

VOLUME II of II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

OLANDIO R. WORKMAN,

APPELLANT

RECEIVED
JAN 28 2020
SC Court of Appeals

APPELLATE CASE NO. 2018-001769

RECORD ON APPEAL

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1 manifesting extreme indifference to the value of human
2 life and great bodily injury to the victim results.

3 Number two, the person commits the offense with or
4 without an accompanying battery and under circumstance
5 manifesting extreme indifference to the value of human
6 life, and would reasonably cause a person to fear imminent
7 great bodily injury or death.

8 Circumstances manifesting extreme indifference to the
9 value of human life include, but are not limited to the
10 following, one, using a deadly weapon. Two, knowingly and
11 intentionally impeding the normal breathing or circulation
12 of the blood of a household member by applying pressure to
13 the throat or neck, or by obstructing the nose or mouth of
14 a household member and, thereby, causing stupor or loss or
15 consciousness.

16 Three, committing the offense in the presence of a
17 minor, committing the offense during the commission of a
18 robbery, burglary, kidnapping, using physical force
19 against another to block that person's access to any cell
20 phone, telephone, or electronic communication device.

21 That is the law as it applies to domestic violence of a
22 high and aggravated nature as set forth in the statute
23 that I just outlined.

24 I'm, also, going to give you the law on what is a
25 lesser -- what is called a lesser included offense of

1 criminal domestic violence of a high and aggravated
2 nature, and that would be criminal domestic violence first
3 degree.

4 The law states it is unlawful to cause physical --
5 number one, to cause physical harm or injury to a person's
6 household member. Two -- and keep in mind this is a
7 lesser included offense of criminal domestic violence of a
8 high and aggravated nature. Two, offer or attempt to
9 cause physical harm or injury to a person's own household
10 member with the apparent present ability under the
11 circumstances reasonably creating fear of imminent peril.

12 B, except as otherwise provided in this section, a
13 person commits the offense of domestic violence in the
14 first degree if the person violates the provisions of
15 Subsection A that I just said and great -- number one,
16 great bodily injury to the person's own household member
17 results or the act is accomplished by means likely to
18 result in great bodily injury to the person's own
19 household member.

20 Two, the person violates the protection order and in
21 the process of violating the order commits domestic
22 violence in the second degree. Three, has two or more
23 prior convictions of domestic violence within 10 years of
24 the current offense. Four, the person uses a firearm in
25 any manner while violating the provisions of Subsection A.

1 Five, in the process of committing domestic -- the
2 violence in the second degree, one of the following, also,
3 results, A, the offense is committed in the presence of or
4 while being perceived by a minor. B, the offense is
5 committed against a person known, or reasonably known,
6 or -- or should have been known by the Defendant to be
7 pregnant.

8 And, C, the offense is committed during the
9 commission of a robbery, burglary, kidnapping, or theft.
10 D, the offense is committed by impeding the victim's
11 breathing or air flow. E, the offense is committed using
12 physical force or threatened use of force against another
13 to block that person's access to any cell phone,
14 telephone, or electronic communication device with the
15 purpose of preventing, obstructing, or interfering with
16 the report of a criminal offense, bodily injury, or
17 property damage, a request for an ambulance or emergency
18 medical assistance to any law enforcement officer.

19 Domestic violence in the first degree here, as I said
20 earlier, is a lesser included offense of domestic violence
21 of a high and aggravated nature as defined in the previous
22 code section, the code section that I outlined.

23 Now, this Defendant is, also, charged with
24 kidnapping. And that code section -- applicable code
25 section is found in 16-3-910 of our South Carolina Code of

1 Laws.

2 The law as it applies to kidnapping: Whoever shall
3 lawfully seize, confine, inveigle, decoy, kidnap, abduct,
4 or carry away any other person by any means whatsoever
5 without the authority of law, except when a minor is
6 seized or taken by his parent is guilty of kidnapping.
7 That is the applicable law as it relates to the offense of
8 kidnapping upon which this Defendant is charged and upon
9 which this indictment speaks to.

10 Lastly, the other offense upon which this Defendant
11 is charged is possession of a weapon during the commission
12 of a violent crime. This is set forth in Section
13 16-23-490 of our South Carolina Code of Laws. And the law
14 as it relates to that offense reads as follows: If a
15 person is in possession of a firearm or visibly displays
16 what appears to be a firearm, or visibly displays a knife
17 during the commission of a violent crime and is convicted
18 of committing or attempting to commit a violent crime, he
19 must be in prison -- he must be imprisoned. That is the
20 law as it relates to possession of a weapon during the
21 commission of a violent crime.

22 Now, those are the principles of the substantive law
23 that's applicable in this case. Now, let me -- let me
24 just give you a few closing instructions on your
25 deliberations.

1 I -- I -- I have prepared a verdict form that you
2 will take back to you -- in your -- in your jury room. I
3 am going to read to you this verdict form. And keep in
4 mind that the verdict form has the word "guilty" and "not
5 guilty" as it relates to each offense. Do not pay any
6 attention to the order upon which it is listed, because it
7 had to be listed in some order.

8 As to indictment 2016-GS-23-10112, which charges the
9 Defendant with domestic violence of a high and aggravated
10 nature, the verdict form states, We, the jury, find the
11 Defendant guilty or not guilty. If your response is not
12 guilty, then you are to proceed to question two. You may
13 then answer questions two through four. If your answer is
14 guilty, proceed to question three and do not answer
15 question two. You may then answer question three through
16 four.

17 Now, I know that when I'm reading this to you, you --
18 it's sort of -- there's a blur until you, actually, get
19 this document in front of you. The jury Foreman is going
20 to -- the -- this document will be given to him.

21 Now, as to the other -- second page as to indictment
22 2016-GS-23-10113, which charges the Defendant with
23 kidnapping, we, the jury, find the Defendant guilty or not
24 guilty.

25 Four, as to indictment 2016-GS-23-10113, which

1 charges the Defendant with possession of a weapon during
2 the commission of a violent crime, we, the jury, find the
3 Defendant guilty or not guilty.

4 And I want to make sure that I read this correctly.
5 I'm going to go back to the first page. It, also,
6 indicates as to indictment 2016-GS-23-10112, which
7 includes the charge of domestic violence first degree, we
8 find the Defendant guilty or not guilty. And this is the
9 verdict form that will be given to you when you begin your
10 deliberations.

11 Now, here again, your job as a juror in this case is
12 not to be a partisan or an advocate for either the State
13 or the Defendant. Your job as a juror in this case -- you
14 were chosen because you indicated that you could be fair
15 to both sides and you could decide this case based on the
16 facts and not based upon any bias, any prejudice, or any
17 preconceived ideas.

18 So you're the judges of the facts. I'm the judge of
19 the law. And your sole interest is to determine what the
20 facts are. Take the law as I give it to you and apply
21 those facts to your -- using your life experiences, and
22 your common sense, and your sense of logic and reason.
23 And once you do that, you'll be able to reach a verdict in
24 this case.

25 Now, each of you have a vote in this case. And your

1 vote is exactly that, it's your vote and no one else's.
2 It's your vote. So don't be afraid to change your mind if
3 you're of different minds and discussion that you have --
4 and discussion that you have persuades you that you should
5 change your mind. Don't change your mind simply to get
6 the case over with or to reach a unanimous verdict
7 because, obviously, this case is very important to both
8 sides.

9 The record is closed now in this matter. And there's
10 not going to be any more witnesses. You've heard all the
11 witnesses that you're going to hear. You've looked at all
12 the exhibits that you're going to see. Don't start
13 talking about the case until you get the verdict form.
14 And then the bailiff will, also, bring to you the exhibits
15 as well.

16 So I am going to send you back to your jury room.
17 And do not begin deliberating. Do not talk about the case
18 to each other. Do not have any discussions whatsoever
19 until you get specific instructions from me, which I will
20 deliver through the bailiff. All right.

21 And Juror #12, all right, sir --

22 Let -- take the jury out and then send him back.

23 Before you bring back #12, hold on a second. I want
24 to hear from these lawyers.

25 THE BAILIFF: Yes, sir.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 4:16 p.m.)

3 THE COURT: Any exceptions or corrections to the
4 charge?

5 MR. EPPES: Your Honor, I renew my objection to the
6 failure to read or somehow explain domestic violence
7 second degree as it applies in the charge for domestic
8 violence first degree, as well as the definition of -- I
9 can't remember the word. It was not moderate assault. It
10 was --

11 THE COURT: Moderation?

12 MR. EPPES: It was something --

13 THE COURT: Moderate bodily injury?

14 MR. EPPES: Moderate bodily injury, yes, sir.

15 THE COURT: All right. Your -- your objection is
16 noted and it's denied.

17 MR. EPPES: Thank you.

18 MR. POLSINELLO: No objections from the State, Your
19 Honor.

20 THE COURT: Any objections as to the charge from the
21 Defense?

22 MR. EPPES: I have no other objections for the
23 charge -- as to the charge, Your Honor.

24 But as to the jury itself, I would remind the Court
25 that one of the jurors said she needed to leave by

1 lunchtime tomorrow. I thought we might be done a lot
2 earlier than this today. And I have a concern that she
3 will somehow be pressured or anxious about that. And I
4 would ask that the Court consider excusing her and putting
5 in the last alternate.

6 MR. POLSINELLO: I think that's a big assumption, a
7 big leap right there. We very well could have a verdict.

8 THE COURT: I think the -- I think the juror that
9 you're -- that you're referencing, Mr. Eppes, I think this
10 is the young lady who had the beauty salon?

11 MR. EPPES: Yes, sir.

12 THE COURT: If I recall correctly, she said she
13 was -- she was okay. She thought that she could handle
14 Thursday. I think she said that.

15 MR. EPPES: I thought she said Thursday at lunchtime,
16 Your Honor.

17 THE COURT: Well, I'm not going to -- I'm not going
18 to -- she hasn't voiced any -- any further concerns. So
19 I'm not going to -- unless she -- unless she voices some
20 concerns -- but she hasn't said anything. So I'm assuming
21 she's worked it out.

22 MR. EPPES: Thank you, Your Honor.

23 THE COURT: Could you get -- bring #12 back out?

24 THE BAILIFF: The alternate?

25 THE COURT: The alternate.

1 (WHEREUPON, Juror #12, Nicholas Banks, entered the
2 courtroom.)

3 THE COURT: All right. Sir, I -- I'm going to --
4 Let's go off the record, Madam Court Reporter for a
5 second.

6 (Pause.)

7 THE COURT: Now, let's go back on the record.

8 Sir, I'm going to excuse you now. But, here -- here
9 again, I've been instructed that you've got a number.

10 Madam Clerk, on the back of his badge?

11 THE CLERK: On the back of his badge, yes.

12 THE COURT: That you've got to call after 6:00; right?

13 THE CLERK: After 6:00.

14 THE COURT: After 6:00 to get further instructions.
15 So you're not quite off the hook yet. So just call after
16 6:00 and get further instructions.

17 But as it relates to this trial, we appreciate your
18 service. We appreciate you sitting in here. And come
19 down to USC one time and visit them.

20 All right. Good luck to you.

21 JUROR #12, NICHOLAS BANKS: Thank you.

22 THE COURT: Take care of yourself.

23 JUROR #12, NICHOLAS BANKS: Thank you, Your Honor.

24 (WHEREUPON, Juror #12, Nicholas Banks, exited the
25 courtroom.)

1 THE COURT: Okay. Anything else before I instruct
2 the bailiff to take the verdict form and the -- let me ask
3 you this. How do -- I read the -- Judge -- the -- the
4 order on firearms, and that kind of stuff in terms of
5 jury -- let me get that thing -- in terms of how the jury
6 would handle it if they wanted to see it. And it had some
7 specific language in there about if they wanted to see --
8 let me make sure I get this right. You can't put the
9 weapon and the -- and the bullets all back at the same
10 time.

11 Am I on the right track?

12 THE CLERK: Yes, sir. You are.

13 THE COURT: So -- so -- and I'm sure y'all know that.
14 I'm just not telling you -- y'all have done this all --
15 everybody has done this a hundred times. So y'all know
16 that. So I'm not telling you what you don't know.

17 But -- but right now -- what exhibits would go back
18 right now? And I'm just asking that for my own
19 edification just to -- just -- I know the verdict form
20 goes back and any -- what exhibits -- do you take any
21 exhibits back now? How do you -- what's --

22 THE CLERK: Yes.

23 THE COURT: You take them all back, except what?

24 THE CLERK: If -- if it's a Court's Exhibit, it stays
25 out here.

1 THE COURT: Okay.

2 THE CLERK: Like, if they're going to take the guns
3 and everything, the bullets have to stay here.

4 THE COURT: Okay.

5 THE CLERK: If they want to see the bullets, then
6 we'll swap.

7 THE COURT: All right. But I guess my question is do
8 we -- do you -- and this is a question for a newbie since
9 I'm a newbie. Is it -- is it -- do you wait until they
10 ask for the -- to see the gun, or do you take them all
11 back now?

12 THE CLERK: Take it all back.

13 THE COURT: All right. Y'all do what you do.

14 THE CLERK: Okay.

15 THE COURT: Y'all have done this before.

16 MR. POLSINELLO: Your Honor, may I --

17 THE COURT: Yes, anything else, Mr. Poniselli?

18 MR. POLSINELLO: Regardless of the outcome of the
19 verdict in trial, as in every type of case like this, the
20 State always wants to make sure it protects, you know, the
21 victim and the victim's sense of information. It's my
22 understanding -- you know, throughout -- there's a lot of
23 material in here that may reference to where the victim
24 currently is, her current whereabouts. And, obviously,
25 she has a right for that to be redacted and protected.

1 And I'm -- I'm talking about for, you know, future --
2 future court actions, if you will.

3 So would -- would Your Honor be willing -- if I were
4 to type up an order directing -- Your Honor would be
5 directing any and all information about the victim's
6 current whereabouts as it relates to this case must be
7 redacted or must -- I would -- obviously, I would word it
8 properly, but not get out in future proceedings.

9 THE COURT: Now, I've signed a lot of those orders
10 over there at the other tribunal. And I -- and I don't
11 have a problem signing it over here, unless you've got an
12 objection, Mr. Eppes.

13 MR. EPPES: Your Honor, no. I know of one instance
14 where there's a location mentioned and, frankly, it's
15 wrong, so.

16 THE COURT: I don't have a problem signing that
17 order.

18 MR. POLSINELLO: But on the audio tape, Your Honor --
19 the unredacted audio, the -- multiple times, the location
20 is -- even in one of the reports -- I know Frank said the
21 location's wrong. But just -- just to err on the side of
22 caution.

23 THE COURT: All right.

24 MR. EPPES: Your Honor, I would ask -- just ask
25 Mr. Polsinello in -- in the order, it is my understanding

1 from the South Carolina Supreme Court that it is
2 Mr. Workman's file in its entirety. It belongs to him.

3 So if there's going to be a court order about
4 something that's redacted from a tape or an audio, I would
5 request that the order state that redacted with the
6 agreement of Defense Counsel, or something like that so
7 that I can listen to it and make sure I agree with the
8 redactions. And then to the extent Mr. Workman or his
9 appellate or post-conviction relief counsel gets the
10 order, they'll be aware of it.

11 MR. POLSINELLO: I just want to make sure I'm clear,
12 Frank. So the order will reflect that Defense -- Defense
13 Counsel will be with your client and --

14 MR. EPPES: No. If you'll -- if you have a way you
15 want a particular tape to be kept, then you need to redact
16 it and give it to me. So when I send it to him, that's
17 the way it will be.

18 MR. POLSINELLO: It's already been redacted.

19 MR. EPPES: I've got a copy that ain't redacted.
20 Draft an order and we'll work it out.

21 THE COURT: Do y'all want to work that out and just
22 get me something --

23 MR. POLSINELLO: Yes.

24 MR. EPPES: Judge, thank you very much.

25 THE COURT: Not a problem.

1 MR. EPPES: Judge, do you have any thoughts about
2 when you might break for the night?

3 THE COURT: It's -- I'll tell you what, it's 4:25.
4 Why don't we just start deliberations in the morning. Is
5 anybody opposed to that?

6 MR. EPPES: No, sir.

7 MR. POLSINELLO: I think that's the right call, Your
8 Honor.

9 THE COURT: Yeah. Let's just let them -- let them
10 rest. Just tell them we're going to break for the night.
11 And don't send anything back yet.

12 THE BAILIFF: Right. What time?

13 THE COURT: Let's -- let's say 9:30. Just tell them
14 we're going to -- let me bring them back in and tell them.

15 THE BAILIFF: Bring them back in?

16 THE COURT: Yeah. I'm going to bring them back in
17 and tell them that.

18 (WHEREUPON, the jury came into open court at,
19 approximately 4:25 p.m.)

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, I know it's been a long day. And we've -- we've
22 done a lot -- covered a lot of stuff. But what I'm going
23 to do is I'm going to let you go home. I'm going to let
24 you go home tonight, get some rest. And we're going to
25 start deliberations tomorrow morning.

1 So what I'm asking you to do is to report back at
2 9:30 to the same room that you were reporting to earlier.
3 Please, ma'am, more importantly than anything else,
4 because you've heard all the case and you've heard
5 everything that's going to ever be said by me, or the
6 lawyers, and everybody.

7 You've got the case in your head. But even though
8 you have it in your head, you cannot talk to anybody about
9 the case. You can't go home and talk to your spouse, your
10 children, or anybody about anything in this case. You're
11 going to have to act like you never heard anything about
12 this case. You're going to have to act like you've never
13 been up here. I know it's hard. But you're going to have
14 to act like you've never been up here.

15 And then report tomorrow morning at 9:30. At which
16 time, I'll give you some instructions on deliberations.
17 But I'm going to let you go for the night so you can
18 have -- rest up. Okay.

19 MR. EPPES: Your Honor --

20 THE COURT: Yes.

21 MR. EPPES: -- if I may.

22 THE COURT: Yes, sir.

23 MR. EPPES: I don't think anything is going to be
24 there, but would you just ask them for tonight and
25 tomorrow not to read the paper or watch the news.

1 THE COURT: All right.

2 MR. EPPES: Because I just -- I've seen that happen.

3 THE COURT: All right. Don't watch the news tonight.
4 There are a lot of other channels that don't have the news
5 on it, Disney, Discovery channel, those. But don't --
6 don't turn to the news channel. And don't look for a
7 paper, please, ma'am, please, sir. Do that for me.

8 All right. We'll see you in the morning at 9:30.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 4:27 p.m.)

11 THE COURT: Okay. Gentleman, anything else before we
12 retire for the evening?

13 MR. POLSINELLO: Nothing from the State.

14 MR. EPPES: Nothing from the Defense, Your Honor.

15 THE COURT: All right. Y'all have a good evening.
16 See you tomorrow morning at 9:30.

17 (WHEREUPON, the proceedings were concluded at
18 approximately 4:28 p.m., to be reconvened on
19 Thursday, September 20, 2018.)
20
21
22
23
24
25

1 THURSDAY, SEPTEMBER 20, 2018

2 THE COURT: All right. Anything we need to cover
3 before I bring the jury out?

4 The only I thing I'm going to do is bring them out
5 and send them back, along with the exhibits and the
6 verdict form.

7 Anything from the State?

8 MR. POLSINELLO: Nothing from the State, Your Honor.

9 THE COURT: Mr. Eppes?

10 MR. EPPES: Nothing from the Defense, Your Honor.

11 THE COURT: All right. Bring the jury out.

12 (WHEREUPON, the jury came into open court at
13 approximately 9:35 a.m.)

14 THE COURT: All right. Good morning.

15 Mr. Foreman, and ladies and gentlemen of the jury,
16 yesterday, I -- we ended early because I wanted you to go
17 home and get some rest. And I hope that you are well
18 rested. And -- and we're going to begin deliberations in
19 this case.

20 And I hope that you didn't talk to anybody about the
21 case from yesterday, you didn't talk to each other or
22 anybody. I'm sure you followed my instructions. I'm
23 going to send you back in the jury room in just a minute.
24 And the bailiff as well will bring the exhibits and the
25 verdict form back there. And I went over the verdict form

1 with you.

2 So anything before I send the jury back, Mr. Eppes?

3 MR. EPPES: Your Honor --

4 THE COURT: Or Mr. Polsinello?

5 MR. EPPES: -- I just ask that you confirm that
6 pursuant to your instructions nobody watched the news last
7 night.

8 THE COURT: All right. I just asked you a minute ago
9 if anybody talked -- did you talk to each other. But did
10 anybody turn on the television and watch anything other
11 than the Disney channel?

12 (WHEREUPON, all of the jurors indicated in the
13 negative.)

14 MR. EPPES: Thank you, Your Honor.

15 THE COURT: Okay. Take the jury back.

16 (WHEREUPON, the jury was excused from open court at
17 approximately 9:36 a.m.)

18 THE COURT: All right. And -- and it's my
19 understanding that -- Madam Clerk, that the ammunition,
20 just to be on the safe side, was counted?

21 THE CLERK: Yes, sir.

22 THE COURT: And I think you have two bags of
23 ammunition.

24 THE CLERK: Three.

25 THE COURT: Three bags?

1 THE CLERK: Three bags, yes, sir.

2 THE COURT: And all three bags were counted?

3 THE CLERK: Yes, sir.

4 THE COURT: And all -- everything that's in the bags
5 was in here previously; right?

6 THE CLERK: Yes, sir.

7 THE COURT: All right.

8 MR. EPPES: Your Honor --

9 THE COURT: Anything, Mr. Eppes?

10 MR. EPPES: Not about the deliberations.

11 THE COURT: Okay.

12 MR. EPPES: But I have three issues. First, I'll
13 just note for the Court that I cut on the news last night
14 and there was a shooting at a magistrate's court involving
15 a domestic violence situation. So I felt really glad that
16 we'd given that instruction -- that you'd given that
17 instruction.

18 Secondly, we have a disk that includes the items that
19 we played for cross-examination in the case that I'd like
20 to include --

21 Is it two disks?

22 MS. MADDY VARIN: It's one.

23 MR. EPPES: Did you make copies?

24 MS. MADDY VARIN: Yeah.

25 MR. EPPES: I made -- we made three copies. So I

1 made an exact copy of it for Mr. Polsinello so it'd be in
2 his files. And these are only the tapes that we played
3 during cross-examination.

4 THE COURT: All right.

5 MR. EPPES: And I just want them marked as a Court's
6 Exhibit for purposes of the record.

7 THE COURT: All right. Hold on. Mr. Polsinello has
8 got that look on his face like he -- there's an objection.

9 No objection, Mr. --

10 MR. POLSINELLO: No objection, Your Honor.

11 THE COURT: All right. We'll be at --
12 Make it a Court's Exhibit, Madam Court Reporter.

13 (WHEREUPON, Court's Exhibit No. 2 was marked for
14 identification and admitted into evidence.)

15 MR. EPPES: And, finally, Your Honor, Mr. Polsinello
16 and I spoke about this last night. And while we have no
17 idea when the jury is going to come back or what they're
18 going to come back with, we've eluded several times to
19 Dr. Maddox's six-page report -- I think it's six pages --
20 six-page report about Mr. Workman that I would be
21 submitting as mitigation in this matter.

22 And since I don't think there's any problem with the
23 Court reading it, regardless of the verdict, I'd like to
24 go ahead and hand it up to you so that should you wish to
25 do it, you'd be in a position to review it prior to the

1 juries verdict so it would help streamline our process.

2 It's up to you.

3 THE COURT: Well, I prefer Mr. Eppes not to read it
4 at this point.

5 MR. EPPES: Yes, sir.

6 THE COURT: But you can give it to me at the
7 appropriate time.

8 MR. EPPES: Yes, sir.

9 THE COURT: And I'll -- I'll read it then.

10 Anything further?

11 (WHEREUPON, there was no response.)

12 THE COURT: Okay. We'll be at ease.

13 (WHEREUPON, the proceedings were recessed at
14 approximately 9:39 a.m.)

15 QUESTIONS FROM THE JURY

16 THE COURT: The jury has two questions. And I'll
17 read them into the record. The first question is, How did
18 she flee from the state, and in what vehicle? And it's
19 signed by the Foreman.

20 I think that's a factual determination that they have
21 to make. I don't think that that's a question that's on
22 the law that we need to address.

23 Is that agreed?

24 MR. POLSINELLO: Yes, Your Honor.

25 MR. EPPES: Yes, Your Honor.

1 THE COURT: Okay. Next question, Domestic violence
2 of a high and aggravated nature versus domestic violence
3 first degree, difference?

4 I'll be more than happy to -- to read those -- that
5 charge again as to both of them.

6 Or how do you -- what's your -- what's your position
7 regarding that?

8 MR. POLSINELLO: Your Honor, I think it's absolutely
9 necessary to, I guess, reiterate both charges and the
10 differences. I'm just wondering. Visually, it does help
11 to see the statute.

12 THE COURT: Okay. So are you thinking about maybe
13 putting it up?

14 MR. POLSINELLO: In this particular case, because
15 that DV first, there's so many ways to get to it, it's the
16 same thing with DVHAN.

17 What do you think, Frank?

18 MR. EPPES: I don't like juries to have copies of the
19 statute in the jury room. If you wanted to put them up
20 for them to read along on the screen while you read it,
21 I'm happy with that. But I wouldn't want a copy of that
22 to go back to the jury absent the entire charge.

23 THE COURT: So it's agreed to put both of them up and
24 just re-read it -- read it again to them.

25 Is that --

1 MR. EPPES: Yes, sir. But, like I say, I -- I have
2 no objection --

3 THE COURT: Let's put it on the screen.

4 MR. EPPES: -- if you wanted to put it on the screen
5 for them to look at it, too. I have no objection to that.

6 THE COURT: All right. Let's do that.

7 MR. EPPES: Judge, again, I would like to renew my
8 request that some explanation be given to domestic
9 violence second degree as part of this charge.

10 THE COURT: All right. And I'll deny your request.
11 It's noted for the record.

12 Okay. You've got -- so we're putting up ABHAN and
13 then we're putting up first?

14 MR. POLSINELLO: DVHAN.

15 THE COURT: DVHAN.

16 MR. POLSINELLO: Would you like me to put it up, Your
17 Honor, or --

18 THE COURT: On the screen?

19 MR. POLSINELLO: Yeah.

20 THE COURT: Yeah. Let me just take a look at what
21 you're putting up.

22 MR. POLSINELLO: This is the first -- the first
23 charge. And this is the explanation of manifesting
24 extreme indifferences as to the value of human life under
25 HAN. So these go together.

1 THE COURT: All right. Do you think you need to mark
2 them when you put them on the screen so they'll know which
3 one is which?

4 MR. EPPES: Yes.

5 THE COURT: I mean, just write something on the top.

6 MR. POLSINELLO: Okay.

7 THE COURT: As to which one is which.

8 MR. POLSINELLO: Okay.

9 THE COURT: You know, so they'll know what we're
10 talking about. Maybe -- you can put initials. That might
11 be okay.

12 (Pause.)

13 THE COURT: Are we ready from the State?

14 MR. POLSINELLO: Yes, sir.

15 MR. EPPES: Yes, sir, Your Honor.

16 THE COURT: You've seen both of them?

17 MR. EPPES: I've seen both of them. I think we're
18 right.

19 THE COURT: All right. Bring the jury in.

20 (WHEREUPON, the jury came into open court at
21 approximately 10:17 a.m.)

22 MR. EPPES: Your Honor, may we approach?

23 THE COURT: Yes.

24 MR. EPPES: I forgot one thing. I'm sorry.

25 (WHEREUPON, a bench conference was held.)

1 THE COURT: All right. Ladies and gentlemen, it's my
2 understanding you have two questions that were submitted
3 to the bailiff to me. And the first question that you had
4 was, How did she flee from the state, and in what vehicle?
5 That's a factual determination that -- that I can't
6 answer. And the -- the testimony has been presented.

7 You have to use your common sense. And you have to
8 make a -- make that factual determination because you're
9 the judge of the facts. That's not a question of the law
10 that I'm -- that I'm -- that I can address. So you'll
11 have to make that determination based upon the testimony
12 and evidence that has been presented to you.

13 Okay. Now, as it relates to your second question,
14 Domestic violence of a high and aggravated nature versus
15 domestic first degree and the difference. What I'm going
16 to do is I'm going to -- or what we have done is put both
17 of those statutes back up on the screen. And I'm going to
18 read it to you again. And you take a look at it.

19 But before you do that, I'm going to define to you
20 what is great bodily injury. And statute 16-25-10 is not
21 on there, but listen to me just a second. Great bodily
22 injury means bodily injury which causes a substantial risk
23 of death, or which causes serious permanent disfigurement
24 or protracted loss or impairment of the function of a
25 bodily member or organ. That is the definition of great

1 bodily injury.

2 Now, one of the indictments charges the Defendant
3 with domestic violence of a high and aggravated nature.
4 And that's what those initials stand for, domestic
5 violence of a high and aggravated nature.

6 The definition as set forth in the statute -- and I'm
7 going to read it because I want you to follow with me. A,
8 a person who violates Section 16-25-20 Subsection A is
9 guilty of the offense of domestic violence of a high and
10 aggravated nature when one of the following occurs: The
11 person either commits the offense under circumstances
12 manifesting extreme indifference to the value of human
13 life and great bodily injury to the victim results. I'll
14 read it again. Commits the offense under circumstances
15 manifesting extreme indifference to the value of human
16 life and great bodily injury to the victim occurs.

17 Two, commits the offense with or without an
18 accompanying battery and under circumstances manifesting
19 extreme indifference to the value of human life and would
20 reasonably cause a person to fear imminent great bodily
21 injury or death.

22 Or, three, violates a protection order and in the
23 process of violating the order commits domestic violence
24 in the first degree. We're still on domestic violence
25 high and aggravated nature.

1 D, circumstances manifesting extreme indifference to
2 the value of human life, but are not limited to the
3 following, one, using a deadly weapon. Two, knowing and
4 intentionally impeding the normal breathing or circulation
5 of the blood of a household member by applying pressure to
6 the throat or neck, or by obstructing the nose or mouth of
7 a household member and, thereby, causing stupor or loss of
8 consciousness for any period of time.

9 Three, committing the offense in the presence of a
10 minor. Four, I will read that, but am not saying it's
11 applicable in this case. Committing the offense against a
12 person he knew or should have known to be pregnant. Five,
13 committing the offense during the commission of a robbery,
14 burglary, kidnapping, or theft.

15 Six, using physical force against another to block
16 that person's access to any cell phone, telephone, or
17 electronic communication device with the purpose of
18 preventing, obstructing, or interfering with, A, the
19 report of any criminal offense, bodily injury, or property
20 damage to a law enforcement agency or, B, a request for an
21 ambulance or emergency medical assistance to any law
22 enforcement agency or emergency medical provider.

23 This is domestic violence in the first degree, which
24 is a lesser included offense of domestic violence of a
25 high and aggravated nature. This particular statute

1 states, It is unlawful to cause physical harm or injury to
2 a person's own household member or, two, offer or attempt
3 to cause physical harm or injury to a person's own
4 household member with the apparent present ability under
5 circumstances reasonably creating fear of imminent peril.

6 B, except as otherwise provided in this section, a
7 person commits the offense of domestic violence in the
8 first degree if the person violates the provisions of
9 Subsection A, which was above, and, number one, great
10 bodily injury to the person's own household member results
11 or the act is accomplished by means likely to result in
12 great bodily injury to the person's own household member.

13 Two, the person violates a protection order and in
14 the process of violating the order commits domestic
15 violence in the second degree. Three, has two or more
16 prior convictions of domestic violence within 10 years of
17 the current offense.

18 Four, the person uses a firearm in any manner while
19 violating the provisions of Subsection A above. Or, five,
20 is in the process of committing domestic violence in the
21 second degree and one of the following, also, results.
22 The offense is committed in the presence of a minor or
23 while being perceived by a minor. B, the offense is
24 committed against a person known or who reasonably should
25 have known by the offender to be pregnant. C, the offense

1 is committed during the commission of a robbery, burglary,
2 kidnapping, or theft. D, the offense is committed by
3 impeding the victim's breathing or air flow.

4 Or E, the offense is committed using physical force
5 or the threatened use of force against another to block
6 that person's access to any cell phone, telephone, or
7 electronic communication device with the purpose of
8 preventing, obstructing, or interfering with, one, the
9 report of any criminal offense, bodily injury, or property
10 damage to a law enforcement agency or, two, a request for
11 an ambulance or emergency medical assistance to any law
12 enforcement agency or emergency medical provider.

13 Domestic violence in the first degree is a lesser
14 included offense of domestic violence of a high and
15 aggravated nature as defined in the previous code section
16 I outlined, 16-25-65.

17 All right. Ladies and gentlemen of the jury, that
18 is -- I -- I reviewed again with you my charge as it
19 relates to three things. One, I defined great bodily
20 injury to you. And I, also, went over the statute as it
21 relates to domestic violence of a high and aggravated
22 nature. I went over that with you.

23 Domestic violence in the first degree is a lesser
24 included offense of domestic violence of a high and
25 aggravated nature. And we outlined what the requirements

1 for -- that would have to be met for the implementation of
2 that particular statute.

3 So I hope that that assists you in some manner. And
4 I want you, at this time, to continue in your
5 deliberations.

6 Okay. Thank you, ma'am. Thank you, sir.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 10:26 a.m.)

9 THE COURT: Counsel, I'm going to -- I'm going to get
10 both of these notes marked by the court reporter. Do
11 y'all need to see them?

12 MR. EPPES: No, sir, Your Honor.

13 MR. POLSINELLO: No need to see them, Your Honor.

14 MR. EPPES: Your Honor, continuing to beat the dead
15 horse. I need to renew my objection as to not putting in
16 the definition of moderate bodily injury or domestic
17 violence second in the charge for domestic violence first
18 degree.

19 THE COURT: And the objection is noted. It's denied.

20 MR. EPPES: Thank you, Your Honor.

21 THE COURT: All right. We'll stand at ease.

22 (WHEREUPON, Court's Exhibit Nos. 3 and 4 were marked
23 for identification and admitted into evidence.)

24 (WHEREUPON, the proceedings were recessed at
25 approximately 10:28 a.m.)

1 THE COURT: All right. The jury has another
2 question. And I'll just read it to you. And then I'll
3 tell you what I think. It says, Can we have a copy of the
4 laws?

5 Now, before you respond to that, let me just tell you
6 what I'm -- I am assuming that they've read this. They've
7 looked at it. All right. And we lawyers, we've been to
8 these law schools and we see all this stuff all the time.
9 And as a matter of fact, we talk to each other using the
10 law, because that's what we've been around for three
11 years. I mean, we even say, hi, lawyer, and all those
12 kinds of things. We use these terms.

13 And sometimes, we forget that the average person
14 don't see these terms on a regular basis as we see them.
15 And, for example, I think in the statute the word "stupor"
16 is used. Well, the only -- people off the street you
17 could talk to and say what does stupor mean? You'd
18 probably get somebody that says, does that mean -- that
19 might be one of those questions where somebody says, is
20 that synonymous with stupid. I don't know. I'm just
21 being real. I'm just being real with you. I'm just being
22 real. You've just got to be real in these types of cases.
23 You've got to be real.

24 So you've got a panel back there who I -- I can come
25 back and put -- you can come back and put that that thing

1 on there six or seven times. And, I mean, we lawyers
2 who've been to law school, how many times have we sat in
3 a -- in a law school class and the professor went over the
4 rule of perpetuities? And -- and you didn't get it the
5 first time. He put it on the -- he put it on the -- he
6 put it up there three or four times. I left law school
7 three years later and I still didn't know what it meant.

8 MR. EPPES: Judge, I --

9 THE COURT: And I read it a hundred different times.
10 I couldn't tell you what it means today.

11 MR. POLSINELLO: Something about 26 years.

12 THE LAW CLERK: 21 years.

13 MR. POLSINELLO: Okay.

14 THE COURT: So -- so do you see what I'm saying? So,
15 you know, I'm just -- I'm assuming -- you know, and I
16 tried a number of these cases. I tried a bunch of cases.
17 The is not the first time I've seen this question. This
18 is the first time I've seen this question from this side.
19 But I've seen this question from where you guys sit all
20 the time.

21 And my conclusion has been over the years is that the
22 law is written for lawyers to understand. And it's not
23 written a lot of times for lay people to understand. And
24 the people you get on the jury are lay people. And
25 they -- they speak lay -- lay terms. And, sometimes,

1 to -- for the benefit of -- and, you know, it's -- it's
2 really for the benefit of both sides that, at least, you
3 get a jury panel as informed as they can be about what the
4 law says as much as they can decipher. So that's my two
5 cents on what I think this means.

6 So I know you, Mr. Eppes, a minute ago said that you
7 are adamantly opposed to putting the copy of statutes back
8 and letting them look at it. And, of course, I just
9 wanted to say what I just said before we -- you know, you
10 comment on this. But I'm thinking this is where this is
11 at.

12 They -- they've looked at this. And then they
13 said -- then it goes into -- you know, it's almost not
14 like a four line thing where it says, you know, you've got
15 a charge on shoplifting. That's pretty straightforward.
16 I mean, anybody could look at that and see what the deal
17 is. But when you get into these types of matters, the
18 legislature -- the way it's drafted, a lot of times I read
19 these statutes and I would -- I would hope it was drafted
20 a little bit differently and clearer. But, you know,
21 we've got what we've got.

22 So let me hear from you. What do you want to do?

23 MR. EPPES: Your Honor, I remain -- I'm opposed to
24 it. I just -- I think if they start parsing the statute,
25 it runs every risk that you just spoke about. And it

1 doesn't mean they'll read it correctly. And -- and so --

2 THE COURT: But, you know, it could cut both ways.

3 MR. EPPES: Huh?

4 THE COURT: It can cut both ways.

5 Mr. EPPES: I agree with you a hundred percent.

6 THE COURT: It can -- I mean, I don't think there's
7 an advantage either way. It can cut both ways as to --

8 What's your position, Counsel?

9 MR. POLSINELLO: Your Honor, if it is allowed under
10 the law and if Your Honor believes it's appropriate, the
11 State would support that decision. You -- you're right,
12 shoplifting or anything, it's pretty simple.

13 Now, obviously, we all saw that statute. It's like
14 putting a puzzle together for a lay person, I imagine.

15 THE COURT: I think it's probably within my
16 discretion whether I do it or not from the way -- I mean,
17 from what I've read. I don't think there's anything that
18 prohibits me from doing it.

19 So you're on the record, Mr. Eppes, opposing it
20 vehemently.

21 MR. EPPES: Your Honor, I'm on the record opposing
22 it. And I'm on the record renewing my request that you
23 provide them with the definition of domestic violence
24 second degree and moderate bodily injury.

25 MR. POLSINELLO: Your Honor, just to add for the

1 record. I -- I agree I believe the law allows the
2 discretion to be in Your Honor's judgment. And with this
3 particular statute, the State can see why a lay person on
4 the jury would want to see it again. I -- I just wanted
5 to make sure that that was on the record.

6 THE COURT: Well, this is what I'm -- this is what
7 I'm going to do. I've -- I've been -- I've been around
8 the block a minute or two. I've seen this come up so many
9 times.

10 And back in -- back in the day when I used to try
11 these cases, cases like this, and we had those words that
12 I thought that jurors might not understand, at some point,
13 during the course of my colloquy, for lack of a better
14 word, I would define it -- define it. Because I knew that
15 down the road that there would be an issue, you know. And
16 I'd say something like, well, you know, I know the statute
17 is using this word "stupor." And I'm going to -- and I'd
18 say, let me tell you what stupor is. And I'd just throw
19 it out there and, of course, just to kind of -- because I
20 know that might be an issue down the road. So those
21 difficult words, I used to try to define them to them.

22 I'll tell you what I'm going to do. I'm going to --
23 I think -- and I'm going to make -- make my finding on the
24 record. First of all, I'm going to find that there was a
25 question from the jury regarding the offense of domestic

1 violence high and aggravated nature and domestic violence
2 first degree, and they needed to know the difference. I
3 brought the panel back in. I put the respective
4 definitions on the screen and was very deliberate in going
5 over that with them.

6 I have now received another note from the jury panel
7 indicating, Can we have a copy of the law? What that
8 indicates to this Judge is that even though I put that on
9 the screen, they're not clear as to the differences. And
10 I think when you've got a -- you've got your primary
11 offense and then you've got a lesser included, sometimes,
12 for lack of a better word, those things bleed a little --
13 bleed in -- in your mind if you're not thinking clearly.

14 So I'm going to allow a copy of the -- of the statute
15 as it relates to those two -- I don't -- I'm not going
16 to -- because they didn't ask a question about kidnapping
17 and they did not ask a question about possession of a
18 weapon during -- in the commission of a violent crime.
19 The questions that they previously asked was about the
20 domestic violence.

21 So unless there's an objection --

22 I understand you object, Mr. Eppes, to any of it
23 going back.

24 MR. EPPES: Yes, sir.

25 THE COURT: But I'm assuming your objection now is

1 not to piecemeal.

2 MR. EPPES: My other -- my other request on that
3 would be simply that you include the definition of great
4 bodily injury.

5 THE COURT: Well, since I read that to them, I don't
6 have a problem doing that. So --

7 MR. EPPES: And I'm renewing my previous objection.

8 THE COURT: Yes, sir. And I -- and that's noted for
9 the record.

10 MR. EPPES: And I -- frankly, Judge, while I believe
11 Mr. Polsinello's typed version is right, I think for it to
12 be serious, I would prefer that it was the one printed off
13 the computer from the South Carolina -- I think she --

14 Aren't you getting it from the legislative branch?

15 THE LAW CLERK: Uh-huh.

16 THE COURT: Well, what I'd like to do, Mr. Eppes, is
17 I'd like to give them what they read.

18 MR. EPPES: Okay.

19 THE COURT: What was on the screen.

20 MR. EPPES: Well, I'm -- it's the same so that's --

21 THE COURT: It's the same.

22 MR. EPPES: If that's what you'd like to do, then in
23 that case I have no objection.

24 THE COURT: All right. I'd like to give them the
25 exact documents that were on screen.

1 MR. EPPES: I think we might have more pages.

2 THE BAILIFF: Your Honor, they have two more.

3 THE COURT: Two more questions.

4 All right. While we're here, we've got two more
5 questions.

6 MR. EPPES: Your Honor, before those go back to the
7 jury, could we have a copy of them marked and put in the
8 Court's record?

9 THE COURT: Yes. And I think we marked the previous
10 one, didn't we, Hollie, the previous question?

11 THE COURT REPORTER: Yes, sir.

12 MR. EPPES: No, I mean the charges.

13 THE COURT: Okay.

14 MR. POLSINELLO: I would support that, Your Honor.

15 THE COURT: Well, let me -- let me read -- I think
16 this is going to really tie into -- to why we're doing
17 this, based on the other questions I received. And I'll
18 tell you what they are.

19 The next question that was asked, Explain kidnapping.
20 So the next question -- another question, Can the Judge
21 read what is bodily harm? Can he state that fear of what?

22 So what that tells this Court is we need to send the
23 kidnapping -- your -- your kidnapping charge, as well as
24 the bodily harm. Everybody's agreed to send that back
25 anyway, so.

1 MR. POLSINELLO: Your Honor, I don't have a typed out
2 version of bodily harm.

3 THE COURT: Was it the one -- oh, that's the one I
4 read. What did I do with it?

5 I can get Shedricka to just take out all this other
6 language on here and just have bodily harm on here.

7 Could you do that real quick?

8 THE LAW CLERK: Uh-huh.

9 THE COURT: Just give her a second to do that.

10 So we're -- we're in agreement to send back bodily
11 harm, reference to bodily harm, send back the two charges,
12 ABHAN and -- I mean domestic violence HAN and the CDV
13 first.

14 MR. EPPES: Your Honor --

15 THE COURT: And then -- then based on this other
16 question, is it okay to send back that kidnapping, that
17 little short piece? And you've given that, so.

18 MR. EPPES: Your Honor, to the extent that you're
19 going to send back all of them, I -- I renew my objection.

20 But as far as the kidnapping, the way it's done on
21 Mr. Polsinello's sheet, I have no objection.

22 THE COURT: All right. So --

23 MR. POLSINELLO: Your Honor --

24 THE COURT: Yes.

25 MR. POLSINELLO: Just for clarification for the

1 record. So the jurors, they didn't have a question about
2 possession of a weapon during the commission of a violent
3 crime?

4 THE COURT: No.

5 MR. POLSINELLO: Okay.

6 THE COURT: They didn't -- no -- no question was sent
7 to me addressing that.

8 MR. POLSINELLO: Your Honor, I would support
9 Mr. Eppes recommendation that this kidnapping statute and
10 the DVHAN and the DV first that are being sent back, could
11 we mark those just as exhibits for the record and get
12 copies?

13 THE COURT: Right. And we're going to, also, mark
14 this definition of bodily harm that my law clerk is
15 getting ready to print out in just a minute.

16 MR. POLSINELLO: Thank you, Your Honor.

17 THE COURT: This is the Court's Exhibit -- we're
18 going to make this a Court's Exhibit -- all this a Court's
19 Exhibit and send that back.

20 Is that -- everybody is on the page?

21 MR. EPPES: Yes, sir. But I've had jurors write on
22 stuff. I've had jurors write on stuff like that before.
23 I'd just like to have a copy the way it's being sent back
24 marked as an exhibit.

25 THE COURT: And then send a copy back?

1 MR. EPPES: Well, you can send either one back. I
2 don't care. I just want one here that's exactly what goes
3 back there in case they mark on it, or something, we'll
4 know which one was marked on.

5 THE COURT: Okay. So we'll probably need to make
6 copies of all of them.

7 THE CLERK: Okay.

8 THE COURT: And then we'll keep the -- those
9 ones you -- the originals as Court's Exhibit and then send
10 a copy back.

11 (Pause.)

12 THE COURT: Do y'all want to take a look at it?
13 .. Just show them that.

14 MR. EPPES: Yeah. That's it.

15 THE COURT: All right. I've got two copies. You
16 don't have to make another copy. I've got an extra copy
17 right here behind you.

18 THE CLERK: Okay.

19 MR. EPPES: Are you just going to send it in, Judge,
20 or are you going to bring them out?

21 THE COURT: Bring them out and tell them what I'm
22 giving them.

23 MR. EPPES: Yes, sir.

24 THE COURT: Hold on a second. Let's get these
25 marked.

1 Okay. Bring the jury back.

2 (WHEREUPON, Court's Exhibit Nos. 5, 6, 7, 8, 9, 10, and
3 11 were marked for identification and admitted
4 into evidence.)

5 (WHEREUPON, the jury came into open court at
6 approximately 11:37 a.m.)

7 THE COURT: Ladies and gentlemen of the jury, I
8 have -- I've been given by the bailiff now three
9 questions. And I've got -- I've got the first question.
10 And then a few moments later, I got two other questions.
11 I'm going to address them all and then tell you what we're
12 going to do.

13 The first question that I've shared with the lawyers
14 from both sides that you posed and is signed by the
15 Foreman is, Can we have a copy of the laws? I'm going to
16 read all the questions and then I'll address them.

17 The next two questions came in at the same time from
18 the bailiff from the -- from you, the jury panel, signed
19 by the Foreman. The next question is, Can the Judge read
20 what is bodily harm? Did he state that fear of? And then
21 there's a question mark.

22 Then the third question that was, also, shared with
23 the lawyers, the question was, Explain kidnapping. And
24 that's signed by the jury Foreman.

25 After having discussed these matters with Counsel for

1 both sides, what I have decided to do -- and I'll give an
2 explanation on the record as to why. And this is the
3 exact same thing I told Counsel, pretty much that we -- we
4 lawyers see this language all the time. And, sometimes,
5 lay individuals don't see this language on a regular
6 basis.

7 So because of that, I -- in my discretion, I am going
8 to send back with you a copy of what was on the screen,
9 all three of those -- all two of those offenses, domestic
10 violence of a high and aggravated nature, you will get a
11 copy of the exact same thing that you saw on the screen.
12 And you will, also, get a copy of domestic violence first
13 degree, the same exact thing you saw on the screen for
14 your review.

15 I will, also, send you back the charge on kidnapping
16 that I gave a day ago. And even though that was not on
17 the screen when you came out, because you didn't request
18 it, but, now, you did request an explanation of
19 kidnapping, and I -- I find it necessary just to send that
20 charge back to you so you can read it and review it.

21 I will, also, send back with you another document
22 that will define -- it's the same -- define bodily harm.
23 That is the same definition that -- that I addressed when
24 I gave my charge. But you will have that document with
25 that definition in front of you.

1 So having said all that, I hope that me giving you
2 these documents for your perusal so you can take a look at
3 them will help you on answering some of the questions --
4 or answering the questions that you posed. So that's what
5 I've decided to do.

6 So the bailiff is going to deliver those documents to
7 you in your jury room as soon as you go back there. Okay.

8 All right. Thank you, ma'am. Thank you, sir.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 11:40 a.m.)

11 THE COURT: All right. We'll stand at ease.

12 MR. EPPES: Your Honor.

13 THE COURT: Yes, sir.

14 Anything else?

15 MR. EPPES: I don't mean to beat my dead horse.

16 THE COURT: You want to renew your motion [sic]?

17 MR. EPPES: I renew my objection as far as second
18 degree, the definition being a necessary part, and the
19 moderate bodily injury definition, as well as I renew my
20 objection about giving them the paper.

21 THE COURT: All right. Objection -- I mean your
22 objection is so noted and denied.

23 MR. EPPES: Thank you, Your Honor.

24 (WHEREUPON, the proceedings were recessed at
25 approximately 11:41 a.m.)

1 THE COURT: All right. Gentlemen, I have another
2 question. I'll read it to you. We're back on the record.
3 What is the difference between peril or fear of great
4 bodily injury?

5 MR. POLSINELLO: Your Honor, the State would just
6 respond that they have to use ordinary language, you know,
7 that -- from a reasonable person perspective in applying
8 their knowledge and all their educational background --
9 like, that's not defined in the statute, I don't believe.
10 And for that, you have to just use your own common sense.

11 THE COURT: I think that's probably -- comes from
12 that definition on great bodily fear, I'm assuming.

13 MR. EPPES: No. The definition of domestic violence
14 high and aggravated says a fear of great bodily injury.
15 And the definition of domestic violence in the first
16 degree says fear of imminent peril.

17 THE COURT: Yeah.

18 MR. POLSINELLO: But DVHAN, the second element -- the
19 way to prove it, it does say fear of imminent peril.

20 THE COURT: Right.

21 MR. POLSINELLO: So they might be looking at that
22 second part of the DVHAN section.

23 MR. EPPES: I have no idea. It's in both of them.

24 MR. POLSINELLO: Yeah.

25 THE COURT: See, I -- it's -- I don't know if I

1 can -- I can define that to them. I mean, if -- that's a
2 slippery slope --

3 MR. EPPES: No, sir.

4 THE COURT: I can't -- I can't -- I mean, if I -- I
5 can't do that.

6 MR. EPPES: I think in the -- I think in the cases
7 that I've been involved in, Judge, what I've seen, at
8 most, is a charge that says you are to use your best
9 judgment to use the words as you understand them to be.

10 THE COURT: That's -- that's what I was -- that's
11 what I was thinking about saying, Mr. Eppes. I'm just
12 going to --

13 Mr. Poniselli.

14 MR. POLSINELLO: Yes, Your Honor.

15 THE COURT: That's what I was going to bring them out
16 and tell them. Is that all right with you?

17 MR. POLSINELLO: Yes, Your Honor.

18 THE COURT: All right. Bring them out.

19 (WHEREUPON, the jury came into open court at
20 approximately 1:35 p.m.)

21 THE COURT: Mr. Foreman, it's my understanding that
22 the question that was given to the bailiff to be submitted
23 to me is, What is the difference between peril or fear of
24 great bodily injury?

25 And what I -- what I will tell you is that you have

1 to use your own common sense, your judgment, your -- your
2 dissemination -- your determination of what that means.
3 Just use your common sense, your -- your -- what you --
4 what you believe that those terms mean to you. And I know
5 that's not what you wanted to come out and hear. But
6 that's, basically, what I can tell you.

7 So -- and you remember at the outset, I said life
8 experiences, common sense, your judgment. You're the
9 judge of the facts. So that's -- that's within your
10 purview. So to the best of your ability, you -- you have
11 to make a determination to the applicability of these terms.

12 Okay. I'm going to send you back to continue your
13 deliberations.

14 (WHEREUPON, the jury was excused from open court at
15 approximately 1:37 p.m.)

16 THE COURT: Counsel, I -- I didn't say it exactly
17 like you said it. But any exceptions?

18 MR. POLSINELLO: No, objection, Your Honor.

19 MR. EPPES: None from the Defense, Your Honor.

20 THE COURT: All right. Madam Court Reporter, this
21 will be Court's Exhibit, I guess, No. 10, 11?

22 THE COURT REPORTER: Court's Exhibit No. 12.

23 THE COURT: Court's Exhibit No. 12.

24 (WHEREUPON, Court's Exhibit No. 12 was marked for
25 identification and admitted into evidence.)

1 THE COURT: All right. We'll stand at ease.

2 (WHEREUPON, the proceedings were recessed at
3 approximately 1:38 p.m.)

4 THE COURT: I have another question from the jury.
5 It says, Domestic violence high and aggravated, if one
6 point is met, can you not look at domestic violence first
7 degree?

8 I think the answer to that would be -- I've got an
9 answer, but I'll let y'all -- I'll read it again. It
10 says, Domestic violence high and aggravated, if one point
11 is met -- now, I will say this. Because I don't want you
12 to -- it says if one -- they had the word "thing," but
13 somebody scratched out the word "thing" and put point --
14 is met, can you not -- then they tried to spell the word
15 "consider." And then they scratched out "consider" and
16 put the word "look." So that's what it say.

17 I want to be clear. So it says, Domestic violence
18 high and aggravated, if one point is met, can you not look
19 at domestic violence first degree? That was the question.

20 MR. POLSINELLO: I would interpret that as if
21 domestic violence high and aggravated -- high and
22 aggravated nature has been met, can you, also, find him
23 guilty of domestic violence first degree? That's what it
24 sounds like.

25 THE COURT: Yeah. That's what it sounds like.

1 MR. EPPES: I'll take the opposite. I would say if
2 one factor is met, can you still consider domestic
3 violence first degree? If they found one factor there,
4 they could find in both places.

5 THE COURT: So the answer is "yes" or "no"?

6 MR. EPPES: I think the answer is yes.

7 THE COURT: I think the answer is yes.

8 Are both sides in agreement?

9 Because I think what -- the way I interpret this is
10 since you've got domestic violence first degree as a
11 lesser included -- and that's what they're asking -- can
12 they consider it? I think the answer is yes.

13 MR. POLSINELLO: I would agree, Your Honor.

14 THE COURT: All right. Now, here's my question. I
15 hate to -- well, I've got to bring them out because I'm
16 going to -- what I was going to do is write on here "yes."
17 But, you know, when you send these things back in there,
18 it's hard to get them back out.

19 So I probably need to bring them back out. And I'll
20 just read the question on the record and I'll say "yes."

21 Are both sides in agreement on that?

22 MR. POLSINELLO: Yes, Your Honor.

23 THE COURT: Okay. Bring the jury out.

24 (WHEREUPON, the jury came into open court at
25 approximately 3:44 p.m.)

1 THE COURT: We've got another question from the jury
2 panel. And it says -- and I'm going to read it, it says,
3 Domestic violence high and aggravated nature, if one point
4 is met, can you not look at domestic violence first
5 degree? And I've consulted with Counsel from both sides
6 and the answer to that is yes.

7 All right. Y'all go back.

8 (WHEREUPON, the jury was excused from open court at
9 approximately 3:45 p.m.)

10 THE COURT: Okay. This will be Court's Exhibit No.
11 14, I think.

12 THE COURT REPORTER: Court's Exhibit No. 13.

13 THE COURT: Court's Exhibit No. 13?

14 THE COURT REPORTER: Yes, sir.

15 THE COURT: Anything else before we go back and --

16 MR. EPPES: Well, Judge, now, I'm concerned. Can you
17 not look -- you couldn't look -- I think it was meant
18 colloquial as, can we still look at it? But now that I've
19 heard it, it confuses me.

20 THE COURT: Well, I read it twice.

21 MR. EPPES: I know. Did you understand it to mean
22 can you still look at it?

23 THE COURT: I -- I understood it. And -- and my
24 response was that "yes" -- "yes" would be the answer. But
25 that's why I wanted to dialogue with you two lawyers to

1 make sure that you understood it the way I did. And I
2 thought I did. And I asked both of you and you said
3 "yes." And that's what we did.

4 MR. EPPES: Okay.

5 THE COURT: And I read it twice.

6 Okay. We'll stand at ease until further notice.

7 (WHEREUPON, Court's Exhibit No. 13 was marked for
8 identification and admitted into evidence.)

9 (WHEREUPON, the proceedings were recessed at
10 approximately 3:46 p.m.)

11 THE COURT: Anything before I bring the jury out?

12 MR. POLSINELLO: Nothing from the State.

13 THE COURT: All right. Bring them out. Bring the
14 jury out.

15 (WHEREUPON, the jury came into open court at
16 approximately 3:52 p.m.)

17 THE COURT: All right. Madam Clerk.

18 THE CLERK: Does the jury have a unanimous verdict?

19 (WHEREUPON, there was no verbal response.)

20 THE COURT: All right. Would you give that to the
21 bailiff.

22 THE CLERK: I'm sorry. I don't usually do that. I'm
23 sorry, sir.

24 THE COURT: All right. Madam Clerk, you can publish
25 it.

VERDICT

THE CLERK: Thank you.

Your Honor, in the case of 2016-GS-23-10112 and 10113, the State of South Carolina v. Olandio R. Workman. Number one, as to the indictment 2016-GS-23-10112, which charges the Defendant with domestic violence of a high and aggravated nature, we, the jury, find the Defendant guilty.

As to the indictment 2016-GS-23-10113, which charges the Defendant with kidnapping, we, the jury, define -- find the Defendant guilty.

As to the indictment 2016-GS-23-10113, which charges the Defendant with possession of a weapon during the commission of a violent crime, we find -- we, the jury, find the Defendant guilty. This is signed by Mr. Bouie, our Foreperson.

Ladies and gentlemen, if you agree these are the verdicts you reached in your deliberation room, would you, please, raise your right hand.

(WHEREUPON, all of the jurors raise their right hand.)

THE CLERK: I thank you.

THE COURT: All right. Anything else from either side as to polling the jury?

MR. EPPES: No, Your Honor.

1 Thank you.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, your -- your service as jurors for this -- this
4 particular case is over. I appreciate you being here
5 this week. I appreciate you exercising your service as
6 jurors.

7 As I said at the beginning, jury service is a very
8 important service. And it's up there with the right to
9 vote, and all that. So we appreciate your time.

10 I hope I tried to make this as convenient for you as
11 I possibly could. And I wanted to make sure that you were
12 comfortable during the period of time that you were up
13 here. And I made extra effort to try to do that. The --

14 Madam Clerk, it's my understanding that we've
15 completed all trials for the week?

16 THE CLERK: That's correct.

17 THE COURT: And that they will no longer be needed
18 for the rest of the week; is that correct?

19 THE CLERK: And did -- and Judy provides a workman
20 statement -- a work statement for you. And the bailiff
21 has that.

22 THE COURT: All right. So you're free to stay or you
23 can leave, or you're free to go, if you'd like to.

24 So thank you for your service.

25 And if you'll just follow the bailiff.

1 (WHEREUPON, the jury was excused from open court at
2 approximately 3:55 p.m.)

3 THE COURT: Any motions?

4 MOTIONS

5 MR. EPPES: Your Honor, I'd make a motion that you
6 act in your role as the thirteenth jury to strike the
7 verdict -- thirteenth juror to strike the verdicts.

8 THE COURT: I didn't quite hear you.

9 MR. EPPES: Huh?

10 I'd ask that you act in your role as the thirteenth
11 juror to strike the verdicts.

12 THE COURT: All right. And I'll deny that motion.

13 Anything else?

14 MR. POLSINELLO: Nothing from the State, Your Honor.

15 THE COURT: Okay. Are the parties ready for
16 sentencing?

17 MR. EPPES: Yes, sir, Your Honor.

18 THE COURT: All right. Come forward, Mr. Workman.

19 MR. EPPES: Your Honor, as I previously discussed,
20 I'm handing up a copy of Dr. Maddox's report concerning
21 Mr. Workman. It's approximately six pages.

22 THE COURT: All right. What do you want to tell me,
23 Mr. --

24 Mr. Poniselli, are you coming up, or are you going to
25 stand back there?

1 THE CLERK: He's getting the sentencing sheets.

2 THE COURT: Oh, he's getting -- okay. I'm sorry.

3 MR. POLSINELLO: Sorry, Your Honor.

4 (Pause.)

5 THE COURT: Mr. Polsinello, do you want to go ahead?

6 MR. POLSINELLO: Yes, Your Honor.

7 I know, as Your Honor's aware, the victim is here.

8 She's been with us all week. It's my understanding she
9 does not wish to speak.

10 In terms of sentencing, Your Honor, I have the
11 Defendant's criminal history, if Your Honor is inclined to
12 see it.

13 THE COURT: Go ahead and tell -- tell -- go ahead and
14 tell me about it.

15 MR. POLSINELLO: 1990, assault and battery, false
16 name, resisting arrest; 1993, assault and battery; 1997,
17 unlawful carrying of a weapon; 1998, criminal domestic
18 violence; 2001, public disorderly conduct; 2001, a CDVHAN
19 that was reduced and pled to a CDV first.

20 MR. EPPES: Your Honor, that is, actually, I believe
21 a criminal domestic -- is that the one, or is that the
22 probation revocation?

23 That's the probation revocation of the previous
24 domestic violence charge, Your Honor.

25 THE COURT: All right.

1 MR. POLSINELLO: Okay. 2002, possession of a stolen
2 vehicle; 2003, simple assault; 2011, reckless driving.
3 That's it. Your Honor.

4 THE COURT: All right. Mr. Eppes.

5 MR. EPPES: Your Honor, as you heard, from 2003
6 onward, Mr. Workman has not had a criminal record. He's,
7 as far as I know, been working and providing for his
8 family. As his wife said at one point in her statement --
9 I don't know that it was put into evidence -- they were
10 married for 13 -- 12 years and together for 13. And until
11 the last 18 months or so of that, she believed they had a
12 good family situation.

13 Mr. Workman has been diagnosed by Dr. Maddox as
14 paranoid with some schizophrenia. He takes medicine for
15 that. He has been, since I have represented him, very
16 cooperative across the board.

17 However, Dr. Maddox would tell you if she was here
18 that elements of his disease process have -- have gone on
19 in his thinking. And that was unfortunate because it led
20 him to reject some offers early on that would have had him
21 already, basically, maxed out of his sentence. He's been
22 in jail for two years.

23 He has no interest in renewing his relationship with
24 his wife. He has no interest in finding out where she is.
25 He does, you know, hope that at some point he'll be able

1 to see his children again. But he understands to do that
2 he'll have to go through the Family Court.

3 Your Honor, when you're trying to fashion a sentence
4 with a case like this, it seems to me that with an
5 individual that hasn't been in trouble really since 2003,
6 except for a reckless driving, you want to couch something
7 that incarcerates him as required and then puts him in a
8 position to show that he can behave.

9 The five-year sentence on the pistol -- the
10 possession of a pistol during a violent crime is something
11 that, unfortunately, I'm very familiar with. It is a
12 five-year day-for-day sentence, which means if he turned
13 himself in on September 24th, 2016, the earliest he can
14 get out on that is September 24th, 2021.

15 I would ask that you consider a five -- a concurrent
16 five or six-year sentence on the kidnapping. I believe --
17 well, I don't like the kidnapping charge. And I'm not
18 going to get into that. But I believe that would be
19 appropriate.

20 And I would ask that you consider hanging 10 or 20 on
21 him on the domestic violence high and aggregated --
22 aggravated. Give him five years of probation. And
23 require as part of that probation that he comply with
24 mental health treatment and mental health counseling. If
25 he spends five years doing what he's supposed to do with

1 his appropriate mental health counseling, I think he'll
2 be -- you know, if you gave him that sentence, 10 years
3 older than he is right now. He will have conformed his
4 behavior for eight or 10 years. And I guess he'd be eight
5 years older from this point because he's done two years.
6 But I'd ask you to consider that.

7 I think that one of those charges needs to be five
8 years of probation. I think that way, we'll know, once he
9 gets out, what he's doing. And he'll do what he's
10 supposed to do. He's been doing that for 15 years. And I
11 just feel like if he has his medicine right, he'll do that
12 going forward.

13 THE COURT: All right. Mr. Workman, anything you
14 want to tell me?

15 DEFENDANT WORKMAN: I just throw myself on the mercy
16 of the Court, sir.

17 THE COURT: Anything else from either side?

18 MR. POLSINELLO: One thing, Your Honor. With the
19 sheet, Your Honor should, also, have a permanent
20 restraining order that the victim would like as a
21 definite [phonetic].

22 Also is that order, Your Honor, directing any
23 potential redaction of the victim's current address,
24 whereabouts. That order should be with the paperwork.

25 THE COURT: Right. I've got that.

1 Anything else?

2 MR. EPPES: No, sir, Judge.

3 THE COURT: How long has he been in jail day wise?

4 MR. POLSINELLO: I believe 726 days, Your Honor.

5 THE COURT: Is that about right, Mr. Eppes?

6 MR. EPPES: Yes, sir. That's going to be about right
7 because it was the 24th of September. And we're right
8 under 730 days. Although 2016 was a leap year. So I
9 guess that would have been before he went in to jail.

10 SENTENCING

11 THE COURT: All right. On indictment
12 2016-GS-23-10113, State v. Olandio R. Workman, charged
13 with the offense of kidnapping, the sentence of the Court
14 is that you be confined to the South Carolina Department
15 of Corrections for a period of 15 years. 726 days of jail
16 time credit is given.

17 On indictment 2016-GS-23-10112, State v. Olandio R.
18 Workman, charged with domestic violence of a high and
19 aggravated nature, the sentence of the Court is that you
20 be sentenced to the South Carolina Department of
21 Corrections for a period of 12 years. That sentence is to
22 run concurrent with the previous sentence. 726 days of
23 jail time credit is given.

24 On indictment 2016-GS-23-10113, the State v. Olandio
25 R. Workman, charged with possession of a weapon during a

1 violent crime, the sentence of the Court is that you be
2 confined to the South Carolina Department of Corrections
3 for a period of five years. That sentence is to run
4 concurrent with the previous sentence. 726 days of jail
5 time credit is given.

6 Good luck to you, sir.

7 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

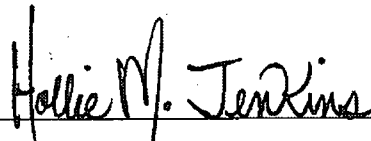
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 17th, 18th, 19th, and 20th days of September, 2018.

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

March 25, 2019

A handwritten signature in cursive script that reads "Hollie M. Jenkins". The signature is written in dark ink and is positioned above a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

WITNESSES

Robert Joseph Perry

Greenville County Sheriffs Office

9/24/2016

ARREST WARRANT NUMBER
2016A2330208655

ACTION OF GRAND JURY

TRUE BILL

Foreperson ~~FOREMAN~~ GRAND JURY

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-23-
DFP

010112

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February

TERM 2016

THE STATE

vs.

OLANDIO R WORKMAN

Indictment for

3814

DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § 16-25-0065

ENTERED
ACCT.

RECEIVED

NOV 10 2016

Clerk of Court
Greenville County

563

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

INDICTMENT FOR
DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED
NATURE

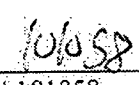
At a Court of General Sessions, convened on **FEB 21 2017** the Grand Jurors of Greenville

County present upon their oath:

That OLANDIO R WORKMAN did in Greenville County, between the 27th day of August 2016, and the 29th day of August 2016, did unlawfully cause physical harm or injury to LORETTA WORKMAN, a household member or did unlawfully offer or attempt to cause physical harm or injury to LORETTA WORKMAN, a household member, with apparent present ability under circumstances reasonably creating fear of imminent peril and OLANDIO R WORKMAN committed the offense with or without an accompanying battery and under circumstances manifesting extreme indifference to the value of human life, and would reasonably cause a person to fear imminent great bodily injury or death. This is in violation of § 16-25-0065 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR


BAR # 101058

WITNESSES

Robert Joseph Perry

Greenville County Sheriffs Office

9/24/2016

ARREST WARRANT NUMBER

2016A2330208657 and 2016A2330208658

ACTION OF GRAND JURY

TRUE BILL

Foreperson of GRAND JURY

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-23-

DFP

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February

TERM 2016

THE STATE

vs.

OLANDIO R WORKMAN

0095 and 0549 Indictment for

KIDNAPPING
and
POSSESSION OF A WEAPON DURING THE
COMMISSION

VIOLATION § 16-3A-10 and § 16-23-0490

RECEIVED

NOV 10 2016

Clerk of Court
Greenville County

ENTERED
ACCT. LEH

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
KIDNAPPING and POSSESSION OF A WEAPON DURING THE
COMMISSION

At a Court of General Sessions, convened on

FEB 21 2017

the Grand Jurors of Greenville

County present upon their oath:

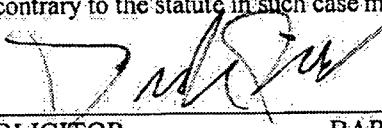
COUNT I - KIDNAPPING

That OLANDIO R WORKMAN did in Greenville County, between the 27th day of August 2016, and the 29th day of August 2016, unlawfully seize, abduct, confine, inveigle, decoy or carry away LORETTA WORKMAN, without the authority of law. This is in violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That OLANDIO R WORKMAN did in Greenville County, between the 27th day of August 2016, and the 29th day of August 2016, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: KIDNAPPING. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

10/058
BAR # 101058

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Olandio R Workman

AKA:

Race: BLACK Sex: M Age: 46

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Piedmont, SC 29673

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: Domestic / Domestic Violence Of A High And Aggravated Nature

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS2310112

A/W#: 2016A2330208655

Date of Offense: 8/27/2016

S.C. Code §: 16-25-0065

CDR Code #: 3814

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-25-0065 of the S.C. Code of Laws, bearing CDR Code # 3814

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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: Derek P. Polinello 101058 SC Bar# Defendant EPPES, FRANK L. 07839 SC Bar#
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 12 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:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOP.☐ 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 PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

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

Court Reporter: J. [REDACTED]

SCCA/217 (04/2018)

Presiding Judge

Judge Code: 2763Sentence Date: 9-20-18

568

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Olandio R Workman

AKA:

Race: BLACK Sex: M Age: 46

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Piedmont, SC 29673

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: Kidnapping (gs)

IN THE COURT OF GENERAL SESSIONS

0-3092

INDICTMENT/CASE#: 2016GS2310113

A/W#: 2016A2330208657

Date of Offense: 8/27/2016

S.C. Code § 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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] 101058 Defendant EPPES, FRANK L. 07839
Polishello, Derek SC Bar# Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 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: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ 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 PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

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

Court Reporter: [Signature]

SCCA/217 (04/2018)

Presiding Judge

Judge

Sentence

☐ 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

Judge

Sentence

2763

9-20-18

ENTERED

ACCT. 127

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
 STATE VS.
Olandio R Workman

AKA:

Race: BLACK Sex: M Age: 46DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Piedmont, SC 29673DL#: [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: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or deathin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code #: 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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] 101058Polsine, Derek

SC Bar#

Defendant

EPPES, FRANK L.
Attorney for Defendant

07839

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 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: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOD.☐ 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 PTUP 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

\$ 128.75Clerk of Court/ Deputy Clerk Paul B. WickmanCourt Reporter: [Signature]

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS2310113A/W#: 2016A2330208658Date of Offense: 8/27/2016S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSWeapons / Possession of weapon during violent crime, if not also sentenced to life without parole or deathin violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code #: 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

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] 101058EPPES, FRANK L.
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 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: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOD.☐ 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 PTUP 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

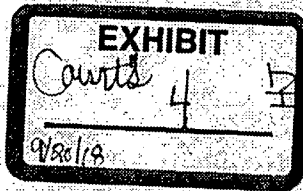
\$ 128.75Clerk of Court/ Deputy Clerk Paul B. WickmanCourt Reporter: [Signature]

SCCA/217 (04/2018)

Presiding Judge [Signature]Judge Code: 2263Sentence Date: 9-20-18

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

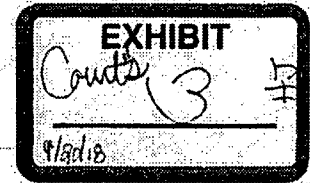
[Signature][Signature][Signature][Signature][Signature][Signature]



~~Victim~~

How did she flee
From the STATE
in what vehicle

Moss Beine

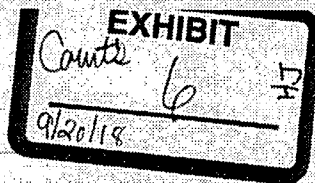


Domestic Violence of
a High And Aggravated
Nature
VS.

Domestic Violence
First Degree

"Difference"

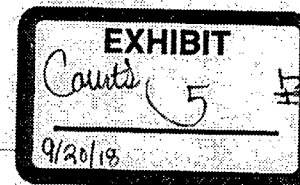
Moss Beine



Can the Judge
Read What is
Bodily harm.

Did he STATE that
fear of?

Mansoor



Can WE have
Copy of the
"Laws"

Mansoor

EXHIBIT
Cante 7
9/20/18

Explain kidnappings

Maria Ramin

EXHIBIT

Count

13

9/20/18

Domestic Violence High
and aggravated, if one
~~thing~~ point is met, can
you not ~~consider~~ look
at Domestic Violence
first Degree?

Maria Bonie

EXHIBIT

Count

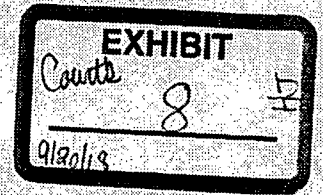
12

9/20/18

What is the
different between
Peril OR Fear of
great Bodily Injury:

Maria Bonie

DV 1st



(A) It is unlawful to:

- (1) cause physical harm or injury to a person's own household member; or**
- (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.**

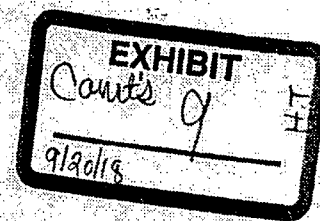
(B) Except as otherwise provided in this section, a person commits the offense of domestic violence in the first degree if the person violates the provisions of subsection (A) and:

- (1) great bodily injury to the person's own household member results or the act is accomplished by means likely to result in great bodily injury to the person's own household member;**
- (2) the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;**
- (3) has two or more prior convictions of domestic violence within ten years of the current offense;**
- (4) the person uses a firearm in any manner while violating the provisions of subsection (A); or**
- (5) in the process of committing domestic violence in the second degree one of the following also results:**

DV 1st

- (a) the offense is committed in the presence of, or while being perceived by a minor;**
- (b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;**
- (c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;**
- (d) the offense is committed by impeding the victim's breathing or air flow; or**
- (e) the offense is committed using physical force or the threatened use of force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:**
 - (i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or**
 - (ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.**

Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

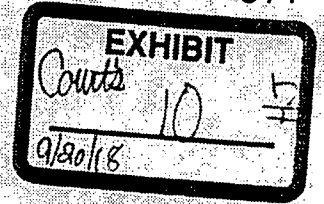


Code 1976 § 16-25-10

§ 16-25-10. Definitions.

As used in this article, the term:

“Great bodily injury” means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

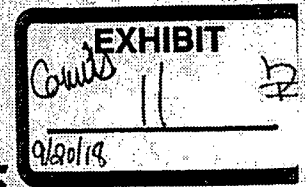


SECTION 16-3 910.

Kidnapping.

Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty

DV HAN



(A) A person who violates Section 16-25-20(A) is guilty of the offense of domestic violence of a high and aggravated nature when one of the following occurs. The person:

(1) commits the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim results;

(2) commits the offense, with or without an accompanying battery and under circumstances manifesting extreme indifference to the value of human life, and would reasonably cause a person to fear imminent great bodily injury or death; or

(3) violates a protection order and, in the process of violating the order, commits domestic violence in the first degree.

DV HAN

(D) Circumstances manifesting extreme indifference to the value of human life include, but are not limited to, the following:

(1) using a deadly weapon;

(2) knowingly and intentionally impeding the normal breathing or circulation of the blood of a household member by applying pressure to the throat or neck or by obstructing the nose or mouth of a household member and thereby causing stupor or loss of consciousness for any period of time;

(3) committing the offense in the presence of a minor;

(4) committing the offense against a person he knew, or should have known, to be pregnant;

(5) committing the offense during the commission of a robbery, burglary, kidnapping, or theft; or

(6) using physical force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

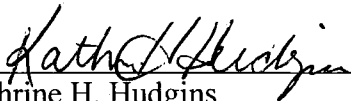
(a) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(b) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

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 28th day of January, 2020.

RECEIVED
JAN 28 2020
SC Court of Appeals