

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Barnwell County

Honorable Doyet A. Early, III, Circuit Court Judge

THE STATE,

ORIGINAL
RECEIVED
MAY 31 2019
SC Court of Appeals
RESPONDENT,

V.

VENSON TYRONE JONES,

APPELLANT

APPELLATE CASE NO 2018-001206

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	GENERAL SESSIONS
	)	
County of Barnwell	)	2017-GS-06-00059
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
VENSON JONES,	)	
	)	
DEFENDANT,	)	

August 1, 2017
Barnwell, South Carolina

BEFORE:

THE HONORABLE DOYET A. EARLY, III, JUDGE.

APPEARANCES:

DAVID MILLER, ASSISTANT SOLICITOR
Attorney for the State

WALLACE ALVES, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 VENSON JONES, after being duly sworn,
2 testified as follows:

3 THE COURT: I've been informed you have a matter of
4 matters you want to discuss with me. Mainly, you want a
5 new lawyer. Is that what you want?

6 THE DEFENDANT: No, sir.

7 THE COURT: What do you want?

8 THE DEFENDANT: I have an issue. I had filed a
9 petition, a request for a true and correct copy of the
10 grand jury indictment.

11 My charge was attempted murder, and I was provided
12 with something that doesn't appear to be that. And that I
13 would like to present it to you and let you take a look at
14 it.

15 THE COURT: Whether or not that's a certified copy of
16 your indictment?

17 THE DEFENDANT: It's not a certified copy.

18 THE COURT: Well, let me look at it.

19 Where is the Clerk of Court?

20 MS. ALVES: The Clerk of Court is right here.

21 THE COURT: Oh.

22 THE CLERK: Is it Barnwell or...

23 MS. ALVES: I'm sorry, Venson Jones.

24 THE COURT: That is a copy of your indictment. Do
25 you want it certified?

1 THE DEFENDANT: It's not. It's not a true and
2 correct copy.

3 THE COURT: I said do you want it certified?

4 THE CLERK: I can get him a certified copy.

5 THE COURT: Well, give him a certified copy.

6 THE DEFENDANT: Yeah. Let me get a certified copy.

7 THE CLERK: I'll get one sent to you at the jail,
8 okay.

9 THE COURT: Send him one more.

10 THE DEFENDANT: And if possible, if I can, I would
11 like to have counsel replaced because I have addressed
12 many issues with her.

13 THE COURT: That's fine. I'll give you a new lawyer.
14 Thank you.

15 THE DEFENDANT: Okay.

16 (Whereupon, the proceedings were concluded.)
17
18
19
20
21
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23
24
25

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)

COUNTY OF BARNWELL)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Barnwell County, South Carolina, on the 1st day of August,
2017.

April 3, 2018

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

1 State of South Carolina,) In the Court
2 County of Barnwell) Of General Sessions

3 Indictment No.: 2017GS0600059
4

5
6 State of South Carolina,)
7 Plaintiff.)

8 vs.)

Transcript of Record

9
10 Venson T. Jones,)
Defendant.)

11
12 January 16, 2018
13 Barnwell, South Carolina
14

15 B E F O R E:

16 The Honorable Doyet A. Early III, Judge.
17

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

19 David W. Miller, Deputy Solicitor
Attorney for the State

20 Connor J. Parker, Esquire
21 Attorney for the Defendant
22

23
24 Brenda J. Sigwald, Circuit Court Reporter
To The Honorable Doyet A. Early III
25 P.O. Box 206, Jackson, South Carolina 29831 THE

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(REPORTER'S NOTE: There were no exhibits
entered during this hearing.)

1 MR. MILLER: Is Connor Parker outside? Can you
2 bring him in.

3 Your Honor, for the record, Connor Parker has been
4 appointed to represent Venson T. Jones. That is a case
5 where Mr. Jones is charged with -- well, he's been indicted
6 for ABHAN among other charges and he has recently accepted
7 a position working for a state agency which will make him
8 no longer --

9 THE COURT: The defendant or who?

10 MR. MILLER: He --

11 MR. PARKER: I have, Your Honor.

12 MR. MILLER: He will no longer be eligible for
13 appointment is my understanding. In lieu of that, I would
14 ask if another qualified attorney could be appointed to
15 represent Mr. Jones due to Mr. Parker's change of
16 employment.

17 THE COURT: Very well.

18 Go to the next person on the list.

19 THE CLERK: Yes, sir, I will.

20 THE COURT: Good luck, sir.

21 MR. PARKER: Thank you.

22 MR. MILLER: Thank you, Your Honor.

23 * * * * * END OF TRANSCRIPT * * * * *

24

25

1 State of South Carolina)

Certificate of Reporter

2 County of Aiken)

3
4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 16th day of January,
13 2018.

14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 3rd day of April, 2018.

18
19
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

1 State of South Carolina) In the Court
2 County of Barnwell) Of General Sessions

3
4 Indictment No.: 2017GS0600059

5
6 State of South Carolina,)
Plaintiff.)
7)
8 vs.) Transcript of Record
9)
10 Venson T. Jones,)
Defendant.)

11
12 Aril 25, 2018
13 Aiken, South Carolina

14
15 B E F O R E:

16 The Honorable William P Keesley, Judge.
17

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

19 David W. Miller, Deputy Solicitor
Attorney for the State

20 Judah VanSyckel, Esquire
21 Attorney for the Defendant
22

23
24 Brenda J. Sigwald, Circuit Court Reporter
To The Honorable Doyet A. Early III
25 P.O. Box 206, Jackson, South Carolina 29831 THE

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E X H I B I T S

Number Description

C-1 Evaluation from Department of Mental Health

1 THE COURT: All right. What do y'all have?

2 MR. MILLER: Your Honor, before the Court is Venson
3 Jones. Mr. Jones is currently indicted under indictment
4 2017GS060059. That is a true-billed indictment for assault
5 and battery of a high and aggravated nature. Your Honor,
6 as a preliminary matter, we would need to at least put on
7 the record that Mr. Jones was evaluated for competency to
8 stand trial by the Department of Mental Health on April
9 24th of 2017. In that evaluation or from that evaluation,
10 he was determined to be competent and to have the capacity
11 to stand trial.

12 Your Honor, the report and the cover letter
13 consisting of eight pages, a copy of that has been handed
14 to the court reporter and has been -- we have offered it as
15 a court's exhibit. I do not have any objection to the
16 report of the examiner and I do not believe that Mr.
17 VanSyckel does either.

18 THE COURT: Are y'all needing me to do a Blair
19 Hearing? Is that what you want.

20 MR. VANSYCKEL: Yes, Your Honor, just as a bit of
21 background, this is the case where we had the closed
22 session in Barnwell last month and at the end of that
23 hearing, you did indicate that he would need to go ahead
24 and do a Blair Hearing.

25 As well, Mr. Jones also did make a motion to have

1 me relieved, orally. And I think after we do the Blair
2 Hearing, we need to hear the motion of whether or not I'm
3 going to be relieved.

4 THE COURT: Okay. Well, let me read this.

5 (The Court is reading the evaluation.

6 THE COURT: Are you Venson Jones, sir.

7 THE DEFENDANT: Yes, sir, Your Honor.

8 VENSON JONES,

9 having been duly sworn, testified as follows:

10 THE COURT: Thank you. All right. Mr. Jones, do
11 you know what you're charged with.

12 THE DEFENDANT: Attempted murder.

13 THE COURT: And do you know who that is to your
14 left?

15 THE DEFENDANT: Yes, that's defense counsel.

16 THE COURT: What's his job?

17 THE DEFENDANT: To give me competent
18 representation. To inform me of my rights, laws, things of
19 that nature.

20 THE COURT: You know what Mr. Miller's job is?

21 THE DEFENDANT: Yes, he's the lawyer for the State.

22 THE COURT: And --

23 THE DEFENDANT: Prosecutor, Solicitor.

24 THE COURT: Okay. Do you know what a jury is?

25 THE DEFENDANT: Sir?

1 THE COURT: Do you know what a jury is?

2 THE DEFENDANT: Yes, sir, I know what a jury is.

3 THE COURT: And what is that?

4 THE DEFENDANT: They make the decision of whether
5 I'm guilty or innocent. They hear all the testimony from
6 both sides.

7 THE COURT: You know what a witness does?

8 THE DEFENDANT: Yes, sir, I do.

9 THE COURT: Can you tell me that?

10 THE DEFENDANT: They give testimony in regards to
11 what they seen pertaining to the alleged crime or offense
12 that the State is accusing me of.

13 THE COURT: You know what my job is?

14 THE DEFENDANT: Yes, sir, pretty much to protect my
15 rights and to hold a proceeding, I guess, and to make sure
16 that, you know, both sides play fair, I think is the best
17 explanation I have in regards to what you do. You're some
18 kind of referee.

19 THE COURT: Okay.

20 So is he charged with attempted murder or assault
21 and battery of a high and aggravated nature?

22 MR. MILLER: Your Honor, he was arrested for and
23 charged initially in the warrant for attempted murder. He
24 was indicted by the Barnwell County Grand Jury for the
25 lesser included assault and battery of a high and

1 aggravated nature.

2 THE COURT: You understand that now, Mr. Jones?

3 THE DEFENDANT: I understand what you're saying,
4 but to my knowledge, I thought that the grand jury only
5 determined probable cause in regards to the accusation that
6 the State is making, not recharging me after I been
7 initially charged with the evidence. I mean that's --
8 that's the knowledge that I have. I have asked defense
9 counsel to show me something that would give the State the
10 means to do so, but they have failed to comply.

11 THE COURT: Was the indictment form submitted to
12 the grand jury for assault and battery?

13 MR. MILLER: It was, Your Honor.

14 THE DEFENDANT: Your Honor, if I may ask what my
15 arrest number is for attempted murder and my case number.
16 And I don't understand how they can do that. What gives
17 them the authorization to decide what it's submitted as. I
18 know it's not illegal. But in order for me to be tried for
19 what I been accused of, they need an indictment, to my
20 understanding, for attempted murder.

21 THE COURT: They can do that, Mr. Jones. I don't
22 know what to tell you except that it's a lesser-included
23 offense and the solicitor can submit it as a
24 lesser-included offense to the grand jury. I mean, all I
25 can tell you is on it's face there's nothing wrong with

1 that.

2 THE DEFENDANT: So you're telling me he can take me
3 to trial for attempted murder with an indictment for
4 lesser-included offense.

5 THE COURT: No, sir, he can take you to trial for
6 the assault and battery of a high and aggravated nature.

7 THE DEFENDANT: Well, I want to go the trial. I'm
8 ready.

9 THE COURT: Okay. That's fine. We haven't gotten
10 to that stage yet though.

11 You have anything else on competency?

12 MR. VANSYCKEL: No, Your Honor. Mr. Jones has
13 always appeared competent to me.

14 THE COURT: All right. Does the State have
15 anything else on competency?

16 MR. MILLER: Nothing, Your Honor.

17 THE COURT: All right. Then based on what's been
18 presented, I find beyond a reasonable doubt that Mr. Jones
19 is competent. He's capable to assist his counsel in his
20 own defense. He's capable of making rational choices
21 concerning the charge against him and that he should be
22 allowed to proceed and the exhibit has been marked as a
23 Court's Exhibit 1 and it's the report from the Department
24 of Mental Health which I have read.

25 My findings are based on my observations and

1 discussions with Mr. Jones, as well as the report.

2 **MOTION TO RELIEVE COUNSEL**

3 THE COURT: All right, sir. Mr. Jones, your lawyer
4 indicated that you wish to have him relieved.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Now, did you have Ms. Alves before?

7 THE DEFENDANT: Yes, sir. And I spoke with
8 Ms. Alves prior to walking over here in this courtroom and
9 I asked her if we -- if you would allow her to represent
10 me, let her represent me again on my case. She -- I asked
11 her could she represent me and she told me I had to ask
12 you. I told her that I no longer want him to represent me
13 anymore.

14 THE COURT: But you want Ms. Alves?

15 THE DEFENDANT: Yes, I want to go back to
16 Ms. Alves. It was never my -- I never meant to have
17 Ms. Alves relieved. The judge asked me and I don't know
18 why he asked me. I thought maybe she wanted to be
19 relieved, so I told him yes. Because me and her never
20 talked about having her relieved. But when I walked in
21 this courtroom, he asked me about some documents that I
22 sent to the solicitor's office. He asked me did I want to
23 have her relieved and I don't know why.

24 THE COURT: Was that me or some other judge?

25 THE DEFENDANT: That was Judge Early.

1 THE COURT: Okay. Mr. VanSyckel, you have anything
2 on this?

3 MR. VANSYCKEL: No, Your Honor. I don't have a
4 position. I will say just make the -- you know, the State
5 and I have discussed trying this case per Mr. Jones's
6 instructions and per Mr. Jones's instructions I have told
7 the State and they will confirm this, that I have never
8 asked for a plea personally. I have, I think this week,
9 asked them when they were going to dismiss the charges
10 against Mr. Jones, but beyond that, I have never asked for
11 a plea and indicated to them we're trying this case.

12 MR. MILLER: Your Honor, for the purposes of the
13 record, on April the 13th of 2017, the defendant sent a
14 letter to our office that says, My name is Venson Tyrone
15 Jones and I am writing to inform the solicitor's office
16 regarding a conflict of interest in my case. I have spoken
17 with my court-appointed attorney, Wallis Alves in regard to
18 these matters involving Diane Tarter, but it has come to my
19 attention that my attorney also has taken part of this
20 poisonous fruit and an attempt to help conceal the matter
21 in my case. I am documenting these issues for the record
22 so no one will be able to further help conceal or deny the
23 fact that I have informed all parties.

24 Following receipt of that letter, we had a hearing
25 in court wherein the defendant made a number of motions,

1 much the same as the argument relating to whether or not he
2 could go to trial on attempted murder when we had indicted
3 him for assault and battery of a high and aggravated
4 nature. It became apparent to the Court, at least to the
5 satisfaction of Judge Early, that Ms. Alves and Mr. Jones
6 were unable to productively communicate with each other.

7 Ms. Alves told the Court that she had gone through
8 all of his complaints and issues that he had raised with
9 him on numerous occasions and at that time, he wouldn't
10 speak to her about anything other than the issues he wanted
11 to talk to her about. The judge, in an order dated August
12 the 2nd of 2017, relieved Ms. Alves from representing the
13 defendant and appointed an attorney named Connor Joel
14 Parker. Connor Parker, it was almost a repeat of exactly
15 what happened with Ms. Alves. Connor Parker came in. He
16 indicated to us that all the defendant wants to talk about
17 is what he perceives to be procedural infirmities with the
18 case and the fact that he was not -- he was being held
19 unlawfully.

20 He even references in his evaluation that the Court
21 read that he thinks he is going to sue whoever he thinks
22 he's going to sue for being arrested after this incident
23 occurred that related to his arrest. Connor Parker
24 subsequently took a job working for the South Carolina
25 Department of Revenue, I believe. He made a motion to be

1 relieved as counsel in the case and on January 18th of this
2 year, Mr. VanSyckel was appointed to represent the
3 defendant.

4 So there's been a pattern that is getting repeated
5 throughout. We can be ready to try him. We intend to try
6 him, we intend to try him for the assault and battery of a
7 high and aggravated nature; and frankly, Your Honor, the
8 whole reason we indicted him for the assault and battery of
9 a high and aggravated nature as opposed to the attempted
10 murder was there was an expressed belief that the thing
11 that was preventing Mr. Jones from accepting responsibility
12 for his actions in this case was the fact that he felt like
13 he had been over charged.

14 And it was my intention all along the offer him a
15 plea to assault and battery of a high and aggravated
16 nature. That's what we indicted him for. We indicted him
17 for the ABHAN in the case and when we found out that that
18 was not going to happen, I didn't feel any necessity to go
19 back and reindict him or to directly indict him for
20 attempted murder because I think it's appropriately an
21 assault and battery of a high and aggravated nature case.
22 And we'd be prepared to go forward on that basis.

23 However, I do not think -- I do not think based on
24 the history that Ms. Alves would have any better luck
25 dealing with Mr. Jones than does Mr. VanSyckel or than

1 would any other attorney.

2 THE COURT: Did you need the put anything on the
3 record, Mr. VanSyckel?

4 MR. VANSYCKEL: Your Honor, I just want to put on
5 the record, if I am not relieved, depending on however the
6 Court does rule, I will tell the Court Mr. Jones has
7 refused to discuss his case with me the last two times that
8 I have met with him. I'm only able to give him updates
9 very briefly when we do meet.. But he has not engaged with
10 me.

11 THE COURT: All right. You willing to talk to
12 Ms. Alves?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. I'm going to relieve Mr.
15 VanSyckel.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I'm going to appoint Ms. Alves. And we
18 need to tell her on the order that if there's any issues
19 that she -- she can reassign it to somebody in her office.
20 I can't tell them who to assign the case to, but I'm going
21 to appoint her and if there's some issue that needs to be
22 called to the attention of the Court, she needs to do it as
23 quickly as possible, if there's a problem with
24 representation, all right?

25 MR. MILLER: Yes, sir, Your Honor.

1 THE COURT: Y'all need anything else?

2 You need anything else, Mr. Jones.

3 THE DEFENDANT: Well, I requested that if I can, my
4 right to have a copy of my transcripts from all the
5 proceedings that we already went and heard. Every last one
6 of them, Your Honor.

7 THE COURT: Your lawyer can make a request for that
8 if it's appropriate. I mean, I --

9 MR. MILLER: My understanding is Mr. VanSyckel
10 would not be the lawyer to make that request, it would be
11 Ms. Alves.

12 THE COURT: He's got an attorney. His attorney has
13 to make those kinds of motions. We don't have hybrid
14 representation in South Carolina. There would have to be a
15 showing to show why it's necessary to go to the expense to
16 produce the transcripts and whether that would delay any
17 proceedings. I don't know how many he's had. Y'all have
18 told me about several, so if they're relevant, then fine.
19 If they're not, we'll have to deal with it.

20 MR. MILLER: Yes, sir.

21 THE COURT: Tell Ms. Alves what you want and why
22 you want it, okay?

23 THE DEFENDANT: Yes, sir, Your Honor.

24 THE COURT: All right.

25 MR. VANSYCKEL: Your Honor, just for the mechanics

1 of this, I don't know, is this a form order situation or
2 does an order need to be prepared. I apologize.

3 THE COURT: I'm going to do a form order.

4 MR. VANSYCKEL: That will work for me, Your Honor.

5 THE COURT: I mean I would get the clerk to do it
6 here, but it's not an Aiken case, so ---all right. Thank
7 y'all.

8 MR. VANSYCKEL: Thank you.

9 MR. MILLER: Thank you, Your Honor.

10 THE DEFENDANT: Thank you, Your Honor.

11 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

3
4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 25th day of April
13 2018.

14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 1st day of June 2018.

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Brenda J. Sigwald
Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020.

1 State of South Carolina) In the Court
 2 County of Barnwell) Of General Sessions

3 Indictment No.: 2017GS0600059
 4

5
 6 State of South Carolina,)
 Plaintiff.)
 7)
 8 vs.) Transcript of Record
 9)
 10 Venson T. Jones,)
 Defendant.)

11 May 21-22, 2018
 12 Barnwell, South Carolina
 13

14 B E F O R E:

15 The Honorable Doyet A Early III, Judge, and a jury.
 16

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

18 David W. Miller, Deputy Solicitor
 Jackson Cooper, Assistant Solicitor
 19 Michael Emmer, Assistant Solicitor
 Attorneys for the State

20 Wallis Alves, Esquire
 21 Attorney for the Defendant
 22
 23

24 Brenda J. Sigwald, Circuit Court Reporter
 To The Honorable Doyet A. Early III
 25 P.O. Box 206, Jackson, South Carolina 29831

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E X H I B I T SNumber Description

C-1 Indictments of others

C-2 Evaluation

1 MONDAY, MAY 21, 2018

2 MR. MILLER: Venson Jones.

3 VENSON JONES,

4 having been duly sworn, testified as follows:

5 (Waiting for the defense attorney to come in)

6 THE DEFENDANT: How are you, Judge.

7 THE COURT: I'm fine, and you?

8 THE DEFENDANT: I'm all right.

9 THE COURT: Who is this?

10 MR. MILLER: Your Honor, before the Court is Venson
11 Jones. Mr. Jones is indicted in Indictment 2017GS0600059
12 for the offense of assault and battery of a high and
13 aggravated nature. That being a true-billed indictment for
14 the March 2017 Barnwell term.

15 Mr. Jones is currently represented by Ms. Wallis
16 Alves. He is the one case up for trial as of tomorrow
17 morning. And I understand there are some pretrial matters
18 that need to be taken up.

19 THE COURT: Anything by the State?

20 **PRETRIAL MOTIONS**

21 MR. MILLER: Well, Your Honor, as an initial
22 matter, there was an order signed by the Court to have him
23 evaluated for competency to stand trial pursuant to State
24 versus Blair. Your Honor, that evaluation was conducted
25 April 14th of 2017.

1 THE COURT: April what?

2 MR. MILLER: April 24th.

3 THE COURT: 2-4, '17?

4 MR. MILLER: Yes, sir. And we received the report
5 of the examiner, Dr. Matthew Gaskins on May the 2nd of
6 2017. I have a copy of that report that I would pass up to
7 the Court at this time.

8 THE COURT: Ms. Alves, you have a copy of it?

9 MS. ALVES: Yes, sir.

10 MR. MILLER: Your Honor, pursuant to 44-23-420,
11 which I have a copy of and I have a copy for Ms. Alves.

12 THE COURT: If you would hand it to me, please.

13 MR. MILLER: Yes, sir.

14 THE COURT: Mr. Jones, would you be more
15 comfortable sitting down while we do this, or would you
16 rather stand up?

17 THE DEFENDANT: I'd be more comfortable sitting
18 down, Your Honor.

19 THE COURT: All right, sir.

20 MR. MILLER: Your Honor, under 44-23-420,
21 subsection C, the report handed up to the Court is
22 admissible as evidence in a hearing on the defendant's
23 fitness to stand trial. And, Your Honor, I have a copy of
24 44-23-430 as well, if you would like that.

25 THE COURT: Please.

1 MR. MILLER: And I have a copy for Ms. Alves.

2 I understand that there are a number of potential
3 defense pretrial motions. We are -- the State is ready to
4 proceed with those motions. The defendant did not make any
5 statements to law enforcement, so there's no need for a
6 Jackson v Denno and there were no photo lineups presented
7 to any of the witnesses in this case. So there's no need
8 for a Neal v Biggers, which are obviously our standards
9 before we do before a lot of different trials.

10 But Ms. Alves has indicated that she and the
11 defendant may have some issues to bring forth. Your Honor,
12 the State in as much as we are talking about the Blair
13 Hearing, the State would rest on the report of Dr. Gaskins
14 which was submitted, following an evaluation pursuant to
15 this Court's order.

16 THE COURT: All right. Ms. Wallis Alves, the
17 report obviously says that they reviewed or examined
18 Mr. Jones and basically they opine based on their
19 evaluation that he has the capacity to stand trial and that
20 report is admitted. Do you have anything contrary to that?

21 MS. ALVES: I do not.

22 THE COURT: All right. Anything you want to
23 comment on concerning the Blair situation.

24 MS. ALVES: Yes, sir, Judge, I think it would be
25 appropriate to have the doctor present. If the doctor is

1 present for the hearing, he can talk to Mr. -- this report
2 is one year old. If the doctor is present, the doctor can
3 talk to Mr. Jones prior to the hearing and confirm that the
4 results of the report are still the opinion of the doctors
5 at mental health or he can say something different. While
6 I don't -- I can't -- I'm not a doctor, I can't say and I
7 don't have anything to present that Mr. Jones is not
8 competent. I think it would be appropriate to have the
9 doctor present to go through a full hearing and the doctor
10 can testify as to whether his results from over a year ago
11 are still what -- what -- what the results he finds today.

12 THE DEFENDANT: Your Honor, if I may?

13 THE COURT: One second, please.

14 Mr. Miller?

15 MR. MILLER: Your Honor, I think the statute makes
16 it clear, in the absence of some evidence to the contrary,
17 even if that is only the observations of the defense
18 attorney, we're not supposed to have these DMH evaluators
19 headed to courts all over the state. Now, this --

20 THE COURT: Where are you reading from?

21 MR. MILLER: Well, just by virtue of the fact that
22 they specifically made the report of the examiner
23 admissible as evidence in the Blair Hearing, it seems to
24 indicate that the doctor doesn't have to be present for the
25 report to come in. Now, clearly if there was some

1 additional allegation, some new information, usually the
2 way that it has come up and I will present that it hasn't
3 come up a whole lot of times, but usually, if the defense
4 had gotten a second examination done by somebody who had a
5 contrary opinion, then we have a so-called battle of the
6 experts and we bring them both in.

7 THE COURT: Well, we don't have that here, but we
8 have a year in time lapse.

9 MR. MILLER: Yes, sir, and we have informed the
10 doctor of the situation and the potential that the Court
11 may wish for him to come and I guess for lack of a better
12 term tune-up the evaluation from last year.

13 THE COURT: Or at least update it or --

14 MR. MILLER: Update and it make sure he still
15 agrees with everything that he said at the time. However,
16 Your Honor, the State would note the importance or the
17 critical questions to be answered at the Blair Hearing are
18 whether or not the defendant understands the proceedings
19 against him, which at least in the report, obviously, I
20 haven't spoken to Mr. Jones personally, but at least in the
21 report, he had a very good understanding of the charges
22 against him, although he disagreed with them in some
23 particulars.

24 And whether or not he was aware of the different
25 possibilities and different individuals in the courtroom

1 and I don't believe, Your Honor, that it requires a
2 psychiatric doctor to answer those questions. Generally
3 those questions are answered by a colloquy between the
4 Court and the defendant.

5 And maybe that's the additional information that
6 would necessitate Dr. Gaskins coming up, you know,
7 tomorrow, so that he could -- so that he could update his
8 evaluation. Or the Court may feel that that's not
9 necessary and that he just needs to come and update the
10 evaluation. We would like to determine what his
11 availability is. I know that Mr. Bamberg had called
12 earlier today and he had already gone into his one o'clock
13 evaluation that he had scheduled for today, so we haven't
14 spoken to him since this morning. But --

15 THE COURT: All right. Well, let me see what
16 Mr. Jones wants to tell me.

17 Mr. Jones, we're going to talk about most anything
18 you need to, but this is dealing with just your
19 examination. Anything you want to tell me?

20 THE DEFENDANT: Yes, sir, Your Honor. I had a
21 hearing scheduled, I think it was March in Aiken. They
22 told me it was a Blair Hearing and the judge found me
23 competent to stand trial, so I'm trying to figure out why
24 it's necessary.

25 THE COURT: Well, are you competent to stand trial?

1 THE DEFENDANT: I believe I am.

2 THE COURT: You know who I am?

3 THE DEFENDANT: Judge Early.

4 THE COURT: And what am I supposed to do?

5 THE DEFENDANT: Well, rule on motions, conduct a
6 trial, and to make sure that everything is done within the
7 means of the law.

8 THE COURT: And Ms. Alves, what's her role?

9 THE DEFENDANT: Give me a competent defense, Your
10 Honor.

11 THE COURT: And Mr. Miller's role as the solicitor?

12 THE DEFENDANT: To present the State's case against
13 me.

14 THE COURT: Absolutely. And you know what you're
15 charged with?

16 THE DEFENDANT: I've been charged with attempted
17 murder. And I don't know if it's relevant for me to
18 address this now, but --

19 THE COURT: Well, just hang on a second. What was
20 he originally charged with?

21 MR. MILLER: He was originally arrested on a
22 warrant for attempted murder, Your Honor. We subsequently
23 indicted him for the assault and battery of a high and
24 aggravated nature.

25 THE COURT: You understand that? That's a -- sort

1 of lesser-included-offense of attempted murder.

2 THE DEFENDANT: I understand that, Your Honor. But
3 don't I have a right to be tried for what I've been accused
4 of? Because that's the right I'm trying to exercise. No
5 one has given me any document that says that they can try
6 me, or it's lawful for me to be tried for something other
7 than what I've been initially accused of.

8 THE COURT: Okay. We'll address that in a little
9 bit, the legal effects of that. But you understand what
10 lesser-included offense is?

11 THE DEFENDANT: Yes, sir, I do.

12 THE COURT: Okay. Have you been able to help
13 Ms. Alves prepare your defense, talk to her about things
14 and back and forth?

15 THE DEFENDANT: Well, we discussed matters last
16 week -- I think it was last week when she came -- she came
17 last week I think and we talked about --

18 THE COURT: Well, you've understood y'all's
19 conversations with each other about your defense. Don't
20 tell me what y'all said, but --

21 THE DEFENDANT: Yeah, I understand WHAT you're
22 saying here, but we really didn't -- I don't feel that my
23 case is ready to go to trial.

24 THE COURT: All right. Well, I'm going TO let you
25 tell me that in a minute, okay?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you understand that you can plead
3 guilty or not guilty and what the ramifications of that is?

4 THE DEFENDANT: Well, I understand --

5 THE COURT: If you plead not guilty, you get a
6 trial; if you plead guilty, then I sentence you. You
7 understand all that?

8 MR. MILLER: There has opinion a plea offer made,
9 Your Honor.

10 THE COURT: Are you aware of the plea offer having
11 been made?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And you've discussed it with your
14 client -- I mean with your lawyer?

15 THE DEFENDANT: To some extent, yes, sir.

16 THE COURT: But do you understand what it is and
17 the ramifications of it?

18 THE DEFENDANT: For the most part, yes, sir.

19 THE COURT: You want to ask me about anything about
20 it?

21 THE DEFENDANT: Yeah, I --

22 THE COURT: I can't give you advice.

23 THE DEFENDANT: All right. Okay. If I plead
24 wouldn't I be giving up my right to have my indictment
25 presented to a grand jury? What I'm saying is I haven't

1 been indicted. But that indictment should be what I was
2 initially arrested of, shouldn't it?

3 THE COURT: Well, if you plead guilty, you can
4 waive, give up your right to have it presented to the grand
5 jury. Your indictment for the attempted murder has been
6 presented --

7 Has it not?

8 MR. MILLER: No, sir. The indictment was presented
9 as an assault and battery of a high and aggravated nature.
10 And if I could explain, Your Honor. This has been an
11 ongoing problem and I'm not sure that -- I'm not sure that
12 I understand Mr. Jones's concern.

13 THE COURT: Well, I don't know if I want to get
14 into all that, I just want to make sure he understands what
15 we're doing. And actually, it's in your benefit that it's
16 a lesser-included offense because that ABHAN carries up to
17 what? 20?

18 MR. MILLER: Up to 20, Your Honor. And the assault
19 -- the attempted murder is --

20 THE COURT: Up to 30, isn't it?

21 MR. MILLER: Up to 30, yes, sir. And Your Honor,
22 during his evaluation, one of the things that was brought
23 up during his evaluation was that he had -- he had some
24 questions about the charge that he was charged with and he
25 talked about that a little bit and said -- he identified

1 his current charge as attempted murder and stated that he
2 has the charge because the police are alleging he hit his
3 girlfriend repeatedly with malice, using a hammer. He
4 added he does not believe the allegations match the charge.
5 He's stated that since he's not accused of trying to kill
6 the victim, but only hitting her with a hammer, he should
7 be charged with either an assault and battery or a criminal
8 domestic violence charge.

9 And we knew from some initial stuff going in that
10 that was one of his complaints and that was really the
11 reason why we said fine, we'll indict it as an assault
12 charge, because it basically removes the element of malice
13 from -- from our side of the equation and we'll resolve the
14 case. We felt like that would be a fair resolution of the
15 case. And ever since then all we've gotten is, well,
16 that's not the charge that he was originally charged with.
17 And it was not done --

18 THE DEFENDANT: Your Honor --

19 MR. MILLER: And it was not done with any malicious
20 intent. It was done to actually help him out as far as we
21 went and made the plea offer for that. That's what we
22 indicted him for.

23 THE DEFENDANT: I have no knowledge of nothing of
24 what this man's talking about. I never agreed or talked
25 about anything that he's talking about. I don't know where

1 he's getting his information from.

2 THE COURT: Well, here's the deal. They can indict
3 you for the offense that sometimes they think it is, but
4 when they get into start investigating, they realize it may
5 not be as serious as it was originally called on, so they
6 indict you for the lesser offense, which is assault and
7 battery of a high and aggravated nature. It's what they've
8 done in this case.

9 They got a true bill on it?

10 MR. MILLER: Yes, sir, Your Honor.

11 THE COURT: So that's what they're trying you on.
12 They're not trying you on any type of attempted murder.
13 It's just going to be assault and battery of a high and
14 aggravated nature.

15 THE DEFENDANT: I understand that, Your Honor.

16 THE COURT: Under the law, they have a right to do
17 that. Obviously, if you were convicted of attempted
18 murder, you're looking at 30 years. If you were convicted
19 of this, you're looking at 20. So it cuts 10 years of
20 exposure off the table. If you are found not guilty, you
21 walk home. And, if you are found guilty, that doesn't mean
22 I'm going to give you the full 20. I have to look at
23 everything. I can -- I can under my discretion give you up
24 to 20. If it were an attempted murder, I could give you up
25 to 30.

1 So they're knocking out 10 years of exposure this
2 way.

3 All right. What other matters, Ms. Alves do we
4 need to take up? I'll rule on the Blair Hearing in just a
5 moment.

6 MS. ALVES: Yes, sir. Judge, I have motions that I
7 need to take up based on pretrial, however prior to the my
8 taking up my motions, I think you need to hear from
9 Mr. Jones because he has motions that he would like to
10 bring up as well, including a motion to quash the
11 indictment based on -- based on the majority of what the
12 conversation you just had with Mr. Jones about the
13 indictment. I think it would probably be --

14 THE COURT: Well, Mr. Jones, other than the
15 indictment question, what other matters do you want to --
16 any motions you want to discuss?

17 THE DEFENDANT: Well, I wanted to bring up the
18 issue as well as exercising my right to have the motion for
19 a change of venue because the victim has been working in
20 Barnwell for over 20 years in the public grocery store and
21 she has relationships with a lot of people in this town, in
22 this county. I don't feel that I'm -- that I'm going to
23 get a fair trial here, Your Honor. That's one of my
24 issues.

25 Another issue is I wrote a letter in regards to

1 certain unlawful conduct that has been administered in this
2 county in this judicial system and I got paperwork to prove
3 right here that public defenders have been giving people
4 indictments without seals on them, telling them that they
5 have been indicted by a grand jury, and wanting to go to
6 trial and get sentenced to prison and then the indictments
7 ain't been sealed, ain't been signed no bill or true bill.
8 Several defendants. And that's like infringing on people's
9 constitutional rights. Why would attorneys do that. Why
10 would they do that.

11 That's one of the main reasons why I don't want to
12 agree with none of this stuff that they got going on. I
13 don't even agree with my lawyer because some of the things
14 she has been telling me are lies. All three of them.

15 THE COURT: All right. Anything else?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Well, I'm going to deny your motion to
18 change venue. However, I will allow you to -- I will
19 reconsider it if when we get ready to draw the jury -- I'm
20 going to ask questions of this jury, do they know anything
21 at all about your case; heard anything about it, read
22 anything about it, anybody discuss it with them, seen
23 anything on TV, social media, anything. And if I get a
24 ground swell of everybody knowing things and having
25 opinions about it I will change the venue. If I don't get

1 anybody knowing anything about it at all, I probably won't
2 change the venue. But I'm going to ask those questions
3 when I qualify the jury. And if it's a lot of people
4 who've heard something about it, then I'll find out what
5 they know and if any of those opinions have been rendered.

6 As to the other, I've been on this bench 14 years,
7 practiced law here for 30, so that's 44 years, probably too
8 long; but I was a public defender for a long time. I
9 worked as -- not full time, but we didn't have enough to
10 have full-time public defenders. I have found that they
11 tell the clients what they're charged with. They show them
12 the indictments. I don't know of any rule that a seal has
13 to be on the indictment.

14 A lot of times the indictments are not presented to
15 the grand jury. Clients are informed that they have the
16 right to have them sent to the grand jury and they're well
17 advised of that. This indictment has, in fact, been sent
18 to the grand jury. So I will note that for the record, but
19 I'm not going to let that slow us down.

20 THE DEFENDANT: I understand, Your Honor, only
21 reason I brought that up is because I got an indictment
22 right here for a guy and it's not signed true bill or no
23 bill and it been presented to him and one of the
24 codefendants in the case is going to prison for 10 years.

25 THE COURT: Well, if you want to make that a part

1 of the record, we can make it a court's exhibit so you will
2 be protected on that; is that fair enough?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Hand that up, Ms. Alves, if you would.
5 Anything else, Mr. Jones, before I listen to
6 Ms. Alves?

7 THE DEFENDANT: No, Your Honor.

8 MS. ALVES: Judge, I would just note that this case
9 is not being represented by the public defender's office
10 that he's handing up these indictments on.

11 MR. MILLER: And, Your Honor, I would note all of
12 these indictments have been true billed by the grand jury.

13 THE COURT REPORTER: Judge, do you want them
14 separate or do you want them all as one exhibit?

15 THE COURT: You can make them one.

16 (Court's Exhibit Number 1 was marked for the
17 record.)

18 (Mr. Jones begins talking while the court reporter
19 the marking the exhibits.)

20 THE COURT: Hold on just a minute.

21 You ready?

22 THE COURT REPORTER: I'm ready.

23 THE COURT: All right. Tell me what you're saying.

24 THE DEFENDANT: I said I have some more
25 indictments. I don't have them here, but others have the

1 same thing that are not true bill or no bill. That
2 defendant's case had been throwed out today. It's been
3 dismissed.

4 THE COURT: You have them in your jail cell?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You want to bring them tomorrow, I'll
7 add those to it. We'll make a copy and give you what you
8 give us, a copy back.

9 THE DEFENDANT: All right.

10 THE COURT: That fair?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Ms. Alves.

13 MR. HAYES: Judge, I believe Mr. Jones also had a
14 motion that he wants to ask that the case be continued.
15 And he had a motion to take up regarding his disagreement
16 with my intended plan of representation for this case.

17 THE COURT: Anything else you want to tell me?

18 THE DEFENDANT: Other than the fact that -- other
19 than the fact that I asked Ms. Alves to file a motion to
20 have my case dismissed due to a conflict of interest with
21 regards to investigator that handled my case, Ms. Diane
22 Tarter. She alleged prior to this and that and I burned
23 her mother's house down. And she talked to the witnesses
24 when she handled my case and tried to get information that
25 wasn't relevant to this case in regards to what she tried

1 to have me locked up for; and I feel that she has done
2 things in this case that wasn't professional, Your Honor.
3 And I feel that it's a conflict of interest.

4 Now, in regards to Ms. Alves's representation, I'm
5 not asking to have her relieved.

6 THE COURT: What about the witness he's talking
7 about, Mr. Miller? Do you know anything about that?

8 MR. MILLER: Your Honor --

9 THE COURT: She a witness for the case?

10 MR. MILLER: She's not a witness that we intended
11 to call. Your Honor, based upon the incident report, that
12 all happened about 12:30 in the afternoon and Ms. Tarter or
13 Investigator Tarter, Detective Tarter at the time,
14 interviewed the victim --

15 THE COURT: What's the lady -- what's the
16 investigator's name?

17 MR. MILLER: Detective Diane Tarter with the
18 Barnwell Police Department.

19 She attempted to interview the defendant's mother,
20 who shot him. When she Mirandized --

21 THE COURT: The defendant's mother shot him?

22 MR. MILLER: Yes, sir. When she Mirandized the
23 defendant's mother, the defendant's mother invoked her
24 right to remain silent. So she stopped. She then
25 interviewed the defendant's, I guess it would be step

1 father. It's his mother's new husband. He gave her a
2 statement that doesn't change anything from what he had
3 told the police officers the day before about what happened
4 in the case. He'd already given a statement to law
5 enforcement. When the victim got out of the hospital, she
6 came -- she was interviewed by Detective Tarter. She
7 didn't add anything that she had not told the police
8 officers before, at least not as much as who did it, what
9 happened leading up to it. There was no new information of
10 any relevance to us gained from this interview.

11 And ultimately, the defendant's mother decided she
12 was going to go talk to Detective Tarter without a --
13 without an attorney and she went and talked to Detective
14 Tarter and she said the same things she had told the police
15 officers before. I really don't know what it is that
16 Detective Tarter had to do with this case other than past
17 tense interviewing the witnesses and the victim and putting
18 it all together and putting her name on the GS package. We
19 got the case ready to try. We didn't list her as a
20 witness. We didn't subpoena her.

21 THE COURT: You're not going to use her?

22 MR. MILLER: We're not going to use her. Now, I
23 understand Ms. Alves has had her subpoenaed. That's fine,
24 but she did not contribute anything to the case.

25 THE COURT: Well, if I see during the trial of the

1 case that she's done something improper or against the law
2 or something that's against police protocol, then I will --
3 I may have to declare a mistrial, I'll just look at it as
4 it comes up, if it comes up. I can't do it in the
5 abstract. But if I find out something's improper we'll
6 deal with it outside the presence of the jury and protect
7 your rights. But I can't do it just in the abstract.

8 THE DEFENDANT: Can I ask you another question,
9 sir?

10 THE COURT: Certainly.

11 THE DEFENDANT: Can I have a copy of my transcript
12 from the other proceedings that we already had in the past
13 to help me? If I can get a continuance with my case.
14 There's some things I'd like to look at.

15 THE COURT: What's he talking about? Mr. Miller?

16 MR. MILLER: Your Honor, he's had multiple hearings
17 where he's raised issues about his indictment and about
18 Detective Tarter and --

19 THE DEFENDANT: Transcripts.

20 MR. MILLER: -- wanting to fire his lawyers.

21 Ms. Alves is actually -- she was the first lawyer he had.
22 She was relieved and Conner Parker was appointed to
23 represent him. Conner Parker was relieved because he went
24 into public practice with the South Carolina Revenue
25 Commission, I believe. Then Judah VanSyckel was appointed

1 as his attorney. Last month in front of Judge Keesley, we
2 went over to Aiken and we were discussing this case on the
3 record because Mr. VanSyckel sickle was also having a great
4 deal of difficulty communicating with the defendant. And
5 at that time, Judge Keesley relieved Mr. VanSyckel as his
6 attorney and ordered that the public defender was to take
7 over the defense of the case again.

8 Mr. Jones asked Judge Keesley if Ms. Alves could be
9 his attorney again and Judge Keesley said that would be up
10 to Ms. Alves to decide. We're right back where we started.

11 THE COURT: But do you have a transcript of any
12 proceedings?

13 MR. MILLER: We don't have any in our possession.
14 There are transcripts of all of those proceedings.

15 THE COURT: You have a transcript having been
16 transcribed --

17 MR. MILLER: No, sir.

18 THE COURT: Has the testimony been transcribed,
19 preserved other than on the disk?

20 MR. MILLER: Not to my knowledge, Your Honor.

21 THE COURT: I'm ordering --

22 MS. ALVES: Mr. VanSyckel provided me with the
23 transcript of the hearing where I was relieved last August
24 and I thought he had provided a copy to Mr. Jones. And I
25 also have a copy of the transcript where Mr. Conner Parker

1 was relieved as his attorney. Both of them are about three
2 pages, maybe.

3 THE COURT: Well, make a copy and give it to him
4 this afternoon. I'm ordering both of you, whatever
5 transcripts you have, give it to Mr. Jones.

6 MR. MILLER: Yes, sir.

7 THE COURT: If they're -- if they're in existence.
8 What else do we need to do?

9 Please tell -- have you made a plea offer to him?

10 MR. MILLER: Your Honor, the plea offer that was
11 made was to plead to the assault and battery of a high and
12 aggravated nature for a cap of 10 years.

13 THE COURT: Well, Mr. Jones, do you understand what
14 that means?

15 THE DEFENDANT: Yes, sir Your Honor.

16 THE COURT: That means -- let me explain it to you
17 so you and I are on the same page. I appreciate how you're
18 acting in my court today. You're being fantastic and I
19 thank you. Not my court, this court.

20 That means that you would admit, if you accepted
21 the plea offer that, you committed the offense of assault
22 and battery, whatever the factual basis is, something about
23 somebody getting hit in the head with a hammer, and the
24 amount of time that you would get would be up to me, but I
25 would not go in excess of 10 years. I could go 10 years or

1 all the way down to probation, somewhere in between. But a
2 cap would be 10 years. So your exposure from 30 years
3 where you were originally indicted, to the 20 years maximum
4 on the assault and battery, down to a plea agreement of a
5 cap of 10 years. And then I would listen to Ms. Alves and
6 listen to you and listen to the victim and look at your
7 past record, if you've got one, and listen to the victims
8 and anybody else that wanted to talk. And then I would
9 have to make a decision as to what the sentence would be.
10 But I would not go over 10 years and I can tell you right
11 now that I'd give you some consideration for acceptance of
12 responsibility for what you're charged under and all that.

13 So that's how that works. I'm not giving you any
14 advice what to do, not do, what to do, that's how it works.
15 So you'd be looking at a maximum of 10 years. It's up to
16 me.

17 You need to talk to him.

18 I doubt I would give you the max.

19 THE DEFENDANT: So if I decline the plea then --

20 THE COURT: If you decline --

21 THE DEFENDANT: If I --

22 THE COURT: -- I'm sorry.

23 THE DEFENDANT: If I decline the plea deal, don't
24 the State have to prove the evidence in the indictment that
25 they're alleging in the charge.

1 THE COURT: And the indictment they're alleging is
2 assault and battery of a high and aggravated nature.

3 THE DEFENDANT: I know that. I'm saying the
4 elements is what they got to prove?

5 THE COURT: Well, absolutely. Absolutely.

6 THE DEFENDANT: Okay. All right.

7 THE COURT: That's the first thing I tell the jury
8 is they not only have to prove it, they have to prove it
9 beyond a reasonable doubt.

10 THE DEFENDANT: Uh-huh.

11 THE COURT: Any questions?

12 THE DEFENDANT: No, sir.

13 THE COURT: You're ready to go?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Hold on, Ms. Alves has some
16 things.

17 MS. ALVES: Judge, do you want to do my pretrial
18 motions right now.

19 THE COURT: Yes, ma'am.

20 MS. ALVES: Yes, sir. Your Honor, my first motion
21 would be in regards to Detective Tarter. While I do intend
22 to bring up the potential conflict of interest and I intend
23 to elicit testimony or at least attempt to elicit testimony
24 regarding that, I would make motion to keep out the fact
25 that he was actually a suspect in an arson. I mean -- I

1 don't think there's a problem that the facts -- let me
2 explain the back story on that, Judge.

3 The -- Detective Tarter --

4 THE COURT: Well, I'm not going to let the State
5 say he's a suspect in an arson case. But if you start
6 questioning the detective about an arson case, I think most
7 people would realize he probably was a suspect. I don't
8 know.

9 MS. ALVES: Well, I don't think -- the issue is --
10 I think it's obvious and it's clear that he was a suspect
11 in a crime against her mother, or a crime involving her
12 mother. Just my concern is that it would be -- actually be
13 referenced as arson and I may be the one that opened the
14 door on that, but I'm making an attempt to keep the State
15 from eliciting that if I'm successful in not opening the
16 door on that.

17 MR. MILLER: Your Honor, I think that that -- and
18 obviously, you would have to hear the testimony as it came
19 out. I'm trying to imagine how she would allege Detective
20 Tarter had a conflict of interest because the defendant was
21 a suspect in a crime against her where her mother was the
22 victim without bringing up what the crime was. I mean --

23 THE COURT: Well, that's her problem. I'm talking
24 about you in your case in chief, stay away from it.

25 MR. MILLER: Judge, we're not calling her. So

1 we're not going to have any issue about not getting into it
2 in our case in chief.

3 THE COURT: Fair enough, Ms. Alves?

4 MR. HAYES: Yes, sir, thank you.

5 Judge, also I'd make a motion to keep out any
6 reference to Mr. Jones's mother alleging that threats were
7 made against her. And I would also make a motion to keep
8 out the fact that Mr. Jones's mother shot him. Judge, it's
9 the State's allegation in this case that Mr. Jones hit
10 Ms. Wanda Badger, his girlfriend of over 20 years, in the
11 head with a hammer. The State's evidence would allege that
12 Mr. -- Mr. Jones -- that Ms. Badger ran into -- Ms. Badger
13 drove her vehicle into his parent's yard and jumped out of
14 her vehicle and was yelling for help and ran into the
15 house.

16 Mr. Jones's mother came out of the house and told
17 him to stay out of the house. And she -- Mr. Jones had a
18 scuffle -- the State is alleging this, we're not getting
19 into these facts, but Mr. Jones -- they're alleging that
20 Mr. Jones had a scuffle with his stepfather in the yard
21 where his stepfather was trying to keep him out of the
22 home, that he was able to break free of his stepfather and
23 ran to the house toward his mother, at which point she shot
24 him while he was just inside her porch.

25 She's -- Mr. Jones's mother has stated that -- and

1 she's given numerous statements to the police: On the
2 9-1-1 call, when the police first came and to the officer
3 who is the investigator that Mr. Jones had made numerous
4 threats toward her and toward Ms. Badger, the victim in
5 this case, the day before.

6 She said that he threatened -- Mr. Jones's mother
7 said that he threatened to burn her house down. She said
8 that he threatened to F-her-up, in her words. And that he
9 threatened to beat the victim upside the head.

10 My -- I'm objecting to any threat being made toward
11 the mother. I don't think -- I don't believe that they're
12 relevant to this case. I believe they're prejudicial to
13 Mr. -- Mr. Jones to bring them up. We're also alleging
14 that they're not credible.

15 His mother has stated that the reason she shot him
16 was in fear for herself because of what he told her. Not
17 necessarily because of what he told Ms. Badger or because
18 of the alleged incident with him hitting Ms. Badger in the
19 head with a hammer. She, in fact, has also made statements
20 to myself and my investigator that she shot him because she
21 was in fear because of threats he made to her.

22 I believe that would be irrelevant in this case. I
23 think it would be overly prejudicial and I would -- and I'm
24 objecting to that -- to that coming in. To any of that
25 coming in.

1 MR. MILLER: Your Honor, first of all, to
2 understand the context of the allegation: Police are
3 called at about 12:30 in the afternoon to this house,
4 reports somebody had been shot. The police officers get
5 there and when they arrive they find the defendant shot in
6 the stomach area and his mother holding a gun. And she
7 says that she shot him.

8 When the police start questioning her and her
9 husband and the victim, who had hidden in the house and has
10 lacerations on her head from getting hit in the head with a
11 hammer, the mother informs law enforcement that the day
12 prior the defendant had threatened both the mother and
13 Ms. Badger, his common law wife and had said that he was
14 going to split her head open with a hammer and that he was
15 going to come over and F-up his mother after he did it and
16 set her house on fire.

17 That's what the nature of the allegation is, that
18 she says he made the day before. In response to that, she
19 called the defendant's parole officer, his federal parole
20 officer and said he's making these threats, y'all need to
21 do something about it and the parole officer tells us that
22 she advised Ms. Newton, that's defendant, to call the
23 police department. She didn't want to do that for reasons
24 that are her own.

25 She didn't call the police department, but she does

1 specifically say that a couple of times earlier in this day
2 he had asked her for a hammer. The defendant had asked his
3 mother for a hammer after he has told her that he is going
4 the split his common law wife's head open with a hammer.
5 And she refused to give it to him.

6 But the defendant alledgedly asked his stepfather
7 if he had a hammer and the stepfather, not knowing about
8 the defendant's prior threat gives a hammer to the
9 defendant. So a little while later, a horn is blowing in
10 the yard. The mother says that their mailbox had been
11 broken or knocked over or whatever and that was generally
12 how the mailman would come. The mailman would pull into
13 the yard, blow the horn, one of them would run out there
14 and he would hand the mail to them.

15 So they hear a horn in the yard and stepfather
16 walks outside and when he walks outside, he sees the
17 vehicle coming towards him in the yard and it slows down
18 and the victim, Ms. Badger, jumps out of the vehicle and
19 the defendant is in the back of the vehicle swinging at her
20 with a hammer. And that he gets out and is coming after
21 her with a hammer.

22 The stepfather tackles the defendant in the yard
23 and that's what he's going the testify to is tackling him
24 in the yard while the victim runs up the stairs, through
25 the porch and into the house, bleeding from the head.

1 At that point, the mother gets up and goes outside
2 and she sees the defendant coming up the steps. So she
3 shot him to stop him. She says very clearly she shot him
4 to stop him from F'ing her up, which he had said he was
5 going to do before; and from setting her house on fire,
6 which he said he was going to do before; and from attacking
7 Ms. Badger anymore. That's what she had to do to stop him
8 from hitting her in the head with this hammer, was she shot
9 him.

10 It is completely relevant to the allegations that
11 are made in the indictment. Him hitting her in the head
12 with a hammer was an assault and battery accomplished by
13 means likely to cause death or great bodily injury.
14 Fortunately it did not cause death or great bodily injury,
15 but she spent a couple of days in the hospital and had
16 large areas of her head that had to be stapled back
17 together where he had split her head open with this hammer.

18 And so it is absolutely relevant that she felt the
19 need to shoot him in order to stop him from doing what he
20 was doing. And it did stop him from doing what he was
21 doing. But that's the lengths she had to go to. And then
22 she called 9-1-1. And then she told the police that they
23 needed to get over there because she had shot her son. And
24 frankly, the 9-1-1 operator was, I think understandably a
25 little bit confused because she's saying I shot my son.

1 You need to get somebody over here. And she's very clear
2 on the 9-1-1 call. The reason why she shot her son was all
3 of this stuff was going on. And now he has beaten her in
4 the head with a hammer, tried so split her head open with a
5 hammer the way he said he was going to, and now he's fought
6 with her husband in the yard, and here he's coming into the
7 house. So she shot him.

8 And that's why after she calmed down and after she
9 was, I guess, thought it through -- I don't know if she
10 talked to somebody or not, that's why she initially didn't
11 talk to Detective Tarter because she had shot somebody and
12 she had admitted it and had the gun in her hand when the
13 police got there. But after she went through everything
14 that happened, she was like, okay, I can go talk to
15 Detective Tarter.

16 THE COURT: Well, obviously, I'm not going to rule
17 on it in limine. Ms. Alves, make your objections if you
18 need to as it goes along. I will have to rule on it as it
19 is presented and obviously make whatever objections you
20 need to to protect your client. It's just from abstract
21 from listening to both of you argue, I can't -- without
22 hearing it in context, hearing exactly what's presented,
23 make a ruling as to whether or not it would be admissible
24 or not. But obviously I will make a determination as to
25 it's relevancy and if I find it to be relevant then I'll

1 make a 403 analysis dealing with prejudicial versus
2 probative, probative versus prejudicial and go from there.

3 But I will obviously be on the lookout because of
4 your motion that you made.

5 MS. ALVES: Yes, sir.

6 THE COURT: Anything else?

7 MR. HAYES: Yes, sir. Mr. Jones is currently on
8 federal probation. He had a violation on that probation in
9 -- in, excuse me, I believe in June -- in June of 2016
10 where he was briefly incarcerated. And in September of
11 '16, he was sent to a 28-day-rehab program in North
12 Carolina by his probation agent. My concern is in talking
13 to all -- talking to the witnesses, they repeatedly
14 reference Mr. Jones's record and his recent releases from
15 incarceration. The concerns are that coming up as being
16 prejudicial to Mr. Jones and in violation of the rules to
17 discuss any of his incarcerations --

18 THE COURT: What was he on probation for?

19 MS. ALVES: A drug charge that he pled guilty to in
20 2011. I believe it was conspiracy.

21 THE COURT: Mr. Miller, you intend to use any of
22 his prior record for impeachment purposes?

23 MR. MILLER: No, sir, Your Honor.

24 THE COURT: So why would that be relevant?

25 MR. MILLER: It is not.

1 THE COURT: You're not going to bring it up?

2 MR. MILLER: No, sir. In fact, we have instructed
3 the witnesses not to talk about calling the parole officer
4 and not to talk about him --

5 THE COURT: Just getting out of jail?

6 MR. MILLER: Just getting out of jail. And we --
7 the witnesses, particularly the mother, are going to have
8 to be handled carefully. She's been told, and I think she
9 understands, but we have directed our questions in a manner
10 or prepared our questions in a manner that I don't think
11 any question that we ask calls for any kind of response
12 about incarceration or the parole officer. We're
13 specifically not asking her about the threats that were
14 allegedly made the day prior just to avoid that whole
15 situation.

16 THE COURT: Where she did call the parole officer.

17 MR. MILLER: Where she did call the parole officer.
18 We're trying to avoid all of that, Judge. But I would not
19 argue that it has any relevance, so that...

20 MS. ALVES: Judge, I would also object to any
21 reference to Mr. Jones using drugs. All of the witnesses
22 have repeatedly said that Mr. Jones was using drugs and
23 that is why this happened. His mother has even talked
24 about the fact that she thought he was possessed by a
25 demon. So I would object to any reference to any of that

1 coming up. I believe that would be improper character
2 evidence against Mr. Jones.

3 Of course, if we put in good character, then the
4 State has the right to put in bad character under the
5 rules, but I think that that would be --

6 THE COURT: Well, I don't know whether the mother
7 saw him using drugs or whether she -- he was acting like he
8 normally acts, what --

9 Mr. Miller, what's the situation on that?

10 MR. MILLER: Your Honor, the way that it came up
11 was the mother had -- either the mother or the common law
12 wife had said that he was demanding drug -- money from them
13 so that he could buy drugs. They, again, going back to the
14 parole officer, had told the parole officer that he was
15 using drugs. In fact, a warrant was issued for his arrest
16 on a parole violation because he failed a drug test within
17 a couple of --

18 THE COURT: Well, we're not going to get into the
19 parole violation. We're not going to get into parole.
20 We're not going to get into why he was in jail.

21 MR. MILLER: Right.

22 THE COURT: Unless they see him using drugs, I --

23 MR. MILLER: The only -- the only relevance that it
24 may have, Your Honor, is if, in fact, it is the defense's
25 plan to utilize the mother's statement about his erratic

1 behavior as some kind of unexplained psychosis, then I
2 think that certainly that would open the door to it. And I
3 agree with Ms. Alves, the mother does characterize him as
4 having black eyes and looking like he was possessed by a
5 demon at the time that he was coming up on the porch. If
6 that's part of the plan is to say that he was somehow
7 laboring under some kind of mental illness or mental
8 deficiency at that time, then I think it opens up the door.

9 THE COURT: Well, I understand that but aside from
10 her opening the door from the State's presentation of
11 proving the case -- attempt to prove the case beyond a
12 reasonable doubt, I'm asking you to stay away from that
13 unless you feel like something's becoming germane,
14 relevant. Stop, do a proffer. However Ms. Alves opens the
15 door, then obviously, fair game.

16 MR. MILLER: We have instructed the witnesses, no
17 drugs --

18 THE COURT: No parole.

19 MR. MILLER: -- no law enforcement.

20 THE COURT: All right. Ms. Alves, anything else?

21 MS. ALVES: Yes. Judge, the State has provided me
22 with copies of text messages that were allegedly sent by
23 Mr. Jones to Ms. Badger. I would -- some of the text
24 messages are -- one in particular is he's going -- I'm
25 going to get you, or something of that nature. I would

1 object to the use of the text messages.

2 THE COURT: What's the objection?

3 MS. ALVES: Judge, I don't think that the State can
4 authenticate the text messages. I don't know that --
5 there's been nothing provided to me other than copies of
6 pictures of the text messages and also I don't believe -- I
7 don't believe that Ms. Badger actually saw the text
8 messages until after the alleged incident.

9 MR. MILLER: We're not trying to introduce the text
10 messages. They'll come in in sentencing if we get to that
11 point.

12 MS. ALVES: The only other thing I had was Mr. --
13 Mr. Jones's motion. I just wanted to put it on the record
14 that he had a motion to quash the indictment based on the
15 discussion that was made prior between Your Honor and
16 Mr. Jones.

17 THE COURT: You have any -- being his lawyer do you
18 have any legal authority to support his position.

19 MS. ALVES: I do not, Your Honor.

20 THE COURT: Okay. I'll stand by my ruling on that.

21 All right. Well as I understand, we're going to
22 draw the jury in the morning. I will advise y'all about
23 the necessity of the doctor for -- to have a Blair Hearing,
24 but based on his testimony here today, I don't see where we
25 need to do anything further than that. I find that the

1 report is what it says, it's admitted and I questioned him
2 thoroughly on the various aspects of the Blair situation
3 and he's clearer than I am about what his -- what his
4 lawyer does, what I do and what you do, Mr. Miller, and
5 understanding the charges and understanding the whole
6 thing. So --

7 Anything else?

8 THE DEFENDANT: A continuance Your Honor, an
9 opportunity to look at some of the things in my case.

10 THE COURT: I'm going to respectfully deny that.

11 All right. I'll see y'all in the morning. The
12 jury will be here at what time Madam Clerk?

13 THE CLERK: 9:15. I'll be ready for you -- I will
14 call the role at 9:30 and we should be ready for you all by
15 10.

16 THE COURT: Ms. Alves, you got some clothes and all
17 that?

18 MS. ALVES: Judge, I would like -- we brought some
19 clothes from the Aiken office. I would like opportunity to
20 have Mr. Jones try them on while he's here so that we can
21 see if they fit him and how those look on him. And if not
22 we'll work on something else.

23 MR. MILLER: And, Your Honor, I'm sorry, but we had
24 discussed -- Ms. Alves had asked to select the jury
25 tomorrow and start the trial first thing Wednesday morning.

1 I don't know if that's still her --

2 MS. ALVES: That is an issue, Judge, Mr. Jones has
3 given me some information, which I just want to have the
4 opportunity to track it down. My investigator is working
5 on some of it now.

6 THE COURT: Granted.

7 MS. ALVES: Thank you.

8 MR. MILLER: Thank you, Your Honor.

9 **TUESDAY, MAY 22, 2018**

10 MR. COOPER: Your Honor this is the State of South
11 Carolina versus Venson Jones, Docket Number 2017GS0600059,
12 a true-billed indictment for assault and battery of a high
13 and aggravated nature.

14 THE COURT: Thank you.

15 **JURY VOIR DIRE**

16 THE COURT: All right. Ladies and gentlemen, the
17 trial that we're going to draw the jury on is the State of
18 South Carolina versus Venson V-E-N-S-O-N, Tyrone Jones.

19 Mr. Jones, good morning, how are you?

20 THE DEFENDANT: Fine, Judge.

21 THE COURT: Mr. Jones, if you would, please stand
22 and face the jury panel just for a second.

23 (The defendant stood and turned toward the jury
24 panel.)

25 THE COURT: Thank you very much, you may sit down.

1 Have a seat, please.

2 Ladies and gentlemen, Mr. Jones has been indicted
3 by the Barnwell County Grand Jury for the criminal offense
4 of assault and battery of a high and aggravated nature.
5 That is set out in Section 16-03-600(b)1 of the code of
6 laws of this state.

7 To the indictment, Mr. Jones has pled not guilty.
8 A plea of not guilty means that he has the constitutional
9 presumption of innocence and that the State of South
10 Carolina has to prove his guilt to you beyond a reasonable
11 doubt. They have to prove each and every element of the
12 offense for which he was indicted to you beyond a
13 reasonable doubt.

14 Please remember the fact that he has been charged,
15 arrested, and indicted, that is not evidence in the case.
16 That is simply the way this case comes into the courtroom
17 and informs him of the charges. But please do not infer
18 anything from the fact that he's been indicted for these
19 charges. As I said, he has -- he is presumed to be
20 innocent and the State has the burden of proving him guilty
21 to you beyond a reasonable doubt.

22 MS. ALVES: Judge --

23 THE COURT: Now --

24 MS. ALVES: Your Honor, may I speak to you at the
25 bar for a second. It is rather important and pertains to

1 this.

2 THE COURT: Yes, ma'am.

3 (There was a bench conference out of the hearing of
4 the jury venire and the court reporter.)

5 THE COURT: All right. Let me ask you a few
6 questions and if any of these questions apply, please stand
7 once again and identify yourself.

8 The alleged victim in the case is Ms. Wanda Badger,
9 B-A-D-G-E-R.

10 Is Ms. Badger in the courtroom?

11 Could you please stand Ms. Badger and face the jury
12 panel for me.

13 Thank you. You may be seated.

14 Do I have anyone on the jury panel who's been
15 related by blood or marriage or do you now or have you in
16 the past had a close personal or social relationship with
17 the defendant, Mr. Venson Tyrone Jones, or the victim,
18 Ms. Wanda Badger? If so, please stand.

19 All right. Please remain standing.

20 Ma'am, in the pretty pink outfit, your name and
21 number.

22 THE JUROR: I don't know my number. My name is
23 Eartha Brown.

24 THE COURT: Ms. Brown.

25 THE CLERK: Number 21.

1 THE COURT: What is your situation.

2 THE JUROR: Mr. Jones and I are cousins.

3 THE COURT: Cousins.

4 THE JUROR: Yes, sir.

5 THE COURT: All right. I will relieve you from the
6 trial of this case and since we don't have another trial,
7 you may leave, thank you.

8 Yes, ma'am, in the white blouse.

9 THE JUROR: My name is Jenice Jones, I'm Juror
10 Number 89. I knew both of them for 10 plus years.

11 THE COURT: You've known both of them for 10 plus
12 years. Then, obviously, I'm from a small town from Bamberg
13 County and it's not unusual to know people or to live in
14 the community to not know them. How close are you to them?

15 THE JUROR: I talk to them every day.

16 THE COURT: Every day? So pretty close friends?

17 THE JUROR: Yeah.

18 THE COURT: All right. I'm going to excuse -- you
19 know both sides?

20 THE JUROR: Yes.

21 THE COURT: I'm going to excuse you from the trial
22 of the case.

23 And last but not least -- well, your not the last
24 now.

25 Black and white striped outfit.

1 THE JUROR: I'm Carmela Simmons, I'm Juror Number
2 128. Venson is my cousin and Wanda is like a sister to me.

3 THE COURT: Thank you, I will disqualify you from
4 the trial of this case.

5 And the reason I do that, ladies and gentlemen,
6 obviously, we have to have jurors who can try this case
7 based solely on what they hear in the courtroom and apply
8 the law as I give it to you and I will instruct you how
9 that is done. So, you know, human nature, if you're kin to
10 somebody or you live close to them and you see them on a
11 daily basis, it's not fair to ask you to serve as a juror
12 in these types of cases. That's the reason for that. Not
13 anything else. That's just the law.

14 Yes, ma'am, on the very back.

15 THE JUROR: I'm friends with Wanda and also with
16 Tyrone, we're down the line cousins.

17 THE COURT: And your name and number?

18 THE JUROR: Felester Johnson, and I'm Number 84.

19 THE COURT: All right. I'm going to disqualify
20 you. Thank you very much.

21 Family group is getting bigger.

22 Yes, ma'am, name and number?

23 THE JUROR: I'm not family, my name is Carol
24 Price, Juror 113.

25 THE COURT: Yes, ma'am, Ms. Price.

1 THE JUROR: And my nephew was dating Wanda's
2 daughter when this incident occurred, so I'm familiar with
3 it, not familiar with it.

4 THE COURT: Say that again. How do you know them?

5 THE JUROR: I know Wanda. My nephew was dating her
6 daughter during the incident.

7 THE COURT: Okay. All right. I'm going to
8 disqualify you.

9 THE JUROR: Okay.

10 THE COURT: Thank you.

11 Anyone else as to the two parties or the alleged
12 victim and the defendant?

13 (No one stood.)

14 THE COURT: All right. Same question. I'm going
15 to give you the names of the potential witnesses in the
16 trial of the case and I'll ask you the same question.

17 Betty Newton Hill. Is Ms. Hill in the courtroom?

18 (Ms. Hill stood and faced the jury.)

19 THE COURT: Thank you, Ms. Hill, you may be seated.

20 Charles E. Hill, Mr. Hill?

21 (Mr. Hill stood and faced the jury.)

22 THE COURT: Thank you. You may be seated.

23 Chris McClary, he used to work with the Barnwell
24 County dispatchers office. Chris McClary.

25 Also Drayton Gantt, he's with the Barnwell Police

1 Department.

2 Or Renee Greene, she's with the Barnwell Aiken
3 Mental Health Center.

4 Wayne Martin, Mr. Martin.

5 (Mr. Martin stood and faced the jury.)

6 THE COURT: And Diane Tarter, T-A-R-T-E-R. Is
7 Ms. Tarter in the courtroom?

8 (No one stood.)

9 THE COURT: She was at one time with the sheriff's
10 department?

11 THE OFFICER: Police department.

12 THE COURT: Police department, police department.

13 The question: Anybody now or in the past been
14 related by blood or marriage, or do you now or have you in
15 the past had a close personal or social relationship with
16 any of the potential witnesses that I have just called? If
17 so, please stand.

18 THE JUROR: I know Drayton Gantt.

19 THE COURT: All right. Name and number?

20 THE JUROR: Patrick Cloud.

21 THE CLERK: 33.

22 THE JUROR: Drayton is my cousin.

23 THE COURT: Who's your cousin?

24 THE JUROR: Drayton Gantt.

25 THE COURT: All right. I will excuse you from the

1 trial of the case.

2 Yes, ma'am, name and number, please.

3 THE JUROR: Elonda Staley, I don't know my number,
4 but I dated --

5 THE COURT REPORTER: I can't hear her.

6 THE COURT: Ma'am, come up here for me, please.

7 THE CLERK: That's Juror Number 132.

8 THE COURT: If you would just walk up here so I --
9 the only reason I'm asking is because unfortunately I can't
10 hear you as well as I used to could.

11 Your name again?

12 THE JUROR: Elonda Staley.

13 THE COURT: And what's your situation?

14 THE JUROR: I dated Mr. Betty's son when I was 18.

15 THE COURT: You dated Ms. Betty's son when you were
16 younger.

17 THE JUROR: Yes, sir.

18 THE COURT: 18 you said, right?

19 THE JUROR: Yes, sir.

20 THE COURT: That's last year?

21 THE JUROR: No. Well you said in the past so I
22 didn't know if that was --

23 THE COURT: Yes, ma'am. All right. I think that's
24 awfully close. I'm going to excuse you from the trial.
25 Thank you.

1 All right, the next question deals with the
2 lawyers. Mr. Jones is represented by Ms. Wallis Alves.
3 She practices here locally.

4 Ms. Alves. Thank you.

5 The State, Solicitor's office by Deputy David
6 Miller and Jackson Cooper and Mr. Emmer?

7 MR. EMMER: Michael Emmer.

8 THE COURT: Michael Emmer. Cadet -- former cadet.

9 Question: Any member of the jury panel now or in
10 the past has had legal services performed by any of the
11 lawyers? If so, please stand.

12 (No one stood.)

13 THE COURT: Any member of the jury panel related by
14 blood or marriage or do you know or have you in the past
15 had a close personal or social relationship with any of the
16 lawyers? If so, please stand.

17 (Jurors stood.)

18 THE COURT: Name and number, please.

19 THE JUROR: I'm Betty Nelson, 102. My son
20 graduated with Mr. Cooper and he used to spend the night at
21 my house.

22 THE COURT: Your son used to spend the night at
23 your house.

24 THE JUROR: And Mr. Cooper.

25 THE COURT: And Mr. Cooper. I remember those days

1 when my boys were growing up, we used to have a house full
2 of kids in and out.

3 Ms. Alves, what do you say to that? I'll do
4 whatever you want me to do.

5 I'd ask to excuse for cause.

6 THE COURT: All right. I'm going to dismiss you
7 from the trial of the case. Thank you.

8 All right. My next question is this: I'm going to
9 ask if you know anything about the events that are alleged
10 in this case. Let me tell you what's going on.

11 It is alleged, these are allegations, they have to
12 be proven to you beyond a reasonable doubt; but it is
13 alleged that here in Barnwell County on October 22 of the
14 year 2016, Mr. Jones committed the offense of assault and
15 battery upon Ms. Wanda Badger. This took place where
16 allegedly --

17 Mr. Cooper?

18 MR. COOPER: Your Honor, this took place at 128
19 Turner Street and then --

20 THE COURT: So that's in Barnwell.

21 MR. COOPER: Yes, sir.

22 THE COURT: 128 Hunter Street in Barnwell, South
23 Carolina.

24 MR. COOPER: Turner.

25 THE COURT: Turner, I'm sorry T-U-R-N-E-R. It is

1 alleged, these are simply allegations, that the assault and
2 battery was alleged to have occurred when Mr. Jones struck
3 and hit and hit Ms. Badger with a hammer about the head.

4 Now, as I said, these are simply allegations. They
5 have to be proved to you beyond a reasonable doubt by the
6 State. He's pled not guilty, he's presumed to be innocent.
7 But my question is this: Has anyone discussed this case
8 with you? Have you heard about it on the street? Have you
9 seen anything on the television? Read anything in the
10 newspapers? Seen anything on social media? Expressed any
11 opinion about it? Know anything about it at all? If so,
12 please stand.

13 (Several jurors stood.)

14 THE COURT: All right. Ma'am, your name and
15 number?

16 THE JUROR: I don't know my number. Dana Sanders.

17 THE CLERK: Number 123.

18 THE COURT: 123. Now, just tell me -- don't tell
19 me what you've heard, but where did you hear it from.

20 THE JUROR: My neighbor. I used to work with them.

21 THE COURT: All right. Well how about walk up here
22 for me, please.

23 All right. I'm going to let her tell us in
24 private.

25 (The following bench conference was held:)

1 THE COURT: Good morning.

2 THE JUROR: Hello.

3 THE COURT: You had a neighbor that told you
4 something about it?

5 THE JUROR: Yeah, I used to work with her for about
6 two months.

7 THE COURT: Who is her?

8 THE JUROR: Ms. Wanda.

9 THE COURT: Uh-huh. You worked with her?

10 THE JUROR: Yeah, for two months. We -- I don't
11 know her good, but I did work with her.

12 THE COURT: Where did y'all work together?

13 THE JUROR: Bilo in Barnwell. And my neighbor,
14 Wendy, called me because she watches my kids. And she said
15 that she couldn't watch them because she had to stay out
16 because of the incident. I heard about hitting in the head
17 and something about the mom did something to try to stop
18 the son.

19 THE COURT: Okay. Ms. Alves?

20 MS. ALVES: I move to strike for cause.

21 THE COURT: I think you know a little too much, so
22 I'm going to let you go.

23 MS. ALVES: Judge, before we go --

24 THE COURT: You need me?

25 MS. ALVES: Yes, sir. Judge, one of the issues

1 that Mr. Jones brought up to you yesterday in his motion
2 for change of venue was the fact that so many people know
3 his wife. And that lady did not stand up when you --

4 THE COURT: Which lady?

5 MS. ALVES: Ms. Sanders, Juror Number --

6 THE COURT: The one that just was here?

7 THE CLERK: 123.

8 MS. ALVES: My concern is that -- I'd ask you to --
9 I know you've already asked for a close personal
10 relationship, but the issue is do any of them actually know
11 her. She worked in two places, at Bilo and Walmart.

12 THE COURT: Yes, sir, name and number?

13 THE JUROR: Reginald Roberts, I don't know my
14 number.

15 THE COURT: That's okay. We know it. You want to
16 speak to me in private?

17 THE JUROR: If you want me to.

18 THE COURT: I'd rather you do that than say in
19 front of the jury what you know.

20 THE CLERK: What was his name?

21 MR. BAMBERG: 121.

22 THE COURT: Thank you, Mr. Bamberg.

23 (There was a bench conference on the record, out of
24 the hearing of the jury venire.)

25 THE COURT: Roberts or Robertson?

1 THE CLERK: Roberts.

2 THE COURT: Mr. Roberts, I like your shoes.

3 THE JUROR: Thank you.

4 THE COURT: Hold on one second and let Ms. Alves
5 get up here.

6 Tell me what you know.

7 THE JUROR: Only thing I do know is Wanda, not by
8 marriage, sister is my niece. She was dating my nephew.
9 It been about 10 years. But it's not by marriage, that's
10 why I didn't stand up.

11 THE COURT: You're not kin to them.

12 THE JUROR: Yeah.

13 THE COURT: Well, Ms. Alves.

14 MS. ALVES: I just want to know what does he know.

15 THE JUROR: I know them real well, but it's not by
16 marriage. Like you said --

17 THE COURT: You're not related by blood or
18 marriage.

19 THE JUROR: I know them all.

20 THE COURT: Okay.

21 MS. ALVES: Motion to strike for cause.

22 THE COURT: All right. We're going to let you go
23 on. Thank you.

24 All right. Let me go back to a question I had a
25 while ago. I asked if anyone was related by blood or

1 marriage to the two parties. Let me expand that a little
2 bit. I had several people stood up that were related and
3 some people had family members that were involved with them
4 or close friends. This question is: Do I have any member
5 of the jury panel who through business associations, or
6 just living in a small community, or for any reason, know
7 Ms. Wanda Badger or Mr. Jones? If so, please stand. Other
8 than the ones who have already stood.

9 Name and number, please, ma'am.

10 THE JUROR: Ashley Stoudemire, 135, we used to work
11 together.

12 THE COURT: We, you and Ms. --

13 THE JUROR: Me and Ms. Wanda.

14 THE COURT: And I think she worked at the Bilo,
15 maybe?

16 THE JUROR: Well, we worked whenever it was Reids.

17 THE COURT: How long ago was that, ma'am?

18 THE JUROR: It's been a while.

19 THE COURT: A while?

20 THE JUROR: Yes, sir.

21 THE COURT: And how long did y'all work together?

22 THE JUROR: About a year, two years.

23 THE COURT: Long time ago.

24 THE JUROR: Yes.

25 THE COURT: All right. The fact that you worked

1 several years or however long ago it was, just for a short
2 period of time, whatever time it was, would that in any way
3 keep you from being fair and impartial and being able to
4 try this case based solely on what you hear in the
5 courtroom?

6 THE JUROR: No, sir.

7 THE COURT: Thank you, you may be seated.

8 Ms. Alves, that cover that?

9 MS. ALVES: Yes, sir.

10 THE COURT: Thank you.

11 All right. Ladies and gentlemen, let me go over
12 one other little question and let me explain to you in this
13 manner: When we try a case, whether it's in the civil
14 court or criminal court, general sessions, we have two
15 judges who participate in the trial.

16 My position makes me the judge of the law. I
17 instruct and tell you what the law is and what law you have
18 to apply to the case and you have to accept the law as I
19 give it to you. My other function is to rule on the
20 admissibility of the evidence that comes into the
21 courtroom. The lawyers have to ask their questions and
22 present their case in compliance with our rules of evidence
23 and criminal procedure.

24 And it could very well be that we have one witness
25 who gets on the witness stand and even though everybody's

1 complying with the rules, will tell you that the airplane
2 was silver. And the next, even though the questions are
3 asked pursuant to the rules, will tell you, no, it was red.
4 And that has some particular emphasis in the case.

5 So you've got two witnesses saying two different
6 things. That's when we have to have the other judge and
7 that is --

8 (A phone was ringing.)

9 THE COURT: That my phone?

10 THE CLERK: It's not mine.

11 THE COURT: All right. Y'all have got to fine me.
12 I forgot to turn mine off this morning.

13 That's where the other judge comes into play. That
14 is the judge of the facts. So the twelve jurors,
15 collectively acting as one, you are the judges of the facts
16 in the case. And what you have to do, your duty is to
17 listen carefully and to judge or determine the credibility
18 or the believability of the testimony. And when you
19 determine what the true facts are, judging the facts, you
20 apply it to the law as I give it to you and then you must
21 make a decision as to whether or not, based on the facts as
22 you find them to be and the law as I give it to you, as to
23 whether or not the State has met their burden of proof of
24 proving each and every element to you beyond a reasonable
25 doubt.

1 So you're the judges of the facts to determine
2 whether -- based on the facts as you find them, whether the
3 State has proven its case beyond a reasonable doubt.

4 Now, having said that, do I have any member of the
5 jury panel who is unable, because of any political beliefs,
6 religious beliefs, any kind of belief, personal belief,
7 that you're unable to perform that task, that civil
8 responsibility of being a juror and the judge of the facts
9 in the case as I have just expressed, please stand.

10 (A juror stood.)

11 THE COURT: Yes, ma'am, name and number?

12 THE JUROR: Megan Eubanks, 50. My fiance is a
13 police officer in Bamberg.

14 THE COURT: Your fiance is a police officer in
15 Bamberg.

16 THE JUROR: Yes, sir.

17 THE COURT: Well, that is great. What does that
18 have to do --

19 THE JUROR: Does that have, like, the law or
20 portion of it since he's on one side -- like, yes or no.

21 THE COURT: I think I know what you're saying.

22 THE JUROR: Yes, sir.

23 THE COURT: You're engaged to be married to a
24 police officer.

25 THE JUROR: Yes, sir.

1 THE COURT: Well, I was one time to be married to a
2 nurse. I married her. But it's not unusual -- we need
3 jurors from all walks of life.

4 THE JUROR: That's fine.

5 THE COURT: And it's not unusual to have jurors
6 whose family -- I'm going to ask that question in a minute,
7 who have police officers in their family. The test is
8 this: Can you set aside that and try this case based
9 solely on what you hear in this courtroom and determine
10 what those true facts are, apply it to the law and
11 determine whether the State's met their burden of proof.
12 Can you do that?

13 THE JUROR: Yes, sir.

14 THE COURT: Thank you, you may stay with us.
15 Anyone else?

16 (No one stood.)

17 THE COURT: Do I have any member of the jury panel,
18 you or your immediate family ever been the victim or a
19 defendant in an assault case where you or a member of your
20 family, has been assaulted or you've been accused of it.

21 (Several jurors stood.)

22 THE COURT: Do I have any member of the jury
23 panel --

24 Yes, ma'am, name and number?

25 THE JUROR: Elizabeth Buxton.

1 THE COURT: Ms. Buxton, how are you.

2 THE JUROR: Doing very well, thank you.

3 THE CLERK: That's 26.

4 THE COURT: What's your situation.

5 THE JUROR: Well, I witnessed my mother-in-law's
6 murder.

7 THE COURT: Murder. I'm so sorry that you had to
8 experience that horrible event. Would that in any way,
9 ma'am -- can you set that aside and try this case based
10 solely on the evidence that you hear in the courtroom as I
11 have explained earlier?

12 THE JUROR: Yes, I can.

13 THE COURT: Thank you very much. You may be
14 seated.

15 Yes, ma'am, on the back?

16 THE JUROR: Maggie Aldrich.

17 THE COURT: I'm sorry. Be a little louder.

18 THE JUROR: Maggie Aldrich.

19 THE CLERK: Number 2.

20 THE COURT: What's your situation?

21 THE JUROR: May I come up there?

22 MS. ALVES: Judge, she's already been set aside
23 earlier.

24 THE COURT: The conversation we had up here?

25 MS. ALVES: Yes, sir.

1 THE COURT: All right. I'm going to excuse you. I
2 understand your situation.

3 Ms. Alves, Mr. Miller, put that on the record at
4 the appropriate time.

5 All right. Here's the question I just promised, do
6 I have any member of the jury panel, you or your family or
7 close friends work with law enforcement or with the
8 solicitor's office? If so, please stand.

9 (Several jurors stood.)

10 THE COURT: We've already had that young lady, so
11 you don't have to stand.

12 Sir?

13 THE JUROR: Juror 11, Terry Berkenstock, my son was
14 a police officer for four years, two years in Blackville,
15 two years in Williston. My sister is a retired police
16 officer, full retirement in Dayton, Ohio.

17 THE COURT: All right. The fact that you have
18 family members in law enforcement, would that in any way,
19 sir, preclude or keep you from being able to serve as a
20 juror in this case, with particular emphasis being placed
21 on your ability to be fair to both sides.

22 THE JUROR: I believe I can serve, sir.

23 THE COURT: Thank you, sir.

24 Yes, ma'am, in the pretty blue and white checked
25 outfit.

1 THE JUROR: My name is Lorie Breland, I'm Juror
2 Number 16. And my great aunt, she's a police officer.

3 THE COURT: Where?

4 THE JUROR: In Barnwell.

5 THE COURT: I'm sorry, where?

6 THE JUROR: In Barnwell.

7 THE COURT: Was or is?

8 THE JUROR: Is, I think.

9 THE COURT: Still is?

10 THE JUROR: Yes, sir.

11 THE COURT: Your great aunt is a police officer for
12 the City of Barnwell?

13 THE JUROR: Yes, sir.

14 THE COURT: And the City of Barnwell is the
15 investigating agency?

16 MS. ALVES: Yes, sir.

17 THE COURT: All right. I'm going to let -- excuse
18 you now.

19 Yes, ma'am on the front in the black blouse.

20 THE JUROR: My father's a retired highway patrolman
21 in Allendale.

22 THE COURT: Name and number?

23 THE JUROR: I'm Kathy Watkins, number 141.

24 THE COURT: The fact that your dad was at one time
25 a highway patrolman, ma'am, would that in any way preclude

1 you from being able to serve as a juror in this case?

2 THE JUROR: No, sir.

3 THE COURT: Thank you, you may be seated.

4 Yes, ma'am? Yes, ma'am, in the blue?

5 THE JUROR: My name is Sybrinda Holiday, Juror
6 Number 72. My husband is currently a law enforcement
7 officer with Sentara over at Savannah River Site.

8 THE COURT: And the fact that your husband works at
9 the Savannah River Site in their security program or
10 whatever he does with law enforcement, would that in any
11 way, ma'am, keep you from being a fair and impartial juror
12 in the trial of this case?

13 THE JUROR: No, sir.

14 THE COURT: Thank you, ma'am, you may be seated.

15 And last but not least, yes, ma'am, in the
16 multicolored blouse.

17 THE JUROR: My name is Amy Klimek, Number 95, my
18 brother is a U.S. Marshall in Florence, South Carolina.

19 THE COURT: In Florence. And the fact that you
20 have a brother who is a U.S. Marshall in Florence, ma'am,
21 would that in any way preclude or keep you from being able
22 to serve as a juror, being able to be fair both to the
23 State and to the defendant?

24 THE JUROR: No, sir.

25 THE COURT: Thank you, ma'am, you may be seated.

1 Do I have any member of the jury panel who is a
2 member of or a contributor to organizations which are
3 affiliated with the support of law enforcement? That would
4 be examples like MADD, Mother's Against Drunk Driving;
5 SADD, Students Against Drunk Driving, and those types of
6 cases. Do I have any member of the jury panel who is a
7 member of or contributes to those types of organizations?
8 If so, please stand.

9 (No one stood.)

10 THE COURT: Do I have any member of the jury panel
11 for any reason whatsoever -- do you know of any reason why
12 you should not serve as a juror, with particular emphasis
13 being placed on your ability to be fair both to the State
14 and to the defendant, notwithstanding the allegations of
15 assault and battery, or notwithstanding the allegations of
16 perhaps domestic violence?

17 (No one stood.)

18 THE COURT: Does anyone know of any reason why you
19 should not be able to serve, any reason why you can't be
20 fair and impartial to both sides, any reason why you can't
21 serve as the judge of the facts and determine whether or
22 not the State is able -- has proved their case to you
23 beyond a reasonable doubt? If so, please stand.

24 (No one stood.)

25 THE COURT: Any additional questions by the State?

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

2 THE COURT: Ms. Alves?

3 THE JUROR: No, Your Honor.

4 JURY SELECTION

5 THE COURT: All right. Give me -- strikes are five
6 and five, and Ms. Alves, you'll be able to make your --
7 what we discussed at the bar afterwards.

8 And the way it works is this: Ms. McElveen is,
9 through a random computer program, she will randomly select
10 jurors. When your name is called, please come forward
11 right here, stand -- come through the gate, right here.

12 The State has five strikes, the defendant has five
13 strikes. They can strike you for most any reason -- they
14 can strike you for most any reason within bounds and they
15 know what the bounds are under our statutory law and case
16 law. So don't get offended if you get struck. But any
17 way, both sides have five strikes each.

18 We'll go through that process until we get twelve
19 and two alternates.

20 Y'all ready?

21 THE CLERK: Almost.

22 THE COURT: This process will take about 10
23 minutes. Everybody okay?

24 (No one responded.)

25 THE COURT: All right. As your name is called,

1 please come forward.

2 THE CLERK: Juror Number 83; Nicole Jennings (black
3 female).

4 THE COURT: Ms. Alves, Mr. Miller, if any of those
5 numbers come up --

6 MR. MILLER: Yes, sir.

7 MS. ALVES: Yes, sir.

8 THE CLERK: What says the State?

9 MR. COOPER: Please present the juror.

10 THE CLERK: What says the defense?

11 MS. ALVES: Please seat the juror.

12 THE CLERK: Juror Number 49, Christopher Heath
13 (white male).

14 What says the State?

15 MR. COOPER: Please present Mr. Heath.

16 THE CLERK: What says the defense?

17 MS. ALVES: Please seat the juror.

18 THE CLERK: Juror Number 76, Jack Hutto (white
19 male).

20 What says the State?

21 MR. COOPER: Please present Mr. Hutto.

22 What says the defense?

23 MS. ALVES: Please excuse Mr. Hutto.

24 THE CLERK: Juror Number 34, Melinda Coleman (black
25 female).

1 What says the State?

2 MR. COOPER: Please excuse Ms. Coleman.

3 THE CLERK: Juror Number 108, Harold Owens (white
4 male).

5 MS. ALVES: What number?

6 THE CLERK: 108.

7 MS. ALVES: Thank you.

8 THE CLERK: What says the State?

9 MR. COOPER: Please present the juror.

10 THE CLERK: What says the defense?

11 MS. ALVES: Please seat the juror.

12 THE CLERK: Juror Number 43, Briana Brown (white
13 female).

14 What says the State?

15 MR. COOPER: Please present the juror.

16 THE CLERK: What says the defense?

17 MS. ALVES: Please seat the juror, please.

18 THE CLERK: Juror Number 53, David Freeman (white
19 male).

20 What says the State?

21 MR. COOPER: Please present the juror.

22 THE CLERK: What says the defense?

23 MS. ALVES: Please seat the juror.

24 THE CLERK: Juror Number 58, Barbara Gilchrist
25 (black female).

1 What says the State?

2 MR. COOPER: Please present the juror.

3 THE CLERK: What says the defense?

4 MS. ALVES: Please seat the juror.

5 THE CLERK: Juror number 91, Kelly Joyner (white

6 female).

7 What says the State?

8 MR. COOPER: Please present Ms. Joyner.

9 THE CLERK: What says the defense?

10 MS. ALVES: Please excuse the juror.

11 THE CLERK: Juror Number 18, Andra Brown (black

12 male).

13 What says the State?

14 MR. COOPER: Please present the juror.

15 THE CLERK: What says the defense?

16 MS. ALVES: Please excuse the juror.

17 THE CLERK: Juror Number 135, Ashley Stoudemire

18 (white female).

19 What says the State?

20 MR. COOPER: Please present the juror.

21 THE CLERK: What says the defense?

22 MS. ALVES: Please excuse the juror.

23 THE CLERK: Juror Number 94, Patrick Keen (white

24 male).

25 What says the State?

1 MR. COOPER: Please seat the juror.

2 THE CLERK: What says the defense?

3 MS. ALVES: Please seat the juror.

4 THE CLERK: Juror Number 149 Veronica Young (black
5 female).

6 What says the State?

7 MR. COOPER: Please present the juror.

8 THE CLERK: What says the defense?

9 MS. ALVES: Please seat the juror.

10 THE CLERK: Juror Number 11, Terry Berkenstock
11 (white male).

12 What says the State?

13 MR. COOPER: Please present the juror.

14 THE CLERK: What says the defense?

15 MS. ALVES: Please seat the juror.

16 THE CLERK: Juror Number 80, Scarlet Jackson (white
17 female).

18 What says the State?

19 MR. COOPER: Please present the juror.

20 THE CLERK: What says the defense?

21 MS. ALVES: Please excuse the juror.

22 THE CLERK: Juror Number 112 Freddie Pernell (black
23 male).

24 What says the State?

25 MR. COOPER: Please excuse the juror.

1 THE CLERK: Juror Number 122, Perry Rollins (black
2 male).

3 MR. MILLER: Your Honor, the State would move to
4 strike for cause.

5 THE COURT: All right. This is one we discussed at
6 bar. He'll be struck for cause.

7 Mr. Rollins, you're excused.

8 THE CLERK: Juror Number 28, Leola Carrie (black
9 female).

10 What says the State?

11 MR. COOPER: Please seat Ms. Carrie, please present
12 Ms. Carrie.

13 MS. ALVES: Please seat the juror.

14 THE CLERK: What says the defense?

15 MS. ALVES: Please seat the juror.

16 THE CLERK: Juror Number 41, Angela Daniel (white
17 female).

18 What says the State?

19 MR. COOPER: Please present the juror.

20 THE CLERK: What says the defense?

21 MS. ALVES: Please seat the juror.

22 THE CLERK: Juror Number 7, Betty Baker (white
23 female).

24 What says the State?

25 MR. COOPER: Please present the juror.

1 THE CLERK: What says the defense?
2 MS. ALVES: Please seat the juror.
3 THE COURT: Two alternates, two and one.
4 THE CLERK: Juror Number 99 Robert Mahuron (white
5 male).
6 What says the State?
7 MR. COOPER: Please present the juror.
8 THE CLERK: What says the defense?
9 MS. ALVES: Please seat the juror.
10 THE CLERK: Juror Number 105, Jennifer Monroe
11 (white female).
12 What says the State?
13 MR. COOPER: Please present the juror.
14 THE CLERK: What says the defense?
15 MS. ALVES: Please excuse the juror.
16 THE CLERK: Juror Number 103, Devon Miller (white
17 male).
18 What says the State?
19 MR. COOPER: Please excuse the juror.
20 THE CLERK: Juror Number 95, Amy Klimek (white
21 female).
22 What says the State?
23 MR. COOPER: Please present the juror.
24 THE CLERK: What says the defense?
25 MS. ALVES: Please excuse the juror.

1 THE CLERK: Juror Number 109, Dyann Parler (white
2 female).

3 What says the State?

4 MR. COOPER: Please present the juror.

5 THE CLERK: What says the defense?

6 MS. ALVES: Please seat the juror.

7 THE COURT: Any motions by the State in connection
8 with the selection of the jury?

9 MR. COOPER: None, Your Honor.

10 THE COURT: Ms. Alves.

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

12 (There was a pause in the proceedings.)

13 MS. ALVES: No motions, Judge.

14 THE COURT: All right. Ladies and gentlemen, those
15 of you who were not selected as represented, I am going to
16 release you now for the balance of the week. If you would
17 leave out the back door, unless anyone has trouble going
18 down those steps.

19 Hold on a second. Leave your badges with the
20 bailiff as you go out the back door. You will receive a
21 check for your services today. It's not a large check, but
22 we thank you. Obviously, we cannot run our court system
23 without jurors ready, willing, and able to serve and I do
24 thank you. I'm pleased to announce that the Court system
25 in the Second Circuit, which is Bamberg, Barnwell, and

1 Aiken, our criminal dockets and our civil dockets are as up
2 to date and as good as any in the state and I appreciate
3 everybody for their hard efforts and work which makes our
4 dockets -- some places you go, the docket is really in bad
5 shape. But not here, we're in good shape. We can't do it
6 without you and I thank you very much. I'm going to
7 release you now, everyone -- except for Mr. Jack Hutto,
8 please stay with me.

9 David, 9:30?

10 MR. MILLER: Yes, Your Honor.

11 THE COURT: I'm going to let y'all go back -- I'm
12 going to let y'all step back with the bailiff. They'll
13 show you where to report in the morning. Out of an
14 abundance of caution, you have a number on that, on your
15 jury list owe-

16 Isn't that right? On the paper? Where is it.

17 THE CLERK: It's not on there.

18 THE COURT: Anyway, I'm going to let y'all call
19 back after six this afternoon just to make sure
20 everything's still running as according to plan, we're not
21 going to start late or something else. So call back after
22 six and you will receive instructions to be here at 9:30.
23 Is 9:30 okay with everybody? I assume 9:30?

24 MR. MILLER: Yes, Your Honor.

25 When you get back tomorrow, we'll swear you in and

1 we'll start up. And they'll show you how to report back to
2 the jury room. I'll have some hot coffee and some
3 refreshments in the morning if you would like to partake
4 and we'll see how far we'll get tomorrow. I'll buy you
5 lunch and try to move it along very efficiently tomorrow.

6 (The number to call was handed out to the jury.)

7 THE COURT: Okay. At this time, I'm going to let
8 you leave with the bailiff and I look forward to working
9 with you tomorrow. Everyone have a very pleasant evening
10 and afternoon and rest of the morning.

11 (The jury left the courtroom at 11:19 a.m.)

12 **PRETRIAL MOTIONS**

13 THE COURT: Let the record -- let the record
14 reflect first of all, the defendant is back in the
15 courtroom. He had to take a quick break.

16 Second, right before we started the jury selection
17 or right early on in, Ms. Alves mentioned a couple of
18 things to me that we need to put on the record.

19 One is her request to have had ten strikes. The
20 other is, I think -- I don't know if he'll still do it, the
21 defendant had mentioned to Ms. Alves that perhaps he wanted
22 a bench trial and I'm not sure whether or not -- the third
23 thing is whether or not he wants to renew he has motion for
24 change of venue.

25 And last, we had three jurors who are currently

1 being prosecuted by the solicitor's office. Mr. Miller or
2 Mr. Jackson gave me the numbers, shared with Ms. Alves.
3 One of them was called and struck for cause. Juror
4 Number --

5 MR. MILLER: 122, Your Honor.

6 THE COURT: And the other two were, Mr. Miller?

7 MR. MILLER: Juror Number 2, has a current charge
8 pending for accessory after the fact to armed robbery. And
9 Juror Number 45 was the third. I don't believe that juror
10 was called. He also as an attempted armed robbery.

11 THE COURT: And Ms. Alves expressed that she had no
12 opposition to those being struck.

13 So that leaves us with Ms. Alves, why don't we do
14 it in this order -- I tell you what, I'll do it in whatever
15 order you'd like to do it.

16 MS. ALVES: Yes, sir, Your Honor, I requested at
17 the bench that I be allowed to have ten jury strikes.
18 Under Section 14-7-1110, unless the defendant is being
19 charged with one of the charges that is listed in that
20 statute the State -- the defense is only entitled to five
21 strikes. I asked for ten. That statute was originally
22 written and published in 1962. If I recall correctly it
23 was last updated in 1987, which was many years prior to the
24 passing of the Omnibus Crime Bill Act of 2010, in which --
25 which codified assault and battery of a high and aggravated

1 nature.

2 That statute has never been updated to allow for
3 any other charges to be included where the defense could
4 have ten strikes. The statute includes charges such as
5 grand larceny and perjury, neither of which are codified as
6 serious or most serious. Assault and battery of a high and
7 aggravated nature is considered a serious -- is a strike.
8 It's a serious charge that carries 20 years -- up to 20
9 years. It subjects the defendant to a no parole sentence.
10 Considering that that charge is considerably more serious
11 than the charges that are actually listed in the statute
12 where the peremptory strikes, I believe that Mr. Jones
13 could have been entitled to ten strikes.

14 I don't have any case law to support this, but I
15 think that -- and obviously the legislature hasn't taken
16 consideration of that -- of that statute since the Crime
17 Bill Act was passed in 2010. But I think based on the
18 charges that are in the statute, they do include most
19 serious charges such as murder, armed robbery, and charges
20 that are most serious. I think that this charge should
21 have been included, even though it wasn't and I think that
22 Mr. Jones should have been entitled to ten strikes.

23 THE COURT: Mr. Miller?

24 MR. MILLER: Thank you, Your Honor, just briefly.
25 Your Honor, when you look at the statute going back even to

1 the 1987, and I do note that it was 1987 it was last
2 amended. The statute does not provide for ten strikes for
3 the defense in any type of assault case, save a murder, a
4 manslaughter, or a criminal sexual conduct, likewise, there
5 is -- it does allow ten strikes for breach of trust
6 whenever it is punishable as for grand larceny, which would
7 carry five years in most instances; perjury, which would
8 carry five years in most instances, or forgery. So based
9 on the clear language of the statute in a forgery, no
10 dollar amount case which is triable in the general sessions
11 court, the defendant would get ten strikes as opposed to
12 the five strikes.

13 Clearly the legislature was aware of this statute.
14 As a matter of fact, there has been legislation proposed to
15 balance the number of strikes between the defense and the
16 State and that legislation hasn't really gone anywhere, but
17 I don't think that it is reasonable to think that the
18 legislature wasn't aware of this statute and they could
19 have amended it had they so chosen, in 2010 when they
20 passed the Omnibus Crime Act.

21 The fact that that is an assault case, it's a
22 assault and battery of a high and aggravated nature, it is
23 the same category -- it could have been an assault of a
24 high and aggravated nature beforehand. It could have been
25 an assault with intent to kill, it could have been an

1 assault and battery with intent to kill prior to the
2 enactment of the Omnibus Crime Act, it would still not have
3 entitled the defendant to ten strikes under the statute. I
4 don't think that would be appropriate in this case.

5 THE COURT: Well, the argument certainly is
6 interesting and is certainly palatable to the Court, but
7 the statute says what it says, without any legal authority
8 to not comply with the statute. I have none and I'm
9 required under the rule of law to comply with the statutes
10 as written by the legislature until it's amended.
11 Fortunately or unfortunately, whatever side you're on, it's
12 a five strike situation, so I respectfully deny your
13 motion.

14 MS. ALVES: Yes, sir, thank you.

15 Your Honor, another issue that was brought up at
16 the side bar, actually I believe it was brought up with the
17 court reporter taking it down was concerns with who knew --
18 whether any of the jurors were familiar with Ms. Wanda
19 Badger, who is the victim of the case. That -- judge,
20 yesterday --

21 THE COURT: Hold on a second, in response to that,
22 I came back on the record in front of the whole jury -- we
23 met at side bar -- and asked the question of whether or not
24 -- I expanded on it and I think we had one lady that stood
25 up that worked with her a couple of years ago.

1 So I asked the question and I asked you did I cover
2 it and I thought you said yes.

3 MS. ALVES: I think you did cover it, Judge.

4 THE COURT: Okay.

5 MS. ALVES: I'm just making note of that, what the
6 issue was.

7 THE COURT: Okay.

8 MS. ALVES: Yesterday, when Mr. Jones had
9 opportunity to address the Court on his own, he on his own
10 motion made the request to have the venue changed. And his
11 reason for asking for the venue to be changed was because
12 his wife worked in such -- his wife worked for Bilo and
13 Walmart here in Barnwell, which obviously is a small town,
14 that many people might be familiar with her even though
15 they don't have a close personal relationship with her.

16 I would just note that at least two jurors came up
17 and actually knew her after you asked the question after
18 you asked the question about the close personal
19 relationship and prior to you asking the entire panel about
20 whether or not they actually were familiar with her. And I
21 believe one juror stood up after that.

22 There was also another juror that we struck who
23 Mr. Jones felt that he knew in the community, but he didn't
24 know him well, but he knew him in the community. So there
25 were jurors who did not -- and we actually struck that

1 juror. I believe it was 112, but I can double check it.

2 THE COURT: There was a 112.

3 MR. MILLER: State struck 112.

4 MS. ALVES: I'm sorry.

5 THE COURT: State struck 112.

6 MR. MILLER: If it was a black male, it had to be
7 18.

8 MS. ALVES: It was number 18, Judge. It was number
9 18 who Mr. Jones told me --

10 THE COURT: Andra Brown.

11 MS. ALVES: Yes, sir. He told me that he was
12 familiar with Mr. Brown and Mr. Brown knew his family, so
13 we did strike that juror. His concern is that numerous
14 jurors didn't answer the question and I know I can't speak
15 to what they didn't say, but based on the fact that two
16 jurors answered who actually knew Ms. Badger after you
17 asked the question, one came up after you clarified to the
18 jury and one person, from what Mr. Jones tells me, was
19 familiar with him and Ms. Badger.

20 I would renew -- I would renew his motion for a
21 change of venue now. I think there are some concerns about
22 that.

23 THE COURT: Okay. Any response?

24 MR. MILLER: Your Honor, the Supreme Court set
25 forth a pretty straightforward process with regard to the

1 motion to change venue and obviously the first step in that
2 process is now complete. We have a jury that under oath
3 appears to be fair and impartial. I don't believe that we
4 can actually, under the procedure as it exists, certainly
5 the Court can do what it wants to do, but under the
6 procedure as it's set forth, would have to fail to be able
7 to pick a jury in the first instance and then we would be
8 required to -- the Court could entertain the motion or we
9 could try a second time and pick the jury. But in this
10 circumstance, I don't think that there was anything really
11 unusual about this jury in particular. And I'm not sure
12 how we would remedy it now, even if -- well, I think it's
13 too late to argue about it now that the jury has been
14 excused.

15 THE COURT: Well, I told her we could argue that
16 after we picked the jury. So I'm not going to preclude her
17 arguing it.

18 MR. MILLER: And I understand that, Your Honor. I
19 mean I think it's too late to remedy it now, not for
20 Ms. Alves to put it on the record.

21 THE COURT: If I thought the jury was not capable
22 of being fair and impartial and have any doubts in my
23 questioning of them, then I would dismiss -- I would grant
24 the motion to change venue and we would have to figure out
25 where we were going, but I don't know how many times I

1 asked about the fair and impartial question and any jurors
2 stood up, I individually talked to them.

3 We had some people that were kin, we released them
4 for cause. We had some people that were very close
5 friends. We had people that were -- people being jurors
6 that their niece dated the victim's daughter or son, one of
7 her children. I went over very thorough about if anybody
8 had heard about it, seen, read, social media; I don't think
9 I could have asked anymore than I did. And obviously, the
10 responses that I got were scant in that outside of the
11 immediate family and friends, nobody had really heard about
12 it and I don't think we released less than ten people
13 altogether.

14 So the panel that we were left with, all were asked
15 a number of times if they could be fair and impartial. I
16 asked all the questions on voir dire that was requested, so
17 I find that the jury panel is qualified as is and I
18 respectfully deny your motion for change of venue.

19 MS. ALVES: Your Honor, another issue, after the
20 State called, the case is that in my conversations with
21 Mr. Jones this morning, right before we came into the
22 courtroom, he informed me that he would prefer a bench
23 trial to a jury trial.

24 THE COURT: All right. Mr. Jones, let me make sure
25 I understand. And you can remain seated.

1 We've drawn twelve jurors, ready to start your
2 trial tomorrow. In order for the jury to convict you, all
3 twelve have to unanimously agree that the State was able to
4 prove you guilty beyond a reasonable doubt based on the
5 evidence. If one disagrees and stays by that decision
6 then, obviously, we would have a mistrial and have to try
7 it again.

8 If all twelve found that the State did not prove
9 you guilty beyond a reasonable doubt, you would be
10 acquitted and that would be the end of it. If all twelve
11 of them did find they proved you guilty, then obviously,
12 you would be found guilty.

13 In a bench trial, the judge has two roles. Not
14 only is he the judge of the law, he becomes the judge of
15 the facts. I then judge credibility to determine what the
16 true facts are and whether or not the State has proven
17 their case beyond a reasonable doubt. It's one person as
18 opposed to twelve.

19 Ms. Alves, you want to make any argument about his
20 right to be tried by the Court as opposed to the jury? I
21 think he has the right.

22 Quite frankly, in the 14 years that I've done it, I
23 don't know that I've had a -- plenty of civil trials, bench
24 trials, but I don't know if I had a criminal trial. But
25 there's certainly precedent in the state. I know Carlotta

1 Hartness case with Terry Roach and Shaw, a death penalty
2 case that Judge Harwell tried. He tried it nonjury. And I
3 know Judge Clifton Newman tried a death penalty case in
4 Orangeburg, Kyle Motty, I think that's who it was, nonjury.

5 So there's precedent. I don't know if the
6 defendant wants it whether or not you can oppose it. I
7 don't know I just haven't done any research on it.

8 MS. ALVES: Judge, under Rule 14(b) it says that of
9 the criminal rules of procedure, it says that the defendant
10 may waive his right to a jury trial only with the approval
11 of the solicitor and the trial judge. So if Your Honor and
12 the solicitor agree, the rules do allow him, Mr. Jones, to
13 waive his right to a jury trial. Since this issue just
14 came up just before trial, I've not had an opportunity to
15 do any type of research on this in more detail other than
16 reading the rule. And there is no case law listed under
17 the rule.

18 If Your Honor would like, I can very quickly go and
19 try to look this up.

20 THE COURT: Well, we're not starting until tomorrow
21 anyway, so if you want to take a few minutes, we can look
22 at it.

23 MS. ALVES: Yes, sir. And I would like to have
24 more opportunity to talk to Mr. Jones about that. He's
25 been adamant in his decision in our discussion about it

1 this morning, so he still affirms his decision right now.

2 That's where I am. It's his right and --

3 THE COURT: Well, let's give you an opportunity to
4 look at the case law, give you an opportunity to discuss it
5 more with him and I'll go -- we've got some work to do,
6 I'll make a decision later on it.

7 MS. ALVES: -- Yes, sir.

8 MR. MILLER: Your Honor, if I may, the -- and I'm
9 going to print this and give it to Ms. Alves, but the
10 United States Supreme Court in a case, McCoy versus
11 Louisiana, recently, as of May 14th, 2008, so less than --
12 just over a week ago, a week ago yesterday --

13 THE COURT: So it would be hot off the press.

14 MR. MILLER: Hot off the press -- they address the
15 rights of the defendant to make decisions regarding the
16 structure of the trial of their case, their being
17 defendant's case, and the decision to plead guilty or
18 proceed to trial, the decision to testify, waive
19 defendant's privilege against self-incrimination and
20 testify; the decision to appeal; and the decision whether
21 or not to waive a trial by jury were specifically
22 enumerated rights reserved to the defendant under a United
23 States Constitution.

24 THE COURT: Meaning?

25 MR. MILLER: Meaning, I think that -- and I'm

1 trying to save Ms. Alves some research time. If her client
2 wants to waive his right to a trial by jury, then
3 constitutionally I don't think Ms. Alves can object.

4 Now, interestingly, obviously the South Carolina
5 rule which Ms. Alves cited has not been put up against this
6 case that came out eight days ago, but it would seem to me
7 that if that is a constitutional right of the defendant, I
8 don't know that the solicitor can object to a defendant's
9 waiver of his right to a trial by jury. I just wanted to
10 put it in context and I'll be happy to print the case and
11 get a copy of it --

12 THE COURT: Let's print the case and let's all look
13 at it since --

14 MS. ALVES: Judge, I actually got that case. I
15 cited it to the Court yesterday for another matter, but...

16 MR. MILLER: We all read this case and we all want
17 to cite it now.

18 THE COURT: Guess who hasn't looked at it. I'm
19 sure it's Mr. Cooper.

20 MR. MILLER: So I just bring that up because A, I
21 didn't want Ms. Alves to waste a lot of time on it and B --

22 THE COURT: Well, I'm going to let Ms. Alves an
23 opportunity to speak more to her client and make sure he
24 understands the difference and when it comes back, I'll
25 read that case and if he has a right, I'm going to ask him

1 a few questions. If he wants to do it, I'm going to follow
2 the U.S. Supreme Court. Give him time to discuss it with
3 Ms. Alves, the pros and cons. Fair enough?

4 MR. MILLER: I believe it's 28 pages, Your Honor.
5 But there's a little page --

6 THE COURT: Anything else we didn't put on the
7 record?

8 MS. ALVES: Judge, there's nothing further we
9 didn't put on the record.

10 (A recess was observed.)

11 THE COURT: All right. We're back on the record
12 with Mr. Jones.

13 We stopped before lunch or right at the lunch
14 break. We had been discussing Mr. Jones's request for the
15 bench trial and Ms. Alves brought to the Court's attention
16 the applicable rule in criminal procedure which requires
17 the Court's and the solicitor's acquiescence in the bench
18 trial. And then we all agreed that none of us had had time
19 to research. And Mr. Miller found a case McCoy versus
20 Louisiana, which I now have had an opportunity to read and
21 this is a case decided by the Supreme Court just on May 14
22 of this year, and in the majority opinion, it says what it
23 says.

24 It says that some decisions are reserved for the
25 client. Notably, whether to plead guilty and waive the

1 right to a jury trial, et cetera. So it looks like from
2 reading this case on first blush, that the Supreme Court's
3 saying that -- the client has the right to ask for a bench
4 trial and then requires the necessity of a consent by the
5 State or the judge.

6 And I gave Ms. Alves a little bit of time to look
7 and see if there's anything else out there. And have you
8 found anything?

9 MS. ALVES: No, sir. But I have also taken the
10 opportunity over the past couple of hours to talk more to
11 Mr. Jones about his decision. He knows what my opinion is
12 and what my advice is about this and he still would like to
13 go forward with a bench trial.

14 THE COURT: Well, in that case McCoy versus
15 Louisiana talks about where in that particular case where
16 the trial judge wanted to admit the defendant killed three
17 people and the defendant was adamant that he didn't want
18 that and the Supreme Court says, you know, if the client
19 has assistance of counsel, and that's what it is,
20 assistance. And even though y'all may disagree, we have to
21 yield to his desires is the way I read on certain things,
22 including bench trial requests.

23 MS. ALVES: Yes, sir.

24 THE COURT: Mr. Miller, anything that you have on
25 it other than McCoy versus Louisiana and, you know, that's

1 not in accordance with our rules, but I would think that
2 Supreme Court case perhaps trumps that rule.

3 MR. MILLER: I would agree, Your Honor. I'm not
4 sure -- there are some -- there is an argument, although
5 I'm not putting that forth, there is an argument that McCoy
6 versus Louisiana only deals with the relationship between
7 the defendant and the defendant's counsel, that there may
8 be some other consideration that go into the ultimate
9 import of the defendant making such a decision, but...

10 THE COURT: He makes the decision, he has to also
11 comply with the rules and the rules require your
12 acquiescence.

13 MR. MILLER: Well, you know, Your Honor, I'm
14 looking at the Rule 14, and it says a defendant may waive
15 his right to a jury trial, only with approval and I don't
16 know how you can read that and square that with to McCoy
17 gets to decide whether he wants to waive his right and
18 that's a constitutional right that he has, that he has the
19 right to waive, but this says that he has the right to
20 waive it as long as I say, as the prosecution says it's
21 okay, that just doesn't seem to make sense to me. But I do
22 think that Ms. Alves is -- is correct, that she's told the
23 defendant what she thinks and the defendant has the right
24 under -- I don't think it's a question under McCoy versus
25 Louisiana that she has told the defendant what her opinion

1 is, the defendant has exercised his right to waive the
2 trial by jury.

3 Out of an abundance of caution, even if we have the
4 right to object under Rule 14, we would waive any right to
5 object under Rule 14 just so we can keep the record clean
6 going forward.

7 So to the extent we have to right to demand a jury
8 trial, we would waive that right and if we don't have the
9 right to demand a jury trial, then it doesn't matter, we
10 haven't done it.

11 THE COURT: Mr. Jones, waiving your right to a jury
12 trial is a huge decision. Obviously, you have the right
13 make that decision and I respect your decision, but do you
14 have any questions you want to ask me about waiving your
15 right to a jury trial and what effect, if any, it will have
16 on your case?

17 THE DEFENDANT: No, no, Your Honor. I don't, like
18 inquire, but I understand what's going on.

19 THE COURT: And you've had an opportunity to
20 discuss it with Ms. Alves?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And you understand her, her advice is
23 not to waive it, but it's your decision and notwithstanding
24 her advice, you want to waive your right to a jury trial.

25 THE DEFENDANT: Yes, sir, Your Honor. One of the

1 main reasons why I'm making the decision for a bench trial
2 is like I told her, you know, the change of venue motion
3 got denied, not once, but twice. And everything -- there
4 are things that I requested much -- way back, even years
5 about transcripts and things. I wanted to have everything
6 pertaining to my case before I make a decision about
7 whether I wanted to go to trial or not. A lot of things
8 have not been given to me. I got two transcripts today.

9 THE COURT: Well, I ordered all the transcripts to
10 had been transcribed to give to you.

11 THE DEFENDANT: Well, I only received two, Your
12 Honor.

13 THE COURT: Well, I think that's all that's been
14 transcribed.

15 THE DEFENDANT: Well, I want a bench trial, Your
16 Honor. I would have liked more time, but you told me no,
17 so.

18 MS. ALVES: Judge, if I could put on the record to
19 clarify something that Mr. Jones is saying. He had four
20 hearings that I know of and he can correct me if I'm wrong,
21 other than the prelim, in front of the Court. He had a
22 hearing August first. There was a hearing where I was
23 relieved. On January -- was it -- February 16th, there was
24 a hearing where Mr. Parker was released, that was in 2018.
25 On -- at some point in March there was a hearing with Judge

1 Keesley that was done with the courtroom cleared while his
2 attorney was Mr. Judah VanSyckel. I don't know anything
3 about that hearing.

4 And on April 24th, he had a hearing in Aiken with
5 Judge Keesley where Mr. VanSyckel was relieved. I received
6 the transcripts of the first two hearings and I gave those
7 to Mr. Jones. He's telling me that he asked his other
8 attorneys for the copies of his transcripts. I don't have
9 the transcript from the hearing that was done before Judge
10 Keesley in March and I don't have the transcript from the
11 hearing that was done on April 24th and I wouldn't have had
12 the opportunity to get those.

13 I don't know if Mr. VanSyckel requested them or
14 not. I mean, I didn't know anything about him asking for
15 these until he's told me recently and I don't have the
16 opportunity to get them. I don't have them, I've never
17 requested them.

18 And I would -- I just note again, I've only been
19 representing him again since April 24th, so that wasn't an
20 issue he had with me, that was an issue that he had with
21 his previous attorney.

22 THE DEFENDANT: Your Honor, I asked Judge Keesley,
23 as well as informed my attorneys about the transcripts.
24 And he told me that I needed to talk to my attorney, but I
25 requested them several times while the hearing was going on

1 and he told me that was an issue I needed to take up with
2 my attorney.

3 THE COURT: Let me see y'all right up here.

4 (There was a bench conference out of the hearing of
5 the court reporter.)

6 THE COURT: All right. Mr. Jones, I was not
7 excluding you from anything. I was talking logistics,
8 which means if I give you an opportunity to get those two
9 transcripts, when could we try it. Here are your options.
10 I'll give it to you, is that fair enough?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: The options are this: We can try it
13 tomorrow, obviously you won't have the transcripts. Or I
14 can set it for June 13th, which puts it off about two or
15 three weeks. That gives you an opportunity to order the
16 transcripts and review them and have that, which I think is
17 everything you've asked for and we'll try it on the 13th
18 since we are trying it nonjury.

19 What's your pleasure?

20 THE DEFENDANT: I like the second option, give me
21 an opportunity to talk to Ms. Alves too.

22 THE COURT: All right. We will reconvene -- I'm
23 going to grant your motion for a trial by bench, bench
24 trial, which means you have now waived your right to a jury
25 trial. Fair?

1 THE DEFENDANT: Thank you, Your Honor.

2 THE COURT: I'm going to try the case starting
3 June 13th, here in Barnwell, starting at 9:30. Okay?
4 Anything else you need?

5 THE DEFENDANT: No, sir.

6 THE COURT: All right. Thank you.

7

8 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)
2 County of Aiken) **Certificate of Reporter**

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4
5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 21st and 22nd day of
13 May, 2018.

14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 6th day of June, 2018.

18

19

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25

Brenda J. Sigwald
Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020

1 State of South Carolina) In the Court
2 County of Barnwell) Of General Sessions

3 Indictment No.: 2017GS0600059
4
5

6 State of South Carolina,)
Plaintiff.)

7)
8 vs.)

Transcript of Record

9)
10 Venson T. Jones,)
Defendant.)

11
12 June 13, 2018
Barnwell, South Carolina
13

14 B E F O R E:

15 The Honorable Doyet A. Early III, Judge.
16

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

18 David W. Miller, Deputy Solicitor
19 Michael H. Emmer, Assistant Solicitor
20 R. Jackson Cooper, Assistant Solicitor
Attorneys for the State

21 Wallis A. Alves, Esquire
22 Attorney for the Defendant
23

24 Brenda J. Sigwald, Circuit Court Reporter
To The Honorable Doyet A. Early III
25 P.O. Box 206, Jackson, South Carolina 29831 THE

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1 THE COURT: All right. Mr. Solicitor, you may call
2 your case.

3 MR. COOPER: State calls Vinson Tyrone Jones,
4 Indictment Number 2017GS0600059, a true-billed indictment
5 for assault and battery of a high and aggravated nature.

6 THE COURT: Thank you, Ms. Alves, you ready to
7 proceed?

8 MS. ALVES: Yes, Your Honor. I do have some
9 pretrial motions.

10 **PRETRIAL MOTIONS**

11 MS ALVES: Judge, at the last hearing, I made
12 several motions. One of my motions was to keep out any
13 reference to drug use. Your Honor did order --

14 THE COURT: Make any reference to what?

15 MS. ALVES: Any alleged drug use by my client. And
16 Your Honor did order that unless somebody had witnessed him
17 personally using drugs, the State would not be allowed to
18 elicit any testimony or they would not be allowed to enter
19 testimony regarding that.

20 I also made motion to keep out any reference to any
21 alleged threats made against Mr. Newton's mother, Ms. Betty
22 Newton, excuse me, Mr. Jones's mother; and to keep out any
23 reference to the shooting that occurred after this alleged
24 incident.

25 Your Honor, I would ask that the State not be

1 allowed to elicit any testimony or make any reference to
2 any alleged threats against Ms. Newton or the shooting of
3 my client by Ms. Newton. And I would ask Your Honor not to
4 consider either one of those in your determination of the
5 verdict in the case.

6 Judge, to go into the facts, if you want me to go
7 into what specifically happened --

8 THE COURT: No, ma'am, I'm familiar from the prior
9 matters that we've discussed in this case.

10 What's the State's position?

11 MR. COOPER: Your Honor, I understand the motion to
12 be threefold. First in regards to the drug use --

13 THE COURT: Y'all agreed to that.

14 MR. COOPER: We agree to that, Your Honor. We do
15 not intend on eliciting any answers that mention it. After
16 speaking with some of the witnesses and instructing them
17 not to bring it up, some of -- one of the witnesses have --
18 or one of the witnesses in particular, has stated that she
19 will possibly bring it up. We'll address that issue.

20 In regards to the threats, Your Honor, first
21 they're statements of the defendant and we believe they're
22 admissible. They also show his intent to commit the
23 assault; and I guess that kind of folds into the shooting,
24 which was a continuation of the incident. It's a fact,
25 it's a detail, it's part of the crime as it occurred.

1 THE COURT: All right. Well, I'm not going to rule
2 on it in limine, I will -- obviously, we're trying it
3 nonjury and I will see what has transpired when -- if and
4 when that becomes an issue. Ms. Alves, obviously you can
5 renew your objections at that time if it does become, and
6 we'll argue it and thrash it out and I'll rule on it at
7 that time.

8 Anything else?

9 MR. COOPER: Nothing from the State, Your Honor.

10 THE COURT: All right. You may proceed.

11 Y'all want to make an opening statement or how do
12 -- you just want to call your witnesses?

13 MR. COOPER: Yes, Your Honor, we'll make an opening
14 statement.

15 May it please the Court?

16 THE COURT: Briefly.

17 **OPENING STATEMENTS**

18 MR. COOPER: Your Honor, on October 22nd, 2016, the
19 defendant brutally attacked Wanda Badger. This wasn't an
20 attack by a random individual, this was an attack on the
21 mother of his own four children. On that day, she was
22 bringing him water because he didn't have running water at
23 his house. When she pulled into the yard, the defendant
24 got a hammer that was in the floorboard of her car and he
25 began striking her multiple times in the head and the body.

1 These injuries required multiple staples to two lacerations
2 in her scalp.

3 The attack did not end there. The attack continued
4 from [REDACTED], which is where the defendant
5 resided, to the next door address, which was [REDACTED]
6 [REDACTED]. That address was the address of the defendant's
7 mother, Ms. Betty Newton and the defendant's stepfather,
8 Mr. Charles Hill. As Ms. Badger tried to flee the scene at
9 [REDACTED], she drove her vehicle into the yard at
10 [REDACTED]. When she did, she was laying on the
11 horn, hoping that somebody would come and help her.

12 Thankfully Mr. Charles Hill heard her while he was
13 eating breakfast. He ran out of the door --

14 THE COURT: Who the Charles Hill?

15 MR. COOPER: Charles Hill is the stepfather, Your
16 Honor, of the defendant.

17 He ran out of the door of that house, saw what was
18 going on and he began wrestling with the defendant.
19 Thankfully he was able to strip the hammer from him; and
20 during that time, Ms. Wanda Badger was able to jump out of
21 the driver's side door of the car. The car was actually
22 still moving and she was able to run in front of the car,
23 before it struck the house, and evade the assault by
24 running onto the porch and into the living room.

25 Meanwhile, the assault did not end there. The

1 defendant continued his attack. He continued his pursuit.
2 He chased after her after losing the hammer, and his own
3 mother had to warn him --

4 MS. ALVES: Objection, Your Honor. That's
5 information that I previously asked that the Court not
6 consider and that it be excluded from any reference in this
7 trial.

8 THE COURT: Well, first of all, opening statements
9 is not fact in the case, it's simply what -- allegations
10 the State intends to prove. So I won't rule on it at this
11 time, but I'll allow him to use it in his opening statement
12 and then we'll see if it becomes evidence.

13 MR. COOPER: Your Honor, at this time, the
14 defendant rushed onto the porch of the house. Now, this is
15 not -- this is an enclosed porch. There's a wall and
16 there's a door. It's a very narrow entryway. The
17 defendant's mother, after requesting the defendant to stop,
18 after Ms. Badger had run passed her with lacerations to her
19 scalp, was forced to shoot the defendant. She was forced
20 to shoot him twice in the torso in order to stop the threat
21 because she feared for not only her life, but the life of
22 Wanda Badger.

23 Your Honor, at the end of this trial, we're going
24 to ask that you return a verdict of guilty.

25 THE COURT: Ms. Alves.

1 MS. ALVES: Your Honor, may it please the Court.

2 Your Honor, the State has charged Mr. Venson Jones
3 with the charge of assault and battery high and aggravated
4 nature. That requires them to prove not only that
5 Mr. Jones was the person who hit Ms. Badger in the head, it
6 requires them to show that he hit her in the head such that
7 it caused great bodily injury, or that it could have caused
8 great bodily injury or death.

9 Your Honor, I don't think the State is going to
10 prevail in their burden today, for the main reason that
11 there's no -- there's not going to be any evidence
12 presented that Ms. Badger suffered great bodily injury.
13 Also, Your Honor, there's not going to be any testimony
14 from anyone who can show that Ms. Badger could have
15 suffered great bodily injury or death as a result of the
16 alleged assault -- of the assault on that day.

17 Your Honor, Mr. Jones has maintained his innocence.
18 He is denying, he has denied that he is the person who not
19 only hit Ms. Badger, but that great bodily injury was
20 caused. All I ask is that you consider the fact that the
21 State has the burden here. He is innocent until proven
22 guilty and I ask that Your Honor weigh all of the facts in
23 consideration of the case in determining your verdict. At
24 the end of the trial, of course, on behalf of Mr. Jones, I
25 will be asking for a verdict of not guilty.

Betty Newton Hill - Direct Examination by Mr. Emmer

1 THE COURT: All right. Does anyone have a copy of
2 the statute that defines great bodily injury, please?

3 MS. ALVES: Here, Your Honor.

4 THE COURT: Thank you.

5 You may call your first witness.

6 MR. EMMER: Thank you, Your Honor. The State calls
7 Betty Newton Hill.

8 THE COURT: Ma'am, if you would come around here,
9 please.

10 Good Morning.

11 THE WITNESS: Good morning to you all.

12 BETTY NEWTON HILL, was duly sworn.

13 THE CLERK: If you would, please, ma'am, be seated
14 and state your full name for the record.

15 THE WITNESS: Thank you. Betty Newton Hill.

16 THE COURT: Ms. Hill, answer any questions the
17 solicitor may have, please.

18 MR. EMMER: Thank you, Your Honor.

19 **DIRECT EXAMINATION**

20 BY MR. EMMER:

21 Q Ms. Hill, where do you live?

22 A [REDACTED] in Barnwell, South Carolina.

23 Q Do you have any children?

24 A Five.

25 Q What are their names?

Betty Newton Hill - Direct Examination by Mr. Emmer

1 A Bruce Murray, Taneka Jones, Venson Jones, Mitch
2 Jones, Wallace Priester.

3 Q One of your children is Mr. Venson Tyrone Jones?

4 A Correct.

5 Q What do you call Mr. Jones?

6 A Ty.

7 Q Ty.

8 Does he have any children?

9 A Yes.

10 Q And who are his children with?

11 A Beg pardon?

12 Q Who are his children with?

13 A He got father by Wanda.

14 Q Wanda? What's her last name?

15 A Badger.

16 Q Thank you. Do you remember an incident that
17 occurred on Saturday, October 22 of 2016?

18 A Yes.

19 Q Okay. Before this incident, before this day, did
20 you see Ty regularly?

21 A Every day.

22 Q Every day. And why was that?

23 A That what mother and son do. Don't you want to go
24 see your mother every day if you could?

25 Q Where did he live?

Betty Newton Hill - Direct Examination by Mr. Emmer

1 A Right in front of me.

2 Q So next door?

3 A In front of me. I'm behind him.

4 Q Okay. And what address does he live at?

5 A [REDACTED]

6 Q And you said you lived at?

7 A [REDACTED]

8 Q Okay. So he lives right in front of you?

9 A Correct.

10 Q What was he like before the October 22nd incident?

11 A Not straight.

12 THE COURT: Kind of what?

13 THE WITNESS: Not straight at all.

14 THE COURT: I'm sorry, I don't understand you.

15 THE WITNESS: He had got mental problems.

16 THE COURT: Thank you.

17 BY MR. EMMER:

18 Q Were you afraid of him at that time?

19 MS. ALVES: Objection, leading.

20 THE COURT: Sustained.

21 BY MR. EMMER:

22 Q How did you feel about him at that time?

23 A At what time?

24 Q Prior to the incident?

25 A He my son, I still love him. I'm always going to

Betty Newton Hill - Direct Examination by Mr. Emmer

1 be his mother.

2 Q Did he ever threaten you?

3 MS. ALVES: Objection, leading. And Judge, also,
4 this goes into the issue I had previously. I made an
5 objection as to bringing up any threats to Ms. Hill.

6 THE COURT: How is it relevant, any threats he made
7 to Ms. -- to Ms. Hill.

8 MR. EMMER: Your Honor, at the time he made those
9 threats, he made it to Ms. Hill and he made the threats to
10 her as well as to Ms. Wanda Badger. He made the threat to
11 Ms. Wanda Badger, to Ms. Hill. If that makes sense, Your
12 Honor.

13 THE WITNESS: Not in the right frame of mind.

14 THE COURT: All right. I'll let her answer it.

15 THE WITNESS: Not in the right frame of mind.

16 THE COURT: Ma'am?

17 THE WITNESS: He was not in the right frame of
18 mind.

19 BY MR. EMMER:

20 Q Did he threaten you?

21 A He told me what he going to do. Not in the right
22 frame of mind. I still say that.

23 Q Yes, ma'am. And what did he tell you he was going
24 to do?

25 A First of all, he was not in the right state of

Betty Newton Hill - Direct Examination by Mr. Emmer

1 mind. I'm trying to tell y'all that. I want you to hear
2 that before I say what I got to say.

3 THE COURT: I've heard that and I accept that.

4 THE WITNESS: Thank you.

5 THE COURT: So tell me what he said to you.

6 THE WITNESS: He was looking funny in the eyes. He
7 said he was going to bust Wanda head open with -- wide
8 open. He didn't say with what. That he was going to mess
9 me up and burn me up, but not his --

10 MS. ALVES: Objection, Your Honor. I object to any
11 threats being made, specifically to Ms. Newton -- about
12 Ms. Newton being admitted into evidence. I'd ask Your
13 Honor not to consider those in your determination of the
14 verdict.

15 Now we're getting into the threats that were
16 specifically made to Ms. Newton and not about Ms. Badger.

17 THE COURT: As to who?

18 MS. ALVES: Ms. Badger is the victim in this case,
19 Your Honor.

20 THE COURT: Correct.

21 MS. ALVES: Ms. Newton has testified that Mr. Jones
22 made a threat to her.

23 THE WITNESS: Not in the right mind.

24 MS. ALVES: Not Ms. Badger. She's now testifying
25 about threats that were made to her.

Betty Newton Hill - Direct Examination by Mr. Emmer

1 THE COURT: How is that admissible?

2 MR. EMMER: Your Honor, it's relevant to his state
3 of mind at the time, his intent to commit an assault, Your
4 Honor.

5 THE COURT: Well, as I understand, he is denying
6 that he committed the assault. That's what was told to me
7 in opening statements. So I will allow the statement as to
8 whatever purposes it may serve. It's relevant as to
9 whether or not he did, in fact, injure the defendant Wanda
10 Badger.

11 BY MR. EMMER:

12 Q Did he ever ask you for a hammer?

13 A Yes.

14 Q Did you give him one?

15 A No.

16 Q Why not?

17 A Because of my feelings.

18 Q And what feelings were those?

19 A Afraid. It could have been used -- I mean, like I
20 say, he wasn't in his right mind. He's a mental case.
21 He's mental. He got a mental problem.

22 MS. ALVES: Objection, Your Honor, I object to my
23 client being classified as having mental problems and being
24 a mental patient. There's been no evidence of that. I
25 don't believe that Ms. Newton has any evidence to add that

Betty Newton Hill - Direct Examination by Mr. Emmer

1 he is undergoing any mental stress at this time. We're not
2 alleging a mental defense and I would object to any
3 testimony about that. And I'd ask Your Honor not to
4 consider that.

5 THE COURT: Thank you. Obviously, she cannot give
6 an opinion about mental conditions. She's not qualified to
7 give opinions. She can describe how he acted.

8 But, ma'am, in order to diagnose a mental
9 condition, I would have to -- you would have to be
10 qualified with some type of medical background. That's
11 just the rules of evidence. You can tell how he appeared
12 and what he was acting like, but not that he, in fact, had
13 a mental.

14 THE WITNESS: Even though he's in mental health?

15 THE COURT: Ma'am?

16 THE WITNESS: He goes through that mental health.

17 THE COURT: Okay.

18 Move along.

19 MR. EMMER: Yes, Your Honor.

20 BY MR. EMMER:

21 Q Ms. Betty, you mentioned that, these threats, did
22 you tell anybody about the threats?

23 A I went and told her and called his probation
24 officer and told her.

25 Q Who did you tell? You said her --

Betty Newton Hill - Direct Examination by Mr. Emmer

1 A I told Wanda Badger.

2 Q You told Wanda Badger and who else?

3 A Yes, sir. And his PO.

4 Q And why did you tell them?

5 A Because I could see what was going on. You know I
6 done been around a lot of people that mental problem and I
7 see how things be happening, so I know something was going
8 to happening. And besides, my master told me so.

9 Q Yes, ma'am. This threat, when was it made?

10 A Oh, on a Friday.

11 Q And this incident happened on?

12 A Saturday.

13 Q So it was --

14 THE COURT: I'm sorry? It happened on when?

15 MR. EMMER: Saturday, Your Honor, and he made a
16 threat on Friday.

17 BY MR. EMMER:

18 Q Why didn't you tell the police about this?

19 A I don't. I thought I was supposed to do was tell
20 her not to come back, Wanda not to come back and then I
21 called his PO.

22 Q Yes, ma'am. And you mean PO, parole --

23 A Parole officer, I reckon that what she is.

24 Q Okay. On that day, October 22nd of 2016, the
25 Saturday, do you remember making a 9-1-1 phone call?

Betty Newton Hill - Direct Examination by Mr. Emmer

1 A Somewhat. Not too much. I done been in two car
2 wrecks since then.

3 (The attorneys were conferring.)

4 MS. ALVES: Your Honor, I'd object to any -- the
5 9-1-1 call coming in based on my previous objection. The
6 9-1-1 call in great -- details threats made specifically to
7 Ms. Newton. It also details Ms. Newton shooting Mr. Jones.
8 I don't believe any of that is relevant to establish
9 whether Mr. Jones assaulted Ms. Badger with a hammer and
10 whether or not Ms. Badger suffered great bodily injury and
11 I believe that that information would be very prejudicial
12 to Mr. Jones and I'd ask that -- and I would make motion
13 that it not be admitted into evidence. I'd also ask Your
14 Honor not to consider it in your determinations of verdict.

15 THE COURT: Thank you. Overruled.

16 BY MR. EMMER:

17 Q Ms. Newton, I'm showing you what's been previously
18 marked as State's Exhibit 1. Do you recognize this item?

19 A No.

20 Q What's that on there, Ms. Newton? Do you remember
21 that?

22 A That's my -- look like my writing, but, this wasn't
23 on it.

24 Q Is that your signature though?

25 A Uh-huh.

Betty Newton Hill - Direct Examination by Mr. Emmer

1 THE COURT: Is that a yes?

2 THE WITNESS: Yes.

3 BY MR. EMMER:

4 Q Do you -- do you remember listening to this?

5 A No.

6 Q You don't remember listening to this?

7 A No.

8 Q Did you make a 9-1-1 call on October 22nd?

9 A Yes, I did.

10 Q Okay. So you don't know what this is?

11 A No. You going --

12 Q What does it say on there?

13 THE COURT: If she can't, she can't -- I mean she
14 doesn't --

15 THE WITNESS: It's October 22nd, but I -- you can't
16 make me say something.

17 BY MR. EMMER:

18 Q Okay.

19 A Okay. Thank you.

20 Q Yes, ma'am.

21 Around twelve o'clock that day --

22 THE COURT: Noon or midnight?

23 MR. EMMER: At noon, Your Honor.

24 BY MR. EMMER:

25 Q -- what were you doing?

Betty Newton Hill - Direct Examination by Mr. Emmer

1 A Twelve o'clock?

2 Q Before this incident, what were you doing?

3 A Eating breakfast.

4 Q Okay. What -- what happened while you were eating
5 breakfast?

6 A I heard a horn blowing. I thought it was the
7 mailman.

8 Q And what did -- did you tell Mr. Charles something?

9 A Yes, I did.

10 Q What did you tell him?

11 A Go see was that the mailman.

12 Q And why did you tell him to do that?

13 A Because we heard a horn blow.

14 Q Did he go outside?

15 A Yes, he did.

16 Q What happened shortly after he went outside?

17 A I don't know because I wasn't out there.

18 Q What do you remember?

19 A I wasn't out there. I can't tell you anything. I
20 don't remember anything because I wasn't out there. I was
21 still sitting to the table eating breakfast.

22 Q Okay. What happened after that? After Charles
23 went outside, what happened?

24 (There was a pause in the proceedings.)

25 BY MR. EMMER:

Betty Newton Hill - Direct Examination by Mr. Emmer

1 Q So you were in the house the entire time?

2 A Correct.

3 Q In the house, what happened?

4 A In the house, what happened?

5 Q Yes, ma'am?

6 A Wanda come in there bloodied out.

7 Q What did you do after she came running in bloody?

8 A I went to the door.

9 Q Were you carrying something?

10 A No, not then.

11 Q Okay. When you went to the door, what happened?

12 A I saw my husband wrestling Tyrone on the ground.

13 And I still didn't know what was doing on.

14 Q Okay. Did you see what they were wrestling over?

15 A No, I didn't see any of that.

16 Q What happened after you saw Tyrone wrestling, or Ty
17 wrestling Charles?

18 A I told Ty -- Charles let him get up and Tyrone, you
19 go home and don't come on the porch.

20 Q What happened after that?

21 A Charles let him up. And a lot of cursing.

22 Q From who?

23 A Ty. Stuff you hadn't ever heard in my life.

24 Q Yes, ma'am. After that cursing, what happened?

25 A I asked him not to come up on the porch, to go

Betty Newton Hill - Direct Examination by Mr. Emmer

1 home. Then I came back in the kitchen and got my gun.

2 Q Okay. Did you return back to the porch?

3 A Yes, I did.

4 Q And what happened after that?

5 A He ran up -- he was running toward the porch --

6 MS. ALVES: Your Honor, I just renew my previous
7 objection.

8 THE COURT: Thank you, overruled.

9 BY MR. EMMER:

10 Q Ma'am? Could you repeat that.

11 A I said he came running toward the porch cussing,
12 and I asked him not to come on the porch.

13 Q Yes, ma'am. And then what happened?

14 A He came on the porch any way.

15 Q And what did you do in response to that?

16 A I had to shoot him.

17 Q Why did you do that?

18 A I can't -- I can't wrestle with him.

19 Q Were you afraid of him?

20 A Not afraid of him. I got a bad back, but I can't
21 wrestle with him.

22 Q Were you afraid that he was going to hurt you?

23 A Somewhat.

24 Q Were you afraid he was going to hurt Wanda?

25 A He had --

Betty Newton Hill - Direct Examination by Mr. Emmer

1 MS. ALVES: Object to the leading.

2 THE COURT: Rephrase the question.

3 BY MR. EMMER:

4 Q You were afraid?

5 A Yeah, somewhat.

6 Q Okay.

7 A From what I seen, yes, I was.

8 Q Because you were afraid, what did you do?

9 A What do you mean what did I do?

10 Q When you were on the porch, what did you do?

11 A I asked him not to come on the porch. When he came
12 on the porch, I shot him.

13 Q How many times did you shoot him?

14 A I don't know.

15 Q Okay.

16 I'm showing you what's been previously marked as
17 State's Exhibit 2. Do you recognize that?

18 A Which way do it go?

19 THE COURT: What'd she say?

20 MR. EMMER: She asked which way does it go, Your
21 Honor.

22 THE WITNESS: Yeah, this my bedroom.

23 BY MR. EMMER:

24 Q Is that your bedroom?

25 A Look like my bedroom -- I can't see.

Betty Newton Hill - Direct Examination by Mr. Emmer

1 Q What's that item right there?

2 A Let me see this. That's a refrigerator, a small
3 refrigerator.

4 Q Do you have a refrigerator in your bedroom?

5 A Yes, I do.

6 Q What is this item right here?

7 MS. ALVES: Objection, I'm going to object to any
8 testimony about this picture unless it's actually --

9 THE WITNESS: I don't know.

10 THE COURT: Hold on a second.

11 Unless it's what?

12 MS. ALVES: Put into evidence.

13 THE COURT: Well, he's identifying it first.

14 Can you identify what that picture is in Number 2,
15 ma'am? Was that -- it's a picture of what? You know what
16 that is?

17 THE WITNESS: This is my refrigerator in my
18 bedroom.

19 THE COURT: Okay. You going to offer it?

20 MR. EMMER: No, Your Honor. Thank you, though.

21 BY MR. EMMER:

22 Q I'm showing you what's been previously marked as
23 State's Exhibit 3. Do you recognize this item in this?

24 A Yeah, it looks like my gun that I shot him with.

25 THE COURT: I'm sorry, I couldn't understand.

Betty Newton Hill - Direct Examination by Mr. Emmer

1 THE WITNESS: It looks like the gun that I shot him
2 with.

3 THE COURT: Looks like what?

4 THE WITNESS: The pistol that I shot him with.

5 MS. ALVES: And, Judge, I have an objection to
6 State's Exhibit Number 3.

7 THE COURT: And what is it?

8 MS. ALVES: My objection is based on my previous
9 objection, based on the gun being used in a shooting by
10 Ms. Newton against -- toward Mr. Jones.

11 THE COURT: Well, I'm going to deny -- I'm going to
12 overrule your objection. Obviously your client is claiming
13 he did not injure the defendant. This is a continuation of
14 the whole event that occurred that morning and in dealing
15 with your client -- and I assume the mother of his
16 children, his mom and his step dad, all within a close
17 proximity, all within a close proximity location wise as
18 well as time wise. And obviously, it goes to proof as to
19 what happened on that day, including whether or not he, in
20 fact, inflicted some type of injury to Ms. Badger.
21 Overruled.

22 MS. ALVES: Yes, sir.

23 BY MR. EMMER:

24 Q Does this photo fairly and accurately depict the
25 gun you used?

Betty Newton Hill - Cross-Examination by Ms. Alves

1 A It look like it.

2 Q Okay.

3 MR. EMMER: Your Honor, at this time, the State
4 would like to move State's Exhibit 3 into evidence.

5 THE COURT: Thank you over the objection of the
6 defendant, which I have ruled on.

7 MR. EMMER: Thank you, Your Honor.

8 (State's Exhibit Number 3 was entered into
9 evidence.)

10 MR. EMMER: No further questions. Please answer
11 any questions defense may have.

12 THE COURT: All right. Ms. Alves, any questions?

13 MS. ALVES: Yes.

14 **CROSS-EXAMINATION**

15 BY MS. ALVES:

16 Q Good morning, Ms. Hill.

17 A Good morning.

18 Q Now, when -- I want to go back to the day before.
19 What were you doing that was -- was Ty at your house the
20 day before?

21 A Yes.

22 Q How many times was he at your house the day before?

23 A I don't know how many times.

24 Q Was he in and out? Was it just the one --

25 A In and out. We always go through have Bible, talk

Betty Newton Hill - Cross-Examination by Ms. Alves

1 about the Bible in the morning.

2 Q So you and he started out the morning doing Bible
3 study?

4 A That would be what I would call it.

5 Q Excuse me?

6 A Yes, ma'am, that what I would call it.

7 Q Okay. And that was in the morning?

8 A In the morning after I get up, yes, ma'am.

9 Q Okay. And that would have been on Friday?

10 A Yes, ma'am.

11 Q And then -- what was his demeanor on that day? Or
12 at this time when you were doing the Bible study?

13 A Good.

14 Q Good?

15 A Good.

16 Q Okay. So you had a good Bible conversation?

17 A Always have a Bible conversation about the Lord.

18 Q Okay. And then you testified that at some point
19 during the day there were -- that the threats being made?

20 A Yes.

21 Q Around what time did that happen?

22 A I don't know what time, but that was in the
23 afternoon.

24 Q In the afternoon?

25 A Yes, ma'am.

Betty Newton Hill - Cross-Examination by Ms. Alves

1 Q Was it a lot longer -- was it quite a while after
2 the Bible study, maybe an hour or two? Couple of hours?

3 A Yes, could have been longer than that.

4 Q Not long?

5 A Could have been longer.

6 Q Longer. And then how many times was he at your
7 house making threats?

8 A I done heard threats for months because I know he
9 wasn't hisself.

10 Q Okay. I'm talking about on this particular day?

11 A That particular day?

12 Q Yes, sir. I mean yes, ma'am.

13 A Just that one time?

14 Q On that Friday?

15 A Just that one time.

16 Q Just the one time. Were some threats made in the
17 afternoon?

18 A (Witness nodded head.)

19 Q All right. And then after these threats, what did
20 you -- you took them serious?

21 A Yeah, I took them serious.

22 Q Okay. Now, you said there'd been -- you said
23 there'd been other threats made before. On -- you said the
24 past couple of months you said there'd been threats made?

25 A Well, you know a lot of talk about stuff, not

Betty Newton Hill - Cross-Examination by Ms. Alves

1 threats.

2 Q Talk, but you didn't take any of that talk serious?

3 A No.

4 Q Okay. But on this day you took the threats
5 serious?

6 A Very serious from what I saw, yes, ma'am.

7 Q Okay. And what did you do?

8 A I first got my husband and I went to the sheriff
9 office because I wanted to talk to Mr. Sport.

10 Q By Mr. Sport, you mean Judge Holland?

11 A Judge Holland.

12 Q The magistrate?

13 A Yes.

14 Q Okay.

15 THE COURT: This is on Friday?

16 THE WITNESS: Yes, ma'am.

17 BY MS. ALVES:

18 Q And then what did you do?

19 A I came back by the store to see where Wanda Badger
20 was and told her not to can come back over there. I told
21 her he done flipped out.

22 Q Okay. So you told Wanda about the threats?

23 A Yeah, I told Wanda -- I told Wanda not to come back
24 over there because Tyrone done flipped out.

25 Q Okay. Did you tell her about the specific threat?

Betty Newton Hill - Cross-Examination by Ms. Alves

1 A Yeah, I told her and I asked her what was the
2 probation telephone number is and she give it to me and I
3 called her and told her.

4 Q Okay. Did you call the police?

5 A No.

6 Q Okay. Why not?

7 A Nothing had done happened when I call the police,
8 so I'm telling her.

9 Q Okay. Did the -- the probation officer told you
10 that if you were concerned you needed to call the police,
11 didn't she?

12 A No, she didn't tell me that. She tell me if
13 something happened to call the police.

14 Q Oh, if something happened, call the police.

15 A Yeah, that's what she told me.

16 Q Okay. All right. Now, who were these threats made
17 to? Who heard these threats?

18 THE COURT: That's two questions. Which one.

19 MS. ALVES: Sorry.

20 BY MS. ALVES:

21 Q Who heard these threats?

22 A Me.

23 Q Just you?

24 A Charles.

25 Q Charles was there when he said this?

Betty Newton Hill - Cross-Examination by Ms. Alves

1 A He was in the house, so I'm quite sure he heard it.

2 Q Okay. But you -- was he sitting there with you
3 when he --

4 A No, he wasn't.

5 Q Okay. So you can't say what Charles actually
6 heard?

7 A Correct.

8 Q Was anybody else in the house?

9 A God.

10 Q Okay.

11 THE COURT: I'm sorry, who.

12 MS. ALVES: God.

13 BY MS. ALVES:

14 Q Was anybody else besides you and God there?

15 A No.

16 Q Okay. And at any time did you hear him actually
17 contact Wanda and threaten her?

18 A No. I never heard that.

19 Q He didn't actually use your phone to call Wanda?

20 A Not as I -- no. Not as I knows of.

21 Q Okay. Did you have a phone at that time?

22 A Yes.

23 Q Was it a cell phone or a house phone?

24 A Cell phone, house phone.

25 Q Okay. And he did not use either one of those to

Betty Newton Hill - Cross-Examination by Ms. Alves

1 call Wanda from your house?

2 A Not as I knows of.

3 Q Okay. All right. What about on Saturday? Did you
4 -- did he use your phone to call Wanda?

5 A Not as I knows of.

6 Q Okay. And did you hear any threats made on
7 Saturday?

8 A No.

9 Q No, ma'am?

10 A No.

11 Q Now, on Friday after you went and warned Wanda and
12 you said you called the probation officer, was anything
13 else done on Friday?

14 A No.

15 Q Did you see Mr. -- did you see Mr. Jones anymore on
16 Friday?

17 A No.

18 Q Did you see Wanda anymore on Friday?

19 A No.

20 Q And then when's the first time you saw Mr. Jones on
21 Saturday?

22 A When him and my husband wrestling on the ground.

23 Q You didn't see him Saturday morning?

24 A No.

25 Q He didn't come over to your house to use the phone

Betty Newton Hill - Cross-Examination by Ms. Alves

1 to threaten anybody as far as you know?

2 A No.

3 Q Okay. And you testified that you came out of the
4 house and saw them thrashing. Did you ever see a hammer or
5 any kind of weapon?

6 A I didn't see none of that.

7 Q Okay. Did you ever tell anybody that you saw the
8 hammer or that you saw him with a hammer?

9 A Why would I tell somebody something I didn't see?

10 Q You never told Diane Tarter that, the investigator?

11 A No, I didn't told her I saw a hammer, because I
12 didn't see one.

13 Q Yes, ma'am. And, do you know what was going on
14 with Mr. Jones at that time? Were you aware that he was
15 trying to leave Barnwell County?

16 A Yes.

17 Q And he was actually trying to relocate to North
18 Carolina?

19 A Yes.

20 Q And were you aware whether or not he and Ms. Badger
21 were trying to sell their home?

22 A I don't know nothing about what goes on in other
23 people's homes, ma'am.

24 Q Okay.

25 A I stated that to you before.

Betty Newton Hill - Cross-Examination by Ms. Alves

1 Q Okay. Now, the only thing that you knew about was
2 he was trying to leave?

3 A I know he wanted to leave because he had said he
4 had a job or something waiting on him.

5 Q Okay. And was -- as far as you were aware, was he
6 leaving Ms. Badger?

7 A I don't know nothing about that.

8 Q Okay. So you don't know the details about that?

9 A No, I don't know nothing about whether he leaving
10 her either.

11 Q All right. Now I want to ask you, after -- after
12 this incident and after Mr. Jones was shot, did you talk to
13 the police?

14 A Yes, I did.

15 Q And you told them what happened?

16 A Yes, I did.

17 Q And then you also talked to the investigator,
18 Investigator Tarter?

19 A Yes, I did.

20 Q And you told her what happened?

21 A Yes, I did.

22 Q Now, originally, you didn't talk to the officer; is
23 that correct? Originally when Investigator Tarter first
24 came to talk to you, you asked for an attorney?

25 A I went down to the station and talked to her.

Betty Newton Hill - Cross-Examination by Ms. Alves

1 Q Okay. That was a couple of days after the
2 incident?

3 A I don't know how long because I done been in two
4 car wrecks and a lot of stuff is missing and I'm still
5 having headaches.

6 Q Yes, ma'am. Do you remember asking for an attorney
7 and refusing -- and not wanting to talk to --

8 A No, I didn't --

9 MR. EMMER: Objection, Your Honor, she's testifying
10 for the witness.

11 THE COURT: Well, she's on cross. She can lead the
12 witness. Overruled.

13 BY MS. ALVES:

14 Q Do you remember on the 22nd after the shooting when
15 they took you to the police department, you were in
16 handcuffs, weren't you?

17 A Correct.

18 Q And they were looking at you as a possible suspect
19 for shooting Mr. Jones, weren't they? At that time.

20 A Well, they know I shot him because I told him.

21 Q Yes, ma'am. But you were in handcuffs?

22 A Yes, ma'am.

23 Q And when they brought you to the police department,
24 you were still in handcuffs?

25 A Sheriff's department.

Betty Newton Hill - Cross-Examination by Ms. Alves

1 Q Excuse me, to the sheriff's department, you were
2 still in handcuffs?

3 A Correct.

4 Q Okay. And at that time you didn't want to talk
5 without an attorney?

6 A Correct.

7 Q And then when you found out that you weren't going
8 to be charged, then you wanted to talk to the police?

9 A No, that wasn't the case. No.

10 Q Well, when you came and talked to Investigator
11 Tarter on the 24th of October, two days later, she told you
12 that you weren't a suspect anymore and weren't going to be
13 charged, didn't she?

14 A I don't remember her telling me that.

15 Q Okay. But you did come in and talk to her?

16 A Yes, I did.

17 Q When you weren't in handcuffs? You came in on your
18 own?

19 A Well, I came in there on my own.

20 Q Yes.

21 A Well, she called me and asked me would I come
22 downtown to talk to her.

23 Q And you went?

24 A Yes.

25 Q And you talked to her about this case and you told

Betty Newton Hill - Cross-Examination by Ms. Alves

1 her what happened?

2 A Yes.

3 Q And she asked you -- and when you and she were
4 talking, she also asked you about another case, didn't she?

5 A Yes, she did.

6 Q And she asked you about an arson case that she was
7 personally involved with?

8 A Yes.

9 Q And you remember what she told you?

10 MR. EMMER: Your Honor, I'm going to have to object
11 here as to relevance. Arson case? This has nothing to do
12 with an assault case. I'm not sure where Ms. Alves is
13 going with it.

14 THE COURT: How is that relevant, Ms. Alves?

15 MS. ALVES: Judge, it goes to the bias of the
16 police officer. The investigator in this case was involved
17 -- her mother was the victim of an arson. During this
18 investigation, the officer involved in the -- the chief
19 investigator for this case questioned the witnesses about
20 her mother's case. Even had one of the witnesses,
21 Ms. Badger, talk to an investigator on video about that
22 case and she told -- and she made statements to Ms. Newton,
23 which Ms. Newton has told our investigator that she was
24 going to make sure that he went to jail for this case.

25 I think that's relevant because it goes to the bias

Betty Newton Hill - Redirect Examination by Mr. Emmer

1 of the police officer involved in the case. I believe --
2 I believe Causby Whitley supports that.

3 THE COURT: Who's the police officer?

4 MS. ALVES: Diane Newton -- excuse me, Diane
5 Tarter.

6 THE COURT: She's not even listed as a witness.
7 Who?

8 MS. ALVES: She's listed -- the name is
9 investigator -- Diane Tarter. She is no longer with the
10 Barnwell Police Department, but she is a witness. She's
11 under subpoena and I brought her here under subpoena to
12 question her myself.

13 THE COURT: All right. I'll allow it.

14 BY MS. ALVES:

15 Q Investigator Tarter did question you about what you
16 knew about the arson for her mother's case?

17 A She asked me about it.

18 Q And didn't she, in fact, tell you that she was
19 going to make sure that Mr. Jones went to jail?

20 A Yes, she did.

21 Q Thank you. I have no further questions.

22 **REDIRECT EXAMINATION**

23 BY MR. EMMER:

24 Q Did Ms. Tarter ever tell you what you should say
25 about this case?

Betty Newton Hill - Redirect Examination by Mr. Emmer

1 A Beg pardon?

2 Q Did Investigator Diane Tarter, the woman you spoke
3 with, ever tell you what you should say about this case.

4 A No, she didn't.

5 Q So you told Ms. Tarter the truth about this case?

6 A Yes.

7 Q Okay.

8 MR. EMMER: No further questions.

9 THE COURT: Thank you, you may step down. Thank
10 you, ma'am, be careful.

11 MR. EMMER: Your Honor, this witness is under
12 subpoena. We'd ask that she be allowed to leave.

13 THE COURT: It's up to her.

14 MS. ALVES: I don't have any problem with that.

15 THE COURT: Now, you're welcome to stay, or you're
16 welcome to go.

17 THE WITNESS: I got to wait on my husband, so I
18 can't leave yet.

19 THE COURT: Well, then....

20 Next witness.

21 MR. EMMER: State calls Charles Hill.

22 CHARLES HILL, was duly sworn

23 THE CLERK: All right. If you would, please, sir,
24 be seated. And then state your full name for the record,
25 okay?

Charles Hill - Direct Examination by Mr. Emmer

1 THE WITNESS: Okay. Charles Edward Hill.

2 DIRECT EXAMINATION

3 BY MR. EMMER:

4 Q Mr. Hill, where do you live?

5 A [REDACTED] in Barnwell, South Carolina.

6 Q And how long have you lived there?

7 A Over twelve years.

8 Q Who do you live with?

9 A Betty Newton, my wife.

10 Q Do you know Venson Tyrone Jones?

11 A Yes, he's my stepson.

12 Q What do you call him?

13 A Tyrone.

14 Q Do you remember an incident that occurred on
15 October 22nd of 2016.

16 A Yes, I do.

17 Q Why do you remember that day?

18 A Well that day -- when Wanda and Tyrone had the
19 incident at the house. And me and my wife was eating
20 breakfast. And after we got in the house and sit to the
21 table, we heard a horn come blowing in the yard. And my
22 wife said check and see that the mailman or not. She
23 thought it was the mail man. I went to the front door on
24 the porch. Wanda pulled in the yard blowing and when she
25 kept blowing, she ran, jumped out of the truck and ran in

Charles Hill - Direct Examination by Mr. Emmer

1 front of it still rolling and the truck hit the house.

2 That's when I seen Tyrone emerge out of the back seat
3 holding a hammer, chasing after her.

4 Q Did you see Tyrone hit her with the hammer?

5 A No, I didn't.

6 Q Wanda ran into the house?

7 A Yes.

8 Q What did you do after that?

9 A I subdued him, took the hammer from him and after
10 that went, I went on in the house and check on Wanda. I
11 put the hammer beside the sofa that we was sitting in. And
12 then my wife was talking outside. Him and my wife talking
13 outside. That's about it.

14 Q I'm going to show you what's been previously marked
15 as State's Exhibit 2. Do you recognize that?

16 A Yes.

17 Q And what is that?

18 A That's the hammer laying in the floor. Yes, the
19 hammer laying in the floor. That's it beside the sofa.

20 Q You wear glasses?

21 A Yes.

22 Q You want to put those on?

23 A Uh-huh.

24 Q What is that a photo of?

25 THE COURT: What number is that?

Charles Hill - Direct Examination by Mr. Emmer

1 MR. EMMER: State's Exhibit 2, Your Honor.
2 THE COURT: He just said it was a hammer.
3 THE WITNESS: That's the hammer that I had.
4 THE COURT: It's what?
5 THE WITNESS: The hammer.
6 MR. EMMER: Thank you.
7 BY MR. EMMER:
8 Q I'm going to show you what's been marked as State's
9 Exhibit 4: What is that item?
10 A Yes. It's the hammer. A picture of the hammer and
11 the sofa me and Wanda was sitting in with the hammer.
12 Q All right. You recognize that item?
13 A Yes.
14 Q Does it fairly and accurately depict --
15 A Yes.
16 Q The item?
17 A (Witness nodded head.)
18 MR. EMMER: Your Honor, at this time, the State
19 would like to move State's Exhibit 4 into evidence.
20 THE COURT: Any objection.
21 MS. ALVES: No, Your Honor.
22 (State's Exhibit Number 4 was entered into
23 evidence.)
24 MR. EMMER: Just a moment, Your Honor.
25 (There was a pause in the proceedings.)

Charles Hill - Cross-Examination by Ms. Alves

1 MR. EMMER: No further questions, please answer any
2 questions the defense may have.

3 CROSS-EXAMINATION

4 BY MS. ALVES:

5 Q Now, Mr. Hill, you've identified what's marked as
6 State's number 4; States number 4, is that the hammer that
7 you saw him with that day?

8 A Yes.

9 Q And is that -- whose hammer is that?

10 A It's mine.

11 Q Your hammer?

12 A Uh-huh.

13 Q And -- but you took it away -- you're saying you
14 took it away from Mr. Jones?

15 A Yes.

16 Q You know how Mr. Jones came to have your hammer?

17 A Yes.

18 Q How?

19 A He came to borrow it a couple of days before. He
20 said he was doing some work to his floor in the house.

21 Q Few days before?

22 A Yes.

23 Q You remember how many days before?

24 A I think about two.

25 Q Two days before?

Charles Hill - Cross-Examination by Ms. Alves

1 A Yes.

2 Q And so he was doing some work on his house?

3 A Yes.

4 Q So you didn't see a problem with lending him a
5 hammer?

6 A No.

7 Q Okay. And I want to go back to -- on that day, you
8 said you were eating breakfast and heard a noise?

9 A Yes.

10 Q And then you said you thought it was the mailman?

11 A Yes. Because me and my wife sitting to the table
12 eating breakfast. The mailman usually come on Saturdays.
13 And knowing he would blow the horn for the dogs because the
14 dogs would bite.

15 Q Okay.

16 A You know, blow the horn, we come out there.

17 Q So he would -- the mailman blows the horn to let
18 you know he's out there?

19 A Yes.

20 Q Okay. So you actually went outside?

21 A Yes.

22 Q How far outside did you go?

23 A Just near the bottom steps.

24 Q So you walked out of the porch and on to the bottom
25 of the steps?

Charles Hill - Cross-Examination by Ms. Alves

1 A Yes.

2 Q And what did you see?

3 A I seen Wanda coming in the yard and right as she
4 got right in front of the truck and I came -- she seen me
5 coming out and she got out and ran in front of the truck
6 passed me into the house.

7 Q Okay. So you were able to see Wanda?

8 A Yes.

9 Q And did you see anybody get hit with the hammer?

10 A No, I didn't.

11 Q When you -- when she first drove up, did you even
12 see a hammer?

13 A No.

14 Q When's the first time you saw the hammer?

15 A When he emerged out the back seat because she was
16 already out the truck.

17 Q Okay. Now, Mr. Hill, let me ask you -- I see
18 you're wearing glasses. Were you wearing your glasses that
19 day?

20 A No.

21 Q Are you able to see long distances?

22 A Yes.

23 Q You are?

24 A Yes.

25 Q Do you get disability?

Charles Hill - Cross-Examination by Ms. Alves

1 A No.

2 Q You don't get disability?

3 A No.

4 Q Okay. Do you work?

5 A I'm on a layoff right now.

6 Q You're on a lay off?

7 A Uh-huh.

8 Q What type of job?

9 A Masonite, I was operator.

10 Q Machine operator at Masonite?

11 A Uh-huh, yes.

12 Q Okay. And you don't have problems with your sight?

13 A Yes, I have glaucoma.

14 Q You have glaucoma?

15 A Yes.

16 Q And so how does that affect your sight?

17 A It's -- I'm blind in one eye, the other eye is 30
18 percent vision.

19 THE COURT: The other eye is what?

20 THE WITNESS: Blind in the right eye and have 30
21 percent in the left.

22 BY MS. ALVES:

23 Q So you're blind in your right eye?

24 A Yes.

25 Q And you have 30 percent of your vision in your

Charles Hill - Cross-Examination by Ms. Alves

1 left?

2 A Yes.

3 Q And is your left, in fact, also tunnel visioned?

4 A Yes.

5 Q So you can only see right in front of you?

6 A Yes.

7 Q Out of one eye?

8 A Yes.

9 Q And when this happened, you said that you were able
10 to fight with Mr. Jones?

11 A Yes.

12 Q How old are you?

13 A 50.

14 Q 50. And you were able to hold down Mr. Jones?

15 A Yes.

16 Q And you said you took the hammer from him?

17 A Yes.

18 Q And you only saw the hammer when you first started
19 wrestling with him?

20 A No, as he was coming out the truck, he had it
21 raised in his hand.

22 Q He was waving it in his hand?

23 A Uh-huh.

24 Q Okay. And you said that -- did you actually see
25 the truck hit the house?

Charles Hill - Cross-Examination by Ms. Alves

1 A No. I was still on the ground. I was still on the
2 ground with him.

3 Q So -- wait a minute. You were on the ground with
4 Mr. Jones when the truck hit the house?

5 A Uh-huh. Right in front of the truck with it
6 rolling still.

7 Q So, I'm confused. I thought you said that -- you
8 testified that you saw him waving the hammer when he got
9 out of the truck?

10 A Yes, he waved the hammer and ran because the truck
11 was still going. Going about -- going really slow and ran
12 in front of the truck.

13 Q So you saw Ms. Badger run in front of the truck?

14 A Yes.

15 Q And then you -- and after she ran in front of the
16 truck, what else did you see?

17 A She ran in the house and he was coming -- he had --
18 coming at her with the hammer, standing there waving. I
19 just ran in front of him, took him down and got the hammer
20 from him.

21 Q So you got the hammer from him?

22 A Yes.

23 Q And at the time that you got the hammer from him,
24 where was -- what happened after that?

25 A I wrestled down and after that my wife told me let

Charles Hill - Cross-Examination by Ms. Alves

1 him up and she tell him to go home. And I went in the
2 house with Wanda, check on Wanda; got a rag to stop the
3 bleeding from around her head with the cold rag. Him and
4 my wife was still on the porch talking. She tell him not
5 to come to -- come up on the porch. For he came up on the
6 porch, she shots came two times.

7 Q So she shot him two times on the porch after they
8 were already on the porch talking?

9 A He ran up on the porch -- he was on the ground
10 still.

11 Q All right. And so was this after you gave Wanda
12 the rag on her head?

13 A Yes.

14 Q So you were already in the house --

15 A Yes.

16 Q -- when he got shot?

17 A Uh-huh.

18 Q Do you recall telling the police that you were
19 actually behind him when -- when your wife shot Mr. -- when
20 your wife shot Tyrone?

21 A No, I was in the house.

22 Q I'm asking you do you remember telling the police
23 that you were behind him?

24 A No.

25 Q Did you ever tell the police that?

Charles Hill - Cross-Examination by Ms. Alves

1 A No.

2 Q Okay. Do you recall telling the police that you
3 were -- actually saw Tyrone hit Wanda in the head with the
4 hammer?

5 A No, I didn't say that. I don't recall that.

6 Q So if you said that, that would be a lie?

7 A Yes.

8 Q So if you told the police that that's what
9 happened, that you saw it, that's not true?

10 A No, I didn't see it.

11 Q You didn't see it?

12 A No.

13 Q I need to be clear, do you admit or deny that you
14 told the officer you saw it?

15 A I deny, I don't remember telling him I saw it
16 because I didn't see it.

17 Q All right. Do you remember giving a statement?

18 A At the sheriff's department, yes.

19 Q Do you remember giving a written statement?

20 A Yes.

21 Q Would it refresh your memory for me to show you
22 your written statement?

23 A Yes.

24 Q When you went to the sheriff's department, you --
25 you talked to the investigator on camera?

Charles Hill - Cross-Examination by Ms. Alves

1 A Yes, yes.

2 Q And you also wrote a statement?

3 A Yes.

4 Q Can you -- can you look at your -- do you recognize
5 this?

6 A Yes.

7 Q And is that the written statement that you gave to
8 the police officer?

9 A Yes.

10 Q And you gave that statement on October 22nd?

11 A Yes.

12 Q At -- let's see what time it was. It was at 12:42
13 p.m.?

14 A Yes.

15 Q Okay. And you signed it?

16 A Yes.

17 Q And did you also write it?

18 A Yes.

19 Q Can you read what you wrote?

20 A No, I just wrote. I didn't have my glasses, I just
21 wrote.

22 Q So you just wrote it without your glasses on?

23 A Uh-huh.

24 Q Because you didn't have your glasses on that day?

25 A No.

Charles Hill - Cross-Examination by Ms. Alves

1 Q Do you see better or worse without your glasses?

2 A Worse.

3 Q You see worse without your glasses?

4 A Uh-huh.

5 Q Okay. So if you didn't have -- did you have your
6 glasses on while all this was going on with Wanda and
7 Tyrone?

8 A No.

9 Q Well, can you see it at all to see what you wrote
10 to see that -- do you admit or deny that you wrote that
11 Tyrone was beating her in the head with a hammer?

12 A I deny that. That's part I wrote. I had to write
13 something down it was so quick.

14 Q Okay. So if you -- so because you -- since you
15 wrote that, you admit that that was a lie?

16 A Yes.

17 Q That you lied in your statement?

18 A Uh-huh.

19 Q Yes?

20 A Yes.

21 Q And if you told the police that you were behind him
22 when he got shot, that was a lie, too?

23 A No, I was inside the house.

24 Q Okay. But I'm saying if you told the police that,
25 that would be a lie too?

Charles Hill - Cross-Examination by Ms. Alves

1 A Yes.

2 Q Okay. Now, you were worried about Ms. Newton that
3 night weren't you, or that day, weren't you?

4 A Yes.

5 Q Because she had just shot someone?

6 A Yes.

7 Q And would you have been willing to lie to cover up
8 for her?

9 A No.

10 Q No? Can you explain why you said these things that
11 aren't true?

12 A I just -- it happened so fast, I just write stuff
13 down because it had me kind of upset and nervous.

14 Q So you were just writing down something to write it
15 down?

16 A Yes.

17 Q Did anybody tell you what to say?

18 A No.

19 Q So you just wrote these lies down on your own?

20 A Yes.

21 Q Now, you told the police that Mr. Jones, Mr. Tyrone
22 Jones came to the house and actually called Wanda and made
23 threats to Wanda on your phone, you remember telling the
24 police that?

25 A No.

Charles Hill - Cross-Examination by Ms. Alves

1 Q You didn't tell the police that?

2 A No.

3 Q Okay. So if somebody says that you told them that,
4 that would be a lie?

5 A Yes.

6 Q Okay. Did you ever hear him making any threats on
7 the phone to Wanda?

8 A No.

9 Q Did you hear the threats at all?

10 A No.

11 Q You never heard any threats?

12 A No threats.

13 Q Okay. So how do you know about any threats?

14 A I don't know about the threats, I just know when I
15 was home, what happened. I don't know anything about no
16 threats.

17 Q So somebody told you about the threats?

18 A Yeah.

19 Q So if your statements when you put down that he --
20 what Mr. Jones said, that's what somebody told you, that's
21 not what actually you heard?

22 A Yes.

23 Q Now, let me ask you this: Why did you take the
24 hammer in the house?

25 A To keep it off the ground in case he try to get

Charles Hill - Cross-Examination by Ms. Alves

1 back and took it. The reaction was to put it back in the
2 house.

3 Q So you picked up the hammer and you put it in the
4 house?

5 A Yes.

6 Q And you and him were actually struggling over the
7 hammer?

8 A Yes.

9 Q Did you get any blood on you?

10 A Off Wanda, on one of my tank tops I had on.

11 Q Okay. So you got Wanda's blood on your tank top?

12 A No, off her head.

13 Q Oh, you got blood on her from her head?

14 A Yeah.

15 Q You didn't get any blood on you from the hammer?

16 A No.

17 Q Okay. So you were struggling over this hammer, you
18 were touching the hammer, you were fighting over this
19 hammer from what you're telling us, but you didn't get any
20 blood on you?

21 A No.

22 Q Because there wasn't any blood on the hammer, was
23 there?

24 A No.

25 Q Okay. Thank you, no further questions.

Charles Hill - Redirect Examination by Mr. Emmer

1 THE COURT: Anything on redirect?

2 MR. EMMER: Yes, Your Honor, briefly.

3 REDIRECT EXAMINATION

4 BY MR. EMMER:

5 Q Mr. Hill, why did you think it was necessary to
6 fight with Tyrone first? When you first saw him?

7 A The only way -- reaction from military training and
8 stuff trying to subdue him from getting to the house and
9 doing anymore damage.

10 Q Why were you trying to subdue him?

11 A From getting to the house because she ran in the
12 house, he was coming in the house after her. I stopped him
13 as a reaction. I stopped him and subdued him.

14 Q Stopped him and subdued him from what?

15 A Doing any further damage to her or my wife.

16 Q When was the first time you told anyone that your
17 -- that your statements to law enforcement were lies?

18 A I didn't recall them until just now when she show
19 me the paperwork.

20 Q You understand you're testifying under oath today,
21 correct?

22 A Yes.

23 Q When those statements were made with your under
24 oath?

25 A At the time, yes.

Wanda S. Badger - Direct Examination by Mr. Cooper

1 MR. EMMER: No further questions.

2 THE COURT: All right. You may step down.

3 Let's take about a 10 minute break.

4 (A brief recess was observed.)

5 THE COURT: Next witness.

6 MR. COOPER: State calls Ms. Wanda Badger.

7 THE COURT: Ms. Badger come around, please.

8 WANDA BADGER, was duly sworn

9 THE CLERK: If you would, please, ma'am, be seated
10 and state your full name for the record, okay.

11 THE WITNESS: Wanda S. Badger.

12 **DIRECT EXAMINATION**

13 BY MR. COOPER:

14 Q How are you doing today, Ms. Badger?

15 A I'm fine.

16 THE COURT: Speak up, please.

17 BY MR. COOPER:

18 Q Where are you from?

19 A I'm originally from Martin.

20 Q Martin, South Carolina?

21 A Uh-huh.

22 Q Where do you currently live?

23 A Olar.

24 Q Okay. You mind speaking up just a little bit?

25 A Olar.

Wanda S. Badger - Direct Examination by Mr. Cooper

1 Q Thank you. How long have you lived there?

2 A Since October 2016.

3 Q Since this incident?

4 A Uh-huh.

5 Q Where do you currently work?

6 A At Walmart.

7 Q Where did you live on October 22nd, 2016?

8 A Olar.

9 Q Where did you live prior to that incident?

10 A [REDACTED]

11 Q That's in Barnwell, South Carolina?

12 A Yes, sir.

13 Q Is that in Barnwell County?

14 A Yes, sir.

15 Q Do you know the defendant in this case?

16 A Yes, sir.

17 Q What's his name?

18 A Venson Tyrone Jones.

19 Q Can you please point to him and tell the Court what
20 he's wearing?

21 A The orange jump suit.

22 MR. COOPER: Please note for the record that the
23 witness has pointed to the defendant.

24 BY MR. COOPER:

25 Q How do you know him?

Wanda S. Badger - Direct Examination by Mr. Cooper

1 A We have four kids.

2 Q How long have you been together?

3 A Like 20 years.

4 Q Do you have --

5 THE COURT: How long?

6 THE WITNESS: 20 years.

7 THE COURT: Speak up for me, please.

8 THE WITNESS: 20 years.

9 BY MR. COOPER:

10 Q How old are the children that you have with him?

11 A My oldest one is 21; 18, 17, and 14.

12 Q Are you currently involved in any relationship with
13 the defendant?

14 A No, sir.

15 Q When did you decide to end that relationship?

16 A Beginning of October 2016:

17 Q Do you remember that Saturday, October 22nd, 2016?

18 A Yes, sir.

19 Q Why do you remember that day?

20 A That was the day I went over there to take him some
21 water.

22 Q What happened that day?

23 A I got struck in the head with the hammer.

24 Q Okay. Let's back up a little bit.

25 When did he ask you to bring him some water?

Wanda S. Badger - Direct Examination by Mr. Cooper

1 A That morning.

2 Q About what time did you bring it?

3 A Between eleven and twelve.

4 Q So what happened when you arrived at [REDACTED]

5 [REDACTED]?

6 A I arrived on -- I arrived there and he opened up
7 the back door. The water was in the back seat. He opened
8 up the back door and he reached for the hammer. He didn't
9 get the water. He started reaching for the hammer that was
10 on the floor and struck me with it.

11 Q Which door of your vehicle did he enter?

12 A The passenger back.

13 Q So you're in the driver's seat?

14 A Uh-huh.

15 Q He comes in through the backside?

16 A Passenger door.

17 Q What type of vehicle was this?

18 A Chevrolet Tahoe.

19 Q So it's a big car?

20 A Yes, sir.

21 Q What did you do when he began striking you?

22 A I pulled off and I pulled off to -- I started
23 blowing the horn, pulling onto his mother's house at [REDACTED]

24 [REDACTED].

25 Q Why did you -- I'm sorry, why did he need water?

Wanda S. Badger - Direct Examination by Mr. Cooper

1 A Because he didn't have no running water at the
2 time.

3 Q And you decided to, out of good faith, take some
4 water to him?

5 A Yes, sir.

6 Q Were your doors unlocked?

7 A I unlocked only that door.

8 Q Only that door?

9 A Yes, sir.

10 Q Why is that?

11 A Because I -- I was kind of terrified about going
12 there.

13 Q What made you decide to go there over your fear?

14 A Well, I was trying to be nice.

15 Q So at this point in time, your relationship with
16 the defendant has previously ended.

17 A Yes, sir.

18 Q Although recently. And you still cared for him?

19 A Yes, sir.

20 Q You were just doing a favor?

21 A Yes, sir.

22 Q Where did you drive to after this attack began?

23 A To [REDACTED].

24 Q Who lives there?

25 A His mother Betty Newton.

Wanda S. Badger - Direct Examination by Mr. Cooper

1 Q Anybody else?

2 A And Charles Hill.

3 Q And you knew them?

4 A Yes, sir.

5 Q Was the defendant chasing you throughout this time
6 as you drove to another yard?

7 A Well, he was hanging out the -- he was still steady
8 trying to hit me with the hammer during the time that I was
9 trying to get away. He was like hanging out the back
10 passenger door.

11 Q Where did he hit you?

12 A In my head, two times in my head; my --

13 Q I'm sorry?

14 A Two times in my head and my arm.

15 Q And your arm. Did you receive --

16 THE COURT: How many times in your arm.

17 THE WITNESS: Probably like, I think it was two or
18 three times.

19 BY MR. COOPER:

20 Q Did you receive any treatment as a result of your
21 injury?

22 A Yes, sir.

23 Q What treatment was that?

24 A I had to get staples in the top, in the back of my
25 head.

Wanda S. Badger - Direct Examination by Mr. Cooper

1 Q So you had -- if I understand you correctly, you
2 had two separate injuries in your head, your scalp?

3 A Yes, sir.

4 Q You had to get staples in both?

5 A Yes, sir.

6 Q Do you recall how many staples it was?

7 A It was about -- probably about twenty.

8 Q About twenty?

9 A Uh-huh.

10 Q Do you recall anybody else doing anything when you
11 got to the yard of [REDACTED]?

12 A Well, I ran in the house and I was just so shocked.
13 The only thing I recall when I heard the gunshot.

14 Q When you heard the gunshot?

15 A Yes, sir.

16 Q Where did you -- where in the house did you run
17 into?

18 A In the living room.

19 Q Did anybody assist you for your injuries?

20 A Charles came to help. He tried to get me a rag,
21 trying to stop the bleeding.

22 Q What kind of rag was it?

23 A It was like the towel.

24 Q Who else was in the yard when you pulled into the
25 yard?

Wanda S. Badger - Direct Examination by Mr. Cooper

1 A Well his mom was there. She was in the kitchen.
2 And only thing I recall, I ran in there and I think she
3 picked up the phone and tried to call 9-1-1.

4 Q Did this attack continue into the yard of [REDACTED]
5 [REDACTED]?

6 A It did.

7 Q Did this attack continue when you were able to get
8 out of the vehicle?

9 MS. ALVES: Objection, leading.

10 THE COURT: Sustained.

11 THE WITNESS: No, once I got out --

12 THE COURT: Rephrase your question.

13 BY MR. COOPER:

14 Q When you got into the yard, and you got out of the
15 vehicle, what happened?

16 A I ran in the living room and stayed there.

17 Q Were you able to park your car?

18 A No, I jumped out the car without it being in park
19 and ran in front of it.

20 Q What happened to your car?

21 A It hit the house.

22 Q I'm going to show you what's been marked as State's
23 Exhibit 2. Can you recognize this item?

24 A That's Ms. Betty's front porch.

25 Q Does it fairly and accurately depict her porch that

Wanda S. Badger - Direct Examination by Mr. Cooper

1 day?

2 A Yes.

3 THE COURT: What number is it?

4 MR. COOPER: 2, Your Honor.

5 THE WITNESS: Yes, sir.

6 BY MR. COOPER:

7 Q Does it seem to have been altered in any way?

8 A No, I don't -- I ran in so fast, no.

9 Q The picture itself though?

10 A Yeah.

11 Q This is what you saw when you ran inside?

12 A Yeah.

13 MR. COOPER: The State would offer State's Exhibit
14 2 into evidence.

15 THE COURT: Any objection.

16 MS. ALVES: No, Your Honor.

17 (State's Exhibit Number 2 was entered into
18 evidence.)

19 BY MR. COOPER:

20 Q I show you what's been marked State's Exhibit 6.

21 A Yes, sir. That's the buckets I had the water in.

22 THE COURT: Speak up, ma'am. Go ahead.

23 THE WITNESS: That's the buckets I had the water
24 in.

25 BY MR. COOPER:

Wanda S. Badger - Direct Examination by Mr. Cooper

1 Q That's from the day, October 22nd, after this
2 incident?

3 A Yes, sir.

4 MR. COOPER: State would offer State's Exhibit 6
5 into evidence.

6 MS. ALVES: No objection.

7 (State's Exhibit Number 6 was entered into
8 evidence.)

9 BY MR. COOPER:

10 Q I'm showing you what's been marked State's Exhibit
11 12. Do you recognize that?

12 A Yes, sir.

13 Q What is that?

14 A That's my truck. It ran into the house.

15 Q State would offer State's Exhibit 12 into evidence?

16 MS. ALVES: No objection.

17 (State's Exhibit Number 12 was entered into
18 evidence.)

19 BY MR. COOPER:

20 Q State's Exhibit 7. Do you recognize that?

21 A Yes, sir.

22 Q What is that address?

23 A [REDACTED]

24 Q Is this where the incident continued into?

25 A Yes, sir.

Wanda S. Badger - Direct Examination by Mr. Cooper

1 THE COURT: What number?

2 MR. COOPER: 7, Your Honor.

3 State offers State's Exhibit 7 into evidence.

4 MS. ALVES: No objection.

5 (State's Exhibit Number 7 was entered into
6 evidence.)

7 BY MR. COOPER:

8 Q All right. I'm going to show you some more
9 pictures. Please bear with me.

10 This is State's Exhibit Number 8. Do you recognize
11 this picture?

12 A Yes, sir. That's where when -- that's my head, one
13 of the spots where I got struck in the head with the
14 hammer.

15 Q From the incident that occurred that day?

16 A Yes, sir.

17 MR. COOPER: State offers State's Exhibit 8 into
18 evidence.

19 MS. ALVES: No objection.

20 THE COURT: Let me see it. Move along.

21 (State's Exhibit Number 8 was entered into
22 evidence.)

23 BY MR. COOPER:

24 Q State's Exhibit Number 9. Do you recognize this
25 picture?

Wanda S. Badger - Direct Examination by Mr. Cooper

1 A Yes, sir. That's my head too, in the back.

2 THE COURT: It's what? I can't hear you.

3 THE WITNESS: That's my head in the back also.

4 BY MR. COOPER:

5 Q So this is the same injury as the previous picture?

6 A Yes.

7 Q Just a closer up?

8 A Yes, sir.

9 MR. COOPER: State would offer State's Exhibit 9
10 into evidence.

11 MS. ALVES: No objection.

12 (State's Exhibit Number 9 was entered into
13 evidence.)

14 BY MR. COOPER:

15 Q State's Exhibit Number 10, do you recognize this
16 picture?

17 A Yes, sir, that's where I got struck in the top of
18 my head.

19 Q So this is a different injury than the last two
20 pictures?

21 A Yes, sir.

22 Q Is it from the incident that day?

23 A Yes, sir.

24 MR. COOPER: State would offer State's Exhibit 10
25 into evidence.

Wanda S. Badger - Direct Examination by Mr. Cooper

1 MS. ALVES: No objection.

2 (State's Exhibit Number 10 was entered into
3 evidence.)

4 BY MR. COOPER:

5 Q And State's Exhibit 11.

6 A That's the same picture as previous where I got hit
7 in the head with the hammer.

8 Q On that day after this incident?

9 A Yes, sir.

10 MR. COOPER: State would offer State's Exhibit 11.

11 THE COURT: Is that the same as 10.

12 MR. COOPER: Yes, Your Honor. Close up.

13 MS. ALVES: No objection.

14 (State's Exhibit Number 11 was entered into
15 evidence.)

16 BY MR. COOPER:

17 Q Ms. Badger, in relation to your injuries, what was
18 -- did you receive any followup treatment?

19 A Yes, sir, I had to go get the staples out of my
20 head at MC and G.

21 THE COURT: I'm sorry had to get staples out and
22 what else?

23 THE WITNESS: At MC and G in Augusta.

24 THE COURT: Where did you have them put in?

25 THE WITNESS: At MCG.

Wanda S. Badger - Direct Examination by Mr. Cooper

1 THE COURT: So it's my understanding you were taken
2 to MCG, the staples were put in and then the only other
3 time you had treatment is when you went back to get them
4 taken out?

5 THE WITNESS: Yes, sir. And I had to keep -- and
6 then I had to go back to my regular doctor so they can
7 check the wound and stuff.

8 THE COURT: How many times did you do that?

9 THE WITNESS: I think two times. One or two times.

10 THE COURT: Who is your regular doctor.

11 THE WITNESS: Barnwell Family Medicine.

12 THE COURT: And are you under any type of
13 restrictions now as a result of it? Ever have any
14 problems, any scarring or anything?

15 THE WITNESS: No, sir. I think I have a scar in
16 the top of my head, but I'm doing good.

17 THE COURT: Any x-rays taken?

18 THE WITNESS: On that day --

19 THE COURT: That you got hit?

20 MR. COOPER: Did the defendant --

21 THE WITNESS: I don't recall.

22 BY MR. COOPER:

23 Q Did the defendant cause these injuries?

24 A Yes, sir.

25 Q By hitting you in the head with a hammer?

Wanda S. Badger - Cross-Examination by Ms. Alves

1 A Yes, sir.

2 Q Please answer any questions the defense has?

3 A Okay.

4 CROSS-EXAMINATION

5 BY MS. ALVES:

6 Q Ms. Badger, you said you'd moved out a few weeks
7 earlier?

8 A Yes, ma'am.

9 Q And that was just due to problems that you and
10 Mr. Jones were having?

11 A Yes, ma'am.

12 Q Okay. He hadn't been threatening you at that point
13 had he? Threatening to bust you in your head?

14 A Did he threaten me at that point?

15 Q Threaten to bust you in your head?

16 A No.

17 Q Okay. And the only time that any threats were made
18 was not by Mr. Jones, was by -- actually Ms. Newton told
19 you about them; is that right?

20 A Yes, sir.

21 Q So Mr. Jones never actually said anything to you?

22 A No. Not about hitting me in the head with a
23 hammer, no.

24 Q Okay. And the day before Ms. Newton is the one who
25 came and told you about that threat?

Wanda S. Badger - Cross-Examination by Ms. Alves

1 A Yes.

2 Q And -- but you still brought him the water the next
3 day?

4 A Yes.

5 Q You didn't call the police about these threats?
6 You didn't call the police about the threat Ms. Newton told
7 you about?

8 A No, we -- she talked to the probation lady.

9 Q Okay. But you -- but he asked you about the water,
10 to bring him some water?

11 A Yes.

12 Q And the water was cut off?

13 A Yes.

14 Q Well, hadn't the water bill just been paid by
15 mental health?

16 A No, it wasn't on.

17 Q Was the water bill recently been paid?

18 A No.

19 Q They didn't pay the water bill?

20 A No.

21 Q Did Mr. Jones go to them for help?

22 A Yes, he did.

23 Q And they didn't pay the bill?

24 A No, the water wasn't on.

25 Q Okay. So you just brought the water over for the

Wanda S. Badger - Cross-Examination by Ms. Alves

1 water -- go on?

2 A Ma'am?

3 Q You just brought the water offer because he didn't
4 have any water on?

5 A Yes, ma'am.

6 Q And you didn't get out of the car?

7 A No.

8 Q Now, where was Mr. Jones when you pulled up?

9 A He came down off the porch.

10 Q Which porch?

11 A [REDACTED]

12 Q Okay. The house that you used to live in?

13 A Uh-huh.

14 Q And then he came around to the passenger, the back
15 passenger door?

16 A Yes.

17 Q And what did he do when he came to the door?

18 A He opened up the door and started reaching on the
19 floor.

20 Q Okay. Did you see the hammer?

21 A Yeah, the hammer was in the truck.

22 Q You saw the hammer?

23 A Yeah.

24 Q Did you see it before he reached into the door?

25 A It was in there the prior day before.

Wanda S. Badger - Cross-Examination by Ms. Alves

1 Q You'd seen the hammer in there?

2 A Uh-huh.

3 Q Okay. And you said you pulled up and you left --
4 you left the car running?

5 A I did. I didn't even put it in park.

6 Q You didn't even put it in park.

7 And that's because you said you were concerned, you
8 were afraid?

9 A Yes.

10 Q But you still were not so afraid that you didn't go
11 over there, alone, with the water?

12 A Yeah. I took the water over there. I was trying
13 to be nice.

14 Q And you're saying that this incident all occurred
15 inside the car?

16 A Yes.

17 Q So you're saying that -- you're telling us you were
18 hit with this hammer inside this car?

19 A Yes.

20 Q And that's your SUV that was shown in State's
21 Number 12, the picture of the SUV that was resting against
22 the house?

23 A Yes, it is.

24 Q And you said you -- your testimony is that you --
25 how long is the driveway between [REDACTED] and [REDACTED]?

Wanda S. Badger - Cross-Examination by Ms. Alves

1 A Probably -- probably -- probably about from here to
2 the door.

3 Q Okay. From here to the back door? What's that
4 about 20, 25 yards, maybe?

5 A Uh-huh.

6 Q Maybe. I'm guessing.

7 A Uh-huh.

8 Q Yes?

9 A (Witness nodded head.)

10 THE COURT REPORTER: I need you to answer out loud,
11 please.

12 THE WITNESS: Yes.

13 BY MS. ALVES:

14 Q And so you -- so where were you when you jumped out
15 of the car?

16 A I was in -- on [REDACTED] driveway.

17 Q Okay. Do you know how far down the driveway you
18 were?

19 A No, not exactly. Not too far from the house.

20 Q Okay. Did you see Charles on the steps already?

21 A No, because when he hit me on the top of my head, I
22 kind of blacked out and the blows was so hard I kind of
23 woked up. And the only thing remember, I jumped out the
24 truck and ran in the house and I didn't even put the truck
25 in park.

Wanda S. Badger - Cross-Examination by Ms. Alves

1 Q Okay. So -- but you never saw Charles?

2 A Charles was -- I can't -- I don't recall. I don't
3 know where Charles was at. I ran so fast. I was literally
4 rushed down in blood.

5 Q Okay. And I'm showing you what's marked as State's
6 Exhibit Number 6. Now, this shows -- it shows, looks like
7 two buckets of water on the floorboard?

8 A Uh-huh.

9 Q And then two empty buckets on the seat?

10 A Yeah.

11 Q Were the buckets empty or were they full when you
12 got there?

13 A They was full.

14 Q These buckets were full?

15 A Yes, ma'am.

16 Q So you're saying that water spilled all over your
17 car?

18 A Yes, ma'am.

19 Q So water spilled all over your car from these
20 buckets that are on this seat?

21 A Yes, ma'am.

22 Q Okay. I'm going to show you what's marked as
23 State's, excuse me, Defense Exhibit 1 through 4. Just take
24 a look at these four pictures, okay?

25 A Uh-huh.

Wanda S. Badger - Cross-Examination by Ms. Alves

1 Q Do you recognize the -- what's showing in those
2 four pictures?

3 A Yeah, my back seat on my car.

4 Q Okay. Keep looking at all four of them.

5 A My seat. My truck, the front. The front and the
6 steering wheel. It's my SUV.

7 Q So that's the pictures of your car?

8 A Uh-uh.

9 Q And do those pictures accurately reflect how your
10 car looked that day after your telling us that you jumped
11 and ran from your vehicle from Mr. Jones?

12 A Yes.

13 MS. ALVES: Okay. At this time, Judge, I'd move to
14 introduce Defense Number 1 through 4 in?

15 MR. COOPER: No objection.

16 THE COURT: Let me see them.

17 (Defendant's Exhibit Number 1, Number 2, Number 3,
18 and Number 4 was entered into evidence.)

19 THE COURT: All right. You may proceed.

20 MS. ALVES: Thank you. Judge, I need the pictures.

21 Thank you.

22 BY MS. ALVES:

23 Q I'm showing you what's been marked as Defense
24 Number 2. Now, that's just a closer shot of the bucket
25 that's on the back seat; isn't it?

Wanda S. Badger - Cross-Examination by Ms. Alves

1 A Uh-uh.

2 Q And that show it is same bucket that's shown in
3 State's Number 6?

4 A Yes.

5 Q Okay. Do you see any water in your car?

6 A No.

7 Q Is there water all over your seat?

8 A I don't know.

9 Q Now, the seat is dry, isn't it?

10 A Yeah.

11 Q Okay. Doesn't look like any water spilled out of
12 that bucket; does it?

13 A I'm not sure. I know water was in that bucket.

14 Q Does it look like any water spilled out of that
15 bucket in this picture?

16 A No, not on the picture.

17 Q And I'm showing you what's -- I'm showing you -- in
18 looking at all of the pictures of the inside of your car,
19 Defense Numbers 1 through 4 and State's Number 6, you look
20 at all of the pictures?

21 A (Looking through the pictures.)

22 Q Do you see any blood in those pictures? There's no
23 blood on these seats are there? Is there?

24 A Yeah, it look like blood right there. Right there.

25 Q You're saying this's blood, or is that just dirt?

Wanda S. Badger - Cross-Examination by Ms. Alves

1 A It look like blood.

2 Q Now, you said your head was just running blood?

3 A It was.

4 Q Okay. There's not a whole lot of blood --

5 actually, other than that spot that you're pointing at that
6 could be dirt, there's no blood showing in this picture; is
7 there?

8 MR. COOPER: Objection, asked and answered.

9 THE COURT: Overruled.

10 MS. ALVES: Is there?

11 THE COURT: Do you see any other blood other than
12 that?

13 BY MS. ALVES:

14 Q Is there?

15 A No.

16 Q No. All right. Now, during this time had you and
17 Mr. -- during the time that you were having problems and
18 you and Mr. Jones separated, was he -- were you aware that
19 he was trying to move to North Carolina?

20 A Yes.

21 Q Yes? And that wasn't going to be with you and the
22 children, was it?

23 A No.

24 Q He was planning to move by himself?

25 A Yes.

Wanda S. Badger - Redirect Examination by Mr. Cooper

1 Q And, in fact, he -- he was trying to coordinate
2 that with his probation officer to move into -- to move up
3 to North Carolina?

4 A Yes.

5 Q And you, in fact, when he -- looked into the
6 possibility of selling the house?

7 A Yes.

8 Q But you couldn't sell it because of -- basically
9 because of a lien that's on the house?

10 A Uh-huh.

11 Q So you weren't able to sell it?

12 A No.

13 Q So you were looking to separate from him -- you and
14 he were going to be separating regardless because he was
15 looking to move to North Carolina permanently and you and
16 the children were going to stay here?

17 A Yes.

18 Q All right. And I want to ask you about your
19 injury. The injury that you received was to your -- to
20 your scalp, your scalp was bleeding, heavily bleeding?

21 A Yes.

22 Q You didn't have a fractured skull or anything?

23 A No.

24 Q Thank you. No further questions.

25 **REDIRECT EXAMINATION**

Wanda S. Badger - Redirect Examination by Mr. Cooper

1 BY MR. COOPER:

2 Q Just briefly, Ms. Badger. Those photos that the
3 defense showed you just now, do you know when those photos
4 were taken?

5 A Should have been at the scene of the accident.

6 Q Do you know when they were taken?

7 A No.

8 Q That's because you were on the way to the hospital,
9 correct?

10 A Yes.

11 Q Had Mr. Jones ever come to your job to talk to you?

12 MS. ALVES: Objection, Your Honor. This goes
13 beyond the scope of cross-examination. I made no reference
14 to anything about Mr. Jones's job and in fact, that wasn't
15 even brought up on direct.

16 THE COURT: Sustained.

17 MR. COOPER: No further questions.

18 THE COURT: How did you get to the hospital?

19 THE WITNESS: Ambulance.

20 THE COURT: How long did you stay in the hospital?

21 THE WITNESS: I didn't stay. They fixed me up and
22 sent me back home the same day.

23 THE COURT: In the ambulance?

24 THE WITNESS: No, sir, my family came.

25 THE COURT: How long were you in the hospital, you

Wanda S. Badger - Redirect Examination by Mr. Cooper

1 think, in the emergency room? A couple of hours?

2 THE WITNESS: About -- yes, sir.

3 THE COURT: Other than the staples that were put
4 into your head, did you have to have, first of all, any
5 IV's? You know what an IV is.

6 THE WITNESS: No, sir.

7 THE COURT: Did you have any medication?

8 THE WITNESS: Just for pain.

9 THE COURT: Pill or a shot?

10 THE WITNESS: Pills.

11 THE COURT: They prescribe any pills after you got
12 out of the hospital and sent you back to your home.

13 THE WITNESS: No, they gave me a prescription when
14 I left the hospital.

15 THE COURT: Did you receive any blood?

16 THE WITNESS: No, sir.

17 THE COURT: All right. Thank you very much. You
18 may step down.

19 MR. COOPER: Your Honor, Ms. Badger was under
20 subpoena. I'd ask that the defense permit she be excused
21 if she wishes to leave.

22 THE COURT: She's welcome to leave if she wishes.

23 MS. ALVES: No objection.

24 THE COURT: Next witness, please.

25 MR. COOPER: State calls Christopher McClary.

Christopher McClary - Direct Examination by Mr. Cooper

1 CHRISTOPHER MCCLARY, was duly sworn

2 THE CLERK: All right. If you would, be seated and
3 state your full name for the record, okay?

4 THE WITNESS: My name is Christopher Wayne McClary.

5 **DIRECT EXAMINATION**

6 BY MR. COOPER:

7 Q Mr. McClary where are you from?

8 A Barnwell, South Carolina.

9 Q Where do you work now?

10 A Currently, I work as an emergency communication
11 specialist for Savannah River Site.

12 Q What does that entail?

13 A That entails insuring the safety of employees on
14 Savannah River Site, which curtails -- and EMS dispatching.

15 Q So dispatch?

16 A Yes, sir.

17 Q Where did you previously work?

18 A Previously, I worked for about 6 or 7 years at
19 Barnwell County sheriff's office as an E 9-1-1 dispatcher.

20 Q Were you working there on October 22nd, 2016?

21 A Yes, sir.

22 Q Do you recall receiving a phone call that day
23 pertaining to an incident which occurred on [REDACTED]

24 [REDACTED] in Barnwell, South Carolina?

25 A I do, sir.

Christopher McClary - Direct Examination by Mr. Cooper

1 Q Did you take that call from an individual that day,
2 you said?

3 A Yes, sir, I did.

4 Q Do you remember her name?

5 A Not off the top of my head. I do not recall the
6 name.

7 Q Okay. That's fine. I'm going to show you what's
8 been marked as State's Exhibit 1. Have you had an
9 opportunity to review this?

10 A Yes, yes, sir, I have.

11 Q And when was that?

12 A This morning.

13 Q What's on this disk?

14 A That disk sir, is the 9-1-1 recording of the call
15 itself. And that would be my voice talking to the caller
16 about the situation.

17 Q Does it fairly and accurately depict that phone
18 conversation which you had that day?

19 A Absolutely.

20 Q Has it been altered or tampered with in any way?

21 A No, sir.

22 MR. COOPER: The State would move to admit State's
23 Exhibit 1 into evidence at this time.

24 MS. ALVES: Judge, I renew my original objection to
25 the 9-1-1 call coming in. Also I would add a new objection

Christopher McClary - Direct Examination by Mr. Cooper

1 that it would now be cumulative.

2 Judge, all of the witnesses who were present that
3 day have testified. Ms. Newton testified. She admitted
4 that she called 9-1-1. She said that she told the police
5 what she admitted to have occurred.

6 Ms. Badger testified. Judge, anything that the
7 9-1-1 call would add would be additional comments made by
8 Ms. Newton on the same topic which she has thoroughly
9 testified too. I believe that the 9-1-1 call would be
10 cumulative and I would object to it on that basis.

11 And I would also renew my original, my previous
12 basis to the 9-1-1 call coming in, in that, even though
13 Your Honor has allowed the testimony in, my original
14 argument was that it was irrelevant to whether or not
15 Mr. Jones assaulted Ms. Badger and caused great bodily
16 injury. And Your Honor, in light of the fact that you have
17 allowed the testimony in, I don't see why the tape wouldn't
18 be cumulative due to the fact that they've already
19 testified.

20 THE COURT: Well, the witness who made the 9-1-1
21 call said she didn't see the injury occur, the alleged
22 injury occur, didn't see the hammer being used. She was
23 inside. She's testified to everything. Her husband's
24 testified to everything, the victim's testified to
25 anything. Why is the 9-1-1 not cumulative?

1 MR. COOPER: Your Honor, it's not cumulative
2 because Ms. Newton didn't remember what she said to 9-1-1.

3 MS. ALVES: Judge, that's not correct. Ms. Newton
4 said that she didn't recognize the tape. She testified as
5 to what she saw happen.

6 THE COURT: She said she didn't recognize the tape.

7 MR. COOPER: She was a non-cooperating witness,
8 Your Honor.

9 THE COURT: She didn't cooperate? She said she
10 didn't know what was on that tape. She hadn't reviewed the
11 tape, she didn't know what was on it. I wouldn't either.

12 MR. COOPER: Your Honor, it's a present sense
13 impression of this witness.

14 THE COURT: All right. I'm going to sustain the
15 objection. Anything else?

16 MR. COOPER: Nothing further from the State, Your
17 Honor.

18 THE COURT: All right. You may step down.

19 THE WITNESS: Yes, sir.

20 THE COURT: Any additional witnesses?

21 MR. COOPER: Your Honor, that's -- the State rests.

22 THE COURT: All right. Ma'am, are you going to put
23 up any witnesses?

24 MS. ALVES: Yes, sir. I would like to make motion
25 for directed verdict.

1 THE COURT: We'll do that at the end. You're
2 protected. We're doing it nonjury.

3 Well, go ahead. I tell you what. Let's go ahead
4 and make them. Because obviously I have to.

5 MID-TRIAL MOTIONS

6 MS. ALVES: Your Honor, at this time I'd make
7 motion to --- I'd make motion to dismiss -- I'd make motion
8 for directed verdict, Your Honor.

9 Judge, taking the evidence in the light most
10 favorable to the State, I don't believe that the State has
11 provided any --- has elicited any evidence which would tend
12 to show that Mr. Jones committed assault and battery of a
13 high and aggravated nature.

14 THE COURT: Well, let's stop right there. There is
15 evidence in the record, if I believed it, it's credible,
16 that he did inflict a, an injury upon Ms. Badger.

17 MS. ALVES: Yes, sir.

18 THE COURT: Now, question becomes based on this
19 testimony as to whether or not the injury, the laceration
20 to the skull -- strike that, to the head, does -- do, does
21 that injury or those injuries that she sustained, two areas
22 to the head which you've shown in the photographs, do they
23 rise -- does the injury rise to the level as set out in the
24 statute.

25 This is what I struggle with in a lot of these

1 assault and battery cases under the new statute. For a
2 person committing the assault and battery of a high and
3 aggravated nature, a person has to injure and great bodily
4 injury results. Or the act is accomplished by means likely
5 to produce death or great bodily injury.

6 I have had the situation in a number of cases where
7 this is no testimony in the record to say that this injury
8 was one that had a substantial risk of death or cause
9 serious or permanent disfigurement or other means of other
10 requirements of the definition of great bodily injury.

11 In fact, quite to the contrary, we've got a lady
12 whose got a couple -- well, they don't use stitches now,
13 they use staples, going to the hospital and had her head
14 stapled, went back and had the staples taken out.

15 So who's going to do the argument over there?

16 (Mr. Miller stood.)

17 THE COURT: Your not going to let the young men who
18 tried the case argue it?

19 First of all, Mr. Miller, is there any cases out
20 there that say what type of proof is required to show that
21 that injury would have caused substantial risk of death or
22 produce a permanent injury? i.e., does it require
23 testimony other than the fact that you showed me a picture
24 with blood in it and a staple in it? Does it require
25 medical testimony? Because the way the definition portion

1 of the assault and battery statute now reads, I don't know
2 who drafted it, you -- I don't know that any of us could
3 say that without some --

4 MR. MILLER: Your Honor, this is a --

5 THE COURT: This is a what?

6 MR. MILLER: This is a fundamental problem with the
7 statute, but it is not a fundamental problem with this
8 case. The question is not whether or not great bodily
9 injury to another person resulted. The question is does
10 striking someone in the head with a hammer, is that a act
11 that is likely to produce death or great bodily injury.
12 That's the question.

13 The difference between an assault and battery in
14 the first degree and an assault and battery of a high and
15 aggravated nature is assault and battery actually requires
16 the battery. There is no requirement of the battery. So
17 as an example, if I take a slingshot and I shoot it at
18 someone in the courtroom, but I miss, that is not an ABHAN
19 and it cannot be an ABHAN, because even though I could have
20 caused death or great bodily injury, there was no battery.
21 That is the distinction between the two.

22 On the other hand, if I use a slingshot and I shoot
23 somebody and it hits them in the leg and there is no great
24 bodily injury, it does not change the matter -- it doesn't
25 change the nature of the means that I used to commit the

1 battery. And that is what the signature. There's no
2 medical testimony necessary because we're not alleging that
3 it did cause great bodily injury or that it did cause
4 moderate bodily injury. That's not the point.

5 THE COURT: Well, the point is this: You're saying
6 that a person commits the offense of assault and battery of
7 a high and aggravated nature if the person unlawfully
8 injures another and the act, hitting someone in the head
9 with a hammer, is accomplished by means likely to produce
10 death or great bodily injury. Now --

11 MR. MILLER: That's a question of fact that the
12 fact finder would have to find, Your Honor. Is it -- is
13 striking someone in the head with a hammer -- and certainly
14 in the context of all of the testimony, as -- and we'll --
15 obviously, we're not here for the closing, but we'll talk
16 about that testimony; but if someone says, I'm going to
17 bust somebody's head open and then, because we're taking
18 the evidence in the light most favorable to the State, and
19 then takes a hammer and strikes them in the head with that
20 hammer and because of the fact that the victim happens to
21 have a whole lot of hair on her head, or because of the
22 fact that he couldn't get up a good swing because he was in
23 the confines of a vehicle, or because of the fact that the
24 victim just moved, all -- and I use all in quotes -- he's
25 able to do, is make a couple of cuts on the top of her head

1 that required twenty staples to close, then does that mean
2 that what he was doing was not likely to cause death or
3 great bodily injury.

4 And death or great bodily injury, we all know what
5 death is. We don't need anybody to explain that to us.
6 But if you look at great bodily injury, all of the
7 questions that the Court was even asking about, make it
8 very clear that, hey, this could have caused permanent
9 scarring.

10 THE COURT: It could have.

11 MR. MILLER: It could have caused loss of an eye.
12 It could have caused mental impairment. It could have
13 caused substantial need for CAT scans and MRI's or even
14 some kind of surgery to correct some problem or some kind
15 of bleeding. All of those things are within the common
16 purview of the jury. And certainly the Court would qualify
17 it as great bodily injury. All of those things would.

18 It doesn't have -- there's no point in them saying
19 that it causes great bodily injury to another person or the
20 act is accomplished by means likely to produce death or
21 great bodily injury if you have to have great bodily injury
22 result. And so the question becomes -- and this is a
23 question that --

24 THE COURT: Well, then what you're saying is that
25 most any of these cases could be an ABHAN case because --

1 MR. MILLER: None of them can be an ABHAN case
2 unless there is a battery. If there is -- and I'll give
3 you -- and I'll give the Court another example because it's
4 actually relevant and it talks about this and the
5 legislative history. The legislative history says that
6 attempted murder of which an ABHAN is lesser-included
7 offense, attempted murder could include shooting at someone
8 with a gun and not hitting the person.

9 THE COURT: Well, that's -- that makes a little
10 more sense. But her getting hit in the head with a small
11 hammer and just causing a scratch...

12 MR. MILLER: But here's the next step, Your Honor:
13 Let's say that somebody gets shot at and the bullet doesn't
14 hit anybody. What's the lesser-included offense of
15 attempted murder? It's not ABHAN because ABHAN requires a
16 battery. Lesser-included offense --

17 THE COURT: Well, you agree we've got a battery
18 here. My question is, is the battery likely to create
19 great bodily injury. And what degree of proof is required.
20 Can we just simply say because somebody gets hit in the
21 head with a hammer that's enough to meet your elements --
22 of proving the elements, or does it require bringing in a
23 professional person to opine that this hammer in this
24 situation and with these injuries, is that likely to cause
25 death or great bodily harm.

1 MR. MILLER: Your Honor, that is a common sense
2 determination that can be made.

3 THE COURT: Well --

4 MR. MILLER: Because --

5 THE COURT: -- we've all discussed this statute
6 since it was changed by the legislature some years ago.

7 MR. MILLER: And certainly -- and I know --

8 THE COURT: Do you have any cases that say can just
9 common sense decide it or do you have any cases that say it
10 requires medical testimony? Has there been any appellate
11 review of this statute or talks about the degree of proof
12 that's needed in a courtroom other than just common sense,
13 getting hit in the head with a hammer could cause death or
14 serious bodily injury.

15 MR. MILLER: I'm not aware of any, Your Honor, but
16 I will say this, the fact that it's been the law since 2010
17 and we have not had any of these cases seems to me that the
18 logical construction -- the logical construction is the one
19 that is followed and that is, if -- going back to the
20 example: If someone is shot with a gun and they are
21 charged with attempted murder, the Court would have to
22 charge the lesser-included offense of assault and battery
23 of a high and aggravated nature because they were hit.

24 The Court could have to, I suppose, charge the
25 lesser-included offense of assault and battery in the first

1 degree. The Court would have to charge assault and battery
2 in the second degree. Because if there's no testimony
3 about whether or not this constitutes great bodily injury
4 or not, it could be great bodily injury, it could be
5 moderate bodily injury. The Court would have to charge
6 assault and battery in the third degree because if there's
7 not any medical testimony -- and I don't think that it is
8 reasonable for -- I'm sorry, I don't think it was the
9 legislature's intent that in every assault and battery case
10 where somebody got shot that there would have to be a
11 doctor. I don't think it is the legislature's intent that
12 in every case where someone is hit in the head with a
13 hammer that we need to bring physicists and engineers in to
14 talk about what -- whether the hammer weighed enough or
15 whether the hammer was long enough or whether the person
16 swung hard enough to actually hit them in the head.

17 THE COURT: Well, I may disagree --

18 MR. MILLER: It's much more simple.

19 THE COURT: -- you start reading the definition of
20 moderate bodily injury, I don't know how you distinguish
21 between the two and whether something is great, moderate,
22 or not. Moderate bodily injury does not include a one time
23 treatment, in other words, getting the stitches and take
24 them out.

25 An observation of scratches, cuts, abrasions,

1 bruises, burns, splinters, or other minor injuries that do
2 not normally, ordinarily require extensive medical care.
3 What's extensive medical care? One time.

4 The statute is -- it leaves a lot of gray areas in
5 trying to reach a decision as to whether or not an injury
6 and the way it was caused falls within the statute without
7 some type of help from a professional witness.

8 MR. MILLER: Your Honor --

9 THE COURT: I understand what you're saying. You
10 may have just argued it to me in other cases, or the
11 solicitor's office has, and I struggle with it. I think
12 y'all struggle with it.

13 Let me hear from Ms. Alves some.

14 MR. MILLER: Yes, sir.

15 MS. ALVES: Your Honor, as to what the solicitor
16 was saying as to whether or not injury is required in the
17 other degrees of assault and battery, I would disagree with
18 him. I think that injury is required. But in this
19 particular case, there must be an -- the State must prove
20 that the defendant committed an -- unlawfully injured
21 another person and they have -- and Judge, according to the
22 indictment, they have alleged that he either -- that he --
23 that the assault and battery upon Wanda Badger resulted in
24 great bodily injury and/or the act was accomplished by
25 means likely to produce death or great bodily injury.

1 Judge, in this case, we have an act which
2 specifically did not result in great bodily injury. Under
3 the statute, there is -- under the statute it's very clear
4 there was no bodily injury, which caused the substantial
5 risk of death. In fact, there's been no medical testimony.
6 There was testimony that there is no serious permanent
7 disfigurement. There was no testimony regarding any
8 protracted loss or impairment of the function of a bodily
9 member or organ.

10 Judge, I think in order for the State to allege
11 that this act could have caused great bodily injury or
12 death such that the solicitor was alleging and talking
13 about in his examples, the State would have a medical
14 expert here to testify what could have happened. I mean if
15 there could have been, as he said, a loss of an eye or
16 brain damage or any of the other possibilities that he was
17 -- that the solicitor put forward, there would have to be a
18 medical expert here to talk about what could have happened.

19 This specific act that was testified in this
20 particular case did not cause great bodily injury and
21 there's in evidence that the act as accomplished --

22 THE COURT: In this case.

23 MS. ALVES: -- according to the evidence in this
24 case was not --

25 THE COURT: Was likely to produce death or great

1 bodily injury.

2 MS. ALVES: There was no evidence that it was
3 likely to cause --

4 THE COURT: Well, let's assume I granted your
5 motion of DV on 16-3-600(D)1, I would still have to include
6 the lesser-included offenses, which would be (C)1, that
7 would be assault and battery in the first degree. And
8 that --

9 MR. MILLER: No, sir, if that was the case, you've
10 -- you're taking (C)1 out of the running.

11 THE COURT: Well, I'm just talking out loud.

12 MR. MILLER: Because you just said that it didn't
13 cause death or great bodily injury -- didn't involve great
14 bodily injury.

15 THE COURT: That's right it's under (D)1.

16 MR. MILLER: And it wasn't likely to.

17 THE COURT: So that takes us down to (D)3 which is
18 assault and battery in the second degree, unlawfully
19 injures another person, or attempts a moderate bodily
20 injury to another person results.

21 MR. MILLER: But with that logic, we can't stop
22 there because if we haven't proven great bodily injury, we
23 don't have any testimony that it was moderate bodily
24 injury.

25 THE COURT: Well, you might.

1 MR. MILLER: And, Your Honor, this is directed
2 verdict stage. And I understand since the Court is going
3 to be deciding the case nonjury, but none of this would be
4 appropriate because all of this is assuming that the light
5 -- that the testimony is not being taken in the light most
6 favorable to the State.

7 MS. ALVES: Judge, I disagree. Even taking all of
8 the testimony in the light most favorable to the State, the
9 State has not put up any evidence to support a finding of
10 great bodily injury, or to show that great bodily injury
11 could have resulted from this.

12 THE COURT: What do you say to that, Mr. Miller?

13 MR. MILLER: The State has put --

14 THE COURT: Y'all are talking about this act in the
15 indictment, this act is hitting in the head with this
16 hammer to this lady with these injuries. So where is there
17 -- where is the proof that resulted in great bodily
18 injury --

19 MR. MILLER: Your Honor --

20 THE COURT: -- other than the fact that she got hit
21 by a hammer, with a hammer.

22 MR. MILLER: (B)1, which is the statute we're
23 talking about, (A) and (B) have a disjunctive or in between
24 them.

25 THE COURT: Well, I know that.

1 MR. MILLER: So the question is, taking the facts
2 in the light most favorable to the State, what we have
3 established, the facts in the light most favorable to the
4 State are that Venson Jones struck the mother of his
5 children in the head repeatedly with a hammer, chased her
6 from her vehicle --

7 THE COURT: Well, the chase didn't hurt her.

8 MR. MILLER: Your Honor, this is an assault. He
9 doesn't -- he's already committed the battery now. So it
10 is a continuing act.

11 THE COURT: I understand.

12 MR. MILLER: So he chases her from the vehicle with
13 the hammer raised over his head only stopping from coming
14 after her when tackled by his stepfather. Then starts to
15 charge up the stairs after that until his mom, who did
16 testify that she was afraid for her life and afraid for
17 Ms. Badger, shoots him.

18 Now, is that a battery that is accomplished by
19 means likely to produce great death -- death or great
20 bodily injury? In light of those facts, it is.

21 THE COURT: Those facts include the fact that his
22 stepfather disarms him of the hammer, takes it inside and
23 never gets to it. His mama stops him with a gunshot. So
24 how could he have accomplished it?

25 Okay. I'm going to take it all under advisement.

Diane Tarter - Direct Examination by Ms. Alves

1 And Ms. Alves, are you going to put up a witness?

2 MS. ALVES: Yes, sir.

3 THE COURT: This is an interesting situation.

4 You may call your first witness.

5 MS. ALVES: I call Diane Tarter.

6 DIANE TARTER, was duly sworn

7 THE CLERK: Okay. If you would, please, ma'am, be
8 seated and state your full name for the record, okay?

9 THE WITNESS: Yes, ma'am.

10 My name the Diane Miles Tarter.

11 THE COURT: Spell the last name.

12 THE WITNESS: T-A-R-T-E-R.

13 THE COURT: Tarter.

14 THE WITNESS: Yes, sir.

15 THE COURT: Thank you, ma'am.

16 **DIRECT EXAMINATION**

17 **BY MS. ALVES:**

18 Q Now, Ms. Tarter, in October of 2016, where were you
19 working?

20 A The Barnwell Police Department.

21 Q And what was your role there?

22 A I was an investigator.

23 Q And do you remember being assigned this case
24 involving Mr. Venson Jones?

25 A Yes, ma'am.

Diane Tarter - Direct Examination by Ms. Alves

1 Q But you were assigned to be the investigator on
2 this case?

3 A No, ma'am. Not necessarily assigned, but I helped
4 assist.

5 Q Okay. Who was the lead investigator on this case?

6 A Myself and Detective Owens.

7 Q So you were the lead investigator on this case?

8 A Myself and Detective Owens both.

9 Q Okay. Who did -- who wrote the primary police
10 report?

11 A The primary --

12 Q Who wrote the police report? The main police
13 report?

14 A The road officers wrote the initial police report.

15 Q The investigative police report?

16 A I don't understand your question.

17 Q Who wrote the police report?

18 A When they were responded on scene?

19 Q Who typed the investigative police report?

20 A I typed a supplemental.

21 Q Okay. Who talked to the witnesses?

22 A I spoke to witnesses.

23 Q Okay. Who testified at the preliminary hearing as
24 the lead investigator?

25 A I did.

Diane Tarter - Direct Examination by Ms. Alves

1 Q So can we agree that you were the lead investigator
2 on this case?

3 A We can. That is fine.

4 Q Okay. And as the lead investigator, what were your
5 responsibilities?

6 A My responsibilities were to look over the case and
7 any, any interviews that needed to take place, I initiated
8 them.

9 Q Anything else?

10 A I mean, for this particular case, you -- can you be
11 more specific with the question, please.

12 Q Well, what I'm asking is, so if you -- I'm just
13 asking you in general, what do you -- let me ask you this:
14 In general, what do you do when you're investigating a case
15 such as this?

16 A When I'm investigating a case, depending on if I am
17 the one processing the crime scene, if I am, I process the
18 crime scene, interview witnesses, collect evidence, take
19 photographs, properly handle and document everything,
20 evidence.

21 This particular case, I was called in to help
22 interview witnesses.

23 Q Okay. Now, your role as the lead investigator in
24 this case, would you have been aware of the, what the other
25 officers reported?

Diane Tarter - Direct Examination by Ms. Alves

1 A Yes, ma'am.

2 Q So you would have been aware of what the other
3 officers saw and who they talked to?

4 A Yes, ma'am.

5 Q Because they would have done reports?

6 A That is correct.

7 Q And they would have all been kept in the case file?

8 A Yes, ma'am.

9 Q And you have the case file?

10 A I have a copy of it, yes, ma'am.

11 Q So you would have gotten a copy of the reports from
12 the other officers?

13 A Yes, ma'am.

14 Q And in this case, you didn't collect the evidence,
15 did you?

16 A No, ma'am.

17 Q And you didn't do like the forensic investigation?

18 A No, ma'am.

19 Q And that was actually done by Officer Gantt?

20 A Yes, ma'am.

21 Q So he would have -- and so he gave -- he did a
22 report on what he collected?

23 A To my knowledge, yes, ma'am.

24 Q And he would have done a chain of custody and
25 filled out a chain of custody detailing what items he might

Diane Tarter - Direct Examination by Ms. Alves

1 have picked up or what he might have -- what he might have
2 found?

3 A Yes, ma'am.

4 Q And in this particular case, Officer Gantt noted
5 that he found a hammer; is that right?

6 A To my knowledge, yes, ma'am.

7 Q What forensic testing was done on that hammer?

8 A None.

9 Q Why not?

10 A We didn't see a need for it.

11 Q You were -- were you, in fact, told that that
12 hammer was supposedly used to hit a woman in the head?

13 A Yes.

14 Q And did you not see any -- wouldn't it had been --
15 wouldn't it have been appropriate to have testing done to
16 determine whether there was blood or hair on the hammer?

17 A For this particular incident that occurred, there
18 were witnesses and the officers arrived shortly on scene
19 with the hammer there. So no, ma'am, no testing, we didn't
20 feel was needed.

21 Q Who make that is decision?

22 A That would be the supervisor over investigations.

23 Q And who -- whose input would he have in making that
24 decision?

25 A Ma'am?

Diane Tarter - Direct Examination by Ms. Alves

1 Q Wouldn't he have had your input in making the
2 decision?

3 A Yes, ma'am, but I do not -- I was not a supervisor.

4 Q Did you give any input and suggestions that the
5 hammer maybe should be tested?

6 A No, ma'am, I did not.

7 Q Did you consider fingerprinting the hammer to see
8 whether -- whose fingerprints might be on it?

9 A No, ma'am.

10 Q You didn't consider it?

11 A No, ma'am.

12 Q Okay. Did you go out to the scene that day?

13 A No, ma'am.

14 Q Okay. But now, you talked to -- but you got the
15 reports of the officers who were there?

16 A Yes, ma'am.

17 Q And you talked to the witnesses?

18 A Yes, ma'am.

19 Q Do you know -- and based on your role -- in your
20 role as lead investigator, did you find out what day
21 Sergeant Gantt went out there? Do you know when Sergeant
22 Gantt went out?

23 A To my knowledge, I believe that he went there the
24 day that it happened and processed the crime scene.

25 Q Okay. And that would have been when he took

Diane Tarter - Direct Examination by Ms. Alves

1 pictures?

2 A Yes, ma'am.

3 Q Did you look at the pictures?

4 A Yes, ma'am, I did.

5 Q Okay. I'm showing you what's been marked as
6 State's Number 6 and Defense Number 2.

7 Do you recall seeing those two pictures?

8 A Yes, ma'am.

9 Q And you, in fact, even -- do you recall talking to
10 Ms. Badger?

11 A Yes, ma'am, I do.

12 Q Okay. And in fact, you asked Ms. Badger about some
13 concerns you had about those pictures, didn't you?

14 A Yes.

15 Q And you asked her about the water specifically
16 because you thought she might have taken bottled water?

17 A Yes, ma'am.

18 Q And you had her come back to the station, excuse
19 me, to the police department to talk to you to confirm
20 about how she took the water?

21 A What type of water, yes, ma'am.

22 Q And she told you that she took buckets of water?

23 A Yes, ma'am.

24 Q And did you ever ask her about the two buckets that
25 are overturned?

Diane Tarter - Direct Examination by Ms. Alves

1 A I don't recall, I don't think so.

2 Q Okay. Did you ever ask her why if the water
3 spilled there was no water showing in the car?

4 A No, ma'am.

5 Q Did you ever go back in any way to look at the
6 scene or to look at the car to determine whether or not
7 what everybody told you was truthful?

8 A No, ma'am.

9 Q So you just took what they said and didn't
10 investigate any further?

11 A The crime scene was already investigated. It was
12 processed.

13 Q Okay. But you never went back to look yourself,
14 look at the pictures, look at the car to ask any further
15 questions and determine --

16 A I did look at the photos.

17 Q That's all?

18 A (Witness nodded head.)

19 Q Did you go back and ask any questions of anybody
20 about those?

21 A No, ma'am.

22 Q Do you think it would have -- would you agree that
23 it would have been important to ask Ms. Tart -- Ms. Badger
24 about why there was no water spilled in the back of the car
25 if she said she had all these buckets of water?

Diane Tarter - Direct Examination by Ms. Alves

1 A The two buckets that were on the seat were inside
2 of each other. There --

3 Q And they were empty; is that correct?

4 A Correct. The ones in the floor, they weren't
5 overturned, so I didn't feel the need to.

6 Q You didn't ask any questions?

7 A Regard --

8 Q You didn't ask any questions about them?

9 A I asked what type of water, that's the only
10 conversation I had with her about water.

11 Q Okay. And you talked to -- in this case you talked
12 to -- originally when you tried to talk to Ms. Betty
13 Newton, she told you that she wanted an attorney?

14 A Yes, ma'am.

15 Q That was on the first day, on the 22nd?

16 A Uh-huh, yes, ma'am.

17 Q But then on the 22nd, you talked to Mr. Charles
18 Hill?

19 A Yes, ma'am.

20 Q How many times did you talk to Mr. Hill?

21 A As I recall, once.

22 Q Once?

23 And Mr. Hill told you that he is actually an
24 eyewitness to the case, that he actually saw what
25 happened --

Diane Tarter - Direct Examination by Ms. Alves

1 MR. MILLER: Your Honor, can Ms. Alves ask a
2 question. She's leading the witness, testifying for her.

3 THE COURT: Is that an objection.

4 MR. MILLER: Yes, sir.

5 THE COURT: Sustained.

6 BY MS. ALVES:

7 Q What did Mr. Hill tell you?

8 MR. MILLER: Objection, Your Honor. It's hearsay.

9 THE COURT: What's the objection?

10 MR. MILLER: What Mr. Hill said to her is not a
11 statement of the party and it's hearsay.

12 MS. ALVES: Judge, Mr. Hill's already testified.

13 THE COURT: Overruled.

14 THE WITNESS: If you'll give me just one moment I
15 can look through here.

16 BY MS. ALVES:

17 Q And I just want to clarify, you do have a copy of
18 the police report?

19 A As of this afternoon.

20 Q Okay.

21 A Or this morning, yes I do.

22 Q But you've seen it before, haven't you?

23 A In October, yes, ma'am.

24 Q Okay.

25 A I read Mr. Hill his Miranda Rights at approximately

Diane Tarter - Direct Examination by Ms. Alves

1 13:45 hours on the 22nd at the Barnwell County Sheriff's
2 Department. He waived his rights and wished -- he did wish
3 to speak with me.

4 Mr. Hill stated, the day before on 10/21/2016 --
5 Q Let me clarify, I'm just asking what did Mr. Hill
6 tell you that he saw.

7 A What did he tell me that he saw?

8 Q On the 22nd?

9 A Okay. Thank you.

10 Mr. Hill stated that on 10/22 of 2016, the day of
11 the incident, he heard a horn blow outside of his residence
12 and he stated -- and he walked -- one moment please. I'm
13 trying to find the lines and I don't have my glasses.

14 He heard a horn blowing outside of his residence
15 and he walked outside and witnessed Mr. Jones standing over
16 Ms. Badger as she was in the driver's seat of her vehicle
17 and that at that time he witnessed Mr. Jones striking
18 Ms. Badger in the head repeatedly with a hammer.

19 Q So Mr. Jones told you he saw Mr. -- excuse me.
20 Mr. Hill told you that he saw Mr. Jones hit Ms. Badger?

21 A That is correct.

22 Q Did you ever question Mr. Hill about how well he
23 could see?

24 A No, ma'am.

25 Q Were you aware that he's blind in one eye and can

Diane Tarter - Direct Examination by Ms. Alves

1 only see 30 percent out of his other?

2 A No, ma'am, I was not.

3 Q You never asked him?

4 A I didn't have any reason to, no, ma'am.

5 Q Okay. And he wrote you a statement; is that
6 correct? He wrote a statement?

7 A I believe so. I don't see it in here, but I
8 believe so, yes, ma'am.

9 Q Okay. Could you -- could you tell whether that
10 statement was legible?

11 A I'd have to see it in front of me in order for me
12 to answer that question, ma'am.

13 MS. ALVES: Beg the Court's indulgence one moment,
14 please.

15 (The report was handed to the witness.)

16 THE WITNESS: Thank you.

17 BY MS. ALVES:

18 Q Do you recall seeing this statement from Mr. Hill
19 before?

20 A Yes, ma'am.

21 Q Okay. And as lead investigator, it would have been
22 part of your case file?

23 A Yes, ma'am. That's correct.

24 Q And in fact, the statement, as it's written, it's
25 not even all the way in the lines, is it?

Diane Tarter - Direct Examination by Ms. Alves

1 A No, ma'am.

2 Q And did you ever think to -- and you never thought
3 to question him about his eyesight and what his ability to
4 see what happened was?

5 A No, ma'am.

6 Q And you never went back to question him again?

7 A No, ma'am, I did not.

8 Q Now, in this case -- you knew Mr. Jones before this
9 case, didn't you?

10 A I've never met Mr. Jones.

11 Q Well, you knew of Mr. Jones?

12 A I knew of his name, yes, ma'am.

13 Q And, in fact, you suspected him of being involved
14 in an arson case that you were personally involved with?

15 A I was never personally involved in an arson case.

16 Q Your mother's house burned down?

17 A Yes, ma'am.

18 Q And you suspected Mr. Jones?

19 A I did not work that case.

20 Q Did you suspect Mr. Jones?

21 A There were several people that did, so, yes, ma'am.

22 Q Did you suspect Mr. Jones?

23 A Yes.

24 Q And, in fact, while you were investigating this
25 case, you spoke with Ms. Badger who is the victim in this

Diane Tarter - Direct Examination by Ms. Alves

1 case; didn't you?

2 A I did speak with Ms. Badger, yes.

3 Q And in the middle of your interview -- or, excuse
4 me, while you were interviewing Ms. Badger about what
5 happened in her case, you actually started to question her
6 about what happened in your mother's case, didn't you?

7 A I do not recall that part.

8 Q You don't?

9 A I remember getting up and excusing myself out of
10 this room while Detective Owens went in and discussed with
11 her the other case while she was there. But I don't
12 recall --

13 Q You don't recall talking to her asking did she know
14 anything about the case?

15 A I don't recall that part, no, ma'am, I do not.

16 Q And you don't recall asking her if she would be
17 willing to talk to Investigator Owens about the case?

18 A I do recall asking her if she would be willing to
19 talk to him.

20 Q And then you had Ms. Badger -- and then
21 Investigator Owens came in to ask Ms. Badger about that
22 case?

23 A I'm assuming so. I excused myself out of the room.

24 Q Okay. But all that was done while you were
25 investigating Ms. Badger's case?

Diane Tarter - Direct Examination by Ms. Alves

1 A Yes, ma'am.

2 Q And do you admit or deny that you talked to
3 Ms. Newton about your mother's case?

4 A I do not recall.

5 Q Okay. And do you admit or deny that you talked to
6 Ms. Newton and told her that -- that you were investigating
7 him for that case, but you were going to make sure he went
8 to jail for this case?

9 A That's not true.

10 Q You deny that?

11 A I deny that, yes.

12 Q Okay. But you knew that he was involved -- that
13 Mr. Jones was a suspect in your mother's case?

14 A Yes.

15 Q And you actually believed him to be a suspect?

16 A Yes.

17 Q And even though you believed Mr. Jones to be a
18 suspect in your mother's case and you were actively talking
19 to the -- asking the witnesses to talk to the investigator
20 about that case, you still kept on -- you still stayed on
21 this case as the lead investigator?

22 A Yes, I did.

23 Q A lead investigator who didn't ask for any forensic
24 testing?

25 A Yes, ma'am.

Diane Tarter - Cross-Examination by Mr. Miller

1 Q And didn't follow up with witnesses?

2 A I did follow up with the witnesses.

3 Q Did you follow up with Mr. Hill?

4 A No, I did not.

5 Q Didn't even know that he was practically blind?

6 A I did not have any health -- medical paperwork on
7 them, no, ma'am.

8 Q Did you ask him, did you see what happened? Did
9 you point-blank ask him, plain and simple, could you see
10 what happened?

11 A He told me what he saw. I had no reason to feel,
12 to believe what he was saying was not true or accurate.

13 Q Would it surprise you to know that he admitted that
14 he lied to you?

15 A Yes, I would.

16 Q No further questions.

17 THE COURT: Thank you, anything on redirect -- I
18 mean on cross?

19 **CROSS-EXAMINATION**

20 **BY MR. MILLER:**

21 Q When Mr. Hill spoke to you, he told you that he saw
22 the defendant hitting Ms. Badger?

23 A Yes, sir.

24 Q And this written statement of Mr. Hill that
25 Ms. Alves has provided you with, do you have that copy

Diane Tarter - Cross-Examination by Mr. Miller

1 there?

2 A Yes, sir.

3 Q Can you read starting with Tyrone what that says?

4 A Tyrone was in the truck beating her in the head
5 with a hammer.

6 Q That's good. So he wrote in his own handwriting in
7 his own words in the written statement, that he saw Tyrone
8 in the car or this the truck hitting her in the head with a
9 hammer, didn't he?

10 A Yes, sir.

11 Q Did you tell him what to write in this statement?

12 A No, sir, I did not.

13 Q Did you tell him what to tell you before you got on
14 the recording? Or did the interview with him?

15 A No, sir.

16 Q Did you tell Ms. Hill, Ms. Newton what she needed
17 to tell you about the incident?

18 A No, sir.

19 Q Did you tell her what her story needed to be?

20 A No, sir, I did not.

21 Q How about Ms. Badger?

22 A No, sir.

23 Q Did you talk to any of those people on the day that
24 the incident actually occurred?

25 A On the day that the incident actually occurred?

Diane Tarter - Cross-Examination by Mr. Miller

1 Q Yes. On that Saturday.

2 A Yes.

3 Q Did you talk to anybody at the scene?

4 A No, sir I did not.

5 Q Did you even go to the scene?

6 A No, sir I did not.

7 Q Now, Ms. Newton is the defendant's mother, correct?

8 A Yes, sir.

9 Q And the first time you tried to talk to her, she
10 wanted to talk to a lawyer, right?

11 A Yes, sir.

12 Q Did you ask her any questions after that?

13 A No, sir, I did not.

14 Q Did you ultimately, sometime after she had had an
15 opportunity to talk to a lawyer, did you then interview
16 her?

17 A Yes, sir.

18 Q And during that interview, did she tell you that
19 she had shot her son?

20 A Yes, sir.

21 Q And did she tell you why she shot her son?

22 A Yes, sir.

23 Q Why was that?

24 A She was in fear for her life and Ms. Badger's.

25 Q Now, when you talked to Ms. Badger, you didn't talk

Diane Tarter - Cross-Examination by Mr. Miller

1 to her right away, did you?

2 A No, sir.

3 Q Why didn't you talk to her right away?

4 A She was in the hospital.

5 Q Okay. But when you did talk to Ms. Badger, you
6 were talking to her about this case?

7 A That is correct.

8 Q You didn't have -- you already had gotten the story
9 from, A, the people who had responded; B, the people who
10 had talked to the witnesses preliminarily; and two of the
11 three people who were there; correct?

12 A That is correct.

13 Q So when you talked to Ms. Badger, was there any
14 substantial inconsistency that you saw in her story that
15 would cause you to go back and start questioning these
16 witnesses again?

17 A No, sir.

18 Q And just to be clear, do you ask every single
19 eyewitness or every single person that you interview or did
20 you when you were in law enforcement, ask every single
21 person that you interviewed, Hey, can you actually see what
22 you're telling me you saw?

23 A I have never asked anyone that.

24 Q Have you ever asked anybody, Hey, are you blind? I
25 see you have glasses on, can you see?

Diane Tarter - Cross-Examination by Mr. Miller

1 A No, sir, I've never asked that.

2 Q Somebody says they heard something, do you make
3 them go take a hearing test?

4 A No, sir.

5 MR. MILLER: No further questions.

6 THE COURT: Redirect?

7 MS. ALVES: None, Your Honor.

8 THE COURT: Thank you, you may step down and be
9 excused.

10 Any additional witnesses?

11 MS. ALVES: No, sir.

12 THE COURT: Anything in reply?

13 MR. MILLER: Your Honor, I think that we probably
14 need to put the right to testify on the --

15 THE COURT: He's not going to testify.

16 MR. MILLER: Doesn't he need to be notified that it
17 won't be held against him?

18 THE COURT: I think we've already discussed that in
19 the pretrial, but I'll be glad to hear it again.

20 Mr. Jones, how are you this afternoon?

21 THE DEFENDANT: Fine, Your Honor.

22 THE COURT: We talked about a lot of things when we
23 were trying to decide whether or not you were still going
24 to go on and I think we went over the fact that during the
25 trial you would have to right to testify, didn't we?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You would also have the right to
3 exercise your constitutional right to remain silent. Did I
4 go over that with you?

5 THE DEFENDANT: Yes, Your Honor, you did.

6 THE COURT: Well, let's make sure I -- Mr. Miller
7 seems to think I didn't. So let's just make double sure,
8 no big deal.

9 We're at the stage of the trial where, obviously,
10 you can get up and tell your side of the story, if you
11 wish. If you do that, you'll be subject to
12 cross-examination on any relevant subjects, like any other
13 witness. And if you have a record that could be used to
14 impeach you for credibility purposes, that would be allowed.

15 Does he have that, Mr. Miller?

16 MR. COOPER: Yes, Your Honor.

17 THE COURT: What's he got?

18 MR. MILLER: Your Honor, he does not have a record
19 for impeachment purposes.

20 THE COURT: Thank you.

21 On the other side of the coin, the United States
22 Constitution and the Constitution of the State of South
23 Carolina says that nobody who's been accused of a crime can
24 be made to testify. They have the absolute right to remain
25 silent. And if you exercise that right to remain silent,

1 then the fact finder, in this case me, I cannot use that in
2 any way to -- against you in making a decision on the case.
3 I can't consider it at all. So you have that right and if
4 you do exercise that right, it cannot go into my
5 decision-making process, the fact finder's process. You
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Any questions you would like to ask me
9 about it?

10 THE DEFENDANT: No, sir.

11 THE COURT: Any questions you'd like to ask
12 Ms. Alves?

13 THE DEFENDANT: No, sir.

14 THE COURT: And your decision is that you do not
15 want to testify; is that correct?

16 THE DEFENDANT: That's right, Your Honor.

17 THE COURT: You want to exercise your
18 constitutional right to remain silent?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Thank you.

21 All right. Where does that leave us? Y'all want
22 to do some closing arguments or how do you want to do that.

23 MR. MILLER: Your Honor, I think we're ready for
24 the ruling on the directed verdict and then close and then
25 that will be about it.

1 THE COURT: Well, I am --

2 POST-TRIAL MOTIONS

3 MS. ALVES: And judge, I would renew my motion for
4 directed verdict based on the same grounds previously
5 stated.

6 THE COURT: As I stated earlier in discussing the
7 directed verdict with y'all, this statute, since it's
8 enactment has, I think, at least to me created some
9 question as to what is required from the State in proving
10 beyond a reasonable doubt that great bodily injury has
11 occurred. Does it allow the fact finder to use every day
12 common sense, or does it require more? Does it require an
13 opinion by someone in the medical field to determine
14 whether or not the injury did, in fact, more likely than
15 not create a substantial risk of death or whether or not it
16 caused serious permanent disfigurement or protracted loss
17 of impairment of the function of a bodily member or organ.
18 Or does it require medical expert testimony to determine
19 whether or not the injuries in fact a moderate bodily
20 injury as set out in the statute.

21 The statute does not state that it does require
22 medical testimony. So I'm assuming by it not stating that
23 then the fact finder, as we always tell the fact finder,
24 can use common sense that they've acquired over the portion
25 of their lives in determining the credibility of the

1 demeanor and whether or not the State has proven beyond a
2 reasonable doubt all of the elements of the offense.

3 Well, obviously, in this case, even common sense,
4 this was not great bodily injury to the person. So then I
5 have to decide whether the act, i.e., getting struck
6 several times in the head with a hammer is an act that is
7 likely to produce great bodily injury or produce death.

8 But, it did not in this case. However, it is an
9 act that is likely to produce death or great bodily injury.
10 And I find that to be a question of fact for me to
11 determine in reaching my ultimate decision of guilty or not
12 guilty. And I respectfully, I deny the motion for directed
13 verdict.

14 So I will hear closing arguments.

15 It's a quarter to one? You want to finish it up or
16 you want to get a sandwich?

17 THE COURT REPORTER: I'm good.

18 THE COURT: Everybody else okay?

19 MS. ALVES: Judge can we have a few minutes?

20 Mr. Jones needs to use the restroom.

21 THE COURT: All right. Y'all want to take few
22 minutes break yourselves? Or y'all okay?

23 MS. ALVES: If I could have five minutes?

24 THE COURT: All right. Let's take about five
25 minutes.

1 (A brief recess was observed.)

2 THE COURT: All right. I'll be glad to hear from
3 the State.

4 MR. MILLER: Thank you Your Honor, may it please
5 the Court.

6 THE COURT: Please bear in mind that we're trying
7 this nonjury and I don't need to be reminded of the burden
8 of proof and all the elements et cetera, et cetera.

9 **CLOSING ARGUMENTS**

10 MR. MILLER: I wouldn't do that, Your Honor, but I
11 am going to talk about the law. And quite frankly, it is,
12 I believe, a central issue in -- in the case.

13 THE COURT: There's no question that's the central
14 issue.

15 MR. MILLER: Your Honor, the statute is set up, the
16 16-3-600 is set up in a way that, that makes sense, but
17 unfortunately, it does require some outside interpretation
18 and I think probably most statutes do require some type of
19 outside interpretation. But this one in particular because
20 of the issue that the Court has specifically addressed.

21 And that is there is no -- we have not alleged, are
22 not alleging to the extent that it is in the indictment,
23 that is the language of the statute, was we're not alleging
24 that great bodily injury resulted in this case. That is
25 not --

1 THE COURT: I'm going to talk back to you a little
2 bit like this is an argument.

3 What you're alleging is that it's more likely that
4 it could have accomplished great bodily injury with the
5 hammer.

6 MR. MILLER: That is what we're alleging. It is
7 likely that the method of inflicting the injury that was
8 inflicted was likely to produce great bodily injury and
9 that comes down to the question of, is hitting someone in
10 the head with a hammer a method of inflicting a battery
11 that is likely to lead to great bodily injury. And among
12 all the other things left unsaid by the Court, or excuse me
13 by the legislature, is what about this word likely, likely.
14 Does it mean more likely than not? Does it mean most
15 probably? Does it only mean, Hey this is a way it could
16 happen. It could very easily happen this way.

17 THE COURT: Well, we know opinion testimony
18 requires more likely than not.

19 MR. MILLER: Correct.

20 THE COURT: Or most probably. This is just likely.

21 MR. MILLER: This just says, likely. Is it like.
22 Well, there are a lot of things that we know from our
23 experience that we can incorporate as examples, whenever
24 we're talking about whether something is likely. We know
25 that very fortunately, very fortunately, most drug

1 transactions don't result in somebody getting killed. But
2 it's likely that you could get killed whenever you're
3 engaging in a drug transaction. We know that most car
4 wrecks, most car wrecks, don't result in people being
5 seriously hurt. But we know that it's likely that somebody
6 who is involved in a car wreck can die.

7 Your Honor, in this case, the defendant hitting his
8 mother of his children in the head with a hammer did not
9 result in great bodily injury, but that act of taking a
10 hammer and hitting someone in the head with a hammer
11 intentionally, with aggression, is likely to lead to great
12 bodily injury. Your Honor, I would go so far as to say
13 take the hammer head off of the hammer. If you hit
14 somebody in the head with a stick and -- I mean, an ax
15 handle, a hammer handle, if you hit somebody in the head
16 with that, that'd be considered a blackjack. That can lead
17 -- it's likely to lead to great bodily injury. Fortunately
18 it didn't in this case.

19 He told his mother what he was going to do. He
20 told her the day before. His mother, I would submit to the
21 Court did every single thing that she could, short of --
22 what his stepfather did, which is admit that she was just
23 lying. And she did everything she could to try to minimize
24 this situation. She doesn't remember meeting with our
25 office. She doesn't remember signing things. That looks

1 like her signature. She's got no recollection of it. She
2 doesn't know.

3 But his own mother said that his threats to bust
4 open the victim's head, bust her skull open, were
5 concerning enough to her that she not only went and told
6 the victim, but she also called the defendant's parole
7 officer. And she went to the sheriff's office for the
8 purpose of trying to talk to Judge Holland about what could
9 be done.

10 He made it clear what his intention was. His
11 intention was, he was going to bust her head open. And
12 less than 24 hours later, certainly less than 36 hours
13 later, he is hitting her in the head and body as she sits
14 in her car in the front yard of what used to be there
15 house.

16 Now, how we get into these situations, how
17 individuals get here, sometimes it defies explanation, but
18 I don't think that the Court has any question about who was
19 truthful and who was not in their testimony and in which
20 aspects of this people were truthful and were not.

21 But really, Your Honor, that's what it comes down
22 to, is it comes down to, is causing a battery to somebody
23 by means of hitting them in the head with a hammer, any
24 hammer, is that likely to cause great bodily injury. And
25 if it is, and I submit to you it is, then that's an assault

1 and battery of a high and aggravated nature without regard
2 to what the actual injury inflicted was. Ms. Badger was
3 very fortunate that she didn't have any permanent
4 disfigurement, she didn't have any permanent impairment.
5 That's good for her. But this wasn't a plastic toy hammer.
6 It wasn't one of those with the little squeaky ends on it.
7 This was a hammer, made to drive nails into wood. And the
8 defendant used it to strike her in the head repeatedly.
9 And he didn't stop. And I would like to just finish on
10 that one point.

11 This attack on Ms. Badger didn't stop when he quit
12 hitting her in the head with the hammer. He got out of the
13 car and he had the hammer and was still coming after her.
14 It did not stop. The attack did not stop until he was on
15 the ground and the hammer had been removed from him. And
16 at that point in time, that's whenever the attack stopped.
17 That's when he could have gotten enough of a swing, when he
18 was outside of the vehicle and Ms. Badger was outside of
19 the vehicle.

20 That's when potentially that third blow was going
21 to be the one that did fracture her skull or did bury the
22 claw end of that hammer in her head. Fortunately, when he
23 was striking her before, he was confined by the inside of
24 that vehicle so he couldn't get a good swing at her. But
25 that's why his stepfather, who only has 30 percent tunnel

1 vision in one eye, didn't seem to have any question about
2 what he needed to do as soon as he saw him. He went
3 straight to him and he tackled him and he took the hammer
4 away from him. Because that was what he was intending to
5 do. He was intending to keep up his assault. He was
6 intending to keep hitting her in the head with the hammer.
7 And fortunately, that didn't happen. But there was a
8 battery and that battery was accomplished by means likely
9 to have caused death or great bodily injury and that's why
10 this case is an assault and battery of a high and
11 aggravated nature.

12 Thank you, Your Honor.

13 THE COURT: Ms. Alves.

14 MS. ALVES: Your Honor, may it please the Court.

15 Judge, first, I need to clarify what Ms. Newton
16 said the threat was the day before. It was not that he was
17 intend -- that Mr. Jones -- she did not -- she never said
18 Mr. Jones said he was going to bust her skull open. He
19 said he was going to bust her in the head, or bust her
20 upside of her head is what Ms. Newton testified to. And
21 the reason that's important is because there's been no
22 testimony about any disputes or prior violence between
23 Mr. Jones and his wife. There was no testimony regarding
24 any problems other than the fact that they had some marital
25 type issues and she and -- she chose to take her children

1 and leave the home.

2 There was no testimony given as to why Mr. Jones
3 would have any reason to cause great bodily injury or
4 lethal harm other than the testimony -- other than the
5 testimony from Ms. Newton about the comments that he had
6 made the day before.

7 And why that's important is because the State has
8 to prove that Mr. Jones committed an act that either caused
9 the great bodily injury or could have caused -- or excuse
10 me, was likely to cause substantial risk of death or the
11 serious -- over the serious -- or the great bodily injury.

12 And, Judge, in this case, the State has -- I mean,
13 the solicitor talked about what was likely and he spent a
14 lot of time on what was likely. But what was likely is
15 what's likely not just likely in the future, not just
16 likely from what a car accident could have caused or what
17 some other act could have caused. It's likely what could
18 have happened from this particular act that was done on
19 this particular day.

20 And in this particular situation Ms. Badger has
21 injuries to her scalp only. There was no injury to her
22 skull. She was not required to spend the night in the
23 hospital overnight. She had nothing that rises to the
24 level of great bodily injury and there's been no evidence
25 or testimony presented that shows that great bodily injury

1 or death could have occurred from this incident.

2 Now, I know that the statute, and Your Honor did
3 state earlier that the statute does not require that there
4 be medical testimony, but I would just note that the
5 statute does not require that the State be allowed to put
6 this information up and to show great bodily injury without
7 medical evidence. Taking the plain black letter reading of
8 the statute, the State has to show that there was bodily
9 injury which caused a substantial risk of death or which
10 caused serious permanent disfigurement or protracted loss
11 or impairment of the function of a bodily member or organ.
12 And I would just note that this doesn't just say likely, it
13 says a substantial risk of death or a substantial risk of
14 serious permanent disfigurement.

15 So the State has to show that there was a
16 substantial risk of the great bodily injury or death from
17 this and they have not done that. I think that that would
18 require them to have medical testimony, but even if Your
19 Honor finds that it doesn't, there's still been no
20 testimony that that's what could have occurred from these
21 acts.

22 I would also point out that we don't know exactly
23 -- while the State has put up evidence that Ms. Badger was
24 hit with the hammer, we can't say exactly what she was hit
25 with on what part of the hammer. We have an investigator

1 who in my opinion was biased against Mr. Jones, didn't do a
2 thorough investigation, didn't check the hammer. There's
3 no testimony about any blood on the hammer. In fact,
4 Mr. Hill, who says he struggled over the hammer only got
5 blood on him from when he was helping Ms. Badger with her
6 head. He got no blood on him from the hammer. There was
7 no blood -- there was no traces of blood on the hammer. In
8 fact, the hammer was never even sent for any forensic
9 testing, so we don't even know what she was hit with.

10 And Judge, I know you might think she says she was
11 hit with the hammer, but we don't know exactly what part
12 and we won't know because there wasn't any testing done on
13 the hammer. That is important because the State still
14 hasn't shown that there was a substantial risk of death or
15 -- or great bodily injury here.

16 Judge, the only thing I can offer is that if you
17 look at the statute, the statute is very clear. The State
18 has not established great bodily injury in this case. They
19 have not established that there's a likelihood that great
20 bodily injury could have occurred or that the act was
21 accomplished by means likely to prove -- I mean to produce
22 the great bodily injury or death. The act which Mr. Jones
23 is alleged to have occurred, produced a cut on Ms. Badger's
24 skull. Her testimony was that she required the stitches,
25 she had to get the staples replaced. She had to see her

1 doctor two times.

2 Even in looking at the statute and the statute --
3 and the section that talks about moderate bodily injury,
4 those acts alone would not arise to the level of moderate
5 bodily injury because those were merely a removing the
6 staples and then an inspection of the wound. So we don't
7 have anything that rises to the level of the injury
8 required in the statute to prove Mr. Jones guilty beyond a
9 reasonable doubt of assault and battery of a high and
10 aggravated nature. I would ask Your Honor to find him not
11 guilty of that charge.

12 THE COURT: Anything in reply?

13 MR. MILLER: Only to this extent, Your Honor: This
14 has been a repeating theme in a lot of the pretrial stuff
15 and certainly in the trial of the case, but at some point
16 we have to take responsibility for the positions that we
17 take. And, Your Honor, it is somewhat offensive to call in
18 a Barnwell detective and put them on the stand and accuse
19 them of being bias and accuse them of fudging an
20 investigation, accuse them of failing to have evidence
21 tested with an intent of seeing someone imprisoned without
22 some evidence that that was going on.

23 And the fact that a particular item of evidence
24 didn't get sent to the DNA department, the crime lab at
25 SLED to have DNA testing done was a judgment call that

1 maybe or maybe we wouldn't agree with, if the case happened
2 today. But the witnesses themselves said that the
3 detective never told them what to say; never told them what
4 they were supposed to tell her happened in this incident.
5 It didn't affect the case in any way. There is testimony
6 from the victim who's the only person who claims to have
7 seen the act as we sit here today, even though Mr. Hill
8 said verbally and in his own handwriting that he watched
9 the defendant hitting her in the head with the hammer, but
10 the victim said he was hitting me in the head with the
11 hammer. None of the stories changed to the detriment of
12 the defendant from the time that they were made until
13 today.

14 In fact, the defendant's own mother and the
15 defendant's stepfather are the one's who changed their
16 stories from what they initially said and in every respect
17 it was detrimental to the State and to the benefit of the
18 defendant. And for Detective Tarter, who with all due
19 respect I don't even care about anymore because she's not
20 at the Barnwell Police Department, but when the Barnwell
21 Police Department is accused of misconduct in this way, and
22 there's no other way to say it. Then it needs to be
23 defended.

24 And I apologize for taking up the Court's time, but
25 I'm -- this can't -- I'm not comfortable with this

1 continuing to be, Oh, I'm going to call this out and say
2 that this is all these terrible things and then later on
3 I'm going to act like I didn't do any of that stuff, so...

4 I would just say that we would stand by the
5 investigation that was done by the Barnwell Police
6 Department in this case and the Court has the information
7 that it needs to make the ruling that is proper in the
8 case. Thank you, Your Honor.

9 THE COURT: All right. I'm going to ask y'all to
10 have Mr. Jones appear before me at whatever time is
11 convenient on Tuesday morning in Bamberg. That will give
12 me some opportunity to deliberate on the presentation of
13 the evidence and see if the State's proven its guilt beyond
14 a reasonable doubt. Thank you.

15 MR. MILLER: Yes, sir, Your Honor. We'll have him
16 brought over for Bamberg before the jury comes in. They're
17 scheduled to come in that Tuesday morning. We'll make it
18 happen..

19 * * * * * END OF TRANSCRIPT * * * * *

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1 State of South Carolina)

2 County of Aiken)

Certificate of Reporter

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5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 13th day of June,
13 2018.

14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 28th day of December, 2018.

18
19
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.

1 State of South Carolina) In the Court
 2 County of Barnwell) Of General Sessions

3 Indictment No.: 2017GS0600059
 4

5
 6 State of South Carolina,)
 Plaintiff.)
 7)
 8 vs.) Transcript of Record
 9)
 10 Venson T. Jones,)
 Defendant.)

11
 12 June 19, 2018
 13 Barnwell, South Carolina

14 B E F O R E:

15 The Honorable Doyet A. Early III, Judge.
 16

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

18 David W. Miller, Deputy Solicitor
 19 Michael H. Emmer, Assistant Solicitor
 20 R. Jackson Cooper, Assistant Solicitor
 Attorneys for the State

21 Wallis A. Alves, Esquire
 22 Attorney for the Defendant

23
 24 Brenda J. Sigwald, Circuit Court Reporter
 To The Honorable Doyet A. Early III
 25 P.O. Box 206, Jackson, South Carolina 29831 THE

I N D E X

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(REPORTER'S NOTE: There were no exhibits
entered during this hearing.)

1 MR. COOPER: Venson Jones.

2 MR. EMMER: Your Honor, this is the verdict from
3 trial.

4 VERDICT

5 THE COURT: The indictment is the State of South
6 Carolina versus Venson Tyrone Jones, Mr. Jones was indicted
7 for the offense of assault and battery of a high and
8 aggravated nature. I tried the case last week in Barnwell
9 nonjury.

10 Having considered the facts in the case, I find
11 that the State has proven beyond a reasonable doubt that
12 the assault and battery on Wanda Badger was in fact
13 committed by Mr. Jones. I further find that the fact that
14 it was a -- it was not an injury that met the definition of
15 great bodily injury.

16 I further find that the State proved beyond a
17 reasonable doubt that the act itself, i.e. the assault and
18 battery upon her head and skull with a hammer is an act
19 that, to me, was proven beyond a reasonable doubt, likely
20 to produce death or great bodily injury.

21 Therefore, I find the defendant guilty of the
22 offense of assault and battery of a high and aggravated
23 nature.

24 Ms. Alves, please explain to your client he has the
25 appropriate time under the statute to appeal his conviction

1 if he so chooses and I'll be glad to hear from you on
2 anything on your defense.

3 MS. ALVES: Yes, sir.

4 SENTENCE

5 THE COURT: And I understand there was an offer
6 before trial with a cap of 10 years is that correct,
7 Mr. Jackson?

8 MR. COOPER: Yes, Your Honor.

9 THE COURT: And I understand from his mother's
10 testimony and then the mother of his four children even
11 though it was a very violent event, this is sort of out of
12 character for him, which he had been acting sort of strange
13 for a few days. And, obviously, you had him evaluated and
14 been through all that. And Mr. Jones was most pleasant
15 with me and under everything that we went over on the
16 record, obviously knew what he was doing. But I think on
17 this particular day in question, his wife realized, not
18 wife, mother of his four children informed him that she was
19 leaving. And moving out of State. I'm sure it was
20 somewhat of a heat of passion offense which would mitigate
21 somewhat.

22 Ms. Alves?

23 MS. ALVES: Your Honor, may it please the Court.
24 Mr. Jones is 37 years old. He most recently worked doing
25 landscaping. He did attend -- he did attend the University

1 of Phoenix online. He did three semesters working toward a
2 business administration degree. He has had a drug problem
3 in the past. He actually went to the McCloud Center in
4 North Carolina. He was sent there by his federal
5 probation, or his federal parole officer, rather. While he
6 was there, he did well in that program. He -- while he was
7 there, he found information about another program that
8 helps people even further than the McCloud Center and he
9 actually made application to that program. He wasn't going
10 -- he had been talking with his probation officer about
11 trying to get into that program and actually relocating to
12 North Carolina because he did want to make some changes in
13 his life and he wanted to move on; but that wasn't able to
14 happen because North Carolina wouldn't accept his probation
15 at that time. So he --

16 THE COURT: What's he on federal probation for?

17 MS. ALVES: He had a drug charge back in --

18 MR. COOPER: Your Honor, it was 2013, conspiracy to
19 distribute more than 28 grams of cocaine base.

20 THE COURT: Does this violate his parole.

21 MS. ALVES: Yes, sir, it will. They put a hold on
22 Mr. Jones actually when he got out of the hospital and he
23 was transferred to Barnwell County.

24 THE COURT: How long has he got in the federal
25 system?

1 MS. ALVES: In talking to his parole officer, it
2 looks like he's going to have to do about two years, but I
3 can't say exactly.

4 THE COURT: So I can run this concurrent, can I
5 not?

6 MS. ALVES: No, sir, they won't accept it. The
7 federal system -- they haven't sentenced him yet, but they
8 won't run their charges concurrent. They'll wait until he
9 gets out of -- off of this sentence and then they'll pick
10 him up and start the federal.

11 But he was trying to change his life. He was --
12 when I talked to his agent, she even said that his mother
13 had offered to help pay for the bus ticket to get him there
14 and they were trying to work on getting him into other
15 programs in North Carolina away from this area; and he
16 seemed receptive to trying to change his life and move on.

17 He does have seven children, total. He has four
18 with Ms. Wanda Badger, who was the -- who he was together
19 with for over 20 years in this case. And she testified
20 about their children ranging in age from 20 down to 14. He
21 does have a close relationship with his children. His
22 mother takes his son to visit him at the jail. His mother
23 seems to have a very close relationship with his children
24 as well.

25 In fact, on one of the days I went to talk with

1 her, his son was there. And his son is 14 years old, but
2 he's -- I believe he's excelling in basketball, I don't
3 know what school he's going to, but it seems like he's got
4 some promise in playing ball, so that is one thing that
5 Mr. Jones has helped his son to do.

6 I know that he's talked a lot about his family when
7 I've talked with him. He's very concerned about all of his
8 children, his two sons and his daughter with Ms. Badger.
9 And he even expressed concern for Ms. Badger and love for
10 Ms. Badger. As she said, they've been together more than
11 20 years, since high school. So they have a long history
12 together and they -- I just wanted to remind you there's
13 been no testimony whatsoever that they'd been having any
14 problems prior to this. And in fact, no threats were ever
15 made to Ms. Badger about this.

16 She did testify that they'd been having problems
17 and she'd moved out of the house a few weeks earlier. But
18 other than that, there hasn't been any indication that
19 there had been any reason why he would assault her in such
20 a manner. I know what the evidence showed, but the only
21 thing that Mr. Jones has expressed to me is love for
22 Ms. Badger, love for his family, love for his children,
23 love for his mother, even. And even he and his mother had
24 gotten to the point where they have a very good
25 relationship, very close.

1 THE COURT: Well, I understand that on the day it
2 happened, she was -- even though they were separated and
3 she was leaving, she was taking him water, so she obviously
4 wasn't scared of him.

5 MS. ALVES: No, sir.

6 THE COURT: He sort of snapped.

7 MS. ALVES: I told you what a good relationship
8 they were having even though they were separated and she
9 was moving on that she said she just wanted to help him out
10 because his water was off. So I can't explain why this
11 happened. All I can tell you is this is not typical from
12 what Mr. Jones said. From what his mother said, I can't
13 explain what was going on.

14 THE COURT: Well, we're fortunate here, normally we
15 see a lot of this stuff where people get banged in the head
16 with a hammer, they're dead. Or either left with a
17 hematoma, subdural hematoma, severe brain bleed, brain
18 injury. Thank goodness she is okay, and is not any worse
19 than it could be. Thank goodness when his mama shot him,
20 she didn't kill him. A lot of things could have happened.

21 MS. ALVES: Yes, sir. And, Judge, I would just
22 note Mr. Jones is still, though he's seen his mother and
23 has moved passed what happened; he is still suffering the
24 effects of what happened. He's had medical problems. When
25 he came to the jail, he was still suffering from the

1 effects of that. He still suffers a lot of pain from what
2 happened. And I believe I told Your Honor before he's
3 still suffering issues with his bladder as a result of the
4 injury that happened with his mother.

5 THE COURT: How long has he been in jail,
6 Ms. Alves?

7 MS. ALVES: He's been actually in the detention
8 center since November 17th, Your Honor. But I would ask
9 you to give him credit from October 22nd when this incident
10 occurred. He was actually placed in custody while he was
11 in the hospital. The security was monitoring him. He was
12 then placed into the detention center in Augusta until he
13 could be picked up by, until he would have his waiver
14 hearing, his extradition hearing, and until Barnwell County
15 could come pick him up. So actually he has been in custody
16 since October 22nd, even though he's only been in Barnwell
17 since November 7th.

18 THE COURT: Thank you. Anything you want to tell
19 me, Mr. Jones?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Well, I hope you get this behind you.
22 You seem to be a very intelligent young person, still 37
23 years old. That's pretty young.

24 All right; the sentence of the Court is you be
25 committed to the South Carolina Department of Corrections

1 for 7 years. I'm going to run it concurrent with your
2 federal charges. I don't know what they'll go with that.
3 I'll give you credit for time served since October 22,
4 2016.

5 MS. ALVES: Thank you.

6 POST-TRIAL MOTIONS

7 MS. ALVES: Your Honor, also I'd like to make
8 motions for a new trial on behalf of Mr. Jones. Taking all
9 the evidence in the light most favorable with the State, I
10 respectfully disagree with Your Honor's verdict of guilty
11 in this case.

12 I respectfully disagree that the State was able to
13 prove that the act specifically committed by Mr. Jones was
14 likely to cause a substantial risk of death or great bodily
15 injury.

16 I understand what the evidence was, but -- and that
17 is a motion I make on Mr. Jones behalf. I base that motion
18 on all of the arguments we made previously at trial.

19 THE COURT: Thank you, I'll respectfully deny it
20 based on the reasoning earlier stated. Obviously he
21 assaulted and battered her with a hammer. Under the
22 statute, I think it complies with the statute, it's likely
23 to cause death or great bodily injury.

24 Good luck to you, sir.

25 * * * * * END OF TRANSCRIPT * * * * *

1 State of South Carolina)

Certificate of Reporter

2 County of Aiken)

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5
6 I, Brenda J. Sigwald, Official Court Reporter for
7 the Second Judicial Circuit of the State of South Carolina,
8 do hereby certify that the foregoing is a true, accurate,
9 and complete Transcript of Record of the proceedings had
10 and evidence introduced in the trial of the captioned case,
11 relative to appeal, in the Court of General Sessions in and
12 for the State of South Carolina on the 19th day of June
13 2018.

14 I FURTHER CERTIFY that I am neither kin, counsel,
15 nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand and
17 seal at Aiken County, this 28th day of December 2018.

18
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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.

RECEIVED

MAY 02 2017



State of South Carolina
Department of Mental Health

SOLICITOR

MENTAL HEALTH COMMISSION:

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Everard Rutledge, PhD, Vice Chair
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Louise Haynes
Bob Hott, MEd
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STATE DIRECTOR

John H. Magill

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-5600

May 2, 2017

David Miller
Assistant Solicitor
PO Box 845
Aiken, SC 29812

Re: The State of South Carolina vs. Jones, Venson
DMH #: 926-4002
Barnwell County, Court of General Sessions

Dear Assistant Solicitor Miller:

In accordance with the court order issued by the Honorable Doyet A. Early, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 7 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

5/2/17
Date

Kelly L. Gothard
Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Wallis Alves, Attorney at Law, PO Box 267, Barnwell, SC 29812.

KG/tl

MISSION STATEMENT
To support the recovery of people with mental illnesses.



FENGAD 800-637-4889	COURT'S
	EXHIBIT NO. <u>2</u>
	IDENTIFICATION/EVIDENCE
	DKT. # <u>Jones</u>
	DATE: <u>5-21-18</u>

**CAPACITY TO STAND TRIAL EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)**

DATE OF EVALUATION: April 24, 2017

PRESIDING EXAMINER: Matthew E. Gaskins, MD
Psychiatric Service Chief

SECOND EXAMINER: Elizabeth Whetstone, LISW-CP
Social Worker

DIAGNOSES: Stimulant Use Disorder in Early Remission in a Controlled
Environment
Antisocial Personality Disorder

OPINION REGARDING CAPACITY TO STAND TRIAL

It is opined that Mr. Jones has the capacity to stand trial.

IDENTIFYING INFORMATION

Venson Jones is a 35-year-old African American male who was seen at Forensic Evaluation Service pursuant to a court order from the Barnwell County Court of General Sessions. This court order requests an evaluation of the defendant's competency to stand trial pursuant to State vs. Blair, 275 S.E. 529, 273 S.E. 2d. 536 (1981) and S.C. Code Ann. §44-23-410 (1976). The defendant is currently charged with Attempted Murder. According to the court order, it was issued for the following reasons: "History of Mental Illness and poor communication with attorney."

STATEMENT OF NONCONFIDENTIALITY

Prior to participating in the evaluation, the defendant was warned regarding the limitations of confidentiality. The defendant was informed that the evaluation was court ordered and was not for the purpose of providing treatment. The defendant was informed that the evaluators were employed by the South Carolina Department of Mental Health and were not paid by a defense attorney or the solicitor. The defendant was informed that after the evaluation a report would be submitted to the defense attorney, the solicitor, and the judge in this case. The defendant was also informed that the evaluators could be called to court to testify at a hearing related to capacity to stand trial. The defendant expressed understanding of this information and voluntarily agreed to participate in the evaluation.

SOURCES OF INFORMATION

1. Barnwell County Court of General Sessions court order for this evaluation received by the SCDMH Forensic Evaluation Service on March 24, 2017.
2. Arrest warrant 2016A0620100211 for Attempted Murder.
3. Barnwell City Police Department incident report and accompanying documents for case number C16-10-4996.
4. Statement of Charles Hill dated October 22, 2016.
5. Detainer Based on Violation of Probation and/or Supervised Release.
6. Ten Year Driver Record for Venson Jones.
7. Criminal history provided by National Crime Information Center (NCIC).
8. Medical records from Aiken-Barnwell Mental Health Center.
9. One hour and 55 minute clinical forensic evaluation conducted at Forensic Evaluation Service on April 24, 2017.

*Note: We were unable to speak with a next of kin to provide collateral history.

CLINICAL AND PSYCHIATRIC HISTORY

Mr. Jones presented to the evaluation escorted by law enforcement. He reported that due to gunshot wounds he suffered on the date of his arrest, he spent 16 days in a hospital before being transferred to the detention center. He stated that the gunshots caused internal damage requiring surgical repair. He stated that he is currently housed in the medical unit of the detention center. He reported he had difficulty obtaining medical treatment after multiple requests at the detention center. He stated that his only medication at this time is a stool softener.

He stated that he was first evaluated by a mental health provider around the age of five due to problems paying attention in school. He added that his mother responded by taking him to Aiken-Barnwell Mental Health Center where he was prescribed various stimulant medications to treat presumed Attention-Deficit/Hyperactivity Disorder (ADHD). He stated that his mother's goal with taking him for mental health treatment was to help him obtain disability income.

He stated that he has experienced feelings of sadness associated with psychosocial stressors such as arguments with family, dealing with his mother's drug use, problems in childhood, and multiple arrests. He did not report additional symptoms associated with major depressive episodes and these symptoms did not last more than a couple of days at the most.

He stated he was evaluated by a psychiatrist in 2010 after an arrest. He added, "I tried to use the mental health system to get out of trouble, but it was found out I was malingering, meaning I was faking." He stated that he "also tried to get disability" through the mental health system but was denied. He believes his attempt was due to the way he was raised by his mother. He described his mother as taking him to mental health as a child to try to obtain a disability check even though he believed he had no apparent symptoms.

REVIEW OF AVAILABLE RECORDS

According to the episodes of care, Mr. Jones has been treated by SCDMH for diagnoses including Adjustment Disorder, ADHD, Schizophrenia Paranoid Type, Generalized Anxiety Disorder, Anxiety disorder Not Otherwise Specified (NOS), and Depressive Disorder NOS.

Medical records from Aiken-Barnwell Mental Health Center state that he was treated in the early 1990s for symptoms of impaired concentration and behavioral problems. He also had concerns related to impulsive behavior and verbal aggression with other children and adults. During this time he is described as having "explosive, aggressive behavior due to low frustration tolerance lacks self-control, tests limits." Diagnosis at this time was listed as ADHD. He had another evaluation in 2011 for a diagnosis of Anxiety Disorder NOS. He reported concerns of seeing "ghosts" at night that would disappear when he blinks and a desire "to get on disability again." He reengaged in treatment in 2015 because he believed he had an "attitude problem" (internal quotation marks omitted). Diagnoses during this timeframe include Unspecified Anxiety Disorder, Alcohol Use Disorder, Cocaine Use Disorder, Cannabis Use Disorder, Generalized Anxiety Disorder, Depressive Disorder NOS, and ADHD. The records note that compliance with treatment as problem wherein Mr. Jones would elect to stop taking medications without speaking to his mental health providers and miss follow up appointments.

ALCOHOL AND SUBSTANCE USE

Mr. Jones reported that he does not feel alcohol or drug use have had a negative impact on his life. He stated that he rarely consumes alcohol and has not had a problem relating to alcohol use. He reported he started using cannabis at age 12, but does not feel it caused a problem for him. He stated that he would use cocaine to self-medicate feelings of sadness and that its use has caused some problems in his life including failed drug tests, failure to fulfill obligations at home due to use (time with kids), failed attempts to stop use (previous drug rehabilitation programs), previous arrest and failed drug test while on parole due to cocaine, development of tolerance, withdrawal irritability, and continued use of cocaine despite knowledge of the negative impact cocaine has had on his life.

MEDICAL HISTORY

Mr. Jones was shot on the day of his arrest and required surgical repair. He reported that part of his small intestine and liver were removed resulting in chronic constipation. He added that he has also been diagnosed with anemia and spinal stenosis.

FAMILY HISTORY

He stated that multiple family members have been treated for diabetes and hypertension. He reported that his mother has had problems with addiction and a maternal aunt has received treatment for an unspecified mental health.

SOCIAL HISTORY

Mr. Jones reported the following information: He was born in Barnwell, South Carolina. He was raised primarily by his mother, but lived in multiple locations because his mother had difficulty raising him and his four siblings. At the age of nine he was removed from his mother's custody by the South Carolina Department of Social Services due to physical abuse. He spent one year in foster care before returning to his mother. His mother had difficulty supporting the family due to drug use. He did okay in school but stopped in ninth or 10th grade when he "started having kids." He started selling drugs around the age of 18. During a 51-month incarceration starting in 2010 for Criminal Conspiracy he obtained a high school diploma. He stated that after his release he failed one drug test while on parole. After serving time for this violation, he enrolled in online college course focusing on business administration. He has never been married, but has had a long-term girlfriend (alleged victim). He has seven children four of which live with his girlfriend.

According to the criminal history provided by NCIC Mr. Jones has previously been arrested for charges including Disorderly Conduct, Criminal Domestic Violence, Possession of Controlled Substance, Trafficking Cocaine, Driving Under Suspension, Assault with Intent to Kill, Malicious Injury to Personal Property, Discharge Firearm into Vehicle while Occupied, Assault and Battery with Intent to Kill, Armed Robbery, and Conspiracy Cocaine Base.

MENTAL STATUS EXAMINATION

On April 24, 2017 Mr. Jones presented to the evaluation appropriately dressed. He was reasonably well groomed with appropriate hygiene. He made good eye contact and spoke with a normal rate, tone, and volume. He was cooperative with the evaluation and answered questions appropriately. He was alert and oriented to person, place, time, and situation. He was aware of current events and had an average fund of knowledge. He demonstrated an intact memory by providing biographical information, reporting recent events, registering three unrelated words and recalling all three words after approximately five minutes of distraction. He had good concentration evidenced by attending to the evaluation, subtracting serial sevens from 100 and spelling a five-letter word correctly forwards and backwards. He demonstrated the ability to think abstractly by interpreting commonly used proverbs and grouping words into abstract categories. He described his mood as "great" and was observed to have a pleasant, calm affect (observed expression of mood). He reported that there were no current suicidal or homicidal ideations. He stated that there were no auditory or visual hallucinations experienced during the evaluation. He did not describe delusional thoughts. He had a linear and goal directed thought process.

DIAGNOSTIC IMPRESSION

It is opined that Mr. Jones meets the diagnostic impression for Stimulant Use Disorder in Early Remission in a Controlled Environment and Antisocial Personality Disorder. Mr. Jones has had a pattern of stimulant (cocaine) use that has resulted in clinically significant impairment including taking larger amounts than intended, unsuccessful attempts to cut down, recurrent social and interpersonal problems related to use (failed drug tests, problems at home),

development of tolerance, and experience of withdrawal symptoms. He reported that he has not used cocaine since his arrest warranting the diagnostic modifier of *in Early Remission in a Controlled Environment*. Based on the totality of information Mr. Jones has had a pervasive pattern of disregard for the rights of others meeting diagnostic criteria for Antisocial Personality Disorder including specific personality traits of failure to conform to social norms with respect to lawful behaviors, deceitfulness, impulsivity, aggressiveness, reckless disregard for safety of self or others, consistent irresponsibility, and lack of remorse.

CONCLUSION REGARDING CAPACITY TO STAND TRIAL

Mr. Jones identified his attorney as Ms. Alves. He reported meeting with his attorney prior to the evaluation. He stated that he has a general distrust of attorneys based on previous legal outcomes for his prior charges and the charges of people he knows. He feels that Ms. Alves is performing as any other public defender would in his case, but wishes he could afford a private attorney. He identified his current charge as Attempted Murder and stated that he has the charge because the police are "alleging [he] hit [his] girlfriend repeatedly with malus" using a hammer. He added that he does not believe the allegations match the charge. He stated that since he is not accused of trying to kill the alleged victim, but only hitting her with a hammer he should be charged with either an Assault and Battery or Criminal Domestic Violence charge.

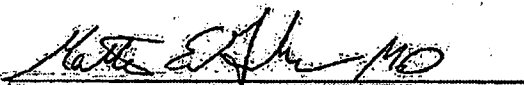
He reported that potential pleas available to him include guilty, not guilty, and not guilty by reason of insanity (NGRI). He stated that a plea of guilty meant "that [a defendant] actually committed the offense" and "then [a defendant] would get the sentence." He stated that a plea of not guilty meant that "[a defendant] didn't do what [the police] are alleging [he or she] did." He added that this plea would mean that the defendant would go to trial. He stated that a plea of NGRI meant that a defendant did "something, but [he or she] ain't right in the head" and had "mental issues and [is] not responsible." He recognized that this verdict or plea deal would result in a defendant being "place[d] in a mental institution." He stated that a plea bargain would be agreeing to plead guilty in order to get a lesser sentence. He added that he believes that taking a potential plea bargain could jeopardize any future lawsuits he may file regarding what he believes is a wrongful arrest based on the current charge and the extent of the allegations (see above).

Mr. Jones identified the officers of the court to include the judge, the solicitor, and his attorney. He stated, "The judge is the referee in the game, not on either side, calling everything fair." He recognized the adversarial role of the solicitor describing the solicitor's goal as "to get you convicted." He stated defense attorneys are "supposed to defend [defendants] to the best of their ability." He stated that the jury consists of 12 people who "look at the evidence and determine if you are guilty or not."

Mr. Jones correctly defined *evidence* and *witness* providing examples related to his case. He reported understanding of the common rules of probation and the potential consequences for violating these rules. He described appropriate courtroom behavior and recognized potential consequences for disrupting court. He voiced understanding of *perjury*. He recognized his Fifth Amendment right to not speak in court. He stated that if the case goes to court there would be a fair trial.

He stated that he has concerns that the investigating officer, Dianne Tarter, knows him from another encounter involving an alleged fire at the officer's mother's house. He stated that he believes this should lead the officer to recuse herself. He added that he believes that if she stays involved in the case that he would have grounds for an appeal if convicted.

In summary, it is our opinion that Mr. Jones has a sufficient factual and rational understanding of the current charges and has the capacity to assist the defense attorney in the preparation of a defense if he so chooses. While he reported a general mistrust of the legal system based on his past experiences, this is not due to delusional thinking (fixed false, beliefs due to mental illness). Therefore it is our opinion that the defendant has the capacity to stand trial pursuant to State vs. Blair, 275 S.E. 529, 273 S.E. 2d. 536 (1981) and S.C. Code Ann. §44-23-410 (1976).



Matthew E. Gaskins, MD
Psychiatric Service Chief

WITNESSES

Barnwell Police Department

William E Gainey III

Law Enforcement Case #: C16-10-4996

ARREST WARRANT NUMBER

2016A0620100211

ACTION OF GRAND JURY

True Bill

Mary B Halladay
Foreperson of Grand Jury
Date: March 9, 2017

VERDICT

Guilty

Foreperson of Petit Jury
Date:

6-19-18

M. E. Early
Circuit Judge
Bond trial

DOCKET NO. 2017GS0600059

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

MARCH TERM 2017

THE STATE

vs.

VENSON TYRONE JONES

CDR #: 3411

Indictment for

ASSAULT AND BATTERY OF A HIGH
AND AGGRAVATED NATURE

§ 16-03-600(B)(1)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)

INDICTMENT FOR
 ASSAULT AND BATTERY OF A HIGH AND
 AGGRAVATED NATURE

§ 16-03-600(B)(1)

At a Court of General Sessions, convened on March 13, 2017, the Grand Jurors of Barnwell County present upon their oath:

That **VENSON TYRONE JONES** did in Barnwell County on or about October 22, 2016, commit an assault and battery upon Wanda Badger resulting in great bodily injury, and/or the act was accomplished by a means likely to produce death or great bodily injury, to wit: Venson Tyrone Jones did strike the victim about the head with a hammer. All in violation of §16-3-600(B)(1) Code of Laws of South Carolina (1976), as amended.

STATE OF SOUTH CAROLINA
 COUNTY OF BARNWELL

I, Rhonda D. McElveen, Clerk of Court for Barnwell County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office.

Rhonda D. McElveen
 Clerk of Court, Barnwell County, SC

By: CBC Date: 6/26/18

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

J. Strom Thurmond

J. STROM THURMOND, SOLICITOR

276
STATE OF SOUTH CAROLINA

COUNTY OF Barnwell
STATE VS.
Venson Tyrone Jones
AKA:
Race: Black Sex: M Age: 37
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Barnwell, SC 29812-6328
DL#: [REDACTED] SID#: [REDACTED]
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Assault and Battery of a High and Aggravated Nature

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS0600059
A/W#: 2016A0620100211
Date of Offense: 10/22/2016
S.C. Code § : 16-03-600(B)(1)
CDR Code #: 3411

SENTENCE SHEET

0-20 yrs

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.
ATTEST:

[Signature] 102677
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: To Federal Charges
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDoc.

from Oct. 22, 2016
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Sharon H. Ritchie

Court Reporter: Aranda Sigwald

SCCA/217 (04/2018)

STATE OF SOUTH CAROLINA

COUNTY OF BARNWELL

Public Service Employees of Court for Barnwell

County, South Carolina do hereby certify that the

foregoing constitutes a true and correct copy of the

documents which have been filed in my office.

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning _____

Substance Abuse Counseling By: [Signature] Date: 6/26/18

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Pay \$40 public defender Application fee.

☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge [Signature]

Judge Code: 2136

Sentence Date: 6-19-18

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 31st day of May, 2019.

RECEIVED
MAY 31 2019
SC Court of Appeals