

VOLUME III OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Honorable R. Knox McMahon, Circuit Court Judge

ORIGINAL

THE STATE,

RECEIVED
RESPONDENT,

OCT 10 2018

V.

SC Court of Appeals

COURTNEY LEOLA PRICE,

APPELLANT

APPELLATE CASE NO. 2016-000528

RECORD ON APPEAL

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PAGES 1001-1298

INDEX

INDEX	i
TRIAL TRANSCRIPT (FEBRUARY 22, 2016)	1
PRE-TRIAL MOTIONS	20
TESTIMONY (IN-CAMERA)	
COURTNEY LEOLA PRICE	
Direct Examination by Mr. Grant	25
Cross Examination by Ms. Cornwell	83
Redirect Examination by Mr. Grant	108
CORRETTA MCMILLAN	
Direct Examination by Mr. Grant	115
Cross Examination by Ms. Cornwell	120
BREANNA TILLEY	
Direct Examination by Mr. Grant	121
Cross Examination by Ms. Cornwell	125
JAMAL CURRY SCOTT	
Direct Examination by Mr. Grant	126
LATOYA FELDER JAMES	
Direct Examination by Mr. Grant	131
Cross Examination by Ms. Cornwell	136
DANEISHIA BROWN	
Direct Examination by Mr. Grant	137
KELVIN MACK	
Direct Examination by Mr. Grant	141
DOMINIQUE PRICE	
Direct Examination by Mr. Grant	148
DONALD C. GIRNDT	
Direct Examination by Mr. Grant	154
Cross Examination by Ms. Cornwell	169
Redirect Examination by Mr. Grant	186
Recross Examination by Ms. Cornwell	190

JERRY GOVAN	
Direct Examination by Mr. Grant	192
STACY MATTHEW	
Direct Examination by Mr. Grant	195
Cross Examination by Ms. Cornwell	199
LOIS VERONEN	
Direct Examination by Mr. Grant	202
Cross Examination by Ms. Cornwell	218
SHAREE SCOTT	
Direct Examination by Mr. Grant	226
Cross Examination by Ms. Cornwell	230
Redirect Examination by Mr. Grant	232
Recross Examination by Ms. Cornwell	233
DEBBIE BYRD	
Direct Examination by Mr. Grant	234
RAY ROBINSON	
Direct Examination by Mr. Grant	239
SANDRA GLOVER	
Direct Examination by Mr. Grant	243
TANESHA BELLINGER	
Direct Examination by Mr. Grant	248
Cross Examination by Ms. Cornwell	252
Redirect Examination by Mr. Grant	254
STEVEN KUCK	
Direct Examination by Mr. Grant	258
Cross Examination by Ms. Cornwell	263
Redirect Examination by Mr. Grant	266
LATISHA WALKER	
Direct Examination by Ms. Cornwell	268
Cross Examination by Mr. Grant	276
Redirect Examination by Ms. Cornwell	282
TRIAL TRANSCRIPT (FEBRUARY 23-26, 2016)	
PRE-TRIAL MOTIONS	362

RULING BY THE COURT.....	393
OPENING STATEMENT BY MS. CORNWELL.....	420
OPENING STATEMENT BY MR. GRANT.....	423
TESTIMONY	
SHAVITA GARVIN	
Direct Examination by Ms. Cornwell.....	432
Cross Examination by Mr. Grant.....	437
Redirect Examination by Ms. Cornwell.....	440
LAHASSANDA BROWN	
Direct Examination by Ms. Cornwell.....	441
TANESHA BELLINGER	
Direct Examination by Ms. Cornwell.....	445
Cross Examination by Mr. Grant.....	458
Redirect Examination by Ms. Cornwell.....	465
Recross Examination by Mr. Grant.....	466
STEVEN KUCK	
Direct Examination by Ms. Cornwell.....	472
Cross Examination by Mr. Grant.....	485
Redirect Examination by Ms. Cornwell.....	496
WILLIAM GRIFFITH	
Direct Examination by Ms. Cornwell.....	514
Cross Examination by Mr. Grant.....	533
Redirect Examination by Ms. Cornwell.....	557
Recross Examination by Mr. Grant.....	562
LATISHA WALKER	
Direct Examination by Ms. Cornwell.....	566
Cross Examination by Mr. Grant.....	632
Redirect Examination by Ms. Cornwell.....	685
Recross Examination by Mr. Grant.....	688
JANICE ROSS	
Direct Examination by Ms. Cornwell.....	689
Cross Examination by Mr. Grant.....	699

KENNY KINSEY

Direct Examination by Ms. Cornwell	701
Cross Examination by Mr. Grant	728
Redirect Examination by Ms. Cornwell	747
Recross Examination by Mr. Grant	748

MOTION FOR DIRECTED VERDICT	750

RENEWAL OF CASTLE DOCTRINE MOTION	752

MOTION FOR A MISTRIAL	752

RULING BY THE COURT	758

TESTIMONY (CONTINUED)

JERRY GOVAN

Direct Examination by Mr. Grant	765
Cross Examination by Ms. Cornwell	770
Redirect Examination by Mr. Grant	773

BREANNA TILLEY

Direct Examination by Mr. Grant	774
Cross Examination by Ms. Cornwell	779
Redirect Examination by Mr. Grant	782

JAMAL SCOTT

Direct Examination by Mr. Grant	783
Cross Examination by Ms. Cornwell	789
Redirect Examination by Mr. Grant	791

DOMINIQUE PRICE

Direct Examination by Mr. Grant	792
Cross Examination by Ms. Cornwell	798
Redirect Examination by Mr. Grant	805
Recross Examination by Ms. Cornwell	806

LATOYA FELDER JAMES

Direct Examination by Mr. Grant	807
Cross Examination by Ms. Cornwell	815
Redirect Examination by Mr. Grant	818
Recross Examination by Ms. Cornwell	820

DENEISHIA BROWN

Direct Examination by Mr. Grant	822
Cross Examination by Ms. Cornwell	825

KELVIN MACK

Direct Examination by Mr. Grant	826
Cross Examination by Ms. Cornwell	833
Redirect Examination by Mr. Grant.....	836
Recross Examination by Ms. Cornwell	836

STACY MATTHEW

Direct Examination by Mr. Grant	838
Cross Examination by Ms. Cornwell	849
Redirect Examination by Mr. Grant.....	851

JESSICA HERRING STOWE

Direct Examination by Mr. Grant	853
Cross Examination by Ms. Cornwell	860

DEBORAH BYRD

Direct Examination by Mr. Grant	861
Cross Examination by Ms. Cornwell	865

JESSE ROBINSON

Direct Examination by Mr. Grant	866
Cross Examination by Ms. Cornwell	871

SAMUEL SIMMONS, SR.

Direct Examination by Mr. Grant	873
Direct Examination by Mr. Grant (In-Camera)	875
Direct Examination by Mr. Grant (Continued).....	883
Cross Examination by Ms. Cornwell	884

SANDRA GLOVER

Direct Examination by Mr. Grant	886
Cross Examination by Ms. Cornwell	890
Redirect Examination by Mr. Grant.....	892

TAMMY SIMMONS

Direct Examination by Mr. Grant	896
Cross Examination by Ms. Cornwell	902

KEVIN DUKES

Direct Examination by Mr. Grant	903
Cross Examination by Ms. Cornwell	906
Redirect Examination by Mr. Grant.....	907

COURTNEY LEOLA PRICE

Direct Examination by Mr. Grant	911
Cross Examination by Ms. Cornwell	978

BRITTANY DIXON OUTEN	
Direct Examination by Mr. Grant	1017
SHAREE SCOTT	
Direct Examination by Mr. Grant	1022
Cross Examination by Ms. Cornwell	1025
Redirect Examination by Mr. Grant.....	1027
DONALD GIRNDT	
Direct Examination by Mr. Grant	1035
Cross Examination by Ms. Cornwell	1056
MOTION FOR A MISTRIAL	1081
RULING BY THE COURT.....	1083
JEFFREY DIGGS	
Direct Examination by Mr. Grant	1085
Cross Examination by Ms. Cornwell	1088
LOIS J. VERONEN	
Direct Examination by Mr. Grant	1089
Cross Examination by Ms. Cornwell	1112
Redirect Examination by Mr. Grant.....	1135
RENEWAL OF ALL PREVIOUS MOTIONS	1141
RULING BY THE COURT.....	1142
CLOSING ARGUMENT BY MS. CORNWELL.....	1162
CLOSING ARGUMENT BY MR. GRANT	1169
CHARGE ON THE LAW	1220
VERDICT	1263
MOTION FOR A DIRECTED VERDICT	1265
RULING BY THE COURT.....	1266
MOTION FOR A NEW TRIAL	1266
RULING BY THE COURT.....	1267

SENTENCING	1283
ORDER OF JUDGE MCMAHON (MAY 7, 2018).....	1288
INDICTMENT.....	1296
CERTIFICATE OF COUNSEL	1298

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #73 (CD OF DEFENDANT'S STATEMENTS)**

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 Q Okay. And when you were looking through his phone,
2 you said you found a text message, you said about a deposit
3 for daycare?

4 A It don't -- I just remember it was about daycare.
5 I don't remember, quote, unquote, what it said, but I know
6 it was about a child and daycare.

7 Q Okay. And that text was about a week or so prior
8 to that one?

9 A I don't know when it was, I just know it was in the
10 inbox.

11 Q As you were snooping through his phone?

12 A If that's what you want to call it, yeah.

13 Q And you saw that text and you already feel like
14 he's been cheating on you and you're already angry for the
15 week before and you're angry from early in the morning when
16 he woke up and came over and you saw that text and it just
17 reaffirmed everything that you thought and that really made
18 you angry, didn't it?

19 A At myself, yes.

20 Q Just at yourself, not at him?

21 A At myself because I knew better. To keep --

22 Q So you were angry with yourself and you went in the
23 kitchen to get a knife because you were so angry with
24 yourself that you were going to go upstairs with a knife
25 and confront him --

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 A I went to confront him about something he would try
2 to lie about as he always lied about infidelity; but I know
3 with a child it could be worse. So why not protect myself
4 if I'm in my home and I've already asked you to leave and
5 you refuse to leave.

6 Q Okay. And when you talked to the police when they
7 first arrived, you told him that he was upstairs asleep and
8 you went downstairs and looked through his phone, found out
9 that he was messing with another bitch, and had another
10 child so you cut him because you were tired of his shit.
11 That's what you told police?

12 A Yeah.

13 Q Okay. So you go upstairs, he's laying in bed with
14 C.D.S. and he's asleep and you walk upstairs and when you
15 walked upstairs, you were hiding a knife from him, weren't
16 you?

17 A I was.

18 Q You didn't want him to see the knife?

19 A No, because he -- we could have talked about it
20 like adults, but I knew that was a very slim possibility
21 with the history.

22 Q And in all that anger you have with yourself while
23 you're upstairs hiding the knife, if he would have just
24 talked to you, you said you would have slowly backed up and
25 hid the knife and just gone back downstairs?

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 A If he would have been honest, yeah, like if we
2 could have talked about it like two people and really come
3 to an understanding of all these years why this. Like I
4 contemplated abortion and you talked me out of it, so you
5 had another child, like, I wanted the truth. I wanted the
6 truth for once. And I've never gotten it and I felt like
7 if there was a child involved, that I had every right to
8 know, because like I said I had an appointment to abort our
9 child and he talked me out of it.

10 Q And that -- you're talking right there, that's
11 anger, that's not fear, is it? That's your --

12 A No, it's regret, it's resentment.

13 Q Okay.

14 A It's resentment. Because I had a promising future
15 ahead of me after graduation. I got pregnant in my senior
16 year. I could have been going to D.C. working in my field
17 now, but you made me believe that we had what it take to
18 make things work out and that's just not what happened.

19 Q And you were angry?

20 A If that's what you want to say.

21 Q And then you've given several different statements
22 and we've listened to them all, but in one statement, you
23 say that he's awake when you confronted him, that he said,
24 What the fuck, and choked you. And that while he's choking
25 you with his arms extended out like this, you stabbed him?

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 A Uh-huh.

2 Q And that's the motion you gave?

3 A I don't remember the motion. Obviously, I stabbed
4 him. I don't remember which motion, which direction that I
5 stabbed him.

6 Q Okay.

7 A I can't tell you what angle we were or anything. I
8 don't remember.

9 Q And then in the second statement that you give --
10 and I want to talk about this second statement some and I
11 want to talk about a few other things with you. But this
12 second statement was after you had gone do the detention
13 center.

14 A Uh-huh.

15 Q After you had met with medical staff there and
16 you'd been brought back over around one o'clock?

17 A Whatever time is on there.

18 Q And that statement, you tell police that you went
19 downstairs and y'all were downstairs watching TV, but when
20 the baby went to sleep, you took him upstairs in bed and
21 that Sam laid down with C.D.S. to rock him to sleep. And
22 that you went downstairs to straighten up, get milk and
23 grab his phones.

24 Again woman's intuition said look in his phone, not
25 that his phone lit up, not anything like that, you just,

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 woman's intuition said to look in his phone. And he was --
2 that's when you got the knife in your hand and went
3 upstairs. He was laying by C.D.S. and I asked him about
4 it. He was like, What, and pushed me off of him and I got
5 back on top of him and put it in him. So in that
6 statement, he's laying on the bed, you climb on top of him
7 hiding the knife, confront him about this other woman. He
8 pushes you off of him on the bed, you get back on top of
9 him and then you stab him?

10 A But that statement also doesn't match the time
11 frame of everything either. If that's the statement that
12 you want to go off. That doesn't match the time frame of
13 when he arrived, how long he stayed, and when the police
14 were called.

15 Q I'm sorry, did you hear a statement that I didn't
16 hear in that? Because I believe --

17 A I'm just saying that you want to -- that you're
18 going off of -- but that statement sequence doesn't add up
19 to the time frame of everything. He got to my house around
20 four. This didn't happen until like seven -- six or seven,
21 so that time frame, that statement doesn't even fit in the
22 time frame.

23 Q But in your words, you're not telling everything to
24 time. You started from when he took the baby upstairs at
25 that point, correct?

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 A We both took him upstairs because he woke up after
2 he heard us arguing downstairs.

3 Q And that's the part of the story you started in the
4 second statement, so as far as your time frame goes, there
5 was a lot of stuff that happened before that, right?

6 A Uh-huh.

7 Q He came over, y'all were downstairs, all that,
8 stuff, right?

9 A Uh-huh.

10 Q And then finally went upstairs?

11 A Uh-huh.

12 Q Okay. And again, he was in the bed, you climbed on
13 top of him and stabbed him and the officer even asked you
14 questions. So he was laying down when you stabbed him.
15 And your answer, if you recall, Well, I got on top of him
16 and he pushed me off; so he wasn't on his feet, but he
17 wasn't laying. He was kind of slouched up because I had
18 already woken him. Is that what you told them?

19 A Yes. That's how it would have been easier for me
20 without struggling to fight him.

21 Q So getting on top of him was going to be easier for
22 you so you didn't have to struggle to fight him?

23 A That's probably the way I wanted it to go.

24 Q Okay. So you were putting yourself in a position
25 of power and you could be on top of him and you could

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 confront him about this girl while holding the knife behind
2 so he doesn't see it and then if he said, Yeah, baby, I'm
3 sorry, my bad, you would have just climbed off of him and
4 eased back out of the room?

5 A If that's the way it would have gone, yes.

6 Q But that's not the way it went according to you,
7 right?

8 A Right.

9 Q So you climbed on top of him, hiding the knife by
10 your leg. You're on your knees --

11 A I wasn't never on top of him.

12 Q Well, in the statement, you said that you -- it
13 says, I climbed on top of him --

14 A In the second statement, but you're not going off
15 the first statement either.

16 Q Okay. All right. So you admit that you've given
17 multiple inconsistent statements?

18 A Right. And I admit that I was loopy, in and out
19 that whole day as well.

20 Q Okay. And you gave another statement on Monday and
21 then you've given a fourth, even different statement today?

22 A No so much.

23 Q Not so much?

24 Now, in neither one of the first statement or the
25 second statement did you ever tell officers that after you

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 stabbed him he continued choking you, he pulled your hair,
2 he dragged you around the room, did you?

3 A But I said that on Monday how he was grabbing me.
4 He continuing to grab my arms.

5 Q Okay. But in the first two statements, you never
6 said that, did you?

7 A No.

8 Q Okay. And then on Monday, you said that he was
9 choking you and pulling your hair and dragging you around
10 the room?

11 A Uh-huh.

12 Q And then today --

13 A I didn't say he dragged me around the room because
14 we were in that one stain, one spot the whole time, the
15 whole time.

16 Q And I'm glad you mentioned that spot. You said the
17 spot y'all were arguing was between the dresser and the
18 bed?

19 A No. That's where he fell between the dresser and
20 the bed. He got up off the foot of the bed. We were
21 facing the doorway, his left arm was facing the wall. But
22 he fell -- where he fell, he fell between the dresser and
23 the bed.

24 Q Okay. All right. So where was he standing when he
25 was supposedly choking you and you stab him?

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 A Like between the wall and the foot of the bed.

2 Q And then y'all -- in your testimony --

3 A During the struggle --

4 Q Monday, he's choking you and I guess your testimony
5 is that's how y'all got out into the hall?

6 A I never said we made it out to the hall.

7 Q Okay. But you would agree that today now your
8 testimony isn't that he was checking you, it was he had
9 your arms?

10 A And I said that Monday as well. He was grabbing me
11 saying, What the fuck and I believe; I said that in one of
12 my statements how he was grabbing me, saying, What the
13 fuck.

14 Q Okay. So didn't say it in the first statement;
15 didn't say that he was choking you or pulling around in the
16 second statement; and the third statement, he's choking you
17 and pulling your hair, but not grabbing your arms; and then
18 today's statement, he's not choking you, he's grabbing your
19 arms and he's yanking your braids?

20 MR. GRANT: Objection, that's a mischaracterization
21 of the testimony.

22 THE COURT: Restate your question, Solicitor. Same
23 question.

24 BY MS. CORNWELL:

25 Q You would admit that you've given four inconsistent

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 statements in this?

2 A I don't think they're inconsistent because in all
3 of them he choked me except for the second one.

4 Q And that's a good point.

5 A You have to realize like, at the same time we -- I
6 admitted we both were drinking and by the time it happened,
7 my blood sugar is -- I don't remember word for word, detail
8 for detail, I remember the main points of that night but to
9 go bit-by-bit, piece-by-piece, like, I can't tell you the
10 exact sequence, but I remember being choked and I remember
11 my braids being pulled because initially I had my braids up
12 and when he pulled them they fell down.

13 He did pull my hair during the scuffle after he was
14 stabbed, but I just -- I can't remember detail-for-detail
15 like how that happened. I admit we were both drinking. I
16 had drinks as well. I'm not going to deny that.

17 Q Okay. And you had mentioned the high blood sugar
18 and all that and it reminds me of a point. You had
19 testified that you didn't have any problems with your blood
20 sugar up until recently?

21 A Up until this incident, I'd never been hospitalized
22 for it or anything.

23 Q Okay. You are aware that I subpoenaed your medical
24 records, correct?

25 A Uh-huh.

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 Q When you say that you never had to have help for
2 diabetes, but you've reported to the hospital a couple of
3 times for diabetes issues?

4 A After this issue, I remember, but I've never been
5 hospitalized after I was diagnosed for my diabetes. My
6 doctor put me, while I was pregnant to switch the medicines
7 over because of my diabetes.

8 Q Because you had high sugar and glucose?

9 A I was high risk and the medicine I was on wasn't
10 working too well with the pregnancy, so she admitted me
11 with my diabetes to switch over the medicine and they
12 monitored me overnight as she switched over the med.

13 Q Okay. And you would also agree that when you were
14 at the Fisher Foot Clinic, the blood work that you got done
15 and all that was reported as diabetes related?

16 A I didn't know -- I remember getting blood work
17 down.

18 Q And that's because there's a symptom called PAD
19 which happens often when people have high blood sugar
20 levels which causes poor circulation in the legs and feet
21 and causes pain and a lot of times, most times in order to
22 assist that, they give a boot just like that to help with
23 the circulation; isn't that true?

24 A I guess.

25 Q And that's what the medical record from that day

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 states. There's nothing that states that there was an
2 accident or any driving or anything like that?

3 A I said --

4 MR. GRANT: Objection, Your Honor.

5 THE COURT: Wait just a minute.

6 MR. GRANT: Objection. Any reference to the
7 medical records would be hearsay unless she's going the
8 call the medical provider.

9 THE COURT: Step over here, please.

10 (There was a bench conference out of the hearing of
11 the jury and the Court Reporter.)

12 MS. CORNWELL: Overrule the objection?

13 THE COURT: Based on my ruling, yes.

14 BY MS. CORNWELL:

15 Q So when you reported about this foot injury, it was
16 several days after the injury occurred and you reported it
17 as needing blood work because of your diabetes?

18 A Yes.

19 Q And because of that, you were given that boot?

20 A And because of the injury and the depth of the cut,
21 yes.

22 Q And then with your diabetes and high blood glucose,
23 which, there's obviously -- that was in 2013; again you had
24 another incident in 2013 with the pregnancy where the
25 doctor wanted to admit you because, again, you had high

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 blood sugar, correct?

2 A Uh-huh.

3 Q And you would admit in 2013, both of those
4 instances was before this incident in 2014?

5 A Right.

6 Q So you had problems with your blood sugar before?

7 A Okay. From the foot incident, but I couldn't
8 control how my body reacted when I was a pregnant. I was
9 going through a term of switching medicines.

10 Q Okay.

11 A It wasn't anything caused from stress or anxiety.
12 It was the pregnancy, a high risk pregnancy.

13 Q Okay. And those Raspbaritas that you had that
14 night, alcohol affects your blood sugar in diabetes as
15 well, doesn't it?

16 A Sometimes.

17 Q So on the night that this incident occurred, you
18 had been angry with Sam for at least a week prior to him
19 coming over.

20 A I was frustrated with Sam, I wasn't angry. I was
21 always ready to reconcile if it was possible.

22 Q But you get angry, or I should say frustrated quite
23 a bit, don't you?

24 A No.

25 Q No?

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 A I --

2 Q You --

3 A Go ahead.

4 Q You've been known to get into fights with other
5 girls?

6 A I've never gotten into a fistfight, a physical
7 fight with another female, verbal arguments, yes.

8 Q Okay.

9 A But never physical.

10 Q And in those verbal arguments, you would agree that
11 you threatened --

12 A When they --

13 MR. GRANT: Objection, Your Honor, may we approach?
14 I have a matter of law to take care of.

15 THE COURT: Yes, sir.

16 (There was a bench conference out of the hearing of
17 the jury and the Court Reporter.)

18 THE COURT: All right. Thank you.

19 I would allow the question, Solicitor and deny the
20 objection.

21 MS. CORNWELL: Thank you, Your Honor.

22 THE COURT: Yes, ma'am.

23 BY MS. CORNWELL:

24 Q You would admit that you got into an argument and
25 you would tell people that FYI, I'm not one to play hard

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 over no message. I call you. Better ask your friend Trina
2 how I get down when I bust that window. So please don't
3 underestimate me. I hold my shit down.

4 A Okay. And did you read the whole conversation when
5 they threatened me and told me that I know how they rock.

6 Q Absolutely --

7 A I don't know how many people take to threats and
8 don't say anything back in their own defense. But it was
9 going both ways in that whole conversation.

10 Q The incoming message that you received on that was,
11 Just tell me you done tried to put him on with other girls
12 to all y'all press. Keep my name out y'all mouth or we
13 going to have a problem. That's what she said to you,
14 correct?

15 A Correct.

16 Q And then your response was, Bitch, get the fuck off
17 my line, nobody want your baby daddy. You know how I rock,
18 as well. So don't get me twisted. This press ass always
19 asking about my friends, but lucky for you, they don't want
20 him. But move right along, laugh out laugh, bitch swerve,
21 you can find out what is with it -- me run up.

22 A Uh-huh.

23 Q And then you also said you aren't one to play hard
24 over messages, better ask your friend Trina how I get down
25 when I bust that window out, so please don't underestimate

Courtney L. Price - Cross-Examination by Ms. Cornwell

1 me?

2 A Right. Because my thing is don't text me with
3 anything. Few want to talk to about something and let's
4 talk it out like women but don't send me a text and send
5 threats to me.

6 Q Okay. That wasn't you angry either, was it?

7 A No, frustrated because I'm at work and I'm getting
8 a text message about foolishness. If you want to be a
9 grown woman and handle it like grown adults we can talk
10 about it but don't send a text message and threaten to do
11 something on a situation you have little knowledge about.

12 Q Okay. So even after hearing all those text
13 messages and stuff, you would sit up there and say that you
14 were not angry, you're not angry and that this crime was
15 not committed because you were angry at Sam for cheating on
16 you or what you thought to be cheating on you?

17 A I was not angry. I was hurt and I was protecting
18 myself and my child.

19 MS. CORNWELL: No further questions, Your Honor.

20 THE COURT: Thank you, Solicitor.

21 Mr. Grant.

22 MR. GRANT: Yes, sir?

23 THE WITNESS: Redirect.

24 MR. GRANT: Actually, I don't have any redirect.

25 THE COURT: Thank you. Thank you very much,

Brittany Dixon-Outen - Direct Examination by Mr. Grant

1 Mr. Grant. Thank you, Ms. Price, you may step down.

2 All right. Mr. Grant, you may call your next
3 witness.

4 MR. GRANT: We call Ms. Brittany Dixon Outen to the
5 stand.

6 THE COURT: About how long will it take this
7 witness, Mr. Grant.

8 MR. GRANT: This witness will take 10 minutes at
9 the most, Your Honor.

10 THE COURT: Yes, sir.

11 BRITTANY DIXON OUTEN,

12 having been duly sworn, testified as follows:

13 THE CLERK: Thank you. You may have a seat.

14 Please state your name for the record and I need you to
15 spell your name.

16 THE WITNESS: Ma'am?

17 THE CLERK: I need you to spell your first and last
18 name.

19 THE WITNESS: Brittany, B-R-I-T-T-A-N-Y, Dixon
20 D-I-X-O-N, hyphenated, Outen O-u-t-e-n.

21 THE CLERK: Thank you.

22 THE COURT: All right. Mr. Grant.

23 MR. GRANT: Yes, sir.

24 **DIRECT EXAMINATION**

25 BY MR. GRANT:

Brittany Dixon-Outen - Direct Examination by Mr. Grant

1 Q Ma'am, where do you live?

2 A I live in Columbia, South Carolina.

3 Q And where do you work?

4 A I work -- I'm a manager at the Walgreens in
5 Columbia.

6 Q The Walgreens in Columbia?

7 A Yes, sir.

8 Q Do you know my client, Courtney Price?

9 A I do.

10 Q Okay. And how do you know Courtney?

11 A I used to work with her at the Walgreens here in
12 Orangeburg.

13 Q And what were capacity -- what were your
14 responsibilities there?

15 A I was the senior supervisor at the Walgreens in
16 Orangeburg around 2011.

17 Q And was Courtney working with you at that
18 Walgreens?

19 A She was.

20 Q And did you ever have an occasion of witnessing
21 Courtney coming to work and appearing as though she was
22 injured in any kind of way?

23 A I did.

24 Q Okay. Tell the jury what you saw.

25 A Well, working with Courtney, she was always very

Brittany Dixon-Outen - Direct Examination by Mr. Grant

1 nice and cordial towards me. So I created a bond with her
2 like as a sister as a protector of her and I would see her
3 with marks on her every now and then. I can't recall what
4 date.

5 Q Where would these marks be?

6 A Like on her body. I could see it because the shirt
7 would cover it, but I would never ask her about it because
8 it's kind of personal, but I know how it is, you don't want
9 to talk about situations when you go through something.
10 You don't want everybody to judge you.

11 Q How did Courtney appear to -- what did her
12 emotional spirits seem to be like on the days she had these
13 bruises on her body that you saw.

14 A She would always have a smile on her face no matter
15 what she went through, but you could tell if she was
16 suffering, regardless of what she was going through. But I
17 didn't want to talk about it. I didn't want her to cry.

18 Q So when you saw Courtney, even when she had marks
19 on her body, she was always smiling?

20 A Yes.

21 Q Okay. What about her foot? Did you see anything
22 wrong with her foot?

23 A I did. I was like, what happened? What happened
24 to your foot and she told me what happened and I just so
25 sad and so disappointed about what happened because I wish

Brittany Dixon-Outen - Direct Examination by Mr. Grant

1 I could like actually help her, but I couldn't.

2 Q What was your understanding as to what happened
3 based upon what she told you? What was your understanding?

4 A Basically they got into an argument and he started
5 fighting her and I don't remember whether she jump out of
6 the car or if she got pushed out the car, but he ran over
7 her foot.

8 Q You talked about her -- when you say he, who are
9 you referring to when you say he? Her boyfriend?

10 A Yeah, Sam Simmons.

11 Q Okay. You -- you ever met him?

12 A I -- actually, I used to ride the bus with him a
13 long time ago.

14 Q So you know who he is. You knew who he was.

15 A Yeah, I did.

16 Q Okay. Did Courtney, after she -- does this look
17 like the kind of boot that she might have been wearing
18 after that?

19 A Yeah, uh-huh.

20 Q Okay. All right. And did Courtney ever have to
21 come to work with crutches?

22 A Yes, she did.

23 Q Tell the jury if you will how long Courtney had to
24 come to work with crushes as a result of this incident?

25 A It was a while. I mean I tried to do everything I

Brittany Dixon-Outen - Direct Examination by Mr. Grant

1 could to help her out because I know she was struggling to
2 make sure she was comfortable because you don't want to see
3 anybody in pain like that.

4 Q And how long did the two of you work together?

5 A Well, I think she started in 2012, so -- I can't
6 remember what year she left, honestly. I was just proud of
7 her when she graduated because I know she was going to be
8 something.

9 Q And as you got to know her, how would you describe
10 her personality in general from observing her?

11 A She was always nice, kind; she was always laughing.
12 I would be in the back and I could hear her laughing and
13 talking with everybody that came in the store.

14 Q All right. Thank you. No further questions.

15 THE COURT: Solicitor?

16 MS. CORNWELL: I don't have anything for this
17 witness, Your Honor.

18 THE COURT: Thank you. Thank you very much,
19 Ms. Outen. You may step down.

20 MR. GRANT: Your Honor, at this time we call Sharee
21 Scott to the stand.

22 THE COURT: All right. Ms. Scott if you would come
23 around, please.

24 SHAREE SCOTT,

25 having been duly sworn, testified as follows:

Sharee Scott - Direct Examination by Mr. Grant

1 THE CLERK: Thank you. You may have a seat.
2 Please state your name again for the record and will you
3 please spell your first name.

4 THE WITNESS: Sharee Scott, Sharee, S-H-A-R-E-E,
5 Scott, S-C-O-T-T.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MR. GRANT:

9 Q Ms. Scott, where do you live, ma'am?

10 A Charleston, South Carolina.

11 Q And you came here from Charleston today?

12 A Yes.

13 Q Ms. Scott, do you have a child by Samuel Simmons?

14 A Yes.

15 Q And what is that child's name?

16 A Sha'maria Simmons.

17 Q Is that a boy or a girl?

18 A A girl.

19 Q You pronounce it Sha'maria?

20 A Uh-huh..

21 Q Spell that for me.

22 A S-H-A-'-M-A-R-I-A.

23 Q And you gave your daughter Mr. Simmons' last name;
24 is that correct?

25 A Yes.

Sharee Scott - Direct Examination by Mr. Grant

1 Q Okay. And when was Sha'maria Simmons born?

2 A [REDACTED], 2012.

3 Q Sha'maria was born and since this incident with
4 resulting in Samuel Simmons death, did you find out about a
5 person named Courtney Price?

6 A I found out about her like way before I even had my
7 daughter.

8 Q Way before you had your daughter?

9 A Uh-huh.

10 Q Okay. And -- but though, when you were having your
11 relationship with Mr. Simmons, were you of the impression
12 that he no longer had a relationship with Ms. Price?

13 A Yes, he said they was breaking up. They was going
14 together for seven months and they were breaking up.

15 Q He told you they went together seven months and
16 they broke up?

17 A Uh-huh. Because he had called -- she was calling
18 his phone. And I guess after he got off the phone he was
19 telling me and that was it.

20 Q What was your cell number? Was it 843-270-2045?

21 A Yes.

22 Q That was your cell number?

23 A Uh-huh.

24 Q Okay. Did you ever remember receiving a message or
25 exchange of messages on your cell phone, text messages,

Sharee Scott - Direct Examination by Mr. Grant

1 something to the effect me and my -- as you say like
2 daycare?

3 A Yes.

4 Q Okay. Who that come from?

5 A Sam.

6 Q And incoming on the number, Don't forget about send
7 the money for her outfit, would that be you sending
8 something to Sam saying that?

9 A Yes. That was for Easter.

10 Q Okay. All right. And incoming again on this is, I
11 guess I got to pay for her birthday outfit and me and my?
12 What is that?

13 A That is my signature.

14 Q Oh, me and my?

15 A Uh-huh.

16 Q Okay. And is that you sending it to Sam?

17 A Yes.

18 Q Okay. And another text message, I tell you I had
19 to pay for it so they could go ahead and fix her outfit,
20 but I see you don't care, but I'll pay for you to do. I
21 won't text you nothing about her no more and that's also me
22 and my? It says me and my. That's your signature?

23 A Uh-huh.

24 Q So that means it's your message?

25 A Yes.

Sharee Scott - Cross-Examination by Ms. Cornwell

1 Q Okay. Now, you communicated with Mr. Simmons about
2 y'all's daughter?

3 A Yes.

4 Q Okay. And, I think the next, Sam here --

5 MS. CORNWELL: I would object to the leading nature
6 of these questions.

7 MR. GRANT: I'm trying to read the text message.

8 THE COURT: He can show it to her solicitor. It
9 might just move it along.

10 MR. GRANT: Thank you. This is the last one that I
11 have.

12 BY MR. GRANT:

13 Q My phone, F-O-N-E, been messed up baby mama; is
14 that how he referred to you sometime, baby mama?

15 A Yes.

16 Q Okay. Yeah, I care. I apologize. I love y'all
17 and I'm going to send it first thing Friday morning. I
18 promise she going to get it. Was there an issue with him
19 paying child support for your child too?

20 A He never did child support.

21 Q Thank you very much.

22 MR. GRANT: No further questions of this witness.

23 **CROSS-EXAMINATION**

24 BY MS. CORNWELL:

25 Q Did you ever ask him for child support?

Sharee Scott - Cross-Examination by Ms. Cornwell

- 1 A No.
- 2 Q Whenever you needed something for your daughter,
3 and you asked him for it, did he provide it for you?
- 4 A Yes.
- 5 Q And when y'all did have disagreements over money,
6 was he ever violent with you?
- 7 A No.
- 8 Q Did he ever choke you?
- 9 A No.
- 10 Q Ever slap you?
- 11 A No.
- 12 Q Ever shove you?
- 13 A No.
- 14 Q Ever mush your face?
- 15 A No.
- 16 Q Did you ever know him to be violent with you?
- 17 A No.
- 18 Q Did you ever know him to be violent with anyone?
- 19 A No.
- 20 Q Did your mom know Mr. Simmons?
- 21 A Yes.
- 22 Q And what's her opinion of him?
- 23 A She loved him.
- 24 Q She considered him a son, right?
- 25 A Yes.

Sharee Scott - Redirect Examination by Mr. Grant

1 Q And on the morning -- the last time you texted Sam,
2 the conversation that Mr. Grant was just talking about that
3 was around Easter, correct?

4 A Yes.

5 Q The last time you had texted Sam, was about
6 September 20th or so, about a week before he --

7 A 22nd.

8 Q Okay. 22nd. Do you recall on the morning of
9 September 27th of 2014, the day this incident occurred
10 receiving a phone call from Sam's phone?

11 A Yes.

12 Q And that phone call came to your phone at about
13 7:05 in the morning?

14 A Yes.

15 Q Did you answer that phone call?

16 A No.

17 Q Okay.

18 MS. CORNWELL: No further questions, Your Honor.

19 THE COURT: Redirect?

20 MR. GRANT: Yes, sir.

21 **REDIRECT EXAMINATION**

22 BY MR. GRANT:

23 Q Did Sam's family know about your daughter?

24 A Apparently some of them. His mother and father.

25 Q Who in the family knew about the daughter? When

Sharee Scott - Redirect Examination by Mr. Grant

1 you say some of them?

2 A I guess his cousins.

3 Q What about his sister?

4 A I'm not sure.

5 Q And what about his parents? Had your baby met
6 his -- her grandparents?

7 A No, he used to tell me I'm going to take her, I'm
8 going to take her, but he never take her.

9 Q Prior to -- well, actually, back up just a little
10 bit. September 14, September 27, 2014 is when this
11 incident occurred. When you found out that Sam had passed
12 away, when was the last time prior to that date that you
13 and Sam -- you and your daughter had seen Sam?

14 A Around December, Christmas time.

15 Q So he hadn't seen his daughter in about nine
16 months?

17 A Pretty much, but he was supposed to see her like --
18 I say the night before that, but something happened. And
19 then I had supposed to go to Myrtle Beach, but I tell him I
20 couldn't come again.

21 Q Did he have you thinking you were the only woman?

22 A No. I had a boyfriend, so...

23 Q You had a boyfriend?

24 A Yes.

25 Q Okay. Thank you.

1 MR. GRANT: No further questions.

2 THE COURT: Recross examination?

3 MS. CORNWELL: Nothing further, Your Honor.

4 THE COURT: Thank you. Thank you very much,
5 Ms. Scott. Thank you for being with us today.

6 MR. GRANT: May we approach?

7 THE COURT: Certainly.

8 (There was a bench conference out of the hearing of
9 the jury and the Court Reporter.)

10 THE COURT: All right. Mr. Foreman and ladies and
11 gentlemen of the jury panel, momentarily, we're going to
12 take our evening recess. There is at least one, perhaps
13 two more witnesses for the defense. One of those
14 witnesses, I protected for today because she is from the
15 Upstate and is going to be offered as an expert in a
16 particular area and had to be in another venue today. So
17 we share them sometimes. She is supposed to be here and
18 begin testimony at 9:30 in the morning.

19 So, with that being said, we'll take our evening
20 recess. Please do not discuss the case with anyone. No
21 news reports. No research on the internet or
22 independently. You base your decision on the evidence and
23 testimony presented from the witness stand by the witnesses
24 testifying under oath and the law as I tell you the law is.

25 I appreciate your focus and attention you've shown

1 all the parties and your patience with the Court. With
2 that being said, you're now excused for the evening recess.
3 I'd ask that you please be back promptly at 9:30 in the
4 morning. 9:30 in the morning. Thank you.

5 (The jury left the courtroom at 4:54 p.m.)

6 THE COURT: Anything further from the State,
7 Solicitor?

8 MS. CORNWELL: Nothing from the State, Your Honor.

9 THE COURT: Defense?

10 MR. GRANT: No, Your Honor.

11 THE COURT: If there's any request to charge, if
12 y'all would please mail them to my law clerk this evening.

13 MR. GRANT: Yes, sir.

14 MS. CORNWELL: Yes, sir.

15 THE COURT: So I can do that. All right. Thank
16 you very much.

17 Court will be in recess until 9:30 in the morning.

18 (Court was in recess for the day.)

19 FRIDAY, FEBRUARY 26, 2016

20 THE COURT: All right. Mr. Grant.

21 MR. GRANT: Yes, Your Honor, please the Court.

22 Before I make a motion and I talk about the document that I
23 need and I'm told isn't actually in the courtroom right
24 now, so what I will do, I'll go ahead and call Mr. Girndt
25 now as the first witness and then I'll make the motion

1 after that.

2 THE COURT: All right. Why -- let's wait a minute
3 now. I don't want to send the jury back out.

4 MR. GRANT: Yes, sir.

5 THE COURT: Unless you're asking me to do that. If
6 you're asking me to do that I will certainly accommodate.
7 We've come down this road this far.

8 MR. GRANT: Well, it's just that I need the
9 document that I need to have offered as a Court's Exhibit.

10 THE COURT: Okay.

11 MR. GRANT: And I don't have that. It's being
12 copied right now.

13 THE COURT: Okay.

14 MR. GRANT: It can walk in the door any minute.

15 THE COURT: That's fine.

16 Solicitor, anything before we bring in the jury?

17 MS. CORNWELL: Nothing from the State, Your Honor.

18 (The jury entered the courtroom at 10 a.m.)

19 THE COURT: Mr. Foreman, ladies and gentlemen of
20 the jury, good morning.

21 THE JUROR: Good morning.

22 THE COURT: Welcome back. Again, chronologically,
23 I apologize for the delay. I told you to be here promptly
24 at 9:30 and as always there's a little lag time in getting
25 you in the courtroom. I apologize for that. That is not

1 because the attorneys are not working very diligently; and
2 many times I'm hearing motions before y'all come out, so
3 that hopefully we will be able to efficiently deal with
4 your time.

5 I do have some questions which is typically my
6 habit and custom during the course of trial. As you know,
7 I have advised you of your duties and responsibilities
8 during your jury service in the trial of this case. First,
9 that you're not to discuss the case with others, including
10 your family, friends, or other jurors or anyone else.

11 Has any member of the jury panel discussed the case
12 with any others? Fellow jurors, family, friends, or anyone
13 else? If so, please stand.

14 Thank you. Thank you very much, no one stands.

15 Additionally, news reports. I have advised you
16 throughout the course of the trial, do not read, watch,
17 listen to any news reports whether on television, radio,
18 internet or in the newspapers.

19 Has any member of the jury panel seen, heard, read,
20 watched any news accounts about the case should there have
21 been any? If so, please stand.

22 No one stands.

23 And further, I advised you not to do any research
24 on any information that is prohibited. Information that is
25 prohibited includes, but is not limited to the following:

1 Information about a party, an attorney, a witness or a
2 court officer, news accounts about the case, past or
3 present; information collected through juror research on
4 any topics raised or testimony offered by any witness or
5 information collected through juror research on any other
6 topic the juror might think would be helpful in deciding
7 the case.

8 Has any member of the jury panel done any research
9 in those areas or any other areas during the course of your
10 time sitting as a juror on this case? If so, please stand.

11 No one stands.

12 Has any member of the jury panel done any
13 independent investigation as to the case? If so, please
14 stand.

15 No juror stands.

16 And I advise you, I do this by habit and custom in
17 any trial that goes any length of time whatsoever to -- not
18 that I think any member of this panel has violated their
19 oath in any manner whatsoever, I do it as a matter of
20 course to protect the record in the case. Y'all have
21 worked very diligently and I know you take your
22 responsibilities as jurors in this case very serious. I
23 can tell that by your degree of attention and focus and
24 work ethic.

25 All right. With that, anything before you call

1 your next witness, Mr. Grant.

2 MR. GRANT: Your Honor, I did have a motion -- I
3 didn't know whether you wanted to deal with that now or
4 after the witness. Whatever is convenient for the Court.

5 THE COURT: What is the nature of your first
6 witness, if you don't mind me asking.

7 MR. GRANT: The nature of my first witness would be
8 my fingerprint -- fingerprint -- bloodstain analysis
9 expert.

10 THE COURT: All right. Well why don't -- why don't
11 we take the testimony of the expert first; and thereafter,
12 I will address your motion.

13 MR. GRANT: Yes, sir.

14 THE COURT: Thank you, Mr. Grant.

15 MR. GRANT: Thank you, Judge. And at this time we
16 call Mr. Don Girndt, Donald Girndt.

17 THE COURT: All right. Mr. Girndt, if you would
18 come around and be sworn for us, please.

19 DONALD GIRNDT,
20 having been duly sworn, testified as follows:

21 THE CLERK: Thank you. You may have a seat.
22 Please state your name and spell your name for the Court --
23 for the record.

24 THE WITNESS: Donald C. Girndt, last name spelled,
25 G-I-R-N-D-T.

Donald C. Girndt - Direct Examination by Mr. Grant

DIRECT EXAMINATION

1
2 BY MR. GRANT:

3 Q Mr. Girndt, where do you work now, sir?

4 A I'm self-employed as a forensic consultant. I
5 specialize in the area of crime scene analysis, bloodstain
6 pattern interpretation, footwear identification and
7 fingerprint identification. I also work part full-time for
8 the University of South Carolina as their LATENT print
9 examiner and what's known as their AFIS operator.

10 Q And sir, I want you to tell me about your work
11 experience. How long did you work in law enforcement and
12 what was your first job in law enforcement?

13 A My first job in law enforcement was in 1974, I
14 worked with the State Law Enforcement Division and
15 basically -- their communications area up there. I stayed
16 there from '74 to '77 and went to work with Lexington
17 County Sheriff's Department as a deputy. I stayed there
18 for a couple of years and went to the Richland County
19 Sheriff's Department as a sergeant in charge of the
20 fugitive and warrant division. In 1985, I left there and
21 went back to the State Law Enforcement Division as an agent
22 in the crime scene unit there where I stayed for about nine
23 years until I retired.

24 Q As an agent in the crime scene unit, what type of
25 cases would you have that would involve crime scene

Donald C. Girndt - Direct Examination by Mr. Grant

1 interpretation and bloodstain analysis?

2 A Primarily homicides. SLED is an assisting agency.
3 At the time that I was in there, I assume it's the same
4 statistic, it was about an average of a murder a day in the
5 this state. And so we would assist other agencies, smaller
6 agencies such as the Bamberg Sheriff's Office has six
7 deputies so they're not really equipped to, you know,
8 handle homicides, that type of thing. There are 46
9 counties and there are some smaller counties and a lot of
10 small departments that would have a homicide every few
11 years or so. So they just weren't equipped for that so we
12 would go and help them with that.

13 Q Give me a rough estimate, if you will as to how
14 many times you've been called upon the interpret crime
15 scene and analyze a crime scene and do interpretation of
16 bloodstains, just a rough estimate in your total career.

17 A Several hundred.

18 Q Okay. And have you ever been called upon and
19 accepted by a court as an expert in the field of crime
20 scene analysis and bloodstain interpretation?

21 A Yes, I have.

22 Q What different courts have you been accepted in as
23 an expert in those areas?

24 A Well, I was looking back over it, some of them I
25 wrote down are just crime scenes, so a lot of time a crime

Donald C. Girndt - Direct Examination by Mr. Grant

1 scene incorporates interpretation of bloodstain pattern
2 because you're testifying mainly from photographs, so you
3 may not be accepted in that -- as an expert in bloodstain
4 pattern interpretation but in over all crime scene.
5 Numerous times I've been qualified -- in this courtroom, in
6 fact -- I've been qualified in the States of South
7 Carolina, North Carolina, Georgia, Maryland and Federal
8 District Court --

9 Q So you --

10 A -- in various areas.

11 Q So even in federal court?

12 A Yes.

13 Q Okay. And are you a member of any type of
14 professional organizations?

15 A I'm a member of International Association of
16 Identifications, lifetime member.

17 Q And what type of association is that and what's the
18 purpose of that association?

19 A It's a, like I say international association that
20 set the standards for various fields, fingerprint
21 identification, bloodstain pattern interpretation,
22 biometrics, just different areas of forensic science.

23 Q And how long have you been a member of that
24 organization?

25 A Thirty years.

Donald C. Girndt - Direct Examination by Mr. Grant

1 Q Have you ever been offered as an expert in crime
2 scene interpretation which obviously involves bloodstain
3 analysis, as you pointed out, by a court and not been
4 accepted as such?

5 A No.

6 MR. GRANT: Your Honor, at this time, I offer to
7 the Court, Mr. Donald Girndt as a witness, expert witness
8 in the areas of crime scene interpretation and bloodstain
9 analysis.

10 THE COURT: All right. Solicitor, any voir dire?

11 MS. CORNWELL: No, thank you, Your Honor.

12 THE COURT: All right. Again, ladies and
13 gentlemen, normally a person cannot give opinion testimony.
14 Normally when a person testifies they must testify as to
15 either what they saw, heard or sensed by smell or something
16 of that nature. However, there is an exception for
17 individuals who by training, experience, education, has
18 become qualified in a particular art, science, field, or
19 profession. They are permitted to give their opinions and
20 the basis of their opinions in certain areas if the Court
21 qualifies them that way.

22 This witness, Mr. Don Girndt, will be qualified as
23 an expert in crime scene interpretation and bloodstain
24 analysis to give opinion testimony in those areas. That
25 does not mean that you must accept the opinion or opinions,

Donald C. Girndt - Direct Examination by Mr. Grant

1 but it is evidence for you the jury to use in any way you
2 deem fit.

3 Thank you. Thank you, Mr. Grant. You may
4 continue.

5 MR. GRANT: Thank you, Your Honor.

6 BY MR. GRANT:

7 Q Mr. Girndt, have you had an opportunity to review
8 the photographs of the alleged crime involving bloodstains
9 in this particular case that were admitted into evidence by
10 the prosecution?

11 A Yes, I have.

12 Q Okay. And I think I shared with you that these
13 photographs were reviewed by the prosecution's expert; is
14 that correct?

15 A Yes, sir.

16 Q Okay. I'm handing them to you now -- actually --
17 I'm handing them to you now. Take the time and just flip
18 through them once again to refresh your memory about what
19 you've already scene?

20 A (Looking.)

21 Q And there's no rush, Mr. Girndt, just take your
22 time.

23 (There was a pause in the proceedings.)

24 THE WITNESS: All right.

25 BY MR. GRANT:

Donald C. Girndt - Direct Examination by Mr. Grant

1 Q All right, sir. And now that you've been accepted
2 as an expert by this court, I'm going to show you once
3 again State's Exhibit Number 40, State's Exhibit Number 41,
4 State's Exhibit Number 42, and State's Exhibit Number 43.

5 What are those exhibits and what do they depict?
6 What do they show?

7 A These are photographs of Ms. Price with -- still in
8 her bloodstained clothing.

9 Q Okay. Based upon your review of the photographs,
10 what is your professional opinion, with your expertise and
11 training to a reasonable degree of scientific certainty as
12 to how that blood would have gotten on Courtney Price; and
13 what type of blood is it?

14 A It's -- the majority of it is what is normally
15 what's referred to as transfer stain. And by example, if I
16 had blood and wiped it on my shirt, I transferred it from
17 my hand to my shirt. So this just shows me that she was in
18 close contact with the source of the blood. Both front --
19 that's a tremendous amount of blood. And her clothing has
20 absorbed it, versus Mr. Simmons in this case who wasn't
21 wearing any clothing. So there wasn't anything to absorb
22 and clothes would absorb the blood.

23 But you can see -- I mean had this simply been an
24 incident where a stabbing took place and she moved away
25 from him, then she wouldn't have anything like this, but

Donald C. Girndt - Direct Examination by Mr. Grant

1 this just tells me that she's in close contact with him
2 because she has it on the front and the back and
3 practically everywhere.

4 Q What is your opinion in reviewing those
5 photographs -- and let me have them, please.

6 What is your opinion in reviewing these photographs
7 as to whether or not Ms. Price would have gotten this blood
8 on her clothing and on her by simply rolling over and
9 wallowing in a bloody bed?

10 A I would say that those stains -- the majority of
11 those stains would be indicative of being in close contact
12 with the source of the blood and also would be the type of
13 thing that I would expect to see as a result of a struggle
14 with a person who has a great deal of blood on them. Since
15 she's not -- I haven't heard anything that said she was
16 bleeding, so...

17 Q Okay. How likely is it, in your professional
18 opinion that blood that you see could have come from merely
19 rolling over in blood on a bedding -- on a bloody bed?

20 A That's not very logical scenario, so -- I would say
21 the former opinion I have, I think it appears to be the
22 result of a struggle.

23 Q And explain to the jury, sir, in your professional
24 opinion why the idea of this blood coming on her clothes by
25 wallowing in the bed would not be a very logical

Donald C. Girndt - Direct Examination by Mr. Grant

1 conclusion?

2 A Well, from what I've seen of the bed sheets,
3 there's not that much blood on the bed. It appears to be a
4 lot, but I mean it's not that -- enough to account for all
5 this. We still know Mr. Simmons was alive at the time that
6 the deputies arrive, so it's safe to assume he was still
7 bleeding at the time.

8 Q Okay. And you've had an opportunity, again, now,
9 to look at these photographs, all of them that have been
10 looked at by the prosecution's witness and are there
11 various scenarios that can be explained as a possibility as
12 to what happened in that room after you have reviewed these
13 photographs?

14 A Yes.

15 Q Okay. And is -- after reviewing these photographs,
16 is one possibility, based what you saw in review, is that
17 when Courtney Price stabbed Sam Simmons he was indeed
18 standing right in front of her?

19 A That could be one scenario.

20 Q Okay. And that's your professional opinion based
21 upon these photographs?

22 A That's one possible scenario. Based on that and
23 reading the statements and the autopsy report that's what
24 my --

25 Q Okay. And let me show you what has been marked as

Donald C. Girndt - Direct Examination by Mr. Grant

1 State's Exhibit Number 78. Tell us once again, what is
2 shown in State's Exhibit Number 78, please, sir.

3 A 78, shows what appears to be two foot impressions
4 in blood, they're consistent with foot impressions at the
5 foot of the bed.

6 Q And when you look at these foot impressions, are
7 you able to interpret and see what appears to be the heel
8 of the foot stain as well as the toe part of the foot
9 stains?

10 A Yes, it tapers from -- when I say tapers, the
11 left-hand side of the stain appears to be a heel area and
12 the photograph to the right appears to be where the widest
13 part of the foot would be.

14 Q And is that stain that you're talking about, is it
15 located at the foot of the bed?

16 A Yes.

17 Q And does it, in your professional opinion, depict,
18 based upon those prints that a person with bloody feet was
19 standing at the foot of the bed, facing away from the bed?

20 A At some point, yes.

21 Q Okay. And I want to show you what has been marked
22 as State's Exhibit Number 34. And what is showing in
23 State's Exhibit Number 34?

24 A This is the body and it shows, basically what's
25 interesting in this particular photograph, is it shows the

Donald C. Girndt - Direct Examination by Mr. Grant

1 bottom of his feet and they have blood on them.

2 Q And they have blood on them?

3 A Uh-huh.

4 Q And -- let me have these a second, please, sir.

5 Could the bloody feet that you see in State's Exhibit 34
6 and the bloodstains that you see of footprints facing away
7 from the foot of the bed, could these bloody feet in 34
8 have caused the foot stains that we see in 78?

9 A They could have, yes.

10 Q Okay. And is it your opinion to a reasonable
11 degree of scientific certainty, that more likely than not,
12 they did?

13 A Well, I haven't seen any photographs of Ms. Price's
14 feet, but of the two choices I have, this would be the
15 one...

16 Q Okay. And is that a yes? More likely than not?

17 A Yes.

18 Q Okay. Now, have you seen any photographs in your
19 review and preparation in this case, in photographs at all
20 of C.D.S. the baby boy of Ms. Price, with his hands around
21 her neck? Anything at all, when you reviewed any
22 photographs of C.D.S. at all with hands around his mama's
23 neck?

24 A No.

25 Q Okay. But did you review any photographs of the

Donald C. Girndt - Direct Examination by Mr. Grant

1 bloody hands of Samuel Simmons?

2 A Yes.

3 Q Okay. And I'm showing you what is marked as
4 State's Exhibit Number 45 and State's Exhibit Number 46?

5 A Okay.

6 Q And State's Exhibit Number 47. Please take a look
7 at those exhibits. Would you please review those
8 photographs and tell us what you see around the neck of
9 Courtney Price in those photographs?

10 A Yes, there appears to be bloodstaining around the
11 neck.

12 Q Okay. All right, sir. And you reviewed those
13 photographs -- and -- here we go.

14 MR. GRANT: Madam Clerk can you check to see if
15 Defense Exhibit Number 11 has ever been admitted yet.

16 THE COURT REPORTER: Yes, sir.

17 MR. GRANT: It was admitted.

18 THE COURT REPORTER: Uh-huh.

19 BY MR. GRANT:

20 Q I'm showing you what has been marked and actually
21 admitted into evidence as Defendant's Exhibit Number 11.
22 Do you see any blood around the hands of Samuel Simmons in
23 Defendant's Exhibit Number 11?

24 A Yes. This photograph depicts his right hand and
25 right arm with blood on the hand.

Donald C. Girndt - Direct Examination by Mr. Grant

1 Q Okay.

2 A Blood on the palm of the hand.

3 Q Okay. And did you see other photographs where the
4 other hand had blood on it as well?

5 A Yes.

6 Q And could the bloody hands of Samuel Simmons in
7 your professional opinion to a reasonable degree of
8 scientific certainty, could those hands have caused the
9 blood to be around the neck of Courtney Price in State's
10 Exhibit's Number 47 -- let me get them in chronological
11 order; State's Exhibit Number 45, State's Exhibit Number
12 46, State's Exhibit Number 47. Is it possible --
13 plausible.

14 You forgot the question. I'm sorry.

15 A I didn't know if you were finished.

16 Q Yes, sir.

17 A That's possible. That's one scenario. Yes.

18 Q Okay. All right. And is it in your opinion, based
19 upon the bloody hands that you did see that it is more
20 likely than not those bloody hands caused the blood around
21 this neck?

22 A Once again, that's a possible scenario, yes.

23 Q Okay. All right. And I will show you a picture of
24 C.D.S.'s hands, at least the one that we have that they
25 introduced into evidence, State's Exhibit Number 54. Do

Donald C. Girndt - Direct Examination by Mr. Grant

1 you see State's Exhibit Number 54?

2 A I do.

3 Q And do you see the left hand of C.D.S. in State's
4 Exhibit Number 54?

5 A Yes.

6 Q Now, when you look at the left hand of C.D.S. in
7 the palm of his left hand, describe for us, if you will,
8 how bloody or how clean the palm of C.D.S.'s left hand is.

9 A It's relatively clean. There is some dried stain
10 here at the base of his thumb, at the base of his left
11 thumb, but it's relatively clean.

12 Q And when it comes to his right hand, you really
13 can't see the palm of his right hand in the photo, can you?

14 A No.

15 Q Okay. Now, comparing, if you will, the blood that
16 you see in -- on C.D.S.'s left hand around the thumb, palm
17 area, I think you said it is? Right there?

18 A Yes.

19 Q Okay. Comparing that to the blood that you see on
20 the hands of Mr. Simmons, is there more blood on the hands
21 of Mr. Simmons than there is on the baby boy, C.D.S.'s
22 hand?

23 A Yes.

24 Q Okay. Now, let me -- since you're an expert, let
25 me give you a hypothetical -- or just ask you this

Donald C. Girndt - Direct Examination by Mr. Grant

1 question: If it is alleged that the person was stabbed in
2 a bed while he was sleeping, what would be the absolute
3 scenario in your professional opinion that would prove no
4 doubt he was sleeping in bed when he was stabbed?

5 A Well, if I processed a scene of this nature and the
6 person was lying on their back in bed with blood pooling
7 around them and once the body was moved, there was a void
8 underneath, that would tell me that the body had not moved,
9 so that would be, I think absolutely 100 percent would tell
10 me that that person was stabbed in the bed and did not
11 move.

12 Q But did you see any of that in these pictures in
13 that you reviewed? Was the body in the bed?

14 A No, it was not.

15 Q And where was the body found?

16 A Between the bed and the dresser.

17 Q And, in fact, there's bloody footprints, actually
18 based upon your testimony, even at the foot of the bed,
19 facing away from the bed; is that correct?

20 A It appears so, yes.

21 Q Can we conclude that -- based upon our opinion and
22 your expertise -- that Mr. Simmons would have to be alive
23 when he was standing at the foot of the bed, developing
24 those bloody footprints?

25 A Yes. I would think so.

Donald C. Girndt - Direct Examination by Mr. Grant

1 Q And when you reviewed those photographs, did you
2 see any other -- truly definable footprints, clear as
3 those, that show Mr. Simmons walking anywhere else in the
4 room that were as clear as those?

5 A No, not that I recall because there's so much blood
6 on the carpet.

7 Q All right. Now, I've got to ask you, when I find
8 this picture, about a bed rail and a side of the bed. I'm
9 showing you what is marked as State's Exhibit Number 35.
10 Take a look at State's Exhibit Number 35.

11 A Yes. It depicts Mr. Simmons lying on the floor on
12 his back between the dresser and the bed.

13 Q Now, do you see any blood on the bed rail?

14 A Yes.

15 Q Do you see any blood on the side edge there of the
16 bed itself on the black sheet?

17 A Yes.

18 Q Okay. Now, if Mr. Simmons is standing with bloody
19 feet with the bed behind him and he's standing there, if
20 indeed at some point, he falls back on the bed and he rolls
21 over to his side as depicted in the photographs and his
22 bloody body gets on that rail, is it your opinion to a
23 reasonable degree of certainty, scientific certainty that
24 that's how the blood would have gotten on the rail? As a
25 possibility?

Donald C. Girndt - Direct Examination by Mr. Grant

1 A I think this -- the wound is in the front, so I
2 would think that he would -- this blood could transfer from
3 him if he were kind of facing the bed and fell down across
4 the bed and then down onto the floor, yes. I see that.

5 Q Okay. All right. But -- okay. So, I want to make
6 sure you tell it because it's your story to tell, it's your
7 expert opinion. Tell us again, so it's clear, what are the
8 possibilities and probabilities in your field as to how
9 blood could have gotten on that rail?

10 A I think he could have fallen onto the bed and then
11 fallen on, you know, back to the floor, so -- but in
12 realtime, I don't know when that blood particularly got on
13 the bed because obviously at some point, he's up moving
14 around the room a great deal. So this is -- where is he is
15 right here, between the bed and the dresser is his final
16 resting place, so I can't exactly say when that blood
17 got there.

18 Q Imagine, if you will that this chair depicts the
19 foot of the bed and using this -- are you watching? Okay.

20 And using this table as a demonstration of the bed,
21 we have the head of the bed here. We have the foot of the
22 bed where the chair is. Are you oriented to what I'm
23 showing you, Mr. Girndt?

24 A Yes.

25 Q All right, sir. And imagine, if you will, that the

Donald C. Girndt - Direct Examination by Mr. Grant

1 blood prints -- the footprints, I'm sorry, that you saw
2 they're at the foot of the bed, and you saw some blood on
3 the edge of the bed with the railing; is that correct?

4 A Yes.

5 Q Imagine, if you will, that the person is lying in
6 the bed and he's got his covers pulled up over him and this
7 is the head of the bed. Is it logical when you're saying
8 you're lying in the bed, the head of the bed is somewhere
9 around this area, using this as an example of a bed?

10 A Okay.

11 Q Okay. Now, here's the question. Did you see any
12 pictures depicting blood around the head area of the bed in
13 anything that you reviewed that's been admitted by the
14 prosecution in this case?

15 A Not that I recall.

16 Q And you saw the -- the bloody -- zebra print -- not
17 tiger print spread; is that correct?

18 A Yes.

19 Q And -- let me find it again. And before I get to
20 that, I showed you Mr. Simmons' right hand. Let me show
21 you again his left hand. Take a look at that, please, sir.
22 That's State's Exhibit Number 37; is that correct? Take a
23 look at the back of it.

24 A Yes.

25 Q All right. And from what you see, how much blood

Donald C. Girndt - Direct Examination by Mr. Grant

1 appears to be on Mr. Simmons' left hand as well?

2 A It's fairly well covered. The palms are fairly
3 well covered with blood.

4 Q And going upon your memory now of what you just
5 saw, and if I need to show it to you again, of the amount
6 of blood on C.D.S.'s left hand compared to the amount of
7 blood on Simmons' left hand, which hand has the most blood?

8 A Mr. Simmons' left hand.

9 Q All right. Let me have that back, please, sir. In
10 your professional opinion and in your professional
11 training, have you ever been to any seminar or any place or
12 heard any kind of expert say that based upon a stain in the
13 bed, on the bed, without the body being in the bed that
14 you, as an expert in the field of crime scene analysis or
15 bloodstain interpretation would be able to determine that
16 the victim was sleeping, if the body is not even in the
17 bed?

18 A Not in that particular instance.

19 Q Okay. Here it is. Here it is. I show you what is
20 now marked and admitted as State's Exhibit Number 13,
21 State's Exhibit Number 14, State's Exhibit Number 15,
22 State's Exhibit Number 16, and State's Exhibit Number 17.
23 I want you to take your time and review those and let me
24 know when you're ready for some questions.

25 You ready?

Donald C. Girndt - Direct Examination by Mr. Grant

1 A I'm ready.

2 Q All right, sir. So you had a chance to take a look
3 at those exhibits. Now, when you look at the blood on the
4 zebra print sheet at the foot of the bed and you see the
5 amount of blood in that area, tell the jury, if you will,
6 what conclusions do you come to with your expertise as to
7 the amount of activity going on in that area?

8 A Well, it -- I mean it -- the comforter is kind of
9 blood soaked. So obviously, somebody who's bleeding has
10 come in contact with that or soaking blood has come in
11 contact with that. Also you can see at the -- on the -- on
12 the wooden part there, they're's some blood on that, which
13 would lead me to believe that person who was standing at
14 the foot of the bed could have fallen back onto the bed and
15 transfers blood to the top of the bed right there -- or the
16 foot of the bed -- the foot board of the bed, I guess is
17 better term.

18 Q What kind the blinds? You see blood on the mini
19 blinds?

20 A Yes.

21 Q What do you believe that blood the be? Or the
22 source of it, I should say. How it got there.

23 A Well, the blood on the blinds actually exhibits a
24 couple of different kinds of stain. On the window sill
25 there's some dripped blood and there's also some smeared

Donald C. Girndt - Direct Examination by Mr. Grant

1 blood an on the blinds there's some transfer that could be
2 from a hand or arm or body. And then also, there's blood
3 that's been projected onto the blinds. That could be the
4 result of what's referred to as expired blood, when you
5 have a person who has an injury to the airway and they
6 cough and then it's projected out.

7 Q Is there a term --

8 A It could be some cast off in there. Cast off
9 terminology would mean that -- say if I had blood on my
10 hands and a lot of activity going, if I cast -- if I did
11 that to my hand and the blood went across, that would be
12 cast off. It's just common terminology. So...

13 Q So if you dip your hand in pant or any kind of
14 liquid that might subtly stick to it and you swung your
15 hand back, what would happen again?

16 A It's cast off. When we teach this, we use horse
17 blood, actually, that's drawn by a veterinarian, so it has
18 some of the same property as human blood, so we can
19 actually demonstrate the casting off process.

20 Q All right, sir. And I'm showing you now what is
21 marked as Defendant's Exhibit as -- excuse me, it is
22 actually admitted as State's Exhibit Number 21. Take a
23 look at State's Exhibit Number 21.

24 A State's 21 is apparently right outside of the
25 bedroom door and it also shows different types of stain.

Donald C. Girndt - Direct Examination by Mr. Grant

1 There's some transfer stain to the wall, apparently where
2 someone has rubbed up against the wall and there's some
3 blood distributing down the wall and also at the base of
4 the doorway, there's numerous drops of blood that show a
5 trail and that's usually caused by someone who is -- has
6 little or no movement.

7 They're situated in that space for an undetermined
8 amount of time, but you can just see how the blood drips
9 and stays in that one -- if you stay in one place long
10 enough to let the blood drip and it started to pool.
11 Obviously, there's no pooling here, but it does show
12 somewhat of a little trail and it shows a lot of activity
13 right outside the door.

14 Q Could that blood, based upon the pictures that you
15 saw of how bloody Ms. Price was, could that blood have come
16 from her clothing?

17 A It could have come from her clothing or it could
18 have come from Mr. Simmons.

19 Q Okay.

20 MR. GRANT: 17 in evidence?

21 THE COURT REPORTER: Uh-huh.

22 MR. GRANT: Okay.

23 BY MR. GRANT:

24 Q Take a look, if you will at State's Exhibit Number
25 17, which has already been admitted into evidence. What do

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 you see with regards to the back of Ms. Price's clothing?

2 A I see different types of transfer stains. There
3 primarily at the base of her shirt. The blood has soaked
4 in and then at the top of her pajama bottoms, it's soaked
5 in blood and there seems to be individual marks on the back
6 of her shirt that could be the result of hand prints.

7 Q Individual marks that could result in hand prints?

8 A I said could be results of them.

9 Q Yes, sir. Okay. Now, Mr. Girndt, out of all of
10 the opinions that you have given us in this Court and you
11 have provided for the benefit of this jury, have they all
12 been to a reasonable degree of scientific certainty for a
13 man in your field as a crime scene analyst and a bloodstain
14 interpreter?

15 A Yes.

16 Q Thank you.

17 MR. GRANT: No further questions of this witness.

18 THE COURT: Thank you, Mr. Grant.

19 Solicitor.

20 MS. CORNWELL: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 **BY MS. CORNWELL:**

23 Q Hey, Mr. Girndt, how you doing today?

24 A Good.

25 Q You worked at SLED for a while?

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 A Yes, ma'am.

2 Q And do you know Kenny Kinsey?

3 A I did not know him. I think I left before he was
4 there.

5 Q Okay. And you were contacted by the defense to
6 review this case, correct?

7 A Yes.

8 Q Are you being paid to be here?

9 A I'm being paid by the State.

10 Q And how much are you being paid?

11 THE COURT: Step out -- step out, please, ladies
12 and gentlemen. Do not discuss this case during this brief
13 recess.

14 (The jury left the courtroom at 10:43 a.m.)

15 THE COURT: We discussed in chambers the source of
16 the funding is not relevant. The question is not who are
17 you being paid for. The question is are you being paid. I
18 am striking that response from the record and you can ask
19 it again. Whatever he says.

20 MS. CORNWELL: Thank you, Your Honor.

21 THE COURT: Bring us our jury.

22 THE BAILIFF: Yes, Your Honor.

23 Beg the Court's indulgence, Your Honor.

24 THE COURT: Thank you, thank you, Madam Bailiff.

25 MS. CORNWELL: Your Honor, while they're on a

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 comfort break, may I ask a question regarding your ruling?

2 May I follow up with that with did my office
3 contact you on this case?

4 THE COURT: Ma'am?

5 MS. CORNWELL: May I follow up with that -- I know
6 you're striking that from the record, but may I follow up
7 with did my office contact you regarding this case, or do
8 you want me just to --

9 THE COURT: Yes, ma'am, you may do that that we
10 just, but we just discussed it in chambers that the source
11 of the funding was not relevant.

12 MS. CORNWELL: I agree, Your Honor. And I did not
13 realize that that was the answer he was going to give.

14 THE COURT: I'm not fussing at you. I'm not
15 fussing at Mr. Girndt, I'm not fussing at Mr. Grant. It's
16 just that the source of the funding is not relevant to
17 this. It cuts into -- it's not relevant and Mr. Girndt,
18 it's not a fault of his. He didn't know what we talked
19 about in chambers. I just don't think it's relevant.
20 Okay?

21 THE WITNESS: Yes, sir.

22 (The jury entered the courtroom at 10:45 a.m.)

23 THE COURT: All right. Ladies and gentlemen of the
24 jury panel, the source of any funding paid to an expert is
25 not relevant, whether he's being paid by the State or

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 otherwise. That's not relevant. I'm striking the source
2 of the funding from the record. It should not be
3 considered by you in your deliberations whatsoever.

4 Thank you. Thank you very much.

5 Solicitor, you may ask your next question.

6 MS. CORNWELL: Thank you, Your Honor.

7 BY MS. CORNWELL:

8 Q Mr. Girndt, how much are you being paid to testify?

9 A I'm not being paid to testify. I'm paid to review
10 the case. Up to \$2500.

11 Q And did my office contact you for that?

12 A No.

13 Q Mr. Grant's office contacted you for that?

14 A Yes.

15 Q And when you received the packet for this case, how
16 did you receive those photographs? Did you receive them
17 printed out or did you receive a digital copy?

18 A A disk.

19 Q A disk? So you were able to kind of manipulate the
20 photos and zoom in on them and zoom out on them?

21 A Some, yes.

22 Q And when you received those photographs discussing
23 the bed, you received this photograph, State's 28?

24 A No, I did not receive that photograph.

25 Q And you would agree that this is a full shot of the

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 bed?

2 A Yes.

3 Q Okay. Would State's 28 have helped you in your
4 analysis, having a full shot of the bed?

5 A In what way?

6 Q In any way. I mean, would it have given you a full
7 view of the bed. I mean, you've been asked a lot of
8 questions about the bed.

9 A Not anything particular. Part of the problem is
10 the sheets are black, so it's difficult to discern the
11 patterns that are on there. I do see some staining over
12 here on the rail and a little bit on this side of the bed.

13 Q Okay.

14 A And then, of course, on the comforter. I mean I
15 like to see all of the pictures, you know, before I get on
16 the stand, usually.

17 Q And, obviously, it's a little difficult to tell
18 because you said the sheets are black, but you can still
19 see that there is some blood in the sheets over here and
20 some --

21 A I can see some on the edge right here, yes.

22 Q And if you were able to digitally manipulate this
23 picture and zoom in more towards this middle area, that
24 would have been more helpful, wouldn't it? To see if you
25 could see blood on that part of the bed as well?

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 A Once again, I can't discern any patterns or tell --
2 I'm assuming this is some blood right here on the edge and
3 then some down here on the bed rail.

4 Q Yes, sir. And that's my question. If you were
5 able to have this picture where you can zoom in on the
6 middle of the bed, you would have been able to come up with
7 a more thorough analysis of what happened in the bed,
8 correct?

9 MR. GRANT: Objection, Your Honor. Objection the
10 question assumes facts that are not in evidence.

11 THE COURT: Overruled. This is an expert. He may
12 answer as an expert.

13 THE WITNESS: I don't know that it would have
14 helped or not.

15 BY MS. CORNWELL:

16 Q Okay. Fair enough.

17 And you've seen State's 39?

18 A Yes.

19 Q And in looking at State's 39, would you agree that
20 there is a large amount of blood pooled -- or saturated in
21 the carpet between the bed and the dresser?

22 A Yes.

23 Q And have you seen any photographs where the victim
24 in this case was ever on his stomach or on his chest laying
25 in that area?

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 A He's laying on his side. Blood could be draining
2 out of his chest onto the floor.

3 Q And this is the photograph on the side that you're
4 referring to; State's 34?

5 A Right. But I mean, the officers -- the report that
6 I read said that he was rolling from side to side when they
7 got there. So...

8 Q And that would indicate that he was on his back,
9 correct? If he's on his back comforting himself rolling
10 side to the side?

11 A Not really, he could have rolled over onto his left
12 side.

13 Q Okay. Is it also possible that all the saturation
14 in that carpet came and that's how the drip, the patterns
15 got on the side of the bed, on the foot board of the bed
16 and on those sheets because that's the side that he rolled
17 out of the bed on and after his artery had been nicked,
18 that blood is pouring onto the carpet and being saturated
19 by the carpet. That's also a possibility, isn't it?

20 A Or he could have been standing and turned around
21 like I already said and fell back on the bed and then fell
22 down to the floor. But we know that he's moving around the
23 room. This is a final resting place here.

24 Q And Mr. Girndt, I'm not trying to argue with you,
25 but if you could just answer my question. It's also

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 possible that he could have been laying in bed when he was
2 stabbed, rolled out, the blood gushed onto the carpet
3 that's saturated, that's why you've got the drip from the
4 side board. That is also possible, correct?

5 A That's one possible scenario, yes.

6 Q Thank you. And we talked a lot about on
7 Mr. Simmons' hands. You would agree that when somebody's
8 injured such as a stab wound, they're going to grab at
9 their wound, correct?

10 A Probably.

11 Q And that's probably how a lot of blood came on his
12 hands?

13 A Probably.

14 Q Because he's holding his wound. You've also heard
15 that he was comforting himself, that he was rocking himself
16 back and forth and that is a great possibility of how he
17 got all that blood on his hands?

18 A Yes.

19 Q Okay. You would also agree and you would say that
20 you had the ability to manipulate these photographs, but
21 there's nothing in these photographs, States 40 through 43,
22 where there were any discern able fingerprint whirl
23 patterns or anything like that, ridge detail that you could
24 have picked or manipulated to see?

25 A (Looking.) You have those close ups of the face?

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 Q Yes, sir.

2 A The right side of the face.

3 Q Is this the photograph you're referring to?

4 State's 45?

5 A Yes. State's 45, there's no discernible ridge
6 detail, just like the footprint on the floor, there's no
7 discernible detail because a footprint is just as
8 identifiable as a fingerprint is. But when it's saturated
9 in the carpet then your just getting the impression, which
10 is State's 45 would show on Ms. Price's right cheek, there
11 appears to be what could be an individual finger or
12 thumbprint.

13 Normally it's customary to use a ruler so we can
14 tell what size that is. We have special rulers for that
15 that can be held up to the pace face and it has a right
16 angle on it and it would give us the size. In this
17 particular instance, she has blood on her throat and then
18 there's a print on the side here that may be adjacent to
19 something like that.

20 Now, I've never used it on a live person, but on a
21 deceased person, especially with light colored skin, we
22 have chemical called amy do black. What the chemical does
23 is it reacts with the protein in the blood and it allows us
24 to see ridge detail and fingerprints and that sort of
25 thing. So it actually gives us an idea of, you know, we

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 can actually identify fingerprints on a body by using this
2 Amido black. Usually we don't use it on a live person,
3 but -- it's a dye stain. But I don't know that it would
4 have been appropriate to use in this case either, but that
5 would be one scenario we might miss on account of the blood
6 on her throat and this impression.

7 Q But you would also agree that it could be a child's
8 finger?

9 A Well, I don't know. That's why I use the scale.

10 Q Okay. Did you zoom in on anything to see in you
11 could see any manipulation of patterns to see if it was
12 even a fingerprint or if it was just some sort of a smudge
13 mark?

14 A No, I didn't zoom in on it. I look at fingerprints
15 every day and I didn't see any reason to zoom in on it.

16 Q Okay. So you heard that the defendant is claiming
17 the defendant was choking her and you didn't -- as
18 somebody's who's used to fingerprints didn't find a need to
19 zoom in to see if that could be a fingerprint or if there
20 were any prints of discernibility around her neck or
21 anything like that. You didn't think that was necessary?

22 A Well, the time to do that would have been when they
23 observed it on her. I mean they have a fingerprint expert
24 here in Orangeburg County.

25 Q But haven't you also testified that you're a

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 fingerprint expert?

2 A I am, but I think the time to look at it would have
3 been when it was -- before it got washed off because those
4 photographs are digital and digital photographs a lot of
5 times just don't show a lot of detail.

6 Q But you're aware on a digital computer, you can
7 zoom in as close in as you want? I mean, a lot of times
8 digital is the best because you can zoom in so close and
9 pick those things up?

10 A Well, it gets so pixilated, you know.

11 Q All right. And we talked about cast off and it
12 could be hand swinging, bloody hands and all that. When
13 you looked at the photographs -- and I'll show you one
14 close up one. When you were looking at photographs,
15 State's 16 and 17; and I believe you indicated that that
16 was some medium velocity, possibly from aspirated --
17 aspirated or expired blood?

18 A Expired.

19 Q Expired.

20 A Could be a mixture in there. It's like three
21 different stains going on in here. Blood has dripped down
22 to the window sill. There's transferred blood onto the
23 blinds. That's all the transfer here. It could be from a
24 hand or -- it could be from whatever. I mean obviously,
25 it's swiped across there. And you've got the round -- some

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 round stains -- usually when a stain is round, perfectly
2 round, it's traveling at 90 degrees, so it's going straight
3 across. So the source of the blood would be straight
4 across.

5 We actually have bloodstain rulers that -- once
6 again, these photographs were not taken with an eye toward
7 bloodstain pattern interpretation. This is a typical, just
8 go in and take pictures. There's blood everywhere, so they
9 do have bloodstain rulers. One of the things I'm using to
10 make an interpretation would be the blinds. And the blinds
11 appear to be one inch blinds. So we usually -- when we're
12 talking about bloodstain patterns, we deal with millimeters
13 and such. A medium velocity stain, would be two, three or
14 four millimeters. It would normally be associated with a
15 beading. In this case, by using the one inch blinds,
16 there's 25.4 millimeters to the inch and I can judge by
17 looking at these -- at the blinds -- is the stain is not an
18 inch wide, it's not a half an inch wide, it's just a few
19 millimeters, so that would be consistent with beading and
20 the source of blood would be directly across from the
21 blinds, which, in this particular case puts us just about
22 in line with where those -- what appear to be bloody
23 footprints at the bottom of the bed?

24 Q Okay. And you discussed the medium velocity.
25 Medium velocity could have also been the expired coming

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 out of the chest wound?

2 A No, not coming out of the chest wound. Usually
3 that looks like seeping chest wound. Expired is when you
4 have blood in your air way and you cough.

5 Q And if the lung was nicked and you're right there
6 at the lung and you're struggling do breathe, is that not
7 also going to come out of that wound?

8 A I'm sure it's coming out, but I'm not sure it's
9 coming out -- but I don't know that it's coming out in that
10 kind of force.

11 Q Were you able to zoom in on those bloodstain
12 patterns?

13 A I don't need to.

14 Q Okay. If I were to tell you that we heard
15 testimony that there was a zoom in and there were white
16 oxygen bubbles which confirmed that it was expired --

17 A Expired blood.

18 Q -- blood?

19 A Uh-huh. That -- may be a mixture of expired and
20 cast off or medium velocity.

21 Q Are you aware that with not zooming in on them, we
22 had testimony that those are all going at a downward angle?

23 A Those are not all going in a downward angle. You
24 see some of them are --

25 THE COURT REPORTER: I can't hear him.

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 THE WITNESS: I'm sorry. You can see some of them
2 are perfectly round.

3 MR. GRANT: Could you hear the first part of his
4 answer.

5 THE COURT REPORTER: I think he just repeated it.

6 MR. GRANT: May we approach, Your Honor?

7 THE COURT: Yes, sir.

8 (There was a bench conference out of the hearing of
9 the jury and the Court Reporter.)

10 THE COURT: Mr. Girndt, if you want to repeat your
11 answer for the record for my court reporter.

12 THE WITNESS: I think the answer was --

13 THE COURT: Wait just a minute.

14 THE WITNESS: Sorry.

15 THE COURT: That's all right.

16 Repeat your answer. Let me just say it like that.

17 THE WITNESS: I think the answer was the stains are
18 not all going in a downward angle, some of them are round.

19 THE COURT: As part of the record, I've never noted
20 that my court reporter doesn't hear everything.

21 BY MS. CORNWELL:

22 Q And the round particles that you're referring to,
23 though, those are the 90 degrees that you were talking
24 about that would have been expired?

25 A Some of it.

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 Q Okay. And you would agree with cast off, there's
2 generally, like a following of wherever that cast off came
3 from and if you've got hands going everywhere and cast off
4 of that nature, you would expect to see the droplets in a
5 variety of directions, correct?

6 A You have the one of the fan? The close up?

7 Q These are State's 32 and 33.

8 A Can I see the --

9 Q State's 30.

10 A Well, State's 33 depicts what appears to be a
11 single drop of blood that's traveling -- in this
12 photograph, it would be traveling from my right to my left.
13 It appears to be on the bottom of the fan blade and I can't
14 think of any other way that could have gotten there other
15 than being cast off. I mean it's attached to the ceiling,
16 so -- and I don't know that there are in other
17 photographs -- the photo is kind of whited out so I can't
18 really see anything other to tell other than the fan. In
19 fact, from the -- from these photos, I can't really tell
20 which blade it's on.

21 Q Uh-huh. And are you familiar with the concept
22 known as outlier droplets?

23 A Outlier droplets?

24 Q Outlier patterns that just don't seem the match
25 anything?

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 A Well, I think there's an explanation for this. I
2 mean -- I don't --

3 Q But would the answer --

4 A I don't know the term outlier.

5 Q -- would be yes.

6 But you have gone to scenes where there are
7 droplets that don't conform to with what a scene depicts,
8 correct?

9 A I don't know what you mean.

10 Q Okay.

11 A Usually there's some explanation for evidence.

12 Q Okay. And looking at State's 22, are -- is there
13 any of the arcing or the cast off that would indicate what
14 you're saying?

15 A Not in this particular photograph.

16 Q Okay. And you would agree that that's a photograph
17 of the window and it's got the fan in it?

18 A I don't think it was intended as a photograph --
19 it's intended -- what we do when we take crime scene photos
20 is we start at the door of the scene and then you work your
21 way in. And what you try to do is take a photograph from
22 each corner of the room. So what happens when you go back
23 to look at your photographs, each photograph overlaps, so
24 if I want to take a photograph of this room with
25 overlapping photographs, I might start at the door, take

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 pictures all the way around the room, move to that corner,
2 take pictures; move to that corner, take pictures; then
3 move to this corner.

4 So that way if somebody asked me what was in that
5 corner or what does this room look like, then I'd be able
6 to do that.

7 This appears to -- it appears to be a picture, of
8 course, the body's been covered up, but before it's moved
9 and just an entryway picture. We try to get the officers
10 to take a picture like this, stand your camera on the side
11 so that you get the long shot and then once you get in the
12 room, you take the broader spectrum shot.

13 Q But you would agree there's no arcing, cast off or
14 anything up here that you can see?

15 A Well, there's no detail in that.

16 Q But you --

17 A That's just an overall photograph.

18 Q So is my -- the answer yes? You would agree --

19 A I can't see it because that's not the purpose of
20 that photograph.

21 Q So you would agree that there's nothing in this
22 photograph to show arc or cast off?

23 A There's no detail in that photograph.

24 Q Okay. I'm not going to argue with you Mr. Girndt..

25 Thank you.

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 In looking at State's 25 and 26, I believe you
2 testified that the dresser was -- pooling of blood on the
3 dresser?

4 A Yes.

5 Q Okay. And that would be pooling directly out of
6 the wound, correct? It doesn't appear to be transfer or
7 anything like that?

8 A It appears to be pooling, yes.

9 Q Okay. And you talked about some of the scales and
10 things like that. Looking at State's 60 -- looking at
11 State's 64, that's a scale showing the downward droplets?

12 A Uh-huh. Well, once again, there's a whole art to
13 crime scene photography than bloodstain pattern
14 interpretation, so if I hold the picture this way, the
15 drops are going down. If I hold the picture this way, the
16 drops are going up. So there's no orientation to this
17 photograph.

18 I mean can you tell me by looking at this where
19 this photograph was taken?

20 Q On the door frame.

21 MR. GRANT: Objection, Your Honor, Counsel can't
22 testify.

23 THE COURT: He can't ask questions.

24 MR. GRANT: Well, Your Honor.

25 THE WITNESS: Looking --

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 THE COURT: Excuse me, please.

2 He's an expert. He knows that. And then when it's
3 asked, she answered, so we'll go back to the form.

4 Solicitor, you ask the questions and the witness
5 will answer.

6 MS. CORNWELL: Yes, Your Honor, I apologize.

7 THE COURT: And I will sustain your objection.

8 MR. GRANT: Yes, sir.

9 THE COURT: Thank you. Thank you very much.

10 BY MS. CORNWELL:

11 Q In this scale looking, this would be the medium
12 velocity droplets?

13 A Well, once again, there's no orientation to the
14 photograph so if that -- is a floor area, for example,
15 which I don't think it's floor area, but that would be --
16 you see is drips of blood. If it's on a wall, then it
17 looks like it's projected blood. And you can see each one
18 of these stains is almost perfectly round. Now, there is a
19 drip seen here. But this is a whole different field. What
20 we do is we take these drops and we measure them, the width
21 and the length and, of course, one that's just as wide as
22 it is long is round. So that means it's traveling at 90
23 degrees. The ones that -- may I see the photograph of the
24 elongated stain.

25 Q State's 60?

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 A There's no orientation to this photograph. But
2 what we do with this stain is we measure the length and the
3 width of the body of the stain and we have a -- a chart,
4 really that we get -- but we divide the length into the
5 width and that gives us an answer as we compare that chart
6 and the chart gives us an angle. So -- I've been doing
7 this a long time. I think this streak right here would be
8 like a 10 degree angle.

9 So if I had a 10 degree angle on this wall, several
10 angles, what I do is I measure them. You can actually run
11 a string back ten degrees off the wall and at some point in
12 that room will be the source of the blood within plus or
13 minus 5 degrees. And then you run the string and then if
14 there is, say bloody footprints or 90 degree drops on the
15 floor, what you do is you by sect those angles and that's
16 usually about where the source of the blood is at some
17 point.

18 But this is what -- when we're training officers to
19 do this is, this is what I try to avoid. I mean there's no
20 orientation in this. I mean, I have no idea how far off
21 the floor this is. I -- in, I don't know what it's from.
22 I don't doubt that it's from the door frame.

23 Q Would State's 61 help you with your orientation in
24 here? Or State's --

25 A State's 61 is the scale but it's not the same

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 stain.

2 Q State's 67 and State's 66?

3 A Well, unless you have a photograph of whatever this
4 is on?

5 Q State's 65?

6 A Well that's a doorknob, but I don't know which
7 doorknob.

8 Q Okay. That's it thank you, Dr. Girndt --
9 Mr. Girndt, I'm sorry.

10 THE COURT: Thank you, Solicitor.

11 Mr. Grant. I don't think she's finished.

12 MS. CORNWELL: I was just finished with those
13 particular photographs.

14 BY MS. CORNWELL:

15 Q Looking at State's 19 and 20. Specifically on 19.
16 You would agree that most of the blood is no higher than
17 the second -- where that light switch is. There's some --
18 I'm not going to argue, there's some droplets, obviously,
19 above, but most of the blood is between where those door
20 hinges are and where the light switch is?

21 A Yes.

22 Q Okay.

23 A But once again, I mean that's the purpose of the
24 bloodstain scale. What we would do is put a scale on the
25 wall so that we would be able to say those stains are 26

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 inches off the floor or 48 inches off the floor. You can
2 extrapolate the numbers. I mean, I think a light switch is
3 3 inches wide and 4 inches high. So what we do is take a
4 set of dividers and we can start at the bottom of the floor
5 and figure out what the height is. But once again,
6 these -- none of these photographs were taken with an eye
7 towards any kind of bloodstain pattern interpretation.

8 Q Okay. And I'm just going to ask you a couple more
9 questions. We've gone over State's 12 and 21 where you've
10 got some transfer, some drip and that's serpentine pattern
11 in the floor?

12 A Yes.

13 Q And you testified one theory but could that also
14 have been from the victim struggling, coming out, leaning
15 up against the wall, turning around, going back and leaning
16 over that dresser before he fell between the dresser and
17 the bed?

18 A Yes.

19 Q Okay. Thank you.

20 And again, you were given the demonstration on the
21 table and everything as one scenario. But another possible
22 scenario is that the victim was lying in the bed on the
23 black sheets with the comforter pulled up. Somebody
24 climbed on top of him, stabbed him, pulled the knife out
25 and nicked an artery, so you've got blood coming out

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 pooling, sits up, that blood pools onto that comforter and
2 gets kicked down to the foot board of the bed. He rolls
3 out of the bed pouring blood onto the floor. He's
4 struggling, stands up, walks around to the foot of the bed.

5 He's obviously now walked through the blood that's
6 pooled next to the bed and that's how he gets blood on the
7 bottom of his feet. He goes over the bed because he's
8 struggling. He reaches out with his hand. That's the
9 transfer on the blinds, he's expiating blood at that point.
10 You got dripped blood on the window sill. He then goes out
11 the door trying to get help, realizes he can't make it --

12 MR. GRANT: Object to the long narration, Your
13 Honor. I ask counsel the ask a question.

14 THE COURT: Overruled.

15 BY MS. CORNWELL:

16 Q He gets out to the hallway, realizes he's not going
17 the make it, turns back around, he's leaning up against the
18 wall, bends over the dresser and falls between the dresser
19 and the bed onto his back where he succumbs by rocking
20 himself. That is also a possibility, correct?

21 A Wow. I think there's a lot of struggling going on
22 between the time that he's stabbed and the time he falls.

23 Q And you would agree that somebody that's been
24 stabbed in the chest that's had this pulmonary artery
25 nicked, their lung punctured, a rib nicked, would be a

Donald C. Girndt - Cross-Examination by Ms. Cornwell

1 person that was struggling a great deal, wouldn't they?

2 A I think in this case the struggle was with
3 Ms. Price based on where the clothes were.

4 Q Okay. And talking about her clothes -- I'm glad
5 you brought that up. If she is being stood over and blood
6 is pouring and you've got an artery where blood the pouring
7 probably at a heavy rate, correct? I mean, you stated
8 before that with an artery nick, you would expect blood to
9 be flowing freely?

10 A Yeah.

11 Q If he's standing over her, wouldn't there be a lot
12 more blood on this part of her body? On the chest, on the
13 top of the shirt, on the straps of the shirt?

14 A I haven't heard a single word about him standing
15 over her.

16 Q Okay. I'll go with that. But even if in your
17 scenario, there is a struggle between the victim and the
18 defendant and that's how all that blood got on her, there
19 is no doubt about it that all that struggling would have
20 been after she stabbed him?

21 A Oh, yeah, after the bloodletting, yeah.

22 MS. CORNWELL: Thank you, Your Honor. No further
23 questions.

24 THE COURT: Thank you, Solicitor.

25 MR. GRANT: No redirect.

1 THE COURT: Thank you, Mr. Grant.

2 Thank you, Mr. Girndt. Thank you for being with us
3 today.

4 THE WITNESS: Thank you.

5 THE COURT: Did you want to take up your motion
6 now, Mr. Grant.

7 MR. GRANT: Yes, sir.

8 THE COURT: All right. Mr. Foreman, ladies and
9 gentlemen of the jury, I'll give y'all about a 15 minute
10 recess. Please do not discuss the case during this brief
11 recess. Thank you.

12 (The jury left the courtroom at 11:16 a.m.)

13 THE COURT: Mr. Grant.

14 MOTION FOR MISTRIAL

15 MR. GRANT: Thank you, Your Honor. May I approach,
16 Your Honor?

17 THE COURT: Of course.

18 MR. GRANT: Yes, sir. And I've handed to the
19 solicitor a copy of the article of concern for purposes of
20 this motion. And, of course, I am aware that the judge
21 just made the inquiry to the jurors but still I have my
22 concerns on behalf of my client, as well I should.

23 Your Honor, on -- well, in the Times and Democrat
24 Newspaper on February 24th, 2016, it appears there's
25 actually a picture of Investigator Kinsey that apparently

1 was taken in the courtroom, which is depicting him holding
2 his hand up and I guess demonstrating what is supposed to
3 be a stab maneuver and the caption of the article or the
4 heading, actually says testimony: Price stabbed, killed
5 sleeping boyfriend. And naturally I feel that's extremely
6 prejudicial. That's out in this community. I heard what
7 the juror said and I believe that if, indeed this matter is
8 out there and if indeed this juror has been prejudiced by
9 that, then of course, I believe we would have a basis for a
10 mistrial. I am required to protect her at all times,
11 regardless of whatever representation -- I'm not saying I
12 don't believe the jurors, but I'm saying, if it is out
13 there and some juror -- you've had situations, Judge, and I
14 have, where jurors just don't say everything that they may
15 have. Sometimes they just simply forget. Maybe not in
16 dishonesty, they just simply forget. Or they may say,
17 Well -- Oh, that's the article that they're talking about.
18 Yeah, that's in the back of my mind.

19 So on this basis, Judge, I move for a mistrial on
20 the basis of the fact that this inflammatory article about
21 Ms. Price being stabbed -- excuse me, Ms. Price stabbing
22 and killing the sleeping boyfriend, Samuel Simmons is out
23 there in the community and I believe that it has indeed or
24 would indeed taint this jury if not now, it could possibly
25 taint the jury during the deliberating process.

1 And, as you know, when it comes to a mistrial,
2 purpose of ordering a mistrial is to preserve the interest
3 of justice and there's really no other result other than
4 granting the mistrial. So that's any motion, Judge. And I
5 stand upon that. And I would ask that this exhibit, this
6 article is marked as Court's Exhibit Number 1 for purposes
7 of appeal if necessary.

8 THE COURT: All right. Certainly you may have it
9 marked, Mr. Grant.

10 (Court's Exhibit Number 1 was marked.)

11 THE COURT: Solicitor?

12 MS. CORNWELL: Your Honor, I believe the
13 instruction to the jury every day that they've left for the
14 day, Your Honor has instructed them not to talk to anybody
15 about the case, not to read any newspapers, news articles
16 regarding the case, not to watch the news on anything
17 regarding the case and also not to do any independent
18 research on the internet regarding the case. I also think
19 that your instruction this morning when you asked the jury
20 had they seen anything in the newspaper, had they done any
21 research, had they heard anything about this case, nobody
22 stood up. I do believe that the jury has been paying
23 attention to this case. They know what was said and what
24 the testimony was. They've also respected Your Honor's
25 request and I believe that the defendant is protected as

1 well as possible.

2 I would ask you deny his motion for a mistrial.

3 THE COURT: All right. Of course, the granting or
4 denial of a mistrial is within the sound discretion of the
5 trial judge. It's based on manifest necessity whereby the
6 defendant would not be able to receive a fair trial because
7 generally some testimony that's gone before the jury or the
8 jurors have been exposed and read, perhaps prejudicial or
9 inflammatory information about a defendant or even a
10 witness.

11 In this case, the jurors have been informed each
12 and every day concerning their responsibilities as members
13 of the jury panel. I inquired of them this morning. I do
14 not think and have no reason to question the credibility of
15 jurors and their responses or non-responses to my
16 questions. None of them have indicated they have read any
17 news accounts about the case or whatsoever.

18 So with that being said, I would respectfully deny
19 the motion for a mistrial. Anything further on that --

20 MR. GRANT: Nothing further on this motion, Judge.

21 THE COURT: All right. We'll take about a 15
22 minute recess.

23 MR. GRANT: Yes, sir.

24 (A brief recess was observed.)

25 THE COURT: Anything further from the State before

1 we bring in our jury?

2 MS. CORNWELL: No, Your Honor.

3 THE COURT: The defense?

4 MR. GRANT: No, Your Honor.

5 THE COURT: And please remember we had that juror
6 I -- that we've spoken with concerning her online class.

7 MS. CORNWELL: Yes, Your Honor.

8 THE COURT: So we'll probably break about 1 until
9 2:15, so she can get set up to accommodate her. Okay?

10 MS. CORNWELL: Thank you, Your Honor.

11 MR. GRANT: Yes, Your Honor.

12 (The jury entered the courtroom at 11:43 a.m.)

13 THE COURT: All right. Our jury is back in place.

14 Mr. Grant --

15 MR. GRANT: Thank you, Your Honor.

16 THE COURT: -- you may call your next witness.

17 MR. GRANT: Yes, sir. Your Honor at this time we'd
18 call Jeffrey Diggs to the stand.

19 THE COURT: All right. Mr. Diggs if you'd please
20 come around for us.

21 JEFFREY DIGGS,

22 having been duly sworn, testified as follows:

23 THE CLERK: Thank you. You may have a seat.

24 Please state your name for the record. And if I could get
25 you to spell your first and last name.

Jeffrey Diggs - Direct Examination by Mr. Grant

1 THE WITNESS: All right. My name is Jeffrey Diggs.
2 J-E-F-F-R-E-Y, D-I-G-G-S.

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MR. GRANT:

6 Q All right. Mr. Diggs -- Mr. Diggs how old are you,
7 sir?

8 A I'm 35.

9 Q And where do you live, Mr. Diggs?

10 A Columbia -- Lexington, South Carolina.

11 Q And where do you work Mr. Diggs?

12 A Walgreens.

13 Q And where is that Walgreens located?

14 A Five Points, 1941 Blossom Street, Columbia.

15 Q And what is your title and capacity at that
16 Wal-Mart?

17 A Walgreens -- store manager.

18 Q I'm sorry. Walgreens. I misspoke. At that
19 Walgreens?

20 A Store manager.

21 Q Your the store manager?

22 A Yes, sir.

23 Q And do you have an employee there by the name of
24 Courtney Price?

25 A Yes.

Jeffrey Diggs - Direct Examination by Mr. Grant

1 Q And how long, first of all, have you known Courtney
2 Price?

3 A Since about 2011, 2012 when we first started in
4 Orangeburg.

5 Q So she worked for you in Orangeburg also?

6 A Yes.

7 Q And where did she work for you in Orangeburg? What
8 store?

9 A Chestnut Street location.

10 Q Sir?

11 A Chestnut Street Walgreens.

12 Q Chestnut Street Walgreens?

13 A Yes.

14 Q And has she ever worked for you at any other
15 location, any other job, any other capacity?

16 A No, sir.

17 Q All right. And when did you hire Courtney to work
18 at the Walgreens in Lexington that she presently works at
19 with you?

20 A In Columbia, I hired her December, late December.
21 I want to say it was after Christmas.

22 Q December of what year?

23 A 20 -- 2015.

24 Q December 2015?

25 A Yes, sir.

Jeffrey Diggs - Direct Examination by Mr. Grant

1 Q You realize this incident arises from September 27,
2 2014; is that correct?

3 A Yes.

4 Q When you hired Courtney, you realized she had this
5 charge? A pending charge of murder?

6 A Yes.

7 Q Okay. Now, in the time of you knowing Courtney and
8 getting to know her, do you think that you have had an
9 adequate opportunity to establish an opinion with regards
10 to her truthfulness?

11 A Yes.

12 Q And first of all -- and tell us, what is that
13 opinion?

14 A She's truthful.

15 Q She's a truthful person?

16 A Yes.

17 Q And what exactly does she do for you at the
18 Wal-Mart (sic)?

19 A She works in the beauty department.

20 Q The beauty department?

21 A Yeah.

22 Q And in her working for you, and working with you,
23 have you had any opportunities to observe her when it comes
24 to her diabetic condition?

25 A Yes.

Jeffrey Diggs - Cross-Examination by Ms. Cornwell

1 Q And have you had any opportunities to observe her
2 after her blood sugar levels got off?

3 A Yes.

4 Q Tell the jury what you observed?

5 A She was almost zombie like, unresponsive when I was
6 trying to talk to her.

7 Q And that's what you observed?

8 A Yes.

9 Q Where -- what location would this -- or that
10 happen?

11 A This was at the Five Points location.

12 Q Okay. Thank you, sir.

13 MR. GRANT: That's all the questions I have of
14 Mr. Diggs, Your Honor.

15 THE COURT: Okay.

16 CROSS-EXAMINATION

17 BY MR. CORNWELL:

18 Q If somebody admits to lying, would you agree that
19 that's not truthful?

20 A What is that?

21 Q If somebody admits to lying, you would agree that
22 that's not truthful?

23 A Right.

24 MS. CORNWELL: No further questions, Your Honor.

25 THE COURT: Thank you.

Lois J. Veronen - Direct Examination by Mr. Grant

1 Redirect?

2 MR. GRANT: None, Your Honor.

3 THE COURT: Thank you, Mr. Diggs, you may step
4 down.

5 Mr. Grant?

6 MR. GRANT: Yes, sir. We call now, Dr. Veronen to
7 the stand.

8 THE COURT: Doctor, if you would come around and be
9 sworn for us, please.

10 MR. GRANT: Your Honor, could we let Mr. Diggs know
11 that he's excused from his subpoena.

12 THE COURT: Yes, sir, you may excused, Mr. Diggs.
13 Thank you for being with us today.

14 LOIS J. VERONEN,
15 having been duly sworn, testified as follows:

16 THE CLERK: Thank you. You may have a seat.
17 Please state your name again for the record and spell your
18 name, please.

19 THE WITNESS: Lois J, last name is Veronen, V as in
20 Victor, E-R-O-N-E-N.

21 THE CLERK: Thank you.

22 DIRECT EXAMINATION

23 BY MR. GRANT:

24 Q Dr. Veronen, where do you reside?

25 A I reside in Rock Hill, South Carolina.

Lois J. Veronen - Direct Examination by Mr. Grant

1 Q And what is your occupation?

2 A I am a clinical psychologist and part time
3 professor at Winthrop University.

4 Q And Doctor, what positions do you currently hold?

5 A Well, I hold the position as a clinical
6 psychologist in private practice. I have my own business.
7 And I also hold the position as a part time professor in
8 the department of psychology where I teach the course
9 psychology of women. I also serve on the women's study's
10 minor for Winthrop University, which is a course of study
11 looking at the special circumstances in women's lives and
12 the affect of being a woman on aspects of women's
13 functioning as well as the way in which, in the past
14 society has engaged in discrimination and bias against
15 women.

16 Q Okay. And Doctor, where did you receive your
17 training?

18 A I received my training, my undergraduate degree is
19 from Marquette University in Milwaukee, Wisconsin and my
20 masters and PhD are from North Texas University in Denton,
21 Texas. And then I went to the Medical University of South
22 Carolina in Charleston and did a clinical psychology
23 internship. I wrote my dissertation while I was there at
24 the medical university, which was on the fear response of
25 rape victims and then I engaged in ten years of funded

Lois J. Veronen - Direct Examination by Mr. Grant

1 research in which we looked at the impact of various kinds
2 of victimization, primarily sexual assault, but also
3 battering, on the functioning of women subsequent to that
4 assault. I was one of the founding members of the Crime
5 Victims Research and Treatment Center at the Medical
6 University.

7 I left there in 1988 and joined Winthrop's faculty
8 at that time and then embarked into a private practice part
9 time around 1990.

10 Q What research awards have you received?

11 A I received the -- well, I was awarded a full
12 teaching fellowship when I was at North Texas University.
13 I received stipends while I was at the Medical University
14 and then there's an award called the Steven Schafer Award
15 given by the National Organization for Victim Assistance
16 and I was awarded that in -- I believe it was 1987.

17 Q And what is the nature of your clinical expertise?

18 A My clinical expertise is in the area of --
19 primarily post traumatic stress disorder, victimization,
20 sexual assault, sexual abuse, although at this time, I
21 practice sort of in a general practice. I have clients as
22 young as 4 years old and as old as 84 in my present
23 practice. So I see a broad spectrum of people. I regard
24 my expertise as the area of my first work, which is in the
25 area of fear, anxiety, post traumatic stress disorder.

Lois J. Veronen - Direct Examination by Mr. Grant

1 Q Do you have clinical expertise in the area of
2 Battered Women's Syndrome?

3 A Well, Battered Women's Syndrome, yes, I do have
4 what I consider clinical expertise in that area, although
5 it is not taught in graduate school in exactly the same
6 way. At least it wasn't when I was in graduate school.
7 I've seen the area develop and now. We have whole sections
8 in our women's study's department devoted to the affects of
9 violence against women, but in terms of the -- I lost the
10 question, I'm sorry.

11 Q Okay. Yes, ma'am. I asked you if you had clinical
12 expertise in the area of Battered Women's Syndrome?

13 A Battered Women's Syndrome is actually -- it's much
14 more a legal term than it is a psychological term. In the
15 legal term, it has been the way in which the law has sort
16 of worked to correct what they consider to be sort of
17 discrimination and bias against the way in which a woman
18 might defend herself and it might be different than the way
19 a man might defend himself. And so Battered Women's
20 Syndrome has come to be known as sort of the affect -- and
21 usually it is brought about by psychological testimony in
22 the court in which we explain the way in which being a
23 victim of battery and abuse changes the perceptions of men
24 or women who have been subjected to repeated physical
25 battery or invalidation or demeaning or being financially

Lois J. Veronen - Direct Examination by Mr. Grant

1 managed or controlled. And so the Battered Woman's
2 Syndrome is the way in which the law has come to admit and
3 to consider by having been a victim of battery or violence
4 might change one's perceptions of what is dangerous or what
5 might be a fear -- fear-producing situation for them.

6 Q In your professional career -- I'm asking for a
7 relative estimate as to how many patients you have seen
8 diagnosed and treated for the conditions of Battered
9 Women's Syndrome, post-traumatic stress disorder and or
10 anxiety?

11 A It would literally be in the thousands because I've
12 been in practice since 19 -- well I went to the Medical
13 University in 1974 and I worked in that particular area in
14 terms of Battered Woman's Syndrome per se or testifying
15 about the affects of impact of violence, I've probably done
16 over 100 cases in either criminal court or civil court, or
17 family court, in which the issues have been relevant or
18 viewed relevant. I've testified in fourteen states.

19 Q Fourteen different states?

20 A Yes.

21 Q And how many times -- well, maybe not how many
22 times. Within those states were you ever offered and
23 accepted as an expert in the field of Battered Woman's
24 Syndrome?

25 A Yes.

Lois J. Veronen - Direct Examination by Mr. Grant

1 Q Were you ever offered and accepted in the field of
2 Post-Traumatic Stress Disorder?

3 A Yes.

4 Q Were you ever offered and accepted in the field of
5 diagnosis of anxiety?

6 A Correct. Yes.

7 Q And when it comes to those fields and being offered
8 and accepted as an expert by the Courts, have you ever been
9 offered by a defense attorney, prosecutor, or anybody for
10 that matter in the field of battered person's syndrome,
11 post-traumatic stress disorder and anxiety to any court and
12 not accepted as an expert?

13 A No. I have not --

14 Q Okay. All right.

15 A -- been denied the opportunity to testify in those
16 areas.

17 Q Yes, ma'am. All right.

18 MR. GRANT: Your Honor, at this time then, I offer
19 to the Court Dr. Veronen as an expert in the diagnosis and
20 treatment of the conditions -- psychological conditions
21 known as battered person's syndrome, post-traumatic stress
22 disorder and anxiety and I offer her as a clinical
23 psychologist to diagnose those conditions.

24 THE COURT: All right. Solicitor?

25 MS. CORNWELL: Your Honor, I don't have any

Lois J. Veronen - Direct Examination by Mr. Grant

1 objection to her being qualified as an expert as a clinical
2 psychologist.

3 THE COURT: All right. Mr. Grant.

4 MR. GRANT: Yes, sir. Thank you, Your Honor.

5 THE COURT: All right. Again, ladies and
6 gentlemen, I won't repeat that expert charge, you've heard
7 it several times. This witness, Dr. Lois Veronen will be
8 accepted as an expert -- qualified as an expert by the
9 Court in the area of clinical psychology.

10 Thank you. Mr. Grant, you may continue.

11 MR. GRANT: Thank you, Your Honor.

12 BY MR. GRANT:

13 Q Dr. Veronen, are you being paid for your
14 professional time?

15 A I'm being paid for my professional time, yes.

16 Q And how much are you being paid for your
17 professional time in this particular case?

18 A \$150 an hour.

19 Q Okay. And Dr. Veronen, you've already explained to
20 us what Battered Woman's Syndrome is, did you have an
21 opportunity in your capacity in this case to meet my
22 client, Courtney Price?

23 A Yes. I have met and evaluated Courtney Price.

24 Q And when did you first perform your first
25 evaluation on any woman for that matter with the history of

Lois J. Veronen - Direct Examination by Mr. Grant

1 violence at the hands of her spouse and used the defense of
2 battered woman or battered person's syndrome before we get
3 to Courtney?

4 A Okay. Before we get to Courtney, the first one I
5 did was in 1979 in Charleston, South Carolina. And it was
6 the State versus Cynthia Hutto.

7 Q 1979?

8 A Correct.

9 Q Okay. And what are other terms that are used to
10 identify individuals who have experiences of being struck,
11 hit or abused by a boyfriend or intimate partner?

12 A Other terms are -- we talk about is domestics.
13 Domestic assault, domestic violence, intimate or partner
14 abuse in the psychological literature, we talk about it as
15 sometimes victim's of trauma, victims of intimate partner
16 violence, those are all terms. And, you know, I -- it's
17 important to note that the area's change -- these terms did
18 not even exist, up, in the early 19 -- or late '60s. You
19 know, it came out of the battered child syndrome and then
20 evolved into the Battered Woman's Syndrome and now we talk
21 about it as certainly much more of the battered person's
22 syndrome as the law has sought to be more gender neutral.

23 Q And tell the jury if you will, is the use of
24 violence the only way that a woman is battered?

25 A Definitely not. Many women are psychologically

Lois J. Veronen - Direct Examination by Mr. Grant

1 abused they're told that they're worthless. They're told
2 that no one else going to love them. They're told that,
3 you know, they're bad mothers, that they don't do the right
4 things. They might be cursed at, they might be accused of
5 a variety of things that they don't do or don't engage in
6 and, you know, abuse can also be financial, withholding
7 monies for -- that have been promised for particular
8 purposes, psychological abuse can be excessive jealousy;
9 not allowing -- it can be isolating the individual, the
10 woman from family, from other individuals, friends.

11 Q Okay. And generally speaking, how are domestic
12 violence calls handled in South Carolina?

13 A Well, they're handled in a variety of ways and the
14 case in the jurisdictions in which they're investigated and
15 there is consequences for that abusive behavior. What we
16 see is that, you know, the rates of those kind of events
17 may rise because the police officers are instructed that
18 they must arrest, but what happens is the rates of spousal
19 homicide go down when there's good services available and
20 people are required to go into batterers groups or go
21 into -- in some cases women who are victims are
22 psychologically ordered. They're going to continue --
23 they're psychologically ordered into treatments as well.
24 So there's a variety of ways in which it's handled. But
25 when we permit women to, you know, not follow through with

Lois J. Veronen - Direct Examination by Mr. Grant

1 charges or we don't have any consequences for the abuse,
2 then we have -- so that the end result is that there's
3 greater numbers of homicides that occur when domestic
4 violence is not handled early in the relationship and early
5 when it's detected by police?

6 Q Doctor, tell us please, and tell the jury how did
7 you first become involved in this case?

8 A I received a call from the law firm of Carl B.
9 Grant and that was in June, I believe, and then came to be
10 associated and conduct this evaluation of Courtney Price.
11 I saw her first in September 10th, 2015, and then
12 subsequently saw her in November of 2015.

13 Q What procedures did you use in evaluating Courtney
14 Price?

15 A Well, I used the procedures that have come to be
16 sort of standard for me, basically -- and the standard in
17 the field in that there is a thorough assessment taken of
18 all kinds of victimizations that the person may have
19 experienced. We've got to look for automobile accidents in
20 which the person might have experienced a threat to life,
21 as well as experiences in interpersonal violence in which
22 the person may have experienced a threat to their life or
23 sort of some explosion or war experience. So entire screen
24 for all kinds of experiences in which there might be life
25 threat or a fear of dying so that's called a detailed

Lois J. Veronen - Direct Examination by Mr. Grant

1 assessment of post-traumatic stress and I conducted that
2 with Courtney.

3 And basically with that detailed assessment, we
4 found that Courtney had, in fact, experienced what we call
5 stressors. And the stressors were of the nature of
6 interpersonal violence in which she felt that she could die
7 or that person who was battering her was so out of control
8 that he could harm her. And from that also, learned that
9 she was very high in the sub-scales of what we call arousal
10 and her mood was affected by certain aspects of trauma
11 reminders and so she was diagnosed with the diagnosis of
12 post-traumatic stress disorder.

13 I also conducted a personality assessment
14 inventory, which is a widely used measure of functioning
15 personality, functioning and in that there's ten clinical
16 scales which occur as a self-report on sort of a four-point
17 scale to say whether something's like you or not like you.
18 This test has been evaluated on a normative group of 1,100
19 people, so I also conducted that particular assessment with
20 Courtney. And then I conducted additional interviewing
21 which I gained a social history, some understanding of her
22 educational background, any mental health history that
23 she'd had and her drug and alcohol history abuse.

24 Do you have any water?

25 Q Yes, ma'am. (Getting her water.)

Lois J. Veronen - Direct Examination by Mr. Grant

1 Let me know when you're ready.

2 A And those were the procedures I conducted. I also
3 reviewed her statement that she had given to the police and
4 any materials that were provided through discovery.

5 Q Okay. And what are the reactions of women, Doctor,
6 who are subjected to physical and emotional abuse at the
7 hands of their intimate partner?

8 A Well, we really kind of like to talk about it as
9 not necessarily specific reactions, but you know, sort of
10 experiences. I mean -- those experiences do fall into what
11 we call a disorder primarily. And that is to the
12 post-traumatic stress disorder. But just as, you know,
13 some of the veterans returning from war experiences don't
14 always like to be labeled with a disorder. Some would get
15 better in -- hospitals, some of the veterans are saying,
16 Well, I've had a perhaps a mental injury, but to call it a
17 disorder, kind of, again, seems to stereotype people as
18 much more crazy than we often kind of think of it. You've
19 been exposed to really unusual sets of life-threatening
20 circumstances and conditions and you've reacted in
21 particular ways from that as opposed to thinking of this
22 as, you know, an absolute disorder, thinking of it more
23 like predictable experiences if you've been subjected to,
24 you know, beatings by the person that is supposed to, you
25 know, sort of love you and take care of you and pledges

Lois J. Veronen - Direct Examination by Mr. Grant

1 their love to you, but yet, they are physically abusive
2 with you; a person that is pledged to provide for your
3 child, but yet doesn't provide for your child. Those kind
4 of experiences make for conflicted, sometimes paradoxical
5 feelings in the case of battered women.

6 Q Yes, ma'am. Doctor, what was the nature, based
7 upon your interviews with Ms. Price and your evaluating
8 her, what was the nature of the relationship between
9 Courtney Price and Sam Simmons?

10 A Well, Courtney and Sam began their relationship
11 very -- as young people. Courtney was 17, perhaps; Sam was
12 18. He was a senior; she was a junior. They met in
13 history class. Courtney knew Sam's sister and so they had
14 some association. They began sort of what would be known
15 as just on-and-off liking relationship and then, you know,
16 texted back and forth and then became closer and, you know,
17 as Courtney expressed at the time in which they sort of
18 announced their relationship on social media, that was the
19 point of which she began to be intimate with Sam.

20 Their paths -- they were dating relationship and
21 then Courtney was a highly motivated student and received
22 good grades and was kind of said to have a really bright
23 future ahead of her. And Sam professed his love for her
24 and they, you know, had a close relationship in private,
25 but what was part of this is that according to Courtney,

Lois J. Veronen - Direct Examination by Mr. Grant

1 Sam was reluctant to sort of be around her family, to -- to
2 the fullest extent and often at important times, Sam would
3 not come.

4 For example. Courtney graduated with honors from
5 Orangeburg State here and Sam did not attend her
6 graduation; nor did he attend any of the graduation
7 parties. According to Courtney, there were people that
8 were in Courtney's life who, you know, who had not met Sam,
9 like her aunts. Courtney and Sam, the relationship
10 intermittently became violent and when Sam became angry, he
11 would slap her, hit her. He blackened her eye. There was
12 an occasion in which he became jealous and found that she
13 was riding with some friends of her family and rammed her
14 vehicle from behind. And there were many situations in
15 which she feared Sam greatly.

16 When she threatened to break this off and she did,
17 they did have times of separation, Sam would typically come
18 back and apologize and say, you know, he loved her, nobody
19 's ever going to love you like I love you; and so they
20 would reconcile their relationship and this pattern of sort
21 of intermittent violence continued throughout they're
22 relationship. They did have a very, very close time at the
23 time that their child, C.D.S. was born; and this very
24 close time, Courtney gave birth at the medical university
25 because she was medically fragile because of the diabetes.

Lois J. Veronen - Direct Examination by Mr. Grant

1 During all that time Sam was with her.

2 They named the child C.D.S. and that was the name
3 that Sam had wanted for the baby. So during this very
4 close time, Courtney felt like, you know, they were bonded
5 and would one day be a family. One day be together as a
6 family. And so as is the way with some of these violent
7 relationships, she ignored the bad times and, you know,
8 tried to prevail and believe that things will improve and
9 the violence will eventually stop.

10 According to Courtney, Sam's sometimes abusive
11 behavior would affect C.D.S. too when they were arguing and
12 fussing, C.D.S. would get more clingy to Courtney and one
13 of the areas of the greatest concern in this conflicted
14 relationship between Courtney and Sam was the whole area of
15 support for C.D.S. and financial support on a sustained
16 basis. There were times in which Courtney attempted to get
17 firm with that and would require -- said she would require
18 the Court to intervene so that Sam's wages would be
19 garnished so that he would have to provide for the child,
20 but very typically what would happen is Sam would say, you
21 know, please, baby, don't do that, I don't want to be under
22 court requirements to pay for -- didn't I just get him
23 these diapers, didn't I just bring him his new sneakers;
24 didn't I do this and you know, Courtney's trying to be
25 about the business of raising this child, but doesn't want

Lois J. Veronen - Direct Examination by Mr. Grant

1 to alienate dad either so she gives in and again we have
2 the same sort of pattern, you know, they're arguing a lot
3 over the financial support for this child that was one of
4 the hot topics that ended up leading to, you know, when she
5 would bring it up, he would say, you know, don't go; shut
6 up you're just creating trouble.

7 And often he would try to choke at her or swat at
8 her to try to get her to stop talking about this, you know,
9 hot topic. The same thing happened when there was
10 suggestions of Sam's involvement with other women.
11 Courtney would say, just tell me you don't want this
12 relationship to continue. You know, I'll take care of
13 C.D.S. we'll just make it a co-parenting relationship and
14 that will be done.

15 But Sam always would say, I'm working two jobs and
16 the reason I'm doing that is because you and C.D.S. are my
17 priorities. You're the reason that I'm doing all this.
18 And so, again, Courtney would relent and, you know, forget
19 about sustained support for the child.

20 Q Okay. Doctor, tell the jury if you would what
21 personal violence did Courtney report to you that she was
22 pressuring from Sam throughout the years of dating him.
23 The actual permanent violence?

24 A The personal violence included a blackened eye, it
25 included choking, it included being shoved and pushed. It

Lois J. Veronen - Direct Examination by Mr. Grant

1 included being punched, shoved down. The personal violence
2 of her vehicle being rammed, but -- yeah...

3 Q Okay. And did what did Courtney tell you with
4 regards to any type of verbal abuse that she was
5 experiencing from Sam?

6 A Well, he sometimes got angry if she -- if he
7 thought she was talking too much to her male cousins or her
8 male friends and he would accuse her and call her a whore
9 and a cunt and other names like that.

10 Q Okay. And, Doctor, let me ask you, after examining
11 Courtney, did you -- what was your diagnosis of Courtney as
12 to whether or not she suffered from battered woman
13 experiences or syndrome?

14 A Certainly she had experiences that we would find
15 consistent with being a battered woman or the battered
16 spouse syndrome or battered person's syndrome.

17 Q Okay.

18 A And in my opinion, as a clinical psychologist, the
19 battering reached the proportion or significance of being a
20 mental disorder of post-traumatic stress disorder.

21 Q And that was my next question. What was your
22 clinical diagnose to a reasonable degree of psychological
23 certainty as to whether Courtney Price had a condition
24 known as post-traumatic stress disorder.

25 A It is my opinion that she did indeed suffer from

Lois J. Veronen - Direct Examination by Mr. Grant

1 post-traumatic stress disorder.

2 Q Is it your opinion to a reasonable degree of
3 psychological certainty as a licensed clinical psychologist
4 that Courtney Price was suffering from anxiety?

5 A Yes, it is. She did indeed suffer from anxiety as
6 well.

7 Q And here is the precise question: Is it your
8 opinion to a reasonable degree of clinical psychological
9 certainty that at the time of this incident on September
10 27th, 2014 that Courtney Price had the conditions of
11 battered persons or pattered spouse syndrome,
12 post-traumatic stress disorder and anxiety?

13 A It is my opinion to a high degree of psychological
14 certainty that she suffered from post-traumatic stress
15 disorder, battered spouse syndrome, although as we said,
16 it's not a diagnosis in our diagnostic and statistical
17 manual; and anxiety.

18 Q And is it your opinion that she had these
19 conditions before this incident happened; therefore, at the
20 time that it happened?

21 A It is my opinion based on clinical history that she
22 suffered these conditions, you know, prior to the incident.

23 Q Yes, ma'am.

24 A And that those conditions may, in fact, have
25 contributed to the actions that she took on that particular

Lois J. Veronen - Direct Examination by Mr. Grant

1 occasion.

2 Q And how did the history of her relationship with
3 Samuel Simmons influence Courtney's perceptions and
4 reactions considering the diagnosis that you just talked
5 about on September 27, 2014?

6 A The way in which the diagnosis sort of dovetailed
7 or contributed to the actions is that persons who have had
8 previous histories of violence and abuse may, in fact,
9 perceive things and conditions in their abuser that tells
10 them that violence is very likely and so that the idea of
11 being armed, one might take special precautions if you were
12 confronting an individual who you knew was going to be
13 violent and/or had high probability of being violent and
14 that you have indeed the right -- and this is the case law
15 of the battered person that you have the right to use force
16 efficient to defend yourself.

17 Q Okay. And, Doctor, not only the history that you
18 just talked about of violence and abuse, but what impact
19 would it have in her mind regarding the fact that their
20 difference in size and difference in gender?

21 A Well, she -- Courtney already knows, you know, that
22 Sam has had a capacity to hit her, strike her, injure her
23 in the past and on this particular occasion, she knew she
24 was going to bring up a hot topic and a topic that was very
25 likely with a high degree of certainty bring about violent

Lois J. Veronen - Direct Examination by Mr. Grant

1 reaction from him.

2 Q All right. Now, let me turn your attention to
3 September 27th, 2014, with regards to what Courtney advised
4 you as to how things happened and how Sam reacted on that
5 particular day.

6 A On that particular occasion, and the episode which
7 affected her perceptions would be regarded as starting kind
8 of the previous night. She, according to the report, she
9 told me that she had heard from Sam about ten o'clock the
10 previous evening and he was going to step into the, the
11 shower and there was the expectation he was going to be
12 there within a couple of hours. She and the baby went to
13 bed and she heard nothing from him and it was three o'clock
14 in the morning and she began to get some calls and then
15 hang up and then hang up and calls and then hang up and so
16 she couldn't discern exactly what it was.

17 According to Courtney, she called his sister after
18 several of those and talked to the sister to see when the
19 last time that she had seen Sam and according to Courtney,
20 Sam was last seen that evening before and so later on in
21 the early morning of the Saturday morning, she receives a
22 call from Sam where he's on the line and she says something
23 like, What -- what's going on with your phone and he said,
24 it's not working properly, and open the door, I'll be there
25 shortly or words to that effect.

Lois J. Veronen - Direct Examination by Mr. Grant

1 Q Let me ask you about -- let me ask you, if
2 Courtney's had all these experiences with Sam that you've
3 discussed, the punching the slapping the choking the curse
4 words, all of that stuff you discussed, tell this jury why
5 would she open the door to let him in or allow him in her
6 home? Why would she do that? In your psychological
7 opinion?

8 A Well, in my psychological opinion, she loved this
9 man. And that was the father of her child and, you know,
10 the bond between -- she had hopes that they would be a
11 family one day and all be together. So, yes, despite all
12 this, you know, she continued to love him.

13 Q And in examining Courtney, did you have any
14 opinions though as to whether she feared him?

15 A Well, certainly around particular issues, she knew
16 that, you know, he's very likely to get violent. The
17 button issues were other women, involvement with other
18 women, and you know, the idea of putting, you know, child
19 support required -- requirements to do that. Those were
20 two of the button issues that Sam became violent around.

21 Q And as a clinical psychologist, can love and fear
22 exist at the same time in your opinion?

23 A Very definitely, love and fear exist and can exist
24 at the same time. We have lots of models of that in our
25 culture. One of the biggest models for love and fear

Lois J. Veronen - Direct Examination by Mr. Grant

1 coexisting is, you know, the relationship between us and
2 God. You know, we both love him and we fear if we do
3 certain things that is, you know, there's going to be some
4 severe consequences.

5 Q Yes, ma'am.

6 A Love and fear coexist.

7 Q Okay. Based upon all that you've heard about Sam's
8 issues involving Courtney dealing with abuse that you were
9 told by Courtney, why would Courtney take a knife upstairs
10 with her to talk with him?

11 A She would take a knife upstairs because she had
12 recently discovered on his phone that he had another child.
13 And having another child and another apparent relationship
14 meant for Courtney that, you know, the child to some degree
15 was going to be compromised, his care was going to be
16 compromised. This was a definite button issue. She was
17 going to confront him about having another relationship,
18 she was going the confront him about having another child
19 and so those were issues that it was imminently reasonable
20 that he was going to be angry and violent. So from
21 Courtney's logic as a battered woman and as a battered
22 person, with her history with him, you know, a knife was a
23 reasonable thing for her to do.

24 Q Okay. And based upon your expertise and
25 evaluation, what is the psychological state of a woman that

Lois J. Veronen - Direct Examination by Mr. Grant

1 has been previously hit, struck, abused, cursed out and
2 just called all kind of names by her lover or her spouse?

3 A Well, she's going to be in a state of fear if she's
4 knowing that she's going to, you know, talk about issues
5 that are button issues or issues that are going to result
6 in a violent assault.

7 Q And I hear you use the term button issues. What do
8 you mean by a button issue?

9 A What I mean by a button issue, and many times, the
10 topic, it's a cue for or a specific topic or word or area
11 of discussion that is going to bring about a violent
12 response.

13 Q Yes, ma'am. Have you cooperated with any requests
14 for documents or anything from the solicitor's office?

15 A I have indeed.

16 Q Okay. And by the way, do you know a doctor -- a
17 psychologist by the name of Charise C. Christopher?

18 A I don't. I have not yet had the occasion to meet
19 her.

20 Q Okay. Do you attend any type of professional
21 continuing education courses or seminars dealing with
22 clinical psychology?

23 A Oh, yes. There's many that we attend, yes.

24 Q And are you -- you attend them all over South
25 Carolina? I guess you have conferences at various

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 conventions?

2 A South Carolina, but more nationally, yes.

3 Q Okay. And I have been now, attending them for
4 approximately how many years? You've been a licensed
5 clinical psychologist?

6 A I've been a licensed clinical psychologist since
7 1978.

8 Q Okay.

9 A In the State of South Carolina.

10 Q But you don't ever remember meeting Dr.
11 Christopher?

12 A No.

13 Q Okay. Thank you very much.

14 MR. GRANT: No further questions of the witness.

15 THE COURT: Thank you. Thank you, Mr. Grant.

16 Solicitor?

17 MS. CORNWELL: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MS. CORNWELL:

20 Q Dr. Veronen, we've talked about you being a
21 clinical psychologist.

22 A Correct.

23 Q Do you have any background or training in forensic
24 psychology?

25 A Well, the area of forensics is sort of the

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 application of the law to mental health issues. Yes. And
2 I have attended some conferences on -- so the law and
3 mental health, yes.

4 Q So you've attended some conferences, but you don't
5 have any specific training in forensic psychology, correct?

6 A I don't have any specific courses that I have
7 attended in the area of forensic, yes. In this area of law
8 and psychology is an evolving area. The area of forensics
9 and particularly as it applies to a victim.

10 Q Yes, ma'am.

11 A Yes.

12 Q And in discussing just in general, Battered Woman's
13 Syndrome, it's not found in the diagnostic manual or
14 anything like that, is it?

15 A No, I've made that point repeatedly. It's not
16 found in the diagnostic and statistical manual with mental
17 disorders, but --

18 Q It's sort of a legal principle?

19 A Yes, but, you know, the post-traumatic stress
20 disorder for Vietnam veterans was not found in the
21 diagnostic manual until 1980 and at that point because of
22 the research we've done on victims, we finally had a way to
23 communicate to the mental health community, you know, sort
24 of the impact, how severe it was, yes.

25 Q And the theory of Battered Woman's Syndrome, was

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 first developed by a woman, Loraine Walker, back in about
2 1975; is that correct?

3 A She first is credited with sort of the
4 conceptualization of calling a battered woman. She
5 combined some things that Martin Seligman had done on the
6 area of what we call learned helplessness. And learned
7 helplessness related to this notion that in certain animal
8 research, what would happen is that animals, if exposed to
9 sort of ob versive, unpleasant situations, for example, the
10 grid, the bottom of their cage was electrified and they
11 were put in that barrier situation.

12 They couldn't get out of it. But even when they
13 had the opportunity later on, they had learned to be so
14 helpless that they wouldn't escape and so part of this was
15 thought of to be sort of part of the battered woman
16 syndrome that they remain in abusive relationships. But,
17 you know, certainly, women are not dogs and, you know, hope
18 runs eternal and so the aspects of, you know, it's going to
19 be different this time, you know, keeps women on what we
20 call on an intermittent schedule of reenforcement, hoping,
21 that, you know, this relationship will turn around and it
22 will no longer be abusive and no longer be violent.

23 Q And she's tried many times to get Battered Woman's
24 Syndrome recognized. I think she recently tried in 2003
25 and 2006 by trying to conform the data to what would be

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 submitted for the diagnostic manual, correct?

2 A Yes, although that's not sort of all she does, but
3 yes, yes. And there's been -- there's been ways in which
4 they talked about it, you know, Battered Woman's Syndrome,
5 again from the standpoint of understanding a syndrome as a
6 mental compromise or a way as opposed to sort of a natural
7 reaction to bury an unusual circumstances light be a better
8 way to look at it. But, yes, there's -- yes.

9 Q Okay. Thank you. And you agree that the
10 diagnostic manual gets updated because as you said, things
11 are always changing, I mean we're learning more every day,
12 but up until this date Battered Woman's Syndrome has not
13 been --

14 A No, it's subsumed under, as I said, if you look at
15 the literature on -- in psychology journals, you won't see
16 Battered Woman's Syndrome, you will see victims of
17 violence, you will see victims of intimate partner
18 violence, and, you know, sort of severe battering is a
19 stressor sufficient to produce post-traumatic stress
20 disorder.

21 Q And part of the reason it's not in there is it's
22 somewhat controversial and there's not a lot of empirical
23 data to really associate Battered Woman's Syndrome, is
24 there?

25 A That is not the reason -- the diagnostic and

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 statistical manual is a political document. They meet in
2 committee and decide sort of what goes in and what goes
3 out. And what's included: And they revise it every so
4 often. And in this political document, what we know is
5 that, you know, there's been biases against women and women
6 as victims throughout history just as there's been biases
7 against, you know, sort of African Americans and they
8 didn't necessarily get their full rights and women didn't
9 get their full rights as well. So, you know, it is
10 primarily a manual that people vote on and yes, no it
11 hasn't made it yet.

12 Q So you're saying that the diagnostic manual that is
13 used throughout the nation and everything and that
14 describes what mental health disorders are is political?
15 We're assessing mental health disorders based on political
16 views?

17 A In some basis, yes. Yes.

18 Q Okay.

19 A I mean there's strong politics involved in, you
20 know, the committees that get formed and what gets included
21 in it, the catalog and how wordings get changed, yes.

22 Q And --

23 A I had several friends that have served on those
24 committees and --

25 Q And so it's your opinion that the reason the

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 Battered Woman's Syndrome is not listed isn't just because
2 of the foundational data but just because politics doesn't
3 want it in there?

4 A Yet.

5 Q Okay. All right. And we discussed the learned
6 helplessness and you gave a great example of that with the
7 dogs in the cage. And that learned helplessness, it almost
8 shows the status of submissiveness and passivity that
9 precludes some sort of escape from a violent situation,
10 correct?

11 A Yes.

12 Q And you agree that characteristics of the battered
13 woman would include fear, isolation, guilt and some sort of
14 emotional and financial dependency?

15 A That may be part of the thing that is that occur at
16 various times in the relationship, yes. Those are some of
17 the experiences that battered women report about.

18 Q And you performed some tests on Ms. Price and
19 there's actually no test specifically designed for
20 assessing Battered Woman's Syndrome, is there. You have to
21 test on other things, correct?

22 A Correct.

23 Q And the tests that you used, I believe you said
24 were the DATs --

25 A Detailed Assessment and Post-Traumatic Stress,

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 which as I said is a wide range of experiences that can
2 produce threat to one's life.

3 Q Sure. And you administered that in September of
4 2015?

5 A Correct.

6 Q And that was, I think you said you had used the DSM
7 IV TR with that; is that correct?

8 A Yes. Although she certainly fits the five as well.

9 Q And then you did the PAI, as well, the Personality
10 Assessment Inventory?

11 A Correct.

12 Q And in those tests, and maybe you can help me out
13 here, you had indicated that she tested higher on some.
14 Can you tell me what the level of that is? Like what
15 concerns you when they go above a certain level?

16 A What concerns you is -- is the area of what we
17 might call clinical significance or clinical intervention
18 and for this purpose, it was kind of intended to supplement
19 other aspects to make a diagnosis.

20 Q Okay. And in that testing, anything that shows any
21 clinical significance, over, I believe you said 70 percent
22 or higher is something that you would consider as clinical
23 significance?

24 A Correct.

25 Q And when you tested Courtney -- I'm going to back

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 off so you don't feel like I'm attacking you -- you
2 indicated that she tested 70 percent higher in negative in
3 person management anxiety, depression, OCD, which is
4 Obsessive Compulsive Disorder, PTSD, schizophrenia or
5 bizarre behaviors, paranoia and suicide ideation?

6 A Correct.

7 Q She tested higher in all of those areas?

8 A Correct.

9 Q When you reviewed this case, we talked about with
10 battered women that they will know the button issues that
11 they know the issues that are going to provoke a violent
12 response and generally based upon learned helplessness and
13 all that, women will try to avoid hitting those trigger
14 points, correct?

15 A They'll try to avoid any violent confrontation and
16 they have the anticipatory cues to know when those are
17 coming, correct.

18 Q Correct.

19 A But then often at some point there becomes, you
20 know, sort of a why don't -- why don't women continue to
21 avoid the question. And for some women, it's the level of
22 concern with violence, you know, in some cases in battered
23 women, some other object or person is being the recipient
24 or someone else and so they, at some point, engage in what
25 we call a defense of the self.

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 And the defense of the self might include concern
2 for one's child or someone else and so they decide they're
3 going to defend themselves; and henceforth, is it
4 reasonable that, you know, Courtney took a knife upstairs.
5 Did she have the right before to --

6 Q And let me interrupt you just a moment.

7 A -- be self-defense.

8 Q And in going through the testimony and stuff, you
9 filled out a questionnaire -- or had Courtney fill out a
10 questionnaire, where she indicated, I believe, some of the
11 things she was going through, what her prescriptions were,
12 but she said she would describe her nutrition level as
13 excellent, her overall health was excellent that she got
14 eight hours of sleep each night and that she had no trouble
15 falling asleep at night, correct? That's what she filled
16 out for your form? I'll let you see this one.

17 A Yeah. At this point in time she had been
18 hospitalized recently kind of the month before I saw her
19 and they put her on medication and so she was, in fact, on
20 an antidepressant at that point and she was taking, you
21 know, sort of better care of herself and she was, in fact,
22 with the aid of the medication, she was sleeping.

23 Q And she had reported to that hospital, I believe,
24 in August?

25 A Right.

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 Q And that was a weekend visit?

2 A Right. But being placed on the medication, she'd
3 been on the medication for about a month at that point when
4 I saw her.

5 Q Okay. Had her appointment been scheduled in
6 August? When did her appointment get scheduled to meet
7 with you?

8 A I'm not exactly sure.

9 Q Okay. All right. And going back to the battered
10 woman and kind of this abusive relationship, you would
11 agree with me that some of the classic signs of an abuser
12 is jealousy, controlling, you know, realistic expectations,
13 kind of making others responsible for their feelings and I
14 think you had mentioned verbal abuse that can go on in
15 there. Sudden mood swings, threats of violence, all of
16 those are classic signs of an abuser, correct?

17 A Well, the essence of the abuser is that they
18 typically short of blaming someone else for their use of
19 violence. That's kind of the bottom line of this is that,
20 you know, someone else brings up a topic they don't want to
21 hear about. And so, you know, some people say, well, they
22 need anger management but the truth of the matter is they
23 just need to learn how to restrain themselves from using
24 physical battery to obtaining their ends. So --

25 Q Wouldn't that be anger management?

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 A Not necessarily.

2 Q Okay.

3 A Anger is a universal feeling. It's a response that
4 everybody has from time to time, but do we act on that
5 anger by using physical means and force and abuse. So an
6 abuser is one who abuses, their -- not necessarily one who
7 just becomes angry. Anger is everybody's response.

8 Q Okay. And everybody gets angry at some point,
9 correct?

10 A Correct.

11 Q Okay. And -- but you would agree that the symptoms
12 I just listed, the jealousy -- those are signs of an
13 abuser, medically and it's been shown those are signs of an
14 abuser?

15 A Yeah, those are -- abuse can be highly likely,
16 yeah.

17 Q And you discussed some of the things that you
18 reviewed after you interviewed Courtney.

19 A Correct.

20 Q Most of your information you got was through your
21 interview with Courtney, correct?

22 A The bulk of it, yes.

23 Q Did you do any collateral research after you spoke
24 with Courtney? Did you pull school records, did you pull
25 employment records, did you speak to any of her friends or

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 family or any of Mr. Simmons' friends or family?

2 A No, I didn't.

3 Q But you did get the discovery in this and you said
4 in your report, you received text messages as well?

5 A Correct.

6 Q Did you review those text messages?

7 A I reviewed some of them, yes.

8 Q And did you review in this abuse cycle, you stated
9 that a lot of times the person won't let the other person
10 out of the relationship. They want them to stay in the
11 relationship and they manipulate to keep them in the
12 relationship. Is that what you said?

13 A Correct.

14 Q Did you see the text messages from Sam basically
15 saying look, you don't have to talk or text me. I'll text
16 in and check on him, him being C.D.S. you don't have to
17 reply. He also texted her, why are you texting me if it's
18 not about him. He also said, I'll leave you alone, but I'm
19 not going to leave him alone. He even asked why are you
20 angry or upset with me, you'll be fine. Because she didn't
21 want him to leave her?

22 A And --

23 Q And that's her keeping him in the relationship,
24 right?

25 A Well, and that -- and if you look at the bulk of

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 it, you also see that he, in fact, issues those same kind
2 of things. He came at three o'clock in the morning. You
3 know, she wasn't the one that was calling at three o'clock
4 in the morning, this is a great time to come. That's not
5 part of what, you know, yes, she admitted him because of
6 the continued cycle.

7 Q Okay. And did you review the texts where Courtney
8 asked him -- I guess Sam was saying he didn't understand
9 why she was upset and she said you get your dumb ass back
10 and you don't know why I'm mad and that's exactly why we're
11 not for each other, shaking my head or S-M-H, away from us
12 with your selfish ungrateful ass. Show your son you love
13 him. Let his mama be with someone who will appreciate her.
14 Hope you get someone who don't appreciate you so you can
15 then know why I'm mad.

16 And then his response was, I'm going to let you do
17 that. I'm wishing you the best, but you don't want Sam to
18 get someone -- I'm sorry. I'm going to let you do that,
19 wishing you the best, but you want Sam to get someone who
20 don't appreciate him. That sounds jealous. Why can't we
21 both be happy. Never mind, I don't know, just tell **C.D.S.**
22 I said bye.

23 So in that instance, he was saying, go, be happy,
24 why can't I be happy, I just want to stay involved in my
25 son's life. Correct?

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 A Yes. At that point and he was doing it. They had
2 periods of time where they were on again, off again.

3 Q And she would also --

4 A But in this particular occasion, you know, it was
5 three o'clock in the morning, he came.

6 Q And she would often tell him, if you can't deal
7 with me, then you don't get to deal with your son. So she
8 was kind of using her son as a pawn in keeping him in her
9 relationship, correct?

10 A Yes. She he would the belief that they could some
11 day by a family. They had this incredible close time at
12 C.D.S.'s birth. Yes, she wanted them to be together and he
13 was giving her information that intermittently, that, you
14 know, yes, we want to -- I'm working two jobs so that we
15 can be a family.

16 Q Okay. He was working two jobs so they could be a
17 family?

18 A Correct.

19 Q Or he was working two jobs so that he could support
20 his son and provide financially for what he needed,
21 correct?

22 A Yes.

23 Q Okay. And he even texted her, Leave what we've got
24 going on from C.D.S. I'm not texting you, just checking
25 in on C.D.S. You don't have to reply. So again, I

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 mean --

2 A Yeah, taking those kind of things, you see the
3 conflicting turbulent nature on him, what we would call an
4 intermittent mature relationship, intermittent.

5 Q Okay.

6 A Intermittent -- and intermittent relationships, we
7 know from psychological research are the hardest kind to
8 get rid of. It's never sort of clear.

9 Q And did you also read some of Courtney's other
10 texts to her other friends and stuff? Did you review some
11 of those texts?

12 A Yes.

13 Q And you would agree with me that part of the
14 battered woman condition, I'm not going to say syndrome,
15 the condition that's been described as battered woman or
16 battered person at this point is that there's an isolation
17 and that they're protective of the abuser so they don't
18 talk about, you know, him to their friends, to their
19 family; they don't put him in a negative light, correct?

20 A Well, there's -- sometimes to their close friends,
21 they will divulge what's going on. But, you know, to
22 authorities that might arrest their spouse or boyfriend,
23 you know, they will back off from that in a protective way
24 to, you know, people who they want to see that person in a
25 positive light. They will present that person in a

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 positive light. So Courtney did not fully disclose to her
2 mother, for example, all that was going on in her
3 relationship with Sam.

4 Q Okay. And as far as picking fights and telling
5 people that they're angry with someone and that they're
6 going to go and start a fight with them, is that something
7 that a battered woman would tell a friend, I'm going to go
8 pick a fight with this person?

9 A Well, it depends on what a fight means. Does a
10 fight mean I want to get things cleared up slash getting an
11 understanding of how things are going to be conducted or
12 does it mean, you know, sort of a physical violent assault.

13 Q And going back to the keeping you in a
14 relationship, did you see the text message that's sent on
15 September 23rd that says, I've always worked hard to keep
16 you, but F it, you never try to keep me so be gone. So
17 she's even admitting that he doesn't even try to keep her
18 in a relationship, he doesn't try to make, you know, her
19 stay in a relationship, correct? Is that what that text
20 would mean?

21 A That may well might be. But at three o'clock he
22 came or at four o'clock he came and she unlocked the door.
23 I mean he's -- he's there.

24 Q And when he comes in at three o'clock in the
25 morning. When we talk about this avoidance of stimuli and

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 avoidance of -- if somebody walks in a room that's been
2 abusing you that you know can be abusive and that you know,
3 I think you said button points were, child support and
4 other women?

5 A Correct.

6 Q And you have been sending tens and tens of texts
7 about cheating and fighting with him the week before. As
8 soon as he walks in and you can see maybe he's had some
9 alcohol, would a battered woman immediately go after him on
10 one of those button points? I mean that doesn't make a lot
11 of sense, does it?

12 A The nature of self, you know, has she -- is that
13 the point is she entitled to get an understanding of those
14 particular issues. Is she -- is her sense of self and her
15 sense of what she wants for her child, in fact, so that she
16 wants to gain that information, so yes, at this point, you
17 know, she may, in fact, say, I want clarity. I want to
18 understand what's going on.

19 Q And that would be because she's angry at this
20 point, she's fed up she's angry?

21 A There's an element of that too because, you know,
22 if she finds out that, in fact, there's a whole 'nother
23 child and a whole 'nother relationship that means you know,
24 her child's care and 2there -- everything she thought would
25 be possible in their life together is not going to be

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 possible.

2 Q But you would agree with me at this point when he
3 first gets to the house and he walks in and she jumps on
4 him about daycare, she's unaware of this other woman at
5 that point?

6 A Correct, correct. And daycare is a button. Yes.

7 Q And that's a button issue. So at three o'clock in
8 the morning someone that's suffering from this battered
9 woman would think that it's appropriate that that's the
10 appropriate time to confront him even though if her own
11 testimony she knew he'd been drinking and all that as
12 opposed to confronting him about it at a calm time where
13 he's more calm, when he's not drinking and all that.
14 Wouldn't she avoid the stimuli of drinking and confronting
15 him at that moment?

16 A It depends on how -- what rights she felt she had
17 to, you know, is this a consequence she can use to say and
18 it might be that is part of their cycle of relationships
19 and he says no, no, no, I love you, I care about you, it'll
20 get better, hope runs --

21 Q She thought that that would happen -- she thought
22 that could happen and that's why she confronted him,
23 doesn't that go completely contradictory to what you just
24 said about the stimuli and provoking and knowing that this
25 is a button issue?

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 A It is button issue, this's no doubt about it, but
2 does she have a right to gain clarification on that button
3 issue. Is it reasonable for her to say, if things don't
4 improve, you know, I'm going to have to, you know, use the
5 court.

6 Q And her level of confrontation in deciding when to
7 confront him at that time would be directly related to her
8 level of anger and her need for an answer at that time,
9 correct?

10 A Is it reasonable to have answers? Certainly,
11 anger, you know, it's three o'clock, four o'clock in the
12 morning. Yeah, anger is a contributor.

13 Q Okay. And then you would agree that when she went
14 downstairs, she found the text messages or whatever, she
15 went and got the knife, she was going upstairs for the
16 confrontation, correct?

17 A She was going upstairs because she knew that if she
18 went up there unarmed, you know, yes, there was -- and she
19 was going to talk about these two issues, child support and
20 she was going to talk about another woman, you know, it was
21 very likely that he was going to get violent.

22 Q And she decided that she needed to talk to him
23 right then because she was angry, she'd just found out
24 about this other woman, she'd just found out he was
25 cheating and even though in her testimony, if you believe

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 it, she has been choked twice already that night, that she
2 thought that was the appropriate time to find out
3 immediately about this other woman, this other child and
4 that she needed the knife to go up and do it?

5 A Well, she knew that if she was going to talk him
6 about those issues that she'd better defend herself, be
7 prepared to defend herself.

8 Q In her anger and confrontation of the issue, she
9 needed a knife?

10 A A woman has a right to know the nature of child
11 support for her child. She has a right to know whether
12 she's being lied to over a long period of time, about, you
13 know, the nature of the future of this relationship.

14 Q And in that right, she had a right to go in and
15 grab a knife out of the kitchen and go upstairs to confront
16 him about this issue that she knows is a button issue that
17 has clearly upset her and made her angry and she needs
18 answers right then?

19 A The law has allowed in other situations the --

20 THE COURT: No, no.

21 BY MS. CORNWELL:

22 Q I'm going to stop you because this is not other
23 situations, I'm asking you about this situation.

24 A In this situation --

25 THE COURT: Doctor?

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 THE WITNESS: Yes?

2 THE COURT: Your not an expert on the law.

3 THE WITNESS: Okay.

4 THE COURT: No, ma'am. So state your question,
5 Solicitor?

6 BY MS. CORNWELL:

7 Q And in this instance, she felt the need, she's
8 angry and she wanted to confront him right then and so she
9 had to get a knife to go upstairs to talk to him about
10 this?

11 A She feared that if she, if she brought up this
12 topic those two topics he was going to react violently and
13 she feared for her own sense of self. She feared for the
14 well being of the future of her child. So her view of what
15 was imminently dangerous was different because of her long
16 history of this very difficult relationship.

17 Q Okay. And let's talk about that child. As a -- do
18 you have children?

19 A Yes.

20 Q And as a mother, your instinct is always to protect
21 your child, suspect it?

22 MR. GRANT: Object to the relevance of that
23 question, Your Honor.

24 THE COURT: I would allow it.

25 THE WITNESS: There's different ways to sort of

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 protect, yes. And seeing to a child's future and adequate
2 childcare and adequate care is one level of protection.

3 Q Of course. And you would agree with me that you
4 wouldn't want your child to be exposed to a violent
5 situation, correct?

6 A Yeah. I would agree that the idea of violence to
7 expose children to it is not a good thing, yes.

8 Q So if you have this fear of confrontation and
9 you're going to confront somebody out of fear, before you
10 make that confrontation knowing that you think it's going
11 to cause violence, wouldn't you instinctively remove your
12 child from any room or any place where the child could
13 become in harms way at that point? That would be an
14 instinct that you would have if you were reacting from a
15 position of fear, correct?

16 A It might be a position.

17 Q Okay.

18 A But, you know, the nature of this confrontation or
19 the desire to gain an answer about this child and sort of
20 have a future of this child's care might have overridden
21 her desire to protect C.D.S. from --

22 Q It could have also?

23 A -- danger.

24 Q -- been -- she was angry that she saw that there
25 was another woman and child and it was her anger that drove

Lois J. Veronen - Cross-Examination by Ms. Cornwell

1 her to get the knife and it was her anger to go upstairs
2 and in not thinking about her child confront him because
3 she needed answers right then and she knew that it was a
4 button trigger; is that possible?

5 MR. GRANT: I object. That's been asked and
6 answered.

7 THE WITNESS: In my opinion --

8 MR. GRANT: Your Honor?

9 THE COURT: I overrule the objection. You may
10 answer the question.

11 THE WITNESS: In my opinion, it was because of her
12 long history of abuse and the nature of this relationship,
13 she experienced fear for herself and she experienced fear
14 for her child's future and that was her motivation to bring
15 the knife upstairs in order to take on this issue.

16 BY MS. CORNWELL:

17 Q Where she ultimately killed him, correct?

18 A He died from a knife wound, yes.

19 MS. CORNWELL: Thank you, Your Honor. No further
20 questions.

21 THE COURT: You have redirect?

22 MR. GRANT: Yes, I do Your Honor.

23 THE COURT: And how much time will it take? I have
24 a commitment to one of our jurors.

25 MR. GRANT: Very brief. Maybe two or three

Lois J. Veronen - Redirect Examination by Mr. Grant

1 questions.

2 THE COURT: All right.

3 MR. GRANT: Very brief. Thank you, Judge.

4 REDIRECT EXAMINATION

5 BY MR. GRANT:

6 Q Doctor, what is the psychological explanation as to
7 why a woman would have sex with a man who abuses her?
8 Explain that to us, please, from your clinical psychologist
9 position?

10 A Sex in relationships means a myriad of things. Sex
11 is sometimes a way to bond in the most intimate way to
12 bring forth a child. Sex can function to heal a
13 relationship. Sex can, for some women and men, it gets
14 better treatment from there intimate partner if they engage
15 in a pleasurable act with their partner. So for all the
16 reasons why people have sex in relationships that are not
17 abusive, those are similar reasons for why women have sex
18 in abusive relationships.

19 Q If a man is angry enough to choke a woman around
20 her neck in your psychological -- well, in your opinion as
21 a licensed clinical psychologist, is it reasonable for the
22 woman being choked to fear for her life?

23 A At that moment, yes. She choked and she fears for
24 her life. But, you know, that can change with...

25 Q Okay. Thank you, Doctor.

1 MR. GRANT: No further questions, Your Honor.

2 THE COURT: Recross?

3 MS. CORNWELL: No recross, Your Honor.

4 THE COURT: Thank you. Thank you very much,
5 Doctor. Thank you for being with us today.

6 THE WITNESS: Thank you.

7 THE COURT: All right. You going to have other
8 witnesses, Mr. Grant.

9 MR. GRANT: Can you --

10 THE COURT: Do you want the lunch hour to think
11 about it?

12 MR. GRANT: Yes, sir. Please.

13 THE COURT: All right. That will be good.

14 All right. Mr. Foreman, ladies and gentlemen of
15 the jury, perhaps now would be a good time to take our
16 luncheon recess. I would remind you during this recess, do
17 not discuss the case with anyone, your lunch mates, fellow
18 jurors, family, friends, anyone else, do not read, watch,
19 or listen to any news accounts of the case. Do not do any
20 independent research or any research on the internet.
21 Please keep an open mind and do not decide any issue in the
22 case until you've heard all the evidence, testimony, the
23 closing arguments by the attorneys and the instruction of
24 the law by the Court.

25 I would ask you to please be back at 2:15. 2:15,

1 thank you very much.

2 Does that give you enough time, Madam Juror?

3 THE JUROR: Yes, sir.

4 THE COURT: All right. Thank you. Thank you very
5 much, 2:15. Hope y'all have a pleasant lunch.

6 (The jury left the courtroom at 1:03 p.m.)

7 THE COURT: All right. Anything before we take our
8 luncheon recess, Mr. Grant?

9 MR. GRANT: Nothing from the defense right now,
10 Your Honor.

11 THE COURT: Solicitor?

12 MS. CORNWELL: No, Your Honor.

13 THE COURT: All right. Solicitor, do you -- can
14 you tell me now if you're going to have any evidence or
15 testimony in reply? And if you can't, that's fine, I'm
16 just trying to plan.

17 MS. CORNWELL: I believe I may have one witness,
18 Your Honor. At most it would be one witness.

19 THE COURT: Okay. All right. Thank you. Thank
20 you very much.

21 We'll be in recess until 2:15.

22 MR. GRANT: All right, sir.

23 (A recess for lunch was observed.)

24 **QUESTIONING OF AN OBSERVER BY THE COURT**

25 THE COURT: Sheriff, where is that young lady?

1 (A young lady approached the bench.)

2 THE COURT: Madam Clerk, will you place this lady
3 under oath for me, please.

4 THE CLERK: Yes.

5 JESSICA FOLK,
6 having been duly sworn, testified as follows:

7 THE COURT: Tell me your full name again.

8 LADY: Jessica Folk.

9 THE COURT: Spell your last name.

10 LADY: F-O-L-K.

11 THE COURT: Now, Ms. Folk, how old are you?

12 LADY: 20 -- 30. I just turned 30.

13 THE COURT: Well if you had said 28 or 9, I
14 wouldn't have questioned it or tried. You're 30?

15 LADY: Yes, sir.

16 THE COURT: You employed?

17 LADY: Yes, sir.

18 THE COURT: And where do you work?

19 LADY: Husqavarna.

20 THE COURT: And, of course, yesterday afternoon,
21 the officers brought something to my attention concerning
22 you; is that correct?

23 LADY: Yes, sir.

24 THE COURT: All right. And tell me what it was.

25 LADY: I was trying to record on my phone.

1 THE COURT: You were recording on your telephone in
2 the courtroom?

3 LADY: Yes, sir.

4 THE COURT: And you were just here as a spectator
5 yesterday?

6 LADY: I was with someone.

7 THE COURT: With -- watching the trial and you were
8 with someone?

9 LADY: Yes, sir.

10 THE COURT: You know you can't do that?

11 LADY: Yes, sir.

12 THE COURT: And you know that's contempt of court.

13 LADY: Yes, sir.

14 THE COURT: You know for contempt of court, I could
15 put you in jail for up to six months and fine you up to
16 \$1500 without a trial.

17 LADY: Yes, sir.

18 THE COURT: Of course, when you left, yesterday,
19 you had asked me in the presence of the officers, if you
20 needed to be prepared to stay; is that right?

21 LADY: Yes, sir.

22 THE COURT: Well, I've talked to Lieutenant and to
23 Sheriff Morgan. Y'all think that was innocent, just an
24 innocent mistake?

25 THE OFFICER: Yes, Your Honor.

1 THE COURT: And you agree with that?

2 THE OFFICER: Yes, sir.

3 THE COURT: Not that you would disagree with the
4 lieutenant on the record, but you agree with that?

5 THE OFFICER: Yes, sir.

6 THE COURT: All right. Well, you appeared today as
7 I asked you to do. All right. And you have your telephone
8 back?

9 LADY: Yes, sir.

10 THE COURT: Well, I find it to be innocent. There
11 was no willful or intentional violation of the terms and
12 conditions of appearing in court and the decorum of the
13 courtroom, so you're free to go.

14 LADY: Thank you.

15 THE COURT: Good luck to you. Thank you.

16 (The young lady left the courtroom.)

17 THE COURT: All right. Mr. Grant, I understand
18 you're going to rest?

19 MR. GRANT: That is correct, Your Honor.

20 THE COURT: All right. Do you object my hearing
21 your motions now before I bring the jury back in and then
22 thereafter you can rest formally in front of the jury.

23 MR. GRANT: No, Your Honor, I don't have an
24 objection to that at all.

25 THE COURT: All right. I'll be glad to hear your

1 motions.

2 MR. GRANT: Yes, sir, Your Honor. At this time we
3 renew our motion for directed verdict in this case. Now
4 that you've heard all the evidence, we certainly believe
5 that there's no evidence competent to establish the
6 elements of a crime and; therefore, we believe we're
7 entitled to a not guilty verdict as a matter of law.

8 We further renew our motion for mistrial and we
9 further renew our motion once again that you reconsider our
10 castle doctrine motion in light of the testimony that came
11 from the stand and that you grant those motions as well,
12 particularly ruling that under the facts that you've heard
13 in its totality that Courtney should be declared immune
14 from prosecution and this case should be dismissed.

15 THE COURT: Thank you. Thank you very much,
16 Mr. Grant.

17 Anything, Solicitor?

18 MS. CORNWELL: As far as the directed verdict
19 motion, as you know, it's the existence or nonexistence of
20 evidence, not the weight. I believe there's been
21 sufficient evidence through testimony as well as exhibits
22 that would indicate that there is a reasonable fact or
23 question for the jury to decide.

24 As far as the motions for mistrial, I believe that
25 Your Honor has ruled properly. Put thorough explanation on

1 the record for your rulings so we would request that you
2 deny that. As for the immunity and a castle doctrine. As
3 for the immunity and the castle doctrine, again, Your
4 Honor's already made a ruling on that. We believe that you
5 gave a thorough explanation on that and we would ask that
6 you stand by that ruling.

7 THE COURT: Thank you. Thank you, Solicitor.

8 All right. Applying the standard I must apply and
9 shall apply at this stage of the proceedings as far as a
10 directed verdict motion, looking at the evidence in the
11 light most favorable to the State and the totality of the
12 evidence, I respectfully deny that motion.

13 I agree upon my ruling both as to the castle
14 doctrine and as to the motions for a mistrial.

15 Anything further, Mr. Grant, before we bring in our
16 jury.

17 MR. GRANT: No, sir. And when you bring them in,
18 I'm going to rest on the record in front of them.

19 THE COURT: You will formally rest.

20 MR. GRANT: Yes, sir.

21 THE COURT: And I will say motions noted for the
22 record, so that you would be protected, of course.

23 MR. GRANT: Yes, sir. Okay. Are we going
24 immediately into closing arguments?

25 THE COURT: No. After I do that, I will ask the

1 solicitor if she has any evidence or testimony she's going
2 to present in reply. I understand you do not?

3 MS. CORNWELL: No, Your Honor.

4 THE COURT: Then I will tell the jury administra --
5 procedurally where we're at and I'll give y'all -- what
6 time you need for closing? Not for the closing, but you
7 want a few minutes before your closing.

8 MR. GRANT: Yes, sir, I would imagine about 15 and
9 we may need to talk about some of the law because the
10 solicitor has indicated she intends to put her law charges
11 on the television screen and there's been some discussions
12 about the law that we've had some differences on as far as
13 different elements and naturally I would make sure that
14 that's understood and that would not be placed on the
15 screen before the jury if the Court has already decided
16 that it should not be put on the screen.

17 And, of course, if you rule otherwise, of course,
18 she can put it on the screen. I just want to make sure
19 we're clear on that.

20 THE COURT: What do you have? The four elements of
21 self-defense, Solicitor?

22 MS. CORNWELL: I've only got the three that you
23 allowed me to use in my opening.

24 THE COURT: Okay.

25 MS. CORNWELL: I would like to at least --

1 MR. GRANT: We don't have an objection to that.

2 MS. CORNWELL: That will be all that's on the
3 screen, depending on Your Honor's ruling, I may verbally
4 argue the fourth element if it's allowed.

5 Other than that, Your Honor, I've got the murder
6 definition, the definition of malice, the definition of
7 voluntary manslaughter, self-defense with just the three
8 elements, and I've got a slide on the credibility of
9 witnesses and on what direct and circumstantial evidence as
10 well as the reasonable doubt and that's all for the closing
11 on the law. And again depending, Your Honor, if the fourth
12 element is allowed, I can put that one on there real quick.

13 THE COURT: Well, let me -- let me bring the jury
14 out. Let's get this -- tell them where we're at
15 administratively and thereafter go from there.

16 (The jury entered the courtroom at 2:40 p.m.)

17 THE COURT: Welcome back, ladies and gentlemen of
18 the jury panel, we're continuing the trial of the case by
19 the presentation of evidence and testimony by the defense
20 in it's case in chief.

21 Mr. Grant, you may call your next witness.

22 MR. GRANT: Thank you, Your Honor. At this time,
23 Your Honor, the defense rests.

24 THE COURT: Thank you, thank you, Mr. Grant. Your
25 motions are noted for the record and I reaffirm my previous

1 rulings.

2 MR. GRANT: Yes, sir.

3 THE COURT: All right. Ladies and gentlemen,
4 you've now heard all the evidence and all the testimony
5 that you're going to hear from the defense in the case.
6 The defense has now rested.

7 The State has the right to call witnesses in reply,
8 so we'll turn our attention to the State and ask --

9 Madam Solicitor, does the State intend to present
10 any evidence or testimony in reply?

11 MS. CORNWELL: No, Your Honor. The State rests.

12 THE COURT: All right. Thank you. Thank you very
13 much.

14 You've now heard all the evidence and all the
15 testimony you're going to hear from the parties in the
16 trial of this case. Procedurally where we're at is closing
17 arguments by the attorneys. As I understand the order of
18 the closing arguments in this case --

19 First, Mr. Grant, you will present the argument on
20 behalf of your client in full; is that correct.

21 MR. GRANT: That is correct, Your Honor.

22 THE COURT: Thereafter -- well, the solicitor has a
23 right to open on the law.

24 MS. CORNWELL: Yes, Your Honor.

25 THE COURT: Thereafter, you close.

1 MR. GRANT: Yes, sir.

2 THE COURT: Thereafter, the solicitor can close in
3 full, is that correct, Solicitor?

4 MS. CORNWELL: Yes, Your Honor. Thank you.

5 THE COURT: And do you intend to open on the law?

6 MS. CORNWELL: I do, Your Honor.

7 THE COURT: All right. Thank you, thank you very
8 much, Solicitor.

9 So that's the point we're at, I think given this
10 point in time, I was asked a question if I thought we would
11 be here Monday. I actually thought we might be here
12 Saturday, but be that as it may, at this point in the
13 trial, I think it would be submitted to you for your
14 deliberations for your verdict this afternoon. After the
15 arguments by the attorneys and the instruction on the law
16 by the Court.

17 I have spoken with the attorneys, I'm going to give
18 them about 20 minutes, let's say until about 3 o'clock
19 prior to beginning the closing arguments that would be
20 presented to you and have you back in the courtroom at that
21 time.

22 Thank you, thank you very much. You may go with
23 your bailiff to your jury room.

24 (The jury left the courtroom at 2:43 p.m.)

25 THE COURT: All right. As to the charges,

1 Solicitor, do you want to start?

2 JURY CHARGE CONFERENCE

3 MS. CORNWELL: Sure. As far as the question to
4 charge, the State is okay with Your Honor's standard
5 charges on the law. I do have Mr. Grant's proposed
6 charges. We would object to the charge with the battered
7 woman's syndrome. I think that that reflects on the
8 facts -- that would indicate you reflecting on the facts
9 and I do not think that's an appropriate charge. As for
10 all the self-defense charges that were also included, I
11 think that the self-defense charge in and of itself is
12 inclusive of all that so we would ask simply the one
13 self-defense charge.

14 On that self-defense charge, I would, again, ask
15 Your Honor to charge the full self-defense charge from case
16 law, which has four elements, not three. The last element
17 being that there was no other probable means to avoid the
18 danger. I understand Mr. Grant's argument that that's
19 imputing on the duty to retreat. Obviously that language
20 is not in that fourth element. I think the State should be
21 able to argue that the no other probable means to avoid the
22 danger can be argued that she didn't have to confront him.
23 She didn't have to take a knife upstairs. Things of that
24 nature that don't involve retreating from her house.

25 However, under a reasonable person standard, which

1 is what the other two elements are, I think that I should
2 be able to argue that there were other probable means to
3 avoiding the danger, particularly given that she didn't
4 have to go up and confront him given her testimony about
5 his button points and trigger points and all that, the
6 characterization of the evidence that we've seen presented.

7 I believe the State has the burden of disproving
8 all the elements of self-defense, that being one of the
9 elements that I could be able to disprove if not being able
10 to disprove the first three would be something that I would
11 request to do.

12 THE COURT: All right. Thank you.

13 Mr. Grant.

14 MR. GRANT: Yes, Your Honor, Your Honor I would --
15 first, maybe ask, what have you already decided that you're
16 going to argue or do you want me to tell you what I want --
17 or excuse me going to charge or do you want me to tell you
18 what I want you to charge?

19 THE COURT: As I read or reread Curry last night,
20 406 South Carolina 364, in that case, the judge, of course,
21 charged part of the castle doctrine and self-defense and
22 the second argument before the Supreme Court in Curry was
23 that the appellate brought up was that those two charges
24 were purposefully ambiguous. The Court goes onto say that
25 under the castle doctrine one is not required to retreat.

1 from his dwelling place and they're talking about the
2 castle doctrine, not the act, the Protection of People and
3 Property Act. And they quote a 1924 case, one attack
4 without fault on his part on his own premises has the right
5 in establishing his plea of self-defense to claim immunity
6 from the law of retreat.

7 Now, I take that that it is a jury question for the
8 jury to determine if an individual on his or her own
9 premises is without fault on his part and if he or she is
10 without fault on his part, that individual can then claim
11 immunity from the law of retreat. So I'm going to charge
12 the four elements of self-defense. I'm also going to
13 charge that -- that phrase I just said and I was also going
14 to charge some language out of -- I forget if it's Brady or
15 Martin that you had handed me previously, Mr. Grant.

16 MR. GRANT: It was Brady, Martin, and the Bryant
17 case, Your Honor. Those three pretty much embraced each
18 other.

19 THE COURT: I said Brady, but it's Bradley.

20 MR. GRANT: Yes, sir. Oh Bradley, yes, sir.

21 THE COURT: I don't see that language right now,
22 but I'll highlight it. I just didn't highlight it. But
23 I'm going to charge the four elements of self-defense under
24 Davis.

25 MR. GRANT: May I then address to Your Honor as to

1 the charges I have submitted to the Court and the ones that
2 I want?

3 THE COURT: Yes, and I have those. Give me just a
4 moment. The ones you gave to my law clerk?

5 MR. GRANT: Yes, sir, the ones that you requested
6 that we e-mailed to you and we e-mailed.

7 THE COURT: Yes, sir. All right.

8 Expert witness, I'm going to give my own charge.
9 All right.

10 MR. GRANT: You are going to charge expert witness.

11 THE COURT: I'm going to charge expert witness,
12 just the language I typically use which is a little bit
13 more detailed than what I did during the course of the
14 trial, but I will charge expert witness.

15 MR. GRANT: Okay.

16 THE COURT: And my self-defense charge.

17 MR. GRANT: What about character evidence, Your
18 Honor, and good reputation?

19 THE COURT: I'll charge that. I don't know if it
20 will be in this exact form, but I'll show you what I'm
21 going to charge as far as that goes. I also charge
22 criminal intent as part of my standard charge, which is a
23 little longer than this, quite frankly.

24 Battered person's syndrome, I'm not going to charge
25 that. I think that is a charge on the facts. I do have

1 language in my self-defense charge battered person's
2 syndrome, if the defendant feels her abuser during the
3 confrontation when the abuser clearly is the aggressor this
4 element is satisfied. That comes in after without fault.
5 That comes at the end of without fault.

6 MR. GRANT: Oh, the words of battered person's
7 syndrome is included in your self-defense charge, Judge.

8 THE COURT: Not in this form. In other words,
9 after the first element of self-defense, all right. I
10 charge if the defendant killed her abuser during a
11 confrontation when the abuser clearly is the aggressor this
12 element is satisfied. However, it may be possible to
13 characterize a battered person as the victim of a
14 continuing assault at the hands of the batterer when this
15 is the case, the first element of self-defense may be
16 satisfied even though the battered person acts at a time
17 when the batterer is not being physically abused.

18 MR. GRANT: Okay.

19 THE COURT: That's out of the standard charges.

20 As to the second prong, imminent danger: At times
21 a battered person actually is in imminent danger of
22 violence when she acts. Depending on the facts of the
23 case, the defendant may act in self-defense if she believes
24 she is in imminent danger or serious bodily injury even
25 though the batterer is not being physically abusive when

1 the defendant acts. This is because the battered person
2 can experience a heightened sense of imminent danger
3 arising from the perpetual terror of physical and mental
4 abuse. Often the terror does not decrease even when the
5 batterer is absent or asleep. Where torture appears
6 interminable and escape impossible, that the belief that
7 only the death of the batterer can provide relief may be
8 reasonable in the mind of the person of ordinary firmness,
9 prudence and courage. That is out of the standard charge.

10 MR. GRANT: All right.

11 THE COURT: That is as to Number 2. So I think
12 that's all that I specifically mention battered person's
13 syndrome.

14 MR. GRANT: Okay. What about propensity for
15 violence, Judge? That's one that we requested.

16 THE COURT: I charge in my standard charge on
17 self-defense -- I charge -- I don't know there's testimony
18 of propensity for violence.

19 MR. GRANT: Testimony came from my client herself
20 particularly we believe respect fully that -- well, first
21 of all, Judge, you know the standard. Of course, if
22 there's any evidence to support a charge that is requested
23 by counsel, I think the case law is that the charge should
24 be given. We believe that there's definitely evidence that
25 he had a propensity for violence. Of course, that embraces

1 the battered person's syndrome based upon her testimony and
2 also based upon the witnesses that saw him dragging her or
3 saw him fighting her and the things that she testified
4 about.

5 THE COURT: Well, I charge --

6 MR. GRANT: So we believe there's enough evidence
7 for the charge to be given.

8 THE COURT: I charge this, Mr. Grant.

9 MR. GRANT: Yes, sir?

10 THE COURT: Prior violence by victim: Prior
11 instances of violence by the victim may be considered in
12 deciding whether the defendant actually believed she was in
13 imminent danger of death or serious bodily injury or was
14 actually in imminent danger. Now propensity testimony has
15 to be very precise and very specific. You have to ask a
16 witness are you familiar with an individual's reputation
17 for turbulence and violence. Those questions weren't
18 asked. No one gave their opinions.

19 MR. GRANT: Your Honor, that's a little different,
20 respectfully. Let me tell you why I think it's different.
21 I think it's different because you're talking about
22 reputation for violence, but I'm talking about propensity
23 for violence. And I'll tell you -- and I'll read to you
24 the proposed charge that I submitted to the Court for the
25 record. And this came out of Judge Ralph King Anderson's

1 book, one of the most scholarly judges South Carolina has
2 ever produced and I've got a plethora of legal authority
3 for that position attached with the proposed charge.

4 And it reads, Your Honor, as you see: In
5 consideration -- here's what he wrote: In consideration of
6 actions of the defendant, a jury is allowed to consider the
7 propensity for acts of violence of the victim. If the
8 defendant knew the victim was of such propensity then the
9 defendant would be warranted in construing the victim's
10 actions more harshly and acting upon hostile appearances
11 more readily than she would have been entitled to do by a
12 woman who was not of such propensity. And I use the female
13 gender because that's what we're dealing with here.

14 And I think State versus Atkinson, 268 South
15 Carolina 588, 235 2d 294, a 1977 case and all the other
16 cases I cited attached to that request. I think they
17 clearly embrace -- the evidence clearly embraces that this
18 defendant was entitled to act as indicated in the charge
19 more harshly and more readily because she was definitely
20 aware of his propensity for violence and that's my
21 respectful position on that charge, Judge.

22 THE COURT: Solicitor?

23 MS. CORNWELL: Your Honor, I would object to that
24 charge. I think it does speak to the facts of the case. I
25 think that your charge on self-defense and what you've got

1 with battered persons is extremely educational to the jury.
2 It would provide them with what they need. Anything else
3 is just going to be, I think repetitive and it's also,
4 again, just commenting on the facts of the case that I
5 don't believe are in evidence.

6 MR. GRANT: May I reply, Judge?

7 It's certainly not a comment on the facts of the
8 case. It's a comment on the law. It is the law.

9 THE COURT: Well, even these cases that are cited
10 as authority, I take it by Judge Anderson, State versus
11 Bing, a 1926 case says that if a man has a bad reputation
12 for violence and you know it then you have a right to
13 construe his actions more harshly and for a man to act more
14 hastily, so it's a bad reputation for violence. I'm
15 actually charging -- you've got prior violence by the
16 victim and prior incidents of violence by the victim may be
17 considered in deciding whether the defendant actually
18 believed she was in imminent danger of death or serious
19 bodily injury or was actually in imminent danger.

20 MR. GRANT: And I appreciate that, Judge, but the
21 way the requested charge that I have submitted to the Court
22 is, it doesn't deal with whether or not she believed she
23 was in the danger. What it expresses is how quickly she
24 should have responded considering her knowledge of his
25 propensity for violence.

1 THE COURT: I'll read those two cases. I'll read
2 Atkinson too.

3 MR. GRANT: I'm sorry, Judge?

4 THE COURT: I'll read those two cases.

5 MR. GRANT: Yes, sir.

6 THE COURT: All right. Defense of habitation, you
7 have any objection to that, Solicitor.

8 MS. CORNWELL: No, Your Honor.

9 THE COURT: All right. And I'm probably going to
10 use my standard charge as opposed to your charge.

11 What next, Mr. Grant.

12 MR. GRANT: Yes, sir, have we talked about prior
13 difficulties yet, Judge.

14 THE COURT: I charge that.

15 MR. GRANT: Okay.

16 THE COURT: I charge that in my standard charge. I
17 mean prior difficulties. Evidence of prior difficulties
18 between the defendant and the victim may be considered in
19 deciding whether a threat existed, whether the defendant
20 had reason to believe a threat existed and how serious that
21 threat was. And then, of course, as I said, I'm charging
22 self-defense.

23 MR. GRANT: I think we may have everything covered,
24 Judge. Of course, I may have some objections for the
25 record, but I just wanted to make sure you and I were on

1 the same page as to what I believe you're going to charge.
2 I've got that with regards to the battered person's
3 syndrome defense that you've indicated your not going to
4 charge what I've requested?

5 THE COURT: No, sir, I'm not. I think that's a
6 charge on the facts.

7 MR. GRANT: Okay. And again, my respectful
8 position -- and I would object, of course, to the ruling of
9 the Court and asking that you charge it because Dr. Veronen
10 clearly an expert and clearly several times testified that
11 the defendant was a violent person and as a result of the
12 violent -- excuse me. That the victim was a violent
13 persons and as a result of the violent acts upon the
14 defendant here, my client here, Courtney Price, she
15 suffered battered person's syndrome. I think that phrase
16 is used more than once, numerous times and I asked her
17 whether or not if her opinion to a reasonable degree of
18 psychological certainty.

19 So I believe, Judge, that does create competent
20 evidence for the record and if there's competent evidence
21 for the record and a charge is based upon the evidence, I
22 think the requirement of the law is that this Court give
23 the charge. Now, there's a verse of the law that the Court
24 is going to give that may be somewhat competent to it, we
25 may not have an objection, but to not make the charge at

1 all, we would stand upon your objection and we'd ask the
2 Court to please note it for the record.

3 THE COURT: All right. It's certainly noted.
4 Again, I think that's a charge on the facts. It amounts to
5 no more than a transcript of the witnesses testimony. If I
6 remember going to do that. I would have to send the
7 transcript of every expert's testimony back there and I do
8 charge, as I said, two paragraphs concerning the battered
9 person's syndrome under number one, who was the aggressor
10 and number two, imminent danger.

11 MR. GRANT: All right. So we've got criminal
12 intent, you're charging on that.

13 THE COURT: Yes, sir.

14 MR. GRANT: We've got evidence of good reputation?
15 Do you have a charge on that.

16 THE COURT: I told -- I've got a standard charge on
17 that.

18 MR. GRANT: Yes, sir. Reputation for license and
19 turbulence. That's -- I know you said you're not going to
20 charge that. I believe we're relying upon what I said
21 before propensity --

22 THE COURT: Yes, sir.

23 MR. GRANT: -- for violence.

24 THE COURT: Yes, sir.

25 MR. GRANT: And prior difficulties, you are going

1 to charge that.

2 THE COURT: I'll charge that.

3 MR. GRANT: Now, and, of course, the Court will
4 give the standard charges in every criminal case
5 presumption of innocence, burden of proof, beyond a
6 reasonable doubt.

7 THE COURT: Yes, sir.

8 MR. GRANT: Are you charging hesitate to act,
9 firmly convinced or combination of --

10 THE COURT: I charge both. I charge hesitate to
11 act and firmly convinced.

12 MR. GRANT: Yes, sir. All right, Judge. I think
13 that's all we have.

14 MS. CORNWELL: Nothing further, Your Honor.

15 THE COURT: Nothing further?

16 MS. CORNWELL: No, if I can have just a moment
17 to --

18 THE COURT: We'll take about a 10 minute recess.
19 Thank you, thank you very much.

20 (A brief recess was observed.)

21 THE COURT: All right. Anything additional from
22 the State before we bring in our jury, Solicitor?

23 MS. CORNWELL: No, Your Honor, not from the State.

24 THE COURT: Thank you.

25 Anything further, Mr. Grant?

1 MR. GRANT: Yes, Your Honor, we had an issue in
2 chambers about the jury charge, propensity to charge. What
3 I'd asked the Court to charge and apparently the Court as
4 decided not to make the charge. We believe that the record
5 in this case clearly establishes that the defendant was
6 personally aware of the victim's propensity of violence.
7 The defendant herself who, numerous incidents through the
8 testimony of the various witnesses of the defendant
9 suffering violence at the hands of the victim.

10 The defendant for the record, the record
11 establishes, suffered a black eye, the defendant suffered
12 slaps, the defendant suffered chokes, there's corroborating
13 witnesses to establish that. And we believe that since the
14 record establishes some competent evidence on the charge,
15 it would be required by the Court to charge protensity for
16 violence. Which is different than the notion of reputation
17 for violence and because of this victim's protensity for
18 violence, the law says that she was entitled to judge him
19 more harshly and act more quickly and more readily when it
20 comes to her response as to how she should have defended
21 herself and we believe that that is a relevant issue in the
22 law and one that should be charged, not to mention the fact
23 that even our expert, Dr. Veronen herself uncontradicted,
24 unrefuted testimony, where she said because of the fact
25 that Courtney had gone through so many incidences of

1 violence by Sam, she, of course would have acted in a
2 reasonable way and would judge him more harshly considering
3 what he had already done to her, the previous acts of
4 violence.

5 So respectfully, Judge, we ask for this charge and
6 considering the Court's ruling, I would ask that my charge
7 is marked as Court's Exhibit next in order.

8 THE COURT: All right. Thank you. Thank you very
9 much.

10 (Court's Exhibit Number 2 was marked into
11 evidence.)

12 THE COURT: Solicitor?

13 MS. CORNWELL: Nothing, Your Honor.

14 (The jury entered the courtroom at 3:31 p.m.)

15 THE COURT: All right. Our jury is back in place.

16 Welcome back, ladies and gentlemen of the jury
17 panel. As you know, we are now going into closing
18 arguments by the attorneys. The order again is the
19 solicitor will open on the law; thereafter followed by
20 Mr. Grant on behalf of his client; thereafter followed by
21 the solicitor to close on behalf of the State in full.

22 After the closing arguments, I will instruct you on
23 the law that you are to apply to the facts of the case as
24 you find them to be. With that being said, I will ask you
25 to continue to give the parties your complete and undivided

1 attention.

2 Solicitor?

3 **CLOSING ARGUMENTS**

4 MS. CORNWELL: Your Honor, may it please the Court,
5 counsel. Good afternoon, ladies and gentlemen. The good
6 news is there's light at the end of the tunnel. I know
7 that this has been a long week. Y'all have listened to a
8 lot of testimony, seen a lot of evidence. If you'll bear
9 with me just a little bit longer. It's almost over.

10 I want to first of all thank you for all the
11 attention you've given this case. I know that some of
12 y'all have other obligations and other places that you
13 would like to be. But obviously this is an important case
14 for the State, for the family of Samuel Simmons. It's also
15 important for Ms. Price and her family members as well.

16 If you'll give me just a few more minutes of your
17 time, I'm going to kind of tell you what I believe the law
18 is in this case. If I say anything that's different from
19 the law or if Mr. Grant says anything that's different than
20 what the judge says, obviously, the judge is the finder of
21 the law and you should do what he instructs you to do.

22 In this case, Ms. Price is charged with murder. We
23 discussed that murder is the unlawful killing of another
24 with malice aforethought either express or implied. The
25 important thing to remember about murder in South Carolina

1 is that premeditation is not an element. As long as there
2 is an unlawful killing with malice aforethought, that
3 malice can be at the second before the killing occurs and
4 that is murder in South Carolina because premeditation is
5 not an element.

6 Let's talk about what malice is. Malice is an
7 intentional act of violence. It's a reckless disregard for
8 the welfare of another. It's conduct signifies a conscious
9 effort of creating a high risk of serious bodily injury to
10 another. The simple use of a weapon can be considered
11 malice.

12 MR. GRANT: Objection. We need to approach, Your
13 Honor.

14 THE COURT: All right.

15 (There was a bench conference out of the hearing of
16 the jury and the Court Reporter.)

17 THE COURT: Thank you. Thank you, Mr. Grant.
18 Thank you, Solicitor.

19 MS. CORNWELL: When we're talking about malice, no
20 time limit may attach to the very moment of the fatal blow.
21 Again, malice can happen the second the fatal blow occurs.
22 And malice can be express or implied. You're going to hear
23 a charge of voluntary manslaughter in this case as well.
24 If you, as a jury, when you go back in deliberations, you
25 determine that this defendant is not guilty of murder, the

1 next charge that you're going to be asked to consider is
2 voluntary manslaughter.

3 Voluntary manslaughter is the unlawful killing of
4 another without malice; in a sudden heat of passion, upon
5 sufficient legal provocation. So what does that mean?
6 Obviously, there's an unlawful killing of another. It does
7 not require malice, so the malice elements that we just
8 went over, they're not required in this. It happens in the
9 sudden heat of passion upon sufficient legal provocation.

10 So what does that mean? Well, sudden heat of
11 passion, obviously is anger, outrage, something that would
12 enrage you. However heat of passion alone is not
13 acceptable for voluntary manslaughter. There also has to
14 be a sufficient legal provocation. Therefore, something
15 has to have happened to provoke this sufficient -- this
16 heat of passion.

17 The judge is going to tell you that words alone,
18 or in this case text messages alone, are not enough to
19 create a sufficient legal provocation. Sufficient legal
20 provocation has to show an intent to act. There has to be
21 some sort of actual action that's gotten this legal
22 provocation. There has to be something that provokes it.
23 And words alone are not enough.

24 You're also going to hear about self-defense. In
25 the State of South Carolina, there are four elements to

1 self-defense. If the State disproves just one of those
2 elements, then the defense of self-defense does not apply.

3 In order to find self-defense, you have to find
4 that the defendant was without fault in bringing on the
5 difficult. You got the find that the defendant actually
6 believed she was in imminent danger of losing her life or
7 sustaining serious bodily injury. You would also have to
8 believe that a reasonably prudent person of ordinary
9 firmness and courage would have entertained the same belief
10 that she did and that she had no other probable means of
11 avoiding the danger of losing her own life or sustaining
12 serious bodily injury than to act as she did in this
13 particular instance.

14 All four of those elements have to be met in order
15 for you to find that she acted in self-defense.

16 If the State disproves even one of those elements,
17 then you are not allowed to find that she acted in
18 self-defense.

19 There are two types of evidence in this case.
20 We've got direct evidence and circumstantial evidence.
21 Direct evidence is something that somebody sees, hears,
22 smells or touches. In the instance that I like to use,
23 when it's raining outside. You go outside, you feel the
24 rain drops on you, you smell the rain in the area, you see
25 the rain drops coming down, that's direct evidence that

1 it's raining.

2 Circumstantial evidence is to infer something from
3 the circumstances. It's a chain of events proving the
4 existence of the fact. So let's use that same rain
5 example. If it's been raining all day since we've been in
6 here, but when you go outside, you don't see any rain, you
7 don't hear any rain, you don't feel any rain, but you can
8 see puddles on the ground where it's wet and the air's kind
9 of got a thickness to it and you can see droplets on cars,
10 that's circumstantial evidence that it rained.

11 Both of those types of evidence is equal under the
12 law. So you can base your decision based on circumstantial
13 evidence or direct evidence or a combination of both.
14 You're also going to be charged on the credibility of the
15 witnesses. You as a jury get to determine how you believe
16 the witness has acted on the stand and what their
17 credibility is. And the way you do this is through your
18 common sense. We all have interacted with people. We know
19 when people are being honest, we know when people are being
20 dishonest. It's just human nature. For the credibility of
21 the witness, you can consider the demeanor of the witness
22 on the stand; was the witness forthright or were they
23 hesitant; was the witness -- was the testimony of the
24 witness consistent; was the testimony of the witness
25 corroborated; and did the witness have any reason to be

1 biased or prejudiced? You're allowed to consider all of
2 those.

3 And when considering the testimony that you've
4 heard and the credibility of the witness, you can believe
5 all of what a witness tells you. You can disbelieve what a
6 witness tells you. Or you can believe some of what the
7 witness said and maybe not what someone said. You'll use
8 your common sense and your life experience to determine
9 whether or not the witnesses you heard on the stand were
10 credible and the weight to give each of those witnesses.

11 Finally, the judge is going to charge you on
12 reasonable doubt. Reasonable doubt is the kind of doubt
13 that would cause a person to hesitate to act. Proof beyond
14 a reasonable doubt is proof that leaves you firmly
15 convinced of the defendant's guilt. The way I like to pose
16 this to the jury is, when you came in here and we had jury
17 selection. You gave an oath that you had no knowledge of
18 this case. No prior conceived notions, you were going to
19 base your decision based on the evidence you've heard --
20 the testimony you heard and the evidence that you saw.

21 If you came in not knowing anything about this
22 case, not having any preconceived notions about it and now
23 once you've heard all the testimony and seen all the
24 evidence, you think the defendant is guilty of murder, then
25 the State has proved its case beyond a reasonable doubt.

1 It's not your job as a jury to look for reasonable doubt,
2 to try to find reason.

3 You should find your decision based on what you've
4 heard from the testimony of the witnesses and the evidence
5 in the case. And if that testimony and that evidence have
6 left you firmly convinced to where you are not hesitating
7 to act, then we have proven our case beyond a reasonable
8 doubt. And that is our burden of proof. The State must
9 prove each and every element of the crime beyond a
10 reasonable doubt. And in this case, the charge the murder,
11 the elements are the unlawful killing of another person
12 with malice aforethought. After you've heard the testimony
13 and you've seen the evidence, I believe the State has
14 proven beyond a reasonable doubt the defendant, Courtney
15 Price, committed murder. Thank you.

16 THE COURT: Thank you. Thank you, Solicitor.
17 Mr. Grant.

18 MR. GRANT: Please the Court, Your Honor. And I
19 did not want the interrupt Counsel a second time, but I'd
20 like to just state for the record objection to the fourth
21 element of self-defense that she indicated was required and
22 what our position that it is not.

23 THE COURT: Thank you. Thank you, Mr. Grant.

24 MR. GRANT: Thank you, Your Honor.

25 And may it please the Court, Counselor and ladies

1 and gentlemen of the jury.

2 First of all, let me say to you, good afternoon.

3 It has been said -- and I don't think I need this,
4 let me move this a second so I can talk to you.

5 It has been said that next to military service,
6 jury service is one of the most important things that a
7 citizen can do. It involves personal inconvenience, it
8 involves putting aside, at least momentarily the
9 temporary -- being in court, sometimes you'd rather just
10 not be here. But everybody has the civic duty and is civic
11 responsibility. And serving your country is one of the
12 most important things you can do, but the jury service is
13 kind of right up next to it. And as a former military jag
14 lawyer, I can tell you that being a trial lawyer, jury
15 service and military service, they're almost hand in hand.
16 I, too, and Courtney Price would like to thank you for your
17 service in this case. You have been attentive, you have
18 been paying attention and I told you all from the first
19 time I stood up here that this is a very important case.

20 When the prosecutor stood up and indicated that
21 this was a case about a woman scorned, hell hath no fury
22 like a woman scorned, I think is what she said. And I told
23 you no, no, no, this is not a case about a woman scorned.
24 This is about a case about an you know repentant choker, a
25 woman being choked; a woman being abused. That's what this

1 case is really all about. And how she reacted in
2 self-defense.

3 Now, when you all were in the jury box with all
4 those citizens out there, probably a little nervous about
5 what you were up to and we had to go through the process of
6 selecting you. You were selected because after all the
7 information we gathered about you, we determined that you
8 were the twelve citizens and alternates, that you were the
9 twelve citizens who would be the most fair in deciding this
10 case. You were randomly selected, but we looked at you and
11 determined that you would be the most fair people to decide
12 this case. And as a juror, your job is to decide the case
13 based upon the law and based upon the facts. A juror has
14 no enemies to measure and you have no friends to reward.

15 And when it comes to the true anatomy of a fair
16 trial, it really begins with an oath. Everything involving
17 the criminal justice process begins with an oath. You the
18 jurors took an oath to decide the case based upon the law,
19 based upon the evidence presented to you. The prosecution
20 took an oath to prosecute this case and seek justice, not
21 merely seek a conviction, but seek justice.

22 The judge even takes an oath to preside fairly,
23 neutrally, impartially, and detached. And I take an oath
24 to represent my client zealously within the bounds of the
25 law. And the only way that Courtney Price can receive a

1 fair trial and that all segments keep that oath. That's
2 the only way.

3 But the most important part in that chain really is
4 you. Because you are empowered to make the ultimate
5 decision on the facts and the law in this case. You, the
6 jury -- and I've said many times that a jury really, really
7 is and your verdict really is a segment of a society that
8 shows what the brand of justice is in the community.
9 That's what a jury's verdict is. It shows what the society
10 looks upon every situation is as far as justice
11 representing that background.

12 So here you are. You have presided over the facts
13 you have heard and the evidence you have heard in this
14 case, really establish that a young lady, Courtney Price,
15 with no previous criminal record, all of these good
16 character witnesses who have testified about her honesty,
17 her trustworthiness, her law-abidingness, all the good
18 things about her, who was being beaten, choked, slapped,
19 called the B word, fought at her mother's house, fought at
20 his mother's house and his dad's house, choked even in her
21 own home; whether or not she's going to get convicted and
22 go to prison any way.

23 THE COURT: Mr. Grant, you cannot argue punishment.
24 That is not within the province of the jury. That is
25 solely in the province of the sentencing party. Thank you.

1 Thank you very much.

2 MR. GRANT: Whether you convict her anyway despite
3 all that you have heard about the reasons why she was
4 merely defending herself.

5 Ladies and gentlemen of the jury, a criminal case
6 starts with this: The presumption of innocence. That is
7 not merely a cliché. It is really the law of the land.
8 When the State comes after a citizen and gets -- charges
9 that citizen with a crime, that citizen is neatly draped
10 with a robe and that robe is called the presumption of
11 innocence. That presumption of innocence itself is enough
12 for you to find somebody not guilty if the State has not
13 met its burden of proof. You are truly presumed innocent
14 regardless of the nature of the charge.

15 Another fundamental principal in this American
16 judicial system is this: Burden of proof. Remember I told
17 you in my opening statement, that we, the defense, we don't
18 have to prove anything because the law doesn't require us
19 to. We could have sat there throughout this entire trial,
20 not called a single witness, not made a single argument,
21 not cross-examined anybody, not put in a single document
22 and done nothing. And if they did not meet their
23 standards, you would still be required to find her not
24 guilty. But they had the burden of proof at this table.
25 And not just the burden of proof, but the burden of

1 persuasion, to persuade you that the evidence is what they
2 claim it to be.

3 And what is that burden? As indicated on her brief
4 display on that television screen, they have the burden to
5 prove their case beyond a reasonable doubt. In other
6 words, if at the end of the case having heard all of this
7 evidence, if you have a reason, a single reason, or any
8 reason to doubt the guilt of the defendant, any reason to
9 doubt their case at all, the law says you should find and
10 you must find, as a matter of law, the defendant not guilty
11 because they have not met their standard. That's what the
12 law says.

13 And that's not just the law here in Orangeburg.
14 That's just not the law in Columbia. That's the law in
15 America because that's what makes us who we were. That's
16 what makes us, us. And, you know, when I started preparing
17 this case, looking at the fact pattern, hearing all this
18 evidence, thought about it all. And then I said to myself,
19 there's a different concept and thought process that people
20 have in their mind about a woman who may have stabbed a man
21 in self-defense as opposed to a woman who shot a man in
22 self-defense.

23 It dawned upon me that if Courtney Price, who had
24 been beaten, slapped, choked, called the B word, punched by
25 her child's father, decided one day, you know, I'm going to

1 go out and get my concealed weapons permit and I live by
2 myself and I have my own place. His daddy won't be there
3 to pull him off me. The police can't show up and he run
4 away because he knows they're coming. I'm going to get my
5 concealed weapons permit, then he shows up to her house,
6 chokes her twice, begins to choke her a third time and she
7 gets her gun and she shoots him, seems like to me -- seems
8 like to me, the argument that some people would make would
9 be -- well, good for her. What was she supposed to do.
10 She was supposed to shoot him. Good for her. She stood up
11 for herself. End of story.

12 And I always say to myself and I've said this in my
13 career, you can tell the quality of the person based upon
14 the witnesses that they produce when they're in trouble.
15 Let's talk about some of those people.

16 Rep Jerry Govan, minister and State Representative,
17 well respected individual. His demeanor on this witness
18 stand put his credibility on the line in public in this
19 case, got on the witness stand and told you that it is his
20 opinion that Courtney is a peaceful, nonviolent person.
21 Got on the witness stand and told you that Courtney is a
22 person who is trust worthy. Representative Jerry Govan.

23 Remember the classic gentleman, I call him, the
24 distinguished elderly man, Reverend Robinson. He got on
25 this witness stand and he told you, professor, former

1 professor from State, that Courtney is an honest person,
2 that Courtney is a person that he would believe in. She
3 has a nonviolent character. She is a church-going person.
4 Courtney is a Christian. All these good things that he
5 told you about Courtney.

6 Later in the case, and I'll come back to some more,
7 but let's not forget about Mr. Diggs, the manager at
8 Wal-Mart (sic). He hired Courtney, knowing she has a
9 murder trial pending. That's how much he is impressed with
10 her. Some people in this community can't even get a job
11 with a speeding ticket pending. He hired her knowing she
12 had a murder trial pending, got on the witness stand and
13 told you that, yes, he thinks she is an honest person.
14 That's impressive folks. That's impressive.

15 What does that tell you? That tells you a lot
16 about Courtney. That tells you a lot about Courtney. And
17 we also offered that gentleman to talk about how does
18 Courtney react when her blood sugar is all out of whack.
19 And you remember his testimony, he said she's like what, a
20 zombie. Is there any testimony that's been offered to
21 contradict that? It's not there.

22 And what did Courtney tell you, when they took her
23 statement, despite how clear her voice sounds and all this,
24 about that 461 blood sugar level taken less than an hour
25 after she signed the form waiving her rights was the

1 highest she'd ever had in her life, coupled with the four
2 beers she had consumed.

3 Courtney also, when we put her on the stand, Dr.
4 Sandra Glover, principal, people who would put their own
5 name and reputation on the line because everyone would be
6 subjected cross-examination allowed people, you know it
7 you've seen it in your life. A lot of people, I don't want
8 to get involved with that, now. I don't want to get
9 involved and they won't even come and get involved. They
10 shy away. But these people didn't get involved. They
11 testified. And they told the truth and what they're
12 telling you is she is believable and she's of good
13 character and you heard what Dr. Glover said, she loves her
14 like a daughter. She adores her and not every person she
15 allows around her children, one is in law school, but she
16 allowed Courtney to be around her children.

17 Good character witnesses. You don't find good
18 people to testify about your good character unless you
19 possess good character, because they are going to testify
20 under oath.

21 Now, let me talk to you about what I would call the
22 integrity of the prosecution's case. The integrity of the
23 prosecution's case. A jury must trust the prosecution's
24 case in order to convict the defendant. And if you can't
25 trust the prosecution's case because you have a reasonable

1 doubt, then certainly you should find the defendant not
2 guilty.

3 Witness number one: Officer Bellinger. Remember
4 when she testified? First witness called by the
5 prosecution. When she finished testifying and she went
6 over, quote, some of the excited utterances of Courtney
7 when she was the first officer that talked to her.
8 Remember, no lawyer present, mama wasn't present, no
9 preacher present, just Courtney and officers. And when she
10 finished testifying, all the questions that's from the
11 prosecution, no further questions of the witness.

12 Remember what I told you, if we wanted to, we could
13 have just sat there and said, No questions, Your Honor.
14 And guess what you would have been stuck with? The little
15 bit of information she gave you. That's all you would have
16 known.

17 But I got up and asked her well, Now, there's more
18 that you've not told us, is that correct? Why don't you go
19 through some of these other excited utterances that you did
20 not mention. And I asked her, I said, in fact, didn't
21 Courtney say to you that the one time I fought back. And
22 doesn't that statement denote, the one time I fought back,
23 one time, common sense, means there were obviously times
24 before and fighting back, obviously means I'm fighting back
25 and defending myself. That's a simple phrase, but a whole

1 lot in that simple statement. The one time I decided to
2 fight back.

3 If I didn't ask her, you wouldn't have known it
4 because they didn't ask her. Or what about some of this
5 other stuff in there, Bellinger? Yes, sir, she said I'm
6 not this person; I go to church and pray; and I'm not this
7 person. Okay. Well, you weren't asked that before were
8 you? No, sir, because I wasn't asked the question.

9 What about this part: She said, I had enough of
10 his abuse and the one time I decided to fight back, this
11 happens. I had enough of his abuse this time.

12 A 23-year-old girl all bloody, a baby all bloody,
13 she's sitting there talking to this officer. She's saying
14 the one time I decided to fight back, this happens. And I
15 took her through the rest of the excited utterances and she
16 said, she was just standing up for herself. It's not fair
17 when women fight back this happens. I'm tired of his
18 abuse.

19 Once again, she said, this is not real, I was just
20 standing up for myself. He was choking me. We certainly
21 know she wasn't lying when she said that. Because think of
22 all the other witnesses who corroborate the abuse, all the
23 other witnesses who talk about him fighting her. The
24 freshman year suite mate at South Carolina State. He was
25 grabbing her by the hair and hitting her and pulling my

1 hair and I pulled him off. I grabbed him by his legs to
2 get him off of her. And you saw how Courtney demonstrated
3 when I was standing up here. I said show me the way he
4 threw you to the ground that day.

5 Around my neck, like a clothes line, I think that's
6 what they call the defense in wrestling. A clothesline in
7 football. A man should not beat a woman. That's just
8 common sense every single day.

9 Guess what, even through the beatings, even through
10 the choking's, even through being called a B and all the
11 other nasty things that were said, Courtney -- this is so
12 sad -- still loved him. And that's what she said on that
13 witness stand. She still loved him. She still looked for
14 a future with him. She still was hoping to have a family
15 with him. She still had all those hopes and dreams with
16 him. And unbeknownst to her, unbeknownst to her, he
17 arguably was just using her as a sperm depository bank
18 because he had this other woman in Charleston that she knew
19 nothing about and this other child that she knew nothing
20 about. This poor girl was being used. Used. Like a cheap
21 dish rag. Used.

22 And, you know, this prosecutor kept asking, well
23 you were angry that time, weren't you. And you're not
24 angry this time, this is cross-examination, you got angry,
25 you got angry. Where is it written that only Samuel

1 Simmons or the man has the right to get angry? That the
2 woman can't get angry in an abusive relationship, because
3 if she does, then let's criticize her. What about all the
4 times he obviously was angry and he was slapping her or he
5 was beating her or he was choking her, but the one time he
6 may have gotten upset, let's condemn you for that. Oh,
7 yeah, let's hold that against you. He did not have,
8 exclusive rights to be angry or to become angry.

9 Let me turn my attention to Sergeant Walker, the
10 main investigator that has testified on this witness stand.
11 A witnesses demeanor is evidence in a criminal case. The
12 way a witness carries him or herself, her deportment, his
13 attitude, the way he handles himself on this stand is
14 evidence in a criminal court.

15 And I say to you. You observed Sergeant Walker.
16 You observed her testify and the point I'm making is this,
17 if a prosecution is only trying to seek justice as opposed
18 to merely trying to seek a win, why is it that I had to
19 wrestle with that witness over and over and over again just
20 to simply get her to tell the truth and to get her to
21 answer the question. This is not a debate. This is not a
22 contest. You are an officer, now with SLED, and all we
23 want you to do, ma'am, is answer the question, present the
24 information for them to consider it. We don't need to be
25 going around and around and around.

1 Why would she act like that? Why would she want to
2 tug and muscle with me. Because they are not seeking
3 justice. They're seeking to win. They're seeking to win
4 at all costs. How else do we know that? How else do we
5 know that?

6 Defendant's Exhibit Number 27, that's when the
7 forensic toxicologist, a young lady named Stacy Matthew, I
8 think the first time she'd ever been qualified as an expert
9 in the Court from SLED. She got up and told you that
10 Samuel Simmons, his blood level, alcohol in his blood, was
11 .187. She told you the presumption of innocence of being
12 under the influence in South Carolina, at least for driving
13 and pretty much across the board is .08. So that's more
14 than twice the legal limit. She talked about the various
15 influences that alcohol can have on you, may not have on
16 you. She talked about all of that.

17 The point I'm making is, why did I have to call the
18 SLED officer? If I'm trying to give you all the evidence
19 for you to consider, why is it that this had to come from
20 the defense? If the prosecution is truly only seeking
21 justice, why is it that they don't want you to know that
22 the victim was a drunk man, choking my client. Why did
23 they not want you to know that? The integrity of the
24 prosecution's case. If we would have sat down and asked no
25 questions, did nothing in the case, which we had a right to

1 do, this document would not be in evidence.

2 Let's talk about that hair. I forgot her name, but
3 she's the evidence custodian for the Orangeburg Department
4 of Public Safety and the young serologist from SLED. This
5 case shows that there was a hair in Samuel Simmons' right
6 hand. Not on the back of his hand, from his right hand.
7 The evidence custodian told you that one day -- I said,
8 Well, it would be my job to go to the evidence custody
9 room. Ma'am, would you mind opening up the container that
10 has the hair in it. I don't know if it's a black hair, but
11 it could be a black hair. Sam could have pulled his own
12 hair, but I do know one thing, my client's hair is golden
13 as in blonde. You mind pulling that piece of hair out.

14 She said, yes, sir. She opened the container and
15 she told you, she opened the container and what did she see
16 in there? A strand of blonde hair. Where do you see in
17 this courtroom that there's a blonde sitting is the defense
18 table? Courtney Price.

19 And I asked her, I said, well, was this hair ever
20 tested for DNA to determine whose hair it really was? No,
21 sir, it wasn't. Could it scientifically have been so.
22 Yes, sir; because it had a root. The hair had a root, so
23 it could have been tested for DNA. Here's the question,
24 how could you not want to test that hair? Why would you
25 not put it into evidence for the jury to see it and

1 consider it?

2 SLED, how come you can test DNA from mummies
3 thousands of years old, why would they not want the test
4 this hair? Because they were scared it might show that he
5 has Courtney's hair in his grip. If we didn't ask about
6 it, if we didn't admit it, it would not be in evidence.
7 Remember, I'm telling you, the burden of proof does not
8 rest with us. It rests with the prosecution.

9 And with regards to the blood alcohol level, when I
10 asked the question about whether the SLED agent ever had
11 any cousins or uncles who show up at a barbecue and every
12 time they get drunk they want to fight. I wasn't asking
13 that for laughing. I wasn't meaning that as a joke. I was
14 asking that because everybody you know has somebody in
15 their family, every time they get drunk they come --

16 MS. CORNWELL: I'm actually going to object to
17 this. You had sustained that objection and that didn't
18 come in.

19 MR. GRANT: This is argument.

20 THE COURT: All right. Well, arguments should be
21 based on the facts in the record.

22 Mr. Foreman, ladies and gentlemen of the jury, you
23 are the finders of the facts in the record. It's up to you
24 to determine in your individual collective memory what the
25 facts in the record are.

1 Thank you, Mr. Grant, you may continue.

2 MR. GRANT: Thank you, Your Honor.

3 Regardless of what she said, if somebody is drunk
4 based upon your own personal experiences that you had in
5 your life, you've seen that drunk people can be, what?
6 Much more aggressive than somebody who's not drunk. That's
7 just common sense. And I'm so glad that when you came to
8 court today on this most important day in my client's young
9 life that you parked your car, but you did not park your
10 common sense.

11 The evidence in this case is extraordinarily weak
12 in proving that Courtney Price did anything -- I don't get
13 to the law in the little bit, but I want the continue to
14 talk to you about this evidence.

15 With regard to her home. She lived in an
16 apartment. Can you imagine how happy she had to be, she's
17 now got her own place. Moving in there with little C.D.S.
18 that baby boy, cute little fellow. I have her lease. Just
19 her and C.D.S. A young lady doing it, trying to do it as
20 much as she can by herself. The father wasn't helping out
21 to the extent that she needed but she's still trying to do
22 it by herself. His name is not on this lease. This is his
23 home -- excuse me, her home. And your home is your castle.
24 And nobody can come in your house and choke you in your
25 house and try to run you out of your house.

1 It doesn't take three times, it doesn't take twice.
2 Nobody's allowed to do that even once before you can defend
3 yourself and use deadly force to defend yourself and get
4 them out of your house. And let's not forget, we're
5 talking about a difference in gender. We are not talking
6 about two strong burly men about my size, we're talking
7 about a man versus a petite, 5'1", 120 pound woman that he
8 knows has got medical issues. He knows is a chronic
9 diabetic. You have the right to defend yourself. Your
10 home is your castle and you have the right to defend
11 yourself in your home.

12 Nobody has a right to can you to run out of your
13 own home. And if so, what would America be like if that
14 was a law. If that was the law, that means anybody in this
15 courtroom can come to your house and run you out of your
16 house. You wouldn't be able to use the force necessary to
17 prevent that from happening.

18 Defendant's Exhibit Number 2, a liquor bottle that
19 Sam brought into the house. Hennessy. The beer that he
20 brought in the house. And you know, folks, life itself can
21 be very, sometimes unfair. Unfair. It just -- it's just
22 so full -- there's so many twists and turns, so unfair.
23 You can go to bed at ten o'clock at night, not bothering
24 anybody in your own home and then trouble shows up at the
25 door. And by ten o'clock the next morning, your charged

1 with murder.

2 Not going out looking for trouble, not going out to
3 harm anybody. But trouble comes looking for you. Life can
4 be so unfair.

5 But when it does -- when it does, that's why we got
6 to have good people, like you in Orangeburg County to make
7 it right. Good people like you to make it right.

8 Courtney Price, you may have seen her getting up to
9 the witness stand where she's been wearing -- you may have
10 seen her walk up to this stand, walk back to her seat, with
11 her little angle bracelet on. You see, that's what they
12 put on you when you're charged with a crime like murder in
13 South Carolina. They tag you like you're a savage dog,
14 tracking your every move. They know where you are every
15 minute of the day. She's had that bracelet ever since we
16 finally got her a hearing to deal with bond. She's had
17 that with her.

18 You have the power -- you have the power through
19 your word to tell the State of South Carolina take that
20 bracelet off her leg. You have the power to do that. And
21 the only people who can do that are those people sitting on
22 the other side of this bench. Not me. Not the prosecutor,
23 not even the judge. You.

24 I heard a lawyer one time. He was a legendary
25 lawyer of our profession here in South Carolina. He used

1 to tell a story -- matter of fact, he was a prosecutor, old
2 lawyer, back in the day, used to tell a story about how he
3 was watching TV or had an experience one time and something
4 unfair and you know just happened and it was just so, so
5 sad, so unfair and unjust and then his little daughter saw
6 the unfair situation, started crying and laid her head in
7 her daddy's chest and started crying. Started crying. And
8 she looked up at her daddy and said daddy, Who is going is
9 make sure that that wrong situation is right?

10 Who is going the make sure that those bad people,
11 that bad thing that was done is fixed. Who is going to
12 make sure that the wrong is turned into right. Her father
13 looked down at her and said, the good people. The good
14 people.

15 I believe we've got good people in Orangeburg
16 County sitting right here on the jury. And I believe that
17 the good people will say if you have been beat by your
18 boyfriend, choked by your baby's daddy, if you're suffering
19 from post-traumatic stress disorder as the result of it, if
20 you've got all these issues going on and your perceptions
21 are that he just -- he's about to choke you again and at
22 the moment that you stand and he's actually choking you in
23 your own home, I think the good people will say that that
24 is not an unlawful killing with malice aforethought.

25 There's nothing unlawful about defending yourself.

1 As I said in my opening statement, that just because a man
2 has been killed does not mean that he's been murdered. It
3 must be an unlawful killing. There must be malice, malice
4 a depraved and evil heart without justification or excuse,
5 without mitigation, without a legitimate reason. That's
6 what malice involves. There's no malice here. And there
7 is no murder.

8 The prosecution wants you to consider -- she put it
9 on the screen, voluntary manslaughter. It's been my
10 experience in thirty years that any time the prosecutor
11 wants the jury to consider voluntary manslaughter, they're
12 concerned about the strength of their case. Is it --

13 THE COURT: Mr. Grant, step up here just a second.
14 Solicitor?

15 (There was a bench conference out of the hearing of
16 the jury and the Court Reporter.)

17 MR. GRANT: Folks, it's my understanding she may
18 not have asked for it, but you will have an opportunity to
19 consider it. Here's the point and I want to make sure you
20 clearly understand this now: Don't compromise justice when
21 it comes to the law. Don't compromise justice when it
22 comes to the law.

23 Here's what I mean by that: Both murder and
24 voluntary manslaughter require that the killing is what?
25 Unlawful. If you believe that the killing was unlawful,

1 meaning not based on self-defense -- well, excuse me, if
2 you believe the killing was not unlawful, let me get my own
3 self-straight her, if you believe that killing was not
4 unlawful, in other words, it was a legal killing, she was
5 using self-defense, she had -- she was a battered woman
6 based upon the testimony given to you by the doctor. She
7 had post-traumatic stress syndrome. She had a history of
8 being abused.

9 If you believe as she was in her own home -- if you
10 believe that the killing was lawfully justified then she
11 clearly is not guilty on both. Because you've got to have
12 an unlawful killing on both of the charges. I want to make
13 sure that's clear. Courtney Price, based upon the facts,
14 based upon the evidence, and based upon the law is entitled
15 to a full and complete acquittal. When Mr. Simmons
16 testified and Ms. Simmons testified, I started my remarks
17 my expressing my regret for their loss. And the reason I
18 do that and I did that is because of this: There are many,
19 many, many, different titles in the courtroom. The title
20 of circuit court judge, the title of assistant solicitor,
21 and even the title of criminal defense attorney, but I've
22 got to tell you, I've always said this, a lawyer is not
23 what I am. It's just what I happen to do for a living.
24 What I am first and foremost is a man. And merely as a
25 man, I would say to you, no man is not entitled to choke,

1 slap, beat, and all these other abuses his baby's mother
2 and especially in her own home.

3 Jurors have an opportunity most times to send a
4 message with their verdict. That's what you essentially
5 do. You are the segment of the community. You are a
6 snapshot of the story of the community. You demonstrate
7 the brand of justice in the community in a case like this.
8 You have the power to thank the community because you have
9 found that there's not enough evidence to convict a woman,
10 a young woman for murder with these facts.

11 Don't forget, Courtney Price had never seen the
12 inside of a jail until she was charged on this day. Don't
13 forget Courtney Price said that she called 9-1-1 and you
14 heard the 9-1-1 call, you hear her trying get them to get
15 there right now. She told them there was a stab victim.
16 She then asked her, well who did it. There was a little
17 confusion. I did. Well, what's your name, Courtney Price.
18 She didn't run away like somebody thinking she did
19 something wrong. She stayed there, waited for them to get
20 there. She was trying to get him help on one hand and
21 hoping that he would not come down those stairs outside
22 while she's got her baby on the other. That's what she
23 told you.

24 And what else did she say? I said Courtney, what
25 was going through your head when all this was going on?

1 She said, I didn't think I did anything wrong. Didn't
2 think I needed a lawyer. Does that sound like somebody
3 with a guilty mind a malicious heart who thinking they just
4 really intentionally killed somebody? Think about this
5 logically. Again, you live in the world. You've had
6 worldly and life experiences.

7 When you talk about crimes of passion, normally,
8 crimes of passion based upon your experiences and life
9 experiences, involves what? Numerous, continuous multiple
10 stabbings because the passion is so hard and you just want
11 to make sure that you get rid of that person forever. Not
12 this case. No, no, no, not this case. This one stab wound
13 to get him off of me and grab my baby off the bed and get
14 away from him. And let me call the police in case he keeps
15 coming after us. Just one stab wound. So much blood
16 because he was naked.

17 Let me talk to you about more in here, the
18 courtroom on the prosecutions answers and some of the
19 incredible testimony that came from Mr. Kinsey, their
20 bloodstain analysis guy.

21 First of all, Don Girndt, the expert we called, and
22 again, it's just a matter of common sense. How can you
23 tell me that someone may have been or was asleep or may
24 have been sleeping, whenever he said, asleep in a bed when
25 they were stabbed when you find body on the floor. Like

1 Don said, Mr. Girndt, I should say. The only way that you
2 can come to the conclusion that the person was stabbed in
3 the bed and stayed in the bed is when you get there, the
4 body is in the bed. That's just common sense. That's the
5 only way to conclude that.

6 And Don also said that the bloodstain evidence that
7 he saw would it be inconsistent with Sam's bloody feet,
8 after he got stabbed, he's naked, he's bleeding and he's
9 pumping, blood is coming all around. His bloody feet right
10 there at the foot of the bed, facing away from the foot of
11 the bed by him and then after he bled out enough, all that
12 blood on him right there on the spreads. On the spread.

13 Now, and I say spread, that tiger print comforter.
14 That just jogged me on a point that I wanted to make. Let
15 me get a little water because I'm not -- give me a second,
16 please, if you will.

17 (There was a pause in the proceedings.)

18 MR. GRANT: I want to talk to you about the tiger
19 print comforter. That comforter is not just critical
20 because of how much blood it had on it. Let me tell you
21 again, right now, why that comforter is so critical to this
22 case. Remember, now, the solicitor got up here and asked a
23 long narrative question of my expert, Don Girndt. She
24 said, well, if, indeed a person is stabbed in the bed and
25 the covers are pulled up over him and when they're stabbed

1 in the bed and the covers pulled up over him and he throws
2 the covers off of him and he comes around and this and that
3 and he falls off the bed and he goes back and then he rolls
4 up on the side and when she finished, Don's exclamatory one
5 word was, Wow. Wow. That's what he said. His response
6 was, Wow. In other words, what an incredibly unbelievable
7 scenario.

8 Let me get back to the comforter. Listen to this,
9 now. Listen to this. If, indeed, he's lying in the bed
10 with the tiger print comforter over his chest and he's
11 stabbed in the chest, where is the comforter that's been
12 admitted into evidence for you that has the hole in it?
13 Where is the tiger print spread that has the hole in the
14 comforter that's been admitted into evidence for you to
15 see. He can't be stabbed in the flesh with the comforter
16 up here. If this is the tiger print comforter and he 's
17 stabbed in his chest, the knife has to go through the
18 comforter. Where is it? If it hasn't been admitted, it
19 probably does not exist. They have the burden of proof.
20 They have the burden of proof.

21 You know, I've said a lot. Because I've got a lot
22 to say. But ladies and gentlemen of the jury, the decision
23 rests with you all and we certainly trust that you will
24 keep your oath. We certainly trust that you will hold the
25 prosecution to their burden, that you will hold them to

1 their standard. We certainly trust that you will recognize
2 and remember that the professional expert testimony of Dr.
3 Veronen, the licensed clinical psychologist who told you
4 Courtney had post-traumatic stress disorder, anxiety, and
5 all the other battered person issues that she talked about,
6 she has all of these things, not just when she interviewed
7 her, but on the day of this incident and that testimony --
8 although they cross-examined her, that testimony has not
9 been refuted by a single witness. How many forensic
10 psychiatrists or psychologists or whatever the State of
11 South Carolina can call upon to refute that evidence if it
12 is refutable. If they didn't call a person, you can assume
13 it does not exist. They have the burden of proof.

14 We ask that when you go back into your deliberation
15 room you look at all of these exhibits. You consider the
16 fact that you had witnesses for the prosecution who what we
17 call sometimes want to be the super witness. You got
18 witnesses who depended more on drama and theatrics. Let me
19 get up on this table and tell you how this goes and that
20 goes and but not with our humble guy did. Went through
21 every question that she had and told you that's not what I
22 see. Those are not my opinions. I disagree with that. I
23 disagree with that completely. And if you have good
24 scientific basis for your testimony, you don't need
25 theatrics. You don't need to get on the table. You don't

1 need to do any of that. Just tell it like it is.

2 And then somebody might say, well, Grant, you know,
3 the experts cancelled each other out. Their guy was good,
4 this guy was good. Well, you know, here's the thing in
5 baseball, the tie goes to the runner if you think there's a
6 tie. We certainly don't think there is because our guy is
7 much more believable. But in criminal law, the benefit of
8 the doubt goes to the defendant. Goes to the defendant.
9 And it belongs with us. Our heart goes out to what
10 happened in this case to the family. But God knows what
11 she's going to argue and put up here, what she's going to
12 talk about these exhibits. It's certainly not enough to
13 prove that my client is guilty beyond a reasonable doubt of
14 anything.

15 She never said she didn't stab him. She never said
16 that. She said she stabbed him because he was choking her.
17 That's what she said. And he had no right to do that at
18 any time and I got to tell you, there's been a lot of
19 failures in this case when it comes to my client. God
20 there's been a lot of failures. Oh, my goodness there's
21 been so many failures. I certainly wish, certainly wish
22 that when her family was seeing marks on her, her sister
23 seeing blue marks on her, her sister watching this guy
24 chase her around in the pick-up truck telling her own
25 sister, he's going to pistol whip this B, right there at

1 her own house with her mama there. Dragging her in the
2 yard at his parents house. So many people failed this
3 young lady. So many people failed her.

4 And she got on this witness stand. My heart just
5 wrenches thinking about it. So many people failed Courtney
6 Price. So many. God knows he might have fought her at her
7 mama's house with mama there. But if her daddy was alive,
8 I can promise you. I can promise you, ain't no man going
9 to let another man fight his daughter at his house. So
10 many people. And with nobody reaching out to help her.
11 Nobody reaching out to help her. This little petite little
12 woman was in a trap, feeling an emotional entrapment. An
13 emotional entrapment. She kept holding on over and over
14 and over again, no matter how much he -- what he did to
15 her.

16 She kept holding on even when he choked her while
17 she was five months pregnant with his own son. Even that
18 didn't do it. Even that didn't do it. She still had
19 hopes. This is a sad case.

20 There's only one group of people who can make it
21 right and that responsibility belongs to each of you good
22 people right here in Orangeburg County. Each of you. And
23 I call upon you to find her not guilty of all charges.
24 Acquit her, let her go home for that's what an acquittal
25 will mean, to her baby. I ask you to do that. The law

1 justifies it. The evidence you see justifies it. It's the
2 right thing to do. It is the just thing to do. And it's a
3 decision that you can feel good about in your jury service.
4 You can be glad that in this scenario, that the State of
5 South Carolina and the defense counsel selected you because
6 who knows somebody else might not have made a difference,
7 but you have the power to do so.

8 And when I sit down, when I sit down, maybe, maybe,
9 Ms. Cornwell can explain to you good citizens why she
10 didn't admit the evidence of the alcohol. I'm going the
11 sit down and give her an opportunity to do that. When I
12 sit down, maybe she will explain to each of you good
13 citizens of Orangeburg County why the Orangeburg County
14 Solicitor's Office did not admit the hair and have it DNA
15 tested. I'll give her an opportunity to do that. When I
16 sit down, maybe she'll stand up and explain to you why they
17 didn't admit the evidence of Courtney having a 461 blood
18 sugar level relative to the time they were questioning her.
19 I'll give her an opportunity to do that.

20 Thank you for your patience with me. I try to keep
21 my oath. I'm sworn to zealously represent my client and I
22 thank you for your time. Courtney thanks you for your
23 time. Courtney thanks you for your service. And I ask you
24 please go back into your deliberation room and find young
25 Courtney Price not guilty. Not guilty of all charges. And

1 end this nightmare. End this nightmare for her, that woke
2 her up out of her sleep and has been going on since that
3 very moment. I ask that you do that. Thank you very much.

4 THE COURT: All right. Mr. Foreman, ladies and
5 gentlemen of the jury if anyone needs a break, please raise
6 your hand. If not we're going to go right --

7 (One of the jurors raised a hand.)

8 THE COURT: All right. Thank you, thank you very
9 much. Step to your jury room. Do not discuss the case
10 during this brief recess. We'll take about a 10 minute
11 recess.

12 (The jury left the courtroom at 4:41 p.m.)

13 THE COURT: Court will be in recess 10 minutes.

14 (A brief recess was observed.)

15 (The jury entered the courtroom at 4:52 p.m.)

16 THE COURT: All right. Our jury is back in place.
17 Please, jurors, continue to give the parties your complete
18 and undivided attention.

19 Solicitor, you may address the jury.

20 MS. CORNWELL: Thank you, may it please the Court,
21 Counsel.

22 Hell hath no fury like a woman scorned and on
23 September 27th of 2014, the defendant, Courtney Price, was
24 a woman scorned.

25 Ladies and gentlemen, little did I know when I told

1 you that statement a few days ago how true it was, but we
2 heard from Courtney Price on the stand and as I read to her
3 the text messages that she sent Mr. Simmons, the threats
4 that she made to him, do this or you're going to regret it;
5 if I F his stuff up, he's going the cry like a little B. I
6 asked her those are -- you mean pretty angry, right. When
7 she's texting him over and over again, I know you're F'ing
8 around on me. Obsessively, over and over again, you were
9 pretty angry, right? When she's cursing him and calling
10 him names, this is you angry, right?

11 No, that's not my angry. What'd she say? You
12 don't want to see me when I get angry. Bad things happen
13 when I get angry. Bad things like murder. Because on the
14 morning of September 27th, 2014, Courtney Price was angry.
15 She was really angry. She had this feeling that
16 Mr. Simmons was cheating on her. She had been repetitively
17 asking about it over, and over and over and over again,
18 wondering, where were you? Who were you talking with?
19 Where did you go?

20 His answers wouldn't satisfy her. Even on the
21 morning that this happened? Where are you? Who are you
22 with? Who's got your phone? And when he finally came
23 over, they talked and if you believe her, there was some
24 violent confrontation occurred.

25 Ladies and gentlemen, you've seen the pictures and

1 I'm not going to insult your intelligence by offering them
2 again. They're going to go back to the jury room with you
3 and you have the opportunity to look through them and
4 you're going to see that there are no signs of trouble in
5 that house anywhere upstairs or downstairs with the
6 exception of the injury that that defendant gave to the
7 victim when she stabbed him in the chest, you know
8 provoked.

9 She wants to tell you that this's some you know
10 repented choker, that there was a choking incident that
11 happened downstairs and there was a choking incident that
12 happened upstairs. But notice, there's no injuries on her
13 anywhere. No bruising, no redness, nothing on her. You'll
14 also notice there's no injuries on Mr. Simmons to indicate
15 that she was trying to fight him off to indicate that she
16 was trying to get his hands from around her neck. She'll
17 have you believe, well, I never said that I did that. But
18 common sense tells you if somebody's attacking you, if
19 somebody's choking you, you're not just going a play dead,
20 you're not going to just stand there and let it happen.
21 You're going to fight back. And we know that she can fight
22 back. She's shown it in all of her texts. She's going to
23 break out windows. Don't run up on her. You know how she
24 rolls. She's an angry girl.

25 And the night and the morning of September 27th,

1 2014, she was angry then too. And that's why after
2 Mr. Simmons came over, after they watched TV, after they
3 had sex and after Mr. Simmons had rocked their child to
4 sleep and gone to bed himself, she walked downstairs and
5 she went through his phone. She knew he had been cheating
6 on her and she was going to find out. And as she scrolled
7 through his phone and went through day after day after day
8 after day and finally found a message from another woman,
9 let's see what it is. And it was a message when she
10 discovered that he had another child and it made her angry.
11 It confirmed all those suspicions she thought she had.

12 And in that anger, she walked into the kitchen, she
13 got a knife and she walked up the stairs. She went into
14 her bedroom where her baby is in the bed with the father of
15 her child. She climbs on that bed where he is asleep and
16 she takes that knife over her head and she plunges it into
17 his chest, one wound. She was angry.

18 And what's he do? He pushes her off of him because
19 he's in a deep sleep at this point. I would submit to you
20 that he's passed out at this point and he is awoken by a
21 knife going through his chest, hitting a rib, puncturing a
22 lung and puncturing his pulmonary artery. He gets up, he
23 rolls out of the bed, blood is gushing on the floor. He
24 struggles in the room. He's disoriented, doesn't know
25 what's happening. And he ultimately falls between the

1 dresser and the bed and takes his last breath. All because
2 of what that defendant did to him.

3 And if you listen to her you'd have to believe that
4 he was this violent person. He abused her. She's got all
5 these instances, all these situations. But what we know
6 from Ms. Price is the truth the kind of fluid with her.
7 She gives inconsistent statements after inconsistent
8 statement after inconsistent statement. Even when she
9 talks about the abuse, she can't tell you was it choking?
10 Was it slapping? What did I say last time. And that's an
11 important point. Because we all know, you don't have to
12 work to remember the truth. The truth doesn't change.
13 What you have to remember is when you're lying and you've
14 got the figure out ha did I say last time? What did I say
15 now? Inconsistent statement after inconsistent statement
16 after inconsistent statement. The reason she has to do
17 that was because she's got to somehow figure out a way to
18 justify the fact that she just murdered the father of her
19 child in a fit of rage because she thought he was cheating
20 on her.

21 If she would have just asked him, he would have
22 told her, that happened a long time ago. We weren't even
23 together when I met that woman. He wasn't cheating on her.
24 But she wouldn't know that, because she didn't give him the
25 opportunity because in her fit of rage, she went step by

1 step up the stairs thinking about how validated she was
2 going the be; how he had been cheating and how she
3 really -- she had been texting him, she'd been calling him,
4 he wouldn't respond to her and now she was going the get
5 her revenge.

6 She climbed on the bed and she plunged that knife
7 into his chest. She took his life all because of a
8 misconception that she thought that she knew.

9 Now, you've heard testimony in here, you've seen
10 the evidence and the law of murder, the unlawful killing
11 with malice aforethought. And I would submit to you that
12 when somebody goes through somebody's phone, sees a message
13 they don't like, walks into a kitchen, grabs a knife, walks
14 up the stairs, hiding the knife so just in case you don't
15 get to see it coming and goes in and climbs on top of a bed
16 where a lies asleep and plunges that knife into his chest,
17 that is the unlawful killing with malice aforethought and
18 that is murder.

19 Now, we've heard from a lot of witnesses and a lot
20 of testimony and I'm not going to go through all of them.
21 You know who we've heard from. We heard from the sister
22 that talked about they never lived together. Never lived
23 together and really, he only came home about every other
24 weekend or at least tried to come home every other weekend
25 to see the child, because he loved C.D.S. He provided for

1 him and you heard about toddler beds and shoes and diapers.
2 He even brought diapers that night.

3 We've heard from the 9-1-1 person; we heard from
4 Officer Bellinger. And what did Officer Bellinger tell
5 you? She said that when she came on scene, the defendant
6 told her, I went through his phone while he was asleep and
7 I found out he was messing with another bitch, had another
8 child. So I cut him. I was tired of his shit. And yes,
9 she said all of these other things, you know: The first
10 time I fought back. Well, we now know that's not true
11 because she's fighting him in 2013, when her own mother had
12 to tell police, no, Courtney punched him in the face first.

13 We heard from Officer Kuck, who also told you no
14 signs of a struggle, no signs of a defensive wounds on the
15 defendant nor the victim. The only injury in this entire
16 case was a single stab wound to the chest.

17 We heard from Investigator Griffith who collected
18 the evidence, including the knife the defendant used when
19 she killed the victim. Simple statement. She went in her
20 kitchen, she got this knife and she plunged it into the
21 victim, Samuel Simmons chest. Tried to hit his heart right
22 there.

23 We heard testimony from Agent Walker. She
24 discussed how she read her her Miranda Rights. She seems
25 coherent. The first statement she gives she says, he put

1 his hands around my neck for a couple of seconds and it
2 ticked me off and I went downstairs and I -- I guess he
3 thought it was over. And I got the knife and I hid it and
4 I came back up. She was just constantly lying, lying,
5 lying, so I hit him and then I stabbed him. That's her
6 first statement.

7 Agent Walker says were y'all standing up face to
8 face? Yes, we were standing up face to face. That didn't
9 seem to the ring true. So what does she do? She goes back
10 to the crime scene, talks to investigators, talks to
11 forensic analyst and says no, there's a lot of blood in
12 this bed, a lot of blood here. It doesn't seem to match.
13 So she called her back about one o'clock in the afternoon
14 and meets with her a second time.

15 In that second statement, she's realizing, all
16 right, I've got to change it up, something's got to give.
17 So in that statement, I went downstairs to get the baby
18 some milk, I was looking through the phones, came back
19 upstairs, I climbed on top of him and then I asked him
20 about it. He was already awake, but I had already climbed
21 on top of him, hiding the knife and when I asked him the
22 question, he said What, pushed me off of him. I climbed
23 back on top of him and then I stabbed him. That was her
24 second statement. In neither one of those statements does
25 she ever discuss that she had asked him to leave that they

1 had had any sort of confrontation downstairs or any of that
2 nature.

3 Nope, the only time she said he choked her in
4 either of those statements was the very first statement
5 when she said he put both hands around my neck for a couple
6 of seconds and it ticked me off, so I went downstairs. I
7 guess he thought it was over, but it wasn't. Because she
8 was going downstairs to get that knife.

9 We heard her give a third statement to the Court
10 where she also testified about where now in that statement,
11 not only were they standing up, but he's already choking
12 her and they're fighting. And that's how she stabs him and
13 she shows you how she stabs him. She says hands are out
14 reached, holding her neck and she comes up and she stabs
15 him under her arms. Then she says, and after I stabbed
16 him, he kept fighting me. He was still choking me and
17 pulling me by my hair.

18 She gives you another version where in this case
19 she goes upstairs, she confronts him and he's choking her,
20 she stabs him and then he grabs her by the arms. He's
21 grabbing her by the arms and grabbing her by the hair.
22 She's trying to make the story with what she thinks is
23 going to be shown.

24 But the truth doesn't change. The facts don't
25 change. And you heard when Chief Kinsey, who is a blood

1 pattern expert. He's got a wealth of knowledge and
2 experience. He played out for you bit by bit exactly how
3 this incident occurred. He told you that based on what she
4 saw in the evidence, not even based on what she said, he
5 heard it, but he wasn't taking that into consideration.

6 Now, let's talk about Chief Kinsey too. Chief
7 Kinsey wasn't paid for his analysis. He wasn't paid for
8 his testimony. Didn't get a dollar, a dime or cent to come
9 up here and talk to you about what happened. He wasn't
10 asked to consult by Public Safety, wasn't asked to consult
11 by SLED, he did it on his own time for the solicitor's
12 office. And even took a personal day so that the County
13 wasn't paying him for the time that he took to tell you
14 exactly what he saw. And in that, he told you it looks
15 like he was laying in the bed. He was stabbed, he sits up.
16 Blood gets all over the sheets and comforters. And this
17 comforter being up here, and having a puncture, known
18 nobody's ever testified the comforter was up here. Common
19 sense tells you when somebody's sleeping, they've got
20 covers up on them somewhere, whether it's up over their
21 legs, up to their shoulders, there's covers on them.

22 Gets stabbed, sits up, there's an outpouring of
23 blood. It's on the sheets, it's on the comforter. He has
24 the photograph, he even manipulated the photographs so he
25 could zoom in so he could see exactly what he needed to

1 see. The comforter gets pushed down towards the foot of
2 the bed, blood falls all over the floor between the dresser
3 an the bed. He comes out of the bed, his feet hit the bed,
4 he walks around the foot of the bed where he's struggling.
5 Blood is expirating from the wound. He bends over at the
6 foot of the bed. Maybe some more of that blood pours out.
7 You see a handprint on the minds, you see the drip where
8 it's dripping from his hands. He even turns back around.
9 He's disoriented. He's struggling. He's losing his life
10 at this moment.

11 He makes it out into the hallway, possibly trying
12 to go get help. He can't make it very far. You see where
13 he falls up against the wall. You see the blood pattern
14 serpentine around when he turns around. He makes it back
15 in this bedroom where he bends over the dresser. Blood
16 pours out and he falls between the dresser and the bed
17 where we all know he loses his life.

18 That was the testimony. You also heard him talk
19 about the blood on Courtney Price and how it didn't match
20 up with what she said has happened. All that blood that
21 she got on her. The voids in her pajamas, the fact that it
22 goes from front to back and there's nothing really on the
23 other side. And he demonstrated for you exactly how that
24 could have happened. If the blood had pooled on the bed
25 and was sat rated on the bed and when she rolled out of the

1 bed to get out of the room, that's how that blood got on
2 there.

3 She picks up her baby who was also in a bloody bed,
4 puts him up to her whether she's holding him from here to
5 here, we all know how one-year-olds are. Their arms are
6 around you're neck, their arms are around your face.
7 Probably did get it all over her.

8 You heard Officer Bellinger say that when she was
9 holding the baby, the baby got blood all over her.

10 She goes downstairs, she calls 9-1-1. Officers
11 arrive on scene and she ease got the come up with some
12 story, she's got the come up with something that works.
13 But what she says doesn't match what the evidence shows.
14 And while people can lie, evidence doesn't.

15 Let me talk about her witnesses, and she brought a
16 lot of witnesses up here that came and talked about her
17 character. Reverend Govan -- or Representative Govan,
18 Reverend Robinson, Dr. Glover and a few more. And I think
19 those are very credible and honest people. I do. I think
20 that they told you what they thought of Courtney. And we
21 all know that people show themselves in different ways to
22 different people. The way you act at church isn't always
23 the way you're going to act out in social situations and in
24 public. So I have no doubt when they said that they
25 thought that they thought she was an honest, good, piece

1 full person that that's what they really believe. I think
2 they were being honest and truthful to you.

3 But what did they tell you when I asked them, well
4 if she admits to lying for personal gain such as, hey I got
5 the refund back from my hotel, I had to lie to get it,
6 laugh out loud; that wouldn't be truthful would it? And
7 they all had to agree, no, that wouldn't be truthful.

8 And I also asked, somebody threatens to break out
9 somebody's windows or to F them up, that's not being very
10 peaceful, is it. They all had to agree, no, that's not
11 very peaceful.

12 We talked about the witnesses that came to her and
13 said they saw all those bruises. But none of them asked
14 her where she got it from, none of them know how she got
15 them. They just make assumptions based on what she says.
16 And I'm not saying that they didn't see the bruises, but we
17 have no idea how those bruises got there. There's no
18 witnesses, there's no reports.

19 We talk about her sister, what her sister said she
20 saw, the roller derby that happened at her house, yet
21 somehow as protective as a big sister is, she lets him come
22 out, claims he makes a threat pistol whipping someone, yet
23 then she lets him hang out at the house, have some drinks.
24 She says, well, I didn't say anything to the family because
25 the families are close. And I didn't say anything to my

1 sister because, you know, that was up to her to come to me.
2 It just doesn't add up.

3 You talk to her about the incident that occurred
4 and you listen to Courtney and Courtney says, yeah, that
5 happened, we were going 60, 75 miles on hour. He hit the
6 back of my car 10 to 15 times. Well, what was the damage
7 to your car? Did you take it to get insurance, did you
8 call the police? Oh, it's just a little bit of paint
9 damage. You're telling me somebody that's driving 60 to 75
10 miles an hour hitting somebody 10, 15 times don't even call
11 a little bit of paint damage? An then I said well, your
12 cousins were with you, why didn't they call the police?
13 What did she say? Oh, we had an illegal gun in the car, so
14 we couldn't call the police or do anything like that.

15 You heard Agent Walker talk about how after she got
16 the statements from Courtney, she also followed up with
17 medical records, cell phone records, employment records,
18 talked to a lot of people. I asked her why she did that
19 and what did she say? Well, I have a pretty big
20 responsibility and if it comes to find out that Ms. Price
21 really was abused, I wasn't going any further. So I needed
22 to make sure that the evidence was what it was and that
23 also there wasn't anything to contradict what the evidence
24 says.

25 And what did she tell you? Absolutely see row

1 medical records indicating any sort of physical violence
2 occurred against this woman. Absolutely no police records
3 except for two incidents. The first incident at the
4 parents house with the only witness in that incident,
5 Courtney and Sam Simmons, Jr. Well, Sam Simmons isn't here
6 the tell you what happened. But she didn't want to press
7 charges that day. Had a little nick on her throat and what
8 did Officer Mack say? If it had been more serious, if I'd
9 thought that it was something more, I would investigated, I
10 would have taken it to the judge. I would have found Sam,
11 I would have asked him what happened.

12 The second incident is at her mom's house and even
13 her mom has to tell police, no Courtney punched him in the
14 face first. She's the primary aggressor. Because Courtney
15 was always the primary aggressor. Because you don't want
16 to make Courtney Price mad. We heard from Courtney and
17 again she gives a bunch of inconsistent statements. You
18 saw her on the stand. You know whether or not she was
19 being truthful to you. We also heard from experts.
20 Mr. Grant came in and showed you this SLED report, this
21 0.187 blood alcohol level. I'm glad he brought her up.
22 I'm glad that she showed it to you. Because what do we
23 know about the affects of alcohol on a person? Well,
24 common sense tells you when you start drinking, depending
25 on the mood that you're drinking in, you've got to gauge

1 how you're going to react. And there's a part where you're
2 going to be uninhibited as you're going up the scale, but
3 then once you get to a certain point, that alcohol acts as
4 a suppress antimony. How many times have we seen people
5 that have just passed out cold. We've seen pictures of
6 people drawing on people, don't even know what's going on.

7 At a .187, I would submit to you that Mr. Simmons
8 after he rocked that baby to sleep, after he had just had
9 sex with his girlfriend, he was in that bed passed out
10 cold. And that's why he department feel her climb on top
11 of him and that's why he was unable the defend himself and
12 put his hands up or push her arms up or roll away when he
13 saw that knife coming down. Because she never saw it
14 coming. He was asleep.

15 We talk about alcohol, we also know about the
16 defendant drinking alcohol. She admitted she had had four
17 beers that night too. And she was angry when he came over
18 and she drank that alcohol and she thought about him
19 cheating. She had lowered inhibitions too. And
20 Mr. Grant's own witness told you, you know, if you're angry
21 and you're losing your inhibitions, you can be more
22 aggressive, you can be more violent and that's what
23 happened with Courtney Price.

24 Courtney was angry. She'd been drinking. She went
25 downstairs, she got the knife after she saw what happened

1 and not thinking about the consequences of her actions, in
2 a fit of rage, went upstairs and unlawfully and maliciously
3 climbed on top of Samuel Simmons, took this knife that she
4 had to hold pretty tight with both hands because you feel
5 how hard this is right here. And you think if you've ever
6 tried to cut through a rotisserie chicken or a squash or
7 something, how hard that is and how hard you have to push
8 down just to get a little ways. She put the knife all the
9 way up to the hilt into Samuel Simmons' chest. She he
10 would on as tightly as she could when she climbed up, she
11 brought it over her head and plunged it into his chest.
12 Dr. Ross told you that it was a wound that required
13 significant force --

14 MR. GRANT: I'm going to have to object to the
15 mischaracterization of the evidence.

16 THE COURT: All right. Again, ladies and
17 gentlemen, y'all are the finders of fact. The evidence
18 would be as you determine it to be. Thank you.

19 Thank you, Mr. Grant.

20 Solicitor, you may continue.

21 MS. CORNWELL: She also told you that that injury,
22 that wound went back wards and downward, which was
23 consistent with somebody being stabbed while they were
24 laying down. Back ward and downward. How does Courtney
25 Price claim that she had to stab him while he was choking

1 her? She says she did like that. She went up under. Dr.
2 Ross said the only way that wound could have happened if
3 somebody was standing up is if they would have come over
4 the arms. And if somebody were going to stab you coming
5 over the arms, there seeing the knife coming, what are you
6 going to do? What are you going to do if you see somebody
7 come at you like this? You're going to put your hands up,
8 you're going to block it. There should have been injuries
9 on Mr. Simmons, but there weren't because he was laying in
10 that bed asleep.

11 We heard from Jessica Herring. I believe she had
12 talked about the hair follicle and it didn't get tested for
13 DNA. It was a blonde hair. We also know that people lose
14 about 50 to 100 hairs a day. This incident occurred in the
15 bedroom and where he ultimately falls is between the
16 dresser and the bed, where a lot of people do their hair.
17 The mirror's right there. You see all the products on the
18 dresser. There's no telling where that hair came from. Is
19 it hers? Probably. Doesn't mean that it was pulled out
20 from her head.

21 He falls on the ground with bloody hands. We don't
22 know if blood came -- if the hair came from the outside or
23 the inside of his hand. It just says there was hair
24 collected from the right hand during autopsy. You have the
25 pictures. You're going to be able to see back there.

1 Officers simply took pictures of both hands. You'll be
2 able to see if there's any evidence that he pulled hair.

3 We talked about his other experts, Mr. Girndt. He
4 came up on the stand. Told you he'd been paid 25 hundred
5 dollars was his testimony. Mr. Grant wants to point out
6 that, you know, you gauge people on their testimony and how
7 they appear on the stand, it would you describe a little
8 bit of a struggle with Mr. Girndt. He did not want to --
9 he didn't want any of his statements to anything that I
10 said -- everything's possible with Mr. Grant, but to get
11 him to say it's possible -- it's possible one way, it's
12 quite possible another way. He didn't even want to go that
13 far because that's not what he was paid to testify to say.

14 He also admitted that some of the pictures that
15 were sent to him and you'll get to see all of them. He
16 didn't zoom in or out of any of them because he was paid to
17 tell you that this was self-defense. We also heard Dr.
18 Veronen, she was paid to testify here too. She wanted you
19 to believe Courtney's a battered woman. What else did we
20 hear? Those text messages. You know, she talked about the
21 classic signs of an abuser. Classic signs of an abuser
22 being somebody who's jealous, somebody who's obsessive,
23 somebody who has unrealistic expectations, somebody with
24 verbal abuse. Who does that describe? That describes the
25 defendant, Courtney Price.

1 If there's anybody that was abusive in this
2 relationship, it was her. Through text messages, they were
3 from obsession; they were from jealousy; they were from
4 paranoia. Every time that he tried to end it, I just want
5 to see my son. You can't see your son unless you see me.
6 You've got to deal with me.

7 Why can't we both just be happy? Why can't we go
8 our separate ways, you know? No. If you want to see your
9 son, you have to deal with me. She's the one. She's the
10 one that sent all the threats. She's the one that's been
11 so aggressive throughout this relationship and on the
12 morning of September 27th, 2014, she's the one at three
13 o'clock in the morning calls him repeatedly, where are you?
14 Who's on your phone? Even sent messages to his sister,
15 who's messing with Sam's phone? What's Sam doing? Called
16 him repeatedly, sent him texts. Y'all dumb bitches better
17 stop messing with my phone. Who's got your phone? Where
18 are you? It's too late to be riding. You're not riding
19 with a messed up phone. And by the time he got to her
20 house, she was already angry. When he gets to the house,
21 they have sex and he passes out and this is her
22 opportunity. Now's the time. He's passed out, I'm going
23 to find out what he's been doing. I'm going to find out
24 who he's been messing with.

25 She goes downstairs, she looks through the phone

1 and she finds it. How's Shay liking day care. There it
2 is. And it makes her angry. And bad things happen when
3 Courtney Price gets angry.

4 She walks into the kitchen, she takes this knife,
5 she walks upstairs, she's hiding the knife. Don't want
6 anybody to see it, don't want anybody to know it's coming.
7 She climbs on top of the defendant, she takes it and
8 plunges it into his chest and we know the rest.

9 She wants to talk about I was expecting a
10 confrontation, I was expecting him to get mad. Okay. If
11 you were doing that. If you wanted to pin somebody or keep
12 somebody off of you, why wouldn't you ask him like this:
13 Don't come at me, but I'm going to ask you about this
14 woman, I'm going to ask you about this. She didn't want
15 him to see it. She was mad, she was angry.

16 Let's talk about self-defense for a little bit.
17 Self-defense you've got to have four elements. All four of
18 them have to be present. You cannot be at fault in
19 bringing on the difficulty. Automatically self-defense
20 fails for Courtney Price right there. Because she's at
21 fault. She goes from text messages to the kitchen, gets
22 the knife and goes upstairs to confront him. Fails on the
23 first element. It's not self-defense.

24 Let's go to the second element. She has to feel
25 that she was in reasonable fear of imminent bodily injury

1 or serious death or bodily injury. She was downstairs with
2 two phones. She was in no danger of death. She was in no
3 danger of bodily injury. But when she went in the kitchen,
4 got the knife and went upstairs, bringing on the difficulty
5 to herself, she still wasn't in any imminent danger of
6 great bodily injury. Because what do we know? Sam's
7 asleep. She fails on that one as well.

8 The third one, she has to act as any reasonably
9 prudent person of ordinary firmness and courage would act.
10 I would submit to you that a reasonable person wouldn't get
11 a knife and go upstairs and stab somebody while they're
12 sleeping. She fails on that element.

13 She also has to have no probable means of avoiding
14 the danger. Her own witness Dr. Veronen, testified about
15 these button triggers or button point. You know, if you
16 know that he gets angry for this and you know that he gets
17 angry for that, why are you going to confront him.

18 MR. GRANT: Your Honor, I hate to interrupt
19 counsel, but I just need to note for the record I object to
20 the argument on the fourth element.

21 THE COURT: All right. Thank you, Mr. Grant.

22 MS. CORNWELL: She fails on the fourth element as
23 well. The State only has to disprove one of those four
24 elements and self-defense doesn't exist. I would submit to
25 you that the State has proven or disproven every single one

1 of those elements. This is clearly not a case of
2 self-defense because when Courtney Price went through those
3 text messages, got this knife, went upstairs and climbed on
4 top of Samuel Simmons and plunged this knife in through his
5 chest. She was acting willfully, she was acting
6 intentionally, she was acting maliciously; and that, ladies
7 and gentlemen, is murder. And that's what you should find
8 her guilty of.

9 THE COURT: Thank you. Thank you, Solicitor.

10 Ladies and gentlemen of the jury panel, my charge
11 is about thirty minutes. So I'm ready to proceed. I know
12 everyone else is.

13 JURY CHARGE

14 THE COURT: All right. Thank you very much. The
15 way I charge or instruct a jury, is I charge the general
16 criminal law that applies to all criminal cases in South
17 Carolina first. When I go from one topic to the next, I
18 will give you a caption of the section I'm fixing to cover.
19 After I instruct you on the general criminal law, I will
20 then /STRUGT you on the charge in the indictment of murder,
21 the lesser included offense of voluntary manslaughter.
22 Thereafter I will charge you on self-defense and finally on
23 the form of the verdict.

24 Charge, arrest, indictment not evidence: The
25 indictment charges the defendant with murder. I remind you

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

5 The indictment is simply the formal written
6 instrument which contains the charge made against the
7 defendant. It is the formal document by which the case is
8 brought before this Court.

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

20 This presumption of innocence does not end when you
21 begin your deliberations, but it accompanies the defendant
22 throughout the trial until you reach a verdict of guilt
23 based on evidence satisfying you of that guilt beyond a
24 reasonable doubt.

25 The presumption of innocence has been said to be

1 like a robe of righteousness placed about the shoulders of
2 the defendant which remains with the defendant until it has
3 been stripped from the defendant by evidence satisfying you
4 of the defendant's guilt beyond a reasonable doubt.

5 The presumption of innocence is not mere legal theory. It
6 is not just a legal phrase. It is a substantial right to
7 which every defendant is entitled unless you, the jury, are
8 satisfied from the evidence of the defendant's guilt beyond
9 a reasonable doubt.

10 Reasonable doubt: What is a reasonable doubt in
11 the law? A reasonable doubt is the kind of doubt that
12 would cause a reasonable person to hesitate to act.

13 The State has the burden of proving the defendant guilty
14 beyond a reasonable doubt. Some of you in the past may
15 have served as jurors in civil cases, where you were told
16 that it is only necessary to prove that a fact is more
17 likely true than not true, such as by the greater weight or
18 the preponderance of the evidence. In criminal cases, the
19 State's proof must be more powerful than that. It must be
20 beyond a reasonable doubt.

21 Proof beyond a reasonable doubt is proof that
22 leaves you firmly convinced of the defendant's guilt.
23 There are very few things we know in this world that with
24 absolute certainty, and in criminal cases the law does not
25 require proof that overcomes every possible doubt. If

1 based on your consideration of the evidence you are firmly
2 convinced that the defendant is guilty of the crime
3 charged, you must find the defendant guilty. If, on the
4 other hand, you think there is a real possibility that the
5 defendant is not guilty, you must give the defendant the
6 benefit of that reasonable doubt and find her not guilty.

7 Duties of jury and trial judge: I remind you that,
8 during this trial, you and I have certain distinct duties
9 to perform. As the trial judge, it is my responsibility to
10 preside over the trial of this case, and I also have the
11 duty to rule on the admissibility of the evidence offered
12 during the trial. You are to consider only the competent
13 evidence before you. If there was any testimony ordered
14 stricken from the record in this case during the trial, you
15 must disregard that testimony. You are to consider only
16 the testimony which has been presented from the witness
17 stand, any exhibits -- and any exhibits which have been
18 made a part of the record in this case.

19 I have the additional duty to instruct you on the
20 law applicable to this case. As the presiding judge, I am
21 the sole judge of the law of this case, and it is your duty
22 as jurors to accept and apply the law as I now state it to
23 you. If you already have any idea as to what the law is or
24 what the law ought to be and it does not agree with what I
25 now tell you the law is, you must abandon your idea because

1 you are sworn to accept and apply the law exactly as I
2 state it to you.

3 In every case tried in this court before a jury,
4 the jury becomes the sole and exclusive judge of the facts
5 in a case. A trial judge cannot intimate, state, comment
6 on, or make any statement to a trial jury about the facts
7 in a case. Since you, the jury, are the sole judge of the
8 facts in this case, you are not to infer from what I have
9 said during the progress of this trial in ruling upon the
10 admissibility of evidence, or otherwise, or anything that I
11 say now during the course of this instruction to you, that
12 I have any opinion about the facts in this case. The law
13 does not allow me to have an opinion about the facts. This
14 is a matter solely for you, the jury, to determine. As
15 jurors, it is your duty to determine the effect, the value,
16 the weight, and the truth of the evidence that has been
17 presented during the trial.

18 Direct and circumstantial evidence: There are two
19 types of evidence which are generally presented during a
20 trial, direct evidence and circumstantial evidence.
21 Direct evidence is the testimony of a person who claims to
22 have actual knowledge of a fact, such as an eyewitness or
23 an ear witness. It is evidence which immediately
24 establishes the main fact to be proved.

25 Circumstantial evidence is proof of a chain of

1 facts and circumstances indicating the existence of a fact.

2 It is evidence which immediately establishes collateral
3 facts from which the main fact may be inferred.

4 Circumstantial evidence is based on inference and not on
5 personal knowledge or observation.

6 The law, our law, makes absolutely no distinction
7 between the weight or value to be given to either direct or
8 circumstantial evidence; nor is a greater degree of
9 certainty required of circumstantial evidence than of
10 direct evidence. You should weigh all of the evidence in
11 the case. After weighing all the evidence, if you are not
12 convinced of the guilt of the defendant beyond a reasonable
13 doubt, you must find the defendant not guilty. If after
14 weighing all the evidence of this case you are convinced of
15 the guilt of the defendant beyond a reasonable doubt, you
16 must find the defendant guilty.

17 Credibility of witnesses: Necessarily, you must
18 determine the credibility of the witnesses who have
19 testified before you in this case. Credibility simply
20 means believability. It becomes your duty in using your
21 individual and collective good judgment and common sense as
22 jurors to analyze and evaluate the evidence and determine
23 which evidence convinces you of its truth.

24 In determining the believability of witnesses who
25 have testified in this case, you may believe one witness

1 over several or several over one. You may believe a part
2 of the testimony of a witness and reject the remaining part
3 of the testimony of that same witness. You may believe the
4 testimony of a witness in its entirety or reject the
5 testimony of a witness in its entirety. You may consider
6 whether any witness has exhibited to you any interest,
7 bias, prejudice, or other motive in this case.

8 You may also consider a witness was hesitant or
9 forthcoming; if a witnesses testimony was corroborated or
10 not corroborated; if there was any inconsistent statements
11 given by any witnesses. You may consider anything in the
12 record that will help you determine the credibility of the
13 witnesses who have testified in this case. You may also
14 consider the appearance, the manner, the demeanor of a
15 witness while on the witness stand.

16 Expert witnesses: And you've heard a shortened
17 version of this instruction during the course of the trial.
18 Again, the rules of evidence ordinarily do not permit
19 witnesses to testify to opinions or conclusions. An
20 exception to this rule exists for witnesses that we call
21 expert witnesses, who by education and experience, have
22 become expert in some art, science, profession, craft, or
23 calling. They may state an opinion as to relevant and
24 material matter, in which the witness claims to be an
25 expert, and may also state the reasons for holding their

1 opinions.

2 You should consider any expert opinions received in
3 evidence in this case and like any other evidence, give it
4 the weight you think it deserves. If you decide that the
5 opinion of an expert witness is not based on sufficient
6 education and experience, or if you conclude that the
7 reasons given in support of the opinion are not sound, or
8 that the opinion is outweighed by other evidence, you may
9 disregard the opinion entirely.

10 An expert witness's testimony is to be given no
11 greater weight than that of other witness simply because
12 the witness is an expert. Further, you are not required to
13 accept an expert's opinion, even though it is not
14 contradicted.

15 Statement of defendant: A statement alleged to
16 have been made by the defendant has been admitted into
17 evidence in this case. While the Court has determined that
18 the statement is admissible, I instruct you that you make
19 the ultimate decision of whether or not the defendant made
20 the statement. If the defendant did make the statement,
21 you must determine whether the statement was made by the
22 defendant voluntarily and of her own free will and accord.
23 This means that the statement was not caused by pressure,
24 force, fear, threats, coercion, or intimidation, or by hope
25 or a promise of leniency or a reward of any kind.

1 In determining whether a statement was voluntary,
2 you should consider both the characteristics of the
3 defendant and the details of the questioning. Some of the
4 factors that you must consider are: The age of the
5 defendant; the defendant's education or lack of education;
6 the defendant's mental ability or capacity; the defendant's
7 intelligence; the defendant's background and environment;
8 the place and the length of detention; the nature of the
9 questioning; and the advice, or lack thereof, to the
10 defendant of her constitutional rights including, but not
11 limited to, the right to remain silent; that any statement
12 could be used against her in a court of law; the right to
13 have a lawyer present; that if she could not afford a
14 lawyer, a lawyer would be appointed to represent her
15 without any cost; and that he could stop making a statement
16 at any time. You must carefully consider all of the
17 surrounding circumstances before you give any weight to any
18 alleged statement.

19 The State has the burden of proving beyond a
20 reasonable doubt that the alleged statement was voluntary.
21 If you determine it was, you may give the statement any
22 other consideration, any further consideration that you
23 deem proper. You must decide what weight, if any, should
24 be given to the alleged statement. If you determine the
25 alleged statement was not the free and voluntary statement

1 of the defendant, you should not consider the statement at
2 all.

3 Intent: In order to establish criminal liability,
4 criminal intent is required. For example, the mental state
5 required to be proven by the State for a particular crime
6 might be purpose, intent, knowledge, recklessness, or
7 criminal negligence. Criminal intent must be proven by the
8 State beyond a reasonable doubt. Criminal intent is always
9 a matter that must be determined by the jury from the
10 circumstances surrounding the situation.

11 Ladies and gentlemen, there is no way to prove
12 intent to a mathematical certainty. There is no way
13 medical science can dissect a person's brain and determine
14 what the person had in mind, so the law says that criminal
15 intent may be inferred from the circumstances shown to have
16 existed. This is how you make a determination of whether
17 or not the element requiring intent was present. It is not
18 necessary to establish intent by direct and positive
19 evidence, but intent may be established by inference in the
20 same way as any other fact by taking into consideration the
21 acts of the parties and all the facts and circumstances of
22 the case.

23 Criminal intent is a mental state, a conscious
24 wrongdoing. It is up to you to determine what the
25 defendant intended to do based on the circumstances shown

1 to have existed. Criminal intent can arise from action or
2 a failure to act. It may arise from negligence,
3 recklessness, or an indifference to duty or to consequences
4 that is considered by the law to be the equivalent of
5 criminal intent.

6 That is all the general law criminal charges that
7 apply in a case of this type. Again, that's: Charge,
8 arrest, indictment, not evidence; presumption of innocence;
9 reasonable doubt; duties of trial jury and trial judge;
10 direct and circumstantial evidence; credibility of the
11 witnesses; expert witnesses; statement of the defendant;
12 and criminal intent.

13 I'm now going to charge you on the specific offense
14 charged in the indictment. If you would, please -- I know
15 it's difficult to listen to this both because of the
16 technicalities involved and because of the time and the
17 length involved, but I, again, would ask you to please give
18 me as you have done, your completed and undivided
19 attention.

20 Murder: The defendant is charged with murder.
21 Murder is a statute in South Carolina, 16-3-10. The State
22 must prove beyond a reasonable doubt that the defendant
23 killed another person with malice aforethought.

24 Malice is hatred, ill-will, or hostility towards
25 another person. It is the intentional doing of a wrongful

1 act without just cause or excuse and with an intent to
2 inflict an injury or under circumstances that the law will
3 infer evil intent. Malice aforethought does not require
4 that malice exist for any particular period of time before
5 the act is committed, but malice must exist in the mind of
6 the defendant just before and at the time of the act is
7 committed. Therefore, there must be a combination of the
8 previous criminal intent and the act.

9 Malice aforethought may be expressed or inferred.
10 These terms, express and inferred do not mean different
11 kinds of malice but merely the manner in which malice may
12 be shown to exist. That is either by direct evidence or by
13 inference from the facts and circumstances which are
14 proven.

15 Express malice is shown when a person speaks words
16 which express hatred or ill will for another or when the
17 person prepared beforehand to do the act which was later
18 accomplished; for example, lying in wait for a person or
19 any other acts of preparation going to show that the deed
20 was within the defendant's mind would be express malice.

21 Malice may be inferred from conduct showing a total
22 disregard for human life. Depending on all the facts and
23 circumstances of the case, malice may be inferred.

24 Now, ladies and gentlemen, included within the
25 offense of murder, is a lesser-included offense of

1 voluntary manslaughter. I'm going to instruct you on the
2 law of voluntary manslaughter.

3 To prove voluntary manslaughter, the State must
4 prove beyond a reasonable doubt that the defendant took the
5 life of another in sudden heat of passion based on
6 sufficient legal provocation. Both heat of passion and
7 sufficient legal provocation must be present at the time of
8 the killing to constitute voluntary manslaughter.

9 Sudden heat of passion may, for a time, affect a
10 person's self-control and temporarily disturb a person's
11 reason. The sudden heat of passion must be the type that
12 would make an ordinary, reasonable person unable to coolly
13 reflect on her actions and would produce an uncontrollable
14 impulse to do violence.

15 Sufficient legal provocation must be the type that
16 would make a person of ordinary reason and caution become
17 enraged and to lose control temporarily. The provocation
18 needed for voluntary manslaughter must come from some act
19 of, or related to, the victim. Words alone, however vulgar
20 or insulting, are not enough to be legal provocation. The
21 exercise of a legal right, no matter how offensive to
22 another, is never sufficient legal provocation for
23 voluntary manslaughter.

24 If the heat of passion has cooled, or if there was
25 enough time between the provocation, if any, and the

1 killing for the passion of a reasonable person to cool, the
2 killing would not be voluntary manslaughter. In deciding
3 whether a reasonable person would have had enough time to
4 cool off, you should consider all the circumstances
5 surrounding the killing. You may consider the nature of
6 the provocation, if any; the defendant's mental and
7 physical state; and the circumstances and relationships
8 between the parties.

9 That is a charge on murder and voluntary
10 manslaughter as the lesser-included offense

11 Self-defense: The defendant has raised the defense
12 of self-defense. Self-defense is a complete defense and,
13 if it is established, you must find the defendant not
14 guilty. The State has the burden of disproving at least
15 one element of self-defense by proof beyond a reasonable
16 doubt. If you have a reasonable doubt of the defendant's
17 guilt after considering all the evidence, including the
18 evidence of self-defense, then you must find the defendant
19 not guilty. On the other hand, if you have no reasonable
20 doubt of the defendant's guilt after considering all the
21 evidence, including the evidence of self-defense, then you
22 must find the defendant guilty.

23 The following elements are required to establish
24 self-defense: First, without fault. First, the defendant
25 must be without fault in bringing on the difficulty. If

1 the defendant's conduct was the type which was reasonably
2 calculated to, and did, provoke a deadly assault, the
3 defendant would be at fault in bringing on the difficulty
4 and would not be entitled to an acquittal based on
5 self-defense.

6 Battered person's syndrome: If the defendant
7 killed her abuser, if any, during a confrontation when the
8 abuser clearly is the aggressor, this element, without
9 fault, is satisfied; however, it may be possible to
10 characterize a battered person as the victim of a
11 continuing assault at the hands of a batterer. When this
12 is the case, the first element of self-defense may be
13 satisfied even though the battered person acts at a time
14 when the batterer is not being physically abusive.

15 So the first element is without fault in bringing
16 on the difficulty.

17 Second: Imminent danger. The second element of
18 self-defense is that the defendant was actually in imminent
19 danger of death or serious bodily injury or that the
20 defendant actually believed she was in imminent danger of
21 death or serious bodily injury.

22 If the defendant was actually in imminent danger,
23 it must be shown that the circumstances would have
24 warranted a person of ordinary firmness, prudence, and
25 courage to strike the fatal blow to prevent death or

1 serious bodily injury. If the defendant believed she was
2 in imminent danger of death or serious bodily injury, it
3 must be shown that a reasonable prudent person of ordinary
4 firmness and courage would have held that same belief.

5 In deciding whether the defendant actually was, or
6 believed she was in imminent danger of death or serious
7 bodily injury, again, you should consider all the facts and
8 circumstances surrounding the crime, including the physical
9 circumstances and the physical conditions and
10 characteristics of the defendant and the victim.

11 Battered person's syndrome: At times, a battered
12 person actually is in imminent danger of violence when she
13 acts. Depending on the facts of the case, the defendant
14 may act in self-defense if she believes she is in imminent
15 danger of death or serious bodily harm even though the
16 batterer is not being physically abusive when the defendant
17 acts.

18 This is because battered persons can experience a
19 heightened sense of imminent danger arising from the
20 perpetual terror of physical and mental abuse. Often the
21 terror does not decrease, even when the batterer is absent
22 or asleep. Where torture appears interminable and escape
23 impossible, the belief that only the death of the batterer
24 can provide relief may be reasonable in the mind of a
25 person of ordinary firmness. Again taking into

1 consideration all the facts and circumstances of the case

2 Prior difficulties: Evidence of prior difficulties
3 between the defendant and the victim may be considered by
4 you in deciding whether a threat existed, whether the
5 defendant had a reason to believe a threat existed, and how
6 serious that threat was.

7 Size and age: The relative sizes, ages, and
8 weights of the defendant and the victim may be considered
9 by you in deciding the apparent or actual need for force in
10 self-defense and the amount of force needed.

11 Prior violence, if any, by a victim: Prior
12 instances of violence by the victim may be considered by
13 you in deciding whether the defendant actually believed she
14 was in imminent danger of death or serious bodily injury or
15 was actually in imminent danger.

16 Intoxication: The intoxication of the victim may
17 be considered in deciding whether the defendant's fear of
18 death or bodily harm was reasonable.

19 So first is without fault in bringing on the
20 difficulty; second, imminent danger or reasonable belief of
21 imminent danger.

22 Third -- Well that's both one, two and three. The
23 next is the -- element of self-defense is that the
24 defendant had no other probable way to avoid the danger
25 or serious bodily injury than to act as the defendant did

1 in this particular instance.

2 Duty to retreat premises: If the defendant was on
3 her own premises, the defendant had no duty to retreat
4 before acting in self-defense.

5 Increased risk of harm: The defendant had no duty
6 to retreat if, by doing so, the danger of being killed or
7 suffering serious bodily injury would increase.

8 Degree of force: A person cannot be required to
9 make an exact calculation as to the degree or amount of
10 force which may be needed to avoid death or serious bodily
11 harm. Therefore, in self-defense, the defendant has the
12 right to use the force needed to avoid death or serious
13 bodily harm. The force used in self-defense does not have
14 to be limited to the degree or amount of force used by the
15 victim. The defendant has the right to use so much force
16 that appeared to be necessary for complete self-protection,
17 and which a person of ordinary reason and firmness would
18 have believed to be needed to prevent death or serious
19 bodily harm.

20 Habitation -- Defense of habitation: If the
21 defendant, or a member of the defendant's household, is
22 attacked in the defendant's own home, the defendant may use
23 the force which appears to be needed to protect herself or
24 her household from death or serious bodily injury. Her
25 household being household members.

1 If a trespasser refuses to leave the home when
2 asked to leave, the defendant may use the necessary force
3 to eject the trespasser. If, in the effort to eject the
4 trespasser, the life or safety of the defendant or a member
5 of the household is jeopardized, the defendant may take the
6 life of the trespasser. The kind and degree of force which
7 are justified depends on the conduct of the trespasser.
8 If a person entered the dwelling at the invitation of the
9 homeowner or resident, the person becomes a trespasser if
10 the person refuses to leave if thereafter asked to leave.
11 If, while legitimately exercising in good faith the right
12 to eject a trespasser, the defendant is assaulted by the
13 trespasser and fears death or serious bodily harm, the
14 defendant would be without fault in bringing on the
15 difficulty. Whether the defendant was acting in good faith
16 in attempting or was attempting to eject the victim and was
17 assaulted in that process is a question for you, the jury,
18 to determine, considering all the facts and circumstances
19 of the case.

20 Ladies and gentlemen, please continue to hang with
21 me. I assure you the end is in sight.

22 The jury verdict: So now I have charged you
23 murder, voluntary manslaughter, self-defense, and defense
24 of habitation and finally your jury verdict.

25 Regarding the charge of murder, there are three

1 possible verdicts which you may find in this case. The
2 order in which I have listed them, you'll have this verdict
3 foreman with you, Mr. Foreman.

4 And as I say the order in which I have listed them
5 has no significance whatsoever; it's only that one must be
6 listed first. If after your deliberations and your
7 determination of the facts, you find that the State has met
8 it's burden of proving its case as to murder and you find
9 the defendant guilty of murder, I would ask you to please
10 check to the left of the three words guilty of murder and
11 sign and date it. Sign as foreperson and date it today's
12 date.

13 If in your deliberations and determining the facts
14 of the case you determine that the State has not met its
15 burden of proving its case beyond a reasonable doubt as to
16 the offense of murder, you would then consider the
17 lesser-included offense of voluntary manslaughter, the
18 unlawful killing of another, sudden heat of passion,
19 sufficient legal provocation.

20 If you find that the State has met its burden of
21 proving its case beyond a reasonable doubt as to voluntary
22 manslaughter, you would check to the left of those four
23 words, circle your check mark and circle those four words:
24 Guilty of voluntary manslaughter.

25 If you find, based on your decisions of the fact or

1 determinations of the facts in the case that the State has
2 not met its burden of proof beyond a reasonable doubt as to
3 murder or as to voluntary manslaughter, you would then find
4 this defendant not guilty and circle both the check and the
5 two words, not guilty.

6 Ladies and gentlemen, your verdict must be a
7 unanimous one. All twelve of you must agree. You're
8 verdict may not be based on passion, prejudice, bias,
9 emotions, sympathy or any other factor not in evidence in
10 this case.

11 Mr. Foreman, once the jury has reached that had
12 unanimous verdict, all twelve of you have agreed, you have
13 signed the form, dated the form and filled it out properly
14 according to jury's unanimous verdict, I would ask you to
15 please knock on the jury room door, inform the bailiff that
16 you have reached a verdict. At this time we will receive
17 you back in the courtroom for the publication of the
18 verdict.

19 Now, what will happen, the law requires me to meet
20 with the attorneys one final time outside of your presence.
21 All 14 of you will go back now. Do not begin the
22 deliberations until you're directed to do so by the clerk
23 or the bailiff. If I have to bring you back out for
24 further instructions, I will do so. If not, our two fine
25 alternates will come out of the jury room. The evidence

1 will be checked and presented to the jury and you will then
2 be told to begin your deliberations.

3 If you have any questions during the course of your
4 deliberations, Mr. Foreman, ladies and gentlemen, just
5 write out a note for me. Knock on the jury room door, give
6 it to D. I'm not leaving. I'll be right here and I'll
7 certainly respond to any questions the jury has.

8 If you need recording equipment or anything, also,
9 please let me know, I'm sure Mr. Grant and the solicitor
10 will make arrangements to have the equipment presented to
11 you.

12 All right. With that being said, you may go to
13 your jury room.

14 (The jury left the courtroom at 6:03 p.m.)

15 THE COURT: All right, Solicitor?

16 MS. CORNWELL: No exceptions, Your Honor.

17 THE COURT: All right. Mr. Grant.

18 MR. GRANT: Yes, Your Honor, most respectfully, the
19 defense does take exception and we object to the charges
20 made by the Court on certain areas of the law. First I'll
21 start, Judge, with the failure of the Court to charge --
22 failure of the Court to charge on character evidence, good
23 reputation. Good reputation of the defendant.

24 THE COURT: All right. I'll bring them back out
25 and charge on that. I didn't -- I don't know where it was

1 at in my notebook. I intended to charge that.

2 MR. GRANT: And I think I've already put on the
3 record my objection to your failure to charge propensity
4 for violence.

5 THE COURT: All right.

6 MR. GRANT: Are you still standing by that ruling
7 and if so I'll still standby my argument and indicate for
8 the record that we do object to the Court's failure to
9 charge propensity for violence on the reasons and bases
10 that we've already stated in the record. So we would
11 object to the Court failing to charge propensity for
12 violence.

13 THE COURT: All right. And I would reaffirm my
14 previous rulings.

15 MR. GRANT: And also, Judge, when you charged on
16 murder and voluntary manslaughter, you did not use the word
17 unlawfully killed and we feel that the Court should have
18 charged the jury not only on merely that the -- that murder
19 is the killing of another person with malice aforethought.
20 We think the Court should have charged the element that
21 establishes the mens rea that the person was unlawfully
22 killed with malice aforethought.

23 Now, I do know the statute, when I read it,
24 strangely enough does not have the word unlawfully in it.
25 But certainly unlawfully is required to establish the

1 criminal intent of the defendant. Also the -- on the
2 manslaughter charge, the Court also did not say unlawfully
3 taking the life of another. Simply the Court charged
4 voluntary manslaughter as the taking of the life of another
5 in sudden heat of passion. We feel that the failure to
6 charge unlawfully kill of a person with malice aforethought
7 in murder and unlawfully taking the life of another without
8 malice is indeed improper and we think that you need the
9 bring them back and charge them on that as well. Because
10 we believe that unlawfully are indeed elements of the
11 offenses.

12 Your Honor, let me see if there's anything else.
13 Yes, sir, you indicated -- I thought you did at least, that
14 you were intending to charge the castle doctrine statute.

15 THE COURT: No, sir, I never indicated that.

16 MR. GRANT: Well, then I don't have an objection --
17 well, I do have an objection. My objection is failure to
18 charge it. So we would ask that the Court charge the
19 castle doctrine statute and we're going to preserve that
20 for the record as well. And lastly, Judge, the fourth
21 element.

22 THE COURT: Let me ask you your theory of why
23 castle doctrine? I mean it would --

24 MR. GRANT: Well, when I say castle doctrine, I'm
25 talking about the section of the statute that says that one

1 has the right to meet force with force if he's going along
2 with engage in unlawful activity and essentially there's no
3 duty to retreat which sort of the boot straps upon my next
4 argument. That is the fourth element of self-defense
5 argued by the prosecutor. And, of course, if one is in his
6 or her own home, there is indeed no duty the retreat. And
7 we stand upon --

8 THE COURT: I charged that.

9 MR. GRANT: You did charge that?

10 THE COURT: Yes, sir, I charged that under
11 premises. If the defendant was on her own premises, the
12 defendant had no duty to retreat before acting in
13 self-defense.

14 MR. GRANT: Okay. All right, Judge. Then we would
15 essentially ask ha you also charge the portion of the
16 castle doctrine statute that essentially states the same
17 thing. That is you have the right to meet force with force
18 and that those words are just a little more descriptive.
19 One is do you have a duty to retreat and the other is can
20 you just stand there and meet force with force and I would
21 ask that you charge that section to have statute, along
22 with the other things that I've requested.

23 THE COURT: Thank you.

24 All right. Bring our jury out, please.

25 THE BAILIFF: Yes, Your Honor.

1 (The jury entered the courtroom at 6:11 p.m.)

2 THE COURT: All right. Ladies and gentlemen, I
3 would advise you of just several other points and
4 additions, please.

5 If a defendant presents evidence of her good
6 reputation and character to show that it would be
7 inconsistent with the defendant committing the crime. You
8 may take that testimony into account and like all other
9 testimony in the case, is for you to decide in your good
10 judgment and common sense what weight and value you want to
11 give that testimony, if any. You may consider testimony of
12 the defendant's good character along with all the other
13 evidence in deciding whether or not the defendant has
14 committed a crime.

15 Additionally, ladies and gentlemen, as I told you
16 as far as murder, murder is the unlawful, unlawful killing
17 by a defendant of another person with malice aforethought,
18 express or implied.

19 Additionally, voluntary manslaughter, to prove
20 voluntary manslaughter, the State must prove beyond a
21 reasonable doubt that the defendant unlawfully took the
22 life of another in sudden heat of passion, based on
23 sufficient legal provocation. Both heat of passion and
24 sufficient legal provocation must be present at the time of
25 the killing to constitute voluntary manslaughter.

1 All right. With that being said, I'd ask that you
2 please step to your jury room and do not begin your
3 deliberations until you're instructed to do so. Thank you,
4 thank you very much.

5 (The jury left the courtroom at 6:14 p.m.)

6 THE COURT: All right. Anything additional,
7 Mr. Grant.

8 MR. GRANT: No, Your Honor. No additions.

9 THE COURT: All right. If y'all would please check
10 the exhibits and here's the form of verdict. (

11 (The attorneys were going through the exhibits with
12 the court reporter.)

13 THE COURT: All right. The exhibits have been
14 checked, Madame Solicitor?

15 MS. CORNWELL: No, Your Honor.

16 THE COURT: The exhibits been checked?

17 MS. CORNWELL: Yes, Your Honor. I'm sorry I
18 thought you said do you have any objections to them.

19 THE COURT: Mr. Grant.

20 MR. GRANT: Yes, they've been checked by us.

21 THE COURT: All right. And are you both satisfied.

22 MS. CORNWELL: Yes, Your Honor.

23 MR. GRANT: Yes, Your Honor.

24 THE COURT: All right. If you would deliver those
25 to the jury and bring our alternates out.

1 (Jury deliberations began at 6:22.)

2 THE COURT: All right. With the jury now
3 deliberating, I'm revoking Ms. Price's bond. She's in
4 custody of the Orangeburg County Sheriff's Department
5 during the course of deliberations.

6 Thank you, thank you very much.

7 Anything further, Solicitor?

8 MS. CORNWELL: No, Your Honor.

9 THE COURT: Anything further, Mr. Grant?

10 MR. GRANT: No, Your Honor.

11 THE COURT: Thank you, thank you very much. We'll
12 be awaiting our jury's verdict.

13 These are our two alternates. I'm going to release
14 you from your service. I understand you want to remain in
15 the courtroom during the deliberations. I do not want
16 either one of you talking with anyone about the case
17 whatsoever until the jury returns with a verdict. If
18 anyone tries to talk with you, you just notify the sheriff
19 and he'll notify me. Okay? Thank you. Thank you very
20 much. Thank you for your services.

21 All right. We'll be awaiting our jury's verdict.

22 (Awaiting the jury's verdict.)

23 (A question was sent to the Court from the jury.)

24 THE COURT: Bring us our jury, please.

25 THE BAILIFF: Yes, Your Honor.

1 (The jury entered the courtroom at 7:32 p.m.)

2 QUESTION BY THE JURY

3 THE COURT: All right. Mr. Foreman, ladies and
4 gentlemen of the jury, I received your note and what I have
5 done in response to your note, I spoke with the attorneys
6 and I cannot give you part of the charge. So my law clerk
7 has --- we have the entire charge, everything that I read to
8 you. And it's in the order in which I read it, the general
9 criminal charges, then murder, voluntary manslaughter,
10 self-defense and defense of habitation and then the form of
11 the verdict.

12 Now, you consider the charge in its totality. Not
13 just one specific point necessarily, both as to the general
14 criminal law as well as the charge of murder and the charge
15 of voluntary manslaughter and the charge of defense of
16 habitation.

17 All right. So I'll turn this over to the bailiff
18 and she will turn it over to you, Mr. Foreman.

19 THE FOREPERSON: All right.

20 THE COURT: All right. If you need anything
21 further, please write me a note. You know you can write.

22 THE FOREPERSON: Thank you.

23 (The jury left the courtroom at 7:34 p.m.)

24 THE COURT: All right. We'll be awaiting our
25 jury's verdict.

1 (Awaiting the jury.)

2 QUESTION BY THE JURY

3 THE COURT: All right. We have a note from the
4 jury. Could we -- all right. We have a note from the
5 jury. Could we please have the transcript of the coroner's
6 testimony in parentheses, office in Newberry. I'll confirm
7 they're talking about Dr. Ross when they come out.

8 (The jury entered the courtroom at 8:22 p.m.)

9 THE COURT: All right. Members of the jury, I
10 received a note from the foreperson, could we please have
11 the transcript of the coroner's testimony in parentheses,
12 office in Newberry. That, of course, is Dr. Ross.

13 There is not a transcript prepared. The testimony
14 is 10 minutes and 55 seconds. I have my court reporter,
15 she has keyed it up. I can play it for you. That's the
16 only way I can handle it right now. So you can listen to
17 it out here.

18 So, Madam Court Reporter.

19 (Testimony was played as follows:)

20 MS. CORNWELL: State would call Dr. Janice Ross to
21 the stand.

22 JANICE ROSS,

23 having been duly sworn, testified as follows:

24 THE CLERK: Thank you. You may have a seat.

25 Please state your name for the record.

Janice Ross - Direct Examination by Ms. Cornwell

1 THE WITNESS: Janice Edwards Ross.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MS. CORNWELL:

5 Q Dr. Ross, where do you work?

6 A In Newberry South Carolina for Newberry Pathology
7 Associates.

8 Q And what is your position there.

9 A I'm presently the CEO and a forensic pathologist.

10 Q How long have you been a forensic pathologist?

11 A Since -- I've doing autopsies for a coroner since
12 1992 and I was board certified in forensic pathology in
13 1985.

14 Q And can you tell the jury a little bit about your
15 education and training.

16 A Yes, I am a doctor. I had four years of medical --
17 of undergraduate degrees at the University of South
18 Carolina where I got a BS degree. I got my MD from Upstate
19 Medical Center in Syracuse, New York where I did further
20 training in the field of pathology as opposed to surgery or
21 pediatrics.

22 In pathology, we learn how to identify diseases by
23 looking at tissue using a microscope and by doing
24 laboratory tests. We also learn how to do an autopsy to
25 find the cause of death.

Janice Ross - Direct Examination by Ms. Cornwell

1 I did further training in the the field of forensic
2 pathology, where we learn how do to a more specific autopsy
3 in identifying patterns of injury and collecting certain
4 specimens for the court of law and documenting those
5 injuries and any evidence.

6 Q And are you a member of any specialized medical or
7 scientific forensic associations?

8 A Yes.

9 Q What are those?

10 A College of American Pathologists, the American
11 Association of Forensic Sciences, the National Association
12 of Medical Examiners.

13 Q Okay. And are you certified with the American
14 Board of Pathology?

15 A Yes.

16 Q Approximately how many autopsies have you performed
17 in your career?

18 A Close to 10,000.

19 Q Have you ever testified in court as an expert in
20 the field of pathology?

21 A Yes.

22 Q Approximately how many times?

23 A In the State of South Carolina, 200.

24 MS. CORNWELL: Your Honor, at this time, the State
25 would move to enter Dr. Ross in the field of pathology.

Janice Ross - Direct Examination by Ms. Cornwell

1 MR. GRANT: No objection, Your Honor.

2 THE COURT: Thank you. Thank you very much.

3 Mr. Foreman, ladies and gentlemen of the jury,
4 normally a person cannot give opinion testimony. Normally
5 when a person testifies, they must testify as to either
6 what they saw, heard, or sensed by smell or something of
7 that nature. However there is an exception when someone is
8 qualified because of education or experience. They are
9 permitted to give their opinion in certain areas, if the
10 Court qualifies them in that way.

11 This witness, Dr. Janice Ross, will be qualified in
12 the area of forensic pathology to give opinion testimony in
13 that area. That does not mean that you must accept the
14 opinion, but it is evidence for you, the jury, to use in
15 any way you deem appropriate.

16 Thank you, Solicitor.

17 MS. CORNWELL: Thank you, Your Honor.

18 BY MS. CORNWELL:

19 Q Dr. Ross, were you working as a pathologist in
20 September of 2014?

21 A Yes.

22 Q And do you recall performing an autopsy on the
23 victim in this case, Samuel Simmons?

24 A Yes.

25 Q What day did you perform that autopsy?

Janice Ross - Direct Examination by Ms. Cornwell

1 A September 28th, 2014.

2 Q And you haven't been in here. We've heard a lot of
3 testimony about height and weight and things of that
4 nature. Can you tell me how tall the victim was?

5 A We measured him at 66-and-a-half inches, which is 5
6 feet 6-and-a-half inches. We don't have a scale in the
7 morgue, but we estimated his weight as 180 pounds.

8 Q Thank you. And before we go too much into the
9 autopsy, can you tell the jury what an autopsy is and what
10 you're looking for in an autopsy?

11 A Yes, an autopsy includes review of the entire body
12 outside and inside. In order to find any kind of evidence
13 of disease like heart disease or cancer and also especially
14 externally to find causes of patterns of injury, such as
15 knife wounds, gunshot wounds, blunt-force injury, like
16 being beaten from a bat. Those kind of things.

17 Q And is that what you did with the victim in the
18 case?

19 A Yes.

20 Q Please tell the jury what procedures you performed
21 and what your findings were?

22 A We receive the body in a body bag. We open the
23 body bag and look at kind of externally. We received him
24 nude. He didn't have any clothes on when we got him. We
25 took photographs externally and found that there was a stab

Janice Ross - Direct Examination by Ms. Cornwell

1 wound in the chest. And then we did an internal
2 examination.

3 Q Okay. And when you examined that stab wound, were
4 you able to tell the trajectory of that wound?

5 A Well, from the outside, all I can say is it entered
6 the left chest, middle chest just a little bit above the
7 level of the nipple and once we got inside, we could see
8 that the wound went through part of the left lung and part
9 of the blood vessels that serve blood to that lung and it
10 caused hemorrhage, so the wound went -- the stab wound went
11 front to back and slightly downward.

12 Q Okay. And would that be consistent with a motion
13 going upward like that?

14 A No.

15 Q Okay. I believe you just testified about the
16 artery and all that, what were the exact injuries that you
17 found with this wound?

18 A There were several perforations, stab wounds into
19 the upper lobe of the left lung. The upper level of the
20 left lung is not only in the upper part of the chest, it
21 kind of continues down, dips into the lower chest. And the
22 blood vessels would be in the midchest.

23 Q Okay. And you just mentioned that there were four
24 parts. Was an outside of the wound -- did you find four
25 injury points?

Janice Ross - Direct Examination by Ms. Cornwell

1 A There were four wounds in the lung.

2 Q All right. But on the outside of the body, how
3 many entry points were there?

4 A One.

5 Q So the knife kind of moved around inside the body?

6 A There was some motion there, yes.

7 Q Okay. And do you know when that motion occurred?

8 A It would be while the knife was in him.

9 Q Okay. And then where that wound is, would any of
10 the ribs have been affected?

11 A Yeah, the wound -- the knife was kind of up and
12 down as opposed to sideways. Vertical as opposed to
13 horizontal, the blade was; and it went through part of the
14 cartilage of the Rib Number 3 on the left and also in the
15 space between Ribs 3 and 4, which is called the intercostal
16 space.

17 Q Okay. And is that a pretty hard area?

18 A Cartilage is harder than say muscle, so it's firm.
19 It's not as hard as bone, but it's more -- it's firmer than
20 muscle.

21 Q And if someone were to -- and in looking at that
22 wound -- let me ask this first: How deep was that wound?

23 A I don't directly measure the length of the wound
24 because of the elasticity of tissue and -- but there was
25 several inches.

Janice Ross - Direct Examination by Ms. Cornwell

1 Q All right. In looking at -- I'm trying to find one
2 of the photographs I have here.

3 The size of this entry wound, looking at State's
4 56, would that indicate, based on your viewing the autopsy
5 that this knife would have gone to the hilt?

6 A Very likely, yes.

7 Q Okay. And in order to go that deep and hit, I
8 believe you said the pulmonary artery, the left lung going
9 through the cartilage of Rib 3 -- (the power went out.)

10 (There was a pause in the proceedings.)

11 THE COURT: All right. Madam Bailiff, Sheriff,
12 would you escort the jury to the jury room, please.
13 Everyone else please stay in place.

14 Everyone else, please remain in your seats.

15 (The jury left the courtroom at 3:44 p.m.)

16 (The power came back on.)

17 THE COURT: Doctor, you may step down, we'll take
18 about a 10 minute recess.

19 (A brief recess was observed.)

20 THE COURT: All right. Anything from the State
21 before we bring in our jury?

22 MS. CORNWELL: No, Your Honor.

23 THE COURT: Defense.

24 MR. GRANT: May we approach, Your Honor?

25 (There was a bench conference out of the hearing of

Janice Ross - Direct Examination by Ms. Cornwell

1 the jury and the Court Reporter.)

2 MS. CORNWELL: Thank you, Your Honor.

3 THE COURT: Thank you thank you very much,
4 Mr. Grant.

5 (The jury entered the courtroom at 3:57 p.m.)

6 THE COURT: All right. Welcome back, ladies and
7 gentlemen. I had the sheriff check on that. They tell me
8 it's the high winds. There's some of that not only here
9 but in other locations around town. Potentially, we could
10 experience it again or again. So that's what my
11 understanding is.

12 As you know, the solicitor was on direct
13 examination of Dr. Ross. If you'd please continue to give
14 the parties your complete and undivided attention as you
15 have done throughout the trial of the case.

16 Solicitor.

17 MS. CORNWELL: Thank you Your Honor.

18 **DIRECT EXAMINATION CONTINUED**

19 BY MS. CORNWELL:

20 Q And Dr. Ross, I believe we were examining the
21 knife. With that type of wound going through cartilage and
22 all that, a small victim, someone that's 5'1", to go
23 through that much, all the way up to the hilt of the knife,
24 how much force would be needed to create that type of
25 injury?

Janice Ross - Direct Examination by Ms. Cornwell

1 A Well, it's just what tissue it went through. As I
2 say, the cartilage is not as hard as bone, but it's firmer
3 than muscle. It's hard to give you an example, but, for
4 instance if you have a one and a half steak and you push a
5 knife through it, it would take more force than that,
6 because cartilage is firmer.

7 Q Would you say it would take a significant amount of
8 force?

9 MR. GRANT: Objection, leading.

10 THE COURT: Rephrase the question, Solicitor.

11 BY MS. CORNWELL:

12 Q Can you give a description of what type of force it
13 would take?

14 A All I can say is significant. I --

15 Q Okay. And based on your view of the wound and
16 everything, if the victim is 5'6", 5'6 and a half and the
17 defendant is 5'2" and there standing up", would that wound
18 path make sense of it being backward and downward?

19 A If -- well, if the person who's doing the stabbing
20 put the hand up and came down.

21 Q Okay.

22 A But the direction of the stab wound doesn't tell me
23 exactly the positions of each body.

24 Q Would that stab wound be consistent with possibly
25 somebody laying down and the person stabbing being on top

Janice Ross - Direct Examination by Ms. Cornwell

1 of them?

2 A Yes.

3 Q And when you were examining the victim's body, were
4 you able to see any other injuries on the victim other than
5 the stab wound?

6 A No.

7 Q Were there any scratches, cuts, or lacerations on
8 his hands or arms?

9 A No, there were not.

10 Q Any other injuries to shoulders, side, stomach,
11 back, legs?

12 A No.

13 Q And based on your findings, were you able to form
14 an expert opinion concerning the cause and manner of death
15 in this case?

16 A Yes.

17 Q What was the cause of death?

18 A It's calls exsanguination, which means to bleed out
19 due to the wound of the lung and the artery from the stab
20 wound of the chest.

21 Q And what was the manner of death?

22 A Homicide.

23 Q Thank you, Dr. Ross. Please answer any questions
24 the defense counsel may have?

25 MR. GRANT: May I proceed, Your Honor?

Janice Ross - Cross-Examination by Mr. Grant

1 THE COURT: Yes, Mr. Grant.

2 MR. GRANT: Thank you, Judge.

3 CROSS-EXAMINATION

4 BY MR. GRANT:

5 Q Dr. Ross if somebody is 5'1" and somebody else is
6 '5,6", there's only 5 inches in height between them; is
7 that correct?

8 A Correct.

9 Q And if they're 5'2" and 5'6", then that's only 4
10 inches in height, correct?

11 A Correct.

12 Q As far as the trajectory of this wound -- I think I
13 wrote down what you said is, The direction of the stab
14 wound is not necessarily give you any position of the body?

15 A It doesn't tell me the exact positions of the two
16 people involved.

17 Q It doesn't tell you the exact position of the
18 people. So really, as far as the trajectory of the wound
19 and all that, that could have occurred between the people
20 standing up or between -- somebody lying down. You can't
21 really say which way or no.

22 A That's correct.

23 Q So standing up and stabbing is just as consistent
24 with any argument that he was standing or lying down; is
25 that correct?

1 A Correct.

2 Q Thank you very much?

3 MR. GRANT: Nothing further.

4 THE COURT: Redirect, solicitor?

5 MS. CORNWELL: No, Your Honor. Thank you.

6 THE COURT: Thank you very much, Doctor. Thank you
7 for being with us this afternoon.

8 (The audio was turned off.)

9 THE COURT: All right. Ladies and gentlemen, you
10 may return to your jury room and restart your
11 deliberations. Thank you, thank you very much.

12 (The jury left the courtroom at 8:44 p.m.)

13 THE COURT: All right. We'll be awaiting our
14 jury's verdict.

15 (Awaiting the jury.)

16 (It was reported to the Court that the jury had
17 reached a verdict at 10:32 p.m.)

18 THE COURT: It has been my experience that the
19 taking of a verdict can be very emotional for one side, the
20 other, or both. I respect and would ask those of you in
21 the courtroom to respect the decorum of the courtroom. I
22 do not anticipate, but additionally, I do not tolerate any
23 show of emotions whatsoever, any -- this jury's had a tough
24 enough job -- either positive or negative one way or the
25 other.

1 I would ask the sheriff's if anybody calls out,
2 yells out, any show of emotions one way or the other, if
3 you would please take them into custody and after the
4 reception of the verdict, I would then go into a contempt
5 of court hearing for which I could summarily sentence
6 anyone up to six months and fine them up to \$1500 without a
7 jury trial. So I would ask if you feel like you cannot
8 contain your emotions to please leave. And if you remain,
9 I take it that you can maintain your emotions.

10 All right. Madam Bailiff if you would bring us our
11 jury, please.

12 THE BAILIFF: Yes, Your Honor.

13 (The jury entered the courtroom at 10:39 p.m.)

14 THE COURT: Madam Clerk?

15 THE CLERK: Your Honor, may I approach?

16 THE COURT: Yes, ma'am.

17 (The clerk retrieved the verdict from the
18 foreperson and turned it over to the court.)

19 THE COURT: All right. The verdict appears to be
20 in the proper form.

21 VERDICT

22 THE COURT: Madame Clerk, would you publish our
23 verdict, please.

24 THE CLERK: I bring the Court's attention to
25 Indictment Number 2014-GS-38-1443, the State of South

1 Carolina versus Courtney Leola Price.

2 Indictment 2014-GS-38-1443, as to murder, we the
3 jury unanimously find the defendant guilty of voluntary
4 manslaughter and this is signed February 26th, 2016 by
5 Foreman, Charles Nightingale.

6 THE COURT: Ladies and gentlemen of the jury panel,
7 if this be your verdict, please so indicate by raising your
8 right hand.

9 All right. All hands are raised. Anything
10 additional for the jury from the State, Madam Solicitor?

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

12 THE COURT: From the defense.

13 MR. GRANT: No, Your Honor.

14 THE COURT: Thank you. Thank you very much.

15 Momentarily, ladies and gentlemen, I'm going to
16 release you from your jury service. I would say for the
17 remainder of the week, but there's very little of the week
18 left.

19 I never criticize nor commend a jury for their
20 verdict. However, I will say this: I have watched the
21 jury throughout the course of the last four days. You have
22 been focused attentive, very hard working. I can tell not
23 only by your work ethic in the courtroom, but by the effort
24 in which you put into your deliberations wanting the
25 transcript, listening to additional testimony, and of

1 course the lateness of the hour.

2 As I told you at the beginning of the case, this is
3 a very important case. It's an important case to the State
4 of South Carolina; it's an important case for Ms. Price.

5 As I have gone throughout the State of South
6 Carolina in the various Counties, I think I have presided
7 in about 39 of the 46 Counties, I have truly been amazed at
8 the quality of individuals that sit on our juries each and
9 every week, each and every county of this state. We
10 sometimes tend to think -- some people tend to think it is
11 so devisive in this country, but I see people coming
12 together to fulfill their civic duties and I commend you
13 for it and I just trust the American people. I trust the
14 American people.

15 It's been my honor and my privilege to be with
16 y'all this week. As I say, you're now excused. You may go
17 with your bailiff and thereafter go about your business.
18 Thank you. Thank you very much.

19 (The jury left the courtroom at 10:45 p.m.)

20 THE COURT: And thank those in the gallery for the
21 decorum which you have exhibited and the respect you have
22 shown to your judicial system.

23 Mr. Grant?

24 MR. GRANT: Yes, sir?

25 THE COURT: You have motions?

1 POST-TRIAL MOTIONS

2 MR. GRANT: Yes, sir, Your Honor, at this time, we
3 renew our motion for a directed verdict. It is our opinion
4 based upon all that has been presented that the jury's
5 verdict truly is against the manifest weight of the
6 evidence. If indeed the jury found that the killing was
7 not lawful -- excuse me. If indeed there was a legal
8 killing, if you will, self-defense and there was not an
9 unlawful killing for the purposes of a murder, then that by
10 definition means that it would carry over to the voluntary
11 manslaughter and there should have been an acquittal. So
12 we ask the Court as a matter of law to set aside the
13 verdict and grant us our motion for a directed verdict.

14 Also based upon the various testimony that you
15 heard in the case, the excelling testimony about the abuse
16 that Courtney was going through, about a various
17 allegations about the assault, about the fact that she was
18 in her home, the defense of habitat, she had no duty to
19 retreat. There's clear evidence that she was being
20 attacked and she had no duty at all to retreat at all in
21 her on home and as a matter of absolute rock solid black
22 letter law in South Carolina, this jury should have found
23 her not guilty and you should declare her not guilty as a
24 matter of law and grant our motion for a directed verdict.

25 THE COURT: Thank you. Thank you very much.

1 Anything in response, Solicitor?

2 MS. CORNWELL: No, Your Honor. I ask you that just
3 standby the jury's verdict.

4 THE COURT: All right. Thank you. Thank you very
5 much.

6 I would respectfully deny your motion, Mr. Grant,
7 as far as the directed verdict motion, I think there's
8 sufficient evidence in the record for the jury to have
9 reached the verdict they did.

10 Any other motions.

11 MR. GRANT: Yes, sir.

12 Your Honor, we'd move now, of course, for a new
13 trial. Based upon the fact, again, the evidence presented
14 before this jury and also based upon all of our objections
15 that we made throughout the process of this case. We
16 certainly feel that the fourth element of self-defense
17 should not have been something for the jury to even have
18 considered. We also feel that our request to charge
19 propensity for violence which was denied, which would have
20 indicated, of course, the jury would have been able to
21 consider that Courtney knew of the direct propensity for
22 violence of Samuel Simmons and therefore she would be
23 entitled to have acted more harshly or even more critically
24 considering the things that she had personal knowledge with
25 regards to his acts of violence because she was indeed the

1 victim of those previous acts of violence, so we would make
2 a motion for a new trial, based upon all of our previous
3 objections and based upon the evidentiary rulings that you
4 made as well.

5 Let me think here whether there's anything that I'm
6 missing with regards to that.

7 That's our motion, Judge, and we stand upon that.

8 THE COURT: Thank you, Mr. Grant.

9 I would reaffirm all my previous trial rulings,
10 both evidentiary and otherwise and I would respectfully
11 deny the motion for a new trial.

12 Any reason, Mr. Grant sentence should not be
13 imposed at this time.

14 MR. GRANT: Well, I mean naturally, Courtney would
15 like to go home and come back another day for it, but, with
16 the Court's permission, if you would allow her to do that,
17 considering the lateness of the hour, considering the fact
18 that she has not had an opportunity -- she really hasn't
19 been eating, Judge, considering the stress upon her and
20 everything, so if the Court wanted to do sentencing another
21 day, we could do that. But on the other hand, as of this
22 moment, this is when we have most of the family members who
23 are here to speak to the Court and say the various things,
24 so it may be more logically and maybe more appropriate,
25 considering the convenience of those in the audience that

1 we have is sentencing proceeding right now.

2 THE COURT: All right.

3 MS. CORNWELL: We would agree, Your Honor, we've
4 got family members as well that would like to go ahead and
5 get this matter resolved.

6 THE COURT: All right. I will proceed now. I
7 would not allow her to be released from custody.

8 MR. GRANT: Yes, sir.

9 SENTENCE

10 THE COURT: Solicitor, anything additional from the
11 State?

12 MS. CORNWELL: I believe I have some family members
13 that would like to speak.

14 Would you like for me to approach with a sentencing
15 sheet?

16 THE COURT: Yes, ma'am.

17 (Family of the victim approached the bench.)

18 MS. CORNWELL: State your name for the record.

19 THE COURT: All right. Tell me your name for the
20 record.

21 THE VICTIM: Angela Garvin.

22 THE COURT: All right. Ms. Garvin I'll be glad to
23 hear from you.

24 THE VICTIM: All right. Your Honor, on behalf of
25 the entire Simmons and Garvin family, first of all, I just

1 want to say on record that we appreciate the job that
2 solicitor Cornwell and the entire staff did in helping us
3 to get justice for Samuel Denzel Simmons. We respect the
4 decision of the jury tonight. Of course, we would have
5 liked for it to be different, but we do respect their
6 decision.

7 I just want to talk just a little bit about Samuel
8 Denzel Simmons.

9 Samuel was a bright light in our family. He was 24
10 years old and from the early age of about 10 years old when
11 he was able to mush a lawn mower, he knew the value of
12 working. So he went around to people in his neighborhood
13 and cut grass and if it wasn't cutting grass, he was asking
14 people, do you need your car washed. Because he understood
15 that in order to have anything in this life, you have to
16 work for it. Denzel was a very respectful young man. He
17 was a very responsible young man. There was nothing that
18 anyone would ask him to do that he would not do. Always
19 manner able, always reliable. He's one of the few
20 teenagers that you could allow to have your car and say go
21 and run this errand and you never have to worry about that
22 the errand wasn't done. He's one of the few young men that
23 if you were out of town for vacation, you could get him to
24 house sit and know that your house would be in exact order
25 when you return.

1 So he loved C.D.S. immensely. He loved his son
2 immensely and that's the biggest travesty in this entire
3 scenario. Just the fact that his son will not be able to
4 grow up and continue to learn his father. So that's the
5 biggest travesty here. It's hurtful to your family, to his
6 participants, to his loved ones that he's gone, but just
7 the fact that his son won't get to see that smile and get
8 that guidance from him, that's the biggest heartbreaker for
9 us.

10 Respectfully in our mind, the defendant made a
11 choice that evening. She made a decision to go downstairs,
12 look through -- there was another choice that could have
13 been made. So respectfully, we ask for the fullest
14 punishment that's available for her because it just, it
15 just didn't have to be. It was just a senseless act of
16 violence that's ruined so many lives for something that was
17 so silly. It just didn't have to be.

18 That is our request. Thank you.

19 THE COURT: Thank you. Thank you very much,
20 Mr. Garvin.

21 MS. CORNWELL: And, Your Honor, you've heard the
22 evidence and we would standby the victim's family's wishes.

23 THE COURT: Thank you. Thank you very much,
24 Solicitor.

25 Mr. Grant.

1 MR. GRANT: Yes, Your Honor. Your Honor, I'm sure
2 there are numerous people in Courtney's family that would
3 like to have a word to say to the Court.

4 Ms. Price? Dominique? Any of the aunts? If you
5 want to say anything, please come up and say a word on
6 behalf of Courtney before the judge announces what the
7 sentence will be.

8 (Defendant's family approached the bench.)

9 MR. GRANT: Give your name and your relationship to
10 Courtney.

11 MS. PRICE: Beverly Price, Courtney's mom. I
12 really think that the system let us down because Courtney
13 was in an abusive relationship. She tried to get up. She
14 wouldn't get up. She was afraid of Sam. He threatened to
15 kill her. And I don't think that we had a fair trial. I
16 think you should call it a mistrial and start all over. I
17 mean Courtney has so much going for herself. Going to
18 school, working on her masters. The only thing she wants
19 to do is work and take care of her baby. But Sam was just
20 such a violent person and she wanted to be rid of him but
21 she was afraid. She never confided in me, none of her
22 aunts or uncles because I guess he threatened to kill her.
23 And I don't think it's been -- just injustice. And I'm
24 concerned about Courtney's health. Courtney's a juvenile
25 diabetic and I just think that the system let us down.

1 After all that, her blood sugar going sky high because of
2 him. I mean. It's just not fair and I'm not content with
3 the addition that was made. I think we need to have a
4 mistrial.

5 MR. GRANT: What would you recommend and ask the
6 judge when it comes to leniency on behalf of your daughter.

7 MS. PRICE: Can you repeat that.

8 MR. GRANT: Yes, ma'am. What would you like to say
9 to the judge as far as him being lenient and showing mercy
10 on behalf of your daughter when it comes to sentencing.

11 MS. PRICE: Well, I think she deserves as light a
12 sentence as possible. I don't think she needs to be in
13 jail for no twenty or thirty years. I just don't feel
14 that. Because I mean, this man was not an angel. He's not
15 the perfect guy that they pictured him to be. I mean to me
16 he was a monster. I hate to say it. This girl had so much
17 going for herself. She tried to rid herself of him and get
18 rid of him but she was afraid of him. Because he tried to
19 kill her. You heard the testimony. He tried running over
20 her foot and all that about her being a diabetic. Got her
21 nerves out of whack. I mean I live with her and I see the
22 emotional distress. It's easy for the family to get up
23 here and paint this perfect picture of this guy, which he
24 wasn't. And I just think -- justice wasn't served. I just
25 think we need to take it a little further.

1 I don't know. I mean, Attorney Grant said call for
2 a mistrial, whatever. I mean, that's not right, it's not
3 fair because Sam was not an angel. He was abuser. Any man
4 that puts a hand on a woman is not a man and she was in
5 fear for her life. She tried to get out of that violent
6 situation, but he threatened to kill her. So where was she
7 going to go? And I mean she was in her own apartment when
8 this man came in and attack her, choking her. She did not
9 kill that man in the bed. Y'all heard all the testimonies.
10 It's just a flat out lie. Same thing with a times and D. I
11 mean I worked there for 26 years and I know what -- they
12 print anything just to get a story just to sell the papers.
13 But my daughter did not kill that man in the bed and I
14 think you know justice was served. We are law-abiding
15 people. I just think we should call it a mistrial.

16 MR. GRANT: Thank you. Thank you so much,
17 Ms. Price.

18 THE COURT: Thank you, Ms. Price.

19 MR. GRANT: Anyone else like the say a word on
20 behalf of Courtney?

21 (Approaching.)

22 MS. THOMAS: I'm sorry but I'm really emotional
23 right now.

24 MR. GRANT: Tell the judge your name.

25 MS. THOMAS: Sylvia Thomas. Courtney's not my

1 sister, but she's like a sister to me. Someone who helped
2 me raise my daughter. She's a wander full person. I,
3 myself, has been in an abusive relationship and I was
4 afraid to tell my family. I was afraid to let everybody
5 know. But at that moment, I wanted everybody to see it I
6 wanted everybody to just see what I was going through. As
7 much as I've been around this girl, I never knew and I feel
8 like I, I, I feel like I failed her as well as a lot of
9 other people. But I don't want the system to fail her
10 because Courtney is not the monster that they're -- I just
11 believe that if Courtney wanted to -- and I feel bad -- and
12 my heart always goes out to the family because it's both --
13 we're losing a family member and they lost somebody and it
14 hurts.

15 It hurts because I have a heart and it hurts me
16 that they lost him. But Courtney is not a murderer.
17 Somebody who -- I could see if she stabbed Sam numerous
18 times, but for somebody to stab somebody one time because
19 they were so afraid at that moment, none of us was there.
20 But I know that this girl here is not the monster that
21 they're trying to make her out to be. Courtney has always
22 been a good person and I had never got to really know Sam
23 like that. But from this person that I know, Judge.

24 Courtney needs the best sentence as possible. She
25 have a son. He doesn't have his dad right now. But he

1 still has his mother. He still have her. He still have
2 her. He still have her. Thank you.

3 THE COURT: Thank you, Ms. Thomas.

4 MR. GRANT: Reverend Robinson is coming forward.

5 Come on up to the podium, please, sir.

6 The judge is right there, I'm sorry.

7 REVEREND ROBINSON: Okay.

8 THE COURT: That's quite all right.

9 REVEREND ROBINSON: Yes. For the family and all
10 concerned and righteous people, I thank you for what you've
11 done. And to Courtney, a person is not defeated until he
12 stops. You aren't beaten until you stop. And I want you
13 to always know if you think you're beaten after having
14 lived a righteous, clean, and sober life, you are. If you
15 think you dare not, you don't. If you like to win, but you
16 think you can't, it's almost certain that you won't.
17 Life's treasures don't always go to the stronger or swifter
18 man, for sooner or later, the man who wins is the man who
19 thinks he can. You remember that. God knows what is just,
20 wholly and righteous. You get to know him all the more and
21 stay willing to obey. It's not likely to be easy, but a
22 flashlight makes the same amount of light in the light as
23 it does in the darkness. It just shows up brighter. Let
24 your light show up brighter as you remain heaven minded and
25 hell scared. God bless you.

1 MR. GRANT: Thank you, Reverend.

2 Is there any other family member that would like to
3 say a word on behalf of Courtney. I know it's emotionally
4 tough while the Court is in session.

5 All right. Your Honor, Courtney's really just too
6 distraught to say anything at all, but naturally, I speak
7 for my client.

8 When it comes to mitigating circumstances, Your
9 Honor, behind any kind of conviction, this record as you've
10 heard throughout this case has all types of mitigating
11 circumstances surrounding it. The first mitigating
12 circumstance that I would present to the Court is that:
13 That the defendant has no previous criminal record. And,
14 of course, as indicated through the testimony, this arrest
15 was the first time she'd ever been in the presence -- I
16 should say any kind of jail. Never been arrested for
17 anything, ever, for anything. No previous record.

18 Courtney, as indicated in the record, Judge is a
19 graduate of South Carolina State. She went there off a
20 four year scholarship and, in fact, Courtney was applying
21 to graduate school and strangely enough, Courtney was
22 supposed to be having an interview for a job, to start a
23 new life next week in Charlotte.

24 When Courtney testified, if the Court may remember
25 it, it was actually her birthday. Her 25th birthday when

1 she was on the witness stand. She was sitting back there
2 waiting on the jury, waiting on the verdict. She was
3 sitting back there with her Bible in her hand because
4 indeed she is a Christian and she was praying for the right
5 outcome in this particular case and praying for an
6 acquittal. In fact, I went there with her and prayed with
7 her for the right verdict, for an acquittal.

8 But the jury has spoken and we, of course, always,
9 as an attorney never question the jury's verdict. We
10 challenge all legalities in our capacity as a lawyer but we
11 respect and appreciate the service of any jury at any time
12 regardless of the outcome of the case because I am an
13 officer of our court and that's how I feel.

14 But when it comes to my client, Courtney, I've
15 gotten to know her. That's why I have gotten to care so
16 much about her. She is indeed a tender hearted person.
17 She is indeed someone that loves people. She is a caring,
18 loving and endearing person. My staff has gotten to know
19 Courtney. We have come to know her, Judge and we have come
20 to respect her and we have come to see her as how in the
21 world would this person who has so much going on for her
22 ever be in the situation that we're in. And the
23 explanation really lies in the testimony of Dr. Veronen.
24 She explained it all. And what better person to explain
25 the scenario than the expert licensed clinical psychologist

1 herself.

2 So this record is indeed replete with all type of
3 mitigating circumstances. I would ask the Court to take
4 judicial notice also of the fact and for the record that
5 whatever sentence you impose -- and, of course, I'm asking
6 that it be a suspended sentence and if not completely
7 suspended for the minimum amount of time allowed -- minimum
8 amount of time that you can give her. And I'll talk about
9 what range I'm talking, if there's going to be active kind
10 of sentences when it comes to what's going on here with
11 Courtney today.

12 She has a history, as you know of being abused.
13 And because of that, the law says any active sentence, the
14 parole time, I think is reduced statutorily to 25 percent,
15 something like that. I'll look at the law, but there's a
16 judicial requirement that the Court is to consider when it
17 comes to somebody convicted of manslaughter in a situation
18 where there's evidence of domestic abuse. I got the tell
19 you, I didn't do all the exact research and there will be
20 time to apply it if I had to because I didn't expect that
21 she was going to be convicted. But I just want to make
22 sure that the Court is aware of that.

23 Your Honor, here's our argument. Considering all
24 that you've heard -- and these families they were very
25 close at some point; but considering all that you've heard,

1 I'm asking the Court to consider a sentence no more than
2 five years in prison. No more than that and the reason why
3 I think that is appropriate, Judge, is because number one,
4 it is what the law allows. It is indeed a legal sentence
5 and based upon all the mitigating circumstances that you've
6 heard, all the evidence in this case, we think that it
7 would be a fair and a just sentence.

8 This is not the case, not the fact pattern where my
9 client should be given anything even relatively close to
10 the max numb punishment allowed by law, regardless of the
11 fact that the family has asked for it. This is not that
12 particular case at all.

13 You know, Ms. Price, she said a lot and she spoke
14 from her heart and told the Court what she thought and her
15 feelings. We know the Court can't just turn everything
16 around now, you've already made your rulings on all that
17 and I want you to understand that's just a mother speaking
18 from her heart.

19 THE COURT: I do understand. I understand,
20 Mr. Grant.

21 MR. GRANT: Yes, sir.

22 And I would ask, Judge, that you show mercy upon
23 this young lady. She's got some health issues. And I
24 think it's genetic. Her father died of diabetes. She's
25 been a juvenile diabetic and she's insulin dependent. So I

1 ask that you show mercy upon her and give her a sentence
2 that amounts to no more or know higher than five years
3 active time and with the judicial requirement, of course,
4 that parole will come in consideration of that statute that
5 I talked about when someone has a history of being abused
6 in a domestic situation, when there's evidence in the
7 record of it.

8 THE COURT: Thank you. Thank you very much,
9 Mr. Grant.

10 MR. GRANT: Yes, sir.

11 THE COURT: The section you're referring to is
12 16-25-90 parole eligibility is affected by evidence of
13 domestic violence suffered at the hands of a household
14 member. It's under the domestic violence chapter of title
15 16, which I know it well.

16 I do not think that Sam Simmons would qualify as a
17 household member.

18 MR. GRANT: And I don't have the statute before me.
19 Is there a definition on that screen about what household
20 member is.

21 THE COURT: I would go back up to 16-24 -- there
22 may be. Let's look at that. 16-24 -- excuse me, 16-25 --

23 MR. GRANT: I'm just thinking out loud as I'm
24 standing before you.

25 THE COURT: It may be because they have a child --

1 MR. GRANT: Child together.

2 THE COURT: -- in common.

3 MR. GRANT: Yes, sir.

4 THE COURT: Household member means spouse or former
5 spouse, persons who have a child in common or a male and
6 female who are cohabitating or formerly have cohabitated,
7 so it would fall under that with a child in common, C.D.S.

8 Anything further, Mr. Grant?

9 MR. GRANT: No, Your Honor.

10 THE COURT: As an initial matter, I'm going to take
11 the issue of 16-25-90 and its application under advisement.
12 I want to do some more research on that particular issue.
13 As far as the statute is concerned, it refers me back also
14 to 16-25-20, a very lengthy statute and I want to study
15 that some more.

16 MR. GRANT: Yes, sir.

17 THE COURT: It is a tragedy. It was a -- obviously
18 a toxic situation. I -- as Ms. Garvin and of course,
19 Ms. Thomas stated to the Simmons family, they lost a son, a
20 brother, a friend. And I've seen the support of both the
21 Simmons family over here and obviously support -- the
22 family support for Ms. Price.

23 None of us -- nobody wants to outlive their
24 children. It's just not natural. That's not the circle of
25 life. That's not the way the circle of life should go.

1 Ms. Price talks about and I understand -- I don't
2 understand a mother's heart, I don't have one. I
3 understand a father's heart. I have one. I think I
4 understand. She called Sam a monster. And none of us are
5 perfect. I don't think he's a monster no more than I think
6 this young lady is a monster. I think there was fault on
7 both sides. I'm not talking about that night, I'm
8 talking relationship itself.

9 And she -- she could have made other choices and
10 Sam could have too, of course, that would not lead to Sam
11 losing his life and her losing her freedom. And the
12 tragedy continues because I know the Price family loves
13 C.D.S. and I know the Simmons family loves C.D.S. and
14 that's a real tragedy. You know, I volunteered for this
15 job, Mr. Grant.

16 MR. GRANT: Yes, sir.

17 THE COURT: And it's tough to take parents from
18 their children. It's tough for C.D.S. to lose his father
19 and I know it's tough on a mother to lose her freedom and
20 not be able to raise her baby. But behavior has
21 consequences. I disagree, of course, with Ms. Price that
22 the system didn't work. I don't think you can get a
23 better, more hard working jury. I don't think you can get
24 a better, more hard working defense attorney that did a
25 magnificent job for his client, nor a better or hard

1 working solicitor. And that's -- y'all tried your case and
2 left it all at the feet of the jurors and they did what
3 they thought, based on their findings of the fact ins the
4 case.

5 All right. 2014-GS-38-443, Courtney Leola Price,
6 is jury having convicted Ms. Price of voluntary
7 manslaughter, the range of sentencing under 16-3-50 is not
8 less than two years nor more than thirty years. Wherefore
9 the defendant is committed to the State Department of
10 Corrections for a determinate term of 15 years.

11 Good luck to you, Ms. Price. She's in custody of
12 the Orangeburg County Sheriff's Office.

13 Sheriff, is there any particular way you want the
14 gallery to exit.

15 THE OFFICER: The front door is good.

16 THE COURT: All right. If everyone would remain in
17 place momentarily.

18 (Victim's family left the courtroom.)

19 MR. GRANT: Your Honor, there was one other thing
20 that I forgot.

21 THE COURT: Yes, sir. Well -- your client is not
22 in here.

23 MR. GRANT: Sir?

24 THE COURT: Your client is not in here.

25 MR. GRANT: Yeah, but she's -- Counsel is still

1 here even though the family is not, you know, they asked
2 for it, I simply forgot it.

3 Can you get the client back out? She's still here
4 right.

5 THE OFFICER: Yes, sir.

6 THE OFFICER: Your Honor.

7 MR. GRANT: There's one more thing I need to ask
8 for the record.

9 (The defendant entered the courtroom.)

10 THE COURT: Yes, sir.

11 MR. GRANT: There is a statute that, since October
12 6, 2014, Courtney has been out of jail on electronic
13 monitoring. And I'm going off my memory now, sir, because
14 I don't have the order and what she's just reminded me of,
15 on house arrest. There is a statute that when it comes to
16 any active sentence, the Court has discretion -- and I
17 think it's discretion, it may be mandatory, but I know it's
18 at least discretionary, to give the defendant credit toward
19 any time served while they're out on house arrest. And I
20 think that I would have been remiss -- I simply forgot. I
21 would be remiss if I didn't ask you to do that and give her
22 credit for that amount of time served towards that
23 accident considering she's been out on house arrest --
24 again, she's had this bracelet on, Judge, since we went to
25 her bond hearings and I've got to tell you. She's been

1 absolutely cooperative and shown up every place and done
2 everything that she's supposed to do and hadn't had any
3 issues reported to my office or reported to court.

4 So I'm asking you to give her credit forward the
5 sentence for time served from October 6, 2014 until today
6 as well.

7 THE COURT: Solicitor, are you familiar with the
8 home detention statute?

9 MS. CORNWELL: I apologize, Your Honor, I didn't
10 hear you.

11 THE COURT: Are you familiar with the home
12 detention act?

13 MS. CORNWELL: I am, Your Honor. I believe it is
14 discretionary in Your Honor's discretion as to whether or
15 not to apply that.

16 THE COURT: All right. I'm checking the box on the
17 sentencing sheet that she shall be given credit for time
18 served pursuant to South Carolina Code Section 24-13-40 to
19 be calculated and applied by the State Department of
20 Corrections.

21 MR. GRANT: Yes, sir.

22 THE COURT: I will look at the other sentencing
23 statute and see if I have discretion as far as the home
24 detention act is concerned and if so, I will take it under
25 advisement.

1 MR. GRANT: Yes, sir. Thank you, Judge.

2 THE COURT: Thank you. Thank you very much. Thank
3 you, Sheriff.

4 All right. Sheriff, may the gallery exit the
5 courtroom now.

6 THE OFFICER: Yes, sir.

7 THE COURT: All right. Thank you. Thank you very
8 much. As far as court is concerned, court will be in
9 recess. Thank you solicitor, thank you, Mr. Grant.

10 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) Certificate of Reporter

3
4
5
6 I, THE UNDERSIGNED, Brenda J. Sigwald, Official
7 Court Reporter for the Eleventh Judicial Circuit of the
8 State of South Carolina, do hereby certify that I reported
9 the proceedings in the captioned case in the Court of
10 General Sessions in and for the State of South Carolina on
11 the days of the 22nd through the 26th day of February,
12 2016.

13 I FURTHER CERTIFY that the foregoing pages
14 constitute a true, accurate and complete transcript of said
15 hearing.

16 I FURTHER CERTIFY that I am neither kin, counsel,
17 nor of interest to any party hereto.

18 IN WITNESS WHEREOF, I have hereunto set my hand and
19 seal at Aiken County, this 18th day of October, 2016.
20
21

22 Brenda J. Sigwald
23 Brenda J. Sigwald,
24 Court Reporter and Notary Public
25 For the State of South Carolina
My commission expires
January 4, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)
STATE OF SOUTH CAROLINA)
v.)
COURTNEY LEOLA PRICE,)
DEFENDANT)

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

ORDER

Indictment No. 2014-GS-38-01443

THIS MATTER COMES BEFORE THE COURT on remand from the South Carolina

Court of Appeals. On June 27, 2017, the Court of Appeals granted the motion of Courtney Leola Price ("Price") to remand her case to obtain rulings from this Court on two motions made before the case was appealed: (1) Motion for Credit for Time Spent on Home Detention Pursuant to S.C. Code Ann. § 24-13-40; and (2) Motion for Early Parole Eligibility Pursuant to S.C. Code Ann. § 16-25-90.

On November 1, 2017, the Court held a hearing on these motions in Lexington County. Price waived venue and jurisdiction in Orangeburg County to allow the Court to hear her motions in Lexington County. Price was represented by Carl B. Grant of Orangeburg and David Alexander from Appellate Defense in Columbia. The State was represented by Ashley Cornwell. Pursuant to the Order of the Court of Appeals, the Court makes the following findings of fact and conclusions of law.

The Court has a vivid recollection of this murder trial as it was one of the best-remembered cases before this judge in his years on the bench. Both the solicitor and Mr. Grant were vigorous advocates and ably presented their arguments and evidence to the Court and to the jury. In making the findings contained in this Order, the Court relies not only on its own memory of the trial and

Received
MAY 08 2018

George J. Jones

ATTEST: TRUE COPY
Winnifred B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

the extensive immunity hearing, but also the testimony and arguments presented at the hearing and the Court's review of the transcripts which were provided before the hearing.

Credit for Time Spent on Home Detention

1. It was undisputed that Price spent 503 days on home detention prior to her trial. Price presented the testimony of Shawn Ellore who managed and supervised Price's home detention. Based on its observations of Ms. Ellore at the hearing, the Court finds her a credible witness.

2. Ms. Ellore testified that Price had no violations of the terms of her home detention. The State cross-examined Ms. Ellore regarding an alleged bond violation, but Ms. Ellore testified that after a hearing on the alleged violation, the judge found Price had not violated her probation. The State did not dispute this was the prior ruling and the Court finds no reason to look past the prior ruling.

3. While home detention is confinement, the Court finds that such confinement, especially given the conditions placed on Price, is not as severe as confinement in the detention center. Price was allowed to work, go to the doctor, and visit her son. The statute governing this issue provides that credit "may be given for any time spent under monitored house arrest." S.C. Code Ann. § 24-13-40. The State presented no argument that Price's detention did not qualify as "monitored house arrest" under section 24-13-40 and the Court finds that Price's detention qualifies for discretionary credit under the statute.

4. Because of the less restrictive nature of her confinement, but also allowing for Price's compliance with its terms, the Court finds Price is entitled to credit for 251 days of credit. This credit is in addition to the credit for time spent in the county detention center which the Court

awarded at sentencing. The Department of Corrections shall award this credit against Price's sentence.

Parole Eligibility

1. The Court heard extensive testimony at both the immunity hearing and during the trial regarding abuse Price suffered at the hands of the victim, Samuel Simmons ("Simmons"). The jury ultimately acquitted Price of murder and convicted her of voluntary manslaughter. The Court sentenced Price to fifteen years' imprisonment.

2. A person convicted of "an offense against a household member is eligible for parole after serving one-fourth of [her] prison term when the inmate at the time . . . [she] was convicted of an offense against the household member . . . presented evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member." S.C. Code Ann. § 16-25-90.

3. The Court must make specific findings of fact regarding eligibility. State v. Blackwell-Selim, 392 S.C. 1, 4, 707 S.E.2d 426, 428 (2011). The defendant bears the burden of presenting credible evidence of a history of abuse by the preponderance of the evidence. State v. Grooms, 343 S.C. 248, 253-54, 540 S.E.2d 99, 101-02 (2000). Mere production of evidence is insufficient. Id. The evidence produced by the defendant must be "trustworthy, not simply plausible." Id. at 253, 540 S.E.2d at 101. "[T]he defendant must do more than simply present evidence; she must persuade the trial judge her evidence is reliable." Id.

4. "Household member" is defined in the domestic violence statute as "persons who have a child in common." S.C. Code Ann. § 16-25-10(3)(c). It was undisputed at the trial that Price and Simmons have a child in common. Therefore, Price meets this element of the statute.

5. Price testified at the immunity hearing and at trial before the jury, giving the Court ample opportunity to observe her demeanor and assess her credibility. While the Court found certain portions of Price's testimony regarding the night of Simmons' death not credible, the Court does find credible Price's description of abuse suffered at Simmons' hands. Much of Price's testimony about Simmons' abuse was corroborated by other witnesses which increases the credibility of Price's testimony on these points.

6. The Court specifically finds credible and reliable the testimony and evidence regarding the following episodes of abuse:

- a. Simmons choked Price in her dorm room in 2009.
- b. Simmons again choked Price in college in 2009.
- c. Price's college roommate, Breanna Tilley, testified and the Court finds her testimony credible based on its observations and Tilley's demeanor. Tilley saw Simmons drag Price along the floor by her hair. Tilley also saw marks on Price's body.
- d. Jamal Scott testified about what he saw while Price attended college and the Court finds his testimony credible. Scott saw bruises on Price and saw Simmons verbally abuse Price.
- e. Simmons saw Price driving and chased her in his truck. Simmons' truck hit Price's car several times at highway speeds. Simmons eventually crashed his truck into a light pole. Dominique Price, the defendant's sister, testified about this incident and the Court finds her testimony credible. Dominique Price described the incident as a "high speed chase." She saw Simmons crash his truck into the light pole and heard Simmons, upon getting out of his truck, say, "I'm going to pistol

whip that bitch." Dominique Price saw bruises on her sister's neck and arms and noticed her wearing long sleeves during the hot Orangeburg summers.

f. In the spring of 2011, Simmons called Price a "bitch," told her to mind her own business, and shoved her to the ground.

g. In January 2012, Simmons grabbed Price around the neck, threw her to the ground, and dragged her across the yard. Price called the police after this incident. The police officer who was dispatched to investigate testified and the Court finds his testimony credible. Price told the officer that Simmons destroyed her phone. The officer's report indicated he observed scratches on Price's neck.

h. In the spring of 2012, Price and Simmons argued in the car and Price asked Simmons to stop so she could get out of the car. As Price put her foot out of the car, Simmons accelerated, scraping Price's foot on the pavement.

i. In October 2013, after Price filed a petition for child support, she and Simmons argued. Simmons pushed Price's head into the furniture and punched her, giving Price a black eye.

j. A daycare worker for Price and Simmons' child overheard Simmons verbally abuse Price over the telephone. She saw a bruise on Price's arm that Price attempted to conceal. She also saw Price with a black eye that Price attempted to conceal behind dark sunglasses.

7. At trial, Price called several character witnesses who testified regarding Price's reputation for truthfulness. The Court finds these witnesses credible, including Rep. Jerry Govan, Jr., Rev. Jesse R. Robinson, and Dr. Sandra Glover. The Court, in part and in addition to its own

observations, bases its finding that Price's testimony regarding the specific instances of abuse is credible on the credibility and testimony of these character witnesses.

8. The Court finds the multiple serious instances of abuse detailed above meet the elements of domestic violence. See S.C. Code Ann. § 16-25-20.

9. Having met the elements of domestic violence pursuant to section 16-25-20, the Court finds that both the frequency and the severity of the instances of abuse qualify as a "history of criminal domestic violence" pursuant to section 16-25-90. See S.C. Code Ann. § 16-25-90.

10. The Court finds Price and Simmons had a tumultuous and toxic relationship and aggression between them frequently went both ways. The State argued at the hearing that Price's status as the sometimes aggressor prevents her from obtaining the benefit of section 16-25-90, but the Court finds no support for this argument in the plain language of the statute or in its intended operation. Section 16-25-90, by its availability to persons who have been found guilty and convicted of a crime, contemplates that those who receive early parole eligibility will necessarily, at some point, have acted unlawfully. Therefore, even if at times Price acted as the aggressor, these instances do not prevent her from qualifying for early parole eligibility under section 16-25-90.

- a. In making this finding, the Court relies on our Supreme Court's decision in State v. Hawes, 411 S.C. 188, 767 S.E.2d 707 (2015). In Hawes, much like this case, the defendant and his wife had a "decade-long tumultuous relationship, which included instances of mutual combat." Hawes at 190, 767 S.E.2d at 708. The trial court in Hawes indicated it was "compelled" to grant the defendant's motion because he presented evidence of abuse. Id. The Supreme Court reversed and remanded because the trial judge's findings indicated he did not exercise his discretion and

therefore did not take into account that the defendant may have been the primary aggressor. Id.

- b. The Court interprets Hawes as instructing trial judges to consider the totality of the evidence regarding the history of abuse between the parties and to use its discretion to determine the question of eligibility. Pursuant to Hawes, the Court has carefully considered the history of Price and Simmons' relationship, including evidence that Price may sometimes have been the aggressor. The Court finds that such evidence and arguments of the State do not outweigh the evidence presented by Price regarding serious, multiple instances of abuse. Even considering that Price may sometimes have been the aggressor, the Court finds the abuse by Simmons more serious and more pervasive. As instructed by Hawes, Blackwell-Selim, and Grooms, the Court has carefully considered and weighed Price's evidence against evidence produced by the State.

11. Based on the above findings of fact and conclusions of law, the Court finds that Price has satisfied the Court and proved by the preponderance of the evidence that she suffered a history of criminal domestic violence at the hands of Simmons. S.C. Code Ann. § 16-25-90. The Court, in its discretion and based on the totality of the circumstances, concludes that Price shall be eligible for parole after serving one-fourth of her sentence. Id.

THEREFORE, IT IS ORDERED that the Department of Corrections shall award Price credit for two hundred fifty-one (251) days spent on monitored house arrest pursuant to S.C. Code Ann. § 24-13-40.

IT IS FURTHER ORDERED that Price shall be eligible for parole after serving one-fourth of her sentence pursuant to S.C. Code Ann. § 16-25-90.

IT IS SO ORDERED.



R. Knox McMahon
Circuit Judge

May 17, 2018
Lexington, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

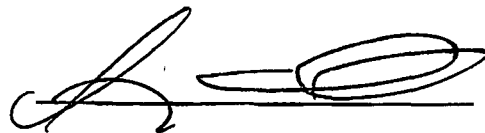
INDICTMENT
2014GS38-1443

At a Court of General Sessions, convened on February 11, 2015 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about September 27, 2014, with malice aforethought, the defendant, Courtney Leola Price did kill one Samuel Simmons by means of stabbing the victim in the chest with a knife. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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

A handwritten signature in black ink, appearing to read 'Ashley B. Cornwell', is written over a horizontal line.

Ashley B. Cornwell, Solicitor

WITNESSES

Latisha Walker

Orangeburg Police Department

14-02231

ARREST WARRANT NUMBER

2014A3810200258

Arrested: September 28, 2014

ACTION OF GRAND JURY

Angela P. [Signature]

Aug 11 2015

Date _____

Foreperson-of-Grand-Jury

Date: February 11, 2015

VERDICT

DOCKET NO. 2014GS38-1443

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

February 17, 2015 TERM

THE STATE

vs.

Courtney Leola Price

Indictment for

MURDER

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person
and plead guilty to the within indictment
or to _____

RECEIVED

MAR 04 2016

SC Court of Appeals

Defendant

Witness:

C.C.C. PLS. AND G.S.

ATTEST: TRUE COPY
Winnifred B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

100-443887-100

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


for David Alexander
Appellate Defender

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

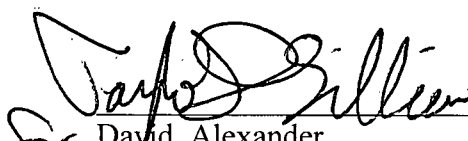
ATTORNEY FOR APPELLANT

This 10th day of October, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


for David Alexander
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 10th day of October, 2018.

RECEIVED
OCT 10 2018
SC Court of Appeals