

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLIFTON EUGENE SMITH,

APPELLANT.

APPELLATE CASE NO. 2019-001975

RECORD ON APPEAL

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2 County of Oconee In the Court of General Sessions

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4 State of South Carolina,)
5) 2018-GS-37-00667
6 -vs-) November 18, 2019
7 Clifton Eugene Smith,) Volume I of II
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B E F O R E:

12

The Honorable R. Lawton McIntosh, Judge

13

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22

23

24

25

1 THE COURT: Very good.

2 All right. Mr. Alderman.

3 MR. ALDERMAN: Mr. Cole.

4 And may it please the Court?

5 THE COURT: Yes, sir.

6 MR. ALDERMAN: Ladies and gentlemen, the charge
7 against the defendant in this case is assault and
8 battery of a high and aggravated nature. The facts of
9 the case are these.

10 On December 26, 2017, Varia Galbreath and her
11 adult son, Michael Todd Reid, along with the defendant,
12 went to a family gathering in the Clemson/Central area.
13 It was essentially a Christmas dinner.

14 At the time Ms. Galbreath and the defendant were
15 in and out of a relationship. He was staying at the
16 house with her and her son at that particular moment in
17 time.

18 So they go to this family gathering. They eat.
19 They exchange gifts, and they just generally enjoy each
20 other's company with family, as you might do around
21 Christmas. One of the gifts you'll hear that was given
22 to the defendant at that gathering was liquor. You
23 will also hear that the defendant began enjoying his
24 gift right there on the spot.

25 You'll hear that, in the estimation of

1 Ms. Galbreath and Mr. Reid, he drank a little too much,
2 that they became embarrassed and they felt it was time
3 to leave because it just wasn't that kind of gathering.

4 So, ultimately, they leave. They get back in the
5 car that they were just in. Ms. Galbreath is driving.
6 The defendant is sitting in the front passenger seat.
7 Her adult son, Mr. Reid, sitting in the backseat.

8 And, as you might imagine, after leaving a party
9 in that fashion, this wasn't the happiest car ride
10 going home, heading back into Oconee County through
11 Seneca.

12 An argument began, words are exchanged. Mr. Reid
13 would take issue with, as he saw it, the way the
14 defendant was treating his mother. The defendant had
15 his own opinions about Mr. Reid, and, ultimately, it
16 escalated from an argument of words into a physical
17 argument.

18 At one point Mr. Reid, sitting in the backseat,
19 reaches up, grabs the shirt of the defendant and slaps
20 him and tells him to shut up. Now, folks, I'll be the
21 first to tell you he was wrong to do it. He was out of
22 line. He let his emotions get the best of him and he
23 put hands on the man when he shouldn't have.

24 But what happens next is really what this case is
25 all about, at least why it's here in front of you

1 today. The defendant in that situation could have done
2 any of a number of things. Right? He could have
3 called the sheriff's office and said, "Hey, this guy
4 just slapped me." And he probably would have been
5 charged, maybe made to pay a fine, that kind of an
6 altercation, a slap.

7 He could have said, "Pull the car over and let me
8 out." He could have said, "Pull the car over and let's
9 both get out and let's have a good, old-fashioned fist
10 fight if that's the way it's going to be," and we
11 probably wouldn't be here today. I'm not saying that's
12 the best way it could have been settled, but that's one
13 way it could have been settled. We're here today
14 because the defendant made a very different decision.

15 When Mr. Reid reached up, grabbed the defendant by
16 the shirt, came across and slapped him and told him to
17 shut up, that's exactly what he did. He got quiet.
18 And he sat up there, and he sat up there quiet. And
19 the car kept driving along in Seneca.

20 They turn off of 123 onto Davis Creek Road heading
21 towards Shiloh Road, Ravenel Elementary, down that
22 road, if you know the area. If you do know the area,
23 you know at nighttime, which this was, it's a pretty
24 dark road until you get to the school. Pine trees, no
25 businesses, no streetlights. It's just a dark country

1 road at nighttime.

2 So they're riding down the road, and the defendant
3 is still sitting in the front seat, quiet.

4 Ms. Galbreath is driving, upset at what had been going
5 on. Mr. Reid is sitting in the backseat, by this time,
6 he would tell you, looking at his phone and not paying
7 any attention to the defendant in the front seat and
8 looking forward to getting dropped off at a friend's
9 house because he asked to be dropped off there instead
10 of home because he had had enough of the evening,
11 didn't think it was a good idea for him to be around
12 the defendant going forward.

13 And it's at this point that the defendant, still
14 quiet, in the dark, quietly, so quietly that
15 Ms. Galbreath will tell you she didn't even notice,
16 took off his seatbelt that she remembers him wearing,
17 reaches into his pocket, pulls out a folding knife
18 quietly so that no one noticed, opened that knife, all
19 the while having time to make a decision to do or not
20 do a thing, and then all at once turned around in the
21 seat on his knees, braced against the back of the
22 headrest, and came across the top with that knife
23 slashing at Mr. Reid over and over and over and over
24 and over again.

25 Now, at this point, initially Mr. Reid just thinks

1 that he's coming at him with fists. Doesn't even
2 realize in the dark he's being cut at first.
3 Ms. Galbreath doesn't realize that a knife has been
4 pulled. Thinks they're just back at it again. Stops
5 the car in front of Ravenel school.

6 Now, at this point Mr. Reid starts to realize to
7 some extent what's going on. He reaches over to get
8 out of the car that has just stopped to get out of the
9 situation because the guy is still turned around in the
10 front seat with a knife. And he reaches over with his
11 right hand and he can't get the door to open. His hand
12 doesn't work.

13 He reaches over with his left hand, opens the
14 door, gets out, and then in the light around the
15 Ravenel school, realizes just how bad it is. He has
16 one gash here deep on his chest. He has another that
17 runs all the way from his collarbone to his belly,
18 split open. He has an intersecting wound on his left
19 shoulder where the right-handed man came around the
20 seat at him and he turtled up to get away from the
21 knife.

22 He has a three-inch-deep gash in his thigh, and
23 his hand is so cut from grabbing at the knife trying to
24 stop the attack that all the tendons and nerves are
25 severed and just doesn't work. So he's standing here

1 in the dark in the middle of the road bleeding from
2 more places than he could control.

3 He will tell you that he paced back and forth
4 trying to get calm, trying to figure out what was going
5 on, telling his mom to call somebody. Then he got
6 nauseous, then he got dizzy and felt like he couldn't
7 stand up anymore and laid down in the middle of Davis
8 Creek Road, again bleeding from more places than he
9 could control at one time.

10 Remember it started with a slap.

11 Now, as he lays there, fortunately for him, there
12 was another Christmas gathering going on that same
13 night in a different location. A group of firefighters
14 had gotten together and were just having some
15 after-Christmas fellowship, group gathering.

16 Two of them leave going about the same time down
17 the same road in the same direction and just happen to
18 pull up as Mr. Reid is stumbling around and falling in
19 the road in a pool of blood. Now, these firefighters
20 were trained, trained as emergency medical technicians
21 as firefighters, first responders, and immediately were
22 able to start to assess and treat the wounds, pack the
23 wounds to stop the bleeding.

24 Folks, they got there faster than any ambulance
25 could ever hope to be and were able to get control of

1 the bleeding, get control of the situation. They will
2 also tell you that at that point the defendant was
3 standing outside the car still armed with a knife
4 yelling over and over again, "He got what he deserved.
5 He got what he deserved. He got what he deserved."

6 Now, law enforcement arrived a short time later to
7 take control of the scene, the ambulance to take
8 Mr. Reid to the trauma unit in Greenville directly
9 there based on the extent of his injuries. And law
10 enforcement, investigating the scene, decided to take
11 the defendant into custody. And while in custody, he
12 continued to make statements that I think will be
13 important to you. Statements like, "He ought to die."
14 "I meant to." "I wouldn't take one stitch back." "I
15 didn't even have a knife. He attacked me with a knife.
16 I took it away from him and I stabbed him with it."

17 Ladies and gentlemen, those are the facts of the
18 case. That's the evidence that you will be presented,
19 what you will hear from the witness stand, and based on
20 those facts, that at the end of this trial I'll ask you
21 to find the defendant guilty of assault and battery of
22 a high and aggravated nature.

23 Now, high and aggravated nature, what exactly does
24 that mean? At the end of the trial the judge will give
25 you extensive instructions on the law, so I won't

1 belabor the point. But I do think it's helpful for you
2 to hear the words of the statute and kind of understand
3 the elements so that, as you hear the evidence, you can
4 see how the facts and the law fit together in the
5 crime.

6 Assault and battery of a high and aggravated
7 nature occurs when a person unlawfully injures another
8 resulting in great bodily injury or when a person
9 unlawfully injures another by a means likely to produce
10 great bodily injury. I mean, either he was greatly
11 injured, or that attacking somebody with a knife is
12 likely to cause a great bodily injury.

13 And, folks, I will submit to you that either prong
14 of that statute could apply based on those facts.

15 Folks, if after your deliberations you are firmly
16 convinced, as the judge described to you earlier, that
17 the defendant inflicted great bodily injury on Mr. Reid
18 or attacked him with a means likely to produce that
19 great bodily injury, then he will be guilty of assault
20 and battery of a high and aggravated nature.

21 Ladies and gentlemen, I thank you very much for
22 your attention. I would ask that you please give the
23 same attention to Mr. Cole as he comes and speaks on
24 behalf of his client.

25 THE COURT: Mr. Cole, do you intend to have an

1 opening statement?

2 MR. COLE: Yes, your Honor.

3 THE COURT: Okay, sir.

4 MR. COLE: Thank you, your Honor. May it please
5 the Court?

6 THE COURT: Yes, sir.

7 MR. COLE: Ladies and gentlemen of the jury, my
8 name is Lee Cole. This is my client, Clifton Smith.

9 Stand up, Clifton.

10 Have a seat.

11 Mr. Smith is from here in Oconee County. I'm from
12 down the road in Anderson County in the big city of
13 Williamston. I love living in South Carolina, and I
14 love living in the United States. It's not popular for
15 some people to say anymore, but I do think that we live
16 in the greatest country in the world. And part of the
17 reason is that we are a government by the people for
18 the people.

19 Even in our criminal justice system, the people
20 are the ones who control, and with all due respect to
21 everyone else in this courtroom including the Court,
22 the solicitor, I believe that the people, the jury, are
23 the most important actors in a trial because it is
24 through you that justice is done. It is the jury's job
25 to give justice. It's the jury's job to make findings

1 of fact.

2 In this case my client is charged with assault and
3 battery of a high and aggravated nature. In order for
4 him to be guilty, the State must prove beyond a
5 reasonable doubt that my client committed this crime
6 and that it was not in self-defense.

7 I would ask you to listen to the witnesses, listen
8 to the evidence that the State presents, listen
9 carefully, deliberate, as I know you will, and I know
10 how serious you will take this, and at the end of the
11 day, look and see, what is justice? Has the State
12 proved beyond a reasonable doubt that my client
13 committed this offense and that it's not in
14 self-defense?

15 I submit to you the evidence will show that they
16 cannot prove that, they have not proved that, and I
17 would ask that you find my client not guilty.

18 Thank you.

19 THE COURT: Call your first witness.

20 MR. ALDERMAN: Yes, your Honor. The State
21 calls --

22 THE COURT: Let me ask you this right quick. Do
23 we have any sequestration issues or are we okay?

24 MR. ALDERMAN: None from the State.

25 MR. COLE: No, your Honor.

1 THE COURT: All right. Very good. Thank you.

2 MR. ALDERMAN: The State would call Nicolas
3 Santangelo.

4 **NICOLAS GIACINTO SANTANGELO,**
5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION

7 BY MR. ALDERMAN:

8 Q Mr. Santangelo, will you please state your full
9 name and spell your last name for the record.

10 A Nicolas Giacinto, G-i-a-c-i-n-t-o, Santangelo
11 S-a-n-t-a-n-g-e-l-o.

12 Q All right. And what do you do for a living?

13 A I'm a full-time police officer.

14 Q In what capacity or what agency?

15 A I work for the South Carolina Department of Public
16 Safety in the state transport police division.

17 Q How long have you been with them?

18 A I've been with them for two years and one month
19 this month.

20 Q So what about before that?

21 A Before that I was a full-time firefighter for
22 Clemson University Fire and EMS and a part-time
23 firefighter for Oconee County Emergency Services.

24 Q Did you say you were an EMT?

25 A I am, yes, sir.

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1 Q And how long did you do that?

2 A I've been an EMT since 2014.

3 Q Now, do you remember the night of December 26,
4 2017?

5 A I do.

6 Q Do you remember what you were doing later that day
7 in the afternoon?

8 A Not pointedly to the afternoon. I do remember
9 going to dinner with some friends, and we were on the
10 way home from that dinner.

11 Q Where was that dinner at?

12 A That dinner was at Cookout in Clemson, Cookout
13 restaurant.

14 Q Where was home?

15 A Home is on Friendship Road.

16 Q And were you riding with someone?

17 A Yes. Yes, I was.

18 Q And who was that person?

19 A That person was Evan Cherry.

20 Q So you're heading towards Friendship Road. Did
21 you end up on Davis Creek Road?

22 A We did.

23 Q Is that normally the way you would go home?

24 A Not normally. Sometimes, yes.

25 Q Okay. Do you recall seeing anything that made you

1 stop?

2 A Yeah. So we were coming down Davis Creek Road and
3 recalled seeing a vehicle with hazard lights on parked
4 to the side of the road, and looked to be two subjects
5 and a dark figure laying in the middle of the road.

6 At the time that we pulled up, we could not tell
7 what the dark figure in the middle of the road was. As
8 you said earlier, it was dark on Davis Creek Road.

9 Q What did you do next?

10 A We exited our vehicle, got our fire radio out, and
11 Evan grabbed his medical bag out of the back of his
12 truck and approached the scene, trying to figure out
13 what was going on.

14 Q And what was going on, as far as you could tell,
15 at that point?

16 A As we were walking up to the scene, we actually
17 thought that an animal had been struck. That was our
18 first indication. Again, we couldn't tell what the
19 dark figure in the middle of the road was.

20 As we got out of our vehicle, his pickup truck, we
21 started to hear some screaming and some shouting.
22 Appeared to us to be some sort of altercation that had
23 gone on and was still in the process of going on.

24 At that point we radioed our dispatcher to advise
25 them to get both police and EMS en route.

1 Q All right. And when you say screaming and
2 shouting back and forth, are we talking about two
3 people, three people? Who's yelling in this story, as
4 best you can tell?

5 A So there -- what appeared to us, there was a lady
6 standing at the front of the vehicle. There was a man
7 standing at the back of the vehicle. Again, as we
8 approach, we figured out the dark figure laying in the
9 middle of the road was indeed a person. It was indeed
10 a human.

11 Was not saying much, that figure that was -- he
12 was not saying much. The lady at the front and the man
13 at the back of the vehicle were shouting.

14 Q The man at the back of the vehicle, did you have
15 any interaction with him?

16 A I did. As I said, they were shouting with each
17 other. Evan immediately started heading towards the
18 figure in the middle of the road, once we figured out
19 it was a person and, again, our initial kind of thought
20 process was that somebody had been struck, wasn't
21 anything of an altercation.

22 As he started to head towards the person in the
23 middle of the road, I went to the back of the vehicle
24 trying to calm down the agitated subject at the back of
25 the vehicle, trying to figure out what was going on,

1 trying to figure out what had happened, whether they
2 had come upon this person, whether they were involved,
3 whether they knew this person or whatever.

4 Q All right. And what were you able to ascertain?

5 A Was able to ascertain that the subject at the back
6 of the vehicle and the subject in the middle of the
7 road and the subject driving the vehicle, the lady
8 driving the vehicle, had all known each other. They
9 were all saying things that indicated that they knew
10 who each other was.

11 Again, the subject at the back of the vehicle was
12 very agitated, shouting, "He got what he deserved,"
13 time and time again. Again, at this point I did not
14 know what that entailed. I had not been with the
15 subject in the middle of the road. Was shouting, "He
16 got what he deserved," time and time again.

17 I talked to him, "Hey, sir, I'm Nick Santangelo
18 with the fire department." Again, at the same time I
19 was in training to be a police officer. I was not
20 certified yet. So I started trying to talk to him to
21 figure out what was going on and could not really get
22 too much out of him. He was very clearly intoxicated,
23 slurring his words, smelled.

24 Q Was he armed?

25 A I'm sorry?

1 Q Was he armed?

2 A He was. He had a knife in his hand. I'm sorry,
3 correction. He had a knife in his pocket. And I asked
4 him, "Do you have any weapons on you or anything like
5 that?" He said, "Yeah, I got a knife in my pocket."
6 I'm like, "Okay. Let's put that on the back of this
7 vehicle so we know where it is," and then let's have
8 the subject step away from that knife to secure mine
9 and Evan's safety as well as everybody involved.

10 Q Having done that, did you then begin treating the
11 victim?

12 A I did.

13 Q All right. Tell me about his injuries. What did
14 you see?

15 A Saw multiple cuts on him. Could not distinguish
16 what was deeper, what was shallow. Saw very deep
17 lacerations across his chest and across his leg, and
18 those seemed to be the most vital to us. The couple
19 lacerations that he had on his arm and on his hands at
20 the time appeared to be nonlife-threatening to us, so
21 we focused on the lacerations to the core of the body
22 and the laceration, which appeared to us at the time,
23 to go right across his femoral artery.

24 Q So when you say the injuries to the shoulder and
25 the hands are nonlife-threatening, is that to say the

1 others were?

2 MR. COLE: Objection, your Honor. This witness
3 has not been qualified as an expert.

4 MR. ALDERMAN: Judge, he is an EMT, a firefighter,
5 and a police officer.

6 THE COURT: I'm going to sustain it now, but I'm
7 going to let you lay some foundation for it.

8 MR. ALDERMAN: All right.

9 Q If you would, tell us what training as an EMT
10 you've had to help you identify what would or would not
11 be a life-threatening injury.

12 A Okay. You go through -- initially, to become an
13 EMT, you go through about a six-month schooling. It
14 can be done at any local technical college, can be done
15 in-house through a fire department, EMS agency of any
16 sort. After that, you go through continuous --
17 continuous classes every year. We call it continuing
18 education. That's to keep your certification up to
19 date to stay up to date with legitimate issues going on
20 in the world and legitimate patient care factors that
21 are turning up.

22 You also any time -- any time you want any kind of
23 advanced training, the agencies that I work for have
24 happily provided that, so you can go through any kind
25 of advanced trauma training, any kind of advanced life

1 support, cardiac life support, any of those trainings
2 that you wished to.

3 Q Have you had training in dealing with treatment of
4 lacerations?

5 A I have.

6 Q All right. Was a part of that training triage of
7 importance of multiple injuries?

8 A That's correct. That's correct. So in your
9 initial EMS class, you go through training of triage
10 and what triage is and how you qualify what injuries
11 could be life-threatening, what injuries could wait
12 until definitive medical care, what injuries have to be
13 solved in the here and the now or you're not going to
14 get the definitive medical care, that kind of thing.

15 Q Fair to say that you have more emergency medical
16 training than your average layperson?

17 A I believe so.

18 MR. ALDERMAN: Judge, I believe we've laid a
19 sufficient foundation for him to testify specifically
20 as to these injuries and what he did.

21 THE COURT: Any continuing objection?

22 MR. COLE: Your Honor, I would object, and I would
23 ask -- I'm not sure exactly what the State is
24 qualifying him as an expert as.

25 MR. ALDERMAN: In emergency medical care, your

1 Honor.

2 THE COURT: Emergency medical care. Is he an EMT?

3 MR. ALDERMAN: Yes, Judge.

4 THE COURT: It's emergency medical technician.

5 MR. COLE: Then no objection to that, your Honor.

6 THE COURT: Very good.

7 Ladies and gentlemen, normally witnesses are not
8 allowed to give their opinion in the courtroom. They
9 have to testify to what they saw, they heard, they
10 smelled, or they felt. However, a person, because of
11 their education or their experience, develops an
12 expertise in an area, upon qualification, is allowed to
13 give that opinion.

14 In this case it has been agreed that this witness
15 is an expert in the field of emergency medical -- as an
16 emergency medical technician. He will be allowed to
17 give his opinion in that area.

18 Expert opinion, ladies and gentlemen, is like any
19 other testimony you will hear in this case. You may
20 accept it, you may reject it, or give it as much weight
21 as you think it deserves.

22 BY MR. ALDERMAN:

23 Q I'm going to circle back around. When you talked
24 about focusing on the injuries to the chest and the leg
25 as opposed to the injuries to the arm and the hand, why

1 was that?

2 A In the EMS field, we have a common saying, "life
3 over limb." It's the idea that the more important
4 injuries take precedence over less important ones, such
5 that the injuries that would cause a loss of life are
6 more important than the injuries that would cause a
7 loss of limb.

8 Q And what else did you observe about the victim in
9 that moment, other than just the specific lacerations,
10 his general condition?

11 A His general condition seemed to be poor. He
12 seemed to not really know a whole lot about what was
13 going on, seemed to be tussling and turning in the
14 middle of the road, as you could expect from somebody
15 that had severe lacerations to his trunk, to his legs,
16 and especially in the body organ parts that are
17 contained within those. Was just generally, I guess,
18 having a bad night. I don't know how to say it.

19 Q Was he cold?

20 A Not to my recollection.

21 Q Was he pale?

22 A Had was pale.

23 Q Was he breathing rapidly?

24 A He was.

25 Q You mentioned that he seemed disoriented?

1 A He was.

2 Q As an EMT, do those symptoms suggest anything to
3 you, give you any concern?

4 A So the major concern that we have is shock. Those
5 are classic textbook symptoms of somebody that is
6 either in one of the couple of stages of shock or will
7 be shortly. And that could be due to any number of
8 factors, be it trauma, be it loss of blood, loss of
9 fluids, loss of temperature. Any of those can add to
10 that equation and result in a patient entering shock.

11 Q How long did you treat the victim before the
12 ambulance arrived, if you had to estimate?

13 A I can't recall.

14 Q Did the sheriff's office arrive first or the
15 ambulance?

16 A I believe the sheriff's office.

17 Q So if that's the case, then you would have treated
18 him for a while, the sheriff's office arrived, and then
19 the ambulance, correct?

20 A That's correct. So the first sheriff deputies
21 arrived. They actually had tourniquets, which we did
22 not have. They actually had what we call blast
23 bandage, which is just a very thick, absorbent gauze
24 bandage that is used for any kind of severely bleeding
25 wound, any kind of blast damage, anything of that

1 nature.

2 I don't remember who it was. The first sheriff's
3 deputy actually said to me, "I have a blast bag. Do
4 you want it?" And I said, "Yes, that would be great.
5 That's exactly what we need." At the time we had run
6 out of gauze in Evan's first aid kit. We didn't have
7 any more, so.

8 Q Once EMS arrived, what did you do?

9 A Once they arrived, the first EMS personnel off the
10 ambulance, generally they kind of talk to bystanders,
11 figure out what's going on, take a quick snapshot of
12 the scene in their minds as to figure out, you know,
13 what's happening, how the injuries came about. We call
14 it mechanism of injury, whether there is a pile of car
15 rubble laying over here that would suggest a car
16 accident, something like that. Then they usually talk
17 to the patient care providers who are actually dealing
18 with the patient. Common phrasing is, "Hey, what do
19 you got? What's going on? What have you treated so
20 far? What do you see that I have not seen yet?" That
21 kind of thing.

22 Q And did you debrief the responders?

23 A I did. I gave what is referred to sometimes as a
24 basic patient care report. Again, it's just -- it's
25 nothing more than telling the arriving agency that's

1 going to have patient care of that patient until he
2 gets to the definitive medical care, be it a trauma
3 center or hospital of some sort. It's nothing more
4 than telling them, "Hey, this is what I did. This is
5 what happened. This is the injuries that I see. This
6 is how far down the continuum of patient care we've
7 made it until you arrived."

8 Q And at this point would he have been transported?

9 A He was. He was put on what we commonly call a
10 scoop stretcher, which is just a stretcher to get him
11 up off the ground out of a tight space, that kind of
12 thing. Put him onto the rolling bed that the ambulance
13 brings, load it into the back of the ambulance.
14 Patient care was continued in the back of the
15 ambulance, and then he was transported to Greenville.

16 Q Why Greenville?

17 A Greenville is what we call a Level I trauma
18 center. They are the best at dealing with traumatic
19 injuries, be it motor vehicle collisions with severe
20 injuries, severe gunshots, severe slashing and stabbing
21 wounds, wounds of that nature.

22 Q So based on the injuries you saw, in your expert
23 opinion as an EMT, do you think it's possible the
24 defendant could have died that night if you and Evan
25 hadn't happened to drive up and started patient care

1 immediately?

2 A Absolutely.

3 MR. ALDERMAN: Please answer any questions
4 Mr. Cole may have for you.

5 THE COURT: Cross-examination.

6 MR. COLE: Thank you, your Honor.

7 CROSS-EXAMINATION

8 BY MR. COLE:

9 Q Mr. Santangelo, am I saying your name right?

10 A Santangelo. It happens all the time.

11 Q Mr. Santangelo, it's true that, as an EMT, you
12 don't diagnose a condition; isn't that correct?

13 A That's correct. We perform triage of the
14 immediate conditions.

15 Q So you take care of somebody until a doctor can
16 give them medical care?

17 A That's correct.

18 Q And my client, when you saw my client that
19 evening, did he attempt to -- my client, Mr. Smith, who
20 was at the back of the car?

21 A That's correct.

22 Q Did he attempt to go towards the person who was
23 lying on the ground at all?

24 A I don't recall.

25 Q When you saw him, he was standing at the back of

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1 the car, right?

2 A That's correct.

3 Q And you asked him to give you his knife, and he
4 gave it to you, right?

5 A That's correct.

6 Q And then you asked him to stand there; is that
7 right?

8 A That's correct.

9 Q And that's where he stood; isn't that correct?

10 A From what I recall, yes, sir.

11 Q So he didn't try to approach the person standing
12 on the ground?

13 A I don't recall.

14 Q But you do recall that he stayed where you asked
15 him to stand?

16 A Once I got there, yes, sir. And once we had
17 talked about what had happened and I asked him to place
18 the knife on the trunk of the car, he was very
19 compliant with me.

20 Q So he was compliant and cooperated with you?

21 A That's correct.

22 MR. COLE: No further questions.

23 THE COURT: Redirect?

24 MR. ALDERMAN: None, your Honor.

25 THE COURT: May this witness be excused?

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1 MR. ALDERMAN: Yes, your Honor.

2 MR. COLE: No objection.

3 THE COURT: Thank you, sir. You are excused.

4 Call your next witness.

5 MR. ALDERMAN: Your Honor, at this time the State

6 would call Deputy Rashad Crooks to the stand.

7 **RASHAD CROOKS,**

8 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

9 **DIRECT EXAMINATION**

10 BY MR. ALDERMAN:

11 Q Deputy Crooks, if you would, state your full name
12 and spell your last name for the record, please.

13 A Rashad Crooks. Last name spelling C-r-o-o-k-s.

14 Q Where are you employed?

15 A Oconee County Sheriff's Office.

16 Q How long have you been there?

17 A Almost -- it will be five years next month.

18 Q And your current rank?

19 A Master deputy.

20 Q And as a master deputy, what are your duties from
21 day to day with the sheriff's office?

22 A I'm one of the supervisors on my shift. I also
23 answer calls, deal with complaints, give advice on how
24 to handle calls.

25 Q And in that capacity, did you have occasion to

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1 come into contact with the defendant on or about
2 December 26th of 2017?

3 A Yes.

4 Q If you recall, what information did you receive
5 from dispatch that sent you in that direction?

6 A If I can remember correctly, they advised us there
7 was a suspect laying in the middle of the road on Davis
8 Creek Road and Ravenel School Road, in that area, which
9 is inside the jurisdiction of Oconee County, that had
10 been stabbed. I was the first deputy that arrived on
11 scene.

12 Q And as the first deputy that arrived on scene, if
13 you would, just tell the jury what you saw.

14 A When I arrived on scene, I got out of my patrol
15 vehicle and I walked to where the victim in this case
16 was. I observed him laying on the ground. I seen the
17 two first responders rendering aid to the victim. I
18 observed what looked like lacerations to the chest and
19 blood coming from his chest.

20 When I walked up, one of the first responders
21 advised me that the person that done this was standing
22 behind the car, which is the defendant in this case. I
23 went and made contact with him. As I approached him,
24 he was being loud and boisterous and using obscene
25 language.

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1 I advised him to keep his hands up for safety
2 reasons. I was going to place him in investigative
3 detention but he had blood on him, so I put on my
4 gloves for safety reasons. At that time Deputy Lecroy
5 and Deputy Sheriff arrived on scene, and they placed
6 him in investigative detention.

7 Q What does that mean?

8 A Basically we detain him for the time being until
9 we can investigate more on what happened.

10 Q Did you recover a knife at the scene that night?

11 A Yes. There was a knife that was laying on the
12 trunk that had blood on it, and that was seized.

13 MR. ALDERMAN: Permission to approach the witness,
14 your Honor?

15 THE COURT: Yes, sir.

16 BY MR. ALDERMAN:

17 Q Deputy Crooks, I'm approaching you with what has
18 previously been marked as State's Exhibit 6. If you
19 could just take a look at that for me.

20 A Yes.

21 Q Do you recognize that?

22 A Yes. That was the knife that I seized that night.

23 Q Does it appear that this picture has been changed,
24 altered, manipulated in any way that you can tell?

25 A No.

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1 Q Is this a fair and accurate representation of the
2 knife that you seized from the trunk of that car that
3 night?

4 A Yes.

5 MR. ALDERMAN: Your Honor, at this time we'd move
6 State's 6 into evidence and publish for the jury.

7 THE COURT: What number is that?

8 MR. ALDERMAN: 6.

9 THE COURT: Any objection?

10 MR. COLE: No objection, your Honor.

11 THE COURT: Admitted.

12 (WHEREUPON, State's Exhibit Number 6 was admitted
13 into evidence.)

14 BY MR. ALDERMAN:

15 Q Just to be clear, Deputy, where did you seize this
16 knife?

17 A It was on the trunk of the vehicle where the
18 altercation took place.

19 Q Were you wearing your body camera that evening?

20 A Yes, I was.

21 Q Was it working?

22 A Yes.

23 MR. ALDERMAN: Permission to approach the witness
24 again, your Honor?

25 THE COURT: Yes, sir.

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1 BY MR. ALDERMAN:

2 Q Showing you what's been previously marked as
3 State's Exhibit 11. If you would just take a look at
4 that for me.

5 A Yes.

6 Q Do you recognize this?

7 A Yes.

8 Q What is it?

9 A It is a DVD of the incident I downloaded and
10 turned over for evidence -- I mean for prosecution.

11 Q And how is it that you recognize it?

12 A I initialed it, and that's the DVDs that we use to
13 download it.

14 Q So you would have had a chance to review this?

15 A Yes.

16 Q Was anything changed or altered or manipulated in
17 any way that you could discern on this video?

18 A No.

19 Q So would this be a fair and accurate
20 representation of the events that evening?

21 A Yes.

22 MR. ALDERMAN: Your Honor, at this point we would
23 move to admit State's 11.

24 THE COURT: Any objection?

25 MR. COLE: Yes, your Honor. I would object.

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1 allow the video to continue to run.

2 MR. COLE: Your Honor, if that's the case and the
3 jury wants to view this as part of their
4 deliberations --

5 THE COURT: They will not be allowed to hear it.

6 MR. COLE: Yes, your Honor. That's what I would
7 ask. Thank you.

8 THE COURT: Yes, sir.

9 Ready?

10 MR. ALDERMAN: Yes, your Honor.

11 (WHEREUPON, the jury entered open court at
12 3:25 p.m.)

13 THE COURT: Mr. Alderman.

14 MR. ALDERMAN: Judge, again, at this time we would
15 seek to admit State's Exhibit 11 into evidence.

16 THE COURT: It's admitted subject to objection.

17 (WHEREUPON, State's Exhibit Number 11 was admitted
18 into evidence.)

19 MR. ALDERMAN: Your Honor, if it please the Court,
20 we'd like to publish the specific portion we have
21 agreed upon to the jury at this time.

22 THE COURT: Okay, sir.

23 (Video playing.)

24 MR. ALDERMAN: Thank you, Deputy Crooks. If you
25 would, please answer any questions Mr. Cole may have

1 for you.

2 CROSS-EXAMINATION

3 BY MR. COLE:

4 Q Deputy Crooks, when you arrived on the scene, you
5 did not see any fight or any altercation or anything
6 like that, did you?

7 A No. I only observed the defendant being loud and
8 boisterous.

9 Q You found the knife on the back of the vehicle; is
10 that correct?

11 A Yes, on the trunk.

12 Q And that knife that was shown as an exhibit is a
13 pocketknife; would you agree?

14 A Yes.

15 Q And so the blade on that knife wouldn't be any
16 more than two inches long; is that correct?

17 A I'd say about two to four inches, maybe.

18 Q And when you approached my client, he did
19 everything you told him to do; is that correct?

20 A Yes.

21 Q And my client never attempted to reach for the
22 knife or get the knife or anything like that, did he?

23 A No, he didn't.

24 Q And my client never attempted to approach
25 Mr. Reid, who was on the ground; is that correct?

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1 A No, he didn't.

2 MR. COLE: No further questions, your Honor.

3 THE COURT: Redirect?

4 MR. ALDERMAN: None, your Honor.

5 THE COURT: May this witness be excused?

6 MR. ALDERMAN: Yes, your Honor.

7 MR. COLE: No objection, your Honor.

8 THE COURT: Thank you, Officer. You are excused.

9 Call your next witness, please, sir.

10 MR. ALDERMAN: Yes, your Honor. At this time the
11 State would call Varia Galbreath.

12 **VARIA GALBREATH,**

13 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

14 **THE CLERK: Please be seated.**

15 **DIRECT EXAMINATION**

16 **BY MR. ALDERMAN:**

17 Q Ma'am, would you please state your full name and
18 then spell your last name for the record.

19 A Varia Galbreath, G-a-l-b-r-e-a-t-h.

20 Q And where are you employed?

21 A Johnson Controls. I've been there 19 and a half
22 years, and I work for the School District of Ocone
23 County as a substitute teacher.

24 Q Do you know the victim in this case, Mr. Michael
25 Todd Reid?

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1 A Yes. It's my son.

2 Q And do you know the defendant in this case,
3 Clifton Smith?

4 A Yes.

5 Q What was your relationship with him?

6 A I wouldn't call it a boyfriend-girlfriend. He
7 just -- he pushed himself from Spartanburg up here to
8 Oconee because he had to go to probation on a Monday
9 and asked if he could come stay with me that Sunday so
10 he wouldn't be late getting to probation because he
11 didn't have his own vehicle, so I agreed.

12 Q Would you say that he lived with you for a while
13 from time to time?

14 A I took him back to Spartanburg, and two weeks
15 later he came back, so -- and it started end of October
16 until -- yeah.

17 Q Until this event?

18 A Until this happened, yes.

19 Q And do you remember December 26, 2017?

20 A Yes, I do.

21 Q Take us through your day. How did that day start?
22 What were you doing this afternoon? Tell us about it.

23 A My daughter always had Christmas, just for our
24 family, me and Todd, the day after Christmas out of the
25 hustle of everybody else. And we had exchanged gifts

1 at my -- my family in Westminster that morning, and I
2 had gave Cliff that knife for Christmas.

3 Q Not to interrupt, but that pocketknife that we saw
4 earlier?

5 A Yes.

6 Q You gave that to him?

7 A I gave it to him. He picked it out at Academy
8 probably a week before Christmas, and I wrapped it for
9 him. And it was a package. It was two knives. And
10 the night that we got ready to leave, he decided, "Oh,
11 hold on," and he got that knife and put it in his
12 pocket. He opened the pack and put that one in his
13 pocket before we went to the party -- to my daughter's
14 for Christmas.

15 Q And who all went to that party?

16 A Todd, my son, Cliff, myself, and my two dogs.

17 Q And who was there when you got there?

18 A My daughter, Hanna, her boyfriend, Jesse, and her
19 baby, Addie.

20 Q And did you guys exchange gifts there as well?

21 A We did.

22 Q Do you remember what those gifts happened to be?

23 A Todd got a toboggan. I got a candle, and she gave
24 Cliff some mini bottles of alcohol.

25 Q Who was "she"?

1 A My daughter.

2 Q And then what happened?

3 A We ate pizza. He drank his alcohol, and it wasn't
4 probably 30 minutes, we was -- it was already -- he had
5 started acting up, talking loud. Todd decided to go
6 outside. He said, "I can't handle it." He went on
7 outside with the dogs, and I was upset, and I -- at
8 Cliff, and I, you know, said -- I'm not sure what word
9 I said, if it was "shit" or what, but Hanna says,
10 "Don't talk like that in front of my baby." And I
11 says, "We're just going to go." So we left.

12 Q Fair to say that you were upset at this point?

13 A Yes.

14 Q And so the three of you leave. Are you driving?

15 A Yes.

16 Q And where is everyone seated in the vehicle?

17 A I'm driving, Cliff is in the passenger seat in the
18 front, Todd is in the backseat.

19 Q And where are you coming from?

20 A From Central.

21 Q And going where?

22 A To Walhalla.

23 Q And did you take 123?

24 A I did.

25 Q So what was going on in the car at this point?

1 You're heading up 123 from this party. What's going on
2 in the car?

3 A I'm irritated. I know I'm irritated because, you
4 know, the little Christmas party that's once a year got
5 ruined. I know Todd's irritated. I know Cliff's just
6 over there in his own little world, and Todd knew I was
7 upset, and Todd said something about, you know --

8 MR. COLE: Objection as to anything he said.

9 THE WITNESS: -- "You ruined the Christmas party."

10 THE COURT: Do not answer, please.

11 Sustain that objection.

12 BY MR. ALDERMAN:

13 Q Without telling us specifically what Todd said --

14 A Right.

15 Q -- if you could, just kind of give us a sense of
16 what you saw and about what you sensed about what was
17 going on in the car.

18 A Okay. Words were exchanged, and then Todd, like,
19 Todd slapped him.

20 Q Fair to say that those words that were exchanged
21 were heated?

22 A Yes.

23 Q And then you say what did Todd do?

24 A Todd slapped him.

25 Q Okay. And did --

1 A And I was, like, "Stop, just stop."

2 Q Did the defendant hit back, or was there any bit
3 of struggle in that moment?

4 A He -- no, not -- I mean, no. He probably -- I
5 mean, he was, you know, sitting up front. You know, he
6 just got slapped, and he didn't really -- I don't think
7 he did. I mean...

8 Q So that altercation, did it end at that point?

9 A It stopped. It stopped. And, you know, I was --
10 I had stopped the car and then I started again. And I
11 was -- I went down that hill, and there were some
12 curves.

13 Q Tell me about that hill. What road were you on?

14 A I'm not sure of the name of the road, but it's
15 dark.

16 Q Was it off of 123 that you were initially on?

17 A Yes. Yes.

18 Q Okay. And do you remember any landmarks on that
19 road?

20 A I just know it was dark. I just remember it being
21 dark.

22 Q So as you're driving down the road, this dark
23 road, what happens next?

24 A And then Cliff whirls around in the seat, and I
25 thought he was hitting Todd, and I stopped the car

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1 again, and I said, "Just stop. Just stop." And I
2 grabbed his shirt, Cliff's shirt, and Todd got -- Todd
3 got out of the car. And when he started to get out, he
4 says, "You cut me." And I said, "What did you cut him
5 for?" And he just -- he turned around and sit back
6 down in the seat. And --

7 Q The defendant did?

8 A Uh-huh. And Todd got out and come to the front of
9 the car and was kind of pacing, and he says, "Call
10 somebody" --

11 MR. COLE: Objection. Hearsay.

12 THE COURT: Sustained.

13 MR. ALDERMAN: Your Honor, with respect, I would
14 just say that it's an excited utterance at that point,
15 would be our position.

16 THE COURT: What's your response?

17 MR. COLE: Your Honor, this was after they're
18 already out of the car. I believe the excitement is
19 over with.

20 MR. ALDERMAN: Judge --

21 THE WITNESS: That's when the excitement began.

22 THE COURT: Do not speak.

23 I'm going to overrule the objection. I will allow
24 it.

25 MR. ALDERMAN: Okay.

1 Q Ma'am, if you will continue. What did he say at
2 that point?

3 A Todd said, "Call somebody. I've been cut." And I
4 called Hanna. And I said, "Your brother's been cut and
5 I need some help." And she said, "Where you at?" I
6 didn't know. And Todd hollered out, "Right there is
7 Ravenel school." And she heard him say that, and I
8 hung up and I called 911.

9 Q And what happened next?

10 A When Todd got out, the dogs got out. They're
11 running in the road. And Todd laid down in the road,
12 and he said, "Just give me something to drink. I need
13 something to drink. I'm cold. Give me something to
14 drink." I didn't have anything. I didn't have
15 anything.

16 And then the police showed up. And I didn't know
17 who that was that -- Cliff got -- Cliff got out of the
18 car and went to the back of the car, and they -- he
19 took a knife out of his pocket and laid it on the back
20 of the car.

21 Q The same knife that you had given him?

22 A Yes.

23 Q The same knife he cut your son with?

24 A Yes.

25 Q Once the EMS took Todd, got him stabilized, where

1 did they take him?

2 A They took him to Greenville, and they put caution
3 tape around the car so I had to stay with the car
4 because it was a crime scene, and I couldn't go with
5 him.

6 Q Did you eventually go and see him at the hospital?

7 A I did. I did.

8 Q How long was he there?

9 A Until the next morning. Around 2:00 he got out.

10 Q And, to your knowledge, did he have to go back
11 after that for treatment to his hand or any other part
12 of his body?

13 A He did. His hand was -- all his fingers was cut.
14 There was two cuts down his chest. On his arm. On his
15 leg. I had to help him get a bath. It was like he was
16 an infant. He couldn't -- you know, had to use his
17 left hand to do everything. He couldn't use his right
18 one for nothing. It was bandaged all up. And made
19 several trips to Greenville to get stitches out. There
20 was surgery on his hand.

21 Q I just want to be clear on one more point. At the
22 time the defendant unbuckled his seatbelt, took that
23 knife out of his pocket, opened that knife, turned
24 around in the seat, started cutting your son, was your
25 son hitting him, yelling at him, being aggressive with

1 him in any way?

2 A No.

3 MR. ALDERMAN: Thank you, ma'am. Please answer
4 any questions Mr. Cole may have for you.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. COLE:

8 Q Ms. Galbreath, you were in a romantic relationship
9 with my client; is that true?

10 A I wouldn't say that was romance.

11 Q I'm sorry?

12 A I wouldn't call that romance.

13 Q But were you in a relationship with him?

14 A He was pushed on -- he pushed himself.

15 Q At the time of this incident, he lived with you?

16 A He stayed with me.

17 Q And you allowed him to ride in your car to and
18 from the party with you?

19 A Yeah.

20 Q And isn't it true, Ms. Galbreath, that during that
21 car ride back from the party, that Mr. Reid hit my
22 client before my client ever touched him?

23 A Yeah, he hit him.

24 Q And he, Mr. Reid, was in the backseat, and my
25 client was in the front seat?

1 A Yes.

2 Q And Mr. Reid hit him hard from the backseat in the
3 head?

4 A I remember a slap. I'm driving, so I'm not
5 looking at how he hit him, but I remember a slap.

6 Q And as soon as Mr. Reid hit my client, the
7 struggle continued from there, and there was no stop;
8 isn't that correct?

9 A No, that's not correct.

10 Q Did you give a statement to law enforcement on the
11 night of this incident?

12 A I did.

13 Q And in that statement did you tell the truth?

14 A I did.

15 MR. COLE: Your Honor, may I approach the witness?

16 THE COURT: Yes, sir.

17 BY MR. COLE:

18 Q Ma'am, do you recognize this document?

19 A I do.

20 Q Is that the statement that you gave law
21 enforcement on the night of the incident?

22 A Yes.

23 Q Could you read that statement?

24 A "Christmas dinner at my daughter's. Clifton drank
25 some mini bottles, started getting loud. Todd went to

1 sit in the car because he couldn't handle Clifton being
2 loud. Clifton, Todd, and myself left my daughter's
3 about ten minutes later, driving down the road, and
4 Todd started arguing about how Clifton couldn't handle
5 his alcohol. Cliff said, 'Todd shouldn't do drugs.'
6 And Todd said, 'You shouldn't say anything. After all,
7 Clifton, you are wearing my clothes.' Not sure what
8 Clifton said of that, but Todd slapped Cliff, and Cliff
9 started punching at Todd. Then Clifton turned around
10 in the seat and got on his knees, and that's when Todd
11 said, 'You just cut me, you motherfucker,' and I
12 stopped the car and Todd got out."

13 Q So that, that you just read, you said that
14 Mr. Reid hit my client, and then the altercation
15 continued, my client turned around, and the altercation
16 continued; isn't that a fair summary?

17 A I said that Todd slapped him and they were
18 arguing, and it stopped. "Then" he turned around.
19 "Then" was after I went down the hill and in the curves
20 in the dark. Everybody had stopped. "Then" he turned
21 around in that seat.

22 Q But in that statement you didn't say anything
23 about that it stopped?

24 A It doesn't say that it continued either. It says
25 "then" that's what happened.

1 Q But it doesn't say there was a period of time
2 where nothing happened and you just kept driving?

3 A It doesn't say it continued either.

4 Q And this statement -- that statement you gave was
5 the night of?

6 A The statement I gave was the night of.

7 Q And you remembered it better the night of than you
8 would now, years later?

9 A No. "Then" means "then that happened." It's like
10 the argument, and then silence, and then that happened.

11 Q But that's not what the statement says, right?

12 A Yeah, that's what that says. "Then" --

13 Q It doesn't say "then" and then silence, then that
14 happened in your statement?

15 MR. ALDERMAN: Objection, your Honor. We're
16 getting argumentative and asked and answered.

17 THE COURT: Overruled.

18 Go ahead.

19 BY MR. COLE:

20 Q The statement you just read doesn't say "then" and
21 then silence and then something else happened; isn't
22 that correct?

23 A "Then" doesn't put a time in there. That
24 doesn't -- you're not -- you're not seeing what
25 happened. My son's laying on the ground up there split

1 all to pieces. And, yeah, I said "then," but there was
2 a place in there or I would have never started that car
3 again driving down the road.

4 MR. COLE: Your Honor, I would ask the witness be
5 directed to answer the question.

6 THE COURT: Rephrase your question and ask it
7 again.

8 BY MR. COLE:

9 Q In the statement that you gave, you never said
10 that there was a silence or a gap and then something
11 else happened?

12 A I never said that, no.

13 Q And the statement that you gave, you remembered it
14 better -- you gave that statement on the night of the
15 incident, right?

16 A I did.

17 Q And you remembered what happened better the night
18 of the incident than you do now, years later?

19 A No. I mean, I was -- my nerves was tore all to
20 pieces then.

21 MR. COLE: No further questions, your Honor.

22 THE COURT: Redirect?

23 MR. ALDERMAN: Briefly, your Honor.

24 REDIRECT EXAMINATION

25 BY MR. ALDERMAN:

1 Q Is there any way you could forget what happened
2 that night?

3 A No.

4 Q Was there a break in time between the first
5 altercation and when the defendant cut your son?

6 A Yes.

7 MR. ALDERMAN: Thank you.

8 THE COURT: Thank you, ma'am. You may step down.

9 All right. Mr. Foreman, ladies and gentlemen,
10 let's take a quick afternoon break, around 15 minutes,
11 and we'll bring you back. If you need anything, make
12 sure our bailiff knows and she'll try to get it for
13 you. If you will leave your pads in the courtroom.

14 (WHEREUPON, the jury exited open court at
15 3:57 p.m.)

16 THE COURT: All right. Let's take about a
17 15-minute recess.

18 (WHEREUPON, a recess was taken from 3:58 p.m. to
19 4:18 p.m.)

20 THE COURT: Guys, just for the record, the jury
21 sent back a request to get the witnesses to speak in
22 the microphone, speak louder. They're having a hard
23 time hearing.

24 MR. COLE: Your Honor, if I may, we have one issue
25 as far as the next witness. He's got some criminal

1 charges that I plan to impeach him with. There's one
2 that's not showing up with the rap sheet that I was
3 provided by the State, but it is on the CMS.

4 I checked to see. It's the one that's showing up
5 on CMS was from April of this year where he was
6 convicted of possession of meth second offense, and
7 he -- it's got the same name, the same year of birth.
8 We don't get -- the public index doesn't give the full
9 date of birth, so I believe it's the same person and
10 would ask to be able to use that as well to ask him if
11 he had been convicted of that.

12 THE COURT: Well, let me do this. Have y'all
13 looked at the case of the State vs. Robinson? Have you
14 seen that? It was issued in May of this year, and it
15 goes back and it breaks down 609(a)(1), (a)(2), and
16 then 609(b). And if you're looking at methamphetamine
17 second offense -- this is assuming the State doesn't
18 disagree that that's the charge -- obviously, it's
19 punishable by more than a year.

20 And the way they break it down, if it's a witness
21 as opposed to being the accused, and it's for a crime
22 punishable by more than a year, then it may be excluded
23 if the probative value is substantially outweighed by
24 the danger of unfair prejudice, confusion of the
25 issues, misleading of the jury, undue delay, waste of

1 time, and cumulative evidence.

2 The State has the burden to establish its
3 inadmissibility, and then the Colf, C-o-l-f, factors
4 have to be considered as well, and that is the
5 impeachment value of the prior crime, the point in time
6 of the conviction, and the witness' subsequent history,
7 similarity between the past crime and the crime
8 charged -- that's more for the defendant -- import of
9 the defendant's testimony -- again that's for the
10 defendant -- or the accused and centrality of
11 credibility is an issue.

12 I assume you're speaking of the victim in this
13 case?

14 MR. ALDERMAN: We are, your Honor.

15 THE COURT: So with those factors and those
16 elements being said, Mr. Alderman, I'll be glad to hear
17 from you.

18 MR. ALDERMAN: Yes, your Honor. Two points. One,
19 I believe what Mr. Cole is speaking about specifically
20 is a charge that shows up on the public index but does
21 not appear on the NCIC report that we generally use to
22 run a rap sheet and to know what a person has on their
23 criminal history.

24 Judge, I ran this rap sheet today, and the charge
25 that Mr. Cole is bringing up is simply not on there,

1 and I would ask that it be excluded because we just
2 don't know if it's the same person as a matter of fact.
3 We haven't had time to investigate it.

4 And, in addition, Judge, pointing to those other
5 factors that you pointed out, we think that it would be
6 inadmissible because it tends to confuse the issue.
7 There's been no factual allegation that, specifically
8 in this case, methamphetamine on his prior record was
9 any factor or had anything to do with the events of
10 that night, and at the same time, just saying
11 methamphetamine tends to prejudice that individual.
12 It's kind of a hot button issue, particularly in this
13 county, Judge, and I think that it's more prejudicial
14 than it could possibly be probative.

15 THE COURT: I would tend to agree with you,
16 Mr. Cole, but I'll be glad to hear from you.

17 MR. COLE: Your Honor, I'm going to ask the
18 witness about his methamphetamine use and drug use
19 because that's -- my client is prepared to testify,
20 when we get to that point, that that's what this
21 argument was about that the parties had, so I do
22 believe it had some relevance. And then, also, it adds
23 probative value as to his criminal record as to the
24 truthfulness of his statements. So we have --

25 THE COURT: Well, there was a case -- it may be

1 White, I'm not sure. I can't remember who authored the
2 opinion, but it says that crimes involving dishonesty,
3 et cetera, et cetera -- they gave an example of
4 somebody being a drug dealer, and that has nothing to
5 do about honesty.

6 So with regard to what you're saying, if he's a
7 drug user may not necessarily indicate trustworthiness
8 or veracity. Isn't that what you were saying, it
9 indicates veracity?

10 MR. COLE: Your Honor, I believe it could towards
11 that, and that's why I believe the rules, they have the
12 separate section for, as the Court knows, the crimes of
13 honesty, but also any crime that carries more than one
14 year. So I think that's why the rules have the two
15 different ones, because if you are convicted of any
16 crime that carries more than one year, that could
17 lend --

18 THE COURT: Well, you know, and they make the
19 distinction, too, looking back at my notes, under
20 609(a)(1), those are the elements and the factors that
21 you look at under the Robinson case. 609(a)(2) had to
22 do with dishonesty, and they say in that, that if the
23 crime involves dishonesty or false statement, it shall
24 be admitted regardless of the maximum penalty. It's
25 admissible regardless of probative value or prejudicial

1 effect, and the burden on establishing that it does
2 involve dishonesty or false statement is on the
3 proponent, which would be on you.

4 But I don't find that methamphetamine
5 possession -- I mean, it could very well, you know
6 indicate the person -- it doesn't in and of itself
7 involve dishonesty or misstatement of facts. It just
8 means that somebody has got a drug problem, which could
9 mean that they may not be honest or dishonest, but the
10 charge itself does not indicate any of those or
11 implicate 601(a)(2). It has to be 609(a)(1), which
12 would be unfair prejudice, which, to me -- is there any
13 evidence or testimony that will be proffered in this
14 case that the victim in this case was doing drugs on
15 the night in question?

16 MR. ALDERMAN: Not to my knowledge, your Honor. I
17 have seen no evidence to that effect.

18 MR. COLE: Your Honor, no, your Honor.

19 THE COURT: I'm not going to allow you to do that,
20 Mr. Cole, in all due candor. I think it's just unduly
21 prejudicial to the State in this matter. Doesn't have
22 any probative value to the case or the issues in this
23 case. Credibility is a big issue in this case;
24 however, because a swearing contest between the victim
25 and his mom and defendant about what actually occurred

1 in that car, nobody knows but them. It's close to the
2 point in time, it's April. Impeachment value, you
3 know, doesn't -- I don't think it has a whole lot of
4 value except for what we all know is that it will --
5 from a jury standpoint, they are going to think,
6 whoever has this charge, is a bad person.

7 MR. ALDERMAN: That would be our position, your
8 Honor, and that there is no nexus between the charge
9 and dishonesty.

10 THE COURT: I'm not going to say that you can't
11 get into the issue of drug use, but the prior
12 conviction, I think, goes beyond that. And you are
13 just going to have to object if you hear something you
14 think is not appropriate.

15 Any other charges?

16 MR. COLE: Yes, your Honor, if I may ask the
17 Court. He also was convicted in 2018 of failure to
18 stop for a blue light. That was one that we wanted to
19 impeach him with under 601 because it carries more than
20 a year, but also I believe there could be some
21 dishonesty involved in that because if you don't stop,
22 to me, that's --

23 THE COURT: You know, the examples they give in --
24 I say the White case, whatever it is, or the Black
25 case, whatever it is, they give examples of writing bad

1 checks, you know, fraudulent tax returns, examples like
2 that that actively involve lying. I don't know that
3 failure to stop for a blue light would involve
4 dishonesty.

5 Are you aware of any cases that say one way or the
6 other?

7 MR. ALDERMAN: No, your Honor. I would say
8 generally the cases tend to deal with issues like theft
9 or providing false information.

10 THE COURT: Well, they had a case, I think Judge
11 Few, when he was on the bench, might have been
12 burglary, some kind of theft, if you're a thief, you
13 can imply that you're dishonest because what you're
14 doing is dishonest and they said huh-uh, that's not
15 what that means.

16 MR. ALDERMAN: If I recall, Judge, I think there
17 was one situation where one case said that shoplifting
18 was or wasn't and one said that larceny was or wasn't,
19 and they were opposed to each other.

20 THE COURT: I'm not aware of that.

21 Are you aware of any cases, Mr. Cole?

22 MR. COLE: No, your Honor, not as to failure to
23 stop for a blue light.

24 THE COURT: I'm not going to allow that either.
25 Any other charges?

1 MR. COLE: Yes, your Honor. Conviction in 2017
2 for -- this is in Georgia -- the use of communication
3 facility in commission of a felony involving controlled
4 substance.

5 MR. ALDERMAN: Judge, there is an adjoining
6 methamphetamine charge that I think is the head charge
7 in this series of possession of methamphetamine, use of
8 the communication facility, and the possession of the
9 weapon. All three charges are tied to the
10 methamphetamine as the root charge, and I think that's
11 really the issue. If you parse those, then the charge
12 doesn't make sense.

13 THE COURT: I'm not familiar with that statute,
14 but does that mean he used a phone to order drugs or
15 facilitate a drug deal?

16 MR. COLE: That's my understanding, but I'm not a
17 hundred percent familiar with the statute. But it is a
18 felony in Georgia.

19 THE COURT: Right. Carries more than a year.
20 They don't make a distinction between felony,
21 misdemeanor to make a difference. More than a year
22 under (a)(1).

23 MR. COLE: Yes, your Honor.

24 THE COURT: The ruling is going to be the same. I
25 think they're all interrelated.

1 Now, the weapon only carries up to a year -- no,
2 that's five.

3 MR. ALDERMAN: In Georgia, your Honor, I truly
4 have no idea.

5 MR. COLE: He wasn't convicted of the weapons
6 charge, your Honor. The only other one -- and, again,
7 this may be along the same lines of failure to stop for
8 a blue light, but the charge in Georgia he was
9 convicted of in 2017 is fleeing or attempting to elude
10 a police officer, and I would argue with that charge,
11 if he's fleeing or attempting to elude, that does carry
12 dishonesty with it.

13 MR. ALDERMAN: Again, Judge, I don't have any idea
14 what that carries.

15 THE COURT: Hang on. Hang on.

16 This is under State vs. Broadnax. "So we take
17 this opportunity to overrule Al-Amin, and reaffirm the
18 rule as formulated in Bryant that armed robbery is not
19 a crime of dishonesty or false statement for purposes
20 of impeachment. Thus, we hold for impeachment purposes
21 crimes of dishonesty or false statement are crimes in
22 the nature of *crimen falsi* that bear upon a witness'
23 propensity to testify truthfully."

24 Again, you know, that could go under 609(a)(2)
25 would be it doesn't matter if it comes in, but it

1 doesn't come in under (a)(1), and I don't think it does
2 involve falsity or misstatement.

3 You think about the issue of armed robbery. I
4 just don't see how you can -- if that's not a crime of
5 dishonesty for purposes of impeachment, I don't see how
6 failure to stop for a blue light or its equivalent in
7 Georgia would be the same. I hate to knock you out,
8 but I'm going to find that it's not admissible.

9 Any other charges out there?

10 MR. COLE: No, your Honor.

11 THE COURT: Any bad check charges, anything like
12 that?

13 MR. COLE: No, your Honor.

14 THE COURT: Okay. Then all three of those, I
15 would sustain any objection to them at this juncture.
16 I know you want to proffer on the record that you would
17 have cross-examined the defendant on the issue of
18 possession of methamphetamine second offense, eluding
19 law enforcement or failure to stop for a blue light,
20 and what other charge?

21 MR. COLE: Possession first offense.

22 THE COURT: Possession first offense of
23 methamphetamine.

24 MR. COLE: And then unlawful use of communication
25 facility involving a felony in Georgia.

1 THE COURT: All right. I note your objection to
2 my ruling.

3 MR. COLE: Thank you, your Honor.

4 THE COURT: Yes, sir.

5 MR. ALDERMAN: Judge, one other issue we'd like to
6 take up. Mr. Cole has indicated that he wants to
7 question the witness with regard to drug use or how
8 drugs were involved in the case but at the same time
9 said that he has no evidence to offer to that effect.
10 And I think that bringing up the issue when there's
11 nothing to back it up, to use an extreme example, it
12 would be, without any evidence to that effect, putting
13 the witness on the stand and saying, "Isn't it true
14 you're a pedophile?" Of course he says no, but it's
15 out there. And if we have already acknowledged what a
16 hot button issue the methamphetamine is and we're
17 acknowledging there's no evidence to back it up, then
18 why would we smear him with that question that we know
19 is going to get a negative response and we have nothing
20 to counter it with.

21 THE COURT: What would be your good-faith basis
22 for asking the question besides him having a record for
23 possession of methamphetamine, which would indicate
24 use?

25 MR. COLE: In the testimony that Ms. Galbreath

1 read when she read her statement, there was -- she read
2 in there something to the effect of that the argument
3 was over drugs. My client plans to testify that the
4 argument was over Mr. Reid's use of drugs.

5 THE COURT: And he certainly can. He can testify
6 to that. I think you can cross-examine him that the
7 argument was his allegation -- he got mad because he
8 told you that you were using drugs or something along
9 those lines.

10 Let me just say this. You need to object if you
11 hear something that you feel is inappropriate. It's
12 hard for me, without hearing what the question is, to
13 make a ruling at this juncture. Okay?

14 MR. ALDERMAN: Yes, your Honor.

15 THE COURT: But you have to have a good-faith
16 basis to ask a question. That's always the case.

17 MR. COLE: Yes, your Honor.

18 THE COURT: Okay. All right.

19 You ready?

20 MR. ALDERMAN: Yes, your Honor.

21 THE COURT: You ready, Mr. Cole?

22 MR. COLE: Yes, your Honor.

23 THE COURT: While he's doing it, of course, the
24 door can be opened. And you're well aware, right?

25 MR. ALDERMAN: Yes, your Honor.

1 (WHEREUPON, the jury entered open court at
2 4:35 p.m.)

3 THE COURT: Call your next witness, please, sir.

4 MR. ALDERMAN: Yes, your Honor. Judge, at this
5 time the State would call Michael Todd Reid.

6 MICHAEL TODD REID,
7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. ALDERMAN:

10 Q Would you state your name, sir, for the record.

11 A Michael Todd Reid.

12 Q Spell your last name.

13 A R-e-i-d.

14 Q And where do you live? Not address but just
15 city-wise where?

16 A Ocone County.

17 Q Okay. What do you do for a living?

18 A I'm a maintenance tech at Baxter.

19 Q Okay. Do you know the defendant, Clifton Smith?

20 A Yes.

21 Q How is it that you know him?

22 A Acquaintance of my mother.

23 THE COURT: Let me stop. Can the jury hear this
24 witness? If at any time any of you cannot, would y'all
25 raise your hand?

1 And make sure, sir, to pull that microphone closer
2 to you.

3 But if you can't hear or see, let me know. I'll
4 make them repeat it.

5 I'm sorry, Mr. Alderman.

6 BY MR. ALDERMAN:

7 Q So how do you know him?

8 A Him and my mother -- my mother met him and we
9 lived together at the time, and he came and stayed with
10 my mother and I. He left for a little while, we moved,
11 and then he came back into her life. Under a different
12 relationship basis, but still in our lives.

13 Q So were the three of you staying under the same
14 roof in December of 2017?

15 A My mother's home is always open to me. I came and
16 went as I pleased.

17 Q So you had other places to stay from time to time?

18 A Yes.

19 Q Would you come back occasionally and stay there
20 for a period of time?

21 A Yes.

22 Q On that particular night or time around
23 December 26, 2017, where were you staying?

24 A I was staying there.

25 Q So touching on December 26, 2017, do you remember

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1 what you were doing that day?

2 A No.

3 Q Do you remember going to a gathering of any kind
4 or what you were doing that evening?

5 A That evening, woke up, then just lazy all day.
6 Woke up, got ready, went to my sister's.

7 Q How did you get there?

8 A We all rode together in Mom's Cadillac, car.

9 Q Who's we?

10 A My mother Varia, Mr. Smith, Toby, Jengo, and me.

11 Q Who are Toby and Jengo?

12 A The two dogs.

13 Q When you got there, what did you do?

14 A We went up. We ate. Addie, that's a niece, you
15 know. That's the big Christmas, the children. And as
16 the evening commenced, I just -- I was kind of done
17 with the situation with the use of alcohol and the
18 only-one-person kind of drinking thing, it just got
19 fouled.

20 Q Who was that one person?

21 A Mr. Smith.

22 Q When you say got fouled, I mean, tell me what was
23 going on.

24 A I was already -- I mean, I -- it just wasn't the
25 time and place. I mean, yeah, the alcohol was given as

1 a gift, but, I guess, considered in moderation. My
2 sister probably had those bottles for years. It was
3 like, "Oh, I'll give him this." She does clean houses
4 and they, like, leave stuff in condos or whatever.
5 She's like shampoo, and liquor, you know, whatever.

6 Q So what did you do next? The party gets fouled.
7 What happens next?

8 A Yeah. You know, the comments of trying to --
9 trying to be funny. Everybody -- my sister's kind of
10 just not being herself, and, you know, I'm just -- I
11 just kind of had to, like, leave the situation so I
12 didn't say something, I guess.

13 Q When you say leave the situation, did you go
14 outside? Did you go for a walk? What did you do?

15 A Yeah. I went outside, smoked a cigarette. I hung
16 out with the dogs, let them walk, use the restroom and
17 stuff.

18 Q Eventually did the three of you leave?

19 A Yes, we did.

20 Q Were you together?

21 A They come down surprisingly shortly after. Like,
22 I figured, like, they could do their own, you know,
23 maybe mom can handle the liquor of Clifton around them.
24 I just kind of removed myself because I didn't want to
25 be, like, saying what I felt about him acting that way

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1 in that setting in my sister's home, so I just, you
2 know, sat in the car. But like I said, they came on
3 down and we left a lot sooner than I thought.

4 Q And so the three of you get in the car. Where is
5 everyone sitting?

6 A Mother drives, Clifton is in the passenger, I'm
7 sitting directly behind in the passenger rear, and Toby
8 and Jengo.

9 Q Okay. And where are you guys heading?

10 A We was heading on towards Ocone out of Clemson
11 area on 123. Sort of planned on going -- I was going
12 home, back home with Mother towards 183. My mom was
13 starting to get -- was upset about the situation
14 because, you know, Christmas is kind of, you know,
15 fouled, and so I -- that's when I started saying what I
16 needed to say about, you know, the mooching, the not
17 working, the overbearing on my mother of his presence.
18 And the fact that he can't handle the alcohol in that
19 aspect.

20 Q Did he have anything to say back?

21 A He did. And he said, "Well, you do drugs," and
22 that's when I struck him because we wasn't -- I struck
23 him like, "Shut your mouth," pretty much.

24 Q What happened next?

25 A Mom stops the car. She has his shirt, like,

1 "Y'all, don't. Stop. What are you doing? Stop." And
2 I'm like, "You know what, take me to my friend's.
3 Enough of this." So I sit back. We continue on. I
4 look at my phone, trying to get ahold of somebody. I
5 just wanted to get dropped off somewhere, and they
6 wasn't answering. But, I mean, me and Jengo can just
7 hang outside until somebody come home, whatever. It
8 didn't matter. I just wanted out of the situation.

9 Q All right. So is it your testimony, then, that
10 there was altercation number one and then you continued
11 down the road?

12 A Yeah.

13 Q Okay. And then what happens?

14 A I get sliced one down through here. I'm thinking
15 I'm being slapped at. I mean, my head wasn't being
16 spun, like I wasn't being hit, you know. So it was
17 just like, what are you doing, kind of thing. Get
18 something in my hand, make it stop.

19 By that time the car -- Mom's really stopped now,
20 and she has his shirt, pulling him back towards the
21 front. He's turned around completely in his seat on
22 his knees facing the rear, and we're just -- at this
23 point we're just trying to -- she's pulling him back to
24 the front, and I'm, like, letting go, like, of his
25 hand, and obviously it had something sharp in it.

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1 Q When you said she was pulling on his shirt, was
2 she pulling hard pulling him back to the front?

3 A Yeah. Yeah, because, I mean, we already had the
4 altercation one time, and that's when I struck him.

5 And he was kind of in a shock of, "Oh, yeah, he did
6 just hit me," like, I mean --

7 Q You saying it stunned him?

8 A Yeah. And that was my point was, you know, he was
9 speaking, and I was saying that, you know, you need to
10 respect my mother a little more, and I can't believe
11 you're doing this, like just disrespectful. And when
12 he disrespectfully said something about me, I just
13 wasn't -- so I struck him. And then I stopped because
14 that was -- I didn't mean to strike him. I just needed
15 to say what I needed to say because, I mean, I seen my
16 mama's burden, and I seen -- I mean, it was just
17 enough. Enough was enough.

18 Q Fair to say you were wrong to hit him?

19 A Yeah.

20 Q Okay. Tell me about these injuries, these cuts.
21 Specifically where were you cut?

22 A Cut from here to here, from here to here, about
23 11 inches across this leg, about three inches here. My
24 arm from here to here, to here to here. My hand, all
25 the way across there. You can see where they -- like

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1 this one, so it goes. And then this one, they go all
2 the way.

3 Q You mean to say that when you pull that up, that
4 was just one long cut?

5 A Yeah. They pair up. Like, you could see the line
6 if I crunched just right, you know.

7 Q Was that because you were turning away while he
8 was hitting you?

9 A Yeah. Yeah. I mean, it was -- this was just -- I
10 mean, I could feel my shirt (indicating) like, and I
11 pulled down like this. This time he's got another
12 swipe, so that's when I guess I turned like this and I
13 tried to get -- you know, there's not six-foot.
14 There's not much room in a backseat to go anywhere, so.

15 MR. ALDERMAN: Permission to approach the witness,
16 your Honor?

17 THE COURT: Yes, sir.

18 BY MR. ALDERMAN:

19 Q Mr. Reid, I'm approaching you with what's been
20 previously marked as State's 2, 3, and 5. Take a look
21 at these and tell me if you recognize what you see.

22 A Yes. That's the injuries, yes.

23 Q So have you seen these pictures before?

24 A Uh-huh.

25 Q Does it look like these pictures have been

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1 changed, altered, manipulated in any way?

2 A No.

3 Q So are these a fair and accurate representation of
4 your injuries that day?

5 A Yeah. I mean, it's just some of it.

6 Q Okay.

7 A There's some bandages or I guess my leg was
8 still -- it was still bandaged up and stitched.

9 Q So you have more injuries than what appear in
10 these pictures?

11 A Yeah.

12 MR. ALDERMAN: Judge, at this time we'd seek to
13 admit State's 2, 3 and 5.

14 THE COURT: Any objection?

15 MR. COLE: No objection, your Honor.

16 THE COURT: Admitted.

17 (WHEREUPON, State's Exhibit Numbers 2, 3 and 5
18 were admitted into evidence.)

19 MR. ALDERMAN: Judge, we would seek to publish to
20 the jury at this time.

21 THE COURT: Yes, sir.

22 BY MR. ALDERMAN:

23 Q Starting with State's 3. Mr. Reid, tell us what
24 we're looking at here.

25 A That's on my upper arm.

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1 Q Are those staples or stitches?

2 A Yeah, that's stapled together.

3 Q And what are we looking at here?

4 A That's down the chest. That's staples and, I'm
5 guessing, some sort of glue.

6 Q This being State's 2.

7 Do you know how many staples you ended up with?

8 A Um, no, not really. They said it was over 80,
9 something like that. I mean, you can count the dots
10 now still.

11 Q And State's 5. This bandage on your hand, what's
12 that all about?

13 A Yeah. My hand was pretty much out of commission
14 for a while. It's still -- it's not a hundred percent.
15 Never will be. But I do have use in it. I do have
16 strength in it, so that is -- I guess initially they
17 just sewed it up, a month later they opened it, and
18 then I had some surgeries. And then, like, three,
19 four months or about four months I couldn't use it, and
20 then physical therapy, trying to get it back in motion
21 again.

22 Q So did you have to have follow-up surgeries after
23 your initial visit?

24 A I mean, let's see. They took the stitches out.
25 They -- yeah, I had to wait another week or so, and

1 then they cut it back open, so then I had to go -- they
2 stitched it up again, so then I had to go back to get
3 that undone.

4 Q When you say they cut it back open, you mean they
5 opened it for surgery to fix something, or what were
6 they doing?

7 A They did nerve repair and then tendon repair.

8 Q So coming back to the fight, he comes over the
9 seat with a knife, is that right, and swung at you
10 several times?

11 A Yes.

12 Q You said the car was stopped at this point?

13 A It's in the process, I'm sure. I mean --

14 Q Once it was stopped, what did you do?

15 A I get -- well, yeah, once -- I didn't really care
16 if it was stopped or not. I was getting -- I was
17 heading that way. I felt it. I knew it was stopping.
18 Now how long when it stopped, I got out, or was I
19 getting out as it stopped.

20 Q Sure. Once you're out, what do you do?

21 A I just kind of pace back. I just kind of walk. I
22 realize -- I didn't realize how bad it was, but I
23 realized something was bad. I didn't want to look at
24 it. I was trying -- I guess adrenaline. I'm kind of
25 pacing back in front of the car and kind of just the

1 fact that like, "Really?" Like, "Really? Really,
2 guy?" Like, "You can't handle a little badgering?"

3 And, "Do right by my mother. Do right by" -- and, you
4 know, "You get popped in the mouth. You can't handle
5 that, so you're going to cut somebody? Like, really?"

6 So that's kind of my mentality about it. And I'm
7 talking to my mom, and she's kind of like, "What are
8 you doing?" I'm like, "I'm cut. I'm cut." She's
9 like, "Oh, my God," you know. She's all, "Hanna, he's
10 cut." I'm like, "Get off the phone with Hanna and get
11 the ambulance." But luckily, thank God, those
12 responders was behind us, I mean.

13 Q So after the first responders get there, what did
14 they do for you?

15 A Just, I mean, I remember them packing whole wads
16 of gauze in my leg, and it coming out. I mean, they're
17 just trying to stop it.

18 Q Once they had you stabilized, where were you
19 transported?

20 A To Greenville.

21 Q Why was that?

22 A They, you know, it's a situation. Got me stitched
23 up, got me --

24 Q Why Greenville instead of right around the corner?

25 A I think they're a good trauma unit, I guess.

1 That's where most people, the life flight, and that's
2 where that goes.

3 Q What kind of medical bills did you have after all
4 that?

5 A There's about 160-something, 180,000. I mean,
6 everything is a little bit expensive, so, like, \$42,000
7 worth of surgery on my hands. The initial, I mean, you
8 know, OR and ER time is, you know, expensive. The ride
9 is expensive. I mean, those -- they do great work so,
10 I mean.

11 Q Now, was it your right or left hand?

12 A Right.

13 Q Are you right or left-handed?

14 A Right.

15 Q Is your hand ever going to be the same?

16 A Huh-uh.

17 Q At the time that the defendant came over the seat
18 and cut you with a knife, were you talking to him?
19 Were you yelling at him? Were you hitting him?

20 A None of it.

21 Q Were you antagonizing him in any way?

22 A No.

23 MR. ALDERMAN: No further questions. Please
24 answer any questions Mr. Cole may have for you.

25 THE COURT: Cross-examination.

1 MR. COLE: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. COLE:

4 Q Mr. Reid, in December 2017, how old were you?

5 A I'm 32 now. I was born in 1987.

6 Q So you would have been 30 then?

7 A Yes, I believe so. I mean, I'm not great at math.
8 I can start counting. Yeah, I believe so.

9 Q If you need some water, Mr. Reid, go ahead.

10 Around that time, or now, how tall are you?

11 A A little over six-foot.

12 Q And how much do you weigh?

13 A A little over 200.

14 Q And you're in pretty good shape, right?

15 A I'm getting older.

16 Q In December 2017 you were in pretty good shape
17 then?

18 A Yeah. I'm -- yeah, I was actually -- I was
19 physically perfect, no broken bones, no scars, no -- I
20 mean, always been pretty fit, healthy.

21 Q So you would say you were healthy and strong,
22 right?

23 A Uh-huh.

24 Q Sorry. You have to answer with words.

25 A Yeah. I mean, strength meaning could I pick

1 something up, yeah.

2 Q You said that you were going to -- you asked your
3 mother to take you to somebody else's house; is that
4 right?

5 A Yes.

6 Q Who were you going to see?

7 A I didn't -- just towards an area because I didn't
8 have nobody at a residence that I was trying to get on
9 the phone, didn't have any specific place, but, I mean,
10 I have somewhere to stay. I guess somewhere to get out
11 of the situation, at least a night just to whatever.

12 Q Was the person a friend of yours?

13 A Yeah.

14 Q And with the injuries, you just stayed in the
15 hospital one night and got out the next day, right?

16 A I got there at -- yeah, I mean, it was -- yeah,
17 basically a night, yeah.

18 Q Going back to the Christmas party, you removed
19 yourself from the situation because you were angry at
20 my client; isn't that correct?

21 A No. I was annoyed and fed up and just like in
22 disbelief of the disrespect that a grown man on
23 somebody that I've spoke upon respect and etiquette to
24 him before, you know, throughout the whole duration of
25 the time I've known him. He knew how I felt about

1 things.

2 Q So you were annoyed and fed up?

3 A I -- yeah.

4 Q I'm sorry?

5 A Yeah, I guess.

6 Q And you were angry with him; is that fair to say?

7 A Angry? Not at that point. At the Christmas
8 party, no.

9 Q You said that you took yourself out of the
10 situation so that you wouldn't say what you needed to
11 say or what you wanted to say; is that correct?

12 A Yeah.

13 Q What did you want to say to him?

14 A I guess it wasn't to him. I mean, what I wanted
15 to say was -- I guess my mother can handle this he-he
16 bullshit, but I can't. Him being obnoxious and think
17 he's funny when he's "wheh, wheh" picking at somebody
18 drunk and out of hand at a Christmas party that
19 nobody -- that's not how you act towards people.

20 So I would have said, you know, I can't believe --
21 you really want this around us? Like, really? Why are
22 we here? Like, why --

23 Q He had been living with you and your mother for a
24 while at that point?

25 A No. Well, no. It was on and off because he -- he

1 crossed the line before, like I said, and he got moved,
2 he moved back, and then he had, I guess, some issues
3 with law enforcement so he moved back, and then he was,
4 you know, needed a ride, needed some help, and just
5 like good-hearted people, we provided that.

6 Q But it sounds like you didn't really like the idea
7 of him living there?

8 A I didn't, not with his behavior, no.

9 Q And you didn't like the way he treated your mama,
10 right?

11 A Didn't like the way he was. At one point he had
12 agreed to, you know, as long as she's happy,
13 everybody's happy. So that was why I was wanting
14 everybody happy was my thing.

15 Q But you were angry because he was mooching and he
16 was not working and he was overbearing, right?

17 A Not off of me. Others, but I'm not angry about
18 it. I was just fed up with it.

19 Q So you were fed up with it?

20 A It's just, come on.

21 Q And in the car you got so fed up with it that you
22 finally had to say something to him?

23 A I mean, I said that -- I've spoke the same
24 reasoning multiple times throughout the time I've known
25 him, so nothing that he hasn't heard from me before. I

1 mean, I guess in his mind he didn't care what I had to
2 say because he was there for my mother and he wanted me
3 to go somewhere else, which, fine, if everybody was
4 happy, I guess.

5 Q So you started the verbal argument in the car?

6 A I mean, me and my -- I was speaking to my mother,
7 and then, you know, because she was upset, so we was
8 all just kind of speaking upon the subject, I guess.

9 Q Your testimony a minute ago was that you went
10 outside to cool off so you wouldn't say what you wanted
11 to say, but then when you got in the car, you finally
12 said what you wanted to say.

13 A I mean, it wasn't directly. It was just, like I
14 said, my mom started crying and stuff, and it just --
15 it escalated, I guess.

16 Q And you said what you wanted to say about my
17 client?

18 A Not everything, I guess. He interrupted me, so
19 that's when I struck him. I mean --

20 Q You said some of the stuff you wanted to say about
21 him?

22 A I guess. I mean, yeah. What's words, right?

23 Q So you started the argument in the car, then?

24 A No, the drinking started the argument.

25 Q Then he said something about you using drugs, and

1 that made you really mad?

2 A He could have just said anything, I guess. He
3 didn't have to say anything about drugs.

4 Q But that's what made you really mad, when he said
5 something about you using drugs?

6 A No. I -- just the fact that he had something to
7 say, period. Because that was the whole thing, like he
8 kept "ba ba ba ba ba ba ba," opening his mouth, and it
9 was like, golly.

10 Q So he kept running that mouth?

11 A He was just being drunk. I guess everybody should
12 have got a shot and just had a rowdy, little good time,
13 I guess. I don't know.

14 Q Everybody had a shot --

15 A I said I guess everybody should have and then we
16 could have all been that way, or feeling well or
17 however.

18 Q With everything going on, he continued to run the
19 mouth and you got fed up with it; is that right?

20 A Yeah. Yes.

21 Q And he was in the front seat, and you were in the
22 backseat; is that right?

23 A Yes.

24 Q Right behind him?

25 A Yes.

1 Q Where he couldn't see you?

2 A He could see me.

3 Q How could he see you behind him?

4 A (Indicating) like that.

5 Q But if he was facing front, he couldn't see?

6 A I mean, we don't have blinders on. We could see
7 each other. I mean, you're riding in the car.

8 Q But y'all were just having a verbal argument, and
9 you took it and hit him, made it a physical thing?

10 A Uh-huh.

11 Q Because you were angry?

12 A Yes. I don't -- I'm not a very angry person, so
13 it's very out of my character to even go physical, but
14 I did make it physical, yes.

15 Q So it was just words, and you laid hands on my
16 client?

17 A Yes. No, if I laid -- yes.

18 MR. COLE: No further questions, your Honor.

19 THE COURT: Redirect.

20 REDIRECT EXAMINATION

21 BY MR. ALDERMAN:

22 Q After you slapped him, did he pull out a knife
23 then and cut you to pieces, or was there a break in
24 time?

25 A There was a definite break in time.

1 Q And during that break in time, did you slap him
2 again?

3 A Negative. No.

4 Q Okay. Did you yell at him?

5 A No. I'm --

6 Q Did you antagonize him or try to get him to fight
7 you?

8 A No.

9 Q And was it then at that point that he did all of
10 this (indicating)?

11 A Yes.

12 Q Now, they have gone out of the way to make the
13 point that it was just words and then it was a slap,
14 right?

15 A Yes.

16 Q So it was just a slap, and then it turned into
17 almost killing you; is that right?

18 MR. COLE: Objection, your Honor. Counsel is
19 testifying.

20 MR. ALDERMAN: Withdraw the question.

21 No further questions.

22 THE COURT: Sustained.

23 MR. COLE: No further questions, your Honor.

24 THE COURT: Thank you, sir. You may step down.

25 All right. Mr. Foreman, ladies and gentlemen of

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1 State of South Carolina
2 County of Oconee In the Court of General Sessions

3
4 State of South Carolina,)
5) 2018-GS-37-00667
6 -vs-) November 19, 2019
7 Clifton Eugene Smith,) Volume II of II
8 Defendant.) Pages 205 - 280
9 _____) Transcript of Record

10

11

B E F O R E:

12

The Honorable R. Lawton McIntosh, Judge

13

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

15 Jason C. Alderman, Esquire
Attorney for the State

16

17 Lee Cole, Esquire
Attorney for Defendant

18

19

20

21

Reported by:
Diane L. Marcengill, RPR, CRR, CRC
Circuit Court Reporter

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E x h i b i t s

For the State:

Marked	Description	I.D.	Admitted
7	Photo-Defendant close-up		215
8	Photo-Defendant		215
9	Photo-Defendant's hands		215
10	Photo-Defendant's shoulder		215

For the Defendant:

Marked	Description	I.D.	Admitted
	None offered.		

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at 9:44 a.m.)

4 THE COURT: Mr. Cole, glad you're here. Are you
5 ready?

6 MR. COLE: Yes, your Honor.

7 THE COURT: Mr. Alderman, you ready?

8 MR. ALDERMAN: Yes, sir.

9 THE COURT: All right. Would you bring the jury
10 in, please, ma'am.

11 (WHEREUPON, the jury entered open court at
12 9:44 a.m.)

13 THE COURT: All right.

14 Mr. Foreman, ladies and gentlemen of the jury, I
15 hope you had a good evening. Does everybody have their
16 pad and pen with them?

17 Very good.

18 Mr. Alderman, are you ready to proceed with your
19 next witness?

20 MR. ALDERMAN: Yes, your Honor.

21 THE COURT: Call them, please.

22 MR. ALDERMAN: Your Honor, at this time the State
23 would call Sergeant Clay Sheriff of the Oconee County
24 Sheriff's Office.

25 CLAY SHERIFF,

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MR. ALDERMAN:

4 Q Could you please state your full name and spell
5 your last name for the record.

6 A Clay Sheriff, S-h-e-r-i-f-f.

7 Q And where are you employed?

8 A The Oconee County Sheriff's Office.

9 Q How long have you been there?

10 A Almost eight years.

11 Q And what's your current position, your duties,
12 from day to day?

13 A My current position, I'm an investigator at the
14 sheriff's office. I investigate property crimes in the
15 lower part of the county and violent crimes as well.

16 Q And was that your position back in December of
17 2017?

18 A No, sir. 2017 I was a master patrol deputy on the
19 Charlie shift, night shift, and also a field training
20 officer that night.

21 Q In that capacity, did you respond to a call on
22 December 26, 2017, involving the defendant?

23 A Yes, sir, I did.

24 Q Okay. And were you the first to arrive on scene?

25 A No, sir. I was, I think, the second car to arrive

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1 that night on scene behind Deputy Crooks.

2 Q If you recall, what information did you receive
3 from dispatch? What was the nature of the call?

4 A Dispatch advised there is a car on the side of the
5 road and that the -- there was some kind of stabbing or
6 cutting incident, and one victim was laying on the side
7 of the road.

8 Q As the master patrol deputy, would you have been
9 the ranking officer on scene?

10 A Yes, sir.

11 Q And when you arrived, what did you see first?

12 A When I arrived on scene, first I saw Deputy Crooks
13 had the suspect, Mr. Smith, with his hands up. Went in
14 to detain him. After we got that -- after the suspect
15 was secure, I turned my attention to the victim in the
16 case. I was overwhelmed by the amount of blood that I
17 saw on the ground and also the severity of the wounds
18 of the victim.

19 Q Was someone attending to the victim at that point?

20 A Yes. There were two first responders on the scene
21 that were actively attending to the victim.

22 Q Did you have a chance to speak with the defendant
23 on scene?

24 A Yes, very briefly.

25 Q Tell me, just what was his general demeanor?

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1 A He was very agitated, seemed like he was
2 intoxicated and boisterous and like he was angry.

3 Q In what ways did he seem intoxicated?

4 A He seemed like he -- I could smell the odor of
5 alcohol on his breath was the main thing.

6 Q Did he make any voluntary statements about what
7 happened that night?

8 MR. COLE: Objection, your Honor.

9 THE COURT: Based on prior pre-court rulings?

10 MR. COLE: Yes, your Honor.

11 THE COURT: Okay. I note the objection for the
12 record.

13 BY MR. ALDERMAN:

14 Q If you would continue. Did he make any
15 statements?

16 A He did. He actually said that, while I was
17 escorting him back to the car, he said, "I did it, and
18 I'd do it again."

19 Q So he admitted, then, that he was the one that cut
20 the victim; is that right?

21 A Yes.

22 Q Did he say why he did it?

23 A One of the things he did say, he said, I think, it
24 was an argument and that the victim had a knife and
25 that he took the knife from the victim and stabbed him

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1 with it.

2 Q Okay. So just to make that clear, your testimony
3 today is that he said -- he, being the defendant?

4 A Yes, sir.

5 Q -- that the victim had a knife and attacked him
6 with it?

7 A That's what he told me.

8 Q And that he disarmed the victim and then stabbed
9 him with his own knife?

10 A Yes.

11 Q Did he make any other statements --

12 A He did.

13 Q -- about the knife?

14 A He did. After I told him he was under arrest, he
15 made the statement that, "He ought to die." He also
16 made the statements to -- while we were at the hospital
17 that night, he said, "Did I get him good?" He was
18 asking me and Deputy Lecroy, while sitting in the
19 hospital, that. And he said, "I wouldn't take one
20 stitch back." He seemed very unremorseful with the
21 actions that happened that night.

22 Q So you were there at the hospital, then, initially
23 when the defendant was transported?

24 A Yes, sir.

25 Q Why was the defendant transported to the hospital?

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1 A He had lacerations to his fingers. It was the
2 main reason he was taken to the hospital.

3 Q Did you notice any lacerations to any other part
4 of his body?

5 A Not that I could tell.

6 Q None to his head, his ears, his eyebrows --

7 A No, sir.

8 Q -- nothing around his face? Okay.

9 Did he have blood on his face?

10 A He did.

11 Q And if not from him, where would the blood have
12 come from?

13 A I would assume --

14 MR. COLE: Objection, your Honor. Speculation.

15 THE COURT: I sustain that unless you can lay a
16 foundation for it.

17 MR. ALDERMAN: Okay.

18 Q Did you notice any cuts to his head?

19 A No, sir.

20 Q Did you notice blood on his head?

21 A I did notice blood on his head, yes, sir.

22 Q Did you notice cuts to his hand?

23 A Yes.

24 Q Did you notice a great deal of the victim's blood
25 all over the scene?

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1 A Yes.

2 MR. ALDERMAN: Nothing further.

3 If you would, please answer any questions Mr. Cole
4 may have for you.

5 CROSS-EXAMINATION

6 BY MR. COLE:

7 Q Investigator Sheriff, my client stated then that
8 he -- his statements to you were that he acted in
9 self-defense; is that correct?

10 A Yes, sir. He did state that he took the knife
11 from the victim and stabbed him with it.

12 MR. COLE: Your Honor, may I approach the
13 victim -- I mean the witness?

14 THE COURT: Yes, sir.

15 MR. COLE: Your Honor, I'm showing the witness a
16 photograph that's previously been marked State's
17 Exhibit 7 for identification purposes.

18 Q Sir, do you recognize this photograph?

19 A Yes, sir. It is the photo I took at the hospital.

20 Q And you took that photo?

21 A Yes, I did.

22 Q And is that a photograph of my client, Clifton
23 Smith?

24 A Yes, it is.

25 Q Is that a fair and accurate depiction of what he

Clay Sheriff - Cross

State v. Clifton Eugene Smith 2018-GS-37-00667 November 19, 2019 Volume 2 of 2

1 looked like at the hospital?

2 A Yes, sir, it is.

3 MR. COLE: Your Honor, I'm presenting the witness
4 with a photograph marked as State's Exhibit 8 for
5 identification purposes.

6 Q Do you recognize this photograph?

7 A Yes, I do.

8 Q Did you take that photograph?

9 A I did.

10 Q Is that a photograph of my client?

11 A It is.

12 Q And it's him in the hospital?

13 A It is.

14 Q Is that a fair and accurate depiction of what he
15 looked like in the hospital?

16 A Yes, sir, that night.

17 MR. COLE: Your Honor, I'm presenting the witness
18 with a photograph marked as State's Exhibit 9 for
19 identification purposes.

20 Q Do you recognize this photograph?

21 A Yes, sir.

22 Q And that's a photograph of my client's hands the
23 night of the incident?

24 A Yes, it is.

25 Q And is that a fair and accurate description or

Clay Sheriff - Cross

State v. Clifton Eugene Smith 2018-GS-37-00667 November 19, 2019 Volume 2 of 2

1 fair and accurate depiction of my client's hands at the
2 hospital?

3 A Yes.

4 MR. COLE: And, your Honor, I'm showing the
5 witness a photograph marked as State's Exhibit 10 for
6 identification purposes.

7 Q Do you recognize this photograph?

8 A Yes, I do.

9 Q And did you take that photograph?

10 A Yes, sir, I did.

11 Q And is that a fair and accurate depiction of what
12 my client looked like on the night of the incident?

13 A Yes.

14 MR. COLE: Your Honor, I would move into evidence
15 these exhibits marked as State's Exhibit 7, 8, 9 and
16 10.

17 MR. ALDERMAN: Without objection, your Honor.

18 THE COURT: Admitted.

19 (WHEREUPON, State's Exhibit Numbers 7, 8, 9 and 10
20 were admitted into evidence.)

21 MR. COLE: Your Honor, permission to publish these
22 to the jury?

23 THE COURT: Yes, sir.

24 Could you refer to the exhibit number as you show
25 them, please, sir.

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1 BY MR. COLE:

2 Q This is State's Exhibit 10.

3 And, Officer, this shows -- it's a little blurry,
4 but this shows some cuts around my client's mustache
5 area; isn't that correct?

6 A I did not notice it that night, no, sir.

7 Q But do you see that now?

8 A I do see blood around his lip, yes.

9 Q This is State's Exhibit 9.

10 And this shows my client's hands that are cut and
11 wrapped in gauze; isn't that correct?

12 A Yes.

13 Q And this is State's Exhibit 8.

14 This shows my client with, looks like a laceration
15 on his head and a knot on his head. Do you agree with
16 that?

17 A I do agree there's blood on his head. I don't
18 recall seeing a laceration that night.

19 Q Do you remember seeing a knot on his head?

20 A I do see a knot now, but I don't recall that
21 night, no, sir.

22 Q But you see that now?

23 A Yes, I do see a knot on top of his head.

24 Q And you see blood on the side of his face?

25 A Yes.

Nicole Lecroy - Direct

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1 Q And blood above his eyebrow?

2 A Yes.

3 Q Then this is State's Exhibit 7.

4 And here do you see my client again with blood on
5 his face?

6 A Yes.

7 Q And blood above his eyebrow?

8 A Yes, sir.

9 Q And also around -- blood around the lip area?

10 A Yes.

11 MR. COLE: Your Honor, due to the screen, I would
12 ask to be able to pass these exhibits to the jury.

13 THE COURT: Yes, sir.

14 BY MR. COLE:

15 Q So from these exhibits, you agree that my client
16 had injuries on the night in question?

17 A Yes.

18 MR. COLE: No further questions, your Honor.

19 THE COURT: Redirect?

20 MR. ALDERMAN: None, your Honor.

21 THE COURT: Thank you, sir. You may step down.
22 Call your next witness.

23 MR. ALDERMAN: Yes, your Honor. The State calls
24 Deputy Lecroy to the stand.

25 NICOLE LECROY,

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 DIRECT EXAMINATION

3 BY MR. ALDERMAN:

4 Q Deputy, if you would, state your full name and
5 spell your last name for the record.

6 A Deputy Nicole Lecroy. Last name is L-e-c-r-o-y.

7 Q And where are you currently employed?

8 A Oconee County Sheriff's Office.

9 Q And what are your duties there from day to day?

10 A I'm on active patrol, so any calls that come in
11 through dispatch we get sent out to, variety of
12 different calls.

13 Q And in that capacity did you respond to a call on
14 December 26, 2017?

15 A Yes, sir.

16 Q And that call involved this defendant?

17 A Yes, sir.

18 Q And did you see the defendant at the scene?

19 A Yes, sir.

20 Q And was he in your custody for some period of time
21 that night?

22 A He was.

23 Q Did you transport him to the hospital?

24 A Yes, sir.

25 Q Were you there the entire time he was at the

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1 hospital?

2 A Yes, sir.

3 Q Did you transfer him from the hospital to the
4 jail?

5 A Yes, sir, I did.

6 Q Before you became a deputy, what did you do?

7 A I worked for, right at eight years, at Ocone
8 Medical Center or Memorial Hospital -- it's had a few
9 name changes -- in the surgical department. And I was
10 also a volunteer first responder for eight years as
11 well.

12 Q All right. And in that capacity, is it fair to
13 say that you have some medical training?

14 A Yes, sir.

15 Q Enough to, say, recognize a laceration?

16 A Yes, sir.

17 Q Okay. Were you there the entire time the
18 defendant was treated and witness nurses, doctors, or
19 whomever treating the defendant?

20 A Yes, sir.

21 Q Did you see what they did for him?

22 A Yes, sir, I did.

23 Q What did they do for him?

24 A At first, when we got him there, they asked him
25 standard questions, his medical history and such. Then

1 they examined his fingers that the paramedics, the
2 EMTs, had actually -- when we were still on scene, they
3 had came and bandaged his fingers. And then we had
4 actually agreed to transport him to the hospital since
5 they were non-life-threatening injures so, that way, we
6 would be with him the entire time.

7 So they ended up taking the bandages off,
8 evaluating the fingers, seeing they were very minor
9 lacerations to the two -- the two fingers on the right
10 hand, if I can recall correctly. They ended up putting
11 butterfly stitches on and putting, like, some tape
12 around.

13 Q So butterfly stitches. Are we talking stitches
14 that go through the skin or fancy Band-Aids?

15 A Fancy Band-Aids, basically.

16 Q Did they treat any cuts on his head?

17 A No, sir. They did note that there was a bump, I
18 believe that's actually how the doctor referred to it,
19 as, "I see the bump on your forehead." He looked at
20 that, but there was nothing further with that.

21 Q So if his face is covered in blood, was it coming
22 from his head and his face or somewhere else?

23 A The doctor and nurses, neither one, noted blood
24 coming from anywhere else other than his fingers.

25 Q So no fancy Band-Aids needed for his head?

1 A No, sir.

2 Q Did they wipe off some of the blood while they
3 were looking around to see if there were any cuts?

4 A I don't recall exactly, but I do not believe they
5 really touched his head. It was more of an examination
6 just to make sure there wasn't significant injuries
7 anywhere else that, you know, as they were looking
8 over, but there was nothing.

9 Q His hands were covered in blood from the cut, were
10 they not?

11 A Yes, sir.

12 Q And there was blood all over the scene that night;
13 is that right?

14 A Yes, sir.

15 MR. ALDERMAN: Nothing further.

16 Please answer any questions Mr. Cole may have for
17 you.

18 THE COURT: Cross-examination.

19 MR. COLE: Thank you, your Honor.

20 CROSS-EXAMINATION

21 BY MR. COLE:

22 Q Deputy Lecroy, you agree that my client had a knot
23 on his head that night?

24 A Yes, sir.

25 Q And in your training, if a -- every cut does not

1 have to be stitched up; isn't that correct?

2 A That is correct, yes, sir.

3 Q So just because he didn't have any stitches on his
4 head didn't mean he doesn't have any cuts on his head;
5 would you say that's correct?

6 A Yes, sir.

7 MR. COLE: No further questions, your Honor.

8 REDIRECT EXAMINATION

9 BY MR. ALDERMAN:

10 Q Whether they were stitched, bandaged, wiped off or
11 otherwise, did you notice or see any cuts on his head?

12 A No, sir, I did not.

13 Q Did you see any doctor treat any cut in any
14 fashion on his head?

15 A No, sir.

16 Q Did you see a nurse treat a cut, laceration, or
17 anything that was bleeding on that man's head?

18 A No, sir, I did not.

19 Q Thank you.

20 THE COURT: Thank you, ma'am. You may step down.
21 May this witness be excused?

22 MR. ALDERMAN: Yes, your Honor.

23 MR. COLE: No objection, your Honor.

24 THE COURT: Thank you, ma'am.

25 Next witness?

1 MR. ALDERMAN: State rests.

2 THE COURT: Very good.

3 All right. Mr. Foreman, the State indicates that
4 it rests, which means that it's presented its
5 case-in-chief. I have some administrative matters to
6 keep up with, go over now with the attorneys outside of
7 your presence. Once I get that completed, I'll bring
8 you back into the courtroom to continue with the trial.
9 Probably be about 15 minutes. Okay, sir?

10 (WHEREUPON, the jury exited open court at
11 10:02 a.m.)

12 THE COURT: All right. Motions.

13 MR. COLE: Your Honor, may it please the Court?

14 THE COURT: Yes, sir.

15 MR. COLE: Your Honor, I would move at this time
16 for a directed verdict in my client's favor. I do not
17 believe that the State has presented sufficient
18 evidence for this case to go to the jury. Even taking
19 facts looking most favorable to the State, the State
20 has not presented sufficient evidence that my client
21 did not act in self-defense.

22 In this situation, the elements of self-defense
23 that he -- there's no evidence that he was with fault
24 in bringing on this action. Instead, the evidence
25 shows that the alleged victim was the one who struck

1 the first blow.

2 Second, the imminent danger or actually in
3 imminent danger, your Honor, from the description that
4 has been told by the witnesses here, my client was in
5 the front seat with his seatbelt on when he was struck
6 from the back. I think that would put any person, a
7 reasonable person, that they were in imminent danger.

8 And then also, your Honor, that he would have --
9 that there was no other way that he could get out of
10 the situation. In this situation, your Honor, the car
11 is riding down the road, from the evidence. And even
12 the victim couldn't say, when this was going on,
13 whether it had completely stopped or not. The argument
14 from the State could be, well, it could have stopped.
15 He could have got out. But from the testimony from the
16 State is that it was riding down the road and it was
17 maybe preparing to stop, but still, how else would my
18 client get out of it? Jump out of a moving car, which
19 would cause more injury?

20 So I believe, looking at the testimony from the
21 State, looking at it in the interest most favorable to
22 the State, they have not presented sufficient evidence
23 that my client did not act in self-defense.

24 THE COURT: Thank you, sir.

25 All right. Anything you have to say in response,

1 Mr. Alderman?

2 MR. ALDERMAN: Judge, the evidence presented is
3 that there were two separate events. There was the
4 initial instigation, the slap. There was a cooling-off
5 period, and then the defendant acted aggressively and
6 attacked the victim with a knife. That may be a
7 question of fact, but a question of fact should be
8 handed to the jury and not decided at this point.
9 There is certainly evidence presented to support our
10 position.

11 THE COURT: Very good. Thank you.

12 It is a question of fact. I'm going to find that
13 there is substantial circumstantial or direct evidence
14 that would warrant a jury making the determination in
15 this matter instead of myself.

16 With that being said, Mr. Cole, have you had an
17 opportunity to speak with your client about whether or
18 not he intends to invoke his rights under the Fifth
19 Amendment or wish to testify?

20 MR. COLE: Your Honor, I have, but my client
21 indicated to me just a minute ago that he would like to
22 speak with me further about that.

23 THE COURT: Okay. Let's take about a ten-minute
24 break.

25 Would you send word back to me specifically when

1 you are done and ready?

2 MR. COLE: Yes, your Honor, I will.

3 THE COURT: Thank you, sir.

4 (WHEREUPON, a recess was taken from 10:06 a.m. to
5 10:23 a.m.)

6 THE COURT: Mr. Cole, have you spoken with
7 Mr. Smith as to whether or not he wishes to testify?

8 MR. COLE: Yes, your Honor, and he has indicated
9 to me that he does not wish to testify.

10 THE COURT: He does not, okay.

11 Is that true, Mr. Smith?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has anybody forced, threatened, or
14 promised you anything to get you not to testify in this
15 matter?

16 THE DEFENDANT: No, sir.

17 THE COURT: Did you make this decision of your own
18 free will?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Are you under the influence of any
21 medications, drugs, or alcohol today?

22 THE DEFENDANT: No, sir.

23 THE COURT: Very good. All right.

24 Do you have any witnesses you intend to call?

25 MR. COLE: No, your Honor.

1 THE COURT: Very good. So what we need to do is
2 let you bring the jury in, ask you to call your first
3 witness, say "we rest," and then we'll send them back
4 out.

5 Would you bring the jury in, please.

6 (WHEREUPON, the jury entered open court at
7 10:25 a.m.)

8 THE COURT: All right.

9 Mr. Cole, would you call your first witness,
10 please, sir.

11 MR. COLE: The defense rests, your Honor.

12 THE COURT: Okay. Very good.

13 All right. Mr. Foreman, sometimes I know the jury
14 feels like you're cattle coming in and out of the
15 courtroom, but the defense has advised that it rests.
16 That means that we have concluded the second phase of
17 this trial, which is the presentation of the evidence
18 phase.

19 I still have some administrative matters to take
20 up with after which we'll have closing arguments, I
21 will then charge you on the law, and then you will be
22 advised to begin your deliberations, so you will know
23 where you are.

24 But if you go back to your jury room, we'll have a
25 few more minutes, and we'll bring you back here for

1 (WHEREUPON, the jury entered open court at
2 11:12 a.m.)

3 THE COURT: All right. Mr. Foreman, ladies and
4 gentlemen of the jury, we now move to the closing
5 arguments phase of the case. The State has the burden
6 of proof, as I'll tell you more about it in just a few
7 minutes. They will go first. The defense will then
8 close, and the State will have a right to reply to what
9 the defendant argues.

10 State ready to proceed?

11 MR. ALDERMAN: Yes, your Honor.

12 THE COURT: Defense ready?

13 MR. COLE: Yes, your Honor.

14 THE COURT: Very good.

15 Mr. Alderman.

16 MR. ALDERMAN: Thank you, your Honor. May it
17 please the Court?

18 THE COURT: Yes, sir.

19 MR. ALDERMAN: Ladies and gentlemen, first of all,
20 I just want to take a minute to thank you, each and
21 every one of you, for your hard work and attention in
22 this case. We can't do this without you. It's said a
23 lot, but we mean it. We don't take it for granted, so
24 thank you.

25 At the beginning of this trial I told you about

1 the facts of the case. I told you that Ms. Galbreath
2 and her son were driving down the road after leaving a
3 party, that the defendant was in the car with those two
4 people, that the victim, Mr. Reid, riding in the
5 backseat, lost his cool after an argument had ensued,
6 he reached up and he struck the defendant first. There
7 was a period of time that passed after that. A
8 cooling-off period, if you will. And then there was a
9 knife attack that almost left the victim dead.

10 I think we can safely say, at the end of the
11 trial, most of those facts are undisputed. The one
12 issue that has been brought to question is whether
13 there was that break in time. Was there one fight or
14 were there two.

15 The evidence in the case, as you've seen and heard
16 from the victim, was clear and unequivocal that he
17 struck the defendant, there was a break in time, the
18 defendant became angry, apparently pulled a knife out
19 of his pocket and turned around and attacked him. You
20 heard the same thing from the driver of the vehicle,
21 Ms. Galbreath, that they were riding down the road,
22 that her son struck the defendant first, there was a
23 break in time, and then the defendant turned around and
24 attacked her son with a knife.

25 Let's look at the physical evidence. When you

1 look at the defendant himself, you see the first two
2 cuts, as he described them, straight down his chest as
3 if he is sitting in the backseat, square in his seat,
4 not anticipating an attack. The rest of the cuts, as
5 he described them, as you saw, defensive. He's turned
6 away to stop the attack that started with those two
7 cuts to the chest.

8 He takes two across the arm where he tries to turn
9 and turtle up away from cuts. He pulls his leg up,
10 again kind of in a ball, turned away, takes a cut
11 across the leg. And then he reaches across with his
12 right hand, as he is right-handed, trying to grab at
13 whatever is coming at him and ultimately gets ahold of
14 that knife and destroys his hand. So, ladies and
15 gentlemen, the physical evidence is consistent with
16 what he told you happened.

17 You heard from Ms. Galbreath again what happened,
18 and that during the second attack she turned and
19 grabbed at the defendant and tried to pull him back
20 over the seat yelling, "Stop, stop," as she described
21 it, grabbed his shirt and pulled. You can consider the
22 physical evidence, the pictures that you have seen of
23 his torn shirt and ask if that's consistent with what
24 she told you.

25 Ultimately, it's up to you to decide what makes

1 sense in this case, what you're going to believe and
2 what you won't. Is this some grand conspiracy against
3 the defendant to frame him for some unknown reason? Or
4 does it make more sense that he was a little drunk, a
5 little angry, and that he decided to get even with
6 somebody he decided wronged him that day? Which one of
7 those makes sense, as law enforcement pulls up and he's
8 covered in blood, still in possession of the knife,
9 yelling, "He got what he deserved. He got what he
10 deserved," while the man almost bleeds to death in the
11 street.

12 Now, that night the defendant made some incredible
13 statements to law enforcement that you heard from the
14 investigator. The defendant said he never had a knife,
15 that the victim had a knife, attacked him with it, he
16 took it away from him and then stabbed him. Just think
17 about that for a second, folks. Apply your common
18 sense and life experiences and ask if that makes any
19 sense.

20 The defense has made a big deal with Mr. Reid
21 being bigger, stronger, faster, younger. All of that's
22 true. That he struck first. That's true. But, folks,
23 if he's bigger, stronger, faster, younger, if the
24 defendant was unable to defend against that first slap
25 that came across the seat, then how did he defend

1 against a knife attack from behind while he was sitting
2 in a car with his seatbelt on and somehow in the dark,
3 without being able to see what was coming, managed to
4 disarm this younger, faster, stronger. Does that make
5 sense?

6 Or does that sound more like a story that a drunk,
7 angry person who had just made a dumb decision would
8 tell law enforcement when they pulled up and trying to
9 sort out the mess? Is it plausible or does it sound
10 like something someone made up to get out of trouble?
11 And that's up for you to decide.

12 They tried to suggest that there was no break in
13 time, that this was one continuous attack that started
14 with slaps or fists or whatever and continued. And if
15 that's true, if this younger, faster, stronger man was
16 attacking the poor defendant from behind, why would he
17 have to stop and take out a knife at all? If it
18 started with hands, at what point do we break this
19 continuous attack and pull out a knife that the
20 defendant miraculously takes away from the younger,
21 stronger, faster man. It just doesn't make sense.

22 "He ought to die." "I meant to." "I wouldn't
23 take it back." "I wouldn't take one stitch back."
24 These are the other statements of the defendant that
25 night. And, ladies and gentlemen, those are the

1 statements of a drunk, angry man who had just done a
2 very dumb thing and not a poor victim who had
3 miraculously disarmed his attacker and done what he had
4 to do.

5 I'd ask you to consider that statement again. "I
6 didn't have a knife. He attacked me with a knife. I
7 took it away and I stabbed him with it." Then consider
8 what Ms. Galbreath has told you. She said, "I gave him
9 that knife," him being the defendant, "I gave him that
10 knife for Christmas." It came in a two-pack. We had
11 wrapped it, and before we went to the party that day,
12 he said, "Hang on a second," went back, opened the
13 pack, took out the knife, put it in his pocket, and
14 then they went to that family gathering.

15 Remember her sitting there on the stand telling
16 you that with a tear in her eye describing giving that
17 gift to the defendant. A look of guilt on her face for
18 having given that man the very thing he turned and used
19 against her son and almost killed him.

20 Now, one of those things is true. Either she gave
21 him that knife and he had the knife that night or she
22 made up that entire story down to every detail,
23 two-pack of knives, gave it to him for Christmas, he
24 took one of them out before we left, and then worked up
25 some fake tears for you and baldly lied to all of your

1 faces.

2 Now, was that what happened? Or is the defendant
3 lying to police that night when he said he didn't have
4 a knife at all? And I think the answer to that is
5 obvious, again, when you apply the same common sense
6 that you do in your everyday lives.

7 Defense tried to make a big deal out of the blood
8 that was on the defendant's face in that picture at the
9 hospital. And I'll admit, it's a pretty compelling
10 picture. Blood all over him. And they want you to
11 believe that if there's blood on his face, it came from
12 his face, and if it came from his face, then he must
13 have just been beaten to a pulp.

14 Ladies and gentlemen, there's ink my hand. Did it
15 come from out of my hand? Consider the scene, the
16 bloodbath that he had just created. Consider the
17 victim telling you that, while they were trying to pack
18 the wound in his leg, they were packing gauze as fast
19 as they could and the blood was pushing it back out,
20 that the two EMTs that just happened to be there
21 miraculously had exhausted their two bags of gauze and
22 medical equipment and had to get a tourniquet and what
23 he described as a blast bag from the officers when they
24 arrived just to keep control of the blood. Imagine
25 that kind of blood and then ask yourself if the man

1 coming over the seat slashing one, two, three, four,
2 five, six, seven times might have gotten a little blood
3 on his face.

4 There was an officer there with him the whole time
5 he was at the hospital, saw all the treatment, who
6 happened to have medical training and sat there and
7 told you there was not a single cut on his head. That
8 is a compelling picture, folks, him covered in blood
9 because it is the victim's blood. That's how much
10 blood was being flung around. And if it's not all the
11 victim's blood, then it's some of the defendant's blood
12 from his two fingers that were cut on his right hand,
13 his dominant hand, that he came around the seat with
14 swinging as hard as he could. Is it so hard to believe
15 that he got some cuts on his finger while he was
16 swinging a knife and the victim was trying to fight him
17 for it?

18 Ladies and gentlemen, one of these two sides is
19 wrong. Either the victim and his mother are here lying
20 to you or he lied to police that night. Those really
21 are the only two options here. If you believe them,
22 then he's guilty. If you believe him, then he's not
23 guilty. But I would urge you to look at the things he
24 said and the things he did and ask you if he's remotely
25 credible.

1 The charge itself is assault and battery of a high
2 and aggravated nature, as we talked about before. The
3 elements are an unlawful injury that causes great
4 bodily harm or an unlawful injury that is applied by a
5 means likely to produce death or great bodily injury,
6 one of those two things.

7 Great bodily injury means the injury causes a
8 substantial risk of death or causes significant
9 permanent disfigurement or a protracted loss of use of
10 a bodily member, a part of your body.

11 Substantial risk of death. Consider what the
12 first responders told you. Absolutely, he nearly bled
13 to death on the side of the road. If they hadn't just
14 happened to show up, leaving some other gathering that
15 they were at that night, that EMT told you he would
16 probably die. The response time of EMS, law
17 enforcement having to come check the scene before they
18 clear it for the ambulance to come in the first place,
19 that man bleeding from more holes than he could
20 control, substantial risk of death, absolutely.

21 Permanent disfigurement. The man has zippers of
22 scars all over his body. He told you 80-some staples.
23 He doesn't even know the number, but he can count the
24 holes, the holes being the scars and the disfigurement
25 itself.

1 Protracted loss of a bodily member. You remember
2 he said when he tried to get out of the car, his right
3 hand wouldn't work. It just (indicating), wouldn't
4 open the door. And then he had to have surgeries for
5 tendon damage and nerve damage, where three months went
6 by where he wasn't allowed to move his hand at all, and
7 two years later, even today, it doesn't work like it
8 used to, loss of range of motion and strength, and it
9 will probably never be the same again. So protracted
10 loss of bodily member or function in bodily member,
11 absolutely.

12 Was the means used likely to cause bodily injury
13 or death? Of course. I mean, each of you knows that
14 if you pick up a fresh-out-of-the-pack factory sharp
15 pocketknife and started wailing on somebody as hard as
16 you can, you might hurt them pretty bad. That's really
17 all there is to that.

18 Ladies and gentlemen, there was one altercation
19 followed by a break in time and then a knife attack.
20 That's what happened that day. And even if, for the
21 sake of argument, just for the sake of argument there
22 was no break in time, consider this, folks:
23 Self-defense has to be proportional. Right? If
24 someone comes up to you and kicks you in the shins,
25 they have no lawful right to do that. You can stop

1 them. If you pull out a gun and shoot them to stop
2 them, is that right?

3 Todd Reid was cut to pieces and nearly died on the
4 side of the road and nothing that happened before that
5 justified that attack. Nothing. And that's why the
6 defendant is guilty of assault and battery of a high
7 and aggravated nature.

8 THE COURT: Mr. Cole.

9 MR. COLE: Thank you, your Honor.

10 THE COURT: Yes, sir.

11 MR. COLE: Ladies and gentlemen of the jury, I
12 want to thank you again for your service today. Thank
13 you. And yesterday. Thank you for the time that you
14 have taken to listen to this evidence. As I said
15 yesterday, I do believe the United States is the best
16 country in the world, and I'm glad that we live here.

17 And in this situation especially, the solicitor
18 has argued that this is a case of who you believe.
19 However, I'd submit to you that in this state and in
20 the United States, the question here today is not who
21 do you believe, but the question is what has the State
22 proved beyond a reasonable doubt.

23 Specifically, has the State proved with the
24 evidence that's been presented in this courtroom beyond
25 a reasonable doubt that my client did not act in

1 self-defense. And I will submit to you that they have
2 not. And if they have not, you must find my client not
3 guilty.

4 If you look at the evidence that has been
5 presented in this case, look at the narrative of the
6 State's witnesses. Obviously, there was some
7 dysfunction in this group of people. There were some
8 tensions in this group of people. My client was in a
9 relationship with Ms. Galbreath.

10 The son of Ms. Galbreath, who did not -- who had
11 some issues with my client, as he testified, they go to
12 this party together. They go to this Christmas party.
13 The issues were such that Mr. Reid had to take himself
14 out of the party. He said he had to take himself out
15 so he wouldn't say what he thought he needed to say.

16 Finally they get in the car. They get in this
17 car, ride back. My client is sitting in the front seat
18 with Ms. Galbreath; Mr. Reid is sitting behind him.

19 And Mr. Reid, they go back and forth a little bit,
20 and my client says something about Mr. Reid using
21 drugs, and that was the thing that really struck a
22 nerve. That was the thing that sent him over the edge,
23 and then he attacked my client from the backseat to the
24 front seat.

25 My client, who you see here in the courtroom

1 today. Mr. Reid, who you saw in the courtroom today.
2 My client, who is significantly older than Mr. Reid.
3 My client, who's significantly shorter than Mr. Reid.
4 My client, who's significantly -- weighs significantly
5 less than Mr. Reid. Everything you look at, he
6 attacked my client over the seat, and my client turned
7 and defended himself.

8 Now, there's been some testimony of this gap in
9 time. I believe it's convenient that this gap in time
10 was testified to today, but Ms. Galbreath's own
11 statement that she made the night of the offense
12 doesn't mention anything about that. And she stated
13 that there on the jury stand. She read that statement,
14 and there's nothing about a gap in time. We get here
15 two years later and this gap in time has suddenly
16 appeared.

17 My client defended himself. He was hit from
18 behind in the dark by the person sitting behind him in
19 the car. You saw the injuries that he got. Big knot
20 on the head, a lot more than just a slap, whatever that
21 they had described it as, downplayed it as, hit. You
22 saw the blood on him. You saw obvious -- I ask you to
23 look at the pictures. Look at the cuts. Look at the
24 blood. Look at the knot. My client was attacked and
25 defended himself. That, I believe, is the -- is what

1 was shown by the evidence that was presented.

2 However, the issue is my client doesn't have to
3 prove that he defended himself. The State has to prove
4 that he did not. So even if you see some things that
5 you might like from the State or some things that seem
6 a little inconsistent, look at it. Did the State prove
7 that my client did not defend himself? Did the State
8 prove that my client did not act in self-defense?

9 I believe, when you look at the evidence in this
10 case, look at the pictures, listen to the testimony,
11 you see the -- the weapon, the pocketknife, that my
12 client had. You see the pocketknife that was
13 available. Not some sword or deadly weapon. Look at
14 everything and ask the question: Did the State prove
15 beyond a reasonable doubt that my client did not act in
16 self-defense? And I would ask you, after you
17 deliberate and look at the evidence, to say that he did
18 not, that the State did not prove that, that my client
19 is not guilty. Thank you again for your service.

20 MR. ALDERMAN: Thank God he didn't have a sword.
21 Look at what he did with just a pocketknife.

22 Ladies and gentlemen, there is not one thing -- I
23 will say it again -- there was not one thing that
24 happened in that car that justified what this man did
25 to that victim. Not one thing. Not one theory that's

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1 been presented to you, not one possibility that you
2 could come up with.

3 The fact of the matter is this man got mad because
4 he got hit. Like anyone else would. And it was wrong
5 for him to get hit. We've said it from the beginning.
6 But it's what happened next. It's the decision he made
7 next after sitting and thinking about it, contemplating
8 what his next move was going to be, taking off his
9 seatbelt as they rode down the road in the dark,
10 reaching into his pocket, quietly taking out a
11 pocketknife, opening that pocketknife and then whipping
12 around in a surprise attack to get even.

13 Folks, that's what happened. That's what the
14 physical evidence shows you. That's what the
15 testimonial evidence shows you.

16 And what do you have to counter that? The
17 statement he made that night that he never had a knife
18 at all, despite the woman who bought him that knife
19 telling you exactly where he got it. He never had a
20 knife at all. He was attacked from behind and somehow
21 disarmed his attacker and then did all that.

22 Folks, ask yourself what makes sense here. What
23 makes sense.

24 THE COURT: All right.

25 Mr. Foreman, ladies and gentlemen of the jury, I

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1 anticipate my charge will be in the neighborhood of
2 about 25 minutes, more or less.

3 Mr. Foreman, would you like a break? Would you
4 like to continue on with my jury charge at this
5 juncture?

6 JURY FOREPERSON: We'd like to continue.

7 THE COURT: Very good. Thank you, sir.

8 All right. Ladies and gentlemen, let me point out
9 a couple things. Frequently, across the state, at the
10 end of trials, juries will send out a request once they
11 begin their deliberations for more evidence. At this
12 juncture, all the evidence that's going to be admitted
13 has been admitted. There will be no more evidence
14 presented in this case. Okay? So understand that.

15 By our state constitution, I'm not allowed to
16 interpret that evidence for you or to comment on that
17 evidence. So it's up to you to draw what facts from
18 the evidence you think would be appropriate and any
19 inferences from those facts that you think would be
20 appropriate. Okay?

21 With that being said, my charge to you is in three
22 parts. The first part will be the general rules that
23 define and control your duties as jurors. The next
24 part will be the law of assault and battery of a high
25 and aggravated nature, of self-defense, and also of

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1 voluntary intoxication. The last part will be some
2 ideas about your deliberations, Mr. Foreman, and then
3 I'll go over the verdict form and advise you how to
4 fill it out.

5 Now, ladies and gentlemen, if you recall from the
6 beginning of this case, I told you that you were the
7 sole judges of the facts. You will determine what the
8 facts are from the testimony and evidence that you
9 heard here in the courtroom and now according to the
10 law as I will give it to you.

11 I remind you that you may not and shall not
12 concern yourself with what you think the law should be
13 but only what it is. If I make a mistake in the law, I
14 will be corrected by an appellate court. However, it
15 is your duty to apply the law as I give it to you now.
16 To do anything but follow the law as I give it to you
17 would be a dereliction of your oath as jurors in is
18 this matter.

19 Now, if I have said or done or made any gestures
20 throughout this case that seems to indicate to you how
21 you are to reach a verdict or the verdict you are to
22 reach, I'm going to ask you and instruct you to
23 disregard it. I can tell you that I have no feelings
24 one way or the other. I view my role somewhat like a
25 referee, to make sure that both sides have a fair and

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1 impartial trial and then instruct you on the law at the
2 end of this process so you know what to apply to the
3 facts of this case.

4 Again, you and you alone are the judges of what
5 the facts are, and you will determine them by
6 evaluating and weighing the evidence presented in this
7 trial. Obviously, you can't weigh evidence in a
8 literal sense. It is a mental exercise. You are to
9 use your good judgment and common sense and to walk
10 through and talk about the evidence amongst yourselves
11 collectively and to ultimately reach a verdict in this
12 case.

13 Now, the evidence that you may consider as
14 evidence is the following: It is the sworn testimony
15 of witnesses who appeared before you, whether it be by
16 direct-examination or cross-examination. It is also
17 any exhibits that I have allowed into evidence, and
18 that's it. That is the only evidence that you can
19 consider as evidence.

20 So that leads me to what is not evidence. I
21 remind you that the arguments by these attorneys is not
22 evidence. What they said in their opening and closing
23 arguments to you is not evidence. They have not been
24 sworn. They have not been subjected to
25 cross-examination. It's not to minimize their

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1 importance because their role is vital, but it's
2 technically not evidence.

3 Also, ladies and gentlemen, any questions asked by
4 the lawyers or objections made by the lawyers is not
5 evidence.

6 Mr. Foreman, if one of your jurors tries to insert
7 an objection into the deliberations or my ruling on
8 that objection, it will be your duty to make sure that
9 that is not part of the jury's deliberations. Okay,
10 sir?

11 JURY FOREPERSON: Okay, sir.

12 THE COURT: Also, I remind you as well that just
13 because something may appear in one of your juror's
14 notes doesn't mean it trumps somebody's memory of that
15 particular fact or issue. You will just have to hash
16 those out. That's why they are called deliberations.

17 Now, also, ladies and gentlemen, anything that you
18 may have seen when court is not in session is not
19 evidence. So what you may consider as evidence is the
20 testimony, the responses to the questions, and the
21 exhibits that will go back with you.

22 Now, in South Carolina we recognize two types of
23 evidence. First, we recognize direct evidence, and we
24 also recognize what is called circumstantial evidence.

25 Direct evidence is evidence that directly proves

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1 the existence of a fact, and it does not require
2 deduction or inference. For example, if an issue in
3 the case was whether or not I ran a stop sign and my
4 law clerk testified that he saw me run that stop sign,
5 that would immediately establish that fact. You don't
6 have to infer or deduce anything from it. That would
7 be direct evidence. Like an eyewitness.

8 Circumstantial evidence is a little trickier. It
9 is proof of a chain of facts and circumstances that
10 indicate the existence of another fact. In other
11 words, it does require inference. It does require
12 deduction.

13 An example of circumstantial evidence. If each of
14 you were to go to bed at night and have a fresh sheet
15 of snow in your front yard, if you were to wake in the
16 morning and see tracks in the snow, you could
17 reasonably infer that someone or some thing walked
18 through your yard in the night, although you did not
19 see it. That is an inference being made or a deduction
20 being made. The deduction being drawn by you, the
21 jury, can't be speculative, conjectural, or surmise.

22 Now, crimes, ladies and gentlemen, may be proven
23 by circumstantial evidence just like they may be proven
24 by direct evidence. The law makes no distinction
25 between the weight or value to be given to either

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1 direct evidence or circumstantial evidence. However,
2 to the extent that the State relies on circumstantial
3 evidence, all of the circumstances must be consistent
4 with each other and, when taken together, point
5 conclusively to the guilty of the accused beyond a
6 reasonable doubt. If these circumstances merely
7 portray the defendant's behavior as suspicious, then
8 the State's case would have failed. The State has the
9 burden of proving the defendant's guilt by proof beyond
10 a reasonable doubt, whether or not it uses direct
11 evidence, circumstantial evidence, or a combination of
12 the two.

13 Now, ladies and gentlemen, in deciding what the
14 facts are in this case, you have to go through and
15 decide which testimony you wish to believe and whether
16 or not there's any testimony you wish not to believe.
17 You, as a jury, have a right to believe all or part or
18 none of any witness that came before you.

19 In deciding this issue of what we refer to as the
20 credibility of the witnesses, I'm going to name some
21 considerations that you may use in making this
22 determination.

23 Mr. Foreman, this certainly is not an exhaustive
24 list. But in deciding the believability of the
25 testimony, you can ask yourself, was the witness able

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1 to see or hear or know about the subject of their
2 testimony, how able were they to recall the subject of
3 their testimony, what was their manner or their
4 demeanor while they're on the witness stand.

5 You can ask yourself whether the witness would
6 want to give testimony that would help or hurt one side
7 of the case or the other, whether or not they had any
8 bias or prejudice in the outcome or any issue involved
9 in the case. You can ask yourself how reasonable that
10 witness' testimony was in light of all the other
11 evidence in the case and whether or not that witness'
12 testimony had been contradicted by what that witness
13 had said at another time or by any other witness in the
14 case or any other evidence in the case.

15 Now, Mr. Foreman, those are just some of the
16 considerations you may use in deciding the credibility
17 or the believability of the evidence in this matter.
18 Of course, when you're sworn in, you don't check your
19 common sense at the door and you shouldn't in this
20 case. You should use those things in your day-to-day
21 lives that you find indicative of truthfulness or
22 indicative of lack of truthfulness in making this
23 determination of the credibility or believability of
24 the witnesses. One thing you may not do, however, is
25 add up the number of witnesses that appear on one side

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1 or the other in making this determination.

2 In this case, ladies and gentlemen, you have heard
3 testimony from people -- a person who has been
4 qualified as an expert. Normally witnesses are not
5 allowed to give their opinion in the courtroom unless
6 they have been qualified as an expert. If they have
7 been qualified as an expert and it may be helpful to
8 you, the jury, then a person is allowed to give their
9 opinion and the reasons for their opinion.

10 I will tell you that expert testimony is like any
11 other testimony you have heard in this case. You may
12 accept it, you may reject it, you may give it as much
13 weight as you think it deserves based on the reasons
14 for their opinions as well as all the other evidence
15 and testimony in this matter.

16 Mr. Foreman, I want to remind you and the rest of
17 the jury that the fact that the defendant was arrested,
18 charged, and indicted is not evidence of his guilt. It
19 does not raise an inference of his guilt, nor does it
20 raise a presumption of his guilt. The indictment is
21 simply the mechanism by which the defendant has been
22 brought before this court for a determination by you,
23 the jury, of guilt or innocence in this matter.

24 In fact, in this case the defendant has pled not
25 guilty to the indictment. Once he pleads not guilty,

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1 the presumption of innocence immediately attaches to
2 his person and remains with him throughout the trial
3 into your deliberations unless and until you, the jury,
4 are convinced by proof beyond a reasonable doubt of his
5 guilt.

6 I will tell you, ladies and gentlemen of the jury,
7 that a person charged with committing a crime in South
8 Carolina is never required to prove himself or herself
9 innocent. And it is an important rule of law,
10 regardless of the seriousness of the crime or the
11 charge involved in the case, that a person will always
12 be presumed innocent of the charge unless and until
13 guilt has been proven by proof beyond a reasonable
14 doubt. This presumption of innocence does not end when
15 you begin your deliberations, but it accompanies the
16 defendant throughout this trial unless you, the jury,
17 are convinced of guilt beyond a reasonable doubt.

18 In the vernacular of lawyers, the presumption of
19 innocence is like a robe of righteousness that's been
20 placed around the shoulders of the defendant where it
21 remains unless and until it has been stripped by
22 evidence satisfying you of guilt beyond a reasonable
23 doubt.

24 Now, ladies and gentlemen, the presumption of
25 innocence is not a mere legal theory. It's not a nice,

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1 little legal phrase. It is a fundamental right to
2 which every citizen is entitled unless you, the jury,
3 are convinced of guilt beyond a reasonable doubt.

4 So that leads me to what is the definition of
5 reasonable doubt. A reasonable doubt, ladies and
6 gentlemen, is the kind of doubt that would cause a
7 reasonable, sincere, honest, and conscientious person
8 to hesitate to act in an important matter in their own
9 affairs. Proof beyond a reasonable doubt is proof that
10 leaves you firmly convinced of the defendant's guilt.

11 Now, with that being said, there are very few
12 things in this world that we know with absolute
13 certainty, and the law does not require the State to
14 overcome every possible doubt that may exist in this
15 case.

16 At the end of this case, when you're told to begin
17 your deliberations, if you are collectively firmly
18 convinced of the defendant's guilt, then it is your
19 duty to find him guilty.

20 On the other hand, if you think there is a real
21 possibility that the defendant is not guilty, then it
22 is your responsibility to give him every possible doubt
23 and find him not guilty.

24 I will tell you that reasonable doubt may occur
25 from the evidence or from the lack of the evidence, and

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1 a defendant, ladies and gentlemen, is entitled to every
2 reasonable doubt that may occur in a case. And what
3 that simply means, that if, upon any fact essential to
4 a conviction, if you have any reasonable doubt as to
5 how that issue is to be resolved, you are to resolve it
6 in favor of the defendant.

7 Now, ladies and gentlemen, in order to establish
8 criminal liability, criminal intent is required to be
9 established. For example, the mental state required to
10 be proven by the State for a particular crime might be
11 purpose, intent, knowledge, recklessness, or criminal
12 negligence. Criminal intent must be proven by the
13 State beyond a reasonable doubt. Criminal intent,
14 ladies and gentlemen, is always a matter that must be
15 determined by you, the jury, from the situation shown
16 to have existed surrounding the incident.

17 There is no way to prove intent to a mathematical
18 certainty. There's no way that science can dissect a
19 person's brain to determine what they had in mind, so
20 the law says that criminal intent may be inferred from
21 the circumstances shown during the course of the case.

22 And that is how, ladies and gentlemen, you make
23 the determination of whether or not the element
24 requiring intent is present. It is not necessary to
25 establish intent by direct and positive evidence, but

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1 intent may be established by inference in the same way
2 as any other fact, by taking into consideration the
3 acts of the parties and all the facts and circumstances
4 of the case. Criminal intent is a mental state; it is
5 a conscious wrongdoing.

6 Now, ladies and gentlemen, it is up to you to
7 determine what the defendant intended to do based on
8 the circumstances shown to have existed during this
9 incident. Criminal intent can arise from action or a
10 failure to act. It may arise from negligence,
11 recklessness, or indifference to duty or to the
12 consequences that is considered by the law to be
13 equivalent to criminal intent.

14 Now, ladies and gentlemen, I would emphasize to
15 you, and, Mr. Foreman, I will point out to you that the
16 fact that the defendant did not testify shall not be
17 and is not to be considered by you in any form or
18 fashion. That is every citizen's right under the Fifth
19 Amendment to the United States Constitution and because
20 the State always has the burden of proof to establish
21 the defendant's guilt by proof beyond a reasonable
22 doubt.

23 If any of your jurors seeks to insert that into
24 the deliberations, it is your job to make sure that it
25 is not so insinuated, Mr. Foreman. Do you understand?

1 JURY FOREPERSON: Yes, sir.

2 THE COURT: Ladies and gentlemen, a statement is
3 alleged or statements alleged to have been made by the
4 defendant has been admitted into evidence in this case.
5 While I have determined that the statement was
6 admissible, I will instruct you that you make the
7 ultimate decision of whether or not the defendant made
8 this statement.

9 If the defendant did make the statement, you must
10 determine whether or not the statement in fact was made
11 by him voluntarily and of his own free will. This
12 means that the statement cannot be caused by pressure,
13 force, fear, threats, coercion, or intimidation or by
14 hope or a promise of leniency or a reward of any kind.

15 In determining whether the statement was
16 voluntary, you should consider both the characteristics
17 of the defendant and the details of any questioning.
18 Some of the factors that you must consider are the age
19 of the defendant, the defendant's education or lack of
20 education, the defendant's mental ability or capacity,
21 the defendant's I.Q. or intelligence, the defendant's
22 background and environment, the place and length of
23 detention, the nature of the questioning, and the
24 advice or lack thereof to the defendant of his
25 constitutional rights including but not limited to the

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1 right to remain silent, that any statement could be
2 used against him in a court of law, the right to have a
3 lawyer present, that if he could not afford a lawyer, a
4 lawyer would be appointed for him at no cost, and that
5 he could stop making a statement at any time.

6 Ladies and gentlemen, you, the jury, must consider
7 all the surrounding circumstances before you give any
8 weight to any alleged statement or statements. The
9 State has the burden of proving beyond a reasonable
10 doubt that the alleged statement or statements were
11 voluntary. If you determine that they were, you may
12 give the statements any further consideration that you
13 deem proper. You must decide what weight, if any,
14 should be given to the alleged statement or statements.

15 If you determine that the alleged statement or
16 statements was not the free and voluntary statement of
17 this defendant, you should not consider the statement
18 at all.

19 Now, Mr. Foreman, ladies and gentlemen, that
20 concludes the first aspect of my charge. And I'll tell
21 you that's the longest aspect of it.

22 If you would like to take a quick break or stand
23 up, you may do so. If anybody needs a personal break,
24 I'll be glad to give you a minute for that. If you
25 want to proceed, I'll be glad to proceed.

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1 JURY FOREPERSON: We'd like to proceed, your
2 Honor.

3 THE COURT: All right, sir.

4 This is the law of assault and battery of a high
5 and aggravated nature.

6 Ladies and gentlemen, a person commits the offense
7 of assault and battery of a high and aggravated nature
8 if the person unlawfully injures another person and
9 great bodily injury to a person results or the act is
10 accomplished by means likely to produce death or great
11 bodily injury.

12 To prove assault and battery of a high and
13 aggravated nature, the State must first prove beyond a
14 reasonable doubt that the defendant unlawfully injured
15 another person. Next, the State must prove beyond a
16 reasonable doubt that either great bodily injury
17 resulted or that the act was accomplished by means
18 likely to produce death or great bodily injury.

19 Great bodily injury is defined as bodily injury
20 which causes a substantial risk of death or which
21 causes serious permanent disfigurement or protracted
22 loss or impairment of the function of a bodily member
23 or organ.

24 And I know I went through there, Mr. Foreman. I
25 don't send my charge back to the jury because I want

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1 you focused on the facts, but I will go over any aspect
2 of my charge as many and as often as you want me to
3 throughout this case.

4 The next part of this charge is on self-defense.

5 Ladies and gentlemen, the defendant has raised the
6 defense of self-defense. Self-defense is a complete
7 defense, and if it is established, you must find the
8 defendant not guilty. The State has the burden of
9 disproving self-defense by proof beyond a reasonable
10 doubt.

11 If you have a reasonable doubt of the defendant's
12 guilt after considering all of the evidence including
13 the evidence of self-defense, then you must find the
14 defendant not guilty.

15 On the other hand, if you have no reasonable doubt
16 of the defendant's guilt after considering all the
17 evidence, including the evidence of self-defense, then
18 you must find the defendant guilty.

19 The following elements are required to establish
20 self-defense. First, the defendant must be without
21 fault in bringing on the difficulty. If the
22 defendant's conduct was the type which was reasonably
23 calculated to and did provoke a deadly assault, the
24 defendant would be at fault in bringing on the
25 difficulty and would not be entitled to an acquittal

1 based on self-defense.

2 Self-defense is not available to a person who uses
3 language which is so contemptuous that a reasonable
4 person would expect it to bring on a physical encounter
5 and which did actually contribute to the physical
6 encounter.

7 The second element of self-defense is that the
8 defendant was actually in imminent danger of death or
9 serious bodily injury or that the defendant actually
10 believed he was in imminent danger of death or serious
11 bodily injury.

12 If the defendant was actually in imminent danger,
13 it must be shown that the circumstances would have
14 warranted a person of ordinary firmness and courage to
15 strike the fatal blow to prevent death or serious
16 bodily injury. If the defendant believed he was in
17 imminent danger of death or serious bodily injury, it
18 must be shown that a reasonably prudent person of
19 ordinary firmness and courage would have had the same
20 belief.

21 In deciding whether the defendant actually was or
22 actually believed he was in imminent danger of death or
23 serious bodily injury, you should consider all of the
24 facts and circumstances surrounding the crime,
25 including the physical condition and characteristics of

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1 the defendant and the victim.

2 The defendant does not have to show that he was
3 actually in danger. It is enough if the defendant
4 believed he was in imminent danger and a reasonably
5 prudent person of ordinary firmness and courage would
6 have had the same belief. The defendant has a right to
7 act on appearances even though the defendant's beliefs
8 may have been mistaken.

9 It is for you, the jury, to decide whether the
10 defendant's fear of imminent danger of death or serious
11 bodily injury was reasonable and would have been felt
12 by an ordinary person in the same situation.

13 Ladies and gentlemen, words accompanied by hostile
14 acts may, depending on the circumstances, establish
15 self-defense. The relative size, ages, and weights of
16 the defendant and the victim may be considered in
17 deciding the apparent or actual need for force in
18 self-defense and the amount of force needed. Threats
19 made by the victim may be considered in determining
20 whether defendant actually was or believed he was in
21 imminent danger.

22 And, ladies and gentlemen, the final element of
23 self-defense is that the defendant had no other
24 probable way to avoid the danger of death or serious
25 bodily injury than to act as the defendant did in this

1 particular circumstance. A person who is not engaged
2 in unlawful activity and who was attacked in another
3 place where he has a right to be, including but not
4 limited to his place of business, has no duty to
5 retreat and has the right to stand his ground and meet
6 force with force, including deadly force if he
7 reasonably believes it is necessary to prevent death or
8 great bodily injury to himself or another person or to
9 prevent the commission of a crime as defined in Code
10 Section 16-1-60.

11 Finally, ladies and gentlemen, the law of
12 voluntary intoxication.

13 Insanity caused by the use of drugs or alcohol may
14 be a defense if the insanity is permanent and destroys
15 the defendant's ability to know right from wrong.
16 However, when voluntary intoxication has not produced
17 permanent insanity, it is not a defense to a crime. A
18 person who voluntarily becomes intoxicated is just as
19 responsible for the acts committed while intoxicated as
20 when the person is not intoxicated.

21 Mr. Foreman, that leads me to a few considerations
22 about your deliberations. First, throughout the voir
23 dire process you either expressly or impliedly
24 represented that you would be fair and impartial to the
25 State and to the defendant in this matter. Each side

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1 has the right to expect no less of you in your
2 deliberations. You are not partisans. You are not
3 advocates for one side of this case or the other.

4 You are the judges of the facts. I'm going to ask
5 you but I'm going to charge you to go back and consider
6 all the evidence in a thorough, calm, and courteous
7 manner.

8 I want to give you an idea about what deliberation
9 means. This is its definition. Deliberation is a
10 careful consideration weighing up with a view to a
11 decision.

12 Now, regardless of what any of you may think about
13 our judicial system, I would submit to you that it
14 allows 12 men and women such as yourselves who come
15 from different life experiences, who have different
16 educations, who have different perspectives to listen
17 to the evidence, to listen to the law, to go back and
18 talk about the evidence and the law and to ultimately
19 reach a unanimous conclusion in this manner or
20 judgment.

21 You are not partisans or advocates. You are the
22 judges of the facts. I'm going to ask you, and I'm
23 also going to charge you that when you begin your
24 deliberations, you let each one of the jurors speak and
25 give you their perspectives and points of view. Let

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1 each person tell you why they believe the way they do.
2 They will do the same to you.

3 Do not be afraid to change your weight (sic) as to
4 the weight -- your belief as to the weight of the
5 evidence if your deliberations with your fellow jurors
6 convinces you that you should change your belief.

7 In order for your verdict to stand, it will have
8 to be unanimous. With that being said, each of you
9 have to decide this case for yourself. Do not change a
10 firmly held belief as to the weight of the evidence in
11 this case solely to appease your fellow jurors.

12 Mr. Foreman, once your jury reaches a verdict, it
13 will be your duty to fill out the verdict form. The
14 options that you have have to be in some order, so the
15 order in which they appear is of no consequence.

16 But your first option would be, under section A,
17 as to the charge of assault and battery of a high and
18 aggravated nature, we, the jury, unanimously find the
19 defendant not guilty. If that is the jury's decision,
20 you will simply check that option under A, you will
21 sign the verdict form, you will fold it over and you
22 will crease it, you will keep it in your possession,
23 but you will let the bailiff know you have a verdict,
24 and you will bring it in the courtroom and we'll get it
25 from you in here.

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1 The second option would be as to the charge of
2 assault and battery of a high and aggravated nature,
3 we, the jury, unanimously find the defendant guilty,
4 again under section B. If that is the jury's unanimous
5 decision, you will check that option and go through the
6 same procedure by signing your name.

7 If at any time the jury needs anything or has a
8 question, if you would write it down and knock on the
9 door, the bailiff will bring it to us and we'll respond
10 accordingly. I know that -- was there any audio played
11 during the course of this trial?

12 MR. ALDERMAN: Yes, your Honor.

13 THE COURT: If you need to see the audio or video
14 that was played, we play it here in the courtroom
15 because there's not a clean computer in the back and it
16 has other things to it. We will play it as many times
17 as you want.

18 One thing I'm going to ask you never to do is to
19 tell me or anyone where the jury stands numerically,
20 whether it's 6-6, 8-4, 11-1, whatever. That's solely
21 the jury's information, and nobody needs to know that.
22 Okay?

23 Before I send you back, are there any additions or
24 exceptions to my charge from the State?

25 MR. ALDERMAN: None from the State, your Honor.

Verdict

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1 THE COURT: From the defense?

2 MR. COLE: No, your Honor.

3 THE COURT: Very good.

4 All right. Mr. Foreman, I'm going to ask that the
5 jury go back. Our alternate, I'm going to ask you to
6 get your personal belongings, come back to the
7 courtroom.

8 In just a minute the verdict form and the exhibits
9 will be brought back to you, and the bailiff will give
10 you signal to begin your deliberations. Please don't
11 start until that juncture -- until that time, please.

12 Y'all may go back.

13 (WHEREUPON, the jury exited open court at
14 12:07 p.m.).

15 (WHEREUPON, court takes up other matters, pending
16 verdict, from 12:07 p.m. until 1:30 p.m.)

17 THE COURT: Would you bring the jury in. We have
18 a verdict.

19 (WHEREUPON, the jury entered the courtroom at
20 1:31 p.m.)

21 THE COURT: Mr. Foreman, my understanding is the
22 jury has reached a verdict. Is that correct?

23 JURY FOREPERSON: That's correct.

24 THE COURT: Is it unanimous?

25 JURY FOREPERSON: Yes, your Honor.

1 THE COURT: Would you pass your verdict form to
2 our bailiff, please, and I'll ask her to bring it to
3 me.

4 Publish the verdict, please.

5 THE CLERK: Yes, sir.

6 In the matter of the State of South Carolina
7 versus Clifton Eugene Smith, as to the charge of
8 assault and battery of a high and aggravated nature, on
9 indictment number 2018-GS-37-667, we, the jury,
10 unanimously find the defendant guilty.

11 Ladies and gentlemen of the jury, if this was your
12 verdict and remains your verdict, please indicate so by
13 raising your right hand.

14 Let the record reflect that all members of the
15 jury have affirmed their verdict.

16 THE COURT: All right. Do you have that
17 indictment, Mr. Foreman? Before you leave, I need to
18 get your signature on this indictment for me.

19 Ladies and gentlemen, the Court is never concerned
20 with what the verdict is but that you paid attention
21 and you followed the instructions. I watched you
22 variously, all of you, throughout this trial. You did
23 exactly as I asked you to. You followed the law in
24 this matter or you listened to the law as you thought
25 it should be. For that we thank you for your service.

1 sentence.

2 THE COURT: All right.

3 Mr. Smith, anything you want to add?

4 THE DEFENDANT: That pretty much covers it, your
5 Honor.

6 THE COURT: Restitution is so extensive in this
7 case. I think I heard anywhere from 150- to 190,000,
8 somewhere in that range. This gentleman is never going
9 to pay it, and I'm not convinced he would anyway.

10 Sentence is 15 years. You have ten days to
11 appeal. Good luck to you.

12 Oh, and I did not give the victim a chance to
13 speak.

14 MR. ALDERMAN: Your Honor, the victim indicated
15 they did not wish to speak.

16 THE COURT: Very good. Ten days to appeal.

17 MR. ALDERMAN: Thank you, your Honor.

18 MR. COLE: Thank you, your Honor.

19 (WHEREUPON, proceedings concluded at 1:41 p.m.)

20 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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24

25



FILED OCOONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2018 MAY -7 P 4:40

DOCKET NO. 2018-GS-37-000667

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

MAY 07 2018, TERM

THE STATE

VS.

CLIFTON EUGENE SMITH

INDICTMENT FOR

ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

JCA

WITNESSES

Oconee Co Sheriff's Dept.

David B. Smith

ARREST WARRANT NUMBER

Direct

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAY 07 2018

VERDICT

Foreperson of Grand Jury

Date:

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

At a Court of General Sessions, convened on MAY 07 2018, the
Grand Jurors of Oconee County present upon their oath:

ASSAULT & BATTERY OF A HIGH AND AGGRAVATED NATURE

The defendant, Clifton Eugene Smith, did on or about December 26, 2017 in Oconee County, unlawfully injure Michael Todd Reid, by cutting and stabbing him about the chest, hand, and leg with a knife, resulting in great bodily injury and disfigurement or the means used was likely to produce death, great bodily injury and disfigurement. All in violation of 16-03-0600(B)(1), Code of Laws of South Carolina, (1976), as amended).

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



JASON ALDERMAN
ASSISTANT SOLICITOR

COUNTY OF OCONEE

STATE VS.

CLIFTON EUGENE SMITH

AKA:

Race: White

Sex: M

Age: 56

DOB: 1963

SS#: [REDACTED]

Address: Sunrise Drive

City, State, Zip: Salem, SC 29676

DL# [REDACTED]

SID# SC00366282

INDICTMENT/CASE#: 2018GS3700667

AW: 2018GS3700667

Date of Offense: 12/26/2017

S.C. Code §: 16-03-0600(B)(1)

CDR Code #: 3411

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Assault & Battery Of A High And Aggravated Nature

In violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Jason Alderman, Assistant Solicitor SC Bar # 100529

Defendant

Attorney for Defendant

100352 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 Service 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 SC Department of Corrections☐ The Defendant is to be placed on 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: _____ Obtain GED ☐☐ 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/Prob) \$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: Beverly H. Whitfield

Court Reporter: Diane Mancergie

SCCA/217 (04/2018)

Presiding Judge: [Signature]

Judge Code: 2155

Sentence Date: 11-19-19

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,

s/ Lara M. Caudy
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

Nov 04 2020

SC Court of Appeals

This 4th day of November, 2020.