

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASON EDWIN STOOTS,

APPELLANT

APPELLATE CASE NO. 2020-000430

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1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF GREENVILLE

4 State of South Carolina,
5 Plaintiff,

6 vs.

Transcript of Record
Case No.: 2019-GS-23-04604

7 Jason Edwin Stoots,
8 Defendant.

9
10
11 March 3, 2020
12 Greenville, South Carolina

13 B E F O R E:

14 The HONORABLE ALEX KINLAW

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

16
17 Brittany Scott, Representing the State of South
18 Carolina

19 Christopher Shipman, Representing the Defendant
20
21

22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, II
24
25

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1 (STATE EXH. 1, Photograph, for identification
2 was marked for identification.)

3 THE BAILIFF: All rise.

4 THE COURT: We are going to take care of
5 a couple of preliminaries matters. Mr. Shipman,
6 he's coming?

7 MS. SCOTT: Yes, sir. He's just stepping
8 out of the hallway right now.

9 (Off the record.)

10 MR. SHIPMAN: Your Honor, I believe we're
11 ready to proceed with a plea.

12 THE COURT: Very good.

13 MS. SCOTT: Scott.

14 MR. SHIPMAN: Shipman.

15 THE CLERK: Your Honor, this is case
16 number 2019-GS-23-04604 in the matter of the
17 State vs. Jason Edwin Stoots indicted for
18 domestic violence 2nd degree, pleading to the
19 domestic violence 2nd degree, and it is a true
20 bill.

21 Would you raise your right hand? Do you
22 swear to tell the truth, the whole truth, and
23 nothing but the truth, so help you God?

24 MR. STOOTTS: Yes, I do.

25 THE COURT: All right. You are

1 Jason Edwin Stoots; is that correct?

2 MR. STOOTTS: Yes, sir.

3 THE COURT: You're 49 years of age?

4 MR. STOOTTS: Sir?

5 THE COURT: Are you 49 years of age?

6 MR. STOOTTS: Yes, sir.

7 THE COURT: Are you married?

8 MR. STOOTTS: Yes, sir.

9 THE COURT: Do you have children?

10 MR. STOOTTS: Yes, sir.

11 THE COURT: How many?

12 MR. STOOTTS: I have two.

13 THE COURT: All right. How far did you
14 go in school?

15 MR. STOOTTS: I'm sorry? I graduated high
16 school.

17 THE COURT: All right. Are you satisfied
18 with the services of your lawyer Mr. Shipman?

19 MR. STOOTTS: Yes, sir.

20 THE COURT: Do you have any complaints to
21 make against your lawyer?

22 MR. STOOTTS: No, not at all.

23 THE COURT: All right. Now, you know
24 this matter was on the trial docket and we were
25 ready to proceed with that trial. You understood

1 that, right?

2 MR. STOOTTS: Yes, sir.

3 THE COURT: So it is your desire to plead
4 guilty, is that correct, to domestic violence 2nd
5 degree?

6 MR. STOOTTS: Yes, sir. It hurts my
7 family enough. It just needs to be done so we can
8 rebuild and move forward.

9 THE COURT: All right. This is
10 indictment ending in 4604. This indictment
11 alleges this occurred on or about the 30th day of
12 October of 2018, almost -- a couple years ago; is
13 that correct?

14 MR. STOOTTS: That's correct.

15 THE COURT: All right. And you
16 understand I can give you up to three years on
17 this offense?

18 MR. STOOTTS: Yes, sir.

19 THE COURT: All right. Did you discuss
20 the evidence and what the State would have to
21 prove if it went to trial with your lawyer? Did
22 he discuss all that with you?

23 MR. STOOTTS: Yes, sir.

24 THE COURT: Did you also discuss
25 penalties I could impose with your lawyer as well?

1 MR. STOOTTS: Yes, sir.

2 THE COURT: Did your lawyer also discuss
3 with you your constitutional rights that you waive
4 or give up once you make a knowing and intelligent
5 decision to plead guilty? Did he go over that
6 with you?

7 MR. STOOTTS: Unfortunately, yes, sir, he
8 did.

9 THE COURT: All right. Once you give up
10 the rights to a trial that we were ready to
11 empanel the jury and move forward, that goes out
12 the window if you decide to plead guilty. Do you
13 understand that?

14 MR. STOOTTS: Yes, Your Honor. I
15 understand that.

16 THE COURT: Also your right to remain
17 silent or confront any witness that the State may
18 have against you, and any witnesses that were that
19 were on this list from the State, you don't get to
20 confront any of these witnesses by pleading
21 guilty. Do you understand that?

22 MR. STOOTTS: Yes, sir. There weren't any
23 witnesses that I know of, sir.

24 MR. SHIPMAN: The alleged altercation.

25 MR. STOOTTS: Oh, I'm talking about -- that

1 led to the altercation, it was just my wife and
2 myself.

3 THE COURT: All right.

4 MR. STOOTTS: Yes, sir.

5 THE COURT: The alleged altercation is
6 what you're pleading guilty to?

7 MR. STOOTTS: Yes, sir.

8 THE COURT: Okay.

9 MR. STOOTTS: It hurts my family too much.

10 MR. SHIPMAN: Just answer the question.

11 MR. STOOTTS: I'm sorry. I'm sorry. I
12 apologize.

13 MS. SCOTT: Your Honor, if I could just
14 stop because I heard the clerk's office read out
15 the indictment and I needed to see it, Your Honor,
16 just for a moment.

17 THE COURT: All right. Go ahead. Do you
18 want to show it to her? You wanted to see it?

19 MS. SCOTT: Yes, Your Honor. I thought
20 you had it.

21 Okay. Your Honor, and again, I
22 apologize. I thought I heard -- I thought I heard
23 the clerk's office representative say domestic
24 violence 2nd degree, is what it was indicted for.
25 It's indicted for domestic violence 1st degree.

1 Okay. And that's just -- I just wanted to -- it
2 threw me off.

3 THE COURT: The record needs to say he
4 was indicted for 1st degree, but he's pleading to
5 2nd degree.

6 MS. SCOTT: Yes, sir. And I just -- when
7 I heard that, I thought I may have misrepresented
8 what we were here for.

9 THE COURT: You wanted the record to
10 reflect it.

11 MS. SCOTT: Yes, sir.

12 THE COURT: Are we clear?

13 MR. STOOTTS: Yes, sir, Your Honor.

14 THE COURT: All right. Let's go back to
15 the alleged offense, using your words, not mine.

16 MR. STOOTTS: Yes, sir. I understand
17 that.

18 THE COURT: You're pleading guilty to
19 this offense. You also give up your right to
20 assert any defenses that you have. In other
21 words, any reason why you did what you did, all
22 that goes out the window what you plead guilty.
23 Do you understand that?

24 MR. STOOTTS: Yes, sir.

25 THE COURT: Is that what you want to do?

1 THE WITNESS: Unfortunately, to preserve
2 my family, yes, sir.

3 THE COURT: Okay. Did you do what you
4 said they did?

5 THE WITNESS: No, sir.

6 MR. SHIPMAN: Your Honor, I think he
7 understands that he's giving up the right to make
8 a defense claim. He's never contested that he is
9 the one who was --

10 THE COURT: Well, let me ask this next
11 question. I'm old school. I just have to ask him
12 real quick. On October 30th, 2018 this
13 indictment -- and I know what you're pleading
14 guilty to -- the indictment alleges that you had
15 an altercation with Kimberly Stoots causing her
16 some peril or injury. Did you do that?

17 THE WITNESS: That was accidental, but --

18 MR. SHIPMAN: Do you want to take the
19 plea?

20 THE WITNESS: I'll take the plea. I just
21 want it to be over for my family's sake.

22 MR. SHIPMAN: Your Honor, with this being
23 a misdemeanor, I guess he could plead no contest
24 as well, if there's some sticking points about the
25 facts that need to be admitted to.

1 THE COURT: You know, all I'm asking
2 is -- I'm just asking, did he do this? He's the
3 one pleading guilty to it.

4 THE WITNESS: I just want -- I need to be
5 there for my family. And I understand what you're
6 saying, and that seems the most expedient way.

7 THE COURT: I don't take pleas out of
8 expedience. You either did it or you didn't.

9 THE WITNESS: I didn't do it, but this
10 needs to be over so we can rebuild and move
11 forward.

12 THE COURT: I can't take your plea, sir,
13 if you didn't do it. I mean, that's why we got
14 the jury out there and let them decide it for
15 you.

16 THE WITNESS: I'm going to just say I did
17 it to --

18 THE COURT: Not before this judge you're
19 not going to do that.

20 MR. SHIPMAN: Your Honor, would you
21 entertain a no contest plea, and I can discuss
22 that with him. This being a misdemeanor, I
23 believe, even though we're in a general sessions
24 court, it would be allowed. The statute makes for
25 that provision. I can discuss that distinction

1 with him. He's indicated he wants to take
2 responsibility, or he wants to take a plea and
3 move to the imposition of a sentence. But he's
4 got some hang-ups here about whether this
5 accidental or not and all that. I can discuss
6 that with him.

7 THE COURT: You know the questions you
8 got to ask him for Alford. You got to ask him --
9 if he says -- he says he didn't do any of this. I
10 mean, there's specific questions you got to ask
11 him. Or want me to ask him?

12 MR. SHIPMAN: I can ask him the Alford
13 questions if you would take the plea under that
14 scenario, and I can explain to him briefly what --

15 THE COURT: I'm not trying to be
16 difficult with you, counselor.

17 MR. SHIPMAN: I understand.

18 THE COURT: You know, the way I do it, he
19 either did it or he didn't. I don't do -- there's
20 no in between with me.

21 MR. SHIPMAN: And, Your Honor --

22 THE COURT: And I don't fix pleas to make
23 them go through.

24 MR. SHIPMAN: Yes, sir.

25 THE COURT: That's not what I do.

1 MR. SHIPMAN: I understand, Your Honor.

2 THE COURT: You standing right there, I'm
3 going to ask you: You been up here before me
4 many, many times. I always ask the questions. I
5 always go through this indictment. And I look at
6 the defendant and my question is, did you do this?
7 I ask that. That's one of the questions when you
8 come before Judge Kinlaw, you tell your clients
9 I'm going to ask them that question.

10 MR. SHIPMAN: Yes, Your Honor. I
11 apologize.

12 THE COURT: I don't take pleas from
13 somebody who's saying I'm taking it because I just
14 want to get it over with. I'm taking it because I
15 want to help my family. That's not how I do it.

16 MR. SHIPMAN: Yes, sir, Your Honor.

17 THE COURT: I can't speak to anyone. I'm
18 only speaking for me. That's not how I do it.

19 MR. SHIPMAN: Your Honor, would you
20 entertain an Alford plea with me doing the
21 questioning for the colloquy.

22 THE COURT: Well, based on what -- the
23 questions that's already been asked of him, I
24 mean -- he used that word accidental. He didn't
25 do it. He used such words as, he just wanted to

1 get this over with to help his family. Those are
2 the three things he said. Tell me how an Alford
3 plea changes any of that.

4 MR. SHIPMAN: An Alford, he wouldn't
5 necessarily have to admit the facts. He would
6 have to state that he's being given a bargain in
7 the substantial likelihood that he could be
8 convicted by a jury. And based on that, he wants
9 to enter into this plea bargain here for a
10 reduction in charge which would be the substantial
11 bargain from the State. And then it would also
12 require him to also admit that it was malicious or
13 otherwise illegal conduct.

14 I think he -- I think that's what he'd
15 like to do if you give me a moment to discuss that
16 with him.

17 THE COURT: Let me hear what he wants.
18 What do you want to do? Let me hear from him.

19 MR. STOOTTS: I don't want my family to go
20 through any more. I need to be there for my kids
21 and my wife. I need to work. I've never done
22 anything wrong. It's causing too much heartache
23 on my family.

24 MR. SHIPMAN: Do you want to take this
25 deal?

1 MR. STOOTTS: I'll take this deal. I just
2 want what's best for my family.

3 THE COURT: What deal is that?

4 MR. STOOTTS: My understanding, hopefully
5 no jail time so I can continue to support my
6 family. Whatever my wife wishes.

7 MR. SHIPMAN: The reduction in charges.

8 MR. STOOTTS: The reduction in charge.

9 THE COURT: I know Mr. Shipman is telling you
10 all of this. I'm not concerned with what he says. I
11 could care less about Mr. Shipman.

12 MR. STOOTTS: Yes, sir. The way that I
13 look at it, you know, I don't know what the jury
14 is going to say, and I need to be there for my
15 family and kids and this might can guarantee that.
16 If I were to go to jail, or not be able to work,
17 it would cause great hardship for them.

18 THE COURT: Do you do this?

19 MR. STOOTTS: No, sir. It was accidental,
20 and it wasn't like it's portrayed.

21 THE COURT: You got a jury out there, a
22 panel?

23 THE DEPUTY: Yes, Your Honor.

24 THE COURT: You all took up 45 minutes of
25 my time. We're either going to try the case or

1 not. I'm not going back and forth with it. Let's
2 get the jury. Bring the jury in. Let's pick
3 them.

4 MR. SHIPMAN: Your Honor, I believe we
5 could -- if you would give me a moment and discuss
6 Alford with him, I believe he would take it under
7 the circumstances, and that wouldn't necessitate
8 the admission necessary.

9 THE COURT: We're going to pick a jury.
10 I'm not interested in that.

11 THE CLERK: We got to get the jury.

12 MR. SHIPMAN: Your Honor, may it please
13 the Court, I make a motion to have an Alford plea.
14 I believe -- I talked to my client and he
15 indicated that's what he wants to do. He
16 understands the elements of Alford, substantially
17 likelihood of conviction, substantial bargain from
18 the State knowing that, otherwise, he gives up all
19 his rights of a trial, and otherwise it would be
20 treated as if it were a guilty plea. But for the
21 admission of the facts involved, he wants to do
22 that. I think he's got a right to enter the plea
23 under that circumstance effected by the
24 constitution.

25 We would like to do that, or, otherwise,

1 I would just like to make an objection for the
2 record before we proceed to trial that he's
3 indicated that's what he wants to do, and I
4 believe he's got a right to enter the plea under
5 the scenario.

6 THE COURT: Let's go off the record for a
7 second.

8 MR. SHIPMAN: Yes, sir.

9 (Off the record.)

10 THE COURT: Okay. Bring him back up,
11 Mr. Shipman.

12 Go back on the record in State vs.
13 Jason Stoots.

14 Mr. Stoots, it's my understanding that
15 you now want to enter a plea pursuant to Alford;
16 is that correct?

17 MR. STOOTTS: Yes, sir.

18 THE COURT: All right. Your attorney
19 explained to you what Alford is?

20 MR. STOOTTS: Yes.

21 THE COURT: What is it?

22 MR. STOOTTS: It's where they're going to
23 offer me a plea from 1st degree to 2nd degree CDV.

24 THE COURT: That's what Alford is?
25 That's your understanding?

1 MR. STOOTTS: Yes, sir. And it's a lesser
2 charge.

3 THE COURT: That's what Alford is?
4 That's what your lawyer told you?

5 MR. STOOTTS: That's my -- I'm nervous, so
6 I apologize.

7 THE COURT: Well, your lawyer made a
8 motion before the Court that you want to enter a
9 plea pursuant to Alford and I granted that motion.
10 Because you're the one entering the plea, I'm
11 assuming he discussed what that was. So I'm just
12 asking you what Alford is.

13 MR. STOOTTS: Yes, sir. To go from 3rd to
14 2nd and not admitting that I did it. Just taking
15 plea as a 2nd degree and what goes along with
16 that.

17 MR. SHIPMAN: And substantially
18 calculates. I explained to him that there would
19 be a bargain in reduction. He wouldn't have to
20 admit wrongdoing in order to take the deal. But,
21 otherwise, for all other purposes, it would be
22 treated just like any other ordinary conviction.

23 MR. STOOTTS: Yes, sir.

24 THE COURT: He's already sworn in, Madame
25 Clerk?

1 THE CLERK: Yes.

2 THE COURT: Ask the question,

3 Mr. Shipman.

4 MR. SHIPMAN: Thank you, Your Honor. May
5 it please the Court?

6 Mr. Stoots, you indicated that you want
7 take a plea under North Carolina vs. Alford; is
8 that correct?

9 MR. STOOTS: Yes, sir.

10 MR. SHIPMAN: And do you understand that
11 that means -- do you understand there's a
12 substantial likelihood that you could be convicted
13 of domestic violence 1st degree if we were to go
14 to trial before a jury?

15 MR. STOOTS: Yes, sir.

16 THE COURT: And are you getting a bargain
17 from the State?

18 MR. STOOTS: Yes, sir.

19 MR. SHIPMAN: How would you describe that
20 bargain?

21 MR. STOOTS: A lesser degree.

22 MR. SHIPMAN: A reduction in the
23 charge.

24 MR. STOOTS: Yes, sir.

25 MR. SHIPMAN: Okay. Has the State made

1 any other representations as to any other bargain
2 besides just the reduction in charge to you?

3 MR. STOOTTS: No, sir.

4 MR. SHIPMAN: Do you understand that even
5 though you are not admitting wrongdoing, this will
6 still go down on your record as a conviction?

7 MR. STOOTTS: Yes, sir.

8 MR. SHIPMAN: It will still be treated
9 like a conviction -- like any other conviction for
10 purposes of enhancement later on or any kind of
11 liabilities, like not being able to own a weapon,
12 firearm, or ammunition. Do you understand that?

13 MR. STOOTTS: Yes, sir.

14 MR. SHIPMAN: Your Honor, I think that
15 covers all the elements of an Alford plea.

16 THE COURT: Anybody force or threaten you
17 in any manner to get you to enter this plea?

18 MR. STOOTTS: No, sir.

19 THE COURT: Do you have any questions of
20 me regarding anything that I asked you or your
21 lawyer?

22 MR. STOOTTS: No, sir.

23 THE COURT: All right. You understand
24 you have 10 days to appeal this guilty plea?

25 MR. STOOTTS: Yes, sir.

1 THE COURT: And you understand you still
2 waive all those constitution rights even though
3 you're pleading to Alford? You understand that?

4 MR. STOOTTS: Yes, sir.

5 THE COURT: And you understood what those
6 constitutional rights were?

7 MR. STOOTTS: Yes, sir.

8 THE COURT: You understand this is your
9 decision and not your lawyer's decision?

10 MR. STOOTTS: Yes, sir.

11 THE COURT: You're absolutely sure about
12 this?

13 MR. STOOTTS: A hundred percent.

14 THE COURT: All right.

15 MS. SCOTT: Thank you, Your Honor. This
16 occurred October 29th of 2018 at a Taco Bell in
17 Greenville County. The defendant and the victim
18 were married but separated and living a part at
19 that time. However, they decided to get something
20 to eat and went through the Taco Bell drive-thru.
21 While they were waiting, they began to argue. The
22 defendant hit the victim in the face. At that
23 point, Your Honor, she began to bleed from her
24 mouth and asked the defendant to take her to the
25 hospital, which he did not. He refused to take

1 her and drove around stopping at a gas station and
2 other places in order to clean out his car.

3 THE COURT: This happened at the Taco
4 Bell drive-thru window?

5 MS. SCOTT: Yes, sir, Your Honor. In the
6 line.

7 THE COURT: In the line.

8 MS. SCOTT: Yes, sir.

9 THE COURT: Okay.

10 MS. SCOTT: And then the victim showed up
11 to her family's house, Your Honor. They were
12 prepared to testify today as to how they received
13 her. They then called the ambulance where she was
14 treated by a Dr. Randon and Dr. Carey. During the
15 trial, Dr. Carey would have testified as to how he
16 treated her injuries. The injury, in particular,
17 was significant bleeding and also a displaced
18 tooth. Her front tooth was displaced, Your Honor.
19 She also had to have a CT scan which ruled out any
20 major fractures to her jaw line. This would be
21 the facts presented at trial.

22 THE COURT: Do you agree with that, sir?

23 MR. SHIPMAN: Do you agree that's what
24 the evidence would be at trial, is what he's
25 asking.

1 MR. STOOTTS: That's a -- that's a --
2 that's a slight change.

3 THE COURT: Slight change in what?

4 MR. SHIPMAN: My statement, I didn't
5 clean out the vehicle. It wasn't. There was an
6 argument. Yes, there was. It's portraying me as
7 I just hit her.

8 MR. SHIPMAN: The facts as to the
9 domestic violence.

10 THE COURT: The State, you're ready to go
11 on this?

12 MS. SCOTT: We're ready, Judge.

13 THE COURT: We're going to take a quick
14 break. We're going to try this case. We're going
15 to try this case.

16 MR. SHIPMAN: Your Honor, I believe he
17 would admit the allegations that constitute the
18 domestic violence.

19 THE COURT: Mr. Shipman, we're going to
20 try the case.

21 MR. SHIPMAN: All right.

22 THE COURT: I just asked him a question,
23 and this is what he's saying, your client.

24 MR. SHIPMAN: Yes, sir, Your Honor.

25 MR. STOOTTS: Can I say one thing, sir?

1 THE COURT: You can say whatever you want
2 to. We're going to try the case.

3 MR. STOOTTS: Okay.

4 THE COURT: I don't want to hear anything
5 else. We're going to try the case.

6 MR. STOOTTS: Okay.

7 THE COURT: All right?

8 MR. STOOTTS: Yes, sir.

9 THE COURT: Bring the jury panel.

10 THE BAILIFF: I got the jury staged next
11 door.

12 THE COURT: Bring them in.

13 (Jury panel enters the courtroom at 2:31 p.m.)

14 THE COURT: All right. Good afternoon,
15 Ladies and Gentlemen of the jury.

16 JURY PANEL: Good afternoon.

17 THE COURT: This is an enthusiastic
18 crowd, Madame Clerk.

19 Jury service is one of the -- probably in
20 my estimation, probably one of the finest things
21 you can ever do. The right to the vote, the right
22 to jury service. As a matter of fact, if you look
23 at the federal constitution and the state
24 constitution, they mention jury service in both of
25 those documents. And I think -- and they also

1 State?

2 MS. SCOTT: No, Your Honor.

3 MR. SHIPMAN: Your Honor, Mr. Stoots
4 indicated to me that he would like to -- still
5 would like to enter the Alford plea, and, I
6 believe, pick up where we left off on that.

7 THE COURT: We're not going to do this,
8 Mr. Shipman.

9 MR. SHIPMAN: Your Honor, I believe we
10 should have --

11 THE COURT: I'll put on the record that I
12 gave Mr. Stoots -- or the Court gave Mr. Stoots an
13 opportunity to enter a plea. I mean, it was
14 clear. The first time he agreed to plea without
15 the benefit of an Alford. The Court allowed him
16 to do that. The Court went through the colloquy
17 the Court always go through with asking the
18 defendant the questions that counsel very well
19 knows the questions of the Court to the defendant
20 regarding the voluntary plea. I asked him all
21 those questions. Counsel also very well knows
22 that the State has to give a factual basis for the
23 plea. Counsel knows that.

24 On the record, after the State gave the
25 record of the factual rendition of what the State

1 would present, I asked Mr. Stoots whether he
2 agreed. He said that -- number 1, he said it
3 didn't happen that way. Second, he said it was
4 accident. Third, he said that he was only
5 pleading guilty so it wouldn't hurt his family. I
6 think he said it in that order.

7 MR. SHIPMAN: Your Honor.

8 THE COURT: Let me finish. Let me
9 finish.

10 MR. SHIPMAN: All right.

11 THE COURT: After that -- after that we
12 took a break. You made a motion on the record to
13 allow him to enter an Alford plea. I asked you
14 and Miss Scott by way of sidebar whether you
15 discussed with him the elements of North Carolina
16 vs. Alford and you indicated that you did. I said
17 fine. I gave it some thought. And after giving
18 it some thought, I allowed him to do that.

19 Since the Court is keenly aware that any
20 plea that a defendant makes in criminal court has
21 to be his plea, and not what the lawyer tells him
22 to do, I wanted to make very clear on the record
23 that what -- the answers that Mr. Stoots was given
24 to me was his answers and not answers that you
25 were giving. And not indicating that, in any way,

1 that you were giving him the answer, but I need to
2 make sure that these were his answers.

3 And it is my practice, and both of you
4 have been before me before, the way I do Alford
5 pleas is, I do not -- I am probably different than
6 the other judges. I don't ask the questions. I
7 allow the lawyer to ask the questions. The reason
8 I do that is because the lawyer had the
9 conversation with the defendant, and I want to
10 make sure that the lawyer asks the questions
11 because that's who the conversation is with.

12 So you asked the questions. I allowed
13 you to do that. And I think Mrs. Scott read into
14 the record what she's required to do. Same
15 factual basis. And I think there was a response,
16 he said -- is that the evidence the State would
17 present? And I think your client indicated
18 that -- it was something to the effect that he
19 didn't agree with it. He didn't dispute it. He
20 still retracted from that.

21 Now you're asking the Court to consider
22 another Alford plea. And at some point,
23 Mr. Shipman, there is a point where it's a total
24 waste the Court's time.

25 And also, let me say this to you, that I

1 think this case -- this is an October 2018 arrest
2 warrant. I don't see any reason why this kind of
3 conversation should be happening today before -- I
4 mean, I set a time of 1:30 to start this case. I
5 sat in this chair at 1:30. Both sides, you, Miss
6 Scott, you, Mr. Shipman, indicated you needed some
7 time to talk to him, to the defendant. I gave you
8 45, almost 50 minutes and waited.

9 So I think this Court has been more than
10 lenient, more than fair in trying to move this
11 matter along. But I think, at some point, and the
12 record needs to reflect that I took a plea that he
13 did freely and voluntarily, and that's what I do.
14 That's what I'm mandated to do. Not to take a
15 plea out of convenience, or take a plea where the
16 purpose is to move the case along. That's not
17 what I do, and that's what I'll ever do.

18 So I made a determination, I gave you an
19 opportunity to plea to domestic violent 2nd
20 degree. I gave you every opportunity to ask all
21 the questions very liberally. I gave the
22 defendant every opportunity to plead pursuant to
23 Alford. I did that. That didn't work out.

24 So now you're asking me to do the same
25 thing. I respectfully won't do that.

1 MR. SHIPMAN: Your Honor, if I may, my
2 understanding of the question prior to the
3 rendition of the facts was -- or after the
4 rendition of the facts, I thought you asked him,
5 do you agree with that, and I think that's where
6 he got hung up because he was still in the mindset
7 of not admitting the wrongdoing. And I was trying
8 to explain to him what the question actually meant
9 was, does he agree that that's what the State
10 would present at trial, rather than do you admit
11 those allegations and you agree with those
12 allegations.

13 I think that's where he hung up. And it
14 was a misunderstanding on Mr. Stoots's part, not
15 understanding the nature of the question.

16 So I think he wants to proceed there. He
17 does not want the trial. Again, I think he's got
18 a right to try this and put it before Your Honor
19 as a plea. I'm not saying that anything -- you
20 know, I don't think that --

21 THE COURT: I got the right to either
22 accept it or reject it, Mr. Shipman.

23 MR. SHIPMAN: Yes, sir, Your Honor. I
24 think he's freely doing this and voluntarily. I
25 know he's stressed out. He's never been to court

1 before. I don't think he understands all these
2 questions. Some of my clients have been around.
3 So maybe I've not told him enough of this.

4 And the reason why all this so late
5 coming is because it was only right before we came
6 here at 1:30 that he even told me he was
7 interested in a deal. This should have been
8 worked out several weeks ago, but, you know, I
9 apologize for the Court's inconvenience on that.

10 But I think he wants to go through this.
11 And he's having a few hang-ups not understanding
12 all the questions that are being asked of him.
13 But I think with a little -- I think he can get
14 through this, and I think he knows what to do, and
15 I think he knows how to answer the questions.

16 So respectfully, Your Honor, he wants to
17 have his plea and he does not want the trial. I
18 think it's -- it's upon me to advance his rights
19 here, and I think he's got a right to take this
20 bargain. So I will take exception to the Court --

21 THE COURT: Okay, you can do that. Let
22 me see both of you here a second. You can do
23 that.

24 (Bench conference off the record.)

25 MR. SHIPMAN: Your Honor, Mr. Stoots has

1 declined to do that. So the record is clear, I
2 don't know if you'd like to restate your ruling
3 there, or I can summarize it. I'd like to put it
4 on the record as well, Your Honor.

5 THE COURT: My ruling is simply, you're
6 asking that he continue to plea under Alford, and
7 I rejected that. We can just continue.

8 MR. SHIPMAN: Thank you, Your Honor.
9 Just make sure my objection is preserved.

10 THE COURT: It's preserved.

11 MR. SHIPMAN: Thank you.

12 THE COURT: Anything else? You ready to
13 proceed?

14 MS. SCOTT: Yes, Your Honor.

15 THE COURT: Bring the jury in.

16 (Jury enters the courtroom at 3:15 p.m.)

17 THE COURT: All right. Ladies and
18 Gentlemen of the Jury, this defendant -- as I told
19 the panel earlier, this defendant is charged with
20 this indictment. I have indicated earlier, this
21 indictment is the ticket by way this matter comes
22 before the Court. It is not evidence of any guilt
23 whatsoever. This is the way -- or the vehicle, as
24 I term it, that this matter comes before the Court
25 for you to hear it. He is charged in this

1 indictment with the defense -- or the criminal
2 offense of domestic violence in the 1st degree.
3 The elements which I will explain to you later.

4 The indictment simply is the charge by
5 which the case is brought before the Court, and it
6 is not in any sense evidence of any of the
7 allegations contained. The defendant pled, in
8 this indictment, not guilty. The State,
9 therefore, has the burden of proving each of the
10 elements of the indictment beyond a reasonable
11 doubt, and I mention that to you a little earlier.
12 It will be your duty, Ladies and Gentlemen,
13 whether the State has met that burden. Your
14 purpose as jurors is to find and determine the
15 facts. You are the sole judges of the facts. I
16 usually tell juries all the time, there are two
17 judges in the courtroom. I am the judge of the
18 law as all 12 of you, all of you, are the judges
19 of the facts. There are only two judges in the
20 courtroom. I have absolutely nothing to do with
21 the facts. I can't even comment on the facts, or
22 do anything at all which would give you any
23 impression that I have an impression about the
24 facts. I know nothing about the case, but you are
25 sole judge of the facts. You are to determine the

1 facts from the testimony you hear and the other
2 evidence introduced in the courtroom. It's up to
3 you to determine the inference which you may
4 properly draw from the evidence.

5 The evidence in the case can take two
6 forms. It can take the form of witnesses'
7 testimony that's from this witness stand, or it
8 can take the form of any documents, sketches,
9 photographs, etc. All those things are the
10 considered evidence. It is especially important
11 that you perform the duty of determining the fact
12 diligently and conscientiously. And let me just
13 stop right there. When I say that, both sides
14 really want you to pay attention, and I'm sure
15 you're going to do that. Pay attention to the
16 facts that are presented and the testimony.

17 On the other hand, equally, the same law
18 that makes you the judge of the facts and makes me
19 the judge of the law, as I just said to you, the
20 law that's given to you by the Court is only law
21 that you can consider. So if you have an opinion
22 on what the law is, disregard that because the
23 only law that you need to consider is the law that
24 I'm going to give you at the conclusion of this
25 case. You must accept and follow the law even

1 though you may disagree with it. I cannot tell
2 you what the facts are and you cannot disagree
3 with me about what the law is or should be. Your
4 job is to take the law as I give it to you, apply
5 it to the facts as you find them from the
6 testimony of the witnesses, and any other evidence
7 that's been introduced, as I told you.

8 After doing that, you will render your
9 verdict, a true and just verdict, under the solemn
10 oath that you took a few minutes ago as jurors.
11 And until I advise you to begin your
12 deliberations, you must not discuss this case with
13 anyone including your fellow jurors, friends,
14 family members, and anyone involved in the case.
15 This includes any face-to-face discussions by
16 telephone, email, text, blogs, or any of that
17 other sophisticated method of communications.

18 During the trial, do not read, listen to,
19 or watch anything about any social media, or
20 anything about this case. You must only consider
21 the evidence that's presented in this courtroom.
22 After the case is submitted to you, you must
23 discuss it only in the jury room with your fellow
24 jurors. The attorneys in that case have been
25 advised that they are not to talk to you at all.

1 So if you see anyone involved in the case talking
2 to you, please report that to me.

3 Please keep an open mind and you gave
4 your oath to be fair and impartial, and it's your
5 responsibility to determine the guilt and
6 innocence of the defendant. Your verdict must be
7 based solely on the evidence as it is presented to
8 you during this trial and on the law as I
9 instruct you to do.

10 Remember, I told you about the burden in
11 a criminal case. The State -- the burden is
12 squarely on the shoulders of the State. The State
13 must prove the defendant guilty beyond a
14 reasonable doubt.

15 Now, you will hear some discussions by
16 both sides at the end of the case as it relates to
17 what reasonable doubt is. You'll probably hear
18 something from the Court as well. That is the
19 burden the State has.

20 In a moment, the solicitor is going to
21 make what is called an opening statement -- an
22 opening statement is not evidence -- in which the
23 solicitor will explain to you the issues in this
24 case, or at least what the solicitor thinks the
25 issues are in this case; then the attorney for the

1 defendant will also make an opening statement.
2 That opening statement is not evidence as well.
3 What the attorneys tell you during the open
4 statements is not evidence. It's only their
5 contention of what they think the issues are. The
6 evidence in this case will be presented to you by
7 the witnesses and the evidence presented.

8 From time to time, you may hear one of
9 the lawyers say something like, "Your Honor, I
10 believe we have a question of law," or, "on a
11 matter of law to discuss with you." When that
12 happens then I have to send you back to your jury
13 room for a moment so I can take up the matter of
14 law with the lawyers. I try and do my best to
15 make sure you don't stay back there for long
16 periods of time. But while you are back there,
17 you still can't talk about the case. Even though
18 you heard some of it, you still can't talk about
19 the case with each other until deliberations
20 instructed by me. And you may hear from time to
21 time these lawyers from either side object to
22 something, and so not do not attach any
23 significance to that. That's the trial of the
24 case, and that may be something that I may need to
25 take up with the lawyer out of your presence.

1 In determining the true facts of this
2 case, you must decide whether or not the testimony
3 of any witnesses, or the evidence is believable.
4 The credibility is certainly within your realm.
5 You can believe some of what the witness says.
6 You can believe none of what a witness says. That
7 is solely up to you, and you can attach whatever
8 credibility to any of the evidence that's
9 presented. That's why you are the judge of the
10 facts. You have the right to consider anything in
11 the record that will help you evaluate the
12 testimony of the witness. That means, your duty
13 is to pay close attention to these witnesses, to
14 observe the witnesses, listen to the witnesses,
15 pay close attention to their testimony. Please,
16 ma'am, and please, sir, do not let your thoughts
17 wander during the course of the of the trial. I
18 know you wouldn't do that, but --

19 And, sir, if you will be the foreperson
20 to preside over the jury, and be the jury's
21 spokesperson in the court, if there's a question
22 that comes up of any kind, or anything comes up
23 that relates to the jury. In terms of comfort and
24 anything that you may need in terms of bathroom
25 breaks, or anything of that nature, please relay

1 that information to the bailiff and then she will
2 instruct me. I'm going to try to be as diligent as
3 I can to make sure that this is as comfortable as
4 I can make it for you.

5 State ready to proceed?

6 MS. SCOTT: Yes, Your Honor.

7 THE COURT: Defense ready to proceed.

8 MR. SHIPMAN: Yes, Your Honor.

9 THE COURT: All right. Yes, ma'am. Miss
10 Scott.

11 MS. SCOTT: May it please the Court and
12 opposing counsel?

13 Members of the jury, by name is
14 Brittany Scott. I introduced myself earlier and I
15 have my investigator, Lynn Crouch, with me here at
16 the table.

17 You heard the judge tell you that we're
18 here for a domestic violence 1st degree case.
19 Here in South Carolina, particularly Greenville
20 County, we categorize domestic violence, but I'm
21 here to tell you that first and foremost that any
22 violence in a domestic situation is domestic
23 violence. It's just as serious from a punch to a
24 kick to murder; it's serious.

25 Now, domestic violence 1st degree

1 requires some elements that I have to prove today.
2 First, I have to prove that they were household
3 members, so let's talk about that. You were
4 introduced only verbally to a woman,
5 Kimberly Stoots. She's the victim today. She is
6 married to Jason Stoots. You will hear testimony
7 from her and her family, although they're married,
8 they're also separated, and she would have to do
9 something that many of us hate to do, talk about
10 her private life in front of strangers. Please be
11 patient. Please hear what she has to say.

12 Now, I've established that they're
13 household members. The line that domestic
14 crosses. There's their testimony, the two of them
15 were together in October 2018. Let me pause right
16 there. Why 2018, and now it's 2020? Why is the
17 State coming before you all talking about
18 something that happened in 2018? There is a
19 process. We're all a part of this process.
20 Please do not allow the time that has lapsed to
21 make this case any lesser serious.

22 Now, let's talk about -- more about why
23 domestic violence. There is an injury here that I
24 have to prove.

25 You will hear from the doctor -- in fact,

1 he will be our first witness so that he can go
2 back to caring for other patients -- who treated
3 Kimberly Stoots the night -- or early morning of
4 October the 30th, 2018. He will tell you about
5 the injury he saw on her, and the treatment he
6 gave her.

7 You will hear from Kimberly herself, and
8 she'll talk about the issue that she got that
9 injury.

10 You will hear from her family members who
11 received her as she was bleeding, crying, and
12 upset, and calling the ambulance for her.

13 I have that burden, and I accept that
14 burden. I ask you to pay close attention to
15 everyone who takes that stand. And I'll come back
16 and we'll go over everything I talked about, and I
17 will ask that you find him guilty, Jason Stoots,
18 of domestic violence 1st degree.

19 THE COURT: All right. Mr. Shipman.

20 MR. SHIPMAN: Thank you, Your Honor. May
21 it please the Court?

22 THE COURT: Yes, sir.

23 MR. SHIPMAN: Jason Stoots is 49 years
24 old. He's known Kim Stoots since they were both
25 19. They've known each other 30 years. He met

1 her when he was an employee of Croft State Park in
2 Spartanburg County. They got married about a year
3 later. Now they have two children. A 20-year-old
4 son and 15-year-old daughter. They've been
5 together for a long time.

6 A few years ago, Jason started noticing
7 some changes in Kimberly's behavior. Her acting
8 erratically and having delusional dog biting, wild
9 accusations against --

10 MS. SCOTT: Objection, Your Honor, to the
11 relevance of this particular testimony. I'm not
12 sure that's even going to be brought out in the
13 trial.

14 THE COURT: All right. I'm going to
15 sustain the objection. Just keep it within the
16 parameters of this particular trial.

17 MR. SHIPMAN: Your Honor, respectfully,
18 this goes to our case, about her credibility and
19 the what led up to these allegations, and I can
20 tie that together. I, in fact, have a reasonable
21 belief that I will be able to get that into
22 evidence.

23 THE COURT: I'm going to let you go ahead
24 and see where it takes you. Go ahead.

25 MR. SHIPMAN: Thank you, Your Honor.

1 Mr. Stoots has tried to have her
2 committed, tried to do a lot of things to help her
3 out.

4 And before we get into all that back in
5 October of 2018, let me back up a little bit.
6 Mr. Stoots was employed, had an injury at work,
7 hurt his spine. It required surgeries, multiple
8 surgeries. It caused him a lot of pain, so he had
9 to take pain pills for it.

10 A few years back, he noticed some of the
11 pain pills started going missing as well, so he
12 asked his doctor to install a drug infusion pump,
13 which is sort of a device that goes into the side
14 and gives out the doses when he needs it. It was
15 more for not leaving an unsecured bottle around.

16 And so you need to know that, because the
17 night of this incident at Taco Bell, Miss Stoots
18 was having an episode. She believed that someone
19 was communicating to Jason through radio waves
20 into the infusion pump, setting her up, trying to
21 have her taken away, that he was going to meet
22 someone at the Taco Bell and they were tracking
23 them through this machine. And it, kind of, got
24 strange. And she started attacking him. So he
25 put his hands up and grabbed her by the wrist, and

1 she's still coming at him.

2 And, during this practice, Miss Stoots
3 got hit in the mouth, and you will hear testimony
4 today that she had a tooth knocked out.

5 And that sounds pretty bad until you look
6 at the medical records and see what bad condition
7 her mouth was already in. To me, it's, sort of,
8 the difference between, you know, chopping down an
9 oak tree or kicking over a mushroom. It depends
10 on not -- knocking out someone's tooth isn't
11 always as bad as it sounds. It depends on the
12 state that it was in to start with.

13 So during this practice, her mouth
14 bleeds. You know, she's got rotten teeth. She
15 gets struck in the mouth and it displaces one of
16 her front teeth. It doesn't knock it out
17 completely, but it does displace it.

18 And after this incident, they left the
19 Taco Bell, and she asked to be taken to the store
20 to get some drinks. And so he goes to the store
21 to get drinks and cigarettes. And then,
22 eventually, shortly thereafter he takes her back
23 to her uncle's house where she's been living,
24 where her family is, and some of those folks will
25 be here to testify.

1 Now, it's our contention that Mr. Stoots
2 is not guilty. To the extent that the injury was
3 bad as it is, it was accidental. And to the
4 extent that she was injured at all, it was
5 self-defense. She came at him in the car and he's
6 trying to keep her off.

7 And then shortly after he takes her to
8 the store and then takes her to her uncle's house,
9 to her family's house. If he wanted to beat her
10 or kidnap her or hurt her, he had her in the car,
11 but he took her back to her family. So there was
12 never any ill intention on Mr. Stoots' part. I
13 think the record will show that.

14 Ultimately, this trial going to present
15 you two issues. The first issue is, was
16 Mr. Stoots' actions are unlawful. So what I mean
17 by that is, if you find that the State has failed
18 to disprove self-defense -- the burden is on the
19 State, so they have to disprove self-defense. If
20 you find his actions were self-defense, that's the
21 only question you have to answer. That's the end
22 of the analysis. If you find it was self-defense,
23 or you find it reasonable to believe that it was
24 self-defense, end of the question. He's not
25 guilty.

1 If for whatever reason, you're not
2 convinced it was self-defense, then you go to the
3 second level, which is the level of the injury.
4 In order for the State to convict Mr. Stoots of
5 domestic violence in the 1st degree, they got to
6 prove great bodily injury.

7 Now, our law has several degrees of
8 domestic violence. We're dealing with, he's
9 charged with 1st. There's a 2nd degree, which is
10 a lesser charge. And a 3rd degree, which is a
11 lesser charge still. And the differences are,
12 1st degree requires great bodily, 2nd degree
13 requires moderate bodily injury, and 3rd degree
14 requires a simple injury neither great or
15 moderate. You'll get an explanation of that
16 because that's a legal definition and we'll have
17 time to talk about that. I just want you to keep
18 in mind, as this trial goes one, you got two
19 questions to answer. You can only answer the
20 second question if you get past the first
21 question.

22 Our contention is that this was
23 self-defense, and I actually did an analysis for
24 you but we'll go back and address that later on
25 and you'll have a chance to decide this for

1 yourself.

2 And keep in mind as well, the judge has
3 mentioned this to you, the standard of proof in
4 criminal is proof beyond a reasonable doubt. You
5 will hear about that a lot.

6 What reasonable doubt means is that level
7 of doubt which would cause a reasonable person in
8 light of circumstances and the facts known to them
9 at the time to hesitate to act in the most
10 important of their own affairs. That's a long way
11 of saying it, but it means if you'll hesitate for
12 a moment to make a decision to convict him, that
13 one moment is enough for reasonable doubt. If you
14 think it's reasonable at all that he's not guilty,
15 if there's any reason at all that he might not be
16 guilty, then that's it. There's no sliding scale
17 here. It's not you're pretty sure he's guilty,
18 are you almost sure he's guilty, or you're pretty
19 sure he's not guilty. It's either on or off.

20 If you hesitate to act, then it's off.
21 He's not guilty. I believe the trial is going to
22 show there's going to be lots of reasons to
23 hesitate to act.

24 I thank you for your time and your
25 consideration.

1 THE COURT: All right. Yes, ma'am.

2 You're ready to call your first witness?

3 MS. SCOTT: Yes, Your Honor.

4 Dr. Christopher Carey.

5 THE COURT: Dr. Carey, please come up,
6 sir.

7 THE CLERK: If you will, please place
8 your left hand on the Bible and raise your right
9 hand. Do you solemnly swear or affirm to tell the
10 truth, the whole truth, and nothing but the truth,
11 so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Please state your name for
14 the record.

15 THE WITNESS: Christopher Carey,
16 C-a-r-e-y.

17 THE COURT: Thank you. You may be
18 seated.

19 MR. SHIPMAN: Your Honor, if it pleases
20 the Court, I move to sequester the witnesses.

21 THE COURT: All right.

22 MS. SCOTT: I can do that without --

23 THE COURT: Hold on. Ladies and
24 Gentlemen of the jury, I'm going to send you to
25 your jury room just for two minutes. I'll bring

1 you right back. Please, ma'am, please, sir, do
2 not talk about the case.

3 (Jury exits the courtroom at 3:31 p.m.)

4 THE COURT: Sir?

5 MR. SHIPMAN: Yes, sir.

6 THE COURT: Why did you make that -- I
7 sat here and said, any preliminary matters that we
8 need to take up before this trial gets started,
9 why didn't you make that motion. You had a reason
10 to do that then. It's for your benefit as well
11 as -- it's called trial flow.

12 MR. SHIPMAN: Yes, sir.

13 THE COURT: That's why we got pre-trial
14 motions and why I ask you that. I ain't going to
15 take that up in front of the jury about that. So,
16 I mean, you just --

17 MR. SHIPMAN: Yes, sir. I was --

18 THE COURT: I have the witnesses move
19 around when the jury is sitting over there.
20 That's something -- you should have made a motion
21 before the trial and I could have dealt with it.

22 MR. SHIPMAN: Yes, sir. Your Honor, it
23 slipped my mind, and I apologize for the
24 inconvenience of it, Your Honor.

25 THE COURT: See, that is a matter of law.

1 I got to give counsel on the other side the
2 opportunity to respond to it. I didn't want to do
3 that in front of the jury. I mean, that's a
4 motion you're making. It's a question.

5 Okay. What do you all want to do? Let's
6 just finish.

7 MS. SCOTT: We want to sequester the
8 witnesses, Your Honor. We have a motion, so I'm
9 just going to tell the witnesses what's
10 happening.

11 THE COURT: Okay. The witnesses have
12 heard the opening statements from both sides.

13 MR. SHIPMAN: Yes, Your Honor.

14 THE COURT: Okay.

15 MS. SCOTT: Yes, sir.

16 (Off the record.)

17 THE COURT: Everybody is ready?

18 MR. SHIPMAN: Yes, Your Honor.

19 THE COURT: State's ready? State's
20 ready?

21 MS. SCOTT: Yes, sir, Your Honor. I
22 apologize.

23 THE COURT: Bring the jury back.

24 (Jury enters the courtroom at 3:35 p.m.)

25 MS. SCOTT: Thank you.

Testimony of Christopher Carey, M.D.

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1 WHEREUPON:

2 CHRISTOPHER CAREY, M.D.,

3 after having been sworn to tell the truth, testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MS. SCOTT:

7 Q Would you state your name for the record, please.

8 A My name is Christopher Carey.

9 Q And where do you work?

10 A Greenville Memorial Hospital, Prisma.

11 Q And what do you do there?

12 A I'm an emergency room physician.

13 Q And how long have you been a physician?

14 A I've been a physician since 2011.

15 Q All right. Where do you work in Greenville
16 Memorial Hospital, Prisma?

17 A Some in the emergency department. It's one
18 of three pods in the ER, based on the
19 communications, but mainly in the emergency
20 department.

21 Q Were you working in the emergency department on
22 October 30th, 2018?

23 A Yes, sir. I started my shift at 7:00 a.m.

24 Q Did you treat or care for a woman named
25 Kimberly Stoots?

1 A I did.

2 Q And was that during your day shift?

3 A Yes, it was.

4 Q Were you the receiving physician for
5 Mrs. Stoots?

6 A That's correct.

7 Q How long had she been there prior to you taking
8 the shift?

9 A I believe she had been there since about -- a
10 little after midnight, so she had been in the
11 emergency department about seven hours.

12 Q How do you transition from whoever met with her
13 when she came in that night to when you come to her
14 about 7:00 a.m.?

15 A So the nighttime physician will see anyone
16 who comes in between 11:00 p.m. and 7:00 a.m.
17 They will kind of see -- they start the treatment
18 of the patient, order any relevant tests. And if
19 their care transitions, if their care lasts longer
20 than the shift, they will tell me -- the nighttime
21 physician will tell the daytime physician, me,
22 about that patient pending any sort of work-over
23 tests or treatments that are waiting to be done,
24 and then I take over care of the patient.

25 Q Can you tell the jury the specific time -- putting

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1 in your notes that time that Kimberly Stoots had come
2 to the hospital?

3 A I believe it was 12:31 a.m.

4 Q And by what method did she arrive at the
5 hospital?

6 A By ambulance.

7 Q Now, in what condition did she arrive?

8 A So reviewing notes and from the checkout that
9 I received from Dr. Randall the nighttime
10 physician, she had swelling and bruising to the
11 face. There was a cut to her inner lip, one of
12 her upper teeth was displaced posteriorly, it was
13 pushed back. And she had what was called a
14 significant amount of bleeding from her tooth and
15 from her inner mouth.

16 Q What did you do about that significant inner
17 bleeding?

18 A So some of it seemed significant and we had
19 to intervene for that, she initially received a
20 powder called QuikClot, which is a chemical that
21 attempts to stop the bleeding. That, I believe,
22 was unsuccessful. And then when she was in the
23 process of having her CT done, she laid back and
24 had worsening bleeding, so she had a second type
25 of medication to stop the bleeding which is called

1 Surgicel.

2 Q What was the purpose of the CT scan?

3 A So when she presented, she was having head
4 pain, facial pain, and neck pain. And given the
5 extent of her injuries, there was a concern that
6 she could not have bleeding inside the brain so a
7 CT scan of the brain was ordered. And there was
8 also concern for fractures or breaks to the bones
9 of the face, and so she had a CT scan of the
10 facial region and her neck, that was also
11 ordered.

12 Q And were the results are that CT scan negative for
13 the fractures and dislocations?

14 A That's correct. There were no breaks to the
15 bones of her face or neck.

16 Q What did you prescribe Miss Stoots before she was
17 discharged?

18 A I gave her a prescription of Roxicodone,
19 which is a narcotic pain medication.

20 Q All right. Did you offer her any services?

21 A Yes. I offered a battered women's shelter
22 and a social worker.

23 Q And what was the need for a battered women's
24 shelter and a social worker?

25 MR. SHIPMAN: Objection, Your Honor.

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1 Relevance to this. This goes outside of the scope
2 of her medical testimony.

3 MS. SCOTT: Your Honor --

4 THE COURT: Overruled. Overruled.

5 BY MS. SCOTT:

6 Q Let me lay some foundation. When you're treating
7 a patient, do you need to observe or ask questions of
8 that patient as to why they are there?

9 A Absolutely.

10 Q Would that also include as to what occurred
11 leading up to that treatment?

12 A Yes.

13 Q In this incident with Kimberly Stoots, what led
14 her up to receiving that treatment?

15 A I was told that she --

16 MR. SHIPMAN: Objection, Your Honor.
17 It's hearsay.

18 THE COURT: Sustained. Rephrase your
19 question.

20 BY MS. SCOTT:

21 Q What type of trauma were you treating, sir?

22 A It was considered blunt trauma, so it was a
23 blunt object that struck the patient.

24 Q I want to talk about -- you mentioned that a tooth
25 was displaced. Do you remember what tooth that was?

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1 A I know it was one of her upper teeth. That's
2 all that I know. It was one of her upper front
3 teeth.

4 Q And you said it was displaced. What does that
5 mean?

6 A That means it was moved out of its original
7 position, so it was displaced posteriorly, so it
8 was moved back towards her neck.

9 Q What did you tell her regarding the care of that
10 tooth?

11 A So anytime that someone's tooth is displaced,
12 there is a risk for losing it. And so, ideally, I
13 want her to follow up with a dentist.

14 MS. SCOTT: Answer any questions that the
15 defense counsel may have for to you.

16 THE COURT: Cross-examination,
17 Mr. Shipman.

18 MR. SHIPMAN: Thank you, Your Honor.

19 May it please the Court?

20 CROSS-EXAMINATION

21 MR. SHIPMAN:

22 Q Dr. Carey, these medical records indicate finding
23 a poor dentition. Can you explain what that means?

24 A It essentially means less than perfect
25 teeth.

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1 Q And I believe you referred to some -- and I'm not
2 good on the pronunciation here, but it is here but
3 periapical bone resorption indicating -- you say
4 indicates periodontal disease and may indicate an
5 abscess. What would that mean in layman's terms?

6 A So that's the reading from the radiologist on
7 her CT scan of her face. It essentially means she
8 had bad teeth and may have some cavities.

9 Q Okay. Did she have other missing teeth besides
10 the front teeth that you observed that had been
11 dislocated?

12 A I believe so, yes.

13 Q Was there gum disease as well?

14 A I believe so.

15 Q Was it significant gum disease?

16 A Again, significant, it's subjective term.
17 Was there gum disease; yes.

18 Q There was also a diagnosis of meth abuse disorder
19 and --

20 MR. SHIPMAN: I beg the Court's
21 indulgence here.

22 BY MR. SHIPMAN:

23 Q There were diagnoses for substance abuse,
24 mood disorder, and methamphetamine use disorder.
25 Could you describe what those mean in layman's

1 terms?

2 A The substance abuse disorder is essentially
3 the misuse of any sort of medication or substance
4 other than what's prescribed by a physician.

5 Q Okay. And the mood disorder, what would that
6 mean?

7 A The mood disorder is sort of a psychiatric or
8 psychological diagnosis that would indicate, I
9 guess, an abnormal personality.

10 Q Okay. And meth use can contribute to poor oral
11 health; is that correct?

12 A It can.

13 Q Okay. What does that typically look like for
14 someone using meth?

15 A Methamphetamine is -- it's a very acidic drug
16 and so it can lead to tooth decay, and,
17 essentially, the acid locks on the enamel on the
18 teeth. In addition to that, it can cause dry
19 mouth and a lack of saliva in the mouth can lead
20 to cavities or tooth loss.

21 Q All right, thank you. And, Doctor, to be clear,
22 you were not present when she was brought into the
23 emergency room?

24 A That is correct.

25 Q And you were not at the Taco Bell, obviously, when

Testimony of Christopher Carey, M.D.

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1 they were there.

2 A That is correct.

3 Q And you can't state for certain when that tooth
4 may have been dislocated or not?

5 A I couldn't.

6 Q Based on your observation.

7 A I would say, based on my observation, given
8 that there was a laceration, a cut inside of the
9 mouth, that she would have bleeding from that
10 location. I would presume, based on my medical
11 academic practice that it was a recent event.

12 Q But you don't -- again, you don't know who did it,
13 other than it was a blunt object?

14 A That's correct.

15 MR. SHIPMAN: All right. Thank you, Your
16 Honor. No further questions.

17 THE COURT: Any other redirect?

18 MS. SCOTT: Just a small one.

19 REDIRECT EXAMINATION

20 BY MS. SCOTT:

21 Q Dr. Carey, did you diagnose Miss Stoots with meth
22 disorder and mood disorder? That was a diagnosis you
23 made?

24 A I did not, no.

25 Q Okay. Also, in particular about some distinctions

1 that we have about meth abuse and the trauma that she
2 had received to her tooth, are you correlating those
3 two?

4 A No, I am not.

5 Q Okay. There are other things that you document in
6 the medical report. That she had a baby before?

7 A I believe that was listed in the medical
8 record that she did have children, yes.

9 Q That she had a mother and a father?

10 A Yes.

11 Q That she lived in Greenville County?

12 A That's correct.

13 MS. SCOTT: Thank you.

14 THE COURT: All right. Any re-cross?

15 MR. SHIPMAN: Briefly, Your Honor.

16 RECROSS-EXAMINATION

17 BY MR. SHIPMAN:

18 Q You may not be the one who diagnosed her, but
19 those things are included in the medical records for
20 you to consult when you're dealing with the patient,
21 correct?

22 A That is correct.

23 MR. SHIPMAN: All right. Thank you, Your
24 Honor. No further questions.

25 THE COURT: Thank you, Doctor. You can

1 Testimony of Christopher Carey, M.D.
2 step down. Can he be excused?

3 MS. SCOTT: He can, Your Honor. Thank
4 you for your time, Mr. Carey.

5 THE COURT: All right. The State calls
6 the next witness.

7 MS. SCOTT: Kimberly Stoots.

8 THE CLERK: If you would please place
9 your right hand on the Bible and raise your right
10 hand. Do you swear or affirm to tell the truth,
11 the whole truth, and nothing but the truth, so
12 help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please state your name for
15 the record.

16 THE WITNESS: Kimberly Stoots.

17 THE CLERK: Thank you. You may be
18 seated.

19 WHEREUPON:

20 KIMBERLY STOOTs,
21 after having been sworn, testified as follows:

22 DIRECT EXAMINATION

23 THE COURT: Miss Stoots, if you would
24 pull that microphone closer to you. Thank you.
25 Thank you.

26 BY MS. SCOTT:

Testimony of Kimberly Stoots

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1 Q Miss Stoots, I'm over here. Would you state your
2 name again for the record?

3 A Kimberly Stoots.

4 Q Miss Stoots, how do you know Jason Stoots?

5 A My husband.

6 Q I'm sorry?

7 A My husband.

8 Q How long have you been married to him?

9 A Almost 30 years.

10 Q Do you all have any children?

11 A Uh-huh.

12 Q How old are?

13 A A 20-year-old son, 15-year-old daughter.

14 Q And, Miss Stoots, just prior to coming to court
15 today, did you receive a phone call from Mr. Stoots?

16 A My daughter and I talked to him.

17 Q He called your daughter?

18 A Uh-huh.

19 Q Did you speak with him?

20 A Uh-huh.

21 THE COURT: Please make sure to say yes.
22 She needs to take down what you're saying.

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you.

25 BY MS. SCOTT:

Testimony of Kimberly Stoots

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1 Q Did he encourage you not to come to testify
2 today?

3 A Not to -- not today. It was a different day.
4 The best thing I could do --

5 THE COURT: Ma'am, pull your seat up a
6 little bit. I want to make sure that juror in
7 that last row can hear you.

8 THE WITNESS: Okay.

9 THE COURT: All right. There we are.
10 Thank you, ma'am.

11 THE WITNESS: He said -- we had a
12 conversation a couple days ago, and we were
13 talking about it and he was saying the best thing
14 I could do is not show up.

15 BY MS. SCOTT:

16 Q Because you're here today, I need to make sure
17 that you tell us what happened. So I want to start
18 with something that's been brought up by defense
19 counsel twice.

20 A Uh-huh.

21 Q Pills and meth.

22 A Uh-huh.

23 Q On October the 30th of 2018, were you shooting up
24 meth?

25 A I do not shoot up any needles. I do not use

1 needles in any way, shape, or form.

2 Q Are you still on the pills?

3 A No, he was not being prescribed pills at this
4 time.

5 Q On October 30th --

6 A And we weren't living in the same home.

7 Q Well, I want to talk about it. You were not
8 living in the same home on October 30th of 2018, why
9 are you all together at Taco Bell?

10 A Because we were separated. He had to work
11 that day. He lives with my aunt. I live with my
12 and uncle. We were having issues. He didn't get
13 off work until, like, 7:00, I think. I'm not sure
14 of the schedule. And I had a vehicle because I
15 was staying with my uncle.

16 We needed to go take some groceries and
17 things to our children, and that's when he came to
18 pick me up to take me to Taco Bell. And he
19 decided to get a pack of cigarettes because he
20 smokes, and he was going to get that. We were --
21 got in the vehicle and he was already agitated,
22 you know. I guess a bad day at work. I was
23 tired. I said I didn't want to order anything.
24 Get whatever and take it to the kids.

25 And in the night, we go and talk about

Testimony of Kimberly Stoots

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1 going down there. We go to the Taco Bell down in
2 Greer. We were sitting there. The line was
3 backed up -- it was Friday night -- and we had to
4 cut the van off. I said, this is going to take
5 forever.

6 Q Now, you're talking about the service at the
7 Taco Bell?

8 A Because we were having to sit there. I
9 didn't want to sit there and wait. I said, this
10 is going to take forever, because we had to cut
11 the vehicle off to sit there. And he said, why
12 are you in such a hurry? Who are you in a hurry
13 to go -- the f-word. I don't know if I can say it
14 or not.

15 Q Okay.

16 A And then I said, nobody. I said, why are you
17 not in a hurry? Who you had already (indicating),
18 and then I straightened him out.

19 Q Well, I want to talk about straightening him out.

20 A Well, it's straighten him out. And he hit
21 reverse, and he said, you're going to get anything
22 with that mouth. We backed up -- we just stayed
23 in the parking lot. The same parking lot and
24 pulled ahead and pulled behind the 18-wheeler
25 right there in the parking lot and just sat there.

Testimony of Kimberly Stoots

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1 I asked if I could use his phone to call and
2 ambulance. He said no. I was worried about the
3 blood. He wasn't paying attention. He was just
4 angry. I asked him would he take me home. No.
5 We sat about five or ten minutes. I thought
6 somebody was there that was going to help me.
7 There was a girl watching, but she was up at the
8 front of the door.

9 Q Well, when you said there was blood --

10 A You know, when he punched me. We pulled over
11 there and sitting there, and the blood, it was the
12 inside of my lip. It was like a waterfall of
13 blood. It scared me. And then -- then he said,
14 look what you've done to my van. It was like
15 there was on the blood on the center. I said, I
16 didn't do that. I said, you don't care about the
17 blood. I said, look at the blood on me and the
18 van. And he sprayed Windex to, like, wipe my
19 face.

20 Q Let me -- okay. Take your time, first of all. We
21 are not in a rush, Miss Stoots.

22 Now, I want to go back to you cleaning -- him
23 cleaning up blood. Did he go into that Family Dollar
24 to get that Windex or was it already in the car?

25 A It was in already in the car. He bought it

Testimony of Kimberly Stoots

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1 earlier.

2 Q You said he sprayed you and the car with that?

3 A He was spraying the center console and all
4 with Windex and wiping the blood off. And I said,
5 you're not worried about me and all this blood?

6 And he just sprayed me with Windex. And once he
7 went to wipe me down, I said, stop, that burns.

8 He said, I tried to help you. He said, if I
9 wanted to get help that he would drop me off, but
10 it wouldn't take me home or let me use the phone.

11 And then he went to several different stores
12 7/Eleven, Spinx. And each one, he said, I had to
13 wait because I didn't have cigarettes and I was
14 bitching him out, and to you make sure I got
15 cigarettes I wanted. And I said, I don't want
16 that. I just want to go home. I need to go to
17 the hospital. And he said, no. We went up
18 Wade Hampton to, like, four or five different
19 7/Elevens until he found the cigarettes that he
20 said I wanted.

21 And that's when he turned into the
22 Walmart parking lot. I kept asking him let me
23 out. He said, if you want to jump out. I'll go
24 on down the road. I said, jump out? I said, if
25 you send me out with my blood in front of

Testimony of Kimberly Stoots

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1 everybody, they'll think I've been beat half to
2 death. And said, well, I'll give you some money
3 for somebody to pick you up.

4 Q Miss Stoots, do you remember -- this is when you
5 were in Greer on Wade Hampton. And this may seem like
6 a silly question to you, but is that in
7 Greenville County?

8 A Yes. Greer and Wade Hampton Boulevard.

9 Q Okay. And as you all are contemplating whether
10 you're going home or not --

11 A He's not taking me home. He's contemplating
12 how he's going to get to see that woman. And if I
13 ran out any other way, that I -- whether I jump or
14 whatever. But we were at the Walmart, my uncle's
15 house where I was staying at the time, was, maybe,
16 six or seven miles, and that's where he took me.
17 He drove there. You know, he didn't hit me again
18 after that. He didn't hit me. You know, I was
19 scared.

20 And he pulled in my uncle's driveway and
21 I asked him -- and he said, get out. And I asked
22 him, I said, can you -- the car was out of gas. I
23 said, can you get me any gas, or at least take me
24 to get gas in the car. I hadn't drove it in three
25 days, so -- and he said, no, I'm not giving you

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1 anything. And I said, well, can you drive me over
2 to my aunt's house, maybe half a mile away, a
3 couple hundred yards maybe. I said, can you go
4 there and get me the lawnmower gas so I don't run
5 out of gas trying to get to home to get help. And
6 he said, no, he wasn't going to do that either.
7 He started putting me in -- rolling me back. I
8 said, stop. When I said stop -- because it was a
9 waterfall when I was trying to talk. It was just,
10 you know, coming out. It was just -- when I said
11 stop, like that (indicating), on him, and he had
12 blood on him too. But he said, see, you're going
13 to jail tonight because that is bio -- or bodily
14 fluids for the charge I was attacking him.

15 Q Okay. Let me stop you there. Let's start with
16 that. Were you attacking him?

17 A No. I was trying to get my stuff out of the
18 vehicle; my purse and cigarettes. The door was
19 stuck open. I wasn't even completely away from
20 the vehicle.

21 Q It's important for me to differentiate. Were you
22 throwing blood at Mr. Stoots?

23 A Was I what?

24 Q Throwing blood.

25 A No, I was not throwing blood out of my mouth.

1 I was talking. I was not throwing blood.

2 Q But it's your testimony he stated he was
3 biologically attacked?

4 A Yeah, he was saying it was biological, when I
5 was talking blood splattered.

6 Q Let's talk about, did you physically attack him in
7 the car?

8 A I never touched him, not one time. Not once
9 in that van did I touch him before he hit me
10 and -- yeah.

11 Q I'm going to get us to the hospital. I need you
12 to take us there. You --

13 A That's not where he left me.

14 Q Right. You went to Chad's house, is what you
15 said. Where do you go from there, and do you go from
16 there?

17 A He said all that. He leaves. I go -- I get
18 into the car. I'm running into my uncle's house.
19 He's in there, and I had to get a towel. He was
20 on the couch. He has seizures.

21 Q Let's talk about now. Is he with us today?

22 A No, he passed away.

23 Q Okay. Continue.

24 A Okay. Then I went in there and he was -- I
25 don't know what was wrong with him, but he wasn't

Testimony of Kimberly Stoots

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1 much help. I told him I needed a towel for the
2 blood and all. I knew I needed to get out of
3 there quick. He wasn't responding. He was just
4 standing there, what do you want me to do, what do
5 you want me to do? So I just picked up the towel
6 and let me back up --

7 Q Take your time.

8 A Right when he was letting me out, and right
9 before that, I told him I ran out of gas. I
10 wouldn't get to my parents' house. I said, can
11 you please get me some gas, I'm going to run out?
12 Then he said, well, you're going to have to walk.
13 I said, I'm already getting weak. And I said, if
14 I run out of gas and I walk, I said, I won't make
15 it. He said, all I can say is walk fast. And
16 that's when he left and I got in the vehicle.

17 Q Now, how far is it from Chad's house to your
18 parents' house?

19 A Probably four or five miles, maybe. It's not
20 quite seven. I'm not exactly sure of the --

21 Q Did you make it?

22 A Yes, I made it the whole way. I made it.

23 Q What happened when you made it?

24 A I pulled in the driveway. My nephew came on
25 the porch, because I was walking in there. They

Testimony of Kimberly Stoots

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1 was yelling, what happened, what's wrong? I said,
2 Jason did this to my face. And I couldn't talk
3 because the blood was awful. I told them -- they
4 were to call the ambulance. I said, no, I'm just
5 going to go to sleep in the car until the bleeding
6 stopped. It will be fine. I didn't want to go to
7 the hospital. I didn't want any trouble. They
8 wouldn't let me. They called the hospital
9 anyway.

10 Q So how did you get to the hospital?

11 A Ambulance.

12 Q Now, when you got to ambulance -- I need to show
13 you a photographs, okay? Who was with you in the
14 ambulance?

15 A No one. Just the ambulance -- whoever was in
16 the back.

17 Q And did the police come at some point while you
18 were at the hospital?

19 A Yes, they came. And they were going to --
20 but I couldn't really speak.

21 Q I need to show you what has been premarked as
22 State's Exhibit 1, okay? Do you recognize the woman
23 in that photograph?

24 A Uh-huh.

25 Q Who is it?

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1 A Me. That's when my hair was dyed black.

2 Q Does that truly and accurately depict the way you
3 looked when you received that treatment in the
4 hospital?

5 Miss Stoots? Come back with me. Does that
6 truly -- okay. Does that truly and accurately
7 depict --

8 A No. There was more blood.

9 MS. SCOTT: At this time, the State would
10 like to admit into evidence State's Exhibit 1.

11 THE COURT: Any objection from the
12 defendant?

13 MR. SHIPMAN: None, Your Honor.

14 MS. SCOTT: Permission to publish,
15 Your Honor.

16 THE COURT: So admitted. Permission to
17 publish.

18 BY MS. SCOTT:

19 Q Miss Stoots, why are you holding a bag?

20 A Because that's what they gave me because the
21 blood was flowing so quickly. There was nothing
22 that was stopping it. That's all they could do,
23 is let it flow in the bag.

24 Q Did they encourage you to swallow that blood?

25 A No, they said don't swallow.

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1 Q Did they encourage you to hold it in your mouth?

2 A No, they let it run out of my mouth.

3 Q Were you bleeding like this in the car?

4 A My nephew, they got in the car with me and
5 moved the car for the ambulance. His hand slipped
6 off the steering wheel because of me trying to get
7 home.

8 Q Now, this bleeding -- you mentioned there was a
9 cut in your mouth. I need to talk to you about your
10 tooth.

11 A Uh-huh.

12 THE COURT: Make sure to say yes or no.

13 THE WITNESS: Oh, yes.

14 BY MS. SCOTT:

15 Q What happened to your tooth?

16 A My teeth had already been bad, but I had --
17 like, when I was pregnant with my son, that's when
18 my teeth deteriorated. I already had disease.
19 And when I got pregnant, I had a lot of trouble.
20 And I had blood through the whole pregnancy. I
21 almost lost my son, but I teeth were the first to
22 go. My gynecologist said, when you get pregnant
23 that that's usually the first thing. He said,
24 your teeth will go before anything. And that's
25 where it started and it got worse and worse. And

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1 I had to stay home. I don't have no money to go
2 to a dentist. I know what I look like, and I
3 don't care. I know who I am.

4 Q How old is your son now? I'm sorry?

5 A He's 20. He almost died during birth, when I
6 giving birth to him.

7 Q Now, you just told the jury you lost teeth before.

8 A I had them pulled.

9 Q Did you lose teeth like this with this kind of
10 blood?

11 A No. You know, the dentist would -- you know,
12 but that's in the tooth. That's from the
13 laceration on the inside of my mouth.

14 Q The doctor testified that your tooth was
15 displaced. Is your tooth gone?

16 A No.

17 Q It's still in your mouth?

18 A I fell and hit my mouth and teeth keeps
19 getting worse.

20 Q Is it still displaced?

21 A Yes.

22 Q Now, did you go see a dentist after you saw
23 Dr. Carey? Are you working, Miss Stoots?

24 A Not at this time.

25 Q Miss Stoots, have you told the truth today about

1 what happened at that Taco Bell?

2 A Yes, I did.

3 Q Answer any questions that defense counsel may have
4 for you?

5 A Okay.

6 THE COURT: Cross-examination,
7 Mr. Shipman.

8 MR. SHIPMAN: Thank you, Your Honor. May
9 it please the Court?

10 THE COURT: Yes.

11 CROSS-EXAMINATION

12 BY MR. SHIPMAN:

13 Q Miss Stoots, you're about the same age as Jason;
14 is that right?

15 A Yes.

16 Q Okay. The solicitor asked you if you've ever used
17 any meth and you said you don't shoot meth. You don't
18 use needles. Have you ever used meth before at all?

19 A Yes, I have. I'm ashamed to do it. And I'm
20 not the only one who's ever lost teeth as a result
21 of that. We already talked about that.

22 Q Okay. I didn't quite catch the time, but you said
23 you texted Jason to come pick you up?

24 A No, I did not text.

25 Q Well, what time did you all get in touch to

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1 arrange this meeting to go to the Taco Bell?

2 A There was a friend that was staying with my
3 uncle, he texted him for me.

4 Q Your friend texted Jason for you.

5 A Yes, it was a friend of mine.

6 Q From your uncle's house?

7 A Yes.

8 Q You were there at your uncle's house?

9 A Yes, I was.

10 Q Was that where you were living at the time?

11 A Yes.

12 Q Is that the place on Reid School Road?

13 A Yes.

14 Q Okay. Do you remember about what time that your
15 friend sent the text?

16 A I honestly don't because I had to wait on
17 him. I had no idea.

18 Q Was it about dinnertime or it was later?

19 A No, it was later that afternoon. Probably,
20 maybe 6:00 or 7:00, I'm saying. I'm not exactly
21 sure.

22 Q So the text was about 6:00 or 7:00?

23 A I'm not exactly sure. He texted. I know I
24 asked to text, but I don't know what time he
25 decided to send that text.

1 Q Okay.

2 A He did not tell me the time that he sent it.

3 Q What time did Jason get there to pick you up?

4 A It was probably maybe 10:30, eleven o'clock.

5 Q Okay. And this was at your uncle's house; is that
6 right?

7 A Uh-huh.

8 Q And you testified that -- well, you got the
9 testify hospital about 12:30 that morning; is that
10 right?

11 A I couldn't tell you. I didn't keep up with
12 the time.

13 Q Okay. So you don't remember what time you got to
14 the hospital?

15 A No, because I was not looking ing at clocks.
16 I was too worried.

17 Q I understand. You went -- the ambulance came to
18 your parent's house but not your uncle's house?

19 A No, I left my uncle's in my vehicle.

20 Q Okay. So you drove from your uncle's to your
21 parents. And how far did you say that was away again?

22 A I would say -- like I said earlier, between
23 four to seven miles. I'm not exactly sure.

24 Q So how long -- and you drove the car yourself?

25 A Uh-huh.

Testimony of Kimberly Stoots

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1 Q How long did it take you to go four to seven
2 miles?

3 A I'm not sure. I couldn't drive fast.

4 Q Okay.

5 A I was having trouble staying on the road.
6 There was blood. I was trying to make sure there
7 was no blood everywhere. I was just hoping that
8 the vehicle didn't run out case, crying, scared.

9 Q So you drove real slow then?

10 A It wasn't real slow.

11 Q Okay.

12 A But I wasn't speeding. No, I didn't go that
13 fast.

14 Q So you didn't get there and -- you weren't going
15 60 miles an hour?

16 A No. I got there, maybe, ten minutes.

17 Q Okay.

18 A I mean, it's back roads.

19 Q Before you had gotten to -- before you got to your
20 parents' house, you'd been at your uncle's house.

21 A No, I just got out of the van and went and
22 got a towel and tried to leave.

23 Q You talked to your uncle before you left there?

24 A He was standing at the door when I walked up.

25 Q Okay.

Testimony of Kimberly Stoots

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1 A He was already right there. I wasn't inside
2 the house ten seconds. I needed the vehicle
3 because my uncle wasn't working. But he was going
4 to help, but didn't know what to do, so I left.

5 Q Was anybody else in the house besides your uncle?

6 A No.

7 Q Your friend just sent the text and he was gone?

8 A Everybody was gone.

9 Q Okay. And before you got to your uncle's house,
10 you said Jason had gone to four or five 7/Elevens.

11 A Said what?

12 Q You said Jason had gone to four or five 7/Elevens
13 and Spinx stores and gone in and asked for cigarettes.

14 A It was Jason and me in the vehicle with him
15 after he hit me.

16 Q Okay. So you sat out in the parking lot and Jason
17 ran inside.

18 A Yeah, he went inside. He would take the
19 keys, lock the vehicle, and go in.

20 Q Okay. And four or five times.

21 A Yeah. He would pull up front. And then just
22 sit there and tell me everybody going look at
23 me.

24 Q Okay. And then you said he kind of picked you up
25 about eleven o'clock that night from the house

Testimony of Kimberly Stoots

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1 originally?

2 A Yes, to go to Taco Bell.

3 Q Okay.

4 A It was 10:30.

5 MR. SHIPMAN: Beg the Court's
6 indulgence.

7 THE COURT: Go ahead.

8 BY MR. SHIPMAN:

9 Q You said he went inside the stores and acted like
10 he had to stand in line the whole time?

11 A I didn't go into any store.

12 Q I'm sorry?

13 A I didn't go into any store.

14 Q But you said that he told you when he got out they
15 didn't have the cigarettes and he had to stand in line
16 and it was just kind of a delay?

17 A No, I didn't say he had to stand in line. He
18 went inside. He would come back out. I said,
19 what are you doing? He said, they don't have your
20 cigarettes. We have to go another store. I don't
21 want you to get me cigarettes. I want to go home.
22 I need to get help. And he was, no, I can get you
23 exactly what you asked for.

24 Q Again, he did that, you said, four or five
25 times?

Testimony of Kimberly Stoots

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1 A I don't remember how many convenience stores,
2 but it was 7/Eleven and there's another one and
3 then on down.

4 Q And then, eventually, he took you to your uncle's
5 house?

6 A Uh-huh.

7 Q And you drove to your parents' house and they
8 called an ambulance for you.

9 A Uh-huh.

10 MR. SHIPMAN: Okay. No further
11 questions, Your Honor.

12 THE COURT: Any redirect?

13 MS. SCOTT: No, Your Honor.

14 THE COURT: All right. Thank you, ma'am.
15 You can step down.

16 All right. Is the State prepared to call
17 their next witness?

18 MS. SCOTT: Margie Bishop. Permission to
19 approach the stand, I have her glasses over here.

20 THE COURT: All right.

21 THE CLERK: Place your left hand on the
22 Bible and raise your right hand, please. Do you
23 solemnly swear or affirm to tell the truth, the
24 whole truth, and nothing but the truth, so help
25 you God?

Testimony of Maggie Bishop

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1 THE WITNESS: Yes.

2 THE CLERK: Please state your name for
3 the record.

4 THE WITNESS: Margie Bishop.

5 THE CLERK: Thank you. You may be
6 seated.

7 WHEREUPON:

8 MAGGIE BISHOP,
9 after having been sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. SCOTT:

12 Q Miss Bishop, how do you know Kimberly Stoots?

13 A She's my daughter.

14 Q All right. How do you know Jason Stoots?

15 A He's her husband.

16 Q On October the 13th of 2018, do you remember
17 Kimberly walking into your house and bleeding from her
18 mouth?

19 A Yes, ma'am.

20 Q Will you tell the Court what happened that night
21 when she walked in?

22 A When she came in, she was covered in blood
23 here already, and she was bleeding out of her
24 mouth and she was crying, real upset, and I was
25 trying to get out of her what happened. She said

1 he hit me.

2 MR. SHIPMAN: Objection, Your Honor.

3 Hearsay.

4 THE COURT: Sustained.

5 BY MS. SCOTT:

6 Q Now, what did you do?

7 A I went and got a towel, trying to help her
8 and trying to get out of her what happened.

9 Q Now, was Jason with her?

10 A No, ma'am.

11 Q Were you aware of how she got to your house?

12 A No, ma'am.

13 Q Now, did anybody else render assistance to
14 Kimberly at that time in the house?

15 A Yes, ma'am.

16 Q Who else came out?

17 A My husband and my granddaughter.

18 Q Okay. And your granddaughter, what's her name.

19 A Courtney.

20 Q Now, in addition to getting your daughter some
21 towels, did you offer any other comfort or assistance
22 to her?

23 A Everything I could think of. Ice. I put ice
24 packs on her, trying to calm her down. She was
25 highly upset.

Testimony of Maggie Bishop 104

1 Q Had you ever seen her mouth -- let me rephrase.

2 Has your daughter, in the years you've been her
3 mother, had a propensity to have mouth bleeds?

4 A No.

5 Q Miss Bishop, who called the police?

6 A My granddaughter.

7 Q I say the police. Who called 911?

8 A My granddaughter.

9 Q Are you aware of anybody in the household who went
10 with Kimberly to the hospital?

11 A No, ma'am.

12 Q Why is that?

13 MR. SHIPMAN: Objection, Your Honor.
14 Relevance.

15 THE COURT: I'm going to overrule. I'll
16 allow it. You can answer the question, if you
17 know.

18 BY MS. SCOTT:

19 Q You can answer the question. Why didn't you go to
20 the hospital?

21 A Because I wanted her to get to the hospital
22 as quick as possible. I didn't have my clothes
23 on. I was trying to get her to the hospital as
24 quick as possible because EMS had -- she had been
25 bleeding like that for a long time because she was

1 getting dizzy.

2 MR. SHIPMAN: Objection, Your Honor.

3 Hearsay.

4 THE COURT: I'm going to sustain.

5 Rephrase the question, Counsel.

6 BY MS. SCOTT:

7 Q All right. Why didn't you go --

8 A I just wanted her to get the help as soon as
9 possible.

10 Q Do you drive?

11 A No, ma'am.

12 Q I don't want you to tell me what the EMS told you.
13 I need you to tell this jury how you observed
14 Kimberly. You said she was bleeding.

15 A Yes.

16 Q You said she was crying.

17 A Yes, ma'am.

18 Q What else?

19 A Her face was swelled up here. Her nose, her
20 lip, her chin. She was covered from her face all
21 the way down her shirt to her pants.

22 MS. SCOTT: Answer any questions defense
23 counsel may have for you.

24 THE COURT: Cross-examination.

25 MR. SHIPMAN: Thank you, Your Honor. May

Testimony of Maggie Bishop

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1 it please the Court?

2 CROSS-EXAMINATION

3 BY MR. SHIPMAN:

4 Q I'm sorry. I didn't catch the uncle's name, but I
5 guess that would have been your brother that lived on
6 Reid School Road back a couple years ago?

7 A Yes, sir.

8 Q And how far away did you live from him?

9 A Five miles.

10 Q Five miles, okay. It was all on the same road?
11 It was all on Reid School or did you have to make some
12 turns to get there?

13 A I didn't go over there.

14 Q Well, if you would have gone to his house, would
15 the direction be just a straight shot, or did you have
16 to make a bunch of turns to get from one house to the
17 other?

18 A You have to make three turns.

19 Q Okay. Do you recall what time Kimberly arrived at
20 your house that evening?

21 A No, sir, I don't.

22 MR. SHIPMAN: Thank you, Your Honor. No
23 further questions.

24 THE COURT: Anything on redirect?

25 MS. SCOTT: No, Your Honor.

Testimony of Maggie Bishop

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1 THE COURT: All right. Thank you, ma'am.

2 You can step down. Can she be excused or remain?

3 MS. SCOTT: She can remain in the
4 courtroom.

5 THE COURT: Any objection?

6 MR. SHIPMAN: No, Your Honor.

7 THE COURT: Next witness.

8 MS. SCOTT: Courtney Bishop. If you just
9 have a seat, please.

10 THE CLERK: If you would please place
11 your left hand on the Bible and raise your right
12 hand. Do you swear or affirm to tell the truth,
13 the whole truth, and nothing but the truth, so
14 help you God?

15 THE WITNESS: I do.

16 THE CLERK: Please state your name for
17 the record.

18 THE WITNESS: Courtney Bishop.

19 THE CLERK: Thank you. You may be
20 seated.

21 WHEREUPON:

22 COURTNEY BISHOP,
23 after having been sworn to tell the truth, testified
24 as follows:

25 DIRECT EXAMINATION

Testimony of Courtney Bishop

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1 BY MS. SCOTT:

2 Q Courtney, how do you know Kimberly Stoots?

3 A She's my aunt.

4 Q How do you know Jason Stoots?

5 A He's my uncle.

6 Q I want to talk to you -- fast forward to
7 October 30, 2018.

8 A Okay.

9 Q Were you living with your grandma and grandpa at
10 that time?

11 A Yes, ma'am.

12 Q Do you recall Kimberly coming to the house bloody
13 from the mouth?

14 A Yes, ma'am.

15 Q Will you tell the Court what you observed that
16 day?

17 A I woke up to my grandma consoling my aunt in
18 the living room, and I walked up to her and asked
19 her what had happened. She said, "He did this."

20 MR. SHIPMAN: Objection, Your Honor.
21 Hearsay.

22 THE COURT: Sustained.

23 BY MS. SCOTT:

24 Q You're fine.

25 A I walked up to her and she immediately

1 said --

2 MR. SHIPMAN: Objection.

3 BY MS. SCOTT:

4 Q You've already said it, so don't tell us what he
5 said.

6 THE COURT: Objection sustained.

7 THE WITNESS: And I continued to call the
8 EMS to get her help.

9 Q Now, why did you call EMS?

10 A Because they was helping her at the time and
11 that's what I immediately did. She needed help.

12 Q You said they were helping her at the time. Who
13 was helping her?

14 A My grandma and grandpa.

15 Q And what kind of help were they giving her?

16 A They was just trying to figure out what had
17 happened. That had put a towel up to her mouth to
18 try to stop the bleeding.

19 Q Can you describe to the Court the type of bleeding
20 that you saw?

21 A She was very bloody. Like, she was submerged
22 very well in blood.

23 Q Was that she was actively bleeding, or are you
24 saying she already bled? Was she still bleeding?

25 A She was still bleeding, but there was some

Testimony of Courtney Bishop

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1 dried blood on her, yes, ma'am.

2 Q Are you aware of how she got to the house?

3 A She drove herself.

4 Q Was anyone with her in the house when she came in?
5 Did she bring someone else with her?

6 A No, ma'am.

7 Q Now, did you go with Kimberly to the hospital?

8 A No, ma'am.

9 Q And why not?

10 A Because I had to work. I had to be at work
11 in an hour. I open.

12 Q You open?

13 A Yes, ma'am.

14 Q So you work early hours?

15 A Yes, ma'am. I had to be at work at 4:00 a.m.

16 Q Do you drive?

17 A Yes, ma'am.

18 Q Did you observe the condition or any observations
19 you made of Kimberly's mouth?

20 A There was -- like, right here, there was a
21 bunch of blood, but she didn't want anybody to
22 touch it because she was in a lot of pain. So I
23 didn't open it to look.

24 Q What was her demeanor or her -- any emotion that
25 she had when you saw her?

Testimony of Courtney Bishop

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1 A She was scared. She was, like, very upset.
2 She didn't know what to do.

3 MS. SCOTT: Answer any questions the
4 defense counsel may have for you.

5 THE COURT: Cross-examination,
6 Mr. Shipman.

7 MR. SHIPMAN: No questions for her,
8 Judge. Thank you.

9 THE COURT: Thank you, ma'am. You can
10 step down. She's excused or should she remain.

11 MS. SCOTT: Yes, sir. She's excused.
12 You may sit in the courtroom.

13 THE COURT: All right. Please call the
14 next witness.

15 MS. SCOTT: Yes, sir. Richard Bishop.

16 THE COURT: All right.

17 THE CLERK: If you will please place your
18 left hand on the Bible, raise your right hand. Do
19 you swear or affirm to tell the truth, the whole
20 truth, and nothing but the truth, so help you God?

21 THE WITNESS: So help me God, I do.

22 THE CLERK: Please state your name for
23 the record.

24 THE WITNESS: It's Richard D. Bishop.

25 THE CLERK: Thank you.

Testimony of Richard Bishop
THE WITNESS: Father of Kimberly

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Stoots.

THE CLERK: Thank you. You may be
seated.
WHEREUPON:

RICHARD D. BISHOP,
after having been sworn to tell the truth, testified
as follows:

DIRECT EXAMINATION

BY MS. SCOTT:

Q Mr. Bishop?

A Yes, ma'am.

Q You said you're the father of Kimberly Stoots?

A Yes, that's correct.

Q And how do you know Jason Stoots?

A He is my son-in-law.

Q All right. I want to talk to you about
October the 30th, 2018.

A Yes, ma'am.

Q Okay. Do you recall Kimberly coming to your home
at any point that day upset or bloody?

A I didn't until the next day, because I was
asleep and everyone was afraid to wake me up and
let me see her in that condition.

MR. SHIPMAN: Objection. This is opinion

Testimony of Richard Bishop

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1 testimony. He said he hadn't witnessed anything
2 and he's proceeding to testify about things that
3 happened after the accident and things he didn't
4 observe.

5 THE COURT: All right. I'm going to
6 sustain that objection. You can rephrase your
7 question or move it along.

8 MS. SCOTT: I can.

9 BY MS. SCOTT:

10 Q Mr. Bishop, had you seen your daughter bloody when
11 she's done something?

12 MR. SHIPMAN: Objection, Your Honor.
13 Relevancy to this question.

14 THE COURT: Why?

15 MR. SHIPMAN: He had not seen her.
16 There's no relevance that this could have on this
17 trial.

18 THE COURT: I'm going to sustain his
19 objection. I'll allow you to rephrase your
20 question or move along.

21 BY MS. SCOTT:

22 Q All right. Mr. Bishop, let's talk when Kimberly
23 returns to your home.

24 A Yes.

25 Q From the hospital.

Testimony of Richard Bishop

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1 A Yes.

2 Q Did she stay at that home with you? Did she stay
3 at the home?

4 A Yeah, she said at the home. It seemed like
5 for a couple of days or so. You know, I can't say
6 exactly. I'd be lying to the Court, you know, if
7 I did tell how many days.

8 Q Okay. Did you do any after-patient care for
9 Kimberly while she stayed at your home?

10 A You know, I looked at her, loved her, done
11 the best that I could to help take care of her.

12 MS. SCOTT: Answer any questions defense
13 counsel may have for you.

14 THE COURT: Cross-examination.

15 MR. SHIPMAN: No questions, Your Honor.

16 THE COURT: Thank you, sir. You can step
17 down. Can he be excused or should he remain?

18 MS. SCOTT: He can have a seat in the
19 courtroom.

20 THE COURT: All right. Next witness.

21 MS. SCOTT: That is the State's case,
22 Your Honor. The State rests.

23 THE COURT: All right. Ladies and
24 Gentlemen, are you okay? We're going to take
25 exactly a five-minute bathroom break, and then I'm

Testimony of Richard Bishop

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1 going to bring you back in here. Everybody is
2 telling me they're okay? Okay, five-minute.
3 Please, ma'am, please, sir, please don't talk
4 about the case. I'll bring you back in just a few
5 minutes.

6 (Jury exits the courtroom at 4:27 p.m.)

7 THE COURT: My intention is to get in all
8 the testimony today, even your side.

9 MR. SHIPMAN: Yes, sir.

10 THE COURT: I'm going to get all the
11 testimony in today. That's my intention.

12 All right. Let's take a five-minute
13 break. Four minutes now.

14 (A break was taken from 4:27 p.m. to 4:35 p.m.)

15 MR. SHIPMAN: I have a directed verdict
16 motion. First, I don't believe any of the
17 witnesses have identified Mr. Stoots as being the
18 defendant or the one who was there. No one
19 pointed him out in the courtroom, so I think for
20 that reason, the State's case must fail.

21 And, secondly, they only established
22 moderate bodily injury at the highest level here.
23 The tooth has not been lost. There's no permanent
24 serious disfigurement. So I think if this case
25 goes to the jury, it ought to go with 2nd degree

Testimony of Richard Bishop

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1 instead of 1st degree.

2 THE COURT: Ms. Scott.

3 MS. SCOTT: An in-court determination of
4 identification is not required.

5 Secondly, in regards to the bodily injury
6 component, I do believe, Your Honor, we met our
7 burden. She testified that he did knock -- and
8 her tooth is still displaced. The doctor also
9 testified that it was displaced. And this
10 coordinates with the statute where it says
11 permanent or serious disfigurement.

12 THE COURT: All right. Motion denied.

13 MS. SCOTT: Thank you, Your Honor.

14 THE COURT: Anything else before we bring
15 the jury back?

16 MR. SHIPMAN: No, Your Honor.

17 THE COURT: All right. Bring the jury
18 back.

19 (Jury enters the courtroom at 4:36 p.m.)

20 THE COURT: Defense ready?

21 MR. SHIPMAN: Yes, Your Honor.

22 THE COURT: Call your first witness.

23 MR. SHIPMAN: Mr. Stoots, come around,
24 please, sir.

25 MR. SHIPMAN: Yes, sir.

Testimony of Richard Bishop

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1 THE CLERK: Will you place your left hand
2 on the Bible and raise your right hand. Do you
3 solemnly swear or affirm to tell the truth, the
4 whole truth, and nothing but the truth, so help
5 you God?

6 THE WITNESS: Yes, I do.

7 THE CLERK: Please state your name for
8 the record.

9 THE WITNESS: Jason Edwin Stoots.

10 THE CLERK: Thank you. You may be
11 seated.

12 MR. SHIPMAN: Your Honor, may we approach
13 briefly?

14 THE COURT: Yes, sir. Off.

15 (Off the record.)

16 THE COURT: All right. Ladies and
17 Gentlemen, I'm going to send you to the jury room
18 for four, five minutes. Please, ma'am, please,
19 sir, do not discuss the case with each other.

20 (Jury exits the courtroom at 4:37 p.m.)

21 THE COURT: Mr. Stoots, obviously you
22 talked with your lawyer, Mr. Shipman; is that
23 correct?

24 MR. STOOTTS: Yes, sir.

25 THE COURT: And it's your decision to

Testimony of Richard Bishop

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1 testify?

2 MR. STOOTTS: Yes, sir.

3 THE COURT: All right. And you
4 understand that you run a certain risk about
5 testifying, do you understand that?

6 MR. STOOTTS: Yes, sir.

7 THE COURT: You understand those risks
8 you discussed with your lawyer. I'm going to let
9 Mr. Shipman ask you question -- this is on the
10 record, Madame Court Reporter -- he'll ask
11 questions to make sure that you understand what
12 your rights are.

13 MR. STOOTTS: Thank you, Your Honor.

14 MR. SHIPMAN: Mr. Stoots, you are aware
15 that when you testify you do have the right to
16 remain silent about these charges?

17 MR. STOOTTS: Yes, sir.

18 MR. SHIPMAN: So that means the Court and
19 the solicitor are allowed to cross-examine you
20 just as they would any other any other witness.

21 MR. STOOTTS: Yes, sir.

22 MR. SHIPMAN: So right now, you know, you
23 haven't testified yet so you still have the right
24 to remain silent.

25 MR. STOOTTS: Yes, sir.

Testimony of Richard Bishop

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1 MR. SHIPMAN: If you choose to remain
2 silent, the judge will instruct the jury during
3 their deliberations that they are not to hold your
4 silence against you. So that means they're not to
5 draw any kind of negative inferences or conclude
6 anything against you based merely on your silence.
7 Do you understand that?

8 MR. STOOTs: Yes, sir.

9 MR. SHIPMAN: By choosing to testify, you
10 open yourself up to cross-examination about other
11 incidents -- well, you know, any prior convictions
12 you may have on your record, or any other prior
13 bad acts, just as any witness would be open to
14 that sort of -- to that sort of cross-examination.
15 You understand that?

16 MR. STOOTs: Yes, sir. I got one
17 question.

18 MR. SHIPMAN: What is your question?

19 MR. STOOTs: I had the prior incident
20 that was expunged. They said it was wrongful.

21 MR. SHIPMAN: Well, I mean, if it's
22 expunged, it should not be.

23 I haven't received a prior record on
24 Mr. Stoots. There was nothing available.

25 MS. SCOTT: Correct. However, if he does

Testimony of Richard Bishop

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1 open the door to never having been arrested for
2 domestic violence, that certainly does lead itself
3 up for me to impeach him on.

4 MR. SHIPMAN: Right. You understand
5 that?

6 MR. STOOTTS: No.

7 MR. SHIPMAN: If you say anything that
8 can be proved untrue, you open yourself up to
9 cross-examination on that and what's called
10 impeachment on that.

11 MR. STOOTTS: What do you mean by that?

12 MR. SHIPMAN: So impeachment basically
13 means, challenging the credibility of the witness
14 based on a lie, more or less. Do you understand
15 that? So if you say one thing and they can
16 another thing to be true, you can be
17 cross-examined on that and be impeached in front
18 of the jury.

19 MR. STOOTTS: No, I'm going to tell the
20 truth.

21 MR. SHIPMAN: Okay. Your Honor, I think
22 that's sufficient on that.

23 THE COURT: I think so.

24 MS. SCOTT: Thank you, Judge.

25 MR. SHIPMAN: Thank you, Your Honor.

Testimony of Jason Stoots

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1 THE COURT: Okay. Bring them back.

2 MR. SHIPMAN: Your Honor, before the jury
3 gets back in here, I would like to renew all my
4 prior motions and arguments.

5 THE COURT: So noted, and the Court
6 denies them all.

7 MR. SHIPMAN: Thank you, Your Honor.

8 THE COURT: Defense ready to proceed?

9 MR. SHIPMAN: Yes, Your Honor.

10 (Jury enters the courtroom at 4:42 p.m.)

11 THE COURT: Your witness.

12 MR. SHIPMAN: Thank you, Your Honor. May
13 it please the Court?

14 WHEREUPON:

15 JASON STOOTs,

16 after having been sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SHIPMAN:

19 Q Mr. Stoots, how old are you?

20 A I'm 49.

21 Q Where were you born?

22 A Spartanburg, South Carolina.

23 Q And where did you go to high school?

24 A Spartanburg High School.

25 Q Did you graduate?

Testimony of Jason Stoots

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1 A Yes, sir.

2 Q Did you go to college?

3 A No, sir.

4 Q Did you go to work?

5 A Straight out of high school?

6 Q Yes, sir.

7 A I joined the Marines, but I didn't make it
8 through the boot camp all the way.

9 Q Okay.

10 A And then I went to work as soon as I got out
11 of there.

12 Q Where was that?

13 A The first place was Quincy's as a meat
14 cutter.

15 Q Okay. How old were you when you first started
16 working at Croft State Park?

17 A Originally, I was 16.

18 Q Okay.

19 A It was summer help. I was working two
20 jobs.

21 Q Okay.

22 A And then when I got out of the Marines, I
23 believe it was 1990 -- no. May 18, 1990.

24 Q Okay.

25 A I started back there as a summer job because

1 I loved to work so much.

2 Q Okay. And that's where you met Kimberly?

3 A Yes, sir.

4 Q And you all got the married pretty quickly right
5 after that, right?

6 A May 3, 1991.

7 Q So that was --

8 A Less than a year.

9 Q Barely a year. And you got two children in
10 common?

11 A Yes, sir.

12 Q Who are they?

13 A Logan Hunter Stoots, my son who is 20, and
14 Olivia Nicole Stoots, my daughter who is 15.

15 Q Okay. Now, we talked about -- you heard me talk a
16 little bit about your jury. How did you come by that
17 injury?

18 A It started right after we got married. I
19 believe I injured something in my neck in Marines
20 boot camp. And I injured my back -- I was working
21 at Harris Teeter as a meat cutter and slipped in
22 the cooler, and that's what started my lumbar
23 problems.

24 Q And you've had multiple surgeries?

25 A Yes, sir.

Testimony of Jason Stoots

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1 Q On your spine?

2 A Yes, sir.

3 Q Does that cause you pain?

4 A A lot of pain, yes, sir.

5 Q Okay. Now, I mean, you used to take pain pills
6 for it; is that right?

7 A Yes, sir.

8 Q And then you switched to an infusion pump?

9 A Yes, sir.

10 Q And can you tell the jury what an infusion pump
11 is?

12 A It's an infusion pump that I had installed.
13 It's implanted in my side. It has a catheter. It
14 goes right above the injured lumbar area, which
15 I've had two fusions on because the whole lumbar
16 was collapsed. What it's supposed to do is
17 deliver medication and it keeps one drop of
18 medication on the spinal cord around the nerves to
19 saturate the nerves and try to stop some of the
20 pain. You can't tell that you're taking any
21 medication whatsoever. It just lowers the pain
22 level on a consistent basis.

23 Q Okay. And you're no longer using that pump
24 anymore, are you?

25 A No, sir. They had to cut it off.

Testimony of Jason Stoots

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1 Q But in October 2018, you were using the pump?

2 A No, sir. I had the pump implanted in 2010.

3 I had to have that cut off in 2014.

4 Q Okay. So cut it off, does that mean -- is it
5 still in your body?

6 A It's still in my body. They put a child's
7 pump in. The medication causes memory loss and
8 all that. So I discontinued the actual
9 treatment.

10 Q So you still got a device even though it's not
11 delivering medicine anymore?

12 A Yes, sir.

13 Q Now, did Kimberly ever -- did she start to change
14 during the course of your marriage? Did she have any
15 kind of deterioration over the course of your
16 marriage?

17 A I say I started to notice in 2011.

18 Q What happened then?

19 MS. SCOTT: Objection to relevance,
20 anything that started in 2011.

21 THE COURT: Sustained.

22 MR. SHIPMAN: Okay.

23 BY MR. SHIPMAN:

24 Q Has she had -- all right. Let's go to this night
25 in October 2018.

Testimony of Jason Stoots

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1 A Okay.

2 Q How did you come into contact with her that
3 night?

4 A We were separated. I got off work that
5 morning. Later that evening, I want to say
6 between 9:00 and ten o'clock, I received a text
7 that said, Kim wants you to come here now.

8 Q And how long had all been separated?

9 A Four months.

10 Q Okay. Is that an estimate or is that exact?

11 A That's pretty approximate.

12 Q Okay. And she was -- where was she was living?

13 A At her uncle's.

14 Q And where was that?

15 A Basically, next door on Reid School Road.

16 Q What's his name?

17 A Chad Pearson.

18 Q He's no longer living?

19 A No.

20 Q How did he die?

21 A They say heroin overdose.

22 Q Okay. So now this night you get the text about
23 9:00 or 10:00 you said?

24 A Yes, sir.

25 Q And you went to Chad's house on Reid School

1 Road?

2 A Yes, sir.

3 Q What happened from there?

4 A I picked up my wife. She came out. She was
5 upset, angry, just agitated, said she had anything
6 to eat or drink or food for several days, and I
7 said I would take her and get whatever she
8 needed.

9 Q You all went to --

10 A Taco Bell.

11 Q -- Taco Bell. And that's the one in Greer; is
12 that right?

13 A Yes.

14 Q When you got into the Taco Bell in Greer, what --
15 did she say anything that seemed out of the ordinary?

16 A She was just talking random -- a lot of
17 random things. She was just upset. She was just
18 agitated. Because we were pulling in to -- I had
19 asked her multiple places where she wanted to go.
20 She agreed to Taco Bell, so I pulled up to the
21 drive-thru. And she said that there was a female
22 that I didn't see that was tracking my radio
23 signals.

24 Q What do you mean tracking your radio signal?

25 A Tracking the RF signals I think from the

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1 infusion pump that's implanted on my front side.

2 Q Okay. Have you ever witnessed her saying anything
3 of that nature before?

4 A Yes.

5 Q When did that start? About what year did those
6 kind of sayings start coming from her?

7 A The abnormal sayings around 2011.

8 MS. SCOTT: Objection, Your Honor, to
9 relevance.

10 MR. SHIPMAN: Your Honor, I think this
11 goes to the credibility of this witness here.

12 THE COURT: I'm going to sustain the
13 objection. Time frame.

14 BY MR. SHIPMAN:

15 Q So had she had a history of these sorts of
16 things?

17 A Yes, sir.

18 Q Did she attack you in the car?

19 A Yes, sir.

20 Q How did she attack you?

21 A She just got irate and upset about the person
22 that was tracking the radio signals. I have a
23 vision problem. I couldn't see from a distance,
24 just maybe 100 yards. And she was just upset,
25 throwing arms. And she hit me, and I just grabbed

Testimony of Jason Stoots

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1 both her arms, so, you know, it was like push and
2 pull.

3 And then the next thing I know, it was
4 just -- I felt my hand -- the back side of my hand
5 hit her right there.

6 Q Did you mean to hit her in the mouth?

7 A No, I did not.

8 Q Did you strike her hard in the mouth?

9 A No. I mean, I was just holding her wrist and
10 all that and it was going back and forth. It was
11 accidental.

12 Q Okay.

13 A There was no intent whatsoever.

14 Q Okay. How come you didn't go directly back to her
15 uncle's house?

16 A Because she started bleeding. I tried to
17 pull over to help her. She didn't want me
18 touching her. I got scared. I picked up -- you
19 know, I was trying to wipe her mouth and all that.
20 She said it was too dry because it was, like, a
21 real thick towel. And I just tried to get
22 something wet because it was dry right and I tried
23 to spray it.

24 Q What did you spray it with?

25 A Windex was the only thing that I had. I just

Testimony of Jason Stoots

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1 tried to wet it and soften the towel up --

2 Q Okay.

3 A -- and all that. She told me to leave her
4 alone.

5 Q Did you go to any convenience stores?

6 A Yes. She said that she wanted her drink and
7 she didn't have anything and cigarettes. And I
8 said, okay. I proceeded to pull out of the
9 parking lot and she was just upset and hollering
10 saying I was kidnapping her, and I stopped there.
11 I said, well, I can let you out. I'm not
12 kidnapping you. I'm going to the store to get
13 what you want and proceeded down the road to a
14 7/Eleven and I pulled over.

15 Q I which 7/Eleven is this?

16 A I believe it's still in Greer. It might have
17 been in Taylors. Right in Taylors area.

18 Q Is it in the Taylors area? Is it next to Reid
19 School Road or is it farther up in Greer?

20 A I would say it's above Reid School Road.

21 Q So it's farther up. It's more towards Greer.
22 Between Greer and Taylors?

23 A Yes, sir. I think it's right on the line of
24 Taylors.

25 Q So, it was on the way back to Reid School Road?

1 A Yes.

2 Q Okay.

3 A And I stopped there. I pulled up to the
4 front, and she told me -- I forget. I think it
5 was a Bang energy drink and her kind of
6 cigarettes. I went in there. They did not have
7 the drink. I got her the cigarettes. They had
8 that. I have got back in the vehicle and told her
9 they didn't have the drink. She still wanted a
10 drink. But when I got in the vehicle, she was
11 accusing me of transferring money to a clerk.
12 That's one of the things that she says. And she
13 got more irate. So I went up the road to a QT and
14 they had her drink, and I was able to find her
15 drink there and that's when I proceeded to take
16 her back to her house.

17 Q How come you didn't take her to the hospital?

18 A She was sitting there -- first she said, take
19 me to the hospital. I said, okay. She said, no,
20 no. Never mind. Screw you. I got people that's
21 going to take care of me. Just take me back to my
22 uncle's. And when these episodes happen like
23 that, if I say anything, they get worse. I was
24 scared. I didn't know what to do, so I took her
25 back to her uncle's.

Testimony of Jason Stoots

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1 Q Okay. And did you see her go inside?

2 A No. Actually, I was scared.

3 Q Okay. Was anybody at the house?

4 A I believe so. I know her uncle was.

5 Q Okay.

6 A He can't drive, so there wasn't a car. The
7 guy that texting me, from my best memory, he was
8 there.

9 Q Okay.

10 A His vehicle was there, but I didn't know who
11 else was there. And, honestly, I don't think --
12 she can tell someone to come and beat me. I don't
13 know you.

14 Q Okay.

15 A I didn't know who else was there. I wouldn't
16 go in there, so I dropped her off right there.

17 Q Okay. Jason, did you commit domestic violence
18 against your wife on October 18, 2018?

19 A No, I did not.

20 Q Just answer any questions the State may have for
21 you.

22 THE COURT: Cross-examination.

23 MS. SCOTT: Yes, sir, Your Honor.

24 CROSS-EXAMINATION

25 BY MS. SCOTT:

1 Q Mr. Stoots, I think you testified three times that
2 you were scared.

3 A Yes.

4 Q Of Miss Kimberly Stoots?

5 A Yes.

6 Q Scared that she was going to hurt you?

7 A No, because when she has these episodes --
8 I've been trying for years to help her.

9 Q I want to talk about that you've been trying for
10 years to help.

11 A Okay. I'm scared of the episodes because
12 they're unpredictable.

13 Q When Kimberly left your car bleeding like that, it
14 was fear that you kept from getting her help?

15 A No, I wanted to get her help. It was fear
16 because I know the people that were in that
17 house.

18 Q Was it fear, according to you, that kept you going
19 to the 7/Eleven and the QT and wherever else that you
20 went to get her energy drinks and cigarettes?

21 A No, I tried to take care of her. I love her.
22 I want her to have everything she wants. That's
23 my job because I love her. That's my soul mate.

24 Q Mr. Stoots, I'm not really talking about the love.
25 I'm talking about the actions that day.

Testimony of Jason Stoots

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1 A I tried.

2 Q Was it fear that you had driving from convenience
3 store to convenience store and not the hospital?

4 A I did what she wanted me to do.

5 Q Okay. I want to talk to you about what she wanted
6 you to do. You testified a minute ago that you took
7 her to the Taco Bell at her request, correct?

8 A Yes.

9 Q And you said that your vision was bad and you
10 couldn't see some of these she was seeing, correct?

11 A I could not see over 30, 40 yards, maybe. If
12 I see it, it's a blur.

13 Q So, this night driving that you're doing, is it
14 safe?

15 A I can see. I can't see fine detail. It was
16 dark where she was pointing. I've heard stuff
17 like that before and what do you do -- you can't
18 agree to something you don't see.

19 Q Did you guys get food at the Taco Bell?

20 A No.

21 Q Was the purpose of going to Taco Bell to get food?

22 A It was, yes.

23 Q Not cigarettes and energy drinks.

24 A No. It was to take her to wherever she
25 wanted to get whatever she needed.

1 Q No food, right?

2 A Yes. We was pulling in and that's where she
3 started saying I was being tracked by radio
4 signals and she was being set up.

5 Q Sir, in this state, if we are to believe that she
6 was having that episode, why are you taking her to QT
7 and 7/Eleven.

8 A Because I do what she asks because I love
9 her.

10 Q Is it because you love her or you're scared of
11 her?

12 A I love her.

13 Q Again, this isn't about love.

14 A I'm scared --

15 Q Did she attack you in that car? You said she
16 attacked you.

17 A She started throwing her arms around me and
18 started hitting me.

19 Q And when she hit you, were you bleeding from your
20 mouth?

21 A No. There was scratches on my neck that the
22 police officers took -- and I don't know if
23 Mr. Shipman has them or if you have them.

24 Q I want to talk about a photo that we moved in to
25 evidence. I'm handing you State's Exhibit 1. Do you

Testimony of Jason Stoots

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1 see the amount of blood in that bag, sir?

2 A Yes.

3 Q She's bleeding to that extent.

4 A Yes.

5 Q In your car, your custody and care?

6 A Yes.

7 Q But your fear and your love left her at her
8 uncle's house, correct?

9 A Yes.

10 Q Isn't it true because you were scared -- not
11 fearful of her, but scared of what she was about to
12 tell everyone that you do?

13 MR. SHIPMAN: Objection, Your Honor.
14 Argumentative.

15 THE COURT: Overruled.

16 THE WITNESS: I wasn't scared of what she
17 was going to tell everybody because everything
18 that -- what she says doesn't make sense. I know
19 the truth.

20 BY MS. SCOTT:

21 Q All right. Let's talk about some of the
22 experiences you've had. You said you had multiple
23 surgeries.

24 A Yes.

25 Q That you take pills.

1 A Yes.

2 Q And you've been to hospitals to get that
3 treatment?

4 A Yes.

5 Q But you did not take Kimberly to the hospital to
6 get treatment for her mouth that day?

7 A I've been trying to take her to get
8 treatment.

9 Q I'm taking about that day. Did you take her to
10 get treatment?

11 A She told me not to.

12 Q Mr. Stoots, you've also mentioned that you were
13 afraid that she was going to have somebody jump on
14 you?

15 A I've been receiving threats.

16 Q Been receiving threats?

17 A Yes.

18 Q From Miss Stoots?

19 A From her, from the guy that she was dating.

20 Q Miss Stoots, the woman who doesn't work, who
21 carried your children is threatening to hurt you?

22 A She was sending other people to take care of
23 me, and the people that were in question were
24 known to do that.

25 Q Now, none of this stopped you from picking her up

Testimony of Jason Stoots

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1 from her house and taking her to Taco Bell, right?

2 A Right, but she --

3 Q You mentioned that she was agitated in the car,
4 according to you, when you picked her up?

5 A She was mad and upset, yes.

6 Q But you also mentioned that she asked you to pick
7 her up?

8 A Yes.

9 Q So she asked you to pick her up and was mad when
10 you picked her up?

11 A She was mad. I don't know what she was
12 mad -- she was wanted to leave there. She said
13 she hadn't had anything to eat or drink for
14 several days.

15 Q You mentioned that she felt, according to you,
16 what you said, that you were kidnapping her.

17 A She made that statement.

18 Q Right.

19 A Yes.

20 Q Is it because you were taking her where she didn't
21 want to go?

22 A No, she told me where to go.

23 Q She told you where to go.

24 A She told me she wanted her drink and
25 cigarettes.

1 Q Okay. I think -- you have to explain some Windex.

2 According to you, you were spraying a towel to soften
3 it up to care for her skin?

4 A I tried to use the towel and she was fussing
5 and said that would hurt. It was a thicker towel.
6 And I looked around. That's the only thing I had.
7 I tried to soften it up to help her, and she told
8 me not to help her.

9 Q You didn't spray it in her face, sir?

10 A No.

11 Q You didn't accuse her of biohazardly attacking you
12 by spitting blood?

13 A No. She got there and she did not let me
14 help her. She was looking at me. I said, let me
15 help you. She had a mouthful of blood and she was
16 hocking it up and spitting it at my face.

17 Q Okay. So you believe she was intentionally
18 spitting blood at your face.

19 A She was definitely intentionally spitting it
20 at my face. But when my wife gets -- that's not
21 my wife.

22 Q So when she's spitting blood at your face,
23 according to you, intentionally, biohazardly --

24 A I didn't say bioharzardly.

25 Q Okay. Well, she's spitting blood at your face.

Testimony of Jason Stoots

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1 You still take her to the QT?

2 A She told me to.

3 Q Does she control everything in this relationship?

4 A Pretty much.

5 Q Because she's the one who's working?

6 A She not working. I'm working. I just went
7 back to work after 18 years of being disabled.

8 Q What is she controlling, Jason? What is she
9 controlling?

10 A It might be sick, but when you love somebody
11 that much, you do what they want. My purpose is
12 to take care of my kids and take care of her and
13 to provide.

14 Q I want to talk about taking care of her, because
15 you did not do that that night.

16 A She told me to -- I do what I -- I do what
17 she tells me because of the episodes.

18 Q Did she want to be hit in the mouth?

19 A I did not do that.

20 Q Was talking out of line?

21 A What do you mean?

22 Q When she was in the car agitated, were you tired
23 of hearing her mouth?

24 A No, she talks about things that don't make
25 sense.

Testimony of Jason Stoots

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1 Q Were aware that her tooth was dislodged, sir?

2 A No, I wasn't. I knew it was dislodged weeks
3 prior to that because I've been trying to get her
4 to a dentist. I went back to work just to get
5 medical insurance to help her with her teeth
6 because she needs surgery. She's afraid to go to
7 the dentist. She's afraid to go to doctors
8 because of her past.

9 Q Wait a minute. The same woman who was brave
10 enough to put hits out on you is afraid to go to the
11 dentist?

12 A Yes.

13 MS. SCOTT: Nothing further from this
14 witness, Your Honor.

15 THE COURT: Anything on redirect?

16 MR. SHIPMAN: Thank you, Your Honor. May
17 it please the Court?

18 REDIRECT EXAMINATION

19 BY MR. SHIPMAN:

20 Q Jason, how long have you been with Kimberly?

21 A Thirty years.

22 Q When did these episodes start?

23 A 2011.

24 MS. SCOTT: Your Honor, objection to
25 2011.

Testimony of Jason Stoots

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1 THE COURT: I'm going to sustain the
2 objection. I think the time frame, Counselor.

3 MR. SHIPMAN: Yes, Your Honor.

4 BY MR. SHIPMAN:

5 Q Since these episodes have started, how has your
6 life been with her?

7 A It hadn't been like it used to be. It wasn't
8 perfect.

9 Q Are you afraid when the next episode is going to
10 come?

11 A I'm just afraid for her, yes. I'm not afraid
12 for my life. I don't care about my life. I care
13 about her and what she thinks is not true. I love
14 her, and the things -- if I felt that way, I hurt
15 too.

16 Q Is there anything you can do in the middle of an
17 episode to make it stop?

18 A No, there isn't.

19 Q Does it run its course?

20 A Yes, sir.

21 Q Can she be reasoned with during one of those
22 episodes?

23 A No.

24 Q Will she attack you again in the midst of one of
25 those episodes?

Testimony of Jason Stoots

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1 A I can't predict the future. Based on --

2 MS. SCOTT: Objection to that question.

3 I'm not even sure where we're going with that.

4 THE COURT: I'm going to sustain that
5 objection.

6 Counselor, move on.

7 MR. SHIPMAN: All right. Thank you,
8 Your Honor.

9 BY MR. SHIPMAN:

10 Q Do you want Kimberly to get help?

11 A Yes, sir.

12 Q Do you want her to get better?

13 A Yes, sir.

14 Q Do you love her?

15 A With all my heart.

16 Q Do you want to hurt her?

17 A No, sir.

18 Q Did you want to hurt her at the Taco Bell
19 drive-thru?

20 A No, sir.

21 MR. SHIPMAN: No further questions,
22 Your Honor.

23 THE COURT: Anything on re-cross?

24 MS. SCOTT: No, Your Honor.

25 THE COURT: All right. Thank you, sir.

1 You can step down

2 That's the case for the defense?

3 MR. SHIPMAN: Yes, Your Honor.

4 THE COURT: All right.

5 All right. Ladies and Gentlemen of the
6 jury, what I'm going to is, I'm going to -- it's
7 5:03. I'm going to let you go home for the
8 evening. And we're going to closing arguments and
9 I will charge you on the law first thing in the
10 morning. If you can report back to your jury room
11 at 9:30. Try the best you can to try to be here
12 at 930. I'm going to probably take a few minutes
13 to talk with the lawyers about anything they want
14 to talk about before I bring them back for closing
15 arguments. So 9:30 tomorrow morning.

16 Please, ma'am, please, sir, go home,
17 enjoy your evening, and please do not talk about
18 the case with any family members, friends,
19 relatives, don't talk to anybody. I'll see you
20 tomorrow morning at 9:30. Have a good evening.

21 (Jury exits the courtroom at 5:04 p.m.)

22 THE COURT: Mr. Shipman, I'm going to let
23 your client stay out on bond.

24 MR. SHIPMAN: Thank you, Your Honor.

25 THE COURT: Make sure he's here tomorrow

1 morning. You understand that, sir? You got to be
2 here.

3 MR. STOOTTS: Yes, sir.

4 THE COURT: Anything before we retire for
5 today?

6 MS. SCOTT: Just remind the defendant to have
7 no contact with Miss Stoots.

8 THE COURT: All right. You understand
9 that. You can't call her, you can't text her, you
10 can't have any contact at all.

11 MR. STOOTTS: Yes, sir.

12 THE COURT: You do that, sir, there's
13 going to be some consequences to that. Do you
14 understand that?

15 MR. STOOTTS: Yes, sir.

16 THE COURT: Mr. Shipman, you tell him --
17 reiterate what I just said to him.

18 MR. SHIPMAN: I will, Your Honor. And
19 before we break, I renew my directed verdict
20 motion. If you'll allow me to expound on that a
21 little bit.

22 THE COURT: Go ahead.

23 MR. SHIPMAN: I think the State's
24 argument is, there's has to be merely permanent
25 disfigurement. I think the statute is pretty

1 clear. It has to be serious and permanent. If
2 you go down to the moderate bodily injury, it
3 discusses the possibility of moderate
4 disfigurement. We don't have a tooth that's been
5 knocked out of her mouth. It's been pushed back a
6 bit.

7 So, you know, great bodily injury at the
8 beginning of that statute, or beginning of that
9 definition contemplates the substantial likelihood
10 of death and it goes on from there. And moderate
11 bodily injury talks about say moderate injury and
12 it talks about moderate disfigurement.

13 So I think you have to read all that
14 together and there's just no way under the law
15 that the alleged injuries here rise to the level
16 of great bodily injury under the definition of the
17 statute.

18 So based on that, I renew my motion to
19 strike the first degree and find it goes to the
20 jury on 2nd.

21 THE COURT: Your response?

22 MS. SCOTT: Yes, Your Honor. In regards
23 to the injury to Miss Stoots, the statute says,
24 substantial risk that are serious permanent,
25 protracted loss or disfigurement.

1 The defendant -- excuse me. The doctor
2 first testified about the significant blood loss
3 that she sustained, and also talked about the
4 displacement of her tooth, which I believe falls
5 under the disfigurement category.

6 Furthermore, this defendant testified
7 that she was spitting out pools of blood as a
8 result of this assault, Your Honor. Again, it
9 showing a substantial risk. I believe we've met
10 our burden for the great bodily injury.

11 I certainly think that for the jury
12 instruction there could be a lesser included
13 charge to the jury should they need that, but I
14 would prefer that the State be allowed to produce
15 both to the jury instructions.

16 THE COURT: Well, any reply before I rule
17 on your motion, Mr. Shipman?

18 MR. SHIPMAN: Thank you, Your Honor. I
19 think, you know, given the jury the 1st degree,
20 and given how there's two tracks of these levels
21 here that involve moderate and serious
22 disfigurement, it's inviting the jury to speculate
23 about how serious this was.

24 The doctor didn't testify that she was
25 verge of death. The doctor didn't testify about

1 the quantity of blood that she actually lost. It
2 was a cut on the lip, is my understanding, so it's
3 blood mixed with saliva.

4 Further, we have no idea of the actual
5 volume of blood. We know it went down her face,
6 but blood mixed with water is going to look worse
7 than it is. And I think -- there's just been no
8 testimony here that was ever substantial
9 likelihood of death, not from the doctor, not from
10 her or anyone else.

11 So I think giving it to them, and even
12 for the lesser included, it's still inviting them
13 to speculate on which one it actually ought to be.
14 Your Honor, I think that would be a violation of
15 the due process right as well.

16 THE COURT: I think -- your motion is
17 noted, and I'll deny it.

18 I'll tell you what I'm going to do. What
19 I want you to work on, I intend to charge domestic
20 violent 1st and 2nd. That's what I intend to
21 do.

22 MR. SHIPMAN: Your Honor, I guess we'll
23 get to that point in the charging conference but
24 I'll also ask for 3rd degree as well.

25 THE COURT: Well, I'm going to do is give

1 you some homework over the night so we can move
2 this along. I don't want to be sitting around
3 waiting after we charge. I want you to have ready
4 for me the charge on 1, the charge on 2, and if
5 you can bring 3, we'll argue about it. We'll talk
6 about it tomorrow. 1, 2, and 3. And also prepare
7 a verdict form. Bring that to me as well.

8 MS. SCOTT: Yes, sir.

9 THE COURT: Other than that, there will
10 be the standard charges.

11 MR. SHIPMAN: We can charge the
12 self-defense as well. There's testimony that she
13 attacked him in the car.

14 THE COURT: All right. You can bring it.
15 I'll allow the State to be heard on that tomorrow.
16 I'll allow the State to be heard on self-defense,
17 and I'll allow the State to be heard on whether or
18 not the 3rd degree third should to be included.

19 MR. SHIPMAN: I need to do homework on
20 this, but I anticipate making a request for
21 accident as well. But I need to -- it's been a
22 while since I wanted a charge on accident, so I
23 need to refresh myself on that.

24 THE COURT: I think you need to read
25 that.

1 MR. SHIPMAN: Yes, sir, Your Honor.

2 THE COURT: I read that charge. You need
3 to look at that one. I'm not sure about that one.
4 I'll allow you to talk to me tomorrow about
5 that.

6 MR. SHIPMAN: Thank you, Your Honor.

7 THE COURT: Anything else?

8 MS. SCOTT: No, Your Honor.

9 THE COURT: Okay. 9:30 tomorrow morning.

10 (Court adjourned at 5:09 p.m.)

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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, II for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions, Greenville County, South Carolina.

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

July 25, 2020

A handwritten signature in cursive script, reading "Sharon G. Hardoon", written in dark ink.

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, II

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF GREENVILLE

4 State of South Carolina,
5 Plaintiff,

6 vs.

Transcript of Record
Case No.: 2019-GS-23-04604

7 Jason Edwin Stoots,
8 Defendant.

9
10
11 March 4, 2020
12 Greenville, South Carolina

13 B E F O R E:

14 The HONORABLE ALEX KINLAW

15 A P P E A R A N C E S:
16

17 Brittany Scott, Representing the State of South
18 Carolina

19 Christopher Shipman, Representing the Defendant
20
21

22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, II
24
25

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1 THE COURT: Let's go on the record. This
2 is State vs. Jason Edward Stoots.

3 Mr. Shipman and Miss Scott, yesterday we
4 talked about some charges that I was inclined to
5 charge. I think one of them indicated that I was
6 inclined to charge domestic violence first offense
7 and domestic violence 2nd degree, and then -- 1st
8 degree, I'm sorry, and 2nd degree.

9 And I think, Mr. Shipman, you were
10 wanting the Court to consider a charge on
11 domestic violence 3rd degree, and also I think you
12 were going to explore the possibility of the Court
13 entertaining a charge on accident; is that right?

14 MR. SHIPMAN: Yes, Your Honor. And also
15 the charge about self-defense.

16 THE COURT: Self defense. I'll be glad
17 to hear from you on those.

18 MR. SHIPMAN: Your Honor, as to the
19 charge concerning 3rd degree, I'll direct the
20 Court's attention to South Carolina Code Section
21 16-25-10(4), which is the definition of moderate
22 bodily injury. If you look at the last sentence
23 of that paragraph, it says, "Moderate bodily
24 injury does not include a one-time treatment and
25 subsequent observation of scratches, cuts,

1 abrasions, bruises, burns, splinters, or any other
2 minor injuries that do not ordinarily require
3 extensive medical care."

4 I believe the doctor testified that he
5 prescribed Roxicodone for the pain, told her to
6 follow up with a dentist, which she never did.
7 And then Miss Stoots also testified that she never
8 actually lost the tooth.

9 So it's clearly not an injury that
10 required extensive follow-up care, and it didn't
11 disfigure her mouth or anything of the nature.

12 So I think there's an argument to be had
13 that even though the tooth may have been
14 displaced, it does not rise to the level of even
15 moderate bodily injury given this last exclusion
16 here in the definition of moderate bodily injury
17 that says, "minor injuries that don't require
18 extensive medical care."

19 THE COURT: Give me that statute. 16?

20 MR. SHIPMAN: 16-25-10, and then part 4
21 of that is the definition of moderate bodily
22 injury.

23 Specifically, that last section of the
24 paragraph that excludes, basically, one-time
25 injuries that don't require extensive medical care

1 from the definition of moderate bodily injury. So
2 I would say that only rises to a simple injury,
3 and that would be the definition of 3rd degree,
4 which is just to cause physical harm or injury to
5 a household member without it being moderate or
6 great.

7 THE COURT: All right.

8 MS. SCOTT: Thank you, Your Honor.

9 There's more than a tooth in this case, and I
10 believe that the victim and the defendant -- I'm
11 sorry -- well, the defendant too, and the doctor
12 testified to more than just a displaced tooth.

13 So everyone talks about the significant
14 bleeding that took place. If we just start with
15 defendant's testimony, he talked about the victim
16 spitting out pools of blood. And then also
17 Dr. Carey testified that she had significant
18 bleeding where he had to try to stop the bleeding
19 with two separate clots. He also, due to her pain
20 regimen of having - excuse me. Her --

21 THE COURT: Go ahead.

22 MS. SCOTT: Yes, sir. Due to the pain
23 that she had to her mouth, her neck, and her head,
24 he had to do a CT scan. At that point, when she
25 comes out of the CT scan, she begins to bleed

1 again, which requires another clot regimen for him
2 to do.

3 And also with the one-time treatment,
4 although she only received that treatment there at
5 the hospital, what she testified to, she was
6 advised to seek additional treatment. The statute
7 does not indicate that it's whether or not they
8 only received one time. She talked about why she
9 didn't receive that additional treatment. She
10 talked about her insurance and she talked about
11 not having that money to go see a dentist. But
12 she was asked to continue to follow up with
13 treatment.

14 The fact that her mouth is still in that
15 state, the fact that her tooth is still pushed
16 back, the fact that she has that still
17 displacement, disfigurement in her mouth shows
18 that it is a permanent disfigurement.

19 So if you look at the totality of
20 everything, that is more than physical harm or
21 injury. This is more than a push or a scratch or
22 a bruise that people would tend to heal over time
23 and actually make someone whole. This is somebody
24 who, even to date, is still disfigured.

25 THE COURT: Okay. Mr. Shipman.

1 MR. SHIPMAN: Your Honor, respectfully, I
2 think that's a great argument for the State to
3 make to a jury. You know, the doctor did not
4 testify that she was in need of any kind of
5 lifesaving treatment, that the blood loss caused
6 any kind of risk of death or subsequent harm.
7 Again, this is a bleeding from her mouth where the
8 blood would actually be mixed with her saliva
9 which would make it appear worse than it was.

10 And the statute doesn't say that she only
11 received. It says does it ordinarily required
12 extensive medical care.

13 And the fact that she's sitting here
14 healthy today, this week, with the tooth still in
15 her mouth would make it a jury question that it
16 did not require extensive medical care.

17 And so I think that a reasonable jury
18 could find that it was only simple bodily injury
19 and not moderate bodily injury. And I think the
20 jury has the right to hear that, and I think
21 Mr. Stoots has a right to present that case to
22 them as well.

23 If the State wants to argue that the
24 injury is worse than I say it is, then that's why
25 we're here. But I think, you know, the facts of

1 this case -- on the facts of this case, as has
2 been elicited here this week, a reasonable juror
3 could find that it is not moderate bodily injury
4 but simple bodily injury. I think under that
5 basis, it has to go to them as a 3rd degree as
6 well.

7 THE COURT: Well, Counsel, as you are
8 aware, this matter was before -- the matter was
9 tried with negotiations between both sides.

10 MR. SHIPMAN: Yes, sir.

11 THE COURT: Working out some type of an
12 agreement as it relates to -- consideration is
13 included in that.

14 MR. SHIPMAN: Yes, sir.

15 THE COURT: All right. If you are so
16 adamant about this being a 3rd degree, why would
17 you even entertain a conversation with the State
18 about pleading to the 2nd degree, because that's
19 what he was getting ready to do? Now you're
20 standing before me telling me that you honestly
21 believe, after researching the law, that it's 3rd
22 degree, but you were willing to stand him up here
23 pleading to 2nd degree.

24 MR. SHIPMAN: Well, respectfully, I think
25 that's the difference between a plea bargain and a

1 trial.

2 THE COURT: I understand. I understand.
3 I'm just saying -- I'm listening to your
4 arguments.

5 MR. SHIPMAN: He was charged with a 1st.
6 I did make the argument to the solicitor --

7 THE COURT: By discussions that you all
8 had.

9 MR. SHIPMAN: -- and a plea bargain that
10 I thought it was a 3rd degree. And I asked for a
11 3rd degree, and I asked her to consider
12 recommending probation on a 3rd degree, but she
13 was worried about monitoring him. And being in
14 general sessions court, even though that could
15 have been a summary for defense, you obviously
16 could order him to be on probation; whereas, the
17 summary court judge could not have. So I was
18 trying to allay her concerns about monitoring even
19 on a 3rd degree.

20 So I have asked for 3rd degree. I pushed
21 for 3rd degree. The State's position has been the
22 lowest she would be willing to go is 2nd degree.
23 And Mr. Stoots, at the time, was willing to
24 undertake that plea.

25 So I don't think -- I don't think the

1 plea bargain should me cut off as to what a jury
2 should hear and what the facts are and what the
3 law demands.

4 THE COURT: I was just -- I just know
5 there was some colloquy on both sides prior to the
6 trial about -- either at the bar or in open court
7 about 1st degree as opposed to 2nd degree, and
8 then this is the argument that I'm hearing on
9 3rd degree. This is the first time I'm hearing
10 this argument.

11 MR. SHIPMAN: Yes, Your Honor. I did
12 push for that as a plea, as a reduction, and
13 Mr. Stoots indicated he would be willing to take a
14 3rd degree. So this is not the first time I
15 brought it in this case. It's, perhaps, the first
16 brought it up to the Court.

17 THE COURT: The first time you brought it
18 up to me.

19 MR. SHIPMAN: Yes, Your Honor.

20 THE COURT: Both of you had some
21 discussions about the negotiations were, and I
22 think this is the first time that I heard you even
23 made an attempt to negotiate a 3rd degree with the
24 State. This is the first time I'm hearing that.

25 MR. SHIPMAN: Yes, Your Honor. But those

1 are discussions in plea bargaining. I see how
2 it's distinct from the argument on the charge. I
3 think the facts of this case could -- a reasonable
4 jury could find that it is not moderate bodily
5 injury and just simple body injury under the one
6 that's required for 3rd degree. And so I think it
7 has to go to them as that as well, irrespective of
8 what Mr. Stoots had represented that he would plea
9 to earlier this week.

10 THE COURT: All right. Anything else on
11 that particular argument?

12 MS. SCOTT: I think we talked enough.

13 THE COURT: I'm not going to charge
14 3rd degree. I'm going to charge 1st and 2nd
15 degree.

16 What else you got?

17 MR. SHIPMAN: Your Honor, as far as -- I
18 believe accident was the next issue. The case I
19 point the Court to is State v. Brown, which is
20 205 SC 514.

21 THE COURT: Go ahead. Repeat that
22 again.

23 MR. SHIPMAN: State v. Brown, 205 SC 514.
24 And then also, State v. Goodson, 312 SC 278.

25 Specifically, Your Honor, you know,

1 domestic violence, like all - most crimes, you
2 know, with very few exceptions, is an intentional
3 crime. It requires an element of criminal intent.
4 So, you know, just bumping into someone and
5 causing injury to them wouldn't constitute an
6 assault and battery. Bumping into someone or
7 accidentally harming someone wouldn't constitute
8 domestic violence.

9 What Mr. Stoots testified to is that she
10 was grabbing him. And in this back and forth, he
11 hit her and accidentally caused the injury.
12 Specifically, an accident requires three elements
13 according to State v. Brown. First, the harm must
14 be unintentional -- or the degree of harm must be
15 unintentional.

16 Second, the defendant must have been
17 lawfully at the time of the incident. So, you
18 know, we would argue that he was acting lawfully
19 in that he was defending himself and defending off
20 an attack that was coming at him.

21 And, third, that the injury was not a
22 result of negligence. So, you know, I don't think
23 there's negligence here. He was trying to hold it
24 off. If anyone was acting negligently, according
25 to Mr. Stoots, it would have been Mrs. Statute.

1 So he was doing what was reasonably available to
2 him to protect himself at the time and actually
3 caused harm to her. I think the jury should hear
4 a charge of that along with self-defense.

5 THE COURT: Just out of curiosity, where
6 is he?

7 MR. SHIPMAN: He was in the conference
8 room out here, Your Honor. I can go step out and
9 get him.

10 THE COURT: You're making these arguments
11 on his behalf without him sitting there?

12 MR. SHIPMAN: Yes, sir, Your Honor.

13 THE COURT: If you're okay --

14 MR. SHIPMAN: I can go grab him,
15 Your Honor, if I can beg the Court's indulgence.

16 THE COURT: Let the record show that
17 Mr. Stoots is now in the courtroom, and counsel
18 for the defendant was in the middle making
19 arguments. For purposes of the record, I think
20 your lawyer and the State -- there was a motion
21 made for consideration of a charge on criminal
22 domestic violence 3rd degree. The Court heard
23 arguments from both sides and the Court denied
24 that motion.

25 And now counsel is now making an argument

1 regarding accident. But he was referencing your
2 name, so I thought it would be important that you
3 be in the courtroom while he makes that
4 argument.

5 MR. STOOTTS: Yes, sir.

6 MR. SHIPMAN: Thank you, Your Honor.

7 THE COURT: Have a seat.

8 MR. SHIPMAN: Your Honor, if you will,
9 I'll proceed to my arguments on self-defense, if
10 you would like to hear from that.

11 THE COURT: Are you finished on accident?

12 MR. SHIPMAN: Yes, sir, Your Honor.

13 THE COURT: Let her respond to it before
14 we go from there.

15 MS. SCOTT: Thank you. In regards to the
16 accident, using the defendant's case -- the
17 defense counsel's case law, the harm must be
18 unintentional, is what was described to you,
19 Judge. But the defendant stated that he
20 intentionally hit her. I mean, I don't believe
21 that we could say that we are self defending
22 ourselves by intentionally hitting in that regard,
23 but then we are also accidentally hitting her. I
24 think there needs to be a differentiation there.

25 So he intentionally hit her, not in the

1 unintentional way that you would think of an
2 accident. Whereas, if I'm walking and I walk into
3 something that that wasn't -- there was no
4 intention of that target at all.

5 Secondly, he had been acting lawfully at
6 the time of the accident. And that just goes to
7 the very nature of this case, about whether, I
8 mean, his actions were lawful or not. I don't --
9 I want the jury to determine the lawfulness at
10 that time. I think we don't even get there
11 because his harm -- when he said he intentionally
12 hit her, we do have intentional harm there.

13 THE COURT: Let me ask you this,
14 Mr. Shipman and Miss Scott, you know, all the
15 self-defense cases, there's always that argument
16 about whether or not the person who's asserting
17 that right had an opportunity to avoid the
18 altercation of -- I mean, my question is -- I
19 guess this is directed to you, Mr. Shipman. If,
20 in fact, you take the facts as you outline them,
21 why didn't your client just get out of the car and
22 leave?

23 MR. SHIPMAN: Your Honor, respectfully --
24 and I think that goes to my self-defense argument,
25 so I don't know if you want to proceed straight

1 into that.

2 MS. SCOTT: We're just doing the
3 accident.

4 THE COURT: I'm not inclined to charge
5 the accident. I'm not going to charge accident.

6 I'll hear from you on self-defense.

7 MR. SHIPMAN: Your Honor, this is -- the
8 self-defense -- and I don't know if you have a
9 copy of the McAninch's Fairey book, and I can send
10 you a copy to that. I was doing a little research
11 on this last night. Every reported case on
12 self-defense I could find involves the use of
13 deadly force. So this gentleman was attacked, had
14 fear of great bodily injury or loss of life, and
15 then they used deadly force. And then, as part of
16 that, there's always the element of the duty to
17 retreat.

18 THE COURT: Let me respond. You said do
19 I have a book, not only do I have the McAninch
20 Fairey book, Professor McAninch was my instructor
21 in law school, probably not when you were there.

22 MR. SHIPMAN: No, sir.

23 THE COURT: And I also tried cases on the
24 opposite side of Mr. Fairey. So I'm very familiar
25 with those individuals and very familiar with

1 what's in that book.

2 MR. SHIPMAN: Well, Your Honor, there's a
3 section there I would like to call to the Court's
4 attention. In the chapter dealing with the
5 defenses, and self-defense in particular -- I
6 guess it's no longer Professor McAninch's. I
7 don't know who is actually writing the book
8 nowadays, but I suppose it's Miss Gatrioli who's
9 doing more of the directing of it, but they talk
10 about these self-defense cases, and all the
11 reporting cases in South Carolina deal with, as I
12 said, deadly force.

13 And so the requirement -- the duty to
14 retreat in a deadly force case is based on the
15 legal principle that it's better to not needlessly
16 take a life. And so rather than take a life in
17 self-defense, if you can get away, the law
18 requires you to get away.

19 McAninch makes the argument, and he
20 refers to some older cases and some out-of-state
21 cases and the penal code, that when less than
22 deadly force was used to defend oneself, then it's
23 a question of proportionality. So it's not -- as
24 long as the force is proportional to the threat,
25 there's no duty to retreat.

1 Basically, the idea is that you're not
2 obliged to just stand there and then take an
3 assault or take a battery, and you're not obliged
4 to leave the car. You're only obliged to retreat
5 if the only way to do it -- if you're only options
6 are retreat or deadly force, then you have to
7 retreat. If retreat is unsafe, then you can stand
8 your ground use deadly force. But that retreat
9 prong of self-defense only applies in deadly force
10 cases is what McAninch argues.

11 And I can read the writing. I'd like to
12 read directly from the -- quote the passage here.
13 They say it much better than I do. It says -- and
14 this is from McAninch and Faurey Criminal Law of
15 South Carolina, VI Edition, 2013, page 620, it
16 says: "An 18th century case teaches that the key
17 to self-defense is proportionality of the
18 response. And it cites State v. Wood, which is
19 1 SC.L, and in parenthesis, 1 Bay, B-a-y, 351.
20 It's a 1794 case. I could not find that on Lexus.
21 I suppose, with a little more time, I could get it
22 from the Supreme Court library, but this case is
23 not on Lexus. It says: "The defendant's
24 conviction of assault and battery was affirmed
25 because he responded with a large stick to a woman

1 who had merely struck him with a cow skin. As the
2 court observed, for every assault, it was not
3 reasonable that a man should be banged with a
4 caudal that a small blow would not justify an
5 enormous beating. Nonetheless, a clear indication
6 of the case is that one need not submit to every
7 assault either. A person is entitled to defend
8 against reasonably anticipated unlawful bodily
9 harm even though it would not be serious, but in
10 defending he must respond proportionally."

11 And the second paragraph I'd like read it
12 says: "Close reading of every South Carolina case
13 that imposes a requirement that the defendant must
14 have anticipated death or serious bodily injury"
15 -- or "serious bodily harm reveals that each case
16 involves a defendant who responded with deadly
17 force. There seems to be no South Carolina cases
18 directly on point holding that the duty of retreat
19 does not arise or that serious bodily injury need
20 not be anticipated when self-defense is attempted
21 with non-deadly force, but there is some
22 substantial authority to this effect in other
23 jurisdictions." And it cites State v. Abbott,
24 A-b-b-o-t-t, 174A, 2nd 881. It's a New Jersey
25 case from 1961. And the model penal code section

1 3.04. And that's also -- that quoted text I just
2 read is also from 620 of the McAninch book.

3 And so what he's saying is that
4 South Carolina law doesn't -- we don't have any
5 Supreme Court precedent on this particular
6 scenario, defending oneself when deadly force
7 isn't threatened or used, except for this case in
8 1794 which suggests proportionality is the key.
9 And then he says, you know, they make the argument
10 that only in cases of the use of deadly force by
11 the defendant is the duty to retreat imposed upon
12 someone. So you're not required to flee your
13 house, flee a room, flee a car if someone is
14 assaulting you. You're not obliged to just sit
15 there and take it, or forfeit the car, or forfeit,
16 you know, whatever space you may be standing in.
17 As long as your response is proportional -- and,
18 again, I think that would be a jury issue, the
19 proportionality of his response.

20 What Mr. Stoots testified to was not that
21 he intentionally hit her. He grabbed her wrists
22 and that the blow came from the back and forth,
23 the struggle over -- that Miss Stoots was causing
24 in the car.

25 And so, Your Honor, I think that would be

1 an adequate self-defense argument to say that a
2 person is entitled to defend against reasonably
3 anticipated unlawful bodily harm, even though it
4 might not be serious, but, in defending, must
5 respond proportionately.

6 THE COURT: Okay. Thank you,
7 Mr. Shipman.

8 Yes, Miss Scott.

9 MS. SCOTT: First, because the defendant
10 stated, I was defending myself, he needs to give
11 us more than that to claim self-defense. So what
12 he said on the stand was that he picked up
13 Miss Kimberly Stoots and she was agitated. She
14 was already in some sort of mood that he didn't
15 think was going to be a good mood, but he then
16 takes her to Taco Bell anyway.

17 He then testified that she continued to
18 be agitated and upset and he continued to stay in
19 that car with her.

20 According to his testimony, randomly now,
21 because he would never tell us what got us to the
22 point where, according to his testimony, she
23 starts flailing at him. Because up until then, it
24 was just her being agitated. When I asked him why
25 was she agitated, he said, because she was hungry.

1 So, at that point, we get to now she's
2 flailing from a hunger fit. But if we go there,
3 Judge, with a hunger fit of flailing, his response
4 was not what he said -- or defense counsel says
5 that he was tussling back and forth grabbing her
6 wrists. He indicated that he took her hand, did
7 like this on the stand (indicating), said the back
8 of my hand and hit her. Blocked her, I think was
9 one of the words he was using after he said hit.

10 And, at that point, that's not
11 self-defense. He brought upon the difficulty
12 himself, if we are to believe his testimony of
13 putting her in the car, of the agitation that he
14 told us that she had, still continuing to drive
15 her there, leaves off something that I think would
16 be required for that self-defense because we just
17 go from, I'm hungry, to now, I'm scratching her
18 neck and flailing about. And, at that point, then
19 he says he blocks her.

20 I don't believe that he comes in that
21 with clean hands. I do think that he did not give
22 us enough to get self-defense here.

23 Let's talk about the force that he used.
24 He didn't testify to having received any medical
25 treatment whatsoever. I think he said he got a

1 scratch on his neck. We know from the testimony
2 from both Emily Stoots, her family, and a doctor
3 that she didn't have just a scratch on her neck.
4 She received extensive medical treatment. She had
5 a CT scan. She was suspected of a possible brain
6 bleed. This is not the type of force that was
7 proportional as he just read from the law book
8 that we are dealing with here.

9 THE COURT: Go ahead, sir.

10 MR. SHIPMAN: Your Honor, those are all
11 jury questions. Every time I made an argument on
12 what a reasonable jury would find and what the law
13 would require he be charged on, the State wanted
14 another closing argument. They don't respond to
15 the law I've offered here. They respond to the
16 facts and what legal and what's not. And those
17 are all quintessential jury questions.

18 Since she's asking to be denied a jury
19 response is because she doesn't believe the
20 defendant's story. If she believed the
21 defendant's story, we wouldn't be here. So that's
22 the nature of an adversarial contest, and that's
23 why we have that neutral finder of fact who's got
24 a fair charge of the law, and not the State's
25 preferred version of the law that encompasses the

1 State's preferred version of the facts.

2 And, Your Honor, there's -- a reasonable
3 jury could find that a proportional use of force
4 was used. A reasonable jury could find this was
5 an accident. This blow was an accident occasioned
6 by Miss Stoots erratic behavior.

7 If we want to talk about the facts, what
8 Mr. Stoots said on the stand was that the attack
9 started because she started fantasizing or having
10 delusions about being tracked and being turned
11 over and being entrapped in some sort of -- that
12 he was turning over to some authority or something
13 of that nature, Your Honor. But that doesn't
14 matter. That doesn't weigh on what the
15 appropriate jury charge would be, Your Honor.
16 There's facts in the evidence that can support a
17 finding of self-defense, of accident. And, Your
18 Honor, I respectfully would contend 3rd degree as
19 well.

20 And if the State's response to my
21 arguments is consistent, then they're closing
22 arguments. I think that's inappropriate, and I
23 think, you know, he's entitled to all these
24 charges that I've asked for.

25 THE COURT: Anything else?

1 MS. SCOTT: Just that my argument to you,
2 Judge, was talking about the testimony that we
3 received to show the facts weren't warranting
4 those charges. So I felt it necessary to talk
5 about what he specifically said on the stand to
6 show whether or not he established the affirmative
7 self-defense claim. Thank you.

8 THE COURT: I'm not inclined to charge
9 self-defense. Let me just put on the record where
10 my thought process is. I'm familiar with those
11 cases that you cited, Mr. Shipman, and I think a
12 lot of those cases, particularly the cases
13 involving deadly force, obviously, weren't cases
14 like this.

15 But in domestic violence cases, when you
16 try to define proportionality, I think you still
17 got to consider several things. One is -- and
18 this is something that's come up time and time
19 again in domestic violence cases, is the
20 difference in sizes of the individuals that you're
21 talking about. And even though that's not
22 reflected in a lot of the case law, but cases that
23 are tried now and cases that come before the
24 Court, when you look at the totality of the
25 circumstances, you must give some consideration to

1 what was the size, weight, ability of the
2 defendant versus the size, weight, ability of the
3 victim, which is one of the reasons that I asked
4 you earlier regarding Mr. Stoots's reaction, why
5 didn't he just leave, and I understand what you
6 just told me regarding the case law. I know about
7 that.

8 But, we've got a difference in size of
9 the prospective parties. And you've got to take
10 that into consideration. I think when you talk
11 about proportionality of the response, you also
12 got to take into the consideration the totality of
13 the circumstances. Who was in a better position
14 to leave the altercation?

15 And I think that those factors when you
16 look at those factors, coupled with what I heard,
17 I'm not inclined to charge self-defense. Of
18 course, I'll note your objection, not only to
19 that, on the record, but I'll also note your
20 objection to the Court's failure to charge
21 criminal domestic violence 3rd degree. I'll note
22 that on the record as well and your respective
23 rationale for your arguments.

24 But I don't think I need to hear any
25 further argument about that since I've already

1 ruled on both of those. I don't think that would
2 be necessary.

3 Anything else? So I'm going to --

4 MR. SHIPMAN: I apologize. I was waiting
5 for the State to answer.

6 THE COURT: Yes, sir.

7 MR. SHIPMAN: I would like to put just
8 one more thing on the record if the State doesn't
9 have anything.

10 THE COURT: Go ahead.

11 MR. SHIPMAN: I believe you noted about
12 the proportionality, specifically in regards --

13 THE COURT: I'll also tell you this.
14 I'll also note your objection to the Court's
15 failure to charge accident.

16 MR. SHIPMAN: Yes, sir, Your Honor.

17 THE COURT: Go ahead.

18 MR. SHIPMAN: As with regards to
19 proportionality, my understanding is that you said
20 that the Court has to take into consideration the
21 relative size and weight, who had the -- who was
22 in a better position to leave the scene --

23 THE COURT: Wait a minute. I thought I
24 just ruled on that, and I just thought that --

25 MR. SHIPMAN: Yes, Your Honor.

1 THE COURT: Now, you're going back into
2 something I just ruled on. Is that what you're
3 doing?

4 MR. SHIPMAN: No, sir, Your Honor. I
5 just wanted to supplement my objection. I wanted
6 to add just one piece of argument for the record
7 going forward, Your Honor, if you'll indulge me on
8 that.

9 The defense's position on that would be
10 that, if the Court taking into consideration those
11 factual issues is inappropriate, and that the
12 factual determination -- the jury as the sole
13 trier of fact, and so the Court in deciding the
14 charge based on its own understanding of the size
15 and weight and power differentials and everything
16 else --

17 THE COURT: Let me be perfectly clear
18 with you, Mr. Shipman, perfectly clear. Your
19 whole argument was about your definition and your
20 objection to proportionality. Proportionality is
21 cited in case law. This court has the absolute
22 right to make an estimate -- to make a
23 determination as to this Court's view of
24 proportionality. That is in no way commenting on
25 the facts or having any comment on the facts of

1 this case at all.

2 MR. SHIPMAN: No, sir.

3 THE COURT: If there is a definition in
4 the case law -- in the statute, this Court has the
5 absolute right to comment on that definition if
6 the Court so desires.

7 So I'm not going to hear -- I'll be glad
8 to hear anything else you want tell me, but
9 certainly this Court has the absolute right to do
10 that. That is in no any way at all indicating
11 that this Court has any concern -- I think the
12 totality of the circumstances in terms of the
13 definition of proportionality, I think the Court
14 has the right to give its determination as to
15 proportionality.

16 MR. SHIPMAN: Yes, sir. So, Your Honor,
17 I'm not alleging a comment on the facts. I'm just
18 saying that --

19 THE COURT: Well, that's what you said.

20 MR. SHIPMAN: No, sir, Your Honor. This
21 would never go to the jury. If you had said those
22 things to the jury --

23 THE COURT: What I don't want to do,
24 Mr. Shipman, is get going -- get into a back and
25 forth between you and I.

1 MR. SHIPMAN: Yes, sir.

2 THE COURT: I don't want to do that.

3 MR. SHIPMAN: No, sir.

4 THE COURT: It accomplishes nothing.

5 MR. SHIPMAN: I understand.

6 THE COURT: See, here's the deal, here's
7 the deal. You have the right and your client has
8 the right to disagree with the Court. That's the
9 way the system works.

10 MR. SHIPMAN: Yes, sir.

11 THE COURT: And all these arguments that
12 you're making, the appellate courts, that's why
13 they're there. And you have the absolute right to
14 do that, and I encourage you to do that, if you
15 disagree with whatever the ruling of the court is
16 on a motion, or anything like that. You have the
17 absolute right to do that.

18 MR. SHIPMAN: Yes, sir, Your Honor.

19 THE COURT: But I don't think it
20 accomplishes anything for you and I to go back and
21 forth because I've had a jury sitting back there
22 for 35 minutes, and I don't want them to sit back
23 there any longer than they should.

24 So what else you got?

25 MR. SHIPMAN: Your Honor, and I'm not --

1 I don't intend to engage with a back and forth or
2 a dual.

3 THE COURT: What else you got?

4 MR. SHIPMAN: I just want to make the
5 record clear for what the issue is going forward.
6 I'm not alleging the Court is commenting on the
7 facts. I'm saying --

8 THE COURT: Mr. Shipman, I want you to
9 move on.

10 MR. SHIPMAN: Yes, sir.

11 THE COURT: We've already heard that
12 motion. I've already ruled on it. You got
13 anything else?

14 MR. SHIPMAN: No, sir, Your Honor.

15 THE COURT: All right. Miss Scott, you
16 got anything?

17 MS. SCOTT: No, Your Honor. I think if
18 we do argue -- we do have a verdict form that we
19 haven't discussed. Do you want to do that before
20 we do arguments?

21 THE COURT: Well, it's -- since we agree,
22 I'm going to charge CSC 1st degree and 2nd degree.
23 It should be a fairly simple verdict form.

24 MS. SCOTT: It was -- so I put all three
25 on there.

1 THE COURT: Just take the third one off.

2 MS. SCOTT: Yes, sir. I'll take the -- yes,
3 sir. I'll have that during our last break.

4 THE COURT: You said something about
5 kidnapping.

6 MS. SCOTT: It was not supposed to be
7 heard on the mic. So we had not talked about our
8 verdict form, and the defendant had mentioned that
9 she thought she was being kidnapped, is what the
10 defendant said. And so, at that point, I brought
11 that into the verdict form.

12 One of the elements of domestic violence
13 1st degree also is if you find moderate bodily
14 injury and you believe that that person was
15 kidnapped that also still is a 1st degree.

16 THE COURT: So you're taking that out?

17 MS. SCOTT: I can take that out, Judge.
18 At this juncture, we have not -- Chris and I have
19 not spoken about it.

20 THE COURT: That's subsection C.

21 MS. SCOTT: I'll show you the form,
22 Judge.

23 THE COURT: Let me see what you got. I
24 know you got 3rd degree in there, but let me see
25 what you got?

1 This is off the record.

2 (Bench conference off the record.)

3 THE COURT: Let's go back on the record.
4 We were discussing the verdict form; is that
5 correct?

6 MR. SHIPMAN: Yes, sir, Your Honor.

7 THE COURT: All right. Go ahead.

8 MS. SCOTT: Your Honor, the State has
9 spoken to defense counsel and Your Honor regarding
10 the verdict form. We have agreed to do not guilty
11 and guilty, and no longer talking about type of
12 injury and/or enhancements on the verdict form to
13 keep it simple. So it will state domestic
14 violence in the 1st degree, not guilty. And if
15 not guilty, proceed to number 2 which will ask
16 them to consider if he is guilty of domestic
17 violence in the 2nd degree. And I will go to
18 those clauses of 1 and 2 and whether he's guilty
19 on both of those, so keeping it simple, Judge.

20 THE COURT: Right.

21 MS. SCOTT: The next is our jury
22 instructions argument, Your Honor. I have a
23 domestic violence 1st degree charge, Your Honor,
24 that just simply states exactly what is in the
25 indictment before you which says that the

1 defendant is charged with domestic violence in the
2 1st degree. The State must prove beyond a
3 reasonable doubt the defendant inflicted great
4 bodily injury or actions likely to result in great
5 bodily injury on a member of his own household.
6 Great bodily injury is defined as a violent injury
7 that causes substantial risk of death or serious
8 permanent disfigurement or extended loss or
9 impairment. That's just because we first talked
10 about the 1st degree. I believe defense counsel
11 has a different version of what he wants domestic
12 violence 1st degree to be read out to the jury.
13 I'll hand that up what I just read to you.

14 THE COURT: Go ahead. Read to me what
15 you have.

16 MR. SHIPMAN: Your Honor, mine is
17 substantially the same. It's just that the second
18 about the offer or attempt, I would argue it deals
19 with -- it goes back to the distinction that common
20 law between assault and battery. So my argument would
21 be that if a battery occurred or an actual injury
22 occurs then the determination on the level of injury
23 is based on what actually happened and you don't have
24 to engaged in the speculation about what could have
25 occurred, what may have occurred, or what was likely

1 to have occurred.

2 THE COURT: Let me see your copy.

3 MR. SHIPMAN: I beg the Court's

4 indulgence. I have a copy right here.

5 THE COURT: This is yours?

6 MR. SHIPMAN: Yes, Your Honor.

7 Your Honor, the paragraph at the top of
8 my requested charge deals with the distinction
9 between assault and battery and common law. The
10 way that the domestic violence statute is written,
11 it talks about physically harmed or offered
12 attempts to present ability to carry out the harm.
13 So that kind of jams assault and battery right
14 together right one after another.

15 And then the level of injury for each --
16 for 3rd degree and 2nd degree is divided between
17 great bodily injury or actions likely to produce
18 great bodily injury, and then the same except for
19 moderate bodily injury and actions likely to
20 produce moderate bodily injury in the 2nd degree,
21 and I think you have to follow those in parallel
22 tracks.

23 So if the State is alleging a battery,
24 then the jury has to determine if the actual
25 injury that did occur were great bodily injury or

1 moderate bodily injury. And if the State is
2 alleging assault, the threat of actual harm, then
3 they can engage in this analysis of whether great
4 bodily injury or moderate bodily injury was likely
5 to result from the means used to commit the
6 assault.

7 So I would respectfully argue that, you
8 know, this is a battery case and so all the
9 analysis of likely to occur are inappropriate when
10 we're dealing with actual harm instead of an
11 intended harm or an attempted harm.

12 THE COURT: Have you seen this?

13 MS. SCOTT: I have it, sir. Some of this
14 has stuff you've already ruled on.

15 THE COURT: Right.

16 MS. SCOTT: But in particular, I do have
17 -- we have, as a general definition, domestic
18 violence 1st and 2nd degree.

19 May I respond?

20 THE COURT: Yes.

21 MS. SCOTT: I don't agree that I should
22 be handcuffed to only speak about the actual harm
23 that was created or the injury. The statute in
24 the indictment that he was served states that it's
25 great bodily injury that had happened, or actions

1 that might have resulted in a great bodily injury.

2 So using that, I've never been told that
3 I could not -- with an attempt and a offer is
4 still in the statute, that I could no longer argue
5 that to a jury.

6 Secondly, Your Honor, just because we're
7 dealing with a hand here, if we had dealt with a
8 bat and he had hit her with a bat, but instead --
9 and hit her in the head, actually, we would also
10 be able to argue that great bodily injury could
11 have resulted from that bat hitting her head, and
12 we're thankful that it didn't, but we should be
13 able to argue both, Your Honor. That's held in
14 the statute.

15 THE COURT: All right. Let me see. Let
16 me tell you what I'm going to do. I'm going to
17 keep this real simple. I'm going to charge
18 domestic violence 1st degree that you submitted,
19 Miss Scott. I'm going to charge that. I think
20 when we look at the indictment, it talks about
21 great bodily. I'm going charge -- let me see
22 yours on the 2nd degree.

23 MS. SCOTT: In regards to the 2nd degree,
24 Your Honor, I have, "If you find that the State
25 has failed to prove the defendant is guilty of

1 domestic violence in the 1st degree, you may then
2 decide whether the State has proved the defendant
3 is guilty of domestic violence in the 2nd degree."
4 Sorry -- yes. "A person commits domestic violence
5 in the 2nd degree if the person inflicted moderate
6 bodily injury on a member of his own household or
7 actions that were accomplished by means likely to
8 result in moderately bodily injury."

9 THE COURT: You need to define moderate
10 bodily injury.

11 MS. SCOTT: Yes, sir.

12 THE COURT: I think that's -- what's your
13 opposition to that, Mr. Shipman?

14 MR. SHIPMAN: Your Honor, it's the same
15 as the 1st. I maintain the same objection to the
16 1st degree that I would the 2nd degree when it
17 comes to the intended or speculated on.

18 THE COURT: All right. Let me give you
19 this back. I'm going to charge the requested
20 charge submitted by the State as to 1st degree.
21 Let me see yours?

22 MS. SCOTT: Yes, sir.

23 THE COURT: And the one submitted by the
24 State on the 2nd degree. On both of those charges
25 I will -- on domestic violence 1st degree, I will

1 define great bodily injury. And on domestic
2 violence 2nd degree, I will define moderate bodily
3 injury, but -- I'm probably going to do that.

4 Anything else we got?

5 MS. SCOTT: Your Honor, I think that
6 household member also has to be in the jury
7 instructions, which it happens to be on that page
8 that I gave you.

9 THE COURT: I've got it. I'll give the
10 definition. I think that's contained in the
11 indictment as well. I'll define that on the
12 record.

13 MR. SHIPMAN: Your Honor, as to moderate
14 bodily injury, I've got the entire statute
15 including the part that talks about what bodily
16 injury does not include and I'll ask you to
17 include that in anything you read as well. I'm
18 not sure what the State's proposed instruction is
19 there.

20 THE COURT: Is there an exclusionary
21 clause in your definition of moderate bodily
22 injury?

23 MS. SCOTT: I believe he's reading
24 exactly what you have to see if he had an issue
25 with what I've giving to you, Judge.

1 MR. SHIPMAN: Your Honor, I think that's
2 basically the same thing I have. I just wanted to
3 make sure that was included in the instruction as
4 well.

5 THE COURT: This is a one-page document
6 you gave me.

7 MS. SCOTT: It should be two pages,
8 Your Honor. It spills over.

9 THE COURT: I got it. I'm with you.

10 MS. SCOTT: Yes, sir.

11 THE COURT: I think there was a
12 definition of household member of that sheet. I
13 got it.

14 Okay. Anything else before we -- all
15 objections from defense are noted on the record.

16 Anything else before we --

17 MR. SHIPMAN: Your Honor, just for the
18 safety, I'd like to renew all my previous trial
19 objections and preserve those.

20 THE COURT: All right. So noted for the
21 record.

22 MS. SCOTT: Your Honor, if you can give
23 me five minutes to run to the restroom before we
24 start?

25 THE COURT: Yes. What I intend to do is,

1 since we -- you got your people working on that
2 verdict form?

3 MS. SCOTT: Yes, sir. I'll have it done.

4 THE COURT: I typically get my law clerk
5 to do it or my AA, but I don't want to -- I'm
6 putting that on your table, but I'm letting you do
7 it.

8 MS. SCOTT: Okay. Well, I'm going to
9 show defense counsel what we decided and show it
10 to him.

11 THE COURT: What I intend to do is, once
12 Mr. Shipman comes back from the restroom in about
13 four, four and a half minutes, I'm going to --
14 we're going to go into closing arguments and go
15 straight into the charge after that. I'm not
16 going to have a break. Go straight into that.
17 Just keep it moving.

18 MR. SHIPMAN: I'd like to make my
19 requested charge a Court's exhibit to go forward
20 on any potential appeal, Your Honor, if you allow
21 me to do that. I have a copy here.

22 THE COURT: The one you gave me?

23 MR. SHIPMAN: Yes, sir, Your Honor. I'd
24 like to mark that.

25 THE COURT: The reason I'm a little

1 reluctant is because you got some information
2 about accident and self-defense.

3 MR. SHIPMAN: Yes. And you've already
4 overruled all those, the requests of mine. I just
5 want to make sure that my objection is fully
6 preserved and all my rationale is for the Court of
7 Appeals.

8 THE COURT: The Court of Appeals knows
9 that? They know what that says.

10 MR. SHIPMAN: My understand -- what I've
11 been told by Mr. Doug is, put everything in the
12 record that I can, Your Honor.

13 THE COURT: Who is Mr. Doug?

14 MR. SHIPMAN: Possible appellate defense
15 down in Columbia.

16 THE COURT: Is that he told you?

17 MR. SHIPMAN: Yes, sir.

18 THE COURT: You do what he tells you.

19 MR. SHIPMAN: If I could mark this as
20 Defense Exhibit 1. It's titled Defendant's
21 Requested Charge, and I'd just like this to go
22 forward with the file to the Court of Appeals.

23 THE COURT: Let the record reflect that
24 even though I'm allowing you to do, the Court has
25 ruled on all those, and I'm just allowing you to

1 put it in the record.

2 MR. SHIPMAN: Yes, Your Honor. Thank
3 you.

4 THE COURT: Go ahead and mark it.

5 Do you have any objections to that,
6 Miss Scott?

7 MS. SCOTT: No, Your Honor.

8 THE COURT: Okay.

9 (DFT. EXH. 1, Defendant's Requested Charge,
10 was marked and entered into evidence.)

11 (A break was taken from 10:22 a.m. to 10:31 a.m.)

12 THE COURT: You all ready?

13 MS. SCOTT: Yes, Your Honor.

14 THE COURT: Let me know when you got the
15 verdict form.

16 MS. SCOTT: At that time and in a has in
17 a.

18 MS. SCOTT: The could you?

19 THE COURT: Okay. Everybody ready?

20 MS. SCOTT: Yes, Your Honor. Okay.

21 (Jury enters the courtroom at 10:31 a.m.)

22 THE COURT: All right. Ladies and
23 Gentlemen of the jury, the first thing I want to
24 do is apologize to you. The reason I want to
25 apologize to you is because I told you yesterday

1 to be here at 9:30. We anticipated 9:30 we'll be
2 back in this courtroom with you. We did not do
3 that. Typically, it took a little bit longer to
4 talk to the lawyers than I anticipated, so I
5 apologize for you having to sit back there for an
6 hour before we get started. Hopefully, we'll be
7 able to move this along.

8 All right. Now, we're going to go into
9 closing arguments from both sides.

10 Both sides are ready?

11 MS. SCOTT: Yes, Your Honor.

12 MR. SHIPMAN: Yes, Your Honor.

13 THE COURT: All right. The State,
14 Miss Scott.

15 MS. SCOTT: Thank you, Your Honor. May
16 it please the Court and defense counsel?

17 THE COURT: Yes, ma'am.

18 CLOSING ARGUMENTS

19 MS. SCOTT: Okay. Good morning. Again,
20 I want to thank you all for being here for two
21 days and your job is important today. Again, I
22 talked to you about it being a 2018 case. We're
23 in 2020, but I'm in this and I want you to be in
24 this with me.

25 Now, domestic violence we talked about

1 has categories and they have degrees, but they're
2 all serious. They're all important. The judge
3 told you you are here on a domestic violence 1st
4 degree charge. I told you earlier I have to prove
5 certain elements, and I want to walk you through
6 how I did that through the people I called to
7 testify.

8 One of the elements I had to prove was
9 household member. Are the people involved in this
10 trial household members. It doesn't even mean
11 live together. It means, once more, have they
12 lived together, do they have children, are they
13 married? I did that.

14 Kimberly Stoots bears the last name of
15 Jason Stoots. She's testified and he testified
16 they got two children, 15 and 20 right now. They
17 used to live together, now they're not. They are
18 household members. This is a domestic situation.

19 Let's talk about the violence. Now, we
20 talked about a 1st degree requiring me to
21 establish some harm, to establish some injury to
22 Kimberly Stoots, and we have that.

23 I want to first draw your attention to
24 Dr. Christopher Carey. He came here as an
25 unbiased caregiver, a treatment provider. He's

1 working in the ER at Prisma Health. He comes in
2 on his day shift and he's in the rundown on all
3 his patients and he meets Kimberly Stoots. He
4 said that she's bleeding significantly. We know,
5 and we'll talk about it later, how long she had
6 been bleeding. And she's still bleeding, and he's
7 on the morning shift. He talks about the
8 QuickClot that he gives to stop her bleeding, or
9 was used to stop her bleeding. He talks a CT
10 scan. He talks about active CT scan. She's
11 bleeding again. They have to use what we call
12 Surgicell to stop her bleeding.

13 I asked him, did she get any other
14 procedures while she was there? He said, well,
15 she had a CT scan. Well, Doctor, why did she need
16 a CT scan? And he says, because the pain that she
17 was complaining of in her mouth, in her head, and
18 on her neck, the bleeding, we had to do that to
19 rule out a brain bleed.

20 If you've ever been to a hospital, to an
21 ER, you can use your common sense and your
22 lifestyle and your history as a jury to understand
23 when a doctor performs a CT scan what that means
24 to you.

25 Now, she didn't have a fractured jaw.

1 She didn't have that brain bleed, but they
2 suspected it. What she had was a dislocated --
3 displaced -- I want to use the proper word here.
4 He talked about it being pushed back. He talked
5 about there being a cut in her mouth. And you saw
6 this picture, which I'll hand up later, where she
7 is putting it in a bag. Whatever is coming out of
8 her mouth is going in a bag. And I specifically
9 asked her, were you ever told to swallow it, were
10 you ever told to hold it? She was, no. And
11 that's important because later on we heard
12 testimony about her spitting it. It's got to come
13 out. It shouldn't be in her mouth anyway like
14 that.

15 Now, Dr. Carey also suggested to her
16 several types of follow-up care. Go to a dentist.
17 He says also, that women's shelter, social work,
18 social services -- he did what he could. That's
19 our unbiased treatment right there.

20 I have to establish that great bodily
21 injury was inflicted on Miss Stoots or it was
22 likely to have occurred due to Jason Stoots'
23 actions. You will hear from the Judge what great
24 bodily injury is. I'm telling you all it also
25 states that great bodily injury is when you have

1 substantial risk of death or serious permanent
2 disfigurement or protracted loss or impairment.

3 I submit to you that her tooth being
4 displaced, it's displaced today, the fact that
5 she's bleeding all throughout the night into the
6 morning, the CT scan that has to finally rule out
7 this brain bleed, it's more than a, oh
8 (indicating). She was hit, as he said, with
9 trauma. He said trauma to her mouth. A blunt
10 force trauma to her mouth.

11 Now, there is a lesser included to
12 1st degree. It's 2nd degree. 2nd degree requires
13 me to establish moderate bodily injury. You don't
14 think these injuries are as great, great bodily
15 injury. And moderate bodily injury for me to read
16 out to you, it's a long one. It talks about
17 bruises and scratches, and it talks about burns.
18 It talks specifically about not being anything
19 that is a one-time treatment. If you get treated
20 one time, that's not moderate bodily injury.

21 We know that she wasn't totally treated
22 at the ER. She didn't get that treatment. She
23 told you that she was worried about the cost of
24 insurance -- with not having insurance to get that
25 dental work done, but she was asked to follow up.

1 You know about the extensive treatment she got at
2 the ER. She didn't walk in and walk right back
3 out. She had tests done.

4 Now, I want to talk to you about what was
5 stated about what happened, because those are two
6 different stories. And I remember the Judge
7 talking about people taking the stand, but I want
8 to remind you that it's not just what people say,
9 it's how they say it. You know how their body
10 language tells you what's going on with somebody,
11 you can tell when you're talking to somebody if
12 that's not really how it went down.

13 I want to talk to you about Kimberly. I
14 mentioned to you that this was going to be a
15 strange, unfamiliar, possibly frightening
16 situation. She's got to talk about a private
17 incident to a room full of strangers.

18 She said she used meth in the past.
19 We're not here to talk about her past. We're not
20 here to judge what she did when she was younger,
21 but it got brought it up. In fact, there's
22 nothing in the law that you'll hear today from
23 this judge that says, but all of this is washed
24 away if you did meth in the past, then, you know,
25 whatever happens to you, happens to you. No.

1 I submit to you all that we all have a
2 past. This is about what happened to her on
3 October the 30th.

4 If you think about the extreme detail she
5 gave, if I could only have you just play back in
6 your mind how she sat there, and she struggled
7 through that testimony. When I handed her that
8 picture, how she broke down when she saw how she
9 looked. And the first thing she said was, because
10 this is embarrassing folks. My hair was blonder
11 then. Is this really about her hair? But she's
12 got -- she's got to understand at that point that
13 it's all out there. You all know that this is the
14 merits that she had, and she just wanted to talk
15 first about her hair being a different color.

16 Now, we're going to talk about what she
17 said when she got in that car. She agreed to get
18 in the car with Mr. Stoots. She agreed to go with
19 him to the Taco Bell. She says, the line is
20 taking so long. I think that's something that
21 somebody said at the Taco Bell at night.

22 All right. What is she saying he said?
23 She said that he said, why are you in such a
24 hurry? Who are you trying to go "F." Now, why
25 does she remember that much detail? So then they

1 start talking. I'm not trying to be with nobody.
2 There's some jealousy. There's some control
3 here. She's not working. She's needs him to get
4 this meal for her tonight, and that is a question
5 that she's f-ing somebody else. So she's trying
6 to explain herself.

7 And then she said it. Pop, right in the
8 mouth. She said closed fist. She said it stunned
9 her. She said she began to bleed. She began to
10 bleed. We heard the defendant talking about her
11 spitting up pools of blood. This woman is
12 bleeding.

13 Now, in the midst of this stuff, you ask
14 yourself what would you do when your passenger is
15 bleeding like this. She went further to say
16 that -- upon bleeding like this, she said, we need
17 to get some help. We know from her testimony, his
18 testimony, Dr. Carey's testimony, and all the
19 family's testimony, that help did not come right
20 away. Somebody is in your car, spitting up blood,
21 but we're not helping them right way. In fact,
22 she said other details so that you further believe
23 her.

24 What is he saying? She's taunting her.
25 You're going to stay in this car. Everybody is

1 going to look at your face. They're going to look
2 at you. He's going from store to store. Listen,
3 listen, I'm going to get you what you want. Don't
4 you want some cigarettes? She wanted to go. She
5 wanted to go get some help now. The Taco Bell and
6 the cigarettes are not important here. No, no,
7 no. You want it. You want it. You can see that.

8 She even told you, we parked behind an
9 18-wheeler. This is because on this night this is
10 engrained in her head because this is a day that
11 she didn't know what was going to happen to her.
12 Jason wasn't showing her any compassion. All of
13 that, I love my wife, I love my wife, that's now.
14 Right then, right there, it was self-serving all
15 about him trying to buy time to see if he could
16 get her to calm down and see how he could figure
17 this out.

18 So as she and he both started -- as he's
19 going from convenience store to convenience store
20 and she's saying, just take me home, take me to
21 the EMS, take me somewhere and he's not doing
22 that, she talks about some of the places they
23 went. She talks about he, in that moment, not to
24 assist her, he needs to clean up his car. So he
25 gets Windex and she says at some point he sprays

1 it at her. What kind of compassion is this man
2 showing? She's in this moment in a vulnerable
3 state bleeding.

4 So she further says that she doesn't know
5 what's going on. At some point, he's leaving
6 these stores, he's locking doors, he's taking
7 keys. He's telling her, you want to leave, then
8 you can walk. Walk down Wade Hampton and see if
9 there's possibly, I guess, a good samaritan
10 because obviously Jason is not the one who's going
11 to care for her. He's going to see and help out
12 this woman who's bleeding to this extent walking
13 on Wade Hampton.

14 So she finally gets to her uncle's house
15 where she lives. And she goes in there and she
16 says that she sees her uncle, and he just looks at
17 her. I'm sure she was a sight to see walking in
18 that house like that. She says to Jason, I just
19 need to get some gas in my car then. It's very
20 clear that nobody is helping me here. What does
21 Jason say, uh-huh, I'm not putting no gas in that
22 car. These are the details she remembered because
23 they happened to her.

24 Now, she said she just hoped and prayed.
25 Cranked that car and it started, and she went five

1 to seven miles to her mama and daddy's house. And
2 we all love to go to our mama and daddy's house
3 when no one else is there for us. And she goes
4 and she walks straight in there. Her mama says,
5 my daughter was covered in blood, mouth -- just
6 covered in blood. What's going on? Her baby
7 niece comes out, Courtney. The young one that
8 testified. She's the only one who drives a car.
9 She's got to go to work in the morning. She's
10 opening up. She's at a fast food restaurant. And
11 she's calling 911, because that's not happened
12 until here. No one has giving her this type of
13 love and care at this point.

14 She had been dropped off. I don't even
15 know with what. No gas. And she's had to drive
16 to get some help. She talked about how the
17 steering wheel was getting slippery. People had
18 packed towels and gauze on this woman and she's
19 still bleeding.

20 At this pint, the EMS comes. The EMS,
21 they take her over to the hospital and she has to
22 go alone. I asked her why did she have to go
23 alone, because these are the decisions that hard
24 working people are making. Courtney has got to go
25 to work. She's opening. So that sounds like

1 there's a responsibility she has to make. Her
2 mother says, I don't drive.

3 She goes and she gets that treatment, but
4 do you know who is there for her when comes back
5 from the hospital? Her family. Her dad testified
6 that when she came home, he gave her the love and
7 the care. Mom and Courtney, they were all there
8 for her.

9 Now, in regard to what the defendant
10 testified to, have you ever heard the phrase,
11 "There's a little bit of truth in every lie?"
12 Someone makes a lie look good. That's how you get
13 people to come to tell a little bit of truth and a
14 lie. So let's talk about his testimony. I want
15 to first talk about his bodily language. It's
16 important.

17 When he initially took the stand, he sat
18 back. He was kind of relax. Marine, didn't pan
19 out, boot camp. I take a full insulin pump,
20 pills. He was fine. He was relaxed.

21 What happened when I start talking to
22 him? I'm scared of her. I'm so scared of her. I
23 love my wife. It was very back and forth. Very
24 back and forth. He needs to sell something at
25 certain parts of the time to you all so that you

1 can believe his story.

2 So what is his story? According to him,
3 out of the goodness of his heart, he takes her to
4 the Taco Bell. And she's already upset because
5 she's hungry and agitated. And he says, they get
6 in the car and she's even more agitated, but she's
7 talking about lasers and communications with
8 her -- I'm sorry. He's saying that she's having
9 episodes.

10 The amount of detail that Kimberly gave
11 to you today, she wasn't having an episode. She
12 remembered everything that was going on that
13 night. This is a narrative that he wants you to
14 believe, that she was having an episode, that she
15 was believing things that weren't there that he
16 couldn't see.

17 He then said that, well, I had to grab
18 her. I had to grab her to calm her down. I think
19 he did. I think he grabbed her to calm her down
20 after he hit her. I think when she got hit and
21 that blood started flowing down and she started
22 panicking, I think he grabbed her. Just the order
23 is a little off there.

24 And then we go a further. And I did use
25 some spray, but, you know, is was to soften the

1 towel so I could wipe her face. But did you take
2 her to the hospital before softening a towel?
3 That doesn't make sense, but he had to explain how
4 she talked about Windex. So he had to just bring
5 that in there that he was softening the towel and
6 she misunderstood what that spraying meant. I
7 repeatedly asked him, did you go get her
8 treatment? Well, no, I took her everywhere she
9 wanted. He wants you to believe that she was
10 having an episode, that she was bleeding all over
11 herself, that she was going crazy about different
12 things that she saw and he didn't see. And then,
13 furthermore, demanding to go to different places
14 throughout the night bleeding like this. This is
15 not common sense, and you all know better than
16 that. This is not what happened.

17 He further stated that when he dropped
18 her off, when she wanted to just go, she wanted to
19 finally get out of the car, he said she says,
20 you're kidnapping me. I think she did say that.
21 I think she said that when she kept saying to him,
22 I want to go home, I want to get help, and he
23 refused. So yes again, there's some truth in
24 those lies when told differently, substantially
25 differently.

1 When someone gets up here and talks about
2 how much they love their wife, and I said this
3 isn't about love, we're not going to determine the
4 grade of emotions that he has for his wife. That
5 is not here. Okay? But it was important for him
6 to say that because you know who's in this room?
7 His wife. When we do things like this, you don't
8 just stick to "I love you" and let it go. You
9 don't get to hit someone and try and shake them
10 and calm them down, take them from place to place
11 to appease them so they can let it go. He was
12 lying.

13 Now, I want to make sure before I get
14 into the final arguments, I went over everyone's
15 testimony. So we talked about Dr. Carey, we
16 talked about Kimberly, and we talked about her
17 family that responded. Her family came to support
18 her today, but they weren't there October 30th at
19 the Taco Bell. But they were there right
20 afterwards. I ask every single one of you, who
21 was with her? She was by herself. She was by
22 herself. Somebody who's claiming to be caring for
23 her and loving her, she was by herself.

24 Remember what the doctor told you about
25 the condition she's in. These things do not add

1 up. These actions are that of a guilty man. He
2 may have some regret now, and we need to be
3 thankful for that, but that's a crime.

4 So, I asked you all to remember
5 Miss Stoots. A woman who came before you as a
6 person. A person with a past. A person who said,
7 I did that before, but I'm not now. I asked her
8 was she shooting meth this day.

9 I also asked the doctor to point out, did
10 you diagnose her with a meth disorder. He said,
11 no, that's just in her medical history. The past
12 medical history showed up in her medical report.
13 It also said that she had a baby. It also said
14 that she had a mother and father. That stuff
15 shows up in your medical history. But the
16 defendant wants you to know that because you all
17 should know she used meth. That can be treated
18 any kind of way, right?

19 There was a moment there where she said,
20 I have missing teeth. But I wanted to make sure
21 that I knew how she lost those teeth. Was it a
22 bloody episode in the way we obviously know she
23 went through, but she said no. In fact, she
24 mentioned that she had a dentist extract those
25 teeth. When I asked her about the tooth that she

1 has currently in her mouth, it's still displaced.

2 I want you all to consider the totality
3 of the facts that we've heard here today and find
4 Jason Stoots guilty of domestic violence in the
5 1st degree. And only if you feel like I didn't
6 establish great bodily injury to her, or means
7 likely to have created that great bodily injury to
8 her, to find him guilty of domestic violence in
9 the 2nd degree.

10 Thank you.

11 THE COURT: All right. Mr. Shipman.

12 MR. SHIPMAN: May it please the Court?

13 THE COURT: Yes, sir.

14 CLOSING ARGUMENTS

15 MR. SHIPMAN: Good morning. Toward the
16 end of her argument, the solicitor said something
17 about the history of meth abuse and that the
18 defendant wanted you to know that. Jason did want
19 you to know that. I want you to know about that.
20 Sometimes it's hard to separate what a defense
21 attorney wants and who his client is.

22 Jason loves his wife. My job is not to
23 be a loving, caring person for Miss Stoots, so
24 I've had to question her. I had to challenge her
25 credibility, and that's not what Jason wanted.

1 It's what I have to do. So if you feel offended
2 by that, hold it against me. Don't hold it
3 against Mr. Stoots, because it's not what he
4 wanted to do.

5 That night in October of '18,
6 Jason Stoots did what any reasonable person would
7 have done in that scenario and you can't find him
8 guilty for that. Somebody was coming after him
9 and attacking him and did what he could to stop
10 her and it accidentally got out of hand.

11 Further, the State can't prove great
12 bodily injury happened. They can't even prove
13 that moderate bodily injury happened.

14 The fact that -- they want you look at
15 the blood and the doctor and the family and the
16 emotion that's in here and be distracted by what's
17 really being determined. The State has to prove
18 its case beyond a reasonable doubt, and it can't.

19 This is a trumped up charge brought to
20 court by an untrustworthy witness. She has a
21 history of drug abuse, a history of mood disorder
22 caused by that drug abuse. And she was dishonest
23 on the stand with you today.

24 The solicitor asked her, do you shoot
25 meth? She said, no, I never shoot meth. Well,

1 that's a half truth, wasn't it? She sat there and
2 put her hand on the Bible and raised her right
3 hand in the air and said I promise to tell the
4 truth and the whole truth. The whole truth
5 doesn't mean a half truth. It doesn't mean shade
6 and deflect. The solicitor asked her, did you
7 shoot meth? What the solicitor wanted to know
8 was, have you ever used meth? And instead she
9 focused on that half part of it where she could
10 shade the truth a little bit and make herself look
11 better. That's the kind of person that we're
12 dealing with here. That's the person who brought
13 this case to court.

14 I want to take a minute and we'll talk
15 about the witnesses. The first one that was up
16 here was Dr. Carey, and he testified that Kim
17 arrived at the ER around 12:31, 1:00 a.m. and she
18 had swelling and bruising and a tooth that was
19 pushed back. It wasn't out. It was pushed back
20 and dislocated. It was still in her mouth. She
21 still has it. The doctor ran CT scans and neck
22 scans and head scans and all kinds of things out
23 of precaution because he's a professional. You
24 got to rule out these things. Now, the doctor
25 said there were no fractures, you know, no

1 permanent damage to her jaw, her skull, her neck,
2 or anything of that nature. The State wants to
3 focus on that because they want you to speculate
4 about the level of injury here.

5 The fact is, the level of jury here,
6 worst case scenario, was this pushed back tooth
7 that's still in her head.

8 The doctor prescribed her Oxycodone,
9 which is a pain killer, and told her to go follow
10 up with a dentist. Kim didn't do that. The tooth
11 healed. It's still in her head. It didn't
12 require extensive medical treatment. He said
13 follow up with a dentist. She didn't do it and
14 she's fine. She's still here today. So there's
15 no way that injury could have required extensive
16 medical care.

17 Now, he talked about her history with the
18 meth abuse and the mood disorder, and he said the
19 mood disorder would indicate a person. You get
20 that diagnosis if you're a person who behaves
21 erratically or irrationally. That confirms what
22 Jason has been saying. Miss Stoots has a mood
23 disorder. It may not be effecting her right now,
24 it may not have effected her today. It obviously
25 didn't effect her every day or this marriage

1 wouldn't have lasted for 30 years, or 10 years
2 after the time that these symptoms were present.

3 So on this day, she had it. Other people had
4 noted it. Doctors had noted it. And that confirms
5 exactly what Mr. Stoots has been saying.

6 The doctor also testified that meth use
7 can lead to tooth decay and cavities due to the
8 acidity of the drug and the dryness of the mouth
9 that it causes. It leads to cavities because it
10 changes the chemistry of the mouth.

11 The solicitor made a big deal about body
12 language. The doctor told you about the dryness
13 of mouth. And I hope you all noticed when
14 Kimberly was testifying, she was constantly
15 smacking her lips, like, over and over. She did
16 that throughout the entirety of her testimony. I
17 don't know if she's using meth right now. I know
18 she has used it. I know she's got mood disorder,
19 and she looked like she had dry mouth on the
20 stand. So if you want to talk about body
21 language, keep that in mind as well.

22 As I told you before, you know, Kimberly
23 was dishonest on the stand. The solicitor made a
24 big deal about all the details that Kimberly
25 remembered from this evening, about the blood on

1 the steering wheel, about what was said at the
2 Taco Bell, all this stuff. But just like she
3 said, in every lie there's a little bit of truth,
4 right? They were at the Taco Bell, you know. She
5 had a tooth pushed in.

6 Nobody ever took a picture of this car
7 that was in the front yard. We don't know that
8 there's blood actually on the steering wheel.
9 That would be an easy detail for her to make up
10 and get away with it. There's no way of
11 contesting that. There's no way of going back and
12 hiding it.

13 But one way you can test it is how
14 dishonest she was on the stand. I mean, the
15 solicitor asked her a direct question. Have you
16 shot up meth? And she tried to dodge it. She
17 knew what the question was aiming at, and she
18 denied it. And when I asked her directly on the
19 stand, she had to admit it because she knew I had
20 it in her medical records.

21 Again, I told you that truth was not just
22 the truth -- that oath was not just to tell the
23 truth, but the whole truth, which she didn't do.
24 She's trying to play a game here with what the
25 facts are. She's trying to manipulate people.

1 She's trying to manipulate you. She's trying to
2 manipulate Jason.

3 The solicitor also asked her, had you
4 been taking Jason's pills? Remember Jason
5 testified that he noticed some pills started going
6 missing so he got the pump installed so that he
7 could protect the pills.

8 And what was Kimberly's answer to that
9 question? Was it yes? Was it no? No. Her
10 answer was, he wasn't prescribed pills at the time
11 and we weren't living in the same house. That's
12 nothing but more for her gain. That's the kind of
13 answer your kid gives you when you catch them
14 doing something they're supposed to be doing. She
15 didn't say no. She said, he wasn't on the pills
16 and she wasn't in the house. She didn't say she
17 had never stolen them, just like she didn't say
18 she never used meth when the solicitor asked her.
19 She's trying to hide her own fault. She's trying
20 to manipulate you.

21 Now, her story was that her friend texted
22 Jason for her from her uncle's house for Jason to
23 come pick her up. Now, keep in mind, you know,
24 Jason testified that this uncle later passed away
25 due to a heroin overdose. You can imagine what

1 Kimberly was doing in that house, that she'd been
2 living away from home. She wasn't living with her
3 parents. She wasn't living with Jason. She was
4 living with her uncle so she could have access to
5 more drugs.

6 You can also imagine the reason that the
7 uncle couldn't be bothered to help her. The
8 solicitor said, oh, she must have been a sight to
9 see when she walked in the house bloody like that.
10 Well, who knows what condition that uncle was in
11 at that time of night. Who knows what they had
12 been doing before she left the house. Who knows
13 what he was doing while Kimberly was out of the
14 house. And who knows what condition he was in
15 when she got back to the house.

16 Now, when Jason comes to get her
17 somewhere around ten o'clock, they go to the
18 Taco Bell, and she says that Jason hits her around
19 11:00. They argue. That Jason supposedly sprays
20 her with Windex and they drive away. And then
21 they go to four or five gas stations. I think she
22 said they went to the Dollar Store, just driving
23 around here and there. And he went in pretending
24 to buy something, then come out and says, they
25 didn't have it, like he's delaying.

1 And eventually she gets back to her
2 uncle's and she goes in and talks to him, decides
3 he's not going to be any help to her. Asks Jason
4 for gas, and then she drives five miles up a
5 twisting road, four or five miles -- five to seven
6 miles, is what she said. There's about three
7 turns to get there. She says she can't grip the
8 steering wheel. If she did do that, it's going to
9 take a little while to get from one end of that
10 trip to the other under the scenario that she
11 described.

12 Then her mother tends to her a little
13 bit. The niece comes down. They call for an
14 ambulance. The ambulance has to be alerted,
15 scrambled out, and then get from the station to
16 the house, and then she's -- this is Taylors.
17 This is Reid School Road. She's real fuzzy on the
18 time line here, but we're probably getting close
19 to midnight here by this point after all this is
20 going on. And then she's somehow on the other end
21 of town over on Grove Road at Greenville Memorial
22 Hospital at 12:30. This includes the wait for an
23 ambulance to get to the house, the wait for her
24 get treated on the scene, loaded into the
25 ambulance, and then driven down all the way across

1 town to the other side of town to the hospital.
2 There's just no way it happened the way that she
3 described it.

4 And because of all these credibility
5 issues, there is no way you can believe her beyond
6 a reasonable doubt.

7 The State wants to act -- let me say
8 this. I mean, if she's lying about small things,
9 she'll lie about big things. All right?

10 The State wants to act like Jason is a
11 cold and heartless person because he didn't take
12 her directly to the hospital. She didn't want to
13 go. Her mom said she refused the doctor at first.
14 She refused the ambulance at first. But if she's
15 refusing to her mom, why wasn't she refusing to
16 Jason. That confirms exactly what Jason said.

17 Furthermore, if Jason is so cold and
18 heartless, how come none of her family members
19 went to the hospital with her? If she was in such
20 a bad state, if she's as bad as they say she was,
21 if she was on the verge of death, as the solicitor
22 almost wants you to believe, nobody went with her?
23 Nobody wanted her to be in the room beside her if
24 it was that bad?

25 Her mother didn't go to hospital because

1 she wasn't dressed. Now, that's not -- you know,
2 I hate to impugn a mother's love, but that's not a
3 reason. That's not the reason she didn't go. I
4 believe her mother loves Kimberly, but the reason
5 that she didn't go to the hospital is not because
6 she wasn't dressed, and not because she didn't
7 have a ride. There was another reason there.

8 Her father didn't go with her either.
9 Let's think about that for a second. Now, you saw
10 Mr. Bishop stride up here in the courtroom,
11 proudly raise his hand and state very loudly,
12 clearly, and proudly that he was the father of
13 Kimberly Stoots. You saw how defiantly he
14 testified like he was trying make up for
15 something. The fact is this, no matter how loudly
16 he says that he's Kimberly's father here today,
17 how much he might be here for her in 2020, he was
18 not there for her that night in 2018. He couldn't
19 be even bother to go with her. So neither her
20 mother nor father went with her.

21 Why didn't they go? One answer is that
22 she simply wasn't that bad off. She wasn't in
23 that poor of a condition when they saw her. She
24 was not as bad off as the State wants you to
25 believe that she was. Another answer is, they

1 probably know about the episodes just like Jason
2 does. And if she was in the midst of one, they
3 probably knew that it was bad and they didn't want
4 to get caught up in the middle of it just like
5 Jason hadn't.

6 Whatever it was, it does not support the
7 State's theory of this case. It goes against
8 everything they want you to believe.

9 Now, the State said before -- I'll go
10 back to this itinerary of getting back to the
11 uncle's house. The State said that he -- Jason is
12 denying her care, that he's trying to buy time
13 because he's trying to calm her down and sooth
14 her. Let me ask you this. You know, if they're
15 going down Wade Hampton Boulevard, which is well
16 lit, it's big, there's lot of people on it, they
17 want you to believe he stopped at four or five gas
18 stations. All these gas stations have got
19 cameras. They're all well lit. People there.
20 You think he's trying to buy time and get out of
21 trouble by tracing a bloody woman around town in
22 all these well lit public spaces where everybody
23 has got cell phones and cameras these days. You
24 don't get out of trouble by going out in public
25 with a bloodied woman. Like, that's not what

1 happened. Okay? That confirms exactly what Jason
2 has been saying all along, that this woman is
3 manipulative. She's emotionally blackmailing him.
4 He was doing what he could in a bad situation. We
5 can't find him guilty for that.

6 Returning to Jason's testimony here now.
7 He said he loved his wife. He cares for her. He
8 wants to get her help. He tried to get her
9 judicially committed. He tried to get help for
10 her, and it just wouldn't stick. She wouldn't go.
11 It wouldn't work. He said when she's in this
12 state, she can't be reasoned with, she can't be
13 bargained with, it just has to be ridden out. You
14 saw the tears about this. He was honest. He was
15 straightforward. He didn't try to slant the truth
16 like Kimberly did.

17 Kimberly took an oath to tell the whole
18 truth and didn't do it right here in front of all
19 of you in a courtroom with the judge in a robe,
20 police officers standing right here. She knows
21 how serious this is and she did it anyway.
22 Jason's testimony was consistent straight away
23 through.

24 Now, the solicitor wanted to make two big
25 points about Jason's testimony. One of them was

1 he didn't take her to the hospital. Well, she
2 refused to go. At the end of the day, she may
3 have a lot of problems. She's still an adult.
4 She still makes her own decisions. If he had
5 forced her to go to the hospital, how would that
6 work? He honored her decision, even if it was a
7 bad one on her part. What are you supposed to do
8 in that situation? There's a person that you love
9 that's acting self-destructively. He's witnessed
10 it for years. He's trying to do the best he can.

11 Moreover -- and this is, kind of, the
12 next point the solicitor wanted to make about
13 Jason's testimony. It was about fear. She acts
14 like it's ludicrous. That he's a big man and
15 she's a little woman. It doesn't have to be
16 physical fear. That's not the only definition of
17 fear. That's not the only thing that's fearful
18 that would motivate a person.

19 But let's talk about the physical side of
20 it. You know, Jason talked about the spinal
21 condition that he had, about the pump he had to
22 wear, the pills he has to take to keep from being
23 in pain. This pump is still inside him. And he's
24 not a huge man. You can see him. If somebody is
25 coming at you in a car and you got this device in

1 you and you got a bad spine, I mean, you might be
2 physically afraid of him, even if you are a man
3 and she's a woman. It's still possible for a
4 woman to hurt a man in that condition.

5 But again, that's not the full range of
6 what constitutes fear. It can almost be a fear
7 that's born out of this emotional torment that
8 he's endured over the last several years with
9 Miss Stoots.

10 Now, I'll say this: I'm about six foot
11 two. I'm probably 250 pounds. And I love my
12 wife. She loves me. We're both in a happy
13 relationship, but, you know, I don't want to get
14 on her bad side. Like, I know her pet peeves, and
15 I know when to avoid them. I don't want to
16 experience that. You know, it's a motivator for
17 me, even though I'm probably about eight inches
18 taller than you and 150 pounds heavier than her.
19 You know, I'm not afraid that she's going to hurt
20 me, but I still don't want to go home to an angry
21 wife. I don't want to be in a house with an angry
22 wife.

23 And so -- and I don't have to deal with
24 the meth use and mood swings like Jason does. He
25 met her when they were 19. They got married when

1 they were 20. They've known each other for
2 30 years and this started about 10 years ago. I
3 believe that he loves her, and I believe that he
4 can't just walk away.

5 You know, it might be have been the smart
6 thing to do, to walk away years ago for him, but
7 he can't leave her behind.

8 And so Kimberly can't control this
9 situation because she's the more irrational.
10 She's manipulating him or blackmailing him with
11 her erratic attitude. One minute she's yelling
12 and screaming. She's attacking him. And it goes
13 back on and forth. He's on this roller coaster.
14 And so there's that fear as well. And I don't
15 mean to say that, you know, she's on -- I'm not
16 trying to say that women are irrational creatures
17 or anything of that nature. That's not what I
18 mean at all. She's been diagnosed with meth use
19 and mood disorder. She's got a problem. And, you
20 know, maybe she can't help it, but that's where it
21 is. I'm not saying this is a man vs. woman thing.
22 The roles could easily be reversed, and so please
23 don't take that away from what I'm saying here.

24 And then the solicitor also asked Jason
25 about fear of others on Kimberly's behalf. You

1 know, she said something like she's brave enough
2 to put a hit on you but not brave enough to go to
3 the dentist, or something like that.

4 And you saw her dad in here. You saw his
5 demeanor. He was angry. Okay? He wanted to
6 explode. Again, he's sitting in the courtroom
7 with a judge and police officers. How do you
8 think he acts in private? What's with Mr. Bishop
9 that you think Jason knows. Jason testified that
10 she threatened to have people attack him before
11 and he's probably pretty smart to take that
12 seriously judging by what we've seen in the
13 courtroom here today, so I don't think that fear
14 is unfounded.

15 Turning to the charges here. You know,
16 again, I'll say to you, Mr. Stoots did what any
17 reasonable person could have done in that
18 position. He tried to protect himself and he
19 tried to salvage the situation as best he could
20 while still protecting himself from what he knows
21 is a dangerous person. Maybe not physically
22 damaged, but what he knows is a person that could
23 be a threat to him.

24 I want to spend a little time talking
25 about the level of injury. That's something that

1 you'll have to consider too. If you get past that
2 stage, you'll have to consider how bad you think
3 these injuries were.

4 Now, the State has got to prove to you
5 beyond a reasonable doubt. In order for you to
6 convict him of 1st degree domestic violence, the
7 State has to prove to you beyond a reasonable
8 doubt that great bodily injury occurred.

9 Now, great bodily injury is defined in
10 our law and it means, bodily injury that causes a
11 substantial risk of risk, or causes serious and
12 permanent disfigurement or protracted loss or
13 impairment of the function of a body organ. So
14 all of this has to be serious and permanent, the
15 disfigurement. It's a dislocated tooth. You
16 know, the first line of this great bodily injury
17 definition deals with death, substantial risk of
18 death. And the solicitor wants you to believe
19 that that's in the same category as a dislocated
20 tooth, and then they want to bring attention to
21 the blood.

22 Now, you know, there's a lot of testimony
23 about blood. Nobody measured the amount of blood.
24 The doctor didn't testify that an infusion was
25 necessary, so it couldn't have been as much as

1 they want you to believe.

2 And, furthermore, you got to remember
3 this is a laceration to the lip. That's what Kim
4 testified to. It was a cut on the inside of her
5 lip. And so whatever blood there is there, it's
6 mixing with the spit in her mouth. It's mixing.
7 So it's not -- you mix the blood with the water
8 and it looks a lot worse than it is. Okay?

9 The medical expert here, the doctor who
10 treated her didn't say that she was in any kind of
11 danger from blood loss. It took a while to get it
12 to stop bleeding, but, you know, sometimes it
13 takes a while to stop a cut from bleeding,
14 especially in your lip where it would be hard to
15 dry up and coagulate and everything like that. So
16 that has nothing to do with the severity of
17 injury.

18 And then there's been no testimony at all
19 or any kind of finding that she suffered a risk of
20 serious bodily injury or a risk of death from the
21 blood loss. So that's a non-starter. That dog
22 won't hunt.

23 Now, moderate bodily injury means
24 physical injury that involves prolonged loss of
25 consciousness, which didn't happen, or that causes

1 temporary or moderate disfigurement, or temporary
2 loss of function of a body member or organ, or
3 injury that requires medical treatment and the
4 treatment requires the use of regional or general
5 anesthesia or injury that results in a fracture or
6 dislocation. So let's pick that a part for a
7 minute because that's a lot to get your head
8 around.

9 So we'll go to the things that we can
10 immediately rule out. No fracture. There was a
11 dislocation, and we'll get to that in a minute
12 because there's an exception here that I haven't
13 let out yet. No loss of consciousness. There may
14 be moderate disfigurement. There's no loss of the
15 function of body member or organ. And there was
16 certainly no medical treatment that required the
17 use of regional or general anesthesia. They gave
18 her Oxycodone, which is a pain killer. That's not
19 anesthesia. She wasn't put under. She didn't
20 have a nerve block.

21 And also, remember too -- we'll get back
22 to this again. That tooth wasn't even lost.
23 There was no substantial risk of death. And,
24 again, a lost tooth might be permanent, but
25 certainly not a serious disfigurement. I mean,

1 you've seen her here today. She looks normal.
2 Nor does it involve protracted loss or impairment
3 of the function of a body member or organ. She
4 eats, talks, drinks. And none of that happen.
5 She didn't even lose the tooth. A dentist fixes
6 these kind of things every day, and a dentist
7 wasn't even needed in this case. The doctor told
8 her that she should consult one. She didn't go
9 and she's still fine.

10 Now, on the -- back to moderate bodily
11 injury. There's no prolonged loss of
12 consciousness. And there's temporary moderate
13 disfigurement, perhaps, but that's not the end of
14 the question because you have to keep going
15 further in the definition. In the last line of
16 the definition of moderate bodily injury it says,
17 moderate bodily injury does not include one-time
18 treatment and subsequent observation of scratches,
19 cuts, abrasions, bruises, burns, splinters, or any
20 other minor injuries that do not ordinarily
21 require extensive medical care. You know, so this
22 isn't, cut, scratch, bruise, or any of those
23 things, abrasions, et cetera. But it is a minor
24 injury, and it did not require extensive medical
25 care. She got a pain killer, told to go home, see

1 a dentist. She didn't do it. She was still fine.
2 If she was still fine, it certainly didn't
3 require.

4 Now, it may have been a precaution. Just
5 like the doctor, out of precaution, ordered the CT
6 scan and the neck scan. It's a precaution. He's
7 a doctor. He's a professional. His job is to
8 take precautions. So he tells this patient of
9 his, out of an abundance of caution, to go see
10 this dentist, but that doesn't mean that it's
11 required. It doesn't mean, certainly, that a
12 dentist would say that it required extensive
13 medical care, even if a dentist did see her. And
14 we didn't have a dentist here. So there's no
15 evidence that it required extensive medical care.
16 In fact, there's evidence that it does not because
17 she's sitting here with the tooth still in her
18 mouth, so it is not moderate bodily injury either.

19 And, again, I don't mean this to be
20 making fun of Miss Stoots, but remember the state
21 of her mouth. You know, her teeth are -- a little
22 bump could have knocked it out. It didn't mean
23 that great force was used in this instance. Just
24 because this happened does not mean that great
25 force was used. Because of the state of her

1 mouth, an accidental bump in the middle of this
2 that Miss Stoots started fits right in with what
3 Jason has been telling us. It's exactly
4 consistent with his testimony like so many other
5 things have been.

6 I can summarize what Jason testified that
7 she was erratic. The doctor testified she's been
8 diagnosed with mood disorder. He testified she
9 started this back in the car, that he had a spinal
10 condition, he was wearing the pump, that that
11 condition causes him a great deal of pain, so he
12 reacted. He hurt from her shaking him around. If
13 you have a spinal condition, you shouldn't be --
14 it would put him in a lot of pain if you're
15 shaking him around like that.

16 What did he do after? He took her to her
17 uncle's house. He took her to her family's house.
18 People that she knows. He doesn't take her to a
19 secret location. He didn't hide her away. He
20 didn't sequester her. He took her back to her
21 family.

22 Kimberly says they went four or five
23 different places. He says they went to two gas
24 stations. You've been down Wade Hampton. There's
25 a gas station -- two on every corner. Sometimes

1 they're right next to each other on the same side
2 of the street.

3 So it is not -- they would not have had a
4 significant amount of time to get from one to get
5 to another if that's what she wanted, if that's
6 what she was demanding. And he knew she was going
7 to blow up even more if he didn't do it for her.

8 If he wanted to maliciously assault her
9 and torture her by keeping her away from medical
10 care, he could have done it. He had her in the
11 car. He didn't keep her in the car. He took her
12 to her people's house and got away and out of a
13 bad situation as soon as he could, so it wouldn't
14 get any worse for him or her. That's why he left
15 her.

16 And, lastly, I want to say a few words
17 talking about reasonable doubt. This is a concept
18 that's been around for hundreds of years. Proof
19 beyond a reasonable doubt. And, still, the law
20 doesn't have a single all encompassing definition
21 of what proof beyond a reasonable doubt means.
22 There's a lot of competing definitions out there.
23 You may hear one or more of them today, and it's
24 probably for the best. You know, telling someone
25 who doesn't practice law there's a single

1 definition of this thing kind of makes you wonder
2 what we're doing in this courtroom if we can't
3 tell you what it means when it's said.

4 But, you know, what these multiple
5 definitions allow, you understand when you come
6 into court, for you to apply your common sense as
7 to what's going on here. So that's why it's
8 probably good that there's more than one
9 definition. There's a few that I like.

10 The classic example, what you'll probably
11 hear today is, reasonable doubt is that doubt
12 which would cause a reasonable person, in light of
13 facts and circumstances known to him or her, to
14 hesitate to act for a single moment in the most
15 important decisions of his or her own life.

16 And so that means you're making a big
17 decision. If you're buying house, you're deciding
18 to get married, you're deciding to have a child,
19 deciding to go to school, changing careers,
20 whatever, when you think about it, should I do it.
21 And you probably -- every time you face one of
22 those decisions, you probably have doubts. You
23 probably have reasons to doubt to do it. And you
24 may have gone on in spite of your doubts, okay,
25 because you're acting in your life. You know, you

1 might get a housing inspection and say, well, you
2 know, they said the foundation might be sagging
3 here, but it looks like it may be fixed. You
4 might have a little nagging doubt about buying a
5 house, but you might do it anyway if you think I
6 can fix it, or it still looks nice, or it's in the
7 perfect location, or any other reasons that
8 outweigh that doubt. And you're allowed to do
9 that in your own life, but you're not allowed to
10 do that in this room because you're not making a
11 decision just for yourself.

12 So if there's any doubt at all that would
13 cause you to hesitate to act, as if this was in
14 your own most important decisions, you have to
15 give him the benefit of that doubt. You can't
16 just push those doubts and concerns to the side.
17 You can't just say, well, we'll fix it later if it
18 turns out not to be the way I think it is. I'll
19 transfer schools. Anything of that nature. This
20 one you can't take back. And so that doubt
21 entitles you because you're doing it for him, not
22 for yourself.

23 And another, and it may be a simple way
24 to think about what reasonable doubt is this: If
25 it's reasonable at all to believe that Mr. Stoots

1 is not guilty, then you must find him not guilty.

2 If anybody could reasonably find him not guilty,

3 then you have to find him not guilty.

4 If this trial has shown anything today,

5 there are ample reasons to doubt in this case,

6 there are ample reasons to doubt Miss Stoots'

7 testimony, and that's why I'm asking you to return

8 a verdict of not guilty on all charges.

9 Thank you.

10 THE COURT: All right. Thank you,

11 Counsel. Miss Scott.

12 MS. SCOTT: No, sir.

13 THE COURT: No?

14 MS. SCOTT: No, sir.

15 THE COURT: All right. Ladies and

16 Gentlemen, we're going to take about a five-minute

17 bathroom break. That break is for me. So, if you

18 would, please, ma'am, please, sir, go back to the

19 jury room. Do not talk with each other about the

20 case and I'll bring you back in to charge you on

21 the law in this case.

22 (The jury exits the courtroom at 11:22 a.m.)

23 THE COURT: Let me ask you a question:

24 The doctor, the emergency room doctor wasn't

25 qualified as an expert witness. Even though he

1 gave an opinion, neither side moved that he be
2 qualified as an expert. Do you want me to charge
3 -- do a charge on expert witness even though he
4 wasn't qualified as an expert? He was an
5 emergency room doctor. He was a doctor and he
6 gave an opinion. What is your pleasure?

7 MR. SHIPMAN: Your Honor, I want to hear
8 from her.

9 MS. SCOTT: Since he was my witness, I
10 didn't ask him to give an opinion. I'm not
11 sure -- when you said he gave an opinion --

12 THE COURT: I thought he did, listening
13 to his testimony. He may not have.

14 MS. SCOTT: My line of questions didn't
15 say state your expert opinion, or anything about
16 that.

17 THE COURT: I just wanted to make sure.

18 MR. SHIPMAN: Your Honor, I was just
19 using expert colloquy, not the legal definition of
20 it. In the sense that if there was this massive
21 blood loss, he's the doctor, he would have known,
22 he would have told. I didn't mean it as a Rule
23 702 or anything.

24 THE COURT: So I'm not going to charge
25 expert.

1 The other thing is, I always -- sometimes
2 charge circumstantial versus direct evidence.
3 What is your pleasure on that? I think that's a
4 standard charge I normally do.

5 MR. SHIPMAN: Yes, sir. I have no
6 objection to that.

7 THE COURT: And then I also do the charge
8 on criminal intent. Are you familiar with that
9 standard criminal intent charge?

10 MS. SCOTT: Yes, sir.

11 MR. SHIPMAN: Yes, sir.

12 THE COURT: So I intend to do that. So
13 come back in in about three or four minutes and
14 we'll go directly into the law.

15 MR. SHIPMAN: Thank you, Your Honor.

16 THE COURT: All right.

17 (A break was taken from 11:26 a.m. to 11:33 a.m.)

18 THE COURT: All right. Ladies and
19 Gentlemen of the jury, there are certain things in
20 the life and one of them is lunch break.
21 Sometimes you get to go to lunch a little earlier.
22 Today is your lucky day. I'm going to send you to
23 lunch now. Two things, I want you to eat lunch,
24 and for those of you who have need a little
25 coffee, you know, get some coffee. Come back at

1 one o'clock. At one o'clock, I will charge you on
2 the law in the case.

3 So, please, ma'am, please, sir, do not
4 talk about the case with anyone. And I'll see you
5 back in your jury room at one o'clock, and then
6 I'll charge you on the law and you will go into
7 deliberations right after that.

8 Have a good lunch. Take care.

9 (Jury exits the courtroom for lunch at 11:34 a.m.)

10 THE COURT: Mr. Stoots can remain out and
11 have lunch with you.

12 MR. SHIPMAN: Thank you, sir.

13 THE COURT: You can't call her during the
14 lunch break.

15 THE WITNESS: Yes, sir.

16 (A break was taken from 11:34 to 1:05 p.m.)

17 THE BAILIFF: All rise. The Honorable
18 Alex Kinlaw, presiding.

19 THE COURT: Okay. Anything before I
20 bring the jury in?

21 MS. SCOTT: No, sir.

22 THE COURT: Bring them out, please.

23 MR. SHIPMAN: Just for the record, I
24 renew all my motions and everything else.

25 THE COURT: All right. All of them

1 denied.

2 MR. SHIPMAN: Thank you.

3 (Jury enters the courtroom at 1:05 p.m.)

4 THE COURT: All right. Back on the
5 record.

6 Ladies and Gentlemen of the jury, you've
7 heard all of the evidence that you're going to
8 hear in this case. All of the evidence has been
9 presented to you. You've heard closing arguments
10 from both sides. You heard it from the State and
11 you heard it from defense counsel.

12 Now, it's my duty to instruct you on what
13 the law is that applies to the facts of this case.
14 And you recall at the beginning of this case I
15 said there were two judges in the courtroom.
16 You're the judge on the facts. I'm the judge of
17 the law. You've had an opportunity to listen to
18 the facts in this case, and now it's my duty to
19 tell you what the law is as it applies to the
20 facts as you are heard them to be.

21 And as to those facts, you must apply the
22 law as I give it to you and you should not be
23 concerned with what you think the law should be
24 but actually what the law is, so you should you
25 apply the law as I give it to you. And you should

1 not be concerned with any undue sympathy or bias,
2 or prejudice, or personal likes, or dislikes that
3 you may have. That means that you must decide
4 this case solely on the evidence before you and
5 according to the law as I instruct you to, and you
6 recall you took an oath to do just that before we
7 began this trial.

8 Now, in following my instructions, you
9 must follow the law and not single out some of
10 them and ignore the others. You must follow all
11 the instructions because they are all equally
12 important, and do not read into these instructions
13 or anything that I may have said or done during
14 this trial that would give you any indication that
15 I have an opinion as to what I think the facts are
16 because I have none because I told you at the
17 outset, under our constitution and system of
18 justice, you are the sole and exclusive judge of
19 the facts in this case. You decide what the facts
20 are by evaluating and weighing the evidence that
21 you heard during the trial.

22 As I told you, the evidence can take two
23 forms. It can take the form of the witness's
24 testimony or it can take the form of exhibits,
25 photographs, et cetera. You determine the

1 credibility of that evidence.

2 I'm certainly not going to give you a
3 scale to go back and forth and conduct any
4 experiments as to the credibility of the evidence.
5 But what I'm talking about is weighing the
6 evidence and evaluating it by using your good
7 common sense you all were cloaked with when you
8 came into this courtroom. Use your common sense
9 and your life experiences. You bring those with
10 you when you come to hear the trial of the case.

11 I told you that the evidence consists of
12 witnesses' testimony, as well as any exhibit.
13 You, the jurors, gauge the credibility or
14 believability of the evidence. The credibility
15 and believability of the evidence. You gauge the
16 credibility and believability of the evidence that
17 comes from the witness stand, and you gauge and
18 determine the believability of the evidence that's
19 presented to you in the form of documents,
20 photographs, anything of that nature.

21 But I will tell you that you may consider
22 in deciding the credibility of a witness's
23 testimony in such a way that you may believe
24 everything they say or you may believe nothing a
25 witness says. You may believe parts of a

1 witness's testimony and disbelieve other parts.
2 You may believe one witness over several or
3 several over one, but I know you will decide this
4 matter of credibility using reason and logic and
5 your good common sense.

6 Now, there are also two types of
7 evidence, and what I'm talking about is direct
8 evidence and circumstantial evidence.

9 Direct evidence is defined as testimony
10 of someone who claims to have direct and actual
11 knowledge of a fact such as an eyewitness. Direct
12 evidence is evidence that, if it is believed,
13 immediately establishes a fact.

14 On the other hand, circumstantial
15 evidence is indirect evidence. Circumstantial
16 evidence, put another way, is proof of a chain of
17 facts from which you could find that another fact
18 exists even though it has not been proven to you
19 directly. The law makes no distinction between
20 the weight or value to be given by you to direct
21 evidence or circumstantial evidence. You may
22 consider both kinds, and there is not a greater
23 degree of certainty required of one over the
24 other.

25 As I told you, there are certain

1 principles that apply to criminal cases, and I'm
2 going to go over that again with you. The mere
3 fact that a person was indicted -- and I showed
4 you this at the start of the trial. This is the
5 indictment that -- in this case, and this
6 indictment is not any indication or suspicion of
7 guilt. This is the vehicle by which the matter
8 comes before the Court. The fact that a person
9 has been indicted doesn't even create a suspicion
10 of guilt. I explained to you that this indictment
11 is simply the formal manner in which the case
12 begins.

13 This defendant, Mr. Stoots, has pled
14 guilty to the facts as alleged in this indictment
15 and that puts the burden of proof solely and
16 squarely upon the State. And I talked to you
17 earlier at the outset of the trial that the burden
18 of proof in a criminal case is the State must
19 prove this case against the defendant, in finding
20 him, they must prove the defendant guilty beyond a
21 reasonable doubt.

22 You heard counsel for both sides make
23 reference to reasonable doubt in terms of their
24 interpretation of it and as explained to you.

25 The defendant can only be convicted if

1 all 12 of you agree that the State has proved each
2 and every element of the charge beyond a
3 reasonable doubt.

4 This defendant is presumed innocent and
5 that presumption of innocence is not some legal
6 technicality. It is a fundamental right that
7 every person enjoys in this country, and it can
8 only be removed if the State convinces you with
9 proof beyond a reasonable doubt as to every
10 element of the offense that the defendant was
11 charged with.

12 So how is reasonable doubt defined?
13 Reasonable doubt is defined as the kind of doubt
14 that would cause a reasonable, sincere, honest,
15 and conscientious person to hesitate to act in an
16 important matter in their own affairs.

17 Proof beyond a reasonable doubt is proof
18 that leaves you firmly convinced of the
19 defendant's guilt. The law does not require proof
20 that overcomes every possible doubt.

21 So if, based on your view of the
22 evidence, you are firmly convinced that the
23 defendant is guilty of the crime charged, then you
24 must find him guilty.

25 On the other hand, if you think there is

1 a real possibility that he is not guilty, you must
2 give him the benefit of that doubt and find him
3 not guilty. A reasonable doubt may arise from the
4 evidence or from the lack of evidence, and the
5 defendant is entitled to every reasonable doubt
6 that may arise in the case. That means, as to any
7 issue of fact that is essential to a finding of
8 guilt and you have reasonable doubt as to how that
9 issue should be resolved, then it is your duty to
10 resolve it in the defendant's favor.

11 Now, in order to establish criminal
12 liability in a case, a criminal case, the State
13 must prove criminal intent. And criminal intent
14 is a matter that must be determined by you from
15 the facts as you heard the facts. There is no way
16 to prove criminal intent in a mathematical
17 certainty, so the law says that criminal intent
18 may be inferred from the circumstances. It is not
19 necessary to establish intent by direct evidence.
20 Intent may be established by circumstantial
21 evidence taken into account the circumstances that
22 are at issue. Criminal intent is a mental state
23 of conscious wrongdoing. It is up to you to
24 determine what the defendant intended to do based
25 on the circumstances shown to have existed.

1 Now, let me charge you on the law that's
2 applicable to the case at hand. In this
3 indictment, this defendant Mr. Stoots, is charged
4 with the domestic violence in the 1st degree. The
5 State must prove beyond a reasonable doubt that
6 the defendant inflicted great bodily injury or
7 actions likely to result in great bodily injury on
8 a member of his own household. Household member
9 is defined in the statute as, a spouse, a former
10 spouse, persons who have a child in common, or a
11 male and female who are cohabitating, or formerly
12 have cohabitated. That is definition of a
13 household member.

14 Great bodily injury is defined as bodily
15 injury that causes substantial risk of death or
16 serious permanent impairment or protracted loss of
17 impairment. This is domestic violence in the
18 1st degree. And I'm going to read that again to
19 you. The defendant is charged with domestic
20 violence in the 1st degree in this indictment that
21 I've just shown you. The State must prove beyond
22 a reasonable doubt that the defendant inflicted
23 great bodily injury or actions likely to result in
24 great bodily injury of a member of his own
25 household. Household member is defined as a

1 spouse, a former spouse, persons who have a child
2 in common, or a male and female who are
3 cohabitating or formerly cohabitating. Great
4 bodily injury is defined as bodily injury that
5 causes substantial risk of death or serious
6 permanent disfigurement or protracted loss or
7 impairment.

8 Now, if you find that the State has
9 failed to prove that the defendant is guilty of
10 domestic violence in the 1st degree, you may then
11 decide whether the State has proved that the
12 defendant is guilty of domestic violence in the
13 2nd degree.

14 A person commits domestic violence in the
15 2nd degree if the person inflicted moderate bodily
16 injury on a member of his own household, and I
17 described household to you a minute ago, or
18 actions were accomplished by means likely to
19 result in moderate bodily injury. Moderate bodily
20 injury is defined as physical injury that either
21 involved prolonged loss of consciousness, causes
22 temporary, slash, moderate disfigurement, causes
23 temporary loss of function of a bodily member or
24 organ, results in need for medical treatment
25 regarding the use of regional or general

1 anesthesia, results in a fracture or dislocation.
2 However, it does not include a one-time treatment
3 and subsequent observed scratches, bruises, burns,
4 and other minor injuries not requiring extensive
5 medical care.

6 I read to you on two occasions domestic
7 violence in the 1st degree and I will read
8 domestic violence to you 2nd degree once again.

9 If you find that the State has failed to
10 prove that the defendant is guilty of domestic
11 violence in the 1st degree, which he is charged
12 with in this indictment, you may then decided
13 whether the State has proved that the defendant is
14 guilty of domestic violence in the 2nd degree. A
15 person commits domestic violence in the 2nd degree
16 if the person inflicted moderate bodily injury on
17 a member of his own household or actions were
18 accomplished by means likely to result in moderate
19 bodily injury. Moderate bodily injury is defined
20 as physical injury that either involved prolonged
21 loss of consciousness, causes temporary, slash,
22 moderate disfigurement, causes temporary loss of
23 function of bodily member or organ, results in
24 need for medical treatment regarding use of
25 regional or general anesthesia, results in

1 fracture or dislocation. It does not include a
2 one-time treatment and subsequent observation of
3 scratches, cuts, bruises, burns, or other minor
4 injuries not requiring extensive medical care.

5 Now, those are the principles or
6 substantive law that you must apply to the case
7 that you just heard.

8 Let me give you a few closing
9 instructions on your deliberations. The verdict
10 form that I have created is pretty
11 straightforward. Mr. Foreman, this verdict form
12 will be given to you. It states, The State of
13 South Carolina vs. Jason Edwin Stoots, verdict,
14 and it says first thing that, "We, the jury, in
15 the above-captioned case on the charge of domestic
16 violence in the 1st degree unanimously find
17 Jason Stoots," and I have to put this in some
18 order, you got "not guilty" and "guilty." If not
19 guilty, then it has some instructions on here to
20 proceed to number 2, which states this: "We, the
21 jury, in the above-captioned case on the charge of
22 domestic violence in the 2nd degree unanimously
23 find Jason Stoots," either "not guilty," or
24 "guilty."

25 You would initial at the end.

1 Mr. Foreman, if you would sign your name. The
2 verdict must be unanimous.

3 Now, Ladies and Gentlemen, you weren't
4 chosen to be a juror in this case to be an
5 advocate for either the State or the defendant, or
6 anyone else. You were chosen to be a juror in
7 this case because both sides in this case believe
8 that you can fair and impartial, and you could
9 decide this case without any kind of bias or
10 prejudice or any preconceived notions. So you are
11 the judges of facts. And your sole interest is to
12 determine what the facts are. Take the law as I
13 just gave it to you and apply it to the facts
14 using your life experiences, your common sense,
15 and your sense of logic and reasoning. Once you
16 do that, you will be able to reach a verdict in
17 this case.

18 Now, each of you has a vote in this case.
19 And your vote is exactly that. It's your vote and
20 no one else's. So don't be afraid to change your
21 mind if you have different mind if the discussions
22 that you have persuade you that should change your
23 mind. But don't change your mind simply to get
24 the case over with or to reach a unanimous
25 verdict, because obviously this case is very

1 important to both sides and all concerned.

2 The record is now closed. There's not
3 going to be any more witnesses or evidence for you
4 to examine. So if something was referred to
5 during the trial that you may want to have but you
6 can't have it back there in the jury room as an
7 exhibit, I can't get that for you. So keep that
8 in mind. And don't start talking about the case
9 until I have given you some instructions. Those
10 instructions would be I would direct the bailiff
11 to present -- bring to you the verdict form along
12 with any introduced exhibits, and then the bailiff
13 will give the instructions and the last direction
14 as to when to deliberate. I need to take up a
15 couple matters with the lawyers before I do that.

16 All right. Please ma'am, please, sir, do
17 not talk to each other and do not begin
18 deliberations until you get instructions from me.

19 The two alternates, why don't you stay
20 with me.

21 (Jury exits the courtroom for deliberations
22 at 1:22 p.m.)

23 THE COURT: Sir and madame, I'd like to
24 thank both of you for your willingness to serve
25 and being very attentive. I watch everyone. I

1 always want to watch to make sure everybody is
2 listening, and I applaud this jury because
3 everybody was listening and paying attention. I
4 appreciate both of you, even though you were
5 chosen as alternates. You have the right to just
6 leave, if you're tired of being here. If you want
7 to leave, you just turn your badge to the bailiff
8 and you can leave. Or, if you want to stick
9 around, you certainly can go in the pews, as I
10 call them, and stick around, but it's totally up
11 to you. I thank you for your service.

12 (Alternates are excused at 1:23 p.m.)

13 THE COURT: Any exception to the charge
14 from the State?

15 MS. SCOTT: No, Your Honor. I do
16 anticipate one from the defense.

17 THE COURT: All right. Yes, sir.

18 MR. SHIPMAN: Your Honor, in addition to
19 the other issues I've raised before about the
20 charge, I renew all those.

21 But during the rendition of -- I think it
22 was about reasonable doubt. You said the
23 defendant pleaded guilty, and then carried on, I
24 think you meant to say "not guilty." But that was
25 right before you started the charge on reasonable

1 doubt, so I would just ask to reiterate to the
2 jury that he pleaded not guilty, and he's presumed
3 to be not guilty and all that.

4 THE COURT: I thought I said "not
5 guilty." Of course, I'll certainly make that
6 clarification. I do it right away.

7 Anything else?

8 MR. SHIPMAN: No, sir.

9 THE COURT: All right. Bring the jury
10 out for that clarification.

11 (The jury enters the courtroom at 1:25 p.m.)

12 THE COURT: I consulted with these fine
13 lawyers, they are both fine lawyers, and they did
14 bring to my attention that I misspoke in probably
15 something I said, and I'm going to clarify that.
16 There was a portion of the charge before I defined
17 reasonable doubt, and I'll say exactly what I
18 thought I said.

19 This defendant, Mr. Stoots, has pled not
20 guilty to this indictment, and this puts the
21 burden solely and squarely on the State. He can
22 only be convicted if all 12 of you agree the State
23 has proved each and every element beyond a
24 reasonable doubt.

25 And there was some discussion as to

1 whether or not I said he plead guilty. If I said
2 that, that was my error. He plead not guilty and
3 that is why the matter is before you. I wanted to
4 make sure that that was clear.

5 Now you can go back and wait for my
6 instruction.

7 Thank you.

8 (Jury exits the courtroom at 1:26 p.m.)

9 THE COURT: Any exceptions from the
10 State?

11 MS. SCOTT: No, sir.

12 THE COURT: Exceptions from the defense?

13 MR. SHIPMAN: No, Your Honor.

14 THE COURT: All right. I don't think you
15 have many exhibits, but you want to take a look at
16 them.

17 We'll be at ease for a little bit.

18 (Off the record.)

19 (Question from jury at 1:45 p.m.)

20 THE COURT: Come on up. Off the record.

21 (Off the record.)

22 (COURT EXH. 2, Question from jury, was
23 marked for identification.)

24 THE COURT: Are you ready?

25 MS. SCOTT: Yes, sir.

1 MR. SHIPMAN: Yes, Your Honor.

2 THE COURT: You can go get them.

3 (Jury enters the courtroom at 2:32 p.m.)

4 THE COURT: All right. Mr. Foreman, has
5 the jury reached a verdict?

6 FOREMAN: Yes, we have, Your Honor.

7 THE COURT: Pass it to Madame Bailiff.

8 All right. Madame Clerk, would you
9 publish it?

10 THE CLERK: In the case of The State of
11 South Carolina, Jason Edwin Stoots, indictment
12 number 2019-GS-23-4604, we, the jury, in the
13 above-captioned case on the charge of domestic
14 violence in the 1st degree we unanimously find
15 Jason Stoots not guilty.

16 We, the jury, in the above-captioned case
17 on the charge of domestic violence in the
18 2nd degree unanimously find Jason Stoots guilty.

19 THE COURT: Is that your verdict?

20 JURY PANEL: (All respond in the
21 affirmative.)

22 THE COURT: Anything else from the either
23 side?

24 MR. SHIPMAN: We ask to pole the jury.

25 THE COURT: All right. If that's your

1 verdict raise your hand.

2 JURY PANEL: (All raise hands).

3 THE COURT: All right. Anything else
4 from the State?

5 MS. SCOTT: No, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. SHIPMAN: Not this at this time,
8 Your Honor.

9 THE COURT: All right. Ladies and
10 Gentlemen of the jury, the good news is, thank you
11 for your service. The bad news is, you don't get
12 to spend any more time with me. I see
13 disappointment written all over your faces. I
14 certainly want to thank you for your service as
15 jurors. I hope you have an opportunity to serve
16 as a juror again in the future on a civil trial or
17 a criminal trial. Your service is greatly
18 appreciated. I saw and peaked over and noticed
19 all of you were paying attention.

20 Mr. Foreman, I appreciate your help for
21 what you did.

22 You're free to go and until we meet
23 again. Take care. Have a good one.

24 I don't think we're trying anything else
25 this week. You need to go downstairs. But I

1 think you're going to be free for the week, but
2 they will tell you. Take care.

3 (Jury exits the courtroom at 2:35 p.m.)

4 THE COURT: I can use the same sentencing
5 sheet I had before, right? We don't need to do a
6 new one, or do we?

7 MS. SCOTT: We're going to have to do a
8 new one because I checked plea, and a new one will
9 say convicted.

10 THE COURT: Okay.

11 MS. SCOTT: Yes, sir. I did get a new
12 one over to the clerk.

13 THE COURT: You want to check?

14 I'm going to give both back to you. What
15 about this form here?

16 THE CLERK: Tracking sheet.

17 MS. SCOTT: Thank you. Yes, sir.

18 THE COURT: All right. You may proceed.

19 MR. SHIPMAN: Your Honor, at the
20 appropriate time, I'd like to put some issues on
21 the record. I know we got some clerical stuff we
22 need to do.

23 THE COURT: Yes.

24 All right. Mr. Shipman, go ahead.

25 MR. SHIPMAN: Yes, sir, Your Honor. At

1 this time, I move to renew all my prior
2 objections. I move for a new trial on the basis
3 of the denial of the charges of self-defense,
4 accident, and domestic violence 3rd degree, and we
5 move for a new trial based on those today.

6 THE COURT: All right. Your motions are
7 noted. And for the record, I'll still denied
8 it.

9 MR. SHIPMAN: Thank you, Your Honor.

10 THE COURT: Is there anything before we
11 get to the sentencing aspect?

12 MS. SCOTT: Your Honor, prior to
13 sentencing, the conviction of domestic violence
14 requires a firearm form which we're preparing at
15 this time.

16 THE COURT: Okay.

17 MS. SCOTT: And brought forward. If you
18 can just reference it, I'll have it for you to
19 sign. It doesn't require the defendant's
20 signature.

21 THE COURT: You want to bring Mr. Stoots
22 up?

23 MR. SHIPMAN: Come on up.

24 THE COURT: All right. Mr. Stoots, you
25 were sworn in previously.

1 MR. STOOTTS: Yes, sir.

2 THE COURT: What do you want to tell me
3 about him?

4 MR. SHIPMAN: Your Honor, concerning
5 Mr. Stoots, as I've already mentioned throughout
6 the course of the trial --

7 THE COURT: Before you do that, does he
8 have any prior record?

9 MS. SCOTT: He does not prior criminal
10 history.

11 THE COURT: No priors at all.

12 MS. SCOTT: No, sir.

13 THE COURT: Great.

14 MR. SHIPMAN: Your Honor, I would like to
15 reiterate that. He's 49 years old. No prior
16 criminal history. He's worked. Unfortunately,
17 he's been disabled. I've seen the scars where
18 these devices were implanted into him. One of
19 these devices is actually controlled by an i-Phone
20 that is linked by blue tooth to the device. And
21 so he's got some significant medical issues that
22 need to be tended to.

23 And so based on that, I would ask you not
24 to order an incarcerative sentence. Or, if you
25 were to, or order house arrest instead of jail or

1 Department of Corrections, due to his age and his
2 physical problems concerning his spine and the
3 medical devices he needs in order to maintain his
4 health. I think, you know, a prison sentence in
5 this case would truly be unfit and made cruel and
6 unusual given his physical condition and lack of a
7 prior record.

8 He went to high school. He graduated
9 high school. He's work most of his life.

10 THE WITNESS: I'm working right now,
11 trying.

12 MR. SHIPMAN: Trying to pick up jobs here
13 and there. Unfortunately, this was just a bad
14 relationship. And, you know, thankfully nothing
15 turned out any worse than it did that night.

16 I still believe there's a case to be
17 made, if anything, he's guilty of 3rd degree, if
18 anything at all, Your Honor. We plan to pursue
19 that, obviously.

20 I don't think he's a bad guy. I don't
21 think he constitutes a present danger to
22 Miss Stoots. He knows to stay away from the
23 family. He consents to any kind of retraining
24 order to that nature, Your Honor.

25 I think a probationary sentence with

1 domestic violence counseling is more than fit in
2 this case considering his record and the verdict
3 the jury came back with.

4 THE COURT: How old are your children?

5 MR. STOOTTS: Twenty and 15.

6 THE COURT: Okay. You and Mrs. Stoots
7 are legally separated, or just --

8 MR. STOOTTS: No, sir. We want to try to
9 reconcile everything.

10 MR. SHIPMAN: I don't know if she has a
11 different position on that, Your Honor. If she
12 does, she's certainly more than able to speak on
13 that.

14 Any kind of restrictions on visitation I
15 think would be appropriate in this case, except
16 with regard to visiting the minor child, which may
17 produce an issue. I think you could order
18 deference to the family court order.

19 THE COURT: Is there a family court
20 order?

21 MR. SHIPMAN: I don't know if there is,
22 Your Honor. If this going towards divorce, they
23 still have a 15-year-old daughter in common.

24 THE COURT: Let me tell you what I'm
25 going to do. Did you want to explain anything?

1 MS. SCOTT: He has 39 days of jail
2 credit, Your Honor.

3 THE COURT: All right. Mr. Stoots,
4 anything else you want to tell me?

5 MR. STOOTTS: Hopefully -- I'm trying to
6 go back to work, and my family needs me to work to
7 provide for them.

8 THE COURT: Okay.

9 All right. Indictment ending 4604, the
10 State vs. Jason Edwin Stoots, the sentence of
11 Court is, you be committed to the South Carolina
12 Department of Corrections for a period of three
13 years, that sentence is suspended. You be placed
14 on probation for 18 months. Special condition of
15 probation is 26 weeks of batterer's treatment DV
16 protocol.

17 The only reason, Mr. Shipman, I won't put
18 in here no contact with the victim. I think once
19 he's in that program, because of the 15-year-old
20 -- the 15-year-old lives with the mother?

21 MR. SHIPMAN: I think, the 15-year-old,
22 if I'm not mistaken, is living with her
23 grandparents, Mr. and Mrs. Bishop.

24 THE COURT: I'm going to put in here --
25 because of that, I'm going to put no contact with

1 the victim. The 15-year-old, that really needs to
2 be a family court, kind of, situation.

3 MR. SHIPMAN: Okay.

4 THE COURT: But probation may send this
5 back to me if there an issue regarding contact
6 with the daughter, the 15-year-old.

7 MR. SHIPMAN: I believe -- you know,
8 she's 15. She probably has her own telephone and
9 all that stuff, Your Honor. I would like to make
10 it clear, any contact he has with the daughter,
11 unless he's trying to pass word along, or anything
12 of that nature -- but any direct contact with the
13 daughter wouldn't violate any kind of restraining
14 order.

15 THE COURT: I just put no contact with
16 the victim.

17 MR. SHIPMAN: Okay.

18 THE COURT: Anything else?

19 MS. SCOTT: Yes, Your Honor. I just ask
20 that you review the firearm prohibition.

21 THE COURT: Yeah.

22 MS. SCOTT: I just don't have the order
23 but -- I do have the order now.

24 THE COURT: All right. Did you explain
25 to him about the firearm prohibition, Mr. Shipman?

1 MR. SHIPMAN: Yes, sir, Your Honor. He
2 understands and I believe I've explained to him as
3 well the federal prohibition is lifetime, and, in
4 addition -- is three or five years for the State?

5 MS. SCOTT: Three.

6 MR. SHIPMAN: Three years for the State.
7 Lifetime for the federal.

8 THE COURT: Do you understand that, Mr.
9 Stoots?

10 MR. STOOTS: Yes, sir. I just thought it
11 was lifetime. I didn't know anything about the
12 State.

13 MS. SCOTT: This is lifetime.

14 MR. SHIPMAN: Yes.

15 MR. STOOTS: It's a lifetime period.

16 THE COURT: You got it right there?

17 MS. SCOTT: Yes, sir. Let me show it to
18 him.

19 MR. SHIPMAN: I apologize, Your Honor,
20 you said 18 months probation.

21 THE COURT: Yeah. And I thought about
22 PTUP'ing, but I don't think I'm going to do that
23 for this period of time. Okay.

24 MR. SHIPMAN: Thank you, Your Honor. So
25 I take him to 8? Shall I take him to the other

1 courtroom?

2 THE COURT: 8 still going? Take him up
3 to 8. All right. You all have a good day.

4 (The trial was concluded.)

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1 CERTIFICATE OF REPORTER

2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, II for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the trial
8 of the captioned case, relative to appeal, in General
9 Sessions for Greenville County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.
13
14

15
16 July 31, 2020
17

18
19 
20

21
22 _____
23 Sharon G. Hardoon, CSR
24 Official Circuit Court Reporter, II
25



STATE'S
EXHIBIT
7
Shots
PENGAD 800-631-6969

THE STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE)	THIRTEENTH JUDICIAL CIRCUIT
THE STATE)	Warrant/Indictment Nos.: 2019GS2304604
v.)	
JASON EDWIN STOOT,)	DEFENDANT'S REQUEST TO CHARGE
DEFENDANT.)	

Defendant submits the following requests to charge with authority included in bullet points below. Defendant is charged with striking his wife in the mouth with his hand and dislocating one of her teeth. Defendant objects to the stricken-through portions of the statutes listed below. Even though the language is included in the statute, Defendant maintains that the stricken language pertains to cases involving threatened or attempted harm rather than accomplished harm. In other words, the stricken portions refer to Common Law "assault" and not to Common Law "battery." As such, when an injury is actually inflicted, i.e. when a battery occurs, the determination of the level of that injury is controlled, as a matter of law, by the non-stricken portions of the statute. When an injury is actually inflicted, any question of what likely could have occurred is inapplicable. When an injury is merely threatened, or an assault occurs, the determination of the level of the injury is determined by the injury that could have reasonably resulted from the threatened harm. Since Defendant is charged with a battery, he respectfully objects to any confusion of the issues occasioned by an instruction on threatened harms and likely outcomes.

Domestic Violence

General Definition

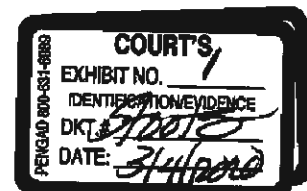
A person commits domestic violence if he or she unlawfully causes physical harm or injury to a his or her own household member, ~~or offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.~~

- S.C. Code § 16-25-20(A).

Domestic Violence in the First Degree

A person commits domestic violence in the first degree if great bodily injury to the person's own household member results ~~or the act is accomplished by means likely to result in great bodily injury to the person's own household member.~~

- S.C. Code § 16-25-20(B)(1).



Domestic Violence in the Second Degree

A person commits domestic violence in the second degree if moderate bodily injury to the person's own household member results ~~or the act is accomplished by means likely to result in moderate bodily injury to the person's own household member.~~

- S.C. Code § 16-25-20(C)(1).

Domestic Violence in the Third Degree

A person commits domestic violence in the third degree if physical harm or injury results but which is neither great bodily injury nor moderate bodily injury ~~or if the person offers or attempts to cause physical injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril and the act is not accomplished by means likely to result in great bodily injury or moderate bodily injury to the person's own household member.~~

- See S.C. Code § 16-25-20(D) and S.C. Code § 16-25-20(A).

Great Bodily Injury

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

- S.C. Code § 16-25-10(2)

Moderate Bodily Injury

"Moderate bodily injury" means physical injury that involves prolonged loss of consciousness or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation.

Moderate bodily injury does not include one-time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.

- S.C. Code § 16-25-10 (4)

Accident

As with nearly every crime, the State must prove criminal intent beyond a reasonable doubt. In order to prevail, the State must prove not only that the Defendant cause some level of injury to a household member but also that he intentionally did so. As such, accidental injuries do not give rise to criminal convictions.

The defense of accident has three elements. First, the harm must be unintentional. Second, the Defendant must have been acting lawfully at the time of the incident. And third, that the injury was not the result of negligence.

- See *State v. Brown*, 205 S.C. 514, 32 S.E.2d 825 (1945). See also *State v. Goodson*, 312 S.C. 278 (1994).

Self-Defense

A person is entitled to defend against reasonably anticipated unlawful bodily harm even though it would not be serious, but in defending, he must respond proportionally.

A person is not entitled to self-defense unless the person was without fault in bringing on the difficulty.

- “An eighteenth century case teaches that the key to self-defense is proportionality of the response. *State v. Wood*, 1 S.C.L. (1 Bay) 351 (1794). The defendant’s conviction of assault and battery was affirmed because he responded with a large stick to a woman who had merely struck him with a cowskin. As the Court observed, for every assault it was not “reasonable that a man should be banged with a cudgel. That a small blow will not justify and enormous beating . . .” *Id.* Nonetheless, the clear implication of the case is that one need not submit to every assault either. A person is entitled to defend against reasonably anticipated unlawful bodily harm even though it would not be serious, but in defending, he must respond proportionally. McAninch, Fairey, & Coggiola, *THE CRIMINAL LAW OF SOUTH CAROLINA* (6th ed. 2013), Chapter VI.B.3, pg. 620.
- “Close reading of every South Carolina case that imposes a requirement that the defendant must have anticipated death or serious bodily harm reveals that each case involved a defendant who responded with deadly force. There seem to be no reported South Carolina cases directly on point holding that the duty of retreat does not arise or that *serious* bodily injury need not be anticipated when self-defense is attempted with non-deadly force, but there is substantial authority to this effect in other jurisdictions. E.g., *State v. Abbott*, 174 A.2d 881, 885 (N.J. 1961); Model Penal Code § 3.04 (1962).” McAninch, Fairey, & Coggiola, *THE CRIMINAL LAW OF SOUTH CAROLINA* (6th ed. 2013), Chapter VI.B.3, pg. 620.

Respectfully submitted,


 John Christopher Shipman
 Attorney for Defendant
 SC Bar No. 100747

WITNESSES

Zachary J Williams

Greer Police Department

10/30/2018

JH

1/7/20

ARREST WARRANT NUMBER

2018A2320501460

ACTION OF GRAND JURY
TRUE BILL

Brian C. Bell

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-23- 004604
BDS

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

January

2020
TERM 2019

THE STATE

vs.

JASON EDWIN STOOT

Indictment for

3811

DOMESTIC VIOLENCE 1ST DEGREE

VIOLATION § 16-25-0020

FILED

JUL - 2 2019

Clerk of Court
Greenville County

A Certified Copy
Paul D. Williams
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 3-5-2020

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
DOMESTIC VIOLENCE 1ST DEGREE

At a Court of General Sessions, convened on

JAN 07 2020

the Grand Jurors of Greenville

County present upon their oath:

That JASON EDWIN STOOTS did in Greenville County on or about the 30th day of October, 2018, unlawfully cause physical harm or injury to KIMBERLY STOOTS, a household member or did unlawfully offer or attempt to cause physical harm or injury to KIMBERLY STOOTS, a household member, with apparent present ability under circumstances reasonably creating fear of imminent peril and great bodily injury resulted to KIMBERLY STOOTS or the act was accomplished by means likely to result in great bodily injury to KIMBERLY STOOTS. This is in violation of § 16-25-0020 of the South Carolina Code of Laws (1976) as amended.

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

Brettany Lee
SOLICITOR BAR # 78989

254
STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.
Jason Edwin Stoots

AKA: _____

Race: WHITE Sex: M Age: 49

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Taylors, SC 29687-6328

DL#: [REDACTED] SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Domestic / Domestic Violence 2nd Degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS2304604

A/W#: 2018A2320501460

Date of Offense: 10/30/2018

S.C. Code § : 16-25-0020(B)

CDR Code #: 3811

SENTENCE SHEET

0-3 yrs
☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-25-0020(C) of the S.C. Code of Laws, bearing CDR Code # 3812
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Brittany Scott 78989 John E. Shipman 100747

Scott, Brittany

SC Bar#

Defendant

SHIPMAN, JOHN CHRISTOPHER

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 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 18
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§14-1-206 (Assessments 107.5 %) _____ \$

§14-1-211(A)(1) (Conv. Surcharge) \$100 _____ \$

§14-1-211(A)(2) (DUI Surcharge) \$100 _____ \$

§56-5-2995 (DUI Assessment) \$12 _____ \$

§56-1-286 (DUI Breath Test) \$25 _____ \$

Proviso (Public Def/Probation) \$500 _____ \$

§14-1-212 (Law Enforce. Funding) \$25 _____ \$

§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) _____ \$

TOTAL \$ _____

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: 26 weeks of Probation

Went; by protocol

No further work

Section

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickenseimer

Court Reporter: Nardoon

Presiding Judge _____

Judge Code: 2763

Sentence Date: 03/04/2020

A Certified Copy
Paul B. Wickenseimer
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 3-5-2020

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/ Kathrine H. Hudgins
Kathrine H. Hudgins
Appellate Defender

RECEIVED
Jun 30 2021
SC Court of Appeals

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

ATTORNEY FOR APPELLANT

This 30th day of June, 2021.