  
6 up. So if you want to think for just a minute  
7 about your motions, I can take up one matter.  
8 Mr. Carpenter, will you stand please.

9 MR. CARPENTER: Yes, ma'am.

10 THE COURT: Okay. Raise your right hand  
11 for me.

12 (WHEREUPON, the defendant is first duly sworn.)

13 THE COURT: Okay. You can put your hand  
14 down but remain standing please. Have you  
15 discussed with your attorney whether or not you  
16 intend to testify in the trial of this case?

17 MR. CARPENTER: We haven't discussed that.

18 THE COURT: Okay. Y'all have not had  
19 discussions about whether or not you plan to  
20 testify?

21 MR. CARPENTER: No, ma'am.

22 THE COURT: Okay. Mr. Culbertson?

23 MR. CULBERTSON: Well, we've had a brief  
24 conversation. I don't mean to contradict my  
25 client ---

1           **MR. CARPENTER:**     Yeah.

2           **MR. CULBERTSON:**     --- but we have had a  
3           brief conversation about whether he would need  
4           to take the stand in this matter. We probably  
5           need to talk about it a little bit further.

6           **THE COURT:**     Okay. Let's take a break.

7           **MR. CULBERTSON:**     He's been made aware of  
8           the need for him possibly to testify.

9           **THE COURT:**     Okay.

10          **MR. CARPENTER:**     Yeah, we just hadn't  
11          discussed whether or not --

12          **THE COURT:**     I'll tell you what, let's take  
13          -- it looks like the jury is going to need to  
14          have lunch. So we're sending out for some forms  
15          for them to fill out, so let's take a little bit  
16          longer break. Let's take about a 15-minute  
17          break. That will give you time to discuss -- I  
18          want you to discuss with your attorney fully  
19          your decision about whether or not you intend to  
20          testify. That means you don't have time for much  
21          else than to talk to your lawyer about it.

22          **MR. CARPENTER:**     Okay.

23          **THE COURT:**     All right?

24          **MR. CARPENTER:**     Yes, ma'am.

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

1           **MS. MUNSON:**     To add, Your Honor, there's  
2           nothing in his record that I believe I'd be able  
3           to use to impeach him.

4           **THE COURT:**     Okay. Thank you. Thank you.  
5           All right. Very good. Let's be in recess for 15  
6           minutes.

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

8           **(WHEREUPON,** the Court goes off the record at  
9           approximately 10:51 a.m.)

10          **(WHEREUPON,** the Court goes on the record at  
11          approximately 11:09 a.m.)

12          **THE COURT:**     All right. Mr. Carpenter?

13          **MR. CARPENTER:**   Yes, ma'am.

14          **THE COURT:**     You're still under oath. Will  
15          you stand for me?

16          **MR. CARPENTER:**   Yes, ma'am.

17          **THE COURT:**     Have you had an opportunity to  
18          discuss with your attorney whether or not you  
19          will testify in the trial of this case?

20          **MR. CARPENTER:**   Yes, ma'am.

21          **THE COURT:**     All right. You feel like  
22          you've understood your conversations with him?

23          **MR. CARPENTER:**   Yes, ma'am.

24          **THE COURT:**     I have to ask this, are you  
25          under the influence of drugs or alcohol?

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

2           **THE COURT:**     Has anybody forced you to make  
3 this decision or promised you anything to get  
4 you to make this decision?

5           **MR. CARPENTER:**     No, ma'am.

6           **THE COURT:**     You understand you have an  
7 absolute right to remain silent. You don't have  
8 to testify at all in the trial of this case. I  
9 will instruct the jury that they may not even  
10 consider the fact that you did not testify. They  
11 can't even talk about it in the jury  
12 deliberation room whatsoever. Did you know that?

13          **MR. CARPENTER:**     Yes, ma'am.

14          **THE COURT:**     Also, by the same -- the other  
15 side of the same coin is that this is your one  
16 chance to tell your side of the story. You have  
17 an absolute right to do that as well. Do you  
18 know that?

19          **MR. CARPENTER:**     Yes, ma'am.

20          **THE COURT:**     And have you made a decision?

21          **MR. CARPENTER:**     Yes, ma'am.

22          **THE COURT:**     What is that?

23          **MR. CARPENTER:**     I will testify.

24          **THE COURT:**     All right. All right.

25                 Mr. Culbertson, have you discussed this



1 with your client?

2 MR. CULBERTSON: Yes, ma'am.

3 THE COURT: And you feel like he's  
4 understood your conversations?

5 MR. CULBERTSON: I believe so, yes, ma'am.

6 THE COURT: And do you agree with his  
7 decision?

8 MR. CULBERTSON: Yes.

9 THE COURT: All right. And well, let me  
10 just say this -- that's kind of an unfair  
11 question. Let me just say in another way, you  
12 believe he understands fully the pitfalls and  
13 the possible downside to testifying as well as  
14 the benefit. You think he understands all that?

15 MR. CULBERTSON: Yes, ma'am.

16 THE COURT: All right then. Anything else?

17 MR. CULBERTSON: Not on the record, no,  
18 ma'am.

19 THE COURT: All right. All right. Do y'all  
20 need to -- let's go off the record.

21 (WHEREUPON, the Court goes off the record at  
22 approximately 11:11 a.m.)

23 (WHEREUPON, the Court goes on the record at  
24 approximately 11:36 a.m.)

25 MS. MUNSON: One thing before the jury

1 comes in, Your Honor, I'd like to move, as we  
2 talked about up at the bench, State's 9 into  
3 evidence.

4 THE COURT: All right. Any objection to  
5 that?

6 MR. CULBERTSON: No, ma'am.

7 THE COURT: All right then. State's 9 is  
8 admitted.

9 (WHEREUPON, the jury enters at approximately  
10 11:38 a.m.)

11 (WHEREUPON, State's Exhibit 9 is admitted into  
12 the record.)

13 THE COURT: All right. Mr. Culbertson?

14 MR. CULBERTSON: I believe the State's  
15 rested, Your Honor?

16 THE COURT: Yes, sir.

17 MR. CULBERTSON: In that case, we -- I'd  
18 like to call Joseph Carpenter to the stand.

19 THE COURT: Sir, if you would, come  
20 forward and be sworn please.

21 And Ladies and Gentlemen, I just want to  
22 say thank you so much for your patience. I  
23 assure you we were in here working while you  
24 were there.

25 JOSEPH CARPENTER

1           having first been duly sworn, testifies as follows:

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

4           **THE WITNESS:**     Joseph Austin Carpenter.

5                               **DIRECT EXAMINATION**

6   **BY MR. CULBERTSON:**

7           **Q**     Hey, Joseph. How you doing today?

8           **A**     I'm doing okay. Thank you.

9           **Q**     Just so I'm clear and everybody over here  
10          is clear, tell us your full name please.

11          **A**     Joseph Austin Carpenter.

12          **Q**     Joseph, how old are you?

13          **A**     43 years old.

14          **Q**     And where are you from?

15          **A**     Greenville, South Carolina.

16          **Q**     Did you go to school in Greenville?

17          **A**     I went to school in -- I graduated from  
18          Easley High School, right outside of Greenville.

19          **Q**     And what have you done after graduating  
20          high school?

21          **A**     I've been an artist, musician. I've done  
22          carpentry work. I've done all kinds of bonsai  
23          landscaping work, worked in the landscaping shrubbery  
24          business.

25          **Q**     And would you consider that -- is that what

1 you do for a living?

2 A That's what I did for a living for many  
3 years. Right now, I'm a kitchen prep manager for  
4 Aldi's over on Woodruff Road at Magnolia Park.

5 Q Okay. At some point in time after you  
6 graduated high school, you came to know a young lady  
7 by the name of Joanie?

8 A Yes. Yes, sir.

9 Q What's Joanie's full name?

10 A Phyllis Joan Sanders.

11 Q And she's the lady that's testified earlier  
12 today?

13 A Yes, sir.

14 Q You and she had been an item together for  
15 how long?

16 A We were together for about 22 years.

17 Q And y'all lived together?

18 A Yes, sir.

19 Q Never got married?

20 A Never got married.

21 Q Never had any kids?

22 A Never had any kids.

23 Q But y'all had a house together that y'all  
24 both lived in?

25 A Yes, sir.

1           Q     And where was that house located?

2           A     At 112 East Scenic Lane, Travelers Rest, on  
3 the back side of Paris Mountain.

4           Q     How long did y'all live there?

5           A     Between -- it was somewhere around 18  
6 years.

7           Q     And I keep talking about this place y'all  
8 have lived together, that's -- you've been here for  
9 this whole trial. You've heard testimony about the  
10 events that happened.

11          A     Yes, sir.

12          Q     That's the house that you and she  
13 considered home that y'all lived in together?

14          A     Yes, sir.

15          Q     That was y'all's house?

16          A     Yes, sir.

17          Q     You thought it was your house, you acted  
18 like it was your house?

19          A     Right. I received mail there and paid on  
20 the house payments and utility bills.

21          Q     You've heard some of the parts of this  
22 trial about an event that happened a couple of months  
23 ago?

24          A     Well --

25          Q     Actually, a few years.

1           A     A couple of years, yes, sir.

2           Q     You were there that day?

3           A     Yes, sir.

4           Q     Tell me in your words what you recall  
5 happening that day?

6           A     Well, I awoke some time after 9 a.m. I  
7 remember it being somewhere right around or before  
8 9:30. I awoke to a sound that sounded like the fire  
9 department or police department kicking through my  
10 front door. So I woke and I went to the front door.

11          Q     Was it the fire department or the police  
12 coming in your front door?

13          A     No, it --

14          Q     Who was it?

15          A     It was Billy Sanders attempting to kick  
16 through the door.

17          Q     Okay. Billy Sanders would be Joanie's  
18 father?

19          A     Yes, sir.

20          Q     And when you got to the door, you found  
21 Billy standing there?

22          A     Right. Well, he was standing there on the  
23 other side. I looked through the blinds.

24          Q     Okay.

25          A     Saw it was him and I went back to the

1 bedroom and I told Joanie your daddy's here and he's  
2 real upset. She said don't open the door. Go to the  
3 back door. Go outside and I'll take care of it.

4 Q Okay. Did that happen?

5 A (No audible response.)

6 Q Did that happen?

7 A She opened the door and he came inside and  
8 I was standing at the back door. I could hear him  
9 saying, Joanie, what's wrong? What's wrong, Joanie?

10 Q And what did you then do?

11 A Well, I stood at the back door for a few  
12 more minutes. She had called her mother, right as she  
13 was opening the door, on the telephone to tell her  
14 mother that she didn't have plans to go to church. It  
15 wasn't an issue of her oversleeping. There were just  
16 no plans to go to church and she had not gone to  
17 church the week before that. She had not been for  
18 about three weeks. She went about once a month to  
19 perform music with her father at church. That was  
20 about the average.

21 Q Okay. So speaking of performing music with  
22 her father, had you ever done that?

23 A Yes, sir.

24 Q When's the last time you and he had -- you  
25 and her father had been together?

1           A     Two days before the incident.

2           Q     So two days before this incident, you and  
3 he had been together playing music together?

4           A     Yes, sir.

5           Q     Did you do anything else other than play  
6 music?

7           A     We worked on my '64 Cadillac Coupe DeVille.  
8 He brought an owner's manual over. We both worked on  
9 the car together.

10          Q     Okay. So you worked on the car together,  
11 you played music together --

12          A     We sat and -- we sat and had a lunch snack  
13 together.

14          Q     Y'all got along okay?

15          A     Yes, sir.

16          Q     Is that typically how you would describe  
17 your relationship with Billy Sanders?

18          A     For the most part, we got along well and  
19 were friends. We had known each other quite some  
20 time. So it wasn't -- you know, it was a family, so  
21 it wasn't picture perfect, but he was my good friend.

22          Q     Okay. So anyway, let's get back to the day.  
23 Billy is knocking on the door. You go wake up Joanie.  
24 Joanie goes to the door, correct?

25          A     Right. Well, he was kicking at it, banging



1 at it, trying to make ---

2 Q Had he come inside the house at that point?

3 A Not -- not -- he had not come through the  
4 house. The door frame was coming apart at the point  
5 that I went and told Joanie, your daddy is freaking  
6 out. He's kicking in through the door.

7 Q Okay. When you told her that, she got up  
8 and went out to be with -- to talk to her dad?

9 A Well, she asked me to go step out back  
10 first as she was calling her mother. I did hear her  
11 telling her mother, Mom, I'm not going to make it.  
12 Her mother said something back to her. Couldn't hear  
13 because I was obviously not on the line. But Joanie  
14 said, he really needs me -- he's real upset. He  
15 really needs me to go to church with him, so I'm  
16 going to go.

17 Q Okay. Joanie got dressed to go to church?

18 A She started to get dressed.

19 Q Was her dad inside or outside of the house?

20 A He was inside the house.

21 Q Did you and he have a conversation at that  
22 time?

23 A We did, but he came over to me  
24 aggressively. Bucked up and being real confrontative  
25 in front of me asking me what was wrong. I said,

1 look, man, there's nothing wrong. She had no idea  
2 that you were coming to get her. You didn't even come  
3 last weekend.

4 Q All right. What were you -- were you  
5 scared, worried, concerned, at that point?

6 A I wasn't used to him acting this way. He  
7 had always been a really calm, peace-loving  
8 individual that would diffuse an argument or any type  
9 of disagreement. He always wanted to --

10 Q Get along?

11 A Yeah, he wanted to make peace.

12 Q That day when he's knocking on the door,  
13 Joanie's back getting dressed, he comes in the house,  
14 you and him are talking a little bit?

15 A Right.

16 Q Is that correct?

17 A Yes, sir.

18 Q And did you have any concerns at that point  
19 in time during your conversation with Billy at that  
20 point?

21 A Yes, I felt like he had been having issues  
22 with dementia and his memory and his behavior had  
23 become inconsistent. And over the course of -- it had  
24 been persistently getting worse over the course of  
25 the six months predating this. But over the course of

1 the two months prior to this, it had just  
2 aggressively got a lot worse to where he would go  
3 places, forget where he was, not really know who he  
4 was, forget who he was talking to, couldn't remember  
5 his guitar parts. He was having issues with his  
6 memory.

7 Q Two days before that when you and him were  
8 together working on the car ---

9 A Right.

10 Q --- was he okay that day?

11 A He was having a pretty good day. He was  
12 having some issues remembering his songs and a few  
13 senior problems, but it was a better day for him. I  
14 had been around him a few days prior to that where he  
15 didn't even recall ever going to birthday parties at  
16 Flat Rock Grill, and we had gone there every year for  
17 about 12 years. He had no recollection of ever having  
18 been there before.

19 Q Okay. But the day, the two days before this  
20 event, you thought he was okay?

21 A Yeah, he -- he was doing a lot better. It  
22 was a good day for him.

23 Q That day was a good day for him?

24 A Right.

25 Q Worked on your truck -- worked on the car

1 and everything. His attitude that day compared to the  
2 day in question?

3 A Night and day difference.

4 Q And were you concerned about what his  
5 reaction was going to be the day in question when he  
6 came inside?

7 A Yes, that's why I asked him to leave as  
8 soon as he came up to me in an aggressive confrontive  
9 manner. I asked him to go outside and wait on Joanie  
10 to get ready.

11 Q All right. And did he leave?

12 A Not at that point, no. He followed me into  
13 my bedroom and stood over the bedroom door.

14 Q All right. And at some point, did Joanie  
15 get dressed and ready to go to church?

16 A Yes, she was working on getting ready while  
17 this was going on.

18 Q All right. And Joanie then came out of the  
19 room she was getting dressed in?

20 A Yes, she came out of the bathroom. Yes,  
21 sir.

22 Q And were you and her father still inside  
23 the house at that point?

24 A Yes, sir. We were in the living room area  
25 at that point. I had gotten out of the bedroom area.

1 That is when I told him that I was concerned that he  
2 had a concealed weapons permit and he had brought  
3 guns in the house before and I didn't like the fact  
4 that he would bring guns in the house with him. So  
5 because of that concern, I felt uneasy and afraid.

6 Q You thought he might have a gun on him at  
7 that point?

8 A Yeah, I was afraid he had one on him, yes.

9 Q And is that one of the reasons you asked  
10 him to leave the house?

11 A Yes, that's one of the reasons, that and  
12 his behavior.

13 Q Did he leave the house at that point?

14 A No, sir.

15 Q Did there come a point where he and Joanie  
16 both walked out of the house together?

17 A There came a point where she asked him to  
18 go outside after the incident with the dog. The dog  
19 attempted to bite me and lunged at me, but I grabbed  
20 it and held it. Had it of the back of the neck. And  
21 Bill looked over at me and he said, well, you'll kill  
22 that dog if you keep holding it like that. And then  
23 Joanie came and got the dog and carried the dog  
24 outside.

25 Q So Joanie puts the dog outside. She, her

1 dad and you are still inside the house?

2 A Right. And the dog runs back -- pushes the  
3 door open and runs back into the house. She had asked  
4 her dad at that point to please go out to the truck  
5 and wait on her.

6 Q And did he do so?

7 A Not at first. And then after she took the  
8 dog out, the dog runs back in, we go through that  
9 whole number. I ran into the bathroom, shut the  
10 bathroom door because the dog's stirred up. I had  
11 been bit by the dog before. I got multiple scars on  
12 my leg and records from the hospital because of the  
13 dog.

14 Q I appreciate it. I don't want to cut you  
15 off.

16 A I understand.

17 Q Here's what I want to ask you about, at  
18 some point, the dog gets put outside?

19 A Right.

20 Q You come out of the bathroom?

21 A Right.

22 Q Joanie and her father's still in the house?

23 A Right.

24 Q At some point, did her father leave the  
25 house?

1           A     He did, but Joanie and I continued to have  
2 a discussion. We were at about a distance of probably  
3 seven or eight feet from one another.

4           Q     Okay.

5           A     The front door was still open and he barged  
6 back in ---

7           Q     Okay.

8           A     --- while we were having this discussion.

9           Q     So he comes in the house for a second time?

10          A     Right.

11          Q     And y'all are still talk -- you and Joanie  
12 are still talking?

13          A     Right.

14          Q     He joins that conversation?

15          A     Not so much. Not really. At that point,  
16 they both go outside.

17          Q     Okay.

18          A     And the front door is open this entire  
19 time.

20          Q     All right.

21          A     It's just kind of --

22          Q     When they -- when they both walk out of the  
23 house that time, did they both go and get in the  
24 truck?

25          A     They both went towards the truck.

1 Q Okay.

2 A I know that he went to the truck. I don't  
3 recall him getting in the truck and sitting down.  
4 What I basically recall is her whizzing back by me  
5 saying she had forgotten her phone.

6 Q Okay.

7 A And goes whizzing back by me. Then when I  
8 looked the other direction, here he came across the  
9 front of the truck and up the little walkway with a  
10 bat swinging with a look on his face that -- it was  
11 anger and amusement together. Almost like an I'm  
12 going to show you type ---

13 Q All right.

14 A --- thing.

15 Q So Joanie is back inside the house at this  
16 point?

17 A She had gone back into the house. The doors  
18 go open.

19 Q With her purse?

20 A I recall -- I don't recall if she had her  
21 purse or not.

22 Q Okay. And somewhere during that time, you  
23 see her father get out of the truck and he's  
24 walking --

25 A Yeah, he walked to the truck and got the



1 bat. He didn't get in the truck to leave. He just  
2 basically walked to the truck, opened it up, got his  
3 bat out of the back, came around the truck with the  
4 bat. I really didn't see what he had until he was  
5 around the front of the truck. I mean, he didn't say,  
6 I'm going to get a bat out of --

7 Q You saw a bat in his hand?

8 A Yes, sir.

9 Q And he was out in front of his truck?

10 A Yeah.

11 Q You and Joanie are inside the house?

12 A I was actually out on the little walkway  
13 and bottom step at that point.

14 Q Okay. And what's he doing with the bat?

15 A Swinging it.

16 Q All right.

17 A And going forward with it like that.

18 (Demonstrating.)

19 Q When did Joanie come back out of the house?

20 A I never saw Joanie again until she jumped  
21 me from behind. Basically, the first thing she did  
22 was pull my hair and dig her claws in my forehead and  
23 peel my skin open in this area here.

24 Q Let's talk about that. Let me walk through  
25 this so I don't get confused. There was some

1 testimony earlier about Joanie and you talking about  
2 the cell phone and her purse and dumping the purse  
3 out.

4 A Right.

5 Q You heard all that?

6 A I heard all that.

7 Q Were you present when all that happened?

8 A I only remember her going back to saying  
9 that she had forgot her phone and whizzing by me. I  
10 do recall telling her to pack her stuff and just go  
11 and not come back. I do recall saying that.

12 Q Did you dump her purse out?

13 A I have no recollection of doing that.

14 Q All right. At some point in time after that  
15 event may or may not have happened, she leaves the  
16 house or you walk out of the house?

17 A Right.

18 Q At that time, you see Billy Sanders with  
19 bat in hand walking towards you?

20 A Right. Well, he was approaching me at a  
21 pretty fast rate. It wasn't so much walking.

22 Q Okay. And Joanie at that point in time was  
23 where?

24 A She was still in the house or behind me.  
25 She was out of my line of sight. We were locked up,

1 wrestling and over the bat by the time she came back  
2 behind me.

3 Q Now, when you and Bill started wrestling  
4 over the bat, where were you standing at that point  
5 in time?

6 A When we first started wrestling on the bat,  
7 at the bottom step, right where the walkway begins.

8 Q You saw these photographs earlier and they  
9 showed the back door and the side door, some door to  
10 the house --

11 A Yeah, that's -- that was the front door.

12 Q The front door?

13 A Yeah, it's a short little -- very short  
14 little sidewalk.

15 Q Okay. So you're standing on that landing---

16 A Right.

17 Q --- when you see Bill coming towards you  
18 with the bat?

19 A Yes, sir.

20 Q Is that the spot where y'all first started  
21 wrestling around?

22 A Yes, sir. He swung the bat and actually hit  
23 me right above my left knee. I grabbed the bat.  
24 That's when we began to --

25 Q All right. And y'all were, at that point in

1 time, still on that little stoop area, or y'all had  
2 gotten down to the lawn area?

3 A When we began wrestling, we worked our way  
4 to where we were in front of the truck. The driveway  
5 is not very wide at all.

6 Q Okay.

7 A So we both went off of that little drop-off  
8 and ended up in between two Leyland cypress and up  
9 against this fence that was already delapidated and  
10 starting to come apart.

11 Q Right. Well, you heard some testimony  
12 earlier about you charging at her father and hit him  
13 so hard it knocked him 10 feet through the air up  
14 against the fence. Did that happen?

15 A No. I don't even think that the distance of  
16 10 feet would have -- no. It didn't happen like that.  
17 We locked up. We locked up wrestling over the bat. It  
18 was kind of back and forth. I was surprised at how  
19 strong and aggressive he was with it. I thought it  
20 would have been easier to take the bat.

21 Q All right. But it wasn't easy?

22 A No.

23 Q At some point during that wrestling around,  
24 both of y'all ended up on the ground?

25 A Yes, sir.

1 Q And were you on top or was he on top?

2 A He was --- he was kind of on top of me. We  
3 split down this little drop-off where the two  
4 different lots were graded off. It drops off and  
5 there is the fence right at the bottom of it. These  
6 Leyland cypress were in front of it. Of course, in  
7 the pictures they had taken, the Leylands had been  
8 all chopped down.

9 Q Okay.

10 A They were thick at the time and grown  
11 together.

12 Q Okay. And so you're telling me that the two  
13 of y'all ended up kind of between the Leyland cypress  
14 all against the fence.

15 A Yes, sir. The top of the fence fell down on  
16 both of us because it was a tall eight-foot fence. It  
17 had a decorative header on the top of it.

18 Q Okay.

19 A All of that ---

20 Q Had fallen down?

21 A --- fell down on both of us.

22 Q Who was outside in front of the truck next  
23 to the fence wrestling around? Who was outside at  
24 that time?

25 A Joanie Sanders appeared after we were on

1 the ground. I was kind of laying backwards like this.  
2 I had slid, skidded down. I didn't have shoes on. I  
3 had, at first, had Birkenstock sandals on. They had  
4 slipped off.

5 Q Okay.

6 A So I was in bare feet and socks kind of  
7 laid back like this. He's kind of leaned down on top  
8 of me over me.

9 Q Was there anybody else out there at that  
10 time?

11 A Not at that time, no.

12 Q When did Joanie show up?

13 A Joanie showed up at some point. I started  
14 to try to sit up. I was down like this. I started to  
15 sit up. We're struggling over this bat trying to pray  
16 it -- pry it away from each other.

17 Q Right.

18 A Like, you know, both doing that. She  
19 appears and the first thing that she does is grabbed  
20 my hair and started pulling my hair out. The next  
21 thing she did was claw my forehead and peel my  
22 forehead back. While she was doing that, she was also  
23 clawing up -- had gone under the back of my shirt  
24 somehow and was clawing my back up. While this was  
25 going on, I'm wrestling with him with this bat that

1 he's jabbing at me.

2 Q At some point --

3 A He had the handle side and I had ahold of  
4 the fat side of the bat.

5 Q All right. At some point in time, there's  
6 been testimony that Joanie's fingers got bitten.

7 A Right. Well, she --

8 Q Stop.

9 A Okay.

10 Q Do you recall biting her fingers?

11 A I don't -- I recall her screaming saying  
12 he's trying to bite my fingers off. Basically, she  
13 began to suffocate me first, you know, around my  
14 throat and had her hands over my mouth. I do remember  
15 that. I won't say I went unconscious, but I  
16 definitely -- I'm an epileptic so I kind of began to  
17 see what you would call aura. At that point, I felt  
18 like I was losing consciousness because of not  
19 getting any oxygen.

20 Q Did you ever lose consciousness that day?

21 A Not completely. No, sir.

22 Q Do you recall biting Joanie's hands?

23 A I don't recall biting her fingers, but I  
24 recall her screaming saying he's trying to bite my  
25 fingers off and coming to and then letting go. I do

1 recall letting go, but I don't recall doing it so  
2 much. She was suffocating me and I did it because I  
3 couldn't breathe.

4 Q Okay. At some point in time, she lets go  
5 and is no longer choking you, scratching you or doing  
6 any of that stuff?

7 A Right. Still struggling with the bat while  
8 this is going on.

9 Q All right. Did there come a point, though,  
10 where all that ended and you were in charge of -- you  
11 had control of the bat?

12 A She got up and ran down to the end of the  
13 driveway.

14 Q All right.

15 A I got the bat and got up and staggered in  
16 the house with it and put it on the kitchen table.

17 Q Did you ever go back outside?

18 A I did go back outside, but not with the  
19 bat.

20 Q Where did you go when you went back  
21 outside?

22 A I went outside and I stood on the -- on the  
23 steps. I did walk down to the edge of the little  
24 walkway, but I didn't come any closer than that.

25 Q Did you ever go back down and talk to Bill



1 or see Bill?

2 A No.

3 Q You left with the bat in hand. You tried to  
4 remove yourself from the situation?

5 A Right. When I left, Bill was still upright  
6 looking at me and we were still talking when I got  
7 the bat and took it inside.

8 Q Where was Joanie at that point?

9 A Joanie at that point had run down the  
10 driveway to the end of the driveway and kind of  
11 vanished from sight. But I could still hear her down  
12 there.

13 Q At that point is when you walked back into  
14 the house with the bat in hand?

15 A Yes, sir. As soon as I got possession of  
16 the bat, I took it inside, put it on the table and  
17 went back outside and had a few words with one of the  
18 guys that were out there. I just said, hey, man, he  
19 came at me with the bat. I'm going to be inside to  
20 wait for the authorities to get here. I was  
21 aggravated, agitated at that point, certainly.

22 Q You told somebody else who was out there,  
23 some guy who was out there with Bill at that point.  
24 I'm just trying to understand --

25 A I told him, yes, that Bill had come at me

1 with the bat.

2 Q And you told that fellow what?

3 A I just told him that I didn't consider him  
4 a legal official and that I was going to go back  
5 inside. I think something like screw you, he came at  
6 me with a bat, I don't have anything to discuss with  
7 you, I'm going to wait on the authorities to get  
8 here.

9 Q At that point --

10 A He wanted me to come over there.

11 Q Let me ask a question. At that point, did  
12 you walk back inside the house?

13 A Yes, sir.

14 Q When did you then come back out of the  
15 house?

16 A I came back out of the house when the  
17 police were at the back door pounding on the back  
18 door real loud after I had a conversation with Joanie  
19 on my iPad, texting her.

20 Q When you heard the police knocking on the  
21 back door, you open the curtains, correct?

22 A Yes, sir.

23 Q You saw it was the police?

24 A Right.

25 Q Were they pointing a gun at you at that

1 time?

2       A     Yes, sir. They -- one of them was pointing  
3 a gun at me.

4       Q     All right. Did you then open the door and  
5 make contact with --

6       A     Yes, sir.

7       Q     Did you do everything they asked you to do?

8       A     Yes, sir.

9       Q     They asked you to sit down?

10      A     They told me to get on the ground face  
11 first.

12      Q     Did you do that?

13      A     Yes, sir.

14      Q     Did you do everything else they asked you  
15 to do?

16      A     Yes, sir.

17      Q     Were you ever aggressive towards the police  
18 or disrespectful?

19      A     No, sir.

20      Q     Any manner that --

21      A     No, sir.

22      Q     They put you in handcuffs?

23      A     Yes, sir.

24      Q     They took you out and put you in a patrol  
25 car?

1           A     Right.

2           Q     Took you to the LEC?

3           A     Yes, sir.

4           Q     Bleeding?

5           A     I had -- I had marks on my forehead. I had  
6 marks on my back. Yeah, it had been bleeding. I had  
7 asked for medical attention to Officer McCloud.

8           Q     Did you ever get medical attention?

9           A     No. I got medical attention later at the  
10 Law Enforcement Center after the fact because I  
11 requested it.

12          Q     That medical attention was to address the  
13 injuries that you had sustained during this  
14 altercation where Joanie had jumped on your back and  
15 was choking and scratching you?

16          A     Yes, sir.

17          Q     That's the injuries that required  
18 attention?

19          A     Yes, sir.

20          Q     Did you have a gun?

21          A     Did I have a gun?

22          Q     Yes.

23          A     No, sir.

24          Q     Did you have a baseball bat?

25          A     No, sir..

1           Q     Well, I thought you took the bat away from  
2 him.

3           A     I took the bat away from him, but it wasn't  
4 my bat.

5           Q     That was Billy's bat.

6           A     It was Billy's bat, yes.

7           Q     The one he came at you with?

8           A     The one he came at me with, yes, sir.

9           Q     You took it away from him and took it back  
10 inside your house?

11          A     I took it away, took it inside and put it  
12 on the table.

13          Q     That day, that day when all this happened,  
14 how would you describe your relationship -- prior to  
15 all this happening, how would you describe your  
16 relationship with Billy?

17          A     We were good friends.

18          Q     All right. Were you surprised by the  
19 aggressive manner of the events that took place that  
20 day?

21          A     Yes, sir. I was surprised. It caught me off  
22 guard.

23          Q     Were you worried?

24          A     Yes, sir.

25          Q     Scared?

1           **A**     Yes, sir.

2           **Q**     When -- after the event happened that day,  
3 had you been back to your house?

4           **A**     Not at all.

5           **Q**     You came to find out that Billy  
6 subsequently passed away, is that correct?

7           **A**     Yes, sir. He lived between 45 and 50 days.  
8 I was told by my mother that he had passed away on  
9 November the 19th. She told me early the next day.

10          **Q**     How did you feel at that time?

11          **A**     I was devastated.

12          **Q**     You heard the doctor testify yesterday?

13          **A**     Yes, sir.

14          **Q**     And did you -- were you lead to believe  
15 prior to and or including that testimony that y'all's  
16 wrestling over the bat, the little ruckus out there,  
17 was it your understanding that had nothing to do with  
18 Billy's ultimately passing away?

19          **A**     Yes. It was my understanding that --

20               **MS. MUNSON:**   Objection, Your Honor. That  
21 would be going too far to continue that answer.

22               **THE COURT:**   All right. I sustain that  
23 objection. We've had testimony about that.

24               **MR. CULBERTSON:**   Well -- all right.

25               **BY MR. CULBERTSON:**

1           Q     Did the police, when they finally made  
2     contact with you, did the police come inside the  
3     house?

4           A     They didn't enter the house.

5           Q     Did they ever look around the house?

6           A     They did look around the house and in the  
7     building.

8           Q     Was there anything illegal, illicit  
9     contraband inside the house?

10          A     Yes, sir.

11          Q     What?

12          A     Marijuana.

13          Q     Whose?

14          A     Both -- both parties.

15          Q     Both parties, being you and Joanie?

16          A     Yes, sir.

17          Q     Did you ever have any guns in the house?

18          A     No, sir.

19          Q     The day all this happened, were you ever  
20     the aggressive party in any of this?

21          A     No, sir.

22          Q     Were you attacked by others during this  
23     fight?

24          A     Yes, sir.

25          Q     And were you in fear of your life and your

1 property during this time?

2 A Yes, sir.

3 Q Did you do anything that day that would  
4 have been different than trying to protect yourself  
5 or your property?

6 A No, sir.

7 Q Thank you. Appreciate it. Answer any  
8 questions from the other side.

9 CROSS-EXAMINATION

10 BY MS. MUNSON:

11 Q Mr. Carpenter, what -- about what size  
12 fellow are you?

13 A What size?

14 Q Yeah. What size?

15 A What height or weight?

16 Q Height, weight?

17 A Okay. I'm six foot two and I weigh about  
18 198 pounds.

19 Q You weighed more back then, didn't you?

20 A According to my license that I have, it  
21 says that I weighed 189 pounds in ---

22 Q Okay.

23 A --- 2014, like a month or two before that.

24 Q I'm going to try again. Mr. Carpenter, your  
25 size right now, you weigh less right now than you did



1 on September the 25th of 2014? Yes or no?

2 A About the same.

3 Q About the same. And you're 40-how-old now?

4 A 43.

5 Q So a couple of years ago, you would have  
6 been 42?

7 A I think I was 41 at the time it happened.

8 Q 41 when it happened. You described for the  
9 jury a bunch of things you did. Carpentry, playing  
10 instruments, landscaping, things like that. Is that  
11 physical work?

12 A Yes, ma'am.

13 Q You in pretty good shape?

14 A Decent shape. I had been in a wreck about  
15 three and a half or four months before that and was  
16 in critical condition and ICU for a short period of  
17 time. I was still recovering from a lot of abdominal  
18 injuries. I had collapsed lungs, ruptured colon,  
19 punctured bladder. So I was still weak in my trunk,  
20 central area.

21 Q So you're telling this jury that you got  
22 into this violent physical struggle with Mr. Sanders  
23 three months after almost dying in a car wreck?

24 A Yes, ma'am. Three -- yeah, four, however  
25 many months it was.

1           Q     So you were in really good shape then,  
2 correct?

3           A     I was in really good shape?

4           Q     Just generally.

5           A     I was in fair condition.

6           Q     Now, the wreck you had, that was when you  
7 wrecked Joanie's truck, correct?

8           A     Well, it was our truck. But yes, I wrecked  
9 the truck.

10          Q     How did you wreck that truck?

11          A     I ran into a tree.

12          Q     In the middle of the night?

13          A     Five o'clock in the afternoon.

14          Q     You just ran into a tree?

15          A     I really don't recall. I had head injuries.

16          Q     Okay. So it is your testimony that you were  
17 totally surprised by Mr. Sanders' actions?

18          A     Yes, ma'am.

19          Q     Never seen him act like that before?

20          A     Never.

21          Q     And he was 83 at the time?

22          A     82, I believe. Almost 82, 81.

23          Q     He was 80 years old, at least?

24          A     Oh, yeah. For sure.

25          Q     Okay. And you're saying that he had this

1 bat, State's Number 9, by the handle side?

2 A Yes, ma'am. By the handle side.

3 Q Swinging it in one hand and coming at you?

4 A Like the -- he did it forward like so and  
5 then swung it around like that.

6 Q Like a conductor? Swinging it like this?

7 A It was a lot more hostile than a conductor,  
8 I mean.

9 Q So he was coming --

10 A I've seen passionate conductors that are  
11 really into what they are doing. But nah, he was  
12 coming fast and furious.

13 Q You've been together with Joanie, you say,  
14 20-something years?

15 A Yes, ma'am.

16 Q You split up from time to time?

17 A She left me for about four months. That's  
18 the only time that we ever officially split up. When  
19 she left, she didn't say she was leaving and after  
20 the fact has said, oh, no, I just went -- heard  
21 conflicting tales as to whether she really left or  
22 not.

23 Q Mr. Carpenter, did you split up more than  
24 once while y'all were in this long relationship?

25 A Just once.

1 Q One time?

2 A Just one time.

3 Q All right. And she left you?

4 A Right, for four months.

5 Q With no explanation?

6 A Yeah, well, she basically said that she was  
7 going down to Florida to work to help get bills  
8 caught up because she had been terminated from a  
9 part-time temporary job she had doing merchandising  
10 with Willie Nelson's group. She helped do  
11 merchandising and she been terminated from the  
12 position a couple of months before that. So between  
13 my income and her income, we were having some  
14 shortcomings. She said she was going down to work for  
15 her ex-sister-in-law and Mark Morris down in Florida.  
16 And that was her reason she said she was going down  
17 there and that she would be down there two and a half  
18 to three weeks and didn't return.

19 Q So that's not a split up then? She was  
20 going to take a job for a while, not leaving.

21 A Well, she didn't say at the time that she  
22 was splitting up, but I went to a friend's funeral in  
23 November. I believe it was on November the 12th, John  
24 Gosnell's funeral. I had five or six different people  
25 come up to me and say, I'm sorry to hear about Joanie

1 leaving you. That's terrible. I said I didn't know  
2 she left me. I thought she went down there to work.  
3 She had evidently informed these other folks that she  
4 had left and was telling me a different story.

5 Q All right. Mr. Sanders, you didn't expect  
6 him that day?

7 A No. I wasn't expecting him. Joanie and I  
8 had gone out to eat at Molina's Mexican Restaurant  
9 about a mile from the house the night before and she  
10 had no intention --

11 Q That night -- that morning, did you expect  
12 Mr. Carpenter -- I mean, Mr. Sanders at your house?

13 A No.

14 Q Yes or no?

15 A No.

16 Q Okay. And he was almost breaking the door  
17 down and it was ---

18 A Yes, ma'am.

19 Q --- coming off the frame?

20 A Yes, ma'am.

21 Q And you acknowledge you asked him, do you  
22 have a gun?

23 A I did -- I did ask him if he had a gun and  
24 I told him I didn't want him in my house because he  
25 had a concealed weapons permit and I felt that ---

1           Q     So you tried to throw him out.

2           A     --- he was being threatening. I asked him  
3 to leave multiple times.

4           Q     All right. Good. So he leaves. You told Mr.  
5 Culbertson that you didn't want to talk to anybody  
6 outside after Mr. Sanders went through the fence with  
7 a brain bleed.

8           MR. CULBERTSON:     Objection.

9           MS. MUNSON:     You didn't want to talk to  
10 anybody --

11          THE COURT:     I'm sorry? What's that?

12          MR. CULBERTSON:     Objection to the form of  
13 the question.

14          THE COURT:     I thought that she was just  
15 asking ---

16          MS. MUNSON:     It's cross-examination.

17          THE COURT:     -- his -- a question. I'll  
18 allow it. Go ahead.

19 BY MS. MUNSON:

20          Q     After he went through the fence with a  
21 brain bleed, you testified --

22          MR. CULBERTSON:     That's what I object to,  
23 Your Honor, the editorial comments during her  
24 questioning. I'm going to be objecting a lot.

25          THE COURT:     All right.

1           **MS. MUNSON:**     That's what Dr. Watson said.

2           **MR. CULBERTSON:**     I don't care. It's still  
3           improper questioning.

4           **THE COURT:**     All right. I allowed you a  
5           little leeway on it. I'm going to allow her a  
6           little leeway on it. Go ahead.

7   **BY MS. MUNSON:**

8           **Q**     Your testimony was that you didn't want to  
9           talk to anybody outside because they were not the  
10          authorities. You were going to wait for the  
11          authorities.

12          **A**     Exactly.

13          **Q**     Why?

14          **A**     Because I felt like my rights had been  
15          violated. I felt like I had been put in harm's way. I  
16          felt like I was safer going inside and there would be  
17          no further conflict, disagreement. And I waited for  
18          the authorities to arrive.

19          **Q**     But you didn't come out when the  
20          authorities got there.

21          **A**     Well, I actually was in my room, which is a  
22          it was set up to be a soundproof studio. I was in  
23          my room when the door closed. I was actually texting  
24          Joanie at the time.

25          **Q**     Let's talk about those texts.

1           A     Yes, ma'am.

2           Q     Did you tell her, your father came at me  
3 multiple times, he threatened me with a gun?

4           A     I felt like he did threaten me with a gun.  
5 He continued to reach into his coat ---

6           Q     Oh.

7           A     --- and had, obviously, some type of strap.

8           Q     Okay. But those --

9           A     And he cornered me in my bedroom and stood  
10 over the doorway. You know, I'm like, this is my  
11 house Bill. I have a right to ask you to leave. I  
12 want you to go outside and wait on your daughter  
13 please.

14          Q     Could those straps have been suspenders  
15 holding up an old man's pants?

16          A     (No audible response.)

17          Q     Could have? Did you also tell her, I was  
18 merely defending myself? Did you tell Joanie that?.

19          A     I did say that. She replied that she knew  
20 that I was.

21          Q     Did you text her that you left the house  
22 and you were at the old cursed Indian cemetery?

23          A     I did text that, but I had not left the --  
24 I had not left the house. That was -- that was an  
25 encrypted statement.



1 Q An encrypted statement?

2 A Right.

3 Q I'm sorry. I have no idea what that means.

4 A Well, I was trying to imply to her in code  
5 that, like, look, I'm -- she wanted me to come  
6 outside. She said, if you come outside, there won't  
7 be a problem or we can handle this outside. I said,  
8 well, no, I'm, you know, -- I told her that I was,  
9 you know, basically trying to say that I was leaving  
10 and was going to try to cover -- I didn't want the  
11 cops coming in the house.

12 Q Okay.

13 A She obviously didn't want the cops in the  
14 house.

15 Q Right. Did you tell them that if they do  
16 kick the door down, they better be ready to face Tsul  
17 Kalu?

18 A Yeah, Tsul Kalu.

19 Q So you texted her if they break the door  
20 down, they better be ready to face --

21 A They didn't break the door down. I went  
22 outside.

23 Q All right. Can I please finish my question  
24 please?

25 A I'm just trying to answer your question.

1           Q     Did you tell them -- did you tell Joanie in  
2 a text that if they broke in the house, they better  
3 be ready to face Tsul Kalu? Did you text her that?

4           A     I remember -- I remember some of this, but  
5 it's very well possible.

6           Q     Do you know what Tsul Kalu is?

7           A     Oh, I most certainly do.

8           Q     Okay. What is that?

9           A     It's the Cherokee Lord of the Hunt.

10          Q     And what is -- what is the -- what are the  
11 powers of Tsul Kalu that the authorities should be  
12 afraid of Tsul Kalu?

13               MR. CULBERTSON:     I'm going to object to  
14 that, Your Honor.

15               THE COURT:     Well, he --

16               THE WITNESS:     Tsul --

17               THE COURT:     -- he says that -- hold on one  
18 second.

19               MR. CULBERTSON:     Stop.

20               THE COURT:     I'm going to allow you to go  
21 into this just briefly to lay a little  
22 foundation for the jury. That's it. All right.

23 BY MS. MUNSON:

24           Q     That was the only question I was asking is,  
25 why -- why should -- what are the powers that are --

1 why should they be afraid of Tsul Kalu is all I'm  
2 saying. That's all I'm asking.

3       **A**     If -- it had to do with me feeling like I  
4 was violated. Someone had attacked me in my own home  
5 with a bat. I was defending myself. I was very  
6 agitated, you know, very upset.

7       **Q**     Sure. Sure.

8       **A**     A lot of drama, conflict went on. Joanie is  
9 well aware of who Tsul Kalu is. She now is professing  
10 all this Christianity and going to church, but she  
11 knew what all that was. I'm a Cherokee. Tsul Kalu is  
12 sacred to the Cherokee. The masks are sacred to the  
13 Cherokee and actually used for healing and not used  
14 for aggression or evil.

15       **Q**     So Mr. Carpenter, please understand. I am  
16 not attacking or downgrading any of your religious  
17 beliefs. That's none of my business. I'm just asking  
18 you questions about what happened that day. Do you  
19 deny that you took a Tsul Kalu mask and broke some  
20 pottery in the house?

21       **A**     Oh, I deny that. I didn't break any pottery  
22 in the house with the mask.

23       **Q**     Did you have the mask?

24       **A**     Yes, ma'am.

25       **Q**     Did you put it in front of your face and

1 say something to Mr. Sanders?

2 A In Tsalagi, yes.

3 Q Is that a type of a language?

4 A It's -- the Cherokee language is formerly  
5 called Tsalagi.

6 Q So what did you say to him in that --

7 A I basically asked that what affliction or  
8 confusion had come over him to be dispersed.

9 Q Okay.

10 A You know? To essentially --

11 Q Do you think that mask is scary looking?

12 A No.

13 Q You don't?

14 A I mean, not to me it's not.

15 Q Do you think that it would be scary to  
16 other people?

17 A Give or take -- I guess it is a form of  
18 opinion. He had expressed to me before that he felt  
19 that the masks were idols and a type of -- they were  
20 sacrilegious to him.

21 Q Okay.

22 A He had expressed that he thought they were  
23 idolatry or a form of sorcery, something of that  
24 nature.

25 Q Okay. So you knew that --

1           **A**     He had expressed that before.

2           **Q**     Okay. So you didn't go to church with  
3 Joanie or Mr. Sanders or -- whenever they did go to  
4 church, you didn't go with them?

5           **A**     No. I didn't go to church with them. She  
6 went to church semi-infrequently, but mainly to play  
7 music ----

8           **Q**     Okay.

9           **A**     --- when they had plans to go before.

10          **Q**     Okay. Can you show the jury what you did  
11 with the masks?

12               **MR. CULBERTSON:**     I object, Your Honor.

13               **THE WITNESS:**       It --

14               **THE COURT:**       What's your objection? Hold on  
15 one second.

16               **MR. CULBERTSON:**     Stop.

17               **THE COURT:**       What's your objection?

18               **MR. CULBERTSON:**     I don't know what mask  
19 she's talking about. I don't know what --

20               **MS. MUNSON:**       He knows, Your Honor, because  
21 I sent him a picture of it.

22               **MR. CULBERTSON:**     It's not evidence. I don't  
23 know what she's going to do with it. I object to  
24 this whole thing.

25               **THE COURT:**       Are you asking him to identify

1           it while it's still somewhat in the bag?

2           **MS. MUNSON:**     Yes.

3           **THE COURT:**    All right.

4           **MS. MUNSON:**    I was going to let him look  
5           at it first.

6           **THE COURT:**    All right. If you will let him  
7           identify it with the jury not able to see it, he  
8           can look in the bag and see if he can identify  
9           it.

10          **THE WITNESS:**   That's not the correct mask.

11         **BY MS. MUNSON:**

12           **Q**     Did you even, like, look at it?

13           **A**     Yeah, that's not the correct mask.

14           **Q**     Okay. But is that one of your masks?

15           **A**     That's a mask I made, right there.

16           **Q**     Okay.

17           **A**     Yes, I made that mask.

18           **Q**     All right. This is not the one that you had  
19           that day?

20           **A**     (No audible response.)

21           **Q**     Is that right?

22           **A**     That's right.

23           **Q**     That's not the one you put in front of your  
24           face and spoke --

25           **MR. CULBERTSON:**   Objection, Your Honor.

1           **THE COURT:**     What's the objection?

2           **MR. CULBERTSON:**     Well, she already talked  
3           about this mask. Now, it's coming in. It's not  
4           in evidence. She keeps going back to some mask  
5           that ---

6           **THE COURT:**     Overruled.

7           **MR. CULBERTSON:**     --- nobody --

8           **THE COURT:**     She's asking him a question  
9           about the mask. I'm going to allow it. All  
10          right.

11          Go ahead.

12   **BY MS. MUNSON:**

13          **Q**     So that's not the mask that you used to  
14          hold in front of your face and say something to Mr.  
15          Sanders?

16          **A**     No, that's not the correct mask.

17          **Q**     But you did do that?

18          **A**     Yeah, I put a mask on and said something.

19          **Q**     And it's your testimony that you were sort  
20          of, for lack of a better term, praying for him?

21          **A**     Yes, ma'am.

22          **Q**     Okay. Now, the struggle that took place  
23          between you and Mr. Sanders, you say it started at  
24          the steps? At the porch?

25          **A**     Yes, ma'am.

1           Q     And y'all -- two of you are locked with the  
2 bat all the way to the fence?

3           A     Yes, ma'am.

4           Q     And you -- are you both standing up at this  
5 point?

6           A     For the most part, yes, ma'am.

7           Q     Okay.

8           A     It was kind of a back and forth. Almost a  
9 tug-of-war-type effect.

10          Q     But you would agree. Is he walking  
11 backwards and you're walking forwards?

12          A     He was pulling that way.

13          Q     He was pulling you?

14          A     Right.

15          Q     And he got you at least one time in the  
16 knee?

17          A     He hit me multiple times with the bat.

18          Q     With the bat?

19          A     Right. He jabbed me.

20          Q     Okay.

21          A     But the first time he hit me was right  
22 above the knee on what would be my left side.

23          Q     Did it hurt?

24          A     It -- it concerned me enough to where I  
25 grabbed him -- I didn't want him to hit me again with



1 it.

2 Q But it didn't concern you enough that when  
3 the authorities did get there that you didn't say,  
4 thank God you're here, this crazy old man just beat  
5 me with a bat?

6 A Well, I -- I told them that -- I told them  
7 that when I did see them.

8 Q But it didn't concern you enough to ask for  
9 help?

10 A I don't understand where you're coming  
11 from.

12 Q It didn't concern you enough to say to the  
13 deputies, that old man over there almost killed me?

14 A I did tell them that.

15 Q Oh, you did tell them?

16 A I did tell them that.

17 Q Okay. And you didn't ask for medical help?

18 A I did ask for medical help.

19 Q Did you tell the deputies to shoot you? You  
20 deny that as well?

21 A No, I don't deny that.

22 Q Okay.

23 A I said if you're going to point a gun at  
24 me, just go ahead and shoot me, you know.

25 Q And then you could sue them. Is that what

1 you told them, too?

2 A No, I told them I was going to sue them for  
3 kicking through my fence and doors and --

4 Q Did they kick in your door?

5 A They kicked in the gate. They destroyed the  
6 gate on the outside of the house to get in.

7 Q And you're saying that you sort of maybe  
8 felt like that you were about to have a seizure when  
9 Joanie was strangling you or suffocating you?

10 A It brought on an aura that --

11 Q Okay.

12 A -- it's almost like shooting stars or  
13 seeing stars when you get disoriented or hit in the  
14 head.

15 Q Uh-huh.

16 A That was -- that was linked with the  
17 suffocation and the fact that I was getting jabbed  
18 with a bat continually.

19 Q Okay. Jabbed with it. What do you mean?

20 A That was when we were on the ground and  
21 Joanie had me from behind. Mr. Sanders was -- he had  
22 the handle of the bat. He was jabbing me with the bat  
23 while this was going on.

24 Q Okay. Let me ask you something else here.  
25 Mr. Sanders, would you consider him frail at the

1 time?

2       A     Mentally, yes. Physically, he was rather  
3 strong.

4       Q     Okay. To acknowledge that Mr. Sanders said  
5 to you that day -- after the dog came in and started  
6 getting after you, Mr. Sanders said, you're going to  
7 kill the dog if you don't stop holding him that way?

8       A     Right, because I had the dog by its neck  
9 with its head turned like that because it was -- it  
10 was attempting to maul me.

11       Q     Okay.

12       A     And it could have potentially harmed him as  
13 well. The dog was an unpredictable, vicious pit bull.  
14 I was actually the owner of the dog.

15       Q     Listen, Mr. Sanders -- I mean, Mr.  
16 Carpenter, was there another dog in your back yard  
17 that day?

18       A     No.

19       Q     Only that one?

20       A     Right.

21       Q     That you describe as unpredictable and  
22 vicious. That's the only dog that was in your back  
23 yard. And that's the same dog that the deputies  
24 referred to as friendly. Is that the same dog?

25       A     It's the same dog, but it's -- you know,

1 it's an unpredictable, vicious pit bull.

2 Q Okay.

3 A Or was. It's since passed.

4 Q Do you think that Joanie was not justified  
5 in being afraid of you that day?

6 A I did not attempt to stop Joanie from going  
7 to church whatsoever.

8 Q Okay.

9 A I had no problem with that. The bulk amount  
10 of the actual discussions I had with Bill to begin  
11 with was over a refrigerator that she had -- that he  
12 had pressured her to buy that I had said, no, don't  
13 by a side-by-side that's used. Just to go get a  
14 standard new unit and when we'll, when we can afford  
15 it, buy a side-by-side.

16 Q Okay.

17 A And he had talked her into buying this used  
18 unit and there was a problem with that unit and it  
19 had issues and I was just like, you took my money. I  
20 gave her money to go get this thing, but I asked her  
21 to get a brand-new unit. She rode with Bill in his  
22 truck to get it.

23 Q All right. So you weren't -- there was no  
24 argument at all about church? You and Joanie were  
25 fighting about a refrigerator?

1           A     Yeah. It was about a refrigerator. The  
2 disagreement about church all stemmed from the fact  
3 that she had no plans to go to church with him.

4           Q     She wanted to go.

5           A     Well, she decided after the fact because  
6 her mother had said that he's not doing well, he  
7 really needs you to go to church.

8           Q     Okay. You didn't like all that church  
9 stuff, do you? Which is fine.

10          A     I don't have a problem with church. I don't  
11 have a problem with church, whatsoever.

12          Q     What I asked you is this, do you think that  
13 Joanie was justified in being afraid of you that day?

14          A     No, because I was used to her going to  
15 church infrequently when she would plan to play, but  
16 there was no plans this particular day. We both had  
17 slept in. We had an enjoyable evening the night  
18 before.

19          Q     So there's nothing that you did or said  
20 that day that would put her in fear?

21          A     Not that -- not that I'm aware of. I mean,  
22 she was fully knowledgeable. Those masks were on her  
23 wall as well. All that stuff, she was familiar with  
24 what it was. I don't really understand -- I don't  
25 feel like she was threatened or potentially harmed in

1 any way.

2 Q Okay. So she wouldn't be justified in being  
3 afraid of you that day?

4 A No. I don't -- I don't think so, no.

5 MS. MUNSON: I beg the Court's indulgence.

6 THE COURT: Certainly.

7 (WHEREUPON, there is a pause.)

8 MS. MUNSON: Thank you, Mr. Carpenter. I  
9 have nothing further, Your Honor.

10 THE COURT: Mr. Culbertson, anything?

11 MR. CULBERTSON: No, ma'am.

12 THE COURT: Sir, you can step down.

13 THE WITNESS: Okay. Thank you.

14 THE COURT: All right.

15 Mr. Culbertson, anything else?

16 MR. CULBERTSON: Would you bear with me  
17 just one moment, Your Honor?

18 THE COURT: Certainly.

19 MR. CULBERTSON: I want to have a brief  
20 conversation with my client. It won't take more  
21 than 30 seconds.

22 THE COURT: That's fine.

23 (WHEREUPON, there is a pause.)

24 MR. CULBERTSON: Thank you, ma'am. We're  
25 done.

1           **THE COURT:**     All right. So the defense is  
2           going to rest. That's good timing for us because  
3           your lunch is here. I'm going to ask you to step  
4           to your jury deliberation room even though I  
5           believe we've come to the end of the defense's  
6           case. It's not time to discuss this case yet.  
7           We'll still have a few more matters to take up  
8           right after lunch. But feel free to go in there  
9           and relax. Take a few minutes. Eat your lunch. I  
10          think if somebody needs to step outside or  
11          something like that, that's certainly fine, too.  
12          We'll take a -- we'll take a break. It will be  
13          close to 1:30 when we'll start back. Okay. All  
14          right. Thank you so much.

15                 I'll ask everyone else to remain seated.

16           **(WHEREUPON, the jury exits at approximately**  
17    12:36 p.m.)

18           **THE COURT:**     Ms. Munson, do you anticipate  
19           any reply testimony?

20           **MS. MUNSON:**     Unfortunately, Your Honor.

21           **THE COURT:**     Okay. All right. That's fine.  
22           That's fine. All right. Well, their lunch is  
23           here so I'm going to let them eat. We'll take a  
24           break until about 1:30, and then come back, do  
25           the reply testimony, if necessary, and then

1 argue and charge.

2 We've added ABHAN and Assault and Battery  
3 first degree as lesser includeds in the charge.  
4 We've also fixed the portion about intent.  
5 That's it so far. Any other matters we need to  
6 take up before we break for lunch?

7 MS. MUNSON: Not from the State, Your  
8 Honor.

9 MR. CULBERTSON: No, ma'am, not at this  
10 time.

11 THE COURT: There's one thing I want to  
12 bring up with the folks in the gallery. I want  
13 to be real clear about this. I'm not talking to  
14 one side over the other. When this jury comes  
15 back in, I -- I -- I was very, very lenient and  
16 resorted to stern looks when I saw faces being  
17 made and comments being made and eyes rolling  
18 and things like that, which I specifically asked  
19 everyone not to do. I was - I gave some stern  
20 looks. Next time, I'm going to embarrass  
21 somebody. All right? It does not help anybody's  
22 case in any way, but I'm going to have to  
23 embarrass someone next time. And if I can not  
24 get your attention with that, I need to tell you  
25 that my contempt powers for contempt of court of



1 my order carries up to 10 years in jail. All  
2 right. I want to be clear. I'm not going to have  
3 this, because once that starts, then the  
4 problems start in the courtroom. This jury  
5 should not be subjected to that, period. All  
6 right. As long as everybody's crystal clear on  
7 that, then I'll see you back at 1:30.

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

9 THE COURT: Thank you.

10 (WHEREUPON, the Court goes off the record at  
11 approximately 12:37 p.m.)

12 (WHEREUPON, the Court goes on the record at  
13 approximately 1:51 p.m.)

14 THE COURT: All right. Do you still  
15 anticipate some reply testimony?

16 MS. MUNSON: After consultation with  
17 people smarter than me, no, Your Honor.

18 THE COURT: All right.

19 MS. MUNSON: I'm not.

20 THE COURT: Okay. All right. Very well  
21 then. We'll go ahead and bring the jury back in.  
22 (WHEREUPON, there is a pause.)

23 THE COURT: We just did a verdict form. Of  
24 course, we won't send back the indictments on  
25 this one. But it just says, as to Criminal

1 Domestic Violence High and Aggravated Nature, we  
2 unanimously find the defendant not guilty,  
3 guilty or guilty of Criminal Domestic Violence,  
4 and as to the charge of Intent to Murder, we  
5 unanimously find the defendant not guilty,  
6 guilty or guilty of Assault and Battery of a  
7 High and Aggravated Nature or guilty of Assault  
8 and Battery in the first degree. Signed,  
9 foreperson. That was it.

10 MR. CULBERTSON: Do you mind if I take a  
11 look at that real quick?

12 THE COURT: No, I don't mind at all.

13 MR. CULBERTSON: I would just -- I couldn't  
14 exactly follow.

15 THE COURT: Sorry. I think it's pretty --

16 MR. CULBERTSON: I'm sure it is. (Pause.)  
17 Thank you, ma'am.

18 (WHEREUPON, the jury enters at approximately  
19 1:54 p.m.)

20 THE COURT: Ladies and Gentlemen, I need  
21 to apologize to you all for keeping you waiting.  
22 That had nothing to do with these attorneys.  
23 That had to do with another matter that was  
24 going on in the courthouse. I said yes, I would  
25 do something when I probably should have said

1 no. So I apologize. It's on me, in other words.  
2 But we are now ready to go to closing arguments  
3 and then my final charge on the law. The case  
4 will be in your hands. So we are ready to go.

5 Mr. Culbertson?

6 **MR. CULBERTSON:** Thank you, Your Honor. May  
7 it please the Court?

8 **THE COURT:** Certainly.

9 **MR. CULBERTSON:** Hope everybody had a good  
10 lunch. I get to talk to you for a few minutes  
11 now. Hopefully, I won't be here too long.  
12 That's it. Y'all have heard everything there is  
13 to hear. In my mind, basically, it comes down to  
14 this, a husband/wife, boyfriend/girlfriend  
15 relationship, the two of these people had. My  
16 client, Joseph, and Joanie had been together for  
17 20, 22 years. They'd been living together for a  
18 while acting as husband and wife. They had a  
19 house together.

20 Whether Joanie went to church every single  
21 Sunday with her father or not every single  
22 Sunday, if that really happened, in my mind, it  
23 doesn't matter. In any event, on the day in  
24 question, her father came by and knocked on the  
25 door wanting her to go to church with him. Some

1       that's what happened, but you guys have to  
2       decide. Regardless, the injuries that she  
3       sustained weren't serious enough for her to go  
4       see a doctor. I don't know. I wasn't there. It  
5       was not my injuries. Nobody bit my finger. I  
6       don't know.

7               At some point, things start to calm down a  
8       little bit. My client, Joseph, then picks up  
9       this baseball bat, walks back over to his house,  
10      puts the bat on the counter and goes into his  
11      room that apparently had been soundproof such  
12      that he and whoever else could play music and  
13      not disturb. So he's sitting in there waiting  
14      for the police to show up.

15             The police get there, knock on the door.  
16      He's in his room, and he can't hear them. He  
17      can't hear them, don't hear them, whatever. He  
18      then looks out the window and sees the police  
19      are there. He opens the door, goes out and talks  
20      to the police.

21             He does every single thing they asked him  
22      to do. He's not adamant towards the police. He's  
23      not aggressive towards the police. He's not  
24      doing anything to put any of the police officers  
25      in fear or be concerned about how he's going to

1 act. He's doing what, I submit, anybody would do  
2 when the police are knocking on the door and  
3 saying come here. He walked out. They said get  
4 down on the ground. He gets down on the ground.  
5 He does everything the police asked him to do in  
6 a normal, sane, responsible manner. They  
7 handcuffed him. They put him in the patrol car  
8 and take him to the police station.

9 The police don't find any gun. They don't  
10 find any marijuana. They don't find anything in  
11 the house. I submit to you cause there was  
12 nothing in the house for them to find. If there  
13 had been, you may have very well heard about it.  
14 We can only assume that there was nothing found,  
15 no guns, no knives, no weapons, no drugs, no  
16 nothing of that sort.

17 Now, there's been all these allegations  
18 about there were things over there that were  
19 weird and strange and he was scaring people. If  
20 it was there, you would have seen it. There was  
21 nothing scary or out of the ordinary or unusual  
22 about anything in that house that relates to  
23 what y'all have to decide today. You would have  
24 heard about it.

25 It's a terrible thing what happened. It's a

1       terrible thing that Billy Sanders passed away.  
2       My client feels (Indiscernible). It's a  
3       terrible, terrible, terrible thing for an 80-  
4       something-year-old man to be involved in  
5       something like this to begin with and to  
6       subsequently pass away. But it's important for  
7       you guys to remember that the doctor doing that  
8       scan said there was nothing about the events of  
9       that day that lead to Billy Sanders' death. No  
10      connection whatsoever.

11               Yeah, he was hurt. Yeah, he had been  
12      bleeding. Yeah, he had been scuffed up and  
13      bashed around and whatnot, so did everybody  
14      else. The doctor said nothing about that event  
15      contributed to or led to Billy's death. So don't  
16      consider that, because it's not a factor in  
17      this. It's a terrible thing that Billy passed  
18      away. It really is, and we all feel for that.  
19      But the fact that he passed away in no way  
20      should relate to what happened that day. The two  
21      are not connected.

22               I can't, nor am I going to, speak about  
23      Joanie's personality, character or anything  
24      else. I'm not clear despite a couple of attempts  
25      to try to understand what she saw that day, what

1 all happened. I'm still not clear exactly what  
2 she's telling us happened. I think I understand.  
3 I think I understand what she's saying and why  
4 she's saying it.

5 I know that she wants to hold Joseph  
6 responsible for everything that happened that  
7 day. He's not responsible for everything bad  
8 that happened that day. He didn't call anybody  
9 to come by. He didn't call anybody to bring a  
10 bat up there and wave it around. He didn't cause  
11 anybody to jump on him and his face. He didn't  
12 cause any of that.

13 He gets on the stand -- he, being Joseph --  
14 comes up here, gets on the stand and tells you  
15 his version of what happened that day. He and  
16 Joanie had been out the night before. Had a  
17 great time. She was in bed. She didn't really  
18 have a plan or interest in going to church with  
19 her father. So when her father came knocking on  
20 the door, she was a little surprised by all  
21 that.

22 But when Joseph came back and said your  
23 dad's at the door, there was no argument about  
24 it. There was no confrontation between anybody  
25 about going to church. There was none of that.

1 as well as I do, nobody really knows. None of us  
2 were there. There was a struggle over this  
3 baseball bat. At some point, the two of them,  
4 two men end up on the ground still wrestling  
5 around over this baseball bat. Whether they went  
6 through the fence, did not go through the fence,  
7 ended up on the lawn, did not end up on the lawn  
8 or whatever, it doesn't really matter. It's  
9 clear that they were both wrestling around for  
10 this bat, just the two of them.

11 Then, Joanie jumps in the middle of the  
12 situation. Then she jumped on my client, Joseph.  
13 Then she begins scratching and clawing and  
14 hitting Joseph in the head. I don't think  
15 there's any dispute about that. He's got  
16 injuries. He's been hurt. She's clawing. He --  
17 while he's wrestling on his back with the man he  
18 was afraid of, she starts doing all this, and he  
19 bites her finger. I'm not sure that's  
20 (Indiscernible.) I don't think anybody would  
21 bite somebody's finger if they're just  
22 scratching them. But you guys have got to  
23 decide. You have to decide if he was defending  
24 himself or that he just went up and bit her  
25 fingers. I don't know of any evidence that



1       enjoyed the day together. They told you they  
2       were working on a car together. They've done  
3       everything together in a normal situation that  
4       you would expect family members to have  
5       together. That day was different than the two  
6       days before. I don't know why. I don't know what  
7       was going on.

8               But you heard Joseph say that he thought  
9       things were a little different, especially as it  
10      related to Billy's attitude, mental state,  
11      physical and aggressive nature. Didn't mean they  
12      weren't friends. Didn't mean they didn't  
13      consider one another family. Families fuss from  
14      time to time. They have disagreements. They get  
15      over it. This day was different.

16             This day, Joseph tells you he felt  
17      threatened. Especially when a guy regardless of  
18      how old he is, regardless of his mental state,  
19      regardless of his sanity or not sanity,  
20      whatever, Joseph has this guy come after him  
21      with a baseball bat. He's scared. In defending  
22      himself and his property, he tries to take the  
23      baseball bat away from the man that he was  
24      concerned about.

25             Now, what happened then? Y'all understand

1       He said your dad's here for y'all to go to  
2       church. She gets up, and gets dressed to go to  
3       church. He doesn't prevent her from doing that.  
4       Doesn't say I don't want you to go. You  
5       shouldn't go. None of that. He tells her, your  
6       dad's here to pick you up. She starts getting  
7       dressed to go to church.

8             Her dad, Billy, comes in the house. Again,  
9       the attitude, the change in personality or  
10      thought process, I don't know. He may not have  
11      been the same as he was two days before. Joseph  
12      was concerned because he felt that -- he knew  
13      that Billy had come in the house before with a  
14      firearm, concealed weapon permit. He was  
15      concerned.

16            At some point in time, Joanie and Billy  
17      both leave the house to go get in the car and go  
18      to church. For some reason, looking for a cell  
19      phone or whatnot, Joanie comes back in the  
20      house. Empties out her purse. Everything is  
21      gathered and put back in her purse. She goes  
22      back outside. He doesn't stop her. He doesn't  
23      tell her don't go with him. He didn't say  
24      anything except, "Go to church with your dad.  
25      Y'all have a good time. I'll see you later."

1           When he walks out the door to see her leave  
2           to go get in the car with her dad, Joseph sees  
3           her dad, Billy, again coming at him with this  
4           baseball bat and waving it around. Nothing good  
5           happens after that. Nothing good happened after  
6           that.

7           What we do know is the two of them wrestled  
8           around on the ground or whatever. He got knocked  
9           10 feet away or through a fence or through  
10          whatever. Who knows. But from what we've heard  
11          from everybody that was there and has testified  
12          is that they were still wrestling around over  
13          this baseball bat that had been used to attack  
14          Joseph. Ultimately, through everybody else's  
15          involvement, things calm down after all the  
16          fighting and biting, struggling and swinging  
17          bats. Things calm down enough to where Billy  
18          took the bat and walks back in his house.  
19          Event's over. No other conflict. No other  
20          confrontation. No ever -- no further need of any  
21          sort between Joseph and Billy or Joseph and  
22          Joanie or anybody else. It's over. It's done.

23          The police show up. They come and knock on  
24          the door. Billy opens the - - Joseph opens the  
25          door and complies with everything they tell him.

1 Y'all have heard it. That's what the evidence is  
2 in this case.

3 I submit to you Joseph Carpenter, my  
4 client, did absolutely nothing wrong, did  
5 nothing malicious, did nothing with an intent to  
6 cause harm to anybody else, did nothing to  
7 provoke anything that happened that day. Joseph  
8 Carpenter talked to his wife about her going to  
9 church with her father and when he was  
10 threatened, when he felt threatened -- people  
11 came at him with a baseball bat, he did nothing  
12 but defend himself. That's what you've heard.

13 Again, it's a terrible thing that happened.  
14 Nobody is happy that Billy is no longer with us.  
15 The two should not be considered when y'all  
16 deliberate and reach your decision. Their  
17 loving, 20-some-odd year relationship may well  
18 have been on a down slide. That's for the two of  
19 them to figure out. What you guys have to  
20 decide, the jury has to decide is if Joseph  
21 Carpenter did anything that day other than try  
22 to defend himself. I think after you look at the  
23 evidence, the only -- only solution, only answer  
24 is that Joseph Carpenter is not guilty of these  
25 charges. Thank you.

1           **THE COURT:**     Thank you.

2           Ms. Munson?

3           **MS. MUNSON:**     Please the Court, Mr.  
4           Culbertson.

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

6           **MS. MUNSON:**     Mr. Culbertson and I don't  
7           agree on pretty much anything, but we did agree  
8           on y'all. Both of us know that you will go back  
9           there in your jury room and after careful  
10          deliberation and without hesitation come back in  
11          here and render a verdict that speaks the truth.  
12          You have no friends to reward, no enemies to  
13          punish. You don't have to make one side happy or  
14          the other. We both agreed on that.

15          In a few minutes, Her Honor is going to  
16          charge you on the law. I'm going to spend a very  
17          brief part of this time going over some of the  
18          parts of the law. One thing she's going to talk  
19          to you about is circumstantial evidence. That's  
20          one of the things you hear on TV all the time.  
21          "That case is no good. That's purely  
22          circumstantial." Well, what the law happens to  
23          be, as Her Honor will tell you, is that  
24          circumstantial evidence is no less valuable than  
25          direct evidence. So just because there's

1 circumstantial evidence involved doesn't mean  
2 that you have to throw it out. You can if you  
3 want to because you're the jury, but you don't  
4 have to just because it's circumstantial.

5 Here's kind of a mistake that sometimes  
6 people make. They make an analogy to  
7 circumstantial evidence as links in a chain.  
8 Each link in the chain makes the chain. The  
9 chain is real strong and all that. The problem  
10 with that analogy is if one link breaks, you  
11 totally lose the chain. Circumstantial evidence,  
12 Ladies and Gentlemen, is more like a rope, a  
13 rope that is made up of several strands.

14 For example, in this case, that video that  
15 Maureen Phend took and sent to Joanie's mother,  
16 that's not enough to convict the defendant.  
17 Y'all may as well throw it out all together. But  
18 if you accept it as true evidence, then that's  
19 part of the rope.

20 The doctor testified that Mr. Sanders  
21 suffered a deep brain bleed in the center of his  
22 head that was very serious. He was in a coma. He  
23 was so bad they couldn't even operate on it.  
24 That's not enough to convict the defendant. But  
25 if you accept that as true, that's another

1 string that goes to the rope and on and on it  
2 goes. What I'm saying to you, Ladies and  
3 Gentlemen, is with direct and circumstantial  
4 evidence, you'll have enough strands at the end  
5 of this case when you come back out of your jury  
6 room that will demonstrate that the State has a  
7 strong enough, well, a considerable burden of  
8 proof.

9 Her Honor is going to tell you, already has  
10 and will tell you a lot more about the burden of  
11 proof, beyond a reasonable doubt. Don't be  
12 afraid of that. It is a heavy burden. No doubt  
13 about it. The State has to prove it. He doesn't  
14 have to prove anything. Sitting there right now,  
15 he's an innocent man. It's said sometimes the  
16 defendant wears a robe of righteousness about  
17 his shoulders. It stays with him unless and  
18 until the jury is convinced by evidence that  
19 proves him guilty beyond a reasonable doubt.  
20 That's the only time that that robe was removed.

21 It's a heavy burden no doubt, but it  
22 doesn't mean beyond all doubt. We can know few  
23 things in this world to an absolute certainty.  
24 The law does not require that. You must be  
25 firmly convinced. What I'm going to submit to

1       you is that the evidence in this case has one by  
2       one by one cut away every thread that binds that  
3       robe of righteousness. You will be able to  
4       remove it and find him guilty.

5       Credibility. Her Honor is going to talk to  
6       you about credibility. Believability. Do you  
7       believe what somebody's saying? How do you  
8       figure out if somebody's telling you the truth?  
9       Just like Judge Verdin said, you do it the same  
10      way you do it when you are in outside life --  
11      outside this jury box. If I told you right now  
12      that the bailiff had on a blue coat, y'all  
13      wouldn't believe that. You can see it. Right? So  
14      I'm not being truthful when I say he has on a  
15      blue coat. Just like everyday stuff.

16      I'll get, in a minute, a great deal to the  
17      credibility of this defendant. Now, he didn't  
18      have to say anything. He had no burden. He  
19      didn't have to say anything. But he did. And  
20      because he did, we're going to have to talk  
21      about that.

22      One other thing that I going to let you  
23      know about is Her Honor is going to charge you  
24      on self-defense. She's going to give you four  
25      elements of self-defense. It's a lot of



1       legalese. It's difficult for even lawyers to  
2       understand. But in a nutshell, there are two  
3       particular elements of self-defense that I want  
4       you to consider when considering his guilt. One  
5       of them is that the defendant must not be at any  
6       fault in bringing on the problem. Now, he  
7       doesn't have to prove that he wasn't at fault. I  
8       don't want to intimate that. We have to prove  
9       that he was at fault in bringing on the problem.

10       Another part of self-defense is that there  
11       was no other option other than what he did. He  
12       had to do it. A reasonable conclusion you can  
13       draw from the facts is this, Mr. Sanders went to  
14       pick up his daughter for church. It was a normal  
15       thing. Now, the defendant wants you to believe  
16       that he just sort of showed up, and his showing  
17       up was so upsetting and so disturbing that Mr.  
18       Sanders had to get on -- that Joanie had to get  
19       on her cell phone and call her mother and say,  
20       "What is going on? He's not supposed to be here.  
21       I don't want to go." And Mrs. Sanders responded  
22       by saying, he's in bad shape.

23       Is it believable that a man and woman --  
24       woman married to same man for almost 63 years is  
25       going to, number one, go to a different church

1 and turn off her cell phone, which is what she  
2 testified she did, while she was in her meeting,  
3 knowing that her brain-addled, dementia'ed, out-  
4 of-his-mind husband is just riding around all  
5 over the place? Is that wife going to do that?  
6 No, she's not. She told you when she got to her  
7 meeting, turned her cell phone off, put it away .  
8 because that's what you do. Is that going to  
9 happen? No. So when he tells you that he heard  
10 Joanie on the phone with her mother, that's not  
11 true. That's not believable. That's not credible  
12 because of the other evidence you have.

13 He was mad about that. And you know what's  
14 funny about something else the defendant said? I  
15 didn't hear the police knocking on the door. I  
16 was in my soundproof bedroom, which is exactly  
17 where he was when Mr. Sanders came to the door.  
18 I can hear Mr. Sanders on the door, but I can't  
19 hear the police who had a sledgehammer? I heard  
20 that, but I didn't hear the police. That is not  
21 believable. That is not credible.

22 Joanie is upset and she's scared. And this  
23 wonderful loving relationship that we heard  
24 about, the defendant told you at one point that  
25 she left. She was gone and he didn't even know

1       that she left him. Why would a woman do that?  
2       Why would a woman just pick up and leave and not  
3       even tell him but tell all the friends? I'll  
4       tell you why, cause she's scared of him.

5               So she gets ready to go to church. She goes  
6       back in for the cell phone. You women who have  
7       pocketbooks, you know how that goes. Think  
8       something's in there. You don't know if it's in  
9       there. She goes back in the house and things get  
10      even worse. Mr. Carpenter did not want to admit  
11      that what I took up there to him was the mask  
12      that he used to damage the property in front of  
13      Joanie, scaring her further. But did you notice,  
14      when I put it up there he kept his hands to  
15      himself and just looked over. He wouldn't even  
16      touch that thing. Body language and how a person  
17      behaves up there is also something you can use  
18      to determine their credibility.

19             Mr. Sanders, he went into the house. Mr.  
20      Sanders that the defendant even describes as  
21      peace-loving, always tried to diffuse  
22      situations, suddenly on this day, he's some kind  
23      of maniac. An 83 or 80 -- 80-something-year old  
24      man who's going to go in a house -- and y'all  
25      will have this bat back there -- is going to be

1       able to grab by the handle and swing it around -  
2       - it's kind of heavy -- is going to be able to  
3       swing it around for no reason, for no reason at  
4       all. He's going to do that?

5       A more reasonable conclusion that you can  
6       draw from the facts, Ladies and Gentlemen, is  
7       that, as usual, this defendant did not want  
8       Joanie going to church with her dad. He didn't  
9       want her dad up in the house. He didn't want  
10      nothing to do with it. So when he gets there,  
11      Joanie's in the house. Mr. Sanders hears the  
12      commotion in the house, so he steps in hoping  
13      that he can calm things down. What's wrong,  
14      Joseph?

15      And the answer he gets is ridiculous. The  
16      mask and the trying to pray over him or whatever  
17      he was trying to do. It was a scary situation.  
18      Things got heated and things got more heated.  
19      Then the dog comes in and attacks Joseph. Isn't  
20      it funny that the only person that dog attacks  
21      is him? A wild, vicious, unpredictable dog is  
22      going to to let two officers come in the back  
23      yard. You saw Deputy Leathers, the big vest. He  
24      looks scary to me. But that dog is going to let  
25      that go on and those two officers who had never

1 met this dog had no trouble. Why was that dog  
2 attacking him? Because he was attacking Joanie.  
3 That's why the dog did that.

4 So at this point, Mr. Sanders thinks maybe  
5 I better just go back outside. Things got louder  
6 and louder and louder. So yeah, he got his bat  
7 out of the car, out of the truck. He thought he  
8 was going to need it. Doesn't that make sense?  
9 He already had some kind of wild shenanigans in  
10 the house. He could still hear it. When this  
11 defendant came out of the house and saw Mr.  
12 Sanders with this bat, how dare he. It wasn't  
13 "I've got to protect myself." It was, "What does  
14 that foolish old man think he's doing on my  
15 property with that bat trying to take my girl to  
16 church?"

17 And he charged him. He pushed him up  
18 against that fence with such force that they  
19 ended up going through the fence. Now,  
20 Mr. Carpenter, on the stand didn't want to talk  
21 at all about how Mr. Sanders ended up with that  
22 serious life-threatening head injury. He didn't  
23 tell you about that. We know that he was struck  
24 in the face. We know that because Jessica Frady,  
25 the EMS person, who doesn't have -- she doesn't

1 know anybody here. Why would she lie?

2 She noted -- I've got to add this first.

3 If I tell you -- if I quote somebody's testimony  
4 and I get it wrong, your version matters, not  
5 mine. So I don't do that on purpose. But Jessica  
6 Frady, as I recall, told you that he had  
7 abrasions and bruising on his temple. How did  
8 that happen? From struggling over the bat?

9 And then we have poor Mr. Carpenter who  
10 gets up in the morning, is in a really good  
11 mood. I mean, you can almost envision little  
12 blue birds singing around him. He got his skin  
13 pulled back by Joanie for no reason. He's beaten  
14 with this bat by this crazy wild old man in the  
15 knee. He said he was hit with it several times.  
16 His little buddy, his good friend, Mr. Sanders,  
17 he described him. Mr. Sanders is laying through  
18 the fence, vomiting, not being able to talk to  
19 anybody.

20 Does he go check on his good friend? Does  
21 he even go around the fence and say, "Oh, crap,  
22 Joanie is he okay? What's going on? Should I  
23 call for help?" No. He wanted that old man gone.  
24 That's exactly what he tried to do. All of his  
25 actions put Joanie in reasonable fear that

1 something was going to happen to her, too,  
2 something bad, because he got the bat and he ran  
3 in the house.

4 He showed no care, no concern. Let me tell  
5 you, the struggle at the fence, it was so loud  
6 and scary. You remember Joanie's testimony? She  
7 was coming around the fence to see about her  
8 dad, and Lee Sexton was already coming across  
9 the street, the firefighter who was off duty.  
10 Wife says, "Lee, there's something going on out  
11 there." He has time to go get some gloves, go  
12 get his equipment and he's coming across the  
13 street before Joanie even got around the fence.  
14 That's how loud and awful and terrible and scary  
15 this thing was.

16 Without just cause or excuse, he attacked  
17 Mr. Sanders. It made him mad that he had that  
18 bat. Things were going so bad in the house, Mr.  
19 Sanders heard it. That's why he got there.

20 He told you -- Mr. Carpenter told you that  
21 he skin was pulled back, all kinds of things. I  
22 can't remember. He was beaten with the bat, was  
23 afraid he was going to have a seizure, was  
24 blacking out from Joanie suffocating him. Then  
25 he gets to the detention center and they take

1 him. You remember the testimony of Deputy  
2 McCloud. It happened to him on a regular basis  
3 that a person who is obviously injured or ill is  
4 not going into the detention center until they  
5 get medical attention. The defendant went right  
6 in. The defendant, who was refusing to open the  
7 door, the defendant who said just go ahead and  
8 shoot me, I'll sue you, did he ask the deputies,  
9 how's Mr. Sanders? He knew or he was hoping.

10 Her Honor is going to give you something  
11 called lesser included offenses as well, which  
12 means that he's charged with attempted murder on  
13 Mr. Sanders, which is the State's position that  
14 we have proven beyond a reasonable doubt that  
15 he, with malice, which is a wicked condition of  
16 the heart, an evil intent, acting with just  
17 cause or excuse, that he did that with the  
18 intent to kill Mr. Sanders. Why else are you  
19 going to knock an 83-year-old man through a  
20 fence, kicking him in the head to the point that  
21 his brain is bleeding and he's in a coma?

22 Her Honor is going to tell you, though, if  
23 you don't believe that he had the specific  
24 intent to kill, you're going to be allowed to  
25 consider a lesser included offense. She'll give



1       you two other ones. I'm not going to go into  
2       that. I'm not going to go into that because it  
3       will take too long and she's the judge of the  
4       law and I think y'all have probably heard  
5       enough, so I'm going to leave that to her.

6               When you consider the credibility of  
7       Joanie -- not just Joanie, but the funny thing  
8       is Maureen, Lee Sexton, all of the people that  
9       were around, the things that they tell you match  
10      up. Nothing that he's telling you makes sense.  
11      You don't have to like Joanie. You don't have to  
12      like Joanie's lifestyle. You don't have to like  
13      or dislike Mr. Carpenter. That's not what this  
14      is about. Again, we know you're not going to do  
15      that. And if I've done anything to upset or  
16      offend you, I apologize. Write a letter to my  
17      boss, but don't take it out on the case. On  
18      behalf of the people of Greenville County, I  
19      urge you please to find this defendant guilty of,  
20      attempted murder and aggravated domestic  
21      violence. Thank you.

22              **THE COURT:**     Madam Foreperson, Ladies and  
23      Gentlemen of the jury, you have seen and heard  
24      the evidence presented, as well as the arguments  
25      of counsel. It now becomes my duty and

1 obligation to instruct you on the law applicable  
2 in this case. It will then be your duty and  
3 obligation to begin your deliberations, through  
4 which process you will decide the facts, apply  
5 the law as instructed by the Court, and render  
6 fair and impartial decisions.

7 It is your exclusive duty to determine the  
8 facts in this case. You do that based upon your  
9 own common sense examination and evaluation of  
10 the testimony and other evidence received during  
11 the trial of this case. You, twelve jurors  
12 alone, will decide what weight, value, and  
13 effect that is to be given to any particular  
14 testimony or other evidence received. Your  
15 ultimate goal is to simply reach the truth in  
16 this matter, and in doing so, you will have  
17 fulfilled your obligations as jurors, and that  
18 is to give both the State and the defendant a  
19 fair and impartial trial based upon the evidence  
20 presented and the law applicable to this case.

21 In this case, the State of South Carolina,  
22 through the circuit Solicitor, has charged the  
23 defendant with the criminal offenses known as  
24 Domestic Violence of a High and Aggravated  
25 Nature and Attempted Murder. The allegations

1 charging the defendant with these crimes are set  
2 forth in the indictments that have been  
3 previously explained to you. As I have  
4 previously explained, the indictments are not  
5 evidence in this case and may not be considered  
6 by you as evidence against the defendant.

7 As to each of the charges set forth in the  
8 indictments, the defendant has entered a plea of  
9 not guilty. That plea of not guilty is,  
10 therefore, placed upon the State the burden of  
11 proving each of the essential elements of any  
12 crimes charged; and therefore, the burden of  
13 proving the guilt of the defendant to the  
14 satisfaction of you twelve jurors beyond a  
15 reasonable doubt before a verdict of guilty  
16 could be returned as to any indictment.

17 The burden is never upon a defendant to  
18 prove that he is not guilty or to prove that he  
19 is innocent because, in some cases, that might  
20 be possible. The burden is always upon the  
21 State, because they have made the allegations,  
22 to prove the defendant guilty beyond a  
23 reasonable doubt.

24 You are further instructed that it is a  
25 vital, important, and cardinal rule of law that

1 every defendant in a criminal trial, no matter  
2 how serious the offense might be for which he  
3 stands charged, shall always be presumed  
4 innocent of that charge, and that presumption of  
5 innocent shall be with the defendant from the  
6 moment of his arrest and throughout the course  
7 of the criminal process, and even throughout the  
8 course of the actual trial.

9 The presumption of innocence shall be with  
10 the defendant even as you go into the jury room  
11 to begin your deliberations, and that  
12 presumption of innocence shall be with him there  
13 and be with him forever, unless you twelve  
14 jurors determine that he is no longer entitled  
15 to that presumption of innocence. It is only if,  
16 unless, and until you are satisfied of the  
17 defendant's guilt beyond a reasonable doubt that  
18 he would no longer be entitled to the  
19 presumption of innocence.

20 I remind you that, during this trial, you  
21 and I have certain duties to perform. As the  
22 trial judge, it is my responsibility to preside  
23 over the trial of this case, and I also have the  
24 duty to rule on the admissibility of the  
25 evidence offered during this trial. You are to

1 consider only the competent evidence before you.  
2 If there was any testimony ordered stricken from  
3 the record in this case during this trial, you  
4 must disregard that testimony. You are to  
5 consider only the testimony which has been  
6 presented from this witness stand, any exhibits  
7 which have been made a part of the record in  
8 this case, and any stipulations of counsel.

9 I have the additional duty to charge you  
10 the law applicable in this case. As the  
11 presiding judge, I am the sole judge of the law  
12 of this case, and it is your duty, as jurors, to  
13 accept the law and apply the law as I now state  
14 it to you. If you already have any idea as to  
15 what the law is or what the ought to be and it  
16 does not agree with what I now tell you the law  
17 is, you must abandon this idea because you are  
18 sworn to accept the law and apply the exactly as  
19 I state it to you.

20 In every case tried in this court before a  
21 jury, the jury becomes the sole and exclusive  
22 judge of the facts in this case. A trial judge  
23 can not intimate, state, comment on or make any  
24 statement to a trial jury about the facts of the  
25 case. Since you, the jury, are the sole judges

1 version of that happened. Obviously, there was a  
2 little disagreement about how quickly, how fast  
3 he went where. But in any event, Joanie gets up,  
4 gets dressed. Goes outside -- or prepares to  
5 church with her father. I don't think anybody  
6 disputes that.

7 Where the day comes into question, where  
8 the argument, discussion and disagreement of the  
9 facts are is how willing Joseph, my client, was  
10 to have Bill come into his house and what he  
11 felt like, what Joseph felt like when Billy came  
12 into his house. Was he fearful of that meeting?  
13 I'll submit to you initially, maybe not,  
14 probably not.

15 But shortly after Joseph and Billy started  
16 talking, Joanie comes out. Joseph told you that  
17 he had concerns, was worried about Billy's  
18 attitude, mental state, his reaction. He told  
19 you that he knew that Billy had a concealed  
20 weapons or firearms permit, and that was  
21 concerning to him and made him somewhat  
22 apprehensive for what was going to happen that  
23 day. So you heard Joanie goes ahead and gets  
24 dressed to go to church.

25 Whether there was a conversation or not

1       about going to church or not going to church or  
2       the dog or not the dog, being bitten or any of  
3       this stuff doesn't really matter. What matters  
4       is that my client, Joseph, in his house was  
5       somewhat concerned for his safety from dealing  
6       with the facts and situations and circumstances.  
7       So he again asked Billy to leave. At some point  
8       in time, Billy and Joanie leave to go to church.

9               For some reason, Joanie comes back in the  
10       house. I don't care if it was for her cell  
11       phone. I don't care if it was to have more  
12       conversation with Joseph. I don't care what the  
13       reason was. It doesn't really matter, because  
14       that level, that element of fear and concern  
15       that my client, Joseph, had still existed. It  
16       was still in his mind in his house.

17              She comes back in. Billy is at the truck  
18       with a baseball bat and comes toward my client.  
19       That level of fear, that level of concern, that  
20       level of worry that he had before they walked  
21       out probably was still there. Now that he sees  
22       this guy coming at him with a baseball bat, it  
23       may have gone up a little bit.

24              My client, Joseph Carpenter, and Billy had  
25       been together a couple of days before. They had

1 of the facts in this case, you are not to infer  
2 from what I have said during the progress of  
3 this trial in ruling upon the admissibility of  
4 evidence, or otherwise, or anything that I say  
5 now during the course of this instruction to you  
6 that I have any opinion about the facts in this  
7 case. I do not. The law does not allow me to  
8 have an opinion about the facts in this case.  
9 This is a matter solely for you, the jury, to  
10 determine. As jurors, it is your duty to  
11 determine the effect, value, weight, and truth  
12 of the evidence presented during this trial.

13 The State has the burden of proving the  
14 defendant guilty beyond a reasonable doubt. Some  
15 of you may have served as jurors in civil cases,  
16 where you were told that it is only necessary to  
17 prove that a fact is more likely true than not  
18 true, such as by the greater weight or  
19 preponderance of the evidence. In criminal  
20 cases, the State's proof must be more powerful  
21 than that. It must be beyond a reasonable doubt.  
22 Reasonable doubt is the kind of doubt that would  
23 make a reasonable person hesitate to act. Proof  
24 beyond a reasonable doubt is proof that leaves  
25 you firmly convinced of the defendant's guilt.



1           There are very few things in this world  
2           that we know with absolute certainty, and in  
3           criminal cases the law does not require proof  
4           that overcomes every possible doubt. If, based  
5           on your consideration of the evidence, you are  
6           firmly convinced that the defendant is guilty of  
7           the crimes charged, you must find the defendant  
8           guilty. If, on the other hand, you think there  
9           is a real possibility that the defendant is not  
10          guilty, you must give the defendant the benefit  
11          of the doubt and find him not guilty.

12           There are two types of evidence which are  
13          generally presented during a trial: direct  
14          evidence and circumstantial evidence. Direct  
15          evidence is the testimony of a person who claims  
16          to have actual knowledge of a fact, such as an  
17          eyewitness. It is evidence which immediately  
18          establishes the main fact to be proved.

19           Circumstantial evidence is proof of a chain  
20          of facts and circumstances indicating the  
21          existence of a fact. It is evidence which  
22          immediately establishes collateral facts from  
23          which the main fact may be inferred.

24          Circumstantial evidence is based on inference  
25          and not on personal knowledge or observation.

1           The law makes absolutely no distinction  
2       between the weight or value to be given to  
3       either direct or circumstantial evidence; nor is  
4       a greater degree of certainty required of  
5       circumstantial evidence than of direct evidence.  
6       You should weigh all of the evidence in the  
7       case. After weighing all the evidence, if you  
8       are not convinced of the guilt of the defendant  
9       beyond a reasonable doubt, you must find the  
10      defendant not guilty.

11           Necessarily, you must determine the  
12      credibility of witnesses who have testified in  
13      this case. Credibility simply means  
14      believability. It becomes your duty as jurors to  
15      analyze and to evaluate the evidence and  
16      determine which evidence convinces you of its  
17      truth.

18           In determining the believability of  
19      witnesses who have testified in this case, you  
20      may believe one witness over several witnesses  
21      or several witnesses over one witness. You may  
22      believe a part of the testimony of a witness and  
23      reject the remaining part of the testimony of  
24      that same witness. You may believe the testimony  
25      of a witness in its entirety or reject the

1 testimony of a witness in its entirety. You may  
2 consider whether any witness has exhibited to  
3 you any interest, bias, prejudice, or other  
4 motive in the case. You may also consider the  
5 appearance and manner of a witness while on the  
6 witness stand.

7 In order to establish criminal liability,  
8 the State must also prove criminal intent. For a  
9 particular crime, the mental state required  
10 might be purpose, intent, knowledge,  
11 recklessness, or criminal negligence. The State  
12 must prove criminal intent beyond a reasonable  
13 doubt. Criminal intent is a matter that must be  
14 determined by the jury from the facts of the  
15 case. There is no way to prove criminal intent  
16 to a mathematical certainty, so the law says  
17 that criminal intent may be inferred from the  
18 circumstances shown to have existed. This is how  
19 you determine whether or not the element  
20 requiring intent was present. It is not  
21 necessary to establish intent by direct  
22 evidence. Intent may be established by  
23 circumstantial evidence or by taking into  
24 consideration the acts of the parties and all  
25 the facts and circumstances of the case.

1 Criminal intent is a mental state of  
2 conscious wrongdoing. It is up to you to  
3 determine what the defendant intended to do  
4 based on the circumstances shown to have existed  
5 in this case. Criminal intent can arise from  
6 action or failure to act or from negligence,  
7 recklessness or an indifference to duty or  
8 consequences which is considered by the law to  
9 be the equivalent of criminal intent.

10 The defendant is charged with domestic  
11 violence of a high and aggravated nature. The  
12 State must prove beyond a reasonable doubt that  
13 the defendant committed an assault and battery  
14 on a household member which involves the use of  
15 a deadly weapon or results in serious bodily  
16 injury to the victim; or an assault, with or  
17 without an accompanying battery, which would  
18 reasonably cause a person to fear imminent  
19 serious bodily injury or death.

20 A "household member" is a spouse, former  
21 spouse, parent, child, grandparent, brother or  
22 sister, grandchild, person with whom the  
23 defendant has a child in common, and a person of  
24 the opposite sex with whom the defendant is  
25 living or has lived in the past. "Serious bodily

1 injury" means bodily injury which causes a  
2 substantial risk of death or which causes  
3 serious, permanent disfigurement or protracted  
4 loss or impairment of the function of a bodily  
5 member or organ.

6 If you find that the State has not met the  
7 burden of proof for the charge of criminal  
8 domestic violence of a high and aggravated  
9 nature, you may consider the lesser included  
10 charge of criminal domestic violence. The State  
11 must prove beyond a reasonable doubt that the  
12 defendant caused physical harm or injury to a  
13 member of the defendant's own household or that  
14 the defendant offered or attempted to cause  
15 physical harm or injury to a member of the  
16 defendant's own household with the apparent  
17 present ability to cause harm or injury under  
18 circumstances reasonably creating a fear or  
19 imminent danger. A household member is as I  
20 defined for you earlier.

21 The defendant is charged with attempted  
22 murder. In order to prove this crime, the State  
23 must prove the defendant attempted to kill  
24 another person with malice aforethought, either  
25 express or implied. Malice is hatred, ill-will,

1 or hostility towards another person. It is the  
2 intentional doing of a wrongful act without just  
3 cause or excuse and with an intent to inflict an  
4 injury or under circumstances that the law will  
5 infer an evil intent.

6 Malice aforethought does not require that  
7 malice exists for any particular time before the  
8 act is committed, but malice must exist in the  
9 mind of the defendant just before and at the  
10 time that the act is committed. Therefore, there  
11 must be a combination of the previous evil  
12 intent and the act.

13 Malice aforethought may be express or  
14 inferred. These terms, "express" or "inferred"  
15 do not mean different kinds of malice but merely  
16 the manner in which malice may be shown to  
17 exist. That is either by direct evidence or from  
18 inference from the facts and circumstances which  
19 are proved. Express malice is shown when a  
20 person speaks words which express hatred or ill  
21 will for another or when the person prepared  
22 beforehand to do the act which was later  
23 accomplished; for example, lying in wait or  
24 other acts of preparation. Malice may be  
25 inferred from conduct showing a total disregard

1       for human life. If facts are proved beyond a  
2       reasonable doubt sufficient to raise an  
3       inference of malice to your satisfaction, this  
4       inference would be simply an evidentiary fact to  
5       be considered by you, the jury, along with the  
6       other evidence in the case, and you may give it  
7       the weight you decide it should receive.

8               Specific intent to commit a murder is an  
9       element of attempted murder. This means that the  
10      act constituting the attempt must be done with  
11      the intent to commit that particular crime.  
12      Excuse me. In the context of an attempt,  
13      specific intent means that the defendant  
14      consciously intended the completion of acts  
15      comprising the attempted offense. In other  
16      words, the completion of such acts is the  
17      defendant's purpose.

18             Assault and Battery of a High and  
19      Aggravated Nature. If you find that the State  
20      has not met the burden of proof for the charge  
21      of attempted murder, you may consider the lesser  
22      included charge of assault and battery of a high  
23      and aggravated nature. A person commits the  
24      offense of assault and battery of a high and  
25      aggravated nature if the person unlawfully

1 injures another person, and a great bodily  
2 injury to another person results, or the act is  
3 accomplished by means likely to produce death or  
4 great bodily injury. Great bodily injury is  
5 defined as I've defined serious bodily injury  
6 earlier in my charge.

7 Assault and Battery in the first degree. If  
8 you find that the State has not met the burden  
9 of proof for Assault and Battery of a High and  
10 Aggravated Nature, you may consider the lesser  
11 included charge of Assault and Battery in the  
12 first degree. A person commits the offense of  
13 Assault and Battery in the first degree if the  
14 person offers or attempts to injury another  
15 person with the present ability to do so, and  
16 the act is accomplished by means like to produce  
17 death or great bodily injury.

18 The defendant has raised the defense of  
19 self-defense. Self-defense is a complete defense  
20 and, if established, you must find the  
21 defendant not guilty. The State has the burden  
22 of disproving self-defense beyond a reasonable  
23 doubt. If you have a reasonable doubt of the  
24 defendant's guilt after considering all the  
25 evidence, including the evidence of self-



1 defense, then you must find the defendant not  
2 guilty. On the other hand, if you have no  
3 reasonable doubt of the defendant's guilt after  
4 considering all the evidence, including the  
5 evidence of self-defense, then you must find the  
6 defendant guilty.

7 The following elements are required to  
8 establish self-defense: First, the defendant  
9 must be without fault in bringing on the  
10 difficulty. If the defendant's conduct was the  
11 type which reasonably -- was reasonably  
12 calculated to, and did, provoke a deadly  
13 assault, the defendant would be at fault in  
14 bringing on the difficulty and would not be  
15 entitled to an acquittal based on self-defense.

16 The next element of self-defense is the  
17 defendant was actually in imminent danger of  
18 death or serious bodily injury or that the  
19 defendant actually believed he was in imminent  
20 danger of death or serious bodily injury. If the  
21 defendant was actually in imminent danger, it  
22 must be shown that the circumstances would have  
23 warranted a person of ordinary firmness and  
24 courage to strike the blow to prevent death or  
25 serious bodily injury. If the defendant believed

1 he was in imminent danger of death or serious  
2 bodily injury, it must be shown that a  
3 reasonably prudent person of ordinary firmness  
4 and courage would have had the same belief.

5 In deciding whether the defendant actually  
6 was, or believed he was, in imminent danger of  
7 death or serious bodily injury, you should  
8 consider all the facts and circumstances  
9 surrounding the crime, including the physical  
10 condition and characteristics of the defendant  
11 and victim.

12 The defendant does not have to show that he  
13 was actually in danger. It is enough if the  
14 defendant believed he was in imminent danger and  
15 a reasonably prudent person would have the same  
16 belief. The defendant has the right to act on  
17 appearances even though the defendant's beliefs  
18 may have been mistaken. It is for you to decide  
19 whether the defendant's fear of immediate danger  
20 of death or serious bodily injury was reasonable  
21 and would have been felt by an ordinary person  
22 in the same situation.

23 Words, accompanied by hostile acts, may,  
24 depending on the circumstances, establish self-  
25 defense. The relative sizes, ages, and weights

1 of the defendant and the victim may be  
2 considered in deciding the apparent or actual  
3 need for force in self-defense and the amount of  
4 force needed. Threats made by the victim may  
5 be considered in determining whether the  
6 defendant actually was, or believed he was, in  
7 imminent danger.

8 The final element of self-defense is that  
9 the defendant had no other probable way to avoid  
10 the danger of death or serious bodily injury  
11 than to act as the defendant did in this  
12 particular instance. If the defendant was on his  
13 own premises, the defendant had no duty to  
14 retreat before acting in self-defense.

15 The defendant has also raised the defense  
16 of habitation. The defense of habitation is the  
17 defense of one's dwelling -- one's dwelling  
18 house. If the defendant or a member of the  
19 defendant's household is attacked in the  
20 defendant's own home, the defendant may use the  
21 force which appears to be needed to protect  
22 himself or his household from death or serious  
23 bodily injury. When attacked in his own house,  
24 the defendant may justify or excuse the killing  
25 of his assailant if such act is apparently

1 necessary to save his own life or to protect  
2 himself from great bodily harm.

3 If a trespasser refuses to leave the  
4 dwelling at the request of the householder  
5 defendant, the defendant may use the necessary  
6 force to eject the trespasser. If, in the effort  
7 to eject the trespasser, the life or safety of  
8 the defendant or a member of the defendant's  
9 household is jeopardized, the defendant may kill  
10 the trespasser. However, the defendant may not  
11 use more force than is reasonably necessary to  
12 eject the person from the premises. The  
13 defendant should not, in the first instance,  
14 resort to immediate force to repel the intruder.  
15 The kind and degree of force which are justified  
16 depend on the conduct of the intruder.

17 Even though a person has entered the  
18 dwelling at the invitation of the defendant or a  
19 member of the household, his subsequent conduct  
20 may be such as to justify the defendant in  
21 ordering his departure. The person becomes a  
22 trespasser if the person refuses to leave when  
23 asked. Upon the person's refusal to depart, the  
24 defendant is not required to yield as a mode of  
25 avoiding an altercation and apprehended

1 violence, but may use force reasonably necessary  
2 or apparently necessary to eject him, and no  
3 more. The defendant should not, in the first  
4 instance, resort to force to repel the intruder.  
5 The kind and degree depend on the conduct of the  
6 intruder.

7 If, while legitimately exercising in good  
8 faith the right to eject a trespasser, the  
9 defendant is attacked by the trespasser and  
10 fears death or serious bodily harm, the  
11 defendant would be without fault in bringing on  
12 the difficulty. An element that is necessary to  
13 the defense of habitation is that the defendant  
14 be without fault in bringing about the  
15 difficulty. Whether the defendant was acting in  
16 good faith in attempting to eject the victim and  
17 was attacked in the process is a question for  
18 you to determine.

19 The law permits the occupant of the home to  
20 use such force even to the taking of a human  
21 life, as may be reasonably necessary to  
22 accomplish the expulsion. If engaged in the  
23 exercise in good faith of his right to eject  
24 such trespasser, he is without fault in bringing  
25 on the difficulty and would not have to retreat.

1 The belief in the necessity of using deadly  
2 force in the defense of habitation must be  
3 reasonable. This right of an occupant to expel a  
4 trespasser and to use such force as is  
5 necessary, even to killing him, is limited to  
6 the place of habitation and curtilage.

7 There is no duty to retreat where the  
8 attack occurs in one's home. The absence of a  
9 duty to retreat also extends to the curtilage of  
10 a home. Curtilage is such space as is necessary  
11 and convenient, and is habitually used for  
12 family purposes, including an adequate yard and  
13 garden and room for necessary outbuildings.  
14 Curtilage includes outbuildings, yard around  
15 dwelling, and garden. It also includes garages,  
16 driveways, courtyards, and parking area. Yards,  
17 courtyards, driveways and parking areas usually  
18 and customarily used in common by occupants of  
19 apartment houses, condominiums and other such  
20 complexes with other occupants thereof  
21 constitute a part of the curtilage of a  
22 specifically described apartment or condominium  
23 or other living unit thereof.

24 Ladies and Gentlemen, your verdict must be  
25 a unanimous one. I am required by law to have

1       given you these instructions as I did. Please  
2       do not infer by anything that I may have said  
3       that I have any opinion about this case or the  
4       outcome of this case because I do not.

5               Madame foreperson, when the jury agrees on  
6       the verdict, if you will, write the verdict on  
7       the verdict form and sign and date it as the  
8       foreperson. Then you will knock on the door or,  
9       I think turn on the light -- turn the light on  
10      in the jury room and inform the bailiff you have  
11      reached a verdict, who will then bring you back  
12      into the courtroom for your verdict.

13             This verdict form is pretty self-  
14      explanatory. It just goes through the charges  
15      that the defendant is charged with and has  
16      included in each section the lesser included  
17      offenses.

18             I thank you so much for your service in the  
19      case. I ask that you return to your jury  
20      deliberation room, but do not begin  
21      deliberations quite yet. There's a matter I need  
22      to take up with the attorneys. All right. Thank  
23      you so much.

24             (WHEREUPON, the jury exits at approximately  
25      2:53 p.m.)

1           **THE COURT:**     Any objection to my charge on  
2           the law from the State?

3           **MS. MUNSON:**   Not necessarily an objection,  
4           Your Honor, but the stuff about household  
5           member, parent, child, that's no longer the law.  
6           I don't know that you need to bring them out and  
7           call attention to it. As a matter of fact, I  
8           would ask you not to.

9           **THE COURT:**     Okay. And I'm sorry. We were  
10          trying to figure out which one to use and I  
11          apologize.

12          **MS. MUNSON:**    Other than that, the State's  
13          fine with it, Your Honor.

14          **THE COURT:**     All right. Here's the question  
15          I've got. I didn't ask y'all about sending the  
16          -- about sending the charge back. I don't know  
17          how y'all feel about sending the charge back to  
18          the jury. I didn't instruct them on it, but I  
19          can send it back in written form, if you'd like.

20          **MR. CULBERTSON:**   I'm not sure what form  
21          you're talking about. Are you talking about the  
22          arrest warrant versus the indictment or whatever  
23          -- what other charging form you might be talking  
24          about. I'm not clear what that is that you're  
25          talking about.



1           **THE COURT:**     The charge -- I'm -- the  
2           charging form? I'm just sending back the verdict  
3           form. I'm not going to send back the  
4           indictments.

5           **MR. CULBERTSON:**     Oh, okay. So when you said  
6           the charging form, you're speaking to the  
7           verdict form?

8           **THE COURT:**     Oh, my charge on the law. I'm  
9           sorry. My charge on the law. That's what I was  
10          asking about.

11          **MR. CULBERTSON:**     It has been my experience  
12          that generally it's not sent back to the jury.  
13          It's also been my experience that if they have  
14          questions, they could then submit that question.

15          **THE COURT:**     Oh, sure. I mean, we -- I  
16          mean, yeah. I will say this. I do not send it  
17          back unless both parties consent. That's the  
18          only time I ever send it back.

19          **MR. CULBERTSON:**     Your Honor, again,  
20          briefly. It's been my experience that is not  
21          normally sent back to the --

22          **THE COURT:**     If you don't consent, that's  
23          fine. I won't send it back.

24          **MR. CULBERTSON:**     My understanding is the  
25          concern being that they might be concerned or

1 confused over the legal terms.

2 THE COURT: Yeah.

3 MR. CULBERTSON: So I will object to that  
4 being sent back.

5 THE COURT: I only do it if both sides  
6 consent.

7 MS. MUNSON: Get ready for this, Your  
8 Honor.

9 THE COURT: Okay.

10 MR. CULBERTSON: Personally --

11 MS. MUNSON: I agree with Symmes.

12 THE COURT: I don't do it unless both  
13 sides consent. I will tell you this, the very  
14 the last time I didn't send it back -- now, I'm  
15 not predicting anything -- the very first  
16 question I got was can we have your charge on  
17 the law in written form.

18 MR. CULBERTSON: And that's -- in  
19 anticipating that, again, it's been my  
20 experience that normally that question is  
21 handled by bringing them back and recharging  
22 them.

23 THE COURT: That's fine, and I've done  
24 that too. Believe we, we've done it a lot.

25 MR. CULBERTSON: Again, Your Honor, back to

1 the initial question that I was not yet asked---

2 THE COURT: Yes.

3 MR. CULBERTSON: ... do I have any  
4 objections to it?

5 THE COURT: Yes, do you have any  
6 objections?

7 MR. CULBERTSON: I have not a specific  
8 objection, although I would have a request, and  
9 that is that when we started this trial, I  
10 believe that you charged the jury or informed  
11 the jury something along the lines of being sure  
12 that they were not to consider the fact that the  
13 victim, Mr. Billy Sanders was not here today,  
14 nor should they draw any inference from the fact  
15 that his not being here today was because of any  
16 of the events that took place. I believe --

17 THE COURT: There was -- in part of the  
18 self-defense -- I think I know where you're  
19 going.

20 MR. CULBERTSON: I was just going to ask  
21 you to recharge that language that you gave at  
22 the beginning of the trial.

23 THE COURT: All right.

24 MS. MUNSON: I would object to that, Your  
25 Honor. That's not a charge on the law.

1           **THE COURT:**     Yeah.

2           **MS. MUNSON:**   That's more of a statement on  
3           the facts.

4           **THE COURT:**    I think that -- I said in  
5           here that they must consider any stipulations  
6           and I -- I think they are pretty clear on that  
7           and we went over it. I think we've gone over it  
8           time and time again although I appreciate your  
9           caution. Anything else we need to take up?

10          **MR. CULBERTSON:**   Yeah, just -- I'm sorry.

11          **MS. MUNSON:**    Nothing from the State.

12          **THE COURT:**     Okay.

13          **MR. CULBERTSON:**   And just so you know, I  
14           was sitting her looking at my cell phone  
15           scrolling through it while you were charging. It  
16           was not in an attempt to distract the jury in  
17           any way. It was simply my ability to look at the  
18           charging form that you had sent to us.

19          **THE COURT:**     Oh, sure. I didn't notice you  
20           were doing it. I didn't notice you were doing it  
21           and that was perfectly fine. We're good. Okay.  
22           All right. I will not send back the charge on  
23           the law. I'll hold on it. If I need to, I can  
24           always fix that little section that I said that  
25           was wrong. Here's the verdict form. Will y'all

1 get -- are the exhibits all together?

2 MS. MUNSON: I think they are all  
3 together.

4 THE COURT: Do y'all have some means that  
5 if they want to watch that video, they can?

6 MS. MUNSON: They can take it back there  
7 or we can bring them back out.

8 MR. CULBERTSON: Turn it sideways.

9 MS. MUNSON: Turn it sideways.

10 (WHEREUPON, there is a pause.)

11 THE COURT: All right. We think we've got  
12 it all together?

13 MR. CULBERTSON: We're double checking,  
14 Your Honor.

15 THE COURT: Good. Thank you.

16 MR. CULBERTSON: I don't think there will  
17 be a problem.

18 (WHEREUPON, there is a pause.)

19 THE BAILIFF: Judge, are you ready for it  
20 to go back?

21 THE COURT: Yes, would you bring the  
22 alternate in the hall?

23 (WHEREUPON, the Court goes off the record at  
24 approximately 2:59 p.m.)

25 (WHEREUPON, deliberation of the jury begins at

1 approximately 3:00 p.m.)

2 (WHEREUPON, the Court goes on the record at  
3 approximately 3:35 p.m.)

4 THE COURT: I don't know what else to --

5 MR. CULBERTSON: Just to recharge them.

6 THE COURT: I'm not going to recharge  
7 them.

8 MS. MUNSON: Nobody wants to sit through  
9 that again.

10 MR. CULBERTSON: Your Honor, I think it's  
11 up to you, but obviously I'm object -- I object  
12 to them being handed the written version of it.  
13 I certainly don't mind if you --

14 THE COURT: I think the case law supports  
15 that --

16 Can y'all hold it down? We're on the  
17 record. I'm sorry.

18 The case law -- the case law, I think, says  
19 where you get into trouble with this is if  
20 you're sending parts back.

21 MS. MUNSON: Okay.

22 THE COURT: Parts, and not all.

23 MS. MUNSON: Okay.

24 THE COURT: And now that they've asked for  
25 it, I'll send it back. I'll bring them back in

1 and recharge them on that section of domestic  
2 violence unless you just want me to send the  
3 charge back.

4 MS. MUNSON: That answers the question, I  
5 think.

6 THE COURT: I can just put on the note  
7 that -- I can just respond it and tell them that  
8 if -- I think we need to bring them back in.  
9 Probably too much to --

10 MS. MUNSON: Okay.

11 THE COURT: I think it's too much to write  
12 on the note.

13 (WHEREUPON, the jury enters at approximately  
14 3:37 p.m.)

15 THE COURT: All right. Ladies and  
16 Gentlemen, thank you for -- for bearing with us  
17 for just a moment. I've got three questions from  
18 you all. One is asking a question about domestic  
19 violence. And I -- I've given you my charge. I  
20 am now going to give you my written instructions  
21 as a whole. It does have the domestic violence  
22 section in there. So if you feel, Madam  
23 Foreperson, that that satisfies your question  
24 about it, all I can explain to you is what is  
25 the law in this state and I've given you what

1 the particular statute is.

2 On this clarity of size of Billy Sanders, I  
3 will tell you this, if you can remember any  
4 particular portion of testimony that you would  
5 like replayed, I can do that, but I can not  
6 answer any factual questions for you,  
7 unfortunately. But if there are portions of the  
8 -- of testimony that you want me to play, I can  
9 do that.

10 We don't --- a lot of times, folks will ask  
11 for a transcript of the testimony but,  
12 unfortunately, the technology is not quite there  
13 yet. It has to be transcribed by the court  
14 reporter, and that sometimes takes several weeks  
15 to do on a trial.

16 And you want the written definition of all  
17 charges. I'm going to give you my written charge  
18 that I read to you. I was required by law to  
19 read it to you as I did, but I'm going to give  
20 you my written charge. Let me give you some  
21 instructions on how to handle it.

22 You may not consider part of the charge and  
23 ignore other parts of the charge. You must take  
24 it as a whole. Don't let it get you distracted  
25 from your duties of discussing this case and



1 discussing your understanding of the facts in  
2 this case. If you will, return it when you  
3 return the exhibits when you complete your  
4 deliberations. I will make this written charge a  
5 part of the record.

6 All right. So we'll send that right back to  
7 you. If you will, just return to your jury  
8 deliberation room and resume your deliberations.  
9 Thank you.

10 (WHEREUPON, the jury exits at approximately  
11 3:39 p.m.)

12 (WHEREUPON, Court's Exhibit 1 is marked for  
13 identification purposes.)

14 THE COURT: Yes, sir.

15 MR. CULBERTSON: Your Honor, thank you,  
16 ma'am. I just want to be sure that it's clear on  
17 the record that -- my objection to the Court  
18 about sending the written charging form back to  
19 the jury. I just want to make sure my objection  
20 is on the record.

21 THE COURT: It's noted. It is definitely  
22 noted for the record. And I did not do it to  
23 begin with, but they have specifically asked for  
24 it, so I'm going to send my written charge back.

25 MR. CULBERTSON: Yes, ma'am. And just one

1 further thing I'd like to be clear about. As I  
2 recall, there was some concern by the  
3 Solicitor's Office about a portion of your  
4 charge that was initially given to the jury and  
5 an objection to what you charged the jury at the  
6 conclusion of the case. Now that you're sending  
7 your charge back to them, I want to be sure  
8 that --

9 **THE COURT:** Ian Conits is one step ahead  
10 of you. Ian Conits is one step ahead of you. I'm  
11 kidding around with you. We've already changed  
12 it to reflect it. It was just the definition of  
13 a household member.

14 **MS. MUNSON:** Yes, Your Honor.

15 **THE COURT:** And it is a household member  
16 is a spouse form -- spouse or person with whom  
17 the defendant has a child in common and a person  
18 of the opposite sex with whom the defendant is  
19 living or has lived in the past. That's the  
20 current -- and that's what I -- but I charged  
21 before included other people, parents and that  
22 sort of thing in it, but a person with whom they  
23 live together was included in the charge.

24 **MR. CULBERTSON:** Of course, I would have  
25 further objection to the paperwork that you are

1 sending back to them now since they asked for  
2 the charge. That's not -- as I understand that's  
3 not the same as what you initially charged them  
4 from the bench.

5 **THE COURT:** Okay. The only applicable  
6 section is about folks who live together or who  
7 -- who live together or have lived together in  
8 the past. I charged it before. It's in this  
9 charge this time. I did correct it. I'll send my  
10 initial regular -- my charge that I charged  
11 them. I'll send that back to them. I really --  
12 it matters not to me because the relevant  
13 portion, I charged exactly the same.

14 **MR. CULBERTSON:** Are you asking me a  
15 question, which one I prefer?

16 **THE COURT:** Yeah, if you want to -- I'm  
17 asking you --

18 **MR. CULBERTSON:** Obviously, I would prefer  
19 that you not send any of it back, but if you are  
20 going to send something back, I would prefer it  
21 be what you charged them to begin with.

22 **THE COURT:** Okay. It's -- I think it's the  
23 same. It's the previous statement -- I guess to  
24 be absolutely clear, it's the previous  
25 statement. The relevant -- I mean the previous

1 law and it's -- the relevant section is exactly  
2 the same. So I'll just send my previous charge  
3 back. We'll do it. All right. And that will be  
4 Court's Exhibit Number 2.

5 (WHEREUPON, Court's Exhibit 2 is marked for  
6 identification purposes.)

7 (WHEREUPON, the Court goes off the record at  
8 approximately 3:41 p.m.)

9 (WHEREUPON, the Court goes on the record at  
10 approximately 4:33 p.m.)

11 (WHEREUPON, the jury enters at approximately  
12 4:33 p.m.)

13 THE COURT: All right. It's my  
14 understanding you've reached a verdict. Is that  
15 correct?

16 THE JUROR: (Nods head.)

17 THE COURT: Would you please give the  
18 verdict form to the bailiff?

19 (WHEREUPON, the verdict form is passed to the  
20 Court.)

21 THE COURT: All right. The verdict form  
22 appears to be in order.

23 Will you publish to the jury?

24 THE CLERK: Yes. In Indictment 2014-GS-23-  
25 10158 and 2015-GS-23-27298, the State versus

1 Joseph A. Carpenter, as to the charge of  
2 Criminal Domestic Violence of a High and  
3 Aggravated Nature, we, the jury, unanimously  
4 find the defendant not guilty. As to the charge  
5 of Attempted Murder, we, the jury, unanimously  
6 find the defendant guilty.

7 THE COURT: Ladies and Gentlemen, thank  
8 you so much for your service.

9 Is there anything else that we need to take  
10 up before I release the jury? Anything from the  
11 State?

12 MS. MUNSON: Nothing from the State.

13 THE COURT: Anything from the defense?

14 MR. CULBERTSON: No, ma'am.

15 THE COURT: All right then. Ladies and  
16 Gentlemen, if you will, step to your jury  
17 deliberation room. They will give you back your  
18 phones and belongings. I want to just say  
19 goodbye to you before you leave. Thank you so  
20 much.

21 (WHEREUPON, the jury exits at approximately  
22 4:34 p.m.)

23 (WHEREUPON, the Court goes off the record at  
24 approximately 4:35 p.m.)

25 (WHEREUPON, the Court goes on the record at

1 approximately 4:36 p.m.)

2           **THE COURT:**     They were very nice and  
3 thought you both did a very good job, and I did  
4 too. All right. You want to --

5           **MR. CULBERTSON:**   Obviously, I'd have a few  
6 motions at this time.

7           **THE COURT:**     Sure.

8           **MR. CULBERTSON:**   Obviously, I'd have a  
9 motion for a mistrial at this point in time.  
10 It's my opinion that, given the two verdicts the  
11 jury returned, they were somewhat confused, at  
12 best, about what they were actually being told  
13 during this trial. I think that makes it alone  
14 that we're entitled to a mistrial.

15           **THE COURT:**     Okay. Your motion is  
16 respectfully denied. I could see from the  
17 testimony that their verdict could -- that they  
18 could have an interpretation of the facts and  
19 evidence that would lead them to the two  
20 different verdicts in this case.

21           **MR. CULBERTSON:**   Yes, ma'am. And in  
22 addition, given the questions that they sent out  
23 during their deliberations, I move again my  
24 objection to them being sent back a copy of the  
25 complete jury charge form. I would object to

1       that again on the record. Also, my motion again  
2       that they were confused as to application of the  
3       law and the facts that were presented to them on  
4       that charge.

5           **THE COURT:**     Okay. All right. Well, I think  
6       their question was regarding the one they found  
7       not guilty on. But that was the charge they had  
8       a question about, I believe, other than they did  
9       have a question about size of the victim in this  
10      case. But your motion is respectfully denied  
11      and, of course, your objection to sending back  
12      the charge is preserved for the record.

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

14           **THE COURT:**     All right. Anything else we  
15      need to take up before we move to sentencing?

16           **MS. MUNSON:**     Nothing from the State, Your  
17      Honor.

18           **THE COURT:**     All right. Y'all want to -- do  
19      y'all want to move to sentencing? We can do that  
20      -- I'm happy to do it now if you'd like.

21           **MR. CULBERTSON:**    Will you do it next week?

22           **THE COURT:**     I     -

23           **MS. MUNSON:**     I would prefer to go forward  
24      now, Your Honor..

25           **THE COURT:**     Okay.

1           **MR. CULBERTSON:**       I'm just joking, Your  
2           Honor. I apologize.

3           **THE COURT:**       All right. No, it's fine. It's  
4           fine. We'll go ahead and do it now.

5           (WHEREUPON, the parties approach the bench.)

6           **THE COURT:**       Well, y'all think I need to  
7           hear -- I don't think I need to hear any more  
8           about facts unless there's anything you want to  
9           particularly highlight.

10          **MS. MUNSON:**       No, ma'am.

11          **THE COURT:**       So far as his prior record, I  
12          know he had largely -- seem like he had largely  
13          magistrate level offenses from some time ago.

14          **MS. MUNSON:**       December 28th, '94, Breach of  
15          Peace and Resisting Arrest in magistrate level  
16          court; Possession of Marijuana in 2002; Driving  
17          Under the Influence in 2013; and we talked about  
18          this in chambers, the 1993, NOLO to Assault and  
19          Battery in the state of Georgia. I do believe  
20          that Mrs. Sanders would like to address the  
21          Court at the proper time.

22          **THE COURT:**       All right.

23          **MS. MUNSON:**       And just from my prospective  
24          -- I want to give Mr. Culbertson the last word,  
25          but we were knocking around some ideas about



1 possible sentences. I made offers. No one  
2 expects any judge to punish a person for  
3 exercising their right to a trial, and I'm not  
4 saying that. What I'm saying is I want for the  
5 Court to consider what he said on that stand.

6 **THE COURT:** I understand.

7 **MS. MUNSON:** He accepted no  
8 responsibility, blamed it all on Joanie and  
9 blamed it all on the old man. So in your  
10 consideration, Your Honor, I would like for you  
11 to consider that.

12 **THE COURT:** All right, and I certainly  
13 will.

14 **MS. MUNSON:** Thank you.

15 You've got to speak way up, Mrs. Sanders.

16 **VICTIM'S WIFE:** During his  
17 hospitalization, he was -- as soon as he was in  
18 the hospital, they had to do a tracheotomy, they  
19 had to do a (Indiscernible). The whole time that  
20 this process -- he was under that. He never got  
21 -- he never regained any real functions of his  
22 body. He never had a drop of water or a bite of  
23 food from the day this happened until the day he  
24 passed away.

25 **THE COURT:** Thank you, ma'am. I'm so sorry

1 for your loss.

2 **VICTIM'S WIFE:** Thank you so much. I'd  
3 been married 63 and a half years. He was my high  
4 school sweetheart. He took away my husband, my  
5 children's father, my children's grandfather and  
6 great-grandfather, which he spent a lot of time  
7 with. They love him and miss him very much.  
8 Thank you.

9 **THE COURT:** Well, he's, from all accounts,  
10 he sounds like he was a wonderful man.

11 **VICTIM'S WIFE:** He was. He was a friend,  
12 helper, encourager. More or less, he was --  
13 everything was either right or wrong. He didn't  
14 have any gray error area in his life where he  
15 was willing to belong to one side or the other.  
16 Everything was either right or wrong.

17 **THE COURT:** Thank you.  
18 Anything else from the State?

19 **MS. MUNSON:** No, ma'am.

20 **THE COURT:** All right. Thank you.  
21 Mr. Culbertson?

22 **MR. CULBERTSON:** Thank you, Your Honor. I  
23 don't know if this is still in the record or  
24 not, again, we have an objection to the -- we'd  
25 still have a motion for a mistrial at this point

1 in time.

2 THE COURT: Oh, sure, and that is  
3 preserved for the record and noted for the  
4 record.

5 MR. CULBERTSON: Thank you, ma'am. As I  
6 think Your Honor's aware, my client and Mr.  
7 Sanders got along.

8 THE COURT: Yeah.

9 MR. CULBERTSON: I'm not aware of any  
10 testimony that was presented to the jury that  
11 indicated that they had a long-standing grudge  
12 against one another or that they were ever  
13 combative towards one another. I think what --  
14 and I hope what the judge heard today and I  
15 believe what the jury probably heard was that  
16 this was a unique day. While tempers might have  
17 been heightened on everybody's part, there was  
18 certainly no ill-will on behalf of my client  
19 directed towards Mr. Sanders.

20 I point that out Your Honor, not only  
21 because of my motions, but also because he and  
22 Mr. Sanders got along well together. Like I  
23 said, this was a day that was very unusual.  
24 Things got out of hand. He -- today, my client  
25 does not feel that he was ever aggressive

1       towards Mr. Sanders, certainly does not think  
2       that anything he did that day, certainly, was  
3       not his intent to be aggressive towards Mr.  
4       Sanders. While this was a regrettable outcome,  
5       it was not his intent to cause any harm, serious  
6       or otherwise, to Mr. Sanders. He certainly did  
7       not intend for him to pass away. He understands  
8       that having gotten in this fight, for whatever  
9       reason, the outcome was not good.

10       He stood up here, went to trial. We tried  
11       to talk to the jury about that. Your Honor, he  
12       understands what happened. He understands there  
13       was a jury decision today that has found him  
14       guilty of the charges that were brought against  
15       him. He accepts the fact that this jury found  
16       him that way and accepts those charges.

17       I will tell the Court that he and I have  
18       had many conversations about a potential  
19       sentencing options from both the Solicitor's  
20       office -- I think we communicated that to the  
21       judge, to Your Honor before the trial even  
22       started. It was my understanding, my impression  
23       that the Solicitor's office was comfortable with  
24       a sentencing range. I know we've been to trial  
25       for a day -- two days now on this case. I

1 understand that while I don't necessarily expect  
2 the stuff we talked about, the pretrial, to  
3 necessarily apply, I don't know that there is  
4 any reason to deviate too far from that  
5 sentencing range we talked about then.

6 Your Honor, my client understands that  
7 having now been found guilty of attempted  
8 murder, the sentencing range is pretty high. I  
9 don't really know where I'm going other than to  
10 say nobody necessarily expected that. It was  
11 certainly not my client's intention to cause any  
12 serious physical harm to anybody that day. I'm  
13 just asking Your Honor to take into  
14 consideration what we talked about pretrial, the  
15 fact that my client has no record of any sort of  
16 violence in his past, has no substantial record  
17 of any sort of mischief or mayhem in his past.

18 Effectively, his life has been turned  
19 upside down, has been shattered because of this.  
20 I just -- he's a good fellow, a good productive  
21 member of society. He's got family and friends  
22 in the courtroom with him here today to stand  
23 beside him. I know he looks forward to being  
24 able to depend on them and count on them as he  
25 goes forward. I just ask Your Honor to be as

1       considerate towards him as possible. I don't  
2       know if he'd like to address the Court right now  
3       at all or not.

4               **MR. CARPENTER:**     I just think what happened  
5       is horrible. I have to accept the verdict.

6               **THE COURT:**     I understand. Well, this is a  
7       kind of unique situation. When I first heard  
8       about this case, it wasn't that I did not think  
9       it was serious, I think I did not understand the  
10      seriousness of the injury to the victim.

11              I have to say, Mr. Carpenter, in light of  
12      your testimony and what you said about what you  
13      did, it just -- it just -- it just doesn't match  
14      up with the physical evidence. I do not, in any  
15      way, hold it against you for exercising your  
16      right to a jury trial, but I do take into  
17      consideration that this man suffered a deep  
18      brain bleed as a result to this. By all  
19      accounts, this was by several blows to the head  
20      and kicks to an elderly man in the head. He was  
21      -- the testimony that we heard is that he was on  
22      the ground and not responding -- not fighting  
23      back, but getting kicked.

24              I do take into account that you have a very  
25      minimal, if we can even count it as much as any,

1 prior record at all. I do take into account  
2 that. I do take into account that evidentially  
3 you were friends with this man or had some type  
4 of relationship with this man. I take all those  
5 things into account, but I -- frankly, the  
6 injury to the victim and the victim's age and  
7 the description of how he is on the ground, I  
8 think, was very shocking frankly.

9 How long has he -- did he spend in jail?  
10 Did I hear 23 days?

11 **MS. MUNSON:** 23 days, Your Honor.

12 **THE COURT:** Furthermore, at one time, you  
13 talked about possibly a lesser offense  
14 potentially, but the jury considered that lesser  
15 offense and they still found you guilty of the  
16 greater offense. I have to take that into  
17 consideration as well. Therefore, the sentence  
18 of the Court is eight years, credit for 23 days,  
19 no contact with the victim's family.

20 Best of luck to your family.

21  
22 (Proceedings conclude at approximately  
23 4:39 p.m.)  
24  
25

CERTIFICATE

339

STATE OF SOUTH CAROLINA     )  
                                          )  
COUNTY OF GREENVILLE     )

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 23rd day of April, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

*Teresa B. Johnson*

Official Court Reporter



WITNESSES

J W McCloud

Greenville County Sheriffs Office

9/28/2014

*[Handwritten signature]*

ARREST WARRANT NUMBER  
DIRECT PRESENTMENT

REDACTED

ACTION OF GRAND JURY

TRUE BILL

*Wayne E. Harrison*  
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

*Madison* 11.9.16  
Foreperson of Petit Jury  
Date:

DOCKET NO. 2015-GS-23-

JMM

002729A

The State of South Carolina

County of Greenville

*[Handwritten signature]*

COURT OF GENERAL SESSIONS

April TERM 2015

THE STATE

VS.

JOSEPH AUSTIN CARPENTER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ENTERED  
ACCT.

*[Handwritten signature]*

STATE OF SOUTH CAROLINA   )  
                                          )  
COUNTY OF GREENVILLE    )

INDICTMENT FOR  
ATTEMPTED MURDER

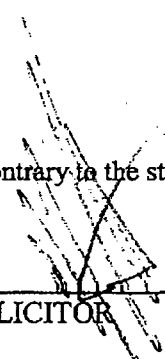
At a Court of General Sessions, convened on  
County present upon their oath:

APR 21 2015

the Grand Jurors of Greenville

That JOSEPH AUSTIN CARPENTER did in Greenville County, on or about the 28th day of September 2014, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Billy Sanders. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
SOLICITOR

BAR # 64040

## STATE OF SOUTH CAROLINA

COUNTY OF  
STATE

Greenville

VS.

Joseph Austin Carpenter

AKA:

Race: WHITE Sex: M Age: 43

DOB: REDACTED

Address: 112 East Scenic Lane

City, State, Zip: Travelers Rest, SC 29690

DL#: REDACTED SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Att. M. V. P.in violation of § 16 3 29 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

64040

Munson, Dany

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 8 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years

and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment

of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_

Payment Terms:

☐ Set by SCDPPPS

Recipient:

\*Fine:

|                                        |         |         |
|----------------------------------------|---------|---------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |         |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100  |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$      |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$      |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$      |
| Proviso 61.6 (Public Def/Probation)    | \$500   | \$      |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ 25   |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$      |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$      |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$      |
| 3% to County (if paid in installments) |         | \$ 3.75 |

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2302729A

A/W#: 2015GS2302729A

Date of Offense: 9/28/2014

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

Clerk of Court/ Deputy Clerk

Presiding Judge

Judge Code:

Sentence Date:

Is domestic violence intimidation or  
just physical? *Madison Don* 11.9.16

Clarify size of Billy Sanders if possible  
*Madison Don* 11.9.16

Can we get the written definition of all  
charges? *Madison Don* 11.9.16

|                                 |                         |
|---------------------------------|-------------------------|
| PENGAD 800-531-6889             | COURT'S                 |
|                                 | EXHIBIT NO. <u>1</u>    |
|                                 | IDENTIFICATION/EVIDENCE |
|                                 | DKT.#                   |
| DATE: <u>11/09/16</u> <i>MD</i> |                         |

**State of South Carolina v. Joseph A. Carpenter**

MADAME FOREPERSON, LADIES AND GENTLEMEN OF THE JURY,  
YOU HAVE SEEN AND HEARD THE EVIDENCE PRESENTED AS WELL AS  
THE ARGUMENTS OF COUNSEL. IT NOW BECOMES MY DUTY AND  
OBLIGATION TO INSTRUCT YOU ON THE APPLICABLE LAW IN THIS CASE.  
IT WILL THEN BE YOUR DUTY AND OBLIGATION TO BEGIN YOUR  
DELIBERATIONS, THROUGH WHICH PROCESS YOU WILL DECIDE THE  
FACTS, APPLY THE LAW AS INSTRUCTED BY THE COURT, AND RENDER  
FAIR AND IMPARTIAL DECISIONS.

IT IS YOUR EXCLUSIVE DUTY TO DETERMINE THE FACTS IN THIS  
CASE. YOU DO THAT BASED UPON YOUR OWN COMMON SENSE  
EXAMINATION AND EVALUATION OF THE TESTIMONY AND OTHER  
EVIDENCE RECEIVED DURING THE TRIAL OF THE CASE.

YOU TWELVE JURORS ALONE WILL DECIDE WHAT WEIGHT,  
VALUE, AND EFFECT THAT IS TO BE GIVEN TO ANY PARTICULAR  
TESTIMONY OR OTHER EVIDENCE RECEIVED. YOUR ULTIMATE GOAL IS

|                         |          |
|-------------------------|----------|
| COURT'S                 |          |
| EXHIBIT NO.             | 2        |
| IDENTIFICATION/EVIDENCE |          |
| DKT.#                   |          |
| DATE:                   | 11/09/14 |

TO SIMPLY REACH THE TRUTH IN THIS MATTER AND IN SO DOING YOU WILL HAVE FULFILLED YOUR OBLIGATIONS AS JURORS AND THAT IS TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL BASED UPON THE EVIDENCED PRESENTED AND THE LAW APPLICABLE TO THIS CASE.

IN THIS CASE THE STATE OF SOUTH CAROLINA, THROUGH THE CIRCUIT SOLICITOR, HAS CHARGED THE DEFENDANT WITH THE CRIMINAL OFFENSES KNOWN AS:

**DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE**

**ATTEMPTED MURDER**

THE ALLEGATIONS CHARGING THE DEFENDANT WITH THESE CRIMES ARE SET FORTH IN THE INDICTMENTS THAT HAVE BEEN PREVIOUSLY EXPLAINED TO YOU. AS I HAVE PREVIOUSLY EXPLAINED, THE INDICTMENTS ARE NOT EVIDENCE IN THIS CASE AND MAY NOT BE CONSIDERED BY YOU AS EVIDENCE AGAINST THE DEFENDANT. THE INDICTMENTS WILL BE IN THE JURY ROOM WITH BUT SERVE ONLY ONE

PURPOSE AND THAT IS TO SERVE AS THE VERDICT FORMS ON WHICH THE JURY'S UNANIMOUS DECISIONS WILL BE WRITTEN.

AS TO EACH OF THE CHARGES SET FORTH IN THE INDICTMENTS THE DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY. THAT PLEA OF NOT GUILTY HAS THEREFORE PLACED UPON THE STATE THE BURDEN OF PROVING THE ALLEGATIONS THAT ARE SET FORTH IN THE INDICTMENTS; THE BURDEN OF PROVING EACH OF THE ESSENTIAL ELEMENTS OF ANY CRIMES CHARGED; AND THEREFORE THE BURDEN OF PROVING THE GUILT OF THE DEFENDANT TO THE SATISFACTION OF YOU TWELVE JURORS BEYOND A REASONABLE DOUBT BEFORE A VERDICT OF GUILTY COULD BE RETURNED AS TO ANY INDICTMENT.

THE BURDEN IS NEVER UPON A DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR TO PROVE THAT HE IS INNOCENT BECAUSE IN SOME CASES THAT MIGHT NOT BE POSSIBLE. THE BURDEN IS ALWAYS UPON THE STATE, BECAUSE THEY HAVE MADE THE ALLEGATIONS, TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.

YOU ARE FURTHER INSTRUCTED THAT IT IS A VITAL, IMPORTANT, AND CARDINAL RULE OF LAW THAT EVERY DEFENDANT IN A CRIMINAL TRIAL, NO MATTER HOW SERIOUS THE OFFENSE MIGHT BE FOR WHICH HE STANDS CHARGED, THE DEFENDANT SHALL ALWAYS BE PRESUMED INNOCENT OF THAT CHARGE, AND THAT PRESUMPTION OF INNOCENCE SHALL BE WITH THE DEFENDANT FROM THE MOMENT OF HIS ARREST, AND THROUGHOUT THE COURSE OF THE CRIMINAL PROCESS, AND EVEN THROUGHOUT THE COURSE OF THE ACTUAL TRIAL. THE PRESUMPTION OF INNOCENCE SHALL BE WITH THE DEFENDANT EVEN AS YOU GO INTO THE JURY ROOM TO BEGIN YOUR DELIBERATIONS, AND THAT PRESUMPTION OF INNOCENCE SHALL BE WITH HIM THERE AND BE WITH HIM FOREVER, UNLESS YOU TWELVE JURORS DETERMINE THAT HE IS NO LONGER ENTITLED TO THAT PRESUMPTION OF INNOCENCE. IT IS ONLY IF, UNLESS, AND UNTIL YOU ARE SATISFIED OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT, THAT HE WOULD NO LONGER BE ENTITLED TO THE PRESUMPTION OF INNOCENCE.



### DUTIES OF JURY AND TRIAL JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD IN THIS CASE DURING THIS TRIAL, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATIONS OF COUNSEL.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU

ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN A CASE. A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE ADMISSIBILITY OF EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. I DO NOT. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A MATTER

SOLELY FOR YOU, THE JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL.

### **REASONABLE DOUBT**

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES, WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE. IN CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE DOUBT. REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD MAKE A REASONABLE PERSON HESITATE TO ACT.

PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE

CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY.

### **DIRECT AND CIRCUMSTANTIAL EVIDENCE**

THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL - DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION.

THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE. AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT GUILTY.

## CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS TRUTH.

IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS CASE. YOU

MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF A WITNESS WHILE ON THE WITNESS STAND.

### CRIMINAL INTENT

IN ORDER TO ESTABLISH CRIMINAL LIABILITY, THE STATE MUST ALSO PROVE CRIMINAL INTENT. FOR A PARTICULAR CRIME, THE MENTAL STATE REQUIRED MIGHT BE PURPOSE, INTENT, KNOWLEDGE, RECKLESSNESS, OR CRIMINAL NEGLIGENCE. THE STATE MUST PROVE CRIMINAL INTENT BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS A MATTER THAT MUST BE DETERMINED BY THE JURY FROM THE FACTS OF THE CASE. THERE IS NO WAY TO PROVE CRIMINAL INTENT TO A MATHEMATICAL CERTAINTY, SO THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW YOU DETERMINE WHETHER OR NOT THE ELEMENT REQUIRING INTENT WAS PRESENT. IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT EVIDENCE. INTENT MAY BE ESTABLISHED BY CIRCUMSTANTIAL EVIDENCE OR BY TAKING INTO CONSIDERATION

THE ACTS OF THE PARTIES AND ALL THE FACTS AND CIRCUMSTANCES OF THE CASE.

CRIMINAL INTENT IS A MENTAL STATE OF CONSCIOUS WRONGDOING. IT IS UP TO YOU TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE EXISTED IN THIS CASE.

CRIMINAL INTENT CAN ARISE FROM ACTION OR A FAILURE TO ACT. IT CAN ARISE FROM NEGLIGENCE, RECKLESSNESS, OR AN INDIFFERENCE TO DUTY OR CONSEQUENCES, WHICH IS CONSIDERED BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL INTENT.

**DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE**

THE DEFENDANT IS CHARGED WITH DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED AN ASSAULT AND BATTERY ON A HOUSEHOLD MEMBER WHICH INVOLVES THE USE OF A DEADLY WEAPON OR RESULTS IN SERIOUS BODILY INJURY TO THE



INCLUDED CHARGE OF CRIMINAL DOMESTIC VIOLENCE. THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT CAUSED PHYSICAL HARM OR INJURY TO A MEMBER OF THE DEFENDANT'S OWN HOUSEHOLD OR THAT THE DEFENDANT OFFERED OR ATTEMPTED TO CAUSE PHYSICAL HARM OR INJURY TO A MEMBER OF THE DEFENDANT'S OWN HOUSEHOLD WITH THE APPARENT PRESENT ABILITY TO CAUSE HARM OR INJURY UNDER CIRCUMSTANCES REASONABLY CREATING A FEAR OF IMMINENT DANGER. A HOUSEHOLD MEMBER IS AS I DEFINED FOR YOU EARLIER.

### **ATTEMPTED MURDER**

THE DEFENDANT IS CHARGED WITH ATTEMPTED MURDER. IN ORDER TO PROVE THIS CRIME, THE STATE MUST PROVE THE DEFENDANT ATTEMPTED TO KILL ANOTHER PERSON WITH MALICE AFORETHOUGHT, EITHER EXPRESS OR IMPLIED.

MALICE IS HATRED, ILL-WILL, OR HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE INTENTIONAL DOING OF A WRONGFUL ACT

WITHOUT JUST CAUSE OR EXCUSE AND WITH AN INTENT TO INFLICT AN INJURY OR UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL INTENT.

MALICE AFORETHOUGHT DOES NOT REQUIRE THAT MALICE EXISTS FOR ANY PARTICULAR TIME BEFORE THE ACT IS COMMITTED, BUT MALICE MUST EXIST IN THE MIND OF THE DEFENDANT JUST BEFORE AND AT THE TIME OF THE ACT IS COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE ACT.

MALICE AFORETHOUGHT MAY BE EXPRESS OR INFERRED. THESE TERMS, "EXPRESS" AND "INFERRED" DO NOT MEAN DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR ANOTHER OR WHEN THE

PERSON PREPARED BEFOREHAND TO DO THE ACT WHICH WAS LATER ACCOMPLISHED; FOR EXAMPLE, LYING IN WAIT FOR A PERSON OR ANY OTHER ACTS OF PREPARATION GOING TO SHOW THAT THE DEED WAS WITHIN THE DEFENDANT'S MIND WOULD BE EXPRESS MALICE.

MALICE MAY BE INFERRED FROM CONDUCT SHOWING A TOTAL DISREGARD FOR HUMAN LIFE.

IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR SATISFACTION, THIS INFERENCE WOULD BE SIMPLY AN EVIDENTIARY FACT TO BE CONSIDERED BY YOU, THE JURY, ALONG WITH THE OTHER EVIDENCE IN THE CASE, AND YOU MAY GIVE IT THE WEIGHT YOU DECIDE IT SHOULD RECEIVE.

SPECIFIC INTENT TO COMMIT A MURDER IS AN ELEMENT OF ATTEMPTED MURDER. THIS MEANS THAT THE ACT CONSTITUTING THE ATTEMPT MUST BE DONE WITH THE INTENT TO COMMIT THAT PARTICULAR CRIME. IN THE CONTEXT OF AN 'ATTEMPT' CRIME,

SPECIFIC INTENT MEANS THAT THE DEFENDANT CONSCIOUSLY INTENDED THE COMPLETION OF ACTS COMPRISING THE ATTEMPTED OFFENSE. IN OTHER WORDS, THE COMPLETION OF SUCH ACTS IS THE DEFENDANT'S PURPOSE.

**ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE**

IF YOU FIND THAT THE STATE HAS NOT MET THE BURDEN OF PROOF FOR THE CHARGE OF ATTEMPTED MURDER, YOU MAY CONSIDER THE LESSER INCLUDED CHARGE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE. A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE IF THE PERSON UNLAWFULLY INJURES ANOTHER PERSON, AND A GREAT BODILY INJURY TO ANOTHER PERSON RESULTS OR THE ACT IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY.

**ASSAULT AND BATTERY IN THE FIRST DEGREE**

IF YOU FIND THAT THE STATE HAS NOT MET THE BURDEN OF PROOF FOR ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, YOU MAY CONSIDER THE LESSER INCLUDED CHARGE OF ASSAULT AND BATTERY IN THE FIRST DEGREE. A PERSON COMMITS THE OFFENSE OF ASSAULT AND BATTERY IN THE FIRST DEGREE IF THE PERSON OFFERS OR ATTEMPTS TO INJURE ANOTHER PERSON WITH THE PRESENT ABILITY TO DO SO, AND THE ACT IS ACCOMPLISHED BY MEANS LIKELY TO PRODUCE DEATH OR GREAT BODILY INJURY.

### **SELF-DEFENSE**

THE DEFENDANT HAS RAISED THE DEFENSE OF SELF-DEFENSE. SELF-DEFENSE IS A COMPLETE DEFENSE AND, IF IT IS ESTABLISHED, YOU MUST FIND THE DEFENDANT NOT GUILTY. THE STATE HAS THE BURDEN OF DISPROVING SELF-DEFENSE BY PROOF BEYOND A REASONABLE DOUBT. IF YOU HAVE A REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND

THE DEFENDANT NOT GUILTY. ON THE OTHER HAND, IF YOU HAVE NO REASONABLE DOUBT OF THE DEFENDANT'S GUILT AFTER CONSIDERING ALL THE EVIDENCE, INCLUDING THE EVIDENCE OF SELF-DEFENSE, THEN YOU MUST FIND THE DEFENDANT GUILTY.

THE FOLLOWING ELEMENTS ARE REQUIRED TO ESTABLISH SELF-DEFENSE.

FIRST, THE DEFENDANT MUST BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. IF THE DEFENDANT'S CONDUCT WAS THE TYPE WHICH WAS REASONABLY CALCULATED TO, AND DID, PROVOKE A DEADLY ASSAULT, THE DEFENDANT WOULD BE AT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT BE ENTITLED TO AN ACQUITTAL BASED ON SELF-DEFENSE.

THE NEXT ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY OR THAT THE DEFENDANT ACTUALLY BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY.

IF THE DEFENDANT WAS ACTUALLY IN IMMINENT DANGER, IT MUST BE SHOWN THAT THE CIRCUMSTANCES WOULD HAVE WARRANTED A PERSON OF ORDINARY FIRMNESS AND COURAGE TO STRIKE THE BLOW TO PREVENT DEATH OR SERIOUS BODILY INJURY. IF THE DEFENDANT BELIEVED HE WAS IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, IT MUST BE SHOWN THAT A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF.

IN DECIDING WHETHER THE DEFENDANT ACTUALLY WAS, OR BELIEVED HE WAS, IN IMMINENT DANGER OF DEATH OR SERIOUS BODILY INJURY, YOU SHOULD CONSIDER ALL THE FACTS AND CIRCUMSTANCES SURROUNDING THE CRIME, INCLUDING THE PHYSICAL CONDITION AND CHARACTERISTICS OF THE DEFENDANT AND THE VICTIM.

THE DEFENDANT DOES NOT HAVE TO SHOW THAT HE WAS ACTUALLY IN DANGER. IT IS ENOUGH IF THE DEFENDANT BELIEVED HE

WAS IN IMMINENT DANGER AND A REASONABLY PRUDENT PERSON OF ORDINARY FIRMNESS AND COURAGE WOULD HAVE HAD THE SAME BELIEF. THE DEFENDANT HAS THE RIGHT TO ACT ON APPEARANCES EVEN THOUGH THE DEFENDANT'S BELIEFS MAY HAVE BEEN MISTAKEN. IT IS FOR YOU TO DECIDE WHETHER THE DEFENDANT'S FEAR OF IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY WAS REASONABLE AND WOULD HAVE BEEN FELT BY AN ORDINARY PERSON IN THE SAME SITUATION.

WORDS ACCOMPANIED BY HOSTILE ACTS MAY, DEPENDING ON THE CIRCUMSTANCES, ESTABLISH SELF-DEFENSE.

THE RELATIVE SIZES, AGES, AND WEIGHTS OF THE DEFENDANT AND THE VICTIM MAY BE CONSIDERED IN DECIDING THE APPARENT OR ACTUAL NEED FOR FORCE IN SELF-DEFENSE AND THE AMOUNT OF FORCE NEEDED.



THREATS MADE BY THE VICTIM MAY BE CONSIDERED IN DETERMINING WHETHER THE DEFENDANT ACTUALLY WAS, OR BELIEVED HE WAS, IN IMMINENT DANGER.

THE FINAL ELEMENT OF SELF-DEFENSE IS THAT THE DEFENDANT HAD NO OTHER PROBABLE WAY TO AVOID THE DANGER OF DEATH OR SERIOUS BODILY INJURY THAN TO ACT AS THE DEFENDANT DID IN THIS PARTICULAR INSTANCE.

IF THE DEFENDANT WAS ON HIS OWN PREMISES, THE DEFENDANT HAD NO DUTY TO RETREAT BEFORE ACTING IN SELF-DEFENSE.

### **DEFENSE OF HABITATION**

THE DEFENDANT HAS RAISED THE DEFENSE OF HABITATION. THE DEFENSE OF HABITATION IS THE DEFENSE OF ONE'S DWELLING HOUSE. IF THE DEFENDANT OR A MEMBER OF THE DEFENDANT'S HOUSEHOLD IS ATTACKED IN THE DEFENDANT'S OWN HOME, THE DEFENDANT MAY USE THE FORCE WHICH APPEARS TO BE NEEDED TO PROTECT HIMSELF

OR HIS HOUSEHOLD FROM DEATH OR SERIOUS BODILY INJURY. WHEN ATTACKED IN HIS OWN HOUSE, THE DEFENDANT MAY JUSTIFY OR EXCUSE THE KILLING OF HIS ASSAILANT IF SUCH ACT IS APPARENTLY NECESSARY TO SAVE HIS OWN LIFE OR TO PROTECT HIMSELF FROM GREAT BODILY HARM.

IF A TRESPASSER REFUSES TO LEAVE THE DWELLING HOUSE AT THE REQUEST OF THE HOUSEHOLDER DEFENDANT, THE DEFENDANT MAY USE THE NECESSARY FORCE TO EJECT THE TRESPASSER. IF, IN THE EFFORT TO EJECT THE TRESPASSER, THE LIFE OR SAFETY OF THE DEFENDANT OR A MEMBER OF THE DEFENDANT'S HOUSEHOLD IS JEOPARDIZED, THE DEFENDANT MAY KILL THE TRESPASSER. HOWEVER, THE DEFENDANT MAY NOT USE MORE FORCE THAN IS REASONABLY NECESSARY TO EJECT THE PERSON FROM THE PREMISES. THE DEFENDANT SHOULD NOT IN THE FIRST INSTANCE RESORT TO IMMEDIATE FORCE TO REPEL THE INTRUDER. THE KIND AND DEGREE OF FORCE WHICH ARE JUSTIFIED DEPEND ON THE CONDUCT OF THE INTRUDER.

EVEN THOUGH A PERSON HAS ENTERED THE DWELLING AT THE INVITATION OF THE DEFENDANT OR A MEMBER OF THE HOUSEHOLD, HIS SUBSEQUENT CONDUCT MAY BE SUCH AS TO JUSTIFY THE DEFENDANT IN ORDERING HIS DEPARTURE. THE PERSON BECOMES A TRESPASSER IF THE PERSON REFUSES TO LEAVE WHEN ASKED. UPON THE PERSON'S REFUSAL TO DEPART, THE DEFENDANT IS NOT REQUIRED TO YIELD AS A MODE OF AVOIDING AN ALTERCATION AND APPREHENDED VIOLENCE, BUT MAY USE FORCE REASONABLY NECESSARY OR APPARENTLY NECESSARY TO EJECT HIM, AND NO MORE. THE DEFENDANT SHOULD NOT, IN THE FIRST INSTANCE, RESORT TO FORCE TO REPEL THE INTRUDER. THE KIND AND DEGREE OF FORCE WHICH ARE JUSTIFIED DEPEND ON THE CONDUCT OF THE INTRUDER.

IF, WHILE LEGITIMATELY EXERCISING IN GOOD FAITH THE RIGHT TO EJECT A TRESPASSER, THE DEFENDANT IS ATTACKED BY THE TRESPASSER AND FEARS DEATH OR SERIOUS BODILY HARM, THE DEFENDANT WOULD BE WITHOUT FAULT IN BRINGING ON THE DIFFICULTY. AN ELEMENT THAT IS NECESSARY TO THE DEFENSE OF

HABITATION IS THAT THE DEFENDANT BE WITHOUT FAULT IN BRINGING ABOUT THE DIFFICULTY. WHETHER THE DEFENDANT WAS ACTING IN GOOD FAITH IN ATTEMPTING TO EJECT THE VICTIM AND WAS ATTACKED IN THE PROCESS IS A QUESTION FOR YOU TO DETERMINE.

THE LAW PERMITS THE OCCUPANT OF THE HOME TO USE SUCH FORCE EVEN TO THE TAKING OF HUMAN LIFE, AS MAY BE REASONABLY NECESSARY TO ACCOMPLISH THE EXPULSION. IF ENGAGED IN THE EXERCISE IN GOOD FAITH OF HIS RIGHT TO EJECT SUCH TRESPASSER, HE IS WITHOUT FAULT IN BRINGING ON THE DIFFICULTY AND WOULD NOT HAVE TO RETREAT. THE BELIEF IN THE NECESSITY OF USING DEADLY FORCE IN THE DEFENSE OF HABITATION MUST BE REASONABLE.

THIS RIGHT OF AN OCCUPANT TO EXPEL A TRESPASSER AND TO USE SUCH FORCE AS IS NECESSARY, EVEN TO KILLING HIM, IS LIMITED TO THE PLACE OF HABITATION AND CURTILAGE.

THERE IS NO DUTY TO RETREAT WHERE AN ATTACK OCCURS IN ONE'S HOME. THE ABSENCE OF A DUTY TO RETREAT ALSO EXTENDS TO

THE CURTILAGE OF A HOME. CURTILAGE IS SUCH SPACE AS IS NECESSARY AND CONVENIENT, AND IS HABITUALLY USED FOR FAMILY PURPOSES, INCLUDING AN ADEQUATE YARD AND GARDEN AND ROOM FOR NECESSARY OUTBUILDINGS. CURTILAGE INCLUDES OUTBUILDINGS, YARD AROUND DWELLING, AND GARDEN. IT ALSO INCLUDES GARAGES, DRIVEWAYS, COURTYARDS, AND PARKING AREAS. YARDS, COURTYARDS, DRIVEWAYS AND PARKING AREAS USUALLY AND CUSTOMARILY USED IN COMMON BY OCCUPANTS OF APARTMENT HOUSES, CONDOMINIUMS AND OTHER SUCH COMPLEXES WITH OTHER OCCUPANTS THEREOF CONSTITUTE A PART OF THE CURTILAGE OF A SPECIFICALLY DESCRIBED APARTMENT OR CONDOMINIUM OR OTHER LIVING UNIT THEREOF.

**JURY VERDICT**

LADIES AND GENTLEMEN, YOUR VERDICT MUST BE A UNANIMOUS ONE. MADAME FOREPERSON, WHEN THE JURY AGREES ON THE VERDICT, YOU WILL WRITE THE VERDICT ON THE BACK OF THE

INDICTMENT AND SIGN YOUR NAME AS FOREPERSON. THEN KNOCK ON THE JURY ROOM DOOR AND INFORM THE BAILIFF THAT YOU HAVE REACHED A VERDICT. AT THAT TIME, WE WILL RECEIVE YOU BACK INTO THE COURTROOM.

I ASK THAT YOU NOW RETURN TO YOUR JURY ROOM BUT DO NOT BEGIN DELIBERATIONS UNTIL YOU ARE TOLD BY THE BAILIFF TO DO SO. THERE ARE SOME MATTERS WHICH MUST BE DISCUSSED WITH THE ATTORNEYS BEFORE YOU BEGIN YOUR DELIBERATIONS.

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Court of General Sessions  
Letitia Verdin, Circuit Court Judge

Appellate Case No. 2016-002335

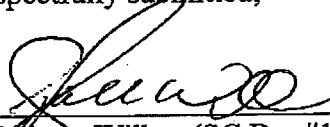
The State, ..... Respondent,  
v.  
Joseph Austin Carpenter, ..... Appellant.

CERTIFICATE OF SERVICE

I certify that on May 9, 2018, I served the Record on Appeal on the Respondent by  
placing a copy of same in the United States Mail, first class postage prepaid, addressed to counsel  
of record as indicated below and by facsimile or email if so indicated:

V. Henry Gunter, Jr., Assistant Attorney General  
Office of the Attorney General  
P.O. Box 11549  
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Respectfully submitted,

  
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Counsel for Appellant

THE STATE OF SOUTH CAROLINA  
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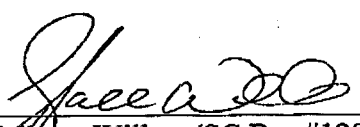
Appellate Case No. 2016-002335

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

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal contains all of the matter designated by the parties and  
no irrelevant matter.

I further certify that the Record on Appeal has been redacted in accordance with the  
Supreme Court's Order on the redaction of records and private data.

  
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