

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

HENRY KEVIN GRANT,

APPELLANT

APPELLATE CASE NO 2017-002499

RECORD ON APPEAL

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SC Court of Appeals

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 1 (DVD)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF LAURENS

STATE OF SOUTH CAROLINA,)

CASE NO.: 2017-GS-30-1439

PLAINTIFF,)

2017-GS-30-1140

-VS-)

TRANSCRIPT OF RECORD

HENRY K. GRANT,)

DEFENDANT.)

NOVEMBER 28, 2017
LAURENS, SOUTH CAROLINA

BEFORE:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

MARGARET BOYKIN, ASSISTANT SOLICITOR
DALE SCOTT, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

JOEL BROOME, ESQUIRE

TARA T. SCOTT, CVR
CIRCUIT COURT REPORTER

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<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
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BILLY ROBERT SELLERS-DIRECT EXAMINATION (IN CAMERA)

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1 five minutes and we'll move forward with *Jackson v. Denno*
2 and proceed from there. Okay?

3 MR. BROOME: Thank you, Your Honor.

4 (Whereupon, a recess was held.)

5 THE COURT: If we may, we'll go back on the record in
6 the States vs. Mr. Grant. At this point in time we'll
7 proceed with the *Jackson v. Denno* hearing. My understanding
8 from our discussion in chambers, I think that you indicated
9 that there were statements made by the Defendant which were
10 these statements that form the basis of these charges were
11 captured on body cams or dash cams or something like that;
12 is that correct?

13 MS. BOYKIN: That's correct, Your Honor. There are
14 about 20 minutes, I think, of statements the Defendant is
15 making. He's not being interrogated at the time. He's just
16 continually talking and making threats. I don't know if you
17 wanted to watch the video while we do this hearing or just
18 question officers.

19 THE COURT: My inclination was just to allow you to
20 question the officers. I sincerely don't want to keep the
21 jury waiting. But obviously if we're -- I mean, Miranda is
22 only going to apply to focused custodial interrogation.
23 Let's just proceed with questioning the officers, and if
24 there's some need for the Court to review the video after
25 their testimony then I'll do that, if that's acceptable to

BILLY ROBERT SELLERS-DIRECT EXAMINATION (IN CAMERA)

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1 everybody. So call your first witness, please.

2 MS. BOYKIN: Thank you, Your Honor. The State calls
3 Officer Sellers.

4 BILLY ROBERT SELLERS, having first
5 being duly sworn, testified as follows:

6 IN CAMERA

7 DIRECT EXAMINATION

8 BY MS. BOYKIN:

9 Q If you could, state your full name for the record.

10 A Billy Robert Sellers.

11 Q Officer Sellers, where do you work?

12 A I work for the Laurens Police Department.

13 Q And how long have you worked there?

14 A I've been there approximately three years.

15 Q Three years. So were you working back on June 3rd of
16 this year?

17 A I was.

18 Q What shift were you working?

19 A It's the Bravo shift of First Platoon. Night shift.

20 Q Night shift. So what time did you go on shift?

21 A I go on duty approximately seven o'clock in the
22 evening. A little earlier.

23 Q Did you happen to receive a call to go to ■ Camp
24 Circle, that night?

25 A Yes, ma'am.

BILLY ROBERT SELLERS-DIRECT EXAMINATION (IN CAMERA)

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1 Q Tell me a little bit about how you arrived on scene.

2 A I'm sorry. Let me back up. I believe the initial call
3 was for [REDACTED] Camp Street -- or Camp Circle. It was in
4 reference to a female who was on trespass notice from that
5 residence. We were given a name of the complainant. Once
6 we arrived on scene -- Officer Gambrell was first on scene.
7 I arrived shortly after. We were unable to locate the
8 complainant at [REDACTED] Camp Circle. We then moved to [REDACTED] Camp
9 Circle where we confirmed that that's where the complaint
10 lives. At that time he said he did not call law enforcement
11 and we proceeded to check with other -- other members there
12 at that gathering.

13 Q There was a gathering? Was there a party going on?

14 A Yes, ma'am. It was a large party, approximately 30 or
15 more people.

16 Q It was outside kind of on the block of the
17 neighborhood?

18 A Yes, ma'am. It's on the corner of Camp Circle and
19 Lurey Street. It's a pretty common -- common gathering.

20 Q So you're asking, you know, who called law enforcement.
21 Did you all happen to notice anything else while you were
22 there?

23 A There was a lot of people drinking, socializing. A lot
24 of children present at this party.

25 Q And did you all think you all saw someone else that was

BILLY ROBERT SELLERS-DIRECT EXAMINATION (IN CAMERA)

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1 wanted? Is that what happened?

2 A Yes, ma'am. During this process myself and Detective
3 Jones noticed an individual who we recognized as possibly a
4 person who was wanted for a felony charge.

5 Q About what time did you, I guess, see the Defendant?
6 Right when you arrived or --

7 A I noticed the Defendant as soon as we got there.

8 Q Okay. And what was -- how was he acting?

9 A He was obviously intoxicated. He didn't become
10 belligerent until we came to ■ Camp Circle and began
11 questioning the person who we thought was wanted by the
12 police department.

13 Q And when you said became belligerent what did he start
14 doing?

15 A He was cursing very loudly. Tried to incite angry, or
16 further aggression from other people there at that
17 gathering.

18 Q Did you warn him to stop?

19 A Yes, ma'am. I did.

20 Q And did he stop?

21 A He continued.

22 Q The person you thought was wanted, did you eventually
23 arrest him or is that a different person?

24 A No, ma'am. The -- he turned out not to be wanted by
25 us.

BILLY ROBERT SELLERS-DIRECT EXAMINATION (IN CAMERA)

30

1 Q Okay. So after that what did you do next?

2 A We -- after we finished our business with the person we
3 thought maybe wanted we thanked him for is cooperation, we
4 turned to clear the scene, leave, and the Defendant
5 continued to be belligerent, cursing. I then approached
6 them again. Explained to him that I had given him an
7 opportunity to stop what he was doing. At this time I
8 advised him he was under arrest for public disorderly
9 conduct, as he was standing in the roadway near a vehicle
10 publically consuming alcohol, being belligerent. At this
11 time he just continued. Started stating to the crowd that
12 they needed to start killing us, referring to officers.

13 Q Now, so you arrested him for public disorderly conduct.
14 Did you read him his Miranda rights?

15 A No, ma'am. I didn't.

16 Q So was he in custody at the time that you put the
17 handcuffs on him?

18 A Yes, ma'am.

19 Q Did you ask him any questions?

20 A I did not.

21 Q So -- but was he giving multiple statements --

22 A Yes, ma'am.

23 Q -- after you arrested him?

24 A Yes, ma'am.

25 Q So you were not interrogating him?

BILLY ROBERT SELLERS-CROSS EXAMINATION (IN CAMERA)

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1 A Not at all.

2 Q You weren't threatening him to make all these
3 statements?

4 A No, ma'am.

5 Q So once you arrested him you go take him to the car.
6 What happens there?

7 A Once we get out of the vehicle it's -- it's our
8 practice to search every person who is placed in the vehicle
9 just to eliminate any possible threat to the officer or to
10 the subject themselves. At this time he was being
11 noncompliant, kept turning around on me as I tried to search
12 his person. I was able to eventually complete the search
13 after having to restrain him. Placed him in the vehicle.
14 As I was placing him in the vehicle taking his sunglasses
15 off of his face he said you have daughter, I'll rape her.

16 Q And did you question him right before he said that?

17 A No, ma'am.

18 MS. BOYKIN: That's all I have, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. BROOME:

21 Q So you concede that he was in handcuffs -- or, sorry,
22 you did not read him his Miranda rights, correct?

23 A That's correct.

24 Q And he was in custody at this point after you put him
25 in handcuffs? He was in custody?

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION (IN CAMERA)

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- 1 A Yes, sir.
- 2 Q Did you ever read him his Miranda rights?
- 3 A No, sir.
- 4 Q Did you ask him some personal information? His name,
- 5 address, things of that nature?
- 6 A I did not.
- 7 Q Did you ask him what he had been doing that day?
- 8 A I had no questions for him.
- 9 Q No questions at all for him?
- 10 A Nothing -- not to my --
- 11 Q Did Officer Jones --
- 12 A -- recollection.
- 13 Q I'm sorry. What did you say?
- 14 A Not to my recollection. No, sir.
- 15 Q To your recollection. Did Officer Jones ask him for
- 16 his name and his address that you recall?
- 17 A No, sir. I don't believe so.
- 18 Q What about Officer Gambrell?
- 19 A Not on scene. No, sir.
- 20 MR. BROOME: Beg the Court's --
- 21 THE COURT: Yes, sir.
- 22 MR. BROOME: Nothing further, Your Honor.
- 23 THE COURT: Thank you, sir. You can step down.
- 24 THE WITNESS: Thank you.
- 25 (Whereupon, the witness stepped down from the witness

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION (IN CAMERA)

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1 stand.)

2 THE COURT: Do you intend to call the other officer or

3 --

4 MR. SCOTT: Just one other. The officer who
5 transported him. He made some other statements to him.

6 Officer Christopher Gambrell.

7 THE COURT: Come on up, please.

8 MR. SCOTT: It will be brief.

9 CHRISTOPHER GAMBRELL, having first
10 been duly sworn, testified as follows:

11 IN CAMERA

12 DIRECT EXAMINATION

13 BY MR. SCOTT:

14 Q Officer Gambrell, at the time June 3rd, 2017 you were
15 with Laurens Police Department?

16 A Yes, sir.

17 Q And you're not anymore, right?

18 A No, sir.

19 Q At that time though do you remember responding to ■
20 Camp Circle in Laurens?

21 A Yes, sir.

22 Q And I think the other officer just testified you were
23 first on the scene?

24 A Yes, sir.

25 Q Who were the other two officers that showed up to

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION (IN CAMERA)

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1 assist you?

2 A Detective Jones and Sergeant Sellers.

3 Q And the reason for initially showing out there to the
4 scene was what?

5 A I believe it was a call reference to someone
6 trespassing.

7 Q And did you ever get to the bottom of that? Who called
8 about the trespass?

9 A We finally found someone close to the name of the
10 person that called, but he said he didn't call.

11 Q Okay. At that point do you remember the fellow that
12 kind of looked familiar to you guys maybe being on a wanted
13 poster in your all's office?

14 A Yes, sir.

15 Q And do you remember approaching him and asking him for
16 his ID and whatnot?

17 A Sergeant Sellers and Detective Jones did, sir.

18 Q Were you with them when they asked?

19 A Yes, I was.

20 Q And do you agree eventually he checked out and he was
21 not, in fact, wanted?

22 A Yes, sir. He wasn't wanted by us but he was wanted by
23 Indiana.

24 Q So you all didn't take him into custody at that time?

25 A No.

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION (IN CAMERA)

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1 Q Let me see. At that point do you remember becoming
2 aware of Mr. Henry Grant being on the scene?

3 A Yes, sir.

4 Q Tell me what you first noted about Henry Grant.

5 A While Detective Jones and Sergeant Sellers were talking
6 with the subject that we believed that was wanted our
7 attention was averted to the -- behind us where the
8 Defendant was cursing out loud. And Sergeant Sellers
9 basically gave him a warning telling him that if he kept
10 cursing or using profanity he would be arrested.

11 Q What were some of the things he was saying, if you
12 recall?

13 A I don't recall.

14 Q Did he heed Officer Sellers' warning? Did he stop his
15 behavior?

16 A No, sir. He didn't.

17 Q Was anyone else out there acting this way towards you
18 guys?

19 A No, they weren't.

20 Q Okay. Just Mr. Grant?

21 A Yes, sir.

22 Q Just Mr. Grant?

23 A Yes, sir.

24 Q At that point, after he was given the warning if he
25 continued with the behavior, what happened next?

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION (IN CAMERA)

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1 A Once everything was clear with the individual with the
2 warrant we were actually ready to leave. I was walking
3 furthest away. Sergeant Sellers and Detective Jones
4 approached the Defendant due to the fact that he was still
5 cursing and using profanity on the roadway, and he was
6 immediately secured by Sergeant Sellers.

7 Q Okay. He was put in handcuffs?

8 A Yes, sir. He was arrested at that time.

9 Q And then taken to your guys' -- your vehicles?

10 A He was taken to mine.

11 Q Your vehicle?

12 A Yes, sir.

13 Q And were you there whenever he was frisked?

14 A Yes, sir.

15 Q Did you all locate any weapons on him?

16 A No. At the time, no.

17 Q And then he was put in the back of your patrol car?

18 A Yes.

19 Q And what did he say?

20 A Sergeant Sellers at the time was having problems
21 frisking the Defendant. He kept turning away and yelling at
22 us. And basically once Sergeant Sellers continued, he
23 finished, and was placing him in the back of the patrol car,
24 I advised Sergeant Sellers to remove the hat and the
25 sunglasses because -- and has he was put in the back of the

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION (IN CAMERA)

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1 car he basically stated to Sergeant Sellers that, "You have
2 a baby. I'll rape her."

3 Q And at that point you shut the door on him?

4 A Yes.

5 Q And did Sellers -- did either Sellers or Jones get in
6 the car with you?

7 A No, sir.

8 Q It was just you and Mr. Henry Grant?

9 A Yes, sir.

10 Q And he's in the back of your vehicle?

11 A That's correct.

12 Q And where you proceed -- what do you go next?

13 A Once we left the scene we went straight to the -- to
14 jail.

15 Q Were you asking him any questions at the time?

16 A No, sir.

17 Q Was he saying anything at the time?

18 A He just rattled on. He basically stated that if he
19 ever saw me again he was going to shoot me in the head and
20 --

21 Q What else did he say?

22 A And at another point he stated that if he saw my Tahoe
23 in the hood he was going to shoot through the glass and
24 shoot me in the head.

25 Q Shoot you through the glass?

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION (IN CAMERA)

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1 A Yes.

2 Q What were some of the threats though he was mentioning
3 to you?

4 A You want me to repeat what I said?

5 Q Yes.

6 A He basically stated that he was going to shoot me in
7 the head the next time he saw me. He also stated that if he
8 saw me in the hood in my Tahoe he was going to shoot through
9 the glass into my head.

10 Q Anything else? I mean, was it --

11 A He also stated that my face belonged on a tee shirt.

12 Q What does that mean to you?

13 A It basically means someone that's passed away and loved
14 ones have their face -- the face of the person on their tee
15 shirt.

16 Q Okay. Just various references to killing you?

17 A That's correct. And --

18 Q And anything as far as your family?

19 A He talked about my wife.

20 Q Just -- now, were any of these in response to any
21 questions you asked of him?

22 A No, sir. I never asked him anything.

23 Q Okay. In fact, all this was filmed with the body cams?

24 A That's correct.

25 Q And did you all know his name at the time?

CHRISTOPHER GAMBRELL-CROSS EXAMINATION (IN CAMERA)

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1 A I personally did not know his name at the time, no.

2 Q So when you don't know somebody's name you take them to
3 the Detention Center, and if they're being unruly how do you
4 enter them into the system at that time?

5 A Basically I try to get information from him. Where he
6 lives, his name and everything. If he doesn't provide it he
7 goes under John Doe.

8 Q John Doe, okay. So at the time when you're putting him
9 in the car do you ask him his name or anything like that?

10 A I didn't ask him his name until we got to the Detention
11 Center.

12 Q And did you ask him any other questions other than his
13 name when you got to the Detention Center?

14 A I think the only thing I asked him, he said something
15 and I asked him what it was and he didn't reply. I can't
16 remember what it was he asked though or what he said.

17 Q But at the Detention Center you asked him his name.
18 Did he ever give you that?

19 A No, he didn't.

20 Q So your testimony is you did not -- he was in custody.
21 We all agree with that. Did you interrogate him at any time
22 between the incident location at Camp Circle and the
23 Detention Center?

24 A No, I did not.

25 MR. SCOTT: Please answer any questions Mr. Broome has

CHRISTOPHER GAMBRELL-CROSS EXAMINATION (IN CAMERA)

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1 for you.

2 THE COURT: Mr. Broome.

3 MR. BROOME: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. BROOME:

6 Q You said that Officer Sellers gave Henry a warning to
7 be quiet?

8 A That's correct.

9 Q Did you ever -- did you ever follow up with Henry to
10 ask if he understood or hear Officer Sellers' warning?

11 A No, he did not. No, he did not.

12 Q Did not? Okay. When you testified that he was being
13 noncompliant with the pat down did he ever -- did you tell
14 him to stop turning around?

15 A I can't remember if Sergeant Sellers did or not.

16 Q And at one point you mentioned some of the things that
17 Henry said to you in the back of the car.

18 A That's right.

19 Q At one point he said to you something along the lines
20 that you're in a sorority. Do you recall that?

21 A That's correct.

22 Q And he asked you which sorority you were in?

23 A Uh-huh.

24 Q Okay. And you kind of laughed at that?

25 A Yes, I did.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION (IN CAMERA)

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1 MR. BROOME: Beg the Court's indulgence.

2 Q Have you ever seen Mr. Grant before June 3rd?

3 A No, I have not.

4 MR. BROOME: No further questions.

5 THE COURT: Sir, thank you. You can step down.

6 (Whereupon, the witness steps down from the witness
7 stand.)

8 THE COURT: Anything further, Solicitor?

9 MS. BOYKIN: No, Your Honor.

10 THE COURT: Mr. Broome, anything from you, sir?

11 MR. BROOME: No, Your Honor. And no witnesses.

12 THE COURT: Unless there's argument, it appears to be
13 -- did you want to make an argument?

14 MR. BROOME: Your Honor, it's pretty -- I mean, unless
15 you would like to watch the video, from my understanding,
16 you know, we needed to make this motion for the record.
17 Obviously it's clear he was in custody. But without
18 watching the video -- I understand the Officers' testimony,
19 but I don't believe that they questioned him directly about
20 anything. But we can watch the video if the Court wants to
21 right before that. I think it's maybe four minutes right
22 before they put him in the car and actually go from there.
23 I think that would probably be the dispositive issue. You
24 know, if they ever asked him any questions then.

25 THE COURT: Well, again, Miranda has to apply to folks'

1 custodial interrogation. My understanding of the testimony
2 is that this is basically a situation where the State is
3 alleging that the Defendant, for lack of a better word or
4 phrase, was simply mouthing off. And obviously you don't
5 need to Mirandize someone who's being disorderly. They
6 asked him to quit being disorderly. I don't know that
7 Miranda was -- I don't believe Miranda was required under
8 these facts, and the failure to give Miranda does not
9 warrant exclusion of the underlying statements the Defendant
10 made. It's the statements themselves which were the subject
11 of the underlying charges. So your objection is noted, but
12 obviously I do not believe that Miranda was required under
13 these facts.

14 Anything further from anyone on this issue before we
15 continue?

16 MR. BROOME: Not this issue from us, Your Honor.

17 MS. BOYKIN: No, Your Honor.

18 THE COURT: All right. Let us have the jury in and
19 we'll begin in earnest then, please.

20 (Whereupon, the jury entered the courtroom at 11:28
21 a.m.)

22 THE COURT: Ladies and gentlemen of the jury, welcome
23 back and thank you for your continued patients. I wanted to
24 go ahead and address a few pretrial matters so that
25 hopefully we could just go straight into the opening

1 arguments and the testimony. So that's why I was keeping
2 you waiting.

3 Now, our first order of business, ladies and gentlemen,
4 is to appoint a foreperson of the jury, and I think that the
5 -- you're in the lucky seat, and your name is Marlene
6 McCrain; is that right, Ms. McCrain?

7 JUROR: Marlene McCrain, uh-huh.

8 THE COURT: Okay. If it's okay with you, I'd like to
9 make you the foreperson since fate has ordained that you sit
10 in the lucky seat. So I'll tell you this, not a lot of
11 heavy lifting with being the foreperson. Your primary
12 responsibility would be to make sure that everybody has an
13 opportunity to have their fair say once the case is
14 submitted to the jury. Your kind of first among equals, so
15 obviously your vote counts no more, no less than any other
16 jurors. If it's all right with you, I'll make you the
17 foreperson.

18 All right. She's nodding yes. We will make Ms.
19 McCrain the foreperson. If you could stay in that seat
20 throughout trial. And our alternate is Ms. Langston. Ms.
21 Langston? If you could stay in that seat, too.

22 While the case is going on, ladies and gentlemen, if
23 you feel the need to take a restroom break or a comfort
24 break for any reason, please just raise your hand.
25 Similarly, if you're having trouble hearing anything that

1 the witnesses say, simply raise your hand and I'll ask them
2 to speak a little bit more loudly. Okay? Or get my
3 attention or flag somebody down and we'll ask them to repeat
4 what they just said if you didn't catch it. Okay?

5 Now, ladies and gentlemen, again, we're about to begin
6 the case of *The State of South Carolina v Henry Grant*. I
7 want to let you know that, of course, this case is not going
8 to be terribly protracted. I don't think it's going to go
9 very long. And obviously this case is going to be a lot
10 different than what you've probably seen or from what you've
11 come to expect from seeing cases depicted or trials depicted
12 on TV or in the movies. Obviously, ladies and gentlemen,
13 this is an important case for both the State of South
14 Carolina and for Mr. Grant, and this case is not for
15 anyone's entertainment. Please understand that your
16 obligation would be to find and determine the facts. I'll
17 instruct you on that at a later point in time. In doing
18 that you'll have to pay attention to the witnesses, of
19 course, observe them. I want to thank you for your
20 attention going forward. I do anticipate, again, being able
21 to submit this case to you sometime later on this afternoon.

22 Again, thank you for your willingness to serve. Thank
23 you for your willingness to come in here and help resolve
24 this dispute between the State and Mr. Grant. With that I'm
25 going to ask that you stand up and raise your right hands so

1 that the Clerk can administer your oath to you as jurors.

2 (Whereupon, the jury was sworn in at 11:30 a.m.)

3 THE COURT: Ladies and gentlemen, what I now say to you
4 is intended to serve as an introduction of the trial and, of
5 course, these remarks are not instruction of the law. I'll
6 instruct you on the law at the conclusion of the trial
7 before you retire to deliberate your verdict.

8 Again, in this case, ladies and gentlemen, Mr. Grant is
9 charged with two counts of threatening the life of a public
10 official. I'll explain the elements of these charges to you
11 at a later point in time. As I mentioned earlier, these
12 indictments are merely the means by which these cases are
13 brought to Court and they're not in any sense of the word
14 proof of any of the allegations contained in the
15 indictments. The Defendant in this case, Mr. Grant, has
16 pled not guilty to these charges and, of course, that plea
17 puts the burden on the State to prove each and every element
18 of these charges beyond a reasonable doubt. It will be your
19 obligation to determine whether the State has met this
20 burden.

21 Now, as I mentioned a few moments ago you're obligation
22 as jurors is to find and determine the facts. Please
23 understand that you're the sole judges of the facts. So if
24 at any time I make any comment concerning the facts you have
25 to disregard that comment. You'll determine the facts from

1 the testimony that you hear and the other evidence which is
2 presented during the course of the trial. It's up to you to
3 determine the inferences which properly can be drawn from
4 the evidence.

5 Now, ladies and gentlemen, it's especially important
6 that you perform your duty of determining the facts
7 diligently and conscientiously, because ordinarily there is
8 no way to correct an erroneous determination of facts by a
9 trial jury. The same law that makes you the judge of the
10 facts makes me the judge of the law. The law as given by
11 the Court is the only law that you can consider. You'll
12 have to accept it and apply it even though you may disagree
13 with it. Again, the law doesn't permit me to tell you what
14 the facts are, and the law doesn't allow you to disagree
15 with me about what the law is or what the law should be.
16 Your job will be to take the law as I give it to you, apply
17 it to the facts as you find them to be, and thus render your
18 verdict under the oath that you have just taken.

19 Now, until you begin your deliberations please don't
20 discuss this case with anyone. Not even your fellow jurors.
21 Of course, not friends, family members or anyone involved in
22 the case. Please keep an open mind. Don't discuss -- or
23 don't decide any issue in this case until all the evidence
24 has been presented, you've heard the closing argument of
25 counsel and you've received my instruction of the law.

1 Again, ladies and gentlemen, it's your solemn
2 responsibility to determine the guilt or the innocence of
3 the Defendant and your verdict must be based solely on the
4 evidence and the law as presented.

5 Now, in a moment the attorneys are going to make to you
6 -- or present to you what's known as an opening statement
7 which they'll contend what the issues are and they'll argue
8 to you what the issues are in this case. Please understand
9 that what the lawyers say during their openings is not
10 evidence, but it is their contention as to what will be
11 proven. Even though it's not evidence, both the attorneys
12 openings and closings, you should pay attention to them, you
13 should listen to them, because it'll give you an overview or
14 summation of what is to be proven or has been proven.

15 Now, from time to time during the trial we may have to
16 take a break while I take up some issue of law with the
17 attorneys and I might ask you to adjourn to the back while
18 we discuss that issue of law. The reason that I'm asking
19 you to go to the jury room while I'm taking up an issue of
20 law is that sometimes when I'm making a ruling on the law I
21 have to comment about the facts. Okay? I don't want
22 anything that I say to have any effect on what you
23 ultimately find the facts to be. That's why I ask that you
24 leave the courtroom. Okay? Please don't speculate about
25 what I'm saying concerning the facts because, of course, the

1 law doesn't permit me to have any opinion about the facts
2 that support allegedly these charges.

3 Now, again, in deciding what the true facts are in this
4 case you'll have to decide whether or not testimony is
5 believable. It's my responsibility to rule on whether
6 certain testimony can be admitted. Whether or not you
7 choose to believe that testimony once it's admitted though
8 is totally up to you. Deciding whether to believe a witness
9 you consider the interest -- you can consider the interest
10 of any witness, the bias of any witness, the prejudice of
11 any witness, the opportunity for the witness to have seen
12 the matters and things about which they testify, and you can
13 consider the way they act while on the witness stand. You
14 can consider anything that's in the record in this case
15 which will help you evaluate the testimony of the witnesses.
16 That means it's your duty to pay close attention to them,
17 listen to them, observe them, and pay close attention to the
18 attorneys at the Court. Try and keep your thoughts from
19 wondering. If you give strict attention to the testimony
20 you'll be as best a position possible to render a verdict
21 under the oath that you have just taken as jurors.

22 Now, in order to give everyone an opportunity to object
23 to anything I've said during these opening remarks I'll
24 entertain any objections from the State at this point.

25 MS. BOYKIN: Nothing from the State, Your Honor.

1 THE COURT: From the Defense?

2 MR. BROOME: No, Your Honor.

3 THE COURT: We'll begin the trial. Solicitor, you're
4 recognized for your opening, Mr. Scott.

5 MR. SCOTT: Thank you, Your Honor.

6 OPENING STATEMENT

7 BY MR. SCOTT: Just as the Judge mentioned, I'm going
8 to give you just a brief overview about what this case is
9 about. You already heard he's charged, Mr. Grant is, with
10 two counts of threatening a public official. In this state
11 police officers are considered public officials. The law is
12 it is unlawful for a person to knowingly and willfully
13 deliver or convey to a public official, a police officer,
14 any verbal communication which contains a threat, to take
15 the life of or to inflict bodily harm upon that public
16 official, or any members of his immediate family if the
17 threat relates to their job as a police officer.

18 So how do we get there? How do we get to being in
19 trial today with Mr. Henry Grant sitting over there facing
20 these charges? You're going to hear from three witnesses.
21 Okay? That's all it's going to take for this trial, three
22 witnesses, and they're all sitting right here on this front
23 row. Police officers with the Laurens Police Department
24 charged with protecting and serving the community of
25 Laurens. Laurens City. June 3rd, this past summer, about

1 -- let's see. Dispatch time is 7:42 p.m. They're called
2 out to a residence at ■ Camp Circle. That's Camp and
3 Lurey. You guys are familiar with that. I'm told it's up
4 North Harper. It's just right off that. There up towards
5 I-26 from here. But it's in the city limits. And the call
6 that comes out at about 7:42 is a potential trespass. It's
7 a call for service. Okay? That's what they get. Dispatch
8 goes out. Gambrell, he's this one right here on the far
9 left on the front row. He's the first on the scene. He's
10 told by dispatch somebody called in a complaint. We think
11 it's about a trespassing issue. Somebody is on somebody's
12 property and they don't want them there. First thing he
13 does is he gets there and starts asking around. There's a
14 big group of people at the residence of ■ Camp Circle. ■
15 Camp Circle, it sound kind of like a 24 hour party spot.
16 I'm not familiar with the area. I don't live here. But
17 from what the officers tell me you can go there any time, we
18 could go over there right now, they'd probably have a party
19 going on. Just people having a good time in their front
20 yard. A lot of beer drinking, it looks like, on June 3rd.
21 But nobody is being out of hand when the officers get there.
22 A bunch of kids in the yard. Adults, too. Having a good
23 time. It's a summer evening. Gambrell sets out on foot.
24 He's asking people, you know, did you call officers here?
25 He's met with a couple of people he's familiar with and they

1 say, no, Officer Gambrell. We didn't call. Unless one of
2 the kids got on the phone and they called. We didn't call
3 them. Is there any kind of disturbance? Do you all need
4 help with anything? No, we're good. I don't know who
5 called. He goes back to his car and calls dispatch. Who
6 called again? Because I can't get anybody to answer me as
7 far as what the call for service is. They give him a name.
8 I think it's Arthur Brown. So he starts going out there and
9 says is Arthur Brown here. He eventually gets Arthur Brown
10 and he says, hey, I didn't call. That happens from time to
11 time up here. I don't know if it was a neighbor, maybe
12 wanted police officers to get out there so maybe the party
13 would kind of calm down. They cut the music down. We don't
14 know. But they responded to a call. And eventually you'll
15 get to the officers. Nobody ultimately needed them.
16 They're fixing to clear, you know. While Gambrell's out
17 there you've got Officer Sellers and Officer Jones. They
18 show up to assist him. Likewise they're kind of asking
19 around, you all sure you don't need us. Okay? Because
20 we're clearing if you all don't. At that point Officer
21 Jones and Officer Sellers get together and they say, you see
22 that guy over there in the white tank top? Yeah. I think
23 he might be one of those guys on our most wanted posters.
24 I don't know if you all noticed. When you came in the
25 courthouse -- you'll probably see this when you all leave

1 for lunch or -- I don't know how you all are going to come
2 in and out of the courtroom today. In public places they'll
3 have wanted signs. People who have outstanding warrants or
4 wanted by the local law enforcement agencies. They keep
5 some there at the department. We have some here at the
6 courthouse. Like I was saying, you all passed them today
7 when you all came in here.

8 Anyway, Sellers and Jones look at the guy and they say
9 I think he's one of those guys on our list back at the
10 office. They look at one another and say, well, let's go
11 check on him. They go up to the guy and they ask him for
12 his name, ID. This guy's very compliant. Here you go, I'm
13 so and so. Do you mind if we pat you down for any weapons
14 and just make sure you're not this dude. Go ahead, mate.
15 They pat him down. They call in with his information he
16 provides and they clear him. Sorry. We thought you were
17 somebody else. Sorry about that. Let's go on back to the
18 department.

19 Well, at this point they begin becoming aware of Henry
20 Grant, because he's a couple yards away and he's cussing at
21 them. He's yelling. Kids all in the yard. People out
22 there having a good time. He's telling them we can kill
23 these cops. You all need to go over there and kill these
24 police officers. Right then and there that was enough for
25 them to take him in. You're going to see these guys

1 restraint. Okay? Who is this? Sellers looks up there and
2 says why is he mouthing off. They let him go. He keeps on
3 with these threats. Kids in the yard, man. He's
4 belligerent. He's inciting people to kill the police
5 officers. Give him a warning. You keep that up we're going
6 to have to take you in. He's not listening. He goes on.
7 He goes on. They finally have to go to him, we're taking
8 you in. Public disorderly conduct. It means you can't be
9 belligerent and drunk as a skunk, cussing and raising Cain
10 like that. It's public disorderly conduct to take him in.
11 Okay? That could have been the end of it. But no, he's not
12 done. They're frisking him. You know, to put him at the
13 car you've got to check him for weapons. You're going to
14 hear about that. Before you get in the police car they've
15 got to pat you down, spread your legs. He's not doing it.
16 He's turning around, cussing, he's raising Cain. Spread
17 your legs. He won't do it. They finally have to push him
18 against the car to get him to comply and calm down. Pat him
19 down. Clear him. Put him in the back of the police car.
20 At that point -- you know, I was thinking about it. Who
21 among us has a job where day in and day out we go there and
22 we can have people threaten us with the most horrific
23 things. Terrible, disgusting, horrendous things. I don't.
24 I guess that's part of being a police officer. I guess
25 that's why we've got this law. But some of the things these

1 guys were subjected to you're going to hear. Sellers, he's
2 got an infant baby. Let me tell you what Mr. -- this man
3 told him as he got in the car. You got a baby. I'll rape
4 her. That's what he said. Told this man with an infant
5 child. He showed the restraint of closing the door and
6 allowing him to go off. I don't know if I could do that. I
7 guess that's why I'm in this line of work and I can't do
8 what they do. I'll rape your baby.

9 Gambrell is charged with taking him to the Detention
10 Center. He's not done. Okay? He's got -- he's got a mouth
11 full for Mr. Gambrell, too. I will kill you the next time I
12 see you. I'm going to shoot you in your head. I'm going to
13 take you away from your family. If I see you again -- you
14 can't even come around. I'll shoot you in your fucking
15 window. You heard me, and tell them that because I mean it.
16 They know I mean it. You know I'll blow your brains out for
17 that. You heard what I said. I'll blow your fucking brains
18 out, boy. You know I'll beat the damned dog shit out of
19 you. Guess what, guys. Here's the thing I can tell you
20 all. You don't have to take my word for it. You don't have
21 to take Officer Sellers' word for it. You don't have to
22 take Officer Jones' word for it. You don't even have to
23 take Officer Gambrell's word for it. You know why? If you
24 look at Sellers chest he's got a little thing. It's a
25 camera. These officers have to have these cameras now, and

1 they record everything. Okay? They recorded this drunk
2 belligerent man making these terrible horrible threats to
3 these guys who were just out there responding to a call.
4 You're going to hear it. You're going to watch it. I don't
5 know what his excuse is going to be. I don't know. But
6 there's no excuse for it. You heard the law. A threat is a
7 threat, is a threat. The Judge is going to tell you we've
8 got the burden of proof. We know that. In every case we do
9 here we've got the burden of proof. It's to prove a case
10 beyond a reasonable doubt. That means at the end of this
11 trial when we ask you to find him guilty you have to be
12 firmly convinced that he's guilty of threatening these
13 people. Okay? If we performed our duty and we've proven
14 that to you and you are firmly convinced, then you must do
15 your duty and that is to find him guilty if you're firmly
16 convinced. Easy as that, guys. A three witness trial.
17 It's going to be on video. You're going to get to watch
18 portions of each one of their videos, because each one of
19 them had body cams. And, you know, Mr. Grant looks good
20 today. He's dressed up nice. He's well behaved. That
21 wasn't the Henry Grant on June 3rd, 2017 at 7:42. The man
22 you see right now, that wasn't him. You're going to get to
23 see Henry Grant when law enforcement came in contact with
24 him, and you're going to have no choice, if you listen to
25 evidence and you do your duty, what the Judge will tell you

1 your duty is, you'll have no choice but to convict him of
2 threatening bodily harm or the life of a public official
3 and/or his family. Thank you.

4 THE COURT: Just so you all know, obviously this is my
5 court reporter and she's having to change the memory card in
6 her equipment to make sure that everything is taken down.

7 Mr. Broome, you're recognized for your opening, sir.

8 OPENING STATEMENT.

9 BY MR. BROOME: Summertime, a block party is going on.
10 It's hot outside. Henry's together with his friends.
11 Henry's together with his family, and he's not causing any
12 problems. But he's been drinking, and he's been drinking a
13 lot. He's drank so much that he is drunk. Grossly drunk.
14 To the point where he's going to get arrested for it, as you
15 heard from the Solicitor's Office, for being public
16 disorderly conduct. When he first -- when the officers
17 first get out there the first thing they hear from him he
18 starts cussing and the officer asks what's he running his
19 mouth about, and the officer says he's just running his
20 mouth. He's just running his mouth because he's drunk.
21 He's slurring his words. The smell of alcohol is so strong
22 the officers can barely stand it. He has complete -- he has
23 no idea. He can't even understand what the officers are
24 trying to tell him. After they arrest him and put them in
25 their handcuffs, at this point, and this will be on video,

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1 he never once tells the police officers at that point, or
2 makes any threats to them. Nowhere on the video before they
3 put him in the back of his car does he incite others to kill
4 the police officers. Nowhere does he incite others to hurt
5 the police officers. He asked him what are you -- what are
6 you arresting me for? Public intoxication. Intoxicated for
7 what? I don't know. Intoxicated for what? Slurring his
8 words. The officer says, look, you're making things worse
9 upon yourself. I'm not making things -- you're making
10 yourself look embarrassed. I didn't say anything about
11 embarrassed, Henry. I said you're making yourself look
12 worse. That's how drunk he is. He can't understand what
13 the officer is saying. At that point he's running his
14 mouth. That's all. He's cussing. Yes, he says some awful
15 things that I'm not going to repeat. He does. But the man
16 was drunk. And he didn't say anything. It was until they
17 -- Officer Sellers takes him over to his car, puts him by
18 the patrol car and they're patting him down. And here he's
19 upset. He's frustrated. He didn't call the law out there.
20 They didn't come out there for him. And he was cussing.
21 Shouldn't have been cussing. But he's frustrated, because
22 those children they talk about, they weren't concerned. His
23 family that's out there, that block party over in the Lurey
24 Street community where they gather on Saturday evenings. He
25 was embarrassed. He was taken away from his family and he

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1 was arrested in front of his family. He was put in
2 handcuffs in front of his family. And he was drunk and he
3 was frustrated. But it wasn't until the officer had him in
4 handcuffs. And they said he's noncompliant. He's trying to
5 ask, what are you arresting me for? He's having problems
6 understanding him and the officer takes him and he slams
7 him. He slams him into that police door. They say push
8 him. At that point -- at that point is when Henry goes off.
9 He was frustrated. He was grossly intoxicated. He was
10 drunk. You're going to see and hear the way he was acting
11 and how drunk he was and how he didn't know what the cops
12 are telling him. He did not know what he was saying. When
13 we're done with all the evidence in this case and you're
14 done listening to the testimony keep that in mind. Watch
15 that. Are these are the actions of someone who's really a
16 threat or someone who is drunk. And as the officers say,
17 he's just running his mouth. At the end I'm going to ask
18 you to return a verdict of not guilty.

19 Thank you.

20 THE COURT: Thank you, Mr. Broome. Solicitor, call your
21 first witness, please.

22 MS. BOYKIN: Thank you, Your Honor. The State calls
23 Officer Gambrell.

24 CHRISTOPHER GAMBRELL, having first
25 been duly sworn, testifies as follows:

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1 DIRECT EXAMINATION

2 BY MS. BOYKIN:

3 Q If you could state your full name for the record,
4 please.

5 A Christopher Gambrell.

6 Q Are you an officer now?

7 A No, I am not.

8 Q Where do you work now?

9 A I am unemployed.

10 Q Okay. How long have you been an officer?

11 A A total of 15 years.

12 Q Were you -- when did you start?

13 A I started in -- I believe it was January almost a year
14 and a half ago with Laurens City.

15 Q Laurens City. So were you working June 3rd, 2017?

16 A That's correct.

17 Q For the Laurens City Police Department?

18 A Yes, ma'am.

19 Q What shift would you work?

20 A I worked at the midnight shift, from 7:00 to 7:00.

21 Q So 7:00 p.m. to 7:00 a.m.?

22 A Yes, ma'am.

23 Q What were your duties there?

24 A Road patrol.

25 Q So just responding to different calls that 911

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1 received?

2 A Yes, ma'am.

3 Q June 3rd, 2017 around 7:42 p.m. did you receive a call
4 that night?

5 A Yes, ma'am. Off of, I believe it was, Camp Circle.

6 Q Off of Camp Circle?

7 A Yes, ma'am.

8 Q Do you remember the address? Was it --

9 A ■■■, I believe it was.

10 Q ■■■ Camp Circle?

11 A Yes, ma'am.

12 Q Is that in Laurens County?

13 A Laurens City. Yes, ma'am.

14 Q So it's in Laurens County though?

15 A Yes, ma'am.

16 Q Did you arrive on scene?

17 A I was the first one to arrive. Yes, ma'am.

18 Q And what was the call in reference to?

19 A In reference to a trespasser that was in an area they
20 shouldn't be in.

21 Q What did you do when you arrived?

22 A I first arrived and came in contact with several people
23 and asked them if they called 911 in reference to the
24 trespasser. Several people said they didn't. I even walked
25 down the street on one side and confronted a woman who was

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1 walking the street and asked her if she called. She said
2 no. I was walking back to my vehicle. Got back on the
3 radio and asked dispatch who was the name of the person that
4 called. When I got out of the vehicle I came in contact
5 with another person. He was at the corner of Camp Circle
6 and Lurey Street, basically at the party, and --

7 Q Let me stop you there. What was the name of the
8 complainant, if you remember?

9 A I think it was Oxford Brown, or Arthur Brown, or
10 something like that.

11 Q And did they -- did someone tell you it could possibly
12 be Arthur Brown?

13 A Yes.

14 Q At this point did any officers arrive on scene to
15 assist you?

16 A Yes, ma'am. Detective Jones and Sergeant Sellers
17 arrived on scene.

18 Q Okay. Go from there. What happened next?

19 A Myself and Sergeant Sellers walked down the street to a
20 house. I can't remember the address. Because myself and
21 Sergeant Sellers were there the night before in reference to
22 another incident. And we spoke to the woman who was at the
23 house and she said she didn't call tonight. She called last
24 night, the night before, but not that night. So myself and
25 Sergeant Sellers was walking back where we met with Sergeant

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1 Jones, and that's when we discussed about the individual who
2 looked like he was on the wanted poster on our board.

3 Q Let me stop you there. The wanted poster on the board.
4 Where is that?. Is that in the police department?

5 A Yes, ma'am.

6 Q And it's just a board that has pictures of --

7 A It has pictures of individuals that are wanted by the
8 city in reference to several different crimes, whether it be
9 felony or misdemeanor.

10 Q And you thought you all recognized someone that was
11 wanted?

12 A Sergeant Sellers and Sergeant Jones did.

13 Q Okay. What did you all do from there?

14 A We then walked and approached the individual. Made
15 contact. Sergeant Sellers asked the individual for his
16 information. He handed him his driver's license. At that
17 point Sergeant Sellers ran him to our dispatch. While
18 waiting we heard some profanity come from behind us.

19 Sergeant Sellers basically informed the person that if he
20 kept it up he was going to be going to jail.

21 Q Did he keep it up? Did he continue to --

22 A Yes, ma'am.

23 Q -- cuss?

24 A Yes, ma'am. We were just dealing with the one
25 individual first.

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1 Q Let me step back for a second. The location, ■ Camp
2 Circle, it was -- was it a gathering? Was there a party
3 going on?

4 A Yes, ma'am. There was a gathering with, I'd say,
5 roughly 30 people.

6 Q Thirty people? Were there children?

7 A Yes, ma'am.

8 Q Were people drinking?

9 A Yes, ma'am.

10 Q Were the majority of the adults drinking?

11 A The majority. Yes, ma'am.

12 Q Was anyone acting out of hand?

13 A No, ma'am.

14 Q Except for one person?

15 A When we first arrived no one was. But then, like I
16 said, when we made contact with that person that's when the
17 profanity started.

18 Q Okay. So continue on. So you started hearing
19 profanity. What did you do next?

20 A After the individual came back cleared that he was
21 wanted in Indiana but not at the city we proceeded to leave,
22 and the Defendant basically kept using profanity and at that
23 time Sergeant Sellers approached him and placed him under
24 arrest.

25 Q What was he arrested for?

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1 A Public disorderly conduct.

2 Q And do you know the man -- the name of the man that was
3 arrested that day?

4 A I do now. Yes, ma'am.

5 Q And what's his name?

6 A Henry Grant.

7 Q And do you see him in the courtroom today?

8 A Yes, ma'am. He's sitting over there wearing a white
9 shirt.

10 (Whereupon, witness identifies the Defendant)

11 Q Now, after he's arrested what do you all do next?

12 A He was then taken to my vehicle to where he was -- by
13 our policy is that he basically is patted down to make sure
14 he has nothing harmful to himself or to the officer who is
15 transporting him, which would be me. Sergeant Sellers
16 proceeded to do it. And at the time he was having a hard
17 time patting him down along his legs due to the fact of Mr.
18 Grant basically moving around. He asked him, I believe,
19 once to stay still but he wouldn't.

20 Q So it's policy to pat someone down to make sure they
21 don't have weapons?

22 A That's correct.

23 Q So they'd have to spread their legs, and that's what
24 you all asked, and if they're not doing it you all have to
25 use force; is that correct?

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1 A Yes, ma'am.

2 Q And so, eventually was he able to be patted down?

3 A Yes. Once Sergeant Sellers was able to get him to --
4 he pushed him against the side of my -- of my rear door.

5 Q Okay. At that point when he is being put into the
6 police vehicle -- is it your car?

7 A Yes, ma'am.

8 Q Do you hear him say anything?

9 A Yes, ma'am.

10 Q What does he say?

11 A He basically took -- stated to Sergeant Sellers that
12 you have a baby and I'm going to rape her.

13 Q Okay. What did Sellers do?

14 A He kept composure, and myself and Detective Jones told
15 him to close the door.

16 Q From there who takes him to the jail?

17 A I transport him.

18 Q Are you by yourself?

19 A I have a K9, but yes, I'm by myself.

20 Q What kind of car is it? Is it a car or a Tahoe?

21 A It's a silver Tahoe.

22 Q When he's in the vehicle with you does he say anything
23 to you that concerned you?

24 A Yes, ma'am.

25 Q Name a couple of those things if you could, please.

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1 A At one point he said the next time he saw me he was
2 going to shoot me in the head. During the transport he then
3 stated if he -- if he saw my Tahoe in the Hood he was going
4 to shoot the glass and shoot me in the head. He also said
5 that my face belonged on a tee shirt.

6 Q What does that mean?

7 A Basically I perceived that as your loved ones having
8 your face on a shirt after you pass or are deceased.

9 Q Yeah. How did all that make you feel?

10 A I was angry.

11 Q Now, when you arrived were you wearing anything to
12 record this incident?

13 A Yes, ma'am. I was wearing my body camera.

14 Q Is that policy to wear a body cam video?

15 A Yes, ma'am.

16 Q And where would it be? Just right here?

17 A It's right in the middle of my chest.

18 Q When did it start recording?

19 A The minute I was on the scene.

20 Q And do you know when it stopped recording?

21 A It was after I already -- after the jail and I was
22 doing the process of the paperwork.

23 Q I'm going to show you --

24 MS. BOYKIN: Let me get this marked.

25 (Whereupon, State's Exhibit No. 1 was marked for

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1 identification.)

2 Q I'd like to show you State's Exhibit 1. Do you
3 recognize this?

4 A Yes, ma'am.

5 Q And what is that?

6 A That's a copy of our body cam footage. My initials are
7 here on this one.

8 Q So you have reviewed this before?

9 A Yes, ma'am.

10 Q And how do you know that?

11 A My initials are on the disc.

12 Q And this contains your body cam video?

13 A Yes.

14 Q And also Officer Jones?

15 A And Sergeant Sellers.

16 Q And Officer Sellers, okay. And is it an accurate
17 depiction of what happened that day?

18 A Yes, ma'am.

19 MS. BOYKIN: Your Honor, at this time we would offer
20 State's Exhibit 1 for admission into evidence.

21 THE COURT: Any objection? Subject to your earlier
22 objection?

23 MR. BROOME: Other than the earlier one.

24 THE COURT: Very good. It's in evidence.

25 (Whereupon, State's Exhibit No. 1 was admitted into

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1 evidence.)

2 THE COURT: Care to publish?

3 MS. BOYKIN: Yes, Your Honor.

4 THE COURT: You may proceed.

5 (Whereupon, State's Exhibit No. 1 was published for the
6 jury.)

7 Q Officer Gambrell, there's more to that video. We're
8 just going to stop it here for now. But did he continue to
9 berate you?

10 A Yes, ma'am.

11 Q All throughout the booking process?

12 A Yes, ma'am.

13 Q And that'll be back there for the jury to see. But I
14 want to go back to a couple of things. You all mentioned
15 he'll go in as a John Doe. What does that mean?

16 A When a Defendant doesn't give their information after
17 we ask for it he'll go in as a John Doe.

18 Q So you didn't know who he was at the time?

19 A No, I did not.

20 Q And you never received his information while he was in
21 the car?

22 A No, I did not.

23 Q And the man that you all thought was, you know, wanted
24 when you all saw him on scene was he, in fact, wanted from
25 another state?

CHRISTOPHER GAMBRELL-DIRECT EXAMINATION

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1 A Indiana.

2 Q So he was the person on a poster, but you all just
3 didn't arrest him; is that correct?

4 A No. He wasn't the correct person on our wanted board.

5 Q Got you. He kept mentioning, you know, I'll -- you can
6 come back in my Hood. I'll shoot you. I'll shoot you in
7 the head. I'll find you. I'll track you down. The area
8 that this happened, is that a place you would patrol often?

9 A Yes, ma'am.

10 Q So that was, you know, your day-to-day business being
11 in that area?

12 A Yes, ma'am. Around the city, yes.

13 Q And so, did that concern you about these threats, that
14 he's going to come after you --

15 A Yes, ma'am.

16 Q -- when he gets out of jail? He says -- I think he
17 says I'll be out tomorrow.

18 A Yes, ma'am.

19 Q So you were concerned that he would possibly come and
20 shoot you in the head, or try to shoot you in your Tahoe?

21 A That's correct.

22 Q He said he would take you away from your family?

23 A Yes, ma'am.

24 Q So you said -- why did you leave the police department?
25 If you could explain that for us.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

70

1 A Family reasons, ma'am.

2 Q Family reasons?

3 A Yes.

4 Q So it's -- but it's pretty nice not to deal with all
5 this stuff anymore, right?

6 A That's correct.

7 MS. BOYKIN: Thank you. Please answer any questions
8 Mr. Broome has.

9 THE COURT: Cross.

10 CROSS-EXAMINATION

11 BY MR. BROOME:

12 Q When you arrived on scene there was a block party going
13 on?

14 A That's correct.

15 Q And it was a Saturday evening?

16 A Correct.

17 Q In the summertime?

18 A Yes, ma'am -- I mean, yes, sir.

19 Q There were a lot of people outside?

20 A Yes, sir.

21 Q You testified there were about 35, 30 people outside?

22 A Thirty. Just an approximate guess.

23 Q A bunch of people?

24 A Yes, sir.

25 Q I'm sure you didn't take a head count, and we can see

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

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1 it on the video, right?

2 A Yes, sir.

3 Q And as you mentioned, there's loud music?

4 A That's correct.

5 Q People were playing outside?

6 A Correct.

7 Q People were drinking outside?

8 A Correct.

9 Q People were drinking a lot outside?

10 A That's correct.

11 Q You saw a lot of beer cans outside?

12 A Yes, sir.

13 Q People were having a good time outside?

14 A Yes, sir.

15 Q And Henry was outside when you arrived?

16 A What was that?

17 Q Henry, sitting right here, he was outside when you
18 first arrived, correct?

19 A I believe so, yes.

20 Q Yeah. He was wearing that red hat that we saw on the
21 video?

22 A Correct.

23 Q I think you walked by him a few times initially, right?

24 A I believe so, yes.

25 Q When to another house, right?

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

72

1 A Yes.

2 Q It was that silver car he was kind of leaned up on
3 here. He had his back to you all. You remember seeing that
4 in the video?

5 A That's correct.

6 Q He didn't say anything to you at that time, right?

7 A No, sir.

8 Q And there was a -- he had another guy standing here and
9 a child with him that he was playing with. Did you see that
10 in the video?

11 A At the trunk. Yes, sir.

12 Q Yeah. And you walked by again. When you left that
13 house you walked by Henry again, correct?

14 A Correct.

15 Q He didn't say anything to you at that point, did he?

16 A No, he didn't.

17 Q The first time you noticed him you mentioned that he
18 was cursing or cussing, right?

19 A That's correct.

20 Q And the first time -- the first thing out of any
21 officer's mouth was Officer Sellers' comment, right?

22 A That's correct.

23 Q He asked -- we heard it on the video. What's he
24 running his mouth about. Remember him asking that?

25 A That's correct.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

73

- 1 Q And what did you say?
- 2 A He was running his -- he's running his mouth.
- 3 Q And Officer Jones said that, too, right?
- 4 A I believe so.
- 5 Q On the video. We saw it, he's just running his mouth.
- 6 And so, later on after you all go and arrest him you get to
- 7 be up a little closer to Henry, right?
- 8 A That's correct.
- 9 Q You hear him a little more clearly?
- 10 A Correct.
- 11 Q While he's running his mouth?
- 12 A Yes.
- 13 Q And so, when he was running his mouth he was kind of
- 14 slurring his words?
- 15 A Correct.
- 16 Q Like a drunk guy would do?
- 17 A Yes, sir.
- 18 Q And he was running his mouth loudly?
- 19 A Yes, sir.
- 20 Q Loud enough that you all could hear it?
- 21 A Yes, sir.
- 22 Q And that's what loud drunk people do, right?
- 23 A Some, yes.
- 24 Q They tend to be loud, drunk people?
- 25 A Uh-huh.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

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1 Q In your experience?

2 A Yes, sir.

3 Q And when he was running his mouth he was cussing,
4 right?

5 A Correct.

6 Q Yeah. Like a drunk guy, right?

7 A Yes.

8 Q Now, and what you all actually arrested him for was
9 public disorderly conduct, right?

10 A Correct.

11 Q And that's essentially what you're alleging was that he
12 was drunk in public, right?

13 A Correct.

14 Q And you and Officer Jones, or at least Officer Jones
15 says to him, you're intoxicated?

16 A I don't know if he said that or not.

17 Q When they're patting him down did you hear on the video
18 when Officer Jones -- my client -- Henry says, what are you
19 arresting me for, and Jones says public intoxication, and
20 then Henry says intoxicated for what?

21 A I remember that, yes.

22 Q Okay. And at that point he had not made any threats
23 that -- what you deem is a threat to you or anyone else?

24 A What do you mean? When we first made contact to arrest
25 him?

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

75

1 Q Well, at that point when you're -- correct.

2 A When he said that he needed to kill all police? Making
3 threats like that.

4 Q I didn't hear -- I heard cop killing. But you didn't
5 arrest him for threatening a public official at that point?

6 A No, sir.

7 Q You hadn't made the decision to arrest him for
8 threatening a public official at that point when you were
9 handcuffing him, correct?

10 A That's correct.

11 Q At one point we heard on the video Officer Jones tells
12 Henry you're making the situation worse?

13 A Yeah, I heard that.

14 Q And Henry replies you're making yourself look
15 embarrassed. Do you remember that?

16 A Yes, sir.

17 Q And he says I didn't say embarrassed. I said you're
18 making it worse, right?

19 A That's correct.

20 Q Henry was having a hard time understanding what you all
21 were telling him?

22 A I don't know. I wasn't Henry that night, sir.

23 Q What's that, now?

24 A I wasn't Henry. I don't know if he had a
25 misunderstanding or not.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

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1 Q Well, if someone said you're acting worse, and then you
2 say -- the response is a completely different word, would
3 you think that maybe he misunderstood what he said to him?

4 A Probably.

5 Q Okay. Sometimes drunk people do that, right?

6 A Yes.

7 Q They misunderstand things, in your line of work?

8 A Uh-huh.

9 Q And we saw on the video that you drove Henry all the
10 way to the jail. We watched that video.

11 A That's correct.

12 Q And Henry ran his mouth the whole way?

13 A That's correct.

14 Q Like a drunk guy?

15 A That's correct.

16 Q In the car. You didn't list it in your report, but in
17 the car you could smell the alcohol more clearly than you
18 could back on the street coming from him?

19 A That's correct.

20 Q And it was a strong smell of alcohol, right?

21 A It was strong, yes.

22 Q And that would be typically -- you would smell a strong
23 odor of alcohol when you're dealing with drunk people,
24 right?

25 A Correct.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

77

1 Q So he smelled like a drunk guy, right?

2 A Yes.

3 Q Acting like a drunk guy?

4 A That's correct.

5 Q And at one point he rambles a little bit and I think he
6 says -- he says that you're in a sorority?

7 A That's correct.

8 Q Yeah. And he asked you which sorority you were in?

9 A Uh-huh.

10 Q And you kind of laugh at that?

11 A Yeah, it was a little funny.

12 Q A little funny, right? He's rambling. And back to
13 when you all are putting him in the car. I want to talk
14 about that for a second. You all handcuffed him -- or
15 Officer Sellers handcuffed him?

16 A Officer Sellers did. Sergeant Sellers.

17 Q And when Henry's handcuffed that's when you made those
18 statements that we're here for today, right? The alleged --
19 these threats?

20 A That's correct.

21 Q And on the video, the jury got to see that, Henry
22 didn't struggle with Officer Sellers, did he?

23 A When he first put the handcuffs on?

24 Q Yeah.

25 A That's correct.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

78

- 1 Q He didn't fight him?
- 2 A No.
- 3 Q Well, you're used to people sometimes will resist
- 4 arrest, right?
- 5 A Yes.
- 6 Q Did you charge him with resisting arrest?
- 7 A No, we did not.
- 8 Q So he didn't resist you or Officer Sellers?
- 9 A He didn't -- no. He didn't --
- 10 Q He didn't resist arrest.
- 11 A He was just --
- 12 Q He didn't lunge at you?
- 13 A No, he did not.
- 14 Q He didn't make any violent actions against you, did he?
- 15 A No, he did not.
- 16 Q Or Officer Sellers?
- 17 A No, he didn't. Not to Sergeant Sellers.
- 18 Q Or Officer Jones?
- 19 A Or Detective Jones.
- 20 Q Detective Jones. My apologies. Either three of you
- 21 all, no violent actions?
- 22 A No, he did not.
- 23 Q And then you all patted him down for weapons, which is
- 24 standard procedure, right?
- 25 A That's correct.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

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1 Q For officer safety.

2 A That's correct.

3 Q So no one has a weapon and no one gets hurt. And you
4 didn't find any weapon on Henry, did you?

5 A No, sir.

6 Q Did he have a gun on him?

7 A No, sir.

8 Q Didn't have a knife on him?

9 A No, sir.

10 Q Didn't have brass knuckles on him?

11 A No, sir.

12 Q And he didn't make -- and then we see in the video, I
13 think you all said noncompliant. But at one point Officer
14 Sellers pushes him into the car?

15 A That's correct.

16 Q And it wasn't until he pushed Henry into the car that
17 Henry made those statements?

18 A It was when Sergeant Sellers put him in my car.

19 Q That was after the time that Sellers pushed him into
20 the car, right?

21 A That's correct.

22 Q And he says you can't hurt me, right?

23 A Correct.

24 Q And he's kind of rambling about -- he's upset about
25 taking him away from his family. You remember Henry saying

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

80

1 that on the video? Lock me up in front of my family?

2 A During the transfer, yeah.

3 Q Right. And after you put him into the car you tell the
4 other two officers, I'll take him and hopefully he gives me
5 some info or he'll go in as a John Doe, correct?

6 A That's correct.

7 Q And that's because you didn't have an identification
8 card. You didn't have a license or anything for him, right?

9 A He didn't have any -- didn't have any identification on
10 him at all at the time.

11 Q You didn't know who he was?

12 A No, sir.

13 Q Never seen him before?

14 A No, sir.

15 Q The other officers didn't say -- tell you his name,
16 right?

17 A No, they didn't.

18 Q And Officer Jones didn't tell you that's Henry Grant,
19 right?

20 A No, he didn't.

21 Q And Officer Sellers didn't tell you that's Henry Grant?

22 A No, they didn't.

23 Q And Officer Sellers didn't tell you I've seen him
24 before?

25 A No.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

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1 Q So you write down John Doe until you figure it out,
2 right?

3 A I was going to try to get information when I got to the
4 jail.

5 Q On the video you ask him his name.

6 A He didn't give it to me.

7 Q He didn't give it to you?

8 A No, sir.

9 Q Did it sound like he understood your question?

10 A I believe so.

11 Q Did he give you his name then?

12 A No.

13 Q And at one point -- we didn't get to it on the video,
14 but it's going to be later on if they show it. We can show
15 it. But Officer Sellers called you back on your cell phone?

16 A Correct.

17 Q And you're on the phone, a little conversation about
18 what charges to bring against Henry.

19 A He was giving me information out of the statute.

20 Q The statute, correct?

21 A Yes.

22 Q So telling you the statute number so you could write it
23 on the ticket?

24 A We don't have it on the -- you can write it on there,
25 yes.

CHRISTOPHER GAMBRELL-CROSS EXAMINATION

82

1 Q Yeah. The statutes. So he's giving you that
2 information and you're talking a little bit about what has
3 happened, right?

4 A That's correct.

5 Q And you have a phone conversation. And at that point
6 Officer Sellers never says it's Henry Kevin Grant, did he?

7 A No, sir.

8 Q And he never said I know Henry Kevin Grant? I've seen
9 him before?

10 A No, sir.

11 Q And the next day you took -- or one of you all, guess,
12 took Henry to -- for bond hearing?

13 A It wasn't one of us.

14 Q It wouldn't have been you?

15 A No, sir.

16 Q Would it have been Officer Sellers?

17 A No, sir. We get off at 7:00 in the morning.

18 Q Okay. So one of you all wouldn't have been at the bond
19 hearing?

20 A No, sir.

21 Q Did you have a chance to see Henry out in public after
22 this?

23 A Yes, sir.

24 Q And that was out on -- in Laurens?

25 A Yes, sir.

CHRISTOPHER GAMBRELL-REDIRECT EXAMINATION

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1 MR. BROOME: Beg the Court's indulgence.

2 THE COURT: Yes.

3 MR. BROOM: No further questions.

4 THE COURT: Anything on redirect?

5 MS. BOYKIN: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. BOYKIN:

8 Q So let's go back a little bit before he gets put into
9 the vehicle. Do you remember some of the things he said
10 while he was out at this party? Some of the things Mr.
11 Grant said?

12 A While we were talking to the one person?

13 Q Right. Well, what were some of the profanities he was
14 saying, if you can recall?

15 A I just remember he was cussing. I don't remember the
16 --

17 Q So he was cussing. And do you remember when he got
18 arrested for public disorderly, at that moment, do you
19 remember on the video he says you all should start killing
20 them?

21 A Yes.

22 Q Do you remember him saying oh pussy boy I'll beat the
23 shit out of them?

24 A That's correct.

25 Q Is that what he said in that video?

CHRISTOPHER GAMBRELL-REDIRECT EXAMINATION

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1 A That we just saw, yes.

2 Q And would you think that that's a threat?

3 A Yes, ma'am.

4 Q So he was threatening you, or officers in general,
5 before he was searched?

6 A That's correct.

7 Q And Mr. Broome asked if you thought it was a little
8 funny about the sorority comment.

9 A That's correct.

10 Q Did you think it was funny the comments about shooting
11 you in your head?

12 MR. BROOME: Objection, leading.

13 THE COURT: Sustained.

14 Q Did you think the comment about the sorority was funny?

15 A Correct.

16 Q Was anything else funny from that conversation --

17 A No, ma'am.

18 Q -- or the rants?

19 A No, ma'am.

20 MS. BOYKIN: Thank you. No further questions.

21 THE COURT: Sir, thank you very much. You can step
22 down.

23 (Whereupon, the witness stepped down from the witness
24 stand.)

25 THE COURT: You all have a brief one that we can handle

1 in 15 minutes or is probably a good time for lunch or break?

2 MR. SCOTT: I think we can break.

3 THE COURT: All right. Ladies and gentlemen, we're
4 going to go ahead and break for lunch. What I'm going to
5 ask that you do is please be back in the jury room -- try to
6 be back at 1:45 and hopefully we'll be in a position to move
7 forward at that point -- at that point in time. I'm really
8 trying to get this case to you all today so that you don't
9 have to come back in the morning. All right? So be back at
10 -- sorry. Yeah, 1:45. Be back at 1:45. Don't talk about
11 the case with anyone. Enjoy your lunch. Thank you very
12 much.

13 (Whereupon, the jury exits the courtroom at 12:47 p.m.)

14 THE COURT: We'll be at ease for an hour and I'll see
15 you all in about an hour. Thanks.

16 (Whereupon, a lunch recess was held from 12:47 p.m. to
17 1:56 p.m.)

18 THE COURT: We'll go back on the record. The record
19 will reflect, of course, that the Defendant is present with
20 counsel. I am told the jury is here. Let's have the in,
21 please.

22 (Whereupon, the jury entered the courtroom at 1:56
23 p.m.)

24 THE COURT: The record will reflect that the jury is
25 back and seated. Of course, we're still in the State's case

DOUGLAS JONES-DIRECT EXAMINATION

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1 in chief. At this point, Solicitor, call your next witness,
2 please.

3 MS. BOYKIN: Thank you, Your Honor. The State calls
4 Detective Jones.

5 DOUGLAS JONES, having first been
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. BOYKIN:

9 Q Detective Jones, what's your full name?

10 A Douglas Clifton Jones.

11 Q And do you work for the Laurens Police Department?

12 A Yes, ma'am. I do.

13 Q And how long have you worked there?

14 A This is the second time, so a total of approximately
15 five years.

16 Q Second time. What does that mean?

17 A I left Laurens back in 2000 to go to another agency and
18 then I came back recently.

19 Q About how long have you been in law enforcement?

20 A Twenty-two years.

21 Q Twenty-two years.

22 A Yes.

23 Q So were you working June 3rd of this year?

24 A I was. Yes, ma'am.

25 Q And do you work the night shift as well?

DOUGLAS JONES-DIRECT EXAMINATION

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

2 Q And so, that's from 7:00 to 7:00?

3 A Yes, ma'am.

4 Q Did you happen to be dispatched to ■ Camp Circle?

5 A Yes, ma'am.

6 Q What was the nature of the call?

7 A Whoever called it was a disturbance or someone was
8 trespassing and wasn't supposed to be there. And my
9 recollection -- I can't remember whether it was given to me
10 or to Sergeant Sellers. I was making the transition from
11 sergeant to detective. So -- but we were -- we had prior
12 knowledge of calls before out there, so all three of us
13 responded and just Gambrell got there first.

14 Q So you had been to this area before?

15 A Yes, ma'am.

16 Q Do you patrol this area often?

17 A A lot, yeah.

18 Q Were there parties there a lot of times?

19 A Yes.

20 MR. BROOME: Your Honor, I'm going to object. Can we
21 approach?

22 THE COURT: Come on up.

23 (Whereupon, a sidebar was held.)

24 MR. BROOME: Thank you, Your Honor.

25 THE COURT: Thank you, sir. Solicitor, please proceed.

DOUGLAS JONES-DIRECT EXAMINATION

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1 MS. BOYKIN: Thank you, Your Honor.

2 Q So when you arrived on scene did you notice someone
3 there that caught your eye?

4 A Not immediately. I'm somewhat familiar with the
5 Defendant by nickname and not his identity of who he is, so
6 it kind of caught me -- we were kind of, I want to say,
7 focused on why we were there.

8 Q So while you all were, I guess, looking for this wanted
9 person, there was a wanted poster was the testimony earlier,
10 were you starting to hear the Defendant speaking?

11 A I was. I don't know if you can recall from the videos,
12 but I was kind of standing in the background and I could
13 hear a lot of cursing and whatnot and I could tell it was
14 the Defendant's voice. And I chose not to address it at the
15 time just because, again, we kind of want to stay focused
16 why we were there. And then with the wanted person, if it
17 was potentially someone that we needed to get a hold of, I
18 didn't want to be distracted. So I heard it, but I chose
19 not to act on it.

20 Q Right, okay. And then did you all eventually act on it
21 though?

22 A Yes, ma'am. We did.

23 Q It just got too bad?

24 A It just -- there were too many kids out there. There
25 was just -- the vulgarities wouldn't stop. Sergeant Sellers

BILLY SELLERS-DIRECT EXAMINATION

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1 had told him before, hey, if you don't calm down I'm going
2 to basically arrest you. That didn't work. So after we
3 were cleared up with our priority stuff, between the call
4 and the wanted person, it was time to address it because it
5 was going to get out of hand.

6 Q Right. Once he was arrested, handcuffed, did you hear
7 him make any threats?

8 A As soon as Sergeant Sellers placed handcuffs on him it
9 became clear some of the things that he said earlier kind of
10 made sense, because he was saying stuff earlier and we
11 couldn't make it out. But it seemed to me that he was just
12 repeating those and it became clear when Sergeant Sellers
13 put the handcuffs on that he was talking about killing us
14 and that the crowd should act to kill us.

15 Q Did you hear any specific threats towards any --
16 towards Officer Sellers or his family members?

17 A Not at that point. When we escorted him to the car --
18 initially when we put cuffs on him and he was still in the
19 circle there where Camp Circle, everybody was hanging out,
20 that's when he talked about killing us all. Having the
21 crowd act on us. Then we escorted him to the patrol car.
22 When we got to the patrol car he became uncooperative and
23 didn't want to comply for the search before we could put him
24 in the car. And once we got that completed Sergeant Sellers
25 placed him in the car and he told Sergeant Sellers he was

BILLY SELLERS-DIRECT EXAMINATION

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1 going to rape his baby.

2 Q But you did say that you were familiar with the
3 Defendant though?

4 A Yes, ma'am.

5 Q And do you see that man today?

6 A I do.

7 Q Could you point him out for us?

8 A Yes, he's in the white shirt right there.

9 THE COURT: The record will reflect that the witness
10 has identified the Defendant.

11 MS. BOYKIN: Thank you. Please answer any questions Mr.
12 Broome has.

13 THE WITNESS: Yes, ma'am.

14 MR. BROOM: I don't have any questions, Your Honor.

15 THE COURT: Thank you. You may step down.

16 (Whereupon, the witness stepped down from the witness
17 stand.)

18 THE COURT: Call your next witness, please.

19 MR. SCOTT: Officer Sellers, Your Honor.

20 BILLY SELLERS, having first been
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SCOTT:

24 Q Officer Sellers, we've seen you in the video, State's
25 No. 1, have we not?

BILLY SELLERS-DIRECT EXAMINATION

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1 A Yes, sir.

2 Q So you were working June 3rd of this year?

3 A I was.

4 Q You had an opportunity to respond to ■ Camp Circle?

5 A Yes.

6 Q When you first got there, when you responded to that
7 scene, did you have Henry Grant's name on your mind?

8 A Not at all, sir. It was a -- really it was a -- it
9 should have been an easy call. I mean, we should have been
10 in and out of there in enough time. You know, granted it
11 wasn't a terrible disturbance going on.

12 Q So -- well, were you showing up just to arrest Henry
13 Grant when you went there?

14 A No, sir.

15 Q Have you been to that location, ■ Camp Circle, more
16 than once?

17 A I've been there --

18 MR. BROOME: Objection, Your Honor. I don't see the
19 relevance.

20 THE COURT: Sustained. I don't think we need to
21 concern ourselves with that.

22 Q Do you predict having to go there in the future?

23 MR. BROOME: Objection, Your Honor. Relevance.

24 MR. SCOTT: I'm explaining why it's relevant, if I can
25 hash out the testimony.

BILLY SELLERS-DIRECT EXAMINATION

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1 THE COURT: Come on up. .

2 (Whereupon, a sidebar was held.)

3 THE COURT: The objection is overruled. You can
4 proceed with that line briefly, Solicitor.

5 Q Yeah, ■ Camp Circle. People have a good time there?

6 A Yes, sir.

7 Q We saw on the video. Nobody was breaking the law
8 drinking in the yard, were they?

9 A No, not in the yard. No, sir.

10 Q Okay. It's an area you're familiar with?

11 A Very familiar.

12 Q You had been there just the night before; is that
13 right?

14 A Yes, sir.

15 Q In response to a call from somebody?

16 A Yes, sir.

17 Q So on this occasion there was a call for service at ■
18 Camp Circle; is that right?

19 A Correct.

20 Q So when you -- when you arrived there -- let me ask
21 you. It looked like, you know, kind of when you were
22 talking to some of the people out in the yard you were
23 familiar with some of those people?

24 A I'm very familiar with them. I'm very well known at
25 that residence. I've never had any issues with anyone

BILLY SELLERS-DIRECT EXAMINATION

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1 there.

2 Q And so, when you get there who were you looking for?

3 A I was looking for one of the individuals I spoke with.

4 He was able to lead me to -- to the complainant, Arthur

5 Brown.

6 Q And it looked like, and correct me if I'm wrong, you

7 kind of -- you and Gambrell are kind of going around and you

8 went to some lady's house and, "Did you call me here" --

9 A Right.

10 Q -- and she says, "No, I didn't".

11 A Right.

12 Q And so, is it your purpose then to just figure out why

13 are we being called out here?

14 A It is. Those two houses -- a lot of times a party

15 will spill over to that next house that we went to. And the

16 person we were called in reference to, she frequents both

17 the locations. So I was trying to do my due diligence to

18 make sure that nobody needed service from the police.

19 Q Okay. Maybe it's odd. Some of us don't have your job.

20 But is that something you've had experience before where you

21 get called out to a scene and you're like who called me.

22 What's the complaint, and nobody comes forward to explain?

23 A Quite frequently.

24 Q Is there any explanation for that in your experience?

25 A The only explanation that I'm aware of is nobody wants

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1 to be labeled a snitch.

2 Q Okay. Well -- okay. But you never saw any kind of
3 indication of any kind of, you know, uprising or any kind of
4 fight between people or anything like that?

5 A I've seen altercations at that residence. Yes, sir.

6 Q But not that particular day though?

7 A Not that day. No, sir.

8 Q So while you're there, if you watch the video -- did
9 you have a body cam on that day, too?

10 A I did, sir.

11 Q And so, essentially would it be a lot of the same
12 footage as Gambrell had but just from your point of view?

13 A Yes, sir. It would be pretty much the same.

14 Q And we see in his video -- we'll watch yours in a
15 minute. But you never really do get to the bottom of who
16 called you out there, do you?

17 A No, sir. We didn't.

18 Q Now, explain to the jury this thing that we kind of saw
19 where the guy over there in the white tank top, it looks
20 like you and Officer Jones come together and you all kind of
21 start talking about that guy over there. Explain what that
22 was all about.

23 A Yes, sir. We have a board at the police department
24 that has quite a few pictures on it. People who have
25 outstanding warrants with the city. The person that myself

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1 and Detective Jones were referencing had a felony warrant
2 for burglary and the person at this particular party looked
3 to us identical to the person on that poster. Detective
4 Jones came to me with that, I believe he saw him first, and
5 asked me to confirm whether or not that was the person on
6 the poster. I believed that it was, and at that time we
7 made the decision that we needed to talk to that person
8 before we left the scene.

9 Q Okay. And how are you going to confirm whether that
10 person was the guy on your wanted poster?

11 A We asked for his identification card. He provided me
12 with a South Carolina identification card which matched his
13 identity. I ran it through central dispatch to check for
14 any warrants. I was advised that he did have active
15 warrants in other states but they were not willing to
16 extradite him from South Carolina.

17 Q So he was not the guy on your wanted poster, but
18 apparently he was wanted out of Indiana?

19 A That's correct.

20 Q Or at least that's what the information was?

21 A That's correct.

22 Q Now, the jury might want to know why didn't you arrest
23 him on that Indiana charge.

24 A I'm not sure what exactly he had done in Indiana, but
25 Indiana wasn't willing to extradite or come to South

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1 Carolina to get him for whatever his offense was there.

2 Q And so, probably, if there was an offense, it was minor
3 enough where they said --

4 A Correct.

5 Q -- it's not worth going to pick up?

6 A That's right.

7 Q So after you confirm he wasn't the guy that you were
8 looking for, what did you do with him?

9 A I explained to him why we had approached we. Thanked
10 him for his time. Gave him is identification card back. I
11 asked him to have a nice day. That was the end of the
12 interaction with that particular person.

13 Q Was that guy cooperative throughout the whole thing?

14 A Absolutely.

15 Q Polite?

16 A Very polite.

17 Q In exchange were you polite to him?

18 A Yes, sir.

19 Q And what about those other people in the yard? I mean,
20 how were they acting towards you?

21 A They had no issue with us being there. Just like every
22 other time I'm at that house they -- they offer me to stay
23 at that residence to eat dinner with them. I mean, I've
24 never had an issue at this place.

25 Q And was it your intent to break up the party or

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1 anything?

2 A No, sir. Not at all.

3 Q Did you break up the party?

4 A No. They kept going after we left.

5 Q While you're talking -- a guy in a white tank top. I
6 don't know his name. Do you know his name?

7 A Henry Grant.

8 Q Not this guy. The guy with the wanted warrants out of
9 Indiana.

10 A Oh, that guy. I don't recall his name.

11 Q Well, while you're talking with him, and we saw him on
12 the video, tell us what you're hearing in the background.

13 A The whole time I'm trying to interact with this
14 particular person who all indications that we have then
15 pointing to him being a wanted felon, or accused of a
16 felony, while I'm trying to deal with this person I had this
17 constant bombardment of cursing, belittling. Just a
18 complete distraction coming from behind me, coming from the
19 Defendant, Mr. Grant.

20 Q Intoxicated. We heard a lot about that. But he's --

21 A Very intoxicated.

22 Q Saw a bunch of kids in the yard. Did you see all the
23 kids in the yard?

24 A Yes, sir.

25 Q Did you have an opportunity to warn him to stop with

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1 the cursing and belligerent language and everything?

2 A Yes, sir. I did warn him.

3 Q You did warn him?

4 A Yes, sir.

5 Q Tell me at what point did you become aware that some of
6 the profanities and everything were directed at you guys?

7 A It became clear the more that we interacted with the
8 person who we assumed was wanted, I can't remember all the
9 exact words that were being used, but it was clearly
10 directed at law enforcement saying that we were harassing
11 them. And I can't remember the profanities that were being
12 used, sir.

13 Q Okay. At what point did you make the decision to
14 arrest him for public disorderly conduct?

15 A After I had warned him the first time he continued,
16 continued. We let it go for a little while longer because
17 our attention was focused elsewhere. It became -- it got to
18 the point where we had to address the issue. Just like
19 Detective Jones said, it had to be addressed or else it was
20 going to go out of hand. So at that time I believe
21 Detective Jones gave him another warning, and I made the
22 decision to act on the arrest because I'd already warned him
23 for the same -- same thing.

24 Q As you approached him and cuff him what is it that he
25 says to you police officers?

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1 A He states that -- I believe he called us slave masters,
2 pussy boys, and he stated to the crowd that they needed to
3 start killing us.

4 Q Did you perceive that as a threat?

5 A Most definitely.

6 Q And then when you took him to the car, he's in
7 handcuffs. Before you put him into a car for transport to
8 the Detention Center, what do you always have to do with
9 anybody who's arrested?

10 A You always do a thorough search.

11 Q And tell me what the concerns are that require you to
12 do the search.

13 A The concerns are both for the officer's safety and for
14 the safety of the prisoner being transported. And in this
15 particular case I had another one of my officers
16 transporting my arrestee, therefore I needed to be 100
17 percent certain that I wasn't placing that other officer at
18 risk.

19 Q Did you find a knife in his pants?

20 A No, sir.

21 Q Did you find a gun?

22 A No, sir.

23 Q Did you find any weapons?

24 A No, sir.

25 MR. BROOME: Objection, leading.

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1 THE COURT: Overruled.. I think the point is made. Go
2 ahead.

3 Q Did you know at the time though whether or not he had
4 any weapons?

5 A I did not know until I completed that search.

6 Q So whenever you're performing beside a patrol a car any
7 kind of search, we heard in there you're asking him to
8 spread his legs. Tell me why you do that.

9 A I stated several times spread his feet, because you
10 want to be able to search the entirety of the leg up into
11 the crotch because that's a place to carry a weapon is in
12 the crotch or in the ankles, even up on the side.

13 Q We can watch the video. Do you know how many times you
14 asked him to spread his legs?

15 A I would say at least four or five.

16 Q And after you asked him the first time did he spread
17 his legs like you needed him to?

18 A No, sir. He kept turning around.

19 Q What about the second time?

20 A No, sir.

21 Q And when he's doing this, you know -- we saw the push
22 against the car. Okay?

23 A Yes, sir.

24 Q Why did you do that?

25 A Until he has been thoroughly searched he is -- he's

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1 still a threat. He had already requested that the crowd
2 start killing police officers. Until I completed that
3 search I had no idea whether he was armed or not, and my
4 goal was to complete the search as quick as possible and get
5 him in the vehicle and us get out of the area as soon as
6 possible.

7 Q Okay. After you searched him and placed him in the
8 back of Gambrell's patrol car, at that point what does he
9 say to you?

10 A He stated, "You have a baby. I'll rape her."

11 Q Did you, in fact, have a baby at that time?

12 A I do -- did.

13 Q Male or female?

14 A Female.

15 Q And tell me where you live?

16 A I live at --

17 MR. BROOME: Your Honor, can I approach?

18 THE COURT: Come on up.

19 (Whereupon, a sidebar was held.)

20 THE COURT: I need clarification on something with the
21 attorneys. It'll only be a few moments. Step to the back
22 and don't discuss the case.

23 (Whereupon, the jury exited the courtroom at 2:21 p.m.)

24 THE COURT: Let's handle it this way. I don't know
25 that we necessarily need to put a lot on the record about

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1 what we were talking about up here. Mr. Broome, would you
2 be okay of just sort of informally we all take a break and
3 you can talk to him and we can satisfy ourselves where we
4 are on this?

5 MR. BROOME: Sure.

6 THE COURT: All right. Let's do it that way. About
7 five minutes.

8 (Whereupon, a brief recess was held.)

9 THE COURT: Are we good or do we need to put anything
10 on the record?

11 MR. SCOTT: I think we're clear. It is sort of
12 confusing. But I understand Mr. Broome's -- what his
13 understanding was, but I think we're clear now.

14 MR. BROOME: I just want to put on the record. So the
15 confusion led to -- it was talked prior to trial before this
16 that maybe Officer -- what my client said, that Officer
17 Seller's child passed away.

18 THE COURT: I see.

19 MR. BROOME: And I was just protecting my client,
20 because when he -- I thought he said he did. So I was on
21 high alert for that making sure that it didn't confuse the
22 jury. So that is true, but a different -- they're saying
23 it's a different officer on a different case with my client,
24 and I just didn't want, obviously, the jury to know that. I
25 didn't want them getting confused or being inflamed by that.

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1 And so, when I heard him say that I just wanted to make
2 sure. I don't think we need to hear the instruction. I'm
3 fine. I would just ask the Court that we just kind of move
4 on. I mean, it's established what my guy said --

5 THE COURT: Got you.

6 MR. BROOME: -- from the baby area.

7 THE COURT: Fair enough.

8 MR. BROOME: Thank you.

9 THE COURT: Not a bad request. Let's have the jury.

10 (Whereupon, the jury entered the courtroom at 2:29
11 p.m.)

12 THE COURT: We'll reflect that the jury is back. Mr.
13 Sellers, you are, of course, still under oath.

14 THE WITNESS: Yes, sir.

15 THE COURT: Solicitor, continue, please.

16 Q I was -- you have a daughter now?

17 A Yes.

18 Q How old is she?

19 A She is almost two-years-old now.

20 Q So back this past summer she was a year and a half or
21 so?

22 A Right.

23 Q So, in fact, when this threat was made you did have a
24 daughter?

25 A Correct.

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1 Q At the time were you familiar with Mr. Grant?

2 A I was.

3 Q Did you know his name?

4 A I did not know his name, only his nickname.

5 Q And do you live in Laurens?

6 A I do, sir.

7 Q And do you care to say where you live?

8 A I live at Laurensville Apartments here in Laurens City.

9 Q Have you seen Mr. Grant in Laurensville before?

10 A Yes, sir. I have seen him there before prior to this
11 incident.

12 Q How many times?

13 A I'd say at least two. A couple.

14 Q And do you have your baby outside regularly?

15 A Very regular.

16 Q At the moment -- it's a chilling kind of look on your
17 face when you hear that threat from him?

18 A Yes.

19 Q Why was that?

20 A It's a flood of emotion. I don't even know how to
21 explain it to you. To hear someone say something that
22 cruel, speaking about your own child, it's indescribable.
23 Something nobody should have to deal with.

24 Q And was it a concern that your daughter may have some
25 kind of harm come to her in the future?

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1 A It was very much a concern, especially since most of my
2 life is dedicated to being at work at they're home alone.

3 Q State's No. 1, have you seen this?

4 A Yes, sir. I have.

5 Q Does it contain your body camera video?

6 A Yes, it does.

7 MR. SCOTT: Your Honor, the State would publish Officer
8 Seller's body cam in State's No. 1.

9 THE COURT: Subject to the pretrial motions and
10 objections and rulings, you may proceed.

11 MR. BROOME: I would object under 401 and under 403 as
12 well. I think it's the same body video that's going to say
13 the same thing that Officer Gambrell's video showed. I just
14 think it's cumulative.

15 THE COURT: I understand. Overruled. Proceed.

16 (Whereupon, State's Exhibit No. 1 was published for the
17 jury.)

18 Q Is that pretty much the extent of your involvement at
19 least on June 3rd, 2017?

20 A Yes, sir.

21 Q And then Gambrell takes him to the jail from there?

22 A That's correct.

23 Q Have I asked you to ID Mr. Grant yet? Do you see the
24 guy that you had to arrest that day who threatened you and

25 --

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1 A Of course, he's sitting right there. Mr. Grant is in
2 the white shirt.

3 MR. SCOTT: Thank you. Answer any questions Mr. Broome
4 has for you, please.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Mr. Broome.

7 MR. BROOME: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. BROOME:

10 Q You were in the courtroom earlier when Officer Gambrell
11 testified?

12 A I was.

13 Q And you watched the video -- his video that was played,
14 right?

15 A I did.

16 Q Your video cut out a little bit earlier than his, but
17 there's some talk about getting some information about a
18 John Doe, right, on Mr. Grant? You were saying we're going
19 to write him up as a John Doe?

20 A Right. Right.

21 Q Okay, sorry. At any point did you tell Officer
22 Gambrell, hey, I know that guy and I know him by his
23 nickname?

24 A I did know him by his nickname. I told him after we
25 got back together and we were doing paperwork, yes.

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1 Q At any point then did you tell Officer Gambrell, hey, I
2 know that guy and I know him by his nickname?

3 A No. A nickname wouldn't do much good booking him in.

4 Q At any point on that video did you tell him I know that
5 guy. He's been -- I've seen him at my house before?

6 A No, not on the video I didn't.

7 Q Later on you call Officer Gambrell on your cell phone?

8 A I can't remember if he called me or I called him. We
9 spoke on the cell phone, yes.

10 Q Was the video, as it played in Court that Officer
11 Gambrell testified, that he took a call from you?

12 A Okay.

13 Q Do you remember that?

14 A I remember that.

15 Q And talked about the statute number, right?

16 A I remember Officer Gambrell testifying to that, yes.

17 Q Do you remember the phone call?

18 A I don't remember that phone call.

19 Q But you watched the video, or sorry, not video. You
20 heard his testimony?

21 A Uh-huh.

22 Q And he said you all had a phone conversation, right?

23 A We did have a phone conversation, yes.

24 Q And you didn't tell him that -- during that phone call
25 that, hey, that guy is so and so?

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1 A Still didn't know his name.

2 Q You didn't say, hey, I know that guy by his nickname?

3 By the way, it dawned on me 30 minutes later that I've seen
4 that guy at my house? Did you tell him that?

5 A I never said that it dawned on me 30 minutes later.

6 It's just not a time to discuss it roadside with 30 people
7 surrounding you.

8 Q What did y'all do when he took -- Officer Gambrell took
9 Henry to the jail? Did you go back to the --

10 A I went back to the office and I asked Officer Gambrell
11 to contact me if he figured out what his name was, started
12 our paperwork.

13 Q And you all are still trying to figure out who he is.
14 And at no point did you tell Officer Gambrell I've seen this
15 guy around my house?

16 A I didn't tell him while he was in the middle of
17 transporting him, no. It sounded like he had plenty of
18 other things to worry about and listen to.

19 Q Would that have been an important thing to tell him at
20 the time?

21 A No. He was in cuffs and on his way to jail. It's
22 something we can discuss at a later time.

23 Q When you saw Henry at your place what was he doing?

24 A Hanging out with several other people.

25 Q When was that? Was it in March or April?

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1 A I don't keep a calendar of when I see people, sir.

2 Q Can you tell the jury what he was wearing?

3 A I can't. I am a courtesy officer of that apartment
4 complex and it is my job to observe people going into that
5 complex.

6 Q So you don't remember when it was, right? Can you --
7 was he in a car?

8 A I believe on one occasion he was in the passenger seat
9 of a car and the other occasion he was standing around one
10 of the apartment complex buildings.

11 Q So did you recognize anyone else he was with when you
12 saw him?

13 A I'm not familiar with the other people he was with
14 other than the ones who live in the complex.

15 Q What were their names?

16 A I don't know that person's name at the complex. I do
17 know faces though.

18 Q Was it daytime or nighttime?

19 A Daytime.

20 Q Daytime?

21 A Uh-huh.

22 Q Morning, afternoon?

23 A I'd say probably late -- late daytime between --
24 honestly I don't know. It's in the later afternoon hours,
25 yes.

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1 Q And, you know, did -- you're an officer, so you're used
2 to making reports, right?

3 A I am.

4 Q Did you report that to anyone or any of the other
5 officers, like I've seen this guy around my house?

6 A Why would I report someone who hadn't committed a crime
7 yet.

8 Q Mr. Scott asked you if you'd seen him around the house
9 before and you said you took it seriously, right?

10 A I've seen him around the complex before this crime was
11 committed. Correct.

12 Q Was he doing anything? Did he say anything to you?

13 A No.

14 Q Did he come into your property?

15 A I don't own property, sir. I live in the complex.

16 Q Did he come -- can you tell us anything that he was
17 doing other than hanging out?

18 A He wasn't doing anything wrong whenever I saw him at
19 the complex.

20 Q And you don't know when that was, right?

21 A Obviously sometime before June.

22 Q Sometime before June. We don't know the month, right?

23 A I moved in in December of '16, so within that
24 timeframe.

25 Q December of 2016?

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1 A Uh-huh.

2 MR. BROOME: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 Q So he's just walking around not doing anything, right?

5 A As most people do, sir.

6 Q And then six months later -- you saw him two times, and
7 then six months later then you recognized his face?

8 A That's kind of my job, sir, to remember people.

9 Q Remember faces?

10 A Uh-huh.

11 Q Is there -- I know you mentioned something about you
12 just know faces. Wouldn't you think it would be more
13 important to know the names of these individuals in your own
14 apartment complex?

15 A Should I harass people while I'm off duty?

16 Q I just asked if you get to know your neighbors.

17 A I don't think it's feasible or reasonable, should I
18 say, to identify 200 people living in an apartment complex.

19 Q Well, not everyone. I'm just asking --

20 A To be clear.

21 Q -- to know your name. It's not reasonable to go and
22 know the names? I think earlier you testified that it was
23 your duty as law enforcement to keep an eye on things.

24 A To recognize people and keep an eye on the complex.

25 Yes, sir. Not to know every individual's -- person's name.

1 Do you know everyone who lives on your road, sir?

2 Q No, I don't. I'm not a police officer.

3 A I'm human just as you, sir.

4 MR. BROOME: No further questions.

5 THE COURT: Nothing on redirect?

6 MR. SCOTT: No, sir.

7 THE COURT: Thank you, sir. You can step down.

8 THE WITNESS: Thank you, sir.

9 (Whereupon, the witness stepped down from the witness
10 stand.)

11 THE COURT: Any further witnesses?

12 MS. BOYKIN: No, Your Honor. The State rests.

13 THE COURT: Ladies and gentlemen, I need to address a
14 few motions before we proceed further, so adjourn to the
15 back for a few moments. I hope to have you back out here in
16 five minutes. Okay? Thank you very much. Don't talk about
17 the case.

18 (Whereupon, the jury exited the courtroom at 2:45 p.m.)

19 THE COURT: Defense is for a directed verdict?

20 MR. BROOME: Yes, Your Honor. And to the charge
21 against -- the charge related to Officer Sellers, so we all
22 know what the statement was. But because it -- the motion
23 for directed verdict would be that the State has failed to
24 prove any evidence that it related to -- that comment as it
25 relates to the child was related to his duties as an

1 officer. I'm trying to pull the statute and have it printed
2 out. But it says "and if the threat is directly related to
3 their professional responsibilities". I don't see how
4 that's directly related to his responsibilities as an
5 officer, the threat about the child. And I'd make the same
6 general directed verdict motion for the threat against --
7 the alleged threat against Officer Gambrell. My client was
8 clearly intoxicated. He lacked the intent. I think they've
9 proven -- they've failed to prove any intent or any
10 knowledge that what my client was intending to intending to
11 say and that he was doing it willfully. But I think that
12 specifically as it relates to any knowledge and willfulness
13 is they've got to prove intent and I don't think that
14 they've done that in this case. Specifically as it relates
15 to Officer Sellers I don't see nothing but the main thrust
16 of that would be -- him saying that statement, I don't see
17 how that -- I get the other side. Like, you know, to
18 Gambrell, see you -- I'll see you around. Shoot you. But I
19 don't see how I'm going to do some harm to your daughter
20 directly relates to his duties as an officer.

21 THE COURT: Do you all want to speak to that?

22 MR. SCOTT: I think Your Honor understands what the
23 statute -- the thrust of it is. If Sellers is off duty and
24 he's Joe Citizen like me and Mr. Grant does not know he's a
25 law enforcement officer and he makes that same threat, then

1 you can't charge him with threat to a public official. But
2 he is acting in his professional duties at the time of that
3 threat. He's placed him under arrest, in full uniform,
4 putting him in a patrol vehicle. Part of his, you know,
5 public official responsibilities in that case and that
6 threat is made to him in his capacity as a law enforcement
7 agent. So I think the reason that provision is in there --
8 if he's off duty and the guy has no knowledge of him being
9 law enforcement makes that threat this statute doesn't
10 apply. But it certainly does in this case.

11 THE COURT: I'll deny the Defendant's motions for
12 directed verdicts. Does the Defense intend to present a
13 case, Mr. Broome?

14 MR. BROOME: No, Your Honor.

15 THE COURT: All right. Have you all had an opportunity
16 to review the proposed hearing instructions? Mr. Broome did
17 hand up -- I think I'm charging substantially Defendant's
18 request for charge number one which basically charges the
19 provision of law that the Defendant is alleged to have
20 violated. I've got that in there. The second one is a
21 little bit more intriguing. True threat as opposed to, I
22 guess, an untrue threat.

23 Do you want to -- does anybody -- as far as the stock
24 charge that I've emailed to you all, do you have any
25 additions? I've included intoxication is not a defense. I

1 cleaned up the wording a little bit in section 1040 just to
2 provide -- I eliminated that part about the letter or paper
3 writing, print missive, document or electronic
4 communication. I just put verbal, written or electronic
5 communication. That seemed to be more to the point,
6 especially since this is an oral communication as opposed to
7 anything that was written down.

8 But did you want to speak, Mr. Broome, to requested
9 charged number two?

10 MR. BROME: Sure, Your Honor. And that language comes
11 from the *Elonis* case that's cited in Nevada. *Elonis vs*
12 *United States*, Supreme Court case. And basically we'd ask
13 that the Court charge the jury that. I mean, if you're
14 looking at paragraph two, there's language in the *Elonis*
15 case that -- which detracts as true threats that encompass
16 those statements. You know, they're meant to communicate a
17 serious expression of intent. The important language is
18 hyperbole does not constitute a true threat. And some of
19 this can be taken as hyperbole, and I think it's -- yes,
20 it's just the *Elonis* case. I think the jury -- that law has
21 not been overruled, to my knowledge, or had negative
22 history. But I think that he states a threat then the State
23 should have to prove beyond a reasonable doubt based upon --
24 and that was a threatening public official case. That they
25 meant what they said. It wasn't hyperbole. And that they

1 get to consider the facts and the circumstances surrounding
2 communication. And at this point we flushed that out during
3 our
4 cross-examination of the officer what the circumstances
5 were.

6 THE COURT: Let me take a look at *Elonis*. I'm not
7 familiar with that case. I'm looking at it right now. Just
8 one second.

9 (Whereupon, there was a brief pause in the
10 proceedings.)

11 THE COURT: Solicitor, you all want to speak to
12 Defendant's requested charge?

13 MR. SCOTT: Yes. I don't think it applies in our
14 statute. This kind of needs to be . It's 28 pages and I'm
15 sorry of, like you, trying to parse through it. And I did
16 find a subsection, under header four. Essentially --

17 THE COURT: I'm looking at a portion of that opinion in
18 *Elonis*, E-l-o-n-I-s, there's no dispute that the mental
19 state required -- the mental state requirement in this
20 section is satisfied that the Defendant transmit a
21 communication for the purpose of issuing a threat or with
22 knowledge that the communication will be viewed as a threat.

23 MR. SCOTT: Yes, sir. I think -- it's a Federal
24 statute, but I don't know that they have the willful and
25 knowingly that our statute has in it. Just looking around,

1 too. I've got a state case that appears to be pretty much
2 on point, and it's still good law according to Westlaw here.
3 It is *In Interest of Steven S.* It's at 315 S.C. 472. It's
4 a 1993 Court of Appeals Case. In essence, in this case
5 Juvenile Court. Fellow student that he would kill one of
6 his teachers as the two walk down a school hallway. A
7 teacher heard the comment. The Court of Appeals rejected
8 Steven B's argument that the joking comment --
9 quote/unquote, joking comment which was overheard by teacher
10 did not amount to a willful communication of an actual
11 threat to a teacher as required by the statute. As the
12 verbal communication contained a threat and was said in a
13 manner loud enough to be heard by a teacher whom the
14 juvenile knew was present had met the requirements of the
15 statute. And that is applied directly to our threat of a
16 public official that we're dealing with. I think we have to
17 show he knowingly and willfully delivered a missive or
18 verbal threat to a public official or his direct family
19 member, and it's got to contain the threat to take life or
20 commit bodily injury on either the public official or their
21 immediate relative.

22 In this case, the *Elonis* case, it's an M&M wannabe.
23 You know, he's rapping.

24 THE COURT: It's almost more of a First Amendment right
25 to free expression, right to artistic license type of an

1 analysis, the way I read *Elonis*, as opposed to -- it kind of
2 seems strange to me that -- and I was totally unfamiliar
3 with that case, candidly, but it seems strange to me that
4 they would launch a federal prosecution over a rapper
5 wannabe and some of his lyrics being posted on Facebook, but
6 apparently they did. The Supreme Court didn't like that.
7 US Supreme Court didn't like that. I would tend to agree
8 with that position obviously because that's artistic license
9 as opposed to -- that's going to have higher First Amendment
10 protection.

11 But I agree with you, Mr. Broome, that generally
12 speaking a individual can certainly protest their arrest.
13 They have -- they're at liberty to protest their innocence.
14 I think that the line gets drawn though or a 1040 comes into
15 play. You can tell the officer you've got the wrong guy,
16 you know, sir, understand you're making a mistake. If you
17 take me to jail I assure you I'm going to sue the police
18 department. You can be at liberty to make those statements.
19 But I'm not really sure that the First Amendment, Mr.
20 Broome, extends so far as to protect the speech like the
21 kind we've heard on these videos. Would you care to
22 elaborate on your request?

23 MR. BROOME: Sure, Your Honor. It's not so much a --
24 part of it is the language is First Amendment, but I argue
25 that protected completely by the First Amendment, but that

1 the language that I pulled was from -- at the bottom. He
2 says at issue in this case -- basically they compare -- in
3 *Elonis* they compare this with the *Watts* case, *Watts vs.*
4 *United*, where he's talking -- Eleto is talking about what a
5 true threat is, and that's more of my concern is talking
6 about what is hyperbole and what is a true threat. And he
7 goes on to say it can be, you know, reasonably interpreted
8 as expression of intention to inflict injury and damage to
9 others. So that I thought was --

10 THE COURT: That was one of the criticisms though in
11 the *Virginia vs. Black*, the fact that it could be reasonably
12 interpreted. That was the cross burning case where the
13 Supreme Court essentially said that the standard of how a
14 person interprets the action, in this case burning a cross,
15 is too subjective. And then *Elonis* seems to say that a
16 reasonable person standard out of a negligence standard. So
17 I don't know what standard that necessarily leaves us with
18 under constitutional law.

19 I think that the inclusion of the phrase "knowingly and
20 willfully" in section 1040 -- here's the problem. And it
21 sufficiently addresses what the Defense wants me to charge
22 in their request to charge number two, which I'll
23 respectfully decline to charge the body of what you've
24 included in request to charge number two. I think the
25 statute is pretty clear on what constitutes criminal conduct

1 and where the line has to be drawn.

2 Anything -- have you all had an opportunity to review
3 the other aspects of the instruction and are there any
4 objections or additions that y'all want made, aside from
5 what I've sent to you?

6 MR. SCOTT: I haven't had a chance to review them, Your
7 Honor.

8 THE COURT: Well, I can give you five, 10 minutes. Let
9 me know when you're ready to go.

10 MR. SCOTT: Sounds good.

11 THE COURT: Thank you. We'll be at ease.

12 (Whereupon, a brief recess was held.

13 THE COURT: Have you had a chance to look over what I
14 emailed to you earlier? Any thoughts?

15 MR. BROOME: I don't have any objections, Your Honor,
16 to any of that.

17 THE COURT: Anything from the State?

18 MS. BOYKIN: No, Your Honor.

19 THE COURT: All right. We'll bring the jury back in.
20 Just rest on the record and we'll go straight to closings.
21 The State to be followed by Mr. Broome.

22 Let's have the jury.

23 MR. BROOME: He's not pleading -- or, sorry, not
24 testifying.

25 THE COURT: Right.

1 MR. BROOME: Defense rests at that point.

2 THE COURT: Yeah, but do it on the record.

3 MR. BROOME: Sure, in front of the jury.

4 THE COURT: Yeah, please.

5 (Whereupon, the jury entered the court at 3:25 p.m.)

6 THE COURT: The record will reflect the jury is back
7 and seated. At this point, Mr. Broome.

8 MR. BROOME: Your Honor, at this point the Defense
9 rests.

10 THE COURT: All right. Ladies and gentlemen, we've now
11 received all the evidence that we're going to take in this
12 case and this will be an opportunity -- what follows next is
13 an opportunity for the attorneys to give you their closing
14 argument and their closing summation. As I explained to you
15 this morning, again, what the lawyers say during their
16 closing isn't evidence, and certainly if anything that they
17 say about the testimony of the evidence differs from what
18 you recall that testimony to be you should go with your
19 recollection as opposed to what they say the testimony was.
20 So obviously you are the judges of the facts. Okay?

21 With that, the State will go first to be followed by
22 Mr. Broome. At this point, Ms. Boykin, you're ready for
23 your closing now.

24 MS. BOYKIN: Thank you, Your Honor.

25

1 CLOSING ARGUMENT

2 BY MS. BOYKIN: Ladies and gentlemen, what we've been
3 here today for, all day, is something that no one should be
4 subjected to, not a single person, because of their job or
5 employment. No one should have to go to work and be
6 threatened with physical violence, threatened to be raped,
7 threatened to be killed just because of their job. But
8 that's what we have. We have these officers right here who
9 work for Laurens City and they were just going out for their
10 shift that day. They were going out because they received a
11 911 call and they were going up there to help whoever called
12 911. They weren't looking to arrest someone. They weren't
13 looking to, you know, start anything. And you know what
14 they did? They were -- they went to a party, very cordial,
15 and all of a sudden Mr. Grant, he's there and he starts
16 berating them. You know, they give him an option to stop.
17 He continues to go. From there these three officers had to
18 be subjected to multiple threats. Threats of violence
19 towards them, threats of violence towards their family,
20 threats of violence towards police officers in general in
21 the community. No one should be subjected to that. But they
22 were, and that's why we're here. So I want to briefly go
23 over what they're charged -- what Mr. Grant's charged with,
24 which is threatening a public official, and charged with two
25 counts of that. One for Officer Sellers and one for Officer

1 Gambrell.

2 Now, what the Judge will explain to you when he gives
3 you the jury instructions, it's unlawful for a person to
4 knowingly and willfully deliver or convey to a public
5 official, and an officer is a public official and the Judge
6 will tell you that, any verbal communication which contains
7 a threat to either take the life of or inflict bodily harm
8 upon the officer or the officer's family. That includes the
9 officer's immediate family members. Their children, their
10 wives. And is directly related to the public officials'
11 professional responsibilities.

12 Now, the officers were on scene that day and they
13 arrested Henry Grant for public disorderly conduct. Now,
14 that is part of the officers' professional responsibility.
15 They're there to arrest someone for committing a crime. And
16 that's what happened. He was arrested for public disorderly
17 conduct. So based upon that, those actions, that arrest,
18 these threats began to spew out of his mouth. Okay? And
19 that directly related to the professional responsibilities
20 of Officer Sellers and Officer Gambrell.

21 Now, I know that you -- you know, you've watched the
22 video. The threats were directly to Officer Gambrell, but
23 they were also directed to Officer Sellers' daughter, and
24 that fits right in the statute as well. And as you can kind
25 of see here, it also says convey to a public official a

1 threat. It doesn't say actually commit what the threat was
2 or commit some sort of act of violence. It's just saying
3 the threat. You don't have to actually reasonably believe
4 the threat will happen. But I submit to you, ladies and
5 gentlemen, we still have that. That's not an element of the
6 crime. That's not the law. Just that a threat was given is
7 just enough, but we still have the officers -- both officers
8 testified they believed this was going to happen. They were
9 worried that when he got out of jail the next day he would
10 come after them, come after their family, come after their
11 daughter. They were worried and they were scared.

12 Ladies and gentlemen, I believe that what you'll hear
13 from the Defense today and what you've kind of seen through
14 cross-examination is their defense is that he was drunk.
15 Okay? Mr. Grant was drunk so he didn't know what happened.
16 Well, let me tell you. The Judge will never ever tell you
17 that being drunk will excuse his actions. Okay? Because
18 voluntary intoxication is not a defense. The law says a
19 person who voluntarily becomes intoxicated is just as
20 responsible for the acts committed while intoxicated as when
21 the person is not intoxicated. Okay? That means if you're
22 drunk, you're still going to be held responsible because --
23 think about it. I mean, use your common sense. Look at all
24 these -- you know, the laws we have for drunk people. Think
25 about DUIs, public drunk. That would be preposterous to

1 say, okay, well, because you're drunk you get a pass. No,
2 that's not how the law works. Okay? So just keep that in
3 mind. But when they try to argue, well, he didn't know what
4 he was saying, ladies and gentlemen, I submit to you he knew
5 every word that he was saying at that time. He was drunk
6 and he threatened to rape the daughter and kill officers.
7 Multiple officers. He knew what he was doing.

8 Now, I want to briefly say this really quickly. All
9 these elements -- you heard this in opening. I have to
10 prove this to you beyond a reasonable doubt. The Judge will
11 explain that to you. All it really means is that you're
12 firmly convinced that the Defendant is guilty, and he's
13 guilty of the crime that we say he committed, and that is
14 threatening a public official. And, ladies and gentlemen, I
15 submit to you that after this day of evidence and testimony
16 that you should be firmly convinced that he is guilty of
17 threatening Officer Sellers and Officer Gambrell.

18 So I know that we went over this in opening and it's
19 been a long day, but briefly I want to go over the facts one
20 more time.

21 So June 3rd of this year they get a call, 911 call,
22 some trespass. So they go out to Camp Circle. Officer
23 Gambrell is out there looking. Can't find the person that
24 called 911. He calls, radios back. Who's the person again?
25 So they get Arthur Brown, or Octavious Brown, or some name.

1 They can't exactly figure it out. So they're questioning
2 people. Officers Jones and Sellers arrive on scene. They
3 start helping. Well, they're trying to figure out what
4 exactly what's going on, because that's their job. They're
5 trying to help people. You know, there's a party going on.
6 They're drinking. They're having fun. They're not --
7 they're not bothering them. They're just trying to help
8 whoever, you know, called 911. They see someone that they
9 think is wanted, unrelated to, you know, this case. So they
10 go over there, and while they're getting that information
11 they start hearing the sounds. All the sounds and threats
12 and obscenities and cussing and all this from Mr. Grant
13 while they're trying to do their job. And there are
14 children around. You all saw on the video. Kids riding
15 their bicycles on the street. Kids, you know, playing in
16 the yard. Everyone there is calm and having a good time.
17 They're joking, you know. Having a great time. And Mr.
18 Grant, he's just acting different. He's saying some pretty
19 bad things, and I know you all heard that on the video.
20 They say, Mr. Grant, if you say anything else, you know,
21 we'll arrest you. He continues. He was warned. He
22 continues to say these bad things. And immediately, after
23 they're finished with that person they were looking into for
24 the arrest warrant, they arrest him for public disorderly
25 conduct. And that is what he did. He was arrested for

1 publically disorder conduct for his words and his actions
2 that day.

3 Now, I know that in direct examination Mr. Broome, you
4 know, asking, well, there were no threats really until after
5 he was searched. But you'll have this video back there.
6 You'll hear him say threats towards officers in general,
7 that they should be killed, and saying bad words and, you
8 know, threatening these officers. And that was way before
9 he was ever searched. Before he was ever pushed up against
10 the car. And you heard testimony from the officers that the
11 reason he was pushed is because he wasn't being complaint.
12 You know, if he's -- these officers are out there every day.
13 You know, they're seeing drunk people, regular people, and
14 they don't know -- you know, if they're threatening to kill
15 officers they don't know if there's a gun on them, a knife
16 on them. So that's why because he was not being complaint
17 they had to push him. And, you know, luckily he didn't have
18 anything on him, but that's what happened, ladies and
19 gentlemen. He became -- you know, he was already angry with
20 them. He began to threaten even more. And that's when all
21 of these threats begin to spew out of his mouth.

22 (Whereupon, excerpt of State's Exhibit No. 1 was played
23 for the jury.)

24 And that was from Henry Grant's mouth regarding Officer
25 Sellers' daughter.

1 (Whereupon, excerpt of State's Exhibit No. 1 was played
2 for the jury.)

3 Threatened to kill Officer Gambrell. If you remember
4 from the video Henry Grant multiple times threatened to --
5 well, you know, you're -- I'm embarrassed because you're
6 doing this in front of my family. Well, he's sitting out
7 there cussing and threatening to kill officers and
8 everything in front of his own family. You know, why does
9 this embarrass him. He's saying, well, I'm going to take
10 you away from your family. He's threatening to do harm to
11 this officer and officers in general.

12 (Whereupon, excerpt of State's Exhibit No. 1 was played
13 for the jury.)

14 This is also important right here. This threat. I see
15 you again, you can't even come around. I'll shoot you
16 through your fucking window. You heard me. And tell them
17 that because I mean it. They know I mean it. Right there
18 he's saying that he knows what he's saying. He's telling
19 these officers I will come kill you. Okay? It's through
20 his own words that we have his actual intent to commit these
21 crimes when he gets out.

22 (Whereupon, excerpt of State's Exhibit No. 1 was played
23 for the jury.)

24 Ladies and gentlemen, I think the evidence is pretty
25 clear. We have direct video evidence of these threats.

1 You'll have this video back in the jury room to watch if you
2 all want to. I ask when you all go back there use your
3 commonsense. These threats, these multiples threats -- what
4 I just showed you wasn't all of them. Don't -- remember all
5 the ones, I'll track you down. I'll track you down. Don't
6 come to the Hood. You know, I'll put your face on a tee
7 shirt. Think about all these multiple threats that he makes
8 towards Officer Gambrell. He made towards Officer Sellers'
9 daughter. Made towards law enforcement in general. And
10 this is all because they're law enforcement, because they
11 were doing their job protecting the community. They were in
12 that spot trying to help someone. They weren't trying to
13 mess up any sort of party or anything like that. They were
14 out there to help. Okay? And because they're doing their
15 job Henry Grant, you know, started to threaten them. And
16 just because you're drunk you don't get a free pass to
17 threaten to kill someone. To threaten to rape someone. I
18 can't do that and you can't do that and he can't do that.
19 You need to hold him accountable for his actions, for his
20 words that day, because that's why we're here. Those words
21 that he spewed out of his mouth towards these officers, that
22 venom that came out of his mouth that day because he meant
23 it. And that is against the law because they are public
24 officials, and I ask that you go back in that jury room and
25 you find him guilty and hold him accountable for threatening

1 to take the life of Officer Gambrell, threatening to rape
2 the daughter of Officer Sellers, and threatening to hurt law
3 enforcement in general. Thank you.

4 THE COURT: Thank you, Ms. Boykin. Mr. Broome, you're
5 acknowledged and recognized for your closing, sir.

6 CLOSING ARGUMENT

7 BY MR. BROOME: None of us should be judged by the
8 worse thing that we've ever done. The worst thing that
9 we've ever said. Especially when you're grossly intoxicated
10 like Henry Grant was. He said some awful things. You all
11 heard them. That's clear. What we heard were the words a
12 man who was drunk. Who didn't mean what he said. Who was
13 full of liquid courage. Who I think was trying to rile up
14 law enforcement. He was trying to rile the cops up. He was
15 saying things that he didn't mean and saying things that he
16 didn't know, like drunk people do, as we've all experienced,
17 who even know someone who said some awful things to us in
18 our lives when they've been drunk that the next day they
19 didn't know they said. And his behavior is crystal clear
20 those are the actions of a drunk man. Officer Gambrell told
21 you all he was drunk. He was a guy that was running his
22 mouth. Running his mouth. And that's all he was was
23 someone who was drunk and running his mouth to law
24 enforcement. It was up until he got pushed in that car door
25 that set him off. Before that, yes, he was being loud like

1 a drunk person. Yes, he was cussing like a drunk person.
2 He was doing those things. It's clear. But those are the
3 words of someone who didn't know what they were saying. A
4 man who one minute is just rambling nonstop, can't answer
5 the officers' questions. When I asked Officer Gambrell did
6 you hear what he said to Mr. Jones about being embarrassed.
7 He said quit making yourself look worse. I ain't making
8 myself look worse. You make yourself look embarrassed. I
9 make yourself -- I didn't say that. He's having a hard time
10 understanding them. He's got alcohol on his breath. He's
11 hammered drunk. This is a man who was so out of it that he
12 did not knowingly -- he did not know what he was saying.
13 And the law requires that they know under the statute when
14 you make these statements that you know what you -- you know
15 what you're saying. You have to know what your actions.
16 He's puffing his chest up is what he was. That's all it
17 was. Trying to rile the cops up because he was frustrated
18 that law enforcement had put him in handcuffs and taken him
19 away from his family. One thing I asked Officer Gambrell at
20 the end was I said, did you see Henry in public afterwards.
21 Yes, I did. They let him out of jail. They didn't take him
22 seriously. He got out, he saw the officer. He's back out
23 in the community. If he was that big of a threat they would
24 have left him in jail, but he got out. He saw -- made bond,
25 saw the officer on the street. Saw him in public. It's not

1 -- that's not the actions of someone who meant to hurt
2 someone. And I know it's awful, but they're the words of a
3 drunk man. The officer's own testimony said he's running
4 his mouth. The first thing they said, what's that guy doing.
5 Nothing, he's just running his mouth. Just running his
6 mouth. And that's what it was. Just running his mouth.
7 Taunting, slurred his speech. The officer could smell
8 alcohol on his breath. It's just hyperbole. I know that
9 that language stirs up an emotion in you all, and I'm not
10 going to pretend like it shouldn't. But let's not think
11 that that's not realistic. Okay? Some of those, okay,
12 about the officer's daughter. Okay? What did he say? What
13 did Henry say in the video? You lock me up in front of my
14 family. You take me away from my family. He's trying to
15 piss him off. I know it doesn't sound good but he's trying
16 to piss him off because he's drunk and he doesn't know what
17 he's saying. He's talking about sorority girls. He's
18 making fun of the officer. He's calling him other names.
19 It's on and on and on. You can't understand what the
20 officer is saying. That's what it is. He did not mean any
21 of those words. And that's all this case is about is words.
22 I'm asking you all to consider put aside your emotions of
23 what he said and think about the context of that. You see
24 the video and you call can take it back there. The State is
25 talking about all these kids in the area and this cussing.

1 He's being nice. He's playing with his children. He's
2 having a good time with his family originally. And again
3 that slam into the car door set him off. The words of a
4 drunken man. But today we shouldn't hold him accountable
5 for words that he didn't know. Words that he didn't know
6 what he was saying. The words of a man grossly intoxicated
7 to the point they had to arrest him. It's a very serious
8 case for Mr. Grant. It's a serious case for the State.
9 Today is the most important day of his life and I'm asking
10 you all to think about the words of a man who was running
11 his mouth, who was not a threat. The words of a man who was
12 just drunk. Was not a threat. Did not intend his actions.
13 Not ever intend any of the things he said. If he would
14 have, he wouldn't have been out walking the street seeing
15 the officer. And today I want to remind you all as the
16 jurors, when you're back there watching the video and
17 talking about this case with one another and talking about
18 this and you're talking about what I'm saying, remember that
19 each one of you individually have the power to say no if
20 there's one doubt that remains in your mind. You have the
21 responsibility and duty to say no, he's not guilty.

22 Today, Mr. Grant stands in the shadow of the
23 penitentiary. And while I was thinking about this case
24 while you all were in the back and working on this case over
25 Thanksgiving break reminded me of a story. And the story is

1 about a smart aleck boy and a wise old man and a bird. The
2 smart aleck boy had a plan. He thought he was going to go
3 -- he wanted to pull a fast one on the old -- wise old man.
4 He wanted to play a trick on him. He wanted to get one over
5 on him, so he came up with a plan. The plan is this. He
6 went out into the woods. He was going to get a bird. And
7 his plan is to get that bird and put it into his hands and
8 he was going to go to the old man, take the bird and say,
9 old man, what do I have in my hands. And the old man would
10 say, my son, you have a bird in your hand. And then the
11 smart aleck boy would say, well, wise old man, is the bird
12 alive or is the bird dead. And if the wise old man said,
13 well, my son, the bird's dead then the boy would throw my
14 hands up and the bird will fly off into the air out into the
15 woods and I'll get one over on him. But the old man said,
16 my boy, the bird is alive and he would crush it, and he
17 would crush the bird until all the life was out of the bird
18 until he was dead. And so, the boy went into the woods. He
19 got the bird. He said, old man, do you know what I have in
20 my hands, and the old man said, my son, you have a bird in
21 your hands. Well, old man, is the bird alive or is the bird
22 dead. And the old man replied, the bird, my son, is in your
23 hands. So I place into y'all's hands the case of Henry
24 Grant. Thank you.
25

1 JURY CHARGE

2 THE COURT: Thank you, Mr. Broome. Now, ladies and
3 gentlemen, now it becomes my responsibility to instruct you
4 on the law that applies and I will tell you that
5 traditionally the way judges have done this is -- or at
6 least the way they did it when I first started practicing in
7 '93 is the judge will simply sit up here and read you a
8 bunch of law taken from the law books, off a computer,
9 etcetera, and traditionally you're supposed to get this
10 right on the first hearing of the law. Okay? I always
11 found that a little bit unreasonable, because like most
12 people it took me three years to get through law school and
13 I don't think you should have to learn in 10 minutes what
14 took me three years to learn. So long story short, I'm
15 going to give you a copy of these instructions that you can
16 refer to in the jury room if you need to. Okay? If you
17 have any questions about any aspect of these instructions,
18 just write me a note, Madam Forelady, and send it out and
19 I'll and help you with whatever it is that you're struggling
20 with legally.

21 Now, if you have any questions about the facts chances
22 are I'm not going to be able to help you with anything along
23 those lines. At this point in time the record is closed.
24 It's not possible to reopen the record and take any
25 additional testimony. So if you have a factual question

1 chances are I won't be able to assist you and you'll have to
2 judge the case based solely on the evidence that's been
3 presented thus far. Of course, ladies and gentlemen, please
4 do consider the instructions that I give to you as a whole.
5 Don't pay attention to one part to the detriment of some
6 other portion of those instructions.

7 Now, again, ladies and gentlemen, the indictments in
8 this case charge the Defendant, Mr. Grant, with two counts
9 of threatening the life, person or family of a public
10 official. I'll remind you of the fact that Mr. Grant was
11 arrested, charged and indicted is not evidence and cannot be
12 considered by you as evidence of guilt, nor do the
13 indictments create any inference or presumption of guilt.
14 Again, these documents are simply the formal written
15 instruments which contain the charges against Mr. Grant.
16 They're the formal instruments by which this case is brought
17 to the Court. Each indictment does charge a separate and
18 distinct offense and you have to decide each charge
19 separately on the evidence and the law applicable to it
20 uninfluenced by your decision as to the other indictment.
21 The Defendant may be convicted or acquitted on either or
22 both of the offenses charged, and you'll be asked to write a
23 separate verdict of guilty or not guilty for each of the
24 indictments.

25 Now, again, ladies and gentlemen, the Defendant has

1 pled not guilty to these charges.) That plea puts the burden
2 on the State to prove the Defendant's guilt. I instruct you
3 that the person charged with committing a criminal offense
4 is never required to prove himself innocent. It's an
5 important rule of law that the Defendant in a criminal
6 trial, no matter what the seriousness of the charge may be,
7 will always be presumed to be innocent of the crime for
8 which the indictment was issued unless guilt has been proven
9 by evidence satisfying you of his guilt beyond a reasonable
10 doubt. This presumption of innocence does not end when you
11 begin your deliberations. Rather, it accompanies the
12 Defendant throughout the trial until each -- until you reach
13 a verdict of guilt based on evidence satisfying you of his
14 guilt beyond a reasonable doubt. The presumption of
15 innocence is often described as being like a robe of
16 righteousness. It's placed about the shoulders of the
17 Defendant. It remains with him throughout the trial unless
18 it's stripped from him by evidence satisfying you of his
19 guilt beyond a reasonable doubt. I instruct you that the
20 presumption of innocence is not merely a legal theory. It's
21 not just a legal phrase. It's a substantial right to which
22 every citizen is entitled unless you're satisfied from the
23 evidence of his guilt beyond a reasonable doubt.

24 Well, what is a reasonable doubt in the law? A
25 reasonable doubt is the kind of doubt that will cause a

1 reasonable person to hesitate to act. The State has the
2 burden of proving the Defendant's guilt beyond a reasonable
3 doubt. And some of you may have served as jurors in civil
4 cases where you were told that it's only necessary to prove
5 that a fact is more likely true than not true, such as by
6 the greater weight or the preponderance of the evidence. In
7 criminal cases the State's proof has to be more powerful
8 than that. It has to be proof beyond a reasonable doubt.
9 Proof beyond a reasonable doubt is proof that leaves you
10 firmly convinced of the Defendant's guilt. Now, there very
11 few things that we know in this world with absolute
12 certainty and in criminal cases the law does not require
13 proof that overcomes every possible doubt. If based on your
14 consideration of the evidence you're firmly convinced that
15 the Defendant is guilty of the crimes charged you should
16 find him guilty. If on the other hand you think there's a
17 real possibility the Defendant is not guilty, you should
18 give him the benefit of the doubt and find him not guilty.

19 Now, again you and I have certain duties to perform
20 during this trial. As the trial judge it's been my
21 responsibility to preside over the trial and rule on the
22 admissibility of evidence offered. You can consider only
23 the competent evidence before you. You're to consider only
24 the testimony which has been presented from the witness
25 stand, as well as any exhibits which have been made a part

1 of the record. I have the additional duty to charge the
2 law, and again, I'm the sole judge of the law. It's your
3 duty to accept and apply the law as I state it to you now.
4 So if you already have any idea as to what the law is or
5 what it should be and it disagrees from what I say the law
6 is, you'll have to abandon that idea because you're sworn to
7 accept and apply the law as I state it to you. Again, you
8 are the sole and exclusive judges of the facts. And
9 understand that under the law a trial judge cannot intimate,
10 state, comment on or make any statement to a trial jury
11 about the facts in the case. Since you, the jury, are the
12 sole judges of the facts you're not to infer from what I've
13 said during the progress of this trial and ruling upon the
14 admissibility of evidence or otherwise, or anything that I
15 say to you now, that I have any opinion about the facts.
16 Ladies and gentlemen, the law does not permit me to have any
17 opinion about the facts in this case. This is a matter
18 solely for you to determine. As jurors it's your duty to
19 determine the effect, value, weight and truth of the
20 evidence presented.

21 Generally, ladies and gentlemen, there are two types of
22 evidence presented during a trial; direct evidence and
23 circumstantial evidence. Direct evidence directly proves
24 the existence of a fact and does not require deduction, such
25 as testimony by an eyewitness. Circumstantial evidence is a

1 proof of a chain of facts and circumstances indicating the
2 existence of a fact. I instruct you that crimes may be
3 proven by circumstantial evidence and the law makes no
4 distinction between the weight or value to be given to
5 either direct or circumstantial evidence. However, to the
6 extent the State may rely upon the circumstantial evidence,
7 all the circumstances have to be consistent with each other
8 and when taken together point conclusively to the
9 Defendant's guilt beyond a reasonable doubt. If these
10 circumstances merely portray the Defendant's conduct or
11 behavior as suspicious then the proof has failed. Again,
12 the State has the burden of proving the Defendant's guilt
13 beyond a reasonable doubt and this burden rests with the
14 State regardless of whether the State relies on direct
15 evidence, circumstantial evidence, or some combination of
16 the two.

17 Now again, you have to determine the credibility of
18 witnesses who have testified and credibility simply means
19 believability. Your duty as jurors is to analyze and
20 evaluate the evidence and determine which evidence convinces
21 you of its truth. Again, in determining the believability
22 of witnesses who have testified you can believe one witness
23 over several witnesses or several over one. You can believe
24 a part of the testimony of a witness and reject the
25 remaining part of that testimony of the same witness. You

1 can believe the testimony of a witness in its entirety or
2 reject it in its entirety. You can consider whether the
3 witness has exhibited to you any interest, bias, prejudice
4 or other motive in this case. And you may also consider the
5 manner and appearance of the witness while they're on the
6 witness stand.

7 Now, ladies and gentlemen, I instruct you and emphasize
8 the fact that the Defendant in this case did not testify is
9 not a factor to be considered by you in any way during your
10 deliberations and in your consideration on the question of
11 the guilt or the innocence of the Defendant. It must not be
12 considered by you in any way whatsoever. The Defendant has
13 the constitutional right to remain silent and the assertion
14 of this right must not be considered by you during your
15 deliberations. Again, I repeat, under your oath you are to
16 draw no conclusion whatsoever from the fact that the
17 Defendant did not testify. The fact that he did not testify
18 should not even be discussed in the jury room. As I've said
19 the burden is on the State. The burden of proof is fully on
20 the State and the Defendant is not required to prove his
21 innocence. The burden of proof remains on the State to
22 prove the Defendant's guilt beyond a reasonable doubt.

23 Now, ladies and gentlemen, the Defendant is charged
24 with two counts of threatening the life, person or family of
25 a public official. In order to prove this crime the State

1 must prove beyond a reasonable doubt the Defendant knowingly
2 and willfully delivered or conveyed to a public official any
3 verbal, written or electronic communication which contained
4 a threat to take the life of or to inflict bodily harm upon
5 the public official or members of his immediate family if
6 the threat is directly related to the public official's
7 professional responsibilities. A public official is defined
8 as an elected or appointed official with the United States
9 or of this State or of a county municipality or other
10 political subdivision of the state. I instruct you that
11 under the laws of this State a municipal police officer is a
12 public official. Immediately family means the spouse,
13 child, grandmother -- or, sorry, spouse, child, grandchild,
14 mother, father, sister or brother of the public official.

15 Now, ladies and gentlemen, I instruct you that a person
16 who voluntarily becomes intoxicated is just as responsible
17 for the acts that they commit while intoxicated as when the
18 person is not intoxicated.

19 Now, ladies and gentlemen, there are two possible
20 verdicts that you can render in this case. And, Madam
21 Forelady, I've worked up this verdict form for you to return
22 your verdict and help you in your deliberations. It's about
23 as clear cut as I can make it. It basically has two
24 statements. We, the jury in the above-captioned case on the
25 charge of threatening the life, person or family of Officer

1 Billy Sellers unanimously find Henry Kevin Grant, and then
2 there are two options; not guilty and guilty. The exact
3 same statement is made with respect to Officer Christopher
4 Gambrell.

5 Now, ladies and gentlemen, as I've said, or I think I
6 may have said a few moments ago, your verdict has to be
7 unanimous. That means all 12 of you have to agree. South
8 Carolina does not have majority verdicts. Other states do
9 have majority verdicts. And other states, like Florida, a
10 verdict of seven to five is sufficient for a decision. Those
11 states which have majority verdicts are simply doing it
12 wrong. Okay? Again, all 12 of you must agree on the
13 outcome in this particular case. All right?

14 Now, ladies and gentlemen, I'll remind you that you've
15 been chosen as 12 fair and impartial individuals. That
16 means you have no friends to reward. You have no enemies to
17 punish in this case. You have no interest in the outcome of
18 this case other than to do your duty as jurors as I've
19 instructed you.

20 Now, Madam Forelady, when the jury has reached a
21 verdict simply indicate by filling out the verdict form,
22 knock on the door and let the bailiff now. We will receive
23 you back in here in the courtroom.

24 A few other housekeeping matters, ladies and gentlemen.
25 Sometimes I'm asked how long a jury has to deliberate, or

1 how long deliberation is required. Understand that there is
2 no set time. If you deliberate five minutes, 15 minutes, 50
3 minutes, five hours. Please don't deliberate five days.
4 But however long you choose to deliberate is entirely up to
5 you. Okay? There is no set time for your deliberations.

6 Secondly, if at any point in time you need to
7 communicate with me, Madam Forelady, that's perfectly fine.
8 Again, do it by means of writing a note. But at no point in
9 time am I interested in finding out about any kind of
10 numerical division. So if you're ten to two, six-six,
11 seven-five one way or another, just don't communicate that
12 to me. Okay? It's not relevant. It's nothing I need to
13 know about. So leave anything like that out. But otherwise
14 I'll be happy to receive any communications that you have.

15 Concerning the videos, the -- I'm probably going to
16 leave the discs -- well, I'll send the discs back there.
17 There isn't a mechanism for you to play those discs in the
18 jury room. However, if you need to see them again -- you
19 know, not that you do. If you do, that's fine. If you
20 don't, that's fine. Whatever. But if you need to see them
21 again I'll either have to bring you back out here and play
22 the videos for you or in the alternative, if you wish, we
23 can probably find a laptop that we can send back there.
24 It's just going to be a little cumbersome. All 12 of you
25 can't really crowd around a laptop. We do have a laptop if

1 you want it. We can send it back. And hopefully one of you
2 who are probably under 30 can figure out how to work the
3 thing. All right?

4 Ladies and gentlemen, go ahead and retire to the jury
5 room and don't start your deliberations. Your cue to begin
6 your deliberations will be receipt of the verdict form and
7 this instruction and the evidence. Okay? That's when
8 you'll start you'll deliberations. Okay? They'll bring it
9 back and they'll get it square. And my asking the alternate
10 to step out, that'll be your cue.

11 (Whereupon, the jury exited the courtroom to being
12 deliberations at 4:02 p.m.)

13 THE COURT: Aside from the Court's failure to charge
14 Defendant's number two, any additions, exceptions from the
15 Defense?

16 MR. BROOME: No, Your Honor.

17 THE COURT: None from the State?

18 MS. BOYKIN: No, Your Honor.

19 THE COURT: Good enough. Let's get it to them.

20 (Whereupon, a recess was held from 4:02 p.m. to 5:51
21 p.m. while the jury deliberated.)

22 VERDICT

23 THE COURT: We'll go back on the record in the State
24 versus Mr. Grant. The record will reflect the Defendant is
25 present with counsel. I'm informed by the bailiff that the

1 jury has, in fact, reached a verdict. Anything before
2 they're received back into the courtroom from the State?

3 MS. BOYKIN: No, Your Honor.

4 THE COURT: From the Defense?

5 MR. BROOME: No, Your Honor.

6 THE COURT: Let us have them, please.

7 (Whereupon, the jury entered the courtroom at 5:51
8 p.m.)

9 THE COURT: The record will reflect the jury is back
10 and seated. Madam Forelady, I'm told that the jury has
11 reached a verdict; is that correct?

12 FORELADY: Yes, sir.

13 THE COURT: And all 12 of you agree on the verdict; is
14 that right?

15 FORELADY: Yes, sir.

16 THE COURT: If you would, hand the verdict form,
17 please, to the bailiff. Madam Clerk, if you'll publish,
18 please.

19 MADAM CLERK: Your Honor, in the case of the State of
20 South Carolina versus Henry Kevin Grant, case number 2017-
21 GS-30-1439 and 1440 we, the jury, in the above-captioned
22 case on the charge of threatening the life, person or family
23 of Officer Billy Sellers unanimously find Henry Kevin Grant
24 guilty. We the jury in the above-captioned case on the
25 charge of threatening the life, person or family of Officer

1 Christopher Gambrell unanimously find Henry Kevin Grant
2 guilty. Signed by the Foreperson, Marlene B. McCrainy.
3 Dates November 28, 2017, Laurens, South Carolina.

4 Ladies and gentlemen, if that be your verdict, please
5 indicate by raising your right hand.

6 (Whereupon, all 12 jurors raise their hands.)

7 MADAM CLERK: Thank you.

8 THE COURT: All right. The record will reflect that
9 all 12 jurors did, in fact, raise their right hands.
10 Anything prior to discharge of the jury from the State?

11 MS. BOYKIN: Nothing from the State, Your Honor.

12 THE COURT: From the Defense.

13 MR. BROOME: We request that you poll the jurors
14 individually.

15 THE COURT: All right. Ladies and gentlemen, in a few
16 moments the Clerk is going to call your names. When she
17 calls your name she's going to pose a question to you
18 whether this is your verdict and is it still your verdict.
19 Okay? So Madam Clerk, if you'll poll the jury, please.
20 When your name is called just raise your right hand and
21 answer that question. Okay?

22 MADAM CLERK: Ladies and gentlemen, the verdict that I
23 have just published was the verdict you reached in the jury
24 room I asked it was it your verdict then and is it your
25 verdict now. As I call your name please answer yes or no.

1 Marlene B. McCrainy.
2 FORELADY: Yes.
3 MADAM CLERK: Brandy L. Pyles?
4 Juror: Yes.
5 MADAM CLERK: Matilda C. Culberson?
6 JUROR: Yes.
7 MADAM CLERK: Karen M. Bailey?
8 JUROR: Yes.
9 MADAM CLERK: Jeremy P. Commerse?
10 JUROR: Yes.
11 MADAM CLERK: Mark E. Haigler?
12 JUROR: Yes.
13 MADAM CLERK: Lela S. Avery?
14 JUROR: Yes.
15 MADAM CLERK: Haskell B. Yeargin?
16 JUROR: Yes.
17 MADAM CLERK: Joshua N. Hoyt?
18 JUROR: Yes.
19 MADAM CLERK: Steven D. Fields?
20 JUROR: Yes.
21 MADAM CLERK: Albert Scurry, Jr.?
22 JUROR: Yes.
23 MADAM CLERK: Usher K. Moon.
24 JUROR: Yes.
25 MADAM CLERK: Thank you.

1 THE COURT: All right. Nothing further for the jury?

2 MR. BROOME: No, Your Honor.

3 THE COURT: Ladies and gentlemen of the jury, I want to
4 thank you for your attention here today. The first thing I
5 will tell you is that this concludes the trials that we had
6 available for this week. As I mentioned to you yesterday,
7 we did anticipate a homicide case going forward for the
8 better part of this week which resulted in a plea yesterday.
9 So for the next two -- three days, rather, Judge Hocker and
10 I will be doing guilty pleas. So you do not need to worry
11 about coming back. Okay? The Clerk does not have your
12 check ready because she was concerned that perhaps you would
13 want to start or resume deliberations in the morning, so as
14 they proverbially say, the check is in the mail. It should
15 be \$40. Please cash it and blow it. Okay? You'll also get
16 a letter from me thanking you for your jury service. The
17 letter's purpose though is really twofold. It's certainly
18 to thank you, but also to solicit feedback. So if there was
19 anything that you liked, no matter how small, no matter how
20 big, anything you didn't like, no matter how small, no
21 matter how big, I want to hear from you. Particularly if it
22 was something that you did not like, because I have changed
23 the way Court operates based on feedback from folks like
24 you. Okay? You should get that letter sometime later on
25 this week.

1 Again, I want to thank you for your work on this case.
2 You are free to stay. At this point in time what we will do
3 is I'll move forward with sentencing of Mr. Grant. I'll
4 hear from the State about any prior criminal history he may
5 have, and then certainly turn to Mr. Grant for any
6 mitigation, anything that they want to say on his behalf.
7 You can choose to stay. You're certainly welcome to do so.
8 Just for security reasons I'll have to ask that you kind of
9 have a seat out there in the courtroom. The bailiffs, if
10 you want to stay, can show you where you can sit. If you
11 want to go, that's perfectly fine, too. Okay? The
12 important thing is you don't have to call back, you don't
13 have to come back, and you get that three year get out of
14 jury service free exception for the Court of Common Pleas
15 and the Court of General Sessions. If the feds summon you
16 or the city court summons you or magistrates court summons
17 you, I can't help you. All right? But for this Court just
18 let the Clerk know that you appeared in November 17. She'll
19 check her records. You won't even have to show up on the
20 first day. All right.

21 With that, you have my appreciation. I'd love to let
22 you keep those badges as a souvenir but they cost money. So
23 no, you can't keep them. Give them on your way out. And,
24 Madam Forelady, I need you to actually sign the indictments
25 so I can put your name on the indictments. Okay? So if

1 you'll come up the rest of you can feel free to stay, feel
2 free go to. Okay? Thank you all.

3 (Whereupon, the jury was released.)

4 THE COURT: We'll be at ease for five minutes while you
5 all print out the sentencing sheets.

6 MS. BOYKIN: Thank you, Your Honor.

7 (Whereupon, a recess was held until 6:04 p.m.)

8 SENTENCE OF THE COURT

9 THE COURT: We'll go back on the record. Just for the
10 record, Mr. Broome, I assume that you move for a new trial
11 and you renew all pretrial motions, renew all objections, as
12 well as the request of the charge; is that correct?

13 MR. BROOME: Yes, Your Honor. And just I would like to
14 put -- renew all my directed verdict motions and all of
15 that. But for the record, motion for new trial, as you
16 indicated, and blanket renewal all previous objections for
17 the record.

18 THE COURT: Very good. Motion for new trial is denied.
19 Prior rulings stand, and all pretrial rulings and rulings
20 during the course of the trial.

21 Ms. Boykin, can you inform me of any prior history that
22 Mr. Grant may have.

23 MS. BOYKIN: Yes, Your Honor. Mr. Grant has somewhat
24 of an extensive criminal history. He has from 1992 assault
25 with intent to murder. That is out of Maryland, I believe.

1 In Laurens County in 2000 he has unlawful carrying of a
2 weapon, and I believe a manufacture possession or other
3 controlled substance with intent to distribute in 2001.
4 Assault and battery of a high and aggravated nature in 2001,
5 breach of peace and possession of marijuana in 2005. A
6 loitering in 2005. A distribution cocaine in 2008. He also
7 has, Your Honor, a simple possession of marijuana from 2014,
8 and assault and battery third degree from 2015. A petty
9 larceny from 2014, and another assault and battery third
10 degree in 2015.

11 Your Honor, he also has other pending charges with our
12 office. A domestic violence second degree, and then another
13 threatening the life of a public official that will not be
14 taken care of today.

15 Your Honor, both Officer Sellers and Gambrell would
16 like to speak to Your Honor whenever you'd like to hear from
17 them. The State would ask -- I believe what law enforcement
18 might be asking for is that he gets some sort of consecutive
19 time on these charges. We believe that his criminal history
20 clearly shows multiple assault convictions on there. He's a
21 violent person. The threats were horrendous. We just ask
22 for some consecutive time, Your Honor.

23 THE COURT: I certainly appreciate your position. Mr.
24 Sellers, Mr. Gambrell, I'll be happy to hear from either of
25 you all, whoever wants to go first.

1 OFFICER SELLERS: Yes, sir. Your Honor, I would concur
2 that we would seek that the maximum penalty be sought in
3 these charges. I just want to state that I know the Defense
4 said the threat should be taken lightly. They were the
5 utterings of a drunken person. However, I don't take these
6 threats lightly, as any human being wouldn't. Since these
7 threats it has affected my -- both my -- me, my spouse and
8 our home life. Your Honor, one of the most difficult things
9 I had to do was to tell my wife what someone had threatened
10 to do to our daughter and have her cry, and have to be on
11 constant lookout to see if this person was going to be
12 creeping around the corner at our home. Since then she's
13 armed herself for fear that something may happen. It's just
14 been a constant state of worry, especially with our -- she's
15 not used to these type of dealings as I am in this
16 profession, so it has affected our home life, sir. With
17 everything that's going on with law enforcement today in the
18 media you see police officers and their families being
19 ambushed, not only at work but at home. I do take these
20 threats very seriously, despite what the Defense had to say
21 earlier.

22 THE COURT: I understand your position entirely, sir.
23 Mr. Gambrell, anything that you want to tell us, sir?

24 MR. GAMBRELL: Yes, sir. Backing up what he said. I
25 got out of law enforcement to take care of my family. When

1 we're around town -- we frequent Laurens a lot. I've
2 already ran into Mr. Grant once, and always looking around
3 my back for my wife and my kids. So we take the threat
4 really seriously what he stated in that vehicle.

5 THE COURT: Very good. Thank you, gentleman.

6 OFFICER SELLERS: Thank you, sir.

7 MR. GAMBRELL: Thank you.

8 THE COURT: Mr. Broome, I'm happy to hear from you,
9 sir.

10 MR. BROOME: Thank you, Your Honor. Henry is 42 years
11 old. He grew up in Washington, DC. He actually graduated
12 from high school at Bladensburg High School. He has family
13 down here from Laurens, so he ended up down here and
14 actually got his further education in Piedmont Tech in
15 welding, so he actually graduated from there and has done a
16 lot of work. He worked for AmeriClean in Gray Court as a
17 welder for a while. He is in a relationship with a lady
18 named -- or, sorry, is it Marquisha Choice who he has an
19 11-year-old daughter with, and he also has a five-year-old
20 girl that lives in Simpsonville. And earlier -- last year
21 he was involved in a pretty serious car wreck where he
22 fractured his scapula. Otherwise, Your Honor, his record
23 speaks for what it is. He did spend a total of -- the Clerk
24 will have to correct me. I think he was arrested on the 3rd
25 of June and I think he got out on June 19th, which would be

1 16 days credit for -- by my count. That's all I have to say
2 for -- excuse me. He just wanted to point out he's been
3 incarcerated on the other charges since August.

4 THE COURT: Mr. Grant, I'll be happy to hear anything
5 that you want to tell me, sir.

6 THE DEFENDANT: Yes. Well, I respect the verdict. It
7 didn't go as I plan. I don't recall. I'm not here to make
8 no excuses. You know, I respect the officers' family. I
9 don't recall that happening, but I take account for whatever
10 was said, because that was me, and I respect that. I don't
11 wish no harm. I had seen them previously. And my blessings
12 go out to him and his family, as well as my family. And
13 that's about all I'd like to say.

14 THE COURT: Very good, sir.

15 (Whereupon, there was a brief pause in the proceedings.)

16 Well, the first thing that I want just to note for the
17 record. I think that Officer Sellers alluded to this a
18 moment ago that, you know, law enforcement is from time to
19 time depicted in the media. Some of the body cam videos
20 that we see in cases that come out of South Carolina are
21 very difficult to watch. My personal experience is that
22 officers who are unable to maintain their composure, who
23 maintain their -- keep their head about them, so to speak,
24 usually are the ones that are caught on video doing
25 something that should not be done, and that represents a

1 very, very, very small, small fraction of the law
2 enforcement community. And I just want to say the way that
3 this arrest was handled is perhaps the textbook definition
4 of professionalism. Keeping your head about you, keeping
5 cool and not letting somebody get under your skin to the
6 point where things get unnecessarily violent. I couldn't do
7 the job that a cop has to do and I respect the heck out of
8 it. And the way that everybody handled themselves out there
9 that day is just, again, textbook of how to effect an arrest
10 with an unruly individual without winding up on national
11 news. Okay? So in that sense, good job.

12 Mr. Grant, certainly your history is one of the things
13 that is pushing the sentence that the Court has imposed.
14 And I understand fully how people can do things when they're
15 intoxicated that they would never do sober. Okay? But
16 again, intoxication is not excuse for your behavior. And
17 after watching that video, I mean, for 20 minutes you went
18 off on Officer Sellers has he transported you to the station
19 and I just find it hard to believe that for 20 minutes you
20 were completely unable to keep your composure. And I
21 appreciate the fact that you accept this verdict. But, you
22 know, very often in my experience, Mr. Grant, an apology
23 goes a long way, especially when you know you did something
24 wrong. And whether you apologize to these gentlemen or not
25 prior to trial I feel like they are owed it. I take your

1 comments as an apology, but certainly it would have probably
2 better for you to do that sooner rather than later. But
3 that's neither here nor there, because again your criminal
4 history is what's pushing the sentence.

5 Solicitor, your request for consecutive time is
6 certainly appropriate. But in light of the threats that
7 were made here I've done something a little bit different
8 out of the hope that it'll prevent Mr. Sellers from having
9 any contact with any member of Mr. Gambrell's -- or in hopes
10 it will keep Mr. Grant from having any contact with Mr.
11 Sellers family or Mr. Gambrell's family. Okay? So that's
12 the reason I'm doing what I'm doing.

13 Mr. Grant, I've given you on indictment -1440, that is
14 the case that involves Officer Gambrell, I've given you a
15 straight sentence of five years with credit of 16 days in
16 jail. I am recommending that you be screened for the
17 Addictions Treatment Unit while you're in the Department of
18 Corrections, sir. When you get done serving that sentence
19 I've hung five years over your head and suspended that on
20 the 16 days that you served previous and I put you on
21 probation for three years. You understand that, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: So if five years in prison doesn't correct
24 you then you've got another five years waiting for you if
25 you can't conform your conduct to the requirement of the

1 law. Probation won't begin until you're released from the
2 Department of Corrections. And significantly I've noted
3 here that you're to have absolutely contact whatsoever with
4 either Billy Sellers, Christopher Gambrell, or any member of
5 their family. Do you understand that, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Hopefully that'll give your wife a little
8 bit of assurance. Okay? If there is contact you know what
9 to do. All right? By law you'll have to pay \$500 in the
10 Public Defender fund. On probation you'll be subject to
11 random drug testing at their discretion. They can require
12 substance abuse counseling and any referral to voc rehab of
13 you while you're on probation.

14 So you have five years to serve, Mr. Grant. I hope
15 that you allow that five years to be somewhat of a lesson
16 that you just do not treat police this way under any
17 circumstances whatsoever. I wish you luck, sir. Take care.

18 MS. BOYKIN: Thank you, Your Honor.

19 MR. BROOME: Thank you.

20 - - - END OF REQUESTED TRANSCRIPT OF RECORD - - -

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Certificate of Reporter

I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Laurens County, South Carolina, on the 28th day of November, 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Tara T. Scott

Tara T. Scott, CVR

Official Court Reporter

April 15, 2018

STATE OF SOUTH CAROLINA)
COUNTY OF LAURENS)

IN THE COURT OF GENERAL SESSIONS
EIGHTH JUDICIAL CIRCUIT
INDICTMENT NO. 17-GS-30-1439; -1440

State of South Carolina,)
Plaintiff,)

vs.)

DEFENDANTS' REQUESTS TO CHARGE

Henry Kevin Grant)
Defendants.)

The Defendant, in the above-captioned matter, hereby submits the attached Requests to Charge.

Joel T. Broome
Attorney for Defendant
Laurens, South Carolina
Telephone: 864-984-8807

Laurens, South Carolina

November ____, 2017

DEFENDANTS' REQUEST TO CHARGE NO. 1
Violation of S.C. Code 16-3-1040(A)

The Defendant is charged with violating S.C. Code 16-3-1040(A) for allegedly threatening a deputy sheriff. S.C. Code 16-3-1040 (A) states that:

It is unlawful for a person knowingly and willfully to deliver or convey to a public official any letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication which contains a threat to take the life of or to inflict bodily harm upon the public official or members of his immediate family if the threat is directly related to the public official's professional responsibilities.

In order to find the Defendant guilty of violating S.C. Code 16-3-1040(A), you must find that the State has proven beyond a reasonable doubt every element of the crime. In this case, that means you must find that the State has proven beyond a reasonable doubt:

- 1) That the Defendant knowingly and willfully delivered or conveyed to a public official any letter or paper, writing, print, missive, document, electronic or verbal communication;
- 2) Any delivered or conveyed communication contained a threat to take the life of or to inflict bodily harm upon the public official or members of his immediate family; and,
- 3) Any such threat was directly related to the public official's responsibilities.

If the State fails to prove any of these three elements beyond a reasonable doubt, then you must render a verdict of not guilty.

-S.C. Code §16-3-1040(A)

DEFENDANTS' REQUEST TO CHARGE NO. 2
Legal Definition of "Threat" in light of First Amendment

The freedom of individuals to verbally oppose or challenge a police officer or action without thereby risking arrest is one of the principled characteristics by which we distinguish a free nation from a police state.

Our courts have consistently recognized that the First Amendment protects a significant amount of verbal criticism and challenge directed at police officers and that no law may punish a person for voicing an objection to a police officer where no fighting words are used.

What are "fighting words"? "Fighting words" are words that by their very utterance inflict injury or tend to incite an immediate breach of peace. The determination of whether words constitute fighting words depends upon the circumstances surrounding their utterance. One important factor is who the words are directed at. For example, a properly trained officer may reasonably be expected to exercise a higher degree of restraint than the average citizen, and thus be less likely to respond belligerently to fighting words or consider a communication a threat as would an ordinary person.

Therefore, what kind of communication is considered a threat when directed at law enforcement?

The State must prove beyond a reasonable doubt that the Defendant's communication went beyond an objection or criticism of the officer or his conduct. Such a communication is protected speech and a person cannot be held criminal liable for exercising their right to engage in such speech.

Instead, the State must prove beyond a reasonable doubt that the Defendant intended to communicate a "true threat" to actually take the life or inflict bodily harm upon the officer or his immediate family and that such a threat was directly related to the officer's official responsibilities.

This requires that the State prove beyond a reasonable doubt:

- 1) That the Defendant intended the communication to be a threat. It is not enough that a reasonable person may have foreseen the communication would be interpreted by a threat. Instead, the State must prove that the Defendant personally intended the communication to be a threat.
- 2) That the communication was actually a "true threat." "True threats" encompass those statements where the speaker means to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual. Hyperbole does not constitute a "true threat." Speech is often provocative and challenging but it is nevertheless protected unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest.

Words may or may not be considered a threat depending upon the circumstances of their

utterance. In determining if the alleged determination was actually a true threat under the law, you are entitled to, and should, look at all the facts and circumstances surrounding the communication.

If, after considering all the facts and circumstances surrounding the communication, you decide that there was no intent by the Defendant to communicate an actual intent to take the life of, or inflict bodily harm upon, the officer or his immediate family, you must find that the Defendant is not guilty.

-*Lewis v. New Orleans*, 415 U.S. 130 (1974); *State v. Perkins*, 306 S.C. 353 (1991); *In the Interest of Jeremiah*, 353 S.C. 90 (2003); *In the Interest of Jeremiah*, 361 S.C. 620 (2004); *City of Landrum v. Sarratt*, 352 S.C. 139 (2002); *Watts v. United States*, 394 U.S. 705 (1969); *Virginia v. Black*, 538 U.S. 343 (2003); *Elonis v. United States*, 135 S.Ct. 2001 (2015); *Houston v. Hill*, 482 U.S. 451 (1987).

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

August Term, 2017

Indictment # 17GS30- 1440

THE STATE

vs.

HENRY KEVIN GRANT

INDICTMENT FOR

Threatening Life, Person Or Family Of A Public Official

SC Code: § 16-03-1040

CDR: 0541

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

WITNESSES

Billy Sellers
Laurens Police Department

WARRANT NUMBER

6102P0075392

Imue Bill

Rubal Patton

Foreman of the Grand Jury

Date: *8/18/2017*

VERDICT

Guilt

Marlene B. McGinnis

Foreman

Nov. 28, 2017

RECEIVED
DEC 07 2017
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

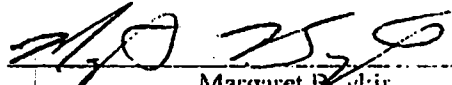
INDICTMENT FOR

Threatening Life, Person Or Family Of A Public
Official
§16-03-1040

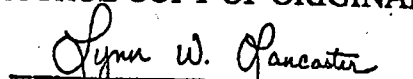
At a Court of General Sessions, convened on the 18th day of August, 2017, the Grand Jurors of Laurens County present upon their oath:

The defendant, Henry Kevin Grant, did on or about June 3, 2017, in Laurens County, South Carolina, knowingly and willfully deliver or convey to a public official, officials, teacher or principal, to wit: Officer Christopher Gambrell of the Laurens Police Department, by way of any letter, paper, writing, print, document, electronic or verbal communication, a threat to take the life of and/or to inflict bodily harm upon the public official, officials, teacher, principal or members of immediate family of said public official, teacher or principal. All in violation of 16-03-1040 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 cases provided.


Margaret D. ykin
Assistant Solicitor

A TRUE COPY OF ORIGINAL


Lynn W. Lancaster
Laurens County CCCP & GS

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

August Term, 2017

Indictment # 17GS30- 1439

THE STATE

vs.

HENRY KEVIN GRANT

INDICTMENT FOR

Threatening Life, Person Or Family Of A Public Official

SC Code: § 16-63-1040(A)

CDR: 0541

I hereby waive presentment to the Grand Jury.

Defendant

Witness:

WITNESSES

Billy Sellers
Laurens Police Department

WARRANT NUMBER

6102P0075391

June Bill

Richard Patton

Foreman of the Grand Jury

Date: *8/18/2017*

VERDICT

Guilty

Madene B McManis

Foreman

Nov. 28, 2017

RECEIVED
DEC 07 2017
SC Court of Appeals

CLERK OF COURT
Cheryl M. Green
17-03003-02

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

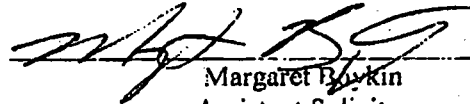
INDICTMENT FOR

Threatening Life, Person Or Family Of A Public
Official
§16-03-1040(A)

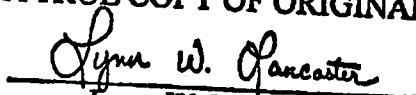
At a Court of General Sessions, convened on the 18th day of August, 2017, the Grand Jurors of Laurens County present upon their oath:

The defendant, Henry Kevin Grant, did on or about June 3, 2017, in Laurens County, South Carolina, knowingly and willfully deliver or convey to a public official, officials, teacher or principal, to wit: Officer Billy Sellers of the Laurens Police Department, by way of any letter, paper, writing, print, document, electronic or verbal communication, a threat to take the life of and/or to inflict bodily harm upon the public official, officials, teacher, principal or members of immediate family of said public official, teacher or principal. All in violation of 16-03-1040(A) 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 cases made and provided.


Margaret D. Harkin
Assistant Solicitor

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Lynn W. Lancaster
Laurens County CCCP & GS

STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

STATE VS.

HENRY KEVIN GRANT

AKA: _____

Race: BlackSex: MAge: 42

DOB: _____

SS#: _____

Address: _____

City, State, Zip: Laurens, SC 29360

DL# _____

SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or☐ PLEADSTO: Threatening Life, Person Or Family Of A Public OfficialIn violation of § 16-03-1040 of the S.C. Code of Laws, bearing CDR Code # 0541INDICTMENT/CASE#: 17GS30-1440A/W: 6102P0075392Date of Offense: 06/03/2017S.C. Code §: 16-03-1040CDR Code #: 0541

SENTENCE SHEET

0-5 yrs
and/or
\$0-\$5,000☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Margaret Boykin 101017
Assistant Solicitor SC Bar #

Defendant

79839
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 (five) years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. Credit 16 days = paid.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐

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☐ Set by SCDPPPS

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Lynn W. LancasterCourt Reporter: Tara Scott

SCCA/217 (07/2016)

Attend Voc. Rehab. Or Job Lynn W. LancasterMay serve W/E beginning Lynn W. LancasterSubstance Abuse Counseling Laurens County CCCP & GSRandom Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: ATV

☐ Appointed PD or appointed other counsel,

Proviso §61.6 requires \$500 be paid to Clerk

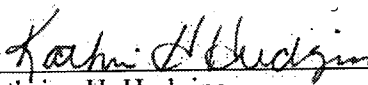
during probation and shall be collected before

any other fees. Fall 2017Presiding Judge: Fall 2017Judge Bar ID: _____ Judge Code: 2159Sentence Date: 11-28-17

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,



Kathrine H. Hudgins
Appellate Defender

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

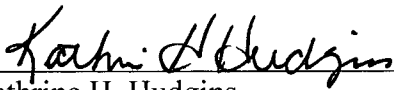
ATTORNEY FOR APPELLANT

This 4th day of January, 2019.

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,


Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 4th day of January, 2019.

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JAN 04 2019
SC Court of Appeals