

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

George C. James, Jr., Circuit Court Judge

THE STATE,

RECEIVED
OCT 31 2012
RESPONDENT,
SC Court of Appeals

V.

DAVID N. RHOAD,

APPELLANT

APPELLATE CASE NO. 2011-202989.

RECORD ON APPEAL

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INDEX

INDEX	i, ii
TRIAL TRANSCRIPT (OCTOBER 24 – 25, 2011)	1
OPENING STATEMENT BY MR. MILLER	5
OPENING STATEMENT BY MS. ALVES	13
TESTIMONY	
LISA HONEA	
Direct Examination by Mr. Miller	17
Cross Examination by Ms. Alves	28
GEORGE N. DeLOACHE	
Direct Examination by Mr. Miller	34
Cross Examination by Ms. Alves	42
Redirect Examination by Mr. Miller	48
BRENDAN PATRICK EGAN	
Direct Examination by Mr. Molony	49
Cross Examination by Ms. Alves	51
WILLIAM TUCKER	
Direct Examination by Mr. Molony	52
Cross Examination by Ms. Alves	53
Redirect Examination by Mr. Molony	58
NICOLE DeLOACHE	
Direct Examination by Ms. Alves	60
Cross Examination by Mr. Miller	65
CLOSING ARGUMENT BY MS. ALVES	69
CLOSING ARGUMENT BY MR. MILLER	83
CHARGE ON THE LAW	98

VERDICT	119
MOTION FOR NEW TRIAL	120
SENTENCING	133
INDICTMENT	135
CERTIFICATE OF COUNSEL.....	137

1 STATE OF SOUTH CAROLINA
2 COUNTY OF AIKEN

CIRCUIT COURT
2010-GS-02-01286

3 STATE OF SOUTH CAROLINA,

4 -vs-

TRANSCRIPT OF RECORD

5 DAVID NATHANIEL RHOAD,
6 Defendant.

7
8 HEARD ON MONDAY, OCTOBER 24, 2011
9 & TUESDAY, OCTOBER 25, 2011

10
11 BEFORE:

12 THE HONORABLE GEORGE C. JAMES

13 AND A JURY

14 APPEARANCES:

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EXAMINATION INDEX

LISA HONEA

DIRECT BY MR. MILLER 88

CROSS BY MS. ALVES 99

GEORGE N. DeLOACHE

DIRECT BY MR. MILLER 106

CROSS BY MS. ALVES 114

REDIRECT BY MR. MILLER 120

BRENDAN PATRICK EGAN

DIRECT BY MR. MOLONY 121

CROSS BY MS. ALVES 124

WILLIAM TUCKER

DIRECT BY MR. MOLONY 127

CROSS BY MS. ALVES 129

REDIRECT BY MR. MOLONY 138

DAVID NATHANIEL RHOAD

BY THE COURT 154

NICOLE DeLOACHE

DIRECT BY MS. ALVES 161

CROSS BY MR. MILLER 168

EXHIBIT INDEX

MAR / ADM

State's

1	Photograph	94
2	Photograph	95
3	Photograph	96
4	Photograph	99

SELECTION OF THE JURY

1 ON MONDAY, OCTOBER 24, 2011 AT 3:24 P.M.:

2 THE COURT: Can I see the lawyers up here for just a
3 second?

4 (Off-the-record discussion.)

5 THE COURT: All right. The State may call its first
6 case.

7 MR. MILLER: Thank you, Your Honor. The State calls
8 indictment 2010-GS-02-1286, the State of South Carolina
9 versus David Nathaniel Rhoad, a true-billed indictment for
10 criminal domestic violence.

11 THE COURT: All right. Do you have a copy of the
12 indictment for me up here?

13 THE CLERK: Here you go.

14 THE COURT: Thank you.

15 THE CLERK: You're welcome.

16 THE COURT: Ladies and gentlemen, we're going to
17 select a jury now for the trial of the case of the State
18 of South Carolina versus David Nathaniel Rhoad.

19 The questions I'm going to ask you are designed to
20 make sure we impanel a jury that is fair and impartial and
21 one which will give the State and the Defendant a
22 completely fair and impartial trial, and one -- a jury
23 that will base the verdict solely on the evidence and the
24 law in this case.

25 The questions that I'm going to ask you will be

OPENING STATEMENTS BY THE STATE

1 for me to determine right now whether there will be any of
2 those.

3 If evidence comes in, you can consider it. If I tell
4 you to disregard something that you've seen or heard,
5 under your oath you're required to do it because that's
6 part of what the law is. If I tell you to disregard it,
7 you have to.

8 Now, what I want you to do is to sit back and make
9 sure you pay very close attention. This will be more
10 apparent in the afternoon after you eat lunch, because I
11 know how people are around 2:30. You start getting a
12 little bit distracted and a little bit sleepy but, please,
13 I want to make sure you understand, this is the State's
14 and the Defendant's day in court. You cannot do your job
15 unless you give them your undivided attention.

16 All right. Any objection to those remarks from the
17 State?

18 MR. MILLER: None from the State, Your Honor.

19 THE COURT: And from the Defendant?

20 MS. ALVES: No, Your Honor.

21 THE COURT: All right. The State can give its
22 opening statement.

23 MR. MILLER: Thank you, Your Honor. May it please
24 the Court. Ms. Alves.

25 Ladies and gentlemen of the jury. My name's David

OPENING STATEMENTS BY THE STATE

1 Miller. I introduced myself briefly to you yesterday.
2 I'm a prosecutor here in the Second Circuit in Aiken
3 County, Barnwell County and Bamberg County.

4 And we prosecute crimes in general sessions court.
5 This courtroom.

6 That's what we're here about today. This is a case
7 that you're going to hear, originally started on May 15th,
8 2010. So we've known about this case for a little while.
9 And as the case starts to move its way towards court, as
10 trial attorneys one of the things that we consider and
11 talk about is how do I explain this case to the jury.

12 Because there are going to be people on the jury,
13 happens to be the 13 of you, there are going to be people
14 on the jury that probably don't have any concept of what
15 it is like to be in this position. Yesterday you heard
16 the Judge asking you questions during the voir dire
17 process that was really kind of made -- those questions
18 were intended to make sure you didn't know what it was
19 like to be involved in a situation like this so that you
20 wouldn't be biased or prejudiced, either prejudiced at us
21 or to the Defendant.

22 So you sit here as impartial jurors and now I'm faced
23 with the task of trying to explain in a few minutes kind
24 of in general terms that everybody can relate to, what's
25 going to happen.

OPENING STATEMENTS BY THE STATE

1 And I was reminded as I thought about this case
2 specifically of two incidents and they piggy back on each
3 other. I have two children; a 10-year-old boy and a
4 seven-year-old girl. And about three years ago my then
5 four-year-old girl starts screaming at the top of her
6 lungs.

7 I ran into the room as fast as I could. And she is
8 in full-on tears. And I said: What happened? And she's
9 just huffing and huffing and huffing. And I said: Did
10 Blair hit you? Blair's my son. And she said: Yes. And
11 I got very upset with Blair. And once I got my daughter
12 calmed down and I got my son calmed down, because he
13 doesn't like it when I get upset with him, he said: I
14 didn't hit her. She wanted to watch something else on the
15 TV and she started crying. And I went back to her. And I
16 said: Did Blair hit you? And she admitted: No, he
17 didn't hit me.

18 And so she got punished for that.

19 About six months ago, again Blair's 10 now, he's
20 reached an age where he gets very upset about things very
21 quickly. He's in the fourth grade. He has a girlfriend.
22 And he has a little sister that knows how to push every
23 single one of his buttons.

24 And here comes Gracie crying. Gracie, what is wrong
25 with you. Blair hit me. Okay. I go in and I sit down.

OPENING STATEMENTS BY THE STATE

1 And I said, Blair, what happened. And he said, she made
2 me so mad that I smacked her on the hand.

3 He was punished. One of the ways that he was
4 punished was by losing some privileges that he had, but
5 another way that he was punished was that he had to sit
6 down and listen to me telling him a story.

7 And that's the second part that I want to relay to
8 you guys. When I was about 12 years old, my father sat me
9 down as the oldest of three children, with a little
10 sister, and he told me, never, ever, under any
11 circumstances do you lay a hand on a woman in anger. You
12 don't do it.

13 If she comes at you and she's mad, you get away. You
14 close the door. You drive away. You run away if you have
15 to. But you do not ever lay a hand on a woman in anger.

16 That's what this case is about, ladies and gentlemen.

17 You're going to hear that three years ago, actually
18 three years before this incident, three years before this
19 incident there was an argument between Mrs. Lisa Honea,
20 the victim, and this Defendant.

21 And she told the police, she said, he beat me. So
22 the police came in and the police investigated it. And
23 after the police investigated they said, you know, this
24 doesn't add up. Things aren't adding up here. And so she
25 admitted that it didn't happen that way. She was charged

OPENING STATEMENTS BY THE STATE

1 with filing a false police report.

2 She pled -- or, she was found guilty in a bench trial
3 in magistrate's court. She was sentenced for filing a
4 false police report.

5 And, ladies and gentlemen, the sad fact of the matter
6 is, if all that the State had to present as far as
7 evidence was Lisa Honea standing up on May 15th of 2010
8 and saying, David Rhoad, the man who fathered my child,
9 hit me, we probably wouldn't be here today because there
10 just wouldn't be any way for us to prove it.

11 But that's not, that is not the only evidence that
12 this occurred.

13 There are two types of evidence in South Carolina
14 courts; direct evidence and circumstantial evidence.

15 And direct evidence can come in the form of witness
16 testimony. It's raining outside. I look outside and see
17 that it is raining. I come into the courtroom. I'm
18 placed under oath and I say, it's raining outside. That
19 is direct evidence that it is raining outside.

20 Well, let's say I'm sitting in this little lobby here
21 and there's no windows to the outside, but every single
22 person that comes in has got an umbrella and they're
23 shaking it off and if they don't have an umbrella the tops
24 of their shoulders are wet. And you can see little drops
25 of rain in their hair when they come in. I can come in

OPENING STATEMENTS BY THE STATE

1 and I can testify, although I didn't see it raining
2 outside, I did see all the people walk in with their
3 umbrellas or with their wet shoulders and I did see the
4 droplets of rain or droplets of water in their hair, and
5 therefore it must be raining outside.

6 Now, is that irrefutable, absolute, positively proof
7 that it's raining outside? No. Maybe everybody decided
8 to walk through a sprinkler on the way in. But that gets
9 to the last point.

10 Ladies and gentlemen, at the close of this case the
11 Judge is going to tell you that it's the State's
12 obligation, the State's burden to prove the Defendant
13 (sic) beyond a reasonable doubt.

14 Now, in doing that we can present you with direct
15 evidence and circumstantial evidence.

16 But much like the question of, is it beyond any doubt
17 that it was raining outside the Judge is going to tell you
18 what reasonable doubt means. And reasonable doubt under
19 our law in South Carolina, proof beyond a reasonable doubt
20 means proof that leaves you firmly convinced of the guilt
21 of the Defendant. Firmly convinced.

22 Because there are too many things in this world that
23 just simply can't be proven beyond any rational
24 explanation whatsoever. Is it rational really to think
25 that all these people walked into the courthouse through

OPENING STATEMENTS BY THE STATE

1 sprinklers and happened to have umbrellas in their hand
2 and they all got well by the sprinklers before they came
3 in? No, it's really not.

4 You'd be pretty firmly convinced that it was raining
5 outside if you were sitting in that lobby and watched all
6 those people come in with their umbrellas. But does that
7 mean that's proof beyond any conceivable doubt
8 whatsoever? No, it does not but it's not our burden. Our
9 burden of proof is proof beyond a reasonable doubt.

10 And, ladies and gentlemen, at the end of this case
11 which should very likely end today, at the end of this
12 case if you are firmly convinced that that Defendant,
13 David Rhoad, punched Lisa Honea in the face or pushed her
14 down the steps at 26 Aspen Court in Aiken County, then you
15 should find him guilty of criminal domestic violence.

16 Because they have a child in common, and the Judge
17 will explain that to you. And in the State of South
18 Carolina, if you're a household member or have a child in
19 common or you are a spouse or you were a spouse in the
20 past or you lived together in the past and you committed
21 assault and battery, an assault against somebody, that is
22 criminal domestic violence.

23 So that's really all you have to decide. All you
24 have to decide is, are they household members under the
25 law? She will testify they have a child in common. She

OPENING STATEMENTS BY THE DEFENSE

1 will testify that at one time they lived together. Okay.
2 Check in that box. Did David Rhoad punch her or assault
3 her that day? That's what you have to decide.

4 And you're not going to have to just rely on her.
5 You're going to hear testimony from Deputy Tucker. You're
6 going to hear testimony from Deputy Egan. And you are
7 going to hear testimony from Mr. George DeLoache.

8 Mr. DeLoache was present that day. Mr. DeLoache is like
9 the guy sitting in the lobby watching the people walk in
10 with the umbrellas and the water on their shoulders. He's
11 going to say, I never actually saw him strike her in the
12 face, but. And I'll let him testify to the rest of that.

13 Ladies and gentlemen thank you for your attention.
14 This will be a brief, by our terms, case.

15 And we do appreciate your willingness to serve and
16 willingness to be here, although at the end of a subpoena
17 to come to court. At the conclusion of this case, ladies
18 and gentlemen, you will find that the State has proven
19 beyond a reasonable doubt that the Defendant is guilty of
20 criminal domestic violence.

21 You'll be firmly convinced of his guilt and when you
22 listen to the Judge's charge, you will know the thing to
23 do in that jury room is to find him guilty and let the
24 system take its course.

25 Thank you, ladies and gentlemen.

OPENING STATEMENTS BY THE DEFENSE

1 THE COURT: Mr. Miller. Ms. Alves?

2 MS. ALVES: May it please the Court.

3 THE COURT: Yes, ma'am.

4 MS. ALVES: Mr. Miller.

5 Now y'all sat and listened to the solicitor's
6 comments but there's one thing that I want to talk to you
7 about. And it's true, I agree, you know, most of us, most
8 of you haven't been in a situation like this. Most people
9 that I know other than attorneys haven't been to court
10 before. They haven't sat as jurors. They haven't had to
11 listen to a trial.

12 But just about everybody I know has a home. And I
13 don't want you to just think about what it is to be
14 jurors. Think about what it is to live in your home. To
15 be in your house on a Saturday morning and to have
16 somebody who you've had a poor relationship with come to
17 your, come to the home where you're living and demand to
18 get into that home. Somebody that you've had problems
19 with in the past. Somebody who's filed false police
20 reports on you. Imagine having that person come to your
21 home.

22 You're sitting there minding your business. Imagine
23 them starting an argument with you. Imagine that person
24 then trying to assault you and get into your home,
25 demanding that they should be living there and not you.

OPENING STATEMENTS BY THE DEFENSE

1 Imagine that.

2 Now the solicitor says that, oh, you know, you should
3 never hit a woman. And I agree. I don't want to be
4 struck by anybody, ever, male or female. And that's a
5 theory that we've all grown up with. That's principle
6 that we've all heard in our lives repeatedly, that a man
7 should never hit a woman.

8 But the law allows some occasions where it is
9 allowed. And put yourselves back in Mr. Rhoad's situation
10 because you'll hear the testimony about what happened on
11 that day. Mr. Rhoad was living in a home. Ms. Honea came
12 to that home, started an argument with Mr. Rhoad in the
13 front of the home where he was living, demanded to get
14 into that home because she wanted to live there.

15 Assaults Mr. Rhoad, and he doesn't have the right to
16 defend himself? Are you kidding me?

17 Now, ladies and gentlemen, this -- the solicitor told
18 you, Mr. DeLoache was there and you're going to hear from
19 Mr. George DeLoache because he was present but he didn't
20 actually see what happened. He wasn't looking at the two
21 of them to see exactly what was going on. He heard them
22 arguing. You'll hear testimony from him, but he didn't
23 see what happened.

24 So the only witness that you'll hear from that
25 actually has a personal opinion who saw what happened, who

OPENING STATEMENTS BY THE DEFENSE

1 can tell you exactly what happened from the State's side
2 is Ms. Honea.

3 And, ladies and gentlemen, one of the things you're
4 going to have to decide today is whether she's a credible
5 witness to tell you the truth about what happened on that
6 day.

7 Because the solicitor told you about the conviction
8 that Ms. Honea had back in October of 2007 for filing a
9 false police report claiming that Mr. Rhoad had done a
10 criminal domestic violence against her. But what he
11 didn't tell you was that in October of 2007 Ms. Honea had
12 not one, but two convictions for filing a false police
13 report against Mr. Rhoad for -- and claiming that she
14 committed a criminal domestic violence against him (sic).

15 So this is not a situation like a child who may be
16 learned their lesson, you know, gets punished for telling
17 a lie and learns their lesson. No, no. She had to learn
18 that lesson twice. And she's still not stopped. Because
19 when she wanted to be in that house that day she decided
20 that she was going to get herself into that house that day
21 by whatever means necessary.

22 And if that required her to have Mr. Rhoad arrested
23 and charged with criminal domestic violence again, well,
24 that's what had to happen.

25 Now, ladies and gentlemen, the choice is going to be

OPENING STATEMENTS BY THE DEFENSE

1 yours at the end of this trial. It's going to be up to
2 you to listen to all of the evidence, to hear the Judge's
3 charge to you on the law and to decide what happened on
4 that day.

5 And it is going to be your decision about whether or
6 not Mr. Rhoad is guilty of criminal domestic violence
7 against Ms. Honea.

8 The only thing I'm asking you to do is keep an open
9 mind, listen to all of the evidence and wait until the end
10 of the case before you make up your mind.

11 This is not going to be a long case. This is not
12 going to be drawn out. It will probably be ended today.
13 But this case even though it is short is very important.
14 Mr. Rhoad has been charged with this crime, criminal
15 domestic violence, and he says he's not guilty of it.

16 You can tell he's saying he's not guilty because
17 that's what we're doing here. If he said he was guilty,
18 we wouldn't be here. But he says that he is not guilty of
19 this crime.

20 And it is going to be up to you at the end of this
21 case when you make your decision to decide, you know, what
22 the verdict is.

23 And like the solicitor said, if you're firmly
24 convinced that Mr. Rhoad is guilty of the charge then, you
25 know, it's going to be your burden to find Mr. Rhoad

LISA HONEA - DIRECT

1 guilty.

2 But if you're firmly -- if you're not firmly
3 convinced that the State has proven to you beyond a
4 reasonable doubt that Mr. Rhoad is guilty of the offense
5 of criminal domestic violence against Ms. Honea, then it
6 is going to be your burden to find him not guilty. Thank
7 you.

8 THE COURT: Thank you, Ms. Alves. Mr. Miller, you
9 can call your first witness.

10 MR. MILLER: Your Honor, the State calls Lisa Honea.

11 LISA HONEA, having been duly sworn, was examined and
12 testified as follows:

13 THE CLERK: Have a seat on the witness box, stating
14 your full name, spelling your last for the Court, please.

15 THE WITNESS: Thank you. Lisa Honea, H-O-N-E-A.

16 DIRECT EXAMINATION

17 BY MR. MILLER:

18 Q. Good morning, Ms. Honea.

19 A. Good morning.

20 Q. Ms. Honea, where do you live?

21 A. I live at [REDACTED] Myrtle Street, New Ellenton, South
22 Carolina.

23 Q. Okay. How long have you lived at that address?

24 A. Well, I was born and raised there. I -- my dad sold
25 it to me back in 1994.

LISA HONEA - DIRECT

1 Q. Okay.

2 A. And I've been living there now since, oh, probably
3 seven months I moved back in.

4 Q. Okay. Where were you living before that?

5 A. I was living at [REDACTED] Aspen Court, Aiken, South Carolina.

6 Q. Until about seven months ago?

7 A. Yes.

8 Q. And, Ms. Honea, I want to take you back to the morning
9 of May the 15th of 2010. Where were you when that morning
10 started?

11 A. I was in Aiken County Jail.

12 Q. What happened that day, that morning?

13 A. I was released and Charles Duval come and picked me
14 up. And he took me to George DeLoache's house, and from
15 there me and George and Nicky drove me back to the trailer
16 where I was living, at [REDACTED] Aspen Court. There -- they own
17 the property there and I had went there to go to collect
18 my clothes and my little boy's things because before I got
19 put in jail I was living there and then I had all my
20 things there.

21 And I was told that they had let David come stay there
22 while I was in jail. So I'm like, oh, I need to go and
23 get my things. And so they took me there.

24 Q. All right. Hold on a second. Who was in the car --
25 now, who was driving the car that you were in?

LISA HONEA - DIRECT

1 A. George DeLoache.

2 Q. Okay. Who was in the front passenger seat?

3 A. Nicky DeLoache.

4 Q. And where were you seated?

5 A. I was seated in the back seat behind the passenger
6 side.

7 Q. Okay. So you get to this ■ Aspen Court which is --
8 is that located in Aiken County?

9 A. Aiken County, yes.

10 Q. All right. You get to ■ Aspen Court, and what
11 happened whenever you got there?

12 A. Well, we pulled up in the yard right there in the
13 front. And I opened the back door to step out. And David
14 came to the door. The door was already open.

15 Q. Hold on a second.

16 A. And he had propped --

17 Q. Hold on a second. When you refer to David, who are
18 you referring to?

19 A. David Rhoad.

20 Q. Is he present in the courtroom today?

21 A. Yes, he is.

22 Q. And what is he wearing?

23 A. He's wearing a white shirt and a dark tie.

24 MR. MILLER: Your Honor, for the record, the
25 Defendant's (sic) identified the Defendant.

LISA HONEA - DIRECT

1 BY MR. MILLER:

2 Q. Okay. So you get there and you open up the back door
3 of the car. Is it a four-door car?

4 A. Four-door car, yes.

5 Q. Okay.

6 A. And I step out of the car. And before I could really
7 get the back door shut, David come up to the door and seen
8 me. And he automatically come at me. He didn't run at
9 me, but he moved in a fast kind of way. And I didn't even
10 say anything to him. He came at me and hit me in my
11 mouth. And hit me again across my face and I fell on the
12 ground, kind of fell back behind the car.

13 And I screamed and he started -- he was kicking me and
14 I was screaming. And Mr. DeLoache had got out of the
15 driver's side and walked around and said, David quit,
16 David quit --

17 MS. ALVES: Objection. Hearsay.

18 THE WITNESS: -- or she'll have you arrested.

19 THE COURT: Ma'am, when somebody objects you got to
20 stop.

21 THE WITNESS: Oh, okay.

22 THE COURT: Yes, ma'am?

23 MS. ALVES: Objection. Hearsay. Move to strike
24 everything she just said.

25 THE COURT: Is it offered to prove the truth of the

LISA HONEA - DIRECT

1 matter?

2 MS. ALVES: I believe it is, Your Honor.

3 THE COURT: All right. Mr. Miller, we'll let Mr --
4 I'll sustain the objection. Ladies and gentlemen,
5 disregard what she said about what Mr. DeLoache said.

6 All right. Go ahead, Mr. Miller.

7 MR. MILLER: All right.

8 Q. I know you're nervous.

9 A. Right.

10 Q. When Mr. DeLoache came around the car --

11 A. Uh-huh.

12 Q. -- did he say something to you or to Mr. Rhoad?

13 A. Yes, he did.

14 Q. Okay. As a result of what he said, what did you do?

15 A. Well, David had quit and then I jumped up and ran to
16 my neighbor's house.

17 Q. Okay. Did you see what the Defendant did?

18 A. No, because I was --

19 Q. Running away?

20 A. -- running away, yes.

21 Q. Okay. When you got to your neighbor's house, what did
22 you do?

23 A. I showed Tammy Young what he had done to me and I

24 said, let me hold your cell phone so I can dial 9-1-1 to
25 call the police.

LISA HONEA - DIRECT

1 Q. Okay. How long was it before deputies with the
2 sheriff's office arrived after you called them?

3 A. Oh, it was probably anywhere between 15, 20 minutes,
4 maybe, something like that.

5 Q. Okay. How many deputies showed up?

6 A. I know -- let's see. I believe -- I know one stopped
7 by Tammy's house and took pictures of my lip. I think it
8 might have been two, three, something like that.

9 Q. Okay. I'm going to show you what's previously been
10 marked for identification as State's Exhibit One. And,
11 Your Honor, there are four photographs. All of them have
12 been provided to the defense in discovery.

13 THE COURT: One for ID.

14 MS. ALVES: I'd like to see what he's got.

15 THE COURT: All right. Show it to her.

16 MR. MILLER: I'll move to introduce all four of them,
17 so if you want to look at them all at one time.

18 MS. ALVES: Yeah (reviewing photographs.)

19 BY MR. MILLER:

20 Q. I'm going to show you what's been marked for ID
21 previously as State's Exhibit One.

22 A. Uh-huh.

23 Q. Can you explain to the jury who that's a photograph of

24 A. This is a photograph --

25 Q. No, don't show it.

LISA HONEA - DIRECT

1 A. -- of me.

2 Q. Okay. And when was that photograph taken?

3 A. It's May 15th.

4 Q. Okay. Who took the photograph?

5 A. It was a deputy, and I don't remember his name.

6 Q. Okay. Does that photograph fairly and accurately
7 represent the way you looked that day?

8 A. Yes, with a cut and then the cut on my face.

9 Q. All right. Your Honor, at this time the State would
10 move to introduce State's Exhibit One.

11 MS. ALVES: No objection.

12 THE COURT: All right.

13 (Thereupon, State's Exhibit No. 1, photograph, was
14 received into evidence.)

15 BY MR. MILLER:

16 Q. We'll go through the same questions with all of them.

17 A. Okay.

18 Q. I'm going to show you what's been marked as State's
19 Exhibit Two. Who's in that photograph?

20 A. That's me.

21 Q. And when was that photograph taken?

22 A. May 15th.

23 Q. And who took that photograph?

24 A. The deputy.

25 Q. The same deputy?

LISA HONEA - DIRECT

1 A. The same deputy.

2 Q. Does that photo fairly and accurately represent the
3 way you appeared that day?

4 A. Yes.

5 Q. And what is in this photograph?

6 A. My inner lip where it cut my tooth when he hit me,
7 like this and it cut me.

8 MR. MILLER: Your Honor, State moves to introduce
9 State's Exhibit Two.

10 MS. ALVES: No objection.

11 THE COURT: All right.

12 (Thereupon, State's Exhibit No. 2, photograph, was
13 received into evidence.)

14 BY MR. MILLER:

15 Q. I'm going to show you what's been previously marked
16 for identification as State's Exhibit Three. Who is that
17 in the photo?

18 A. That's me.

19 Q. Okay. And do you know when this photograph was taken?

20 A. May 15th.

21 Q. Of what year?

22 A. Of 2011.

23 Q. 2011 or 2010?

24 A. 2010. I'm sorry.

25 Q. Okay. Just slow down. And who took this photograph?

LISA HONEA - DIRECT

1 A. The deputy, same deputy.

2 Q. Okay. And does this photo fairly and accurately
3 represent the way you appeared that day?

4 A. Yes.

5 MR. MILLER: Your Honor, we'd move -- State would move
6 to introduce State Exhibit Number Three.

7 MS. ALVES: No objection.

8 THE COURT: Okay.

9 (Thereupon, State's Exhibit No. 3, photograph, was
10 received into evidence.)

11 BY MR. MILLER:

12 Q. I'm going to show you what's been previously marked
13 for identification as State's Exhibit Number Four. And
14 who is in that photo?

15 A. That's me.

16 Q. Okay. And when was this photo taken?

17 A. May 15th, 2010.

18 Q. And who took this photo?

19 A. Deputy, same deputy.

20 Q. And does this photo fairly and accurately represent
21 the way that you appeared on May 15th of 2010?

22 A. Yes.

23 Q. Now, were all of these photos taken before or after
24 the altercation with Mr. Rhoad?

25 A. After.

LISA HONEA - DIRECT

1 Q. Okay. Did you have any of these injuries that are
2 depicted in this photo prior to encountering Mr. Rhoad
3 that day?

4 A. No.

5 MR. MILLER: Your Honor, the State would move to
6 publish the exhibits, One through Four, to the jury.

7 THE COURT: All right. Ladies and gentlemen, if an
8 exhibit is published that means it's just going to be
9 shown to you. You're going to hand it to the box?

10 MR. MILLER: Your Honor, I think maybe the fastest
11 way is to just hold them up and show them.

12 THE COURT: All right. Are you going to continue to
13 ask questions

14 MR. MILLER: Yes, sir.

15 THE COURT: Ladies and gentlemen, as you're looking
16 at the photographs and the witness is still testifying,
17 make sure you kind of do two things at once; look at
18 photos and listen carefully. The photos will be with you
19 when you deliberate, so you'll have those later on.

20 MR. MILLER: And, Your Honor, I'll publish One and
21 Two at the same time. That way it will save a little bit
22 of time but they will be in the jury room.

23 (Exhibits shown to the jury.)

24 MR. MILLER: And photos Three and Four.

25 (Exhibits shown to the jury.)

LISA HONEA - DIRECT

1 BY MR. MILLER:

2 Q. Ms. Honea, after the deputies responded to your
3 neighbor's house, did you talk to one of the deputies?

4 A. Yes.

5 Q. Did you tell him what happened?

6 A. Yes, I did.

7 Q. Okay. Let's go back to the situation in October of
8 2007. When were you -- do you recall the date that you
9 were convicted of the two counts of false information?

10 A. I don't recall the date that I went to the judge's
11 office, but I know that when I went there I wanted to sign
12 up for a jury trial because I knew it wasn't false
13 information. I was telling --

14 THE COURT: All right. Ma'am, ma'am.

15 MR. MILLER: Hold on a second.

16 THE COURT: Disregard that, ladies and gentlemen.
17 She's got to answer the question.

18 THE WITNESS: Okay.

19 THE COURT: No commentary.

20 BY MR. MILLER:

21 Q. Do you recall the exact date that you were convicted
22 of false information?

23 A. No.

24 Q. All right. Were you convicted of both counts of false
25 information on the same day?

LISA HONEA - CROSS

1 A. Yes.

2 Q. As a result of your plea, were you forced to pay any
3 fine?

4 A. No.

5 Q. As a result of your plea, were you forced to spend any
6 more time in jail?

7 A. No.

8 Q. Your Honor, I believe I may have omitted or neglected
9 to enter State's Exhibit Four in after the foundational
10 questions were asked.

11 MS. ALVES: I didn't have any objection.

12 THE COURT: All right. That's in.

13 (Thereupon, State's Exhibit No. 4, photograph, was
14 received into evidence.)

15 MR. MILLER: Ms. Honea, please answer any questions
16 that Ms. Alves might have for you.

17 CROSS-EXAMINATION

18 BY MS. ALVES:

19 Q. All right. Going back to October of 2007 when you
20 were convicted of those charges, you just received a
21 sentence of time you already served?

22 A. Yes, I spent one night in jail.

23 Q. All right. So you'd gotten time served, but you got
24 convicted?

25 A. Well, no. That's not really how it went.

LISA HONEA - CROSS

1 Q. Ma'am, did you get convicted of false information to
2 the police in -- two counts of that, in October of 2007?

3 A. I pled guilty.

4 Q. To two charges for filing a false police report?

5 A. I went ahead and pled guilty to them.

6 Q. Okay. Both charges?

7 A. Yes.

8 Q. Okay. And both of those charges were for filing false
9 police report, saying that Mr. Rhoad had committed a
10 criminal domestic violence against you?

11 A. Yes.

12 Q. Now, you've also been convicted, in December of 2007,
13 for accessory after the fact to a felony; weren't you?

14 A. Yes.

15 Q. And you were also convicted in August of 2007 to
16 defrauding an innkeeper; weren't you?

17 A. Yes.

18 Q. Now in this situation here today, the one we're
19 talking about, from May 15th, 2010, you testified that you
20 were in jail?

21 A. Yes.

22 Q. And you considered that location at ■ Aspen Court
23 your home?

24 A. At the time, yes.

25 Q. All right. But you had been in jail for a little bit,

LISA HONEA - CROSS

1 for a few months?

2 A. Two months.

3 Q. Okay. And you were aware that during those two months
4 Mr. Rhoad had moved into that property?

5 A. Yes.

6 Q. But you still insisted on going there that day?

7 A. Yes, I did.

8 Q. And in fact you told the deputies that you were going
9 home?

10 A. I was going there to get my things.

11 Q. You didn't tell them that you were going home?

12 A. Well, it was -- well at the time I thought it was my
13 home for a time.

14 Q. All right.

15 A. But I had to go get mine and my son's things.

16 Q. You didn't tell the deputies that you were going to
17 get your things; did you?

18 A. I can't remember everything that I told them, but I
19 knew -- I told them that I was going home.

20 Q. All right.

21 A. I was very upset.

22 Q. And, you were going to get your son's things?

23 A. Yes, because I had my son's things there too, some of
24 his belongs.

25 Q. Your son doesn't live with you, though?

LISA HONEA - CROSS

1 A. No, he doesn't.

2 Q. Okay.

3 MS. ALVES: Beg the Court's indulgence one moment.

4 THE COURT: All right.

5 (Pause.)

6 BY MS. ALVES:

7 Q. How long had your son not lived with you?

8 A. Since, it's been 2008.

9 MS. ALVES: Beg the Court's indulgence. (Pause.)

10 Judge, may we approach?

11 THE COURT: Yes, ma'am.

12 (Off-the-record discussion.)

13 THE COURT: You can continue. Everybody okay?

14 BY MS. ALVES:

15 Q. Now, Ms. Honea, I want to ask you about that incident
16 in 2007 when you were ultimately charged with filing a
17 false police report. Okay?

18 A. Okay.

19 Q. Now in that incident you had just gotten out of jail
20 from that incident, too; is that right?

21 A. Well, yes.

22 Q. And you went over to the home that you had formerly
23 shared with Mr. Rhoad?

24 A. Well, no. I went to [REDACTED] Aspen Court. I was staying --

25 Q. I'm talking about back in 2007.

LISA HONEA - CROSS

1 A. Yes, I was staying there then, also.

2 Q. And in that situation you had just -- you had gone
3 back to the home where you had previously stayed?

4 A. Yes.

5 Q. And Mr. Rhoad was living there?

6 A. No -- well, he lived across the road, the street, and
7 he had come over and asked me if I wanted to come over and
8 so I did.

9 Q. All right. Now, the incident in 2007, that happened
10 at 2154 Williston Road; didn't it?

11 A. Yes.

12 Q. We're not talking about Aspen Court. I want to be
13 clear. We're talking about Williston Road?

14 A. Yes.

15 Q. And that was the incident where you told the officer
16 that you had been released from jail and had come home; is
17 that right?

18 A. Well, yes.

19 Q. And Mr. Rhoad had been staying at that address; isn't
20 that right?

21 A. Well, actually I went to [REDACTED] Aspen Court. That's where
22 I was living, but I consider both places my home.

23 Q. All right. This incident that you told the police
24 about, that happened at 2154 Williston Road; didn't it?

25 A. Yes, because he invited me over.

LISA HONEA - CROSS

1 Q. So you're saying that you went to his home and that
2 when he came home y'all got into an argument?

3 A. No, he was already -- he was already there.

4 Q. So you never told the officer that when he came to the
5 house y'all got into an argument?

6 A. Well, he had come to Nicky DeLoache's house and that's
7 when we had gotten into an argument.

8 Q. I just want to be clear now. You never told the
9 police officer that after you got out of jail and went
10 home that he came to your home, that he came home while
11 you were there and got into a fight?

12 A. Well, I don't understand if it was at the [REDACTED] Aspen
13 Court or the 2143 Williston Road.

14 Q. I'm talking about 2154 Williston Road.

15 A. 2154.

16 Q. Yeah.

17 A. But I know that he was there because he invited me
18 over.

19 Q. I just want to be clear. You never told the police,
20 or did you, that when you got out of jail in September of
21 2007 you went to your home at 2154 Williston Road, and
22 that he came home and y'all got into a fight?

23 A. Not that I remember.

24 Q. Okay. But as a result of your making the police
25 report in September of 2007, you got charged with false

GEORGE N. DeLOACHE - DIRECT

1 THE CLERK: This list right here.

2 THE COURT: All right. You can bring in the jury.

3 (Jury enters courtroom at 11:40 a.m.)

4 THE COURT: All right. We're ready to move forward,
5 ladies and gentlemen. It's hard for me to count in a
6 stranger's jury box to see if we have everybody. All
7 right.

8 Mr. Miller, you can call your next witness.

9 MR. MILLER: Thank you, Your Honor. State calls
10 George DeLoache.

11 GEORGE N. DeLOACHE, having been duly sworn, was
12 examined and testified as follows:

13 THE CLERK: Have a seat on the witness box, stating
14 your full name, spelling your last for the Court, please.

15 DIRECT EXAMINATION

16 BY MR. MILLER:

17 Q. Can you state your full name for the Court, sir?

18 A. George N. DeLoache.

19 Q. Can you spell your last name for the court reporter?

20 A. D-E capital L O-A-C-H-E.

21 Q. Good morning, Mr. DeLoache. Can you please explain to
22 the jury how you know the victim in this case, Lisa Honea?

23 A. Well, she was a friend of my daughter and that's how I
24 came to know her.

25 Q. And -- who was your daughter?

GEORGE N. DeLOACHE - DIRECT

1 A. My daughter's Nicole DeLoache, better known as Nicky.

2 Q. Okay. Going back to the day of May 15th, 2010
3 which -- were you in the courtroom when all of this was
4 discussed about --

5 A. Yes, I was.

6 Q. Okay. Going back to that day, did you take your
7 daughter Nicole or Nicky and the victim, Ms. Lisa Honea,
8 to ■ Aspen Court?

9 A. Yes, I did.

10 Q. Okay. And how did you get there?

11 A. I drove in my car. They were with me.

12 Q. Okay. What kind of car do you got? Or did you have
13 at that time?

14 A. It's a 2002 Mercedes Benz.

15 Q. Is it a two-door or a four-door?

16 A. It's a four-door.

17 Q. Do you recall -- were you driving the car?

18 A. Yes.

19 Q. Do you recall who was sitting in the front passenger
20 seat?

21 A. That was my daughter, Nicky.

22 Q. And where was Ms. Honea sitting?

23 A. She was in the rear seat on the right-hand side.

24 Q. Okay. So she was behind your daughter?

25 A. Yes.

GEORGE N. DeLOACHE - DIRECT

1 Q. Okay. The property at ■ Aspen Court, who owns that
2 property?

3 A. I do.

4 Q. Okay. And is that property in Aiken County?

5 A. Yes.

6 Q. Okay. When you went there that day, why were you
7 taking the victim, Ms. Honea, to ■ Aspen Court?

8 A. She -- I was -- I thought I was going to take her to
9 her house, but she insisted she wanted to go to the mobile
10 home where the Defendant was staying.

11 Q. And why did she want to go there?

12 A. She didn't explain, but since I knew they had had a
13 relationship before, I thought she might want to make up
14 with him or get back together or something.

15 That's the only thing I could think of, but I still
16 advised against it.

17 Q. But you said you thought you were going to take her to
18 her house. Where was she living at the time?

19 A. Well, as far as I know it was in her house that she
20 owns.

21 Q. Okay. So, there was testimony earlier that she had
22 just gotten out of jail that morning. Were you aware of
23 that?

24 A. I knew she had been in jail. I can't testify as to
25 the date.

GEORGE N. DeLOACHE - DIRECT

1 Q. Okay. What happened when you pulled up in front of
2 the trailer at ■ Aspen Court?

3 A. Well, Mr. Rhoad was staying in the mobile home. He
4 was doing work for me. And he knows that I have bad
5 knees. So when I drive up in front of the house, he comes
6 out without my having to get out and go in. So he came
7 out of the door.

8 Q. Okay. He came out of the door. And what happened
9 next?

10 A. Well, he came down the steps and toward the car. And
11 I saw him headed back toward Ms. Honea. She was standing
12 on the right side of the car but behind so that the
13 quarter panel of the car was in the way. I could not see
14 her from -- I was sitting in the driver's seat with my
15 seat belt fastened.

16 Q. Okay. So did Mr. Rhoad approach her or did he
17 approach like he was coming to your window to talk to you?

18 A. He started toward her. And I didn't think that was a
19 good sign. So, I, I loosened my seat belt and got out of
20 the car and went around to the back of it.

21 Q. Now you said you have bad knees. How long does it
22 take you to loosen your seat belt and get out of your car
23 and get around to the back?

24 A. Oh, just about as long as it, you know, a couple of
25 minutes or three.

GEORGE N. DeLOACHE - DIRECT

1 Q. Okay. What, if anything, did you see go on between
2 Mr. Rhoad and Ms. Honea?

3 A. I didn't see the two of them at any time before I got
4 out of the car.

5 Q. Okay.

6 A. I couldn't -- he was walking toward her. And he, he,
7 since he wasn't coming to talk to me, I decided I better
8 look and see what was happening.

9 Q. What, if anything, did you hear going on between
10 Mr. Rhoad and Ms. Honea? And I'm not asking you
11 specifically what anybody said. I'm just asking you, did
12 you hear anything?

13 A. I heard, I heard Ms. Honea make a little, kind of a
14 squeal and that's all I heard.

15 Q. Okay. So you're out of the car now. And you come
16 around to the back of the car. Did you walk back the
17 driver's side of the car towards the trunk? Get out and
18 walk towards the trunk?

19 A. Yes.

20 Q. And when you got to the end of the car, what did you
21 see?

22 A. Well, Ms. Honea was sitting on the ground and scooting
23 away from Mr. Rhoad who was standing in front of where she
24 had been.

25 And I said -- what I think I said was, don't, David,

GEORGE N. DeLOACHE - DIRECT

1 don't, or stop. And I said, you know she'll put you in
2 jail.

3 Q. And what did Ms. Honea do at that point?

4 A. Well, she scrambled to her feet and ran off to,
5 there's a little stand of woods on the south side of the
6 lot. She went back in there.

7 Q. Do you recall if she was carrying her purse?

8 A. No.

9 Q. She was not or you don't recall?

10 A. I beg pardon?

11 Q. Do you recall if she was carrying her purse?

12 A. No, I don't.

13 Q. Okay. What did Mr. Rhoad do when she ran off into the
14 woods?

15 A. Well, he stood there for a minute and then he turned
16 and went around the south side of the trailer. And I, I
17 didn't follow him or anything and neither did -- but I
18 looked towards, to see if I could tell where Ms. Honea had
19 gone and I couldn't tell.

20 Q. Okay.

21 A. I just assumed she had gone to a neighbor's house.

22 Q. Was the front door of the trailer still open at that
23 time?

24 A. I don't know.

25 Q. Okay. What did you do after Ms. Honea runs away and

GEORGE N. DeLOACHE - DIRECT

1 after Mr. Rhoad walks around the south end of the trailer,
2 what did you do?

3 A. After she ran off?

4 Q. Yes, sir.

5 A. Was nothing I could do. I just got back in the car
6 and left.

7 Q. Okay. Did your daughter, Nicky, ever get out of the
8 car?

9 A. No.

10 Q. Okay. Later that day, did you receive a telephone
11 call from someone who identified himself as a deputy with
12 the Aiken County Sheriff's Office? Or did you speak to
13 someone from the Aiken County Sheriff's Office?

14 A. Well, I'm thinking. Yes, I did.

15 Q. Okay. And did you tell him what you knew about the
16 incident?

17 A. Yes, I did.

18 Q. Okay. And how long have you owned the property at
19 Aspen Court?

20 A. How long had he been there?

21 Q. How long have you owned it?

22 A. Oh, man. I really don't remember exactly. It's --
23 must have been about 2007. No, it was longer than that.

24 Q. Okay. So ...

25 A. Must be about 2005.

GEORGE N. DeLOACHE - CROSS

1 Q. Okay. Had you ever as the owner of that property
2 sought any kind of trespassing notice or anything --

3 MS. ALVES: Objection.

4 MR. MILLER: -- of that nature?

5 MS. ALVES: Leading.

6 THE COURT: Overruled. I don't believe that's
7 leading.

8 BY MR. MILLER:

9 Q. Had you ever sought any kind of trespassing notice
10 against Ms. Lisa Honea to keep her off that property?

11 A. No.

12 MS. ALVES: Objection. Leading.

13 THE COURT: Overruled.

14 BY MR. MILLER:

15 Q. I'm sorry, sir.

16 A. No.

17 Q. Mr. DeLoache, you're friendly with the Defendant,
18 Mr. Rhoad; aren't you?

19 A. Yes.

20 Q. And you're here today testifying in response to the
21 subpoena that our office served upon you; is that correct?

22 A. That's correct.

23 MR. MILLER: Beg the Court's indulgence.

24 Mr. DeLoache, please answer any questions that

25 Ms. Alves may have for you.

GEORGE N. DeLOACHE - CROSS

1 THE WITNESS: All right.

2 CROSS-EXAMINATION

3 BY MS. ALVES:

4 Q. Now, Mr. DeLoache, where did you meet up with
5 Ms. Honea that day? When you met up with Ms. Honea on May
6 15th, where did you meet her?

7 A. I believe I picked her up at the jail.

8 Q. You and Nicky? Were you and Nicky together?

9 A. Yes.

10 Q. And you went to the jail to pick her up?

11 A. I think so. I'm not sure but I, I thought I remember
12 that, but I think that's where I picked her up.

13 Q. Okay. And I'll come closer and talk louder. Okay?

14 A. All right. Thank you.

15 Q. You're welcome. Now, do you remember how long
16 Mr. Rhoad had lived in that house? Had it been during the
17 time that -- well, let me ask you this: How long had
18 Ms. Honea lived in the house?

19 A. Well, she -- my daughter had lived in the house and
20 she moved in with my daughter temporarily. When my
21 daughter came to my house to live, she stayed there for a
22 while longer but I can't tell you the dates.

23 Q. Okay. But during the time that Ms. Honea was in jail,
24 Mr. Rhoad moved into the house, into the trailer?

25 A. Yes.

GEORGE N. DeLOACHE - CROSS

1 Q. And that was with your permission?

2 A. Oh, yes. He was working for me. And it was all right
3 with my daughter to let him move in there, so he did.

4 Q. Okay. And on the day that Ms. Honea got out of jail,
5 where did you think that you were taking her?

6 A. Well, I thought I was taking her to her house --

7 Q. Did --

8 A. -- in New Ellenton.

9 Q. Not [REDACTED] Aspen Court?

10 A. No, but she prevailed on me to take her there. She
11 said that's where she wanted to go.

12 Q. Now you testified that she insisted to go there?

13 A. I did. That's right.

14 Q. Okay. And you testified that you advised against it?

15 A. I did.

16 Q. Now, you were aware of the, of the -- basically the
17 bad blood between her and Mr. Rhoad?

18 A. Yes, I was. But also was aware of the time when they
19 had a relationship and were living in his trailer.

20 Q. Okay. But at the time that you -- on this day on May
21 15th of last year, you thought it was a bad idea for her
22 to go over to the house where Mr. Rhoad was living?

23 A. That's right. Only it wasn't last year -- I guess it
24 was.

25 Q. Okay. But she insisted on going there?

GEORGE N. DeLOACHE - CROSS

1 A. Yes.

2 Q. Well, how was her demeanor when she was telling you
3 she wanted to go there? What was her demeanor like when
4 she was telling you she wanted to go there?

5 A. She was just insistent that's where she wanted to go.
6 That's all.

7 Q. And did she tell you why?

8 A. No.

9 Q. She didn't tell you that she wanted to go and pick up
10 her property?

11 A. No, not to my knowledge. No, she didn't do that.

12 Q. She did not. She just told you that she wanted to go
13 over to that home?

14 A. That's right. That's where she wanted to go. Like I
15 say, I made an assumption I shouldn't have made. I
16 thought she might have wanted to get back together with
17 him.

18 Q. Okay. Now, when you got to the home, did she
19 immediately get out of the car?

20 A. She opened the door and I don't know if I'd call that
21 immediately or not. But she did, she got out of the car.
22 I don't --

23 Q. Okay. Now, was the door to the trailer open or
24 closed?

25 A. Well, Mr. Rhoad was coming out as soon as I came up

GEORGE N. DeLOACHE - CROSS

1 and parked. It was his custom to come out. Like, he
2 knows I have a little trouble getting in and out of the
3 car with my bad knees.

4 Q. Okay.

5 A. And he would come out when I drove up.

6 Q. So he would have recognized your vehicle?

7 A. Oh, yeah.

8 Q. And did you hear any conversation between them?

9 A. No, I did not.

10 Q. Was there conversation that you might not have heard
11 or you don't know?

12 A. I don't know.

13 Q. So do you know whether they were having any words
14 between each other?

15 A. No.

16 Q. You don't know or they weren't?

17 A. I do not know.

18 Q. Okay. Thank you. And did you see what actually
19 happened?

20 A. All I saw was that she was standing sort of behind the
21 car out of my sight because of the rear quarter panel of
22 the car, and he was walking toward her. And that's all I
23 saw until I got out of the car.

24 Q. Okay. Do you know whether she assaulted him?

25 A. No.

GEORGE N. DeLOACHE - CROSS

1 Q. She didn't or you don't know?

2 A. I don't know.

3 Q. You don't know. Thank you. And you didn't see him
4 strike her in the face?

5 A. No, I did not.

6 Q. You didn't see him kicking her while she was on the
7 ground?

8 A. No, I did not.

9 Q. Do you know whether she had any property in the
10 trailer?

11 A. No, I don't.

12 Q. You don't know --

13 A. I'll --

14 Q. Excuse me.

15 A. She had told me that she left some pictures in there,
16 I believe, photographs, of quite a lot of, or a collection
17 of them. I believe she told me that.

18 Q. Okay. When did she tell you that?

19 A. Huh?

20 Q. When did she tell you that?

21 A. Gee, I don't know. He was in there. He was living in
22 there when she told me that, I'm pretty sure.

23 Q. Okay. Well, did she tell you that that day when you
24 were coming from the jail?

25 A. No.

GEORGE N. DeLOACHE - REDIRECT

1 Q. Okay. Well, let me ask you this: You were aware that
2 Mr. Rhoad was arrested for this charge; correct?

3 A. Yes.

4 Q. Okay. And --

5 A. Well, wait a minute. At the time I went up there I
6 didn't, of course. He, he --

7 Q. No, I mean, I mean after. After this day --

8 A. Yeah.

9 Q. -- he got charged with this charge --

10 A. Yes.

11 Q. -- that we're here for today?

12 A. I knew that he was charged, that he was arrested.

13 Q. Okay. After he was arrested, who lived in the
14 trailer?

15 A. Well, I believe she moved back in shortly afterward.

16 Q. By she, you mean Lisa?

17 A. Yes. I mean Ms. Honea.

18 Q. Ms. Honea. Okay. Begging the Court's indulgence one
19 moment. (Pause.)

20 Mr. DeLoache, did she move in the same day that he was
21 arrested for this?

22 A. I don't think so.

23 Q. Do you know how long it was after?

24 A. No, I don't.

25 Q. Okay. But you do -- you do recall that after he was

1 arrested for this incident on May 15th, she moved into the
2 trailer?

3 A. Yes.

4 MS. ALVES: Thank you. No further questions.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MR. MILLER:

8 Q. Mr. DeLoache, after Mr. Rhoad was arrested on this
9 incident, did you allow him to live in another property
10 that you own nearby? Or do you know where he went after
11 the incident where he was arrested? Where did he move to?

12 MS. ALVES: Objection, Your Honor. Relevance.

13 THE COURT: Overruled.

14 THE WITNESS: I don't recall.

15 BY MR. MILLER:

16 Q. Okay. He did not move back into ■ Aspen Court,
17 though?

18 A. No.

19 MR. MILLER: Thank you. No further questions.

20 THE COURT: Anything else?

21 MS. ALVES: No, sir.

22 THE COURT: All right. You can step down. Thank
23 you, Mr. DeLoache.

24 MR. MILLER: Your Honor, the State would request if
25 there's no objection from the defense that Mr. DeLoache be

BRENDAN PATRICK EGAN - DIRECT

1 Q. The same responsibilities you have now?

2 A. Yes, sir.

3 Q. During -- were you working on May the 15th of 2010?

4 A. I was.

5 Q. What day of the week was that?

6 A. Saturday.

7 Q. During your shift, did you respond to a domestic
8 dispute in the New Ellenton area of Aiken County?

9 A. I did.

10 Q. Who was the complaining party of that dispute?

11 A. A Ms. Lisa Honea.

12 Q. And where did you speak with Ms. Honea?

13 A. On Aspen Court.

14 Q. What was the nature of the complaint? Just --

15 A. When I made contact with her she had stated that the
16 Defendant had punched her in the mouth pursuant to a
17 verbal argument.

18 Q. And did you see any injuries?

19 A. I did.

20 Q. And are you the one who took the photographs of her
21 injuries?

22 A. I am.

23 Q. After speaking with the victim, what did you do next?

24 A. I tried to make contact with the Defendant at ■ Aspen
25 Court.

BRENDAN PATRICK EGAN - DIRECT

1 Q. And when you arrived at ■ Aspen Court, what did you
2 see?

3 A. Myself and Deputy Tucker approached the residence.
4 There was no answer at the door. The door was locked. We
5 went around to the back of the trailer. The back door was
6 swinging open. We entered to clear the residence to
7 attempt to make contact with Mr. Rhoad. He was not in
8 there.

9 Q. And once you noticed that the Defendant was not in the
10 home, where did you go?

11 A. We believed he might have exited the residence when we
12 approached, into the field adjacent to the trailer or into
13 the wood line that surrounds the field.

14 Q. So, did you enter the field?

15 A. Yes, we did.

16 Q. And what happened when you entered the field or the
17 wooded area?

18 A. We found the Defendant lying in some brush drinking a
19 beer.

20 Q. And what happened after you found him laying down with
21 a beer?

22 A. We approached the Defendant. We ordered him to lie
23 prone on the ground. He refused to acknowledge us. He
24 just looked at us.

25 Deputy Tucker covered me. I approached the Defendant,

BRENDAN PATRICK EGAN - CROSS

1 placed him in handcuffs.

2 Q. What time of day was this?

3 A. It was almost noon.

4 Q. Almost noon?

5 A. Yes, sir.

6 Q. And you said you placed him in handcuffs?

7 A. Correct.

8 Q. When did you place him in handcuffs?

9 A. Right after we found him.

10 Q. Immediately?

11 A. Yes.

12 Q. Why did you do so so fast?

13 A. For our security and because we felt he might have
14 been a flight risk.

15 Q. What was the Defendant's demeanor as he was being
16 escorted in your patrol car?

17 A. He was very agitated and verbally aggressive.

18 MR. MOLONY: Thank you. Please answer any questions
19 Ms. Alves has for you.

20 THE WITNESS: Yes, sir.

21 CROSS-EXAMINATION

22 BY MS. ALVES:

23 Q. You said he was verbally aggressive?

24 A. Yes, ma'am.

25 Q. And, you talked to him about the incident; didn't you?

WILLIAM TUCKER - DIRECT

1 Q. And where did you respond to the complaint?

2 A. It was a neighbor's house near ■ Aspen Court in New
3 Ellenton.

4 Q. And what did you do when you arrived at the scene?

5 A. When I arrived, Deputy Egan was already on the scene
6 speaking with Ms. Honea, snapping some photographs. I
7 just briefly spoke with her. And then we responded to the
8 Defendant's address.

9 Q. And what did you see when you got to the Defendant's
10 address?

11 A. Well, when we got there we went to the front door and
12 knocked on it and tried to make contact. The door was
13 locked.

14 We went around to the back of the residence. And
15 found the back door open. We entered the residence trying
16 to find the Defendant, yelling out to him. Didn't see him
17 inside of the residence at all.

18 Q. Okay. So, what did you do after that?

19 A. After that we exited back out to the field area behind
20 the residence and started searching the immediate area to
21 try to locate him hiding or running or whatever the
22 situation may have been.

23 Q. And did you ultimately find him?

24 A. Yes, sir. We entered the wood line and found the
25 Defendant kind of laying back behind some bushes drinking

WILLIAM TUCKER - CROSS

1 a beer.

2 Q. What did you do after you saw the Defendant laying
3 down drinking a beer.

4 A. We, I hollered out to him, let me see your hands, let
5 me see your hands. He kind of just laid where he was at
6 and he continued to consume his alcohol.

7 I had my duty weapon out and Deputy Egan approached
8 him, grabbed him, was able to put him in handcuffs at that
9 point.

10 Q. And did you see him placed into handcuffs immediately?

11 A. He was immediately placed into handcuffs, that's
12 correct.

13 Q. And why was that?

14 A. In fear he would run or try to evade us.

15 MR. MILLER: Thank you, Deputy Tucker. Please answer
16 any questions Ms. Alves has for you.

17 CROSS-EXAMINATION

18 BY MS. ALVES:

19 Q. All right. Now, you said that when you first found
20 Mr. Rhoad he was just sitting there drinking a beer in the
21 bushes?

22 A. Yes, ma'am. He was kind of laid back.

23 Q. Laid back. And then when you hollered out for him to
24 get on the ground, is that what you said, or show me your
25 hands?

WILLIAM TUCKER - CROSS

1 A. Uh-huh.

2 Q. That he just ignored you?

3 A. He continued to drink his beer; yes, ma'am.

4 Q. And ignored you?

5 A. Yes, ma'am.

6 Q. But then when you and Deputy Egan went in and put the
7 handcuffs on, then that's pretty much what happened, you
8 put the handcuffs on him and put him in the police car?

9 A. We placed him in handcuffs and walked him back towards
10 our vehicles; yes, ma'am.

11 Q. Okay. I believe in your report -- do you have a copy
12 of your report?

13 A. I do not have it on me.

14 Q. All right. But you did do a report in this case?

15 A. I did the report; yes, ma'am.

16 Q. Would you agree that you said that you were able to
17 enter the brush and put him into custody without further
18 incident? Do you need to see it?

19 A. I mean, if I could see it that would be appreciative.

20 MS. ALVES: May I approach?

21 THE COURT: Yes, ma'am.

22 BY MS. ALVES:

23 Q. Would it help to refresh your memory about what you
24 said if you could see it?

25 A. Sure. Yes, ma'am.

WILLIAM TUCKER - CROSS

1 Q. Okay. I'm just asking you about right there. It says
2 that Deputy Tucker and Deputy Egan entered the brush and
3 placed Mr. Rhoad into custody without further incident.

4 A. Uh-huh.

5 Q. Is that correct?

6 A. Yes, ma'am.

7 Q. Okay. Well, hang onto that.

8 A. Okay.

9 Q. And, you questioned Mr. Rhoad about what happened; is
10 that right?

11 A. Yes, ma'am.

12 Q. And you questioned him about what happened in this
13 incident?

14 A. Well, I kind of -- when we had him detained, we
15 started walking back towards the vehicle. And I asked
16 him: Why are you hiding? And from that point on he just
17 continued to tell a story, kind of what happened.

18 Q. What did he tell you?

19 A. He stated that she was just released from jail and did
20 not belong there because she was on trespassing notice.
21 He told me when she arrived she struck him with her
22 purse. And when doing -- and when doing, he pushed her to
23 defend himself and she fell off of the porch.

24 I asked him again -- I asked him directly again about
25 pushing her and then he denied saying that he did push

WILLIAM TUCKER - CROSS

1 her.

2 Q. Okay. So originally he told you that he pushed her to
3 get her off of him because she was hitting him with
4 something?

5 A. Yes, ma'am.

6 Q. And he told you it was a purse?

7 A. Yes, ma'am.

8 Q. And then he later said that didn't happen?

9 A. Yes, ma'am.

10 Q. Now, when you went to Mr. Rhoad's house it was your
11 intention to arrest him?

12 A. We wanted to at least make contact to see what was
13 going on.

14 Q. Okay. Well, wait a minute. Deputy Tucker, I'm going
15 to show you your report again. It says that upon Deputy
16 Tucker's arrival on scene with Ms. Honea who was several
17 houses down, he observed her visibly upset and the
18 immediate decision was made to go effect an arrest on
19 Mr. Rhoad.

20 A. Yes, ma'am.

21 Q. Is that what your report says?

22 A. Yes, ma'am.

23 Q. Okay. So you made the decision, you and Deputy Egan
24 immediately made the decision after talking to Ms. Honea
25 alone to arrest Mr. Rhoad?

WILLIAM TUCKER - CROSS

1 A. That's correct.

2 Q. And you went to Mr. Rhoad's house to arrest him --

3 A. Yes, ma'am.

4 Q. -- for criminal domestic violence against Ms. Honea?

5 A. Yes, ma'am.

6 Q. Okay. And -- now, let me ask you this: You have a
7 handwritten report as well as this typewritten summary;
8 don't you?

9 A. Yes, ma'am.

10 Q. Which one did you do first?

11 A. The initial report is usually the one that I hand
12 write because I'm in the field and don't have access to a
13 computer at all times.

14 Q. Okay. And then you -- later on then when you have
15 time, you organize your handwritten report into a
16 typewritten summary?

17 A. That's correct. We receive information and a warrant
18 gets -- if it needs a warrant, we get booking sheets and
19 we compile it all. Then I sit down and hand type it on
20 the computer. That's correct.

21 Q. Now, do you remember how the house looked?

22 A. As far as what?

23 Q. The front of the house where the porch area is, do you
24 remember how this appeared?

25 A. Small porch on the front that you can see approaching

WILLIAM TUCKER - REDIRECT

1 A. I, I don't know if he was allowed to live there or
2 not.

3 Q. So you didn't know anything about that?

4 A. No, ma'am, no.

5 Q. Okay. Did you have any knowledge of the fact that
6 Mr. George DeLoache had said it was a bad idea for her to
7 go over there?

8 A. I have no knowledge of that.

9 Q. And were you aware that despite the warnings from
10 Mr. DeLoache she insisted on going over there?

11 A. I had no information about that.

12 Q. Okay. Were you aware that the two prior false arrests
13 or false reports to the police officer that Ms. Honea had
14 made?

15 A. At the time of the incident I was not aware of
16 false -- the convictions.

17 Q. Okay. Thank you. No further questions at this time.

18 THE COURT: Redirect?

19 MR. MOLONY: Yes, sir, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. MOLONY:

22 Q. Did you see the victim's injuries in this case,
23 Deputy?

24 A. Yes, sir. I did see injuries.

25 Q. And what did you see?

1 A. Redness and slight swelling and blood in the victim's
2 mouth.

3 Q. And you stated earlier during direct that the
4 Defendant was drinking a beer when you approached him when
5 he was hiding in the woods?

6 A. Yes, sir.

7 Q. Did he have one beer?

8 A. He had one beer in his hand. Then he had a, I don't
9 know if it was a case or a 12-pack but a whole -- like a
10 case, like a case you would carry beer in the woods with
11 him.

12 Q. Did he have anything else with him that you can
13 remember?

14 A. No, sir.

15 MR. MOLONY: Thank you. I don't have any further
16 questions, Your Honor.

17 THE COURT: Anything else?

18 MS. ALVES: No, sir.

19 THE COURT: All right. Step down.

20 MR. MILLER: Your Honor, the State would request that
21 Deputy Tucker likewise be released from his subpoena
22 unless Ms. Alves has an objection.

23 MS. ALVES: No, sir.

24 THE COURT: All right. You can leave or stay,
25 whichever you like, sir. All right. Next witness.

NICOLE DeLOACHE - DIRECT

1 MS. ALVES: Nicole DeLoache.

2 NICOLE DeLOACHE, having been duly sworn, was examined
3 and testified as follows:

4 THE CLERK: Have a seat on the witness box. State
5 your full name for the Court and spell your last, please.

6 THE WITNESS: Nicole DeLoache, D-E-L-O-A-C-H-E.

7 DIRECT EXAMINATION

8 BY MS. ALVES:

9 Q. Ms. DeLoache, I'm just going to ask you a few
10 questions. Okay? Do you need some water? Are you okay?

11 A. Yeah.

12 Q. Now was that your dad we heard from before, Mr. George
13 DeLoache?

14 A. Yes.

15 Q. You live with your dad?

16 A. I'm staying with him right now.

17 Q. You're staying with him?

18 A. Uh-huh.

19 Q. And are you familiar with that trailer we've been
20 talking about on Aspen Court?

21 A. Yes.

22 Q. Is that where you live sometimes?

23 A. That's where I used to live.

24 Q. It's where you used to live?

25 A. Uh-huh.

NICOLE DeLOACHE - DIRECT

- 1 Q. Do you know David Rhoad?
- 2 A. I do.
- 3 Q. And do you know Lisa Honea?
- 4 A. Yes.
- 5 Q. And you're friends with Lisa; aren't you?
- 6 A. Yes, I am.
- 7 Q. And during a time did -- when you lived on Aspen
- 8 Court, did David live near you?
- 9 A. Across the road.
- 10 Q. Across the street?
- 11 A. Yes.
- 12 Q. And he lived in a trailer across the road?
- 13 A. Yes.
- 14 Q. And what happened to his trailer?
- 15 A. I, I'm not sure.
- 16 Q. Well, did it burn down?
- 17 A. Oh yeah. It caught fire.
- 18 Q. Okay. And do you remember the time when Lisa was in
- 19 jail?
- 20 A. Yes.
- 21 Q. Okay. Did you talk to her while she was in jail?
- 22 A. Yes.
- 23 Q. How did you talk to her?
- 24 A. She called me.
- 25 Q. She would call you?

NICOLE DeLOACHE - DIRECT

1 A. Yes.

2 Q. And during the time when Lisa was in jail, who lived
3 in the trailer on Aspen Court?

4 A. I let David live there.

5 Q. David stayed there?

6 A. Yes.

7 Q. Do you know if Lisa knew about that?

8 A. Yes, she knew.

9 Q. How do you know?

10 A. I told her.

11 Q. You told Lisa?

12 A. Yes.

13 Q. You told Lisa that David was staying in the trailer?

14 A. Yes.

15 Q. How did you tell Lisa?

16 A. When she called me from jail.

17 Q. How did she react when you told her?

18 A. She was pretty upset.

19 Q. Was she mad?

20 A. Not really. Not mad, I wouldn't say mad.

21 Q. She was upset?

22 A. Yes.

23 Q. Did you know about Lisa's house on Myrtle Street?

24 A. Yes.

25 Q. Is that where she stays now?

NICOLE DeLOACHE - DIRECT

1 A. Yes.

2 Q. Did you know who lived in her house when she was in
3 jail, the house on Myrtle Street?

4 A. No.

5 Q. You don't know the people?

6 A. No.

7 Q. Do you know whether somebody lived there or not?

8 A. Yes. I think -- yes, there was somebody there. A
9 family, I think.

10 Q. A family?

11 A. I think so.

12 Q. Did you ever talk to Lisa about the people who were
13 living in the house?

14 A. Not really.

15 Q. Okay. Do you know who those people were to Lisa?
16 Were they her family? Were they her friends?

17 A. No, just renters.

18 Q. Renters?

19 A. Yes.

20 Q. She was renting out her house on Myrtle Street?

21 A. Yes.

22 Q. When she got out of jail, do you remember that day
23 when she got out of jail? I don't need the date. I just
24 need to know if you remember.

25 A. Yes.

NICOLE DeLOACHE - DIRECT

1 Q. They signed a lease?

2 A. Yes.

3 Q. Okay. Do you have any more information about that?

4 A. No.

5 Q. Okay. Did you know where she was going to stay after
6 she got out of jail?

7 A. I didn't ask her.

8 Q. You didn't ask her?

9 A. No.

10 Q. Okay. But she told you and your dad to take her to
11 the house on --

12 A. She asked me, yes.

13 Q. Excuse me -- to take her to --

14 A. She just wanted to go out there.

15 Q. To the house on Aspen?

16 A. She said, let's go out to the trailer.

17 Q. And by the trailer, you mean the house on Aspen Court?

18 A. Right. My trailer.

19 Q. Let me ask you this: Do you remember when you pulled
20 up into the yard on Aspen Court on that day?

21 A. Yes, yes.

22 Q. How far from the porch did your dad park the car?

23 A. I'd say maybe two and a half feet.

24 Q. So, it was --

25 A. It was pretty close.

NICOLE DeLOACHE - CROSS

1 Q. -- pretty close?

2 A. Yes.

3 Q. And did Lisa get out on the passenger side?

4 A. Passenger, yes.

5 Q. So she was sitting behind you?

6 A. Yes.

7 Q. Okay. Thank you. I don't have any further
8 questions. Answer any that the solicitor might have.

9 Okay?

10 A. Okay.

11 CROSS-EXAMINATION

12 BY MR. MILLER:

13 Q. Let's start from there, Ms. DeLoache. When your dad
14 pulled up there that day, how far was he away from the
15 porch, about?

16 A. About two or three feet.

17 Q. Okay. So he was this close between me and you?

18 A. No, not that close. Further than that. Further back.

19 Q. Tell me to stop whenever I get far enough away.

20 A. Closer forward.

21 Q. Okay.

22 A. About right there.

23 Q. So he was about this far away from the porch?

24 A. Yes, sir.

25 Q. When you say the porch, what does this porch look

NICOLE DeLOACHE - CROSS

1 like?

2 A. It's just a little porch. It has a railing, a few
3 steps.

4 Q. How many steps; do you know?

5 A. Four, I think.

6 Q. Okay. So four steps?

7 A. I think.

8 Q. And a railing?

9 A. Yes, sir.

10 Q. And obviously, if you go to the top of that porch,
11 it's got to be big enough for you to open up the door;
12 correct?

13 A. Yes.

14 Q. Okay. Did you see the Defendant get into the
15 altercation with Lisa?

16 A. Uh, not -- I didn't. They, they moved to the back of
17 the car. I didn't -- I couldn't see them.

18 Q. Okay. They were behind you?

19 A. Yes.

20 Q. Did you get out of the car?

21 A. No.

22 Q. Okay. When did -- when did the lease agreement that
23 you testified about, when did it start?

24 A. I don't -- I can't remember. They've been in there a
25 while.

NICOLE DeLOACHE - CROSS

1 Q. And -- well, when the Defendant's trailer burned down,
2 do you remember if Lisa was at [REDACTED] Aspen Court or was she
3 in jail?

4 A. I don't know. She wasn't at my place.

5 Q. She wasn't at [REDACTED] Aspen Court?

6 A. No.

7 Q. Okay. So, had she been there before then?

8 A. I don't think she had. I can't remember well enough.

9 Q. So, sometime while Lisa's in jail you told Mr. Rhoad
10 it was okay for him to move into the trailer?

11 A. Yes.

12 Q. Who had been living in that trailer before that time?

13 A. Lisa.

14 Q. Okay. On the day when you and your father picked Lisa
15 up from jail and took her to [REDACTED] Aspen Court, your trailer
16 --

17 A. Yes, sir.

18 Q. -- and your dad pulled up and she got out of the car,
19 did she have a purse with her?

20 A. No.

21 Q. And when she got up and ran into the woods after Mr --

22 A. I didn't see her run into the woods.

23 Q. Okay. You didn't see her run into the woods?

24 A. My dad got out of the car. I didn't.

25 Q. But you're sure she didn't have a purse?

1 A. I'm sure she did not.

2 MR. MILLER: No further questions, Your Honor.

3 THE COURT: Redirect?

4 MS. ALVES: No, Your Honor.

5 THE COURT: Step down. Thank you, Ms. DeLoache. All
6 right, Ms. Alves?

7 MS. ALVES: Your Honor, the defense rests.

8 THE COURT: All right. I'll note for the record that
9 any and all motions have been made. Mr. Miller, any reply
10 evidence from the State?

11 MR. MILLER: None, Your Honor.

12 THE COURT: All right. Ladies and gentlemen, I
13 mentioned the rules to you earlier. The rules that we
14 operate under require me, even though we've only been in
15 the courtroom a short time, to take a recess at this
16 point. You heard or excuse me, all the evidence has been
17 presented that will be presented.

18 The next phase of the trial will be for the lawyers
19 to give their closing arguments. And then I'll give you
20 the charge on the law. That time will be coming shortly.

21 What I'll do now is talk to the lawyers about the
22 specifics of the jury charge that I will give you. During
23 the next few minutes, you are not permitted to discuss the
24 case. We'll have you back out here very shortly. Thank
25 you.

CLOSING ARGUMENT BY THE DEFENSE

1 We'll go in this particular order. The Defendant
2 will present the first argument. And then the State,
3 having the burden of proof in the case, will present the
4 last argument.

5 After that, depending upon how long the arguments
6 take, I will give you perhaps a short break and then I'll
7 give you the charge on the law. So please give the
8 lawyers your undivided attention. All right.

9 Ms. Alves?

10 MS. ALVES: May it please the Court.

11 THE COURT: Yes, ma'am.

12 MS. ALVES: Mr. Miller.

13 You know, I've had a lot longer than you to deal with
14 this case. But during the testimony I just kept hearing
15 one thing. I just kept putting myself back to May 15th,
16 to that trailer on Aspen Court. And I kept putting myself
17 in Mr. Rhoad's shoes.

18 So here he is. He's at his trailer. It's Saturday
19 morning. Had a case of beer in the refrigerator,
20 obviously. A good day for Mr. Rhoad. Sitting out,
21 relaxing. He's supposed to be working on the trailer for
22 Mr. George DeLoache. And here he is, home, in his own
23 home, relaxing. Life's good.

24 Her testimony that at some point in the past his home
25 had burned. So he wasn't living there. But during the

CLOSING ARGUMENT BY THE DEFENSE

1 time that Ms. Honea was in jail, he was. They let him
2 move into this trailer on Aspen Court.

3 And, good Saturday morning. Right before noon. The
4 officers testified to about the time. And what happened?
5 His buddy George, George who's letting him live in this
6 trailer, comes up. And what does he do? He goes out to
7 see George. George tells you, George has bad knees and so
8 whenever he comes up Mr. Rhoad comes out to see him.
9 Life's good. George's coming over. He had a few beers.
10 It's going to be a good morning, a good day, a good
11 afternoon.

12 Yet something happens. The day goes sour that fast
13 because, why? Here's Lisa getting out of the car. Now,
14 what's she doing there? He clearly hasn't seen her in
15 months because she's been in jail. We know she hasn't
16 been around. I don't think there's any surprise that
17 there's -- that they don't get along, from the testimony
18 that we heard.

19 And what's she doing there? Well, we heard testimony
20 about what she was doing there. We heard from Lisa. She
21 intended to get into that trailer. She told us, oh, to
22 get her stuff.

23 But, that's not what she told the police. She told
24 the police she intended to get into that trailer because
25 that was her home. She was intending to go in her home.

CLOSING ARGUMENT BY THE DEFENSE

1 He was in her home.

2 Now she told us that she had somewhere else to go.
3 But we know that's not true. Why? Because we heard
4 testimony from her friend who knows about what -- the
5 lease that she had on the property. The lease where she
6 had renters living in the home on Myrtle Beach, excuse
7 me. I'm sorry. On Myrtle Street.

8 The home that she only moved into seven months ago
9 after she moved out of Aspen Court, the house she moved
10 into immediately following David's arrest for criminal
11 domestic violence.

12 So here's David Rhoad having a good Saturday. Here's
13 Lisa Honea coming up. She starts hitting him. Be it with
14 a purse, a hand, whatever. She told the officers, she was
15 striking him. He pushed her up to get away from her and
16 she fell on the stairs.

17 Now the stairs weren't some big long way from the
18 car. There was testimony they went to the back of the
19 car. But the stairs were right there. He pushed her and
20 she fell. Could she have cut her lip when she fell?
21 Maybe.

22 And what is George DeLoache -- he gets out of the car
23 and he tells David, David don't do it. You know she's
24 going to get you in trouble again. Again.

25 And what is David thinking at this point? Good Lord,

CLOSING ARGUMENT BY THE DEFENSE

1 this woman has come over here, she started striking me. I
2 pushed her down. She's fallen down, cut her lip and now
3 I'm in trouble again. For the third time I'm being
4 charged with something I didn't do to that woman.

5 The first two times, you heard what happened. She
6 charged him. And I know this is going to sound like I'm
7 repeating myself, but she got out of jail in 2007. She
8 came over to the house where David was, the house where
9 she used to live. She gets into some kind of argument so
10 she tells the police it was David. They investigate and
11 the next thing you know luckily that time she was charged
12 with false, false information to the police.

13 And then again a month later she's charged with false
14 information to the police. Her charges against
15 Mr. Rhoad. So what does he have to think? Good Lord,
16 here I go again. So what did Mr. Rhoad do? He didn't try
17 to get away from the police and go run and hide somewhere
18 miles away. He didn't go to some other city and hide
19 out.

20 He went out in the back, took his beer. He figured
21 he might as well have a couple because if it's true to
22 form he'd be going to jail because of Lisa. I'm not going
23 to say that's what I would have done or that was the
24 appropriate thing to do, but that's clearly what he did.

25 Well, put yourself back in his shoes.

CLOSING ARGUMENT BY THE DEFENSE

1 Now the State is probably going to try to make a big
2 production about, oh, he went out and got a beer, got a
3 case of beer, that is probably what he had planned for the
4 day have a few beers. You know what, it's not against the
5 law to have a few beers at your own house but it is
6 against the law to trespass at somebody's house or to come
7 up to their property and try to assault them. It is
8 against the law to try to make false charges on people as
9 Ms. Honea found out two times in the past.

10 So here we are, David's being charged for something
11 he didn't do. Again.

12 Now the Judge is going to tell you about law in this
13 case. He told you before this trial started and he's
14 going to tell you after both the solicitor and I finish
15 talking. He's going to tell you that while he is the
16 judge of the facts -- excuse me, of the law, you're the
17 judge of the facts. It's going to be up to you to decide
18 what happened on that day, to decide whether or not
19 Mr. Rhoad is guilty of these charges.

20 But the Judge is going to tell you what the law is.
21 Now he's going to talk to you about the law on self-
22 defense. Now, this isn't some big production where
23 somebody grabs out a gun and shot somebody else and we
24 have to have a bunch of evidence. You don't have to have
25 all of that just to have self-defense.

CLOSING ARGUMENT BY THE DEFENSE

1 Self-defense can be just defending yourself from
2 somebody who's trying to cause harm to you, pushing
3 somebody away.

4 Now the solicitor talked to you in his openings about
5 something that his daddy told him that he said has stuck
6 by him that a man should never hit a woman. And I told
7 you, I firmly agree with that. But, you know what,
8 something you learned in kindergarten, day one. If you
9 hit somebody you better be prepared to get hit back,
10 whether you're a male or a female. You learn that lesson
11 in kindergarten, and it sticks today. And you know what,
12 the law says that.

13 You don't have to, just because you don't want to hit
14 a woman, get assaulted by her. You don't have to get
15 beat. You don't have to wait until she causes some mark
16 or bleeding on you to push her away from you.

17 And you know what's the biggie? You don't have to
18 run away when it's your own house. That's the big one.

19 Mr. Rhoad was living in that trailer on Aspen Court.
20 He had the legal possession. He had the right to be
21 there. The landlord gave him permission to stay there
22 after she went to jail and was no longer living there.

23 Yet on this day, Ms. Honea decided that she was going
24 to be there no matter what. Because, you remember the
25 testimony from Mr. DeLoache. It's not a good idea to go

CLOSING ARGUMENT BY THE DEFENSE

1 there. You shouldn't go over there. But she insisted.

2 Now she tells us, oh, it was because I wanted my
3 stuff. Really? Her son hadn't been living with her since
4 2008. Yet here we are in 2010, she wants to go get his
5 property out of the house?

6 Mr. DeLoache didn't even know she had any property in
7 the house. He didn't even know what was there. We don't
8 know what was there. But we do know that she had a motive
9 to get in the house.

10 We do know that she had nowhere else to go because
11 her house was being rented out by some people who had a
12 lease. So she was not able to just go to her house on
13 Myrtle Beach (sic) right then. We do know that she wanted
14 to get in that house.

15 And you know what else we know? We know that the
16 minute he went to jail she got what she wanted, because
17 she was living on Aspen Court and he was in the jail.

18 Now the Judge is going to tell you that Mr -- in
19 talking about self-defense, he's going to tell you that
20 Mr. Rhoad's actions must have been reasonable. First he
21 had to have a reasonable belief that there might be some
22 harm to him by her striking him.

23 He had to have a belief that she, that -- and his
24 actions in pushing her away had to be reasonable. Now,
25 somebody's hitting you with a purse, whacking you with a

CLOSING ARGUMENT BY THE DEFENSE

1 purse, it's not reasonable to pull out a gun and go bang,
2 that's the end of it.

3 Really? You know, you have a question that's what
4 happened here. But that's not what happened here.

5 He told the officers he pushed her away and she
6 fell. Whether she fell on the stairs, down the stairs or
7 whatever, he pushed her and she fell.

8 Now, yes, I know Mr. Rhoad then told the officers,
9 oh, it didn't happen and he said some other things to the
10 officers. But, you know what? These officers had made up
11 their mind to arrest Mr. Rhoad just because they heard
12 Ms. Honea. They heard her. They saw a little cut on
13 her. And they made up their minds right then and there
14 they were going to arrest him. He tried to tell them his
15 side of the story. He's going to jail anyway. Ain't no
16 point in, you know, telling them everything. He might as
17 well say, forget it. I didn't do anything wrong, let's
18 just go.

19 But, in this situation we have to look at what he did,
20 tell them happened. She was hitting him. He pushed her
21 away.

22 Now the Judge is going to tell you, also, that a
23 person who attempts to force their way into another
24 person's home or their premises can be considered a
25 trespasser. And if you believe that's what Ms. Honea did,

CLOSING ARGUMENT BY THE DEFENSE

1 was try to force her way up into Mr. Rhoad's home, whether
2 she was trying to do that, then you can consider her a
3 trespasser. And when one is considered a trespasser on
4 somebody's property, they have the right to use
5 reasonableness means to eject them.

6 That means he had the right to use reasonable means
7 to try to get her from going into his house. Plain and
8 simple. Same rights we all have.

9 Now, ladies and gentlemen, this case goes to
10 credibility. And we have to look at, you know, why is
11 Lisa there? Same thing she did in 2007. She's got out of
12 jail. 2007 and '10, both, she went back to the house
13 where Mr. Rhoad was. 2007 and 2010, both, she tells the
14 police that, oh, he assaulted me.

15 The only difference that we have between that time
16 and now is that we have officers who didn't know her
17 history. We have officers who jumped the gun without
18 hearing Mr. Rhoad's side of the story or even hearing the
19 DeLoaches. That's what we have here. The only difference
20 we have here is that Mr. Rhoad's on trial here instead of
21 Ms. Honea.

22 And why is Mr. Rhoad here instead of Ms. Honea?
23 Well, here's the problem that we have. Deputy Tucker, and
24 while he did a good job, he tried to do his best but he
25 believed Ms. Honea's story because he saw her, that she

CLOSING ARGUMENT BY THE DEFENSE

1 was injured. He didn't know about Mr. George DeLoache at
2 that time because remember he called them later and talked
3 to Mr. DeLoache. And he didn't know that Mr. DeLoache was
4 going to say that Ms. Honea insisted on going down there.

5 Deputy Tucker didn't testify that he knew anything
6 about the history between them. He didn't testify that he
7 knew anything about Ms. Honea. He didn't know about the
8 fact that she has prior convictions for accessory after
9 the fact or defrauding an inn keeper. He didn't know that
10 she has two prior convictions for lying on that man,
11 charging him with criminal domestic violence and being
12 convicted for lying to the police. He didn't know.

13 And, you know what? He didn't know that she was
14 lying on this day about what happened. Because here he is
15 saying she wants to go home and here he is being confused,
16 thinking, well, she had a right to be there but she
17 didn't. She was in jail. The landlord had given the
18 property to someone else.

19 Now he had Mr. Rhoad's story after but that was
20 already after the fact. What did they do? He didn't walk
21 up and talk to Mr. Rhoad. What did they do? They walked
22 up and they told Mr. Rhoad to get on the ground.
23 Mr. Rhoad was sitting there drinking his beer and he
24 ignored them. Then what happened? Mr. Rhoad -- they told
25 him to get on the ground. They pulled their weapons on

CLOSING ARGUMENT BY THE DEFENSE

1 him and then they put the handcuffs on him. Nobody asked
2 him, Mr. Rhoad what's going on, what happened. Nobody
3 asked him anything. The deputies didn't.

4 That's why we're here. That's why she's sitting over
5 there instead of at the Defendant's chair where she should
6 be, facing a charge, another one, against her for a third
7 time of false information.

8 Now the State put in some pictures. And, yeah, the
9 pictures show a woman who has a little mark on her, on her
10 cheek there, on the side there, a little scuff.

11 These pictures don't show something, though. They
12 don't show a woman who was punched in the face, beaten
13 several times. Remember? She testified she was punched
14 several times, knocked to the ground and then repeatedly
15 kicked. There are no pictures showing anybody who was
16 repeatedly kicked on the ground, injured at that point.
17 One little scuff on the side of the face?

18 Those are consistent with somebody who was hitting
19 somebody else, got pushed down and fell to the ground.
20 The same thing that Mr. Rhoad told the police, and that
21 they told you that he said.

22 Now, ladies and gentlemen, I mean, I can't deny that
23 my client then waffled on his story. I can't deny it.
24 That's what happened. Because, like I said, this is a man
25 who's scared. A man who was going to jail again for

CLOSING ARGUMENT BY THE DEFENSE

1 something he didn't do. He told you what happened.

2 And you have to look and see what fits here. Does it
3 fit that that's what happened?

4 Now Mr. DeLoache didn't even see, he didn't see
5 anything that happened. As he said he didn't. And
6 neither did Nicky. But they did tell you, and
7 Mr. DeLoache, and bless him, but he doesn't hear so good.
8 I had to get up here and talk super loud. And he said he
9 doesn't know what happened -- what they were saying
10 outside the car. He doesn't say they weren't saying
11 anything, he just doesn't know what they were saying, and
12 then he heard Lisa squeal.

13 That could have been when she got pushed. He doesn't
14 know.

15 And what sticks here, whose story makes more sense?
16 Lisa that she was going to be living in that trailer by
17 hook or by crook when she had nowhere else to go. Lisa's
18 story, does that fit? When she's been charged with two
19 times with lying on that same man.

20 Or does David's story fit? That she came over there
21 ready to push his buttons, knew that if she struck, hit
22 him that he'd push her down and then she could call the
23 police and say he pushed her.

24 And you're telling me that you believe her? He
25 hadn't seen her for months. They hadn't had any

CLOSING ARGUMENT BY THE DEFENSE

1 antagonism or any problems at all between them for at
2 least the time that she was in jail. I think she said it
3 was two months or so that she was in jail.

4 There was no testimony at all that they'd been having
5 problems before she went to jail. We don't know when the
6 last argument, if any, might have been between them. Yet
7 you're going to believe her that he immediately just walks
8 up to her with no words and just starts punching her in
9 the face, beating her about the head, and knocked her to
10 the ground and start kicking her? Is that to be
11 believed? I don't think so.

12 Now, ladies and gentlemen, she was mad because he was
13 in the only house that she had available to her. Her
14 friend testified she had -- I mean, they were her ride
15 from jail. Yet she couldn't stay with her friend, Nicky,
16 because she couldn't stay at Nicky's daddy's house. She
17 could stay with Nicky in the trailer but Nicky wasn't in
18 the trailer. David was. Lisa was mad. She was going to
19 get her way.

20 Now the Judge is going to tell you about the burden
21 of proof. And the burden of proof is on the State. That
22 means that the State must prove to you beyond a reasonable
23 doubt that the Defendant, Mr. David Rhoad, is guilty of
24 these charges.

25 Now, I have told you point blank that Mr. Rhoad is

CLOSING ARGUMENT BY THE STATE

1 alleging self-defense and that means that the State must
2 prove to you that he was not acting in self-defense, if
3 you believe that he pushed her down, or when he pushed her
4 back.

5 Now the Judge is going to tell you what reasonable
6 doubt is. He's going to give you a definition. But the
7 plain and simple definition of reasonable doubt is a doubt
8 that causes a reasonable person to hesitate before taking
9 action.

10 And even a more basic reading, I mean, explanation of
11 that is that you must be firmly convinced that Mr. Rhoad
12 committed a criminal domestic violence against Ms. Honea.

13 And the State must firmly convince you that he did
14 not act in self-defense. Because, ladies and gentlemen,
15 if they have met their burden, if they have convinced you
16 beyond a reasonable doubt that Mr. Rhoad did commit a
17 criminal domestic violence, excuse me, plain and simply,
18 an assault against Ms. Honea and that he did not act in
19 self-defense, it's going to be your burden as jurors to
20 find him guilty.

21 But if they have not firmly convinced you that he
22 committed criminal domestic violence and if they have not
23 convinced you that he did not act in self-defense, then
24 you must find him not guilty.

25 Thank you.

CLOSING ARGUMENT BY THE STATE

1 THE COURT: Thank you, Ms. Alves. Mr. Miller?

2 MR. MILLER: Thank you, Your Honor. May it please
3 the Court. Ms. Alves.

4 Ladies and gentlemen. I put myself in Mr. Rhoad's
5 shoes, what Ms. Alves said, I put myself in Mr. Rhoad's
6 shoes that day. And I wondered, what do I do? Here's a
7 thought. When you walk out the door and you see Lisa
8 Honea standing there, go back inside and close the door.

9 That's a reasonable response to Ms. Honea.

10 If she's trespassing, call the police. Police arrest
11 trespassers all the time. Turn around --

12 MS. ALVES: Objection, Your Honor.

13 MR. MILLER: -- walk away.

14 MS. ALVES: I think that the solicitor is misstating
15 the law of self-defense. There is no duty to retreat.

16 THE COURT: In the context of prior to any
17 altercation. I will respectfully overrule your objection.

18 MS. ALVES: Yes, sir.

19 THE COURT: All right. You can continue.

20 MR. MILLER: What was a reasonable response, not to
21 this alleged attack, what was a reasonable response to
22 what he saw? What he saw was that little woman, right
23 there, standing beside the car.

24 Now let's talk about what we heard. We heard Lisa
25 Honea tell you that: I got out of the car. He came down

CLOSING ARGUMENT BY THE STATE

1 the steps at me off the porch. He punches me in the
2 face. I fell to the ground. He was kicking me and I was
3 trying to get away.

4 What did Mr. DeLoache say? I saw him walking towards
5 her. Mr. DeLoache says they weren't on the porch. I saw
6 him walking towards her. As I got out of the car and got
7 to the back of the car, I saw her on the ground backing
8 away from him.

9 She didn't fall off the porch onto her face. He came
10 off the porch after her. He pursued her. What's amazing
11 is that Ms. Alves wants to make this entire trial about
12 Lisa Honea and talk about the fact that she did something
13 in 2007 when what's really important is what's happened
14 May 15th of 2010.

15 And on May 15th of 2010, the Defendant said four lies
16 to the police in the span of three sentences. How do you
17 do that? The first thing he said, she's on trespass
18 notice. Mr. DeLoache testified she's never been on
19 trespass notice.

20 Well, that lie didn't work. Let me come up with
21 another one.

22 She came up on the porch and started hitting me with
23 her purse and so I pushed her off of the porch.

24 She didn't have a purse and it didn't happen on the
25 porch. You know that from Nicole DeLoache and you know

CLOSING ARGUMENT BY THE STATE

1 that from George DeLoache. And you know that right there
2 from Ms. Honea. It happened on the ground by the back of
3 the car. It didn't happen on the porch.

4 So then he turns around and inexplicably tells the
5 lie that's contradicted by his own statement which is, you
6 know, on second thought she hit me with her purse and I
7 didn't push her off the porch. She just fell on her own
8 off the porch.

9 And when the officer asked him about that, you heard
10 the deputy testify. He says, wait a minute. You just
11 told me you pushed her off the porch because she was
12 hitting you with a purse. He denied that he said that to
13 the officer.

14 Four lies that quick. Four lies about what happened
15 that day.

16 Ladies and gentlemen, there's only one reason that
17 he's lying about what happened because he knows he
18 committed a crime. He didn't go into his house and go,
19 well, I'm going to jail. I think I'll grab my case of
20 beer and go for a leisurely stroll in this field where
21 I'll lay up against the tree and the bushes and drink beer
22 because I know it's inevitable that I'm going to jail.

23 That might be believable if he had gone into his
24 kitchen and sat down and opened up a beer and just drank a
25 beer and said, well, I figured at that time I was just

CLOSING ARGUMENT BY THE STATE

1 going to wait for the cops to show up. Hope they listen
2 to my story and if not, I guess I'm just going to jail.

3 How reasonable is Ms. Alves' story?

4 He just figured he'd wander on out into the field
5 with his case of beer to wait for the cops. When the cops
6 are out there looking for him, he doesn't stand up and go,
7 hey guys, here I am. Just drinking a cold one. Come on
8 and get me.

9 He hides. He hides because he's guilty. He's hiding
10 because he knows she did absolutely nothing to provoke
11 him. But they don't want to focus on what he did. They
12 want to focus on what she did three years before the fact.

13 Ms. Alves said several times, David knew he was going
14 to be here in court for something he didn't do. Well,
15 which one is it? Did you do something that you were
16 justified in doing it because you were acting in self-
17 defense because you were getting beaten up by this purse
18 that she didn't have? Or, did you not really do
19 anything?

20 Because you told us both. Statement number one;
21 she's beating me with a purse so I pushed her down the
22 steps. Statement number two; she's beating me with a
23 purse and somehow in the process of it, I didn't touch
24 her, but she went down the steps.

25 I think that's the one that Ms. Alves has decided to

CLOSING ARGUMENT BY THE STATE

1 do here because she didn't say he would be here for
2 something he didn't do. So to not do something, I guess
3 that's the one she's going with.

4 The Judge is going to talk to you about self-
5 defense. And, ladies and gentlemen, when we try someone
6 for a crime the offense, the criminal offense, has what we
7 call elements. There's elements of CDV, criminal domestic
8 violence.

9 Number one, has to be a household member. You've
10 heard that they used to cohabit. That makes them
11 household members. You've heard that they have a child in
12 common. That also makes them household members. So
13 household members, good to go.

14 Number two, there has to be actual harm. A battery
15 is what we call it in the law. There has to be some
16 physical touching between the two of them. Or, one of
17 them has to be in reasonable fear of imminent harm and the
18 other person has to have the ability to cause that harm to
19 them.

20 Well, we're going with the first one of those two
21 which is he punched her in the face. That's an actual
22 battery among people who are household members. That is
23 criminal domestic violence.

24 Ladies and gentlemen, the little scratch, as
25 Ms. Alves puts it, oh, that's a little scratch on her

CLOSING ARGUMENT BY THE STATE

1 face, she probably got that when she fell down the steps.
2 The busted lip. Oh yeah, that's probably when she fell
3 down the step, too. The busted lip on the bottom, yeah,
4 that fall down the steps was pretty long. Those four
5 steps that she supposedly fell down.

6 Oh the bruise on the side of her face, the redness
7 and swelling on the side of her face. All of that came
8 because she was swinging a purse at her client and he in a
9 desperate attempt to defend himself, watched her fall down
10 the stairs.

11 But he didn't push her.

12 And there wasn't a purse.

13 And it didn't happen on the porch.

14 None of that makes sense. So what do we do? Attack
15 Lisa Honea. Because here is the point. That man thinks
16 as long as she's been convicted of filing false police
17 reports against him, nobody's ever going to believe her,
18 he can do what he wants.

19 She's not the only person you heard from. You heard
20 from Mr. George DeLoache. He told you what he saw. He
21 didn't see any altercation between them, but when he
22 walked around the end of that car he saw her backing up on
23 her behind on the ground, desperately trying to get away
24 from the guy who she was supposedly attacking.

25 Mr. Rhoad wants you to believe that he was so

CLOSING ARGUMENT BY THE STATE

1 terrified of her and what she might do that he had to run
2 off the steps, off the porch, down the steps and across to
3 the car to attack her. Well, no, that doesn't make
4 sense. Better come up with a different story.

5 So, ladies and gentlemen, when you talk about self-
6 defense that also has elements. And the interesting thing
7 about the criminal law is that when we have to prove the
8 elements of a crime, if we don't prove one of them they're
9 not guilty.

10 But we also have to prove to you that the elements of
11 the self-defense don't exist. We have to disprove that.

12 Well, how do we do that? Self-defense has elements just
13 like a crime has elements. And if we can disprove any one
14 of the five elements of self-defense, then the whole
15 defense fails. End of story.

16 So I'm going to highlight a couple of them. I'm sure
17 if you sit back in the jury room you can come up with some
18 more. First thing. The very first element of self-
19 defense is, the person claiming self-defense, David Rhoad,
20 cannot have any fault in bringing on the difficulty that
21 led him to use the force that he used. It can't be his
22 fault at all.

23 Now if he was whistling along, walking through his
24 trailer with his case of beer in his hand, as Ms. Alves is
25 trying to paint it, and all of a sudden Ms. Honea was

CLOSING ARGUMENT BY THE STATE

1 coming through his doorway, that's -- don't know that he
2 had any fault in that. He certainly didn't appear to know
3 that she was coming over that day.

4 But that's the first element. And, ladies and
5 gentlemen, you have to decide, you are the triers of the
6 facts. You have to decide what the true facts are.

7 And when you get back in that room and you consider
8 everything that you heard you're going to say, you know
9 what, it is absolutely ludicrous to think that she was on
10 the porch whenever this assault took place.

11 Whether she hit him with a purse or whether he
12 punched her in the face, it happened on the ground because
13 you heard Mr. DeLoache. The one that doesn't have an axe
14 to grind with either one of them. The one that likes
15 Lisa. The one that likes David. The one that let David
16 stay there. You heard him.

17 They were on the ground. David was walking towards
18 her. Well, David always comes out the door so he can go
19 talk to Mr. DeLoache when he pulls up in the car. Well,
20 was he walking towards your window or to talk to you?
21 Nope. He walked out of that door, he was walking towards
22 her.

23 Okay. So right there, he does have some fault in
24 bringing on the difficulty. So the very first element of
25 self-defense has been disproven. That's the very first

CLOSING ARGUMENT BY THE STATE

1 element.

2 Also, a person who is exercising self-defense has to
3 fear something. Now, they get to rely on appearances.
4 You'll hear the Judge talk about reliance upon
5 appearances, but he has to fear something.

6 What does that man fear from this woman standing
7 however far away it is at the end of the car? Is she
8 going to sling her purse at him? There's plenty of space
9 in between the two of them. What does he fear,
10 reasonably, from her?

11 Well, he can act on appearance. What appearance do
12 you have testimony of? What appearance have you heard
13 evidence of today that he was so fearful of that he
14 decided, okay, it's time for me to act in self-defense?
15 Let's go.

16 Next, the level of force used to defend one's self or
17 one's property has to be reasonable under the
18 circumstances. According to Ms. Honea he punches me in
19 the face, he hits me again in the face. I go down. Her
20 injuries are consistent with that. He's trying to kick me
21 and continuing to come after me and all of a sudden, thank
22 God, Mr. DeLoache was there, because Mr. DeLoache said, I
23 saw him when I came around the back of the car. I said
24 David stop.

25 He didn't say, you know, she's been -- and this is

CLOSING ARGUMENT BY THE STATE

1 one of those situations where the Judge, as the Judge
2 said, you need to rely on what you recall Mr. DeLoache's
3 testimony was. But it wasn't, you know Lisa's going to
4 have you thrown in jail because she did this same thing
5 back in 2007 when she got out of jail.

6 That's not what he said.

7 He didn't say, uh-oh, she tripped and fell off of the
8 porch and now you're going to go jail because she lied on
9 you before. He said, David, stop.

10 Because you know, you know, you know, or he knew that
11 he was going to go to jail when he punched her in the
12 face. If they have this huge idea that she's going to lie
13 about him in 2007 about something he was completely
14 innocent of, what on earth would make him think that he
15 could punch her in the face in 2010 without her going to
16 the police?

17 Mr. DeLoache knew that. Lisa's going to call the
18 cops on him because he just punched her in the face. He
19 just knocked her to the ground. She ran off. I bet she's
20 going to the neighbor's house and I bet she's going to
21 call the cops.

22 What did David do? Does he say, she came after me?
23 Did you see that big purse she was carrying? Does he say,
24 I was in fear for my life? I was protecting my property?
25 No, he didn't say anything like that.

CLOSING ARGUMENT BY THE STATE

1 Mr. DeLoache says he stood there for a few seconds
2 and then he ran around the south end of the trailer. I
3 guess he was going to get that beer so he could go wait on
4 the cops.

5 The Judge is going to talk to you about a person's
6 right to defend their home. And this is an interesting
7 part of the law, or a part of this case. The testimony
8 that you heard today, and again, rely on your recollection
9 of the testimony. This lady takes down everything that's
10 said in here word for word, but my recollection of the
11 testimony that you heard was that Nicole testified that
12 Lisa went to jail and before she went to jail she lived in
13 the trailer. And that while Lisa was in jail David was
14 allowed to move into the trailer.

15 Okay. Mr. DeLoache owns the trailer. He let Lisa
16 stay there. He let David stay there. He let David and
17 Lisa stay there at various points in time. That's what he
18 said. He knew it was a bad idea for Lisa and David to be
19 together.

20 But the very day that Lisa gets out of jail, Lisa
21 wants to go over to the trailer. Is it because she wants
22 to argue with David Rhoad about who's the rightful person
23 to be in that trailer? Is it because she wants to get the
24 things that she left in the trailer?

25 I don't know circumstances, ladies and gentlemen, but

CLOSING ARGUMENT BY THE STATE

1 most people don't plan to go to the Aiken County Detention
2 Center. It's not some place where you make reservations
3 and go check in. She probably didn't have everything
4 moved out of her trailer that she was staying in whenever
5 she went to jail.

6 And so two months later she gets out of jail. Is it
7 unreasonable or unlawful for her to want to go back to
8 that trailer and get her stuff?

9 They say she was a trespasser. How was she a
10 trespasser? She'd never been evicted. There's no
11 testimony she had ever been evicted from the trailer. The
12 eviction was supposedly letting David Rhoad move in.

13 Mr. DeLoache testified she had never been placed on
14 trespass notice. How is she a trespasser? What superior
15 right to be on that property does David Rhoad have over
16 her? Particularly in the context of, I'm standing here
17 with Mr. DeLoache and he owns the place.

18 We don't know, we don't know what Lisa Honea's intent
19 was that day. We know that Lisa Honea went over there to
20 get her stuff, possibly to make some claim to David Rhoad
21 that he should let her stay there, or maybe even that she
22 should be allowed to stay there and he should have to
23 leave.

24 We don't know. What we do know is when she showed
25 up, David Rhoad didn't give anybody a chance to say

CLOSING ARGUMENT BY THE STATE

1 anything. Mr. DeLoache didn't say anything. Nicole
2 DeLoache didn't say anything. Lisa Honea didn't say
3 anything.

4 He came off the stairs and he punched her in the
5 face. And then he ran and he hid because he knew what he
6 had done was wrong.

7 It's really that simple.

8 This story of the purse and her coming up on the
9 porch and trying to force herself into the house, and
10 whatever, she's hitting me with the purse and I had to
11 push her away to defend myself, it's patently ridiculous.

12 It's not what Mr. DeLoache said. It's not what
13 Nicole DeLoache says. It's not what Lisa Honea says.
14 It's what he told the police officers as he's getting
15 arrested.

16 Ladies and gentlemen, we spent a lot of time in voir
17 dire making sure you didn't know anything about this case,
18 making sure that you did not have any preconceived notions
19 about criminal domestic violence cases.

20 Ladies and gentlemen, let me tell you one thing. You
21 never heard the Judge ask you the question: Is there
22 anybody in the jury room that has common sense? If so,
23 please stand up and come to the middle. Would you be able
24 to set your common sense aside in this case so you can be
25 fair?

CLOSING ARGUMENT BY THE STATE

1 The reason we have a jury system in this country is
2 because you people are in the best position to judge what
3 are the facts, what happened.

4 And the fact that one person says one thing and
5 another person says another does not automatically make it
6 so you can't decide who's telling the truth.

7 You, weigh the credibility of the witnesses. You
8 have to weigh that credibility. You can choose to believe
9 all of what someone says, none of what someone says, or
10 somewhere in the middle.

11 And, ladies and gentlemen, I will submit to you as it
12 relates to Lisa Honea, you should believe some of what she
13 says. It's just fair. Some of what she says is
14 believable and, frankly, it's believable because it's
15 supported by other witnesses.

16 Nobody's asking you to go convict David Rhoad on the
17 blind allegation of Lisa Honea. Nobody.

18 But Mr. DeLoache, I think he's the most credible,
19 least interested witness out of the group. And Nicole
20 DeLoache certainly doesn't seem to have any reason to
21 lie. She said some things that maybe weren't the best for
22 Lisa. She said some things that weren't the best for
23 Mr. Rhoad. She got up there and told what the truth was
24 as far as she knew it.

25 But interestingly, the one thing she was absolutely

CLOSING ARGUMENT BY THE STATE

1 sure on was Lisa didn't have a purse. Ms. Wallis
2 conveniently comes up and says, oh well, he said he (sic)
3 struck him, maybe it was with a purse, maybe it was with a
4 hand. No. That's not what he said. What he said was she
5 was hitting him with a purse. And that was a lie. What
6 he said was that she was on trespass notice and that was a
7 lie. And then he has this contradiction.

8 Ladies and gentlemen, when you go back in the jury
9 room you're going to be asked to render a verdict. A
10 verdict comes from the Latin veredicto which means to
11 speak the truth. It's what a verdict is.

12 You are going to go back and you are going to
13 determine what the true facts are. What actually happened
14 out there.

15 And if you're firmly convinced that David Rhoad
16 punched Lisa Honea in the face without provocation and
17 then fled the scene when she ran to go call the cops, CDV,
18 and he should be found guilty.

19 It's going to require you to tap into some common
20 sense but there's nobody who has said and you will not
21 hear in the Judge's charge that you have to check your
22 common sense outside. When they give you that badge they
23 don't ask you for your common sense. You know what
24 happened. You know what happened.

25 He saw an altercation coming with her so he just

JUDGE'S CHARGE TO THE JURY

1 decided to end it before it started. That's what
2 happened. She didn't get up the steps. She didn't get on
3 the porch. She didn't make the porch. He just came down
4 the steps, walked straight up to her and punched her
5 because he was sick of her. And then he went and hid
6 because he knew the cops were coming.

7 Ladies and gentlemen, Mr. Rhoad is guilty of criminal
8 domestic violence. When you get in the jury room, the
9 State expects you to find that.

10 Thank you.

11 THE COURT: All right. Everybody on the jury okay?
12 Anybody need to take a break? If you do, just raise your
13 hand. The charge that I'm going to give you, ladies and
14 gentlemen, will probably take about 25 minutes so if
15 anybody needs to take a break, I'll be happy to do that.

16 I remind you, ladies and gentlemen, during the course
17 of this trial you and I have obviously had certain duties
18 to perform. As I explained to you at the beginning,
19 you're the judges of the facts and I'm the judge of the
20 law.

21 Right now our responsibilities will kind of come
22 together because I'm going to tell you what the law is.
23 You may come into this case with a preconceived notion of
24 what you think the law is or what you think it ought to
25 be.

JUDGE'S CHARGE TO THE JURY

1 For today's purposes, you can put that out of your
2 mind because under your oath you are required to accept
3 the law exactly as I give it to you even though you might
4 disagree with me.

5 For example, if you were sitting on a jury on a speed
6 limit case. One thing about Aiken, it's hard to figure
7 out where all these little roads go out here. But if you
8 thought that the speed limit on one of these streets ought
9 to be 15 miles an hour and you were sitting on a speed
10 limit or a traffic ticket jury, and you heard evidence
11 that the Defendant was going 20 and it was less than the
12 actual posted speed limit 25 or 30, you could not base
13 your verdict on what you thought the speed limit ought to
14 be. You would have to base your verdict on what the speed
15 limit actually was.

16 The same goes in any other case. You've got to,
17 again, accept the law exactly as I give it to you.

18 Now my responsibility is to charge you on the law.
19 During the course of this charge I will guarantee you that
20 I will repeat myself. That is not because that I've
21 forgotten what to tell you or that I've lost my place.
22 It's simply that I will be discussing legal principles and
23 these will be any one of a number of things. And they
24 will range, in no particular order, reasonable doubt,
25 assumption of innocence, burden of proof, the elements of

JUDGE'S CHARGE TO THE JURY

1 the crime charged, criminal intent, self-defense, the
2 defense of habitation.

3 I will repeat myself throughout the charge because
4 these legal principles do intertwine with one another. So
5 if I talk about something at the beginning, I will likely
6 mention it again.

7 So don't think that I am -- that I've lost my mind or
8 anything like that. It's just simply that I need to
9 explain everything to you thoroughly.

10 Now, ladies and gentlemen, during the course of the
11 trial nor at any other time may I intimate, state or let
12 you know what I think about the facts. That is simply and
13 solely your responsibility. So do not take from anything
14 that I have said or done that I favor one particular
15 result over another because I do respect your
16 responsibilities.

17 You may have seen me, for example, writing things
18 down during the trial. What I'm doing is I'm writing down
19 the times that witnesses begin testimony. I'm writing
20 down when direct starts, when cross starts, when redirect
21 may resume. So I'm not writing down anything that I think
22 is particularly important. I'm simply making notes just
23 in case you might want to hear something later on.

24 So, your responsibility as jurors is to take the
25 evidence in this case, give it the weight and the value

JUDGE'S CHARGE TO THE JURY

1 that you think it is entitled to and in the end you put
2 your common sense together with your view of the evidence
3 and my charge to you on the law and you reach a verdict.

4 Now your deliberations will culminate in your
5 foreperson's completion of this verdict form. And the
6 verdict form itself is very simple, but your
7 responsibilities are not because your job, frankly, will
8 just be beginning in just a few minutes when you retire to
9 deliberate.

10 Now, ladies and gentlemen, the indictment in this
11 case charges the Defendant with criminal domestic
12 violence.

13 I will charge you on the elements of that in just a
14 few minutes but I will remind you that the fact that
15 someone is arrested or charged or indicted in and of
16 itself is not evidence of anything.

17 The Defendant has entered a plea of not guilty and
18 that plea puts the burden on the State to prove the
19 Defendant's guilt beyond a reasonable doubt.

20 And, ladies and gentlemen, as you know, I mentioned
21 to you at the beginning of the trial, your responsibility
22 as the fact finders is to determine the believability of
23 the witnesses. Not to belabor that except to say that it
24 is extremely important for you to understand that that is
25 one of your primary responsibilities. You can believe

JUDGE'S CHARGE TO THE JURY

1 every word of what a witness says and disbelieve every
2 word or believe parts and reject the rest.

3 Evidence weighs with you if it convinces you of its
4 truth. When you watch someone talk every day, you are
5 deciding in your mind do I believe what that person's
6 telling me. And you're using your common sense to kind of
7 go over in your mind, well, do I believe that.

8 That's how you judge the credibility of witnesses.
9 You use your common sense. You can take into account
10 their demeanor, their appearance on the stand. You can
11 take into account what was their ability to know what they
12 claim to have knowledge of. And you can take into account
13 whether or not that witness's testimony has been
14 strengthened or weakened by other evidence that's in the
15 record.

16 Now you can believe one witness over several. You
17 can believe several over one. What you don't do is count
18 up the number of witnesses for a particular proposition
19 and say, well, okay, 12 said this, and 11 said the
20 opposite. I must believe the 12. You know in the
21 exercise of your common sense that's not the way it works.

22 All right. Now, ladies and gentlemen, I mentioned to
23 you the ways that evidence comes in. It typically comes
24 in during a trial by testimony or exhibits and sometimes
25 by stipulation. Those are the ways evidence comes in.

JUDGE'S CHARGE TO THE JURY

1 Now, there are two types of evidence. These are
2 called direct evidence and circumstantial evidence.
3 Direct evidence is evidence that immediately establishes
4 the main fact sought to be proved. So, it's -- for
5 example, testimony of a person who claims to have actual
6 knowledge of a fact. I saw the dog cross the road. I
7 smelled smoke. I, you know, I saw this. I heard this.
8 Those are examples of direct evidence.

9 Circumstantial evidence on the other hand is proof of
10 a chain of facts and circumstances that indicate the
11 existence of a fact. Circumstantial evidence is evidence
12 that immediately establishes collateral facts from which
13 the main fact may be inferred.

14 So it's based on inference. It's not based on
15 personal knowledge or observation.

16 Now, ladies and gentlemen, the law makes no
17 distinction at all between the weight or value that you
18 are to give to either direct or circumstantial evidence.

19 Now I further charge you that, nor is a greater
20 degree of certainty, in other words, there's not a greater
21 degree of certainty required of circumstantial evidence
22 than of direct evidence. You weigh all of the evidence
23 the same, direct or circumstantial.

24 After weighing all of this evidence, if you are
25 convinced of the Defendant's guilt beyond a reasonable

JUDGE'S CHARGE TO THE JURY

1 doubt, you find him guilty. If you are not convinced of
2 the Defendant's guilt beyond a reasonable doubt, you must
3 find him not guilty.

4 Now, ladies and gentlemen, I'm going to talk to you
5 now about the presumption of innocence and I'm going to
6 couple that with the burden of proof in this case.

7 The Defendant has pled not guilty to the charge in
8 the indictment. That plea puts the burden on the State to
9 prove him guilty beyond a reasonable doubt.

10 And that is because a person who is charged with a
11 criminal offense is never required to prove himself
12 innocent, is never required to prove himself not guilty.
13 And it's a very important rule of law that the Defendant
14 in a criminal trial, no matter what the charge, literally
15 charge A to charge Z, is always presumed to be innocent of
16 the crime for which the indictment has been issued unless
17 guilt is proven by evidence satisfying you of guilt beyond
18 a reasonable doubt.

19 Now the presumption of innocence does not end in a
20 few minutes when you get up and walk out of this courtroom
21 into your jury room and begin your deliberations. The
22 presumption of innocence remains with the Defendant
23 throughout the trial, throughout your deliberations,
24 unless and until you reach a verdict of guilt based on
25 evidence that satisfies you of guilt beyond a reasonable

JUDGE'S CHARGE TO THE JURY

1 doubt.

2 Now some have described the presumption of innocence
3 like a robe of righteousness around the Defendant's
4 shoulders and that robe stays on the Defendant's shoulders
5 unless it's stripped away by evidence satisfying you of
6 guilt beyond a reasonable doubt.

7 So in the end, the presumption of innocence, those
8 words are not a casual phrase that we toss around. The
9 presumption of innocence is a substantial right that every
10 defendant enjoys, again, unless and until guilt has been
11 established beyond a reasonable doubt.

12 You probably have gathered that I've said the word
13 reasonable doubt 15 or 20 times so far. So I'm going to
14 talk to you about that now.

15 What is a reasonable doubt in the law?

16 A reasonable doubt is the kind of doubt that would
17 cause an honest and a sincere and conscientious person who
18 is in search of the truth hesitate to act. The State does
19 have the burden of proving the Defendant's guilt beyond a
20 reasonable doubt.

21 Now some of you may have sat on a civil jury or some
22 of you may be familiar with the burden of proof in a civil
23 case. In a civil case the burden of proof is by what we
24 call the greater weight of the evidence. In other words,
25 the scales are perfectly even when the case begins.

JUDGE'S CHARGE TO THE JURY

1 If a person has the burden of proof by the greater
2 weight of the evidence, that person must tip those scales
3 ever so slightly in his or her favor in order to satisfy
4 that burden.

5 Now, in a criminal case the State's proof must be more
6 powerful than that. It must be proof beyond a reasonable
7 doubt. Proof beyond a reasonable doubt is proof that
8 leaves you firmly convinced of the Defendant's guilt.

9 And having said that, there are very few things that
10 we know on this earth with absolute certainty. And the
11 law does not require the State to present proof that
12 overcomes every possible doubt. It requires the State,
13 however, to present proof that overcomes every reasonable
14 doubt.

15 If, based on your consideration of the evidence, you
16 are firmly convinced of the Defendant's guilt of the crime
17 charged, you must find him guilty. If on the other hand,
18 if you think there's a real possibility that the Defendant
19 is not guilty, you must give him the benefit of the doubt
20 and find him not guilty.

21 Now, ladies and gentlemen, I instruct you and I
22 emphasize to you that the fact that the Defendant did not
23 testify in this case is not a factor to be considered by
24 you in any way in your deliberations and in your
25 consideration on the question of guilt or non guilt of the

JUDGE'S CHARGE TO THE JURY

1 Defendant.

2 The fact that the Defendant did not testify is
3 something you may not and you must not think about. You
4 cannot discuss it and it cannot enter into your decisions
5 whatsoever in this case.

6 And under your oath, and I repeat, you're to draw no
7 conclusions whatsoever from the fact that the Defendant
8 did not testify. And that is because the burden is on the
9 State to present proof that overcomes -- of proof beyond a
10 reasonable doubt. And the Defendant is not required to
11 prove anything. And the burden remains on the State to
12 prove guilt beyond a reasonable doubt.

13 Now, ladies and gentlemen, I'm going to get more
14 specific and specifically talk to you about the crime that
15 has been charged in this case and that is criminal
16 domestic violence. And it's a law that's on the books by
17 our legislature.

18 Now when I tell you as I go through this, if the State
19 must prove something or disprove something it must be
20 beyond a reasonable doubt.

21 Now the State must prove beyond a reasonable doubt
22 that the Defendant caused physical harm or injury to a
23 member of his own household or must prove beyond a
24 reasonable doubt that the Defendant offered or attempted
25 to cause physical harm or injury to a member of his own

JUDGE'S CHARGE TO THE JURY

1 household with the apparent present ability to cause harm
2 or injury under circumstances reasonably creating a fear
3 of imminent peril.

4 A household member is a spouse, a former spouse, a
5 person with whom the Defendant has a child in common, or a
6 male and female who are cohabiting or formerly have
7 cohabited.

8 Now, ladies and gentlemen, in order -- those are the
9 elements of the crime of criminal domestic violence.

10 Further, in order to establish guilt, the State must
11 also prove the element of criminal intent. Now, ladies
12 and gentlemen, criminal intent is always a matter that may
13 be inferred -- or that must be determined by the jury from
14 the facts and circumstances surrounding the situation.

15 There's no way to prove criminal intent to a
16 mathematical certainty. There's no way medical science
17 can dissect a person's brain, look at the brain and
18 determine what if anything that person intended to do at
19 any given time.

20 So the law says that criminal intent may be inferred
21 from circumstances shown to have existed. It's not
22 necessary to establish criminal intent by direct evidence
23 but it may be established by circumstantial evidence in
24 the same manner that any other fact may be established.

25 Now criminal intent is a mental state. It's a

JUDGE'S CHARGE TO THE JURY

1 conscious wrongdoing. And it's up to you to determine
2 what if anything the Defendant intended to do based on the
3 circumstances shown to have existed.

4 Now, ladies and gentlemen, the issue of self-defense
5 has been raised in this case. Self-defense is a complete
6 defense. And, if established, you must find the Defendant
7 not guilty.

8 The State has the burden of disproving self-defense
9 beyond a reasonable doubt. The Defendant does not have to
10 prove self-defense. The State has the burden of
11 disproving it beyond a reasonable doubt.

12 Now if you have a reasonable doubt of the Defendant's
13 guilt after considering all of the evidence including any
14 evidence of self-defense, then you must find him not
15 guilty. On the other hand, as I mentioned earlier, if you
16 have no reasonable doubt of the Defendant's guilt after
17 considering all of the evidence including any evidence of
18 self-defense, then you must find him guilty.

19 Now the following elements are required for there to
20 be self-defense. First, the Defendant must be without
21 fault in bringing on the difficulty. If the Defendant's
22 conduct was the type which was reasonably calculated to
23 and did provoke an altercation or assault, the Defendant
24 would be at fault in bringing on the difficulty and would
25 not be entitled to a verdict of not guilty based on self-

JUDGE'S CHARGE TO THE JURY

1 defense.

2 All right. Ladies and gentlemen, I further charge you
3 that the second element of self-defense is that the
4 Defendant was actually in imminent danger of physical harm
5 or the Defendant actually believed he was in imminent
6 danger of physical harm.

7 If the Defendant was actually in imminent danger of
8 harm, it must be that the circumstances would have
9 warranted a person of ordinary firmness and courage to
10 strike the blow to prevent physical harm or injury to
11 himself.

12 Now if the Defendant believed he was in imminent
13 danger of harm, it must be shown that a reasonably prudent
14 person of ordinary firmness and courage would have had the
15 same belief.

16 Now, ladies and gentlemen, in determining whether the
17 Defendant actually was or believed he was in imminent
18 danger of harm, you should consider all of the facts and
19 circumstances surrounding the event, including but not
20 limited to, the physical conditions and characteristics of
21 the Defendant and the alleged victim.

22 Now the Defendant does not have to show that he was
23 actually in danger. It is enough if the Defendant
24 believed he was in imminent danger and a person of
25 ordinary firmness and courage would have had the same

JUDGE'S CHARGE TO THE JURY

1 belief. And the Defendant has the right to act on
2 appearances even though the Defendant's beliefs may have
3 been mistaken.

4 So it's up to you to determine whether any fear on the
5 part of the Defendant of immediate danger or harm was
6 reasonable and would have been felt by an ordinary person
7 in the same situation.

8 I further charge you, ladies and gentlemen, that the
9 relative sizes, ages and weights of the Defendant and the
10 alleged victim may be considered in deciding the apparent
11 or actual need for force in self-defense and can be taken
12 into account to determine the amount of force needed.

13 All right. Ladies and gentlemen, the third and final
14 element of self-defense is that the Defendant had no other
15 probable way to avoid the danger of physical harm than to
16 act as he did in this particular instance..

17 Now, ladies and gentlemen, I further charge you in
18 that regard that if the Defendant was on his own premises,
19 the Defendant had no duty to retreat before acting in
20 self-defense.

21 Further, ladies and gentlemen, I charge you that a
22 person cannot be required to make an exact calculation as
23 to the degree or amount of force which may be needed to
24 avoid physical harm. Therefore, in self-defense, the
25 Defendant has the right to use the force needed to avoid

JUDGE'S CHARGE TO THE JURY

1 the physical harm. And force does not have to be limited
2 to the degree or amount of force used by the victim.

3 The Defendant has the right to use so much force as
4 appear to be necessary for complete self protection, and
5 that degree which a person of ordinary reason would have
6 believed to be needed to prevent physical harm.

7 All right. Now, ladies and gentlemen, there is an
8 analogous issue in this case. It's not identical to self-
9 defense -- excuse me. It is not identical to self-defense
10 and it is analogous and a separate defense. And this is
11 called the defense of habitation.

12 Likewise, the State has the burden of disproving the
13 applicability of the defense of habitation. I charge you
14 that one who is defending himself from attack on his own
15 premises is entitled to use such force as may be
16 reasonably necessary to expel another person who is
17 trespassing on the premise.

18 The defense of habitation provides that defending
19 one's premises means ending an unwarranted intrusion
20 through the use of reasonably necessary means of ejection
21 of the alleged trespasser.

22 Now, ladies and gentlemen, you have heard a lot and
23 what I should have told you at the beginning, the charge
24 is not an occasion for you to sit back and try to memorize
25 everything that I've told you. Take comfort in knowing

JUDGE'S CHARGE TO THE JURY

1 that in just a few minutes the 12 of you will be
2 deliberating this case. You will have full opportunity to
3 discuss all of this.

4 If you have any questions at all about any testimony,
5 presentation of any evidence or my charge, there will be a
6 pad for you to write that question down. So, take some
7 comfort in that.

8 Your verdict, ladies and gentlemen, must be
9 unanimous. That means all of you have to agree. This is
10 not an 11-to-one, nine-to-three, or seven-to-five vote.
11 It must be absolutely 100 percent unanimous.

12 The verdict form says this: As to the charge of
13 criminal domestic violence, we, the jury, unanimously find
14 the Defendant -- and there are two choices, must choose
15 one -- not guilty or guilty.

16 Whatever your unanimous verdict is, Mr. Foreman,
17 you're to put a check or an X in that space and then you
18 sign the verdict form, you put the date on it, you tap on
19 the door and you let the bailiff know that you've reached
20 a verdict.

21 Again, if you have a question certainly you write the
22 question down, tap on the door and let the bailiff know
23 that you've reached a verdict (sic). I've been looking
24 down here at this double bank of lights and labels.

25 Do you use these lights in here? There's some light

JUDGE'S CHARGE TO THE JURY

1 down here that tells me when you need assistance and when
2 you have a verdict.

3 So I assume somebody will tell you about that. I'm
4 not quite sure how that works but in any event,
5 Mr. Foreman, you don't have any greater authority but you
6 are responsible for making sure that the deliberations are
7 conducted thoroughly, with everyone being aware that your
8 verdict must speak the truth.

9 The State expects and it is entitled to a fair trial,
10 and the Defendant expects and is entitled to a fair
11 trial.

12 The only way that you can do that is to give the
13 issues in this case the complete discussion that they
14 deserve and once you have recorded your verdict, it's
15 important for all of you to acknowledge that it is in fact
16 your unanimous verdict.

17 Now the next phase of the trial, ladies and gentlemen,
18 will be for you to go to your jury room. And don't begin
19 deliberating yet, because the rules that we operate under
20 allow the lawyers to let me know if I've charged anything
21 incorrectly or if I've left anything out. So, please make
22 sure -- oh, excuse me.

23 When the bailiff comes to your door with the verdict
24 form and the exhibits, he or she will tell you can begin
25 your deliberations. And we'll be here waiting for your

1 verdict. And thank you very much for your attention
2 throughout this trial. All right.

3 (Jury exits courtroom at 4:19 p.m.)

4 THE COURT: Any objections?

5 THE BAILIFF: Just -- excuse me just a moment. The
6 alternate, we'll put her in a separate room?

7 THE COURT: She can stand out in the hall for the
8 time being and then I'll address her in just a minute.
9 Thank you, Ms. Garrett.

10 (Alternate exits courtroom.)

11 THE COURT: Any objections or additions from the
12 State?

13 MR. MILLER: Nothing from the State, Your Honor.

14 THE COURT: Other than my denial of your charge on
15 the castle statute, any objections or additions?

16 MS. ALVES: Yes, sir.

17 THE COURT: All right..

18 MS. ALVES: Your Honor, I do have -- on, when you
19 were addressing the jury regarding Defendant's not
20 testifying. And you told them that they could not
21 consider it. I did not hear any, any specific
22 instructions for them not to -- that they could not even
23 bring it up in their discussions.

24 THE COURT: I said specifically, you cannot think
25 about it, you cannot talk about it, and it cannot enter

1 into your decisions whatsoever.

2 MS. ALVES: Yes, sir.

3 THE COURT: Doesn't that cover discussion?

4 MS. ALVES: I was just concerned that it needs to be
5 clear to them they can't discuss it amongst themselves.

6 THE COURT: I said talk about it. I didn't say
7 discuss. I think I said -- I didn't say discuss.

8 MS. ALVES: No, sir.

9 THE COURT: I said, you can't talk about it.

10 MS. ALVES: Okay.

11 THE COURT: I think that's fine.

12 MS. ALVES: Your Honor, I have another matter.

13 This doesn't go to the jury instructions, but it does
14 go to a comment that the solicitor made as he was ending
15 his argument.

16 THE COURT: All right.

17 MS. ALVES: I think -- I've given it some thought
18 while you were doing your charge, and at this point I need
19 to make a motion for a mistrial.

20 What the solicitor specifically said as he was ending
21 his closing argument was that, I don't remember what he
22 said preceding it, but he specifically ended by saying
23 that the State expects the verdict of, excuse me, a
24 verdict of guilty.

25 I think that those comments taken specifically saying

1 that the State expects a verdict of guilty, I think those
2 comments can be threatening to the jury. I know that the
3 State has been -- I know that you're not allowed to
4 personalize the argument to the jury, you know,
5 specifically saying that this is, you know, to make it
6 personal to the jury but I think that in the solicitor's
7 statement that the State expects a verdict of guilty, I
8 think that the jurors could consider that as potentially
9 threatening. I'm not really sure of --

10 THE COURT: All right. Mr. Miller?

11 MR. MILLER: Your Honor, certainly we did not intend
12 to threaten any members of the jury. We were simply
13 stating a statement of fact that -- and it is important to
14 put it into the context that Ms. Alves can't remember what
15 I was saying. My recollection is is that after
16 consideration of all of the evidence we expect them to go
17 back there and find the Defendant guilty because that's
18 what we felt, that's the burden we felt that we've met.

19 Certainly I don't know how and did not intend for
20 that to come across as some kind of threat. And I don't
21 know how that's a personalized threat to any members of
22 the jury panel.

23 If it's for the purpose of preserving the record.

24 THE COURT: All right. Okay. Anything further?

25 MS. ALVES: No, sir, Your Honor. Like I said, I

1 don't remember exactly what he was saying prior to that.

2 I know he was talking about that.

3 THE COURT: I remember when he made the statement and
4 I noted it too, but, I think in its proper context it was
5 based on what the State considers to be the overwhelming
6 evidence in the case.

7 You may want to avoid using that terminology in the
8 future, but all in all, I don't think it would be anything
9 that should warrant a mistrial.

10 I think I explained to them clearly that their
11 verdict was to be based on their view of the evidence and
12 accompanied by the law as I've given it to them.

13 MS. ALVES: Yes, sir.

14 THE COURT: Anything else?

15 MR. MILLER: Your Honor, there's only four exhibits.

16 THE COURT: Okay. I'll hand up the verdict form or
17 hand down the verdict form to the court reporter.

18 Ms. Alves, if you can get with them, Mr. Miller, and make
19 sure all the exhibits are in.

20 (Off-the-record discussion. Attorneys reviewing
21 exhibits and verdict form.)

22 MR. MILLER: Verdict form, and One, Two, Three, Four.

23 THE COURT: Does the air-conditioning just cut off
24 here?

25 MR. MILLER: It must go off in the late afternoon or

VERDICT

1 FOREPERSON OF THE JURY: Yes, it is.

2 THE COURT: Okay. You can hand it to the bailiff.

3 FOREPERSON OF THE JURY: (Complies.)

4 THE COURT: All right. Mr. Rhoad, will you please
5 stand and face the jury?

6 THE DEFENDANT: (Complies.)

7 THE CLERK: Your Honor, we have the State of South
8 Carolina versus David Nathaniel Rhoad, indictment number
9 2010-GS-02-01286. As to the charge of criminal domestic
10 violence we, the jury, unanimously find the Defendant
11 guilty. Signed by Foreperson, Timothy Sheppard, dated
12 October 25th, 2011.

13 Ladies and gentlemen of the petit jury, if this is
14 your verdict, please indicate by raising your right hand.

15 THE COURT: All right. All 12 jurors have raised
16 their right hand.

17 All right. Mr. Miller any -- y'all can have a seat.
18 Mr. Miller, anything before the jury is released?

19 MR. MILLER: Nothing from the State, Your Honor.

20 THE COURT: Anything from the Defendant before the
21 jury is released?

22 MS. ALVES: Your Honor, I'd ask for polling.

23 THE COURT: Okay.

24 THE CLERK: As I call your name and number, please
25 answer the following questions. They don't have the

SENTENCING

1 instruction.

2 If they persist, simply get their name and report
3 that to the clerk of court's office and that will be
4 relayed to me and I'll deal with that.

5 You are free to go this evening. Thank you very much
6 for your time and effort.

7 (Jury exits courtroom at 5:37 p.m.)

8 THE COURT: All right. Does the State want to go
9 through the sentencing now or in the morning?

10 MR. MILLER: Your Honor, the State would prefer to go
11 ahead, forward with it and get it over with.

12 THE COURT: All right. Ms. Alves, do you have any
13 objection to that?

14 MS. ALVES: No, sir. I'm prepared to do it now.
15 Judge, I do need to put my motion on the record.

16 THE COURT: We'll do that before we start with
17 sentencing. Do you have any motions?

18 MS. ALVES: I do.

19 THE COURT: All right.

20 MS. ALVES: Your Honor, taking the evidence in the
21 light most favorable to the State, I make motion for a new
22 trial on behalf of Mr. Rhoad. Ultimately that the jury
23 had any evidence from which -- upon which they could have
24 convicted Mr. Rhoad in this situation.

25 Also, Your Honor, I think that the trial was

SENTENCING

1 infected, at the very end with unfairness to Mr. Rhoad by
2 the solicitor's comment. The solicitor comment clearly, I
3 think, violated the Defendant's due process rights. In
4 particular, I think that his statement that he expects or,
5 excuse me, that the State expects a guilty verdict in this
6 case tells the jury that they have to base their verdict
7 on something other than the evidence in the trial.

8 And I know what Your Honor stated but, Your Honor,
9 when the solicitor represents the State, I don't believe
10 it's proper for him to say that the State expects a guilty
11 verdict in this case.

12 I think that that puts an atmosphere of fear into the
13 jurors upon which I don't think the Defendant could have
14 gotten a new trial. In particular, that was the last
15 thing that the solicitor stated before you started in your
16 jury instructions.

17 THE COURT: All right. I'll respectfully deny your
18 motion for a new trial at least as far as the sufficiency
19 of the evidence is concerned.

20 The jury could've, for all we know, chosen to simply
21 believe everything that Ms. Honea said, that he came
22 charging out of the house, at least I'm paraphrasing, and
23 went straight up to her and just hit her. The jury could
24 believe that if they wanted to.

25 Of course there was evidence to the contrary which

SENTENCING

1 they could have also believed.

2 With regard to the solicitor's comment that the State
3 expects a guilty verdict for the same reasons that I
4 mentioned earlier, I'll deny your motion for a mistrial
5 and a new trial on that. I think that the jury's verdict
6 was within the confines of the evidence.

7 MS. ALVES: Yes, sir.

8 THE COURT: Anything else?

9 MS. ALVES: Nothing further, Judge.

10 THE COURT: All right. Mr. Miller?

11 MR. MILLER: Your Honor, State's ready to proceed
12 with sentencing.

13 THE COURT: All right.

14 MR. MILLER: Your Honor, the sentencing sheet has
15 been passed up to the Court. The charge, I believe
16 Ms. Wallis and I agree that the potential sentence is one
17 year to five years on the charge. I would like to take
18 this opportunity, Your Honor, to relay to the Court the
19 Defendant's entire criminal history which includes:

20 In 1979, malicious injury to personal property.

21 1983, housebreaking and grand larceny.

22 1983, unlawful drugs, possession of methaqualone. I
23 think that's the methadone, Your Honor.

24 1984, possession of controlled substance without a
25 prescription.

SENTENCING

1 1986, disorderly conduct destruction of city
2 property. Later in 1996, malicious --

3 THE COURT: '96?

4 MR. MILLER: I'm sorry. '86, Your Honor. Malicious
5 injury to personal property, simple assault and battery.

6 1987, accessory to a felony for which he was
7 convicted and received a 10-year sentence. Accessory to a
8 felony after the fact, felony being armed robbery, for
9 which he got a 10-year consecutive sentence. A contempt
10 of court for which he had a sentence of 90 days,
11 consecutive.

12 1995, driving under the influence.

13 1995, driving under suspension third or subsequent.

14 Disorderly conduct in 1996.

15 Possession of marijuana in 2000.

16 Assault and battery of a high and aggravated nature
17 in 2000.

18 Hit and run accident with property damage in 2001.

19 Reckless driving -- excuse me, that was 2002.

20 Reckless driving, driving under suspension also on
21 that same date in 2002.

22 The Court's already heard about the giving false
23 information charge from November of 2001.

24 He also was charged with failure to comply with law
25 enforcement officer on that same day and pled guilty.

SENTENCING

1 In 2001, December of 2001, he was convicted for
2 shoplifting.

3 He was convicted in 2002 of trespassing and obscene
4 phone calls, unlawful use of a telephone.

5 Additionally, there was a resisting arrest charge and
6 a DUS in 2000, September of 2002.

7 There's another driving under suspension in 2002.
8 Another false information in 2002.

9 Criminal domestic violence of a high and aggravated
10 nature in 2003. At that same time he pled guilty to a
11 criminal domestic violence first offense charge.

12 Simple assault and battery in 2003.

13 Failure to stop for a blue light in 2003.

14 On February the 5th of 2010, he pled guilty to two
15 separate counts of criminal domestic violence first
16 offense in magistrate's court. One of those was remanded
17 from state court, and the other one was brought in the
18 original jurisdiction of the magistrate's court; however,
19 he was represented by Attorney Bob Harte on both of those
20 charges.

21 Public disorderly conduct in 2007.

22 Driving under the influence, 2008.

23 Habitual traffic offender in 2008.

24 Driving under suspension in 2008.

25 He has a record from the State of Georgia for a hit

SENTENCING

1 and run in 1995.

2 Hit and run in 1997.

3 And for family violence simple battery which is
4 Georgia's equivalent to our CDV, basic CDV in 1998.

5 He also has a contempt of court conviction in Newport
6 News which is in Virginia, Your Honor, from May the 4th of
7 1999.

8 Your Honor, the State's position is given his
9 extensive criminal record, going back some 35 years,
10 there's really no reason not to give Mr. Rhoad the max in
11 this case.

12 MS. ALVES: One moment, Your Honor (conferring with
13 Defendant).

14 Judge, Mr. Rhoad while I don't deny that Mr. Rhoad
15 does have a significant criminal history, he does dispute
16 several of the charges that were read off by the
17 solicitor. I know they appear on his rap sheet and I
18 don't --

19 THE COURT: Which ones does he dispute?

20 MS. ALVES: 1983, housebreaking.

21 THE COURT: Okay.

22 MS. ALVES: 1984, drug charge. The 1986 public
23 disorderly conduct.

24 I don't know if the solicitor mentioned a 1996
25 driving under suspension.

SENTENCING

1 THE COURT: '95 is what I wrote down.

2 MS. ALVES: Hold on a second.

3 THE COURT: I don't see one in '96.

4 MS. ALVES: He was arrested in -- excuse me. It was
5 one from 1995. He may not have mentioned that. I'm just
6 mentioning the ones Mr. Rhoad noted to me he disputes.
7 There was a disorderly conduct in 1996.

8 THE COURT: He disputes that?

9 MS. ALVES: Yes, sir.

10 THE COURT: Okay.

11 MS. ALVES: Simple possession of marijuana from
12 1998. Simple possession of marijuana from 2000.

13 THE COURT: I don't see a marijuana in '98.

14 MS. ALVES: I'm sorry.

15 THE COURT: I see a marijuana in --

16 MS. ALVES: There was a conviction --

17 THE COURT: -- in 2000.

18 MS. ALVES: Okay.

19 THE COURT: And the one after marijuana, you said?

20 MS. ALVES: After the marijuana, resisting arrest
21 from 2002. Disorderly conduct from 2007.

22 And the simple battery, simple battery, family
23 violence from Georgia from 1998..

24 THE COURT: I totaled up 33 prior convictions. He
25 disputes eight of those, I believe?

SENTENCING

1 MS. ALVES: Yes, sir.

2 THE COURT: Okay.

3 MS. ALVES: Judge, I don't know whether there's a
4 situation where he just doesn't remember. There's no
5 denying there's a lot that we're not disputing but he is
6 disputing that those are his. It could be that he just
7 doesn't remember, but he's not disputing the rest of it.

8 THE COURT: Mr. Miller, anything else? In other
9 words, does Ms. Honea want to say anything?

10 MS. HONEA: No.

11 MR. MILLER: Your Honor, she doesn't want to address
12 the Court. I would just point out that even considering
13 the charges that Mr. Rhoad ask disputes, we do have
14 evidence or we can provide evidence through certified
15 copies of convictions of this being the fifth offense of
16 CDV within the last 10 years.

17 THE COURT: Okay. Anything else?

18 MR. MILLER: Nothing further from the State, Your
19 Honor.

20 THE COURT: All right. Ms. Alves, anything from you
21 or Mr. Rhoad?

22 MS. ALVES: Yes, sir.

23 Your Honor, Mr. Rhoad is 48 years old and as the
24 testimony -- you have heard from the testimony he and
25 Ms. Honea do have one child who is in the custody of DSS

SENTENCING

1 at this point.

2 Judge, they've been together, well, they have had a
3 relationship for about the past 10 years and it's not been
4 a good one.

5 Judge, in addition and I have one of the witnesses
6 that I had subpoenaed was the records custodian from the
7 sheriff's department. When she came up with those records
8 in addition to Mr. Rhoad, I mean, there's no denying that
9 he has an extensive criminal history but so does Ms. Honea
10 and I know this is not about her at this point but about
11 Mr. Rhoad.

12 But I think I do need to point out that in line with
13 the defense that I presented, there have been numerous
14 occasions between the two of them that the police have
15 been called where they have declined to prosecute
16 Mr. Rhoad.

17 One of the incidents that he did want me to bring up
18 concerning their relationship, and I did have witnesses on
19 subpoena and prepared to testify about it, but in my
20 strategy I decided that it wasn't necessary to be brought
21 up to the jury, is another incident where Ms. Honea even
22 charged him with rape and kidnapping her.

23 Yet when they took her to go to the hospital, for
24 some reason there was no rape kit done and no charges were
25 brought as a result of that. But the magistrate said that

SENTENCING

1 there was an insufficient information about this.

2 Your Honor, unfortunately due to their fractious
3 relationship, you know, they're well-known to most of the
4 people, unfortunately not to this officer but to most
5 people and they do have a strong opinion about both of
6 them.

7 The only reason I bring that up is to show that
8 Mr. Rhoad did have some legitimate argument to make that
9 Ms. Honea could have been telling a false tale about
10 exactly how this incident occurred.

11 Not only because of her history and her prior
12 convictions, but because of the history they've had
13 between themselves. Not just the rape charge, Judge. I
14 have numerous reports where I subpoenaed reports. I
15 wasn't even expecting to get as many reports as I did
16 naming the two of them as people involved in the reports.

17 I mean, I got -- I lost count. I couldn't even
18 speculate, but there have been so many to count including
19 numerous times where Mr. Rhoad has called the police on
20 Ms. Honea. They have been accusing each other of assault
21 or accusing each other of burglary or accusations
22 involving the child, whether somebody has called DSS on
23 the other concerning matters concerning their child before
24 their child was taken away, matters involving other
25 people.

SENTENCING

1 Judge, it's been -- it's just been absolutely
2 ludicrous. And in the previous cases including the one
3 that I didn't make an issue about in front of the jury,
4 the one from October of 2007, that's the one in which
5 there were even witnesses there that said, wait a minute.
6 I was sitting here and this didn't happen. You know, he
7 didn't beat her with a baseball bat upside the head like
8 she told the police. He didn't kick her and stomp her
9 into the ground like she told the police.

10 So there have been other instances where she's made
11 allegations against him that I think would lend credence
12 to the defense that I did put on.

13 Judge, with that being said, at this point, I mean, I
14 understand that we're not here to talk about Ms. Honea but
15 to talk about Mr. Rhoad. There's really not much I can
16 say concerning his record. All I can say is that he's
17 maintained his innocence to me for over a year on this
18 charge. He's been adamant. The bulk of his cases have
19 always been pleas.

20 Oh. I'm sorry. And one other case he didn't dispute
21 he insists -- I was not his attorney in 2010 but he says
22 that he only pled to one of those CDVs, not two as the
23 solicitor stated. But be that as it may, he doesn't deny
24 that he did plead to one CDV.

25 THE COURT: This is legitimately counted as a third?

SENTENCING

1 MS. ALVES: Yes, sir. That's not in dispute. The
2 only question was about that one CDV that I forgot to
3 mention earlier.

4 Judge, the only thing I can say is that he has been
5 in jail for a total of 66 days. I know that's not a long
6 period of time. On this charge he would have to do one
7 year day for day. So he's not going to get any type of
8 good-time credit on a year. He would have to do 365 days
9 the way the Department of Corrections is reading these CDV
10 sentences.

11 I would ask you to take into consideration the facts
12 that we heard, the fact that this was not an aggravated
13 case resulting in significant injuries.

14 The injury that Ms. Honea suffered was the injury to
15 her mouth. And the fact that the history between the
16 parties, I don't think this is a case where -- I think
17 that this has pretty much burned the bridge between the
18 two of them and hopefully they are done with each other at
19 this point.

20 And I would ask you to allow him a sentence of one
21 year for this charge which is the mandatory requirement.

22 THE COURT: All right. Does -- Mr. Rhoad, do you
23 want to tell me anything?

24 THE DEFENDANT: Yes, sir. I think you heard the
25 facts today that I was at home. I didn't go looking for

SENTENCING

1 this. They brought it to me. She knew she wasn't welcome
2 there.

3 When I said trespass notice, I meant we have had
4 orders, protection orders, you know, that we're not
5 supposed to go around each other. She knows this. I was
6 not aware these orders didn't go for long, or how long
7 they last. But more than one time she's been told to stay
8 away from me and I've been told to stay away from her. I
9 did do it.

10 And I just wish that you'd take into consideration
11 the circumstances that it's nothing that I was looking
12 for. It's nothing I wanted.

13 MS. ALVES: Judge, also if I may respond to what he
14 was saying about the restraining orders.

15 In early 2010 before he pled guilty on the CDV
16 charge, he -- there was a restraining order saying that he
17 couldn't go around Ms. Honea because of the problems that
18 they've had in the past and because he's had restraining
19 orders on her in the past.

20 That's what he was referring to is he thought that
21 restraining order would still be out there and that she
22 wasn't supposed to come around him either. As far as I
23 know, they haven't been having problems during the period
24 of time between the first -- excuse me, the earlier
25 conviction and this period of time but as the testimony

SENTENCING

1 showed she was in jail for a period of it.

2 Also I did check with the magistrate and found that
3 on another occasion earlier, back to 2007 there was a --
4 she was evicted from the home where he was staying and a
5 restraining order was given to his stepmother to keep her
6 away from the home. So that could be what he's referring
7 to when he's talking about the restraining order.

8 THE COURT: All right. Anything else, Ms. Alves?

9 MS. ALVES: No, sir.

10 THE COURT: Anything else, Mr. Miller?

11 MR. MILLER: No, Your Honor.

12 THE COURT: All right. What I can't -- what I simply
13 can't do is pass a sentence and then hear -- I appreciate
14 what both of you have said. I cannot base my sentence on
15 the legitimacy of his defense.

16 MS. ALVES: Yes, sir.

17 THE COURT: If that were the case, then the jury's
18 verdict of guilt would be watered down by me sentencing
19 him on some assumption that he's not guilty.

20 His criminal record is nothing short of remarkable.
21 Even if you discount the eight convictions that he has
22 noted, and for the record I'll discount those, he still
23 has 25 convictions that range from 1979 all the way up
24 until 2010. And that is a span of 31 years.

25 You know, I certainly would have hated to have been

1 on this jury because it would have been a difficult job.
2 They spent about an hour and a half easily in trying to
3 reach their verdict, maybe more than that. I think it was
4 actually about two hours.

5 Mr. Rhoad, I don't know what the future holds but
6 it's going to involve some prison time for you. You'll
7 get credit for the time you've served, and I don't know
8 what's -- what the truth is, I don't know.

9 But all I know is that the jury has spoken. I would
10 certainly hope that once you get out, that you and
11 Ms. Honea stay as far apart as is humanly possible. And I
12 don't know what goes through folks' minds when they
13 continue to come back together.

14 I'M GOING TO COMMIT YOU TO THE STATE DEPARTMENT OF
15 CORRECTIONS FOR A PERIOD OF FOUR AND A HALF YEARS. YOU'LL
16 GET CREDIT FOR THE TIME YOU SERVED. And under the
17 circumstances, I think that's a just sentence.

18 MR. MILLER: Thank you, Your Honor.

19 THE COURT: Thank you. We're adjourned until
20 tomorrow morning at 9:30.

21 END OF CASE: 6:55 P.M.

22 * * *

23 CERTIFICATE OF REPORTER

24 I, Cheri L. Young, Registered Professional Reporter,
25 and Official Court Reporter for the State of South

WITNESSES

Aiken County Sheriff

William Tucker

Law Enforcement Case #: 10-029077

DWM

ARREST WARRANT NUMBER

M006933

FILED

July 22 2010

Liz Godard
C.C.P. & G.S. Clerk
Shannon D. Rosenkrantz
Deputy Clerk

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: July 22, 2010

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS0201286

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JULY TERM 2010

THE STATE

vs.

DAVID NATHANIEL RHOD

CDR #: 3055

Indictment for

CRIMINAL DOMESTIC VIOLENCE
THIRD OR SUBSEQUENT OFFENSE

§ 16-25-0020(A)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
CRIMINAL DOMESTIC VIOLENCE
THIRD OR SUBSEQUENT OFFENSE

§ 16-25-0020(A)

At a Court of General Sessions, convened on July 26, 2010, the Grand Jurors of Aiken County present upon their oath:

That **DAVID NATHANIEL RHOAD** did Aiken County, South Carolina on or about May 15, 2010 did unlawfully, cause physical harm or injury to a family or household member namely **Lisa Honea** by pushing the victim to the ground and, and the defendant having two prior conviction (s) for the same offense or any combination of Sections 16-25-65 and 16-25-20 within 10 years, in violation of Section 16-25-20, and penalties provided under 16-25-20(D) of the South Carolina Code of Laws(1976), as amended.

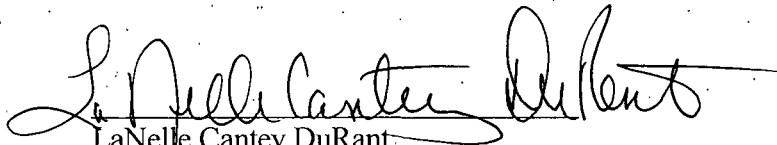
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


J. STROM THURMOND, SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the 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 31st, 2012



LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

George C. James, Jr., Circuit Court Judge

RECEIVED

OCT 31 2012

RESPONDENT

SC COURT OF APPEALS

THE STATE,

V.

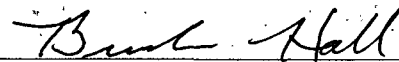
DAVID N. RHOAD,

APPELLANT

APPELLATE CASE NO. 2011-202989.

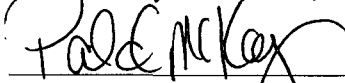
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blitch, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 31st day of October, 2012.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 31st day of October, 2012.



(L.S.)

Notary Public for South Carolina

My Commission Expires: July 24, 2022.