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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HERSHEL MARK JEFFERSON, JR.,

APPELLANT

APPELLATE CASE NO. 2016-001799

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2014-GS-10-05892

STATE OF SOUTH)
CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
VS.)
HERSHEL M. JEFFERSON,) JULY 13, 2016
JR.) CHARLESTON, SC
DEFENDANT.)

B E F O R E:
HONORABLE CARMEN MULLEN, JUDGE, AND A JURY.

A P P E A R A N C E S:
JESSICA BALDWIN, ESQUIRE
CHARLES PATRICK, ESQUIRE
Attorneys for the State
CHARLES COCHRAN, ESQUIRE
Attorney for the Defendant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

1 (The following proceedings were held July
2 13, 2016, @ 10:25 a.m., Charleston County, South
3 Carolina.)

4 (STATE'S EXH. 1-5, photos, were marked
5 for identification.)

6 THE COURT: I understand we have been
7 waiting for the Defendant to come. Is he here?

8 MR. COCHRAN: No, Your Honor. He was
9 in very good contact with me throughout and came to
10 the status conference and everything and then he I
11 think was avoiding communication with me yesterday.
12 He was supposed to come in yesterday morning and I
13 have not been able to get in touch with him all
14 through today.

15 THE COURT: Given the time I just want
16 to make sure he had proper notice of today's trial.
17 My understanding is you all had a status conference
18 with Judge Jefferson and she told him that he was
19 for sure going this week; is that correct?

20 MR. COCHRAN: Yes, Your Honor.

21 THE COURT: Okay. We are going to try
22 him in his absence. I know you want to object for
23 the record and make sure you place it there.

24 MR. COCHRAN: Your Honor, the only
25 request we would have would be for a bench warrant

1 in lieu of a trial in absence. The primary reason
2 for that just that makes this somewhat unusual is
3 that Mr. Jefferson had expressed a desire to me
4 throughout the process that he wanted to enter a
5 guilty plea. And one thing that makes this case a
6 little bit unusual is there had been an offer
7 originally to reduce the charge to a CDV 2nd. And
8 he did not reject that. I was in trial, Your Honor
9 was presiding the trial that I was in that week and
10 he was scheduled for that Monday. The solicitor
11 ended up getting in touch with the victim in this
12 case and revoked the offer. So that was I believe
13 without Mr. Jefferson having heard the offer.

14 So he didn't get a chance to accept the
15 offer. And then it got enhanced to CDV 3rd which
16 is significant because that carries the mandatory
17 minimum one year. So he then was put in the
18 position where he goes from potentially getting
19 time served, because he did seven months on this,
20 to looking at having to do at least another five
21 best case scenario and still was considering doing
22 the guilty plea.

23 But all of these things with the offer
24 revocation, and me trying to work that out and we
25 discussed it with Judge Jefferson at the status

1 conference. It was still going on at the status
2 conference and that's why he didn't enter a plea at
3 that point. But I'm confident that if he were to
4 get picked up on a bench warrant or if he came to
5 court, after getting in touch with me and coming in
6 on his own volition, I'm confident that he would
7 come in and enter a guilty plea. We would be
8 requesting the minimum one year because he has
9 already done seven months on this charge. This is
10 a day for day minimum so he would have to do
11 another five months.

12 But I don't want, you know, him to have
13 gone through a trial that he doesn't necessarily
14 want and then have a consequence in terms of
15 enhanced sentence because of the appearance that he
16 demanded a trial in this case.

17 THE COURT: I don't think it is because
18 of the appearance. It's because of the appearance
19 that he's not here. This occurred -- this
20 allegation or incident occurred July 3rd of 2014.
21 He was indicted on October 6th of 2014. He has had
22 plenty of time to decide whether or not he wants to
23 plead guilty to a lesser included so we are going
24 to go ahead with the trial. You can send someone
25 from your office to go call him, but we are trying

1 him in his absence. I am not bench warranting him.
2 He knew to be here. You all even go so far as
3 status conferences with judges and you actually get
4 trial dates in criminal court, which is slightly
5 unusual. So I say it is very nice for your clients
6 and for you all.

7 So I am going to go forward. We are
8 going to try him. Do you have your witnesses here
9 and are ready to go forward?

10 MS. BALDWIN: We are ready, Your Honor.

11 THE COURT: Okay. We are going to try
12 it. The gentleman sitting with you?

13 MR. COCHRAN: This is Ed Clark in our
14 office who will be assisting.

15 THE COURT: Apparently you will be the
16 Defendant for today. That's your job. Here in
17 your solicitor's office, different solicitor's
18 offices do it different, obviously you are required
19 to prove the first two criminal domestic violence
20 charges. Do you want me reading off this criminal
21 domestic third offense or do you want to just prove
22 to the Court afterwards the enhancement? I
23 typically know what the public defenders like,
24 but --

25 MS. BALDWIN: However you have dealt

1 with it, Your Honor. If you just read it as a
2 simple domestic violence charge and then we deal
3 with it after conviction.

4 THE COURT: That's fine. If that's
5 okay. That's how I always like dealing with it.
6 Actually the last time I was here they actually
7 wanted to prove the priors so you all have the
8 right to do so. So we will go from there. Any
9 other pretrial motions, we need any sequestration
10 of witnesses? How many witnesses do you have?
11 Looks like more than we typically have in a case
12 like this. I have got Felicia Michelle Edwards,
13 Amanda Powell, Officer Burton, Officer Wilson,
14 Investigator Joshua Cheney and Reynolds Fox?

15 MS. BALDWIN: Yes, Your Honor. It will
16 be actually three most likely. It would be the
17 victim, Felecia Edwards, Officer Burton and Amanda
18 Powell.

19 THE COURT: Perfect. I have the
20 State's requested voir dire. Sir, I don't know if
21 you have looked at them.

22 MR. COCHRAN: Yes.

23 THE COURT: Some of them I have cut
24 off. I do standard, you know, do you have a
25 problem following the law. I do my normal standard

1 have you been the victim or accused of domestic
2 violence in the past, that type of thing, make sure
3 it covers both sides and it is fair. Fine with
4 you?

5 MS. BALDWIN: And, Your Honor, just as
6 a housekeeping matter, we do have five State's
7 Exhibits, all photographs. I have spoken to Mr.
8 Cochran. He has no objection to any of them so if
9 we could admit them at this time.

10 THE COURT: Absolutely if you have
11 already got them marked.

12 MS. BALDWIN: Yes.

13 THE COURT: Perfect.

14 (STATE'S EXH. 1-5 in evidence.)

15 (Whereupon the venire entered the courtroom
16 at 10:38 a.m.)

17 THE COURT: Good morning, ladies and
18 gentlemen.

19 (The venire returned the greeting.)

20 THE COURT: It is a pleasure to see you
21 all. My name is Carmen Mullen and for those of you
22 who weren't with me yesterday morning, I come from
23 Beaufort, South Carolina. And it is my pleasure
24 this week to be holding a term of general sessions
25 court here in Charleston. I will tell you that I

1 started my legal career in Charleston over 20 years
2 ago. So it is always a pleasure to be sent back
3 here to try cases.

4 Ladies and gentlemen, let me tell you
5 what we are going to do for today and the remainder
6 of the week. As I told my group yesterday, I am
7 the only judge here this week that is actually
8 trying cases and that actually needs you as jurors.
9 So the good news is I have one case left on my
10 roster. It is going to last today and today only
11 and then we are going to be done for the week as
12 far as the jury is concerned.

13 So, ladies and gentlemen, even if you
14 get chosen on this jury here this morning, you are
15 going to be done this afternoon. So I don't want
16 anyone concerned. And I will release the rest of
17 you for today or the remainder of today and then
18 when the case ends the rest of you will be released
19 after that trial ends. So I want everyone to rest
20 assured you will be done today and I know it helps
21 for planning purposes. All right?

22 So, ladies and gentlemen, with that
23 good news I need to go ahead and ask you particular
24 questions in regards to this specific case. James,
25 do you need to reswear them?

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THE CLERK: No.

THE COURT: Ladies and gentlemen, I, just remind you under the oath you took back on Monday you are required to respond to the questions that I ask if appropriate. Simply stand, give me your name and your juror number if you know it. Hopefully you do. And then respond. I just again remind you this is a court of record. Everything anyone says, is being taken down by my court reporter so we may ask you to speak up. Please don't be offended. Everyone is just interested to hear what you have to say. All right?

Additionally, ladies and gentlemen, I will tell you that sometimes some of the questions may feel a bit personal and I don't want anyone to suffer any embarrassment here. If for some reason you need to respond to a question and don't feel comfortable standing up and announcing it in front of all your fellow jurors, what I need you to do is stand up, give me your name and juror number and just ask to approach. You are going to come talk to me and tell me whatever your concerns are if you need to respond to a question. The attorneys are entitled to know what you have to say as well so it is only in relative private, but of course I don't

1 want anyone to suffer any kind of embarrassment,
2 all right?

3 So with that said, ladies and
4 gentlemen, I'm going to go ahead and call this
5 case. It is the State of South Carolina versus
6 Hershel M. Jefferson, Jr. who is charged in the
7 bill of indictment in Charleston County with the
8 offense of criminal domestic violence. Ladies and
9 gentlemen, the allegations in this case are that in
10 Charleston County, South Carolina, on or about
11 July 3rd of 2014, the Defendant, Hershel M.
12 Jefferson, Jr. did cause physical harm or offer or
13 attempted to cause physical harm to Felecia
14 Edwards, a family or household member with apparent
15 present ability under circumstances reasonably
16 creating fear of imminent peril.

17 Ladies and gentlemen, is there any
18 member of the jury panel related by blood or
19 connected by marriage to the Defendant in this
20 case, Mr. Hershel M. Jefferson, Jr.?

21 If so, please stand.

22 (No response from jury panel.)

23 Ladies and gentlemen, the following is
24 a list of potential witnesses in this case and I
25 apologize. I need to ask if any of you are related

1 (Jury panel sworn by the clerk.)

2 THE CLERK: Please let the record
3 reflect all jurors seated.

4 THE COURT: Thank you, James. Ladies
5 and gentlemen of the jury, you have been selected
6 as fair and impartial jurors whose purpose it is to
7 find and determine the facts. You, the jury, are
8 the sole judges of all the facts in this case. If
9 at any time I make any comment regarding the facts
10 of this case you must disregard it. And as jurors
11 you are to determine the facts in the case from the
12 testimony you hear from the witness stand as well
13 as any other evidence that's introduced to you or
14 if there are any stipulations by the attorneys.

15 Please understand, ladies and
16 gentlemen, it is especially important that you
17 perform your duty of determining the facts
18 diligently and conscientiously because ordinarily
19 there's no way to correct an erroneous
20 determination of the facts by a jury.

21 Ladies and gentlemen, the same law that
22 makes you the judge of the facts makes me the judge
23 of the law. The law as given by the Court is the
24 only law that you may consider. You must accept
25 and follow it even if you disagree with it. I

1 cannot tell you what the facts of this case are.
2 You cannot disagree with me about what the law is
3 or what you think the law ought to be. Your job is
4 to take the law as I give it to you and apply it to
5 the facts as you find them and from there render a
6 true and just verdict under the oath you just took.

7 Now, until you begin your
8 deliberations, ladies and gentlemen, you are not to
9 discuss this case with anyone; and that includes
10 your fellow jurors, friends, family members or any
11 colleagues or anyone that's involved in this case.
12 Ladies and gentlemen, after the case is submitted
13 to you you may only discuss it with your fellow
14 jurors until you have reached a verdict.

15 Ladies and gentlemen, I remind you
16 again the lawyers have been instructed not to speak
17 with you as well as the witnesses in this case. So
18 again if you pass them over the lunch hour and they
19 don't even say hello, don't be offended. They are
20 following my orders. Additionally, ladies and
21 gentlemen, I do not believe there is going to be
22 anything on the TV, the newspaper, the radio, but
23 out of an abundance of caution I am required to
24 tell you you are not to read, watch, look at
25 anything in regards to this case, ladies and

1 gentlemen.

2 So that includes don't you do any
3 independent research over the lunch hour in regards
4 to anything having to do with the case. I remind
5 you again you are going to have everything you need
6 to decide the case right here in this courtroom.
7 It would be highly inappropriate for you to be
8 influenced in your duty here today by any outside
9 source.

10 Now, ladies and gentlemen, in just a
11 moment the solicitor is going to make an opening
12 statement. And the defense attorney is also going
13 to make an opening statement, although he is not
14 required to do so. What I want you to understand
15 is that their opening statements are not evidence
16 in this case. It is just their arguments or
17 contention as to what they believe the issues are
18 in this case. I remind you the evidence in the
19 case again comes from the witness stand and any
20 other evidence that comes in that is introduced to
21 you.

22 Now, I also want you to know that from
23 time to time you may hear the lawyers say something
24 like, Your Honor, we have matters of law we need to
25 take up or I may motion them up here. I may send

1 you back to your jury room. I want you to
2 understand something. We are not hiding anything
3 from you. Often when I have to rule as a matter of
4 law whether or not certain testimony is admitted I
5 may make a comment on the facts the case. Because
6 I would never want anything I do or say to
7 influence you in your determination of the facts,
8 out of an abundance of caution we just do
9 outside your presence.

10 Now, in determining what the true facts
11 are in a case you must decide whether or not the
12 testimony of the witnesses is believable. My
13 responsibility is to rule as a matter of law
14 whether or not certain testimony is admitted. But,
15 ladies and gentlemen, when the testimony is
16 admitted whether or not you believe it is for you
17 to determine. In deciding whether to believe a
18 witness you have a right to consider whether the
19 witness has an interest in the outcome of the
20 trial, whether the witness is prejudiced towards
21 either the State or the Defendant. You can also
22 look at the opportunity that witness had to have
23 seen and heard the matters of which they're
24 testifying and you can also look at the way the
25 witness acts on the witness stand. You have the

1 right to consider anything that is in the record
2 that will help you evaluate the testimony of the
3 witnesses. That means, ladies and gentlemen, it is
4 your duty and responsibility to pay close attention
5 to the witnesses, to observe them, to listen to
6 them, so at the end of the trial you can accurately
7 remember their testimony. All right.

8 So with said, ladies and gentlemen, we
9 are going to go ahead. In order to preserve
10 everyone's rights, any objections or additions from
11 the State?

12 MS. BALDWIN: Not from the State.

13 THE COURT: From the defense?

14 MR. COCHRAN: No, Your Honor.

15 THE COURT: Ladies and gentlemen, we
16 are going to go ahead and begin the trial of this
17 case. Solicitor.

18 MS. BALDWIN: Thank you, Your Honor.
19 Good morning, everyone. I just want to start off
20 by thanking you for being here today. I know it's
21 a bit of an inconvenience and takes you out of your
22 lives a little bit, but without you all we could
23 not do our job. So we really all do appreciate you
24 taking your time to be here. But I also want to
25 thank you because while as the judge said this will

1 be a very short trial, it's also a very important
2 one. And the reason for that is because this is
3 the day that Felecia Michelle Edwards is standing
4 up for herself. She has to after what the
5 Defendant did her on July 3rd of 2014. She and the
6 Defendant have three children together, two twins
7 and a toddler.

8 On that July 3rd day they had been
9 arguing. Felicia said let's just part our ways for
10 today, let's go our separate ways. She was going
11 to go over to her mom's house. She packed a bag.
12 She went over to her friend Amanda's house to get
13 away from the Defendant while she was waiting for
14 her mom to come get her, but the Defendant wasn't
15 having any of that.

16 He followed her. Showed up at Amanda's
17 door. Stared berating her. He then left.
18 Subsequently came back. And he was asking her
19 through a screen door, she was inside, he was
20 outside, asking her to call certain phone numbers.
21 She called a few of them. When she finally said
22 no, I have had enough, that was not acceptable to
23 him. And so he ripped open the screen door to
24 Amanda's house and proceeded to punch Felicia in
25 the face. He attacked her right in front of Amanda

1 Powell who was pregnant at the time. Amanda did
2 call the police, but while the police were in route
3 the Defendant did hit Felicia several times,
4 grabbed her around her neck.

5 Now, I'm going to let you know she did
6 try to fight back while he was attacking her. He
7 just kept coming though. So much of his anger was
8 just relentless. The only way for Felicia to get
9 him to stop beating her was for her to hit him with
10 a glass candle holder, a Yankee candle I think they
11 are called. And it was only when he started
12 bleeding that he finally gave up and fled the
13 house.

14 And he was subsequently arrested. But
15 he left marks for Felicia to remember him by.
16 Swollen eye, bloody nose, some scratches. You'll
17 see pictures of those. And I am confident when you
18 see those pictures, when you hear the testimony
19 from Felicia, from the officer at the scene, from
20 Amanda Powell, that you will find the Defendant
21 guilty of criminal domestic violence. Thank you.

22 THE COURT: Thank you.

23 MR. COCHRAN: May it please the Court.

24 THE COURT: Please.

25 MR. COCHRAN: This all started over a

1 cell phone, an argument over a cell phone. And you
2 are not going to hear a case about a man beating a
3 woman, a man beating his wife or girlfriend. You
4 are not going to see what I think typically comes
5 to your mind when you hear the words domestic
6 violence.

7 After Ms. Edwards opened the door for
8 the father of her children, Hershel, he came into
9 the house, and they had an altercation. And the
10 reason why I say this is not a case about a man
11 beating and abusing a woman is because all of the
12 evidence shows that that is not the case. One
13 person went to the hospital that night with
14 injuries that needed to be treated and that was
15 Hershel. Ms. Edwards declined to have any kind of
16 hospital treatment and that's because the only
17 injuries she sustained were the injuries that were
18 caused while she was smashing a glass candlestick
19 holder over his head and into his ear and cutting
20 him in the shoulder.

21 She received cuts to her hands and cuts
22 to her wrist in the act of doing that. Her friend
23 was there. Her friend was calling 911. But her
24 friend wasn't calling 911 because her girlfriend
25 was getting beat and abused. She called 911

1 because two of her friends were tearing up her
2 house during the altercation.

3 So this is not your typical domestic
4 violence case. This is not a case of a man
5 overpowering a woman and beating her and abusing
6 her. This is a case of an altercation which
7 resulted in injuries to the man. And there is
8 nothing in the evidence to indicate that Hershel
9 started this altercation. He asked to use the cell
10 phone, the door was opened. He was given a cell
11 phone. There was an argument that took place and
12 an altercation that took place. And you will hear
13 from the witnesses all the things that I am telling
14 you today. This is not a case of physical abuse of
15 a woman by a man. This is a case of an altercation
16 where the man Hershel got a much, much worse end of
17 the bargain. Because of that, at the end of this
18 trial, it will be a very short trial, I will ask
19 you to find him not guilty. Thank you.

20 THE COURT: Thank you. State will call
21 their first witness.

22 MS. BALDWIN: Thank you, Your Honor.
23 State calls Felecia Edwards.

24 FELECIA EDWARDS

25 having been duly sworn, testifies as follows:

1 THE CLERK: Please state your first and
2 last name and spell your last name loudly and
3 clearly into the microphone.

4 THE WITNESS: Felicia Edwards,
5 E-D-W-A-R-D-S.

6 DIRECT EXAMINATION

7 BY MS. BALDWIN:

8 Q. Good morning. How are you?

9 A. I'm okay.

10 Q. Why don't you just start off telling
11 the jury a little bit about yourself. Where are
12 you from?

13 A. I'm from Charleston.

14 Q. Born and raised?

15 A. Yes, ma'am.

16 Q. Do you have any kids?

17 A. I do.

18 Q. How many?

19 A. I have twin boys and two girls.

20 Q. How do you know the Defendant, Hershel
21 Jefferson?

22 A. We were in a relationship and we have
23 children together.

24 Q. You have children together. How many
25 children do you have together?

1 A. We have a set of twins and a little
2 girl.

3 Q. What's the little girl's name?

4 A. Journey.

5 Q. And how long have you known the
6 Defendant?

7 A. For about six years.

8 Q. Can you describe what he looks like for
9 me?

10 A. He's about my height, about five six,
11 dark skin. He has a little haircut. Has a scar on
12 the left side of his forehead.

13 Q. And how old is he, about?

14 A. Thirty-three.

15 (STATE'S EXH. 6, picture, marked for
16 identification.)

17 BY MS. BALDWIN:

18 Q. Felicia, I'm going to show you a
19 picture. Can you tell me who that is?

20 A. Hershel.

21 Q. State's Exhibit 6 for the record.

22 A. Hershel Jefferson.

23 MS. BALDWIN: At this time I would like
24 to admit State's Exhibit 6 into evidence.

25 MR. COCHRAN: No objection.

1 THE COURT: Without objection it's in
2 evidence.

3 (STATE'S EXH. 6 in evidence.)

4 BY MS. BALDWIN:

5 Q. And you said that was Hershel
6 Jefferson?

7 A. Yes, ma'am.

8 Q. The Defendant?

9 A. Yes, ma'am.

10 Q. So you know why you are here today?

11 A. Yes, ma'am.

12 Q. Okay. Why are you here?

13 A. Because Hershel abused me.

14 Q. When did this happen?

15 A. On July 3rd of 2014.

16 Q. Tell us about it. What happened?

17 A. Well, it all started because we were
18 having some financial issues. My lights got turned
19 off. So my kids went to my mom's. I had somebody
20 that was coming in the following week and I was in
21 a terrible car accident. I needed some time off
22 from work because I couldn't handle driving at the
23 time. So we were arguing all day in regards to
24 that. Hershel went through my phone, saw some
25 texts from my friend telling me to come on, to get

1 out of the house, that I could stay with her and he
2 just needed to go and stay back with his mom. So
3 that proceeded to lead into a worse situation and
4 he started with the ranting and raving and I didn't
5 want us to get into it again. So I decided -- so I
6 told him that it was just best that he went to his
7 mom's and that I was going to go call my mom.

8 Q. When you say get into it again, what do
9 you mean?

10 A. Because we were already arguing and
11 because I have already been abused before.

12 Q. You mean by arguing with him?

13 A. Yes, ma'am.

14 Q. And when you say he was ranting and
15 raving what was he saying?

16 A. He was cursing at me. Telling me that
17 I was going to leave him. He was calling me names,
18 being very disrespectful. He was saying you fat B,
19 as in -- I don't know.

20 Q. B?

21 A. Like curse, it's a curse word. He said
22 you fat bitch. And he was like this was like, you
23 know, was like you just trying to get rid of me
24 because you about to get that money and you just --

25 MR. COCHRAN: Your Honor, I object to

1 hearsay at this point.

2 THE COURT: Okay. Sustained.

3 BY MS. BALDWIN:

4 Q. Thank you, Your Honor. So after he was
5 going on like this where did you go?

6 A. I went to -- well, before he didn't --
7 he said he was leaving. He packed a bag. So when
8 he left I placed his bag outside. I locked my door
9 and I went down to Amanda's house. I called my
10 mom. My mom said she had just gotten back in the
11 house with the kids so she wanted -- she told me to
12 give her an hour or two just to freshen up and so
13 forth and she was on her way to come get me.

14 Q. Okay. What happened after that?

15 A. So while I was waiting on my mom to
16 come get me I guess Hershel returned and saw that I
17 was at home. He knocked on Amanda's door. The
18 first time when he knocked we didn't respond. It's
19 a screen door and -- it's a screen door and like a
20 hard physical door. So he kept knocking. I told
21 her to go ahead and open the door. When she opened
22 the door she opened the hard physical door and he
23 asked if I was there. I walked to the door and I
24 was like what is -- so he was fussing through the
25 door. He was like how you going to kick me out of

1 the house? So you going to leave me just like
2 that. He was cursing me again and whatsoever.
3 Amanda said that, you know, well, I guess this
4 would be -- he said something. I'm not going to
5 say it. I knew he was drinking because I could
6 smell it on his breath. And he was yelling, like
7 he was yelling so hard at me that spit was flying
8 on the screen and stuff like that. So afterwards
9 he walked off. I went back and sat on Amanda's
10 couch.

11 Q. Just a second for me. I'm going to
12 show you what's already been admitted as State's
13 Exhibit 1. Should come up on that screen in front
14 of you. So if you touch that screen you should be
15 able to make a mark on it. Can you show me where
16 Amanda's house is?

17 A. Yes, ma'am.

18 Q. May not be completely visible on this
19 picture, can you show me where your apartment was?

20 A. My apartment, it is not visible, but it
21 is past this apartment.

22 Q. Is it close or far away?

23 A. Can you see the red? I live a couple
24 of doors, like five or six doors down.

25 Q. Show you what's already been admitted

1 as State's Exhibit 2. And do you know whose
2 apartment that is?

3 A. That's Amanda's.

4 Q. Is that the screen door and the --

5 A. Yes, ma'am.

6 Q. Is the door that was behind it visible
7 in that picture?

8 A. You really can't see, but it's brown
9 doors, like the same color the screen so yes,
10 ma'am.

11 Q. So where was -- so Hershel came, but
12 did you come outside or you went back to your house
13 with him?

14 A. The second time when he came I came
15 back out and I unlocked the door for him.

16 Q. What happened after that?

17 A. When I unlocked the door for him he
18 started tossing things in the house. He started
19 arguing with me. So forth and so on. He started
20 cursing me again. Telling me I was never going to
21 be nothing and he wasn't going to leave. I wasn't
22 going to take his children. I wasn't going to
23 leave him. That I was a stupid bitch and calling
24 me names and so forth.

25 So he was making me nervous and so once

1 he went to walk into the bathroom I walked out the
2 house and I hurried up and walked back down to
3 Amanda's house.

4 Q. And what happened when you were at
5 Amanda's house the next time?

6 A. When I was at Amanda's house he came
7 back to the door again. That's when he proceeded
8 to ask me about asking me if I could call his
9 sister, if I could call these different numbers and
10 so forth and so on. He asked to borrow my phone.
11 I told him I was not going to let him use my phone
12 because of what happened the last time.

13 Q. Where were you standing and where was
14 he standing?

15 A. He was on the outside of the screen
16 door and I was on the inside. And the screen door
17 was locked. We had already locked the screen door.

18 Q. Okay.

19 A. And so I dialed these numbers for him
20 and so forth and so on and like the last couple of
21 numbers I just knew that he was just being devious
22 or whatever because a lot of them were going to
23 voice. The last one it was like if you call
24 somebody you have the wrong number and so forth.
25 So he was yelling you are not going to let me use

1 your phone, why can't I use your phone, what's in
2 your phone, so forth and so on. I was like you are
3 not going to use my phone. I said you just need to
4 go home. We need to just be apart, too much going
5 on. I said I'm going to my mom's. You need to go
6 home. He continued and proceeded. So just this
7 fast as quick as I was going to just walk off from
8 the door like that JR snatched the screen door
9 open.

10 Q. I hear you calling him JR. Is that the
11 Defendant?

12 A. Yes, Hershel, Mr. Jefferson.

13 Q. Is that the nickname?

14 A. Yes, because he's a junior. And
15 Hershel smashed the screen door open. So when he
16 went to snatch the screen door open I proceeded to
17 put my phone in my breasts and that's when he
18 punched me.

19 Q. Where did he punch you?

20 A. In my face.

21 Q. And was he saying anything?

22 A. He was like we're both going to jail
23 tonight, you are not going to leave me, we're both
24 going to jail tonight.

25 Q. So what did you do?

1 A. I proceeded to tell him to get off me
2 because Amanda's -- when he walked into her house,
3 when you walk into the screen door right there and
4 there's a black leather couch that's right there.
5 So when he hit me I kind -- when I slumped over the
6 couch like that I put -- I was leaning over and I
7 put my phone inside my breasts and my bra.

8 I was like JR, I can't believe you --
9 like I was shocked that he hit me, you know, like
10 in front of Amanda like, you know. And it may
11 sound stupid like to everybody else, but like
12 there's a difference when nobody knew, but when he
13 hit me and just disrespected me and I think that's
14 the worst thing you can do is hit somebody in their
15 face or spit on them. And when he did that in
16 front of her and I just was like I can't take it no
17 more. It was like I was at my breaking point and
18 he know that I'm not in the best of health and like
19 it didn't matter to him, especially everything that
20 I went through, that car accident, just was like
21 too much for me.

22 And so when he hit me it just was like
23 I was in shock. So at first it took me a minute to
24 like really gather myself. I didn't want to hit
25 him back or anything like that. I just couldn't

1 believe that he did it.

2 Q. I know this is hard for you to talk
3 about. But you said you were in shock. What
4 happened after that?

5 A. So when he grabbed me around my neck
6 and had me in a headlock and he just kept saying we
7 are going to jail tonight. We are going to jail
8 tonight. JR know like at the time I was in nurses
9 school so he knew it was like I am not -- I can't
10 really get in trouble like that and so forth. So
11 he just was like trying to -- he tried to get me to
12 go back down to the house and he didn't want me to
13 leave. So he hit me again and we kind of like
14 landed by the couch and Amanda was screaming and
15 stuff like that. I was like telling him I was like
16 you know this girl is pregnant. I said you
17 fighting in this girl's house. I say you need to
18 leave. I kept telling him that. He just keep
19 cursing at me and calling me the B word and stuff
20 like that. And he just kept fighting me.

21 So I kind of like got up off the couch
22 and stuff like that. And I just like was trying to
23 catch my breath in between and so forth. So I like
24 tried to push him off me and because I was bleeding
25 and stuff like that his grip was loosening up a

1 little bit and so forth, but it wasn't like enough
2 where I can really physically get him off me. So
3 when we slipped and fell on the couch I kind of
4 landed on top of him. That's how I got -- was able
5 to get up and I was tired. I started hitting him
6 back. I am sorry I did hit him back.

7 Q. Was that effective in getting him off
8 you?

9 A. No, because as soon as he got back up
10 he grabbed me again and jumped back on me.

11 Q. So what did you do then?

12 A. So I was like JR, I told him you really
13 want to fight, come on, let's go out the house.
14 Take this out of Amanda's house. I said you want
15 to fight me you fight me in the street. I said
16 just like that and Amanda was yelling for people to
17 call the police and stuff like that. I said you
18 know this girl is pregnant. I said why would you
19 even do that and stuff like that. That's the only
20 thing he kept saying, we are going to jail tonight.
21 He was like you are going to leave me.

22 So we started tussling and we ended up
23 by -- Amanda has a computer stand that was by the
24 wall. When I got over by the wall that's when I
25 saw the candle, the big candle. He still had me in

1 a headlock and so forth. I picked up the candle.
2 I warned him once. I told him to let go. I said
3 if you don't let me go, I said if you don't let me
4 go I'm going to chuck you with this candle.

5 So he wasn't letting me go. I popped
6 him in his head with the candle. The candle didn't
7 break the first time, but it did -- I gave him some
8 kind of bruise or whatever like that. So he still
9 would not let me go. I told him again, I said, JR,
10 I'm going to bust your head with this candle. And
11 I chucked him again, and I promise you the third
12 time I chucked him that's when the candle broke.
13 That's when he busted his head and this boy still
14 would not let me go. He was like you bust me, you
15 bust my head. He just kept on, kept on.

16 So after I had -- it was like when the
17 candle broke it was still like a big piece of
18 candle glass in my hand. So when the glass was in
19 my hand he was still like standing up. I told him,
20 I said I am going to cut you with the glass. I
21 said JR, you need to let me go. I said you know I
22 am sick and stuff like that. Why would you do
23 this? And so when he started bleeding and
24 everything and so he kind of like -- I don't know
25 if he was kind of wearing out or whatsoever or

1 however. We stayed in the house and so the rooms
2 aren't that big. We ended up by the refrigerator
3 in the kitchen.

4 So the refrigerator is right here and
5 the sink is right here. So when I went to turn
6 around it made his hand have me like I was turned
7 back once again. He had his hand right around my
8 neck. So I was catching my breath and then
9 afterwards that's when I lifted his arm up a little
10 bit. We both were bleeding and we were sweating
11 and everything else.

12 So when I turned around I told him, I
13 said I'm going to stab you in your chest with this
14 glass. I pricked him in his chest but I didn't
15 have the will to like stab him. So when I turned
16 around I took the glass and I cut it across his arm
17 and I guess because of him drinking and everything
18 else I also might have cut an artery. That's how
19 the blood go all over the kitchen.

20 Q. What happened -- so did he eventually
21 let go?

22 A. Yeah, when he started -- I told him, I
23 said look at your arm. That's squirting out
24 everywhere. And that's when he was like you made
25 me do this. And he was like -- I can't remember

1 exactly the last thing he said, but he said you
2 made me do this. And after that he was like -- I
3 said JR, you need to leave. And he ran out the
4 back door.

5 Q. I want to go back a little bit. Did
6 you get any injuries from using the candle?

7 A. I did. I still have the bruise, cut up
8 my hand.

9 Q. I will show you what's been admitted as
10 State's Exhibit 4. What's that, Felicia?

11 A. That's my hand.

12 Q. And State's Exhibit 5?

13 A. My wrist.

14 Q. That's from the candle as well?

15 A. I'm not sure because my -- the candle
16 was in my hand so I don't know if that's from the
17 candle or not.

18 Q. Put up State's Exhibit 3 for you, too.
19 What are we looking at here?

20 A. My face. (Crying.)

21 Q. What injuries did you suffer from him
22 hitting you?

23 A. I had scratches and my eye was swollen.
24 My nose was busted.

25 Q. And I know it is hard for you to talk

1 about, but can you -- it's in black and white. Can
2 you show us where you're kind of talking about?

3 A. My face was swollen. I had a cut on
4 the side of my nose. My nose was bleeding and all
5 these scratches here and my neck was scratched up.

6 Q. What was that from?

7 A. Him scratching me.

8 Q. So after he left did the police come?

9 A. They did.

10 Q. You told the police what happened?

11 A. Yes, ma'am.

12 Q. Did you get any sort of treatment for
13 your injuries?

14 A. I went to the ER a couple hours later.
15 I did not go right then because my mom was on the
16 way and she had my children with me. I did not
17 want them to come to the hospital and see me like
18 that.

19 Q. Did anybody respond to the scene to
20 look at your injuries?

21 A. They did.

22 Q. Who was that?

23 A. EMS. He told me that my hand needed a
24 bunch of stitches. He said that I needed to go
25 that night or they won't be able to stitch it.

1 Q. Now, you lived just right down the way
2 from Amanda. Did you stay at your place that
3 night?

4 A. No, ma'am.

5 Q. Why not?

6 A. So when the police came I talked to the
7 police outside. I told them -- because I
8 remembered my door was unlocked from when I let him
9 back in the house. I asked him -- I told him what
10 was going on. He walked me down to my house. When
11 we went inside the house there were blood droplets
12 throughout the house. So Hershel had went back to
13 the house and there was also a bloody shirt in my
14 sink. So the police, he did not want me to go
15 upstairs in case he was upstairs. The police went
16 looked and through my house and then after he told
17 me to lock the house.

18 So I went -- I was outside and I was
19 waiting on my mom. And that's when I was told that
20 he had just been -- the young lady that stays on
21 the end from me, she was dating his cousin and she
22 told me that he just was with him.

23 Q. The police eventually found him?

24 A. Yes, ma'am.

25 Q. Where did you stay that night?

1 A. After I left the ER my mom took me to
2 her house.

3 Q. Court's indulgence.

4 (Off-the-record conference.)

5 MS. BALDWIN: I don't have any further
6 questions at this time. Please answer any of Mr.
7 Cochran's questions.

8 THE WITNESS: Yes, ma'am.

9 MR. COCHRAN: May it please the Court.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. COCHRAN:

13 Q. Ms. Edwards, at no point that night did
14 you call the police, correct?

15 A. The police had already been called.

16 Q. So Amanda or Ms. Powell called the
17 police?

18 A. She called them while we were fighting.

19 Q. And this happened about a year ago,
20 correct, a little over a year ago?

21 A. In 2014.

22 Q. 2014, okay. Two years ago. So after
23 at some point Hershel was released from jail on
24 bond, correct?

25 A. Yes, sir.

1 Q. Did you have any part in bonding him
2 out?

3 A. No, sir.

4 Q. Did you have contact with him?

5 A. Yes, sir.

6 Q. You guys had three kids together?

7 A. Yes.

8 Q. So you continued to have contact with
9 regards to I guess finances, things like that?

10 A. No, sir.

11 Q. But you continued to have --

12 A. Yes, sir.

13 Q. -- contact. Did he move back in with
14 you?

15 A. No, sir. He visited us and he was
16 there, yes, sir.

17 Q. And during the course of this -- these
18 two years you had stopped contact with the
19 prosecutor's office, correct?

20 A. No, sir.

21 Q. And you had indicated that you did not
22 want to go forward with the prosecution?

23 A. What it is is that I moved. When I
24 moved I notified -- I spoke with the victim's
25 advocate office and gave them my new address and so

1 forth. But it was not put down and so when they
2 were sending the letters they were going to my old
3 address, not my new address.

4 Q. You had also indicated that you did not
5 have any interest in pursuing the prosecution,
6 correct?

7 A. At one time I did inform Hershel
8 Jefferson, I told him if he left me alone and did
9 not contact me or harass me I would not show up to
10 court.

11 Q. Meaning you didn't want to pursue the
12 prosecution?

13 A. Meaning that I wanted him to leave me
14 alone.

15 Q. But you guys did remain in contact,
16 correct?

17 A. Off and on, yes, sir.

18 Q. And you contacted the solicitor again
19 after you two ended up having some custody
20 disputes, correct?

21 A. No. That is not correct.

22 Q. He expressed a desire to have at least
23 partial custody of the three children?

24 A. That is not correct as well.

25 Q. And that was what caused you to --

1 A. No, sir.

2 Q. -- get back in contact?

3 A. Actually, Hershel Jefferson's charge
4 led into a DSS investigation and so therefore he
5 can't have gotten custody of anybody's children.
6 So that is not true.

7 Q. But two years later you decided that
8 you wanted to contact the solicitor?

9 A. No, sir, that's not correct.

10 Q. Were you --

11 A. Because the solicitor ended up writing
12 me, this was about eight months to a year ago and
13 once I received the forwarded mail that's when I
14 contacted Jessica Baldwin. I tried her, I
15 contacted numerous times the victim's advocate
16 office. When someone contacted me back that's when
17 I was informed about court.

18 Q. Now, you talk about the victim's
19 advocate and about DSS. And soon after Hershel was
20 arrested a victims group or the victim advocate
21 group was helping you purchase groceries and things
22 like that?

23 A. That is correct.

24 Q. And you mentioned you have nine
25 children in all?

1 A. I have six at home, yes, sir. I have
2 two children in college and one that is working
3 that stays with his girlfriend.

4 Q. Okay. You said that on this date that
5 this altercation happened back in 2014, the
6 beginning of this arguing and fussing was over
7 financial issues?

8 A. That's correct.

9 Q. And Hershel was living with you at the
10 time?

11 A. At the time he was.

12 Q. And so you went a few doors down to Ms.
13 Powell's house to avoid the argument?

14 A. To avoid the argument and I went down
15 and called my mom to come and get me.

16 Q. And did your mother end up coming?

17 A. I ended up -- after the altercation
18 happened I told her not to come get me. The police
19 notified her I was going to the hospital. My niece
20 came and took me to the hospital.

21 Q. You ended up going to the hospital but
22 you refused EMS treatment or you refused a trip to
23 the hospital when the police were still there,
24 correct?

25 A. I did refuse to go to the hospital only

1 because my mom -- I thought my mom was already on
2 the way and I did not want my children to see me
3 like that. I was trying to get in touch with her
4 first so she would not bring my children.

5 Q. Did you contact the police to let them
6 know that you had gone to the ER?

7 A. The police already knew because Hershel
8 was still -- when he was arrested he was arrested
9 around my house and so because I am the one who
10 called the police to let them know we saw him
11 around my house.

12 Q. Was an officer there to speak with
13 medical personnel and to document your injuries and
14 things like that at the hospital?

15 A. To document at the hospital? I guess
16 the doctor did that because they already documented
17 and took pictures at the scene.

18 Q. Okay. And so speaking of your injuries
19 you had, we have already seen the photographs. You
20 have a cut on your hands and your wrist, correct?

21 A. Yes, sir.

22 Q. And you said that that was from when
23 you hit him with the --

24 A. When the candle broke in my hand.

25 Q. Okay. And was breaking on his head?

1 A. That is correct.

2 Q. You mentioned that you had -- during
3 this altercation you mentioned that you had been
4 suffering from some health problems?

5 A. That's correct.

6 Q. Were you having mobility difficulty
7 from a car accident?

8 A. No, I suffer from anemia so I am tired
9 very easily and I have severe anemia. So one of
10 the things is that I am very tired and I have like
11 heart palpitations and things like that.

12 Q. And you mentioned you had also suffered
13 a car accident not long before this?

14 A. That is correct.

15 Q. Were you still feeling the effects of
16 that as well?

17 A. My car accident, the only injury I had
18 was to my finger and to my leg.

19 Q. To your leg?

20 A. Um-hmm.

21 Q. Thank you, Ms. Edwards.

22 MR. COCHRAN: Your Honor, I have no
23 further questions.

24 THE COURT: Anything further?

25 MS. BALDWIN: Very briefly, Your Honor.

1 Can we approach please?

2 THE COURT: You may.

3 (Off-the-record conference.)

4 REDIRECT EXAMINATION

5 BY MS. BALDWIN:

6 Q. Just real briefly, Ms. Edwards. So you
7 were having financial issues at the time that you
8 couldn't work?

9 A. Yes, that is correct.

10 Q. Now, Mr. Cochran said you have seen the
11 Defendant, you have had contact with the Defendant
12 since this occurred?

13 A. Yes, ma'am.

14 Q. That's been because you have kept the
15 contact regarding your children?

16 A. Yes, ma'am.

17 MS. BALDWIN: All right. No further
18 questions.

19 MR. COCHRAN: Nothing further, Your
20 Honor.

21 THE COURT: You may step down, ma'am.
22 Call your next witness.

23 MS. BALDWIN: Thank you, Your Honor.
24 State calls Amanda Powell.

25 AMANDA POWELL

1 having been duly sworn, testifies as follows:

2 THE CLERK: Please state your first and
3 last name and spell your last name loudly and
4 clearly for the record.

5 THE WITNESS: Amanda Powell,
6 P-O-W-E-L-L.

7 DIRECT EXAMINATION

8 BY MS. BALDWIN:

9 Q. Ms. Powell, how old are you?

10 A. I'm 28.

11 Q. Do you have any kids?

12 A. Yes.

13 Q. How many?

14 A. Three.

15 Q. How old are they?

16 A. Eight, six and one.

17 Q. And where do you live currently?

18 A. Downtown.

19 Q. Same place you lived back in 2014?

20 A. Yes, ma'am.

21 Q. And are you particularly excited about
22 being here today?

23 A. No. I'm actually nervous.

24 Q. Understandable. Where do you work?

25 A. Food Lion.

1 Q. Do you know the victim, Felicia
2 Edwards?

3 A. Yes, ma'am.

4 Q. And do you know the Defendant, Hershel
5 Jefferson?

6 A. I know about him.

7 Q. You have seen him before?

8 A. Yes, ma'am.

9 Q. How do -- you said you lived back in
10 2014 on Conroy Street?

11 A. I still do.

12 Q. And do you know why you are here today?

13 A. Yes, ma'am.

14 Q. Okay. Tell us about July 3rd of 2014.
15 What did you see?

16 A. Basically me and Ms. Felicia was
17 talking in my home about stuff that we have been
18 going through or whatever. And then he came
19 knocking on the door and he asked to see her and
20 she said hold on. We went back and still talking
21 and stuff like that. And then he knocked again and
22 he asked her to use the phone. She asked him can
23 you please not break my phone. I need my phone,
24 you know. I will let you use the phone, you are
25 not supposed to be around here or whatever. So

1 then -- we made him wait a little while longer.
2 And then she called the number for him, put it on
3 the speaker. She didn't really give him the phone.

4 Q. Where was she and where was he?

5 A. Basically he was outside of my door
6 still, my screen door was closed and my front was
7 open. So he was basically outside. She was inside
8 and then --

9 Q. Do you know if the screen door was
10 locked?

11 A. No, it wasn't locked.

12 Q. So what happened?

13 A. Then she dialed the number for him.
14 She put it on speaker. I don't remember the person
15 answering or not. So then he wanted to try again
16 and she said, you know, hold on or whatever. So
17 they started having words again with each other or
18 whatever. I got out. I was pregnant. I was eight
19 months pregnant then. And then I told them to calm
20 down or whatever. Then he just pulled open the
21 screen door and started fighting her. And I was
22 screaming and pushing telling them to stop. I
23 can't do nothing, I'm pregnant, but you need to
24 stop, get out of my house or whatever because, you
25 know, the fight escalated.

1 Q. And when you say he came in, what did
2 he start doing specifically? You said started
3 fighting her?

4 A. He basically hit her in her face, tried
5 to choke her and stuff like that or whatever
6 because she started to fighting him back to try to
7 keep him from hitting her. No one is going to sit
8 up there and get hit on, you know.

9 Q. What did you do?

10 A. Me? Besides stand there and scream?
11 That's all I can do, stand there and scream and I
12 keep on hollering out I'm calling the cops, just
13 leave. The fight escalated closer into my house
14 and telling him like listen, my kids is upstairs,
15 you shouldn't do that, you know, cut it out. I
16 have candles so my candles was like around my table
17 and stuff like that. They end up breaking and
18 stuff and they just kept on escalating the fight.
19 And then basically they both was bleeding and I
20 don't know where, you know, so by the time I got
21 into like the kitchen area I just opened my back
22 door. I told him to leave, like I'm calling the
23 cops. That's when he heard the cops on the phone
24 and he ran.

25 Q. And so who hit who first?

1 A. He hit her first.

2 Q. What was going through your head while
3 this was going on?

4 A. I'm pregnant so I was scared and I was
5 nervous and then my kids is upstairs. My kids
6 don't know stuff like that, they don't see stuff
7 like that you know, so...

8 Q. Beg the Court's indulgence.

9 MS. BALDWIN: I have no further
10 questions for you, Ms. Powell. Please answer any
11 Mr. Cochran may have.

12 CROSS-EXAMINATION

13 BY MR. COCHRAN:

14 Q. Good morning, Ms. Powell.

15 A. Hello.

16 Q. So you called 911, correct?

17 A. Yes, sir.

18 Q. And when you were speaking with the 911
19 operator this altercation was still in progress,
20 right?

21 A. Yes.

22 Q. And while you were talking to the 911
23 operator you weren't really describing, you know, a
24 one-sided fight where a man is just beating a
25 woman? You were talking more about two people were

1 in your house causing chaos basically, right?

2 A. They was fighting.

3 Q. So it was a mutual fight and they were
4 kind of tearing your house up?

5 A. Um-hmm.

6 Q. Were they like damaging things in the
7 house?

8 A. Only the candles. That's materialistic
9 things. But I was more scared for her and me
10 because of him. I don't know him. One, I don't
11 know him. Two, he barging into my house beating on
12 somebody because you upset, angry about whatever or
13 I don't know if he was drunk or on drugs or
14 anything like that. ?

15 Q. Now, you say that you were more
16 concerned about her, but when you were talking to
17 the 911 operator you were talking more about two
18 people fighting and talking about them tearing up
19 your house and damaging the things in your house,
20 correct?

21 A. Tell you the truth I don't remember,
22 but I know they was tearing stuff up and I know
23 there was blood. So I am scared of blood. I don't
24 like blood.

25 Q. I mean you were upset about the

1 situation?

2 A. Yeah, period, yes.

3 Q. Were you there when the police arrived?

4 A. Yes.

5 Q. Did you give them a statement?

6 A. I don't remember writing out a
7 statement, but verbally, yes.

8 Q. And they didn't ask you to write out a
9 statement?

10 A. No.

11 Q. Did you see Mr. Jefferson get hit or
12 cut with the candlestick holder?

13 A. It wasn't a candlestick holder. It was
14 a candle. So I don't know where the blood came
15 from -- I don't know if one of them had it in their
16 hand. I don't know if they fell on it because it
17 was just chaos.

18 Q. It was glass?

19 A. Yes, it was glass. It's a couple of
20 them.

21 Q. You didn't see individual blows or
22 anything like that?

23 A. Not with the candle, but I know that it
24 was blood everywhere so I figured it came from
25 them.

1 Q. You did not want to testify in this
2 case?

3 A. What you mean testify? Like speak?

4 Q. Come in today?

5 A. No. One, because I have a job and two,
6 I have kids so --

7 Q. And they served a subpoena on you and
8 you were told that you had to be here today?

9 A. Yes, I had to.

10 Q. Is that correct?

11 A. If I have to do something I'm going to
12 do it.

13 Q. Yes, ma'am.

14 MR. COCHRAN: Your Honor, I have no
15 more questions. Thank you, Ms. Powell.

16 THE WITNESS: You're welcome.

17 MS. BALDWIN: No questions, Your Honor.

18 THE COURT: You may step down. Ms.
19 Powell, you are excused. Thank you, ma'am.

20 MR. PATRICK: State calls Officer
21 Burton.

22 MICHAEL BURTON

23 having been duly sworn, testifies as follows:

24 THE CLERK: Please state your first and
25 last name and spell your last name loudly and

1 clearly for the record.

2 THE WITNESS: Officer Michael Burton,
3 B-U-R-T-O-N.

4 DIRECT EXAMINATION

5 BY MR. PATRICK:

6 Q. Good morning or good afternoon. How
7 are you doing?

8 A. Doing all right.

9 Q. Where are you currently employed?

10 A. I'm employed by the City of Charleston
11 Police Department.

12 Q. How long have you been there?

13 A. About seven and-a-half years.

14 Q. Were you so employed with them in
15 July 2014?

16 A. Correct.

17 Q. What was your rank at the time?

18 A. I was a PO, police officer.

19 Q. What were your duties as a police
20 officer?

21 A. I was assigned to team one, the upper
22 peninsula. I was part of a patrol in which case I
23 respond to calls for service as well as active
24 patrol.

25 Q. Team one, what are the boundaries for

1 team one?

2 A. It's from Calhoun Street north up to
3 North Charleston and then on the peninsula.

4 Q. Did you respond to a call on July 3rd,
5 2014?

6 A. Yes.

7 Q. How did you become involved in this
8 case?

9 A. I was dispatched to Conroy Street
10 at approximately 11:10 at night.

11 Q. That was in the City of Charleston,
12 Charleston County?

13 A. Yes, sir.

14 Q. Can you describe the scene?

15 A. When I arrived, and myself and another
16 officer work for housing, made contact with the
17 victim, Felecia Edwards, and she invited us into
18 the residence and we immediately observed broken
19 glass. The room was in disarray as well as there
20 was some blood splattered across the floor and on
21 the walls.

22 Q. What was the victim's demeanor?

23 A. Seemed like she was a little in shock,
24 couldn't really -- didn't really -- wasn't
25 processing what has just happened.

1 Q. Do you remember if it was her house?

2 A. It was not.

3 Q. What did you do at the scene after you
4 first walked in?

5 A. First we checked on the victim's
6 injuries, make sure she was okay, called for EMS to
7 come check them out. And then we proceeded to get
8 the statement from the victim and from the
9 homeowner who was on scene.

10 Q. Did you talk to -- who did you talk to?

11 A. We talked to Amanda Powell.

12 Q. And to?

13 A. To the victim, Felecia Edwards.

14 Q. What kind of injuries did you see?

15 A. She had several scratches to the right
16 side of her face and neck. There was a scratch on
17 the upper right side of her breast, a laceration
18 approximately one inch on her forearm and a
19 laceration on her right index finger and her right
20 ring finger as well as some bruising to her face.

21 Q. Was the Defendant seen?

22 A. The Defendant was not, no.

23 Q. Did you ultimately locate the
24 Defendant?

25 A. We located the Defendant a short time

1 later right around the corner from the other side
2 of the complex.

3 Q. Do you know how long it was?

4 A. I believe we located him at
5 approximately 12:30 in the morning.

6 Q. What did you do when you located him?

7 A. We went ahead, we advised him why we
8 were speaking to him and proceeded to his get side
9 of the story.

10 Q. What did you do after that?

11 A. Based upon the evidence and the
12 statements from the victim and the crime scene what
13 we saw as well as the injuries we determined --

14 MR. COCHRAN: Objection.

15 THE COURT: Basis?

16 MR. COCHRAN: May we approach?

17 THE COURT: Sure.

18 (Off-the-record conference.)

19 BY MR. PATRICK:

20 Q. As a result of your investigation you
21 arrested the Defendant, correct?

22 A. Yes. We found him to be the primary
23 aggressor.

24 MR. COCHRAN: Objection.

25 THE COURT: Anything else?

1 MR. PATRICK: Just a couple questions,
2 Your Honor. May I approach?

3 THE COURT: You may.

4 BY MR. PATRICK:

5 Q. Do you recall how tall the Defendant
6 was?

7 A. I do not.

8 Q. Would looking at the booking report
9 refresh your memory?

10 A. Yes.

11 Q. How tall was the Defendant?

12 A. He was average height, a little taller
13 than me.

14 Q. What was his complexion?

15 A. He was darker.

16 Q. Do you recall what his weight was?

17 A. I do not recall the exact weight;
18 however, he appeared to be kind of thin built,
19 towards the thin side.

20 Q. Do you recall his date of birth?

21 A. I do not recall it, no.

22 Q. Would looking at that booking report
23 refresh your memory?

24 A. Yeah. Born in '82, so in his 30s.

25 MR. PATRICK: No further questions,

1 Your Honor.

2 MR. COCHRAN: May it please the Court.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. COCHRAN:

6 Q. You personally made contact with Mr.
7 Jefferson?

8 A. Yes, sir.

9 Q. You said you got his side of the story
10 as well?

11 A. Yes, sir.

12 Q. And you determined -- you made a
13 primary aggressor determination, correct?

14 A. Yes, sir.

15 Q. And the reason you had to do that was
16 because both parties had injuries, correct?

17 A. Yes, sir.

18 Q. Both parties were claiming opposite
19 things, correct?

20 A. Correct.

21 Q. And you mentioned her injuries. You
22 said that there was scratches and some bruising to
23 Ms. Edwards, correct?

24 A. Correct.

25 Q. And that cut on her hand and her wrist?

1 A. Correct.

2 Q. And did you accompany her to the
3 hospital?

4 A. I did not.

5 Q. And she refused EMS treatment; is that
6 correct?

7 A. I believe EMS treated her on the scene
8 and she refused to be transported to the hospital.

9 Q. And when an alleged victim is
10 transported to the hospital sometimes there is an
11 officer there with them?

12 A. Correct.

13 Q. And the officer may even consult with
14 medical personnel about the nature of injuries or
15 dialogue that the alleged victim has with the
16 medical personnel, correct?

17 A. Correct.

18 Q. Were you aware that Ms. Edwards even
19 went to the hospital that night or the next day?

20 A. No, I was not aware, no.

21 Q. You were not made aware of any of that?

22 A. No, sir.

23 Q. And Mr. Jefferson's injuries, he had an
24 injury I believe to his ear, correct?

25 A. Yes, sir. He had injuries to his right

1 arm, left eye and his left ear.

2 Q. The nature of those injuries would be I
3 guess more lacerations from the glass that was
4 broken?

5 A. Correct.

6 Q. And as a police officer you respond to
7 domestics and fights and things like that on a
8 regular basis I would assume?

9 A. Yes, sir.

10 Q. You are familiar what would typically
11 be termed as defensive wounds, correct?

12 A. Yes, sir.

13 Q. So lot of times you would see a victim
14 or an alleged victim causing injury to their
15 attacker, correct?

16 A. Correct.

17 Q. And those defensive injuries a lot of
18 times are in the form of scratches to the face,
19 correct, because they are trying to hold somebody
20 away from them?

21 A. Correct.

22 Q. Thank you, officer.

23 MR. COCHRAN: No further questions,
24 Your Honor.

25 MR. PATRICK: No further questions,

1 Your Honor.

2 THE COURT: You may be excused,
3 officer. Thank you.

4 MS. BALDWIN: Your Honor, at this time
5 the State rests.

6 THE COURT: Ladies and gentlemen, the
7 State has rested their case and now is a very good
8 time to break for lunch. By the clock back there
9 it is 12:30. I am going to ask that you be back at
10 1:45, ladies and gentlemen. That gives you about
11 and hour and 15 minutes to grab a bite to eat. I
12 need to remind you don't discuss the case. It
13 would be inappropriate to do so and we will see you
14 back in your jury room at 1:45 and we will go ahead
15 and finish up the trial in this case. Thank you.

16 (Thereupon, the jury exited the
17 courtroom at 12:24 p.m.)

18 (The following proceedings were held
19 outside the presence of the jurors.)

20 THE COURT: Any motions?

21 MR. COCHRAN: Your Honor, at this time
22 I will move for a directed verdict. I would move
23 for a mistrial based on my previous objection and
24 the testimony for the ultimate issue of the case in
25 terms of Mr. Jefferson being the primary aggressor.

1 I would -- in that same vein I would argue that the
2 State has not proven beyond a reasonable doubt that
3 Mr. Jefferson is not acting in self-defense. You
4 heard from the officer that the nature of the
5 injuries that Ms. Edwards sustained could be seen
6 by an officer, somebody who sees these things on a
7 regular basis, as defensive wounds. Mr. Jefferson
8 defending himself causing scratches to her while
9 she was attacking him with a broken piece of glass.

10 So the State has to prove beyond a
11 reasonable doubt that he committed this crime.
12 They also have to prove beyond a reasonable doubt
13 that he did not act in self-defense. Given that,
14 Your Honor, we would request a directed verdict in
15 this case because they have not supplied sufficient
16 testimony to that effect.

17 THE COURT: Ms. Baldwin.

18 MS. BALDWIN: Looking at the facts in
19 the light most favorable to the State, Your Honor,
20 I believe I would ask that you deny the Defendant's
21 motion. We have had Ms. Edwards and Ms. Powell
22 testify that the Defendant -- that they have
23 children in common, the Defendant entered the
24 house, began hitting Ms. Edwards and that she only
25 hit him back in order to fend him off, not just

1 her, but the independent witness stated such things
2 as well.

3 THE COURT: All right. Well, I
4 respectfully am going to deny the motion for
5 directed verdict. I believe the victim's testimony
6 was that he punched her in the face to begin this
7 entire incident. And based on that testimony alone
8 it should go to the jury to determine.

9 MR. COCHRAN: Can I get a ruling just
10 for the record on the mistrial motion?

11 THE COURT: I denied it. The mistrial
12 motion, yes. As far as that was concerned, I know
13 we had a side conference. Do you want some kind of
14 curative instruction in the jury charge?

15 MR. COCHRAN: No, Your Honor.

16 THE COURT: Okay. Next let's talk
17 about the jury charge. The CDV obviously you are
18 going to go ahead and prove the enhancement to me
19 at the end obviously. So we are just going to do
20 straight CDV. What are you looking for from the
21 defense?

22 MR. COCHRAN: We would ask for some
23 sort of mutual combat and some sort of self-defense
24 charges, Your Honor.

25 THE COURT: Well, you need to go find

1 -- I can tell you that the potential is that there
2 is some self-defense charge that is appropriate,
3 but I can tell you the bench notes mutual combat
4 charge does not fit the facts of this case. It
5 wouldn't be appropriate. So if you have a proposed
6 mutual combat charge that fits the facts of this
7 case you need to give it to me.

8 MR. COCHRAN: I guess to direct my
9 research what was the problem with the bench notes?

10 THE COURT: You read it. Go read it,
11 Mr. Cochran. It doesn't fit the facts of this
12 case. It doesn't fit the facts of this case. So
13 you go look and see. You read it and if you
14 disagree with me then tell me you think it fits the
15 facts of this case for the record.

16 MR. COCHRAN: Go for an alternate
17 charge I guess?

18 THE COURT: An alternate charge is
19 fine. You just come up with something. As far as
20 self-defense, can you look at that?

21 I need to read the charge. Let's just
22 do this. We will meet back here at 1:30 and we
23 will talk about the charge obviously. Let me read
24 this self-defense charge and see if it is
25 appropriate. You are going to have to point out to

1 me the testimony you heard that said it was
2 self-defense because everything I have heard here
3 was the victim testifying that he was the aggressor
4 and she was trying to fend him off.

5 That's the same thing I heard from the
6 eyewitness testimony and again I don't think the
7 officer even testified to that because he wasn't
8 there. So the only testimony I heard so far is
9 that he punched her and he put her in a headlock,
10 she was trying to get him away from her and used a
11 candlestick. So again unless you can show me
12 something that it was self-defense or you can pull
13 out testimony that it was self-defense, then I will
14 consider it.

15 MR. COCHRAN: Your Honor, we will just
16 point to Ms. Powell's testimony that they were
17 fighting. She was describing primarily the mutual
18 fighting. She did say he started it; however, she
19 did continuously describe it as a mutual sort of
20 fight which they were both engaged in and the
21 officer testified to the nature of the defensive
22 injuries and that was consistent with the injuries
23 that he had, were defensive injuries so we would
24 stand on that.

25 THE COURT: Let me read it and see if

1 it fits the facts. We will let you know. Thank
2 you.

3 (A luncheon recess transpired.)

4 (The following proceedings were held
5 outside the presence of the jurors at 1:50 p.m.)

6 THE COURT: Mr. Cochran, what did you
7 find in regards to a mutual combat charge or a
8 self-defense charge?

9 MR. COCHRAN: Well, for the -- I'll
10 withdraw the mutual defense charge because I think
11 it gets --

12 THE COURT: You mean mutual combat.

13 MR. COCHRAN: Mutual combat because I
14 think it gets tricky when you charge both. But in
15 terms of the self-defense charge, the one thing I
16 left out in my previous argument was on
17 cross-examination the officer did also say in
18 making the primary aggressor determination he did
19 have an opposing narrative from the Defendant.

20 So -- that was not objected to. That
21 was in evidence through his testimony. So I would
22 argue that that combined with the evidence that
23 that these could be termed defensive wounds and the
24 fact that there was admitted violence done towards
25 the Defendant, I would argue that the case law has

1 the standard that some evidence or any evidence of
2 self-defense warrants the charge and we would rely
3 on that, Your Honor.

4 THE COURT: Let me say something else
5 that I came across and I think it just has to do
6 with most cases when we are talking about
7 self-defense we are talking about mortal wounds or
8 very serious injuries. One of the things I looked
9 at was whether or not self-defense is required --
10 to raise self-defense it had to be a violent -- in
11 response to a violent crime. Most of the case law
12 has to do with murders obviously. Did you look and
13 see anything? I can tell you that just thinking it
14 through you should be able to make a self-defense
15 claim regardless if you are being charged with
16 something and you were defending yourself.

17 So I don't see here where there's
18 really the case law talking about something that is
19 I guess a nonviolent crime. I mean so that's why I
20 was just kind of thinking that through. Assault
21 and battery first carries up to ten years, right,
22 and that was just a thought. I don't know if
23 anyone had any position or anything along those
24 lines. So let me do this. I will say because of
25 the officer's testimony I am going to go ahead and

1 charge self-defense and so just out of an abundance
2 of caution.

3 Secondly, do you want me to charge the
4 absent Defendant charge which is under the laws of
5 this state the Defendant may be tried if the
6 Defendant does not attend the trial. The fact the
7 Defendant is not present may not be considered
8 against the Defendant in any manner whatsoever and
9 then also we are going to give the nontestifying
10 Defendant charge obviously. But what's your
11 preference on that? I know different people have
12 different preferences. I will leave it to you, Mr.
13 Cochran.

14 MR. COCHRAN: I understand there may be
15 some problem in drawing more attention to it,
16 but --

17 THE COURT: I think we need to charge
18 it.

19 MR. COCHRAN: I think it's probably
20 more prudent to charge it.

21 THE COURT: I think for PCR purposes I
22 think you probably need to request it. So okay.
23 So the verdict form is simply the indictment
24 number, the charge, the jury finds Mr. Jefferson
25 either guilty or not guilty, okay? I think it

1 looks good. Who is doing the closing argument for
2 the State?

3 MR. PATRICK: I am, Your Honor.

4 THE COURT: Very good.

5 (Brief pause.)

6 THE COURT: Are you all ready? Let's
7 bring the jury in.

8 (Whereupon the jury entered the
9 courtroom at 2:08 p.m.)

10 THE COURT: Welcome back, ladies and
11 gentlemen. What we have left to do is to hear the
12 closing arguments from the attorneys. I then will
13 charge you on the law that's applicable to this
14 case and we will send the case to you.

15 Before we do that, Mr. Cochran, I think
16 you need to rest your case.

17 MR. COCHRAN: Yes, Your Honor. The
18 defense rests.

19 THE COURT: We are going to go ahead
20 and for the record renew all earlier motions made,
21 preserve them for the record, Mr. Cochran?

22 MR. COCHRAN: Yes, Your Honor.

23 THE COURT: Thank you. All right.

24 MR. PATRICK: Thank you, Your Honor.

25 THE COURT: Yes, sir.

1 MR. PATRICK: May it please the Court.

2 THE COURT: Yes, sir.

3 MR. PATRICK: Ladies and gentlemen, Ms.
4 Baldwin told you at the end of this case this is
5 going to be about a woman finally standing up for
6 herself because she had to after what the
7 Defendant, Hershel Jefferson, the father of her
8 children, did to her. You first heard from Felicia
9 who told us on July 3rd they had been arguing, told
10 him it was time for them to go their separate ways.
11 She tried to leave. She wanted to end the evening
12 right there and then. She left to go to her friend
13 Amanda's house and he wasn't having any of it. He
14 showed up at her doorstep and started arguing back
15 and forth with her, went back to the house and came
16 back to Amanda's house and demanded that she use
17 her cell phone to call people on her phone.

18 Now, when that wasn't working out in
19 his favor, he demanded the phone, and she finally
20 said no. And that's when he ripped open the screen
21 door, came inside the house and attacked her right
22 in front of Amanda. She told us that by doing that
23 he committed the worst disrespect he could possibly
24 make. Hitting one in their face in public in front
25 of a friend who was pregnant.

1 Now, at that point her primary concern
2 was protecting herself and getting whatever was
3 going on outside of the house. But he didn't stop.
4 And while Amanda was on the phone calling 911 he
5 continued to beat her in the face and grab her by
6 the throat. She tried to fight back, but he just
7 kept on coming. He was completely relentless. The
8 only way to get him off of her was to grab a glass
9 candleholder and fight back. She even warned him
10 when she grabbed for it that she was going to use
11 it. He continued to hold on to her, continued
12 grabbing on to her, continued grabbing her by the
13 neck and she told him she was going to use it to
14 strike him. And he only stopped hitting her when
15 she pointed out to him stop, you're bleeding. Look
16 at yourself. In his blind rage he didn't even know
17 what had happened. Only then did he give up and
18 ran out of the house.

19 He left the house. He left his mark on
20 her. A swollen eye, a bloody nose, wounds, bruises
21 that stuck around long after the Defendant fled.
22 She said she still has marks on her to this day two
23 years later. We also heard from Amanda whose
24 testimony confirmed everything we heard from
25 Felicia. This man came into her house and attacked

1 her unprovoked. But she also told us a few things
2 I want you to pay special attention to.

3 First she told us that her primary
4 concern was for the victim. That she knew that he
5 came in and was the primary aggressor, that she was
6 concerned for her safety. And second she told us
7 that he came charging in the house looking to fight
8 someone. There was no one that could have
9 convinced him otherwise.

10 Ladies and gentlemen, the Defendant is
11 charged with criminal domestic violence. In just a
12 few minutes the judge is going to charge you on the
13 law as it applies to this case and if anything that
14 I say differs from what she says, then go with what
15 she says. But criminal domestic violence is
16 causing physical harm or offering or attempting to
17 cause physical harm with the apparent present
18 ability under circumstances reasonably creating
19 fear of imminent peril to a household member. In
20 this case a household member is someone that's a
21 child in common or someone who is cohabitating.

22 Applied to this case the physical harm
23 or injury would be beating her about the hands and
24 face and grabbing her around the throat before she
25 was forced to fight back.

1 The judge is also going to instruct you
2 on self-defense. Now, we as the State have to
3 disprove only one element of self-defense.
4 Self-defense is without fault -- that the Defendant
5 must be without fault in bringing on the
6 difficulty.

7 Now, right off the bat we can cross
8 that one off. He was absolutely at fault in
9 bringing on this difficulty. He is the primary
10 aggressor. He walked in and beat her first. He
11 came in that house looking to fight.

12 The second element of self-defense is
13 the Defendant must be in imminent danger of great
14 bodily harm or death. The State has to disprove
15 that he was in imminent danger. No testimony has
16 been presented whatsoever that he was in fear of
17 his life when he first struck Felicia, nor was
18 there any testimony that he feared imminent danger
19 at any time while he continued to assault her. The
20 State must also disprove that a reasonable person
21 would have been in imminent danger or reasonably
22 believed they were in imminent danger. Same kind
23 of situation. No reasonable person under this
24 circumstance would believe that they were in
25 imminent danger when they come into a house to beat

1 somebody.

2 The State must also disprove that the
3 Defendant has another reason -- another way to
4 avoid the difficulty. The State has disproved that
5 by showing that he could have left at any time. He
6 could have walked away. He could have not struck
7 her in the first place. We have seen zero evidence
8 of self-defense and nothing to justify any charge
9 that he was defending himself when he struck the
10 victim unprovoked.

11 Finally she is also going to charge you
12 on reasonable doubt. Reasonable doubt is fairly
13 straightforward. The defense may use some kind of
14 metaphor to describe it, some kind of comparison to
15 like a metaphor, but the concept of reasonable
16 doubt is relatively simple. The evidence must have
17 left you firmly convinced that the Defendant is
18 guilty. Not one hundred percent convinced, just
19 firmly convinced of his guilt.

20 Ladies and gentlemen, on July 3rd
21 Hershel Jefferson attacked Felicia Edwards for
22 walking away. The Defendant could not take no for
23 an answer and tore open the screen door to get to
24 her. He hit her in the face and grabbed her by the
25 throat. But like Amanda said when she got up here,

1 she said no one is going to sit there and get hit.
2 She fought back. She grabbed whatever she could, a
3 candleholder in this case, and used it to fend him
4 off, all while he was continuing to beat her about
5 the face and choke her. It was only when she told
6 him how much he was bleeding did he give up and
7 flee the scene. Don't let them minimize the fact
8 that she fought back. You heard her say this was
9 the worst disrespect possible, getting hit in the
10 face in front of a friend who was pregnant at the
11 time. She fought back and I ask you to help her
12 keep fighting back and find the Defendant guilty of
13 criminal domestic violence. Thank you.

14 THE COURT: Yes, sir.

15 MR. COCHRAN: You heard Amanda Powell
16 describe it. She described the scene that day.
17 She described chaos. She described both of these
18 people fighting in her house, both of them arguing,
19 yelling, shouting at each other. And you heard Ms.
20 Edwards tell her story and to a certain extent Ms.
21 Powell stuck with Ms. Edward's story. They agreed
22 on a lot of things.

23 One thing that stuck out to me is where
24 they disagreed. Ms. Edwards claims that that door
25 was locked. And why is that important? Because in

1 her claims that this madman was breaking into this
2 house to attack her, he had to rip open this screen
3 door. The solicitor kept saying tear open the
4 screen door. Amanda Powell testified that screen
5 door was not locked. And what else do we have that
6 supports that? No pictures, no photographs
7 whatsoever of a broken latch on the screen door.
8 The police were there. They were documenting
9 things, taking pictures of Ms. Edwards. They would
10 have taken a picture if somebody had broken into
11 another person's apartment and there was a broken
12 door. They probably would have charged him with
13 burglary, too. You don't have that in front of
14 you. He is charged because of this altercation
15 that he had with Ms. Edwards and what you are here
16 to decide is how that came about and how it
17 proceeded and how it progressed.

18 So you heard stories from Ms. Edwards
19 and you heard stories from Ms. Powell. I think
20 that the most important story you heard today,
21 though, is a story of the most unbiased witness in
22 this case. That was the story of the camera that
23 took photographs of Ms. Edwards. What story does
24 that tell? What story makes the most sense based
25 on those photographs? Bloody hands, cut up hands,

1 cut up wrist that was caused as she admits from
2 busting a glass candlestick holder over Hershel's
3 head. She sustained those injuries by doing that.

4 What other injuries did she have? She
5 had scratches on her face. You heard from the
6 officer testifying those are defensive wounds.
7 That is something that a person is doing when they
8 are trying to keep somebody away. They are putting
9 their hands in their face and there's scratches
10 being caused, bruising is being caused. This is
11 not a woman who was beaten. Look at the
12 photographs. It absolutely does not support this
13 sustained attack, this sustained beating that she
14 claims she was taking. What these photographs
15 support is of this guy standing defending himself
16 by scratching or putting his hands in her face as
17 he is getting beaten over the head with this
18 candlestick holder. The injuries that she would
19 have sustained had she been getting pummelled and
20 attacked repeatedly over and over by this crazed
21 individual who ripped this door open simply are not
22 there. This is a woman who told you she was
23 severely beaten. She has mobility issues. She had
24 just been in a car accident. This is not somebody
25 who is fighting back who fought off her attacker.

1 This is somebody who attacked. This is somebody
2 who picked up a weapon, picked up an object and
3 smacked somebody over the head because she was
4 really angry. And maybe he was acting like a jerk
5 that day. Maybe he was saying all these awful
6 things. Maybe he made her really, really angry.
7 Maybe she was really, really angry already because
8 of the financial issues that they were having.
9 Just like she said, that was what this argument was
10 over, and the cell phone that he was trying to use
11 that she didn't want him to use.

12 All of the physical evidence in this
13 case supports the theory that she started this
14 fight, that she initiated it and that she carried
15 it out and that she sustained some injuries in
16 doing all these things to him.

17 The officer testified about going
18 around the corner and finding Mr. Jefferson. So
19 Hershel is around the corner. He speaks to the
20 police and you heard from the officer he gave an
21 opposing account of what happened, who started
22 this. They did a finding of who was the primary
23 aggressor and they find that he was the primary
24 aggressor based on her statement and coupled with
25 Ms. Powell's statement.

1 Now, the officer is not the final
2 determination in this case, right? So you guys are
3 here for a reason. And the officer is operating on
4 good faith. He is going out and talking to his
5 witnesses and he's operating on probable cause,
6 okay? So he uses probable cause to decide who is
7 he going to arrest in this situation. You are
8 operating with a level of reasonable doubt. You
9 are operating with a presumption of innocence.
10 That means that as you sit here right now, the
11 Court asks of you to presume that Hershel Jefferson
12 is innocent, that he is wrongfully accused. The
13 State has to prove beyond any reasonable doubt that
14 he is guilty. They have to prove. Their level of
15 proof has to be such that no reasonable person
16 could think that Hershel Jefferson is innocent.
17 Their level of proof has to be such that you don't
18 even hesitate to reach that conclusion.

19 What do you have before you that could
20 cause a reasonable doubt? The officer testified
21 that her injuries were consistent with defensive
22 wounds, that her injuries, the worst of her
23 injuries were caused by her shattering glass over
24 somebody's else head. Not injuries that someone
25 would sustain after being pummelled repeatedly by a

1 man whose pummeling a woman who has physical
2 issues, anemia and has just been in a car accident.
3 None of those things make sense. All of those
4 create a very, very reasonable doubt in this case.

5 People are emotional. You know, she
6 obviously displayed a lot of emotion. This is a
7 very emotional thing. It's a troubling thing. She
8 has nine children, three of them with this man.
9 They are arguing, they are split up obviously.
10 They have a lot of animosity towards each other on
11 that day. And they were very, very angry.

12 And the police were called by her
13 friend. She had to tell them the story. Of course
14 she is going to say that he attacked her. Of
15 course her friend is going to say that he attacked
16 her. You heard her say he can't get custody
17 because he has these charges against him. You
18 heard her say the State was buying her groceries
19 because of her status as a victim in this case.
20 She does not want to get arrested. She doesn't
21 want to lose custody of her kids. She does not
22 want to lose those benefits that she receives from
23 the victim's advocate.

24 You heard her say on the stand I
25 couldn't get in trouble. I couldn't get in

1 trouble. She didn't get in trouble because of the
2 story she told. Because the story her friend stuck
3 with, a friend who said that he's the one who
4 started all this. But Amanda Powell couldn't even
5 remember if a candlestick holder was used as a
6 weapon, the most significant part of this fight
7 when this thing shattered over his head and gets
8 stabbed into his shoulder, she won't even say that
9 Ms. Edwards did that. She doesn't even remember
10 that. She remembers everything that Mr. Jefferson
11 is supposed to do. This was a story that was
12 corroborated, this is a story that was made up to
13 make sure that Mr. Jefferson was arrested and that
14 Ms. Edwards was not. To make sure the police would
15 find the primary aggressor to be Mr. Jefferson and
16 arrest him.

17 You people are here today to make a
18 decision that is much more difficult than what the
19 officer had to do that day. He was operating on
20 probable cause. We are operating with a
21 presumption of innocence and demanding proof beyond
22 any reasonable doubt. The State has failed to meet
23 that burden. The State has not given you proof and
24 on the contrary there's a tremendous amount of
25 proof that Ms. Edwards was the primary aggressor

1 that day. A tremendous amount of proof that Mr.
2 Jefferson was standing defending himself holding
3 out his hands keeping her away from him and
4 sustained serious injury.

5 That's what happened and I ask you to
6 find Mr. Jefferson not guilty. Thank you.

7 THE COURT: Mr. Foreperson, members of
8 the jury, you followed very patiently and listened
9 very attentively to the presentation of evidence in
10 this case. I want to thank you for that. Now it
11 becomes the duty of the trial judge under the
12 Constitution of this state to charge and instruct
13 you on the law that's applicable to this case.

14 It is your duty to decide all the
15 issues of fact in this case. You must determine
16 the effect, the value, the weight and the truth of
17 the evidence. Both the State of South Carolina and
18 the Defendant have a right to expect you will
19 carefully consider and evaluate the evidence and
20 apply the law of the case to the evidence. By
21 doing so both the State and the Defendant will
22 receive a fair and impartial trial in this case.

23 Now, the State of South Carolina by the
24 bill of indictment in this case charges the
25 Defendant, Hershel Jefferson, Jr., with criminal

1 domestic violence. I remind you that the fact that
2 the Defendant was arrested and charged and indicted
3 in this case is not evidence in this case and
4 cannot be considered by you as evidence of guilt in
5 this case, nor does it create any presumption or
6 inference of guilt.

7 An indictment is simply the formal
8 written instrument which contains the charge that's
9 made against a Defendant. It is the formal
10 document by which a case is brought into the
11 courtroom.

12 Now, the Defendant has pled not guilty
13 to this indictment and that plea puts the burden on
14 the State to prove the Defendant guilty beyond a
15 reasonable doubt. A person charged with committing
16 a criminal offense in South Carolina is never
17 required to prove himself innocent. I charge you
18 that it is an important rule of law that the
19 Defendant in a criminal trial no matter what the
20 seriousness of the charges may be will always be
21 presumed to be innocent of the crime for which an
22 indictment was issued unless guilt has been proven
23 by evidence satisfying you, the jury, of that guilt
24 beyond a reasonable doubt.

25 Now, this presumption of innocence does

1 not end when you begin your deliberations. It
2 accompanies the Defendant throughout the trial
3 until you reach a verdict of guilt based on
4 evidence satisfying you of that guilt beyond a
5 reasonable doubt. The presumption of innocence is
6 like a robe of righteousness placed about the
7 shoulders of the Defendant. And it remains with
8 the Defendant until it has been stripped away by
9 evidence satisfying you, the jury, of that guilt
10 beyond a reasonable doubt. Ladies and gentlemen,
11 the presumption of innocence is not a mere legal
12 theory. It is not just a legal phrase we use. It
13 is a substantial right to which every Defendant is
14 entitled unless you, the jury, are satisfied from
15 the evidence of the Defendant's guilt beyond a
16 reasonable doubt.

17 Now, the term reasonable doubt must be
18 given its plain and ordinary meaning. However, to
19 the extent that I may define it for you, a
20 reasonable doubt is that kind of doubt that would
21 cause a reasonable person to hesitate to act in the
22 most important of their personal decisions. The
23 Defendant is entitled to every reasonable doubt
24 arising in this case. If upon any issue of fact
25 essential to a conviction you have a reasonable

1 doubt as to how that issue should be resolved, you
2 must resolve that reasonable doubt in favor of the
3 Defendant.

4 Now, some of you may have served as
5 jurors in civil cases where you were told it was
6 only necessary to prove that a fact is more likely
7 true than not true. In criminal cases, ladies and
8 gentlemen, the State's proof must be more powerful
9 than that. It must be beyond a reasonable doubt.
10 Proof beyond a reasonable doubt is proof that
11 leaves you firmly convinced of the Defendant's
12 guilt.

13 Now, there are very few things in this
14 world that we know with absolute certainty. And in
15 criminal cases the law does not require proof that
16 overcomes every possible doubt. If based on your
17 consideration of the evidence you are firmly
18 convinced the Defendant is guilty of the crime
19 charged, you must find the Defendant guilty.

20 If on the other hand, you think there
21 is a real possibility the Defendant is not guilty,
22 you must give the Defendant the benefit of the
23 doubt and find him not guilty. Now, I remind you
24 that during this trial you and I have certain
25 duties to perform. As a judge it is my

1 responsibility to rule and preside over the trial
2 of this case and I also rule on the admissibility
3 of evidence that's offered during this trial. You
4 are to consider only the competent evidence before
5 you. You are to consider only the testimony which
6 has been presented on the witness stand and any
7 other exhibits that have been made part of the
8 record. I have the additional duty to charge you
9 on the law that's applicable to this case. I am
10 the sole judge of the law in this case. It is your
11 duty as jurors to accept and apply the law as I now
12 state it to you. If you have any idea as to what
13 the law is or what the law ought to be and if it
14 does not agree with now what I tell you the law is,
15 you must abandon that idea because you are sworn to
16 accept the law and apply the law exactly as I state
17 it to you.

18 In every case in court before a jury
19 the jury becomes the sole and exclusive judge of
20 the facts. A trial judge cannot comment on or make
21 any statement to a trial jury about the facts in a
22 case. And since you, the jury, are the sole judges
23 of the facts in this case you are not to infer from
24 what I said during the progress of this trial in
25 ruling upon the admissibility of evidence or

1 otherwise or anything that I say now during the
2 course of this instruction to you that I have an
3 opinion about the facts of this case.

4 The law does not allow me to have an
5 opinion about the facts of this case. This is a
6 matter solely for you, the jury, to determine.
7 Now, there are two types of evidence which are
8 generally presented in a case. That is direct
9 evidence and circumstantial evidence. Direct
10 evidence is the testimony of a person who claims to
11 have actual knowledge of the facts such as an
12 eyewitness. Circumstantial evidence is proof of a
13 chain of facts and circumstances indicating the
14 existence of a fact.

15 Crimes may be proven by circumstantial
16 evidence. The law makes no distinction between the
17 weight or value to be given to either direct or
18 circumstantial evidence. However, to the extent
19 the State relies on circumstantial evidence, all of
20 the circumstances must be consistent with each
21 other and when taken together point conclusively to
22 the guilt of the accused beyond a reasonable doubt.

23 If these circumstances merely portray a
24 Defendant's behavior as suspicious, the proof has
25 failed. Now, again the State has the burden of

1 proving the Defendant guilty beyond a reasonable
2 doubt. And this burden rests with the State
3 regardless of whether the State relies on direct
4 evidence, circumstantial evidence or some
5 combination of the two.

6 Now, as I instructed you at the
7 beginning you, the jury, have the duty to determine
8 the credibility of the witnesses who have testified
9 in this case. And credibility simply means
10 believability. It becomes your duty as jurors to
11 analyze and to evaluate the evidence and determine
12 which evidence convinces you of its truth. In
13 determining the believability of witnesses who have
14 testified in this case you may believe one witness
15 over several witnesses or several witnesses over
16 one witness. You may believe a part of the
17 testimony of a witness and reject the remaining
18 part of the testimony of that same witness. You
19 may believe the testimony of a witness in its
20 entirety or reject the testimony of a witness in
21 its entirety.

22 You may consider whether any witness
23 has exhibited to you any interest, bias, prejudice
24 or other motive in this case. You may also
25 consider the appearance and manner of a witness

1 while on the witness stand.

2 Now, ladies and gentlemen, under the
3 laws of this state a Defendant may be tried even if
4 the Defendant does not attend the trial. But the
5 fact that the Defendant is not present may not be
6 considered against the Defendant in any manner
7 whatsoever.

8 I also instruct you and emphasize the
9 fact that the Defendant did not testify is not a
10 factor to be considered by you in any way in your
11 deliberation and your consideration on the question
12 of the guilt or the innocence of the Defendant. It
13 must not be considered by you in any manner
14 whatsoever.

15 A Defendant has the constitutional
16 right to right to remain silent and the assertion
17 of this right must not be considered by you in your
18 deliberations.

19 I repeat under the oath you took you
20 are to draw no conclusion whatsoever from the fact
21 the Defendant in this case did not testify. The
22 fact that he didn't testify shouldn't even be
23 discussed in the jury room. I remind you the
24 burden is on the State. The Defendant is not
25 required to prove his innocence. And the burden of

1 proof remains on the State to prove guilt beyond a
2 reasonable doubt.

3 Now, the Defendant is charged with
4 criminal domestic violence and the State must prove
5 beyond a reasonable doubt that the Defendant caused
6 physical harm or injury to a member of the
7 Defendant's own household or the Defendant offered
8 or attempted to cause physical harm or injury to a
9 member of the Defendant's own household with the
10 apparent present ability to cause harm or injury
11 under circumstances reasonably creating a fear of
12 imminent danger.

13 Now, a household member is a spouse,
14 former spouse, a parent, a child, a grandparent, a
15 brother or sister, a grandchild, a person with whom
16 the Defendant has a child in common, and a person
17 of the opposite sex with whom the Defendant is
18 living or who has lived in the past.

19 Now, the Defendant in this case has
20 raised the defense of self-defense. Self-defense
21 is a complete defense and if it is established you
22 must find the Defendant not guilty. The State has
23 the burden of disproving self-defense by proof
24 beyond a reasonable doubt. If you have a
25 reasonable doubt of the Defendant's guilt after

1 considering all the evidence, including the
2 evidence of self-defense, then you must find the
3 Defendant not guilty.

4 On the other hand, if you have no
5 reasonable doubt of the Defendant's guilt after
6 considering all the evidence, including the
7 evidence of self-defense, then you must find the
8 Defendant guilty.

9 Now, ladies and gentlemen, the
10 following elements are required to establish
11 self-defense. First, the Defendant must be without
12 fault in bringing on the difficulty. If the
13 Defendant's conduct was the type which was
14 reasonably calculated to and did provoke assault,
15 the Defendant would be at fault in bringing on the
16 difficulty and he would not be entitled to an
17 acquittal based on self-defense.

18 Number two, the Defendant must have
19 actually believed he was danger of losing his life
20 or sustaining serious bodily injury or actually was
21 in imminent danger. Next, if the defense is based
22 on a Defendant's actual belief of imminent danger,
23 a reasonable prudent person of ordinary firmness
24 and courage would have entertained the same belief.
25 If the Defendant was in imminent danger or actually

1 was in imminent danger, the circumstances were such
2 as would warrant a man of ordinary prudence,
3 firmness and courage to fight in order to save
4 himself from serious bodily harm or losing his own
5 life. And lastly, the Defendant had no other
6 probable means of avoiding the danger of losing his
7 own life or sustaining serious bodily injury than
8 to act as he did in this particular circumstance.

9 Mr. Foreperson and members of the jury,
10 as you retire to begin your deliberations in this
11 case I wish to express the hope that each of you is
12 mindful of the importance of your responsibility
13 here today. You are not called upon very often to
14 serve as jurors and the proper performance of that
15 duty requires that each of you reach the height of
16 freeing your mind of all improper influences.
17 Please don't get the idea that I am trying to
18 intimate to you how I think you should decide this
19 case. Again, as I already have told you, under the
20 laws of the State of South Carolina you, the jury,
21 are the sole judge of all questions of fact. And
22 it would be highly improper for me to influence you
23 in your duty.

24 However, ladies and gentlemen, as the
25 presiding officer of this court I am vitally

1 concerned that whatever verdict you have reached
2 will be the result of you going back into your jury
3 room and confining your consideration to the
4 evidence and the law that you have heard here in
5 this courtroom, weighing it fairly and impartially
6 as I have every confidence you will.

7 Mr. Foreperson, your verdict must be
8 unanimous. It must be the verdict of all 12
9 jurors. To that end my law clerk has prepared a
10 verdict form. It simply has a case caption on it.
11 It says the State of South Carolina versus Hershel
12 M. Jefferson, Jr. And it has one question, Mr.
13 Foreperson. It says as to indictment number
14 2014-GS-10-5892, the charge of criminal domestic
15 violence, we the jury unanimously find the
16 Defendant, Hershel M. Jefferson, either not guilty
17 or guilty and there is a line, sir, underneath for
18 you to sign and date the form.

19 Please don't infer by the order that I
20 put guilty or not guilty. We just switch them in
21 every trial. Mr. Foreperson, when the jury has
22 reached a unanimous verdict I need you to knock on
23 the jury room door and we are going to accept you
24 back into the courtroom to receive your verdict.
25 All right?

1 Ladies and gentlemen, for the very last
2 time I'm going to send you back to your jury room.
3 I'm going to tell you not to begin discussing the
4 case. If there is something further on the law
5 that the attorneys want me to charge I will bring
6 you back out here and charge you further. If not,
7 I will send the verdict form and the other evidence
8 that was introduced into the record of the case.
9 That's going to be your signal to begin your
10 deliberations.

11 Ladies and gentlemen, I will also tell
12 you that while you see my court reporter taking
13 down everything that's being said, there's no
14 transcript of the trial testimony. If there is
15 testimony that you need heard played back or want
16 to have heard back in the trial what I can do is
17 bring you all back in here and we can play the
18 audio version of it. I just need to inform you
19 that regardless of which witness's testimony you
20 want, I am required to play that entire witness's
21 testimony, in other words, the direct, the
22 cross-examination, the redirect. I just am
23 required to play the whole portion of it. We can
24 certainly do that. All right?

25 Ladies and gentlemen, I'm going to send

1 you back to your jury room. Again, do not begin
2 deliberating. Please wait until you receive the
3 verdict form. I appreciate your all's attention.
4 You are excused.

5 (Thereupon, the jury exited the
6 courtroom at 2:40 p.m.)

7 (The following proceedings were held
8 outside the presence of the jurors.)

9 THE COURT: Any exceptions or additions
10 from the State?

11 MS. BALDWIN: Just briefly, Your Honor.
12 I don't know that it actually matters given the
13 household member relationship that the two parties
14 have, but I believe Your Honor read that the
15 household member relationship included siblings and
16 grandparents. I think that's the pre-2005 law, not
17 the 2005 to 2015 law.

18 THE COURT: This was based on the
19 children, so that was what we were talking about.

20 MS. BALDWIN: Right. I wanted to make
21 it clear.

22 THE COURT: There was something we just
23 talked about, too. It also requires that if they
24 cohabituate it had to be opposite sex and I was
25 shocked we are still living under that law still,

1 but you never know.

2 MS. BALDWIN: That's not the case
3 anymore.

4 THE COURT: So we just need to update
5 it. I don't think it has any bearing on the facts
6 of this case. I don't think that was the relevant
7 portion certainly to it. I will make sure the
8 bench book is updated. Any exception from the
9 defense?

10 MR. COCHRAN: No, Your Honor.

11 THE COURT: All right. Well, y'all go
12 ahead and if you will look at the verdict form.
13 Let's get the pictures in there and we will get the
14 alternates out and we will go from there.

15 (Whereupon, the alternate jurors were
16 brought to the courtroom at 2:41 p.m.)

17 THE COURT: Ladies and gentlemen, I'm
18 going to go ahead and excuse you at this time. At
19 this time you are permitted to discuss the case.
20 Sometimes the lawyer might want to ask you what you
21 think or your thoughts. You are certainly not
22 required to. You can also when you go home talk
23 about what you have been doing up here. The only
24 thing I ask is I have no idea how long this jury is
25 going to be out. If for some reason they don't

1 come to a verdict tonight and they come back in the
2 morning I just want to make sure that you don't
3 talk to any of them during that overnight period.
4 All right? We will excuse you all for the week.
5 Thank you again. We appreciate it.

6 (Whereupon, the alternate jurors were
7 excused and the jury began deliberating at
8 2:45 p.m.)

9 (Whereupon, the jury reached a verdict
10 at 2:54 p.m.)

11 (Whereupon the jury entered the
12 courtroom at 2:56 p.m.)

13 THE COURT: Mr. Foreperson, I
14 understand the jury has reached a verdict?

15 THE FOREPESON: Yes, Your Honor.

16 THE COURT: Would you please pass it to
17 the bailiff.

18 (Brief pause.)

19 In the case of State of South Carolina
20 versus Hershel Jefferson, 2014-GS-10-5892, charge
21 of criminal domestic violence.

22 We the jury unanimously find the
23 Defendant, Hershel M. Jefferson, Jr. guilty, signed
24 by our foreperson. Ladies and gentlemen of the
25 jury, if this is your verdict would you please

1 being here. If you will just go back to your jury
2 room just a brief moment I'm going to talk to you,
3 all right? Thank you.

4 (Whereupon, the jury exited the
5 courtroom at 2:57 p.m.)

6 THE COURT: We are going to take five
7 minutes. You need to get your proof of convictions
8 and priors and then bring me your trial motions.
9 Give me a couple of minutes.

10 (Recess taken.)

11 THE COURT: Solicitor, do you want to
12 make a part of the record the previous convictions?

13 MS. BALDWIN: Yes, ma'am. I have in my
14 hand two certified convictions for Mr. Jefferson.
15 One he was found guilty of criminal domestic
16 violence first offense on July 27th of 2009. And
17 then he was found guilty or pled guilty, excuse me,
18 of criminal domestic violence second offense on
19 August 26th of 2010.

20 THE COURT: You know you need to make
21 that part of the record, right?

22 MS. BALDWIN: I have not done that
23 before.

24 THE COURT: I just always thought you
25 had to make it part of the record.

1 MR. COCHRAN: I believe you do, Your
2 Honor.

3 THE COURT: As a court exhibit and you
4 just -- I have got them. You just need to mark
5 them. You showed them to him?

6 MS. BALDWIN: Yes.

7 MR. COCHRAN: My only position would be
8 that I don't know that there is any indication on
9 the sheet for the initial magistrate court
10 conviction. I would argue, though, that if there's
11 no indication that if he was represented and that
12 he was unrepresented it should not be used.

13 MS. BALDWIN: My response to that, Your
14 Honor, was he received time served so he wouldn't
15 need to have a representation for that. So the
16 case law says. Which he did receive time served.
17 It's on the sheet.

18 (COURT'S EXH. 1, sentencing sheet, was
19 marked for identification.)

20 THE COURT: Anything else? Do I need
21 to hear from the victim? Anything further? I
22 certainly have heard the case and you want to ask
23 her if there is anything further she would like to
24 tell me?

25 (Off-the-record conference.)

1 MS. EDWARDS: I just would like to
2 thank you for hearing me out. And that I just
3 really would like to put this behind me, but at the
4 same time because he's not in here and all the
5 things that I have already went through previously
6 and that I know for a fact because of the previous
7 threats and him sending me things, knowing that he
8 has been watching me and stuff with that I do not
9 feel safe because he's not here. He's not being
10 arrested today. But I thank you for hearing me
11 out.

12 I just also feel like he also needs
13 more than just jail time. He also needs to get
14 help because we have children together. I tried to
15 make it just where we can be cordial and try to
16 make it just about the kids, but he always brings
17 it back to me and him. And he is not going to
18 leave me alone. I gave him the option. I told him
19 if he just leave me alone I wouldn't come to court
20 or nothing. He still harassed me. He still tried
21 to come to my house and everything. So this wasn't
22 only just about this one incident even though I
23 can't bring it up in court. It is multiple
24 incidents. Multiple things that's going on. And I
25 don't want to be like some -- I don't want my kids

1 to find me dead or anything else or they get mixed
2 up in anything. So that's basically all I have to
3 say.

4 MS. BALDWIN: Would Your Honor like his
5 record?

6 THE COURT: Certainly.

7 MS. BALDWIN: He has from 2002 use of
8 vehicle without permission, 2008 a possession of
9 marijuana, 2009 CDV first, 2010 trespassing and
10 entering premises after warning and CDV 2nd and
11 there is a probation violation in 2011.

12 THE COURT: Is there not a restraining
13 order in place in this case?

14 MS. EDWARDS: It just expired.

15 THE COURT: Can we not renew that or do
16 another restraining order?

17 MS. BALDWIN: I believe under the new
18 domestic violence laws, Your Honor, we can get a
19 permanent restraining order put in place based on
20 his conviction for CDV 3rd. I can have that
21 paperwork brought to you. The order of protection,
22 I don't know that the family court will grant one
23 unless there is some new conduct or new arrest.
24 They won't just extend it. I don't believe they
25 will.

1 THE COURT: Why don't you pull it up
2 and look at the law and see if I can't sign an
3 order, a permanent order of protection.

4 MS. BALDWIN: I know for a fact you
5 can, Your Honor.

6 THE COURT: If you need to do that,
7 order that obviously. Okay. I'm sure you have
8 explained to her obviously this is a sealed
9 sentence and no one is allowed to know what it is
10 until he is picked up or won't be able to be
11 revealed. I am assuming you have explained all
12 that, correct?

13 MS. BALDWIN: Yes, ma'am.

14 THE COURT: Anything else you know
15 about your client?

16 MR. COCHRAN: Do you want to hear about
17 sentencing or would that be for another day?

18 THE COURT: Sure, absolutely.

19 MR. COCHRAN: Your Honor, in terms of
20 Mr. Jefferson, him and I have been in good contact
21 leading up to this. He was evaluated by his
22 previous attorney. I inherited this case. He was
23 evaluated because of his history of mental illness.
24 And he has always been working. He was working at
25 concrete and plumbing, two things that he was doing

1 for a living at the time of arrest. Like I said,
2 he was going to come in. This was back when I had
3 my last trial in front of Your Honor. He was
4 scheduled to come in this Monday and he was
5 scheduled to come in and accept his guilty plea to
6 a CDV second. That offer was based on a lack of
7 contact between the solicitor and the victim and
8 then that Monday I was in trial so we didn't go to
9 court and either that day or the next day Ms.
10 Baldwin was in contact with the victim and revoked
11 the offer.

12 So we then had almost immediately a
13 status conference, I think maybe two weeks later.
14 It was called for trial. And he was still planning
15 on coming in and pleading and requesting a one year
16 minimum which was then the new offer after the
17 revocation of the CDV 2nd. Ms. Baldwin was going
18 to recommend one year followed by three years of
19 probation.

20 So he was going to take it. We didn't
21 accomplish the plea at status conference or prior
22 to status conference and was scheduled for trial.
23 You know, I had been in contact with him as late as
24 I want to say Monday I was in contact with him.
25 And he had every intention coming in here and

1 pleading guilty.

2 So I think that just the circumstances
3 that were to a certain extent out of his control in
4 terms of his offer and the revocation of his offer,
5 I think he got cold feet. He knew that this was
6 going to carry a mandatory prison sentence, that
7 that first year was going to be mandatory, a one
8 year. Given that, given his history of mental
9 illness and the fact I believe based on talking to
10 him that he may have some diminished intellectual
11 capacity, you know, we would request the one year
12 in this case. And that it not be held against him
13 that he did not show up for his trial. I think he,
14 you know, he got cold feet. I think he had every
15 intention of coming in and pleading. We just
16 weren't able to get him in here.

17 So with that said, Your Honor, that's
18 what we would ask for, 365 days followed by
19 probation. He could be on probation for five years
20 after that year and we would request that. He did
21 seven months when he was arrested prior to bonding
22 out.

23 THE COURT: Thank you. There is a
24 motion for bench warrant and I will put this under,
25 okay?

1 MS. BALDWIN: I will e-mail the
2 permanent restraining order to your law clerk.

3 THE COURT: Please. Okay. Thank you.
4 I am assuming you will go ahead and explain to the
5 victim that she cannot have any contact with him
6 even in regards to the children until and unless
7 the family court gets involved. Okay? Good luck
8 to you, ma'am.

9 (These proceedings were concluded at
10 3:21 p.m. on July 13, 2016, Charleston County,
11 South Carolina.)
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1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
2014-GS-10-05892

6 STATE OF SOUTH)
7 CAROLINA,)
8 PLAINTIFF,)
9 VS.)
10 HERSHEL M. JEFFERSON,)
11 JR.)
12 DEFENDANT.)

TRANSCRIPT OF SENTENCING

AUGUST 25, 2016
CHARLESTON, SC

13 B E F O R E:

14 HONORABLE R. MARKLEY DENNIS, JUDGE

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

17 JESSICA BALDWIN, ESQUIRE
18 Attorney for the State

19 CHARLES COCHRAN, ESQUIRE
20 Attorney for the Defendant

21 * * * * *

22 Ruth C. Weese, RDR
23 Official Court Reporter
24 Ninth Judicial Circuit
25

1 THE COURT: You are Hershel Jefferson?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Jefferson, I've been
4 presented with an envelope that contains the
5 sentence that was imposed by the Court on July
6 the 13th, 2016, signed and sealed by Judge Mullen
7 when you were tried in your absence. Do you
8 understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: The purpose of today is to
11 find out what the sentence is. And since you're
12 here, I am now rescinding the bench warrant that
13 was issued, I assume was the reason that you are
14 now incarcerated; is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: The charge was criminal
17 domestic violence?

18 MS. BALDWIN: Yes, sir, third offense.

19 THE COURT: Okay.

20 MS. BALDWIN: It's under the old law.

21 THE COURT: Okay. It just says
22 criminal domestic violence on mine. Doesn't say
23 third offense.

24 MS. BALDWIN: I am sorry.

25 THE COURT: That's all right. This

1 carries a potential sentence of up to what, five
2 years?

3 MS. BALDWIN: Yes, sir, one to five.

4 THE COURT: One to five. The sentence
5 of the Court, Mr. Jefferson, is as follows: You be
6 comitted to the Department of Corrections for a
7 term of five years. Provided upon the service of
8 three years the balance is suspended with probation
9 for five years. You are given credit for time
10 served and no contact with the victim and anger
11 management counseling.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Anything else, Mr. Cochran?

14 MR. COCHRAN: No, Your Honor.

15 THE COURT: Very well. Good luck, sir.

16 (These proceedings were concluded on
17 August 25, 2016, Charleston County, South
18 Carolina.)
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1 CERTIFICATE OF REPORTER

2
3 I, Ruth C. Weese, Registered Diplomate
4 Reporter for the State of South Carolina at Large,
5 do hereby certify that the foregoing transcript is
6 a true, accurate, and complete record.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 26th day of September, 2016 at
12 Charleston, Charleston County, South Carolina.

13
14 *Ruth C. Weese*

15
16 _____
17 Ruth C. Weese
18 Registered Diplomate
19 Reporter
20
21
22
23
24
25

110
JBN20140706803

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1411070

ARREST WARRANT NUMBER

2014A1010203508

DATE OF ARREST

July 4, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: *Carroll Tillis* OCT 6 - 2014

VERDICT

Guilty

Foreperson of Petit Jury

Date:

7/13/16

INDICT

DOCKET NO. 2014GS1005892

The State of South Carolina

County of Charleston

TIA

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.



Indictment for

Criminal Domestic Violence, 2nd Or
Subsequent Offense

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on October 6, 2014 the Grand Jurors of Charleston County present upon their oath:

Criminal Domestic Violence, 2nd Or Subsequent Offense

That in Charleston County, South Carolina, on or about July 3, 2014, the Defendant, HERSHEL M JEFFERSON JR, did cause physical harm or offer or attempt to cause physical harm to Felicia Edwards, a family or household member, with apparent present ability under circumstances reasonably creating fear of imminent peril; such being his second or subsequent offense. This is in violation of Section Code 16-25-20 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

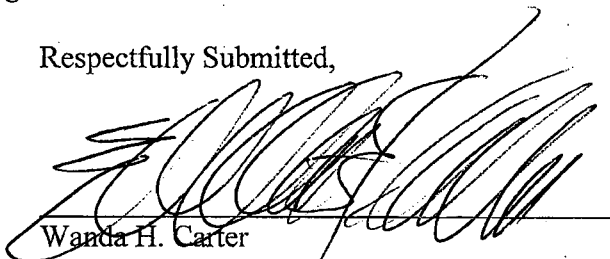


JESSICA BALDWIN
ASSISTANT SOLICITOR..

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,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

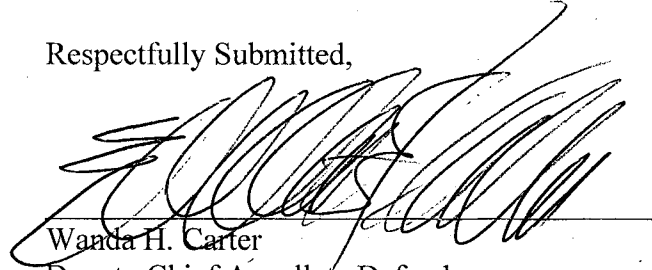
ATTORNEY FOR APPELLANT

This 21st day of April, 2017.

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,

A handwritten signature in black ink, appearing to read "Wanda H. Carter", is written over a horizontal line.

Wanda H. Carter
Deputy 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 21st day of April, 2017.