

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Spartanburg County
Honorable R. Keith Kelly, Circuit Court Judge

RECEIVED
JUL 27 2018
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ATRAUS DORRELL STYLES,

APPELLANT

APPELLATE CASE NO. 2017-000798

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #1 AND #2 (VIDEO OF FIGHT)**

1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) GENERAL SESSIONS
3 COUNTY OF SPARTANBURG) OF THE SEVENTH
4) JUDICIAL CIRCUIT
5)
6)
7)
8 STATE OF SOUTH CAROLINA,)
9)
10 Plaintiff,) TRANSCRIPT OF RECORD
11 vs.) 2016-GS-42-5128
12) 2016-GS-42-5129
13)
14 ATRAUS DORRELL STYLES,)
15 Defendant.)
16)
17 -----
18
19 November 28 - December 1, 2016
20 Spartanburg, South Carolina
21
22
23
24
25
B E F O R E:
HONORABLE R. KEITH KELLY, Judge.
A P P E A R A N C E S:
LARONE WASHINGTON, ASSISTANT ATTORNEY GENERAL
For The State
DEANNE P. THORNWELL, ASSISTANT ATTORNEY GENERAL
For The State
ANDREW J. JOHNSTON, ESQUIRE
For Defendant
JULIA TAT, ESQUIRE
For Defendant
Julie A. Ashbrook,
Circuit Court Reporter
Seventh Judicial Circuit

1 what my understanding of what the Court understood it to
2 mean as well, that you are not precluded from using or
3 attempting to use the self-defense claim. That, of
4 course, you would make that decision at the end of the
5 trial whether or not that was appropriate given the
6 facts of the case, but that you had already ruled that
7 the stand your ground does not apply in this case.

8 And I believe that was the whole point of having
9 the evidentiary hearing. If we weren't gonna have that
10 -- if we didn't mean to have the evidentiary hearing, we
11 could have had the trial and then you made a decision on
12 the stand your ground or the defense of other, others at
13 that appropriate time. I believe that's the whole point
14 in having the evidentiary hearing in the beginning.

15 MR. JOHNSTON: Your Honor, again, I respectfully
16 disagree and I would like to go about it in this way.
17 The purpose of the so called stand your ground hearing
18 or the Duncan hearing is different than from the trial.
19 In the Duncan hearing the Court has the -- has to make a
20 decision whether or not the defendant can establish by a
21 preponderance of the evidence that he is immune from
22 prosecution.

23 The Court heard the testimony on that issue and
24 the Court decided that the defendant was not immune from
25 prosecution, but I would argue that's all the Court has

1 determined is that he's not immune from prosecution.

2 The stand your ground law is still substantive
3 law and the jury should be called upon to apply the
4 facts of that law under their instructions, which will
5 be, among other things, that the State has to disprove
6 affirmative defenses, such as self-defense beyond any
7 reasonable doubt.

8 I would argue to the Court that it's analogous to
9 when there is a statement made attributed to a criminal
10 defendant. The Court is aware, of course, that there's
11 a *Jackson v. Denno* hearing. He testified arguments are
12 made and the judge determines by a preponderance of the
13 evidence whether or not the State is admissible on
14 various legal grounds.

15 But regardless of what the judge does -- well, if
16 the judge does anything other than express the
17 statement, the judge still is required to instruct the
18 jury that they have to make their own determination as
19 to whether or not the statement, which had been the
20 subject of the *Jackson v. Denno* hearing, was made freely
21 and voluntarily. So I would argue it's the same sort of
22 analysis here.

23 THE COURT: Yes, ma'am.

24 MS. THORNWELL: Your Honor, if we're going to use
25 that analysis, then we would equate the fact that you

PRELIMINARY MATTERS

1 said that he's not immune to prosecution after
2 suppression of that defense. I don't see how -- I don't
3 see how there's -- I think what the defense is trying to
4 argue is that there's no duty to retreat. I think
5 that's the only issue that comes up in the stand your
6 ground because, again, stand your ground you have to go
7 through the analysis of self-defense saying the duty of
8 retreat.

9 And I think that's the argument that the defense
10 -- I think that's really the language that we're arguing
11 about here. And I think you've already in your order
12 determined that that was -- that that was the case and
13 the stand your ground law doesn't apply.

14 And I would say that if we're going to use the
15 same argument that defense counsel is using, then I
16 would say that it would be analogous to the suppression
17 of the statement that was used subject to the Jackson v.
18 Denno hearing.

19 THE COURT: Okay. Well, as you say, it's not
20 necessary to decide that at this very moment, but it's
21 interesting. Anything further?

22 MR. JOHNSTON: No, sir, Your Honor.

23 THE COURT: Anything? Ready for the jury?

24 MS. THORNWELL: Yes, Your Honor.

25 MR. JOHNSTON: If I could have just a second to

1 is indicted for assault and battery in the third degree.
2 It is alleged that on the same day, in the same year, in
3 the same county that he did willfully and unlawfully
4 commit a battery upon the victim by intentionally
5 committing the battery on an inmate at the Spartanburg
6 County Detention Center by striking him with his hand in
7 violation of state law.

8 I tell you again, as I had previously told you,
9 he has entered pleas of not guilty to both indictments
10 and he is presented under law to be not guilty of either
11 and both of these offenses. I also tell you, ladies and
12 gentlemen, that these two indictments are merely pieces
13 of paper. They are the charging instruments that bring
14 him before the court, but they are in no way evidence of
15 guilt against him.

16 The State has the burden of proving each of the
17 elements of each indictment beyond a reasonable doubt
18 and it will be your duty to decide whether the State has
19 met the burden of proof. Ladies and gentlemen, your
20 purpose as jurors is to find and determine facts. You
21 are the sole judge of the facts. If at any time I make
22 a comment regarding a fact, you must disregard it.

23 You are to determine the facts and the testimony
24 you hear and the evidence introduced in this court. It
25 is up to you to determine inferences that you deem may

1 be properly drawn from the evidence presented in this
2 case. It is especially important for you to perform
3 your duty of determining the facts diligently and
4 conscientiously because ordinarily there is no way to
5 correct an erroneous determination of facts by a jury.

6 Now on the other hand, ladies and gentlemen, and
7 with equal emphasis, the law of this state that makes
8 you the judge of the facts, makes me the judge of the
9 law. The law as I give it to you is the only law that
10 you may consider. You must accept it and follow it even
11 if you disagree with it. I cannot tell you what a fact
12 is in this case, and you cannot disagree with me about
13 what the law is or should be or ought to be.

14 Your job is to take the law as I give it to you,
15 apply it to facts as you find them to be from the
16 testimony of the witnesses and other evidence, and after
17 doing so render a verdict. A verdict under your oath
18 that you previously took as jurors. But until I tell
19 you to begin deliberation, you must not discuss this
20 case with anyone, including fellow jurors, friends,
21 family members and anyone involved in this case.

22 As I previously said, the lawyers and the parties
23 have been instructed by me not to speak to you, so if
24 you see one of them and do not speak, they are not being
25 unfriendly, they are not being rude, they are merely

1 following my instructions.

2 You must decide this case based solely on the
3 evidence presented in this courtroom. During this trial
4 you must not conduct any independent research about a
5 fact in this case, about the evidence presented, people
6 or organizations involved, or any other information.

7 Please do not try to lure information from any
8 source outside of this courtroom. You must not use
9 dictionaries or other reference materials, search the
10 internet, websites or use blogs or other electronic
11 tools to discover or receive information or to help you
12 decide the case. You must not use computers,
13 telephones, cellphones, smart phones, tablets, the
14 internet or other tools of technology with communication
15 capability at any time while in the courtroom or during
16 deliberations.

17 During breaks for meals and overnight, if
18 necessary, you may use those devices, but you must not
19 use those devices to communicate with anyone about the
20 case until the case is ended. This means you must not
21 use phone calls, e-mails, text messages, instant
22 messages, Twitter or any blog, check room or website,
23 including Facebook, My Space, Linkdin, U-Tube or any
24 social media to send or receive information about this
25 case. And this includes information about a party, a

1 witness, a lawyer, a court officer, news accounts or any
2 research on any topic raised.

3 I tell you that you are not to read, listen to or
4 watch any news reports about the case, if any. And this
5 includes anything that may be in a newspaper or on the
6 internet, radio or television. You must not consider
7 anything you have read or heard about this case outside
8 of this courtroom whether before or during a trial.

9 I tell you that information on the television or
10 radio or the internet or other sources might be wrong or
11 certainly incomplete. And in our judicial system it is
12 important that you not be influenced by anything or
13 anyone outside of this courtroom.

14 If you become aware of a fellow juror's violation
15 of my instructions, please inform me immediately. It is
16 important that you keep an open mind and not decide any
17 issue until all evidence has been presented, the parties
18 have made closing statements, and I have instructed you
19 on the law.

20 It is your solemn duty and responsibility to
21 determine the guilt or innocence of this defendant and
22 your verdict must be based solely on the evidence
23 presented to you in this trial and on the law as I
24 instruct you during and at the close of the trial.

25 Now, Madam Forelady and ladies and gentlemen, in

1 just a moment the Attorney General will make what is
2 called an opening statement in which she will explain to
3 you the issues of the case or at least what she thinks
4 the issues are. The attorney for the defendant may also
5 make an opening statement, although he or she is not
6 required to do so.

7 What the lawyers tell you during opening
8 statements is not evidence, it is only their contention
9 as to what the issues are. The evidence in this case
10 will be presented to you by the sworn witnesses from the
11 witness stand and any exhibits that may be introduced
12 into evidence.

13 Now, ladies and gentlemen, from time to time you
14 may hear one of the lawyers say Your Honor I have a
15 matter of law, I believe we have a matter of law to
16 discuss with you and may we approach the bench and it
17 may be necessary to excuse you from the courtroom while
18 I confer with the lawyers. I do this because you are
19 the sole judge of the facts in the case and I may make a
20 comment on the fact in ruling or a matter of law, which
21 would be improper in your presence; therefore, I will
22 remove you from the courtroom so that there's no chance
23 that that could happen.

24 In determining what the true facts are, you must
25 decide whether or not the testimony of a witness is

1 believable. It is my responsibility to rule as a matter
2 of law as to whether certain testimony is admissible,
3 but once testimony is admitted, whether or not you
4 believe it is solely for you to determine.

5 In deciding whether to believe a witness, you 12
6 have the right to consider the interest of a witness or
7 bias or prejudice and any opportunity for that witness
8 to have seen or heard the things about which he or she
9 may testify. You have a right to consider anything in
10 the record that will help you evaluate the testimony of
11 witnesses. And that necessarily means it is your duty
12 to pay close attention to them, observe them, listen and
13 pay close attention to the lawyers and to the Court.

14 Therefore, I respectfully tell you and request
15 that you do not let your thoughts wander but give strict
16 attention to the testimony so that at the end of the
17 trial and after the arguments and the charge on the law
18 you will be in a position to determine the true facts
19 and to apply the law and thus render a verdict.

20 Madam Forelady, it is your added duty as the
21 spokes -- to be the spokesperson and to preside in the
22 jury room and you'll be the spokesperson here in the
23 courtroom. It's also your duty to write the verdict,
24 but I will give you further instructions at the close of
25 this case.

1 Again, I would simply ask that Madam Alternate
2 and Madam Forelady remain in the assigned seats, but
3 everyone else is certainly free to move about.

4 Anything from the State?

5 MS. THORNWELL: Nothing from the State, Your
6 Honor.

7 MR. JOHNSTON: Nothing from the defense.

8 THE COURT: Okay. Are we ready?

9 MS. THORNWELL: We're ready, Your Honor. Mr.
10 Washington will be doing the opening for us.

11 THE COURT: Absolutely. All right, sir.

12 MR. WASHINGTON: Thank you, Judge.

13 THE COURT: Yes, sir.

14 MR. WASHINGTON: May it please the Court?

15 THE COURT: Yes, sir.

16 OPENING STATEMENT

17 BY MR. WASHINGTON:

18 Mr. Johnston, staff. I never go into a fight
19 without my shoes tied. That's what the evidence in this
20 case is gonna show that the defendant, Mr. Atraus
21 Styles, said right before he bent over, tied his shoes,
22 marched up to the victim Courtney Pauling's cell, put
23 the key in the door, unlocked it, dropped the keys,
24 stepped back and punched the victim right in the face.

25 So how did we get here and who are all these

OPENING STATEMENT BY MR. WASHINGTON

1 people? So first we have Mr. Styles. And you've
2 already been introduced to him a good bit. He, of
3 course, is the defendant. He's the person on trial in
4 this case. But at the time of this incident he was a
5 correctional officer and his job as a correctional
6 officer was to keep order in the jail. You've got to
7 make sure you don't have inmates running all around and
8 you got to make sure everybody's account for. That was
9 his job.

10 And the other thing about being a correctional
11 officer is you got to know that you're gonna be dealing
12 with some of the -- some people who are a little rough
13 around the edges. Some people who have been charged
14 with criminal offenses. So he knows he's gonna have to
15 deal with certain things as a correctional officer.

16 And then we have Mr. Courtney Pauling. He's the
17 inmate who is at issue in this case here today. And I'm
18 gonna go ahead and tell you right now, Mr. Pauling, he's
19 not the cleanest person in the world. He was in jail
20 for a number of offenses and he eventually even got
21 convicted of them. I'm talking about armed robbery,
22 kidnapping and some other charges.

23 So that day the two of them, they're in the same
24 pod down at the Spartanburg County Detention Center.
25 And they kind of, they start talking about sports and

1 some other things and somehow it ends up getting a
2 little heated. And, like I said, Mr. Pauling is not the
3 cleanest person. He threatens to, I don't know, maybe
4 spit on the correctional officer.

5 And then a little bit of time goes by. And then
6 he even throws some sort of liquid. I don't know if it
7 was water, urine, whatever. We'll ask him. He throws
8 it at the correctional officer. Doesn't get on him. It
9 doesn't make it right, but it doesn't get on him. And
10 Mr. Styles didn't even know that it happened at the
11 time.

12 So that was earlier in the day. Time goes by and
13 obviously this is something that makes Mr. Styles upset.
14 So he comes up with this plan. He says, you know what,
15 we got to do a head count later on where I gotta go and
16 check on all the inmates, make sure they're in their
17 cells, make sure they're doing what they're supposed to
18 be doing.

19 So he's adamant. He says, okay, it's time to do
20 a head count. He wants to be the one to take the keys.
21 So he's going to do the head count on all the inmates.
22 And the first cell that they're going to is the victim
23 in this case, Mr. Courtney Pauling. And Mr. Styles is
24 like give me the keys, but before I go let me tie my
25 shoes because I don't ever go into a fight without my

OPENING STATEMENT BY MR. WASHINGTON

1 shoes tied.

2 He knows what he is going in there to do. He is
3 going in there to fight this inmate. So he bends over,
4 ties his shoes, gets back up, marches right to the
5 victim's cell, puts the key into the door, unlocks it,
6 drops the keys where anybody can get to it, rears back,
7 punches the inmate right in the face. Inmate wasn't
8 even doing anything to him at the time.

9 So that's how we ended up getting here today.
10 After all this happened, Mr. Styles ends up getting
11 charged with what we call misconduct in office, as well
12 as assault and battery in the third degree.

13 So what are those two charges? The misconduct in
14 office is the first one that we've got. Now, when
15 you're a government official, you've got a couple of
16 duties that are placed upon you just because you decided
17 to be a government official. And one of those duties is
18 not to make an unlawful act towards another person that
19 you're working with, that you're working over. If you
20 do that, then that's called misconduct in office, if you
21 commit an unlawful act while you're a government
22 official.

23 And then we have assault and battery in the third
24 degree. And it's somewhat similar. That's, that's
25 committing an unlawful -- that committing an unlawful

1 injury towards someone else. So those are the two
2 charges that we have here today.

3 And I did want to talk to you briefly about a
4 couple of other legal terms that you're gonna hear
5 throughout this case. And the first one is the burden
6 of proof. We as the State, myself, Ms. Thornwell, law
7 enforcement, we're the ones who have the burden of proof
8 in this case. And that's something that we don't run
9 from. We accept that burden, and I submit to you that
10 we're gonna be able to meet that burden. We've got to
11 prove each and every element of those offenses.

12 Mr. Styles, he doesn't have to prove a thing
13 because that's how the law works. And then we have
14 reasonable doubt. You probably heard it on TV or
15 something like that. We have to prove him guilty beyond
16 a reasonable doubt.

17 So what exactly does reasonable doubt mean?
18 What's that standard? How do you get there? That means
19 that we're gonna leave you firmly convinced that Mr.
20 Styles committed both of these acts. You're not gonna
21 hesitate to act when you think about whether or not he
22 did it.

23 So I want to thank you all for your time. I know
24 jury duty is one of those things where you could be
25 doing something else or you want to be doing something,

OPENING STATEMENT BY MR. JOHNSTON

1 but I thank you all for being here. And at the end of
2 this case we're gonna ask that you find Mr. Styles of
3 misconduct in office and assault and battery third
4 degree. Thank you.

5 MR. JOHNSTON: May it please the Court?

6 THE COURT: Yes, sir.

7 OPENING STATEMENT

8 BY MR. JOHNSTON:

9 Madam Forelady, ladies and gentlemen of the jury,
10 let me tell you something that my friend the prosecutor
11 didn't share with you, and I think it's the key fact in
12 this case. And interestingly enough, in the age of
13 video and technology you're gonna actually be able to
14 watch what happened. Pretty much actually see what
15 happened.

16 But what he said was that Mr. -- that Deputy
17 Styles opened the door and hit him, who he calls the
18 victim, Mr. Pauling. That, ladies and gentlemen, is not
19 what happened. There are rules in jail. And there are
20 rules for officers, but there are also rules for the
21 inmates. And the rules are for the safety of everyone.

22 But one of the rules that applies to inmates is
23 you don't step out of your cell without permission. You
24 don't step out of your cell without permission. This is
25 shared with the inmates from day one and is consistently

1 ingrained in them. I submit to you that Mr. Pauling
2 violated that rule. And you're gonna be able to see it
3 yourself. You're gonna have to rely on what I say.
4 You're gonna be able to see the video itself.

5 Deputy Styles opened the door. Mr. Pauling
6 pushed the door open. The door opens, it swings, I
7 should say, from the inside to the out. Mr. Pauling
8 swings the door and walks out. Again, a violation of a
9 cardinal rule of being an inmate.

10 Deputy Styles doesn't hit him. You'll see on the
11 video that Deputy Styles steps back, once, twice. What
12 does Mr. Pauling do? Mr. Pauling moves towards, once
13 he's broken the plane of his cell, he moves towards
14 Deputy Styles, not once, but twice. It is at that, that
15 point that Deputy Styles drops the keys.

16 There are two reasons he drops the keys. One, if
17 you hit someone with the keys in your hand you might
18 hurt them badly, because they're large metal keys.
19 They're not simply your normal household keys. The
20 other thing is, if you're gonna grovel with an inmate,
21 don't do it with the keys in your hand because if the
22 inmate gets control of the keys he could theoretically
23 let everybody out.

24 This is an area which is called a pod. The pods
25 are different subsections of the county jail. This

OPENING STATEMENT BY MR. JOHNSTON

1 particular pod has it's own power. This is pod five.
2 This is maximum security.

3 This is not where the guys who are in for not
4 paying child support or can't pay their fines for public
5 disorderly conduct. Pod five is maximum security. It
6 is lockdown. And that is because of the nature of the
7 individuals who are housed there. They are housed there
8 because they are not appropriate to be in the general
9 population of the jail. That means they're too
10 dangerous to be in with other inmates.

11 There are other reasons why they'd be in pod
12 five, but people who have assaulted an officer, people
13 who have assaulted another inmate, people who have
14 mental health problems. Any number of other reasons.
15 But pod five is the worst of the worst. And you'll see
16 that Mr. Pauling was housed there appropriately because
17 he's among the worst of the worst.

18 Even though Mr. Pauling didn't strike the first
19 blow, Mr. Pauling demonstrated an aggressive movement
20 and an aggressive stance and an aggressive action
21 against Deputy Styles, because as he walked into the
22 area that he was not supposed to be in and as he took
23 two steps forward towards Deputy Styles, he raised his
24 hands.

25 Ladies and gentlemen, I submit to you that the

1 evidence in this case is going to show you that the so
2 called victim, Mr. Pauling, was the aggressor. That
3 Deputy Styles simply took limited steps to protect
4 himself.

5 Now, there's gonna be a lot of talk in this case
6 about policies and procedures of the jail. And I'm
7 gonna tell you right now up front, Deputy Styles may not
8 have followed some of the procedures. But there's a
9 vast difference between failing to follow a work policy
10 and committing a crime.

11 I have work policies in my office. People are
12 supposed to be there at 8:30. Well, that doesn't mean
13 that they're gonna go to jail if they come in at 8:45.
14 Now, these policies are more serious than that, but I
15 just give it to you as an illustration that there is a
16 fundamental difference between the violation of policy
17 and the commission of a crime.

18 The State here alleges that Deputy Styles
19 committed not one, but two crimes. I submit to you that
20 their burden is to prove that beyond any reasonable
21 doubt. And they won't be able to do that in this case
22 because regardless of whether or not Deputy Styles
23 followed every policy down to its letter, he did not
24 commit a crime. What he did was to respond to the
25 aggressive actions of Mr. Pauling. And, therefore,

J
OPENING STATEMENT. BY MR. JOHNSTON

1 ladies and gentlemen, at the conclusion of this case I'm
2 gonna ask you to find Mr. Deputy Styles, former Deputy
3 Styles, not guilty.

4 THE COURT: Yes, ma'am.

5 MS. THORNWELL: Thank you, Your Honor, may it
6 please the Court. The State calls Courtney Pauling.

7 THE COURT: All right.

8 (Whereupon, witness comes forward.)

9 THE CLERK: If you'll place your left hand on the
10 bible and raise your right. (Complies.)

11 Do you solemnly swear or affirm the testimony
12 you're about to give will be the truth, the whole truth
13 and nothing but the truth so help you God?

14 THE WITNESS: Yes, ma'am.

15 THE CLERK: Thank you.

16 THE COURT: Sir, tell us your name and spell your
17 last name for my court reporter, please.

18 THE WITNESS: My name is Courtney Pauling. My
19 last name is spelled P-A-U-L-I-N-G.

20 THE COURT: Okay. Can you help him with that
21 microphone, please. Thank you, Mr. Pauling.

22 Yes, ma'am.

23 MS. THORNWELL: Thank you, Your Honor, may it
24 please the Court?

25 THE COURT: Yes, ma'am.

1 COURTNEY PAULING,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. THORNWELL:

5 Q. Mr. Pauling, can you tell the ladies and
6 gentlemen of the jury where you're from?

7 A. I'm from Columbia, South Carolina.

8 Q. And do me a favor, make sure that you can speak
9 up so this last person on the end can hear you, okay?

10 A. Yes, ma'am.

11 Q. Can you tell us how you came to be -- well, let
12 me ask you this. Where did you come from today?

13 A. ACDC.

14 Q. What location?

15 A. Perry Correction.

16 Q. Okay. Can you tell the Court and the jury why
17 you are in the Department of Corrections?

18 A. Um, I actually believe armed robbery and other
19 charges like kidnapping and possession of a deadly
20 weapon, things of that sort.

21 Q. And you were convicted of those charges, correct?

22 A. Yes, ma'am.

23 Q. Okay. How long are you sentenced to the
24 Department of Corrections for those charges?

25 A. Twenty-five years.

1 Q. Are there any other charges that you have been
2 convicted of?

3 A. No.

4 Q. Let me ask you this. So you said that you were
5 charged with possession of a firearm by a convicted
6 felon. How did you become a convicted felon?

7 A. Um, previous to this I had another sentence I
8 just served.

9 Q. Okay. And what were you served? I'm sorry, can
10 you speak up?

11 A. Yes. Previous to the sentence that I'm doing
12 now, I was serving another sentence for attempted armed
13 robbery and criminal conspiracy.

14 Q. Are there any other charges -- let me ask you
15 this. So after you search your sentence for the
16 convicted -- or the attempted armed robbery and criminal
17 conspiracy, were you convicted of anything before you
18 were convicted of --

19 A. No, ma'am.

20 Q. -- criminal charges?

21 A. No.

22 Q. When you were released from the Department of
23 Corrections, were you on parole?

24 A. Yes, ma'am, intense supervision.

25 Q. Okay. Did you have any violations at that time?

1 A. Yes, ma'am, I did.

2 Q. So you were convicted of attempted armed robbery,
3 criminal conspiracy and then you had a parole violation.

4 A. Uh-huh.

5 Q. Correct?

6 A. Uh-huh. Yes, ma'am.

7 Q. Okay. So after your parole violation did you
8 have an occasion to be at the Spartanburg County
9 Department of Corrections?

10 A. Yes, ma'am.

11 Q. Okay. And those were for the charges that you
12 are now currently in the Department of Corrections for?

13 A. Yes, ma'am.

14 Q. And that was armed robbery and kidnapping,
15 correct?

16 A. Yes, ma'am.

17 Q. So let's talk about your time at the Spartanburg
18 County Detention Center. Do you remember when you
19 entered the Spartanburg County Detention Center?

20 A. 2013, July 13.

21 Q. July 13th of 2013?

22 A. Yes, ma'am.

23 Q. Do you remember when you left the Department of
24 Corrections?

25 A. 2015.

1 Q. So you spent approximately two years in the
2 Department of Corrections?

3 A. Uh-huh.

4 Q. Oh, excuse me, in the Spartanburg County
5 Detention Center?

6 A. Yes, ma'am.

7 Q. While you were there, where were you housed
8 originally?

9 A. Back and forth from pod six to lockup pod five.

10 Q. And why were you back and forth between those two
11 locations?

12 A. Um, just certain things like disciplinary
13 reasons, like with canteen, being stereotyped for being
14 a part of a gang. Just different reasons.

15 Q. So you at some point -- well, let me ask you
16 this. When you originally went into the Spartanburg
17 County Detention Center, you were housed in a general
18 population or were you housed in -- where were you
19 housed when you originally went in?

20 A. First I went to the holding cell. Then they
21 moved me to solitary confinement. Then they moved me to
22 general population. Then they moved me back to a
23 solitary confinement. That's basically where I remained
24 for the majority of my time in Spartanburg County.

25 Q. And so you said that you had -- there were

1 violations that you had that caused you to be in pod
2 five, which is -- is that solitary -- is that what
3 you're saying solitary confinement is?

4 A. Yes, ma'am.

5 Q. Okay. So there were violations of policy that
6 requires you to be there?

7 A. Yes, ma'am.

8 Q. I'm gonna take you back to August 28th, 2014. Do
9 you remember -- do you remember where you were housed at
10 that time?

11 A. Yes, ma'am. Pod five, solitary confinement.

12 Q. Okay. Do you remember why you were housed there?

13 A. Supposedly for having too much canteen.

14 Q. So it was a violation of a ---

15 A. The policies of the county.

16 Q. It was a violation of the policies of the county
17 that requires you to be in lockup?

18 A. Uh-huh.

19 Q. And I'm gonna ask that you answer my response
20 (sic) to me either yes or no so the court reporter can
21 write down yes or no.

22 A. Yes, ma'am.

23 Q. Uh-huh is hard to spell. Okay. So you were in
24 pod five.

25 A. Yes.

1 Q. Was there something that happened that day that
2 you remember?

3 A. There's a lot that I remember that day.

4 Q. Okay. Let's start at the beginning of the day.
5 What time did you wake up?

6 A. Possibly 6:30, 7 o'clock that morning.

7 Q. Um.

8 A. I would say 6:30.

9 Q. Is that what time they served breakfast?

10 A. I haven't been there in a minute, so I possibly
11 like 5, 5:30 in the morning.

12 Q. So you woke up around 6:30 or 7. Let me back up.
13 So when you're in pod five, can you describe what your
14 normal day would be like in pod five?

15 A. Twenty-three hours a day you're in a room. You
16 must have your room in compliance to come out of your
17 room for an hour to get a shower to basically handle any
18 legal necessities, recreation. That consists of
19 basically a whole day.

20 Q. So you spent 23 hours a day in a cell with one
21 hour to come out?

22 A. Yes.

23 Q. Do you remember at what time you were able to
24 come out on August 28th?

25 A. Yes, I think so.

1 Q. I'm sorry?

2 A. Yes, ma'am.

3 Q. Okay. What time was that?

4 A. Seven o'clock that morning.

5 Q. So early in the morning you were allowed to have
6 your one hour of rec?

7 A. Yes.

8 Q. Can you tell the jury what happened during that
9 one hour of rec that you had?

10 A. I woke up that morning, got my rec. I received
11 my rec. I was in compliance. My room was in compliance
12 in order for me to receive my rec. Once I did come out,
13 I intended to handle everything that I needed to with my
14 legal supplies over the kiosk. Once I did that, I made
15 preparations to take a shower. And then there was an
16 incident that took place with -- well, it wasn't really
17 an incident at that particular time, it was just a
18 sports debation (sic) going back and forth with me and
19 an individual.

20 Q. Okay. I'm gonna stop you there. So you had an
21 opportunity to spend some time in your rec?

22 A. Yes, ma'am.

23 Q. Okay. You said that there was an argument or a
24 sports debate between you and an individual. Who did
25 you have a debate with?

1 A. Styles, Officer Styles.

2 Q. And had you had any -- had you had any
3 interaction prior to August 28th with Officer Styles?

4 A. No. Just, just by passing, sports comments
5 that's all.

6 Q. Had he been in your pod before as a correctional
7 officer?

8 A. Yes, most of the time.

9 Q. What was, what was the sports debate about?

10 A. Basketball and football, teams, LeBron James,
11 Carolina Panthers, Atlanta Falcons, things of that sort.

12 Q. What was said during the debate?

13 A. Previously before that I asked him who was his
14 team. He said the Heat. I asked him did he like Lebron
15 James, he said yeah. I asked him was he a Heat fan or a
16 Lebron James fan. He said he was Lebron James, both.
17 That led to me talking about my team. That went from
18 basketball to football. We started talking about the
19 Atlanta Falcons and the Pittsburgh Steelers. He started
20 talking about Carolina. And then things just went left
21 from there.

22 Q. When you say things went left, what do you mean?

23 A. There was a lot of foul play, a lot of verbal
24 disrespectful words being exchanged.

25 Q. So the conversation escalated. How did it

1 escalate?

2 A. I was indirectly threatened by Styles due to the
3 fact that led to what was being exchanged about, pardon
4 my language, pussy or bitch dust. And I asked him who
5 was he talking to. He told me that he was talking to
6 me. Well, no, pardon me, he wasn't talking to me. And
7 I asked him who would he be talking to and he was just
8 like if I was talking to you, I would say you was a
9 pussy or a bitch. And things led from there and it just
10 totally escalated.

11 Q. You said that there was some verbal exchange?

12 A. Uh-huh.

13 Q. Did that verbal exchange get physical at any time
14 during that part of the day?

15 A. No. Almost got physical but it didn't.

16 Q. Okay.

17 A. I avoided the situation. I was given a verbal
18 command by Officer Styles at that particular time to go
19 to my room, which I followed those orders and went in my
20 room.

21 Q. Were you able to finish your full hour of rec at
22 that time?

23 A. No.

24 Q. I'm gonna back up just a little bit. You said
25 that your room was in compliance and that is how you got

1 your rec for that day.

2 A. Uh-huh.

3 Q. So if there was a violation by an inmate of -- or
4 if there was noncompliance by an inmate what happens to
5 the inmate?

6 A. You don't get recreation for that day. The hour
7 for that day, you have to be in compliance for the next
8 day in order to retrieve recreation. If your bed is not
9 made, if something is on your table, if something is on
10 your ventilation, the vent ceiling, something is on it
11 you don't get your rec.

12 Q. So are always -- there are consequences if you
13 violate rules?

14 A. Yes, ma'am.

15 Q. That violation of being noncompliant, you don't
16 get your rec for the day. So what happens if you are
17 not compliant at the end of the day?

18 A. I think if you haven't complied when they come
19 around that morning, you don't receive recreation for
20 that day. If you're not in compliance for that
21 afternoon when they switch shifts, you don't receive
22 recreation for the next day.

23 Q. Now, let's go back to that particular incident
24 about the sports debate. You were given a verbal
25 command to go back into your cell, correct?

1 A. Yes, ma'am.

2 Q. What happened next?

3 A. Due to the fact when I went back to my cell there
4 was a verbal exchange between me and Officer Styles,
5 well I was kind of frustrated myself due to the fact
6 that I was told that I wouldn't get the rest of my rec.
7 Previously before I was given -- I was told to go back
8 in my room. There was like a trustee that came around.
9 We're not supposed to align with those individuals
10 because they bring food, they clean and it's like a
11 segregated type thing.

12 They came to clean. I probably had like about
13 20, 25 minutes more of my rec. I was told by Officer
14 Styles that I would receive the rest of my rec. I
15 didn't receive the rest of my rec. So I was asking
16 Officer Styles, I had another officer, which was Mr.
17 Knighton, open my door so I could get my rec. That
18 didn't occur.

19 Well, due to the fact that I was constantly being
20 antagonized with disrespectful words at that time, I
21 responded a couple with myself. But due to the fact
22 that every 30 to 45-minutes that the officer must make
23 his rounds to see whether the inmates are in well
24 condition, I was being just antagonized constantly.

25 Q. Okay. I'm gonna stop you there. You said that

1 -- I'm gonna break it down just a little bit. You said
2 that you went back to your room.

3 A. Uh-huh.

4 Q. Is that correct?

5 A. Yes, ma'am.

6 Q. And you weren't given the rest of your rec,
7 correct?

8 A. No, ma'am.

9 Q. And then I think you just said as I was -- before
10 I cut you off that the officer must make rounds every so
11 often.

12 A. Yes, ma'am.

13 Q. You said you got your rec at about seven?

14 A. Yes, ma'am.

15 Q. So it was almost about eight by the time you went
16 back up to your room?

17 A. Yes, ma'am.

18 Q. Then you said, I want to -- what words were said
19 to you that were antagonizing? You keep talking about
20 how you were antagonized. And what words were said and
21 who said those words or what words were said?

22 A. The words that were spoken upon was I was gonna
23 get my ass beat. Officer Styles stated those words most
24 of the times.

25 Q. I'm gonna move a little bit further into the day.

1 About what time do you remember you all got your lunch?

2 A. Hmm, it varies. Probably 10:30 to 12 o'clock.

3 Q. What, if anything, happened during the lunchtime
4 between you and Officer Styles?

5 A. Oh, around that time it had got out of hand.
6 After that it was constantly, due to the fact that they
7 were making their rounds, the individuals that the
8 inmates that were around us, they were drawn into that.
9 So from the antagonizing statements that were made by
10 Officer Styles about getting into a physical altercation
11 with me or going to beat my ass, I just totally avoided
12 it at that time.

13 I didn't have too much to say really because he's
14 the officer of authority. So, I mean, like if he's
15 antagonizing individuals and the officers that are there
16 with him on post knows upon the incident, why should I
17 have to notify anybody else this officer shouldn't be
18 around anymore?

19 But the last time they was about to feed chow, I
20 was told by Officer Styles at that particular time
21 before lunch came that my food was gonna be ejaculated
22 in. So that kind of, that kind of bothered me due to
23 the fact that I wasn't in control of my own food. So I
24 told him if he come back past by my door we had
25 problems. All right? He did come back past my door. I

1 attempted to stop him. I attempted to throw fluids on
2 him because he told me he was gonna ejaculate into my
3 food. All right?

4 The other officer that's on post with him was
5 aware of all of this, so I summoned him. Well, I
6 summoned him, but he also came to the door and in the
7 midst of everything going on he brought my food to me,
8 assuring me that my food wasn't gonna be bothered.

9 All right, when I did get my food they carried
10 on. They did carry on.

11 Q. Okay. I'm gonna stop you right there. We're
12 gonna talk about the lunch time incident in and of
13 itself. So you said after the words were said to you
14 throughout the rotation that you had a lunchtime.

15 A. Uh-huh.

16 Q. Correct?

17 A. (Witness nods head up and down.)

18 Q. You said that Officer Styles at the time
19 threatened to put something in your food, correct?

20 A. Uh-huh. Yes, ma'am. Yes, ma'am.

21 Q. But you are behind a door at this point?

22 A. Yes, ma'am.

23 Q. Is your door locked at that point?

24 A. Yes, ma'am.

25 Q. So there's no way for you to get out of the cell?

1 A. No, ma'am.

2 Q. I believe that you said at lunchtime your door
3 was open. Is the whole door open or what's opened at
4 lunchtime?

5 A. My door, my cell door is completely locked. When
6 he gave me the command to go back into my room, I
7 secured the door, which locked the door. But other than
8 that, there's a flap on the door. Every door has a --
9 like just for instance, if this is my door right now,
10 like the middle part of the stand would be a flap that
11 they open to give you food, to give you hygiene, to give
12 you canteen material, for instance, like that.

13 (Indicating.)

14 Q. So at lunchtime the only thing that was open was
15 your flap?

16 A. Uh-huh.

17 Q. You said based on what was said to you by Officer
18 Styles what happened, what did you do?

19 A. I attempted to throw fluids on him.

20 Q. To your knowledge did you hit Mr. Styles?

21 A. No, I did not hit Mr. Styles.

22 Q. Let me ask you that. Is that being in
23 compliance?

24 A. No, it is not being in compliance.

25 Q. And so I believe you said that there are rules.

1 What was your understanding of what the proper step
2 would have been for Mr. Styles had he known that
3 happened?

4 A. Had he known that I hit him with fluids?

5 Q. Yes.

6 A. I'm assuming the whole incident due to the
7 officers, them being the officer of authority, this
8 whole incident was supposed to be avoided. But due to
9 the fact of me throwing fluids at him because of the
10 antagonations (sic) of what he said to me, I'm assuming
11 that the officer that was on post command was supposed
12 to bring this to another officer's attention that
13 supervises so that he could be removed from the pod so
14 that this couldn't escalate to the point that it has
15 escalated to.

16 Q. When you were in noncompliance, what is the --
17 what's the consequence for you not being in -- for not
18 being in compliance?

19 A. Most likely I will be in lockdown more in my
20 room, I won't come out, or maybe I receive more time in
21 lockup.

22 Q. So there were other avenues that could have
23 happened if you were in noncompliance?

24 A. Yes, ma'am.

25 Q. So you're still in your cell. Let's go down to

1 head count.

2 A. Uh-huh.

3 Q. What, if anything, happened at the end of the
4 shift between you and Officer Styles?

5 A. What did happen?

6 Q. What, if anything, happened between you and
7 Officer Styles at the end of the shift?

8 A. At the end of the shift everything had been
9 escalated, like I said before. Okay? He was one of the
10 officers. There was four officers. There's two
11 exchanging officers that's coming to replace them off
12 their shift and then there's the officers that are
13 already on shift. One officer is required to stay at
14 the booth. Three of the officers is required to come
15 around and cell check to make sure your room is in
16 compliance and to make sure nothing is on the vent, et
17 cetera, et cetera. Okay?

18 Due to the fact of the threats that were made to
19 me, I'm kind of fearful for my life due to the fact that
20 you can't see into these rooms, due to the fact that
21 there's three officers that is coming in your room at
22 one time to visualize everything that's supposed to be
23 in compliance. Really one is supposed to come in there,
24 but you had three officers there.

25 But, like I said, I was fearful for my life by

1 the threats that were being made that I was gonna get my
2 ass beat. So I had three officers, they are putting on
3 gloves and one with ulterior motives. So due to the
4 fact of that, I felt as though I should protect myself.
5 But this officer was not removed from the dorm, so I'm
6 expecting that somebody knows what's going on because
7 they do know what's going on. The officer that's with
8 him on post knows what's going on and the supervisor was
9 never notified upon this.

10 So due to the fact that he's present in front of
11 my door with the keys and multiple individuals have
12 heard that this man said he was gonna attack me or do me
13 some harm when the doors open, I feel as though I should
14 be in vision, on camera vision somewhere so somebody can
15 see what's going on. That's what I did. I was at the
16 door, wondering why is this officer here at my door with
17 the keys to my open door when he's made verbal threats.
18 Everybody's heard him say that he's gonna do me some
19 harm. So due to the fact when he opened the door I was
20 standing there. And I asked I was about to ask the
21 question, well I was about to ask the question, like why
22 is he here.

23 Q. Okay. When you're supposed to have head count,
24 during head count, let me put it that way, where are you
25 supposed to be standing?

1 A. Beside my bed.

2 Q. So, again, you were in noncompliance by standing
3 at the door?

4 A. Uh-huh.

5 Q. You said you were standing at the door and Styles
6 opens your door?

7 A. Uh-huh.

8 Q. What happens next?

9 A. Um, well I was attempting to ask a question, but
10 at the same time I mean how I see it?

11 Q. No, I want to know what happened next.

12 A. Okay. What actually happened next?

13 Q. That's what I want to know.

14 A. Was that he opened the door, dropped the keys and
15 struck me.

16 Q. When he opened the door, where were you?

17 A. At the door.

18 Q. When he struck you, where were you?

19 A. At the door.

20 Q. Were you in your cell at the door or were you
21 outside the cell of the door?

22 A. I was at the threshold of the door when he opened
23 the door.

24 Q. When he struck you, were you inside the door or
25 were you outside the door?

1 A. Um, inside the door.

2 Q. And after he struck you what happened?

3 A. I was ---

4 COURT REPORTER: I didn't hear you, sir. Can you
5 repeat that?

6 THE WITNESS: The altercation erupted into
7 something more bigger than I thought it would be.

8 Q. When you said it was an altercation, who hit who?

9 A. Officer Styles hit me.

10 Q. Did you have an opportunity to hit Officer Styles
11 back?

12 A. No.

13 Q. Okay. Why was that?

14 A. Because I was being hold by another officer that
15 was pinning my arms down on my side. I was struck a
16 couple times by Officer Styles.

17 Q. So you were struck and then you said you were
18 bear hugged by another officer. What happened after
19 that?

20 A. Um, it kind of happened fast, but I don't
21 remember everything, but I was struck twice by Officer
22 Styles. My arms were pinned down by my side, being bear
23 hugged from behind by another officer, Officer Thompson.
24 Other deputies I was told to calm down so they can
25 restrain me, but I was not the aggressor so why should I

1 calm down?

2 Q. Okay. After you were restrained, what happened
3 next?

4 A. Well, when I was attempting to be strained I was
5 shoved onto the stairs in front of my room. Knighton
6 and Thompson and the S.W.A.T. came to restrain me. They
7 led me to medical. They observed me, seen what was
8 going on. I notified them of all of my injuries. I
9 spoke to the director of the jail, Mr. Ervin, multiple
10 other individuals.

11 Q. As a result of you being struck, are you saying
12 you had injuries?

13 A. Yes, I have.

14 Q. What were those injuries?

15 A. Um, scratches on me. I was struck in the face,
16 my eye. Going through headaches at that particular
17 time. Due to the fact of the restraining, I had damages
18 done to my spine, which was verified by Spartanburg
19 Regional.

20 MR. JOHNSTON: Your Honor, I'm gonna object.

21 He's interjecting what someone else says and that would
22 be hearsay.

23 BY MS. THORNWELL:

24 Q. Just tell me what injuries you had.

25 THE COURT: It's sustained.

1 THE WITNESS: Scratches, headaches and pain going
2 through my back.

3 BY MS. THORNWELL:

4 Q. Did you receive any medical attention for the
5 injuries that you received that were a result of this
6 altercation?

7 A. A week later.

8 Q. So is that a yes?

9 A. Yes.

10 MS. THORNWELL: I beg the Court's indulgence.

11 BY MS. THORNWELL:

12 Q. I have a few more questions for you. And I'm
13 gonna start with the incident at the head count where
14 the actual physical altercation happened.

15 A. Uh-huh.

16 Q. When you came out of your cell where were your
17 hands?

18 A. On my side.

19 Q. And in what manner were your hands?

20 A. I was attempting to ask a question, but at the
21 same time the demeanor, you know aggressiveness, when
22 you see aggressiveness. So once I was struck, I
23 attempted to really protect my face, but I couldn't
24 protect my face due to the fact that I was bear hugged.
25 So I had no choice but to be struck.

1 Q. Okay. So were your hands opened or closed?

2 A. Along my sides they were closed.

3 Q. When you came out of the cell, did you have any
4 type of weapons with you?

5 A. None whatsoever.

6 Q. And just for the Court's purposes, we've been
7 referring to Officer Styles. Do you see Officer Styles
8 in the courtroom and if so can you point him out or
9 describe him?

10 A. Yes, I can. That's the guy sitting there at the
11 defendant's table.

12 Q. Can you describe what he's wearing?

13 A. It looks like he's wearing a white shirt.

14 Q. Okay. The other question I have is back to the
15 reason you're at the Department of Corrections. I
16 believe you said there was an attempted armed robbery, a
17 kidnapping, a possession of a firearm by a felon. Are
18 there any other charges as to why your -- or when you
19 pled to the charges that got you into the Department of
20 Corrections, were there any other charges that you pled
21 to at that time?

22 A. Yes, ma'am.

23 Q. What were those?

24 A. Um, attempted armed robbery. Well, armed
25 robbery, kidnapping, possession of a deadly weapon,

1 simple assault and use of vehicle without owner's
2 consent.

3 Q. So at the time that you pled -- you were talking
4 a little soft, so I'm not even sure if someone else, if
5 all the jurors were able to hear you. Other than the
6 armed robbery, the kidnapping and the possession of a
7 firearm by a felon, what were the other charges that you
8 said you pled to?

9 A. Simple assault. Use of vehicle without owner's
10 consent.

11 Q. Okay. No further questions. Please answer any
12 questions the defense may have.

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. JOHNSTON:

16 Q. How are you doing today Mr. Pauling?

17 A. I'm all right, how are you?

18 Q. Fine, sir. I want to ask you about your record.
19 You weren't convicted in addition to the armed robbery,
20 two counts kidnapping, use of vehicle without owner's
21 consent. You said you were convicted of simple assault;
22 is that right?

23 A. Uh-huh.

24 Q. Are you sure about that?

25 A. Simple assault second.

1 Q. I'm sorry, what?

2 A. It was CDV. It got dropped down --

3 Q. Okay.

4 A. -- to assault in the second.

5 Q. Oh, all right. So you were convicted of assault
6 and battery second degree?

7 A. Uh-huh.

8 Q. That's not simple assault, is it?

9 A. No. I assume they're not then, no.

10 Q. Okay. Well, thank you for that clarification.
11 Mr. Pauling, you spent a lot of time in jails, prisons
12 over your life. You were not a new customer to this
13 situation when this thing happened, were you?

14 A. No. That has nothing to do with the incident.

15 Q. Well, do me a favor, would you speak up a little
16 bit because I'm having a hard time hearing you. I don't
17 know if anyone else is.

18 A. No, sir, I'm not a newcomer to the predicament I
19 was placed in, but that doesn't have nothing to do with
20 the incident.

21 Q. All right. Well, I didn't ask you what you
22 thought about it, I just asked you about your history.
23 You know that there are rules that inmates are supposed
24 to follow.

25 A. Uh-huh.

1 Q. Is that a yes?

2 A. Yes, sir.

3 Q. And those rules are there for everybody's
4 safety.

5 A. Yes, sir.

6 Q. One of the rules is during head count where does
7 the inmate stand.

8 A. Along my bed, sir.

9 Q. Not at the door?

10 A. No, sir.

11 Q. Where were you standing at your head count?

12 A. At my door.

13 Q. All right. Is it also a rule that an inmate
14 never leaves his cell without permission?

15 A. That's also a rule, sir.

16 Q. Did you leave your cell without permission?

17 A. When was this taking place?

18 Q. Well during this incident that we're talking
19 about where you said Deputy Styles hit you.

20 A. Uh-huh.

21 Q. Did you walk out of your room?

22 A. No, I didn't. After I was struck I was driven
23 out of my room.

24 Q. Okay. Well, let me make sure I understand this.
25 After Deputy Styles hit you, you came out of your room?

1 A. Yes, sir.

2 Q. So that means that he hit you while you were in
3 your room?

4 A. No. Yeah. Yes, sir. Yes, sir. I apologize,
5 sir. Yes, sir.

6 Q. Okay. Well, you're confusing me now. Did you
7 get hit while you were in the room or not?

8 A. At the threshold of my door I was struck by
9 Officer Styles.

10 Q. Okay. At the threshold, but you were on your
11 side?

12 A. Uh-huh.

13 Q. Is that a yes?

14 A. Yes, sir.

15 Q. All right. And your testimony to this jury is
16 that you did not leave your room until after you were
17 struck.

18 A. Yes, sir.

19 Q. All right.

20 MR. JOHNSTON: Your Honor, I have some
21 photographs which I've shown to opposing counsel which I
22 would like to have marked for identification --

23 THE COURT: Okay.

24 MR. JOHNSTON: -- as Defendant's exhibits at this
25 time. Individually.

1 THE COURT: While she's doing that, let me see
2 the lawyers.

3 (Whereupon, a bench conference was held off the
4 record.)

5 THE COURT: All right. Ladies and gentlemen,
6 Madam Forelady. We've been here on the bench since a
7 little bit after 2:00 p.m. I know you were back here
8 but all of my staff and, of course, the lawyers were
9 here working. So while she's marking those things we're
10 going to take a sort of a break, if you will. Do not
11 discuss this case. We're gonna take about 15 minutes
12 for everybody to refresh themselves with some good
13 coffee if anybody wants some. Madam Forelady.

14 (Whereupon, jury leaves courtroom at 4:18 p.m.)

15 (Whereupon, Defendant's Exhibit No. 1,
16 Photograph, was marked for identification.)

17 (Whereupon, Defendant's Exhibit No. 2,
18 Photograph, was marked for identification.)

19 (Whereupon, Defendant's Exhibit No. 3,
20 Photograph, was marked for identification.)

21 (Whereupon, Defendant's Exhibit No. 4,
22 Photograph, was marked for identification.)

23 (Whereupon, Defendant's Exhibit No. 5,
24 Photograph, was marked for identification.)

25 (Whereupon, Defendant's Exhibit No. 6,

1 Photograph, was marked for identification.)

2 (Whereupon, Defendant's Exhibit Number 7,
3 Photograph of Inmate and Officer, was marked for
4 identification.)

5 THE COURT: Okay. Are we ready for the jury?

6 MR. JOHNSTON: One thing, Your Honor. We would
7 respectfully ask that the witness be instructed that he
8 is not to discuss his testimony, while this is pending
9 not to discuss his testimony.

10 THE COURT: Okay. Sir, we're going to be taking
11 a break here. I've conferred with the lawyers. They've
12 asked to stop a little early today and take care of a
13 couple things. You are the witness in this case, so
14 none of them can talk to you about your case, about your
15 testimony. You understand?

16 THE WITNESS: (Nods head up and down.)

17 THE COURT: And you can't talk to anybody else
18 about your testimony. Of course, I understand that you
19 are confined, but none of them will be coming to talk
20 with you about what to say or not to say. And don't be
21 trying to send them a message, okay? And we'll
22 reconvene in the morning. Okay?

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you, sir. We'll have our jury.

25 THE BAILIFF: Yes, Your Honor.

1 DAY TWO OF TRIAL, THE STATE VS. ATRAUS STYLES

2 (Whereupon jury enters courtroom at 9:27 a.m.)

3 THE COURT: We ready?

4 MS. THORNWELL: Yes, sir, Your Honor.

5 THE COURT: Good morning. Madam Forelady,
6 everything good with the jury?

7 MADAM FORELADY: Yes, sir.

8 THE COURT: Did everybody notice we have
9 something called rain out there today?

10 MADAM FORELADY: We did.

11 THE COURT: All right. Very good. We're ready
12 to go. Yes, sir.

13 CONTINUED CROSS-EXAMINATION

14 BY MR. JOHNSTON:

15 Q. Good morning Mr. Pauling.

16 A. How are you?

17 Q. Fine, sir, how are you? Mr. Pauling you were
18 telling us yesterday that you were never -- that you
19 were struck inside your room.

20 A. Yes, sir.

21 Q. Is that right?

22 A. Yes, sir.

23 Q. And you were testifying under oath about that
24 yesterday?

25 A. Yes, sir.

1 Q. As you are today.

2 A. Yes, sir.

3 Q. I'd like to show you what has been marked for
4 identification as Defendant's Exhibit Number 1. Take a
5 look at that for me, please, sir. Do you recognize
6 that?

7 A. Yes, sir.

8 Q. What's depicted there?

9 A. It's my room, number one. Picture of Officer
10 Styles.

11 Q. And do me a favor, just ---

12 THE COURT: Can you help him, officer, slide a
13 little bit.

14 MR. JOHNSTON: Yeah, just slide up a little bit
15 and we can hear you better that way.

16 THE COURT: Thank you.

17 BY MR. JOHNSTON:

18 Q. All right. Do you agree that fairly and
19 accurately reflects the situation at that time?

20 A. Yes, sir.

21 MR. JOHNSTON: Your Honor, we would offer this
22 into evidence.

23 MS. THORNWELL: No objection, Your Honor.

24 THE COURT: Without objection.

25 (Whereupon, Defendant's Exhibit No. 1 was entered

1 into the record.)

2 BY MR. JOHNSTON:

3 Q. Now, I'm going to show you what has been marked
4 as Defendant's Exhibit Number 2 for identification. Now
5 these are stills from a video so some of them are a
6 little bit blurred, but what's in that picture?

7 A. Um, this is a picture of the door being opened.
8 I'm assuming we're at the door.

9 Q. Okay. Does that look like you?

10 A. Yes, sir, that is me.

11 Q. All right. Does that fairly and accurately
12 reflect the situation at that time?

13 A. Yes, sir.

14 MR. JOHNSTON: Your Honor, we would offer this
15 into evidence.

16 THE COURT: Any objection?

17 MS. THORNWELL: No objection, Your Honor.

18 THE COURT: Without objection.

19 (Whereupon, Defendant's Exhibit No. 2 was entered
20 into the record.)

21 BY MR. JOHNSTON:

22 Q. This one is probably slightly out of order. I
23 think this one probably should have been before that,
24 but anyway this is what's been marked as Defendant's
25 Exhibit No. 3. Do you recognize that?

1 A. Yes, sir.

2 Q. And does that fairly and accurately reflect the
3 circumstances at that time?

4 A. Yes, sir.

5 MR. JOHNSTON: Your Honor, we offer this one into
6 evidence.

7 MS. THORNWELL: Without objection. And, Your
8 Honor, just for the record I don't object to any of
9 those pictures coming in.

10 MR. JOHNSTON: All right.

11 THE COURT: Okay.

12 MR. JOHNSTON: We'll go ahead and -- we
13 appreciate the courtesy. We'll go ahead and have these
14 other three entered as exhibits.

15 (Whereupon, Defendant's Exhibits Nos. 3-7 were
16 entered into the record.)

17 BY MR. JOHNSTON:

18 Q. All right. I'm showing you what has been marked
19 as Defendant's Exhibit Number 4. What is that?

20 A. A picture of me.

21 Q. And what are you doing?

22 A. And a picture of Mr. Styles.

23 Q. What are you doing?

24 A. I was attempting to ask a question.

25 Q. Sir?

1 A. I was attempting to ask a question.

2 Q. Okay. Well, what are you doing physically with
3 your movements?

4 A. Stepping out of the door.

5 Q. Stepping out of the door. And have you been hit
6 yet?

7 A. No, sir.

8 Q. All right. Now, here's what's been marked as
9 Defendant's Exhibit Number 5. Do you see that?

10 A. Yes, sir.

11 Q. What are you doing?

12 A. I'm at the door. Seems as though I'm out of the
13 door, yes, sir.

14 Q. Have you been hit yet?

15 A. No, sir.

16 Q. All right. All right. I'm showing you what has
17 been marked as Defendant's Exhibit Number 6.

18 A. Uh-huh.

19 Q. You're further outside the door, aren't you, sir?

20 A. Yes, sir.

21 Q. Okay. Have you been hit yet?

22 A. I'm assuming not, sir.

23 Q. Well, I mean, you were there. Either you were or
24 you weren't.

25 A. No, I wasn't, sir.

1 Q. You weren't hit yet, were you?

2 A. No, sir.

3 Q. All right. Defendant's Exhibit Number 7. You're
4 even further outside the door there, aren't you, sir?

5 A. Yes, sir.

6 Q. Have you been hit yet?

7 A. No, sir.

8 MR. JOHNSTON: All right. Your Honor, I request
9 to publish these to the jury.

10 THE COURT: Yes, sir.

11 BY MR. JOHNSTON:

12 Q. Now, Mr. Pauling, you agree that you were outside
13 the cell when you were struck?

14 A. Yes, sir, as seen in the pictures.

15 Q. Well, you don't think the pictures lie, do you?

16 A. No, sir.

17 Q. Okay. So when you told us that you were struck
18 inside your cell before you had crossed the threshold,
19 you were mistaken.

20 A. Possible, yes, sir.

21 Q. Is there a possibility you weren't mistaken now
22 that you've seen those pictures?

23 A. I was mistaken, sir.

24 Q. All right, thank you very much. Now, you know
25 that you're not supposed to step across the threshold of

1 your cell. You know that.

2 A. Yes, sir.

3 Q. Do you admit that the pictures show you taking
4 steps towards Deputy Styles?

5 A. Yes, sir.

6 Q. As he backed away?

7 A. My life was in danger, I assumed.

8 Q. Okay. Your life was in danger you assumed.

9 A. Yes, sir.

10 Q. So you stepped towards him?

11 A. Yes, sir.

12 Q. Okay. All right. Now, you used an interesting
13 word yesterday when you were testifying and I want to
14 ask you about it.

15 A. Uh-huh.

16 Q. You used the word fluids.

17 A. Uh-huh.

18 Q. Do you remember that?

19 A. Yes, sir.

20 Q. What did you say about fluids?

21 A. What did I say about the fluids?

22 Q. Yeah.

23 A. I tossed fluids toward him.

24 Q. All right. Towards Deputy Styles?

25 A. Yes, sir.

1 Q. I say the word fluids was unusual because people
2 usually don't use the term fluids.

3 A. Uh-huh.

4 Q. They usually identify what kind of fluid it was.

5 A. Uh-huh.

6 Q. Tell this jury what kind of fluid it was.

7 A. Water, sir.

8 Q. Water.

9 A. Uh-huh.

10 Q. Do you recall being interviewed by the people of
11 -- officials at the jail on the day that this happened?

12 A. Uh-huh.

13 Q. Do you remember that being on video?

14 A. Yes, sir.

15 Q. And you knew they were conducting an official
16 investigation into what had happened.

17 A. Yes, sir.

18 Q. Do you remember that?

19 A. (Witness nods head up and down.)

20 Q. Do you remember telling them that you threw,
21 excuse my language, piss?

22 A. But it wasn't piss.

23 Q. Do you remember saying that you told them that
24 you threw piss at him?

25 A. Yes, sir.

1 Q. You did tell them that?

2 A. Yes, sir.

3 Q. Okay. So the day that it happened it was piss,
4 now it's water?

5 A. It was water from the beginning.

6 Q. Water from the beginning, except the time that
7 you said it was piss?

8 A. Uh-huh.

9 Q. Is that a yes?

10 A. Yes, sir. They assumed it was piss.

11 Q. No, I'm asking what you said. Did you tell them
12 that you threw piss at the man?

13 A. Yes, sir, I did. Yes, sir.

14 Q. You did. Well, why would you tell them that you
15 threw piss at him if it was just water?

16 A. I was frustrated, sir.

17 Q. Okay. Well, in your cell there you only had
18 access to two fluids, correct?

19 A. Correct.

20 Q. One fluid was water and the other fluid was
21 urine.

22 A. Yes, sir.

23 Q. Now, you were angry when you threw the fluids at
24 Deputy Styles, weren't you?

25 A. Yes, sir.

1 Q. You were frustrated?

2 A. Yes, sir.

3 Q. Whatever it was, water or urine.

4 A. (Witness nods head up and down.)

5 Q. What was it that caused you to be angry enough to
6 throw fluids?

7 A. As I stated yesterday, he told me he was going to
8 ejaculate into my food.

9 Q. He told you he was going to ejaculate into your
10 food.

11 A. Yes, sir.

12 Q. Okay. And how many times did he tell you that?

13 A. Um, possibly twice I would say.

14 Q. Possibly twice or twice?

15 A. Give or take, twice.

16 Q. Give or take. Okay. Well, now, tell me more
17 about this context in which he says that I'm gonna
18 ejaculate into your food.

19 A. Bypassing my door multiple occasions, making a
20 scene with inmates.

21 Q. Okay. Well, you said multiple times, but you
22 said he was going to ejaculate into your food twice. So
23 is it twice or multiple times?

24 A. A couple is one or two, right?

25 Q. That's how I would define it, yes.

1 A. Two.

2 Q. Multiple being several.

3 A. I would say twice.

4 Q. All right. And that's why you were mad at him?

5 A. Yes, sir.

6 Q. And that's why you threw fluids at him?

7 A. Yes, sir, along with multiple other things.

8 Q. You were mad at him about multiple other things?

9 A. Yes, sir.

10 Q. Like what?

11 A. Along with provoking me to get out of character.

12 Q. Okay. Well, did it have anything to do with your
13 rec time, that you didn't get your rec time?

14 A. No, sir.

15 Q. It had nothing to do with you rec time; is that
16 right?

17 A. Yes, sir, it had nothing to do with my rec time.

18 Q. I'm sorry, I didn't hear you.

19 A. Never had anything to do with my rec time.

20 Q. Okay. Do you recall -- you didn't testify
21 yesterday that that's what you were mad about.

22 A. I recall yesterday that I testified that I was
23 mad because he didn't let me out for 20 to 25 minutes of
24 my rec time.

25 Q. Yes. Yes. Didn't you testify about that?

1 A. I was mad about multiple things.

2 Q. Okay. Well, I'm trying to identify the chief
3 cause of what it was that you were mad about. But it
4 didn't have anything to do with your rec time?

5 A. No, sir. I would say partially. I would say
6 partially.

7 Q. Partially. You were a man that was in solitary
8 confinement for 23 hours every day.

9 A. Uh-huh.

10 Q. Rec time ---

11 A. Consists of handling my legal work which is a
12 necessity.

13 Q. Yeah.

14 A. Which is keeping my body clean which is a
15 necessity.

16 Q. Well, what I'm asking is rec time is important to
17 you.

18 A. Yeah.

19 Q. It's important to a man especially who is
20 otherwise stuck in there 24 hours a day in this little
21 box, this cage; is that right?

22 A. Yes, sir.

23 Q. I mean little things mean a lot.

24 A. You're right.

25 Q. When you're in a cage like that 24 hours a day,

1 right?

2 A. You're right.

3 Q. Now, when Deputy Styles approached the door, did
4 he communicate with you?

5 A. Yes. Told me to back away from the door. Most
6 of the officers told me to back away from the door.

7 Q. All right. Hold on. Let me make sure I
8 understand that. He came up to the door, Deputy Styles
9 did, and he told you to back away from the door.

10 A. One of the officers told me to back away from the
11 door. I assume all of them told me to back away from
12 the door.

13 Q. Okay. So some officer said back away from the
14 door, you're not sure if it was Styles, although it
15 could have been Styles, you assume it was Styles.

16 A. I recognize Knighton's voice telling me to back
17 away from the door.

18 Q. All right.

19 A. So there were multiple instructions for me to
20 back away from the door.

21 Q. There were multiple instructions for you to back
22 away from the door.

23 A. Yes, sir.

24 Q. Did you obey the first one?

25 A. No, I feared for my life.

1 Q. Did you obey the second one?

2 A. No, sir.

3 Q. The third one?

4 A. I don't know if there were two or three.

5 Q. You said multiple. You said there were multiple
6 commands for you to step away from the door.

7 A. Well, specifically I recognized one voice. The
8 ones that compromise the situation, Officer Knighton.

9 Q. I'm using your words, sir. You said there were
10 multiple commands to step away from the door. You said
11 that.

12 A. Yes, sir, I did.

13 Q. Now, you didn't obey the first time, the second
14 time, the third time, the fourth time, I'll quit there,
15 did you, sir?

16 A. Who said there were four times? Who said it was
17 four?

18 Q. You said there were multiple times.

19 A. And multiple is how many?

20 Q. I don't know, but it's at least more than a
21 couple because a couple is two.

22 A. You're right.

23 Q. How many do you say multiple is, four? I'll
24 leave it at four if you will.

25 A. All right.

1 Q. Four times. You were told four times back away
2 from the door and you didn't, correct, sir?

3 A. Yes, sir.

4 Q. All right. You disobeyed the command of the
5 officers now because you say you were scared. You say
6 you were scared.

7 A. Yes, sir.

8 Q. You said you were in fear for your life.

9 A. Yes, sir.

10 Q. The reason you feared for your life is that you
11 either heard or saw that officers were putting on the
12 gloves to enter your cell.

13 A. And I was told multiple times by Officer Styles
14 that I was gonna get my ass whooped at count time.

15 Q. Okay. So you were told multiple times by Styles
16 that you were gonna get your ass whooped at count time.
17 All right. Did you tell Officer Knighton that?

18 A. He overheard everything. He knew about
19 everything.

20 Q. Officer Knighton heard Officer Styles tell you --

21 A. Yes.

22 Q. -- I'm gonna whip your ass at count time?

23 A. Yes.

24 Q. Okay. And he didn't do nothing about it?

25 A. Obviously.

1 Q. He didn't do anything about it?

2 A. Obviously he didn't.

3 Q. Okay. But in any event you were scared to follow
4 the usual procedure which was to stay in your room by
5 your bunk.

6 A. Yes, sir.

7 Q. Because you were scared?

8 A. Yes, sir.

9 Q. You approached the door, you refused to back away
10 from it four times, like you were told, because you were
11 scared, correct?

12 A. Correct.

13 Q. All right. Now, did Deputy Styles communicate
14 with you in any other way?

15 A. Other than striking me, no, sir.

16 Q. Other -- I mean before he opened the door?

17 A. Before he opened I wouldn't specifically say -- I
18 would say Knighton, Thompson was the one who instructed
19 me to get away from the door.

20 Q. Okay. Well that's fine. You didn't obey them
21 either.

22 A. I don't know.

23 Q. All right. So I'm asking you, did Styles
24 communicate with you verbally or nonverbally as he
25 opened the door?

1 A. No, sir.

2 Q. Before he opened the door or as he opened the
3 door?

4 A. No, sir, I didn't specifically recognize that.

5 Q. All right. So he didn't communicate with you
6 verbally or nonverbally before he opened the door?

7 A. I just answered that.

8 Q. Okay. Well, I'm just trying to get it straight
9 in my head. I apologize, you were right, you just did
10 say that. Do you remember being interviewed in this
11 case on the same day that it happened?

12 A. Yes, sir.

13 Q. By the jail officials?

14 A. Yes, sir. Mr. Urch himself.

15 Q. Major Urch himself. He's the head man over the
16 whole jail.

17 A. Uh-huh.

18 Q. And you knew he was taking this seriously
19 conducting an investigation, didn't you?

20 A. Yes, sir.

21 Q. You told him not what you just told us. You told
22 him that he winked at me. You told him he winked at me
23 as soon as the door opened, he threw the keys down and
24 swung at me.

25 A. Which is obvious on the video.

1 Q. Well, did he -- what I'm asking you about is, did
2 he wink at you or not?

3 A. Yes, sir.

4 Q. Well, why didn't you tell us that?

5 A. You didn't ask that.

6 Q. Okay. I asked you did he communicate with you
7 verbally or nonverbally and you said what?

8 A. No, sir, at the first time.

9 Q. No, sir. But then when you were being talked to
10 in the official investigation you said he winked at me.

11 A. You asked me was I instructed to get away from
12 the door.

13 Q. I asked you did Deputy Styles communicate with
14 you verbally or nonverbally. That's what I asked you.
15 And you said no. But you told Major Urch that he winked
16 at you. In fact, you demonstrated to him this is how he
17 winked at me. Do you remember that?

18 A. No, I don't remember that.

19 Q. Did you tell Major Urch ---

20 A. Yes, I did tell Major Urch that he winked at me.

21 Q. Oh, all right.

22 A. But I didn't demonstrate to Major Urch how he
23 winked at me.

24 Q. Okay, you didn't demonstrate. Okay. You thought
25 just telling him was enough?

1 A. Everybody knows what a wink means.

2 Q. Okay. And everybody knows what a wink is, but
3 you just happened to leave that out until I reminded you
4 about it. Now, did you tell Deputy Styles that you were
5 gonna spit on him? At some point during the day did you
6 tell Deputy Styles that you were gonna spit on him?

7 A. Yes, sir.

8 Q. Did you have a broken nose as a result?

9 A. No, sir.

10 Q. Busted lip?

11 A. No, sir.

12 Q. Tooth knocked out?

13 A. No, sir.

14 Q. Loss of hearing?

15 A. No, sir.

16 Q. Black eye?

17 A. No, sir.

18 Q. Did they carry you to the hospital?

19 A. A week later.

20 Q. Okay. Well, the day it happened did they carry
21 you to the hospital?

22 A. No, I was ignored.

23 Q. You were ignored?

24 A. Yeah.

25 Q. Well, I saw a video of you being examined by a

1 nurse.

2 A. Yeah. I wasn't given pain medicine like I
3 requested and needed.

4 Q. Well, what did you need pain medication for?

5 A. For my back.

6 Q. For your back?

7 A. You asked were there injuries on my back. One
8 individual almost weighing 300 and some pounds and one
9 individual weighing over 220 pounds and another
10 individual weighing over 200 pounds. As you see, I'm no
11 more than 160.

12 Q. Okay. Well, did you tell them that you were hurt
13 and needed pain medication?

14 A. Yes, sir.

15 Q. You knew right from the beginning that you were
16 hurt?

17 A. It was obvious.

18 Q. I'm sorry? It was obvious?

19 A. (Witness nods head up and down.)

20 Q. Okay. Well, and you asked for pain meds from the
21 get go?

22 A. Yes, sir.

23 Q. Because you were in terrible pain, right?

24 A. Yes, sir.

25 Q. Now, that's not from getting hit, right?

1 A. You wouldn't say that.

2 Q. Sir?

3 A. I wouldn't specifically say that.

4 Q. Well, you said your back got hurt.

5 A. Yes, sir.

6 Q. You didn't get -- Deputy Styles didn't hit you in
7 the back, did he?

8 A. No, he was on my back.

9 Q. Okay. Well, but I'm asking from the blow that
10 was struck to you, the single blow that was struck to
11 you, did you have injury?

12 A. It was obvious. My jaw was hurting. I was in
13 pain.

14 Q. Your jaw was hurting?

15 A. Uh-huh.

16 Q. Well, did you tell them that your jaw was
17 hurting?

18 A. I made a statement of that, yes, sir.

19 Q. Okay. Well, was your jaw dislocated or tooth
20 knocked out?

21 A. I didn't know that at the time. I wasn't
22 examined for that.

23 Q. Well, I'm asking you. Was your jaw dislocated or
24 was a tooth knocked out?

25 A. No, sir.

1 Q. No, it wasn't. Do you recall being interviewed
2 on the day that this happened and you told them: I just
3 hit my side on the rail and everything else other than
4 that it's nothing. Do you remember telling them that?

5 A. No, sir.

6 Q. Do you deny saying that?

7 A. I don't recall telling them that.

8 Q. Did you deny it?

9 A. No, I don't deny it, but I don't recall it.

10 Q. Okay.

11 A. It's been almost two years ago, sir.

12 Q. Well, you told me a few minutes ago that you were
13 badly hurt and you knew it from the get go.

14 A. Uh-huh.

15 Q. Right, that's what you said?

16 A. Yes, sir.

17 Q. And you knew you were hit in the jaw and you were
18 hurting in your jaw?

19 A. Uh-huh.

20 Q. And you knew that right from the get go.

21 A. Well, specifically, sir, once my adrenaline
22 stopped pumping, that's when I started to be in a lot of
23 pain.

24 Q. Okay. Well, how long did it take for your
25 adrenaline to stop pumping?

1 A. I wouldn't specifically say.

2 Q. Okay. So it's possible that when Mr. Major Urch
3 asked you are you okay you said, well, I hit my side on
4 the rail and other than that it's nothing?

5 A. Um, yeah, I suppose so, yes, sir.

6 Q. Okay. Now, that changed later on after you filed
7 your suit in Federal Court, do you remember that?

8 A. That has nothing to do with this situation.

9 Q. Just let me ask the questions. If there's some
10 objection, it will be made. That changed later on after
11 you filed your suit in Federal Court in which you said
12 you'd been hurt.

13 A. I complained about pain that was going through my
14 back before the suit came into play.

15 Q. Okay. Well, in your lawsuit were you asking for
16 money?

17 A. A lot of things.

18 Q. Okay, well among other things money?

19 A. Monetary damages, yes, sir.

20 Q. Monetary damages you were asking for, for the
21 injuries you suffered as a result of your treatment --

22 A. Uh-huh.

23 Q. -- there at the jail?

24 A. Yes, sir.

25 Q. And you sued Spartanburg County, Deputy Styles,

1 Major Urch and several other people.

2 A. Yes, sir.

3 Q. Asking for money.

4 A. Yes, sir.

5 Q. Now, that suit got thrown out, didn't it?

6 A. Yes, sir.

7 Q. Do you like to fight?

8 A. No, sir. Why would you say that?

9 Q. It was a question. Do you like to fight?

10 A. No, sir.

11 Q. Were you in other altercations with people at the
12 jail during your time?

13 A. Yes, sir.

14 Q. Okay. You've been in altercations with people
15 since you've been at the Department of Corrections,
16 haven't you?

17 A. Yes, sir.

18 Q. That's why I asked. How many people did it take
19 to subdue you?

20 A. To subdue me?

21 Q. Yeah.

22 A. I wasn't aware of that. I was only aware of the
23 officers that were there.

24 Q. Okay. Well, did you know that other officers had
25 to come in?

1 A. Yes, sir. I was escorted by several. I didn't
2 count them.

3 Q. Well ---

4 MR. JOHNSTON: Your Honor, I'd like to have these
5 marked for identification.

6 THE COURT: All right.

7 MR. JOHNSTON: Individually, please.

8 (Whereupon, Defendant's Exhibit No. 8, Photo of
9 Jail Pod Dated 8/28/14 @6:19:02.63, was marked for
10 identification.)

11 (Whereupon, Defendant's Exhibit No. 9, Photo of
12 Jail Pod Dated 8/28/14 @ 6:19:02.96, was marked for
13 identification.)

14 (Whereupon, Defendant's Exhibit No. 10, Photo of
15 Jail Pod Dated 8/28/14 @ 6:19:05.22, was marked for
16 identification.)

17 (Whereupon, Defendant's Exhibit No. 11, Photo of
18 Jail Pod Dated 8/28/14 @ 6:19:13.75, was marked for
19 identification.)

20 (Whereupon, Defendant's Exhibit No. 12, Photo of
21 Jail Pod Dated 8/28/14 @ 6:19:26.48, was marked for
22 identification.)

23 (Whereupon, Defendant's Exhibit No. 13, Photo of
24 Jail Pod Dated 8/28/14 @ 6:19:30.08, was marked for
25 identification.)

1 (Whereupon, Defendant's Exhibit No. 14, Photo of
2 Jail Pod Dated 8/28/14 @ 6:19:34.02, was marked for
3 identification.)

4 (Whereupon, Defendant's Exhibit No. 15, Photo of
5 Jail Pod Dated 8/28/14 @ 6:19:34.02, was marked for
6 identification.)

7 (Whereupon, Defendant's Exhibit No. 16, Photo of
8 Jail Pod Dated 8/28/14 @ 6:19:42.28, was marked for
9 identification.)

10 (Whereupon, Defendant's Exhibit No. 17, Photo of
11 Jail Pod Dated 8/28/14 @ 6:19:57.95, was marked for
12 identification.)

13 BY MR. JOHNSTON:

14 Q. Okay. Mr. Pauling, I'd like to show you what has
15 been marked as Defendant's Exhibit for identification
16 Number 8. See if you can identify that for me, please,
17 sir.

18 A. This is the pod wing.

19 Q. Sir?

20 A. This is the pod wing.

21 Q. Okay. Is that you?

22 A. Yes, sir.

23 Q. All right. Does that fairly and accurately
24 reflect what was going on at the time?

25 A. Yes, sir.

1 MR. JOHNSTON: Your Honor, we offer it.

2 MS. THORNWELL: Without objection.

3 THE COURT: Without objection.

4 (Whereupon, Defendant's Exhibit No. 8 was entered
5 into the record.)

6 BY MR. JOHNSTON:

7 Q. Okay. Now, showing you what has been marked as
8 Defendant's Exhibit Number 9 for identification. Do you
9 recognize that?

10 A. Yes, sir.

11 Q. And does that fairly and accurately reflect the
12 conditions of at the time the picture was taken?

13 A. Uh-huh.

14 Q. Is that a yes?

15 A. Yes, sir.

16 MR. JOHNSTON: Okay. We offer it.

17 MS. THORNWELL: Without objection.

18 THE COURT: Without objection.

19 (Whereupon, Defendant's Exhibit No. 9 was entered
20 into the record.)

21 BY MR. JOHNSTON:

22 Q. I'm showing you what has been marked as
23 Defendant's Exhibit Number 10 for identification. Does
24 that fairly and accurately reflect the conditions at the
25 time?

1 A. Yes, sir.

2 MR. JOHNSTON: We offer it.

3 MS. THORNWELL: Without objection.

4 (Whereupon, Defendant's Exhibit No. 10 was
5 entered into the record.)

6 BY MR. JOHNSTON:

7 Q. I'm showing you what has been marked as
8 Defendant's Exhibit Number 11 for identification.

9 A. Yes, sir.

10 Q. Does that fairly and accurately reflect the
11 conditions at the time the picture was taken?

12 A. Uh-huh.

13 MR. JOHNSTON: We offer it.

14 MS. THORNWELL: Without objection.

15 MR. JOHNSTON: Without objection.

16 (Whereupon, Defendant's Exhibit No. 11 was
17 entered into the record.)

18 BY MR. JOHNSTON:

19 Q. I'm showing you what has been marked as
20 Defendant's Exhibit No. 13 for identification. Does
21 that fairly and accurately reflect the condition at the
22 time?

23 A. Yes, sir.

24 MR. JOHNSTON: We offer it.

25 MS. THORNWELL: Without objection.

1 THE COURT: Without objection.

2 (Whereupon, Defendant's Exhibit No. 13 was
3 entered into the record.)

4 BY MR. JOHNSTON:

5 Q. I'm showing you what's been marked for
6 identification as Defendant Exhibit Number 13. Does
7 that fairly and accurately reflect the conditions at
8 that time?

9 A. Yes, sir, but what is the point of these
10 pictures?

11 Q. Well, just bare with me and I'll show you, okay?

12 A. (Witness nods head up and down.)

13 MR. JOHNSTON: Your Honor we offer it.

14 MS. THORNWELL: Without objection.

15 THE COURT: It's admitted.

16 (Whereupon, Defendant's Exhibit No. 13 was
17 entered into the record.)

18 BY MR. JOHNSTON:

19 Q. Likewise, Defendant's Exhibit Number 14 for
20 identification. Do you agree that fairly and accurately
21 reflects the conditions at the time?

22 A. Yes, sir.

23 MR. JOHNSTON: We offer it.

24 MS. THORNWELL: Without objection.

25 THE COURT: It's admitted.

1 (Whereupon, Defendant's Exhibit No. 14 was
2 entered into the record.)

3 BY MR. JOHNSTON:

4 Q. Likewise, Defendant's Number 15. Does that
5 fairly and accurately reflect the conditions at the
6 time?

7 A. Uh-huh.

8 Q. Is that a yes?

9 A. Yes, sir.

10 MR. JOHNSTON: We offer it.

11 MS. THORNWELL: No objection.

12 THE COURT: It's admitted.

13 (Whereupon, Defendant's Exhibit No. 15 was
14 entered into the record.)

15 BY MR. JOHNSTON:

16 Q. Bear with me, only one or two more. Defendant's
17 Exhibit for identification Number 16. Does that fairly
18 and accurately reflect the conditions at the time?

19 A. Yes, sir.

20 Q. Last one. Defendant's Exhibit Number -- oh, we
21 offer it. We offer it.

22 MS. THORNWELL: Without objection.

23 THE COURT: Without objection.

24 (Whereupon, Defendant's Exhibit No. 16 was
25 entered into the record.)

1 BY MR. JOHNSTON:

2 Q. Number 17, for identification. Does that fairly
3 and accurately represent the conditions at the time?

4 A. Yes, sir.

5 MR. JOHNSTON: We offer it.

6 MS. THORNWELL: Without objection.

7 (Whereupon, Defendant's Exhibit No. 17 was
8 entered into the record.)

9 MR. JOHNSTON: Madam Court Reporter, did I offer
10 all exhibits there?

11 COURT REPORTER: Yes, sir.

12 MR. JOHNSTON: Thank you very much.

13 BY MR. JOHNSTON:

14 Q. Now, you were asking me what it had to do with
15 it. Number 8, you're outside your cell. Styles is to
16 the right, Knighton is in front of you or maybe that's
17 Thompson. I can't tell you. The three officers,
18 Styles, Knighton and Thompson, is that correct, are
19 there?

20 A. Uh-huh.

21 Q. You're standing outside your cell, they're around
22 you. The time is 6:19:02. Here the fight begins.

23 (Indicating.)

24 A. Uh-huh.

25 Q. Still just the three officers, correct?

1 A. (Witness nods head up and down.)

2 Q. The fight continues.

3 A. Uh-huh.

4 Q. Still just the three officers. The fight
5 continues. You're down on the ground now.

6 A. And the last question was how many I saw green
7 team people was there.

8 Q. Well, let me do this and then we'll talk about
9 SOG, okay?

10 A. Uh-huh.

11 Q. All right. So now you're down on the ground.
12 It's now 6:19:13. Two more officers appear.

13 A. Uh-huh.

14 Q. Is that a yes?

15 A. Yes, sir.

16 Q. So there's five officers there now. Now, we got
17 something on the neighborhood of six or seven here and
18 you're still on the ground wrestling.

19 A. I wasn't counting, as I stated before.

20 Q. I didn't ask if you were counting. I'm just
21 asking you to confirm that that's what the picture
22 shows.

23 A. Yes, sir.

24 Q. Okay. And it's now 6:19:30. Now, we got -- you
25 were talking about SOG. What are the SOG?

1 A. That's -- I forgot what that stands for.

2 Q. Well, do they dress up different than what this
3 officer's wearing?

4 A. Yes.

5 Q. What do they wear?

6 A. Green.

7 Q. Like Camo, like military type thing, right?

8 A. (Witness nods head up and down.)

9 Q. And they have special beanbag guns and stuff like
10 that; is that right?

11 A. Yes, sir.

12 Q. Okay. Now, the two of them are here in this
13 picture, aren't they?

14 A. Yes, sir.

15 Q. And it's now 6:19:34. Now, we've got the two SOG
16 people and we've got two more officers here in this
17 picture, and you're still on the ground.

18 A. Uh-huh.

19 Q. And it's 6:19:36. Now, it looks like we got
20 another officer coming in. You're still on the ground,
21 6:19:42, do you agree with that?

22 A. Uh-huh.

23 Q. Is that a yes?

24 A. Yes, sir.

25 Q. Now, at 6:19:57, you're handcuffed and under

1 control.

2 A. And approximately how long did that take?

3 COURT REPORTER: I didn't hear you, sir.

4 MR. JOHNSTON: He said how approximately how long
5 did that take.

6 BY MR. JOHNSTON:

7 Q. Well it took from 6:19:02 to 6:19:57, so that's a
8 little less than a minute.

9 A. Uh-huh.

10 MR. JOHNSTON: May I publish, Your Honor?

11 THE COURT: Yes, sir.

12 MR. JOHNSTON: Beg the Court's indulgence one
13 moment.

14 THE COURT: Okay.

15 BY MR. JOHNSTON:

16 Q. Mr. Pauling, thank you. Please answer any
17 questions anyone else may have.

18 MS. THORNWELL: Nothing further from the State,
19 Your Honor.

20 THE COURT: Okay, thank you. Sir, you may step
21 down. Please be careful.

22 MR. JOHNSTON: We have no objection to him being
23 excused.

24 (Whereupon, Witness leaves witness stand.)

25 MS. THORNWELL: Your Honor, if we may approach

DIRECT EXAMINATION OF TIMOTHY KNIGHTON BY MR. WASHINGTON

1 THE WITNESS: My name is Timothy Eston Knighton,
2 K-N-I-G-H-T-O-N.

3 THE COURT: Thank you. Yes, sir.

4 TIMOTHY E. KNIGHTON,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. THORNWELL:

8 Q. Thank you, Mr. Knighton. How are you doing
9 today?

10 A. I'm okay, sir. How about yourself?

11 Q. Doing all right. Are you working now?

12 A. No, sir, I'm currently not.

13 Q. Okay. Where's the last place you worked?

14 A. Spartanburg County Detention Facility.

15 Q. Okay. Why are you not working there now anymore?

16 A. I went out with back surgery and I resigned.

17 Q. Okay. What date was that?

18 A. It was actually December the 18th of last year.

19 Q. Okay. So when did you start working there, do
20 you remember that date?

21 A. September the 24th, 1994.

22 Q. So a while ago now?

23 A. Yes, sir.

24 Q. Okay. So clearly you were working there back on
25 August 28th of 2014?

1 A. Yes, sir.

2 Q. And what was your position there?

3 A. I was just a regular housing deputy at that time.

4 Q. Okay. What does that mean? What all do you do
5 as a housing deputy?

6 A. They assign you to a unit and you work that unit
7 and you do a lot of various things. If you want me to
8 go into detail I will, but...

9 Q. So I would ask for as brief a description as you
10 can give us.

11 A. You go in there and you basically make sure
12 everybody stays alive. You feed them, deal with any
13 issues that come up at that time. Make sure they get to
14 see their attorneys or visits or go to any kind of
15 programs. You kind of oversee the housing unit all day
16 long.

17 Q. All right. Did you have any other law
18 enforcement experience?

19 A. No, sir, not with ---

20 Q. So you started off in the '90's with the
21 detention center?

22 A. Yes, sir.

23 Q. All right. The Spartanburg County Detention
24 Center, how many inmates did you all about back in
25 August of 2014?

1 A. I'm gonna say roughly around 800, and that's I'm
2 guessing.

3 Q. All right. Now, were they all housed in one unit
4 or were there different units? How did that work?

5 A. We had like six different units plus we have an
6 annex. And at the annex building is where you put all
7 your less likely inmates to cause any kind of trouble,
8 minor offenses, Family Court, check writing, stuff like
9 that.

10 Your worse inmates are ones that had worse
11 charges, were housed at the main facilitate. If you
12 were in units three or four, you basically had
13 privileges. If you were in six, you were basically a
14 new inmate or you had some kind of special, special
15 thing going on where you had to be kept separate or
16 something from somebody.

17 And in pod five, which unit five, that's where
18 the worse of the worst were kept. Disciplinary inmates,
19 mental health inmates, suicidal inmates, and on rare
20 occasions transgender inmates, stuff like that, had to
21 be kept separate from other inmates.

22 Q. Okay. Now, particularly in a place like pod five
23 where you have, like I say, the worst of the worst, how
24 do you make sure that all those inmates are in their
25 cells and where they're supposed to be?

1 A. We have two different head counts. When you
2 first come on your shift, you have the first initial
3 head count where you go around and you check off names,
4 you say their first name, they'll say their last name.
5 Typically in other housing units we would check arm
6 bands. Not always so in pod five, depending on the
7 inmate.

8 You kind of do a visual check of their cell and
9 observe to see if everything's in place, they would be
10 standing by the bunk when you did this. They were not
11 allowed to move around while you was going this. And
12 you went all the way around the unit until it was
13 conduct and done. And then that evening when you were
14 going off shift, the deputy coming on, you would do the
15 same thing.

16 Q. Okay. Now, is there anything that the officers
17 take with them while they do this head count?

18 A. Yes, sir. You would have your keys with you, of
19 course, to be able to unlock the cell doors. In pod
20 five you can use control panel to unlock doors, but that
21 wasn't the way it worked head count. You had to
22 physically take a set of keys with you, open up every
23 door. You took a video camera with you and turned it on
24 as you went around. Hadn't always been that way, but
25 when I was working there that day it was that way.

1 Also, you would have one of the deputies that was
2 on coming with you, so there was three deputies at a
3 time.

4 Q. Okay. So three deputies. So you've got one with
5 the keys?

6 A. Yes, sir.

7 Q. Obviously that's to open the cell doors when you
8 go in with?

9 A. Yes, sir.

10 Q. You've got one with the video camera?

11 A. Yes, sir.

12 Q. And then what's the third one do?

13 A. The third one is actually doing the head count,
14 asking the names and stuff and doing the visual. Had
15 the on coming deputy.

16 Q. Okay. And during head count, obviously the
17 inmates are supposed to be by their beds?

18 A. Yes, sir.

19 Q. And that had to happen before an officer goes in?

20 A. Yes, sir.

21 Q. Okay. And then the officer walks around and
22 makes sure everything in the room is okay?

23 A. Yes, sir.

24 Q. Okay. Let's talk about August 28th of 2014, the
25 date of this incident. Do you remember if you were on

1 duty that day?

2 A. Yes, sir.

3 Q. What shift were you on?

4 A. On Alpha platoon. It's first shift, seven A to
5 7:00 P.

6 Q. Okay. And what unit were you assigned to that
7 day?

8 A. Maximum security, pod five.

9 Q. Pod five maximum security. So when you come in
10 at I guess 7:00 a.m. in the morning?

11 A. Yes, sir.

12 Q. Do you have to get any updates as to what's going
13 on? Anything like that? Any briefings?

14 A. Yes, sir, we have a briefing every morning. And
15 they'll go over anything that might have happened prior
16 to head count, give you an update on how the unit was
17 acting, if there was any trouble in the unit or they had
18 to deal with any inmates that were out of line or
19 whatever.

20 Q. Okay. Now, you're familiar with Officer Styles?
21 You worked with him during that?

22 A. Yes, sir.

23 Q. All right. Now, was there an inmate, Courtney
24 Pauling, there that day as well?

25 A. Yes, sir, he was housed in cell one.

1 Q. All right. Now, when you got on, were there any
2 updates that you had gotten about either of those two
3 individuals?

4 A. Not to my knowledge, sir.

5 Q. Okay. So you didn't get any updates about
6 whether something had gone on between that you needed to
7 know about?

8 A. Not that morning, sir, no.

9 Q. Okay. Do you all have a policy down there about
10 whether or not, let's say an inmate and an officer have
11 words or something along those those lines, what are you
12 all supposed to do?

13 A. You would write it up in a report in the computer
14 and notify your supervisor.

15 Q. Okay. Did you ever have to do any of those that
16 day that you remember?

17 A. Yes, sir, one time.

18 Q. Okay, what was that?

19 A. Deputy Styles had some, exchanged some words with
20 Inmate Pauling over a football team, that I can recall,
21 and I notified the supervisor and let him know what was
22 going on. I personally didn't write a report on it. I
23 have no clue if Deputy Styles did or not.

24 Q. Okay. But who's responsible for writing the
25 report in a situation like that?

1 A. Well, the person that had the words, Deputy
2 Styles.

3 Q. Okay. So that would have been Deputy Styles?

4 A. Yes, sir.

5 Q. You notify the supervisor, is that what you said?

6 A. Yes, sir, I do.

7 Q. And do you know of any instructions that were
8 given to you or other officers as a result of that?

9 A. Yes, sir. He told me to be the one to go around
10 and hand out food trays and pick up food trays. It was
11 earlier on in the day.

12 Q. Okay. So ---

13 A. Which I did.

14 Q. Specifically relates to all of the inmates or
15 just to Mr. Pauling?

16 A. Well, he wanted me to do it all, but...

17 Q. All of them?

18 A. Yes, sir.

19 Q. Okay. So I'm guessing that that was Mr. Styles'
20 job before the incident happened, before the words were
21 exchanged?

22 A. No, sir, not really. I mean, one might do it in
23 the morning, one might do it in the evening. I mean,
24 you -- whoever gets voted to do it at that time, but I
25 was specifically told by the supervisor to do it.

1 Q. Got you. Okay. Do you remember if you ended up
2 doing it or ---

3 A. Yes, sir, I did.

4 Q. Okay. So you ended up picking up the trays. And
5 do you ever remember that day were there ever any words
6 or anything exchanged between -- interactions between
7 Mr. Styles and Inmate Pauling?

8 A. Not that I can recall.

9 Q. Okay. All right. So you remember doing the head
10 count that day that you just explained to us about.

11 A. Yes, sir.

12 Q. All right. So who's with you on this head count
13 that day?

14 A. In the morning or the evening?

15 Q. I believe that would have been the evening.

16 A. Yes, sir, it was in the evening. It was me,
17 myself, Deputy Styles and Deputy Thompson.

18 Q. Okay. And whose job is what?

19 A. Deputy Thompson was the oncoming officer, so he
20 would have been doing the one asking the, the names and
21 getting the last names and stuff and doing the initial
22 observation. I had the video camera and was filming and
23 Deputy Styles was holding the keys to open up the doors.

24 Q. All right. And how do you all decide? Was there
25 any way that was decided who did what?

1 A. We normally just whoever does that.

2 Q. Okay.

3 A. I mean, the guy coming on has to be the one that
4 has the names and everything, of course.

5 Q. Right.

6 A. The other two deputies just, it's whoever decides
7 they want to do it.

8 Q. Okay. So, so one's getting -- the one coming on
9 has to be the one to do names.

10 A. Yes, sir.

11 Q. And that would have been Officer Keith?

12 A. Thompson.

13 Q. Or, I'm sorry, Thompson.

14 A. Yes, sir.

15 Q. Okay. So that leaves you and Mr. Styles as the
16 other two?

17 A. Yes, sir.

18 Q. So one has got to do the keys and one's got to do
19 the actual go in and -- or, I'm sorry, one's got to do
20 the keys and go in and one has got to do the video
21 camera?

22 A. Yes, sir.

23 Q. All right. So how did you all decide between the
24 two of you who was going to do which?

25 A. We really didn't decide how to -- Deputy Styles

1 just grabbed the keys. And after he grabbed the keys, I
2 grabbed the, the video camera.

3 Q. Okay. Did it seem like he wanted to grab the
4 keys or...

5 MR. JOHNSTON: Your Honor, I would object. That
6 calls for speculation.

7 THE COURT: Okay, I sustain.

8 MR. JOHNSTON: Okay.

9 BY MR. WASHINGTON:

10 Q. So let's go ahead and get to it. What happened
11 after Deputy Styles grabs the keys and goes to the head
12 count? Whose cell is first?

13 A. Cell number one.

14 Q. Cell number one?

15 A. Yes, sir.

16 Q. Who's in cell number one?

17 A. It was Mr. Pauling.

18 Q. All right. So once you all get to the cell what
19 happened?

20 A. Once we get to the cell, Deputy Styles opened up
21 the door. Of course I had the camera rolling. Deputy
22 Thompson was standing on this side of the door.
23 Mr. Pauling stepped out of the cell and started moving
24 toward Deputy Styles. Deputy Styles at that time backed
25 up about two steps, I want to say, I'm not sure, dropped

1 the keys and punched Mr. Pauling in the face.

2 Q. Okay. Now, let's go ahead and be clear here.

3 Where was Inmate Pauling when you guys went into the
4 door?

5 A. He was standing at the door.

6 Q. He's standing at the door?

7 A. Yes, sir.

8 Q. And to be clear he's supposed to be by his bed?

9 A. Yes, sir.

10 Q. Okay. So he's at the door not in compliance.

11 A. Yes, sir.

12 Q. What do you remember about how Mr. Pauling was
13 advancing towards Mr. Styles during this? Was he
14 charging him? How would you describe that?

15 A. Stepped out and just started walking toward him.

16 Q. Okay. Just walking ---

17 A. Like a normal ---

18 Q. Okay.

19 A. A normal walk.

20 Q. And you said Deputy Styles has the keys --

21 A. Yes, sir.

22 Q. -- and he drops them?

23 A. Yes, sir.

24 Q. And I know we talked about this earlier, but

25 obviously what's -- what importance, if any, do you put

1 on keys in the jail?

2 A. Well, you're never supposed to let go of your
3 keys because if the inmate gets control of the keys,
4 then it's made for a bad day because they could open up
5 other cells and then you could really be in a mess.

6 Q. Okay. And what do you remember about inmate
7 Pauling's demeanor? Was he being aggressive? What was
8 he, what was he doing?

9 A. I wouldn't say aggressive, but any time you step
10 out of a cell and you start walking toward an officer,
11 that's a no no. You don't do that.

12 Q. Do you remember where his hands were?

13 A. I want to say they were at his side, but they
14 were starting to come up.

15 Q. Okay. Now, were they a fist or anything?

16 A. I can't remember. It happened really fast.

17 Q. All right. Do you remember if he had a weapon?

18 A. No, sir, he didn't have a weapon.

19 Q. So after, and I believe you've already said, that
20 Officer Styles punches the inmate in the face.

21 A. Yes, sir.

22 Q. And what ended up happening after he got punched
23 in the face?

24 A. He got took to the ground and secured. And other
25 officers responded as well and came in. But he was

1 secured pretty quick.

2 Q. Right. Okay.

3 MR. JOHNSTON: Your Honor, I have no objection to
4 this one being marked.

5 MR. WASHINGTON: Beg the Court's indulgence,
6 Judge.

7 (Whereupon, State's Exhibit No. 1, CD of handheld
8 Video Camera Footage, was marked for identification.)

9 BY MR. WASHINGTON:

10 Q. All right. Mr. Knighton, I'm going to show you
11 State's Exhibit 1. And, actually, this is all going to
12 be State's Exhibit 1.

13 A. Right.

14 Q. What's that?

15 A. This is a disk of a video that was taken --

16 Q. Okay.

17 A. -- by me with a video recorder.

18 Q. And have you had a chance to watch it before?

19 A. Yes, sir, you showed it to me.

20 Q. Okay. Are these your initials here where you
21 watched it?

22 A. Yes, sir.

23 Q. And is that the date of when you last seen it?

24 A. Yes, sir.

25 Q. Is this video a true and accurate representation

1 of the scene?

2 A. Yes, sir.

3 Q. Has it been altered or deleted in any way?

4 A. No, sir. Just it was a lot quicker than I
5 remember, but it's right.

6 MS. THORNWELL: Okay, all right. Judge, at this
7 time we'd move to have State's Exhibit 1 into evidence.

8 MR. JOHNSTON: No objection.

9 THE COURT: Without objection, it's in evidence.

10 (Whereupon, State's Exhibit No. 1 was entered
11 into evidence.)

12 MR. WASHINGTON: Permission to publish?

13 THE COURT: Yes, sir.

14 (Whereupon, video plays.)

15 BY MR. WASHINGTON:

16 Q. Mr. Knighton, is that the video that you took
17 that evening?

18 A. Yes, sir.

19 Q. Is that how you remember it?

20 A. Yes, sir.

21 Q. Okay. Quickly, we hear in the video you say
22 "here we go". What did you mean by that?

23 A. Just something you say. You watch sports center,
24 when something starts happening you say here we go.

25 Q. Now, obviously, when a situation like that

1 happens, you've got the other officers who are there to
2 help take down the inmate, but who else was called, if
3 anybody, that you remember?

4 A. Well, an officer assistance call would have been
5 called. I don't remember who all showed up.

6 Q. Okay. So there's no specific person?

7 A. It could have been anyone.

8 Q. Okay.

9 A. Anybody that was available at that time.

10 Q. All right. Well, real quick, let me -- I'll just
11 show you what's been already marked as Defendant's
12 Exhibit 15. Does that look familiar to you?

13 A. It looks like a whole bunch of people.

14 Q. Okay. Now, who are -- obviously you've got you
15 and ---

16 A. That looks like a SOG member.

17 Q. Okay.

18 A. He's got a SOG uniform on.

19 Q. What do you remember about SOG? What do they do?

20 A. SOG was, was made to help prevent any injuries to
21 officers, like if you had -- if you had a violent inmate
22 or if you had a situation that you thought might occur,
23 you would contact SOG to deal with it because that's
24 what they're trained to do.

25 Q. Okay.

1 A. They're supposed to be the elite officers. The
2 ones with the weapons and the means to secure an inmate
3 pretty quick.

4 Q. Okay. Now, do all of them always help break up a
5 fight? Is that ---

6 A. Well, they can't be there all the time.

7 Q. Right.

8 A. If something happens they're, they're notified,
9 they're called.

10 Q. Okay. Do they ever bring more necessarily than
11 maybe need to break up, just to break up the fight?

12 A. I mean, if you call them beforehand they just
13 bring themselves with all their gear and everything.

14 Q. Okay. In this situation they came after --

15 A. Yes, sir.

16 Q. -- the fight?

17 A. Yes, sir.

18 Q. Okay. All right. Sounds good. Thank you, Mr.
19 Knighton.

20 A. Yes, sir.

21 Q. Let's talk about the jail protocols at the time
22 of this incident. And let's start back with if there's
23 an inmate at the door during head count, obviously
24 that's not where he's supposed to be.

25 A. That's correct.

1 Q. What was the protocol down at the jail for what
2 you're supposed to do?

3 A. At that time?

4 Q. Right. As an officer going in to do the head
5 count.

6 A. It hasn't always been this way, but at that time
7 I would have just -- I would have looked to see if he
8 was breathing and I would have walked on and I would
9 have called the SOG unit to come down to search his cell
10 or whatever they had to do to go in his cell and check
11 him out.

12 Q. Okay. So an officer can just bypass ---

13 MR. JOHNSTON: Your Honor, object to leading the
14 witness.

15 THE COURT: Okay. Ask the question differently.

16 BY MR. WASHINGTON:

17 Q. Okay. Are there any alternatives? Well, and let
18 me backdoor it a little bit. Once the inmate is already
19 out of the cell, what could an officer, if anything,
20 what could he have done other than physical force?

21 A. Well, if you're given the privilege to have the
22 time, you would tell him step back, step back, give him
23 verbal commands and you would spray and spray. And that
24 would give you a better opportunity to not be injured.

25 MR. WASHINGTON: Beg the Court's indulgence.

1 BY MR. WASHINGTON:

2 Q. All right. Just a couple more questions,
3 Mr. Knighton.

4 A. Yes, sir.

5 Q. We talked about, obviously you had this handheld
6 camera, this video that you're doing during head count.

7 A. Yes, sir.

8 Q. Why is it that you have that?

9 A. Sir? I'm sorry, what did you say?

10 Q. Why is it that you have -- that you take a video
11 during the head count?

12 A. Well, that's policy now. It didn't used to be,
13 but at that time it's policy. That's if anything
14 happens or goes wrong, it's all on video. Just sort of
15 like what a deputy out on the street when they have a
16 camera on their chest.

17 Q. Okay. And also, I believe you've already said
18 that Mr. Pauling was secured pretty quickly after the
19 fight?

20 A. Yes, sir, he was.

21 Q. Was this before or after the SOGs had arrived?

22 A. No, it was before. He was secured before anybody
23 else arrived. We -- me, Deputy Styles and Deputy
24 Thompson secured him pretty quick.

25 Q. Okay. So that is three officers that secured the

1 inmate from the beginning, right?

2 A. Yes, sir.

3 Q. That's what you needed?

4 A. Yes, sir.

5 Q. Okay. Tell me, do you remember if anything was
6 said to Inmate Pauling while he was standing at the
7 door? You mentioned that when you guys started off the
8 head count, he's standing at the door. And, obviously,
9 that's not where he's supposed to be.

10 A. Right.

11 Q. Do you remember if anything was said while he was
12 standing at the door?

13 A. No, sir, I don't. I don't remember, but that
14 don't mean it didn't happen.

15 Q. Right.

16 A. I'm sorry, I don't remember.

17 Q. So you don't remember anything that was said to
18 Pauling?

19 A. No, sir. I pretty much had my nose in the video
20 camera.

21 Q. Right.

22 A. It might have been on the video.

23 Q. Right. All right. Agent, I think you talked
24 about how you would have handled the situation.

25 A. Yes, sir.

1 Q. Where do you get where you would handle the
2 situation? Was it ---

3 A. Well, like I said, I never would have opened the
4 cell door if he wasn't in the right place.

5 Q. Okay.

6 A. I would have just moved on after I seen him
7 breathing.

8 Q. Right.

9 A. But I've been doing this for a very long time and
10 I value going home to see my wife and kids. I don't
11 mess around.

12 Q. So in addition to the experience of doing it all
13 on time, what did you learn as alternatives as going
14 into the inmate?

15 A. Well, at that time we had a SOG unit. I mean we
16 could have called SOG to come in or we could have waited
17 and called SOG after we got done.

18 Q. Right.

19 A. It just ain't worth putting yourself at risk.

20 Q. Was there any sort of training or anything that
21 you guys had gotten to learn these alternatives?

22 A. Well, we all go through training and they all
23 tell you to, you know, to watch for certain things. Try
24 not to put yourself in the situation to where you could
25 get yourself hurt. Your ultimate goal is to go home.

1 To keep the inmates alive, feed them, do what you're
2 supposed to do in your duties and go to the house.

3 MR. WASHINGTON: Nothing further, Judge.

4 THE COURT: All right. Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. JOHNSTON:

7 Q. Inmate Pauling testified that you overheard a
8 conversation wherein Mr. -- or wherein Deputy Styles
9 told Inmate Pauling that he was going to ejaculate into
10 his food and that you overheard of it and you -- you
11 overheard it and that you were well aware of this.

12 A. I don't recall that. That don't mean that it
13 didn't happen, I just don't recall it.

14 Q. Well, that would be a pretty serious thing if you
15 heard an officer say that he was going to ejaculate into
16 somebody's food.

17 A. It's been a couple of years and I try to forget
18 everything I can when I leave that place.

19 Q. All right. Well, in any event, it would be
20 somewhat extraordinary, wouldn't it?

21 A. It would be extraordinary, sir.

22 Q. Okay. And probably something you would take note
23 of at the time.

24 A. Yes, sir.

25 Q. Okay. But as you say, it's been two years ago.

1 You certainly can't remember everything that was said.

2 A. That's correct, sir.

3 Q. And you don't remember everything that was said
4 to Inmate Pauling before the door was open, do you?

5 A. No, sir.

6 Q. Okay. And you said further that just because you
7 don't remember that anybody told any commands were given
8 to Inmate Pauling, that doesn't mean it didn't happen.

9 A. That's correct, sir.

10 Q. Pod five, maximum security.

11 A. (Witness nods head up and down.)

12 Q. The worst of the worst?

13 A. Yes, sir.

14 Q. People who they already -- everybody in the jail
15 has got some kind of problem, some kind of legal
16 problem --

17 A. Yes, sir.

18 Q. -- that landed them there in jail.

19 A. Yes, sir.

20 Q. But most of the inmates behave themselves in the
21 jailhouse.

22 A. For the most part, sir, yeah.

23 Q. Okay. But then you've got some that don't behave
24 even in the jailhouse.

25 A. That is correct, sir.

1 Q. And what do you do with them?

2 A. Well, after they get written up so many times
3 they go to pod five and that's where they're housed.

4 Q. They go to pod five because they can't behave.

5 A. Yes, sir.

6 Q. And sometimes that behavior is because they've
7 had an altercation with another inmate or with an
8 officer or they've made threats or what have you.

9 A. Yes, sir.

10 Q. Any time an inmate approaches you it is a
11 potential danger, isn't it, sir?

12 A. Absolutely, sir.

13 Q. Any time an inmate in pod five approaches you
14 it's potential danger.

15 A. Yes, sir.

16 Q. Cell number one is the normal cell that you would
17 begin a head count with.

18 A. That's correct, sir.

19 Q. Head count wasn't begun with Inmate Pauling
20 because he was Inmate Pauling, it was because he was in
21 cell one.

22 A. Yes, sir, typically we start with cell one.

23 Q. Okay. Well, that only makes sense. You've got
24 to start somewhere.

25 A. Yes, sir.

1 Q. Okay. But you certainly didn't pick out Pauling;
2 we're going to go start with Pauling.

3 A. No, sir, he was in cell one.

4 Q. He was in cell one. The keys. I don't have any
5 keys with me, but -- now, these are Ms. Tat's keys.
6 Excuse me, they have some purple and pink stuff on them,
7 but... Keys to the jail, pod five, they're not little
8 keys, little ole keys like this, are they?

9 A. No, sir. They're about four times bigger than
10 those.

11 Q. About four times bigger than these. Now, I'm not
12 gonna hit you, but if I hit you with those keys in my
13 hand it would be more likely that I'd hurt you than if I
14 just hit you with my fist. I'm not gonna hurt you, but
15 if I did --

16 A. You could do some ---

17 Q. -- I could hurt you. I could do some damage --

18 A. Yes.

19 Q. -- with those big ole keys.

20 A. Yes, sir.

21 Q. So if, assuming that it's necessary for me to
22 strike you, I'm gonna do less damage by dropping them
23 before I strike you.

24 A. Yes, sir.

25 Q. Now, I know you're not supposed to let the inmate

1 -- you're not supposed to let go of your keys.

2 A. That's correct, sir.

3 Q. But in this circumstance the keys were already in
4 his hand and he felt the need to strike.

5 A. That's correct.

6 Q. So he would have done less damage by dropping
7 them.

8 A. Yes, sir.

9 Q. I know we're going back to things that people
10 hear, remembering things that were said. You don't
11 remember -- I've looked at your statement. You don't
12 remember Deputy Styles saying anything like I'm gonna
13 tie my shoes before this fight?

14 A. No, sir.

15 Q. Okay. That would have concerned you, wouldn't
16 it?

17 A. To tie his shoes?

18 Q. Yes.

19 A. Yes, sir. He would have needed to have his shoes
20 tied before we did a head count.

21 Q. Well, yes, sir, I understand that. But if you
22 would have heard him say I've got to get my shoes tied
23 before I get in this fight, that would have concerned
24 you, wouldn't it?

25 A. A little bit.

1 Q. All right. And you don't recall him saying
2 anything like that, do you?

3 A. No, sir.

4 Q. You knew there had been some kind of verbal
5 exchange between Deputy Styles and Inmate Pauling.

6 A. That's correct, sir.

7 Q. And you were at least concerned enough about it
8 that you contacted your supervisor.

9 A. That's a fact, sir.

10 Q. To let him know. You didn't call your
11 supervisor -- what did you tell your supervisor?

12 A. I called Sergeant Mace.

13 Q. Sergeant Mace.

14 A. And I said, Sergeant Mace you might want to come
15 down here. Deputy Styles and Inmate Pauling had some
16 words and I believe it might be better if he's taken out
17 of the equation.

18 Q. All right. Let me break that down a little bit.

19 A. Yes, sir.

20 Q. You told him you might want to come down here?

21 A. Yes, sir.

22 Q. Did he come?

23 A. No, sir.

24 Q. You told him you thought it would be a good idea
25 for the -- that it might be better if he was taken out

1 of the equation.

2 A. Yes, sir.

3 Q. Now ---

4 A. I can't remember exactly what I said to him, sir,
5 but it's along the lines of that.

6 Q. All right. Something to that effect.

7 A. Yes, sir.

8 Q. You meant take who out of the equation?

9 A. Deputy Styles.

10 Q. Because Inmate Pauling was already in the most
11 secure place you all had for him in the whole facility.

12 A. That's correct, sir.

13 Q. So it wasn't like you could take him and put him
14 somewhere worse than that.

15 A. Not unless they took him to transfer, but they
16 don't normally do that anymore. They used to back in
17 the day but not now.

18 Q. Transfer, what's that?

19 A. That's the place way, way down at the other end
20 of the hall all by yourself.

21 Q. Okay. All right. So that's some kind of really
22 super secret place.

23 A. Yes, sir.

24 Q. But anyway, so that's not policy to do that
25 anymore?

1 A. Not anymore, sir.

2 Q. Okay. For whatever reason. So you suggested
3 that Deputy Styles be transferred to another area of the
4 jail and that another officer be substituted in his
5 place, of course.

6 A. Yes, sir. I wanted to take him out of the
7 equation because, like I said before, my main objective
8 is to go to the house.

9 Q. Yes, sir, and I don't blame you. Your pleas were
10 ignored?

11 A. He never was moved, so I would say yes, sir.

12 Q. Okay. Now, you said they've had words over
13 something silly, a football team or something like that.

14 A. A football game or football team, yes, sir.

15 Q. Something silly?

16 A. Yes, sir.

17 Q. It was not because Styles was relentlessly
18 taunting Pauling?

19 A. No, sir. When you work in pod five several days
20 at a time like me and Mr. Styles did --

21 Q. Yes, sir.

22 A. -- it's pretty easy for one of them to get on
23 your nerves.

24 Q. Yes. And they're bored in there, aren't they?

25 A. Yes, sir. They don't have anything else to do.

1 Q. About the only thing they got to do is watch what
2 you all are doing.

3 A. Pretty much, sir.

4 Q. And if one of them decides that they want to pick
5 at you, they can do it.

6 A. It's happened.

7 Q. For their own amusement.

8 A. It's happened a lot.

9 Q. Out of sheer boredom.

10 A. Yes, sir.

11 Q. Now, about these policies. One thing that I've
12 seemed to have heard from you several times is that
13 policies change a lot down there.

14 A. Like underwear.

15 Q. Like underwear, okay.

16 A. Yes, sir.

17 Q. All right, now. I know you all have got a big
18 old book, 322 pages.

19 A. Pretty thick.

20 Q. I got ahold of it. A lot of things that we talk
21 about aren't in that book.

22 A. It wouldn't surprise me.

23 Q. Okay. So there are things that are told to you.
24 How would they change the policy if it wasn't in
25 writing? They just call you in the room and say, okay,

1 new policy today?

2 A. Well, they just come in shift briefing. They'll
3 tell you this new policy or they put out a memo.

4 Q. Okay. In the shift briefing they call out or
5 give you a memo?

6 A. Yes, sir, pretty much. Or send you an e-mail.

7 Q. Or send you an e-mail.

8 A. Yes, sir.

9 Q. All inmates are told very clearly two things.
10 One, at head count stay where?

11 A. Beside your bed and have your bed made.

12 Q. Okay. And, two, don't come out of your room
13 without permission.

14 A. That's a fact, sir.

15 Q. Pauling, Inmate Pauling, had been there for a
16 while.

17 A. Yes, sir.

18 Q. He knew the rules.

19 A. I would hope so, as long as he was there.

20 Q. Something that you said on direct examination
21 struck me about something you say. You were talking
22 about what an officer -- how an officer can respond to a
23 given situation.

24 A. Yes, sir.

25 Q. And you said, and I thought it was quite apt, if

1 you are given the privilege of time.

2 A. That's correct, sir.

3 Q. If you are given the privilege of time you can do
4 a lot of things in a given situation.

5 A. Yes, sir.

6 Q. Now, I'm not a --

7 A. Sorry, I've got a cramp.

8 Q. Are you okay?

9 A. I'm good, I've just got a cramp, I'm sorry.

10 Q. If you need a break, just let us know.

11 A. I'm good. Go ahead.

12 Q. I'm not fast and I'm not quick, but if I were,
13 you and me this distance apart, how fast can I close?
14 If I were fast and quick, which I'm not. (Indicating.)

15 A. Your size, pretty quick.

16 Q. Okay, well, I appreciate that. Seconds?

17 A. (Witness nods head up and down.)

18 Q. Maybe quicker than that?

19 A. Yes, sir.

20 Q. Now, if you're given the privilege of time, you
21 can do a lot.

22 A. (Witness nods head up and down.)

23 Q. One of the things that if you are given the
24 privilege of time that you could do is you're equipped
25 with something called the Vexer spray?

1 A. Mace, yes, sir.

2 Q. Mace, okay. And you guys had that. Deputy
3 Styles had that, you have that.

4 A. We all have that. It's issued. We all carry it.

5 Q. All right. How about tasers, did you all have
6 tasers?

7 A. Only supervisors and the SOG units have tasers.

8 Q. All right. So the only thing you have to defend
9 yourselves with other than your fists is Vexer, the OC
10 spray or mace, whatever it is.

11 A. That's correct, sir.

12 Q. Now that takes time to deploy. You ain't got it
13 in your hand on head count. You don't walk up to the
14 door with your spray ready to go, do you?

15 A. No, sir, because that would cause antagonation
16 (sic).

17 Q. Yes, certainly it would. Now, where does one
18 keep one's OC spray?

19 A. Right here, sir, in a pouch.

20 Q. All right. It's in a pouch. Is that similar to
21 a holster?

22 A. Yes, sir.

23 Q. Okay. Is -- like now with a holster with your
24 pistol, I don't know if you've got a strap. Do you got
25 a strap on it or were you --

1 A. It's just ---

2 Q. -- just laying there or what?

3 A. No, sir. There's a thing that goes over it. You
4 have to hit a ---

5 Q. A flap kind of thing?

6 A. You have to hit a button and release it forward
7 for it to get it to come out.

8 Q. Okay. So here it is on my side, do I do it with
9 my right hand or my left hand? Which side is it on?

10 A. Well, I always kept mine on my right side because
11 I'm right-handed.

12 Q. All right. I'm right-handed, so I'll put it on
13 my right side.

14 A. Yes, sir.

15 Q. So what do I do? I take my hand, my right hand
16 or left hand?

17 A. I'd take the hand I'm pulling it out of.

18 Q. All right.

19 A. I'd -- on the -- the mace is different than the
20 weapon. The mace is just a button, like a snap, like
21 you would you snap your britches.

22 Q. Yeah.

23 A. You pop it, pull it, spray it.

24 Q. All right. So this is what I've got to do. I
25 gotta pop it, pull it --

1 A. Yes, sir.

2 Q. -- aim it and fire it. Psh. (Indicating.)

3 A. Depending on the mace.

4 Q. What do you mean?

5 A. You don't really have to aim it as long as you
6 get it close.

7 Q. Okay. Well, will you agree it's probably a good
8 idea to aim it as best you can?

9 A. Yes, sir.

10 Q. Especially when you've got two fellow officers
11 standing right with you?

12 A. Yes, sir, because if you miss you could hit the
13 other officer in the face.

14 Q. Yeah. And you wouldn't like that one bit, would
15 you?

16 A. No one neither, sir.

17 Q. You mean the person that's ---

18 A. The officers wouldn't like it if you sprayed
19 them.

20 Q. It would upset you?

21 A. Yes, sir.

22 Q. All right. So what I'm hearing you say is that
23 mace is good if you have the privilege of time to use it
24 and you've got at least a reasonably clear area where
25 you're not going to hit your fellow officer.

1 A. That's correct, sir.

2 Q. Okay. But as you say, this happened real fast.

3 A. Faster than I realized after I looked at the
4 video.

5 Q. Faster than even you realized.

6 A. Yes, sir.

7 Q. After you looked at the video.

8 A. That's correct, sir.

9 Q. Doesn't sound like the privilege of time to me.

10 A. Not really, sir.

11 Q. Different officers are going to react differently
12 in a given situation.

13 A. That is a fact.

14 Q. You say that very strongly.

15 A. Yes, sir.

16 Q. And you've been in a situation yourself.

17 A. Yes, sir.

18 Q. And you've seen other officers who were in that
19 situation of having to deal with the approaching inmate
20 who you say there's always danger, different people,
21 different officers, different trained officers, are
22 gonna have a different reaction.

23 A. That is correct, sir.

24 Q. Some might try to deploy their spray.

25 A. Yes, sir.

1 Q. Some might strike the inmate.

2 A. That's a fact.

3 Q. Some might freeze and do nothing because they're
4 too scared and don't know what to do.

5 A. And some may run.

6 Q. And some may run.

7 A. Yes, sir.

8 Q. It's a hard decision to have to make like that.

9 A. That's a fact, sir.

10 Q. Can you rule out from your observations that
11 Deputy Styles in that situation as he was approached by
12 the inmate that he may have had a reasonable fear of
13 that inmate?

14 A. I've seen big guys be fearful and I've seen
15 little guys fight like a pit bull. It is possible. I'm
16 sorry, sir, I didn't answer your question. It is
17 possible he could have been fearful.

18 Q. And would that fear in those circumstances have
19 been reasonable?

20 A. Yes, sir. Like I said, our goal is to go home.

21 Q. There was no blood on Mr. -- on Inmate Pauling,
22 was there?

23 A. Not that I can recall, sir.

24 Q. He didn't have a busted lip, busted jaw, anything
25 like that, a broken nose?

1 A. Not that I can recall.

2 MR. JOHNSTON: Okay. Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 MR. JOHNSTON: Please answer other questions.

5 THE COURT: Anything?

6 REDIRECT EXAMINATION

7 BY MR. WASHINGTON:

8 Q. Mr. Knighton.

9 A. Yes, sir.

10 Q. Could someone else have done the inspection that
11 Mr. Styles did that day?

12 A. Yes, sir.

13 Q. Was there any reason why Mr. Styles had to go
14 into the cell that day?

15 A. No, sir, he didn't have to.

16 Q. If he had not gone into the cell, would he have
17 had to worry about time to respond?

18 A. That's a fact.

19 Q. Okay. But it's a fact that if he had not gone
20 in --

21 A. He wouldn't have had to ---

22 Q. -- he would not have had to worry about all that?

23 A. Yes, sir.

24 MR. WASHINGTON: Okay. Nothing further, Judge.

25 THE COURT: Anything?

1 RE CROSS-EXAMINATION

2 BY MR. JOHNSTON:

3 Q. Head count is an important practice in
4 correctional settings.

5 A. Yes, sir, it is.

6 Q. And the whole point of head count -- well, there
7 are many points to head count.

8 A. Yes, sir.

9 Q. One of them is to ensure the safety of the
10 inmate.

11 A. That's correct.

12 Q. That he's okay, hadn't hanged himself, he's not
13 sick or anything like that, right?

14 A. Yes, sir.

15 Q. The other is to make sure that his room is in
16 compliance, right?

17 A. That's correct, sir.

18 Q. And that he's not trying to escape.

19 A. That's correct.

20 Q. That he doesn't have any contraband.

21 A. That's correct.

22 Q. That he doesn't have any homemade weapons.

23 A. That is correct.

24 Q. Like a shank.

25 A. Especially in pod five.

1 Q. Especially in pod five.\

2 A. Yes, sir, that's a fact.

3 Q. So had he not attempted to conduct the normal
4 head count, those purposes of head count would have been
5 frustrated, would they not?

6 A. Yes, sir, they would have had to come back later
7 and do it.

8 MR. JOHNSTON: All right. No other questions.

9 THE COURT: Sir, you may step down. Please be
10 careful.

11 THE WITNESS: Thank you, sir.

12 MR. JOHNSTON: We have no objection to him being
13 excused if they wish.

14 THE WITNESS: Thank you, sir.

15 (Whereupon, Witness leaves witness stand and
16 courtroom.)

17 THE COURT: Next witness.

18 MR. WASHINGTON: The State calls Daniel Thompson.

19 THE COURT: Let me see counsel while we're
20 waiting on the witness to come in.

21 MR. JOHNSTON: Yes, sir.

22 (Whereupon, bench conference was held off the
23 record.)

24 (Whereupon, witness comes forward.)

25 THE CLERK: Please place your left hand on the

DIRECT EXAMINATION OF DANIEL THOMPSON BY MR. WASHINGTON

1 bible and raise your right. (Complies.)

2 Do you solemnly swear or affirm the testimony
3 you're about to give will be the truth, the whole truth
4 and nothing but the truth so help you God?

5 THE WITNESS: I do.

6 THE COURT: Sir, once you're situated there, get
7 comfortable, pull that mic around, and tell us your full
8 name and spell your last name for my court reporter,
9 please.

10 THE WITNESS: Daniel Eugene Thompson, III,
11 T-H-O-M-P-S-O-N.

12 THE COURT: Thank you.

13 Yes, sir.

14 MR. WASHINGTON: Thank you, Judge.

15 DANIEL EUGENE THOMPSON, III,
16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. WASHINGTON:

19 Q. Mr. Thompson, how are you doing?

20 A. Good. How are you?

21 Q. Good. Where are you working? I see you've got a
22 polo on there. I can't read it.

23 A. I own my own business. Preselection,
24 Incorporated.

25 Q. Okay. How long are you been working there?

1 A. Since November 20th of last year.

2 Q. Okay. What were you doing before?

3 A. I was a deputy at Spartanburg County Detention
4 Center.

5 Q. When did you start down at the jail?

6 A. It was March 24th, 2012, I believe.

7 Q. Okay. Up until when, you said?

8 A. November 20th, 2015.

9 Q. All right. And what was your position down at
10 the jail?

11 A. I was a D-3 when I left. I was a guard.

12 Q. What's that?

13 A. Just the rank.

14 Q. Okay.

15 A. Two steps up from the bottom.

16 Q. Deputy three?

17 A. Yeah.

18 Q. All right. So what do you do as a deputy three
19 down at the jail?

20 A. We were -- basically the same thing. It's not
21 really a supervisory role. It's just you're down in the
22 pods like everybody else, taking care of inmates,
23 watching inmates, making sure things are done right and
24 properly.

25 Q. Okay. Did you have any more law enforcement

1 experience?

2 A. I worked for Alvin S. Glenn Detention Center in
3 Columbia, South Carolina, for about a year and a half.

4 Q. Okay. Doing the same thing?

5 A. Yes, sir.

6 Q. Why did you end up leaving Spartanburg County
7 Detention Center to go do your own company?

8 A. At that time I wanted to go in law enforcement.
9 Spartanburg County went into a hiring freeze back when
10 the sheriff took over at the jail and stuff like that,
11 so I went to Columbia to get my foot in the door. And
12 then as soon as Spartanburg County started hiring again,
13 since I'm from here, my family's here, I put in,
14 applied, hired, come back up here.

15 Q. Okay. So you stayed there for a period of time.

16 A. Yeah.

17 Q. And then why did you leave Spartanburg?

18 A. When I left last year?

19 Q. Right.

20 A. My grandfather retired. We've had a family
21 business for 45 years now, so me and my father took
22 over.

23 Q. To run the family business?

24 A. Yeah, run the family business.

25 Q. All right. Do you remember August 28th of 2014,

1 the day of this incident, here?

2 A. I do.

3 Q. Were you on shift that day?

4 A. I was.

5 Q. Do you remember which one it was?

6 A. I was on Charlie. I was on the oncoming shift.

7 Q. Okay. Charlie is the next ---

8 A. Next shift.

9 Q. What time was that shift?

10 A. It's 6:30 is shift briefing, to about 6:30, 7 in
11 the morning, whenever shift briefing is over.

12 Q. Okay.

13 A. And head count is over.

14 Q. 6:30?

15 A. P.M.

16 Q. P.M.?

17 A. To about 6:30, 7:00 a.m.

18 Q. About 6:30, 7 a.m. do you remember what pod you
19 were assigned to?

20 A. Pod five.

21 Q. Pod five. What's pod five?

22 A. That's the disciplinary pod.

23 Q. When you came in that day to work in the pod
24 five, who do you remember already being on duty?

25 A. It was me and the guy -- the officer that I was

1 assigned with, Deputy Keith. And in the pod was Deputy
2 Knighton and Deputy Styles.

3 Q. Okay. So --

4 A. They were who were relieving them.

5 Q. -- Knighton and Styles are already there. You're
6 relieving them.

7 A. Yeah.

8 Q. And you and Keith are coming in.

9 A. Yes, sir.

10 Q. Okay. Did you -- do you remember if you talked
11 with Mr. Styles when you came in that day?

12 A. They kind of gave a briefing. I always go
13 through my roster, look to see who's in because pod five
14 is disciplinary so they're in and out all the time.
15 It's your inmates that can't behave in the other pod,
16 can't get along with anybody else.

17 I remember them saying something about the inmate
18 in question, that he was mad at Deputy Styles, but
19 that's all. That's nothing new. They're always mad at
20 us.

21 Q. Okay. So this is what Deputy Styles has sort of
22 briefed you on --

23 A. Uh-huh.

24 Q. -- when you're coming in and he's going out?

25 A. Yes.

1 Q. Did you all do what they call a head count that
2 day?

3 A. Yes, we did.

4 Q. All right. So real quickly what's a head count?
5 What do you remember about it?

6 A. Head count is when you go through, you go into
7 every cell, you have a roster, and you mark everybody
8 that's here so that when you call in your head count
9 every inmate in the facility is accounted for. If
10 there's one missing then we know before the other shift
11 relieves you.

12 Q. Okay. Were you doing anything to prepare for
13 head count?

14 A. Yes. I was going through my roster, putting my
15 stuff away. Like I said, I always read through my
16 roster. And so in pod five you never know who you're
17 dealing with, so being in pod five a lot you know off
18 the top of your head who's who. And that way you kind
19 of know who's coming first, who's coming next, stuff
20 like that.

21 Q. So on the head count, obviously you're there and
22 who else is with you?

23 A. Deputy Keith, Deputy Styles and Deputy Knighton.

24 Q. Keith, Styles and Knighton.

25 A. Yes, sir.

1 Q. All right. And we will get ready to -- what do
2 you remember happening about head count that day?

3 A. I remember that day after we did the briefing all
4 four officers do head count, just like normal. We went
5 down. I believe I maybe stepped off. There's three or
6 four steps that come down. Like I said, I haven't been
7 there in about a year.

8 I believe when I stepped down off maybe the
9 second, third step, I was reading my roster. When I
10 looked up the door was open. The inmate was out of the
11 cell. He didn't really appear aggressive to me. And
12 Deputy Styles was there. And next thing they're going
13 at it.

14 Q. Okay. So sounds like you're sort of coming in in
15 the middle, maybe back end of it.

16 A. Yeah.

17 Q. You said the inmate didn't appear aggressive to
18 you?

19 A. No. I mean he had his hands down beside his
20 sides, all that.

21 Q. All right. Were they in a fist? Did he have a
22 weapon in them?

23 A. Not that I noticed, no.

24 Q. And you said he was, in fact, advancing towards
25 Officer Styles?

1 A. Yes.

2 Q. How was that? Was it walking, running, charging?

3 A. Just -- I mean, it wasn't fast. It was just kind
4 of walking out of his cell.

5 Q. Okay. And once he comes out of his cell what did
6 you say happened?

7 A. Next thing I know is they're fighting. They're
8 going at it fighting. So at that point we just take
9 over. I went after the inmate, put him down to the
10 ground, handcuffed him, all that stuff. Backup was
11 called, stuff like that.

12 Q. Okay. And did the inmate, where did they take
13 him after they subdued him?

14 A. I believe they took him to medical to have him
15 checked out.

16 Q. To have him checked out.

17 A. Yeah.

18 Q. So did he have some injuries as far as you could
19 tell?

20 A. Off the top of my head not that I recall.

21 Q. Okay. You had said that I guess you were still
22 sort of at the top of the stairs --

23 A. Yeah.

24 Q. -- when all this happened. From a head count
25 policy standpoint, when are the -- when's the first door

1 supposed to open in relation to where all the other
2 officers are?

3 A. When all the officers are at the door.

4 Q. Okay. So the door is not even supposed to
5 open --

6 A. No.

7 Q. -- until everybody is down there.

8 A. Until everybody is there, yes, sir.

9 Q. And you were still up the stairs a little bit?

10 A. Yes.

11 Q. And this is when it all happened?

12 A. Yes. And I believe Knighton was behind me with
13 the camera, if I'm not mistaken.

14 Q. Okay. So he's even farther behind you?

15 A. Yeah.

16 Q. All right. So let's talk about the protocol for
17 an inmate coming towards an officer.

18 A. Uh-huh.

19 Q. What sort of training do you all have in
20 something like that?

21 A. It's the force. You're only supposed to use the
22 amount of force that's necessary. So the first step is
23 verbal commands. Then you go up. It's -- at that
24 point, and then you can use your soft hand and then
25 pepper spray, stuff like that. And at the last resort

1 it's physical force.

2 Q. Okay. If you're going to use that physical force
3 as the last resort, are there certain places that they
4 tell you are the target?

5 A. Not necessarily. I mean, when you go through
6 training you have -- I mean, they show you your regions.
7 You have your brake a stun, you have stuff like that.
8 But, I mean, it's every situation is different. So
9 there's not -- I mean, I can say they tell you to target
10 certain areas because you brachial stun and that's gonna
11 take the situation down a notch. But then once you take
12 it down, you have to come down with it.

13 Q. Okay. Are certain areas, I guess, more serious
14 than others?

15 A. Yeah. Yeah.

16 Q. And how does that work? Explain that to us.

17 A. Like I said, if you -- I mean, you've got
18 different ways you can take somebody down. You can do
19 an arm bar, which is pulling their arm, drop them to the
20 ground, then you cuff them, stuff like that. You've got
21 your, your pressure points that you can use. I
22 wouldn't, me personally, I wouldn't use the pressure
23 points. I mean, you've got to be in close contact.

24 And the whole goal is to get away. It's not to
25 go at it. It's to back up, take care of it the best you

1 can before it comes to that point.

2 Q. Okay. Well how about a punch to the, to the
3 face, how is that looked at?

4 A. That's looked at bad.

5 Q. That's looked at how?

6 A. Bad.

7 Q. It's bad?

8 A. I mean, we've never been taught punch to the
9 face.

10 Q. Okay. Never even taught that?

11 A. No.

12 Q. So ---

13 A. Not that I recall.

14 Q. So physical force is your last resort.

15 A. Yes.

16 Q. And then on top of that ---

17 MR. JOHNSTON: Your Honor, object to leading.

18 THE COURT: Okay. Well, re-characterize the
19 question. Ask the question a little differently.

20 MR. WASHINGTON: Okay. And you know what, he's
21 answered, that's fine.

22 BY MR. WASHINGTON:

23 Q. What's your policy if an officer and an inmate
24 have had words or something about doing cell head count?
25 Are there alternatives to the officer, whether he has to

1 do it?

2 A. There is. You can bring in another officer to do
3 head count, take that officer out of the equation. I
4 know that has happened to me personally before. I've
5 stayed behind because there's an inmate that's made a
6 threat or said something and I've stayed behind just so
7 that, that issue does not come up. You can -- if the
8 inmate is standing at the door yelling out the door,
9 stuff like that, you just don't open the door, you keep
10 on going because he's there, you know who he is, you can
11 account that he's breathing, he's good to go on to the
12 next door.

13 Q. What did you all end up doing after the fight
14 happened? Was there something that you all are supposed
15 to ---

16 A. Do our reports in the system.

17 Q. All right.

18 A. I'd write reports, tell them what happened, how
19 it happened, when it happens for that.

20 Q. Did you end up doing that?

21 A. Yes, I did.

22 MR. WASHINGTON: Okay. Nothing further, Judge.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. JOHNSTON:

1 Q. You were looking at your roster.

2 A. Yes, sir.

3 Q. You said that several times.

4 A. Yes, sir.

5 Q. So as you're approaching -- I'm going to pretend
6 this is your roster. (Indicating.)

7 A. Okay, yeah.

8 Q. You're looking like this, reading down here,
9 Inmate Pauling, Inmate Brown, Inmate Jones. The door is
10 open, Pauling is out.

11 A. Yes.

12 Q. He's approaching.

13 A. Yes.

14 Q. Seconds.

15 A. Yeah.

16 Q. Now, who was in a better position to determine
17 whether or not Inmate Pauling was being aggressive in
18 his movements towards Deputy Styles, you or Deputy
19 Styles?

20 A. I mean, we were both basically -- because I'm
21 seeing it from the side, Deputy Styles is dealing with
22 it from the front. I was ---

23 Q. Well, would you agree with me ---

24 THE COURT: Hang on. Let him finish.

25 MR. JOHNSTON: I'm sorry.

1 THE COURT: Go ahead, sir.

2 THE WITNESS: I was from the side, Deputy Styles
3 was from the front, so he was coming at Deputy Styles.
4 So from my opinion it would probably be, I mean,
5 basically combined. It's not who has the better
6 advantage, it's this is in front of you that's what it
7 is.

8 BY MR. JOHNSTON:

9 Q. Okay. Well, you can read a lot in a man's face,
10 can't you?

11 A. Oh, yeah.

12 Q. Were you looking at him eyeball-to-eyeball like
13 you and I are right now?

14 A. I was not.

15 Q. Who was?

16 A. Deputy Styles.

17 Q. All right. It also puts a different perspective
18 on it if they're coming at you or if they're coming at
19 somebody else.

20 A. Oh, yeah.

21 Q. It always looks more aggressive if they're coming
22 at you.

23 A. Well, for me if they're coming at an officer,
24 they're also coming at me because that's --

25 Q. Okay. Well, I understand.

1 A. -- who we are.

2 Q. I understand that, but...

3 A. I mean, we're all on the same team.

4 Q. You're all on the same team.

5 A. Yes.

6 Q. But in realty who's gonna get approached first is
7 the one he's coming at?

8 A. Yes.

9 Q. Now, it is clear that Inmate Pauling violated
10 what he's supposed to do.

11 A. Yes.

12 Q. He's never supposed to come out of his room.

13 A. No, not without permission.

14 Q. Without permission.

15 A. Yes.

16 Q. And he clearly did come out of his room.

17 A. Yes.

18 Q. Not just one step but at least two steps, if not
19 three steps.

20 A. Oh, yeah.

21 Q. In the direction of whom?

22 A. Deputy Styles.

23 Q. Did you see Deputy Stallings -- Deputy Styles
24 back up?

25 A. I did not. At that point I just went to the

1 inmate.

2 Q. I'm gonna show you a series of photographs,
3 Defendant's 1 through 7. What do you see in this
4 picture?

5 A. Deputy Styles at the door.

6 Q. What do you see in this picture?

7 A. The door open and the inmate coming out.

8 Q. Actually this one ought to be in front of this
9 one, but we're going to this one now. How about that
10 one?

11 A. Inmate Pauling coming out.

12 Q. How about that one?

13 A. He's still walking towards -- he's coming out.

14 Q. Styles is backing up?

15 A. Uh-huh.

16 Q. Is that yes?

17 A. Yes. Or he appears to in the photo.

18 Q. Still coming out?

19 A. Yes.

20 Q. Styles backing up.

21 A. I mean, in the photo you can't tell if he's
22 backing up or not. He may have stopped.

23 Q. Okay. He backs up at least at some point.

24 A. Uh-huh.

25 Q. From here, from number three to number six.

1 A. Yeah.

2 Q. Look carefully at Inmate Pauling's face.

3 A. Uh-huh. Inmate Pauling always looks like that.
4 He's mad at the world.

5 Q. Inmate Pauling is mad at the world.

6 A. He's always mad at one of us.

7 Q. Okay.

8 A. But what's not in that picture is the other
9 officers at that door.

10 Q. Okay. Well, fair enough. But who is he looking
11 at when he's mad at the world?

12 A. Deputy Styles.

13 Q. Inmate Pauling makes threats.

14 A. Uh-huh.

15 Q. Is that a yes?

16 A. Yes.

17 Q. Inmate Pauling has threatened you.

18 A. Uh, I do not recall. He may have. I do not
19 recall off the top of my head.

20 Q. Do you recall saying that he's threatened you
21 before?

22 A. It is very possible that he has.

23 Q. Okay.

24 A. Because, I mean, I do kind of recall some
25 confrontations with Inmate Pauling, him being mad about

1 one thing or the other. But off the top of my head I do
2 not --

3 Q. So ---

4 A. -- know specifics.

5 Q. I'm sorry, I don't mean to cut you off.

6 A. Oh, no, you're good.

7 Q. So if you said in an interview --

8 A. Uh-huh.

9 Q. -- during the official investigation in this case
10 that Pauling had threatened you before --

11 A. Yeah.

12 Q. -- you wouldn't deny that, would you?

13 A. No, I'm sure he has.

14 Q. Okay.

15 A. I believe he's probably threatened all of us.

16 Q. Nice guy.

17 A. Yeah.

18 Q. Do you recall during that same interview you were
19 just talking about that you said I've seen Pauling come
20 like that, either to block or to attack Styles?

21 (Indicating.)

22 A. I believe so, yes.

23 Q. You did say that?

24 A. I believe so.

25 Q. That you saw Pauling --

1 A. As he was --

2 Q. -- do like that -- (indicating.)

3 A. -- coming out of the cell. I mean, I didn't say
4 do like that.

5 Q. Okay. What did you say?

6 A. He come out of his cell. I mean, he had his
7 hands like this. (Indicating.)

8 Q. Yes.

9 A. And you can clearly see it in the picture, his
10 hands were not like this, they were not like this, so
11 you can't say I said he did this. (Indicating.)

12 Q. You said he did something.

13 A. He come out of his cell.

14 Q. Yeah. But you gave some kind of a movement with
15 his hands when you were being questioned on the video.

16 A. Okay. I don't really recall that.

17 Q. Okay. Is it possible -- is it possible you can
18 see here --

19 A. His hands are up a little bit.

20 Q. -- his hands are up?

21 A. Yes. That's possibly what I'm talking about.

22 Q. And this is just a still.

23 A. Yeah.

24 Q. If you want to see the whole video it could be
25 played, but that's not really necessary, but...

1 A. I've seen it.

2 Q. They're definitely not by his side here in
3 Number 7.

4 A. Well they're definitely not up like this either.
5 (Indicating.)

6 Q. I didn't say they were.

7 A. I mean, they're like this. (Indicating.)

8 Q. What I'm asking you is, which hand is it that's
9 in movement there?

10 A. The right hand.

11 Q. Okay. Most people are right-handed, aren't they?

12 A. Yes, that's correct.

13 Q. Most people who are gonna hit you they're gonna
14 hit you with what?

15 A. The right hand. Your strong hand.

16 Q. But, again, you don't deny that you told them
17 during the official interview in this case that Pauling
18 did something either to block Styles or to attack
19 Styles.

20 A. Yes.

21 Q. Could have been either one?

22 A. Could have been either one.

23 Q. Now, you say that you can't testify about
24 Pauling's manner, but would you agree with me that any
25 time an inmate violates the rule and leaves his room

1 without permission that he's potentially aggressive?

2 A. Oh, yes. Yes, sir.

3 Q. Dealing with the public is a hard job, isn't it?

4 A. It is. It can be.

5 Q. It's not nearly as hard as dealing with these
6 inmates, though, is it?

7 A. Honestly no.

8 Q. Especially in pod five.

9 A. Yes.

10 Q. Is it fair to say that in order to be an
11 effective detention officer that they've got to respect
12 you, the inmates gotta respect you?

13 A. Yes.

14 Q. That doesn't mean you're cruel to them.

15 A. No.

16 Q. Or that you disrespect them.

17 A. You try to treat them just like you would anybody
18 else.

19 Q. Right.

20 A. Yes, sir. No, sir. That's how I always took my
21 approach.

22 Q. But you're not their friend.

23 A. No, you're never their friend. Never their
24 friend. That's what gets you in trouble.

25 Q. If you try ---

1 A. Yes.

2 Q. If you act like you're their friend?

3 A. Yes.

4 Q. And you have to remain -- you have to keep your
5 credibility with them.

6 A. Yes.

7 Q. If you show fear, does that hurt you?

8 A. Oh, yeah.

9 Q. In what you're trying to do?

10 A. To them it does, because they think they can get
11 over on you, yes.

12 Q. Sir?

13 A. They think they can get over on you.

14 Q. If you don't open the door, if you act like
15 you're scared to open the door, do they take it as
16 weakness?

17 A. I don't know how they take it, but that doesn't
18 mean just because you don't want to appear weak to them,
19 you don't violate policy and open the door and let an
20 inmate come at you unintentionally. They're supposed to
21 be at the back of their cell.

22 Q. Do you remember giving your official interview in
23 this case?

24 A. Sort of, yeah.

25 Q. Do you remember saying this: "We look at it if

1 you don't open the door and go in then they take it as a
2 weakness"?

3 A. And that is, that is true.

4 Q. Okay.

5 A. But that does not mean you violate policy to open
6 the door anyway.

7 Q. I didn't suggest that it did.

8 A. Well, I just don't want my words taken
9 differently than they're supposed to be.

10 Q. Not trying to. The purpose of head count is to
11 go in and make sure there's nothing in there.

12 A. Yeah, no weapons.

13 Q. No weapons, no attempts to escape, no contraband.

14 A. Yes.

15 Q. You can't do that effectively from the outside,
16 can you, sir?

17 A. You cannot, but that still does not give you
18 permission to violate policy and open up that door.

19 Q. I understand.

20 A. So, I mean, we're kind of going around to the
21 same thing here.

22 Q. Well, you can't -- I'll put it to you this way.
23 You'll agree that somebody's got to go in that room at
24 some point?

25 A. At some point, yes.

1 MR. JOHNSTON: Thank you, answer any other
2 questions.

3 THE COURT: Anything at all?

4 REDIRECT EXAMINATION

5 BY MR. WASHINGTON:

6 Q. Mr. Thompson, I know you say you probably didn't
7 remember exactly what the threat was, but what was your
8 response when Mr. Pauling had threatened you?

9 A. When Mr. Pauling threatened me, as an officer you
10 basically ignore it. You just can't take everything
11 personal. If you took it personal you wouldn't be in
12 this job for too long. You do a report on it so that
13 it's on file so that if something does happen then that
14 report is there as proof that he has threatened you, he
15 has done this, so it's there.

16 Q. Would it have been a situation where you would
17 have had to do a head count at some point that day with
18 him?

19 A. We would have done one the next morning when the
20 oncoming shift comes to relieve us.

21 Q. Okay. How did you handle that head count? Do
22 you remember?

23 A. I believe -- I don't believe he was down there.

24 Q. Okay.

25 A. I believe he was in booking. Usually after

1 something happens like that they put him in booking and
2 kind of cool them down for a little while, and then they
3 bring them back once they're, I guess, behaving.

4 Q. Okay. But ---

5 A. I don't remember off the top of my head if he was
6 there or not.

7 Q. Right. So what options were available to you as
8 far as when he threatened you or when an officer gets
9 threatened as far as doing the head count?

10 A. Head count. If he's threatening you, you can --
11 like I said, it's happened to me before. I've stood
12 outside, let another officer go in that does not have an
13 issue with that particular inmate. Of course you do
14 your report. You let your supervisors know. But me,
15 personally, if somebody made a threat to me I probably
16 would not open that door because that just complicates
17 things.

18 Q. Have you ever ended up punching anybody that made
19 a threat to you?

20 A. No, I have not.

21 MR. WASHINGTON: Okay. Nothing further, Judge.

22 RECROSS-EXAMINATION

23 BY MR. JOHNSTON:

24 Q. Have you ever had to punch anybody?

25 A. I have not.

1 Q. Have you seen any other officers have to punch
2 people?

3 A. Not really, no.

4 Q. Okay.

5 A. I mean, I've seen pepper spray be used, stuff
6 like that, but...

7 Q. They do teach physical strikes at the Criminal
8 Justice Academy.

9 A. Yes. Brachial stuns, one of them, stuff like
10 that.

11 Q. Okay. So it's not unheard of?

12 A. No, but they do not teach to the head.

13 Q. Okay. But, of course, to the head -- have you
14 ever had to hit anybody?

15 A. Me personally, no.

16 Q. Okay. Well, will you agree with me that what you
17 aim for isn't always what you hit?

18 A. I mean, I can agree to some point of that, yes.

19 MR. JOHNSTON: Okay. Thank you.

20 THE COURT: Thank you, sir. You may step down.

21 MR. WASHINGTON: Judge, I know he has a business
22 to get back to, may he be excused?

23 MR. JOHNSTON: We have no objection to him being
24 excused.

25 THE COURT: You may stay or go, sir, whichever

DIRECT EXAMINATION OF ALAN FREEMAN BY MS. THORNWELL

1 you'll position that microphone and tell us your full
2 name and spell your last name for my court reporter,
3 please.

4 THE WITNESS: Alan, Freeman, F-R-E-E-M-A-N.

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

6 ALAN FREEMAN,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. THORNWELL:

10 Q. Hi Captain Freeman. Can you tell the Court where
11 you're employed.

12 A. I'm employed at Spartanburg County Sheriff's
13 Office assigned to the detention division.

14 Q. And how long have you been employed there?

15 A. Thirty years.

16 Q. Have you always been employed at the detention
17 center?

18 A. Yes, ma'am.

19 Q. And what are your duties at the detention center?

20 A. Currently I'm over daily operations at the
21 detention facility.

22 Q. Have you always -- okay, let me just rephrase
23 that question.

24 On August 28th, 2014, what were your duties?

25 A. I was on daily operations.

1 Q. And can you explain to the jury what that means?

2 A. Actually I supervise all the platoon lieutenants
3 and Sergeants who are assigned to the inmate house at
4 the detention facility both on California Avenue and
5 located at 180 Magnolia Court -- Magnolia Street.

6 Q. And so what were your -- what would your duties
7 entail?

8 A. I'm actually the supervisor of the lieutenants
9 and the Sergeants who run the platoons, who run the
10 shifts. And I would oversee the -- look at the incident
11 reports. Any kind of incident that occurs within the
12 jail that a report was filed, I would review that the
13 next day or while I'm on duty at that time.

14 Q. Did you have an occasion to, on August 28th,
15 receive a report of an incident that happened at the
16 jail?

17 A. I was actually notified at home. I was off duty
18 and was notified to come back in by our major to review
19 that case.

20 Q. And so when you did that, what did you do?

21 A. Actually we watched the video which incident
22 occurred in our pod five housing unit and we took it,
23 along with the chief deputy and the major, reviewed the
24 video to see if everything was followed by our policies
25 and procedures.

1 Q. Did you, based on the video, make any
2 determinations about what needed to be done?

3 A. At the current time, that was something that was
4 left up to the chief deputy. We did discuss that it was
5 outside the realms of what we teach and what our
6 policies would allow you to do, so the chief deputy at
7 that time made a decision to suspend Mr. Styles for
8 that.

9 Q. So -- and let's talk a little bit about, you are,
10 I think you said, over daily operations so you're aware
11 of what the policies are when an inmate is considered
12 noncompliant, correct?

13 A. Yes, ma'am.

14 Q. Can you tell the jury when an inmate is
15 considered noncompliance what the corrections officers
16 are supposed to do.

17 A. Well, in that current situation the inmate was
18 standing at the door. And that was during our head
19 count procedures where officers are to go around, do a
20 formal head count at shift change. During the formal
21 head count, they make sure everyone's okay, nothing's
22 been damaged, no one's hurt, sick or ill or had maybe
23 passed away during the night.

24 So during that time the inmate was standing at
25 the door. They're supposed to be at the back of their

1 cell. And the officer can open, go and open the door,
2 go inside, checks the armband and calls his name, makes
3 sure that's who he is, what's in his cell.

4 At that particular incident he was standing at
5 the door refusing to step back and should not have been
6 -- his cell shouldn't have been entered at that time.

7 Q. Let's talk about -- let's first talk about what
8 consequences the inmates receive. So if an inmate is
9 noncompliant and let's say they're -- let me ask this
10 before I do that.

11 There's been some discussion about what pod five
12 is. And for clarification purposes can you explain what
13 pod five is.

14 A. Our pod five is our behavioral management unit.
15 It's for our disciplinary inmates. The inmates that's
16 violated our rules and policies and have been found
17 guilty by our disciplinary board and sentenced to an "X"
18 amount of time in our maximum security unit where they
19 lose their privileges during that time.

20 Q. If an inmate is in pod five and they are -- they
21 have done something that is noncompliant, what are the
22 consequences available to any corrections officer at
23 that time?

24 A. Of course, they, number one, they can leave them
25 in a lockdown status. They don't have to go in their

1 room. Their privileges have been suspended. They don't
2 have any privilege other than they can have their legal
3 mail that comes in. They're allowed to take showers,
4 come out for one hour during their time out of their
5 cell. That can be suspended based on their behavior.

6 Q. So if an inmate is noncompliant, let's say in the
7 morning or after they received their rec for the day,
8 what are the options to a corrections officer if they
9 are noncompliant after they received their rec for the
10 day?

11 A. They could be disciplined and locked down for
12 the, for the next day. They may lose their recreation
13 period at that time. But in that pod five unit they
14 would only come out for one hour a day, and so they
15 could lose that next rotation if they violated or the
16 behavior -- misbehaved that time, during that time.

17 Q. And how does one -- how does a corrections
18 officer document that information?

19 A. It's logged into our Spillman computer data base
20 and that's where they would log it in and it could be
21 reviewed by our staff and by the supervisors on duty.

22 Q. And what is the purpose of logging that
23 information into Spillman?

24 A. So our staff is aware of the inmate's behavior,
25 what's going on so the supervisor knows if there's been

1 an incident they can review it. And if it needs to
2 followup with a disciplinary hearing, it can be passed
3 on to our disciplinary, if we can.

4 Q. What acts -- so is that something that -- when is
5 that supposed to be done? When is it supposed to be
6 logged into the system?

7 A. Before that shift. Before they're relieved from
8 their shift they're supposed to put in that information
9 for us. Any incident that occurs during their shift is
10 supposed to be documented before they're relieved.

11 Q. So let's now turn to what policies are supposed
12 to be followed by the corrections officer. In this
13 particular incident we're talking about an inmate who is
14 noncompliant but is still behind a locked door. What,
15 if anything, is the corrections officer supposed to do
16 at that time?

17 A. During that time for this particular incident it
18 was a head count and the inmate was visible. You could
19 see him standing at the door refusing to step back. He
20 was, he was agitated and worked up and the door
21 shouldn't have been opened.

22 Q. If for some reason the door was opened even
23 though that is a policy violation, what options does an
24 inmate have -- excuse me, does a corrections officer
25 have if that inmate is still noncompliant?

1 A. He should immediately call for assistance. And,
2 of course, if he's not in danger at that current time,
3 just to break away from the incident until his backups
4 arrive.

5 That particular cell has two officers working in
6 that housing unit at all times. One is to stay at the
7 control panel who controls the doors, the other is
8 actually inside the housing unit making checks and
9 rounds. But the responding officers would be coming
10 from other areas in the jail.

11 Q. And let's talk about, specifically about head
12 count. How many officers are in the unit at the time
13 that there is a head count?

14 A. During a formal head count the oncoming shift is
15 walking the head count with the officer they're
16 relieving during that time.

17 Q. So I believe you said that there are -- excuse
18 me. I believe that you said that there are normally two
19 officers in the unit, but at a formal head count, which
20 is when this is taking place --

21 A. Yes, ma'am.

22 Q. -- there's four.

23 A. Yes, ma'am. The two oncoming and two that's
24 going off, yes, ma'am.

25 Q. Have you had an opportunity to review the video

1 of the actual incident?

2 A. I have.

3 Q. What, if anything, was done incorrectly and in
4 violation of policy at that time?

5 A. First and foremost the door being opened.
6 Because, like I say, if he was standing in front of the
7 door -- there's a window in front of that door, he was
8 standing at that door, you know. And the officers'
9 instructions were to be step back. Also, the officer
10 was instructed by a supervisor to stay clear of that
11 inmate because of a prior incident in that cell.

12 Q. All right.

13 A. And then, of course, at the time the door was
14 opened, he immediately dropped the keys and struck the
15 inmate amongst the head.

16 Q. At the time that the door was closed was there
17 any danger to the officer or any other officer in that
18 unit?

19 A. No, ma'am. That was a single occupancy cell. He
20 was by himself.

21 Q. Would it, would it have been appropriate if the
22 door -- let me ask it this way.

23 So head count, we understand, is to make sure
24 that everything is okay, make sure the inmate is okay,
25 make sure that the cell is okay. What would happen if a

1 cell had to be skipped during head count for whatever
2 reason?

3 A. You would never skip a cell during head count.

4 Q. No, not skip it. I mean -- well, you said that
5 the door never should have been opened --

6 A. Yeah.

7 Q. -- so technically it was skipped.

8 A. If visually you can see the inmate it's okay. If
9 he's up and about and walking about his cell, then there
10 would have been no need to open the door during that
11 time if he wasn't compliant.

12 Q. So when I say skip a cell, I mean ---

13 A. I understand, I'm sorry.

14 Q. So what, if anything, would have been done if
15 they had to skip actually going into the cell, but they
16 were able to see that the inmate was fine?

17 A. We would have been able to continue operation,
18 giving a formal head count that he is accounted for and
19 everything is okay. His behavior would have been
20 documented, but as far as going into the cell wouldn't
21 have been necessary.

22 Q. If for some reason the inmate is extremely
23 noncompliant, are there other better trained officers
24 available to a unit that can handle that situation?

25 A. At that current time we did not, but now we have

1 a -- yes, ma'am, we did have a special operation group
2 during that time. I apologize, we did.

3 We have a unit we call SOG, which is our Special
4 Operation Group, who is trained in cell extractions,
5 which would remove an inmate from that housing unit to
6 place him somewhere else if need be. But that
7 particular cell there was no reason to, to move the
8 gentleman out. He was also in our behavioral management
9 unit already.

10 Q. So as I understand it, there was a group of
11 individuals who were properly trained to extract an
12 inmate out of their cell when they're noncompliant?

13 A. That's correct.

14 Q. And they received training above and beyond the
15 training that CO who was in a -- just a regular CO who
16 was in the unit?

17 A. Yes, ma'am, their training is more in depth.

18 Q. Well, let's talk about -- let's talk a little bit
19 about the training that a CO receives. So when a
20 corrections officer is hired, what training do they go
21 through?

22 A. They go through our in-house training with our
23 training Sergeant and corporal for eight weeks. After
24 that they're assigned to the field training officer or
25 detention training officer who would train them on the

1 job. And prior to that they would have to attend the
2 Criminal Justice Academy in Columbia, South Carolina
3 sometime within a year of hiring.

4 Q. So there's at least three stages of training?

5 A. That's correct. And then inservice training
6 twice, twice a year.

7 Q. So there's four stages of training?

8 A. Yes, ma'am.

9 Q. There are three stages initially and then every
10 year?

11 A. Well, our deputies will go through inservice
12 training twice a year, yes, ma'am.

13 Q. How are officers trained to deal with a
14 noncompliant inmate who is approaching them?

15 A. Well, they have several options. Of course,
16 number one is break free and hopefully disengage from
17 the inmate. They are equipped with -- some are equipped
18 with our OC pepper spray. Some of our officers -- our
19 supervisors carry tasers. Our Special Operation Group
20 does too. If it comes to hands-on, they are trained in
21 defensive tactics, how to restrain someone and take
22 someone down if they had to.

23 Q. And you -- you don't necessarily do that
24 training, there's someone else who does that training?

25 A. That's correct.

1 Q. Who leads that training?

2 A. Yes, ma'am.

3 Q. But you have received that training.

4 A. I have.

5 Q. And I believe you said you've also seen the
6 video.

7 A. I have.

8 Q. I beg the Court's indulgence. At this time I'm
9 going to publish again what's been marked as State's
10 Exhibit 1. And I beg the Court's indulgence.

11 (Whereupon, plays video.)

12 MS. THORNWELL: And I'm gonna pause it and go
13 back just a second.

14 (Whereupon, plays video.)

15 So at the point where the inmate is standing at
16 the door, what is the CO trained to do?

17 A. In this particular instance, again, I would
18 dispute the violation would have been open the door in
19 general. He shouldn't have opened the door. If he felt
20 he was in danger, he could have disengaged and broke
21 back. He -- the inmate was not charging at him at that
22 point in time. He could have disengaged from this
23 altercation.

24 Q. So the inmate now -- the door has been opened and
25 the inmate is now coming out of the cell.

1 (Whereupon, plays video.)

2 A. And he's not supposed to exit his cell.

3 Q. So you said initially that the inmate was not
4 supposed to -- excuse me, that the correction officer
5 was not supposed to open the door.

6 A. That's correct. Plus he had been instructed by
7 his on-duty Sergeant not to have any dealings with
8 Mr. Pauling during that shift. They'd had a prior
9 incident.

10 Q. So ---

11 A. There's two policy violations there. He refused
12 a direct order from his supervisor as well as opened the
13 door and he shouldn't have done it.

14 Q. Okay. But there was -- the door was opened, and
15 what was the -- what, if any, policy violations happened
16 after the door was opened and the inmate leaves the
17 cell?

18 A. A closed-fist strike to the head was not trained
19 by our training division, I can assure you of that.
20 Unless your life's in danger and you're threatened and
21 you have no other way to disengage.

22 Q. What other -- do you know of any other physical
23 tactics that could have been used other than a closed
24 fist to the head?

25 A. Yeah. Just a palm strike shove and pushing him

1 back into his room and closing the door and disengage,
2 if anything.

3 MS. THORNWELL: I beg the Court's indulgence.

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

5 (Whereupon, State's Exhibit No. 2, CD Video, was
6 marked for identification.)

7 BY MS. THORNWELL:

8 Q. I'm gonna show you what's been marked as State's
9 Exhibit 2 for identification purposes. Do you know what
10 that is?

11 A. Is that the video from the housing units there?

12 Q. Yeah.

13 A. Yes, ma'am.

14 Q. So I believe that you said that you were over
15 operations, that you watched the videos that were
16 involved in this case. How many -- do you remember
17 watching this video?

18 A. Yes, ma'am. This would be without the audio.
19 This would be the housing unit. Each one of our housing
20 units is equipped with a camera system. And that was
21 uploaded to the Spillman reports. Once a report has
22 been submitted, if there's video documentation it would
23 be attached to the report.

24 Q. And have you seen this particular video?

25 A. I have.

1 Q. How do you know that you've seen that particular
2 video?

3 A. That's my initials and the date and time -- or
4 date on there that I seen it.

5 Q. And in watching that video, has there been any
6 alterations or deletions?

7 A. No, ma'am, I couldn't do that.

8 Q. And does that fairly and accurately depict what
9 happened?

10 A. Yes, sir.

11 MS. THORNWELL: Your Honor, I ask that we be able
12 to publish or, excuse me, move into evidence State's
13 Exhibit 2.

14 MR. JOHNSTON: No objection.

15 THE COURT: It's admitted without objection. You
16 may publish.

17 (Whereupon, State's Exhibit No. 2 was entered
18 into the record.)

19 MS. THORNWELL: I apologize it's taking so long.
20 Oh, there you go.

21 (Whereupon, tries to play video.)

22 MS. THORNWELL: I beg the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 MS. THORNWELL: Your Honor, if you'll give me a
25 moment, we're going to switch computers. Use

1 co-counsel's computer and not mine.

2 Okay, thank you.

3 (Whereupon, plays video.)

4 BY MS. THORNWELL:

5 Q. I know that you said there was some -- I believe
6 you testified to watching the video. How many
7 interactions did -- were there on video of the defendant
8 and Mr. Pauling? Do you remember?

9 A. I remember seeing Mr. Pauling throw something out
10 of his cell on or towards Mr. Styles' direction in a
11 cup. And I just witnessed that again when you showed
12 it.

13 Q. That is -- would that action be considered, or
14 behavior, be considered noncompliant?

15 A. Yes. He should -- anything in his cell should
16 remain in his cell. He's not -- his food hatch was open
17 as he's collecting food trays or things from the cell.
18 And him throwing fluids out of his cell would have been.

19 Q. What would have been available to the officer as
20 a consequence of the inmate's noncompliance?

21 A. Of course he would document the actions. It
22 would have been passed on and they could also have a
23 separate disciplinary hearing for that action. And he
24 could also receive more time in a lockup status. Or his
25 privileges could be suspended more so he could remain in

1 his cell for the remainder of the shift.

2 Q. So I believe that you testified to the
3 corrections officer needing to write up the incident as
4 that happened.

5 A. That's correct.

6 Q. And then I believe you testified that there's a
7 separate disciplinary hearing that could be held.

8 A. Yes, ma'am. And that would be by a different
9 group of officers. We have a disciplinary hearing
10 officer. It would be an impartial group that would
11 actually work in the housing units.

12 Q. And then I think you also testified that there
13 was an option to take away whatever rec would have been
14 available to the inmate.

15 A. He could have been confined to his cell, yes,
16 ma'am.

17 Q. Did that incident happen before or after the
18 fight?

19 A. That was prior to.

20 Q. Do you recall whether or not that incident was
21 reported to a supervisor?

22 A. My understanding it was, yes, ma'am.

23 Q. And was there ever a write-up done about this,
24 about the incident?

25 A. Yeah. All this was included in the documentation

1 about this incident prior to and up to the altercation.

2 Q. Was there a write-up done by the corrections --
3 by the defendant or ---

4 A. I'd have to go back and look. I don't, I don't
5 recall.

6 Q. But there would have been a disciplinary action
7 done if there had been a write-up.

8 A. If there had been some documentation. And I'm
9 certain there was documentation about Mr. Pauling
10 throwing the clear liquids out towards Mr. Styles.

11 I beg the Court's indulgence.

12 When you talk about during the -- when you
13 discussed the actual fight between Mr. Pauling and the
14 defendant, that the defendant's actions were considered
15 noncompliant -- or, excuse me, were considered against
16 policy, what about, what about that particular incident
17 made the defendant's actions a violation of policy?

18 A. A closed-fist strike to the head as the initial
19 altercation or initial contact with the inmate. We
20 don't teach that. Like I say, that would have been in a
21 situation where your life would have been in danger and
22 you would have been, you know, that would have been the
23 only way to survive, to get someone away from you.

24 Q. Okay. You talk about your life being in danger.
25 What would an inmate have to do for it to be considered

1 your life being in danger?

2 A. He'd have to have control of you and have the
3 upper hand on you at that point in time. He had only
4 walked out of his cell. He could have been, like I say,
5 a palm strike, pushed him back into his cell or ordered
6 him back into his cell, closed the door.

7 Q. When there is use of physical force by a
8 corrections officer on an inmate where are the
9 corrections officers trained to, to strike?

10 A. Several areas. In the thigh, you know, the lower
11 extremities. Taken into a wrist lock, arm bar, whatever
12 you have to do to take someone to subdue them down. And
13 with our SOG group in place you had additional backup
14 could assist you at that time.

15 Q. And a couple more questions. Would there have
16 been a situation where there was any threatening
17 movements by the inmate if the door had been locked or
18 remained locked?

19 A. No, ma'am. I think he was making some threats
20 towards Mr. Styles, but at that point in time the door
21 was secure. They'd been -- he would have been in no
22 danger.

23 Q. And had Mr. -- had the defendant complied with
24 the superior that told him to stay away, would there
25 have been a creation of any danger to the defendant or

1 to the inmate?

2 A. No, ma'am.

3 MS. THORNWELL: Nothing further, Your Honor.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. JOHNSTON:

7 Q. Captain Freeman, you've been doing this a long
8 time.

9 A. Yes, sir.

10 Q. Thirty years.

11 A. I guess so.

12 Q. And not only do you work, you've been a courtroom
13 officer up here in this court.

14 A. I have.

15 Q. Haven't you?

16 A. Yes, sir.

17 Q. Watching jury trials and watching guilty pleas
18 and things like that.

19 A. Yes, sir.

20 Q. So you also have a familiarity with the legal
21 process.

22 A. I do.

23 Q. And you've attended the Criminal Justice Academy
24 and all of that, got basic law enforcement training. As
25 you know, Deputy Styles is not on trial here for

1 violating the policies of the Spartanburg County
2 detention facility.

3 A. That's correct, yes, sir.

4 Q. You know that, do you not?

5 A. Yes, sir.

6 Q. He is on trial here for allegedly having violated
7 a criminal, actually two criminal laws of the state of
8 South Carolina.

9 A. Yes, sir.

10 Q. You, or I'll say, your agency handled the policy
11 violations with Deputy Styles.

12 A. That's correct.

13 Q. You discharged him.

14 A. We did.

15 Q. On the spot.

16 A. We did.

17 Q. Took him out to his car.

18 A. That's correct.

19 Q. You're gone.

20 A. Yes, sir.

21 Q. All right. You'll agree with me that a policy
22 violation does not necessarily mean a violation of the
23 criminal law.

24 A. That's correct.

25 Q. And, in fact, I don't know if you know this or

1 not but they had the video running. You and Major Urch
2 and Captain Garcia, I think, are -- I don't know why you
3 all had the video running during this part but you did.
4 And basically it captures your inner command discussion
5 of the whole situation. Did you know that?

6 A. I did not.

7 Q. All right. Do you recall saying on that video or
8 at that time in reference to this case: "Everything
9 here is a policy driven violation. As far as criminal
10 intent I'm struggling with that"?

11 A. I don't recall, but if you've got it on video, if
12 I said it, I'm sure I did, but I don't recall.

13 Q. All right. You don't recall it but you're not
14 saying you didn't say that?

15 A. No, I'm not.

16 Q. And I'm going to say that again just to make sure
17 you have full opportunity to think about it.

18 "Everything here is a policy driven violation. As far
19 as criminal intent I'm struggling with that."

20 A. It was a policy violation, but it wouldn't have
21 been my call to make a criminal charge.

22 Q. But you were making a comment about it.

23 A. I may have.

24 Q. Okay.

25 A. I don't recall it, but I'm sure -- I don't recall

1 saying that, but I may have said it.

2 Q. Okay. Now, like every video, a video is only as
3 good as what it shows and what it -- if there's audio
4 what it presents or what is played on it. Do you agree
5 with that?

6 A. Yes, sir.

7 Q. The video of the head count when Deputy Styles
8 approaches Pauling's door begins as they're walking to
9 the door.

10 A. (Witness nods head up and down.)

11 Q. And there's audio on that, but we don't know what
12 the audio was prior to that, do we?

13 A. That's correct. I think that was a handheld.
14 The other one was also the camera system. Excuse me,
15 the camera system in the housing unit itself.

16 Q. Right. And there are two different systems with
17 different purposes. One is a bird's eye view of the
18 whole pod.

19 A. Yes, sir.

20 Q. And it doesn't have any audio at all.

21 A. No.

22 Q. So when you're going to have close contact -- and
23 it's from a distance. I don't know how many cameras you
24 all got in there, but you've probably got more than one.
25 But just this one only shows things from a distance,

1 correct?

2 A. Correct, yes, sir.

3 Q. The handheld is close and it has audio, but it
4 ain't running -- it's not running all the time.

5 A. (Witness shakes head back and forth.)

6 Q. In this situation it only began to run as Deputy
7 Styles approached the door.

8 A. (Witness nods head up and down.)

9 Q. So what was said we don't know or we have no
10 record of it.

11 A. Prior to, no, sir.

12 Q. We have no video audio record of it.

13 A. Right.

14 Q. What command did Sergeant -- Mace is a Sergeant?

15 A. He's a first a Sergeant.

16 Q. First Sergeant?

17 A. Yes, sir.

18 Q. What command did First Sergeant Mace issue to
19 Deputy Styles? You said that he violated a direct
20 order.

21 A. I think prior to with the incident where
22 Mr. Pauling had actually thrown some fluids towards Mr.
23 Styles.

24 Q. Yes.

25 A. And they had actually had some words exchanged.

1 He told him to stay clear of Mr. Pauling, not to have
2 any contact with him for that time.

3 Q. All right. What I ---

4 A. There would have been a second deputy in there
5 that could have took those meals.

6 Q. Okay. Well, what I want to know is do you know
7 the exact words of that command?

8 A. Without reading the statement from First Sergeant
9 Mace I don't recall the exact words, no, sir.

10 Q. Okay. So as we sit here now, you're not sure
11 what the command, what the precise command was.

12 A. No, sir, I do not.

13 Q. So not knowing what the precise command was, it
14 would be impossible to say whether or not Deputy Styles
15 violated it.

16 A. Yeah. My understanding was that he was given an
17 order not to have any contact with Pauling. But now, I
18 can't quote you exactly what Mr. -- Sergeant Mace said,
19 that's correct.

20 Q. That's just your understanding.

21 A. Yes, sir.

22 Q. There wasn't anything in writing to stop it.

23 A. In writing too, no, sir.

24 Q. And, in fact ---

25 A. There would have been a verbal.

1 Q. And, in fact, do you know if Sergeant Mace even
2 spoke to Deputy Styles directly?

3 A. I do not know if he spoke to him directly, but
4 his instruction to me was he told him not to have any
5 contact with Mr. Pauling. If it may have been by phone
6 I don't know. They are -- there's phone systems within
7 the jail. He can call from one unit to the next.

8 Q. Well, the person who reported the problem
9 initially to Sergeant Mace was Officer Knighton. Would
10 it surprise you that Officer Knighton would have been
11 relaying whatever command Sergeant, First Sergeant Mace
12 had?

13 A. It's a possibility.

14 Q. And there's always room for confusion in a
15 situation where I tell you, you tell her, right?

16 A. Yes, sir, it can be misconstrued.

17 Q. Throwing bodily fluids or attempting to throw
18 bodily fluids at a correctional officer, you're familiar
19 with that statute, aren't you, Title 24?

20 A. Uh-huh. Yes. We've signed several warrants on
21 individuals for doing so.

22 Q. And one of the bodily fluids named in that
23 statute is urine, is it not?

24 A. That's correct.

25 Q. That's a serious crime. Carries up to 15 years

1 in the penitentiary.

2 A. That's correct.

3 Q. Now, the other policy that you say Deputy Styles
4 violated is, and you correct me if I'm wrong, is that
5 because the inmate was at his door that he -- the door
6 should not have been opened?

7 A. The inmate was at the door and his behavior and
8 aggression at him, the door should not have been open.

9 Q. And he was cutting up at the door.

10 A. Yeah, he was -- yeah, he was in verbal contact
11 with Mr. Styles. He wasn't just standing there.

12 Q. How do you know that?

13 A. From the reports and stuff that was passed on
14 that his behavior that day, again, and him -- again, if
15 Sergeant Mace ordered him to have no contact, that would
16 have been a perfect reason not to open the door from
17 your supervisor.

18 Q. Okay. Well, there's no video -- there's no audio
19 of what was said between them, is there?

20 A. That, that would be going to the handheld that we
21 witnessed just a few minute ago. No, sir.

22 Q. Okay. Now there are only two officers in the
23 housing unit during the shift itself.

24 A. During -- yes. During the regular shift and at
25 that time the head count would have been four.

1 Q. And so during the shift you've only got two
2 people, two men.

3 A. That's correct.

4 Q. You've got Knighton and you've got Styles.

5 A. Unless we had an incident, then there would be
6 other officers dispatched, but normal, just normal ---

7 Q. Just under normal circumstances --

8 A. That's correct.

9 Q. -- that day you had two. One officer is supposed
10 to sit at the control desk.

11 A. That's correct.

12 Q. The other officer is supposed to make rounds.

13 A. That's correct.

14 Q. In making rounds you would have to walk by every
15 cell.

16 A. That's correct, yes, sir.

17 Q. That would be -- that would be part of making
18 rounds.

19 A. Uh-huh.

20 Q. Do you know if Deputy Styles was told don't make
21 any rounds. Stay at the control desk, let Knighton make
22 the rounds?

23 A. I don't know if that was related to him or not.

24 Q. Okay. Well, if it wasn't related to him by the
25 force of circumstances there would be only one other

1 person to walk the cells and that would be Styles.

2 A. That's correct.

3 Q. You're saying he violated policy because the
4 policy is if the inmate is unruly and at his -- and
5 standing at his door, the door should not be opened.

6 A. There was no threat to anyone at that time. If
7 he had a roommate or some reason for us to open the
8 door, but he was in a room by himself, and his
9 aggression, it would have been to leave the door closed.

10 Q. All right. But that's the policy violation.

11 A. Yes, sir. That and the strike to the head.

12 Q. All right. Well --

13 A. I got you.

14 Q. -- first just opening the door.

15 A. (Witness nods head up and down.)

16 Q. Now, I have been through this 322-page manual,
17 policies and procedures manual, that were in effect at
18 the time, June 13th --

19 A. Yes, sir.

20 Q. -- of 2013. And I can't find a policy that says
21 if inmate is unruly, cutting up at the door, standing at
22 the door, don't open the door. Can you find it for me?

23 A. No, I can't find it to say what you just quoted.
24 But head count procedures is he would have to be in
25 compliance with the head count procedures before you'd

1 open a door. His instruction would have been to go to
2 the rear of the cell.

3 Q. Yes.

4 A. And he refused to do that. He was standing at
5 the door. Mr. Styles' action, he didn't give him any
6 instructions because the camera was running. And at
7 that time he went straight to the door and unlocked it.

8 Q. But as we said, you don't know what happened
9 before the camera came on.

10 A. I don't know what he said, but there would have
11 been no reason for him to open the door.

12 Q. All right.

13 A. The inmate wasn't in any danger at that time.

14 Q. All right. Well, I've even marked the head count
15 procedure here --

16 A. Okay.

17 Q. -- to help you out. I can't find where it says
18 in the head count procedures if inmate is unruly,
19 cutting up at door, don't open door. I can't find it.

20 A. And this is a guide and a procedure to go by.
21 Common sense would not allow you to open a door when
22 someone is misbehaving or a threat to another person
23 when he didn't have to.

24 Q. I totally respect what you said, but what I'm
25 asking is can you tell me ---

1 A. No, I can't show you that.

2 Q. Okay. Is it because it's not in there exactly
3 that way?

4 A. The exact way I quoted it, no, sir, it won't be
5 in there.

6 Q. All right, thank you very much. Now, likewise, I
7 found in here in that same book, don't hit inmate in
8 head with object like Walkie Talkie or flashlight,
9 baton. And, actually, just so everybody's clear, what I
10 showed you here is the detention facility for policies
11 and procedure manual.

12 A. Yes, sir.

13 Q. And it mentioned something about using force and
14 that kind of stuff. But, actually, it refers us to the
15 sheriff's office manual for what the actual use of force
16 file suggests, correct?

17 A. That's correct.

18 Q. And, of course, the sheriff is the head over the
19 sheriff's office and he's also the head over the
20 detention facility.

21 A. Yes, sir.

22 Q. Everybody works for him.

23 A. Yes, sir.

24 Q. I looked in the sheriff's use of force policy,
25 520.1. And, again, I found this language in there that

1 says don't hit anybody with an object, Walkie Talkie,
2 flashlight, that sort of thing. But I don't see
3 anywhere in here where it says never hit anybody in the
4 face or in the head. I don't find that in here.

5 A. It won't be in there.

6 Q. It's not in there?

7 A. (Witness shakes head back and forth.)

8 MR. JOHNSTON: Beg the Court's indulgence. Hold
9 on.

10 THE COURT: Yes, sir.

11 MR. JOHNSTON: Please answer other questions.

12 MS. THORNWELL: May it please the Court?

13 THE COURT: Yes, ma'am.

14 REDIRECT EXAMINATION

15 BY MS. THORNWELL:

16 Q. You just talked about the fact that there was a
17 conversation between you and some of the other
18 administrative officers about how to handle this, how to
19 handle this situation, correct, after this incident
20 occurred?

21 A. According to counsel, yes. I haven't heard that
22 video.

23 MR. JOHNSTON: And we'll be happy to play it. If
24 the officer wants to hear it, we'll be happy to. We
25 have it available.

REDIRECT EXAMINATION OF ALAN FREEMAN BY MS. THORNWELL

1 THE WITNESS: I'm not disagreeing to it, I just
2 haven't heard it.

3 MR. JOHNSTON: That's fine.

4 BY MS. THORNWELL:

5 Q. The administrative meeting that you all had, what
6 would have been the purpose of that meeting?

7 A. To determine the actions of what the chief deputy
8 felt was necessary for Mr. Styles' actions during that
9 incident. And at that time, of course, his employment
10 was terminated.

11 Q. Would you have determined, or that body, have
12 determined any criminal charges that would have come
13 about?

14 A. We would have not, no, ma'am. I would not have,
15 I'm sorry. That would have been turned over to our
16 investigative department or to South Carolina Law
17 Enforcement Division to make that determination.

18 Q. To your knowledge was that done?

19 A. It was turned over to SLED I understand.

20 Q. And it's very well possible that someone can
21 violate policy and that violation of a policy could also
22 be a criminal act.

23 A. Yes, ma'am.

24 Q. Such as hitting somebody.

25 A. Yes, ma'am. In this case, yes.

1 Q. Hitting somebody is a criminal act?

2 A. Yes, ma'am. It's an assault.

3 MS. THORNWELL: I beg the Court's indulgence.

4 BY MS. THORNWELL:

5 Q. An individual corrections officer who works at
6 the detention center would have received a copy of the
7 manual that was pointed out by counsel, correct?

8 A. Everyone has that on a thumb drive, and then we
9 have the hard copies in our briefing room and different
10 areas in our supervisor's office, different places.

11 Q. But I believe you also testified that there are
12 trainings that individuals go to, to teach them how to
13 deal with inmates.

14 A. That's correct.

15 Q. Is that part of the manual?

16 A. They have a separate training manual, but they
17 also train the policy, procedure manual.

18 Q. So the training, there would have been a separate
19 training manual as opposed to policies and procedures?

20 A. Yeah. Yeah, for different things. They're
21 teaching during that training. They do have a training
22 manual for that. And they have lesson plans. They
23 submit to our Criminal Justice Academy for approval.

24 Q. And would part of that training be how to handle
25 -- how to use physical force to handle an inmate?

RECROSS-EXAMINATION OF ALAN FREEMAN BY MR. JOHNSTON

1 A. That's correct.

2 Q. So it wouldn't be in the policy and procedure
3 manual?

4 A. Use of force is in the policy and procedure
5 manual. The technique in how to do it and how to apply
6 it would be done something -- it would be taught in our
7 training.

8 MS. THORNWELL: No further questions.

9 THE COURT: Anything at all?

10 RECROSS-EXAMINATION

11 BY MR. JOHNSTON:

12 Q. Striking someone in self defense isn't a crime,
13 is it?

14 A. Self defense?

15 Q. Yeah. And I'm not asking for your opinion about
16 whether or not this was self defense or not. I'm just
17 saying, counsel asked you if striking someone is a crime
18 and you said yes. So I'm asking you striking someone in
19 self defense ---

20 A. If I'm defending myself I wouldn't say that is a
21 crime.

22 MR. JOHNSTON: All right. I have no other
23 questions of the gentleman.

24 THE COURT: Sir, you may step down. Please be
25 careful.

1 THE COURT: Thank you. Yes, sir.

2 MR. WASHINGTON: Thank you, Judge.

3 BOBBY SCOTT MACE,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. WASHINGTON:

7 Q. Thank you, Judge. Sergeant Mace, how are you
8 doing?

9 A. Just fine, sir.

10 Q. Good. Tell the jury a little bit about yourself.
11 Where are you from?

12 A. I'm originally from Rutherfordton, North,
13 Carolina. I started working in Spartanburg, South
14 Carolina with the sheriff's department in 2008. Been
15 with them eight years.

16 Q. Have you had any -- what education have you had?

17 A. I took criminal law and also I took prelaw. And
18 I was in the military. I was a military police officer
19 also in college.

20 Q. Okay. Is that the full extent of your law
21 enforcement history?

22 A. Besides here, yes.

23 Q. Okay. So you are Sergeant Mace, correct?

24 A. At the time I was Sergeant Mace. Now I'm
25 Detention DTO Mace.

DIRECT EXAMINATION OF BOBBY MACE BY MR. WASHINGTON

1 Q. All right. So at the time you were First
2 Sergeant Mace?

3 A. Correct, sir.

4 Q. And so who all were you over down at the
5 detention center?

6 A. I was over a platoon, which is Alpha platoon,
7 which was approximately 21 people. And that was all the
8 deputies that worked into the pods, the housing units.
9 Also into booking. And mainly the whole jail. And when
10 the lieutenant went in there I stood in his place also.

11 Q. Do you remember August 28th of 2014, the date of
12 this incident?

13 A. Yes, sir.

14 Q. When do you remember first getting involved when
15 all this happened?

16 A. Well, as a First Sergeant you make rounds and you
17 go to all the pods and you make sure all your deputies
18 are good through the day and make sure everything is
19 going well. Around 10, 10:30, it's around lunchtime.
20 That's our lunchtime at the jail.

21 I walked into pod five and Deputy Cole come up to
22 me and says you might want to speak with Deputy Styles
23 because he's having a problem with an inmate. So I
24 talked to Deputy Styles and Deputy Styles instructed me
25 and told me that he was having a problem with Inmate

1 Pauling and told me that Mr. Pauling had threatened to
2 throw urine on him.

3 And I said, well, just stay away from Mr. -- I
4 told Mr. -- Deputy Styles stay away from the inmate.
5 And when you stay away from the inmate, make sure Deputy
6 Knighton, which is his partner in the pod five, make
7 sure he does all the work through the rest of the day.
8 So I left that and I went through my normal work
9 throughout the day.

10 Then about 6:40, 6 o'clock, 6:46 in evening I
11 heard a call for officer needs assistance in pod five,
12 So I ran down to pod five. When I got to pod five, I
13 observed a SOG operator Cooper, I think it's Cooper or
14 Cochran, come out, and also another deputy, bring Inmate
15 Pauling out.

16 So I stepped inside, talked to the deputies, made
17 sure they was okay. And then I left there and went back
18 towards the staff dining area. This is at shift change.
19 It's head count time. So I go in staff dining and one
20 of the Sargent's told me, you might want to look at the
21 video, which we normally look at the video anyway when
22 we do our reports to make sure everything takes place
23 properly.

24 So I went back to the office, viewed the video.
25 And when I viewed the video, I said, okay, I'm gonna

1 have to get in touch with the lieutenants and the
2 captains on this because now it's time for them to get
3 an investigation on them.

4 Q. You didn't give me a chance to ask any questions,
5 man. Okay. Let's back up a little bit.

6 A. Okay.

7 Q. So you first get there, you find out that there's
8 a problem between Mr. Styles and Inmate Pauling,
9 correct?

10 A. Correct. Yes, sir.

11 Q. Okay. So what are you all supposed to do when
12 you find out that there's a problem between an inmate
13 and an officer?

14 A. Okay. If there's a problem between an inmate and
15 an officer, you always advise the officer to stay away
16 from the inmate. This is pod five, which is a maximum
17 security area, which is where we're having problem
18 inmates. If it's in a general population, we would
19 remove the inmate from the area to help resolve the
20 situation between the inmate and the officer. But in
21 this situation it's safer to leave the inmate.

22 Q. Okay. So just so we're clear, you did give --
23 when you found out there was a problem, you did give a
24 command to Mr. Styles to stay away from the inmate?

25 A. Yes. I gave him a verbal command and told him, I

1 said, do not go around Styles the rest of the day. I
2 mean, -do not go around Mr. Pauling for the rest of the
3 day.

4 Q. All right. So what about feeding? What about
5 getting Mr. Pauling fed, what was your command there?

6 A. I told him to let Deputy Knighton do the feeding
7 for the day.

8 Q. Okay. So -- and this staying away, did that
9 include the head count as well?

10 A. That includes head count also.

11 Q. Everything.

12 A. Yes, sir.

13 Q. Okay. So we can't -- why was it that Officer
14 Styles wasn't taken out of the pod when they had issues?

15 A. Because he was in a maximum security setting.
16 The deputy, you wouldn't want to remove the deputy from
17 the pod. That, that's just not our protocol.

18 Q. Okay.

19 A. It's usually the inmate.

20 Q. Okay. And why wasn't the inmate removed?

21 A. Because of the same thing. It's a maximum
22 security area, which means an inmate could possibly
23 cause problems with anybody. So instead of removing the
24 inmate, you leave him in, which is a single cell, and
25 that way you can observe him better. That's the reason

1 we leave them in pod five like that.

2 Q. Do you remember -- did you say you were supposed
3 to write a report as well when something like this
4 happens?

5 A. Yes. Now, I didn't, I didn't say that, but I did
6 instruct Mr. Styles to write a report at lunchtime. Any
7 time an inmate causes a problem with a deputy they're
8 supposed to write a report. That way they can justify
9 what took place and they can also recommend lockdown for
10 the inmate too. That way you don't come back out. The
11 inmate don't come out for his rotation that day.

12 Q. And as far as you remember did Mr. Styles ever
13 write that report?

14 A. No, sir.

15 Q. Okay. So we can now fast forward a little bit.
16 What did you find out ended up happening as far as the
17 incident that we're here for?

18 A. Okay. When I was watching the video I observed
19 who was going to go down and do the head count. That's
20 when I observed Deputy Styles heading to the cell.
21 Number one, I don't think Deputy Styles should have been
22 going to the cell. He had been instructed to stay away
23 from Mr. Pauling.

24 He went to the cell. He opens the door and steps
25 back one step. He throws the keys down and comes up

1 with a right arm with his fist closed towards the head
2 area of Inmate Pauling.

3 Q. What do you remember about Inmate's Pauling's
4 demeanor?

5 A. Mr. Pauling, from what I could see in the video,
6 Inmate Pauling was standing at the door. And when he
7 started to step out of his cell, he stepped out his cell
8 real slow and stood there for a second, meaning he sort
9 of raised his arms up, but he didn't look like he was
10 being aggressive or anything, to me, at that time.

11 Q. Okay. Did he or did he not have his hands in
12 fists?

13 A. His hands was open at the time when he first
14 stepped out of the cell. And when his hands started
15 coming up, it looked like his hands were starting to
16 close a little bit but you couldn't really tell good.

17 Q. Okay. And as far as the training that you
18 received down at the detention center to be an
19 officer --

20 A. Yes.

21 Q. -- what violations, if any, did Mr. Styles have
22 throughout that incident? And you can start from the
23 time he went into the cell up until the whole punches
24 and all that happens.

25 A. Okay. Well, under our protocol when you go to,

1 go to a cell during head count, the first thing he did
2 wrong was to go to the cell. The second thing he did
3 wrong, he went to the cell, immediately opened the door
4 without assistance being there.

5 The third thing he did wrong, he didn't ask for
6 the inmate or instruct the inmate to step away from the
7 door. And the next thing he did wrong was throwing the
8 keys down on the floor, which you never lost control of
9 the keys, is what you are taught in the academy. And
10 then after that, closing his fist and hitting a man with
11 his fist closed. That's a head strike. If it's a head
12 strike, that's considered also a form of -- the use of
13 force on that is also deadly force.

14 Q. As far as you know did Inmate Pauling have to go
15 and get some medical attention?

16 A. Yes, sir, that they did.

17 Q. All right. Did you ever ask Mr. Styles why he
18 ended up having contact with Mr. Pauling after you told
19 him not to?

20 A. Yes, sir, I asked him twice. Right after the
21 incident, after I reviewed the video, I called down
22 there and I spoke with Deputy Knighton. I said Deputy
23 Knighton, I says why did Deputy Styles go to the cell.

24 MR. JOHNSTON: Objection to what Deputy Knighton
25 responded.

1 THE COURT: Sustained.

2 BY MR. WASHINGTON:

3 Q. Okay. And just don't tell me what anybody else
4 said.

5 A. Okay.

6 Q. Just ---

7 A. I spoke with Deputy Styles on the telephone in
8 pod five and I asked Deputy Styles at that time, I says,
9 why did you go down to the cell. And Deputy Styles said
10 he thought everything was good, everything was fine
11 between him and Mr. Pauling.

12 Then when he come into the office later after we
13 got him to come to the office and do his report about
14 the incident, I instructed him also to go and do the
15 report again on the incident that happened earlier. And
16 I asked him again, I says, Deputy Styles, why did you go
17 down to Mr. Pauling's cell. He says, I thought ---

18 MR. JOHNSTON: Your Honor, may we approach?

19 THE COURT: Yes.

20 (Whereupon, a bench conference was held off the
21 record.)

22 THE COURT: Madam Forelady, ladies and gentlemen,
23 as I told you yesterday when we first started this,
24 there would be a time when I would have to ask you to
25 leave the courtroom while we discuss a matter of law.

DIRECT EXAMINATION OF BOBBY MACE BY MR. WASHINGTON

1 MR. JOHNSTON: Thank you, Your Honor.

2 THE COURT: Anybody else need to take
3 five-minutes?

4 (A recess was had from 2:30 p.m. - 2:40 p.m.)

5 (Whereupon, a bench conference was held off the
6 record.)

7 THE COURT: Okay. We'll have our jury.

8 (Whereupon, jury enters the courtroom at
9 2:41 p.m.)

10 THE COURT: Madam Forelady, is the jury okay?
11 Everything good?

12 MADAM FORELADY: Yes, sir.

13 THE COURT: All right. We're ready to go.

14 FURTHER DIRECT EXAMINATION

15 BY MR. WASHINGTON:

16 Q. Sergeant Mace, I actually just have one more
17 question for you.

18 A. Yes, sir.

19 Q. Do you remember through the course of your
20 investigation if Mr. Styles ever made any threats
21 towards Inmate Pauling?

22 A. Yes. I do remember a conversation with him when
23 I was down there at lunchtime, and he said that if
24 Inmate Pauling was gonna throw urine on him that he
25 would knock the shit out of him.

1 Q. If Inmate Pauling ---

2 A. Threw urine on him during the lunchtime that he'd
3 knock the shit out of him.

4 Q. He was going to knock the shit out of him.

5 A. Yes, sir.

6 MR. WASHINGTON: Okay. Nothing else, Judge.

7 CROSS-EXAMINATION

8 BY MR. JOHNSTON:

9 Q. Well, that was already when that conversation
10 occurred the alleged, or the throwing of the urine, had
11 already happened, had it not?

12 A. No, sir, not at that time.

13 Q. Okay. Well, what time was this conversation that
14 you just related?

15 A. It was about 10, 10:30.

16 Q. Okay. So you go down there at 10:30 and Styles
17 tells you if Pauling throws urine on me I'm gonna beat
18 the shit out of him.

19 A. He didn't say he was gonna beat the shit out of
20 him. He said he was gonna knock the shit out of him.

21 Q. Okay. He's gonna knock the shit out of him.

22 A. (Witness nods head up and down.)

23 Q. Okay. Well, did you document that in the report
24 at the time?

25 A. It's up to the officer to start the report,

1 initiate the report.

2 Q. No. What Styles said, did you document that in a
3 report?

4 A. No, sir.

5 Q. Well, that was pretty important, wasn't it, if it
6 happened?

7 A. No, sir. The point was I thought the problem was
8 resolved when I told Deputy Styles to stay away from the
9 inmate.

10 Q. No. The point is you telling this jury that
11 Deputy Styles told you if Pauling throws urine on me I'm
12 gonna knock the shit out of him. And I'm asking you
13 where your documentation of that is.

14 A. It was documented when I talked to SLED when I
15 remembered what happened at that time.

16 Q. And how many days later was that?

17 A. The next day.

18 Q. The next day. And you put that in your report?

19 A. Yes, sir.

20 Q. You're sure?

21 A. Yes, sir.

22 Q. What day did this incident happen?

23 A. The day of the incident?

24 Q. Yeah.

25 A. It was August the 28th, 2014.

1 Q. All right. And you wrote a report that day,
2 didn't you?

3 A. Yes, sir.

4 Q. You didn't say anything about that in that
5 report, did you?

6 A. No, sir.

7 Q. September the 5th is when you talked to SLED,
8 almost a week later.

9 A. Okay.

10 Q. That's when you said what it is you just related
11 to us.

12 A. Okay.

13 Q. So the day of the incident you said nothing about
14 that.

15 A. I did not say anything about that, no.

16 Q. And at the time it happened you didn't write down
17 anything about it.

18 A. No, sir.

19 Q. Well, it certainly must not have seemed too
20 important at the time.

21 A. The problem should have been resolved when I
22 instructed the deputy to stay away from the inmate.

23 Q. Apparently you're saying this deputy was
24 threatening an inmate and you don't think that's
25 serious?

1 A. The inmate was threatening the deputy and that
2 was the response to the reply of the inmate.

3 Q. Yeah, I know that. But he didn't ask you about
4 it because of Pauling, he asked you about it because of
5 Styles. You didn't document it at the time, there's no
6 question about that.

7 A. Yes, sir.

8 Q. You didn't document it when you gave your full
9 page typed report on the day it happened. You didn't
10 say anything about it.

11 A. The only thing I brought up was about a problem
12 that had existed earlier in the day.

13 Q. You didn't bring this up until a week later.

14 A. I would have to see the report to make sure I
15 could clarify that.

16 Q. Well, let's do that. Take a look.

17 A. I am mistaken.

18 Q. Sir?

19 A. I am mistaken on the date.

20 Q. Okay. You mean you were mistaken when you
21 answered earlier?

22 A. Yes, sir.

23 Q. It was September the 5th, almost a week later?

24 A. Yes, sir.

25 Q. Deputy Styles couldn't have known that Inmate

1 Pauling was going to throw urine at him, could he?

2 A. Could you rephrase that question?

3 Q. I said, you said that this conversation happened
4 before Pauling threw the urine, right?

5 A. I'm not sure if Inmate Pauling threw the urine.

6 Q. Okay. Well, before it was claimed he threw the
7 urine. I asked you earlier about this and you said that
8 it was before.

9 A. No. He had threatened to throw urine on him.

10 Q. Okay. Well, when did the threat occur?

11 A. From what Mr. Styles -- Deputy Styles told me, it
12 was around 10, 10:30.

13 Q. Okay. And he said he threatened.

14 A. He threatened, yes, sir.

15 Q. Okay. Well, anyway, Deputy, you took no action.
16 You must not have considered it that big of a problem.
17 You didn't take any action, did you?

18 A. My action was to tell the deputy to stay away
19 from the inmate for the rest of the day.

20 Q. Now, Pauling can't be removed because you don't
21 have any other place to put him, right?

22 A. Pauling could have been removed.

23 Q. Okay. Well, it's not really convenient to remove
24 him because he's already in maximum ---

25 A. No.

1 Q. Do you all got something more than maximum
2 security for him?

3 A. Nothing to do with convenience, sir. It's safer
4 for him to stay in the pod five.

5 Q. Okay. So he was already in the safest place he
6 could be.

7 A. Inmate Pauling?

8 Q. Inmate Pauling.

9 A. Correct, sir.

10 Q. All right. You could have taken Deputy Styles
11 out of there, though, could you not?

12 A. That wouldn't be the right thing to do. If you
13 took Deputy Styles out of there, then it gives control
14 over to the inmates.

15 Q. And we don't want that. We don't want the
16 inmates to have control over the institution, do we?

17 A. (No response.)

18 Q. Do we?

19 A. No, sir.

20 Q. Okay. That's not a good thing.

21 A. No, sir.

22 Q. But you could have pulled Styles, whether or not
23 it was the right thing to do or not, you could have.
24 He's not the only person that can run pod five, is he?

25 A. There's no reason to pull a deputy from a pod

1 under that circumstance.

2 Q. I'm not asking you if there's a reason to, I'm
3 saying could you have done it?

4 A. Yes, sir.

5 Q. Okay. Do you recall Deputy Knighton telling you
6 that it was his advice that Deputy -- that he advised
7 you that Deputy Styles should be pulled --

8 A. I don't recall ---

9 Q. -- out of the equation?

10 A. I don't recall that, sir.

11 Q. Okay. If he said that, would you have taken it
12 seriously?

13 A. No, sir. I would have took it serious, but I
14 would not have pulled the deputy from the pod.

15 Q. Fair enough. Did you document at the time what
16 you told Styles contemporaneously at the time?

17 A. Rephrase what you're talking about what time.

18 Q. At the time you gave instructions to Deputy
19 Styles about what he was to do or not to do vis-a-vie
20 Pauling, did you document it at that time?

21 A. Not at that moment, no, sir.

22 Q. All right. Were your instructions in writing or
23 were they verbal?

24 A. They were verbal, sir.

25 Q. Deadly force, what's the policy and procedural

1 manual of the Spartanburg County Sheriff's Office, how
2 does it define deadly force?

3 A. Deadly force is any time that you -- like if
4 you're gonna pull a gun on somebody or a closed-fist
5 strike to the head. It could be a -- you use deadly
6 force when somebody else is gonna cause a problem. What
7 is your question on that?

8 Q. Didn't ask you when you use it, I asked you how
9 it's defined so we know what it is.

10 A. Okay.

11 Q. How is it defined?

12 A. I would have to refresh my memory on that policy,
13 sir.

14 Q. Okay. Do you know if it -- does it explicitly
15 say that a closed-strike fist to the head is deadly
16 force?

17 A. I would have to review policy on that, sir.

18 Q. All right, sir. I'm gonna share that with you.
19 Showing you Spartanburg County Sheriff's Office general
20 order 520.1 use of force.

21 A. Okay, sir.

22 Q. It is a multi-page document. I can't tell you
23 how many pages, but it's a bunch of pages. You're free
24 to look through it in its entirety. The point that I'm
25 asking you about would be under section IV definitions

1 of deadly force.

2 A. Okay.

3 Q. But feel free to look through the rest of it if
4 you need to.

5 A. (Reading.) Okay.

6 Q. All right. How does the policy -- how does the
7 use of force define deadly force?

8 A. Use of force on this, by this states: "Any force
9 which carries substantial risk that it will result in
10 the death or serious permanent disfigurement or
11 long-term impairment of any person."

12 Q. All right. "Any force which carries a
13 substantial risk that it will result in the death or
14 serious permanent disfigurement or long-term impairment
15 of any person." Does it say anywhere in there that a
16 closed-fist strike is considered deadly force?

17 A. No, sir. But we're not trained to use a
18 closed-fist strike on any person.

19 Q. Well, my question is, is it defined in the
20 policies and procedures as deadly force?

21 A. No, sir. Not by that, no, sir.

22 Q. Well, this is ---

23 A. Yes, sir.

24 Q. This is the real thing, right?

25 A. We're not trained to do that, no, sir.

CROSS-EXAMINATION OF BOBBY MACE BY MR. JOHNSTON

1 Q. You're not trained by your own policies?

2 A. No. We're not trained by the academy.

3 Q. Oh, the academy.

4 A. Yes, sir.

5 Q. Do you know if the academy ever instructs you or
6 ever teaches that a closed-fist strike can be used? Do
7 you know what the academy says about that?

8 A. Not right offhand, sir.

9 Q. Are you familiar with the term strait punch
10 technique considerations, target area, primary, torso;
11 secondary target is face?

12 A. A straight punch?

13 Q. Yeah.

14 A. Yes, I am.

15 Q. That comes from the Academy.

16 A. (Witness nods head up and down.)

17 Q. Do you agree?

18 A. Yes, sir.

19 Q. Target area, primary torso. Secondary target is
20 face, right?

21 A. Yes, sir.

22 Q. It doesn't say never do it.

23 A. Yes, sir.

24 MR. JOHNSTON: Please answer any other questions.

25 MR. WASHINGTON: Nothing further, Judge.

1 and spell your last name for Madam Court Reporter.

2 THE WITNESS: Sure. Thank you, Your Honor. My
3 name is Neil Urch. It's spelled U-R-C-H.

4 THE COURT: Thank you, Major.

5 THE WITNESS: Yes, ma'am (sic).

6 THE COURT: Yes, ma'am.

7 MAJOR NEIL URCH,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. THORNWELL:

11 Q. Good afternoon, Major Urch.

12 A. Good afternoon.

13 Q. Can you tell the jury where you're employed.

14 A. Yes, ma'am. Currently I am the director of jail
15 operations for the Spartanburg County Sheriff's Office.
16 And I work out of the main jail on 950 California
17 Avenue.

18 Q. How long have you been employed with the
19 sheriff's department?

20 A. A little over 30 years.

21 Q. Have you always been the director of operations?

22 A. No, ma'am. That's only happened in the last
23 five, about five-and-a-half years. It was July of 2011
24 when I took that position.

25 Q. Prior to being the director of jail operations,

1 what did you do?

2 A. I was a captain of uniform patrol.

3 Q. As the director of jail operations, what do your
4 duties -- what do your duties entail?

5 A. The responsibilities pretty much include any of
6 the daily operations of the jail, the budget for the
7 jail, kind of the whole, whole kit and caboodle, sorry,
8 for lack of a better term, that I'm responsible to make
9 sure that things are being complied with and being done
10 everyday. The welfare of the inmates, the staff, the
11 safety of the facility. The list could go on, but...

12 Q. Would you be responsible to make employment
13 decisions as well?

14 A. Yes, ma'am.

15 Q. I believe you said you've been doing that for
16 about five-and-a-half years since 2011?

17 A. That's correct.

18 Q. So on August 28th, 2014, that was your -- those
19 were your job duties?

20 A. That is true, yes.

21 Q. Do you recall an incident that happened at the
22 jail that required your attention on August 28th, 2014?

23 A. Yes, ma'am.

24 Q. Can you tell the jury what you understood to have
25 happened?

1 A. Yes. I was called, I believe, it was later in
2 the evening time to return to the jail about a situation
3 that occurred in an area that we refer to as pod five.
4 It's a podular design, so we call them pods. And
5 they're just housing units where we commonly house
6 inmates in the jail. And that there had been an
7 incident between an officer and one of the inmates that
8 we were called in to refer or to review.

9 Q. You said that you were called in to review that.
10 What do you mean?

11 A. The way that we're set up we have several shifts
12 that work. I don't remember the exact -- we have
13 different platoons that have supervisors and like duty
14 Sergeants and things such as that. And I believe it was
15 what we refer to as alpha shift working that day. So
16 there would have been a lieutenant and a couple
17 Sergeants and maybe a corporal.

18 And the, of course, the officers that work in the
19 housing units and the various things that were there
20 that particular day. And then I believe I think I
21 received my notification from Captain Freeman based on
22 my memory about something that occurred that we probably
23 needed to come and take a look at.

24 Q. When you got there, got to the jail, you said to
25 review, what materials did you review?

1 A. There are, I don't know the exact number, there
2 are multiple surveillance cameras located around the
3 jail property for safety and security reasons of the
4 jail. So one of the number one things we did do was
5 review the surveillance footage of an area in pod five.
6 There was also, I believe, a handheld video, which would
7 have been typical procedure to be filed with some videos
8 that were taken with a handheld camera and I believe we
9 looked at those..

10 Q. What would have been the purpose of the
11 administrative staff getting together and reviewing that
12 material?

13 A. I think there were some concerns about the
14 actions of that officer. And whether he was
15 appropriate, whether he was within policy, within the
16 guidelines and other things. And that the -- the
17 on-sight staff, the immediate supervisors, felt there
18 was some concerns there, so they would have passed that
19 on to call us.

20 Q. Would you have made any criminal determinations
21 at that point?

22 A. No, ma'am. That's not what we would have been
23 intending to do. My -- part of my position job was to
24 ensure that the policies and procedures that are put in
25 place and signed by the sheriff are followed as closely

1 as we can. And there's no way to write a policy and
2 procedure for everything other than they're gonna be
3 used as guidelines and boundaries, operating boundaries.

4 So the primary purpose would have been reviewing
5 policy violations there, were the actions of the
6 officers appropriate given the circumstances, other
7 things such as that. Then we would normally, if we felt
8 that there was possibly some criminal act, we would
9 refer that to an outside agency to followup with an
10 investigation. And commonly for us that would be SLED.

11 Q. We're going to take this step by step.

12 A. Okay.

13 Q. So your purpose for you meeting with the
14 administrative at the jail was to determine policy
15 violations?

16 A. Yes.

17 Q. What would have been the consequence if there
18 were policy violations?

19 A. Well it depends on the policy violation. It can
20 be anything up from a verbal reprimand to a written
21 reprimand up to termination, depending on what that
22 policy violation is.

23 Q. Then you said you would have made a referral if
24 you felt that there were criminal violations.

25 A. If there were some implication or some belief

1 that it may be a criminal act, then the procedure would
2 be to refer it to an outside agency for an independent
3 view and investigation. That's what was done in this
4 case.

5 Q. But to your knowledge there was an actual
6 referral to an outside agency.

7 A. I'm sorry, could you say that ---

8 Q. There was a referral to an outside agency?

9 A. Yes, ma'am. In this case it was SLED.

10 Q. Okay.

11 A. I believe I probably am even the one that might
12 have did the referral or the request letter and then
13 procedure to get that, get that started.

14 Q. Okay. So you come in because you've gotten a
15 call from Captain Freeman and they tell you that they
16 think there's some things that need to be reviewed. You
17 said you reviewed video?

18 A. Yes.

19 Q. What else did you review? Did you interview
20 people?

21 A. I did. I remember we talked with Mr. Styles that
22 night. Some of the other officers that were present at
23 that time. I actually talked to, and I'm going off
24 memory, so forgive me, but I believe it was Mr. Pauling
25 was the inmate involved in this and we spoke with him.

1 I believe he was actually down in our medical department
2 being checked out when I actually spoke with him that
3 night to try to get all sides of the story that was --
4 had other things that had occurred.

5 Q. Did you have an occasion to view the handheld
6 video that was taken of the actual incident?

7 A. Yes.

8 Q. When you reviewed that video what, if any, policy
9 violations did you determine had happened?

10 A. Well, to sit here and tell you specific numbers
11 and the policy I'm unable to do that. I would have to
12 go back and pull those things. You know, there's,
13 there's certain things that were in place as far as --
14 and this situation happened during -- and I'm sorry you
15 may already know this, but what we refer to as head
16 count, which is a counting for the people that we got in
17 our custody to make sure they're where they're supposed
18 to be and we're responsible for them.

19 As the normal procedure would be, if an inmate
20 was standing at the door, as was in this case, if the
21 officer would instruct the inmate to step back away from
22 the door towards the rear of the cell to create that
23 distance there. I think there was also something told
24 to me that time that Mr. Styles ---

25 MR. JOHNSTON: Your Honor, I'm gonna object.

1 This sound awful lot like hearsay here. It was told to
2 him by someone. That wouldn't be admissible. Certain
3 things maybe, but I don't think it is that way.

4 THE COURT: Yes, ma'am.

5 BY MS. THORNWELL:

6 Q. So you said that you reviewed the video.

7 A. Yes.

8 Q. And in that video you were able to see that the
9 inmate was at the door.

10 A. Yes.

11 Q. And let me stop you right there and ask you a
12 question about these videos, these handheld videos that
13 you take.

14 A. Yes.

15 Q. What is the purpose of the handheld videos?

16 A. Sometimes, especially with surveillance cameras
17 being in a set location, it just, it tries to give a
18 different perception, a different view of the incident
19 itself to try to gather as much as you can. Being a
20 larger room as it is, you can't always know exactly
21 where something's gonna occur.

22 So if there is a concern that something might
23 occur, we try to provide that evidence for a review for
24 a later time. So that's been a common practice and
25 procedure in the detention facility that a handheld

1 camera would be used in certain circumstances.

2 Q. So the purpose of having the handheld camera is
3 to visually and audially capture what happens if there's
4 an incident that occurred?

5 A. Yes. There's very few of the set surveillance
6 cameras that have audio with them, so the audio for the
7 handheld does help sometimes hear what was happening.

8 Q. We'll go back to what you actually saw on the
9 handheld video.

10 A. Okay.

11 Q. I believe you said that the inmate was at the
12 door at the time that the corrections officer went to
13 the door.

14 A. Yes.

15 Q. You received training, correct?

16 A. Yes.

17 Q. What in your training are you trained to do when
18 that happens?

19 A. You ask the inmate to step away from the door.
20 If he refuses, you ensure that -- there's really nothing
21 saying you have to open that door. If you can sit there
22 and visually see that that's the only person there, you
23 know who he is, you're accounting for him, that would
24 have been perfectly acceptable in moving on. There is a
25 -- if the inmate doesn't step away from the door, then

1 it really should have gone up to more of a notification
2 of a, of a supervisor, at that time.

3 Q. Approximately -- do you know, approximately, like
4 how big these doors are?

5 A. You mean as far as width and length?

6 Q. Yes. Are they the standard size door?

7 A. They're probably a 3068 type door where they're
8 three-foot wide and about six-foot-eight tall. They are
9 steel doors and most of them have the food hatches, is
10 what we call them. They're the hatches that open up
11 when they're serving the meals to someone in his cell.
12 And then the glass in them is kind of a reinforced
13 glass.

14 Q. So if an inmate, who by a corrections officer,
15 may be perceived to be aggressive, if that inmate is
16 behind the door, would you say that the corrections
17 officer is out of danger?

18 A. Absolutely. Yeah, the smart thing to do was not
19 open the door if you feel there's some threat. There's
20 no danger posting them at the door. I don't -- I've not
21 met a man yet that can knock one of those doors down, if
22 that answers the question.

23 Q. It does.

24 A. Okay.

25 Q. And I believe you said that if the inmate was

1 still noncompliant and they were behind the door, that a
2 supervisor could have been notified.

3 A. That's right.

4 Q. What if -- what if anybody else -- who, if
5 anybody else, could have been notified to handle an
6 inmate who was noncompliant who's in the cell?

7 A. Typically a line officer, a front line officer if
8 they had an issue in there would make notification to
9 their immediate supervisor and that would be the
10 Sergeant. The housing Sergeant, the one responsible for
11 the housed inmates that day.

12 Q. Are there specially trained officers to deal with
13 those individuals?

14 A. There are now. I don't know that there was in
15 2014. I can't -- I don't remember when those type of
16 things started, but there are people that have received
17 specific training for those type of things, yes.

18 Q. Is there ---

19 A. I don't remember ---

20 Q. Is there a special unit for that?

21 A. Yes.

22 Q. What, what unit is that?

23 A. Special Operations Group that receives
24 specialized training for cell extractions, high-risk
25 inmates, those, those type of things. I don't remember

1 when they started exactly off the top of my head though.
2 I can't swear to that.

3 Q. Would it surprise you to know that there was a
4 SOG team at that time?

5 A. No, it wouldn't. I mean it's about right. I
6 mean, it's -- I just don't remember. They've been in
7 place three, three or four years. I don't recall how
8 long. I'm -- my memory is not real good sometimes.

9 Q. Okay. So there are specially trained officers
10 who can handle the extraction of an inmate from a jail
11 if need be if they're noncompliant?

12 A. Yes. We do not intend to use force. We want
13 compliance. We want to make sure things are peaceful.
14 It's kind of a tough situation to be in. We would
15 rather it be peaceful, so having specially trained
16 officers that we can possibly avoid using force is what
17 our intent would be, absolutely.

18 Q. Let's say for some reason policy wasn't followed
19 and the door is opened --

20 A. Yes.

21 Q. -- and that the inmate leaves the cell, what
22 training is given to the corrections officers to handle
23 that situation?

24 A. Officers when they first become employed with us
25 go through a period of about the first three to four

1 months employment and receive all different kinds of
2 training, including self-defense type training, use of
3 force training, all the different things that they may,
4 or we believe, they may encounter in their work. And,
5 of course, that goes through the policies and all the
6 other things. And then they also require to attend the
7 South Carolina Criminal Justice Academy and complete the
8 basic detention certification course.

9 Q. As a policy of the Spartanburg County Detention
10 Center -- let me back up.

11 As a training for new corrections officers at the
12 Spartanburg County Detention Center, are they trained to
13 use a closed fist to the head?

14 A. No.

15 Q. Do you know what type of training they receive
16 when it comes to the use of force?

17 A. That's hard to answer in one particular sentence.
18 There's different types of scenarios that they are
19 placed through and other things in response to. There's
20 also a requirement of 40 hours per year of annual
21 inservice training that I know the use of force being a
22 big topic of that gets covered quite a bit.

23 I don't know. I can't give you specifics on the
24 different types it is. There's different things and
25 it's called PPCT, Pressure Point Control Tactics, and

1 other things that's trained through the academy and
2 through other things of trying to gain compliance
3 without, you know, hurting someone, that type of thing.

4 Q. In this particular situation, do you know -- do
5 you remember what type of force was used?

6 A. You're asking?

7 Q. By, by the defendant on the inmate, do you know
8 what type of force was used?

9 A. What type of force? He struck the inmate in the
10 head area with a closed fist.

11 Q. Would that have been something that he was
12 trained to do if the inmate was coming at him?

13 A. No.

14 Q. So you review all of this information, you talked
15 to the individuals involved. What do you all do next?

16 A. In our department the sheriff has obviously the
17 ultimate authority for someone's employment status. The
18 chief deputy and I discussed the situation and it was
19 decided, I believe that evening, that Mr. Styles was
20 going to be terminated from employment.

21 Q. And what was the reasoning for that?

22 A. Improper force.

23 MS. THORNWELL: I beg the Court's indulgence.

24 BY MS. THORNWELL:

25 Q. What about Mr. Pauly's behavior made you

1 determine that the use of force that was used was
2 improper?

3 MR. JOHNSTON: Your Honor, I don't think he's an
4 expert on this. He said that there was a policy
5 violation, the department discharged him. Other than
6 what we're getting in here now would require being an
7 expert, I would submit.

8 MS. THORNWELL: And I don't think so. I think
9 that, that is the determination that he made. He had to
10 look at the behavior of the inmate and look at the
11 behavior of the defendant to determine ---

12 THE COURT: That's overruled. I'm gonna allow
13 that. Go ahead.

14 BY MS. THORNWELL:

15 Q. Thank you. Do you want me to restate the
16 question?

17 A. Please.

18 Q. Okay. What about Mr. Pauling's behavior made you
19 have a determination that the defendant's behavior was
20 improper?

21 A. The only thing that we could tell from the videos
22 that Mr. Pauling did was step out of the door of the
23 cell in front of where Mr. Styles was standing. And his
24 -- as you look at the video, I think there was some
25 claims from Mr. Styles at the time that he was

1 attempting to strike him, but Mr. Pauling's hands were
2 open, on the video that exists, by his side.

3 MR. JOHNSTON: Your Honor, I have a matter of
4 law.

5 THE COURT: Okay. Madam Forelady, if you would
6 take the jury out and don't discuss the case at this
7 point. It's not over.

8 (Whereupon, jury leaves courtroom at 3:16 p.m.)

9 MR. JOHNSTON: Your Honor, this verbiage that was
10 just shared by the Major is new to me. And maybe it
11 shouldn't be, but I can't claim that I have absolute
12 command over every word of this case. But the statement
13 that Deputy Styles said that Inmate Pauling was trying
14 to strike him, which is what I think the Major just
15 said, I don't know where that comes from. And if it
16 comes from his statement to SLED, that raises some
17 issues. So I'm trying to see clarification here about
18 where this came from and whether or not that might
19 affect its admissibility.

20 THE COURT: What is it? Is he just testifying
21 from memory or where is it coming from?

22 MS. THORNWELL: I think he's testifying from
23 memory of the conversation that he had. I didn't ask
24 him -- I didn't ask him about a specific statement. And
25 I don't know that he's actually -- he's never seen the

1 statements from SLED.

2 MR. JOHNSTON: All right. Well, is he saying
3 that this is a conversation that he had with Deputy
4 Styles?

5 THE COURT: I don't know, but if it's not coming
6 from the statement and she's saying he's never seen the
7 statement and he's -- the Major is testifying that from
8 his memory, so he's not referring to any statement
9 whatsoever. And you can cross him on it.

10 MR. JOHNSTON: Well, what I'm saying is I'm --
11 they -- under Rule 5 I'm entitled to have any written
12 statement the defendant made and the substance of any
13 oral statement he made. I don't recall this information
14 being anywhere. If they can tell me where it is, maybe
15 I have received it, but to the best of my knowledge I
16 don't know anything about it.

17 MS. THORNWELL: I've given him everything that we
18 have, and all I did was ask the question. And I'm not
19 saying -- all I can tell you is that he has never seen
20 any of the SLED -- I'm the only one who's seen the SLED
21 investigation and my SLED agent and that's it.

22 THE COURT: Okay. Well, at this point he's
23 testified he's testifying from his memory, so he's not
24 referring to any statement. I don't know where it's
25 coming from, but I'll let you ---

VOIR DIRE OF NEAL URCH BY MR. JOHNSTON

1 MR. JOHNSTON: May I voir dire him on it?

2 THE COURT: I'll let you voir dire him on that.

3 Go right ahead.

4 VOIR DIRE TESTIMONY

5 BY MR. JOHNSTON:

6 Q. Major Urch?

7 A. Yes, sir.

8 Q. Where did this information that you just shared
9 with us when you said -- you said something to the
10 effect that Deputy Styles told you that Inmate Pauling
11 was getting ready to strike him or trying to strike him,
12 I can't remember your exact words.

13 A. Yes, sir.

14 Q. Where did that information that you shared with
15 us come from?

16 A. It would have been the night that we talked to
17 him of the incident itself at the jail.

18 Q. Who is him?

19 A. Deputy Styles -- well, everybody, including then
20 Deputy Styles.

21 Q. Okay. So it came from Styles?

22 A. Yes, sir.

23 Q. You were interviewing Styles about what happened?

24 A. Yes.

25 MR. JOHNSTON: Well, Your Honor, we would argue

1 that should be excluded under Garrity. He's his
2 supervisor. He's in -- he's conducting a formal
3 investigation. He's asking a question about what
4 happened. So I think it should be excluded under
5 Garrity. The other thing is may I continue with another
6 point?

7 THE COURT: Yes, sir.

8 BY MR. JOHNSTON:

9 Q. Did you write that down anywhere?

10 A. I don't remember, Mr. Jones (sic), and I don't
11 believe I did.

12 Q. You don't believe you did?

13 A. No, sir.

14 MR. JOHNSTON: All right. Well, I could be
15 easily corrected because I've been corrected many times
16 before, but if it's somewhere in the discovery then I
17 would be correct. But I haven't seen that Major Urch, I
18 haven't seen him do a report to this effect. So I think
19 they've got a Garrity issue and a Rule 5 issue.

20 THE COURT: Yes, ma'am.

21 MS. THORNWELL: And, Your Honor, again, he's
22 testifying from memory. As far as Garrity is concerned,
23 I believe it is an admission by a party opponent,
24 whatever the statements were made. Now, we've had an
25 entire trial at this point for the most part based on

DIRECT EXAMINATION OF NEAL URCH BY MS. THORNWELL

1 MS. THORNWELL: Yes, sir. I completely
2 understand the Court's -- and respect the Court's
3 decision on that part.

4 THE COURT: Okay. Anything further?

5 MR. JOHNSTON: No, sir.

6 THE COURT: Because it could be, but we wouldn't
7 be having this conversation if he hadn't already rammed
8 that -- if we had a waiver of both Garrity and the
9 Miranda motions, but we don't have that, right?

10 MR. JOHNSTON: I concur.

11 MS. THORNWELL: No.

12 THE COURT: Let's have the jury.

13 (Whereupon, Jury entered the courtroom at
14 3:50 p.m.)

15 THE COURT: Everything okay with the jury?

16 MADAM FORELADY: (Nods head up and down.)

17 THE COURT: Madam Forelady and a ladies and
18 gentlemen of the jury, the jury will disregard the last
19 question and answer of the witness.

20 Yes, ma'am, you may proceed.

21 RESUMPTION OF DIRECT EXAMINATION

22 BY MS. THORNWELL:

23 Q. Major Urch, can you tell the jury what about,
24 based on your review of the materials that you reviewed,
25 what about Mr. Pauling's actions made you determine that

1 the defendant's actions were outside of policies?

2 A. I remember reviewing of the videos, observing Mr.
3 -- the door opening. I remember observing Mr. Styles
4 taking a step or two backwards. He had a set of keys, I
5 believe, in his hands and those were dropped to the
6 floor. I believe I remember Mr. Pauling stepping out of
7 the cell door almost in front of where Mr. Styles was.
8 And I remember seeing Mr. Pauling's hands kind of out to
9 the side, like in this kind of a motion, that's kind of
10 out, halfway up to his side. (Indicating.) I hope that
11 answered what you were asking.

12 Q. Part of the answer, but I'll ask some followup
13 questions to that.

14 A. Okay.

15 Q. So you said your review of the video showed that
16 Mr. Pauling's hands were kind of out to the side and the
17 defendant had stepped back. Was there anything else
18 that you reviewed in that video that made his actions,
19 I'm sorry the defendant's actions, outside of policy?

20 A. I think with the balled up fist right to the
21 head, yes, that was the determination that it went
22 beyond what policy would allow.

23 Q. And, again, your policy determination was
24 strictly for what purpose?

25 A. To determine if there was something done wrong on

1 part of the employee and if there was any punitive
2 action needed to be taken towards that, that person.

3 MS. THORNWELL: No further questions.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. JOHNSTON:

7 Q. I don't want to embarrass you by asking you how
8 long you've been doing this because I know you've been
9 doing it almost as or longer than I have, which is too
10 long. But that's -- you're obviously a very experienced
11 officer.

12 A. Thank you. Yes, sir.

13 Q. You've worked in -- in addition to your duties
14 with the jail, you've worked in the courtrooms, you've
15 been a narcotics agent. You've done all kinds of
16 different things.

17 A. That's correct, sir.

18 Q. You will agree with me that what the jury is here
19 today to determine is not policy violations, not whether
20 or not Deputy Styles committed a policy violation?

21 A. That's correct, yes, sir.

22 Q. But as to whether or not the State can prove
23 beyond a reasonable doubt he committed a crime?

24 A. Yes.

25 Q. And you'll agree with me that violation of a

1 policy does not necessarily mean that a crime was
2 committed?

3 A. That is true.

4 Q. You told us that he was terminated for improper
5 force.

6 A. Yes, sir. I don't know if that was the exact
7 code of conduct violation.

8 Q. I'm gonna show you something --

9 A. Okay.

10 Q. -- that might refresh your memory about that.

11 A. Okay, thank you.

12 Q. Just take a look at that and what I'm gonna ask
13 you about is --

14 A. My glasses.

15 Q. You need your ---

16 A. I don't have them. I'll make due, sorry.

17 Q. Okay. Well, if you can't, I'll help you out.

18 A. Sure.

19 Q. This is the part I'm asking you about on Page 3.

20 A. Yes, sir, I understand.

21 Q. Okay. It wasn't technically for improper force
22 or excessive force, was it?

23 A. No.

24 Q. What was it for?

25 A. What you've given me is a letter dated

1 August 29th, 2014, to Sheriff Wright and Chief Parris,
2 which would be my two immediate supervisors that says
3 from me, so obviously I produced it. And what is listed
4 in here is rule violation 15(a) treatment of persons in
5 custody.

6 Q. All right. So he violated your policies with
7 respect -- or your determination for discharging him was
8 that he had not followed the rule for treatment of
9 persons in custody?

10 A. That is correct.

11 Q. That's what you discharged him for. And you all
12 fired him that day.

13 A. Yes, I believe that's correct.

14 Q. All right. You had a chance to talk to Inmate
15 Pauling after this, didn't you?

16 A. Yes.

17 Q. And, in fact, I watched a video of you with him
18 in medical, I think. You made sure he got looked at by
19 your nurse.

20 A. Yes.

21 Q. And you all were close together talking. Just
22 like you and me are right now.

23 A. Okay.

24 Q. He didn't exhibit any serious injuries or even
25 any minor injuries, did he?

1 A. Not that I can recall, sir.

2 Q. Okay.

3 A. It's been a while. I don't remember exactly all
4 the incidents, but not that I remember.

5 Q. All right. If he had complained of some major
6 injury or if you or your medical staff had determined
7 that he had some kind of potentially significant
8 injury --

9 A. Yes.

10 Q. -- what would you have done with him?

11 A. If it would have been beyond what the scope that
12 the medical staff could have provided medical
13 assistance, he would have been transported to the
14 hospital for further assistance.

15 Q. All right. And to your recollection was it
16 necessary in this case to take Inmate Pauling to the
17 hospital?

18 A. I don't believe it was, but I can't say. I don't
19 remember.

20 Q. Okay, that's fine. That's fine. Do you remember
21 him having any blood or anything like that on him? Any
22 blood on his clothes or --

23 A. No, I don't remember --

24 Q. -- his face?

25 A. -- anything. I don't recall any of that, sir.

1 Q. Do you recall him telling you basically that he
2 hit his rail -- hit his side on the rail but that pretty
3 much else wasn't anything wrong?

4 A. I can't recall.

5 Q. That's fine. That's fine.

6 A. I don't ---

7 Q. A closed-fist strike is not absolutely
8 prohibited, is it?

9 A. That is true.

10 Q. Okay. It can be used under certain
11 circumstances.

12 A. That is true.

13 Q. Now, you're saying in this case it wasn't used
14 properly, but it is not entirely prohibited.

15 A. Yes.

16 MR. JOHNSTON: Please answer any other questions.

17 THE COURT: Anything at all?

18 MS. THORNWELL: Briefly. May I approach the
19 witness, Your Honor?

20 THE COURT: Yes, ma'am.

21 REDIRECT EXAMINATION

22 BY MS. THORNWELL:

23 Q. Is this the same letter that you were reading
24 from earlier?

25 A. That the defense attorney gave me?

1 Q. Yes.

2 A. No, ma'am. He gave me a copy of a memo.

3 Q. Okay.

4 A. That's a letter that was sent to Mr. Styles.

5 Q. Okay. So let me, let me ask you this then.

6 After Mr. Styles terminated for the reason that you
7 gave --

8 A. Yes.

9 Q. -- he appealed his termination?

10 A. He did.

11 MR. JOHNSTON: Your Honor, I would object. I
12 would think that's irrelevant here and may get into some
13 things that's inadmissible.

14 THE COURT: What's the relevance?

15 MS. THORNWELL: I'm gonna -- there was a letter
16 written to him to explain why he was terminated and I
17 just want to go over what the, the issue was that was
18 the reason he was terminated. I don't want -- I
19 don't. ---

20 THE COURT: Is it different from what the other
21 one says?

22 MS. THORNWELL: Yes.

23 THE COURT: Okay, I'm gonna allow that.

24 MR. JOHNSTON: All right. Is this from -- may I
25 ask ---

RE CROSS-EXAMINATION OF NEAL URCH BY MR. JOHNSTON

1 THE COURT: Who's it from?

2 MS. THORNWELL: It's from Major Urch.

3 MR. JOHNSTON: Okay. All right.

4 THE COURT: Okay.

5 BY MS. THORNWELL:

6 Q. So there was an appeal made.

7 A. Yes.

8 Q. And that appeal was denied?

9 A. Yes.

10 Q. I'm gonna show you this.

11 A. Yes, ma'am.

12 Q. I'll help you out. Since you don't have your
13 glasses. Can you, just to yourself, read that
14 paragraph.

15 A. Yes, ma'am.

16 Q. That, can you tell, do you remember what the
17 reasoning is that you gave for the termination? Was it
18 just the mistreatment of the inmate?

19 A. And the inappropriate use of force.

20 MS. THORNWELL: I beg the Court's indulgence.
21 Nothing further, Your Honor.

22 THE COURT: Anything at all?

23 RE CROSS-EXAMINATION

24 BY MR. JOHNSTON:

25 Q. Why didn't you tell Atrous that -- Atrous that?

1 Since you sent the letter that I just showed you, why
2 didn't it just say mistreatment of a prisoner? Do you
3 know?

4 A. The letter that you showed me was a memorandum to
5 the chief deputy and the sheriff. Based on the events,
6 the letters or the papers that she showed me was a
7 letter that was actually sent to Mr. Styles based on his
8 appeal.

9 MR. JOHNSTON: Fair enough. Nothing else.

10 THE COURT: Major, you may step down. Please be
11 careful.

12 THE WITNESS: Thank you, sir.

13 MS. THORNWELL: Thank you, Your Honor. The State
14 calls ---

15 MR. JOHNSTON: We have no objection to him being
16 excused if they -- he has other duties.

17 MS. THORNWELL: Yes, he may be excused.

18 THE COURT: You may stay or leave, whichever you
19 chose.

20 THE WITNESS: Thank you, very much.

21 (Whereupon, Witness leaves witness stand and
22 courtroom.)

23 MS. THORNWELL: The State calls First Sergeant
24 Gregory Leonard.

25 THE COURT: Okay.

DIRECT EXAMINATION OF GREGORY LEONARD BY MS. THORNWELL

1 THE CLERK: Place your left hand on the bible and
2 raise your right. (Complies.)

3 Do you solemnly swear or affirm that the
4 testimony that you're about to give will be the truth,
5 the whole truth and nothing but the truth so help you
6 God?

7 THE WITNESS: I do, yes, ma'am.

8 THE CLERK: Thank you.

9 THE COURT: Sir, once you're situated, if you
10 would adjust the microphone and tell us your full name
11 and spell your last name for my court reporter, please.

12 THE WITNESS: Yes. My name Gregory Tyler
13 Leonard, L-E-O-N-A-R-D.

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

15 GREGORY TYLER LEONARD,
16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. THORNWELL:

19 Q. First Sergeant, correct?

20 A. That is correct.

21 Q. Okay. First Sergeant Leonard, can you tell the
22 jury where you're employed.

23 A. I'm employed at the Spartanburg County Sheriff's
24 Office detention division. The director of training.

25 Q. How long have you been employed there?

1 A. I've been there going on 17 years.

2 Q. And how long have you been employed as the
3 director of training?

4 A. Almost 13 years now.

5 Q. And so what do the duties of the director of
6 training entail?

7 A. Basically we develop curriculum to facilitate
8 training to our officers both in pre-service and
9 inservice. It's based on information from the academy.
10 We write lesson plans that are approved through our
11 attorney and sent to the Criminal Justice Academy for
12 approval. And they're sent back and that's what we
13 develop as our lesson plans for our training.

14 We also do a lot of our firearms training
15 defensive tactics. I have officers that I direct and
16 what tactics are taught. These officers are instructors
17 through the academy. They're sent down to learn
18 specific areas, whether it be firearms, defensive
19 tactics, things like that. And I kind of direct the
20 curriculum as to how we're gonna apply it to our
21 facility.

22 Q. You said you developed a curriculum and lesson
23 plans. Are there training manuals handed out or
24 training materials handed out based on that?

25 A. Most of the delivery of the material that we

1 teach, such as legals, suicide prevention, medical
2 stuff, that's developed in house. Most things, like the
3 physical tactics, firearms and individualized training
4 is sent out to the academy and they receive an academy
5 manual that gives them the instruction on what to teach.

6 Q. The instructors receive a manual?

7 A. Correct.

8 Q. Do the students, for lack of a better term,
9 receive the manual?

10 A. Yeah. For the most part the manuals come with a
11 lesson plan. And that's how the class is taught based
12 on the lesson plan. Sometimes the manuals may have
13 materials that we copy and pass on to those students,
14 depending on what class it is.

15 Q. So is it safe to say this is a hands-on type of
16 training?

17 A. It is, yes. It's what we call practicals. We
18 have our practical learning and then we have our
19 classroom.

20 Q. Okay. And I want to focus more so on the
21 defensive tactics that are taught to individuals. I
22 believe you said that there are -- there is a
23 pre-service training and an inservice training.

24 A. That is correct.

25 Q. What is pre-service training?

1 A. Pre-service is basically developing the officer
2 brand new off the street. We bring them in and we start
3 with a theoretical classroom with what we do in
4 detention. We start with our defensive tactics and
5 physical training within a six-week program. And every
6 day they do some type of defensive tactic, kind of a
7 skill building type of lesson plan format.

8 Depending on if the officer passes everything,
9 there's certain qualifiers. They have to go through
10 testing, written testing, all this other stuff. And
11 it's mainly to prepare them for the Criminal Justice
12 Academy.

13 We pretty much mimic what they're going to be
14 doing at the Criminal Justice Academy, including the
15 defensive tactics moves that we teach and things like
16 that in effort to help them pass the Criminal Justice
17 Academy's three-week basic training certification to
18 have them certified as a detention officer in the state.

19 Q: Let's talk specifically about the defensive
20 tactics that are taught by you and the officers that
21 teach them at the detention center.

22 A. Yeah.

23 Q. What type of defensive tactics are taught to an
24 individual?

25 A. For the most part we teach defensive tactics,

1 obviously from what it's called. For the most part it
2 can be a wide range of tactics depending on the
3 situation. It's ground defense, how to handle yourself
4 in a situation if you're attacked, you know, escalations
5 of force. A lot of theoretical background and the
6 techniques that we use is policy driven and also driven
7 through training from the Criminal Justice Academy based
8 on our use of force policies.

9 For the most part when we send them to the
10 academy, they do handcuffing, speed cuffing. They do
11 takedowns. We spend a lot of time in pre-service doing
12 pepper spray defensive tactics of how to react if
13 somebody is approaching you in a violent manner and how
14 you're supposed to create distance with all your spray,
15 call for backup and that kind of thing.

16 Q. Okay. Are you familiar -- well, let me ask were
17 you working at the detention center on August 28th,
18 2014?

19 A. Yes, I'm sure I was probably there. I work
20 Monday through Friday eight to five. I don't remember
21 specifically.

22 Q. I'm going to show you what's been marked as
23 State's Exhibit 1.

24 (Whereupon, plays video.)

25 In that particular situation based on the

1 training that they received how is a corrections officer
2 trained to handle that situation?

3 A. Basically if I was probably aware that inmate had
4 any kind of aggression, as a detention officer and the
5 way we train it, we are to avoid any kind of force that
6 could precipitate to that level if possible.

7 Q. Okay. So let me stop you there. So your first
8 form of defense is to avoid any type of physical
9 altercation?

10 A. Right. If I knew opening that door would
11 precipitate to this type of event then I would not open
12 the door. We train our officers that way, you know,
13 because we don't typically want to use force. We want
14 to try to resolve things as reasonable as possible.
15 Opening that door put himself in harms way, as far as
16 the inmate, if that was the situation. If there was
17 aggression already there present at the time.

18 Q. So opening the door created danger for whom?

19 A. More so probably, probably the officer and the
20 inmate both. But looking at the video we have to take
21 into account what we call pre-attack cues for one. The
22 individual exited the cell, and from what I saw the
23 officer became the aggressor, okay?

24 If the officer had picked up on any type of cues
25 to where he had to use force, what he should have done

1 was backed out of the situation, pulled his pepper spray
2 and go to OC first. We mainly do that to try to lessen
3 the amount of force that we have to use with the OC
4 spray. And introducing the spray, hopefully the
5 individual would stop whatever action. However in this
6 case, looking at the inmate, I really don't see where
7 the act of striking the inmate it rose to that level of
8 force.

9 Q. So we -- you're taught -- you say that there are
10 defensive mechanisms. The first one -- or defense
11 tactics. The first one was to avoid the situation
12 altogether.

13 A. That is correct.

14 Q. So let's back up. The video shows that the
15 inmate is at the door.

16 A. Right.

17 Q. As the officer goes to open the door, what is an
18 officer taught to do in his training when an inmate is
19 at the door and is deemed noncompliant?

20 A. Well, noncompliance equals don't open the door.
21 If the individual is not backing away from the cell
22 door, then that's obvious noncompliance and there's no
23 reason to open the door. At that point you would call a
24 supervisor, have people there ready to deal whatever is
25 gonna happen.

1 Q. So the doors open at this point, inmate comes
2 out.

3 A. Right.

4 Q. I think you mentioned the next defensive tactic
5 was the OC spray.

6 A. Right.

7 Q. For the jury's edification, can you tell -- can
8 you explain what OC spray is?

9 A. Sure. OC spray or commonly referred to as pepper
10 spray, it's capsaicin derivative of a pepper. It's
11 designed to irritate the eyes and cause a burning
12 sensation. It has a couple of affects on the individual
13 when we use it on them. Obviously it makes them close
14 their eyes. And also the pain is kind of a distractor,
15 to say. It allows us to give us time to move them into
16 cuffs and safely deal with the individual, versus going
17 straight hands on where myself can get hurt or the
18 inmate can get hurt.

19 Q. Let's say OC spray isn't an option. Are there
20 any other options available to you before you punch
21 somebody in the face?

22 A. Definitely. Create distance. One of the first
23 things that we want our officers to do is to try to get
24 the individual down to the ground in some type of
25 defensive tactic mode. Either grab an arm, doing the

1 straight arm bar takedown. Something, you know,
2 reasonable. If the in -- if you picked up, a pre-attack,
3 if an individual was gonna strike you or try to strike
4 you, you obviously want to try to gain control of them.
5 Okay?

6 Take an individual down to the ground versus
7 pepper spray, you do have to struggle more if the
8 individual is fighting to try to cuff the individual.
9 The problem with going straight to fist is the, the
10 variable of injury that you could actually do to
11 somebody.

12 You know, we teach what we call a palm heel
13 strike, which is basically a palm to the chest. That
14 would have been my other alternative. We look at
15 strikes to the face and the head as being pretty far up
16 there on what we call the use of force type scale.
17 Because of the damage to the head, damage to the face,
18 and the effect, you know, if he were to of knocked the
19 individual out and fell at his head, the officer is also
20 responsible for those injuries that occur from the fall
21 also.

22 Q. Can you tell from the video -- let me ask you
23 this first.

24 Do you know what they're doing -- what they are
25 attempting to do in the video?

1 A. Well it happened pretty quickly. It looked like
2 they were maybe doing a head count or something. Is
3 that what you're referring to, what task they were
4 performing?

5 Q. Right. I'm sorry. I apologize, I should have
6 asked that. What tactic did it seem like they were
7 performing?

8 A. Tactic?

9 Q. Oh, task. Probably a head count would be the
10 only reason I would think they would be walking around
11 with all the officers that were there. Okay? And from
12 all the reports I read, obviously it was a head count.

13 One of the things that we teach them, you know,
14 when they're doing a head count, yes, we want them to
15 open the doors based on safety and security. However,
16 they don't have to. It's not mandated by policy for
17 those obvious reasons. Okay?

18 We do have to go in there and check the cell.
19 However, whatever the inmate has going on, you know, if
20 it's gonna precipitate to another level, you know, the
21 fact that, you know, yes it's a security function when
22 you go in there, but having the manpower to handle that
23 is the other issue.

24 Q. So would it have been reasonable to open the door
25 if the inmate was noncompliant standing at the door?

1 A. That was not reasonable and that's not trained.

2 Q. There were other officers in that video, correct?

3 A. Yes.

4 Q. Someone else could have taken the inmate down.

5 It didn't have to be the defendant, correct?

6 A. Right.

7 Q. Could someone else have taken him down?

8 A. Right. Oh, yeah. I mean, it's hard to say what
9 officers could respond to just seeing the inmate exit
10 the cell with his hands down by his side. I don't know
11 if they just didn't pick up on any kind of threat, but I
12 guess, you know, anybody could have gotten involved.

13 Q. In addition to, I believe you said there was the
14 heel palm, there's the OC spray that could be used, what
15 other tactics could have been used to get him either in
16 compliance or to get him to the ground?

17 A. Well, the inmate, you know, we base our use of
18 force on resistance. The resistance level that I saw
19 was the inmate walking out of his cell, just basically
20 creating distance. I mean, that is another avenue,
21 create distance. Determine whether or not there's a
22 threat there or if he's being an aggressor. Distance
23 gives you time, time to process and react the way you're
24 supposed to react.

25 In this case I think may have been a case where

1 they jumped the gun for whatever reason. I'm not sure
2 what happened prior or anything like that. You know,
3 the use of OC spray, the palm heel strike, create a
4 distance, these are all options that the officer had
5 other than going straight towards strikes, so...

6 Q. Are there any other lesser uses of physical force
7 that he could have used?

8 A. Well, the very least amount of force we can use
9 is our verbal commands and our presence. So, you know,
10 loud verbal commands. Stop, get back, you know, that's
11 our catch phrase when we're doing physical tactics and
12 teaching use of force. You know, anytime before you use
13 force it's always stop and get back, okay? Give the
14 assailant a chance to understand that you want them to
15 back away. And an officer warns all the other officers
16 around you that there's a possible threat when I yell
17 stop and get back. And I create distance.

18 Q. So using a verbal command not only helps or ---

19 MR. JOHNSTON: Object to leading the witness.

20 THE COURT: Just rephrase.

21 BY MS. THORNWELL:

22 Q. What does the use of verbal commands help to do
23 again?

24 A. When they use the verbal command it lets my other
25 officers know that there's an issue. You know, when I

1 yell stop and get back, the other guys all should
2 already be in some, be in some kind of response mode.
3 And it should tell the inmate, you know, look, you need
4 to get back or something bad is gonna happen, basically.
5 We know it's a verbal warning that forces positive ---

6 Q. Based on what you saw were any verbal warnings or
7 verbal anything given?

8 A. There was no verbal exchange that I saw.

9 MS. THORNWELL: I beg the Court's indulgence.

10 BY MS. THORNWELL:

11 Q. Was there anything that you saw from the inmate's
12 behavior in the video that warranted the defendant's
13 actions?

14 A. Not to the level to taking a strike to the head,
15 no.

16 Q. So you said there might have been some use of
17 force, but the force that was used was inappropriate?

18 A. Right. The very mere fact of him exiting the
19 cell warranted to make a verbal command. If he didn't
20 want to come out of his cell, he should have told him to
21 stay in the cell.

22 MS. THORNWELL: Nothing further, Your Honor.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. JOHNSTON:

1 Q. Well, was it all right to spray him? Was that
2 justified from what you saw in the video? Would that
3 have been justified? Remember we have an inmate who's
4 in pod five, the disciplinary area, maximum security,
5 there for a reason.. He knows he's not supposed to leave
6 his cell. He does leave his cell. He takes, one, two,
7 three steps towards the officer. The officer backs
8 away. Was the use of OC spray at that time justified in
9 your opinion?

10 A. In my opinion, it could have been an option, yes.

11 Q. In your opinion it could have been an option, a
12 legal option?

13 A. Yes, sir.

14 Q. And a procedural option?

15 A. A trained option, yes.

16 Q. A trained option to spray him, yes?

17 A. Yes, sir.

18 Q. Okay. And that spray is no fun, is it?

19 A. No, sir.

20 Q. You've had the spray on you because you have to
21 have that before you're certified to use it yourself,
22 right?

23 A. Yes, sir.

24 Q. It's extremely unpleasant.

25 A. Yes, sir.

1 Q. If I come up to you on the street and I spray you
2 I've assaulted you, haven't I? If I don't have a reason
3 for doing it, I just -- I don't like bald men and I just
4 decide to spray you with that stuff, I've assaulted you,
5 haven't I?

6 A. Yes, sir.

7 Q. Okay. Now, can you tell me in the policy and
8 procedure manual, 322 pages, where it says do not open
9 the door if the inmate's cutting up?

10 A. Well, no, sir, it's not gonna be in there.
11 That's a common sense thing that we definitely tell them
12 in training.

13 Q. Okay. But it's not in the 322 pages, is it?

14 A. No. No, sir.

15 Q. Okay. In fact, what is in the 322 pages, I'm
16 going to read you a little bit from it, and you confirm
17 whether or not I'm saying it right. "Formal head counts
18 will be, will be conducted by designated officers at the
19 end of each shift. Oncoming officers will accompany
20 incoming officers during all head counts." That's what
21 it says. "Formal head counts will be conducted" in the
22 policy and procedure manual. I understand you're
23 bringing other issues into it, but just the policy and
24 procedure manual, correct?

25 A. Yes.

1 Q. And would you agree that head count and
2 inspection of a cell is particularly important when
3 you're dealing with maximum security?

4 A. Yes.

5 Q. And it's even more important than when you're
6 over in pod three where somebody is charged with
7 possession of marijuana or something like that. Do you
8 agree with that?

9 A. Yes.

10 Q. Okay. Pre-attack cues. That is something that
11 you are trained or that you train or that you are or
12 that officers are trained. A pre-attack cue. Tell me
13 what that is. I'm not asking you to tell me what they
14 all are right now. Just tell me what a pre-attack cue
15 is.

16 A. It's basically something that I observe of an
17 individual that tells me that they may be a threat.

18 Q. Okay. So you're trained to watch them for
19 something that they exhibit that might show you, hey,
20 this fella's getting ready to attack me or could be
21 getting ready to attack me, correct?

22 A. Correct.

23 Q. And is it fair to say that you watch for these
24 pre-attack cues to try to defend yourself before the
25 attack occurs?

1 A. That is correct.

2 Q. That's the whole purpose of training on
3 pre-attack cues is so they know what to look for so they
4 can be ready and hopefully stop the attack or defend
5 themselves against an attack they can't stop. Fair to
6 say?

7 A. Yes.

8 Q. And these pre-attack cues can consist of many
9 different things, right?

10 A. There's a few, yes, sir.

11 Q. Okay. Focused attention, does that sound like
12 one of them?

13 A. Yes.

14 Q. Why don't you tell me what you think pre-attack
15 cues means or what you've been trained or what you
16 train.

17 A. When we look at an individual in a setting such
18 as a jail --

19 Q. Yes, sir.

20 A. -- if we see the individual clasping their fists,
21 they're giving you what we call the thousand yard stare.
22 They're looking at you and they look at their intent on
23 possibly harming you.

24 Q. Okay. So ---

25 A. Maybe ---

1 Q. -- things they're doing with their hands and the
2 thousand-yard stare. What's the thousand-yard stare
3 again?

4 A. That's basically a stare where they don't break
5 your gaze.

6 Q. Okay. Just baring down on you like that, right?
7 (Indicating.)

8 A. Distance. Are you talking about distance or...

9 Q. Well, no, not yet. I'm not talking about
10 distance yet. You're talking about an intent gaze,
11 eyeballs to eyeballs, like we're doing now except I'm
12 not being threatening.

13 A. Right.

14 Q. Okay. That's a classic one.

15 A. More or less.

16 Q. All right. What else?

17 A. There's verbals usually involved. You know,
18 they --

19 Q. Okay.

20 A. -- verbalize that they're possibly gonna attack
21 you.

22 Q. I'm fixing to whoop your tail or something like
23 that.

24 A. Yeah.

25 Q. Okay. What else?

1 A. A posture, such as dropping a strong leg back.
2 Raising theirsself (sic), trying to get their center of
3 gravity into a fighting stance --

4 Q. Okay.

5 A. -- for attack.

6 Q. All right. Posturing?

7 A. Uh-huh.

8 Q. Is that a yes?

9 A. Yes, sir.

10 Q. How about just general noncompliance in general?

11 A. Um.

12 Q. Do you consider that an aggressive move?

13 A. Noncompliance?

14 Q. Yes. Well, I guess it depends on what kind of
15 noncompliance. An inmate stepping out of his room
16 without permission, aggressive, potentially aggressive?

17 A. That could be potentially aggressive.

18 Q. Okay. Possible pre-attack cue?

19 A. Um, not in itself, but maybe mixed with
20 something.

21 Q. Combined with other things. Combined with
22 stepping towards you as you back away?

23 A. Closing distance could be a pre-attack cue.

24 Q. All right.

25 A. Among with other things.

1 Q. What is force plus one?

2 A. Force plus one?

3 Q. Yes.

4 A. That's a theory that some folks use with relation
5 to use of force, meaning that whatever force they're
6 using, I'm gonna use plus one to overcome whatever
7 resistance you're offering me.

8 Q. All right. And is some of those folks who use
9 that through the South Carolina Criminal Justice
10 Academy? Do they teach force plus one?

11 A. They did years ago. They've moved more towards a
12 reasonable objective type of use of force.

13 Q. Okay. Well, do you know what Deputy Styles was
14 taught at the Criminal Justice Academy?

15 A. Well, I can tell you what I taught him.

16 Q. Well, I'm asking about the Criminal Justice
17 Academy right now. Do you know what he was taught down
18 there?

19 A. I'm not sure when they may have changed that.

20 Q. Okay. So it's possible he could have been taught
21 force plus one?

22 A. It's possible.

23 Q. Okay. Force plus one is the officer takes it to
24 the next level before -- it's not always an inmate, the
25 subject, the potential problem person.

1 A. Right.

2 Q. Correct?

3 A. Correct.

4 Q. Does the Criminal Justice Academy teach a
5 closed-fist punch?

6 A. Yes, sir.

7 Q. And do they teach a closed-fist punch with the
8 primary target being torso and the secondary target
9 being face?

10 A. That is correct.

11 Q. So it's certainly not prohibited under all
12 circumstances?

13 A. Right. Circumstances dictating, yes.

14 Q. Circumstances dictating. And essentially here
15 you're placing yourself in the position of, through your
16 testimony today, you're placing yourself in the position
17 of Deputy Styles when you're commenting about what
18 happened.

19 A. I don't know if I'd say that, but I don't think I
20 would have reacted the way he did to the situation.
21 That's ---

22 Q. No, I'm not asking you about that.

23 A. Oh.

24 Q. I'm saying that when you're talking about what
25 happened, you're attempting to look at it from his

1 perspective.

2 A. Right.

3 Q. Fair enough?

4 A. Actually I've tried to look at it as objective as
5 possible and what should have been reasonably done in
6 the circumstances.

7 Q. Okay. Well, will you agree with me that you were
8 not there?

9 A. That is correct, I was not there.

10 Q. And you did not know everything that had gone on?

11 A. That's true.

12 Q. The video, the handheld video, it comes on as
13 Styles is walking to the door, correct?

14 A. Correct.

15 Q. It doesn't capture what happened before, correct?

16 A. Correct.

17 Q. Closing distance. What's a safe distance? I'm
18 a, it's hard to imagine, but I'm an assailant, a
19 potential assailant here, I'm an inmate. When do you
20 start getting worried about that? Six feet away? Isn't
21 that what you all teach?

22 A. Two arm lengths generally.

23 Q. Two arm lengths.

24 A. We react a certain way depending on how far into
25 our reactionary gap you penetrate.

1 Q. Okay. Boom, boom. So I'm gonna say for me and
2 you, that's what, about four feet? (Indicating.)

3 A. Probably about.

4 Q. All right. So if I'm within four feet of you I'm
5 in the danger zone for you, if I'm the mean assailant?

6 A. Describe a mean assailant.

7 Q. Well, I'm just sort of bad person.

8 A. Are you giving me pre-attack cues to where
9 I'm ---

10 Q. I'm giving you pre-attack cues, I've threatened
11 you, you know my history, whatever. You and I have had
12 problems. Okay?

13 A. Okay.

14 Q. So your danger zone with me, four feet?

15 A. What's the question?

16 Q. Is that your danger zone with me, four feet?

17 A. With you, no.

18 Q. Okay. Is it longer or shorter?

19 A. Probably, probably a little shorter.

20 Q. Okay. 3.5.

21 A. What you're trying to do is you're trying to put
22 a measurement on something that only you can articulate
23 yourself in whatever situation you're involved in.

24 Q. Exactly. But I'm just asking you what you
25 consider the danger zone to be for an inmate. I mean, a

1 man can travel very fast, can't he?

2 A. He can.

3 Q. I mean, not an old fella like me, but a young
4 wiry fella can travel fast and could be on you in a
5 heartbeat.

6 A. Speed would be a variable on how I reacted, yes.

7 Q. Speed would be a variable. Speed and distance.
8 The faster the speed, the closer the distance, the less
9 time for officer reaction, correct?

10 A. Correct.

11 Q. This happened fast, yes?

12 A. Right. The gap was closed by the officer very
13 quickly.

14 Q. You don't remember the officer backing away? You
15 didn't see the officer back away?

16 A. (No response.)

17 Q. Did you see the inmate mover forward?

18 A. I saw the inmate take two steps, yes.

19 Q. Okay. Well, that was in the direction of whom?

20 A. The officer.

21 Q. Okay. So the inmate closed the distance, did he
22 not?

23 A. Okay.

24 Q. Well, no I'm asking you. If he didn't, tell me.

25 A. Well, I think both parties closed the distance.

1 Q. Okay. That's your interpretation of it, assume
2 for me a minute that the officer backed up while the
3 officer -- while the inmate moved forward. If that's
4 what occurred, then the inmate closed the distance.
5 Fair enough?

6 A. Fair enough.

7 MR. JOHNSTON: Other questions.

8 THE COURT: Anything?

9 MS. THORNWELL: Yes, Your Honor. May it please
10 the Court.

11 REDIRECT EXAMINATION

12 BY MS. THORNWELL:

13 Q. I'll start where we kind of just left off about
14 pre-attack cues. Inmates aren't the only ones who can
15 give pre-attack cues, correct?

16 A. Correct.

17 Q. And I believe that you said that dropping back to
18 your strong leg would be a pre-attack cue.

19 A. Correct.

20 Q. And a fighting stance would be a pre-attack cue.

21 A. Correct.

22 Q. What specifically about dropping back to your
23 strong leg makes that a pre-attack cue?

24 A. Normally when an individual is getting ready to
25 fight, to gather whatever direct energy they need to

1 strike, they drop back with this, whatever predominant
2 side of the body. If they're left handed, you do this
3 way; if it's right handed it's usually this way.

4 (Indicating.)

5 You know, when we train officers in striking, you
6 know, it's always to drop your leg back. You know,
7 because we teach the straight-arm punch to the
8 midsection. You know, it's dropping a leg back, come
9 back forward with a punch.

10 Q. And I believe you talk about that straight-arm
11 punch. Was that the straight-arm punch, closed-fist
12 punch that was taught at the academy?

13 A. Right. It's a straight-arm punch to the abdomen.

14 Q. And where would your arm be if you were gonna do
15 the straight-arm punch to the abdomen?

16 A. It would be low by your side coming this way.

17 (Indicating.)

18 Q. Do you remember seeing that in the video?

19 A. No. I'm pretty sure that wasn't the direction of
20 the swing in the video.

21 Q. Do you remember seeing whether the officer
22 stepped back on his strong leg?

23 A. I do recall him dropping the keys and stepping
24 back, yes.

25 Q. What about taking a fighting stance?

1 A. Yes, he took a fighting posture.

2 Q. What about the inmate, did the inmate take a
3 fighting posture?

4 A. No, ma'am.

5 Q. Did that inmate step back on his strong leg?

6 A. No, ma'am. He was stepping forward.

7 Q. And I believe on cross you talked about speed and
8 distance and that being a factor in determining whether
9 there was a pre-attack. While the incident was short in
10 nature, what was the speed of the inmate, fast? Slow?

11 A. I would say that it was slow. If it was a
12 planned attack, it was pretty slow on the inmate's part
13 planning to attack.

14 Q. Although the closed-fist punch is taught in the
15 academy as a defensive tactic, is it also taught when to
16 use the closed-fist punch?

17 A. Right. What we're talking about in essence is
18 use of force and the fact that we have to be objective
19 and reasonable. Whether it be a palm heel strike,
20 whether it be OC spray, whether it be our firearm. We
21 have to be objective, meaning that we're not carrying
22 any bias at all when we use force. And it has to be
23 reasonable against whatever resistance we're
24 encountering.

25 And in trying to apply that, you know, it's in

1 the way we teach it, being the lowest level officer
2 presence, moving into verbal commands, soft hand-to-hand
3 control, hard hand control, impact weapons, such as
4 tasers, batons, strikes to the face, strikes to the
5 head. All these meet up against what we call the
6 resistance level, depending on how much resistance we
7 get from the individual. Because we have to be able to
8 control the subject, but we do have to do that
9 objectively and reasonably.

10 Q. I believe you said with no bias.

11 A. No bias.

12 Q. All right. I want to ask about the formal head
13 count. I believe counsel asked or counsel showed you a
14 policy from the South Carolina -- excuse me, the
15 Spartanburg County Detention Center about a formal head
16 count and the head count will be conducted.

17 A. Yes, ma'am.

18 Q. It doesn't say anything about who conducted that
19 head count, only that one should be conducted.

20 A. That is correct.

21 Q. Okay. And you, as a correction officer, have had
22 a bad interaction with an inmate, would it be reasonable
23 for you to conduct a head count?

24 A. That would not be reasonable, at least not with
25 an individual that you had the prior interaction with.

1 Q. One more thing. And I apologize for going out of
2 order?

3 A. You're fine.

4 Q. Back to the pre-attack cues. If an inmate is
5 giving you pre-attack cues inside the cell behind the
6 locked door, what danger does that inmate pose to you or
7 any other individual outside of that locked door?

8 A. As long as that door stays locked and closed
9 there is no danger to anybody on the outside. The only
10 thing that would precipitate us opening the cell to a
11 violent inmate is if the inmate was harming himself or
12 harming another person at that point.

13 Q. And in pod five are there other -- how many
14 individuals are in each cell?

15 A. One per cell.

16 Q. From what you saw on the video, was the inmate
17 harming himself?

18 A. No, ma'am.

19 MS. THORNWELL: I beg the Court's indulgence.
20 Nothing further. Thank you.

21 THE COURT: Anything at all?

22 RE CROSS-EXAMINATION

23 BY MR. JOHNSTON:

24 Q. Did the inmate in this case show pre-attack cues?
25 Can you testify as to whether or not he did inside the

1 door while he was in his room?

2 A. There wasn't very much video to go on.

3 Q. That's all I need to know.

4 THE COURT: Thank you. Officer, you may step
5 down. Please be careful.

6 MR. JOHNSTON: We have no objection to him being
7 excused if he has other duties.

8 MS. THORNWELL: He can be excused.

9 THE COURT: Sir, you may stay or leave, whichever
10 you choose.

11 THE WITNESS: Thank you very much, sir.

12 THE COURT: Yes, sir.

13 (Whereupon, Witness leaves witness stand and
14 courtroom.)

15 MR. WASHINGTON: State calls Agent Collins.

16 THE COURT: Agent, come up and be sworn, please.

17 THE CLERK: Please raise your left hand on the
18 bible and raise your right. (Complies.)

19 Do you solemnly swear or affirm that the
20 testimony that you're about to give will be the truth,
21 the whole truth and nothing but the truth so help you
22 God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you.

25 THE COURT: Agent, situate yourself there, tell

DIRECT EXAMINATION OF JAMES COLLINS BY MR. WASHINGTON

1 us your full name and spell your last name for Madam
2 Court Reporter, please.

3 THE WITNESS: My name is James Michael Collins,
4 C-O-L-L-I-N-S.

5
6 THE COURT: Thank you, Agent.

7 JAMES MICHAEL COLLINS,
8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. WASHINGTON:

11 Q. All right. Agent Collins. How are you?

12 A. Good.

13 Q. Where do you work?

14 A. I work for the South Carolina Law Enforcement
15 Division.

16 Q. And, what -- obviously so you're one of the
17 special agents?

18 A. That is correct.

19 Q. So what does that mean to be a special agent for
20 SLED? Is that what South Carolina Law Enforcement
21 Division is?

22 A. Yes. South Carolina Law Enforcement Division,
23 formally known as SLED. Basically been an agent. My
24 division is we conduct general investigations. We are
25 basically an assistant agency. We come in when we are

1 requested by another agency, especially if they are
2 investigating one of their own employees we are attached
3 with during that investigation, so there is no bias or
4 impropriety on behalf of that agency.

5 Q. Okay. And did another agency request that you
6 get involved in this case here?

7 A. Yes. The Spartanburg County Sheriff's Office,
8 more specifically the Spartanburg County Detention
9 Center.

10 Q. Do you remember about when that was?

11 A. That was August 28th of 2014.

12 Q. So what was the first thing you did when you got
13 assigned to this case back in August of 2014?

14 A. Well, the incident that actually occurred on
15 August the 28th of 2014, the request for our assistance
16 was actually made the following day, August the 29th,
17 which was a Friday. I got it late in the afternoon.
18 That's why there's such a time gap between the incident
19 date and me conducting interviews over the weekend.
20 That's why it leads into September. Once I came in that
21 Monday, I made contact with the Spartanburg County
22 Detention Center, specifically Major Urch, who provided
23 me with a briefing on the incident and the parties
24 involved.

25 Q. All right. When he briefed you, what information

1 did you find out about what officer is assigned to what
2 pod? Do you remember that?

3 A. I was informed that Deputy Styles and Deputy
4 Knighton were assigned to pod five. They were
5 conducting a head count with the oncoming shift, and
6 that an incident had occurred between Deputy Styles and
7 an inmate by the name of Courtney Pauling.

8 Q. Okay. And now during the course of your question
9 investigation, did you ever find out that anything had
10 happened between -- obviously there's the, there's the
11 fight that happened. Was there any investigation that
12 you found that something had happened between the inmate
13 and Mr. Styles earlier in the day?

14 A. Through my investigation after I received the
15 briefing, I also learned that there had been a couple
16 other incidents between Deputy Styles and Inmate
17 Pauling. The first one coming earlier that morning of
18 August the 28th in which Deputy Styles and Mr. Pauling
19 had got into some type of verbal altercation in
20 reference to a sporting event, either a football team,
21 basketball team, something of that nature. Mr. Pauling
22 was under the impression that Deputy Styles had called
23 him a name.

24 MR. JOHNSTON: Your Honor, I'm gonna object.
25 He's just saying what Pauling told him. Pauling's

1 already testified. I mean, I think this is hearsay.

2 MR. WASHINGTON: I think he's testifying as to
3 what his investigation has revealed. It's not necessary
4 what Mr. Pauling told him or what anybody else said.

5 THE COURT: Yes, sir. This is an investigation.
6 Go ahead.

7 BY MR. WASHINGTON:

8 Q. Please continue.

9 A. Again, the investigation revealed that there was
10 some type of altercation about a, you know, a sporting
11 event, a football team, something of that nature, that
12 Mr. Pauling was under the impression that Deputy Styles
13 had called him a name. Does the Court -- pardon my ---

14 THE COURT: That's good enough.

15 THE WITNESS: And that while Deputy Styles was
16 conducting his rounds, Mr. Pauling approached him, had a
17 verbal confrontation with him, threatened to spit in his
18 face. At that time there was no physical altercation
19 between the two of them. Mr. -- Deputy Styles
20 instructed Mr. Pauling to go back to his cell. There
21 was another inmate coming into that pod. And then Mr.
22 Pauling went into his cell.

23 Again, continued my investigation. A following
24 incident happened around lunch time when Deputy Styles
25 was opening the food hatches, which is located at the

1 bottom of the door. Mr. Pauling attempted to throw some
2 type of liquid or fluid on Deputy Styles.

3 Through my investigation, it was determined that
4 none of the liquid or fluid actually made contact with
5 Deputy Styles. I was unable to determine what that
6 fluid or liquid was due to me being called in later
7 after the incident had taken place. And then the third
8 incident was during the head count and the physical
9 altercation, which occurred.

10 BY MR. WASHINGTON:

11 Q. What -- specifically the head count, what did you
12 end up finding out happened. I know you just said a
13 physical altercation occurred, but can you sort of flush
14 that out a little more?

15 A. All right. All three of the incidents were
16 covered through video surveillance and/or a handheld
17 camera. I was actually able to view and make copies of
18 those videos, of those three incidents, specifically the
19 physical altercation that occurred.

20 A head count, I viewed the video surveillance
21 that is stationed in the pod as well as the handheld
22 camera. Again, the handheld camera shows that it comes
23 on as they're walking down to Mr. Pauling's cell door.
24 Deputy Styles opens the door. Mr. Pauling steps out and
25 Deputy Styles drops the keys that he used to unlock the

1 door and then punches Mr. -- punches Mr. Pauling about
2 the face and head area.

3 At that point the other officers that were with
4 Deputy Styles, they subdued Mr. Pauling. And at that
5 point he was taken under control and transported to the
6 medical unit.

7 Q. And very quickly, when you watched the video what
8 do you remember seeing about Mr. Pauling's behavior and
9 demeanor?

10 MR. JOHNSTON: Well, Your Honor, does he really
11 need to describe what's on -- what's there? Does he
12 really need to describe what we've seen and numerous
13 people have already talked about?

14 THE COURT: Well, it's his question. Go ahead.

15 MR. WASHINGTON: Yeah, I mean, it's part of his
16 investigation.

17 BY MR. WASHINGTON:

18 Q. If you would tell us what you remember seeing
19 about Mr. Pauling's demeanor, his behavior.

20 A. Initially looking at the videos, you can see Mr.
21 Pauling standing inside of his cell. There is a long
22 slit of window. You can see him standing at that
23 window. He is pretty close to the door. He doesn't
24 appear to be moving. He's just kind of standing there.
25 And then if you take into account the handheld video,

1 when he steps out, he's walking out, his hands are down
2 by his side. And I didn't hear any -- I didn't hear Mr.
3 Pauling say anything to Deputy Styles. I didn't hear
4 Deputy Styles say anything to Mr. Pauling or vice versa
5 with any of the other deputies that were there.

6 Q. And as a result of all this investigation what
7 did you end up doing?

8 A. As a result of the investigation, I ended up
9 collecting all the facts, taking statements. I put a
10 case file together and I presented that to the ---

11 MR. JOHNSTON: Your Honor, I object. That's
12 irrelevant and prejudicial, what he did with it at that
13 point.

14 THE COURT: Let me see the lawyers.

15 (Whereupon, a bench conference was held off the
16 record.)

17 BY MR. WASHINGTON:

18 Q. Let me ask you a different question. As a result
19 of your investigation, did you end up signing a warrant
20 on -- or, sorry, was a warrant issued for Mr. Styles?

21 A. Yes. The warrants were issued for Deputy Styles.

22 Q. Okay. What were those warrants for?

23 A. Misconduct in office and assault and battery
24 third degree, I believe.

25 Q. All right. Nothing further, Judge.

CROSS-EXAMINATION

BY MR. JOHNSTON:

Q. Assault and battery third degree, that's the lowest level of assault under South Carolina law, isn't it?

A. Yes, sir.

Q. I mean, it doesn't -- I mean, that's the lowest level, right?

A. Yes, sir.

Q. If I met you on the street and I sprayed you and I had some problem with you or I didn't have a problem with you, I just wanted to be a jerk, and I sprayed you with OC spray, would I have committed an assault and battery in the third degree?

A. Yes, if you sprayed me with OC spray it probably would have. Depending on the damage that was done or medical attention, I would have received, it could have been construed as assault and battery third degree.

Q. The worse I do or the worse you get hurt, we go up the chain from assault and battery third to assault and battery second to assault and battery first to assault and battery of a high and aggravated nature, all the way up to attempted murder, right?

A. That's correct.

Q. Okay. But as long as it's just a light spray and

1 you didn't get hurt too bad I would have committed a
2 assault and battery third.

3 A. Again, it's depending on the damage that I
4 received or the medical attention that would have been
5 necessary to fix any damage that was done by the
6 spraying. Again, it can be construed as assault and
7 battery third degree or, depending on the damage, it can
8 be assault and battery first or, you know, like you
9 said, it can move all the way up to attempted murder.

10 MR. JOHNSTON: I don't have any other questions
11 for the gentleman.

12 THE COURT: Anything at all?

13 MR. WASHINGTON: Nothing else, Judge.

14 THE COURT: Agent, you may step down. Please be
15 careful.

16 (Whereupon, Witness leaves witness stand, but
17 stays in courtroom.)

18 THE COURT: Yes, ma'am.

19 MS. THORNWELL: Your Honor, may we approach?

20 THE COURT: Sure.

21 (Whereupon, a bench conference was held off the
22 record.)

23 THE COURT: Madam Forelady, ladies and gentlemen
24 of the jury, I conferred with the lawyers. It's my
25 understanding, and I've kept up with the potential

1 THE COURT: Sir, once you're situated there, pull
2 that microphone, adjust it just a little to how you need
3 it there. Yes, sir. And tell us your full name, spell
4 your last name for my court reporter, please.

5 THE WITNESS: My name is Phillip Steadman Key,
6 K-E-Y.

7 THE COURT: Thank you.

8 MS. THORNWELL: Thank you, Your Honor. May it
9 please the Court.

10 PHILLIP STEADMAN KEY,
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. THORNWELL:

14 Q. Mr. Key, where are you currently employed?

15 A. Advanced Auto Parts.

16 Q. And how long have you been employed there?

17 A. About six months now.

18 Q. Back on August 28th, 2014, where were you
19 employed?

20 A. Spartanburg County Detention Facility.

21 Q. And what was your title or -- yeah, what was your
22 title?

23 A. Detention officer.

24 Q. And what were your duties?

25 A. Inmate safety, security, you know, regular pod

1 officer.

2 Q. So you were, you were an officer who worked
3 inside the units?

4 A. Yes, ma'am.

5 Q. Did you move from unit to unit or were you
6 assigned to a specific unit?

7 A. No, we rotated through units.

8 Q. Back on August 28th, 2014, what unit were you
9 working in?

10 A. It was pod five.

11 Q. And do you know what kind of pod, pod five is?
12 Can you explain to the Court what that is?

13 A. Pod five is the maximum security pod in the
14 facility.

15 Q. And was that your first time working in pod five
16 or had you worked there before?

17 A. No, ma'am, I worked there many times.

18 Q. Back on August 28th, 2014, how long had you been
19 working at the detention center?

20 A. About a year-and-a-half.

21 Q. When you got hired at the detention center did
22 you go through any training?

23 A. Yes, ma'am.

24 Q. What type of training did you go through?

25 A. Went through three weeks of -- at South Carolina

1 Criminal Justice Academy, three weeks of detention
2 certification training.

3 Q. Did you go through training at the detention
4 center as well?

5 A. Yes, ma'am.

6 Q. Let's talk about the training that you went
7 through at the South Carolina Criminal Justice Academy.
8 What did they teach you at that particular training?

9 A. They taught us how to deal with certain
10 situations, how to -- a lot of lead stuff. How to deal
11 with certain situations. How to pat search. How to do
12 defensive tactics. Just a broad spectrum of different
13 things.

14 Q. Did they teach you how to deal with noncompliant
15 individuals?

16 A. Yes, ma'am.

17 Q. Let's talk about the training that you received
18 at the detention center. How long was that training, do
19 you remember?

20 A. It was about a total of three weeks, I believe.

21 Q. Now, let me clarify that question. I'm talking
22 about the training that you received prior, I guess
23 contemporaneously or prior to going to the Criminal
24 Justice Academy. Was that the training you were talking
25 about?

1 A. I was hired on June 3rd of 2014. I went to -- it
2 was between that time before I went to the academy in
3 August. That was -- there was training periodically
4 that I went through during that time.

5 Q. So after you went through the training at the
6 Criminal Justice Academy and you went and you came back
7 to the detention center, did you have additional
8 training?

9 A. Yes. We did have a final, it's kind of like an
10 FTO board would go through, make sure everything was --
11 before we could actually be released into the pods, we
12 had to get, you know, basically wrote down everything
13 before we could actually be released at all to the pods.

14 Q. Now you used a term that the jury may not be
15 familiar with. I know what FTO is, but can you explain
16 to them what FTO is?

17 A. FTO is like a Field Training Officer. I think at
18 the jail we used it as DTO, Detention Training Officer.

19 Q. So was there someone who trained you or a higher
20 ranking person that trained you?

21 A. There was. I had two different training
22 officers, two training officers because it rotated on --
23 we did nights for a couple of weeks and did days for a
24 couple weeks.

25 Q. And the training that you received at the

1 detention center, can you explain to the jury and the
2 Court what that was, what type of training that was?

3 A. It went from everything over like a -- just a lot
4 of different scenario situations. Went through
5 nonlethal force, use of pepper spray, that kind of
6 thing, a lot of legal stuff, book work stuff.

7 Q. So is it safe to say that you had both book work
8 and practical training as well?

9 A. Yes, ma'am.

10 Q. Let's talk about August 28th, 2014. So you get
11 hired there. You said you were working in pod five?

12 A. (Witness nods head up and down.)

13 Q. Were you working -- what shift were you working?

14 A. On August 24th, 2014?

15 Q. The 28th, the day of the incident?

16 A. Okay. All right. Yes, ma'am, I was scheduled to
17 work pod five that day or that evening.

18 Q. And so can you tell the Court and the jury what
19 time you would have been coming in?

20 A. I usually get there about 6 o'clock and then our
21 shift briefing starts at 6:30. Then after 6:30 we
22 release the day shift officers.

23 Q. So what happens during the -- you coming in
24 during the morning and the other the shift leaving?

25 A. So when you get -- the way it works is usually,

1 especially in pod five, you get briefed on these certain
2 situations that happened throughout the day that you
3 want to let your leading officer know about. Any
4 incidents at all, anything that would be out of the
5 ordinary or anything like that.

6 Q. And who have been doing that briefing?

7 A. The officers that you are -- the officers that I
8 would be relieving.

9 Q. On that particular day did you receive any
10 briefings about what happened in the unit that day in
11 the earlier shift?

12 A. Yes, ma'am.

13 Q. What, if anything, was told to you about the
14 brief -- about what happened?

15 A. Me and Deputy Thompson that day were informed
16 that we might have a problem with Inmate Pauling.

17 Q. Had you had any previous issues with inmate
18 Pauling?

19 A. Not that I can remember.

20 Q. So when you came in and were briefed, what
21 happened after that?

22 A. After, after me and Deputy Thompson went in and
23 we were told, you know, just the basic stuff, you know,
24 we all had cell checks, you know, to make sure all the
25 cell checks we did. Just went over the basic, you know,

1 throughout the pod, we might have a problem with Inmate
2 Pauling. Do you want me to go through ---

3 Q. Well, okay. So you have that briefing, you're
4 told you had information. What is the next step usually
5 in the day after you've been briefed?

6 A. So the next step is -- the way it works, you
7 know, pod five is a different pod from other pods. So
8 when you -- the policy at the time was one officer must
9 stay at the officer's desk. The two officers that are
10 leaving will go around and do the head count while the
11 other related officer marks down as a check sheet. We
12 mark down, make sure the inmate's okay, breathing. And
13 you keep going, make sure the head count's correct. So
14 the inmate is in the cell, everybody is accounted for.

15 Q. Okay. Prior to that head -- let me ask you this.
16 Who -- do you remember who you were relieving that day?

17 A. Deputy Styles and Deputy -- I can't think of his
18 name.

19 Q. It's fine. But Deputy Styles is one of the
20 inmates -- or, excuse me, one of the officers that you
21 were relieving?

22 A. Yes, ma'am.

23 Q. Did you have -- you told us that you talked --
24 that someone informed you about what was going on in the
25 pod earlier in the day. Do you remember who informed

1 you of that?

2 A. Both Deputy Styles and -- I can't remember his
3 name. Both of them informed us that we might have a
4 problem with Inmate Pauling.

5 Q. Okay. You get ready to do -- you keep using --
6 you use the word cell check. Is that the same as head
7 count or is that different?

8 A. No, ma'am. It's called a cell check sheet. It's
9 for an inmate, someone who may be suicidal, maybe acting
10 different. Just want to keep an extra check on them
11 just for safety and security purposes.

12 Q. Do you also perform a head count as well at the
13 change of shift?

14 A. Oh, yeah. Yes, ma'am.

15 Q. What, if anything -- prior to the head count
16 what, if anything, other than you might have an issue
17 with Pauling did you discuss with Deputy Styles?

18 A. We were both informed that we were probably gonna
19 have an issue with Deputy -- Inmate Pauling. As many
20 times as I work pod five, I hear that quite often. You
21 know, it's one of those things that, you know, as many
22 times as you work, you know, I mean you just kind of go
23 with it.

24 But in this particular instance, I guess it was
25 kind of -- I guess it was different. But not really not

1 too much out of order. I guess that makes sense, but
2 before we walked down, Deputy Styles did hold his -- did
3 say something to the effect of I want to make sure my
4 shoes are tied before I go into a fight or something to
5 that nature.

6 Q. And that was prior to the head count beginning?

7 A. Yes, ma'am.

8 Q. Where were you during the head count?

9 A. I was in the officer's desk.

10 Q. And so you, I guess just for I guess visual
11 purposes, can you can kind of explain how the pod is
12 laid out?

13 A. So the maximum security pod -- I'll just kind of
14 use this courtroom as kind of a demonstration. So if
15 this is the officer's desk, you have cell walls that go
16 all the way around, all the way back and to the right.
17 And you have an upper tier and a lower tier. And the
18 officer's desk is enclosed in glass all the way around.
19 (Indicating.)

20 So you always keep separate from -- the officer's
21 desk is always separate from the main unit, so inside
22 the pod. So we've got doors down here, we've got doors
23 on the back side, we've got doors on the right side.
24 And you've got stairs on the top side of the glass.
25 (Indicating.)

DIRECT EXAMINATION OF PHILLIP KEY BY MS. THORNWELL

1 And -- but the way -- so you've got three
2 different sections, I guess is what I'm trying to say.
3 So there's always someone at the officer's desk and
4 that's just for safety and security purposes. When
5 inmates are let out, you have one on this side can be
6 let out at one time or on the top glass and one on the
7 right side. So they're always sitting. No inmate ever
8 rotates with another, just for safety and security
9 purposes.

10 Q. Now, at the security desk or the officer's desk
11 that you're talking about, do you have a visual? Can
12 you see clearly every section?

13 A. Pretty much, yes, ma'am.

14 Q. Specifically -- let me ask you this. If we're
15 using the same layout that you just showed, can you tell
16 me where Inmate Pauling's cell would have been?

17 A. Inmate Pauling's was cell one, so it's directly
18 right here. (Indicating.)

19 Q. And would you have had a clear view of that cell?

20 A. Yes, ma'am.

21 Q. So the head count begins. And who goes down to
22 -- who -- if you can remember the names to people that's
23 fine. Who goes down to do the head count for this
24 particular shift change?

25 A. Deputy Thompson, he was actually the person doing

1 the head count. So it would be Deputy Thompson, Deputy
2 Styles and then the other deputy would be holding the
3 camera.

4 Q. And can you, can you hear the conversations
5 that's had between anybody at the cell?

6 A. No, ma'am.

7 Q. Okay. So you can't hear anything but you can
8 see?

9 A. Yes, ma'am.

10 Q. So describe what happened at head count on that
11 particular day.

12 A. So what happened was Deputy Styles goes straight
13 down to the cell followed by, I guess, the other deputy
14 holding the camera. I think Deputy Thompson was behind
15 him. And Deputy Styles went to the door and Inmate
16 Pauling was standing at the door. Deputy Styles turned
17 the -- opened the door, stepped back and made Pauling
18 step out, faced him and Deputy Styles punched him in the
19 face.

20 Q. Punched who in the face?

21 A. Inmate Pauling.

22 Q. So you've been through the same training that
23 Deputy Styles has been through, correct?

24 A. Yes, ma'am.

25 Q. What were you trained to do if an inmate is

1 standing at the cell door during head count?

2 A. So in pod five or just any pod, the inmate's
3 supposed to be standing at their bunk, okay? They're
4 supposed to be standing right in front of their bunk.
5 If the inmate is, especially in pod five, is standing at
6 the cell or at the door, they're requested to go stand
7 straight back at their bunk. Failure to comply with
8 those, you know, those orders, then that's another
9 situation.

10 Q. So you're saying that they were supposed to be
11 given a verbal command to move?

12 MR. JOHNSTON: Your Honor, I think she's leading,
13 I think she's suggesting that.

14 THE COURT: All right. I'm gonna let it go. Go
15 ahead.

16 BY MS. THORNWELL:

17 Q. Can you just repeat what you said. I'm sorry, I
18 didn't hear you, that's why I'm asking it again.

19 A. Okay. So the inmate is supposed to be standing
20 in front of the bunk during head count. That's
21 something that it's where they're supposed to be.

22 Q. And if they're not standing where they're
23 supposed to be, what should, what should be the first
24 thing you do?

25 A. Instruct them to stand back there at their bunk.

1 Q. Okay. So you're supposed to instruct them to go
2 back to their bunk?

3 A. Yes.

4 Q. Okay.

5 A. Yes.

6 Q. And then I believe you said what if that doesn't
7 happen, that's a different story. So then what happens
8 if that doesn't happen?

9 A. They're not complying with the orders, so...

10 Q. And what are you trying to do if an inmate does
11 not comply with your orders and they're behind the cell
12 door?

13 A. Are you talking about in pod five?

14 Q. In pod five, yes. We're specific -- we're only
15 gonna talk about what the pattern is in pod five.

16 A. If an inmate is standing straight at the door
17 especially at head count and they're not -- and they're
18 not complying with the orders, we're not opening in pod
19 five, we're not opening the door.

20 Q. So you don't open the door at all if they're not
21 compliant with the orders; is that correct?

22 A. Yes.

23 Q. So if it's during head count, I know you said
24 that head count you're supposed to make sure somebody's
25 breathing and okay; the cell is okay. If you're unable

1 to do that at head count, what happens?

2 A. If you don't know if they're breathing or?

3 Q. No. If you're unable to go into the cell and
4 check the cell, what happens?

5 A. The main purpose for head count is to make sure
6 the inmate is actually there and the inmate is okay, the
7 inmate's moving, the inmate's breathing, okay? If
8 they're not complying and they're not, you know, they
9 don't -- they usually lose rotation for the day or other
10 consequences done that day.

11 Q. So you're saying the main purpose is to make sure
12 that person is there and alive?

13 A. Yes, ma'am. They're accounted for and alive.

14 Q. All right. So in this particular situation I
15 believe you said that you shouldn't open the door, but
16 what happens if the door is opened?

17 A. So like on a regular or a normal situation or are
18 you talking about if the inmate is standing at the door?

19 Q. Right. Let's just say that for whatever reason
20 the inmate is standing at the door, he's noncompliant,
21 but the officer still opens the door and the inmate
22 comes out, what should happen? What were you trying to
23 do if an inmate comes out of his cell?

24 A. If an inmate just walks out of his cell it's more
25 of a, you know, give me assistance. It's more of

1 someone needs to call for assistance. The inmate is not
2 supposed to walk out of the cell unassisted. It's not
3 supposed to happen at all. You can instruct the inmate
4 to go back into the cell, you can use verbal commands to
5 go back to the cell. I hope that kind of answered your
6 question.

7 Q. It does. So if I go use verbal commands and I'm
8 forced to use -- I use full force, what type of force
9 would I have to use or what type of force were you
10 trained to use?

11 A. Pepper spray.

12 Q. If you don't have time to use pepper spray or
13 it's not safe to use pepper spray, what would be the
14 next course of action?

15 A. We were trained to use like a -- something -- you
16 know, the main thing is to call for assistance. We're
17 trained to use non, you know, non lethal. I mean, you
18 kind of push someone off of you. If you don't have
19 time, you can do something like that, you know, push
20 somebody off of you. It's nonlethal force all the way
21 around.

22 Q. When you say non-lethal force, what do you
23 consider non -- what do you consider lethal force in
24 that particular situation according to your training?

25 A. South Carolina Criminal Justice Academy taught us

1 that you could not use any closed hand to the head.

2 That is considered you can't, you can't use that, if
3 that makes sense.

4 Q. It does. And so that's what you remember your
5 training to be?

6 A. Yes.

7 Q. So let me kind of back up from the details of
8 what happened. Have you ever had in a situation at the
9 jail where an inmate threatened you or was threatening
10 towards you?

11 A. Yes, ma'am.

12 Q. When that situation occurred, what, if anything,
13 did you do as far as your interaction with that inmate?

14 A. If an inmate ever threatened me or anything like
15 that the first thing I'd do is notify the supervisor and
16 remove myself from that situation.

17 Q. When you say remove yourself from the situation,
18 do you mean remove yourself from the pod or remove
19 yourself from -- what do you mean?

20 A. Not necessarily with the pod. That would be the
21 supervisor's decision on that. There could be criminal
22 action against the inmate or it could be, you know, just
23 disciplinary action.

24 Q. Would you inter -- would you continue to interact
25 with that inmate?

1 A. No, ma'am.

2 MS. THORNWELL: I beg the Court's indulgence.

3 BY MS. THORNWELL:

4 Q. Just a few more questions. I want to go back to
5 right before head count began and you said you had a
6 conversation or overheard something that Deputy Styles
7 said. Who was around at that time?

8 A. I don't, I don't know. Honestly I can't really
9 remember. I don't know if Deputy Thompson was there to
10 hear that or not. I don't really remember.

11 Q. But as far as you know it was just you and
12 Styles?

13 A. I think there were other people there. I don't
14 know if they heard it or not.

15 Q. Okay. You talked about an inmate being
16 noncompliant and being behind the door and calling for
17 officer assistance. Who would have made that call?

18 A. We're all issued during those. Any one of us in
19 the pod could have made that call. That particular
20 instance after the whole incidence I made the officer
21 assistance call.

22 Q. Okay. So you called. Who did you call during
23 that incident?

24 A. When you call officer needs assistance, it's a
25 radio frequency that goes all through the jail, so any

1 -- that's all deputies inside that can report to the
2 situation or report to it.

3 Q. By the time you made the officer assistance call,
4 had Inmate Pauling been taken down? Do you remember?

5 A. As far as I remember, as soon as I saw Deputy
6 Styles strike Inmate Pauling that's when I made the
7 call. I don't know if he was laying down when I made
8 that call. I can't remember as far as the timing, but
9 as soon as I saw it happen I called officer assistance.

10 Q. Is there a special unit at the jail that responds
11 to calls as well?

12 A. No, ma'am. Officer assistance is anybody that's
13 -- officer assist calls is anybody who can respond,
14 respond to the unit.

15 Q. Do you remember if a special unit responded to
16 the call as well that day?

17 A. No, ma'am, I do not.

18 Q. Okay. You said you were able to see Inmate
19 Pauling's cell at the time, you had a view of that.
20 When inmate Pauling came out of the cell were you able
21 to see where his hands were?

22 A. His hands were by his side.

23 Q. At any point did his hands come up to -- or let
24 me ask you it this way. At any point did he attempt to
25 hit Deputy Styles?

1 A. Not that I saw.

2 Q. So the only person you saw hit somebody was
3 Deputy Styles?

4 A. Yes, ma'am.

5 MS. THORNWELL: I beg the Court's indulgence. No
6 further questions, Your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. JOHNSTON:

10 Q. Curious, Mr. Key, how did you come to leave the
11 employ of the Spartanburg County detention facility?

12 A. Why did I leave Spartanburg County detention
13 facility?

14 Q. Yeah.

15 A. It was just personal reasons.

16 Q. Well, I don't want to get into your private
17 business, so if it's something about your home life or
18 something I'm not gonna go into that.

19 A. Yes, sir.

20 Q. Was it something to do with the job conditions at
21 least in part?

22 A. Somewhat, yes, sir.

23 Q. Okay. Well tell me about that.

24 A. About the job conditions?

25 Q. Yeah, the job conditions that prompted you to

1 want to leave, to go somewhere else.

2 A. It was just stuff that I just -- personal reasons
3 that I just disagreed with.

4 Q. All right. You didn't like the way some of the
5 things that were being done. You were uncomfortable
6 with it?

7 A. I guess you could say that.

8 Q. Okay, fair enough. Had you planned to make law
9 enforcement a career?

10 A. At the time, yes, sir.

11 Q. Okay. Now you're at Advance and you're looking
12 at maybe some other kind of work?

13 A. I go to school full time.

14 Q. Okay, good. Good. This setup in pod five, as
15 last time I was there, you've got the desk. Let's kind
16 of say maybe the desk is here for what I'm trying to
17 demonstrate. (Indicating.)

18 A. Right.

19 Q. So you're sitting here at the desk, okay? Then
20 there's a door maybe about right where you are. And the
21 door is when you go into the interior of the cell block.
22 Is that ---

23 A. That's just about right.

24 Q. Is that a fair statement?

25 A. Yes, sir.

1 Q. So behind you is then down some steps, maybe like
2 not behind you there, but behind this position here of
3 the door. This door opens and got some steps that go
4 down.

5 A. Towards the cells.

6 Q. Towards the cell, yes.

7 A. That's correct.

8 Q. Okay. Can you estimate for me the distance
9 between you here at the desk and the door. The door
10 going into the cell block interior, just ballpark.
11 (Indicating.)

12 A. Maybe eight to ten feet.

13 Q. Eight to ten feet. Now behind you, down the
14 steps and then leading up to the actual cell door, in
15 this case cell door number one where Mr. Pauling was
16 housed.

17 A. Yes, sir.

18 Q. How many additional feet from this door?

19 A. Maybe 24 feet.

20 Q. Twenty-four feet?

21 A. Something like that.

22 Q. So is it fair to say that you were 32 feet away
23 -- 32 feet away from what happened?

24 A. Yes, sir.

25 Q. Is that fair to say?

1 A. Fair to say.

2 Q. Okay. The other thing is it's down a level. I
3 don't know how many steps are on the interior. Maybe
4 you do. At least three or four. It might be more than
5 that. Is it three or four steps?

6 A. Maybe three, four, five, something like that.

7 Q. Okay. So you're 32 feet away and you're between
8 three and six steps below your line of sight, correct?

9 A. That's correct.

10 Q. Okay. And in between you seated here and the
11 door is a glass wall. (Indicating.)

12 A. That's correct.

13 Q. Is it a glass wall?

14 A. Yes, sir.

15 Q. That goes all the way to the end?

16 A. Yes, sir.

17 Q. And the glass wall has some steel, I imagine?

18 A. Yes, sir.

19 Q. Holders, whatever you call it that holds up the
20 roof?

21 A. Yes, sir.

22 Q. So do you remember being asked to write a report
23 or writing a report for the authorities in the jail
24 about this incident?

25 A. Yes. Any time a situation happens like that you

1 write a report.

2 Q. All right. And when they tell you to write a
3 report, you've been trained how to write a report,
4 haven't you?

5 A. That's correct.

6 Q. Is it fair to say that the training in how to
7 write a report includes that you should try to include
8 all of the important information?

9 A. That's correct.

10 Q. Now, it is certainly not possible to include
11 every detail of what occurred.

12 A. Yeah.

13 Q. That would -- I mean I guess it is possible, but
14 it's really not worth the time to say, you know, that
15 Deputy Styles had his hair cut short that day because it
16 doesn't matter.

17 A. That's right.

18 Q. Okay. But you are supposed to include the
19 important details.

20 A. Yes, sir.

21 Q. Okay. Take a look at this, please, and just tell
22 me. Don't say anything about it other than do you
23 recognize it?

24 A. I recognize it.

25 MR. JOHNSTON: All right. I'd like to have this

1 marked for identification.

2 THE COURT: Marked for I.D. purposes.

3 (Whereupon, Defendant's Exhibit Number 18,
4 Written Statement of Deputy Keys, was marked for
5 identification.)

6 BY MR. JOHNSTON:

7 Q. Please read this statement over to yourself.

8 A. Yes, sir.

9 Q. Is that your report? Does it have your signature
10 on it?

11 A. It does have my signature, yes, sir.

12 Q. Okay. Is there a question as to whether it's
13 your official report?

14 A. I'm just trying to make sure. I had two reports.

15 Q. Okay.

16 A. Okay? The first report I wrote was right after
17 the incident happened. And then I ---

18 Q. Is that what you're talking about? Is that it,
19 what I gave you?

20 A. That's what I'm checking now.

21 Q. All right.

22 A. I'm trying to figure ---

23 Q. Okay.

24 A. I'm trying to figure out which report you're
25 giving me.

1 Q. All right.

2 A. This was my first report.

3 Q. Okay. Does it have a date on it?

4 A. It does.

5 Q. What's the date?

6 A. 9/12/2014.

7 Q. Well then it wasn't written the same -- if that's
8 your first report, it wasn't written the same day.
9 Couldn't have been because this happened on 8/28. If
10 that's the correct date on there. I really don't know.

11 A. I believe this ---

12 Q. If you're not sure, it really doesn't matter for
13 the purposes of what I'm asking, but I'm going to give
14 you every opportunity to consider it.

15 A. I know I wrote two reports.

16 Q. Yes, sir.

17 A. One that happened the night I wrote that evening
18 of the incident.

19 Q. Got it.

20 A. And one when I met with the gentleman right
21 there. (Indicating.)

22 Q. You gave a statement to the SLED agent?

23 A. Yes.

24 Q. Okay.

25 A. I'm just trying to make sure before I say

1 anything further.

2 Q. Okay. All right. Well, I have the statement
3 that you gave to the SLED agent. I'm gonna show that to
4 you right now and see if that helps you.

5 A. Yes.

6 Q. Okay. All right.

7 MR. JOHNSTON: All right. Your Honor, I'd like
8 to have that one marked for I.D. as well, please.

9 THE COURT: So marked.

10 (Whereupon, Defendant's Exhibit No. 19, Statement
11 of Deputy Key, was marked for identification.)

12 BY MR. JOHNSTON:

13 Q. Okay. Now, are we reasonably confident that we
14 have all of the report statements that you made?

15 A. Yes. That's what I was trying to make sure is
16 the signatures of all of the one's I did.

17 Q. Okay. Well, that's fine. That's not a problem.
18 Okay. Now, to the, to the thrust of what I'm saying,
19 trying to get it. That first report, that's the report
20 you made to your supervisors?

21 A. That first report is what I made that evening,
22 yes, sir.

23 Q. Okay. And, again, you're trained in how to write
24 a report?

25 A. I was asked to write that report that night, that

1 evening. It had to be turned in that evening.

2 Q. Okay. And do you know why it says 9/12 on it?
3 Maybe that's -- maybe because the SLED agent used that
4 as part of ---

5 A. That's what's kind of throwing me off a little
6 bit.

7 Q. Yeah. I think maybe the SLED agent used that as
8 part of ---

9 MS. THORNWELL: Objection, Your Honor. I think
10 he's testifying. He's testifying. If the witness
11 doesn't know why it's in there, the witness doesn't know
12 why it's in there.

13 MR. JOHNSTON: Okay. Well, we can do that.

14 BY MR. JOHNSTON:

15 Q. That first statement, you wrote it the night it
16 happened, right?

17 A. Yes.

18 Q. Okay. You don't know why it says September the
19 12th, do you?

20 A. (Witness shakes head back and forth.)

21 Q. Is that a no, sir?

22 A. I don't know why.

23 Q. That's fine. Okay. But it is your statement and
24 it does have your signature on it and you think you
25 wrote it that night?

1 A. Yes.

2 Q. And that would be contemporaneous close to the
3 time when all these things happened?

4 A. Yes, sir.

5 Q. And you're trained to put all of the important
6 material in your report.

7 A. Yes, sir.

8 Q. Now, does that report, Defendant's Exhibit for
9 identification Number 18, does that contain the verbiage
10 about shoes being tied?

11 A. No, sir, it doesn't.

12 Q. It doesn't say that, does it?

13 A. No, sir, it doesn't.

14 Q. The verbiage about the shoes being tied doesn't
15 come about until you speak to the SLED agent. It
16 doesn't appear in the report until you speak with a SLED
17 agent.

18 A. That's correct.

19 Q. And that was on September the 12th.

20 A. That's correct.

21 Q. Which by your recollection, this one is prepared
22 the night of, this one is prepared almost two weeks
23 later.

24 A. That's correct.

25 Q. Okay. Now, one of the things I want to ask you

1 is by the time you told the SLED agent about that it had
2 been almost two weeks, correct?

3 A. That's correct.

4 Q. You agree with that?

5 A. (Witness nods head up and down.)

6 Q. And you wrote down specifically you were very
7 cautious in how you wrote it. You used the term "along
8 the lines of", is what you said.

9 A. Yes, sir.

10 Q. Do you agree?

11 A. (Witness nods head up and down.)

12 Q. You said that Deputy Styles made the statement
13 about his shoe laces. You used the cautionary term he
14 made the statement along the lines of, correct?

15 A. That's correct.

16 Q. Now, I take it from that that you didn't want to
17 say that that was an exact quote and that that's why you
18 put the cautionary term you said, along the lines of.
19 Fair to say?

20 A. It was something to that nature.

21 Q. Something to that effect. Which is not -- which
22 means that you were not proposing to give a direct quote
23 of what he said.

24 A. I was just -- I was -- in my report I'm just
25 stating what I heard.

1 Q. What you heard, along the lines of what you
2 heard?

3 A. That's correct.

4 Q. To that effect?

5 A. What do you mean?

6 Q. Something to that effect?

7 A. To the best of my knowledge that's what I heard.

8 Q. Okay. Well, you didn't write it down there to
9 the best of my knowledge. You didn't say to the best of
10 my knowledge he said this. You said he said something
11 along the lines of this, correct?

12 A. That's in my statement, yes, sir.

13 Q. All right. Now, is it a good idea any time
14 you're walking around the pod to keep your shoes tied?

15 A. Yes, sir.

16 Q. I mean, you don't want to slip and fall. And any
17 time you're dealing with inmates there's potential
18 danger. Do you agree with that, sir?

19 A. Yes, sir.

20 Q. Any time you're dealing with potential danger
21 you'd want to have your shoes tied, wouldn't you?

22 A. Yes, sir.

23 Q. Okay. There was no secret that there had been
24 some trouble between Inmate Pauling and Deputy Styles.
25 That was reported to you and Officer Thompson as the

1 relief showed?

2 A. That's correct.

3 Q. So there was nothing hidden about it. In fact,
4 it was expressed clearly, hey, Pauling, issue, watch
5 out, concern.

6 A. Yes, sir.

7 Q. Don't open the door. Is that, is that, is that
8 in the policies and procedure manual?

9 A. To not open the door?

10 Q. Yeah, if the inmate is standing at the door, is
11 that in the policies and procedure manual?

12 A. That's how -- that's just how our shift is.
13 That's how we were told on our shift to do.

14 Q. Well, I understand but I'm asking you if it's in
15 the policy and procedure manual?

16 A. I do not -- I cannot remember, sir.

17 Q. Okay. Well, if I told you it's not there would
18 that surprise you?

19 A. What do you mean by surprise me?

20 Q. Well, would you -- I don't know how to make --
21 how to change that.

22 A. Would it surprise me that it's not in there?

23 Q. Yes. That's what I'm asking you. Would it
24 surprise you that it's not in there? That there's no
25 reference to don't open the door?

1 A. I just don't like the word surprise because it's
2 not -- I don't like that.

3 Q. Okay. Well ---

4 A. I mean it wouldn't --

5 Q. -- would you find it unexpected that it's not in
6 there?

7 A. No, sir.

8 Q. Is that -- all right. Did you ever talk to
9 Deputy Styles, know anything about his history?

10 A. No.

11 Q. I mean, as far as did you know he worked at the
12 Department of Corrections before he came to Spartanburg
13 County? Did you know that?

14 A. No, sir.

15 Q. Okay. You don't know when he attended the
16 Criminal Justice Academy, do you, sir?

17 A. I do not, no, sir.

18 Q. He wasn't in your class, was he?

19 A. No, sir, he was not.

20 Q. Okay. So it's certainly possible that the
21 training could have been different through your class
22 than from his class?

23 A. Yes, sir.

24 Q. Especially if he attended sometime before you.

25 A. Yes, sir.

1 Q. Because those things do change.

2 A. It's possible.

3 Q. You seem to place great reliance upon the fact
4 that a call for assistance should be made in Deputy
5 Styles' situation.

6 A. What do you mean?

7 Q. You said -- didn't you tell the prosecutor that
8 if you're confronted with a situation like what Styles
9 was confronted that you would have called for
10 assistance? Didn't you say that?

11 A. That's just what I would do in that situation.

12 Q. Okay, fair enough. You'd call for assistance.

13 A. Right.

14 Q. Now, there were already two other, two other
15 officers with Deputy Styles.

16 A. That's correct.

17 Q. So he had some assistance already, yes?

18 A. Yes.

19 Q. I mean, he didn't have everybody in the place.
20 He didn't have the assault team, but he had two other
21 trained correctional officers or two other trained
22 detention officers right with him, right?

23 A. Yes, sir.

24 Q. Okay. Have you watched the video between Pauling
25 and Styles? Have you watched that?

1 A. After the incident happened I watched it.

2 Q. All right. So it's been quite some time ago.

3 A. That's correct.

4 Q. Okay. Well, would it surprise you that the whole
5 incident lasted -- well, would you, would you find it
6 unexpected that the whole incident only lasted a matter
7 of seconds?

8 A. No, I remember it happened pretty quick.

9 Q. You remember it happened pretty quick?

10 A. It happened quick.

11 Q. Calling for assistance requires time of getting
12 the radio, squawking it up or whatever you do and
13 issuing the command or the request. That takes time,
14 doesn't it?

15 A. If you're asking if it takes time, I mean it
16 takes time.

17 Q. Yes, that's what I'm asking, it takes some time.
18 The other thing is it takes considerably more time
19 before any assistance is going to arrive.

20 A. Yes, sir.

21 Q. You are not allowed to leave your desk under any
22 circumstances.

23 A. That's correct.

24 Q. So you can't go down there.

25 A. That's correct.

1 Q. So you have to wait for other officers to come
2 from other parts of the jail.

3 A. That's correct.

4 Q. And they may or may not be in a position to
5 instantly drop what they're doing and come. They're
6 gonna do the best they can, but it's going to take time.

7 A. Yes, sir.

8 Q. They're not gonna get there in three seconds, are
9 they?

10 A. No, sir.

11 Q. Pepper spray takes time, doesn't it? I mean, if
12 you don't have it in your hand ready to go right now,
13 it's on your belt, it's in a pouch.

14 A. Yes, sir.

15 Q. You've got the flap. You've got to unloosen the
16 flap. You've got to pull it out, you've got to point it
17 and you've got to fire it.

18 A. Yes, sir.

19 Q. That takes some period of time, does it not, sir?

20 A. Yes, it sure -- yes.

21 Q. Okay. Which is quicker, doing that, undoing the
22 flap, pulling out the pepper spray, aiming and firing it
23 or using a closed-fist strike? Which is quicker?

24 A. I'm not sure.

25 Q. You're not sure?

1 A. I imagine a closed-fist strike is quicker.

2 Q. I imagine too. Please answer any other
3 questions.

4 THE COURT: Anything?

5 MS. THORNWELL: Yes, Your Honor, briefly. May it
6 please the Court?

7 REDIRECT EXAMINATION

8 BY MS. THORNWELL:

9 Q. There's a little -- I'm a little confused. Let's
10 go back to you said that you would do -- you would call
11 for officer assistance. Specifically when would you
12 have called the officer's assistance? If you were
13 facing the same situation with the inmate at the door
14 behind a locked door, when would you have called for
15 officer assistance?

16 A. If he's behind a locked door I would not call for
17 officer needs assistance.

18 Q. I believe in your direct testimony you were
19 talking about if an inmate is noncompliant and behind a
20 locked door.

21 A. Call for a supervisor.

22 Q. You call -- okay.

23 A. If he's, if he's noncompliant in his cell, he's
24 in his cell, I mean, you can keep moving on from that
25 point on, if that makes sense. Not really calling for

1 officer needs assistance if he's noncompliant inside his
2 cell.

3 Q. If the door remained locked and you needed
4 assistance, would that give you time to get assistance?

5 A. If the door remained locked and the inmate is in
6 the cell?

7 Q. Yes.

8 A. Yes.

9 MS. THORNWELL: Beg the Court's indulgence.

10 BY MS. THORNWELL:

11 Q. One more question and I apologize. We talked
12 about the distance from the booth or I forget what you
13 call it, the booth that you were at and the cell. Is
14 32 feet within the range of this courtroom?

15 A. From which, from which direction?

16 Q. From any direction. If you're against the wall
17 here and you're looking back there, is it within that
18 range? (Indicating.)

19 A. Yes.

20 Q. So you would have had a view of what happened?

21 A. Yes.

22 Q. Even if it was 32 feet away?

23 A. Yes.

24 MS. THORNWELL: No further questions.

25 THE COURT: All right. Anything at all?

RE CROSS-EXAMINATION

1
2 BY MR. JOHNSTON:

3 Q. Did your view allow you to see Inmate Pauling's
4 hands?

5 A. Did my view allow me to see Inmate Pauling's
6 hands?

7 Q. Yes.

8 A. Yes.

9 Q. Did you notice anything about his hands?

10 A. What do you mean?

11 Q. Did you notice whether or not they were clenched?

12 A. Inmate Pauling's hands?

13 Q. Yes.

14 A. Yes.

15 Q. Inmate Pauling's hands were clenched?

16 A. That's what my statement says.

17 Q. Was that true?

18 A. Yes, that's true.

19 MR. JOHNSTON: Okay. No other questions.

20 THE COURT: Sir, you may step down. Please be
21 careful.

22 MR. JOHNSTON: We have no objection to him being
23 excused if he has other business.

24 MS. THORNWELL: He can be excused, Your Honor,
25 thank you.

1 THE COURT: Okay. We'll have the jury.

2 (Whereupon, jury enters courtroom at 10:50 a.m.)

3 THE COURT: Madam Forelady, everything okay with
4 my jury?

5 MADAM FORELADY: Yes, sir.

6 THE COURT: Mr. Johnston.

7 MR. JOHNSTON: Your Honor, at this time the
8 defense rests.

9 THE COURT: The defense rests, okay. Anything
10 from the State?

11 MS. THORNWELL: Nothing from the State, Your
12 Honor. We're ready for arguments.

13 THE COURT: Okay. Madam Forelady and ladies and
14 gentlemen, the defense has now rested and there's
15 nothing further from the State which means that all of
16 the evidence that's gonna be presented in this case is
17 now before you at this time. So I ask that you give
18 close attention to the lawyers as they make closing
19 statements and then I will charge you on the law and
20 then you begin deliberations after that.

21 Okay. You ready?

22 MS. THORNWELL: (Nods head up and down.)

23 THE COURT: All right.

24 MS. THORNWELL: May it please the Court?

25 THE COURT: Yes, ma'am.

1 CLOSING ARGUMENT

2 BY MS. THORNWELL:

3 Good morning ladies and gentlemen of the jury.

4 (Whereupon, jury members respond good morning.)

5 As the judge just stated, at some point after we
6 both argue he will give you the law that you are to use
7 to apply to the facts of this case. I'm before you
8 right now to give you a version of law so that you can
9 apply it to our case.

10 The law in this case, the defendant in this case
11 is charged with assault and battery third degree and
12 misconduct in office. Start with assault and battery
13 third degree. Statute says it is unlawful to injure
14 another person or offer or attempt to injure another
15 person with a present ability to do so.

16 Now our laws in South Carolina define injury.
17 They define great bodily injury and moderate bodily
18 injury. They don't necessarily define injury. But in
19 this case it doesn't have to be a great injury, it can
20 be any injury. It could be a scratch, a bruise, a
21 headache, injury. You hit somebody without a legally
22 justifiable reason, you've committed assault and battery
23 third.

24 We're also talking about misconduct in office.
25 Now, misconduct in office is not codified in our state.

1 It's a common law case. And it says that it is -- it is
2 a willful, dishonest and corrupt breach of public duty
3 and it may involve malfeasance, misfeasance and
4 nonfeasance. Those are really big words and I'll break
5 them down for you.

6 What is a misfeasance? A misfeasance is the
7 improper performance of an otherwise lawful act like
8 opening the door that should have remained locked. What
9 is malfeasance? Malfeasance is the submission of an
10 unlawful act, like committing an assault and battery
11 third on an inmate. What is nonfeasance? Nonfeasance
12 is a nonperformance of a required act.

13 Now, the State has the burden of proof in this
14 case, something that we take on and we're proud to take
15 on. And the burden of proof in this case is reasonable
16 doubt. It's the highest standard, the highest burden
17 that we have to prove. It's not proof beyond all doubt.
18 There is nothing in this world that could be firmly
19 convinced or completely convinced about it. But what
20 reasonable doubt is, is that which would leave you
21 firmly convinced of the defendant's guilt.

22 We believe that the evidence that has been
23 presented over the past couple days will leave you
24 firmly convinced of the defendant's guilt of assault and
25 battery third and misconduct in office. Thank you.

CLOSING ARGUMENT BY MR. JOHNSTON

1 MR. JOHNSTON: May it please the Court?

2 THE COURT: Yes, sir.

3 CLOSING ARGUMENT

4 BY MR. JOHNSTON:

5 Q. Madam Forelady, ladies and gentlemen of the jury,
6 back in the 1760's a man by the name of William
7 Blackstone, an Englishman, was an important commenter
8 and writer on the formulation of the common law which,
9 of course, comes down to us from England. And he wrote
10 a treatise called commentaries on the laws of England.
11 And in that particular work he came up with something
12 which has been known today as Blackstone's Formulation
13 or Blackstone's Ratio. And that is, it is better that
14 ten guilty persons escape than one innocent person
15 should suffer.

16 Ladies and gentlemen, that's why the law, as it
17 comes to us from England through our constitution is as
18 it is today. That is because innocence and the
19 presumption of innocence is highly valued in our
20 society. It's better that ten guilty persons escape
21 than that one innocent person should suffer.

22 So our law is this. The State, the government,
23 must establish each and every element of the offenses
24 with which the defendant has been charged. And they
25 must prove them beyond any reasonable doubt. The judge

1 is going to tell you that if you have a reasonable
2 doubt, any reasonable doubt as to the guilt of Mr.
3 Styles, then it will be your duty to find him not
4 guilty.

5 Now, another way that innocence is valued in our
6 system is that there is no requirement for a person to
7 take the stand when he's been charged. The judge is
8 gonna tell you about what the law on that is. A person
9 who's been charged never has to take the stand. And in
10 order for that right to be effective, it is up to you,
11 ladies and gentlemen, to follow his to follow the
12 verbiage that you can't consider the fact that Atraus
13 didn't testify against him. In fact, the judge is going
14 to tell you that you can't even discuss the fact that he
15 didn't testify in this case, because that's not what
16 this case is about. It's not whether Atraus can prove
17 to you that he's innocent. It's about whether they can
18 prove beyond any reasonable doubt that he is, in fact,
19 guilty.

20 We have learned what goes on behind the walls of
21 pod five. Pod five, as I imagine you've learned,
22 carries a special stigma, special mystique, special
23 danger. It is the place where the worst of the worst
24 are housed. This is where people who are in jail
25 awaiting trial and they can't behave while they're in

1 jail waiting trial. So what do they do with them? They
2 put them in maximum security. They put them in lock
3 down. They put them in pod five.

4 Apparently pod five is a place where physical
5 threats are common place and the throwing of bodily
6 fluids is not to be unexpected. A dangerous
7 environment, an unpleasant environment. A place where
8 Atraus went to work for me, for this community, working
9 in that dangerous, unpleasant environment dealing with
10 the worst of the worst.

11 Mr. Pauling is a classic example of those who are
12 housed in pod five. Mr. Pauling has been in jails,
13 prisons, in and out all of his life. Cannot maintain
14 himself in a civilized society. The evidence in this
15 case is he was in jail facing some very serious charges
16 and a whole lot of time, which he ended up getting, by
17 the way, 25 years. But even while he's in jail awaiting
18 trial on these very serious charges of armed robbery and
19 kidnapping. He can't behave. He can't be trusted even
20 to comport himself with the other inmates.

21 He admitted that he had been in at least one
22 other altercation there at Spartanburg County jail. And
23 he also admitted that's been in at least one altercation
24 since he's been in the Department of Corrections.

25 There was inmate Pauling looking at 25 years.

1 Out of general population, already lost most of his
2 privileges. In a cage, 24 hours a day or 23 hours a
3 day, seven days a week. It was boring in there. It
4 would be boring for me.

5 Solitary confinement, a difficult mental
6 situation for anyone to deal with. One can only imagine
7 the boredom that's involved with that. But only thing
8 he's got to lose is his rec time. That's the worst
9 thing for him. So he finds the only amusement that's
10 available to him. The only amusement that's available
11 to him is to mess with the guards.

12 Atrous is not the only one who's threatened. You
13 heard Officer Thompson, or former Officer Thompson, say
14 that Inmate Pauling had threatened him before.
15 Apparently a threat is nothing to that man, but you
16 never, ever don't take it seriously.

17 So he, I submit, manufactures a dispute with
18 Atrous over something silly for his own amusement.
19 Atrous has got plenty to do. He's got a job, he's got
20 reports, he's got to check in. He's got to do all these
21 things. He's got to go around, he's got to make the
22 rounds. He's got to check everything. He's got plenty
23 of things to do. It's Inmate Pauling who's sitting on
24 his hands looking for trouble. I submit to you, ladies
25 and gentlemen, that Inmate Pauling went looking for

1 trouble that day and he found it, as well he should
2 have.

3 Did Atraus violate policy? I'm not sure that he
4 they proved that he did violate policy even. See that
5 stack of papers over there on my desk? I said to
6 several witnesses where is the policy that says you
7 don't open the door. They keep talking about it, oh you
8 don't open the door, you don't open the door. Where is
9 the policy? Nobody could point you to the policy that
10 says that.

11 Knighton said, Officer Knighton, said they
12 changed policy like underwear up there. But be that as
13 it may, Atraus was punished for what they say was a
14 violation of the policy. He was fired summarily from
15 his job that day. But he's not on trial for policy
16 violation. He's on trial for violating the criminal
17 laws of the state of South Carolina.

18 You heard at least two very important and
19 knowledgeable witnesses, Captain Freeman and Major Urch,
20 who said that, yes, a policy violation does not
21 necessarily mean that there has been a criminal
22 violation. This case is not about policy. This case is
23 about whether or not Atraus had criminal intent. If he
24 had conscious wrong doing. It's about whether or not
25 when he struck Inmate Pauling he struck him unlawfully

1 and without justification.

2 The most important testimony that I think came in
3 this case came from First Sergeant Leonard. Remember
4 who First Sergeant Leonard is. He's the training
5 officer. He's the go-to guy. He's the one who
6 instructs the officers on what they're to do. Now,
7 there's training at the Criminal Justice Academy, but
8 apparently there's also some training when they come
9 here to Spartanburg County Detention Facility. Most
10 important testimony in this case.

11 I asked Sergeant Leonard, we were talking about
12 the OC spray, the hypothetical possibility that OC spray
13 could have been used. And I asked him would the use of
14 OC spray by Atraus Styles had been justified in those --
15 in the circumstances presented that day as you saw them
16 on the video and he said yes. He said yes OC spray was
17 a trained and lawful alternative for Atraus Styles
18 against Inmate Pauling under the circumstances that
19 prevailed at that time.

20 Now, why do I think that's so important?
21 Because, ladies and gentlemen, if it's okay to spray,
22 it's okay to strike one time with a closed fist. A
23 strike one time whether it's to the head or not with a
24 closed fist is no worse of a physical punishment. In
25 fact, a good case could be made that it is not as much

1 of a physical punishment as being sprayed with that
2 highly caustic vexer spray. You remember how they
3 talked about how you get it in your eyes? And one of
4 the things they talked about was that the pain is a
5 distractor for the person who is struck. The pain is a
6 distractor for the person who is struck.

7 Your eyes burn for hours after you get that spray
8 in your face. This guy, he didn't get hurt at all. He
9 didn't have a mark on him. He didn't have a broken
10 nose. He didn't have a broken jaw. He didn't have his
11 teeth knocked out. He didn't even get a black eye.

12 I submit to you, ladies and gentlemen, that he
13 was hurt a lot less by that single controlled
14 closed-fist strike to the head, than he would have been
15 by vexer spray. And if it's okay to spray, it's okay to
16 strike. Remember, now, that came from their witness.
17 That came from a First Sergeant, a ranking officer.
18 That came from their training head that it was okay to
19 spray, that it was a lawful alternative for Atrous
20 Styles under the circumstances prevailing there in the
21 end.

22 Officer Knighton said a few things that I thought
23 were quite instructive. One thing is he said if given
24 the privilege of time, if given the privilege of time.
25 One can do a lot of things if given the privilege of

1 time. There were other things perhaps that Atraus could
2 have done had he had the privilege of time, but he
3 didn't, ladies and gentlemen. He had a matter of
4 seconds. He had a matter of seconds to decide how to
5 defend himself and how to subdue and control this inmate
6 which was his duty as a detention officer.

7 He also said I can see where Styles would have a
8 reasonable fear with Mr. Pauling coming at him like
9 that. And remember he's got a birds-eye view of what's
10 happening. He also said that different officers would
11 have reacted differently under the circumstances. Some
12 might use their spray, some might strike an inmate, some
13 might stand there frozen, some might run away. It's a
14 matter of judgment. I submit to you that we were better
15 served by Pauling being struck, than by -- than by
16 Atraus standing there and getting struck himself or
17 choked or kicked or beat or running away.

18 He also talked about how hard it is to get that
19 pepper spray out. Pepper spray, you've got to put your
20 hand there, you've got to undo the flap, you've got to
21 pull it out, you've got to deploy it and you've got to
22 aim it and fire it. And remember if you shoot your
23 fellow officer it's not going to be a pretty thing. If
24 you shoot yourself it's not gonna be a pretty thing.

25 I submit to you that under the circumstances

1 here, with the close quarters of everyone, that a
2 closed-fist strike was a more reasonable thing to do
3 than vexer spray. But remember their training officer
4 says vexer spray was okay in those circumstances.

5 I think Sergeant Mace bears some responsibility
6 for what happened. You heard Knighton tell you that he
7 suggested to Sergeant Mace that Atraus be taken, could
8 be taken out of the equation, I believe were his words,
9 and that was ignored. Sergeant Mace left him right
10 where he's at.

11 There's no clear record of what Mace told Atraus
12 to do or not to do regarding Pauling. He made no
13 contemporaneous note about what he said and he comes
14 forward with a statement two weeks later. And I submit
15 to you that as a supervisor he wasn't concerned about
16 Atraus when he made that statement two weeks later. He
17 was concerned about him. He was concerned about his
18 job. Atraus is already fired. He didn't want anybody
19 saying well why didn't you do this Sergeant Mace. So I
20 submit to you he has every reason to expand the
21 instructions that he claims that he gave to Atraus on
22 the day of the aggression.

23 Remember Knighton says that the instructions were
24 conveyed through him and that the instructions were
25 simply that Atraus was not to feed Pauling, that

1 Knighton was to feed Pauling and that is it. That was
2 all that was told.

3 There's been a lot of talk in this case about why
4 Atraus didn't tell Pauling to step away from the door.
5 Well Inmate Pauling answered that question for you. He
6 was told to step away from the door, in his words,
7 multiple times. I was told to step away from the door
8 multiple times.

9 He and I got into a little discussion about the
10 meaning of multiple, but he finally agreed that he'd go
11 with four and I said four I'd go with that too. So he
12 was told by his own words four times step away from the
13 door, step away from the door, step away from the door,
14 step away from the door. And he didn't.

15 He told you he didn't get hurt. He tried to come
16 in here the first day and say that he threw fluids.
17 Now, Mr. Pauling doesn't strike me as a particularly
18 educated man, which there's nothing wrong with that, but
19 I just don't see the use of the word fluids being
20 something he's gonna come up with on his own.

21 Now, when we pressed him on this he admitted what
22 he threw. He admitted it was urine. He admitted he
23 threw urine at Atraus earlier in the day. He wasn't
24 hurt. Didn't get taken to the hospital. He says he got
25 taken to the hospital a week later. There's no records

1 of that. There's no doctor's testimony or anything like
2 that.

3 He told Major Urch that he was basically okay but
4 he hurt his side when he hit it on the rail. That
5 wasn't from the blow that struck him. Again, Pauling
6 didn't even have a black eye.

7 He tried to tell us that he'd been constantly
8 antagonized by Styles all day long. And he made up this
9 fantastic story about how Atraus had said he was going
10 to ejaculate into his food. And further that Officer
11 Knighton heard him say that he was going to ejaculate
12 into his food. But Officer Knighton, their witness, of
13 course denied that that ever happened.

14 He said, oh, all these other people heard these
15 threats by Atraus too. All these other inmates. Did
16 they bring any inmates in here other than Inmate Pauling
17 to testify that Deputy Styles was antagonizing Inmate
18 Pauling? No, not a single one. Pauling says multiple
19 people heard it, which is four according to him.
20 Multiple people heard it, not a single witness brought
21 forth by the government to prove that.

22 Mace also says that Styes said he was going to
23 beat Pauling's ass if Pauling threw urine on him. Now,
24 he says that occurred before there had been an
25 allegation that urine had been thrown. I submit to you

1 that that particular statement doesn't hold water
2 because how could Atrous have known that Pauling might,
3 that he had in his mind, think about throwing urine at
4 him and what his response would be. So I submit to you
5 that that's part of Mace's looking out for himself.

6 Mace also trying to claim this thing about deadly
7 force. That the use of a closed-fist strike is deadly
8 force. Well, I asked him to look at the manual.
9 There's inclusion of a closed-fist strike being a deadly
10 force. Again, I submit to you that's something for him
11 covering his behind.

12 Major Urch and Captain Freeman, I have the
13 greatest respect for them. Known them many, many years.
14 They're gonna go to jail. I don't have any problems
15 with how they wanted to run their jail, but in this
16 instance they made the wrong decision. But their
17 decision was solely about policy. And remember, you are
18 not determining whether Atrous followed policy, you are
19 trying to determine if they have proven beyond any
20 reasonable doubt that he committed a crime or crimes.

21 Neither one of them could articulate a policy of
22 don't open the door. The major and captain, neither one
23 of them could say. Major Urch did very specifically
24 testify that a closed-fist strike is not entirely
25 prohibited under their policies.

1 The Academy apparently does teach a closed-fist
2 strike. I asked several different officers about the
3 training material that I had from the Criminal Justice
4 Academy. And they admitted, some of them at least, that
5 the Academy at least at one time did, in fact, teach the
6 closed-fist strike as a non-lethal method of defense.
7 And if you remember the wording of it, the primary
8 target torso, secondary target face. Primary target
9 torso, secondary target face. That clearly means that a
10 closed-fist strike to the face is trained at the South
11 Carolina Criminal Justice Academy or at least it was at
12 the time that Atrous took the course.

13 Again, I thought First Sergeant Leonard's
14 testimony was perhaps the most significant, not only for
15 what he said about the acceptable use of spray, but for
16 what he said about how you deal with inmates. And
17 remember something that Officer Knighton said. Whenever
18 you're dealing with an inmate there's danger. Whenever
19 you're dealing with an inmate there's danger. And I
20 would submit to you that that danger is particularly
21 heightened when you have a situation where you're in
22 maximum security and you have a situation where there's
23 been previous problems, for example, the inmate in
24 question had tried to throw his bodily fluids at you.

25 But Leonard gives a lot of very instructive

1 information. They're gonna say that Atraus struck
2 first. And there's no question about that. You can see
3 that on the video. But I submit to you that because he
4 struck first does not make him the aggressor. That
5 strike that Atraus made was a defensive strike in
6 response to pre-attack cues.

7 Do you remember what First Sergeant Leonard said
8 about pre-attack cues? It's something that the officers
9 are trained to look for to try and anticipate whether or
10 not an attack is imminent. And what did he say was one
11 of the classic signs of a pre-attack cue? He said it
12 was a thousand-yard stare where the person looks at you
13 and bores right into your head consciously focusing on
14 nothing but you. I submit to you, ladies and gentlemen,
15 that the thousand-yard stare is captured perfectly here
16 on the Defendant's Exhibit Number 6. This, ladies and
17 gentlemen, is the thousand-yard stare. That is the
18 pre-attack cue.

19 Combine that with the fact that it was Pauling
20 who opened the door. Atraus unlocked it and stepped
21 back. Those doors are heavy. Those doors are not like
22 the door to your bathroom. You heard somebody say that
23 you'd never known anybody to be able to get through one
24 of those doors. So it does take some effort to open
25 that door. They don't just swing open.

1 Inmate Pauling made the decision to swing that
2 door. Getting ready to swing the door. Inmate Pauling
3 made the decision. Starts here then goes here to exit
4 his room. (Indicating.) And remember one of the things
5 that we've learned is that there is a cardinal rule for
6 all inmates that is ingrained into them from day one,
7 which is don't leave your room without permission unless
8 or especially during head count.

9 The fact that he crossed the threshold of his
10 room into the hallway was also a pre-attack cue. He
11 didn't have to do that. He made the choice to cross the
12 threshold. Then he makes additional choices. He makes
13 the choice to cross the threshold and then to move. And
14 look at where his hands are in this picture, in
15 Defendant's Exhibit Number 6.

16 Major Urch had his hands like this when he said I
17 think I saw that he had his hands up raised and he used
18 this as his physical gesture to demonstrate.

19 (Indicating.) That is not what happened, ladies and
20 gentlemen. These hands are not raised in a plaintive oh
21 what should I do I have a question for you kind of way.
22 These hands are raised in a position to attack.

23 Remember Officer Key who testified that even he
24 was able to see from 32 feet away that Pauling's hands
25 were clenched. Now, while we're talking about Officer

1 Key, my colleague, the prosecutor, made that the
2 forefront of his opening statement when he said I tied
3 my shoes. Well, I always want my shoes tied before I go
4 into a fight. That was the centerpiece of his very
5 effective opening argument. But now that you've heard
6 the context of that, ladies and gentlemen, I submit to
7 you that doesn't mean that at all.

8 First of all, Officer Key gave a complete report
9 to his superiors. He's trained to write reports. He's
10 trained to include everything important in the report.
11 He writes the report. There's nothing in it about
12 Atrous saying he needed to tie his shoes. That only
13 comes up in a statement made two weeks later.

14 And further, he was very careful to say he said
15 something along the lines. And in court he said
16 something to the effect of. In other words he was
17 paraphrasing. When you paraphrase something important,
18 the meaning and context can be lost.

19 And I submit to you, ladies and gentlemen, that
20 you don't have the correct information or the precise
21 information that's required for a decision for proof
22 beyond a reasonable doubt based on a statement that
23 wasn't in the original report, that didn't come up until
24 two weeks later that's only along the lines of. And
25 also I submit to you that it doesn't really mean a hill

1 of beans.

2 Everybody wants to have their shoes tied before
3 they want to do something. I always make sure I tie my
4 shoes before I come over here and argue to you so I
5 don't look like an idiot and step on my shoelaces and
6 fall down. So if you notice, right before I came up
7 here I tied my shoelaces. So whether that was said,
8 what it was meant I submit to you, totally unimportant
9 in this case.

10 I'm sure they're gonna talk about opening the
11 door. Why did Atrous open the door? He could have just
12 walked on by. Okay. He could have walked on by, but
13 that wasn't his job. His job was to go in that room and
14 see what Pauling was up to. To see if Pauling was
15 trying to escape, to see if Pauling had contraband, to
16 see if Pauling had a homemade weapon or cellphone or
17 whatever it is.

18 There's no policy in that stack on my table over
19 there that says if inmate is cutting up or if inmate is
20 standing at the door do not open the door. They were
21 not able to produce a single policy that said that. In
22 fact, the only policy that was produced was a head count
23 will be conducted. A head count will be conducted.

24 Are we gonna let the inmates run the jail? Who's
25 supposed to run the jail, the guards or the inmate? If

1 every time -- if I'm an inmate and every time I don't
2 want them coming in my room because I've got a shake in
3 there, all I've got to do is stand at the door. They
4 won't come in because I'm standing at the door. This is
5 a jail.

6 The officers have every right to enter that room.
7 Atraus was doing his job when he entered that room. If
8 you just walk away, haven't you left a track for the
9 next officer that comes by, for the next officer who
10 goes in that room without knowing the history of what's
11 going on? No. Atraus did his job. They don't like how
12 he did it, they fired him. That's enough punishment for
13 this man. That's enough punishment for this man. He
14 doesn't need to be found guilty of these crimes.

15 Not everybody is willing to do these jobs, ladies
16 and gentlemen. Just from the small sampling of people
17 that we've had, about two or three of them have quit,
18 gone on because it's a hard job. It's a dangerous job
19 and they don't pay you that much, but Atraus was willing
20 to do that job for this community.

21 He was willing to go into pod five everyday with
22 the worst of the worst with Courtney Pauling and put his
23 life and health and safety on the line every day. And
24 now they don't like the manner in which he did it. And
25 they say he committed a crime. I tell you that he did

1 his job.

2 Ladies and gentlemen, in the old days before
3 computers and GPS navigation, we still had sailors, who
4 traveled all over the earth on the ocean. And they
5 found their way by using the stars because they found
6 that a certain star, the north star never changed, and
7 as long as they could find the north star they could
8 navigate fine.

9 In this case you've got a hard job, you've got
10 the hardest job of anybody in the courtroom. You may
11 get lost in all of the testimony and the legalities,
12 excuse me, of what's happening in deciding this case.
13 But I submit to you if you look for that north star
14 you'll always be able to find your way back.

15 What's the north star in this case? Innocence.
16 The presumption of innocence. Everything that they say
17 has to be weighed against that position of the north
18 star, of the presumption of innocence because it never
19 changes no matter what they do, no matter how
20 complicated it is, no matter how much testimony you
21 heard, it all comes down to that. You look for that
22 north star. You remember that presumption of innocence
23 is what guides you in your deliberations. And if you do
24 that I'm sure you'll reach the right verdicts in this
25 case. And I submit to you that the only right verdict

1 in this case will be ones of not guilty. Thank you.

2 REPLY CLOSING ARGUMENT

3 MS. THORNWELL: May it please the Court, Your
4 Honor?

5 THE COURT: Yes, ma'am.

6 BY MS. THORNWELL:

7 Good morning again, ladies and gentlemen of the
8 jury. I'm about to show my age. Growing up one of my
9 favorite shows was Reading Rainbow. Reading Rainbow the
10 host, LeVar Burton, would come in and read a book. He
11 had written that book. And then at the end of the show
12 he'd give kids a chance to talk about books that they
13 have read. But his tag line always was you don't have
14 to take my word for it.

15 Ladies and gentlemen of the jury, you don't have
16 to take my word for what happened in this case. You
17 don't have to take the Defendant's word. You don't have
18 to take Pauling's word. You don't have to take
19 anybody's word for it. Why don't you have to take
20 anybody's word for it? Because through technology you
21 can see what happened, you can hear what happened. The
22 video speaks for itself.

23 MR. JOHNSTON: Your Honor, may we approach?

24 THE COURT: Yeah.

25 (Whereupon, a bench conference was held off the

1 record.)

2 (Whereupon, plays video of State's Exhibit Number
3 1.)

4 MS. THORNWELL: Again, the video speaks for
5 itself. Now, not in every case is a policy violation a
6 criminal act, but in this case the policy violation are
7 criminal acts. We hold corrections officers to a higher
8 standard.

9 In defense's opening he talked about how he had a
10 policy that everybody comes to work at 8:30. And you
11 wouldn't be arrested if you didn't come to work at 8:30.
12 And that's true. And if his employees violated that
13 policy there will be consequences and they wouldn't get
14 arrested for it. But corrections officers are held to a
15 higher standard. They take an oath, they have a duty.

16 MR. JOHNSTON: Your Honor, may we approach?

17 THE COURT: Yes.

18 (Whereupon, a bench conference was held off the
19 record.)

20 Again, as a corrections officer you're held to a
21 higher standard and that is why the defendant is charged
22 with misconduct in office. I'm going to go through both
23 of those charges and explain to you how we feel that
24 we've met our burden of proof beyond a reasonable doubt.

25 Now, you just watched the video of the handheld

1 camera that Officer Knighton had as this incident took
2 place. But let's talk about what led to this. There
3 were some words exchanged in the morning between Inmate
4 Pauling and the defendant. Inmate Pauling says it gets
5 heated, I feel like he called me out of a game. I get
6 in his face, he tells me to go to my cell and that's
7 what I did, I went to my cell.

8 Then he says around lunchtime I've been
9 antagonized by this man, I'm angry, I throw -- he called
10 it bodily fluid. We eventually learn it's urine. He
11 throws urine out the door. Now, you may not like
12 Pauling, but we understand that Pauling is an inmate in
13 the jail. He's there clearly because he can't follow
14 the rules. Now, at the State I don't get to pick my
15 victims. The defense picks the victims. And he's not
16 the cleanest man and he got on the stand and cleared
17 that up for us too.

18 But just because he's an inmate doesn't mean that
19 he should have to live in an environment where he gets
20 punched in the face. It's not right. Then we get to
21 this incident at head count with Pauling. And we talked
22 about the two incidents that happened before.

23 We get to this head count incident. Two
24 witnesses testified that prior to this head count
25 incident that Styles made comments about something going

1 on about a fight. Sergeant Mace said Styles told him
2 that if he throws urine on me I'm gonna punch him in the
3 face. Key says right before head count he goes down to
4 let me tie my shoes or something to the effect of let me
5 tie my shoes because I don't want to go into a fight
6 with my shoes untied.

7 I submit to you, ladies and gentlemen, that
8 Styles went looking for a fight that day. He was, for
9 whatever reason, he didn't follow the policy that was
10 put in place with his training.

11 Now, we talked about pre-attack cues with
12 Sergeant Leonard. I submit to you, ladies and
13 gentlemen, that the only individual that shows
14 pre-attack cues in the video is the defendant. Sergeant
15 Leonard talked about one pre-attack cue not only being a
16 stare down. If you look at the video, they seem to be
17 staring at each other.

18 He also talked about stepping back on your strong
19 foot. If you take a look at that video, the only
20 individual who's stepping back on his strong foot is the
21 defendant. And as a matter of fact, if you take a look
22 at the video, you'll see he's stepping back on his
23 strong foot with his arm back ready to punch. He takes
24 a fighting stance. The only individual that takes a
25 fighting stance in the video is the defendant.

1 We talk a lot about the training that corrections
2 officers receive. There's a reason why we talked about
3 that training. We talk about that training because it's
4 important because if you and I went into the jail we
5 wouldn't know how to respond when an individual does
6 something like being noncompliant at the door or
7 stepping out of his cell when he wasn't supposed to. We
8 wouldn't know how to do head count. We wouldn't know
9 how to do any other things that corrections officers do.

10 And so it's very important. You heard First
11 Sergeant Leonard talk about a reasonable objective
12 standard. You heard over and over again how they were
13 trained to deal with noncompliant inmates. If an inmate
14 is standing at the door, he is not compliant, here's
15 what you do. I submit to you that with common sense and
16 using that reasonable objective standard that opening
17 the door when an inmate is standing at the door would
18 not have been proper.

19 I submit to you that is malfeasance. Or, excuse
20 me, misfeasance. I submit to you that it is an act that
21 caused someone to be put into danger, and not just, not
22 just Styles, his fellow officers were put in danger by
23 opening the door. The inmate was put in danger by
24 opening the door. Everybody agrees that the corrections
25 officer's job was to keep order in the jail. If you

1 open the door to an angry inmate, how did that keep
2 order in the jail?

3 You heard Sergeant Leonard talk about they are
4 trained to avoid confrontation. You heard Knighton say
5 my job is to get home at the end of the day. I want to
6 go home with my wife and kids.

7 You heard how they were trained in other
8 techniques other than this closed-hand fist. I submit
9 to you that even if the closed-hand fist was the option,
10 the primary target is the torso. That's not even where
11 Styles aimed. He aimed as if he was on a fight on the
12 street. He aimed to punch him in the face, to punch
13 Pauling in the face. And that's exactly what he did.
14 And that is assault and battery third.

15 We wouldn't be here if he had used the mace. We
16 probably wouldn't even be here if he had punched him in
17 the torso. I submit to you, ladies and gentlemen, that
18 the defendant had the criminal intent based on the
19 events of that day to punch Pauling in the face because
20 he was upset about what happened during the day. That's
21 assault and battery third. And because of that assault
22 and battery third and because of him opening the door,
23 he committed the offense of misconduct in office.

24 We heard officers talk about not only about their
25 training but what would happen if they had some type of

1 altercation, some type of verbal altercation with an
2 inmate in the jail. All of them said they would have
3 removed themselves from the situation and they would not
4 have confronted the defendant in the manner that he was
5 confronted -- or, excuse me, the victim in the manner
6 that he was confronted. I submit to you that is because
7 they understood their training, they were reasonably
8 objective. They said this is the situation I need to
9 get myself out of.

10 Now, the defense attorney talked about Mr.
11 Knighton and his use of the words "if I had the
12 privilege of time". I agree that those are very
13 important, but what would have given the defendant the
14 privilege of time was to simply walk away. There was
15 nothing that said that he was the one that had to open
16 the door.

17 They said a head count will be conducted, not
18 that Deputy Styles will conduct the head count. There
19 was another officer who could have conducted the head
20 count and this all could have been avoided. It's hard
21 to make a decision in a split second, but if you had
22 left that door closed or if he had left that door closed
23 and walked away, there would have been plenty of time to
24 make a better decision, a better decision than punching
25 an inmate in the face.

1 Now, there was some discussion about injury.
2 And, again, the law doesn't define what an injury is in
3 this particular case, but it does say an injury or if
4 you attempt or offer to attempt to cause injury to
5 somebody with the intent to do so. What that means is
6 I'm standing in front of you and I can punch you. And
7 that's what he did. That's what happened in this case.

8 And I submit to you that the fact that Inmate
9 Pauling got on the stand and said I was hurt, my wrists
10 were hurt, head hurt, my back hurt. I submit to you
11 that those are injury ands they were injuries and they
12 were injuries precipitated by the defendant's actions.

13 Ladies and gentlemen of the jury, the defense
14 talked about how Inmate Pauling had threatened other
15 officers and apparently that was his modus of operation,
16 he threatened other officers. The only officer who
17 punched the defendant, or excuse, me the victim in the
18 face is the defendant. And I submit to you that he did
19 that maliciously. He did that because of the events of
20 the day because he was angry because he, for whatever
21 reason, was angry about what happened earlier in the
22 day.

23 I submit to you that that, again, was an assault
24 and battery third. I also submit to you that the
25 defendant is guilty of misconduct in office. I submit

1 to you that there was not only a misfeasance but there
2 was also a malfeasance. The malfeasance of the assault
3 and battery third. It is the commission of an unlawful
4 act. The misfeasance is the opening of the door. He
5 was not performing the duty that he was given correctly.

6 I think after you look at all the evidence that's
7 been presented here today over the past few days that
8 you will be firmly convinced that the defendant's guilt
9 you will find the defendant guilty. Thank you.

10 JURY CHARGE

11 THE COURT: Madam Forelady and ladies and
12 gentlemen of the jury, you have seen and heard all of
13 the evidence presented, as well as the arguments of the
14 counsel, and it is now my duty and obligation to
15 instruct you on the law in this case. It will then be
16 your solemn duty and obligation to begin your
17 deliberations through which process you will decide the
18 facts, apply the law as I instruct it, and render a fair
19 and impartial decision in this case.

20 It is your exclusive duty to determine what the
21 facts are. You will do that based on your own common
22 sense examination and evaluation of the testimony and
23 evidence received during the trial of the case. You 12
24 jurors alone will decide what effect, value and weight
25 is to be given to any testimony or evidence received.

JURY CHARGE

1 Quite simply your ultimate goal is to find the
2 truth in this case. And by doing so, you will fulfill
3 your obligation as jurors in giving both the State and
4 the defendant a fair and impartial trial based on the
5 evidence presented and the law applicable to the case.

6 The indictments in this case allege two separate
7 distinct offenses against the defendant. The first
8 indictment charges him with the offense of assault and
9 battery third degree. Specifically, that Atraus Dorrell
10 Styles did in the county of Spartanburg, state of South
11 Carolina on/or about August 28, 2014, intentionally
12 commit a battery upon the victim, Courtney Pauling, by
13 striking him about the face or head with his hand in
14 violation of state law.

15 The second indictment charges him with the
16 offense of misconduct in office, specifically that
17 Atraus Dorrell Styles did in the county of Spartanburg,
18 state of South Carolina, on/or about August 28th, 2014,
19 willfully and unlawfully commit misconduct in his public
20 office by acts and omissions of malfeasance, misfeasance
21 and nonfeasance in breach of his duties to the public,
22 including his duty of good faith, honesty and
23 accountability in that he did intentionally commit a
24 battery upon the victim, an inmate at the Spartanburg
25 County Detention Center, by striking him about the face

1 or head with his hand in violation of South Carolina
2 law.

3 Each indictment, ladies and gentlemen, charges a
4 separate and distinct offense. You must decide each
5 indictment separately on the evidence and the law
6 applicable to it uninfluenced by your decision as to any
7 other indictment. The defendant may be convicted or
8 acquitted on any or all of the offenses charged. You
9 will be asked to write a separate verdict of guilty or
10 not guilty for each indictment.

11 I remind you the fact that he was charged,
12 arrested and indicted is not evidence in the case and
13 cannot be considered by you as evidence of guilt, nor
14 does it create any presumption or inference of guilt.

15 As I told you earlier, the indictments are simply
16 a formal written instrument which contain the charge
17 made against him. They are the formal documents by
18 which the case was brought by before the court.

19 The defendant has entered a plea of not guilty to
20 both indictments and that puts the burden squarely on
21 the State of South Carolina to prove the defendant's
22 guilt beyond a reasonable doubt. A person charged with
23 committing a criminal offense in South Carolina is never
24 required to prove himself innocent.

25 I charge you it is a cardinal, important and

JURY CHARGE

1 vital rule of law that in a criminal trial no matter
2 what the seriousness of the charge may be for which he
3 stays charged, the defendant is always presumed to be
4 innocent of the crime for which the indictment was
5 issued unless guilt has been proven by evidence
6 satisfying you of that guilt beyond a reasonable doubt.

7 A presumption of innocence does not end when you
8 begin your deliberations, but it accompanies the
9 defendant throughout the trial until you reach a verdict
10 of guilt based on the evidence to satisfy you of guilt
11 beyond a reasonable doubt. The presumption of innocence
12 is often described as a robe of innocence placed about
13 the shoulders of the defendant, which remains with him
14 from the moment of his arrest and continues until it has
15 been stripped from his shoulders by evidence satisfying
16 you of his guilt beyond a reasonable doubt.

17 The presumption of innocence is not merely a
18 theory nor a legal phrase, but a substantial right to
19 which every defendant is entitled unless you 12 jurors
20 are satisfied from the evidence of his guilt beyond a
21 reasonable doubt.

22 Ladies and gentlemen, I remind you that during
23 this trial that you and I have certain duties to
24 perform. As the trial judge it is my responsibility to
25 preside over this case and I also have the duty to rule

1 on the admissibility of evidence offered during the
2 trial. You are to consider only the competent evidence
3 before you. If any testimony was ordered stricken from
4 the record during the trial, you must disregard that
5 testimony. You are to consider only the testimony which
6 has been presented from the witness stand, the exhibits
7 which have been made a part of the record and any
8 stipulations of counsel.

9 Additionally, I have the duty to charge you the
10 law in this case. And as the presiding judge I am the
11 sole judge of the law and it is your duty as jurors to
12 accept it and apply it, as I have now stated to you. If
13 you have any preconceived idea as to what the law is or
14 what it ought to be or what it should be, you must
15 abandon your idea because you are sworn to accept the
16 law as I am now telling it to you.

17 In every case tried in this court before a jury,
18 you 12 become the sole and exclusive judge of the facts.
19 A trial judge cannot comment on or make any statement to
20 a jury about the fact in a case. You the jury are the
21 sole judge of the facts, and you are not to infer from
22 anything I have said during the progress of this trial
23 in ruling on the admissibility of evidence oral wise or
24 actually anything that I say at this point that I have
25 an opinion about the facts in this case.

1 I tell you and charge you that the law of South
2 Carolina does not allow the trial judge to have an
3 opinion on a fact in a case. This is a matter in your
4 exclusive providence.

5 The State has the burden of proving the defendant
6 guilty beyond a reasonable doubt. Now, ladies and
7 gentlemen, proof beyond a reasonable doubt is proof that
8 leaves you firmly convinced of a defendant's guilt.
9 There are very few things in this world that we know
10 with absolute certainty and a criminal case is the law
11 does not require proof that overcomes every possible
12 doubt.

13 A reasonable doubt may also be described as the
14 kind of doubt that would cause a reasonable person to
15 hesitate to act. If you have such a doubt as to the
16 guilt of this defendant, then he is entitled to a
17 verdict of not guilty. Reasonable doubt may arise from
18 the evidence in the case or from the absence or lack of
19 evidence in the case.

20 Based on your consideration of the evidence, if
21 you are firmly convinced the defendant is guilty of the
22 crimes charged or crime, as I've told you, he could be
23 convicted of one and not the other. And I'll explain
24 more about that momentarily. But if you are firmly
25 convinced that the defendant is guilty of a crime

1 charged, you must find him guilty of that crime.

2 On the other hand, if you think there's a real
3 possibility he is not guilty, you must give the benefit
4 of the doubt to him and find him not guilty. You 12
5 alone must make the determination of whether or not
6 reasonable doubt exists as to the guilt of the
7 defendant. Again, I emphasize the burden of proof
8 remains with the State of South Carolina at all times.

9 There are two types of evidence which are
10 generally presented during a trial, direct evidence and
11 circumstantial evidence. Direct evidence is testimony
12 of a person who claims to have actual knowledge of a
13 fact, such as an eye witness. It immediately
14 establishes the fact to be proven. Circumstantial
15 evidence is proof of a chain of facts and circumstances
16 indicating the existence of a fact. It is evidence
17 which immediately establishes collateral facts from
18 which the main fact may be inferred.

19 The law makes no difference, no distinction
20 between the weight or value to be given to either direct
21 or circumstantial evidence, nor is a greater degree of
22 certainty required of circumstantial evidence than of
23 direct evidence. You should weigh all of the evidence,
24 and after doing so, if you are not convinced of the
25 guilt of the defendant beyond a reasonable doubt, you

1 must find him not guilty.

2 Now, under the constitution of this state, you 12
3 are the finder of facts and, necessarily, you must
4 determine the credibility of the witnesses who have
5 testified. Credibility simply means believability and
6 it is your duty as jurors to analyze and evaluate the
7 evidence and determine which evidence convinces you of
8 its truth.

9 I tell you and charge you that in determining
10 believability of witnesses who have testified, you may
11 believe one witness over several or several over one.
12 You may believe a part of the testimony of a witness and
13 reject the remaining part of that witness's testimony.
14 You may believe the testimony of a witness in its
15 entirety or you may reject that testimony in its
16 entirety.

17 You may consider whether any witness has
18 exhibited to you interest, bias, prejudice or other
19 motive in the case. Whatever your good judgment and
20 common sense tells you is the most believable testimony,
21 here is the testimony that you should accept and reject
22 the testimony which you find not to be credible or
23 believable.

24 Now, a person who has a past criminal record is
25 competent to testify during a trial. A past record does

1 not affect the ability of that witness to testify. A
2 past record may only be considered by you, if at all, in
3 determining the witness's believability. Remember, once
4 again, you are the sole judges of the facts and of the
5 believability of any and all witnesses.

6 I instruct you and emphasize the fact the
7 defendant did not testify is not a factor to be
8 considered by you in any way during deliberations and in
9 your consideration of the question of guilt or
10 innocence. It must not be considered by you in any
11 manner. The defendant has a constitutional right to
12 remain silent and the assertion of that right by the
13 defendant must not be considered by you during your
14 deliberations. I repeat, Madam Forelady and ladies and
15 gentlemen, you are to draw no conclusion whatsoever from
16 the fact that the defendant in this case did not
17 testify.

18 The fact that this defendant did not testify
19 should not be discussed in the jury room. As I
20 previously told you, the burden of proof remains with
21 the State of South Carolina and the burden of proof
22 remains with the State of South Carolina to prove him,
23 guilty beyond a reasonable doubt.

24 Criminal intent is a necessary element of each
25 crime that must be proved by the State beyond a

JURY CHARGE

1 reasonable doubt. Criminal intent is a matter which
2 must be determined by a jury from the circumstances
3 surrounding the situation.

4 There is no way to prove intent to a mathematical
5 certainty. There is no way medical science can dissect
6 a person's brain and determine what he had in mind. So
7 the law says that criminal intent may be inferred from
8 the circumstances shown to have existed. And this is
9 how a jury makes a determination of whether or not the
10 element requiring intent was present.

11 Criminal intent is a state of mind, which when
12 operated with an act is a commission of a crime.
13 Criminal intent is a mental state, a conscious
14 wrongdoing. So it is up to you, the jury, to determine
15 what the defendant intended to do based on the
16 circumstances shown to have existed.

17 I tell you the State must prove criminal intent
18 beyond a reasonable doubt, just as the State must prove
19 every element beyond a reasonable doubt. It is not
20 necessary to establish intent by direct and positive
21 evidence, but intent may be established by inference in
22 the same way as any other fact by taking into
23 consideration the acts of the parties and all of the
24 facts and circumstances of the case.

25 Now, while the State may prove motive, it is

1 unnecessary for the State to do so, but the State must
2 prove intent. I have instructed you that the defendant
3 is charged with the offense known as assault and battery
4 in the third degree and I will now read in part Section
5 16-3-600 which says: "A person commits the offense of
6 assault and battery in the third degree if the person
7 unlawfully injures another person or offers or attempts
8 to injure another person with the present ability to do
9 so.

10 Further, I have instructed you that the defendant
11 was charged with the offense known as misconduct in
12 offense and specifically that the defendant willfully
13 and unlawfully committed misconduct in his public office
14 by acts and omissions of malfeasance, misfeasance and
15 nonfeasance in breach of his duties to the public,
16 including the duty of good faith, honesty and
17 accountability in that he intentionally committed a
18 battery upon the victim, an inmate at the Spartanburg
19 County Detention Center, by striking him about the face
20 or head with his hand in violation of law.

21 You have been selected as fair and impartial
22 jurors sworn to impartially try and determine the facts,
23 and when you comply with your oath to do so, no one will
24 have a right to criticize your verdict and you will have
25 fully discharged your duty as jurors.

1 Ladies and gentlemen, you are to decide this case
2 according to the testimony you have heard from the
3 witnesses, along with any evidence introduced. Now,
4 during your deliberations you may only discuss the case
5 in the jury room with your fellow jurors because they
6 have seen and heard the same evidence you have seen and
7 heard. However, you must not discuss this case with
8 anyone until you have returned a verdict and the case is
9 ended.

10 Now, ladies and gentlemen, I tell you and charge
11 you your verdict must be a unanimous verdict. Madam
12 Forelady, when the jury agrees on the verdict, you will
13 indicate the verdict in the space provided in a jury
14 verdict form, and I'm gonna explain momentarily, and
15 sign your name. Thereafter, if you'd be kind enough to
16 knock on the door, advise the bailiff you have reached a
17 verdict, we will return you to the courtroom and
18 received your verdict.

19 Now, Madam Forelady, these are the two verdict
20 forms by which I speak, because they are, as I told you,
21 two separate and distinct offenses charged against this
22 defendant. You, the jury, can find him not guilty of
23 both. You can find him guilty of both. You can find
24 him guilty of one and not guilty of one. There are two
25 charges, two separate and distinct charges.

1 Now, the verdict form of which I speak, and I put
2 it together, my law clerk puts this together in every
3 case. It has the caption of the case and it has a
4 number up here, which is for an accounting purpose. It
5 means this form goes with that one and this one goes
6 with the other. That's all it means.

7 It has the State of South Carolina and Mr.
8 Styles' name. And then it has a statement that says:
9 We, the jury, unanimously find the defendant, Atraus
10 Dorrell Styles, with the charge of misconduct in offense
11 not guilty or guilty. I certify this decision. It was
12 a unanimous decision of the jury. It has a line. It
13 has foreperson listed there. It has November with a
14 blank, 2016, in Spartanburg, South Carolina.

15 Whatever the verdict of the jury is, please check
16 the appropriate box and sign your name, Madam Forelady.
17 Likewise, the other one is exactly the same except: We,
18 the jury, unanimously find the defendant, Atraus Dorrell
19 Styles, on the charge of assault and battery third
20 degree not guilty or guilty. And it has the same
21 certification and the same place for you to sign your
22 name.

23 MADAM FORELADY: Okay.

24 THE COURT: I also tell you there is no
25 significance whatsoever whether not guilty or guilty

1 comes first, Madam Forelady. They necessarily have to
2 come in some order and I always put them in the same
3 order each and every time.

4 MADAM FORELADY: Okay.

5 THE COURT: Now, in about 30 seconds I'm gonna
6 ask you to take your jury, all 13 jurors to the jury
7 room. The exhibits belong to you. They are yours to
8 keep during your deliberation. The video tape you will
9 not have. It's not a video, it's a digital disc. The
10 video itself you can have that, but there's no projector
11 there. So in the event that the jury would like to see
12 any video, we will return you to the courtroom. It's my
13 custom to bring you back into open court. That will be
14 played in here, and then return you back to the jury
15 room.

16 MADAM FORELADY: Okay.

17 THE COURT: All the pictures and other documents
18 in evidence that are put in in evidence are yours to
19 consider. You will have those in the jury room with
20 you.

21 Now, I practiced law 25 years before I came up
22 here. It is so easy to have a lawyer make a closing
23 argument to the jury, to pick up an exhibit, walk over
24 and explain it, and walk back to counsel table and lay
25 it down and not mean to. Therefore, when you leave the

1 courtroom, I'm gonna ask the lawyers to come forward,
2 meet with Madam Court Reporter because she has a record
3 of all the exhibits. They're gonna tell me that they're
4 all present once they assure me that everything is
5 there, no one accidentally picked up an exhibit.

6 I'm gonna give those exhibits, along with these
7 two forms, to the bailiff. The bailiff is gonna come to
8 the jury room. When the bailiff brings these two forms
9 and all those exhibits to the jury room, that bailiff --
10 that will be your signal to begin your deliberations.

11 Also, Madam Alternate, when these come to the
12 jury room, you will leave with the bailiff. So the
13 bailiff will bring the exhibits to the 12 and leave with
14 you and segregate you while they deliberate.

15 I've also taken the liberty of ordering your
16 lunch. It's not a steak, but it is Chick-Filet and it's
17 waiting on you now. So you may eat while you
18 deliberate. You may eat first. Whatever it is that's
19 the pleasure of the jury, it's entirely within your
20 providence to make that decision.

21 MADAM FORELADY: Okay.

22 THE COURT: Do not begin your deliberations until
23 you receive this and all of those exhibits. And with
24 that, Madam Forelady, if you will take all 13 to the
25 jury room.

1 (Whereupon, jury leaves the courtroom at
2 12:18 p.m.)

3 THE COURT: Anything from the State?

4 MS. THORNWELL: Nothing from ---

5 THE COURT: Okay.

6 MS. THORNWELL: I'll respond at the appropriate
7 time.

8 THE COURT: Yeah. Mr. Johnston, do you have a
9 matter?

10 MR. JOHNSTON: Yes, sir, I do, thank you.

11 THE COURT: Yes, sir.

12 MR. JOHNSTON: The first matter is the defense
13 renews its motion for the extend your ground language
14 previously discussed with the Court, the stand your
15 ground language combined with the Florida type
16 non-deadly force self-defense charge. For the record,
17 we did not request a conventional self-reflect --
18 self-defense request. We are requesting only the one
19 that we asked for with you earlier that includes the
20 stand your ground language.

21 With your permission, I'm also going to make a
22 Court exhibit of the Florida Statute and the two
23 official Florida jury instructions about that, just for
24 the record.

25 THE COURT: Yes, sir.

1 MR. JOHNSTON: And while she's doing that, then I
2 move to two other issues. One, during the prosecutor's
3 closing argument I made a request to meet with you at
4 sidebar, which you courteously granted. At that time I
5 made a motion for a mistrial. The grounds of my motion
6 were that there was a comment upon the defendant's right
7 to silence.

8 What I think she said and, of course, the court
9 reporter will correct me if I'm wrong. And I certainly
10 could be wrong. And if, depending on what the exact
11 wording is, that could affect the validity of my motion.
12 But what I think she said was you don't have to take the
13 defendant's word for it. If that is, in fact, what she
14 said, then we would move for a mistrial as that being an
15 impermissible comment on the defendant's right to
16 silence. If she said the defense, I'm okay with that.
17 So I would ask first that we actually inquire as to what
18 was said.

19 THE COURT: Okay. Can you find it, please.

20 (Whereupon, court reporter read back requested
21 portion of transcript.)

22 MR. JOHNSTON: All right. That's what I thought
23 that it was. And I'm certainly not saying that it was
24 done intentionally or anything like that. But that
25 said, it was an improper comment on defendant's right

1 for silence -- right to silence. We move for a
2 mistrial.

3 THE COURT: Yes, ma'am.

4 MS. THORNWELL: Your Honor, if it pleases the
5 Court. There was some testimony that the defendant made
6 statements throughout. There were several statements
7 that witnesses testified to, so in essence that's what I
8 was talking about. I wasn't -- I don't think there was
9 a comment about not testifying, it was a comment about
10 the statements that were made. And, you know, if you
11 feel that that was improper, I think a cured instruction
12 might be better than a mistrial, but I would yield to
13 the Court.

14 THE COURT: That -- Mr. Johnston did raise that
15 at sidebar. I want to make sure you're covered by that
16 and protected on record, the record on that. You did
17 raise that and I told you we would address it more fully
18 on the record instead of having the jury going in or out
19 so you are protected on that.

20 The motion for a mistrial is denied. The
21 statement referenced not to take her word for it, the
22 defendant's words for it or others words for it, but no
23 direct comment as to the defendant's failure to testify.
24 The trials are disfavored where a curative instruction
25 can be given and prevent prejudice to the defendant.

1 And this Court included a specific charge to cure the
2 defect. That is I added, and I'm gonna quote here,
3 again, I emphasize the burden of proof remains with the
4 State of South Carolina at all times.

5 Furthermore, the Court charged the jury
6 specifically in the paragraph that's provided in our
7 judge's charge book, which is approved by our high
8 court, that the jury was not to consider the fact that
9 he did not testify against him in anyway. He has a
10 right to remain silent, so that motion is denied.

11 And the motion as to the Florida language, I
12 think the Court conveyed the law of the State of South
13 Carolina to the jury, and so that's denied as well, but
14 you may make that a part of the record, sir.

15 MR. JOHNSTON: Yes, sir, I'm gonna make it part
16 of the record, the 2016 Florida statute.

17 THE COURT: Yes, sir.

18 MR. JOHNSTON: And the justifiable use of
19 non-deadly force --

20 THE COURT: Yes, sir.

21 MR. JOHNSTON: -- instruction.

22 THE COURT: Yes, sir.

23 MR. JOHNSTON: And make those a single Court
24 exhibit.

25 THE COURT: That will be fine.

1 MR. JOHNSTON: I have one additional point
2 whenever the Court is ready.

3 THE COURT: Okay.

4 MR. JOHNSTON: Your Honor ---

5 THE COURT: Hang on one second.

6 MR. JOHNSTON: Oh, I'm sorry. I apologize.

7 (Whereupon, Court's Exhibit Number 2, Florida
8 Statute, was marked for identification.)

9 (Whereupon, Court's Exhibit Number 2 was entered
10 into the record.)

11 THE COURT: Okay. Yes, sir.

12 MR. JOHNSTON: The other point would be this. I
13 also raised during sidebar the issue of a comment that
14 the prosecutor made about we hold law enforcement
15 officers to a higher standard. And my understanding of
16 how it was to be resolved was that she was to correct
17 that under -- you basically told her to correct that.
18 That it was alright to say they're held to a higher
19 standard to the extent that they can be charged with
20 misconduct in office. But they're not held to a higher
21 standard with regard to any other just basic criminal
22 statute.

23 So she agreed to try and fix that, but with all
24 due respect I don't think she fixed it. So I'm gonna
25 ask the Court to give them a special instruction on

1 that.

2 THE COURT: Okay.

3 MR. JOHNSTON: To resolve that point.

4 THE COURT: Yes, ma'am.

5 MS. THORNWELL: I actually said verbatim what I
6 needed to say. I said he's held to a higher standard
7 but only in the charge of misconduct. And I said that
8 at similarly per word. I don't know if it's verbatim,
9 but...

10 THE COURT: I think you may have. And I tell you
11 what, I'm gonna let Mr. Johnston, if you will write down
12 what you want me to tell them, I will call them back in.

13 MR. JOHNSTON: Yes, sir. If you will give me
14 just a couple moments for me and Ms. Tat to get on the
15 legal pad.

16 THE COURT: I will.

17 MR. JOHNSTON: Almost done, Your Honor. All
18 right. Your Honor, if I may, I'll read this first so
19 that counsel can hear it and then I'll hand it up to
20 you. And I have no kind of offer ship in this if others
21 have suggestions to the Court for -- this will be our
22 requested charge.

23 Ladies and gentlemen, a law enforcement or
24 corrections officer is only held to a higher standard or
25 expectation in that a failure by them to lawfully carry

JURY CHARGE

1 out their duties may result in the charge of misconduct
2 in office; a charge that a private citizen could not be
3 subject to. That is the only way in which a higher
4 standard can be expected of a law enforcement or
5 corrections officer. Such higher expectations do not
6 apply to other violations of law with which any citizen
7 could be charged regardless of their employment.

8 THE COURT: Objection?

9 MS. THORNWELL: I beg the Court's indulgence.

10 MR. JOHNSTON: Here, I'll let you see it, if you
11 want to study it. That's what we've got.

12 MS. THORNWELL: Without objection, Your Honor.

13 THE COURT: Okay. Let's do this before the jury
14 comes back. Let's look at all the evidence and then I
15 can --

16 MR. JOHNSTON: Oh, yes, sir.

17 THE COURT: -- send them all out at one time.

18 MR. JOHNSTON: Well, I'm gonna have to make one
19 other point before you do that. It'll be very brief.

20 THE COURT: Okay.

21 MR. JOHNSTON: I'm gonna have to renew my request
22 for a mistrial. You're going to give them a curative
23 instruction, and I haven't heard it yet, but assuming
24 it's not -- that I don't think it's -- that it satisfied
25 the problem, I know the Court's going to give the best

1 one the Court can, then I'll need to make a motion for
2 mistrial for the record.

3 THE COURT: Okay.

4 MR. JOHNSTON: Renew it, I should say.

5 THE COURT: All right. Can we make sure
6 everything is here?

7 MR. JOHNSTON: Yes, we will do that.

8 (Whereupon, went off the record to get exhibits
9 ready.)

10 MR. JOHNSTON: Your Honor, the -- you all okay
11 with that?

12 MS. THORNWELL: Yeah.

13 MR. JOHNSTON: I believe we're in agreement on
14 what goes back.

15 THE COURT: Okay. Have our jury, all 13.

16 (Whereupon, jury enters courtroom at 12:41 a.m.)

17 THE COURT: Madam Forelady and ladies and
18 gentlemen of the jury, I've been asked to clarify
19 something and I'm happy to do so.

20 A law enforcement or corrections officer is only
21 held to a higher standard or expectation in that a
22 failure by them to lawfully carry out their duties may
23 result in a charge of misconduct in office. A charge
24 that a private citizen could not be subjected to. That
25 is the only way in which a higher standard could be

JURY CHARGE

1 expected of a law enforcement or a corrections officer.
2 Such higher expectations do not apply to other
3 violations of law with which any citizen could be
4 charged regardless of their employment.

5 Madam Forelady, if you would take all 13 back to
6 the jury room, we'll be with you momentarily.

7 MADAM FORELADY: Okay.

8 THE COURT: Excuse me one second.

9 (Whereupon, a bench conference was held off the
10 record.)

11 Okay, thank you.

12 (Whereupon, jury leaves courtroom at 12:43 p.m.)

13 MR. JOHNSTON: Your Honor, thank you for that.

14 And I misunderstood what the Court's intention was. I
15 thought you were going to give an additional curative
16 instruction. In fact, what you were saying was that you
17 felt that the instructions that you had already given
18 took care of that problem and I didn't understand that.

19 THE COURT: Yes.

20 MR. JOHNSTON: And I apologize.

21 THE COURT: No, that's fine. I added that
22 language, which I quoted. "Again, I emphasize the
23 burden of proof remains with the State of South Carolina
24 at all times."

25 MR. JOHNSTON: All right.

1 THE COURT: I added that to what you were
2 previously privy. I started right here. (Indicating.)

3 MR. JOHNSTON: Yes, sir.

4 THE COURT: And when I got to there, I looked
5 down here and read that. (Indicating.) So that's what
6 I included.

7 MR. JOHNSTON: And we appreciate that, Your
8 Honor, but with all due respect we renew our motion for
9 a mistrial.

10 THE COURT: Yes, sir. Yes, ma'am, anything?

11 MS. THORNWELL: Nothing further from the State,
12 Your Honor.

13 THE COURT: Okay. And for reasons previously
14 stated, the Court denies your motion. Anything further?

15 MS. THORNWELL: Nothing from the State, Your
16 Honor.

17 MR. JOHNSTON: Not from the defense.

18 THE COURT: All right. I understand -- I'm gonna
19 make this a Court's Exhibit as well.

20 (Whereupon, Court's Exhibit Number 3, Additional
21 Jury Charge, was marked for identification.)

22 (Whereupon, Court's Exhibit Number 3 was entered
23 into the record.)

24 Madam Bailiff, if you'll take the verdict forms
25 and all of those exhibits right there and retrieve the

1 DAY THREE OF TRIAL, THE STATE VS. ATRAUS STYLES

2 (Whereupon, jury enters the courtroom at 9:43
3 a.m.)

4 THE COURT: Madam Forelady, I understand the jury
5 has reached a verdict.

6 MADAM FORELADY: Yes, sir.

7 THE COURT: All right. If you will hand that to
8 the bailiff, please.

9 THE BAILIFF: Permission to approach?

10 THE COURT: Yes, sir.

11 Madam Clerk.

12 THE CLERK: The State of South Carolina, County
13 of Spartanburg County versus Atraus Dorrell Styles, in
14 the Court of General Sessions, 2016-GS-42-5128 and 5129.
15 We, the jury, unanimously find the defendant Atraus
16 Dorrell Styles on the charge of assault and battery
17 third degree not guilty. I certify this decision was a
18 unanimous decision of the jury. Signed by the
19 foreperson December 1st, 2016.

20 State of South Carolina, County of Spartanburg
21 versus Atraus Dorrell Styles in the Court of General
22 Sessions Seventh Judicial Circuit 2016-GS-42-5128 and
23 5129, verdict form number two. We, the jury,
24 unanimously find the defendant, Atraus Dorrell Styles on
25 the charge of misconduct in office guilty. I certify

1 Honor? Stand up Atraus.

2 Atraus is 29 years of age. He is single, but
3 engaged. He lives together with his fiancée and their
4 two children. They have a two-year-old and a
5 one-year-old. He is a family man. She is the mother of
6 both children and they are living together.

7 He has a high school diploma from Spartan High
8 School. He graduated from the Spartanburg Criminal
9 Justice Academy. He graduated from the Department of
10 Corrections Justice Academy. He also holds multiple
11 certificates from Daniel Morgan Tech for electricity and
12 electronics, among others.

13 He worked at the South Carolina Department of
14 Corrections from 2009 to 2012 at the Stevenson
15 Correctional Institute. He worked at the Spartanburg
16 County Detention facility from 2012 to 2014. He
17 currently has a good job at Spartanburg Steel where he
18 is a machine operator and welder. He has no criminal
19 record.

20 Your Honor, I would ask you to consider that he
21 wanted to be a lifetime law enforcement officer. He's
22 working now at his job making a good wage, paying taxes.
23 He's taking care of his family. I would respectfully
24 ask you not to incarcerate him because I think it would
25 serve no purpose. If the Court is not so inclined, we

1 would ask you to consider home detention.

2 THE COURT: All right. Anything else?

3 MS. TAT: No, sir, Your Honor.

4 THE COURT: Mr. Styles, I'd be happy to hear from
5 you, sir.

6 THE DEFENDANT: It's just an unfortunate
7 situation.

8 THE COURT: Okay. 2016-GS-42-5129, sir, you're
9 confined to the State Department of Corrections for a
10 period of two years, give you credit for any time that
11 you did serve. Best of luck to you.

12 MR. JOHNSTON: Thank you, Your Honor.

13 MS. THORNWELL: Thank you, Your Honor.

14 THE COURT: Thank you.

15 (Whereupon, trial concluded at 9:54 a.m.)

16

17 --- THIS ENDS REQUESTED TRANSCRIPT ---

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1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

) IN THE COURT OF GENERAL SESSIONS

3 The State,

4 -vs-

5 Atrous Dorrell Styles,

6 Defendant.

) TRANSCRIPT OF RECORD
) 2016-GS-42-5128;5129

) February 9, 2017
) Spartanburg, South Carolina

7
8
9
10 B E F O R E:

11 HONORABLE R. KEITH KELLY, JUDGE
12
13

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

15 LARONE KASHAD WASHINGTON, ESQUIRE
16 MEGAN BURLESON BURCHSTEAD, ESQUIRE
17 Attorneys for the State

18 ANDREW J. JOHNSTON, ESQUIRE
19 Attorney for the Defendant
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

1 THE COURT: Okay. Mr. Johnston, your motion.

2 MR. JOHNSTON: May it please the Court, Your Honor.

3 This is a motion for a new trial and verdict in arrest
4 of the judgment and an entry of judgment of acquittal.

5 Also, in the alternative we've also asked for a
6 reconsideration of sentence in the event that Your Honor
7 denies the first motion.

8 First thing I'd like to put on the record, it's not
9 strictly before the Court, but I think it's important that
10 the Court be aware of it because it's something that's
11 going to come back up in the event that we do not resolve
12 the case with the motion today.

13 I'm going to hand up to the Court a copy if I can make
14 a copy of these two items in the record as a court's
15 exhibit. And I'm also going to provide a copy to opposing
16 counsel.

17 (Printout from the Post and Courier marked Court's
18 Exhibit No. 1; printout from the South Carolina Department
19 of Corrections marked Court's Exhibit No. 2.)

20 MR. JOHNSTON: Your Honor, our trial was held on
21 December the 1st of last year.

22 On November the 19th, according to the allegations of
23 the State of South Carolina, the alleged victim in my case
24 was involved in a murder at McCormick Correctional
25 Institution. And that murder occurred on November the

1 19th, which of course precedes the trial in this case.

2 We know from just this little bit of information that
3 officials were aware that Mr. Pauling was a suspect in this
4 murder because, as it says here in this Post and Courier
5 article, both men, one of them being Mr. Pauling, were seen
6 leaving Welch's cell, the victim, with homemade knives in
7 their hands and with their clothes covered in blood,
8 according to affidavits.

9 Further, Your Honor, I handed up to you a copy of
10 Mr. Pauling's inmate search detail report. He was moved
11 from McCormick to Perry on the day of this incident, which
12 of course would have to have been done by officials with
13 the South Carolina Department of Corrections.

14 Now, I don't wish to cast any dispersions upon our
15 friends at the attorney general's office. And one thing of
16 note is Ms. Thornwell sent me a link to this case making me
17 aware of it. So I want to say that on the record.

18 I have issued a subpoena to the Department of
19 corrections, which they have asked -- first they asked for
20 time to respond and now they're acting like they're not
21 going to respond at all. But until I get that information
22 I'm not going to be able to make a formal motion for
23 after-discovered evidence. But I wanted the Court to be
24 aware of this issue.

25 Moving on to the matters that are before the Court,

(P2)

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STATE OF SOUTH CAROLINA,)

vs.)

ATRAUS DORRELL STYLES,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS

SEVENTH JUDICIAL CIRCUIT

CASE NOS.: 2016-GS-42-5128, 5129

2015A4210101246
2016ALF210201311**ORDER**

Hearing Date:

02 November, 2016

Presiding Judge:

The Honorable R. Keith Kelly

On Behalf of the State:

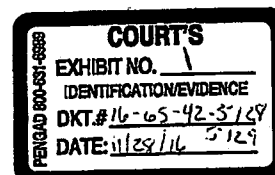
Deanene Thornwell and Larone Washington

Defendant's Attorney:

Andy Johnston

2016 NOV 23 AM 9:31

THIS MATTER came before the Court for a hearing on Defendant's Motion asserting statutory immunity from prosecution. Defendant has been indicted on one count of Assault and Battery in the Third Degree and one count of Misconduct in Office in which it is alleged that, on August 28, 2014, Defendant – a prison guard – struck an inmate about the head with a closed fist at the Spartanburg County Detention Center in Spartanburg, South Carolina. Defendant has moved pursuant to the Protection of Persons and Property Act, Section 16-11-410, et. seq., of the South Carolina Code of Laws to dismiss this case, asserting that his act was justified and that, as a result, he is absolved from prosecution pursuant to the immunity granted in Section 16-11-440(C) of the Act. The Court conducted a hearing on Defendant's Motion on November 2, 2016. Upon hearing the testimony of witnesses from both sides along with oral and written arguments, the Court hereby denies the Defendant's Motion to Dismiss for the reasons stated herein.



STATEMENT OF RELEVANT FACTS

As an initial matter, this Court makes no findings of fact that are intended to conflict with the findings made by the jury when this case is tried. All facts enumerated in this Order are based upon the testimony of witnesses before this Court at the Hearing on November 2, 2016.

According to the testimony of multiple witnesses, on August 28, 2014, Defendant Atrous Styles struck Courtney Pauling in the head with a closed fist. Defendant Styles was a guard at the Spartanburg County Detention Center and Mr. Pauling was an inmate at the facility. By multiple accounts, there was a verbal altercation that took place between the Defendant and Inmate Pauling. Importantly, Inmate Pauling was confined within his cell at the time the verbal altercation took place. Defendant Styles proceeded to unlock and open the cell door, allowing Inmate Pauling to step into the doorway, at which point Defendant struck him about the head with a closed fist. Several witnesses also testified Inmate Pauling never raised his arms before Defendant struck him.

STANDARD OF REVIEW

The Protection of Persons and Property Act ("The Act") provides immunity from prosecution when it applies. S.C. Code Ann. § 16-11-450 (1976). The Act was intended by the legislature to codify and slightly extend the common law Castle Doctrine, which is the notion that a person attacked on his own premises, without fault of his own, has the right to claim immunity from the law of retreat. *See State v. Gordon*, 128 S.C. 422, 425, 122 S.E. 501, 502 (1924); and *State v. Jones*, 416 S.C. 283, 291, 786 S.E.2d 132, 136 (2016). A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard. *State v. Curry*, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013). In a pretrial hearing to determine whether the Defendant is entitled to immunity under the Act, the Defendant has the burden to prove by the

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preponderance of the evidence that he is statutorily immune from prosecution. *See State v. Duncan*, 392 S.C. 404, 411, 709 S.E.2d 662, 665 (2011).

Specifically, § 16-11-440(C) of The Act reads as follows:

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

In addition to the provisions of the Act, the trial court must also consider the elements of self-defense in determining whether the Defendant is entitled to immunity from prosecution under the Act. *Curry*, 406 S.C. at 371, 752 S.E.2d at 266. This includes all elements of self-defense, save the duty to retreat. *Id.* First, the defendant must be without fault in bringing on the difficulty. *Id.* n.4 (citing *State v. Davis*, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984)). "Any act of the accused in violation of law and reasonably calculated to produce the occasion amounts to bringing on the difficulty and bars the right to assert self-defense." *State v. Slater*, 373 S.C. 66, 70, 644 S.E.2d 50, 52 (2007) (holding that the defendant's act of approaching an altercation that was already underway with a loaded weapon by his side could be reasonably calculated to bring about the difficulty that arose in the case).

Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. *Curry*, 406 S.C. at 371, 752 S.E.2d at 266 n.4. Third, if his defense is based upon his belief of imminent

danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. *Id.* The fourth element – the duty to retreat – is the element that is excused under the Act. *Id.* The accused must demonstrate the elements of self-defense, save the fourth element, to the satisfaction of the trial court by the preponderance of the evidence. *Curry*, 406 S.C. at 372, 752 S.E.2d at 267.

ANALYSIS

Defendant Styles claims immunity from prosecution under § 16-11-440(C) of The Act. The analysis of such a claim of immunity under South Carolina law is twofold. First, Defendant must establish that the event occurred in a place where he had the right to be. Second, Defendant must prove by the preponderance of the evidence that he acted in self-defense when he struck Inmate Pauling. *State v. Curry*, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013). Defendant must demonstrate all elements of self-defense, save the duty to retreat. *Id.*

As to the first prong under § 16-11-440(C), Defendant is expressly authorized to invoke the protection of this section because he was at his place of business. It is not contested that Defendant was employed at the Spartanburg County Detention Center and was working in an employment capacity at the time the incident occurred. Thus, Defendant falls under the "place of business" language of the statute.

The question then becomes whether Defendant acted in self-defense. The first element of self-defense requires Defendant to prove by a preponderance of the evidence that he was without fault in bringing on the difficulty. Defendant has not met that burden. The altercation took place after Defendant unlocked and opened the cell door, allowing Inmate Pauling to step into the doorway. By opening the cell door, Defendant allowed Inmate Pauling to confront him face-to-face. Based on the testimony of several Detention Center officers, that action was not in

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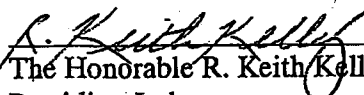
compliance with well-established protocol. When an inmate is belligerent, protocol dictates officers to leave him confined within a cell unless an emergency arises. Defendant breached protocol by opening the cell door, and as such, Defendant cannot prove by a preponderance of the evidence that he was without fault in initiating the physical altercation that ensued.

Since Defendant cannot meet the first element of self-defense by a preponderance of the evidence, he is not entitled to immunity under § 16-11-440(C) of The Act. Therefore, Defendant's motion for immunity against prosecution is denied.

CONCLUSION

THEREFORE, IT IS ORDERED that for the foregoing reasons, Defendant is not entitled to immunity under South Carolina's Protections of Persons and Property Act. Defendant's motion for immunity is hereby denied.

AND IT IS SO ORDERED.


The Honorable R. Keith Kelly
Presiding Judge

November 21, 2016
Gaffney, South Carolina

2016 NOV 23 AM 9:31

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

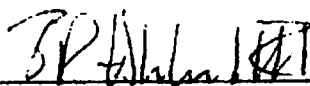
INDICTMENT

At a Court of General Sessions, convened on OCT 28 2016, 2016, the Grand Jurors of Spartanburg County present upon their oath:

MISCONDUCT IN OFFICE

That Artaus Dorrell Styles did, in Spartanburg County, on or about August 28, 2014, while serving as a Correctional Officer with Spartanburg County Detention Center, willfully and unlawfully commit misconduct in his public office, by acts and omissions of malfeasance, misfeasance, and nonfeasance in breach of his duties to the public including his duty of good faith, honesty, and accountability, to wit: intentionally committing battery upon the victim, an inmate at the Spartanburg County Detention Center, by striking him in the face/head area with his hand. This was done in violation of the Common Law of South Carolina.

Against the peace and dignity of the State, and contrary to the law in such case made and provided.


ALAN WILSON (DPT) *for AG*
ATTORNEY GENERAL

1. SENTENCE MADE
REPORT ENDED
WITNESSED BY COMPUTER

3. CARD PULLED
SIA J. Collins, SLED

INDEXED
SIA J. Collins, SLED

5. CHECKED SIGNATURE

TRANSMISSION AND
FBI CARD MADE

TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

2015A4210101245

ACTION OF GRAND JURY

OCT 28 2016

True Bill

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-42-5129

The State of South Carolina

County of Spartanburg

COURT OF GENERAL SESSIONS

OCT 2016
2016 TERM

THE STATE

v.

Atraus Dorrell Styles,
Spartanburg, SC 29306

B/M

DOB:

DEFENDANT

Indictment for

MISCONDUCT IN OFFICE

(Common Law)

CDR Code: 0819

Unclassified Misdemeanor

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

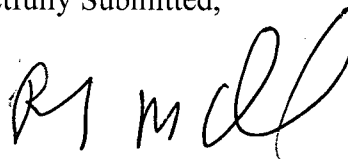
2016 NOV -2 AM 10:17

CLERK OF COURT
CLERK

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 27th day of July, 2018.

RECEIVED

JUL 27 2018

SC Court of Appeals