

**State of Michigan**  
**In the Supreme Court**

**People of the State of Michigan**

Plaintiff-Appellee,

**Supreme Court Nos. 161797;  
161805**

Court of Appeals Nos. 343818;  
344240

-vs-

Circuit Court Nos. 17-004119-FH;  
17-004120-FH

**Micheline Nicole Leffew**  
**Jeremiah James Leffew**

Defendants-Appellants.

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**Appellants' Joint Appendix**

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STATE OF MICHIGAN  
EIGHTY-FIRST JUDICIAL DISTRICT COURT  
COUNTIES OF ARENAC, IOSCO, ALCONA & OSCODA  
ARENAC DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,  
vs.  
MICHELINE NICOLE LEFFEW,  
Defendant.

File No. 17-0501-FY

THE PEOPLE OF THE STATE OF MICHIGAN,  
vs.  
JEREMIAH JAMES LEFFEW,  
Defendant.

File No. 17-0502-FY

17-4120-FH

PRELIMINARY EXAMINATION  
BEFORE THE HONORABLE RICHARD E. VOLLBACH JR, DISTRICT COURT JUDGE  
Standish, Michigan - Tuesday, December 19, 2017

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1 Standish, Michigan

2 Tuesday, December 19, 2017

3 At or about 12:58 p.m.

4 THE COURT: Good afternoon. Be seated. All right. I'm going to call File  
5 17-501 and 17-502, People versus Micheline Leffew and People versus Jeremiah Leffew. Its  
6 my understanding that there's no, that the, I guess, we're joining these two cases for purposes  
7 of preliminary examination.

8 MR. HADLEY: Yes, Your Honor. And I, just request the sequestration. I  
9 believe the two potential witnesses that we're going to have are out in the hallway. I don't  
10 know. Do you want the defendants, co-defendants seated by - -

11 THE COURT: They be sitting with you. Yep.

12 MR. HADLEY: All right.

13 THE COURT: And Mr. Broughton, are you ready to proceed?

14 MR. BROUGHTON: I am, Your Honor.

15 THE COURT: Mr. Windsor.

16 MR. WINDSOR: I'm ready to proceed, Your Honor.

17 THE COURT: And Mr. Hadley.

18 MR. HADLEY: Yes, Your Honor.

19 THE COURT: Anything before testimony, Mr. Broughton.

20 MR. BROUGHTON: I have nothing, Your Honor.

21 THE COURT: Counsel.

22 MR. HADLEY: No, Your Honor.

23 MR. WINDSOR: No, Your Honor.

24 THE COURT: Mr. Broughton, first witness.

25 MR. BROUGHTON: Michael Porter.

1 THE COURT: Mr. Porter, step forward. Raise your right hand and be sworn.  
2 Do you solemnly swear or affirm under the penalty of perjury that the testimony you're about  
3 to provide will be the truth, the whole truth, and nothing but the truth?

4 MR. PORTER: I do.

5 (At or about 1:00 p.m., witness sworn by the Court)

6 THE COURT: All right. Have a seat on the witness stand. Watch your step.  
7 State your name for the record please.

8 THE WITNESS: Mike Porter.

9 THE COURT: And Mr. Broughton.

10 MICHAEL PORTER

11 Called by the People, sworn by the Court, testified

12 DIRECT EXAMINATION

13 BY MR. BROUGHTON

14 Q Is it Michael or Mike?

15 A Michael.

16 Q And Mr. Porter, what's your address?

17 A 5951 South Huron, Pinconning.

18 Q Is that actually in Arenac County though?

19 A Yes.

20 Q And how long have you lived there?

21 A Forty-three, 44 years.

22 Q And you were residing there on November 18<sup>th</sup>, 2017?

23 A Yes.

24 Q Was anybody staying with you at that time?

25 A Yeah. I had Lisa Seibert, she was staying with me for a while.

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1 Q Okay. How long has been there about?

2 A About three days.

3 Q And did, did you have some, are you related to her in any way or was she just a friend?

4 A Just a friend.

5 Q And do you know a Donna Knezevich?

6 A Yes, I do.

7 Q How do you know her?

8 A She's a friend also.

9 Q How about Micheline Leffew?

10 A Well, I know that that's her daughter-in-law.

11 Q Have you ever met her before that?

12 A Oh, I've met her before but I didn't know her that well.

13 Q How about Jeremiah Leffew?

14 A Well, the same thing. I met him before but I didn't know him really that good.

15 Q So on November 18<sup>th</sup>, 2017, did you have any contact with Ms. Knezevich, Ms. Knezevich  
16 and the Leffew's?

17 A Yes, I did.

18 Q And what...did they come to your house?

19 A Yes, sir.

20 Q And do you know about what time that was?

21 A About four o'clock, I think, something like that.

22 Q In the afternoon.

23 A Yeah.

24 Q When they came to your house, what was the first thing you did?

25 A First thing I did, I looked out the window and dialed 911.

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1 Q And why did you do that?

2 A Well...before that, Lisa said they were, I went down, she was down in the bedroom. She had  
3 some phone calls and I went down. I asked her what was going on and she says they're - -

4 MR. HADLEY: Objection, Your Honor. Calls for hearsay.

5 THE COURT: It seems to be hearsay.

6 MR. BROUGHTON: That's fine, Your Honor.

7 THE COURT: Sustained.

8 Q Well, you called 911.

9 A Right.

10 Q Based on what somebody had said.

11 A Right.

12 Q And did they, did they arrive in a vehicle?

13 A Yes, sir.

14 Q Did you watch them exit the vehicle?

15 A I seen, I heard the car door shut and when I looked out the window, they were rushing my  
16 house.

17 THE COURT: They were what?

18 Q When you say rushing your house, what do you mean?

19 A Well, walking real fast.

20 Q Towards your front door or your back door?

21 A Two of them were at the front door and, and Jeremiah went to the back.

22 Q And did you, did they say anything to you? Well, did either Jeremiah or Micheline say  
23 anything to you or yell through the door anything?

24 A They knocked on the door. I opened the door up. I asked them what they wanted. They said  
25 they were there to take Lisa. I says give me a couple minutes. I'll see what's going on and I

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1 shut the door and I locked it.

2 Q Is this the front door or the back door?

3 A Front door.

4 Q And what, did you talk to Ms. Seibert after that?

5 A I didn't really have a chance. About 15, 20 seconds went by and they started beat, kicking on  
6 the door, beating on the windows and...

7 Q What, what door?

8 A Front door, patio door, front picture window.

9 Q So what, what did you do at that point?

10 A I walked out in the middle of the living room and told Jeremiah to knock it off. And when I  
11 turned back around - -

12 Q Well, where was Jeremiah at that point?

13 A He was at the back patio window.

14 Q And, and are, is Jeremiah Leffew here today?

15 A Yeah. He's sitting right over there.

16 THE COURT: What color sweatshirt or what color shirt?

17 THE WITNESS: Blue.

18 THE COURT: Okay. Any problem with the identification?

19 THE WITNESS: No.

20 THE COURT: No. Mr. Hadley, any problem with the identification?

21 MR. HADLEY: No. I'm satisfied, Your Honor.

22 THE COURT: The defendant or the witness has identified the defendant.

23 Q How about Micheline Leffew; is she present today?

24 A Yeah. She's sitting right along side of her husband.

25 Q Is she the only woman there?

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1 A Yes.

2 THE COURT: Any problem with the identification.

3 MR. WINDSOR: No objection.

4 THE COURT: The witness has identified the co-defendant, Ms. Leffew.

5 Q So did you, did you ever invite either of the Leffew's in?

6 A No.

7 Q What happened after you yelled at Jeremiah?

8 A I turned around and Lisa was standing at the front door with her back towards the door. And  
9 she kind of fell down in a fetal position. I walked over and helped her up. I walked out to the  
10 middle of the living room with her and she started, her knees started buckling so I, I, I, I  
11 grabbed her by the arms and put my arm around her and walked over and put her in a chair in  
12 my dining room.

13 Q And is that the end of what happened or...

14 A No.

15 Q Well, did anything else happen?

16 A I asked her what was going on - -

17 Q You can't say anything that she said.

18 A Oh, okay. I'm sorry.

19 Q Well, did anybody enter your house?

20 A Yes.

21 Q And do you know who entered your house?

22 A Yes, I do.

23 Q Who entered your house?

24 A Michelle Leffew and Jeremiah Leffew.

25 Q And how did they get into your house?

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- 1 A They kicked my back door open.
- 2 Q And do you know who kicked your back door open?
- 3 A I figured it was...the woman because she was the first one in the door and her husband was
- 4 about a foot behind her coming right after her.
- 5 Q And did you hear the door getting kicked in or - -
- 6 A Yeah. I heard it. Yes.
- 7 Q So did you have, were you facing the door at that point or was your back to the door?
- 8 A My back was to the door.
- 9 Q And what door was this?
- 10 A My back kitchen door.
- 11 Q So what did you hear?
- 12 A I heard them kicking on the door. So - -
- 13 Q Were they yelling anything?
- 14 A Oh, they were yelling they were going to kill me.
- 15 Q And then...
- 16 A Then the door blew open and I grabbed an ashtray off the, I had on the table and I hit the first
- 17 person that came through the door. She was about three quarters of the way through the door.
- 18 And her husband was right behind her and - -
- 19 Q Well, who did you hit with the ashtray?
- 20 A Michelle.
- 21 Q So she was the first one it.
- 22 A Right.
- 23 Q And then her husband was behind her.
- 24 A Right.
- 25 Q And what did, what did, did you and him tangle or...

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1 A Yeah. He, after I hit her, she fell on the floor and he attacked me and when I wrestling with  
2 him, she got up again and jumped on me and knocked me over the sink and yelling; let's kill  
3 him, let's kill him, let's kill him.

4 THE COURT: Who did?

5 THE WITNESS: Michelle.

6 THE COURT: Okay.

7 Q And then...

8 A Then Jeremiah started going through my drawers and he pulled out a knife and he says; I'm  
9 going to kill you, I'm going to kill you and he tried to stab me with it.

10 Q So he, he actually pulled a knife out of your drawer.

11 A Yes, sir.

12 Q Was it a butter knife or what?

13 A No. It was a steak knife, five and a half inches long.

14 Q And did you get stabbed?

15 A No, sir. I got cut on my wrist a little bit but...

16 Q Did he, I mean, did he threaten, did he threaten to kill you?

17 A Yes, he did.

18 Q And that was when he had the knife?

19 A Yes.

20 Q What happened after that?

21 A He just stopped for a minute and I got out of the situation and all the sudden - -

22 THE COURT: Well, how did you get out of the situation?

23 THE WITNESS: How did I get out of it?

24 THE COURT: Yeah.

25 THE WITNESS: I, I, I just grabbed him by the hand and, and, and wiggled out



1 of it and I told him to knock it off and I don't and then his mother yelled something.

2 Q Whose his mother?

3 A Donna Knezevich. And he stopped doing what he was doing.

4 Q Well, did Lisa leave with him?

5 A Yes, she did.

6 Q And did, did that happen right away, did she leave right away or...

7 A No. Donna came in the house and said, she demanded this ring that they gave me a week  
8 before or something like that. And she said she wasn't leaving till she got it so I just went and  
9 gave it to her just to, just to diffuse the situation, just to get them out of there.

10 Q So Donna Knezevich entered your house?

11 A Yes.

12 Q Was it through the front or the back door?

13 A Front door.

14 THE COURT: Was she welcomed into the house?

15 THE WITNESS: No.

16 Q So you didn't ask her to come into the house either.

17 A No.

18 Q And she demanded a ring.

19 A Yes, sir.

20 Q And was it, was it a ring you had given her or - -

21 A No. A ring that they bought for me, to give to me. It was a gift. I just went and, I went and  
22 found it and gave it to them just to get them out of the house.

23 THE COURT: But they - -

24 Q Did - -

25 THE COURT: Hang on. They, they had asked for that ring.

1 THE WITNESS: She wanted that ring back. Yes. So I just told them, I was  
2 afraid for my life so I just went and got it and gave it to them.

3 THE COURT: It was your ring though.

4 THE WITNESS: Yes.

5 THE COURT: And who did you hand it to?

6 THE WITNESS: Donna.

7 THE COURT: Mr. Broughton.

8 Q And had, who had given it to you as a gift?

9 A Donna and Lisa both gave it to me as a gift.

10 Q And did the, the police arrive?

11 A Yes, they did. About ten minutes after they left.

12 Q And you had, you had called 911.

13 A Yes. I called them twice.

14 Q That...you called them once right when they arrived?

15 A Yes, sir.

16 Q And when was the next time you called them?

17 A When Lisa was sitting in the living room. I called them again just before they broke through  
18 the back door.

19 Q And they arrived about ten minutes after they left.

20 A Yes, sir.

21 Q And was that Deputy Ochab that arrived?

22 A Yes, sir.

23 Q Was there any damage done to your back door or your back door jam?

24 A There was damage done all over my house. Yeah. They, they, its all busted up, the back door.  
25 Its got to be replaced. The front door's got to be replaced. The patio door's all, where he was

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1 beating on it, its all, screen's all ripped up, both screen doors are ripped up. There's blood on  
2 the carpet - -

3 Q So did the, when Ms. Knezevich came through the, the front door, did she just open it and  
4 come in or...

5 A No. It was wide open because, it was open because I think that's how Lisa got out. She  
6 walked out the front door.

7 MR. BROUGHTON: I don't have any further questions, Your Honor, of this  
8 witness.

9 THE COURT: Mr. Hadley.

10 CROSS-EXAMINATION

11 BY MR. HADLEY

12 Q Mr. Porter, did you have a relationship with Lisa?

13 A With both of them. We were intimate with, with both of, well, I was intimate with both of  
14 them.

15 Q With both of these women.

16 A Yeah.

17 THE COURT: Both, both Ms. Knezevich and Miss...

18 THE WITNESS: Lisa Seibert.

19 Q Seibert. Okay. How long had that been going on, sir?

20 A I met them about a year so I would say about six months, six - -

21 Q Were either of these women living with you?

22 A No.

23 Q During that year.

24 A No.

25 Q Okay. And what was the reason that Ms. Seibert was, was with you on this day?

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1 A Donna called, Donna called me on a Tuesday and told me to come out and get - -

2 MR. BROUGHTON: Your Honor, this is hearsay.

3 THE COURT: It appears - -

4 Q Mr. Porter, you just, you, you can't relay what anyone had told you other than the defendants  
5 in this matter.

6 A Oh, okay.

7 Q So if anyone else told you something, you, you can't recall that so...

8 A Okay.

9 Q Okay. Do you need me to repeat the question?

10 A No. She was always doing her a favor. I was letting her stay there.

11 Q Okay. You were letting Ms. Seibert stay there.

12 A Yeah.

13 Q The, the, the, the time of this incident, how long had she been with you?

14 A Probably three days.

15 Q Okay. And you, you testified from Mr. Broughton that there was this assault that you're  
16 claiming; correct?

17 A Right.

18 Q And you're not familiar how any of these people came through your door.

19 A I'm familiar how they came through the door. They kicked it in.

20 Q Okay. They kicked it in with a foot.

21 A Yeah.

22 Q Okay. Do you recall filing for a personal protection order against one of these folks?

23 A Yes, I do.

24 Q Okay. Do you recall making a statement in your petition for a personal protection order?

25 A I don't really remember what I, what I wrote down.

1 (At or about 1:14 p.m., exhibit marked)

2 MR. HADLEY: Just a moment, Your Honor.

3 Your Honor, if I may approach?

4 Q Mr. Porter, I'm showing you what's been marked as Defendant's Proposed Exhibit Number  
5 One and ask if you would take a look at that document. Let me know when you've reviewed  
6 it, sir.

7 A I have his name wrong here cause I didn't know his name was Leffew. I thought it was the  
8 same as his mother's.

9 Q Does that appear to be your writing, sir?

10 A Let me read it. Just a minute. Yeah. Its my writing.

11 Q All right. Do you recall that petition now, sir?

12 A Yes, sir.

13 Q Okay. In that petition, does it indicate that you believe somebody had a hammer to break your  
14 door down?

15 A I found a hammer on the floor when I, before, when I was cleaning up the, the kitchen before  
16 the police got there.

17 Q Okay. But my question was, you, you believe, as you put in your petition, that you thought  
18 somebody had broke your door in with a hammer?

19 A No. I, I might - -

20 Q Well, let me, let me, let me see if maybe you'd like to take a look at that again, sir, if you  
21 would? Maybe, maybe, maybe read to the Court, into the record, your statement about a  
22 hammer, if you would please?

23 A Do you have, sir, do you have a magnifying glass?

24 Q No.

25 A I left my glasses out in the car.

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1 MR. BROUGHTON: Your Honor, I'll stipulate, what, I mean, what it says. I  
2 mean, if his writing.

3 THE WITNESS: Its my writing.

4 MR. HADLEY: Well, I understand its his writing and it's a proposed exhibit  
5 but I'd like to at least get into the record what, what Mr. Porter had indicated in his petition.

6 THE COURT: Hand me the document. And you're stipulating to the  
7 admissibility of the exhibit?

8 MR. BROUGHTON: I am, Your Honor. He said it was his writing so...

9 THE COURT: It says, "She broke down my door with a hammer and said; let's  
10 get him. She broke in my back door." I'm sorry. "So I hit with an ashtray and was fighting  
11 with her husband. She jumped on me and yelled at me."

12 That's the portion you want; right?

13 MR. HADLEY: Yes.

14 THE COURT: Okay. That's me correcting what I think are several spelling  
15 errors.

16 MR. HADLEY: That, that's fine.

17 Q Mr. Porter, was that your statement, as, as Judge Vollbach read - -

18 A Yes.

19 Q - - in the petition?

20 A Yeah.

21 Q Did you have contact with - -

22 THE COURT: Well, is that being admitted?

23 MR. HADLEY: I would move for the admission, I believe, by stipulation. I  
24 don't believe any objection.

25 THE COURT: It, it will be admitted unless you need it further. Why don't you

1 keep it up here?

2 (At or about 1:18 p.m., exhibit admitted)

3 MR. HADLEY: Okay.

4 Q Mr. Porter, you indicated that after this assault that you indicated that law enforcement  
5 arrived; is that correct?

6 A Correct.

7 Q And that, you indicated, was Deputy Ochab?

8 A Yes, sir.

9 Q That's the gentleman seated there in uniform?

10 A Yeah.

11 Q And you testified that he showed up about ten minutes or so after the incident; is that, was that  
12 your testimony?

13 A Something like that; yeah.

14 Q All right.

15 A It was a little while.

16 Q And did you have a conversation with Deputy Ochab?

17 A Yes.

18 Q And did you write a statement for Deputy Ochab?

19 A Later, later on; yes, I did.

20 Q Okay. In that statement, did you indicate the hammer, sir?

21 A I don't remember. Probably not.

22 Q Okay. Why wouldn't you?

23 A Well, I was pretty shook up so I didn't.

24 Q Okay. And then you also indicated to Deputy Ochab, that these three people came to your  
25 door; is that correct?

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- 1 A Yes.
- 2 Q Or you, you testified, it was three of them that, that, that came to your door; correct?
- 3 A Two to the front door and one to the back; yes.
- 4 Q Okay. And that was the two defendants and Ms. Knezevich?
- 5 A It was Ms. Knezevich that came through the front and the, and...
- 6 Q Mr. and Mrs. Leffew.
- 7 A Mr. Leffew never came to the front door. He went right around to the back.
- 8 Q Okay. Who was the other one?
- 9 A His wife.
- 10 Q Okay. So that was the three; correct?
- 11 A Right.
- 12 Q Okay. Two, two at the front and one at the back door?
- 13 A Right.
- 14 Q Okay. Did they initially try to get in, sir?
- 15 A They knocked on the door. I opened the door up, asked them what they wanted and they said
- 16 they came here to take Lisa and I says; well, okay. I says; give me a couple minutes. Let me
- 17 see what's going on. And I shut the door and locked it.
- 18 Q Okay. Did you tell Deputy Ochab that you blocked the door with your arm?
- 19 A Yes, I did.
- 20 Q Okay. Was that the first time that they come to the back door?
- 21 A No. That was the front door when I blocked them from coming in when I - -
- 22 Q And how did you do that; did you put your arm through the door, door frame?
- 23 A No. I just put in the door jam like that.
- 24 Q Okay. Okay. And then shut the door.
- 25 A No. I had it opened and I says; let me talk to her for a few minutes and I, then I shut the door

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- 1 and locked it.
- 2 Q Okay. And then at some, and then at some point, you said the back door got opened so how?
- 3 A Yeah. They forced it open.
- 4 Q Okay. Whose they?
- 5 A It'd be Michelle.
- 6 Q Okay. Did you see that?
- 7 A I seen it out, I seen it when it blew open.
- 8 Q Okay. How far were you from the door?
- 9 A All of ten foot.
- 10 Q Okay. You got pretty good vision at that point.
- 11 A Yes.
- 12 Q Okay. Didn't need your glasses to see that?
- 13 A No.
- 14 Q And then you indicated that when Mrs. Leffew came in, you struck her with an ashtray.
- 15 A Right.
- 16 Q How big was the ashtray?
- 17 A I don't know; about that big around.
- 18 Q All right. And that ashtray broke?
- 19 A Yes, sir.
- 20 Q And then you also testified that Mr. Leffew came in the back door?
- 21 A Yep. Right behind his wife.
- 22 Q Okay. And your testimony is that he, then, grabbed onto you somehow?
- 23 A Yes.
- 24 Q Okay. And did you guys have a tussle?
- 25 A A little tussle. Yeah.

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1 Q Okay. Was there any punches thrown?

2 A A couple.

3 Q Okay. Who threw the punches?

4 A Both of us.

5 Q Okay. And then you testified that there was a knife and where did that come from?

6 A Well, after she got up, after, when I had my back to her and she jumped on me and knocked  
7 me over to the sink and she was yelling; kill him, let's kill him. And he was going through my  
8 drawers and got a steak knife out of my silverware drawer.

9 Q Okay. When you said that he was going through your silverware drawer looking for a knife,  
10 was this before or after this, the tussle between you and him and the punches being thrown?

11 A It was after.

12 Q Okay. So after these punches were thrown, was he on the ground or were you on the ground?

13 A No.

14 Q You both standing up.

15 A Right.

16 Q Okay. So punches were thrown and then he turned around somewhere - -

17 A No. She got up off the floor and jumped on me and knocked me over to the sink.

18 Q Okay.

19 A And was holding me there.

20 Q Okay.

21 A And she was yelling; let's kill him, let's kill him and then he went and got, found a knife and  
22 tried to stab me with it.

23 Q Okay. Where's this drawer in relation to where you were?

24 A About six foot away from me.

25 Q Okay. And you believe it was a knife.

- 1 A I seen it. I didn't believe it. I seen it was.
- 2 Q Okay. And what happened to the knife?
- 3 A He threw it across the living room when he left and I have the knife at home in a, in a plastic
- 4 bag.
- 5 Q Okay. So you seized it as evidence, not, not law enforcement; correct?
- 6 A They seen where it was.
- 7 Q Well, I didn't seen. I said you seized that knife as evidence and it was not recovered by law
- 8 enforcement.
- 9 A Correct.
- 10 Q Do you still have that in your possession?
- 11 A Yes, I do.
- 12 Q Okay. And what about the ashtray?
- 13 A Its swept up and broke all up. I swept it up and threw it away.
- 14 Q Okay. Law enforcement did not get that ashtray?
- 15 A Not that, not that I know of.
- 16 Q Okay. You threw that away.
- 17 A Yes, sir.
- 18 Q Okay. So did you have the house cleaned up by the time Deputy Ochab arrived?
- 19 A No.
- 20 Q No.
- 21 A No. I just picked up some of the stuff off the floor and stuff.
- 22 Q Okay.
- 23 A And wiped up some stuff.
- 24 Q Why, why would you have not just left that as a scene so that Deputy Ochab could, could
- 25 observe that information as he got there?

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1 A Its wintertime out. My door needed to be fixed and I didn't know what time they were  
2 coming.

3 Q Okay. Did, did Central Dispatch or whoever you called said that there was an officer on the  
4 way?

5 A No.

6 Q They didn't tell you there was an officer on the way.

7 A No. I just called for help.

8 Q Okay. But you called twice; correct? You said - -

9 A Correct. Yes, sir.

10 Q Okay. And nobody told you that an officer was coming?

11 A No.

12 Q And Lisa Seibert, you indicated previously that she'd been there for about three days?

13 A Yes, sir.

14 Q Okay. Had she, was she trying to leave when this incident was going on?

15 A No, sir.

16 Q Okay. You weren't holding her there, were you?

17 A No.

18 Q Did you assault her in any way?

19 A No.

20 MR. HADLEY: I don't believe I have any further questions. I would defer to  
21 Mr. Windsor, Your Honor.

22 THE COURT: Mr. Windsor.

23 MR. WINDSOR: Yes, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. WINDSOR

1 Q You stated that Jeremiah threw the knife across the room, the living room; is that correct?

2 A Correct.

3 Q And did you tell this to Miss or Deputy Ochab?

4 A Yes, sir.

5 Q Did you ever tell Deputy Ochab that Jeremiah threw the knife back in the silverware drawer  
6 and slammed it closed?

7 A I thought he did until I, until I started looking around. I thought that's what he did but that's  
8 not what he did.

9 Q Is the back door, is it see through; does it have any glass in it?

10 A There's Venetian blinds on it. You can't see through it at all.

11 Q You couldn't see any of the defendants through that door.

12 A No.

13 Q So you couldn't tell who they were until they came into the door.

14 A You couldn't see nothing till they busted the door open.

15 Q And you stated they were ten feet away from you about; is that correct?

16 A My door is about ten foot away; yeah.

17 Q Where, how far away from the door were you when Defendant, you call her Michelle - -

18 A About ten foot.

19 Q Okay. So you're ten foot from the door when Micheline came through?

20 A Yes.

21 Q Okay. And you weren't blacked out or anything?

22 A No.

23 Q Were you totally aware what was going on?

24 A Yes, I was.

25 Q Do you know Micheline suffers from seizures?

- 1 A I know she does.
- 2 Q Again, how wide was this ashtray you picked up?
- 3 A I don't know; about that big around.
- 4 Q Would you say its about a foot in diameter?
- 5 A Probably eight inches; something like that.
- 6 Q How thick do you think it is?
- 7 A Probably a quarter of an inch.
- 8 Q And what's it made out of?
- 9 A I think it's ceramic.
- 10 Q Okay. Did you try and hit her as hard as you could?
- 11 A No.
- 12 Q I'm talking about Micheline. You answered some questions about Lisa Seibert. Its correct  
13 that you weren't restraining her at all?
- 14 A I was not; no.
- 15 Q Never pushed her to the ground.
- 16 A No.
- 17 Q Was she trying to put a coat on, Ms. Seibert?
- 18 A Not that I know of. She had it on by the door already when I, when I, after I walked back.
- 19 Q Do you know if she was acting like she was trying to leave?
- 20 A She had her back to the door and when I turned and looked at her, slid right down in a fetal  
21 position.
- 22 Q What sort of damage did you see Micheline Leffew do to your house or any of your property?
- 23 A Well, my back door's a, needs a whole new door on it. My carpet's got blood in the dining  
24 room and the hallway and - -
- 25 Q Did you see Micheline damage any of your doors with your own eyes?

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1 A Not with my own eyes; no. But I couldn't see through the door.

2 Q Did you see her damage anything with your own eyes?

3 A Yeah. She picked a chair up and threw it through my wall.

4 Q You say you received a cut on your wrist.

5 A Yes.

6 Q What was that from?

7 A From Jeremiah trying to stab me.

8 Q So that cut was from that steak knife you testified about earlier; correct?

9 A Correct.

10 Q Did you suffer any other marks on your body?

11 A Yeah. I had scratches on my back of my neck and a few up here and my back's all wacked,  
12 all, all out of place.

13 MR. WINDSOR: Nothing further, Your Honor.

14 THE COURT: Mr. Broughton.

15 REDIRECT EXAMINATION

16 BY MR. BROUGHTON

17 Q And Mr. Porter, why in the, in the PPO petition did you, did you say that it, the back door was  
18 broken with a hammer?

19 A Cause I found a hammer on the floor and I went and looked at the door and I could see where  
20 she, where they pried it so I figured, then I can see kick marks on the bottom of it where she  
21 finished kicking it in.

22 MR. BROUGHTON: No further questions, Your Honor.

23 THE COURT: They both came into together; right, when the door was broke  
24 in?

25 THE WITNESS: Yes, sir.



1 THE COURT: So did the, is it...apparently, they both wanted in at the same  
2 time.

3 THE WITNESS: Well, one followed the other one it so they were both in there.

4 THE COURT: And they both appeared to be angry at you when they entered.

5 THE WITNESS: Yes, sir.

6 THE COURT: Anything further from anyone?

7 MR. HADLEY: No.

8 MR. WINDSOR: No, Your Honor.

9 THE COURT: You can step down, sir.

10 (At or about 1:31 p.m., witness excused)

11 THE COURT: Mr. Broughton, any additional witnesses.

12 MR. BROUGHTON: Your Honor, Deputy Ochab.

13 THE COURT: Deputy Ochab, step forward. Raise your right hand. Do you  
14 solemnly swear or affirm under the penalty of perjury the testimony you're about to provide  
15 will be the truth, the whole truth, and nothing but the truth?

16 MR. OCHAB: I do.

17 (At or about 1:31 p.m., witness sworn by the Court)

18 THE COURT: Have a seat and state your name for the record.

19 THE WITNESS: Deputy Christopher Ochab.

20 THE COURT: Mr. Broughton.

21 CHRISTOPHER OCHAB

22 Called by the People, sworn by the Court, testified

23 DIRECT EXAMINATION

24 BY MR. BROUGHTON

25 Q And Deputy Ochab, are you employed with the Arenac County Sheriff's Department?



1 A Yes.

2 Q Are you the investigating officer in this matter?

3 A Yes.

4 Q And so you were dispatched to, I guess, it would be the address that Mr. Porter stated?

5 A Yes.

6 Q And when you arrived there, what did you observe?

7 A Mr. Porter was the only one on scene. It appeared somebody broke in through his back door,  
8 like kicking. There was blood in the kitchen. There was pieces, pieces of a broken ashtray in  
9 there as well.

10 Q Did you see a hammer or anything?

11 A I, from what I can recall, I believe, Mr. Porter was trying to fix his back door as we were  
12 arriving. I don't, I don't recall seeing a hammer. I, I want to say, well, actually, I think about  
13 it, now, I think he might have had a hammer on his counter.

14 Q Okay.

15 A So I believe he was trying to fix his, his trim.

16 Q And you say it looked like the back door was kicked in; why do you say that?

17 A There was footwear impressions on the back door.

18 Q And you interviewed Mr. Porter.

19 A I did.

20 Q And after you interviewed Mr. Porter, did you, did you interview the Leffew's?

21 A I did.

22 Q And did you talk to, I guess, Micheline Leffew?

23 A Yes.

24 Q And what did she say to you in regards to the incident?

25 A She said that she showed up with Jeremiah as well as Donna to take Lisa back home. They

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1 went to the front door. Well, first, she said that she had beeped the horn for Lisa to come out.  
2 Lisa didn't come out so went to the door, knocked on the door. Spoke with Mr. Porter. Mr.  
3 Porter said that Lisa wasn't going anywhere. Shut the door. They began pounding on the door  
4 window because they believed that they could hear Lisa inside asking for help. I believe that  
5 she said that she witnessed Lisa being pushed down. At that time, her and Jeremiah went to  
6 the back of the house where she said she had kicked the back door in. It took about two or  
7 three kicks to kick the back door in. Went inside and was hit with an ashtray and then passed  
8 out. She says the next thing that she remembers is she woke up in the front yard. She was  
9 sitting, I believe, by her car by the tire. And then they picked her up and loaded her in the car  
10 and then took her to the hospital. And they called 911 on the way to the hospital.

11 Q So she admitted to you she broke in the back door.

12 A Yes.

13 Q And she kicked it in.

14 A Yes.

15 Q And what about Mr. Leffew?

16 A Mr. Leffew gave relatively the same statement. They showed up to get Lisa. They went to the  
17 door. Mr. Porter said she wasn't, he closed the door after he said that she wasn't leaving. I  
18 believe they, he heard her asking for help, screaming. Went around to the back of the house.  
19 Micheline went in the house first, saw her get hit with an ashtray. She went down to the  
20 ground. I believe that she passed out from the, being hit with the ashtray. He got into a tussle,  
21 a little scuffle with Mr. Porter. He said Mr. Porter punched him several times; I believe it was  
22 like two or three times, saw that it wasn't doing anything. Back up. At that point, he said he  
23 had grabbed a knife. Wasn't sure where he got the knife from but he said he had a knife in his  
24 hand and said; this is done, this is over. We're just here to get Lisa and leave. He said he  
25 never threatened him with a knife. However, he was holding the knife while he was telling

1 him this is done, this is over. I believe, at that time, he had helped get Micheline up and then  
2 take her outside because Lisa had already gone out the front door.

3 MR. BROUGHTON: I don't have any further questions, Your Honor.

4 THE COURT: Mr. Hadley.

5 CROSS-EXAMINATION

6 BY MR. HADLEY

7 Q Deputy Ochab, you made a statement that when you arrived, you used the term we. Was there  
8 another officer with you?

9 A There was several officers with me.

10 Q Okay. Who, who was with you?

11 A Deputy Switek was with me. Deputy Handrich was with me. I believe Tribal Officer Dixon  
12 was with me.

13 Q All right. Did any of those other officers speak to any of the witnesses or the suspect?

14 A I believe so. I believe they had taken pictures, had them give them written statements for me.

15 Q And did you talk to Mr. Porter about a gun?

16 A Mr. Porter did say he had a gun in the back of the house but never made any mention of it.

17 Q All right. And you, you recall interviewing Ms. Seibert; is that correct?

18 A Correct.

19 Q Did Ms. Seibert indicate to you that - -

20 MR. BROUGHTON: Your Honor, that, I would, that would be hearsay.

21 THE COURT: It seems to calling for hearsay.

22 Q In your, in your report, Deputy Ochab, did you indicate that there was evidence of a gun  
23 during the night of this incident?

24 A There was a gun in the residence. Whether or not it was, I, I don't know if it was used or not.

25 Q And, and you, you don't recall recovering a hammer.

1 A No, I did not recover a hammer.

2 Q And how about a knife?

3 A I did not recover a knife.

4 Q How about the ashtray that was - -

5 A I did not recover an ashtray.

6 Q All right. Do you know where the, where the ashtray is or the parts of it?

7 A No. Took pictures of it. Before we had arrived, they already had been started to be cleaned  
8 up.

9 Q Okay. So was there a reason why you didn't take that ashtray or the pieces of the ashtray?

10 A Because everybody confessed of what occurred happened with the ashtray. There's no doubt  
11 in my mind that nobody else used the ashtray or nobody else got hit with the ashtray.

12 Q Okay. And you, you followed up this incident at the hospital, local hospital; correct?

13 A Correct. That's where I interviewed Lisa, Donna, Jeremiah, and Micheline.

14 Q Okay. And did you, I'm, I'm assuming that you got a call to go to this residence from 911.

15 A It was actually a transfer from Bay County. I believe they had trouble keeping Mr. Porter on  
16 line, is why we went to Mr. Porter's house but as far as the hospital goes, I'm not sure who  
17 called the hospital or who called on the way to the hospital and have us come there.

18 Q Okay.

19 A After we had concluded at Mr. Porter's residence.

20 Q All right. Thank you.

21 MR. HADLEY: I have no further questions, Your Honor.

22 THE COURT: Mr. Windsor, any questions.

23 MR. WINDSOR: No questions, Your Honor.

24 THE COURT: Okay. Anything further.

25 MR. BROUGHTON: No, Your Honor.

1 THE COURT: You can step down. Thank you.

2 (At or about 1:38 p.m., witness excused)

3 MR. OCHAB: You're welcome.

4 THE COURT: Any additional witnesses, Mr. Broughton.

5 MR. BROUGHTON: I have, I have no additional witnesses, Your Honor.

6 THE COURT: Mr. Hadley, any witnesses.

7 MR. HADLEY: Yes, Your Honor. We would like to call Lisa Seibert.

8 THE COURT: Ms. Seibert, step forward. Raise your right hand and be sworn.

9 Do you solemnly swear or affirm under the penalty of perjury the testimony you're about to  
10 provide will be the truth, the whole truth, and nothing but the truth?

11 You need to speak up.

12 MS. SEIBERT: Oh, yes.

13 (At or about 1:38 p.m., witness sworn by the Court)

14 THE COURT: Step forward and have a seat and state your name for the record  
15 please.

16 THE WITNESS: Lisa Kay Seibert.

17 THE COURT: All right. Mr. Hadley.

18 LISA SEIBERT

19 Called by the Defendant Jeremiah, sworn by the Court, testified

20 DIRECT EXAMINATION

21 BY MR. HADLEY

22 Q Ms. Seibert, could you, for the court reporter, spell you last name please?

23 A S-E-I-B-E-R-T.

24 Q And your residence please?

25 A 117 Main Street, Sterling, Michigan, 48659.

- 1 Q All right. And Ms. Seibert, do you know a Mr. Porter?
- 2 A Yes, I do.
- 3 Q How do you know him?
- 4 A We had a...kind of a thing going on.
- 5 Q What, when you mention a thing; and we're talking about Michael Porter; correct?
- 6 A Correct.
- 7 Q Okay. Can you be a little bit more specific?
- 8 A Kind of embarrassing. We had a...a little triangle going on.
- 9 Q Okay. You and, you and he.
- 10 A Me and him and my, which is my wife now.
- 11 Q Okay. And whose that?
- 12 A Donna Knezevich.
- 13 Q All right. And, and how long had you been with Mr. Porter?
- 14 A About seven months.
- 15 Q Okay. And that's when this relationship was going on between you and he and your wife?
- 16 A Yes.
- 17 Q Okay. Do you recall the, the incident back in November, last month?
- 18 A Yes.
- 19 Q At Mr. Porter's house.
- 20 A Yes.
- 21 Q Did you make a statement to any law enforcement officer in regards to this incident?
- 22 A Yes, I did.
- 23 Q Who did you make a report to?
- 24 A Office Ochab.
- 25 Q Deputy Ochab there.



1 A Yes.

2 Q Okay. Did you talk to any other law enforcement officer?

3 A There was another one there with him. Yeah and we all three talked.

4 Q But, but Deputy Ochab is the one who asked you to make a statement?

5 A Yes.

6 Q All right. And you, and you complied with that request?

7 A Yes.

8 Q All right. Let me, let me take you through the, the incident, Ms. Seibert. Were you living  
9 with Mr. Porter on the night of this incident?

10 A I wouldn't say actually living. I was there - -

11 Q Why, why were you there that night?

12 A We had a incident at our house, between me and my, my wife.

13 Q Okay.

14 A And she wanted me to leave and she called him to come get me. And which I did not want to  
15 go. I tried tell him - -

16 Q You said I did not want to go. You did not want to go where?

17 A I did not want to leave.

18 Q Mr. Porter's house.

19 A No. My house.

20 Q Okay. Okay.

21 A And...and officer's like, well, you should for your own safety so I did.

22 Q Okay. That, that's the incident you had with your wife; correct?

23 A Correct.

24 Q And so you stayed with Mr. Porter.

25 A Right.

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1 Q And that's where you were the night of this incident.

2 A Right.

3 Q Okay. All right. Was there a reason - - well, let me, let me ask you this. Did you want to  
4 leave Mr. Porter's house?

5 A Actually, yeah.

6 Q Okay. Did you want to leave Mr. Porter's house that night, the night of the incident?

7 A Yes.

8 Q Okay. Was he stopping you?

9 A Yes.

10 Q How was he stopping you?

11 A He was holding on to me. He was kind of like, keeping me. I went to the door and grabbed  
12 the door knob and he kind of pushed me away from that and - -

13 Q Okay.

14 A - - I fell on the floor.

15 Q Did, did he say why he did that?

16 A He, kind of got obsessed with me.

17 Q Okay.

18 A He didn't want me to leave.

19 Q Okay. Were you able to call anyone to, to come and get you?

20 A Actually, I was, had a friend that lived out by my house that I was in contact with and I was  
21 trying to get something going but her car had broke down and - -

22 THE COURT: How were you trying to get something going?

23 THE WITNESS: I was trying her to go cause - -

24 THE COURT: How? Were you yelling out or...

25 THE WITNESS: No, no, no. We were on the phone.

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1 THE COURT: Okay. So you had a, you had a phone.

2 THE WITNESS: Yeah. I had a phone.

3 THE COURT: Okay.

4 A And, but unfortunately, her car had broke down and she, cause she was the only one who  
5 allow me to associate with...

6 Q But did you, was he holding you against your will then?

7 A Not really holding me against my will, making lots of promises to, to, you know, but that day,  
8 he was; yes.

9 Q Okay. Did Mr. Porter have a, have a gun or have a weapon?

10 A Yes, he did.

11 Q Did he use it that night against you?

12 A No, not against me but he did bring it out.

13 Q Okay. What kind of a weapon was it?

14 A It was a 410 slash 22 rifle.

15 Q He wasn't using it to keep you at the house; was he?

16 A No. Actually, he brought it out and was trying to teach me how to use it.

17 Q Okay. Okay. Had anyone been at the door prior to that?

18 A No.

19 Q Okay.

20 A No.

21 Q Did you know that anyone was coming to try to give you a ride that night?

22 A Yes.

23 Q Okay. How did you become aware that somebody was coming to, to get you that night?

24 A I had talked to my wife and asked her to come get me.

25 Q Okay. And she was one of them that, that, that arrived that night in November?

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1 A Yes.

2 Q Okay. And do you recall who else was with her?

3 A My step-son, Jeremiah, and his wife, Micheline.

4 Q All right. And did you see what happened that night?

5 A Yes, I did.

6 Q Okay. What happened?

7 A Well, I had called Donna to come, well, I didn't call Donna. Sorry about that. She had called  
8 me.

9 Q But we can't - -

10 A Asked me to marry her.

11 Q - - we can't, we can't - -

12 THE COURT: No. She's all right so far.

13 MR. HADLEY: Okay.

14 THE COURT: About calling.

15 A And I told her; yes, I would marry her. She's like; well, you want me to - -

16 Q No. We can't, we can't, we can't recall what, what Ms. Knezevich said to you. That's  
17 hearsay.

18 A Oh, okay.

19 Q Okay. Specifically, go to what happened that night.

20 A I asked her to come and get me.

21 Q Okay.

22 A And they did. And I waited for a little, little bit to tell him and...

23 Q Him being Mr. Porter.

24 A Yes.

25 Q Okay.

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- 1 A And finally, I told him and right then, he went right into the bedroom and grabbed the gun and  
2 he came out and I got him to put it away and as soon as they pulled in the driveway and they  
3 beeped. Mike got on the phone and called 911, right then.
- 4 Q Okay. Did he say why he called 911?
- 5 A He just got on it and...
- 6 Q Okay. Were you, did you walk out the door then?
- 7 A No. He wouldn't let me.
- 8 Q Okay. When you say he wasn't letting you - -
- 9 A He was holding me back. He was holding me back on my...
- 10 Q Okay. So he, he wasn't, he had a hold of you.
- 11 A Yes.
- 12 Q Wasn't letting you go.
- 13 A No.
- 14 Q Did he tell you you couldn't leave?
- 15 A Yes.
- 16 Q And you say he was dialing 911 at the time.
- 17 A Yes.
- 18 Q Okay.
- 19 A And then, like, they only beeped and when I couldn't go out, they got out of the car and they  
20 just stood by the car and they were yelling for me.
- 21 Q Okay. Were you able to, to observe any of these people or did you just hear?
- 22 A Yes. I could see them.
- 23 Q Okay. You could see them. And who did you see at which door?
- 24 A They, they all come to the front door and knocked.
- 25 Q Okay.

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1 A And he answered the door. And they're like; we're here to get Lisa. And I'm standing back  
2 behind him putting my coat on and I believe it was Micheline asked me if I wanted to leave  
3 with them and I said; yes.

4 Q Okay.

5 A And Mike was kind of arguing with them a little bit and then he shut the door in her face.  
6 And...

7 Q What did you do at that point?

8 A At that point, I was right behind him but I couldn't get out the door.

9 Q Did you, did you, did you get out the door?

10 A No.

11 Q Did you try to go out the back door?

12 A It was, like, he shut the door and turned around and grabbed me.

13 Q Okay. And then what happened?

14 A I was, I managed, did, did manage to get away from him and then I grabbed the door knob. He  
15 grabbed - -

16 Q The front door or the back door.

17 A Front door.

18 Q Okay.

19 A He grabbed me and put me on the floor right there.

20 Q He knocked you down.

21 A Yes. There was two boxes and things right there and, and then he grabbed me up, took me in  
22 the dining room and he's yelling in my face. And then he...by then, the kids came around and  
23 they were seeing what was going on in the back sliding door windows.

24 Q Do, do you know who come in the back door?

25 A It was, I wasn't, I don't know which one came through it at first.

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- 1 Q Did, did you see it?
- 2 A No. When they first kicked, hit the door, they were yelling; run Leese. And I did.
- 3 Q Out the back door.
- 4 A The front door.
- 5 Q Front door.
- 6 A Yeah. Cause that's where Donna was.
- 7 Q Okay. So you were outside of the residence at that time.
- 8 A Right.
- 9 Q Okay. So you, you didn't go back in; did you?
- 10 A I went back in because I, I only got part of my stuff.
- 11 Q Okay.
- 12 A Cause I went back in to get the rest and at that time, I seen, I can't remember who was what
- 13 but the two guys were like in the corner. She was on the floor - -
- 14 Q When you say the two guys - -
- 15 A - - having a seizure.
- 16 Q When, when you say the two guys.
- 17 A Michael, Mike Porter and Jeremiah Leffew.
- 18 Q Okay. Okay. You, you saw them doing what?
- 19 A I don't know what. They were just in the corner. I don't want know what they - -
- 20 Q Standing or sitting.
- 21 A Yeah. Standing.
- 22 Q Okay.
- 23 A And I could hear yelling and she, all I could see was Micheline, on her, her, from her waist
- 24 down on the floor having a seizure.
- 25 Q Okay. Did you see her get hit with anything?

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1 A No.

2 Q Okay.

3 A I didn't. That, that - -

4 Q You just observed her having a seizure.

5 A Yes.

6 THE COURT: What makes you think she was having a seizure?

7 THE WITNESS: Because I know when - -

8 THE COURT: Was she foaming from the mouth?

9 THE WITNESS: I seen her, her from the waist down - -

10 THE COURT: Was she foaming from the mouth?

11 THE WITNESS: No. But I do know what a seizure is.

12 THE COURT: Okay.

13 A And yeah, that's all I could observe at that point.

14 Q All right. Did you observe anything else at that point?

15 A No.

16 Q What happened after that?

17 A After that, I ran out and oh, I went back in. When I went back at that point, they (inaudible)  
18 got out of the corner. He take Micheline and he was trying to get her out cause she wasn't  
19 under her own.

20 Q Okay. And did you, did you observe him taking her out of the house?

21 A Yes. Yes, I did.

22 Q Back door or the front door.

23 A Front door.

24 Q Front door.

25 A Yes.

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1 Q Did you ever see a hammer?

2 A No.

3 Q Did you ever see a knife?

4 A No, I did not.

5 Q Did you ever see a broken ashtray?

6 A No, I did not.

7 Q Okay. At that point in time, you don't know what, what happened to - -

8 A No, I don't.

9 Q All right. Anything other than that did you observe?

10 A Well, then, the only other thing is; oh, he, he did put me in the chair and he kind of sat and  
11 leaned against me and he was, when they were beating on the door, he called 911 again.

12 Q And was he still holding onto you?

13 A He had me in the chair and he was kind of sitting leaning against me.

14 Q Okay. Did you ask him to leave?

15 A Well, I was just screaming. I was, like, you know, let me, let me go, you know. The whole  
16 time I was screaming and yelling and all of that's what the kids were, were hearing out there.

17 Q Or what you believed that they were hearing?

18 A I know they were hearing it.

19 Q Okay. All right. All right.

20 THE COURT: Anything further, Mr. Hadley.

21 MR. HADLEY: Nothing from me, Your Honor.

22 THE COURT: Mr. Windsor.

23 MR. WINDSOR: Yes, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. WINDSOR



1 Q Ms. Seibert, you stated that day when this altercation happened, you called Donna to come  
2 pick you up?

3 A She actually called me.

4 Q Okay. Did you have to sneak around to talk on the phone?

5 A Yes. The only person I could talk to was a lady friend of mine named Marinda.

6 Q And this is at Mr. Porter's house; correct?

7 A Correct.

8 Q And only while you're there.

9 A Yeah.

10 Q Had Mr. Porter been abusing you at the time?

11 A No. No. He wasn't.

12 Q When the defendants sitting next to me, Micheline and Jeremiah, showed up, that the  
13 altercation happened, were you yelling out for their help?

14 A No, not at that time.

15 Q Did you yell at all that day for their help?

16 A When they were at the door, when they first got there and he shut the door in their face.  
17 That's when everything actually really started happening and that's when I, yes, I was yelling.

18 THE COURT: So you were upset that he shut the door in their face.

19 THE WITNESS: Well, yeah. They were there to get me. They weren't doing  
20 nothing wrong.

21 THE COURT: Okay.

22 Q And when did you...strike that. Did you put your coat on to prepare to leave that day?

23 A When the front door was open, yes.

24 Q Do you think Mr. Porter saw you do that?

25 A I don't know if he seen me. I was standing kind of behind him.

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1 Q Did Mr. Porter ever have to sit you down on the ground because your knees got weak?

2 A Pardon. I didn't catch that.

3 Q Did Mr. Porter ever have to set you down on the ground because your knees got weak and you  
4 couldn't stand up?

5 A No.

6 Q Were you ever on the ground in the fetal position?

7 A No.

8 Q Do you suffer from any health problems where your knees would get weak?

9 A I have that restless leg syndrome at night.

10 Q The day this altercation happened, at any point were you about to faint?

11 A No.

12 MR. WINDSOR: All right. Nothing further, Your Honor.

13 THE COURT: Okay. So at some point, we start off, you have this relationship  
14 with Mr. Porter and Ms. Knezevich that you call a love triangle; right?

15 THE WITNESS: Yes.

16 THE COURT: Okay. And, but you generally live with Ms. Knezevich at  
17 another location; correct?

18 THE WITNESS: Yes.

19 THE COURT: But there was some altercation where the, between you and Ms.  
20 Knezevich where the police were called prior to this?

21 THE WITNESS: Yes.

22 THE COURT: And so you went from that house to, to stay a few days at least  
23 with Mr. Porter?

24 THE WITNESS: Yes.

25 THE COURT: Okay. And then the night that all of this stuff happened, is, is

1 two days after that?

2 THE WITNESS: No. I think it was like four or five days.

3 THE COURT: Okay. And you, you indicated Mister, Mr. Porter hadn't been  
4 abusing you during that period of time?

5 THE WITNESS: No.

6 THE COURT: And at some point, you, I thought you did, was there some  
7 marriage proposal that you, did you become engaged to be married during this period of time?  
8 Was it on this date?

9 THE WITNESS: I've been with Donna 24 years.

10 THE COURT: Okay. I thought you, something, I thought you referenced  
11 something about a proposal and you accepting.

12 THE WITNESS: She did. She - -

13 THE COURT: When; was that on the same day?

14 THE WITNESS: Yes.

15 THE COURT: Okay. Was that during the mist of all of this?

16 THE WITNESS: No. That was - -

17 THE COURT: Hours before.

18 THE WITNESS: - - really caused it.

19 THE COURT: I'm sorry.

20 THE WITNESS: That's, I think, partly because of the phone call and I went out  
21 and told them they were on their way to get me is what caused.

22 THE COURT: Okay. So, so at this point, after this proposal and acceptance,  
23 then people come to the house.

24 THE WITNESS: Yes.

25 THE COURT: And knock on the door. Mr. Porter answers the door. Closes

1 the door and locks the door. And at, at some point, police are called.

2 THE WITNESS: Yes.

3 THE COURT: And after the door's locked, at some point, thereafter, I take it,  
4 am I wrong in assuming this is minutes after there's the, they, the two defendants here end up  
5 coming through the back door.

6 THE WITNESS: That thing, it was, it went on like a half an hour, something  
7 like that. He, then, them hearing me scream and yell and seeing him grabbing onto me and  
8 holding me and - -

9 THE COURT: Well, you're not sure what the saw; right?

10 THE WITNESS: Oh, yeah. I'm sure what they seen.

11 THE COURT: There was, there weren't walls in between.

12 THE WITNESS: No. No. They were in the big sliding glass doors and I'm  
13 right there.

14 THE COURT: Okay. And now, throughout this time you have a phone, is this,  
15 how did you communicate with Ms. Knezevich; was it with a cell phone or a land line phone?

16 THE WITNESS: Cell phone.

17 THE COURT: Okay. And did you call anyone else during this period of time?

18 THE WITNESS: No. I hadn't, couldn't, I don't even know happened with my  
19 phone during the day time actually, I couldn't...

20 THE COURT: All right. Okay. Mr. Broughton, any questions.

21 CROSS-EXAMINATION

22 BY MR. BROUGHTON

23 Q What's Miranda's last name?

24 A It was Grindstaff.

25 Q Okay. And she's the person that you were allowed to call?

- 1 A Yes.
- 2 Q And you actually had talked to her that day.
- 3 A Yes.
- 4 Q So...when...the car pulled in and honked, is that when Mr. Porter called 911?
- 5 A Yes. The first time.
- 6 Q Okay. So he called 911 for help.
- 7 A The first time, I'm not sure why he called because there was nothing happening.
- 8 Q Okay.
- 9 A I think he just figured something's going to.
- 10 Q But so you were there when he called 911.
- 11 A Yes. Yes.
- 12 Q And then you said he called 911 again, while you were in the chair?
- 13 A Yeah. He was kind of sitting on me. That's when the - -
- 14 Q All right.
- 15 A - - first time they hit the door.
- 16 Q So, so you called, so that would have been a few minutes after they arrived before - -
- 17 A No. They were there a little before...
- 18 Q Before they came in through the back door.
- 19 A Yes.
- 20 Q But before they came in through the back door, he called 911 again.
- 21 A Yep.
- 22 Q And you were...he was sitting on you in a chair at that point?
- 23 A Yeah.
- 24 Q Okay. And were you, so when he calls 911 the second time, were you yelling let me go?
- 25 A Yes.

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1 Q Okay. So...so he's calling 911, you're yelling let me go at the same time.

2 A Yes.

3 Q And when he was at the front door blocking, was he not letting, was it, who, who was in front  
4 when they were at the front door; was it, was it Ms. Knezevich or was it...

5 A I think it was Micheline.

6 Q Okay. And is Ms. Knezevich Micheline's; what's the relationship between them?

7 A Jeremiah Leffew is Donna's son.

8 Q Okay. So when he was at the front door, I mean, you could have left out the back door. I  
9 mean, he wasn't between you and the back door.

10 A No. I just figured that, I just, I just wanted to go. I, I - -

11 Q Okay.

12 A - - didn't, wasn't trying to fight or anything. I just wanted to go so...

13 Q And you wanted to go out the front door.

14 A I wanted to...calm them down, you know. They were like, he's like; she's not going with you  
15 guys. She's not going with you guys. And I'm like yes, I'm going.

16 Q When you could, but you could have went out the back door. There was no reason - -

17 A Yes. I could have but it, the, the front door thing happened so quick.

18 Q Okay.

19 A And he just turned around and, and grabbed me and was like - -

20 Q I mean, was he talking to them for, I mean, he opened the front door; correct; and talked to  
21 them?

22 A Yes.

23 Q And then he, did he have like his arm up or something so they couldn't come in or and he was  
24 facing them or...

25 A I think he was trying to, like, not let them in.



1 Q Okay.

2 A Yeah.

3 Q He was standing in the way from them walking in.

4 A He, he didn't have the door, he only had the door opened so far. And like they just wanted me  
5 to leave and he's like she's not leaving. Give me a few minutes. And slammed the door in  
6 their face and turned right around and grabbed me - -

7 Q And he had called 911 before this.

8 A Yes. When they pulled in the driveway.

9 MR. BROUGHTON: I don't have any further questions, Your Honor.

10 THE COURT: Mr. Hadley.

11 MR. HADLEY: Nothing in light of either Mr. Broughton or the Court's  
12 questions.

13 MR. WINDSOR: Nothing further, Your Honor.

14 THE COURT: All right. Ma'am, you can step down. Thank you.

15 (At or about 2:01 p.m., witness excused)

16 MR. HADLEY: We have no further witnesses.

17 THE COURT: Mr. Broughton, any - - Mr. Windsor, any...

18 MR. WINDSOR: No witnesses, Your Honor.

19 THE COURT: Has, has Ms. Knezevich been charged?

20 MR. BROUGHTON: She hasn't, Your Honor. In the report, we couldn't  
21 really, I mean, maybe an entry without permission eventually but, I mean, she came in to get  
22 the ring is all that was in the report.

23 THE COURT: And it seems that there's a single charge. One of the co-  
24 defendants is charged, Ms. Leffew is charged with a home invasion. Mr. Leffew's charged  
25 with the assault. I guess I can - -



1 MR. BROUGHTON: And each, and actually - -

2 THE COURT: - - but, but there's, there's, there's some evidence that she's  
3 yelling kill him, kill him. He grabs a knife and they both seem to have contemporaneously  
4 broke into the house. Is that, are you, well, there's at least some evidence of that. If, if you  
5 accept, you know, the, the testimony of Mr. Porter.

6 What are you moving to bind over on, Mr. Broughton, cause it, it seems like  
7 there might be some additional, some evidence of additional...I would have thought they  
8 would be co-defendants and both charges would be on each one.

9 MR. BROUGHTON: And, and they should be, Your Honor. If I would have  
10 thought it through more. I think even without the let's kill testimony on Mr. Leffew. He  
11 entered without permission obviously. Even if he didn't break in and there was a felonious  
12 assault while he was in there so...with a weapon so I mean, I think that makes it a home  
13 invasion first degree.

14 THE COURT: And then...

15 MR. BROUGHTON: And given the fact there's a person. There's a weapon  
16 and he entered without permission and while present in there, committed a felonious assault.

17 THE COURT: And then with respect to Ms. Leffew.

18 So you're moving to bind over on, on two counts with Mr. Leffew.

19 MR. BROUGHTON: Your Honor, I don't know if I can, I don't know if I can  
20 do the felonious along the home invasion, first.

21 THE COURT: Well, do you think there might be a prohibition?

22 MR. BROUGHTON: Yeah.

23 THE COURT: Really?

24 MR. BROUGHTON: I don't know though. I mean, I can find that out. But I,  
25 and maybe there isn't but I, I think it rises to the level of a home invasion first with a felonious

1 even if he's not, even if he didn't break in, if he enters without permission and while present  
2 in the home, has a weapon with a person there and that's a home invasion first.

3 THE COURT: And with respect to Mrs. Leffew, what are you moving to bind  
4 over on?

5 MR. BROUGHTON: I don't know exactly how much damage there is, there is  
6 done. I don't have any estimates or anything. It's a third degree because it was a  
7 misdemeanor that happened. If I had evidence that it was more than a \$1,000, I, it could be a  
8 second degree but I, I don't have evidence of that.

9 THE COURT: And you don't believe there's evidence sufficient for the  
10 assault, that she's co-hurt, as far as that goes?

11 MR. BROUGHTON: I mean, there, there's testimony that she jumped on his  
12 back for the assault.

13 THE COURT: Mr. Hadley.

14 MR. BROUGHTON: And yelled kill him.

15 MR. HADLEY: Obviously, this is, this is interesting, Your Honor. This is  
16 probably one of the first times that I would probably ask not only to have the charges  
17 dismisses against my client but perhaps, have Mr. Porter charged with at least false  
18 imprisonment of Ms. Seibert. At least an assault. I think the testimony is pretty clear. They  
19 were there to get her.

20 THE COURT: He's not charged right now. Any more than Ms. Knezevich is  
21 right now and I think there's pretty, pretty ample evidence that there, that there, there might be  
22 grounds for her to be charged.

23 MR. HADLEY: Well, Miss, Ms. Knezevich has, has not testified. Mr. Porter  
24 testified. His testimony was that there was a knife that was involved. There's no knife. All  
25 we know, right now, at this point is - -

1 THE COURT: Well, their, their, your client, by the testimony, is your, your  
2 client gave a statement that he grabbed a knife.

3 MR. HADLEY: Well, that statement, first of all, my client didn't testify and  
4 that statement is not evidence.

5 THE COURT: The statement was evidence.

6 MR. HADLEY: Mr. Porter, not Mr. Leffew. Mr. Leffew didn't testify.

7 THE COURT: Your, there was testimony with, from the witnesses - -

8 MR. BROUGHTON: Deputy Ochab testified to that.

9 THE COURT: As, as to what your client said and your client admitted - -

10 MR. HADLEY: What I'm, what I'm trying - -

11 THE COURT: There isn't even a dispute about the knife. I didn't think - -

12 MR. HADLEY: But the, the, the, the dispute about the knife is that its just Mr.  
13 Porter's statement. I know Mr. Lewffew may have made a statement in regards to that but law  
14 enforcement does not have that knife. All that we know is that Mr. Porter has this knife or this  
15 alleged knife or whatever he thinks was used in a bag, a plastic baggie that may or may not  
16 even have fingerprints of Mr. Leffew or not. We're not even there yet.

17 THE COURT: Well, I don't know if the, I don't know if the, the knife that, that  
18 Mr. Porter saved, apparently saved, is the same knife that, that Mr. Leffew admitted to having  
19 but Mr. Leffew admitted to having a knife. At least that's the testimony that I heard.

20 MR. HADLEY: I'm not going to discount what Deputy Ochab said. I'm, I'm  
21 more concerned about the knife or the lack there of. Clearly, one of these, like I said, is a rare  
22 incidence where we even put testimony on or witnesses. I believe Ms. Seibert probably was  
23 the most candid and the most honest of, of the, the witnesses because she was the one that was  
24 there against her will which, which this whole incident transpired by her wanting to leave.

25 THE COURT: By her testimony, she wasn't there against her will until, until

1 the defendants arrived at, at the house and the door was closed.

2 MR. HADLEY: Well, that's, that's - -

3 THE COURT: And, and, and that's, there's a lot of questions of fact here. I  
4 don't know what I believe. I don't know whether, I'm not sure how credible Mr. Porter's  
5 testimony is or, or Ms. Seibert's testimony but a lot of it is not even in dispute and, you know,  
6 in terms of who gets charged, that's the prosecutorial discretion. I just assess whether there's  
7 probable cause, not whether I believe one or another, even by probable, even by a reasonable  
8 doubt. This were, if this were, if, if it was beyond a reasonably doubt threshold, your, your  
9 clients very possibly could be walking away with, without any charges today but its not. It's a  
10 probable cause hearing. And, and all I have to assess is whether there is evidence that as to  
11 whether there was a home invasion and whether there was an assault and, and, you  
12 know...there certainly seems to be pretty ample evidence there was pretty crazy day there so  
13 anything further, Mr. Hadley, on those issues?

14 MR. HADLEY: Your Honor, I suppose I could argue with your for 20 more  
15 minutes but, but because this is a - -

16 THE COURT: And that's a good, that's what you'll be able to in front of a  
17 jury.

18 MR. HADLEY: And I think that's where this is heading.

19 THE COURT: Maybe. Maybe.

20 MR. HADLEY: I, I, I made my statements to the Court, Your Honor.

21 THE COURT: All right. Mr. Windsor.

22 MR. WINDSOR: I would just ask that the charge be dismissed and I oppose  
23 the bind over as well. Well, you heard the testimony today, Your Honor.

24 THE COURT: All right. Again, this, this, this is a, in terms of the preliminary  
25 hearing, there's evidence that the incident occurred on November 20 or November 18, 2017 in

1 Standish Township, Arenac County. It's a Pinconning address. I'm familiar with Huron and  
2 its, its, that it sounds like the address is on a mailing, Pinconning mailing but in actual,  
3 actually in Arenac County; at least that's the testimony. And that both of the defendants here  
4 entered the dwelling, Mr. Porter's home, there. In fact, broke into the door. The, the back  
5 door after being specifically locked out by the, by the owner.

6 I didn't hear any efforts by the defendants to call the police because they were  
7 so concerned about the safety of someone nor did I hear any, any testimony that prior to their  
8 arrival there was even an issue with Ms. Seibert wanting to leave and being unable to. Her  
9 testimony was there, there wasn't. Her testimony was that he wasn't abusive. And that un,  
10 until this, this incident occurred and while at that point forward, there's a lot of, there's a lot of  
11 questions and very well may be that, that Mr. Porter was in the wrong. I don't know from that  
12 point forward but prior to that, there, there was no, no complaints and, and I don't think that  
13 there, at least I haven't been presented with sufficient evidence that, that, that the defendants,  
14 the co-defendants had, had a sufficient reason to literally break into the building and even after  
15 that, it sounds like there were, there were certainly periods were Ms. Seibert could have  
16 vacated the residence out the back door. I think she admitted the same.

17 But at best, those issues are fact, are, are factual issues and there certainly is, is  
18 probable cause to believe that both of the co-defendants participated in a home invasion in  
19 terms of an entry without permission and committing at least a misdemeanor if not, well, in  
20 the case of Mr. Leffew, an assault.

21 There is also evidence that after entering Mr. Leffew at, at one point or another  
22 possessed a knife and was acting in an assaultive manner with that knife towards Mr. Porter.

23 Again, you know, there's, there's probably a lot of questions of fact here but is  
24 there a probable cause? I think there is. I, I'm, I believe that there is a basis to charge both the  
25 felonious assault and the home invasion. I am going to authorize bind over with respect to



1 Mr. Leffew on both counts. Frankly, I think the same would apply to Ms. Leffew but its not, I  
2 don't see that its really being requested so I'm not, I'm going to bind over with respect to Ms.  
3 Leffew on the original charge. With respect to Mr. Leffew, on, on the two felonies so...

4 COURT RECORDER: Home invasion first, second...

5 THE COURT: Home invasion third degree.

6 COURT RECORDER: Third.

7 THE COURT: And felonious assault.

8 MR. BROUGHTON: Your Honor, I believe a first.

9 THE COURT: Oh, you're right. That would be a first in light of the...

10 MR. BROUGHTON: Cause it's a, it's a felony with a, with a weapon.

11 THE COURT: With respect to bond, Mr. Broughton, what is your position?

12 Well, I'm sorry. First of all, I need to draw...the, the matters will be, go to the same judge and  
13 that will the Honorable Laura Frawley.

14 COURT RECORDER: January 8<sup>th</sup>, at ten o'clock, pre trial.

15 THE COURT: I'm sorry. January...

16 COURT RECORDER: Eighth, ten o'clock.

17 THE COURT: Mr. Broughton, bond, comments with respect to bond.

18 MR. BROUGHTON: Your Honor, it looks like Mr. Leffew has three prior  
19 felonies. In regards to this matter, he threatened, you know, he threatened a person with a  
20 knife after he had broken in or entered without permission, at the house. Looks like the bond  
21 is \$30,000 ten percent.

22 THE COURT: Bond is \$30,000 ten percent. It was post, it, it was, bondsman,  
23 Kozy Bail Bond, (inaudible) think it should be...

24 MR. BROUGHTON: I'll, I'll leave that up to your discretion, Your Honor.

25 THE COURT: Mr. Hadley.

1 MR. HADLEY: Your Honor, I, I think that the bond is appropriate. I think that  
2 in light of what transpired today, nothing is going to change as far as any threats to Mr. Porter  
3 or society. You know, he's out. He's exercising his right to have a preliminary examination  
4 which we did. We can address the additional charges either by motion or at trial. I don't think  
5 there's any threat to the society.

6 THE COURT: Very reluctantly I'm going to continue the bond as, as is it is  
7 considering all the circumstances.

8 Mr. Windsor, any comments with respect to your - -

9 MR. WINDSOR: I would just ask the bond be continued, Your Honor. Ms.  
10 Leffew is going to, comes to me as a court-appointed. You know, her intentions are to fight  
11 the charges.

12 THE COURT: I'm going to continue bond on her case as well. The exhibit  
13 will returned to...Mr. Hadley.

14 Is there anything further?

15 MR. WINDSOR: Nothing further.

16 THE COURT: I, you know, again, this one could go either way probably.

17 MR. BROUGHTON: Thank you, Your Honor.

18 (At or about 2:18 p.m., hearing concluded)



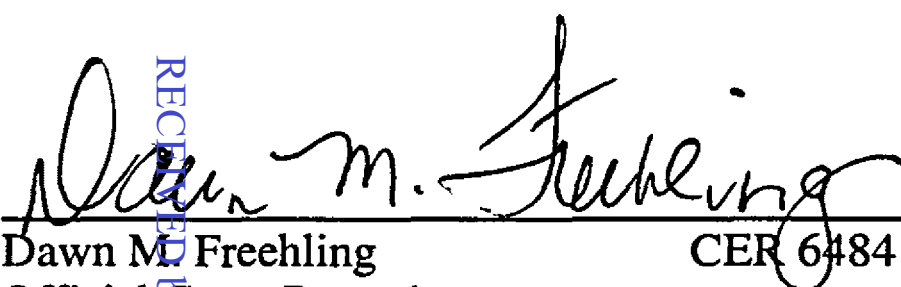
1 State of Michigan)

2 County of Arenac)

3 I certify that this transcript, consisting of 56 pages, is a complete, true, and correct  
4 transcript of the testimony taken in this case on December 19, 2017.  
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Dawn M. Freehling  
Official Court Recorder  
81<sup>st</sup> District Court

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STATE OF MICHIGAN

23<sup>RD</sup> JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

THE PEOPLE OF THE STATE OF MICHIGAN,

v

MICHELINE NICOLE LEFFEW,

Defendant.

File No. 17-4119-FH

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THE PEOPLE OF THE STATE OF MICHIGAN,

v

JEREMIAH JAMES LEFFEW,

Defendant.

File No. 17-4119-FH

JURY TRIAL - VOLUME I OF II

BEFORE THE HONORABLE LAURA A. FRAWLEY, CIRCUIT COURT JUDGE

Standish, Michigan - Monday, March 26, 2018

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People's Exhibit #2 Picture of Backdoor	Prior to Court	117
People's Exhibit #3 Picture of Kitchen	Prior to Court	118
People's Exhibit #4 Picture of Mr. Porter's Arm	Prior to Court	120
People's Exhibit #5 Picture of Backdoor from Outside	Prior to Court	121
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1 Standish, Michigan

2 Monday, March 26, 2018 - 9:04 a.m.

3 (People's Exhibits #1 through #8 and Defendant  
4 #2's Exhibits #2 and #3 marked prior to the  
5 beginning of court)

6 THE COURT: Good morning.

7 VARIOUS PARTIES: Good morning.

8 THE COURT: I'd like to welcome you all to 26<sup>th</sup>  
9 (sic) Circuit Court for Arenac County. We'll get everybody  
10 gathered here..

11 I am calling file 17-0501-FY, People of the State  
12 of Michigan versus Micheline Nicole Leffew. I am also  
13 calling file 17-0501-FY, I'm sorry file 17-4119-FH, People  
14 of the State of Michigan versus Jeremiah James Leffew. And  
15 the other file number, which I called wrong, is 17-4119-FH  
16 (sic), People of the State of Michigan versus Micheline  
17 Nicole Leffew.

18 We have the jury panel here, are the parties ready  
19 to proceed? Mr. Broughton.

20 MR. BROUGHTON: Yes, Your Honor.

21 THE COURT: Mr. Hadley?

22 MR. HADLEY: Yes.

23 THE COURT: Mr. Windsor?

24 MR. WINDSOR: Yes, Your Honor.

25 THE COURT: Ladies and gentlemen, before we

1 proceed with jury instructions or jury selection, I just  
2 want to take a moment to thank you all for being here. This  
3 is the most important divvy you can fulfill as a citizen of  
4 a free nation. Our jury system is, although, you know, not  
5 perfect, it's the best justice system in the world where you  
6 get to be tried by a jury of your peers. I know that you  
7 all have busy lives, that there's probably 100 other places  
8 you'd rather be this morning, but it's important to  
9 everyone, these kinds of issues are too important to be left  
10 to judges and lawyers. That's why we have the jury system  
11 that we do. So I want to thank each of you for showing up  
12 this morning to fulfill your civic duty. It's a heartfelt  
13 thank you that you're here this morning.

14 So we're going to begin jury selection. Before we  
15 begin I'm going to have you all please stand and raise your  
16 right hand. Do you solemnly swear or affirm that you will  
17 give true answers to such questions as shall be put to you  
18 touching on your competency to sit as jurors in this trial,  
19 so help you God?

20 JURORS: Various answers.

21 THE COURT: Everyone answers in the affirmative.  
22 You can be seated. I'm sorry, that was a test.

23 Ladies and gentlemen, I'm Judge Laura Frawley,  
24 it's my pleasure and privilege to welcome you to 23<sup>rd</sup> Circuit  
25 Court of Arenac County. Did I say 26<sup>th</sup> Circuit Court



1 earlier?

2 VARIOUS PARTIES: Yes.

3 THE COURT: It's Monday, what can I say. We're in  
4 the 23<sup>rd</sup> Circuit Court for Arenac County. I know that jury  
5 duty may be a new experience for some of you. Jury duty is  
6 one of the most serious duties members of the free society  
7 are asked to perform. Our system of self-government could  
8 not exist without it.

9 The jury is an important part of this court. The  
10 right to a jury trial is an ancient tradition and part of  
11 our heritage. The law says that both a person who is  
12 accused of a crime and the prosecution have the right to a  
13 trial, not by one person, but by a jury of twelve impartial  
14 persons.

15 Jurors must be as free as humanly possible from  
16 bias, prejudice, or sympathy for either side. Each side in  
17 a trial is entitled to jurors who keep open minds until the  
18 time comes to decide the case.

19 A trial begins with jury selection. The purpose  
20 of this process is to obtain information about you that will  
21 help us choose a fair and impartial jury to hear this case.

22 During jury selection the lawyers and I will ask  
23 you questions. This is called voir dire, the French phrase  
24 that means to tell the truth. The questions are meant to  
25 find out if you know anything about this case. Also, we

1 need to find out if you have any opinions or personal  
2 experiences that might influence you for or against the  
3 prosecution, the defendant, or any witness. One or more of  
4 these things could cause you to be excused in this  
5 particular case, even though you might otherwise be  
6 qualified to be a juror.

7 The questions may probe deeply into your attitude  
8 beliefs, and experiences. They are not meant to be an  
9 unreasonable prying into you private life. The law requires  
10 that we get this information so that an impartial jury can  
11 be chosen.

12 If you do not hear or understand a question you  
13 should say so. If you do understand it, you should answer  
14 it truthfully and completely. Please do not hesitate to  
15 speak freely about anything you believe we should know.

16 During this selection you may be excused from  
17 serving on the jury in one of two ways. First, I may excuse  
18 you for cause; that is, I may decide that there is a valid  
19 reason why you cannot or should not serve in this case. Or  
20 a lawyer from one side or the other may excuse without  
21 giving any reason for doing so. This is called a peremptory  
22 challenge. The law gives each side the right to excuse a  
23 certain number of jurors in this way. If you are excused,  
24 you should not feel bad or take it personally. As I  
25 explained before, there simply may be something that causes

1 you to be excused from this particular case.

2 I'd like to introduce you to the members of my  
3 staff. Our bailiff, I don't know your last name Mike.

4 DEPUTY BADOUR: Badour.

5 THE COURT: Badour, Deputy Badour, who's going to  
6 be our bailiff, and who will have charge over you when  
7 you're deliberating.

8 This is our court clerk. I'll let you introduce  
9 yourself.

10 MS. MCGUIRE: Karen McGuire.

11 THE COURT: And what's your position.

12 MS. MCGUIRE: Circuit court clerk.

13 THE COURT: Okay, and our court recorder.

14 MS. STROH: Heather Stroh.

15 THE COURT: Who will be taking down everything  
16 that's said. Normally she sits there quietly, but sometimes  
17 if people start to talk over each other she may interject  
18 and ask them to stop doing that so we can have a clear  
19 recording. But normally she just takes down everything  
20 everybody says. And again, sometime I may interject and ask  
21 people to speak up a little bit too, because this whole  
22 proceeding is being recorded, sometimes if people have a  
23 quiet voice it's hard to get on the recording.

24 So that's the staff that will be in here, so  
25 you'll be familiar with them during the course of this

1 trial.

2 This is a criminal case involving the charge of  
3 Home Invasion 1<sup>st</sup> Degree and Assault with a Dangerous Weapon  
4 against Jeremiah James Leffew, and Home Invasion 3<sup>rd</sup> Degree  
5 against Micheline Nicole Leffew, which I will explain more  
6 fully later. This charge has been made against the  
7 defendants, Jeremiah James Leffew and Micheline Nicole  
8 Leffew. The Defendant's lawyers are Duane Hadley and Scott  
9 Windsor.

10 MR. HADLEY: Good morning.

11 MR. WINDSOR: Good morning.

12 THE COURT: The lawyer for the State of Michigan  
13 is the Prosecuting Attorney, Curtis Broughton.

14 MR. BROUGHTON: Good morning.

15 VARIOUS PARTIES: Good morning.

16 THE COURT: The witnesses who may be called in  
17 this matter, I can't find my witness list right now. But  
18 I'm going to have--

19 MR. HADLEY: If I may approach, Your Honor.

20 THE COURT: Okay. Mr. Broughton I'm going to have  
21 you stand and indicate to the jury who the People, oh, I  
22 have it, never mind. No that's the exhibit list. So Mr.  
23 Broughton if you would please inform the jurors of who you  
24 intend to call as witnesses in this case.

25 MR. BROUGHTON: Your Honor, the People would

1 intend to call Michael Porter, Deputy Ochab, Lisa Seibert.

2 THE COURT: Michael Porter, Deputy Ochab, and Lisa  
3 Seibert. Does anybody know any of those individuals, any of  
4 the jurors? Okay, we're going to come back to that in just  
5 a minute.

6 And for the defense, I guess Mr. Hadley and Mr.  
7 Windsor, I'll let you also indicate to the jurors who you  
8 are calling.

9 MR. HADLEY: All right, thank you, Your Honor. On  
10 our witness list we possibly intend to call also, Ms.  
11 Seibert, Lisa Seibert, Donna, now known as Donna Seibert,  
12 Michael Porter, also Jeremiah Leffew and possibly Micheline  
13 Leffew.

14 THE COURT: And does anybody recognize any of  
15 those names, know any of those people? Okay, we're going to  
16 get back to that later.

17 Mr. Windsor.

18 MR. WINDSOR: Your Honor, I would be calling the  
19 exact same people.

20 THE COURT: All right, okay. Okay, I did want to  
21 ask, other than the witnesses too, Mr. Hadley, Mr. Windsor,  
22 can I have you each introduce your clients, please.

23 MR. HADLEY: Yes, I would. This is my client, Mr.  
24 Jeremiah Leffew.

25 MR. WINDSOR: This is my client, Ms. Micheline

1 Leffew.

2 THE COURT: Anybody on the panel know either of  
3 these individuals? Okay, thank you sir.

4 We think that this trial will last for two days.  
5 Is there anyone who believes that the length of this trial  
6 will be a hardship on you?

7 Yes sir, you want to tell why? State your name  
8 and your juror number if you know it.

9 JUROR NASHATKA: I do not know my juror number,  
10 but my name is Joseph Nashatka.

11 THE COURT: Okay.

12 JUROR NASHATKA: I work third shift, I usually get  
13 out of work around 8:30, but if somebody takes the night off  
14 I have to run their route, which could run into the  
15 afternoon. I'm the only one available for that. My company  
16 would have to send a special, somebody out of Lansing up to  
17 cover me, I work out of Grayling. And I do not get paid for  
18 the day off as well.

19 THE COURT: Okay. Mr. Hadley, Mr. Windsor, Mr.  
20 Broughton, anyone have any objection to excusing this  
21 gentleman.

22 MR. HADLEY: Your Honor, in light of the pool that  
23 we have I think that we're confident that we can pick a  
24 jury, I would have no objection to, for cause.

25 THE COURT: Sir, I'm going to thank and excuse

1 you. Please be sure to stop by the clerk's office before  
2 you leave.

3 JUROR NASHATKA: Thank you.

4 THE COURT: Yes, sir.

5 JUROR PROCTOR: Your Honor, Saturday I went to the  
6 doctor and they diagnosed me with strep throat, and I don't  
7 feel very good, and I don't want to get other people sick.

8 THE COURT: Okay, what's your name, sir?

9 JUROR PROCTOR: James Proctor.

10 THE COURT: Okay, Mr. Proctor, I'm going to thank  
11 and excuse you. Please be sure to stop by the clerk's  
12 office and don't breathe on anybody on your way out. Thank  
13 you.

14 Anyone else? Yes, ma'am.

15 JUROR EDGETTE: I am an assistant--

16 THE COURT: State your name please.

17 JUROR EDGETTE: Eirel Edgette. I am an assistant  
18 to run a assisted living facility with 20 people, so I have  
19 to care for them, and there is no one that can physically do  
20 my job, with medication dispense.

21 THE COURT: No one else at the facility at all?

22 JUROR EDGETTE: No. I'm the assistant so I have  
23 to order and dispense all medications.

24 THE COURT: Okay, if you're the assistant can't  
25 your boss dispense the medication?



1 JUROR EDGETTE: She can dispense them but she  
2 cannot order them.

3 THE COURT: All right, I'll thank and excuse you.  
4 Stop by the clerk's office before you leave.

5 Anyone else? Sir.

6 JUROR CLINE: My name is Chase Cline, I go to  
7 Saginaw Valley, I have an exam today and I work tomorrow.

8 THE COURT: What time is your exam?

9 JUROR CLINE: I have class at 10:00, my exam is at  
10 12:00.

11 THE COURT: Okay, I'm going to thank and excuse  
12 you. What was your name again?

13 JUROR CLINE: Cline, Chase Cline.

14 THE COURT: Okay. Stop by the clerk's office  
15 before you leave.

16 Yes, in the back, sir.

17 JUROR PLACE: My name is Joshua Place.

18 THE COURT: Please stand up. Joshua?

19 JUROR PLACE: Place. P-l-a-c-e.

20 THE COURT: Okay.

21 JUROR PLACE: I work, same as the first  
22 individual, I work midnights. We're reduced to one vehicle  
23 right now, and between getting my kids to and from school,  
24 which I have to pick up and drop off every day. I don't  
25 think that I'd be able to do it.

1 THE COURT: Okay. I'm going to ask you to just  
2 sit and be patient for a little bit. Everybody has issues  
3 with family and I can't excuse everybody for inconvenience.

4 Anybody else? Yes sir, in the back.

5 JUROR RUSE: My name is Kevin Ruse.

6 THE COURT: Say your last name again.

7 JUROR RUSE: Kevin Ruse.

8 THE COURT: Okay.

9 JUROR RUSE: I'm running a crew, they're doing the  
10 Whitney water up there, we're trying to get it all finished  
11 up and ready to go, and we pretty much shut down the whole  
12 job when I'm not there.

13 THE COURT: Mr. Broughton, Mr. Hadley, Mr.  
14 Windsor.

15 MR. WINDSOR: No objection.

16 MR. BROUGHTON: I have no objection, Your Honor.

17 MR. HADLEY: No objection.

18 THE COURT: Okay, I'm going to thank and excuse  
19 you. Please make sure you stop by the clerk's office before  
20 you leave.

21 Anybody else? All right, thank you.

22 Some of you may have health problems which would  
23 prevent you from serving on the jury. For example, does  
24 anyone have a medical problem that makes you unable to sit  
25 for two or three hours at a time? In the back there, ma'am.

1 JUROR WANNER: My name is Jennifer Wanner, I had  
2 my hip replaced again, for the second time, last July. I  
3 don't know if I can sit all day.

4 THE COURT: Okay. If you, if I told you to give  
5 me a little "hi" sign if you needed a break to stand up, and  
6 we could take a break, would that work for you?

7 JUROR WANNER: Yeah.

8 THE COURT: Okay, all right, thank you. Anyone  
9 else?

10 JUROR DALTON: Yes, ma'am.

11 THE COURT: Yes, sir.

12 JUROR DALTON: My name's John Dalton. I had a  
13 knee replacement and my other knee's pretty bad too, and I  
14 had neck fusion, but as long as I can stand up every once in  
15 awhile I'll be fine.

16 THE COURT: So if I tell you just give me a little  
17 sign if you need a break and we'll take a break, that will  
18 work for you?

19 JUROR DALTON: Yes, ma'am.

20 THE COURT: Okay. I have two knee replacements so  
21 I can sympathize.

22 Anybody else who couldn't sit?

23 Anybody have any sight or hearing problems? Okay,  
24 everybody's indicating in the negative.

25 This is a criminal case--I'm sorry, yes ma'am.

1 UNIDENTIFIED JUROR: Yeah, my eyes are kind of bad  
2 right now; I know I need to go see an eye doctor.

3 THE COURT: Okay. But if we had an exhibit that  
4 you needed to see, and we allowed you to hold it and look at  
5 it, you'd be able to see it?

6 JUROR: Yes.

7 THE COURT: Okay. There were a couple other  
8 hands. Yes, ma'am. State your name please.

9 JUROR FEDAK: Shannon Fedak. I'm 90% deaf in my  
10 right ear.

11 THE COURT: Okay, can you hear me now?

12 JUROR FEDAK: I can but I have to turn.

13 THE COURT: Okay. If anything was going on that  
14 you couldn't hear would you be willing to make a little sign  
15 and I'll make everybody keep their voices up?

16 JUROR FEDAK: Sure.

17 THE COURT: Okay. And there was another hand,  
18 yes, ma'am.

19 JUROR STELTER: Nancy Stelter, I'm pretty much the  
20 same as her, my eyesight is really bad. But like you said,  
21 you know, if I have to see something close up, and if you  
22 let me, I could.

23 THE COURT: Right. So, and let me say that to  
24 everybody, if there's an issue where you don't hear  
25 something or you need to see something more clearly, just

1 let me know, give me a little wave, and we'll make sure that  
2 you see and hear everything that you need to see and hear.  
3 So if there's something, let's say something were on the  
4 screen and you couldn't see it, we would make sure that you  
5 had a close up view of that. Everybody understand? Okay,  
6 and all you need to do is just, don't hesitate to let me  
7 know if you didn't see it or hear something. I'll make sure  
8 you see and hear everything.

9 This is a criminal case. The paper used to charge  
10 the defendant with a crime is called an information. The  
11 information in this case charges the defendant; I'm going to  
12 read the information precisely to you.

13 "The Defendant, Micheline Nicole Leffew, is  
14 charged that on or about November 18, 2017, in Standish  
15 Township, Arenac County, she did Break and Enter, or  
16 Enter without Permission, a dwelling located at 5951 S.  
17 Huron Road, in Pinconning, Michigan, and while  
18 entering, present in, or exiting the dwelling did  
19 commit a malicious destruction of the building under  
20 \$200, a misdemeanor which is contrary to Michigan  
21 Compiled Law 750.110a(4).

22 Jeremiah James Leffew is charged:

23 "That on or about November 18, 2017, in Standish  
24 Township, Arenac County, he did, with regard to Count  
25 1, Break and Enter, or did Enter without Permission a

1 Dwelling place located at 5951 S. Huron Road, in  
2 Pinconning, Michigan, and while entering, present in,  
3 or exiting did commit an assault, and while entering,  
4 present in, or exiting the dwelling, Michael Porter was  
5 lawfully present therein.

6 Count 2 alleges that on that same date and in the  
7 same place he did make an Assault upon Michael Porter  
8 with a Dangerous Weapon, to-wit: a knife, but without  
9 intending to commit the crime of murder or to inflict  
10 great bodily harm less than the crime of murder.

11 That's contrary to Michigan Compiled Law 750.82.

12 So those are the charges against the respective  
13 defendants in this case.

14 To prove these charges the prosecutor must prove  
15 the following beyond a reasonable doubt.

16 First, that the defendants entered a dwelling  
17 without permission. It does not matter whether the  
18 defendant got his or her entire body inside. If the  
19 defendant put any part of their body into the dwelling  
20 without permission, that is enough to count as entry.

21 Second, that when the defendants entered, were  
22 present in, or were leaving the dwelling, he or she  
23 committed the offense of assault, or malicious destruction  
24 of property under \$200.

25 Third, that when the defendant entered, was

1 present in, or was leaving the dwelling, either of the  
2 following circumstances existed: another person lawfully was  
3 present in the dwelling.

4 With regard to the charge of Assault with a  
5 Dangerous Weapon, the prosecutor must prove the charge  
6 beyond a reasonable doubt by the following.

7 First, that the defendant either attempted to  
8 commit a battery on Michael Porter, or did an act that would  
9 cause a reasonable person to fear or apprehend an immediate  
10 battery. A battery is a forceful or violent touching of the  
11 person or something closely connected with the person.

12 Second, that the defendant intended to either  
13 injure Michael Porter or to make Michael Porter reasonably  
14 fear an immediate battery.

15 Third, that at the time the defendant had the  
16 ability to commit the battery, appeared to have the ability,  
17 or thought he had the ability.

18 Fourth, that the defendant committed the assault  
19 with a knife.

20 A dangerous weapon is any object that is used in a  
21 way that is likely to cause serious physical injury or  
22 death.

23 Some objects, such as guns or bombs, are dangerous  
24 because they are specifically designed to be dangerous.  
25 Other objects are designed for peaceful purposes but may be



1 used as dangerous weapons. The way an object is used or  
2 intended to be used is, at, in an assault determines whether  
3 or not it is a dangerous weapon. If an object is used in a  
4 way that is likely to cause serious injury or death it is a  
5 dangerous weapon.

6 You must decide, from all the facts and  
7 circumstances, whether the evidence shows that the knife in  
8 question here was a dangerous weapon.

9 With regard to Micheline, who is charged with Home  
10 Invasion 3<sup>rd</sup> Degree, the prosecutor must prove that, beyond a  
11 reasonable doubt, by proving the following.

12 First, that the defendant broke and entered a  
13 dwelling, it does not matter whether anything was actually  
14 broken, however some force must have been used. Opening a  
15 door, raising a window, taking off a screen, are all  
16 examples of enough force to constitute a breaking. For an  
17 entry it does not matter whether the defendant got her  
18 entire body inside. If the defendant put any part of her  
19 body into that dwelling that is enough to count as an entry.

20 Second, that when the defendant entered, was  
21 present in, or was leaving the dwelling, she committed a  
22 misdemeanor, that being Malicious Destruction of a Building  
23 under \$200.

24 The defendants have pled not guilty to these  
25 charges. You should clearly understand that the information

1 I have just read is not evidence. An information is read in  
2 every criminal trail so that the defendant and the jury can  
3 hear the charges. You must not think it is evidence of his  
4 or her guilt, that he or she must be guilty because he or  
5 she has been charged.

6 A person accused of a crime is presumed to be  
7 innocent. This means that you must start with the  
8 presumption of innocence, that the defendant is innocent.  
9 This presumption continues throughout the trial and entitles  
10 the defendant to a verdict not guilty unless you are  
11 satisfied beyond a reasonable doubt that he or she is  
12 guilty.

13 Every crime is made up of parts called elements.  
14 The prosecutor must prove each element of the crime beyond a  
15 reasonable doubt. The defendant is not required to prove  
16 his or her innocence, or to do anything. If you find that  
17 the prosecutor has not proven every element beyond a  
18 reasonable doubt, then you must find the defendant not  
19 guilty.

20 A reasonable doubt is a fair, honest doubt which  
21 grows out of the evidence or lack of evidence. It is not  
22 merely an imaginary or plausible doubt, but a doubt based on  
23 reason and common sense. A reasonable doubt is just that, a  
24 doubt that is reasonable after a careful, considered  
25 examination of the facts and circumstances of this case.

1           Okay, let's start the, the clerk is going to pull  
2 a name; she will call your name and juror number. So the  
3 first person called, I'm going to have you come in and come  
4 into the first row, all the way to the end seat.

5           COURT CLERK: Juror 213, Frederick Brissette;  
6 Juror 257, Ruth Normile.

7           THE COURT: Two, five, seven?

8           COURT CLERK: Yes.

9           MR. HADLEY: What was the last name?

10          COURT CLERK: Normile. N-o-r-m-i-l-e. Juror  
11 297--

12          THE COURT: Okay, go ahead.

13          COURT CLERK: Margaret Warr.

14          THE COURT: So Mr. Brissette, if you'll go in the  
15 front row all the way to the end. Ms. Normile, if you'll go  
16 right next to him.

17          COURT CLERK: Number 204, Cathy Bailiff.

18          THE COURT: With a "V"?

19          COURT CLERK: "B", as in boy.

20          THE COURT: Okay.

21          COURT CLERK: Number 274, Roger Scherf; number  
22 293, Michael Vauris; number 266, Michelle Preger; number  
23 295, Raymond Walters.

24          THE COURT: Mr. Walters, we're going to have you  
25 go into the back row all the way to the end. That was 295?

1 COURT CLERK: Yes. 207, Stacy Bell; 239, Brianne  
2 Hughes; 247 Tammy Mast; 264, Bryan Pickvet; 209, Anthony  
3 Bloxsom.

4 THE COURT: Okay, I'm going to be asking some  
5 questions, and then the lawyers will be asking some  
6 questions of the people in the box here. But I'd like you  
7 all to listen as well because one of these jurors may be  
8 excused, and one of you may be called up, and so that we  
9 don't have to repeat all those questions. Make sure you're  
10 paying attention so that if you do get called up to replace  
11 someone whose been excused, we'll ask you if your answer to  
12 any of those questions would be different. So please pay  
13 attention, just because you're not in the box, you do need  
14 to hear what's being asked.

15 Anything about the length of this trial that's  
16 going to be an issue for any of you? Okay, everyone is  
17 indicating in the negative.

18 Is there anything about the nature of the charges  
19 in this case that would be an issue for any of you?

20 Any of you have any family or friends who are in  
21 law enforcement? Yes, ma'am.

22 JUROR WARR: I have a niece that's a lieutenant in  
23 Roscommon County.

24 THE COURT: Okay, and you're Mary Warr?

25 JUROR WARR: Margaret.

1 THE COURT: Margaret Warr. Does she talk with you  
2 about his work?

3 JUROR WARR: No, not usually.

4 THE COURT: Okay. Is there anything about that  
5 relationship that would cause you to be unable to be fair  
6 and impartial in this case?

7 JUROR WARR: No.

8 THE COURT: Okay, and there was someone in the  
9 back. Yes, sir.

10 JUROR VAURIS: I have a brother that's a police  
11 officer.

12 THE COURT: Okay, and you are Michael Vauris?

13 JUROR VAURIS: Correct. And also I'm on security  
14 at Forest Lake.

15 THE COURT: Okay. And did he talk to you a lot  
16 about his work?

17 JUROR VAURIS: Yes, he did.

18 THE COURT: Okay. Is there anything about that  
19 relationship that would make you unable to be fair and  
20 impartial in this case?

21 JUROR VAURIS: No.

22 THE COURT: And was there anybody else? Yes,  
23 ma'am.

24 JUROR BELL: I just have friends on this police  
25 force.

1 THE COURT: Okay. Any of them going to be  
2 witnesses in this case?

3 JUROR BELL: No.

4 THE COURT: Okay. Is there anything about those  
5 friendships that would cause you to be unable to be fair and  
6 impartial in this case?

7 JUROR BELL: No.

8 THE COURT: Do you know the officer in charge of  
9 the case?

10 JUROR BELL: No.

11 THE COURT: Okay. Any of you ever been a victim  
12 of a crime? Any of you ever been, the record should reflect  
13 they indicated in the negative.

14 Anyone ever been a witness in a criminal case  
15 before. Everyone indicates in the negative.

16 Anybody ever sat on a jury before? Okay, Mr.  
17 Vauris tell me about that.

18 JUROR VAURIS: It was a child molestation case,  
19 downstate.

20 THE COURT: Okay, and did that case go to a  
21 verdict?

22 JUROR VAURIS: Yes, it did.

23 THE COURT: Okay, is there anything about your  
24 experience in that case that would cause you to be unable to  
25 be fair and impartial in this case?

1 JUROR VAURIS: No.

2 THE COURT: Okay. Any other cases? That was the  
3 only criminal case?

4 JUROR VAURIS: Yes.

5 THE COURT: Okay. Sir, Mr. Scherf.

6 JUROR SCHERF: Yes, ma'am.

7 THE COURT: You raised your hand.

8 JUROR SCHERF: Yes, I was on a jury thing, I don't  
9 know, thirty years ago, I guess. It was truck driving and  
10 it killed some people. I was on the jury and we came up  
11 with a verdict of guilty (inaudible).

12 THE COURT: Is there anything about that  
13 experience that would cause you to be unable to be fair and  
14 impartial in this case?

15 JUROR SCHERF: Well, the only thing I didn't like  
16 about it, to be honest with you, they badgered us before we  
17 got on the jury thing like this thing here. He kept asking  
18 me are you familiar with tractor/trailers, you going to buy  
19 one, I said, "no". He said, "Are you sure you're not?" I  
20 said, "I already told you, no." I didn't like that at all,  
21 it kind of belittled us.

22 THE COURT: Yeah.

23 JUROR SCHERF: And I don't like that, but other  
24 than that.

25 THE COURT: Okay. That has to do, I think with



1 the strategy of the lawyers in that case. I can promise you  
2 that these gentlemen aren't like that, and if they get out  
3 of line I'll reel them in, okay.

4 JUROR SCHERF: Okay.

5 THE COURT: Is there anything about that fact that  
6 you didn't like that, that would cause you to be unable to  
7 be fair and impartial in this case?

8 JUROR SCHERF: No, just left a bad taste in my  
9 mouth, didn't like how they asked me if I did that.

10 THE COURT: Okay, but you can separate that from  
11 the people who are here?

12 JUROR SCHERF: Yes, completely.

13 THE COURT: I can guarantee you won't be treated  
14 that way in this courtroom. Okay. Somebody else raise  
15 their hand? Yes, ma'am, you are Cathy Bailiff.

16 JUROR BAILIFF: Yes.

17 THE COURT: And what was your experience?

18 JUROR BAILIFF: It was just a shoplifting case and  
19 we did vote, do a verdict.

20 THE COURT: You had a verdict.

21 JUROR BAILIFF: Yes, we did.

22 THE COURT: Anything about that experience that  
23 would cause you to be unable to be fair and impartial in  
24 this case?

25 JUROR BAILIFF: No.

1 THE COURT: Okay. Who else? Yes, ma'am, you're  
2 Ruth Normile?

3 JUROR NORMILE: Normile.

4 THE COURT: Normile.

5 JUROR NORMILE: It was drunk driving.

6 THE COURT: Okay, and did that case go to a  
7 verdict?

8 JUROR NORMILE: Yes, it did.

9 THE COURT: Is there anything about your  
10 experience in that case that would cause you--

11 JUROR NORMILE: No.

12 THE COURT: So you could be a fair juror in this  
13 case?

14 JUROR NORMILE: Yes.

15 THE COURT: People in the back row, somebody raise  
16 their hand? Yes, ma'am, you are, are you Tammy Mast?

17 JUROR MAST: Tammy.

18 THE COURT: Okay.

19 JUROR MAST: Same thing as Kathy, it was just a  
20 shoplifting, and it did go to verdict.

21 THE COURT: Okay, anything about that experience  
22 that would affect your ability here?

23 JUROR MAST: Absolutely not.

24 THE COURT: Okay, anyone else? Okay.

25 I talked briefly about the presumption of

1 innocence, and I'm going to talk more about that with you,  
2 and I'm sure the lawyers will as well, but is there anybody  
3 who has a problem with the concept of presumption of  
4 innocence? Anyone? You understand that as the Leffew's sit  
5 here, right now, they are presumed innocent. And if I sent  
6 you back there to return a verdict right now it would have  
7 to be "not guilty" you understand that?

8 Do you understand that the burden of proof is on  
9 Mr. Broughton to prove each and every element of the charges  
10 against each defendant beyond a reasonable doubt? Okay.

11 I've talked a little bit about what beyond a  
12 reasonable doubt is, and we're going to talk about that some  
13 more as well. Does anybody have a problem with the concept  
14 of beyond a reasonable doubt? No one is indicating in the  
15 affirmative. So do you believe you understand what beyond a  
16 reasonable doubt is? Okay. It's not an imaginary doubt,  
17 it's not a possible doubt, it's a doubt based on reason and  
18 common sense as you look at all the evidence, do you  
19 understand that? Does everybody believe they would be able  
20 to apply that in this case?

21 JURORS: Yes, ma'am. Yes.

22 THE COURT: Okay. Is there anyone who would have  
23 a problem, if at the end of this case, you were convinced  
24 that the prosecutor had not met his burden of proof, is  
25 there anybody who would hesitate to return a verdict of "not

1 guilty".

2 Okay, I want to ask a flip side of that. If you  
3 do believe that the prosecutor has proven this case beyond  
4 reasonable doubt, is there anyone who would hesitate to  
5 return a verdict of "guilty"?

6 Anyone have any philosophical, or religious, or  
7 spiritual beliefs against sitting in judgment of a fellow  
8 human being? No one is indicating in the affirmative.

9 Mr. Broughton, I'm going to allow you to ask some  
10 questions.

11 MR. BROUGHTON: Thank you, Your Honor. I just  
12 have a few because I know some of the people.

13 Ms. Bailiff, I know you because your daughter was  
14 a victim of a crime years ago.

15 JUROR BAILIFF: Correct, yes.

16 MR. BROUGHTON: And she seems to be doing pretty  
17 well now.

18 JUROR BAILIFF: She is very well, yes.

19 MR. BROUGHTON: Anything about that experience  
20 that would taint you in any way one way or another?

21 JUROR BAILIFF: No.

22 MR. BROUGHTON: And Ms. Preger, I know you because  
23 we have kids in school together.

24 JUROR PREGER: Yes.

25 MR. BROUGHTON: And I see you at the FFA functions

1 and stuff like that. Would that affect you in any way in  
2 regards to this case?

3 JUROR PREGER: No.

4 MR. BROUGHTON: Ms. Hughes, I see you just about  
5 every morning during the week as she works at BP, and I go  
6 in a get a pop, just seen her this morning. Anything about  
7 having contact with me that would prejudice you one way or  
8 another?

9 JUROR HUGHES: (Shakes head "no".)

10 THE COURT: She indicated in the negative. I'm  
11 going to ask everybody when you're answering these questions  
12 please answer them verbally and loudly so the recorder can  
13 get down your answer.

14 MR. BROUGHTON: I don't have any further  
15 questions, Your Honor.

16 THE COURT: Before we go to you let me just ask,  
17 because I didn't ask the question. Does anybody know any of  
18 the lawyers in this case?

19 JUROR BAILIFF: I'm affiliated with both.

20 THE COURT: Okay. And you're Ms. Bailiff?

21 JUROR BAILIFF: Yes.

22 THE COURT: Okay. You know both defense  
23 attorneys?

24 JUROR BAILIFF: Correct.

25 THE COURT: Okay, and how is it that you know

1           them?

2                   JUROR BAILIFF: Mr. Broughton was the attorney for  
3 my daughter.

4           THE COURT: Okay.

5           JUROR BAILIFF: And Mr., I forgot his name.

6           MR. HADLEY: Hadley.

7           THE COURT: Hadley.

8           JUROR BAILIFF: Hadley was the defense attorney.

9           THE COURT: Defense attorney.

10          JUROR BAILIFF: Defense attorney, yes.

11          THE COURT: Is there anything about that fact that  
12 would cause you to feel that you have any prejudice toward  
13 one side or the other?

14          JUROR BAILIFF: No.

15          THE COURT: Okay. And do you know Mr. Windsor at  
16 all?

17          MS. BAILIFF: No.

18          THE COURT: Okay. Anybody else know any of the  
19 lawyers? Yes, ma'am, in the back, Tammy, no you're?

20          MR. HADLEY: Ms. Hughes.

21          THE COURT: Okay. Ms. Hughes.

22          JUROR HUGHES: I also know Mr. Broughton,  
23 obviously, and Mr. Hadley I see quite frequently at the gas  
24 station.

25          THE COURT: Okay. Is there anything about those

1 relationships that would cause you to be unable to be fair  
2 or impartial?

3 JUROR HUGHES: No.

4 THE COURT: Anybody else? Yes, ma'am.

5 JUROR WARR: My son used Mr. Hadley as a lawyer.

6 THE COURT: Okay. Anything about that that would  
7 affect you ability in this case to be fair?

8 JUROR WARR: No.

9 THE COURT: And someone down here raised their  
10 hand. Yes, ma'am.

11 JUROR PREGER: Just as Mr. Broughton had stated we  
12 have children that are friends so we see each other out in  
13 community.

14 THE COURT: Let me ask those of you who know Mr.  
15 Broughton in somewhat of a social setting. If at the end of  
16 this case you felt as a juror that he had not met his burden  
17 of proof, would any of you feel awkward in returning a  
18 verdict of "not guilty"? Everybody's indicating in the  
19 negative.

20 And those of you who know Mr. Hadley or Mr.  
21 Windsor, any of you, would you feel awkward returning a  
22 verdict of guilty? Everyone is indicating in the negative.

23 Mr. Hadley, questions?

24 MR. HADLEY: Thank you, Your Honor, I just have a  
25 couple follow-ups here. Ms. Mast, good morning.



1 JUROR MAST: Good morning.

2 MR. HADLEY: I'm looking at your juror  
3 questionnaire and you indicate that your husband's name is  
4 Thomas.

5 JUROR MAST: Yes.

6 MR. HADLEY: And you indicate he's retired but you  
7 didn't indicate where he's retired from, where is that?

8 JUROR MAST: Labor's local 1098.

9 MR. HADLEY: Not a police officer or anything of  
10 that nature?

11 JUROR MAST: No.

12 MR. HADLEY: Okay, thank you. And Mr. Walters.

13 JUROR WALTERS: Good morning.

14 MR. HADLEY: Looking at yours as well, occupation,  
15 retired, where from sir?

16 JUROR WALTERS: St. Claire County, juvenile court.

17 MR. HADLEY: Okay, how long were you in juvenile  
18 court?

19 JUROR WALTERS: Thirty years.

20 MR. HADLEY: Okay. Did you have, you work for the  
21 probate court, for family court?

22 JUROR WALTERS: Just a part of my service was  
23 juvenile detention.

24 MR. HADLEY: Okay.

25 JUROR WALTERS: And then I moved to transportation

1 officer for the last ten years.

2 MR. HADLEY: All right. When did you retire, sir?

3 JUROR WALTERS: Hm, well, time just kind of stops  
4 It's been 10 years I guess.

5 MR. HADLEY: Okay, that's fine, thank you.

6 THE COURT: You don't look nearly old enough to be  
7 retired.

8 MR. HADLEY: Only because Mr. Broughton, and  
9 myself, and Mr. Windsor--

10 THE COURT: Because you look so old.

11 MR. HADLEY: --are still employed. It's the beard  
12 I'm sure, Your Honor.

13 THE COURT: No, it's the grey beard.

14 MR. HADLEY: Yeah. Mr. Brissette, good morning.  
15 Also you sir, you filled out your juror questionnaire and  
16 you didn't indicate where you're retired from.

17 JUROR BRISSETTE: I've been retired from Adair  
18 Printing.

19 MR. HADLEY: Adair Printing, okay. How many years  
20 were you there, sir?

21 JUROR BRISSETTE: About five.

22 MR. HADLEY: Five, okay. What other jobs did you  
23 do?

24 JUROR BRISSETTE: I drove truck most of my life.

25 MR. HADLEY: Okay. But you were never law

1 enforcement or anything of that nature?  
2 JUROR BRISSETTE: No.  
3 MR. HADLEY: Okay. And Mr. Bloxsom, good morning.  
4 JUROR BLOXSOM: Good morning, sir.  
5 MR. HADLEY: Indicated here you don't have an  
6 occupation, you're now unemployed. What was your last  
7 employment?  
8 JUROR BLOXSOM: Installing pools.  
9 MR. HADLEY: Okay. No prior law enforcement in  
10 your background?  
11 JUROR BLOXSOM: No.  
12 MR. HADLEY: I have no further questions at this  
13 time, Your Honor.  
14 THE COURT: Mr. Windsor, questions?  
15 MR. WINDSOR: Does anyone here today, have any of  
16 you ever employed the services of Garner Dewey, a local  
17 attorney? Does anyone here know Garner Dewey personally?  
18 THE COURT: Ms. Hughes.  
19 MR. WINDSOR: Ms. Hughes, how do you know him  
20 personally?  
21 JUROR HUGHES: He's my mother's neighbor.  
22 MR. WINDSOR: Would that affect any of your  
23 decisions here today as far as "guilty" or "not guilty"?  
24 JUROR HUGHES: No.  
25 MR. WINDSOR: That's all I have right now, Your

1 Honor.

2 THE COURT: Okay. Challenges for cause, Mr.  
3 Broughton?

4 MR. BROUGHTON: I have no challenges for cause,  
5 Your Honor.

6 THE COURT: Mr. Hadley?

7 MR. HADLEY: None for cause, Your Honor.

8 THE COURT: Mr. Windsor.

9 MR. WINDSOR: None for cause.

10 THE COURT: Peremptory, Mr. Hadley, or Mr.  
11 Broughton?

12 MR. BROUGHTON: Your Honor, I guess I would pass  
13 on my preemptory.

14 THE COURT: Mr. Hadley, preemptory?

15 MR. HADLEY: Your Honor, yes. We would like to  
16 thank and excuse Mr. Raymond, I believe, seated in #8.

17 THE COURT: Mr. Raymond Walters.

18 MR. HADLEY: Raymond Walters, I'm sorry.

19 THE COURT: Mr. Walters, I'm going to thank and  
20 excuse you. Please make sure you stop by the clerk's office  
21 before you leave.

22 JUROR WALTERS: Okay.

23 COURT CLERK: Number 229, Tammy Goodroe.

24 THE COURT: Ms. Goodroe, you're going to go in the  
25 back row and take Mr. Walter's seat. Good morning.

1 JUROR TAMMY GOODROE: Good morning.

2 THE COURT: Would your answer to any of the  
3 questions that have previously been asked be something that  
4 you thought we should know about?

5 JUROR TAMMY GOODROE: No. The only thing is that  
6 I know Garner Dewey but not on anything other than  
7 professional.

8 THE COURT: Okay, and anything about that that  
9 would affect your ability to be a juror in this case?

10 JUROR TAMMY GOODROE: No.

11 THE COURT: Mr. Broughton, questions?

12 MR. BROUGHTON: I have none, Your Honor.

13 THE COURT: Mr. Hadley?

14 MR. HADLEY: No, Your Honor.

15 THE COURT: Mr. Windsor?

16 MR. WINDSOR: No questions, Your Honor.

17 THE COURT: Okay. This might go quicker than I  
18 thought. Challenges for cause, Mr. Broughton?

19 MR. BROUGHTON: None for cause, Your Honor.

20 THE COURT: Mr. Hadley?

21 MR. HADLEY: None for cause, Your Honor.

22 THE COURT: Mr. Windsor?

23 MR. WINDSOR: None for cause.

24 THE COURT: Peremptory, I guess we'll go to you,  
25 Mr. Windsor.

1 MR. WINDSOR: I would ask juror #9, Ms. Bell, to  
2 be excused.

3 THE COURT: Thanking and excusing you. Please  
4 make sure you stop by the clerk's office before you leave.

5 COURT CLERK: Number 287, Dawn Tola.

6 THE COURT: Ms. Tola, we're going to have you go  
7 in the back row and take Ms. Bell's former seat.

8 COURT CLERK: We have another juror that just came  
9 in. You that just came in, state your name, please.

10 JUROR STROH: Corey Stroh.

11 THE COURT: Okay. Mr. Stroh, we swore the rest of  
12 the jury panel earlier before you were here. Would you  
13 please stand up and raise your right hand.

14 Do you solemnly swear or affirm that you will  
15 answer the questions put to you as truthfully and as  
16 completely as you can so help you God?

17 JUROR STROH: Yes.

18 THE COURT: Okay, be seated. Peremptory, Mr.  
19 Windsor?

20 MR. WINDSOR: I would ask Ms. Tola to be  
21 dismissed, Your Honor.

22 THE COURT: Okay, Ms. Tola, looks like that's  
23 going to be the hot seat today, we thank and excuse you.  
24 Make sure you stop by the clerk's office before you leave.

25 JUROR TOLA: Sorry guys.

1 COURT CLERK: Number 230, Matthew Gould.

2 THE COURT: Mr. Gould, We'll have you go in the  
3 back row and sit in the hot seat. Apparently don't get too  
4 comfortable. Mr. Gould, is there anything about the  
5 questions that have previously been asked, is there anything  
6 about you that we should know with regard to those  
7 questions? You don't know any of the witnesses.

8 JUROR GOULD: The defendant.

9 THE COURT: You know which defendant?

10 JUROR GOULD: Jeremiah.

11 THE COURT: Okay. How do you know him?

12 JUROR GOULD: I kind of grew up with him, he's  
13 friends with friends.

14 THE COURT: Okay. Have you had a relationship  
15 with him recently?

16 JUROR GOULD: Not in the past five years.

17 THE COURT: Okay. Is there anything about your  
18 history with him that would cause you to be unable to be  
19 fair and impartial in this case?

20 JUROR GOULD: Not necessarily.

21 THE COURT: Okay. So you think you could listen  
22 to the evidence presented in this case and make your  
23 decision based only on that?

24 JUROR GOULD: Yes, ma'am.

25 THE COURT: Okay. Mr. Hadley, questions? I mean,



1 Mr. Broughton.

2 MR. BROUGHTON: None, Your Honor.

3 THE COURT: Mr. Hadley.

4 MR. HADLEY: No, Your Honor.

5 THE COURT: Mr. Windsor.

6 MR. WINDSOR: Nothing for cause, Your Honor, no  
7 questions.

8 THE COURT: Challenges for cause?

9 MR. BROUGHTON: I have no challenges for cause,  
10 Your Honor.

11 THE COURT: Mr. Hadley.

12 MR. HADLEY: None for cause, Your Honor.

13 THE COURT: Mr. Windsor.

14 MR. WINDSOR: None for cause, Your Honor.

15 THE COURT: Okay, preemptory, I think we're back  
16 to you, Mr. Broughton.

17 MR. BROUGHTON: The People would thank and excuse  
18 Mr. Gould.

19 THE COURT: Mr. Gould, I'm going to thank and  
20 excuse you. Apparently this really is the hot seat. Make  
21 sure you stop by the clerk's office before you leave.

22 COURT CLERK: Number 228, Lynn Goodroe.

23 THE COURT: Ms. Goodroe, are you related to Tammy?

24 JUROR LYNN GOODROE: Yes.

25 THE COURT: Okay, how are you related?

1 JUROR LYNN GOODROE: My father-in-law would have  
2 been her great grandfather.

3 THE COURT: But do you have a close relationship?

4 JUROR LYNN GOODROE: No.

5 THE COURT: Okay. So if you were both chosen to  
6 sit on this jury, and you're in the jury room deliberating,  
7 and you had differing opinions about what the verdict in  
8 this case would be, you would be able to each stick to your  
9 guns?

10 JUROR LYNN GOODROE: Yes.

11 THE COURT: Okay. Anything about the questions  
12 that have been asked the other jurors that you think we  
13 should know?

14 JUROR LYNN GOODROE: I, we have retained Mr.  
15 Windsor before.

16 THE COURT: Okay, was that in a civil case or  
17 criminal case?

18 JUROR LYNN GOODROE: Civil.

19 THE COURT: Okay, anything about that experience  
20 that would cause you to be partial in anyway?

21 JUROR LYNN GOODROE: No.

22 THE COURT: Okay. So even though you retained him  
23 in the past you'd be able to listen to all the evidence and  
24 be fair to all the parties in this case?

25 JUROR LYNN GOODROE: Yes.

1 THE COURT: And you'd be able to make a decision  
2 based on the evidence alone?

3 JUROR LYNN GOODROE: Yes.

4 THE COURT: Mr. Broughton, questions?

5 MR. BROUGHTON: No questions, Your Honor.

6 THE COURT: Mr. Hadley.

7 MR. HADLEY: Ms. Goodroe, how long ago was that  
8 that you retained either Mr. Dewey or Mr. Windsor?

9 JUROR LYNN GOODROE: About a year ago.

10 MR. HADLEY: A year ago, is the case done now?

11 JUROR LYNN GOODROE: Yes.

12 MR. HADLEY: No further questions, Your Honor.

13 THE COURT: Mr. Windsor.

14 MR. WINDSOR: No questions, Your Honor.

15 THE COURT: For cause, any challenges for cause?

16 MR. BROUGHTON: I have no challenges for cause,  
17 Your Honor.

18 THE COURT: Mr. Hadley.

19 MR. HADLEY: None for cause, Your Honor.

20 THE COURT: Mr. Windsor.

21 MR. WINDSOR: None for cause.

22 THE COURT: And we're back to you Mr. Hadley,  
23 peremptory?

24 MR. HADLEY: Your Honor, I guess let's keep this  
25 seat going; I would like to thank and excuse Ms. Goodroe.

1 THE COURT: Ms. Goodroe, thank you, you're  
2 excused. Please make sure you stop by the clerk's office  
3 before you leave.

4 COURT CLERK: Number 278, Kenneth Smith.

5 THE COURT: Good morning, Mr. Smith.

6 JUROR SMITH: Good morning.

7 THE COURT: You might want to just remain standing  
8 when you get there. Mr. Smith, anything about the previous  
9 questions that have been asked by the lawyers or I that you  
10 think we should know?

11 JUROR SMITH: No, ma'am.

12 THE COURT: Okay. Do you know any of the lawyers?

13 JUROR SMITH: I know Mr. Broughton.

14 THE COURT: How do you know him?

15 JUROR SMITH: He was the prosecutor in a case  
16 concerning my son.

17 THE COURT: Okay. Anything about that experience  
18 that you feel would affect your ability to be a juror in  
19 this case?

20 JUROR SMITH: No, ma'am.

21 THE COURT: Okay. You'll be able to listen to the  
22 evidence as it's presented to you, and make your decision  
23 based only on the evidence?

24 JUROR SMITH: Yes, ma'am.

25 THE COURT: Mr. Broughton, questions?

1 MR. BROUGHTON: Mr. Smith, how long ago was that?

2 JUROR SMITH: It was approximately four years ago

3 MR. BROUGHTON: Okay. Smith is a pretty common  
4 name so I guess maybe that's why I don't remember. So  
5 nothing one way or another would affect your judgment as to  
6 what happens today?

7 JUROR SMITH: No, sir.

8 MR. BROUGHTON: I have no further questions, Your  
9 Honor.

10 THE COURT: Mr. Hadley.

11 MR. HADLEY: No questions, Your Honor.

12 THE COURT: Mr. Windsor.

13 MR. WINDSOR: No questions, Your Honor.

14 THE COURT: Challenges for cause, Mr. Broughton?

15 MR. BROUGHTON: None, Your Honor.

16 THE COURT: Mr. Hadley.

17 MR. HADLEY: None for cause, Your Honor.

18 THE COURT: Mr. Windsor.

19 MR. WINDSOR: None for cause, Your Honor.

20 THE COURT: Peremptory, I think we're back to you,  
21 Mr. Windsor.

22 MR. WINDSOR: I would ask, I believe its seat #13,  
23 Mr. Bloxsom to be excused, Your Honor.

24 THE COURT: Mr. Bloxsom, I'm going to thank you  
25 and excuse you. Please make sure you stop by the clerk's

1 office before you leave.

2 JUROR BLOXSOM: Thank you.

3 THE COURT: Thank you.

4 COURT CLERK: Number 263, Ronald Philburn.

5 THE COURT: Mr. Philburn, I am familiar with you.

6 Can you move over one more seat? And I don't know if you  
7 know any of the lawyers but you work for Department of  
8 Social Services for many years, is that correct?

9 JUROR PHILBURN: Correct.

10 THE COURT: Okay. Do you know Mr. Broughton, or  
11 Mr. Hadley, or Mr. Windsor?

12 JUROR PHILBURN: I know Mr. Hadley.

13 THE COURT: Okay, and how is it that you know him?

14 JUROR PHILBURN: He was the defense attorney on  
15 one of my cases.

16 THE COURT: Okay, anything about that experience  
17 that would cause you to be unable to be a juror in this  
18 case?

19 JUROR PHILBURN: Absolutely not.

20 THE COURT: Anything about your experience working  
21 for DHHS, now, it was DSS for a long time, but you worked  
22 for them for how many years?

23 JUROR PHILBURN: Almost 20.

24 THE COURT: And I assume you had a lot of  
25 courtroom experience, I know you were in court with me

1 before.

2 JUROR PHILBURN: Correct.

3 THE COURT: Anything about that experience that  
4 would cause you to be unable to be a juror in this case?

5 JUROR PHILBURN: Absolutely not.

6 THE COURT: Okay. Mr. Broughton, questions?

7 MR. BROUGHTON: None, Your Honor.

8 THE COURT: Mr. Hadley.

9 MR. HADLEY: I have no questions.

10 THE COURT: Mr. Windsor.

11 MR. WINDSOR: No questions, Your Honor.

12 THE COURT: Challenges for cause, Mr. Broughton?

13 MR. BROUGHTON: None, Your Honor.

14 THE COURT: Mr. Hadley.

15 MR. HADLEY: None for cause, Your Honor.

16 THE COURT: Mr. Windsor.

17 MR. WINDSOR: None for cause.

18 THE COURT: Mr. Broughton, we're back to you on  
19 peremptory.

20 MR. BROUGHTON: Your Honor, the People are  
21 satisfied with this jury.

22 THE COURT: Okay. Mr. Hadley.

23 MR. HADLEY: Your Honor, we would like to thank  
24 and excuse the juror seated in #7, Ms. Preger.

25 THE COURT: Ms. Preger, thank you, you are



1       excused. Please make sure you stop by the clerk's office  
2       before you leave.

3               COURT CLERK: Number 280, Nancy Stelter.

4               THE COURT: Good morning.

5               JUROR STELTER: Good morning.

6               THE COURT: Ms. Stelter, is there anything about  
7       any of the questions that have previously been asked that  
8       you think we should know?

9               JUROR STELTER: No.

10              THE COURT: Do you know any of the lawyers?

11              JUROR STELTER: Nope.

12              THE COURT: Any of the witnesses?

13              JUROR STELTER: Nope.

14              THE COURT: Have any relatives who are in law  
15       enforcement?

16              JUROR STELTER: No.

17              THE COURT: Okay. Ever been a witness in a case  
18       before?

19              JUROR STELTER: No.

20              THE COURT: Ever been a victim of a crime?

21              JUROR STELTER: No.

22              THE COURT: Ever sat as a juror before?

23              JUROR STELTER: No.

24              THE COURT: Mr. Broughton, questions?

25              MR. BROUGHTON: None, Your Honor.

1 THE COURT: Mr. Hadley.

2 MR. HADLEY: No, Your Honor.

3 THE COURT: Mr. Windsor.

4 MR. WINDSOR: No questions, Your Honor.

5 THE COURT: Challenges for cause, Mr. Broughton?

6 MR. BROUGHTON: No challenges for cause, Your  
7 Honor.

8 THE COURT: Mr. Hadley.

9 MR. HADLEY: None for cause, Your Honor.

10 THE COURT: Okay.

11 MR. WINDSOR: None for cause, Your Honor.

12 THE COURT: Okay, and we're back to you, Mr.  
13 Hadley, on peremptory.

14 MR. HADLEY: Your Honor, I would, satisfied as of  
15 right now.

16 THE COURT: Mr. Windsor, peremptory?

17 MR. WINDSOR: I would ask Mr. Philburn, juror #,  
18 well in seat 13 be excused, Your Honor.

19 THE COURT: Thank you, Mr. Philburn. Stop by the  
20 clerk's office before you leave.

21 COURT CLERK: Number 292, Fred Vallad.

22 THE COURT: That's the new hot seat, so.

23 JUROR VALLAD: Good.

24 THE COURT: Mr. Vallad, you've heard all the  
25 questions that have been asked so far.

1 JUROR VALLAD: Yup, I heard them all.

2 THE COURT: Anything about your answers to any of  
3 those that we should know?

4 JUROR VALLAD: No.

5 THE COURT: You look sort of despondent. Will you  
6 be able to sit as a juror in this case?

7 JUROR VALLAD: I think.

8 THE COURT: What was that?

9 JUROR VALLAD: Yes.

10 THE COURT: Okay. Know any of the lawyers?

11 JUROR VALLAD: No.

12 THE COURT: Okay. Ever been a witness in a case  
13 before?

14 JUROR VALLAD: No.

15 THE COURT: Ever sit as a juror?

16 JUROR VALLAD: No.

17 THE COURT: Ever been a victim of a crime?

18 JUROR VALLAD: No.

19 THE COURT: Mr. Broughton, questions?

20 MR. BROUGHTON: No questions, Your Honor.

21 THE COURT: Mr. Hadley.

22 MR. HADLEY: Mr. Vallad, it appears you're trying  
23 to be very, very honest, do you think this would be kind of  
24 a burden to you today and tomorrow if you have to sit for  
25 two days?

1 JUROR VALLAD: I'd just as soon not. I mean I can  
2 do it.

3 MR. HADLEY: Would you be upset with me or my  
4 client if we kept you.

5 JUROR VALLAD: No, absolutely not.

6 MR. HADLEY: I mean you seem like a likeable guy.

7 JUROR VALLAD: Just honest.

8 MR. HADLEY: I appreciate that. We're not cutting  
9 into like any hunting, or fishing season, or anything like  
10 that?

11 JUROR VALLAD: I was going to smoke some meat  
12 today, but that was--

13 THE COURT: Did he say smoke some weed?

14 MR. HADLEY: I'm thinking he said meat.

15 THE COURT: Okay. Anybody?

16 MR. HADLEY: I have no further questions.

17 THE COURT: Mr. Windsor, any questions?

18 MR. WINDSOR: No, no questions, Your Honor.

19 THE COURT: Challenges for cause?

20 MR. BROUGHTON: None, Your Honor.

21 THE COURT: Mr. Hadley.

22 MR. HADLEY: None for cause.

23 MR. WINDSOR: None for cause, Your Honor.

24 THE COURT: And as long as you said meat I'm okay  
25 with that. Peremptory, I think we are back to you, Mr.

1 Broughton.

2 MR. BROUGHTON: Your Honor, I'm going to make Mr.  
3 Vallad's day because I'm going to thank and excuse him.

4 THE COURT: Mr. Vallad, you are excused.

5 JUROR VALLAD: Oh, thank you.

6 THE COURT: You can go home and smoke whatever you  
7 want.

8 MR. HADLEY: Legally.

9 THE COURT: Legally, yes.

10 COURT CLERK: Number 273, Jim Sanford.

11 THE COURT: He's hesitating to sit down, next seat  
12 over.

13 JUROR SANFORD: Okay.

14 THE COURT: Mr. Sanford, you've heard all the  
15 questions that have been previously asked?

16 JUROR SANFORD: Yes.

17 THE COURT: Would your answer to any of those  
18 questions be something you think we should know?

19 JUROR SANFORD: No.

20 THE COURT: Okay. Do you know any of the lawyers?

21 JUROR SANFORD: I know Duane Hadley.

22 THE COURT: How do you know him?

23 JUROR SANFORD: Through a friend of mine, Mary  
24 DuRussel. But we only like met at parties and stuff.

25 THE COURT: Okay. Anything about that

1 relationship that would cause you to be unable to be a juror  
2 in this case?

3 JUROR SANFORD: No.

4 THE COURT: You wouldn't hesitate to find his  
5 client guilty, would you, if that you believed the  
6 prosecutor proved his case?

7 JUROR SANFORD: Yeah, I mean if the evidence is  
8 stacked against him, then yeah.

9 THE COURT: If the prosecutor proves his case  
10 beyond a reasonable doubt, would you be willing to find Mr.  
11 Hadley's client guilty?

12 JUROR SANFORD: Yes.

13 THE COURT: Would that make you feel awkward the  
14 next time you saw Mr. Hadley?

15 JUROR SANFORD: Not at all.

16 THE COURT: Okay. And the flip side of that I'll  
17 ask as well, if the prosecutor fails to meet his burden of  
18 proof, would you hesitate to find either of the defendants  
19 not guilty?

20 JUROR SANFORD: No.

21 THE COURT: Okay. Do you know Mr. Windsor at all?

22 JUROR SANFORD: No, I do not.

23 THE COURT: Okay, and you don't know Mr.  
24 Broughton?

25 JUROR SANFORD: Do not.

1 THE COURT: Okay. Have you ever been a witness in  
2 a case?

3 JUROR SANFORD: No, I have not.

4 THE COURT: Have you ever been a victim of a  
5 crime?

6 JUROR SANFORD: No, I have not.

7 THE COURT: Ever sat as a juror before?

8 JUROR SANFORD: Never.

9 THE COURT: Okay. Anything at all in your mind  
10 that you think would make it difficult to be a fair juror in  
11 this case?

12 JUROR SANFORD: Not at all.

13 THE COURT: Okay. Mr. Broughton, any questions?

14 MR. BROUGHTON: No, Your Honor.

15 THE COURT: Mr. Hadley.

16 MR. HADLEY: No, Your Honor.

17 THE COURT: Mr. Windsor.

18 MR. WINDSOR: No questions, Your Honor.

19 THE COURT: Challenges for cause?

20 MR. BROUGHTON: None, Your Honor.

21 THE COURT: Mr. Hadley.

22 MR. HADLEY: None for cause, Your Honor.

23 THE COURT: Mr. Windsor.

24 MR. WINDSOR: None for cause.

25 THE COURT: Peremptory, Mr. Hadley, we're back to



1           you.

2                   MR. HADLEY: Your Honor, we're satisfied at this  
3           time.

4                   THE COURT: Okay. Mr. Windsor, any peremptories?

5                   MR. WINDSOR: I'm satisfied at this time, Your  
6           Honor.

7                   THE COURT: Okay, Mr. Broughton.

8                   MR. BROUGHTON: The People would thank and excuse  
9           Ms. Stelter.

10                   THE COURT: Ms. Stelter, I thank you. Please stop  
11           by the clerk's office before you leave.

12                   JUROR STELTER: Thank you.

13                   COURT CLERK: Number 275, James Schlagel.

14                   THE COURT: Mr. Schlagel, you've heard all the  
15           questions that have previously been asked?

16                   JUROR SCHLAGEL: Yes.

17                   THE COURT: Would your answer to any of those  
18           questions be something you think we need to know?

19                   JUROR SCHLAGEL: No.

20                   THE COURT: Okay. Do you know any of the lawyers?

21                   JUROR SCHLAGEL: No.

22                   THE COURT: Ever been a witness in a case before?

23                   JUROR SCHLAGEL: No.

24                   THE COURT: Ever been a victim of a crime?

25                   JUROR SCHLAGEL: No.

1 THE COURT: Ever been a juror in a case before?

2 JUROR SCHLAGEL: No.

3 THE COURT: You understand the presumption of  
4 innocence?

5 JUROR SCHLAGEL: Um-hum.

6 THE COURT: Have any problem applying that in this  
7 case?

8 JUROR SCHLAGEL: Um-um.

9 THE COURT: And do you understand the burden of  
10 proof that the prosecutor has beyond a reasonable doubt?

11 JUROR SCHLAGEL: Um-hum.

12 THE COURT: Any problem sticking to that in this  
13 case?

14 JUROR SCHLAGEL: Nope.

15 THE COURT: Okay. Questions, Mr. Broughton?

16 MR. BROUGHTON: None, Your Honor.

17 THE COURT: Mr. Hadley.

18 MR. HADLEY: No, Your Honor.

19 THE COURT: Mr. Windsor.

20 MR. WINDSOR: No questions, Your Honor.

21 THE COURT: Challenges for cause, Mr. Broughton?

22 MR. BROUGHTON: No, Your Honor.

23 THE COURT: Mr. Hadley.

24 MR. HADLEY: No, Your Honor.

25 THE COURT: Mr. Windsor.

1 MR. WINDSOR: No, Your Honor.

2 THE COURT: Mr. Hadley, I go back to you on  
3 peremptory.

4 MR. HADLEY: Satisfied, Your Honor.

5 THE COURT: Mr. Windsor.

6 MR. WINDSOR: Satisfied, Your Honor.

7 THE COURT: Mr. Broughton.

8 MR. BROUGHTON: Your Honor, the People would thank  
9 and excuse Mr. Sanford.

10 JUROR SANFORD: Thank you.

11 THE COURT: Mr. Sanford, thank you very much for  
12 your service. Please be sure to stop by the clerk's office  
13 before you leave.

14 COURT CLERK: 206, Elon Basgall.

15 THE COURT: Spell the last name.

16 COURT CLERK: B-a-s-g-a-l-l.

17 MR. HADLEY: Your Honor, may we approach, briefly?

18 THE COURT: Sure.

19 (At 10:10 a.m., bench conference on the record)

20 (At 10:10 a.m., bench conference concluded)

21 THE COURT: Ms. Basgall, you've heard all the  
22 questions that have been previously asked. Is there  
23 anything about your answers that would be something that we  
24 need to know?

25 JUROR BASGALL: Nothing other than I have a nephew

1 that's a police officer in Lansing, and I don't know if that  
2 matters.

3 THE COURT: Is there anything about your  
4 relationship with him that would cause you to be unable to  
5 be a juror in this case?

6 JUROR BASGALL: No.

7 THE COURT: Does he talk to you about his work?

8 JUROR BASGALL: No.

9 THE COURT: Okay. You heard earlier, we asked  
10 some general questions, is there anything work wise, health  
11 wise, that would cause you to be unable to sit for long  
12 periods in this case?

13 JUROR BASGALL: As long as I can get something to  
14 eat.

15 THE COURT: Okay, and how often do you need to do  
16 that?

17 JUROR BASGALL: I'm diabetic, so it's just--

18 THE COURT: Normally what I do is we'll start, we  
19 try and start promptly in the morning, I take a midmorning  
20 break, we'll break for lunch, and I take a mid-afternoon  
21 break, would that?

22 JUROR BASGALL: That's good, that's good, Your  
23 Honor.

24 THE COURT: Okay. And would you, you know, take  
25 care of yourself well enough to give me a wave if you needed

1 to take a break?

2 JUROR BASGALL: I sure would.

3 THE COURT: Okay. If you're starting to not feel  
4 well, if you need a break just let me know and we can take a  
5 break immediately, okay.

6 Any questions, Mr. Hadley?

7 MR. HADLEY: No, Your Honor.

8 THE COURT: Mr. Windsor.

9 MR. WINDSOR: No questions.

10 THE COURT: Mr. Broughton.

11 MR. BROUGHTON: No, Your Honor.

12 THE COURT: Any challenges for cause?

13 MR. BROUGHTON: No, Your Honor.

14 MR. HADLEY: No, Your Honor.

15 MR. WINDSOR: No, Your Honor.

16 THE COURT: And Mr. Windsor I think we are back,  
17 yes, we're to you.

18 MR. WINDSOR: We're satisfied, Your Honor.

19 THE COURT: Okay. Mr. Broughton.

20 MR. BROUGHTON: The People are satisfied, Your  
21 Honor.

22 Mr. Pickvet has his hand up.

23 THE COURT: Yes, sir.

24 JUROR PICKVET: You asked earlier before we all  
25 got up here if we knew Michael Porter.

1 THE COURT: Yes.

2 JUROR PICKVET: I know the family.

3 THE COURT: Okay.

4 JUROR PICKVET: I know Michael and the family.

5 MR. BROUGHTON: This, it may be a different  
6 Porter. I know a Michael Porter and this wasn't the Michael  
7 Porter I thought it was.

8 JUROR PICKVET: So this ain't the Michael Porter  
9 and family that live up here in Sterling?

10 MR. BROUGHTON: No. He lives in Pinconning.

11 JUROR PICKVET: Oh.

12 MR. BROUGHTON: I mean its Arenac County, but it's  
13 Pinconning. I thought the same thing when I seen it.

14 JUROR PICKVET: It ain't the Porters that live,  
15 it's a different family.

16 MR. BROUGHTON: No, it's not the Porters from  
17 Sterling.

18 JUROR PICKVET: Okay.

19 THE COURT: Okay. So you're okay?

20 JUROR PICKVET: Yup.

21 THE COURT: All right. So Mr. Broughton, I was  
22 back to you on peremptories.

23 MR. BROUGHTON: The people are satisfied, Your  
24 Honor.

25 THE COURT: Okay. Mr. Hadley.

1 MR. HADLEY: I believe we've got a jury.

2 THE COURT: Okay.

3 MR. WINDSOR: Satisfied, Your Honor.

4 THE COURT: All right. Can I have the jurors in  
5 the box please stand.

6 Ladies and gentlemen, you have been chosen to  
7 decide a criminal charge made by the State of Michigan  
8 against one of your fellow citizens.

9 I'm going to now ask you to swear to do your duty  
10 to try this case justly, to reach a true verdict. If your  
11 religious beliefs do not permit you to take an oath, you may  
12 instead affirm to try the case justly and reach a true  
13 verdict.

14 Raise your rights hands. Each of you do solemnly  
15 swear or affirm that, in this action now before the court,  
16 you will justly decide the questions submitted to you, that,  
17 unless you are discharged by the court from further  
18 deliberation, you will render a true verdict, and that you  
19 will render your verdict only on the evidence introduced and  
20 in accordance with the instructions of the court, so help  
21 you God?

22 JURORS: I do.

23 THE COURT: Be seated. The rest of the panel I'm  
24 going to go ahead and excuse you. Thank you so much for  
25 coming.



1 Yes.

2 MR. HADLEY: You had a gentleman who asked to sit  
3 in the back, is he going to be released from, I can't  
4 remember which gentleman, you said, "Just wait a few minutes  
5 to--" I didn't know if you needed to talk to him or if he  
6 could be released.

7 THE COURT: No, they're all being released.

8 MR. HADLEY: Okay.

9 THE COURT: He wasn't called to be in the panel,  
10 so. We have a jury, thank you again for coming in this  
11 morning, we appreciate it, you are excused, you're welcome  
12 to stay and watch if you want to, but you are excused.  
13 Please make sure you all stop by the clerk's office before  
14 you leave. Thank you.

15 We're going to take a minute, you can stand if you  
16 want, if you need to stretch, while everybody is excusing  
17 themselves, and then we'll continue with instructions.

18 JUROR: Your Honor, may I go use the restroom,  
19 please?

20 THE COURT: Sure. Let's take a ten minute break;  
21 we'll give you a chance to get a cup of coffee. The bailiff  
22 will take you back to the jury room.

23 (At 10:15 a.m., jury exits courtroom)

24 (At 10:15 a.m., proceedings in recess)

25 (At 10:36 a.m., proceedings reconvene - all

1 parties present)

2 THE COURT: All set? Bring the jury in.

3 BAILIFF: All rise for the jury.

4 (At 10:36 a.m., jury enters courtroom)

5 THE COURT: We're going to do this enough times  
6 that you're going to come out in a perfect line. Thank you  
7 be seated.

8 On your seats was a piece of paper, that's a copy  
9 of the jury instructions. We now give the jury copies of  
10 the jury instructions, so these are the preliminary  
11 instructions; at the end of the proofs in this case you will  
12 be given some more instructions. You will also be given a  
13 copy of those to take back into the jury room when you  
14 deliberate. But I'm going to complete the jury  
15 instructions, the preliminary jury instructions with you  
16 now.

17 Now I'm going to explain some of the legal  
18 principles you will need to know and the procedure we will  
19 follow in this trial.

20 A trial follows this procedure: First, the  
21 prosecutor will make an opening statement, where he gives  
22 his theories about the case. The defendant's lawyer does  
23 not have to make an opening statement, but he may make an  
24 opening statement after the prosecutor makes his, or he may  
25 wait until later. These statements are not evidence,

1 they're only meant to help you understand how each side  
2 views the case.

3 To prove the charge the prosecutor must prove the  
4 following beyond a reasonable doubt.

5 Home Invasion, 1st Degree--Entering Without  
6 Permission Elements.

7 First, that the defendant entered a dwelling  
8 without permission, and we're talking about Mr. Leffew at  
9 this point, these are the charges that he's charged with.  
10 It does not matter whether the defendant got his entire body  
11 inside. If the defendant put any part of his body into the  
12 dwelling without permission, that is enough to consider  
13 entry.

14 Second, that when the defendant entered, he was  
15 present in, or was leaving the dwelling, he committed the  
16 offense of assault.

17 Third, that when the defendant entered, was  
18 present in, or was leaving the dwelling, either of the  
19 following circumstances existed: another person was lawfully  
20 present in the dwelling.

21 MR. BROUGHTON: Yeah, that should probably be  
22 stricken because it's just one thing, Your Honor.

23 THE COURT: Okay, all right. I guess I'm missing  
24 a page, does that continue?

25 MR. BROUGHTON: Mine does.

1 THE COURT: Okay. Do you have an extra copy of  
2 the; can I see yours Mr. Windsor for now?

3 MR. WINDSOR: Sure, Your Honor.

4 THE COURT: Okay. Mr. Windsor you can have those  
5 back, I'm sorry.

6 With regard to the second charge against Mr.  
7 Leffew, Assault with a Dangerous Weapon, the prosecutor must  
8 prove these elements beyond a reasonable doubt.

9 First, that the defendant either attempted to  
10 commit a battery on Michael Porter or did an act that would  
11 cause a reasonable person to fear or apprehend an immediate  
12 battery. A battery is a forceful or violent touching of a  
13 person or something closely connected with that person.

14 Second, that the defendant intended either to  
15 injure Michael Porter or to make Michael Porter reasonably  
16 fear an immediate battery.

17 Third, that at the time, the defendant had the  
18 ability to commit the battery, appeared to have the ability,  
19 or thought he had the ability.

20 Fourth, that the defendant committed the assault  
21 with a knife.

22 A dangerous weapon is any object that is used in  
23 any way that is likely to cause serious physical injury or  
24 death.

25 Some objects, such as guns or bombs, are dangerous

1 because they are specifically designed to be dangerous.  
2 Other objects are designed for peaceful purposes but may be  
3 used as dangerous weapons. The way an object is used, or  
4 intended to be used in an assault, determines whether or not  
5 it is a dangerous weapon. If an object is used in a way  
6 that is likely to cause serious injury, physical injury, or  
7 death, it is a dangerous weapon.

8 You must decide from all of the facts and  
9 circumstances whether the evidence shows that the knife in  
10 question here was a dangerous weapon.

11 And I know you're all thinking of examples in your  
12 head. A baseball bat is not designed to be a weapon, but  
13 obviously under certain circumstances, it can be used as a  
14 weapon. So that's the decision you're going to have make by  
15 looking at the facts that are presented to you in this case.

16 Home Invasion, 3rd Degree, which is what Ms.  
17 Leffew is charged with, requires the prosecutor to prove  
18 these elements beyond a reasonable doubt.

19 First, that the defendant broke and entered a  
20 dwelling. Does not matter whether anything was actually  
21 broken, however, some force must have been used. Opening a  
22 door, raising a window, taking off a screen are all examples  
23 of enough force to count as a breaking. For an entry, it  
24 does not matter whether the defendant got her entire body  
25 inside. If the defendant put any part of her body into the

1 dwelling, that is enough to consider it an entry.

2 Second, that when the defendant entered, was  
3 present in, or was leaving the dwelling, she committed a  
4 misdemeanor, that being malicious destruction of a building  
5 under \$200.

6 Next, the prosecutor will present his evidence.  
7 The prosecutor may call witnesses to testify and may show  
8 you exhibits like documents or objects. The defendant's  
9 lawyer has the right to cross-examine all of the  
10 prosecutor's witnesses.

11 After the prosecutor has presented all of his  
12 evidence, the defendant's attorney may also offer evidence,  
13 but does not have to. By law, the defendant does not have  
14 to prove his or her innocence or produce any evidence. If  
15 the defense does call any witnesses, the prosecutor has the  
16 right to cross-examine them. The prosecutor may also call  
17 witnesses to contradict the testimony of defense witnesses.  
18 These are called rebuttal witnesses.

19 After all the evidence has been presented, the  
20 prosecutor and the defendant's lawyer will make their  
21 arguments. Like the opening statements, these are not  
22 evidence. They are only meant to help you understand the  
23 evidence and the way each side sees the case. You must base  
24 your verdict only on the evidence.

25 You have been given a written copy of the

1 instructions I have just read to you. You may refer to them  
2 during the trial. Since no one can predict the course of a  
3 trial, these instructions may change at the end of the  
4 trial. At the close of the trial, I will provide you with a  
5 copy of my final instructions for your use during  
6 deliberations.

7 My responsibility as the judge in this trial are  
8 to make sure that the trial is run fairly and efficiently,  
9 to make decisions about evidence, and to instruct you about  
10 the law that applies to this case. You must take the law as  
11 I give it to you. Nothing I say is meant to reflect my own  
12 opinions about the facts of this case. You are the ones who  
13 will decide this case.

14 Your responsibility as jurors is to decide what  
15 the facts are. This is your job and no one else's. You  
16 must think about all the evidence and all the testimony and  
17 then decide what each piece of evidence means and how  
18 important you think it is. This includes how much you  
19 believe what each of the witnesses said.

20 What you decide about any fact in this case is  
21 final.

22 When it's time for you to decide the case, you are  
23 only allowed to consider the evidence which was admitted in  
24 this case. Evidence includes only the sworn testimony of  
25 witnesses, the exhibits admitted into evidence, and anything

1 else I tell you to consider as evidence.

2 It's your job to decide what the facts of this  
3 case are. You must decide which witnesses you believe and  
4 how important you think their testimony is. You do not have  
5 to accept or reject everything a witness says. You are free  
6 to believe all, none, or part of a person's testimony.

7 In deciding which testimony you believe, you  
8 should rely on your own common sense and everyday  
9 experience. However, in deciding whether you believe a  
10 witness' testimony, you must set aside any bias or prejudice  
11 you have based on race, gender, or national origin of the  
12 witness.

13 There's no set, fixed rules for judging whether  
14 you believe a witness, but it may help you to think about  
15 these things.

16 Was the witness able to see and hear clearly? How  
17 long was the witness watching or listening? Was anything  
18 else going on that might have distracted the witness?

19 Does the witness seem to have a good memory?

20 How does the witness look and act while  
21 testifying? Does the witness seem to be making an honest  
22 effort to tell the truth, or does the witness seem to evade  
23 the question or argue with the lawyers?

24 Does the witness' age or maturity affect how you  
25 judge his or her testimony?



1 Does the witness have any bias or prejudice or any  
2 personal interest in how this case is decided?

3 Have there been any promises, threats,  
4 suggestions, or other influences that affect how the witness  
5 testifies?

6 In general, does the witness have any special  
7 reason to tell the truth, or any special reason to lie?

8 All in all, how reasonable does the witness'  
9 testimony seem when you think about all the other evidence  
10 in the case?

11 The questions the lawyers ask the witnesses are  
12 not evidence. Only the answers are evidence. You should  
13 not think that something is true just because one of the  
14 lawyers asks a question that assumes or suggests that it is.

15 I may ask some questions of witnesses myself.  
16 These questions are not meant to reflect my opinion about  
17 the evidence. If I ask questions, my only reason would be  
18 to ask about things that may not have been fully explored.

19 During the trial you may think of an important  
20 question that would help you understand the facts in this  
21 case. You are allowed to ask such questions.

22 You should wait to ask questions until after a  
23 witness has finished testifying and both sides have finished  
24 their questioning. If you still have an important question  
25 after this, do not ask it yourself. Raise your hand, write

1 the question down, and pass it to the bailiff, who will give  
2 it to me. Do not show your question to other jurors.

3 If your questions is not asked, it is because I  
4 determined under the law that the question should not be  
5 asked. Do not speculate about why the question was not  
6 asked. In other words, you should draw no conclusions or  
7 inferences about the facts of the case, nor should you  
8 speculate about what the answer might have been. Also in  
9 considering the evidence you should not give greater weight  
10 to testimony merely because it was given in answer to  
11 questions submitted by members of the jury.

12 On the other hand, if you cannot hear what a  
13 witness or lawyer says, please raise your hand immediately  
14 and ask to have the question or the answer repeated.

15 During the trial the lawyers may object to certain  
16 questions or statements made by the other lawyers or  
17 witnesses. I will rule on these objections according to the  
18 law. My rulings for or against one side or the other are  
19 not meant to reflect my opinions about the facts of this  
20 case.

21 Sometimes the lawyers and I will have discussions  
22 out of your hearing. Also, while you are in the jury room I  
23 may have to take care of other matters that have nothing to  
24 do with this case. Pay no attention to these interruptions,  
25 and I will say we work very hard not to waste any of your

1 time to keep things moving, we will not make you sit in the  
2 jury room while we're out here twiddling our thumbs, I  
3 promise you that. We'll make sure things move along in an  
4 expeditious manner.

5 You must not discuss the case with anyone,  
6 including your family or friends. You must not even discuss  
7 it with the other jurors until the time comes for you to  
8 decide the case. When it is time for you to decide the  
9 case, I will send you to the jury room for that purpose.  
10 Then you should discuss the case amongst yourselves, but  
11 only in the jury room, and only when all of the jurors are  
12 there. When the trial is over, you may, if you wish,  
13 discuss the case with anyone.

14 In any case that appears likely to be of  
15 significant public interest, an admonition should be given,  
16 well, this is an instruction to me. If there has been any  
17 press about this case, and I'm not aware if there has been,  
18 you are not to look at the newspaper, watch the news, check  
19 on the internet, no internet news, no websites, your only  
20 information about this case should come in this courtroom.  
21 So don't check any internet sites, don't watch the news  
22 while this case is pending, don't read any newspapers that  
23 have anything to do with this case, you understand?

24 Yes, sir.

25 JUROR: I have a question, Your Honor. A while

1       ago you stated, you mentioned that you and the lawyers might  
2       have a discussion outside our hearing, will we be notified  
3       of what was talked about later, does that even matter to us  
4       or what?

5               THE COURT: If it's pertinent to this case, if  
6       it's something that we discussed that had to do with some  
7       evidence and there's been a decision made legally, I  
8       certainly will instruct you about that. It may be something  
9       that has nothing to do with this case, or it may be  
10      something that's not relevant. But anything that is  
11      relevant to your consideration of the evidence in this case,  
12      you will certainly be instructed about.

13             JUROR: Thank you.

14             THE COURT: Okay. If I call for a recess during  
15      the trial, I will either send you back to the jury room or  
16      allow you to leave the courtroom on your own and go about  
17      your business. But you must not discuss the case with  
18      anyone or let anyone discuss it with you or in your  
19      presence. If someone tries to do that, tell him or her to  
20      stop, and explain that as a juror you are not allowed to  
21      discuss the case. If he or she continues, leave and report  
22      the incident to me as soon as you return to court.

23             You must not talk to the defendants, the lawyers,  
24      or the witnesses about anything at all, even if it has  
25      nothing to do with this case. You can't even talk about the

1 weather with them. We need to avoid an appearance of  
2 impropriety. So you should have no contact, whatsoever,  
3 with any of the witnesses, lawyers, or the defendants,  
4 understand?

5 It is very important that you only get information  
6 about the case in court, when you are acting as the jury and  
7 when the defendant, the lawyers, and I are all present.

8 The only information that you will receive in this  
9 case will come to you in this courtroom. You must not  
10 consider any other information that comes from anywhere  
11 else.

12 Until your jury service is concluded, you are not  
13 to discuss the case with others, including the other jurors,  
14 except as otherwise authorized by the court. You are not to  
15 read or listen to any news reports about the case. You may  
16 not use your computer, cellular phone, or other electronic  
17 device with communication capabilities while in attendance  
18 at this trial or during deliberation. These devices may be  
19 used during breaks or recesses but may not be used at any  
20 time to obtain or disclose information about a party,  
21 witness, attorney, or court office; news accounts of the  
22 case; or information collected through juror research on any  
23 topics raised, or testimony offered by any witness, or any  
24 exhibit.

25 You must not visit the scene of the occurrence

1 that is the subject of this trial. If it should become  
2 necessary that you view or visit the scene, you will be  
3 taken as a group under court supervision. You must consider  
4 as evidence, you must not consider as evidence any personal  
5 knowledge you have of the scene.

6 You must not do any investigations on your own or  
7 conduct any experiments of any kind. This includes using  
8 the internet for any propose regarding this case.

9 If you discover a juror has violated my  
10 instructions, you should report it to me immediately.

11 You may take notes during this trial if you wish,  
12 but of course you don't have to. We'll make sure that you  
13 all have a pad of paper and pencil or a pen. If you do take  
14 notes, please be careful that it doesn't distract you from  
15 paying attention to all the evidence. When you go to the  
16 jury room to decide your verdict, you may use your notes to  
17 help you remember what happened in the courtroom. If you do  
18 take notes, do not let anyone except the other jurors see  
19 them during deliberations. You must turn them over to the  
20 bailiff during recesses.

21 Your notes will not be examined by anyone, and  
22 when your jury service concludes, your notes will be  
23 collected and destroyed.

24 There is more than one defendant in this case.  
25 The fact that they are on trial together is not evidence

1 that they were associated with each other or that either one  
2 is guilty.

3 You should consider each defendant separately.  
4 Each is entitled to have his or her case decided on the  
5 evidence and the law that applies to him or her.

6 If any evidence was limited to one defendant you  
7 should not consider it as to any other defendant.

8 You can see that we have chosen a jury of  
9 thirteen. After you have all heard the evidence and my  
10 instructions, we'll draw a lot to decide which one of you  
11 will be dismissed in order to form a jury of twelve. We  
12 draw thirteen jurors in case somebody gets sick or something  
13 happens, we have to have a jury of twelve to deliberate. So  
14 we draw an alternate, but none of you know who is going to  
15 be an alternate. So you should all pay close attention  
16 because we draw, a random draw at the end. So it's very  
17 likely that you're going to be a juror deliberating on this  
18 case, so please pay attention, don't assume you'll be the  
19 one drawn off because you may not be. So you need to all  
20 pay attention.

21 Possible penalty should not influence your  
22 decision. It's the duty of the judge to fix penalty within  
23 the limits provided by the law. So that's not your concern,  
24 it will be mine depending on the verdict you return.

25 I may give you more instructions during the trial,

1 and at the end of the trial I'll give you detailed  
2 instruction about the law in this case. You should consider  
3 all of my instructions as a connected series. Taken all  
4 together, they are the law you must follow.

5 After all of the evidence has been presented and  
6 the lawyers have given their arguments, I will give you  
7 detailed instructions about the rules of law that apply to  
8 this case. Then you'll go to the jury room to decide your  
9 verdict. A verdict must be unanimous. That means every  
10 juror must agree on it, and it must reflect the individual  
11 decision of each juror.

12 It is important for you to keep an open mind and  
13 not make a decision about anything in the case until you go  
14 to the jury room to decide the case.

15 Are the attorneys satisfied with the preliminary  
16 instructions? Mr. Broughton.

17 MR. BROUGHTON: I am, your Honor.

18 THE COURT: Mr. Hadley.

19 MR. HADLEY: Yes, Your Honor.

20 THE COURT: Mr. Windsor.

21 MR. WINDSOR: Yes, Your Honor.

22 THE COURT: Are the parties ready to make opening  
23 statements?

24 MR. HADLEY: Your Honor, I just, I was talking to  
25 Mr. Broughton, I'm just wondering if we could take a break



1 for a moment while they're given their pad and their pen  
2 before we start openings.

3 THE COURT: Do you want to take notes during  
4 opening? They're all indicating "no".

5 MR. HADLEY: Okay.

6 THE COURT: So let's do opening statements, and  
7 you know, it's not evidence, so we'll make sure they have  
8 pad and paper (sic) before testimony begins.

9 MR. HADLEY: Thank you.

10 MR. BROUGHTON: Thank you, Your Honor.

11 THE COURT: Ready, Mr. Broughton?

12 MR. BROUGHTON: I am, Your Honor. Thank you.

13 THE COURT: Go ahead.

14 MR. BROUGHTON: Good morning.

15 JURORS: Good morning.

16 MR. BROUGHTON: I'd like to thank everybody for  
17 being here. I was going to be here anyways so it's not a  
18 big deal for me to be here, but for all of you to take, well  
19 part of, well, probably all of your day today and some of  
20 your day tomorrow to sit here, I just want to say thank you.  
21 I'm sure Mr. Hadley and Mr. Windsor will also, because  
22 without people willing to do that, I mean our justice system  
23 would crumble.

24 This is kind of a, and me and the other attorneys  
25 have talked about it, this is somewhat of an interesting

1 case that you don't see very often here in Arenac County,  
2 because what it is, is there were two women and Mr. Porter,  
3 a man, who were involved intimately with one another, so  
4 they had kind of a love triangle going. And back in  
5 November, prior to the 18<sup>th</sup> a few days, there was an incident  
6 where Lisa Seibert and Donna Knezevich, are the two women,  
7 where they, they had a, there was a dispute where actually  
8 Deputy Ochab was called to that one also, and Ms. Seibert  
9 left with Mr. Porter to go to his house, which wasn't all  
10 that unusual because they had all, they had been to his  
11 house.

12 A few days later, it's my understanding, while Ms.  
13 Siebert is at Mr. Porter's house there's a marriage proposal  
14 by text from Ms. Knezevich to Ms. Siebert. So Ms. Siebert  
15 decides that, I guess, and it's kind of unclear exactly what  
16 happens, that she wants to go, and this is November 18<sup>th</sup>,  
17 that she wants to leave the house.

18 So in the evening Mr. Leffew's vehicle pulls up,  
19 and Mr. Porter was, knew Mr. Leffew because Mr. Leffew is  
20 Ms. Knezevich's son. And they had had some words before.  
21 He seen the vehicle pull up and stop, so he calls 911. He  
22 ends up, because of where he lives it's Arenac County, but  
23 it's in Pinconning, it ends up going to Bay County and then  
24 has to get transferred to Arenac County, the 911 call,  
25 because he figures, him and Mr. Leffew don't get along, he

1 doesn't want him there. When the vehicle pulls up he calls  
2 911.

3 Ms. Siebert's in the house. Ms. Knezevich, Mr.  
4 and Mrs. Leffew get out, they come to the front door of his  
5 house, knock on the door, they want to get in. Ms. Siebert  
6 or Lisa, they're coming there to get her. He doesn't let  
7 them in. But he wants to talk to her because of what  
8 happened before. And actually, so he closes the front door  
9 I believe that's when he calls 911 again and says, "Hey  
10 there's, these people are here, I don't want them here, you  
11 know, can somebody come?"

12 He's talking to Ms. Seibert, they're at the table,  
13 as, and I don't know exactly how long, and I don't think  
14 nobody knows at that time. But within, I think a pretty  
15 short period of time from when the front door gets closed  
16 and they're at the table, the back door of his house gets  
17 kicked in. It's Ms. Leffew that kicks the door in, she  
18 admits to kicking the door in. She kicks the door in, comes  
19 into the house. Mr. Porter, basically, picks up an ashtray,  
20 wheels around because she's coming at him, hits her in the  
21 head, and actually gets her pretty good, causes a gash. She  
22 goes down. Mr. Leffew comes in behind her; they scuffle for  
23 a little bit. He sees a knife, grabs the knife. His  
24 statement is, he tells Mr. Porter, you know, "Stay back,"  
25 you know, "this is done, let's," while he's holding the

1 knife, you know, "let Lisa go," and you know, "we'll just  
2 end this whole incident."

3 Mr. Porter has a different story, he threatens him  
4 with the knife, actually cuts him a little bit with the  
5 knife.

6 But Ms. Seibert ends up going out the front door  
7 while this is going on. So the situation is somewhat  
8 diffused. Everybody, then the Leffews leave. And there's  
9 conflicting testimony as to how Ms. Leffew got out, whether  
10 she got back up, walked out, whether she had to be kind of  
11 carried out. But they leave.

12 Ms. Knezevich comes back in because she wants a  
13 ring that her and Ms. Seibert had given Mr. Porter awhile  
14 ago. He gives her the ring because he doesn't want any more  
15 trouble.

16 The police arrive a little bit after that. Ms.  
17 Leffew is at the hospital, so they had actually talked to  
18 her and him at the hospital. Talked to Ms. Seibert, talked  
19 to Ms. Knezevich, they talked to Mr. Porter at the  
20 residence. Take pictures, Deputy Ochab was there the whole  
21 time, took pictures of the door that was kicked in, there  
22 was some more damage inside the house, took some pictures of  
23 that. Talked to Ms. Seibert about, you know, whether she  
24 could use her phone, whether she's being held captive. She  
25 could use her phone; she could have gotten out of there if

1 she wanted to.

2 So in a nutshell that is the case. We have a  
3 knife that actually Mr. Porter found later, that he says was  
4 the one that Mr. Leffew had. And I'm not going to go over  
5 all the elements, I mean, because we'll go over those later.  
6 I mean, the basis of this case is, the Leffews had no  
7 permission to come there. Certainly no permission to kick a  
8 door in, come storming into the house. Ms. Leffew got  
9 wacked with an ashtray which, you know, if somebody comes  
10 storming into your house, and you don't want them in there,  
11 you're allowed to defend your house and defend yourself.  
12 Mr. Leffew came in, no permission, has a little scuffle,  
13 grabs a knife, threatens Mr. Porter with the knife, those  
14 are the home invasions in this case.

15 And then the assault with a dangerous weapon,  
16 whether you consider the knife a dangerous weapon or not, is  
17 up to you, but it is, it's basically a steak knife. As the  
18 jury instructions say, depending on how you use it is  
19 whether or not it's a dangerous weapon. Well, a steak  
20 knife, if you stab somebody with it, is obviously going to  
21 be a dangerous weapon.

22 So that, I mean, that's what you're going to hear.  
23 I don't think it will take a full two days. I think I have  
24 three, maybe, possibly four witnesses, and they're the same  
25 ones that actually Mr. Hadley would have and Mr. Windsor

1 would have. So, I mean, I think this is a case that will  
2 flow fairly quickly once we get the witnesses going. So I  
3 don't think it will be two whole days, it might trickle into  
4 tomorrow, but I certainly don't think there's that much  
5 there.

6 There were a few witnesses but you're going to  
7 hear from all of them is my understanding. The defendants  
8 don't have to testify, but in talking with their attorneys  
9 believe they are going to testify. So you're going to hear  
10 both sides of the story. But that's what happened. Like I  
11 said, it's not, this is year 22 for me and this is the first  
12 case like this I've really had where there was like a  
13 lover's triangle quarrel that went bad and somebody broke  
14 into a house.

15 At the conclusion of all the evidence I'm going to  
16 ask that you find both Mr. and Mrs. Leffew "guilty".

17 Thank you.

18 THE COURT: Mr. Hadley, did you want to make an  
19 opening statement?

20 MR. HADLEY: Yes, please. Good morning, everyone.

21 JURORS: Good morning.

22 MR. HADLEY: As Mr. Broughton had indicated I wish  
23 to thank you all in advance for your service. You could be  
24 doing something, almost 50 degree day today, but otherwise  
25 you're stuck here with three attorneys who tend to talk a

1 lot, we're going to try not to do that today.

2 As Mr. Broughton indicated there are going to be  
3 possibly five witnesses. We have Mr. Porter, who is the  
4 victim; we have Ms. Seibert, Lisa Seibert; and Ms.  
5 Knezevich, which she now goes by Siebert, Donna Siebert; as  
6 well as Deputy Ochab; and Mr. and Mrs. Leffew. So as Mr.  
7 Broughton said it's probably not going to take a lot out of  
8 your day today or tomorrow to get the testimony out.

9 Obviously I have a different slant on the incident  
10 on November 18<sup>th</sup> than Mr. Broughton has. And as Mr.  
11 Broughton and as the Court indicated, what I say, what Mr.  
12 Broughton says, what Mr. Windsor says is not evidence.  
13 However, it's just our posture, our theory of the case.

14 Mr. Broughton is correct, I've been doing this a  
15 little over 22 years, and this is the first case that I have  
16 tried where we have not your standard husband/wife marriage,  
17 but we have a little mix of, a little Jerry Springer, so to  
18 speak.

19 Mr. Porter has known Ms. Knezevich-Seibert, and  
20 Lisa Seibert for about a year. Ms. Seibert and Ms.  
21 Knezevich-Seibert, now her wife, have known each other for  
22 approximate 23 to 25 years, so they're not strangers to one  
23 another. My client is, his mother, as Mr. Broughton said,  
24 is Ms. Knezevich-Seibert now, and so Ms. Lisa Seibert would  
25 be his mother-in-law.

1           On the night of November 18<sup>th</sup>, 2017, Ms. Lisa  
2       Seibert had been staying with Mr. Porter for somewhere  
3       between three to five days because she had been involved in  
4       a dispute with Ms. Knezevich. They weren't married at the  
5       time but living together, and Deputy Ochab was involved in a  
6       matter where they needed to take a break so he suggested  
7       that Ms. Seibert leave and she did, and she went back to Mr.  
8       Porter's house who she's known, and as Mr. Broughton said,  
9       has had an intimate relationship with Ms. Seibert as well as  
10      Ms. Knezevich-Seibert.

11           So Ms. Seibert, Lisa Seibert was there on the  
12      night of this incident. There were text messages and phone  
13      calls coming from the only friend that Mr. Porter would  
14      allow Ms. Seibert to contact, a girl named Miranda, who she  
15      had been texting indicting that she wanted to leave. She  
16      also had a phone call from and/or a text message from Ms.  
17      Knezevich indicating that she wanted to make-up with Ms.  
18      Seibert and propose marriage to her.

19           While that was going on Ms. Seibert didn't want to  
20      be there anymore. Made it clear to Mr. Porter that she  
21      didn't want to be there. Told Miranda, told Ms. Knezevich  
22      she didn't want to be there anymore, but Mr. Porter wasn't  
23      letting her leave. That's why Ms. Knezevich, Mr. Leffew,  
24      and Ms. Leffew, the co-defendants here, went to Mr. Porter's  
25      house the evening of November 18<sup>th</sup> to pick up Ms. Seibert,



1 she didn't want to be there.

2 Ms. Seibert will testify that what happened was  
3 Mr. Porter saw the vehicle come into the driveway, got a  
4 little bit concerned, thought it was Mr. and Mrs. Leffew,  
5 thought that Ms. Seibert was going to leave and wouldn't let  
6 her leave. Went down the hallway and grabbed a gun. Ms.  
7 Seibert told her, told Mr. Porter to get rid of the gun that  
8 wasn't necessary, so he put the gun away.

9 They're knocking on the front door, Mr. Porter  
10 goes to the front door, puts his arm across the front door,  
11 wouldn't let them in. He wanted to know what was going on.  
12 They said, "We're here to pick up Ms. Seibert." He said,  
13 "Let me think about, let me talk to her. I'll get back to  
14 you in a few minutes." Shut the door, wouldn't let them in.

15 Ms. Seibert was trying to leave and get her coat  
16 on; Mr. Porter grabbed her and threw her on the floor, and  
17 then picked her up off the floor and put her in a chair. As  
18 he put her in the chair he sat on her as he was dialing 911,  
19 which Mr. Broughton indicated went to Bay County. She tried  
20 to get up to leave, he wouldn't let her leave.

21 While this was going on Ms. Knezevich and Mr. and  
22 Mrs. Leffew observed what was going on in one of the windows  
23 that they could see into of what Mr. Porter was doing to Ms.  
24 Seibert. So they run around to the back door, all three of  
25 them went to the back door. Mrs. Leffew then kicked in the

1 back door, and when she came in the back door Mr. Porter  
2 turned and took an ashtray, in about a 10 to 12 inch  
3 diameter, and smashed her on the head, you'll see pictures  
4 of that. Mrs. Leffew was out of it, she was rendered  
5 unconscious, and was laying there in a heap on the kitchen  
6 or dining room floor. And in the (inaudible) behind Mrs.  
7 Leffew came Mr. Leffew. Mr. Leffew and Mr. Porter engaged  
8 in some fists back and forth, then they stopped. And Mr.  
9 Leffew took Mrs. Leffew, at some point in time, and drug her  
10 out of the house, and out there by the side of the car where  
11 they were at.

12 Also, Mr. Leffew, after this incident with Mr.  
13 Porter, Mr. Porter was getting pretty good jabs in with Mr.  
14 Leffew, and Mr. Leffew testified that he reached over into a  
15 drawer and was reaching for anything to fight off Mr.  
16 Porter, and he found a knife. We don't know what kind of a  
17 knife it was. There might be pictures of a knife. The  
18 knife was never recovered that night. As a matter of fact  
19 the knife was not recovered for three to four months later.  
20 Mr. Leffew will testify, Mr. Porter will testify that he  
21 took the knife and he found the knife after he was cleaning  
22 up, before any law enforcement was there.

23 When Deputy Ochab arrived the matter was over, the  
24 Leffews, and Ms. Knezevich, and Ms. Seibert had all left.  
25 Mr. Porter was cleaning up and sweeping up the mess that was

1           there in the kitchen and the dining room.

2           Mr. Leffew will testify, and Ms. Seibert will  
3           testify, that she was there against her will. She had no  
4           reason to not be free to leave if she wanted to. Mr. Porter  
5           stopped her from that. Why? We don't know if Mr. Porter  
6           was upset because Ms. Knezevich now was proposing marriage  
7           to Ms. Seibert, and this love triangle was going to cease.  
8           We're not even sure if it's continuing today. This happened  
9           in November, I think they've all had contact with one  
10          another since this time.

11          But the important part of this argument and our  
12          argument is that Mr. and Mrs. Leffew, specifically my  
13          client, did no wrong. Yes, there was a knife, we don't know  
14          who touched it, we don't know where it was all this time,  
15          was it used in self defense. Mr. Leffew will testify that  
16          he had to get Mr. Porter off of him. He didn't cut Mr.  
17          Porter, he didn't plunge it into Mr. Porter. My  
18          understanding of the incident is Mr. Porter had some  
19          scratches on his arm, not cuts, just scratches.

20          It shouldn't be a lot of testimony from a lot of  
21          witnesses. This is one of these cases where we're going to  
22          have a few witnesses. But I believe that we all understand,  
23          Mr. Broughton, Mr. Windsor, myself, that it's important to  
24          get to you the salient portions of the testimony, and that's  
25          what I would ask that you pay attention to.

1 I would just ask you at the close of the proofs,  
2 after Mr. Broughton, and I, and Mr. Windsor give our closing  
3 instructions and our arguments, you will have had an  
4 opportunity to fully understand what happened here and find  
5 my client, Mr. Leffew, "not guilty" of anything, and I would  
6 ask that you do that.

7 Thank you.

8 THE COURT: Mr. Windsor.

9 MR. WINDSOR: Thanks, Your Honor.

10 Thank you again for being here. This is a very  
11 important duty, a constitutional duty, that you are doing  
12 today, and the gravity of that, I hope it sits with you  
13 somewhat, I know it's maybe not the biggest deal in your  
14 life, but it's a big deal for our clients here today.

15 I don't need to go into the whole story again.  
16 You heard Mr. Hadley tell the story, and I would agree with  
17 everything he says as far as what I believe the evidence  
18 will show today.

19 One important thing to point out though, in this  
20 triangle of Mr. Porter, Ms. Lisa Seibert, and Ms. Donna  
21 Knezevich, I guess dash Seibert now, who is Jeremiah's  
22 mother, Donna is his mother. Lisa Seibert has been in his  
23 life for, I believe, and he'll testify to this, 20 to 25  
24 years now. She's just like a mother, as Donna is to him.  
25 So that's important to realize that in your determination

1           today.

2                       So, you know the, just of the story, the triangle  
3           the evidence is going to show that they weren't to do  
4           anything other than pick-up Ms. Seibert that day. Which  
5           basically, I would characterize it as, Mr. Leffew and Ms.  
6           Leffew are going there to pick their mother up and take her  
7           home. She had been texting that she wanted to go elsewhere  
8           and not stay with Mr. Porter.

9                       So they were going there, they get there, things  
10          change when they see Mr. Porter throwing Lisa around,  
11          keeping her from leaving. You have to think about what a  
12          reasonable person would do in this instance when they see  
13          that happening to their mother, how things changed, and it  
14          turned into an operation where Mr. and Mrs. Leffew were  
15          going to have to save their mother, and not wait for the  
16          cops to come, or let time pass by, while she is being  
17          manhandled by Mr. Porter.

18                      Micheline Leffew, she goes by Mika for short, but  
19          Ms. Leffew, she'll testify that she did kick in the door;  
20          she'll testify today that she was hit in the head by Mr.  
21          Porter with an ashtray, which gashed her in the head.  
22          She'll testify today that she suffers from seizures, and she  
23          went into a seizure thereafter, woke up outside laying next  
24          to the car.

25                      You can keep an open mind during this whole trial,

1 listen to what everyone testifies, and listen to what Mr.  
2 Porter's side of that story is going to be. I believe he  
3 will probably testify that she jumped on his back. So, I  
4 think, the evidence is going to show that that's not true.

5 Just keep an open mind and what is said by those  
6 testifying, you can use common sense, as the Judge said. I  
7 believe that in determining whether Ms. Leffew committed  
8 Home Invasion 3<sup>rd</sup> Degree, which includes the Committing or  
9 Intending to Commit a Misdemeanor, and that misdemeanor  
10 being Malicious Destruction of a Building under \$200, yup  
11 \$200. Keep in mind that there's an underlying misdemeanor  
12 there, and keep in mind what those elements are. The one  
13 being the malicious, there's nothing malicious about what  
14 Micheline Leffew did on November 18<sup>th</sup>. She was going in  
15 there to save her mother-in-law. She was going in there to  
16 rescue someone. She wasn't doing anything wrongful, she  
17 wasn't doing anything without a just cause or excuse, she  
18 was saving someone.

19 So in thinking about that, you know, as she's  
20 going in there to kick open a door, and sees, what's  
21 basically her mother-in-law, screaming for help, having her  
22 coat on, wanting to leave. In thinking about that I would  
23 ask that you return a verdict of "not guilty" for Micheline  
24 Leffew and for the co-defendant Mr. Leffew while you're at  
25 it.

1 Thank you.

2 THE COURT: Okay. Ladies and gentlemen, we're

3 going to take a very brief recess so that we can prepare the

4 witnesses to start coming in to testify. I'm going to send

5 you back to the jury room long enough to use the restroom or

6 have a cup of coffee, and then we're going to come back and

7 we'll begin with testimony.

8 (At 11:20 a.m., jury exits courtroom)

9 THE COURT: Who are you calling for your first

10 witness?

11 MR. BROUGHTON: Mr. Porter.

12 THE COURT: Okay, and he's here and ready?

13 MR. BROUGHTON: Correct.

14 THE COURT: Okay. Take five and then we'll get

15 started.

16 (At 11:21 a.m., proceedings in recess)

17 (At 11:33 a.m., proceedings reconvene - all

18 parties present)

19 THE COURT: Are we ready to proceed?

20 MR. BROUGHTON: Yes, Your Honor.

21 MR. HADLEY: Yes.

22 THE COURT: I did want to, before we bring the

23 jury in, let you know that one of the jurors, Kathy Bailiff,

24 indicated, after the jurors had gone back, that she did

25 know, distantly, Ms. Seibert, and after the last name

1 started being discussed she did know of them. I brought her  
2 into my office and questioned her individually, she said she  
3 just knows of them, she doesn't have any relationship with  
4 them, but she knows who they are. I asked her if that would  
5 affect her ability to be fair and impartial in this case,  
6 she indicated in the negative. So I thanked her for  
7 disclosing that. She only knew people by first names and  
8 once the last name started being talked about she was aware  
9 that she did know who some of the people were. So I'm going  
10 to allow her to continue sitting, I don't think that affects  
11 her at all, but I wanted to disclose to you that she had  
12 disclosed this to me. Anybody have any objections?

13 MR. BROUGHTON: None, Your Honor.

14 MR. HADLEY: No.

15 MR. WINDSOR: No objections.

16 THE COURT: All right, let's bring the jury in.

17 (At 11:34 a.m., jury enters courtroom)

18 THE COURT: You can be seated. We're standing for  
19 you so you can be seated as soon as you come in. Be seated.

20 Are the parties ready to proceed?

21 MR. BROUGHTON: Yes, Your Honor.

22 MR. HADLEY: Yes, Your Honor.

23 MR. WINDSOR: Yes, Your Honor.

24 THE COURT: Mr. Broughton, call your first witness  
25 please.



1 MR. BROUGHTON: Michael Porter.

2 THE COURT: Mr. Porter, would you pause right  
3 there and raise your right hand. Do you solemnly swear or  
4 affirm that the testimony you're about to give in the matter  
5 now pending before this court will be the truth, the whole  
6 truth, and nothing but the truth so help you God?

7 MR. PORTER: Yes, Your Honor.

8 THE COURT: Come up here, sir, have a seat, and  
9 when you get seated please state your full name and spell  
10 your last name.

11 WITNESS: My full name is Michael Dennis Porter,  
12 P-o-r-t-e-r.

13 THE COURT: Go ahead, Mr. Broughton.

14 MICHAEL DENNIS PORTER

15 (At 10:36 a.m., called by Mr. Broughton and sworn  
16 by the Court, testified as follows)

17 DIRECT EXAMINATION

18 BY MR. BROUGHTON:

19 Q Mr. Porter, where do you live?

20 A Fifty-nine fifty-one South Huron, Pinconning.

21 Q Is that in Arenac County though?

22 A Yes, sir.

23 Q Even though you have a Pinconning address it's in Arenac  
24 County?

25 A Yeah yeah.

- 1 Q How old are you?
- 2 A Sixty-eight.
- 3 Q And how long have you lived there?
- 4 A Forty-five years.
- 5 Q Do you know a person named Lisa Seibert?
- 6 A Yes, sir.
- 7 Q How long have you known Ms. Seibert?
- 8 A About a year.
- 9 Q How do you know her?
- 10 A Got introduced to her and then they--
- 11 Q Who introduced you to her?
- 12 A My stepson.
- 13 Q Do you know Donna Knezevich?
- 14 A Yes, sir.
- 15 Q How long have you know her?
- 16 A About a year.
- 17 Q Have you known Ms. Seibert and Ms. Knezevich about the same
- 18 amount of time?
- 19 A Yeah, exactly the same amount.
- 20 Q Did you meet them at the same time or something?
- 21 A Yeah, yeah, met them at the same time.
- 22 Q How about Jeremiah and Micheline Leffew, do you know them?
- 23 A I know of them, I don't know them real good. I met them
- 24 probably a month and half, maybe two months before this
- 25 happened. I've seen them on and off.

1 Q Okay. It's my understanding Mr. Leffew is Ms. Knezevich's  
2 son, do you know that?

3 A Yeah, I know that, yeah.

4 Q So did you--what kind of, I guess, Ms. Seibert and Ms.  
5 Knezevich did they, when you met them did they live  
6 together?

7 A Yeah, they lived together, yeah.

8 Q And where was that at?

9 A I don't know their address but it's in Sterling, Michigan.

10 Q So they were living together in Sterling, Michigan?

11 A Yeah.

12 Q And what kind of relationship did you have over that year?

13 A Well, they needed some work done on a patio deck and around  
14 their house, so I told them I knew how to do it. Then about  
15 six months into the, we starting having an intimate  
16 relationship.

17 Q With both Ms. Knezevich and Ms. Seibert?

18 A Yes, sir.

19 Q Okay. Had you been to their house before then? Well, you  
20 did some work on their house, sounds like.

21 A Yeah.

22 Q Were the Leffews living there when you did that work or no?

23 A No.

24 Q Do you know if they were living there at some point during  
25 that year?

1 A About, I'd say two months before this incident happened, or  
2 something like that, they moved in or something, I don't  
3 know the whole situation.

4 Q Okay. You just know they were living there.

5 A Yeah.

6 Q For a couple months before November 18<sup>th</sup>, of 2017.

7 A Yeah.

8 Q Had Ms. Seibert and Ms. Knezevich been to your house?

9 A Yes, sir.

10 Q On multiple times?

11 A Yeah.

12 Q Had the Leffews even been over there before November 18<sup>th</sup>?

13 A No.

14 Q On November 18<sup>th</sup>, 2017 was Ms. Seibert staying at your house?

15 A I was giving her a place to stay, yeah, she was there, yeah.

16 Q Do you know about how long she'd been there?

17 A Donna called me Tuesday about--

18 Q Well, what--

19 A Tuesday, prior to the 18<sup>th</sup>, so it was about three days before  
20 the 18<sup>th</sup>.

21 Q So the 18<sup>th</sup> was on a Friday?

22 A Yeah.

23 Q So she had been there since Tuesday?

24 A Yeah.

25 Q Did you go to where she was living to pick her up on that

1 Tuesday?

2 A Yeah. She called me about 12:30 and asked me to come out  
3 and pick her up.

4 Q On that Tuesday?

5 A Yeah.

6 Q Okay. So you went and picked her up?

7 A Yeah.

8 Q Were the, was Mr. Leffew home?

9 A Oh he was there, yeah.

10 Q I mean did you have any contact with him on that day?

11 A He was arguing with me, and had a knife, and he lunged at me  
12 two or three times with a knife.

13 Q This was before the 18<sup>th</sup>?

14 A Before the 18<sup>th</sup>, yeah.

15 Q What was, do you know why?

16 A I have no idea why he, I just came to the house, Donna told  
17 me to take Lisa she was done with her, and I just stood  
18 there, didn't say a word, and then he come, lunged at me.  
19 He was trying to hide the knife down by his leg, and they  
20 both seen it so, Donna and Lisa both seen the knife.

21 Q So you, did you leave with Lisa then?

22 A The police came there. Yeah, I didn't ask her to go, I  
23 just, she came because she didn't have a place to go.

24 Q And you were, were you still in a relationship with them at  
25 that point?

- 1 A Yeah, I was still in a relationship with them. I didn't  
2 know what was going on I was just trying to be nice that's  
3 all I was doing.
- 4 Q So the police came to their place in Sterling on that  
5 Tuesday?
- 6 A Yeah.
- 7 Q Was that Deputy Ochab again?
- 8 A Yeah, it was Deputy Ochab.
- 9 Q So you didn't leave until after he arrived?
- 10 A Correct.
- 11 Q Did you call the police that day?
- 12 A No. I think--
- 13 Q Well, if you don't know--
- 14 A Again, I don't know who really did but I know somebody did,  
15 wasn't me.
- 16 Q So from Tuesday to Friday Ms. Seibert was at your house?
- 17 A Correct.
- 18 Q Did Ms. Knezevich ever come over during that period of time?
- 19 A I never heard a word from them at all until the 18<sup>th</sup>, until  
20 they come over. I didn't talk to them, speak to them, or  
21 even see them.
- 22 Q When Ms. Seibert was at your house did she have a phone?
- 23 A Yes, she did.
- 24 Q Well, did you have control of her phone?
- 25 A No, she could of made a phone call to anybody she wanted to.

1 She wasn't being held there.

2 Q You never told her that she could only call certain people  
3 or anything?

4 A No.

5 Q On the 18<sup>th</sup> did you call 911?

6 A Yes, I did.

7 Q When was the first time you called 911?

8 A Walked down the hall--Lisa got a phone call, she got the  
9 phone call, she went down to the bedroom, she was down there  
10 for, I don't know, 15/20 minutes, I was watching TV. Then  
11 she started walking out, so I got up and walked down there  
12 and I asked her what was going on. And she says, "Miranda  
13 called--

14 MR. HADLEY: Your Honor, I would object at that  
15 point, that would be hearsay.

16 THE COURT: Sustained.

17 BY MR. BROUGHTON:

18 Q Mr. Porter, you can't say anything that Lisa said.

19 A Oh, okay.

20 Q So you had a conversation with Ms. Seibert?

21 A Yes, sir.

22 Q Were you, I mean, were you aware, at that point, that  
23 anybody was going to come pick her up?

24 A When I had the conversation with her that's the only time I  
25 was aware that anybody was coming to pick her up.

- 1 Q Okay. And so did a car arrive?
- 2 A Yes, sir.
- 3 Q Or a vehicle?
- 4 A Yeah.
- 5 Q Did you call 911 at that point?
- 6 A When it pulled in the driveway I picked the phone up and  
7 called 911.
- 8 Q Well, why?
- 9 A Well, he threatened me with a knife.
- 10 Q Whose vehicle was it?
- 11 A It was Mr. Leffew's.
- 12 Q So you seen Mr. Leffew's vehicle pull in?
- 13 A Yeah.
- 14 Q And then you called 911?
- 15 A Yes.
- 16 Q After you called 911, well, why did you call 911 when it was  
17 Mr. Leffew's vehicle? Because of the prior incident?
- 18 A Because of the prior incident, he threatened me with a  
19 knife, and I didn't want any trouble. I tried to defuse it  
20 so I called 911.
- 21 Q Did people exit the vehicle?
- 22 A Yes, they did.
- 23 Q And where did the vehicle park?
- 24 A Right exactly behind my car in the driveway.
- 25 Q You could see what type of vehicle it was?



- 1 A Yes, I could, yeah.
- 2 Q Do you have a window there or how could you see?
- 3 A There is a window there, yeah.
- 4 Q Where did, who exited the vehicle?
- 5 A Well, Mr. Leffew was driving, he got out his door, and Donna  
6 and his wife got out the other side of the car.
- 7 Q Where did they go to?
- 8 A They came, Donna and Mrs. Leffew came to the front door and  
9 started knocking on it, beating on the front door.
- 10 Q Okay. Did you answer the front door?
- 11 A Yes, I did.
- 12 Q So did you open it?
- 13 A Yeah, I opened it.
- 14 Q All the way or a little bit?
- 15 A All the way.
- 16 Q So Ms. Leffew and Ms. Knezevich were there?
- 17 A Yes, sir.
- 18 Q Was Ms. Seibert still in the house at this point?
- 19 A Yeah. She was standing right, she was standing I think,  
20 behind me somewhere, I don't know where she was but she was  
21 behind me.
- 22 Q Do you have a backdoor?
- 23 A Yes, I do.
- 24 Q At the point when you're at the front door, I mean, could  
25 somebody have walked out the backdoor?

1 A They could walk out the backdoor easy.

2 Q Okay. Now, did Ms. Leffew say why they were there?

3 A They said they were coming down to take Lisa, that's all  
4 they said.

5 Q Then did you, did Lisa just leave through the front door at  
6 that point, or what happened?

7 A No. I asked them, I didn't know what was going on, so I  
8 asked them to give me about five/ten minutes, and they tried  
9 to get in, but I put my arm up on the door and wouldn't let  
10 them, you know, wouldn't let them come in. I said, "Just  
11 let me talk to her and find out what's going on." You know.  
12 Donna said, "Okay--

13 MR. HADLEY: Objection.

14 BY MR. BROUGHTON:

15 Q You can't say anything that Donna said.

16 A Oh, I'm sorry. One of them said, "Okay--

17 MR. HADLEY: Your Honor, one of them said it.

18 THE COURT: Okay.

19 WITNESS: I'm sorry, Your Honor.

20 THE COURT: Mr. Porter, you can't testify as to  
21 what someone else said.

22 WITNESS: Yeah, okay.

23 THE COURT: You can testify as to how you  
24 proceeded after a conversation. But you can't say what they  
25 said, okay?

1 WITNESS: Okay, all right.

2 BY MR. BROUGHTON:

3 Q So there was a conversation at the front door?

4 A Right.

5 Q And at the end of the conversation what happened?

6 A I said give me five or ten minutes, and I shut the door, and  
7 I locked it.

8 Q So you locked the front door at that point?

9 A Yeah.

10 Q Was Ms. Seibert still like standing behind you at this  
11 point?

12 A Well, at that point Jeremiah made his way around to the back  
13 and he was beating on my patio window and yelling he was  
14 going to kill me. So I walked from the front door to the  
15 middle of my living room and told him to knock it off. And  
16 when I turned around Lisa was leaning up against the door,  
17 and it's like she slid down the door.

18 Q What door?

19 A The front door.

20 Q Okay. She didn't exit out the front door?

21 A Pardon?

22 Q She didn't leave out the front door at that point?

23 A No, no.

24 Q What did, so was she like on the ground then at that point?

25 A She was sliding down the door, she was kind of upset, so I

1       took her by the hands, and picked her up, and I walked her  
2       out, and sat her down in the dining room.

3   Q       Okay. Now, your house, there's a, at the front door, does  
4       that come into your living room or where does that come  
5       into?

6   A       Comes into my living room.

7   Q       Is there sliding glass doors in your living room too or  
8       something?

9   A       At the far end of it yes, there's a patio window.

10   Q       The far end of it, what do you mean by that?

11   A       Well, the front door is at the front of the house, and you  
12       go all the way through the living room then there's the  
13       patio door.

14   Q       Does it go out to the back; does it go out to the side?

15   A       It goes right out to the back.

16   Q       Is that the, you have a different backdoor also, correct?

17   A       Correct.

18   Q       So after you picked Lisa up where did you take her?

19   A       I took her over and sat her down in the dining room, that's  
20       just off the living room.

21   Q       Is there a table there?

22   A       Yes, sir.

23   Q       So it goes, if I have this right, front door to the living  
24       room, and then the living room to the dining room?

25   A       Yeah. Then there's a patio window off the living room in

1 the back of the house.

2 Q Well, can you, through that patio window can you see the  
3 dining room table?

4 A Part of it. But right where Lisa was sitting there's no way  
5 you could see it because the kitchen wall comes out there,  
6 and where she was sitting it's impossible to see her.

7 Q So were you sitting at the table, also?

8 A No. I was standing up trying to talk to her, trying to  
9 figure out what was going on.

10 Q At this point the front door is locked?

11 A Right.

12 Q Any idea how much time you were standing there talking to  
13 her?

14 A I don't even think it was 15/20 seconds. Then there was,  
15 they started beating on the backdoor, and kicking it, and I  
16 could see the bottom of the door moving. So I picked my  
17 phone up again and dialed 911.

18 Q So you called 911 again?

19 A Yeah.

20 Q And Ms. Seibert was at the dining room table at that point?

21 A Correct.

22 Q Were you holding her down or anything when you were calling  
23 911?

24 A No. I was standing up trying to talk to her.

25 Q And you called 911 again?

1 A Yeah.

2 Q Why is that?

3 A Because I knew they were going to get in eventually because  
4 I could see the door, the bottom of the door, they kept on  
5 kicking it. I called 911, gave them my address, hung the  
6 phone up and the backdoor blew open, it was that quick.

7 Q Okay. When the backdoor blew open did you see who came in?

8 A All I seen out of the corner of my eye, because I had my  
9 back kind of turned to it, was somebody coming in. So I  
10 picked an ashtray up, and just turned around, and smacked  
11 the person that was coming in, and it was Miche--, I can't  
12 remember her name, it was her and her husband was about a  
13 step behind her.

14 Q Okay, so you smacked her with an ashtray?

15 A Correct.

16 Q Was it, I mean what, was it a good size ashtray?

17 A About five, well, a portion of my ashtray, about that big  
18 around, yeah.

19 Q Okay. Why did you do that?

20 A I was afraid for my life, they broke into my house.

21 Q And then, and you said Mr. Leffew was about a step behind?

22 A Correct.

23 Q What, I mean, what happened?

24 A I hit her and she fell down on the floor. Then I went over  
25 and hit him a couple times.

1 Q What do you mean hit him? I mean, did you, well, was he  
2 coming at you or was he just standing there?

3 A Yeah, he was coming at me. So I just went over and I hit  
4 him a couple times. She jumped up off the floor, and jumped  
5 on my back, and knocked me over against the sink, and was  
6 yelling, "Let's kill him, let's kill him." And he started  
7 riffling through the draws, and found that steak knife, and  
8 tried to stab me, and he knocked a little diamond out of my  
9 watch, and cut my wrist here with it.

10 Q You had your watch on when he tried?

11 A Yeah.

12 Q Was Lisa still sitting at the table while this was going on?

13 A I don't know, I was too busy.

14 Q Well, did Mr. Leffew hit you or anything?

15 A Oh, yeah, he hit me a couple times.

16 Q So when you went at him, he was coming at you?

17 A Right.

18 Q So you guys had like a, were you having like a fight or a  
19 tussle there?

20 A A little tussle, fight, I don't know. It was a fight. I  
21 was fighting for my life.

22 Q And then he got a knife out of your drawer?

23 A Yes, sir.

24 Q Mr. Porter, I'm going to show what's been marked as People's  
25 proposed exhibit #6, and ask if you recognize that?

1 A Yeah, I recognize it.

2 Q And what is that?

3 A That's one of my steak knives I had in my silverware drawer.

4 Q Is that the steak knife that he used or is that one like it?

5 A No, that's the one he used.

6 Q Why do you say that?

7 A Well, when he left he threw it across my living room, and I  
8 got a clock hanging on the wall, and stuck it in the clock,  
9 and it fell down behind my TV.

10 Q So that was the only knife that was behind your TV?

11 A That was the only one behind it, yeah.

12 Q So this is the one that, your testimony is that this  
13 proposed exhibit here is the knife that he grabbed out of  
14 your drawer?

15 A Yeah, that's the one.

16 Q That he cut you with, on your wrist?

17 A Right.

18 MR. BROUGHTON: Your Honor, I would move for the  
19 admission of People's proposed exhibit #6.

20 THE COURT: Any objection, Mr. Hadley?

21 MR. HADLEY: No.

22 THE COURT: Mr. Windsor?

23 MR. WINDSON: No objection, Your Honor.

24 THE COURT: Shall be admitted.

25 (At 11:56 a.m., People's Exhibit #6 received into



1 evidence)

2 BY MR. BROUGHTON:

3 Q So you don't know what Ms. Seibert was doing at this point?

4 A No.

5 Q Well, how did this, I mean, how did it end?

6 A I don't know what she said, okay. I heard Donna yelling  
7 something. "Jay, Jay, Jay," she yelled something.

8 Q You can't say what she said.

9 A Yeah, I know. And he just quit, he quit trying to stab me.  
10 Then he helped his wife outside, through the living room.  
11 Because there was, more stuff went on after that a little  
12 bit, but.

13 Q So he, what door did they exit through?

14 A Front door.

15 Q And where was Ms. Seibert at this point?

16 A I think she was outside.

17 Q So I guess when this fight stopped you looked and Ms.  
18 Seibert wasn't at the table anymore?

19 A No, she was outside.

20 Q So she had left while--.

21 A Yeah.

22 Q --while you were fighting with Ms. Leffew and Mr. Leffew?

23 A Correct.

24 Q Well did, so after Ms. Knezevich yelled something you're  
25 saying that's when the knife got thrown?

1 A No, no. He just quit trying to stab me with it. He still  
2 had the knife in his hand.

3 Q Well, did he say anything?

4 A No, he didn't--

5 MR. HADLEY: Your Honor, I think Mr. Broughton is  
6 asking him to commit hearsay again.

7 THE COURT: Well, it appears to be admission of  
8 the party opponent, he's asking for your client's statement,  
9 which would be admissible under the hearsay rule. So I'm  
10 going to allow it?

11 BY MR. BROUGHTON:

12 Q Well, did Mr. Leffew say anything when he was holding the  
13 knife?

14 A Yeah, he said he was going to kill me.

15 Q After you heard Ms. Knezevich yell at him?

16 A After that I don't remember, I was kind of, I was pretty  
17 shook up.

18 Q So it went from him trying to kill you to all of a sudden  
19 everything just stopped?

20 A Yeah.

21 Q And then they both exited through the front door, the  
22 Leffews?

23 A Yeah, both through the front door, yup.

24 Q Did Ms. Knezevich come in after this incident?

25 A Yeah. The front door was open and she said that she was--

- 1 Q You can't say what she said, remember.
- 2 A Yeah, she came in. I'm sorry.
- 3 Q Okay. And did you give her something?
- 4 A Yes, I did.
- 5 Q What did you give her?
- 6 A I gave her the ring.
- 7 Q And that's something she requested?
- 8 A Right.
- 9 Q Why did you give it to her?
- 10 A I didn't want any more trouble; I just wanted them out of
- 11 there.
- 12 Q Who had given you the ring?
- 13 A Donna and Lisa.
- 14 Q So both of them had given you a ring at some point in your
- 15 relationship?
- 16 A Yeah.
- 17 Q Then how long after, did they all get in the car and leave
- 18 then?
- 19 A When I was coming out of the bedroom, after I gave them the
- 20 ring, I think it was Michelle (sic) took a chair and smashed
- 21 a big hole in my wall with it. His wife.
- 22 Q So she had came back in the house?
- 23 A Yeah.
- 24 Q Was anybody else in the house when you gave Donna the ring?
- 25 A Yeah, I think Lisa was standing there, yeah. They all came

- 1 back in, they were all in there.
- 2 Q Even Mr. Leffew?
- 3 A Yup, he was there.
- 4 Q And then did they all leave the house?
- 5 A Yeah, after, yeah, they all left then. Before Mr. Leffew
- 6 left he took the knife and threw it across my living room
- 7 and that's when he put a whole in my clock.
- 8 Q So he still had it then when he left the first time?
- 9 A Yeah, he still had the knife.
- 10 Q When he came back in the second time, you're saying, is when
- 11 he threw it?
- 12 A Correct.
- 13 Q And after that did Deputy Ochab arrive?
- 14 A Yeah, a little after they left he showed up, yes he did.
- 15 Q And there were other officers who showed up is my
- 16 understanding, too.
- 17 A Yeah, there was quite a few of them there.
- 18 Q And did you tell them what happened?
- 19 A Yes, I did.
- 20 Q At any point that night did Mr. and Mrs. Leffew have any
- 21 permission to enter your house?
- 22 A No, they did not.
- 23 Q Had they been to your, you said they'd never been to your
- 24 house before?
- 25 A No, they never been there before.

1 Q So they didn't have any type of standing permission to be  
2 able to come there and go in the house or anything?

3 A No, no.

4 Q How did you feel when Mr. Leffew had the knife? Were you  
5 scared?

6 A I was petrified, I was really scared.

7 Q Did you start cleaning, I guess, cleaning the place up?

8 A Yeah, I started cleaning the place up after he left. It was  
9 wintertime out and backdoor was wide open. So I just  
10 started cleaning up. Because I knew the police were coming,  
11 so I had to get the, I wanted to fix the door so I could  
12 close it for the night.

13 Q Was there damage to the backdoor?

14 A Yeah, the whole back door jamb is destroyed; I've got to  
15 replace it.

16 THE COURT: Can you show Mr. Windsor, too.

17 MR. BROUGHTON: Oh, sure. I guess I should have,  
18 I forget there's two of them.

19 BY MR. BROUGHTON:

20 Q Mr. Porter, I'm going to show you what's been marked as  
21 People's proposed exhibit #1, and ask you if you recognize  
22 that?

23 A Yeah, that's my backdoor.

24 Q The picture on the right is the backdoor?

25 A Yeah.

1 Q Okay. And the picture on the left, do you know what that's  
2 a picture of?

3 A That's a picture of my door jamb, where it's cracked and  
4 busted all up.

5 Q Was it like that prior to them going there?

6 A No, there was nothing wrong with it.

7 Q So does that accurately depict what your door jamb looked  
8 like on November 18<sup>th</sup>, 2017 after they came through the  
9 backdoor?

10 A Yeah.

11 Q How about the picture on the right, does that accurately  
12 reflect what your backdoor looked like?

13 A Yeah, where they kicked it and everything, yeah.

14 MR. BROUGHTON: Your Honor, I'd ask for the  
15 admission of People's proposed exhibit #1.

16 THE COURT: Any objections:

17 MR. HADLEY: No objections.

18 MR. WINDSOR: No objection.

19 THE COURT: Shall be admitted.

20 (At 12:05 p.m., People's Exhibit #1 received into  
21 evidence)

22 BY MR. BROUGHTON:

23 Q People's proposed exhibit #2, that's another picture of your  
24 backdoor there on the right, it looks like?

25 A Yeah.

1 Q And then on the left, what's that a picture of?

2 A That's the door jamb where they busted it when they busted  
3 the backdoor. The picture doesn't show it here but you can  
4 kind of see a little bit here where they ripped my screen,  
5 they pulled it back here and it's all ripped up here too.

6 Q So you had a, do you have like a screen door outside of your  
7 back entry door?

8 A Yes, sir.

9 Q And do those accurately depict what they looked like on  
10 November 18<sup>th</sup>, 2017 after entry?

11 A Yes, sir.

12 Q It looks like there's like molding that's out of place  
13 there, was it like that before?

14 A No.

15 Q Before she kicked the door in?

16 A No, there was nothing wrong with it.

17 MR. BROUGHTON: Your Honor, I'd move for admission  
18 of People's Exhibit #2.

19 THE COURT: Any objection?

20 MR. HADLEY: No, Your Honor.

21 MR. WINDSOR: No objection.

22 THE COURT: Shall be admitted.

23 (At 12:06 p.m., People's Exhibit #2 received into  
24 evidence)

25 BY MR. BROUGHTON:

1 Q I'm showing you People's Exhibit #3.

2 MR. HADLEY: Proposed exhibit.

3 BY MR. BROUGHTON:

4 Q People's proposed exhibit, and ask you, the picture on the  
5 left, what's that a picture of?

6 A That's a picture of my kitchen.

7 Q So that would be, is that going out through the dining room?

8 A Or my dining room, yeah.

9 Q Okay. The picture on the right, is that again a picture of  
10 your backdoor?

11 A Yes, sir.

12 Q Do those accurately depict what they looked like on November  
13 18<sup>th</sup>, 2017?

14 A Yes, sir.

15 Q I guess after entry that night?

16 A Correct.

17 Q And there's a--

18 MR. BROUGHTON: I would move for admission of  
19 People's proposed exhibit #3.

20 THE COURT: Any objection?

21 MR. HADLEY: No objection.

22 MR. WINDSOR: No objection.

23 THE COURT: Shall be admitted.

24 (At 12:07 p.m., People's Exhibit #3 received into  
25 evidence)



1 BY MR. BROUGHTON:

2 Q And there's a broom in there, is that what you were trying  
3 to clean up?

4 A Yeah, that's what I was trying to clean up, yeah.

5 Q And there's a picture there that looks like, you said it was  
6 a porcelain ashtray, is that part of the ashtray down there?

7 A Yes, sir.

8 Q So next to the broom, to the left, is a little bit of the  
9 ashtray?

10 A Right.

11 Q And where is the dining room table, I guess, in relation to  
12 the kitchen here.

13 A It would be right straight, it's right straight that way,  
14 its right straight across from the kitchen.

15 Q Okay. I'm showing you People's proposed exhibit #4, and ask  
16 if you recognize the photo on the right side?

17 A Yes, sir.

18 Q What's that a picture of?

19 A A picture of my arm where he cut me with that knife.

20 Q You're saying you had a watch on at that point?

21 A Yeah, I had this watch on.

22 Q Does it accurately depict what your, I guess it would be  
23 your left wrist or arm, looked like on November 18<sup>th</sup>, 2017  
24 after this happened?

25 A Yeah. I had, you can see by the hair on my arm how it's all

1       wore off way back here.

2   Q       Where the watch is?

3   A       Yeah. I had, since then I had a, because I lost a lot of  
4       weight, it used, went way up here, and he cut me, yeah,  
5       that's the picture.

6   Q       The bottom picture what's that, is that, what's that a  
7       picture of, if you know?

8   A       The entrance way going down to my sidewalk leading up to the  
9       backdoor.

10   Q       So you go through this area to get to your backdoor?

11   A       Yeah.

12   Q       So is that the back of the house that this is showing?

13   A       No, it would be kind of like the side.

14   Q       Going to your back?

15   A       Going to my back, yeah,

16               MR. BROUGHTON: Your Honor, I would move for  
17       People's proposed exhibit #4.

18               MR. HADLEY: No objection.

19               MR. WINDSOR: No objection.

20               THE COURT: Shall be admitted.

21               (At 12:09 a.m., People's Exhibit #4 received into  
22       evidence)

23   BY MR. BROUGHTON:

24   Q       And the last one I have for you here is People's proposed  
25       exhibit #5, what is that?

1 A It's a picture of my backdoor.

2 Q From the outside?

3 A From the outside, yeah.

4 Q So that's the screen door that you were talking about  
5 earlier?

6 A Yes, sir.

7 Q And that accurately depicts what the screen door looked like  
8 November 18<sup>th</sup>, 2017?

9 A Yes, sir.

10 MR. BROUGHTON: I move for admission of People's  
11 proposed exhibit #5.

12 MR. HADLEY: No objection.

13 MR. WINDSOR: No objection.

14 THE COURT: Shall be admitted.

15 (At 12:09 p.m., People's Exhibit #5 received into  
16 evidence)

17 MR. BROUGHTON: Your Honor, may I publish these to  
18 the jury?

19 THE COURT: Yes.

20 MR. HADLEY: I have no objection to that, Your  
21 Honor.

22 MR. WINDSOR: None here either.

23 MR. BROUGHTON: And also Exhibit #6.

24 THE COURT: Sure. Do you have much more on  
25 direct?

1 MR. BROUGHTON: I don't. I think I've got maybe  
2 just a--

3 THE COURT: Okay. Let's take a minute while  
4 they're looking at the pictures. I don't want to compete  
5 for their attention.

6 MR. BROUGHTON: Sure.

7 THE COURT: Mr. Hadley, Mr. Windsor, it would be  
8 my intention, when Mr. Broughton is through to break for  
9 lunch, and we'll do cross after lunch.

10 MR. HADLEY: Certainly.

11 MR. BROUGHTON: Your Honor, I'll be done within a  
12 couple minutes.

13 THE COURT: While you're looking at that can I  
14 inquire, "Is the temperature in here okay? Is anybody  
15 chilly?"

16 Go ahead, Mr. Broughton.

17 BY MR. BROUGHTON:

18 Q Mr. Porter, do you recall ever hearing Ms. Seibert yell for  
19 help?

20 A No.

21 Q Were you restraining her in any way from leaving at that  
22 point?

23 A She could have left, all she had to do is tell me she was  
24 leaving, she could have left anytime she wanted to.

25 Q The window, the patio doors, the big window you've talked

1 about, that's in your living room, correct?

2 A Correct.

3 Q Could you see where Lisa was seated from the outside through  
4 those windows when she was at the table?

5 A Where she was seated, no you couldn't, because the kitchen  
6 wall comes out there, and where she was sitting its  
7 impossible, you can't see nobody sit there.

8 Q Can you see part of the table? Could they see where you  
9 were standing, or something?

10 A They might have been able. I doubt that because I was  
11 standing over more towards the kitchen a little bit. Where  
12 she was seated you'd have, the window would have to be on  
13 the side of the house, there's no way you could see her.

14 MR. BROUGHTON: I don't have any further  
15 questions, Your Honor.

16 THE COURT: Ladies and gentlemen, we're going to  
17 break for lunch now, so I will be excusing you, you will be  
18 free to go on about your business. I'm going to have you  
19 come back here at 1:30. So I'll give you a little longer  
20 than an hour to do what you need to do. Let me caution you  
21 again, please do not discuss this case with anybody, or let  
22 them discuss it with you. If anybody approaches you and  
23 tries to discuss the matter with you, explain to them you're  
24 a juror and you can't, and if they persist please report  
25 that to me immediately when you come back.

1 So enjoy your lunch, we'll see you at 1:30.

2 If you have anything you want to leave in the jury  
3 room, all your notebooks, excuse me, leave your notebooks  
4 and your jury instructions in the jury room, that will be  
5 locked during lunch, no one will be looking at that.

6 (At 12:16 p.m., jury exits courtroom)

7 THE COURT: Anything we need to put on the record?

8 MR. BROUGHTON: No, Your Honor.

9 MR. HADLEY: No, Your Honor.

10 THE COURT: We'll see you at 1:30.

11 MR. BROUGHTON: Thank you, Your Honor.

12 (At 12:17 p.m., proceedings in recess)

13 (At 1:28 p.m., proceedings reconvene - all parties  
14 present)

15 THE COURT: Thank you, be seated. All the jurors  
16 are back, are we ready to proceed?

17 MR. HADLEY: Yes.

18 MR. BROUGHTON: Yes, Your Honor.

19 MR. HADLEY: Your Honor, the exhibits, do you have  
20 the exhibits?

21 THE COURT: I do.

22 MR. HADLEY: Okay.

23 THE COURT: Do you want them?

24 MR. HADLEY: Let me put them up on the podium.

25 THE COURT: Let's bring the jury in.

1 COURT BAILIFF: Rise for the jury.

2 (At 1:29 p.m., jury enters courtroom)

3 THE COURT: Okay, be seated.

4 Mr. Broughton, were you through with your  
5 questions? Mr. Porter, can you come back up and sit on the  
6 witness stand. I'll remind you, Mr. Porter, that you're  
7 still under oath.

8 WITNESS: Yes, sir. Yes, Your Honor.

9 THE COURT: Any other questions, Mr. Broughton?

10 MR. BROUGHTON: No, Your Honor.

11 THE COURT: Cross-examination, Mr. Hadley.

12 MR. HADLEY: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. HADLEY:

15 Q Good afternoon, Mr. Porter.

16 A Good afternoon.

17 Q You just recently testified by some questions from Mr.  
18 Broughton, is that correct?

19 A Correct.

20 Q Today is March 26<sup>th</sup>, 2018, is that correct?

21 A Yes.

22 Q When did this incident happen?

23 A The 18<sup>th</sup> of December (sic).

24 Q Is that 2017.

25 A Yes, sir.

- 1 Q Was your vision pretty good back then?
- 2 A Yes, sir.
- 3 Q Your hearing was okay?
- 4 A Yup.
- 5 Q And your memory was ok?
- 6 A Yes, sir.
- 7 Q On the night of November 18<sup>th</sup>, 2017 were you drinking or
- 8 ingesting any illegal substances or anything of that nature?
- 9 A No.
- 10 Q Okay. So your thought processes were clear?
- 11 A Right.
- 12 Q Taking you back to that night, Mr. Broughton asked you about
- 13 a series of events between you, Mr. and Mrs. Leffew, and Ms.
- 14 Knezevich, is that correct?
- 15 A Correct.
- 16 Q The first thing you had indicated to Mr. Broughton was that
- 17 you knew Mr. and Mrs. Leffew, correct? You had met them
- 18 before.
- 19 A I met them before, yes.
- 20 Q Okay. Where had you met them at?
- 21 A I met them at their mother's house in Sterling.
- 22 Q Okay. And that would be during this year long relationship
- 23 that you had with Ms. Seibert and Ms. Knezevich?
- 24 A Yes.
- 25 Q That you interacted with them on some occasions?



- 1 A Couple, yeah.
- 2 Q Okay, all right. You indicated to the jury that about three
- 3 days before this incident on November 18<sup>th</sup> you had an
- 4 occasion to have a run-in with Mr. Leffew, is that correct?
- 5 A Correct.
- 6 Q I think your testimony was that you got into a fight with
- 7 him?
- 8 A No, sir.
- 9 Q Okay. Where did you see Mr. Leffew at?
- 10 A At his mother's house.
- 11 Q And that was in Sterling I believe you said?
- 12 A Right.
- 13 Q Okay. But didn't you testify sir that Mr. Leffew assaulted
- 14 you on that occasion?
- 15 A No. I said he had a knife and he kind of lunged at me a few
- 16 times with the knife.
- 17 Q Okay. Now was law enforcement called to that incident?
- 18 A Yes, sir.
- 19 Q Okay. Did Deputy Ochab, did he respond to that complaint?
- 20 A Yeah, he responded.
- 21 Q Okay. Did you tell Deputy Ochab about that incident with
- 22 you and Mr. Leffew?
- 23 A No.
- 24 Q Why not?
- 25 A Because he put the knife away, and I didn't think it was, at

1 the time I really didn't think, you know, he didn't really  
2 try to come up to me and stab me, so.

3 Q You didn't think it was important on that date?

4 A No, I didn't think it was important.

5 Q Okay. But on the 18<sup>th</sup> of November you're making a complaint  
6 that Mr. Leffew attacked you again with a knife?

7 A Correct.

8 Q And that incident was important?

9 A Oh yeah, that one was important, yes, sir.

10 Q Okay. So you never told Deputy Ochab on that night, prior  
11 to the 18<sup>th</sup>, about the incident with you and Mr. Leffew, is  
12 that correct, am I understanding?

13 A When he, I'm not sure but I think I mentioned it to the  
14 other officer that was there, and his response was, he wish  
15 he would have new about it then. But I never, that's all I  
16 said about it.

17 Q Okay. You recall testifying in this matter at a earlier  
18 court hearing?

19 A At the pre-trial sir, is that what you're talking about?

20 Q December 19<sup>th</sup>, of 2017 which would be a preliminary  
21 examination.

22 A Yes, I remember.

23 Q All right. Now, the night of the 18<sup>th</sup> of November, you  
24 talked to law enforcement that night, correct?

25 A Correct.

1 Q Who did you speak to?

2 A Deputy Ochab.

3 Q Okay. Anyone else?

4 A Yeah, the other officer that was there, you know, but mostly  
5 to Deputy Ochab.

6 Q Did you make a voluntary statement to Deputy Ochab or did  
7 you talk to him and he recorded some notes as to what you  
8 told him?

9 A No, I made a written statement that night.

10 Q Okay. Do you recall your statement; have you seen your  
11 statement before?

12 A I haven't seen it since I wrote it.

13 MR. HADLEY: Your Honor, if I may approach.

14 THE COURT: All right.

15 MR. BROUGHTON: If you want, Duane, oh I don't  
16 have that one marked; if you want the original I have the  
17 original.

18 MR. HADLEY: Yeah, yeah.

19 THE COURT: Is this going to be marked People's  
20 exhibit?

21 MR. HADLEY: Do you want to make it People's?

22 MR. BROUGHTON: That's fine.

23 MR. HADLEY: We can keep running with that.

24 THE COURT: So this will be People's #7?

25 MR. BROUGHTON: No, I have #7 and #8 here.

1 THE COURT: Okay, so it will be #9.

2 MR. BROUGHTON: Correct.

3 (At 1:36 p.m., People's Exhibit #9 marked for  
4 identification)

5 BY MR. HADLEY:

6 Q Mr. Porter, I'm showing you People's proposed exhibit #9 and  
7 ask if you could tell me what that document is?

8 A It's my statement from that night.

9 Q All right. Is that written in your handwriting, Mr. Porter?

10 A No, this is not my handwriting.

11 Q Do you know who wrote that?

12 A It must have been one of the police officers that I was  
13 talking to.

14 Q Okay. Is that your signature on the bottom?

15 A Yeah, that's my signature, yup.

16 Q Mr. Porter, would you, you've read that correct?

17 A Um-hum.

18 Q Is that a "yes"?

19 A Yes, sir.

20 Q Okay. Is that an accurate depiction of what happen that  
21 night according to that statement?

22 A Yes, sir.

23 MR. HADLEY: Okay. Your Honor, I would move for  
24 the admission of People's proposed exhibit #9.

25 THE COURT: Any objection, Mr. Broughton?

1 MR. BROUGHTON: No, Your Honor.

2 THE COURT: Mr. Windsor?

3 MR. WINDSOR: No objection.

4 THE COURT: Shall be admitted.

5 (At 1:37 p.m., People's Exhibit #9 received into  
6 evidence)

7 MR. HADLEY: If I may publish that, Your Honor?

8 THE COURT: Go ahead.

9 MR. HADLEY: Thank you.

10 BY MR. HADLEY:

11 Q Did you make any other statements to law enforcement that  
12 night, Mr. Porter?

13 A I don't think I did, no.

14 Q All right. You said that, direct examination, when Mr.  
15 Broughton asked you, who went, let me rephrase it. You saw  
16 Mr. Leffew's vehicle come up the driveway, correct?

17 A Correct.

18 Q And your testimony was then you call 911 which went to Bay  
19 County?

20 A Correct.

21 Q I believe your testimony was that all three came up to the  
22 front door, is that correct?

23 A At first, yes, I think all three.

24 Q That's what you testified to this morning, correct?

25 A Yeah, correct.

1 Q Okay. Did you tell Deputy Ochab that actually two of them  
2 come to the front door and Mr. Leffew went to the backdoor?

3 A I might have said that, yes.

4 Q Okay. At the preliminary examination that was held on  
5 December 19<sup>th</sup>, Mr. Leffew (sic), did you indicate that only  
6 two went to the front door and that Mr. Leffew went to the  
7 backdoor.

8 A I probably did, yes.

9 Q Okay. Well, which is it? You testified this morning--

10 A Well--

11 Q Excuse me.

12 A Go ahead.

13 Q You testified this morning, under direct examination, that  
14 after you saw Mr. Leffew's vehicle you called 911, and all  
15 three of the people, Mr. Leffew, Mrs. Leffew, and Ms.  
16 Knezevich went to the front door. Do you recall testifying  
17 to that?

18 A Yes, sir.

19 Q But at the preliminary examination which was held on  
20 December 19<sup>th</sup>, you said that actually two went to the front  
21 door and Mr. Leffew went to the backdoor. Do you recall  
22 that testimony?

23 A I recall that, yeah.

24 Q Okay, which one is it, they both can't be correct, can they?

25 A It was the one where Mr. Leffew went to the back.

- 1 Q Okay, so what you're testifying to today is incorrect.
- 2 A Just that one little part, yes.
- 3 Q Well, that one little part is kind of important, isn't it?
- 4 A I don't know if it is or it isn't.
- 5 Q Which one is it, two went to the front door and Mr. Leffew
- 6 went to the backdoor, or all three went to the front door?
- 7 A The two women came and knocked on my door, I opened the door
- 8 and talked to them, and when I shut the door and turned
- 9 around Mr. Leffew was already at my back, so he must have
- 10 went to the back.
- 11 Q Okay, so what you testified to this morning is incorrect?
- 12 A A part of it, yes, sir, it would have to be, yeah.
- 13 Q Okay. Two isn't three, correct?
- 14 A Correct.
- 15 Q Okay. And also, Mr. Porter, you also indicated, under
- 16 direct testimony, that you were in the living room,
- 17 somewhere between the living room and the kitchen with Ms.
- 18 Seibert, is that correct? Sitting in a chair.
- 19 A She was sitting in a chair, yeah.
- 20 Q Okay. And you testified this morning again, that you
- 21 observed someone kicking the bottom of the door.
- 22 A I could see the bottom of the door moving, yes, sir.
- 23 Q Okay. You were watching the door?
- 24 A I heard them pounding on it and I looked at it, and I could
- 25 see the door moving on the back, and that's when I called

1 911 again.

2 Q Okay. Did you tell Deputy Ochab in this report that he had  
3 that you weren't looking at the door you were talking to  
4 Lisa at the time when the door was kicked in.

5 A I probably did. But I think I could see it out of the  
6 corner, I probably was trying to talk Lisa.

7 Q Okay, and again, you recall the preliminary examination back  
8 in December when you testified, is that correct?

9 A Correct.

10 Q All right.

11 MR. HADLEY: May I approach, Your Honor?

12 THE COURT: What are you referring to, Mr. Hadley?

13 BY MR. HADLEY:

14 Q I'm showing you, Mr. Porter--

15 THE COURT: What are you referring to?

16 MR. HADLEY: Oh, I'm sorry. Preliminary  
17 transcript, Page 9. I'm sorry, Your Honor.

18 THE COURT: Okay, go ahead.

19 BY MR. HADLEY:

20 Q Mr. Porter, you were present and testified at the  
21 preliminary examination, is that correct?

22 A Correct.

23 Q And the preliminary transcript was ordered in this case, and  
24 everything that was said verbatim was transcribed, you  
25 understand that?



1 A Yes, sir.

2 Q I would ask that you just read lines six through eight for  
3 the jury, please?

4 A Your Honor, do you have a magnifying glass, I left my  
5 glasses out in the car and I can't see real good without  
6 them.

7 Q Just lines six through eight, please.

8 A Six through eight?

9 Q Yes, please. Just read it out loud to the jury.

10 A "I heard it, yes."

11 "So you were facing the door at the point or was  
12 your back to the door?"

13 "My back was to the door."

14 Q Thank you. So it's a preliminary transcript, preliminary  
15 hearing, you testified that you didn't see the door, is that  
16 correct? And your back was to the door.

17 A Yeah.

18 Q This morning you testified that you observed kicking on the  
19 bottom of the door, you saw that.

20 A Yeah, I said that, yeah.

21 Q Which one's right?

22 A The first, the one I just read.

23 Q Okay. So you testified again this morning an incorrect  
24 statement?

25 A Yes, sir.

1 Q Okay. Why did you do that?

2 A I got, it's been a long time since this happened and I just  
3 pictured him kicking the door, I guess, I don't know.

4 Q Okay. Well, you understand the severity of not making  
5 things up though, right?

6 A Oh yeah, I'm not trying to make nothing up.

7 Q Okay, okay. Just trying to figure out what happened here,  
8 so. Do you recall Ms. Seibert testifying at the preliminary  
9 examination as well?

10 A Yes, sir.

11 Q Okay. You indicated you had a relationship with her?

12 A Yes, sir.

13 Q Have you seen her since November 18<sup>th</sup>?

14 A Just when I went to court, that was it.

15 Q In December?

16 A Yeah.

17 Q Have you had a relationship with her since November 18<sup>th</sup>?

18 A No.

19 Q How about Ms. Knezevich?

20 A No.

21 Q All right. When is the last time you spoke with her?

22 A Just when I was in trial.

23 Q Okay. You weren't talking to them over lunch today?

24 A No. They said "Hi" to me in the hallway when I come up here  
25 but that was it.

1 Q Okay, all right. You indicated that you got struck by a  
2 knife from Mr. Leffew, is that correct?

3 A Correct.

4 Q And you said you got cut, or stabbed at you, or something  
5 like that?

6 A Cut.

7 Q Okay. I'm showing you what's been previously marked as  
8 People's #4. I believe you saw that already, correct?

9 A Correct.

10 Q Is that your arm?

11 A Yes, sir.

12 Q Is that your left arm or your right arm?

13 A My left.

14 Q Okay. That appears some sort of a cut, or a scrape, or  
15 something?

16 A Yes, sir.

17 Q All right. And you're saying Mr. Leffew did that with a  
18 knife?

19 A Yes, sir.

20 Q This knife that you talk about, did you give that to Deputy  
21 Ochab that night?

22 A Deputy Ochab seen the knife, we all seen the knife, it was  
23 there, he was there when it was found, and I took it and put  
24 it in a plastic bag, and I had it in my house.

25 Q Well, if Deputy Ochab had it, why did you put it in a

- 1 plastic bag?
- 2 A I didn't want nothing to happen to it.
- 3 Q Did you tell Deputy Ochab, "Here's this knife, it's in a
- 4 bag. I got stabbed with it."?
- 5 A I told the prosecutor later that I had the knife. Why they
- 6 didn't take it I don't know,
- 7 Q Okay. These pictures, these pictures of the scrap, or the
- 8 cut on your arm, and of the door that Mr. Broughton spoke to
- 9 you about in these other exhibits. Did you take those
- 10 pictures?
- 11 A No, sir.
- 12 Q Do you know who took those pictures?
- 13 A One of the police officers.
- 14 Q Could have been Deputy Ochab, could have been another
- 15 deputy.
- 16 A Yes, sir.
- 17 Q But it was law enforcement?
- 18 A Right.
- 19 Q Okay. Now, you said that when this door got kicked in that
- 20 Mrs. Leffew came in first, correct?
- 21 A Correct.
- 22 Q Did you know that it was her? Could you see?
- 23 A When I picked the ashtray up, I seen somebody coming at me,
- 24 and I just turned around and smacked them.
- 25 Q Okay. Where was the ashtray at?

- 1 A It was sitting in front of me on the table.
- 2 Q Okay. And you indicated, I guess you testified that you hit  
3 her over the head with it, correct?
- 4 A Correct.
- 5 Q Did that put her out of the fight at that point in time?
- 6 A I thought it did, for a little bit it did. But she got up  
7 and jumped on top of me.
- 8 Q Okay. And what did she do to you?
- 9 A She knocked me off balance, and held me down, and told her  
10 husband, "Let's kill him, let's kill him.", and that's when  
11 he got the knife out of the drawer.
- 12 Q Okay. This incident with Mr. Leffew and yourself, how long  
13 do you figure that tussle between you and him lasted?
- 14 A Five, ten seconds, I don't know, something like that, not  
15 very long.
- 16 Q Okay and during that time, I believe you testified, you got  
17 some punches in?
- 18 A I hit him a couple times, yes.
- 19 Q Okay. Did you hit him first?
- 20 A I don't remember.
- 21 Q Okay. Did you get hit?
- 22 A Couple times, yes,
- 23 Q Okay. And then you said that Mr. Leffew and you split up,  
24 or you stopped the fight at that point in time, correct?
- 25 A No, that's when his wife jumped up from the floor and jumped

- 1 on top of me, and yelled, "Let's kill him, let's kill him."
- 2 Q And then what did Mr. Leffew do at that point in time?
- 3 A She was holding me down, backed up against the wall, and he
- 4 was riffling through my drawers trying to find a knife. He
- 5 got to my silverware drawer, and pulled out that steak
- 6 knife, and tried to stab me with it.
- 7 Q Okay. And that's the steak knife that's one of the exhibits
- 8 here?
- 9 A Yes, sir.
- 10 Q How many of those steak knives to you have?
- 11 A Half dozen.
- 12 Q Okay. Do you know if anyone touched that knife but you and
- 13 Mr. Leffew?
- 14 A Not that I'm aware of, no.
- 15 Q Okay. And you said that law enforcement didn't pick it up
- 16 that night, correct?
- 17 A Correct.
- 18 Q And it was sometime later that they come back and asked for
- 19 it?
- 20 A Yes, sir.
- 21 Q Do you recall when that was?
- 22 A No, I don't remember.
- 23 Q Okay. Now how long after Mr. Leffew, and Mrs. Leffew, and
- 24 Ms. Knezevich left did law enforcement show up?
- 25 A Probably five, ten minutes.

1 Q Okay. And what were you doing prior to law enforcement  
2 getting there?

3 A I was cleaning my kitchen up, trying to fix the backdoor.

4 Q Okay. Why were you cleaning your kitchen up if this was a  
5 crime scene?

6 A I don't like a dirty house, it had to be cleaned up, my door  
7 had to be fixed, it was winter out.

8 Q Okay. Why weren't you just working on the door and leaving  
9 everything else so law enforcement could see it?

10 A Because there was stuff all over the floor, when you step on  
11 it, my tile was already scratched up from the fight and I  
12 didn't want to scratch it up anymore, so I swept it up and  
13 got it out of the way.

14 Q Okay. So when law enforcement showed up the ashtray was  
15 gone?

16 A No. There's pictures of it there. In that one picture  
17 there was part of it there, it was still on the floor I  
18 didn't pick it up yet.

19 Q Okay. Was there a hammer involved in this assault?

20 A That was my mistake, I got a hammer out to fix the backdoor,  
21 so that was my fault, I thought it was.

22 Q You filed a Petition for Personal Protection Order against  
23 Mr. Leffew, correct?

24 A Correct.

25 Q And as you're indicating to the jury you may have made a

- 1 statement in the petition in reference to a hammer?
- 2 A Yes.
- 3 Q I think I asked you that at the preliminary examination and
- 4 you were in error on that, correct?
- 5 A Correct.
- 6 Q Okay. That actually was your hammer?
- 7 A Yeah, it was my hammer.
- 8 Q Okay. Did anyone come into the house other than Mr. and
- 9 Mrs. Leffew, in the backdoor?
- 10 A No.
- 11 Q Now Lisa Seibert, who was in there at the time, which door
- 12 did she go out of, the backdoor or the front door?
- 13 A Front door.
- 14 Q Would you agree with me that she had been there with you for
- 15 a few days?
- 16 A Yes, sir.
- 17 Q Okay. I believe that there was a question asked you, of Mr.
- 18 Broughton, about if Ms. Seibert wanted to leave she could
- 19 have left, do you recall that question?
- 20 A Yes, I remember it.
- 21 Q And do you recall your answer?
- 22 A She could have left anytime she wanted to.
- 23 Q Okay. Did she need your permission to do that?
- 24 A No.
- 25 Q Okay. Why did you make a statement like that, why couldn't



- 1 she just come and go and not have to tell you if she wanted  
2 to stay or go?
- 3 A She could have left anyway she wanted. I even gave her the  
4 keys to my car so if she wanted to go somewhere she could  
5 have went.
- 6 Q Okay. So she wasn't there against her will?
- 7 A No.
- 8 Q You didn't push her away from the door on the floor?
- 9 A No.
- 10 Q You didn't help her up and put her in a chair?
- 11 A Well, she slid down the door, I thought she was fainting,  
12 and I put my hands out and helped her get up, then I walked  
13 her over and sat her in a chair on the dining room table.
- 14 Q The first time that you called 911 when it went to Bay  
15 County, where was Ms. Seibert?
- 16 A She was standing behind me somewhere.
- 17 Q Okay. How about the second time that you called 911 to Bay  
18 County?
- 19 A She was sitting in a chair in front of me.
- 20 Q Were you sitting on top of her?
- 21 A No.
- 22 Q Okay. You didn't call 911 while you were sitting on her?
- 23 A I wasn't sitting on her.
- 24 Q Okay. What did you do with the parts of the ashtray?
- 25 A Threw them in the wastepaper basket.

- 1 Q Okay. You didn't save those for the officers?
- 2 A They were there.
- 3 Q Did you tell Deputy Ochab that there was a broken ashtray
- 4 and I threw it away?
- 5 A Yeah, I told them I was cleaning up and threw it away.
- 6 Q Okay. You testified that you found the knife at some point
- 7 in time after the assault, is that correct?
- 8 A Yes, sir.
- 9 Q Where did you find the knife?
- 10 A Behind the TV.
- 11 Q Okay. You said something about that it hit a clock or?
- 12 A Yeah.
- 13 Q Okay. What kind of clock was this?
- 14 A Just a clock about this big around, ran by batteries.
- 15 Q Okay. Where was the clock sitting?
- 16 A It was hanging on the wall above the TV.
- 17 Q Okay. Do you believe that the knife got thrown and hit the
- 18 clock?
- 19 A Yeah, there was a hole in it right where it hit, I know he
- 20 did it, I know it did.
- 21 Q A hole in what?
- 22 A The clock.
- 23 Q Okay. Do you know if anyone took any pictures of this
- 24 clock?
- 25 A I have no idea.

1 Q Okay. So you think that somehow the knife hit the clock and  
2 broke the clock? Did it break the glass in the clock?

3 A There was no glass in the clock, so it broke right above the  
4 ten. I still have the clock, so.

5 Q Okay. And then the knife fell behind the clock you said?

6 A It fell behind the TV along with the clock.

7 Q Okay. Where is the TV in relation to where this drawer was  
8 that you said that Mr. Leffew took a knife out of?

9 A TV is in the living room, and he took the knife out of a  
10 drawer in the kitchen.

11 Q Okay. What's the distance say from, if you had the drawer  
12 that the knife was in, and where the TV was?

13 A Fifteen feet.

14 Q Okay. You believe that the knife flew that far?

15 A Well, he threw it from the front door all the way across my  
16 living room.

17 Q Okay. I thought they came in the backdoor.

18 A They did, and they left through the front door.

19 Q Okay. Was he dragging Mrs. Leffew with him?

20 A Nope. She walked all on her own power.

21 Q She walked on her own?

22 A Yup.

23 Q Okay. No one helped her out?

24 A I think he might have had his arm around her or something,  
25 she walked out like nothing.

1 Q Did you make a statement to Deputy Ochab that you thought  
2 that Mr. Leffew threw the knife back in the silverware  
3 drawer, slammed it closed?

4 A I might have.

5 Q Okay. Did you see that happen?

6 A I just figured that's what he did with it until I seen the  
7 clock was off the wall, and then I remember him moving his  
8 arm like that in the living room, and it must have been when  
9 he threw the knife.

10 Q You kind of just assumed or made that up, you don't know  
11 what happened?

12 A No, I didn't assume, I seen it with my own eyes.

13 Q That's what I just asked you, I asked if you saw Mr. Leffew  
14 take and put the knife back in the silverware drawer.

15 A And I told you I, oh, in the silverware drawer, I thought  
16 he, yes, I just assumed that he threw it in the silverware  
17 drawer.

18 Q That's what I just asked you, you assumed that or made that  
19 up correct?

20 A I assumed it, I didn't make it up, I just assumed it.

21 Q You didn't see it?

22 A No.

23 Q Okay. Things still pretty clear to you today as to what  
24 happened?

25 A Pretty clear.

1 Q Clearer than they were back in November?

2 A No. You know in November it was fresh in my mind, so.

3 Q Okay. So what you testified back then would be a little bit  
4 fresher?

5 A Probably.

6 MR. HADLEY: Okay. No further questions, Judge.

7 THE COURT: Mr. Windsor.

8 MR. WINDSOR: Yes, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. WINDSOR:

11 Q Mr. Porter, it's correct that you testified that on November  
12 18<sup>th</sup>, you never heard Lisa Seibert yelling?

13 A Correct.

14 Q On November 18th, is it correct the first thing you saw was  
15 the defendant's car, Mr. Leffew, roll up in your driveway?

16 A Correct.

17 Q When was the first time you saw Micheline Leffew?

18 A When she got out of the car.

19 Q Okay. So how far away from the car to your--

20 A Front door.

21 Q --front door is?

22 A From where their car, it was probably, maybe, 20 foot.

23 Q Then what did you see Micheline doing after you saw her walk  
24 up?

25 A Her and Donna knocked on the door.

1 Q And then you stated that you talked to them?

2 A Yeah.

3 Q And you wouldn't let them in?

4 A Correct.

5 Q Did Lisa Seibert have her coat on at that time?

6 A I don't know, she was standing behind me.

7 Q Anytime on November 18<sup>th</sup> was Lisa Seibert putting her coat  
8 on.

9 A Yeah. We went up to, she got dressed, and we went up to  
10 Saint Helen that day to look at the deer up there.

11 Q What about when the Leffews rolled up in their vehicle with  
12 Donna Knezevich, did she have her coat on anytime after that  
13 to leave?

14 A I don't recall.

15 Q Did, well, back to Micheline Leffew, you stated, is this  
16 correct that you stated that she came in through the  
17 backdoor after kicking it open, correct?

18 A Correct.

19 Q And she was the first person you saw come in through the  
20 door?

21 A Correct.

22 Q About how much time elapsed from you seeing someone come in  
23 the door did you, you know, reach for the ashtray and strike  
24 someone with it?

25 A Probably about three seconds, three, four seconds.

- 1 Q Where was the ashtray when they were kicking the door in?
- 2 A Sitting on my dining room table.
- 3 Q And were you sitting at the dining room table at that
- 4 moment?
- 5 A No.
- 6 Q Was that the first thing you picked up when you saw
- 7 Micheline Leffew come in through the door, the backdoor?
- 8 A Soon as the backdoor blew open I reached down, and picked
- 9 the ashtray up, and turned around and smacked the first
- 10 person that came through the door.
- 11 Q So you don't know who was behind you coming in through the
- 12 backdoor, you just smacked them with an ashtray, or did you
- 13 see her?
- 14 A I didn't know who was coming, but they had no business in my
- 15 house, and I was trying to protect myself.
- 16 Q So you didn't care and you were just going to smack someone
- 17 with an ashtray?
- 18 A I was going to smack anybody because they weren't supposed
- 19 to come in there, they broke in.
- 20 Q It's correct that you hit Micheline Leffew with the ashtray
- 21 you described earlier, correct?
- 22 A Correct.
- 23 Q Did that ashtray break?
- 24 A Broke all over, in pieces everywhere.
- 25 Q Where on her body did you hit her with the ashtray?

1 A In the head.

2 Q Did you see any blood coming out of her head right after  
3 that happened?

4 A Some, yes.

5 Q She wasn't bleeding profusely at all?

6 A She was bleeding a little when I seen her laying on the  
7 floor, yes.

8 Q How long was she laying on the floor after she was hit with  
9 the ashtray?

10 A Maybe four to five seconds, I don't know, something like  
11 that.

12 Q What did she look like to you, were her eyes closed, was she  
13 shaking, what did you see when she was laying there?

14 A I just seen her laying there, that's it.

15 Q Did she look like she was knocked out?

16 A No. She was kind of like moving around a little bit, and I  
17 just, then me and her husband got into it.

18 Q How was she moving a little bit?

19 A It only took a second. I have no idea, I don't remember.

20 Q Were you not paying attention to what she was doing when she  
21 was on the ground?

22 A No. I figured that, I thought that she wasn't going to get  
23 back up, so I had another problem to take care of.

24 Q And it's correct that you stated Micheline Leffew jumped on  
25 your back?



1 A Yeah, when I had my back, I was fighting with her husband,  
2 and all of a sudden she got up, and jumped on me, and  
3 knocked me over against the wall.

4 Q Did she jump on your back, or how did she jump on you?

5 A She jumped on my back and held my head down like that, and I  
6 could still look.

7 Q Did you get any blood on your shirt that day?

8 A Yeah, I got some blood on it.

9 Q Do you know if you got any blood from Micheline Leffew on  
10 your shirt?

11 A It had to be from her.

12 Q What did you do with that shirt on November 18<sup>th</sup>?

13 A Gave it to the police officer.

14 Q So the police officers have the shirt, correct?

15 A Correct.

16 Q And you never got that back, right?

17 A Right.

18 Q Going into it again about how well you know Mr. Micheline,  
19 or Mr. Leffew and Mrs. Leffew. When was the first time you  
20 met them?

21 A I don't know. Probably a couple months or something like  
22 that, a month and a half before that, I don't really  
23 remember.

24 Q How many times before the first incident that you said  
25 happened with the knife did you see them before that?

- 1 A I probably only seen them maybe, I don't know, I seen them a  
2 few times, I don't know how many times, a few, I don't know.
- 3 Q Did you ever talk to them?
- 4 A Yeah, I talk to them.
- 5 Q Did you know them a little bit?
- 6 A Just kind of a little bit, that's it.
- 7 Q You stated that you were afraid for your life when you saw  
8 the Leffews on November 18<sup>th</sup>. When were you afraid for your  
9 life was it when they rolled up in the car, or when they  
10 were kicking the door?
- 11 A I was, I knew there was going to be trouble that's why I  
12 called 911 again.
- 13 Q And again, why did you know there was going to be trouble?
- 14 A Well, he is a pretty strong personality against me and I  
15 don't know why but he does.
- 16 Q How do you know this?
- 17 A Just by the way he talks to me.
- 18 Q And how many times has he talked to you before that  
19 incident?
- 20 A I have no idea, a few times. He told me right out that he  
21 hated me before, so. I says, "Okay, good for you."
- 22 Q On November 18<sup>th</sup> when you saw them roll up in their vehicle  
23 did you grab a firearm at first?
- 24 A Not when they rolled up, it was before. (Inaudible) had the  
25 gun and threw it on my bed and was walking down--

1 Q Did you know they were coming?

2 THE COURT: Let the witness answer the question.

3 WITNESS: I tried to explain that before but you  
4 told me I couldn't say it, so I don't know what to tell you  
5 now, so,

6 BY MR. WINDSOR:

7 Q Here I'll ask the question again. When did you have your  
8 gun out, at your home, in anticipation of Mr. and Mrs.  
9 Leffew coming to your house?

10 A Well, I walked down the hallway, and somebody said something  
11 to me that they were coming down to take them, and I goes,  
12 "wow". So I went and got my gun and she says, "Don't,  
13 don't". And I thought about it for a minute. So I un-  
14 cocked it, it wasn't even loaded, I threw it on my bed.  
15 Walked down the hall and they pulled in the driveway.

16 Q So you knew before the Leffews reached your home on November  
17 18<sup>th</sup> that they were on their way, correct?

18 A After about, maybe 30 seconds, yeah.

19 Q Thirty seconds. Did you testify earlier that Mr. Leffew  
20 carried Micheline Leffew out of the house?

21 A No, I never.

22 Q Did you testify earlier, is it correct you said he had his  
23 arm around her helping her out on that November 18<sup>th</sup> day?

24 A I think he had his arm around her walking her out, yeah.

25 Q That would have been after you stated she jumped on you,

1 correct?

2 A Correct.

3 Q Do you know of anything that happened to her after you say  
4 she jumped on you, and after she had to be helped out of the  
5 house?

6 A I remember walking out to the, down the sidewalk at my  
7 house, and there had to be, she got out of the car and sat  
8 down by the back tire of the car.

9 Q You also stated that Micheline Leffew, on November 18<sup>th</sup>,  
10 threw a chair at your wall, is that correct?

11 A Correct.

12 Q What kind of chair was this?

13 A It was a hardwood chair that I use for my dining room table  
14 set.

15 Q Did you see what that did to your wall?

16 A Yeah, put a big hole in it.

17 Q And she did this after you smacked her in the head with the  
18 ashtray?

19 A Yeah.

20 Q Back to the incident that happened, I believe you said three  
21 days before the November 18<sup>th</sup> incident, you said Jeremiah had  
22 a knife on him. Where was this at?

23 A It was at his parent's house.

24 Q What kind of knife did you see on Jeremiah that day?

25 A It was kind of like a hunting knife or something. I don't

1 know, I just seen it. He was trying to hide it by his leg.

2 But Donna come up and took it away from him.

3 Q Did you see the knife itself?

4 A I seen the blade of it, yeah. Just for a little second.

5 Q Do you know if it was a fixed blade knife?

6 A I have no idea; I couldn't see the whole knife.

7 Q So you saw it for a second. How far away was Jeremiah from  
8 you when you saw the knife?

9 A About from here to the prosecutor. Then he made a couple  
10 lunges, like he walked at me like he was going to do  
11 something to me.

12 Q Did he lunge at you with the knife in his hand?

13 A He had it by his side. But I knew he had it.

14 Q Okay. Again, on that day of November 18<sup>th</sup> you didn't grab  
15 Lisa Seibert in any way?

16 A No.

17 Q You didn't grab her by her coat collar?

18 A Nope.

19 Q You didn't push her down?

20 A No.

21 Q Did you sit her down into a chair?

22 A Yeah, I helped her sit down in a chair, yeah,

23 Q And you stated you thought that she might have fainted in  
24 front of a door?

25 A Yeah, that's correct, yeah.

1 Q What makes you think that she was fainting?

2 A She was really upset, and I thought that she, because she's  
3 sliding down the door, I thought she was going to faint. So  
4 I put my hands out like that, and helped her up, and took  
5 her over and sat her down in the chair.

6 Q What did her eyes look like when she was doing this?

7 A I have no idea.

8 Q She just sat down, slid by the door and sat down?

9 A Yeah, on the floor, yeah.

10 Q Back to the, well, is it correct that you testified earlier  
11 that you were cut by Jeremiah Leffew and that steak knife  
12 that you said he had?

13 A Correct.

14 Q That cut, where was that on you?

15 A On my wrist.

16 Q Did you suffer any injuries from that tussle with Micheline  
17 Leffew?

18 A No.

19 Q Do you know if you got cut by the ashtray that you hit  
20 Micheline Leffew with?

21 A I didn't get, because I hit them with this hand with the  
22 ashtray.

23 Q Were you paying attention to every single detail of  
24 everything that happened that day?

25 A As close as I can recollect.

1 Q Okay. On November 18<sup>th</sup> were you on any legally prescribed  
2 medications that could have affected, you know, your motor  
3 skills?

4 A No.

5 Q Today are you, the same thing today?

6 A No, I'm not on, I take high blood pressure medicine and  
7 sugar medicine but it doesn't do nothing. Oh and some  
8 cholesterol medicine.

9 Q Now, explain to me the steak knife that you claimed Jeremiah  
10 used. It fell behind a TV?

11 A Correct.

12 Q What makes you think that it fell behind the TV, again?

13 A What makes me think that?

14 Q Yes.

15 A Weren't you listening sir?

16 Q Yes. But I need you to explain why again.

17 A He threw it across the living room, I got a clock, here's  
18 the wall and here's the TV out like this. It hit the clock,  
19 the clock and the knife fell down behind the TV, because the  
20 TV is on a stand, its kiddy corner in the corner.

21 Q Didn't you also testify that you thought he put it away in a  
22 drawer?

23 A I told the officers, I'm not for sure, I said that might be  
24 the knife that he used.

25 Q When did you find the knife behind the TV?

1 A When did I find it, that same night?

2 Q And did you find that before you talked to the police?

3 A No, it was after I talked to them. I was pretty shook up  
4 that night, so.

5 Q So it's correct that you assumed that he put it in a drawer  
6 but you found it later that night behind the TV?

7 A I remember him throwing his arm like that at the front, when  
8 he was in the living room. Then I got thinking about it,  
9 then I see it, and I said, "Wonder how the clock got off the  
10 wall," and I looked, and the knife was laying there with a  
11 hole in my clock.

12 Q How many times did you hear the Leffews say, you know in  
13 some form or another, "let's kill him", you know, to you?

14 A At least three times that I can recollect.

15 Q You stated Jeremiah tried to stab you with a steak knife on  
16 November 18<sup>th</sup>?

17 A Yes, sir.

18 Q Can you indicate how he had the knife held in his hand?

19 A Just like that. It went like that to stab, and I put my  
20 hand up like that and blocked it.

21 Q Kind of a (inaudible) motion not a striking, stabbing down  
22 motion?

23 A No like that, and then he drew back, went to do it again,  
24 and his ma said something, yelled his name out, and he was  
25 outside, and I don't know, then he just quit.



1 Q Now did you wrestle--he just quit stabbing at you?

2 A Yeah.

3 Q You didn't have to wrestle the knife away from him or  
4 anything?

5 A Nope.

6 MR. WINDSOR: Nothing further, Your Honor.

7 THE COURT: Redirect, Mr. Broughton.

8 REDIRECT EXAMINATION

9 BY MR. BROUGHTON:

10 Q Right after Ms. Leffew came into the house and you hit her  
11 with the ashtray, she was on the ground for a short period  
12 of time?

13 A Yes, sir.

14 Q And is that the same time you and Mr. Leffew were fighting?

15 A Yes, sir.

16 Q But your testimony is that she got up and jumped on your  
17 back?

18 A Correct.

19 Q And your testimony is that the door, I mean you heard the  
20 door getting kicked; I mean did you state that?

21 A Yeah, I could hear them kicking it.

22 Q And you were, I believe earlier you testified, you were on  
23 the phone with 911 when that was going on?

24 A Correct.

25 MR. BROUGHTON: I don't have any further

1 questions, Your Honor.

2 THE COURT: Do any of the jurors have any  
3 questions?

4 JUROR: I'd like to know--

5 THE COURT: No. You need to write it down, hand  
6 it to the bailiff, the bailiff will hand it to me.

7 May I see the attorneys at side-bar?

8 (At 2:15 p.m., side-bar on the record)

9 (At 2:15 p.m., side-bar concluded)

10 JUROR: Your Honor.

11 THE COURT: Oh, we got another question.

12 I'm not going to ask either of these questions.

13 This is just the first witness in the case. So I'm going to  
14 let the evidence be developed by the attorneys, and  
15 obviously later in the case if you still have questions you  
16 can submit those. But I'm not going to ask either of these  
17 questions at this time.

18 Call your next witness.

19 May the witness be excused?

20 MR. BROUGHTON: Unless they have recross, I guess.

21 THE COURT: Well, I'm not going to allow recross.

22 MR. BROUGHTON: Oh, perfect. So, yes.

23 THE COURT: I don't think there's any need for it,  
24 is there?

25 MR. WINDSOR: No, Your Honor.

1 MR. HADLEY: No.

2 THE COURT: Okay. May the witness be excused?

3 MR. BROUGHTON: Yes, he can. Well--

4 THE COURT: You want him to stay?

5 MR. BROUGHTON: Yeah, I want him to stay just for  
6 possibly for rebuttal.

7 THE COURT: Okay. You can step down Mr. Porter;  
8 you're not excused to leave, okay?

9 WITNESS: Okay.

10 (At 2:16 p.m., witness excused)

11 THE COURT: Call your next witness.

12 MR. BROUGHTON: Lisa Seibert.

13 THE COURT: Lisa Seibert.

14 MR. BROUGHTON: She's probably out in the hallway.

15 THE COURT: Ms. Seibert, you want to come forward.  
16 Will you pause right there for a second and raise your right  
17 hand. Do you solemnly swear of affirm that the testimony  
18 you are about to give, in the matter now pending before this  
19 court, will be the truth, the whole truth, and nothing but  
20 the truth so help you God?

21 MS. SEIBERT: I do.

22 THE COURT: Ma'am, if you'll come up here and have  
23 a seat. And when you get seated please state your full name  
24 and spell your last name for the record.

25 WITNESS: Lisa Kay Seibert. S-e-i-b-e-r-t.

1 THE COURT: Go ahead, Mr. Broughton.

2 LISA KAY SEIBERT

3 (At 2:18 p.m., called by Mr. Broughton and sworn  
4 by the Court, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BROUGHTON:

7 Q Ms. Seibert, do you know Donna Knezevich?

8 A Yes, I do.

9 Q How long have you known her?

10 A Twenty-five years.

11 Q In fact I think you're now married to her, correct?

12 A Yes.

13 Q And do you know Mr. Porter?

14 A Yes, I do.

15 Q How long have you known Mr. Porter?

16 A Probably a year and a half, something like that.

17 Q Did you, and, I guess, Ms. Knezevich, and Mr. Porter have an  
18 intimate relationship for awhile?

19 A Yes, we did.

20 Q So you had, prior to November 18<sup>th</sup>, of 2017, had you been to  
21 his house prior to that?

22 A Yes.

23 Q And had Ms. Knezevich?

24 A No.

25 Q So she hadn't been over there?

- 1 A No.
- 2 Q Okay. A few days before November 18<sup>th</sup>, well, did you live
- 3 with Ms. Knezevich?
- 4 A Yes.
- 5 Q Where did you guys live at?
- 6 A One seventeen Main Street, Sterling.
- 7 Q A few days prior to November 18<sup>th</sup> of last year did you end up
- 8 going to stay with Mr. Porter for a period of time?
- 9 A Yes.
- 10 Q And that was a few days, I guess.
- 11 A About five.
- 12 Q What happened to where you ended up going to stay with him?
- 13 A Well, Ms. Knezevich, well, Ms. Seibert now, she was getting
- 14 a little jealous of the relationship with me and Mike, and
- 15 so we kind of got into a little squabble, and she was
- 16 telling me to leave with him, and she called him to come get
- 17 me, and it was pretty heated at the house.
- 18 Q And so he came over to your house?
- 19 A Right.
- 20 Q And did you leave with him?
- 21 A Yes.
- 22 Q Did the police get called for this?
- 23 A Yes.
- 24 Q Were, was Jeremiah Leffew there?
- 25 A Yes.

- 1 Q Did you see Mr. Leffew during that incident?
- 2 A Yes.
- 3 Q Was he there when Mr. Porter was there?
- 4 A Yes.
- 5 Q Did you see Mr. Leffew with a knife then?
- 6 A Yes.
- 7 Q Do you know, at some point you and Mr. Porter left?
- 8 A Right.
- 9 Q And you went, did you go and stay at his house?
- 10 A Yes.
- 11 Q Was that something you voluntarily did?
- 12 A No.
- 13 Q When you say "no" what do you mean?
- 14 A I was told to leave with him.
- 15 Q All right. So, I mean, you, you didn't want to leave?
- 16 A No.
- 17 Q Okay. Ms Knezevich's house?
- 18 A Right.
- 19 Q But Mr. Porter didn't like kidnap you or anything?
- 20 A No.
- 21 Q Okay. While you were at his house did you have contact with
- 22 Ms. Knezevich?
- 23 A Yes.
- 24 Q He had a phone there?
- 25 A Yes.

- 1 Q I mean, did you have a phone?
- 2 A Yes, I did.
- 3 Q It's my understanding that--did you have a key to Mr.
- 4 Porter's house?
- 5 A Yes, I did.
- 6 Q How about keys to his vehicle?
- 7 A Yes.
- 8 Q On November 18<sup>th</sup>, did you, were there conversations by text
- 9 or phone between you and Ms. Knezevich?
- 10 A Yes.
- 11 Q At that time did you decide you wanted to go back to Ms.
- 12 Knezevich's house?
- 13 A Right.
- 14 Q It's my understanding she kind of proposed to you?
- 15 A Yes.
- 16 Q All right. And did you tell Mr. Porter that?
- 17 A Not right away I didn't.
- 18 Q At some point did Mr., well, did Ms. Knezevich come to Mr.
- 19 Porter's house?
- 20 A Yes, she did.
- 21 Q Who was she with?
- 22 A With Jeremiah and Micheline.
- 23 Q Where are they seated?
- 24 A They're right there at the defendant's table.
- 25 Q So they, do you know who drove?

1 A Would have had to been Jeremiah.

2 Q Why do you say that?

3 A Because neither of the ladies have licenses.

4 Q Okay. So was, did, were you present when Mr. Porter called

5 911 when the car arrived?

6 A Yes.

7 Q So you, you were there when he called them?

8 A Right.

9 Q You, did somebody come to the front door after the car

10 arrived there?

11 A Jeremiah and Micheline.

12 Q Ms. Knezevich didn't come to the front door?

13 A She stayed out by the car.

14 Q Where were you at when they came to the front door?

15 A I was right in the living room looking out the front room

16 window.

17 Q And could you see the vehicle there?

18 A Yes.

19 Q And did they knock on the front door?

20 A Beat on it.

21 Q Did anybody, did either one of them say anything?

22 A They were kind of giving Mike a hard time, and Micheline

23 slapped him, and then she sat down in the doorway, and he

24 was telling them, "Just give me a few minutes, give me a few

25 minutes," and they weren't listening. And finally he got



1 the door shut, and that's when they started beating down the  
2 door, and picking up big rocks.

3 Q Well, you were in the house at this point?

4 A Yes, I was in the house.

5 Q Where were you at in relation to Mr. Porter?

6 A I was standing behind him when he was at the door.

7 Q Okay. And then, did you end up at the kitchen table, dining  
8 room table at some point?

9 A Yes.

10 Q How did you get there?

11 A Well, we both went in there and he was pretty much afraid  
12 that something was going to happen to either one of us. So  
13 I sat in a chair and he kind of stood in front of me, and  
14 that's when they were beating the backdoor in, and he was on  
15 the phone calling 911 for the second time.

16 Q Did you hear the backdoor, I guess, get kicked in?

17 A Yes.

18 Q Did you see anything?

19 A No. By that time I was going out the front door.

20 Q So you could hear, you heard the backdoor get kicked in?

21 A Yeah, and they were telling me to run.

22 Q So you took off out the front door at that point?

23 A Yes.

24 Q Where was Mr. Porter when this was happening?

25 A He was in the kitchen.

- 1 Q Is the, how far apart are the kitchen and the dining room?
- 2 A Right through the door, right there.
- 3 Q Are they like attached, the same room or anything, or no?
- 4 A No, they're not attached.
- 5 Q Was the, was the table where you were at in the kitchen or
- 6 in the dining room?
- 7 A The dining room.
- 8 Q Okay. That's a few feet away, at least, from the backdoor?
- 9 A Right, yes.
- 10 Q So you didn't see who came in the backdoor first, or anybody
- 11 get hit with anything?
- 12 A No, I did not.
- 13 Q Did you see anybody with a knife?
- 14 A No.
- 15 Q When you went out the front door where was Ms. Knezevich?
- 16 A She was out front.
- 17 Q By the front door?
- 18 A Yes.
- 19 Q And did Mr. and Mrs. Leffew exit through the front door at
- 20 some point?
- 21 A Yeah, yes.
- 22 Q What was Ms. Leffew's condition?
- 23 A She was bleeding on her face, and she was real incoherent
- 24 because she had had a seizure.
- 25 Q When you say she had a seizure, I mean, did you see her?

- 1 A Well, I went back in the house to get the rest of my stuff,  
2 and all I could see was Mike and Jeremiah in the corner, and  
3 I think Mike was against the wall, and all I could see of  
4 her was like from her waist down, she was laying on the  
5 floor.
- 6 Q Was she by Mr. Porter and Mr.--
- 7 A It was a pretty small kitchen.
- 8 Q Okay. So they're all near one another?
- 9 A Yeah.
- 10 Q So you went back in to, you had stuff you had to get out of  
11 there?
- 12 A Yes.
- 13 Q Did you go back in again with Ms. Knezevich?
- 14 A When my wife went in to talk to Mike I went back in, and  
15 everything was okay, and they got done with what they were  
16 doing, and we left.
- 17 Q Do you know why she went back in? Not that, you can't say  
18 what she said, I'm just curious if you know?
- 19 A I don't know what she said. But, yeah, I know why she went  
20 in.
- 21 Q Was it to get a ring?
- 22 A Yes.
- 23 Q Was that a ring that you and her had given to Mr. Porter?
- 24 A Yes.
- 25 Q When you went back in, who, do you know if either of the

1           Leffews went back in with you, or both of them?

2   A       No, they didn't.

3   Q       Nobody else went back, just you two at that point?

4   A       Yes.

5   Q       And while you were there did, I mean did Mr. Porter, well,  
6           you had, were you able to leave? I mean you had his car  
7           keys, was it okay if you would have taken his car and went  
8           to the store or something?

9   A       I'm sure I could of, but I didn't.

10               MR. BROUGHTON: Okay. I don't have any further  
11               questions, Your Honor.

12               THE COURT: Cross, Mr. Hadley.

13                               CROSS-EXAMINATION

14   BY MR. HADLEY:

15   Q       Hello, Ms. Seibert.

16   A       Hello.

17   Q       Take you back to the night of November the 18<sup>th</sup>; you recall  
18           that night, correct?

19   A       Yes.

20   Q       I believe you testified that you had been at Mr. Porter's  
21           house for two, three days?

22   A       Approximately five.

23   Q       Approximately five.

24   A       Yeah.

25   Q       And that was a result of a domestic dispute that you had

- 1 with Ms. Knezevich?
- 2 A It was, yeah, a little, she was pretty upset.
- 3 Q Okay. Somebody asked you to leave though, correct?
- 4 A She did.
- 5 Q She did. And that's when you went to Mr. Porter's?
- 6 A He came, yeah.
- 7 Q Okay. And Mr. Porter, your wife now, and you, have a  
8 relationship, is that a fair statement?
- 9 A Yes.
- 10 Q Ms. Seibert, you recall testifying on behalf of myself, at a  
11 preliminary examination, do you recall that?
- 12 A Yes.
- 13 Q Okay. Do you recall your testimony from that date?
- 14 A Not all of it.
- 15 Q Not all of it. Let me see if I can walk you through it.  
16 While you were there at Mr. Porter's house were you free to  
17 go anytime you wanted to?
- 18 A He was kind of scared for me, too, because of Jeremiah.
- 19 Q Okay. Did he have some sort of an infatuation with you that  
20 he didn't want you to go back to Donna?
- 21 A Yes.
- 22 Q Did he tell you that?
- 23 A Yes.
- 24 Q And that was during the five days that you were at his  
25 house?

- 1 A Yes.
- 2 Q And it's fair to say that between Mr. Porter, you, and your  
3 wife, the three of you have had an intimate relationship,  
4 correct?
- 5 A Yes.
- 6 Q Okay. Was there a point in time, on the 18<sup>th</sup> of November,  
7 when you wanted to leave?
- 8 A Yeah.
- 9 Q Were you talking to anyone that day on the phone?
- 10 A I talked to a friend of mine and I talked to Donna.
- 11 Q Okay. What was the friend of yours name?
- 12 A Miranda.
- 13 Q What's Miranda's last name?
- 14 A Might be Grindstaff, something like that.
- 15 Q Okay. Did you talk to her on the phone or was it like text  
16 messaging, or?
- 17 A No, we talked.
- 18 Q Okay. Did you tell Miranda on November 18<sup>th</sup>, that you wanted  
19 to leave Mr. Porter's house?
- 20 A Yes, I did.
- 21 Q Okay. Why didn't you leave after you talked to Miranda?
- 22 A Well, she would have came and got me but her car had broke  
23 down, otherwise she was going to.
- 24 Q Okay. Did you ask Mr. Porter to leave that day?
- 25 A No.

- 1 Q Okay. But you said you wanted to leave?
- 2 A Right.
- 3 Q Where did you want to go?
- 4 A Back home.
- 5 Q Okay. Why did you want to go back home?
- 6 A Because I happen to love my wife.
- 7 Q Okay. And there was some conversation you had with Donna,  
8 correct, that day?
- 9 A Yes, yes.
- 10 Q And I think you testified that she proposed to you, by text  
11 message or on the phone?
- 12 A I was talking to her, and she proposed, and I told her to  
13 come and get me.
- 14 Q Okay. Did you talk to Mr. Porter after you had that  
15 conversation?
- 16 A Not right away.
- 17 Q Okay. Did you ever ask Mr. Porter, after that conversation,  
18 that you wanted to go home, or would he give you a ride, or  
19 could you leave?
- 20 A Yeah, I told him I was leaving.
- 21 Q Okay. And what did he say?
- 22 A He was kind of a little bit upset, naturally, you know. But  
23 we both were kind of like, you know crying, and he was  
24 trying to talk to me, and I was yelling at him.
- 25 Q Well, did he offer to give you a ride back to Donna's house?

- 1 A He didn't have a chance to.
- 2 Q Okay. What happened when you said that he didn't get a  
3 chance to, is that when Mr. Leffew showed up?
- 4 A Well, I probably told him they were coming to get me maybe  
5 five minutes before they pulled in.
- 6 Q All right. Were you getting your coat on to leave?
- 7 A Yeah.
- 8 Q Okay. Then Mr. Leffew showed up?
- 9 A I was putting my coat on when they were at the door.
- 10 Q When you say they?
- 11 A When Jeremiah and Micheline was at the door.
- 12 Q Okay. Was there anyone else?
- 13 A Donna was walking up to the door by then.
- 14 Q So there was three of them?
- 15 A Yeah.
- 16 Q Okay. Did they come up to the front door or backdoor?
- 17 A Front door.
- 18 Q And you recall the conversation that Mr. Porter had with  
19 those three individuals at the front door?
- 20 A Yes, I do. He just told them please give me a few minutes  
21 to talk to her and it would be all right.
- 22 Q Okay. Do you recall me asking you at the preliminary  
23 examination if you wanted to leave Mr. Porter's house on the  
24 18<sup>th</sup>?
- 25 A No, I don't recall.



1 Q Okay. Do you recall if you said, actually, "Yeah, I wanted  
2 to leave."?

3 A Yeah, I do now, yeah.

4 Q Okay. So you actually did want to leave on the 18<sup>th</sup>?

5 A My house?

6 Q No, no, Mr. Porter's house.

7 A Oh, yeah.

8 THE COURT: She testified today that she wanted to  
9 leave on that day.

10 MR. HADLEY: Okay, all right.

11 BY MR. HADLEY:

12 Q Was Mr. Porter stopping you when you wanted to leave?

13 A He was just kind of talking to me, that little things that  
14 we had, conversations we had while I was there.

15 Q Okay. Was he holding you or forcing you to not leave?

16 A No, he wasn't forcing me not to leave.

17 MR. HADLEY: May I approach, Your Honor, page 34,  
18 Your Honor.

19 BY MR. HADLEY:

20 Q I'm showing you, it's not marked as an exhibit, it's the  
21 preliminary transcript dated December 19<sup>th</sup> of 2017. Do you  
22 recall your testimony that day?

23 A Apparently not all of it.

24 Q Okay. Well I asked you, I just asked you, "Was he stopping  
25 you?" And then I asked you, "How was he stopping you?" Do

1 you recall this question, question #10, question, "How was  
2 he stopping you?" You see that? Could you read line #11 to  
3 the jury please:

4 A "He was holding on to me, he was kind of like  
5 keeping me--I went to the door."

6 I can't see it.

7 Q And line 12, I'm sorry.

8 A "Grabbed the doorknob, and he kind of pushed me  
9 away from the door."

10 Q Okay. Was that a true statement when you testified at the  
11 preliminary examination?

12 A When I was at the door--

13 Q No, listen to my question.

14 A I'm telling you, I was at the door.

15 Q When you testified on December 19<sup>th</sup>, and I asked you this  
16 question.

17 A Right, right.

18 Q "If Mr. Porter was holding or stopping you from leaving  
19 against your will?" And you read those lines to the jury,  
20 that was what you testified to, correct?

21 A Right, right.

22 Q Okay. So when I just asked you today if Mr. Porter was  
23 stopping you from leaving you said, "No".

24 A He wasn't forcefully holding me from going.

25 Q Okay. Well, let's read question 11 again, your answer,

- 1       okay. What does line 11 say, read it for the jury please.
- 2   A       He was holding on to me.
- 3   Q       Okay. And you said he wasn't, but in December you said he
- 4       was. Which one is it?
- 5   A       He was holding me, but he wasn't forcing me, is what I'm
- 6       trying to say.
- 7   Q       So you can hold somebody but not be forceful about it?
- 8   A       He was holding me and trying to talk to me.
- 9   Q       Okay, all right.
- 10   A       And I was yelling at him.
- 11   Q       Okay. And when you were up at the front door with Mr.
- 12       Porter, you didn't go out the front door, did you?
- 13   A       No.
- 14   Q       Okay. Did you try to go out the front door?
- 15   A       I was there; I had my hand on the doorknob.
- 16   Q       Okay. Well, why didn't you go out the front door?
- 17   A       Because Mike came and--
- 18   Q       Okay. Did Mr. Porter push you away from the front door?
- 19   A       I don't think it was intentional because I had my back to
- 20       him.
- 21   Q       Do you think that you could have testified in December that
- 22       he pushed you away from the door when your hand was on the
- 23       knob?
- 24   A       I probably did.
- 25   Q       Okay. Do you recall if you said that?

- 1 A Probably did.
- 2 Q Okay, all right. Did Mr. Porter get out a gun during that  
3 night or that afternoon?
- 4 A When they first pulled in the driveway?
- 5 Q Is that a "yes"?
- 6 A Yes.
- 7 Q Do you know what kind of a gun it was?
- 8 A I don't know nothing about guns.
- 9 Q Okay. He didn't use that or threaten you with it, did he?
- 10 A No.
- 11 Q Okay. Did you tell him to get rid of it or put it away?
- 12 A I told him to put it away, yeah.
- 13 Q Okay. And he did that?
- 14 A Yes.
- 15 Q All right. Do you recall testifying in December that you  
16 tried to get out the front door, and that he was holding you  
17 back, and he wasn't going to let you leave?
- 18 A Yeah.
- 19 Q Okay. And you recall, when I asked you a question, "Did he  
20 tell you you couldn't leave?", and you replied, "Yes".
- 21 A Right.
- 22 Q You recall that?
- 23 A Yup.
- 24 Q Okay. .So when Mr. Porter shut the door, the front door, did  
25 he grab you?

- 1 A No.
- 2 Q You didn't testify that you managed to get away from him,  
3 and then he grabbed you, and put you on the floor?
- 4 A That wasn't at that time.
- 5 Q And I asked you if he knocked you down, and you said, "Yes"  
6 is that correct?
- 7 A Yeah.
- 8 Q Okay. Did he do that?
- 9 A Yeah. But I don't think it was an intentional knockdown.
- 10 Q What, so these are all, these things that you testified to  
11 about him, grabbing you away from the front door; not  
12 letting you leave; grabbing you, putting you on the floor;  
13 and he knocked you down, none of these incidences was  
14 intentional?
- 15 A No.
- 16 Q Why did he do it?
- 17 A Because he was trying to talk to me, trying to talk me into  
18 staying.
- 19 Q But you were trying to leave.
- 20 A Yeah.
- 21 Q And you couldn't really leave if he was grabbing you and he  
22 threw you on the floor, fair statement?
- 23 A That's a fair statement but it wasn't intentional.
- 24 Q But you didn't say whether it wasn't intentional or by  
25 accident in December, correct? You testified what he did to

1           you in December, so now you're saying today--

2                   THE COURT: Is there a question?

3                   MR. HADLEY: Yeah.

4                   THE COURT: Let's get to it.

5 BY MR. HADLEY:

6 Q           So none of these things that I talked to you about, that you  
7 testified to, he meant to do those to you, by accident?

8 A           I was at the door, and he come up behind me, and he had his  
9 hand on my hand on the doorknob.

10 Q           At some point in time did Mr. Porter put you in a chair?

11 A           Yeah. He sat, when they were beating on the backdoor he sat  
12 me down in a chair, and he was in front of me because--

13 Q           Did he sit on top of you in the chair?

14 A           He just leaned in, he was calling 911.

15 Q           Okay. As he was holding you in the chair?

16 A           Not really holding me in the chair.

17 Q           Okay. Just kind of leaning against you?

18 A           Yeah.

19 Q           Okay. Still wanted to leave right?

20 A           Well, with them beating the door in like that, no.

21 Q           Do you recall writing a statement to the police?

22 A           Sure.

23                               (At 2:44 p.m., People's Exhibit #10 marked for  
24 identification)

25 BY MR. HADLEY:

1 Q Ms. Seibert, I'm going to show you what's been marked as  
2 People's proposed exhibit #10, ask you to take a look at  
3 that for just a second, there are two pages. Let me know  
4 when you have reviewed that, okay? Ready? Ms. Seibert is  
5 this proposed exhibit #10, was this in your handwriting or  
6 printing?

7 A Yes.

8 Q And on the bottom of page 1 and on the bottom of page 2,  
9 does that appear to be your signature?

10 A Yes.

11 MR. HADLEY: I'd move for the admission of  
12 People's proposed #10.

13 THE COURT: Any objection?

14 MR. BROUGHTON: No, Your Honor.

15 THE COURT: Mr. Windsor?

16 MR. WINDSOR: No.

17 THE COURT: Shall be admitted.

18 (At 2:46 p.m., People's Exhibit #10 received into  
19 evidence)

20 MR. HADLEY: Publish, Your Honor?

21 THE COURT: Go ahead.

22 MR. HADLEY: Thank you.

23 BY MR. HADLEY:

24 Q Now, you've read both pages, correct?

25 A Um-hum.

1 Q In that voluntary statement, did you indicate in there that,  
2 "Mr. Porter grabbed and pushed me in the dining room and  
3 held me there."?

4 A Yeah.

5 Q Okay. Did you also put in your voluntary statement that,  
6 "He kept me there, he wouldn't let me get up." Pushed you  
7 into the chair the second time."?

8 A No, he only did it once.

9 Q Okay. You've got down here, "Tried to go out the front  
10 door, pushed me to the floor, and then got me up, and pushed  
11 me in the chair and kept me there, he wouldn't let me get  
12 up." That's your statement?

13 A Yeah.

14 Q You think this was intentional?

15 A No.

16 Q How come?

17 A Because, like I previously said, he was scared for both of  
18 us.

19 Q Do you recall having meetings with myself, Mr. Windsor, and  
20 Mr. and Mrs. Leffew?

21 A Yeah, a couple.

22 Q And also with your wife now, Donna?

23 A Couple, yeah.

24 Q Okay. And you recall the testimony in December, correct?  
25 Yes?



1 A Yeah.

2 Q Is it your testimony today that the jury is to believe your  
3 story, or is it from the prior testimony that we read  
4 together, and your voluntary statement, is that a true  
5 statement?

6 A A portion of it is, yeah.

7 Q Okay. What portion of it is not?

8 A That, he wasn't doing any harm to me, and he did not push me  
9 intentionally.

10 Q Okay. What has changed in the relationship between you and  
11 your son-in-law since this incident?

12 A You really want to know?

13 Q I really asked.

14 A He tried putting me in jail, and he actually put his mom in  
15 jail, and got her in trouble for domestic violence.

16 Q Okay. When did this occur?

17 A Two months ago.

18 Q Okay. So after November 18<sup>th</sup>?

19 A Yeah.

20 Q And after December 19<sup>th</sup>, for the preliminary examination?

21 A And the reason--

22 Q No, no, answer my question.

23 A What was it?

24 Q So this incident that you're talking about, about trying to  
25 put your wife in jail, happened after the incident on

1 November 18<sup>th</sup>?

2 A Yeah.

3 Q Happened after the preliminary transcript, preliminary  
4 examination on December 19<sup>th</sup>?

5 A Yeah.

6 Q So up until that time life was good for everybody, right?  
7 You guys all got along together?

8 A I basically had to; they were living in my house.

9 Q Okay. But you were fine with them on December 19<sup>th</sup>?

10 A Yeah.

11 Q Okay. But then after that you're saying you're upset with  
12 your son-in-law, Mr. Leffew, because he tried to throw your  
13 wife in jail?

14 A They were trying to coerce me into testifying the way they  
15 wanted to. And they kept making appointments with you  
16 lawyers to go in there and basically lie.

17 Q But you spoke with me, correct?

18 A I spoke with you, yeah.

19 Q And you spoke with Mr. Windsor, correct?

20 A Yes, I did.

21 Q And you told me what happened, correct?

22 A I told you what happened.

23 Q Okay. And we discussed the incident?

24 A Yes.

25 Q We went over the police report?

1 A Um-hum.

2 Q We discussed potentially your testimony on December the 19<sup>th</sup>  
3 is that a fair statement?

4 A Yeah.

5 Q Okay. Everything was fine then.

6 A Yeah, everything was fine all the time.

7 Q But now it seems that you're testifying--Ms. Seibert you  
8 don't know what my question is.

9 A Yeah, I do.

10 Q You think you know what I'm going to say, right?

11 A Yeah, I do.

12 Q Because today you're sitting here, and you're going to try  
13 to explain to this jury a different story.

14 A No, it ain't different.

15 Q Well, it seems that you and I have been kind of dancing the  
16 last half hour about your testimony.

17 A When I wrote that statement I was in the back of a cop car  
18 and I was very upset, very upset with everything that  
19 happened.

20 Q But you made that statement out within a few minutes to an  
21 hour after the incident.

22 A I don't know how long it was.

23 Q Well, was it the same night?

24 A Well, yeah.

25 Q I'm assuming that that incident was very, very, fresh in

1 your mind?

2 A Yeah.

3 Q I'll bet fresher than it is today.

4 A Not really.

5 Q You're not trying to persuade any of us, or the jury, in  
6 conflicting testimony, are you?

7 A No.

8 Q Are you sure

9 A I'm positive.

10 MR. HADLEY: No further questions.

11 THE COURT: Cross Mr. Windsor?

12 MR. WINDSOR: Yes, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. WINDSOR:

15 Q Ms. Seibert, first, have any lawyers told you to lie today?

16 A No.

17 Q Mr. Hadley and I we never told you what to say on the stand,  
18 correct?

19 A No.

20 Q And you remember the preliminary exam on December 19<sup>th</sup>, 2017,  
21 correct?

22 A Yup.

23 Q Do you remember testifying, you remember testifying that  
24 day, correct?

25 A Yup.

1 Q First, did you have to sneak around to call on your phone or  
2 use your phone?

3 A No.

4 Q Did you have to keep your phone usage from Mr. Porter while  
5 you were living there?

6 A My phone stayed in the one room.

7 Q Okay. When is the last time you had contact with Mr.  
8 Porter, not including today, but before today, when is the  
9 last time you had contact with him?

10 A Just when I was at his house.

11 Q And when was that? The November incident was the last time  
12 you were at his house?

13 A Yeah.

14 Q You're not in any relationship with him right now?

15 A No.

16 Q Not in any form?

17 A No way.

18 Q Do you know if your wife, Donna, is in any relationship with  
19 him?

20 A No.

21 Q Okay. Now, going back to the November date of the incident,  
22 on November 18<sup>th</sup>, did you see Micheline Leffew come up to the  
23 front door on that day?

24 A Yes.

25 Q You saw, you also testified that you saw Mr. Leffew and

1 Donna come up later, correct?

2 A No. Jeremiah and Micheline came to the door first.

3 Q Okay and then what happened?

4 A Mike answered the door, and Micheline slapped him in the  
5 face. Then she sat down in the door and he was trying to  
6 shut it.

7 Q So you're saying that Micheline slapped Mr. Porter in the  
8 face?

9 A Yes.

10 Q Do you remember yelling to try and have Micheline and Mr.  
11 Jeremiah Leffew get you out of that house?

12 A No.

13 Q Do you remember yelling at all that day?

14 A I was yelling at Mike.

15 Q What were you yelling at Mike about?

16 A Just telling him that I wasn't staying I was going.

17 Q And it's true that you wanted to leave that day, correct?

18 A Yeah.

19 Q And you had your coat on while you were behind him at the  
20 door.

21 A I was putting it on while he was, when he answered the door.

22 Q And again, you, I'll ask it again to lay out the foundation  
23 but you remember the preliminary exam on December 19<sup>th</sup>, 2017,  
24 correct?

25 A Yeah.

1 Q Do you remember asking you if you had to sneak around to  
2 talk on the phone?

3 A If I talked to Donna I did, yeah. But I talked to a few of  
4 my friends and I didn't have to.

5 Q So you did have to sneak around to talk to Donna while you  
6 were on the phone?

7 A Yeah, a couple times. I didn't talk to her a whole lot.

8 Q And Mr. Porter never abused you while you were staying at  
9 his house, correct?

10 A Never.

11 Q He's never pushed you around before November 18<sup>th</sup>?

12 A Never.

13 Q Has he ever verbally abused you?

14 A No.

15 Q Did you feel controlled while you were at Mr. Porter's  
16 house?

17 A No.

18 Q And why weren't you allowed to talk to Donna on the phone?

19 A The man was in love with me.

20 Q He was in love with you, but what were you afraid of  
21 happening if you were to talk on the phone with Donna?

22 A I just didn't want him to get mad.

23 Q Do you remember fainting in front of the door?

24 A Fainting?

25 Q Yeah.

1 A No.

2 Q Do you remember having your back against the front door and  
3 sliding down and sitting on the ground, or anything similar  
4 to that?

5 A Not against the door?

6 Q Do you remember Mr. Porter sitting you at the dining table,  
7 is that correct?

8 A Yeah.

9 Q Did you ever feel weak or act like you were fainting on  
10 November 18<sup>th</sup>?

11 A No.

12 Q Did you see Micheline throw a chair in the house on November  
13 18<sup>th</sup>, 2017, or the day in question?

14 A No.

15 Q Did you see a knife in Jeremiah's hand on that same day?

16 A I didn't see no knife. But I had his keys still and they  
17 asked him if I could go back to his house because I still  
18 had a couple more things there, and I wanted to return his  
19 keys. And when I was going back there Jeremiah asked me to  
20 find the knife that was in the living room by the sliding  
21 doors.

22 Q I mean you testified that you were scared of the Leffews  
23 today, is that true that you were scared on that date?

24 A I wasn't scared, but Mr. Porter was.

25 Q So you testified Mr. Porter was scared for you?



1 A Well, yeah.

2 Q And is it true that you left with the Leffews on November  
3 18<sup>th</sup>, on the day in question?

4 A Well, that's the only way, that's how my wife got out there  
5 to get me.

6 Q How long have you known Mr. Leffew, Jeremiah, right here?

7 A Twenty-five years.

8 Q And what sort of a relationship have you had with Jeremiah?

9 A Been good.

10 Q Would you characterize it as a mother/son relationship?

11 A Kind of, yeah.

12 Q Or is it more of a step-mother/son relationship?

13 A There you go.

14 Q But still pretty much a parental figure none the less,  
15 correct?

16 A Yeah.

17 Q So it's been 25 years?

18 A Yes.

19 Q How long, did you know that the Leffews were coming to pick  
20 you up on that November date?

21 A Right.

22 Q And you were getting ready to go with them, correct?

23 A Right.

24 Q Do you know about how long after Mr. Porter knew that they  
25 were coming, you know after you found out that they were

- 1 coming, how long Mr. Porter found out they were coming.
- 2 A I kind of was waiting until they got pretty close to the
- 3 house before I told him.
- 4 Q And why was that?
- 5 A Because I knew how he felt about them.
- 6 Q But you were ready to leave, is that correct?
- 7 A Yeah.
- 8 Q And you were planning on leaving, correct?
- 9 A Yeah.
- 10 Q And do you know if you texted anyone saying, "Yes, come pick
- 11 me up."?
- 12 A I don't text.
- 13 Q Did you call someone and verbally say, "Hey pick me up."?
- 14 A No, I didn't call. She called me.
- 15 Q You're testifying right now that you were called, and I kind
- 16 of know what you're talking about but we don't have to get
- 17 into that. But did you tell the person that called you,
- 18 "Yes, come pick me up."?
- 19 A Yeah.
- 20 Q So everyone that was coming to get you knew that you wanted
- 21 to leave, correct?
- 22 A Yeah.
- 23 Q Does Mr. Porter have a temper at all?
- 24 A No.
- 25 MR. WINDSOR: All right. Nothing further.

1 THE COURT: Redirect.

2 REDIRECT EXAMINATION

3 BY MR. BROUGHTON:

4 Q There was a prior, when Mr. Porter came to pick you up at  
5 Ms. Knezevich's house a few days prior, there was an  
6 incident with, was there an incident with him and Mr.  
7 Leffew?

8 A Yes.

9 Q Do you know how Mr. Leffew felt about Mr. Porter?

10 A He didn't like him for pretty much the whole time he'd known  
11 him.

12 Q And you, so you've known Mr. Leffew as long as you've known  
13 Donna, sounds like?

14 A Correct.

15 Q When you initially, and you knew he, him and Ms. Leffew had  
16 broken in the backdoor when you left?

17 A Yes.

18 Q When you made the statements were you trying to protect  
19 them?

20 A Was I trying to protect them?

21 Q Yes. When you made the statement that night to the police.

22 A I was upset because she had gotten hit in the head, and her  
23 head was split open, and she was having seizers, and yeah, I  
24 was pretty upset.

25 Q Were you upset while you were in Mr. Porter's house? I mean

1       when you and him were talking, earlier you said you were  
2       both crying, or?

3   A       Yeah, yeah, we were.

4   Q       Was he trying to talk you into staying or something?

5   A       That's right, yeah. That's what the whole thing was.

6   Q       And you stated the reason that they came and picked you up  
7       from Ms. Knezevich's house is, she was jealous of your  
8       relationship with Mr. Porter?

9   A       It was getting a little bit out of hand, yeah.

10   Q       Okay. And Mr. Leffew's her son, correct, Ms. Knezevich's  
11       son?

12   A       Yes.

13               MR. BROUGHTON: I don't have any further  
14       questions, Your Honor.

15               THE COURT: May the witness step down?

16               MR. BROUGHTON: Yeah, yes. She can be excused.

17               THE COURT: Thank you, ma'am, you're excused.

18               WITNESS: Thank you.

19               (At 3:03 p.m. witness excused)

20               THE COURT: Let's take a mid-afternoon break, give  
21       you all a chance to stand up and stretch and use the  
22       restroom if you need to. So we'll take a ten minutes recess  
23       right now.

24               (At 3:03 p.m., jury exits courtroom)

25               THE COURT: Okay, take ten, gentlemen.

1 MR. HADLEY: Okay.

2 (At 3:04 p.m., proceedings in recess)

3 (At 3:19 p.m., proceedings reconvene - all parties  
4 present)

5 THE COURT: Thank you, be seated. I know that one  
6 of you didn't get to see the last exhibit, but we're going  
7 to go ahead and press on. All of these exhibits are going  
8 to go back into the jury room with you.

9 JUROR: We're missing one yet.

10 COURT BAILIFF: Yup, right here.

11 THE COURT: Ms. Basgall, I know you didn't get to  
12 see the last exhibit yet, but we're going to press on. You  
13 will have a chance to see that later, all the exhibits will  
14 go back into the jury room with you. But we're going to  
15 press on.

16 Mr. Broughton, call your next witness.

17 MR. BROUGHTON: Deputy Ochab.

18 THE COURT: Raise your right hand. Do you  
19 solemnly swear or affirm that the testimony you are about to  
20 give, in the matter now pending before this court, will be  
21 the truth, the whole truth, and nothing but the truth, so  
22 help you God?

23 DEPUTY OCHAB: I do.

24 THE COURT: Come up and have a seat. When you get  
25 seated state your full name, spell your last name for the

1 record.

2 WITNESS: Deputy Christopher Ochab, O-c-h-a-b.

3 THE COURT: Go ahead, Mr. Broughton.

4 DEPUTY CHRISOPHER OCHAB

5 (At 3:20 p.m., called by Mr. Broughton and sworn  
6 by the Court, testified as follows)

7 DIRECT EXAMINATION

8 BY MR. BROUGHTON:

9 Q Deputy Ochab, who are you employed with?

10 A The Arenac County Sheriff's Office.

11 Q And how long have you been employed with them?

12 A Getting close to nine years now.

13 Q So you're one of the senior guys over there.

14 A I am, moving up the ladder.

15 Q And you were the investigating officer in the matter, is  
16 that correct?

17 A Yes, sir.

18 Q On November 18<sup>th</sup>, 2017 were you dispatched to 5951 S. Huron  
19 Road?

20 A Yes, sir.

21 Q Do you know about what time that was?

22 A It was about 16:06 hours, which would be about 4:06 in the  
23 afternoon.

24 Q And what was the nature of the call, or why were you  
25 dispatched?

- 1 A What happened was is we received a call from Bay City, or  
2 Bay County Central Dispatch of a possible assault and break  
3 and entering complaint at an address. That was all we were  
4 given for the call. So we didn't have the nature of who,  
5 what, you know, just pretty much there's a possible assault  
6 and a possible break and entering at this address.
- 7 Q And so did you proceed to go there?
- 8 A Yes.
- 9 Q And there were other officers that ended up showing up too,  
10 I think.
- 11 A Yes, sir. There was several others.
- 12 Q But you're the one who, you were the officer in charge,  
13 basically?
- 14 A Correct.
- 15 Q When you arrived who was at the house?
- 16 A Mr. Porter was the only person that was at the residence.
- 17 Q And when you first arrived did you go to the front door?
- 18 A We did go through the front door.
- 19 Q What did you first observe?
- 20 A We observed that there had been an incident that occurred  
21 throughout the dining room and kitchen area. There had  
22 been, the backdoor to the residence had been kicked in.
- 23 Q What makes you say that?
- 24 A There was footwear impressions on the backdoor.
- 25 Q And did you, what else did you observe in the house?

- 1 A We observed pieces of the door trim, pieces, you know, from  
2 the door itself, it looked like the wood had been moved.  
3 There was a broken, pieces of an ashtray, there was blood in  
4 there. There was a couple chairs that was knocked over. I  
5 believe there was a hole in one of the walls in the dining  
6 room.
- 7 Q So it looked like something had happened?
- 8 A Correct.
- 9 Q And did you, and you talked to Mr. Porter?
- 10 A I did.
- 11 Q He told you, basically what he testified to today?
- 12 A Correct.
- 13 Q And there were other officers present?
- 14 A Yes.
- 15 Q You said you observed pieces of an ashtray?
- 16 A I did.
- 17 Q And I think at least one of the exhibits, one of the  
18 photographs has, I'm showing you what's been marked as  
19 People's Exhibit #3, is that the ashtray you're talking  
20 about on the left, in the photograph on the left there?
- 21 A Yup, on the floor next to the broom.
- 22 Q Okay and did it look like Mr. Porter had been cleaning up a  
23 little bit?
- 24 A It did.
- 25 Q I mean, as far as you knew that was the ashtray that was



1 involved?

2 A Yes.

3 Q Based on what he said?

4 A Yes. As well as the other statements given that I collected  
5 throughout the investigation.

6 Q So there was some--so you may not have taken those pictures  
7 but you were there when the pictures were taken?

8 A Yes.

9 Q You said there was footwear impressions on the backdoor?

10 A Correct.

11 Q And that's in one of the pictures?

12 A Yes.

13 Q That's how you determined that the door was kicked in?

14 A Also from the statements given to me by both defendants.

15 Q And, I mean, did you observe damage to the door jamb and  
16 door frame?

17 A Yes.

18 Q After you were at the house where did you go to?

19 A I went to the hospital.

20 Q What hospital?

21 A St. Mary's of Standish.

22 Q Why did you go there?

23 A We were contacted, while on scene at Mr. Porter's, by  
24 Central Dispatch that the other party involved in this was  
25 at the hospital receiving medical attention.

- 1 Q So you went to the hospital?
- 2 A Yes.
- 3 Q With the other officers?
- 4 A Yes.
- 5 Q Who was present at the hospital when you arrived?
- 6 A Lisa Seibert, Jeremiah Leffew, Micheline Leffew, as well as
- 7 Donna Knezevich at the time, but its Donna Fay Seibert now,
- 8 I believe.
- 9 Q So they were all at the hospital?
- 10 A Yes.
- 11 Q Were they upset, or I mean did you--
- 12 A You could tell the mood was real, you know high, there's an
- 13 adrenalin dump pretty much after an incident that occurred.
- 14 Micheline was receiving medical attention for a laceration
- 15 to her head, so.
- 16 Q She was receiving medical treatment?
- 17 A Yes.
- 18 Q Did you talk to her?
- 19 A I did.
- 20 Q Was that because she got hit with an ashtray?
- 21 A Yes.
- 22 Q Did she tell you that?
- 23 A Yes. As well as Mr. Porter advised me that he hit Micheline
- 24 with an ashtray.
- 25 Q So did you collect the ashtray?

1 A I did not collect the ashtray.

2 Q Why not?

3 A There was not confusion as to who hit who with an ashtray.

4 It was pretty, you know, Mr. Porter advised he hit Micheline  
5 with an ashtray. Micheline advised me that she was hit with  
6 an ashtray. Jeremiah advised that his wife was hit with an  
7 ashtray. So that's pretty, you know, obvious.

8 Q So there was no dispute as to what happened there?

9 A No dispute whatsoever.

10 Q Did you ask Ms. Leffew what happened?

11 A I did.

12 Q What was her response as to what happened?

13 A Micheline, she gave me a written statement of what occurred,  
14 as well as I also did interview her. She advised that they  
15 were going to the residence, herself, Jeremiah, and Donna to  
16 go get Lisa and bring her back home. She advised that they  
17 had went to the front door, knocked on the front door, they  
18 were met by Mr. Porter at the residence. They had, you  
19 know, had words and whatnot, had spoken. He had shut the  
20 door because he just wanted a couple minutes to speak with  
21 Lisa.

22 Micheline advised that she could, you know, they  
23 could see, I believe through the door, or through the window  
24 next to the door, of possibly an altercation occurring, as  
25 well as, I believe, she said she might have been able to

1 hear her yelling in the house. At that time Micheline and  
2 Jeremiah went to the back of the residence and she said that  
3 she kicked in the door; it took two or three kicks to kick  
4 in the backdoor. When she entered into the residence she  
5 was hit in the head with an ashtray.

6 Q And she ended up in the hospital?

7 A Correct.

8 Q That was pretty much what she said had occurred?

9 A Yup. She said she did not remember much else what happened  
10 after that because she remembered waking up next to a tire  
11 outside.

12 Q Was she still bleeding at the hospital?

13 A I believe that they were working on closing up the wound at  
14 the time that I spoke to her.

15 Q Did you collect a shirt while you were--

16 A I did. I collected Mr. Porter's shirt while I was there.

17 Q Did it have blood on it?

18 A It did have blood on it.

19 Q Do you know where the blood was located?

20 A I believe there was blood on the back of the shirt, as well  
21 as there might have been some blood on the front of the  
22 shirt at well.

23 Q What did you do with the shirt?

24 A I sent it in to the Michigan State Police Forensics Lab.

25 Q Did you get a response from them?

- 1 A The only response I've gotten back is that blood was indeed  
2 found on the shirt. I'm still waiting for DNA results as  
3 far as anything being taken. I was able to obtain a DNA  
4 sample from Mr. Porter, as well as from Micheline, and I'm  
5 just waiting for any kind of confirmation or something back  
6 from them. It takes quite some time.
- 7 Q I mean the turnaround time on that is?
- 8 A It can be anywhere from six months to a year, so, and it's  
9 not TV.
- 10 Q Ms. Leffew admitted she kicked in the backdoor?
- 11 A Yes.
- 12 Q Okay. Was Mr. Leffew in the room with her?
- 13 A Are you talking about the original--
- 14 Q At the hospital.
- 15 A At the hospital. He was actually outside of her room.  
16 There's like a little hallway, and then there's also like a  
17 guest check in room area right when you walk in the  
18 emergency ER. That's where I had contacted him and spoke  
19 with him about the incident.
- 20 Q What did he say occurred?
- 21 A He pretty much made the same statement as far as, you know,  
22 they went to go pick up Lisa from Mr. Porter's residence,  
23 they knocked on the front door, words were exchanged, he had  
24 asked for a couple minutes, I believe, to talk with Lisa  
25 inside. He shut the door. At that point, I believe, he

1 said they could hear, possibly, Micheline yelling, or not  
2 Micheline, Lisa yelling from inside. They tried looking  
3 through the windows, they might have been able to see an  
4 altercation occurring. At that time Jeremiah and Micheline  
5 went around to the back of the house and Micheline kicked in  
6 the door. His wife went in first and was hit with an  
7 ashtray. Then an altercation occurred with Mr. Porter  
8 inside the residence.

9 Q Did he say anything about a knife?

10 A He did. He said he, he said once he realized his wife had  
11 went down to the ground, Mr. Porter had went after him and  
12 tried punching him a couple times. However, Mr. Porter  
13 realized that it wasn't doing anything so he stopped. And  
14 went over and grabbed a knife out of the dresser, or out of  
15 the, one of the drawers in the kitchen, and then just, he  
16 held onto it. He said he never threatened him with it or  
17 anything like that. All he said, "I'm done, this is over.  
18 We just want Lisa and we want to get out of here." That's  
19 what I was told.

20 Q And that was Mr. Leffew that grabbed the knife out of the  
21 drawer?

22 A Correct.

23 Q And then Lisa left the house, basically is what he said?

24 A Yes. He had picked up Micheline, they took her outside, and  
25 they all left, and went to the hospital.

1 Q Deputy Ochab, I'm showing you People's Exhibit #7 and #8,  
2 and People's Exhibit #7, what is that?

3 A People's Exhibit #7 is Jeremiah Leffew's witness statement  
4 that I had him provide me of the incident that occurred.

5 Q And is that, he returned that to you?

6 A He filled it out at the hospital, signed it, we went over  
7 it, I made him make some corrections, cross some stuff out  
8 and do some initials on it, showing that he did indeed cross  
9 it out, and once his statement was done I made a line  
10 through the bottom of it so nothing else could be added.

11 Q So that's an accurate representation of the statement he  
12 made that night?

13 A Yes.

14 MR. BROUGHTON: Your Honor, I'd move for the  
15 admission of People's proposed #7.

16 THE COURT: Any objection?

17 MR. HADLEY: No objection.

18 MR. WINDSOR: No objection.

19 THE COURT: Shall be admitted.

20 (At 3:31 p.m., People's Exhibit #7 received into  
21 evidence)

22 BY MR. BROUGHTON:

23 Q And People's proposed exhibit #8?

24 A That is Micheline Leffew's written statement that she also  
25 provided for me at the hospital.

1 Q And is that an accurate representation of what she provided  
2 at the hospital?

3 A It is. She had also made a correction, initialed it, and  
4 then I crossed out the bottom line of it so nothing else  
5 could be added to her statement, and then I had her sign it

6 MR. BROUGHTON: I move for the admission of  
7 People's proposed exhibit #8.

8 MR. HADLEY: No objection.

9 MR. WINDSOR: No objection.

10 THE COURT: Shall be admitted.

11 (At 3:32 p.m., People's Exhibit #8 received into  
12 evidence)

13 MR. HADLEY: No objection to publication if Mr.  
14 Broughton wants to do that.

15 THE COURT: Well, let me--

16 MR. HADLEY: Or we can wait.

17 MR. BROUGHTON: If they're going to the jury, yes.

18 THE COURT: Yeah, let's wait until we're done with  
19 the witness so they're not dividing their attention between  
20 looking at the statement and listening to the witness.

21 MR. BROUGHTON: Sure.

22 BY MR. BROUGHTON:

23 Q Did you go back out to, did you have further contact with  
24 Mr. Porter?

25 A I did. Once later that night to have him provide me with a



1 witness statement as well, and another time again, to  
2 collect a knife.

3 Q Did you collect a knife that night?

4 A I did not collect a knife that night.

5 Q Did Mr. Porter provide you with a knife that night?

6 A There was a knife that was in dispute. And what I mean by  
7 that, Mr. Porter's original statement, on scene, during the  
8 initial investigation, was, he believed the knife had gone  
9 back into the knife drawer with his other silverware. Well,  
10 in that drawer you're talking everybody's silverware, I know  
11 me personally, you got anywhere from 10 to 15 knives in that  
12 drawer. We didn't know which one it was. There was no, we  
13 couldn't find any blood on any of the knives or anything  
14 like that. So at that time we did not know where the  
15 possible knife was. We had searched outside the residence  
16 for a possible knife. We were unable to obtain anything at  
17 that time. It wasn't until later, after we had gotten back  
18 from the hospital and I tried to get a witness statement  
19 from Mr. Porter, that he had said that he had located a  
20 possible knife behind his TV. I didn't know if that knife  
21 was possibly put there or that was indeed the possible  
22 weapon. I did not see any blood on it at that time, so I  
23 decided not to take it at that time.

24 Q Did Mr. Porter have a scratch or something on his wrist?

25 A He had a scratch on his arm.

1 Q Did he tell you that was caused by the knife?

2 A I don't remember if it was said if it was caused by a knife  
3 or it happened during the tussle, fight with Jeremiah.

4 Q Other than what you've testified to--did you do follow-up by  
5 going and collecting the knife later on?

6 A I did.

7 Q Other than that has there been anything else you've had to  
8 do in regards to this case?

9 A As far as in regards to the case, no, I mean because there  
10 was really no, in question as far as, the victim Mr. Porter  
11 said that Jeremiah had a knife, and Jeremiah, himself, said  
12 he had the knife. So nobody else was there to witness them  
13 having a knife. They both gave confessions of having a  
14 knife, we just didn't know which one it was.

15 Q You were also the officer that went to Ms. Knezevich's house  
16 a few days prior to the 18<sup>th</sup>?

17 A Yes.

18 Q Was that in regards to a domestic disturbance or something?

19 A From what I can remember of the call, it was called out as a  
20 possible assault in progress. With very little information,  
21 again, given. Where a female had stated that she's going to  
22 assault somebody if they don't leave my residence. So we  
23 got there. What happened was Donna and Lisa got into an  
24 argument and she wanted Lisa out or she said she was going  
25 to assault her. So to try to prevent anybody from going to

1 jail, or anybody being assaulted, I had asked Lisa if she  
2 would go with Mr. Porter to his residence, take some of her  
3 belongings and maybe in a couple days come back and get more  
4 belongings. So just to alleviate the situation for the  
5 evening, since there had not been an assault that I was  
6 informed of that occurred that day.

7 Q So Mr. Porter was there when you arrived?

8 A Yes.

9 Q And as far as you know Lisa left with Mr. Porter?

10 A Actually I stayed on scene until they were getting in their,  
11 Mr. Porter's vehicle.

12 MR. BROUGHTON: I don't have any further  
13 questions, Your Honor.

14 THE COURT: Cross, Mr. Hadley.

15 MR. HADLEY: Thank you.

16 CROSS-EXAMINATION

17 BY MR. HADLEY:

18 Q Deputy Ochab, do you know who took the pictures that were  
19 admitted into evidence?

20 A As far as which ones, for People's Exhibits, or for all the  
21 pictures involved?

22 Q For all of the pictures so far, were they, I'm assuming,  
23 from you or another officer?

24 A The ones on scene are going to be conducted by Deputy  
25 Handrich and Deputy Switek. The pictures of the phone

1       itself, of I believe Lisa Seibert's phone, those were done  
2       by Tribal Officer, Sergeant Dixon.

3   Q     All law enforcement officers?

4   A     Yes.

5   Q     Okay, thank you. Going back to the incident prior to the  
6       18<sup>th</sup>, that you were just talking to Mr. Broughton about. Did  
7       you ever have contact with Mr. Porter or with Ms. Seibert in  
8       regards to a potential knife of Mr. Leffew, or this assault  
9       between him and Mr. Porter?

10  A     Are you talking about the incident that occurred in  
11       Sterling?

12  Q     That's correct.

13  A     I did not, it was not reported of any kind.

14  Q     No one said anything to you about the knife?

15  A     Nobody said anything about a knife in Sterling.

16  Q     And you were on the scene until Ms. Seibert left, correct?

17  A     Correct.

18  Q     Mr. Porter didn't come up, "Oh, by the way I want to file  
19       charges because he threatened me with a knife.", or anything  
20       of that nature?

21  A     No, sir.

22  Q     Okay. As far as the knife, you took written statements from  
23       all of the people on the incident on the 18<sup>th</sup> of November,  
24       correct?

25  A     Yes, sir.

1 Q Ms. Seibert, Ms. Knezevich, Mr. Porter, all of those.

2 A Mr. Leffew, Mrs. Leffew, yes.

3 Q And it's your testimony that as far as you know the knife  
4 that was at the residence that's not in dispute because  
5 everybody who was involved with that said, "Yes, there was a  
6 knife."

7 A Only the two parties said there was a knife, and that was  
8 Mr. Leffew and Mr. Porter.

9 Q All right. Did you hear Mr. Porter testify this morning  
10 that he told you that there was a knife and that he had it  
11 in a plastic bag?

12 A That was at the time that I showed up to collect the knife,  
13 yes, he told me he kept it in a plastic bag since the night  
14 of the incident.

15 Q Okay. You don't recall him saying that he told you that  
16 night of the 18<sup>th</sup> that he did.

17 A The night of the 18<sup>th</sup>, like I said, I did advise that he said  
18 there was a knife by his TV, but I did not know what knife.

19 Q Okay.

20 A Like I said he originally thought it could have been in his  
21 drawer.

22 Q You don't know if that knife, that you have in evidence, is  
23 the same knife that he found?

24 A No.

25 Q Okay. Could be one that he just grabbed?

1 A Correct.

2 Q As far as you know, I guess, did some preliminary  
3 examination of the knife, and there's no blood on that  
4 knife?

5 A I did not do any preliminary on the knife itself.

6 Q Okay. Did you check to see if there's any blood on the  
7 knife?

8 A No, I did not.

9 Q Okay. And the shirt you took from Mr. Porter, correct?

10 A Yes.

11 Q We all know that could take a terrible amount of time, when  
12 did you submit that shirt?

13 A I would have to look at my report on that, from the Michigan  
14 State Police, when they accepted it.

15 Q Some period of time.

16 A I can find it if you want me to real quick.

17 Q I just didn't know if you knew off the top of your head.

18 A I do not know that date; I don't want to give you a false  
19 date.

20 MR. HADLEY: No, that's fine. I don't have any  
21 further questions, Judge.

22 THE COURT: Mr. Windsor.

23 MR. WINDSOR: Yes, just briefly, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. WINDSOR:

1 Q Did Micheline Leffew, when she was giving you a statement  
2 was she, well, did you talk to Micheline Leffew in the  
3 hospital?

4 A I did. Actually, I verbally got a statement from her and I  
5 asked her to fill out a statement form for me.

6 Q Did she saying anything about throwing a chair in Mr.  
7 Porter's house?

8 A No. She just said that she did kick in the door and it took  
9 her two, three times to break into his house.

10 Q What did she, did she say that she suffered a seizure at  
11 all?

12 A I can't remember that. I believe there might have been some  
13 mention of a, she possibly might have had a seizure. I  
14 don't know if it was a seizure or if she was knocked out, I  
15 can't tell you.

16 Q On that November 7, 2017 date, with the alleged knife  
17 assault that happened before this November 18<sup>th</sup> date, where  
18 you were called to the scene, do you remember Jeremiah and  
19 Micheline being present there?

20 A Are you talking about the verbal dispute or are you talking  
21 about the possible knife assault that was in question that  
22 was never reported? Which one?

23 Q That day. Were they two separate days or were they one day?

24 A No, there was just the one incident that I responded to and  
25 that was the domestic possible in progress. They were

1           there.

2   Q       There were there?

3   A       Yup.

4   Q       Who else beside any deputies were there?

5   A       Besides any deputies?

6   Q       Yes.

7   A       It was Mr. Porter, Donna, Lisa, Jeremiah, and Micheline.

8           That's the only ones that I saw because they didn't really  
9           want me going around their house.

10  Q       Okay. Do you know off the top of your head who gave you any  
11           statements that night?

12  A       That day, it was actually just, what we did was a quick  
13           incident sheet for a verbal dispute. There was no assault,  
14           we did separate the parties. So I believe it was just  
15           pretty much Lisa, Donna, and possible Mr. Porter that maybe  
16           gave me a statement on it. I don't have that one on hand.

17                   MR. WINDSOR: All right, thanks. Nothing further,  
18           Your Honor.

19                   THE COURT: Any redirect, Mr. Broughton?

20                               REDIRECT EXAMINATION

21  BY MR. BROUGHTON:

22  Q       Deputy Ochab, when you were talking to Ms. Leffew at the  
23           hospital did she seem to be coherent?

24  A       She did seem to be coherent.

25  Q       And she was able to write out the statement and sign it?



1 A Yes. Pretty good penmanship on it to still.

2 Q Seem to have, I mean, a decent recollection of what had  
3 occurred?

4 A Yeah.

5 Q Other than when she, she was kind of knocked out, I guess,  
6 when she went to the ground and she didn't really know?

7 A Her statement was, as with a lot of these statements, her  
8 statement was that she was hit with the ashtray, and she was  
9 pretty much down on the floor in the kitchen, so. And then  
10 after that she said she just remembers coming too, she was  
11 sitting outside by their vehicle, by a tire.

12 Q When you talked to her in the hospital she seemed to be  
13 coherent and was able to talk. I mean she didn't slur her  
14 words or anything like that?

15 A No.

16 MR. BROUGHTON: I don't have any further  
17 questions, Your Honor.

18 THE COURT: I have a couple of questions. Deputy  
19 when you arrived at the scene on November 18<sup>th</sup>, was Mr.  
20 Porter bleeding at all?

21 WITNESS: I believe he did have some minor  
22 injuries to him. I would have to check the pictures to it.  
23 I think it might have been little scratch marks and stuff  
24 like that. I submitted all the pictures, so. There's one  
25 little scratch or knife mark there to his left arm. Yeah,

1 these are only like, I don't know maybe a quarter, not even  
2 a quarter of the pictures that were taken.

3 THE COURT: Okay. Do you recall if you observed  
4 any other injuries to Mr. Porter?

5 WITNESS: I believe he might have had a scratch  
6 mark back here, I think he might have had something around  
7 his neck, he might have had some, like I said I'm not 100%  
8 accurate without looking at the photos off hand.

9 THE COURT: Okay. Do you have the rest of the  
10 photos?

11 MR. BROUGHTON: I can get those, Your Honor. I  
12 mean I've got little minis.

13 THE COURT: Okay.

14 WITNESS: We actually put them onto a disc.

15 MR. BROUGHTON: But I can get any of Mr. Porter.

16 THE COURT: Do you have any recollection as to how  
17 much blood there was on these other cuts?

18 WITNESS: I don't think there was a lot of blood.

19 THE COURT: I guess, based on your observation,  
20 was what you observed enough to put the blood on the back of  
21 his shirt?

22 WITNESS: From what I could remember on the back  
23 of his shirt, I believe that might have came from somebody  
24 else.

25 THE COURT: Okay. Why do you say that?

1 WITNESS: Just because there was a larger spot of  
2 blood, I'm going to say probably about that big, on the back  
3 of his shirt.

4 THE COURT: Can you demonstrate where on the back  
5 of his shirt?

6 WITNESS: I want to say probably back by his  
7 shoulder blade, back here.

8 THE COURT: Okay. And you don't believe that came  
9 from the injuries on him?

10 WITNESS: I don't believe it is, but to say it  
11 didn't I can't be 100% certain.

12 THE COURT: All right. Any questions in light of  
13 my questions, Mr. Broughton?

14 MR. BROUGHTON: No, Your Honor.

15 THE COURT: Mr. Hadley.

16 RECROSS-EXAMINATION

17 BY MR. HADLEY:

18 Q Again, that shirt hasn't been tested.

19 A It has not been tested for DNA. The shirt did test positive  
20 for blood.

21 MR. HADLEY: No more questions.

22 THE COURT: Mr. Windsor.

23 RECROSS-EXAMINATION

24 BY MR. WINDSOR:

25 Q How are you sure it did test positive for blood?

1 A I've got the results back from the forensics lab. It should  
2 have been submitted to you guys saying that it did test  
3 positive for blood.

4 MR. WINDSOR: No further questions, Your Honor.

5 THE COURT: May the witness be excused?

6 MR. BROUGHTON: Your Honor, can I ask a follow-up  
7 question?

8 THE COURT: Sure, go ahead.

9 REDIRECT EXAMINATION

10 BY MR. BROUGHTON:

11 Q Some of the pictures you took of Ms. Leffew shows, I mean,  
12 blood on her face?

13 A Um-hum.

14 Q I mean, was that consistent with what she looked like when  
15 you seen her at the hospital?

16 A Yeah. But they cleaned up some of the blood. But, I mean,  
17 she had a nice cut to her head.

18 MR. BROUGHTON: I don't have any further  
19 questions, Your Honor.

20 THE COURT: May the witness be excused?

21 MR. BROUGHTON: Yes.

22 THE COURT: Thank you, you can step down.

23 (At 3:46 p.m., witness excused)

24 MR. BROUGHTON: I have no further witnesses, Your  
25 Honor.

1 THE COURT: Does the prosecution rest?

2 MR. BROUGHTON: The prosecution rests.

3 THE COURT: Mr. Hadley, are you ready with your  
4 first witness?

5 MR. HADLEY: May I confer with Mr. Windsor just a  
6 moment, please?

7 THE COURT: Yes.

8 MR. WINDSOR: Your Honor, I'm going to call  
9 Micheline Leffew first.

10 THE COURT: All right. Ms. Leffew, will you pause  
11 right there and raise your right hand. Do you solemnly  
12 swear or affirm that the testimony you are about to give, in  
13 the matter now pending before this court, will be the truth,  
14 the whole truth, and nothing but the truth so help you God?

15 MS. LEFFEW: Yes, ma'am.

16 THE COURT: Please come up here and have a seat.  
17 When you get seated state your full name and spell your last  
18 name for the record.

19 WITNESS: My name is Micheline Nicole Leffew. My  
20 last name is L-e-f-f-e-w.

21 THE COURT: Go ahead Mr. Windsor.

22 MICHELINE NICOLE LEFFEW

23 (At 3:48 p.m., called by Mr. Windsor and sworn by  
24 the Court, testified as follows)

25 DIRECT EXAMINATION

1 BY MR. WINDSOR:

2 Q Micheline, how old are you?

3 A I'm 22.

4 Q Where are you currently living?

5 A I currently stay at the Inn Town Motel just right around the  
6 corner here.

7 Q And you are married to Jeremiah Leffew, correct?

8 A Yes, sir.

9 Q And he's been sitting next to you during this whole trial,  
10 correct?

11 A Yes, sir.

12 Q Okay, we're just going to go back to the November date, the  
13 date that you were hit with an ashtray, November 18<sup>th</sup> date.  
14 On November 18<sup>th</sup> what were you doing in the morning?

15 A So I don't really remember what I was doing that morning,  
16 but I remember about the time before we left I was getting  
17 ready to cook dinner; I was pulling stuff out of the  
18 freezer.

19 Q I'm going to hold you right there. What time do you think  
20 it was?

21 A It was shortly before, like, around 3 or 4ish, and I  
22 remember Donna was speaking to Lisa on the phone in the  
23 kitchen as I was pulling stuff out of the freezer.

24 Q At some point that day did you decide to get in the car with  
25 your husband and Donna Knezevich and go to Mr. Porter's

1 house?

2 A Well, we had--

3 Q That would be a "yes or no" question.

4 A Yes.

5 Q Okay. And do you know what time that was that you got in  
6 the car to go over there?

7 A Between the 3 and 4ish, I think.

8 Q How long did it take to drive over there, to Mr. Porter's  
9 house?

10 A I believe it only took like maybe 15 minutes.

11 Q Okay. You arrived at Mr. Porter's house, correct?

12 A Yes.

13 Q What did you do when you arrived, what was the first thing  
14 you did?

15 A When we first arrived we pulled into the driveway, and we  
16 honked the horn twice, and we waited for a few moments, like  
17 a few minutes, actually. Because I was just hoping that she  
18 would just come out.

19 Q And what happened when no one came out after a few minutes?

20 A When no one came out after a few minutes I walked up to the  
21 door, and I knocked on the door, and Mike, Michael Porter  
22 answered.

23 Q Did Mr. Porter slam the door in your face fairly quickly  
24 after that?

25 A After there was a couple words. I asked Lisa if she wanted

1 to leave and she said, "Yes", and then he said, "Give me a  
2 few minutes", and slammed the door. Because Lisa was behind  
3 him putting on her coat and grabbing her sunglasses.

4 Q Did you hear any scuffle or any altercations between--

5 A Yes.

6 Q I have to finish asking the question.

7 A Sorry.

8 Q Between Mr. Porter and Lisa Seibert?

9 A Yes. It was like, honestly, from what a domestic dispute  
10 looks like, it's what it was.

11 Q What did you see exactly?

12 A I first saw her grab, saw him grab her, and drag her away  
13 from the door, and then I saw her kind of get loose and try  
14 to go for the door, and when she went to go grab for the  
15 door he grabbed her up, and that's when--

16 Q How did he grab her the first time?

17 A I believe he grabbed her by her, like she was facing away  
18 from him, I believed he grabbed her like this around her--

19 THE COURT: Please limit your answers to what you  
20 saw, not what you believe, what you saw.

21 WITNESS: I apologize, yeah, I apologize. He  
22 grabbed her around the back.

23 BY MR. WINDSOR:

24 Q So he was behind her?

25 A Um-hum.



1 Q And did he basically bear hug her?

2 A Kind of, yeah, to restrict her.

3 Q Then you, it's correct that you say, testified that he drug  
4 her away from the door?

5 A Yes.

6 Q How far did he drag her away from the door?

7 A He drug into the kitchen and put her in a chair.

8 Q About how far away is that?

9 A Um, gosh, maybe like ten feet.

10 Q Did you see Mr. Porter push her down to the ground or  
11 anything like that?

12 A I didn't see her get pushed to the ground, I only saw her  
13 try to--

14 Q That's just a "yes or no".

15 A No.

16 Q How did you, how were you able to see what was happening to  
17 Lisa Seibert on that day?

18 A There's a big picture window, and his blinds were turned to  
19 the side, they were the long sticky blinds, and so when you  
20 looked at an angle you could see perfectly in.

21 Q How big is the picture window? Give an estimate about how  
22 many feet wide it is?

23 A Probably, gosh, it's probably as wide as four of those  
24 panels and maybe a little bit taller than that. It's a very  
25 large window.

1 Q So five to six feet wide?

2 A Yeah.

3 Q And how far away is that window from the front door?

4 A Maybe a couple feet away. They're right next to each other.

5 Q Could you hear any yelling?

6 A I heard Lisa screaming for help.

7 Q What did you do after you heard screams for help?

8 A Once I heard her scream for help, I knew I had to help her.

9 So I ran around back, and I originally tried to open the  
10 door but it was locked. So I took my boots, the ones I'm  
11 wearing today, and gave two or three kicks, and it came  
12 open. And when it opened, and then it like, once I kicked  
13 it open it kind of went shut again, but it was like broke so  
14 I just opened it, and that's when I got hit. That's the  
15 last thing I remember is getting hit. I didn't know what I  
16 got hit with at first.

17 Q How long after you kicked open the backdoor, entered the  
18 door, how long after did you get hit with an ashtray?

19 A I took one step, one to maybe two steps max into the door  
20 before I got hit.

21 Q What do you remember right after that?

22 A I remember waking up, and I was very cold, and I was wet, it  
23 was raining, and I was lying on the ground next to my car.  
24 And I think my husband was trying to get me to come back,  
25 because after I have seizures I have very hard time becoming

1 coherent again. The postictal stage is a very hard--

2 Q Well, let me ask you first. Do you suffer from any medical  
3 conditions?

4 A Yes. I've had temporal lobe epilepsy since I was 11 years  
5 old. I am on medications. I see neurologists and  
6 specialists.

7 Q Do you suffer from seizures?

8 A Yes, often.

9 Q What is a seizure, how do you suffer, what happens when you  
10 suffer a seizure?

11 A So most of the time I have absence seizures, which are  
12 mostly just, pretty much everything disconnects. You lose  
13 focus with everything your face will kind of zone out. But  
14 often when it's due to trauma or stress I can get thrown  
15 into a grand mal seizure. Which is the shaky; we pretty  
16 much know that people generalize those seizures.

17 Q Are you completely out of it when you're in that seizure  
18 state?

19 A When I wake up in that postictal mode afterwards, it's very  
20 hard, I'm very out of it. It's almost like, you wake up and  
21 you're very groggy and sleepy and you really can't  
22 understand anything.

23 Q Okay, I'm going to show you what's marked as Defendant's  
24 Exhibit #2. Can you tell me what this picture is?

25 A That is a picture of my forehead, right here, where I had to

1 get staples because of the laceration, and those are five  
2 staples in my head.

3 Q How did this laceration on your head happen?

4 A From Michael hitting me with the ashtray.

5 Q This is your head, correct?

6 A That is my head.

7 Q Do you know who took this picture?

8 A That picture was actually taken with my cell phone, because  
9 for some reason the pictures that were taken by the police  
10 officers were never put into the police report. So we had  
11 to give you ours because some reason nobody decided that  
12 they were important.

13 MR. WINDSOR: I'd like to move for entry of  
14 Defendant's Exhibit #2, Your Honor.

15 THE COURT: Any objections?

16 MR. HADLEY: No.

17 MR. BROUGHTON: No, Your Honor.

18 THE COURT: Shall be admitted.

19 (At 3:55 p.m., Defendant's Exhibit #2 received  
20 into evidence)

21 MR WINDSOR: Then I have one more, Your Honor,  
22 then I'll ask to have them published.

23 THE COURT: Okay.

24 BY MR. WINDSOR:

25 Q I'm going to show you what's marked as Defendant, well,

1 Defendant #2, you're #2 Defendant, Exhibit #3, what's this  
2 picture of?

3 A My face all busted up.

4 Q What is your face busted up from?

5 A From the ashtray, there's a cut there, there, there's one  
6 there.

7 Q Where are the cuts located on your face?

8 A Right there, right there, there was one there.

9 Q Tell the jury.

10 A Oh, I'm sorry. There was one at the bridge of my nose;  
11 there's one at the top, those were from the shattered glass;  
12 there's one right here; and then there's the laceration that  
13 was up here that I had to get staples.

14 Q And do you know if those were all from the ashtray?

15 A They were all from the ashtray. Oh, and I have this scar  
16 here from the ashtray.

17 Q And that's a scar on your neck?

18 A Um-hum.

19 Q How long after the, after you were hit with the ashtray did  
20 you take this picture?

21 A That's at the hospital, and we left Mike's house right to  
22 the hospital, so probably, maybe 20 minutes.

23 MR. WINDSOR: I'd like to move to enter  
24 Defendant's #2, Exhibit #3. You guys need to see these?

25 MR. BROUGHTON: No objection, Your Honor.

1 MR. HADLEY: No objection, Your Honor.

2 THE COURT: Shall be admitted.

3 (At 3:57 p.m., Defendant #2, Exhibit #3 received  
4 into evidence)

5 MR. WINDSOR: Would you like me to publish those,  
6 Your Honor?

7 THE COURT: Why don't you finish your examination  
8 Then we're going to take a few minutes because you had some  
9 other exhibits you wanted to publish as well, Mr. Broughton?

10 MR. BROUGHTON: The statements I think is all.

11 THE COURT: Okay.

12 BY MR. WINDSOR:

13 Q It's correct that you stated you woke up outside?

14 A Yes. I was at the back tire of my Impala.

15 Q How far away from the house was the Impala parked?

16 A We're further from the driveway, so it was like normally in  
17 the driveway, so probably from that little row benches, and  
18 the house was probably like right there, it's not very far.

19 Q Was it 10 feet, was it 20 feet?

20 A I'm not sure, I don't know. Sorry I'm really bad at  
21 measurements.

22 Q That's fine. How long after you woke up were you taken to  
23 the hospital?

24 A We, I remember my husband put me in the car, and we drove  
25 there immediately. And I couldn't find my phone, so I found

1 my phone along the way, and called the police and asked them  
2 to meet me there, and they met me there. Approximately 45  
3 minutes to an hour after we had arrived at the hospital?

4 Q Did you ever jump on Mr. Porter's back on November 18<sup>th</sup>?

5 A I don't know how I could have possibly jumped on Mr.  
6 Porter's back.

7 Q Did you throw a chair on the November 18<sup>th</sup> date?

8 A No.

9 Q How well did you know Mr. Porter?

10 A Contrary to popular belief we knew each other very well. He  
11 was dating my mother-in-laws, and he was at our house almost  
12 every day. And he even was going to help me build a  
13 doghouse for my dog, so we, I played dice with this guy.  
14 We've had a fair amount, more than a few encounters. I mean  
15 he pretty much lived there.

16 MR. WINDSOR: All right. Nothing further, Your  
17 Honor.

18 THE COURT: Mr. Broughton.

19 CROSS-EXAMINATION

20 BY MR. BROUGHTON:

21 Q Ms. Leffew, what you just said, you went to the front door,  
22 who went to the front door with you?

23 A I believe it was my husband and Donna.

24 Q You believe there were three of you there that went to the  
25 front door?

1 A Yes. I'm not sure if Donna went up immediately with us.  
2 But she was there eventually; she might have been maybe ten  
3 feet behind us.

4 Q Okay.

5 A I know that I was there first.

6 Q And did you knock on the door?

7 A I did, I knocked.

8 Q You said you, when you woke up, you're usually incoherent 2  
9 minutes or so with the seizures?

10 A It can, okay so, postictal time for a seizure can be  
11 anywhere from up to 5 minutes, up to an hour, it just  
12 depends on the severity of the seizure.

13 Q So your testimony is you got hit with the ashtray and had a  
14 seizure?

15 A Well, when I wake up from a seizure I can usually tell from  
16 the pain that I've had and the way I feel. So I'm almost  
17 pretty positive that I had a seizure from how I felt waking  
18 up, and how it was to kind of, because I really couldn't  
19 even get myself in the car, my husband helped me get in the  
20 car.

21 Q And this would have been, you woke up outside?

22 A Yes, I woke up outside. So between me getting hit, and  
23 waking up outside I don't know what happened, and I don't  
24 even know how long it was.

25 Q When you got to the hospital were you done with the seizure?



1 A Of course I was done with the seizure. The seizure is over  
2 once you wake up, the postictal state afterwards is pretty  
3 much like, the groggy state of coming out, sometimes, you  
4 know, I can't talk very well, I'm very slurred. Sometimes  
5 can't speak any words, it's just mumble jumble. It really  
6 just depends.

7 Q Well, at the hospital how were you?

8 A I believe I was feeling pretty, I was in a lot of pain at  
9 the hospital, honestly. But other than that I felt, you  
10 know, like, I didn't feel like I was in the postictal state  
11 anymore.

12 Q Okay. Did Mr. Porter say, "Wait a couple minutes he wanted  
13 to talk to Ms. Seibert."?

14 A He did, and I would have let him wait, but then he started  
15 assaulting her, so that's why I went around back. I was--

16 Q You pretty much went back to the backdoor instantly?

17 A Well, after I saw him get physical with her is when I went  
18 in the back.

19 Q And then you, you didn't knock on the backdoor at all?

20 A No.

21 Q You just basically kicked it in?

22 A Yup.

23 Q When you were kicking on the door you were trying to kick it  
24 in to get in the house.

25 A Well, yeah. How often do domestic violence situations go

1 further in the matter of minutes?

2 THE COURT: Easy just answer the question.

3 WITNESS: I apologize. Yes, I did kick it in.

4 BY MR. BROUGHTON:

5 Q Then you, were you the first one to go in the house?

6 A Yes.

7 Q Was Mr. Leffew back there with you?

8 A I do not remember seeing my husband within the timeframe of  
9 me kicking the door. I don't think he saw me kick the door.  
10 I don't remember him being there. I think that, you know, I  
11 don't think that he was right there right when I kicked it.  
12 I don't think, I don't remember. I can't be for sure but I  
13 don't remember actually like engaging with him while I was  
14 kicking the door. He was not right next to me while I was  
15 kicking the door. I did that all myself.

16 Q And then after you kicked the door in you went into the  
17 house?

18 A I took one to two steps in. I didn't even make it past so  
19 the door opens. I didn't even make it past to where the  
20 door were to end before I got hit.

21 Q With the ashtray?

22 A Yes. I was not aware it was an ashtray at first.

23 Q You didn't know what hit you?

24 A No, I didn't know what hit me.

25 Q Just an object.

1 A Yeah. I just knew I was hit with something.

2 Q By Mr. Porter?

3 A Yes.

4 Q So would you have then fallen right where you got hit?

5 A I don't remember anything after that, so it had to have been  
6 like that. I don't even remember feeling the impact or the  
7 pain to begin it. Like when I got hit I don't remember  
8 feeling the impact, or the pain, or anything. I didn't feel  
9 pain until I woke up outside and my face hurt.

10 Q You don't remember anything from the impact until you woke  
11 up outside?

12 A Yes.

13 Q But you believe you had a seizure just because you've had  
14 those before?

15 A Because I have them a lot, so I'm pretty accustom to them.  
16 I mean Lisa and Mike, everybody has seem he have seizures  
17 multiple times and helped me.

18 Q And you, I mean were you aware that all of the photographs  
19 that the officers took were on a disc? You know a CD, like  
20 a disc you can put into a computer and print all the  
21 pictures off.

22 A I was not aware, but I am now.

23 Q Ok. So when you said earlier that they didn't think it was  
24 necessary to include them in the report, I mean the disc  
25 came with the report, correct?

1 A Well, the other pictures that were, the police report that  
2 was, the police report that everybody got that was brought  
3 up at the preliminary had a bench full of pictures but none  
4 of them with my face. Nobody has seen a picture of my face  
5 besides the police officers until today. It was not brought  
6 up at the preliminary. Our lawyers were not given it, to it  
7 in the original police reports at all. My lawyer has never  
8 seen those pictures until I gave them to him myself.

9 Q The pictures you took?

10 A Yes. Because the police, the pictures that the police took  
11 were not provided to them.

12 THE COURT: Okay, I'm going to interrupt here and  
13 ask both defense attorneys, "You were provided a copy of the  
14 disc, correct?"

15 MR. HADLEY: Yes.

16 MR. WINDSOR: Yes, Your Honor.

17 THE COURT: And there were photographs on the disc  
18 of the victim, or the witness' face, is that correct?

19 MR. WINDSOR: I believe so, Your Honor, yes.

20 THE COURT: That were taken by the police?

21 MR. HADLEY: I don't, I didn't print out all of  
22 them, but I got with the prosecutor--

23 THE COURT: The police did take photographs of her  
24 injuries, is that correct?

25 DEPUTY OCHAB: That's what we were told.

1 THE COURT: Okay.

2 MR. BROUGHTON: Your Honor, I can use this as an  
3 exhibit.

4 THE COURT: And they were provided on the disc, is  
5 that correct?

6 MR. BROUGHTON: They were, Your Honor.

7 THE COURT: Okay.

8 MR. BROUGHTON: I can use, I can recall the  
9 officer.

10 THE COURT: I just don't want the jury to be  
11 misled by her testimony.

12 WITNESS: I apologize.

13 THE COURT: Saying that her attorneys never saw  
14 these photographs. They were disclosed during discovery,  
15 were they not?

16 MR. BROUGHTON: They were.

17 MR. HADLEY: Yes, Your Honor.

18 THE COURT: Okay. You should confine yourself to  
19 what you seen, heard, or know. Don't speculate about  
20 anything else.

21 WITNESS: I apologize, ma'am.

22 THE COURT: Go ahead, Mr. Broughton.

23 MR. BROUGHTON: I don't have any further  
24 questions, Your Honor.

25 THE COURT: Mr. Hadley, did you have any questions

1 for this witness?

2 MR. HADLEY: No, Your Honor.

3 THE COURT: Okay. Any redirect, Mr. Windsor?

4 MR. WINDSOR: No, Your Honor.

5 THE COURT: May the witness be excused?

6 MR. WINDSOR: Yes, she may.

7 THE COURT: Thank you, ma'am. You can step down.

8 It's about five after four can we go with another  
9 witness?

10 MR. HADLEY: I have one witness.

11 THE COURT: Okay.

12 MR. HADLEY: That would be Mr. Leffew.

13 THE COURT: Do you have anybody else, Mr. Windsor?

14 MR. WINDSOR: I have no other witnesses, Your  
15 Honor.

16 THE COURT: Okay. Why don't we go ahead and call  
17 your client then.

18 MR. HADLEY: Certainly, come on up here and be  
19 sworn.

20 THE COURT: Mr. Leffew, can you pause right there.  
21 Raise you right hand. Do you solemnly swear or affirm that  
22 the testimony you're about to give, in the matter now  
23 pending before this court, will be the truth, the whole  
24 truth, and nothing but the truth so help you God?

25 MR. LEFFEW: I do.

1 THE COURT: Come right up here and have a seat.  
2 And when you get seated state your full name and spell your  
3 last name for the record.

4 WITNESS: My name is Jeremiah James Leffew. My  
5 last name is L-e-f-f-e-w.

6 JEREMIAN JAMES LEFFEW

7 (At 4:07 p.m., called by Mr. Hadley and sworn by  
8 the Court, testified as follows)

9 DIRECT EXAMINATION

10 BY MR. HADLEY:

11 Q Mr. Leffew, have you been able to observe and hear all of  
12 the testimony today so far?

13 A Yes, sir.

14 Q And did you do a, did you do a voluntary statement in  
15 regards to an incident on November the 18<sup>th</sup>, 2017?

16 A Yes, I did.

17 Q This is what appears to be People's admitted Exhibit #7. Is  
18 that your statement?

19 A Yes.

20 Q Is that your handwriting?

21 A Yes, it is.

22 Q Is that your signature at the end?

23 A Yes, it is.

24 Q And does that appear to be on November the 18<sup>th</sup>?

25 A Yes.

- 1 Q What time did you make that statement?
- 2 A 6:11 p.m.
- 3 Q Okay. Relatively close after the incident, is that correct?
- 4 A Yes, sir.
- 5 Q Now, in regards to this statement that you made, this is in  
6 regards to an incident on November the 18<sup>th</sup>, correct?
- 7 A Yes, sir.
- 8 Q Were you over to Mr. Porter's house on that day?
- 9 A I was.
- 10 Q What caused you to go there that day?
- 11 A My mother had received a call from Lisa, and apparently Lisa  
12 wanted to be, she wanted to come home. So I had the only  
13 running vehicle, and I offered to go get her, pick her up.
- 14 Q Okay, and your mother, what's her name?
- 15 A My real biological mother is Donna Knezevich.
- 16 Q Okay and she's married to Ms. Seibert?
- 17 A Yes.
- 18 Q Okay. Do you know when they were married?
- 19 A Just after this incident, about a week after this incident.
- 20 Q Okay. And what was the purpose that you went over to Mr.  
21 Porter's house for?
- 22 A Just simply pick up Lisa.
- 23 Q Okay. Did Lisa send you a text or a message? How did you  
24 know she wanted to be picked up?
- 25 A My mother had told me.



- 1 Q Okay. Did she receive a communication from Lisa?
- 2 A As far as I know she had been talking to Lisa on the phone
- 3 and Lisa wanted to come home so.
- 4 Q On the 18<sup>th</sup>?
- 5 A Yes, sir.
- 6 Q Okay. It was your job to drive, is that correct?
- 7 A Yes, sir.
- 8 Q Okay. There was some testimony that you were the only one
- 9 that had a driver's license?
- 10 A It is.
- 11 Q Okay. So you went over to Mr. Porter's house?
- 12 A Yes, sir.
- 13 Q What time was that?
- 14 A I don't know exactly, honestly.
- 15 Q Deputy Ochab testified to, could it have been around 4:00 or
- 16 so?
- 17 A It could have been around that time, yes.
- 18 Q Okay. So this statement that you wrote at about 6:00 this
- 19 was after the incident was over?
- 20 A Yes.
- 21 Q Would it be fair to say somewhere between 4 and 6:00 in the
- 22 evening?
- 23 A Yes, sir.
- 24 Q Okay. Did you have a conversation with Mr. Porter when you
- 25 got there?

- 1 A No, I did not.
- 2 Q Did you knock on the door?
- 3 A My wife had knocked on the door, I did not.
- 4 Q Okay. Which door did your wife knock on?
- 5 A The front door.
- 6 Q Okay. Were you there with her?
- 7 A Yes.
- 8 Q Was there anyone else?
- 9 A My mom was there, Donna.
- 10 Q So there was three of you?
- 11 A Yes.
- 12 Q At the front door?
- 13 A Yes.
- 14 Q At Mr. Porter's house?
- 15 A Um-hum.
- 16 Q Did he let you in?
- 17 A No, he did not.
- 18 Q Did he make any statement to you at all?
- 19 A He said, "Lisa's not coming." He slammed the door.
- 20 Q Okay. Then what did you do?
- 21 A I looked in the window that was right next to the front
- 22 door, and I watched him proceed to drag her into the back of
- 23 the house.
- 24 Q Where did you see him drag her from?
- 25 A From, well, she was coming up behind him trying to get out

1 the door, and he grabbed her, and he was leading her back  
2 into, down the hallway towards--

3 Q Where did he grab from?

4 A Like he grabbed her shoulders and was leading her towards  
5 the back of the house.

6 Q Okay. Did she fall at some point in time?

7 A She had gotten away from him. After they got back by the  
8 hallway I seen her running for the door, she ran around the  
9 furniture in the living room, and she ran for the door, she  
10 grabbed the door. Mike came up behind her, grabbed her, and  
11 threw her straight back on the floor. She got up and he  
12 got, he was right above her, and he just pushed her right  
13 back down in the chair.

14 Q And you observed all this?

15 A Yes I did.

16 Q How did you observe it?

17 A He's got a huge window in the front of his house, and its  
18 wide open, you can see.

19 Q Okay. Is there any curtains, or drapes, or anything in that  
20 window?

21 A There was curtains but they were open, you can see, I mean.

22 Q All right. And what you're testifying to is what you  
23 observed?

24 A Yes, sir,

25 Q All right. And then what happened?

- 1 A After he had put her in the chair I heard her scream for  
2 help. I went to the back of the house to get a better view  
3 Because I could see through the house that there was another  
4 huge window, like a sliding door.
- 5 Q Did you go to the back of the house alone?
- 6 A My wife and I went back there.
- 7 Q Okay. What about Donna?
- 8 A Mom stayed in the front.
- 9 Q Okay. So just you and your wife in the back?
- 10 A Yes,
- 11 Q Then what happened?
- 12 A So, like I said, we heard her scream for help, so I tried to  
13 open the glass sliding door, and it would not open. I was  
14 screaming for him to stop hurting her and he wouldn't.
- 15 Q Could you still observe him and her?
- 16 A Yes, I could.
- 17 Q What was he doing to her at that point in time?
- 18 A He had her in the chair.
- 19 Q Okay. How did he have her in the chair?
- 20 A Kind I just, like demonstrate?
- 21 Q Well, just kind of--
- 22 A He was like holding her down in the chair, like by the  
23 shoulders, he had her down, he was like holding her, and  
24 like she's screaming.
- 25 Q Was he sitting on her or just holding her.

- 1 A I believe he got on top of her at some point in time.
- 2 Q Did you see that?
- 3 A Yeah.
- 4 Q Do you know whether he was on the phone to 911 or anyone at  
5 that time?
- 6 A I never seen, I don't know how many times he called the  
7 police or anything.
- 8 Q Okay. Did you see him with a phone?
- 9 A I did one time, I seen him with a phone.
- 10 Q Okay and then what happened?
- 11 A So after I was watching him hold her down, and I heard her  
12 screaming, I heard something over here. Which, okay, so  
13 when you go to the back of his house there's the glass  
14 sliding door, and then there's a big obstruction here, and  
15 then there's the backdoor. So I'm standing right here, and  
16 I heard something over here, so I went over here, and I seen  
17 my wife in the kitchen. She's like laying flat on her face  
18 having a seizure. And I come in to help her out because--
- 19 Q Okay. So you weren't in sight of Mrs. Leffew when she  
20 kicked the door in, correct?
- 21 A No, sir.
- 22 Q Did you hear the door being kicked?
- 23 A I heard a loud bang, and I went--
- 24 Q Was Mrs. Leffew saying anything to you?
- 25 A No, sir.

1 Q Okay. So the next thing you heard--you saw your wife on the  
2 floor?

3 A Yes, I saw her on the floor having a seizure.

4 Q Having a seizure.

5 A And she was laying flat on her stomach having a seizure.

6 Q What was Mr. Porter doing at that time?

7 A As soon as I got to the backdoor he started punching me in  
8 the face.

9 Q Right at the doorjamb?

10 A Yes.

11 Q Or at the threshold of the door?

12 A Yes.

13 Q Okay, and what did you do?

14 A I, well, I kind of walked past him. I didn't, I just, I was  
15 in shock I couldn't think really what to do. I was just  
16 like kind of looking at my wife and thinking what do I do,  
17 what do I do, and he's--

18 Q What did you see; I mean your wife's laying there, right?

19 A My wife's laying there, and I see blood on the floor, and  
20 she's having a seizure. Straight up on the floor and her  
21 head is banging against the floor.

22 Q Was it your intent to try get your wife help?

23 A Yes.

24 Q Or do you know what happened?

25 A My number one concern is my wife's safety at all times.

1 Q You hadn't discovered what had happened, correct?

2 A No. I seen glass on the floor and I assumed that something  
3 happened like--

4 Q But you didn't know what had happened?

5 A I didn't.

6 Q You didn't know that she was hit with an ashtray?

7 A No, I didn't. I didn't know that she was hit with an  
8 ashtray the--

9 Q And then Mr. Porter, you testified, started punching you as  
10 you came in the door, correct?

11 A Yes, he did, yes.

12 Q Did you hit him back?

13 A No, I did not. I was just trying to think of how I could  
14 help my wife. I was just looking at her and trying to  
15 think, I was just in shock.

16 Q How many times did Mr. Porter hit you?

17 A I have no idea. A few times.

18 Q Did you try to push him away or anything?

19 A At that point I didn't know what to do. I was looking down  
20 at my wife, and there's counter right there, and I seen a  
21 knife, so I grabbed it, and I held it, and I said, "Please,  
22 just stop and let us go, stop fighting."

23 Q Where did you find the knife?

24 A It was just to the left of me. As I was looking down at my  
25 wife's body, it was just to the left of me on the counter

1 right there.

2 Q Okay. Was it just a knife all by itself?

3 A Yeah. It was just a knife sitting there. He had some  
4 dishes.

5 Q You know what kind of knife it was?

6 A Just a little knife.

7 Q Okay. When you say just a little knife--

8 MR. HADLEY: If I may, Judge.

9 BY MR. HADLEY:

10 Q Do you know if it was this knife?

11 A I can't be for sure.

12 Q Okay. But it was a knife, you just don't know if it was  
13 this knife.

14 A It might have been similar to that. I'm not sure if that's  
15 the one.

16 Q Okay. And did you strike Mr. Porter with that knife?

17 A No, sir, I did not.

18 Q Did you cut him?

19 A No, sir.

20 Q Do you believe you scratched him or?

21 A No, sir, no.

22 Q Okay. And what did you do with the knife after you held it  
23 up and said, "Please stop and leave us alone."?

24 A He said, "Okay", and he backed off, and I helped my wife out  
25 of the house, and that was that, and we got in the car.



- 1 Q What did you do with the knife?
- 2 A I sat it down so I could help my wife.
- 3 Q You didn't throw it?
- 4 A No, I didn't.
- 5 Q Where did you sit it down?
- 6 A Just right next to me in the kitchen where she was.
- 7 Q Was it on the floor, the kitchen floor?
- 8 A Yes.
- 9 Q Okay, so that's where you put the knife down?
- 10 A She was, yeah, right next to her.
- 11 Q And then what did you do?
- 12 A I helped her out of the house. Mike wasn't fighting us no  
13 more.
- 14 Q Okay. The fight was over?
- 15 A He just stopped after I did that and he let us leave.
- 16 Q Okay. You recall him testifying this morning that you  
17 assaulted him?
- 18 A Yes, I do recall hearing that?
- 19 Q Is that a correct statement?
- 20 A No, it is not.
- 21 Q Okay. And he indicated that you stabbed him, or you injured  
22 him somehow with that knife, is that a correct statement?
- 23 A I most certainly did not.
- 24 Q You recall all that, correct?
- 25 A I recall hearing that, yes.

1 Q Okay. And you recall making your statement, correct, to  
2 Deputy Ochab?

3 A Yes, I made, yes.

4 Q Did you talk to Deputy Ochab in regards to this statement or  
5 did you, is there any information in here that you disclosed  
6 to Deputy Ochab that's not in your statement?

7 A No.

8 Q And then you took your wife to the hospital, I believe?

9 A Yeah. And soon as I got her in the car, my mom and Lisa  
10 were in the car too, and we headed straight for the  
11 hospital. We found a phone in the car, and we called 911,  
12 and we reported that this incident happened, and that we  
13 were on our way to get immediate care for my wife.

14 Q Now, do you recall when you called 911 was it Arenac County  
15 or Bay County?

16 A I'm not sure, I'm not sure. I'm not the one that made the  
17 call.

18 Q Did you give them your name and where you were heading for?

19 A Like I said I'm not the one that made the call. I was  
20 driving.

21 Q Who made the call?

22 A I'm not sure. I know that it was called. I think my wife  
23 actually called. She was crying.

24 Q All right. At the hospital then you met Deputy Ochab and  
25 others, correct?

1 A Yes, sir.

2 Q And that's when you gave your statement?

3 A They came after she had gotten the staples in her head.

4 Q Now, in regards to your wife, you said you came through the  
5 door, Mr. Porter punched on you a couple of times, is that  
6 what you said?

7 A Yes, sir.

8 Q And then you found a knife, and then the fight was over, and  
9 then what did you do with your wife? You picked her up?

10 A I picked her up and I carried her outside.

11 Q You carried like, was she under her own power? Did she  
12 walk?

13 A She could barely walk; she was very out of it. I struggled  
14 to get her out, I did.

15 Q Did you have to physically pick her up and carry her out?

16 A I physically picked her up, and I kind of got her, like, she  
17 was like, "Hhuuhh", like, you know, she's real woozy. And I  
18 got her to put her arm over my shoulder and I helped her out  
19 the house.

20 Q All right. Have you been back to that house since the 18<sup>th</sup>  
21 of November?

22 A No, sir, I haven't been in that house, no.

23 Q Okay. Let me direct your attention then to an incident that  
24 happened a few days prior. Do you recall that incident?

25 A Yes, sir.

1 Q Recall the testimony from Mr. Porter and others in regards  
2 to an altercation between your mom and Ms. Seibert?

3 A Yes, I recall that.

4 Q You were there, correct?

5 A I was there.

6 Q Did you have a knife at that house that night?

7 A No, sir.

8 Q Do you know if there would have been a knife somewhere?

9 A Not that I know of. Oh I mean there's plenty of knives in  
10 the kitchen. But no knife was ever drawn out towards  
11 anybody.

12 Q You don't carry any kind of a hunting knife, or a locked  
13 blade, or anything of that nature?

14 A No, sir.

15 Q Did you make a statement or did you talk to Deputy Ochab  
16 that night as well?

17 A That was more between my mom and Lisa. Mike really didn't  
18 even have anything to do with that day. He just was called  
19 there as a ride for Lisa. Like my mom called him.

20 Q Okay. Let me ask you this. Were you there during that  
21 incident and Mr. Porter arrived, or did you arrive after the  
22 incident?

23 A I was there; I was there before he arrived.

24 Q Okay. So you were there during the whole, I guess,  
25 altercation between your mom and Lisa, correct?

1 A Yes, sir.

2 Q Who called the police?

3 A My mother, Donna Knezevich.

4 Q Okay, and that's when Deputy Ochab showed up?

5 A Yes, sir.

6 Q But as far as you know you didn't make a written statement?

7 A No, not that day, no.

8 Q Okay, and did Lisa leave that night?

9 A She did.

10 Q And did she go with Mr. Porter?

11 A Yes. She wasn't given a choice.

12 Q Okay. So the reason that you went into Mr. Porter's house  
13 was simply to help Ms. Seibert, and also to get your wife  
14 out of there, is that correct?

15 A Once my wife was on the floor that was my only concern is  
16 her well being.

17 MR. HADLEY: All right, thank you. No further  
18 questions.

19 THE COURT: Cross, Mr. Broughton?

20 CROSS-EXAMINATION

21 BY MR. BROUGHTON:

22 Q Mr. Leffew, you started out at the front door?

23 A Yes, sir. My wife knocked on the front door; I walked up  
24 there with her.

25 Q And then you could observe through windows by the front door

1           what was going on inside the house?

2   A       Yes. There is a big, massive window right next to his front  
3           door that you can see throughout most of his house, yes.

4   Q       Okay. Did, why didn't you or your wife call the police at  
5           that point when you seen what was going on in the house?

6   A       Honestly, in the heat of the moment, I'm sitting there  
7           watching my mom get beat up by some guy, and she's screaming  
8           for help--

9   Q       Well, she's not your mother, correct?

10   A       She's been in my life for 25 years, she is my mother.

11   Q       Okay.

12   A       I just, I didn't have, I didn't even think to call the cops.  
13           Let alone, I didn't even find my phone until we got in the  
14           car. There's just a lot of things going on, and it's a very  
15           frantic situation, and I just wanted to help.

16   Q       But you left to go get Lisa with a phone, was it your phone?

17   A       My wife and I share a phone, yes.

18   Q       You took it with you?

19   A       Yes, it was in the car.

20   Q       Once you observed what was going on through the window, you  
21           said you, is the patio doors, or whatever, like on the way  
22           to the backdoor?

23   A       Yeah, yes, it is. You have to go past the patio door to get  
24           to the backdoor, yes.

25   Q       When you talked to--but you weren't, when the door got

1 kicked in, your testimony is you weren't present.

2 A I was looking through the back sliding door. I was not  
3 present at the door when it got kicked in. I wasn't even  
4 aware that it happened.

5 Q Are they on the same wall, I mean, the backdoor and the  
6 sliding glass doors?

7 A They are.

8 Q So you can see, could you see what was going on?

9 A No, you can't. There's an obstruction between, there's,  
10 it's like, there's something that comes out and blocks the  
11 view between those areas.

12 Q Okay. When you talked to Deputy Ochab you stated that you  
13 and Micheline went to the back of the house and she kicked  
14 the door open. Do you remember saying that?

15 A I remember making that statement, yes.

16 Q Why do you say she kicked the door open?

17 A Because by the time that we made it to the hospital we had  
18 all figured out what happened.

19 Q Okay. So you didn't see that happen, you're just saying  
20 that's what she had told you on the way to the hospital?

21 A That's the only thing that I believe could have happened.

22 THE COURT: Did you see it happen?

23 WITNESS: No, I did not.

24 BY MR. BROUGHTON:

25 Q You heard a loud bang, you testified to, correct?

1 A Yes.

2 Q And then did you go around the obstruction towards that,  
3 wherever the loud bang came from?

4 A Yes, I did, yes.

5 Q And you observed your wife laying on the floor having a  
6 seizure?

7 A Yes, I could see her through the door, laying on her  
8 stomach, having a seizure, yes.

9 Q And the door was open at this point?

10 A Yes, it was.

11 Q How far into the house was she?

12 A Well, probably about from, say this is the door, and she,  
13 her feet are right here, she's laying right there, right  
14 there.

15 Q Is she laying like crossways, you got to go over her? Or is  
16 she laying lengthwise, you go around her?

17 A If I could describe the kitchen I could probably make a  
18 better--

19 Q Sure, go ahead.

20 A Okay. So here's the backdoor, and then you go in, and it's  
21 a pretty narrow kitchen, and there's a counter that goes  
22 along the right side of the kitchen, and then there's the  
23 wall on the other side of the kitchen. Well you can walk  
24 through. She's parallel to the counter right there as soon  
25 as you walk in the kitchen. She's laying on the ground



1 parallel to the counter.

2 Q So you could walk past her, basically?

3 A I could, yes. That's basically what happened, I walked up  
4 to the side of her and I was looking at, I was trying to  
5 figure out what to do. I just, I was getting hit in the  
6 face, and I didn't know what to do, and I'm looking around,  
7 and I see--

8 Q Well, did you hit Mr. Porter back?

9 A No, I did not.

10 Q So there was no scuffle or anything?

11 A No, sir.

12 Q And then you, the knife was on the counter, you're saying?

13 A Yes, sir.

14 Q And you grabbed it? And what did you do with it?

15 THE COURT: You have to say "yes or no".

16 WITNESS: Oh, yes, sir, I'm sorry. What was the  
17 question?

18 BY MR. BROUGHTON:

19 Q What did you do with the knife after you grabbed it?

20 A I just held it, and I said, "Hey, stop, please let us go."

21 Q So he had, I mean--

22 A And he said, "Okay."

23 Q He wasn't, I mean when you grabbed it he wasn't punching you  
24 or anything at that point, or was he?

25 A He was punching me.

1 Q And you weren't punching him back at all to defend yourself?

2 A No, I did not, no.

3 Q When you held it did you point it towards Mr. Porter?

4 A I just kind of held it. I didn't really point it at him  
5 directly. I just held it. I just, it was really kind of  
6 pointed at the ground, to be honest.

7 Q And you told him to back up and let you guys leave?

8 A I just told him to please stop and let us go.

9 Q In your written statement it says you told him to back up  
10 and let us leave. That would be kind of the same thing,  
11 just--

12 A Kind of.

13 Q But you were just pointing the knife at the ground at that  
14 point?

15 A Yes, sir.

16 Q Where was Lisa, did you see her when you entered the house?

17 A When I heard the bang, and I came that way, Mike met me in  
18 the kitchen, like I said at the door, and I didn't see Lisa  
19 until I got in my car and she was there ready to go.

20 Q Okay. So when you entered the house you didn't see Lisa  
21 inside sitting at the table or anything?

22 A No, sir.

23 Q And then you stated you set the knife down on the floor?

24 A Yes.

25 Q And then, I guess picked up your wife, did you walk out

1 through the front door then?

2 A Yes, we walked through the house and left, yes.

3 Q Do you recall telling Deputy Ochab that you threw the knife  
4 across the room but you didn't remember where it went?

5 A I do not recall that.

6 Q Is that what happened or no?

7 A No, that's not what happened, no. I believe in my statement  
8 that I said that I may have set the knife back in the  
9 drawer. But it was still in the kitchen when I set it down.

10 Q But you never stated that you threw it?

11 A No.

12 Q Did you ever go back in the house after you were outside?

13 A No, sir.

14 Q Did your mom go in the house?

15 A Not as far as I know. I didn't see her in the house, no.

16 Q Did Donna go back in the house?

17 A I did not see Donna or Lisa in the house after I was picking  
18 my wife up to get her out of the house. They were all--

19 Q Well, you got--did you sit her down by the tire or  
20 something?

21 A Yes, I sit her down by the tire so I could try to get her to  
22 come back to normal. I have to talk to her to get her to  
23 come back, and I just have, and it takes patience. But I  
24 felt like we were outside of the house, and before I started  
25 driving her to the hospital I wanted to make sure that she

1           wasn't, that she could answer me somehow.

2   Q       So you never seen your mom and/or Lisa go back in the house  
3           after that?

4   A       No, sir. Like I said by the time I got my wife out to car,  
5           and we were ready to leave, they were out there at the car  
6           with us too.

7   Q       You heard, I guess, Ms. Seibert testify today, correct?

8   A       Yes, sir.

9   Q       And she said your relationship with Mr. Porter wasn't very  
10          good?

11   A       Well, I mean--

12   Q       I mean, are there bad feelings between the two of you?

13   A       Not necessarily. I mean it's, I mean, how do you feel about  
14          a guy that's plowing your mom.

15   Q       So there's a, okay. And actually both mothers.

16   A       I mean never really had a direct problem with him, honestly.  
17          We never had any arguments.

18   Q       But there was some--

19   A       We talked about fishing. We were going to build a doghouse  
20          together.

21                   MR. BROUGHTON: I don't have any further  
22          questions, Your Honor.

23                   THE COURT: I have a couple of questions. Have  
24          you been a frequent visitor to Mr. Porter's house?

25                   WITNESS: No. That was the first that I have ever

1       been to his house, and the only time.

2               THE COURT: You've never been to his house before  
3       that?

4               WITNESS: No, ma'am.

5               THE COURT: Okay. So before November 18<sup>th</sup>, 2017  
6       you'd never been to his house or inside his house?

7               WITNESS: No, ma'am.

8               THE COURT: Did he ever give you permission to  
9       come over and go into his house?

10              WITNESS: No, ma'am.

11              THE COURT: That day did he ever give you or your  
12      wife permission to come into his house?

13              WITNESS: No.

14              THE COURT: Your testimony was that when you went  
15      in after your wife, saw your wife, you went into the house  
16      and Mr. Porter immediately began punching you in the face?

17              WITNESS: Yes.

18              THE COURT: And your testimony was that you didn't  
19      hit him back?

20              WITNESS: I did not. I don't want to get an  
21      assault on a senior citizen, that's a serious crime.

22              THE COURT: So you stood there and let him punch  
23      you in the face?

24              WITNESS: He don't hit very hard.

25              THE COURT: Okay. Did you let him punch you in

1 the face?

2 WITNESS: Yes, I did.

3 THE COURT: And in response to that you grabbed a  
4 knife. Why did you grab the knife?

5 WITNESS: I grabbed the knife hoping that it  
6 would, if I was holding a knife that he would just stop and  
7 let us go. I just wanted, I don't know why--

8 THE COURT: So did you make sure he saw that you  
9 had a knife?

10 WITNESS: I didn't think about making sure that he  
11 saw that I had a knife, I just grabbed it.

12 THE COURT: Well, did you hope that the knife was  
13 going to have some affect on him?

14 WITNESS: I had hoped that he would just stop and  
15 let us go.

16 THE COURT: So you intended the knife to have some  
17 affect on his behavior?

18 WITNESS: I was just trying to defend myself and  
19 my wife.

20 THE COURT: That's not a hard question. When you  
21 picked up the knife why did you do that?

22 WITNESS: To defend myself and my wife.

23 THE COURT: And you intended Mr. Porter to see  
24 that you had a knife in your hand so that it would affect  
25 his behavior. Is that true?

1 WITNESS: Yes, ma'am.

2 THE COURT: Any questions in light of my  
3 questions?

4 MR. BROUGHTON: No, Your Honor.

5 THE COURT: Mr. Hadley.

6 REDIRECT EXAMINATION

7 BY MR. HADLEY:

8 Q You didn't intend to harm Mr. Porter with that knife, did  
9 you?

10 A I didn't have any intentions on hurting him at all. I just  
11 wanted him to stop.

12 THE COURT: Mr. Windsor.

13 MR. WINDSOR: Okay, well, I haven't done any  
14 cross, but I'll keep it short.

15 THE COURT: Take whatever time you need, Mr.  
16 Windsor.

17 MR. WINDSOR: Oh, thank you.

18 THE COURT: You don't have to keep it short, do  
19 what you need to do.

20 MR. WINDSOR: Well, that's all I have to, I don't  
21 have very many questions, Mr. Hadley asked most of them.

22 CROSS-EXAMINATION

23 BY MR. WINDSOR:

24 Q Mr. Leffew, you entered Mr. Porter's back door, and the  
25 first thing you saw was your wife laying on the ground with

1 blood coming out of her head, correct?

2 A I actually saw her laying on the ground, having a seizure,  
3 with blood on the floor, before I entered the house.

4 Q And simultaneously, at the same time, you were met with  
5 punches in your face, correct?

6 A Yes, sir.

7 Q Is it correct that one of your first instincts would have  
8 been, how do I get my wife out of this situation?

9 A That's the only thought in my head. I've been helping my  
10 wife ever since I met her for the last three years.

11 Q Did you think your wife was going to be in any further  
12 danger laying on the ground having a seizure?

13 A My wife, if, I'll tell you, I've been told by doctors, and  
14 I'm sorry--

15 MR. BROUGHTON: Your--

16 THE COURT: Sustained.

17 WITNESS: That's not allowed?

18 THE COURT: The question is, "Were you concerned  
19 that she was in further danger?"

20 WITNESS: Yes, I was concerned that she could die  
21 on that floor right there.

22 BY MR. WINDSOR:

23 Q Did you know, strike that. Did you see blood coming from  
24 your wife's head while she was having seizures on the  
25 ground?



1 A I saw blood on the floor right next to her head. She was  
2 face down.

3 Q Did it look like it was coming from her head?

4 A Yes, sir.

5 Q Did you know the extent of her injuries when you first saw  
6 her like that?

7 A No, sir. I just knew that she was bleeding, and having a  
8 seizure, and I saw a bunch of broken pieces of glass on the  
9 floor like big chunks of glass.

10 Q So it's correct to say at that moment you didn't know  
11 whether you wife could be dying or not, correct?

12 A No, sir. She could have been.

13 Q And again, one of your first instincts would be to get her  
14 out of there as soon as possible, correct?

15 A Yes, sir.

16 MR. WINDSOR: No further questions.

17 THE COURT: Any redirect, Mr. Hadley?

18 MR. HADLEY: No, Your Honor.

19 THE COURT: Okay. Anybody else, any questions?

20 MR. BROUGHTON: No, Your Honor.

21 MR. WINDSOR: No, Your Honor.

22 THE COURT: May the witness be excused.

23 MR. HADLEY: Yes.

24 (At 4:37 p.m., witness excused)

25 MR. HADLEY: I have no further witnesses.

1 MR. WINDSOR: No further witnesses, Your Honor.

2 MR. HADLEY: My part of the defense rests.

3 THE COURT: Mr. Windsor, do you have any other  
4 witnesses?

5 MR. WINDSOR: No further witnesses. My defense  
6 rests as well.

7 THE COURT: All right. So we're going to break  
8 for the evening. We normally try to break around 4:30; it's  
9 a little bit past that. So we're going to break for the  
10 evening. When we come back in the morning the parties will  
11 be ready to make closing arguments, correct?

12 MR. HADLEY: Yes.

13 MR. BROUGHTON: I might have a short rebuttal in  
14 the morning, Your Honor. It will be short.

15 THE COURT: Okay. So there may be an additional  
16 witness or two, should be fairly brief. Then we'll go  
17 directly into closing arguments, and then this case will go  
18 to you for deliberation. I think fairly early tomorrow.

19 I want to caution you as you leave tonight, please  
20 do not watch any news stories with regard to this case;  
21 don't read any newspapers; don't look at anything on the  
22 internet; don't do any experiments; don't go to the scene;  
23 don't discuss this case with anyone, including your family  
24 members. So I'm going to excuse you for the night. Please  
25 be back here, we're going to start promptly at 9:00

1 tomorrow, so if you'd be here a little bit before that,  
2 maybe quarter to. We'll make sure we have coffee. Will we  
3 have donuts tomorrow?

4 COURT CLERK: Yes.

5 THE COURT: We'll make sure we have coffee and  
6 donuts for you in the morning. So if you could get here  
7 about quarter to, so that we can start promptly at 9:00  
8 tomorrow morning.

9 JUROR: Your Honor.

10 THE COURT: Yes, ma'am.

11 JUROR: Do we, these get left in the jury room?

12 THE COURT: You can leave those in the jury room.  
13 The jury room will be locked and we'll make sure that no one  
14 has access to them.

15 (At 4:39 p.m., jury exits courtroom)

16 THE COURT: Can I have exhibits #6, #7, and #8?

17 MR. BROUGHTON: I have #7 and #8. Six I think is  
18 the knife.

19 THE COURT: Okay. Six, seven, eight, then I have  
20 nine and ten. I've got defense two and three. Okay, so  
21 that's everything.

22 Anything we need to put on the record?

23 MR. HADLEY: I don't believe so, Your Honor.

24 MR. BROUGHTON: No, Your Honor.

25 THE COURT: Okay. Did either defense attorney, I

1 didn't give you the opportunity after the prosecutor rested,  
2 did either of you want to make a motion for directed verdict  
3 or anything like that?

4 MR. HADLEY: I had discussed that at the close of  
5 the prosecutor's proofs but I would not make that motion,  
6 Your Honor.

7 THE COURT: Okay. I'll give you the opportunity  
8 now if you wanted to.

9 MR. HADLEY: No.

10 THE COURT: Mr. Windsor.

11 MR. WINDSOR: I don't need that opportunity, Your  
12 Honor, thanks.

13 THE COURT: Okay, all right. So if I could have  
14 the attorneys here at 8:30 in the morning that will give us  
15 time to go over final jury instructions before we start the  
16 case in the morning. That way we can move things along in  
17 the morning. So, it would be my intention, we could  
18 probably take--how long do you think your witnesses will  
19 take in the morning?

20 MR. BROUGHTON: Fifteen minutes total.

21 THE COURT: Okay. So can we be prepared to go  
22 directly to closing arguments after the close of the proofs?

23 MR. WINDSOR: Yes, Your Honor.

24 MR. HADLEY: Yes.

25 THE COURT: And then we will take a brief break

1 after closing arguments before I do the final instructions  
2 to the jury. That way if anybody has any issues they need  
3 to bring up we'll have a chance to do that outside of the  
4 presence of the jury. Then we'll bring them back in, we'll  
5 do final jury instructions, then we'll give the case to the  
6 jury.

7 So have a good evening, gentleman. I will see you  
8 at 8:30 tomorrow morning.

9 MR. BROUGHTON: Thank you, Your Honor.

10 MR. HADLEY: Thank you.

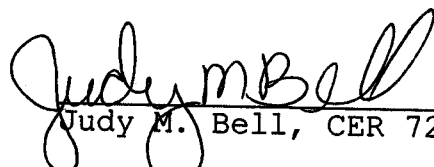
11 MR. WINDSOR: Thank you.

12 (At 4:41 p.m., proceedings concluded)  
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14  
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1 STATE OF MICHIGAN )  
2 )  
3 COUNTY OF ARENAC )  
4  
5  
6

7 I certify that this transcript, consisting of 268 pages, is a  
8 complete, true, and correct transcript of the proceedings and  
9 testimony taken in this case on Monday, March 26, 2018.  
10

11  
12 July 23, 2018



Judy M. Bell, CER 7237

23<sup>rd</sup> Circuit Court

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Standish, MI 48658

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STATE OF MICHIGAN  
23<sup>RD</sup> JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

THE PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 17-4120-FH

MICHELINE NICOLE LEFFEW,

Defendant.

THE PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 17-4119-FH

JEREMIAH JAMES LEFFEW,

Defendant.

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JURY TRIAL - VOLUME II OF II

BEFORE THE HONORABLE LAURA A. FRAWLEY, CIRCUIT COURT JUDGE

Standish, Michigan - Tuesday, March 27, 2018

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NONE

EXHIBITS:	OFFERED	RECEIVED
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People's Exhibit #11	8	9
Floor Plan of Mr. Porter's House		
People's Exhibit #12	11	16
Picture of back of house		

1 Standish, Michigan

2 Tuesday, March 27, 2018 - 9:09 a.m.

3 THE COURT: I want to put on the record that I met  
4 with the attorneys in chambers this morning; we went over  
5 final jury instructions. I intend to give 3.01, 3.02, 3.05,  
6 3.06, 3.07, 3.10, 3.11, 3.13, 3.14, 3.15, 3.16, 3.22, 3.23,  
7 4.01, 4.02, 4.03, 5.02, 5.03, 5.11, 17.09, 17.10, 17.16,  
8 25.02c, 25.02e. I don't know the number but it's the MDOP  
9 under \$200. Do you have the number on that?

10 MR. WINDSOR: Yes, Your Honor. It is 32.03.

11 THE COURT: Okay, 32.03, and 4.16, intent. We  
12 have reviewed the verdict forms as well.

13 So Mr. Broughton, you're satisfied with those jury  
14 instructions?

15 MR. BROUGHTON: I am, Your Honor.

16 THE COURT: And you're satisfied with the verdict  
17 form?

18 MR. BROUGHTON: I am.

19 THE COURT: Mr. Hadley?

20 MR. HADLEY: Yes, Your Honor, I am.

21 THE COURT: Okay. Mr. Windsor?

22 MR. WINDSOR: Same here, Your Honor.

23 THE COURT: Okay. So when we bring the jury back  
24 in Mr. Broughton, I'm going to have both Mr. Hadley and Mr.  
25 Windsor rest again in front of the jury. I know we did

1 that, but let's kind of clarify where we are, I'll have you  
2 each rest. Mr. Broughton you intent to call a couple of  
3 rebuttal witnesses, we'll get through that. We're going to  
4 go straight to closing arguments after the testimony, and  
5 then we'll take a break before I instruct, give the jury  
6 final instructions. Okay?

7 MR. HADLEY: And they'll be provided with copies  
8 of those.

9 THE COURT: They will be provided with copies of  
10 the jury instructions. I will also indicate that we did  
11 have a question from a juror this morning asking if they  
12 could see a copy of the floor plan of the residence. Mr.  
13 Broughton did indicate to me that he was going to be calling  
14 Mr. Porter as a rebuttal witness. I instructed him to have  
15 Mr. Porter draw a floor plan of his house so that the jury  
16 can see it. I think it's a legitimate request since there  
17 was a lot of discussion about what was there in the house,  
18 so I think that's kind of vital information for the jury to  
19 have. So he has drawn a floor plan, the defense attorneys  
20 are examining that now with the defendants. I intend to  
21 have it marked as an exhibit so that the jury can see that.

22 Deputy Ochab, you've been in the house, did you  
23 look at the floor plan that Mr. Porter drew?

24 DEPUTY OCHAB: I did, I believe it's pretty  
25 accurate.

1 THE COURT: Okay. Is there an objection to that,  
2 then?

3 MR. HADLEY: Yes.

4 DEPUTY OCHAB: It's technically not open. I  
5 believe what he had was some little bars in between it.  
6 It's just, it separates what the dining room is from the  
7 living room, as well as the kitchen.

8 THE COURT: But you can see through it?

9 DEPUTY OCHAB: You can see through it. However,  
10 the area that was in dispute was the back patio window,  
11 which you'd have to look through, through the kitchen and  
12 into the dining room. Where the kitchen comes out, you  
13 can't see if you're sitting back here. The patio window  
14 would be over there. The kitchen wall, where it comes and  
15 meets, you can't, you wouldn't be able to look through is  
16 what he was talking about.

17 THE COURT: I know there was argument in opening  
18 statements about what was seen through the window. But my  
19 recollection is that all the testimony about any scuffle  
20 inside between Mr. Porter and Ms. Seibert was viewed through  
21 the front window. So I don't know that that wall is an  
22 issue at this point. Because the argument was, in opening  
23 statement, that they saw all this through the back window,  
24 and then there was, the opposition to that was you couldn't  
25 see the dining room table from the back window. But all the

1 testimony was is that they viewed this through the front  
2 window.

3 DEPUTY OCHAB: Correct.

4 MR. HADLEY: I think the concern from the Leffew's  
5 is, is the way that that is drawn it appears to be a wall,  
6 which really isn't a wall. As Deputy Ochab said what it's  
7 like.

8 THE COURT: Okay. Can we make that, when you  
9 introduce it, have him testify that it's not a solid wall.

10 MR. BROUGHTON: Sure.

11 THE COURT: That there are bars that can be seen  
12 through. Can we do that? Is that satisfactory?

13 If you wanted a real picture you should have had  
14 one. But we're here and we're ready for closing arguments.

15 MR. HADLEY: I would, if we get testimony that it  
16 shows it as a wall, but it's not actually a wall, and maybe  
17 get some testimony from Mr. Porter as to what actually was  
18 there.

19 THE COURT: Can you write on the exhibit, on that  
20 wall, that's it open slats?

21 MR. PORTER: No. It's just pillars, it's just  
22 round pillars that go up and they're spaced apart about a  
23 foot.

24 THE COURT: Okay. Then I'm going to have you  
25 testify to that effect, that it's not a solid wall.

1 MR. BROUGHTON: Goes from the floor to the  
2 ceiling?

3 MR. PORTER: Yeah.

4 MR. BROUGHTON: I'll have him testify to that,  
5 Your Honor.

6 THE COURT: Okay. Just have him testify it's not  
7 a solid wall there are pillars there. Is that satisfactory?

8 MR. WINDSOR: Yes, Your Honor.

9 MR. HADLEY: Yes.

10 THE COURT: Okay. So given that testimony is  
11 there any objection to that as an exhibit?

12 MR. HADLEY: I'm assuming Mr. Porter is still  
13 going to testify.

14 MR. BROUGHTON: He is.

15 THE COURT: Yes.

16 MR. HADLEY: No, I don't have an objection to  
17 that, Your Honor.

18 THE COURT: Okay, so let's have that marked. That  
19 would be People's Exhibit #11.

20 (At 9:16, People's Exhibit #11 marked for  
21 identification)

22 THE COURT: And I'm going to go ahead and admit  
23 that by stipulation then?

24 MR. HADLEY: That's fine by me, yes.

25 THE COURT: Okay. Mr. Windsor?

1 MR. WINDSOR: That's fine by me as well, Your  
2 Honor.

3 (At 9:16 a.m., People's Exhibit #11 received into  
4 evidence)

5 THE COURT: Okay. So you can consider that  
6 admitted, Mr. Broughton.

7 MR. BROUGHTON: Okay.

8 THE COURT: Okay, let's bring the jury in.

9 COURT BAILIFF: All rise for the jury.

10 (At 9:16 a.m., jury enters courtroom)

11 THE COURT: Good morning.

12 JURORS: Good morning.

13 THE COURT: Hope you all had a good evening. We  
14 did the Pledge of Allegiance without you this morning, but  
15 we'll give you a pass.

16 We are back on the record on file 17-4119 and 17-  
17 4120, People of the State of Michigan versus Micheline  
18 Leffew and Jeremiah Leffew.

19 Mr. Hadley and Mr. Windsor, we ended up with you  
20 yesterday, are you resting, sir?

21 MR. HADLEY: On behalf of Mr. Leffew the defense  
22 rests.

23 THE COURT: And Mr. Windsor?

24 MR. WINDSOR: On behalf of Micheline Leffew the  
25 defense rests as well, Your Honor.

1 THE COURT: Okay, and Mr. Broughton, you have  
2 rebuttal witnesses?

3 MR. BROUGHTON: I do, Your Honor.

4 THE COURT: Okay, call your first witness.

5 MR. BROUGHTON: Michael Porter.

6 THE COURT: Okay. Before we do that let me  
7 address something. I did get a question from a juror this  
8 morning, and I think that will be addressed with the  
9 rebuttal witnesses, so.

10 Mr. Porter, you want to come forward. I will  
11 remind you, Mr. Porter, that you are still under oath. Go  
12 ahead and have a seat.

13 Go ahead, Mr. Broughton.

14 MICHAEL DENNIS PORTER

15 (At 9:18 a.m., called by Mr. Broughton as a  
16 rebuttal witness, previously sworn by the Court,  
17 testified as follows)

18 REBUTTAL TESTIMONY

19 BY MR. BROUGHTON:

20 Q Mr. Porter, I'm showing you what's been marked as People's  
21 Exhibit #11, and that's a floor plan that you drew, correct?

22 A Correct.

23 Q That's a floor plan of the inside of your house?

24 A Correct.

25 Q There's a wall you're showing on this floor plan, between



1 the living room and the dining room, what's there, it's not  
2 really a solid wall?

3 A It's not a solid wall, there's like fancy pillars that go up  
4 and they're about a foot apart, all the way around it, all  
5 the way around the front here, but you can see through it,  
6 so.

7 Q Okay. So it's not, even though you have a line there it's  
8 not a solid wall?

9 A No, it's not, no.

10 Q Those pillars just differentiate that from the dining room,  
11 from the living room?

12 A Correct.

13 THE COURT: Can you maybe, Mr. Broughton, have Mr.  
14 Porter puts some lines through that wall so the jury will  
15 know which wall you're referring to as not solid?

16 MR. BROUGHTON: Sure.

17 (At 9:23 a.m., People's Exhibit #12 marked for  
18 identification)

19 BY MR. BROUGHTON:

20 Q And Mr. Porter, you heard the testimony yesterday about the  
21 back of your house?

22 A Yes, sir.

23 Q And what it looks like?

24 A Right.

25 Q I'm showing you what's been marked as People's proposed

1 exhibit #12, and ask if you recognize that?

2 A That's a picture of the back of my house taken in late  
3 August.

4 Q Of last year?

5 A Of last year.

6 Q Okay. And I mean, would that, did you do anything to the  
7 back of the house between August and November 18<sup>th</sup>?

8 A I never did anything to the back as long as I've lived  
9 there. It's looked like that for 45 years, the back of my  
10 house.

11 Q So, part of, on the right side of that picture, are those  
12 your patio doors?

13 A Yes, sir.

14 Q Then the backdoor we've talked about, is that kind of right  
15 in the center of your house there?

16 A Yes, sir.

17 Q Is there anything between the patio doors and the backdoor?

18 A No, sir.

19 Q No wall or anything?

20 A Nothing.

21 Q Did you have a bunch of stuff piled up there in November or  
22 anything?

23 A No.

24 Q Where you couldn't see from one to the other?

25 A Nope.

1 Q Does that, so this, other than the flowers and stuff, it  
2 accurately depicts what your house looked like in November?

3 A Correct.

4 Q Of 2017, on November 18<sup>th</sup>, 2017?

5 A Yes.

6 MR. BROUGHTON: Your Honor, I'd move for the  
7 admission of People's proposed exhibit #12.

8 THE COURT: Mr. Hadley, any objections?

9 MR. HADLEY: I'm going to defer to Mr. Windsor for  
10 voir dire.

11 MR. WINDSOR: I'd like to do some voir dire, Your  
12 Honor.

13 THE COURT: Okay, go ahead, Mr. Windsor.

14 VOIR DIRE EXAMINATION

15 BY MR. WINDSOR:

16 Q Mr. Porter, again when was this picture taken?

17 A Late August.

18 Q The incident happened on November 18<sup>th</sup>, correct?

19 A Correct.

20 Q In between, this is your backdoor, right, in the middle?

21 A Correct.

22 Q And that's a patio door on well, what would be the right  
23 side of this picture, correct?

24 A Correct.

25 Q And in the middle of that do you have any structures at all,

1 right now?

2 A Nope, there's never ever been anything there as long as I've  
3 lived there.

4 Q Do you have any wood piled up in between those two doors?

5 A No sir, never ever in my life have I had any wood.

6 Q Have you ever had any--

7 A There's never been anything there, ever.

8 Q No lattice work?

9 A Nope.

10 Q Do you have squirrel figurines on anything in the back of  
11 your house?

12 A No.

13 MR. WINDSOR: Nothing further, Your Honor.

14 THE COURT: Any objection to the exhibit, Mr.  
15 Hadley?

16 VOIR DIRE EXAMINATION

17 BY MR. HADLEY:

18 Q Mr. Porter, you testified there's been no lattice work done  
19 on the back of the house in 45 years?

20 A Correct.

21 Q Is this the most recent picture you have of the back of your  
22 house?

23 A Yes, sir.

24 MR. HADLEY: Your Honor, I guess I would have,  
25 there's been testimony that there was lattice work, and

1 there was an obstruction between the two. I notice that,  
2 that picture was taken in August. I could not stipulate to  
3 the admission of that picture.

4 THE COURT: I'm not asking for stipulation, I'm  
5 asking for objections.

6 MR. HADLEY: I would object to the admission of  
7 that exhibit.

8 THE COURT: Based on?

9 MR. HADLEY: The fact that the Leffews have  
10 indicated to me that there actually was lattice work and  
11 obstructions between those two doors.

12 THE COURT: Okay. That's a question of fact that  
13 the jury will decide.

14 MR. HADLEY: It is a question of fact.

15 THE COURT: I believe that the proper foundation  
16 has been made for the photograph; the witness has testified  
17 that it's an accurate depiction of the back of his house.  
18 The rest of it is for you to argue to the jury, and they'll  
19 make a determination of what the fact actually is. So I'm  
20 going to allow the admission of exhibit #12. Could I see  
21 the exhibit, please?

22 MR. HADLEY: But, Your Honor, you're ruling that  
23 that's an actual depiction of the house in August of 2017,  
24 correct?

25 THE COURT: Correct.

1 MR. HADLEY: Okay.

2 (At 9:24 a.m., People's Exhibit #12 received into  
3 evidence)

4 THE COURT: Go ahead, Mr. Broughton.

5 REBUTTAL EXAMINATION (CONTINUING)

6 BY MR. BROUGHTON:

7 Q And then Mr. Porter, although that picture was taken in  
8 August, you're testimony is that there's never been an  
9 obstruction between the patio door and the back door?

10 A There's never been one since I've lived there.

11 Q Okay. So there wasn't one on November 18<sup>th</sup> of 2017?

12 A No.

13 MR. BROUGHTON: I have no further questions, Your  
14 Honor.

15 THE COURT: Cross, Mr. Hadley?

16 MR. HADLEY: None, Your Honor.

17 THE COURT: Mr. Windsor?

18 MR. WINDSOR: No cross, Your Honor.

19 THE COURT: Okay. May the witness step down?

20 MR. BROUGHTON: Yes.

21 THE COURT: Thank you, Mr. Porter.

22 (At 9:25 a.m., witness excused)

23 THE COURT: Call your next witness.

24 MR. BROUGHTON: Deputy Ochab.

25 THE COURT: Deputy Ochab, if you'll come up and

1 have a seat, I'll remind you that you are still under oath.

2 DEPUTY OCHAB: Yes, Your Honor.

3 THE COURT: Go ahead, Mr. Broughton.

4 DEPUTY CHRISTOPHER OCHAB

5 (At 9:25 a.m. recalled by Mr. Broughton as a  
6 rebuttal witness, previously sworn by the Court,  
7 testified as follows)

8 REBUTTAL TESTIMONY

9 BY MR. BROUGHTON:

10 Q Deputy Ochab, you had the opportunity to talk to both  
11 Micheline and Jeremiah Leffew on November 18<sup>th</sup>, correct?

12 A Yes.

13 Q And Jeremiah, did he say anything about lattice work, or  
14 obstructions, or anything that day?

15 A No he did not. They just said they went around to the back  
16 of the house, and Micheline kicked in the door, and they  
17 went in.

18 Q And how did you interpret that?

19 A I interpreted that they went around to the back of the house  
20 together and went to the backdoor together so.

21 Q And you heard him testify yesterday that he was at the patio  
22 door and he couldn't see what she was doing?

23 A You're talking maybe six feet apart. I mean he would see  
24 somebody there next to you.

25 Q When you, did you see any, I mean did you--

1 A I did not notice any obstruction between the patio door and  
2 the kitchen door in the back.

3 Q And you were there that night?

4 A Yes.

5 Q And do you recall talking to him about what happened to the  
6 knife?

7 A Jeremiah advised me that he had thrown the knife; he didn't  
8 know where he threw it.

9 Q Never stated he sat it on the floor next to Micheline?

10 A Never stated he sat it on the floor.

11 MR. BROUGHTON: I don't have any further  
12 questions, Your Honor.

13 THE COURT: Cross, Mr. Hadley?

14 MR. HADLEY: No, Your Honor.

15 THE COURT: Mr. Windsor?

16 MR. WINDSOR: None here, Your Honor.

17 THE COURT: Thank you, you can step down.

18 WITNESS: You're welcome.

19 (At 9:27 a.m., witness excused)

20 THE COURT: Anything else, Mr. Broughton?

21 MR. BROUGHTON: No, Your Honor.

22 THE COURT: So prosecution rests?

23 MR. BROUGHTON: Prosecution rests.

24 THE COURT: Are the parties ready to give their  
25 closing arguments?



1 MR. BROUGHTON: I am, Your Honor.

2 MR. HADLEY: Yes, Your Honor.

3 MR. WINDSOR: Yes, Your Honor.

4 THE COURT: Mr. Broughton, go ahead.

5 MR. BROUGHTON: I would like to thank you again.

6 Like I said I didn't think we'd be here very long today.

7 The trial moved along pretty well and I just want to say  
8 thanks.

9 You guys now are the fact finders, so you get to  
10 determine who was telling the truth, and who wasn't telling  
11 the truth, because there's totally different stories here.  
12 But what is, you know, what is important, I think, is what  
13 you have to focus on.

14 Whether there were three people at the front or  
15 two people initially isn't really a fact that lends itself  
16 to these crimes.

17 It's uncontroverted, and Micheline admits that she  
18 went to the back, and kicked the backdoor in, and went into  
19 the house, and was met with an ashtray. And luckily for her  
20 Ms. Seibert talked Mr. Porter out of using a gun or she  
21 would have probably got met with a bullet because she kicked  
22 in a door and went in the house.

23 To prove that, to prove a Home Invasion 3<sup>rd</sup> Degree  
24 which is what she's charged with, I have to show that she  
25 broke and entered a dwelling, and I think that that's pretty

1 easy, there's damage done, she kicked a door in. It doesn't  
2 even matter whether anything was broken, but there was. I  
3 mean, there's pictures that show the doorjamb was broken,  
4 there's some other stuff that was broken. She went in the  
5 house, there's no dispute that she went in the house, got  
6 hit with an ashtray.

7 Then the other element is that when she was  
8 entering the house she maliciously destroyed a building,  
9 which is the door. She kicked the door in, and entered a  
10 building, and that's a home invasion/breaking entering,  
11 whatever you want to call it. That's a home invasion  
12 because it's a home and there was damage done. It was done  
13 maliciously by Micheline.

14 In regards to Jeremiah, Home Invasion 1<sup>st</sup> Degree,  
15 Entering without Permission, he clearly didn't have  
16 permission. Mr. Porter testified he didn't have permission.  
17 They had never been to the house before, so there's no  
18 implied permission even though they're, even though Ms.  
19 Seibert had been there they had never been there. He  
20 entered the house through the backdoor without any  
21 permission, and when he was in the house he committed an  
22 assault. The assault is with the knife. You don't have to  
23 cut somebody to commit an assault; you have to have the  
24 ability to commit the assault. He said he had the knife at  
25 his side, but clearly Mr. Porter, evidentially at that point

1 backed up, so, and there's a knife that's brandished. He  
2 says, "Back up," you know, "we're getting out of here." or  
3 whatever exactly he said. That's an assault because he has  
4 the ability to commit a battery on Mr. Porter, and he has a  
5 dangerous weapon.

6 The third element is somebody else was present.  
7 It's tough to commit an assault without somebody else  
8 present, and Mr. Porter's lawfully in his own house when it  
9 gets broken into by these two people.

10 The interesting thing is, you know, Ms. Knezevich  
11 is there, but she never, you know, she's with Ms. Seibert,  
12 they're now married, but she doesn't, she's not the one that  
13 goes into the house until afterwards, and even Mr. Leffew  
14 doesn't remember her going in afterwards, so.

15 There was an axe to grind here between Mr. and  
16 Mrs. Leffew and Mr. Porter, and they seized the opportunity  
17 at this point to go in. I think it startled, obviously  
18 Micheline, when she got smacked in the head with the  
19 ashtray, so things changed quickly. And, you know, Mr.  
20 Leffew grabbed a knife, if you believe Mr. Porter, he  
21 threatened him with the knife, and actually cut him with the  
22 knife. If you believe Mr. Leffew he just stood there with  
23 the knife and that diffused the whole situation.

24 Again, it's your job, and it's a tough one, to  
25 determine who's telling the truth and whose lying in this

1 situation.

2 The Assault with a Dangerous Weapon, is he  
3 attempted to commit a battery on Mr. Porter, or did an act  
4 that would cause a reasonable person to fear or apprehend an  
5 immediate battery. Mr. Porter testified he cut him, that's  
6 a battery. Even if he doesn't though, and even if you  
7 believe that's a scratch and you don't believe Mr. Porter,  
8 there doesn't have to be an injury in an assault. The knife  
9 is a dangerous weapon at this point. You know it's how you  
10 use it. If you're holding a knife, even if it's a steak  
11 knife, if you're pointing it at somebody, and holding it,  
12 and threatening him with it, that's a dangerous weapon.

13 You seen everybody testify, and you've heard  
14 different versions of what happened. You know there's, you  
15 have to, I guess, look at who has something to gain. And  
16 Mr. Leffew is, well, he admits that he didn't like Mr.  
17 Porter because he was having sex with his mom.

18 Mr. Porter, you know, did what he thought was  
19 right when he went and got Ms. Seibert, brought her to his  
20 house, where she'd been before. This is how he gets repaid  
21 is the Leffews come over, and, you know, basically break  
22 into his house, and try to injure him.

23 You heard them testify. Ms. Leffew, you know,  
24 testifying about the picture that, you know, no picture was  
25 ever provided because the police didn't want it. Well, they

1 took pictures of them, just like those. They were provided  
2 but maybe she didn't see them. Yeah, I mean she has a nasty  
3 cut. I don't like to say she got what she deserved, but  
4 quite frankly, she got what she deserved by kicking the door  
5 in and going into somebody's house. Luckily she didn't get  
6 killed.

7 Mr. Leffew, you know, yesterday he testified he  
8 sat the knife down, that's not what he told Deputy Ochab.  
9 Yesterday he's not at the backdoor, he's at the patio doors  
10 again you can read his statement, he never said that before.

11 They seized an opportunity to get even with Mr.  
12 Porter, and luckily things didn't turn out the way they  
13 hoped.

14 I would ask that you find the defendants "guilty".  
15 Thank you.

16 THE COURT: Mr. Hadley.

17 MR. HADLEY: Thank you, Judge. Good morning.

18 JURORS: Good morning.

19 MR. HADLEY: Hopefully we're not going to have you  
20 here long; it's still very early morning. The proofs are  
21 in, the Judge is going to give you some final instructions  
22 and then send you off to deliberate.

23 Mr. Broughton thanked you, I thank you, Mr. Leffew  
24 thanks you as well, I'm sure that Mr. Windsor will thank  
25 you. This is an interesting job, this is a hard job, this

1 is a job where I always thought I would like to sit on a  
2 jury, but probably never will because of the work that we  
3 do. So I envy you, but once you do your service today,  
4 hopefully you'll be done, and you can talk to your friends  
5 about, wow what a cool trial I was in.

6 This is not your average run of the mill facts.  
7 We have a, basically, five people involved, and it's a he  
8 said, he said, she said, she said situation. I'm not going  
9 to belittle or belabor the testimony, you heard it, it's  
10 very fresh in your mind. There's a number of exhibits,  
11 pictures, and witness' statements to go around, that you'll  
12 be able to take in the jury room.

13 What I will just touch on, if Mr. Leffew sincerely  
14 had an issue with Mr. Porter, he could have taken it up with  
15 Mr. Porter not on October or November 18<sup>th</sup>, but he could have  
16 taken it up with him anytime. You know, they could have  
17 been in a bar or restaurant together, he could have been  
18 over to his mom's house, Ms. Seibert's house at some point  
19 in time, and finally just said, hey I've had enough of you,  
20 and duke it out, and he didn't do it.

21 The reason he was there on the 18<sup>th</sup> is because  
22 there was a real sincere issue that Ms. Seibert was being  
23 held there against her will. There's phone conversations,  
24 and pictures indicating that there's messages or phone calls  
25 on her phone that she wanted to get out of there.

1           It's interesting to note that Mr. Porter, when he  
2 testified yesterday, he said, I believe under direct  
3 examination, that Ms. Seibert could have left anytime she  
4 wanted to, all she had to do was ask. I don't get how you  
5 have to ask somebody to leave if you're not being held  
6 against your will. I don't know how you could get a woman  
7 who could say I have to ask permission to leave. Okay, she  
8 testified I had his keys to his house, and I had his keys to  
9 his truck, but she didn't leave. Well, the reason she  
10 didn't leave was because he wouldn't let her. And that's  
11 the reason why these phone calls were made to pick her up on  
12 the 18<sup>th</sup> of November.

13           Yeah, there was a series of events that was going  
14 on. There was the prior incident from a few days prior when  
15 Deputy Ochab and I think the Tribal Police went out to their  
16 house while Ms. Knezevich and Ms. Seibert were squabbling  
17 before they were married, and it was cooled off without a  
18 report, without an arrest. Ms. Seibert, or excuse me, Ms.  
19 Seibert went to Mr. Porter's house, and that's where she was  
20 on the 18<sup>th</sup> of November, and she didn't want to be there  
21 anymore. So this whole series of events transpired in a  
22 relatively short period of time.

23           You've heard the testimony, you've heard the  
24 stories. What I would like you to key in on, and I think it  
25 was very apparent yesterday. Is we had a prior hearing and

1 there was testimony from that prior hearing on December 19<sup>th</sup>  
2 2017. It was a preliminary examination to have the matter  
3 bound over to circuit court, which it was. At that hearing  
4 it's very interesting, because Ms. Seibert was a totally  
5 different person on December 19<sup>th</sup> than she testified to  
6 yesterday. Now, why is that? You have to ask yourself,  
7 what transpired between the incident of November 18<sup>th</sup>, the  
8 preliminary examination on December 19<sup>th</sup>, and yesterday.  
9 Well, the answer, very simply, she spurted it out yesterday  
10 when I kept asking her about her conflicting testimony when  
11 I asked her, "Things were okay on November 18<sup>th</sup>?" "Yup."  
12 "Things were okay on December 19<sup>th</sup>?" "Yup." "What changed  
13 now?" And I think if you recall she blurted out that Mr.  
14 Leffew was trying to have her wife arrested, and she got  
15 mad, she got upset. And so from that, December 19<sup>th</sup> to  
16 yesterday her story changed, it changed 100%. So she might  
17 have been held against her will on the 18<sup>th</sup> of November, she  
18 might have been held against her will on the 19<sup>th</sup> of  
19 December, as she testified to, but she wasn't held against  
20 her will yesterday. And you need to key in on that, and you  
21 need to find out why she said that, what was that all about.

22 Well, there's reason, she's mad. She's mad at Mr.  
23 Leffew, Mrs. Leffew, and she's back in a relationship with  
24 Mr. Porter who she wanted to leave on November 18<sup>th</sup>. I don't  
25 understand it, I don't get it, I don't make the rules, and I



1 didn't testify. What we say is not testimony. I'm only  
2 telling you my observation and you're observation of her.

3 As to the knife, there's a knife, okay, could be  
4 like a stick in the woods. You walk in the woods, you pick  
5 up a stick. There's a knife. Deputy Ochab went back in  
6 late February and picked up the knife. Conflicting  
7 testimony, Mr. Porter said at one point in time when they  
8 left he grabbed the knife, put it in a bag. Deputy Ochab  
9 showed up, he told Deputy Ochab there was a knife in a bag,  
10 he didn't take it. Next testimony was, no I found the  
11 knife, put a hole in my clock, and it was found by my TV 15  
12 feet away.

13 We don't know, knife was never tested, there's no  
14 prints on the knife, there's no DNA on the knife. Deputy  
15 Ochab testified truthfully, "We didn't test it. We had a  
16 knife as a piece of evidence.", and that's what it is. So  
17 could that be a red herring, might be.

18 Now we got two knives. We didn't know anything  
19 about this second knife until yesterday when Mr. Porter and  
20 Ms. Seibert testified that three days before, when there was  
21 this incident, when Lisa had to leave to go to Mr. Porter's  
22 house, oh, Mr. Leffew had a knife. When did that come  
23 about? Ladies and gentlemen, it happened yesterday.

24 I would take and pay attention to the testimony.  
25 I think the testimony, and the witness' exhibits, and the

1 witness' statements will tell you what you need to know.

2 Mr. Leffew did nothing wrong other than, yes, he  
3 went in the house, he followed his wife in the house, there  
4 was an altercation. As Mr. Leffew testified he come through  
5 the threshold of the door. Mr. Porter punched him on a  
6 number of occasions, he said, he didn't hurt, because he was  
7 an old man he didn't hurt him that much. He said he had a  
8 knife, grabbed a knife, looked at Mr. Porter and said, "It's  
9 over dude." I just want to get my wife and get out of here  
10 and that was the end of it, and he laid the knife down,  
11 that's what he said. Okay, why the knife ended up 15 feet  
12 away, we don't even know, we don't even know what knife that  
13 was.

14 Did Mr. Leffew do anything wrong, "no", he went  
15 there and rescued, as he calls it, his mother-in-law, who'd  
16 been his mother for 25 years. He went there because he was  
17 requested to be there by Lisa. And now Lisa doesn't like  
18 Mr. and Mrs. Leffew for some reason. That doesn't discount  
19 the fact that she liked him back on December 19<sup>th</sup> when her  
20 testimony was preserved. And I asked her specifically and  
21 repeatedly, "Did you say that back then?" "Yeah, but that's  
22 not what I meant."

23 Well, what exactly did you mean? You know, are  
24 you being untruthful then, are you being untruthful now, is  
25 your memory better yesterday than it was in November, and

1           you need to decide that.

2                   All in all, ladies and gentleman, Mr. Leffew did  
3 nothing wrong. I would ask you to come back with two  
4 verdicts, "not guilty" as to both counts. Thank you.

5           THE COURT: Mr. Windsor.

6           MR. WINDSOR: Thanks, Your Honor.

7                   I would like to thank the jury for being here and  
8 listening to all the testimony. I know it's what you really  
9 wanted to do and I hope you had fun, but I really do  
10 appreciate it. It's a constitutional duty and it's  
11 extremely important for these two defendants sitting right  
12 here.

13                   The Leffews, on November 18<sup>th</sup>, were there to do one  
14 thing; they were there to pick up Lisa Seibert. And then  
15 touching on what I said in opening, Lisa was Jeremiah's  
16 mother, is Jeremiah's mother, you don't have to be blood to  
17 be family, she's been a mother figure for 25 years, and he's  
18 I believe in his, 26 or 28 years old.

19                   I have a step-mother that came into my life when I  
20 was 10 years old; I'm 35 now, so I completely understand his  
21 situation. Its 25 years, I've always called her mother. My  
22 real mother, you know, it wasn't a priority to be a real  
23 mother.

24                   So I completely empathize with that. It's a step-  
25 mom, it's a mother. The relationship might be strained now,

1 but you can't choose your family.

2 But on the day of November 18<sup>th</sup> they show up there  
3 knowing that Lisa clearly wanted to leave, she testified she  
4 wanted to leave. They were there to go into rescue mode, to  
5 rescue Jeremiah's mother and his wife's mother-in-law, Lisa  
6 Seibert. You know, seeing this, Mr. Porter being a  
7 controlling, overbearing man. Lisa can't call who she  
8 wants, she has to sneak around to call who she wants. They  
9 see her getting thrown around, through the window, and  
10 dragged around the house. Of course they went in to get her  
11 out of that situation.

12 Ms. Leffew kicks open the door, and gets blasted  
13 in the head, and then she's out of commission. Jeremiah,  
14 whether he was in the back already and saw this happen, or  
15 whether he came around, comes around, sees his wife  
16 seizing on the ground with blood coming out of her head.  
17 He grabs a knife right next to him, he doesn't know what's  
18 going on, I'm sure he's freaking out, and it's fight or  
19 flight mode. You know, he grabs that knife right next to  
20 him to end the situation. You know, of course he did. You  
21 know, what would a reasonable person do in that situation.  
22 He wants to get out as soon as possible and make sure it's  
23 not the last time he sees his wife.

24 You know, and then speaking on Mr. Porter, there's  
25 a reason before the Leffews coming to the house on November

1 18<sup>th</sup>, that he grabbed a gun. It wasn't because he knew that  
2 they were coming to throw down, or that he got assaulted  
3 with a knife. There's a reason he blasted Ms. Leffew in the  
4 head, and it's not because he's protecting his house, it's  
5 because he's a controlling, overbearing man, throwing Lisa  
6 Seibert around in his house. He doesn't know how to treat  
7 other women and other people. He wasn't necessarily afraid  
8 of anyone coming to the house, he was afraid of having Lisa  
9 let out of the house. He was controlling the situation. He  
10 didn't want her to get out of the house. This isn't  
11 acceptable in today's society and he needs to realize that,  
12 but that's his problem.

13 You know, and talking about the testimony,  
14 everyone, you know, promises to tell the whole truth and  
15 nothing but the truth. How are you as a jury supposed to  
16 make a decision when some of the testimony you heard was so  
17 inconsistent. You have to weed through the testimony you  
18 heard. You know Mr. Porter says he wasn't being aggressive,  
19 but Ms. Seibert, you know, says a multitude of things that  
20 she testified, and you can see it in the exhibits when you  
21 read through them again. The police report, her statement,  
22 what she said, testified to, that she had to say at the  
23 prelim that Mr. Hadley got out of her.

24 You know, which testimony is the correct  
25 testimony, you'll have to decide. I think you should look

1 at the freshest statements that she provided for the truth.  
2 You know, Ms. Seibert said she was being pushed around in  
3 those statements. The defendants saw her being pushed  
4 around and dragged around the house in those statements.

5 You know, and touching on the testimony of Mr.  
6 Porter again, there's a surprise knife assault that happened  
7 days before the November 18<sup>th</sup> incident. He never told the  
8 police about this, you know, it seemed kind of important, we  
9 didn't hear about it until yesterday.

10 You know, another thing Ms. Leffew had a huge gash  
11 on her head. You know, isn't it common sense, that you can  
12 use in your determination today, that she would bleed  
13 profusely out of her head? Did she bleed all over the  
14 place? Well, I don't know necessarily, and we don't know  
15 necessarily, because Mr. Porter was cleaning up the crime  
16 scene minutes before the police even showed up.

17 The cops, I'm sure were on their way, I would have  
18 thought, well, it doesn't matter what I think, but one would  
19 think a reasonable person would leave a crime scene the way  
20 it is so that the police can show up and have an accurate  
21 depiction of what went down just proceeding the minutes he  
22 was there.

23 As for the elements of Home Invasion, 3<sup>rd</sup> Degree,  
24 Committing or Intending to Commit a Misdemeanor, which my  
25 client, Ms. Leffew, is charged with. First it has to be,

1 you have to decide as a jury that the defendant broke and  
2 entered a dwelling. You heard the testimony; I think you  
3 know what the answer is to that, won't comment on it.

4 Second, that when the defendant entered, was  
5 present in, or was leaving the dwelling, she committed a  
6 misdemeanor being Malicious Destruction of a Building under  
7 \$200. Well, you as the jury have to know what Malicious  
8 Destruction of a Building under \$200 is, and you have to  
9 know what the elements are of that underlying misdemeanor.

10 One, the defendant is charged with the crime of  
11 Malicious Destruction of a Building, so that's what she is  
12 charged with. And those elements are, first, that the  
13 building, or anything permanently attached to it belong to  
14 someone else, which the house belonged to Mr. Porter.  
15 Second, that the defendant destroyed or damaged the building  
16 or anything permanently attached to it. Well, there was a  
17 door kicked in and you heard the testimony again. Third,  
18 that the defendant did this knowing that it was wrong,  
19 without just cause or excuse, and with the intent to damage  
20 or destroy the property. And fourth, the extent of the  
21 damage was some amount less than \$200. I think the fifth  
22 element, or the fourth element really, the \$200 element, you  
23 can decide that for yourself. I think the testimony would  
24 lend you to believe that less than \$200 damage, at least,  
25 was done to that door.

1 But most importantly this underlying misdemeanor  
2 is called Malicious Destruction of a Building or, you know,  
3 under \$200. You need to know what malicious means, and if  
4 you have to you can ask the Judge and have her define that.  
5 I can define what it means out of the Black's Law Dictionary  
6 but I won't.

7 But just keep in mind that that third element,  
8 knowing that is was wrong without just cause or excuse,  
9 because that's where this whole crime that Ms. Leffew is  
10 charged with falls apart. She had just cause to go kick in  
11 that door and let Ms. Seibert out. You know, it's her  
12 mother-in-law; she sees a woman get thrown around, that's  
13 not right at all. Of course she's going to get in there and  
14 let her out. Whether it was wrong or not that's for you to  
15 decide. It wouldn't have been wrong in that situation  
16 because, like we said, she's rescuing her mother-in-law.  
17 That's what they were there to do after they were only there  
18 to pick her up. You know, they didn't want to engage in  
19 some altercation with Mr. Porter that day. Mr. Porter  
20 didn't want to let Lisa Seibert go, that's what he wanted to  
21 do. The Leffews wanted to get her out of there, which I  
22 would say a reasonable person would want to be let out of  
23 that situation when you have some controlling, overbearing  
24 man, who probably thinks he's the cock of the walk with his  
25 two ladies. Making people have to sneak around to call on a



1 phone. It's for you to decide factually what's going on  
2 there because I can't tell you.

3 And then knowing all this I would just ask that  
4 you go over all the testimony again, think about it very  
5 carefully, and come back with a "not guilty" verdict for  
6 both of the defendants, but especially my client, Micheline  
7 Leffew. Thank you.

8 THE COURT: Mr. Broughton, rebuttal.

9 MR. BROUGHTON: I get one more chance just because  
10 I have the burden of proof, so. The interesting thing, and  
11 there's more uncontroverted testimony is that, well, the  
12 only two people that supposedly seen Ms. Seibert being  
13 assaulted are Mr. and Mrs. Leffew. Also, Mr. Seibert (sic)  
14 had called the police when he seen the, he called 911 when  
15 he seen the car come in. If he's assaulting somebody why do  
16 you call the police, then commit an assault, and then call  
17 the police again. I mean he called 911 twice, because he  
18 was afraid. When Mr. Leffew's car pulled in he knew  
19 something was going to happen and he was absolutely correct.  
20 Something did happen. If they seen an assault, they had a  
21 phone, even if it wasn't on them it was in the car because  
22 Ms. Leffew used it after her seizure on the way to the  
23 hospital to call the police then, why not call the police  
24 when you're supposedly viewing this assault, or have Ms.  
25 Knezevich all the police when you are viewing this assault

1 through the window, and the police had already been called.  
2 Mr. Porter knew they were on their way, he just didn't know  
3 how long it was going to take them. So he's not assaulting  
4 her. Is he talking to her? Sure. Is she sitting in the  
5 chair? Sure. Is he leaning over her? Probably, but  
6 there's no assault, he's trying to talk her into staying  
7 because there was issues, the reason he went and got her.

8 And I guess, Mr. Windsor portrays him as a very  
9 controlling person. Ms. Seibert had a phone. She didn't  
10 testify she had to run around to use it, she used it that  
11 day, numerous times. You know, she could have called 911 if  
12 she was being held against will, but actually Mr. Porter  
13 called.

14 What really isn't acceptable is just kicking  
15 somebody's door open and busting into their house, that's  
16 what's not acceptable. You just don't take the law into  
17 your own hands. That's not what you are supposed to do.  
18 You call 911 or, and that's what you are supposed to do,  
19 you're supposed to call the police, you know. At that point  
20 she should have called not on the way to the hospital.

21 There's no testimony that Ms. Seibert and Mr.  
22 Porter are back in a relationship, in fact, I believe she  
23 testified that they weren't in a relationship at this point.  
24 They're not in a relationship and they haven't been.

25 And then there was some testimony that, well, Mr.

1 Porter testified that Ms. Leffew was not out of commission.  
2 She got up, jumped on his back, there was blood found on his  
3 back, a bigger spot that's still at the lab getting tested,  
4 so we don't know 100% whose blood it is, but it's on the  
5 back of his shirt. You know, he's got a little scratch and  
6 not very many injuries. But she's got, you seen the  
7 pictures, she's got blood coming out of her head, makes  
8 sense that that would be on Mr. Porter's back, if she jumped  
9 on his back.

10 Again, I think the biggest thing is he's the one  
11 who calls 911; he's trying to avoid confrontation. The  
12 Leffews, basically, wanted to confront him, jumped, you  
13 know, busted in the backdoor, were going to assault him.  
14 Mr. Leffew did assault him with a knife.

15 I don't envy your job to figure out who's telling  
16 the truth or what the facts are. But, unfortunately that's  
17 what you get to do. I'd ask that you find them "guilty".  
18 Thank you.

19 THE COURT: Ladies and gentlemen, we're going to  
20 take a brief recess, then I'll bring you back, I'll give you  
21 your final instructions, and then this case will be yours.

22 So let's take a brief recess.

23 (At 9:56 a.m., jury exits courtroom)

24 THE COURT: I want to go over the exhibits with  
25 you briefly while she's getting the verdict forms, the

1 amended verdict forms, then I'll have you each look at them  
2 make sure they're okay.

3 I have exhibits #1, #2, #3, #4, #5, #6, #7, #8,  
4 #9, #10, #11 is the floor plan, #12 is this last photograph.  
5 Then I have Defendant's Exhibits #2 and #3. There was no  
6 exhibit #1?

7 MR. HADLEY: I had it pre-marked but I didn't move  
8 for admission.

9 MR. WINDSOR: You're also talking about mine, I  
10 had an exhibit but it was never going to be admitted.

11 THE COURT: Okay. But all that was admitted I  
12 have marked #2 and #3, is that correct?

13 MR. WINDSOR: Yes.

14 MR. HADLEY: Yes.

15 THE COURT: Okay. So we have all the exhibits.  
16 It's my intention to send those back into the jury room with  
17 the jury, as well as a written copy of jury instructions.  
18 I'm just waiting for the verdict forms.

19 (At 9:58 a.m., proceedings in recess)

20 (At 10:24 a.m., proceedings reconvene - all  
21 parties present)

22 THE COURT: I just wanted to indicate that we did  
23 receive a note from a juror. I have discussed it with the  
24 attorneys. It's basically a question about why a certain  
25 question wasn't asked. I am not going to address the

1 question specifically with the juror, but I will just  
2 instruction them that they are to rely on their own  
3 collective memory of the testimony that was presented.

4 (At 10:25 a.m., proceedings in recess)

5 (At 10:30 a.m., proceedings reconvene - all  
6 parties present)

7 THE COURT: Gentlemen, can you look at these and  
8 make sure the verdict forms are okay?

9 MR. HADLEY: That's fine.

10 MR. BROUGHTON: Perfect.

11 MR. WINDSOR: Good.

12 THE COURT: Okay. All right, let's bring the jury  
13 back in.

14 (At 10:30 a.m., jury enters courtroom)

15 THE COURT: Be seated.

16 I apologize that break took a little longer than I  
17 anticipated we had a little bit of a technical difficulty,  
18 but we're ready to move forward now. So I'm going to give  
19 you your final instructions and then this case will be yours  
20 for you to deliberate on.

21 Members of the jury, the evidence and the  
22 arguments in this case are finished, and I will now instruct  
23 you on the law. That is, I will explain to you the law that  
24 applies in this case. Remember that you have taken an oath  
25 to return a true and just verdict, based only on the

1 evidence and my instructions on the law. You must not let  
2 sympathy or prejudice influence your decision.

3 As jurors, you must decide what the facts of this  
4 case are. This is your job, and nobody else's. You must  
5 think about all the evidence and then decide what each piece  
6 of evidence means and how important you think it is. This  
7 includes whether you believe what each of the witnesses  
8 said. What you decide about any fact in this case is final.

9 It's my duty to instruct you on the law. You must  
10 take the law as I give it to you. If a lawyer says  
11 something different about the law, you should follow what I  
12 say. At various times, I have already given you some  
13 instructions about the law. You must take all of my  
14 instructions together as the law you are to follow. You  
15 should not pay attention to some instructions and ignore  
16 others.

17 To sum up, it is your job to decide what the facts  
18 of this case are, to apply the law as I have given it to  
19 you, and, in that way, to decide this case.

20 A person accused of a crime is presumed to be  
21 innocent. This means that you must start with the  
22 presumption that the defendant is innocent. This  
23 presumption continues throughout the trial and entitles the  
24 defendant to a verdict of not guilty unless you are  
25 satisfied beyond a reasonable doubt that he or she is

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1 guilty.

2 Every crime is made up of parts called elements.  
3 The prosecutor must prove each element of the crime beyond  
4 reasonable doubt. The defendant is not required to prove  
5 his or her innocence or to do anything. If you find that  
6 the prosecutor has not proven every element beyond a  
7 reasonable doubt, then you must find the defendant not  
8 guilty.

9 A reasonable doubt is a fair, honest doubt growing  
10 out of the evidence or lack of evidence. It is not merely  
11 an imaginary or possible doubt, but a doubt based on reason  
12 and common sense. A reasonable doubt is just that: a doubt  
13 that is reasonable, after a careful and considered  
14 examination of the facts and circumstances of this case.

15 When you discuss the case and decide on your  
16 verdict, you may only consider the evidence that has been  
17 properly admitted in this case. Therefore, it is important  
18 for you to understand what is evidence and what is not  
19 evidence. Evidence includes only the sworn testimony of  
20 witnesses, the exhibits admitted into evidence, and anything  
21 else I told you to consider as evidence.

22 Many things are not evidence, and you must be  
23 careful not to consider them as such. I will now describe  
24 some of the things that are not evidence.

25 The fact that the defendant is charged with a

1 crime and is on trial is not evidence. Likewise, the fact  
2 the he or she is charged with more than one crime is not  
3 evidence. The lawyers' statements and arguments are not  
4 evidence. They are only meant to help you understand the  
5 evidence and each side's legal theories. You should only  
6 accept things the lawyers say that are supported by the  
7 evidence or by your own common sense and general knowledge.  
8 The lawyers' questions to the witnesses and my questions to  
9 the witnesses are also not evidence. You should consider  
10 these questions only as they give meaning to the witnesses'  
11 answers.

12 My comments, rulings, questions, and instructions  
13 are also not evidence. It is my duty to see that the trial  
14 is conducted according to the law, and to tell you the law  
15 that applies to this case. However, when I make a comment  
16 of give an instruction, I am not trying to influence your  
17 vote or express a personal opinion about the case. If you  
18 believe that I have an opinion about how you should decide  
19 this case, you must pay no attention to that opinion. You  
20 are the only judges of the facts, and you should decide this  
21 case from the evidence.

22 At times, during the trial, I have excluded  
23 evidence that was offered, I didn't do that actually, I  
24 don't believe that there was anything offered that I didn't  
25 include. If there was anything like that, do not consider



1 those things in deciding this case. Make your decision  
2 based only on the evidence that I let in, and nothing else.  
3 Your decision should be based on all of the evidence,  
4 regardless of which party produced it.

5 You should use your own common sense and general  
6 knowledge in weighing and judging the evidence, but you  
7 should not use any personal knowledge you may have about a  
8 place, person, or event. To repeat once more, you must  
9 decide this case based only on the evidence that was  
10 admitted during this trial.

11 As I said before, it's your job to decide what the  
12 facts of this case are. You must decide which witnesses you  
13 believe and how important you think their testimony is. You  
14 do not have to accept or reject everything a witness said.  
15 You are free to believe all, none, or part of any person's  
16 testimony. In deciding which testimony you believe, you  
17 should rely on your own common sense and everyday  
18 experience. However, in deciding whether you believe a  
19 witness' testimony, you must set aside any bias or prejudice  
20 you may have based on race, gender, or national origin of  
21 the witness.

22 There's no fixed set of rules for judging whether  
23 you believe a witness, but it may help you to think about  
24 these questions. Was the witness able to hear or see  
25 clearly? How long was the witness watching or listening?

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1 Was anything else going on that might have distracted the  
2 witness? Did the witness seem to have a good memory? How  
3 did the witness look and act while testifying? Did the  
4 witness seem to be making an honest effort to tell the  
5 truth, or did the witness seem to evade the questions or  
6 argue with the lawyers? Does the witness' age and maturity  
7 affect how you view his or her testimony? Does the witness  
8 have any bias, prejudice, or personal interest in how this  
9 case is decided? Have there been any promises, threats,  
10 suggestions, or other influences that affect how the witness  
11 testified? In general, does the witness have any special  
12 reason to tell the truth, or any special reason to lie? All  
13 in all, how reasonable does the witness' testimony seem when  
14 you think about all the other evidence in this case?

15 Sometimes the testimony of different witnesses  
16 will not agree, and you must decide which testimony you  
17 accept. You should think about whether the disagreement  
18 involves something important or not, and whether you think  
19 someone is lying or simply mistaken. People see and hear  
20 things differently, and witnesses may testify honestly but  
21 simply be wrong about what they thought they saw or  
22 remembered. It's also a good idea to think about which  
23 testimony agrees best with the other evidence in this case.

24 However, you may conclude that a witness  
25 deliberately lied about something that is important to how

1 you decide this case. If so, you may choose not to accept  
2 anything that witness said. On the other hand, if you think  
3 the witness lied about some things but told the truth about  
4 others, you may simply accept the part you believe to be  
5 true and ignore the rest.

6 Jeremiah Leffew and Micheline Leffew are both on  
7 trial in this case. The fact that they are on trial  
8 together is not evidence that they were associated with each  
9 other or that either one is guilty. You should consider  
10 each defendant separately. Each is entitled to have his or  
11 her case decided on the evidence and the law that applies to  
12 him or her. If any evidence was limited to one defendant,  
13 you should not consider it as to any other defendant.

14 The prosecutor must also prove beyond a reasonable  
15 doubt that the crime occurred on or about November 18, 2017  
16 within Arenac County.

17 When you go to the jury room, I will provide with  
18 a written copy of the final jury instructions. You should  
19 first choose a foreperson. The foreperson should see to it  
20 that your discussions are carried out in a businesslike way  
21 and that everyone has a fair chance to be heard.

22 During your deliberations please turn off your  
23 cell phones or other communication equipment until we  
24 recess.

25 A verdict in a criminal case must be unanimous.

1 In order to return a verdict, it is necessary that each of  
2 you agrees on a verdict. In the jury room you will discuss  
3 the case among yourselves, but ultimately each of you will  
4 have to make up your own mind. Any verdict must represent  
5 the individual, considered judgment of each juror.

6 It is your duty as jurors to talk to each other  
7 and to make every reasonable effort to reach agreement.  
8 Express your opinions and the reasons for them, but keep an  
9 open mind as you listen to your fellow jurors. Rethink your  
10 opinions and do not hesitate to change your mind if you  
11 decide you were wrong. Try your best to work out your  
12 differences.

13 However, although you should try to reach an  
14 agreement, none of you should give up your honest opinion  
15 about the case just because other jurors disagree with you  
16 or just for the sake of reaching a verdict. In the end,  
17 your vote must be your own, and you must vote honestly and  
18 in good conscience.

19 If you have any questions about the jury  
20 instructions before you begin deliberations, or questions  
21 about the instructions that arise during deliberations, you  
22 may submit them in writing in a sealed envelope, well, you  
23 can just fold it up and give it to the bailiff.

24 Possible penalty should not influence your  
25 decision. It is the duty of the judge to fix penalty within

1 the limits provided by law.

2 If you want to communicate with me while you are  
3 in the jury room, please have your foreperson write a note  
4 and give it to the bailiff. It is not proper for you to  
5 talk directly with the judge, the lawyers, or the court  
6 officers, or other people involved in this case.

7 As you discuss the case, you must not let anyone,  
8 even me, know how your voting stands. Therefore, until you  
9 return with a unanimous verdict, do not reveal this to  
10 anyone outside the jury room.

11 When you go to the jury room to deliberate, you  
12 may take your notes and full instructions. If you want to  
13 look at any or all of the reference documents or exhibits  
14 that have been admitted, just ask for them. That's the  
15 standard instruction but I'm going to send all the exhibits  
16 in with you when you go to deliberate, so you will have them  
17 all there.

18 When you go to the jury room, you will be given a  
19 written copy of the instructions you have just heard. As  
20 you discuss the case, you should think about all of my  
21 instructions together as the law that you are to follow.

22 The defendant, Jeremiah Leffew, is charged the two  
23 counts. Count 1 is the crime of Home Invasion 1<sup>st</sup> Degree,  
24 and Count 2 is Assault with a Dangerous Weapon. These are  
25 separate crimes, and the prosecutor is charging that the

1 defendant committed them both. You must consider each crime  
2 separately in the light of all the evidence.

3 The defendant, Micheline Leffew, is charged with  
4 one count, that's the crime of Home Invasion 3<sup>rd</sup> Degree.

5 You must return a separate verdict for each  
6 defendant. For each defendant, you may return a verdict of  
7 guilty of one or more of the alleged crimes or not guilty.  
8 Remember that you must consider each defendant separately.

9 I have prepared a verdict form listing the  
10 possible verdicts which I will go over with you in a minute.

11 The prosecution has introduced evidence of a  
12 statement that it claims the defendant made. Before you may  
13 consider such an out-of-court statement against the  
14 defendant, you must first find that the defendant actually  
15 made the statement as given to you. If you find that the  
16 defendant did make the statement, you may give the statement  
17 whatever weight you think it deserves. In deciding this,  
18 you should think about how and when the statement was made,  
19 and about all the other evidence in the case. You may  
20 consider the statement in deciding the facts of the case and  
21 in deciding if you believe the defendant's testimony in  
22 court.

23 Defendant, Jeremiah Leffew's statement has been  
24 admitted as evidence only against him. It cannot be used  
25 against defendant, Micheline Leffew, and you must not do so.

1 You must not consider the statement in any way when you  
2 decide whether defendant, Jeremiah Leffew, is guilty or not  
3 guilty. That's not right; you must not consider his  
4 statement in determining whether or not she is guilty or not  
5 guilty. And the flip is reversed. Her statement has also  
6 been admitted as an exhibit in this case, none of it can be  
7 considered as evidence of Mr. Leffew's guilt. So her  
8 statement is only to be considered by you in determining her  
9 guilt or innocence.

10 Facts can be proved by direct evidence from a  
11 witness or an exhibit. Direct evidence is evidence about  
12 what we actually see or hear. For example, if you look  
13 outside and see rain falling, that is direct evidence that  
14 it is raining.

15 Facts can also be proved by indirect or  
16 circumstantial evidence. Circumstantial evidence is  
17 evidence that normally, or reasonable, leads to other facts.  
18 So for example, if you see a person come in from outside  
19 wearing a raincoat covered with small drops of water that  
20 would be circumstantial evidence that it is raining.

21 You may consider circumstantial evidence.  
22 Circumstantial evidence by itself, or a combination of  
23 circumstantial evidence and direct evidence, can be used to  
24 prove the elements of a crime. In other words, you should  
25 consider all the evidence that you believe.

1           You should not decide this case based on which  
2 side presented more witnesses. Instead, you should think  
3 about each witness and each piece of evidence and whether  
4 you believe them. Then you must decide whether the  
5 testimony and evidence you believe proves beyond a  
6 reasonable doubt that the defendant is guilty.

7           You've heard that a lawyer talked to one of the  
8 witnesses. There is nothing wrong with this. A lawyer may  
9 talk to a witness to find out what the witness knows about  
10 the case and what the witness's testimony will be.

11           You've heard testimony from a witness who is a  
12 police officer. That testimony is to be judged by the same  
13 standards you use to evaluate the testimony of any other  
14 witness.

15           The defendant is charged with the crime of  
16 Felonious Assault, that would be Mr. Leffew, and felonious  
17 assault is just another name for assault with a dangerous  
18 weapon. To prove this charge, the prosecutor must prove  
19 each of the following elements beyond a reasonable doubt.  
20 First, that the defendant either attempted to commit a  
21 battery on Michael Porter or did an act that would cause a  
22 reasonable person to fear or apprehend an immediate battery.  
23 A battery is a forceful or violent touching of the person or  
24 something closely connected with the person. Second, that  
25 the defendant intended either to injure Michael Porter, or



1 to make Michael Porter reasonably fear an immediate battery.  
2 Third, that at the time, the defendant had the ability to  
3 commit a battery, appeared to have the ability, or thought  
4 he had the ability. Fourth, that the defendant committed an  
5 assault with a knife.

6 A dangerous weapon is any object that is used in a  
7 way likely to cause serious injury or death. Some objects,  
8 such as guns or bombs, are dangerous because they are  
9 specifically designed to be dangerous. Other objects are  
10 designed for peaceful purposes but may be used as a  
11 dangerous weapon. The way an object is used, or intended to  
12 be used in an assault, determines whether or not it's a  
13 dangerous weapon. If an object is used in a way that is  
14 likely to cause serious physical injury or death, it is a  
15 dangerous weapon. You must decide from all of the facts and  
16 circumstance whether the evidence shown that the knife in  
17 question here was a dangerous weapon.

18 An assault does not have to cause an actual  
19 injury. However, if there was an injury, you may consider  
20 the injury with the other evidence in determining whether  
21 there was an assault.

22 The defendant, Mr. Leffew, is charged with Home  
23 Invasion in the 1st Degree. To prove this charge, the  
24 prosecutor must prove each of the following elements beyond  
25 a reasonable doubt: First, that the defendant entered a

1 dwelling without permission. It does not matter whether the  
2 defendant got his entire body inside. If the defendant put  
3 any part of his body into the dwelling without permission,  
4 that is enough to count as an entry. Second, that when the  
5 defendant entered, was present in, or was leaving the  
6 dwelling, he committed the offense of assault. Third, that  
7 when the defendant entered, was present in, or was leaving  
8 the dwelling, either one of the following circumstances  
9 existed, the circumstance in this case was that another  
10 person was lawfully present in the dwelling.

11 Mrs. Leffew is charged with Home Invasion in the  
12 3rd Degree. To prove this charge, the prosecutor must prove  
13 each of the following elements beyond a reasonable doubt.  
14 First, that the defendant broke and entered a dwelling. It  
15 does not matter whether anything was actually broken,  
16 however, some force must have been used. Opening a door,  
17 raising a window, or taking off a screen are all examples of  
18 enough force to count as breaking. For an entry, it does  
19 not matter whether the defendant got her entire body inside.  
20 If the defendant put any part of her body into the dwelling,  
21 that is enough to count as an entry. Second, that when the  
22 defendant entered, was present in, or was leaving the  
23 dwelling, she committed a misdemeanor. In this case it's  
24 alleged that that was Malicious Destruction of a Building  
25 under \$200. In determining whether she committed that

1 misdemeanor you must consider, with the evidence, and she's  
2 not charged with a misdemeanor, but you have to find that  
3 there was an intent to commit a misdemeanor before you can  
4 find her guilty of the breaking and entering.

5 And that Malicious Destruction of Property, of a  
6 Building under \$200, the elements are: First, that the  
7 building or anything permanently attached to it belongs to  
8 someone else. Second, that the defendant destroyed or  
9 damaged that building or anything permanently attached to  
10 it. Third, that the defendant did this knowing that it was  
11 wrong, without just cause of excuse, and with the intent to  
12 damage or destroy the property, and fourth, that the extent  
13 of the damage was some amount less than \$200.

14 The defendant's intent may be proved by what he or  
15 she said, what he or she did, how he or she did it, and by  
16 any other facts and circumstances in evidence.

17 I have prepared two verdict forms, one with regard  
18 to Micheline Nicole Leffew and one with regard to Jeremiah  
19 James Leffew. The verdict form will be sent into the jury  
20 room with you.

21 The possible verdicts for Micheline Nicole Leffew  
22 are, she is charged with Home Invasion, 3rd Degree-  
23 Committing or Intending to Commit a Misdemeanor. The  
24 options are "Not Guilty" or "Guilty".

25 With regard to Mr. Leffew, he is charged in two

1 counts, Count 1, Assault with a Dangerous Weapon, the  
2 options are "Not Guilty" or "Guilty". And Count 2 is Home  
3 Invasion, First Degree-Entering Without Permission, the  
4 options are "Not Guilty" or "Guilty".

5 Your foreperson, once you come to a verdict, your  
6 foreperson will date and sign the verdict, after the form  
7 has been checked. I will send that into the jury room with  
8 you, with the exhibits.

9 And this case is now yours, ladies and gentlemen.  
10 I want to, also, join the attorneys in thanking you for your  
11 close attention. This is an important duty as they, I'm  
12 going to echo all of them, I don't envy you your job in this  
13 case. But this case is now yours; I'm going to send you to  
14 the jury room to begin deliberation.

15 MR. HADLEY: Your Honor, someone has to be  
16 eliminated.

17 THE COURT: Oh, that's right. We're going to  
18 draw, thank you for saying that, we're going to draw off the  
19 extra juror, and I thank you as well, whoever it's going to  
20 be. You are welcome to stay to see what happens, but you  
21 will be excused.

22 MR. HADLEY: I'd like to keep them all, myself.

23 THE COURT: Mr. Scherf, you are excused. I thank  
24 you for your service, you are welcome to stick around if you  
25 want to see what happens, but you are excused. Please make

1       sure you stop by the clerk's office before you leave.

2               And before I excuse you if the clerk and the  
3       bailiff would both raise their right hands. Do you solemnly  
4       swear that you will, to the utmost of your ability, keep the  
5       persons sworn as jurors on this trial from separating from  
6       each other, that you will not permit any communication to be  
7       made to them orally otherwise. That you will not  
8       communicate with them orally or otherwise, except by the  
9       order of this Court, or ask them if they have agreed on  
10      their verdict, until they shall be discharged. And that you  
11      will not, before they render their verdict, communicate to  
12      any person the state of their deliberations, or the verdict  
13      they have agreed upon. So help you God?

14             COURT CLERK: I do.

15             COURT BAILIFF: Yes.

16             (At 10:56 a.m., bailiff and clerk sworn to take  
17             charge of the jury)

18             THE COURT: All right. You are now in the care of  
19      Sergeant Badour as your bailiff, I will excuse you to the  
20      jury room.

21             (At 10:56 a.m., jury excused to jury room for  
22             deliberation)

23             THE COURT: Anything you need to place on the  
24      record, gentlemen?

25             MR. HADLEY: Your Honor, I know that, normally I

1 wouldn't ask but I want to make sure it's okay if Mr.  
2 Windsor and myself talk to the excused juror just to see if  
3 he's--

4 THE COURT: No, that's fine. You know, if he  
5 wants to talk to you that's--

6 MR. HADLEY: Just wanted to ask first.

7 THE COURT: Okay.

8 MR. HADLEY: Okay, thank you.

9 THE COURT: We will await the verdict.

10 MR. BROUGHTON: Thank you, Your Honor.

11 (At 10:57 a.m., proceedings in recess)

12 (At 11:53 a.m., proceedings reconvene - all  
13 parties present)

14 THE COURT: Do you want the jury poled after the  
15 verdict?

16 MR. HADLEY: I would, yes.

17 (At 11:53 a.m., jury returned)

18 THE COURT: Okay. Mr. Vauris, you're the  
19 foreperson?

20 FOREPERSON VAURIS: Yes, ma'am.

21 THE COURT: I'm going to hand this back to you  
22 because I'll be having you read that. You can be seated.  
23 Be seated.

24 Ladies and gentlemen of the jury, I understand  
25 that you have a verdict. Mr. Vauris, you have been elected

1 foreperson. Would you please stand and read the verdict.

2 FOREPERSON VAURIS: Does it matter which one  
3 first?

4 THE COURT: No. Just read the file number first,  
5 please.

6 FOREPERSON VAURIS: File #17-4120-FH. Count I  
7 "Guilty".

8 THE COURT: Okay, and that's against Mr. Leffew?

9 FOREPERSON VAURIS: That's Michelle.

10 THE COURT: Michelle, right.

11 FOREPERSON VAURIS: Micheline, I'm sorry.

12 THE COURT: Okay.

13 FOREPERSON VAURIS: The second is file #17-4119-  
14 FH, Jeremiah Leffew, Count 1 "Guilty", Count 2, "Guilty".

15 THE COURT: All right, thank you. Thank you, sir.

16 THE COURT: Ladies and gentlemen, I have been  
17 asked by the attorneys to poll the jury. So when I call  
18 your name I'll be asking you and just respond to me.

19 Mr. Brissette, was this and is this your verdict?  
20 Was this and is this your verdict as to Mr. Leffew? You  
21 have to say, "yes or no".

22 JUROR BRISSETTE: Yes.

23 THE COURT: And was this and is this your verdict  
24 as to Mrs. Leffew?

25 JUROR BRISSETTE: Yes.

1 THE COURT: And Ruth Normile, was this and is this  
2 your verdict as to Mr. Leffew?  
3 JUROR NORMILE: Yes.  
4 THE COURT: And was this and is this your verdict  
5 as to Mrs. Leffew?  
6 JUROR NORMILE: Yes.  
7 THE COURT: And Margaret Warr, was this and is  
8 this your verdict as to Mr. Leffew?  
9 JUROR WARR: Yes.  
10 THE COURT: And was this and is this your verdict  
11 as to Mrs. Leffew?  
12 JUROR WARR: Yes.  
13 THE COURT: And Cathy Bailiff, was this and is  
14 this your verdict as to Mr. Leffew?  
15 JUROR BAILIFF: Yes.  
16 THE COURT: And was this and is this your verdict  
17 as to Mrs. Leffew:  
18 JUROR BAILIFF: Yes.  
19 THE COURT: Mr. Vauris, was this and is this your  
20 verdict as to Mr. Leffew?  
21 JUROR VAURIS: Yes.  
22 THE COURT: And was this and is this your verdict  
23 as to Mrs. Leffew?  
24 JUROR VAURIS: Yes.  
25 THE COURT: And Mr. Schlagel, was this and is this



1 your verdict as to Mr. Leffew?

2 JUROR SCHLAGEL: Yes.

3 THE COURT: And was this and is this your verdict  
4 as to Mrs. Leffew:

5 JUROR SCHLAGEL: Yes.

6 THE COURT: And Ms. Goodroe, was this and is this  
7 your verdict as to Mr. Leffew?

8 JUROR GOODROE: Yes.

9 THE COURT: And was this and is this your verdict  
10 as to Mrs. Leffew?

11 JUROR GOODROE: Yes.

12 THE COURT: And Mr. Smith, was this and is this  
13 your verdict as to Mr. Leffew?

14 JUROR SMITH: Yes.

15 THE COURT: And was this and is this your verdict  
16 as to Mrs. Leffew?

17 JUROR SMITH: Yes.

18 THE COURT: And Ms. Hughes, was this and is this  
19 your verdict as to Mr. Leffew?

20 JUROR HUGHES: Yes.

21 THE COURT: And was this and is this your verdict  
22 as to Mrs. Leffew?

23 JUROR HUGHES: Yes.

24 THE COURT: And Ms. Mast, was this and is this  
25 your verdict as to Mr. Leffew?

1 JUROR MAST: Yes.

2 THE COURT: And was this and is this your verdict  
3 as to Mrs. Leffew?

4 JUROR MAST: Yes.

5 THE COURT: And Mr. Pickvet, was this and is this  
6 your verdict as to Mr. Leffew?

7 JUROR PICKVET: Yes.

8 THE COURT: And was this and is this your verdict  
9 as to Mrs. Leffew?

10 JUROR PICKVET: Yes.

11 THE COURT: And Ms. Basgall, was this and is this  
12 your verdict as to Mr. Leffew?

13 JUROR BASGALL: Yes.

14 THE COURT: And was this and is this your verdict  
15 as to Mrs. Leffew?

16 JUROR BASGALL: Yes.

17 THE COURT: Ladies and gentlemen, I want to thank  
18 you for your service. I'm going to excuse you to the jury  
19 room yet again. I'm going to ask you to wait there for a  
20 couple minutes, we have a couple of matters to take care of  
21 here, and then I'm going to come in and speak with you. So,  
22 if you just wait in the jury room for a few minutes, I won't  
23 keep you waiting too long.

24 (At 11:58 a.m., jury excused to jury room)

25 THE COURT: You may be seated. Mr. Broughton,

1 with regard to the supplemental, habitual supplemental on  
2 Mr. Leffew, are you ready to proceed?

3 MR. BROUGHTON: I am not, Your Honor, I don't  
4 have, I mean I've got--

5 THE COURT: Do you have certified convictions?

6 MR. BROUGHTON: I don't know if I have certified  
7 convictions, yet. But I can have them by the date of  
8 sentence.

9 THE COURT: Is your client going to plead to that  
10 or you want a hearing?

11 MR. HADLEY: As to the supplemental?

12 THE COURT: Yes.

13 MR. HADLEY: I believe we have to have a hearing  
14 on that, Your Honor.

15 THE COURT: Okay.

16 MR. BROUGHTON: That's fine. I'll have  
17 supplementals, I mean I'll have certified by then.

18 THE COURT: Okay. I want to do that quickly  
19 because I'm going to set sentencing for April 23<sup>rd</sup>.

20 MR. HADLEY: I will be in Europe April 22<sup>nd</sup> to May  
21 6<sup>th</sup>.

22 THE COURT: Okay. Well, I'm not going to set this  
23 out too far. So, because I'm going to revoke both the  
24 defendants bond today. So I'll be revoking bond in light of  
25 the convictions, so I want to set the sentencing as

1 expeditiously as possible. You're leaving the 22<sup>nd</sup>?

2 MR. HADLEY: Yes.

3 THE COURT: Okay. What day of the week is that?

4 MR. HADLEY: I think it's a Sunday.

5 THE COURT: Okay. What's the week of April, the  
6 week before April 20<sup>th</sup> look like?

7 COURT RECORDER: I don't know what your calendar  
8 looks like.

9 THE COURT: Okay. I will find out today.

10 COURT CLERK: April 16<sup>th</sup> is that too early; it's on  
11 your calendar.

12 THE COURT: Is that a Monday?

13 COURT CLERK: It's on your calendar.

14 COURT RECORDER: Oh, you're right, that is the  
15 week before, April 16<sup>th</sup> is the Monday before.

16 THE COURT: Okay.

17 MR. HADLEY: I'm always here on a Monday.

18 THE COURT: Okay. I'm going to set it for April  
19 16<sup>th</sup> at 9:30 in the morning. I'm going to have to check with  
20 the Department of Corrections, they usually like 30 days,  
21 that's a little less than that. But we'll see if we can't  
22 get it done. So can we do the habitual hearing, can we be  
23 ready next week?

24 MR. BROUGHTON: I'll be in Mexico. It's spring  
25 break here next week.

1 THE COURT: Okay, today is Tuesday; can we be  
2 ready by the end of the week?

3 MR. HADLEY: By the end of this week?

4 THE COURT: Yeah.

5 MR. HADLEY: Certainly, I'm free Friday.

6 MR. BROUGHTON: I won't be here Friday.

7 THE COURT: Okay, Friday is Good Friday.

8 MR. HADLEY: Thursday we're in termination trial.

9 THE COURT: Here?

10 COURT RECORDED: Yes.

11 THE COURT: Okay. So maybe we could squeeze it  
12 in? What are you doing tomorrow?

13 MR. HADLEY: I'll be here if the Court orders me  
14 to.

15 THE COURT: Okay.

16 MR. BROUGHTON: I don't know where the convictions  
17 are out of. I don't know, just to make sure that I can get  
18 certified.

19 MR. HADLEY: Looks like Bay County, Monroe County,  
20 and the 23<sup>rd</sup> Circuit Court appears to be the three that the  
21 prosecutor indicated.

22 THE COURT: So 23<sup>rd</sup> Circuit Court is here.

23 MR. BROUGHTON: That's an easy one.

24 MR. HADLEY: Yup, and then Bay County.

25 MR. BROUGHTON: And Monroe County.

1 THE COURT: Well, why don't you work on that  
2 today, see if you can get those together today. And I will  
3 be available tomorrow afternoon, if we could do it tomorrow  
4 afternoon.

5 MR. HADLEY: I plan on being here all day.

6 MR. BROUGHTON: That should be fine, I just, yeah,  
7 maybe they can Fed Ex them or something up here.

8 THE COURT: Well, or a faxed copy is good, I mean  
9 it has to be sealed.

10 MR. BROUGHTON: Right.

11 THE COURT: But we'll be able to see the seal on  
12 the fax, you would have no objection to that, is that  
13 correct?

14 MR. HADLEY: No. Those are official court  
15 documents with the seal on them.

16 THE COURT: Right. They're self authenticating as  
17 long as we can see the seal on the faxed copy that's good  
18 enough.

19 MR. BROUGHTON: Sure.

20 THE COURT: So why don't you work on getting those  
21 today.

22 MR. BROUGHTON: I will.

23 THE COURT: I'm going to go talk to the jury. I  
24 will ask them if they want to speak to any of the attorneys.  
25 Are any of you interested in speaking with them?

1 MR. HADLEY: I'm not, Your Honor. I mean it's  
2 close to lunch and they probably got things to do, I mean.

3 THE COURT: Okay. Mr. Windsor?

4 MR. WINDSOR: I'm not interested, Your Honor.

5 THE COURT: Mr. Broughton?

6 MR. BROUGHTON: Your Honor, I know a few of them  
7 so I can talk to them at a different time.

8 MR. HADLEY: Right, we'll be seeing some of them  
9 local.

10 THE COURT: Okay. Well tried, gentlemen, on all  
11 counts. Thank you for your professionalism. We'll set the  
12 sentencing for April 16<sup>th</sup> at 9:30 in the morning. If that  
13 changes, I'll talk to Department of Corrections, if that  
14 changes I'll let you know. And let's keep in touch, and I  
15 can be here tomorrow afternoon if you can get the paperwork  
16 together on supplemental.

17 MR. HADLEY: What time you thinking, late  
18 afternoon?

19 THE COURT: Yeah, I've got district court in  
20 Alcona in the morning; I should be done by noon, so any time  
21 after lunch I can be here. So we'll be in touch today, let  
22 me know Mr. Broughton.

23 MR. BROUGHTON: If faxes copies are fine that  
24 shouldn't be an issue.

25 THE COURT: Okay. So why don't we set this for,

1 if I'm done by noon give me until 3:00 to get here.

2 MR. HADLEY: Sure.

3 THE COURT: So let's just set this for 3:00  
4 tomorrow afternoon, all right?

5 MR. WINDSOR: I don't have to be here.

6 THE COURT: You don't need to be here, Mr.  
7 Windsor. So 3:00 tomorrow afternoon we'll have the  
8 supplemental hearing.

9 MR. BROUGHTON: Thank you, Your Honor.

10 MR. HADLEY: Thank you, Judge.

11 (At 12:03 a.m., proceedings concluded)

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1 STATE OF MICHIGAN )

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3 COUNTY OF ARENAC )

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7 I certify that this transcript, consisting of 66 pages, is a  
8 complete, true, and correct transcript of the proceedings and  
9 testimony taken in this case on Tuesday, March 27, 2018.

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12 July 10, 2018

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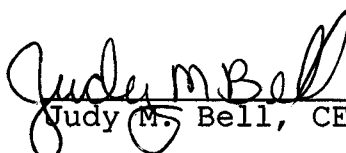
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Judy M. Bell, CER 7237  
23<sup>rd</sup> Circuit Court  
120 N. Grove Street  
Standish, MI 48658  
(989) 846-9069

STATE OF MICHIGAN

23<sup>RD</sup> JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

THE PEOPLE OF THE STATE OF MICHIGAN,

v

MICHELINE NICOLE LEFFEW,

Defendant.

File No. 17-4129-FH

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SENTENCING

BEFORE THE HONORABLE RICHARD E. VOLLBACH, JR, CIRCUIT COURT JUDGE

Standish, Michigan - Monday, April 16, 2018

APPEARANCES:

For the People:

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EXHIBITS:

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NONE

1 Standish, Michigan

2 Monday, April 16, 2018 - 9:51 a.m.

3 THE COURT: All right. I'm going to call file 17  
4 4120, In the Matter of Micheline Nicole Leffew, this matter  
5 is before the Court, scheduled for sentencing. Counsel if  
6 you'd make your appearance, please.

7 MR. WINDSOR: Scott Windsor, on behalf of  
8 Micheline Leffew.

9 MR. BROUGHTON: Curtis Broughton, on behalf of  
10 Arenac County Prosecutor's Office.

11 THE COURT: And this matter is before the Court  
12 for sentencing on the charge of Home Invasion 3<sup>rd</sup> Degree.  
13 Judge Frawley has handled this case throughout, although I  
14 handled at district court level, I'm certainly familiar with  
15 the case. But Judge Frawley, unfortunately, is unavailable  
16 today, has asked me to stand in for her.

17 The defendant has a right, however, to be  
18 sentenced by the Judge that handled the trial. So Ms.  
19 Leffew, you have the option, I'm willing to sentence you  
20 today. However, you have the right to have Judge Frawley  
21 sentence you.

22 MS. LEFFEW: I'll waive that right.

23 THE COURT: I'm sorry.

24 MS. LEFFEW: I'll waive that right.

25 THE COURT: All right, and Mr. Windsor on behalf

1 of your client, her waiving that right, you would like to,  
2 you'd like me to sentence your client at this time?

3 MR. WINDSOR: Yes, Your Honor. I explained  
4 everything to her; she'd like to waive that right, knowingly  
5 and intentionally.

6 THE COURT: All right. That's correct, is that  
7 right Ms. Leffew?

8 MS. LEFFEW: Yes, sir.

9 THE COURT: All right. Prior to today's hearing  
10 the Court received a pre-sentence investigation report,  
11 submitted by the Department of Corrections, along with the  
12 guidelines and all materials.

13 Mr. Windsor, have you had the opportunity to  
14 review the pre-sentence report and the guidelines with your  
15 client?

16 MR. WINDSOR: Yes, Your Honor.

17 THE COURT: Are there any corrections or changes  
18 that need to be made?

19 MR. WINDSOR: No, Your Honor.

20 THE COURT: And the guidelines are accurate?

21 MR. WINDSOR: Yes, Your Honor.

22 THE COURT: Mr. Broughton, have you reviewed the  
23 materials, and do you find anything that needs to be changed  
24 or corrected?

25 MR. BROUGHTON: Your Honor, I've had an

1 opportunity to review the report, and I have no additions,  
2 deletions, or corrections. I have no objection to the  
3 scoring of the guideline.

4 THE COURT: All right, and just for the record the  
5 scoring of the guideline, guideline range is 0-11.

6 Mr. Broughton, is there any victim allocution?  
7 Does anyone wish to speak with respect to the victim?

8 MR. BROUGHTON: There is not, Your Honor. He's  
9 not present. He said he was going to do something in  
10 writing and drop it off, but I haven't seen it yet.

11 THE COURT: Thank you. With respect to general  
12 sentencing, allocution, Mr. Broughton, anything you'd like  
13 to say?

14 MR. BROUGHTON: Your Honor, I would just ask that  
15 you follow the recommendation. I think it's a fair  
16 recommendation. Ms. Leffew doesn't have any criminal  
17 history. What she did here was, obviously the jury  
18 convicted her, but I think the recommendation for her is  
19 fair.

20 THE COURT: Thank you. Mr. Windsor.

21 MR. WINDSOR: Yes, Your Honor. We had a trial,  
22 the jury spoke, I'm not going to rehash that even though I  
23 have my own personal opinions about some of the testimony of  
24 the victim, and the witnesses on his behalf.

25 But at far as Ms. Leffew, you know, she obviously,

1 now, regrets the whole situation. She submitted a statement  
2 in the report. She told me that she was on a lot of mental  
3 health mediations at the time. But the statement was,  
4 "She'll never help anyone again." I think in the future  
5 she's going to think about the consequences of her potential  
6 actions, and what might happen. You know, call 911 instead  
7 of doing, you know, barging in to try and save your  
8 husband's step-mother. None the less, the jury spoke.

9 Ms. Leffew, she does have a job, so she's got that  
10 to look forward to when she leaves her incarceration. She  
11 does have mental health issues. She tells me her  
12 psychologist says that she should have extensive outpatient  
13 treatment. But she didn't want to wait for him to submit  
14 anything; she just wanted to be sentenced today. I would  
15 ask for, well, she would like to go back to White Pine.

16 I would ask for any jail time to be held in  
17 abeyance in lieu of mental health treatment. I see there's  
18 five months recommended. But I would say that that's a lot  
19 of time for Ms. Leffew's first criminal conviction. She did  
20 have the possession of marijuana, which, you know, resulted  
21 in a successful discharge on 7411.

22 But some of the ways she suffered in this. She  
23 was hit in the head by Mr. Porter; it did exacerbate her  
24 seizure issues. Her husband is more than likely going to  
25 prison for at least six years. She's losing her husband.

1 She's losing her dogs. You know, this is going to sting.  
2 And in the report, if it's followed with respect to contact  
3 with her husband, she'd be losing that contact. I would ask  
4 that recommendation #16 not be enforced or ordered, Your  
5 Honor. She is married to Jeremiah; she should be able to  
6 contact him when she gets out of any sort of incarceration.

7 And then with respect to the crime, you know, this  
8 is, I'm guessing a onetime deal. And, you know, she's not  
9 going to have her husband around, she's not going to be  
10 getting into any trouble, she doesn't have a juvenile  
11 history. I think this is hopefully one of the last times  
12 she'll ever get in trouble with the law.

13 I would ask that her sentence be less than the  
14 five months. I'm thinking something less than that would be  
15 more than sufficient, Your Honor.

16 THE COURT: Thank you. Ms. Leffew, is there  
17 anything that you'd like to say?

18 MS. LEFFEW: Now that I've had time to reflect on  
19 the situation I know there was a lot of things I could have  
20 done differently. My heart may have had good intentions at  
21 first, but I realize now that it was not the way to go  
22 about. I can guarantee that I would never, ever, ever do  
23 anything like that again, now that I think about it.

24 I try to be a good person. I just have a lot of  
25 issues, especially with my depression and my anxiety. I was



1       able to get a handle on those being at White Pine for the  
2       over two weeks that I was.

3               I'm just asking that if there was any way I could  
4       get time served and probation, that way I can keep my job,  
5       keep my employment, keep my dogs, and try to learn how to  
6       take care of myself. Because like he said I'm losing my  
7       husband, and he was the only one who took care of me for the  
8       past two and a half years. And I need to learn how to take  
9       of myself, and I won't be able to do that until I try.

10              THE COURT: Thank you. There were, this incident  
11       involved a number of poor choices.

12              MS. LEFFEW: It did.

13              THE COURT: Life is about choices. There were a  
14       number of decisions that you made, and you know, we can  
15       reflect back and offer excuses or reasons why we make our  
16       choices, but those are still elections. And I hope that  
17       this is an isolated incident, but it's an unfortunately a  
18       very serious incident. As a result I'm going to follow the  
19       recommendation of the Court.

20              I'm going to sentence you to probation for 2  
21       years, subject to the standard conditions of probation, as  
22       well as the following special conditions:

23              You must not use or possess alcoholic beverages or  
24       other intoxicants. Not enter bars or other places where the  
25       primary purpose is to serve alcoholic beverages for drinking

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1 on site, unless the field agent has give you written  
2 permission for employment at a specific location.

3 You must comply with the requirements of alcohol  
4 testing directed by the field agent. You must not attempt  
5 to submit any fraudulent or adulterated samples for testing.  
6 You must not hinder, obstruct, tamper, or otherwise  
7 interfere with the testing procedure. You must present  
8 proper identification at the time of testing.

9 You must comply with the requirements of drug  
10 testing directed by the field agent. You must not attempt  
11 to submit any fraudulent or adulterated samples for testing.  
12 You must not hinder, obstruct, tamper, or otherwise  
13 interfere with the testing procedure. You must present  
14 proper identification at the time of testing.

15 You must not use or posses any controlled  
16 substance or drug paraphernalia unless prescribed for you by  
17 a licensed physician, or be with anyone you know to possess  
18 these items.

19 You must complete substance abuse assessment when  
20 you're referred by the field agent.

21 You must complete mental health, domestic  
22 violence/batter intervention, or other recommended treatment  
23 following the assessment by a qualified community-based  
24 service provider.

25 You must waive confidentiality and allow any

1 treatment program that you are required to attend to  
2 disclose information to your field agent.

3 You must obey all court orders.

4 You must not engage in any assaultive, abusive,  
5 threatening, or intimidating behavior.

6 You must not have any verbal, electronic or  
7 physical contact, without permission of the field agent,  
8 with anyone you know to have a felony record. You must not  
9 have any verbal, written, electronic, or physical contact  
10 with anyone you know to be engaged in any behavior that  
11 constitutes a violation of any criminal law or any unit of  
12 government.

13 You must not use any object as a weapon. You must  
14 not own, use, or have under your control, or area of control  
15 a weapon of any type or any imitation of a weapon. You must  
16 not be in company with anyone who posses those items.

17 You must contact the supervising field agent no  
18 later than the first business day following your placement  
19 on probation or release from jail.

20 You must allow the field agent into your residence  
21 at any time for probation supervision.

22 You must submit to a search of your person and  
23 property, including but not limited to your vehicle,  
24 residence, or computer without need of a warrant if the  
25 agent has reasonable cause to believe you have items which

1 violate the conditions of your probation.

2 You must not have verbal, written, electronic, or  
3 physical contact with Michael Porter, either directly or  
4 through another person, and you must not be within 500 feet  
5 of his residence, school, or place of employment.

6 You must not have any verbal, written, electronic  
7 or physical contact with Jeremiah Leffew, either directly or  
8 through another person.

9 You must make genuine efforts to find and maintain  
10 legitimate employment for a minimum of 30 hours per week,  
11 unless engaged in an alternative program approved the agent.  
12 You must provide ongoing verification of employment or  
13 alternative programs to the field agent. You shall not give  
14 reason to be terminated or voluntarily terminate your  
15 employment or alternative program, unless you first obtain  
16 written permission from your field agent.

17 I'm ordering that you serve five months in the  
18 Arenac County Jail, with credit for nine days served.

19 I'm also ordering that you pay restitution in the  
20 amount of \$4,805.52, payable to the Arenac County Clerk's  
21 office to the benefit of Michael Porter. Restitution to be  
22 paid jointly and severally with co-defendant, Jeremiah  
23 Leffew.

24 I'm ordering you pay \$60.00 DNA collection fee;  
25 \$68.00 State Cost; Crime Victim Assessment of \$130.00;

1 supervision fee of \$240.00, paid at \$10.00 per month; court  
2 costs of \$1,100.00; fine of \$500.00; and \$10.00 local costs

3 Also ordering that you report in person as  
4 instructed by your agent. Alternate reporting methods will  
5 not be allowed.

6 Probation officer may, pursuant to MCL 771.4  
7 apprehend, detain, confine a probationer for 72 hours who is  
8 in violation of probation condition or who is conducting  
9 herself inconsistent with the public good.

10 MR. BROUGHTON: Your Honor.

11 THE COURT: Yes.

12 MR. BROUGHTON: I don't know if you are going to,  
13 or not going to, give her credit for when she was in White  
14 Pine.

15 THE COURT: Was that a voluntary or involuntary.

16 MR. BROUGHTON: It was involuntary, she was in  
17 jail, so she was transported.

18 THE COURT: Okay. I am going to give her credit.  
19 That was 14 days, is that correct?

20 MR. BROUGHTON: Correct.

21 THE COURT: So that would mean 23 days credit for  
22 time served. So we'll make that adjustment.

23 MR. BROUGHTON: Thank you, Your Honor.

24 THE COURT: Mr. Windsor, I'm handing you appeal  
25 rights to your client. If you could have her sign one copy,

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keep the other.

Mr. Windsor, is there anything further?

MR. WINDSOR: Nothing further, Your Honor.

THE COURT: Mr. Broughton?

MR. BROUGHTON: No, Your Honor, thank you.

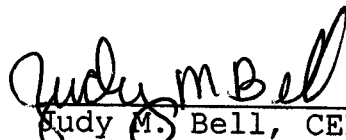
THE COURT: That will conclude today's matter.  
Defendant is remanded to the custody of the sheriff.

(At 10:05 a.m., proceedings concluded)

1 STATE OF MICHIGAN )  
2 )  
3 COUNTY OF ARENAC )  
4  
5  
6

7 I certify that this transcript, consisting of 14 pages, is a  
8 complete, true, and correct transcript of the proceedings and  
9 testimony taken in this case on Monday, April 16, 2018.  
10  
11

12 July 7, 2018

  
Judy M. Bell, CER 7237  
23<sup>rd</sup> Circuit Court  
120 N. Grove Street  
Standish, MI 48658  
(989) 846-9069

STATE OF MICHIGAN

23<sup>RD</sup> JUDICIAL CIRCUIT COURT (ARENAC COUNTY)

THE PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 18-0415

JEREMIAH JAMES LEFFEW,

Defendant.

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JUDY M. BELL  
ARENAC COUNTY CLERK

SENTENCING

BEFORE THE HONORABLE LAURA A. FRAWLEY, CIRCUIT COURT JUDGE

Standish, Michigan - Monday, May 7, 2018

APPEARANCES:

For the People:

CURTIS G. BROUGHTON P47200  
Prosecuting Attorney  
120 N. Grove Street  
Standish, MI 48658  
(989) 846-4597

For the Defendant:

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Certified Electronic Recorder  
(989) 846-9069



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NONE

EXHIBITS:	OFFERED	RECEIVED
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NONE

1 Standish, Michigan

2 Monday, May 7, 2018 - 11:42 a.m.

3 THE COURT: I am calling file 17-4119-FH, People  
4 of the State of Michigan vs Jeremiah James Leffew. Mr.  
5 Broughton, have you received a copy of the presentence  
6 report in this matter?

7 MR. BROUGHTON: I have, Your Honor.

8 THE COURT: Any additions, corrections, or  
9 deletions?

10 MR. BROUGHTON: No, Your Honor.

11 THE COURT: Are you satisfied with the scoring and  
12 the sentencing guidelines?

13 MR. BROUGHTON: I am, Your Honor.

14 THE COURT: And Mr. Hadley, have you received a  
15 copy of that report?

16 MR. HADLEY: We have, Your Honor, and Mr. Leffew  
17 and I have thoroughly went over it. I don't believe there's  
18 anything of a factual nature that needs to be corrected.  
19 The only concern I have is the recommendation from the  
20 Department of Corrections, that Mr. Leffew was kind of  
21 concerned about.

22 THE COURT: Okay. Are you satisfied with the  
23 scoring and the sentencing guidelines?

24 MR. HADLEY: We are satisfied with the guideline  
25 scoring, yes.

1 THE COURT: Mr. Broughton, anything you wanted to  
2 say?

3 MR. BROUGHTON: Your Honor, in regards to the  
4 factual nature, actually the sentencing date on, I guess  
5 page 2, it should reflect today's date so he would have more  
6 credit.

7 THE COURT: Right. I did ask about the correct  
8 time, it's 44 days.

9 MR. BROUGHTON: Okay.

10 THE COURT: The credit should be 44 instead of 23.

11 MR. HADLEY: Correct.

12 THE COURT: Anything else, Mr. Broughton?

13 MR. BROUGHTON: Yes, Your Honor. Since this is  
14 the, the recommendation for 72 months is the very low end of  
15 the guidelines. It's my understanding there's been some  
16 issues in the jail with Mr. Leffew in regards to assaults.  
17 I'd ask that the Court go to at least the high end of the  
18 guidelines with him, which I believe is 180 months. So I  
19 would ask that the sentence be, to stay within the  
20 guidelines the sentence be 180 months to 40 years.

21 THE COURT: Allocution Mr. Hadley.

22 MR. HADLEY: Yes, Your Honor.

23 THE COURT: Before we do that, I note there was  
24 something said in the presentence report about Mr. Porter  
25 submitting a statement. I did not see that statement, it

1 wasn't attached.

2 MR. BROUGHTON: Your Honor, he, and I don't, he,  
3 for whatever reason he gave it to our office.

4 THE COURT: Okay.

5 MR. BROUGHTON: It's dated 4/11/18. I didn't make  
6 copies.

7 MR. HADLEY: I don't have that, Your Honor.

8 MR. BROUGHTON: Right.

9 THE COURT: Well, do you want to just read it out  
10 loud?

11 MR. BROUGHTON: Sure.

12 THE COURT: I mean he's entitled to make a victim  
13 impact statement.

14 MR. BROUGHTON: It says:

15 "Your Honor Frawley,

16 This is how the situation has impacted my life. I  
17 wake up many times during the night at any noise I  
18 hear. I don't get much sleep because of this. I sleep  
19 with a shotgun by my bed to feel safe. During the day  
20 I sit in my chair with a ball bat at my side because  
21 noises make me jump.

22 I really thought after the trial everything would  
23 settle down for me, but I was told to watch my back  
24 after the trial, with the prosecutor by my side. Then  
25 about a week later I was told there was people on the

1 street looking for me. Then about three days later I  
2 was told that this whole situation was planned against  
3 me. They thought they would get away with it because  
4 no one had ever done anything to them when they had  
5 done things against others.

6 Not only did they hurt me they invaded my privacy  
7 and destroyed my property, and I didn't trust anyone  
8 after this. If only four people would have been  
9 truthful this whole situation could have been avoided.  
10 I was not hurting this girl or controlling her, she was  
11 only a friend I thought, and only trying to help her  
12 out.

13 I thank God for my new wife, she's been a great  
14 help for me. But in the back of my mind I still fear  
15 for myself and for my wife's safety.

16 I'm hoping that these two are sentenced to the  
17 full extend for the crimes they have committed against  
18 me since they both tried to kill me. Hopefully they  
19 never hurt anyone again.

20 Sincerely, Michael Porter."

21 THE COURT: Thank you. Go ahead, Mr. Hadley.

22 MR. HADLEY: I won't comment on the victim's  
23 impact statement other than, we all participated in the  
24 trial, we heard what we heard, and there were many stories  
25 going around, you know, as far as the preliminary

1 examination transcript.

2 As far as the Department of Corrections  
3 recommendation it is at the low end. He did score within  
4 the guideline range of 72 to 180 months. This morning was  
5 the first indication that I had any, aware that there might  
6 have been some problems over in the jail. There haven't  
7 been any criminal charges against Mr. Leffew. I don't know  
8 if that would raise it to the level just because Mr.  
9 Broughton had indicated that there might have been some  
10 incidences with Mr. Leffew over there, maybe not. Maybe it  
11 was mutual fray, I don't know. I don't think that would  
12 give the Court authorization or, to go to the high end of  
13 the guidelines. I mean the Department of Corrections made  
14 a, I believe a truthful and accurate report, and I would ask  
15 the Court to stay at the low end of the guideline range.

16 THE COURT: Mr. Leffew, anything you would like to  
17 say?

18 MR. LEFFEW: I just want to say that this whole  
19 situation was a nightmare from the moment that, just from  
20 the beginning. I never thought that any of this would have  
21 ever happened. But apparently, I know it did, I take  
22 responsibility for my actions. I know I should, me and my  
23 wife should have never been in that man's house, and I'm so  
24 sorry for the fact that we ever went in there. There's not  
25 much more I can say. I take responsibility for my actions

1 and I beg for mercy. I never meant any harm towards Mr.  
2 Porter. I never, we didn't, this. I just, I don't know  
3 what else to say. I've taken responsibility for my actions  
4 from day one; I've never lied about what happened. I never  
5 changed my story like they, like Mr. Porter had four  
6 different, completely different stories on the record.

7 I just, I'm just begging for mercy because I never  
8 meant for any of this to happen. I just wanted to help my  
9 wife, I felt like her life was in danger.

10 THE COURT: Well, let me remind you that I sat  
11 here during the whole jury trial; I heard all the testimony,  
12 including yours.

13 MR. LEFFEW: I know, I just, I never meant him any  
14 harm. I never meant to, I didn't want to go in that house  
15 but I seen my wife laying on the floor, and I just felt like  
16 I had to do something to help her. I just want, I take  
17 responsibility for what I did, and I just beg for mercy from  
18 you, Your Honor.

19 THE COURT: Mr. Leffew, I didn't find your  
20 testimony at trial credible. You point the finger at the  
21 other witnesses that there were different stories, there  
22 were a lot of holes in your story too. And I asked you a  
23 couple questions during that trial that you were evasive  
24 about, and then weren't able to answer. You weren't able to  
25 answer them because your story was a big lie. The jury

1 didn't believe you and I didn't believe you. Your concern  
2 for your wife, I think is the only thing that kept you from  
3 doing more damage than you did in this case. If you hadn't  
4 had concern for your wife there who knows what you would  
5 have done to Mr. Porter.

6 You have a long history of violence. I can't  
7 ignore that. You have been convicted of two counts of  
8 Criminal Sexual Conduct. When you were on probation for  
9 that you violated your probation. So you can't be  
10 supervised in the community, you don't follow probation.

11 You've got two convictions of Domestic Violence.  
12 One of those started out with a charge of Assault by  
13 Strangulation and you pled it down to Domestic Violence.

14 I hear this victim's statement that says Mr.  
15 Porter has been threatened since the trial. And I'm just  
16 going to tell you that while you're incarcerated that  
17 doesn't get you off the hook. If anything happens to Mr.  
18 Porter I'm going to make sure it gets connected to you. So  
19 if you have friends that are doing your bidding for you, you  
20 better make sure they step back.

21 MR. LEFFEW: There's, I have no knowledge of  
22 anything like that.

23 THE COURT: I'm not having a conversation with you  
24 now, I'm telling you.

25 MR. LEFFEW: I understand, sorry.



1 THE COURT: I believe that, based on the testimony  
2 at the trial, that this was a calculated event. This wasn't  
3 I went to rescue anybody, because nobody needed rescuing,  
4 that was clear from the testimony at the trial.

5 I believe what Mr. Porter says that this was  
6 probably planned, because you went there loaded for bear,  
7 you walked in the backdoor, you busted in the backdoor, and  
8 you immediately began assaulting Mr. Porter. You had a  
9 knife in your hand. There was testimony on the record that  
10 that's not the first time you had threatened him with a  
11 knife. You knew what you were doing.

12 It's clear to me that Mr. Porter was only trying  
13 to help a friend. Yes, he had romantic interest in her, but  
14 he was not holding her captive. By her own testimony he was  
15 not holding her captive. She had access to the car. She  
16 could have left anytime she wanted to. She had gotten out  
17 of what was a bad situation at your mother's house.

18 After your mother called, they decided they were  
19 going to get back together, and she was free to leave. But  
20 you couldn't leave it at that. You took advantage of that  
21 situation to get violent, and that's exactly what you did.  
22 And again, who knows what you would have done if your wife  
23 hadn't gotten smacked in the head. I think if you hadn't  
24 had to be concerned about her you would have done much worse  
25 to Mr. Porter than you did.

1 I believe you repeatedly perjured yourself during  
2 the trial. Your story was, had as many holes in it as a  
3 sieve. It didn't make any sense and was totally self-  
4 serving.

5 I believe, based on your history, you can't be  
6 supervised in the community, you don't follow probation, you  
7 violate your probation. And then I learned this morning  
8 that there were at least two incidents in the jail. With  
9 your comment being, "I've got nothing to lose," so. So even  
10 while you are waiting to be sentenced you can't control your  
11 violent tendencies, even while incarcerated.

12 Now, I can't consider that in terms of guidelines  
13 or anything like that. But I certainly can consider it as  
14 the ongoing pattern in your life of violence, that you can't  
15 even control your violent tendencies while incarcerated,  
16 waiting sentence on a violent felony. That to me says you  
17 are a danger, you are a danger to this community; you are a  
18 danger to the public; and I think you are a ticking time  
19 bomb.

20 For all the reasons I've just stated, your long  
21 violent history; your lack of self control, even  
22 incarcerated; your lack of ability to control your violent  
23 tendencies; it's my intention to exceed the sentencing  
24 guidelines. I don't have to justify that as I did in the  
25 past. But I certainly think there are clear and convincing

1 reasons, compelling reasons to exceed the sentencing  
2 guidelines. Given your history, your habitual supplement  
3 here, your habitual 3rd offender, almost all of your  
4 criminal history is violent, and that violence continues  
5 even after this conviction.

6 So I am going to sentence you to the Michigan  
7 Department of Corrections for 300 to 480 months, that's 25  
8 to 40 years, you have credit for 44 days.

9 You must not have verbal, written, electronic, or  
10 physical contact with Michael Porter, either directly or  
11 through another person. You must not be within 500 feet of  
12 his residence, school, or place of employment. This is on  
13 the Home Invasion, Habitual 3<sup>rd</sup>.

14 You must not have verbal, written, electronic, or  
15 physical contact with Micheline Leffew, either directly or  
16 through another person.

17 You must pay restitution in the amount of  
18 \$4,805.52, payable to the Arenac County Clerk's Office to  
19 the benefit of Michael Porter. Restitution is to be paid  
20 jointly and severally with Micheline Leffew.

21 You must pay \$68.00 State Cost; crime victim  
22 assessment of \$130.00; court costs of \$1,100.00; a fine of  
23 \$500.00; and a \$10.00 local court costs.

24 As to count two I'm sentencing you to the Michigan  
25 Department of Corrections for 24 months to 8 years, with

1 credit for 44 days, that will run concurrently. You will  
2 pay a \$68.00 State Cost.

3 I'm going to hand to your attorney two copies of  
4 the Notice of Appellate Rights. Have you sign and date one  
5 copy, fill that out and return it to the court, the other is  
6 for your records. If you decide to appeal either your  
7 conviction or your sentence you need to fill that out and  
8 return it to the court within 21 days.

9 MR. HADLEY: Your Honor, could I address condition  
10 #2? I mean, obviously the Court knows that he is still  
11 legally married to Ms. Leffew.

12 THE COURT: Right.

13 MR. HADLEY: And above that he still cannot have  
14 contact with his wife?

15 THE COURT: Well, she is incarcerated as well, is  
16 she not?

17 MR. HADLEY: Yes. But when she gets out, I'm sure  
18 she just has a small county time I believe. But she would  
19 probably be on his list to see or to write letters, I mean,  
20 they are legally married.

21 MS. HILLIARD: To actually visit at the prison it  
22 would be up to the warden's discretion.

23 THE COURT: Because of her conviction?

24 MS. HILLIARD: Because of her conviction. And--

25 THE COURT: Okay. I'm going to leave that to the

1 warden's discretion. Normally they won't because of her  
2 conviction, but I'll leave that to the warden's discretion.

3 MR. HADLEY: Would it be a violation if she were  
4 to write him letters, I mean based on your ruling this  
5 morning then, Your Honor, I mean?

6 THE COURT: I'll strike condition #2, and we'll  
7 leave that to the warden.

8 But again, I'm going to tell you if anything  
9 happens to Mr. Porter in the meantime, I'll be looking at  
10 you and your wife.

11 MR. HADLEY: At this time, Your Honor, I'm  
12 tendering to the court Mr. Leffew's original, signed Advice  
13 of Rights.

14 THE COURT: Thank you. So Mr. Leffew, since you  
15 were kind of, your attention was on this. I've stricken  
16 condition #2 on count one. You may have contact with  
17 Micheline.

18 MR. LEFFEW: Thank you, Your Honor.

19 THE COURT: But we'll leave that to the warden  
20 whether or not she can actually visit you. Because of her  
21 convictions they might not let her in. But she can write to  
22 you and you can have telephone contact. But again, like I  
23 just said, I hope you heard me, if anything happens to Mr.  
24 Porter I will be looking at you and your wife first and  
25 foremost, do you understand?

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MR. LEFFEW: I understand.

THE COURT: Okay, good luck to you.

(At 11:58 a.m., proceedings concluded)

1 STATE OF MICHIGAN )

2 )

3 COUNTY OF ARENAC )

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6

7 I certify that this transcript, consisting of 16 pages, is a  
8 complete, true, and correct transcript of the proceedings and  
9 testimony taken in this case on Monday, May 7, 2018.

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12 August 5, 2018

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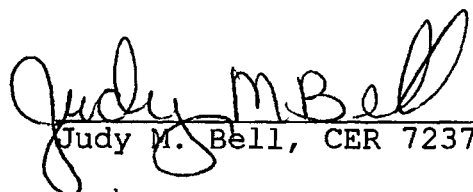
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Judy M. Bell, CER 7237

23<sup>rd</sup> Circuit Court

120 N. Grove Street

Standish, MI 48658

(989) 846-9069

## Second Amended Felony Complaint for Michael Porter (12/1/17)

422a

2017000740kkc

STATE OF MICHIGAN  
81st JUDICIAL DISTRICT  
23rd JUDICIAL CIRCUITSECOND AMENDED  
COMPLAINT  
FELONYCASE NO.: 2017000740  
DISTRICT: 17-0483 FY  
CIRCUIT:District Court ORI: MI060025J  
County Courthouse Standish, MiCircuit Court ORI: MI060015J  
County Courthouse Standish, MiTHE PEOPLE OF THE  
STATE OF MICHIGANDefendant's name and address  
V MICHAEL DENNIS PORTER  
5951 S. HURON ROAD  
PINCONNING, MI 48650Defendant's DOB  
09/11/1950Defendant's DLN  
P-636-603-139-706

Co-defendant(s)

Defendant's CTN / TCN  
06-17000740-01 /

Witnesses

DLN Type:

Vehicle Type

Police Agency Report No.  
171114006

DEPUTY OCHAB

DEPUTY SWITEK

LAB REP

[ ] A sample for chemical testing for DNA identification profiling is on file with the Michigan State Police from a previous case.

## STATE OF MICHIGAN, COUNTY OF ARENAC

The complaining witness, Det. Ochab, says that on or about November 18, 2017 in Standish Township, Arenac County, Michigan, the defendant, contrary to law:**COUNT 1: CONTROLLED SUBSTANCE - DELIVERY/MANUFACTURE MARIJUANA/SYNTHETIC EQUIVALENTS**

did possess with intent to deliver the controlled substance marijuana; contrary to MCL; 333.7401(2)(d)(iii). [333.74012D3]

FELONY: 4 Years and/or \$20,000.00. Unless sentenced to more than 1 year in prison, the court shall impose license sanctions pursuant to MCL 333.7408a.

**COUNT 2: DOMESTIC VIOLENCE**

did make an assault or an assault and battery upon Lisa Seibert, an individual with whom he had a dating relationship; contrary to MCL 750.81(2). [750.812]

MISDEMEANOR: 93 Days and/or \$500.00. A consecutive sentence may be imposed under MCL 750.506a if the assault was committed in a place of confinement.

Upon conviction of a felony or an attempted felony court shall order law enforcement to collect DNA identification profiling samples.

The complaining witness asks that defendant be apprehended and dealt with according to law.

(Peace Officers Only) I declare that the statements above are true to the best of my information, knowledge and belief.

Warrant authorized on 11/29/2017  
by: [Signature] Date

Curtis G. Broughton

P47200

☐ Security for costs postedComplaining witness signature [Signature]Subscribed and sworn to before me on December 1, 2017  
DateJudge/Magistrate/Clerk [Signature]

Bar no.

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STATE OF MICHIGAN  
EIGHTY-FIRST JUDICIAL DISTRICT COURT  
COUNTIES OF ARENAC, IOSCO, ALCONA & OSCODA  
ARENAC DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,

vs.

File No. 17-0483-FY

MICHAEL DENNIS PORTER,

Defendant.

**RECEIVED**

**JAN 23 2019**

PLEA

STATE APPELLATE  
DEFENDER OFFICE

BEFORE THE HONORABLE RICHARD E. VOLLBACH, DISTRICT COURT JUDGE

Standish, Michigan - Tuesday, December 12, 2017

**APPEARANCES:**

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P72416

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CER7237

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CER6484

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<u>DEFENDANT:</u>			
NONE			
<u>EXHIBITS:</u>			
NONE	RECEIVED	ADMITTED	

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Standish, Michigan

Tuesday, December 12, 2017

At or about 8:35 a.m.

THE COURT: All right. I'm going to call File 17-483, People versus Michael Porter. And Mr. Porter, I've been handed a motion and agreement for entry of criminal plea that appears you've signed; is that correct?

MR. PORTER: Correct.

THE COURT: Before you signed that, did you read and understand the terms of the agreement; do you understand the rights that you waive by entering into a criminal plea?

MR. PORTER: Yes.

THE COURT: Prior to your arraignment in this case, you signed a written advise of rights form; is that correct?

MR. PORTER: Yes.

THE COURT: Before you signed that form, did you read and understand that rights that are contained on that form?

MR. PORTER: Yes.

THE COURT: To the charge of possession of marihuana, how do you wish to plea?

MR. PORTER: Guilty.

THE COURT: Do you understand that by pleading guilty, you give up your right to trial and the rights that go with trial including - - I'm sorry. To the charge of a; is that a drunk and disorderly?

MR. GORTE: No, Your Honor. Its just a...

THE COURT: We have to have one of the, one of the specific, I'm required to take it to one of the specific - -

1 MR. GORTE: It would be creating a disturbance, Your Honor.

2 THE COURT: Well, the statute provides, I think, maintaining the, some type of  
3 an illegal house, jostling.

4 MR. GORTE: Jostling would be appropriate, Your Honor.

5 THE COURT: All right. So as to the charge of disorderly person jostling, how  
6 do you wish to plea?

7 MR. PORTER: Guilty.

8 THE COURT: Do you understand that by pleading guilty to those charges, you  
9 give up your right to trial, all the rights that go with trial including the rights that are set forth  
10 on your written advise of rights?

11 MR. PORTER: Yes, sir.

12 THE COURT: Has anyone threatened you or promised you with anything in  
13 order to get you to plead guilty?

14 MR. PORTER: No.

15 THE COURT: Its your own choice you're pleading guilty because you are, I  
16 fact, guilty; is that correct?

17 MR. PORTER: Correct.

18 THE COURT: The offense, possession of marihuana, is a misdemeanor  
19 carrying a maximum possible penalty of up to one year in the county jail, fine up to \$2,000 as  
20 well as license sanctions. Do you understand that charge and the possible penalties?

21 MR. PORTER: Yes, sir.

22 THE COURT: The offense of disorderly person is a misdemeanor carrying a  
23 maximum possible penalty of up to 90 days in the county jail, fine of up to \$500; you  
24 understand that charge and the possible penalties?

25 MR. PORTER: Yes, sir.

1 THE COURT: Understanding those charges and possible penalties, do you still  
2 wish to plead guilty to these charges?

3 MR. PORTER: Yes.

4 THE COURT: Sir, with respect to the possession of marihuana, did that  
5 offense occur on or about November 18, 2017?

6 MR. PORTER: Yes.

7 THE COURT: Did it occur in Standish Township, Arenac County, Michigan?

8 MR. PORTER: Yes.

9 THE COURT: On that date, did you knowingly and intentionally possess the  
10 controlled substance, marihuana?

11 MR. PORTER: Yes.

12 THE COURT: And where did you possess it?

13 MR. PORTER: My home.

14 THE COURT: And how much marihuana was it?

15 MR. PORTER: I don't, eight ounces; I don't know.

16 THE COURT: Okay. And it was, in fact, marihuana; is that correct?

17 MR. PORTER: Correct.

18 THE COURT: And you had no lawful right to possessing that marihuana; is  
19 that correct?

20 MR. PORTER: Not that much. No, sir.

21 THE COURT: Okay. So you knew you were, you were in violation of the law;  
22 is that correct?

23 MR. PORTER: Yes.

24 THE COURT: And questions, Counsel?

25 MR. GORTE: Have none, Your Honor.

1 THE COURT: Satisfied.

2 MR. GORTE: I think you complied with the court rule for taking the plea.

3 THE COURT: All right. With respect to the disorderly person, sir, did that also  
4 occur on November 18, 2017?

5 MR. PORTER: Yes.

6 THE COURT: Did it occur in Standish Township, Arenac County, Michigan?

7 MR. PORTER: Yes.

8 THE COURT: Actually, both these offenses in Standish Township, Arenac  
9 County, Michigan; correct?

10 MR. PORTER: Correct.

11 THE COURT: And on that date, what did you do that makes you guilty of  
12 disorderly person jostling; did you get in an argument with someone?

13 MR. PORTER: Yes.

14 THE COURT: And who was that? Was it the police?

15 MR. GORTE: No.

16 MR. PORTER: No. People that were breaking in my home.

17 MR. GORTE: Came in. There was an altercation, Your Honor. They came  
18 through the back door. Mr. Porter became engaged when one of the people that was in there,  
19 it went beyond what, what normally would have been - -

20 THE COURT: Okay. You, you, you had a, you had an argument with, with  
21 some person at your house; is that correct?

22 MR. PORTER: Yes.

23 THE COURT: But this argument was, it, it became somehow physical?

24 MR. PORTER: Yes.

25 THE COURT: And was it loud and could it be heard by neighbors to disturb

1 their quiet and enjoyment?

2 MR. PORTER: Yes.

3 THE COURT: It was not a peaceful situation; correct?

4 MR. PORTER: Correct.

5 THE COURT: Satisfied.

6 MR. GORTE: I am, Your Honor. Thank you.

7 THE COURT: Court will accept the guilty pleas. The matter will be scheduled  
8 for sentencing and a pre-sentence interview. Prior to the pre-sentence interview, you need to  
9 have this information sheet filled out for our probation officer.

10 What dates do we have, Ms. Bell?

11 COURT RECORDER: Pre-sentence interview will be nine o'clock this Friday,  
12 this Thursday, on 12/14. Sentencing will be nine o'clock on January 16<sup>th</sup>.

13 Read that form she put on the outside of that file.

14 THE COURT: Amend bond to conditional because of domestic violence.  
15 Actually, the - -

16 COURT RECORDER: That's been taken - -

17 THE COURT: I'm sorry.

18 COURT RECORDER: Oh, whatever.

19 THE COURT: I don't, I don't - - any argument that the bond shouldn't include  
20 provision that the defendant should have no contact with - -

21 MR. GORTE: We have no objections, Your Honor.

22 THE COURT: What is the victim's name? The person you were arguing with.

23 MR. PORTER: Boy...

24 MR. GORTE: Lisa.

25 MR. PORTER: Lisa Siebert.

1 THE COURT: All right. So the bond will include a provision you have no  
2 contact with that person directly or indirectly.

3 Sign your action in court form. We'll see you back here.

4 MR. GORTE: Thank you kindly, Your Honor.

5 THE COURT: Thank you.

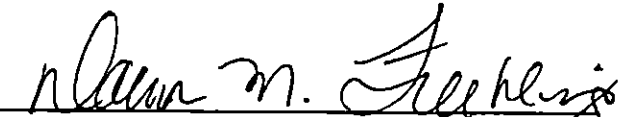
6 (At or about 8:41 a.m., hearing concluded)  
7  
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12  
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14

15 State of Michigan)

16 County of Arenac)

17 I certify that this transcript, consisting of 8 pages, is a complete, true, and correct  
18 transcript of the testimony taken in this case on December 12, 2017.  
19  
20  
21  
22

23 January 11, 2019

24   
Dawn M. Freehling  
Official Court Recorder  
81<sup>st</sup> District Court  
CER 6484  
25



STATE OF MICHIGAN  
EIGHTY-FIRST JUDICIAL DISTRICT COURT  
COUNTIES OF ARENAC, IOSCO, ALCONA & OSCODA  
ARENAC DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,

vs.

File No. 17-0483-FY

MICHAEL DENNIS PORTER,

Defendant.

---

SENTENCING

BEFORE THE HONORABLE RICHARD E. VOLLBACH, DISTRICT COURT JUDGE

Standish, Michigan - Wednesday, January 10, 2018

APPEARANCES:

For the People:

MELISSA S. SPRAGUE  
Prosecuting Attorney  
120 N. Grove Street  
P.O. Box 1309  
Standish, MI 48658  
(989) 846-4597

P72416

For the Defendant

C. MICHAEL GORTE  
918 North Water Street  
Bay City, MI 48708-5622  
(989) 894-5670

P14213

RECORDED BY:

JUDY BELL  
Certified Electronic Recorder  
Standish, MI 48658  
(989) 846-9069

CER7237

TRANSCRIBED BY:

DAWN FREEHLING  
Certified Electronic Recorder  
Standish, MI 48658  
(989) 846-9538

CER6484

TABLE OF CONTENTS

WITNESSES:

PAGE

PEOPLE:

NONE

DEFENDANT:

NONE

EXHIBITS:

RECEIVED

ADMITTED

NONE

Standish, Michigan

Wednesday, January 10, 2018

At or about 10:06 a.m.

THE COURT: I'm going to call File 17-483, People versus Michael Dennis Porter. This matter is before the Court on a sentencing on the charges of possession of marihuana and disorderly person.

Mr. Gorte, you wish to make your appearance?

MR. GORTE: Yes, Your Honor. If it may please the Court, C. Michael Gorte representing Mr. Porter who is seated to my immediate left.

THE COURT: And have you had the opportunity to review the pre-sentence materials with your client?

MR. GORTE: We have, Your Honor. And I offer no objections or corrections to the factual content.

THE COURT: Elocution.

MR. GORTE: Thank you, Your Honor. As the, as the pre-sentence report accurately reflects, Mr. Porter is a 67-year old gentleman who is before the Court on his first criminal involvement in his entire life. The recommendation, Your Honor, is a result of, what I would call, a most unusual situation. Mr. Porter has been victimized by individuals and which led to them informing the police agency that Mr. Porter may have been in excess of marihuana on, based on his medical marihuana card which proved to be true. As the report indicates, Your Honor, he was 5.6 ounces above his legal limit for his card.

As I indicated, Your Honor, this is his very first offense. He has now - -

THE COURT: Yeah, he did have an impaired in '08; right?

MR. GORTE: Yeah. I'm sorry, Your Honor. I'm talking about drug related.

THE COURT: Okay.

1 MR. GORTE: And the, the remorse that this man has shown has been  
2 remarkable. He has been called upon to be a test, to testify for the prosecution with respect to  
3 the breaking of his home. I'm told that there are lab reports waiting arrival in order to  
4 continue that prosecution against the individuals accused of coming into his home. He is  
5 certainly able to pay the recommended fines and costs by this afternoon, Your Honor, if he's  
6 allowed to do so.

7 And I would respectfully request, Your Honor, that if he's placed on probation  
8 that the request would show, that the jail term be suspended to appear or to be served, rather,  
9 at the end of that probationary period if for whatever reason, he does not fully comply with all  
10 terms and conditions. The two days that he served have been an epiphany for him. He  
11 certainly understands that he is not going to go back to having any marihuana in excess of  
12 what he's legally allowed. And I would respectfully request, Your Honor, that you for go the  
13 immediate imposition of jail allowing him to successfully serve his probationary term.

14 Thank you.

15 THE COURT: Thank you. Mr. Porter, is there anything you'd like to say?

16 MR. PORTER: Yes, sir. I really didn't pay any attention to how much  
17 marihuana that I had. I know now that I'm only allowed to have 2.5 on me at all times and I'll  
18 make sure that I'll abide by law and I didn't know that or I would, I would have never had that  
19 over.

20 THE COURT: The, the bottom line here is when you're going to take  
21 advantage of the laws with respect to medical marihuana, you better do it strictly. And follow,  
22 make sure you are aware of all of the rules and prohibitions with respect to that.

23 MR. PORTER: Yes, sir.

24 THE COURT: The, you know, this, this all and I, I realize how this all morphs  
25 into the, you know, other cases here and, you know, I, I certainly hope that you've learned

1 some lessons, lessons even beyond, even at your age.

2 MR. PORTER: Yes, sir.

3 THE COURT: Beyond what, you know, not to violate the laws and, and, and  
4 all of that. So...I, honestly, I think the recommendation's fair. I'm not going to...I, well, I am  
5 going to deviate somewhat from it. However, in light of the comments made by, well spoken,  
6 very well spoken by Mr. Gorte so he's, he's probably saved you, you know, some jail here, I  
7 would say for sure.

8 With respect to the possession of the marihuana, it's the sentence of the court  
9 that you serve four days, two days credit, two days to be served now. Your license is  
10 suspended for six months, restricted not available till after 30 days. I'll place on probation for  
11 one year. Follow the standard terms of probation and in addition to those standard terms and  
12 the payment of \$30 monthly oversight, I'm ordering you not to possess or consume any  
13 controlled substance unless prescribed by a doctor. You shall not be in the presence of any  
14 controlled substance, shall not possess or consume marihuana under any circumstances even if  
15 you have a Michigan Medical Marihuana Card. You shall submit to a random drug screen or  
16 screens as requested by any probation officer, counselor, law enforcement official, court staff,  
17 or any agency designated by the probation department and be responsible for the payment of  
18 the same. Ms. Byard will go over the balance of probation term.

19 She's here today; right?

20 COURT RECORDER: It's a Wednesday, I bet she's not. He's going to go to  
21 jail.

22 THE COURT: Oh, okay. So she'll, she'll come over and she'll visit you to go  
23 over the balance of your probation terms with you.

24 I'm, and on, on this possession of marihuana charge, I'm ordering that you pay  
25 state fine \$200, court cost \$590, local cost \$10. That's \$800 plus crime victim's right fee of

1 \$75, justice system assessment \$50.

2 On the disorderly person, it's a sentence of the Court that you serve four days  
3 jail, two days credit, two days to be served. That will be concurrent with the other count. I'm  
4 ordering that you pay \$100 fine, \$90 court costs, local cost of \$10. That's \$200 plus justice  
5 system assessment of \$50.

6 The total is \$1,175 less \$450 bond which will be applied, leaving the balance  
7 of \$725 or 36 additional days jail.

8 You can pay that today then.

9 MR. GORTE: Yes, Your Honor. If Court would allow him in which to do that,  
10 he can pay it by the early afternoon.

11 THE COURT: Well, he's going to, you'll have someone, I mean, he's going to  
12 be taken to jail right now so...

13 MR. PORTER: Is, is there any possible way I can turn myself in tomorrow  
14 cause I got my medicine I got to get?

15 THE COURT: Well, we, did, did, you knew today was the date and time  
16 scheduled for sentencing.

17 MR. PORTER: Yeah. Is there anyway I can get my car off the street? So I  
18 don't - -

19 THE COURT: You, you got some people here right.

20 MR. PORTER: No.

21 MR. GORTE: These are the people that caused the altercation, Your Honor.

22 THE COURT: Oh, okay. I, I don't know what to tell you. You, you, you knew  
23 today was your sentencing and, you know, we provide the pre-sentence recommendations.  
24 The only, the only thing that's changed from it is, is that I've given you less jail which I do  
25 somewhat reluctantly. The, the, the Court will indicate the, of the \$725, \$250 must be paid

1 before release from jail. The balance will be paid within 30 days unless you make another  
2 payment arrangement with our collection staff.

3 So that, that's going to be the order of the court.

4 You have 21 days to appeal, 14 days to request court-appointed attorney. At  
5 this time, you're remanded to the custody of the sheriff.

6 MR. GORTE: Your Honor, he can pay the 250 right now then.

7 THE COURT: Okay. Very good.

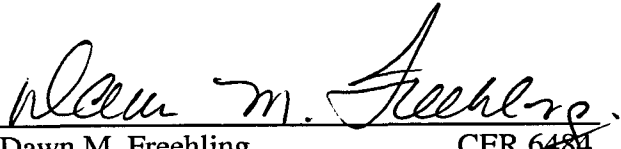
8 (At or about 10:14 a.m., hearing concluded)  
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14 State of Michigan)

15 County of Arenac)

16 I certify that this transcript, consisting of 7 pages, is a complete, true, and correct  
17 transcript of the testimony taken in this case on January 10, 2018.  
18  
19  
20  
21

22 January 14, 2019

  
Dawn M. Freehling  
Official Court Recorder  
81<sup>st</sup> District Court  
CER 6484



81ST DISTRICT COURT  
120 N GROVE, PO BOX 129  
STANDISH, MI 48658  
989-846-9538  
Case History Print  
For  
17- 0483-FY -2

DATE 1/08/19

Defendant: PORTER, MICHAEL DENNIS  
Address: 5951 S HURON  
PINCONNING MI 48650  
Phone #:

SID #: T0062012  
DOB: 9/11/1950

Sex: M Race: Eyes: Hair: Complexion:  
Height: Ft. In. Weight: Marital Status:  
Occupation: Work Phone:

License #: P636603139706 State: MI Plate: State: Yr:  
Vehicle ID: Make: Model:  
Mail/Person: Accident: Injury: Prop. Damage:  
Lic. as Bond: Military: Incarcerated: Non-Public:  
Fingerprint: Y Waiver of Speedy Trial: CTN: 06170007400  
TCN: S717201903M Assigned To: HON. RICHARD VOLLBACH JR  
Offense Date: 11/18/17 Offense Time: Offense Location:  
Filed Date: 11/20/17 Complaint Date: 11/18/17 Complaint #: 171114006  
Arrest Date: 11/18/17 Arresting Agency: 06 Citation #: 34452  
Defense Attorney: GORTE, C. MICHAEL 14213  
918 NORTH WATER STREET  
BAY CITY MI 48708-5622  
989 894 5670

Counsel Type: RETAINED

Prosecuting Attorney: BROUGHTON, CURTIS 47200  
PO BOX 1159  
STANDISH MI 48658  
989 846 4597

#### Bond History

Receipt#	Type	Set Date	Set Amount	Posted Date	Posted Amount	Def.	Judge
17436	CT	11/20/17	5,000.00		500.00	Y	

Bond Memo: NO CONTACT WITH LISA SIEBERT

Count: 1 Code: 333.74012D3 CONTROLLED SUBSTANCE DEL./MFG MARIHUANA  
Arraignment Plea: Judgment Method: DNP Judgment Code: DNP Appeal Code:  
Adjudication Date: 12/12/17 Judge: RV Sentence Date: Judge:

Count: 2 Code: 750.812 DOMESTIC VIOLENCE  
Arraignment Plea: Judgment Method: DNP Judgment Code: DNP Appeal Code:  
Adjudication Date: 12/12/17 Judge: RV Sentence Date: Judge:

Count: 3 Code: 333.74032D POSS OF MARIHUANA/SPICE/SALVIA  
Arraignment Plea: Judgment Method: P Judgment Code: G Appeal Code:  
Adjudication Date: 1/10/18 Judge: RV Sentence Date: 1/10/18 Judge: RV

Count: 4 Code: 750.1671L DISORDERLY PERSON-JOSTLING  
Arraignment Plea: Judgment Method: P Judgment Code: G Appeal Code:  
Adjudication Date: 12/12/17 Judge: RV Sentence Date: 1/10/18 Judge: RV



81ST DISTRICT COURT  
120 N GROVE, PO BOX 129  
STANDISH, MI 48658  
989-846-9538  
Case History Print  
For  
17- 0483-FY -2

DATE 1/08/19

Jail- Years: Months: Days: 8 To Serve- Years: Months: Days:  
Start Date: 1/10/18 Credit: 4 Suspended: Abeyance:  
Institution:

Probation Term - Years: Months: 24 Days: Start Date: 1/10/18  
Probation Officer: LINDA S.P. BYARD Term. Date: 1/10/19  
Supervision Level: P Supervision Status: Z  
Community Service - Years: Months: Days:  
Treatment Agency:  
Assessments

Fee Code	Description	Amount	Assessed Date	Judge/Magistrate
OS	OVERSIGHT	360.00	1/10/18	
CV	CRIME VICTIM	75.00	1/10/18	
MD	MISD ASSESSMENT	50.00	1/10/18	
MD	MISD ASSESSMENT	50.00	1/10/18	
SF	STATE FINES	200.00	1/10/18	
CC	COSTS OF PROS	590.00	1/10/18	
BR	LOCAL CT COSTS	10.00	1/10/18	
SF	STATE FINES	100.00	1/10/18	
CC	COSTS OF PROS	90.00	1/10/18	
BR	LOCAL CT COSTS	10.00	1/10/18	

Payment Plan

Frequency	Amount	Due Date
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Payments

Date	Type	Amount	Receipt #	Check #
1/10/18	CASH PAYMENT	250.00	182993	
1/10/18	BOND APPLIED ALONG WITH CASH	450.00	182994	11572
1/18/18	CASH PAYMENT	650.00	183079	
4/02/18	CASH PAYMENT	100.00	184079	
4/20/18	CASH PAYMENT	85.00	184294	

Probation/Judgment Conditions

Code	Condition	Completed
	BOND APPLIED. \$475 DUE W/IN 30 DAYS OF RELEASE OR SERVE 22 ADD'L DAYS.	
	SERVE 2 DAYS NOW CONCURRENT W/OTHER CHARGE.	
	12 MONTHS PROB W/TERMS AT DIRECTION OR PROB OFFICER.	
	LIC SUSPENDED 183 DAYS W/RESTRICTIONS AFTER 30 DAYS.	

Register of Actions

Set Date	Code	Proceedings	Jdg/Mag	Ac
11/20/17	IMG	COMPLAINT/STATEMENT IN SUPPORT/TICKET		
11/20/17	BDS	BOND SET		
11/20/17	NOA	NOTICE OF ARRAIGNMENT	AD	11
11/20/17	BP	BOND POSTED		
11/20/17	CE	CLERICAL ERROR		

81ST DISTRICT COURT  
120 N GROVE, PO BOX 129  
STANDISH, MI 48658  
989-846-9538  
Case History Print  
For  
17- 0483-FY -2

DATE 1/08/19

Set Date	Code	Proceedings	Jdg/Mag	
11/20/17	NOA	NOTICE OF ARRAIGNMENT	KK	
11/20/17	AMC	AMENDED COMPLAINT FILED		
11/27/17	FRIG	FELONY RIGHTS		
11/27/17	FAT	APPEARANCE FILED		
11/27/17	AIC	ACTION IN COURT		
11/27/17	WFA	WAIVE FORMAL ARRAIGNMENT		
11/27/17	PCC	PROBABLE CAUSE CONFERENCE	CB	
11/27/17	SC	STATUS CONFERENCE	RV	
11/27/17	NPE	NOTICE-PRELIMINARY EXAM	RV	
12/01/17	FAT	APPEARANCE FILED		
12/01/17		DEFENSE ATTORNEY CHANGED FROM CODE 27265		
12/01/17	IMG	SECOND AMENDED COMPLAINT		
12/01/17	NOA	NOTICE OF ARRAIGNMENT	RV	
12/04/17	HEH	HEARING HELD		
12/04/17	NOAH	ARRAIGNMENT HELD	RV	
12/04/17	AIC	ACTION IN COURT		
12/04/17	IMG	PROBABLE CAUSE CONFERENCE FORM		
12/04/17	IMG	SUBSTITUTION OF ATTORNEY		
12/12/17	PL	PLEA ENTERED-REFER FOR PSI		
12/12/17	HC	HEARING CANCELLED		
12/12/17	NOS	NOTICE OF SENTENCING	RV	1
12/12/17	AIC	ACTION IN COURT		
12/12/17	PLEA	PLEA AGREEMENT		
12/12/17		PSI 12/14/17 @ 9 AM		
12/12/17	IMG	AMENDED BOND		
12/12/17	IMG	AMENDED BOND SIGNED		
12/14/17	ZOT	OTHER		
12/14/17	NOS	NOTICE OF SENTENCING	RV	1
12/14/17		PLEASE TAKE NOTICE DATE OF SENTENCING HAS BEEN CHA		
12/14/17		NGED.		
1/10/18	HEH	HEARING HELD		
1/10/18	P	CASE IS ON PROBATION		1
1/10/18	P	CASE IS ON PROBATION		1
1/10/18	JE	JUDGMENT ENTERED		
1/10/18	T	CASE IS ON TIME PAYMENTS		1
1/10/18	AH	ACTION HELD		
1/10/18		JUDGMENT UPDATED		
1/10/18	T	CASE IS ON TIME PAYMENTS		1
1/10/18	AH	ACTION HELD		
1/10/18	SFC	SATISFACTION OF F/C - JAIL FORM PRINTED		
1/10/18		PAYMENT TERMS CHANGED FROM: A \$ 01/10/18		
1/10/18	T	CASE IS ON TIME PAYMENTS		1
1/10/18	AH	ACTION HELD		
1/10/18	AIC	ACTION IN COURT		
1/10/18	ABS	ADJUDICATION/SENTENCING ABSTRACT	KK	1
1/11/18	IMG	RECALLED CONDITIONAL BOND		
1/10/18	OPF	ORDER OF PROBATION FILED	RV	
1/17/18	EJUD	ELECTRONIC JUDGMENT SUBMITTED - EJUD COUNT:		1



81ST DISTRICT COURT  
120 N GROVE, PO BOX 129  
STANDISH, MI 48658  
989-846-9538  
Case History Print  
For  
17- 0483-FY -2

DATE 1/08/19

Set Date	Code	Proceedings	Jdg/Mag
1/17/18	EJUD	ELECTRONIC JUDGMENT SUBMITTED - EJUD COUNT:	2
1/17/18	EJUD	ELECTRONIC JUDGMENT SUBMITTED - EJUD COUNT:	3
1/17/18	EJUD	ELECTRONIC JUDGMENT SUBMITTED - EJUD COUNT:	4
7/06/18	DFP	ORDER DISCHARGE PROBATION	RV
7/06/18		SUCCESSFUL RELEASE FROM PROBATION.	
7/06/18	AH	ACTION HELD	
7/06/18	Z	CASE IS CLOSED	
7/06/18		LETTER FROM DFT REQ RELEASE - APPROVED.	

Persons Associated with this Case

Person Type	Name
COMPLAINANT	OCHAB, CHRISTOPHER

RECEIVED BY MSC 3/17/2021 9:04:29 PM

STATE OF MICHIGAN 81ST JUDICIAL DISTRICT	JUDGMENT OF SENTENCE X COMMITMENT TO JAIL	CASE NO. 17- 0483-FY -2
ORI MI060025J	Court Address 120 N GROVE, PO BOX 129 STANDISH MI 48658	Telephone No. 989-846-9538

Police Report No. 171114006

THE PEOPLE OF STATE OF MICHIGAN  
ARENAC COUNTY SHERIFF DEPT.

-V-

PORTER, MICHAEL DENNIS  
5951 S HURON  
PINCONNING MI 48650

CTN/TCN SID DOB  
061700074001 T0062012 9/11/1958

THE COURT FINDS:

1. Defendant was found guilty on 1/10/18 of the crime(s) as stated below:

COUNT	CONVICTED BY			CRIME	CHARGE CODE
	Plea	Court	Jury		
3	G			POSS OF MARIHUANA/SPICE/SALVIA	333.74032D
4	G			DISORDERLY PERSON-JOSTLING	750.1671L

2. Defendant was represented by an attorney: GORTE, C. MICHAEL

X 3. Conviction reportable to the Secretary of State.

Defendant's driver license number is: P636603139706

X 4. Licensing sanction reportable to State Police.

Revoked X Suspended 30 days X Restricted 153 days

5. HIV testing and sex offender registration is completed.

X 6. Defendant has been fingerprinted according to MCL28.243.

7. A DNA sample is already on file with the MSP from a previous case.

IT IS ORDERED:

8. Probation is revoked.

9. Deferred status is revoked. HYTA status is revoked.

10. Defendant is sentenced to jail as follows:

Cnt	Sentence Begins	Sentenced		Credited		To be Served		Release Authorized for the Following Purpose
		Mos.	Days	Mos.	Days	Mos.	Days	
3	1/10/18		4		2		2	Upon pay of Fine/Cost
4	1/10/18		4		2		2	To work or seek work
								For attendance/school
								For medical treatment

Days held in abeyance:

Release period - From: \_\_\_\_\_ To: \_\_\_\_\_

11. Defendant shall pay as follows: (See attached sheet for details)

Total Due: \$1,535.00

The due date for payment is \_\_\_\_\_. Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed.

Defendant shall serve 23 days in jail beginning \_\_\_\_\_ for failure to pay on time.

X 12. Defendant shall be placed on probation for 12 months and abide by the terms of probation.

13. Defendant shall complete the following rehabilitative services.

Alcohol Highway Safety Education Treatment  
(outpatient, inpatient, residential, mental health.)  
Specify:

14. The vehicle used in the offense shall be immobilized or forfeited.

15. The concealed weapon board shall suspend for \_\_\_\_\_ days

permanently revoke the concealed weapon license permit number \_\_\_\_\_ issued by \_\_\_\_\_ County.

X 16. Other: SEE ATTACHED SHEET FOR ADD'L TERMS

1/10/18  
Date

HON. RICHARD VOLLBACH JR  
JUDGE

P46137  
Bar no.



JUDGMENT OF SENTENCE  
FINE/COST DETAIL

1/10/18

AND JUDGMENT/PROBATION CONDITIONS

PAGE

PORTER, MICHAEL DENNIS  
5951 S HURON  
PINCONNING MI 48650

17-

0483-FY -2

Case Assessments

OVERSIGHT	360.00
CRIME VICTIM	75.00
MISD ASSESSMENT	50.00
MISD ASSESSMENT	50.00

Count: 3

STATE FINES	200.00
COSTS OF PROS	590.00
LOCAL CT COSTS	10.00

Count: 4

STATE FINES	100.00
COSTS OF PROS	90.00
LOCAL CT COSTS	10.00

Total Assessed 1,535.00

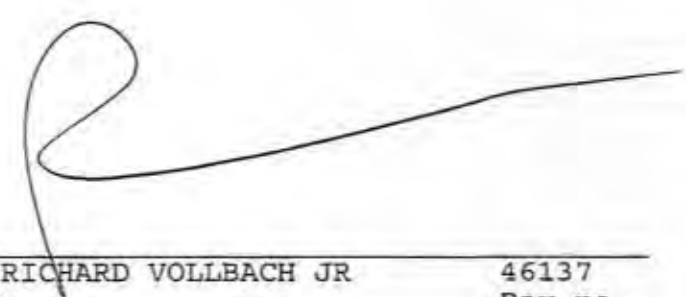
BOND APPLIED. \$475 DUE W/IN 30 DAYS OF RELEASE OR SERVE 22

ADD'L DAYS.

SERVE 2 DAYS NOW CONCURRENT W/OTHER CHARGE.

12 MONTHS PROB W/TERMS AT DIRECTION OR PROB OFFICER.

LIC SUSPENDED 183 DAYS W/RESTRICTIONS AFTER 30 DAYS.

1/10/18  
Date  
HON. RICHARD VOLLBACH JR  
JUDGE46137  
Bar no.

THE PEOPLE OF STATE OF MICHIGAN -V- PORTER, MICHAEL DENNIS  
ARENAC COUNTY SHERIFF DEPT. 5951 S HURON  
PINCONNING MI 48659

CTN/TCN	SID	DOB
061700074001	T0062012	9/11/1950

\_\_\_ Juvenile In the matter of

COUNT	CRIME	CHARGE CODE
1	CONTROLLED SUBSTANCE DEL./MFG MARIHUANA	333.74012D3
2	DOMESTIC VIOLENCE	750.812

IT IS ORDERED:

1. The case is dismissed on the motion of the court  
with without prejudice.
2. Defendant's/Juvenile's motion for dismissal is granted  
with without prejudice and the case is dismissed.
- X 3. Defendant's/Juvenile's motion for dismissal is granted in part  
with without prejudice and the following charge(s) is/are dismissed:  
CONTROLLED SUBSTANCE DEL./MFG MARIHUANA DOMESTIC VIOLENCE

4. Defendant/Juvenile is acquitted on all charge(s) in this case after trial by \_ judge \_ jury.
5. Defendant/Juvenile is acquitted after trial by \_ judge \_ jury only on the following charge(s):

- 6. Defendant/Juvenile shall be immediately discharged from confinement in this case.
- 7. Bond is cancelled and shall be returned after costs are deducted.
- 8. Bond/Bail is continued on the remaining charge(s).
- 9. The case is remanded to the \_\_\_\_\_ district court for further proceedings for the following reasons;
- 10. If item 4 is checked, the arresting agency shall destroy the fingerprints and arrest card according to law.

Date 12/12/2017

HON. RICHARD VOLLBACH JR. P46137  
JUDGE Bar no.

If item 1, 2, or 4 is checked, the clerk of the court shall advise the Michigan State Police Criminal Justice Information Center of the disposition as required under MCL 769.16a.

TO THE DEFENDANT: By law, your fingerprints and arrest card will be destroyed by the Michigan State Police within 60 days of the date of this order when permitted by MCL 28.243.



Approved, SCAO

Original - Court

1st copy - Judge/Assignment clerk (green)

2nd copy - Respondent (blue)

3rd copy - Petitioner (pink)

4th copy - Return (yellow)

23rd Arenac	<b>STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY</b>	<b>PETITION FOR PERSONAL PROTECTION ORDER (DOMESTIC RELATIONSHIP)</b>	<b>CASE NO.</b> <u>17-13764-PP</u>
<b>Court address</b> 120 N. Grove Street, PO Box 747, Standish, MI 48658		<b>Court telephone no.</b> (989) 846-9186	

<b>(A) Petitioner's name</b> <u>LISA SEIBERT</u> <b>Age</b> <u>55</u> <b>Address and telephone no. where court can reach petitioner</b> <u>117 MAIN ST. 989) 903-5335</u> <u>STERLING, MI. 48659</u>	<b>Respondent's name, address, and telephone no.</b> <u>MICHAEL PORTER</u> <u>5951 S. HURON RD.</u> <u>PONCONING, MI. 48650</u> <b>DOB or age</b> <u>9-11-50</u>
--	---

- (B)** 1. The petitioner and respondent ☐ are married to each other. ☐ were married to each other. ☐ have a child in common.  
☒ have or had a dating relationship. ☐ reside or resided in the same household.
- (C)** 2. ☐ The respondent is required to carry a firearm in the course of his/her employment. ☐ Unknown.
- (D)** 3. a. There ☒ are ☐ are not other pending actions in this or any other court regarding the parties.

<b>Case number</b> <u>17-10987</u>	<b>Name of court, county, and state or province</b>	<b>Name of judge</b>
---------------------------------------	---	----------------------

- b. There ☒ are ☐ are not orders/judgments entered by this or any other court regarding the parties.

<b>Case number</b> <u>17-10987</u>	<b>Name of court, county, and state or province</b>	<b>Name of judge</b>
---------------------------------------	---	----------------------

- (E)** 4. I need a personal protection order because: Explain what has happened. Attach separate sheet(s).

- (F)** 5. I ask the court to grant a personal protection order prohibiting the respondent from:

- ☒ a. entering onto the property where I live. I state that either I have a property interest in the premises, I am married to the respondent, or the respondent has no property interest in the premises.

- ☒ b. entering onto the property at 117 MAIN ST- STERLING, MI  
Address

- ☒ c. assaulting, attacking, beating, molesting, or wounding LISA SEIBERT, MICHAEL PORTER  
Name(s)

- ☐ d. removing the minor children from the petitioner who has legal custody, except as allowed by a custody or parenting time order as long as removal of the children does not violate other conditions of the personal protection order.

- ☒ e. stalking as defined under MCL 750.411h and MCL 750.411i, which includes but is not limited to:

- ☒ following me or appearing within my sight.

- ☐ appearing at my workplace or residence.

- ☒ sending mail or other communications to me.

- ☒ contacting me by telephone.

- ☒ approaching or confronting me in a public place or on private property.

- ☒ entering onto or remaining on property owned, leased, or occupied by me.

- ☒ placing an object on or delivering an object to property owned, leased, or occupied by me.

- ☐ f. interfering with efforts to remove my children/personal property from premises solely owned/leased by the respondent.

- ☒ g. threatening to kill or physically injure ANY PERSON ON MY PROPERTY

- ☐ h. interfering with me at my place of employment or education or engaging in conduct that impairs my employment or educational relationship or environment.

- ☐ i. having access to information in records concerning a minor child of mine and the respondent that will reveal my address, telephone number, or employment address or that will reveal the child's address or telephone number.

- ☒ j. intentionally causing me mental distress or exerting control over me by:

- ☐ injuring, killing, torturing, or neglecting, or threatening to injure, kill, torture, or neglect any animal in which I have an ownership interest.

- ☐ removing any animal from my possession in which I have an ownership interest.

- ☐ retaining or obtaining possession of any animal in which I have an ownership interest.

- ☐ k. purchasing or possessing a firearm.

- ☐ l. other: \_\_\_\_\_

- (G)** 6. I make this petition under the authority of MCL 600.2950/MCL 600.2950a and ask the court to grant a personal protection order.

- ☒ I request an ex parte order because immediate and irreparable injury, loss, or damage will occur between now and a hearing or because notice itself will cause irreparable injury, loss, or damage before the order can be entered.

- (H)** ☐ 7. I have a next friend petitioning for me. I certify that the next friend is not disqualified by statute and is an adult.

**(I)** 11-21-17  
Date

Lisa Seibert  
Petitioner's/Next friend's signature

ON NOV. 18 I TOLD DONNA  
TO COME AND GET ME AT  
MIKE PORTER'S HOUSE, WHEN  
I TOLD MIKE HE GOT MAD  
AND WENT IN <sup>THE</sup> BEDROOM  
AND GOT A GUN, I SCREAMED  
AT HIM UNTIL HE PUT IT  
AWAY, HE KEPT GRABBING  
ME AND TELLING ME I  
WASNT LEAVING, WHEN THEY  
PULLED IN THE DRIVEWAY  
HE GOT WORSE, HE TOLD ME  
I COULDN'T GO OUTSIDE, I  
GOT ~~TO~~ MY BAG AND BROUGHT  
IT OUT TO LEAVE AND HE  
WAS AT THE DOOR TELLING  
THEM I WASNT LEAVING  
I WAS PUTTING MY COAT  
ON, HE SLAMMED THE DOOR  
IN THEIR FACES, I GOT  
AWAY FROM HIM AND RAN  
TO THE DOOR AND TRIED TO  
OPEN IT, HE GRABBED MY  
HAND AND SQUEEZED IT AND



THEN HE SHOVED ME DOWN  
ON SOME TOOL BOXES AND HURT  
MY RIBS, THE WHOLE TIME  
I'M SCREAMING HELP, THEN  
HE GRABBED ME AND PICKED  
ME UP AND SHOOK DOWN  
IN A CHAIR AND I'M STILL  
SCREAMING HELP. WHEN THEY  
FIRST PULLED IN HE  
CALL 911 AND THEN MY  
~~SON~~ SON JJ AND  
HIS WIFE WAS LOOKING  
THROUGH THE SLIDING GLASS  
DOORS AND SEEN HIM MAN  
HANDLING ME AND HEARING ME  
SCREAMING THEY WERE TRYING  
TO GET THROUGH THE BACK  
DOOR HE HAD ME IN THE  
CHAIR AND HE WAS KIND OF  
SITTING ON ME SO I COULDN'T  
GET UP AND HE CALLED 911  
AGAIN TELLING THEM TO HURRY  
BECAUSE THEY WERE BREAKING  
IN THE DOOR. FINALLY HE

RECEIVED BY MSC 3417/2021 9:04:29 PM

Got up and I got up, they  
got the door open and screamed  
for me to run out of the  
house, I did not see him  
hit her with the ashtray  
but I did see her on the floor  
I did get out but I only  
had one bag, so I went back  
in and that's <sup>when</sup> I seen Mikeah  
bleeding so we said let's  
get out of here so we  
got out and then I noticed  
that Donna went in the house  
so I went in to get her,  
she went in to get a ring  
back, when we got back  
out Mikeah was on the  
ground having seizure so  
we got her in the car  
and left to go to the hospital  
and the cops weren't there  
yet. Now the cops are  
trying to charge my  
son and her ~~her name~~ ~~the~~

WIFE WITH 3<sup>RD</sup> DEGREE  
HOME INVASION AND ASSAULT  
WITH A DEADLY WEAPON  
AND ALL THEY DID WAS  
RESCUE ME BECAUSE I  
WAS SCREAMING FOR  
HELP.

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**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Jeremiah James Leffew

Docket No. 344240

LC No. 17-004119-FH

Brock A. Swartzle  
Presiding Judge

Michael J. Kelly

Michael F. Gadola  
Judges

The Court orders that the motion to remand is GRANTED. This case is REMANDED to the trial court for defendant to file an appropriate motion for relief based on his claim that trial counsel was ineffective during the plea negotiation process and to have an evidentiary hearing regarding the matter. Proceedings on remand are limited to the issues raised in the motion to remand. This Court retains jurisdiction.

Defendant shall initiate the proceedings on remand within 14 days of the date of this order. The time for further proceedings in this appeal shall begin to run on the issuance of an order in the trial court that concludes the remand proceedings. However, if defendant fails to file a motion to initiate the proceedings within the time provided, the time for further proceedings in this appeal shall begin to run at the conclusion of that 14-day period. Defendant shall file with this Court a copy of any motion and supporting brief filed in the trial court, and defendant shall file a copy of any order entered within 14 days after entry.

The trial court shall hear and decide the matter within 56 days of the date of this order and shall make an appropriate determination on the record. The trial court shall order a transcript of any hearing on remand to be prepared at public expense and filed within 21 days after completion of the proceedings.

Defendant may file a supplemental brief addressing the issues raised on remand within 21 days after the date of entry of the trial court's order deciding the matter or the date the transcript is filed, whichever is later. Plaintiff may file a supplemental brief in response.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JAN 24 2019

Date

  
Chief Clerk

31234 KLM  
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**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Micheline Nicole Leffew

Docket No. 343818

LC No. 17-004120-FH

**RECEIVED**

**MAR 14 2019**

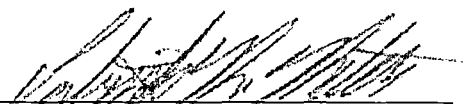
**STATE APPELLATE  
DEFENDER OFFICE**

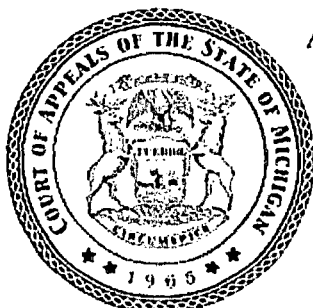
Patrick M. Meter  
Presiding Judge

Amy Ronayne Krause

Brock A. Swartzle  
Judges

The Court orders that the motion to remand is DENIED for failure to persuade the Court of the necessity of a remand at this time. Denial of remand is without prejudice to a case call panel of this Court determining that remand is necessary once the case is submitted on a session calendar.

  
Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

**MAR 12 2019**

Date

  
Chief Clerk

STATE OF MICHIGAN  
TWENTY-THIRD JUDICIAL CIRCUIT COURT  
COUNTIES OF ARENAC, IOSCO, ALCONA & OSCODA  
ARENAC DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,

vs.

File No. 17-4119-FH

JEREMIAH JAMES LEFFEW,

Defendant.

GINTHER HEARING

BEFORE THE HONORABLE LAURA A. FRAWLEY, CIRCUIT COURT JUDGE

Standish, Michigan - Monday, April 1, 2019

APPEARANCES:

For the People:

CURTIS G. BROUGHTON P47200  
P.O. Box 1309  
Standish, MI 48658  
(989) 846-4597

For the Defendant:

JOEL DAVID KERSHAW P70938  
2 E 1<sup>st</sup> Street  
#207  
Monroe, MI 48161  
(734) 682-3449

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<u>EXHIBITS:</u>	
NONE	
	RECEIVED
	ADMITTED



Standish, Michigan

Monday, April 1, 2019

At or about 10:59 a.m.

1 THE COURT: I am calling File 17-4119-FH, People of the State of Michigan  
2  
3 versus Jeremiah James Leffew.

4  
5 MR. KERSHAW: Good morning, Your Honor. Joel Kershaw, P70938, on  
6  
7 behalf of Jeremiah Leffew.

8 THE COURT: Good morning, Mr. Kershaw. So Mr. Broughton, are you  
9 prepared to have a Ginther Hearing?

10 MR. BROUGHTON: Your Honor, I guess, I've never done one so I don't even,  
11 I don't know what my role, I guess, is.

12 THE COURT: Well, the Court of Appeals has remanded the matter and there  
13 were two issues raised by Mr. Kershaw. One is ineffective assistance of counsel.

14 MR. BROUGHTON: Which precipitates the Ginther Hearing, I believe.

15 THE COURT: Right. And the other one was a failure to give the jury  
16 instruction of defensive others.

17 MR. BROUGHTON: Correct. And that, I mean, that's also part of ineffective  
18 assistance, is my understanding.

19 THE COURT: Um-hmm.

20 MR. KERSHAW: That is correct. That was raised as part of the ineffective  
21 assistance claim. However, there was some confusion on the language of the remand order  
22 from the Court Appeals. It seems like the language of the remand order is that the purpose of  
23 the Ginther Hearing would be limited to the issue of, of the advice given to Mr. Leffew  
24 regarding the plea offer that was made and whether or not he was deprived effective assistance  
25 of counsel during the plea bargaining process. Like I said, the language of the order, at least



1 some ambiguity on that, but I think for the purpose of this Ginther Hearing, my intention was  
2 to focus exclusively on that issue.

3 THE COURT: On the advise regarding the plea.

4 MR. KERSHAW: On the issue regarding the advise given during the plea  
5 bargain process.

6 THE COURT: Okay. All right. Are you ready to proceed?

7 MR. KERSHAW: I am ready to proceed, Your Honor.

8 THE COURT: Okay. Go ahead.

9 MR. KERSHAW: Okay. As a (inaudible) matter, I, I don't know if there's any  
10 additional witnesses in the courtroom but I would ask for a sequestration of, of witnesses.

11 THE COURT: Okay. Who are witnesses?

12 MR. KERSHAW: The potential witnesses includes Mr. Hadley, Mr. Windsor,  
13 and Mrs. Leffew.

14 THE COURT: Okay. I'm going to ask the three of you to step out into the  
15 hallway. Please do not discuss your potential testimony with anyone.

16 MR. KERSHAW: And actually, before Mrs. Leffew leaves, she was going to  
17 be my first witness.

18 THE COURT: All right.

19 MR. KERSHAW: I'll tell her that before she gets out of the courtroom.

20 THE COURT: Come forward. Raise your right hand. Do you solemnly swear  
21 or affirm that the testimony you are about to give in the matter now pending before this court  
22 will be the truth, the whole truth, and nothing but the truth so help you God?

23 MRS. LEFFEWE: Yes, I do.

24 (At or about 11:02 a.m., witness sworn by the Court)

25 THE COURT: Come up here and have a seat.

1 MR. KERSHAW: And Your Honor, as a preliminary matter, I just want to alert  
2 the Court that Mrs. Leffew is presented by separate counsel, Katherine Marcus from the State  
3 Appellate Defender's Office, who is sitting in the gallery today.

4 THE COURT: Okay.

5 MR. KERSHAW: And if, if Ms. Marcus believes that any of the questions  
6 asked by either myself or Mr. Broughton, implicate Mrs. Leffew's legal rights I suspect that  
7 she would interject - -

8 THE COURT: You, you, you can come, you can come forward, if you want to

9 MS. MARCUS: Okay. Where would you like me to sit?

10 THE COURT: Why don't you sit next to the prosecutor there.

11 Go ahead, Mr. Kershaw.

12 MR. KERSHAW: Sure. Thank you, Your Honor.

13 MICHELINE LEFFEW

14 Called by the Defendant, sworn by the Court, testified

15 DIRECT EXAMINATION

16 BY MR. KERSHAW

17 Q Mrs. Leffew, can you state and spell your name for the record?

18 A I'm sorry. Could you repeat that?

19 Q Can you state and spell your name for the record?

20 A Micheline Leffew, M-I-C-H-E-L-I-N-E L-E-F-F-E-W.

21 Q Okay. And are you married to Jeremiah Leffew?

22 A Yes.

23 Q Okay. And were you also charged with any crime arising out of the same...

24 A Yes.

25 Q Issue for which Mr. Leffew is currently - -

- 1 A Yes.
- 2 Q -- incarcerated.
- 3 A Yes.
- 4 Q Okay. Do you recall what you were charged with?
- 5 A I was charged with third degree home invasion.
- 6 Q Okay. And you ultimately went to trial on that; correct?
- 7 A Yes.
- 8 Q Okay. Do you recall what Mr. Leffew was charged with?
- 9 A At the trial or what he was originally - -
- 10 Q Do you remember what he was originally charged with?
- 11 A His original charge was assault with a deadly weapon.
- 12 Q Okay. Was it assault with a dangerous weapon?
- 13 A Yes.
- 14 Q Okay. And at any point, did those charges change?
- 15 A Yes. After our first status conference, at the preliminary, first degree home invasion was
- 16 added on to him.
- 17 Q And was that added as a result of the preliminary examination?
- 18 A I believe so.
- 19 Q Okay. So prior, so, so at the time that the preliminary examination began, he was only
- 20 charged with felonious assault or assault with a dangerous weapon?
- 21 A Yes.
- 22 Q Okay. And prior to the preliminary examination in this matter, was there, were you aware of
- 23 any plea offer that was made to Mr. Leffew?
- 24 A Yes.
- 25 Q And how were you aware of that?

1 A We had a meeting with both of our attorneys. All of our meetings were together because we  
2 were co-defendants.

3 Q Okay. So every time you met with your attorney, Mr. Leffew met with his.

4 A Yes.

5 Q Okay. And this was in the same room at the same time.

6 A Yes.

7 Q Okay. And where did these meetings typically take place?

8 A I can't remember exactly what room but it was in this courthouse.

9 Q Okay. And did you both meet with your attorneys on the day of the preliminary examination?

10 A I can't remember if it was the day of the preliminary or if it was a couple days before. I think  
11 it might have, I think it might have been a meeting right before the preliminary hearing but I  
12 can't be for certain.

13 Q Okay. I believe your testimony was that you did hear of a plea offer that was made to Mr.  
14 Leffew to get, to entice him to plead guilty in advance of the exam; correct?

15 A Yes.

16 Q And what was that offer?

17 A The original offer was a 90-day misdemeanor. It was assault.

18 Q Okay.

19 A It was a 90-day assault.

20 Q It was, it was a 93day misdemeanor. It was assault and battery.

21 A Yes.

22 Q Okay. Now, if the prosecutor were to say that they did offer a 90, a 90-day misdemeanor but it  
23 was unlawful entry, is it possible that you misunderstood what the offer was?

24 A I mean, its possible but I remember what, from what I remember, it was an assault charge.

25 Q Okay. But importantly, you do remember it being the 90-day misdemeanor.

1 A Yes.

2 Q Okay. And did, did you hear Mr. Hadley give any advise to Mr. Leffew? Well, let me step  
3 back. Do you know who represented Mr. Leffew?

4 A Yes.

5 Q And who was that?

6 A Duane Hadley.

7 Q Okay. And did you hear Mr. Hadley ever give any advise to Mr. Leffew regarding that plea  
8 offer?

9 A Yes.

10 Q And what was that advise?

11 A He said that he was 95 percent sure that the charges would never stick because we did nothing  
12 wrong and that if it did go to trial, that he was almost certain that we would not be found  
13 guilty.

14 Q Okay. And did he give any advise to Mr. Leffew specifically, about whether he should or  
15 shouldn't take the plea offer that was made?

16 A Yeah. He said he shouldn't.

17 Q He said he should not take - -

18 A Yeah. He should not take the plea offer.

19 Q Okay. And do you have any understanding as to what influenced Mr. Leffew's decision to go  
20 forward with the examination?

21 A At the time, there was only the one charge. It was just the assault with a dangerous weapon. It  
22 was before the first degree home invasion had been put up so there was, we didn't know of the  
23 risk of the additional charges being added up so...and we were, like, the lawyer sounded  
24 confident so I guess, Jeremiah just trusted them.

25 Q Okay. And were you in a position that you trusted your attorney?

1 A Yes.

2 Q Okay. And did you have any reason to believe that Jeremiah didn't trust his attorney at that  
3 point?

4 A No.

5 Q Okay. And prior to the examination, had there been any, had you heard anybody reference the  
6 possibly that an exam could result in additional charged being authorized against either  
7 yourself or Mr. Leffew?

8 A No.

9 Q Okay. So was the first time that you were aware that was a possibility, was that when the  
10 home invasion charge was actually authorized following - -

11 A Yeah. It was, it was exactly when they said; well, let's add first degree home invasion. That's  
12 when we first heard about that.

13 Q Okay. And when that offer was presented to Jeremiah and I ask the Court and yourself to  
14 excuse my language but I'm reading directly from a pleading in this case. Did you ever hear  
15 Jeremiah say that the prosecutor can stick it up his ass and that he was not pleading?

16 A No.

17 Q Okay. And was there ever a time that you believe that Jeremiah met with his attorney where  
18 you were not present?

19 A Never.

20 Q Okay.

21 MR. KERSHAW: If I may have just a brief moment?

22 THE COURT: All right.

23 MR. KERSHAW: I have no further questions, Your Honor.

24 THE COURT: Mr. Broughton.

25 CROSS-EXAMINATION

1 BY MR. BROUGHTON

2 Q Ms. Leffew, so your attorney was Mr. Windsor?

3 A Yes, sir.

4 Q And, so he would have been present during all these discussions also?

5 A Yes.

6 Q And you...I mean, I haven't looked at your file but my assumption is I made a plea offer to  
7 you.

8 A Yes.

9 Q And do you remember what that, what that was?

10 A Yes. It, my plea deal was an unlawful entry.

11 Q Okay.

12 A Because I was originally charged with third degree home invasion.

13 Q And did, and you didn't do a, you didn't do a plea either, did you?

14 A No.

15 Q And was that on the advise of your attorney also?

16 A Yes.

17 Q So you, it was always you and Mr. Leffew and Mr. Hadley and Mr. Windsor were always  
18 together, is what your testimony is?

19 A Yes.

20 MR. BROUGHTON: I don't have any further questions, Your Honor.

21 THE COURT: Any redirect.

22 MR. KERSHAW: There's no redirect, Your Honor.

23 THE COURT: Thank you. You can step down.

24 (At or about 11:10 a.m., witness excused by the Court)

25 THE COURT: Call your next witness.

1 MR. KERSHAW: At this point, I would call Duane Hadley.

2 May this witness be excused from the subpoena?

3 THE COURT: Yes.

4 MR. KERSHAW: I would have no objection of her doing that.

5 MR. BROUGHTON: I, I don't have any objections.

6 MR. KERSHAW: Okay. And I, just to clarify the Court's procedures, and  
7 please excuse her from her subpoena. She is not under the order of sequestration.

8 THE COURT: Correct.

9 MR. KERSHAW: Would you like me to go out in the hallway - -

10 COURT RECORDER: The bailiff is getting him.

11 MR. KERSHAW: Okay.

12 THE COURT: Do you solemnly swear or affirm that the testimony you're  
13 about to give in the matter now pending before this court will be the truth, the whole truth, and  
14 nothing but the truth so help you God?

15 MR. HADLEY: I do.

16 (At or about 11:11 a.m., witness sworn by the Court)

17 THE COURT: If you'll come up here and have a seat.

18 DUANE HADLEY

19 Called by the Defendant, sworn by the Court, testified

20 DIRECT EXAMINATION

21 BY MR. KERSHAW

22 Q Could you state and spell your name for the record?

23 A My first name is Duane, D-U-A-N-E. My middle initial is L. My last name is Hadley, H-A-  
24 D-L-E-Y.

25 Q Okay. And what is it that you do for a living, Mr. Hadley?



1 A I'm an attorney licensed in the State of Michigan. My P number is 57172.

2 Q Okay. And do you regularly practice in this courtroom?

3 A I do.

4 Q Okay. At any point in your work as an attorney in this particular courthouse, did you have an  
5 opportunity to represent a Jeremiah Leffew?

6 A I did. I actually was court-appointed beginning down in District Court last year.

7 Q Okay.

8 A Under, under contract. I'm one of the, one of the attorneys assigned on a rotating contract.

9 Q Okay. And when you received that appointment, do you recall what Mr. Leffew was charged  
10 with?

11 A I believe, I don't have the file in front of me now. He was charged with, with a felony. I want  
12 to say it was some sort of a, well, home invasion, I think, came later. I can't recall what the  
13 felony was that he was originally charged with; no.

14 Q Okay. Do you believe it would be accurate if, if I told you that he was originally charged with  
15 assault with a dangerous weapon which is also known as felonious assault?

16 A That, that sounds familiar; yes.

17 Q Okay. And do you recall the name of the complaining witness in that case?

18 A I don't. I want to say it was, the last name was a Porter but I, I could be mistaken but he was  
19 an older gentleman.

20 Q Okay. And fair to say that, that the record shows one Michael Porter. Would that be  
21 consistent - -

22 A Mr. Porter. I remember a Mr. Porter; yes.

23 Q Okay. Okay. So is it your testimony today that when you were first appointed, Mr. Leffew  
24 was charged only with felonious assault?

25 A The two charges in which you stated in, in District Court; that's correct.

1 Q Oh, the, there's only one charge. The felonious assault which is also known as assault with a  
2 dangerous weapon.

3 A Yes.

4 Q Okay. So at this, during the District Court proceedings, did you ever discuss with Mr. Leffew  
5 a, a plea offer that had been made by the prosecuting attorney in this case?

6 A I did. Actually, most of the conversations I had with Mr. Leffew was in the accompaniment of  
7 his wife, Mrs. Leffew, and her court-appointed attorney, Mr. Windsor.

8 Q Okay. Do, do you recall ever having a conversation with Mr. Leffew in which Mrs. Leffew is  
9 not present?

10 A I, I don't recall. I think they mostly came together as a couple, that most of the, the meetings  
11 and the court hearings.

12 Q Okay. And was it your understanding with Mr. Windsor that the conversations about your  
13 cases would be had jointly?

14 A Mr. Windsor and I both advised Mr. Leffew and Mrs. Leffew, even though they were husband  
15 and wife, that anything that they said to Mr. Windsor or myself wasn't held to the  
16 attorney/client privilege and they understood that.

17 Q Okay.

18 A And they, they felt comfortable talking to us as a couple.

19 Q Okay. And, and, and do you recall what the plea offer was that you presented to Mr. Leffew?

20 A There was, in the beginning, I believe, there, there was a misdemeanor plea that was offered  
21 by Mr. Broughton to, to try to keep it in the District Court.

22 Q Do you recall what the nature of that misdemeanor plea was?

23 A I believe it was some sort of an assault.

24 Q Okay.

25 A A misdemeanor assault.

1 Q Okay. And would that have been a 90-day or 93-day assault?

2 A I can't remember if it was a 93 or a one-year misdemeanor.

3 Q Okay.

4 A Of an aggravated assault which is a one-year versus a simple assault.

5 Q Okay.

6 A I can't remember at this point but it was a misdemeanor.

7 Q Okay. So you know it was an assaultive crime or an assaultive crime and that it was a  
8 misdemeanor but you're not, your, your memory is not sure as to whether or not it was the  
9 aggravated one-year or the simple assault?

10 A I, I - -

11 Q The 93-day.

12 A I cannot other than the fact that Mr. Broughton had extended a misdemeanor offer.

13 Q Okay. And, and were you aware, at the time of the preliminary examination, that the  
14 allegations in this case involved, the allegation that both Mr. and Mrs. Leffew entered into Mr.  
15 Porter's residence?

16 A I, I'm very confident and I'm very aware of the pleadings and the police report; yes.

17 Q Okay. So you're, that was, in fact, an allegation that had been made, as that both parties had  
18 entered into Mr. Porter's residence?

19 A Yes. It was contained in the police report.

20 Q Okay. And prior to the examination, did you have a conversation with Mr. Leffew where you  
21 identified for him the possibility that if he held the exam, that he might be bound over on a  
22 more serious charge then the, then the assault, then the felonious assault that he was originally  
23 charged with?

24 A Yes. I explained to Mr. Leffew that Arenac County Prosecuting Attorney's Office has a  
25 standard, which they sometimes invoke. One, that Judge Vollbach may increase the bond or

1 review the bond conditions, if there is a preliminary examination. And also, that the  
2 prosecuting attorney has normally always indicated to the attorneys, that if there's a  
3 preliminary examination, that there may either be additional charges that would be offered if,  
4 if we had a preliminary examination and there's a possibility that there may not be any plea  
5 offers, offers made if there was a preliminary examination and you would go to court and go  
6 to trial as charged. That's always a possibility.

7 Q Okay.

8 A But, but they make that pretty, pretty normally known to the defendants.

9 Q Did you ever discuss specifically the possibility of a home invasion charge arising out of, of,  
10 of, out of the allegations in this case?

11 A I did not.

12 Q Okay.

13 A Because I wasn't aware of, of anything that Mr. Broughton may have been going after at the  
14 preliminary examination. I was just dealing with Mr. Leffew on the, on - -

15 Q Okay.

16 A - - the charge that was in front of the District Court.

17 Q But you did have access to the police report; correct?

18 A I had a copy of it and I gave Mr. Leffew a copy of the police report as well.

19 Q And, and the police report alleged that Mr. Leffew had entered into Mr. Porter's house without  
20 permission; correct?

21 A Well, that's what the police report says. That's doesn't lead to - -

22 Q And.

23 A - - that doesn't lead to what, that Mr. Broughton was going to add a home invasion charge; no,  
24 sir.

25 Q And, and you knew that the police report also alleged that while he was in the house, he

1 committed an assaultive crime and or felony; correct?

2 A Well, that's what the police report contained. Yes, sir.

3 Q Okay. And at any point during these proceedings, did you become aware that Mr. Porter had  
4 pleaded to or at, at, at any point during the proceedings, were you aware that Mr. Porter was,  
5 had been charged with domestic violence arising out of the same incident?

6 A Which proceedings? You mean through the whole course of - -

7 Q Through, through the whole court proceedings, not whether it was Circuit Court or District  
8 Court.

9 A That Mr. Leffew had been charged with - -

10 Q I'm sorry. That Mr. Porter had been charged with domestic violence out, out of the same  
11 circumstances.

12 A I, I, I believe, also, that was contained in the police report.

13 Q Okay. And were you aware that he accepted a plea deal, jostling, where he identified Lisa  
14 Seibert as the victim of that, in that case?

15 A I don't believe prior to the prelim that I had knowledge of that but I think it was discussed  
16 after the preliminary examination.

17 THE COURT: When you're saying he, who are you referring to?

18 MR. KERSHAW: Mr. Porter accepted a plea.

19 THE COURT: Okay.

20 Q Was, was that your understanding - -

21 A Yes. Yes. I, I, that was how I understood you to ask me, that - -

22 Q Okay.

23 A - - that Mr. Porter had taken a reduced plea.

24 Q Okay. And are you, do you practice full time as a, as a defense or not necessarily as a defense  
25 attorney but as an attorney?

1 A I do.

2 Q Okay. And this preliminary examination was held in Feb, in December of 2017, if my notes  
3 are correct. Does that sound accurate to you?

4 A If, if, if that what's your notes indicate; yes. Again, I do not have the file in front of me to  
5 recall my memory.

6 Q Okay. Would it be fair to say that since December of 2017 and today, you've worked with  
7 numerous other clients?

8 A Many.

9 Q Okay. And would it be fair to say that you don't have a photographic memory of every single  
10 conversation you've had with every client in the last year and a half?

11 A No. I wouldn't go that far. I, I do recall most of the conversations I've had and I usually keep  
12 pretty good notes in the files.

13 Q Okay. Okay. And...give me just one moment. In regards to the plea offer that you made to  
14 Mr. Leffew or that was, that Mister...the prosecutor, Mr. Broughton, had made to Mr. Leffew.  
15 What advise did you give to Mr. Leffew in regards to that?

16 A You're going to have to tighten the question up. Which, the, the plea offer when we were in  
17 Circuit Court, the plea offer prior to the preliminary examination; which?

18 Q Well, well, let's start with the plea offer prior to the preliminary examination.

19 A All right.

20 Q What advise did you give to Mr. Leffew in regard - -

21 A Well, Mister, Mr. Broughton had extended an offer for a misdemeanor plea. Whether it'd be  
22 the assault, simple assault, or assault and battery or the aggravated assault, again, without  
23 going through my notes, I can't recall. And I expressed that offer to Mr. Leffew. I believe I  
24 extended that offer to Mr. Leffew in the conversation I had between Mr. Broughton and  
25 myself, to Mr. and Mrs. Leffew and I believe Mr. Windsor was also there and I can't

1 remember if it was in District Court or at my office at the time but it was one of those two  
2 meetings that, that offer was, and that conversation was extended to Mr. Leffew.

3 Q Okay. And did you advise him as to whether he should or should not take that offer?

4 A I told him that if there was a resolution that there would not be a felony record, that there  
5 would not be the subsequent or habitual offender status that would follow him, and that that  
6 matter would be resolved in District Court.

7 Q Okay.

8 A And would you like to know Mr. Leffew's response?

9 THE COURT: I would.

10 Q Yes. I'm sure somebody's going to ask you.

11 A Well, let's be fair here. Mr. Leffew told me to tell Mr. Broughton to stick his offer in his ass  
12 and we went to preliminary examination based on Mr. Leffew's direction to me because he, he  
13 was my boss.

14 Q Okay. And...did you tell Mr. Leffew that there was a, that, that there was a substantial  
15 possibility that this, that these charges wouldn't even stick?

16 A I did tell him that we had a very good chance of surviving not only the preliminary  
17 examination but if it continued into Circuit Court, that we would have a very good case based  
18 on the circumstances in the police report. I did tell him that; yes.

19 Q Is it possible that you used the phrase 95 percent, in terms of the possibility the charges would  
20 never stick?

21 A I never use percentages.

22 Q Okay.

23 A Other than 50/50 when an attorn, when a client asks, you know, what happens when I go to  
24 trial and I go, you got a 50/50 shot, either guilty or not guilty.

25 Q Okay.

1 A That's the best odds you get.

2 Q But you did tell Mr. Leffew that there was a substantial probability that, that A, the charges  
3 would not stick and B, if it went to try, he would be acquitted?

4 A Well, again, you're trying to stick me to this 95 percent stigma.

5 Q Well, I'm not, I, I, you testified that you - -

6 THE COURT: Well, (inaudible) the witness. Let him answer the question.

7 A I, I tell every client, being Mr. Leffew or anyone that I've represented, what my thoughts are as  
8 far as trial strategy and what my thoughts are as far as trying to be able to persuade a jury, you  
9 know, versus a conviction. It's a standard spiel that I give every client, that, that election to go  
10 to trial.

11 Q And, and what was, what was your sense of trial strategy and, and what would likely happen at  
12 trial?

13 A Well, I, I, I believe I explained to Mr. Leffew that if he had a genuine or a legitimate  
14 expectation to be in there, based on the police report, based on the testimony from the  
15 prosecutor's witnesses that I call at the preliminary examination, it kind of bolstered my  
16 argument to Mr. Leffew that, that based upon the testimony that we had a very good chance of  
17 at least, getting, you know, one or two jurors on our side of which, you know, you need a  
18 unanimous verdict and, you know, if, if those witnesses testified truthfully at trial like they  
19 testified, which I believed, truthfully at the preliminary examination, that Mr. Leffew would  
20 have a pretty good chance at trial.

21 Q Okay. And one other thing. Do you recall speaking to me on the phone back in December of  
22 this, of 2018?

23 A In December.

24 Q Yes.

25 A I, I spoke to you, I thought, perhaps, a month or so ago in regards to the subpoena.



1 Q Okay. Do you remember speaking to me for about five or ten minutes over the phone about  
2 two months before that?

3 A I think I recall speaking to you. You, you, you extended a greeting to me saying that you were  
4 appointed, I think, by the, by the State Appellate Defender's Office to represent Mr. Leffew. I  
5 believe.

6 Q Okay. And do you recall me asking you if, if any, do you recall me tell you that Mr. Leffew  
7 had told me that there was a, that there had been a plea offer to a 90-day misdemeanor; do you  
8 recall that conversation?

9 A I, I, I think that you had talked to me about a misdemeanor plea and I think my understanding  
10 was that, that as I testified this morning, that there was a potential misdemeanor plea offer by  
11 Mr. Broughton at that time but I, I, I could, again, I can't recall if it was a 90-day or the  
12 aggravated one-year. I, I, I can't recall that.

13 Q And, but, so you wouldn't have recalled telling me that, that at no point during the case, had  
14 the prosecutor ever offered a misdemeanor, you don't recall saying that to me?

15 A I never said that Mr. Broughton never extended an, an offer to a misdemeanor. No, I did not.

16 Q Okay. Nothing further.

17 A Okay.

18 THE COURT: Mr. Broughton, any questions.

19 MR. BROUGHTON: A few, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. BROUGHTON

22 Q Mr. Hadley, in regards to the offer, do you know if it could have been an entry without  
23 permission instead of something assaultive?

24 A There was, I believe, Mr. Broughton, that we were working on a misdemeanor. I, I had  
25 assumed that it was some sort of an assault reduced down from the, the original felony but I do

1 recall, I do recall that there might have been a, a, some discussion about an entry. I think  
2 that's a one-year misdemeanor, entry without perm - -

3 Q It's a, it's a 90-day.

4 A And I may have gotten it confused with - - I was always assuming that it was either a 90-day  
5 assault or a 93-assault or a one-year misdemeanor but I remember that it was a misdemeanor  
6 offers to, to try resolve it at the District Court level.

7 Q And you were, I mean, so when you had the discussion with Mr. Leffew, Mr. Windsor was  
8 there.

9 A I don't recall ever having a single conversation with Mr. Leffew and myself. I believe, as I  
10 said, Mr. and Mrs. Leffew were married and I, they had some other issues going on and my  
11 understanding is, is pretty much when I met with him, that, in that together and with Mr.  
12 Windsor.

13 Q So are you, if there's a misdemeanor offer and there's, in regards to Mr. Leffew, I mean, how  
14 do you, what do you express to him in regards to what the options are?

15 A Well, in, in, in, in regards to what the, what the allegations were and what the prosecutor's  
16 complaint alleges was the felony and then the, as your office normally does in the beginning,  
17 puts everyone on notice that Mr. Leffew or anyone that's charged, may have prior felonies of  
18 which, you know, your office may enhance. So Mr. Leffew had a copy of the same police  
19 report that I did and we discussed that.

20 Q So I mean, in regards to the misdemeanor offer, I mean, do you, do you say, this is what  
21 happens if - - how do you present that to a person?

22 A I, I, I, I recall having the conversation with Mr. Leffew and Mrs. Leffew was there, that, that,  
23 that Curt was, Mr. Broughton was trying to resolve this matter amicably, that there was a  
24 victim, and also, that there was a, a couple of prosecutor witnesses who were related to Mr.  
25 Leffew that, I believe, wanted a resolution in this matter. And I had those conversations with

1 Mr. Leffew in regards to what happens if there's a misdemeanor plea versus having the matter  
2 waived and not having a preliminary examination or potentially having a preliminary  
3 examination. I explained to him that the threshold is terribly slight and the prosecutor only  
4 had to prove probable cause to believe that this crime was committed and reason to believe  
5 that you are responsible for it and it would be bound over as most cases are bound over. I did  
6 tell him that if the case was bound over to Circuit Court, that there would be a notice of intent  
7 to proceed with the habituals which your office did. After the preliminary examination, Mr.  
8 Leffew received all of those documents as well.

9 Q So after you informed him of what the plea offer was, what was his response?

10 A Essentially, as I was telling his counsel, Mr. Leffew told me to tell you to stick the offer in  
11 your ass and we were going to continue to the preliminary examination which I think, you  
12 extended that offer that morning and we had the preliminary examination that afternoon.

13 Q And, okay.

14 A I believe it was the same day that we had that conversation and...

15 Q And you're familiar with, you've worked with Judge Vollbach for a number of years.

16 A Many years. Since 2009 as a judge, yes.

17 Q And so you're familiar with his practices regarding the possibility of raising bond and or  
18 adding additional charges if there's a prelim.

19 A That, that is a standard statement that he normally makes in the morning session if we're  
20 scheduled to have a preliminary examination that afternoon. He says the same things per  
21 betim. You know, if there's a preliminary examination, I would review the bond and I may  
22 revoke it or I may make it significantly higher so you might want to bring a little extra money  
23 with you the afternoon of the preliminary examination. I've, I've heard that a thousand times.

24 Q And he's added additional charges over the prosecutor's office, has added additional charges  
25 in the past.

1 A Through, through the years, on a number of preliminary examinations I've had with you or  
2 other assistant prosecutors, occasionally, the testimony will result in Judge Vollbach  
3 authorizing or asking the prosecutor to authorize for additional charges which has happened  
4 on a few occasions.

5 Q And did you, did you make Mr. Leffew aware that was a possibility?

6 A I did. I told him that if, if there was a preliminary examination, by all means, he, he could be  
7 bound over on the original charges and, you know, Judge Vollbach or the prosecutor, based on  
8 the testimony, may find something else to, to tag onto, what I think was the words that I used  
9 in Circuit Court.

10 Q Its my understanding, there, at least on my file, there was an offer made to Mr. Leffew in  
11 Circuit Court also.

12 A There, you're talking about later, just prior to trial.

13 Q Correct.

14 A Yes. My, my understanding was that after the matter was bound over to Circuit Court, you  
15 and I and, I believe, Mr. Windsor had conversations in regards to both of our clients and it was  
16 my understanding that we were still going to discuss potentially, a misdemeanor plea in  
17 Circuit Court but to just run a generic pre trial conference and try to eventually get to a jury  
18 date and a final pre trial conference. I communicated that to Mr. Leffew and then I believe at  
19 the last pre trial conference, you had indicated to me that you had spoke with Mr. Porter  
20 whose conversation to you was that he wasn't comfortable - - I believe you extended to Mr.  
21 Porter what you were wanting to extend to Mr. Leffew and Mr. Porter wasn't comfortable  
22 with, with having Mr. Leffew have a misdemeanor and therefore, you indicated to me that we  
23 have to work out some sort of a, a felony plea, that Mr. Porter didn't want Mr. Leffew to have  
24 a misdemeanor plea and that's why we took it to trial.

25 Q And do you know if I offered an, an attempted home invasion third which would be a two and

1 a half year?

2 A I, I believe you did which...I believe my understanding was you extended to Mr. Leffew, the  
3 attempt felony with no habitual and then being scored within the guidelines. I conveyed that  
4 to Mr. Leffew and Mr. Leffew told me to take it to trial so we did.

5 MR. BROUGHTON: I don't have any further questions, Your Honor.

6 THE COURT: I have a couple of questions, Mr. Kershaw, before you proceed.  
7 So is it your testimony that after the matter had been bound over to Circuit Court, there was  
8 not another misdemeanor offer made?

9 THE WITNESS: Not after the bind over from the preliminary examination but  
10 once it was up into Circuit Court, Mr. Broughton and I had conversations continuing on about  
11 some sort of a misdemeanor plea.

12 THE COURT: Okay. But no offer was ever made to a misdemeanor.

13 THE WITNESS: That is correct.

14 THE COURT: And was there an actual offer made to the attempt home  
15 invasion?

16 THE WITNESS: Yes.

17 THE COURT: And you did discuss that with Mr. Leffew?

18 THE WITNESS: Yes.

19 THE COURT: And your testimony is that he refused that offer?

20 THE WITNESS: Yes.

21 THE COURT: Did you, again, indicate to him that you thought your chances  
22 were good at trial?

23 THE WITNESS: I explained to Mr. Leffew that, that based on the preliminary  
24 examination and the prosecutor witnesses which I called which I normally do not, I was pretty  
25 confident that had their testimony remained the same, that we had a good chance of

1 convincing, at least, one or two members of the jury in Mr. Leffew's arguments and, and his  
2 why he went into the house that day with his wife.

3 THE COURT: After you explained that to him, whose ultimate decision was  
4 it to go to trial?

5 THE WITNESS: Mr. Leffew's.

6 THE COURT: And you, you didn't try to persuade him otherwise or...

7 THE WITNESS: I, I did try to persuade him. I, I indicated to him that, you  
8 know, unfortunately, the, the victim wanted Mr. Leffew to have a felony. However, the offer  
9 from Mr. Broughton came with the fact that there would not be a sentence, or excuse me, a, an  
10 enhancement on the prior felonies, a habitual. That would be dismissed at the time of  
11 sentencing. It would be just the, just the attempt, no habitual.

12 THE COURT: Okay. Mr. Kershaw, questions.

13 MR. KERSHAW: Just a couple of brief questions.

14 REDIRECT EXAMINATION

15 BY MR. KERSHAW

16 Q You had mentioned a, a kind of spiel that the District Court Judge uses in terms of, that, to  
17 bring extra money in case your bond goes up, things that speak to that nature; correct?

18 A Yes, yes.

19 Q And when you, when you say that that spiel, when you were talking about that spiel, is that a  
20 spiel that's typically made at a probable cause conference or when is that - -

21 A No. The probable cause conferences are usually held with the prosecutor, assistant prosecutor  
22 on paper. We do a paper PCC.

23 Q Okay.

24 A But if the matter is to proceed to preliminary examination, we usually have an extra, a, a date  
25 which is usually the next week where the, the defendant will show up at 8:30 and then the

1 preliminary examination's scheduled that afternoon at one o'clock. So at, at, not at the  
2 probable cause conference but at the 8:30 pre trial conference on the day that the preliminary  
3 examination is scheduled for, we go before the judge on the record and we let the judge know  
4 that we're prepared to proceed at one o'clock in the afternoon to preliminary examination and  
5 that's when Judge Vollbach would normally give his admonition speech to the defendants.

6 Q Its your testimony that if, if Judge Vollbach had given that admonition speech in this case, it  
7 would have been earlier in the day of the preliminary examination; is that correct?

8 A Yes. Yes. Yes.

9 Q Okay.

10 MR. KERSHAW: I have no further questions.

11 THE COURT: May the witness be excused?

12 MR. BROUGHTON: Can I, can I ask just one follow-up question?

13 THE COURT: Go ahead.

14 RECROSS-EXAMINATION

15 BY MR. BROUGHTON

16 Q Mr. Hadley, then would Mr. and Mrs. Leffew have heard that, Judge Vollbach say that?

17 A I believe that they were both there that morning cause they, they always came in together so  
18 I'm, I'm sure that Mrs. Leffew heard what Mr. Leffew and I and possibly you or Mr. Forsyth  
19 heard in regards to that. Its, it's a common, it's a common practice of Judge Vollbach to make  
20 that statement.

21 MR. BROUGHTON: No further questions, Your Honor.

22 THE COURT: May the witness be excused?

23 MR. KERSHAW: As far as I'm concerned, he may.

24 THE COURT: Thank you. You may be - -

25 (At or about 11:39 a.m., witness excused by the Court)

1 MR. BROUGHTON: Yes, Your Honor.

2 THE COURT: Call your next witness.

3 MR. KERSHAW: Jeremiah Leffew.

4 THE COURT: Mr. Leffew, would you raise your right hand? Do you solemnly  
5 swear or affirm that the testimony you're about to give in the matter now pending before this  
6 court will be the truth, the whole truth, and nothing but the truth so help you God?

7 MR. LEFFEW: Yes, Ma'am.

8 (At or about 11:39 a.m., witness sworn by the Court)

9 THE COURT: If you'll come up here and have a seat.

10 JEREMIAH LEFFEW

11 Called by the Defendant, sworn by the Court, testified

12 DIRECT EXAMINATION

13 BY MR. KERSHAW

14 Q And can you state and spell your name for the record?

15 A Jeremiah, J-E-R-E-M-I-A-H. Leffew, L-E-F-F-E-W.

16 Q And just as a preliminary matter, you understand that by my making the choice to call you  
17 today and you, and you agreeing to place testimony, that that opens up the possibility that the  
18 prosecutor will also be able to ask you questions.

19 A Yes, sir.

20 Q Is that your understanding?

21 A Yes, sir.

22 Q And, and you understand that you don't have to provide testimony but based on conversations  
23 you and I, you and I have had that I'm, I have suggested to you that its in your best interest to  
24 do so?

25 A Yes, sir.



1 Q Okay. And knowing all that, is it your choice to provide testimony today?

2 A Yes, sir.

3 Q Okay. And nobody's making you do that?

4 A No, sir.

5 Q Okay. And Mr. Leffew, you are currently incarcerated; is that correct?

6 A Yes, sir.

7 Q And on what, what charges were you convicted of that led to your incarceration?

8 A I'm, I'm currently in prison on a first degree home invasion and a felonious assault with a  
9 third habitual.

10 Q Okay. And the home invasion, did that involve allegations that you unlawfully entered into  
11 somebody's house?

12 A Yes, sir.

13 Q Okay. And whose house was that?

14 A Michael Porter.

15 Q Okay. And the felonious assault, do you know who the complainant, the complainant was  
16 who led to that charge being brought against you?

17 A Well, I believe it was Michael Porter.

18 THE COURT: Mr. Kershaw, just so you know, I presided over that trial jury in  
19 this case so...

20 MR. KERSHAW: And Your Honor, and I understand that. I also want to make  
21 a record - -

22 THE COURT: I know, I know you need to make - -

23 MR. KERSHAW: - - record clear for the Court of Appeals as well - -

24 THE COURT: I understand.

25 MR. KERSHAW: - - Your Honor.

1 Q And do you remember what you were originally charged with in that case?

2 A Just the assault with a dangerous weapon.

3 Q Okay. And when did that change, the nature of the charges against you change?

4 A During and after the prelim.

5 Q Okay. And have, have you talked, prior to the preliminary examination, had you talked to  
6 your attorney about, about whether or not to have a preliminary examination?

7 A Yes, sir.

8 Q Okay. And who was your attorney, by the way?

9 A Duane Hadley.

10 Q Okay. And did you have a conversation with Mr. Hadley regarding a plea offer that had been  
11 made?

12 A Yes, sir.

13 Q And to the best of your recollection, what was the nature of that plea offer?

14 A I believe it was a 93-day assault.

15 Q Okay. And if, if the prosecutor were to say that that was a 90-day illegal entry, is that a  
16 possibility?

17 A Its, it, it could be possible.

18 Q Okay.

19 A I, I remember that I was offered a 93-day deal and my wife was offered a one-year deal.

20 Q Okay. And what, did, did Mr. Hadley give you any advise about whether to accept or reject  
21 that plea offer?

22 A Yes.

23 Q And what was that advise?

24 A He, he told me that we had a very good chance at, at like, if, if, if we, if I didn't accept the  
25 offer that I had a good chance to beat the case because I was just doing my best to defend my

1 family.

2 Q Okay. And was, was defense, self-defense or defense of others your theory in that case?

3 A Yes, sir.

4 Q Okay. Did he, did he give any sort of an opinion as to the ultimate issue, whether you should  
5 reject or accept that plea or waiver of the preliminary examination?

6 A He, he advised me that we had, like I said, we had a very good chance to beat the trial and in,  
7 in his words, excuse, excuse my language but he told me that we would kick their ass at trial.

8 Q Okay. And based on that advise, what choice did you make?

9 A I, I decided to go along with, to go into trial.

10 Q Okay. And did you trust your attorney's advice?

11 A Yes, sir.

12 Q Okay. If your attorney had told you that there was a, that there was a decent, a pretty good  
13 possibility that if you went to trial, you could lose and be convicted, would that have effected  
14 your decision?

15 A Yes, it would have.

16 Q Was that advise ever provided to you?

17 A No, sir.

18 Q Okay. And were you ever advised that if you held the preliminary examination, that the case  
19 might get bound over on additional charges?

20 A No, sir.

21 Q Okay. In the context of your own case, were you ever told that you could, at any point, be  
22 charged with home invasion of any type?

23 A No, sir.

24 Q Okay.

25 A Not until at the prelim when they, then when they actually charged me with first degree home

1 invasion.

2 Q And were you aware that Micheline was charged with third degree home invasion?

3 A Yes, sir.

4 Q Okay. After the case was bound over, were you ever advised of any additional plea offers?

5 A No, sir.

6 Q Okay. So you heard Mr. Hadley testify today that, that he had received an offer from Mr.  
7 Broughton for attempted third degree home invasion; did you hear that this morning?

8 A Yes. I heard the testimony.

9 Q Okay. Did you recall Mr. Hadley ever telling you about a third degree, an attempted third  
10 degree home invasion plea?

11 A No, sir. We had a meeting in the hallway just outside this courtroom and he had went and  
12 talked to the prosecutor and he came back and said that there would be no deal because Mike  
13 Porter did not want me to have a misdemeanor so they just took all deals off the table.

14 Q Okay. And his words were there would be no deal.

15 A Yes.

16 Q He didn't say there would be no misdemeanor deals.

17 A He said no deals.

18 Q Okay.

19 MR. KERSHAW: I have nothing further, Your Honor.

20 THE COURT: Mr. Broughton.

21 CROSS-EXAMINATION

22 BY MR. BROUGHTON

23 Q Mr. Leffew, did, did Mr. Hadley...well, strike that. You have prior convictions other than  
24 what you're in prison for now; is that true?

25 A Yes, sir.

1 Q So are you, I guess, somewhat familiar with the criminal justice system?

2 A A little.

3 Q And I mean, you know, do you know the difference between a misdemeanor and a felony?

4 A Yes, sir.

5 Q Did Mr. Hadley explain with the, I guess, 93-day assault offer, did he explain, like, the  
6 alternatives, the misdemeanor, the felony, or what, I guess, what did he do?

7 A Could you be a little more clear?

8 Q Well, did he tell you that there was an offer of a 93-day assault and battery, I guess?

9 A Yes, sir.

10 Q And did you have, have any questions of him at that point?

11 A I asked, yes. I asked him, like, what he thought or what my chances would be to beat this case  
12 and he, he advised me that we had a very good chance to beat the case and he advised me,  
13 basically, from that advise, I, I just, he, I didn't think that I would lose so I didn't think that I  
14 should have took the offer because I felt like I would, did everything that I could to protect my  
15 family and I didn't do anything wrong.

16 Q And that was what you told him?

17 A That's, basically, how our conversation was; yes.

18 Q Okay. So you, you told him that you felt that you didn't do anything wrong because you were  
19 protecting your family?

20 A Yeah. I said, I said that and he, he, he agreed with me.

21 Q But you knew, I mean, the, if you had a 93-day misdemeanor, your max penalty is 93 days;  
22 true?

23 A Yes, sir.

24 Q And you, when you were charged with a felonious assault, that's a four-year felony and so you  
25 knew the max penalty without any habituels on that was four years?

1 A Yes, sir.

2 Q Did you and Mr. Hadley talk about your prior, prior history?

3 A Not at that time, no.

4 Q I mean, did, was he aware that you had prior convictions; do you know?

5 A Yes. He, he was my lawyer in 2007 when I caught my first, first case in Arenac County.

6 Q Are you familiar with habitual, habitual offender stuff?

7 A I am now.

8 Q Were you before then?

9 A No, sir.

10 Q So you didn't know that if you got bound over on a felony and you had prior felonies, that you  
11 could be a habitual offender?

12 A No, sir.

13 Q And you heard...did you hear Mr. Hadley say that he was 95 percent the charge, chance the  
14 charges wouldn't stick?

15 A I believe it was Windsor that, that used the percentages but Hadley agreed and he, he, he had  
16 basically advised me that we were going to, excuse my language, but kick, kick you guys's ass  
17 at trial.

18 Q Did he ever say anything about 50/50?

19 A No, sir.

20 Q And you don't dispute, I mean, that you entered Mr. Porter's home without his permission.

21 A No, sir. I actually, myself, my wife, and my two, my mother and my mother-in-law, we all  
22 four actually wrote a statement saying that exact thing, that I went in there because, well, my  
23 wife had went in there because my mom was screaming for help. And then I went in there  
24 after my wife had been bashed over the head with an ashtray and was on the floor having a  
25 seizure.

1 Q Right. But you, I mean, you don't dispute the fact that you went into his house and didn't  
2 have any permission to do that from him?

3 A No, sir. I admitted that from Day One.

4 MR. BROUGHTON: I don't have any further questions, Your Honor.

5 THE COURT: Mr. Leffew, when you had this conversation with Mr. Hadley  
6 about the plea offer...well, let me back up and ask you this. Your prior convictions, were  
7 those as a result of pleas or did you have trials in either of those?

8 THE WITNESS: They, they were all results of plea, plea bargains.

9 THE COURT: Okay. So you've been kind of around that mountain before,  
10 where a plea offer was made; you discuss it with your attorney, you decide what you're going  
11 to do; correct?

12 THE WITNESS: Yes, Ma'am.

13 THE COURT: When you had the conversation in this case with Mr. Hadley, he  
14 told you that he thought, given the facts in the police report, that you had a good shot at  
15 beating it at trial; is that correct?

16 THE WITNESS: Yes, Ma'am.

17 THE COURT: But did he make you a guarantee that you would win at trial?

18 THE WITNESS: He, he made me very confident that I, I, I would - -

19 THE COURT: Didn't he explain to you that you just had to convince one or  
20 two jurors cause they're, they're verdict had to unanimous; and if you convince one or two  
21 jurors, you could prevail; correct?

22 THE WITNESS: I was under the influence that - -

23 THE COURT: I'm asking you about what he told you. Did he tell you that a  
24 jury's verdict had to be unanimous?

25 THE WITNESS: Yes.

1 THE COURT: And did he tell you if you could convince one or two jurors to  
2 see things your way, that you could win?

3 THE WITNESS: No. He didn't say that.

4 THE COURT: Okay. What did he say?

5 THE WITNESS: He just told me that, that, that I defended my family and  
6 there's no reason why I should be convicted and that there was a very good chance that it  
7 would be thrown out.

8 THE COURT: Okay. My question is, did he, at any time, say to you I  
9 guarantee you 100 percent, if we go to trial, you'll win?

10 THE WITNESS: No, Ma'am.

11 THE COURT: Any questions.

12 MR. KERSHAW: I have no further questions.

13 MR. BROUGHTON: I don't have any further questions, Your Honor.

14 THE COURT: May the witness be excused?

15 MR. KERSHAW: He may.

16 MR. BROUGHTON: Yes, Your Honor.

17 THE COURT: Thank you. You can step down.

18 (At or about 11:52 a.m., witness excused by the Court)

19 THE COURT: You have another witness.

20 MR. KERSHAW: If the Court could give me just one moment?

21 THE COURT: Okay.

22 MR. KERSHAW: I, I have no further witnesses, Your Honor.

23 THE COURT: Okay. Argument.

24 MR. BROUGHTON: Your Honor, if, can I call Mr. Windsor?

25 THE COURT: Sure.



1 MR. BROUGHTON: If he here's.

2 THE COURT: Sure. If you want to.

3 COURT RECORDER: I think he's in the hallway.

4 THE COURT: Mr. Windsor, would you raise your right hand? Do you  
5 solemnly swear or affirm that the testimony you're about to give in the matter now pending  
6 before this court will be the truth, the whole truth, and nothing but the truth so help you God?

7 MR. WINDSOR: I do.

8 (At or about 11:54 a.m., witness sworn by the Court)

9 THE COURT: If you'll come up here and have a seat.

10 THE WITNESS: Thank you.

11 THE COURT: State your full name, spell your last name for the record.

12 THE WITNESS: Scott Norman Windsor, W-I-N-D-S-O-R.

13 THE COURT: Go ahead.

14 SCOTT WINDSOR

15 Called by the People, sworn by the Court, testified

16 DIRECT EXAMINATION

17 BY MR. BROUGHTON

18 Q And Mr. Windsor, what's your occupation?

19 A I am an attorney.

20 Q And are you or were you on the Arenac County Criminal Defense Contract in 2017, 2018?

21 A Yes. I was as Dewey and Windsor.

22 Q And did you represent, I believe, is it Micheline Leffew?

23 A Yes.

24 Q And did you represent her from the beginning all the way through trial?

25 A Yes.

1 Q Did you and her meet separately from her husband and Mr. Hadley?

2 A I can't recall that specifically. I'm sure we talked separately before but I know we've also met  
3 all together as a group.

4 Q Well, do you remember the day of the preliminary examination?

5 A Yes.

6 Q Do you know if, if you met as a group that day or you met individually?

7 A We did meet as a group. I know that.

8 Q Okay. And were you given an offer by the prosecutor's office or by myself to take to Ms.  
9 Leffew?

10 A Yes, I know we had an offer extended before.

11 Q A misdemeanor offer?

12 A Yes. I think a one-year.

13 Q And do you know whether or not Mr. Leffew, there was an offer made to Mr. Leffew?

14 A I can't speak to what anyone said to him but its my understanding, we all knew that everyone  
15 had the one-year misdemeanor on the table before the prelim, anyway.

16 Q And did you, did you explain to Ms. Leffew, you know, what did you tell her?

17 A I can't remember would I have told her specifically, but, you know, any time I have a client;  
18 hey, this is what's on the table, you know, this is what can happen at trial.

19 Q And pros and cons, I mean - -

20 A Yes.

21 Q - - go over the pros and cons with him.

22 A Yes.

23 Q I mean, do you remember saying that you were 95 percent sure that you would prevail in trial?

24 A I would never - - nope. I would never say that.

25 Q And did Ms. Leffew accept the plea offer; do you know?

1 A No.

2 Q Do you know if Mr. Leffew accepted the plea offer?

3 A Mr. Leffew, apparently, didn't because we went with the, with the prelim.

4 Q Well, were you, did you meet together and talk to them together that day?

5 A Yes, we did. I mean, I, I can't recall any specifics. I know that everyone was quite aware of  
6 the offer and then, for whatever reason, we went through with the preliminary exam. I know,

7 think Micheline, is actually, I believe, her name, she's pretty much just wanted to stick by her  
8 husband's side. She didn't have a whole lot to lose necessary compared to him.

9 Q Did you, I mean, even though you were together, did you talk separate with your client and  
10 Mr. Hadley talk separate with Mr. Leffew or was it like a group discussion?

11 A It was mostly, we did have a group discussion. We had multiple group discussions throughout  
12 the whole trial cause we had the whole trial together but I, I can also say, for certain, I'm sure,  
13 I talked with Micheline, one on one, here and there.

14 Q Well, do you know what Mr. Leffew's response was to Mr. Hadley's, the offer I made to him?

15 A I can't recall what he said specifically but I can only recall what I was thinking and, you know,  
16 that we went through with the preliminary exam because he didn't take the offer.

17 MR. BROUGHTON: I don't have any further questions, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. KERSHAW

20 Q Just because I had a hard time hearing you. What was the answer to the last question? You  
21 said that you remember, I think you said, you remember thinking something.

22 A Well, I remember my own thoughts on Jeremiah Leffew not taking the preliminary or the offer  
23 before the preliminary exam cause I was kind of aware, you know, of what his record was.

24 Q Okay.

25 A Just in meeting together.

1 Q Okay. And in terms of trial strategy, was, was this primarily a defense of others or a self-  
2 defense type case?

3 A I can't remember specifically but that's what we were going to try and go off of.

4 Q Okay. And so, I, I believe your testimony is that you believe everybody was aware of what the  
5 plea offer but you don't have any specific recollection of what Mr. Hadley said to Mr. Leffew?

6 A Not, not exact words but we all did meet together.

7 Q And it was your understanding that it was a one-year misdemeanor.

8 A Yeah. There, I remember the one-year misdemeanor.

9 Q Okay.

10 A I can't remember if Micheline's was any different than his. I, I feel like they were the same  
11 but I can't remember.

12 Q But its fair to say that since you were Micheline's attorney, your focus was on Micheline and  
13 her best interest, not Mr. Leffew and his best interest; correct?

14 A Just one word answer is yes.

15 Q Okay. And that, that would be your responsibility as a lawyer; correct?

16 A Correct.

17 Q To look out for your own client's best interest, not her husband's.

18 A Yes.

19 Q Okay. Do you recall any conversations after the case was bound over in which you were  
20 present along with Mrs. Leffew, Mr. Leffew, and Mr. Hadley?

21 A I can't remember the specifics. I know we did meet again.

22 Q Do you recall discussing any plea offers made to Mr. Leffew after the, after the preliminary  
23 examination and after it bound over to this court?

24 A All I can remember is, you know, that they were still interested in the plea offer. Well, I know  
25 Jeremiah was. I can't even remember about Micheline. Well, I'm sure she would have taken

1 it if Jeremiah still could get a plea offer of the misdemeanor but...

2 Q Okay. So you're not aware of any specific plea offers of any kind that were made after the  
3 preliminary examination?

4 A Not after. I remember what Mr. Broughton told us.

5 Q Okay. But (inaudible) what Mr. Broughton told in preparation for this hearing or - -

6 A In the, in the, in response, in response to seeing if after the prelim, in response to seeing if the  
7 misdemeanors were still on the table.

8 Q Okay. And what did Mr. Broughton tell you?

9 A I can't remember how far it was after that but, you know, we asked about the misdemeanors  
10 and its, pretty much know the victim wants Jeremiah to get a felony. I know my client, I think  
11 she still could have gotten misdemeanor but being that the felony was on the table then after  
12 that, it was just gung ho with the trial.

13 Q But you're not aware of any specific felony offers that were made to Mr. Leffew?

14 A Not the specific felony offers.

15 MR. KERSHAW: Just one moment. Judge, I have nothing further.

16 THE COURT: I have a few questions. Before the preliminary examination  
17 when you had this group meeting with your client and Mr. Hadley and his client, did you hear  
18 the conversation between Mr. Hadley and Mr. Leffew; you were right there?

19 THE WITNESS: We were all right there together, you know, face to face.

20 THE COURT: During that conversation, did you hear Mr. Hadley tell Mr.  
21 Leffew that he thought he had a good shot at winning at trial, if he went to trial?

22 THE WITNESS: I can't say that for certain.

23 THE COURT: Okay. Did you ever hear Mr. Hadley tell Mr. Leffew what he  
24 needed to do?

25 THE WITNESS: With respect to taking a plea.

1 THE COURT: Right.

2 THE WITNESS: I can't, I can't recall for certain.

3 THE COURT: Okay.

4 THE WITNESS: What - -

5 THE COURT: Did he ever make a guarantee to him that he could win that case  
6 at trial?

7 THE WITNESS: No. I never heard a guarantee.

8 THE COURT: And ultimately, when it was decided to go to prelim, whose  
9 decision was that?

10 THE WITNESS: Well, ultimately, it's the defendant's but...

11 THE COURT: Well, I'm asking you. You were there.

12 THE WITNESS: Oh. It's, the defendants wanted to go forward with the  
13 preliminary exam.

14 THE COURT: Okay. Mr. Hadley didn't force the issue.

15 THE WITNESS: Not that I'm aware of.

16 THE COURT: Any questions in light of my questions.

17 MR. BROUGHTON: I have none, Your Honor.

18 MR. KERSHAW: I have none, Your Honor.

19 THE COURT: Thank you. You can step down.

20 (At or about 12:03 p.m., witness excused by the Court)

21 MR. WINDSOR: Thank you, Your Honor.

22 MR. BROUGHTON: I don't have any further witnesses, Your Honor.

23 MR. KERSHAW: And I have no rebuttal witnesses, Your Honor.

24 THE COURT: Okay. Argument, Mr. Kershaw.

25 MR. KERSHAW: And I apologize for the rustling of the paper next to the

1 microphone. Okay.

2 So the issue that we're, what we're here in front of the Court on today  
3 essentially comes down to the issue of what plea offer was made to Mr. Leffew and what  
4 advise was given to him in regards to that plea offer. Essentially, in terms of testimony that  
5 we have in terms of, of definitive testimony as to what people said and heard, we heard  
6 testimony from Mr. Leffew, Mrs. Leffew, and Mr. Hadley.

7 The testimony that we heard largely from Mr. Windsor was that he was  
8 primarily focused on his own client and was not listening in great detail to conversations going  
9 on between Mr. Hadley and Mr. Leffew so and so I don't believe that Mr. Windsor's  
10 testimony provides a whole lot in terms of, a whole lot in terms of, of, whole lot in terms of  
11 value especially as it relates to the, the testimony about the, prior to the preliminary  
12 examination.

13 But I would like to start with what Mr. Hadley said. Mr. Hadley had  
14 acknowledged that although he had advised Mr. Leffew about the possibility that additional  
15 charges could be authorized and even though he was aware that the allegations in this case  
16 included unlawful entry into somebody's home and that a felonious assault was committed  
17 after entry into that home which would be the essential elements of first degree home  
18 invasion, he admitted on the stand, Mr. Hadley acknowledged on the stand, that he did not  
19 mention the possibility of a home invasion charge arising out of, out of holding the  
20 preliminary examination.

21 First of all, that's a very important piece of advise that one would want to  
22 know, if they're charged with a four-year felony that they run the risk of being hit with a 20-  
23 year felony and what the habitual offender supplement enhanceable to a four-year felony by  
24 the simple choice of choosing to hold a preliminary examination. So first of all, an important  
25 decision in this case was made without rudimentary basic advise being given.

1 THE COURT: Well, let, let me ask this and correct me, if I'm wrong. My  
2 understanding based on the testimony, is that Mr. Leffew was present at the probable cause  
3 conference that morning where the judge spoke and gave his normal spiel that he might raise  
4 bond, he might add charges, he might, that Mr. Leffew would have been apprized that by the  
5 judge, himself.

6 MR. KERSHAW: I believe the testimony was, is that Mr. Hadley's opinion  
7 that that was a fairly normal spiel made by the District Court Judge. I don't believe that Mr.  
8 Hadley gave any specific testimony about whether that spiel had, in fact, happened on this  
9 particular day. And at this point, I don't, I don't have transcripts from that morning session to  
10 be able to inform or deny whether or not that happened.

11 THE COURT: Okay. So why should I believe that it did or didn't happen?

12 MR. KERSHAW: Well, first of all, I think, I think a large part, its not terribly  
13 relevant whether it did happen or not. The reason why - -

14 THE COURT: Okay. So why are we spending time on it?

15 MR. KERSHAW: Well, because, because, Your Honor, I asked the question  
16 and I, I was trying to, what I was trying to point out is first of all, that we don't have sufficient,  
17 a sufficient factual basis to know whether or not that was, in fact, said. But my, my response  
18 to that would be that even if, even if that statement had been made, there's, there's a  
19 particularized duty on Trial Counsel to make sure that Mr. Leffew was properly advised as to  
20 the risk, both the risk going to trial, the risk of turning down a plea offer, and that that, that  
21 that risk, that, that, that duty is not discharged simply because the District Court Judge may or  
22 may not have said something.

23 And second of all, I don't believe that there was any testimony to even indicate  
24 that the possibility, that, that the District Court Judge said anything about the possibility of  
25 first degree home invasion coming up as a result of, of holding the exam. And I wouldn't



1 expect the District Court Judge to do that because my understanding is very often, District  
2 Court Judges don't typically (inaudible) about what they may or may not do at the end of a  
3 preliminary examination before they've heard the actual evidence presented at the preliminary  
4 examination.

5 THE COURT: So the attorney can't be expected to know what the District  
6 Court Judge may or may not do at the end of the proofs.

7 MR. KERSHAW: I, but I think, but a, a, a competent trial attorney can look at  
8 a trans, look at police report, and determine what charge, what criminal charges could be  
9 established by, by the allegations in, in this particular police report. And what we have is we  
10 have Mr. Hadley saying that he understood that the police report alleged that Mr. Leffew  
11 entered Mr. Porter's house without permission. We also have - -

12 THE COURT: Let's get to the heart of your argument here.

13 MR. KERSHAW: Okay. But the point is that, that issue was not brought to  
14 Mr. Leffew's attention and I think the Court knows where I'm going with that.

15 The other issue is the advise. We have Mr. Hadley who says that the advise  
16 that he gave was that he was reasonably confident in, in the case and that the possibility that  
17 they could convince one or two jurors to, to agree, possibly hanging the jury, if not getting an  
18 outright acquittal. He denies the testimony provided by Mrs. Leffew that he said that there  
19 was a 95 percent chance and it sounds like both Mr. Windsor and Mr. Hadley denied that, that  
20 they ever, either of them ever used or heard the phrase use 95 percent over both Mr. and Mrs.  
21 Leffew said that they did.

22 The point was is, but, the point being that - -

23 THE COURT: Well, I'm, I'm going to ask you to address this. Your client's  
24 testimony was that he didn't believe Mr. Hadley said that. That it was Mr. Windsor.

25 MR. KERSHAW: And, and that was Mister, that was Mr. Leffew's testimony,

1 that he heard Mr. Windsor say that and I believe he went on to say that Mr. Hadley assented  
2 and accepted that as, as the advise, as consistent, did not dispute that despite having heard  
3 that. And I believe that Mr. Leffew's testimony was that, at least he interpreted that as being  
4 that Mr. Hadley heard that statement. Mr. Hadley - -

5 THE COURT: I don't know where you're extrapolating all this from cause  
6 that's not what I heard your client say but go ahead.

7 MR. KERSHAW: Well, I heard him say that, that, well, I did hear Mr. Leffew  
8 state that Mr. Windsor made that statement and that Mr. Hadley did not disagree. Those are  
9 the two statements that I do recall Mr. Leffew saying.

10 I think it is fair to say that the assumption would be that if, if, if Mr. Hadley  
11 heard it said and didn't disagree, that he could infer that that was sound legal advise.

12 THE COURT: You know what they say about assumptions.

13 MR. KERSHAW: I, I do, Your Honor. But by the same token, as much as I'm  
14 aware of, of, of the, the statement that the Court's making, we also, we're also dealing with  
15 somebody whose not a lawyer, who has two lawyers in the room. They're giving him various  
16 forms of advise and that he frankly, trusts that his lawyer is looking out for his best interest,  
17 that his wife's lawyer is looking out for his wife's best interest and that if one of the - -

18 THE COURT: Let's be realistic here. I understand you're, you're trying to do a  
19 job. And you're doing it very well. But this is not a babe in the woods we're talking about  
20 here. This is a guy who had prior felonies before he came to this case. He's been around the  
21 mountain before. He, he's not, he's not somebody who doesn't understand the system here.  
22 He's been through the system on a couple of prior occasions.

23 MR. KERSHAW: Well, with all due respect, Your Honor, I'm looking at his  
24 PSI here and it shows eight, a total of eight entries and I didn't get a chance to go through  
25 them to figure out which ones of those resulted in convictions, which ones were felonies, and

1 which ones were misdemeanors. All that I can say as a practitioner in criminal defense whose  
2 been doing this for quite a while, that eight entries on an adult history for somebody of Mr.  
3 Leffew's age is not, is not anywhere near the level of experience that I often see of my clients.  
4 And yes, he has had, he has had prior interactions with the court system. Looking over this, it  
5 looks like many of those eight are either things that resulted in a dismissal or were  
6 misdemeanors. But like I said, I didn't go through them in great detail.

7 THE COURT: Which is exactly my point. He's been charged with things  
8 before that were dismissed. He's been charged with things before that he pled guilty to. He  
9 knew how the system worked.

10 MR. KERSHAW: Well, he had some awareness with how the system worked  
11 but - -

12 THE COURT: I know people Mr. Leffew's age who have no involvement with  
13 the criminal justice system. So don't minimize eight.

14 MR. KERSHAW: Yeah. I'm not trying to minimize eight. Certainly, many  
15 people Mr. Leffew's age have zero but I would simply say if we're looking - - I've, I've also  
16 represented many people who have 20, 30, 40 entries on that same portion who have very little  
17 awareness of the criminal justice system so to infer that he has some sort of enhanced  
18 awareness of the system because of eight entries into his, his adult criminal history, I think,  
19 does not relieve Trial Counsel of the duty of making sure that everything is clearly explained  
20 to his - -

21 THE COURT: I'm not saying it does.

22 MR. KERSHAW: Okay.

23 THE COURT: I'm just saying lets not pretend that he's not without some  
24 knowledge of the system.

25 MR. KERSHAW: And, and Your Honor, I would, I would just simply add that

1 I, I would guess that Mr. Hadley, as counsel, has, has represented clients on substantially more  
2 than eight cases and has substantially more experience and additional to a law school  
3 education so I think that that also comes into play, Your Honor.

4 The point is there was confidence projected. We had, from both attorneys as to  
5 the merits of the case. We have Mr. Hadley saying that, that Mr. Leffew rejected the offer.  
6 We have Mr. Leffew saying that he rejected the offer because he as told we're going to quote  
7 "we're going to go kick their asses." What specifically was said? I don't know. But what we  
8 do have is we have two witnesses here that both heard, testified that they heard what was said,  
9 and testified consistently with the fact that Mr. Hadley projected such an err of confidence that  
10 it would, it, that it seemed foolish to take a misdemeanor plea given the strong case that they  
11 had. And we also know that the ultimate outcome of this case was that Mr. Leffew was  
12 convicted of a crime that was exponentially more serious then what, then the plea offer that he  
13 turned down, and that Mr. Leffew turned that plea offer down based on the advise of Counsel.  
14 That in his words, they were going to prevail. I won't use the same euphemism again but, and  
15 that based on that advise, he made the decision of turning down a plea offer which we all, it  
16 sounds like based on the pleadings, we all agree it's a 93-day misdemeanor even though there  
17 was some confusion in the testimony about whether it was a, a one-year misdemeanor or a 93-  
18 day misdemeanor. That he turned down this misdemeanor based on the advise given by  
19 Counsel and that, and that Counsel projected such a strong err of confidence in the potential  
20 outcome of the case, that Mr. Leffew took the admittedly risky step of holding an exam and  
21 going to trial.

22 I, I contend that this case is quite similar, really is quite similar to what the  
23 United States Supreme Court done, the fact that they were doing with Lanther versus Cooper  
24 which I believe I cited in my motion. I know I cited it in my Court of Appeals brief, in which  
25 I believe in that case, the trial counsel had said that because the defendant had aimed his gun

1 at the victim's leg, that he could not be found guilty of, of assault with intent to murder and  
2 therefore, relying on that statement of fact, the, the defendant went to trial, and ultimately, was  
3 convicted of assault with intent to murder. In that case, however, in Lanther, my  
4 understanding is that the defendant knew, when he made that decision, that he was charged  
5 with assault with intent to murder. When Mr. Leffew made the decision, he was charged with  
6 felonious assault, a four-year felony, even with a third habitual offender becomes an eight-year  
7 felony. He was not even on notice of the possibility of a 40-year felony arising out of the  
8 decision that he was going to make.

9 THE COURT: Address, for me, the testimony then that before the preliminary  
10 examination, Mr. Hadley's conversation with Mr. Leffew was if you take this deal, there'll be  
11 no habitual supplement and that could be to your advantage.

12 MR. KERSHAW: I believe that that is what Mr. Hadley testified to. I would  
13 also point out that Mr. Hadley, the, frankly, I think that that contradicts the testimony of Mr.  
14 Leffew and Mrs. Leffew. And I would state, to Mr. Hadley's benefit, that he testified that he  
15 has represented many, many, many clients since that conversation was had. He, although, he  
16 did testify that he has a pretty good memory and remembers details of conversations. I asked  
17 Mr. Hadley about a conversation he and I had in December about this case and it took several  
18 reminders for him to even acknowledge that conversation had occurred and he seemed not to  
19 remember specific details of that conversation.

20 So I think its fair to say that if, if Mr. Hadley is not, doesn't have a clear  
21 recollection of a conversation that happened three months ago regarding this case, its equally  
22 reasonable that he doesn't have as clear of a recollection as he thinks he does about a  
23 conversation that he had 15 months ago about this case.

24 However, Mr. and Mrs. Leffew were dealing with their lives here. They  
25 haven't had dozens or hundreds or how ever many criminal cases intervening between

1 (inaudible) and here. This is the event that most influenced their lives over the last 15  
2 months. So in terms of whose remembering better, I think its fair to say the Leffew's would  
3 remember better than Mr. Hadley simply because the nature of, of work as a lawyer, is that we  
4 deal with lots and lots and lots of people and I'll be honest, even before I come in here today, I  
5 have to look through my notes because, and remind myself of things that had happened at  
6 various points in the process because I don't have a memory that can go back and remember  
7 things.

8 THE COURT: Okay. Let's, let's move on.

9 MR. KERSHAW: So the, the point is that's what the testimony was. I'm not  
10 disputing that that's what the testimony was but I think in terms of how much weight the  
11 testimony is given, I think that that's an issue of - -

12 THE COURT: Well, basically, the thrust of your argument is I should believe  
13 them and not him.

14 MR. KERSHAW: Well, I think you should believe what they testified to  
15 because in many serious respects, the testimony was consistent. The only, the main area of the  
16 testimony was not consistent were dealt with issues - -

17 THE COURT: So are you talking about their testimony with each other is  
18 consistent?

19 MR. KERSHAW: I think their testimony was largely consistent with each  
20 other. I also think that, that in many respects, the testimony was consistent with Mr. Hadley  
21 except for the specific advise given which I understand is the thrust of this case. The point,  
22 the point being though, that Mr. Hadley is trying to remember one of many, many cases from  
23 15 months ago - -

24 THE COURT: Well, I get the point that you're making.

25 MR. KERSHAW: Yeah. And I think based on that, I think that there is some

1 weight that needs to be given to Mr. and Mrs. Leffew's testimony over and above Mr.  
2 Hadley's testimony.

3 THE COURT: Go ahead.

4 MR. KERSHAW: Okay. So based on that, I, I, I do believe that Mr. Leffew  
5 was, was told that he should turn down the offer of the 90-day misdemeanor and that the  
6 reason he should turn it down is because this was, this was a, a case that he had a, there was a  
7 very high probability that they would, that it would get dismissed and if it didn't get  
8 dismissed, they would win at trial. That was consistent with the testimony of Mrs. Leffew.

9 And because of that advise, a bad advise, as we all know, that any time a case  
10 goes to trial, there's, it, what the jury is going to decide is somewhat of a mystery. But that  
11 was bad advise. That Mr. Leffew relied on that bad advise. And that as a result of that bad  
12 advise, instead of doing 93 days in the county jail, at most, he's doing substantially more time,  
13 many, many years in the state department of corrections on a, what essentially amounts to a  
14 40-year felony.

15 And for that reason, I would, I, I would ask the Court to, to vacate Mr.  
16 Leffew's conviction and to order that the prosecutor re, re-offer a 93-day misdemeanor that  
17 was made in the first place.

18 Thank you.

19 THE COURT: Mr. Broughton.

20 MR. BROUGHTON: Your Honor, I, I do think, in a nutshell, this is a he said  
21 she said argument in regards to the testimony we heard here today. The Leffew's testified,  
22 you know, that Mr. Hadley didn't give them the correct, well, at least, give Mr. Leffew the  
23 correct, what they believed to be the correct advise and take the plea but Mr. Hadley testified,  
24 you know, he, he explained to them the misdemeanor and a felony and he's got a habitual and  
25 if you run the prelim, certain things can happen. And if you're bound over, which you



1 probably will be, is what his testimony was. I mean, it's a pretty low threshold, that the  
2 habituals are going to come into play. And I think the offer was made. Mr. Hadley made him  
3 aware of what the offer was. And as you said, he, Mister, Mr. Leffew, as, as he sat on the  
4 witness stand, knows the difference between a misdemeanor and a felony and he knew the risk  
5 he takes if he goes to a prelim and the risk he takes if he goes to trial because he's already  
6 done pleas before.

7 Mr. Hadley performance didn't follow the low and objective standard for  
8 reasonableness. He just, he gave Mr. Leffew the advise, the options. Mr. Leffew chose the  
9 option of going forward. Then, I think as Mr. Windsor said, testified to later on, once the  
10 misdemeanor was off the table, Mr. and Mrs. Leffew didn't have any desire to plead to a  
11 felony so it was gung ho from that point when I made the other offer but...yeah. I think what  
12 he did, Mr. Hadley did his job. He's, he's been doing this for years. He, he gives, I mean, the  
13 person who is control, obviously, is the defendant. He made the choice and when he made the  
14 choice to go forward, he, he knew the risk and he assumed that risk and that's why he's in  
15 prison at this point.

16 I would ask that you deny the, the request, Your Honor.

17 THE COURT: Any rebuttal, Mr. Kershaw.

18 MR. KERSHAW: Just very briefly. I, I would just like to state on the record  
19 that I, I do believe the testimony established, even, even if the Court were to believe in its  
20 entirety Mr. Hadley's testimony, that Mr. Hadley's performance did fall below an objective  
21 standard for reasonableness. Specifically, in, in the fact that Mr. Hadley said that he never  
22 discussed any, potential for this more, far more serious charge coming out of rejecting a plea  
23 offer.

24 So in that respect, I, I would disagree and I would, I would also state that if  
25 you take the testimony as a whole from all four witnesses that the Court's heard today, I think



1 we have established that his, his performance, in terms of the advise given, fell below an  
2 objective standard of reasonableness.

3 And I also would assert for the Court, and I don't think its need disputed that,  
4 at this point, that Mr. Leffew was actually prejudice as, which is the other element, in the  
5 Strickland Test for ineffective assistance of counsel and that he, he's enduring a far more  
6 significant sentence then if he had disregarded the advise of his counsel and simply taken the  
7 93-day misdemeanor plea.

8 So in that respect, I would ask, I would re-echo my request that the Court  
9 vacate the conviction along with the order under Lanther v Cooper, that the prosecutor re-offer  
10 the 93-day misdemeanor as originally offered.

11 Thank you.

12 THE COURT: I do take a claim of ineffective assistance of counsel very  
13 seriously. I've spent some years as a public defender myself. I've spent years as a prosecutor,  
14 years as a public defender and ten years in private practice where I did criminal defense work.  
15 I clearly see the flaws in the system. And I have seen, on a significant number of cases, people  
16 caught up in the system who didn't belong there. And so I take very seriously a claim of  
17 ineffective assistance in counsel, especially in the court-appointed system because having an  
18 attorney should mean something even if they're a court-appointed attorney. And all too often,  
19 a system has been set up in a way where court-appointed attorneys are encouraged not to do  
20 much. So I take, very seriously, the opportunity to right a wrong of that type.

21 However, I am somewhat familiar with Mr. Hadley and Mr. Windsor as the  
22 court-appointed attorneys in this court. I have tried a couple of the cases that Mr. Hadley has  
23 been the defense attorney on. And I will say that I have never seen him be anything less than  
24 completely vigorous in his defense of the people I've seen him represent.

25 We all know that when you're coming up to preliminary examination, it's a

1 probable cause hearing. All you have, at that point, is a police report. You never know what  
2 the witnesses are going to say and its absolutely well known among attorneys that anything  
3 can happen at a preliminary examination in terms of the charges changing. Anybody can ask  
4 for the charges to be amended to comport with the proofs that were presented at preliminary  
5 examination.

6 The testimony in this case is that coming up to the preliminary examination,  
7 according to the police report, Mr. Hadley felt that Mr. Leffew had a strong case. The  
8 testimony is that he discussed that with him and Mr. Hadley's testimony was that I talked to  
9 him prior to the preliminary examination. There was a misdemeanor plea. I specifically  
10 talked to him, that if he took that plea, there would be no felony on his record and he wouldn't  
11 have to face a habitual supplement. That being said, he felt like they had a good case and he  
12 felt that they could win at trial. He relayed that to his client. Even Mr. Leffew testified that it  
13 was not Mr. Hadley who used any kind of phrase like 95 percent.

14 My impression of Mr. Hadley in conducting himself before this court, is that he  
15 wouldn't be so foolish as to make any kind of guarantee to anybody. He's a seasoned  
16 attorney.

17 Mr. Leffew testified that it was explained to him that a verdict has to be  
18 unanimous and that if you can convince one or two jurors to see things your way, you could  
19 win at trial. His testimony also was that Mr. Hadley never gave him guarantee at being able to  
20 win.

21 Your argument that he should have apprized him of potential other charges  
22 prior to the prelim, you're, you're asking, you're setting the standard to something that nobody  
23 can leap. Nobody has a crystal ball. If you look at the police report and you expect that the  
24 testimony at prelim is going to be what's in the police report, then you think you have a good  
25 idea of what's going to happen. But you never know what somebody's going to testify to at

1 preliminary examination. And its not unusual, I've, I've been practicing law and on the bench  
2 for 32 years now. And you never know what's going to happen at a preliminary examination.  
3 So to hold attorneys to the standard of you had better advise your client of every potential  
4 charge that might come out of testimony at a prelim is ludicrous. I think about criminal sexual  
5 conduct preliminary examinations involving children, you never know what the child might  
6 say. And you don't want to prepare them to the point where they've been coached. You have  
7 to rely on what the testimony is.

8 I believe that Mr. Hadley did feel confident that he could win this case and I  
9 have to say, I said it earlier, I presided over the trial, the jury trial in this case. I saw how  
10 vigorously Mr. Hadley represented Mr. Leffew and I will say that Mr. Leffew, himself,  
11 appeared confident and certainly, did not appear to be lost or confused or not on board with  
12 what was happening. He certainly seemed very well informed of what was happening.

13 When I asked you, during your argument, Mr. Kershaw, about the fact that he  
14 has a history, I brought that up simply to point out that he's not somebody stuffed into the  
15 system for the first time. He's familiar with how plea bargains work. He was familiar with  
16 the fact that charges could be dismissed. And he was familiar with being represented by  
17 someone and listening to what they had to say. The testimony of both Mr. Hadley and Mr.  
18 Windsor is that the ultimate decision was Mr. Leffew's.

19 Did he rely on Mr. Hadley's representation spiel? Probably. Were those  
20 misrepresentations such that constitute ineffective assistance of counsel? I don't think so.  
21 Quite frankly, at the end of that trial, I wasn't sure what the jury was going to do. Mr. Hadley  
22 had very vigorously defended Mr. Leffew and it wasn't clear to me what the verdict might be.

23 The testimony here is that there was a discussion about trial strategy. And I, I  
24 do find it more credible to believe that it was your client who said let's stick it up their ass. In  
25 whatever you want to call it, rebatta, whatever else; confidence in Mr. Hadley, confidence that

1 they had a good case. Unfortunately, after the preliminary examination, at trial, the testimony  
2 of a couple two witnesses changed somewhat. But prior to that, given the testimony that came  
3 forth at the prelim, I don't think the confidence in a potential victory was misplaced by even  
4 Mr. Hadley or your client. Given the testimony at the prelim, it wouldn't be hard to anticipate  
5 that one or two jurors might see things a different way. Its not clear to me from the testimony  
6 here today as to whether or not there was actually an offer made after the prelim. I know there  
7 was discussion about it but Mr. Hadley's testimony was that Mr. Broughton said after the  
8 prelim that the victim did not want a misdemeanor plea and so I'm not clear on whether or not  
9 there was even an offer of anything after the prelim. Just that there was some discussion and  
10 that if there was an offer, it wasn't going to be a misdemeanor so I don't even know if an  
11 actual offer was made after the preliminary examination.

12 For the reasons I've stated, I, I believe that Mr. Hadley certainly was looking  
13 out for his client's best interest in apprizing him before the prelim that if he took the  
14 misdemeanor deal, he would not be looking at a felony at all and he wouldn't be looking at a  
15 habitual supplement. I believe based on the testimony that although Mr. Hadley was confident  
16 that they had a good shot at winning at trial, that he left the decision up to Mr. Leffew who  
17 decided to have the prelim and at the prelim, testimony was obtained that gave rise to  
18 additional charges.

19 Even after that, it sounds to me like there was some more discussion but I don't  
20 know if there was, truthfully, I can't tell from this record as to whether or not there was  
21 another offer made. We knew, we know from the record that it was not going to be a  
22 misdemeanor however. And so it sounds to me like the chance for a misdemeanor came  
23 before the preliminary examination and Mr. Leffew, having reviewed the evidence with Mr.  
24 Hadley, and relying on Mr. Hadley's confidence as well, which I think was warranted under  
25 the circumstances, decided to have the prelim. I believe that that was an informed decision on

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1 his part based on Mr. Hadley's review of the circumstances with him and I don't believe that  
2 Mr. Hadley's conduct, in any way, exhibited ineffective assistance of counsel. So I'm going  
3 to deny your motion.

4 MR. KERSHAW: Thank you, Your Honor.

5 MR. BROUGHTON: Thank you, Your Honor.

6 MR. KERSHAW: And, and you would like Mr. Broughton or I to prepare an  
7 order to that effect or...

8 THE COURT: Yes. Why don't you prepare the order and I will order a  
9 transcript of today's hearing at public expense. I assume you're going to take this back to the  
10 Court of Appeals.

11 MR. KERSHAW: I am, Your Honor. Do you want me to include in the order  
12 of this hearing about the transcript also?

13 THE COURT: Yes. Yeah.

14 MR. KERSHAW: All right. Thanks you, Your Honor.

15 THE COURT: Thank you.

16 (At or about 12:36 p.m., hearing concluded)

1 State of Michigan)

2 County of Arenac)

3 I certify that this transcript, consisting of 57 pages, is a complete, true, and correct  
4 transcript of the testimony taken in this case on April 1, 2019.

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9 April 15, 2019

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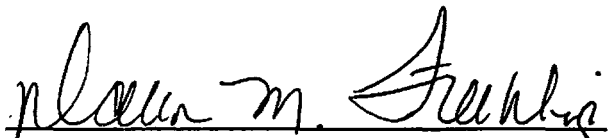
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Dawn M. Freehling  
Official Court Recorder  
81<sup>st</sup> District Court

CER 6484

2020 WL 1816002

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK  
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UNPUBLISHED  
Court of Appeals of Michigan.

PEOPLE of the State of  
Michigan, Plaintiff-Appellee,

v.

Micheline Nicole LEFFEW,  
Defendant-Appellant.

People of the State of  
Michigan, Plaintiff-Appellee,

v.

Jeremiah James Leffew,  
Defendant-Appellant.

No. 343818, No. 344240

|

April 9, 2020

Arenac Circuit Court, LC No. 17-004120-FH

Arenac Circuit Court, LC No. 17-004119-FH

Before: [Boonstra](#), P.J., and [Tukel](#) and [Letica](#), JJ.

## Opinion

Per Curiam.

\*1 In these consolidated appeals,<sup>1</sup> defendants appeal by right their convictions and sentences after a joint jury trial. In Docket No. 343818, defendant Micheline Leffew (Micheline) appeals her conviction of third-degree home invasion, [MCL 750.110a\(4\)](#), for which the trial court sentenced her to serve five months in jail followed by a two-year term of probation. In Docket No. 344240, defendant Jeremiah Leffew (Jeremiah) (Micheline's husband),<sup>2</sup> appeals his convictions of first-degree home invasion, [MCL 750.110a\(2\)](#), and assault with a deadly weapon (felonious assault), [MCL 750.82](#). The trial court sentenced Jeremiah as a third-offense habitual offender, [MCL 769.11](#), to concurrent prison terms of 25 to 40 years

for the home invasion conviction, and 2 to 8 years for the felonious assault conviction. We affirm in both dockets.

## I. PERTINENT FACTS AND PROCEDURAL HISTORY

The events leading to the charges in this case began when Jeremiah, Micheline, and Jeremiah's mother, Donna Knezevich, went to Michael Porter's home on November 18, 2017, to pick up Knezevich's then-partner, Lisa Siebert.<sup>3</sup> Knezevich, Porter, and Siebert had been involved in romantic relationship; however, earlier that day Knezevich had called Siebert at Porter's house and proposed marriage to her. Siebert accepted, upsetting Porter.

According to Porter and Siebert, after Porter asked to have a moment to speak with Siebert and closed his front door, defendants began pounding on and kicking the doors and windows, and Jeremiah yelled that he was going to kill Porter. Porter called 911. Immediately after he hung up the phone, the back door "blew open" and someone came through the door. Porter testified that he "smacked the person that was coming in," who turned out to be Micheline, with an ashtray, temporarily incapacitating her. Porter testified that Jeremiah followed Micheline into the home and was "coming at" him, and that he punched Jeremiah "a couple times," at which point Micheline recovered and jumped on Porter's back, yelling, "Let's kill him, let's kill him." Porter testified that Jeremiah then grabbed a kitchen knife and tried to stab Porter, cutting Porter's wrist in the process. According to Porter, the attack ended when Knezevich yelled, and Jeremiah took Micheline out the front door.

Defendants testified to a different version of events. Both defendants testified that Siebert wanted to leave Porter's home, but he physically restrained her from doing so. Seeing this, defendants believed they needed to intervene. Micheline acknowledged kicking in the back door, but testified that after Porter struck her with an ashtray, she fell to the ground and had a seizure.<sup>4</sup> She awoke outside in the driveway and was taken to the hospital. Jeremiah testified that he came in after Micheline kicked in the door to find her in the midst of a seizure. He further testified that Porter attacked him while he was attending to Micheline. Jeremiah acknowledged picking up a steak knife from a counter, but testified that after picking up the knife, he only asked Porter to stop fighting and to let him and Micheline leave. Jeremiah testified that Porter agreed, and Jeremiah helped Micheline out of the house.



\*2 Jeremiah was initially charged with felonious assault, and Micheline was charged with third-degree home invasion. Both were offered agreements to plead to misdemeanor offenses before the preliminary examination, and both refused. At the conclusion of the preliminary examination, the district court authorized the additional charge of first-degree home invasion against Jeremiah.

At trial, defendants' theory of the case was that their actions were justified by the need to rescue Siebert from Porter. The jury convicted defendants as described. At Jeremiah's sentencing, the trial court imposed an out-of-guidelines sentence for Jeremiah's home invasion conviction.

These appeals followed. Following his claim of appeal, Jeremiah filed a motion to remand for a *Ginther*<sup>5</sup> hearing regarding his trial counsel's effectiveness, arguing that his counsel had advised him to reject a plea offer before trial and that he was deficient at trial. This Court granted his motion.<sup>6</sup> After a *Ginther* hearing, the trial court concluded that Jeremiah's trial counsel was not ineffective and denied his motion for a new trial. Micheline also filed a motion to remand for a *Ginther* hearing, based solely on her counsel's trial performance; this Court denied her motion "without prejudice to a case call panel of this Court determining that remand is necessary once the case is submitted on a session calendar."<sup>7</sup>

## II. DOCKET NO. 343818

Micheline argues that her trial counsel was ineffective for failing to request a jury instruction on defense of others and for failing to present certain evidence. We disagree.

A claim of ineffective assistance of counsel presents a mixed question of fact and constitutional law. We review a trial court's factual findings for clear error, and the ultimate constitutional issue de novo. *People v. Trakhtenberg*, 493 Mich. 38, 47; 826 N.W.2d 136 (2012). Because no *Ginther* hearing was held, our review is limited to the existing record. *People v. Matuszak*, 263 Mich. App. 42, 48; 687 N.W.2d 342 (2004); *People v. Wilson*, 242 Mich. App. 350, 352; 619 N.W.2d 413 (2000). However, in the context of determining whether remand for a *Ginther* hearing is warranted, we may consider evidence presented by defendant even if it is not part of the record. See *People v. Moore*, 493 Mich. 933, 933; 825 N.W.2d 580 (2013). We review de novo issues of statutory

interpretation. See *People v. Pinkney*, 501 Mich. 259, 268; 912 N.W.2d 535 (2018).

To establish that trial counsel was ineffective, a defendant must show that counsel's performance was objectively unreasonable and that counsel's deficient performance prejudiced the defense. *People v. Payne*, 285 Mich. App. 181, 188-189; 774 N.W.2d 714 (2009). Prejudice exists where a defendant is able to show a reasonable probability that, absent counsel's error, the result of the proceeding would have been different. *Id.* at 189. Counsel cannot be deemed ineffective for failing to raise a meritless argument, *People v. Ericksen*, 288 Mich. App. 192, 201; 793 N.W.2d 120 (2010), nor may counsel be deemed ineffective for failing to raise a novel issue, *People v. Crews*, 299 Mich. App. 381, 400; 829 N.W.2d 898 (2013).

\*3 Micheline first argues that counsel was ineffective for failing to request a jury instruction on the affirmative defense of "defense of others." We disagree. Criminal defendants are entitled to have "a properly instructed jury consider the evidence ...." *People v. Everett*, 318 Mich. App. 511, 527; 899 N.W.2d 94 (2017) (quotation marks and citation omitted). "Accordingly, jury instructions must include all the elements of the charged offenses and any material issues, defenses and theories that are supported by the evidence." *Id.* (quotation marks and citation omitted). If a defendant requests an instruction on a particular defense, and the defense would be supported by the evidence, the trial court must give the instruction. *People v. Mills*, 450 Mich. 61, 81; 537 N.W.2d 909 (1995), mod 450 Mich. 1212 (1995).

Micheline was charged with third-degree home invasion. Under MCL 750.110a(4)(a), a person is guilty of third-degree home invasion if he or she "[b]reaks and enters a dwelling or enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a misdemeanor." In this case, the misdemeanor underlying the charge of third-degree home invasion was malicious destruction of a building under \$200, MCL 750.380(5).

MCL 780.972(2), part of the Self-Defense Act, MCL 780.971 et seq. (SDA), provides for the affirmative defense of "defense of others:"

An individual who has not or is not engaged in the commission of a crime at the time he or she uses force other than deadly force may use force other than deadly force against another individual anywhere he or she has the legal right to be with no duty to retreat if he or she honestly and



reasonably believes that the use of that force is necessary to defend himself or herself or another individual from the imminent unlawful use of force by another individual.

Micheline cites no authority for the premise that this defense is available to excuse the crime of home invasion. Generally, the defense-of-others defense is used to excuse assaultive conduct, i.e., the use of force directly against a person. And the crime of third-degree home invasion does not require the “use of force other than deadly force against another individual,” [MCL 780.972\(2\)](#). See [MCL 750.110a\(4\)](#) (stating that third-degree home invasion requires an intent to commit or commission of a misdemeanor). Moreover, a person who has entered a home without permission from the lawful owner appears by definition not to be “anywhere he or she has the legal right to be,” [MCL 780.972\(2\)](#). See [MCL 750.110a\(4\)\(a\), \(b\)](#) (stating, with regard to third-degree home invasion, that the entry must be without the permission of the lawful owner). A plain reading of the statute suggests that a defendant cannot claim defense of others to excuse the commission of the non-assaultive crime of third-degree home invasion or the non-assaultive misdemeanor (malicious destruction of a building under \$200) that supports that charge in this case. See [Pinkney](#), 501 Mich. at 268.

Given the apparent inapplicability of the statutory “defense of others” affirmative defense, [MCL 780.972\(2\)](#), Micheline argues that she was nonetheless entitled to assert a “defense of others” affirmative defense under the common law, and that her trial counsel therefore should have requested a jury instruction in accordance with the common law. We note in that regard that [MCL 780.973](#) provides that “[e]xcept as provided in [[MCL 780.972](#)], this act does not modify the common law of this state in existence on October 1, 2006 regarding the duty to retreat before using deadly force or force other than deadly force.”

Micheline addresses the common-law “defense of others” defense by analogizing to the related “self-defense” defense, and cites to [People v. Dupree](#), 486 Mich. 693, 696; 788 N.W.2d 399 (2010), in which our Supreme Court held that “the traditional common law affirmative defense of self-defense may be interposed to a charge of being a felon in possession of a firearm, [MCL 750.224f](#).” Micheline argues that the “defense of others” defense should similarly be found to apply to the charge of home invasion in this case. But [Dupree](#) appears to be distinguishable, in that the felon-in-possession offense in [Dupree](#) occurred before the effective date of the SDA and the Supreme Court’s holding in [Dupree](#)

was that “[b]ecause the SDA does not retroactively apply to conduct that occurred before its effective date, the traditional common law affirmative defense of self-defense in existence before the enactment of the SDA governs.” *Id.* at 708 (emphasis added; footnotes omitted). In this case, by contrast, the home invasion at issue occurred after the effective date of the SDA.

\*4 Micheline has failed to otherwise address the particulars of the common law or how it was or was not modified by the enactment of [MCL 780.972](#), other than to note that the SDA “does not diminish an individual’s right to use deadly force or force other than deadly force in self-defense or defense of another individual as provided by the common law of this state in existence on October 1, 2006.” [MCL 780.974](#). To the extent that Micheline argues that the common law defense of defense-of-others applies to her situation over and above the codification of the SDA, we have found no cases in which the common-law defense of self-defense or defense-of-others was applied in the context of a home invasion charge. At bottom, Micheline has failed to provide us with persuasive authority that the common-law “defense of others” defense applied to excuse the home invasion in this case. The applicability of the defense in this case is therefore far from certain, at best.

But the applicability of the defense is not the issue before us; nor is it whether a related jury instruction should have been given. Rather, the issue before us is whether defendant’s trial counsel was ineffective in failing to request a “defense of others” jury instruction. We conclude, for the reasons noted, and notwithstanding that defense counsel may have succeeded in presenting a case at trial premised on Micheline having acted in defense of Siebert, that the defense case depended on a novel application of the law, and that it therefore would have been an even more novel legal argument for Micheline’s counsel to have sought a jury instruction that effectively would have declared the law to be consistent with the defense presented. Simply put, the fact that a defense may have been presented does not mean that the law must be presented as if it conforms to that defense. See [MCR 2.512](#) and [2.513](#); see also [People v. Traver](#), 502 Mich. 23, 31, 34; 917 N.W.2d 260 (2018) (noting that a trial court must properly instruct the jury regarding the “applicable law” in manner that “fairly present[s] the issues to be tried[.]”) (citations omitted). “Defense counsel cannot be deemed deficient for failing to advance a novel legal argument.” [Crews](#), 299 Mich. App. at 400.

Moreover, it does not appear that the failure to request this instruction had any effect on the jury's verdict. One of the elements of third-degree home invasion as charged in this case was that Micheline committed the misdemeanor of malicious destruction of a building under \$200, [MCL 750.380\(5\)](#), by kicking in Porter's door. The trial court instructed the jury that to commit this offense, Micheline must have destroyed or damaged property "knowing that it was wrong, without just cause of [sic, or] excuse, and with the intent to damage or destroy the property ...." Micheline's trial counsel did not deny that Micheline broke the door, but argued that Micheline had just cause to do so because she was attempting to protect Seibert. The jury's verdict indicates that, despite defense counsel's arguments, the jury rejected the theory that Micheline was justified in her actions; there is no reason to conclude that an instruction on defense of others would have altered that conclusion. We conclude that Micheline's defense counsel was not ineffective for failing to request this instruction. [Payne](#), 285 Mich. App. at 188-189.<sup>8</sup>

Micheline also argues that her trial counsel should have impeached Porter's and Seibert's testimony with evidence that Porter pleaded to a misdemeanor offense arising from the same incident and that Seibert had petitioned for a personal protection order (PPO) against Porter. We disagree. The proposed impeachment evidence does not appear in the lower court record, and the trial court has not held an evidentiary hearing on the subject. However, we conclude that a remand for a *Ginther* hearing or to expand the record is not necessary. See [Moore](#), 493 Mich. at 933.

\*5 Defense counsel may be ineffective if he fails to "develop the defendant's defenses by adequately impeaching the witnesses against the defendant." [People v. Lane](#), 308 Mich. App. 38, 68; 862 N.W.2d 446 (2014). But counsel's decisions regarding what evidence to present are presumed to be matters of trial strategy. [People v. Dunigan](#), 299 Mich. App. 579, 589-590; 831 N.W.2d 243 (2013). This Court does not "second-guess strategic decisions with the benefit of hindsight." *Id.* Further, the failure to present evidence "will only constitute ineffective assistance of counsel if it deprived defendant of a substantial defense." *Id.*

Micheline contends that counsel should have impeached Porter with evidence that he was charged with marijuana possession and domestic violence as a result of the encounter that led to the charge against her, and that he pleaded to possession of marijuana and being a disorderly person. She argues that this evidence, which she categorizes as bias or

impeachment evidence, would be probative of whether she was justified in entering Porter's home to defend Seibert. But the jury was given substantial evidence regarding why Micheline believed she was justified in entering the home. Moreover, Porter's plea transcript shows that he admitted only to having an argument, which "became physical," with the people who "were breaking in[to] [his] home." It seems unlikely that this evidence would have substantially aided Micheline's case, especially when delving into the issue of Porter's charges and plea agreement may well have presented the jury with additional evidence supporting the charges against defendants. We conclude that Micheline has not overcome the presumption of trial strategy. [Dunigan](#), 299 Mich. App. at 589-590.

Micheline also argues that Seibert alleged in her PPO application that Porter assaulted and physically restrained her during this encounter, and that this evidence should have been presented to impeach Seibert's trial testimony. We conclude that Micheline was not deprived of a substantial defense. Micheline and Jeremiah both testified that Porter physically assaulted and restrained Seibert. Further, Seibert's statements in the PPO application are similar to the statements she made to the police and at her preliminary examination. Seibert's preliminary examination testimony and police reports were admitted as impeachment evidence at trial, and Seibert was cross-examined concerning discrepancies in her testimony. The PPO application would have been cumulative of this other evidence that was presented, and there is no reason to believe that its admission would have changed the outcome of the proceedings. We conclude that defense counsel was not ineffective for not seeking to admit this evidence. See [People v. Carbin](#), 463 Mich. 590, 603-604; 623 N.W.2d 884 (2001) (concluding that trial counsel was not ineffective for failing to present cumulative evidence).

### III. DOCKET NO. 344240

#### A. INEFFECTIVE ASSISTANCE OF COUNSEL

Jeremiah argues that his trial counsel was ineffective in advising him to reject a plea offer before trial, and also for failing to request a jury instruction on defense of others. We disagree.

Jeremiah asserts that his trial counsel advised him to reject the prosecution's offer, made prior to the preliminary examination, to plead guilty to misdemeanor assault and

battery in return for dropping the felonious assault charge. Jeremiah also contends that his counsel failed to advise him that rejecting the offer risked the prosecution pursuing additional felony charges, which indeed occurred when the prosecution added the home invasion charge at the conclusion of the preliminary examination.

\*6 As discussed, the trial court found, after the *Ginther* hearing, that Jeremiah's trial counsel was not ineffective. We agree with the trial court. After reviewing the record of the hearing, we cannot say that the trial court's factual findings were clearly erroneous. *Trakhtenberg*, 493 Mich. at 47. At the hearing, Jeremiah's trial counsel testified that he explained to Jeremiah before the preliminary examination that the prosecution could possibly add more charges after the preliminary examination, and that there may be no further plea offers after that date. Counsel testified that he told Jeremiah that "we would have a very good case based on the circumstances in the police report" but did not tell Jeremiah he was guaranteed to win at trial. Jeremiah was also familiar with the plea-bargaining process, as he had accepted a plea offer in an earlier, unrelated prosecution. While there was some conflicting testimony at the evidentiary hearing, the trial court's factual conclusions are entitled to deference. *People v. Geno*, 261 Mich. App. 624, 529; 683 N.W.2d 687 (2004). We conclude that Jeremiah has failed to establish that his counsel's performance fell below an objective standard of reasonableness. See *Lafler v. Cooper*, 566 U.S. 156, 163; 132 S. Ct. 1376; 182 L. Ed. 2d 398 (2012); *Trakhtenberg*, 493 Mich. at 51.

Jeremiah also argues that his counsel should have requested a jury instruction on defense of others, based on his theory that he had acted to protect Micheline. As discussed with regard to Micheline, Jeremiah cites no authority for the assertion that defense of others is available as a defense to home invasion. With regard to that charge, his counsel was not ineffective for failing to raise a novel argument. *Crews*, 299 Mich. App. at 400. With regard to the felonious assault charge, a defendant cannot claim self-defense or defense of others if he was the initial aggressor. *People v. Riddle*, 467 Mich. 116, 119, 120 n. 8; 649 N.W.2d 30 (2002). Porter testified that Jeremiah threatened to kill him while defendants pounded on his windows and doors; according to Porter, after Micheline broke the door and he hit her with the ashtray, Jeremiah "came at" him, causing Porter to respond by punching him, to which Jeremiah responded in turn by grabbing a knife and attempting to stab Porter. By contrast, Jeremiah testified that he came into the home after hearing Micheline kick in the

door, and found her lying on the ground in the midst of a seizure. Jeremiah testified that Porter began punching him, but that Jeremiah did not respond to the attack. Rather, he attended to Micheline. At some point, he picked up a knife and asked Porter to stop fighting and let them leave, which Porter did. Neither version of events supports the claim that Jeremiah was defending Micheline from "the imminent unlawful use of force" by Porter. *MCL 780.972(2)*. There is no indication, under either version of events, that Micheline was under any threat of physical assault by Porter at the time Jeremiah gained possession of the knife.<sup>9</sup> In any event, as discussed in Docket No. 343818, there is, at a minimum, serious doubt as to whether a defendant in Jeremiah's situation could claim that he was somewhere he had "the lawful right to be" after invading a dwelling. We conclude that Jeremiah's counsel was not ineffective for failing to request this instruction.

## B. SENTENCING

Jeremiah's also argues that his out-of-guidelines sentence<sup>10</sup> for first-degree home invasion is disproportionate. We disagree.

\*7 Challenges to the proportionality of a defendant's sentence must be reviewed for reasonableness. *People v. Lockridge*, 498 Mich. 358, 365; 870 N.W.2d 502 (2015). We review for an abuse of discretion the reasonableness of a trial court's out-of-guidelines sentence. *People v. Steanhouse*, 500 Mich. 453, 471; 902 N.W.2d 327 (2017). An abuse of discretion exists if the results are outside the range of reasoned and principled outcomes. *People v. Feezel*, 486 Mich. 184, 192; 783 N.W.2d 67 (2010).

When reviewing an out-of-guidelines sentence for reasonableness, we must review "whether the trial court abused its discretion by violating the principle of proportionality set forth in [*People v. Milbourn*, 435 Mich. 630, 461 N.W.2d 1 (1990)]." *Steanhouse*, 500 Mich. at 477. A trial court abuses its discretion "in applying the principle of proportionality by failing to provide adequate reasons for the extent of the [out-of-guidelines] sentence imposed ...." *Id.* at 476. However, our Supreme Court has cautioned us that the principal of proportionality does not require a trial court to "sentence defendants with mathematical certainty." *People v. Smith*, 482 Mich. 292, 311; 754 N.W.2d 284 (2008). "Nor are any precise words necessary" for a trial court to justify a particular departure; rather, the trial court's reasoning must be "sufficiently detailed to facilitate appellate

review.” *Id.* Our Supreme Court has held that the sentencing guidelines are now “advisory only,” *Lockridge*, 498 Mich. at 365, or “merely advisory,” *id.* at 395 n. 31. To be sure, they “remain a highly relevant consideration in a trial court’s exercise of sentencing discretion that trial courts must consult and take ... into account when sentencing.” *Id.* at 391. But our Supreme Court has emphasized that “the key test is whether the sentence is proportionate to the seriousness of the matter, not whether it departs from or adheres to the guidelines’ recommended range.” *Steanhouse*, 500 Mich. at 475, quoting *Milbourn*, 435 Mich. at 661. And the Court has specifically disavowed “dicta in our proportionality cases [that] could be read to have urg[ed] that the guidelines should almost always control” and that thus could be interpreted as “creating an impermissible presumption of unreasonableness for sentences outside the Guidelines range.” *Steanhouse*, 500 Mich. at 474 (quotation marks and citations omitted; second alteration in original). The *Steanhouse* Court also specifically disavowed the statement in *Milbourn* that departure sentences should “ ‘alert the appellate court to the possibility of a misclassification of the seriousness of a given crime by a given offender and a misuse of the legislative sentencing scheme.’ ” *Id.*, quoting *Milbourn*, 435 Mich. at 659. “Rather than impermissibly measuring proportionality by reference to deviations from the guidelines, our principle of proportionality requires ‘sentences imposed by the trial court to be proportionate to the seriousness of the circumstances surrounding the offense and the offender.’ ” *Steanhouse*, 500 Mich. at 474, quoting *Milbourn*, 435 Mich. at 636. See also *People v. Walden*, 319 Mich. App. 344, 352; 901 N.W.2d 142 (2017); *People v. Dixon-Bey*, 321 Mich. App. 490, 532-533; 909 N.W.2d 458 (2017) (Boonstra, J., concurring in part and dissenting in part).

Many factors may be relevant to a sentence’s proportionality, including but not limited to:

\*8 (1) the seriousness of the offense; (2) factors that were inadequately considered by the guidelines; and (3) factors not considered by the guidelines, such as the relationship between the victim and the aggressor, the defendant’s misconduct while in custody, the defendant’s expressions of remorse, and the defendant’s potential for rehabilitation. [*People v. Lawhorn*, 320 Mich. App. 194, 207; 907 N.W.2d 832 (2017).]

When reviewing sentences for reasonableness, the sentencing guidelines should be used “as an aid when doing so assists in determining whether a sentence is proportionate.” *Dixon-Bey*, 321 Mich. App. at 531. The sentencing guidelines, as

calculated by the trial court, called for a minimum sentence of 72 to 180 months (i.e., 6 to 15 years) for first-degree home invasion.<sup>11</sup> The trial court, however, sentenced Jeremiah to a term of 25 to 40 years’ imprisonment. The trial court cited a number of factors in imposing this out-of-guidelines sentence: (1) that it did not find Jeremiah’s testimony credible and that it believed Jeremiah had “repeatedly perjured” himself during trial, (2) that Jeremiah had a history of violent behavior and serious offenses, including prior convictions for domestic violence and criminal sexual conduct, (3) that Jeremiah had violated probation in the past, (4) that Jeremiah was involved in assaultive behavior while in jail awaiting sentencing,<sup>12</sup> (5) the trial court’s belief that what occurred on November 18, 2017 was “a calculated event” and not an instance in which Jeremiah was attempting to rescue anyone, and (6) the trial court’s belief that had Micheline not been in need of help, Jeremiah would have done much worse to Porter. The trial court also noted that Porter had alleged that he was threatened by an unidentified person after trial, and that if Jeremiah was in any way responsible for those threats, he would be held responsible. Ultimately, the trial court explained:

For all the reasons I’ve just stated, your long violent history; your lack of self[-]control, even incarcerated; your lack of ability to control your violent tendencies; it’s my intention to exceed the sentencing guidelines. I don’t have to justify that as I did in the past. But I certainly think there are clear and convincing reasons, compelling reasons to exceed the sentencing guidelines. Given your history, your habitual supplement here, your habitual 3rd offender, almost all of your criminal history is violent, and that violence continues even after this conviction.

So I am going to sentence you to the Michigan Department of Corrections for 300 to 480 months, that’s 25 to 40 years ....

Jeremiah generally argues that many of the trial court’s cited factors were accounted for by the sentencing guidelines; however, the specific argument Jeremiah makes is that the trial court could have accounted for his assault on another inmate in jail by assigning 25 points to Offense Variable (OV) 19, MCL 777.49(a), as conduct that threatened the security of a penal institution. He offers no analysis of the issue, and has thus abandoned the argument. *People v. McGraw*, 484 Mich. 120, 131 n. 36; 771 N.W.2d 655 (2009). Further, it is not clear that the trial court could have assessed any points under OV 19. In *People v. Carpenter*, 322 Mich.



App. 523, 526-527, 530-531; 912 N.W.2d 579 (2018), this Court stated that “*even if a fight between inmates might be found insufficiently related to the security of the penal institution at large*, [the] defendant’s retaliatory attack on an inmate who he believed had informed on him definitely threatened the security of the jail ....” (Emphasis added). In contrast to the assault in *Carpenter*, an unexplained assault on another inmate, without more, is not necessarily sufficient to assign 25 points to OV 19. Consequently, it is not clear that the sentencing guidelines are capable of taking into account Jeremiah’s assaultive conduct while in jail. Jeremiah makes no other specific arguments concerning the factors cited by the trial court being accounted for by the sentencing guidelines.

\*9 The record shows that the trial court explained at length the reasons for the out-of-guidelines sentence it imposed. The trial court noted Jeremiah’s long history of violence, including that fact that he had in at least one case pleaded to domestic violence in return for the dismissal of a charge of assault by strangulation. It noted that Jeremiah had continued to be violent in jail and had made the comment, “I’ve got nothing to lose.” The trial court also noted that alternative methods such as probation had failed in the past. In sum, the trial court concluded, based on the evidence, that Jeremiah was extremely prone to violence, lacked the ability to control himself regardless of his situation (including being imprisoned or on probation), and was, as the trial court put it, “a ticking time bomb.”

At oral argument, the prosecution acknowledged that to the extent the trial court based its holding on its belief that Jeremiah had offered perjured testimony, that constituted error. The prosecution also noted that the trial court may have suggested that Jeremiah was armed when he entered Porter’s home, although the evidence at trial showed that Jeremiah had armed himself with a knife from Porter’s kitchen.<sup>13</sup> Because Jeremiah did not object to the trial court’s use of allegedly inaccurate information at sentencing, this issue is not preserved for appeal. *People v. Phillips*, 227 Mich. App. 28, 38; 575 N.W.2d 784 (1997). And, because Jeremiah did not raise these objections on appeal, we need not consider them. See *People v. Stanaway*, 446 Mich. 643, 694; 521 N.W.2d 557 (1994). Nonetheless, in the interest of fairness to Jeremiah, we will consider the issues raised by the prosecution at oral argument. We find no error requiring reversal.

Our Supreme Court has stated that a trial court may not punish a defendant for perjury by increasing his sentence on the underlying offense; however, a trial court may consider a defendant’s perjury in the context of determining his rehabilitative potential, if the record contains a “rational basis for the trial court’s conclusion that the defendant’s testimony amounted to wilful, material, and flagrant perjury.” *People v. Adams*, 430 Mich. 679, 693; 425 N.W.2d 437 (1988). At sentencing, the trial court stated that Jeremiah had been “evasive” and unable to answer some of its questions at trial, and told Jeremiah that his “story” had “a lot of holes.” The trial court then stated that the witness testimony at trial supported its conclusion that, contrary to Jeremiah’s testimony, “this was a calculated event” and “nobody needed rescuing;” the court cited to Porter’s and Seibert’s testimony that Seibert was not being held captive, had access to her car, and could have left the premises any time she wanted. The court then concluded that Jeremiah had “repeatedly perjured” himself.

\*10 We conclude that the record contained a rational basis for the trial court’s conclusion as articulated. *Id.* The trial court noted specific instances in which Jeremiah testified in direct contradiction to other witnesses. Having waived his right to remain silent and chosen to testify, Jeremiah was required to testify truthfully; “there is no right, constitutional or otherwise, to testify falsely[.]” *Id.* at 694. And the trial court could consider Jeremiah’s willingness to give false testimony in determining his potential for rehabilitation. *Id.* at 693.

Regarding the trial court’s statement that Jeremiah was armed with a knife when he entered the house, the trial court said to Jeremiah, “I believe what Mr. Porter says that this was probably planned, because you went there loaded for bear, you walked in the backdoor [sic], you busted in the backdoor [sic], and you immediately began assaulting Mr. Porter. You had a knife in your hand.” It is not clear from context whether the trial court’s use of the colloquialism “loaded for bear” specifically referred to Jeremiah being armed when he entered the home, rather than merely meaning “being prepared for a fight.” Moreover, because Jeremiah did, at some point during the encounter, have a knife in his hand, it is not clear whether the trial court actually erroneously believed that Jeremiah was armed with a knife when he entered the home. In any event, even if the trial court misstated a portion of the evidence presented at trial, we find that error to be harmless. The trial court noted several other pieces of evidence that led it to believe that Jeremiah had planned to do violence to Porter before the encounter and it is unlikely, based on the record as a

whole, that its conclusion would have been altered had it been reminded that Jeremiah had obtained a knife from the kitchen rather than bringing it with him. See *People v. Lee*, 434 Mich. 59, 86; 450 N.W.2d 883 (1990), citing MCR 2.613(A).

Given the evidence on the record,<sup>14</sup> we conclude that the trial court articulated sufficient support for the out-of-guidelines sentence it imposed, and further that the trial court acted within its discretion and imposed a reasonable sentence, *Lockridge*, 498 Mich. at 365, that was proportionate to the seriousness of the circumstances surrounding the offense and the offender, *Steanhouse*, 500 Mich. at 460. See also *Walden*, 319 Mich. App. at 353-354.

Affirmed in both dockets.

*Letica*, J. (concurring in Docket No. 343818; concurring in part and dissenting in part in Docket No. 344240). In Docket No. 343818, I concur in the decision to affirm Micheline Leffew's conviction and sentence. In Docket No. 344240, however, I concur in the decision to affirm Jeremiah Leffew's convictions, but conclude that his sentence is disproportionate; therefore, I would reverse and remand for resentencing.

I agree with the standard of review as set forth in the majority opinion. When deciding whether a departure sentence is more proportionate than a guidelines sentence, this Court should consider: "(1) whether the guidelines accurately reflect the seriousness of the crime, ... (2) factors not considered by the guidelines, ... and (3) factors considered by the guidelines but given inadequate weight[.]" *People v. Dixon-Bey*, 321 Mich. App. 490, 525; 909 N.W.2d 458 (2017) (citations omitted). On appeal, Jeremiah contends that the trial court relied on many factors to justify a departure that were already accounted for by the guidelines. Although I agree with the majority's resolution of Jeremiah's contention that his subsequent jail assault could have been scored in OV 19, I nevertheless conclude that Jeremiah's sentence does not satisfy the principle of proportionality.

\*11 The trial court's sentencing decision placed much emphasis on Jeremiah's prior criminal history, but the court did not explain how this history was not adequately reflected by the sentencing guidelines. Were it not for Jeremiah's prior record, the sentencing guidelines would have provided for a minimum sentence range of 21 to 35 months. But because Jeremiah was a third-offense habitual offender, and because

his prior record variable (PRV) score placed him in PRV level D, his minimum sentence range was 71 to 180 months. See MCL 777.63. In other words, Jeremiah's prior record increased the upper end of his minimum sentence range by 145 months, or over 12 years. The trial court failed to explain how that was not adequate to account for his prior record of criminal activity.

Jeremiah also notes that in reference to the applicable sentencing grid, the trial court's sentence exceeds the highest sentence contemplated for any third-offense habitual offender. That is true. If Jeremiah were placed in the highest PRV and OV levels of the applicable grid, his recommended minimum sentence range, as a third-offense habitual offender, would have been 117 to 240 months. MCL 777.63. In other words, the sentencing guidelines—which "embody the principle of proportionality," *Dixon-Bey*, 321 Mich. App. at 524, do not contemplate a 300-month minimum sentence for any third-offense habitual offender convicted of first-degree home invasion. The only way that Jeremiah's 25-year minimum sentence falls within any applicable grid is if he were treated as a fourth-offense habitual offender, and even then, he would have to have either the highest PRV or OV level possible before his sentence would fall within any of the cells of the grid. MCL 777.63. With that in mind, the following passage of *People v. Smith*, 482 Mich. 292, 307-308; 754 N.W.2d 284 (2008), is informative:

It is compelling to compare defendant's departure sentence, 30 to 50 years (360 to 720 months), with the recommended minimum sentences on the applicable sentencing grid. Given [the] defendant's PRV level of C, his recommended minimum sentence could not have been 360 months. The highest recommended sentence on the grid for that PRV level is 225 months. Accordingly, simply comparing [the] defendant's actual minimum sentences to the recommended minimum sentences for offenders with similar criminal histories suggests that [the] defendant's sentences might be disproportionate. [Footnote omitted.]

In the present case, one would need to find a fourth-offense habitual offender with substantially higher OV and PRV scores than Jeremiah before the sentencing guidelines would contemplate the minimum sentence provided by the trial court, and even at that point, Jeremiah's sentence would be near the high end of the range. This clearly "suggest[s] that [Jeremiah]'s sentences might be disproportionate." *Id.* at 308.

In *Smith*, the Court went on to explain:

Moreover, the substantial and compelling reasons on which the judge based his departure were related to the nature of the offense, not to the extent of [the] defendant's criminal history. Put otherwise, the departure reasons pertained to [the] defendant's OV score, not his PRV score. With regard to the OV score, it is theoretically possible for a defendant to receive a total of 590 points for a crime against a person, such as CSC–I. If a defendant has a low PRV score but an OV score over 100, the court may render a proportionate sentence above the highest minimum for someone with a similar PRV score. This is because the Legislature did not contemplate a defendant with such a high OV score, given that it used 100 OV points as the maximum for the grid.

However, that is not the case here, because [the] defendant's OV score is within the lower OV levels on the grid. Thus, the trial judge must explain why the reasons for the departure that he articulated warranted a drastic departure from the highest minimum available for a defendant with a similar PRV score. The burden will be heavy, because the sentence imposed is literally off the charts for a defendant with a criminal background similar to that of this defendant. [*Id.* at 308-309 (footnote omitted).]

\*12 In the present case, instead of the departure being based largely on the characteristics of the offense, it is based mostly on Jeremiah's criminal background. But the Court's observations in *Smith* apply here as well. Jeremiah's PRV score, as well as his OV score, are not so high as to exceed the highest such scores contemplated by the Legislature.<sup>1</sup> Thus, there would be a heavy burden to explain why Jeremiah should be sentenced to the drastic departure sentence he received, given that his sentence is "literally off the charts ...." *Smith*, 482 Mich. at 309.

I further note that because Jeremiah was a third-offense habitual offender, his maximum term of imprisonment is 40 years.<sup>2</sup> Pursuant to MCL 769.34(2)(b), which codifies the rule of *People v. Tanner*, 387 Mich. 683, 690; 199 N.W.2d 202 (1972), Jeremiah's minimum sentence cannot exceed two-thirds of this 40-year maximum. That means that the absolute longest minimum sentence Jeremiah or any other third-offense habitual offender could face for first-degree home invasion is 320 months. Jeremiah's minimum sentence is 20 months shy of that absolute upper limit. In *People v. Milbourn*, 435 Mich. 630, 653-654; 461 N.W.2d 1 (1990), which is the seminal case describing the principle of proportionality, the Court wrote:

With regard to the principle of proportionality, it is our judgment that the imposition of the maximum possible sentence in the face of compelling mitigating circumstances would run against this principle and the legislative scheme. Such a sentence would represent an abdication—and therefore an abuse—of discretion. The trial court appropriately exercises the discretion left to it by the Legislature *not* by applying its own philosophy of sentencing, but by determining where, on the continuum from the least to the most serious situations, an individual case falls and by sentencing the offender in accordance with this determination.

\* \* \*

Where a given case does not present a combination of circumstances placing the offender in either the most serious or least threatening class with respect to the particular crime, then the trial court is not justified in imposing the maximum or minimum penalty, respectively. Accordingly, if the maximum or minimum penalty is unjustifiably imposed in this regard, contrary to the legislative scheme, the reviewing court must vacate the sentence and remand the case to the trial court for resentencing. The discretion conferred by the Legislature does not extend to exercises thereof which violate legislative intent; such exercises are, therefore, an abuse of discretion. [Footnotes omitted.]

In other words, the principle of proportionality ultimately asks the trial court to determine where, on a continuum from the least to the most severe situations, a particular case falls. *Id.* In this case, the most severe sentence possible would have been one of 320 months' to 480 months' imprisonment. The trial court sentenced Jeremiah to nearly this most severe sentence. While Jeremiah's actions and prior record are in no way commendable, I cannot conclude that this case warrants nearly the most severe possible sentence permitted by law.

\*13 Ultimately, there may be some reasons justifying a departure in this case. But it is incumbent on the trial court to explain not only the facts justifying the departure, but also the reasons why the *extent* of the departure is warranted. *Dixon-Bey*, 321 Mich. App. at 525. This is a separate requirement. *People v. Bunch*, — Mich. —; 935 N.W.2d 366 (2019) (Docket No. 159820) (emphasis added) ("On remand, the trial court shall either issue an order articulating why defendant's sentence is warranted, *including the extent of the departure*, or resentence the defendant."). Here, the

trial court's reasoning relied largely on his prior criminal record, but the trial court failed to explain why it believed Jeremiah's prior criminal history was not adequately taken into account by the sentencing guidelines and his habitual offender enhancement. The trial court imposed a minimum sentence that is five years longer than anything contemplated by the applicable sentencing grid for a third-offense habitual offender. The sentence was also near the very limit that could possibly be imposed against any third-offense habitual

offender convicted of first-degree home invasion. I conclude that the sentence is unreasonable, as it does not comport with the principle of proportionality. Accordingly, I would remand for resentencing in Docket No. 344240.

#### All Citations

Not Reported in N.W. Rptr., 2020 WL 1816002

#### Footnotes

- 1 *People v. Leffew*, unpublished order of the Court of Appeals, entered June 17, 2019 (Docket Nos. 343818 and 344240).
- 2 Because defendants share the same surname, we will refer to them individually by their first names.
- 3 Knezevich and Siebert later married.
- 4 Micheline testified that she suffers from [epilepsy](#).
- 5 *People v. Ginther*, 390 Mich. 436; 212 N.W.2d 922 (1973).
- 6 *People v. Jeremiah James Leffew*, unpublished order of the Court of Appeals, entered January 24, 2019 (Docket No. 344240).
- 7 *People v. Micheline Nicole Leffew*, unpublished order of the Court of Appeals, entered March 12, 2019 (Docket No. 343818).
- 8 Further, although Micheline states in a footnote on appeal that "instructions on duress and necessity may also have been warranted," she fails to develop this argument and has abandoned it. See [McIntosh v. McIntosh](#), 282 Mich. App. 471, 484; 768 N.W.2d 325 (2009).
- 9 Jeremiah does not argue that his counsel was ineffective in failing to request an instruction regarding self-defense, which in any event would suffer from the same issues concerning Jeremiah's status as the initial aggressor and his lack of legal right to be in Porter's home.
- 10 Historically, minimum sentences that exceeded the range of sentences recommended by the sentencing guidelines have been referred to as "departure sentences." However, in light of the fact that the sentencing guidelines are now advisory (although still relevant to a trial court's sentencing determination), we believe it more accurate to refer to the challenged sentence as an "out of guidelines sentence" because the framework for reviewing such sentences post-[People v. Lockridge](#), 498 Mich. 358, 365; 870 N.W.2d 502 (2015), differs significantly from that which existed when the sentencing guidelines were mandatory. See [People v. Lampe](#), 327 Mich. App. 104, 133-135; 933 N.W.2d 314 (2019) (Boonstra, J., concurring); see also [People v. Odom](#), 327 Mich. App. 297, 301-303, 307, 309-310; 933 N.W.2d 719 (2019) (referring to the defendant's sentence as an "out-of-guidelines sentence").
- 11 Jeremiah did not contest the scoring of the guidelines variables at sentencing, and does not do so on appeal.
- 12 The presentence investigation report indicates that Jeremiah punched another inmate in the face, for no apparent reason, causing facial injuries that would have required medical treatment had the inmate been willing to receive treatment.
- 13 The prosecution also offered that the trial court had not allowed Jeremiah to respond to its statements that (1) Jeremiah had a previous conviction for domestic violence that was the result of a plea bargain from a charge of assault by strangulation and (2) that Porter had been the subject of threats. On our review of the record, however, Jeremiah did not object to the trial court's statement regarding his previous conviction, and in fact his defense counsel had stated earlier that the Department of Corrections had made "a truthful and accurate report" (i.e., the presentence investigation report (PSIR)). The PSIR contained the information that Jeremiah had previously been charged with assault by strangulation and had pleaded to domestic violence with the assault charge dropped. The record indicates that the trial court relied on accurate information in making this statement. [Phillips](#), 227 Mich. App. at 38. Regarding the threats allegedly made to Porter, the trial court did not ascribe those threats to Jeremiah; rather, it merely stated that *if* anything happened to Porter, the trial court would make sure Jeremiah answered for it. Jeremiah responded, "I have no knowledge of anything like that." Although the trial court did not permit further colloquy on the subject, there is no evidence that the trial court relied on these threats in imposing its out of guidelines sentence, or that it made a factual finding to which Jeremiah should have been permitted to object.



- 14 Although the trial court did not reference it explicitly at sentencing, Porter testified at trial to a previous incident a few days before the events of November 18 in which Jeremiah picked up a knife during an argument with Porter and “lunged” at him “two or three times,” prompting Porter to call the police. It does not appear that any charges were filed as a result of this incident, possibly because, as Porter stated, he did not inform the police that a knife was involved.
- 1 The applicable sentencing grid, [MCL 777.63](#), ends at 75 points for both the OV and PRV levels. Jeremiah's OV score was 35 points, the lowest score possible to be placed in OV Level IV, and his PRV score was 30 points, five points higher than the lowest score possible to be placed in PRV Level D. [MCL 777.63](#).
- 2 Pursuant to [MCL 750.110a\(5\)](#), first-degree home invasion is punishable by a maximum term of 20 years' imprisonment. Because Jeremiah is a third-offense habitual offender, this 20-year maximum is doubled. [MCL 769.11\(1\)\(a\)](#).

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