

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Greenville County

Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

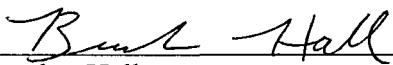
V.

CHRIS TEASLEY,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 1st day of October, 2012.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 1st day of October, 2012.



Notary Public for South Carolina (L.S.)

My Commission Expires: October 2, 2013.

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OCT 01 2012

SC Court of Appeals

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APPEAL FROM GREENVILLE COUNTY

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THE STATE,

RESPONDENT,

V.

CHRIS TEASLEY,

APPELLANT

Appellate Case No. 2011-200308

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS
2010-GS-23-10216

ORIGINAL

STATE OF SOUTH CAROLINA)

PLAINTIFF)

vs.)

TRANSCRIPT OF RECORD

CHRIS TEASLEY)

DEFENDANT)

September 22nd & 23rd, 2011
Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge; and a jury.

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

ASHLEY CASE, ESQ.
Attorney for the State

LARRY COOKE, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

1 witnesses who were going to testify in the courtroom.

2 That's what I was talking about.

3 Go ahead, I'm sorry.

4 THE CLERK: Would you, please, place your right
5 hand on the Bible -- I'm sorry, place your left hand on
6 the Bible, raise your right.

7 RENEE BEAUFORD, after being duly sworn,
8 testified as follows:

9 THE CLERK: Thank you, you may be seated.
10 Ms. Beauford, when you get a chance would you, please,
11 state your full name for the record.

12 THE WITNESS: Okay. It's Rhonda Renee Beauford.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION

15 BY MS. CASE:

16 Q Ms. Beauford, where are you employed?

17 A Greenville County Sheriff's Office.

18 Q And what are your duties with the sheriff's office?

19 A I do 911 research and quality assurance.

20 Q Okay. And how long have you had this job?

21 A This particular position with the sheriff's office
22 I've had for two years.

23 Q And before this job what was your position and what
24 were your duties?

25 A Communications dispatch supervisor with 911.

1 Q On -- I want to direct your attention to
2 November 14th of 2010 and sheriff's office case No.
3 10176465. Do you have a tape recording of a 911 call
4 that was made on that day in regards to that case
5 number?

6 A Yes, we do.

7 Q And tell us what type of recording device Greenville
8 County uses for 911 calls?

9 A The system we have is actually called NICE. It's a
10 NICE system. It's a digital, automatic recording
11 system that records automatically and simultaneously
12 as all calls and all transmissions over telephones
13 and radios come into our dispatch center.

14 Q And do you recall what time of day the call came in
15 on 911 for this particular case?

16 A Around 20:30, 20:45, somewhere in there.

17 Q Around 8:30 in the evening?

18 A Yes, correct.

19 Q And what do you do with regard to preserving these
20 911 conversations?

21 A When I get a request for a recording of a telephone
22 conversation or a radio transmission, what I do is I
23 research within our computerated [sic] dispatch
24 system which is called our CAD, pulling the report
25 out to get the case number to balance it against the

1 request I have. And then in turn I go to the
2 recording system and I match the date and time. And
3 then based on information that's given to me within
4 the computerated dispatch within the call of entry,
5 I'm able to verify the address is matching with what
6 is being said on the 911 tape to verify I have the
7 correct information.

8 Q Were the entire conversations, 911 conversations,
9 with regard to this case number recorded?

10 A Yes, ma'am.

11 Q Okay. And I'm going to show you what's been marked
12 as State's Exhibit 1 for identification purposes, can
13 you tell us what that is?

14 A Yes, this is a CD recording, a CDR recording of the
15 call from Valleybrook Road with the case number of
16 2010-176465 as marking the location and the case
17 number.

18 Q And how do you know this? How do you know that's
19 what that is?

20 A This is the Greenville County Sheriff's Office format
21 for the case numbers. And I'm one that puts that on
22 there based on the request and on the CAD to make
23 sure that they're corresponding and this corresponds
24 with them.

25 Q Did you check this recording?

1 A Yes, I did.

2 Q And have there been any changes, additions, deletions
3 to this recording?

4 A No, there hasn't.

5 Q How do you know that?

6 A I have certified where I listened to it and my name
7 is signed on the CD to certify the CD.

8 Q Okay. And do you know whose voices are on the tape?

9 A With our dispatchers, yes. All the deputies voices
10 I'm not as familiar with as them being 300 deputies
11 with us.

12 Q But 911 -- the operators who received the calls--

13 A Yes, I do.

14 Q Who are they?

15 A Marcy Shetner, Ray Allen and Misty Geted.

16 MS. CASE: Your Honor, I'd like to move this
17 into evidence as State's Exhibit 1.

18 THE COURT: Mr. Cooke, any objection?

19 MS. CASE: No objection.

20 THE COURT: All right, without objection it's
21 admitted into evidence is State's Exhibit No. 1.

22 (WHEREUPON, State's Exhibit No. 1 was admitted
23 into evidence.)

24 MS. CASE: Your Honor, I'd like to play the tape
25 at this time.

1 THE COURT: All right. Is that the audio?

2 MS. CASE: Yes, sir.

3 THE COURT: Okay.

4 MS. CASE: Your Honor, I apologize, we checked
5 this out three times and it was working each time.

6 THE COURT: You want to try this one?

7 MS. CASE: I can do that.

8 THE COURT: Why don't we do this, why don't we
9 take a very brief break, okay. We'll get that up and
10 queued up and running and then we'll come back in and
11 we'll resume the case. And I know we've been in here
12 probably about an hour now so it's probably a pretty good
13 time for a break in any event. So, please don't discuss
14 the case, we'll come back in probably 10 minutes or so.
15 Okay. Thank you.

16 (WHEREUPON, the jury left the courtroom at
17 approximately 2:36 p.m.)

18 THE COURT: Okay, you can take a break too but
19 you can't discuss your testimony with anybody because
20 you're under oath and on the stand.

21 THE WITNESS: Okay.

22 THE COURT: Okay, all right, good enough. Be in
23 recess for just a few minutes.

24 MR. COOKE: Is it all right if my client goes to
25 the bathroom?

1 THE COURT: Yeah, no problem.

2 (WHEREUPON, a short break was taken.)

3 THE COURT: All right, is the jury ready?

4 THE BAILIFF: Yes, sir.

5 THE COURT: All right, bring them in, please.

6 (WHEREUPON, the jury entered the courtroom at
7 approximately 3:00.)

8 THE COURT: All right, ladies and gentlemen,
9 we'll start again. Ms. Case has advised me that this was
10 not her fault. And I trust that it was not. So we'll try
11 again.

12 (WHEREUPON, State's Exhibit No. 1 was
13 played.)

14 BY MS. CASE:

15 Q Ms. Beauford, were those calls where you heard it
16 dialing then a answering machine picking up, was that
17 911 calling back to the location where they received
18 the call?

19 A Correct, that was the call back to the location.

20 MS. CASE: Okay.

21 (WHEREUPON, State's Exhibit No. 1 was continued
22 to be played.)

23 BY MS. CASE:

24 Q Okay, Ms. Beauford, just to recap briefly then I
25 don't have any further questions for you but there

1 were three separate calls into 911, is that correct?

2 A Correct.

3 Q And three separate dispatcher answered those three
4 calls?

5 A Correct.

6 Q On the first call that Donquiel T. made, the dispatcher
7 attempted to get him back on the phone, is that
8 correct?

9 A That is correct.

10 Q And is that because he hung up before she was
11 finished talking with him?

12 A Before she got enough information from him.

13 MS. CASE: I don't have any further questions
14 for you at this time.

15 THE COURT: Mr. Cooke, cross-examination?

16 MR. COOKE: I have no questions.

17 THE COURT: All right, fair enough.

18 Thank you, appreciate you being here, ma'am.

19 MS. CASE: Ask that Ms. Beauford be excused.

20 THE COURT: Any objections?

21 MR. COOKE: None.

22 THE COURT: All right, you can be excused,
23 Ms. Beauford, have a great day.

24 THE WITNESS: Thank you.

25 MS. CASE: Call Terrance Bowers.

1 THE CLERK: Place your left hand on the Bible,
2 raise your right.

3 TERRANCE BOWERS, after being duly sworn,
4 testified as follows:

5 THE CLERK: Thank you, you may be seated. State
6 your name for the record.

7 THE WITNESS: Terrance Lamar Bowers.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MS. CASE:

11 Q Deputy Bowers, where are you employed?

12 A I'm employed at the Greenville County Sheriff's
13 Office.

14 Q What are your duties with the Greenville County
15 Sheriff's Office?

16 A I work in uniform patrol. We answer 911 calls for
17 service.

18 Q On November 14th, 2010 were you working that day?

19 A Yes.

20 Q Were you working at approximately 8:30 that evening?

21 A Yes.

22 Q And did you respond to a call at [REDACTED]
23 in Piedmont?

24 A Yes.

25 Q Is that location in Greenville County?

1 A Yes, it is.

2 Q Okay. And what was your understanding of the nature
3 of the call to which you were responding?

4 A The nature of the call was, it was assault and
5 battery in progress at the residence, at [REDACTED]. And
6 also was a juvenile suffering from seizures.

7 Q So you had several different concerns going to the
8 residence?

9 A Yes.

10 Q Okay. Do you recall about how long it took you to
11 get to [REDACTED]?

12 A It was approximately about 15 minutes.

13 Q And is that a mobile home park?

14 A Yes.

15 Q Is [REDACTED] a mobile home?

16 A Yes, it's a mobile home.

17 Q All right. And were -- what kind of vehicle were you
18 driving?

19 A I was driving a blue patrol car, marked patrol car.

20 Q Lights?

21 A With lights and siren.

22 Q Did you activate your lights and siren?

23 A I did not.

24 Q Okay. What about your dress, were you in uniform?

25 A Yes.

1 Q When you arrived at [REDACTED], what was the
2 scene like?

3 A Well as soon as I turned on to Valleybrook off of
4 Augusta Road, I immediately observed, as I got closer
5 to the residence, it was a big crowd of people in the
6 middle of the street. Seems to be fighting. Some
7 kind of disturbance going on. So I immediately
8 directed my attention towards the residence where I
9 knew I had a victim suffering for seizures. So I
10 radioed for back-up and requested for at least one
11 unit to turn lights and sirens on and respond
12 emergency.

13 Q But you didn't deal with what was going on outside
14 the mobile home?

15 A No.

16 Q And when you approached the mobile home, before you
17 went in, could you hear anything before you got in?

18 A Yes. I could hear what seemed to be like yelling and
19 screaming, just somebody just in a frantic mode. I
20 can't remember exactly what was being said but it was
21 definitely some noise, some disturbance coming from
22 inside the house.

23 Q Could you tell if it was male or female or both?

24 A At the time I could tell it was a female, definitely.
25 But it could have been a male, but.

1 Q Okay. So when you got into the home -- did you enter
2 the home?

3 A Yes.

4 Q Tell us what you saw and what you did?

5 A The front door was opened. I entered the residence
6 where I observed a 16 year old juvenile lying on the
7 kitchen floor on his side. He was motionless when I
8 made contact with him. I immediately ran over to
9 render aid to him. And his mother was, I believe,
10 kneeled down beside him trying to keep him calm.

11 Q Do you recall the person who was having a seizure,
12 what his name was?

13 A His name was Donquiel T.

14 Q Okay. So when you got in the house you saw his mom
15 there, what did you do?

16 A I asked her to move to the side and allow me to
17 render aid to the young man. I tried to sit him up
18 on his side to prevent him from swallowing his tongue
19 since he was having seizures. Yeah.

20 Q Was anyone else in the house?

21 A At the time I don't believe so. I don't remember
22 anybody else being in the house at that time.

23 Q Okay. While you were rendering aid to Donquiel T. --

24 A Right.

25 Q And the mother was there with you, did anyone come

1 into the house?

2 A The young man's father, Bernard Teasley, he came into
3 the house. And when Bernard came -- when he came in
4 he was yelling and screaming. I immediately directed
5 my attention towards him. Because at the time I felt
6 threatened the way he came in the house. He was
7 yelling and screaming. I asked him to calm down.
8 Because as soon as he came into the house the young
9 man, he started -- like he had some type of reaction
10 or having another seizure. So I asked the gentleman,
11 Mr. Teasley, to calm down so that EMS could come in
12 and render aid to this young man. Because he was
13 delaying the process by him causing a disturbance
14 inside the residence.

15 Q I'm going to stop you right there. When you Bernard
16 Teasley, is that Christopher Bernard Teasley?

17 A Yes.

18 Q Is that man in the courtroom?

19 A Yes, he is.

20 Q Point him out, please.

21 A Right there in the black shirt and tie.

22 Q You're referring to the Defendant, Christopher
23 Bernard Teasley?

24 A Yes.

25 Q Okay. When you asked -- excuse me, when you asked

1 Mr. Teasley, the Defendant, to calm down and you saw
2 the reaction it was having on the victim, what did he
3 do?

4 A He continued to cause a disturbance. I mean, like I
5 said, I had to say it several times. Asking him to
6 calm down.

7 Q Was he screaming?

8 A Yes, he was screaming.

9 Q Yelling?

10 A Yes.

11 Q Was he interfering with what you're trying to do--

12 MR. COOKE: Your Honor, I object, she's leading
13 the witness.

14 THE COURT: Okay. All right. At this point I'm
15 going to -- I'll sustain your objection.

16 Ladies and gentlemen, a leading question is a
17 question which contains in it the answer to the question
18 itself. And often times what means is the witness has not
19 been required to do any cognitive process and think about
20 the answer. And the answer is supplied for him. Under
21 certain circumstances you can lead. Under certain
22 circumstances you can't lead. And I have to make a
23 decision based on objections whether I think it causes for
24 him to actually think and respond to a question,
25 cognitively or whether it just calls for a yes and no. In

1 this instance I think that we kind of started leading so
2 I'm going to sustain the objection. I'm going to let
3 Ms. case continue her examination.

4 Go ahead.

5 MR. COOKE: Thank you.

6 BY MS. CASE:

7 Q What was Donquiel T. reaction? Did his condition
8 change when Mr. Teasley, the Defendant, came in the
9 house?

10 A Absolutely. His reaction definitely changed. Like I
11 said, when I first entered the house and began
12 rendering aid to the young man, he was lying still.
13 I could tell that he was upset but he wasn't
14 actually -- I don't believe he was having a seizure.
15 When his father, Chris Teasley, came into the house,
16 he immediately, because he was yelling and screaming,
17 the young man immediately started shaking and going
18 into some type of reaction. You know, at that time.
19 And as the officer, the responding officer, I'm
20 trying to keep this kid calm down. And also telling
21 his father to, you know, move out of the way, you
22 know, calm down. So that I could call EMS inside the
23 house. You know, EMS will not come in the house if
24 it's a hostile environment. So it's my job to secure
25 that house and make it a safe environment for them to

1 come in and do their job.

2 Q Was it safe with the Defendant in there acting this
3 way?

4 A No, it was not safe at all.

5 Q Did other deputies arrive at [REDACTED] ?

6 A Yes.

7 Q Tells us what happened when the other deputies
8 arrived?

9 A When the other deputies arrived, they came into the
10 house. I requested for two deputies to detain
11 Mr. Chris Teasley due to his aggravated nature. I
12 requested for them to detain him so that I could
13 allow EMS -- because minutes were going by. I
14 believe, it was probably 15 to 20 minutes had went by
15 and this young man hasn't had any medical attention
16 because we can't get Mr. Teasley to calm down. So I
17 asked the other officers to detain him and take him
18 outside.

19 Q At this point the attention to you was what?

20 A Well he was placed into investigative detention. He
21 was not under arrest at this time. Just keeping in
22 mind what was going on with his child. We just want
23 to get the young man help inside the house at that
24 time.

25 Q Was the Defendant handcuffed?

1 A He was handcuffed.

2 Q Was he taken outside?

3 A Yes, he was taken outside to the patrol car.

4 Q Once the Defendant was taken outside, what did you
5 do?

6 A Well I stayed in the house with Donquiel T. . And
7 continued to try to do what I can do to try to keep
8 him calmed down. Then I called EMS in. Once we got
9 Mr. Teasley out of the house, actually we had to
10 detain his mother, Donquiel T. mother as well. I
11 believe Ms. Abram. We had to detain her as well
12 because as we were detaining Mr. Teasley, Ms. Abrams
13 stepped in and actually was interfering with us
14 getting him out of the house. We asked her to move
15 back several times. She refused to so she had to be
16 placed in handcuffs as well. Because she was
17 interfering with us getting him out of the house so
18 we could get EMS in there so.

19 Q Okay. So once you had that house cleared EMS came
20 in, what did you do then?

21 A Once EMS -- I had to brief EMS of what I saw when I
22 got on the scene. What type of reactions that I
23 witnessed from the young man. And once I did that I
24 asked that the residents to go outside and speak with
25 other witnesses outside in reference to the assault

1 and battery incident.

2 Q Okay. When you went outside, I know it's chaotic,
3 but when you went outside, where was the Defendant?

4 A I believe the Defendant was inside of a patrol car.
5 Or he was standing outside of a patrol car, I'm not
6 exactly sure.

7 Q Had he been placed for there for the investigative
8 detention?

9 A Yes. He was taken outside, just a safety, just to
10 get him away from the immediate area where EMS needed
11 to come do their job. So he was taken outside to a
12 patrol car.

13 Q Okay. And did you make contact with him again?

14 A Yes, I did.

15 Q Tell us about that.

16 A I went outside and I spoke with him. And I advised
17 him -- I talked with Mr. Teasley and I told him that
18 I did not want to place him in the handcuffs but that
19 we could not have that type of behavior on the scene.
20 Even with me explaining that to him, he continued to
21 cause a disturbance, cursing. He was just out of
22 control. I mean, it was uncontrollable. So at that
23 time I advised him that he was under arrest. I made
24 the decision right then that he was under arrest and
25 he was going to go to jail.

1 Q And for what was he under arrest?

2 A He was under arrest for interference.

3 Q And once you placed him under arrest for interfering
4 with an officer, with the investigation?

5 A Yes.

6 Q What was -- what was done with Mr. Teasley then, the
7 Defendant?

8 A Well, he continued to be verbally combative. Leaping
9 to me, also charged him with public disorderly
10 conduct. Which he was cursing and causing a
11 disturbance in the roadway so I placed another charge
12 on him.

13 Q Were there other people -- I don't mean to interrupt
14 you but what was the scene like outside?

15 A It was a lot of bystanders standing around,
16 neighbors, whatnot. I believe his step-son was still
17 around in the area with his girlfriend or wife. The
18 parties that were involved in the first incident with
19 the assault and battery. They were standing there.
20 There was a lot of neighbors standing, it was a bunch
21 of people standing around, just a big commotion.

22 Q Okay. And was the Defendant placed into the patrol
23 car?

24 A Yes, he was placed in the patrol car at this time
25 after he was advised that he was under arrest.

1 Q And did things stop once he was placed in the patrol
2 car?

3 A No, it didn't.

4 Q Tell us about that.

5 A Actually, when he was placed in the patrol car, I
6 walked away and went to the EMS truck to check on
7 Donquiel T. I just wanted to check because I have to
8 get certain information for my report on the
9 incident. I went to go speak with some EMS workers
10 to see -- well to check on Donquiel T. trauma score.
11 And as I was talking with the EMS guys, I could hear
12 a disturbance going on down by the patrol car. So,
13 of course, my attention was directed back down the
14 road. Where I ran down the road and assisted other
15 officers who were trying to take Mr. Teasley out of
16 the car at this time. Evidently I was told by the
17 other officers that he was banging his head against
18 the window and trying to kick Deputy Payne's window
19 out of his car.

20 We attempted to try to get Mr. Teasley out and
21 in the midst of that an officer was assaulted in the
22 face. We had a hard time trying to restrain him. We
23 had to put him in hobble restraints. And during all
24 this time, I mean, he continued to be combative,
25 resisting arrest. I mean, we gave him several

1 warnings to stop resisting and he continued.

2 Q Deputy Bowers, I don't know if you saw, but what do
3 you know about the Defendant assaulting the police
4 officer? Where were you?

5 A I was actually on the other side of the car. Like I
6 said, I ran down to the car, I didn't actually
7 visibly see his feet touch Deputy Cunningham's face
8 but I did hear Deputy Cunningham yell --

9 MR. COOKE: I object.

10 THE WITNESS: --that he had just been kicked.

11 THE COURT: All right, I overrule the objection.

12 THE WITNESS: Deputy Cunningham, he made a
13 utterance letting us know that he had been assaulted in
14 some type of manner. And there were three officers at the
15 back seat at the time. Two on one side of the car and me
16 on the other side of the car. In which Deputy Swanson
17 stepped in immediately and she yelled, OC, OC, OC and she
18 sprayed Mr. Teasley.

19 Q Explain to us what OC is.

20 A OC is a cap-stun spray that we use. It's a level
21 of -- well a level of force that we use to gain
22 control of unruly people.

23 Q Were there several officers in close proximity to the
24 OC spray?

25 A Yes, unfortunately it was.

1 Q Did you and other officers suffer some of the effects
2 of that as well?

3 A Yes, myself and Deputy Cunningham were also OC'd.

4 Q Couple more questions. Were you aware of the
5 information that was given to the 911 operator about
6 a possible weapon?

7 A I don't recall if it was a weapon mentioned. I don't
8 believe that my report, if you can give me just a
9 second to see if my report reflected... I don't
10 believe I have anything in my report. I don't have
11 no recollection of that.

12 MS. CASE: Thank you, I don't have any further
13 questions.

14 CROSS-EXAMINATION

15 BY MR. COOKE:

16 Q Regarding the weapon, Officer, as a matter fact, you
17 talked with the step-son, he didn't mention any
18 weapons, did he? On the assault case.

19 A No, sir, I don't believe he did.

20 Q Okay. And regarding the first time you're saying
21 that you, you just simply had my client detained, is
22 that correct?

23 A Yes, sir.

24 Q In your patrol car, and I know there were videos, I
25 don't know if it was yours or somebody elses. Do you

1 have video in your patrol car?

2 A I do have video in my patrol car, sir, but he was not
3 detained in my car.

4 Q Okay. And did you have your video on at the scene?

5 A No, sir.

6 Q You also have audio on you personally?

7 A Yes, sir.

8 Q Okay. Did you have your audio on at that time?

9 A I did not. I did not.

10 Q Okay. So none of your conversations, although you
11 had all this equipment there on the scene, none of it
12 was recorded or videoed, is that correct?

13 A No, sir.

14 Q By you?

15 A No, sir.

16 Q No one was in the house with you and my client's
17 wife, just three of you in the house at that time.
18 And I believe is that when you told him that when the
19 other officer arrived, you wanted him detained, is
20 that correct?

21 A Yes, sir.

22 Q And detain doesn't mean arrested, right?

23 A That's right.

24 Q You told him he wasn't under arrest?

25 A I did not tell him that he wasn't under arrest. I

1 told him -- I told the other officers to place him in
2 handcuffs immediately and get him out of the
3 residence.

4 Q Well I thought -- I must have misunderstood you. I
5 wrote down you said, You're not under arrest at this
6 time. So you didn't say that?

7 A I don't remember saying that. With all the commotion
8 going on inside the house, I don't remember saying
9 that.

10 Q But if you said --

11 A Not under arrest --

12 Q -- it, it's on tape. So, I mean, we can replay it,
13 okay. So we don't have an audio, we don't have the
14 video, you had all this equipment with you. And you
15 say that my client became more combative and you
16 actually arrested him?

17 A Yes.

18 Q Okay. Did you arrest him before the other officer
19 arrived or after the other--

20 A The other officers were already on the scene.

21 Q Okay, who was with you when you actually arrested him
22 and charged him?

23 A Well, like I said the other officers were on the
24 scene, we were standing outside the car, I engaged in
25 conversation with Mr. Teasley. And I told him that

1 he was under arrest.

2 Q Okay. That was at the patrol car. But what I'm
3 asking you is who was there when you placed him under
4 arrest for interfering?

5 A It was several officers on the scene. I can't tell
6 you who was actually standing beside me or.

7 Q So you don't know who heard you say --

8 A I don't know, sir. I was engaged in conversation
9 with Mr. Teasley.

10 Q Okay. Then you don't have any knowledge who was
11 standing there when you said, Mr. Teasley, you're
12 under arrest for interfering with a police officer?

13 A It was several officers on the scene, sir.

14 Q So one of the officers that will come in here today
15 was on the scene?

16 A Yes, sir.

17 Q Okay. Now, at what point in time did you -- of
18 course, it's pretty normal to advise them of their
19 rights once they're arrested, isn't that correct?

20 A Yes, sir.

21 Q I was looking at your report, I don't see anything in
22 here where you advised him of his rights at any time?

23 A I don't remember advising him of his rights.

24 Q Okay. But that's normal procedure when you -- y'all
25 put somebody under arrest, y'all are taught to read

1 them their rights, right?

2 A Well Miranda Rights or if I'm going to question that
3 subject about a crime that he's committed, I'll read
4 him Miranda. I never questioned him about a crime
5 that he committed. He committed a crime and I told
6 him that he was under arrest and I placed him in the
7 car. So I never questioned him after that.

8 Q Well you don't know at the time whether you
9 questioned him or not, do you?

10 A I never questioned him after that, so.

11 Q Well let me just ask you, you're trained to normally
12 read them their rights once they're arrested?

13 A If -- some types of crimes we do advise Miranda.

14 Q Excuse me, just a moment, please. I want to talk to
15 you just a little bit about the charge of interfering
16 with a police officer. And also the disorderly
17 conduct. Do you remember my client appearing at
18 Judge Garrett's on the date that he was supposed to
19 regarding those two charges?

20 A Yes, sir.

21 Q Did he have a lawyer at that time?

22 A I can't remember. I don't believe so.

23 Q Did you take him in front of the Judge?

24 A I don't believe so.

25 Q Okay. So I just want to show you this document

1 that's printed out. It says here that he was found
2 guilty at a bench trial and got credit for time
3 served. So then he didn't have a bench trial, did
4 he?

5 A He pled guilty and I gave him time served.

6 Q So you gave him time served? He pled guilty and you
7 gave him time served. Isn't that the Judge's
8 function?

9 A Well I spoke with Judge Garrett about it. I mean, I
10 didn't actually make the decision. But, I mean, I
11 spoke with Judge Garrett about it.

12 Q So you don't take him in front of the Judge?

13 A Sir, honestly I can't even remember if we actually
14 stood in front of the Judge. Like I said, I spoke
15 with Judge Garrett on the incident.

16 Q Then you gave him credit for time served and wrote it
17 off. Did you tell him that you were going to dismiss
18 the charges?

19 A I did.

20 Q Just a bad misunderstanding?

21 A I was trying to be understanding to what was going
22 on. I told Mr. Teasley that I understood it was an
23 emotional time where his son having, you know, those
24 medical issues. He came to court, he was respectful,
25 he apologized to me. I even believe that he wrote me

1 an apology letter about his behavior that night. And
2 I talked with him, me and him talked for probably 45
3 minutes when he came to court. And that was my
4 reason for dismissing the charge.

5 Q So then the charges were actually supposed to be
6 dismissed, is that correct?

7 A Yes.

8 MR. COOKE: Okay, I have no further questions.

9 REDIRECT EXAMINATION

10 BY MS. CASE:

11 Q First Officer Deputy Bowers, the charges that you
12 dismissed were for what, interfering and disorderly
13 conduct?

14 A Yes.

15 Q What were your reasons for that?

16 A Like I said before, just trying to be understanding
17 as to what was going on. He and his wife both showed
18 up for court. You know, they were very respectful to
19 me. Both parties were apologetic. You know, I asked
20 about their son. You know, I told them that I
21 understood, you know, try to understand their
22 emotions. And I explained to Chris and his wife that
23 we did not want to do what we did by placing him in
24 the handcuffs and hauling Chris off to jail. I
25 explained to him that none of that was supposed to

1 happen. And that he was asked several times -- and I
2 explained to him, you know, in the future when law
3 enforcement figure ask you to do something, that's
4 what you need to do.

5 Q Those were the interfering and disorderly conduct?

6 A Yes.

7 Q You knew he still had a pending resisting arrest with
8 assault, didn't you?

9 A Yes.

10 Q And you never -- did you ever say anything that would
11 make him believe that those charges would be
12 dismissed?

13 A No, I did not.

14 Q And Deputy Bowers, Miranda, can you read us Miranda?

15 A I'm sorry?

16 Q Can you read us Miranda warning?

17 A Yes. You have the right to remain silent. Anything
18 you say can and will be used against you in a court
19 of law. You have the right to an attorney. If you
20 cannot afford an attorney one will be appointed to
21 represent you at any time during questioning. Having
22 all these right in mind, do you wish to answer any
23 questions at this time, yes or no?

24 Q So this right has to do with statements made by the
25 Defendant?

1 A Yes.

2 Q Did you ever question the Defendant?

3 A I did not.

4 Q Did you witness the charges that you--

5 A Yes, I did. It was freshly committed.

6 Q And you saw it?

7 A In my presence.

8 Q So you didn't need to ask him any questions?

9 A No, I did not.

10 MS. CASE: Thank you.

11 MR. COOKE: Just one follow up.

12 RECROSS-EXAMINATION

13 BY MR. COOKE:

14 Q I misunderstood, I thought you said you didn't see --
15 you didn't see any assault?

16 A This was not about the assault. He was not placed
17 under arrest for assault and battery. He was placed
18 under arrest for interfering and public disorderly
19 conduct which was in my presence.

20 Q Okay. But somebody else charged him with it?

21 A He was not charged with assault and battery. It was
22 a complaint withdraw signed with both parties before
23 leaving the scene.

24 Q No, no, I'm not talking about that case, I'm talking
25 about the one we're here on today, the resisting

1 arrest.

2 A Yeah.

3 Q You charged him with that?

4 A I did not charge him with resisting arrest, sir.

5 MR. COOKE: Thank you, very much, officer.

6 FURTHER REDIRECT EXAMINATION

7 BY MS. CASE:

8 Q Who did charge him with resisting arrest?

9 A Deputy Cunningham.

10 Q Was Deputy Cunningham the victim in that.

11 A Yes, he was.

12 Q Thank you.

13 A Thank you.

14 MS. CASE: I don't have any further questions.

15 THE COURT: All right, thank you, Deputy, I
16 appreciate your being here, sir.

17 THE WITNESS: Thank you. Yes, sir.

18 THE CLERK: Place your left hand on the Bible,
19 raise your right hand.

20 BENJAMIN TICE, after being duly sworn, testified
21 as follows:

22 THE CLERK: Thank you, you may be seated. State
23 your name for the record.

24 THE WITNESS: Benjamin Tice.

25 THE CLERK: Thank you.

1 MR. COOKE: I didn't here his last name, I'm
2 sorry.

3 THE COURT: Tice, T-I-C-E.

4 MR. COOKE: Thank you.

5 THE COURT: Yes, sir.

6 DIRECT EXAMINATION

7 BY MS. CASE:

8 Q Deputy Tice, where are you employed?

9 A Greenville County Sheriff's Office.

10 Q What are your duties with the sheriff's office?

11 A I'm assigned in uniform patrol.

12 Q Were you working on November 14th, 2010?

13 A Yes, ma'am.

14 Q And did you respond to a 911 call at [REDACTED]

15 [REDACTED] on November 14th about 8:30?

16 A Yes, ma'am.

17 Q All right. And were there other officers at the
18 scene when you got to the scene?

19 A Yes, ma'am.

20 Q All right. And what was the nature of the call?

21 A It was a disturbance. Verbal slash physical
22 altercation.

23 Q Okay. And were you dispatched initially there or
24 were you responding to a need for additional
25 officers?

1 A I was responding in addition for -- because another
2 deputy had called for assistance.

3 Q Okay. When you got there, what was the scene like on
4 the outside?

5 A Fairly chaotic. A lot of people in the street. They
6 were starting to disburse by the time I arrived. As
7 I got out of my vehicle I was directed to inside
8 where deputies were beginning to deal with or in the
9 process of dealing with other family members.

10 Q Okay. When you got inside, tell us what you did.

11 A I went inside. I assisted at first. There was a
12 large group or a group of children in there. I
13 assisted Deputy Payne with -- he was attempting to
14 put -- or to restrain the Defendant. And once he had
15 completed that, himself and another deputy escorted
16 the Defendant out. And I took custody -- well didn't
17 take custody, I began taking care of the children,
18 moving them out of the room. Because they didn't
19 need to be present for all of police presence and
20 just the general chaotic scene.

21 Q And did you take them to another room in the house or
22 did you take them outside?

23 A Took them to another room.

24 Q Okay. And what else do you know about this whole
25 incident? When did you come out?

1 A I came out -- as far as the -- after pretty much the
2 actual interfering and that kind of thing involving
3 the other deputies, that had already been done. I
4 came out after the fact. Just -- I was obtaining
5 information, that kind of thing. For the actual
6 incident report. As far as observing the incident
7 out in the street, what went on out there, I didn't
8 observe any of it.

9 Q Because you were helping out with the children
10 inside?

11 A Yes, ma'am.

12 Q You did see though--

13 MR. COOKE: I object, leading again.

14 BY MS. CASE:

15 Q Was the Defendant in the room when you went into the
16 house?

17 A Yes, ma'am.

18 Q Okay. And prior to going to another room, what
19 happened with the Defendant?

20 A He was being rather loud, belligerent. I believe his
21 son or -- I believe it was his son, was on the floor.
22 EMS was attempting to render aid to him. And that's
23 when I came in, Deputy Payne was attempting to
24 restrain the Defendant. And I just, like I said, I
25 assisted by holding on to his arm while he was

1 putting the cuffs, the restraints on his wrists.

2 MS. CASE: Thank you, Deputy Tice.

3 MR. COOKE: Just a couple of questions.

4 CROSS-EXAMINATION

5 BY MR. COOKE:

6 Q Did you go with Deputy Payne out to the car with my
7 client?

8 A No, sir.

9 Q Did Deputy Payne walk out the door?

10 A He -- I believe with another deputy escorted the
11 Defendant out to the car.

12 Q Do you remember who that was?

13 A I believe Deputy Shaw.

14 Q Okay. And they put him in whose car?

15 A Department Payne's, I believe. Like I said, I wasn't
16 out there but knowing right after the fact, walking
17 out.

18 Q Do you remember whether Bowers was with them when
19 they took him out to the car or not?

20 A No, sir. Like I said, I was inside.

21 Q So you really don't know much about anything --

22 A About the incident that occurred out in the street,
23 no, sir.

24 MR. COOKE: Okay. All right. Thank you, very
25 much.

1 I have no further questions.

2 MS. CASE: One further question.

3 REDIRECT EXAMINATION

4 BY MS. CASE:

5 Q Deputy Payne, where is he this week?

6 A I believe he's on--

7 MR. COOKE: Judge, I object. That's not
8 responsive to my cross-examination.

9 MS. CASE: Well I believe he asked --

10 MR. COOKE: Well it might have been. Go ahead,
11 I'm sorry.

12 THE COURT: You asked the question --

13 MR. COOKE: I withdraw my objection.

14 THE COURT: Okay, go ahead.

15 BY MS. CASE:

16 Q Is Deputy Payne unavailable this week?

17 A Yes, ma'am.

18 Q Due to prior commitment?

19 A Yes, ma'am.

20 MS. CASE: Thank you.

21 THE COURT: Any re-cross based on that question?

22 MR. COOKE: No, I'd like to know where he is and
23 who's paying for the trip.

24 THE COURT: All right.

25 MR. COOKE: I withdraw that. I have no further

1 questions.

2 THE COURT: Appreciate you being here, thank
3 you. You can take off.

4 THE WITNESS: Thank you.

5 MS. CASE: Your Honor, I believe, if the Court
6 would allow to excuse Deputy Tice.

7 THE COURT: If there's no objections, I have no
8 problem with that.

9 MR. COOKE: None.

10 THE COURT: All right, he's excused. Call your
11 next witness.

12 THE COURT REPORTER: Who's your next witness,
13 please?

14 MS. CASE: Schall, Deputy Schall.

15 THE CLERK: Deputy Schall, place your left hand
16 on the Bible, raise your right to be sworn in.

17 WILLIAM SCHALL, after being duly sworn,
18 testified as follows:

19 THE CLERK: Thank you, you may be seated. State
20 your name for the record.

21 THE WITNESS: William Schall.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MR. CARPENTER:

25 Q Deputy Schall, you're employed with Greenville County

1 Sheriff's Office?

2 A Yes, ma'am.

3 Q Were you working with the sheriff's office on
4 November 14th, 2010?

5 A Yes, ma'am.

6 Q And did you respond to [REDACTED] to a 911
7 call?

8 A Yes, ma'am.

9 Q And do you remember were you one of the initial
10 dispatched deputies or were you responding to
11 additional units needed?

12 A I believe I was one of the initial deputies that were
13 sent to that call.

14 Q All right. When you -- do you recall the nature of
15 the call, the 911 call?

16 A Yes, a fight in the street. And a young boy having a
17 seizure inside the residence.

18 Q Okay. And when you got to [REDACTED], what was
19 the outside like, the outside of the house like?

20 A Right before I arrived, Deputy Bowers had called for
21 more units to run lights and sirens because he had a
22 large crowd inside and outside. When I pulled up
23 there was a lot of people outside. I put my siren on
24 to kind of disburse the crowd. And I got out with
25 two younger black males that were yelling and

1 screaming. There's a lot of people running away.

2 And Deputy Payne went inside the house.

3 Q Did you go inside the house?

4 A I saw Deputy Payne, they were yelling for kind of
5 more help. So I went inside to help Deputy Payne and
6 the other deputies inside escort people out.

7 Q Okay. And when you went inside, tell us who was, the
8 best you can, tell us who was in the room or what you
9 saw?

10 A The first time I went inside, I saw Deputy Payne with
11 the Defendant trying to bring him outside. There's a
12 lot of people yelling about this young boy that was
13 on the ground. Deputy Bowers was by the boy. I
14 helped Deputy Payne get the Defendant from the house
15 to his patrol car to go ahead and secure him there.
16 To help diffuse the situation so EMS could come in
17 and work on the young kid.

18 Q Okay. So EMS had not come in when you went in the
19 house.

20 A No, I went back a second time and helped the mother
21 out of the residence.

22 Q Okay. Let's go back to the Defendant, the father of
23 the young man that was having a seizure. What was
24 going on with him, what were his actions?

25 A He was yelling, screaming, not complying with Deputy

1 Payne. Deputy Payne was trying to tell him to come
2 on outside, just follow his commands to come outside
3 and he wasn't listening.

4 Q Okay. And was he then handcuffed and taken outside?

5 A He was handcuffed and taken outside.

6 Q All right. And you stated that you went back in to
7 help get the mother out, is that correct?

8 A Yes.

9 Q When you took the mother outside, did you stay with
10 her or did you go back and have involvement with the
11 Defendant?

12 A The majority of the time I stayed with the mother.
13 She was complaining of some type of asthma attack and
14 chest pains. And I requested another ambulance for
15 her. I did go over back by the Defendant after
16 Deputy Cunningham had kind of stepped back from the
17 car and was holding his nose. I asked him what
18 happened and he said he had been kicked in the face.
19 I drew my taser and told the Defendant to stay --
20 well basically to listen to my commands or he was
21 going to get tased. He had already been sprayed. He
22 was still combative towards us. Finally we were able
23 to restrain him inside the car.

24 Q And this was after Deputy Cunningham -- the incident
25 with Deputy Cunningham, is that correct?

1 A Yes, sir.

2 Q So you did not see that?

3 A No.

4 Q Deputy Schall, were you with the Defendant or with
5 the mother -- did you hear him being placed under
6 arrest?

7 A Deputy Bowers placed him under arrest. He had been
8 pulled out of the car and he was told that he would
9 be placed under arrest for interfering and public
10 disorderly conduct since he would not cooperate with
11 any of our commands for all that time. We had given
12 him multiple chances to go ahead and calm down for a
13 minute.

14 Q Okay. Did you say you did call EMS for the mother?

15 A Yes.

16 MS. CASE: I don't have any further questions,
17 thank you.

18 CROSS-EXAMINATION

19 BY MR. COOKE:

20 Q When all this second -- I think you said you and
21 Officer Payne took him out to the patrol car, is that
22 correct?

23 A Yes.

24 Q Did you put him inside?

25 A We put him in the back seat, yes.

1 Q How did all the -- the second event occurred, that's
2 when Bowers put him under arrest? I mean, what
3 caused that?

4 A I'm not Deputy Bowers, I can't tell you why Deputy
5 Bowers pulled him out the car.

6 Q Well you're there, you said you heard it?

7 A I heard him tell him he was under arrest for
8 screaming in public and interfering with us.

9 Q So you say y'all got him out of the car, he was in
10 the car?

11 A I didn't say I got him out the car. Deputy Bowers
12 got him out.

13 Q No, I said, you got him in the car?

14 A Yes.

15 Q Okay. Then Bowers came out and got him out the car?

16 A Yes.

17 Q Why did he do that?

18 A At that time I had already gotten the mother out and
19 EMS was able to go work on their son.

20 Q That didn't answer my question.

21 A What's your question?

22 Q Do you have any idea why Bowers yanked him out the
23 car? Got him out the car?

24 A I'm not Deputy Bowers, I can't tell you why Deputy
25 Bowers did something.

1 Q Well you were standing there--

2 MS. CASE: Your Honor, I believe he's answered
3 the question, he's been asked three times.

4 THE COURT: Okay, I sustain it.

5 BY MS. CASE:

6 Q Were you standing there or not?

7 A I was standing there.

8 Q Okay. So what I'm asking is, what would cause Deputy
9 Bowers to yank him out the car?

10 A He was yanked. He could have been pulled out for--

11 MS. CASE: Your Honor, calls for speculation on
12 part of Deputy Schall trying to figure out why Deputy
13 Bowers did something.

14 MR. COOKE: Let me rephrase it.

15 THE COURT: Okay, he was answering the question.
16 I'll allow him to answer the question. I think he's doing
17 a fine job.

18 THE WITNESS: Okay, he could have been pulled
19 out to have been told, okay, now that your son has been
20 seen by EMS, we're going to go ahead and release you. I
21 mean, there could have been a whole bunch of different
22 reasons why he was pulled out. But I'm not Deputy Bowers,
23 I can't answer what was going through his mind.

24 BY MR. COOKE:

25 Q Well did you hear him say, You're under arrest?

1 A For being drunk and disorderly in public, yes.

2 Q Drunk and disorderly in public. And what else did
3 he...

4 A Interfering.

5 Q Interfering. And you heard him after he said that,
6 after he yanked him out of the car?

7 A He was standing outside the car.

8 Q Who was standing outside?

9 A Both Deputy Bowers and the Defendant.

10 Q So he got him out the car? I mean, was he doing
11 anything prior to Bowers getting there? I mean, you
12 already had him in the car.

13 A What do you mean prior to Bowers getting there?

14 Q Well what I'm saying is you and Officer Payne had him
15 in the car?

16 A Yes. Then I went back inside the residence and got
17 Ms. Abrams, brought her to my car and had her sit in
18 the back of my car. She was complaining of chest
19 pains and a asthma attack. I stayed with her until
20 EMS came and relieved me. Deputy Bowers had pulled
21 him out by that point and I walked over.

22 Q You walked over and heard him say after he had pulled
23 him out?

24 A After he had already done everything.

25 Q So you didn't hear anything that was going on, you

1 didn't hear my client hollering or being boisterous
2 at that time?

3 A I was dealing with a different situation. But he was
4 yelling and screaming the whole time I was dealing
5 with him. And that was in a public area while we
6 were walking him to the car.

7 Q Did you hear him screaming, Y'all are killing my son?

8 A I don't recall that.

9 Q You don't recall that?

10 A No.

11 Q Don't recall him saying, Help, somebody help me?

12 A Help who?

13 Q Help him?

14 A When?

15 Q Get out of the car. You ever hear him say that, Help
16 me. My son, you're killing my son?

17 A When would he have said that?

18 Q I don't know, I asked you the question. Did you ever
19 hear him say that?

20 A I never heard him say that.

21 Q Well your ears were sharp enough that you heard
22 Officer Bowers and you didn't hear any yelling on my
23 client's part about--

24 A You're not telling me --

25 Q -- the fear of his son's safety?

1 A But you're not telling me when. I don't know when
2 this happened. I was dealing with multiple
3 situations. Like we told you when we pulled up there
4 was people fighting in the street, there was
5 commotion inside the house. I was talking to people
6 in front of the house. I assisted the mother from
7 the house. She was complaining of a heart attack,
8 she was complaining of a asthma attack. I'm sorry I
9 didn't hear him yelling. I was assisting one person
10 at a time. I'm only one person.

11 Q So you didn't hear him yelling?

12 A I didn't hear him yelling --

13 MR. COOKE: Thank you, very much --

14 THE WITNESS: -- about being injured.

15 MR. COOKE: Thank you, Your Honor.

16 MS. CASE: Your Honor, I'd ask that he be
17 allowed to finish his answer. I didn't hear the yelling
18 about...

19 THE COURT: Did you finish your answer?

20 THE WITNESS: I didn't hear him yelling about an
21 injury or any type of your killing my son. I did not hear
22 that.

23 THE COURT: All right, any redirect?

24 MS. CASE: I don't have any further questions,
25 Judge.

1 THE COURT: Thank you, appreciate your being
2 here.

3 Any objections to Deputy Schall being released
4 today?

5 MR. COOKE: Absolutely not, Judge.

6 MS. CASE: Your Honor, may Mr. Cooke and I
7 approach?

8 THE COURT: Certainly, come on up.

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury but out of the hearing of
11 the jury.)

12 THE COURT: All right, ladies and gentlemen of
13 the jury, what we're going to do next is watch a video,
14 I've been advised. That video is going to take about an
15 hour and 20 minutes. So what I want to do is take a short
16 break and let the Solicitor make sure that we got all of
17 the cameras working and they're set up. And then we'll
18 come back in and we'll watch that and then we'll adjourn
19 for the day after we've seen that. So please don't
20 discuss the case, we'll come back in just a few minutes.

21 (WHEREUPON, the jury left open court at
22 approximately 4:10 p.m.)

23 THE COURT: All right, we'll be in recess.

24 (WHEREUPON, a short break was taken.)

25 THE COURT: Ready for the jury?

1 MS. CASE: Yes, sir Your Honor.

2 MR. COOKE: Yes, sir.

3 THE COURT: Okay, bring them in, please.

4 (WHEREUPON, the jury came into open court at
5 approximately 4:23 p.m.)

6 MS. CASE: Call Ashley Swanson.

7 THE COURT: Okay.

8 THE CLERK: Place your left hand on the Bible,
9 raise your right.

10 ASHLEY SWANSON, after being duly sworn,
11 testified as follows:

12 THE CLERK: Thank you, you may be seated. State
13 your name for the record.

14 THE WITNESS: My name is Ashley Swanson.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MS. CASE:

18 Q Ms. Swanson, are you employed with the Greenville
19 County Sheriff's Office?

20 A Yes, ma'am.

21 Q And were you employed on November 14th, 2010?

22 A Yes, ma'am.

23 Q Did you respond to [REDACTED] in Piedmont
24 to a 911 call?

25 A Yes, ma'am.

1 Q And did you have a in-car video that ran that night?

2 A Yes, ma'am.

3 Q And your audio as well is on?

4 A Yes, ma'am.

5 Q Going to show you what's been marked as State's
6 Exhibit 2 for identification purposes. Can tell us
7 what that is?

8 A This is my in-car video that taped that night.

9 Q All right. And did you place this video in evidence?

10 A Yes, ma'am, I placed it in property and evidence.

11 Q And when did you pick it up?

12 A I retrieved it this morning.

13 MS.. CASE: Your Honor, I'd like to place this
14 into evidence.

15 THE COURT: Any objection?

16 MR. COOKE: I've already seen it, no objection.

17 THE COURT: All right, same is moved into
18 evidence as Plaintiff's Exhibit No. 2, is that right?

19 MS. CASE: Yes, sir.

20 (WHEREUPON, State's Exhibit No. 2 was admitted
21 into evidence.)

22 BY MS. CASE:

23 Q Deputy Swanson, I'm going to play the tape when began
24 at 20:47. And can you tell us before we get
25 started...

1 A 20:47 is approximately the time I arrived. Deputy
2 Bowers was already on scene. He had requested unit
3 signal one which is lights and sirens, it's an
4 emergency response. So when our lights and sirens
5 come on our video tape comes on automatically to show
6 video of while we're driving. I left it on because
7 of the situation and it recorded throughout while I
8 was there. The video is not clear because it's
9 outside of my car and a lot of it was inside but you
10 can hear most of the language.

11 (WHEREUPON, State's Exhibit No. 2 was played.)

12 BY MS. CASE:

13 Q I'm going to stop it right there and ask you a few
14 questions, Deputy Swanson. Were you -- you heard
15 about, I guess, 12 minutes, 12, 13 minutes, were you
16 with the Defendant that entire time?

17 A No, ma'am.

18 Q Okay. Where did you begin when you arrived at the
19 scene, where did you go?

20 A When I arrived I exited my vehicle, I found my way
21 into the residence. In the residence, from what I
22 remember, it opened into the living room. Deputy
23 Bowers was with the son near the kitchen and he was
24 trying to protect the son, he had his arms up. And
25 the Defendant, his wife--

1 Q Who had whose arms up?

2 A Deputy Bowers had his arms up to try to shield the
3 son because it was chaos inside. The Defendant was
4 in there, along with his -- I'm not sure of the
5 relationship, girlfriend, wife, was in and there's
6 probably other people. And there was no control.
7 EMS won't come into a situation like that. And with
8 him seizing [sic] it wasn't safe for us to bring
9 the son out. So we had to remove everybody within
10 the residence so EMS could come in.

11 Q Okay. And were you personally involved with removing
12 the Defendant from the home?

13 A No, ma'am.

14 Q Did you witness the Defendant's behavior in the home?

15 A I did.

16 Q Would you tell us about that.

17 A You can hear it, it's chaotic. Nobody would sit
18 still or listen.

19 Q Was that when the tape first started?

20 A Yes, ma'am. The commotion, that's exactly how it
21 sounded. It was very hard to speak to anybody, have
22 them listen or listen to them because it was chaotic.

23 Q Okay. So if you weren't involved with detaining of
24 the Defendant, what were you doing?

25 A I was trying to control his girlfriend, the son's

1 mother.

2 Q The seizure victim's mother?

3 A The seizure victim's mother. And I had to have
4 assistance with controlling her as well. I explained
5 to her I don't want to take her to jail, nor did she
6 go to jail that night, simply wanted to remove her to
7 get medical attention for her son.

8 Q Okay. And was the Defendant taken out of the house
9 before the mother was?

10 A He was.

11 Q Okay. And when your tape got quiet and you couldn't
12 hear any voices, what does that mean?

13 A Both of them are out of the residence and around that
14 time EMS is going in to help the son. And it starts
15 back up to get loud again. I'm walking past Deputy
16 Payne's car and I can hear the Defendant kicking the
17 doors and making commotion with inside the vehicle.
18 That's when it starts back up again.

19 Q Okay. And I just want to ask you, the mic on your
20 shoulder.

21 A Yes, ma'am.

22 Q Is that what's picking up all this?

23 A No, it's a separate -- it's a body mic.

24 Q But on you, on your person?

25 A Yes, ma'am. It's a separate piece that connects with

1 the car that you remove and put on your shoulder,
2 belt, pocket.

3 Q Okay. All right. In the tape, were there portions
4 in the tape where you could hear the Defendant in the
5 car with you outside the car?

6 A Yes, ma'am.

7 Q Okay. And one or two occasions that it got louder,
8 why did it get louder?

9 A I suggested that a hobble be placed around the
10 suspect's feet. And basically what that is is a --
11 it's a glorified belt. And it loops around their
12 feet so that they can't kick, which would protect him
13 from kicking a window out and cutting up his leg.
14 And so preserve his safety along with destruction of
15 the property of the county vehicle.

16 I suggested that we put that hobble around his
17 feet that connects to the car and it's secured inside
18 the car. When I suggested that, I originally tried
19 to put it on him. He made motions that he was going
20 to kick me. I didn't appreciate that. Nor did any
21 of my other officers, so they decided they would take
22 care it for me. That's when Charlie 30, which is
23 also Deputy Cunningham, we're using numbers that
24 means we're using unit numbers. Charlie 30 is Deputy
25 Cunningham, he took the hobble from me. He went to

1 the passenger side and attempted to hobble the
2 suspect and he also actually kicked him.

3 And he says, Don't kick me.

4 And I believe that's what you're referring to.

5 Q Where, while we are on this, where were you when
6 Deputy Cunningham was kicked?

7 A I was on the driver side by the back door.

8 Q Where was Deputy Cunningham?

9 A On the passenger side by the back door.

10 Q Okay, could you see him get kicked?

11 A I could see -- I never actually saw contact to
12 contact but I could see the Defendant's leg moving
13 towards his face. Because you have to crouch down to
14 get close to the feet to be able to put the hobble
15 on.

16 Q Okay. And it was dark outside?

17 A Yes, ma'am.

18 Q And what did Deputy Cunningham do, did you see what
19 he did when he was kicked?

20 A He went backwards quickly.

21 Q Okay. And what were your actions then?

22 A I felt that Deputy Cunningham's safety was in
23 jeporady so I deployed my OC spray, which simply put
24 is pepper spray. I sprayed it within the vehicle to
25 inhibit his actions.

1 Q Okay. So when we heard on the tape somebody saying,
2 OC --

3 A That's me.

4 Q Okay. Was that immediately after Deputy Cunningham
5 being kicked?

6 A Yes, I probably had some kind of delayed reaction,
7 yeah.

8 Q When you're asking, Are you all right? Who are you
9 talk to?

10 A Probably Deputy Cunningham. Because I don't know how
11 severe his injuries are. He's kicked in the head, he
12 could be unconscious, I don't know necessarily.

13 Q I'm going to go back, I know it was chaotic, I know
14 there were a lot of officers, if you don't know, I
15 understand. But while you were outside, could you
16 hear the Defendant?

17 A Yes.

18 Q Whether he was in the car or out?

19 A Yes.

20 Q And you did open the car door at least on two
21 occasions?

22 A Personally open the car door? From the video tape it
23 sounds like it.

24 Q Okay. When it got louder?

25 A That would be reasonable, yeah.

1 Q And the time that you weren't closest to the
2 Defendant when you were outside, where were you?

3 A Going back and forth between everyone outside. A
4 large crowd gathered, neighbors, whatnot trying to
5 figure out what was going on. I needed them to make
6 sure that they were okay but also remove them from
7 the scene. I know that the victim's mother was
8 having an asthma attack. So at one point I believe I
9 tried to retrieve her an inhaler. Deputy Schall
10 later took care of her and EMS or whatnot. I did
11 several things.

12 Q Okay. On the tape we hear, I don't know if it was
13 you or another deputy, talking to another subject, do
14 you know who that was?

15 A The third unknown voice?

16 Q Uh-huh.

17 A I believe there is two young males sitting near that
18 car.

19 Q Did you talk to the Defendant's oldest son?

20 A I don't remember.

21 MS. CASE: Okay, I don't have any further
22 questions right this minute.

23 THE COURT: That's good if you want to go ahead
24 and cross-examine her on the tape, that's good as far as
25 I'm concerned.

1 MS. CASE: I don't have any further questions.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. COOKE:

5 Q Officer Swanson, I also heard on that tape my client
6 say, I didn't kick you.

7 A Yes, sir.

8 Q You failed to mention that.

9 A I wasn't the one that was assaulted. I believe he
10 attempted to kick me but I was never injured. It was
11 Deputy Cunningham who was injured.

12 Q Did you see blood or anything on the officer's face
13 get injured?

14 A I don't remember seeing blood.

15 Q Did you take -- anybody go to the hospital and get
16 emergency treatment or anything?

17 A I don't know personally.

18 Q Oh, you don't. Where did you go?

19 A I had other calls I had to answer after that. I
20 didn't take him to the hospital, I know that much.

21 Q Now, you say y'all were trying to hobble him. At
22 your request you wanted him hobbled, right?

23 A Yeah, for his safety.

24 Q Not at Bowers request, it was your request.

25 A It was my request. Because I was the one that was

1 closest to him and saw how he was acting and felt
2 that was my responsibility.

3 Q Well did you put him under arrest at that time?

4 A No, but he didn't have to be under arrest to be
5 hobbled.

6 Q I'm sorry?

7 A You don't have been under arrest to be hobbled.

8 Q So you don't know whether he was under arrest or not?

9 A No.

10 MR. COOKE: Okay. I have no further questions.
11 Thank you, very much.

12 THE COURT: Any redirect?

13 MS. CASE: Just a couple, Judge.

14 REDIRECT EXAMINATION

15 BY MS. CASE:

16 Q Deputy Swanson, did you ever say that the Defendant
17 kicked you?

18 A I believe I told him not to kick me.

19 Q And was it after that that you saw him kick Deputy
20 Cunningham?

21 A Yes.

22 MS. CASE: Okay.

23 THE COURT: Re-cross?

24 MR. COOKE: Just a quick one.

25 ///

RECROSS-EXAMINATION

BY MR. COOKE:

Q You say he was struggling, he didn't want to be hobbled, is that what it was in your opinion?

A I don't know.

Q He could have accidentally kicked him?

A I didn't charge him. I don't know if he was intending to kick me or not. He didn't actually make contact with me so I did not charge him.

Q Okay. Good. But I'm just saying, he could have accidentally kicked the officer?

MS. CASE: Your Honor, that calls for speculation, I object to that.

THE COURT: Okay, I'll overrule the objection. You can answer it.

THE WITNESS: He'd been told several times by myself and Deputy Cunningham not to kick. I believe he understood that he could injure us and refused to comply with that.

BY MR. COOKE:

Q But he said he didn't kick anybody, you just heard him say that?

A He can say what he wants. That's just -- he can say what he wants.

Q You didn't see him kick anybody anyhow, did you?

1 A I watched him make the motion of kicking.

2 Q Did you see him kick anybody?

3 A I watched -- I never saw him make contact --

4 Q Thank you, so much --

5 A -- with Deputy Cunningham's face but I did see him
6 strike.

7 MR. COOKE: Thank you, so much, I appreciate it.

8 MS. CASE: Your Honor, I would ask that she be
9 allowed to finish her answer.

10 MR. COOKE: She did.

11 THE COURT: Did you finish your answer?

12 THE WITNESS: I was interrupted but yes.

13 THE COURT: Okay.

14 MS. CASE: I'm not sure that the jury heard her
15 answer over Mr. Cooke.

16 THE WITNESS: I'll repeat it. Since I was on
17 the opposite side of the car and Charlie Cunningham's face
18 was low to the ground, I never actually saw the foot make
19 contact with the face. But I did see his body or his leg
20 jerk in that direction. So it was reasonable to believe
21 that he'd been kicked in the face. And that's why I
22 deployed my OC. I felt like there was danger.

23 MS. CASE: All right, thank you.

24 THE COURT: Thank you, I appreciate you being
25 here. You can step down.

1 THE WITNESS: Thank you.

2 THE COURT: You have another witness you intend
3 to call today?

4 MS. CASE: No, sir.

5 THE COURT: And you have -- how many more
6 witnesses do you have?

7 MS. CASE: One maybe two.

8 THE COURT: One maybe two?

9 MS. CASE: Yes, sir.

10 THE COURT: Just thinking out loud about timing
11 for tomorrow morning, how long do you anticipate they will
12 last? About the same length as the witnesses we've had
13 today?

14 MS. CASE: Yes, sir.

15 THE COURT: Okay. Okay.

16 And, Mr. Cooke, you have either two or three
17 witnesses?

18 MR. COOKE: Yes, sir. Yes, sir.

19 THE COURT: And what is the estimated length for
20 them? About the same or perhaps a little longer?

21 MR. COOKE: Probably a total, probably a total
22 of an hour.

23 THE COURT: Total?

24 MR. COOKE: Maybe an hour and 15 minutes total.

25 THE COURT: Okay. All right, good enough.

1 All right, ladies and gentlemen, we're going to
2 take a recess for the evening. Please don't discuss the
3 case. I've asked you that several times. Don't discuss
4 it with your spouse or with your significant other or with
5 anyone that you know. Because you haven't heard all the
6 evidence yet. If you begin to discuss it with somebody in
7 your home, then you necessarily will begin to deliberate.
8 Because you're going have to make qualitative decisions
9 regarding what you've heard because you're going to
10 recount it to somebody. Which means you have to think
11 about it.

12 So when somebody ask you, What are you doing?
13 You just say, I'm a juror, I'll talk to you about it when
14 it's over. Okay. Don't go out and look on the internet
15 or any other social media or any other source to try to
16 get any information on this. Because the only thing
17 that's appropriate for your consideration is what you hear
18 in the courtroom that is appropriately admitted under
19 oath. So I'll see y'all back here tomorrow. You know
20 what our time crunch is. So if you'll please be on time
21 and we'll try to start as promptly at 9 o'clock as we
22 possibly can.

23 Yes, ma'am.

24 PROSPECTIVE JUROR: Do we have to check in
25 downstairs first?

1 THE COURT: Yes, ma'am.

2 THE BAILIFF: I'll tell you what to do when we
3 go out here.

4 THE COURT: He knows better than I do. Thank
5 you.

6 Y'all have a great evening.

7 (WHEREUPON, the jury left open court at
8 approximately 4:58 p.m.)

9 THE COURT: Anything further we need to put on
10 the record today?

11 MR. COOKE: Nothing, Judge, other than I ask you
12 to let my client stay out.

13 THE COURT: That's fine, he may stay on his
14 bond.

15 MR. COOKE: Thank you.

16 THE COURT: Okay, off the record.

17 (WHEREUPON, the proceedings were concluded for
18 the day to be reconvened on September 22, 2011.)
19
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September 22, 2011

THE COURT: All right, ready for the jury?

MS. CASE: Yes, sir, Judge.

MR. COOKE: Yes, sir, Judge.

THE COURT: All right, bring them in, please.

(WHEREUPON, the jury came into open court at approximately 9:10 a.m.)

THE COURT: All right, good morning. I hope everyone had a good evening. All right, we're ready to go?

MS. CASE: Yes, sir. I call Deputy Charles Cunningham to the stand.

THE CLERK: Deputy Cunningham, if you'd come forward to be sworn. Place your left hand on the Bible, raise your right hand.

CHARLES CUNNINGHAM, after being duly sworn, testified as follows:

THE CLERK: Thank you, you may be seated. State your name for the record.

THE WITNESS: Charles Rayford Cunningham, Jr.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. CASE:

Q Investigator Cunningham, how are you this morning?

A I'm good, thank you.

1 Q Are you employed at the Greenville County Sheriff's
2 Office?

3 A Yes, ma'am.

4 Q And were you employed on November 14th of 2010?

5 A Yes, I was.

6 Q With the Greenville County Sheriff's Office?

7 A Yes, ma'am.

8 Q What were your duties with your position on
9 November 14th, 2010?

10 A My duties were assigned to uniform patrol as a road
11 deputy.

12 Q Okay. And so you're not in uniform today, are you
13 still in uniform patrol?

14 A No, ma'am. Since then I've been transferred to
15 community services where I now work as a vice and
16 narcotics investigator.

17 Q So you're now an investigator with the sheriff's
18 office?

19 A Yes, ma'am.

20 Q Okay. Back on the 14th of November 2010, did you
21 respond to [REDACTED] here in Greenville
22 County?

23 A Yes, ma'am, I did.

24 Q Was this in response to a 911 call?

25 A Yes, it was.

1 Q What was your understanding of the nature of the
2 call?

3 A My understanding of the nature of the call, Deputy
4 Bowers and I were working a beat area together. He
5 and I were both dispatched to a fight in progress at
6 [REDACTED]. And initially we responded
7 together as a routine nature to this call.

8 Q Okay. And did you become aware of another issue,
9 another concern at this location on your way to the
10 fight call?

11 A Yes, ma'am. I was -- I was approximately 10 minutes
12 away from the incident location.. Deputy Bowers was a
13 few minutes closer than I was. Shortly after we went
14 in route to this call Deputy Bowers arrived on scene
15 within a few minutes. And I would say a minute or
16 so went by and Deputy Bowers came back on the radio
17 and I could hear a lot of yelling in the background
18 and he was requesting that I, alone with additional
19 deputies, respond with emergency traffic. And what
20 that means is that we turn our lights and sirens on
21 and respond a lot faster.

22 Q Okay. So when you arrived at the location, what was
23 the scene like outside the home?

24 A The -- when I arrived several other -- I was one of
25 the last deputies to arrive because of my response

1 time being a little bit greater. There was several
2 police cars already on the scene, the blue lights
3 were flashing. It was dark outside. There were
4 people out in the street, out in the yard. I could
5 see some uniform deputies out with these people out
6 in the yard and out in the street. I immediately
7 noticed that there was a lot of commotion still going
8 on inside the house and the front door of the house
9 was already opened. So I turned my attention there.
10 And I walked towards the house, yelling and screaming
11 I could hear coming from inside the home.

12 Q So you noticed the commotion because you heard the
13 commotion?

14 A Yes, ma'am. It was obvious from the street.

15 Q Okay. So when you went in the house, what was going
16 on in the house?

17 A As I walked through the front door of the house, I
18 remember looking over to my right and I could see a
19 person lying on the floor of the home. I could see
20 Deputy Bowers, he was kneeling down beside this
21 person, he was up at their head. He appeared to be
22 talking to them. And in front of me as I walked in
23 the front door, I could see Deputy Swanson wrestling
24 with a large a black female. And she was trying to
25 place this person in handcuffs. So I immediately

1 went to Deputy Swanson and I assisted helping her get
2 this lady placed into handcuffs.

3 Q And was the Defendant in the house when you went in
4 there?

5 A No, ma'am, I don't recall seeing the Defendant when I
6 walked in.

7 Q Okay. And you were the last to arrive at the scene?

8 A Yes, ma'am.

9 Q All right. Did you assist Deputy Swanson in taking
10 the female out of the house?

11 A I did. It took a little bit of time to get the
12 female into handcuffs. We had -- Deputy Swanson was
13 struggling when I walked in. It took me a little
14 while to assist getting control of here. We did
15 eventually get her placed into handcuffs and we
16 escorted her right out of the house.

17 Q And Deputy Swanson is Ashley Swanson, a female deputy
18 that responded?

19 A Yes, ma'am.

20 Q And why were you attempting to get the scene cleared?

21 A Our main goal at that point was getting everyone out
22 of the home that was out of control so that EMS could
23 come in. I do remember Deputy Bowers saying that he
24 had a person who needed an ambulance and that he had
25 people fighting. So--

1 MR. COOKE: Your Honor, I object to anything
2 that he heard Deputy Bowers say as to hearsay.

3 THE COURT: Okay, I sustain as to any hearsay.

4 MS. CASE: Your Honor, I would just comment that
5 Deputy Bowers has testified before.

6 MR. COOKE: I object to that comment.

7 THE COURT: Okay.

8 MR. COOKE: I mean --

9 THE COURT: I've ruled on it. I sustained the
10 hearsay objection, we can move on.

11 BY MS. CASE:

12 Q So EMS was not in the house at that time?

13 A No, ma'am.

14 Q Okay. Once you got the female out of the house, what
15 did you do?

16 A Once I got the female out of the house, Deputy
17 Swanson and I walked her to a patrol car. I left her
18 in the custody of Deputy Swanson and I started
19 walking back towards the house where Deputy Bowers
20 was. And I was -- as I was walking in that
21 direction, I walked by Deputy Payne's car. And in
22 the back of his car was a black male. He was
23 obviously apparent that he was hysterical. He was
24 beating his head against the cage in the back of the
25 police car. He was kicking the police car. He was

1 very violent in the back of the police car. It
2 looked inside as though he was going to break glasses
3 out of the car. So I yelled if Deputy Payne to come
4 unlock his car so that we could secure him.

5 Q Okay. And had you spent some time with the mother,
6 was she having some medical issues?

7 A It was my understanding that she started having
8 medical issues after she got out to a police car.
9 But after I helped Deputy Swanson walk her to the
10 police car, I immediately walked away.

11 Q Were there other things going on in the yard at that
12 time?

13 A There were a lot of people that were coming into the
14 immediate area.

15 Q Did you deal with trying to get that situation under
16 control?

17 A Not directly at that time.

18 Q Okay. What actions did you take when you noticed the
19 Defendant kicking the windows of the patrol car?

20 A Well, first he was in another deputy's patrol car
21 that I didn't have keys to. So I called out to that
22 deputy to bring us a set of car keys so we could open
23 his car up and secure him. Typically in that
24 scenario, when someone is violent, kicking, they can
25 easily break out the windows of a police car. More

1 often than not we can put them in just a seatbelt
2 restraint and that keeps their hips a little more
3 secured in the rear seat. And they're not able to
4 pick up their feet, kick at windows. Generally,
5 they'll calm down. That was my goal then.

6 Q So did you put the seatbelt on the Defendant?

7 A I did. I did. Deputy Payne came out, he unlocked
8 his patrol car. I leaned in to the patrol car and
9 the seatbelt comes across the person to the center of
10 the backseat. In order for me to do that safely, I'm
11 trained to lean my body against theirs. A compliant
12 person I just ask them to turn their head to the left
13 away from me so that he can't spit at my face or bite
14 my neck, bite me in the facial area while I'm trying
15 to place the seatbelt on them. But under the
16 circumstances, this gentleman was not very
17 non-compliant, acting very hysterical.

18 So I placed my forearm, the medial area of my
19 forearm, against the side of his face, holding it
20 against the backseat. As I leaned across him and
21 fastened the seatbelt and once I fastened the
22 seatbelt, I was able to just step right out of the
23 car and close the door back.

24 Q Okay. And once you did that did you walk away from
25 the vehicle?

1 A I walked a few feet away from the vehicle but just
2 far enough away to where I could still observe him.

3 Q And did the Defendant -- was he compliant, did he
4 calm down?

5 A No. Initially after I shut the patrol car, he was
6 somewhat compliant. Gave me enough time to walk away
7 and stand and look. But immediately started back
8 banging the head against the cage, kicking, moving
9 about in a violent manner. And then is when I
10 noticed he was moving his body out of the seatbelt.
11 Doing that puts him back in the position to pick up
12 feet and kick at windows. So we're outfitted, each
13 deputy's outfitted with a hobble restraint.

14 What a hobble restraint does is it's a nylon
15 strap that has an extension device on it. We can put
16 that around a person's feet and synch it tight. It's
17 made to go out of the door and into the driver's or
18 the passenger's door, the front of the car and shut.
19 That strap that's going around to the front door
20 holds the person's feet down to the floor so they
21 can't easily pick them up. It's another way that we
22 can secure a person from, you know, leaning down the
23 seat, picking their feet up, kicking windows out.

24 Q Okay. Why wouldn't you want someone to kick the
25 windows out?

1 A Well that would put a police car out of service. It
2 could injured the suspect or defendant in the back of
3 the police car, they could be cut on the glass. You
4 know, that's a possibility.

5 Q So did you go to get the leg restraint, the hobble?

6 A Deputy Swanson retrieved her hobble restraint and
7 brought it to us.

8 Q Okay. And what happened then, did you attempt to put
9 that restraint on the Defendant?

10 A As I recall, I believe Deputy Swanson initially went
11 to put the hobble restraint on. I don't think she
12 was able to. As I recall, he was moving his feet
13 pretty violently. She handed me the restraint. I
14 went down, I opened his police car door, I went down
15 towards the gentleman's feet. Any -- typically what
16 I would just do is grab him with one hand and hold
17 him under my arm. And then take the hobble
18 restraint, loop it around the feet and just pull it
19 tight and just push the feet down.

20 But as I went to do that, I reached down to grab
21 his feet and I remember getting the top of his pants
22 leg in my hand. He turned and laid down in the back
23 of the seat, pulling his feet up towards his chest
24 and he kicked. And when he kicked me it kind of hit
25 me in the center of the face, just right at my nose

1 and my mouth. I remember it stunned me. And I
2 immediately felt stinging, burning pain in my face.

3 Q Did his feet accidentally hit you when you're trying to
4 put the restraint on or did he actually kick you?

5 A No. Yeah, he was able to pull his feet up close to
6 his chest and strike me with the bottom of his foot.

7 Q And do you recall what type of shoes he was wearing?

8 A It appeared like a boot. I remember a thick sole.
9 In my memory I remember a boot like shoe.

10 Q And again, where did he strike you?

11 A Just directly in the face. Just right in the center
12 of my face, hitting my nose and my front upper lip.

13 Q What did you do once he kicked you in the face?

14 A It kind of stunned me, I was a little shocked. Like
15 I say, you know, the first thing was the stinging
16 pain and my eyes started watering. I remember
17 backing up out of the police car. Other deputies
18 went in there. I remember holding my nose and
19 turning to another deputy and asking him, Am I
20 bleeding?

21 Q Were you bleeding?

22 A No, I was wasn't bleeding.

23 Q Okay. Did you think you were bleeding?

24 A I thought I was bleeding.

25 Q So it hurt?

1 A Yes, ma'am.

2 Q Was your nose broken?

3 A No. No, it wasn't broken. Deputy Swanson, after he
4 kicked me and I stumbled back a little bit, Deputy
5 Swanson deployed OC spray. Or more commonly known as
6 pepper spray into the car. When she did that I
7 started coughing a little bit. If you smell it it
8 will cause you to cough. Some other deputies started
9 to cough. But the suspect immediately started to
10 calm down. It has chemical agents in it that will
11 force your eyes to close, intense burning of the
12 face. It's used to -- with pain compliance. It
13 worked. Gave me enough time to back away from the
14 vehicle, other deputies to move in and finish the
15 hobble restraint.

16 Q All right. Once the hobble was on and the Defendant
17 was secured in the vehicle, what did you do?

18 A Well, like I said, I did see other deputies out
19 there, I was still touching my face, you know, asking
20 was it hurt anymore. I walked around a little bit.
21 I did speak with who I thought was some family
22 members in the yard, other deputies were talking to.
23 I remember asking was our subject under the influence
24 of alcohol or drugs.

25 MR. COOKE: Your Honor --

1 MS. CASE: No, don't--

2 MR. COOKE: -- I'm going to object to any
3 hearsay now.

4 THE COURT: I sustain the objection. I think
5 you indicated --

6 You want to rephrase the question?

7 MS. CASE: Yes, sir.

8 THE COURT: Okay, good enough.

9 BY MS. CASE:

10 Q Don't say what any other witnesses said to you but
11 you did talk with other individuals that were on the
12 scene that had been on the scene all day or that
13 evening?

14 A Yes, I did.

15 Q Okay. Did you transport the Defendant to the
16 detention center?

17 A No. We left the Defendant in Deputy Payne's police
18 car. We determined that the risk to take him out of
19 the police car to move him to another wasn't worth
20 it. So we left him fully restrained with the hobble
21 device in that police car. And then I followed
22 behind them to the detention center.

23 Q Okay. And why were you -- why would you be going to
24 the detention center?

25 A Anytime that we have a person that's not going to be

1 compliant, that we don't believe is going to be
2 compliant, we always send more than one deputy to the
3 detention center. They will have to be removed from
4 the police car. We don't want to put a single deputy
5 by himself in a situation where he might have to, you
6 know, fight someone.

7 Q Did you, in fact, were you the deputy that charged
8 the Defendant with resisting arrest, assault on an
9 officer?

10 A I was.

11 Q Because you were the victim?

12 A Yes.

13 Q So tell us what happened once you got to the
14 detention center?

15 A Once I got to the detention center, I -- normally we
16 call ahead to the detention center and let those
17 folks know that we're coming. And then we --
18 somebody who may need to be -- we made need some
19 additional help. I believe that call was made. I
20 didn't make that call but I believe that call was
21 made.

22 MR. COOKE: Your Honor, I object. Speculation
23 on his part, he don't know if anybody called, I mean.

24 THE COURT: I'm going to overrule that
25 objection. Go ahead.

1 THE WITNESS: Okay. Deputy Payne and I got
2 together at the back door of the police car. Then we
3 opened it up at the same time so that we were both there
4 in case something happened.

5 BY MS. CASE:

6 Q And can you remove the Defendant from the car with
7 the hobble on?

8 A No. The hobble prevents him from using his feet. So
9 he wouldn't have been able to walk. So we have to
10 take that off.

11 Q Did you take that off?

12 A Yes, I removed the hobble.

13 Q And did you and Deputy Payne take the Defendant into
14 the detention center?

15 A We did, we escorted him.

16 Q What was his demeanor at that time?

17 A Again, very verbal. Yelling, screaming obscenities.
18 You know, making gestures to sue us. Saying he was
19 going to call the news and report us. Just very
20 loud.

21 Q And once you're in the detention center, what did you
22 do with the Defendant? Where was the Defendant
23 placed?

24 A Normally the Defendant would be unhandcuffed and
25 allowed to go into a holding cell where he could be

1 free to use the restroom if he needs to. In this
2 case we knew we had a violent person so we're not
3 going to take that risk. The guards came out to us.
4 They took control of this person, still with our
5 handcuffs in place and took him to a secured holding
6 cell where they can safely put him in a secured room
7 and remove his handcuffs from him. But he's in
8 secured confinement away from other people. So
9 that's what happened.

10 Q So he was walked in handcuffs all the way to the
11 holding cell?

12 A He was taking pass where the normal holding cells are
13 into the secured confinement area at the detention
14 center. They placed him in another holding cell that
15 we don't access. Deputies don't access. They took
16 him to one of their secured locations.

17 Q In your experience as a deputy at that time, was this
18 a normal procedure to go that far with a prisoner?

19 A Not necessarily normal. This was probably the second
20 time that I'd ever seen anyone in my experience have
21 to be taken that far to be placed into a secured
22 cell.

23 Q And just quickly, did you have to have any follow-up
24 medical treatment with regards to your injury?

25 A No. For the remainder of the night, I didn't see any

1 obvious bruising, no swelling. Nothing that would
2 require me to go home from work or go see a
3 physician.

4 Q Did you feel the effects of having been kicked?

5 A Yeah. The stinging sensation and the tingling lasted
6 for a little while. It caused my eyes to water for
7 some time. That eventually went away. But yeah, you
8 have somewhat soreness. That's what I experienced.

9 Q Was -- last question Deputy Cunningham, was the
10 Defendant taken before a Judge at the detention
11 center that night?

12 A Yes. To my understanding or at that time, as
13 defendants are brought in, they will have a bond
14 hearing in front of a Magistrate within an hour or
15 so. Was the typical nature.

16 Q And he didn't have that hearing?

17 A Yes, he did.

18 MS. CASE: Thank you.

19 CROSS-EXAMINATION

20 BY MR. COOKE:

21 Q So you were basically the last one on the scene?

22 A Yes, sir.

23 Q So you don't really know what went on prior to that?

24 A Other than what I was just able to hear on my radio,
25 no.

1 Q Now you said that you assisted officer Swanson detain
2 my client's wife, take her to the car?

3 A A large a black female, yes.

4 Q Was she arrested?

5 A She wasn't arrested, she was just being detained.

6 Q Okay. Now, was there any damage to the patrol car?

7 A I didn't note any damage.

8 Q Okay. So he had on boots, you said he was kicking
9 the windows and this that and the other and there was
10 no damage to the patrol car?

11 A No, I didn't note any damage to the police car.

12 Q Ms. Swanson was going to hobble him the first time,
13 is that correct?

14 A Yes.

15 Q Okay. And could you tell me the reason for that?

16 A The reason she was going to hobble him?

17 Q Uh-huh.

18 A Again, for the kicking.

19 Q Okay.

20 A That's just a standard procedure for us.

21 Q Well she wasn't arresting him for damaging the patrol
22 car, right?

23 A No, he was not being arrested for that.

24 Q He was not being arrested period, y'all were just
25 hobbling him.

1 A Well, I'm not --

2 MS. CASE: Objection, Your Honor.

3 MR. COOKE: What's your objection?

4 THE COURT: I'll let him answer it. Overruled.

5 BY MR. COOKE:

6 Q So I'm asking you, were y'all arresting him at that
7 time or were you just hobbling him?

8 A At that time I was just doing the hobble restraint.
9 I didn't have the involvement of placing him in the
10 patrol car so I didn't have any contact with him up
11 until the point where I saw him being violent in the
12 back of the patrol car. So.

13 Q Back to my question, were you and Ms. Swanson
14 arresting him at that time that you're trying to
15 hobble him?

16 A No, I wasn't placing him under arrest.

17 Q Okay. So he had actually already been arrested by
18 Officer Bowers, is that right?

19 A I'm not sure. I know he was in the back of Deputy
20 Payne's police car in handcuffs.

21 Q Were you aware that Officer Bowers dismissed the
22 charges against him?

23 A After the case, yes.

24 Q You are aware of that?

25 A I am aware of that.

1 Q You just become aware of that yesterday?

2 A No, sir. I was aware of that some weeks after the
3 initial trial.

4 Q Did you hear -- did you hear my client hollering,
5 Y'all are killing my son?

6 A I didn't note any specific statements.

7 Q You didn't hear any of that?

8 A I don't recall specifically.

9 Q And you said you placed your arm against his face and
10 his neck?

11 A No, against his face.

12 Q Did you hear him complaining about you got the
13 handcuffs too tight, please?

14 A I didn't note--

15 Q You didn't hear that either?

16 A -- such a specific statement.

17 Q Okay. And you didn't have any serious injuries?

18 A No serious injuries.

19 Q You said that my client was hysterical, he was upset?

20 A Yes, sir.

21 Q You had heard that his son was having a seizure?

22 A That I heard his son was having a seizure?

23 Q Did you know that was going on in the house when you
24 got there?

25 A I know there was a person that needed an ambulance.

1 MR. COOKE: Okay. I don't have any further
2 questions. Thank you, very much.

3 THE COURT: Any redirect?

4 MS. CASE: One redirect.

5 REDIRECT EXAMINATION

6 BY MS. CASE:

7 Q Deputy Cunningham, were you with Deputy Bowers when
8 he placed the Defendant under arrest for interfering
9 with an officer and public disorderly conduct?

10 A No, I wasn't.

11 MS. CASE: Thank you.

12 THE COURT: Thank you, sir, I appreciate it, you
13 can step down. Appreciate you being here.

14 Any objections to this officer being excused?

15 MS. CASE: No objection.

16 MR. COOKE: None from me.

17 THE COURT: All right, good enough.

18 MS. CASE: Your Honor, may we have one moment?

19 THE COURT: Yes, ma'am.

20 MS. CASE: Call Moonshine McAbee to the stand.

21 THE CLERK: Please place your left hand on the
22 Bible, raise your right hand.

23 MOONSHINE MCABEE, after being duly sworn,
24 testified as follows:

25 THE COURT: You can have a seat. State your

1 name for the record.

2 THE WITNESS: Moonshine McAbee.

3 MR. COOKE: Judge, before we proceed can I ask a
4 question? Maybe approach the bench?

5 THE COURT: Yeah, absolutely.

6 (WHEREUPON, a bench conference was held in the
7 presence of the jury but out of the hearing of
8 the jury.)

9 DIRECT EXAMINATION

10 BY MS. CASE:

11 Q Ms. McAbee, are you related in any way to the
12 Defendant?

13 A No, ma'am.

14 Q Okay. Are you related to any of the Defendant's
15 children?

16 A Not related but I date his step-son.

17 Q Around how long have you dated his step-son?

18 A I've dated him almost a year.

19 Q Okay. What's his step-son's name?

20 A Travis Abrams.

21 Q All right. Is that -- what relation is Travis to
22 Donquiel T.

23 A Half brother.

24 Q Okay. On November the 14th of 2010, were you at [REDACTED]

25 [REDACTED] with Travis Abrams?

1 A Yes, ma'am.

2 Q And do you recall about what time you got there that
3 day?

4 A We got there around 3:00. It was the first time I
5 had ever been there for a family dinner or anything.
6 We had just started dating so I didn't know anything
7 about them but.

8 Q And do you have children?

9 A Yes, I have three children. My children were there
10 with me. They're eight, four and five.

11 Q So they were there at [REDACTED] on
12 November 14th, 2010?

13 A Yes, ma'am.

14 Q Do you recall the events of that afternoon?

15 A Yes, ma'am.

16 Q Do you recall -- was there an altercation between the
17 Defendant and his son or step-son, Travis, your
18 boyfriend?

19 A Yes, there was.

20 Q Can you tell us how that got started?

21 A My four year old son was eating a chicken -- well
22 Chris had already been drinking. He came back in --
23 he and Travis had left and they came back in, Chris
24 was intoxicated.

25 Q Who is Chris?

1 A Teasley.

2 Q Mr. Teasley?

3 A Yes.

4 Q Okay.

5 A And my son was chewing on a chicken bone and he
6 started yelling at my son. And this was the first
7 time we ever met him.

8 And Travis said, Don't talk to him like that.

9 Because he scared my kid. And then they started
10 yelling at each other. And while I was trying to get
11 my kids out of their house and into my car, just so I
12 could leave, because it was the first time I had ever
13 met these people, they started fighting. And then
14 they were on the couch, Travis was just trying to
15 hold Chris down while we could get out of the house.
16 Because he was just acting like I'd never seen anyone
17 act before.

18 Q You talking about Travis or Chris?

19 A Chris was. And it scared me. I was just like, let
20 me get out of here. Well, when I was trying to get my
21 children out of there, that's when Donquiel T. fell and
22 started having a seizure. I didn't even know
23 Donquiel T. had seizures but I had previous -- I had
24 been taking nursing in school so I kind of knew what
25 to do. I just grabbed him and put him on his side.

1 Q I'm going to stop you right there just a second.
2 Were you aware that Donquiel T. had used your phone to
3 call 911?

4 A No, I wasn't. But Donquiel T. -- we had already been
5 told to call 911 but by that time I didn't know.

6 Q And did you receive a call back from 911 on your
7 phone?

8 A Yes.

9 Q You actually talked with the 911 operator?

10 A Yes.

11 Q Was this when you were trying to leave?

12 A Yes. And I think -- I believe that was after
13 Donquiel T. had already had the seizure and I was
14 freaking out. And I was trying to get someone to
15 help me but.

16 Q Okay, I'm going to stop you right there. Did you
17 recall what time the Defendant began drinking [sic]
18 that afternoon?

19 A I'm not sure. He may have been drinking before we
20 got there. But I know as soon as we got there, we
21 had been there maybe 30 minutes to an hour and he had
22 asked Travis to take him somewhere. And they came
23 back about three hours later.

24 Q And do you know what he had to drink? What did you
25 see?

1 A Travis said that he bought him --

2 Q You don't need to --

3 A Okay --

4 Q -- tell us what Travis said.

5 A Okay.

6 Q But you believed he had been drinking?

7 A Yes.

8 Q When Donquiel T. began having the seizure, who was in
9 the house?

10 A Chris and Travis was on the couch, Travis was holding
11 Chris down. And Dolly was over there with them and I
12 was walking to the kitchen to get my children to get
13 them out of the house. And Donquiel T. fell and started
14 having a seizure.

15 Q Okay. And what did the Defendant do at that point?

16 A Then I made Travis get up and Travis didn't want to
17 get up because he knew Chris wasn't going to stop
18 acting like that. Well instead of worrying about
19 Donquiel T. he jumped up and still continue to try to
20 fight Travis.

21 Q Okay. And what did you do at that point?

22 A I just -- that's whenever I was on the phone with
23 911. And at that time Travis left out of the house
24 because he seen what was happening and Chris followed
25 him outside the house.

1 Q So the Defendant followed his step-son?

2 A Uh-huh.

3 Q Out of the house?

4 A Yes.

5 Q While Donquiel T. was having a seizure?

6 A Uh-huh.

7 Q At what point did the Defendant come back in the
8 house?

9 A He came back in the house for a couple of minutes,
10 then went back outside the house and he came back in
11 whenever the police did arrive.

12 Q At any point did the Defendant try to help with his
13 son having a seizure?

14 A No, Dolly did but.

15 Q Who is Dolly?

16 A Donquiel T. mother.

17 Q Okay. So you and Dolly were attending to Donquiel T. ?

18 A Yes.

19 Q Once the police got there, what did -- what did you
20 do?

21 A I got my children, I asked them if I could leave out
22 of the house since they were -- they were attending
23 to Donquiel T. . I grabbed my children and their
24 children also and went inside my Expedition so they
25 didn't have to be around all that that was going on.

1 Q Okay. When you were in your vehicle, did you see or
2 hear the Defendant?

3 A I seen them bringing him out of the house. And they
4 were -- they were having a lot of screaming and
5 yelling. Then they took him to the police car. Then
6 I seen them bring McDolly [sic] out of the house then
7 it really went chaotic. And I didn't exactly see
8 everything because I was in my car but I did see -- I
9 heard a lot of yelling and seen a lot of police
10 officers gathering around. But I didn't see exactly.

11 Q Okay. You were in your car?

12 A Yes.

13 Q Was your car in the driveway?

14 A No, it was facing this way going down the road. And
15 the police officers were behind my car on the other
16 side facing the same way.

17 Q So the commotion was behind you?

18 A Yes.

19 MS. CASE: I don't have any further questions.

20 Thank you.

21 MR. COOKE: Just a couple.

22 CROSS-EXAMINATION

23 BY MR. COOKE:

24 Q Chris was upset because your -- how old was the child
25 that was eating that chicken bone?

1 A He was four.

2 Q Four year old?

3 A Yes.

4 Q So four year old was eating a chicken bone, I think
5 he got upset about that, and he said that was
6 dangerous, didn't he?

7 A He was yelling at my child but my child was just
8 eating a chicken wing. He wasn't chewing on the
9 bone. I wouldn't allow him to chew on a bone.

10 Q All right. But he was allowed -- but that's what
11 started all of that, chewing on a chicken bone?

12 A Yes, sir.

13 MR. COOKE: Okay, thank you. No further
14 questions.

15 MS. CASE: No further questions.

16 THE COURT: All right, thank you, ma'am. I
17 appreciate you being here. Have a great day.

18 THE WITNESS: You too.

19 THE COURT: Any objection to this witness being
20 excused?

21 Ma'am, you can go ahead, you're good. Silence
22 is acquiescence.

23 MS. CASE: Your Honor, that would be the State's
24 case.

25 THE COURT: Any formal motions you need to make

1 off the record or can you just state a directed verdict
2 motion?

3 MR. COOKE: I do have a matter, yes, sir.

4 THE COURT: Okay. You need to take it up
5 outside the presence of the jury?

6 MR. COOKE: Yes, sir.

7 THE COURT: Okay, good enough.

8 Ladies and gentlemen of the jury, we'll take a
9 brief, a brief recess. Take up several matters of law
10 then we'll come back and start the case again.

11 (WHEREUPON, the jury left the courtroom at
12 approximately 9:45 a.m.)

13 THE COURT: All right, Mr. Cooke, I'll be happy
14 to hear from you, sir.

15 MR. COOKE: Yes, sir, thank you. Judge, at this
16 time I'd move for a directed verdict on the charge of
17 resisting arrest. There's no evidence by both officers
18 testimony, they were trying to hobble my client. They
19 weren't arresting him for anything. So my point is how
20 could he be resisting arrest when all they were doing was
21 just hobbling him and keeping him from kicking the car
22 window out. He wasn't charged with damaging the car,
23 there was nothing. Just restraining him. If the officer
24 got hit in the mean time and went down and took a warrant
25 for resisting arrest, and assaulting him. It had nothing

1 to do with what was going on in the back of the car. So I
2 don't see how we can have a resisting arrest when they
3 weren't even attempting to arrest him. By their own
4 testimony.

5 THE COURT: Okay. All right.

6 Would you like to respond?

7 MS. CASE: Your Honor, the arrest process -- he
8 was under arrest for interfering with an officer and
9 disorderly conduct. The law is a clear that the arrest
10 process doesn't end until the suspect is properly placed
11 in a jail cell. This was during the arrest process and he
12 resisted. And there is quite sufficient evidence from
13 several different witnesses that the assault took place.

14 THE COURT: Okay. All right. That's an
15 interesting issue. And I heard that argument in opening
16 which caused me to do a little bit of research on it.
17 Most of the case law bearing upon the definition of arrest
18 originated in the 19th Century. And the definition of
19 arrest as defined by our Supreme Court is Detention of a
20 person for a corporal seizing of the defendant's body. I
21 think under that definition of arrest, notwithstanding
22 whether the officers told him that he was under arrest or
23 not, he certainly, based on that definition, that clear
24 understanding and clear wording of that definition was
25 under arrest.

1 Also, I'll tell you that most resisting arrest
2 cases that I see, ordinarily the subject has not been put
3 under arrest yet. They're in the process of putting the
4 suspect under arrest when, in fact, the resisting takes
5 place. So -- and the reason I say that is because I'm not
6 aware of any requirement under the law that the Defendant
7 be advised that he is being put under arrest. Or that
8 that be formally verbalized by law enforcement in order to
9 substantiate or validate the resisting arrest charge.

10 Now, if I'm wrong in that regard, Mr. Cooke and
11 you got some case law or so some authority that says that
12 has to be that advisement, then I'll reconsider that
13 ruling. But absent that, I'm going to respectfully deny
14 the motion.

15 MR. COOKE: Let me mention something else,
16 Judge.

17 THE COURT: Yes, sir.

18 MR. COOKE: Officer Bowers who actually had
19 arrested him and restrained him, did not charge him with
20 resisting arrest. He charged him with the two crimes, the
21 interfering and the disorderly conduct. No problem. He
22 didn't resist Officer Bowers at all. There was no
23 resisting arrest there. Officer Bowers later just
24 dismissed the charges. It would seem like to me that the
25 Officer Cunningham who came on the scene really didn't

1 know anything was going on.

2 I ask him I said, did you know that my client
3 was already under arrest?

4 He said, No. He said, No, I didn't even know
5 that.

6 I said, Well when y'all were attempting to
7 hobble him, were you putting -- was he -- were you
8 arresting him for anything?

9 He said, No.

10 So in Cunningham's own mind, he didn't even
11 know. As far as he knew he was only being restrained for
12 his own safety. So how could there be a resisting arrest
13 in Cunningham's own mind? I mean, there's just no way.
14 The other thing I would say, Judge, in this regard is as
15 far as the assault on the police officer, I think the
16 indictment says, Beat or wound. I don't think the statute
17 contemplates somebody just getting, while they're trying
18 to hobble somebody and wrestling around, getting kicked
19 either accidentally or intentionally in the face. I mean,
20 there's no beating. There's no severe wound. Really
21 there is no wound period.

22 So, I think even on the basis of the State's
23 case and the evidence that's been presented, that there is
24 no assault on a police officer there. If anything else it
25 might be assault and battery by unlawfully touching an

1 officer. But certainly nothing to the extent of beating
2 or wounding anybody.

3 THE COURT: Okay. All right. In reading the
4 indictment, it essentially mirrors the statute. And I
5 believe that's an in-exclusive order. Which suggests that
6 it can be an assault, a beating or a wounding. Therefore,
7 I think that notwithstanding whether there was any wound
8 or not, that's a question of fact for the jury to
9 determine whether there was a wound or not. Doesn't
10 necessarily have to be a wound, it could be assault or
11 beating.

12 Now, your point is well taken. And the question
13 that arises is, okay, if he wasn't under arrest, if he
14 wasn't being placed under arrest, shouldn't it have been
15 an assault and battery or assault and battery of high and
16 aggravated nature? That's really the question. And in as
17 much as the elements of assault and battery of a high and
18 aggravated nature, and or assault and battery, are
19 subsumed in the definition of resisting arrest with
20 assault, then could that not be cured through with a
21 charge?

22 MR. COOKE: Of assault and battery?

23 THE COURT: Yes, sir.

24 MR. COOKE: I don't see how it could be high and
25 aggravated when my man is handcuffed and there's no

1 weapon, there's nothing there. There's nothing's been
2 used other than the physical body. I mean, there's two
3 officers on top of him using mace and maybe three
4 officers, as the testimony went on. So I don't see how
5 there could be an assault and battery of a high and
6 aggravated nature. But I do agree that there can be an
7 assault and battery, I do agree with that. Simple assault
8 and battery.

9 THE COURT: Okay.

10 All right, anything further from the State?

11 We're not arguing that charge right now. Okay,
12 we're not arguing that. Okay. Okay. And I heard your
13 argument and you're protected on the record in that
14 regard. But that doesn't change my reasoning in any
15 substantial or significant way. I just don't know of any
16 case law that says that there has to be the formal
17 indication of the arrest verbalized by the officer to
18 support a resisting arrest. As a matter of fact, I think
19 the case law is very clear that there doesn't have to be
20 that formalization, vocalization of the arrest. Given the
21 definition of arrest, I think that there's strong
22 indication that he had, in fact, was under arrest at the
23 time.

24 All right, you ready to proceed, Mr. Cooke?

25 MR. COOKE: Judge, just one other question.

1 to sit and wait for that, okay. I'm going to find right
2 now based on Rule 403 that it's admissible to ask him a
3 question. Because right now we know that it carries up
4 to -- it carries up to a year right? Let me see.

5 MS. CASE: Yes, sir, it's 30 days to a year.

6 THE COURT: Well it says definite imprisonment
7 in excess [sic] of one year. So it doesn't carry over a
8 year, even under existing law. It carries a year, not in
9 excess of a year. And it's a depositive question as
10 whether it carries in excess of a year. So if it's 366
11 days, it's admissible. But if it's 365 it's not.

12 MS. CASE: Thank you.

13 THE COURT: All right. All right. Also want to
14 say with respect to arrests, Black's Law Dictionary
15 defines, An arrest is taking under real or assumed
16 authority, custody of another for purposes of holding or
17 detaining him to answer a criminal charge or civil demand.
18 So I think for purposes of this trial that it was an
19 arrest under the definition. I'm not making a finding of
20 fact. I'm just saying that based on my analysis of the
21 evidence, that the resisting arrest charge is appropriate
22 under that definition. Both by the Supreme Court of the
23 State of South Carolina and Black's Law Dictionary.

24 MR. COOKE: How about the -- how about the
25 assault charge? Do you consider that?

1 THE COURT: I'm considering it, lightly
2 considering it.

3 MR. COOKE: I just want to know how to argue to
4 the jury.

5 THE COURT: I got you. After you put your case
6 up we'll talk about it briefly.

7 MR. COOKE: Okay. Just one question to my
8 client then I'll be ready to go.

9 THE COURT: All right, bring our jury, please.
10 Mr. Cooke, you ready?

11 MR. COOKE: Yes, sir.

12 THE COURT: Okay, good enough.

13 Hold them just a second, if you would, please.

14 Okay, are any specific questions to the charge?

15 MS. CASE: Yes, sir, Your Honor.

16 THE COURT: Okay.

17 MS. CASE: Your Honor, as to the charge, of
18 course resisting arrest until he was put in his jail cell.
19 The defendant's arrest does not terminate until he is
20 delivered to the jailer. And properly confined. I would
21 ask that you charge on -- Your Honor, I also ask that you
22 charge on interfering with an officer statute. That the
23 interference would suffice to constitute the offense if it
24 impedes the officers ability to carry out his duties. And
25 this would include language. And then assuming that

1 Mr. Cooke is going to make mention of the dismissal of the
2 interfering charge, just ask that you charge that requires
3 that the initial arrest be valid but that the arrest did
4 not be -- the offense for which he was arrested and
5 ordered to be prosecuted for the resisting arrest. And,
6 Your Honor, I'm assuming you will charge on assault?

7 THE COURT: Yes, ma'am.

8 MS. CASE: And would ask that you charge our
9 research that I gave you last night that, defining of
10 arrest.

11 THE COURT: Okay. Okay.

12 Mr. Cooke.

13 MR. COOKE: Judge, I don't know what to say
14 about all this interfering, those charges were dismissed.
15 So really I don't think it would be appropriate to be
16 talking to about that to the jury and charging them with
17 that particular statute. There's no evidence -- and the
18 other one I'm interested in is the -- he was not
19 charged -- he was not charged with the crime of resisting
20 arrest until after the officer went before a Magistrate, I
21 guess, and got a warrant. I mean, at no time in the
22 testimony from the stand did the officer say that he told
23 my client that he was under arrest for resisting arrest.
24 He said they just took him down there, they hobble him,
25 they took him down to the jail and they took him before a

1 Magistrate. After he was -- after he was taken to the
2 jail. So there was no indication that he was resisting
3 arrest. And the Magistrate's office -- or after he was
4 arrested. And told about his charges. He didn't even
5 know what they had him down there for. No testimony.

6 THE COURT: Okay. All right. I think that
7 probably is more appropriate for a jury argument than...

8 MR. COOKE: That will be fine.

9 THE COURT: Than for...

10 Okay, With respect to the interfering with a
11 police officer, I'm not going to charge that because I
12 think that's a charge for another day and another time.
13 Which may have already -- may have already taken place.
14 And I don't want to confuse the jury with thinking they
15 are making the determination as to whether there was an
16 interference with a police officer. With respect to the
17 request for charge for the resistance and for the initial
18 arrest based on probably cause, I am going to charge my
19 general charge on assault on a police officer and
20 resisting arrest. Which I think for the most part
21 subsumes or includes, excuse me, the substantive portions
22 of your request to charge. So I'm not denying your
23 request to charges, I'm probably going to just charge it
24 in a different way.

25 I also am going to include at the end of the

CLOSING STATEMENT

MS. CASE: Well this is the last time you will hear from me. I know you've been here all week, it's Friday, still morning, and you're still here. I just want to thank you, letting you know that we really do appreciate your service. Not only in this case but throughout the week. We appreciate you being here, appreciate your time. I told you in opening argument and you heard several times throughout the case that this is a case of resisting arrest with an assault on a police officer. The elements that I need to prove to you are that the Defendant, Christopher Bernard Teasley, assaulted an officer while he was resisting arrest.

Now you have been read the Indictment by Judge Stilwell. I believe Mr. Cooke had mentioned of the Indictment in his opening. I want to draw your attention to that document again. I'm sure you'll hear that letter again, you will see that again. But the Indictment reads that, It is unlawful to intentionally, knowingly and willfully, assault, wound or beat an officer during an resisting arrest by one that that person knew or should have known was an law enforcement officer. Now I'm not trying to be sarcastic, I'm not trying to be funny, but there are commas in that language. It is unlawful to willful and knowingly assault, beat or wound an officer.

1 If anyone of those three happened, then that law has been
2 broken. Want to draw you attention to that.

3 An assault, and the Judge will give you this
4 law, but an assault is an attempt or a threat, physical
5 harm with the ability, present ability, to carry out that
6 threat. An example of this is if I draw my fist back to
7 strike you. Or if I draw my foot another up to kick you.
8 A battery is the completion of that act. The actual
9 contact, the actual touching. Examples of that would be
10 following through and striking you. Following through
11 with your foot and kicking someone. That is a battery.
12 This statute requires the element of assault be met. The
13 Defendant went further than that and completed that act.
14 The Defendant's committed battery as well.

15 Now, you may hear and you heard Mr. Cooke
16 question Deputy Cunningham about was he placing the
17 Defendant under arrest when he was kicked? He wasn't.
18 The Defendant was already under arrest. The important
19 thing is that the Defendant knew that he was in an arrest
20 mode. Not what Officer Cunningham knew, what the
21 Defendant knew. And I would submit to you that this is
22 not a simple assault and battery case. This is an assault
23 on officer while he was resisting arrest.

24 Now, Judge Stilwell's told you and you'll here
25 it again, you can hear everything more than one time, that

1 he is the judge of the law. He will give you the law that
2 applies to the facts in this case. He will tell you
3 exactly what the law is. And if anything Mr. Cooke has
4 told you, anything that I told you or any ideas that you
5 came in here with, are different than what Judge Stilwell
6 tells you, you have to take the law as he gives it to you.
7 He will tell you what it is.

8 On the other hand, the other prong, you are the
9 judges of the facts. You determine what the facts are.
10 And you determine this based on what you've heard. Based
11 on the evidence that has been presented. In this case,
12 you have heard witness testimony, you've heard several 911
13 calls. You have heard and seen, somewhat, the in-car
14 audio and video. That's the evidence that you have. And
15 you determine the facts based on the evidence that have
16 been presented to you.

17 And the facts as they have been presented show
18 is that on the November 14th 2010, at 8:30 at night, these
19 deputies responded to [REDACTED]. They
20 responded in regard to a 911 call. They responded to
21 assist in an altercation between a father and his son.
22 And subsequently found out that they were responding to
23 assist a young man which was suffering a seizure. They
24 did not insert themselves into that situation. They were
25 asked to come. They were, in fact, begged to come. To

1 that scene and render aid. If you recall, the 911 tape,
2 now, Mr. Cooke hold you in his opening that the young
3 man's mother was the one who had also taken care of him.
4 She knew him. Oh yes, I'm sure she did. She was his
5 mother. But on that date she knew her son needed medical
6 attention. She knew her son needed more than she could
7 give him. And she begged for help.

8 She said on that tape, My son is having a
9 seizure. I need an ambulance. Please hurry.

10 You heard that from Ms. Abrams voice on the
11 tape. So the officers respond. When they arrive at the
12 scene it's a very chaotic, volatile situation. So much so
13 that they requested additional units to come and help.
14 When they got to scene the testimony shows there were
15 numerous people in the street, lots of screaming, lots of
16 shouting. They can hear this coming from inside the
17 house. When they went in the house, speaking of Deputy
18 Bowers, he saw Donquiel T. , the young man who was having a
19 seizure, on the floor. His first concern was to go to
20 help Donquiel T. . He was trying to clear the scene.

21 The mother and the Defendant were in the house
22 at this point. Now you heard Moonshine McAbee's
23 testimony. Moonshine said that the Defendant wasn't that
24 concerned with his son on the floor. He actually left the
25 house. To deal with an altercation with his other son.

1 Leaving his younger son in the house suffering a seizure.
2 The officers got there and he came back. Detective Bowers
3 repeatedly asked, he testified to this, you can hear it on
4 the tapes.

5 Please calm down. We've got to take care of
6 your son. Please calm down. Quit screaming, quit
7 yelling, quit cursing.

8 When they wouldn't quit cursing, quit yelling,
9 the Defendant wouldn't quit yelling, he told him, You need
10 to clear the scene. You need to leave the house. We
11 cannot let EMS in until we clear the house. The Defendant
12 was given many opportunities to comply and he didn't. So
13 at that point Deputy Bowers made a decision that he needed
14 to detain him. He needed to have both the Defendant and
15 the mother detained and gotten out of the house. They
16 were not going to leave peacefully. The reason he needed
17 them out of the house was to allow EMS in.

18 Once they were out of the house, EMS was able to
19 come in. You need to remember, and I know you know, but
20 you need to remember that EMS personal, they're not armed,
21 they're emergency medical providers. They cannot come
22 into a scene that's not secured. And given the 911 call,
23 no one knew exactly what was going on at this point with
24 regard to the possibility of any weapons, possibility of
25 anything else going on. They had to clear the scene.

1 They had to make it safe. So that EMS could come in.

2 Once EMS got in to take care of Donquiel T. and
3 Deputy Bowers felt like he could leave, that he was in
4 good hands, he testified that he was going out to talk to
5 the Defendant. The Defendant had been placed him the
6 patrol car. He was going to talk to him. He was going
7 the uncuff him. He goes outside, the Defendant is still
8 belligerent. He's still screaming, he's still yelling,
9 he's still cursing. Being combative, being disruptive and
10 interfering with what the officers were trying to do.
11 What officers had been called out there to do. He again
12 asked him to calm down. But at this point he had no other
13 option but to place him under arrest for interfering with
14 an officer and disorderly conduct.

15 He tried not too. He gave him, now two chances
16 and he had not complied. He then placed the Defendant
17 back in the vehicle. Another chance for him to regain his
18 composure, to think through, to realize what the deputies
19 had been telling him all along, we're here to help your
20 son, your wife's okay, you need to calm down. But he
21 squandered another chance to comply. Third chance to be
22 cooperative. He began kicking and hitting the patrol car
23 windows. Enough that the officers that were standing on
24 the outside, not only could they hear him, but they heard
25 him constantly. But they could see the vehicle moving.

1 So for his safety, and the safety of the car, they made a
2 decision that they try to restrain him with the leg
3 restraints.

4 They went to the car, they told him, you heard
5 on Ashley Swanson's microphone, they told him, We're going
6 to put the hobble on you. Do not kick me. He's given
7 another chance. They talk to him through this whole
8 thing. Given another chance to comply. Did he comply?
9 No. Fourth chance to be cooperative. He leans back in
10 the seat, he raises his legs up and he kicks Deputy
11 Cunningham square in the face.

12 Now the law says assault. It does not say that
13 injuries have rise to a certain level, it just says
14 assault. And that's what happened. Even went one step
15 further and was a battery as well. Thank the Lord that
16 Deputy Cunningham was not hurt. Thank heavens he didn't
17 have a broken nose. He felt like it. If you've ever been
18 hit in the nose, you know what it feels like. But thank
19 heavens he wasn't injured. But the law does not require
20 that he be injured to any extent.

21 Now Mr. Cooke made a big deal with Deputy Bowers
22 about dismissing the interference charge. Deputy Bowers
23 separate charges in a separate court. Deputy Bowers did
24 dismiss them on his own will. It wasn't a Judge. It
25 wasn't a jury. He made that decision to drop the charges.

1 Just trying to give him a break. He understood the
2 anxiety that the Defendant may have had in that situation
3 where his son was suffering medical distressing, he
4 understood that anxiety. Was trying to give him a break.
5 Deputy Bowers knew that there were bigger, more serious
6 charges pending in the assault and battery of an officer
7 while resisting arrest. Those are charges that can't be
8 excused. And he understood that. That has nothing to do
9 with this case. And I would tell you that the law
10 provides that it's not necessary that the underlying
11 offense be prosecuted in order for resisting arrest -- for
12 the charge of resisting arrest to be found guilty.

13 I appreciate all of your time. The Judge is
14 going to give you the law, the tools, to apply to the
15 facts as you determined them to be. And I feel certain
16 that with that information and those tools you will be
17 able to come back to this jury -- I mean, this courtroom
18 and find the Defendant guilty of assaulting an officer
19 while resisting arrest. A verdict that tells until it is
20 not okay to strike an officer. It's not okay to resist
21 arrest. Thank you, very much.

22 MR. COOKE: May it please the Court?

23 THE COURT: Yes, sir.

24 MR. COOKE: Folks, I want to thank for your
25 devotion, your time. I just have a few comments. The

1 (WHEREUPON, Deliberations began at 11:26 a.m.)

2 (WHEREUPON, Court was in recess awaiting a
3 verdict.)

4 THE COURT: All right, we have received a
5 verdict. Counsel, ready to receive the verdict?

6 MS. CASE: Yes, sir.

7 MR. COOKE: Yes, sir.

8 THE COURT: Bring them in, please.

9 (WHEREUPON, the jury came into open court at
10 approximately 11:55 a.m.)

11 THE COURT: All right, madam forelady, has the
12 jury reached a unanimous verdict?

13 MADAM FORELADY: We have, Your Honor.

14 THE COURT: Will you hand the verdict form to
15 the Bailiff, please.

16 All right, you may publish the verdict.

17 VERDICT

18 THE CLERK: Thank you, Your Honor. Your Honor,
19 this is case number 2010-GS-23-10216, Chris Bernard
20 Teasley, we, the jury, unanimously find the Defendant,
21 Chris Bernard Teasley guilty of assaulting an officer
22 while resisting arrest. Signed foreperson, Jenny
23 Williams.

24 If this is your verdict, please raise your right
25 hand.

1 provide help for that child. And if there were special
2 considerations and needs that that child needed, then
3 perhaps you should have conveyed that to the authorities
4 in a calm and measured manner.

5 But I can tell you this, the police officers in
6 the County of Greenville and the State of South Carolina
7 have to respond to these types of circumstances each and
8 every day. And they never know what they're getting into.
9 And I know that you were under some deal of stress but
10 they certainly didn't deserve to be treated like this.
11 They didn't deserve to be yelled at or cursed at or
12 screamed at and certainly they didn't deserve to be
13 kicked. Whether it was purposeful or not, it all was a
14 consequence of your conduct, not theirs.

15 All right, sentence of the Court is that you be
16 committed to the Department of Corrections for a period of
17 three years, provided upon the service of one year home
18 incarceration. The balance is suspended to probation for
19 two years. Credit for 23 days, time served. During that
20 term of probation, random drug and alcohol testing and
21 anger management counseling.

22 Now, Mr. Teasley, home incarceration is very
23 difficult. Because it's day for day. You don't get
24 credit for good time, you don't get any of those other
25 perks, essentially, that you get while you're serving time.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
RESISTING ARREST WITH ASSAULT

MAY 10 2011

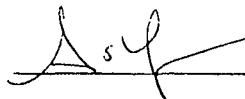
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That CHRIS BERNARD TEASLEY did in Greenville County, on or about the 14th day of November, 2010, knowingly and willfully and unlawfully assault, beat or wound C R Cunningham with the Greenville County Sheriff's Office while resisting an arrest by one whom he knew or reasonably should have known was a law enforcement officer. This is in violation of §16-9-320(B) of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

WITNESSES

C R Cunningham

Greenville County Sheriffs Office

11/14/2010

ARREST WARRANT NUMBER

1484161

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-23-

APC

010216

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

2011
TERM 2010

THE STATE

vs.

CHRIS BERNARD TEASLEY

Indictment for

0256

RESISTING ARREST WITH ASSAULT

VIOLATION § 16-09-0320(B)

ENTERED
ACCT.

RECEIVED

DEC 23 2010

Clerk of Court
Greenville County

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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 1st, 2012

A handwritten signature in cursive script that reads "Susan B. Hackett". The signature is written in dark ink and is positioned above a horizontal line.

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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(803) 734-1330

ATTORNEY FOR APPELLANT