

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

Honorable Robin B. Stilwell, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL ANTHONY BREYAN,

APPELLANT.

APPELLATE CASE NO. 2019-001589

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS
2019-GS-23-01710

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

MICHAEL ANTHONY BREYAN,)
DEFENDANT.)
_____)

ORIGINAL

September 11, 2019
Greenville, South Carolina

B E F O R E:

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

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

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Assistant Solicitor

MICHAEL G. MARTINEZ, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

1 THE CLERK: Please stand and raise your right hand.
2 The correct response will be, "I will."

3 (WHEREUPON, the jury was sworn at approximately
4 10:29 a.m.)

5 THE CLERK: Thank you.

6 THE COURT: So, ladies and gentlemen, what I
7 anticipate doing is hearing opening statements from the
8 attorneys, then taking a very short break, and coming back
9 in and starting with the introduction of evidence.

10 So, Ms. Seay, you're opening statement, ma'am.

11 MS. SEAY: Thank you, Your Honor.

12 May it please the Court.

13 THE COURT: Yes, ma'am.

14 OPENING STATEMENTS

15 MS. SEAY: Mr. Martinez.

16 Mr. Fedalei.

17 Good morning, ladies and gentlemen.

18 Thank you for being here today.

19 I know that being a juror takes you away from your
20 regular responsibilities in your life, and we appreciate
21 that. We know that it's an inconvenience to everyone in
22 some way. But it is important both to the State and to
23 the Defendant that you are here today to serve as a juror
24 and to do your duty as a citizen. And we all appreciate
25 that, as the Judge has already told you.

1 My name is Bryna Seay. He has already introduced me.
2 I'm one of the prosecutors here in Greenville County. And
3 it's my job to bring this case to you and to present the
4 evidence in this case to show that the Defendant is guilty
5 beyond a reasonable doubt of the offense that has been
6 announced to you, which is threatening the life of a
7 public official. The Defendant has been indicted for that
8 offense.

9 And our legislature has passed this law that it is
10 unlawful for a person to convey a threat to inflict bodily
11 harm or to take the life of a public official or members
12 of his immediate family, and for that threat to be
13 directly related to the public official's professional
14 responsibilities as a judge. And the legislature passes
15 laws for various reasons. And that is so that we can have
16 a civilized society, so that we can have integrity and
17 decorum in our judicial system.

18 In this case, the State intends to prove to you that
19 on May 31st, 2018, as has been stated, that Michael Breyan
20 was before Magistrate O'Brien and that he threatened to
21 kill Magistrate O'Brien and his family. And the way that
22 we intend to prove that is to bring witnesses to you.
23 We'll present two witnesses in this case, the magistrate
24 and a deputy who overheard the threat.

25 Now is not the time for me to argue my position or to

1 argue the evidence. That will come at the conclusion of
2 the presentation of evidence in the case, as the Judge has
3 already explained how the case will be presented and the
4 order of things. I'll be able to come back before you
5 after all of the evidence has been presented. And I'll be
6 able to argue my position to you at that time.

7 Now is just a time for a brief introduction and to
8 tell you what we intend to present and how we intend to
9 prove this case. At the conclusion of the case, I'll be
10 back before you and I'll be asking you to find the
11 Defendant guilty of this offense, based on the evidence
12 that we have presented to you.

13 And thank you again.

14 THE COURT: Mr. Martinez.

15 MR. MARTINEZ: May it please the Court.

16 THE COURT: Yes, sir.

17 MR. MARTINEZ: Ms. Seay.

18 Good morning, ladies and gentlemen.

19 I'm Michael Martinez. I'm an attorney with the
20 Public Defender's Office here in Greenville County. And I
21 represent Michael Breyan on this charge.

22 As you've heard, he's charged with threatening the
23 life of a public official. And the legislature did pass
24 this law and they made it a very specific law. Okay. It
25 has to -- the communication has to contain a threat to

1 take the life of or inflict bodily harm on a public
2 official or immediate members of his family. It is not
3 solely for decorum or to maintain a civilized society in a
4 judicial -- in a courtroom. There are other mechanisms
5 for that.

6 You're going to hear about a lot of things that were
7 allegedly said by Michael. What you have to determine is
8 whether those words were a threat to take Judge O'Brien or
9 a member of his family's life or to inflict harm -- bodily
10 harm on them. This case is about words and what they
11 mean.

12 Now, I'm not here to tell you that everything that
13 Michael says is a nice thing to say or a wise thing to
14 say. He was profane. He was loud. He was inflammatory.
15 And he was argumentative.

16 But the State has the burden of proof in this case.
17 And they have to prove that the words that he said were a
18 threat to take Judge O'Brien's life or to inflict bodily
19 harm on him.

20 Now, you've heard the Judge talk about proof -- the
21 burden of proof in this case. And that is proof beyond a
22 reasonable doubt. It is the highest burden of proof in
23 the legal system short of absolute certainty. To meet
24 that burden, the State has to present you with evidence
25 that leaves you firmly convinced of Michael's guilt, that

1 leaves you firmly convinced that the words that he said
2 were a threat to take a life or to inflict bodily harm on
3 the public official in this case, Judge O'Brien.

4 Because the State will not be able to do that, I'm
5 going to come back at the end of this trial and ask you to
6 return a not guilty verdict.

7 Thank you.

8 THE COURT: Okay. Ladies and gentlemen, let's take a
9 very short break, just a very short break, and then come
10 back in and we'll start with the introduction of evidence.

11 Okay. Please don't discuss the case.

12 If you'd follow Mr. Hallberg, he's going to show you
13 where your jury room is.

14 (WHEREUPON, the jury was excused from open court at
15 approximately 10:36 a.m.)

16 THE COURT: Okay. So, Ms. Seay, you -- you have two
17 witnesses; is that correct, ma'am?

18 MS. SEAY: Yes. That is correct.

19 THE COURT: Okay. Fairly short, I presume?

20 MS. SEAY: I think it will be short.

21 THE COURT: Mr. Martinez, as you sit here now, do you
22 think that you intend to call any witnesses to the stand?

23 MR. MARTINEZ: The only witness I would potentially
24 call would be my client. I'm not sure yet whether he --
25 he wishes to take the stand in his defense. And -- and we

1 hear the -- the matters in terms of potential impeachable
2 convictions. And we -- we have a dispute.

3 THE COURT: Do you want to do it now?

4 MR. MARTINEZ: Whenever you'd like.

5 THE COURT: Okay. Well, let's -- let's go ahead
6 and --

7 Are they out there?

8 THE BAILIFF: They're in the hall.

9 THE COURT: Okay. We'll do that when -- when we --
10 after the close of the State's evidence. We'll do it
11 then.

12 MR. MARTINEZ: Yes, sir.

13 THE COURT: Will you bring them in?

14 (WHEREUPON, the jury came into open court at
15 approximately 10:50 a.m.)

16 THE COURT: Okay. Ms. Seay, you may call your first
17 witness, ma'am.

18 MS. SEAY: Thank you, Your Honor.

19 The State calls Magistrate O'Brien.

20 THE CLERK: Please place your left hand on the Bible
21 and raise your right hand.

22 WHEREUPON,

23 ERNEST MICHAEL PATRICK O'BRIEN, SR.,

24 after first having been duly sworn, testified as follows:

25 THE CLERK: Thank you.

1 then I'm going to let them out of jail.

2 Q Okay. How long have you been doing that?

3 A Almost 10 years.

4 Q Okay. What's your -- your training and education to
5 perform those duties?

6 A You have to have a bachelor's degree. I have a
7 Bachelor's Degree in Social Studies Education. I have
8 about half of my master's finished. That's not a
9 requirement for the job. But I have about half of my
10 master's finished. You have to be a resident voter in
11 Greenville County. And then I was appointed by Senator
12 Fair to be a judge, again, about 10 years ago.

13 Q Okay. Are you married?

14 A I am.

15 Q And do you have children?

16 A I have three children and one grandchild, and I have
17 one on the way.

18 Q Okay. Let me take you back to last May 31st in 2018.
19 Were you working on that date?

20 A I was.

21 Q Do you know what shift you were working?

22 A If it was a weekday, I would have worked second
23 shift. I work 5:00 p.m. to 1:00 a.m. on Monday through
24 Friday of that week. And then on Saturday and Sunday, I
25 do 12-hour day shifts. And I don't know which day of the

1 week that was.

2 Q Is that your normal routine?

3 A That's my normal routine.

4 Q Do you recall the Defendant, Michael Breyan, coming
5 before you?

6 A I do.

7 Q Do you see him in the courtroom today?

8 A Yes, ma'am. He's over there in the white-beige
9 shirt.

10 Q Okay. Was Mr. Breyan before you to have his bond set
11 on an unrelated charge?

12 A Yes.

13 Q Okay. Can you describe the room or the area where
14 you preside to perform your duties?

15 A The room is about from where I'm sitting -- the back
16 wall right here up to that table. From that table to this
17 table here, there's a corridor where they bring the
18 prisoners in. And there's a fence. So it's, actually, a
19 separate area from my part of the courtroom.

20 Then, of course, I would be sitting on the bench.
21 There's a door right here. There's a glassed-in area off
22 to the right that allows visitors and witnesses to come
23 into a glassed-in area separate from the prisoner area.
24 And then there's another door off to my left.

25 Q All right. And where was Mr. Breyan?

1 A He was in the area behind the fencing area where they
2 hold the prisoners.

3 Q Okay. Was there anyone with him?

4 A There was a detention center guard there.

5 Q Okay. And is that customary?

6 A Yes. They always have one or more detention center
7 guards with the prisoners when they bring them over.

8 Q Okay. Would you describe what transpired between you
9 and Mr. Breyan?

10 A The first thing that I always do whenever the
11 prisoner comes in is I read them their rights based on --
12 we -- we have what we call a check sheet of things that we
13 have to tell them, what their rights are, their rights to
14 have an attorney, their rights to have a jury trial, et
15 cetera, et cetera.

16 So I read all that to him. Then I read him what the
17 charge was. And --

18 Q Can I stop you right there?

19 A Yes.

20 Q When you give those rights, is the right to remain
21 silent among those rights?

22 A It's the very first thing I said.

23 Q Okay. Please go ahead.

24 A I tell them they have the right to remain silent. I
25 tell them they have the right to trial by jury, that they

1 have the right to an attorney. If the charges are
2 discharged, dismissed, not prosecuted, or if they're found
3 not guilty, they have the right to have their record wiped
4 clean from this so it doesn't show on their criminal
5 record ever. And I did all of those -- I did exactly what
6 I always do with everybody else.

7 Q Okay. Can you tell us what happened next?

8 A After that point, Mr. Breyan had papers with him.
9 And he started reading off of his papers. He started
10 talking about his First Amendment rights, his Fourteenth
11 Amendment rights. And I let him go for a good while.
12 Because I don't ever want anybody to say that I didn't
13 give them the opportunity to speak if they want to.

14 And I did remind him he had the right to remain
15 silent. And he chose to read off of these papers. So I
16 let that go for a good while.

17 Then, finally, I said, Okay, you've had your chance
18 to speak. Now, it's my turn to finish doing your bond
19 hearing. And at that point in time, I set his bond.

20 Q Okay. What was his response?

21 A He started cussing at me in the courtroom.

22 How detailed do you want me to get about what he
23 said?

24 Q Well --

25 THE COURT: That's entirely up to you, sir.

1 THE WITNESS: Well, I want to be -- I don't want to
2 be crude.

3 BY MS. SEAY:

4 Q I understand. But for purposes of this trial, I
5 think it's going to be important for you to say
6 specifically --

7 A Well, he told me --

8 Q -- what he said.

9 A He told me I could suck his dick. He used the "F"
10 word multiple times. He told me that -- he said I could
11 "F" him. That -- and, of course, at that point in time,
12 because he was now being disruptive in court, I cited him
13 for contempt of court for directly -- directly being in
14 contempt of court.

15 Q Okay. And did you -- did you make notes about the
16 things that he said?

17 A Yes. Whenever I give anybody contempt of court, I
18 always take extemporaneous notes. Because if I ever get
19 questioned about why I did something -- I see over a
20 thousand people a year. I'm not going to remember if I
21 don't take notes. So I took notes. I took extemporaneous
22 notes about what I -- what I did and what he said.

23 Q Okay. If I showed you your notes, would that help
24 refresh your memory about, specifically, what he said?

25 A Yes, it would.

1 MS. SEAY: Your Honor, I'm going to ask that this be
2 marked for identification.

3 THE COURT: Okay.

4 (WHEREUPON, State's Exhibit No. 1 was marked for
5 identification only.)

6 BY MS. SEAY:

7 Q Let me show you what's marked as State's Exhibit No.
8 1 for identification. Do you recognize that?

9 A Yes. These are the notes I took.

10 Q Okay. If you look at those, does that help refresh
11 your memory?

12 A Yes, it does.

13 Q Okay. And looking at those, can you tell us,
14 specifically, what the Defendant said to you?

15 A He said, Fuck you, fuck you, Judge. You don't have
16 any authority over me. Then he told me I could suck his
17 dick. And he said a few more fuck you's.

18 And then after I gave him the contempt of court, I
19 asked the officer to go ahead and take him out. And
20 before he ever got anywhere close to being out of the
21 courtroom, he said, I'm going to fuck you up -- I'm sorry,
22 excuse me, I'm going to fuck you up, you and your family.
23 And that's a direct quote.

24 Q Okay. Did you consider that a threat?

25 A I did.

1 Q And at that point, was he taken out of the courtroom?

2 A At that point -- he was still there at that point in
3 time when the deputy who was standing right outside the
4 door -- and the door was open part way. There were three
5 deputies out there. But one of them had walked into the
6 courtroom and overheard all of this, and saw him. And
7 then at that point in time, he was taken out.

8 Q Okay. And did you have any further contact with the
9 Defendant?

10 A No.

11 MS. SEAY: Okay. Thank you.

12 Please answer any questions that Mr. Martinez may
13 have for you.

14 CROSS-EXAMINATION

15 BY MR. MARTINEZ:

16 Q Good morning, Judge O'Brien.

17 A Good morning, sir.

18 Q How are you doing?

19 A I'm good.

20 Q So you probably handle dozens, if not hundreds, of
21 bond hearings a day when you're working?

22 A Well, not a day. I'd probably do anywhere from 10 --
23 my -- my high was 55 one night.

24 Q Okay. And you talked about this a little bit
25 already. But the purpose of a bond hearing partly is to

1 advise a defendant of his charges?

2 A Yes.

3 Q Of his rights, make sure they understand what they're
4 charged with?

5 A Yes.

6 Q How to get an attorney?

7 A Yes.

8 Q That they have a right to an attorney?

9 A Yes.

10 Q And you might, also, hear from alleged victims?

11 A Yes.

12 Q And that's for --

13 A The victim does have the right to speak in court if
14 they want to. They don't have to, but they can.

15 Q Certainly.

16 And that's -- that's part of what you consider to
17 determine an appropriate bond?

18 A Yes.

19 Q All right. And the bond for anyone who doesn't know
20 is the amount of money that a defendant might have to pay
21 to be released pending the resolution of his charges?

22 A Yes.

23 Q And the individuals who are before you to have their
24 bond set, they're not -- they haven't been found guilty of
25 those charges yet?

1 A No. You're innocent until proven guilty.

2 Q And they're allegations at that point only?

3 A Yes.

4 Q And the majority of these hearings are fairly
5 mundane?

6 A Most of the time, yes.

7 Q And you don't determine the validity of their
8 charges?

9 A That's not my job, no.

10 Q Or whether there's sufficient evidence to convict
11 them of those charges?

12 A To convict them, no. There has to be, at least, a
13 modicum of evidence to be able to charge them in the first
14 place, to have probable cause.

15 Q Well, let's -- let's discuss the one that we're here
16 about today. That was on May 31st, 2018; correct?

17 A Yes.

18 Q It started out pretty normally?

19 A Yes.

20 Q You informed him of his rights?

21 A Yes.

22 Q That he had the right to remain silent?

23 A Yeah. I -- I can tell you exactly what I say because
24 I say it the same way every time, if you want me to read
25 it off.

1 Q No. That's okay.

2 After you -- you went through all that, he asked if
3 he could speak?

4 A Yes.

5 Q All right. And he -- he started quoting a lot of
6 legal jargon; right?

7 A Yes.

8 Q He talked about his First Amendment rights, his Fifth
9 Amendment rights, his Fourteenth Amendment rights?

10 A Yes.

11 Q How he believes that his charge is Unconstitutional?

12 A I believe the words he used was that I didn't have
13 any jurisdiction over him.

14 Q Okay. But, of course, that -- you don't have the --
15 it's not --

16 A I didn't have -- I didn't have any authority over
17 him.

18 Q It's not your role to determine the Constitutionality
19 of his charge?

20 A Well, it is to a point when I -- if the warrant -- if
21 I'm doing the warrant, yes.

22 Q But as a bond --

23 A But not in -- but not in bond court, no.

24 Q And so you informed him that that's something that
25 you don't decide?

1 A I'm sure I probably did if he asked me that question,
2 yes. I -- I always tell people it's -- it's not my job to
3 decide whether you're innocent or guilty. That's --
4 that's -- that's for the jury to decide.

5 Q And that's about the time that he became agitated?

6 A Yes.

7 Q And, as you said, he used some profanity towards you?

8 A Yes.

9 Q It was heated?

10 A He was heated.

11 Q He was heated?

12 A Yes.

13 Q Contentious?

14 A Yes.

15 Q Yelling?

16 A (There was no verbal response.)

17 Q He -- and, as you testified, he said, I'm going to
18 "F" you up, you and your family --

19 A Yes.

20 Q -- right?

21 And you -- you made some notes on this case; right?

22 A Yes.

23 Q You didn't write that he said, I'm going to get a gun
24 and shot you; right?

25 A No. He did not say that.

1 Q Or I'm going to beat you up?

2 A Well, I consider if he's going to fuck me up, that's
3 pretty much similar as being beat --

4 Q But he didn't say those words?

5 A No. He did not say beat me up, no.

6 Q He didn't say, I'm going to come break your legs when
7 I get out?

8 A No.

9 Q Or I'm going to stab you?

10 A No.

11 Q Or I'm going to set a bomb at your house?

12 A No.

13 Q Or in your car?

14 A No.

15 Q He was pretty adamant that you had no authority over
16 him?

17 A That's correct.

18 Q And that you were violating the Constitution?

19 A That would be my impression of what he was thinking,
20 yes.

21 Q At least, his Constitutional rights?

22 A Yes.

23 Q And he said that he was coming for your place as a
24 Judge, did he not?

25 A I'm sorry. What now?

1 Q That he was coming for your place as a judge. That
2 he was going to try to get you removed as a judge?

3 A I don't recall whether he said that or not.

4 Q You don't recall that.

5 Did he tell you that he wanted everything that you
6 owned?

7 A I don't recall him saying that either.

8 Q You don't recall that.

9 Did a deputy interview you about this incident?

10 A The deputy was there when it happened.

11 Q Did he take any kind of formal statement from you?

12 A He took a verbal statement. I don't know if he -- I
13 don't remember if he took a written statement or not.

14 Q Okay. That's something --

15 A But he witnessed -- he witnessed it. So I don't know
16 whether -- again, I don't remember whether I wrote a
17 written statement or not.

18 Q Okay. That's frequently what they would do is write
19 some sort of -- have a victim write a written statement?

20 A Not always. I mean, I've had cases where the officer
21 witnessed the incident. Therefore -- therefore, he did
22 not get a written statement. I've had that happen before.

23 Q Okay. Bond hearings are recorded, aren't they?

24 A They are.

25 Q Who does the recordings?

1 A It's done by a machine right behind me. I just push
2 a button and it turns it on.

3 Q And it's maintained by Greenville County?

4 A Yeah, for a period of, I think, 30 days.

5 Q Okay. You don't have that recording with you, do
6 you?

7 A No, I do not.

8 Q Did you listen --

9 A I think -- if I remember correctly, something
10 happened to the recording system at some point. Every
11 once in a while, it'll glitch. And I think when they
12 asked for the recording, it had glitched and we didn't
13 have the recording.

14 Q Okay.

15 A But we're -- by technicality, we're not a court of
16 record. So the only thing we would have had would have
17 been the tapes. We don't have a court reporter.

18 Q But there is a -- the potential for recording?

19 A Yes. There is a potential.

20 Q And the officer who was present could have obtained
21 that recording; right?

22 A I would assume so, yes.

23 MR. MARTINEZ: One moment, Your Honor.

24 THE COURT: Yes, sir.

25 (Pause.)

1 BY MR. MARTINEZ:

2 Q You mentioned a detention officer was present in the
3 courtroom that day; right?

4 A Yes.

5 Q Who was that individual?

6 A I'd have to look at my notes again. I have her name
7 down, but I don't remember her name. I'd have to -- I
8 wrote it on there. I don't know what her name is.

9 Q Okay. Do you know if she gave any sort of statement?

10 A I do not, no. She's not employed by Greenville
11 County. So I -- I don't know anything about where she is,
12 or anything.

13 Q But she would have been a witness to this?

14 A Yes.

15 MR. MARTINEZ: Nothing further, Your Honor.

16 THE COURT: Any redirect?

17 MS. SEAY: Just briefly.

18 REDIRECT EXAMINATION

19 BY MS. SEAY:

20 Q Judge O'Brien, regarding the recording, we searched
21 for that, didn't we?

22 A Yes, we did.

23 Q Okay. And there was some problem that prevented us
24 from getting the recording?

25 A Yes.

1 Q Is that correct?

2 A Yes.

3 Q And the detention officer that was present in the
4 courtroom, if I show you State's Exhibit No. 1, did you
5 say you had that person's name written on there?

6 A Yes. It's written about halfway down the page.

7 It was Officer Medlin.

8 Q Okay. And do you know where she is?

9 A No. I do not know where she is. I know she does not
10 work for Greenville County any longer.

11 MS. SEAY: Okay. Thank you.

12 That's all I have.

13 MR. MARTINEZ: Nothing further, Your Honor.

14 THE COURT: Thank you, sir. I appreciate it.

15 You can step down.

16 Thank you for being here.

17 You may call your next witness, Ms. Seay.

18 MS. SEAY: The State calls Deputy Jesse Wasserman.

19 THE CLERK: Please place your left hand on the Bible
20 and raise your right hand.

21 WHEREUPON,

22 JESSE WASSERMAN,

23 after first having been duly sworn, testified as follows:

24 THE CLERK: Thank you.

25 Please take a seat.

1 And state your name for the record.

2 THE WITNESS: Good morning.

3 My name is Jesse Wasserman.

4 DIRECT EXAMINATION

5 BY MS. SEAY:

6 Q Deputy Wasserman, where are you employed?

7 A I'm employed at the Greenville County Sheriff's
8 Office as a K9 handler. And I'm assigned to our traffic
9 interdiction unit. We do drug interdiction on Interstate
10 85.

11 Q How long have you been employed with the Greenville
12 County Sheriff's Office?

13 A 10 years.

14 Q And you just stated what your current duties are.
15 What were you doing back on May 31st, 2018?

16 A I was the same -- doing the same job, doing drug
17 interdiction on the interstate. I'm assigned to K9. And
18 we work various shifts out on the interstate trying to
19 intercept narcotics and weapons that are coming through
20 Greenville County on their way to other -- other
21 locations.

22 Q Okay. Would you briefly tell us what your training
23 and education are to do the things that you do?

24 A Certainly. I was a state trooper in Pennsylvania. I
25 went through a 27-week class -- training class to be a

1 trooper in Pennsylvania. I then moved down here and went
2 through the academy down here, which was, at the time,
3 12 weeks.

4 So I've been in law enforcement for 12 years. And
5 I've had various trainings in criminal interdiction and
6 drug interdiction, which is how I ended up at my current
7 position.

8 Q Okay. Back last May 31st, 2018, were you present
9 near bond court where Judge O'Brien works?

10 A I was. I had made a narcotics seizure on the
11 interstate. The bond court is attached to the jail. And
12 it's where we go to get warrants for people that we arrest
13 or warrants for people that we're looking for.

14 So I had made a seizure out on the interstate. And I
15 went and took the prisoner, put him in a holding cell.
16 And I went to the bond court area to utilize one of the
17 computers to type up warrants for the person that I had
18 arrested.

19 Q Okay. So when you are seeking a warrant, you have to
20 show probable cause in that warrant and present it to a
21 magistrate like Judge O'Brien in order to obtain that
22 warrant; is that correct?

23 A That's correct.

24 Q Okay. So is that what you were doing on that date?

25 A Yes. That's -- that's what I was doing. I had put

1 my prisoner in the holding cell. And I had walked to the
2 admin area where we acquire warrants. And I was in the
3 process of typing up a warrant when I heard an extremely
4 loud commotion from inside bond court.

5 Q Okay. Can you sort of describe the commotion? Do
6 you -- do you recall?

7 A Yes. I heard a male voice yelling, screaming. I
8 heard profanities being used. I -- I was kind of curious.
9 So as I was peeping my head around the corner -- Judge
10 O'Brien, typically, leaves the door cracked so that in the
11 event that he needs us or we need him, you know, we can --
12 we can access each other.

13 And as I'm peeking my head around the corner, I can
14 see a subject carrying on, using profanities, and a
15 detention guard beginning to lead him toward the door that
16 would exit that bond court area to go back to the
17 detention center, which is, you know, a couple yards walk
18 from one to the other.

19 Q Do you see that person in the courtroom today?

20 A I do. It's the gentleman over there in the white
21 shirt with the facial tattoos.

22 Q Okay. Did you hear what he said?

23 A Yes. As I was peeping my head around the corner
24 after hearing all the -- the carrying on and the
25 profanity, as I was peeping my head around the corner to

1 enter into the bond court area, I heard him say that he
2 was going to fuck the Judge up.

3 Q Okay.

4 A I apologize for my...

5 Q Did you -- did you -- did you perceive that as a
6 threat toward the Judge?

7 A I did.

8 Q Okay. What did you do as a result of hearing that?

9 A I spoke with the Judge. He -- he told me that he
10 thought that that was a direct threat against him, based
11 on his job as a judge. So I went to another judge,
12 presented that judge with a probable cause. And they
13 issued a warrant for threatening the life of a public
14 official.

15 Q Okay. So you, actually, both overheard the threat
16 and you spoke with Judge O'Brien about the incident; is
17 that correct?

18 A That's correct.

19 Q Okay. And did you record the incident in a report?

20 A I did.

21 Q Okay. And all of the -- the events that we've been
22 talking about today occurred at the detention center in
23 bond court. And that's in Greenville County; correct?

24 A It is. It's 20 McGee Street, Greenville County.

25 Q Okay. Did you have any involvement in the -- in

1 searching for the recording of the incident?

2 A I did not.

3 MS. SEAY: Okay. Please answer any questions that
4 Mr. Martinez may have for you.

5 CROSS-EXAMINATION

6 BY MR. MARTINEZ:

7 Q Good morning, Deputy Wasserman.

8 A Good morning, sir.

9 Q So I wanted to ask you some questions about the
10 layout of the bond court office versus the courtroom. Can
11 you talk a little bit about that?

12 A Certainly.

13 Q Is it -- is the office outside the courtroom or is it
14 inside the actual courtroom?

15 A The office where I was?

16 Q Yes, sir.

17 A So the office where I was is directly off of the bond
18 court area. If you can imagine if this is where Judge
19 O'Brien would be sitting having bond court, this -- the
20 narrow passageway where y'all are sitting would be where
21 the -- the Defendants are brought in from the jail. And
22 the office door that Judge O'Brien goes in out of the
23 admin office would be like right here where the steps are.

24 So I was standing on the other side of that door, I'd
25 say probably -- probably about 10 feet from the Judge just

1 on the other side of the open door.

2 Q Can you see the individuals before the Judge when --
3 when you're standing there?

4 A From the --

5 Q From where you were standing?

6 A From where I was standing?

7 Q Could you see inside the bond court?

8 A When I looked through the open door, I could.

9 Q When you looked through the open door?

10 A Yes.

11 Q Okay. And you said you've been a deputy for 10
12 years; is that right?

13 A Yes, sir.

14 Q How many calls for service do you think you respond
15 to over the course of a year?

16 A Well, as an interdiction officer, we don't respond to
17 calls for service. We're not the individuals that if you,
18 you know, call 911, we're not the ones that are going to
19 show up at your house. Our job is proactive enforcement
20 of laws -- traffic laws out on the interstate trying to
21 get, you know, narcotics and -- and weapons that are going
22 up and down 85. So I don't respond to calls for service.

23 Q How many cases are you involved in over the course of
24 a year?

25 A 50 maybe.

1 Q Okay. And the seizure that you talked about earlier,
2 that did not involve Mr. Breyan at all?

3 A Oh, no, no. That was somebody completely unrelated
4 on a traffic stop that I had made on 85. And the only
5 reason I was at bond court on May 31st was to get warrants
6 against the person that I had arrested.

7 Q When -- when you overheard this commotion in bond
8 court and you came in and talked to Judge O'Brien, did you
9 take any sort of written statement from Judge O'Brien?

10 A I didn't take a written statement, being that I was
11 there and witnessed it. I didn't feel it was necessary.
12 He heard and saw the same things that I heard. So I, at
13 that time, didn't feel that, you know, a statement was
14 necessary.

15 Q But part of -- of getting statements written down is
16 to record them contemporaneous to -- to the event; right?

17 A Yes.

18 Q And that's to make sure that it's as complete, and
19 correct, and accurate as possible?

20 A Yes.

21 Q And did you attempt to get the recording in this
22 case?

23 A I did not.

24 Q Do you recall when you wrote the report in your
25 case -- I'm sorry, wrote the report -- your report on this

1 case?

2 A Do I recall when?

3 Q Yeah.

4 A I -- I don't recall when.

5 Q Okay. Would it surprise you that it was October 16,
6 2018?

7 A It wouldn't. I recall the original charging
8 documents were attached to another report that had been
9 written prior to our computer system. So I hand -- I
10 handwrote. But I wrote on an old report writing system
11 that doesn't get saved in -- that doesn't get digitally
12 saved. When the -- when the office -- the prosecutor
13 called, they couldn't find the report. So I had to
14 re-write it because it wasn't saved digitally.

15 Q And, you know, the best case scenario for a crime is
16 to have it on video or audio recording; right?

17 A Certainly.

18 Q And, again, these bond hearings are recorded?

19 A To my knowledge.

20 Q And you did not attempt to get the recording in this
21 case?

22 A I did not.

23 MR. MARTINEZ: Thank you.

24 Nothing further.

25 THE COURT: Any redirect, ma'am?

1 MS. SEAY: Nothing further.

2 THE COURT: All right. You can step down, Officer.

3 I appreciate it.

4 Anything further from the State?

5 MS. SEAY: Nothing further.

6 THE COURT: Okay. Ladies and gentlemen, at this
7 time, I need to take up some matters of law with the
8 attorneys. We'll refine what additional evidence we may
9 have to submit in this case.

10 What I'd like for y'all to do while -- I'm going to
11 ask you to go back to your jury room. Don't discuss the
12 case. But I do want you to elect a Foreperson of the
13 jury.

14 Okay. The duties of a Foreperson are to make sure
15 that during deliberations everybody has the opportunity to
16 offer their opinion. You know, when 12 people get
17 together, you know, some people are going to be more loud
18 and ready to offer their opinion than others. Some people
19 are going to be very reluctant to say anything. They're
20 just more reserved.

21 So the Foreperson of this jury is just to make sure
22 that everybody has the opportunity to offer their opinion
23 during jury deliberations. Over and beyond that, I can't
24 tell you how to conduct jury deliberations. First of all,
25 I've never been on a jury.

1 What the State has presented today is evidence that
2 would just call for the jury to speculate about what those
3 words meant. And that is simply not enough. And I would
4 just -- I think it rises only to a mere suspicion. And I
5 would -- there's not a whole lot of case law on this.

6 But I would just cite to a few cases, In the Interest
7 of Jeremiah W., which is 361 S.C. 620. It's a 2004
8 Supreme Court case. In that case, the Defendant stated he
9 "had a gun and he was going to blow the officer's F-ing
10 head off." Obviously, a very explicit expressed threat to
11 commit violence.

12 State v. Bridges, 329 S.C. 11, 1997, it's Supreme
13 Court as well. The Defendant stated to a highway patrol
14 officer, "I'm going to get my gun. I'm going to come to
15 your home in Lake City. And I'm going to kill you."
16 Again, another expressed, explicit threat.

17 And, finally, State v. Bailey, 416 S.C. 344. It's a
18 Court of Appeals case from 2006. The Defendant in that
19 case told -- it was a public employee in that case. But
20 that he intended to shoot up the health center and kill
21 everyone in the mobile crisis. And he told the mental
22 health examiner to get away from his door or he would add
23 her to his list. Then he stated, "I'm adding you to the
24 list anyway. I'm going to kill you, too."

25 I think each of these cases demonstrate that there

1 must be a clear communication of bodily harm or death.
2 And it can't be left to the jury to speculate about the --
3 the meaning of these words. And I would just ask that
4 you take that into consideration and grant a directed
5 verdict.

6 THE COURT: Sure.

7 Thank you.

8 Position of the State?

9 MS. SEAY: Your Honor, the statute says that the
10 threat is to take the life of or to inflict bodily harm
11 upon the public official or members of his immediate
12 family if the threat is directly related to the public
13 official's professional responsibilities.

14 Clearly, the Defendant was before the Judge for a
15 bond hearing. So he was acting within his professional
16 responsibilities. And Judge O'Brien testified that the
17 Defendant said, I'm going to fuck you up, you and your
18 family. And that's, clearly, a threat. Judge O'Brien
19 perceived it as a threat.

20 And I think that, clearly, falls within the -- the
21 statute here. And we would submit that that's sufficient
22 to present to the jury.

23 THE COURT: All right. I wouldn't represent to
24 either of you that I either agree or disagree with whether
25 it's a threat or not. I think that's quintessentially a

1 jury question.

2 I think there's evidence in the record which would
3 support the State's contention that it's a threat. And
4 inasmuch as the -- that there is direct evidence of the
5 same. Under the applicable standard for directed verdict
6 looking at the motion in the light most favorable to the
7 non-moving party in determining whether there is any
8 evidence in the record from which the State -- or excuse
9 me, from which the jury could determine that the State has
10 met its burden of proof, I respectfully decline the motion
11 or deny the motion for a directed verdict.

12 MR. MARTINEZ: I understand your ruling, Your Honor.
13 If I could just add one thing --

14 THE COURT: Sure.

15 MR. MARTINEZ: -- for the record. I -- I don't
16 believe that the standard is whether it was perceived as a
17 threat or not. I believe it's the communication itself
18 has to be a threat to take someone's life or the life of a
19 public official's family or --

20 THE COURT: Well, isn't it bodily harm as well?

21 MR. MARTINEZ: Bodily harm, certainly.

22 THE COURT: Yeah.

23 MR. MARTINEZ: But I don't believe it's whether the
24 individual perceived it as a threat or not.

25 THE COURT: Okay. And I understand. In my -- the

1 question is whether -- whether I'm going to fuck you up
2 and your family, could -- could that be construed as a
3 threat to do bodily harm to somebody? I think there's
4 enough evidence in the record upon which that a jury could
5 find that it did.

6 MR. MARTINEZ: I understand, Your Honor.

7 THE COURT: And under that standard, I would deny it.

8 MR. MARTINEZ: Thank you, Your Honor.

9 THE COURT: All right. What are the -- what are the
10 charges upon -- that you would introduce or seek to
11 introduce in cross-examination for purposes of
12 impeachment?

13 MS. SEAY: Your Honor, in looking at the Defendant's
14 record, he -- he has a record going back to his juvenile
15 days. But in terms of what would be impeachable, I would
16 find that the only two offenses that would be impeachable
17 are from 2014. The first one being stalking, March 10th
18 of 2014. And intimidation of a witness, also, March 10th
19 of 2014. The first carrying up to five years, and the
20 other one carries up to 10.

21 THE COURT: All right. So, Mr. Martinez, any issues
22 with respect to those two charges?

23 MR. MARTINEZ: I would, certainly, object to him
24 being impeached with those convictions. I don't believe
25 that they fall under Rule 609 of the rules of evidence.

1 Did that seal the deal?

2 JUROR #200, ADAM SHIRLEY: Yes, sir, it did.

3 THE COURT: Okay. Good. Well, I'm glad. So you can
4 put that on your resumé that you acted as jury Foreman.
5 And I'll -- I'll attest to it. So that when you're -- in
6 the future when you're submitting your resumé to employers
7 or other postilions of responsibility and authority, you
8 can put that on there.

9 JUROR #200, ADAM SHIRLEY: Thank you, Judge.

10 It'd be an honor.

11 THE COURT: Okay. So, Mr. Martinez, do you intend to
12 put any evidence into the record, sir?

13 MR. MARTINEZ: We do, Your Honor.

14 The Defense would call Mr. Breyan to the stand,
15 please.

16 THE COURT: Okay. Mr. Breyan, come forward.

17 THE CLERK: Please place your left hand on the Bible
18 and raise your right hand.

19 WHEREUPON,

20 MICHAEL ANTHONY BREYAN,

21 after first having been duly sworn, testified as follows:

22 THE CLERK: Thank you.

23 Please take a seat.

24 And state your name for the record.

25 THE WITNESS: Michael Anthony Breyan.

DIRECT EXAMINATION

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BY MR. MARTINEZ:

Q Michael, just make sure to speak up so everyone can hear you. Okay.

A Understood.

Q How old are you, Michael?

A 30.

Q 30.

Where are you from?

A Born in New Jersey. But I live around the area of Greenville, Pelzer, Fountain Inn, Simpsonville, around the area.

Q How long have you lived in -- in the upstate?

A Since I was two.

Q Now, I'm going to direct you to what we're here for today, which is the bond hearing that you were in front of Judge O'Brien on on May 31st, 2018. Okay. Do you remember that day?

A Understood. Fairly -- fairly decent, yes, sir.

Q Okay. Do you remember being in front of Judge O'Brien?

A I do.

Q And what -- what was your issue that day about the charge you were there for?

A Just that I was protected over a pattern of words

1 that he was pretty much a fool for having me in front of
2 him for signing an illegal document that is protected by
3 the Constitution, which, also, [inaudible] of the United
4 States. That's pretty much all was my argument. I pled
5 to rule one when I walked in the door --

6 Q Okay. So --

7 A -- he put a bond on me and attempted to extort me and
8 cause obstruction of my justice.

9 Q Okay. And so did you believe that the charge was
10 Unconstitutional?

11 A Firmly from what I read and from what I comprehend
12 and what I seen --

13 Q Okay --

14 A -- from the jailhouse lawyer handbook and what they
15 taught me in the legal law library, yes, pretty much I
16 did.

17 Q What -- how did you believe Judge O'Brien was
18 violating the Constitution?

19 A Well, when he read the warrant, I asked him,
20 pacifically [sic], after he read the warrant that the
21 warrant that I was placed the bond before I caught the
22 charge was a harassment second where I was at SCDC.
23 Somebody called the phone from a restricted number, which
24 is, also, Unconstitutional and a violation of form 14,
25 which I'm going through rule eight criminal unusual

1 punishment and discrimination that I didn't do. But it
2 was a pattern of words --

3 Q Okay --

4 A -- and I, pacifically, told him that by him placing
5 this bond on me that he acted unlawfully, and illegally,
6 willfully, and willingly by attempting to extort me and
7 obstruction of our justice and break our laws, and rules,
8 and regulations in our United States in that I would do
9 what I needed to do to have him removed from my justice
10 agency.

11 And that's when he, pacifically, stated that
12 supposedly that I threatened his life because I told him
13 pretty much that he was a fool, that he acted unlawfully.
14 He caused obstruction of my justice. I free -- that I was
15 free from discrimination. The case that he was granting a
16 bond on was a pattern of words --

17 Q Okay --

18 A -- which is protected by rule one.

19 Q So did you believe that you could get him removed
20 from his position as a judge?

21 A I mean, if we talk about law, as the pledge of
22 allegiance says, with liberty and justice for all. That's
23 all.

24 Q Okay. Did you believe that you could sue him
25 financially?

1 A Of course. Because it's so proved clearly on
2 videotape, bond court, and, actually, by his consent that
3 he attempted to charge me for something that is protected
4 by rule one, freedom of speech. Freedom of speech -- the
5 speech is protected by the first Constitution. It not
6 only applies and pertains to words that you and I say, but
7 other ways that we express our identities and our views.

8 So, therefore, if this is a form of expression, it's
9 a pattern of words, it's overruled by rule one, dismissed,
10 period.

11 Q Okay --

12 A Why would he place a bond for a case if he's working
13 in the matter of the justice department and the justice
14 agency and facility?

15 Q But when you -- when you got upset with him that
16 day --

17 A Understood.

18 Q -- were you upset and -- about him violating your
19 Constitutional rights, as you believed?

20 A That and a little bit of more of that. I was priorly
21 given a five-year sentence for a case that I served 75
22 months when you're only supposed to serve 30 months on a
23 five year non-violent [inaudible]. I served 75 months --

24 Q Okay --

25 A -- day for day under illegal case. And my conviction

1 was obtained by --

2 Q All right. Let's -- let's go back. Let's -- let's
3 circle back to the bond hearing that you were there for.
4 Okay. When you -- the judge testified that you said, I'm
5 going to "F" you up, you and your family. When you said
6 that, did you mean it financially and professionally?

7 A Well, really, preferably, to be honest with you, I
8 don't even remember saying, actually, them -- those of --
9 them term of words. He asked me willfully and willingly
10 if him and his family's financial areas or et cetera.

11 Because I, pacifically, told him on the tape that by
12 him violating a federal right, giving a deliberation, I
13 will have him removed from the justice department as a
14 matter of law. Because it is tolerant by withholding the
15 criteria in our criminal justice agency and that I would
16 do what I have to do to take everything that he owns.

17 So if we act accordingly and accountable and I am
18 given liberty and justice upon is served criminal
19 indictments for attempted extortion because I have been
20 held illegally, unlawfully. The bond was in violation of
21 the Constitution. There's three types of laws in our
22 criminal justice system. There's criminal, federal, and
23 Constitution. Constitution are our supreme laws in the
24 United States.

25 So the case is in violation of them. So I am to be

1 granted what I want and what I request from the Government
2 agency as a matter of law. Sorry they attempted to come
3 at me illegally, unlawfully. They should have acted as a
4 matter of justice. That's all I can say.

5 But I didn't -- to answer your question, I don't,
6 actually, remember threatening his life. I don't believe
7 I, actually, said a threat towards him. I, pacifically,
8 corrected him in a criticizable way for his foolishness
9 and his foolishness acts. Because of the fact that he
10 judged me nine times out of 10 for my cover or the way
11 that I reveal myself. And I came into the courtroom
12 because I corrected him in error. He acted in his
13 feelings and emotions, which is [inaudible] and
14 intolerable. Because he took it as humiliation that I was
15 telling him how to do his job. And that's not my place.
16 He should have acted accordingly and accountable. And
17 we --

18 Q Okay.

19 A -- should not be right here, but we are here.

20 Q But you -- what you were telling the Judge, was that
21 related to financial -- his finances and his professional
22 status as a judge?

23 A Well, I mean, I've been incarcerated since I was 21.
24 I'm 30 years old. I've been -- actually, the State has
25 continued to harass me and place Unconstitutional charges

1 on me. I've been harmed in an educational way. I've been
2 harmed in a financial way, which is, actually, other
3 things in a civil matter, which will be dealt with
4 accordingly and accountable per White House and the actual
5 federal in -- excuse me, in Vermont and Virginia, which
6 I'm in that courtroom now regarding --

7 Q Okay --

8 A -- this whole case.

9 Q I understand.

10 A Because as soon as I came through the door after I
11 spoke with you the first time, I immediately wrote to the
12 federal courts and asked for a habeas corpus package from
13 Washington DC for the illegal confinement. I filled out
14 the package -- granted immediate release in which this
15 actual individual has had a former case where an
16 individuals is --

17 Q Sir, sir.

18 A -- or was --

19 Q We can't -- we can't -- I understand.

20 A Understood.

21 MR. MARTINEZ: One moment, Your Honor.

22 THE COURT: Yes, sir.

23 (Pause.)

24 BY MR. MARTINEZ:

25 Q Did you ever intend to hurt Judge O'Brien in a -- or

1 his family in a physical way?

2 A No. I just, pacifically, spoke a form of expression
3 of, actually, criticizing him. I was irritated that I was
4 in front of a fool at the time that, actually, would
5 dispose foolable [phonetic] ways when his placement and
6 criteria carries a lot more of him as a man and as a man
7 of justice. That's all.

8 MR. MARTINEZ: Nothing further, Your Honor.

9 THE COURT: Okay. Cross-examination, ma'am.

10 MS. SEAY: I don't have anything, Your Honor.

11 THE COURT: Okay. Thank you.

12 All right. Mr. Breyan, thank you. Thank you for
13 being here.

14 You can step back down, sir.

15 THE WITNESS: Yes, sir.

16 THE COURT: I appreciate it.

17 Okay. Anything else from the Defense?

18 MR. MARTINEZ: No, Your Honor.

19 THE COURT: Anything in reply from the State?

20 MS. SEAY: Nothing from the State.

21 THE COURT: Okay. Ladies and gentlemen, it's about
22 10 till 12:00. We're going to take a break for lunch. I
23 considered going straight through. But the problem in
24 that is that I -- it's too late for me to order you lunch.
25 If we were going to go straight through and y'all were

1 Okay. So y'all have a good lunch. Please don't
2 discuss the case. And I'll see you back here at 1:30.

3 Thank you very much. I appreciate it.

4 (WHEREUPON, the jury was excused from open court at
5 approximately 12:01 p.m.)

6 THE COURT: Okay. Any additional motions from the
7 Defense or the State?

8 MR. MARTINEZ: Your Honor, I would just renew my
9 directed verdict motion.

10 THE COURT: Okay. And you're protected on the record
11 in that regard. And the original ruling stands.

12 Anything from the State?

13 MS. SEAY: Nothing from the State.

14 THE COURT: Okay. 1:30, ladies and gentlemen. We'll
15 see you back then.

16 (WHEREUPON, a lunch break was taken.)

17 THE COURT: Okay. So order of argument is State,
18 Defense, reply from State.

19 The -- my clerk is bringing the verdict form. But
20 it's a very simple verdict form, which just has not guilty
21 and guilty.

22 MR. MARTINEZ: Yes, sir.

23 THE COURT: All right. So --

24 MR. MARTINEZ: In terms -- just for the record. In
25 terms of closing argument order, I would just ask that the

1 will then have the opportunity to argue. And then the
2 State will have the opportunity very briefly to reply.
3 All of that should take about 30 minutes, maybe a little
4 bit less. And then I'll give you the closing argument --
5 or, excuse me, the closing charge on the law.

6 So let's go ahead and get started.

7 Ms. Seay, your argument, ma'am.

8 MS. SEAY: Thank you, Your Honor.

9 May it please the Court.

10 THE COURT: Yes, ma'am.

11 CLOSING ARGUMENTS

12 MS. SEAY: Mr. Martinez.

13 Mr. Fedalei.

14 Good afternoon, Mr. Foreman, and, ladies and
15 gentlemen of the jury.

16 This is my opportunity to come before you again as we
17 talked about when we had opening statements that we would
18 be able to come back before you after the presentation of
19 the evidence to argue our positions. And this is my
20 opportunity to give you the State's position on what has
21 been presented, and to tell you why I believe that the
22 State has proved our case.

23 Now, in terms of the law in this case, our
24 legislature has enacted this law that says that it's
25 unlawful for a person to convey a threat to inflict bodily

1 harm or to take the life of a public official or members
2 of his immediate family, and to make that threat directly
3 related to the professional responsibilities of that
4 magistrate judge.

5 So you have heard the testimony in this case from
6 Judge O'Brien, that he was in the performance of his
7 professional responsibilities as a bond court judge down
8 at the law enforcement center. He was in the process of
9 setting a bond for the Defendant on an unrelated charge
10 when this incident took place.

11 You heard what he told you about his interaction with
12 the Defendant when this happened. He told you that the
13 Defendant -- he told you that he gave the Defendant some
14 instructions that he gives to every defendant who comes
15 before him for a bond. One of those rights that he gave
16 the Defendant was he instructed him that he had the right
17 to remain silent. The Defendant chose not to do so,
18 knowing that the things that he said could be used against
19 him.

20 And Judge O'Brien said that he made notes when the
21 Defendant began using profanity and things that resulted
22 in him being held in contempt of court for using
23 profanity. He said that he allowed the Defendant to talk
24 because he wanted to give him an opportunity to speak. He
25 said he always gives people an opportunity to speak.

1 And then he started off by talking about the First,
2 Fourteenth Amendment, and some things off of papers that
3 he had brought into the courtroom. He said he let him
4 talk for a good while before he cut him off.

5 And he said that he was agitated and hostile. And
6 after a few minutes that -- and I'm quoting Judge O'Brien
7 here what he read from his notes that he took that day
8 that the Defendant said, Fuck you, fuck you, Judge. You
9 don't have any authority over me. Then he told him that
10 he could suck his dick and a few more fuck you's. And he
11 gave him 90 days contempt of court.

12 And so, at that point, he was having him taken from
13 the courtroom. And he said that's when the Defendant
14 said, I'm going to fuck you up, you and your family. And
15 so that is the threat at issue here. I'm going to fuck --
16 fuck you up, you and your family.

17 And Deputy Wasserman, who was in the room next door,
18 which they described the set up to you. So that room was
19 very close. Deputy Wasserman testified that he was about
20 10 feet from the Judge and that the door was cracked open.
21 So he overheard the commotion. He overheard the Defendant
22 using profanities. He overheard the threat. And he said
23 he peeked in the courtroom. And that he then went in the
24 courtroom and Judge O'Brien spoke with him about this.

25 And Deputy Wasserman, who was there on a totally

1 unrelated matter as he testified, then took this matter to
2 a different judge with his probable cause for this crime
3 of threatening a public official and obtained a warrant
4 for the Defendant for this.

5 Now, it's just -- it's very plain that it's -- the
6 law is that it's just illegal that you can't threaten a
7 Judge in the performance of his duties. He just -- he
8 doesn't have to put up with that. It's -- it's plain and
9 simple.

10 And the Defense, from what I can gather from the line
11 of questioning of the Defendant and from the Defendant's
12 testimony, may present to you some idea of -- the idea
13 of -- of freedom of speech and protected speech, words
14 that are protected and, perhaps, even that this wasn't a
15 real threat, or that he -- he intended to have him removed
16 from the bench as a judge, or that he intended to sue him.

17 The Defendant testified that he does not remember
18 making the threat. He said he just corrected his
19 foolishness and his foolish actions. And he called him a
20 fool several times. But he testified he didn't remember
21 making the threat.

22 But you heard from the two State's witnesses, Deputy
23 Wasserman and Judge O'Brien, that he made that threat,
24 Now, I'm going to fuck you up and your family. And it's
25 for you, the jury, to decide, what is a reasonable

1 interpretation of that? What do reasonable people think
2 that means? And Judge O'Brien took that as a threat. And
3 I submit to you that reasonable people take that as a
4 threat to do something bad to you and your family.

5 So what it's going to boil down to is whether you
6 believe the State's two witnesses or whether you believe
7 what the Defendant told you.

8 And there may, also, be some suggestion that because
9 the State didn't produce a recording of this incident that
10 there should be reasonable doubt, that you can't find the
11 Defendant guilty because there's reasonable doubt because
12 there's no recording in this case. Well, it would be nice
13 if we had a recording or a video of every crime that
14 occurs, but we do not. And for years and years, people
15 have been convicted in courts of law without videos and
16 without recordings. And there is no audio recording of
17 this.

18 And you heard the testimony that there was a glitch
19 in the system, that it only records for 30 days, and that
20 we were unable to obtain a recording of this. But you
21 heard from the witnesses who told you they heard the
22 threat.

23 And at the end of the day, you either believe them or
24 you believe the Defendant. And I submit to you that those
25 witnesses are credible witnesses who would not put their

1 careers on the line to come here and -- and testify to
2 complete fabrications.

3 And I submit to you that the State has given you
4 evidence that is proof beyond a reasonable doubt that the
5 Defendant conveyed his threat to the Judge. And I'm
6 asking you to find him guilty.

7 Thank you.

8 MR. MARTINEZ: May it please the Court.

9 THE COURT: Yes, sir.

10 MR. MARTINEZ: Ms. Seay.

11 Good afternoon, ladies and gentlemen.

12 As I said earlier, this case is about words and what
13 they mean. This crime is very specific. It has to
14 contain a threat to take the life of or to inflict bodily
15 harm on a public official or a member of his immediate
16 family.

17 Your job today is to determine the words that were
18 said and what they meant. It's up to you to determine
19 whether those words were a threat to take Judge O'Brien's
20 life, or the life of his family members, or to inflict
21 bodily harm on them. The State has failed to do that
22 today.

23 I want to start off by talking a little bit about my
24 client, Michael's testimony. Michael is, obviously, a
25 very animated person. And he has a lot beliefs about the

1 law and about Constitutional rights. And he believes
2 those passionately. Your job today is not to determine
3 whether those beliefs are valid or not. I'm not
4 suggesting that they are.

5 But you heard him talk about how he got upset that
6 day, how he felt that Judge O'Brien was violating his
7 Constitutional rights, how he felt that he didn't have
8 authority over him. Again, it's not your job to determine
9 whether that is true or not. You have to understand the
10 context in which this all happened.

11 You heard him talk about how he told Judge O'Brien
12 that he was coming for his place as a judge. He told him
13 he was violating his Constitutional rights. And he told
14 him how he was going to take his money and everything he
15 owned. In the moment, Michael believed that. And he felt
16 it passionately. Words have to be given meaning in their
17 broader context.

18 What Judge O'Brien testified about, what Deputy
19 Wasserman testified about, the basis for this charge today
20 are the words, I'm going to "F" you up, you and your
21 family. I'm not here to tell you that those are nice
22 words. I'm not here to say that those are words that I'd
23 want to hear directed at me. I understand that. But that
24 doesn't mean there was a threat to take Judge O'Brien's
25 life. It doesn't mean it's a threat to take the life of a

1 family member or to inflict bodily harm on them. It may
2 be a financial threat. It may be a professional threat.

3 But the State wants you to speculate about what the
4 words meant, that the words were a physical threat. And
5 they want you to speculate because they don't have other
6 evidence to bring you.

7 The recording we talked about a little bit. There
8 was a recording. It's true that not every crime is
9 captured on video or audio recording. But this alleged
10 crime was. And they have the ability to get that
11 recording immediately to preserve that evidence and they
12 failed to do so.

13 Michael was absolutely profane. He was absolutely
14 inflammatory. But it's not enough that you don't like
15 what he said. It's not enough that you would be bothered
16 by what he said. You have to be firmly convinced of his
17 guilt and firmly convinced that the words that he said
18 were a threat related to causing physical harm to a public
19 official or members of his family.

20 Now, my client, also, testified about what he
21 believes the right to a freedom of speech entails. I'm
22 not here to talk about freedom of speech. What I'm here
23 to talk about is this crime is very specific. It is not
24 any sort of criticism against a public official. It is
25 directly about physical harm towards that public official

1 or members of his family.

2 Let's talk a little bit about what Judge O'Brien
3 testified about. You heard Judge O'Brien testify that
4 Michael didn't say, I'm going to get a gun and kill you.
5 He didn't say, I'm going to break your legs. He didn't
6 say, I'm going to set a bomb at your house or in your car.
7 Those are expressed, explicit threats to do violence.
8 That's not what we have here. What we have are words that
9 were said, and the State is asking you to speculate about
10 them.

11 The State has the burden of proof beyond a reasonable
12 doubt in this case. And what that means is it's proof
13 that you are firmly convinced of his guilt. If you need
14 to fill the gap that the State's lack of evidence has
15 left, then you have reasonable doubt. If you are left to
16 speculate about what was meant, you have reasonable doubt.

17 And the best analogy that I've heard that describes
18 reasonable doubt comes from college football replay. Now,
19 football season just started. And I know not everyone
20 here might watch football, so I'll try to explain it the
21 best I can. Let's say you see a fumble happen on a play.
22 The referees rule a fumble immediately. Their job then is
23 to look at the replay and determine whether that is a
24 fumble or whether it should be overturned. To overturn
25 it, they need irrefutable evidence that the call on the

1 field was wrong, that it was not a fumble.

2 Now, it might be close. You might think looking at
3 it, oh, the player was down before the ball came out. But
4 if you -- if there's not irrefutable evidence, then the
5 call stands.

6 Well, the call on the field here is Michael is
7 presumed innocent. And you have the same job today. You
8 have to decide whether the State has presented you
9 irrefutable evidence to overturn Michael's presumption of
10 innocence.

11 Because the State has failed to do that today, the
12 verdict that you should render is not guilty. So I ask
13 you to go back into the deliberation room in a few minutes
14 to discuss this case and return a not guilty verdict.

15 Thank you.

16 THE COURT: Would you like to reply?

17 MS. SEAY: No reply from the State.

18 CHARGE ON THE LAW

19 THE COURT: All right. Ladies and gentlemen, I'm
20 going to get a little closer to you.

21 When we started the case, I told you that you had
22 certain roles and functions to perform, and that I have
23 certain roles and functions to perform. So under your
24 oath, you swore to try this case in accordance with the
25 law and the evidence that was presented. So under that

1 oath, you must accept the law as I give it to you. If you
2 come into this courtroom with any preconceived ideas or
3 notions about what the law is or about what the law should
4 be, under your oath, you must disregard that and you
5 accept the law as I give it to you this afternoon.

6 Now, as we started this case, I told you that the
7 Defendant is presumed innocent until 12 deliberating
8 jurors determine that the State has met its proof of
9 proving each and every element of the offense beyond a
10 reasonable doubt. So as we sit here, even at this late
11 stage in the proceedings, the Defendant retains that
12 presumption of innocence. And if you'll imagine that he's
13 wearing a robe just like I am. And he retains that robe
14 and he wears it right now. And he'll keep it on until and
15 unless 12 deliberating jurors determine that the State has
16 met its burden of proof.

17 Now, of course, the burden of proof is beyond a
18 reasonable doubt. And you've heard that bandied around
19 here. You've probably heard it in -- just kind of in
20 popular culture in your everyday lives. But there are
21 different burdens of proof in court.

22 In most civil cases, you've got a burden of proof
23 called the preponderance of the evidence, which is the
24 greater weight of the evidence, greater than 50 -- 50
25 percent more likely than not. In some civil cases, you

1 have clear and convincing evidence, which is just that it
2 must be clear and convincing. You have that in cases like
3 fraud. And if somebody's asking for punitive damages in a
4 civil case, you may have clear and convincing evidence.

5 But in each and every case that comes before the
6 Court in a criminal proceeding, the government's proof is
7 beyond a reasonable doubt. And proof beyond a reasonable
8 doubt is proof which firmly convinces you of the
9 Defendant's guilt.

10 Now, there's nothing on the face of the earth that
11 can be proven beyond any possible doubt. And the law
12 doesn't require that the State prove its case beyond any
13 possible doubt. However, if after your review of the
14 evidence, you're firmly convinced of the Defendant's
15 guilt, then, under your oath, you would find the Defendant
16 guilty. However, if after your review of the evidence,
17 you find that there is a real possibility that the
18 Defendant is not guilty, then, under your oath, you would
19 find the Defendant not guilty.

20 Now, you'll make this determination, again, by
21 looking at the evidence and determining what the facts
22 are. You have the sole and exclusive authority to
23 determine what the facts are in this case. Regardless of
24 what anybody else in this courtroom may see -- may say,
25 you have the sole and exclusive authority to determine

1 what the facts are. And you do that by weighing and
2 judging the evidence, deciding what's important and what's
3 not.

4 An important part of that is determining who to
5 believe and who not to believe. So you're going to be
6 judging the credibility of the witnesses just like you do
7 every single day in your common lives. You bring certain
8 intuitive common sense skills to the courtroom.

9 And you know that every day you're judging people's
10 credibility when you watch the news at night, or when you
11 talk to your neighbors, you talk to people in your office.
12 You know that when you're talking to them, you're --
13 you're listening to them. You hear what they have to say.
14 You hear how they say it. You're looking at their facial
15 expressions. You're looking at their body language.
16 You're determining whether they have something to gain or
17 something to lose as a consequence of what they're telling
18 you. And from that, you determine whether to believe them
19 or whether not to believe them. You'll do the same thing
20 in court. You'll look at the testimony of the witnesses
21 and decide who to believe and who not to believe.

22 Now, understand that you can believe everything that
23 someone says or you can believe nothing that someone says.
24 You can take part of it and believe it and give it great
25 weight, discount the rest, or you can consider it with

1 whatever -- in whatever form or fashion you think is
2 appropriate in your determination.

3 Now, also, in any case that comes before -- comes
4 before the Court, evidence is going to take one or two
5 forms. It's either going to be direct or circumstantial.
6 You may have heard direct and circumstantial before maybe
7 on TV or in some other settings. But the evidence is
8 going to be one of the two. And the law doesn't refer --
9 prefer one or the other.

10 And direct evidence is evidence which immediately
11 establishes a fact to be proven. Circumstantial evidence
12 is proof of collateral facts or a chain of facts that when
13 taken together prove a main fact to be proven. And that's
14 a pretty simple definition. But I always find it's a
15 little bit easier to give you an example of it because I
16 find that that kind helps you to conceptualize it a little
17 bit better.

18 Let's say that one January evening you're going to
19 bed and you walk past your front window, your front door
20 and you look out your front door and you see there's no
21 precipitation on the ground at all. That very next
22 morning, you wake up, you look out that same door or
23 window and you see that there's a blanket of snow on the
24 ground. And in that snow, you see there are footsteps
25 which lead to your door and then lead away. Well, under

1 that set of circumstances, you know that you've got direct
2 evidence that it snowed last night because it's
3 immediately established through the presence of the snow.
4 But you've got circumstantial evidence that at some time
5 that night or early that morning, somebody walked to your
6 door and walked away.

7 Now, you can't see that person. You can't touch
8 them. You can't have a conversation with them. But you
9 know because of the presence of the footsteps in the snow
10 and the timing of that snowfall that somebody must have
11 walked to your door -- to your door and walked away.
12 That's circumstantial evidence.

13 Now, again, the law doesn't prefer direct evidence
14 over circumstantial evidence, or circumstantial evidence
15 over direct evidence. You decide what weight it has,
16 regardless -- regardless of whether it's characterized as
17 direct or circumstantial evidence.

18 Just know that to the extent that the State relies
19 upon circumstantial evidence, all of those circumstances
20 when taken together must point conclusively to the guilt
21 of the accused, and must not simply establish a suspicion.

22 Ladies and gentlemen, you heard some testimony that
23 witnesses and -- the Defendant, perhaps, has a prior
24 record. Understand that you cannot consider the fact that
25 he may have a prior record to determine whether he is more

1 likely or not to have committed this alleged crime. It
2 can only be considered for the purposes of impeachment,
3 that is credibility. You can consider it only to
4 determine whether -- whether he is more or less
5 believable. And you in your analysis determine what
6 effect that has, if any.

7 So there's one charge before the Court this
8 afternoon. And that -- that charge is threatening the
9 life, person, or family of a public official.

10 Now, I'm going to read for you the law. This is
11 straight from the statutory law in the State of South
12 Carolina. And it is defined as -- as follows: It is
13 unlawful for a person knowingly and willfully to deliver
14 or convey to a public official any letter, or paper,
15 writing, print, missive, document, or electronic
16 communication, or verbal or electronic communication which
17 contains a threat to take the life of or to inflict bodily
18 harm upon the public official or members of his immediate
19 family if the threat is directly related to the public
20 official's professional responsibilities.

21 Okay. That's a long paragraph. So I'm going to read
22 it for you one more time. Okay. It is unlawful for a
23 person knowingly and willfully to deliver or convey to a
24 public official any letter, or paper, writing, print,
25 missive, document, or electronic communication or verbal

1 or electronic communication which contains a threat to
2 take the life of or to inflict bodily harm upon the public
3 official or members of his immediate family if the threat
4 is directly related to the public official's professional
5 responsibilities.

6 All right. So I'm about to send you back to your
7 jury room to begin your deliberations. But I want to show
8 you your verdict form before you go back there. I think
9 it's fairly simple. But I just wanted to make sure that
10 we had the chance to discuss it before you start looking
11 at it and before you start your deliberations. It's a
12 very simple verdict form.

13 It's just got the caption here, it says, Verdict.
14 Then it says, As to the charge of threatening the life of
15 a public official, we, the jury, unanimously find the
16 Defendant -- now, it says "unanimously." Understand your
17 that verdict must be unanimous. You must all agree on the
18 verdict. It can't be 11 to one or 10 to two. It's got to
19 be all of you.

20 Understand as well, your verdict must be based on the
21 evidence and the law that was presented in the case. It
22 can't be based on bias, prejudice, sympathy, caprice, or
23 any other factor. It must be a reasoned, deliberate
24 decision based upon the law and the evidence that was
25 presented in the case.

1 Now, so you've got two options. And don't take from
2 the order in which I've listed the two options -- because
3 I prepared this. Don't take that I'm sending you any
4 subliminal messages. I'm not. You've got two options,
5 one's going to be first and one's going to be second.
6 Okay.

7 So you've got not guilty. If you unanimously
8 determine that the State has failed to meet its burden of
9 proving each and every element of the offense beyond a
10 reasonable doubt, then, Mr. Shirley, you would either X or
11 initial beside "not guilty." It doesn't matter whether
12 you X or initial, just -- just so it's clear to me what
13 you mean.

14 Okay. If, on the other hand, you decide that the
15 State has met its burden of proof, Mr. Shirley, you would
16 simply X or initial "guilty." And then once the jury has
17 come to a unanimous verdict, then, if you would, sign and
18 then date. And let the bailiff know that you have reached
19 a unanimous decision.

20 So I'm going to send you back to the jury room.
21 Don't start deliberating quite yet, not quite yet. This
22 is the opportunity for the -- for the attorneys to do some
23 quality control. And they can correct me if I've
24 misstated something or I left something important out,
25 I'll bring you back out and I'll correct myself.

1 But if -- if I don't need to make any corrections,
2 then what I'm going to do is I'm going to send back to
3 your jury room this verdict form with the bailiff with
4 instructions to begin your deliberations.

5 I don't know -- did we -- was there -- there were no
6 other exhibits?

7 THE COURT REPORTER: No, sir.

8 THE COURT: Okay. So this is all you're going to
9 get -- okay -- and your recollections of the testimony.
10 And when you get this, you can begin your deliberations.

11 Okay. Thank you very much.

12 If you'd return to your jury room, please.

13 (WHEREUPON, the jury was excused from open court at
14 approximately 2:10 p.m.)

15 THE COURT: Okay. Exceptions to the charge from the
16 State?

17 MS. SEAY: Nothing from the State.

18 THE COURT: From the Defense?

19 MR. MARTINEZ: Nothing from the Defense, Your Honor.

20 THE COURT: All right. I'm going to send the verdict
21 form back to the jury. And I will dismiss the alternate
22 from chambers.

23 Okay. Thank you.

24 (WHEREUPON, the proceedings were recessed at
25 approximately 2:11 p.m.)

1 THE COURT: All right. I've been advised that the
2 jury has reached a unanimous verdict.

3 Is the State prepared to receive the verdict?

4 MS. SEAY: Yes, Your Honor.

5 THE COURT: And the Defense?

6 MR. MARTINEZ: Yes, Your Honor.

7 THE COURT: Okay. You can bring the jury in, please.

8 (WHEREUPON, the jury came into open court at
9 approximately 2:53 p.m.)

10 THE COURT: All right. Mr. Shirley, has the jury
11 reached a unanimous verdict, sir?

12 JUROR #200, ADAM SHIRLEY: Yes, sir, we have.

13 THE COURT: Would you pass the verdict form to the
14 bailiff, please?

15 Thank you.

16 Would you publish the verdict, please, ma'am?

17 VERDICT

18 THE CLERK: Your Honor, in the case of
19 2019-GS-23-1710, the State v. Michael Breyan, indicted for
20 threatening a life of a public official. As to the charge
21 of threatening a life of a public official, we, the jury,
22 unanimously find the Defendant guilty.

23 Ladies and gentlemen, if this is the verdict you
24 received in the -- you came to in the deliberation room,
25 please, raise your right hand.

1 and have been incarcerated since January the 30th, 2012,
2 this time.

3 SENTENCING

4 THE COURT: Okay. Thank you, Mr. Breyan.

5 The sentence of the Court is you be committed to the
6 Department of Corrections for a period of four years,
7 concurrent with whatever you may be currently serving,
8 credit for time served of 468 days.

9 I wish you luck, sir.

10 *****END OF TRANSCRIPT OF RECORD*****
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Main Menu Jail TOOLS

Inmate Maintenance

ID Pack Name: [Search]

Jail ID: 1157 Jail ID ID Pack: 0236616 Juv ID Pack: Cell: MHC07 PARTIAL Expunge: N

Type: N-N/A PRPA: N Contain Privileges?: Y-YES

Booked in Absence?: N-NO Ten Finger Roll?: N-NO Translator Needed?: N-NO

Absence Reason: OTHER Reason

Name L: BREYAN F MICHAEL M ANTHONY S

Nick: [Blank]

Address: 6 FENNEL ST Zip: 29669 City: PELZER State: SC-SOUTH CAROLINA

POB: NJ-NEW JERSEY DOB: 05/04/1989 Race: W-WHITE Sex: M-MAL

Country: [Blank]

SSN: 146-86-6169 Hair: BRO-BROWN Eye: BLU-BLUE Weight: 190 Height: 511

DOB: 064-780-5166 XXX-NO INSURANCE Weight: 000 Balance: 000

12- GRADE 12 COMPLETED Y-YES

OPR- CHRISTIAN PROTESTANT

T-N/A

Next of Kin: [Redacted] Relationship: [Blank]

Relative L: [Redacted] F M S

Address: [Redacted] Zip: [Redacted] State: [Redacted]

Special Authorized fields:

Notify Victim?: Y-YES, NOTIFY VICTI Attorney: [Blank] Probation?: N-NO Agent: [Blank]

Held Waiting Medical Evaluation: [Blank] Held Waiting Mental Evaluation: [Blank]

Booking info:

* Book Date: 05/31/2018 Received Date: 05/30/2018

* Book Time: 02:13 Received Time: 16:01

* Arresting Officer: KDURHAM * OPI: 55C

*23000000
 medical*

He started by rattling off 1st, 14th and not stuff off
 several papers he brought into Court room. I let him go
 for a good while before I cut him off. After a few
 moments he went off "fuck you, fuck you judge" you
 dont have any authority over me. Then he told me I
 could "suck his dick" + a few more fuck you's
 Total 90 days contempt. As he left Court room
 he said "I'm going to fuck you up, you + your family."

001710

DOCKET NO. 2019-GS-23-BSS

The State of South Carolina
County of Greenville

FILED

MAR - 8 2019
Clerk of Court
Greenville County

COURT OF GENERAL SESSIONS

June TERM 2019

THE STATE

vs.

MICHAEL ANTHONY BREYAN

Indictment for

0541

THREATENING LIFE OF PUBLIC OFFICIAL

VIOLATION §16-03-1040

ENTERED
ACCT 12/1

WITNESSES

Jesse R Wasserman
Greenville County Sheriffs Office

5/31/2018

ARREST WARRANT NUMBER
2018A2330204800

~~ACTION REQUIRED~~ GRAND JURY



FOREMAN GRAND JURY
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
THREATENING LIFE OF PUBLIC OFFICIAL

At a Court of General Sessions, convened on **JUN 11 2019** the Grand Jurors of Greenville
County present upon their oath:

That MICHAEL ANTHONY BREYAN did in Greenville County, on or about the 31st day of May, 2018,
knowingly and willfully deliver or convey to ERNEST O'BRIEN, a threat to inflict bodily harm upon or take the
life of ERNEST O'BRIEN or members of his immediate family and the threat was directly related to ERNEST
O'BRIEN'S professional responsibilities as a magistrate judge. This is in violation of §16-3-1040 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.

Bryana J. Gray

SOLICITOR BAR # 65398

COUNTY OF Greenville
STATE VS.

INDICTMENT/CASE#: 2019GS2301710

Michael Anthony Breyan

A/W#: 2018A2330204800

AKA: _____

Date of Offense: 5/31/2018

Race: WHITE Sex: M Age: 30

S.C. Code § : 16-03-1040

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0541

Address: 386 Redemption Way

City, State, Zip: Mccormick, SC 29899

DL#: _____ SID#: _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Threatening Life of a Public Official

in violation of § 16-03-1040 of the S.C. Code of Laws, bearing CDR Code # 0541

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.

Christina J. Gray

65398 101800
Seay, Bryna SC Bar# Defendant MARTINEZ, MICHAEL SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the **State Department of Corrections**, **County Detention Center**, for a determinate term of 4 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. *408 DA'S*

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

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk Paul Bukickensin

Court Reporter: Jenkins

Presiding Judge _____

Judge Code: 2158

Sentence Date: SEP 11 2019

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,

This 9th day of July, 2020.

s/ Lara M. Caudy _____
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

Jul 09 2020

SC Court of Appeals