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IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES COOPER,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

No. 72091

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Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME VI PAGES 1041-1220

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Steven D. Grierson

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	:	CASE NO. C-16-312970-1
	:	
Plaintiff,	:	DEPT. NO. X
	:	
v.	:	
	:	
JAMES COOPER,	:	TRANSCRIPT OF
	:	PROCEEDINGS
Defendant.	:	

BEFORE THE HONORABLE JESSIE WALSH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 4

FRIDAY, NOVEMBER 18, 2016

APPEARANCES:

FOR THE STATE:	KRISTINA A. RHOADES, ESQ. WILLIAM C. ROWLES, ESQ. <i>Deputy District Attorneys</i>
----------------	--

FOR THE DEFENDANT:	KENTON G. EICHACKER, ESQ. TALIA L. WALKENSHAW, ESQ. <i>Deputy Public Defenders</i>
--------------------	--

COURT RECORDER:

VICTORIA BOYD
District Court

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CLERK OF THE COURT

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EXHIBITS

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(No exhibits admitted)

1 LAS VEGAS, NEVADA, FRIDAY, NOVEMBER 18, 2016, 9:29 A.M.

2 (In the presence of the jury)

3 THE COURT: Good morning, members of the jury.

4 THE JURY: Good morning.

5 THE COURT: Will counsel stipulate to the presence
6 of our jury?

7 MS. RHOADES: Yes, Your Honor.

8 MR. EICHACKER: Yes, Your Honor.

9 MS. WALKENSHAW: Yes, Your Honor.

10 THE COURT: Very well. So yesterday the
11 prosecution rested. Ready to hear from the defense, Ms.
12 Walkenshaw?

13 MS. WALKENSHAW: Yes, Your Honor. Thank you. The
14 defense calls James Cooper.

15 THE COURT: Mr. Cooper, please come forward to the
16 witness box.

17 JAMES COOPER, DEFENDANT'S WITNESS, SWORN

18 THE CLERK: Thank you, please be seated. If you
19 could state your first and last name, spelling for the
20 record, please.

21 THE WITNESS: James Cooper, J-a-m-e-s, C-o-o-p-e-r.

22 THE COURT: Whenever you're ready, Ms. Walkenshaw.

23 MS. WALKENSHAW: Thank you, Your Honor.

24 //

25 //

1 DIRECT EXAMINATION

2 BY MS. WALKENSHAW:

3 Q Good morning, James.

4 A Good morning.

5 Q What do you do for a living?

6 A I'm in the Teamster's Union 6:31.

7 Q Okay. And specifically, what do you do in the
8 Teamster's Union?9 A I'm a carpenter. I build custom booths. Sometimes
10 I work airports, museums, build custom things for those.

11 Q Okay. How long have you done that for?

12 A Roughly, 22 years.

13 Q Okay. And on the day in question, you'd worked
14 that day, right?

15 A Yes, ma'am.

16 Q About what hours?

17 A Between 7:00 and 4:00.

18 Q Okay. And in some of your work, do you work at the
19 convention?

20 A Yes.

21 Q Okay. And on that day specifically, you'd worked
22 at the convention, right?

23 A Yes.

24 Q Okay. Now, do you often receive sometimes things
25 from your employer when you're working at the convention?

1 A Yes, I do.

2 Q Okay. On that day, did you receive some boxes of
3 snacks?

4 A Yes.

5 MS. WALKENSHAW: Your Honor, permission to approach
6 your clerk?

7 THE COURT: Yes.

8 MS. WALKENSHAW: Thank you.

9 BY MS. WALKENSHAW:

10 Q And showing you what's been marked as State's 22.
11 Are these the boxes of snacks that you had received?

12 A Yes.

13 Q Okay?

14 A The granola, the Welch's fruity snacks. Yes, those
15 are it.

16 Q Okay. So it looks like two boxes of fruit snacks
17 and then this box is some Nature Valley Chewy Granola Bars?

18 A Yes.

19 Q Okay. So you walk to and from work, correct?

20 A Yes.

21 Q Okay. It's about how long of a walk?

22 A About a ten-minute walk.

23 Q Ten-minute walk?

24 A Um-h'm.

25 Q Okay. And you take your tool bag with you, right?

1 A Yes.

2 Q Showing what's been marked as State's 23, Is this
3 your tool bag?

4 A Yes.

5 Q Okay. So it has some wheels?

6 A Um-h'm.

7 Q And a handle?

8 A Um-h'm.

9 Q Okay. And about how much does that weigh?

10 A With all of my tools, about 60 pounds.

11 Q 60 pounds, okay. And you pull it behind you,
12 right?

13 A Yes.

14 Q Okay. So that day you were going to be walking
15 home with your tool bag and the snacks, right?

16 A Yes.

17 Q Okay. So what did you do in order to carry all of
18 that?

19 A I sat the boxes on top of my tool bag.

20 Q Okay.

21 A And I took shrink wrap from the job, and I shrunk
22 wrap the boxes to my handle.

23 Q Okay.

24 A And then when it felt comfortable and tight enough,
25 I started walking home.

1 Q Okay. And you can actually see a little bit of
2 that shrink wrap here, right?

3 A Yes, you can see the shrink wrap there.

4 Q Okay. So you start walking home. About what time
5 do you get home?

6 A About ten minutes after I leave. So between, I
7 think, 4:00, 4:30-ish.

8 Q Okay. And while you were walking home, did you see
9 the children's school bus?

10 A Yes.

11 Q Okay.

12 A The children's school bus went past me as I was at
13 the light on Paradise and Desert Inn --

14 Q Okay.

15 A -- going west on Desert Inn.

16 Q Okay. And does Brittney usually pick up the
17 children from the --

18 A Yes.

19 Q -- bus stop?

20 A Yes.

21 Q Okay. So did the children get home before you or
22 at about the same time?

23 A Well they -- Brittney called me as I crossed
24 Paradise, and she said the kids said that they saw you on the
25 bus while you were walking. They were on the bus while I was

1 walking, and we'll be home shortly. And I said okay.

2 Q Okay.

3 A And as I was walking up DL, I seen Cam running down
4 DI.

5 Q Okay. And Cam is --

6 A Cameron.

7 Q -- James Cameron --

8 A Yes.

9 Q -- right?

10 A Yes.

11 Q Okay. So you saw him running down, and does he
12 open the door for you?

13 A Yeah, he -- we met in front of --

14 Q Okay.

15 A -- the apartment.

16 Q And you keep the door kind of propped open, right?

17 A Yeah, propped open for Brittney and Kaylee to come.

18 Q And they follow in right after?

19 A Yep, we all come in together.

20 Q Okay. So when you got home and you first saw
21 Brittney, did you notice anything about her?

22 A Yeah, she was intoxicated.

23 Q Okay. And how did you -- how were you able to tell
24 that?

25 A She was slurring, and she was a little woozy, you

1 know.

2 Q Okay. And did you tell her -- did she tell you how
3 much she had to drink?

4 A Yeah, she told me she drank a whole fifth of rum.

5 Q Okay. So it's fair to say she was pretty
6 intoxicated, correct?

7 A Yes, she was.

8 Q Okay. You all went into the kitchen, right?

9 A Yep.

10 Q And you said that you saw the empty bottle --

11 A Yeah.

12 Q -- of Barcardi?

13 A I saw the empty bottle of Barcardi.

14 Q Okay. And you guys proceeded to kind of make
15 dinner together, right?

16 A Well, she had made the spaghetti --

17 Q Okay.

18 A -- and she doesn't really know how to cook fish
19 well --

20 Q Okay.

21 A -- so that was my job. I cooked the fish.

22 Q Okay. And everyone ate, right?

23 A Everyone ate.

24 Q Okay. So --

25 A The kids ate at the table. Brittney was on the

1 phone with Sash, so Brittney was sitting at the -- on the
2 couch at that time. I took my plate into the kitchen, and I
3 was eating -- I mean, into my bedroom, I was eating.

4 Q So you were eating in your bedroom?

5 A Yes.

6 Q Okay. At this point it's an otherwise pleasant
7 evening, right?

8 A Yeah, um-h'm.

9 Q Okay. You had said Brittney was on the phone with
10 Sash?

11 A Yeah.

12 Q Is that Sasha?

13 A Yeah, Sasha.

14 Q Okay. So you said she's in the living room on the
15 couch, right --

16 A Um-h'm.

17 Q -- talking to Sasha?

18 A Yeah.

19 Q And you had made a plate and you went into the
20 bedroom?

21 A Um-h'm.

22 MS. RHOADES: Your Honor, at this point I'm going
23 to object. These have already been asked and answered, and
24 she's leading him.

25 THE COURT: Sustained.

1 MS. RHOADES: This is direct.

2 MS. WALKENSHAW: Okay.

3 BY MS. WALKENSHAW:

4 Q What does she then do?

5 A She goes back into the kitchen. She's listening to
6 music on the bluetooth radio --

7 Q Okay.

8 A -- and she's still talking to Sasha.

9 Q And can you hear that she's upset?

10 A Yeah. Through our closet door, it's a closet door
11 in the kitchen, you can hear through that door.

12 Q Okay. So what do you do then next?

13 A I get up and I go into the kitchen, and I ask her
14 why she's crying?

15 Q Okay.

16 A And she kind of brushes me off like it's no reason
17 why I'm crying. I'm not -- don't worry about it. And I say
18 okay, I go back in the room.

19 Q Okay. And then does she come into the room at some
20 point?

21 A Yes.

22 Q About how much -- about how long after?

23 A I'd say between two and five minutes.

24 Q Okay. And does she confront you?

25 A Yes.

1 Q Okay. What does she say?

2 A She's talking to me about my phone, and after she's
3 talking to me about my phone, she started throwing my tools
4 out of my tool bag.

5 Q Okay. What does she do next?

6 A After she start throwing my tools out of my tool
7 bag, she's telling me why don't you just leave, why don't you
8 just leave? I'm asking her why are you throwing my tools
9 out? She's telling me to leave, and then she just comes over
10 and jumps on my head and start pulling my hair down.

11 Q Okay. And before we get there, you said that she's
12 telling you to leave, right?

13 A Um-h'm.

14 Q Why didn't you leave at that point?

15 A I was undressed --

16 Q Okay.

17 A -- number one. All I had on was my boxers. And I
18 just came home and I thought she'll blow over it like she
19 usually does like when she's very upset. But I had just paid
20 the bills. I thought everything went -- was okay.

21 Q Okay.

22 A You know.

23 Q And so you indicated that she started jumping on
24 you and pulling your hair?

25 A Yes.

1 Q Okay. Can you -- was your hair tied up on the day
2 of this incident?

3 A No, my hair was not tied.

4 Q Okay.

5 A It was --

6 Q Can you take it down just so the jury can see what
7 it was like on the day of the incident? Okay. So you said
8 that she jumped on you and started pulling on your hair,
9 right?

10 A Yes.

11 Q And what did you do next?

12 A When she started pulling on my hair like this, she
13 cuffed it like that and I'm pulling here because I hear it
14 crunching and pulling, and like this is the separated area
15 here, and I have separated areas here and in the back over
16 here. When she's pulling it, I'm pulling here to try to stop
17 it and I'm pulling like this, and then she started biting my
18 finger here.

19 Q Okay.

20 A When she started biting my finger here I have to
21 let go and try to come under here and then she starting
22 biting this finger.

23 Q Okay.

24 A And she -- we're in -- we started off in the bed
25 and we roll off on to the floor here. So when she has me,

1 I'm crouched over and I'm trying to stand up and I'm yanking
2 my hair like this trying to get it from her, and when I
3 finally got it from her, I ran right out of the house with
4 just my boxers and my cell phone.

5 Q Okay. And that's when you called 911?

6 A Yes.

7 Q Okay. And so we heard that call. You're
8 outside --

9 A Yes.

10 Q -- when you make ma call?

11 A Um-h'm.

12 Q Okay. At some point, though, you can hear her
13 yelling, right?

14 A Um-h'm.

15 Q And you've gone back into the house, right?

16 A Yes, I -- it was cold. I didn't have any socks and
17 no shirt, no shorts, just my boxers. My feet started to get
18 cold so I wanted to go put on some shoes, shirt and some
19 shorts.

20 Q Okay. And this was in January, right?

21 A Yes.

22 Q And it was at night, right?

23 A Um-h'm.

24 Q Okay. And so when you go back into the house,
25 where do you first go?

1 A I go into the bedroom. We have a picture of the
2 drawer that it was in.

3 Q Yes.

4 MS. WALKENSHAW: If I could have the Court's
5 indulgence while I find that picture.

6 BY MS. WALKENSHAW:

7 Q Now, this is the picture that we just had up, I
8 think, right?

9 A Um-h'm.

10 Q This is the foot of the bed, right?

11 A Yes, that's --

12 Q Okay.

13 A -- the foot of the bed.

14 Q And showing what's been marked as State's 24. Just
15 the same picture a little bit farther back, though, so that
16 you can see more, correct?

17 A Um-h'm.

18 Q Now, where is it that you said the drawers were on,
19 which side?

20 A This here is the right side of the bed.

21 Q Okay.

22 A So it will be here on the left side of the bed.

23 Q On the left side?

24 A Um-h'm.

25 Q Okay. On this side of the bed?

- 1 A Um-h'm.
- 2 Q Are these the drawers?
- 3 A No. It's another dresser right here.
- 4 Q Okay.
- 5 A It's a picture you see yellow shorts hanging out of
6 my short drawer.
- 7 Q I'll see if I can find that, but why don't we move
8 on. So the dresser is right over to the side of this
9 dresser?
- 10 A Yes.
- 11 Q Okay. And your shorts are in there, correct?
- 12 A Um-h'm.
- 13 Q Okay. So you went in there and you did what?
- 14 A I started -- I took my shorts out, put on some
15 shorts.
- 16 Q Okay.
- 17 A I grabbed a shirt, I put on a shirt, and as this
18 happened, she's coming in.
- 19 Q Okay.
- 20 A She's coming into the bedroom.
- 21 Q Okay.
- 22 A That's when I run into the master bath, and it's a
23 glass, and I'm still on the phone with the -- with the
24 operator.
- 25 Q Okay.

1 A It's a glass shower. So I'm holding the shower
2 with my right hand on top, and I'm talking to the operator,
3 and she has the bar right here. She's yanking it.

4 Q And is that the bathroom that is in -- that is in
5 your bedroom?

6 A Yes, in the master bedroom.

7 Q Okay. So after you're in the shower, what happens?

8 A The shower's cracking.

9 Q Okay.

10 A I'm telling her to stop, get away. She yanks the
11 door open, the glass cracks. I run out of that bathroom. I
12 run into the kids' bathroom or the bathroom that's in the --

13 Q Okay.

14 A -- in the hallway.

15 Q And showing State's 38. Is this the bathroom that
16 you go into?

17 A Um-h'm.

18 Q Okay. And what happens?

19 A She's coming, she's still yelling trying to get at
20 me again. I grab the door and I'm trying to shut the door,
21 but she has her foot in it. So she can't get in. My blood
22 is on the handle, and my blood is on the floor. I get past
23 her and I retreat back out of the house.

24 Q Showing State's 40. Is this the handle?

25 A Yes, ma'am.

1 Q And you can see a little bit of blood there. And
2 you'd indicated that was from the bite mark on your finger?

3 A Yes, ma'am.

4 Q Okay. Now, after this, where do you go?

5 A I go back outside on --

6 Q Okay.

7 A -- with the operator and wait for the police to
8 come.

9 Q Okay. And you waited there until officers arrived,
10 correct?

11 A Yes.

12 Q Okay. Did you ever kick Brittney?

13 A No.

14 Q Did you ever stomp on Brittney?

15 A No.

16 Q Did you ever punch Brittney?

17 A No.

18 Q Okay. Did you ever strangle Brittney?

19 A No.

20 Q Were you at any point ever behind her?

21 A No, never.

22 Q Okay. Never wrapped a cord around her neck?

23 A No.

24 Q Now, both of you have dreadlocks, correct?

25 A Correct.

1 Q You've shown us yours?

2 A Um-h'm.

3 Q And we've seen hers, correct?

4 A Correct.

5 Q Now, are you familiar with jewelry --

6 A Yes.

7 Q -- for dreadlocks?

8 A Um-h'm.

9 Q Okay. And were you aware of Brittney wearing any
10 dreadlock jewelry in her hair?

11 A Yes. We both wear dreadlock jewelry in our hair.

12 Q Okay.

13 MS. WALKENSHAW: If I could have the Court's
14 indulgence. May I approach your clerk?

15 THE COURT: Sure.

16 (Pause in the proceedings)

17 BY MS. WALKENSHAW:

18 Q This is the body cam footage that we saw earlier,
19 right, James?

20 A Yes.

21 Q Okay. Now --

22 (Playing the video from the body camera)

23 BY MS. WALKENSHAW:

24 Q Do you see that right there, James?

25 A Yes.

1 Q Do you know what that is?

2 A Yes. That's a piece of dread jewelry. It's made
3 out of elk bone.

4 Q Okay. Let's see if we can get a little bit more
5 (inaudible).

6 (Playing the video from the body camera)

7 BY MS. WALKENSHAW:

8 Q Is that it right there?

9 A Yes, that's it.

10 Q Okay. It's a little bit clearer right there. And
11 you were aware of her wearing this piece of --

12 A Yes, we both -- we both wear them. Mine was ripped
13 out during the initial incident, but we --

14 Q Okay.

15 A -- we both wear dread jewelry, yes.

16 Q Okay. And we can see it's somewhat in the picture.
17 Can you describe the size and shape of that jewelry?

18 A It's about a inch and a half long.

19 Q Okay.

20 A Cylinder shape, so round.

21 Q Okay.

22 A About a half inch in diameter.

23 Q Okay.

24 A So you can pull your dreads through it. And on
25 that particular one, it's a elk at night. So it has a moon

1 shape like a crescent moon.

2 Q Carved on it?

3 A Carved in it, yeah. So if you think about if you
4 had maybe some clay and you took the cylinder and you rolled
5 it on the clay, it will leave the imprint of the elk and the
6 moon night.

7 Q In the clay?

8 A In the clay.

9 Q Okay. So it's kind of carved out of it?

10 A Yes.

11 Q Is that correct?

12 A Pretty much --

13 Q Okay.

14 A -- yeah.

15 Q And you indicated that you put the dreadlocks
16 through it?

17 A Yeah, you pull it through.

18 Q Okay. So it's kind of open in the inside, right?

19 A Yes, um-h'm.

20 Q Okay. So is it fair to say well, while you were
21 both struggling --

22 A Um-h'm.

23 MS. RHOADES: Your Honor, objection. Leading.

24 THE COURT: Sustained.

25 BY MS. WALKENSHAW:

1 Q When you were struggling, did anything happen with
2 your dreadlocks?

3 A My dreadlocks were ripped. They were wrapped
4 around both of us --

5 Q Okay.

6 A -- as we're struggling away. I pulled them away,
7 and I exited.

8 Q Okay.

9 A I tried to --

10 Q Now --

11 A -- keep her farther away from me as possible.

12 Q Okay. And you waited there until police arrived,
13 correct?

14 A I did.

15 Q Okay. And now, previously, we had brought up an
16 incident between -- that Brittney had told us about between
17 her and Rambo, correct?

18 A Correct.

19 Q Okay. And at the time of the incident here, were
20 you aware of this previous incident regarding Brittney?

21 A I was aware that she fought somebody in their
22 apartment complex when they were roommates.

23 Q Okay.

24 A She didn't tell me it was Rambo.

25 Q Okay. And so you were aware of this incident

1 because Brittney had told you about it, correct?

2 A Yes.

3 Q Okay.

4 A And --

5 Q Now --

6 A -- Ram kind of corroborated with her. But Ram
7 didn't tell me it was them two, you know.

8 Q And do you actually know Rambo?

9 A I've known Rambo before I've known --

10 Q Brittney.

11 A -- Brittney. I've known Rambo for about 11 years.

12 Q Okay. Now, the State had also brought up a
13 previous incident between you and Brittney, correct?

14 A Yes.

15 Q Okay. And as a result of that incident, did you
16 sustain an injury?

17 A Yes, I did.

18 Q Okay. And did you go to the hospital for that?

19 A Yes, I did.

20 Q Okay. And then did they advise you that since
21 based on their perception it appeared to be a stab wound that
22 you would need to do a police report?

23 A Yes, they did.

24 Q And what did you do based on that?

25 A Based on that, I didn't want to get her in trouble

1 so I left the hospital.

2 Q Okay. And so you never filed a police report,
3 correct?

4 A No, I did not.

5 Q Okay. And in regards to this evening, it was a
6 separate incident, correct?

7 A Yes, ma'am.

8 Q And you were simply defending yourself, correct?

9 A Yes, I was.

10 Q You were just trying to get Brittney off of you?

11 A I was trying to get away.

12 Q Okay.

13 MS. WALKENSHAW: Court's indulgence. I don't have
14 any further questions, Your Honor.

15 THE COURT: Very well.

16 MS. RHOADES: Your Honor, may we approach, please?

17 THE COURT: Yes.

18 (Bench conference begins)

19 MS. RHOADES: Okay. Based on his testimony, based
20 on the impression that he's given to the jury, it's the
21 State's position that he has opened the door along with
22 Brittney's testimony that I actually looked at yesterday --
23 Brittney said, he's never harmful, he's supportive. Those
24 were items that were not included on the letter. There is an
25 incident that is very similar to this one from July 2014 with

1 a completely different victim where he actually had injuries
2 on his face as well. He hailed down the police. Said his
3 girlfriend threw a bottle at his head and then come to find
4 out a calls comes in from Sunrise Hospital with that
5 girlfriend. She has severe strangulation marks on her neck
6 and he was ultimately convicted of battery domestic violence
7 for that charge, and I think that that is relevant.

8 He's -- I have case law, Your Honor. It's
9 admissible to contradict the potentially false impression of
10 the defendant's testimony he has left in their eyes, which is
11 exactly what he's doing that she was violent, she came at
12 him, he was doing nothing but defending himself and it was
13 all on Brittney is what he said on the stand today.

14 THE COURT: Ms. Walkenshaw.

15 MS. WALKENSHAW: Well, the defense's position is
16 that I haven't seen any of those reports. There was no bad
17 acts motion filed as to that incident specifically. I don't
18 think that he's opened the door to it at all. He testified
19 very specifically only about this incident and the previous
20 incident that was already brought up by the prosecutor. He
21 never stated anything regarding a peaceful nature or anything
22 regarding that to where this would become relevant for
23 impeachment purposes.

24 As I indicated there was no bad acts motion filed
25 in regards to these incidents. I've never seen anything

1 regarding these incidents. Of course, I'm aware that he has
2 prior battery domestic violence -- not strangulation but
3 prior battery domestic violence convictions. Given that this
4 one is is a third offense, but I don't have any information
5 relating to those, and I think admission at this point would
6 be unduly prejudicial.

7 THE COURT: Have you seen the arrest report with
8 respect to this incident --

9 MS. WALKENSHAW: No.

10 THE COURT: -- counsel refers to?

11 MS. WALKENSHAW: No.

12 MS. RHOADES: I have a copy of it. I mean, he's
13 put it at issue. He has seen the arrest report. He's pled
14 guilty to the battery domestic violence there.

15 THE COURT: So I'm going to deny your request at
16 this time, at this point in time. I ask you to examine him
17 and we'll see whether or not you can renew your request, I
18 don't know.

19 MS. RHOADES: Okay.

20 THE COURT: All right.

21 MS. RHOADES: Thank you.

22 (Bench conference concluded)

23 CROSS-EXAMINATION

24 BY MS. RHOADES:

25 Q Mr. Cooper, your testimony that we just heard, you

1 were simply defending yourself this entire time and you were
2 only trying to get Brittney off of you in this January 22nd
3 incident; is that correct?

4 A Yes, ma'am.

5 Q Okay.

6 MS. RHOADES: May I approach your clerk, Your
7 Honor?

8 THE COURT: Yes.

9 BY MS. RHOADES:

10 Q I just want to go through your testimony. Your
11 testimony is that, well, when you brought your toolkit with
12 the boxes saran wrapped on top of the toolkit, did you bring
13 that into the master bedroom.

14 THE WITNESS: Yes.

15 BY MS. WALKENSHAW:

16 Q Okay.

17 A Um-h'm.

18 Q And Brittney came into the master bedroom and how
19 did the saran wrap come off of the boxes?

20 A Well, when I bring stuff home and Kaylee know I'm
21 coming home, she know I'm bringing a lot of stuff from
22 different clients. They know I have kids so they love to
23 give stuff to us. Kaylee ran in --

24 Q I'm going to answer the question, okay? I asked
25 how did the saran come off of the boxes --

1 A I cut it off.

2 Q -- in your toolbox -- and you have to let me finish
3 the question before you --

4 A Sorry.

5 Q -- answer, okay?

6 A Okay.

7 Q So how did it come off?

8 A I cut it off.

9 Q Okay. In the bedroom?

10 A Yes, ma'am.

11 Q When you see Brittney and Kaylee come in through
12 the door when they're coming home from school, did Brittney
13 have a swollen, you know, forehead injury on her forehead?

14 A No.

15 Q Did Brittney have her left eye swollen shut and
16 bruised that she couldn't open it?

17 A No.

18 Q Okay. Did Brittney have a red mark around her
19 neck?

20 A Not that I know of.

21 Q When Brittney came in and confronted you about your
22 phone, about going through your phone, did she have the
23 swollen eye at that time?

24 A No.

25 Q Did she have the raised abrasion on her forehead?

1 A No.

2 Q Did she have the ligature mark around her neck?

3 A Not that I know of, no.

4 Q And your testimony is that she came into the
5 bedroom and jumped on you while you were laying on the bed;
6 is that correct?

7 A Yes, I was laying in the bed.

8 Q And then she started pulling your hair out; is that
9 right?

10 A Um-h'm, um-h'm.

11 Q And at some point your hair was wrapped around both
12 yours and Brittney's body; is that your testimony?

13 A Yes.

14 Q Whether you were finally able to get Brittney off
15 of you -- well, you guys tumbled to the floor, is your
16 testimony; is that right?

17 A Um-h'm.

18 Q Is that a yes?

19 A Yes.

20 Q And then were you wrestling on the floor with her?

21 A Yes, I was yanking my hair from her hands and my
22 hands from her mouth.

23 Q And then you were able to get her off of you while
24 you were on the floor; is that correct?

25 A Yes.

1 Q And then you left to go call the police --

2 A Yes, I did.

3 Q -- is that your testimony?

4 A Um-h'm.

5 Q When you got Brittney off of you -- showing you
6 State's 45 -- did you see any of those injuries on her face?

7 A I didn't -- I wasn't looking back. I ran right
8 outside.

9 Q But your testimony is she was on top of you on the
10 bed and then both of you fell to the ground?

11 A Yes, we both fell to the ground.

12 Q And that's all that happened and it was contained
13 in the master bedroom; is that correct?

14 A Yes. We were pulling on the -- I was pulling my
15 hair from her mouth -- from her hands.

16 Q So your testimony is you did not cause any of these
17 injuries that were looking at on Brittney's face; is that
18 correct?

19 A Our struggle caused the -- I didn't cause them.
20 Our struggle.

21 Q Did you hit her during the struggle?

22 A I did not hit her. No.

23 Q Did your hands touch her face during the struggle?

24 A I was jerking my hands like this with my hair from
25 her grip and from her mouth.

1 Q Oh, okay. So when you were doing that, did your
2 fist part of your hands hit Brittney in the face?

3 A My head was down like this.

4 Q Sir, answer the question, okay? When you were
5 doing that, did the fist part --

6 A In the struggle I don't know --

7 Q You have to let me finish --

8 A Oh, I'm sorry.

9 Q -- the question, okay?

10 A Um-h'm.

11 Q Only one person can talk at a time. When you were
12 doing this, did the fist part of your hands hit Brittney's
13 face?

14 A I'm not sure.

15 Q You're not sure?

16 A I'm not sure.

17 Q Okay. And your testimony is you did not cause
18 these injuries?

19 A No.

20 Q Okay. Showing you State's 51. When you left the
21 room to call 911, did you notice this on Brittney's neck when
22 you left the room?

23 A No.

24 Q When you came back in to get your clothes, did you
25 notice this on Brittney's neck?

1 A No.

2 Q How about these injuries on her face in 45? When
3 you came back in to get your clothes, did you notice those
4 injuries on Brittney's face?

5 A Yes.

6 Q You did? Okay. You also testified when you came
7 back inside -- and all of this -- your testimony is all this
8 was captured on the 911 call --

9 A Um-h'm.

10 Q -- is that correct? So the ladies and gentlemen of
11 the jury should be able to follow along with the 911 call
12 what your testimony is today; is that what you're saying?

13 A Correct.

14 Q Okay. When you came back into the house, you first
15 went to the master bedroom bathroom and then Brittney came in
16 there and she wasn't doing any -- your testimony on direct
17 was that she was not doing anything to you. She just tried
18 to grab that pole from your hand; is that fair to say?

19 A Pole?

20 Q There was a curtain rod, I think, that you said she
21 trying to grab.

22 A In the bathroom?

23 Q Yes.

24 A It's a shower door.

25 Q A shower door, okay.

1 A Um-h'm.

2 Q Okay. So were you inside the shower?

3 A I was inside the shower.

4 Q Why were you inside the shower?

5 A To keep her away from me.

6 Q Oh, okay. And then --

7 A You guys have a picture of the shower door.

8 Q Just answer the question, okay?

9 A Okay.

10 Q So you were in the shower and she tries to open the
11 shower door to get in -- to get to you; is that your
12 testimony?

13 A Yes.

14 Q And your testimony on direct examination, she
15 didn't get to you? She didn't pull your hair there or do
16 anything to you in that --

17 A No.

18 Q -- bathroom; is that correct?

19 A Um-um.

20 Q The only -- the only physical altercation was in
21 the master bedroom?

22 A Yes.

23 Q Okay. And your testimony is that you then went
24 into the main bathroom, the kids' bathroom; is that correct?

25 A Yes.

1 Q And showing you State's 45, this is when Brittney's
2 at the hospital. You can see the blood dripping down her
3 face; is that correct?

4 A Yes.

5 Q Showing you Defendant's Exhibit B. Your testimony
6 is that you were dripping blood from this injury on your
7 finger; is that correct?

8 A That is correct.

9 Q And you caused those pretty large drops of blood on
10 the master -- or the main bathroom floor; is that correct?

11 A That finger was total ripped here and that is
12 correct.

13 Q I'm going to show you State's C. That's your
14 finger that was totally ripped; is that right?

15 A That is correct.

16 Q Okay.

17 A You can also see blood on my shirt.

18 Q I'm not asking you a question, okay? Ms.
19 Walkenshaw will be able to follow up with you.

20 A Okay.

21 Q I'm not asking you a question right now.

22 A I'm sorry.

23 Q And then Brittney tried to -- you said you tried to
24 shut the door to that bathroom, that second bathroom, the
25 kids' bathroom, and she was trying to get in. But again, no

1 physical altercation happened in that bathroom --

2 A No.

3 Q -- is that correct?

4 A That is correct.

5 Q And then you immediately went outside to stay on
6 the phone with 911 and wait for the police?

7 A That is correct.

8 Q And your testimony is that your dreadlocks were
9 wrapped around both you and Brittney's bodies even though you
10 were trying to keep Brittney as far away from you as
11 possible; is that right?

12 A In the initial struggle, my dreadlocks was wrapped
13 around both of us, correct.

14 Q Was that on the bed?

15 A On the bed and on the floor.

16 Q And that was the only struggle, according to your
17 testimony; is that right?

18 A Yes.

19 Q You didn't strangle Brittney? Didn't wrap a cord
20 around her neck January 22nd, 2016; is that your testimony?

21 A Yes.

22 Q July 2nd, 2015, you didn't choke Brittney then, did
23 you?

24 A No, I did not.

25 Q Okay. What happened on that day?

1 A That day, once again, she went through my phone,
2 she picked my phone up, threw it against the door, the main
3 door, it shattered into pieces. I told her I was leaving. I
4 got up. I went into the kids' room, asked Cameron for my
5 extra phone. As he was giving it to me, Brittney came behind
6 me. Cameron screamed mom, no. She stabbed me in the back.
7 She said kids let's go, they left.

8 I went into the bathroom. I sat down on the
9 toilet. I pulled my shirt up and I see that I'm bleeding a
10 lot. I take a towel, I put it on my back. I go to the bed
11 on the side that my short drawer is. I grab another shirt, I
12 tie it around me. I go out, I call a friend who works at
13 Sunrise Hospital. They take me to the emergency room.

14 Q You never had a knife in the kids' bedroom that
15 day?

16 A I never had a -- I never touched a knife.

17 Q You never grabbed the phone out of Kaylee's hand on
18 that day?

19 A Kaylee didn't have the phone. Cameron gave me the
20 phone.

21 MS. RHOADES: May we approach, Your Honor?

22 (Bench conference begins)

23 MS. RHOADES: I think that he's now opened the door
24 to that prior incident. I mean, he's completely denied the
25 facts of that second case.

1 THE COURT: He's completely denied the facts of
2 this case?

3 MS. RHOADES: That Brittney wrote in her statement
4 -- or that prior case, I'm sorry. That Brittney wrote in her
5 statement, that Cameron wrote in his statement about the
6 knife. He didn't do anything, again. Brittney came at him
7 with a knife.

8 THE COURT: I think you can continue to examine him
9 with respect to that incident if you have the paperwork with
10 respect to that incident.

11 MS. RHOADES: Just the one with Brittney?

12 THE COURT: Um-h'm.

13 MS. RHOADES: Okay. Not the prior one?

14 THE COURT: No.

15 MS. RHOADES: Okay.

16 MS. WALKENSHAW: Thank you.

17 (Bench conference concluded)

18 BY MS. RHOADES:

19 Q And you testified on direct examination that you're
20 aware of a previous incident where Brittney fought somebody
21 but she didn't tell you it was Rambo; is that right?

22 A Yes.

23 Q Was it your understanding if it was a male or a
24 female?

25 A Female.

1 Q And based on that, you were scared of Brittney?

2 A No.

3 Q No?

4 A No. Not based on that.

5 Q Oh, okay. Based on the fact that she was drinking?

6 A I know she has a problem when she drinks.

7 Q And just Brittney has a problem when she drinks,
8 not you; is that right?

9 A I have a problem when I drink also.

10 Q Okay. Have you had problems when you're drinking
11 with Brittney?

12 A No.

13 Q Not with Brittney?

14 A No.

15 Q Do you remember talking to a detective at the
16 police station in this case in relation to the January 2016
17 case?

18 A Yes.

19 Q Do you remember telling him about Brittney's 2012
20 case, that she was stupidly beating somebody up at the pool
21 and they gave her a domestic violence for it, but you know, a
22 girl actually -- somebody was talking crazy to her about her
23 boy; do you remember telling the detective that?

24 A Yes.

25 Q So you thought it was kind of stupid?

1 A They -- that's what they told me.

2 Q That's what you said in your statement to the
3 detective, right, that she was stupidly beating up somebody
4 at the pool and they gave her a --

5 A Someone --

6 Q -- domestic violence for it?

7 A Someone --

8 Q Is that what you said in your statement, sir?

9 A No.

10 Q No?

11 A I said someone was talking stupid to her about a
12 boy.

13 Q Okay.

14 MS. RHOADES: May I approach the witness, Your
15 Honor?

16 THE COURT: Yes.

17 MS. RHOADES: Thank you.

18 BY MS. RHOADES:

19 Q Sir, does this appear to be a transcript, and I'm
20 looking at the front page of your interview with Detective
21 Bragandy, (phonetic) that was conducted on January 22nd, 2016?

22 A Um-h'm.

23 Q Does that appear to be that? And Detective
24 Bragandy asks you, "She's got a history of getting violent
25 when she drinks or" --

1 And then your response is, "Yeah, she does. As far as I
2 know, she's still got a warrant in Henderson for something
3 she did stupidly beating up somebody at the pool and they
4 gave her a domestic violence for it, but, you know."

5 That's what you said; is that correct?

6 A That is correct.

7 Q Okay. So you thought it was kind of stupid that
8 she got a domestic violence for -- for what she did? That's
9 what it appears on the transcript that you said; would you
10 agree with me?

11 A That's what the transcript said.

12 Q Do you have any reason to think that this
13 transcript is wrong?

14 A No.

15 Q And the detective is asking you about Brittney's
16 injuries. He repeatedly confronts you with injuries she
17 might have and you say, "That ain't got shit to do with me,
18 right?"

19 A Correct.

20 Q And you repeat that three times, that that ain't
21 got shit to do with me; is that right?

22 A Correct.

23 Q On the 911 call, you told the operator yeah, she
24 stabbed me earlier; do you remember stating that on the 911
25 call?

1 A Yes.

2 Q That's not true, is it?

3 A Earlier, I was talking about six months earlier.

4 Q Oh, okay. But you didn't say that to the 911 call,
5 you just said yeah, she stabbed me earlier on the 911 call;
6 isn't that correct?

7 THE COURT: Can we have some clarification for
8 purposes of foundation so --

9 MS. RHOADES: Sure.

10 THE COURT: -- the jury understands which incident
11 we're talking about?

12 MS. RHOADES: Yes. We're talking -- I'm sorry,
13 Your Honor. We're talking about the January 22nd incident on
14 the 911 call that we heard where he called 911 and said,
15 yeah, she stabbed me earlier.

16 THE COURT: You're sort of jumping around so I kind
17 of -- you kind of lost me. I don't know if you lost any
18 members of the jury.

19 MS. RHOADES: I apologize. I'm sorry.

20 BY MS. RHOADES:

21 Q Okay. So you said she stabbed me earlier, but she
22 didn't stab you on January 22nd; is that correct?

23 A Correct.

24 Q Okay. And your testimony is you weren't standing
25 face to face with Brittney when she started pulling down your

1 hair. Your testimony is she jumped on you in the bed; is
2 that correct?

3 A She jumped on me in the bed, correct.

4 Q When did Brittney tell Cameron to call the police?

5 A I'm not sure. I think I was standing outside.

6 Q When you were standing outside?

7 A I'm -- I'm not sure. I believe so.

8 Q Did you hear her while you were outside? You heard
9 her telling Cameron to call the police while she was inside?

10 A When I was running, I heard -- I heard Brittney
11 yelling. What she was saying I can't actually remember.

12 Q When you were running where?

13 A Outside.

14 Q Is that when you would have already been on the
15 phone with 911?

16 A Yes.

17 Q Okay. So you were on the phone with 911, and
18 that's when Brittney told Cameron to call the police?

19 A I believe so, yes.

20 Q Do you remember in your interview with Detective
21 Bragandy that you told him, We rolled on the bed and we fell
22 out of the bed and she still had my hair and she started
23 going to her son go call the police, go call the police. I
24 only have a few minutes go call the police while she's
25 holding your hair. Do you remember telling Detective

1 Bragandy that?

2 A I remember that being in the statement, yes.

3 Q Do you remember telling him that?

4 A Yes.

5 Q And that's different than your testimony today; is
6 that correct?

7 A Yes.

8 Q Do you remember telling Detective Bragandy that you
9 called the police when we, meaning you and Brittney, were in
10 the room?

11 A That's when I started calling the police, yes.

12 Q When you were and Brittney were in the room?

13 A Um-h'm. And I was getting away from her, yes.

14 Q So there would have been some screaming or yelling
15 or something when you called the police; is that fair to
16 say?

17 A It's fair to say. I think it was in the beginning
18 when you hear it, but it's a pause. I'm running with the
19 phone. I dialed 911, and I'm running with the phone outside.
20 When I feel safe and I'm in the corner, she doesn't know
21 where I'm at, I say hello to the operator.

22 Q So did you call police while you were in the master
23 bedroom or while you were running out the door?

24 A When I was leaving the apartment, I called the
25 police.

1 Q When you were running out the door, you called the
2 police?

3 A When I was leaving the apartment.

4 Q Were you in the living room when you called the
5 police?

6 A I was leaving the apartment.

7 Q Where were you at in the apartment when you called
8 the police?

9 A I'm not sure exactly where I was in the apartment,
10 but I was in the apartment.

11 Q Okay. And the kids were in the apartment?

12 A Yes, they were in their room.

13 Q And your testimony is you never threw Cameron on
14 the bed; is that correct?

15 A That is correct.

16 Q And you never grabbed the phone out of Cameron's
17 hand; is that your testimony?

18 A That's correct.

19 Q Do you remember telling Detective Bragandy that you
20 think you might have went in the kitchen when you went back
21 inside the house to change your clothes?

22 A Yes, I remember telling him that. He asked me when
23 did it spill into the kitchen and I told him I didn't -- I
24 don't really think it went into the kitchen, and that's what
25 I told him.

1 Q And your testimony today is that it didn't go into
2 the kitchen; is that correct?

3 A No, it did not go into the kitchen.

4 Q Thank you. And you were arrested that night; is
5 that right?

6 A That is correct.

7 Q And that would have been January 22nd. Do you
8 remember between January 22nd and January 27th calling
9 Brittney's phone 28 times from CCDC?

10 A I didn't know it was 28 times, but yes, I remember
11 calling her from CCDC.

12 Q Multiple times, right?

13 A Yes.

14 Q And you lived with Brittney and Cam and Kaylee from
15 February 2016 through July of 2016 after this incident; is
16 that correct?

17 A No.

18 Q When did you live with them?

19 A They had moved shortly after that.

20 Q They had moved?

21 A Yes.

22 Q So your testimony is you didn't live with Brittney
23 in February 2016?

24 A February 2016, they had moved out of state.

25 Q Okay. Did they come back and did you live with

1 them?

2 A The kids never came back.

3 Q The kids never came back?

4 A No, the kids never came back.

5 Q So your testimony is you haven't talked to the kids
6 since this incidents?

7 A Yes, I have talked to the kids since this incident.

8 Q In person, have you talked to the kids since this
9 incident?

10 A No, not in person.

11 Q So Brittney's lying when she says you lived with
12 them from February 2016 to July of 2016; is that your
13 testimony?

14 A The kids weren't here. The kids were --

15 Q I'm just asking if that's your testimony.

16 Brittney --

17 A Yes, that's -- that's my testimony.

18 Q Is that she lied?

19 A Yeah.

20 Q Going back to the July 2nd, 2015 incident, your
21 testimony is you did not choke Brittney then; is that right?

22 A Yes, that is correct.

23 Q And your testimony is that you did not slam
24 Brittney into the ground then; is that correct?

25 A That is correct.

1 Q And you never went into those kids's room with a
2 knife; is that correct?

3 A That is correct.

4 Q Is that your testimony?

5 A (No audible response).

6 MS. RHOADES: Court's indulgence, Your Honor.

7 BY MS. RHOADES:

8 Q Showing you the injuries that you say you saw on
9 Brittney's face, that's 45 again. Your testimony is that
10 these injuries were a result -- were caused from you
11 defending yourself; is that correct?

12 A That is correct.

13 Q And this injury, State's 51, your testimony is you
14 have no idea where this came from; is that correct?

15 A That is correct.

16 Q Okay.

17 MS. RHOADES: Nothing further, Your Honor.

18 THE COURT: Okay.

19 (Pause in the proceedings)

20 THE COURT: Ms. Walkenshaw?

21 MS. WALKENSHAW: Thank you, Your Honor.

22 THE WITNESS: Can I say something else?

23 THE COURT: No, sir. You have to wait until the
24 question is posed.

25 THE WITNESS: Okay.

1 REDIRECT EXAMINATION

2 BY MS. WALKENSHAW:

3 Q We talked a little bit about the prior incident
4 between Brittney and her friend, right?

5 A Rambo?

6 Q Yes.

7 A Yes.

8 Q And you were aware that she had been drinking on
9 that incident, correct?

10 A Correct.

11 Q And she had been drinking on this incident, the
12 January 22nd incident, correct?

13 A Correct.

14 Q Okay. And you knew that she had been in a fight in
15 that incident, correct?

16 A That is correct.

17 Q Okay. And the State had talked briefly about your
18 statements to Detective Bragandy regarding when they were
19 presenting you with potential injuries that they were
20 speculating Brittney may have sustained, that you'd said,
21 that ain't got shit to do with me, right?

22 A That is correct.

23 Q What did you mean by that?

24 A Well, repeat the question.

25 Q When Detective Bragandy presented you with some of

1 the injuries that they thought Brittney might have.

2 A Um-h'm.

3 Q You had said, that ain't got shit to do with me,
4 right?

5 A Yeah, yeah.

6 Q What did you mean by that statement?

7 A I mean that I didn't -- when I was talking to him,
8 I was going like this and I was telling him exactly how I was
9 moving, and I was --

10 Q Okay.

11 A -- telling him that didn't have shit to do with me.

12 Q Okay. And a little bit in regards to when you had
13 indicated that you weren't living with Brittney and the kids.
14 Are you aware of when it was that Brittney moved?

15 A I don't know the dates, but I can remember when we
16 moved from the 356 address and moved to another place around
17 the convention center, the kids were there with us, and then
18 the kids went to Montana to stay with their grandparents for
19 the summer. But I don't know exact -- the exact dates.

20 Q Okay.

21 A Okay.

22 Q Is that Brittney's parents?

23 A Yes, Brittney's -- Brittney's dad and Brittney's --
24 I never met her aunt Trish, but I think it's on his dad -- on
25 her dad's side also.

1 Q Okay. And that's where the kids went for the
2 summer?

3 A Yes, Montana.

4 Q With Brittney's family?

5 A Um-h'm.

6 Q Okay.

7 MS. WALKENSHAW: Can I just have the Court's
8 indulgence briefly?

9 THE COURT: Sure.

10 BY MS. WALKENSHAW:

11 Q And during the struggle when you were trying to get
12 Brittney out of your hair, you were intentionally punching
13 her?

14 A No, I was not.

15 Q You weren't intentionally kicking her?

16 A No, I was not.

17 Q You weren't stomping on her?

18 A No, I was not.

19 Q You never strangled her?

20 A No, never.

21 MS. WALKENSHAW: I don't have any further
22 questions, Your Honor.

23 THE COURT: Any follow-up, Ms. Rhoades?

24 MS. RHOADES: Yes.

25 //

1 happened. And Brittney testified specifically that that was
2 the only other time where she had gotten drunk and lost
3 control, and he was aware of that incident. And so he acted
4 accordingly given the facts that he knew.

5 I was simply drawing the parallel that she was
6 intoxicated on both, not for propensity or anything regarding
7 that. Just simply pursuant to the Daniel case that he acted
8 accordingly because he was aware of that and aware of facts
9 during this situation.

10 I don't see how that has anything with his two
11 prior cases, again, of which there's been no bad acts motion
12 and I don't have any information regarding to those cases.

13 MS. RHOADES: Again, Your Honor, it's on testimony.
14 He decided to testify. He decided to put himself out there
15 and say the only reason I did this was because she was
16 violent, and I knew she was violent before and she was
17 drinking here and she was drinking there. And so that opens
18 the door to the fact that he's been violent on a prior
19 occasion with someone totally different in a completely
20 different incident.

21 I mean, they are under the impression that he only
22 did this to protect himself. That was his testimony.

23 THE COURT: Well, that's defendant's argument.
24 That's defense counsel's argument.

25 MS. RHOADES: Um-h'm.

1 THE COURT: But -- and the testimony is all about
2 her. It's not about him. He hasn't actually made any
3 statements that, you know, he's never been violent, he's got
4 this strong character. He hasn't made any statements like
5 that, I don't think. That's what you need to elicit from him
6 if we can get this other testimony in. Because otherwise --
7 I mean, other evidence in. Because otherwise, I think it's
8 more prejudicial than it is probative.

9 MS. RHOADES: Okay.

10 THE COURT: That's the Court's concern.

11 MS. RHOADES: Okay. I understand.

12 THE COURT: By the way, since you're here, we do
13 have a question from one of the jurors.

14 MS. RHOADES: Does he have a history of domestic
15 violence prior? I mean --

16 THE COURT: So I don't know whether you're finished
17 with your examination or not. If you are, I'll hold off on
18 addressing it. If you are finished, I'll hold off on
19 addressing this. Are you finished with cross-examination
20 or --

21 MS. RHOADES: I am. I am finished.

22 THE COURT: Okay. Then it's the Court's view that
23 this probably cannot come in.

24 MS. RHOADES: Okay.

25 MS. WALKENSHAW: I would agree.

1 THE COURT: All right. So I'm going to make a
2 record of that and address it with the jury.

3 MS. WALKENSHAW: Thank you, Your Honor.

4 (Bench conference concluded)

5 THE COURT: So, back on record. There was a
6 question submitted by one of the jurors. I'm not sure which
7 one because whoever submitted it didn't put their badge
8 number on there. But in any event, I've conferred with
9 counsel, and I think it would be improper for the Court to
10 allow this question to be asked and answered. Which juror
11 was it, by the way? Very well, thank you.

12 I'd ask that it be marked as court's exhibit,
13 nonetheless, and made part of the court's record. Next in
14 order, Madam Clerk. Are there any other questions of this
15 witness, Ms. Rhoades?

16 MS. RHOADES: No, Your Honor.

17 THE COURT: Ms. Walkenshaw?

18 MS. WALKENSHAW: No, Your Honor. And the defense
19 rests at this point.

20 THE COURT: Very well. With the thanks of the
21 Court, sir, you may step down.

22 THE WITNESS: Thank you.

23 THE COURT: We're going to take about a ten-minute
24 break. Ladies and gentlemen of the jury, remind you of your
25 obligations not to talk about this case, not to form or

1 express any opinion, not to do any research on any subject
2 connected with this case. Please return promptly in ten
3 minutes. Thank you.

4 (Outside the presence of the jury)

5 THE COURT: Okay. Outside the presence of the
6 jury. Ms. Rhoades, it's my understanding that you've
7 submitted a revised Tavares instruction; is that correct?

8 MS. RHOADES: I did. I apologize. That's my
9 mistake. I didn't include the context of the relationship on
10 line six as was -- would comport with the Court's prior
11 ruling. And so I just included that. And then we'd
12 obviously have to take the current instruction out.

13 One thing that I did just think of, I don't know,
14 this wasn't requested by the defense; should we read this
15 instruction and tell them to apply it to the defendant's
16 testimony because we talked about his other act?

17 THE COURT: I think so. Ms. Walkenshaw, what do
18 you think?

19 MS. WALKENSHAW: We can, Your Honor.

20 THE COURT: So do you agree that the revised
21 instruction, which is an accurate statement of the law,
22 should be substituted in for the one that we settled
23 yesterday?

24 MS. WALKENSHAW: I do, Your Honor.

25 THE COURT: All right.

1 MS. WALKENSHAW: And Your Honor, I apologize for
2 not making that request today. I know we had discussed it
3 yesterday, and I just started with my presentation of
4 Mr. Cooper. So, I apologize for that.

5 THE COURT: What do you --

6 MS. WALKENSHAW: And I'm requesting that the
7 instruction be read.

8 THE COURT: And you know, I intended to address it,
9 too, and I forgot as well, so I appreciate that.

10 MS. WALKENSHAW: Thank you, Your Honor.

11 THE COURT: If I had thought of it, I would have
12 read it before he testified, but I guess, we can address it
13 now.

14 MS. WALKENSHAW: Thank you.

15 THE COURT: Also, the Carter instruction should be
16 removed from the stack. Do counsel both agree?

17 MS. RHOADES: Yes, Your Honor.

18 MS. WALKENSHAW: Yes, Your Honor.

19 THE COURT: Okay. See you back here in about seven
20 or eight minutes.

21 MR. EICHACKER: Thank you.

22 MS. RHOADES: Thank you.

23 (Court recessed at 10:33 a.m. until 10:43 a.m.)

24 (Outside the presence of the jury)

25 (Pause in the proceedings)

1 (In the presence of the jury)

2 THE COURT: Please be seated, ladies and gentlemen.
3 Counsel stipulate to the presence of our jury?

4 MS. RHOADES: Yes, Your Honor.

5 MS. WALKENSHAW: Yes, Your Honor.

6 THE COURT: Ms. Walkenshaw, I believe the defense
7 rested, did you not?

8 MS. WALKENSHAW: We did formally rest, Your Honor.

9 THE COURT: Very well.

10 Ladies and gentlemen of the jury, I am about to
11 instruct you upon the law as it applies to this case. I
12 would like to instruct you orally without reading to you.
13 These instructions, however, are of such importance that
14 almost every word is of some significance. Therefore, it is
15 advisable for me to read to you carefully prepared written
16 instructions. These instructions are long and some are quite
17 complicated. If they're not especially clear to you when I
18 read them to you, please bear in mind that when you go to the
19 jury room, you will be able to take these written
20 instructions with you, so that you can read and consider them
21 carefully.

22 (COURT READS JURY INSTRUCTIONS TO THE JURY)

23 THE COURT: Wait, strike that. I was supposed to
24 have read you an instruction prior to Mr. Cooper's testimony
25 and that's a similar instruction -- it's the same instruction

1 that the Court read to you before Ms. Jensen's testimony.
2 And I neglected to do so, but I want to do it now, and I'll
3 do it, as well, when I read all of -- all the instructions,
4 too. And I'm going to ask you to consider this instruction
5 in the context of the testimony that you just heard from Mr.
6 Cooper.

7 The evidence that the defendant committed offenses
8 other than that for which he is on trial, if believed, was
9 not received and may not be considered by you to prove that
10 he is a person of bad character or to prove that he has a
11 disposition to commit crimes. Such evidence was received and
12 may be considered by you only for the limited purpose of
13 proving the defendant's intent and/or motive to commit the
14 crimes alleged, the context of the relationship, or the
15 absence of mistake or accident.

16 You must weigh this evidence in the same manner you
17 do as all other evidence in the case.

18 Now, instruction number one.

19 (COURT READS JURY INSTRUCTIONS TO THE JURY)

20 THE COURT: Ready for closing argument, Mr. Rowles?

21 MR. ROWLES: Yes, Your Honor. Thank you. Madam
22 court reporter, can we switch over to the Power Point,
23 please? May I proceed, Your Honor?

24 THE COURT: Of course.

25 //

1 STATE'S CLOSING ARGUMENT

2 MR. ROWLES: We've all paid dearly. We've all paid
3 dearly. Brittney Jensen told us on the stand that we've all
4 paid dearly, especially the defendant, James Cooper. Poor,
5 poor, poor James Cooper. Poor, poor, poor James Cooper.
6 Now, ladies and gentlemen of the jury, in every criminal case
7 the State must prove two things beyond a reasonable doubt.
8 One, that a crime occurred. And two, that the defendant
9 committed the crime.

10 Now, this isn't a "who done it" This is not a "who
11 done it". We know who committed these crimes. We know who
12 was there. Brittney told us the defendant was there. The
13 defendant told us he was there. Cameron and Kaylee told us
14 he was there. The police told us he was there when they
15 responded. We know who did this.

16 The only question left to ask, then, is whether a
17 crime occurred. Or in this case, whether crimes occurred.
18 Now, we all know why we're here. We all know the question
19 that needs to be answered. Did the defendant act in
20 self-defense? Were the defendant's actions on January 22nd,
21 2016 justified? And we'll talk about that. We'll get to
22 that. We'll discuss that.

23 But I think first it's important to go through the
24 facts of the case and talk a little bit about the specific
25 crimes in which the defendant is charged with. Now, we heard

1 on January 22nd, 2016 the defendant was living with Brittney
2 Jensen. We heard that they'd been dating, that they were
3 dating on January 22nd. And they lived there with her two
4 kids, Cameron, who's eight years old at the time, nine now,
5 and Kaylee, who was five at the time, six now.

6 We know that on that night Brittney was on the
7 phone with her friend, Sasha. And the defendant was there
8 laying in bed. And Brittney, I believe, she told us that --
9 the way she described the conversation was that she sort of a
10 girl power talk with her friend, Sasha, and she decided to
11 approach the defendant.

12 And so she walks in the kitchen, to the bedroom
13 where the defendant is. She begins to yell at him. It's
14 during that verbal argument that the defendant turned this
15 physical. We heard that at that time, the defendant gets off
16 the bed, approaches Brittney and punches her, knocks her to
17 the ground, begins to yell at her.

18 We heard that she goes to the kitchen. She tries
19 to get away. She tries to close the door on him, but the
20 defendant follows her into that kitchen. Forces his way
21 through that door, knocks her to the ground and begins to
22 kick and stomp on her face. And it was at this time that
23 Brittney yells for help. Yells for her kids to call police.
24 And Cameron grabs the phone, the defendant sees this and
25 chases him into his room, throws him onto his bed, takes that

1 phone away, prevents Cameron from being able to call for
2 help, all in front of Kaylee Jensen who's in that courtroom.

3 Now, Brittney reapproaches the defendant, tells him
4 to leave, tells him to get out of here, trying to help her
5 kids. And he turns his attention back on Brittney Jensen and
6 the fight spills back into the master bedroom where he
7 continues to punch and kick Brittney Jensen before eventually
8 leaving. Before eventually leaving the apartment. Before
9 eventually calling the police first to get out in front of
10 what he just did.

11 Now, for his conduct, for his actions, for
12 violently attacking Brittney Jensen in front of her two
13 children, he's charged with one count of battery constituting
14 domestic violence, one count of battery constituting domestic
15 violence strangulation, and two counts of child abuse,
16 neglect or endangerment.

17 So let's talk about those real quick. And in doing
18 so, I think it's important to note what type of crimes we're
19 dealing with here. You are instructed that general intent is
20 the intent to do which the law prohibits. Now, this is an
21 important instruction because it is not necessary for the
22 State to prove the precise harm, to prove the precise result.

23 General intent, it's the intent to do the action,
24 willful conduct. And willful means an act done
25 intentionally, not accidentally. And so let's take that into

1 consideration here. Say, for instance, I'm walking down the
2 Strip, and I got this clicker in my hand because I like to
3 have clickers in my hands, and while I'm walking the Strip
4 someone bumps in to me, and that bump, that force causes this
5 clicker to fly out of my hand and hit someone in the eye.

6 And as a result of that, the eye pops out. They
7 lose their eye. Now, I'm not in trouble because that was an
8 accident. Let's spin that a little bit. Let's take into
9 consideration whether or not I'm walking down that Strip, and
10 I see a person that I hate. I see -- I still have my clicker
11 in my hand. And I throw this clicker at them and it hits
12 them in the eye and pops their eye out and they lose their
13 eye.

14 Now, I didn't intend for that precise harm. I
15 didn't intend that person to lose their eye. But I did
16 intend to throw this clicker. That wasn't an accident, but I
17 am still liable for that eye, for that injury. So with that
18 in mind, it's important to note that battery constituting
19 domestic violence is a general intent crime. Battery
20 constituting domestic violence strangulation is a general
21 intent crime and child abuse, neglect or endangerment is a
22 general intent crime.

23 Let's talk about that. Let's talk about battery
24 first, count 1. Now, for his conduct, for his actions, he's
25 charged with one count of battery constituting domestic

1 violence. And that can basically be broken down into two
2 different things. Whether battery occurred and whether the
3 relationship was a domestic relationship.

4 So let's start with battery. Battery's defined as
5 any willful and unlawful use of force or violence upon the
6 person of another. Now, the force need not be violent and it
7 need not be severe. Indeed, any slight touching by the
8 defendant upon the person of another is sufficient so long as
9 that touching was intentional, not an accident, and unwanted.

10 So let's talk about what we know. What the
11 testimony showed us. We know that on January 22nd, 2016, the
12 defendant punched Brittney Jensen in the master bedroom,
13 knocked her to the floor. We know that the attack spilled
14 into the kitchen and that he kicked and stomped on Brittney
15 Jensen in the kitchen. We know that while she's being kicked
16 and stomped, Cameron was there watching this. That she yells
17 for him to call police and he attempts to. He grabs the
18 phone and is chased into the room by defendant where he
19 throws him on the bed and Brittney seeing this, reapproaches,
20 tells him to leave.

21 We know the defendant returns his attention back to
22 Brittney Jensen, spills the fight back into the master
23 bedroom and begins to kick and punch her again. So not only
24 do we have a punch and a kick in the master bedroom and the
25 kitchen, we have another punch and a kick back in the master

1 bedroom. It's not one time, it's not on two occasions, it's
2 on three separate occasions in two different areas in which
3 the defendant punches and kicks Brittney Jensen, throws her
4 to the floor, attacks her in front of her children.

5 We also know that Brittney while on the phone with
6 911 moments after the attack tells the 911 operator that he
7 hit her. That the defendant put his hands on her. And when
8 the police respond, when paramedics get there, we saw the
9 body cam, we saw her talking with the paramedics crying
10 hysterical, minutes after the attack that the defendant hit
11 her. That the defendant put his hands on her.

12 We also have the injuries. Now, the State's not
13 required to prove injuries for battery, just that he caused
14 the action. Look at the busted eye. Look at the bloody
15 face. Look at the scrape on the head. These injuries are
16 evidence that the defendant struck, attacked, punched,
17 kicked, stomped on Brittney Jensen's face on that day.
18 That's a battery. And defendant did it.

19 So next question is whether this was a dating
20 relationship or whether this was a domestic relationship,
21 excuse me. We can check that off the list right away.
22 Brittney told us they were dating. They'd been dating for a
23 couple years. Kaylee and Cameron told us that they were all
24 living together at that apartment. That they had been living
25 at least since July of 2015 at that apartment together.

1 There's no question this was a domestic relationship. And
2 there's no question that there was a battery.

3 Now -- excuse me -- for his conduct, for his
4 actions for strangling Brittney Jensen in front of her two
5 kids, he's also charged one count of battery constituting
6 domestic violence strangulation. Now, this is basically a
7 mirror of the first count, but it adds an additional aspect
8 of it to it. It adds the defendant's strangulation of
9 Brittney. But we can still break it down into three separate
10 aspects of it. A battery domestic relationship and whether
11 that battery was the result of a strangulation.

12 Now, we know there's a domestic relationship. We
13 can check that off the list and we'll talk about it again.
14 They were dating. Was there a battery? Now, we heard
15 Dr. Gavin talk about the different ways in which you can
16 strangle someone. Manual, with your hands. Ligature, with
17 an object.

18 Ladies and gentlemen of the jury, when you put your
19 hands around someone's neck and you squeeze and you apply
20 pressure, if you do that with your hands or you use an object
21 to squeeze them, apply pressure to the vessels of the airway,
22 the very act of strangulation is a battery. It is an
23 unwanted, it is an unlawful use of force upon a person by
24 squeezing their neck, by applying pressure to their airways
25 you have committed a battery.

1 By using an object to strangle someone, that in
2 itself is a battery. That is an unlawful use of force. So
3 the question then becomes is whether there was a
4 strangulation. The technical aspect of strangulation,
5 whether the elements are there. And you are instructed that
6 strangulation means intentionally impeding the normal
7 breathing or circulation of the blood by applying pressure on
8 the throat or neck in a manner that creates a risk of death
9 or substantial bodily harm.

10 So reading these instructions, let's talk a little
11 bit about -- I think it requires a little bit further
12 definitions of it, especially the last part of it. In a
13 manner that creates a risk of death or substantial bodily
14 harm. You're instructed that substantial bodily harm means a
15 bodily injury which creates a substantial risk of death or
16 which causes serious permanent disfigurement or protracted
17 loss or impairment of the function of any bodily member or
18 organ.

19 So strangulation has to be done in a manner that
20 creates a risk of death or substantial bodily harm and
21 substantial bodily harm means a bodily injury which creates a
22 risk of death or a serious permanent protracted loss or
23 impairment of function of the bodily member.

24 Take that into consideration, review these
25 instructions with what Dr. Gavin told us. She testified

1 yesterday. She basically gave us a crash course on
2 strangulation. Everything, more than anybody would ever have
3 to -- would ever need to know about strangulation unless
4 you're in that line of work. And remember what she said
5 about the amount of pressure? That the time for pressure?
6 She talked a little bit about the jugular vein, the carotid
7 artery and the windpipe. How it's about four pounds for the
8 jugular vein, 4.4 pounds, eleven pounds for the carotid
9 artery and about 30 pounds of pressure for the windpipe.

10 And when you apply pressure to any of those, it's
11 continuous pressure, it takes about 15 seconds per person to
12 lose consciousness. And she told us when you lose
13 consciousness, it's basically a lack of oxygen to the brain.
14 She told us about the dangers. That possibly of brain
15 damage. She also told us a little bit about a more
16 continuous pressure. Around two minutes, continuous
17 pressure, a person's dead. Two minutes, within seconds no
18 longer conscious, 15 seconds. Within minutes, dead.

19 The very act of strangulation in itself creates --
20 or is done in a manner that creates a risk of death for
21 substantial bodily harm. The very act of strangling someone
22 creates that risk. So the question left to answer, then, is
23 whether the defendant intentionally impeded the normal
24 breathing or circulation of the blood by applying pressure.

25 What do we know? We know that moments after the

1 attack, minutes after the attack, Brittney's on 911. She's
2 telling the 911 operator that the defendant choked her.
3 Minutes after that, on the body cam that we saw, she's
4 telling the paramedics that he strangled her. You also have
5 the injuries. You heard Dr. Gavin's testimony. That injury
6 is consistent with what you would expect to see where a
7 person who a strangled, with a ligature strangulation mark.

8 She mentioned that mark. Consistent. She talked
9 about the abrasion to the right side of it. How that's
10 consistent with what a ligature strangulation mark would be.
11 That's a consistent injury. That's something she would
12 expect to see if someone had been strangled by an object.
13 Now, she talked a little bit about the difference between
14 manual and ligature. Ligature's the object. That's
15 consistent with being strangled by an object.

16 Let's talk a little bit about just how easy it is
17 to strangle someone, too. You heard Dr. Gavin's testimony.
18 She told us. Jugular vein. What she said when shown the
19 pictures is within this mark, at least on one side. It takes
20 about 4.4 pounds of pressure to compress the vessel, to stop
21 oxygen from going through that brain -- or that vessel,
22 excuse me.

23 She gave us an example. Squeezing a can of coke,
24 an empty can of coke, squeezing it. That is the amount of
25 force, that is the amount of pressure that is necessary.

1 That's all that is required to stop oxygen from going through
2 the jugular vein. Just like on the carotid artery. Eleven
3 pounds of pressure. So two, three times what it takes to
4 squeeze a can of coke. And the windpipe, 30 pounds. Five,
5 six times what it takes to squeeze the can of coke.

6 It's not difficult to strangle somebody. It's not
7 difficult to compress someone's vessels, to compress
8 someone's airway, a squeeze of a can of coke can stop the
9 flow of oxygen through the jugular vein. When you take that
10 into consideration with what Brittney told the police, with
11 what she told the paramedics, and with what Dr. Gavin told us
12 is that the mark on her neck -- now it depends on person to
13 person, and she didn't physically Brittney. But the mark on
14 her neck is indicative of a significant amount of force.
15 That mark, with how easy it is to strangle someone, with the
16 Brittney moments after, telling the police he did it, that's
17 battery constituting domestic violence strangulation.

18 He strangled her on January 22nd, 2016. Now, I
19 cannot tell you with any certainty whether strangulation
20 occurred. We heard time periods or we heard instances during
21 the attack. First time in the master bedroom. The second
22 time in the kitchen and the third time in the master bedroom
23 again.

24 We heard Cameron moments after tell the police that
25 in that third encounter, he sees the defendant and Brittney

1 wrestling on the floor after the defendant threw her to the
2 floor. And in that area we see the defendant's tools, right
3 where Cameron describes them being on the floor together.
4 His bag of tools, wires, cords, all in that same area, the
5 only time in which Cameron sees them on the ground in that
6 area together.

7 You heard Dr. Gavin. This mark about a quarter of
8 an inch. We don't know the width or the length of the wires.
9 You be the judge. Those wires you see, the other exhibits
10 that you'll have back there with you, are those consistent in
11 width? Are those consistent in length of Brittney's ligature
12 strangulation mark? I submit to you they are.

13 Now, for his conduct and for his actions he's also
14 charged with one count or two counts of child abuse, neglect
15 or endangerment. So let's talk a little bit about that right
16 now.

17 You are instructed that child abuse and neglect or
18 endangerment occurs when a person willfully causes a child
19 who is less than 18 years of age to suffer unjustifiable
20 physical pain or mental suffering as a result of abuse and
21 neglect or, or be placed in a situation where the child may
22 suffer physical pain or mental suffering as a result of the
23 abuse and neglect.

24 Now, this sort of is the same thing as the laugh
25 instruction where it requires further defining, further

1 instructions, especially what abuse and neglect means. You
2 are instructed that abuse or neglect means physical or mental
3 injury of a non-accidental nature or negligent treatment or
4 maltreatment, which of a child under the age of 18, which
5 puts them in a situation where their health or their welfare
6 is harmed or threatened to be harmed.

7 Now, you're instructed that negligent treatment or
8 maltreatment means placing a child in a situation where
9 they're subjected to harmful behavior that's terrorizing,
10 that is degrading, that is painful or emotionally traumatic.
11 Or placing them in a situation where they're without proper
12 care, control or supervision.

13 So I want to talk a little bit about the statute
14 and the abstract of this instruction here because I think
15 there's a common misconception about child abuse, neglect or
16 endangerment. I think the common conception is essentially
17 -- or perception is that if the defendant did what he did to
18 Brittney, to a child under the age of 18, he violently
19 attacked, beat, stomped, kicked on a child's face, that's
20 child abuse. And that is. That's not the only way to commit
21 child abuse, neglect or endangerment.

22 Let's say for instance, a person is intoxicated and
23 they place another person in the back seat or child in the
24 back seat of a car. They get in that car three or four times
25 over the legal limit. Doesn't really make a difference,

1 they're drunk, they're intoxicated and they get on the
2 highways. And with that child in the back seat of their car
3 on the highway drunk, they're driving recklessly.

4 Now, there's no actual physical harm to the child.
5 That person's not punching the child. But they are placing
6 that child in a situation where they're without proper
7 control or care or control or supervision. They're placing
8 that child in a situation where their health, where their
9 welfare is harmed or threatened with harm. They are placing
10 that child in a situation where they may suffer physical
11 pain. That's child abuse, neglect or endangerment.

12 So let's take that into consideration when we take
13 into consideration the facts and circumstances of this case.
14 I want you to also to take into consideration a little bit
15 about that July 2015 incident we talked about here. And I
16 want to make it absolutely clear, that evidence was not
17 offered to you in any way, shape or form to show that the
18 defendant is a bad character -- has a bad character or has a
19 propensity to commit crimes. It was offered for you to
20 consider his intent on January 22nd, 2016, and that is the
21 only reason in which it can be considered for it.

22 Let's talk about that. You heard testimony that on
23 -- in July of 2015 there was another altercation between the
24 defendant and Brittney. And during that fight, Brittney
25 yells for police. Not yells for police. She yells for --

1 asks for help from her kids. And that the kids attempt to
2 call 911. Defendant sees this, grabs a knife, and threatens
3 those kids with that knife. Takes the phone out of their
4 hands, prevents them from calling the police.

5 Now, I think Kaylee had the phone on this occasion.
6 But take that into consideration when you look at what
7 happened on January 22nd, 2016 and you look at the
8 defendant's intent on that day. I think it's an important
9 time to bring up the general intent instruction again because
10 child abuse, neglect or endangerment is a general intent
11 crime and all the word willfully must be defined in that way.

12 But what do we know happened on January 22nd, 2016?
13 We know that the defendant was kicking and stomping on
14 Brittney in the kitchen. That she called Cameron for his
15 help, but he grabs the phone, that the defendant chases him
16 in his bedroom, throws him on the bed, takes the phone away
17 and knocks down a TV. We know that Kaylee was there and she
18 saw it. She told us on the stand that she remembers Cameron
19 being thrown on the bed, that she remembers the defendant
20 taking the phone away from him.

21 We also know that prior to that incident, not only
22 did Cameron witness his mom get kicked and stomped on, in the
23 kitchen, that that he witnessed his mother in the master
24 bedroom the first time get punched in the stomach and knocked
25 to the floor to get yelled at. Ladies and gentlemen of the

1 jury, what is the intent of a man? What is the state of mind
2 of a man who violent attacks his girlfriend in front of her
3 kids? Who beats, who stomps, he kicks on her face, who
4 strangles her in front of her kids, an eight and a
5 five-year-old, what is the intent and what is the state of a
6 mind of a person who does that?

7 Make no mistake about it, that is the type of
8 person we are dealing with. The type of person who would
9 violently attack his girlfriend in front of an eight and
10 five-year-old, and you saw them. Cameron told us he doesn't
11 remember much, but he remembers being scared. He sure told
12 police what happened moments after the attack, but he
13 remembers being scared. He told us that. Kaylee was there.
14 She remembers seeing this. And she put her head down on the
15 table for what looked like 30 seconds, but she told us that
16 she remembers this.

17 When you violently attack your girlfriend, when you
18 commit domestic abuse on your girlfriend in front of a five
19 and eight-year-old, when you violent attack their mother in
20 front of them, when you throw them on the bed, when you
21 prevent them from being able to call for help, from being
22 able to help their mother, what you've committed child abuse.
23 You have put them in a situation where they are subjected to
24 harmful behavior. It's terrorizing. It's painful. It's
25 degrading. They witnessed their mother being violently

1 attacked. That is putting them in a situation where they are
2 without proper care, control or supervision. That is putting
3 them in a situation where their health or welfare is in
4 danger, or threatened of being danger. That is placing them
5 in a situation where they may suffer physical pain or mental
6 suffering. Attacking their mother in front of them, that's
7 child abuse.

8 Now, when we first started talking I said that we
9 all know why we're here. We know the question that needs to
10 be answered. Did the defendant act in self-defense? Were
11 his actions justified, reasonable? So let's talk a little
12 bit about that.

13 Now, you were instructed that if evidence of
14 self-defense is present, the State must prove beyond a
15 reasonable doubt that the defendant did not act in
16 self-defense. So I ask you, if evidence of self-defense is
17 present, where's the evidence of self-defense? Where is the
18 evidence of self-defense? Think about that.

19 Moments after the attack, Cameron told police in
20 detail and Officer Pickens told us, it was not once, not
21 twice, but around three times that Cameron walked Officer
22 Pickens from room to room showing him what happened, telling
23 him what happened. He said he saw the defendant punch his
24 mom, knock her to the floor, followed her into the kitchen
25 where he continued to kick and stomp on her and then proceed

1 back into the master bedroom where the attack continued to
2 happen, punch her, kick her.

3 Where's the evidence of self-defense? The
4 defendant told us that he doesn't even know where those
5 injuries came from. That he was jerking his hair somehow and
6 maybe that's how she got a black eye. Maybe that's how she
7 was strangled, his deadlocks around her neck. Where's the
8 evidence of self-defense?

9 Now, you may be asking yourself, well, Brittney
10 told us what happened. Brittney wrote a letter that she was
11 100 percent at fault on January 22nd, 2016. That she
12 attacked him. She didn't tell 911 that. She didn't tell the
13 paramedics that. She didn't say that until after she had a
14 phone conversation with the defendant. You heard that call.
15 I don't remember what happened, she asks him, you don't
16 remember what happened? And he feeds her the story. And
17 then all of a sudden, I'm 100 percent at fault. I attacked
18 him.

19 So let's talk a little bit about that self-defense
20 claim. You are instructed that a person is justified in acts
21 of self-defense if he or she is confronted by the appearance
22 of imminent danger which arouses in a person's mind and
23 honest belief and fear that they are or someone they know is
24 about to be attacked and acts solely upon those appearances
25 of fear that a reasonable person in a similar situation would

1 basically do the same thing.

2 Now, self-defense is not unqualified. Every single
3 person has the right to stand their ground. You have the
4 right to stand your ground. You have the right to meet force
5 with force. That is a deeply rooted concept in our criminal
6 justice system. You could stand your ground. You can meet
7 force with force. It's not unqualified. It's not a blank
8 check to do whatever you want. A person acting in
9 self-defense is allowed to use force in a proportionately
10 reasonable amount, reasonable amount, reasonable.

11 I cannot stress this enough. In a reasonable
12 amount. Does this look reasonable? Is strangling someone
13 reasonable? Is that eye reasonable? Or is this reasonable?
14 Or does this look more like wounds that would be inflicted
15 when you're trying to defend yourself? Is this a reasonable
16 amount of force or is this a reasonable amount of force?

17 Now, one last instruction I'd like to talk you to a
18 little bit about before I sit down here, and that's
19 essentially the credibility instruction, what I'll refer to
20 as the credibility instruction. You as jurors have the sole
21 right to determine the credibility or the believability of a
22 witness. And you can do so by taking into consideration
23 their manner on the stand, how you saw -- how they observed
24 to you, their relationship to the parties, their motives,
25 their interests, their fears, their ability to recall the

1 event or their opportunity to have observed the event. You
2 as the jurors can take into consideration a witness's
3 credibility.

4 And so let's take a look about who testified today
5 or over the last couple days. The defendant testified. I
6 can't think of any reason why he may have an interest or
7 motive to testify. It's not like he's the one facing the
8 charges, it's not like he's the one on trial. Brittney
9 testified. She didn't give us much. She said she didn't
10 remember. She said she attacked him. What motive, what
11 interest might there be for Brittney to testify the way she
12 testified in front of us in trial on the stand? She didn't
13 tell police that's what happened. She told 911 a different
14 story.

15 Well, how about the fact that the guy who strangled
16 her was 20 feet away staring at her, watching her while she's
17 on the stand? When she's not around him, she's telling the
18 police what happened. When she's in front of him 20 feet
19 away, the man who strangled her, now it's her fault? Now
20 it's her fault that she was strangled? She caused this?
21 This was 100 percent her fault? Take into consideration what
22 interest she has to testify the way she did when he's right
23 there, the man who strangled her. The man who kicked and
24 stomped on her face. Take that into consideration when you
25 consider the credibility of that testimony.

1 And take into consideration that July of 2015
2 incident as well. Because you're allowed to use that
3 incident as evidence to consider and to help explain the
4 context of that relationship. Why Brittney might do what she
5 do, might say what she said. Think about what Ms. Greene
6 told us. Cycle of abuse. Why a victim might say X, Y, Z.
7 Why they might stay in the relationship. Think about that.
8 The July incident, the January incident, Ms. Greene's
9 testimony, the fact that he's right there when you consider
10 her testimony.

11 Now, we also heard from Cameron. And when you look
12 at Cameron's testimony, I want you to take into consideration
13 his opportunity to observe the matter to which he testified
14 and the reasonableness of his statements. And I want you to
15 take into consideration this instruction when you consider
16 his testimony because you are instructed that when a witness
17 fails for whatever reason to remember a previous statement,
18 it's considered a denial. So at that point in time, evidence
19 of the statement, the prior statement is evidence of the
20 truth of the facts as stated by that witness.

21 So you can consider what Officer Pickens told us,
22 what Officer Sylvia told us what Cameron said to them moments
23 after the attack as evidence of truth of that statement. As
24 if Cameron told us that himself. The same weight of
25 evidence. You can consider it however you like. It is

1 evidence of the truth of those facts, if you believe them.

2 So let's take into consideration what he told
3 Officer Sylvia. What he told Officer Pickens moments after
4 the attack, minutes after the attack. Officer Sylvia told
5 us, told us what happened. It's the same thing he told
6 Officer Pickens. And Officer Pickens told us that he walked
7 him through that apartment location by location by location
8 and he told him not once, not twice, I think it was three to
9 four times Officer Pickens asked him what happened, and
10 Cameron's story remained the same.

11 And not only did it remain the same when he first
12 told it, it was corroborated by the physical evidence at the
13 scene. Now, Cameron didn't tell us on the stand. He told us
14 he remembers the police coming. He remembers speaking to the
15 police. He told us he remembers being scared. He told us
16 that he doesn't believe or have any reason to think that he
17 would have lied to the police on January 22nd, 2016. But he
18 said he doesn't remember.

19 I can think of one reason why he'll say he doesn't
20 remember 20 feet away from the defendant. Would tell the
21 police there when the defendant's not around. So let's talk
22 about that, let's walk through that. Cameron told Officer
23 Pickens that during that initial encounter his mom was
24 carrying a box, this magical box that was somehow saran
25 wrapped to defendant's toolkit. She was holding it when the

1 defendant punched her. And that box spilled over.

2 Well, Officer Pickens saw that box. You saw the
3 pictures. There's the box with the snacks. He also told us
4 that he remembers his mother being thrown into the closet
5 door and damaging the closet door or wrestling around
6 damaging the closet door. What did Officer Pickens see?
7 Damage to the closet door. And there's a small dent right
8 there. And I want you to focus on that dent because what did
9 Cameron tell Officer Pickens? That that dent was already
10 there. That that did not occur tonight.

11 So not only is Cameron specifically telling Officer
12 Pickens what happened in detail, he's able to distinguish
13 specific aspects of this. He's not elaborating it. He's not
14 elaborate on it. He's not expanding what happened. He's
15 telling Officer Pickens what he saw. Now, we have two where
16 he saw his parent's wrestle -- or not his parents, excuse me.
17 Where he saw the defendant and his mother wrestle. That they
18 were wrestling on the ground on the third time the defendant
19 attacked her. There was commotion. There are the wires,
20 there are the tool bag being spilled and the curtain rods.

21 He told us when the attack was finally over, his
22 mom stumbled into the bathroom, knocked down that curtain rod
23 and sat on the toilet and bled. Everything he's telling
24 Officer Pickens is consistent with what Officer Pickens
25 observes at the house with the physical damage to the

1 property. I want you to take that into consideration when
2 you evaluate Cameron's testimony, his prior statements to the
3 police.

4 He also told us about a phone. Remember what
5 Officer Pickens said? That the phone he used that the
6 defendant took and placed in the cabinet, and Officer Pickens
7 looked in that cabinet. What was inside that? The phone
8 where Cameron said it would be. And when you review -- when
9 you take into consideration Cameron's statements, take into
10 consideration what Kaylee told us up here on the stand.
11 Cameron told officers that she was chased into his bedroom,
12 thrown on that bed and had the phone taken away from him.
13 Kaylee told us she remembers him being thrown on to the bed.
14 She remembers the phone being taken.

15 Take all that into consideration when you determine
16 the credibility of Cameron's statements. Now, ladies and
17 gentlemen of the jury, for his conduct, for his actions for
18 attacking Brittney Jensen, for punching her, for kicking her,
19 for stomping on her face in front of her kids, the defendant
20 is charged with one count of battery constituting domestic
21 violence, one count of battery constituting domestic
22 violence, strangulation and one count -- two counts, child
23 abuse, neglect or endangerment.

24 Cameron told officers what happened. Kaylee told
25 us what happened. Now, it's time for you to tell the

1 defendant something. Now, it's time for you to tell the
2 defendant that he is guilty. At the beginning of our time
3 together you all indicated that if State proved beyond a
4 reasonable doubt each and he have element that you would
5 return a verdict of guilty.

6 Well, the State lived up to its end of the bargain.
7 The State proved this case beyond a reasonable doubt. The
8 State proved that the defendant violently attacked Brittney
9 Jensen. That he pulled out her hair. That he strangled
10 Brittney Jensen in front of those kids. Now it's your time
11 to tell the defendant that it is not okay to do this in front
12 of her kids. That it is not okay to punch someone. That
13 it's not okay to stomp on their face. That it's not okay to
14 strangle them in front of their five or in front of her five
15 and eight-year-old.

16 It is not okay to throw a boy on the bed to prevent
17 him from helping his mother. Now, it's your time to tell him
18 that that is not okay and that he is guilty. Find him
19 guilty, ladies and gentlemen. Find him guilty.

20 THE COURT: Thank you, Mr. Rowles. Ms. Walkenshaw.

21 MS. WALKENSHAW: Thank you, Your Honor. Your
22 Honor, would it be okay with you if I move this a little bit
23 towards me?

24 THE COURT: Sure.

25 MS. WALKENSHAW: Thank you.

DEFENDANT'S CLOSING ARGUMENT

1
2 MS. WALKENSHAW: Thank you. Self-defense. That's
3 what this case is. Brittney mad that James is talking to
4 other women attacks him. And he defends himself and here we
5 are. You all have a jury instruction that says -- and it's
6 instruction number 25. And could we just flip over -- thank
7 you.

8 If evidence of self-defense is present, the State
9 must prove beyond a reasonable doubt that the defendant did
10 not act in self-defense. And if you find that the State
11 failed to prove beyond a reasonable doubt that James did not
12 act in self-defense, you must find James not guilty.
13 Brittney was the initial aggressor. You heard both Brittney
14 and James's testimony that they came home, they were making
15 dinner, everything was fine, she was talking to Sasha, she
16 had a little bit of a girl power talk, and she got a little
17 riled up. She was intoxicated, very intoxicated, and she
18 went in there to confront him. And she admitted she didn't
19 go in there to have a friendly chat with him, to amiably talk
20 things out. She went in there to confront him.

21 And she started yelling at him and she jumped on
22 him and she started pulling his hair. And I mean, you saw
23 his hair. Look at his hair. Look how long it is. Look at
24 thick each dreadlock is. And she pulled out eight to ten of
25 those dreadlocks, by her own testimony. Eight to ten of

1 those.

2 You saw the bald patches in the pictures. You saw
3 it now today where the hair starting to grow back in. And
4 there's an instruction about this. If you find that Brittney
5 was a violent person on a prior occasion and that he was
6 aware of those violent acts, the evidence may be considered
7 for the limited purpose to establish self-defense. Whether
8 he acted reasonably. And we've proven that.

9 He knows that Brittney had previously done this.
10 And I don't say that to say that because it happened before,
11 it's happened now this way. That's not what I'm saying. And
12 in fact, there's an instruction that prohibits you from
13 coming to that exact conclusion. I say it to explain
14 Mr. Cooper's frame of mind and what he was thinking, what he
15 was expecting to happen, what he knew about, what Brittney
16 had told him about that prior incident and why he reacted the
17 way that he did.

18 He knew about the incident. He knew the facts. He
19 knew she was intoxicated. He knew she had gotten violent.
20 And he reacted in self-defense. You will have an instruction
21 that instructs the right of self-defense is not available to
22 an original aggressor. Where a person without voluntarily
23 seeking or provoking is attacked by an assailant, he has the
24 right to stand his ground and need not retreat when faced
25 with the threat of deadly force.

1 A person acting in self-defense is allowed to use
2 force in a proportionately reasonable amount to avoid actual
3 or apparent danger. Now, this isn't a situation where there
4 was even apparent danger. We know in this situation that
5 there was actual danger. She had pulled his hair out. He
6 put his hands up. She had bit his finger. And you think
7 about that finger and the skin on it and how much force it
8 would have taken to take that much of the skin off. And all
9 he did was try to get away.

10 He indicated that when pulling his dreadlocks, he
11 was going up and down to try and get her off of his hair.
12 And they fell, they fell onto the floor, they wrestled on the
13 floor. But all he was trying to do was get away. You saw in
14 the pictures, and you'll have those pictures when you go back
15 for deliberation, that his finger was still bleeding.

16 Now, think about that. The incident happened,
17 police arrived, Mr. Cooper's outside. The CSA testified that
18 she went and took pictures of Mr. Cooper after she responded
19 to the hospital, after she took pictures of Brittney. And
20 when she takes those pictures, his finger is still bleeding.
21 So we can only imagine how much it was bleeding at the time
22 of the incident.

23 There's blood on the door handle. There's blood on
24 the floor. The CSA indicated that the blood was never
25 tested. We don't know whose it was. But we can draw some

1 conclusions based on the evidence, based on fact that there
2 was blood on the door handle, based on the fact that his
3 finger was bleeding, based on his testimony that he was
4 holding that door handle when he went into the bathroom.

5 And, you know, one of things that you might wonder
6 is when Brittney first told him to leave, why he didn't just
7 get out. He sees that she's intoxicated. He sees that it's
8 not going well. He -- why didn't he just leave? She told
9 him to leave. And you heard his testimony. He was basically
10 naked in bed. He had his boxers on. He thought it was going
11 to be something that resolved quickly. He didn't think it
12 was going to spill over into something like this. It
13 escalated.

14 And as soon as he could get out, he did. And he
15 left the apartment basically naked with his boxers on in
16 January at night in the cold, and the only reason he went
17 back inside was to get shoes and shorts and a shirt. And you
18 hear him tell that to 911. Why did you go back inside? I
19 had to get shoes and a shirt and some shorts.

20 As soon as he was dressed, he went back outside as
21 soon as he could. You hear him on the phone call, you hear
22 his calm manner. And when Officer Pickens testified, he
23 tried to make, you know, an issue about the fact that James
24 was calm. You're able to judge how he was on the stand. You
25 hear him on the phone call. He sounds calm consistently.

1 You can judge for yourself whether you think that this was
2 his normal demeanor.

3 Officer Pickens doesn't know James. He didn't see
4 him testify. He spoke to him briefly on the day in question.
5 And you did. You got to see him testify. You heard the
6 call. You heard that call versus Brittney's call. And you
7 hear Brittney's call, and you hear the dispatch on James's
8 call saying stay away from her, stay away from her. You hear
9 the dispatch on Brittney's call saying Brittney, quit arguing
10 with him. Brittney, leave him alone.

11 Even on the 911 call she's still provoking him.
12 That's recorded. You have it. You heard it. You can hear
13 it when you go back to deliberate. Now, Ms. Greene testified
14 as to the general aspects of a domestic violence
15 relationship. And she also spoke about the cycle of abuse.

16 Now, she's never spoken with James, she's never
17 spoken with Brittney. She doesn't know their history. She
18 doesn't know their dynamics. She's never seen their
19 demeanor. She didn't see them testify. You saw both of them
20 testify. And you'll have an instruction that says -- and
21 State brought this up briefly -- the credibility or
22 believability of a witness should be determined by his manner
23 upon the stand. That's part of the instruction. You got to
24 see them both testify.

25 Ms. Greene who testified regarding these generals

1 didn't. She knows nothing about Brittney or James. And she
2 indicated every relationship is different. Now, in that same
3 instruction, you'll be instructed to determine their
4 credibility based off of fears, motives, interests, feelings.
5 So, the State brought that up briefly and they said, you
6 know, I can tell you what her motives probably are when she's
7 20 feet away from the person who choked her. Well, let's
8 talk about that. Let's talk about fear.

9 Brittney said she's not scared of James. You got
10 to see her demeanor, how she testified. She never once acted
11 scared of James. And she said she's not scared of James.
12 And I don't know if you recall what she said. And I asked
13 her in relation to a jail call that you guys heard, what did
14 you mean about not being pressured? What were you referring
15 to? And she said to not be pressured by you people into
16 testifying, I am not a battered woman, that's not what I am.

17 Let's talk about motive. She testified that she
18 doesn't know if she even wants to be in a relationship with
19 him, whether they're even in a relationship together right
20 now. There's no motive for her to lie. She moved. She's in
21 Arizona. She's not dependent on him. Actually, she said
22 that she's doing great in Arizona.

23 So this isn't a situation where he has financially
24 manipulated her and she's completely dependent on him. She's
25 on her own in Arizona, by her own words, doing great.

1 Doesn't know if she wants to be with him. There's no motive
2 there for her to lie. It's not like she's here saying that
3 she really wants to be with him and that's her hopes into
4 their future. I mean, she said she doesn't know.

5 And you heard a small portion of the jail calls
6 between them. In fact, at some point during Mr. Cooper's
7 cross-examination by the State, there was some indication
8 that perhaps there had been 28 calls placed. You heard only
9 five of them. And never once did he threaten her. And not
10 once did he tell her what to say. And the State brought up
11 James saying, you know what you got to do, do what you got to
12 do. I asked her what she took that to mean. She could have
13 said I think that it meant that he wanted me to tell them
14 that I was at fault.

15 I think that it meant that he wanted me to tell
16 them that's what really happened. She said she took it to
17 mean to tell the truth, is what she said. And State pointed
18 out that James is telling her where she attacked him. I
19 asked her, why is she saying that, and she said specifically
20 because I didn't remember. Not because he's coaching me, not
21 because that's what he wants me to say. Because she didn't
22 remember.

23 And on that same call, we hear her say something
24 about looking like a fucking clown. We can agree that
25 Brittney's eye was swollen, and she testified that four days

1 later she still had a black eye. But what about the other
2 injuries? The abrasion. She had one here. She had two
3 little scrapes on her forehead. Some of that blood had
4 trickled down. She had some slight bruising on her arms and
5 there were no bruises photographed anywhere else, none.

6 According to Officer Pickens's testimony, Cameron
7 said that she was punched in the stomach. No pictures.
8 According to Officer Pickens' testimony, Cameron told him
9 that she was kicked, that she was stomped on repeatedly,
10 kicked repeatedly in the head and in the face. And all she
11 has is a black eye and two little scrapes, and a little
12 contusion right here that Dr. Gavin wasn't quite sure how she
13 got.

14 There's no missing teeth, there's no chipped teeth,
15 there's no bloody nose. There's no extensive facial
16 bruising. She doesn't have any fractures. And so the
17 question remains how could she have gotten that black eye?
18 Because she clearly had it. Well, we heard the testimony
19 James was trying to get her off of him. You saw his hair.
20 You saw how long it is. You saw the struggle that he
21 reenacted. They tumble off of the bed together and she may
22 have struck the bed. We don't really know.

23 James did not willfully cause that, and if he did
24 not willfully cause that, then that's not a battery. Willful
25 means -- and you'll have this in an instruction --

1 intentional, deliberate, designably. Intentional,
2 deliberate, designably. That means he needs to have
3 intentionally, deliberately, or designably struck her in the
4 face. That's not what happened.

5 Now, in regards to the ligature mark or the red
6 mark across her neck, the State -- well, Brittney never
7 testified that she was strangled by James. Cameron never
8 indicated that he ever saw that. When he testified, he said
9 he didn't really remember much. That was never something
10 that he told Officer Pickens. It was never said on the 911
11 call. The only time you hear it is on the body cam footage.

12 And so the mark's there. What could have caused
13 it? It's there. What could it be? You saw the body cam
14 footage. You saw the elk bone in her hair on the exact same
15 side where the mark is. It was an elk phone in her
16 dreadlocks at the exact length. It's that round elk bone
17 attached to a long dreadlock. Completely consistent with the
18 abrasion and the linear mark that Dr. Gavin testified to.

19 She testified that it could have been caused by
20 something that's, approximately, a quarter of an inch wide.
21 Look at her dreadlock, look at the width. I mean, is it
22 possible that that struck or that abraded her when they were
23 struggling? They both have long dreadlocks. Mr. Cooper
24 testified that they were tangled up amongst each other.

25 And you'll have an instruction that strangulation

1 is intentionally impeding the normal breathing or circulation
2 of the blood in a manner that creates a risk of death or
3 substantial bodily harm and that's not what we have here.
4 There was not a shred of testimony that James intentionally
5 impeded anything, anything. Not during the 911 call, not
6 during her testimony, not in Cameron's statement. She never
7 said she couldn't breathe. We have the EMT asking her if he
8 choked her. She says, yes.

9 We don't know when it happened. We don't know what
10 she's referring to. We didn't definitely didn't know he --
11 we definitely know he didn't do it during the 911 call. He
12 heard both of those calls. And I think what's telling is
13 that what we see on the body cam footage is her kind of put
14 her hand up here like this briefly. And we know, though,
15 that based on Dr. Gavin's testimony, that that couldn't have
16 been a hand that caused that. She said it was consistent
17 with some type of ligature.

18 And so she's saying this, but we know that this
19 couldn't have caused it. Whatever created that mark wasn't
20 hands. And that's inconsistent, too. So all we have is the
21 mark. We don't have Brittney ever saying that she couldn't
22 breathe. We don't have Brittney ever saying that she lost
23 any type of consciousness. We don't have, obviously, any
24 type of death or anything. And the mark itself is only on
25 one side. We have Dr. Gavin's testimony that it cannot cause

1 death for lack of circulation to cause that type of
2 substantial bodily harm if it's on one side.

3 In the 911 call, we hear Brittney say something
4 about James punching Cameron. And Cameron never says that.
5 He never says that to Officer Sylvia. He never says that to
6 Officer Pickens, despite his very detailed statement that
7 Officer Pickens indicated Cameron told him. Never says that.

8 Never says it on the 911 call. Never says it when
9 he testifies. And James isn't even charged with it, and
10 there's no evidence of it. So if Brittney is saying that on
11 the 911 call what else is she saying that's not true?
12 Because him punching Cameron wasn't true. And so she told
13 you the reason that she said those things on the 911 call was
14 so that James would get in trouble, not her.

15 And I think a lot of this really just leads up to
16 Cameron's statement. Why would he say what he did? Why
17 would he say what he did? Well, he saw his mother and his
18 stepfather or his mother's boyfriend get in an argument. His
19 mother was intoxicated, she became violent. That's scary for
20 an eight-year-old. That can be scary for anyone and
21 especially for an eight-year-old.

22 And Brittney's testimony was that he wasn't in the
23 room when it started. He wasn't there, that the kids were in
24 their room watching TV. And he comes out at some point
25 because his mom tells him to and that's at the point that

1 Brittney says she realized James was already on the phone
2 with 911 and so she wanted Cameron to call 911. And that's
3 undisputed that James called 911 first. It's about a two to
4 two and a half minute difference between the two calls.

5 And so James is on the phone and that's when
6 Brittney says, I told Cameron to call 911 because I was
7 worried I was going to get in trouble. I knew James was on
8 the phone with 911. That's why I started yelling stuff. I
9 knew that they would be able to hear it. I wanted to avoid
10 getting in trouble.

11 We hear his call on 911. It's silence and then
12 James talking. There's no chasing a kid down a hallway, a
13 kid screaming. There's nothing about that. It's silence and
14 then James talking. And the only time you hear screaming
15 again is when he comes back into the house to get his clothes
16 on and he leaves again.

17 And, in fact, when he does come back into the
18 house, you hear him say got off of me, get off of me. Now,
19 Officer Pickens made a pretty big deal about how detailed
20 Cameron's statement was, but if you compare it to the body
21 cam footage, we can see that it really wasn't that long of a
22 conversation that he and Cameron had to have had. The body
23 cam footage itself is 16 minutes long, and you'll have that
24 and you can watch it.

25 A number of minutes at the beginning are them

1 finding the apartment, walking through the complex, walking
2 through those hallways, finding the apartment that they're
3 trying to go to. A large number of the minutes he's outside
4 with James. He's talking to James while Sylvia is inside.
5 Officer Sylvia testified that that was kind of how they split
6 it up.

7 And Officer Kolarik is standing in between or kind
8 of showing both sides here and there. At some point he then
9 comes inside and talks to Cameron.

10 MS. RHOADES: And Your Honor, I'm going to object.
11 I don't believe there was any testimony of that. Officer
12 Kolarik was there for the entire incident and was there while
13 Officer Pickens was speaking with Cameron. So I don't --
14 that 16 minutes doesn't capture the entire time that Pickens
15 was there.

16 THE COURT: Ms. Walkenshaw.

17 MS. WALKENSHAW: Well, at the point that Officer
18 Kolarik exits the apartment is when Mr. Cooper is being taken
19 into custody. And so Officer Pickens' testimony was that
20 after his conversation with Cameron, he makes his decision to
21 arrest Mr. Cooper based off of that. And you see it on the
22 footage Mr. Cooper being placed into handcuffs. And so I do
23 believe it captures the time frame.

24 THE COURT: Sustain the objection. Ask the jury to
25 disregard Counsel's last statement.

1 MS. WALKENSHAW: In that time, Officer Pickens
2 indicates that he spoke with Cameron and that Cameron told
3 him somewhere between three and four times what had happened.
4 Now, he had indicated and he testified that there was some
5 statement made regarding a shower curtain. That wasn't in
6 his report. He also testified that Kaylee corroborated what
7 Cameron described regarding what happened in the bedroom.
8 That wasn't in his report.

9 And we don't know at what point what was said
10 between Brittney and Cameron before police arrived. We don't
11 know. And certainly, at the time that police arrived,
12 Cameron is still shaken up. In regards to the child abuse,
13 there was no physical injury here. Pickens states that
14 according to Cameron, James threw Cameron on the bed in an
15 attempt to take the phone away. Kaylee corroborates this,
16 according to Officer Pickens. He admitted that that was not
17 in his report. He never included in his report that Cameron
18 told him his butt hurt. He -- Officer Pickens indicated he
19 didn't see anything that was lasting. He didn't observe any
20 injuries.

21 And so what we're talking about is mental injury or
22 negligent treatment or maltreatment. And it's scary to see
23 your mom be intoxicated. That's scary for anyone. It's
24 scary to see any type of situation like that. Aggression.
25 And it's scary to be in that situation where your mom is

1 screaming and asking you to call 911. But Brittney admitted
2 that if anyone scared her children it was her. And James
3 defended himself against Brittney. He did not willfully --
4 and remember, willfully means intentionally, deliberately,
5 decidedly, he did not intentionally place the children in
6 this situation.

7 You heard both Brittney and James testify that it
8 was otherwise a great evening. You heard that from both of
9 them. And obviously, it transpired into this and we're here
10 now. And we're here to determine and you're here to
11 determine James's guilt in this matter.

12 State got into a previous incident that occurred
13 between James and Brittney. James testified that he was
14 stabbed. Brittney indicated that she did not call police
15 immediately. She did not file a report immediately. She
16 indicated that she only called the next day at the urging of
17 the neighbor that she had stayed with for the evening. She
18 indicated she never got any type of restraining order, never
19 any type of temporary protective order. And you heard what
20 she said. You heard what she said, and you know, they both
21 got up on the stand and swore to tell the truth and they both
22 had different versions and the truth is somewhere in there.

23 But it is a fundamental concept of our criminal
24 justice system that simply because someone did something
25 previously does mean that you can convict them on that alone

1 if they did it again. You have an instruction on that. And
2 in this case, which is very different than that case, James
3 was acting in self-defense, and he did what he could to avoid
4 this. He tried to leave. She wouldn't let him. He calls
5 911.

6 We talked a little bit about direct versus
7 circumstantial evidence. There is not a single witness that
8 testified that they personally saw James do this. Not
9 Brittney, not Cameron, not Kaylee, not James, not the
10 officers, not the doctors, not the EMTs or the CSAs or the
11 experts. Not a single person testified that they personally
12 observed James do this.

13 He finally left when he could, naked, except for
14 his boxers. When it becomes too cold, he goes back into the
15 apartment to get his clothes on. And I urge you to listen to
16 that 911 closely because you hear him say, get off of me.
17 You hear dispatch telling her to stop. Brittney, leave him
18 alone. Brittney quit arguing. And you hear dispatch telling
19 him to get away, go back outside. Go back outside, get away
20 from her. He goes back outside, he waits on the phone with
21 dispatch, he waits until police arrive, he's fully
22 cooperative.

23 And the standard here is beyond a reasonable doubt.
24 It's a high standard. I'm not -- I'm not talking about wild
25 speculations. We're talking about, you know, beyond a

1 reasonable doubt. And I'm going to leave you with one of my
2 favorite quotes from John Adams, and that is that facts are
3 stubborn things. And whatever may be our wishes, our
4 inclinations or the dictates of our passion, they cannot
5 alter the state of facts and evidence.

6 We're talking about reasonable doubt. That's a
7 doubt that's based on reason. I implore you to look
8 carefully at all of the facts, the facts don't change. And I
9 would submit to you that they create reasonable doubt. And
10 they establish that he was acting in self-defense. And at
11 the end of that, I'm asking that you find James not guilty.

12 THE COURT: Thank you, Ms. Walkenshaw.

13 MS. WALKENSHAW: Thank you, Your Honor.

14 THE COURT: Rebuttal argument.

15 MS. RHOADES: Yes, Your Honor. May I approach your
16 clerk?

17 THE COURT: Yes.

18 STATE'S REBUTTAL CLOSING ARGUMENT

19 MS. RHOADES: Okay. I won't take up too much more
20 of your time, 15 minutes at the most. It's 1:30. So hold me
21 to it. I just want to make sure that this is -- I want to
22 put the reasonable doubt instruction up here.

23 When you're analyzing the evidence, when you're
24 analyzing the testimony, Cameron's prior statement to Officer
25 Pickens, Kaylee's prior statements to Officer Pickens,

1 analyze it through the eyes of the person that is telling it.
2 Analyze through the eyes of the person that's giving that
3 statement.

4 So, Cameron through his eyes when Officer Pickens
5 comes, when Cameron has tried to call and ask for help and
6 help has arrived, Cameron walks Officer Pickens through what
7 happened, and that's what happened that night. Cameron tells
8 Officer Pickens what happens that night. Kaylee, through her
9 eyes, as she's telling Officer Pickens what's going on.
10 Kaylee here, as she's testifying in front of you. Cameron
11 here, Brittney here, as she's testifying in front of you.

12 Brittney back when the police arrive and she's
13 giving those statements on the body cam, on the 911. The
14 July 2015 incident, she gives a written statement. Cameron
15 gives a written statement. So look at that evidence through
16 the eyes of the person that is telling it, that is telling
17 what happened, telling what they saw.

18 James Cooper thinks he's going to talk his way out
19 of this. He says it's the same shit that happened in July of
20 2015, and he got stabbed on this incident and this, you know,
21 he was acting in self-defense on this day in January. That's
22 what he wants you to believe. Think about how and why he was
23 able to call 911 first. It's about three minutes, less than
24 three minutes that he makes that call and then Cameron makes
25 that call. He was able to get the phone out of Cameron's

1 hands so that he could call 911 first.

2 Why did he call 911 first? So he could get in
3 front of the situation. Reasonable doubt. If you do have
4 the a reasonable doubt of the guilt of the defendant, convict
5 him. If you do have a reasonable doubt of his guilt, acquit
6 him. And what is reasonable doubt? It's one based on
7 reason, must be actual, not mere possibility or speculation.
8 And I briefly want to talk about that elk bone in Brittney's
9 hair. Ms. Walkenshaw said is it, is it possible that that
10 elk bone caused that linear mark on her neck? I guess. I
11 guess it's possible.

12 It's possible that it's snowing outside in Las
13 Vegas right now. That's possible. Is it reasonable? No.
14 No way. It's a circular -- from what I can tell on the body
15 cam, it's some circular thing that's holding the end of her
16 dreadlock, which is the smallest part of the dreadlock. So I
17 don't -- that's not reasonable. So just think about that
18 when you're assessing the evidence in this case.

19 Some of the -- we do have to prove all of the
20 elements beyond a reasonable doubt. And just like I said,
21 you know, if you do not have reasonable doubt of his guilt,
22 convict him. We'd submit to you that we have proven all of
23 the elements of the crimes with which he is charged beyond a
24 reasonable doubt.

25 What don't we have to prove? There was some talk

1 about there's no missing teeth, no fractures. All she has is
2 a black eye and some abrasions. Some little scrapes on her
3 forehead. Well, one, there's no substantial bodily harm or
4 anything like that. Battery is the simple willful, unlawful
5 touching of another person, basically. So we don't have to
6 prove any injuries at all for that count 1, that battery
7 count.

8 These are not scrapes, okay? If you look at this
9 picture, you can see the raise. I mean, the left eye is
10 completely raised. This is completely raised on her
11 forehead. These are significant injuries that are very
12 different from the defendant's injuries. Very different.

13 As far as the strangulation, we do not have to
14 prove that she lost consciousness or that she died. You
15 know, obviously, she didn't die. We just have to prove that
16 there is a risk of that happening and Dr. Gavin told us that
17 that is the risk when you're cutting off the circulation,
18 when you're cutting off the air, you're cutting off the
19 oxygen to the brain and that's a risk.

20 Child abuse and neglect, we do not have to prove
21 that there was a physical injury. James Cooper placed both
22 those kids in a position where they may have suffered a
23 physical injury or negligent treatment or maltreatment. He
24 did that. We don't have to prove any injury. We don't have
25 to prove that he had a bruise on his butt or anything like

1 that.

2 No motive to lie. I mean, take that, and I do want
3 to get to the credibility instruction as well, but the common
4 sense instruction, you're allowed to make reasonable
5 inferences. You saw Brittney on the stand. She has no
6 motive to lie because she doesn't each know if she's in a
7 relationship with him. I mean, she told you that she loved
8 him. She told you that her and the kids are doing great.
9 They're not with him. Maybe that's a reason why they're
10 doing great.

11 She did repeatedly say that she -- I mean, she had
12 the wherewithal to try to get him in trouble when she was
13 whaling and injured. You know, she's was saying all of these
14 things to get him in trouble.

15 And I want to talk about her medical records just
16 briefly. This is Exhibit No. 7, which were admitted, and I
17 just want to talk about a couple pages here. They are all --
18 they're stamped at the bottom here so you'll be able to refer
19 to these.

20 On page 16 and 66, the radiology exams show that
21 there's a right frontal and left periorbital soft tissue
22 swelling. This is when she went to the hospital that same
23 night. On page 57, it's kind of hard to see probably, but
24 it's the narrative from that Medic West, and it documents all
25 of the injuries that they saw on here. Patient had visual

1 gross trauma to the face. Left eye showed significant
2 contusions and swollen almost completely shut. Patient had
3 blood trails on her forehead from hair torn from her scalp.
4 Patient showed abrasions to her neck where her boyfriend
5 allegedly tried to strangle her with unknown object.

6 A really important page is page 89, where she's
7 leaving the hospital. That's the last page of these records.
8 And it says, she did not want -- she refused shelter. Stated
9 she did not want to speak with anyone regarding what
10 happened. That doesn't sound like someone who wants to get
11 their boyfriend in trouble. Someone that wants to stay out
12 of trouble and is making up a story. That's not what that
13 sounds like.

14 The testimony that he intentionally impeded and the
15 evidence that he intentionally impeded her airway or her
16 circulation is the ligature mark on her neck. And
17 Dr. Gavin's testimony that that's consistent with placing
18 pressure around that neck, that would cause impairment of the
19 breathing, impairment of circulation. So yeah, there were
20 shreds of evidence that that happened and you have the
21 picture back there with you to prove it.

22 The child abuse, neglect charge with Cameron, he's
23 not charged with punching Cameron. He's charged with beating
24 up his mom in front of her, and he's charged with the fact
25 that he threw him on the bed and grabbed the phones out of

1 his hands. That's also alleged in Cameron's -- in the count
2 regarding Cameron. He's not charged with punching him at
3 all.

4 Maybe Brittney came in, consistent with Cameron's
5 story, maybe she came in at the end of it and thought that
6 Tuda punched Cameron when he threw him on the bed. That's a
7 possibility. But it's not charged so we don't need to prove
8 that. We don't need to prove that beyond a reasonable doubt.

9 And Officer Pickens testified that he spoke with
10 Cameron after Brittney was taken by medical, and that was --
11 you know, that's not captured on the body cam. So Officer
12 Pickens was there for quite some time after Brittney was
13 taken by medical. Going back to that 911 call. Listen to
14 that 911 call. Listen to both of those 911 calls. You can
15 hear the panic and the terror in Cameron's voice. You can
16 hear that. And defendant and Brittney want you to believe
17 that he's making that up? They won't come right out and say
18 it, but that's what they're asking you to believe, that he's
19 making that up and he's making up that terror in his voice
20 when he called 911 so that his mom wouldn't get in trouble.
21 He's just following his mother's instructions.

22 There's an instruction at the end of the charging
23 document contained in your instructions. Each charge should
24 be considered separately. Just because you find him guilty
25 or not guilty of one charge doesn't mean that, you know, the

1 other charge has to be the same. No one else is on trial
2 here. We're not asking you to like Brittney. We're not
3 asking you to think that she's a great mother.

4 Instruction Number 18 goes to evidence of specific
5 acts of Brittney. That was that 2012 incident with Rambo.
6 That one that happened four and a half years ago that
7 defendant said in his statement with Detective Bragandy that
8 it was for her stupidly beating somebody up. Defendant is
9 asking you to believe that because he knew about that, his
10 belief and the need to use force in self-defense was
11 reasonable. That's -- that doesn't add up.

12 There instructions on motive. The State doesn't
13 have to prove motive, but in this case, the motive is shown
14 with his prior action, with that prior incident in July 2015.
15 His motive, his ill will towards Brittney. His motive in
16 keeping himself out of trouble and keeping the phone out of
17 the kids' hands so that they can't call 911. That's his
18 motive when he commits the child abuse here.

19 Self-defense. We know that a battery occurred.
20 And so defendant wants you to believe that his beings were
21 proportional. This, I want to go into 28. That's the
22 credibility instruction. And there were questions during our
23 jury selection about self-defense. And I just want to quote
24 some of the really key points that came out during that jury
25 selection. It's okay to get violent in order to be safe, in

1 order to get yourself to safety. Equal force between two
2 parties. It should be limited, don't put full force into
3 something when there's not full force from the other person.

4 And there were some questions also in voir dire
5 about is this a he said/she said or what would -- how would
6 you determine, you know, the credibility of each person if
7 it's a he said/she said? This is not a he said/she said.
8 This is a they, the adults, who have every motive to lie.
9 This is a they said versus what the eight-year-old told the
10 police, what the evidence at the scene shows, what the
11 evidence corroborates, what Kaylee told you all while she was
12 here on the stand. That's what this case is.

13 And so in order to believe that this was in
14 self-defense, in order to believe it went down the way that
15 the defendant and Brittney say it went down, which by the
16 way, is different. Brittney got up here and said they were
17 face-to-face and that's when she pulled his hair.
18 Defendant's story is he's laying on the bed, she gets on top
19 of him and pulls his hair. So they can't get their story
20 straight together.

21 In order to believe that, you necessarily have to
22 believe that Cameron and Kaylee are liars. That they're
23 lying. That Kaylee is lying to you all when she testified.
24 That Cameron was lying when he said that he was scared. That
25 Cameron was lying to the police officer when the police

1 officer came after Cameron called him in a panic and a terror
2 calling for help. That's what you have to believe.

3 And they didn't ask him, did you lie to police that
4 night. No, because it's absurd. There's no motive for him
5 to lie to police that night, none at all. Everything was
6 going good. They were doing good that night until he got mad
7 for whatever reason and decided to take it out on Brittney.
8 She probably did come in there and start confronting him
9 about the phone and she was on the phone with her friend,
10 Sasha, and mad about something, but then Cameron says he
11 hears his mom say no, stop, don't and then sees him punch her
12 in the stomach and her drop the box.

13 She was probably getting that box, taking it into
14 the kitchen to put the food away. I mean, defendant and
15 Brittney's story, everything happened in the bedroom. The
16 evidence doesn't show that. Cameron didn't say that. It
17 clearly went to the kitchen. You've got the knocked trash
18 can, knocked down trash can. You've got her dreadlock on the
19 rug in the kitchen. How did it get there? You've got her
20 dreadlock in the bedroom.

21 I mean, that's what he's asking you to believe that
22 eight-year-old Cameron made all of this up and somehow
23 constructed the scene or made it up just perfectly so that it
24 matched up with all of the evidence at the scene. That's
25 what you have to believe in order to believe that it was done

1 the way Brittney and James said it went down.

2 A lot of questions were asked about the officers of
3 whether they saw the battery, whether they saw him beat
4 Brittney. No, because these crimes happen in the home and
5 not in front of other witnesses. They happen in front of the
6 people in the relationship and they happen in front of the
7 kids. And the way it went down is how Cameron told Officer
8 Pickens it went down.

9 The attempt to suppress evidence instruction.
10 You're instructed that that can be considered as
11 consciousness of guilt. You know what to do, don't overthink
12 shit, you know what you got to do, just do what you got to
13 do. You know, Brittney tried to explain that away, but use
14 your common sense. Everything -- Dr. -- not Dr., Elyne
15 Greene's testimony about protecting the abuser, minimizing.
16 It's funny how she's never interviewed these two parties, but
17 you can see elements in Brittney's testimony. In
18 Mr. Cooper's testimony. You can see that element -- some of
19 those elements that she talks about.

20 Motives. Manner upon the stand, relationship to
21 parties, fears, motives, interests or feelings. Look at
22 their motives, look at James's motive, look at Brittney's
23 motive, look at the kids' motives. What motive do they have
24 to lie?

25 It's clear that it went down how Cameron said it.

1 went down. He was brave enough to tell Officer Pickens that
2 night. He was brave enough to tell you all that he was
3 scared that night. Kaylee was brave enough to come in here
4 and say that she saw Tuda throw Cameron on the bed and she
5 saw Tuda take the phone out of Cameron's hand. Cameron and
6 Kaylee know what happened on January 22nd, 2016. That man,
7 he knows what happened on January 22nd, 2016.

8 And now we ask that you tell him that you know what
9 happened on that night, too, and you find him guilty of all
10 four counts that he is charged. Thank you.

11 THE COURT: Thank you, Ms. Rhoades.

12 MS. RHOADES: Thank you very much, Your Honor.

13 THE COURT: This is the part of the trial where the
14 Court is obligated to thank and excuse the alternate juror.
15 Mr. Lopez, you are our alternate juror. Although the Court
16 is excusing you, you're still not free to talk about this
17 case with anyone until and unless the jury brings back a
18 verdict because there's a possibility you could be called
19 back to return.

20 It's possible that the Court and counsel may not
21 have an opportunity to thank you for your service so on
22 behalf of Court and counsel and the parties we do thank you
23 for your service. You may be excused, sir.

24 (Alternate juror is recessed)

25 THE COURT: Members of the jury, in a few moments

1 the clerk is going to swear the officer to take charge of
2 you. You'll be taken to the deliberation room where you'll
3 be given the evidence, the jury instructions and the forms of
4 verdict, which have been prepared for you. If you need
5 anything else, please ask Mr. Diamond. He'll make every
6 effort to accommodate you.

7 MS. RHOADES: Your Honor, may I approach your
8 clerk? I just --

9 THE COURT: Yes.

10 (Pause in the proceedings)

11 THE COURT: Okay, Madam Clerk.

12 (CLERK SWEARS OFFICERS OF THE COURT)

13 THE COURT: Court is in recess subject to the call
14 of the jury.

15 (Jury retires to deliberate at 12:48 P.M.)

16 THE COURT: We'll need cell numbers from counsel,
17 please, both sides.

18 MS. RHOADES: Of course. And we do have a clean
19 laptop, Your Honor. I just want Ms. Walkenshaw to check it
20 out and make sure. We've cleared everything and emptied the
21 recycle bin. So this should be good to go back to them if
22 they need it.

23 THE COURT: Very well. Ms. Walkenshaw, do you
24 agree?

25 MS. WALKENSHAW: Yes, Your Honor.

1 THE COURT: Very well. Thank you.

2 MS. RHOADES: Thank you.

3 (Court recessed at 12:51 p.m. until 4:17 p.m.)

4 (In the presence of the jury)

5 THE COURT: Please be seated, ladies and gentlemen.

6 The record should reflect the presence of all 12 jurors as
7 well as prosecutors and defense counsel as well as defendant.

8 Ms. McKeever, are you our jury foreman?

9 JUROR NO. 9: Yes.

10 THE COURT: Has the jury reached a verdict?

11 JUROR NO. 9: Yes, we have.

12 THE COURT: Would you please give the verdict form
13 to the bailiff? I'm going to ask the Court Clerk to please
14 read the jury's verdict into the record. Madam clerk.

15 VERDICT

16 THE CLERK: District Court, Clark County, Nevada,
17 The State of Nevada, plaintiff, versus James Cooper,
18 defendant. Case No. C-16-312970-1, Department 10. Verdict.
19 We the jury in the above-entitled case find the defendant,
20 James Cooper, as follows:

21 Count 1, battery constituting domestic violence;
22 guilty of battery constituting domestic violence.

23 Count 2, battery constituting domestic violence
24 strangulation; guilty of battery constituting domestic
25 violence.

1 Count 3, child abuse, neglect or endangerment;
2 guilty of child abuse, neglect or endangerment.

3 Count 4, child abuse, neglect or endangerment;
4 guilty of child abuse, neglect or endangerment.

5 Dated this 18th of November, 2016. Ladies and
6 gentlemen of the jury, are these your verdicts as read? So
7 say you one, so say you all.

8 THE JURY: Yes.

9 THE COURT: Before the jury's verdict is recorded,
10 do either party request that the jury be polled?

11 MS. RHOADES: No, Your Honor.

12 MS. WALKENSHAW: Yes, Your Honor.

13 THE COURT: Very well. Madam clerk.

14 THE CLERK: Juror No. 1, is this your verdict as
15 read?

16 JUROR NO. 1: Yes.

17 THE CLERK: Juror No. 2, is this your verdict as
18 read?

19 JUROR NO. 2: Yes.

20 THE CLERK: Juror No. 3, is this your verdict as
21 read?

22 JUROR NO. 3: Yes.

23 THE CLERK: Juror No. 4, is this your verdict as
24 read?

25 JUROR NO. 4: Yes.

1 THE CLERK: Juror No. 5, is this your verdict as
2 read?

3 JUROR NO. 5: Yes.

4 THE CLERK: Juror No. 6, is this your verdict as
5 read?

6 JUROR NO. 6: Yes.

7 THE CLERK: Juror No. 7, is this your verdict as
8 read?

9 JUROR NO. 7: Yes.

10 THE CLERK: Juror No. 8, is this your verdict as
11 read?

12 JUROR NO. 8: Yes.

13 THE CLERK: Juror No. 9, is this your verdict as
14 read?

15 JUROR NO. 9: Yes.

16 THE CLERK: Juror No. 10, is this your verdict as
17 read?

18 JUROR NO. 10: Yes.

19 THE CLERK: Juror No. 11, is this your verdict as
20 read?

21 JUROR NO. 11: Yes.

22 THE CLERK: Juror No. 12, is this your verdict as
23 read?

24 JUROR NO. 12: Yes.

25 THE COURT: Very well. I want to thank the members

1 of the jury on behalf of Court and counsel and the parties
2 for allowing these parties to exercise their right to trial
3 by jury. I want to acknowledge the fact that although I've
4 admonished you every day you're not to talk about this case,
5 you're now free to talk about this with whomever you choose.
6 You're not obligated to talk to anybody about this case. If
7 anybody persists in talking to you about this case when
8 you've indicated you don't want to, you should advise the
9 Court immediately.

10 Also, I want to take an opportunity to acknowledge
11 some very fine lawyers we have in this courtroom who have
12 tried this case this week. The Court sure appreciates their
13 professionalism and diligence and courtesy.

14 MS. WALKENSHAW: Thank you, Your Honor.

15 MS. RHOADES: Thank you.

16 THE COURT: It's not something I see every day,
17 members of the jury. If you'd like an opportunity to speak
18 to us, we would appreciate the opportunity to do so. You're
19 not obligated to speak to any of us, but it does give us an
20 opportunity to learn what you have to say, hear your
21 observations, recommendations. If counsel wishes to speak to
22 the members of the jury, I suggest you wait in the Jury
23 Services area.

24 MS. RHOADES: Okay.

25 MS. WALKENSHAW: Thank you, Your Honor.

1 MS. RHOADES: Thank you.

2 MR. ROWLES: Thank you, Your Honor.

3 THE COURT: Thank you. We'll be with you in just a
4 few moments, members of the jury.

5 (Jury excused at 4:22 P.M.)

6 THE COURT: Ms. Rhoades?

7 MS. RHOADES: Your Honor, at this time, the State
8 would ask that Mr. Cooper be remanded without bail based on
9 the verdict.

10 THE COURT: Ms. Walkenshaw.

11 MS. WALKENSHAW: Yes, Your Honor. I would just ask
12 that bail remain at \$80,000. I'll submit it.

13 THE COURT: Defendant's remanded into custody
14 without bail pending sentencing. We need a sentencing date,
15 please Madam Clerk.

16 THE CLERK: February 8th, 2017 at 8:30 in the
17 morning.

18 MS. RHOADES: Thank you very much.

19 THE COURT: Thank you.

20 MS. WALKENSHAW: Thank you.

21 MR. ROWLES: Thank you, Your Honor.

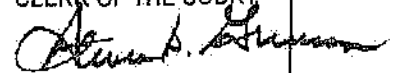
22 MS. RHOADES: Thank you, Your Honor, very much for
23 everything.

24 (Court adjourned at 5:23 P.M.)
25

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case to the best of my ability.

Julie Lord

JULIE LORD, INDEPENDENT TRANSCRIBER



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DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JAMES COOPER,

Defendant.

CASE NO. C312970-1

DEPT. X

BEFORE THE HONORABLE DAVID BARKER, SENIOR DISTRICT COURT JUDGE

**WEDNESDAY, FEBRUARY 8, 2017
RECORDER'S TRANSCRIPT RE:
DEFENSE REQUEST FOR CONTINUANCE**

APPEARANCES:

For the State:

KRISTINA RHOADES, Esq.
Chief Deputy District Attorney

For the Defendant:

TALIA WALKENSHAW, Esq.
Deputy Public Defender

RECORDED BY: VICTORIA BOYD, COURT RECORDER

CLERK OF THE COURT

RECEIVED
AUG 14 2017



1 Las Vegas, Nevada, Wednesday, February 8, 2017 at 9:59 a.m.

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3
4 THE COURT: The record should reflect the presence of Mr. Cooper in
5 custody with counsel and representative of the State. Time set for sentencing.
6 Any legal cause or reason to delay adjudication?

7 MS. WALKENSHAW: Your Honor, this was going to be the defenses'
8 request for a continuance. Typically in these matters we receive the PSIs about
9 a week before the sentencing date. Yesterday when I was preparing for Mr.
10 Cooper's sentencing I realized that there wasn't a PSI in my file. I spoke to my
11 secretary. I checked on Odyssey and according to Odyssey for whatever
12 reason, even though I received a copy of the PSI this morning from the District
13 Attorney, even though the PSI reflects that I am Mr. Cooper's attorney,
14 Odyssey sealed it so I wasn't able to access it, so both myself and my
15 secretary have been contacting them in order to obtain a copy. I was hoping I
16 would receive it this morning from them. I hadn't. Mr. Rhoades did make a
17 copy and provide me with one in Court this morning. I provided that to Mr.
18 Cooper.

19 THE COURT: You need more time?

20 MS. WALKENSHAW: Yes.

21 THE COURT: Okay. Who is your trial judge?

22 MS. WALKENSHAW: Judge Walsh.

23 So I was going to be requesting that the matter be continued to Monday
24 if possible if that is amendable to the Court. I don't know if it's a full day.

25 THE COURT: It's a pretty full day. Can we push it a little further?

1 MS. WALKENSHAW: That's fine.

2 THE COURT: Let's find a date that's convenient for the Court.

3 MS. WALKENSHAW: And, Your Honor, just I had a question regarding
4 one of the convictions that Mr. Cooper was found guilty of is a child abuse.

5 THE COURT: I looked at them yesterday because I looked at the verdict
6 form, and I thought that battery constituting domestic violence felony
7 adjudication seemed a little strange, but it's priors, right?

8 MS. WALKENSHAW: That's correct.

9 THE COURT: So that's not the one?

10 MS. WALKENSHAW: No, there are some child abuse convictions there
11 and I did not get a psychological evaluation done because it's mandatory prison
12 on the other charges. If, however, Your Honor would like to see that I can get
13 it done prior to the next Court date. I just didn't get it done because typically
14 those are only done in situations where they are necessary in order for a grant
15 of probation because the other charges are non-probationable and so I just
16 wanted to double check - -

17 THE COURT: No, I don't think that's necessary.

18 MS. WALKENSHAW: Okay.

19 THE COURT: Kind of a waste of time.

20 So let's pass it to the 15th.

21 THE CLERK: February 15th at 8:30.

22 MS. RHOADES: Thank you. And if I could just ask the Court to bring
23 those - - they had some Court exhibits, the prior documents if we could just
24 bring those over for the 15th please. Thank you, madam clerk.

25 THE COURT: Mr. Cooper, any questions about that.

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THE DEFENDANT: No,

(Proceedings concluded at 10:02 a.m.)

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

Victoria W. Boyd

Victoria W. Boyd
Court Recorder/Transcriber

8-11-2017

Date

Steven D. Grierson

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA, . CASE NO. C-16-312970-1
Plaintiff, . DEPT. NO. X
v. .
JAMES COOPER, . TRANSCRIPT OF
Defendant. . PROCEEDINGS
.

BEFORE THE HONORABLE DAVID BARKER, SENIOR DISTRICT COURT JUDGE

SENTENCING

WEDNESDAY, FEBRUARY 15, 2017

APPEARANCES:

FOR THE STATE: KRISTINA A. RHOADES, ESQ.
Deputy District Attorney

FOR THE DEFENDANT: TALIA L. WALKENSHAW, ESQ.
Deputy Public Defender

COURT RECORDER:

VICTORIA BOYD
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript produced by transcription service.

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CLERK OF THE COURT

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1 LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 15, 2017, 9:44 A.M.

2 THE COURT: State of Nevada versus James Cooper.

3 The record shall reflect the presence of Mr. Cooper, in
4 custody, with his counsel, representative of the State. Time
5 set sentencing. Any legal cause or reason to delay
6 adjudication?

7 MS. WALKENSHAW: Your Honor, and I'll leave this to
8 your discretion. In reviewing the PSI, the first offense --
9 the first offense that is listed is a 1994 gross misdemeanor
10 conviction out of Minnesota. The conviction notes that it was
11 a theft. However, Mr. Cooper's indicated that it's a
12 possession of stolen property. There also indicates that
13 there was a probation violation, that was on page 4. However,
14 on page 5, the Department indicates that due to the time frame
15 of his supervision, records were not currently available.

16 In speaking with Mr. Cooper, he's indicated that he
17 completed probation successfully. And so, I wanted to note
18 that for the record, and if that's something that Your Honor
19 found significant --

20 THE COURT: I really didn't even notice.

21 MS. WALKENSHAW: -- in your decision -- okay.

22 THE COURT: But if you want me to make a special
23 finding pursuant to Stockmeier (phonetic) and include that
24 this the JOC, I'm happy to do that.

25 MS. WALKENSHAW: I would appreciate that.

1 THE COURT: All right.

2 MS. WALKENSHAW: That was the defense's only issue.

3 THE COURT: Counsel, do you have a response that?

4 MS. RHOADES: As far as the 1995 conviction, no.
5 That's fine. I mean, I'm fine with striking the probation
6 violation language from that 1995.

7 THE COURT: So I'm going to make a special ruling on
8 that pursuant to Stockmeier that the -- the 1995 conviction
9 for gross misdemeanor theft in Manteko (phonetic), Minnesota
10 has absolutely no relevance to anything that will transpire
11 here. In fact, defendant, nobody's disagreeing that he was
12 honorably discharged from that effort. Okay?

13 MS. RHOADES: Thank you, Your Honor. We also have a
14 victim speaker, Brittney Jansen. I don't believe she was
15 properly noticed, but the defense -- my understanding is the
16 defense has no objection to her speaking. My understanding is
17 that she is speaking on behalf of the defendant, although she
18 was the State's witness that, you know, we had to get warrants
19 for in the past. She's been a stark advocate for him this
20 entire time, and I would just ask that she speak last, if
21 that's okay with the defense.

22 MS. WALKENSHAW: That's fine.

23 THE COURT: She is the identified victim, and if no
24 one's objecting, she gets to speak last, pursuant to statute.
25 All right, Ms. -- so hearing no legal cause or reason to delay

1 adjudication, the defense adjudicated guilty count 1 and 2,
2 battery constituting domestic violence, counts 3 and 4, child
3 abuse, neglect or endangerment.

4 My notes reflect that this adjudication is pursuant
5 to a jury verdict that was returned on November 18th, 2016.
6 Ms. Rhoades you were trial counsel?

7 MS. RHOADES: And Mr. Rowles, yes, Your Honor.

8 THE COURT: Mr. Rowles and Ms. Rhoades trial
9 counsel. You have the floor. I was not presiding Judge in
10 the effort. I have reviewed the PSI that includes an offense
11 synopsis and all the routine information that I commonly read,
12 but I don't know the intricacies of the case.

13 MS. RHOADES: Thank you, Your Honor. The State is
14 asking for an aggregate total, 52 months to 132 months in the
15 Nevada Department of Corrections. We're asking for the
16 maximum on count 1, 24 to 60 months. That's the battery
17 domestic violence third offense. That's to run consecutive
18 with the maximum in count 3, the child abuse naming Cameron
19 Blair, 28 to 72 months there, for a total of 52 to 132.

20 It looks like P&P's recommending slightly less on
21 the bottom and more on the top, and so --

22 THE COURT: Well, hang on, hang on for a second.
23 This is obviously a mandatory prison term.

24 MS. RHOADES: Yes.

25 THE COURT: So P&P's at 12 to 36, count 1; 12 to 36,

1 count 2 consecutive, 12 to 48, 12 to 48, counts 3 and 4
2 consecutive. You're recommending 24 to 60, count 1. What on
3 count 2?

4 MS. RHOADES: Or 24 to 60 concurrent on count 2.

5 THE COURT: So 24 to 60, 24 to 60, concurrent.

6 MS. RHOADES: 28 to 72, count 3, consecutive.

7 THE COURT: 28 to 72, 28 to 72 concurrent on a 3 and
8 4 consecutive to counts 2 and -- 1 and 2?

9 MS. RHOADES: 1 and 2 consecutive. So a 24 to 60
10 consecutive to 28 to 72 is what we're asking.

11 THE COURT: Okay. For an aggregate what?

12 MS. RHOADES: 52 to 132.

13 THE COURT: 52 to 132. So you're in lower than what
14 P&P is aggregating at 48 to 168?

15 MS. RHOADES: That's correct, Your Honor.

16 THE COURT: Or your bottom is higher, but your top
17 is later?

18 MS. RHOADES: Right, right.

19 THE COURT: Okay.

20 MS. RHOADES: And we're asking for that, based on
21 the facts of this case, based on the fact that Mr. Cooper is
22 an extremely violent individual who does not care what happens
23 to people, does not care how law enforcement gets involved,
24 does not care if kids are present or if kids are not present.

25 And so this case was a severe beating on Brittney

1 Jensen. She was drinking, he was drinking. Brittney's two
2 children, not in common with the defendant, were home when
3 this occurred. It was eight-year-old Cameron Blair and
4 five-year-old Kaylee Jensen. They came in and they testified
5 at trial. Brittney came from an order compelling her out of
6 Arizona. We previously had warrants for her. She refused to
7 come in. We finally got her to come in and testify, and she
8 did bring the children with her.

9 But the night of this incident, those two kids were
10 home with this man, with Brittney. He gets upset with
11 Brittney for whatever reason, and walls on her, frankly. I
12 mean, her face was swollen, bruised, the whole left side of
13 her face, I believe it was, was bruised. She had to go to the
14 hospital. She had a clear ligature mark on her neck. That
15 was the battery domestic --

16 THE COURT: Do you have pictures?

17 MS. RHOADES: I do have pictures. That was the
18 battery domestic violence strangulation. And I can tell the
19 Court that the jury did not come back with the strangulation
20 because Brittney, you know, coincidentally, didn't remember
21 it, and that was something that the eight-year-old did not
22 see.

23 The eight-year-old's testimony was the most
24 compelling in this entire trial. Court's indulgence. And I
25 know we have -- I know we brought the exhibits up with the

1 prior certified copies. I don't know if I have printed
2 photographs with me, Your Honor.

3 THE COURT: Well, we have -- the clerk has exhibits.

4 MS. RHOADES: I think those are the prior certified
5 copies of the convictions.

6 THE COURT: Did you bring up the pictures?

7 THE CLERK: I did.

8 THE COURT: Can I see the pictures?

9 THE CLERK: Yes.

10 MS. RHOADES: Oh, thank you so much.

11 THE COURT: She's got the trial -- she's got the
12 trial exhibits.

13 MS. RHOADES: Thank you.

14 THE COURT: Just give me a second, everybody.

15 MS. RHOADES: Yes, I'm sorry, I should have --

16 THE COURT: I just need to --

17 MS. RHOADES: -- had those printed out, but.

18 THE COURT: I just need to catch up.

19 MS. RHOADES: And those first photos that you saw
20 were of this incident. The ones you just flipped through,
21 Your Honor, are from a prior incident involving Brittney and
22 the children.

23 THE COURT: All right. I have reviewed the
24 photographs that were admitted at trial.

25 MS. RHOADES: Thank you, Your Honor.

1 THE COURT: You have the floor, Ms. Rhoades.

2 MS. RHOADES: Her injuries were extensive, and that
3 ligature mark is terrifying, frankly. I mean, it takes
4 minutes, sometimes seconds to kill someone when you're
5 strangling them. And the jury did not find the strangulation,
6 but they did find the battery domestic violence, the felony
7 that's count 2.

8 And so the saddest part here are these kids, because
9 Brittney's on the ground crying for help, asks Cameron, the
10 eight-year-old child, to call the police. Cameron gets the
11 phone, runs to his back bedroom. Kaylee's there, too, in the
12 hallway. It's a very small apartment. Five-year-old Kaylee's
13 right there. Cameron gets the phone, runs to his bedroom.
14 And the defendant chases the eight-year-old into the bedroom,
15 throws the eight-year-old onto the bed and takes the phone
16 away from him to prevent him from calling the police. And
17 five-year-old Kaylee's sitting there the entire time crying,
18 Cameron's terrified, crying.

19 Eventually, the police come. They have Brittney on
20 body camera saying that he strangled me, he hit me, referring
21 to Mr. Cooper. And the officers get the entire story pretty
22 much from eight-year-old Cameron Blair because he's the one
23 that is coherent, and he's the one that tells the police
24 officers what happened and that this beating just took place
25 throughout the entire apartment.

1 His prior history, you know, while it says he
2 doesn't have any prior felony convictions, he has been
3 arrested several times for felonies for battery domestic
4 violence felonies in July. So just moving up from this most
5 recent one. That incident is July 2nd, 2015, involving
6 Brittney, involving Cameron and Kaylee. The same thing, same
7 apartment, he's beating Brittney again. Brittney tells
8 Cameron to call the police again. This time Cameron gets a
9 phone, Kaylee's there, too. He gets a knife, the defendant
10 gets a knife and threatens Cameron and Kaylee with a knife.

11 And so there were assault with deadly weapon
12 charges, battery domestic violence charges and, you know, lo
13 and behold, Brittney forgives him that time, didn't really
14 cooperate that well with authorities that time either, and
15 that was dropped to a misdemeanor battery domestic violence.
16 That's that 15F case.

17 Going up again to the 2014, that's July 22nd, 2014.
18 That's for a different victim. And you know, what's so funny
19 about this is the defendant hailed down the police. This is
20 for July 22nd, 2014. The victim is Luna Porez (phonetic).

21 She goes to Sunrise Hospital with marks on her neck
22 and her throat because she was getting away from the defendant
23 after he was strangling and beating her. Mr. Cooper has some
24 bleeding right here because she did something in defense of
25 herself. He goes outside with this injury, hails down the

1 police and says, I just got beat up by my girlfriend, which is
2 exactly what he testified to here.

3 He testified at trial saying that Brittney was the
4 aggressor, she pulled out his hair, she was drunk, she does
5 this before, and as you can tell by the injuries, that's not
6 what happened, that's not what the jury found happened. And
7 so this same thing, July 2014, he's doing the same thing,
8 telling the cops this girl beat me up, I've got a bloody nose,
9 but, you know, she was at the hospital with extensive injuries
10 on her neck, and she told the police what happened there.

11 That was also a felony dropped down to a
12 misdemeanor. He has yet another one with another victim. I
13 have a statement from 2007. It looks Rochelle Speed
14 (phonetic), another victim, and just reading her statement
15 from 2007: James grabbed me by both sides of my head and
16 started kneeling, pulling my head into his knee. Then James
17 pulled me by my hair from the living room into the bedroom.
18 James let go of me and said, I'll show you what I'm talking
19 about.

20 He does this on a regular basis, and he thinks that
21 it's perfectly okay to do. He beats women. He beats them in
22 front of their kids. He threatens the kids, grabs phones out
23 of their hand and now we're here after a jury has convicted
24 him of these felonies, and really, there's no reason to give
25 him anything less than what the State is asking for.

1 I mean, P and P recommends a little bit more on the
2 back end, and I would submit on the facts. If the Court has
3 any questions, I'd be more than happy to answer. Well, one
4 more thing I do want to talk about before the defendant and
5 Brittney speak, if the defendant is going to speak:

6 The jail calls were talked about a lot during trial.
7 He called Brittney 28 times in four days immediately after he
8 was arrested on this incident, you know, telling her, you know
9 what to do, don't over think shit. He tells Brittney, you
10 jumped on me everywhere. You tried to bite my fingers, you
11 pulled out half of my dreadlocks. And so he's basically
12 feeding her this information of what she needs to say and what
13 story she needs to stick to, and this just how he behaves and
14 what he does.

15 And it's disgusting and it's not acceptable, and he
16 should be sentenced to the maximum on count 1 and count 3,
17 Your Honor, to run consecutive.

18 THE COURT: All right. Mr. Cooper, this is your
19 opportunity to present any information in mitigation sentence.
20 Anything you'd like to say?

21 THE DEFENDANT: Yes. On all those occasions, I was
22 also assaulted and I was the only person that was ever
23 prosecuted. That's why I took the deals and ran. At the
24 beginning of this one, I said I'm not going to do it anymore
25 because she attacked me. I told the police exactly what

1 happened, and I was arrested again. I told them I'm not going
2 to take a deal, and I took it all the way. That's what
3 happened. I just want to get back to my kids, see my kids
4 graduate college.

5 THE COURT: All right. Counsel.

6 MS. WALKENSHAW: Thank you, Your Honor. So I
7 understand that the State's recommending the count 1 and count
8 3 be run consecutive. And Parole & Probation also made a
9 recommendation that the counts run consecutive. And this is
10 on somebody who has an extremely limited criminal record and
11 this is his first felony offense.

12 Certainly, there are first time felony offenses and
13 first time felony offenders that warrant this type of
14 treatment. Mr. Cooper doesn't. He already lost the benefit
15 of us arguing for probation, and this is on somebody who
16 otherwise would be a good candidate for probation. And this
17 is why. You know, before I speak about the case, this is
18 somebody that has no prior felonies. His only gross
19 misdemeanor conviction is from 20 years ago, 23 years ago.

20 And he is somebody that attended and graduated
21 college. He has been a foreman with the Teamsters since 1994.
22 And you know, specifically in relation to this case,
23 obviously, the jury found him guilty and we're here today.
24 But he has consistently maintained his position. This was a
25 fight that was started by Ms. Jensen. That's what she

1 testified to at trial.

2 And whatever actions were taken were in an attempt
3 to get her off of him. And he specifically demonstrated for
4 the jury what it was that happened. And I mean, you can look
5 at him. You can see how long his dreadlocks are. You can see
6 how thick they are. She was ripping these out of his head.
7 And she was hanging onto his hair, and he demonstrated she was
8 underneath him, he was on top, and he demonstrated that he was
9 trying to shake her off of him.

10 And if she sustained any injuries, then that would
11 have been why it was. That's what he testified to at trial.
12 He never specifically or intentionally or, you know, directly
13 struck her on purpose. And the District Attorney indicated
14 that Cameron, which is Brittney's son, his testimony was the
15 most telling. He testified at trial that he doesn't remember
16 what happened.

17 His testimony came in through a police officer that
18 he gave a statement to on the night of the incident. So he
19 didn't actually testify to anything at trial other than that
20 he doesn't remember this incident happening.

21 Brittney indicated that she started this fight. It
22 was based off of some text messages that she had seen in his
23 phone regarding him speaking to other women. She went into
24 the bedroom, and you know, this -- he gets home from work that
25 day. He works full-time. He gets home from work that day.

1 He'd indicated that when he got home, she had already been
2 drinking extensively, and when he got home, he had a little
3 bit to drink as well. And ultimately, this situation ensues.

4 The District Attorney also mentioned that, you know,
5 Brittney was yelling and screaming for Cameron to call the
6 police. Brittney testified at trial that she did that because
7 she knew that he had a prior conviction. And she knew that if
8 she got in front of it, that she would again be the victim and
9 he would again be aggressor. And so she indicated that she
10 told Cameron to call so that she could get in front of it.

11 The thing is, is that James also called, and both
12 911 calls were admitted trial. And on his 911 call, he
13 remained on the phone with dispatch the entire time. You can
14 hear Brittney screaming and yelling in the background. You
15 can hear him leave, and she follows him and she continues to
16 scream, and he stays on scene until police arrive.

17 He never tries to run. He stays on the phone with
18 dispatch. And you know, obviously, then why did Cameron say
19 what he said to police? And I asked Brittney that at trial,
20 and she said that she thought she was the one that scared him.
21 That she was probably scared because of the way that she was
22 acting. And that was testified to at trial.

23 The District Attorney mentioned that some of are the
24 jail calls were introduced where Mr. Cooper's telling her you
25 know what to do, you know what you got to do, feeding her

1 these facts. Again, at trial, she testified that she never
2 took that as any type of threat, of any type of, you know, you
3 need to testify to this, you know what you have to do. That
4 she took it, and she testified, I took that to mean that I
5 need to tell the truth is what she said at trial.

6 And her testimony was consistent with the letter
7 that she wrote at the very beginning of this case that she
8 gave to the Justice of the Peace. And I think that some of
9 the language in the letter that she wrote was very telling and
10 she described James as a loving father and a family man. He
11 cared for her. He cared for the two children that were not
12 his children.

13 And I just wanted to briefly discuss the previous
14 incident that was brought up in 2015 where he was originally
15 charged with assault with a deadly weapon, but he was
16 convicted of the domestic battery misdemeanor. I think it's
17 relevant and this also came out, he was the one that sustained
18 a stab wound, and he did not report Brittney. He went to the
19 hospital. He received treatment for that stab wound. He did
20 not file a report. The next day she filed a report and the
21 charges were pressed against him.

22 And so, you know, whatever their dynamic may be in
23 the relationship that they have with each other, no one knows
24 but them. But as far as this case, he's been consistent
25 throughout the entire pendency of the case regarding what

1 happened and so has Brittney. And the only testimony or
2 statement that there was to the contrary was given by Cameron
3 to an officer. Cameron testified that he did not remember,
4 and the officer was permitted to testify as to what Cameron's
5 statement was on the night of that incident.

6 And so given all of those facts and given that this
7 is somebody who has very, very minimal criminal record, has
8 worked a stable job for decades, has consistently provided for
9 his children, I would ask that he be given the minimum
10 sentence on all of the counts and that it be run concurrent.

11 THE COURT: All right.

12 MS. RHOADES: And Your Honor, before Ms. Jensen
13 speaks, I just wanted to make a record, I know I marked these
14 as court exhibits, but I just -- the priors, because it is a
15 felony and so he has those two priors, I think it's Court
16 Exhibit 1 and 2, I believe.

17 THE COURT: Court Exhibits 1 and 2 have been marked
18 and admitted as prior convictions for battery domestic
19 violence making this battery domestic violence conviction
20 eligible for enhancement pursuant to Nevada.

21 MS. RHOADES: Thank you very much. And just to
22 correct one thing because Your Honor wasn't sitting at the
23 trial. There were the 911 statements made by Brittney and the
24 body cam statements made by Brittney stating that it was the
25 defendant that caused these injuries, besides Cameron's

1 statement.

2 THE COURT: All right. Let's have the victim
3 impact.

4 MS. JENSEN: Thank you, Your Honor.

5 THE COURT: Ma'am, raise your right hand to be sworn
6 by the clerk.

7 BRITTNEY JENSEN, STATE'S WITNESS, SWORN

8 THE CLERK: Please state your name, spelling your
9 first and last name for the record.

10 MS. JENSEN: Brittney Jensen, B-r-i-t-t-n-e-y.
11 Jensen, J-e-n-s-e-n.

12 THE COURT: Ma'am, what would you like to tell me?

13 MS. JENSEN: Your Honor, I am just here to say
14 today, I feel that why he's here today was primarily my
15 fault. And something that wasn't touched on by either
16 lawyer, the recorded jail calls of me calling and speaking
17 with him right after the incident occurred. I woke up, I was
18 extremely intoxicated, I woke up like, what happened?

19 And starting to remember, I remember pulling out
20 his hair, him pushing me away. That is clearly where the
21 ligature mark --

22 THE COURT: I was just looking at some pictures.
23 Is that your hair? It looks like your hair in the picture,
24 big clunks of hair. Is that your hair?

25 MS. JENSEN: There is both of our hair, yes.

1 THE COURT: All right.

2 MS. JENSEN: One of the things was -- and on the
3 recorded call, I asked why they didn't charge me? And first
4 of all, he called the police first. He called them and he
5 was arrested. I did, I played the wolf. I didn't want to
6 get in trouble. And I'm here. I truly believe I should have
7 been the one at fault, you know.

8 All his priors, everything, she would like him
9 appear to be, is not true. And I don't believe it's doing
10 him any good to be here. I know all of his kids -- I have a
11 Valentine's Day card my daughter just brought home, and she
12 wouldn't do that if she was scared of him, you know.

13 He has other children and families that count on
14 him to be out and be a productive part of this society. I
15 feel terrible to have wasted everybody's time. I wish they
16 would have charged me. I wish they would have listened, and
17 I've said this from the beginning because it is the truth.
18 Yeah. Thank you.

19 THE COURT: Well, counsel, any questions?

20 MS. WALKENSHAW: No, Your Honor.

21 THE COURT: Ms. Walkenshaw?

22 MS. RHOADES: No, Your Honor.

23 THE COURT: Counsel, any questions? All right.
24 Mr. Cooper, frankly, everybody involved in this case -- see,
25 these domestic violence cases are very challenging dynamics.

1 they always are. I can tell you, though, that over the years
2 of being involved in the criminal justice system, I've seen
3 more than my fair share of situations of this type that
4 involved homicide. People die every day from domestic
5 violence.

6 I look at those -- I look at this pictures involved
7 in this case, and although each situation, each relationship
8 is unique, I see the same, I see violence -- extreme violence
9 here. I see -- and I see two innocent children brought into
10 a toxic relationship or situation and forced to come to
11 court, compelled to come to court and testify about things
12 that, frankly, young kids should never have to see, but they
13 do.

14 Mr. Cooper, you've sustained two prior convictions
15 for violence, and now you're faced significant time, but you
16 have the victim identified, putative victim in this case
17 standing with you saying it's her fault, also, the psychology
18 of which is fairly common and I find fascinating.

19 In accordance of the law of State of Nevada, this
20 is a mandatory prison term. The law requires it. The
21 recommendation, I'm deviating from the recommendation. I'm
22 actually deviating down, but I'm not going to where your
23 counsel is, and I'm not going where the State is.

24 In accordance with the law of the State of Nevada,
25 count 1, 24 to 60 months Nevada Department of Corrections.

1 Count 2, 24 to 60 months, Nevada Department of Corrections.

2 Count 3, 24 to 6 months. Count 4, 24 to 60 months.

3 I'm going to run the aggregate total here is going
4 to be 48 to 120 months Nevada Department of Corrections. I'm
5 going to run counts 1 and 3 consecutive. I'm going to run
6 counts 1 and 2 concurrent, 3 and 4 concurrent for an
7 aggregate total of 48 to 120 months. 231 days credit for
8 time served.

9 MS. RHOADES: I believe we're at 244, Your Honor.

10 MS. WALKENSHAW: Correct.

11 THE COURT: 244 days CTS. That's my decision.

12 Mr. Cooper, do you understand the sentence structure?

13 Lawyers anything else?

14 MS. RHOADES: No, thank you, Your Honor.

15 MS. WALKENSHAW: No, Your Honor. Thank you.

16 THE COURT: Oh, \$25 administrative assessment fee,
17 \$3 DNA admin, 150 DNA.

18 MS. RHOADES: Thank you.

19 THE COURT: Thank you.

20 (Proceeding concluded at 10:11 A.M.)

21 * * * * *

22

23

24

25

1 ATTEST: I hereby certify that I have truly and correctly
2 transcribed the audio/visual proceedings in the above-
3 entitled case to the best of my ability.

4
5 *Julie Lord*

6 _____
7 JULIE LORD, INDEPENDENT TRANSCRIBER
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To whom it may concern:

I Brittney Jensen would like to explain the events that took place on the evening of Jan 22nd 2016. I had been drinking heavily through out the day and when James came home ^{from work} we had finished making dinner to gether and enjoying a meal then when dinner was finished I decided to speak with James about something I was upset about that had happened a couple weeks prior. When we were talking I started getting upset and when James tried to remove him self from the situation I followed him and then I attacked him and I proceeded to continue to attack him through out the house and pulled alot of his hair out and he placed the call to 911 and then I started beligerently yelling profanities and yelled to my son to also call 911 when 911 did arrive they just looked at my injuries and saw how intoxicated I was and told me you are going to the hospital and when I arrived there they didnt ask me what happened or anything they just took pictures and started saying what they were gonna be charging him with. ~~I~~ I was still very intoxicated throughn this process. I would just like to say that I am 100% to blame for the events that took

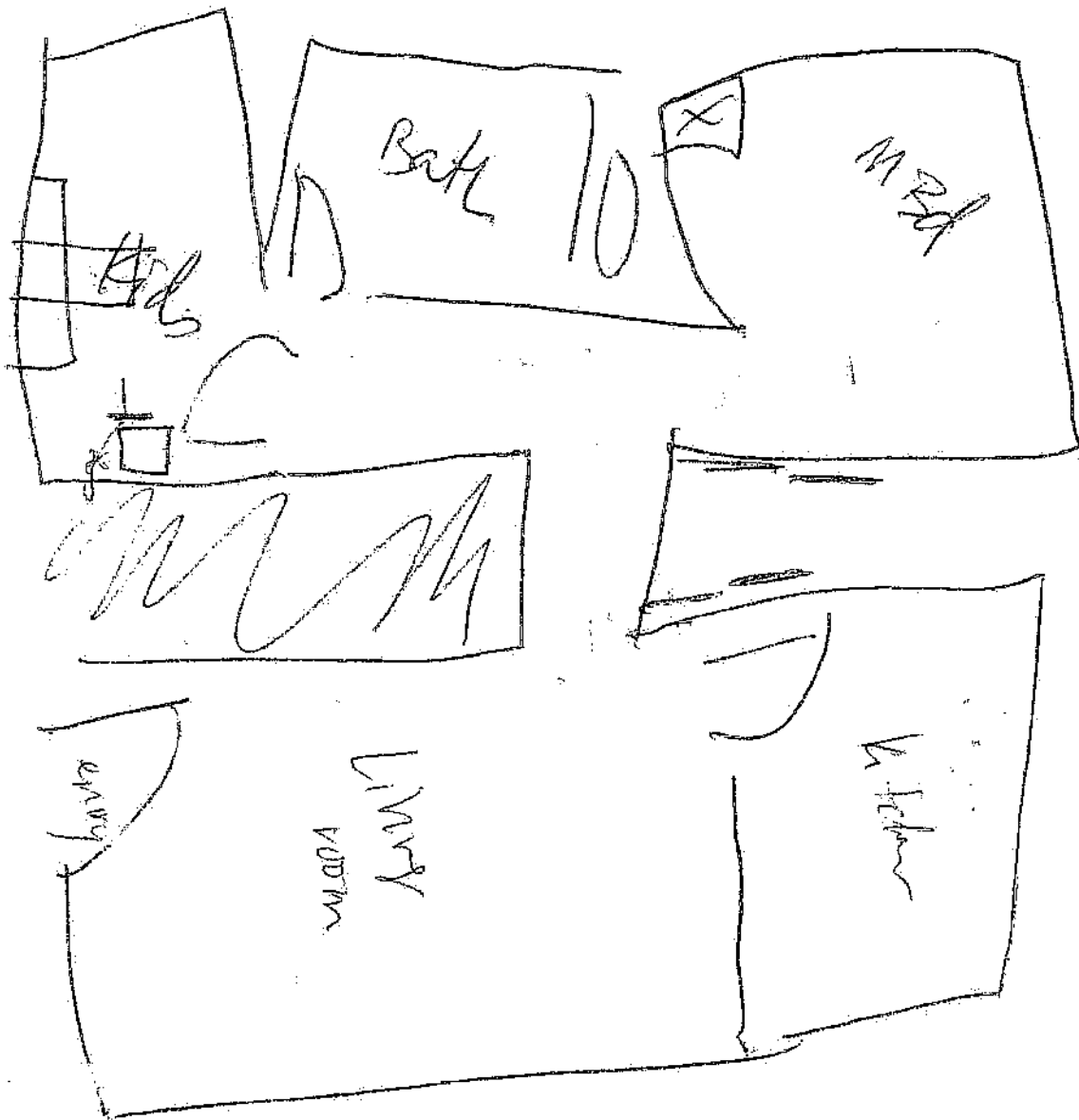
place on the evening of Jan 22nd 2016
and I am ashamed of my actions
and realise now what devastating effects
have resulted to our entire family
because of my actions. I hope that
because of what I have done does not
result in James suffering the consequences.
James is a loving father figure to
my two children, a caring spouse to
me and a hard working positive person.
~~James~~

Betty Jensen 01/26/16

MAR
PRO

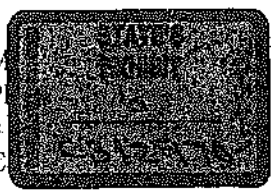
Case





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IFICATION

1 DECLARATION OF RESEARCH ASSISTANT, CUSTODIAN OF RECORDS CONCERNING LAS
2 VEGAS METROPOLITAN POLICE DEPARTMENT RECORDINGS OF EMERGENCY "9-1-1"
3 CALLS (TAPE AND COMPUTERIZED MATERIALS)
4
5

6 I, Nicole Roe, hereby declare under the penalty of perjury:
7

8 1. That I am an employee of the Las Vegas Metropolitan Police Department, Las
9 Vegas, Nevada and in such capacity, I act as the Custodian of Records for the records and recordings of
10 9-1-1 and 3-1-1 calls made to the Las Vegas Metropolitan Police Department.
11

12 2. That all calls made to 9-1-1 are recorded by the Las Vegas Metropolitan Police
13 Department onto DVDs and into computerized records.
14

15 3. That I have examined the recordings made by the Las Vegas Metropolitan Police
16 Department and that I have discovered that on July 3, 2015 a call was made in reference to an event at
17 356 E Desert Inn Rd at or near 0709 hours.
18


19 4. That I have made an exact, true, accurate and complete reproduction of the
20 above described call to 9-1-1 onto a CD and have printed an exact, true, accurate, and complete
21 reproduction of the computerized information concerning this call. That I have written the Event
22 Number 150703000877 onto that CD. I then sealed that CD into an envelope, attached this declaration
23 and the computerized information concerning that call to that envelope and wrote my name and the same
24 Event Number on the outside of that envelope.
25

26 5. That the original recording of the call (DVD and computer entries) by the Las
27 Vegas Metropolitan Police Department was made at the time the call was received by the Las Vegas
28 Metropolitan Police Department and that the recording was made by a person with knowledge in the
29 course of a regularly conducted business activity of the Declarant or of the office of the Declarant.
30

31 6. That such recording of the 9-1-1 calls made to the Las Vegas Metropolitan Police
32 Department are a regular practice of the Las Vegas Metropolitan Police Department and are part of the
33 activities of the Las Vegas Metropolitan Police Department and the recording of the 9-1-1 calls are
34 matters observed pursuant to a duty imposed by law. That this is a full, true and correct copy of the
35 original on file with the Las Vegas Metropolitan Police Department, except for information that is
36 privileged and confidential by law.
37

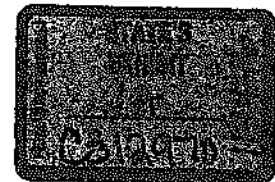
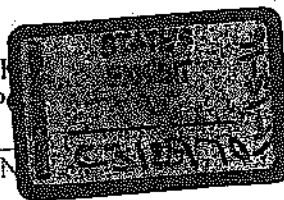
38 I declare under penalty of perjury that the foregoing is true and correct.
39
40

41 Executed on: August 19, 2015
42

43 Signature: 
44 CUSTODIAN OF RECORDS

MAR 11 2015
PROP

Case N



MA [REDACTED] CATION
PRO [REDACTED]
[REDACTED]
Cas [REDACTED]

MARK [REDACTED] TION
PROPO [REDACTED]
[REDACTED]
Case N [REDACTED]

VOLUNTARY STATEMENT

150703-0877

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime: DOMESTIC ASSAULT W/A DEADLY WEAPON

Location of Occurrence: 356 E DESERT INN RD #111

Date Occurred: 07/03/15 Time Occurred: 0709

Section/Beat: M1 City County

Your Name (Last / First / Middle): James Cameron Blair

Race: BL Sex: M Height: 4'0" Weight: 70 Hair: BL Eyes: BRN Date of Birth: 03/05/07 Social Security #: _____

Work Sched. (Hours) (Days Off): Johns Park weekends Business / School: _____

Residence Address: (Number & Street) Bldg./Apt.# City State Zip Code: 356 E Desert Inn III Las Vegas NV 89109

Bus. (Local) Address: (Number & Street) Bldg./Apt.# City State Zip Code: _____

Res. Phone: _____ Bus. Phone: _____ Occupation: _____ Depart Date (if visitor): _____

Best place to contact you during the day: _____ Best time to contact you during the day: _____

Can You Identify the Suspect? Yes No

DETAILS Todd cooked mom then he let go and mom said call 911 and he said give me the phone he got the phone by threatening us with a knife he grabbed it out of my sisters hand mom was holding him off and fell on the bed and got his back ~~injured~~

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) S/A ON THE 3 DAY OF JULY AT 0800 (AM/PM), 2015.

Witness/Officer: Chal (SIGNATURE)

Witness/Officer: C. ALFONSI (PRINTED) P# 13384

X Blair (SIGNATURE OF PERSON GIVING STATEMENT)

MARK [REDACTED] INFORMATION
PRO [REDACTED]
[REDACTED]
Case [REDACTED] 6/12/10

MARK [REDACTED] INFORMATION
PRO [REDACTED]
[REDACTED]
Case N [REDACTED]

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime BATTERY DV	Date Occurred 07-03-15	Time Occurred 0709
Location of Occurrence 356 E DESSERT INN RD #111	Sector/Beat M1	<input type="checkbox"/> City <input checked="" type="checkbox"/> County

Your Name (Last / First / Middle) Jensen Brittney Nicole						Date of Birth 12/23/86	Social Security # 516 113723	
Race WH	Sex F	Height 5'6"	Weight 200	Hair Bl	Eyes green	Work Schdl. (Hours)	Days Off	Business / School
Residence Address: (Number & Street) 356 E Dessert Inn			Bldg./Apt.# 111	City Las Vegas	State NV	Zip Code 89109	Res. Phone (702) 272 5905	Bus. Phone
Bus. (Local) Address: (Number & Street)			Bldg./Apt.#	City	State	Zip Code	Occupation	Depart Date (if visitor)
Best place to contact you during the day				Best time to contact you during the day			Can You Identify the Suspect? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

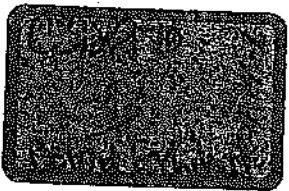
DETAILS I asked to get the keys so i could take the kids to store. and he refused to give me the keys and the he grabbed me by the arm and neck got me to the ground and i yelled to the kids to call 911 and he then got up and went to the kids room and was standing on the bunk bed and threatened the kids with a knife they gave him the phone and i got behind him and was able to get the knife from him and he turned around i was like bare hugging him and we fell to the ground and i was able to get up and we ran out of the house i left the knife where we fell underneath him we ran upstairs to a neighbors house in #209

I HAVE READ THIS STATEMENT AND I AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) S/11 ON THE 3 DAY OF JULY AT 0800 (AM / PM), 2015.

Witness/Officer: [Signature]
(SIGNATURE)

Witness/Officer: C. ALFONSE P# 13384
(PRINTED)

[Signature]
SIGNATURE OF PERSON GIVING STATEMENT



FILED
JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

Aug 6 1 53 PM '14

1 THE STATE OF NEVADA,

2
3 Plaintiff,

4
5 -vs-

6 JAMES MARLIN COOPER #2634475,

7 Defendant.

JUSTICE COURT 80
LAS VEGAS NEVADA
DEPT NO:

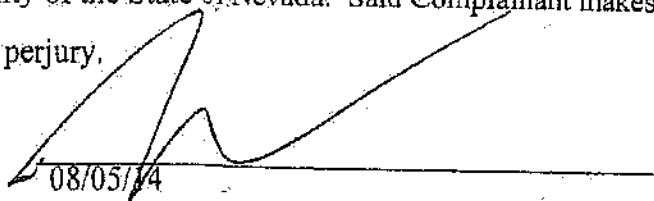
CASE NO: 14F12344X

DEPT NO: 10

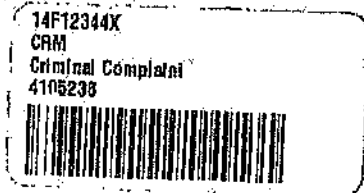
CRIMINAL COMPLAINT

9 The Defendant above named having committed the crime of BATTERY
10 CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION (Category C Felony -
11 NRS 200.481; 200.485; 33.018 - NOC 54740), in the manner following, to-wit: That the said
12 Defendant, on or about the 22nd day of July, 2014, at and within the County of Clark, State of
13 Nevada, did then and there wilfully, unlawfully, and feloniously use force or violence upon
14 the person of the defendant's spouse, former spouse, or any other person to whom the
15 defendant is related by blood or marriage, a person with whom the defendant is or was actually
16 residing, a person with whom the defendant is having a dating relationship, a person with
17 whom the defendant has a child in common, the minor child of any of those persons or the
18 defendant's minor child, to-wit: LUANNA PORRAS, by strangulation, by squeezing the said
19 LUANNA PORRAS' neck with his hand.

20 All of which is contrary to the form, force and effect of Statutes in such cases made and
21 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
22 this declaration subject to the penalty of perjury.

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08/05/14

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27 14F12344X/mah
LVMPD EV# 1407222892
28 (TK2)



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NOTICE OF WITNESSES
[NRS 174.234]

TO: Defendant or attorney of record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF NEVADA intends to call the following witnesses:

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS	Communication Bureau Law Enforcement Agency - Clark County, Nevada.

These witnesses are in addition to those witnesses noted in the discovery or other documents provided.

DATED August 5, 2014.

RECEIVED BY
 THE CLERK OF THE COURT
 CLARK COUNTY, NEVADA
 AUGUST 24 2014
 8/24/14

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
 Plaintiff,)
 vs.)
James Cooper)
 Defendant.)

CASE NO.: 14FA1234X

DEPT. NO.: 10

Battery/Domestic Violence: ADMONISHMENT OF RIGHTS

(For offenses committed on or after October 1, 2007)

I am the Defendant in this case. I am charged with battery constituting domestic violence in having willfully and unlawfully committed an act of force or violence upon my spouse, former spouse, a person to whom I am related by blood or marriage, a person with whom I am or was actually residing, a person with whom I have had or am having a dating relationship, a person with whom I have a child in common, my minor child, or the minor child of one of those persons (in violation of NRS 33.018/NRS 200.485).

I AM AWARE THAT I HAVE EACH OF THE FOLLOWING RIGHTS AND THAT I WILL BE WAIVING THESE RIGHTS IF I PLEAD GUILTY OR NOLO CONTENDERE:

1. The right to a speedy trial;
2. The right to require the State to prove the charge(s) against me beyond a reasonable doubt;
3. The right to confront and question all witnesses against me;
4. The right to subpoena witnesses on my behalf and compel their attendance;
5. The right to remain silent and not be compelled to testify if there were a trial; and
6. The right to appeal my conviction except on constitutional or jurisdictional grounds.

14F12344X
 DVAD
 Admonishment of Rights - BDV
 4317546



I AM ALSO AWARE THAT BY PLEADING GUILTY OR NOLO CONTENDERE I AM ADMITTING THE STATE COULD FACTUALLY PROVE THE CHARGE(S) AGAINST ME. I AM ALSO AWARE THAT MY PLEA OF GUILTY OR NOLO CONTENDERE MAY HAVE THE FOLLOWING CONSEQUENCES:

1. I understand the State will use this conviction, and any other prior conviction from this or any other state which prohibits the same or similar conduct, to enhance the penalty for any subsequent offense.
2. I understand that as a consequence of my plea of guilty or nolo contendere, if I am not a citizen of the United States, I may, in addition to other consequences provided for by federal law, be removed, deported, excluded from entry into the United States, or denied naturalization.
3. I understand that if I am convicted of a misdemeanor or felony that constitutes domestic violence pursuant to NRS 33.018, my possession, shipment, transportation, or receipt of a firearm or ammunition may constitute a felony pursuant to NRS 202.360 or federal law.
4. I understand that sentencing is entirely up to the court and the following range of penalties for committing the offense described above will apply (unless a greater penalty is provided pursuant to NRS 200.481):

DEFENDANT'S INITIALS: me

DEFENDANT'S ATTORNEY'S INITIALS (if applicable): st

FIRST OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 2 days in jail but not more than 6 months; at least 48 hours but not more than 120 hours, of community service; a fine of not less than \$200, but not more than \$1,000, in addition to certain fees and assessments that are required by statute; mandatory participation in weekly counseling sessions of not less than 1 1/2 hours per week (or bi-weekly counseling sessions for an equivalent number of hours if I reside more than 70 miles from the nearest location at which counseling services are available) for not less than 6 months, but not more than 12 months, at my expense; in the Court's discretion, the Court may order me to participate in an alcohol or drug treatment program at my expense; and, in the Court's discretion, if it appears from information presented to the Court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence, the Court may refer the child to an agency which provides protective services, and, if that occurs, the Court will require me to reimburse the agency for the costs of any services provided, to the extent of my ability to pay.

SECOND OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 10 days in jail but not more than 6 months; at least 100 hours, but not more than 200 hours, of community service; a fine of not less than \$500, but not more than \$1,000, in addition to certain fees and assessments that are required by statute; mandatory participation in weekly counseling sessions of not less than 1 1/2 hours per week (or bi-weekly counseling sessions for an equivalent number of hours if I reside more than 70 miles from the nearest location at which counseling services are available) for 12 months, at my expense; in the Court's discretion, the Court may order me to participate in an alcohol or drug treatment program at my expense; and, in the Court's discretion, if it appears from information presented to the Court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence, the Court may refer the child to an agency which provides protective services, and, if that occurs, the Court will require me to reimburse the agency for the costs of any services provided, to the extent of my ability to pay.

THIRD OFFENSE OR ANY SUBSEQUENT OFFENSE WITHIN 7 YEARS (CATEGORY C FELONY):

A category C felony punishable by a sentence of imprisonment in the Nevada State Prison for at least 1 year but not more than 5 years; a possible fine of not more than \$10,000, in addition to certain fees and assessments that are required by statute; in the Court's discretion, the Court may require me to participate in an alcohol or drug treatment program at my expense; and, in the Court's discretion, if it appears from information presented to the Court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence, the Court may refer the child to an agency which provides protective services, and, if that occurs, the Court will require me to reimburse the agency for the costs of any services provided, to the extent of my ability to pay. A third or subsequent offense is not probationable.

ALL DEFENDANTS MUST INITIAL EITHER #1 or #2 BELOW-DO NOT INITIAL BOTH:

1.

I am represented by an attorney in this case. My attorney has fully discussed these matters with me and advised me about my legal rights. My attorney is: Public Defender

2.

I have declined to have an attorney represent me and I have chosen to represent myself. I have made this decision even though there are dangers and disadvantages in self-representation in a criminal case, including but not limited to, the following:

- (a) Self-representation is often unwise, and a defendant may conduct a defense to his or her own detriment;
- (b) a defendant who represents himself is responsible for knowing and complying with the same procedural rules as lawyers, and cannot expect help from the judge in complying with those procedural rules;
- (c) a defendant representing himself will not be allowed to complain on appeal about the competency or effectiveness of his or her representation;
- (d) the state is represented by experienced professional attorneys who have the advantage of skill, training and ability;
- (e) a defendant unfamiliar with legal procedures may allow the prosecutor an advantage, may not make effective use of legal rights, and may make tactical decisions that produce unintended consequences; and
- (f) the effectiveness of the defense may well be diminished by defendant's dual role as attorney and accused.

 DEFENDANT'S SIGNATURE	<u>12-16-73</u> 10-16-74 DATE OF BIRTH	<u>10-6-14</u> DATE
---	--	-------------------------------

I HAVE REVIEWED THIS ADMONISHMENT WITH MY CLIENT AND WE HAVE DISCUSSED THE RIGHTS HE/SHE IS WAIVING AND THE CONSEQUENCES OF HIS/HER PLEA OF GUILTY/NOLO CONTENDERE TO THE BATTERY/DOMESTIC VIOLENCE CHARGE.


DEFENDANT'S ATTORNEY (IF APPLICABLE)

5674
BAR NUMBER

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY REGIONAL JUSTICE CENTER
200 LEWIS AVENUE
LAS VEGAS, NEVADA 89101
COURT 12B
DISPOSITION NOTICE AND JUDGMENT

CASE NUMBER - 14F12344X AMENDED

STATE VS: COOPER, JAMES MARLIN

ID #: 02634475

AKA: COOPER, JAMES MARLIN

DR NUMBER:

WARRANT DATE: 08/04/2014

ARRESTED BY: NO ARRESTING OFFICER

ARREST DATE: 09/18/2014

SUBMITTED BY: ROBINSON, ERIC L

SUBMIT DATE: 08/04/2014

PROSECUTOR: HETTY WONG

DISPO DATE: 12/03/2015

001 CHARGE: 200.485.2 F DOM BATTERY BY STRANGULATION
DISPOSITION: ---GUILTY--- M DOM BATTERY, (1ST)

SENTENCED: 12/03/2015

FINED: \$3455

EXCUSED: \$ 345

JAIL TIME: MOS 6 DAYS HRS CONS/CONC: CONSECUTIVE

CTS : MOS DAYS 013 HRS

COMM SERV: DAYS HRS MIN

RESTITUTION: \$ 0 CONTRIBUTION: \$ 0 DRUG FEE: \$ 0

EDUCATION:

CONS PER COUNT

CONCURRENT 15F10224X

CITATION: 1407222892 PCN: 0029353926 SEQ: 001

002 CHARGE: COUNTY M DISORDERLY CONDUCT
DISPOSITION: ---GUILTY--- M DISORDERLY CONDUCT

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY REGIONAL JUSTICE CENTER
200 LEWIS AVENUE
LAS VEGAS, NEVADA 89101
COURT 128
DISPOSITION NOTICE AND JUDGMENT

CASE NUMBER - 14F12344X AMENDED

STATE VS: COOPER, JAMES MARLIN

ID #: 02634475

AKA: COOPER, JAMES MARLIN

DR NUMBER:

WARRANT DATE: 08/04/2014

ARRESTED BY: NO ARRESTING OFFICER

ARREST DATE: 09/18/2014

SUBMITTED BY: ROBINSON, ERIC L

SUBMIT DATE: 08/04/2014

PROSECUTOR: HETTY WONG

DISPO DATE: 12/03/2015

SENTENCED: 12/04/2015

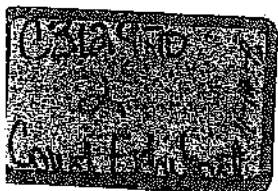
FINED: \$ 0 EXCUSED: \$ 0
JAIL TIME: MOS 6 DAYS HRS CONS/CONC: CONSECUTIVE
CTS : MOS DAYS 180 HRS
COMM SERV: DAYS HRS MIN
RESTITUTION: \$ 0 CONTRIBUTION: \$ 0 DRUG FEE: \$ 0
EDUCATION:

CONS PER COUNT
CONCURRENT 15F10224X

CITATION: 1407222892 PCN: WAR SEQ:

[Faint, mostly illegible text, possibly a stamp or additional notes]

Melanie Thomas
JUSTICE OF THE PEACE - DEPT. 10



JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

Aug 4 10 11 AM '15



THE STATE OF NEVADA,

Plaintiff,

-vs-

JAMES M. COOPER, aka,
James Marlin Cooper #2634475,

Defendant.

CASE NO: 15F10224X

DEPT NO: 10

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201) and BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor - NRS 200.485(1)(A), 200.481(1)(A), 33.018 - NOC 50235), in the manner following, to-wit: That the said Defendant, on or about the 2nd day of July, 2015, at and within the County of Clark, State of Nevada,

COUNT 1 - ASSAULT WITH A DEADLY WEAPON

did willfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use physical force against another person, to-wit: J.B., with use of a deadly weapon, to-wit: a butcher knife, by threatening the said J.B. with said butcher knife.

COUNT 2 - ASSAULT WITH A DEADLY WEAPON

did willfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use physical force against another person, to-wit: K.J., with use of a deadly weapon, to-wit: a butcher knife, by threatening the said K.J. with said butcher knife.

COUNT 3 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

did willfully and unlawfully use force or violence against or upon the person of BRITTNEY JENSEN, a person with whom the Defendant is in a dating relationship with and with whom he is actually residing with, by grabbing the neck and arm of the said BRITTNEY

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NOTICE OF WITNESSES
[NRS 174.234]

TO: Defendant or attorney of record:

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the STATE OF NEVADA intends to call the following witnesses:

<u>NAME</u>	<u>ADDRESS</u>
CUSTODIAN OF RECORDS	Communication Bureau Law Enforcement Agency – Clark County, Nevada

These witnesses are in addition to those witnesses noted in the discovery or other documents provided.

DATED July 31, 2015.

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,)
 Plaintiff,)
 vs.)
JAMES COOPER)
 Defendant.)

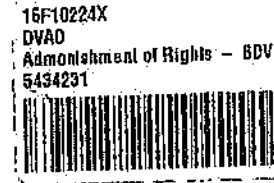
CASE NO.: 15F10224X
 DEPT. NO.: 10

Battery/Domestic Violence: ADMONISHMENT OF RIGHTS
(For offenses committed on or after October 1, 2007)

I am the Defendant in this case. I am charged with battery constituting domestic violence in having willfully and unlawfully committed an act of force or violence upon my spouse, former spouse, a person to whom I am related by blood or marriage, a person with whom I am or was actually residing, a person with whom I have had or am having a dating relationship, a person with whom I have a child in common, my minor child, or the minor child of one of those persons (in violation of NRS 33.018/NRS 200.485).

I AM AWARE THAT I HAVE EACH OF THE FOLLOWING RIGHTS AND THAT I WILL BE WAIVING THESE RIGHTS IF I PLEAD GUILTY OR NOLO CONTENDERE:

1. The right to a speedy trial;
2. The right to require the State to prove the charge(s) against me beyond a reasonable doubt;
3. The right to confront and question all witnesses against me;
4. The right to subpoena witnesses on my behalf and compel their attendance;
5. The right to remain silent and not be compelled to testify if there were a trial; and
6. The right to appeal my conviction except on constitutional or jurisdictional grounds.



I AM ALSO AWARE THAT BY PLEADING GUILTY OR NOLO CONTENDERE I AM ADMITTING THE STATE COULD FACTUALLY PROVE THE CHARGE(S) AGAINST ME. I AM ALSO AWARE THAT MY PLEA OF GUILTY OR NOLO CONTENDERE MAY HAVE THE FOLLOWING CONSEQUENCES:

1. I understand the State will use this conviction, and any other prior conviction from this or any other state which prohibits the same or similar conduct, to enhance the penalty for any subsequent offense.
2. I understand that as a consequence of my plea of guilty or nolo contendere, if I am not a citizen of the United States, I may, in addition to other consequences provided for by federal law, be removed, deported, excluded from entry into the United States, or denied naturalization.
3. I understand that if I am convicted of a misdemeanor or felony that constitutes domestic violence pursuant to NRS 33.018, my possession, shipment, transportation, or receipt of a firearm or ammunition may constitute a felony pursuant to NRS 202.360 or federal law.
4. I understand that sentencing is entirely up to the court and the following range of penalties for committing the offense described above will apply (unless a greater penalty is provided pursuant to NRS 200.481):

DEFENDANT'S INITIALS: [Signature]

DEFENDANT'S ATTORNEY'S INITIALS (if applicable): [Signature]

FIRST OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 2 days in jail but not more than 6 months; at least 48 hours but not more than 120 hours, of community service; a fine of not less than \$200, but not more than \$1,000, in addition to certain fees and assessments that are required by statute; mandatory participation in weekly counseling sessions of not less than 1 1/2 hours per week (or bi-weekly counseling sessions for an equivalent number of hours if I reside more than 70 miles from the nearest location at which counseling services are available) for not less than 6 months, but not more than 12 months, at my expense; in the Court's discretion, the Court may order me to participate in an alcohol or drug treatment program at my expense; and, in the Court's discretion, if it appears from information presented to the Court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence, the Court may refer the child to an agency which provides protective services, and, if that occurs, the Court will require me to reimburse the agency for the costs of any services provided, to the extent of my ability to pay.

SECOND OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 10 days in jail but not more than 6 months; at least 100 hours, but not more than 200 hours, of community service; a fine of not less than \$500, but not more than \$1,000, in addition to certain fees and assessments that are required by statute; mandatory participation in weekly counseling sessions of not less than 1 1/2 hours per week (or bi-weekly counseling sessions for an equivalent number of hours if I reside more than 70 miles from the nearest location at which counseling services are available) for 12 months, at my expense; in the Court's discretion, the Court may order me to participate in an alcohol or drug treatment program at my expense; and, in the Court's discretion, if it appears from information presented to the Court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence, the Court may refer the child to an agency which provides protective services, and, if that occurs, the Court will require me to reimburse the agency for the costs of any services provided, to the extent of my ability to pay.

THIRD OFFENSE OR ANY SUBSEQUENT OFFENSE WITHIN 7 YEARS (CATEGORY C FELONY):

A category C felony punishable by a sentence of imprisonment in the Nevada State Prison for at least 1 year but not more than 5 years; a possible fine of not more than \$10,000, in addition to certain fees and assessments that are required by statute; in the Court's discretion, the Court may require me to participate in an alcohol or drug treatment program at my expense; and, in the Court's discretion, if it appears from information presented to the Court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence, the Court may refer the child to an agency which provides protective services, and, if that occurs, the Court will require me to reimburse the agency for the costs of any services provided, to the extent of my ability to pay. A third or subsequent offense is not probationable.

ALL DEFENDANTS MUST INITIAL EITHER #1 or #2 BELOW-DO NOT INITIAL BOTH:

- 1. I am represented by an attorney in this case. My attorney has fully discussed these matters with me and advised me about my legal rights. My attorney is 15797428
- 2. I have declined to have an attorney represent me and I have chosen to represent myself. I have made this decision even though there are dangers and disadvantages in self-representation in a criminal case, including but not limited to, the following:
 - (a) Self-representation is often unwise, and a defendant may conduct a defense to his or her own detriment;
 - (b) a defendant who represents himself is responsible for knowing and complying with the same procedural rules as lawyers, and cannot expect help from the judge in complying with those procedural rules;
 - (c) a defendant representing himself will not be allowed to complain on appeal about the competency or effectiveness of his or her representation;
 - (d) the state is represented by experienced professional attorneys who have the advantage of skill, training and ability;
 - (e) a defendant unfamiliar with legal procedures may allow the prosecutor an advantage, may not make effective use of legal rights, and may make tactical decisions that produce unintended consequences; and
 - (f) the effectiveness of the defense may well be diminished by defendant's dual role as attorney and accused.

<u>James Cooper</u> DEFENDANT'S SIGNATURE	12-10-73 DATE OF BIRTH	8-20-15 DATE
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I HAVE REVIEWED THIS ADMONISHMENT WITH MY CLIENT AND WE HAVE DISCUSSED THE RIGHTS HE/SHE IS WAIVING AND THE CONSEQUENCES OF HIS/HER PLEA OF GUILTY/NOLO CONTENDERE TO THE BATTERY/DOMESTIC VIOLENCE CHARGE.

[Signature]
DEFENDANT'S ATTORNEY (IF APPLICABLE)

7273
BAR NUMBER

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY REGIONAL JUSTICE CENTER
200 LEWIS AVENUE
LAS VEGAS, NEVADA 89101
COURT 128
DISPOSITION NOTICE AND JUDGMENT

CASE NUMBER - 15F10224X AMENDED

STATE VS: COOPER, JAMES MARLIN

ID #: 02634475

AKA: COOPER, JAMES M

DR NUMBER:

WARRANT DATE: 07/10/2015

ARRESTED BY: NO ARRESTING OFFICER

ARREST DATE: 08/07/2015

SUBMITTED BY: ROBINSON, ERIC L

SUBMIT DATE: 07/10/2015

PROSECUTOR: HETTY WONG

DISPO DATE: 12/03/2015

001 CHARGE: 200.471.2B F ASSAULT, W/DW
DISPOSITION: -DISMISSED-- DISMISSED ON COURTS MOTION
CITATION: 1507030877 PCN: 0029600706 SEQ: 001

002 CHARGE: 200.471.2B F ASSAULT, W/DW
DISPOSITION: -DISMISSED-- DISMISSED ON COURTS MOTION
CITATION: 1507030877 PCN: 0029600706 SEQ: 002

003 CHARGE: 200.485.1A M DOM BATTERY, (1ST)
DISPOSITION: ---GUILTY--- M DOM BATTERY, (1ST)

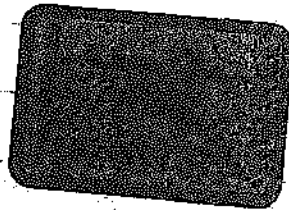
SENTENCED: 12/03/2015
FINED: \$ 0 EXCUSED: \$ 0
JAIL TIME: MOS DAYS HRS CONVS/CONC:
CTS : MOS DAYS 000 HRS
COMM SERV: DAYS HRS MIN
RESTITUTION: \$ 0 CONTRIBUTION: \$ 0 DRUG FEE: \$ 0
EDUCATION:

NONE

CITATION: 1507030877 PCN: 0029600706 SEQ: 003


JUSTICE OF THE PEACE - DEPT. 10

The undersigned do hereby certify that the information contained herein is true and correct and that the original and true copy of this document is on file in the Justice Court of Clark County Nevada. I am the Justice of the Peace for the County of Clark Nevada.



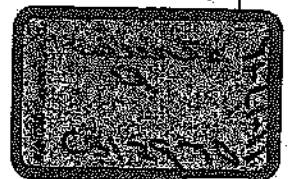
James had mentioned, on his phone
call, an incident that happened
"6 months ago" (prior to January
22nd, 2016). That was, as mentioned,
"the same shit" What was that
incident?

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You are instructed that battery constituting domestic violence is a general intent crime.¹⁵

Given over Dlc obj.

¹⁵ Byars v. State, 130 Nev. ___, ___, 336 P.3d 939, 947 (2014) (noting that California has clarified that battery is a general intent crime and that Nevada based its battery statute on California's); Schnueringer v. State, 2014 Nev. Unpub. Lexis 342 (2014) (noting that battery is a general intent crime).



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2 You are instructed that battery constituting domestic violence - strangulation is a
3 general intent crime.¹⁶
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Given over Δ/c obj

27 ¹⁶ Byars v. State, 130 Nev. ___, ___, 336 P.3d 939, 947 (2014) (noting that California has
28 clarified that battery is a general intent crime and that Nevada based its battery statute on
California's); Schnueringer v. State, 2014 Nev. Unpub. Lexis 342 (2014) (noting that battery
is a general intent crime).



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2 Evidence that the defendant attempted to suppress evidence against himself or to
3 procure false testimony or evidence on his behalf from another person is not in itself
4 sufficient to warrant a finding of guilt. It may be considered, however, as evidence of his
5 consciousness of guilt and a circumstance tending to demonstrate his guilt, should you first
6 find that the defendant actually attempted to suppress evidence or procure false testimony or
7 evidence on his behalf from another person. The significance to be accorded such a fact is
8 solely for your consideration as jurors in your deliberations.²¹
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Given over DL - Obj.

26 ²¹ Reese v. State, 95 Nev. 419, 423, 596 P.2d 212, 215 (1979); Abram v. State, 95 Nev. 352,
27 356, 594 P.2d 1143, 1145 (1979); Evans v. State, 117 Nev. 609, 628, 28 P.3d 498, 512
28 (2001)



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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAMES COOPER,

Defendant.

CASE NO: C-16-312970-1

DEPT NO: X

VERDICT

We, the jury in the above entitled case, find the Defendant JAMES COOPER as follows:

COUNT 1 - Battery Constituting Domestic Violence

(Please check the appropriate box, select only one)

- Guilty of Battery Constituting Domestic Violence
- Guilty of Battery
- Not Guilty

COUNT 2 - Battery Constituting Domestic Violence – Strangulation

(Please check the appropriate box, select only one)

- Guilty of Battery Constituting Domestic Violence – Strangulation
- Guilty of Battery by Strangulation
- Guilty of Battery Constituting Domestic Violence
- Guilty of Battery
- Not Guilty

COUNT 3 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT

(Please check the appropriate box, select only one)

- Guilty of Child Abuse, Neglect, or Endangerment
- Not Guilty

// Given
A/C Obj



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COUNT 4 – CHILD ABUSE, NEGLECT, OR ENDANGERMENT

(Please check the appropriate box, select only one)

- Guilty of Child Abuse, Neglect, or Endangerment
- Not Guilty

Dated this _____ day of November, 2016

FOREPERSON

Battery Constituting Domestic Violence-Crawford

If you find that the State has failed to prove beyond a reasonable doubt that James Cooper committed Battery Constituting Domestic Violence, then you must find the Defendant not guilty of Battery ~~With Use of a Deadly Weapon~~ Constituting Domestic Violence.

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Given over the objection



Self Defense

It is lawful for a person who has grounds for believing and does believe that bodily injury is being or is about to be inflicted upon himself to protect himself from attack. In doing so he may use all force and means which such person believes to be reasonably necessary to prevent injury which appears to be imminent.

The defendant has raised the issue of self-defense in this case. You are instructed that once James Cooper has raised the issue of self-defense, it is the burden of the prosecution to prove, beyond a reasonable doubt, the absence of circumstances that would justify self-defense.

Not given over
A/c obj

NRS 193.240; NRS 193.250; Davis v. State, 130 Nev. Adv. Op. 16, 321 P.3d 867 (2014).

Failure of the trial court to instruct the jury that the government has the burden of disproving self-defense is reversible error. *United States v. Pierre*, 254 F.3d 872, 876 (9th Cir.2001). When there is evidence of self-defense, an additional element should be added to the instruction on the substantive offense: for example, "Fourth, the defendant did not act in reasonable self-defense." A defendant is entitled to a self-defense instruction when "there is any foundation in the evidence, even though the evidence may be weak, insufficient, inconsistent or of doubtful credibility." *United States v. Sanchez-Lima*, 161 F.3d 545, 549 (9th Cir.1998).



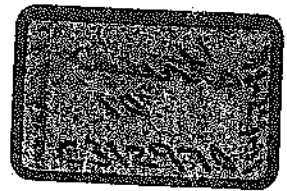
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Defendant's Proposed Instruction K

One attacked by another has the right to use his own judgment in determining what is necessary to repel the attack, and his right to self-defense cannot be limited by what may appear after the fact to have been absolutely necessary.

Not given over 2/10/07

State v. Scott, 37 Nev. 412, 142 P. 1053, 1056 (1914).



Defendant's Proposed Instruction L

The battery of another person in self-defense is justified and not unlawful when the person who does the battering actually and reasonably believes:

1. That there is imminent danger that the assailant will cause him injury; and
2. That it is absolutely necessary under the circumstances for him to use in self-defense force or means that might cause injury to the other person, for the purpose of avoiding injury to himself.

A bare fear of injury is not sufficient to justify a battery. To justify self-defense, the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar situation. The person battering another must act under the influence of those fears and not in revenge.

Not given over 1/10 obj.

Runion v. State, 116 Nev. 1041, 1051, 13 P.3d 52, 59 (2000).

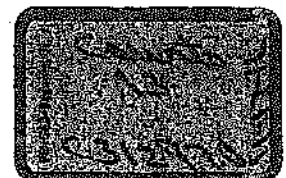


Defendant's Proposed Instruction O

If the evidence in this case permits two reasonable constructions or interpretations, one of which points to the Defendant's guilt and the other to the Defendant being not guilty, you must adopt the interpretation that points to the Defendant being not guilty, and reject that which points to his guilt.

Not given over objection

Crane v. State, 88 Nev. 684, 687, 504 P.2d 12, 14 (1972).

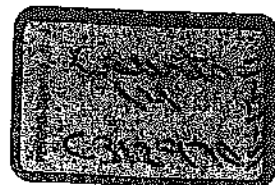


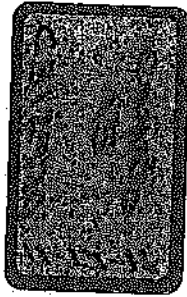
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2 When a person is accused of committing a particular crime and at the same time and by the
3 same conduct may have committed another offense of lesser grade or degree, the latter is with
4 respect to the former, a lesser included offense.

5 If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the
6 offense charged, he may, however be found guilty of a lesser included offense, but only if the
7 evidence is sufficient to establish his guilt of the lesser included offense beyond a reasonable
8 doubt.
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10 Child Endangerment (Gross Misdemeanor) is a lesser included offense of Child Abuse,
11 Neglect, or Endangerment (Felony).
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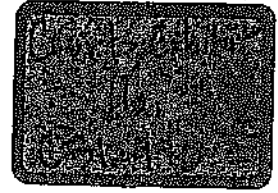




How long can ^{severe} strangulation
symptoms last.

badge number: 006
Anbray

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Does he have history of
Domestic Violence prior to
having relations with Driftway

