

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of General Sessions

The Honorable R. Markley Dennis, Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2019-000511

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

AARON MCKENZIE CAPERS,

APPELLANT.

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
2 COUNTY OF BERKELEY) CASE NO. 2018-GS-08-00528-0032

3 STATE OF SOUTH)
4 CAROLINA,)
5 Plaintiff,) Transcript of Record

6 vs.)
7 AARON MCKENZIE CAPERS,) Date: March 18, 2019 -
8 Defendant.) March 21, 2019

9 * * * * *

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11 B E F O R E:

12 The Honorable R. Markley Dennis

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20 Denise J. Lauder, RPR

21 Ninth Judicial Circuit

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1 direct indictment on that particular situation,
2 obviously, that is what controls the warrant, but,
3 clearly, the warrants were dated 12/23/17. They're
4 on file.

5 The timing of it, the officers will
6 testify to that, I'm sure, during the trial as to
7 what time these things occurred. And I find,
8 therefore, that while they may have -- technically,
9 I guess, you could argue he was under arrest, but
10 nothing was obtained and nothing was gleaned from
11 that period of time, other than his presence.

12 And they have a right to make -- find
13 out he's there because they're there to execute a
14 warrant, but, clearly, the search warrant was
15 served on him and a search performed after he was
16 lawfully under arrest. So your motion is denied.

17 MS. CAPERS: Okay.

18 THE COURT: All right. What's the next
19 motion? There was a motion concerning the felony
20 solicitation of murder.

21 MS. CAPERS: Oh, yes, sir, Your Honor,
22 in reference to these letters.

23 THE COURT: Yeah, I've already ruled on
24 that. I'm not going to allow that to be tried, but
25 I think it's State v. Edwards is the case that says

1 it's relevant evidence. And I understand your
2 objection concerning the probative value is
3 outweighed by the prejudice, at the appropriate --
4 I'm -- at this point, I'm going to tell you that
5 I'm going to follow Edwards, but I haven't heard
6 the testimony.

7 At that point, I will make the 403
8 analysis as I'm required to do at the appropriate
9 time.

10 MS. CAPERS: Yes, sir, Your Honor.
11 Just one addition to that.

12 THE COURT: Sure.

13 MS. CAPERS: The letters were -- there
14 was an order for a handwriting exemplar that was
15 filed, I believe, in May of this year. Prior to
16 that time, however, Your Honor, the State had
17 already without a warrant seized the writings that
18 belonged to the defendant and sent them to SLED
19 three separate times before -- before getting the
20 handwriting exemplar.

21 THE COURT: So what?

22 MS. CAPERS: They were -- I believe
23 they were required to get an order. I think the
24 defendant has a reasonable expectation --

25 THE COURT: A reasonable expectation of

1 privacy issuing a letter that -- how did you --

2 You will testify about the letter,

3 obviously --

4 MS. WILLIAMS: Yes, Your Honor. Just
5 for the record --

6 THE COURT: There's going to be
7 testimony about that.

8 MS. WILLIAMS: Yes, sir. There's 25
9 letters. The first eight he gave to a confidential
10 informant who then turned them over to the police
11 before the police were even involved. We're only
12 offering those letters.

13 There's also tape recordings, because
14 he was wired by the FBI, of the defendant offering
15 to -- asking him to kill. And we're not offering
16 any of that.

17 We are just offering the letters that
18 really are just statements about the crime; that's
19 the map of the victim's house, the letters that say
20 I robbed her at daylight. We are restricting the
21 evidence and trying to follow the Court's order and
22 not get into the solicitation.

23 Because there's a lot of letters about
24 the transfer of the money. There's actually a
25 transfer of a car and money. We're not getting

1 into any of that.

2 THE COURT: Let me just say this:
3 Based on Edwards, I don't know we get into it --
4 possibly could be, because I've allowed it. I
5 allowed it in a case in Charleston that -- where
6 the guy threatened the witness from jail. Had
7 somebody to -- and that testimony was admitted. As
8 I understand, you're not going there.

9 MS. WILLIAMS: To the extent the
10 letters talk about the solicitation of murder,
11 but --

12 THE COURT: Again, I can't rule in a
13 vacuum. I will tell you that my rulings will be
14 consistent. Anything that suggests that this
15 person -- this witness was to be threatened,
16 removed, I believe that the evidence has -- and
17 goes to support the inference that -- guilt, as
18 Edwards -- Edwards clearly sets that forth.

19 But, again, I will make that ruling at
20 the appropriate time.

21 MS. WILLIAMS: Yes, Your Honor. I
22 think we argued consciousness of guilt, and that's
23 what Edwards speaks to.

24 THE COURT: That's correct.

25 MS. CAPERS: Yes, sir. My issue is not

1 with the letter itself. What I'm talking about is
2 the expert analysis.

3 THE COURT: The expert analysis I have
4 already ruled on.

5 MS. CAPERS: You qualified him as an
6 expert.

7 THE COURT: I did. And I assume he's
8 going to testify.

9 MS. CAPERS: Yes, sir, Your Honor.

10 THE COURT: All right. So what's your
11 objection now about that?

12 MS. CAPERS: I don't have an objection
13 to him being qualified as an expert, Your Honor.
14 My objection is that the State -- they cannot match
15 the writings when they sent it off the first time.

16 THE COURT: That's great
17 cross-examination. It has nothing to do with his
18 testimony and admissibility, Mrs. Capers. Thank
19 you. Appreciate that.

20 All right. What is your next motion?

21 MS. CAPERS: I don't have another
22 motion.

23 THE COURT: All right. Let's be sure.
24 You stated in your e-mail that none of these were
25 ruled on. I think I've ruled on everything, but

1 number after six tonight. Thank you.

2 PROSPECTIVE JUROR: Thank you, sir.

3 THE COURT: Any others?

4 Thank you. There appear to be none.

5 Mr. Capers has been accused of several
6 crimes, and I'm going to share with you now what's
7 been alleged. They are set forth in these
8 documents that I hold in my hand. They are what
9 they appear to you to be, pieces of paper.

10 They are called indictments. An
11 indictment is simply a form -- it's a word used to
12 describe formal charges brought against a person.
13 It means nothing else other than they are accused
14 of these.

15 And I need to share with you what has
16 been alleged so that I can ask some questions about
17 it. What I tell you now is not evidence. It
18 should not be considered evidence in any fashion.

19 It's alleged in this indictment that
20 Mr. Capers on December 21st, 2017, did commit
21 sexual battery upon the confidential victim
22 accompanied by one or more of the following
23 circumstances.

24 The defendant used aggravated force to
25 accomplish the battery. The victim submitted to

VOIR DIRE

1 sexual battery under the circumstances where the
2 victim was also the victim of a forcible
3 confinement such as kidnapping, trafficking a
4 person, robbery, extortion, burglary,
5 housebreaking, or other similar offenses.

6 It is further alleged on that
7 particular date and time in Berkeley County, that
8 he committed a crime of armed robbery, in that it
9 is alleged that he used force, threats, or
10 intimidation while armed with a deadly weapon, or
11 while either by action or words he expressed that
12 he was armed, or represented that he was armed with
13 a deadly weapon during the commission of a robbery,
14 and the person -- and the person reasonably
15 believed that he did have a deadly weapon, and he
16 took and carried away goods or monies from the
17 person's immediate presence of this confidential
18 victim with the intent to permanently deprive them;
19 therefore, committed the crime which is prescribed
20 by statute known as armed robbery.

21 It's further alleged on that date and
22 time in Berkeley County, Mr. Capers did unlawfully
23 seize, confine, inveigle, decoy, kidnap, abduct or
24 carry away the victim without authority of law, in
25 violation of the statute describing conduct known

1 as kidnapping.

2 It is further alleged on that day and
3 time, he did enter the dwelling of this
4 confidential victim without consent and with the
5 intent to commit a crime therein, and that he
6 caused physical injury to the person, who was not a
7 participant in the crime, and displayed what
8 appeared to be a knife, pistol, and/or the
9 defendant used a -- threatened to use a dangerous
10 instrument, and was armed with a deadly weapon, in
11 violation of the law describing the conduct known
12 as burglary in the first degree.

13 And it's further alleged on
14 December 21st, the defendant did possess a firearm
15 or display what appeared to be a firearm, or did
16 display a knife during the commission of, or
17 attempted commission of a violent crime: To wit,
18 criminal sexual conduct, first degree, kidnapping,
19 armed robbery, and burglary in the first degree,
20 all of which would violate the law prescribing
21 possession of a weapon during the commission of a
22 violent crime.

23 I share that with you to find out if
24 any member of the jury panel has heard anything,
25 read anything, you have any prior knowledge of this

OPENING STATEMENT BY THE SOLICITOR

1 instruction on the law. We'll talk about the
2 various elements of the crimes and some other
3 principles of law. That's what you will then take
4 and apply when you begin your deliberations.

5 And the charge is important, but also
6 just -- the attorneys' remarks are not evidence,
7 neither should you consider my remarks to be
8 evidence.

9 It's an honor to serve with you, and I
10 appreciate your attention to my remarks and ask you
11 to please give that same attention now to the
12 attorneys as they give their opening statement.

13 Solicitor, you may proceed.

14 MR. ALFARO: Thank you, Your Honor.

15 THE COURT: Yes, sir.

16 MR. ALFARO: *Victim* was born in
17 1936. She was born in Japan. While she lived
18 there, she met her eventual husband who was
19 stationed there in the US Army. They were married,
20 traveled the world, and they settled back in
21 Berkeley County in Goose Creek in 1993.

22 Now, as so often happens in our world
23 and our society when someone is fortunate enough to
24 live 81, 82 years, children grow up and move out.
25 They live with their own families and start their

1 own lives in other places. That's what happened to

2 *Victim*

3 Unfortunately, her husband passed away
4 a few years back. *Victim* was left living alone at
5 *address* in Goose Creek. She lived in that
6 house since 1993. She had been there by herself
7 essentially since 1995.

8 And for anyone that has a mother or a
9 grandmother, or any other family member that
10 reaches that age, you worry when they're living by
11 themselves.

12 Are they going to be able to take care
13 of themselves? Are they going to be safe? Are
14 they going to be all right? Are they just going to
15 be lonely?

16 And some family members, some
17 grandmothers and some mothers, strong-willed,
18 stubborn; they want to live in the house that they
19 are comfortable in. They want to live in the house
20 that the family was in. It's home. And it should
21 be safe, and it should be comfortable.

22 And on December 21st, 2017, Aaron
23 Capers ripped that away from her. See *Victim*--
24 that's what she's known by in the neighborhood --
25 lived by herself. She had a little dog, Peaches;

OPENING STATEMENT BY THE SOLICITOR

1 not much of a guard dog, but her dog.

2 She lived by herself; she gardened; she
3 planted flowers and grew vegetables. She had a
4 comfortable life and she was happy with that. And
5 on that day, again, at 81 years old at the time,
6 she had to run her own errands. She was going to
7 go to the bank.

8 And that generation is a little
9 different than generations now where you just pick
10 up your phone and go to an app and send money to
11 somebody or get money sent to you. And also
12 different where nowadays people are just going to
13 run to the bank, they may go in their sweats or a
14 baseball cap and head out the door.

15 Someone that age, it's something to go
16 out; you get dressed and fix your hair. You get
17 ready to go out; you go see the world and go to the
18 bank and do what she had to do. And as she was
19 getting ready that morning to go to the bank, she
20 hears the doorbell ring. She goes to the door and
21 she doesn't see anybody.

22 She goes to close the door, and that's
23 when Aaron Capers, dressed in black, wearing a
24 mask, a Halloween mask that you will hear the
25 description of, forces his way into her house,

1 grabs this 81-year-old, four-foot something, maybe
2 90-pound woman, and forces her to go into a guest
3 room in her house, he forces her onto the edge of
4 the bed.

5 And it's not enough to force his way
6 into her house, he forces her to perform oral sex
7 on him. He spits on her and he finishes that act
8 and he ejaculates in her mouth. And, again, not
9 enough. She spits out the semen and his DNA into a
10 shirt that he's forced her to take off that's in
11 that room.

12 He forces her to go from that bedroom
13 to her bedroom. Again, not enough. Forces her
14 into a closet while he goes through her dresser
15 drawers looking for money. Doesn't find what he
16 wants. Instead of leaving, because again it's not
17 enough, he takes her into the kitchen where her
18 purse is. He has her take out her change purse and
19 take out her debit card.

20 He asked for the PIN number; she
21 doesn't know it, so, again, not enough to do what
22 he's already done, he tells her that she has to
23 take him to the bank. Now, he does all this while
24 he's armed with a knife that he shows her at
25 various points through this act, and you will hear

OPENING STATEMENT BY THE SOLICITOR

1 the evidence related to that.

2 But she tells him she doesn't know the
3 PIN. He tells her they have to go to the bank.
4 They go out to the garage where her car is parked.
5 As the garage door opens, again, 81-year-old,
6 four-foot-something, barely 90 pounds, strong
7 enough and cognizant enough to know that it's not a
8 good idea.

9 She sees someone drive by; she yells;
10 she waves; he's distracted, and she runs across the
11 street to her neighbor's house at *address*.
12 She gets to the house, she collapses on the floor
13 and she tells them what happened.

14 You will hear from that neighbor. You
15 will hear from EMS -- or the people that called
16 EMS. You will hear from the officers that
17 responded.

18 And while this is going while she's
19 running for help and trying to get to safety, he's
20 running down the road to *address* where his
21 dad lives, where he lives at times.

22 There are people in the neighborhood
23 that you will hear testimony from, kids that saw
24 him running down that road, running directly to
25 *address* where he's found.

OPENING STATEMENT BY THE SOLICITOR

000018

1 And you will hear evidence later on
2 that they do a search of that house, and they find
3 the mask that's very vividly described and matches
4 that description. And you will hear that testimony
5 how it's found at the defendant's father's house.

6 When the officers arrive, *Victim* is able
7 to tell them what happened. The officer has the
8 presence of mind to do a swab for DNA in her mouth
9 because they know he ejaculated into her mouth.

10 And you are going to hear testimony
11 through the course of this trial from the scientist
12 that analyzed Mr. Capers' DNA, the shirt that the
13 semen was spit into, as well as the swabs that were
14 taken of her mouth. And you will hear evidence, we
15 expect, from those scientists that will tell you it
16 matches his and they will tell you that it couldn't
17 be anybody else's.

18 That's what you are going to hear
19 during the course of this trial. It's not easy to
20 hear. It's not easy to say, but, unfortunately,
21 that is what he did to her on December 21, 2017.

22 And, again, as if that's not enough,
23 what he did isn't enough, what I told you to expect
24 to hear isn't enough, you are also going to hear
25 how her debit card was used by someone identified

OPENING STATEMENT BY THE SOLICITOR

1 as him in North Charleston hours after this
2 happened.

3 And, again, as if that's not enough,
4 you will hear while it wasn't enough for her to go
5 through what she went through and to leave her
6 suffering with what he did to her wasn't enough.
7 You are going to hear how he took the step to cover
8 what he did by trying to have her killed.

9 You are going to hear testimony from
10 the person that he gave letters to, descriptions of
11 the house and other things that only the person
12 that had been there would know how he wanted her
13 gone because she was a victim and she was a
14 witness.

15 That's what you are going to hear from
16 that witness stand. And as Judge Dennis told you,
17 what I'm telling you is not evidence. What I'm
18 telling you you are going to hear is evidence. And
19 through the course of this trial, you are going to
20 hear things like that that you are going leave you
21 firmly convinced at the end that Aaron Capers is
22 guilty beyond a reasonable doubt of all of the
23 crimes he's charged with.

24 Not appearances, not assumptions, not
25 inferences; facts, evidence, science, testimony.

OPENING STATEMENT BY THE SOLICITOR

000020

1 You're going to hear that.

2 And at the end of this case, you will
3 be firmly convinced that the State has met our
4 burden of proof and proved to you beyond a
5 reasonable doubt that he's guilty of burglary first
6 degree, because we will prove to you that he forced
7 his way into her home, he committed that sexual
8 battery on her in that home, and he did it while he
9 had a knife in his possession that she was shown
10 and knew about.

11 We will prove to you beyond a
12 reasonable doubt he's guilty of armed robbery
13 because he took her debit card and her change while
14 armed with that knife that she knew he had forcing
15 her to comply with what he told her and what he did
16 to her.

17 We will prove to you beyond a
18 reasonable doubt that he's guilty of every element
19 of criminal sexual conduct, first degree, when he
20 forced his way into her house, committed that
21 sexual battery by forcing her to perform oral sex
22 on him while armed with this knife while committing
23 that burglary.

24 And we will prove to you beyond a
25 reasonable doubt that he's guilty of kidnapping

OPENING STATEMENT BY THE DEFENSE

1 because any one of those acts can be kidnapping,
2 forcing someone inside a house to not be able to
3 move, forcing them into one bedroom to commit that
4 act, forcing them into a closet, and then forcing
5 them into a kitchen to get money from their purse.
6 All of that is kidnapping.

7 He's guilty of every single element of
8 every one of those offenses that you are going to
9 hear from the judge at the end of the case. And
10 he's guilty of possession of a weapon, knife,
11 during the commission of those violent crimes.

12 Now, ladies and gentlemen, again, it's
13 not easy to hear; it's not easy to say; it's not
14 going to be easy for anyone in this room, including
15 the witnesses, including the victim who testify
16 about it, but it's the evidence of the case and,
17 most importantly, it's what he did to *Victim* on
18 December 21, 2017.

19 THE COURT: Ms. Capers.

20 MS. CAPERS: May it please the Court.

21 THE COURT: Yes, ma'am.

22 MS. CAPERS: Counsel, members of the
23 jury.

24 They made a decision. They made a
25 decision and then they made a conviction. They

OPENING STATEMENT BY THE DEFENSE

1 came under the color of darkness and under the
2 color of law kicking in doors before sunrise to get
3 something to match what they had already taken from
4 someplace else.

5 When you review -- when you listen to
6 the police in this case, they will establish that.
7 This is not a probable cause. Everything they did
8 was to make sure that they could prove that Aaron
9 Capers did something because it seemed that way.

10 They told you they found the mask.
11 They're probably not going to tell you that they
12 found seven of them in the Halloween closet.
13 They're probably going to try to minimize a lot of
14 the other facts that really just -- they go
15 together, but they really -- they make a picture.

16 And I'm going to tell you, to go off
17 base a little bit, one of my funniest and fondest
18 memories is of my great-grandparents.

19 When I was really little, one of the
20 things that we would do, because it was a long time
21 ago, was sit in the living room and we would put
22 together puzzles. And my great-grandfather would
23 get to a point in the puzzle where he couldn't
24 figure out where something would go.

25 And he would actually pick up the

OPENING STATEMENT BY THE DEFENSE

1 piece, look at it, take a pair of scissors and put
2 it where it needed to go. Because no matter what
3 happened, he was going to finish that puzzle.

4 The picture is ugly. Just like a
5 puzzle; they don't look anything like the box. The
6 picture is going to be ugly. There is no question
7 about that. It's going to look a lot like maybe he
8 did it, but you're not going to see him.

9 And you're not going to see him,
10 because Ms. *Victim* did not see him. The boys in
11 the neighborhood did not see him. No one saw him.
12 The descriptions are wrong. They don't know
13 whether the -- they don't know who was under that
14 mask. They just don't know.

15 But I'm going to tell you, they had
16 Aaron's DNA. And when you listen to the testimony,
17 you're going to figure out how they got it.
18 Because Aaron is 18 years old -- or he's 19 now.
19 He was 18 years old at that time. He was home from
20 his first ever spring break -- or Christmas break
21 from college.

22 His girlfriend was scheduled to come to
23 his dad's house to spend the night within two hours
24 of this happening. And they are telling you that
25 -- his and his girlfriend will be here.

OPENING STATEMENT BY THE DEFENSE

1 They are telling you that with him
2 knowing that his girlfriend was going to arrive
3 within two hours, he made the decision to leave his
4 dad's house, put on a mask, rob and sexually
5 assault an 81-year-old woman.

6 That doesn't even make sense. Doesn't
7 make sense. Now, Aaron is a good kid, but he has
8 -- he's like every other kid. And you know what
9 he's finding out right now? He is finding out
10 right now how much a free credit card really costs.
11 That's what he's finding out right now.

12 We have nothing to prove to you, and
13 it's a good thing because some things you just
14 can't prove. You just kind of know. And you can
15 tell by the way people are doing things that they
16 know.

17 The State has the burden of proof in
18 this case. And they have to establish beyond a
19 reasonable doubt that Aaron Capers did, in fact,
20 commit this crime. They won't be able to do that.
21 I'm asking you to hear all the evidence, to use
22 your common sense and just think about it.

23 And as I said, the picture is not going
24 to be pretty, but in the end what you won't see is
25 Aaron Capers. Thank you.

Victim - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: Thank you, Mrs. Capers.

2 You may call your first witness, Solicitor.

3 MS. WILLIAMS: Thank you, Your Honor.

4 The State would call *Victim* ..

5 *Victim* ,

6 being first duly sworn, testified as follows:

7 THE CLERK: Please have a seat. State
8 your full name for the record and spell your last
9 name.

10 THE WITNESS: My name is *Victim* .

11

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MS. WILLIAMS:

15 Q. How old are you, Ms. *Victim*?

16 A. Eighty-two.

17 Q. And do you ever go by any other name
18 except *Victim*

19 A. Yes.

20 Q. I'm sorry, *Victim*?

21 A. *Victim*.

22 Q. Okay. And where do you live?

23 A. *address* ..

24 Q. *address* . What city is that in?

25 A. Goose Creek.

Victim - DIRECT EXAM BY MS. WILLIAMS

- 1 Q. And how many children do you have?
- 2 A. Three.
- 3 Q. How many grandchildren do you have?
- 4 A. Six, but one passed away.
- 5 Q. Okay. And how long have you lived in
- 6 your home on ~~address~~?
- 7 A. Since 19 -- 1993.
- 8 Q. Okay. And did you always live -- who
- 9 did you live in that home with?
- 10 A. Now?
- 11 Q. When you first moved in.
- 12 A. My husband.
- 13 Q. And is he still with us?
- 14 A. No. He passed away.
- 15 Q. So who do you live in the home with
- 16 now?
- 17 A. With my puppy.
- 18 Q. What is your puppy's name?
- 19 A. Peaches.
- 20 Q. But just you?
- 21 A. Yes.
- 22 Q. You live alone?
- 23 A. Yes.
- 24 Q. And were you living there on
- 25 December 21, 2017?

~~Victim~~ DIRECT EXAM BY MS. WILLIAMS

- 1 A. Yes.
- 2 Q. And were you home that day?
- 3 A. Yes.
- 4 Q. Did you -- what did you do that
- 5 afternoon?
- 6 A. I was taking care of my cat. I'm cat
- 7 sitting. Are you talking about December 20th?
- 8 Q. Twenty-one.
- 9 A. Yes, taking care of my cat.
- 10 Q. Okay. And whose cat was it that you
- 11 were taking care of?
- 12 A. My neighbor's.
- 13 Q. Do you remember what that cat's name
- 14 was?
- 15 A. Smokey.
- 16 Q. And about what time, if you remember --
- 17 A. Maybe -- maybe two, somewhere around
- 18 there.
- 19 Q. Okay. And after you took care of the
- 20 cat, what did you do?
- 21 A. I went home.
- 22 Q. And what did you do when you got home?
- 23 A. I fixed my hair.
- 24 Q. Fixing your hair?
- 25 A. Yes.

Victim - DIRECT EXAM BY MS. WILLIAMS

1 Q. Where were you when you were fixing
2 your hair?

3 A. In my bathroom.

4 Q. And what happened next?

5 A. The doorbell ring.

6 Q. Okay. And what happened after that?

7 A. I thought it was my neighbor coming
8 home.

9 Q. You thought it was your neighbor --

10 A. Yes, neighbor coming home. Supposed to
11 be coming home.

12 Q. So what did you do when you hear the
13 doorbell ring?

14 A. I opened the door and nobody there, so
15 I tried to close it.

16 Q. And then what happened?

17 A. Then who wear mask with a big face and
18 teeth jump out at me, and the person come in the
19 house.

20 Q. So let's just back up a minute. When
21 you first looked, nobody was there?

22 A. Uh-huh.

23 Q. And then you said you saw someone with
24 a mask?

25 A. Uh-huh.

Victim - DIRECT EXAM BY MS. WILLIAMS

- 1 Q. Can you describe the mask?
- 2 A. Mask was big, kind of dark mask with
- 3 big -- big white teeth. And that's all I
- 4 remembered.
- 5 Q. Big white teeth?
- 6 A. Yes.
- 7 Q. And what type of clothing did the
- 8 person --
- 9 A. Dark.
- 10 Q. Dark clothing. And did you allow the
- 11 person to come in?
- 12 A. Oh, no. I tried to close it, but I
- 13 couldn't.
- 14 Q. And so did that person eventually get
- 15 in?
- 16 A. Yes.
- 17 Q. And what happened after that?
- 18 A. I'm so scared so I fell.
- 19 Q. And where were you when you fell?
- 20 A. By the door.
- 21 Q. By the front door?
- 22 A. Uh-huh, inside the front door.
- 23 Q. And what was the person doing when you
- 24 fell down?
- 25 A. He tried to lift me with my arm.

Victim DIRECT EXAM BY MS. WILLIAMS

1 Q. By both of your arms?

2 A. Yes.

3 Q. And did you ever see his face?

4 A. No. He wear mask.

5 Q. Okay. And did he have anything -- did
6 you see anything that he had with him at that time?

7 A. That time, no.

8 Q. Okay. What did you do after that?
9 What happened next?

10 A. He told me to go to the bedroom.

11 Q. And how many bedrooms are in your
12 house?

13 A. Three.

14 Q. Which bedroom did you go to?

15 A. The guest room.

16 Q. And what happened once you went into
17 the guest room?

18 A. Sit. He -- he undid the pants and --
19 and then he -- he took and he put it in my mouth.

20 Q. He undid whose pants?

21 A. Excuse me?

22 Q. Did he undo his pants or your pants?

23 A. His pants.

24 Q. And where were you -- tell me what
25 furniture is in that room.

Victim DIRECT EXAM BY MS. WILLIAMS

1 A. The bed.

2 Q. And where were you in that room when he
3 was undoing his pants?

4 A. End of the bed I sat.

5 Q. So you were sitting on the bed?

6 A. Yes.

7 Q. And how was he situated?

8 A. He was standing in front of me.

9 Q. Okay. And what clothing did you have
10 on?

11 A. I wear sweats because it was cold.

12 Q. Sweatshirt?

13 A. Uh-huh.

14 Q. And did that sweatshirt remain on you
15 or did it ever come off?

16 A. He took them off.

17 Q. And did he touch anywhere on your body?

18 A. I cannot remember, but maybe he touched
19 breasts one time.

20 Q. Do you remember telling police that he
21 touched you?

22 A. I cannot remember.

23 Q. And what did he do after he undid his
24 pants? You said he put something in your mouth?

25 A. Yes.

~~Victim~~ DIRECT EXAM BY MS. WILLIAMS

- 1 Q. What was that?
- 2 A. He put the penis into my mouth.
- 3 Q. Did he touch his body at all?
- 4 A. I don't remember.
- 5 Q. Okay. And so what happened next?
- 6 A. Then I tried to push it away, so I
- 7 touched his hand. And he told me to no touch the
- 8 hand, and he showed me that he had a knife in the
- 9 pocket.
- 10 Q. He showed you a knife?
- 11 A. Uh-huh.
- 12 Q. What did he say about the knife?
- 13 A. He didn't say anything. He showed the
- 14 knife in the pocket.
- 15 Q. What were you thinking at this point?
- 16 A. I thought I'm going to die.
- 17 Q. And did he ever show you the knife
- 18 again before he left your house?
- 19 A. A couple of times, yes.
- 20 Q. And did you ever worry that you were
- 21 going to be killed or harmed?
- 22 A. Yes.
- 23 Q. Did you ever say that to him?
- 24 A. No.
- 25 Q. Did he ever tell you anything or did he

Victim - DIRECT EXAM BY MS. WILLIAMS

1 just show you the knife?

2 A. Well, maybe I said, maybe one or two
3 times, don't kill me.

4 Q. And what was his response?

5 A. Nothing.

6 Q. So after he began putting his penis in
7 your mouth, did anything come out of his penis?

8 A. Yes, white.

9 Q. And where did that go?

10 A. To my mouth.

11 Q. Did it go anywhere else?

12 A. Around the face.

13 Q. And at that point, were you still
14 unclothed from the top?

15 A. The top, no clothes on.

16 Q. And what happened next?

17 A. Then he -- he finished and he looking
18 for another bedroom because he told me that's a
19 bedroom. And I said, no, that's a guest room.

20 Q. Did he say anything to you about what
21 was in your mouth?

22 A. He told me to swallow it.

23 Q. Did you?

24 A. Some.

25 Q. And what happened to the rest of it?

LISTAK - DIRECT EXAM BY MS. WILLIAMS

1 A. Put it in the sweatshirt. It's on my
2 side, I tried to put it into my mouth and spit it
3 out.

4 Q. So you tried to wipe your mouth?

5 A. Yes.

6 Q. What did you wipe your mouth with?

7 A. The sweatshirt.

8 Q. Was it the same sweatshirt you had had
9 on?

10 A. Yes.

11 Q. What did you do with the sweatshirt?

12 A. When I wipe my mouth, at the same time
13 I run down to the front door. So I dropped it in
14 the hallway.

15 Q. So you dropped the sweatshirt in the
16 hallway?

17 A. Yes.

18 Q. So after you were in the guest room and
19 that was over, what happened after that?

20 A. After that he -- he went to look for my
21 bedroom. He took me into my bedroom and put me in
22 the closet.

23 Q. And when he put you in the closet, did
24 you have a shirt on or no shirt on?

25 A. When I went into closet, no shirt on,

Victim - DIRECT EXAM BY MS. WILLIAMS

1 but I have a sweatshirt right there. I put any
2 shirt I can get, because I'm -- top, I don't have
3 anything.

4 Q. So you put a sweatshirt on --

5 A. Uh-huh.

6 Q. -- in the closet? When you were in the
7 closet, what was he doing?

8 A. He -- he opened the door and looking
9 for something.

10 Q. And did he say anything or did you say
11 anything while this was happening?

12 A. I think he looking for money. I told
13 him I don't have money in there, nothing in there.

14 Q. And so at any point did you try to get
15 away or escape?

16 A. Not at that time.

17 Q. Okay. What happened next?

18 A. Then go look for money in the kitchen
19 in a pocket book. So we went to kitchen, and I
20 took out money and give it to him. I mean, I think
21 he took it. I cannot remember exactly.

22 Q. Okay. What kind of money? Do you know
23 how much was in your --

24 A. I don't know exactly how much, but the
25 paper money, then I have coin. And I dump the coin

Victim - DIRECT EXAM BY MS. WILLIAMS

1 onto my kitchen table, so he took that too.

2 Q. Okay. So you say he took paper money
3 and coins?

4 A. Uh-huh.

5 Q. You're not sure how much money?

6 A. No, I don't.

7 Q. How much do you usually keep?

8 A. I usually keep about \$80 or \$100 close.

9 Q. And you told us that at some point you
10 ran to the front door and dropped the sweatshirt in
11 the hall. When did that happen?

12 A. When he went look for my bedroom.

13 Q. Okay.

14 A. Uh-huh.

15 Q. Tell us about that part.

16 A. So he went to look for my bedroom. I
17 have a chance to clean. At the same time, I run to
18 the front door.

19 Q. Okay. And when you say clean, you mean
20 when you --

21 A. You wipe it off and spit it out,
22 everything else and run at the same time. And --
23 and I tried to open the front door, but I can't do
24 it because his hand is on top of me already.

25 Q. So where was he when you were running

Victim - DIRECT EXAM BY MS. WILLIAMS

1 towards the front door?

2 A. He back of me.

3 Q. And did he -- what did he do to prevent
4 you from leaving?

5 A. To -- to push the door down and take
6 hands out of the doorknob.

7 Q. And is that when you went into the
8 master bedroom?

9 A. Yes.

10 Q. Okay. And into the closet?

11 A. Yes.

12 Q. All right. And so after you went to
13 the kitchen and you gave him the money from your
14 purse and the change from your purse, what happened
15 after that?

16 A. Then he asked me for the bank card.

17 Q. And did you give it to him?

18 A. So I give it to him.

19 Q. And did he ask you for anything else?

20 A. Yeah. He -- he asked for me my PIN
21 number. I don't have one. I know I have it, but I
22 never remember it, so I don't have one. Usually I
23 don't need one.

24 Q. And did you tell him that?

25 A. Uh-huh. I told, usually -- I told him

Victim - DIRECT EXAM BY MS. WILLIAMS

- 1 I just have a bank card; they give me cash back.
- 2 Q. Okay. And what happened after that?
- 3 A. So he said to go to the bank.
- 4 Q. All right. And at this point, what
- 5 part of the house are you in?
- 6 A. It's in kitchen.
- 7 Q. And so where did the two of you go
- 8 next?
- 9 A. So I grabbed the pocketbook to try to
- 10 go through the garage. And he said I don't need a
- 11 pocketbook, so I dropped it to the floor. Then I
- 12 opened the garage door -- I open the garage door
- 13 and if I go in the car, I be done. So meantime my
- 14 friend pass by. So I called his name.
- 15 Q. Uh-huh.
- 16 A. Then I -- if I go, one or two seconds I
- 17 needed time to go across the street. So that's
- 18 what I did.
- 19 Q. Okay. So you called your friend's
- 20 name?
- 21 A. Uh-huh.
- 22 Q. And then you ran across the street?
- 23 A. Yes.
- 24 Q. And do you remember the name of the
- 25 neighbor whose house you ran to across the street?

Victim - DIRECT EXAM BY MS. WILLIAMS

1 A. Excuse me?

2 Q. Do you know the name of the person that
3 you ran to across the street?

4 A. Violet.

5 Q. Okay. And what happened after that?

6 A. My friend Violet, the phone doesn't
7 working. I'm so thirsty I went to the kitchen. I
8 do the dog sitting over there too, so...

9 Q. Okay.

10 A. And I know the lady, so I went into the
11 kitchen and got water. Then I saw my other friend
12 in the cul-de-sac going to the mailbox. So I
13 called his name and I asked for help. That's when
14 he come.

15 Q. You saw another neighbor in the
16 cul-de-sac?

17 A. Uh-huh.

18 Q. At some point does somebody call 911?

19 A. I don't know who called, but somebody
20 did.

21 Q. Okay. And where did you go after you
22 left Violet's house?

23 A. I sit on the front porch because the
24 police officer and the people question me.

25 Q. Okay. When you left the neighborhood

Victim - DIRECT EXAM BY MS. WILLIAMS

1 that day, where did they take you?

2 A. To the hospital.

3 Q. And what happened at the hospital?

4 A. Oh, they get shot and x-ray, all that
5 stuff.

6 Q. An examination?

7 A. Yes, sir.

8 Q. And did you have any other episodes
9 with your health at the hospital?

10 A. No. I got that when he opened the door
11 and I fell. That time my chest is so tight, hurt.
12 So I told him I was going to have a heart attack.

13 Q. Your chest was so --

14 A. Uh-huh.

15 Q. That was when he first came in?

16 A. Uh-huh.

17 Q. Did you have that same experience at
18 any time later?

19 A. Uh-huh. So I told the ambulance
20 people.

21 Q. That you felt like you were going to
22 have a heart attack?

23 A. Yes.

24 Q. And, in fact, did you have a heart
25 attack at --

Victim - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes, I had a heart attack.

2 Q. And do you know Aaron Capers or his
3 family?

4 A. No, I don't.

5 Q. Had you ever met his stepmother?

6 A. Yes.

7 Q. Do you remember her name?

8 A. No, I don't. I don't remember now.

9 Q. That's okay. But she -- is she also of
10 Japanese descent?

11 A. Yes.

12 Q. And how many times would you say you
13 spoke with her?

14 A. Probably, maybe three or four times.

15 Q. Okay. And had you ever been to their
16 house?

17 A. Yes.

18 Q. But had you ever seen Mr. Capers there?

19 A. No.

20 MS. WILLIAMS: Your Honor, I'm going to
21 show defense counsel what was previously marked as
22 State's Exhibits 1 through 15.

23 THE COURT: Okay.

24 MS. WILLIAMS: May I approach?

25 THE COURT: You may.

Victim - DIRECT EXAM BY MS. WILLIAMS

1 BY MS. WILLIAMS:

2 Q. *Victim*, I would like for you to look at
3 these photographs and tell me if you recognize what
4 they are and if it's an accurate depiction of
5 what's in the photograph.

6 A. This is my house.

7 Q. Without telling us what they are, tell
8 us if these pictures accurately show what you know
9 of in the photographs.

10 A. Yes. This is my house.

11 Q. Okay.

12 A. Yes, that's my front door. That's my
13 hallway. That's my guest room. That's my guest
14 room. That's my guest room. My bedroom, my
15 bedroom, my bedroom, my bedroom.

16 MS. WILLIAMS: Your Honor, at this
17 time, the State would offer 1 through 15 into
18 evidence.

19 THE COURT: Is there any objection?

20 MS. CAPERS: None.

21 THE COURT: Without objection 1 through
22 15 are admitted.

23 (STATE EXH. 1 - 15 in evidence.)

24 MS. WILLIAMS: Permission to publish?

25 THE COURT: You may.

Victim - DIRECT EXAM BY MS. WILLIAMS

1 BY MS. WILLIAMS:

2 Q. Tell us what that is a picture of.

3 A. This is my house and the garage door is
4 open.

5 Q. And so when you described being in the
6 garage and running across the street, where did you
7 run?

8 A. Down the street across the street.

9 Q. Can you point to where Violet's house
10 is?

11 A. Oh, (indicating) this one.

12 Q. Uh-huh. So where is her house?

13 A. Yeah. I can move it.

14 Q. Okay.

15 MS. WILLIAMS: And could you put up
16 State's Exhibit 2, please?

17 BY MS. WILLIAMS:

18 Q. And what is this a picture of?

19 A. Oh, this is my den with my Peaches.

20 Q. And is Peaches the dog that was there
21 that day?

22 A. Yes.

23 Q. Did Peaches bark at all?

24 A. No, he doesn't bark.

25 Q. State's Exhibit 3.

Victim - DIRECT EXAM BY MS. WILLIAMS

1 And tell us what this is a picture of.

2 A. This is my front door and living room.

3 Q. What is that on the floor right there
4 by the front door?

5 A. That is Peaches' leash.

6 Q. And is that -- why is that there?

7 A. Because we just come back from
8 neighbors.

9 Q. What is all that stuff over there on
10 the couch?

11 A. That's my stuffed animals.

12 Q. State's 5, please.

13 And what is that?

14 A. This is my dining room.

15 Q. Okay. And is that the leash you were
16 just talking about?

17 A. That's Peaches leash.

18 Q. State's 6, please.

19 What is this a picture of?

20 A. My hallway.

21 Q. And what is that at the end of the
22 hallway?

23 A. My bathroom.

24 Q. Is that the bathroom you were talking
25 about where you were doing your hair?

Victim - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes.

2 Q. So where would the front door be in
3 relation to that bathroom? Can you point, even if
4 it's off the picture, where -- what direction it
5 would be?

6 A. Before the hallway.

7 Q. Can you point with the pointer?

8 A. (Pointing) It's not in the picture.

9 Q. Yeah. Okay. Thank you.
10 State's 7, please.

11 And what is this a picture of?

12 A. This is my guest room.

13 Q. Can you show us where you were when you
14 were sexually assaulted?

15 A. Right here I sit. (Indicating)

16 Q. And you were sitting?

17 A. Yes.

18 Q. And where was he?

19 A. He was standing here. (Indicating)

20 Q. And State's 11, please.

21 What is that a picture of?

22 A. This is my closet.

23 Q. And is that the closet that you told us
24 about that you were forced into?

25 A. Yes.

Victim -- DIRECT EXAM BY MS. WILLIAMS

1 Q. And State's 12, please.

2 What is that a picture of?

3 A. That's my dresser.

4 Q. And is that the master bedroom?

5 A. Yes.

6 Q. And where would the closet be in
7 relation to the dresser?

8 A. It's on this side. (Indicating)

9 Q. And why are all those drawers open? Is
10 that how you usually keep them?

11 A. Oh, no. He opened them.

12 Q. And State's 14, please.

13 And what is this?

14 A. This is my TV and my brother.

15 Q. And is that the master bedroom?

16 A. Yes.

17 Q. You can turn back around, Ms. *Victim*..

18 So when the person that broke into your house
19 showed you the knife, how many times would you say
20 that --

21 A. I think two or three times.

22 Q. Okay. And is that what made you so
23 afraid?

24 A. Yes. More afraid.

25 MS. WILLIAMS: Court's indulgence?

Victim - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: Yes.

2 MS. WILLIAMS: Your Honor, I'm going to
3 show defense counsel what's marked as 19 and 20.

4 May I approach?

5 THE COURT: You may.

6 BY MS. WILLIAMS:

7 Q. Do you recognize what is in these
8 photos?

9 A. My sweatshirt.

10 Q. Does the picture accurately show the
11 way it looked that day?

12 A. Uh-huh.

13 Q. Can you put up --

14 THE COURT: Do you move for
15 introduction?

16 MS. WILLIAMS: Oh, I'm sorry, Your
17 Honor. State would move 19 and 20 into evidence.

18 THE COURT: Any objection?

19 MS. CAPERS: No objection.

20 THE COURT: Without objection, State's
21 19 and 20 are admitted.

22 (STATE EXH. 19, 20, in evidence.)

23 BY MS. WILLIAMS:

24 Q. One more time, Ms. *Victim*, if you could
25 just turn around and look at that picture.

Victim - DIRECT EXAM BY MS. WILLIAMS

1 And what is that a picture of?

2 A. My sweatshirt.

3 Q. And is that where you left it that day
4 when you were telling us that you were running to
5 the front door?

6 A. Yes.

7 Q. And State's 20. What is that?

8 A. That's my sweatshirt on the floor.

9 Q. Where is the front door in relation to
10 what we're seeing here?

11 A. It's not in here. On top of that.

12 Q. Can you use that pointer?

13 A. (Indicating)

14 Q. Where was the bedroom that you were
15 running from when you dropped the sweatshirt?

16 A. (Indicating) Guest room down here.

17 MS. WILLIAMS: Okay. Thank you very
18 much.

19 Ms. *Victim*, please answer any questions
20 from the defense.

21 THE COURT: You may cross-examine,
22 Ms. Capers.

23 MS. CAPERS: Yes, sir.

24 CROSS-EXAMINATION

25 BY MS. CAPERS:

Victim - CROSS EXAM BY MS. CAPERS

1 Q. How are you?

2 A. Fine.

3 Q. Do you remember -- can you describe the
4 defendant for the jury?

5 A. Say that again.

6 Q. Can you describe the person who you
7 allege assaulted you?

8 A. Who come into my house?

9 Q. Yes.

10 A. Wear dark clothes and wear mask with
11 big white teeth.

12 Q. Okay. How tall was he?

13 A. I really don't know, but bigger than I
14 am.

15 Q. Can you tell us, did you have an
16 opportunity to speak with Investigator Hart a few
17 days afterwards?

18 A. To what?

19 Q. Did you have an opportunity to speak to
20 Detective Hart or Investigator Hart?

21 A. Yeah.

22 Q. Yes?

23 A. Yes.

24 Q. Did you tell her that he was over six
25 feet tall?

Victim - CROSS EXAM BY MS. CAPERS

1 A. No, I don't think so.

2 Q. Did you describe his skin color?

3 A. Dark.

4 Q. When she -- did you specifically say he
5 was dark, dark as in black?

6 A. That I don't know, but the penis was
7 dark. That's all I know.

8 Q. Did you see his hands?

9 A. Excuse me?

10 Q. Did you see his hands?

11 A. I don't remember.

12 Q. You don't remember seeing his hands?

13 A. No.

14 Q. Did you testify before that he -- that
15 you touched him and he said, don't touch my hands?

16 A. Yes, he said that.

17 Q. Was he wearing gloves?

18 A. I don't know.

19 Q. You don't know?

20 A. No.

21 MS. CAPERS: Beg the Court's
22 indulgence?

23 THE COURT: Certainly.

24 MS. CAPERS: Well, actually, I'm going
25 to go forward.

Victim - CROSS EXAM BY MS. CAPERS

1 BY MS. CAPERS:

2 Q. You indicated -- did you ever tell
3 anyone that he did not have on gloves?

4 A. Say that again.

5 Q. Did you ever tell an officer that he
6 was not wearing gloves?

7 A. I don't think so. I don't remember.

8 Q. You don't remember now?

9 A. No.

10 Q. Do you remember talking to an officer
11 about his hands?

12 A. I don't remember.

13 Q. You don't?

14 A. No.

15 Q. Okay. Did he touch your door?

16 A. He touched the door?

17 Q. Yes.

18 A. Yes.

19 Q. Did he touch your dresser?

20 A. Excuse me?

21 Q. Did he touch your dresser?

22 A. Dresser?

23 Q. Yes.

24 A. I think so.

25 Q. And you mentioned that the drawers were

Victim - CROSS EXAM BY MS. CAPERS

1 pulled out?

2 A. Yes.

3 Q. Do you think he pulled those out?

4 A. I think so.

5 Q. So that means he touched them, correct?

6 A. Yes.

7 Q. He was wearing a mask. Could you see
8 his hair?

9 A. No. I'm in the closet.

10 Q. Let's talk about your closet. Did you
11 testify in a deposition earlier?

12 Do you remember sitting here under oath
13 before?

14 A. Uh-huh.

15 Q. Do you remember saying that your door
16 did not close?

17 A. No, door doesn't close tight.

18 Q. Doesn't close tight. When you close
19 it, it just opens back up, right?

20 A. Say that again.

21 Q. When you close it, it will just open
22 back up?

23 A. No, that door don't close tight.

24 Q. Just doesn't close tight?

25 A. Uh-huh.

Victim - CROSS EXAM BY MS. CAPERS

1 Q. Okay. So I really want to go back to
2 the beginning. You said he came in and you took
3 him back to the master -- to the guest bedroom,
4 correct? And why did you do that?

5 A. Why does he do that?

6 Q. Why did you do that?

7 A. He told me to go to the bedroom.

8 Q. Okay. Why did you go to the guest
9 bedroom?

10 A. Because guest room is close.

11 Q. Is what?

12 A. Guest room was close.

13 Q. Did you tell the detective that you
14 went there because your room was messy and you
15 didn't want him to see a messy master bedroom?

16 A. No, I didn't.

17 Q. You didn't?

18 A. I don't think so.

19 Q. Okay. And so everything happened --
20 tell me the sequence of events. Did you go into
21 the bedroom first and that's where the oral sex
22 occurred? Or did he -- did he touch your wallet
23 first?

24 A. I think he -- he follow me to the --
25 push me to take him to the bedroom. So I went to

Victim- CROSS EXAM BY MS. CAPERS

1 the guest room.

2 Q. To the guest room first?

3 A. I think so.

4 Q. Okay. And after the guest bedroom, you
5 said he realized it wasn't the master bedroom?

6 A. I think so.

7 Q. Okay. And did he leave you in that
8 guest bedroom?

9 A. In the guest room while he was looking
10 for master bedroom.

11 Q. Okay. So he left you in the master
12 bedroom?

13 A. Yes.

14 Q. And then --

15 A. That's why I have a chance to try to
16 escape --

17 Q. Okay.

18 A. -- but I'm not success.

19 Q. And after the attempt to escape, you
20 went to the master bedroom?

21 A. Yes.

22 Q. Okay. And that's where the drawers
23 were? That's where the drawers were pulled out?

24 A. Yes.

25 Q. Okay. Was anything else disturbed in

Victim - CROSS EXAM BY MS. CAPERS

1 your house?

2 A. I don't remember.

3 Q. Do you remember having -- did you ever
4 talk to the person who assaulted you?

5 A. Say it.

6 Q. Did you ever talk to the person who
7 assaulted you?

8 A. Who am talk to? Who?

9 Q. Did you ever talk to that person who
10 assaulted you? Did you talk to him or did he talk
11 to you?

12 A. I think he talked to me.

13 Q. Okay. And did he threaten you?

14 A. No.

15 Q. No. And was there a point where you
16 were very upset and you mentioned that he attempted
17 to calm you down by counting? Do you recall that?

18 A. I don't remember.

19 Q. You don't remember that. Okay.

20 You talked about a knife?

21 A. Yes.

22 Q. Can you describe that knife?

23 A. So big, and it looked like brown knife.

24 Q. Brown?

25 A. Uh-huh.

Victim CROSS EXAM BY MS. CAPERS

1 Q. And was that knife ever opened?

2 A. No.

3 Q. So at all times the knife was in his
4 pocket?

5 A. He show me couple times. So that's why
6 I know he has a knife.

7 Q. You know he had a knife and it was a
8 brown knife?

9 A. Yes.

10 Q. Did he open the blade or --

11 A. No, he doesn't.

12 Q. Didn't do anything like that?

13 A. No.

14 Q. And he didn't threaten you.

15 A. What you say?

16 Q. He didn't threaten you?

17 A. No. He have the knife in the pocket.

18 Q. Just the knife in the pocket. Can you
19 describe -- when he -- when the assailant arrived,
20 did you have your blue sweatshirt on? .

21 A. Do I have blue?

22 Q. You had your blue sweatshirt on?

23 A. Yeah, navy blue sweatshirt.

24 Q. Okay. And that's the one that was in
25 the picture, right?

Victim - CROSS EXAM BY MS. CAPERS

1 A. Yes.

2 Q. Can you describe how that sweatshirt
3 came off?

4 A. He took them off.

5 Q. He took them off?

6 A. Yes.

7 Q. And did you help him take it off?

8 A. Because it stuck over here, yes.

9 Q. You helped him take it off. Okay.

10 Ms. *Victim*, where were you on the way to? Were you
11 going to the bank that day?

12 A. No.

13 Q. You weren't? Okay. And you managed to
14 run out of the house out of the garage?

15 A. Yes.

16 Q. Okay. And when you -- did you make the
17 decision to drive the car?

18 A. Yes. I was going to drive the car so I
19 would have the key.

20 Q. Yeah. So you told the assailant --

21 A. Excuse me?

22 Q. You told the person who assaulted you
23 I'm going to drive?

24 A. Yes. I told --

25 Q. And he said okay?

Victim - CROSS EXAM BY MS. CAPERS

1 A. I don't know what he said. I just --
2 two things in my mind, to run across the street.

3 Q. Okay.

4 A. But I have the key.

5 Q. When you ran out the garage, do you
6 remember seeing which direction the person went in?

7 A. He passed to the left -- left of my
8 side.

9 Q. Okay. I'm sorry, can you repeat that?

10 A. He passed left to my side. I mean, my
11 house.

12 Q. So he ran out the garage?

13 A. Who, him?

14 Q. No, not him. Have you identified him?
15 You don't know what he looked like, do you?

16 A. No.

17 Q. The person who was in your house, which
18 direction did they run in?

19 A. Who ran in my house?

20 Q. Yes.

21 A. Except for him, nobody in my house.

22 Q. Which direction did the person run in?

23 A. I don't know.

24 Q. Okay. You don't know?

25 A. No.

Victim- CROSS EXAM BY MS. CAPERS

1 Q. So you didn't see him exit your house?

2 You didn't see him come out of your house?

3 A. Him?

4 Q. Whoever it was that assaulted you.

5 A. Uh-huh.

6 Q. Did you see him come out of the house?

7 A. Out of the garage, but I don't know

8 which side he went.

9 Q. Okay. He came out of the garage, but
10 you don't know which side he went?

11 A. Uh-huh. Because I'm just across the
12 street, across the street.

13 Q. You were running forward across the
14 street?

15 A. Yes.

16 Q. Did you tell the police you did not
17 know in which direction -- how he came out because
18 you didn't see him because you did not look back?

19 A. No, I didn't see which way he went.

20 Q. Did he have a backpack?

21 A. What?

22 Q. Did he have -- what was he wearing?

23 Just black clothes?

24 A. Yeah, dark clothes.

25 Q. Dark clothes?

Victim- REDIRECT EXAM BY MS. WILLIAMS

1 A. Uh-huh.

2 Q. Did he have anything else?

3 A. I don't think so.

4 MS. CAPERS: Beg the Court's
5 indulgence?

6 THE COURT: All right.

7 MS. CAPERS: Your Honor, may we
8 approach the bench, please?

9 THE COURT: Yes, ma'am.

10 (Bench conference)

11 THE COURT: Any further questions?

12 MS. CAPERS: No, Your Honor. No
13 further questions.

14 THE COURT: Redirect?

15 MS. WILLIAMS: Just briefly, Your
16 Honor.

17 REDIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q. *Victim*, defense counsel discussed if you
20 talked with the person that broke into your house
21 at all. Do you remember telling detectives that he
22 spit on you?

23 A. I don't know. I cannot remember now.

24 Q. Do you remember him explaining how to
25 spit out what was in your mouth?

Victim - REDIRECT EXAM BY MS. WILLIAMS

1 MS. CAPERS: Objection, Your Honor;
2 that's outside of the scope.

3 THE WITNESS: No, he --

4 THE COURT: Overruled.

5 THE WITNESS: He told me swallow it.

6 BY MS. WILLIAMS:

7 Q. Okay. So you don't remember the
8 conversation about him spitting?

9 A. I don't think so.

10 Q. Okay. And defense counsel asked you
11 whether or not he threatened you. And you said,
12 no, he never used words to threaten you, but --

13 A. No, but he have a knife I know. He's
14 going to kill me sometime.

15 Q. That's what you were thinking?

16 A. Yeah, I think.

17 Q. How many times did he show you the
18 knife?

19 A. I think two or three times.

20 Q. When he came into your house, he was
21 wearing dark clothes and a mask?

22 A. Yes.

23 Q. And you described the mask as something
24 with big white teeth?

25 A. Yes.

1 Q. Did you find that threatening? A
2 person you didn't know --

3 A. Oh, that scaring me.

4 Q. And defense counsel asked you about
5 your shirt coming off. Do you remember telling
6 detectives that he grabbed your breast, and do you
7 remember having bruises on your breast after the
8 shirt came off?

9 A. No. I have bruise on both arms.

10 Q. You don't remember telling the
11 detectives that he touched your breasts?

12 A. Touched breast? Yeah, one time, but
13 the bruise I don't remember. I don't think I have
14 a bruise.

15 Q. But he did touch your breast?

16 A. Yes, one time.

17 MS. WILLIAMS: Thank you very much.

18 THE COURT: Re-cross, Ms. Capers?

19 MS. CAPERS: No, Your Honor.

20 THE COURT: You may step down.

21 Ladies and gentlemen, by agreement
22 we're going to have -- I have something that -- a
23 commitment that I had made to be in Charleston
24 later this afternoon. So we're going to take a
25 break earlier today than we will. You would have

WALSH, DIRECT EXAM BY MS. WILLIAMS

1 the first witness.

2 MS. WILLIAMS: Thank you. The State
3 would call Violet Walsh.

4 VIOLET WALSH,
5 being first duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State
7 your full name and spell your last, please.

8 THE WITNESS: Violet Rose Walsh,
9 W-A-L-S-H.

10 THE COURT: You may proceed.

11 MS. WILLIAMS: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. WILLIAMS:

14 Q. Ms. Walsh, where do you live now?

15 A. , Wexford Court in Summerville.

16 Q. Where were you living back in
17 December 21, 2017?

18 A. Isherwood Drive, Goose Creek.

19 Q. And who lived across the street from
20 you then?

21 A. Victim ..

22 Q. How do you know her?

23 A. Good friend and neighbors for many
24 years.

25 Q. How long would you say you knew her?

WALSH, DIRECT EXAM BY MS. WILLIAMS

1 A. We lived there about 13 years.

2 Q. And how far away is her house from
3 yours?

4 A. Directly across the street.

5 MS. WILLIAMS: Can you please put up
6 Exhibit 1 that's already been admitted into
7 evidence?

8 BY MS. WILLIAMS:

9 Q. What is that a picture of?

10 A. *Victim's* house.

11 Q. Is that the view of her house that you
12 would see when looking at it from your house?

13 A. Yes, ma'am.

14 Q. About how many feet would you say your
15 house is from that?

16 A. It's directly across the street.

17 MS. WILLIAMS: You can take it down.

18 BY MS. WILLIAMS:

19 Q. Did you see or *Victim* on
20 that date, December 21, 2017?

21 A. Yes, ma'am.

22 Q. Do you remember about what time it was?

23 A. It was a little before 2:00.

24 Q. What happened?

25 A. I was sitting at the computer and heard

WALSH, DIRECT EXAM BY MS. WILLIAMS

1 screaming. And the sound was getting louder until
2 I realized that it was at my front door and her
3 banging at the front door.

4 Q. And what happened next?

5 A. I opened the door and saw *Victim*
6 collapsed at my door step screaming help.

7 Q. And what did you do next?

8 A. I helped her up into my foyer where she
9 collapsed again, and she kept saying help.

10 Q. And you said she was screaming. Can
11 you tell us how you would describe her demeanor at
12 that time?

13 A. She was hysterical. She wasn't able to
14 say more than, help me.

15 Q. Did she say anything else after help me
16 that told you why she was so hysterical?

17 A. Yes. When she was in the foyer, she
18 started to tell me that a man with a knife had
19 pushed his way into her home, locked the door and
20 had taken her bank card and money from her, brought
21 her room to room in the home, made her perform oral
22 sex.

23 And she said that she spit it into a
24 shirt, changed her clothing. He said that she had
25 more money, and she said she would have to go to

WALSH, CROSS EXAM BY MS. CAPERS

1 the bank. So he said for her to get changed and
2 they would go to the bank.

3 She said when the garage door was
4 opened that's when she was able to run to my house.

5 Q. And what did you do upon hearing this
6 information?

7 A. At first I tried to call 911. It was a
8 new phone and it wasn't cooperating to call. We
9 noticed our neighbor through the back sliding glass
10 doors was on the other side of the cul-de-sac. We
11 waived him down and he came and he called 911.

12 Q. And at some point was she transported
13 from your home?

14 A. Yes; she left by ambulance.

15 MS. WILLIAMS: I don't have any other
16 questions. Please answer any questions from the
17 defense.

18 THE COURT: You may cross-examine.

19 MS. CAPERS: Yes, Your Honor. Just a
20 couple of questions.

21 CROSS-EXAMINATION

22 BY MS. CAPERS:

23 Q. Did Ms. *Victim* describe the defendant
24 or describe the person that assaulted her?

25 A. Yes, ma'am. She said he was wearing a

WALSH, CROSS EXAM BY MS. CAPERS

1 mask, black clothing, from what she could tell thin
2 and -- she's kind of a shorter person. So, to her,
3 she said the person was tall.

4 Q. Any other description?

5 A. No, ma'am.

6 Q. Did she describe the mask?

7 A. No, she didn't describe it.

8 MS. CAPERS: Okay. Thank you.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Redirect?

11 MS. WILLIAMS: No, Your Honor.

12 THE COURT: You may come down.

13 Do you wish the witness to be excused?

14 MR. ALFARO: Yes.

15 THE COURT: Any objection?

16 MS. CAPERS: None, Your Honor.

17 THE COURT: You're free to leave.

18 THE WITNESS: Thank you.

19 THE COURT: The State would call Ryland
20 Kowalski.

21 RYLAND KOWALSKI,

22 being first duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State
24 your full name and spell your last, please.

25 THE WITNESS: Ryland Palmer Kowalski,

KOWALSKI, DIRECT EXAM BY MS. WILLIAMS

1 K-O-W-A-L-S-K-I.

2 DIRECT EXAMINATION

3 BY MS. WILLIAMS:

4 Q. Thank you, Mr. Kowalski. How old are
5 you?

6 A. Fifteen.

7 Q. And where do you go to school?

8 A. Stratford High School.

9 Q. And where do you live?

10 A. Isherwood Drive.

11 Q. And were you home at Isherwood
12 Drive on December 21, 2017?

13 A. Yes, ma'am.

14 Q. Why weren't you in school?

15 A. School was just a half day.

16 Q. Was that for Christmas break?

17 A. I believe so.

18 Q. And at some point that day, did a
19 police officer come and ask you questions?

20 A. Yes, ma'am.

21 Q. And did you give a statement in writing
22 to that police officer?

23 A. Yes, ma'am.

24 Q. And what did he ask you questions
25 about?

KOWALSKI, DIRECT EXAM BY MS. WILLIAMS

1 A. Just what we saw and what we were
2 doing.

3 Q. Okay. What did you see and what were
4 you doing?

5 A. We just saw someone running down the
6 street where we were playing basketball.

7 Q. How would you describe that person?

8 A. We just saw they were wearing all
9 black.

10 Q. And about what time was it?

11 A. I think it was about like 2-ish.

12 Q. What were you doing when you saw him?

13 A. We were playing basketball outside.

14 Q. Who were you with?

15 A. Logan and Sam.

16 Q. And so --

17 MS. WILLIAMS: Your Honor, I'm going to
18 show defense counsel what's been previously marked
19 as State's Exhibit 47.

20 THE COURT: All right.

21 MS. WILLIAMS: May I approach?

22 THE COURT: You may.

23 BY MS. WILLIAMS:

24 Q. Ryland, do you recognize the things on
25 that map?

KOWALSKI, DIRECT EXAM BY MS. WILLIAMS

1 A. Yes.

2 Q. Do you recognize your address and where
3 you saw the person running to?

4 A. Yes, sir.

5 Q. Does this accurately show the
6 neighborhood?

7 A. Yes.

8 MS. WILLIAMS: Your Honor, at this
9 time, the State would move State's 37 into
10 evidence.

11 MS. CAPERS: Without objection.

12 THE COURT: Very well. State's 47 is
13 admitted without objection.

14 (STATE EXH. 47 in evidence.)

15 MS. WILLIAMS: Your Honor, may we
16 publish?

17 THE COURT: You may.

18 BY MS. WILLIAMS:

19 Q. Ryland, if you could just turn around,
20 I'm going to -- show us where your house is.

21 A. (Indicating)

22 Q. And is that where you were playing
23 basketball?

24 A. Yes, ma'am.

25 Q. And what is that other address,

KOWALSKI, DIRECT EXAM BY MS. WILLIAMS

1 Golding? Who lives there?

2 A. Ichi.

3 Q. And where did the person that you saw
4 run to?

5 A. To that house right there.

6 Q. Where Ichi lives?

7 A. Yes, ma'am.

8 Q. Do you know who else lives in that
9 house?

10 A. His parents.

11 Q. Do you know any other kids that live in
12 that house?

13 A. I think his brother is sometimes there.

14 Q. Do you know the names of any of those
15 people?

16 A. I know his brother's name.

17 Q. Okay. You can turn back around,
18 Ryland. Thank you.

19 What is his brother's name?

20 A. Moses.

21 Q. Do you know of any other people that
22 visit there, any other siblings in the house?

23 A. No, ma'am.

24 MS. WILLIAMS: Okay. Thank you very
25 much.

KOWALSKI, CROSS EXAM BY MS. CAPERS

1 THE COURT: Cross-examination?

2 MS. CAPERS: Yes, sir.

3 CROSS-EXAMINATION

4 BY MS. CAPERS:

5 Q. When you talked to the police officers,
6 did you tell them that the person went into the
7 house?

8 A. I don't believe so.

9 Q. Okay. Did you see him go into the
10 house?

11 A. No, ma'am.

12 Q. Okay. Did you notice him doing
13 anything with the door or the windows?

14 A. We didn't look for very long.

15 Q. Is it fair to say that you saw him
16 running in that direction toward that house?

17 A. We saw him at the house.

18 Q. You saw him at the house, but you
19 didn't see him enter the house?

20 A. We looked away.

21 Q. Okay. And when we say he, do you
22 really -- did you recognize that it was a male?

23 A. Yes, ma'am.

24 Q. Okay. And can you describe that person
25 at all?

KOWALSKI, CROSS EXAM BY MS. CAPERS

- 1 A. He was in all black.
- 2 Q. Wearing all black?
- 3 A. (Nodding)
- 4 Q. Anything else?
- 5 A. That I noticed.
- 6 Q. Tall? Short?
- 7 A. I think he was pretty tall.
- 8 Q. Pretty tall. Any other description?
- 9 Skinny? Medium?
- 10 A. We couldn't really tell.
- 11 Q. Couldn't tell. Did he have anything
- 12 with him, a backpack or anything?
- 13 A. I'm pretty sure he had a backpack, but
- 14 I can't remember.
- 15 Q. Did you see the person going to any
- 16 other house on the street?
- 17 A. We weren't looking anymore.
- 18 Q. Okay. When you first saw the person
- 19 running, did you see him go to any other house?
- 20 A. We saw him come from the house.
- 21 Q. What house did he come from?
- 22 A. Can you put it back? Do you want me to
- 23 you say this?
- 24 Q. Yes, sir, please.
- 25 A. We saw him come from somewhere over

KOWALSKI, CROSS EXAM BY MS. CAPERS

1 here. (Indicating)

2 MS. CAPERS: I apologize, I'm coming up
3 because I can't even see.

4 BY MS. CAPERS:

5 Q. So somewhere over here. (Indicating)
6 So in that area. Was he in the street when you
7 first saw him?

8 A. We saw him in the street.

9 Q. In the street. And he came from the
10 house right there?

11 A. This is just the area we saw him come
12 from.

13 Q. Okay. And when he came, he was running
14 that way toward Golding Lane?

15 A. Yes.

16 Q. And this is your house at Isherwood
17 down here? (Indicating)

18 A. Yes.

19 Q. Do you know Ms. Victim?

20 A. No.

21 Q. Okay. Thank you.

22 MS. CAPERS: Beg the Court's
23 indulgence?

24 THE COURT: Yes, ma'am.

25 BY MS. CAPERS:

KOWALSKI, CROSS EXAM BY MS. CAPERS

1 Q. Did you notice him checking any other
2 doors?

3 A. No.

4 Q. Okay. Did you give a statement,
5 Ryland?

6 A. Yes, ma'am.

7 Q. Do you remember who you gave that
8 statement to?

9 A. I don't know; it was one of the police
10 officers.

11 Q. Do you just happen to remember saying
12 -- well, I'm going to show you --

13 THE COURT: You can have it marked for
14 identification if you like.

15 (DFT. EXH. 1, Statement, was marked for
16 identification.)

17 THE COURT: Defendant's 1, ID only.

18 BY MS. CAPERS:

19 Q. Ryland, I'm going to show you what's
20 been marked as Defendant's Exhibit Number 1 to help
21 refresh your recollection.

22 If you will read -- (indicating)

23 So, Ryland, do you now recall those
24 facts?

25 A. Yes, ma'am.

KOWALSKI, REDIRECT EXAM BY MS. WILLIAMS

1 Q. And so what were those facts, Ryland,
2 that you told the police?

3 A. We told them what we saw, like what he
4 was wearing and where he was running from.

5 Q. When you saw this, do you recall now
6 that you told the police that he was running from
7 one house to the next?

8 A. (Nodding)

9 Q. Okay.

10 THE COURT: Is that a yes?

11 THE WITNESS: Yes, sir.

12 MS. CAPERS: Okay. Thank you.

13 THE COURT: Redirect?

14 MS. WILLIAMS: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. WILLIAMS:

17 Q. I want to ask you a couple of questions
18 about that. So when you saw the individual, could
19 you tell if he was coming from the house or -- is
20 there woods behind the house?

21 A. There is woods behind the house. We
22 couldn't tell if he was coming from the house or
23 woods.

24 Q. Okay. So you could just tell that he
25 was coming out from behind the house?

KOWALSKI, REDIRECT EXAM BY MS. WILLIAMS

1 A. Yes.

2 Q. And you described him as going from
3 house to house, but, eventually, you saw him go
4 into Ichi's house?

5 A. Yes, ma'am.

6 Q. Was he frantically going from house to
7 house? How would you describe him?

8 A. He looked like he was going pretty
9 fast.

10 MS. WILLIAMS: Okay. Thank you very
11 much.

12 THE COURT: Recross?

13 MS. CAPERS: None, Your Honor.

14 THE COURT: Thank you. You may come
15 down.

16 Do you wish this witness to be excused?

17 MS. WILLIAMS: Yes, please.

18 THE COURT: Any objection?

19 MS. CAPERS: No objection.

20 THE COURT: You are free to leave, sir.
21 Call your next witness.

22 MS. WILLIAMS: Lindsey Wright.

23 LINDSEY WRIGHT,

24 being first duly sworn, testified as follows:

25 THE CLERK: Please have a seat. State

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 your full name and spell your last, please.

2 THE WITNESS: Lindsey Taylor Wright,
3 W-R-I-G-H-T.

4 DIRECT EXAMINATION

5 BY MR. ALFARO:

6 Q. Good morning.

7 A. Morning.

8 Q. Tell the jury where you work.

9 A. Goose Creek Police Department.

10 Q. And how long have you been with the
11 Goose Creek Police Department?

12 A. Just over five years.

13 Q. And what is your current rank and duty
14 assignment?

15 A. Patrolman first class, and I'm on the
16 patrol division.

17 Q. Were you working in that capacity on
18 December 21, 2017?

19 A. No, I was not.

20 Q. What were you doing then?

21 A. I was an investigator.

22 Q. For Goose Creek?

23 A. Correct.

24 Q. And in that capacity, did you have the
25 opportunity to respond to the incident location of

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 Isherwood Drive on that day at approximately
2 2:00 p.m.?

3 A. Yes, sir.

4 Q. And in what capacity did you respond
5 there?

6 A. I was responding as an investigator.

7 Q. And were you eventually designated as
8 the case agent for this investigation?

9 A. Yes, I was.

10 Q. And when you arrived at the scene, was
11 the victim, *Victim* , still at the scene?

12 A. Yes, she was.

13 Q. And could you tell the jury what you
14 observed when you arrived at that location?

15 A. When I arrived there were medics that
16 were treating Ms. *Victim* She appeared to be in
17 shock and was having a difficult time speaking.

18 Q. Were you able -- were you able to --
19 were you able to talk to her to some extent at that
20 location?

21 A. I was, during which time she told me
22 that a subject had ejaculated into her mouth after
23 forcing her to perform oral sex, at which time I
24 collected DNA from her mouth.

25 Q. Okay. And could you tell us how you

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 went about doing that, collecting that potential
2 DNA?

3 A. Yes. I obtained gloves and I put them
4 on both of my hands. And then I obtained two
5 aerated cardboard boxes. I opened a sterile pack
6 of swabs and I swabbed along the upper gums and
7 contained it, and then I swabbed her lower gums and
8 contained it in a separate box.

9 Q. And is that the standard protocol or
10 procedure for obtaining those types of swabs?

11 A. Yes, it is.

12 Q. I'm going to show you what has
13 previously been marked for identification as
14 State's Exhibits 101 and 102.

15 You can take a look at that and I will
16 ask you a couple of questions about those.

17 Do you recognize those items?

18 A. I do.

19 Q. And what do you recognize those items
20 as?

21 A. Those are the swabs that I took from
22 Ms. *victim's* gums.

23 Q. And when you took those swabs, did you
24 place them in these boxes?

25 A. I did.

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 Q. And what did you ultimately do with
2 those swabs?

3 A. I was using a clipboard that has two
4 compartments to it. Whenever I obtained the
5 permission-to-search form to get the swabs from
6 Ms. *Victim* and I secured them in the bottom
7 portion of that clipboard. And they were taken and
8 put in my vehicle whenever I left to follow the
9 ambulance to MUSC.

10 Q. So when you left the residence, did you
11 go straight to the police department or did you go
12 somewhere else?

13 A. I followed the ambulance to MUSC before
14 going to the police department.

15 Q. And that's the ambulance that had
16 Ms. *Victim* in it?

17 A. Correct.

18 Q. And those swabs, were they kept with
19 you during the time you were at the Medical
20 University?

21 A. They were.

22 Q. At any point in time were they out of
23 your custody and control?

24 A. No.

25 Q. At any point while they were in your

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 custody and control, did you tamper with them in
2 any way?

3 A. No; they remained in the clipboard.

4 Q. And after leaving MUSC, did you -- what
5 did you ultimately do with the swabs?

6 A. I completed an evidence control form
7 and submitted them into an evidence locker to be
8 turned over to the evidence technician.

9 Q. And that is a locker at the Goose Creek
10 Police Department?

11 A. Yes.

12 Q. Now, let's go back a little bit to when
13 you went to MUSC. Were you able to speak --
14 without getting into details of that, were you able
15 to speak with her at the location.

16 A. Yes, I was.

17 Q. At that point in time, were you able to
18 observe any physical injuries or marks on
19 Ms. Victim

20 A. Yes.

21 Q. And can you tell us what you observed?

22 A. She had red marks on her arms as well
23 as on her breasts.

24 Q. And on that day when you were at MUSC
25 and you observed the injuries, did you take any

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 photographs of those injuries?

2 A. I did not that day because the nurse
3 that was examining her for the sexual assault was
4 taking photographs which would be submitted to me
5 later in the investigation.

6 Q. At some point in your investigation,
7 did you meet with Ms. Victim and take photographs
8 of those injuries?

9 A. Yes, I did.

10 Q. When was that? When were those photos
11 taken?

12 A. It was on December 23rd.

13 Q. So two days after you observed them?

14 A. Correct.

15 Q. Okay. And what is the purpose of
16 taking photos a day or two after you observed the
17 injuries, initially?

18 A. Especially, with red marks, you don't
19 know if they're going to disappear after or develop
20 into bruises, so it's to document whether or not
21 the injuries were going to turn into bruises or if
22 they were going to disappear.

23 Q. I'm going to show you some photos that
24 have been marked for identification as State's
25 Exhibits 40, 41, 42, 43, 44, 45 and 46. If you can

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 take a look at those photographs and then I will
2 ask you questions about them.

3 Do you recognize what is contained in
4 each of those photos?

5 A. Yes. Those are photographs and the
6 pictures I took on December 23rd.

7 Q. Do those photographs each fairly and
8 accurately depict the injuries as you observed them
9 on December 22 and 23?

10 A. They do.

11 MR. ALFARO: At this time, the State
12 would ask to admit 40 through 46 into evidence?

13 MS. CAPERS: Without objection.

14 THE COURT: Without objection, State's
15 Exhibits 40 through 46 inclusive are
16 admitted.

17 (STATE EXH. 40 - 46 in evidence.)

18 BY MR. ALFARO:

19 Q. On the screen behind you --

20 MR. ALFARO: Permission to publish,
21 Your Honor?

22 THE COURT: Yes, you may.

23 BY MR. ALFARO:

24 Q. I'm going to show you beginning with
25 State's Exhibit 40. Can you describe, using the

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 pointer that's up there, what injuries are depicted
2 in that photograph?

3 A. Yes. There is a bruise on her right
4 arm, upper arm, and you can also see a bruise on
5 the left arm.

6 Q. And State's Exhibit 41?

7 A. That is where I attempted to get a
8 closer image of that bruise on her right arm.

9 Q. And State's 42?

10 A. That is along the left side of the
11 breast.

12 Q. And State's 43?

13 A. There are multiple bruises on this arm.
14 There is one on her lower inside of her arm as well
15 as the top, and then there is also a bruise right
16 here. (Indicating)

17 Q. Okay. Thank you. You can turn back
18 around.

19 Now, in the course of your
20 investigation -- let me back up a second. Did you
21 obtain any other evidence at MUSC that day?

22 A. I did not.

23 Q. And during the course of the
24 investigation, were you able to develop any
25 information or leads involving the victim's stolen

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 credit card?

2 A. Yes.

3 Q. And what information were you able to
4 obtain concerning the debit card?

5 A. Initially, I was trying to reach Wells
6 Fargo who the debit card was through to try to
7 cancel the card so it could not be used; however,
8 Ms. *Victim* was so upset that she could not remember
9 her social security number to provide to them so I
10 was unable to cancel it.

11 We were later notified by a
12 representative of Wells Fargo that the card had
13 been used at a gas station, the Speedway in North
14 Charleston.

15 Q. Were you able to obtain any video from
16 that location?

17 A. Yes. Initially, Investigator Dodson
18 obtained surveillance footage from that day. It
19 did not depict the entire incident so I went back
20 and obtained a longer clip.

21 Q. Were you able to pull any photographs,
22 still photographs, from that video related to the
23 use of that debit card?

24 A. Yes, I was.

25 Q. I'm showing you State's Exhibits 26,

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 27, and 28. Do you recognize what is depicted in
2 those photographs?

3 A. Yes, I do.

4 Q. And do those photographs fairly and
5 accurately depict what was a still version of what
6 was seen on the surveillance video from the
7 Speedway that you obtained relating to the victim's
8 card being used?

9 A. Yes, I did.

10 MR. ALFARO: Your Honor, at this time,
11 we would ask to admit State's Exhibits 26, 27 and
12 28 into evidence?

13 THE COURT: Any objection?

14 MS. CAPERS: None, Your Honor.

15 THE COURT: Without objection, State's
16 Exhibits 26 through 28 are admitted. You may
17 publish.

18 (STATE EXH. 26 - 28, in evidence.)

19 BY MR. ALFARO:

20 Q. If you could turn around one more time
21 so I could ask you one more question regarding the
22 pictures. On the video were you able to observe
23 the vehicle that the individual using the debit
24 card arrived in at the gas station?

25 A. Yes.

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 Q. You can turn around. I show you
2 State's Exhibit 26. And can you tell us what that
3 -- what the significance of that vehicle is?

4 A. That vehicle is the one that the
5 individual in the photographs gets out of. The
6 victim's debit card was used to purchase gas by
7 that individual.

8 Q. And State's 27.

9 A. That is the individual that used the
10 victim's debit card.

11 Q. And State's 28?

12 A. And that is where we tried to get a
13 closer depiction of his face.

14 Q. Thank you. Were those photographs
15 released to the media to assist with the
16 investigation?

17 A. Yes, they were.

18 Q. And as part of the investigation, are
19 you aware if the video itself was shown to any
20 individuals to see if they recognized anyone in the
21 video?

22 A. Yes, it was.

23 Q. Okay. And do you know the name of one
24 of the people that that was shown to?

25 A. Ludielle Rodriguez.

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 Q. Now, at some point in your
2 investigation after the defendant was identified as
3 a potential suspect, were you present for the
4 execution of a search warrant at Golding Drive,
5 December 23, 2017, at approximately 1:07 a.m.?

6 A. I was present. It was at Golding
7 Lane.

8 Q. And was the defendant at the house when
9 the search warrant was executed?

10 A. No, he was not.

11 Q. Who was present at the house when the
12 warrant was executed?

13 A. It was Emi Davidson and Ichiwa
14 Davidson.

15 Q. And are you aware of who those
16 individuals are?

17 A. I am.

18 Q. And what are their relation, if any, to
19 the defendant?

20 A. Ichiwa Davidson is Mrs. Davidson's son,
21 and Emi Davidson is in a relation -- I believe she,
22 is married to Christopher Capers who is the
23 defendant's father.

24 Q. And during the course of the search
25 warrant being executed, did you observe the

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 collection of any evidence from the home?

2 A. My responsibility was to complete the
3 search warrant return. As items were located at
4 the residence, they were brought to me, and I
5 documented where they were located in the home and
6 collected them and maintained care and control
7 until they could be submitted to an evidence
8 locker.

9 Q. In your presence was there any evidence
10 collected that you deemed would be significant to
11 the investigation?

12 A. Yes.

13 Q. And what was that evidence?

14 A. The mask that was described by the
15 victim while she was at the hospital.

16 Q. And do you recall what that mask looked
17 like?

18 A. It was a rubber Halloween mask.
19 Ms. *Victim* described it as having large teeth, and
20 that mask that we recovered had a -- it's difficult
21 to explain, but it had large teeth as well as
22 glasses.

23 I believe the tag was also recovered
24 that went to the mask, and it was described as a
25 nerd mask.

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 Q. Do you recall what other officers were
2 with you at the time that the search warrant was
3 executed at an address?

4 A. Yes, sir. If I may, I actually have
5 them written down to make sure that I don't miss
6 any.

7 Q. We can come back to that in a second.

8 MR. ALFARO: Do you have a pair of
9 scissors?

10 THE CLERK: Yes.

11 BY MR. ALFARO:

12 Q. I'm going to show you what has been
13 previously marked for identification as State's 67.

14 Okay. And do you recognize that as the
15 mask that was recovered during the search warrant
16 that you were testifying about?

17 A. Yes, I do.

18 MR. ALFARO: Your Honor, at this time,
19 we would ask that State's Exhibit 67 be admitted
20 into evidence?

21 THE COURT: Any objection?

22 MS. CAPERS: I do have an objection.

23 THE COURT: What's the objection?

24 MS. CAPERS: Well, actually, I don't
25 have an objection, Your Honor.

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 THE COURT: Okay. Without objection,
2 State's 67 is admitted.

3 (STATE EXH. 67 in evidence.)

4 BY MR. ALFARO:

5 Q. If you could show the jury that mask.

6 THE COURT: And State's 67 for the
7 record is a bag containing a mask.

8 THE COURT REPORTER: Thank you, Judge.

9 BY MR. ALFARO:

10 Q. Were you also present during the
11 execution of a search warrant at Old Dominion
12 Drive on December 27, 2017, at approximately
13 5:50 p.m?

14 A. Yes, I was.

15 Q. And what's the significance of Old
16 Dominion Drive to this case?

17 A. That was the residence where the
18 defendant was arrested.

19 Q. Okay. And during the course of that
20 search warrant, was there any evidence secured at
21 that location that you deemed relevant to this
22 case?

23 A. Yes, there was. There was a black Nike
24 hat, which was recovered. At the time it was told
25 to us that it had been purchased for the defendant

WRIGHT, DIRECT EXAM BY MR. ALFARO

1 as a gift, and it was also the same as the one that
2 was worn in the surveillance footage at the
3 Speedway.

4 MR. ALFARO: Beg the Court's
5 indulgence?

6 THE COURT: Yes, sir.

7 BY MR. ALFARO:

8 Q. I'm going to show you what was
9 previously marked for identification as State's 34.
10 Take a look at that and I will ask you some
11 questions about it.

12 Do you recognize what is depicted in
13 the photograph?

14 A. Yes. It's the hats that were along the
15 headboard at the execution of the search warrant at
16 Old Dominion.

17 MR. ALFARO: And, Your Honor, at this
18 time, we would ask to admit State's Exhibit 34.

19 THE COURT: Is there any objection?

20 MS. CAPERS: None, Your Honor.

21 THE COURT: State's 34 admitted without
22 objection, a photograph.

23 (STATE EXH. 34 in evidence.)

24 BY MR. ALFARO:

25 Q. If you can turn around while I publish

WRIGHT, CROSS EXAM BY MS. CAPERS

1 the photograph.

2 A. It was this hat here. (Indicating)

3 Q. And can you point to the hat that was
4 in the video and secured during the search warrant?

5 A. Yes. (Indicating)

6 MR. ALFARO: Thank you. Thank you.
7 Please answer any questions that the defense may
8 have.

9 THE COURT: You may cross-examine,
10 Ms. Capers.

11 CROSS-EXAMINATION

12 BY MS. CAPERS:

13 Q. Hello. How are you?

14 You indicated that you were present for
15 the -- for the execution of the search warrant at
16 Old Dominion Drive?

17 A. Yes.

18 Q. Do you recall the date?

19 A. Yes, ma'am. It was, just a moment,
20 December 27th, 2017.

21 Q. Had the defendant already been arrested
22 at that time?

23 A. He had.

24 Q. Okay. Do you recall what day he was
25 arrested?

WRIGHT, CROSS EXAM BY MS. CAPERS

1 A. Just a moment. December 22nd. Or,
2 excuse me, December 23rd.

3 Q. December 23rd. And was that at about
4 6:00 in the morning?

5 A. The time, I believe, was prior to six.

6 Q. Prior to 6:00 in the morning?

7 A. Yes, ma'am.

8 Q. Okay. And he was arrested at that same
9 residence before 6:00?

10 A. Yes.

11 Q. And you executed this search warrant at
12 5:56 p.m.?

13 A. The residential search warrant?

14 Q. Yes.

15 A. Yes, ma'am.

16 Q. And did you -- did you receive consent
17 to search that residence?

18 A. I believe we did not ask. We obtained
19 a search warrant.

20 Q. Do you know if anyone made contact with
21 the owner of that residence to advise that they had
22 a search warrant?

23 A. Yes.

24 Q. Okay. And do you know if they were
25 advised that the owner of the residence would be

WRIGHT, CROSS EXAM BY MS. CAPERS

1 there within 45 minutes?

2 A. Yes.

3 Q. Okay. And you declined -- did you wait
4 that 45 minutes to enter the residence?

5 A. No.

6 Q. How did you enter the residence?

7 A. We were trying not to do damage to the
8 residence if possible, so one of the investigators
9 located the dog door and unlocked the back door.

10 Q. But you refused to wait the 45 minutes
11 for the owner to come and consent to the search?

12 A. At that point we had a signed search
13 warrant, so, no.

14 Q. Do you believe that a person has a
15 right to contest a search warrant?

16 MR. ALFARO: Objection.

17 THE COURT: Sustained. That's an issue
18 of law and not for the jury's consideration.

19 MS. CAPERS: Okay.

20 BY MS. CAPERS:

21 Q. All right. So you did search the
22 residence?

23 A. Yes, we did.

24 Q. Okay. And when you searched the
25 residence located at 11 -- let me go back to

WRIGHT, CROSS EXAM BY MS. CAPERS

1 Old Dominion Drive. The defendant had already been
2 arrested, correct?

3 A. Yes.

4 Q. Were there any emergent circumstances
5 that would require you to enter that residence
6 right away?

7 A. No, there were not.

8 Q. Okay. As to Golding Lane and the
9 search of that residence, I believe you just
10 testified that that search was at 1:07 a.m.,
11 correct?

12 A. If you will give me a second I can
13 confirm.

14 Q. Okay.

15 A. Yes, 1:07 a.m.

16 Q. And you broke the door in at 1:07 a.m.,
17 correct?

18 A. Yes.

19 Q. Okay. And had to put extra patrols on
20 the house that night because the door couldn't be
21 repaired? Could not be secured?

22 A. Correct.

23 Q. And there was no one in the residence
24 except Emi and Ichi, correct?

25 A. Correct.

WRIGHT, CROSS EXAM BY MS. CAPERS

1 Q. And at that time, that's when you
2 indicated that you located a mask?

3 A. Correct. It was located by a different
4 investigator.

5 Q. Okay. And which investigator was that?

6 A. Investigator Powell.

7 Q. Okay. And how many masks were actually
8 located at that scene?

9 A. There were multiple. I did not conduct
10 the search, so I can't testify as to how many.

11 Q. Okay. Do you have a -- multiple. Just
12 multiple?

13 A. Correct.

14 Q. Okay. When the -- have you ever shown
15 this mask to Ms. Victim?

16 A. I have not.

17 Q. Has anyone ever shown this mask to
18 Ms. Victim?

19 A. I do not know.

20 Q. You do not know. Okay. Did Ms. Victim
21 ever indicate that the mask -- the person had
22 glasses or the mask had glasses?

23 A. I don't believe so.

24 Q. Okay. And Ms. Victim did not give you
25 any -- couldn't describe anything about the

WRIGHT, CROSS EXAM BY MS. CAPERS

1 defendant, correct?

2 A. She described his --

3 Q. I'm sorry, about the assailant. Excuse
4 me.

5 A. She described his hands and his penis
6 as dark.

7 Q. Okay. And did she indicate that she
8 saw his hand?

9 A. She did.

10 Q. Okay. And she said both were dark?

11 A. Yes.

12 Q. Okay. And did she indicate whether he
13 was wearing gloves?

14 A. At the time, she told me he was not.

15 Q. Okay. Okay. And this -- this mask --
16 if you put this mask on, can you see different
17 things about whoever is wearing this mask?

18 A. Yes, you can.

19 THE COURT: Speak up, please.

20 THE WITNESS: Yes, you can.

21 BY MS. CAPERS:

22 Q. Okay. And you would be able to see a
23 neck?

24 A. Depending on the shape of the size of
25 the assailant.

WRIGHT, CROSS EXAM BY MS. CAPERS

1 Q. Okay. Did she ever say that she saw
2 his hair?

3 A. No, she did not.

4 Q. Didn't describe it as being
5 African-American-type hair, straight hair?

6 A. She said she did not see the hair.

7 Q. Clearly, if this is the mask that you
8 were wearing, you can see the hair?

9 A. At the time, she advised me all she
10 could see was the teeth.

11 Q. All she could see was the teeth of the
12 mask?

13 A. She was afraid and was focused on the
14 teeth.

15 Q. Okay. And I think there was some
16 testimony regarding spitting, correct?

17 A. Yes.

18 Q. Did she tell you about that?

19 A. She did.

20 Q. And did she indicate that the mouth was
21 actually open on this?

22 A. I don't recall.

23 Q. Okay. Did she give you any other
24 description of the defendant?

25 A. She described him as tall, and if you

WRIGHT, CROSS EXAM BY MS. CAPERS

1 will give me just a moment, I just want to make
2 sure that I give you the correct description. She
3 described him as tall and skinny, and she said that
4 he was significantly darker than her. And when
5 asked if the assailant was black, she said yes.

6 Q. And, Ms. Wright, you testified also,
7 Investigator Wright, that you collected the DNA and
8 you carried that around with you. How long did you
9 have that DNA in your possession or the swabs in
10 your possession?

11 A. Less than eight hours. I don't know
12 the exact time off the top of my head.

13 Q. Can you check that, please?

14 A. Yes. I don't have the exact time that
15 I returned to the police department in front of me,
16 but I believe it was just after 7:00 p.m. And I
17 took the swabs at approximately 2:45.

18 Q. Do you have the evidence form?

19 A. I do.

20 Q. The evidence form does not contain the
21 time that you --

22 A. It documents when it was collected.

23 Q. It does not document when you put it
24 into the evidence locker?

25 A. It documents when it was collected and

WRIGHT, CROSS EXAM BY MS. CAPERS

1 when the evidence technician removed it from the
2 locker. It was after business hours so the
3 evidence technician would have left for the day.

4 Q. How many times a day does the evidence
5 technician collect the evidence from a locker?

6 A. I don't know. I don't work in that
7 capacity.

8 Q. Why don't you put the time that you --
9 when you put it into the locker?

10 A. I put when it was collected.

11 Q. Do you think it's important that
12 someone know when it was placed in the locker?

13 A. That would be an issue for command
14 staff. It's above what I'm able to dictate.

15 Q. So you just know that it was sometime
16 after -- what was your answer?

17 A. It was sometime just after 7:00, before
18 8:00 p.m.

19 Q. Okay. Do you know what time it was
20 collected?

21 A. At 2:44.

22 Q. The following day?

23 A. As far as removing from the locker, I
24 do not know. I apologize.

25 Q. And so this was -- just to be clear,

WRIGHT, CROSS EXAM BY MS. CAPERS

1 this was on December 21st?

2 A. Correct.

3 Q. And the search of Golding Lane was
4 at 1:00 o'clock in the morning?

5 A. On December 22nd.

6 Q. Okay. So midnight we're talking about
7 the 21st, right? That day. And then you get into
8 midnight and then the next hour is 1:00 o'clock?

9 A. Yes.

10 Q. That's the time that you're talking
11 about?

12 A. Yes.

13 Q. So when you say you -- this -- you had
14 this DNA in your possession, correct?

15 A. Correct.

16 Q. Okay. And you also were at the scene
17 at Golding Lane, correct?

18 A. Correct.

19 Q. At 1:00 in the morning?

20 A. Yes.

21 Q. Okay. And you don't know the time that
22 you put it in the evidence locker?

23 A. It was well before that was executed.

24 Q. But you don't know what time they took
25 it out of the evidence locker?

WRIGHT, CROSS EXAM BY MS. CAPERS

1 A. It was the next day. I know the locker
2 was still secure whenever we submitted the evidence
3 from Golding Lane. So that would indicate that
4 that locker had not been tampered with.

5 Q. And what evidence locker number was
6 that?

7 A. For the DNA?

8 Q. Yes.

9 A. Give me just a moment. Evidence locker
10 Number 5?

11 Q. And did you watch the whole video at
12 the Speedway?

13 A. At which time?

14 Q. When you saw the defendant at the
15 Speedway, was there additional -- were there
16 additional pictures of him at Speedway?

17 A. Initially, I did not go to the Speedway
18 to collect the video. I watched the portion that
19 was provided to me by Investigator Dodson which was
20 only about a four-minute span.

21 I later returned to the Speedway and
22 obtained a longer copy of the video, at which time
23 I watched the entire video.

24 Q. Did you see the defendant go to a car?

25 A. I dido.

WRIGHT, CROSS EXAM BY MS. CAPERS

1 Q. And was it one car or two cars?

2 A. I believe that the employee said one of
3 the cars was a coworker's and that there was one
4 other car. So I believe one. There were two other
5 cars present though.

6 Q. And did you see the defendant get into
7 that car?

8 A. I can't remember.

9 Q. You can't remember. Okay. But when he
10 was at that gas station, he did make contact with
11 another individual in the car?

12 A. Yes.

13 Q. Were you able to find out who that was?

14 A. No.

15 MS. CAPERS: Beg the Court's
16 indulgence.

17 THE COURT: Certainly.

18 BY MS. CAPERS:

19 Q. Did you -- Officer Wright, did you --
20 did Ms. *Victim* describe the assailant's underwear?

21 A. Yes, she did.

22 Q. And how did she describe them?

23 A. As black with a white design. She said
24 that it was not dots, but that it was a design and
25 in rows.

WRIGHT, CROSS EXAM BY MS. CAPERS

1 Q. And when you were -- were you involved
2 in drafting the search warrant?

3 A. Yes, I was.

4 Q. Okay. And on that video, the defendant
5 is wearing black underwear with a white stripe?

6 A. They had a white design.

7 Q. Do they -- do you have a picture of
8 that?

9 A. Just a moment. I don't have that
10 photograph in front of me where he was walking out
11 of the Speedway, but I do recall that was one of
12 the key reasons that we looked at the defendant.

13 MS. CAPERS: Okay. Can you mark -- I
14 would like these marked, please, as Defendant's
15 Exhibits.

16 THE COURT: Okay.

17 (DFT. EXH. 2, Photo, was marked for
18 identification.)

19 (DFT. EXH. 3, Photo, was marked for
20 identification.)

21 (DFT. EXH. 4, Photo, was marked for
22 identification.)

23 BY MS. CAPERS:

24 Q. Ms. Wright, do you recall where the
25 mask was recovered?

WRIGHT, CROSS EXAM BY MS. CAPERS

1 A. I believe I was informed it was from a
2 rear bedroom.

3 Q. In a closet?

4 A. Yes.

5 Q. Okay. I'm going to show you what's
6 been marked as Defendant's Exhibit Number 3. Do
7 you recognize that?

8 A. I can't say that I recognize these
9 items because I did not conduct the search.

10 Q. Okay.

11 A. These items were brought to me, and I
12 was stationary in the kitchen.

13 Q. So you didn't go into the rooms. You
14 don't know -- you can't attest to them being in the
15 closet. Is that what you're saying?

16 A. The information was provided to me by
17 the officer that collected it.

18 Q. Okay. But you did see the mask?

19 A. Yes.

20 Q. Okay. Because you collected it?

21 A. Correct.

22 Q. Does this accurately depict the mask
23 that you collected?

24 A. No, it does not.

25 Q. It does not. Were there more? Less?

WRIGHT, CROSS EXAM BY MS. CAPERS

1 A. I was informed there were additional
2 masks. I did not know what they looked like.

3 Q. Did you just say you collected them?

4 A. No, they were not collected. We
5 collected the one that was shown just a moment ago.

6 Q. Okay. So you collected them, but you
7 actually didn't see them?

8 A. We did not collect the mask that you
9 have in your hand right now. We collected the mask
10 that is on the table.

11 Q. Okay. Did you see them?

12 A. I did not see those masks.

13 Q. Okay. Did you log or notate anywhere
14 any description of the mask or how many there were?

15 A. I believe Investigator Powell did.

16 Q. Did you?

17 A. I can't recall that.

18 Q. How long did the search of Golding
19 Lane last?

20 A. I don't know.

21 Q. You don't know. Was it several hours?

22 A. It wasn't more than three.

23 MS. CAPERS: Okay. I think that's all
24 I have for you, Officer Wright.

25 THE COURT: Redirect?

WRIGHT, REDIRECT EXAM BY MR. ALFARO

1 REDIRECT EXAMINATION

2 BY MR. ALFARO:

3 Q. Officer Wright, I want to kind of
4 circle back to the swabs that you collected on
5 December 21st, State's 101 and 102. Those swabs
6 were collected from the mouth of the victim,
7 correct?

8 A. Correct.

9 Q. And that was based off information
10 related to what she described happened to her that
11 day?

12 A. Correct.

13 Q. And there was some question on cross
14 about times. Those were collected approximately
15 2:44 p.m.?

16 A. Yes.

17 Q. And you secured those into an evidence
18 locker, I think you said, approximately 7 or
19 8:00 p.m.?

20 A. Yes.

21 Q. Those were secured in the evidence
22 locker prior to you going to Golding to execute the
23 search warrant, correct?

24 A. Yes, they were.

25 Q. And while they were in your custody for

WRIGHT, RECROSS EXAM BY MS. CAPERS

1 that time while you were at MUSC with the victim,
2 did you tamper with them in any way?

3 A. No, I did not.

4 Q. And prior to entering the residence at
5 Golding, you had a search warrant, correct?

6 A. Correct.

7 Q. And also prior to entering the
8 residence at Old Dominion, you had a search
9 warrant, correct?

10 A. Correct.

11 Q. And in investigating these types of
12 cases and executing search warrants, as part of
13 these types of cases, is it always -- is it
14 customary that you would sometimes not wait for
15 someone to come home to execute a search warrant?

16 A. Yes.

17 MR. ALFARO: Thank you. No further
18 questions.

19 THE COURT: Re-cross.

20 RECROSS-EXAMINATION

21 BY MS. CAPERS:

22 Q. Just one other question regarding this
23 mask. Had you already completed or were you --

24 MR. ALFARO: Objection, Your Honor.
25 It's beyond the scope of redirect.

1 THE COURT: Rephrase your question.

2 There's no question about a mask. Has to be
3 limited to what he brought out on redirect. If you
4 want to ask another question, you can. It's
5 improper re-cross.

6 MS. CAPERS: Okay. No further
7 questions.

8 THE COURT: All right. You may come
9 down. Thank you.

10 All right. Ladies and gentlemen, at
11 this point we will take a break and let you go to
12 your jury room. Do not begin your deliberation,
13 don't discuss the case; we'll be with you in about
14 15 minutes.

15 Ms. Martin, you've been selected as the
16 presiding juror, as I understand.

17 THE WITNESS: Yes, sir.

18 THE COURT: Thank you very much.

19 And thank you, ladies and gentlemen,
20 for taking care of that. I would ask you also to,
21 when you're in the jury room, discuss with the
22 fellow jurors and let us know whether or not there
23 were any other persons viewed any network showing
24 of what transpired yesterday.

25 THE FOREPERSON: Yes, sir.

BLACK - DIRECT EXAM BY MS. WILLIAMS

1 MS. WILLIAMS: Thank you, Your Honor.
2 The State will call Amy Black.

3 AMY STEVENS BLACK,
4 being first duly sworn, testified as follows:

5 THE CLERK: Please have a seat. State
6 your full name and spell your last, please.

7 THE WITNESS: Amy Stevens Black,
8 B-L-A-C-K.

9 DIRECT EXAMINATION

10 BY MS. WILLIAMS:

11 Q. Mrs. Black, where do you work now?

12 A. I'm employed as a victim's advocate and
13 support specialist with the Barnwell Police
14 Department.

15 Q. Where were you working in
16 December 2017?

17 A. I was working as a forensic technician
18 in the evidence control department at South
19 Carolina Law Enforcement Division.

20 Q. Is that sometimes called SLED?

21 A. It is.

22 Q. And what were your responsibilities in
23 that position?

24 A. As a forensic technician in the
25 evidence control department, my responsibilities

BLACK - DIRECT EXAM BY MS. WILLIAMS

1 were to log in and transfer evidence for forensic
2 analysis.

3 Q. Did you transfer evidence in this case?

4 A. Yes, I did.

5 Q. Is there a document that sort of
6 documents and shows where evidence goes from one
7 person to another?

8 A. There is. At SLED, it's called a chain
9 of custody. It's an electric document that tracks
10 the movement of the evidence, whether it's from
11 individual to individual or individual to a
12 location.

13 Q. And would it refresh your memory to be
14 able to review a portion of that chain of custody
15 to tell us what you handled in this case?

16 A. Yes.

17 MS. WILLIAMS: Your Honor, I'm going to
18 mark these three sheets collectively as State's
19 117.

20 (STATE EXH. 117, chain of custody, was
21 marked for identification.)

22 THE COURT: State's 117 for ID only.

23 MS. WILLIAMS: I'm going to show what
24 has been marked as State's 117 to defense counsel.

25 May I approach?

BLACK - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: Yes, ma'am.

2 BY MS. WILLIAMS:

3 Q. Look at that and see if it refreshes
4 your recollection as to what you handled in this
5 case.

6 A. It does. I handled three separate
7 items in this case. The SLED lab number is
8 L-1719301. I handled SLED Item No. 13, which is an
9 oral swab for semen from the upper gumline from the
10 victim. I retrieved this item from a DNA intake
11 shelf located in the evidence room and transferred
12 the evidence to forensic technician Courtney
13 Thompson on January 17, 2018, at 3:56 p.m.

14 I also handled SLED Item No. 14, which
15 is described as an oral swab for semen from the
16 lower gumline from the victim. I also retrieved
17 this item from a DNA intake shelf located in the
18 evidence room and transferred it to forensic
19 technician Courtney Thompson on January 17, 2018,
20 at 3:56 p.m.

21 I also handled SLED Item No. 15, which
22 is described as a blue Hanes sweatshirt that was
23 worn by the victim. I retrieved this item from an
24 evidence processing intake shelf located in the
25 SLED evidence room and transferred this item to

BLACK - DIRECT EXAM BY MS. WILLIAMS

1 forensic technician Courtney Thompson on
2 January 17, 2018, at 3:56 p.m.

3 Q. And does SLED have certain rules and
4 protocols about the handling of evidence and
5 whether or not evidence is tampered with or if
6 notations is made if it is tampered in any way?

7 A. Yes. If I would have received the
8 evidence from any of those locations and it would
9 have appeared to not be sealed or tampered with, I
10 would have made a note in the system for this case,
11 and I would have contacted the individual that
12 physically placed it on the shelf.

13 Q. And each leg of the chain is
14 documented?

15 A. Yes.

16 Q. To make sure that there is no
17 contamination, no tampering or anything that would
18 compromise the evidence?

19 A. That's correct.

20 MS. WILLIAMS: Okay. I will show
21 defense counsel what's been marked as 96, 101, 102
22 and 100.

23 May I approach?

24 THE COURT: You may.

25 BY MS. WILLIAMS:

BLACK - DIRECT EXAM BY MS. WILLIAMS

1 Q. Can you tell me if you recognize these
2 items as the ones that you handled?

3 A. This item is a sweatshirt that was worn
4 by the victim, and I can tell this by the label
5 that is affixed to the package.

6 THE COURT: Can you tell me what number
7 you're referencing?

8 THE WITNESS: State's Exhibit 100.

9 THE COURT: Thank you.

10 THE WITNESS: The label states
11 L-1719301 SLED Item No. 15. The lab number written
12 on this piece of evidence is L-1719301 Item No. 13,
13 which corresponds with the oral swab for semen from
14 the upper gumline from the victim.

15 And the last item, L-1719301 SLED Item
16 No. 14, which corresponds with the item of oral
17 swab for semen from the lower gumline from the
18 victim.

19 MS. WILLIAMS: Your Honor, these items
20 we are not offering into evidence at this time.

21 THE COURT: Very well. That's fine.

22 MS. WILLIAMS: No further questions.

23 Thank you.

24 THE COURT: Any questions?

25 MS. CAPERS: No questions.

KRYWKO, M.D. - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: Thank you. You may come
2 down.

3 THE WITNESS: Thank you.

4 THE COURT: Do you wish the witness to
5 be excused?

6 MS. WILLIAMS: Yes, Your Honor.

7 THE COURT: Any objections?

8 MS. CAPERS: None.

9 THE COURT: You are free to leave,
10 ma'am.

11 MS. WILLIAMS: The State would call
12 Dr. Marie Krywko.

13 DIANE MARIE KRYWKO,
14 being first duly sworn, testified as follows:

15 THE CLERK: Please have a seat. State
16 your full name and spell your last, please.

17 THE WITNESS: My name is Diane Krywko,
18 K-R-Y-W-K-O.

19 DIRECT EXAMINATION

20 BY MS. WILLIAMS:

21 Q. Krywko?

22 A. Yes.

23 Q. Is there a Marie somewhere in your
24 name?

25 A. Correct, my middle name; Diane Marie

KRYWKO, M.D. - DIRECT EXAM BY MS. WILLIAMS

1 Krywko.

2 Q. Thank you so much.

3 Dr. Krywko, where do you work?

4 A. I work at the Medical University of
5 South Carolina.

6 Q. And what is your position there?

7 A. I'm full-time emergency medicine
8 faculty.

9 Q. And are you a licensed physician in the
10 state of South Carolina?

11 A. Yes, I am.

12 Q. And any other states?

13 A. No.

14 Q. And do you specialize in a particular
15 branch or field of medicine?

16 A. I specialize in emergency medicine.

17 Q. And what is your educational
18 background?

19 A. I did my undergraduate degree at
20 Michigan State University. I got a BS in
21 physiology. I did my medical school at Wayne State
22 University School of Medicine in Detroit, Michigan
23 where I received my MD. And then I finished at the
24 University of Michigan and did my residency in
25 emergency medicine.

KRYWKO, M.D. - DIRECT EXAM BY MS. WILLIAMS

1 Q. Any other tests or certificates or any
2 other training required for your specialty?

3 A. To be certified in emergency medicine,
4 you have to pass a board certification test to
5 start. That encompasses two portions: One is a
6 written test -- I believe, it's approximately 300
7 questions over the entire specialty of emergency
8 medicine -- followed by an oral board examination.

9 Q. And what does the field of emergency
10 medicine involve?

11 A. So the field of emergency medicine
12 encompasses treating any and all acute care medical
13 issues.

14 Q. And is the certification that you just
15 described in addition to your license to practice
16 medicine?

17 A. Correct.

18 Q. And approximately how many emergency
19 cases -- emergency care cases have you handled in
20 your career?

21 A. So I graduated from medical school in
22 1996. So I've been practicing approximately
23 25 years in medicine. We see approximately 2.5
24 patients per hour, and I work approximately
25 1500-plus hours a year, plus overtime. So that

KRYWKO, M.D. - DIRECT EXAM BY MS. WILLIAMS

1 equates to about 90- to 100,00 patients total.

2 MS. WILLIAMS: At this time, Your
3 Honor, the State would offer Dr. Krywko as an
4 expert in emergency medicine.

5 THE COURT: Care to examine her as to
6 qualifications?

7 MS. CAPERS: No, Your Honor.

8 THE COURT: Very well. She will be
9 permitted to render opinions in that area.

10 MS. WILLIAMS: Thank you, Your Honor.

11 BY MS. WILLIAMS:

12 Q. Were you working at MUSC on
13 December 21, 2017?

14 A. I was.

15 Q. And during this time, did you have
16 involvement with a patient named Victim?

17 A. Yes.

18 Q. And what was your role in that
19 patient's care?

20 A. So as a faculty emergency medicine
21 physician at an academic center, I supervise
22 residents. My resident primarily treated and
23 examined the patient, but I was supervising and
24 been present while doing so.

25 Q. And did you receive any information

KRYWKO, M.D. - DIRECT EXAM BY MS. WILLIAMS

1 about this patient before her arrival at the ER?

2 A. We typically will get a radio call from
3 EMS coming in, and that will dictate where the
4 patient is put in the emergency department or other
5 facility at our second hospital. We would have
6 been notified that she was having chest pain.

7 Q. What, if any, medications was she given
8 when she arrived?

9 A. Prior to arrival by EMS or in the
10 emergency department?

11 Q. In the emergency room.

12 A. After we -- after we received her blood
13 test that was positive for a heart -- enzyme heart
14 attack, we started her on heparin. And I believe
15 she had already been given aspirin by EMS prior to
16 arrival.

17 Q. So she was having -- you said she was
18 having chest pain. Can you describe the condition
19 that she was in when she arrived and what diagnosis
20 you arrived at after examining her?

21 A. So based on review of the records, she
22 was hemodynamically stable, her blood pressure was
23 fine, her pulse was fine. She was having chest
24 pain at that time.

25 We obtained an EKG which did not show

KRYWKO, M.D. - DIRECT EXAM BY MS. WILLIAMS

1 any abnormalities indicative of a heart attack, but
2 we obtained blood work that were positive for an
3 elevated troponin, which is a heart enzyme that
4 says you're having heart damage.

5 Q. So she was in the middle of a cardiac
6 episode?

7 A. Correct.

8 Q. And did she relate to you what had
9 happened right before? And you can only tell us
10 what she told you and if she said where and when it
11 happened.

12 A. Yes, she did. She -- she described an
13 episode of a sexual assault -- we stated alleged
14 sexual assault since we were not present, sexual
15 assault in her home.

16 Q. And did you run tests in the ER as far
17 as her heart condition?

18 A. We did. We ran the troponin, which is
19 a heart enzyme. We typically do a chest x-ray,
20 which I believe was done, and EKG, the heart
21 tracing, and any other basic blood work.

22 Q. And after she was diagnosed having a
23 heart attack, did you refer her to any other
24 departments in the hospital?

25 A. So we referred her to two separate

KRYWKO, M.D. - DIRECT EXAM BY MS. WILLIAMS

1 departments. The first one was what is called a
2 SANE nurse, and I believe that is sexual assault
3 nurse examiner acronym, but I'm not -- I'm not
4 100 percent sure if that's the acronym.

5 The second person would do -- admit
6 them to cardiology service for further testing.

7 Q. And what is -- I'm going to try to
8 pronounce this -- takotsubo syndrome?

9 A. So takotsubo cardiomyopathy is a
10 condition known by many names. It's known by
11 stress-induced cardiomyopathy, takotsubo
12 myocardopathy, broken heart syndrome.

13 Essentially what that is,
14 cardiomyopathy means -- pathy means dysfunction,
15 myo means muscle, and cardio means heart. It's a
16 heart muscle dysfunction. What happens in -- what
17 is believed to happen in takotsubo, because nobody
18 actually knows the mechanism, is that there's an
19 excessive adrenalin surge after a stressful event.

20 It semi-paralyzes part of the
21 myocardium, the heart muscle. The heart muscle is
22 not able to pump effectively and, instead, it kind
23 of forms a ball when it pumps instead of a nice
24 squeezing mechanism. It looks like an octopus
25 head, and takotsubo means octopus in Japanese.

KRYWKO, M.D. - CROSS EXAM BY MS. MCQUEEN

1 Q. Is it sometimes called a stress-induced
2 heart attack?

3 A. Yes.

4 MS. WILLIAMS: Thank you. No more
5 questions.

6 THE COURT: Cross-examine.

7 MS. MCQUEEN: Just a moment, Your
8 Honor.

9 CROSS-EXAMINATION

10 BY MS. MCQUEEN:

11 Q. Doctor, I would like to clear up a few
12 things that you talked about earlier. The
13 takotsubo cardio --

14 A. Cardiomyopathy.

15 Q. -- cardiomyopathy, right, syndrome that
16 you were describing. This is a temporary
17 condition, correct?

18 A. Not always. So the vast majority of
19 the time it is a temporary self-resolving
20 condition; although, in a certain portion of
21 patients it does lead to potential worsening of
22 CHF, cardiac illness, and potential ventricular
23 tachycardia and death. It is a low proportion of
24 patients, but it can happen.

25 Q. A low number of patients that can --

KRYWKO, M.D. - CROSS EXAM BY MS. MCQUEEN

1 that it could be a lasting condition, but,
2 generally, it is a temporary condition?

3 A. Typically.

4 Q. Okay. And the victim received aspirin?

5 A. Uh-huh.

6 Q. While she was at MUSC?

7 A. I believe she received it prior to
8 arrival by EMS, but, yes, she did receive aspirin.

9 Q. And that's typically the therapy that
10 is given when you have that condition?

11 A. So the reason aspirin is given in this
12 particular incident is because of her age and
13 previous cardiac issues. So the older you get, the
14 more likely you are to have blockage in the heart
15 just by virtue of age.

16 When you're at that age, until proven
17 otherwise, we need to make sure there is not a
18 blockage and aspirin is indicated for that.

19 Q. Okay. And that's what she received at
20 MUSC?

21 A. Correct, and heparin.

22 Q. And?

23 A. Heparin.

24 Q. And heparin, again, was used to?

25 A. Heparin is for potential blockage. If

KRYWKO, M.D. - CROSS EXAM BY MS. MCQUEEN

1 there is a blockage and a clot formation in the
2 artery prohibiting blood flow, it will stop that
3 clot from becoming greater.

4 Q. So that was done as a preventative
5 because of the age of the patient?

6 A. Not necessarily preventative. Also as
7 a treatment. At the time when the troponin is
8 elevated, you're unclear what the mechanism of it
9 is, and we don't know that mechanism until they're
10 further catheterized, which means going into the
11 arteries and specifically looking, and an echo is
12 done, an echocardiogram, an ultrasound of the heart
13 is done.

14 So it's not done as preventative. It's
15 done -- it's done in case that is what is going
16 only. At the time of presentation, it is unclear
17 the exact etiology.

18 Q. It does not cure it; it is something
19 that is given in case there is a blockage?

20 A. Correct.

21 Q. Okay. And -- and you said -- and this
22 condition generally -- how long does it take to
23 clear up, if it's not a permanent condition?

24 A. I think it would vary on patients. I
25 can't give you the exact.

KRYWKO, M.D. - CROSS EXAM BY MS. MCQUEEN

1 Q. Say again, please.

2 A. I don't know the answer to that. It
3 would vary from patient to patient.

4 Q. Would about four weeks be a generally
5 accepted time that, if it's a temporary condition
6 that it's going to clear up?

7 A. I don't know the answer to that.

8 Q. All right. All right. And this will
9 -- takotsubo cardiomyopathy, its symptoms are
10 similar to a heart attack?

11 A. Correct; the symptoms are very similar.

12 Q. Very similar. Okay.

13 MS. CAPERS: And I have no further
14 questions.

15 THE COURT: Very well. Redirect?

16 MS. WILLIAMS: No, Your Honor.

17 THE COURT: Thank you. You may come
18 down.

19 Do you wish the witness to be excused?

20 MS. WILLIAMS: Yes, please.

21 THE COURT: Any objection, Ms. McQueen?

22 MS. MCQUEEN: No, sir.

23 THE COURT: You may step down. You are
24 free to leave.

25 Call your next witness.

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: State calls Karen Hughes.

2 KAREN HUGHES,

3 being first duly sworn, testified as follows:

4 THE CLERK: Please have a seat. State
5 your full name and spell your last, please.

6 THE WITNESS: Karen Hughes,
7 H-U-G-H-E-S.

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q. Ms. Hughes, what do you do for a
11 living?

12 A. I'm a registered nurse.

13 Q. And where do you work?

14 A. Medical University of South Carolina.

15 Q. And how long have you worked there?

16 A. Four years.

17 Q. And what is your educational
18 background?

19 A. I have been a nurse for 15 years, and I
20 have been a SANE for six years, practicing five of
21 those six years.

22 Q. Explain to the jury what a SANE is.

23 A. A sexual assault nurse examiner.

24 Q. What are your responsibilities?

25 A. I'm sorry, we treat patients that have

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 been either sexually assaulted or a victim of
2 domestic violence. We have specialized training to
3 do that.

4 That training consists of 40 hours of
5 training, plus a clinical portion of that where we
6 learn how to take care of patients with real-life
7 models and follow a nurse that has already been a
8 SANE for a while, and then -- through a
9 preceptorship, and then we are practicing.

10 Q. And that's in addition to the
11 requirements to be a registered nurse; is that
12 correct?

13 A. Correct.

14 Q. Tell us about the educational and the
15 professional requirements to become a registered
16 nurse.

17 A. To be a registered nurse, you have to
18 go through nursing school. And then when you pass
19 nursing school, you have to take a national test,
20 which is called an NCLEX. And if you pass that,
21 you're a registered nurse.

22 Q. You have achieved all of those
23 milestones?

24 A. Yes.

25 Q. About how many cases have you worked as

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 a sexual assault nurse examiner?

2 A. About 136.

3 Q. And as part of the responsibilities for
4 a sexual assault nurse examiner, do you collect
5 evidence?

6 A. I do.

7 Q. And examine patients?

8 A. I do.

9 Q. And document evidence and injuries of a
10 patient?

11 A. I do.

12 MS. WILLIAMS: Your Honor, at this
13 time, the State would offer Karen Hughes as an
14 expert in sexual assault nurse examination.

15 THE COURT: Care to examine as to
16 qualifications?

17 MS. CAPERS: No, sir.

18 THE COURT: She will be permitted to
19 render opinions in that area.

20 MS. WILLIAMS: Thank you, Your Honor.

21 BY MS. WILLIAMS:

22 Q. Were you working at MUSC on
23 December 21, 2017?

24 A. I was.

25 Q. And did you have an opportunity to

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 treat a patient named *Victim*

2 A. I did.

3 Q. And where did you do her exam?

4 A. I did her exam in the emergency room.

5 Q. And where do you usually do it?

6 A. We have a designated room that is
7 within the emergency room that we typically do our
8 sexual assault exams. They're kind of separated so
9 they're a little more private. Her exam was done
10 within the normal, typical emergency room setting.

11 Q. And why was that?

12 A. When I received the page that I was
13 having a case, I talked to the charge nurse in the
14 emergency room. And she had advised me that the
15 patient was coming down by ambulance, which is not
16 typical. Most people come down by private car,
17 sometimes they come down by police. Ambulance is
18 not a typical way.

19 So when she was coming down, I happen
20 to be working in the hospital at the time. I went
21 down and talked to the charge nurse, and she had
22 informed me that the patient had complained of
23 chest pain on the way being transported from Goose
24 Creek down to MUSC.

25 So at that point I knew that I was not

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 going to take her into an isolated area where there
2 wasn't additional assistance available if something
3 should happen.

4 Q. And you treat patients that have been
5 sexually assaulted?

6 A. I do.

7 Q. So did Ms. *Victim* tell you where and
8 when she was sexually assaulted?

9 A. She did. That is part of our history
10 that we take from our patients. We need to know
11 where and when they were assaulted. So she had
12 told me that she was assaulted around noon at her
13 home.

14 Through conversation it was determined
15 that it was -- and she told me it was in her extra
16 bedroom in her home.

17 Q. Okay. And what state of mind was she
18 in? Was she able to remember all details or was
19 she -- describe her demeanor.

20 A. She was very calm and very to the
21 point. She was able to describe -- I could get a
22 visual by her description of what had happened.
23 She was able to answer questions readily and -- she
24 was relatively calm.

25 Q. And is it important for you to know

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 what happened to a patient in order to know what
2 medical treatments and diagnoses are appropriate?

3 A. It is. As a SANE, we are trained to
4 assess a patient, diagnose what needs to be done
5 and then do the treatment based on that. So we
6 have to know what happened to the patient in order
7 to be able to give them the proper care for the
8 particular assault.

9 Every assault is different. So we need
10 to be very particular for each person and know what
11 is important for them.

12 Q. So in terms of evidence collection, is
13 it important for you to know -- do you make
14 decisions based on a patient's history as to what
15 you collect, what you swab, where you examine?

16 A. We do. The kit -- sexual assault exam
17 evidence kit is pretty large and extensive.
18 There's a lot of options in there. We use only the
19 things that are pertinent to that case. So based
20 on a history, we only take what would be pertinent
21 to that particular case. We don't use the whole
22 entire kit.

23 Q. In this case, did you swab anywhere on
24 Ms. Victim's face?

25 A. I did. I swabbed -- I swabbed around

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 her mouth, around her neck, around this area
2 (indicating) based on the history she had given me.
3 I also swabbed an area on her forehead on the head
4 that she had stated he had spit on.

5 Q. And did you note any bruises or any
6 injuries to Ms. Victim?

7 A. She had several bruises.

8 Q. Can you explain where they were?

9 A. She had several on her arms, mostly on
10 her inner arms. She had one on her breast. I can
11 refer back to my chart, but I believe that was it.

12 Q. And were -- to your recollection, were
13 those bruises consistent with anything that she
14 told you that had happened?

15 A. They were. Particularly, the ones on
16 her arms; they were circular and that is consistent
17 with finger marks. So that would be consistent of
18 somebody grabbing somebody by the arms and moving
19 them to a place or in a way that they wanted to
20 move that victim.

21 Q. And do you remember what time you did
22 her sexual assault examination?

23 A. About ten to four that I started her
24 exam.

25 Q. Ten to four in the afternoon?

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes, ma'am.

2 Q. What is that in military time? Do you
3 use military time?

4 A. We do. That would be 16:50.

5 Q. What time did you finish?

6 A. I believe it was an hour and a half to
7 two hours after. I have a timesheet that we record
8 our time on. I believe it was about two hours.

9 Q. Okay. And did you collect any other
10 evidence from Ms. Victim?

11 A. I did. I did an oral swab based on her
12 history. I also -- she had dentures upper and
13 lower, so I swabbed both the upper and lower. Like
14 I said, I took a swab -- I didn't take a swab. I
15 took like gauze for the head, the mouth; I think
16 that was it.

17 If the history would warrant it, we
18 would take clothing, but there was nothing that she
19 had that would warrant me to take anything other
20 than those.

21 Q. And as the SANE nurse, are there
22 department protocols in terms of how much time
23 between the sexual assault and the collection
24 lapses as to when you are going to -- whether or
25 not you are going to collect evidence?

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 A. The assault has to be within 120 hours
2 in order to have a sexual assault exam done.
3 That's part of the history I need to know. That's
4 why I need to know the time frame because it has to
5 be within that time frame.

6 After that, then medications that we
7 give aren't cleared by the CDC and it's less likely
8 to get DNA evidence.

9 With an oral swab with hers, we
10 generally don't collect. Although we could, if we
11 chose to, past 24 hours because it's very, very
12 unlikely to obtain any evidence from the oral
13 cavity.

14 Q. Is it fair to say that the more time
15 that elapses from the sexual assault, the harder it
16 is to get DNA?

17 A. It is. Time is not DNA's friend. So
18 the farther out you are, the less likely you are to
19 collect something. With the mouth we are
20 constantly producing saliva and that's constantly
21 cleaning the mouth. And that is why it's very
22 difficult to get an oral swab.

23 Also, people are apt to eat and drink
24 obviously. So the farther out, the less likely as
25 they eat and drink that you will be able to get a

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 swab.

2 Vaginals are a little bit longer
3 because the DNA stays in that area a little bit
4 longer.

5 Q. Is it fair to say that if you collect
6 an oral swab right after the incident, you are
7 going to get a better chance of getting DNA than if
8 you wait several hours?

9 A. You will get a better chance, but there
10 is still no guarantee you're going to get it. You
11 can't see DNA, so you're basically swabbing the
12 area that you think it may be; but an oral swab,
13 like I said, is difficult to obtain.

14 Q. But easier to get it if you get it
15 right away?

16 A. The sooner you get it, the better it
17 is.

18 Q. Is it fair to say that things like
19 drinking water or eating can interfere with
20 someone's ability to get DNA?

21 A. Absolutely. As you are eating and
22 drinking, it's going to wash that DNA into the
23 stomach.

24 Q. Okay. Did you also get what is known
25 as a buccal swab or standard from the victim?

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 A. I did. That -- we do that for every
2 case, and that's where we take a swab and scrape --
3 it's not like scraping. You're roughly rubbing the
4 inside of each side of the cheek, and that provides
5 the DNA of the patient.

6 Q. And when you took the oral swab from
7 Ms. Victim, how did you package it?

8 A. We have -- in the kit, there is a
9 number of envelopes, and one of them says buccal
10 swab. So that is where I placed it. After we
11 collect it, we have a tray that we can stand the
12 swabs up in so they're standing straight up and
13 they won't touch each other.

14 After that point when the swabs are
15 collected, when we were finished we put them in a
16 specific dryer that dries the swabs, because water
17 also is not a friend of DNA. So we dry those swabs
18 and then we package them into an envelope and pack
19 them into the cardboard box.

20 Q. How do you recognize that item after
21 you package it? Do you do something that has an
22 identifying mark that helps you --

23 A. We do. At MUSC, we -- patients get
24 stickers with their name, birth date, and specific
25 numbers to get -- to them personally as well as to

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 the appointments that they were there.

2 So on those stickers, I initial those
3 stickers and place a time on that.

4 MS. WILLIAMS: Your Honor, I'm going to
5 show defense counsel what was previously marked as
6 State's 103.

7 THE COURT: Okay.

8 MS. WILLIAMS: May I approach?

9 THE COURT: You may.

10 BY MS. WILLIAMS:

11 Q. Can you tell us if you recognize that?

12 A. I can. That is my sticker with my
13 initials and time --

14 Q. And after --

15 A. -- and buccal.

16 Q. So that's the envelope with the
17 victim's standard in it?

18 A. Yes.

19 Q. What do you do to protect the integrity
20 of that evidence?

21 A. Well, when we put that in the swab
22 dryer, we lock it. So we have the evidence with us
23 100 percent of the time. So that evidence --
24 anything that I collect does not go out of my
25 eyesight or my possession. If I do, it gets locked

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 up.

2 With this particular case, I never had
3 to leave the evidence ever because she was being
4 taken care of in the emergency department. So I
5 never had to leave her to get medications or any
6 other items that she may need after the assault.

7 So after I ran -- after I collected my
8 swabs and were done with her, I went back to the
9 exam room and processed the swabs that I had and
10 wrote up the report.

11 Q. Who did you give that to next?

12 A. The kit -- how it works at MUSC is
13 public safety comes and gets them. We call them
14 when we are finished with the kit. You seal it up
15 and we call public safety and they come over to our
16 exam room and they pick up our kits.

17 And then they take them back to their
18 office and put them in a secure refrigerator. They
19 stay refrigerated until the jurisdiction that owns
20 that kit comes to pick it up, or if no one owns it,
21 it goes to Charleston County.

22 Q. And do you know who you gave it to in
23 this case?

24 A. I gave it to a public safety officer.

25 Q. Would it refresh your memory to look at

HUGHES - DIRECT EXAM BY MS. WILLIAMS

1 your chain?

2 A. Sure.

3 MS. WILLIAMS: Your Honor, I'm going to
4 mark this as State's 108.

5 THE COURT REPORTER: It's 118.

6 MS. WILLIAMS: 118.

7 (STATE EXH. 118, Chain of evidence, was
8 marked for identification.)

9 MS. WILLIAMS: May I approach?

10 THE COURT: Yes, you may.

11 BY MS. WILLIAMS:

12 Q. Does that refresh your recollection as
13 to who it went to next?

14 A. It does. It looks like Holbrook, Badge
15 Number 147. Or 149, I'm sorry.

16 Q. What time did you transfer it to him?

17 A. He picked it up at 8:38 at night.

18 Q. And it was kept in a secure location
19 before that, up to that time?

20 A. Absolutely, with me the whole time.

21 MS. WILLIAMS: No further questions.

22 THE COURT: Cross-examine?

23 CROSS-EXAMINATION

24 BY MS. CAPERS:

25 Q. You mentioned -- you said water is not

HUGHES - CROSS EXAM BY MS. CAPERS

1 DNA's friend, right?

2 A. It is not.

3 Q. What about heat?

4 A. No.

5 Q. Temperature changes?

6 A. It is not.

7 Q. What about keeping something in a
8 clipboard or an aluminum box?

9 A. I don't know. If air can get in there,
10 it can go either way. It really could. Plastic is
11 definitely not good.

12 Q. And if you carry around the samples for
13 after you take them, are they still degrading?

14 A. Possibly. Where I worked prior to, we
15 didn't have a swab dryer. So not all places use a
16 swab dryer, but the dryer the evidence the better.

17 Q. And you did take oral swabs of the
18 upper and lower gumlines?

19 A. Yes.

20 Q. And you also swabbed the face, head.

21 Any other places?

22 A. I don't believe so.

23 Q. And you mentioned that DNA will last in
24 your mouth about 24 hours?

25 A. At the outside. It could be less,

HUGHES - CROSS EXAM BY MS. CAPERS

1 could be -- not likely more, but definitely it
2 could be less.

3 Q. Could be less than 24, but usually up
4 until 24?

5 A. We take -- we take samples up to 24,
6 but each individual person is different depending
7 on how much they ate or how much they drank. I
8 suppose if someone salivates a lot, then it would
9 be less likely to get that DNA.

10 Q. You saw her between 3:50 and -- at what
11 point during your exam did you take the swabs?

12 A. I think -- well, I marked 6:00 as the
13 time that I took the swabs.

14 Q. Okay. And the assault or the alleged
15 assault occurred at about 1:15?

16 A. She told me noon. So all I know is
17 noon-ish.

18 Q. Okay. All right. So from your
19 knowledge, noon to six, so six hours?

20 A. Yes.

21 Q. Okay. Did you see Officer Wright at
22 the hospital?

23 A. Yes.

24 Q. Okay. Was she there the entire time?

25 A. She was.

HUGHES - CROSS EXAM BY MS. CAPERS

1 Q. Okay. Were you aware that she had her
2 swabs with her?

3 A. I was actually. That was -- it's --
4 first of all, it's very unusual to have a police
5 officer with the patient. So she was there and
6 when we discussed -- when I was taking the history,
7 I had realized that she had gotten a swab at the
8 scene. So I did know she had that.

9 Q. Okay. So the point being, her swabs
10 would have been taken before yours, but they would
11 have been carried around longer?

12 A. Right.

13 Q. Okay. And your evidence never left
14 you?

15 A. No.

16 Q. Okay. Did you put your swabs in your
17 SANE kit?

18 A. Yes.

19 Q. Did somebody come and collect those?

20 A. Yes.

21 Q. And I believe you told us who the
22 officer was?

23 A. Correct.

24 Q. Okay. Do you know if your swabs were
25 ever analyzed?

HUGHES - CROSS EXAM BY MS. CAPERS

1 A. I am not sure.

2 MS. CAPERS: Okay. Thank you.

3 THE WITNESS: You're welcome.

4 THE COURT: Redirect?

5 MS. WILLIAMS: No, Your Honor.

6 THE COURT: Thank you. You may come

7 down.

8 Do you wish the witness to be excused?

9 MS. WILLIAMS: Yes, sir.

10 THE COURT: Any objection?

11 MS. CAPERS: No, Your Honor.

12 THE COURT: You are free to leave.

13 THE WITNESS: Thank you.

14 THE COURT: Call the next witness.

15 MS. WILLIAMS: The State would call Dan

16 Holbrook.

17 LEE DAN HOLBROOK,

18 being first duly sworn, testified as follows:

19 THE CLERK: Please have a seat. State

20 your full name and spell your last, please.

21 THE WITNESS: Lee Holbrook,

22 H-O-L-B-R-O-O-K.

23 THE COURT REPORTER: I'm sorry, can I

24 have your first name?

25 THE WITNESS: Lee.

DOBSON - DIRECT EXAM BY MS. WILLIAMS

1 Call your next witness.

2 MS. WILLIAMS: The State would call
3 Officer Dodson.

4 CHARLES DODSON,
5 being first duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State
7 your full name and spell your last, please.

8 THE WITNESS: Investigator Dodson, City
9 of Goose Creek Police Department.

10 THE COURT REPORTER: Spell your last
11 name, please.

12 THE WITNESS: D-O-D-S-O-N.

13 DIRECT EXAMINATION

14 BY MS. WILLIAMS:

15 Q. Investigator Dodson, were you working
16 for the City of Goose Creek in the same capacity as
17 an investigator on December 21, 2017?

18 A. Yes, I was.

19 Q. And did you have involvement in this
20 case?

21 A. Yes, I did.

22 Q. And what was that?

23 A. I was informed that the victim's credit
24 card was used after the incident.

25 Q. And what did you do after learning of

DOBSON - DIRECT EXAM BY MS. WILLIAMS

1 that information?

2 A. Once I discovered that the card was
3 used, we identified the bank as belonging to Wells
4 Fargo. I contacted my bank contact and found out
5 the card was used on Dorchester Road at the
6 Speedway.

7 I went down and retrieved the receipt
8 and a copy -- digital images of the person using
9 the card.

10 Q. Okay. And so you learned that the card
11 has been stolen?

12 A. That's correct.

13 Q. And then do you have contact -- you
14 found out what bank it was?

15 A. That's correct.

16 Q. And so is this something that you have
17 done before in an investigative capacity?

18 A. Yes. I'm currently the white collar
19 investigator for the City of Goose Creek.

20 Q. And so you have a contact at Wells
21 Fargo that deals with this kind of thing?

22 A. Yes, Danny Conyers.

23 Q. And he was able to look up Ms. Victim's
24 card to see if anyone had used it?

25 A. That's correct. I sent him a copy of

DOBSON - DIRECT EXAM BY MS. WILLIAMS

1 the report so he knows it's valid. Once he sees
2 that we have a valid report, he gives me the
3 information requested.

4 Q. And he told you that the card had been
5 used at the Speedway?

6 A. Yes.

7 Q. Do you remember about what time it was
8 used?

9 A. It was in the afternoon. I don't know
10 the exact time.

11 Q. Was it the same day?

12 A. Again, I don't recall the same day or
13 not.

14 Q. Okay. Would it refresh your memory to
15 look at the transaction receipt?

16 A. Yes, it would.

17 Q. Are you aware -- let me ask you this
18 follow-up question before I show you this. Are you
19 aware of what -- whether they use Eastern Time,
20 Central Time, or Pacific Time when they time stamp
21 these receipts?

22 A. I believe they use Pacific. I do
23 remember speaking with Mr. Conyers and he specified
24 the time difference.

25 Q. And it will be noted on here that it's

DOBSON - DIRECT EXAM BY MS. WILLIAMS

1 Pacific Time?

2 A. Yes.

3 MS. WILLIAMS: Your Honor, I'm going to
4 show defense counsel what has been marked as
5 State's Exhibit 50.

6 May I approach?

7 THE COURT: Yes.

8 BY MS. WILLIAMS:

9 Q. Tell us what that is.

10 A. This is the transaction results from
11 the Wells Fargo Bank in reference to the victim's
12 credit card being used.

13 Q. Does it show a time?

14 A. Yes, it does.

15 Q. And does it indicate PT or ET or CT for
16 what --

17 A. It indicates PT, Pacific Standard Time.

18 Q. Just for the rest of us that forget
19 this, how many hours before Eastern Time is it?

20 A. Three hours.

21 Q. What does that say?

22 A. I believe this says 2:05.

23 Q. So what time would that be South
24 Carolina time?

25 A. 5:05 p.m.

DOBSON - DIRECT EXAM BY MS. WILLIAMS

1 Q. On the same day that this victim
2 reported her card being stolen, this card was used
3 at 5:05?

4 A. Yes, on the 21st.

5 MS. WILLIAMS: Your Honor, at this
6 time, we would offer State's 50 into evidence.

7 THE COURT: Any objection?

8 MS. CAPERS: Without objection.

9 THE COURT: Without objection it is
10 admitted, State's 50.

11 (STATE EXH. 50 in evidence.)

12 BY MS. WILLIAMS:

13 Q. After you determine where the card was
14 used, what did you do?

15 A. I went to Speedway on Dorchester Road,
16 and I met with the manager on duty and I reviewed
17 the video and got a copy of the transaction
18 receipt.

19 Q. Did she indicate what pump the card was
20 used at?

21 A. I believe it was used at pump two. It
22 was one of the closer pumps to the register.

23 Q. Okay. And were you able to see an
24 individual using the card on pump two on the video?

25 A. Yes, I was. It was a clear image.

DOBSON - DIRECT EXAM BY MS. WILLIAMS

1 Q. What did you do with that video after
2 you --

3 A. I recovered photos on my phone and sent
4 them back to Investigator Wright.

5 Q. And those were photos of the individual
6 that was using the victim's card --

7 A. Yes.

8 Q. -- at 5:05?

9 A. Yes.

10 Q. And at this point had the Goose Creek
11 Police Department developed a suspect yet?

12 A. No, not as of yet.

13 Q. So you didn't know who it was?

14 A. No.

15 Q. And you didn't know his name?

16 A. That's correct.

17 Q. And you put his picture out to see if
18 someone would recognize him?

19 A. That's correct.

20 MS. WILLIAMS: Your Honor, I'm showing
21 defense counsel what's been marked as Exhibit 49.

22 THE COURT: Very well.

23 MS. WILLIAMS: May I approach?

24 THE COURT: You may.

25 BY MS. WILLIAMS:

DOBSON - CROSS EXAM BY MS. CAPERS

1 Q. If you could tell us what pump that
2 indicates it's being used at and how much it was.

3 A. This is pump two and it was for \$20.28.

4 MS. WILLIAMS: At this time, we would
5 offer State's 49 into evidence.

6 THE COURT: Any objection?

7 MS. CAPERS: None, Your Honor.

8 THE COURT: State's 49 is admitted
9 without objection.

10 (STATE EXH. 49 in evidence.)

11 MS. WILLIAMS: Thank you. Please
12 answer any questions from the defense.

13 THE COURT: You may cross-examine.

14 CROSS-EXAMINATION

15 BY MS. CAPERS:

16 Q. Officer Dodson, did you also observe on
17 the videotape the black male who approached two
18 other vehicles?

19 A. That's correct.

20 Q. And did you notice him get into either
21 of the two vehicles?

22 A. I don't recall.

23 Q. But you did see him go over to two
24 vehicles?

25 A. That's correct.

CONYERS - DIRECT EXAM BY MS. WILLIAMS

1 MS. CAPERS: No further questions.

2 THE COURT: Very well. Redirect?

3 MS. WILLIAMS: No, Your Honor.

4 THE COURT: You may come down, sir.

5 Call your next witness.

6 MS. WILLIAMS: State would call Daniel

7 Conyers.

8 DANIEL CONYERS,

9 being first duly sworn, testified as follows:

10 THE CLERK: Please have a seat. State
11 your full name and spell your last, please.

12 THE WITNESS: My name is Danny Conyers,
13 C-O-N-Y-E-R-S.

14 DIRECT EXAMINATION

15 BY MS. WILLIAMS:

16 Q. Thank you, Mr. Conyers. Where do you
17 work?

18 A. Wells Fargo.

19 Q. And what are your duties and
20 responsibilities?

21 A. I'm a financial crimes investigator.

22 Q. How long have you been at Wells Fargo?

23 A. Forty-three years.

24 Q. And were you working in that capacity
25 on December 21, 2017?

CONYERS - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes, ma'am.

2 Q. Were you contacted by the Goose Creek
3 Police Department on that date?

4 A. Yes.

5 Q. And what was it regarding?

6 A. A debit card fraud.

7 Q. And do you remember who the cardholder
8 was that they were calling you about? What the
9 cardholder name was?

10 A. I thought you were going to have your
11 copy. I didn't bring mine.

12 Q. That's fine.

13 A. I don't remember her name, but I'll
14 remember it.

15 Q. Okay. Would it refresh your memory to
16 look at a transaction sheet --

17 A. Yes.

18 Q. -- from Wells Fargo?

19 MS. WILLIAMS: May I approach?

20 THE COURT: You may.

21 MS. WILLIAMS: I'm showing defense
22 counsel what was previously marked as State's 50.

23 THE COURT: It's been admitted.

24 MS. WILLIAMS: I'm not sure this
25 transaction shows --

CONYERS - DIRECT EXAM BY MS. WILLIAMS

1 THE WITNESS: No, ma'am, it don't.

2 BY MS. WILLIAMS:

3 Q. Okay. I'm going to show this witness
4 what was previously marked as State's 49.

5 THE COURT: Marked and is in evidence.

6 BY MS. WILLIAMS:

7 Q. See that card number and see her name
8 there.

9 A. Victim

10 Q. Victim

11 A. Victim . . .

12 Q. And the other name.

13 A. Victim

14 Q. Thank you. And were you able to tell
15 the police officers where the card had been used?

16 A. Yes.

17 Q. Do you remember what information you
18 gave them about where it had been used?

19 A. I gave them the time, the date, and the
20 store name.

21 Q. Okay. And can you see on your
22 transaction sheet what time that card had been
23 used?

24 A. This is showing -- let's see. I
25 haven't got my glasses either. It's saying 5:05,

CONYERS - DIRECT EXAM BY MS. WILLIAMS

1 but I'm pretty sure it's got p.m. But it was in
2 the a.m.

3 Q. I think on your sheet it has the
4 Pacific Time?

5 A. It's Pacific Time.

6 Q. So what time does it say?

7 A. Which sheet are we looking at? This
8 one? This one is showing --

9 Q. Does 2:05 p.m. sound right?

10 A. Yes.

11 Q. And so what time would that be South
12 Carolina time if it's 2:05 Pacific Time? Would
13 that be 5:05 --

14 A. Three hours later, five something.

15 Q. Is there anything else that you did
16 with regard to this case?

17 A. No, ma'am.

18 MS. WILLIAMS: Okay. Thank you. No
19 further questions.

20 THE COURT: Cross-examine.

21 MS. CAPERS: No questions, Your Honor.

22 THE COURT: Thank you. You may come
23 down.

24 Call your next witness.

25 MS. WILLIAMS: Beg the Court's

BASNILLO - DIRECT EXAM BY MS. WILLIAMS

1 indulgence.

2 The State would call Candace Basnillo.

3 CANDACE BASNILLO,

4 being first duly sworn, testified as follows:

5 THE WITNESS: Candace Basnillo,

6 B-A-S-N-I-L-L-O.

7 DIRECT EXAMINATION

8 BY MS. WILLIAMS:

9 Q. Where do you work, Ms. Basnillo?

10 A. Yes. Speedway.

11 Q. Okay. And were you working there on
12 December 21, 2017?

13 A. Correct.

14 Q. And what is your job there?

15 A. I'm -- I was the general manager at the
16 time. Right now I'm just a manager; I stepped down
17 due to my pregnancy.

18 Q. And what are some of the duties that
19 you have with regard to that position?

20 A. Pretty much paperwork, maintaining the
21 store, making sure all the paperwork is done. I
22 would have seven employees to be in charge of, just
23 basic duties of running a business pretty much.

24 Q. And as part of your duties, do you deal
25 with the surveillance videotape at the gas station?

BASNILLO - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes.

2 Q. And do you know how to remove it from
3 the mechanism that records and make a tape from it
4 and --

5 A. Well, there is no way to remove the
6 system. All we can do is open up what video
7 sections we need to watch and record DVD.

8 Q. So explain to me how that system works.

9 A. Pretty much it's our securities team,
10 you know, they're in control of it. We all have a
11 specific password. All managers know the password.
12 You log in, find the time stamps that you need, and
13 start the recording.

14 And if you can't do it, you call
15 corporate team and they handle it for you, or the
16 security team.

17 Q. Is there any way to tamper with it or
18 change it or do anything -- edit it --

19 A. No, not at all.

20 Q. Did you pull part of the surveillance
21 video for police officers in this case?

22 A. Yes.

23 Q. And before you pulled it. Did they
24 come and ask you about a particular transaction at
25 a particular time?

BASNILLO - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes, and I was able to pull the receipt
2 from the actual card number.

3 Q. I think in front of you up there this
4 is an item. I think it's State's 49. If you could
5 look and see if that is a receipt that you might
6 recognize from Speedway, the transaction journal.

7 A. Yes. This one right here and as well
8 as with this one too. That's how we pull up our
9 stuff and look for receipts.

10 Q. Does it indicate who the cardholder
11 was?

12 A. I don't know how to pronounce it.

13 *Victim*

14 Q. Okay. And the last name?

15 A. *Victim.*

16 Q. Okay. And does it say what pump the
17 card was used at?

18 A. Yes, pump two.

19 Q. And does it say what time and what
20 date?

21 A. 12/21/2017 at 6:06 p.m.

22 Q. Would that be 5:06 p.m.?

23 A. 5:06 p.m.

24 Q. Are you sure? Looks like 5:06.

25 A. 5:06.

BASNILLO - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: That was leading, but she
2 answered the question.

3 THE WITNESS: It looks like 5:06.

4 MS. WILLIAMS: Your Honor, I'm going to
5 show defense counsel what was previously marked as
6 State's 51.

7 THE COURT: State's what?

8 MS. WILLIAMS: 51.

9 May I approach?

10 THE COURT: You may.

11 BY MS. WILLIAMS:

12 Q. If you can take a look at this item and
13 tell me if you recognize it.

14 A. Yes.

15 Q. What is that?

16 A. That's the security footage from the
17 day that I was asked to pull it up from.

18 Q. And how do you know that's the security
19 footage?

20 A. Those are my initials.

21 Q. And what did you do before you
22 initialed it?

23 A. I watched the whole video.

24 Q. And did you see that somebody goes and
25 uses that card at pump two at that time?

BASNILLO - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes. And then you see them walk inside
2 and use the card inside and then go out to pump two
3 and pump gas. And then they leave the facility.

4 MS. WILLIAMS: The State would offer
5 State's 51 into evidence.

6 THE COURT: Any objection?

7 MS. CAPERS: No objection.

8 THE COURT: Without objection State's
9 51 is admitted.

10 (STATE EXH. 51 in evidence.)

11 MS. WILLIAMS: Permission to publish?

12 THE COURT: You may.

13 BY MS. WILLIAMS:

14 Q. If you could explain to the jury what
15 it is that we are looking at.

16 THE COURT: And please keep your voice
17 elevated when you do that.

18 THE WITNESS: Yes, sir.

19 THE COURT: Okay. Thank you.

20 MS. WILLIAMS: Beg the Court's
21 indulgence. I think our paralegal is working
22 through some technical difficulties.

23 THE COURT: I'm familiar with those.
24 Love computers when they work.

25 (Video played in open court.)

BASNILLO - DIRECT EXAM BY MS. WILLIAMS

1 BY MS. WILLIAMS:

2 Q. What area of the Speedway is this?

3 A. This is the front of the store.

4 Q. And can you see what time is on there?

5 A. It's 5:03 p.m.

6 THE COURT: Do you want me to excuse
7 the jury so we can get it playing?

8 MS. WILLIAMS: Yeah. I'm so sorry,
9 Your Honor. If we could do that, that would be
10 great.

11 THE COURT: Ladies and gentlemen, I
12 will let you go to your jury room until we can get
13 this -- is it ready?

14 MS. WILLIAMS: Maybe we have this under
15 control.

16 (Video playing)

17 BY MS. WILLIAMS:

18 Q. Is that the individual that --

19 A. Yes.

20 Q. Okay. Keep going. All right. Now, if
21 you can go to cashier area.

22 (Video playing)

23 What time do we have now?

24 A. 5:03 and 25 seconds.

25 Q. And do you see that same individual

BASNILLO - CROSS BY CAPERS/REDIRECT BY WILLIAMS

1 entering?

2 A. Yes, he just entered.

3 Q. And is that you there or a different
4 cashier?

5 A. One of my employees, Kaylee.

6 Q. And then this is a view of the pumps
7 where that card was used?

8 A. Correct. On this side you have pump
9 one and on the opposite where the white car is pump
10 2, and that's where he is.

11 Q. Is that the individual there?

12 A. Correct.

13 Q. Okay. And what time is stamped on
14 there?

15 A. 5:04.

16 Q. And what is he doing?

17 A. Pumping fuel into the vehicle.

18 Q. And that takes a couple of minutes?

19 A. Correct.

20 MS. WILLIAMS: Okay. Thank you.

21 Please answer any questions from the defense.

22 THE COURT: You may cross-examine.

23 CROSS-EXAMINATION

24 BY MS. CAPERS:

25 Q. Hi. I only have a couple of questions.

BASNILLO - CROSS BY CAPERS/REDIRECT BY WILLIAMS

1 You said that when the -- the individual walked
2 into the gas station, you indicated that he used
3 his card inside?

4 A. Well, clearly, right there he used cash
5 to pay for a cigar.

6 Q. That's right. He used cash?

7 A. Uh-huh.

8 Q. So he did not use the card inside --

9 A. Not inside the facility. He used it at
10 the pump to pay for gas.

11 Q. Okay. I was just clarifying because
12 you said -- and the card was used at the pump?

13 A. Correct.

14 MS. CAPERS: Thank you.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION

17 BY MS. WILLIAMS:

18 Q. Do you know what kind of cigar he
19 bought?

20 A. I don't -- it was a -- looked like a
21 gold maybe a white owl or a game cigar.

22 MS. WILLIAMS: Thank you. No further
23 questions.

24 THE COURT: Recross?

25 MS. CAPERS: None.

RODRIGUES - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: You may come down. Thank
2 you.

3 Call your next witness.

4 MS. WILLIAMS: The State would call
5 Ludielle Rodrigues.

6 LUDIELLE RODRIGUES,
7 being first duly sworn, testified as follows:

8 THE CLERK: Please have a seat. State
9 your full name and spell your last, please.

10 THE WITNESS: My name is Ludielle
11 Rodrigues, R-O-D-R-I-G-U-E-S.

12 THE COURT REPORTER: Spell your first
13 name, please.

14 THE WITNESS: L-U-D-I-E-L-L-E.

15 DIRECT EXAMINATION

16 BY MS. WILLIAMS:

17 Q. Do you know the defendant Aaron Capers?

18 A. Yes.

19 Q. Can you tell us how you know him?

20 A. My mom dated his dad a long time ago,
21 probably like almost ten years ago. And that's how
22 I met him, through my mom and his dad.

23 Q. Do you see him in the courtroom?

24 A. Yes.

25 Q. Can you point him out?

RODRIGUES - DIRECT EXAM BY MS. WILLIAMS

1 A. Right there. (Indicating)

2 Q. Okay. Can you describe what he's
3 wearing?

4 A. A blue tie, a black -- I don't know how
5 to say it.

6 Q. Suit?

7 A. -- suit and glasses.

8 MS. WILLIAMS: Your Honor, please let
9 the record reflect that the witness has identified
10 Aaron Capers.

11 THE COURT: So reflects.

12 BY MS. WILLIAMS:

13 Q. Where were you living in December of
14 2017?

15 A. On East Pandora Drive in Goose
16 Creek.

17 Q. And is that somehow connected to the
18 Capers family?

19 A. Yes. I rent the house from his dad.

20 Q. Okay. And at some point, did police
21 officers come to that house?

22 A. Yes.

23 Q. And what did they tell you or ask you?

24 A. Officer Ramirez, I think is the last
25 name, he came and asked for Christopher Capers,

RODRIGUES - DIRECT EXAM BY MS. WILLIAMS

1 which is Aaron's dad. And I said he didn't live
2 there, that I rent the house from them.

3 So he asked me if I knew Aaron Capers,
4 and I said yes. And he said can I show you video,
5 and I said yes. And he showed me the video.

6 MS. WILLIAMS: Your Honor, I'm going to
7 show this witness what's been previously marked as
8 State's 51.

9 BY MS. WILLIAMS:

10 Q. Tell us what this is.

11 A. This is a tape that had the video that
12 I watched that day in December and then in the
13 police station probably last week.

14 Q. And how do you know that that is the
15 tape that you watched?

16 A. Because I signed it.

17 Q. Okay. And explain to us what's on the
18 tape.

19 A. It's a video of Aaron at the gas
20 station.

21 Q. And did you identify that that was
22 Aaron Capers at the gas station?

23 A. Yes.

24 Q. And were you shown some photographs,
25 still shots, from that video?

RODRIGUES - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes.

2 MS. WILLIAMS: Your Honor, I'm going to
3 show this witness what was previously marked as
4 State's 27 and 28 and entered into evidence
5 previously.

6 THE COURT: All right.

7 MS. WILLIAMS: May I approach?

8 THE COURT: You may.

9 BY MS. WILLIAMS:

10 Q. Are these the photographs that you
11 looked at?

12 A. Yes.

13 Q. And who is that in the photographs?

14 A. It's Aaron.

15 Q. When you say Aaron, is that Aaron
16 Capers?

17 A. Aaron Capers, yes, ma'am.

18 Q. When you say that you knew him, how
19 often would you spend time together? Did you have
20 holidays together?

21 A. Yes. Yes, holidays, we went on a trip
22 when he and my mom was dating to Florida. And if I
23 could say, I have nothing bad to say about him.
24 Nothing at all.

25 Q. Okay. You just identified him on these

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 videos?

2 A. Yes, ma'am.

3 MS. WILLIAMS: Thank you so much.

4 THE COURT: Cross-examine?

5 MS. CAPERS: No questions.

6 THE COURT: Very well. You may come
7 down.

8 MS. WILLIAMS: State calls Jasmyn
9 Richardson.

10 JASMYN RICHARDSON,
11 being first duly sworn, testified as follows:

12 THE CLERK: Please have a seat. State
13 your full name and spell your last, please.

14 THE WITNESS: My name is Jasmyn Alecia
15 Richardson, R-I-C-H-A-R-D-S-O-N.

16 DIRECT EXAMINATION

17 BY MS. WILLIAMS:

18 Q. Ms. Richardson, how old are you?

19 A. I'm 20.

20 Q. And do you go to school?

21 A. Yes, I go to USC.

22 Q. What year are you in?

23 A. I'm a sophomore.

24 Q. What are you studying?

25 A. Psychology.

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 Q. What is that?

2 A. Psychology?

3 Q. Oh, psychology. I thought you said
4 sarcology.

5 And do you know Aaron Capers?

6 A. I do.

7 Q. How do you know him?

8 A. He was my boyfriend at the time.

9 Q. At the time that -- of what?

10 A. Of the fall semester.

11 Q. Is this back in 2017?

12 A. Yes.

13 Q. And were you still dating him in
14 December of 2017?

15 A. Yes.

16 Q. And where did you meet?

17 A. We met on the second night of college
18 at one of the events that they had for USC
19 students, the freshmen.

20 Q. And did you see Aaron Capers on
21 December 21, 2017?

22 A. Yes.

23 Q. And where did you go to see him?

24 A. His dad's house.

25 Q. Do you remember the address?

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 A. I'm not sure.

2 Q. Does Golding sound familiar?

3 A. Yes.

4 Q. What city was that in? Could it be
5 Goose Creek?

6 A. Yes, ma'am, I think so.

7 Q. And what was the arrangement? Explain
8 to us what that -- what you planned that day and
9 how it unfolded.

10 A. I was going down to visit him before
11 Christmas because he was going to go to Myrtle
12 Beach with his family. So I went down to see him
13 before Christmas.

14 Q. Where do you live?

15 A. I live in Batesburg, South Carolina.

16 Q. And had you previously given him any
17 Christmas gifts?

18 A. I did.

19 Q. What was that?

20 A. I gave him a gray sweatpants, black
21 sweatpants, a black Nike hat, a white New York hat,
22 and some candy.

23 MS. WILLIAMS: Your Honor, I'm going to
24 show this witness what was marked as State's 34.

25 May I approach?

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: You may.

2 BY MS. WILLIAMS:

3 Q. Tell us what that is a picture of.

4 A. The gifts that I gave him for
5 Christmas.

6 Q. When you say you gave it to him for
7 Christmas, did you give them those before, during,
8 or after you went down there to visit?

9 A. Before I went to visit him.

10 Q. And when you got there, what did you
11 all do?

12 A. He took me around to see like different
13 places that he grew up, like his high school and
14 middle school there. And we just hung out at his
15 dad's house. We went to eat at Zaxby's; we saw a
16 movie that night; the next day we just hung out,
17 went to the mall. And then I left that afternoon
18 on that Friday.

19 Q. That day or the next day?

20 A. The next day.

21 Q. Okay. And was his brother Moses home
22 when you got there?

23 A. He wasn't.

24 Q. What about his stepbrother Ichi?

25 A. Yes, he was there.

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 Q. Do you know how old Ichi is?

2 A. I'm not sure.

3 Q. Is he college age?

4 A. No.

5 Q. High school age?

6 A. I want to say he's middle school age.

7 Q. And what kind of car do you drive?

8 A. I drive a white Ford Focus.

9 MS. WILLIAMS: Your Honor, I will show
10 this witness what was previously marked as State's
11 26 and admitted into evidence.

12 THE COURT: Very well.

13 MS. WILLIAMS: May I approach?

14 THE COURT: You may.

15 BY MS. WILLIAMS:

16 Q. What is that a picture of?

17 A. That's my car.

18 Q. And did you learn at some point from
19 anyone that knew you that your car had been on the
20 news?

21 A. I learned after I had come back after
22 -- on that Friday, like the morning after.

23 Q. How did you learn that?

24 A. Well, at first, I got a call from the
25 police that Friday -- I want to say early that

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 Saturday morning. And then the next day my friend
2 texted me that picture -- she lived in
3 Charleston -- of my car on the news.

4 Q. And do you remember where your car was?

5 A. The picture?

6 Q. The picture, like where it was?

7 A. The gas station, Speedway.

8 Q. Okay. And so when did you and Aaron go
9 to the Speedway?

10 A. We went after I had gotten down to
11 Charleston.

12 Q. What time did you get to Charleston?

13 A. Around 4:00.

14 Q. And what was Aaron wearing when you
15 went to the Speedway?

16 A. Gray sweatpants I had bought him, a
17 white T-shirt, and the black Nike hat that I had
18 gotten him.

19 MS. WILLIAMS: Your Honor, I will show
20 defense counsel what was previously marked as
21 State's 107.

22 THE COURT: Okay.

23 MS. WILLIAMS: May I approach?

24 THE COURT: You may.

25 BY MS. WILLIAMS:

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 Q. What is that?

2 A. That's the hat that I got him for
3 Christmas.

4 Q. And after you left -- let me ask you
5 this: Who paid for the gas at the Speedway?

6 A. He did.

7 Q. And before you went to the pump, did
8 you all stop and did Aaron talk to some other
9 people?

10 A. I'm not sure. I was in the car on my
11 phone.

12 Q. Okay. Does Aaron smoke cigars?

13 A. He does.

14 Q. What kind?

15 A. I'm not sure. It's -- I'm not sure.

16 Q. Okay. So you left the Speedway after
17 Aaron put gas in your car. Where did you go next?

18 A. After the Speedway?

19 Q. Uh-huh.

20 A. We just went around town, like I said.

21 Q. And this was the first day that you
22 were there?

23 A. Yes.

24 Q. Where did you spend the night?

25 A. At his dad's house.

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 Q. On Golding?

2 A. Yes.

3 Q. And then what did you do the next day?

4 A. We hung out, like I said, around town
5 and went to the mall, and then I left.

6 Q. Okay. And did you ever have any
7 contact with other members of his family?

8 A. I met his dad, his wife, and his little
9 brother. And then whenever I left, I brought him
10 to his mom's house and I spoke to his mom for a
11 minute before I left.

12 Q. How many little brothers does he have?

13 A. He just has Ichi and Moses.

14 Q. Okay. And what is -- when you say you
15 talked to his mother, are you talking about his
16 stepmom or his mom?

17 A. His mom. It was a passing hello.

18 Q. Did you ever meet his stepmom?

19 A. Yes, ma'am.

20 Q. What was she like?

21 A. She's nice.

22 Q. Can you describe her?

23 A. She -- I'm not sure. I'm not sure.

24 She has black hair; she's Asian.

25 Q. Could she be Japanese?

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 A. She could be.

2 Q. Okay. And so about what time did you
3 leave the next day?

4 A. Around 4 or 5.

5 Q. And after your friends told you that
6 they saw your car on the news, what did you do with
7 that information?

8 A. I called the police and contacted the
9 county and was asking why my car was on the news at
10 that time.

11 Q. Okay. And then did you eventually go
12 and give a statement to the police?

13 A. I did.

14 Q. And cooperate with them?

15 A. Yes, ma'am.

16 Q. And did you let the police know where
17 you had dropped Aaron off?

18 A. Yes.

19 Q. Where was that?

20 A. At his mom's house.

21 Q. Do you remember where that was?

22 A. No, ma'am.

23 MS. WILLIAMS: Okay. Your Honor, may
24 we approach?

25 THE COURT: Okay.

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 to be in there. You all are going to do that
2 within the confines of your jury room, and it's
3 similar to what we are doing in here.

4 Thank you. You may proceed.

5 MS. WILLIAMS: Thank you.

6 BY MS. WILLIAMS:

7 Q. Jasmyrn, over the course of your
8 relationship with Aaron Capers, did he ever write
9 you letters?

10 A. Yes.

11 Q. How many letters would you say he wrote
12 you?

13 A. Around 50.

14 Q. And did you -- would you recognize his
15 handwriting?

16 A. Yes, ma'am.

17 Q. And sometimes when he would write you
18 letters, would he talk about stuff that only the
19 two of you would know?

20 A. Sometimes.

21 Q. What does this phrase mean, I'm not the
22 little girl from The 100.

23 A. It's a show we used to watch.

24 Q. Is that something that only the two of
25 you would know, or a private thing that the two of

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 you would do?

2 A. It's a show that we used to watch.

3 Q. What is the show?

4 A. It's The 100 on Netflix.

5 Q. What does he mean, I'm not the little
6 girl from The 100?

7 A. I'm not sure.

8 Q. When you would receive letters, would
9 you save them?

10 A. Yes, ma'am.

11 Q. And did you look at some letters from
12 this case?

13 A. I did.

14 MS. WILLIAMS: Your Honor, I'm going to
15 approach this witness with what has been previously
16 marked as State's 92 and 93 at this point.

17 THE COURT: All right.

18 BY MS. WILLIAMS:

19 Q. Is this one of the letters you
20 reviewed?

21 A. Yes, ma'am.

22 Q. Do you recognize that handwriting?

23 A. I do.

24 Q. And whose handwriting is that?

25 A. It's Aaron's.

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: You need to speak up,
2 please.

3 THE WITNESS: It's Aaron's. I'm sorry.

4 THE COURT: Thank you.

5 BY MS. WILLIAMS:

6 Q. Do you recognize the handwriting on the
7 envelope too?

8 A. Yes, ma'am.

9 Q. And who does it say it's from?

10 A. It's from Aaron.

11 Q. And is this based on your experience of
12 seeing the 50 letters that he has written you?

13 A. Yes.

14 MS. WILLIAMS: Your Honor, we are not
15 offering these into evidence at this time.

16 BY MS. WILLIAMS:

17 Q. When was the last time that you saw
18 Mr. Capers?

19 A. In March.

20 Q. So you maintained your relationship
21 with him up until March of this year --

22 THE COURT: Well, wait a minute.
23 You're not offering -- the testimony that was
24 objected -- previously objected to, we need to -- I
25 thought you were going to put them into evidence.

RICHARDSON - DIRECT EXAM BY MS. WILLIAMS

1 MS. WILLIAMS: We can, but there is
2 going to be other witnesses --

3 THE COURT: I understand that, but --

4 MS. WILLIAMS: At this time we would
5 offer these into evidence, Your Honor.

6 THE COURT: It is admitted into
7 evidence subject to the objection that counsel
8 previously argued fully on the record while the
9 jury was retired.

10 Thank you.

11 MS. WILLIAMS: Thank you.

12 THE COURT: Anything further to
13 supplement the objection previously argued,
14 Ms. Capers?

15 MS. CAPERS: No, Your
16 Honor.

17 (STATE EXH. 92 and 93 in evidence.)

18 BY MS. WILLIAMS:

19 Q. And so you maintained your relationship
20 with Mr. Capers up until March of this year?

21 A. March of this past year.

22 Q. 2018?

23 A. Yes, ma'am.

24 Q. And would you say it was a close
25 relationship with him?

RICHARDSON - CROSS EXAM BY MS. CAPERS

1 A. Yes.

2 Q. You don't have any hard feelings for
3 him?

4 A. No, ma'am.

5 Q. Did you love him?

6 A. I did.

7 Q. You still do?

8 A. I don't.

9 Q. Did you ever have contact with him by
10 phone --

11 A. I did.

12 Q. -- after this event? How often would
13 that be?

14 A. It was every day.

15 Q. Up until March?

16 A. Yes, ma'am.

17 MS. WILLIAMS: Okay. Nothing further.

18 Thank you, Jasmyn.

19 THE COURT: Cross-examine.

20 CROSS-EXAMINATION

21 BY MS. CAPERS:

22 Q. Hi, Jasmyn. How are you?

23 A. Good. How are you?

24 Q. Good. She spoke to you about a show on
25 Netflix and gave you some phrase. Does that mean

RICHARDSON - CROSS EXAM BY MS. CAPERS

1 anything?

2 A. No, ma'am.

3 Q. It's just a show on Netflix?

4 A. Yes, ma'am.

5 Q. Okay. When you came to town, you said
6 you arrived at about 4:00?

7 A. Yes, ma'am.

8 Q. And when you got there, did you go
9 straight to the house --

10 A. Yes, ma'am.

11 Q. -- on Golding Lane?

12 A. Yes, ma'am.

13 Q. And what time did you guys go to
14 Zaxby's?

15 A. It was dinnertime. I'm not sure of the
16 exact time.

17 Q. Okay. And who paid?

18 A. I paid.

19 Q. Okay. And when you went to the movies,
20 who paid for that?

21 A. He paid.

22 Q. He paid? About how much is that?

23 A. The dollar amount?

24 Q. Yes.

25 A. I want to say maybe \$15. I'm not sure.

RICHARDSON - CROSS EXAM BY MS. CAPERS

1 Q. Okay. And did you guys spend any more
2 money?

3 A. We went to the mall and he bought a
4 Cinnabun.

5 Q. A Cinnabun?

6 A. Uh-huh.

7 THE COURT: Is that a yes?

8 THE WITNESS: Yes, sir.

9 BY MS. CAPERS:

10 Q. Anything else?

11 A. No, ma'am.

12 Q. Okay. Did you guys -- I'm going to be
13 a little personal with you, and I'm sorry.

14 A. That's correct.

15 Q. Did you spend the night at the house?

16 A. I did.

17 Q. Did you engage in sexual intercourse?

18 A. We did.

19 Q. In whose bedroom?

20 A. In his bedroom.

21 Q. And that was on the 21st?

22 A. Yes, ma'am.

23 Q. Okay. Did Aaron ejaculate?

24 A. He did.

25 Q. Do you know -- you met Ichi?

RICHARDSON - CROSS EXAM BY MS. CAPERS

1 A. Uh-huh.

2 THE COURT: Was that a yes?

3 THE WITNESS: Yes, sir.

4 THE COURT: And the reason we say that,
5 see this lady seated in front of us? She's taking
6 down everything that we're saying and it helps her
7 if we use words.

8 THE WITNESS: Oh, I'm sorry.

9 THE COURT: It's not offensive. We all
10 do it; I do it. It's just in this setting we need
11 for you to verbalize.

12 THE WITNESS: Yes, sir.

13 BY MS. CAPERS:

14 Q. Okay. And then you spent the night
15 there, correct?

16 A. Yes, ma'am.

17 Q. And you dropped him off at his home?

18 A. When I left, I dropped him off at his
19 mom's house, your house.

20 Q. Okay. And you mentioned that you
21 bought him some gray sweats for Christmas?

22 A. Yes, ma'am.

23 Q. And you gave them to him before the
24 21st?

25 A. Yes, ma'am.

MYERS - DIRECT EXAM BY MR. ALFARO

1 Q. So he already had them here --

2 A. Yes, ma'am.

3 Q. -- correct? And you said that you saw

4 Ichi?

5 A. Uh-huh.

6 Q. Do you know about how tall Ichi is?

7 A. I'm not sure.

8 Q. Okay. Okay. And did you see Moses?

9 A. No, ma'am.

10 Q. You didn't see him.

11 MS. CAPERS: Okay. I don't have any
12 other questions.

13 THE COURT: Very well.

14 Redirect?

15 MS. WILLIAMS: No, Your Honor.

16 THE COURT: Thank you. You may come
17 down.

18 THE WITNESS: Thank you.

19 THE COURT: Call your next witness.

20 MR. ALFARO: State calls Wendy Myers.

21 WENDY MYERS,

22 being first duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State
24 your full name and spell your last, please.

25 THE WITNESS: It's Wendy Christian

MYERS - DIRECT EXAM BY MR. ALFARO

1 Myers, M-Y-E-R-S.

2 DIRECT EXAMINATION

3 BY MR. ALFARO:

4 Q. Good afternoon.

5 A. Hi.

6 Q. Tell the jury where you work.

7 A. Sure. I work at the Goose Creek Police
8 Department in crime scene evidence.

9 Q. How long have you been with Goose
10 Creek?

11 A. Fourteen years.

12 Q. And in that 14 years, how long have you
13 been in crime scene and forensics?

14 A. The full 14 years.

15 Q. And were you working in that capacity
16 on December 21, 2017?

17 A. Yes, I was.

18 Q. And on that date did you have the
19 opportunity to respond to Isherwood in Goose
20 Creek to assist in an investigation at
21 approximately 3:20 p.m.?

22 A. Yes, sir, I did.

23 Q. When you arrived at the scene, was the
24 victim still there?

25 A. She was not. She had been transported.

MYERS - DIRECT EXAM BY MR. ALFARO

1 Q. And upon your arrival, had the
2 residence already been secured as a crime scene?

3 A. It had been.

4 Q. And when you first got to the scene,
5 what did you do?

6 A. I met with Investigator Powell, who
7 gave me an overview of the case.

8 Q. And is that overview helpful in your
9 responsibilities as a forensics examiner, crime
10 scene investigator?

11 A. It is.

12 Q. Why is that?

13 A. He gives me information, or whoever I
14 speak with at the time gives me the information
15 provided by the victim and witnesses so that I have
16 a better idea of what I need to look for, what
17 occurred in the crime.

18 Q. So is it fair to say that that
19 information helps assist you in determining what
20 steps to take in your investigation inside the
21 crime scene?

22 A. That's correct.

23 Q. And after being briefed as to the
24 events, what did you do?

25 A. I met with Investigator Wolfson and

MYERS - DIRECT EXAM BY MR. ALFARO

1 looked over the search warrant together. I took
2 photographs of the exterior of the residence and
3 then entered the residence through the garage door
4 which was already opened.

5 Q. Can you tell us what you observed when
6 you entered into the residence?

7 A. Sure. As you enter the residence
8 through the garage door, you enter into the
9 kitchen. On the kitchen floor near, I believe, the
10 dishwasher was a ladies handbag. Beyond the
11 kitchen was a den, and then to the right of the
12 kitchen is the front door.

13 Just beyond the front door there was
14 like a little laundry room area, and there was a
15 blue sweatshirt on the floor near the laundry room.
16 A little bit further into the residence, master
17 bedroom was on the left-hand side of the hallway,
18 and I did notice there were two open drawers of the
19 dresser.

20 Q. I'm going to show you some photographs.
21 We'll start with State's Exhibits 1 through 15,
22 which are already into evidence. Take a look at
23 those briefly.

24 Do you recognize those photographs as
25 photographs that -- do they fairly and accurately

MYERS - DIRECT EXAM BY MR. ALFARO

1 depict the scene as you saw it that day?

2 A. Yes, they do.

3 Q. If I can grab those back and I will
4 show you a few of them.

5 Put up State's 1.

6 Tell us what is in that photograph.

7 A. That is the front of the residence with
8 the open garage door.

9 Q. And that's the garage door you were
10 referencing that you entered the home in?

11 A. That's correct.

12 Q. And State's Exhibit Number 3. Does
13 that show the residence as it appeared when you
14 entered?

15 A. It does. That's the front door of the
16 residence.

17 Q. You were -- when you entered into the
18 residence, you went to the kitchen first, I believe
19 you were saying?

20 A. Yes.

21 Q. Okay. And did you recover any evidence
22 from that location?

23 A. I did. After I took the photographs of
24 the interior of the residence, I collected swabs
25 from the purse -- or the wallet actually.

MYERS - DIRECT EXAM BY MR. ALFARO

1 Q. And you photographed the entirety of
2 the residence as you were walking through inside?

3 A. Yes, I did.

4 Q. Do you recall coming in contact with a
5 blue sweatshirt?

6 A. I do.

7 Q. And do you recall where that item was
8 located?

9 A. It was near the laundry room door.

10 Q. I show you State's Exhibits 19 and 20
11 that are in evidence, I believe.

12 A. That's the sweatshirt.

13 Q. Okay. And do those pictures show where
14 the sweatshirt was located when you first came into
15 contact with it?

16 A. Yes, it does.

17 Q. I show you State's Exhibit 19. That's
18 the location and the condition it was when you came
19 into contact with it?

20 A. Yes, it is.

21 Q. And was that sweatshirt collected by
22 you on that day?

23 A. It was.

24 Q. I'm going to show you what has been
25 marked for identification as State's 100. I hand

MYERS - DIRECT EXAM BY MR. ALFARO

1 you this and ask you if you can open the packaging
2 and try not to cut through the numbers.

3 A. This is the packaging -- the original
4 packaging that I put the shirt in.

5 Q. When you collected it, you placed it
6 into the brown paper bag?

7 A. Yes.

8 Q. What's the reason for that?

9 A. Any time we collect an item that may
10 have -- be damp with biological material, we put it
11 in paper that allows it to breathe and dry out.

12 Q. And are you able to open that --

13 A. Yes.

14 Q. -- brown packaging as well? Or brown
15 paper? Can you open that as well?

16 A. Sure.

17 Q. And is that the sweatshirt that is
18 depicted in the photograph?

19 A. Yes.

20 Q. And that's the sweatshirt that you
21 collected that day?

22 A. Yes, it is.

23 Q. And you said that you placed it into a
24 brown bag and you gave the reasons why you do that.
25 What did you do with it after that?

MYERS - DIRECT EXAM BY MR. ALFARO

1 A. I sealed it into one of these plastic
2 SLED evidence bags, which is the South Carolina Law
3 Enforcement Division. They examine all of our
4 forensic evidence.

5 Q. And did you do that when you got back
6 to the police department?

7 A. Yes.

8 Q. And was it stored at the police
9 department after that?

10 A. It was.

11 Q. And do you know if it remained in
12 evidence until it was transported to SLED?

13 A. Yes.

14 Q. Now, in addition to collecting that
15 sweatshirt, can you kind of walk the jury through
16 what you did during the rest of time that you were
17 processing the crime scene?

18 A. Sure. I spoke with Investigator Powell
19 who contacted Investigator Wright at the hospital
20 to ask Ms. *Victim*: about the purse. And also with
21 the open drawers in the bedroom, I wanted to find
22 out if she was able to tell us if anything occurred
23 inside the bedroom.

24 It was relayed to us or to me that she
25 believed that the suspect had handled some of the

MYERS - DIRECT EXAM BY MR. ALFARO

1 items inside the drawers. So with that information
2 I processed the interior of the front door, the
3 exterior of the front door, the glass storm door
4 for fingerprints, and then the two boxes I
5 processed for fingerprints.

6 They ended up being jewelry boxes that
7 were just kind of in the drawers. And I also took
8 DNA swabs -- touch DNA swabs of the two handles on
9 the dresser.

10 Q. Did you attempt to locate any
11 fingerprints inside the residence?

12 A. I did on the door. I located a ridge
13 detail on the glass storm door on the interior side
14 and interior and exterior of the wooden door.

15 Q. And what -- can you describe the
16 process of how you go about trying to obtain those
17 fingerprints and what is ultimately done with those
18 fingerprints?

19 A. Absolutely. We take a fingerprint
20 powder, which is black volcanic ash actually, and
21 with a brush we paint it on to the areas where it
22 possibly could have been handled by the suspect.

23 And then we examine it visually to see
24 if we can locate anything. When I say ridge
25 detail, I'm referencing the ridges left behind when

MYERS - DIRECT EXAM BY MR. ALFARO

1 you touch something. Just like your fingerprints,
2 it would look like the same when you put the powder
3 on it. That is then lifted with a piece of tape
4 and placed onto a white card.

5 We then put information on the back of
6 the white card; the date and time that we lifted
7 it, what type of crime it is, the location of the
8 crime and who actually lifted that card. So my
9 name would be on there with the date and time.

10 Once it is secured in the evidence
11 room, we either transport it to SLED or in this
12 case uploaded the images to a folder in the
13 computer and were able to transmit it to them
14 electronically.

15 Q. Okay. And you said you also had --
16 when you were inside the master bedroom you
17 observed drawers to the dresser being open; is that
18 correct?

19 A. Yes.

20 Q. State's Exhibit 12.

21 A. Yes.

22 Q. State's Exhibit 12 is up on the screen
23 behind you. I'll ask you a couple of questions
24 about that.

25 A. Yes, sir.

MYERS - DIRECT EXAM BY MR. ALFARO

1 Q. Is this the dresser that you were
2 referencing in the master bedroom?

3 A. Yes, it is.

4 Q. And the drawers as they are there,
5 that's how you found them?

6 A. That's correct.

7 Q. And are you able to see the jewelry
8 boxes that you were talking about on that picture?

9 A. I believe it's the silver one, a little
10 bit larger, looks like a necklace box. I don't
11 know if you can see it in that picture or not.
12 It's towards the center of the left drawer.

13 Q. Let's see, it may be a little easier on
14 State's 13.

15 A. Yeah, it's the silver box.

16 Q. Okay. Were you able to locate any
17 other potential evidence inside the home?

18 A. I did touch DNA swabs. Touch DNA is
19 when you handle an item and possibly leave your DNA
20 behind, your skin sluffing off possibly from
21 touching your forehead or something with
22 perspiration.

23 We swab areas that were possibly
24 handled by the suspect. The two drawers that were
25 opened, I swabbed those two drawer handles. And

MYERS - DIRECT EXAM BY MR. ALFARO

1 then also Ms. *Victim* indicated in that phone call
2 that she believed that the suspect had gone into
3 her wallet in her purse.

4 So I swabbed the clasp on her wallet.

5 Q. Okay. And is touch DNA something that
6 you normally swab for?

7 A. It's something that we attempt. We
8 don't always have a lot of success, but we try.

9 Q. I'm going to ask you to look at State's
10 Exhibits 16, 17 and 18, and also State's
11 Exhibits 21 through 32. I'll give you those before
12 I get them lost in that stack again.

13 Regarding State's 16 through 18, do you
14 recognize those photographs?

15 A. Yes, sir, I do.

16 Q. Do those photographs fairly and
17 accurately depict the interior of the residence as
18 you observed it that day?

19 A. Yes, they do.

20 MR. ALFARO: Your Honor, at this time,
21 we would ask to admit State's Exhibits 16, 17 and
22 18.

23 MS. CAPERS: Without objection.

24 THE COURT: Without objection 16, 17
25 and 18 are admitted, each being a photograph.

MYERS - DIRECT EXAM BY MR. ALFARO

1 (STATE EXH. 16 - 18 in evidence.)

2 BY MR. ALFARO:

3 Q. And State's Exhibits 21 through 25. Do
4 you recognize those photographs as well?

5 A. Yes.

6 Q. And do they fairly and accurately
7 depict the residence as you observed it that day
8 when you were processing the scene?

9 A. Yes, they do.

10 MR. ALFARO: Your Honor, at this time
11 we'd ask to admit those items into evidence as
12 well.

13 MS. CAPERS: Without objection.

14 THE COURT: Without objection, State's
15 Exhibits 21 through 25 photos of the
16 residence.

17 (STATE EXH. 21 - 25 in evidence.)

18 BY MR. ALFARO:

19 Q. I believe those are all the
20 photographs. Can you briefly describe for us the
21 evidence room at Goose Creek Police Department as
22 far as how items are secured into evidence and
23 dropped into evidence?

24 A. Sure. We have what's sort of referred
25 to as pass-thru lockers. So on the inside of the

MYERS - DIRECT EXAM BY MR. ALFARO

1 evidence room if you open the locker, you can see
2 through to where the officers drop their property.
3 It's a straight through and through.

4 On their side is a golf tee that we've
5 shaved to be blunt and it holds the door open so
6 that they can access it. When they drop their
7 evidence into the locker, they put the key inside
8 with the evidence. Once it shuts, it's secured.
9 They can't reopen it from there.

10 The only way to reopen that door is on
11 our side. On the inside of the evidence room,
12 there is a push button that pops that door back
13 open. The only way to open that locker is on our
14 side of the evidence room.

15 Q. And I'm going to show you what has been
16 previously identified -- show you what was marked
17 as 101 and 102. If you can tell us if you
18 recognize those items, and if you do, if and when
19 you came into contact with them.

20 A. I do. These are the swabs from
21 Ms. *Victim* that were taken by Investigator Wright.
22 And if I can refer back to my evidence sheet to
23 tell you what date.

24 Q. Will that refresh the recollection as
25 to when you came into contact with them?

MYERS - DIRECT EXAM BY MR. ALFARO

1 A. Yes, it would. I show they were
2 submitted into evidence on 12/21/2017.

3 Q. And in what capacity did you have the
4 occasion to come into contact with them?

5 A. I would have removed them from the
6 evidence locker.

7 Q. And what would have been done with
8 them?

9 A. They would have been placed inside this
10 envelope and labeled with our item numbers inside
11 the evidence room and then also the bar code label,
12 and that's my handwriting on the package.

13 Q. And did items 101 and 102 remain in
14 evidence in Goose Creek until they were eventually
15 taken to SLED?

16 A. Yes.

17 Q. And does your paperwork indicate who
18 transported those items to SLED?

19 A. That was Investigator Favero.

20 Q. So both the -- well, not both. All
21 three, the sweatshirt that you referenced, State's
22 100 and State's 101 and 102 were all kept at the
23 Goose Creek Police Department until they were
24 transported to SLED?

25 A. That's correct.

MYERS - DIRECT EXAM BY MR. ALFARO

1 Q. And did you also have the opportunity
2 to come into contact with a sexual assault kit that
3 was taken from the victim in this case, *Victim*
4

5 A. Yes, I did.

6 Q. And does your documentation, would that
7 help refresh your recollection as to when you came
8 into contact with those items?

9 A. Yes, it would.

10 Q. Okay. And have you refreshed your
11 recollection as to when you came into contact with
12 them?

13 A. That was submitted on December 21st of
14 2017.

15 Q. And where did you obtain that item
16 from?

17 A. That would have been in the miniature
18 refrigerator that we have in the evidence room.
19 After hours if an officer brings something in that
20 needs refrigeration, we have two mini refrigerators
21 that are locked.

22 They lock the refrigerator and put that
23 key inside the evidence locker with the form. So
24 it's secured in there and nobody can access it
25 until we get to it.

MYERS - DIRECT EXAM BY MR. ALFARO

1 Q. Okay. And so when you obtained that
2 kit from the evidence refrigerator at Goose Creek,
3 did you then secure it into the actual evidence
4 room?

5 A. I did, inside the refrigerator that we
6 have on the interior of the evidence room.

7 Q. Is the refrigerator for the area around
8 the refrigerator or the refrigerator itself
9 secured?

10 A. It's secured inside of the evidence
11 room. You have to have access to the evidence room
12 to access that refrigerator.

13 Q. Was that item kept inside Goose Creek
14 evidence custody and control until it was
15 transported to SLED?

16 A. Yes, it was.

17 Q. And do you know who transported that
18 item to SLED and when they transported it?

19 A. Investigator Favero transported it. I
20 don't think I have the chain of custody from SLED
21 for what date she took it.

22 Q. But it was taken from Goose Creek by
23 Favero?

24 A. Yes, it was.

25 Q. Okay. Now, while the kit itself as

MYERS - DIRECT EXAM BY MR. ALFARO

1 well as State's 100, the sweatshirt, and 101 and
2 102, the swabs from the victim's gum, when those
3 were in your custody and control, did you tamper
4 with the items in any way?

5 A. No, I did not.

6 Q. You yourself packaged the sweatshirt,
7 correct?

8 A. I did.

9 Q. Now as far as the swabs from the
10 victim, as well as the sexual assault kit, did you
11 tamper with those items in any way?

12 A. I did not.

13 Q. I'm going to show you what was marked
14 as State's 105. And do you recognize that as an
15 item that you came into contact with?

16 A. Yes, I do.

17 Q. And do you have paperwork or do you
18 recall when you came into contact with that?

19 A. I do have paperwork.

20 Q. And what that item is?

21 A. It is an oral swab from Aaron Capers.
22 And that was submitted into evidence December 23rd
23 of 2017.

24 Q. Okay. And does your paperwork indicate
25 who submitted it?

MYERS - DIRECT EXAM BY MR. ALFARO

1 A. That was Investigator Hart.

2 Q. Okay. And what did you do with the
3 item when you came into contact with it?

4 A. It was placed inside the paper bag or
5 the paper envelope, rather, and sealed and then
6 sealed inside of the plastic SLED bag.

7 Q. Other than putting it in the envelope
8 and sealing it in the plastic bag, did you tamper
9 with the swab in any way, shape, or form?

10 A. I did not.

11 Q. Okay. I'm going to show you what's
12 been marked for identification as State's Exhibit
13 111. Ask if you recognize that item and if you can
14 tell us when you came into contact with those
15 items.

16 A. These are letters submitted by
17 Investigator Powell on April 9 of 2018.

18 Q. And what was your role in handling or
19 securing those items?

20 A. I just took them out of the locker and
21 placed them inside the envelope.

22 Q. Did you tamper with them in any way?

23 A. No, I did not.

24 Q. Can you tell us -- I forget to ask you
25 what those items actually are described as.

MYERS - DIRECT EXAM BY MR. ALFARO

1 A. Handwritten notes or letters.

2 Q. Did you add to or change any of the
3 writing on the letters?

4 A. No, I did not.

5 Q. Does your paperwork indicate to you any
6 other letters or handwriting that you had contact
7 with in your duties as evidence of the crime scene?

8 A. Yes, sir. I received some on
9 April 17th of 2018, which was described as one
10 handwritten note, and then again on April 30 of
11 2018, described as three handwritten notes. And
12 those were submitted by Investigator Powell.

13 Q. And, again, did you have any -- did you
14 change any of the writing or alter any of the
15 writing in any way, shape, or form?

16 A. No, I did not.

17 MR. ALFARO: Can we approach, Your
18 Honor?

19 THE COURT: Sure.

20 (Bench conference)

21 THE COURT: Ladies and gentlemen, while
22 you had a break a little while ago, we didn't, and
23 it's about an hour and a half. So I'm going to
24 take the afternoon break at this point.

25 Do not begin your deliberations and

MYERS - DIRECT EXAM BY MR. ALFARO

1 Q. Ms. Myers, I will show you what has
2 been previously marked for identification as
3 State's Exhibits 29, 30, 31, 32, 33, and 48. You
4 can look through those and I will ask you a couple
5 of questions about those.

6 Do each of the photographs fairly and
7 accurately depict the residence on Isherwood as you
8 observed it on the day you processed the crime
9 scene?

10 A. Yes, it does.

11 MR. ALFARO: Your Honor, at this time,
12 we would ask that State's Exhibits 29 through 33,
13 as well as State's 48 be submitted into evidence.

14 MS. CAPERS: No objection.

15 THE COURT: Without objection, State's
16 29 through 33 admitted, and 48.

17 (STATE EXH. 29 - 33, 48 in evidence.)

18 BY MR. ALFARO:

19 Q. I will show you what has been marked as
20 State's Exhibits 115 and 116 for identification.

21 Do you recognize those items?

22 A. Yes.

23 Q. And what are those items described as?

24 A. It's says that they are handwritten
25 envelopes addressed to Jasmyn Richardson,

MYERS - DIRECT EXAM BY MR. ALFARO

1 handwriting exemplar for Aaron Capers, Jerron
2 Simmons, Bradley Berry, and handwritten envelope
3 addressed to Rachel Liberstein and to Leah Solvey.

4 Q. Let's start with State's 115. Do you
5 know when you came into contact with those items?

6 A. These were sealed by me on the site on
7 February 6th of 2019, but they were actually
8 brought in by Investigator Favero.

9 Q. Okay. Regarding State's -- well, let
10 me backtrack to 115 again. When those items were
11 in your possession, did you alter or tamper those
12 items in any way?

13 A. No, I did not.

14 Q. State's 116.

15 A. I did not tamper with those items.

16 Q. Do you know when you came into contact
17 with State's 116?

18 A. These were just in the evidence room.
19 They were brought in by Investigator Favero.

20 MR. ALFARO: Okay. Thank you.

21 Please answer any questions that
22 defense may have.

23 THE WITNESS: Sure.

24 THE COURT: Cross-examine.

25 CROSS-EXAMINATION

MYERS - CROSS EXAM BY MS. CAPERS

1 BY MS. CAPERS:

2 Q. Officer Myers, when you arrived at the
3 crime scene, was Investigator Wright already there?

4 A. She had been there and left.

5 Q. She had been there and left. Okay.

6 And do you recall what the temperature was?

7 A. I don't recall, but if I can refer back
8 to my report I can tell you.

9 Q. Okay.

10 A. I have 64 degrees Farenheit.

11 Q. And you submitted several items to
12 SLED, correct?

13 A. Correct.

14 Q. A wallet and specifically glass -- a
15 fingerprint from the glass door?

16 A. Not the wallet. I took a swab from the
17 wallet, but not the wallet itself.

18 Q. Okay. So you took a swab from the
19 wallet?

20 A. Correct.

21 Q. And what else did you take?

22 A. Swabs from the dresser drawers in the
23 master bedroom and then latent fingerprints.

24 Q. So in total, about how many items did
25 you send to SLED?

MYERS - CROSS EXAM BY MS. CAPERS

1 A. Sent to SLED from myself was eight
2 items that I sent myself, that I collected.

3 Q. And do you know if any of those items
4 were tested?

5 A. To my knowledge, they were. I don't
6 have the report from SLED.

7 Q. Okay. Do you recall that the
8 fingerprints from the glass door was negative or
9 not identified as Aaron Capers?

10 A. That's correct.

11 Q. Okay. And do you recall that -- are
12 any of those eight items -- do you know whether any
13 of those eight items came back as being identified
14 with Aaron Capers?

15 A. The sweatshirt did.

16 Q. Okay. Other than the sweatshirt?

17 A. Other than the sweatshirt, I don't
18 believe that the DNA swabs or the latent prints
19 came back to Aaron Capers.

20 THE COURT: You're going to have to
21 speak up, please.

22 THE WITNESS: Okay.

23 THE COURT: That fan is blowing now.

24 BY MS. CAPER:

25 Q. So all of everything that he touched in

MYERS - CROSS EXAM BY MS. CAPERS

1 that house or everything that the assailant touched
2 in the house was not related to Aaron Capers?

3 A. As far as latent fingerprints and touch
4 DNA swabs, did not come back to him to my
5 knowledge.

6 Q. And, specifically, the glass door that
7 Ms. Victim indicated that the assailant touched,
8 that fingerprint specifically excluded Aaron
9 Capers.

10 A. I would have to look at the SLED report
11 and tell you.

12 Q. Okay. DNA swabs from the dresser
13 handle that did not match Aaron Capers or was not
14 tested?

15 A. I believe they were not tested, but I
16 don't have that report to refer to.

17 Q. Okay. And when you collected the
18 sweatshirt, you didn't do all of that wrapping at
19 the scene. You just placed it in a brown paper
20 bag?

21 A. It was placed in a brown paper bag and
22 folded over.

23 Q. And then what did you do with it? Put
24 it in the trunk or --

25 A. It was with me until I left the scene.

CHAPMAN - DIRECT EXAM BY MS. WILLIAMS

1 Q. What time did you leave the scene?

2 A. I don't have the CAD notes. If we have
3 the CAD notes I can look that up for you.

4 MS. CAPERS: I don't have any other
5 questions for you. Thank you.

6 THE COURT: Redirect?

7 MR. ALFARO: No, Your Honor.

8 THE COURT: Thank you. You may step
9 down.

10 Call your next witness.

11 MS. WILLIAMS: State would call
12 Lesa Chapman.

13 THE COURT: Lesa Chapman.

14 LESA CHAPMAN,
15 being first duly sworn, testified as follows:

16 THE CLERK: Please have a seat. State
17 your full name and spell your last, please.

18 THE WITNESS: Lesa Chapman,
19 C-H-A-P-M-A-N.

20 DIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q. Where do you work, Ms. Chapman?

23 A. South Carolina Law Enforcement
24 Division.

25 Q. And if you can, pull that mic a little

1 forensic scientist, but I don't think they will be
2 too terribly long.

3 THE COURT: It's your call.

4 MS. CAPERS: We can continue, Your
5 Honor.

6 THE COURT: Okay. Are you sure?

7 MS. CAPERS: Yes, sir.

8 THE COURT: Don't feel any pressure.
9 If you're not feeling well, we'll stop. I'd like
10 to take the witnesses so they don't have to come
11 back.

12 MS. CAPERS: Yes, sir. That's fine.

13 THE COURT: Okay. Let's bring in the
14 jury, please.

15 (Jury in, 3:56 p.m.)

16 THE COURT: Thank you very much, ladies
17 and gentlemen. We appreciate your patience.

18 We're ready to continue, Solicitor.

19 MS. WILLIAMS: Thank you, Your Honor.

20 COURTNEY THOMPSON,

21 being first duly sworn, testified as follows:

22 THE CLERK: Please have a seat. State
23 your full name and spell your last, please.

24 THE WITNESS: My name is Courtney
25 Thompson, T-H-O-M-P-S-O-N.

THOMPSON - DIRECT EXAM BY MS. WILLIAMS

1 DIRECT EXAMINATION

2 BY MS. WILLIAMS:

3 Q. Ms. Thompson, where do you work?

4 A. I work for the South Carolina Law
5 Enforcement Division also referred to as SLED.

6 Q. How long have you been employed there?

7 A. I've been employed there about six and
8 a half years.

9 Q. What do you do there?

10 A. I'm a forensic serologist in the DNA
11 casework department.

12 Q. What are your duties as a forensic
13 serologist?

14 A. As a forensic serologist, my day-to-day
15 duties include examining items of evidence for
16 possible bodily fluids. The reason that I look for
17 bodily fluids is because they are good sources of
18 possible DNA. I can -- I process various items of
19 evidence for potential DNA that might be left
20 behind on the items of evidence and collect it in
21 different forms.

22 And then I will run tests on some of
23 these items of evidence to test for a particular
24 body fluid. And then depending on the results, I
25 will prep them for DNA analysis and then write a

THOMPSON - DIRECT EXAM BY MS. WILLIAMS

1 report regarding my findings.

2 Q. What kind of educational background do
3 you have?

4 A. I have a Bachelor's of Science in
5 forensic science from Southern Wesleyan University.

6 Q. And what kind of training and
7 experience do you have as a forensic serologist?

8 A. I was in training in-house at SLED for
9 a little over a year underneath a DNA analyst who
10 not only taught me all the different types of
11 testing that I would be performing, but also just
12 how to properly handle items of evidence, how to
13 maintain the chain of custody, report writing, and
14 courtroom testimony.

15 I had to pass a series of tests before
16 I was deemed competent to perform independent
17 casework. This included things like written exams
18 and oral exams, a mock case as well as a mock
19 trial. And all of that had to be successfully
20 passed prior to me handling any type of casework on
21 its own.

22 Q. And have you been qualified as an
23 expert before in the field of forensic serology?

24 A. Yes, I have.

25 Q. About how many times?

THOMPSON - DIRECT EXAM BY MS. WILLIAMS

1 A. It's been about 30 times now.

2 MS. WILLIAMS: Your Honor, at this time
3 the State would move to have her qualified as an
4 expert in the field of forensic serology?

5 THE COURT: Do you care to examine the
6 expertise --

7 MS. CAPERS: No, Your Honor.

8 THE COURT: Very well. She will be
9 permitted to render opinions in that area.

10 MS. WILLIAMS: Thank you, Your Honor.

11 BY MS. WILLIAMS:

12 Q. In the course of your work as the
13 forensic scientist, did you receive items of
14 evidence from this case?

15 A. Yes, I did receive items of evidence in
16 this case.

17 Q. What items of evidence were those?

18 A. The items that I received into my
19 custody were Items 13, which is an oral swab from
20 the gumline of victim *Victim*, and another from the
21 lower gumline of victim *Victim*, and then Item 15, a
22 sweatshirt.

23 Q. And did you do anything with the
24 sweatshirt?

25 A. Yes. I did process the sweatshirt for

THOMPSON - DIRECT EXAM BY MS. WILLIAMS

1 the presence of semen.

2 Q. And when you received these items, had
3 they been tampered with in any way?

4 A. No, they had not been tampered with in
5 any way.

6 Q. I'm going to show you what has been
7 previously marked as State's 100 and also State's
8 99.

9 MS. WILLIAMS: May I approach?

10 THE COURT: You may.

11 BY MS. WILLIAMS:

12 Q. Can you tell us if these are the items
13 that you handled?

14 A. Yes. This is Item 15, the sweatshirt,
15 that I processed for the presence of semen. And
16 then this is Item 15.1, which is a cutting I took
17 from the sweatshirt that tested positive for the
18 presence of semen.

19 MS. WILLIAMS: And, Your Honor, I would
20 like to approach the witness with 101 and 102.

21 THE COURT: Very well.

22 BY MS. WILLIAMS:

23 Q. And what about these items?

24 A. Yes. I recognize these items as the
25 oral swabs, Items 13 and 14, which I also tested

THOMPSON - DIRECT EXAM BY MS. WILLIAMS

1 for the presence of semen.

2 And I would like to state that I can
3 recognize all of my items because I give them the
4 unique lab number that is assigned to them when
5 they come to the lab, as well as the item number,
6 my initials, and then the date that I processed
7 them.

8 Q. And aside from cutting a portion of the
9 sweatshirt off and putting then in the envelope, is
10 there any other alterations that you did to the
11 evidence?

12 A. The Items 13 and 14, I would have
13 snipped a very small amount off of them with a pair
14 of scissors in order to test them for the presence
15 of semen.

16 Q. And what kind of test do you do to test
17 for semen?

18 A. For each of these items, I performed a
19 test that tests for the presentation of a component
20 found in high concentrations in male seminal fluids
21 which is acid phosphatase and also another
22 component that is found in very high concentrations
23 in male seminal fluid which is known as P30.

24 Both of those tests were positive for
25 the two sets of swabs as well as the sweatshirt.

THOMPSON - DIRECT EXAM BY MS. WILLIAMS

1 Additionally, after I do those two
2 tests, a sample of each of these items is prepared
3 onto a microscopic-type slide. And then we -- I
4 have a special type of stain that can help me
5 identify what we call a sperm cell, which is going
6 to be the part of semen that contains the DNA
7 portion of male seminal fluid.

8 For each of these samples, I made this
9 slide and I put it on the microscope in an attempt
10 to identify a sperm cell. And for Items 13 and 14,
11 I did not identify a sperm cell, but for Item 15.1,
12 the cutting from the sweatshirt, I was able to
13 identify a sperm cell on there.

14 Q. And so for the components of semen,
15 which items did you find semen on?

16 A. So from my results, the Item 15.1, the
17 cutting from the sweatshirt, my result for that is
18 semen identified as the component I tested for, the
19 acid phosphatase and P30 were positive, as well as
20 a microscopic examination was positive as well.

21 Q. And so you found semen on the swabs for
22 the victim's upper gum?

23 A. I do not say semen identified only
24 because I did not identify a sperm cell, which is a
25 necessary component; but the components that are

THOMPSON - DIRECT EXAM BY MS. WILLIAMS

1 found in semen were positive, which in our protocol
2 is an indicator that further testing needs to take
3 place.

4 So I still forwarded those items to the
5 DNA section for further testing. My report doesn't
6 say semen identified, but components were present.

7 Q. So components of semen were present on
8 the upper gums and the lower gums?

9 A. Yes.

10 Q. Is that correct?

11 A. Yes.

12 Q. And on the sweatshirt, semen was
13 identified?

14 A. Yes, that is correct.

15 Q. And was semen identified on the
16 sweatshirt?

17 A. Yes. Yes. The cutting that I took
18 from the sweatshirt I was able to identify a sperm
19 cell.

20 Q. Okay. And after you were done with
21 those items of evidence, who did you give them to
22 next?

23 A. Each of these items, Item 13, Item 14
24 and 15.1 were packaged and transferred to DNA
25 analyst Katherine Leisy.

THOMPSON - CROSS EXAM BY MS. CAPERS

1 MS. WILLIAMS: Okay. Thank you.

2 THE COURT: Cross-examine.

3 CROSS-EXAMINATION

4 BY MS. CAPERS:

5 Q. Just to be clear, the oral swab Number
6 13, there was no sperm identified; is that what
7 your report says?

8 A. That's correct. My report reads no
9 spermatozoa or sperm cell identified on Item 13.

10 Q. Okay. And Item 14, no sperm
11 identified; that is what your report says?

12 A. Yes, that's correct; no sperm
13 identified on Item 14.

14 Q. And you said you examined both sets.
15 When you say a set you mean one swab from the upper
16 and one swab from the lower?

17 A. That's correct. There was one swab
18 taken from each one.

19 MS. CAPERS: Okay. No further
20 questions.

21 THE COURT: Redirect.

22 REDIRECT EXAMINATION

23 BY MS. WILLIAMS:

24 Q. Just so we're clear, you found
25 components of semen on the upper and lower, and

THOMPSON - REDIRECT EXAM BY MS. WILLIAMS/RE CROSS BY MS. CAPERS

1 then you said then you send it to DNA so they can
2 do further testing?

3 A. That is correct. If components of
4 semen test positive on any item of evidence I'm
5 examining, they need to go forward for further
6 testing and analysis because those are indicators
7 of the presence of semen.

8 I do not say for reporting purposes
9 that semen was identified.

10 Q. But the DNA section has other tests
11 that they can run where they can drill that down
12 and find different things than what you found?

13 A. The DNA section, yes, can do a more
14 extensive -- do more extensive testing than I have
15 the capability of doing.

16 MS. WILLIAMS: Okay. Thank you.

17 THE COURT: Recross?

18 RECROSS-EXAMINATION

19 BY MS. CAPERS:

20 Q. Just once again, why -- why -- just
21 once again to be clear. You're saying there are
22 components of it, but your report that you
23 submitted says there is no sperm identified?

24 A. That's correct. On Item 13 and 14, my
25 report reads that no sperm was identified.

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 MS. CAPERS: Thank you.

2 THE COURT: You may come down.

3 Call your next witness.

4 MS. WILLIAMS: Your Honor, the State
5 calls Katherine Leisy.

6 May I approach to remove some of the
7 evidence?

8 THE COURT: Sure.

9 KATHERINE LEISY,
10 being first duly sworn, testified as follows:

11 THE CLERK: Please have a seat. State
12 your full name and spell your last, please.

13 THE WITNESS: Yes, ma'am. My name is
14 Katherine Leisy, L-E-I-S-Y.

15 DIRECT EXAMINATION

16 BY MS. WILLIAMS:

17 Q. Ms. Leisy, where do you work?

18 A. I work for the South Carolina Law
19 Enforcement Division, more commonly referred to as
20 SLED.

21 Q. What is your position there?

22 A. I'm a forensic scientist assigned to
23 the DNA casework department.

24 Q. And how long have you been working
25 there?

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 A. Just short of 13 years.

2 Q. And what type of educational background
3 do you have in preparation for your position?

4 A. I have a Bachelor of Science Degree in
5 genetics engineering from Cedar Crest College in
6 Allentown, Pennsylvania; I received in-house
7 training at SLED by other court-qualified analysts
8 in all of the different types of testing that I am
9 required to perform; I'm also required to
10 participate in continuing education on an annual
11 basis which consists of training seminars or
12 conferences that cover current and future topics in
13 forensic science; I also have four years'
14 experience as a forensic DNA analyst at a private
15 testing facility as well.

16 Q. What types of specialized training do
17 you have with regard to DNA analysis?

18 A. Again, we receive in-house training in
19 different types of extractions and amplification,
20 all the different steps involved in the DNA
21 process. The purpose of forensic DNA testing is to
22 try to develop a DNA profile from an item of
23 evidence and compare it to the profile of a known
24 individual.

25 So every step in that process is a

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 different step in training and a different process
2 that we are required to show proficiency in.

3 Q. And have you testified as an expert in
4 DNA before?

5 A. Yes, I have.

6 Q. And about how many times?

7 A. Over 50 occasions.

8 MS. WILLIAMS: Your Honor, at this
9 time, we would move to have Ms. Leisy qualified as
10 an expert in the field of DNA.

11 THE COURT: Care to examine her
12 qualifications?

13 MS. CAPERS: No, Your Honor.

14 THE COURT: She would be permitted to
15 render opinions in that area.

16 MS. WILLIAMS: Thank you.

17 BY MS. WILLIAMS:

18 Q. In the course of your work as a
19 forensic scientist, did you receive items of
20 evidence in this case?

21 A. Yes, I did.

22 Q. And when you receive items -- when you
23 received the items, had they been tampered with,
24 were they unsealed, did they follow all of the
25 packaging requirements of the SLED protocol?

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 A. Everything that I received was packaged
2 appropriately, placed in heat-sealed pouches and
3 everything was labeled as I would have expected.

4 Q. Would you have tested them if they were
5 compromised?

6 A. No, I would not.

7 Q. And what items of evidence did you
8 receive?

9 A. I received several sets of swabs. SLED
10 Item 13 was identified as swabs from the upper
11 gumline of *Victim* ; SLED Item 14 was oral
12 swabs from the lower gumline of *Victim*

13 I received a cutting, 15.1, which is
14 from the inside of the right shoulder of the
15 sweatshirt; I received a sexual assault evidence
16 collection kit which was SLED Item 16 that was
17 collected from *Victim*. I also received a
18 buccal swab Item 17 to be used for a known standard
19 from Aaron Capers.

20 Q. And did you test every single item that
21 you received in this case?

22 A. I did not.

23 Q. Is that typical?

24 A. It's not uncommon. It depends on the
25 type of case and exactly what types of items are

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 submitted and how many are submitted. We start
2 with what we believe to be the most probative items
3 in the case, meaning which items are most likely to
4 allow us to develop a DNA profile that would be
5 suitable for comparison and what will allow us to
6 make an informative link between two people or
7 between a person and an item of evidence.

8 Q. And is it common for you to sort of
9 converse with the State or check with the State or
10 someone who is working on the case to see which
11 items might be important because they know the
12 facts a little bit better?

13 A. It is. We receive -- typically, we
14 receive incident reports and submission paperwork
15 that give us some details to the case, but
16 oftentimes it's important for us to be in
17 communication with the investigators or the
18 Solicitor's office to help determine what items are
19 going to be the most probative and what we should
20 start with.

21 Q. Does sometimes law enforcement give you
22 some guidance on which items they want tested as
23 well?

24 A. Absolutely.

25 Q. And in this case, you did talk with

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 members of the Solicitor's office about the case?

2 A. I did, yes.

3 Q. And in this case, you also spoke with
4 members of the defense team; is that correct?

5 A. Briefly, yes.

6 Q. And you provided items -- additional
7 items to defense counsel?

8 A. I believe we provided all of the
9 information that was generated and everything that
10 we had on record that relates to this case.

11 Q. And you're open in any case to speak
12 with both sides; are you not?

13 A. Absolutely. We don't speak to the
14 defense as often, but we're always available if
15 there are questions or if there is anything that
16 needs to be discussed.

17 Q. Okay. And with regard to the specific
18 testing that you do, what types of tests do you do
19 in order to determine if there's DNA on a piece of
20 evidence?

21 A. The type of testing we perform is
22 PCR/STR testing. PCR refers to a process called
23 polymerase chain reaction. It's a technique that
24 allows us to make copies of the locations of the
25 DNA that we're interested in testing.

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 STR stands for short tandem repeats,
2 and those are the locations that we're testing.
3 There are areas in our DNA where a short core unit
4 of DNA repeats a certain number of times. And the
5 number of times that unit repeats varies from
6 person to person.

7 So we test the number of the STR
8 locations, and that overall collection of
9 information is known as the DNA profile.

10 So if we were able to develop a DNA
11 profile from an item of evidence, we can then
12 compare it to the profile of a known individual to
13 see if that person contributed DNA to that item.

14 Q. What is a known standard?

15 A. When we refer to known standard, those
16 are typically buccal swabs which are sterile cotton
17 swabs rubbed against the inside of the cheek as wet
18 cells. And we also sometimes receive blood
19 samples. They are just samples that have been
20 specifically taken from a known individual for the
21 purpose of comparing them to evidence.

22 Q. So is it fair to say that you have a
23 standard from each person that you want to test,
24 and then you have the items of evidence that you're
25 going to test against the known standard?

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 A. That's correct.

2 Q. And both sets of evidence are treated
3 the same way with the same integrity and chain of
4 custody in all of the protocols?

5 A. They are.

6 Q. And in this case, you received items of
7 evidence after serology had conducted some testing;
8 is that correct?

9 A. Yes.

10 Q. And when serology conducts a test and
11 finds components of semen, is there other testing
12 that you can do to figure out if there's sperm on
13 that item?

14 A. We can visually examine a portion of
15 the sample under a microscope. We sample a stain
16 so that different cell types are a different color,
17 and microscopically examine that to try to
18 determine whether or not there are spermatozoa or
19 sperm cells present.

20 Q. And so in this case, of all the items
21 that you received, what were the items that you
22 tested?

23 A. The items that I ran were the swabs
24 from the upper and lower gumlines as well as the
25 cutting that was taken from the sweatshirt. I was

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 then able to compare the DNA profiles developed
2 from these items to the known standard of Victim
3 and Aaron Capers.

4 Q. And so if we go one at a time, Item 13,
5 the oral swab from the upper gum of Victim
6 what results from that item of evidence?

7 A. For this type of sample when we believe
8 there may be semen, we perform what is known as a
9 differential extraction. That results in two
10 different fractions; one being the sperm fraction
11 where we're hoping to have sort of singled out the
12 DNA from the male contributor, and the non-sperm
13 fraction, which is essentially everything else.

14 So, ideally, we're looking for female
15 in the non-sperm and male in the sperm. And we
16 sometimes see some carryover.

17 For the SLED Item 13, swabs from the
18 upper gumline, the DNA profile developed from the
19 non-sperm fraction is attributable to Mitsue
20 Listak, and the DNA profile developed from the
21 sperm fraction matches the DNA of Aaron Capers.

22 Q. So there was sperm in the upper swab
23 and it does match Aaron Capers?

24 A. I believe based on the serology testing
25 I don't know that there was spermatozoa --

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 MS. CAPERS: Objection, Your Honor.

2 This is actually -- we have not laid the proper
3 foundation --

4 THE COURT: What is the basis of the
5 objection?

6 MS. CAPERS: The objection is that we
7 have not laid the proper foundation and the chain
8 of custody has not been established.

9 THE WITNESS: Overruled. Thank you.

10 BY MS. WILLIAMS:

11 Q. If you could go back to -- you
12 identified in your report a sperm fraction and a
13 non sperm fraction?

14 A. Correct. And that may be -- that's
15 always how we designate those fractions when we
16 perform a differential. We may not identify sperm
17 cells in a sample. It may be that there weren't
18 enough present for them to see it microscopically.

19 That doesn't mean there aren't enough
20 present for us to develop a DNA profile. When we
21 perform a differential, we end up with what we
22 refer to as the non sperm fraction and the sperm
23 fraction.

24 This identifies where we're expecting
25 or hoping to see the female DNA versus where we're

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 expecting to see male DNA.

2 Q. So what was -- what is the statistic of
3 the match for Aaron Capers in the sperm fraction of
4 the oral swab from the upper gumline?

5 A. The probability of randomly selecting
6 an unrelated individual having a DNA profile
7 matching the profile from the sperm fraction is
8 approximately 1 in 7.9 octillion.

9 Q. Octillion?

10 A. Yes, ma'am.

11 Q. And with Item 14, the oral swab from
12 the lower gumline of *Victim* what is the
13 result from the sperm mixture of the foreign
14 contributor?

15 A. For the swabs from the lower gumline,
16 the DNA profile developed from the sperm fraction
17 is a mixture of at least two individuals. The DNA
18 profile of the foreign contributor from this
19 mixture matches the DNA profile of Aaron Capers.

20 And, again, the probability of randomly
21 selecting an unrelated individual having a DNA
22 profile matching the foreign contributor to this
23 mixture is approximately 1 in 7.9 octillion, and
24 the DNA types from *Victim* is also present in
25 this mixture.

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 Q. And so how do you explain a mixture?

2 A. Again, during the differential
3 extraction process, what we try to do is first
4 break apart all of the cells with the exception of
5 the sperm cells. They're a little bit tougher, a
6 little bit more rigid than others that may be
7 present..

8 We introduce a detergent to the sample
9 that breaks apart other cells and then spin the
10 sample down so that the sperms form what we call
11 pellet at the bottom of the tube. We transfer as
12 much of the buffer out of that tube as we can so
13 hopefully we'll remove all of the female DNA that
14 has been released because of the detergent that was
15 added, leaving just the male DNA in the sperm
16 pellet.

17 Sometimes there is just so much female
18 DNA present or the process isn't completely
19 efficient, so there's still a little bit of the
20 female DNA present with the sperm pellet. So,
21 again, we're trying to get complete separation of
22 the male and female DNA, but we can't always just
23 based on the sample.

24 Q. So it's *Victim* ~~and~~ Aaron Capers?

25 A. This particular mixture is consistent

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 with being -- having been contributed by those two
2 individuals. There are no DNA types present that
3 could not have come from those two individuals.

4 Q. And so the sperm in her mouth or the
5 fraction is from Aaron Capers?

6 A. That DNA profile match that of
7 Mr. Capers.

8 Q. What about with Item 15.1, the
9 sweatshirt cutting? What is the non sperm fraction
10 and the sperm fraction?

11 A. The DNA profile developed from the non
12 sperm fraction of the cutting of the sweatshirt is
13 a mixture of at least three individuals. *Victim*
14 and Aaron Capers are included as possible
15 contributors to this mixture.

16 And the probability of randomly
17 selecting unrelated individuals who could have
18 contributed to the mixture is approximately 1 in
19 16.

20 The DNA profile developed from the
21 sperm fraction from the cutting of the sweatshirt
22 matches the DNA profile of the Aaron Capers, and
23 the probability of randomly selecting an unrelated
24 individual having a DNA profile matching this
25 profile is approximately 1 in 7.9 octillion.

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 Q. And that's the sperm fraction of Aaron
2 Capers?

3 A. Yes.

4 Q. When you say there are at least three
5 people that could be indicated in the non sperm
6 fraction, what are some of the ways that other
7 people's DNA could be transferred onto a
8 sweatshirt?

9 A. When we're discussing an item of
10 clothing like that, it could be someone else has
11 worn the sweatshirt, any type of physical contact.
12 If the item has been in the laundry, any kind of
13 contact with other articles of clothing containing
14 another individual's DNA could lead to that type of
15 transfer.

16 Q. Tell us what Item 18 is.

17 A. Item 18 was identified as a Halloween
18 mask.

19 Q. And what is your experience in trying
20 to extract DNA from items like a mask?

21 A. Typically, with anything that is worn
22 on the body, we expect to see a mixture of multiple
23 individuals. And we may be able to develop what we
24 call a major contributor, meaning one individual
25 contributed significantly more DNA than others, and

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 that allows us to treat that profile almost like a
2 single source.

3 Typically, what we end up with are
4 mixtures that we can't necessarily interpret. They
5 are not the most ideal samples for us. They do
6 sometimes work, but typically we prefer to test
7 something that has a body fluid if it's available.

8 Q. Did you express those concerns to the
9 State when you were determining whether you wanted
10 to test that item?

11 A. It is a discussion that we had. The
12 value of the item versus possibly what the results
13 may be and whether it would be suitable for
14 comparison.

15 Q. Was that after you had already found
16 Aaron Capers' sperm cells or sperm DNA in her
17 mouth, in the swabs from her mouth?

18 A. I would have to double-check when we
19 had that interaction.

20 Q. Okay. But you do determine which is
21 more valuable, like you do decide what type of
22 things you are more likely to get DNA from?

23 A. We do. We do that up front. We look
24 at the details of the incident, the information
25 that we have, and what items are most likely to

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 again provide us with a body fluid just because
2 that's more likely to allow us to develop a profile
3 more suitable for comparison.

4 Q. I'm going to show you what has been
5 previously marked as State's 101, 102, 103, 105,
6 and 99.

7 MS. WILLIAMS: May I approach?

8 THE COURT: You may.

9 BY MS. WILLIAMS:

10 Q. If you could identify these items and
11 tell us if they were the items we have been
12 discussing that you tested.

13 A. Based on the case number, as well as my
14 initials present on all packages, these are the
15 items I tested.

16 Q. And that would be the oral swabs, Item
17 13, Item 14; that would be the upper gum, Item 14;
18 the lower gum and 15.1 which is the cutting from
19 the sweatshirt?

20 A. Correct.

21 Q. And that cutting from the sweatshirt
22 they had already found sperm on that item in
23 serology?

24 A. Based on the information I received
25 from the serology department, there were

LEISY - DIRECT EXAM BY MS. WILLIAMS

1 spermatozoa identified.

2 Q. And are there two standards there that
3 you also --

4 A. Yes, there are.

5 Q. And those were the standards that you
6 compared?

7 A. That's correct.

8 Q. And those would be items?

9 A. SLED 16.1 and 17.

10 Q. And you got these items from Courtney
11 Thompson?

12 A. Items 16 and 17 I took custody of from
13 Jackie Davis; and Items 13, 14, and 15.1, I took
14 custody directly from Courtney Thompson.

15 MS. WILLIAMS: Your Honor, at this
16 time, State would move into evidence Item 101, 102,
17 103, 105, and 99?

18 THE COURT: Objection?

19 MS. CAPERS: I'm going to object. I'm
20 not sure which one is the oral swab of Aaron
21 Capers, but I would object to --

22 THE COURT: We need to have -- they
23 have been using their numbers and not referencing
24 the State's number.

25 MS. WILLIAMS: 105.

LEISY - CROSS EXAM BY MS. CAPERS

1 MS. CAPERS: I would object to Number
2 105.

3 THE COURT: 105 there's an objection.
4 You're not objecting to 101 through 103 and 99?

5 MS. CAPERS: Correct.

6 (STATE EXH. 101 - 103, 99 in evidence.)

7 THE COURT: What's the basis of the
8 objection?

9 MS. CAPERS: The proper foundation has
10 not been laid, Your Honor. No one has -- the
11 officer who took the swab has not even testified so
12 the chain of custody has not been established.

13 THE COURT: The officer did testify.

14 MS. CAPERS: No, sir.

15 MS. WILLIAMS: We have another officer
16 coming in tomorrow.

17 THE COURT: All right. Then 105 -- I
18 would sustain the objection as to 105.

19 MS. WILLIAMS: No further questions.

20 THE COURT: Cross-examine.

21 MS. CAPERS: Yes, sir.

22 CROSS-EXAMINATION

23 BY MS. CAPERS:

24 Q. Mrs. Leisy, you indicated that you
25 tested -- I guess you look at them and you test

LEISY - CROSS EXAM BY MS. CAPERS

1 based on what you think is going to give you the
2 most reasonable or reliable result?

3 A. What is most likely to give us the
4 profile suitable for comparison for what is most
5 probative or what will be most informative to the
6 case.

7 Q. And in this case, you received two sets
8 of oral swabs from the victim, correct?

9 A. Yes.

10 Q. And both of them having the upper gum
11 and lower gum?

12 A. Correct, 13 was the upper gum and 14
13 was the lower gum.

14 Q. Did you also receive a SANE kit?

15 A. I did. That's what I referred to
16 earlier as the sexual assault evidence collection
17 kit.

18 Q. Okay. And what did you take out of
19 that kit?

20 A. I performed what we refer to as an
21 inventory on that kit when it was submitted.
22 Essentially, we remove all the items that contain
23 potential evidence and assign a sub item or
24 specific item number to it.

25 In addition to the swabs used as a

LEISY - CROSS EXAM BY MS. CAPERS

1 known standard for the victim, there are also Sub
2 item 16.2 which were oral swabs; 16.3,
3 miscellaneous swabs from the face; and 16.4, swabs
4 from the left breast; 16.5, suspected bodily fluids
5 swabs from upper and lower plates; and SLED Item
6 16.6, suspected saliva from hair.

7 Q. And so Item 16.5, those are the -- are
8 those basically the same as those swabs that you
9 just tested?

10 A. They were again identified as swabs
11 from upper and lower plates. I'm not sure where
12 those items were collected from. You know, I
13 didn't perform the collection so I'm not exactly
14 sure.

15 Q. And 16.2, oral swabs?

16 A. Yes.

17 Q. What were those from? Do you know what
18 area?

19 A. Typically, oral swabs are just, I mean,
20 collected almost like a buccal swab would be.
21 They're just swabs taken on the inside of the
22 mouth.

23 Q. Okay. Do you know if you received
24 swabs from the upper and lower gumline from
25 Ms. Victim in the same kit?

LEISY - CROSS EXAM BY MS. CAPERS

1 A. Again, I can only go based on the
2 description of the items from the sexual assault
3 evidence collection kit. I don't know exactly from
4 where they were collected or if they were collected
5 before or after what I tested.

6 Q. Okay. But you collected -- the items
7 that you tested came from the Goose Creek Police
8 Department; is that correct?

9 A. That was the submitting agency, yes,
10 ma'am.

11 Q. Okay. The swabs from the upper gumline
12 and lower gumline, those were collected by the
13 Goose Creek Police Department?

14 A. I'm not sure who physically collected
15 the swabs. They did not come as part of the sexual
16 assault evidence collection kit. I don't know
17 specifically who took them.

18 Q. They were not a part of the kit?

19 A. They were not. They were submitted
20 separately.

21 Q. Okay. And so you received -- did you
22 analyze 16.2, the oral swabs that came out of the
23 sexual assault kit?

24 A. I did not.

25 Q. Did you analyze 16.3, the miscellaneous

LEISY - CROSS EXAM BY MS. CAPERS

1 swabs from the face?

2 A. I did not.

3 Q. Did you analyze 16.4, the swabs from
4 the left breast?

5 A. No, I did not.

6 Q. Did you analyze 16.5, the suspected
7 body fluid swabs from the upper and lower plates?

8 A. I did not.

9 Q. Did you analyze 16.6, suspected saliva
10 from the hair?

11 A. I did not.

12 Q. Did you analyze Item 18, the rubber
13 mask?

14 A. No, ma'am.

15 Q. Did you analyze Item 20, the swabs from
16 the straps of the victim's wallet?

17 A. I did not.

18 Q. Did you analyze swabs from the handle
19 of the dresser drawers in the master bedroom?

20 A. I did not.

21 Q. Did you analyze swabs from the handles
22 of the dresser drawers in the master bedroom?

23 A. No, ma'am.

24 Q. Okay. As to Item 18, the rubber mask;
25 20, flap of the victim's wallet; 21, the handle

LEISY - CROSS EXAM BY MS. CAPERS

1 from the dresser drawers; and 22, did you receive a
2 specific instruction not to test those items?

3 A. I was instructed to begin with the
4 cutting or whatever we could collect from the
5 sweatshirt, as well as from the swabs that were
6 collected from the upper and lower gumline of the
7 victim.

8 Q. Do you remember an e-mail conversation
9 with regard to the mask in particular?

10 A. Yes, I do.

11 Q. Okay. And what was -- what was that
12 conversation?

13 A. Essentially, the question was, do we go
14 ahead and process the mask, or do we just run with
15 the swabs that were collected from the mouth and
16 from the sweatshirt? Ultimately, the decision was
17 made not to test the mask.

18 Q. Specifically, the e-mail sent to you
19 stated that another young black male lives there
20 and the description of a young black male running
21 to the house is vague.

22 A. That does sound familiar. I would have
23 to double-check my notes.

24 Q. And you waited -- that was February 19,
25 2018 at 10:30. And you waited a couple of days to

LEISY - CROSS EXAM BY MS. CAPERS

1 get a response back to your request -- to your
2 question, do you want these items tested, right?

3 A. I believe it was a couple of days, yes.

4 Q. Okay. And then did you receive a
5 response back in big bold letters, hold off?

6 A. I did believe that was the response,
7 yes.

8 Q. Okay. And when this -- this occurred
9 in -- December 21st, 2017; is that correct?

10 A. I would have to check my notes to be
11 sure exactly when those emails were sent.

12 Q. Oh, no, I'm sorry. This incident, the
13 swabs that you were collecting.

14 A. Yes. Yes, I apologize.

15 Q. Okay. Were from 2017?

16 A. That's correct.

17 Q. When did you provide the defense with a
18 copy of this report that we're talking about now?

19 A. I believe it would have been within the
20 last couple of months.

21 Q. As in February 20th? No, it's 2019.
22 Yeah, as about a month ago?

23 A. That sounds right.

24 MS. CAPERS: Beg the Court's
25 indulgence?

LEISY - REDIRECT EXAM BY MS. WILLIAMS

1 THE COURT: Certainly.

2 BY MS. CAPERS:

3 Q. And just to be clear, you only analyzed
4 three items, and all three of those items were --
5 came from the Goose Creek Police Department?

6 A. Again, I'm unsure as to who collected
7 those particular items. They were what was
8 submitted to us by Goose Creek.

9 MS. CAPERS: No further questions.

10 THE COURT: Redirect?

11 REDIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q. Ms. Leisy, where did the buccal swabs
14 for the victim come from?

15 A. The buccal swabs from Ms. *Victim* were
16 taken from the sexual assault evidence collection
17 kit that was submitted.

18 Q. And that was the known standard?

19 A. Correct.

20 Q. And I'm not sure if you were aware of
21 this. Were you aware that there were two sets of
22 oral swabs taken from the victim?

23 A. At the time I performed the testing, I
24 had what we had been referring to as SLED Item 13
25 and 14, the swabs from the upper and lower

LEISY - REDIRECT EXAM BY MS. WILLIAMS

1 gumlines. And I performed the inventory on the
2 sexual assault evidence kit, so I was aware of what
3 was in the kit.

4 Q. So from your experience and your
5 education and background as a DNA analyst, if swabs
6 are collected from a victim of sexual assault
7 immediately after the assault, and then another set
8 of swabs are collected four hours later, is it more
9 likely that you are going to get some evidence from
10 the ones closer in proximity to the sexual assault?

11 A. It is. How long after an incident has
12 occurred the collection is taken plays a huge role
13 in how much DNA can be recovered. The longer it is
14 after the incident, the less likely we are to
15 recover enough DNA to develop a profile. So it is
16 important to collect as soon as possible.

17 Q. And so might that enter into the
18 decision as to which of the swabs to test?

19 A. It could potentially, yes.

20 Q. And as far as testing for DNA on things
21 like doorknobs, drawer handles, other items that a
22 lot of people touch, how successful are you in
23 obtaining DNA profiles from those types of items?

24 A. What we refer to as touch DNA testing
25 as we were just talking about, that's DNA that's

LEISY - REDIRECT EXAM BY MS. WILLIAMS

1 been deposited because you were in physical contact
2 with an item.

3 We are much less successful in
4 developing a DNA profile from that type of item
5 just because we expect less DNA to be transferred.
6 We're much more likely to develop a profile from a
7 body fluid.

8 Q. So might that enter into the decision
9 as to which items to test and which items not to
10 test?

11 A. That can play a role as well.

12 Q. Do you often educate the State as to
13 what you think is going to yield more results?

14 A. We do often discuss with either the
15 submitting agency and investigators or the
16 Solicitor's office just based on the case details
17 and what we typically see when we run certain types
18 of items. We will have conversations about what
19 items we may want to start about.

20 Q. In this case, the original reports were
21 provided pretty soon after this incident occurred.
22 Do you remember the date that the original reports
23 were provided?

24 A. My report was issued on January 23rd of
25 2018.

LEISY - REDIRECT EXAM BY MS. WILLIAMS

1 Q. And then you received more
2 communication from defense counsel, and she was
3 talking about some things that you gave her two
4 months ago. When were those requests actually
5 made?

6 A. I believe the requests were made a
7 matter of days before we submitted the information
8 to both the Solicitor's office and the defense.

9 Q. So we didn't have those items either?

10 A. No, I don't believe so. I believe all
11 discovery was made just very recently.

12 Q. So defense counsel requested them, and
13 you get them to everybody within a few days?

14 A. That's what I recall. I would have to
15 check if you need a more specific timeline. I
16 recall it being a pretty quick turn around.

17 MS. WILLIAMS: Okay. Beg the Court's
18 indulgence for just a moment?

19 THE COURT: Certainly.

20 MS. WILLIAMS: Thank you very much.

21 THE COURT: Recross.

22 MS. CAPERS: Thank you, Your Honor.

23 RECROSS-EXAMINATION

24 BY MS. CAPERS:

25 Q. You work with SLED, right?

LEISY - RECROSS EXAM BY MS. CAPERS

1 A. Yes.

2 Q. And this is the State?

3 A. Correct.

4 Q. And you've been communicating with the
5 State with regard to this evidence all along?

6 A. Again, we are often in communication
7 with either investigators or the Solicitor's office
8 regarding details about the case.

9 Q. Okay. So this whole thing of it not
10 being in the Solicitor's office control, that's a
11 little deceptive, isn't it?

12 A. Control in terms of what, ma'am?

13 Q. They have access to it, don't they?

14 A. As far as our case notes and everything
15 that's generated during testing, we require
16 discovery requests. We document exactly what we
17 provide.

18 And I don't recall any discovery
19 request being made prior to last month. So the
20 State would have only had our basic reports that
21 were issued.

22 Q. Okay. And do you know where defense
23 attorneys generally get their discovery materials
24 from?

25 A. I believe in most cases that we work

LEISY - RECROSS EXAM BY MS. CAPERS

1 with, it's disseminated by the Solicitor's office.
2 So we provide it to the Solicitor's office and they
3 then provide it to defense counsel.

4 Q. Thank you.

5 So you were aware that there were two
6 sets of swabs from the upper and lower gum.

7 A. That's correct.

8 Q. Okay. And I don't -- when did you get
9 information with regard to when the samples were
10 collected?

11 A. Again, I'm not specifically sure
12 exactly who collected Items 13 and 14. I don't
13 know when they were exactly collected in relation
14 to the swabs from the sexual assault evidence
15 collection kit.

16 Q. But you testified earlier that you make
17 the decision as to what to test based on what is
18 the most appropriate item or what's likely to give
19 you the best result?

20 A. Based on information that we have, yes.

21 Q. What information did you have regarding
22 the collection of the swabs?

23 A. In terms of collection of the swabs,
24 again, I didn't have any specific information.
25 What was submitted were swabs from the upper and

LEISY - RECROSS EXAM BY MS. CAPERS

1 lower gumline and the sweatshirt. That is what I
2 started with --

3 Q. Well --

4 A. -- in terms of -- excuse me.

5 Q. I'm sorry.

6 A. -- in terms of the sexual assault
7 evidence collection kit, if there were other oral
8 swabs taken, in a situation like that where we have
9 sort of repetitive collection, we don't necessarily
10 run everything.

11 We'll select one or two items and run
12 that and see if we're able to develop a suitable
13 profile.

14 Q. Okay. Generally, when you have a
15 sexual assault case, where do the swabs come from?

16 A. It depends on the nature of the
17 assault. Typically, we run mostly vaginal swabs.
18 It really depends, again, on the specific details.
19 The kits include collection envelopes for vaginal
20 swabs, oral swabs, rectal swabs, fingernail
21 scrapings, suspected saliva, miscellaneous
22 materials.

23 It could be of any one of a number of
24 things. It just depends on the incident specifics
25 and what will provide us with a suitable comparison

LEISY - RECROSS EXAM BY MS. CAPERS

1 profile.

2 Q. What does the SANE stand for?

3 A. Sexual Assault Nurse Examiner.

4 Q. And that is the kit -- you were sent
5 the kit from SANE, correct?

6 A. I believe it's -- the Sexual Assault
7 Nurse Examiner collects the kit. The kits actually
8 originate at SLED. We typically provide most of
9 the kits that are used throughout the state. We
10 refer to them as sexual assault evidence collection
11 kits or CSC kits.

12 Q. Okay. And the kits normally contain
13 the evidence that you collect -- I mean, that you
14 test?

15 A. In most cases -- I would say the
16 majority of the sexual assault cases that's all we
17 receive is the kit itself.

18 Q. Were you aware that when you tested --
19 when you did not test the oral swabs, those were
20 the ones collected in the sexual assault kit?

21 A. I was. They were submitted just in
22 sort of coin envelopes that are small manila
23 envelopes. They did not come as part of the kit.

24 Q. Well, do you know the circumstances
25 under which the swabs that you did test were

LEISY - RECROSS EXAM BY MS. CAPERS

1 collected?

2 A. Again, I don't know the specifics of
3 who or when they were collected.

4 Q. Okay. Well, if you knew that the swabs
5 that you did test had been riding around for about
6 seven hours versus -- and after having not been
7 dried, just placed in a box versus swabs that were
8 collected four hours earlier, but were dried and
9 packaged and sealed, would that change your mind as
10 to which one to test?

11 A. If I had those specific details it
12 might. Again, once I get the serology testing on
13 Items 13 and 14 indicating the possible presence of
14 semen, that's enough for me to go ahead and to --
15 you know, to have developed DNA profiles suitable
16 for comparison.

17 I don't have questions about the
18 integrity of the samples that were sent or whether
19 or not they should have been run.

20 Q. Okay. Well, so you didn't have that
21 information?

22 A. I did not have those specifics at the
23 time, no.

24 Q. Would that have made a difference?

25 A. Again, possibly, but once Items 13 and

1 14 had been through serology, we had indication of
2 the possible presence of semen. There's no
3 indication that there's anything wrong with those
4 swabs.

5 I would have most likely selected -- I
6 usually pick two sets of swabs when I have multiple
7 swabs to select from.

8 MS. CAPERS: Okay. Thank you.

9 No further questions, Your Honor.

10 THE COURT: Very well. You may come
11 down. Thank you.

12 Is this a good stopping point today?

13 MS. WILLIAMS: Yes.

14 THE COURT: All right. Ladies and
15 gentlemen, at this point we will recess for the
16 evening. Please remember you are not at liberty to
17 discuss the case among yourselves, and do not
18 discuss the case or allow anybody to talk with you
19 about it.

20 Again, don't talk about it with anybody
21 at home. Also, do not watch any newscasts of this
22 trial as you have done.

23 Be in the jury room, please, by 9:30 in
24 the morning. Thank you.

25 (Jury out, 4:45 p.m.)

1 (These proceedings were had 3/20/19, in
2 re: State v. Capers, 9:46 a.m.)

3 THE COURT: State ready?

4 I understand that you think you may be
5 finished by about noon-ish and you want to wait to
6 close. I appreciate that, but these -- I don't
7 have -- I personally don't have any problem with --
8 the problem I have is, we'll finish this case. And
9 these 14 people, they are giving up their work
10 experience, and I have a real problem --

11 MS. WILLIAMS: I understand.

12 THE COURT: And I understand the
13 victim, and I'm sorry for that, but I don't know
14 what the outcome will be. I watched the victim
15 last week and that wasn't a good experience for the
16 victim.

17 MS. WILLIAMS: We'll be prepared, Your
18 Honor.

19 THE COURT: All right. Thank you so
20 much. I certainly appreciate and I understand
21 that.

22 MS. CAPERS: Your Honor, before going
23 forward, I do have a motion.

24 THE COURT: Okay.

25 MS. CAPERS: I'm moving for a mistrial

HART - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Then we're ready to go.

2 Bring in our jury.

3 (Jury in, 9:48 a.m.)

4 THE COURT: Morning, ladies and
5 gentlemen. Thank you for your patience. We did a
6 matter not related to this before bringing you out,
7 and we've been dealing with some matters of law
8 trying to expedite. I appreciate your indulgence.
9 Thank you.

10 Hope you had a good evening. We're
11 ready to begin.

12 Solicitor, you may call your next
13 witness.

14 MR. ALFARO: State calls Justin Hart.

15 JUSTIN HART,
16 being first duly sworn, testified as follows:

17 THE CLERK: Please have a seat. State
18 your full name for the record and spell your last
19 name.

20 THE WITNESS: Justin Lee Hart, H-A-R-T.

21 DIRECT EXAMINATION

22 BY MR. ALFARO:

23 Q. Good morning.

24 A. Good morning.

25 Q. Will you tell the jury where you work?

HART - DIRECT EXAM BY MR. ALFARO

1 A. Yes, Goose Creek Police Department.

2 Q. And how long have you been with Goose
3 Creek?

4 A. Approximately, eight years now.

5 Q. And what is your current rank and duty
6 assignment?

7 A. Current rank is master police officer,
8 and I'm now the community officer for the City of
9 Goose Creek.

10 Q. And were you working in that capacity
11 on December 21, 2017?

12 A. No, I was not. I was an investigator
13 at that time.

14 Q. And in that capacity did you have the
15 opportunity to respond to the area of : Isherwood
16 in Goose Creek to assist in an investigation
17 involving this case?

18 A. I did.

19 Q. And what county is that in?

20 A. Berkeley County, City of Goose Creek.

21 Q. And when you got to the scene, was the
22 victim ~~victim~~ still there?

23 A. No, she was not.

24 Q. And what did you do when you first
25 arrived at the scene?

HART - DIRECT EXAM BY MR. ALFARO

1 A. My main objective when I got there was
2 to collect witness statements and try to identify
3 any video surveillance that may have captured the
4 incident.

5 My first point of contact was
6 Isherwood, which is across the street from
7 Ms. *Victim* 's residence where I made contact with
8 Ms. Walsh who provided me with a written statement
9 and described her interaction with *Victim* shortly
10 after accident.

11 Q. And did you attempt to speak to any
12 other residents in the area that day?

13 A. I did. While I canvassed the area, I
14 was directed to Isherwood. There were three
15 juveniles playing basketball in the driveway at the
16 time of the incident. I made contact with those
17 juveniles.

18 They observed a black male dressed in
19 all black with a book bag come out of the wood line
20 a couple houses down from them. They directed me
21 to Isherwood, which was approximately two
22 houses from that resident.

23 They observed that the male ran in a
24 sprinting fashion to Golding Lane and attempted
25 to get inside; however, they did not witness him

HART - DIRECT EXAM BY MR. ALFARO

1 enter the residence.

2 Q. I'm going to show you what is marked as
3 State's 47. I believe it's in evidence. If you
4 turn around, I will put it up on the screen behind
5 you. That top button is a pointer.

6 Ask you some questions about that.
7 Now, can you describe for us what -- what area the
8 juvenile that you spoke with described the subject
9 running from?

10 A. Yes. If you can zoom out a little bit,
11 it's -- Isherwood here. (Indicating)

12 Q. Okay.

13 A. They observed him pop out between these
14 two residences right here (indicating) and then he
15 made a beeline -- one of the juveniles said he
16 attempted to get into one of these houses, that he
17 was checking the door.

18 And then he ran in a sprinting fashion
19 to Golding where they observed him looking into
20 the window and trying to enter the residence, but
21 they did not see him enter the residence.

22 Q. Okay. Did you take any written
23 statements from the juveniles that day?

24 A. Not on that day. The week after
25 Mr. Capers's arrest, I made contact with each of

HART - DIRECT EXAM BY MR. ALFARO

1 the juveniles separately at their own residences,
2 and they provided written statements at that time.

3 Q. Now, on the -- on December 21st, the
4 day of the incident, did you attempt to go to
5 Golding?

6 A. I did. I responded directly to
7 Golding believing that the residents there would
8 have observed something suspicious due to the
9 children's description of what happened. Upon
10 reaching Golding, I observed a camera system
11 pointing in the direction of Isherwood and at
12 their front door stop.

13 So I made contact at Golding, and a
14 young boy who was later identified as Ichiwa
15 D., approximately nine years old, answered
16 the door. He appeared nervous, but, you know, a
17 guy at the door, I didn't think anything of it.

18 And I asked if I could speak to an
19 adult at the resident. And over some time, Emi
20 Davidson approached me at the doorway. I had asked
21 her if I could see the video surveillance.

22 After I spoke to her, she closed the
23 door and I stood outside approximately ten minutes
24 until she opened and handed me the telephone to
25 speak with Christopher Capers who was Aaron's

HART - DIRECT EXAM BY MR. ALFARO

1 father.

2 He explained to me that he would check
3 the video surveillance when he returned home and
4 would notify me of his findings. He never did
5 contact me back after that.

6 Q. And did you go back to the area where
7 -- did you do anything else in the area that day?

8 A. After that day, I didn't do anything
9 else.

10 Q. Did you go back the next day, the 22nd?

11 A. I did. On the 22nd of December, myself
12 and Investigator Wolfson responded for the purpose
13 of conducting an article search back in the wood
14 line with the assistance of Berkeley County.

15 While waiting for them to arrive, I
16 observed a white Ford Focus parked in the driveway
17 of Golding; I made note of the tag. And after
18 we were done conducting the article search, I
19 returned to the residence and that Ford Focus had
20 disappeared.

21 I returned to the office to do some
22 follow-up investigation on some of the information
23 we recovered the day prior on the incident day, and
24 I returned to the residence that evening to try to
25 make contact again with Christopher Capers in

HART - DIRECT EXAM BY MR. ALFARO

1 reference to the video; however, nobody answered
2 the door when I made that second attempt on the
3 22nd of December.

4 Q. And were you further involved in the
5 investigation after that?

6 A. I was.

7 Q. Okay. And did you -- were you present
8 for or assist with the execution of a search
9 warrant at Golding Drive at approximately
10 1:00 a.m. on December 23rd?

11 A. I was.

12 Q. And were there other officers there
13 with you?

14 A. There were.

15 Q. And, also, as part of the
16 investigation, did you have the opportunity to
17 eventually come into contact with the defendant
18 Aaron Capers?

19 A. I'm sorry, can you repeat that?

20 Q. At some point in this investigation,
21 did you have the opportunity to come into contact
22 with the defendant Aaron Capers?

23 A. Yes; on the date of his arrest.

24 Q. And what date was that?

25 A. That was December 23rd.

HART - DIRECT EXAM BY MR. ALFARO

1 Q. Where did you come into contact with
2 him?

3 A. He was transported to the Goose Creek
4 Police Department where I executed the search
5 warrant for his DNA.

6 Q. And what is the process for obtaining
7 -- what process did you use in trying to obtain a
8 DNA sample from Mr. Capers?

9 A. Initially, I interviewed him -- I
10 attempted to interview him, but he had already --

11 Q. We'll just keep it to what you did
12 regarding the buccal swab.

13 A. The buccal swab? Okay. I escorted him
14 into the interview room; it was recorded. I read
15 him the search warrant describing the process and
16 the reason why we were taking the -- executing the
17 DNA search warrant for the buccal swab.

18 It's -- we used a vented box which is
19 standard supplies provided to us as police
20 officers, and a sterile cotton swab which was
21 packaged. I donned nitrile gloves to prevent any
22 cross-contamination of myself and the DNA swab.

23 I opened up the package for the cotton
24 swab, opened a box, and -- it's kind of like an
25 origami style, you open the box and fold the ends.

HART - DIRECT EXAM BY MR. ALFARO

1 And I placed the Q-tip -- sterile Q-tip
2 in Mr. Capers' mouth and collected what is called a
3 buccal swab, which is the cheek of -- it's actually
4 the inside cheek of Capers' mouth.

5 Upon getting the buccal swab, the swab
6 was placed inside the box, the box was closed, and
7 it was dropped into evidence in a locked locker,
8 locker Number 9.

9 Q. After completing the swab and placing
10 it in the box, did you tamper with the swab itself
11 in any way?

12 A. No.

13 Q. Did you have any contact with it after
14 you put it into the evidence locker Number 9 at the
15 Goose Creek Police Department?

16 A. No.

17 Q. I'm going to show you what was marked
18 for identification as State's, I believe, 105. Ask
19 you to take a look at that and ask you some
20 questions about it.

21 A. Okay.

22 Q. Okay. Do you recognize that item,
23 State's 105?

24 A. I do.

25 Q. And what do you recognize that as?

HART - DIRECT EXAM BY MR. ALFARO

1 A. It would be the buccal swab I took from
2 Aaron Capers.

3 Q. Is that the box that you placed it in
4 when you finished doing it?

5 A. It is, and this is my handwriting.

6 MR. ALFARO: Okay. And, Your Honor,
7 the State would offer State's Exhibit 105 into
8 evidence.

9 THE COURT: Any objection?

10 MS. CAPERS: No objection.

11 THE COURT: Other than the objection
12 previously argued prior to this trial concerning
13 certain issues and involving a certain matter.

14 MS. CAPERS: Yes.

15 THE COURT: Subject to those
16 objections, State's Exhibit 105 is admitted. It's
17 a box obtaining a swab in an envelope and being
18 inserted into a plastic bag.

19 (STATE EXH. 105 in evidence.)

20 MR. ALFARO: Thank you. Answer any
21 questions that the defense may have for you.

22 THE WITNESS: You may cross-examine,
23 Ms. Capers.

24 CROSS-EXAMINATION

25 BY MS. CAPERS:

HART - CROSS EXAM BY MS. CAPERS

1 Q. Hi. How are you this morning?

2 A. Good morning. Fine.

3 Q. You testified that the juvenile -- at
4 least one of the juveniles indicated that the --
5 whoever was running attempted to get into a house
6 -- one house, correct?

7 A. Correct.

8 Q. And then he ran toward Golding Lane and
9 they saw him looking in the windows?

10 A. And trying to get into the house.

11 Q. And trying to get into the house. So
12 there were two houses that whoever was running
13 tried to get into?

14 A. Correct.

15 Q. And when you were -- you also spoke to
16 Elizabeth Jones. Do you recall that?

17 A. I don't recall that.

18 Q. Okay. Would your report refresh your
19 memory?

20 A. I can look at it.

21 Q. Do you have it?

22 A. Okay. At Isherwood.

23 Q. Okay. And what did she tell you?

24 MR. ALFARO: Objection; calls for
25 hearsay.

HART - CROSS EXAM BY MS. CAPERS

1 THE COURT: Sustained.

2 BY MS. CAPERS:

3 Q. Ms. Jones told you that she saw --

4 MR. ALFARO: Objection.

5 THE COURT: I've sustained the
6 objection. You can't ask -- you can't ask him what
7 Ms. Jones told him. That would be hearsay.

8 BY MS. CAPERS:

9 Q. Okay. In the course of your
10 investigation, did you receive information that
11 there were two other black males in the area?

12 A. Not two others. There were observed,
13 yes, two black males in the area.

14 Q. At different times who didn't appear to
15 be there -- who didn't appear to belong there?

16 A. Correct.

17 Q. Okay. And what was the description of
18 those males?

19 MR. ALFARO: Objection.

20 THE COURT: I sustained the objection
21 as to -- unless you can tie it to -- specifically
22 lay a foundation to get an identification, but at
23 this point, it's just -- that would be hearsay in
24 general.

25 BY MS. CAPERS:

HART - CROSS EXAM BY MS. CAPERS

1 Q. Were there two black males in the area
2 at the time that this occurred?

3 A. The time frame is unknown exactly. She
4 wasn't really sure exactly of the time frame, but,
5 yes, it was in the general time frame when the
6 incident occurred she observed two men.

7 Q. She who?

8 A. Elizabeth. Elizabeth Jones stated she
9 had seen two black males in the area,
10 approximately, in the time frame of when the
11 incident occurred.

12 Q. And that time frame 1330 and 1400
13 hours?

14 A. That's what she said, but she was
15 unsure exactly when.

16 Q. And was the description of the first
17 male --

18 MR. ALFARO: Objection.

19 THE COURT: Mrs. Capers, I have
20 sustained the objection. Now, you need to move on
21 to something else unless you can tie it
22 specifically -- and you understand the law
23 concerning this issue, so you know what you have to
24 establish. So either go to lay the foundation or
25 move on to something else.

HART - CROSS EXAM BY MS. CAPERS

1 MS. CAPERS: Okay.

2 BY MS. CAPERS:

3 Q. When you went to Golding Lane, you
4 indicated that Ichiwa, the juvenile, appeared
5 nervous. Did Mrs. Davidson also appear to be
6 nervous?

7 A. She did.

8 Q. Okay. And I note -- how old is Ichiwa?

9 A. I estimated him to be pretty young.
10 Maybe nine or ten years old.

11 Q. Twelve?

12 A. He was a very small boy.

13 Q. Okay. And when you took this DNA from
14 Mr. Capers did you videotape that?

15 A. It was videotaped.

16 Q. I want to come back to that.

17 Did you execute -- were you present at
18 Golding Lane when the original search was
19 conducted?

20 A. I was.

21 Q. Okay. And were you part of that
22 search?

23 A. I was part of the search.

24 Q. And you, specifically, went through
25 Aaron Capers's bedroom?

HART - CROSS EXAM BY MS. CAPERS

1 A. It was a bedroom. I don't know if it
2 was identified as Aaron's.

3 Q. Do you recall one of the last things
4 you did being -- saying as you left the residence
5 was, there is no mask?

6 A. Can you repeat that? There was no
7 mask?

8 Q. Do you recall saying as you were
9 walking down the steps to exit the house that there
10 was no mask?

11 A. No, I don't recall that.

12 Q. You don't. Okay.

13 Did you videotape -- did you have on
14 body camera?

15 A. No, I did not.

16 Q. You did not?

17 A. No.

18 MS. CAPERS: Beg the Court's
19 indulgence?

20 THE COURT: All right.

21 MS. CAPERS: Your Honor, we actually
22 have that video, but it's going to take me a moment
23 to get to that portion of the video. I apologize.

24 THE COURT: It has to be introduced
25 first. I don't know anything about that.

HART - CROSS EXAM BY MS. CAPERS

1 gentlemen. I appreciate it very much. Again, that
2 was perfectly the way that has to be done and we
3 were able to resolve that.

4 And, Ms. Capers, you may resume your
5 examination. Thank you.

6 BY MS. CAPERS:

7 Q. Detective Hart, you mentioned that you
8 -- I'm going to go back a little bit to the three
9 teenagers you spoke with. When you spoke to -- was
10 it Ryland Kowalski?

11 A. Ryland Kowalski, yes.

12 Q. When you asked him -- did you -- you
13 asked him -- he told you you had -- no. He told
14 you that he had no idea whether the person was
15 white, black, male, or female, the person he saw
16 running; is that correct?

17 A. He identified the person as male. And
18 then I wrote that written question out. And he
19 stated, no, he couldn't identify the person as male
20 or female or white or black.

21 Q. And as a result of your investigation,
22 you also went to Isherwood Drive?

23 A. Which one?

24 Q. Isherwood Drive.

25 A. Right. That was prior to making

HART - CROSS EXAM BY MS. CAPERS

1 contact with the juvenile.

2 Q. Why did you go there?

3 A. I was knocking doors, and whoever would
4 answer the door I talked to them.

5 Q. What did that person --

6 MR. ALFARO: Objection; leading into
7 another hearsay question.

8 MS. CAPERS: That's not --

9 THE COURT: Again, it's -- I don't know
10 -- you have to lay a foundation before you ask what
11 they said. It may be admissible, it may not. You
12 have to lay the proper foundation.

13 MS. CAPERS: Well -- okay.

14 BY MS. CAPERS:

15 Q. You responded to Isherwood Drive,
16 correct?

17 A. Correct.

18 Q. And this was a part of this
19 investigation, correct?

20 A. Correct.

21 Q. And you spoke to someone there?

22 A. Multiple people along Isherwood, yes.

23 Q. Okay. And specifically at
24 Isherwood you spoke to someone?

25 A. Correct. That's Miss Elizabeth we

HART -- CROSS EXAM BY MS. CAPERS

1 talked about earlier.

2 Q. And what was the information she
3 provided?

4 A. That she observed --

5 MR. ALFARO: Objection.

6 THE COURT: Sustained; hearsay.

7 MS. CAPERS: Your Honor --

8 THE COURT: Ms. Capers -- approach,
9 please.

10 (Bench conference)

11 BY MS. CAPERS:

12 Q. As a result of what you were told at
13 Isherwood, did you make any other investigation
14 or try to make contact with anyone else?

15 A. Not based off of what I was told at
16

17 Q. Did you canvas the area for any other
18 black males?

19 A. I wasn't looking for any black males.
20 I was looking for witnesses that may have observed
21 the incident or had any video surveillance of the
22 incident.

23 Q. So when you spoke to the person at
24 Isherwood, you did not follow up on what she said?

25 A. She didn't have enough information or

HART - CROSS EXAM BY MS. CAPERS

1 was able to provide a good enough description of
2 what she observed. She was very vague in her
3 statement and her timeline was very soft.

4 Q. So the timeline of 1330 to 1400 --

5 MR. ALFARO: Objection.

6 THE COURT: Sustained; objection.

7 Ms. Capers, I'm instructing you now not
8 to ask that question again. Move on to something
9 else.

10 BY MS. CAPERS:

11 Q. So you were present at the search of
12 Golding Lane --

13 A. Correct.

14 Q. -- at 1:00 in the morning? And did you
15 -- were you also present when Mr. Capers was
16 arrested?

17 A. I wasn't present during his arrest.

18 MS. CAPERS: Okay. No further
19 questions.

20 THE COURT: Redirect?

21 MR. ALFARO: No, Your Honor.

22 THE COURT: You may come down, sir.

23 Thank you.

24 Do you wish the witness to be excused?

25 MR. ALFARO: Yes, Your Honor.

MIZZELL- DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: Okay. Redirect?

2 MR. ALFARO: No, Your Honor.

3 THE COURT: You may come down.

4 Call your next witness, please.

5 MS. WILLIAMS: Thank you. State would
6 call Danny Mizzell.

7 May we approach for just a minute?

8 THE COURT: Sure.

9 (Bench conference)

10 DANNY MIZZELL,

11 being first duly sworn, testified as follows:

12 THE CLERK: Please have a seat. State
13 your full name for the record and spell your last
14 name.

15 THE WITNESS: Full name is Danny
16 Mizzell, M-I-Z-Z-E-L-L.

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q. Thank you, Mr. Mizzell. Would you tell
20 the jury where you work?

21 A. Berkeley County Sheriff's Office,
22 assigned to the Hill-Finklea Detention Center.

23 Q. What are your responsibilities at the
24 Hill-Finklea Detention Center?

25 A. I investigate any criminal activity

MIZZELL- DIRECT EXAM BY MS. WILLIAMS

1 inside the detention center.

2 Q. And were you working in that capacity
3 December 2017?

4 A. I was not at that time. I came back to
5 that position on the 18th 2018 in February.

6 Q. Okay. Back in December of 2017,
7 through the next year, did you have an opportunity
8 to know where different inmates were housed?

9 A. Yes.

10 Q. And can you tell us who was housed in
11 the same area of the jail as Aaron Capers?

12 A. Inmate Jesse Gill at one time was in
13 D1, and another person by the name of Jerron
14 Simmons was also in Delta 1, which is a cell in the
15 detention center.

16 Q. Was there anyone else in that cell?

17 A. There might have been a few others. I
18 don't recall who they were at this time, no.

19 Q. Do you remember if that was an area
20 where only certain inmates were? There was just --
21 do you know how many were in the cell?

22 A. Yes. Anywhere from three to four can
23 be in that particular cell at one time.

24 Q. And how long were Jesse Gill and Aaron
25 Capers in the same cell?

MIZZELL- DIRECT EXAM BY MS. WILLIAMS/CROSS - CAPERS

1 A. Approximately two months around the
2 dates of March 19th to May 15th of 2018.

3 Q. And you mentioned Jerron Simmons. When
4 did Jerron Simmons go into jail?

5 A. Jerron Simmons was brought into our
6 facility August 18, 2017, according to the
7 detention center records.

8 Q. And he remained there until when?

9 A. He remained there until August 21st of
10 '18. He was transported to Charleston County to be
11 housed there and then was sentenced on
12 January 30th, 2019. On that day, he was
13 transferred to SCDC to start a sentence.

14 Q. Continuously incarcerated from
15 August 8, 2017, through his sentencing January 30,
16 2019?

17 A. Yes.

18 Q. Never got out of jail?

19 A. No.

20 MS. WILLIAMS: Thank you. No further
21 questions.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Cross-examine.

24 CROSS-EXAMINATION

25 BY MS. CAPERS:

SCHWACKE - DIRECT EXAM BY MS. WILLIAMS

1 Q. Do you know if Bradley Berry was also
2 in that cell?

3 A. He possibly could have been. I don't
4 know that.

5 MS. CAPERS: Thank you.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Redirect?

8 MS. WILLIAMS: No, Your Honor.

9 THE COURT: Thank you. You may come
10 down, Mr. Mizzell.

11 THE WITNESS: Thank you.

12 THE COURT: Call your next witness,
13 please.

14 MS. WILLIAMS: The State would call
15 David Schwacke.

16 DAVID SCHWACKE,
17 being first duly sworn, testified as follows:

18 THE CLERK: Please have a seat. State
19 your full name for the record and spell your last
20 name.

21 THE WITNESS: David P. Schwacke,
22 S-C-H-W-A-C-K-E.

23 DIRECT EXAMINATION

24 BY MS. WILLIAMS:

25 Q. Thank you, Mr. Schwacke. Where do you

SCHWACKE - DIRECT EXAM BY MS. WILLIAMS

1 work?

2 A. I work in the public defender's office
3 for Berkeley County.

4 Q. And what is your position there?

5 A. I'm the chief defender for Berkeley
6 County.

7 Q. And how long have you been a public
8 defender?

9 A. I started part-time in 2002 and went
10 full-time, I believe, around 2007.

11 Q. And how long have you been a lawyer?

12 A. Since 1981.

13 Q. And as the chief public defender, is
14 part of your responsibilities to represent
15 individuals who are charged with crimes?

16 A. That's correct.

17 Q. And were you working in that capacity
18 on April 5, 2018?

19 A. Yes.

20 Q. Who in relation to that case did you
21 represent around that date?

22 A. Jesse Gill.

23 Q. And did you see Jesse Gill on Thursday,
24 April 5, 2018?

25 A. Correct. That's correct.

SCHWACKE - DIRECT EXAM BY MS. WILLIAMS

1 Q. And where did you see him?

2 A. At the Hill-Finklea Detention Center.

3 Q. And did anything out of the ordinary
4 occur during that meeting?

5 A. He had brought with him some papers
6 that he wanted to show to me. He, I believe, had
7 them in an envelope at that time. I'm not
8 positive. He -- one of the items was a schematic
9 of some sort, a drawing that had different items
10 noted on it.

11 I -- at that point, he had said that --
12 that this was in relation to someone approaching
13 him about committing a murder, and that he was one
14 of four people sharing a cell or a pod, and that he
15 was concerned that someone might really attempt to
16 do this if he didn't stop it somehow.

17 I did not take any of the papers from
18 him at that time; I was concerned though. I went
19 back to the office and spoke with my investigator,
20 Mr. Hair, sent him back over to the jail. He met
21 with Mr. Gill, and at that point he took possession
22 of the papers that Mr. Gill had with him at that
23 time.

24 Q. Okay. And so did Mr. Gill tell you who
25 was trying to get him to murder someone?

SCHWACKE - DIRECT EXAM BY MS. WILLIAMS

1 MS. CAPERS: I'm going to object, Your
2 Honor, as to hearsay.

3 THE COURT: I would sustain that
4 objection.

5 BY MS. WILLIAMS:

6 Q. Without telling us what he said, did
7 you get any information that -- that made you act
8 or call anybody about it?

9 A. Yes.

10 Q. And did you find out who -- without
11 telling us what he said, did you find out who it
12 was that had approached him?

13 A. Yes. Actually -- yes.

14 Q. Okay. And was it somebody in the cell
15 with him?

16 A. Yes.

17 Q. And so his concern was that he wasn't
18 going to commit the murder, but he was afraid he
19 would ask someone else who would?

20 A. I was concerned about that, plus any
21 diagram has to be taken seriously.

22 Q. And the diagram was of what?

23 MS. CAPERS: Objection. It's going to
24 be hearsay. He's going to be required --

25 THE COURT: I will sustain the

SCHWACKE - DIRECT EXAM BY MS. WILLIAMS

1 objection. If you want to admit the diagram, you
2 may have to do that. Or present the person.

3 MS. WILLIAMS: Thank you, Your Honor.

4 THE COURT: Well, let's approach,
5 please.

6 (Bench conference)

7 BY MS. WILLIAMS:

8 Q. And so whatever it was that he showed
9 you, you did not take possession of them at that
10 time?

11 A. No.

12 Q. You sent your investigator over, and he
13 took possession of them?

14 A. Yes.

15 Q. And did you do -- when you got this
16 information from Mr. Gill, how did you feel about
17 it?

18 A. Again --

19 MS. CAPERS: Objection. I'm not --
20 that's -- I'm not going to object.

21 THE COURT: You stated it, but there is
22 no objection.

23 You may answer the question.

24 THE WITNESS: My concern was that it
25 was a diagram that had detailed information on it.

SCHWACKE - DIRECT EXAM BY MS. WILLIAMS

1 I had no way of knowing if it matched anything or
2 not. It was just a random drawing of a house.

3 MS. CAPERS: Objection.

4 THE COURT: I'll allow that. It's not
5 offered for the truth of the matter asserted.

6 BY MS. WILLIAMS:

7 Q. So what did you do as a result of your
8 concerns?

9 A. Once Mr. Hair came back to the office,
10 our next -- the next thing we did was call
11 Mr. Alfaro to let him know we had the information,
12 I was concerned about it, and thought we needed to
13 get together with him or law enforcement.

14 Subsequently, a meeting was set up with
15 law enforcement on that following Monday. And at
16 that point, there were other documents that
17 Mr. Gill brought with him at that time, and all of
18 those were turned over to Goose Creek Police
19 Department.

20 Q. Okay. And up until the time that you
21 met with Goose Creek Police Department on that
22 Monday -- so you testified that Thursday was the
23 5th, so that Monday would have been the 8th?

24 A. Yes, ma'am.

25 Q. There was no police involvement?

SCHWACKE - CROSS EXAM BY MS. CAPERS

1 A. First time I'm involved with the police
2 is that Monday morning.

3 Q. Okay. So these letters came to you
4 through your client and then you contacted the
5 State. There wasn't anybody involved from the
6 State up until that point?

7 A. Yeah. And I guess I came into contact
8 with it -- I saw it, and I never took physical
9 possession of.

10 MS. WILLIAMS: Okay. Thank you very
11 much.

12 THE COURT: Cross-examine.

13 CROSS-EXAMINATION

14 BY MS. CAPERS:

15 Q. Mr. Schwacke, you represented Jesse
16 Gill?

17 A. That's correct.

18 Q. And what was Jesse Gill charged with?

19 A. He was charged with an offense dealing
20 with the sex offender registry of not reporting.

21 Q. Facing a mandatory five years?

22 A. Based on what he was charged with, he
23 was looking at a five-year maximum punishment that
24 could be suspended down to three.

25 Q. Okay. And as a result of his

SCHWACKE - CROSS EXAM BY MS. CAPERS

1 cooperation or his information, what sentence did
2 he get?

3 A. He, ultimately, pled to a first
4 offense, and I want to say he had probation, I
5 believe, for nine months, and then credit for, I
6 believe, it was 75 days or so that he had in jail.

7 Q. So he just walked right out of jail as
8 a result of this?

9 A. He -- based on that sentence, he should
10 have been discharged that day, yeah.

11 Q. And did your office -- did Jesse Gill
12 also offer to provide information in other cases to
13 people?

14 A. I don't know if that was part of any
15 kind of discussion. All I can tell you is he was
16 wired, and whether that's the type of other
17 information you're talking about, that's all I
18 would know.

19 Q. In separate cases, was there -- were
20 there at least two other cases where Jesse Gill
21 attempted to provide information about other
22 defendants?

23 A. You would have to refresh my memory on
24 that because I'm not aware of that.

25 Q. Okay. Okay. It may not have been the

1 case, I apologize.

2 MS. CAPERS: Thank you, Mr. Schwacke.

3 THE COURT: Redirect?

4 MS. WILLIAMS: No, Your Honor.

5 THE COURT: Thank you, Mr. Schwacke.

6 You may step down.

7 THE WITNESS: Thank you.

8 THE COURT: Let's take a break at this
9 point. Ladies and gentlemen, I understand that
10 you've been in the jury room a couple of times, but
11 we haven't since about 9:30, so we need to take a
12 break at this point.

13 Do not begin your deliberations. We
14 will be with you in about 15 minutes.

15 (Jury out, 10:52 a.m.)

16 THE COURT: We had a side bar, we need
17 to place on the record for protection, with defense
18 counsel and defendant.

19 There was a discussion concerning the
20 objection that I sustained about the witness that
21 was -- she was attempting to get some information
22 through this -- through Mr. Hart about a person
23 interviewed, I don't believe that person was
24 identified that I recall. was the address.

25 MS. CAPERS: It was Mrs. Jones, yes,

HAIR - DIRECT EXAM BY MS. WILLIAMS

1 THE FOREPERSON: No, sir.

2 THE COURT: They asked me if the
3 temperature was too cold. I said my forelady has
4 been covered, but everybody else doesn't seem to
5 be. Let us know if it becomes too hot or cold for
6 you.

7 Thank you. Solicitor, call your next
8 witness.

9 MS. WILLIAMS: The State would call
10 Keith Hair.

11 KEITH HAIR,
12 being first duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State
14 your full name for the record and spell your last
15 name.

16 THE WITNESS: Keith Hair, H-A-I-R.

17 DIRECT EXAMINATION

18 BY MS. WILLIAMS:

19 Q. Mr. Hair, where do you work?

20 A. Berkeley County Public Defenders's
21 Office.

22 Q. What do you do there?

23 A. I'm a criminal investigator.

24 Q. Do you sometimes work for David
25 Schwacke?

HAIR - DIRECT EXAM BY MS. WILLIAMS

1 A. I do.

2 Q. And so what are your duties? What
3 types of things do you do?

4 A. My job is to review case files when a
5 client is retained by us or appointed to us. I
6 interview them, then I go out and conduct
7 interviews, take statements from witnesses, collect
8 evidence, review evidence. Come back and advise
9 both my client and the public defender on the
10 strengths and weaknesses in their case.

11 Q. And how long have you been in that
12 position?

13 A. A little over two years.

14 Q. And how long have you been in law
15 enforcement?

16 A. Over 31 years.

17 Q. And did you come into contact with --
18 well, let me ask you this: Were you working in
19 that capacity on April 6, 2018?

20 A. I was.

21 Q. And who in relation to this case have
22 you had contact with?

23 A. Jesse Gill.

24 Q. And did you see him on Friday, April 6,
25 2018?

HAIR - DIRECT EXAM BY MS. WILLIAMS

1 A. I did.

2 Q. And why is that?

3 A. As a result of David Schwacke meeting
4 with him on April 5th, I was tasked to go interview
5 him and to collect some paperwork that he had for
6 -- to turn over to us.

7 Q. And what, if anything, did Mr. Gill
8 give you?

9 A. He gave me an envelope that was stamped
10 on the outside. It said public defender
11 correspondence, which is an envelope that clients
12 use to correspond with my office.

13 Inside that were some several pieces of
14 paper, small pieces of paper with handwritten notes
15 on them. In addition to that was an 8 1/2-by-11
16 piece of paper that had a map of a house.

17 MS. CAPERS: Objection.

18 THE COURT: What's the objection?

19 MS. CAPERS: Hearsay.

20 THE COURT: I'll overrule the objection
21 at this point. Don't go into or elaborate what it
22 was.

23 BY MS. WILLIAMS:

24 Q. Just from your own memory, you're
25 describing what you saw?

HAIR - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes, ma'am.

2 Q. Okay. What did you do with those
3 items? Did you receive those from Mr. Gill?

4 A. I did.

5 Q. Go ahead.

6 A. I kept them in the same envelope they
7 were in. I took them back to my office, and I
8 turned those over to David Schwacke who then asked
9 me to maintain control of those; and then we
10 contacted the Solicitor's Office in reference to
11 what was in the envelope; and then we met with
12 Goose Creek Police Department and turned it over to
13 detective -- well, Lieutenant Ramirez was there and
14 Detective Powell was there, and I believe it was
15 Detective Trembly.

16 Q. Okay. And is it typical for you to
17 take things from your client and give it to police?

18 A. No.

19 Q. What was this about that would make you
20 do such a thing?

21 A. Because it was -- in the papers it was
22 talking about getting rid of a witness.

23 MS. CAPERS: Objection.

24 THE COURT: Sustained objection.

25 BY MS. WILLIAMS:

HAIR - DIRECT EXAM BY MS. WILLIAMS

1 Q. Okay. It was not -- was it pertaining
2 to his case?

3 A. No.

4 MS. WILLIAMS: Okay. Your Honor, I'm
5 going to show defense counsel what was previously
6 marked as State's 56, 57, 58, 59, and 60, and
7 State's 109.

8 THE COURT: 56 through 60 and 109.

9 MS. WILLIAMS: And also 121. And these
10 items are contained in an envelope marked State's
11 Exhibit 111.

12 THE COURT: Okay.

13 MS. WILLIAMS: May I approach?

14 THE COURT: Yes, you may.

15 BY MS. WILLIAMS:

16 Q. Tell me what those items are.

17 A. Yes, ma'am. These were the items
18 turned over to me by my client -- or our client,
19 Jesse Gill. And they would have been in the inside
20 of State's Exhibit 109.

21 Q. Thank you. And those envelopes, are
22 they provided by the public defender's office or
23 the jail; do you know?

24 A. I do not know.

25 Q. Okay.

HAIR - DIRECT EXAM BY MS. WILLIAMS

1 A. I was fairly new then, so I just
2 realized it.

3 Q. Okay. And did Mr. Gill indicate
4 whether he wrote them or someone else wrote them?

5 A. He said someone else wrote them.

6 Q. Okay. And up to the point when you got
7 those letters, was the State or the police or the
8 Solicitor's Office involved at all?

9 A. No, ma'am.

10 Q. So did you -- did your office initiate
11 that contact with law enforcement and the State?

12 A. Yes, ma'am.

13 Q. So these letters came from Mr. Gill
14 alone?

15 A. Yes, ma'am.

16 MS. WILLIAMS: Okay. Beg the Court's
17 indulgence for a moment.

18 Your Honor, these items we are not
19 offering into evidence at this time. Just for
20 identification only.

21 THE COURT: I understand,
22 identification only.

23 MS. WILLIAMS: Thank you. No further
24 questions. Thank you, Mr. Hair.

25 THE COURT: You may cross-examine.

GILL - DIRECT EXAM BY MR. ALFARO

1 MS. CAPERS: No questions, Your Honor.

2 THE COURT: All right. You may come

3 down.

4 Call your next witness.

5 MR. ALFARO: The State calls Jesse

6 Gill.

7 JESSE GILL,

8 being first duly sworn, testified as follows:

9 THE CLERK: Please have a seat. State
10 your full name for the record and spell your last
11 name.

12 THE WITNESS: Jesse Gill, G-I-L-L.

13 DIRECT EXAMINATION

14 BY MR. ALFARO:

15 Q. How old are you, Mr. Gill?

16 A. Forty-five.

17 Q. And where were you born?

18 A. Texas.

19 Q. And judging by your attire, are you
20 currently in jail somewhere?

21 A. Yes, sir.

22 Q. And where is that?

23 A. Dorchester County Detention Center.

24 Q. And do you have charges pending in
25 Dorchester County?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. In fact, you've been arrested and in
3 jail more than a few times?

4 A. Yes, sir.

5 Q. You have been convicted of a lot of
6 things going all the way back to 1992; isn't that
7 correct?

8 A. Yes, sir.

9 Q. And would you acknowledge that you have
10 been convicted of things ranging from property
11 crimes to violent things such as robbery, rape, and
12 domestic violence?

13 A. Yes, sir.

14 Q. Are you or have you ever been
15 affiliated with any gangs?

16 A. Yes, sir.

17 Q. And which gang is that, or gangs?

18 A. MS-13.

19 Q. And how long have you been in that?

20 A. Twenty-five years.

21 Q. And you have some very visible tattoos.
22 Are any of those related to that gang activity?

23 A. All of them.

24 Q. And do you have any kind of nickname
25 that you go by or that people call you?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. La Don.

2 Q. Is that one of your tattoos?

3 A. Yes, sir.

4 Q. And where is that tattoo?

5 A. Above my right eyebrow.

6 Q. And in your past, have you -- were you
7 previously in custody at the Hill-Finklea Detention
8 Center, next door here in Moncks Corner?

9 A. Yes.

10 Q. Were you in custody there in April of
11 2018?

12 A. Yes, sir.

13 Q. And do you recall how long you were in
14 custody there?

15 A. Eight months.

16 Q. And do you recall when you got -- you
17 were first placed into that facility?

18 A. I'm not sure. I think around June or
19 something. I'm not sure.

20 Q. So at some point were you -- did you
21 come into contact with the defendant Aaron Capers?

22 A. Yes, sir.

23 Q. And were you housed together?

24 A. Yes, sir.

25 Q. And by housed, were you in the same

GILL - DIRECT EXAM BY MR. ALFARO

1 cell?

2 A. Yes, sir.

3 Q. How many people usually were in that
4 cell at one given time?

5 A. Four.

6 Q. Do you recall the names of anyone that
7 was in the cell with you when you were there with
8 Mr. Capers?

9 A. Yes, sir.

10 Q. And what name or names are those?

11 A. Bradley Berry, Jerron Simmons, me, and
12 Aaron Capers.

13 Q. And at some point you were in that jail
14 cell with Mr. Capers, did you have any conversation
15 with him about this case?

16 A. Yes, sir.

17 Q. And who initiated those conversations?

18 A. He did.

19 Q. And what was the subject of those
20 conversations?

21 A. About his victim. He passed me a
22 letter and a note, and it was referring to if I had
23 any hitters. And he wanted to pay me to do a job.

24 Q. Okay. So for those of us not in MS-13,
25 what is a hitter?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. People you pay to kill people.

2 Q. And he initiated that conversation with
3 you?

4 A. Yes, sir.

5 Q. Did you initiate that with him?

6 A. No, sir.

7 Q. And how many times did you have
8 conversations related to that topic?

9 A. Mainly through notes that we would
10 write to each other, a few times.

11 Q. Before those conversations were
12 initiated regarding his victim, did you know
13 anything about his case?

14 A. No, sir.

15 Q. Did you ask him for information about
16 his case?

17 A. No, sir.

18 Q. Now, you said that he asked you if you
19 had any hitters. Did he give you any other details
20 or instructions or any other guidance as to what he
21 wanted to have happen?

22 A. He said that there was only one witness
23 and that's the victim, and without the victim he
24 could walk away free.

25 Q. And at some point did he give you any

GILL - DIRECT EXAM BY MR. ALFARO

1 information regarding that victim?

2 A. Yes, sir.

3 Q. And do you recall that information?

4 A. He gave me the victim's address and a
5 drawing of her location and the location of how her
6 house is set up and that there is only one dog in
7 there and that she is 80-something years old. And
8 that if I can get rid of her, he can walk out of
9 his case.

10 Q. And those conversations -- let me ask
11 it this way. Was there more than one conversation?

12 A. Yes, sir.

13 Q. And you mentioned that he had given you
14 notes as well?

15 A. Yes, sir.

16 Q. And were those notes received directly
17 from him?

18 A. Yes, sir.

19 Q. And were you able to read those notes
20 when he handed them to you?

21 A. Yes, sir.

22 Q. And did you, in fact, read those notes?

23 A. Yes, sir.

24 Q. And at some point after receiving those
25 notes, what did you do?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. I got with my attorney
2 Mr. David Schwacke at the time, and I turned in --
3 I turned in that note.

4 Q. And what was the reason that you turned
5 those notes over?

6 A. Because I wanted no part of it.

7 Q. We've already discussed your fairly
8 lengthy and violent background. What about that
9 case made you not want to be a part of it?

10 A. I'm not going to hurt no innocent lady.
11 I know I have a crazy background, however people
12 want to look at me. If it was anybody else's
13 momma, daughter, or sister, they would want
14 somebody doing the same thing I'm doing for them
15 right now.

16 Q. And would it be fair to say what may be
17 obvious to some, in addition to that, there is also
18 I would assume some hope that you're going to get
19 or would have gotten some benefit out of bringing
20 this information?

21 A. Nothing was promised to me. It ain't
22 about that. It's about doing what is right.

23 Q. So you said you turned those over to
24 your attorney, correct?

25 A. Yes, sir.

GILL - DIRECT EXAM BY MR. ALFARO

1 Q. Did you also have the opportunity to
2 meet with anyone else in his office?

3 A. Just a private investigator.

4 Q. And that investigator was from
5 Mr. Schwacke's office?

6 A. Yes, sir.

7 Q. I'm going to show you some exhibits
8 that are all contained within State's Exhibit 111,
9 an envelope. I'll show you some individual
10 exhibits and ask you if you recognize these.

11 I'll start with State's Exhibits 109
12 and 110. Starting with 109, do you recognize that?

13 A. Yes, sir.

14 Q. And how do you recognize that?

15 A. You get those in the Berkeley County
16 jail. That's for correspondence with your public
17 defender.

18 Q. And State's Exhibit 110?

19 A. Yeah.

20 Q. Same thing?

21 A. Yes, sir.

22 Q. And did you use these envelopes to
23 relay these notes that you received from Mr. Capers
24 to your attorney and/or investigator?

25 A. Uh-huh.

GILL - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Is that a yes?

2 THE WITNESS: Yes, sir.

3 MR. ALFARO: Your Honor, at this time
4 we would offer 109 and 110 into evidence.

5 THE COURT: Any objection?

6 MS. CAPERS: Yes, sir, I do object.

7 THE COURT: What's the basis of the
8 objection?

9 MS. CAPERS: They haven't been
10 authenticated as written by Mr. Capers.

11 THE COURT: It's the envelope. He said
12 -- I don't recall him saying about Mr. Capers on
13 the envelope. That was something he provided.
14 Overruled as to that basis, for that reason.

15 It's admitted subject to the
16 objection.

17 (STATE EXH. 109 - 110 in evidence.)

18 BY MR. ALFARO:

19 Q. I'm going so to show you some other
20 State's Exhibits. State's 56, 57, 58, 59, also 52,
21 53, 54, 55, and State's 121, all of which were
22 contained within State's Exhibit 111.

23 Starting with State's Exhibit No. 56,
24 which also for purposes of the record has a SLED
25 lab number of Item 5, I believe. Do you recognize

GILL - DIRECT EXAM BY MR. ALFARO

1 State's Exhibit 56?

2 A. Yes, sir.

3 Q. And how do you recognize that?

4 A. That was the letter that was given to
5 me --

6 THE COURT: You need to speak up,
7 Mr. Gill.

8 THE WITNESS: That's the letter that
9 was given to me by Aaron Capers.

10 BY MR. ALFARO:

11 Q. Okay. And let me ask you one general
12 question about all of these letters. Are you able
13 to say what letter you received on what day or in
14 which order you received them?

15 A. No. The only one I'm positive about is
16 the one that has hitters in it.

17 Q. What does that mean, positive?

18 A. That's the only one -- that was the
19 first one handed to me.

20 Q. That's the only one you can verify as
21 to the order?

22 A. Yes, sir.

23 Q. So you recognize State's Exhibit 56 as
24 a note that was provided to you by the defendant
25 Aaron Capers?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And did you -- other than the -- which
3 looks like SLED writing in red, the other
4 handwriting, was that the condition that it was in
5 when it was handed to you?

6 A. Yes, sir.

7 Q. Did you make changes or alterations --

8 A. No, sir.

9 Q. Okay. The Court Reporter is writing
10 down what we say. So you have to let me finish my
11 question before you start an answer. All right?

12 A. Yes, sir.

13 Q. So you recognize this as the condition
14 that it was given to you by Mr. Capers?

15 A. Yes, sir.

16 Q. Okay. And no change or alterations
17 made by you while it was in your possession?

18 A. No, sir.

19 MR. ALFARO: Your Honor, at this time
20 we would offer State's Exhibit 56.

21 THE COURT: Any objection?

22 MS. CAPERS: No. Same objection, Your
23 Honor. Just that --

24 THE COURT REPORTER: I can't hear you.

25 THE COURT: I need you to speak up. Is

GILL - DIRECT EXAM BY MR. ALFARO

1 it as to authenticity?

2 MS. CAPERS: Yes, sir.

3 THE COURT: He testified and he's
4 identified and stated that it came from the
5 defendant, and under 801(d)(2), it is admissible.

6 I would overrule that objection and
7 allow it subject to that objection.

8 (STATE EXH. 56 in evidence.)

9 BY MR. ALFARO:

10 Q. And State's Exhibit 57, do you
11 recognize that item?

12 A. Yes, sir.

13 Q. And other than the SLED sticker that's
14 on it, is the -- and the SLED writing on it, is
15 that the condition it was when it was handed to
16 you?

17 A. Yes, sir.

18 Q. Did you make any changes or alterations
19 to it while in your possession?

20 A. No, sir.

21 Q. Add details or change any details?

22 A. No, sir.

23 Q. And was this also received by you at
24 the Hill-Finklea Detention Center from the
25 defendant Aaron Capers?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. Directly?

3 A. Yes, sir.

4 MR. ALFARO: Your Honor, at this time,
5 we would offer State's 57.

6 THE COURT: Same objection?

7 MS. CAPERS: Same objection.

8 THE COURT: Overruled. I'll allow it
9 subject to the objection.

10 (STATE EXH. 57 in evidence.)

11 BY MR. ALFARO:

12 Q. And State's Exhibit 58, this is a
13 two-sided note. I will ask you about first -- or
14 one side of that. Do you recognize this?

15 A. Yes, sir.

16 Q. And do you recognize this side?

17 A. Yes, sir.

18 Q. Now, regarding State's Exhibit 58, do
19 you recognize where you got this from?

20 A. Yes, sir.

21 Q. Where did you get this one from?

22 A. Aaron Capers.

23 Q. And the same method at the Hill-Finklea
24 Detention Center?

25 A. Yes, sir.

GILL - DIRECT EXAM BY MR. ALFARO

1 Q. Directly from him?

2 A. Yes, sir.

3 Q. Did you make any changes or alterations
4 to this while it was in your possession?

5 A. No, sir.

6 Q. Add any details or change any details?

7 A. No, sir.

8 MR. ALFARO: Your Honor, at this time,
9 we would offer State's Exhibit 58 into evidence.

10 MS. CAPERS: Same objection.

11 THE COURT: Subject to the same
12 objection, it's admitted.

13 (STATE EXH. 58 in evidence.)

14 BY MR. ALFARO:

15 Q. State's Exhibit 59, do you recognize
16 that?

17 A. Yes, sir.

18 Q. How do you recognize that?

19 A. It's the same way it was given to me by
20 Aaron Capers.

21 Q. Handed directly to you by him?

22 A. Yes, sir.

23 Q. Is the handwriting that's on there,
24 other than the red SLED writing, is that the
25 writing that was on there when it was given to you?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. Was it altered or changed by you in any
3 way while it was in your custody?

4 A. No, sir.

5 Q. Did you add any details or change any
6 details?

7 A. No, sir.

8 MR. ALFARO: Your Honor, at this time,
9 we would offer State's 59.

10 THE COURT: State's 59 is admitted
11 subject to the same objection.

12 (STATE EXH. 59 in evidence.)

13 BY MR. ALFARO:

14 Q. State's Exhibit 52, do you recognize
15 that?

16 A. Yes, sir.

17 Q. And do you recognize State's Exhibit 52
18 as a note provided to you by the defendant Aaron
19 Capers?

20 A. Yes, sir.

21 Q. And is this a note that you received
22 from him while you were at Hill-Finklea Detention
23 Center?

24 A. Yes, sir.

25 Q. Did you make any changes or alterations

GILL - DIRECT EXAM BY MR. ALFARO

1 while it was in your possession?

2 A. No, sir.

3 Q. The handwriting, again, other than SLED
4 sticker and the SLED writing on it, the handwriting
5 that was on it when it was provided to you by
6 Mr. Capers?

7 A. Yes, sir.

8 Q. No changes or alterations?

9 A. No, sir.

10 MR. ALFARO: Your Honor, at this time,
11 we would offer State's 52.

12 THE COURT: Subject to the same
13 objection, State's 52 is admitted.

14 (STATE EXH. 52 in evidence.)

15 BY MR. ALFARO:

16 Q. State's Exhibit 53, do you recognize
17 this?

18 A. Yes, sir.

19 Q. What do you recognize that as?

20 A. A letter given -- received from Aaron
21 Capers.

22 Q. Received by you from Aaron Capers?

23 A. Yes, sir.

24 Q. Other than the red SLED writing on it,
25 did you make any changes or alterations to the

GILL - DIRECT EXAM BY MR. ALFARO

1 handwriting?

2 A. No, sir.

3 Q. Did you add any details or change any
4 details?

5 A. No, sir.

6 Q. Did you make any changes at all or
7 change its condition while it was in your custody?

8 A. No, sir.

9 Q. And, again, this is received from him
10 at the Hill-Finklea Detention Center?

11 A. Yes, sir.

12 MR. ALFARO: Your Honor, at this time,
13 we'd offer State's 53 into evidence.

14 THE COURT: It is admitted subject to
15 that same objection.

16 (STATE EXH. 53 in evidence.)

17 BY MR. ALFARO:

18 Q. State's Exhibit 54, do you recognize
19 that?

20 A. Yes, sir.

21 Q. Both sides?

22 A. Yes, sir.

23 Q. Was this note also received by you from
24 the defendant Aaron Capers?

25 A. Yes, sir.

GILL - DIRECT EXAM BY MR. ALFARO

1 Q. Also received at the Hill-Finklea
2 Detention Center?

3 A. Yes, sir.

4 Q. Did you make any changes or alterations
5 to it while it was in your possession?

6 A. No, sir.

7 Q. Other than the SLED writing that's on
8 there, is that other handwriting the same condition
9 that it was in when it was provided to you by
10 Mr. Capers?

11 A. Yes, sir.

12 MR. ALFARO: Your Honor, at this time
13 we'd offer State's 54.

14 THE COURT: Subject to the same
15 objection, it is admitted.

16 (STATE EXH. 54 in evidence.)

17 BY MR. ALFARO:

18 Q. State's Exhibit 55, again, other than
19 the SLED sticker and the SLED writing on it, do you
20 recognize State's 55?

21 A. Yes, sir.

22 Q. Both sides?

23 A. Yes, sir.

24 Q. And do you recognize this -- how do you
25 recognize this?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. It was given to me by Aaron Capers.

2 Q. Did you make any changes or alterations
3 while it was in your possession?

4 A. No, sir.

5 Q. Is the handwriting that's on there the
6 same handwriting that was on there when it was
7 provided to you by Mr. Capers?

8 A. Yes, sir.

9 MR. ALFARO: Your Honor, we would offer
10 State's 55.

11 THE COURT: Subject to the same
12 objection, it is admitted.

13 (STATE EXH. 55 in evidence.)

14 BY MR. ALFARO:

15 Q. State's Exhibit 121, do you recognize
16 this?

17 A. Yes, sir.

18 Q. Now, what's different about this versus
19 those other notes?

20 A. That's my handwriting.

21 Q. And so State's Exhibit 121 is your
22 handwriting?

23 A. Yes, sir.

24 Q. And all of the things that are on there
25 were written by you?

GILL - DIRECT EXAM BY MR. ALFARO

1 A. Yes, sir.

2 MR. ALFARO: Your Honor, at this time,
3 we would offer State's 121 into evidence.

4 THE COURT: Any objection to that?

5 MS. CAPERS: None, Your Honor.

6 THE COURT: Very well. State's Exhibit
7 121 is admitted without objection.

8 (STATE EXH. 121 in evidence.)

9 MR. ALFARO: Permission to publish?

10 THE COURT: You may.

11 MR. ALFARO: Can we approach?

12 THE COURT: Sure.

13 (Bench conference)

14 BY MR. ALFARO:

15 Q. Which one did you say was the first one
16 that you got, the one that says hitters, I believe
17 you said?

18 A. Yes, sir.

19 Q. So we'll start with State's Exhibit 56.
20 We are going to put it up on the screen for the
21 jury to read. Are you able to read this?

22 A. Yes, sir.

23 Q. Okay. Once it's up there, I will ask
24 you to read the note. If you can, can you read for
25 the jury what is contained on State's Exhibit 56

GILL - DIRECT EXAM BY MR. ALFARO

1 that's on the screen.

2 A. Yo, La Don, I really need a favor, man.
3 I don't want to put my life on the line. You hear
4 what they're offering me. You got any hitters that
5 would drop the victim for a couple of bands? I can
6 have the money for sure. I just need a price.
7 Also, do you think it would be traced back to me?
8 Think about it and we will talk later.

9 Q. You told us what a hitter was. What
10 does, a couple of bands, mean for those who don't
11 know?

12 A. 2,000.

13 Q. So do you understand this to mean that
14 he's offering you \$2,000 to perform this act?

15 A. Yes, sir.

16 Q. And, yo, La Don, that's your nickname
17 you told us about?

18 A. Yes, sir.

19 Q. The same one that's tattooed on your
20 forehead?

21 A. Yes, sir.

22 Q. I don't know if I asked you this or
23 not; had you met Mr. Capers before you met him over
24 at the Hill-Finklea Detention Center?

25 A. No, sir.

GILL - DIRECT EXAM BY MR. ALFARO

1 Q. Now State's Exhibit -- we'll go back to
2 State's 52. Try to go in some numerical order.

3 All right. State's 52 is on the screen
4 for the jury to read. There is a label that is
5 placed over part of it, so if you have problems
6 reading that, I can -- you can turn around and look
7 at the screen behind you.

8 Can you read that for the jury?

9 A. I don't know how I want it done yet.
10 If you can find her -- if you can find her, will
11 the charges still get dropped -- I can't see the
12 rest.

13 Q. Okay. Can you turn around and read it?

14 A. Will the charges still get dropped or
15 do they need to find the body?

16 Q. And this note was provided to you by
17 Mr. Capers?

18 A. Yes, sir.

19 Q. State's Exhibit 53.

20 A. I can get it paid on the streets --

21 Q. Hold on one second.

22 A. I can get it paid on the streets. I
23 don't know how I want it done. I just need it not
24 traceable back to me. I'm a hundred. I can pay 25
25 when I get out.

GILL - DIRECT EXAM BY MR. ALFARO

1 Q. When the note says, I'm a hundred, what
2 to you take that to mean?

3 A. He's keeping it real.

4 Q. And 2500, what is that?

5 A. Payment.

6 Q. State's 54. Hold on one second until
7 we put it up. Can you read what that note says?

8 A. J.R., this is calling for your little
9 brother Aaron. He said he needs 500. He can pay
10 you back when he get out. I will explain when
11 free.

12 Q. Is that also provided to you by
13 Mr. Capers?

14 A. Yes, sir.

15 Q. And that number up top on that same
16 thing, was that there when it was handed to you?

17 A. Yes, sir.

18 Q. Do you know whose number that is?

19 A. J.R.'s number.

20 Q. Is that someone you know, or he knows?

21 A. He knows.

22 Q. State's Exhibit 55. This has a sticker
23 on it, so you may need to turn around and look at
24 the screen to read what is under the sticker.

25 A. I can give you my homeboy's number --

GILL - DIRECT EXAM BY MR. ALFARO

1 Q. Okay.

2 A. I can give you my homeboy's number with
3 the bread and you can get up the meeting on the
4 outside.

5 Q. Was it provided to you by the defendant
6 Aaron Capers?

7 A. Yes, sir.

8 Q. State's 57. Can you read that note?

9 A. *Victim* or Cadbury neighborhood,
10 Goose Creek, address will get soon, 81 years old,
11 Japanese Asian.

12 Q. Now had you ever heard that name before
13 you met Mr. Capers?

14 A. No, sir.

15 Q. Are you familiar with where the Cadbury
16 neighborhood is?

17 A. No, sir.

18 THE COURT: Hold on a second. Let me
19 say to the jury, I see them straining. Please
20 understand, when you go to your jury room to begin
21 your deliberations, all of these that are admitted
22 will accompany you to your jury room. You will
23 have an opportunity to look at them and study them
24 in greater detail at that time. So just be aware
25 of that.

GILL - DIRECT EXAM BY MR. ALFARO

1 BY MR. ALFARO:

2 Q. State's 58, this is two sides.
3 Starting with the side that has the drawing on it,
4 can you read from the top what that says?

5 A. Cadbury Crowfield Plantation, Goose
6 Creek, South Carolina. It says, window, kitchen,
7 garage, living room, master bedroom, closet, back
8 -- back fence, back sliding glass, tree, ditch,
9 next neighbor, house, two neighbors on side, back
10 yard leads to next neighborhood, fences on all side
11 of house open, one-story house, close to the front
12 of neighborhood off St. James by Speedway and Big
13 Lots. ' Quiet during night, not very busy during
14 week because middle class -- middle class -- I
15 can't see -- middle class workers.

16 Q. And what's the word underneath the
17 arrow?

18 A. Flip.

19 Q. There is something on the back of that
20 exhibit?

21 A. Yes, sir.

22 Q. Now before we go to the back, all of
23 those specific details regarding the inside of the
24 house as far as labels on rooms and arrows and
25 closets and stuff like that, were those all written

GILL - DIRECT EXAM BY MR. ALFARO

1 on there when the note -- by the person that gave
2 you the note or -- let me rephrase that.

3 Were all of those details on this note
4 when it was given to you by the defendant Aaron
5 Capers?

6 A. Yes, sir.

7 Q. Did you add or change any details to
8 it?

9 A. No, sir.

10 Q. And the details regarding the outside,
11 where the tree and ditch and the next neighborhood,
12 the number of neighbors on the side, had you ever
13 been to this location?

14 A. No, sir.

15 Q. Did you have any knowledge of the
16 layout of the house or the layout of the outside as
17 described in this diagram before it was given to
18 you by the defendant?

19 A. No, sir.

20 Q. Let's go to the other side of that.
21 This has a couple of stickers. You're probably
22 going to have to turn around to read it.

23 A. A 81 years old Asian Japanese, Victim
24 lives alone, one dog, small, no bark. Try
25 to find address online if I can get by next week.

GILL - DIRECT EXAM BY MR. ALFARO

1 I should have it though.

2 Q. And had you ever met Ms. *Victim* before
3 this?

4 A. No, sir.

5 Q. Had you ever been to her home?

6 A. No, sir.

7 Q. Did you have any knowledge that she had
8 a dog that was small, that didn't bark before you
9 received this note from the defendant Aaron Capers?

10 A. No, sir.

11 Q. State's 59. They will put it up on the
12 screen. I will let you know when you can read it.

13 We have a copy of 59 on our computer.
14 Can you read this one? Doesn't appear to have any
15 stickers on it. Are you able to read that note for
16 the jury?

17 A. Only part I can't read is what it's
18 covering.

19 Q. Start where you can read. We'll try to
20 find another copy while reading that.

21 A. She has four neighbors, two front, two
22 sides, but I robbed her daylight. She did so --
23 she did so -- knock her off look natural or make
24 her disappear. I don't care, I need her gone. She
25 is the only witness. I can have my girl give you

GILL - DIRECT EXAM BY MR. ALFARO

1 my 500 up front, but I want to be on the streets to
2 give you the other 25. Feel me? I'll have the
3 address this week and I'll get my bitch to send.

4 Q. And again the details that are
5 contained in this note, you'd never been to that
6 house or met Ms. Listak before this?

7 A. No, sir.

8 Q. Did you have any personal knowledge
9 regarding the number of neighbors that she had or
10 where they were located?

11 A. No, sir.

12 Q. Or any details as to when the crime
13 that she was a victim of took place?

14 A. No, sir.

15 Q. Were all of those details provided in
16 the notes when you received it from the defendant
17 Aaron Capers?

18 A. Yes, sir.

19 MR. ALFARO: I've shown defense counsel
20 a more legible copy of State's Exhibit Number 59 --

21 THE COURT: Okay.

22 MR. ALFARO: -- that does not contain
23 -- the writings of the first line is legible. With
24 the Court's permission, we would ask to present
25 that to him to read the first line of that note.

GILL - DIRECT EXAM BY MR. ALFARO

1 THE COURT: Any objection to it -- it
2 really needs to be -- it's of 59?

3 MR. ALFARO: Yes, Your Honor.

4 THE COURT: We'll make it 59A, and that
5 way I will admit it subject to the objection of
6 counsel. And maybe they can -- you can accomplish
7 59A.

8 (STATE EXH. 59A, Note, was marked for
9 identification.)

10 BY MR. ALFARO:

11 Q. I'm going to show you what has been
12 marked as 59A, which is a copy of State's
13 Exhibit 59 which is in evidence. I'm not going to
14 have you read the entire note again, but if you can
15 read the first part of that note which is obscured
16 by the SLED writing --

17 THE COURT: Just ask him, if you will
18 for the Court's benefit for admitting and then you
19 can publish, is that a copy of what is in 59?

20 BY MR. ALFARO:

21 Q. Is this -- if you can look at 59 and
22 59A, and tell us if it is a copy of 59?

23 A. Yes, sir.

24 THE COURT: It's admitted, 59A. Now
25 you can publish it subject to the

GILL - DIRECT EXAM BY MR. ALFARO

1 objection.

2 (STATE EXH. 59A in evidence.)

3 BY MR. ALFARO:

4 Q. Read the whole first line.

5 A. She lives alone, four neighbors.

6 Q. State's Exhibit 121, which is in
7 evidence, you indicated that you wrote this note?

8 A. Yes, sir.

9 Q. Of the notes that you reviewed and read
10 for the jury, is this the only one that is in your
11 writing?

12 A. Yes, sir.

13 Q. Can you tell us what is on that note?

14 A. Aaron Capers, CSC first, armed robbery,
15 kidnapping.

16 Q. And that's your handwriting?

17 A. Yes, sir.

18 Q. And you provided all of these to either
19 your attorney, investigator, or law enforcement?

20 A. Yes, sir.

21 MR. ALFARO: Answer any questions that
22 the defense has.

23 THE COURT: You may cross.

24 CROSS-EXAMINATION

25 BY MS. CAPERS:

GILL - CROSS EXAM BY MS. CAPERS

1 Q. Hi, Mr. Gill. How are you?

2 A. Hi.

3 Q. You testified earlier that you didn't
4 meet Mr. Capers prior to being in the cell with
5 him, correct?

6 A. Correct.

7 Q. And you also testified that you didn't
8 speak to him about his charges?

9 A. Correct.

10 Q. And in the exhibit that you just
11 provided, which -- I'm sorry, you just said Aaron
12 Capers provided --

13 THE COURT: It's in the envelope, 111.

14 MS. CAPERS: Thank you.

15 BY MS. CAPERS:

16 Q. You just provided -- wrote a note and
17 provided his charges, but you never spoke to him
18 about those charges. It says, Aaron Capers, CSC
19 first, armed robbery, kidnapping?

20 A. I wrote what he told me.

21 Q. But you never discussed it with him?

22 A. No, correct.

23 Q. You wrote it?

24 A. I wrote what he told me.

25 Q. Okay. Did you just testify earlier

GILL - CROSS EXAM BY MS. CAPERS

1 that you never discussed his charges?

2 A. I wrote what he told me. Not discussed
3 his charges.

4 Q. Okay. And how old are you?

5 A. I'm 45.

6 Q. How old is Mr. Capers?

7 A. I don't know, 19, I guess. Twenty.

8 Q. And Bradley Berry was in a cell with
9 you?

10 A. Correct.

11 Q. Was he about the age of Mr. Capers?

12 A. Right.

13 Q. And Jerron Simmons, he's also about the
14 age of Mr. Capers?

15 A. Right.

16 Q. And none of them have prior records?

17 A. I guess not. I don't know them like
18 that.

19 Q. So you are 40-some years old, and you
20 have been convicted of property damage, assault
21 with a deadly weapon, criminal trespass, another
22 criminal trespass, another criminal trespass, six
23 counts of gross sexual imposition.

24 How many aliases do you have?

25 A. Two.

GILL - CROSS EXAM BY MS. CAPERS

1 Q. Just two?

2 A. That's it.

3 Q. Okay. How many social security numbers
4 do you have?

5 A. Just one.

6 Q. Just one. I was just going through and
7 I have to get through your aliases to get to your
8 other convictions.

9 You've been convicted of -- you're also
10 considered armed and dangerous, you have violent
11 tendencies, you are an escape risk, and you've been
12 a gang member for 25 years.

13 A. Correct.

14 Q. And that is MS-13?

15 A. Correct.

16 Q. And are you also a member of some other
17 kind of gang?

18 A. No.

19 Q. Okay. You have been convicted of
20 possessing or acquiring a firearm?

21 A. Correct.

22 Q. Gross imposition of a victim under
23 13 years old?

24 A. Yeah. Yeah. Yeah.

25 Q. Violation of probation?

GILL - CROSS EXAM BY MS. CAPERS

- 1 A. Right.
- 2 Q. You failed to register as a sex
3 offender three times?
- 4 A. Correct.
- 5 Q. This is -- that was what you were in
6 the cell for with Aaron?
- 7 A. Correct.
- 8 Q. Facing a mandatory five-year sentence?
- 9 A. Yes.
- 10 Q. Another violation of probation?
- 11 A. Yes.
- 12 Q. Assault and battery, third degree?
- 13 A. Correct.
- 14 Q. Two counts?
- 15 A. Right.
- 16 Q. Criminal domestic violence?
- 17 A. Right.
- 18 Q. Second degree?
- 19 A. All right.
- 20 Q. Another criminal domestic violence?
- 21 A. Okay.
- 22 Q. Another criminal domestic violence?
- 23 A. Right.
- 24 Q. And now what day were you released,
25 5/12/2018?

GILL - CROSS EXAM BY MS. CAPERS

1 A. I guess, yeah. I think so.

2 Q. It doesn't even matter to you at this
3 point?

4 A. It does matter. I just don't remember.
5 It's over a year. A lot happened since then.

6 Q. Well, let me refresh your memory.
7 Aaron -- or you may not know. I think Aaron was
8 charged with this offense on 5/10 or 11 of 2018.

9 A. All right.

10 MR. ALFARO: Objection. May we
11 approach?

12 THE COURT: Sustained. The jury will
13 disregard that statement, please.

14 Approach.

15 MS. CAPERS: I'm sorry.

16 (Bench conference)

17 THE COURT: The jury will disregard
18 that statement.

19 BY MS. CAPERS:

20 Q. And you pled guilty on 5/14/18?

21 A. Yes.

22 Q. Okay. Have you also been convicted of
23 manufacturing crack cocaine?

24 A. Yes.

25 Q. Grand larceny?

GILL - CROSS EXAM BY MS. CAPERS

1 A. Yes.

2 Q. Shoplifting?

3 THE COURT: You've covered that. Now
4 you're being cumulative. Let's move on, please.

5 MS. CAPERS: Okay.

6 BY MS. CAPERS:

7 Q. And you're in a cell with three people
8 with no prior record?

9 A. Yes.

10 Q. Okay. And that's just happenstance,
11 that just happened that way?

12 A. I can't determine where they put me
13 when I'm in jail.

14 Q. How many notes -- you provided several
15 notes that were written by Aaron Capers, right?

16 A. That's right.

17 Q. But you only provided one note that was
18 written by you?

19 A. That's correct.

20 Q. So you have told this jury that Aaron
21 Capers approached you --

22 A. That's right.

23 Q. -- about this and said, hey, I want you
24 to do this for me?

25 A. That's right.

GILL - CROSS EXAM BY MS. CAPERS

1 Q. Unsolicited?

2 A. That's right.

3 Q. So when Aaron was writing you all of
4 those notes, where are your notes?

5 A. I don't have any because I'm not the
6 one that was asking somebody to do something for
7 me. He was.

8 Q. You never wrote any notes?

9 A. That's right.

10 Q. And did -- when Aaron Capers came to
11 you and said he wanted to change his mind, what did
12 you do?

13 A. Changed his mind about what?

14 Q. About having -- about whatever he was
15 discussing on these notes.

16 A. That's the first that I have ever heard
17 of it.

18 Q. Did you tell Aaron Capers that if he
19 changed his mind, you were both going to go to jail
20 for criminal conspiracy?

21 A. No.

22 Q. Did you tell him that whatever
23 happened, if he changed his mind and told on you,
24 he was going to be killed in prison by your MS 13
25 gang members?

GILL - CROSS EXAM BY MS. CAPERS

- 1 A. No. No. No.
- 2 Q. Oh, no, no, no?
- 3 A. Right.
- 4 Q. So nobody witnessed you writing any
- 5 notes?
- 6 A. Nobody witnessed either one of us
- 7 writing. Just me.
- 8 Q. Either one of you writing?
- 9 A. Just what he gave me, just me and him.
- 10 Q. Did you begin -- let me ask you about
- 11 this. So when this was going on, how long did this
- 12 take place?
- 13 A. Like how long what?
- 14 Q. From the time he approached you until
- 15 the time you were released?
- 16 A. Again, I don't know. Maybe three
- 17 months, maybe a month. I don't know.
- 18 Q. Okay. And then that two-month period,
- 19 the discussion was you were going to get paid
- 20 \$2,500?
- 21 A. That's what's on the note.
- 22 Q. Well, you were there.
- 23 A. Yeah.
- 24 Q. Don't tell me just what's on the note.
- 25 Tell me --

GILL - CROSS EXAM BY MS. CAPERS

1 A. I'm telling you. I'm telling you
2 what's -- what is on the note.

3 Q. It was \$2,500?

4 A. Exactly.

5 Q. How many attempts were made to get that
6 money paid?

7 A. However many times he tried. He gave
8 me a number on there -- he called a number. He --
9 when he talked on that number with someone he was
10 actually talking to a SLED agent. That's how the
11 money got involved.

12 Q. Right. And so were there at least
13 three attempts made to get the money paid?

14 A. I guess, yeah. I guess, if that's what
15 you want me to say. All right.

16 Q. And nothing happened until -- nothing
17 was paid until about -- you got out May 14th --
18 until May 11?

19 A. That's when he gave the money up.

20 Q. Okay. Because you had to go to court
21 on May 11th -- I mean, May 14?

22 A. My court date didn't have anything to
23 do with it.

24 Q. Didn't have anything to do with it?

25 A. Exactly.

GILL - CROSS EXAM BY MS. CAPERS

1 Q. But this wasn't completed until
2 May 11th?

3 A. That's how long it took him to do it.

4 Q. That's how long it took him to do it?

5 A. To complete it, to get the money to
6 him.

7 Q. And Aaron Capers' discovery was in his
8 cell, wasn't it?

9 A. Of course.

10 Q. And you viewed that discovery?

11 A. No, I did not.

12 Q. You did not look in Aaron Capers --

13 A. No.

14 Q. You did not find his parents' addresses
15 and --

16 A. No, I did not.

17 Q. You did not threaten Aaron Capers'
18 family?

19 A. No, I did not.

20 MS. CAPERS: Okay. No further
21 questions.

22 THE COURT: Redirect.

23 MR. ALFARO: No, Your Honor.

24 THE COURT: Thank you.

25 Sir, you may step down.

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 Solicitor, call your next witness.

2 MS. WILLIAMS: The State would call
3 Nicholas Powell.

4 NICHOLAS POWELL,
5 being first duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State
7 your full name for the record and spell your last
8 name.

9 THE WITNESS: Nicholas Ryan Powell,
10 P-O-W-E-L-L.

11 DIRECT EXAMINATION

12 BY MS. WILLIAMS:

13 Q. Afternoon, Mr. Powell.

14 A. Afternoon.

15 Q. Where do you work?

16 A. Goose Creek Police Department.

17 Q. And how long have you worked there?

18 A. Approximately, 12 years.

19 Q. And what department are you in now?

20 A. I currently work in the criminal
21 investigations bureau.

22 Q. How long have you been in that
23 division?

24 A. About nine years.

25 Q. And were you working in that capacity

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 December 21, 2017?

2 A. Yes, I was.

3 Q. And did you have involvement in the
4 case of the State v Aaron Capers?

5 A. I did.

6 Q. And were you involved at all in the
7 search warrant conducted at Golding Lane and Old
8 Dominion?

9 A. I was.

10 Q. With regard to Golding, were you aware
11 of whose home that was when the search warrant was
12 conducted?

13 A. Yes. That home was Christopher Capers,
14 the defendant's father.

15 Q. And tell us about how that search
16 warrant was conducted? Did investigators go in
17 first or did someone else go in first?

18 A. We utilized a SWAT team to conduct
19 entry into the residence, and then investigators
20 conducted the search of the residence.

21 Q. And when the SWAT team went in, did
22 they actually search or did they just go in quickly
23 and come out?

24 A. No. Their task was to go in and
25 identify if there was individuals present and

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 secure the residence for us not doing any
2 searching.

3 Q. And did you locate certain items in
4 that home that were taken into evidence?

5 A. I did.

6 Q. And, in fact, did you locate a mask
7 that was found in that residence?

8 A. I did.

9 Q. What room?

10 A. That room was located at the top of the
11 hall and it was located in a closet in the bedroom.

12 Q. And was it the only mask in there?

13 A. No, there were multiple masks in that
14 closet.

15 Q. Why did you collect that particular
16 one?

17 A. Description was provided to me by
18 Investigator Wright who had interviewed the victim
19 in this case, and based on the physical descriptors
20 such as the exaggerated teeth, the large buck teeth
21 that were described to me; that in culmination with
22 the fact that the other masks were all on little
23 mannequin heads that were in the closet, and this
24 one was actually off of it slid down to the side.
25 So based on all of that, that's why I went to

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 collect it.

2 MS. WILLIAMS: Your Honor, I'm going to
3 show Investigator Powell what was marked as State's
4 37 and 39.

5 May I approach?

6 THE COURT: You may.

7 BY MS. WILLIAMS:

8 Q. Can you tell us what these pictures
9 are?

10 A. Yes. The first photograph here, this
11 is one of the tags for the mask itself, and that
12 was initially found in the closet prior to finding
13 the mask itself.

14 And then the second photograph is
15 actually of three other masks of which they are
16 actually on the mannequin heads, and then the
17 fourth one which did not have a mask on it.

18 Q. And so those masks you did not collect
19 because you said they didn't fit the description?

20 A. Correct.

21 Q. Can you please put up 37 --

22 MS. WILLIAMS: Oh, I'm sorry, Your
23 Honor. At this point, we would move 37 and 39 into
24 evidence.

25 THE COURT: Any objection?

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 MS. CAPERS: No objection.

2 THE COURT: Without objection, they are
3 admitted.

4 (STATE EXH. 37, 39, in evidence.)

5 BY MS. WILLIAMS:

6 Q. Turn around and just tell the jury what
7 that is and where that was found.

8 A. This is the tag for the mask and this
9 was found in the closet. This was found prior to
10 where I located the mask itself.

11 Q. Okay. And Exhibit 39. And tell us
12 what these are.

13 A. Those would be the photographs of the
14 other three masks that were located in the closet
15 along with the fourth mannequin, and then that one
16 did not have a mask on it.

17 Q. Each of these was on a head?

18 A. Yeah. Each of these were on a head and
19 they were on a shelf in the top of the closet.

20 Q. Okay. But the one that you collected
21 was not on the head?

22 A. Right. It was off to the side. That's
23 why we didn't see it initially.

24 Q. Okay.

25 MS. WILLIAMS: Your Honor, may I

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 approach the witness?

2 THE COURT: You may.

3 MS. WILLIAMS: I'm showing him what was
4 previously marked as State's Exhibit 67.

5 BY MS. WILLIAMS:

6 Q. And this mask is the one that you
7 collected?

8 A. That would be correct.

9 Q. And is there a space for someone to
10 spit or open their mouth in this mask?

11 A. There is an opening in the mouth area.

12 Q. And after you collected those items,
13 who did you give them to?

14 A. They were taken downstairs. I
15 believe -- and I would have to double-check the
16 report, but I want to say Investigator Wright was
17 completing the return on that.

18 Q. Do you want to check your notes?

19 A. Yes, please.

20 Q. Would it refresh your memory to look at
21 the return?

22 A. Notated Investigator Wright's report
23 indicates that she completed the return for the
24 search warrant.

25 Q. Okay. Shifting to Old Dominion. You

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 were present at that search warrant -- when that
2 was conducted?

3 A. I was.

4 Q. Was Wendy Myers or Sandy Favero from
5 the Goose Creek Police Department present at Old
6 Dominion for that search warrant?

7 A. No, they were not.

8 Q. And were either of them present at the
9 Golding Lane home when that search warrant was
10 conducted?

11 A. No, they were not.

12 Q. At Old Dominion, did you locate a black
13 Nike hat?

14 A. Yes.

15 Q. And where was that located?

16 A. That was located in the bedroom -- if
17 you go to the top of the stairs to the left is
18 where that bedroom was at, and in -- which Aaron
19 Capers' bedroom was -- that was identified as.

20 MS. WILLIAMS: Your Honor, I show
21 defense counsel what was previously marked as
22 State's 107.

23 May I approach?

24 THE COURT: You may.

25 BY MS. WILLIAMS:

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 Q. Is this the hat that you found?

2 A. Yes, it is.

3 MS. WILLIAMS: Okay. Your Honor, we
4 would move 107 into evidence.

5 THE WITNESS: Any objection?

6 MS. CAPERS: No objection.

7 THE COURT: Without objection, it is
8 admitted.

9 (STATE EXH. 107 in evidence.)

10 BY MS. WILLIAMS:

11 Q. Now, shifting to a later date, did you
12 have involvement in a portion of this case that
13 involved Jesse Gill?

14 A. I did.

15 Q. Can you explain to the jury how you
16 became aware of evidence involving Mr. Gill?

17 A. I was contacted on April 9th, which is
18 a Monday, in reference to information pertaining to
19 the victim in this case, *Victim*, by the
20 Solicitor's Office indicating there was an
21 individual in contact with the Berkeley County
22 Public Defender's Office who had specific
23 information in regards to a potential threat to her
24 life.

25 And based on that, I was able to

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 coordinate with David Schwacke and Keith Hair with
2 the Public Defender's Office, and subsequently
3 their client, Jesse Gill, was transported to the
4 police department where we began an investigation.

5 Q. Is it unusual for defense attorneys to
6 come to you with information from their client?

7 A. I would say so.

8 Q. And when they arrived what, if
9 anything, was transferred to you before, during, or
10 after that meeting?

11 A. Prior to actually meeting with
12 Mr. Gill, I had met with Mr. Hair again, the
13 investigator for the Public Defender's Office. He
14 had an envelope containing a total of five notes in
15 which he indicated he received them from Jesse
16 Gill, and these notes provided details and
17 information again detailing a potential threat, an
18 assassination attempt at that time, to the victim
19 in this case.

20 Q. And did you make note to be able to
21 identify which notes you received first from
22 Mr. Hair and then which notes you received at any
23 time later?

24 A. Yes. The -- what it is, I opened up a
25 report in reference to this based on this new

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 information and, subsequently, detailed within that
2 report the initial set of notes, which were the
3 five notes in a sealed envelope.

4 And then when I met with Mr. Gill there
5 were additional notes that were provided to me
6 during the interview.

7 Q. During the course of the interview?

8 A. That's correct.

9 Q. And was that interview videotape
10 recorded?

11 A. It was.

12 Q. And do you remember what the notes were
13 in when you got them?

14 A. The notes were located in an envelope
15 stamped Public Defender's Office.

16 MS. WILLIAMS: Beg the Court's
17 indulgence?

18 THE COURT: Yes, ma'am.

19 BY MS. WILLIAMS:

20 Q. How do you identify the notes in your
21 report? Do you take pictures of them? Do you say
22 what's noted on them? How were they identified so
23 that you would know which of these is actually the
24 note?

25 A. My report actually notates it. It

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 actually states in the report itself first set of
2 notes, which is indicated in the ones that I
3 received from Mr. Hair prior to the interview. And
4 then I actually delineate below that exactly what
5 is said in each note.

6 Subsequently, during the interview, I
7 had scans of these notes so that I could again make
8 notations next to them indicating when Mr. Gill
9 actually received the notes from Mr. Capers.

10 MS. WILLIAMS: Okay. Your Honor, I'm
11 going to show defense what's been previously marked
12 and admitted as State's 110, 109, 56, 57, 58, and
13 59.

14 THE COURT: Okay.

15 MS. WILLIAMS: And all of these items
16 were packaged in an envelope marked 111.

17 THE COURT: Thank you.

18 MS. WILLIAMS: May I approach?

19 THE COURT: You may.

20 BY MS. WILLIAMS:

21 Q. If you could look at these notes and
22 tell me what they are, when you received them, and
23 if they match up with what you noted that you
24 received, and then identify each note.

25 A. The initial update, too, this would be

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 the envelope in which the notes were initially
2 packaged in.

3 THE COURT: What exhibit are you
4 referring to?

5 THE WITNESS: This is Exhibit 110, Your
6 Honor.

7 This is State's Exhibit 58, and this
8 deals with the diagram of the residence itself.
9 And this is annotated as Note 3 to my report.

10 BY MS. WILLIAMS:

11 Q. Okay. And is that in the first batch
12 of notes?

13 A. Yes. This is part of the first batch
14 of notes.

15 Q. And that is State's 58. And what about
16 State's Exhibit 56, do you see that noted?

17 A. Yes. State's Exhibit 56, which is
18 noted as Note 2 in my report.

19 Q. In the first batch?

20 A. In the first batch, correct.

21 Q. And you know that because of the first
22 couple of letters?

23 A. Correct. When I look at the note and
24 correspond it with my report, I annotated exactly
25 what was said on the note in my report and,

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 therefore, I know it to be the same.

2 Q. And what about 57?

3 A. That would be the same, 57 being
4 annotated as Note 4 in the first set of notes.

5 Q. Okay. And what about 59?

6 A. Same thing, this one correlates with
7 the first set of notes received as State's 59.

8 Q. And does that complete the first set
9 that you got?

10 A. Correct. That would be a total of five
11 notes that were collected from there.

12 Q. In an envelope?

13 A. In an envelope.

14 Q. After you received those notes, you
15 went into the meeting?

16 A. Correct. After I reviewed these notes,
17 I made photo scans of the notes so that when I
18 conducted the interview I could make further
19 notations next to them to determine when they were
20 received.

21 Q. Okay. So how many notes did you
22 collect while you were in the meeting?

23 A. I collected an additional four notes
24 during the meeting which were provided to me by
25 Mr. Gill.

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 MS. WILLIAMS: Okay. Your Honor, I am
2 going to show defense counsel what was marked as
3 53, 54, 55, to begin with.

4 May I approach?

5 THE COURT: You may.

6 BY MS. WILLIAMS:

7 Q. So as to Item 53, State's 53, do you
8 recognize that as one of the notes?

9 A. Yes, I do. This would be State's 53,
10 which I have annotated here on the second set of
11 notes received during the interview.

12 Q. Okay. And State's 54?

13 A. Correct. State's 54 were received as
14 part of the second set of notes.

15 Q. Okay. And State's 55?

16 A. State's 55 as well is part of that same
17 set of the second notes during the interview.

18 Q. State's 52 begins with what words?

19 A. State's 52 starts with, I don't know
20 how.

21 Q. Okay. And you have that noted as one
22 of the notes that you received in the second batch
23 of notes?

24 A. That's correct.

25 Q. And after you got all of those --

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 MS. WILLIAMS: May I approach, Your
2 Honor?

3 THE COURT: Yes.

4 BY MS. WILLIAMS:

5 Q. This is State's 52. Does that look
6 like the note that you --

7 A. Correct. That's part of the same set
8 of notes.

9 Q. That's what you documented?

10 A. That's correct.

11 Q. And what did you do with all of these
12 notes after you collected them from Mr. Gill?

13 A. These items were submitted into
14 evidence.

15 Q. And who did you give them to?

16 A. If I can look at my evidence control
17 form I can tell you exactly. These notes were
18 taken directly back into evidence and provided to
19 CSI Favero.

20 MS. CAPERS: I didn't hear the name.

21 THE WITNESS: CSI Favero.

22 MS. WILLIAMS: Favero.

23 BY MS. WILLIAMS:

24 Q. And those notes that we just went
25 through one by one, you didn't have any involvement

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 in soliciting those notes or investigating or
2 getting any information about those notes before
3 they were given to you?

4 A. That's correct.

5 Q. Was Goose Creek Police Department
6 involved in any solicitation or any kind of case
7 involving those notes before you got them?

8 A. They were not.

9 Q. After you got those notes, are you
10 aware of any other -- in general terms, any other
11 efforts that were made by Mr. Capers to prevent
12 Ms. *Victim* from being able to testify?

13 A. Yes. Pursuant to the investigation,
14 there were additional correspondence with Mr. Gill
15 in regards to, again, attempting to have her killed
16 on this case. There was an exchange of money from
17 one of Mr. Capers' associates via a cash-out, and
18 then there was a transfer of a vehicle in reference
19 to this same solicitation.

20 Q. And so how did Mr. Capers get the
21 cash-out number? Who was communicating with who in
22 order for him to know where to send the money?

23 A. A telephone number was provided to
24 Mr. Gill and which was transferred to Mr. Capers
25 inside of the facility that then led to outside

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 correspondence electronically both by text message
2 and on the phone with this individual.

3 Q. And so when you say this individual, is
4 this somebody that Mr. Capers gave the phone number
5 to?

6 A. Correct.

7 Q. And you know that how?

8 A. We know that via, again, Mr. Gill being
9 provided that number, which was a phone number
10 Mr. Capers had, and then there were phone calls on
11 the jail as well.

12 Q. Were there any text messages?

13 A. There were text messages on there in
14 which the communication was going on with the
15 outside acquaintance to arrange to have the money
16 sent.

17 Q. Who was responding back with the text
18 messages to Mr. Capers' associate?

19 A. I was.

20 Q. And who was answering the phone when
21 Mr. Capers' associate was calling?

22 A. Deputy Santos with Berkeley County was
23 assisting us with this matter.

24 Q. And who was he pretending to be?

25 A. He was pretending to be the assassin,

1 as it were, on the outside conducting the business
2 on behalf of Mr. Gill.

3 Q. And what -- after the initial amount of
4 money was transferred, how much was that?

5 A. It was a very minimal amount. I
6 believe it was approximately \$100 is what the
7 initial transfer was.

8 Q. Okay. And then what was the
9 arrangement to make the rest of the payment or the
10 next part of the payment? What was going to be
11 provided?

12 A. That was in reference to a vehicle in
13 which was transported to the Goose Creek area and
14 then custody of that was transferred to us via at a
15 drop at a gas station.

16 Q. And the vehicle that was payment for
17 the murder was actually transferred by Mr. Capers'
18 friend?

19 A. Correct. We have that in our custody
20 at this time.

21 MS. WILLIAMS: Okay. Beg the Court's
22 indulgence?

23 THE COURT: Yes.

24 MS. WILLIAMS: Nothing further. Thank
25 you.

POWELL - CROSS EXAM BY MS. CAPERS

1 THE COURT: You may cross.

2 CROSS-EXAMINATION

3 BY MS. CAPERS:

4 Q. Hi. Do you remember -- can you tell us
5 the date that that \$100 was posted on the cash app.

6 A. Yes. Let me review the report. This
7 occurred April 27, 2018.

8 Q. Sorry?

9 A. April 27, 2018.

10 Q. And were there numerous attempts made
11 -- numerous attempts to have money paid that
12 failed?

13 A. Prior to this, correct.

14 Q. Can you tell us about those?

15 A. There were other associates of
16 Mr. Capers that we were referred to to obtain this
17 money. I believe the initial individual was a
18 J.R. which is annotated in the first set of notes.

19 Q. And he did not provide anything to you,
20 correct?

21 A. Correct.

22 Q. And the second -- how many times did
23 you attempt to reach J.R?

24 A. I can't recall the exact number.

25 Q. Can you look at the notes and tell us?

POWELL - CROSS EXAM BY MS. CAPERS

1 A. It would appear, based on my reports,
2 he was reaching out to J. R. multiple times while
3 incarcerated in an attempt to get the money from
4 J.R.

5 The reports that I have indicated that
6 we were in contact with Benji to get the money, but
7 that multiple attempts were made by Mr. Capers to
8 get the money and also was using Benji as well to
9 communicate with J.R. to get the funds.

10 Q. When was the first attempt made?

11 A. According to my report, the initial was
12 on April 13, 2018, in regards to J.R. coming for
13 visitation; and then subsequently to that, J.R. was
14 supposed to meet in the parking lot of the Subway
15 to conduct a money transfer.

16 Q. And does your report show that J.R. did
17 not show up for visitation and did not meet you at
18 Subway?

19 A. Correct.

20 Q. And were there two other attempts, at
21 least, that -- where whoever it was did not -- did
22 not or would not provide the fund?

23 A. Yes. They were additional instances in
24 which funds were not provided.

25 Q. At least two?

POWELL - CROSS EXAM BY MS. CAPERS

1 A. Yes, I would say at least two.

2 Q. Would you say it was more than that?

3 A. I would have to review the entire
4 report, but, again, I would concede the fact that
5 there were multiple instances in which money was
6 not exchanged.

7 Q. Okay. And you finally were able to
8 persuade -- tell us about this -- you were finally
9 able to persuade Stacy Bradley, I believe it was,
10 to send \$100 via the Cash App?

11 A. There was a conversation in which he
12 did send \$100 via the cash app.

13 Q. Tell us about that. How many attempts
14 did you have to make with Stacy for him to send you
15 that money?

16 A. This -- I annotated my report -- this
17 was dated, again, April 26, 2018, in which outlines
18 the text messages between myself and an individual
19 identified as Benji, who is a Stacy Bradley in this
20 case, indicating that he was supposed to send money
21 for Aaron.

22 And then during the -- subsequently,
23 there was a transfer which occurred on the 27th,
24 which was the following day.

25 Q. Okay. When was the transfer of the

POWELL - CROSS EXAM BY MS. CAPERS

1 vehicle?

2 A. This occurred May 11, 2018.

3 Q. May 11?

4 A. That's correct.

5 MS. CAPERS: Beg the Court's

6 indulgence?

7 THE COURT: Yes, ma'am.

8 BY MS. CAPERS:

9 Q. Were you at any time talking to
10 Mr. Capers?

11 A. I was not in communication with
12 Mr. Capers.

13 Q. Were you present for the search at Old
14 Dominion Drive?

15 A. Yes.

16 Q. Okay. And do you recall what was
17 collected? Let me rephrase that. You didn't find
18 the brown knife, did you?

19 A. Let me review the report and I can tell
20 you what was collected. I see there were two
21 different knives collected pursuant to the search
22 warrant at Old Dominion annotated as a gray-colored
23 folding and a snake skin designer folding knife.

24 Q. So one was gray and one was silver?

25 A. It's annotated as snake skin, according

GREENE- DIRECT EXAM BY MS. WILLIAMS

1 to the report.

2 MS. CAPERS: Okay. And no further
3 questions.

4 THE COURT: Okay. Redirect?

5 MS. WILLIAMS: No, Your Honor.

6 THE COURT: Thank you, Mr. Powell. You
7 may step down.

8 THE WITNESS: Thank you.

9 THE COURT: State would call Derrick
10 Greene.

11 DERRICK GREENE,

12 being first duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State
14 your full name for the record and spell your last
15 name.

16 THE WITNESS: Derrick Greene,
17 G-R-E-E-N-E.

18 THE COURT: Thank you.

19 DIRECT EXAMINATION

20 BY MS. WILLIAMS:

21 Q. Mr. Greene, where do you work?

22 A. Hill-Finklea Detention Center.

23 Q. And how long have you worked there?

24 A. About three years.

25 Q. And were you working there during

GREENE- DIRECT EXAM BY MS. WILLIAMS

1 December of 2017?

2 A. Yes.

3 Q. And did you come into contact with an
4 Aaron Capers?

5 A. Yes.

6 MS. WILLIAMS: Your Honor, I'm going to
7 show defense counsel what was previously marked as
8 State's 60, 61, and 63.

9 THE COURT: Okay.

10 MS. WILLIAMS: May I approach?

11 THE COURT: You may.

12 BY MS. WILLIAMS:

13 Q. With regard to 60, without telling us
14 too much about the contents, can you tell me how
15 that form is executed and whose signatures are on
16 it?

17 A. It's a form that I produced as we were
18 booking in a person coming into the jail. I
19 explain what the form is; I tell them -- you know,
20 I explain what the form is. I tell them I need
21 their signature and I present it to them and give
22 them a pen and they sign their name.

23 Q. Did you watch him sign that?

24 A. Yes, ma'am.

25 Q. And with regard to State's 61. Did you

GREENE- DIRECT EXAM BY MS. WILLIAMS

1 watch Mr. Capers sign that?

2 A. Yes, ma'am.

3 Q. And with regard to State's 63, did you
4 watch Mr. Capers sign that?

5 A. Yes, ma'am.

6 MS. WILLIAMS: Your Honor, we would
7 like to have these marked for identification
8 purposes only. I'm not offering them into evidence
9 at this time.

10 THE COURT: Okay.

11 MS. CAPERS: Without objection.

12 THE COURT: Okay. They are just ID
13 only.

14 MS. CAPERS: I'm sorry.

15 MS. WILLIAMS: Thank you, Mr. Greene.
16 No further questions.

17 MS. CAPERS: I have no questions.

18 THE COURT: Mr. Greene, you may step
19 down.

20 MS. WILLIAMS: The State would call
21 William Dupree.

22 Your Honor, just for the record, 63 --
23 60, 61, and 63 were contained in the envelope
24 marked as 116.

25 THE COURT: Okay. Thank you.

DUPREE - DIRECT EXAM BY MS. WILLIAMS

1 WILLIAM DUPREE,

2 being first duly sworn, testified as follows:

3 THE CLERK: Please have a seat. State
4 your full name for the record and spell your last
5 name.

6 THE WITNESS: My name is William
7 Nicholas Dupree, D-U-P-R-E-E.

8 DIRECT EXAMINATION

9 BY MS. WILLIAMS:

10 Q. Mr. Dupree, where do you work?

11 A. Hill-Finklea Detention Center.

12 Q. And while you were working there, was
13 Aaron Capers an inmate at some point?

14 A. Yes, ma'am.

15 Q. And did you ever have occasion to watch
16 him sign anything?

17 A. Yes, ma'am. I have several different
18 pieces of paper that people have to sign in front
19 of me.

20 MS. WILLIAMS: Okay. Your Honor, I'm
21 showing defense counsel what was marked as State's
22 62.

23 May I approach?

24 THE COURT: Yes.

25 BY MS. WILLIAMS:

DUPREE - DIRECT EXAM BY MS. WILLIAMS

1 Q. Is this one of the pieces of paper that
2 you watched Mr. Capers sign?

3 A. Yes.

4 MS. WILLIAMS: Okay. At this time, we
5 would just like to have it marked for
6 identification purposes, State's 62.

7 And noted for the record, it came out
8 of Envelope 116.

9 (STATE EXH. 62, Paper signed by
10 Defendant, was marked for identification.)

11 MS. WILLIAMS: No further questions.

12 MS. CAPERS: No questions.

13 THE COURT: You may step down. Thank
14 you.

15 MS. WILLIAMS: The State calls Zack
16 Jamieson.

17 JOHN ALLAN JAMIESON,
18 being first duly sworn, testified as follows:

19 THE CLERK: Please have a seat. State
20 your full name for the record and spell your last
21 name.

22 THE WITNESS: John Allan Jamieson, and
23 J-A-M-I-E-S-O-N.

24 DIRECT EXAMINATION

25 BY MS. WILLIAMS:

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 Q. Mr. Jamieson, where do you work?

2 A. I work at the forensic laboratory for
3 South Carolina Law Enforcement Division, so-called
4 SLED.

5 Q. And what is your profession and
6 occupation at SLED?

7 A. I'm a question document examiner at
8 SLED.

9 Q. What does that mean?

10 A. I examine documents, I compare
11 handwriting, hand printing signatures and numerals.
12 I look for alterations, obliterations and erasures
13 on documents. I examine inks, pens, papers, and
14 pencils to determine if they share common sources,
15 and I look at indented writing.

16 Indented writing occurs when you write
17 on the top sheet of a pad and you indent the
18 writing into the sheets below. And I testify in
19 court.

20 Q. Okay. How long have you practiced in
21 the field of question documents?

22 A. Thirty-eight years.

23 Q. In layman's terms, is that sometimes
24 called handwriting analysis?

25 A. Yes.

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 Q. And have you been certified by SLED to
2 perform question documents examination?

3 A. Yes.

4 Q. Could you briefly describe the nature
5 and extent of your training and preparation in the
6 field of question documents?

7 A. I graduated from the University of
8 Toronto with a Bachelor of Science in biochemistry
9 and chemistry. I then joined the Center for
10 Forensic Sciences in Toronto, Ontario, Canada as a
11 document examiner trainee.

12 To become a document examiner it's much
13 like an apprenticeship-type program where you study
14 under the tutelage of senior document examiners.
15 Your training consists of reading various texts,
16 journals, periodicals, and articles that have been
17 accumulated over the years, also performing work on
18 test cases that have been put aside over the years
19 to demonstrate various aspects of question document
20 examination.

21 It also includes doing supervised work
22 under the tutelage of -- direct tutelage of the
23 senior document examiners.

24 As part of the training, there were
25 numerous exams, both oral and written, and at the

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 one-year mark there was a board examination where I
2 examined a case, it was re-examined by another
3 examiner, and then the case was presented in a mock
4 court-type situation.

5 Q. Are you a member of any professional
6 associations related to the examination of question
7 documents?

8 A. Yes. I'm a member of the Southeastern
9 Association of Forensic Document Examiners and also
10 a member of the Midwestern Association of Forensic
11 Scientists.

12 Q. Have you previously been qualified as
13 an expert witness in the area of examination of
14 question documents?

15 A. Yes, I have.

16 Q. And, roughly, how many times?

17 A. Over 250.

18 Q. And if you had to estimate, how many
19 cases have you handled in this field?

20 A. Over 3500.

21 Q. And do you perform your work in a
22 forensic laboratory?

23 A. Yes; the forensic lab at SLED in
24 Columbia.

25 Q. Is that nationally accredited?

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes, it is.

2 Q. By whom?

3 A. It's called ANAB, the ANSI National
4 Accreditation Board. It's relatively new. We used
5 to be accredited under the American Society of
6 Crime Lab Directors, ASCLD, but they've switched
7 over to ANSI.

8 Q. Okay. And do you follow SLED protocols
9 for examination of question documents?

10 A. Yes.

11 Q. What equipment do you use when you
12 perform this analysis?

13 A. I use a stereoscopic microscope, and
14 that's a microscope with two eye pieces and two
15 lenses at the bottom, so that when I view the
16 document I get a two-dimensional view of the
17 document -- or a three-dimensional view of the
18 document.

19 I can look at things like depth of
20 impression and that sort of thing because it is a
21 three-dimensional view. And I, also, use assorted
22 magnifiers as well as a light source for the
23 microscope.

24 Q. And are there quality control measures
25 in place?

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes. In order for SLED to become
2 accredited under ANAB, they have to have strict
3 quality control procedures in place for the -- to
4 provide quality casework and provide the right
5 answer basically.

6 MS. WILLIAMS: Okay. Your Honor, at
7 this time the State would offer Mr. Jamieson as an
8 expert in question document examination.

9 THE COURT: Do you care to exam as to
10 qualifications?

11 MS. CAPERS: No, Your Honor.

12 THE COURT: Very well. I will admit
13 him to render opinions in that area.

14 BY MS. WILLIAMS:

15 Q. Okay. Tell us in layman's term what a
16 question document examiner does.

17 A. What we do is basically compare known
18 handwritings to question handwritings. A lot of
19 that is about 90 percent of the casework. And we
20 also examine documents for alterations.

21 We also examine pens to determine
22 whether or not they were used to write a certain
23 document, but 90 percent of the time we're
24 examining and comparing handwriting, handwritten
25 signatures.

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 Q. And in this case, did you receive
2 certain documents that other people had either
3 watched Aaron Capers write or people that knew his
4 handwriting --

5 MS. CAPERS: Objection.

6 MS. WILLIAMS: -- that those were
7 submitted as known standards?

8 THE COURT: What's the objection?

9 MS. CAPERS: It's speculative. He
10 doesn't know if anyone saw him write anything.

11 THE COURT: Overruled.

12 BY MS. WILLIAMS:

13 Q. Tell us what a known standard is.

14 A. A known standard is provided by the
15 submitter as the known document of somebody's
16 writing. They can be in the course of business
17 writing that are normally prepared in the normal
18 course of business, and they can be letters,
19 checks, that sort of thing known to be written by a
20 specific person.

21 MS. WILLIAMS: I'm going to show
22 defense counsel 61 through 63.

23 THE COURT: All right.

24 MS. WILLIAMS: May I approach?

25 THE COURT: You may.

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 BY MS. WILLIAMS:

2 Q. If you could look at Item 60 and tell
3 us what that corresponds with in terms of your SLED
4 number and what that is.

5 A. This is Item 10.1 of my SLED Lab Case
6 No. L-185028, and that was presented as the known
7 writing of Mr. Capers.

8 Q. Okay. And how about State's 62?

9 A. State's 62 is Item 10.3 of the same
10 case, and it was presented or submitted as a known
11 writing of Mr. Capers.

12 Q. Okay. And State's 63?

13 A. That is Item 10.4, again, submitted as
14 the known writing from Mr. Capers.

15 Q. And item -- State's 61?

16 A. Again, this is -- or not again. This
17 is Item 10.2 from the same lab case submitted as
18 the known writing of Mr. Capers.

19 Q. And is that -- those collectively used
20 as some of the known standards that you use to
21 compare to other documents in this case?

22 A. Yes.

23 Q. Okay. Were there other known standards
24 that you used in order to form your opinion as to
25 the question documents?

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes.

2 MS. WILLIAMS: Your Honor, I'm going to
3 show defense counsel what was previously admitted
4 as State's 92 and 93 and what was previously marked
5 as State's 89, 90, the back side is marked State's
6 91, State's 94 and State's 95.

7 THE COURT: All right.

8 MS. WILLIAMS: May I approach?

9 THE COURT: You may.

10 BY MS. WILLIAMS:

11 Q. With regard to State's 92 and 93, what
12 are the SLED numbers for those two items?

13 A. This is Items 16.1 and 16.2.

14 Q. Okay. And with regard to State's 94
15 and 95, if you could tell us the SLED numbers for
16 those.

17 A. 94 is Item 17.2 and 95 is Item 17.1.

18 Q. And lastly, State's 89 and 90?

19 A. 89 is Item 15.1 and -- or 16.1 and the
20 other one is 16.2.

21 Q. Okay. And did you form an opinion as
22 to whether or not the same person wrote 92 and 93
23 as wrote 89, 90, 94, and 95?

24 A. As part of my examination, what I do is
25 go through the known documents in order to

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 determine to the extent possible whether or not
2 they were written by one person. It's not a
3 recordable finding; it's just part of a routine
4 part of the examination.

5 It's a safeguard against known
6 documents or known -- documents submitted as known
7 from coming in, even though they may have been
8 written by somebody else. What I do is make sure
9 they're all written by the same writer. So it's
10 not published in the report, but it's a routine
11 part of my examination.

12 Q. So collectively all of those items you
13 just reviewed -- State's 60, 61, 62, 63, and the
14 three letters that were marked 92, 93, 89, 90, 94
15 and 95 -- collectively you considered those the
16 known standards of Aaron Capers?

17 A. That's correct.

18 Q. And did you compare those to certain
19 question documents to determine if Aaron Capers
20 wrote them?

21 A. That's correct, yes.

22 Q. Now, when you're examining those items,
23 what do you look for to determine if the same
24 person wrote one document compared to another?

25 A. I look at various features of the

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 handwriting. These features include the slant or
2 slope of writing, the system, if I can tell what
3 system, writing was performed with. I look at the
4 letter formation, including the initial and final
5 strokes of the letter.

6 I look at the spacing between the
7 letters. I look at relative heights between the
8 letter. I look at the positioning of the letters
9 and the words on the page. The line quality I look
10 at to make sure that it's freely and naturally
11 written, and I also look for a range of variations
12 within the handwriting.

13 Everyone has a range of variation in
14 their handwriting. No one writes exactly the same
15 way twice. Everybody has a bit of a range of
16 variation.

17 If there was no variations, it might be
18 indicative of it being a copy or simulation.

19 MS. WILLIAMS: And, Your Honor, I will
20 show defense counsel, again, 52 through 59 packaged
21 in Envelope 111.

22 THE COURT: Okay.

23 MS. WILLIAMS: May I approach?

24 THE COURT: You may.

25 THE WITNESS: At this juncture, may I

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 refer to my notes, Your Honor?

2 THE COURT: You may.

3 THE WITNESS: Thank you.

4 MS. WILLIAMS:

5 Q. With regard to Item 62, State's 62,
6 which is what number on the SLED report?

7 A. Item 1.

8 Q. Did you come to a conclusion as to who
9 wrote that particular letter?

10 A. Yes, I did.

11 Q. And what was that conclusion?

12 A. That Aaron Capers wrote this item.

13 Q. Okay. And with regard to State's 53,
14 which is SLED No. 2, did you come to a conclusion
15 as to who wrote that note?

16 A. Yes. Again, it was Mr. Capers.

17 Q. Okay. And with regard to State's
18 Exhibit Number 54, which is your SLED No. 3, did
19 you come to a conclusion as to who wrote that
20 letter?

21 A. Yes, Mr. Capers.

22 Q. As to State's 55, which is SLED No. 4,
23 did you come to a conclusion as to who wrote that
24 letter?

25 A. Yes. Again, it was Mr. Capers.

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 Q. Okay. And as to State's Exhibit 56,
2 which is SLED No. 5, did you come to a conclusion
3 as to who wrote that letter?

4 A. Yes. Again, Mr. Capers.

5 Q. State's 57, which is SLED No. 6?

6 A. Yes. Again, Mr. Capers. That's my
7 item number and my case number on State's 57.

8 Q. Okay. And while we're talking about
9 that, each of these items does have a little tag on
10 it. Is that how you denote that you got that
11 letter from someone else at SLED and then put it
12 back into the exhibit locker?

13 A. Actually, the little tags, I think, are
14 applied by the latent print examiners; but on each
15 item I put the case number, the item number and my
16 initials on each document. That way I know that's
17 the document I looked at.

18 Q. And so you note each individual letter.
19 And then how does that correspond with your
20 documentation -- your written documentation in your
21 report and the SLED chain?

22 A. I don't understand.

23 Q. So besides this number, is there some
24 other descriptive thing that you put in your report
25 that tells you what letter this is?

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes. In my report I put the item
2 number, brief description of the item, also put a
3 brief description of the item in my notes, and I
4 have a copy of the item in my note.

5 Q. And State's 58, which is SLED 71 and
6 72, can you tell us what that item is?

7 A. This appears to be a map of some sort.
8 It's got a location, it's got a drawing of, I
9 assume, a dwelling place.

10 There is a notation of kitchen, living
11 room, window, trees, ditch, two neighbors on the
12 side, fences on all sides of the house, quiet
13 during the night and that sort of thing. Seems to
14 be a map with instructions or a description.

15 And on the back is a -- you have latent
16 print tags in the way of some of the writing, but
17 it says, 81-year-old Asian Japanese named
18 Victim one dog, no bark -- or small, no
19 bark, trying to find the address online.

20 Q. Okay. Did you form an opinion as to
21 who wrote the letter?

22 A. Yes, Mr. Capers.

23 Q. And, lastly, State's 59, which is SLED
24 No. 8, can you tell us if you formed an opinion as
25 to who wrote that letter?

JAMIESON - DIRECT EXAM BY MS. WILLIAMS

1 A. Yes. Again, it was Mr. Capers. In my
2 report when I have double-sided writing, it would
3 be -- the item will be, say, Item 7. 71 will be
4 the face of the document and 72 will be the back.
5 So that's why there's annotations to that effect.

6 Q. Okay. Thank you. Do you have an item
7 in your report noted as Item 9?

8 A. Yes.

9 Q. And were you able to connect that to
10 Mr. Capers?

11 A. I'm just making doubly sure. Item 9
12 was never identified with anyone.

13 Q. Okay. So you did not form an opinion
14 that Mr. Capers wrote this?

15 A. No, definitely not. I definitely had
16 no opinion.

17 MS. WILLIAMS: May I approach?

18 THE COURT: Yes.

19 BY MS. WILLIAMS:

20 Q. This is item -- State's 121. Can you
21 tell us if this is Item 9?

22 A. Yes, this is Item 9.

23 Q. And this is the item you did not
24 connect with Mr. Capers?

25 A. That's correct.

JAMIESON - CROSS EXAM BY MS. CAPERS

1 MS. WILLIAMS: Beg the Court's
2 indulgence?

3 THE COURT: Certainly.

4 MS. WILLIAMS: No further questions.
5 Please answer any questions from the
6 defense.

7 THE COURT: You may cross-examine.

8 CROSS-EXAMINATION

9 BY MS. CAPERS:

10 Q. Do you know who wrote Item 9?

11 A. No, I do not.

12 Q. You don't?

13 A. No.

14 Q. Do you remember a communication where
15 you were -- well, you said you do not?

16 A. That's correct.

17 Q. Do you recall opening Container C,
18 which contained all of the Items 1 through 7?

19 A. It's my recollection that Container C
20 when it was submitted was said to contain Items 1
21 through 7, but it did not have them in it.

22 When the people in log-in get the
23 submission, they don't open up the envelope so they
24 don't really know what is in it. It's just
25 whatever is listed on the submission documents.

JAMIESON - CROSS EXAM BY MS. CAPERS

1 And when I opened it up, 1 through 7
2 weren't in it.

3 Q. Okay. And so you have chain of custody
4 standards and protocols, correct?

5 A. Yes, we do.

6 Q. And so if a container was submitted to
7 you, the items were supposed to be in it. They
8 were not so your chain of custody is broken.

9 A. No. The chain of custody is in tact,
10 because when I opened Container C, I made notations
11 in the case records that those items were not in
12 the containers, and that they were actually with --
13 still with Container A.

14 So the chain really wasn't broken at
15 all because we still had control of 1 through 7.
16 It's just they weren't in Container C as submitted.

17 Q. Where were they?

18 A. In Container A.

19 Q. What's Container A? Because the notes
20 that I have say Container C was opened, Items 1
21 through 7 had not been submitted.

22 A. That's correct.

23 Q. Item 18, was this -- was 1 through 7
24 also considered Item 18?

25 A. No. 18 was different item.

JAMIESON - CROSS EXAM BY MS. CAPERS

1 Q. Okay. That's right. So where were the
2 notes?

3 A. I will have to check my notes.

4 Q. If I show you an e-mail or a SLED
5 sheet, would you be able to maybe read that and it
6 would refresh your memory?

7 A. I have a phone log dated 6/8/18,
8 discussion of the materials submitted in Submission
9 Number 3. Several new notes not having previously
10 submitted, as well as five requests sent was from
11 Aaron Capers.

12 Container C was opened. It was
13 apparent that Items 1 through 7 had not been
14 resubmitted. 18 was in Container C. Along with
15 18, there were nine new question items. With
16 consultation evidence receiving, we placed Items 1
17 through 7 as having not been submitted.

18 Container C was deleted and the actual
19 envelope was made evidence Number 18. The new
20 Items 19 through 27 were created and placed in
21 Container D.

22 Q. So you placed Items 1 through 7 as not
23 having been submitted?

24 A. Resubmitted.

25 Q. Not being resubmitted?

JAMIESON - CROSS EXAM BY MS. CAPERS

1 A. Resubmitted.

2 Q. Okay.

3 A. We already had them.

4 Q. You received -- did you receive the
5 documents electronically?

6 A. No.

7 Q. Okay. If you would read further down,
8 I think indicates that you received the documents
9 electronically because the --

10 A. What -- which what portion are you
11 referring to?

12 THE COURT: You may approach.

13 MS. CAPERS: May I approach?

14 THE COURT: Why don't you mark what
15 you're showing him for identification.

16 MS. CAPERS: Yes, sir.

17 THE COURT: Before you testify, just
18 show it to counsel, but have it marked for
19 identification so it remains with the record.

20 MS. CAPERS: I would like to have this
21 marked as Defense Exhibit 5.

22 THE COURT: Defense Exhibit 5 for
23 identification only.

24 (DFT. EXH. 5, Lab Report, was marked
25 for identification.)

JAMIESON - CROSS EXAM BY MS. CAPERS

1 BY MS. CAPERS:

2 Q. So you reviewed this?

3 A. Yes. If I could have it in front of me
4 when I attempt to talk about it. I didn't memorize
5 it. Thank you.

6 Notation is in the electronic custody
7 of records, Items 1 through 7 never left the
8 custody of Andrena Harrison. We already had it at
9 the laboratory. The submitter thought they were
10 being resubmitted according to the submission
11 documents, and they were not in Container C because
12 the lab already had them.

13 When I opened the container, items were
14 not there having never left Ms. Harrison's custody.
15 The -- as per the e-mail documents section, I took
16 custody of 1 through 7 electronically and then
17 Mrs. Harrison will take electronic custody of all
18 of the items.

19 So the chain was not broken. The items
20 were in the lab. I had already examined them and
21 they were turned over to Ms. Harrison.

22 Q. Yes, sir. But you just told me you did
23 not receive them electronically in your --

24 A. Okay. Yeah. I -- for the purposes of
25 the LIM system, I received them electronically.

JAMIESON - CROSS EXAM BY MS. CAPERS

1 Q. Okay. But you didn't receive the
2 original letters because they were with someone
3 else?

4 A. That's correct.

5 Q. Okay. And with regard to Jesse Gill,
6 do you recall there was a -- were you ever
7 instructed to leave anything out of the report with
8 regard to Jesse Gill?

9 A. Yes, I was.

10 Q. And what did you end of up leaving out
11 with regard to Jesse Gill?

12 A. His name.

13 Q. Just his name. Okay. Were any items
14 ever found to be written by Jesse Gill?

15 A. Let me just check. No, I didn't
16 receive any from Jesse Gill.

17 Q. You didn't identify anything as having
18 been written by Jesse Gill?

19 A. I never received a known handwriting
20 from Mr. Gill.

21 MS. CAPERS: Beg the Court's
22 indulgence?

23 THE COURT: Yes, ma'am.

24 BY MS. CAPERS:

25 Q. And Item 9 is the note that we were

JAMIESON - CROSS EXAM BY MS. CAPERS

1 discussing a little earlier?

2 A. Yes.

3 Q. Okay. And you didn't identify that as
4 having been written by Jesse Gill?

5 A. No.

6 Q. Okay. When you were examining these
7 documents, were there some places in the notes
8 where the writing did not match even though the --
9 certain portions matched Aaron Capers, certain
10 things did not match his?

11 A. When I normally do notes, I will do two
12 columns: One of similarities and one of
13 differences and their haves, I call it.

14 And in my no haves in the direct
15 comparison to Mr. Capers' writing, I have a dollar
16 sign with two strokes through it. And that
17 annotated beside that was not representative in the
18 known documents. So I could not compare it. So
19 that would be a no have.

20 And I had a seven with a stroke through
21 the middle of it, staff, versus the seven without
22 the -- without the staff or the stroke in the
23 middle of it. And there was only one of those in
24 the known. So I didn't really represent a full
25 range of variation that I could have gone on in the

JAMIESON - REDIRECT EXAM BY MS. WILLIAMS

1 known.

2 Q. Okay. And as to State's Exhibit Number
3 57, I'm not sure what the item number is, your item
4 number. This is the map. With regard to that
5 item, was there something on the note that was not
6 written by Aaron Capers?

7 A. No. I have no notation of that. I
8 have the fact that Items 1 through 6, 7.1, 7.2 and
9 8.1 were all written by the one author.

10 MS. CAPERS: Okay. And I don't have
11 any further questions, Your Honor.

12 THE COURT: All right. Redirect?

13 REDIRECT EXAMINATION

14 BY MS. WILLIAMS:

15 Q. Mr. Jamieson, you did three separate
16 reports; is that correct?

17 A. That's correct.

18 Q. And there was one report dated May 7,
19 2018; is that correct?

20 A. I would have to double-check. Yes. I
21 published -- I published a report on May 7th.

22 Q. And in that report you have already
23 come to the conclusion that Aaron Capers wrote all
24 of the letters that I showed you; is that correct?
25 Items 1 through 8.1 in the SLED -- in the SLED

JAMIESON - REDIRECT EXAM BY MS. WILLIAMS

1 numbers, and I believe we showed you Items 52
2 through 59?

3 A. Your items or mine?

4 Q. Your items are 1 through 8.1 and our
5 items that correspond are State's 52 through 59.

6 A. Yeah.

7 Q. That we went through one at a time?

8 A. I identified Mr. Capers as having been
9 the writer.

10 Q. So you had already come to the
11 conclusion in May?

12 A. Yes.

13 Q. And when Mrs. Capers was up here asking
14 you about some letters that were in a different
15 canister, that was in June, right?

16 A. Yes, that's correct. I had already
17 examined the materials before passing them along to
18 latent prints.

19 Q. So it really didn't matter anymore; you
20 had already come to your conclusion?

21 A. That's correct.

22 Q. And when Mrs. Capers was asking you if
23 you identified anything with Jesse Gill, it's not
24 that you didn't identify anything. You had nothing
25 -- you had nothing to compare it to?

JAMIESON - REDIRECT EXAM BY MS. WILLIAMS

1 A. That's correct; I had no samples from
2 Mr. Gill.

3 Q. You didn't do any analysis?

4 A. Yeah. Item 9 was not tied to anybody.

5 Q. So it's not that you ruled Mr. Gill out
6 and that you identified him with it, you just
7 couldn't do an analysis with regard to Mr. Gill?

8 A. That's correct.

9 Q. And you were asked by the State Law
10 Enforcement not to name him in a report. Do you
11 know why that is?

12 MS. CAPERS: Objection; speculative.

13 THE COURT: The question is not
14 speculative; do you know why? But don't -- you can
15 answer that question.

16 THE WITNESS: Yes, I was informed.

17 BY MS. WILLIAMS:

18 Q. Okay. And what was that reason?

19 A. He was an informant.

20 Q. So a confidential informant?

21 A. Yes.

22 Q. And that was to protect his identity?

23 A. I was told not to put his name in the
24 report.

25 Q. Because he was a confidential

JAMIESON - REDIRECT EXAM BY MS. WILLIAMS

1 informant?

2 MS. CAPERS: Objection; asked and
3 answered, Your Honor.

4 THE COURT: Overruled.

5 BY MS. WILLIAMS:

6 Q. And Mrs. Capers asked you about some
7 things that didn't match up with Mr. Capers's
8 letters out of all of those letters that you
9 matched with him. And you came up with a dollar
10 sign and the number seven?

11 A. That's what is in my notes, yes.

12 Q. That's because you couldn't find a
13 dollar sign or the number seven in the known
14 standards?

15 A. I couldn't find a dollar sign in the
16 known, but I did find one seven and it didn't have
17 a cross bar in the middle of it. Again, that's not
18 enough to make it a significant or a halting
19 difference because I only had one seven within the
20 known.

21 If I had received a bunch of sevens in
22 the known, none of them having the cross bar, that
23 might have been considered to be a difference, but
24 in this case there was only one repetition. And
25 the head of the seven being -- it started and went

JAMIESON - REDIRECT EXAM BY MS. WILLIAMS

1 down and went up and then across. The head of the
2 seven was the same. It's just that it was missing
3 a cross bar.

4 Q. Okay. And so out of all those writings
5 and all of those letters, the only thing that you
6 weren't quite sure about was one dollar sign and
7 one number seven?

8 A. Well, in any handwriting comparison, I
9 look for a set of individual similarities with no
10 significant differences. So even though there was
11 the two things I didn't have, I examined the
12 documents and found them to be sufficiently
13 individual and comparable between the known
14 question to arrive at the conclusion they were
15 written by Mr. Capers.

16 Q. Is there any question in your mind, in
17 your professional opinion, that what you testified
18 to about the author of those letters that you
19 testified to from that standard, any question in
20 your mind that they were written by Aaron Capers in
21 your professional opinion?

22 A. None whatsoever.

23 MS. WILLIAMS: Okay. Thank you.

24 THE COURT: Recross?

25 MS. CAPERS: None.

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 THE COURT: Defense ready?

2 MS. CAPERS: Yes.

3 THE COURT: Let the record reflect that
4 Mr. Capers is present.

5 Bring in the jury, please.

6 (Jury in, 3:29 p.m.)

7 THE COURT: Solicitor, call your next
8 witness.

9 MS. WILLIAMS: Thank you. The State
10 calls Andrena Harrison.

11 ANDRENA HARRISON,
12 being first duly sworn, testified as follows:

13 THE CLERK: Please have a seat. State
14 your full name for the record and spell your last
15 name.

16 THE WITNESS: My name is Andrena
17 Harrison, A-N-D-R-E-N-A, H-A-R-R-I-S-O-N.

18 DIRECT EXAMINATION

19 BY MS. WILLIAMS:

20 Q. Mrs. Harrison, where do you work?

21 A. South Carolina Law Enforcement
22 Division, also known as SLED.

23 Q. Okay. And what do you do there?

24 A. I'm a latent print examiner.

25 Q. And what is your general work and

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 educational background?

2 A. I have a bachelor's degree in history
3 with a focus on prelaw; I have a master's degree in
4 public administration. My training background from
5 SLED includes but is not limited to demystifying
6 palm prints, latent print comparisons, getting
7 evidence off of complicated surfaces, comparing
8 unknown and known fingerprints, also lip, elbow,
9 and wrist impressions, third-level ridge detail,
10 first-level ridge detail, ridgeology, and a host of
11 other training.

12 Q. Okay. And during your years -- how
13 long have you been doing this kind of work?

14 A. I've been doing fingerprint work with
15 SLED since 2003. I've been in the latent print
16 department since 2007.

17 Q. Okay. And during your years as a
18 forensic examiner, have you ever been qualified as
19 an expert in the field of latent print analysis?

20 A. I have.

21 Q. And could you tell us roughly how many
22 times?

23 A. Twelve.

24 MS. WILLIAMS: Your Honor, at this
25 time, we would submit Mrs. Harrison as an expert in

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 the field of latent fingerprint analysis.

2 THE COURT: Do you wish to examine as
3 to qualifications?

4 MS. CAPERS: I do not.

5 THE COURT: She will be permitted to
6 render opinions in that area.

7 MS. WILLIAMS: Thank you, Your Honor.

8 BY MS. WILLIAMS:

9 Q. Please explain to the jury the basic
10 principles in how you conduct latent print
11 analysis?

12 A. Okay. So in order to understand how to
13 conduct latent print analysis, you must first
14 understand fingerprints, because a latent by
15 definition means hidden or not easily seen. Right?

16 So if you notice your hand and the
17 bottom of your feet have different types of skin.
18 That is known as friction ridge skin. With that
19 you have pattern types. You will see a whirl and
20 it looks like the ridges are doing this
21 (indicating) on your finger.

22 You will see loop-type so your ridges
23 go in, curve, and come right back out. Or you will
24 see an arch-type in which your ridges look like
25 they flow like a river.

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 When I'm doing my comparisons, I'm
2 looking for ridge characteristics that are inside
3 of those patterns to include bifurcations. So your
4 ridge goes up and opens or forks, a dot which looks
5 like a period at the end of a sentence. Did I see
6 bifurcations? Ridge endings and dots?

7 Q. And in the course of your work in
8 latent prints analysis, did you receive items of
9 evidence in this case?

10 A. I did.

11 Q. What types of evidence did you receive?

12 A. I received Items 1 through 14, which
13 included handwritten notes and samples; I received
14 Items 15 through 17, which included envelopes; and
15 Items 28 through 31.

16 Q. And you are referring to the SLED
17 numbers in your report?

18 A. That's correct.

19 Q. Okay. I'm going to show you a number
20 of items and see if you remember seeing these.

21 MS. WILLIAMS: I'm showing defense
22 counsel what was previously marked as 52, 58, 89,
23 90, the back side is marked as 91 and 92 and 93.
24 And 52 and 58 came out of Envelope 111, and the
25 other items came out of item Envelope 115.

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 MS. WILLIAMS: May I approach?

2 THE COURT: You may.

3 BY MS. WILLIAMS:

4 Q. Can you tell me if you recognize this
5 as one of the items that you analyzed as part of
6 your work in this case?

7 A. I do.

8 Q. And tell us a little bit about how you
9 receive items.

10 A. Okay. So I receive items through the
11 evidence processing. They receive it downstairs.
12 Our admin Lesa Chapman brings it up all sealed.
13 She puts it in storage and I retrieve it from
14 there.

15 Q. This is State's Exhibit 52. What is
16 the SLED number in your report for this?

17 A. That is Item 1 and it's SLED Lab Number
18 L-185028.

19 Q. Did you analyze this item?

20 A. I did.

21 Q. And tell us how you do that.

22 A. Okay. So with this particular piece of
23 evidence, it's a piece of paper. So it's
24 considered as being porous. That means that water
25 can go through it.

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 So the chemical I use on this
2 particular paper is known as ninhydrin. It reacts
3 to the amino acids that are found -- that comes
4 secrete from the fingers. You can see some purple
5 here.

6 So in this particular case being that
7 it was paper, I used ninhydrin to treat this to
8 develop fingerprints.

9 Q. Okay. And how -- did you compare this
10 to known standards or fingerprints of individuals?

11 A. I did.

12 Q. And whose fingerprints did you compare
13 them to?

14 A. I compared them to Aaron Capers.

15 Q. Did you have other sets of fingerprints
16 that you also compared items to?

17 A. I did. I had Items 28, 29 and 30 and
18 31.

19 Q. And whose fingerprints are those?

20 A. Item 28 belonged to Aaron Capers. On
21 my examination it has Capers, Aaron McKenzie; Item
22 29 belongs to Simmons, Jerron Kareem; Item 30,
23 Berry, Bradley Ryan; and Item 31, Gill, Jesse. If
24 I'm pronouncing that correctly.

25 Q. Could it be Jesse Gill?

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 A. It could be Jesse Gill.

2 Q. So you compared all of their
3 fingerprints to that item?

4 A. In this instance, I only compared Item
5 1.1 to Item 28, Aaron Capers was Item 28. Once we
6 make an identification, you stop there. I did
7 compare the other individuals to other items of
8 evidence.

9 Q. Okay. We'll talk about that. With
10 regard to that item, State's Number 52, what is
11 that item? Is that a note?

12 A. This is a note that starts with, I
13 don't know how.

14 Q. Did you find any fingerprints on that
15 item?

16 A. I did.

17 Q. Whose were they?

18 A. Aaron Capers.

19 Q. What does the note say, the whole note?

20 A. I want to pull my sticker off so I can
21 retrieve it.

22 I don't know how I want it done yet.
23 If they can't find her, I will -- the charges still
24 get dropped or do they need to find the body?

25 Q. Okay. Thank you.

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 MS. WILLIAMS: And, Your Honor, I'm
2 going to approach the witness with State's 58.

3 THE COURT: Okay.

4 BY MS. WILLIAMS:

5 Q. This is State's 58. What number is
6 that in your report, the SLED report?

7 A. Item 7.

8 Q. And did you compare that to
9 fingerprints?

10 A. I did.

11 Q. And whose fingerprints?

12 A. Item 7.3, I compared to Aaron Capers,
13 identified finger 6. Item 7.4, I compared to Aaron
14 Capers and identified finger 6. Item 7.5, I
15 compared for all Items 28 through 31 and was not
16 able to identify.

17 Q. Who is 28 and 31?

18 A. Okay. 28 is Capers, Aaron McKenzie; 29
19 is Simmons, Jerron Kareem; 30, Berry, Bradley Ryan;
20 31, Gill, Jesse. Gill? Is it Gill?

21 Q. Yes, ma'am.

22 A. All right. And 7.6 I also compared to
23 Items 28 through 31. I did not identify anyone.

24 Q. So when we're talking about this item
25 of evidence that you have in front of you, State's

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 58, and you are giving us numbers like 71, 72, can
2 you explain what are those numbers attached to?

3 A. Sure. So Item 7, if you can see here,
4 you will see a lab number, item number, initials.
5 It is our laboratory policy to mark items of
6 evidence. So that says Item 7, with my initials.
7 That's how I know it belongs to me.

8 You can see here, there are little
9 scales on the front and on the back. These scales
10 represent a latent fingerprint of value. I marked
11 those. So when I'm saying 7.3, that would be 7.3,
12 7.4, 7.5, and 7.6.

13 Q. And are you marking 7.1 -2, -3, -4,
14 -5, -6 as areas where you found fingerprints?

15 A. Yes, ma'am.

16 Q. Okay. And that's your way of
17 identifying them?

18 A. Yes.

19 Q. And you are saying that you compared
20 fingerprints from Aaron Capers, Bradley Berry,
21 Jesse Gill, and Jerron Simmons for that item which
22 is State's 58 and SLED No. 7?

23 A. Yes.

24 Q. And did you find anyone else's
25 fingerprints on that map and that note except Aaron

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 Capers?

2 A. I did not.

3 Q. Okay. And I'm going to show you what's
4 been marked as --

5 MS. WILLIAMS: May I approach?

6 THE COURT: You may.

7 BY MS. WILLIAMS:

8 Q. -- State's 92 and 93. And I believe
9 that is SLED 16?

10 A. It is.

11 Q. Did you analyze that for fingerprints?

12 A. I did.

13 Q. And whose fingerprints did you compare
14 for that item?

15 A. Item 16.1, I identified Aaron Capers,
16 finger number 3, right middle finger. That would
17 be this finger here. (Indicating)

18 Item 16.2, I identified Aaron Capers
19 finger number 1, right thumb finger. That would be
20 this finger. (Indicating)

21 Item 16.3 is of no value. That means
22 there's not enough there to identify or eliminate
23 anyone.

24 16.4, I identified Aaron Capers, finger
25 number 1, right thumb. That finger. (Indicating)

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 Item 16.5 is no value. Again, meaning
2 there is not enough there to identify or eliminate
3 anyone.

4 MS. WILLIAMS: Okay. And, lastly, I'm
5 showing this witness, Your Honor, what has been
6 previously marked as State's 89, but not admitted
7 into evidence.

8 BY MS. WILLIAMS:

9 Q. And can you tell me if you did any
10 analysis on State's 89?

11 A. I did.

12 Q. And whose fingerprints did you compare
13 that to?

14 A. 15.1, I identified Aaron Capers, finger
15 number 1, right thumb.

16 Q. Is that the only fingerprint on that
17 one?

18 A. It is.

19 Q. Now, you did find other fingerprints on
20 other items in this case; is that true?

21 A. That's correct.

22 Q. But not on the items I'm showing you?

23 A. That's correct.

24 Q. And whose fingerprints did you find on
25 other items?

HARRISON - DIRECT EXAM BY MS. WILLIAMS

1 A. Item 9.1, I identified Simmons, Jerron
2 Kareem. That was number 1, the right thumb.

3 Q. And what SLED number is that?

4 A. That was Item 9.1.

5 Q. Okay.

6 A. On Item 9.2, I identified Simmons,
7 Jerron Kareem, finger number 6, left thumb. Item
8 9.3, I identified Simmons, Jerron Kareem, finger
9 number 6, left thumb. Item 14.3, I identified
10 Simmons, Jerron Kareem, finger number 7, left
11 middle. That would be this one. (Indicating)

12 MS. WILLIAMS: Okay. I'm going to show
13 this witness what was previously marked as State's
14 121.

15 BY MS. WILLIAMS:

16 Q. Is that one of the items that you found
17 Mr. Simmons?

18 A. That's correct.

19 Q. Okay. And that's State's 121 and SLED
20 No. 9.

21 Were you given any information about
22 those other individuals, like whether they were in
23 the same vicinity or lived in the same place as
24 Mr. Capers?

25 A. I was not.

HARRISON - CROSS EXAM BY MS. CAPERS

1 MS. WILLIAMS: Okay. Thank you,
2 Ms. Harrison.

3 Please answer any questions from the
4 defense.

5 THE COURT: You may cross-examine.

6 CROSS-EXAMINATION

7 BY MS. CAPERS:

8 Q. Hi. How are you?

9 A. I'm good. How are you?

10 Q. Good. Did you inadvertently put and
11 fail to put some items into a container?

12 A. No, ma'am. Which items are you
13 referring to?

14 Q. Items 1 through 7.

15 A. No, ma'am, I did not.

16 Q. You did not. Okay. Ms. Harrison, I
17 will show you what was marked as State's 111. Have
18 you seen those?

19 A. Yes, ma'am.

20 Q. Okay. And do you -- so it's your
21 testimony that you did not fail to place these
22 items in a container at SLED?

23 A. Not to the best of my knowledge, I
24 don't recall that. Would you like to tell me
25 exactly what you're referring to?

HARRISON - CROSS EXAM BY MS. CAPERS/REDIRECT - WILLIAMS

1 Q. On June 29th, can you check your notes
2 because there is an issue -- it says Container C
3 was opened, but Items 1 through 7 were not in them.
4 And they were placed in there by you.

5 A. On June 29th?

6 Q. Yes, ma'am. June 18th or June 29th.

7 A. I have June 18th it was in my custody.

8 Q. And what did you do with them?

9 A. Okay. I would have been processing
10 these items of evidence. I received them May 15,
11 2018. I ended this worksheet -- my examination
12 sheet on June 12th.

13 I began my fingerprints analysis
14 worksheet where I'm actually doing my comparison
15 June 11th through June 21st.

16 MS. CAPERS: Okay. Thank you,
17 Ms. Harrison.

18 THE WITNESS: You're welcome.

19 MS. CAPERS: No further questions, Your
20 Honor.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION

23 BY MS. WILLIAMS:

24 Q. So you were already done with your work
25 by the time whatever she's referring to happened

HARRISON - CROSS EXAM BY MS. CAPERS/REDIRECT - WILLIAMS

1 with the canister?

2 A. I was done with my fingerprint
3 processing work by the time what she's referring
4 to. I was now moving on to the comparison part.

5 Q. Okay. But you were done with handling
6 the evidence?

7 A. Yes.

8 MS. WILLIAMS: Thank you very much.

9 THE COURT: Recross?

10 MS. CAPERS: No further questions.

11 THE COURT: Thank you. You may come
12 down.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Do you wish this witness to
15 be excused?

16 MS. WILLIAMS: Yes, Your Honor.

17 THE COURT: Any objections?

18 MS. CAPERS: No, Your Honor.

19 THE COURT: You are free to leave.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Solicitor, call your next
22 witness, please.

23 MS. WILLIAMS: Your Honor, at this
24 time, the State would rest.

25 THE COURT: Ladies and gentlemen, there

CAPERS - EXAM BY COURT

1 (The following proceedings were had
2 3/21/2019, State v. Capers, 9:38 a.m.)

3 EXAMINATION

4 BY THE COURT:

5 Q. Good morning, Mr. Capers.

6 A. Morning.

7 Q. You can remain seated; you don't have
8 to stand. I know even before today you have
9 discussed with your lawyer the plans of testifying
10 and not testifying; is that correct, sir?

11 A. Yes, sir.

12 Q. And, obviously, having practiced law,
13 and I'm anticipating -- and I know that your lawyer
14 has been involved for a long time, this is not --
15 this is something that's been an ongoing
16 discussion, correct?

17 A. Yes, sir.

18 Q. Okay. And you heard me tell the jury
19 at the onset that in any criminal dispute, any
20 prosecution of any person, that a jury cannot look
21 to the defendant to prove or disprove anything
22 because you have no responsibility to do that.

23 Because, as I say, every time I set a
24 bond, until the jury decides or you change -- you
25 enter a guilty plea and that plea is accepted, as

BERRY - DIRECT EXAM BY MS. CAPERS

1 for the jury's consideration?

2 MS. CAPERS: Yes, Your Honor.

3 THE COURT: You may call your first
4 witness.

5 MS. CAPERS: The defense calls Bradley
6 Berry.

7 BRADLEY BERRY,

8 being first duly sworn, testified as follows:

9 THE CLERK: Please have a seat. State
10 your full name for the record and spell your last
11 name.

12 THE WITNESS: Bradley Berry, B-E-R-R-Y.

13 DIRECT EXAMINATION

14 BY MS. CAPERS:

15 Q. Hi, Mr. Berry. How are you?

16 A. Doing good. How about you?

17 Q. Good. Thank you.

18 How old are you?

19 A. I'm 22.

20 Q. Twenty-two?

21 A. Yes, ma'am.

22 Q. And are you married?

23 A. Not at the moment.

24 Q. Engaged?

25 A. Yes, ma'am.

BERRY - DIRECT EXAM BY MS. CAPERS

1 Q. Okay. And do you know the defendant
2 Aaron Capers?

3 A. We were locked up together in
4 Hill-Finklea.

5 Q. Okay. Do you remember when that was?

6 A. It was in -- I was locked up
7 September 14th of 2017. From there that's when me
8 and him were knowing each other.

9 THE COURT: You need to speak up and
10 pull that mic a little closer to you.

11 THE WITNESS: Yes, sir.

12 BY MS. CAPERS:

13 Q. And how did you know him?

14 A. Me and him were in Delta pod together
15 and the isolation unit to keep us separated from
16 other people within the facility. It was me, him,
17 Simmons, and Jesse Gill were in the same cell
18 together.

19 Q. And when you say, Simmons, what is
20 Simmons' first name?

21 A. Jerron.

22 Q. And Jesse Gill?

23 A. Yes, sir.

24 Q. Okay. Can you describe the pod that
25 you were in?

BERRY - DIRECT EXAM BY MS. CAPERS

1 A. We were in a -- I think a 10-by-10
2 cell. There were four beds, two windows, the main
3 door for us to go in and out and then there was a
4 sink and a bathroom.

5 Q. Okay. And could you see everyone?

6 A. Yes, sir.

7 Q. Okay. Did you ever see Aaron and Jesse
8 Gill interacting?

9 A. Yes, sir.

10 Q. Okay. And how were they interacting?
11 What were they doing?

12 A. They would just talk, joke around.
13 They would write notes back and forth; and then
14 when everything was said and done, they would rip
15 them up and flush them down the toilet.

16 Q. Did you actually see Mr. Gill writing
17 notes?

18 A. Yes, ma'am.

19 Q. And who did he give those notes to?

20 A. Aaron Capers.

21 Q. Okay. And do you have any idea what
22 those notes were saying?

23 A. No, ma'am, I do not know.

24 Q. Do you know anything about Mr. Gill's
25 background?

BERRY - DIRECT EXAM BY MS. CAPERS

1 A. Only thing I know of he's involved in
2 MS-13 and he's a known offender of breaking the
3 law. That's all of I know of him.

4 Q. Well, did you hear him talking about
5 himself when you were in the cell with him?

6 A. Yes.

7 MR. ALFARO: Objection; calls for
8 hearsay.

9 THE COURT: I'll allow the question;
10 did he hear him talking about himself. That's --
11 overruled.

12 BY MS. CAPERS:

13 Q. What was he saying?

14 A. He was --

15 MR. ALFARO: Objection.

16 THE COURT: Excuse me, overrule the
17 objection under 801(d) (1).

18 THE WITNESS: He was saying that he was
19 in a known gang, MS-13; has 13s all over his neck
20 and body. He was saying that he's been in prison
21 for murder, how he's done other stuff to families
22 to make them disappear, or he could have anybody
23 touched if they cross him or disregard him or
24 disobedient to him. Stuff like that.

25 BY MS. CAPERS:

BERRY - DIRECT EXAM BY MS. CAPERS

1 Q. Was he saying those things to you?

2 A. No, ma'am, he was just saying that in
3 general. And then I guess something went wrong or
4 whatever and that's when he made a statement to
5 everybody in the cell including me, Simmons, and
6 Aaron.

7 Q. Okay. And tell us again what he said.

8 A. He said if anything happens or anybody
9 crosses him, he can have us touched or disappear or
10 have our families hurt.

11 Q. How do you feel about Jesse Gill now?

12 A. I mean, I'm not scared. I don't want
13 anything to happen to my family.

14 Q. Do you recall a time when Aaron Capers
15 went downstairs for a visit?

16 A. Yes, ma'am, I believe so.

17 Q. Do you know what -- can you tell us
18 what Jesse Gill did while Aaron was downstairs?

19 A. When Aaron went downstairs that's when
20 Gill asked me if I knew what he was in for. So, I
21 mean, it's none of my business what people do. So
22 I laid back down to read my book, and that's when I
23 look over and I seen him going through his stuff.

24 I don't know if he was trying to find
25 his Rule 5 or what he was locked up for, but I seen

BERRY - DIRECT EXAM BY MS. CAPERS

1 him going through his personal belongings.

2 Q. And do you remember Aaron being upset
3 about anything?

4 A. Only thing I remember him being upset
5 about was when his friend passed away.

6 Q. When his friend passed away?

7 A. Yes, ma'am.

8 Q. And do you remember anything else that
9 Aaron Capers was upset about?

10 A. No, ma'am, I don't.

11 Q. Did you ever hear Jesse Gill ask anyone
12 to help -- if he could help them with their case?

13 A. Only person he told that to was Aaron.

14 Q. He told Aaron that?

15 A. Yes, he did.

16 Q. And do you remember specifically what
17 he said?

18 A. Unfortunately, I don't because that's
19 -- he didn't ask me and I didn't want no part of
20 it. Only thing I could remember him saying was
21 that he's beat case before, so he knows how to work
22 the system is all he said.

23 Q. And did Jesse Gill have a favorite
24 phrase that he used?

25 A. He had one. The phrase was, no face,

BERRY - DIRECT EXAM BY MS. CAPERS

1 no case, which means if the victim is not there or
2 anything happens, the case is not held up and then
3 you can be released is what he would say.

4 Q. How often would he say that?

5 A. Maybe two or three times.

6 Q. Two or three times a day or two or
7 three times a week?

8 A. It would be here and there.

9 Q. Okay, now are you here willingly? Are
10 you here under subpoena?

11 A. I'm here under subpoena.

12 Q. And when you were asked to come in, did
13 you make one request?

14 A. I asked not to come because I didn't
15 want no part of it. All I wanted to do was write
16 an affidavit. So I didn't want to come to court.
17 I didn't want to be brought up in this situation
18 that I'm in now.

19 Q. Okay. And when you say -- when you
20 talked about -- when I spoke to you last night, did
21 you make one request of me? Did you ask me -- you
22 asked me --

23 MR. ALFARO: Objection; leading.

24 THE COURT: Sustained.

25 BY MS. CAPERS:

BERRY - DIRECT EXAM BY MS. CAPERS

1 Q. Did you -- do you fear that anything
2 will happen to you as a result of this testimony?

3 A. Only thing I'm worried is about him
4 coming after me and my family.

5 Q. Do you think he has the ability to do
6 that?

7 A. That I believe he does.

8 Q. Did you request protective custody?

9 A. I did.

10 MS. CAPERS: One second.

11 BY MS. CAPERS:

12 Q. Do you remember when La Don and Aaron
13 came into the cell?

14 A. That I do not.

15 Q. Did they come in together?

16 A. All I remember is that Gill came up
17 first, which is Jesse Gill. He came up first, and
18 then maybe two or three days later is when Aaron
19 came up.

20 Q. And you heard La Don brag about beating
21 cases?

22 A. Yes.

23 Q. Was there anything else that he bragged
24 about?

25 A. No.

BERRY - CROSS EXAM BY MR. ALFARO

1 Q. Nothing else?

2 A. No, ma'am.

3 Q. What about the gang stuff?

4 A. He always bragged about that.

5 MS. CAPERS: Okay. No further
6 questions, Your Honor.

7 THE COURT: Cross-examine?

8 CROSS-EXAMINATION

9 BY MR. ALFARO:

10 Q. Mr. Berry, you said you were in a --
11 you described the cell that you were in with Aaron
12 Capers and Jesse Gill was a 10-by-10 cell. I
13 believe you said you could see everybody?

14 A. Yes, sir.

15 Q. And, in fact, I think you also
16 testified that you saw the defendant Aaron Capers
17 and Jesse Gill talking and joking with each other?

18 A. Yes, sir.

19 Q. Inside that 10-by-10 cell that you can
20 see everything that goes on, correct?

21 A. Yes, sir.

22 Q. And everyone in the cell knew that
23 Jesse Gill was in a gang, MS-13, correct?

24 A. Yes, sir.

25 Q. And you just testified on direct that

BERRY - CROSS EXAM BY MR. ALFARO

1 he had talked about that he could kill people or
2 get people touched is how you described it; is that
3 correct?

4 A. The way I said was he could have people
5 disappear or touched. I didn't say anything about
6 killed.

7 Q. You said you weren't scared of Gill?

8 A. I'm not scared of him. I don't want
9 anything to happen to my family. That's my biggest
10 fear.

11 Q. But you saw Gill and Aaron passing
12 notes back and forth as well?

13 A. Yes, sir.

14 Q. And those notes were little scraps of
15 paper?

16 A. Maybe about that big. (Indicating)

17 Q. I'm going to show you State's 52, 53,
18 54, 55, 56, 57, 58, 59. Are these the kind of
19 little scraps and little notes that you're talking
20 about that you saw the defendant passing back and
21 forth, these types of things?

22 A. Yes, sir.

23 Q. At any point in time, did you see Jesse
24 Gill grab him by the hand and make him write little
25 notes like that?

WRIGHT - DIRECT EXAM BY MS. CAPERS

1 A. No, sir, I did not.

2 MR. ALFARO: Thank you.

3 THE COURT: Redirect?

4 MS. CAPERS: No questions, Your Honor.

5 THE COURT: Very well. You may come
6 down, Mr. Berry. Do you wish the witness to be
7 excused?

8 MS. CAPERS: Yes, sir.

9 THE COURT: Any objection?

10 MR. ALFARO: No, Your Honor.

11 THE COURT: You are free to leave.

12 Do you have any additional witnesses?

13 MS. CAPERS: Yes, sir, we call Officer
14 Wright, Lindsey Wright.

15 LINDSEY WRIGHT,
16 having been previously duly sworn, testified as
17 follows:

18 THE COURT: I would remind you that you
19 are still under oath.

20 THE WITNESS: Yes, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. CAPERS:

23 Q. Hi. How are you?

24 A. Good.

25 Q. Okay. We talked earlier about some

WRIGHT - DIRECT EXAM BY MS. CAPERS

1 reports that you had written, correct?

2 A. Yes.

3 Q. And I just -- do you consider your
4 reports to be pretty detailed?

5 A. I do.

6 Q. Okay. And in your report dated
7 12/12/17 --

8 A. Just a moment. 12/22?

9 Q. Yes. And it's three pages.

10 A. Okay.

11 Q. And in that report, do you give a
12 description of the house?

13 A. Let me -- I have 12/23. Is that the
14 one you're referring to?

15 Q. No. Mine says 12/22.

16 A. Do you mind if she --

17 Q. I'll show it to you to make sure you're
18 looking at the correct report. (Indicating)

19 Okay. Hold on one second. I'm sorry.

20 Okay. On 1/5 -- let me go to 1/5.

21 A. Okay.

22 Q. Do you -- when you were talking about
23 the victim and her dog, did you -- what did you say
24 about the dog?

25 A. On 1/5?

WRIGHT - DIRECT EXAM BY MS. CAPERS

1 Q. Uh-huh.

2 A. That's not in reference to the victim's
3 dog. That's in reference to a search warrant.

4 Q. What did *Victim* explain about her dog?

5 A. I have three reports for that day. Can
6 you show me which one you're referring to?

7 Q. Yes. The one dated 1/5.

8 A. There are three of them for that date.

9 Okay.

10 Q. Okay. And what did Ms. *Victim* say
11 about her dog?

12 A. She explained that he does not normally
13 bark.

14 Q. Okay. And did you interview her?

15 A. I did.

16 Q. And on that -- was that videotaped?

17 A. It was.

18 Q. Was it part of discovery?

19 A. I believe so. I didn't prep discovery.
20 I can't confirm.

21 Q. Did she talk about her dog not barking
22 in that videotape?

23 A. It's documented in my report, so I
24 would assume so.

25 Q. You would assume so. Okay. Okay.

WRIGHT - CROSS EXAM BY MS. WILLIAMS

1 MS. CAPERS: Thank you, Ms. Wright.

2 THE COURT: Cross-examine.

3 CROSS-EXAMINATION

4 BY MS. WILLIAMS:

5 Q. Investigator Wright, you did interview
6 Ms. *Victim*: extensively and there was a tape
7 recording of that; is that correct?

8 A. That's correct.

9 Q. And you're aware of the fact that after
10 she was assaulted she had a stress-induced heart
11 attack?

12 A. Correct. I was with her.

13 Q. And that that was a jarring experience
14 for her?

15 A. Yes, ma'am.

16 Q. And sometimes she has difficulty
17 thinking about this incident?

18 A. Yes, ma'am.

19 Q. And sometimes forgets things about it?

20 A. Yes, ma'am.

21 Q. But on the day that you interviewed
22 her, she told you some other details about the
23 attack. Do you remember her telling you, I saw his
24 knife in the pocket because he pulled it out, the
25 knife. So I know I'm going to die. That's my mind

WRIGHT - CROSS EXAM BY MS. WILLIAMS

1 because he had a knife.

2 Do you remember her saying that?

3 A. Yes, ma'am.

4 Q. Do you remember her saying he's going
5 to kill me, don't kill me?

6 A. Yes, ma'am.

7 Q. Do you remember her saying, I went into
8 the bedroom and then I saw the knife?

9 A. (No response)

10 Q. I can refresh your memory with the
11 transcript if it would refresh your recollection.

12 THE COURT: If you have the report, you
13 can refer to it.

14 MS. WILLIAMS: Well, I have a
15 transcript of the videotape, and she may not have
16 all of that in the report.

17 MS. CAPERS: I'm going to object.
18 Actually, the transcript is of the deposition.

19 MS. WILLIAMS: No, it's not.

20 MS. CAPERS: Objection.

21 THE COURT: She asked about the
22 videotape.

23 MS. WILLIAMS: May I approach, Your
24 Honor?

25 THE COURT: You may.

WRIGHT - CROSS EXAM BY MS. WILLIAMS

1 BY MS. WILLIAMS:

2 Q. If you could look at line 9 -- from 7
3 through 10.

4 THE COURT: Solicitor, if you would
5 mark that, please, and we'll have it marked as a
6 State's Exhibit for ID only.

7 (STATE EXH. 122, Transcript, was marked
8 for identification.)

9 THE COURT: State's Exhibit 122 for
10 identification only.

11 Ladies and gentlemen, one of the things
12 I've had jurors over the years say, we remember a
13 witness referencing a document, and we don't have
14 that document. When you hear the word ID only,
15 that means that you can consider the testimony of
16 the witness concerning that document, but that
17 document will not accompany you to your jury room.

18 Any document that is admitted, and you
19 have heard me say, admitted, subject to objection,
20 or not to -- no objection, those documents will be
21 in the jury room.

22 I just wanted you to know, if you say,
23 well, wait a minute, this witness looked at
24 something; the reason is it's ID only. That's why
25 you won't get it.

WRIGHT - CROSS EXAM BY MS. WILLIAMS

1 Excuse me for interrupting you.

2 BY MS. WILLIAMS:

3 Q. Does that document refresh your memory
4 as to what Ms. *Victim* told you?

5 A. It does.

6 Q. And what did she tell you?

7 A. She explained that the suspect had spit
8 on her and then she also said that he had a mask
9 that the spit was dripping from.

10 Q. Do you remember if she told you that
11 the mask had big white buck teeth?

12 A. I believe she did.

13 Q. Did you remember her telling you that
14 he grabbed her breast?

15 A. Yes.

16 Q. And do you remember her telling you
17 what he told her to do after he ejaculated in her
18 mouth?

19 A. Yes. He instructed her to swallow.

20 Q. Do you remember her telling you that
21 she tried to get away once?

22 A. Yes.

23 Q. And what happened? What did she tell
24 you happened?

25 A. If you could give me a moment to look

WRIGHT - REDIRECT EXAM BY MS. CAPERS

1 at my notes and make sure I tell you everything.

2 She stated that she tried to run out
3 the front door but was so upset she could not open
4 it, and the suspect beat her to the door and put
5 his hand on the door.

6 Q. Do you remember if she told you that he
7 sort of grabbed her and got her up?

8 A. I believe that was in reference to the
9 initial entry into the residence.

10 Q. Okay. But grabbed her by both of her
11 arms?

12 A. Yes.

13 MS. WILLIAMS: Thank you. No further
14 questions.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION

17 BY MS. CAPERS:

18 Q. And in that same transcript, how tall
19 did she say he was?

20 A. I don't recall the exact specifics. I
21 would have to look at the transcript again.

22 THE COURT: You just had it.

23 THE WITNESS: I don't believe it was on
24 that page.

25 THE COURT: I see.

WRIGHT - REDIRECT EXAM BY MS. CAPERS

1 MS. CAPERS: May I have the transcript,
2 please?

3 MS. WILLIAMS: May we approach?

4 THE COURT: You may.

5 (Bench conference)

6 BY MS. CAPERS:

7 Q. When you spoke to her, didn't she tell
8 you that he did not have on gloves?

9 A. Correct.

10 Q. And did she tell you that he touched
11 the drawers?

12 A. I believe she said that she thought
13 that he did because they were pulled out.

14 Q. And did she say that he was talking to
15 her and trying to calm her down?

16 A. Yes, she did.

17 Q. And, specifically, what was he doing?

18 A. Just a moment. He would count to ten
19 as he continued through the acts.

20 Q. And but when he was counting to ten,
21 what was he attempting to do?

22 A. To calm her down.

23 Q. Okay. And didn't he tell her that he
24 wasn't going to hurt her?

25 A. Just a moment. He -- the report

WRIGHT - REDIRECT EXAM BY MS. CAPERS

1 reflects that she asked the suspect not to kill
2 her, and that he said if she did what he told her
3 to he would not kill her.

4 Q. And did she tell you at all -- did she
5 mention glasses, the mask having glasses?

6 A. I don't recall that information.

7 Q. Do you recall your interview with her
8 at the police department?

9 A. I do.

10 Q. And are you saying you don't recall her
11 saying that or she didn't say it?

12 A. I don't recall her mentioning glasses.

13 Q. Okay. And did you ever show her the
14 mask?

15 A. No, I did not.

16 Q. Did you ever show her anything that you
17 collected as part of that that may have been
18 related to the assailant?

19 A. No, I did not.

20 Q. So no one verified anything with
21 Ms. Victim?

22 A. I can't answer that question.

23 Q. And she told you that he never opened
24 the knife, correct?

25 A. Correct.

WRIGHT - REDIRECT EXAM BY MS. CAPERS

1 MS. CAPERS: Beg the Court's
2 indulgence?

3 THE COURT: Certainly.

4 BY MS. CAPERS:

5 Q. And what did she say about her dog in
6 the video?

7 A. I believe she said that her dog did not
8 bark.

9 Q. Okay. And what did she say about the
10 defendant's complexion?

11 A. That he was dark.

12 Q. And, again, with regard to the height,
13 what did she tell you about his height?

14 A. I don't recall her telling me that he
15 was tall.

16 Q. You don't recall her saying he was very
17 tall, over six feet, 6-3.

18 A. I don't recall that information.

19 Q. If I showed you a copy of the
20 transcript, would you be able to --

21 A. Yes, ma'am.

22 THE COURT: Have it marked as
23 Defendant's Exhibit for identification,
24 please.

25 BY MS. CAPERS:

WRIGHT - RECROSS EXAM BY MS. WILLIAMS

1 Q. And so she did say he looked more like
2 six feet?

3 A. She did.

4 THE COURT: Mrs. Capers, have that
5 page, please, before you put it away, marked as
6 Defendant's Exhibit.

7 BY MS. CAPERS:

8 Q. What color did she say he had on?

9 A. Black clothing. She said dark clothes,
10 like black.

11 THE COURT: Hold on just a second.

12 (DFT. EXH. 6, Excerpt of transcript,
13 was marked for identification.)

14 MS. CAPERS: No further questions.

15 THE COURT: Recross?

16 RECROSS-EXAMINATION

17 BY MS. WILLIAMS:

18 Q. So Ms. ~~Victim~~ said that he was more
19 like six feet?

20 A. Uh-huh.

21 Q. Do you remember how tall the defendant
22 is?

23 A. According to the DMV he is 5 foot 11.

24 MS. WILLIAMS: Thank you.

25 FURTHER REDIRECT EXAMINATION

MYERS - DIRECT EXAM BY MS. CAPERS

1 BY MS. CAPERS:

2 Q. And just --

3 THE COURT: No, ma'am. No, ma'am.

4 All right. Thank you, Ms. Wright. You
5 may step down.

6 Call your next witness.

7 MS. CAPERS: We call Officer Myers.

8 THE COURT: Officer Myers.

9 WENDY MYERS,

10 having been previously duly sworn, testified as
11 follows:

12 THE COURT: Good morning, Officer
13 Myers. I would just remind you that you are still
14 under oath.

15 THE WITNESS: Thank you.

16 DIRECT EXAMINATION

17 BY MS. CAPERS:

18 Q. Hi.

19 A. Hi.

20 Q. I actually -- I'm sorry to call you
21 back up.

22 A. That's okay.

23 Q. I wanted to talk about your report and
24 how detailed it was.

25 A. Okay.

MYERS - DIRECT EXAM BY MS. CAPERS

1 Q. And if I could, do you recall writing a
2 report on 12/22/17?

3 A. I do.

4 Q. And in that report, what are you
5 describing?

6 A. The crime scene and processing the
7 crime scene.

8 Q. Okay. And do you go into detail about
9 the layout of the victim's house?

10 A. I do.

11 Q. Okay. And is this report a part of the
12 discovery?

13 A. As far as I know, yes, it would be.

14 Q. If I could ask you to step down, please
15 -- or, actually, you can stay right there. I'm
16 going to give you a blank sheet of paper.

17 A. Okay.

18 Q. And if I could, I will leave the report
19 with you.

20 THE COURT: We need to mark it.

21 MS. CAPERS: Okay. I need to mark this
22 as Defendant's Exhibit Number 7 for identification.

23 (DFT. EXH. 7, Report, was marked for
24 identification.)

25 BY MS. CAPERS:

MYERS - DIRECT EXAM BY MS. CAPERS

1 Q. Can you draw?

2 A. I don't know how pretty it would be,
3 but I will give it a try.

4 Q. All right. With this being north,
5 south, east, and west, those are the directions.

6 A. Okay.

7 Q. And if you look at your report, I'm
8 going to give you what your report says.

9 A. Okay.

10 Q. And if you could draw this out while I
11 call it out.

12 A. Okay.

13 Q. The residence is a one-story
14 single-family dwelling with beige siding. I
15 entered the residence through the garage door.

16 You can start.

17 A. I need to know which direction. Which
18 way does the house face?

19 Q. The house is facing -- I don't know.

20 THE COURT: If you want her to draw it,
21 why don't you give her the report and then you can
22 -- then she can do it.

23 MS. CAPERS: All right.

24 THE WITNESS: (Drawing)

25 BY MS. CAPERS:

MYERS - DIRECT EXAM BY MS. CAPERS

1 Q. Ms. Myers, you're only drawing the
2 house?

3 A. Yes, that's correct. (Drawing)

4 THE COURT: Ms. Capers, she's
5 completed.

6 BY MS. CAPERS:

7 Q. Did you draw the homes from the first
8 page?

9 A. Did I draw what?

10 Q. Did you draw -- did you start from
11 here?

12 A. Yes. The house is facing south.

13 Q. Okay. And where are the homes next to
14 it?

15 A. Okay.

16 Q. And did you draw the wooded area?

17 A. I just did.

18 Q. Okay. When you look at this --

19 THE COURT: First of all, if you're
20 comparing that, you have to have that admitted and
21 put it into evidence, please.

22 MR. ALFARO: May I see it?

23 MS. CAPERS: State would move to admit
24 this into evidence. I'm not sure what --

25 THE COURT: Number 8.

MYERS - DIRECT EXAM BY MS. CAPERS

1 THE COURT REPORTER: I need to mark it.

2 (DFT. EXH. 8, Drawing, was marked for
3 identification.)

4 THE COURT: Any objection, Solicitor?

5 MR. ALFARO: We have no objection to it
6 for purposes of ID, but I'm not sure the
7 admissibility --

8 THE COURT: She drew it. If she wants
9 to put it in, it's admitted.

10 MR. ALFARO: That's fine, no objection.

11 THE COURT: Admitted without objection.
12 Witness drew it. That's what the --

13 Go on to the next question.

14 BY MS. CAPERS:

15 Q. Okay. And so, Officer Myers, did you
16 view this drawing?

17 A. I have not.

18 Q. You have not. Let me show it to you.

19 MS. WILLIAMS: Your Honor, may we know
20 which number it is?

21 THE COURT: What number is it?

22 MS. CAPERS: It's in. It's a State's
23 Exhibit.

24 THE COURT REPORTER: It's on the bag.

25 BY MS. CAPERS:

MYERS - DIRECT EXAM BY MS. CAPERS

1 Q. State's Exhibit 58, have you seen that
2 before?

3 A. I have not.

4 Q. Okay. And does this look substantially
5 almost like that map?

6 THE COURT: You can't --

7 THE WITNESS: Just picking it up to
8 look.

9 THE COURT: Okay.

10 THE WITNESS: And I'm sorry, what was
11 the question?

12 BY MS. CAPERS:

13 Q. Does that look pretty much like that?

14 A. It does.

15 Q. And that's just based on your report,
16 correct?

17 A. Correct.

18 Q. And the information contained therein?

19 A. Correct.

20 Q. Okay. And did -- do you ever recall
21 any information about Ms. Victim's dog and him
22 barking?

23 A. I do not. I never spoke with

24 Ms. Victim

25 Q. And what neighborhood is this in?

MYERS - CROSS EXAM BY MR. ALFARO

1 A. I believe it's Cadbury.

2 Q. Okay. And in reports would you
3 generally -- do the police officers generally note
4 -- put the neighborhood?

5 A. I do not myself.

6 Q. You don't?

7 A. I do not, no.

8 Q. Okay. Why don't you do it?

9 A. It's not something that I have ever
10 done. It's a crime scene and we go by address.
11 Not the neighborhood.

12 Q. Okay. And -- okay. Thank you very
13 much.

14 A. Sure.

15 MS. CAPERS: No further questions.

16 THE COURT: Cross-examine?

17 CROSS-EXAMINATION

18 BY MR. ALFARO:

19 Q. Investigator Myers, your -- would it be
20 fair to say that your ability to draw State's
21 Exhibit -- or Defendant's Exhibit No. 8 is at least
22 partially because you were inside the house and
23 walked through the house and went technically from
24 the front door to the guest bedroom to the master
25 bedroom and then to the garage?

MYERS - CROSS EXAM BY MR. ALFARO

1 A. Correct.

2 Q. And it's not that bad of a drawing.

3 A. Thank you. I was in a hurry.

4 Q. But I did notice in the drawing itself,
5 is based off of what you put in your report,
6 correct?

7 A. Yes, and my photographs.

8 Q. And I see where you made a notation of
9 a wooded area. I'm going to show you, in addition
10 to Defendant's Exhibit 8, State's 58.

11 A. Uh-huh.

12 Q. In the area you have the wooded area
13 there, are there any details that are on State's
14 Exhibit 58 related to the area around the woods
15 that are not depicted on your hurried good drawing?

16 A. It says ditch, and next neighborhood.

17 Q. So the reference to the ditch is not in
18 the report?

19 A. Correct.

20 Q. Okay. And does your report indicate
21 that it is -- show you again State's Exhibit 58.
22 Does your report indicate anywhere that it's quiet
23 during the night?

24 A. It does not.

25 Q. Does it indicate anywhere in your

MYERS - REDIRECT EXAM BY MS. CAPERS

1 report that it is not very busy during the week
2 because middle-class workers?

3 A. It does not.

4 MR. ALFARO: No further questions, Your
5 Honor.

6 THE COURT: Redirect?

7 MS. CAPERS: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MS. CAPERS:

10 Q. And would you agree that just based on
11 your report alone, you could draw that map without
12 ever having been in the house?

13 A. Well, the -- some of the things that I
14 put in the report were based on being in the house.

15 Q. Okay. You were in the house?

16 A. Correct.

17 Q. All right. And your report details
18 everything in the house?

19 A. The locations of the rooms, yes. Not
20 everything that was inside the house.

21 Q. Yes, the locations of the room. And
22 that's what that map over there depicts, right?

23 A. Yes.

24 Q. That map --

25 A. As far as my map, correct?

MYERS - REDIRECT EXAM BY MS. CAPERS

1 Q. Your map and Exhibit 58, I believe it
2 was?

3 A. Well, there are more details in his map
4 than mine.

5 Q. Would you agree that if you just read
6 your report, you could write -- you could draw that
7 map just like you did?

8 A. I would imagine so, yes.

9 Q. All right. And are you aware -- do you
10 know if there was a dog track?

11 A. I have no idea.

12 Q. Were you aware the K9 units were --

13 MR. ALFARO: Objection.

14 THE COURT: She said she was not aware,
15 602. Unless you can lay a foundation.

16 BY MS. CAPERS:

17 Q. What is behind the house?

18 A. The only thing I recall is a wooded
19 area.

20 Q. So that is correct. So if I could show
21 you your -- so if that is the information about the
22 wooded area is in the discovery, if it was added to
23 your report, then you could put a wooded area
24 there, right?

25 A. I could put a wooded area there, yes.

MYERS - REDIRECT EXAM BY MS. CAPERS

1 Q. And it would be, again, just like that
2 map, correct?

3 A. Except for the ditch.

4 Q. Except for the ditch?

5 A. Yes.

6 Q. Do you know if anywhere in the
7 discovery there is information about a ditch?

8 A. I have no idea. I didn't prepare the
9 discovery. I don't know.

10 MS. CAPERS: All right. No further
11 questions.

12 THE COURT: Recross?

13 MR. ALFARO: No, Your Honor.

14 THE COURT: You may step down.

15 THE WITNESS: Thank you.

16 THE COURT: Any additional witnesses?

17 MS. CAPERS: Is Officer Erickson here?
18 Defense calls Officer Erickson.

19 ALEXANDER ERICKSON,
20 being first duly sworn, testified as follows:

21 THE CLERK: Please have a seat. State
22 your full name for the record and spell your last
23 name.

24 THE WITNESS: Alexander Erickson,
25 E-R-I-C-K-S-O-N.

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 DIRECT EXAMINATION

2 BY MS. CAPERS:

3 Q. Hi. How are you?

4 A. I'm good. How are you?

5 Q. I'm good. Thank you.

6 Where are you employed?

7 A. The City of Goose Creek Police
8 Department.

9 Q. Okay. Were you employed there on
10 December 21st of 2017?

11 A. Yes, ma'am.

12 Q. Okay. And did you respond to Isherwood
13 Drive on that day?

14 A. Yes, ma'am, I believe I did.

15 Q. And who were you with?

16 A. There was a whole bunch of officers
17 there. I responded after everybody else did.

18 Q. Were you there with Officer -- is it
19 Bucci, B-U-C-C-I?

20 A. I believe he was there. I believe he
21 was one of the ones I spoke with.

22 Q. Did you have a K9 with you?

23 A. I did.

24 Q. And tell us what you did when you got
25 -- when you arrived at Isherwood, --- Isherwood.

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 A. I was advised of a description of a
2 person that committed some sort of felony crime. I
3 believe it was like a home invasion, if I remember
4 correctly.

5 I got a general description and began
6 to check the area for a track.

7 Q. And when you check the area for a
8 track, what does that mean? Does that mean you had
9 a dog?

10 A. Yes, ma'am.

11 Q. Okay. And what's the dog's name?

12 A. Kron, K-R-O-N.

13 Q. And can you tell us where Kron alerted?

14 A. He didn't alert to anything. We were
15 checking the area for a track and we located a
16 track, but there was no way of telling what
17 specifically the track was.

18 Q. Okay. Where was that track?

19 A. It went behind the house through like a
20 little ditch line. And then I believe the street
21 behind the residence that we responded -- I think
22 it's Guildford Drive if I remember -- and then we
23 lost the track about there.

24 Q. On Guildford Drive. Is Guildford in
25 the same subdivision?

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 A. As -- where the incident occurred?

2 Q. Yes.

3 A. No, I believe it's the one behind it.

4 Q. Okay. And you lost the track on
5 Guildford Drive?

6 A. Yes.

7 Q. Okay. And your K9, Kron, did not go
8 toward Golding Lane, did it?

9 A. No.

10 Q. No. And if I could show you a map, can
11 you tell me where -- it is Exhibit Number 47. If
12 you could show us where the dog alerted.

13 A. He didn't alert. That's not what he
14 does.

15 Q. Say it to me -- tell me again so I can
16 get it correct.

17 A. Okay. So what he looks for is, he
18 looks for ground disturbance and human odor, and he
19 indicated on an area. An alert would mean like a
20 positive indication, a definitive answer that this
21 is where something was, somebody was. That wasn't
22 the case.

23 Q. That wasn't. So when the report says
24 the track led behind, that's not what that means?

25 A. No, that's correct. It led behind, but

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 he didn't alert. You keep saying the word alert.

2 Alert is not a relevant term.

3 Q. I understand. All right. But it

4 stopped -- did you show us where it stopped?

5 A. 109 is the incident location, correct?

6 Q. Yes.

7 A. Okay. So it would be the street behind
8 here.

9 MS. CAPERS: Okay. Permission to
10 publish this, please.

11 THE COURT: What exhibit was this?

12 MS. CAPERS: 47.

13 THE COURT: Very well.

14 BY MS. CAPERS:

15 Q. And if you will step down, I don't have
16 a pointer.

17 A. You want me to point at it on the map?

18 Q. Yeah. Point at it on the map.

19 A. I believe Isherwood is where we
20 responded to. It would have been the street --
21 this street directly behind the house is about
22 where we came out at.

23 Q. This is 109 and this is 139?

24 A. According to your map.

25 Q. What's the incident location?

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 A. As far as I'm aware, it's

2 Q. Okay. And Guildford Drive?

3 A. Uh-huh.

4 Q. Point at it again for me.

5 A. If this is Guildford Drive, this is
6 Guildford Drive. Wherever the incident location
7 was, I believe it's 109, it went behind the house
8 directly across to Isherwood is where we lost track
9 at.

10 Q. And that was 102?

11 A. I don't remember the address.

12 Q. Okay. And can you describe that area
13 behind the house at Gilford Drive?

14 A. It was a dense area, a wooded area. It
15 had like a drainage ditch that ran in between the
16 two streets.

17 Q. Okay.

18 A. In between Isherwood and Guildford
19 Drive.

20 Q. Did you canvas that area?

21 A. I did.

22 Q. Did you find anything open? Any houses
23 or sheds or anything?

24 A. We found -- I believe, there was a
25 vacant house somewhere in the general area. I

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 don't remember the correct address of it, but we
2 cleared that house.

3 Q. And was there also a shed open?

4 A. I don't recall. There might have been.

5 Q. Okay. And what were -- you said you
6 received identification for -- some information
7 about the suspect. Do you remember what that
8 information was?

9 A. Initially, I believe when I was
10 responding or just briefly after I got on scene,
11 there was a black male, a younger black male
12 wearing dark clothing is all I had.

13 Q. Okay. Did you also receive information
14 about a 5-8 to 5-9 black male with gray pants and a
15 shirt?

16 A. I remember the gray pants and shirt. I
17 don't remember the height and weight, but I do
18 remember the gray color coming out after -- I
19 believe after the track had began.

20 Q. And that was all around the same time
21 of the incident, correct?

22 A. It was within 30 minutes or so,
23 roughly.

24 Q. Okay. And so there were, at this
25 point, either two or three black males in the area

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 that you guys were looking for?

2 A. I'm not sure if that's correct.

3 Q. There was one black male you said
4 earlier in all black, correct?

5 A. That was the description initially that
6 I was given, correct.

7 Q. Okay. And then you received another
8 description for someone in gray pants and a white
9 shirt?

10 A. I don't recall a white shirt.

11 Q. You don't recall the shirt. Okay. But
12 gray pants?

13 A. I remember gray, yeah.

14 Q. And why were these people singled out?

15 A. I couldn't tell you. I wasn't at the
16 location. I wasn't speaking to witnesses. I
17 didn't speak to the victim.

18 I was told to go look for a person who
19 committed a felony and that's what I was doing.

20 Q. And those were the two people that you
21 were told to look for?

22 A. I believe it was all the same person.
23 I believe the description of the person changed.
24 It was an updated description of the person.

25 Q. So it went from a person in black to a

ERICKSON - DIRECT EXAM BY MS. CAPERS

1 person in gray?

2 A. I'm just going by what I was told and
3 how it was put over the radio.

4 Q. And did you find either of those
5 people?

6 A. I did not locate anybody or anything
7 pertaining to this case.

8 Q. Okay. And who -- who were you with,
9 officer -- what's his name? B-U-C-C-I, can you
10 pronounce that for me?

11 A. Bucci.

12 Q. Bucci.

13 A. Is that who you're asking about?

14 Q. Yes, sir.

15 A. Yeah. I don't remember who was with
16 me. There's generally a whole bunch of people with
17 me on a track.

18 Q. And -- but Bucci is no longer with
19 Goose Creek, correct?

20 A. That's correct.

21 Q. Okay. And you keep chastising me about
22 this. What are you calling -- I'm calling it an
23 alert. You're calling it a what?

24 A. Indicating or tracking.

25 Q. A tracking. Okay. And, again, that's

ERICKSON - CROSS EXAM BY MR. ALFARO

1 in the next neighborhood over?

2 A. Uh-huh.

3 THE COURT: Is that a yes? Was your
4 response yes? You said uh-huh.

5 THE WITNESS: As far as --

6 THE COURT: I'm just asking was your
7 answer yes, because you said uh-huh.

8 THE WITNESS: I wasn't really sure.

9 Can you reask the question? I'm not sure what the
10 actual question was.

11 BY MS. CAPERS:

12 Q. Did the track stop behind Gilford
13 Drive in Bedford Chase subdivision?

14 THE WITNESS: I was unable to locate a
15 track further than that. So, yes, that's correct.

16 MS. CAPERS: Thank you.

17 THE COURT: Cross-examine?

18 CROSS-EXAMINATION

19 BY MR. ALFARO:

20 Q. Officer Erickson, I'm going to ask you
21 a couple of questions about what is still up on the
22 screen behind you, which is State's 47.

23 A. Yes, sir.

24 Q. Now, this is 109 -- indicated as 109
25 Isherwood on the map, correct?

ERICKSON - CROSS EXAM BY MR. ALFARO

1 A. Yes, sir.

2 Q. And this is the wooded area that you
3 were describing directly behind that house?

4 A. Yes, sir.

5 Q. And isn't where your track went was
6 from there -- from that area to one of those
7 houses, correct? (Indicating)

8 A. Yes, sir. I'm not sure which one.

9 Q. Okay. So when you were pointing
10 Gilford because you were just down at the bottom of
11 the map, you couldn't reach it. It's not down
12 there?

13 A. Correct.

14 Q. It's up there?

15 A. That's correct.

16 Q. Right behind the house?

17 A. Yes. I just couldn't reach up there.

18 Q. So it's a different neighborhood, but
19 -- it's technically a different neighborhood. It's
20 not like you went from Goose Creek to Moncks
21 Corner?

22 A. No, that's correct.

23 Q. And are you familiar with this area?

24 A. Extremely.

25 Q. Okay. How long would it take you to

ERICKSON - REDIRECT EXAM BY MS. CAPERS

1 calmly walk from there to there? (Indicating)

2 A. If you were going through the woods?

3 Ten minutes depending on the terrain, how muddy it
4 is.

5 Q. So you could calmly walk from there to
6 there in ten minutes?

7 A. That's if you're traveling through the
8 dense woods through the ravine and all that.

9 Q. So if you were running, you could get
10 there in less time than ten minutes?

11 A. Minutes.

12 Q. Minutes. Okay.

13 A. Especially if you know the area.

14 MR. ALFARO: Good point. No further
15 questions, Your Honor.

16 THE COURT: Redirect?

17 MS. CAPERS: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MS. CAPERS:

20 Q. Thank you for correcting that because I
21 was really confused when you had it down here at
22 139. So this is where it is. (Indicating)

23 A. Yes.

24 Q. Now if you lived here, do you have --
25 did you know that a person was seen running from

ERICKSON - REDIRECT EXAM BY MS. CAPERS

1 here back down in this direction? (Indicating) So
2 in other words, this is -- this is Isherwood Drive,
3 correct?

4 A. Uh-huh.

5 Q. And this is a wooded area?

6 A. Yes.

7 Q. Okay. Do you recall any information
8 about a person going from house to house to house,
9 or at least from house to house?

10 A. I don't recall anything. I mean, I
11 would imagine so that it's possible if somebody was
12 out jogging or running. Personally, I don't
13 remember anything.

14 Q. And so does it make sense to go -- if
15 you live here, to go here, around here, back down
16 and back over here, and stop in somewhere around
17 here for other houses? (Indicating) Does that make
18 any sense?

19 A. I mean, it all depends on what -- what
20 the person is doing.

21 Q. Okay. All right. Would you agree that
22 the most direct route from here to here is like
23 that? (Indicating)

24 A. Yes, I would.

25 MS. CAPERS: Thank you.

SZYMCZYNSKA-SAS - DIRECT EXAM BY MS. CAPERS

1 MS. WILLIAMS: Yes, Your Honor.

2 THE COURT: Defense ready?

3 MS. CAPERS: Yes, Your Honor.

4 THE COURT: Let the record reflect the
5 defendant's presence.

6 (Jury in, 10:69 a.m.)

7 THE COURT: Thank you, ladies and
8 gentlemen. We are ready to continue.

9 Ms. Capers, call your next witness.

10 MS. CAPERS: The Defense calls
11 Solicitor Sas.

12 KAMILA SZYMCZYNSKA-SAS,
13 being first duly sworn, testified as follows:

14 THE CLERK: Please have a seat. State
15 your full name for the record and spell your last
16 name.

17 THE WITNESS: Kamila Szymczyńska-Sas,
18 K-A-M-I-L-A, S-Z-Y-M-C-Z-Y-N-S-K-A, hyphen, S-A-S.

19 DIRECT EXAMINATION

20 BY MS. CAPERS:

21 Q. And do people pronounce the whole name,
22 or do they just call you Assistant Solicitor Sas?

23 A. Sas is just fine.

24 Q. Sas is fine. Okay. How long have you
25 been with the Solicitor's Office?

SZYMCHYNSKA-SAS - DIRECT EXAM BY MS. CAPERS

1 A. It will be six years in June.

2 Q. And what do you do?

3 A. I'm an assistant solicitor. I
4 prosecute at this particular point in time mostly
5 criminal sex conducts with minors, but I've
6 prosecuted an array of cases in our office.

7 Q. And do you recall coming in contact
8 with Mr. Gill, or Jesse Gill?

9 A. I do.

10 Q. And can you tell us about that?

11 A. Can you specify exactly what you would
12 like me to say?

13 Q. Were you contacted by Mr. Gill's
14 attorney?

15 A. I don't remember specifically it was
16 Mr. Gill's attorney or I received a letter. It
17 would have been sometime before 2017.

18 Q. Before 2017?

19 A. Either 2017 or 2016. I remember that
20 at the time the case in which Mr. Gill contacted us
21 in regards to while I was trying to plea that case
22 in court, I was working on another bigger case.
23 And that's why I recall it was 2017, when I was
24 working on that case.

25 Q. Okay. 2017. And if Mr. Gill was only

SZYMCZYNSKA-SAS - DIRECT EXAM BY MS. CAPERS

1 -- okay. And who was Mr. Gill's attorney?

2 A. I believe it was Mr. David Schwacke.

3 Q. And what did they contact you for?

4 A. The contact with me was to provide
5 information on the particular defendant that I was
6 prosecuting and the information that he would have
7 provided to Mr. Gill.

8 Q. And where was Mr. Gill housed at the
9 time?

10 A. To the best of my recollection -- and,
11 again, I received subpoena this morning, so I
12 didn't have a chance to look up any information;
13 but to the best of my recollection, it was Berkeley
14 County jail, but I don't know for sure.

15 Q. Right. He was right here?

16 A. I believe so.

17 Q. Trying to provide information on
18 another inmate?

19 A. That's correct.

20 Q. And what was that information?

21 A. To the best of my recollection, it was
22 about what the inmate stated to him he did.

23 Q. So he was telling on another inmate?

24 A. Correct.

25 Q. Okay. Do you remember the substance of

SZYMCZYNSKA-SAS - CROSS EXAM BY MS. WILLIAMS

1 that conversation or of that letter?

2 A. He provided, I believe there was some
3 notes that he jotted down. I couldn't tell you
4 precisely from my memory. This happened a while
5 ago and I have prosecuted a lot of cases, but it
6 would have been the comments that particular
7 defendant would have made to him about committing
8 that particular crime.

9 Q. Okay. And were you able to use
10 Mr. Gill?

11 A. I never used Mr. Gill; the case pled.

12 Q. And is that the only reason you didn't
13 use him?

14 A. We never got to the part with trial
15 prep or anything. It was a guilty plea.

16 Q. So it just didn't work out for
17 Mr. Gill?

18 A. I never used Mr. Gill.

19 MS. CAPERS: Okay. All right. No
20 further questions.

21 THE COURT: Cross-examine?

22 CROSS-EXAMINATION

23 BY MS. WILLIAMS:

24 Q. Morning, Miss Sas.

25 A. Good morning.

SZYMCHYNSKA-SAS - CROSS EXAM BY MS. WILLIAMS

1 Q. So Mr. Gill provided notes that he
2 wrote?

3 A. To the best of my recollection, yes.

4 Q. He wasn't trying to say that this guy
5 wrote a bunch of notes?

6 A. I don't recall that.

7 Q. And that information about Mr. Gill's
8 prior offers to cooperate was given to Mrs. Capers
9 by our office?

10 A. Correct. I provided that information
11 to you and then I was copied on an e-mail.

12 Q. So the Solicitor's Office was trying to
13 make sure that Mrs. Capers had any and all
14 information regarding Mr. Gill and anything that he
15 had done in the past with regard to cooperation?

16 A. Absolutely.

17 Q. And then that information was provided
18 to Mrs. Capers so she would know everything about
19 Mr. Gill?

20 A. Absolutely. I provided that
21 information.

22 Q. Are you -- and that's part of discovery
23 that we do that; we try to make sure that the
24 defendant has everything?

25 A. Correct.

SZYMCZYNSKA-SAS - CROSS EXAM BY MS. WILLIAMS

1 Q. Are you familiar with when discovery is
2 offered to defense counsel what those documents
3 look like?

4 A. Yes.

5 Q. And those documents are provided all
6 the time?

7 A. Correct, on every case.

8 MS. WILLIAMS: Okay. Your Honor, I'm
9 going to mark this as State's 123.

10 (STATE EXH. 123, Incident Report, was
11 marked for identification.)

12 MS. WILLIAMS: May I approach?

13 THE COURT: You may.

14 BY MS. WILLIAMS:

15 Q. Tell us if you recognize what that is.

16 A. That appears to be an incident report
17 from law enforcement agency. Based on the case
18 number, I assume it's Goose Creek.

19 Q. Is that the defendant's name?

20 A. I'm sorry. It appears to be the
21 suspect's name Aaron Capers and it's Bates-stamped
22 Rule 5, Number 27.

23 Q. And what is -- what does redaction
24 mean?

25 A. There are certain information in our

SZYMCZYNSKA-SAS - CROSS EXAM BY MS. WILLIAMS

1 office that are being redacted. A lot of times
2 it's the victim's information that has the contact
3 numbers, address. And lot of that has to do with
4 the victim's safety --

5 Q. Okay.

6 A. -- age.

7 Q. Okay. So like the victim's date of
8 birth and age, all that?

9 A. Correct.

10 Q. On that report, does it have an
11 incident location?

12 A. It does have it.

13 Q. And what does that say?

14 A. It's . Isherwood Drive in Goose
15 Creek, South Carolina.

16 Q. Could to be) Isherwood?

17 A. That could very well be. Sorry, I
18 don't have my glasses.

19 MS. WILLIAMS: Your Honor, at this time
20 we would offer State's 123 into evidence.

21 THE COURT: Any objection?

22 MS. CAPERS: Yes, sir. I'm not --
23 none.

24 THE COURT: Very well. Without
25 objection, it's admitted, State's 123.

SZYMCHYNSKA-SAS - REDIRECT EXAM BY MS. CAPERS

1 (STATE EXH. 123 in evidence.)

2 MS. WILLIAMS: No further questions.

3 MS. CAPERS: I do have a few questions.

4 THE COURT: Okay. You get to redirect.

5 REDIRECT EXAMINATION

6 BY MS. CAPERS:

7 Q. Do you recall when you submitted that
8 information regarding Mr. Gill?

9 A. The precise date?

10 Q. Yes, ma'am. Would it have been in the
11 last month?

12 A. I don't specifically recall.

13 Q. Okay. Was it lately, as in the last
14 month? I don't have a printout of the e-mail.
15 Would you have a reason to disagree if I told you
16 it was --

17 THE COURT: Let's not make statements.
18 Just phrase the question.

19 BY MS. CAPERS:

20 Q. Could it have been March 5, 2019?

21 A. If that's the date on the e-mail, if
22 that's the e-mail from Ms. Williams, that would
23 have been when I was copied on the e-mail from
24 Ms. Williams.

25 Q. Okay. And date on that incident report

SZYMCHYNSKA-SAS - REDIRECT EXAM BY MS. CAPERS

1 is 12/21/2017, correct?

2 A. Yes, but that's not my case.

3 Q. Okay. This case started 12/21/2017 and
4 your e-mail --

5 MS. WILLIAMS: Objection. Leading, and
6 I'm not sure what the question is.

7 THE WITNESS: Well, I'll allow leading
8 611(c), but I don't know what the question is
9 either. It's hard to rule on an objection.

10 Go ahead and state the question.

11 MS. CAPERS: Yes, sir.

12 BY MS. CAPERS:

13 Q. This e-mail where you're giving me the
14 information on the --

15 MS. WILLIAMS: Objection; leading.

16 THE COURT: Excuse me? What was the
17 objection?

18 MS. WILLIAMS: Leading.

19 THE COURT: Wait until she finishes so
20 I can hear it. Thank you.

21 BY MS. CAPERS:

22 Q. Is the e-mail from March 5, 2019,
23 regarding Jesse Gill?

24 THE COURT: All right. Don't answer.
25 Observation is overruled under 611(c). Thank you.

SZYMCZYNSKA-SAS - REDIRECT EXAM BY MS. CAPERS

1 You can answer the question.

2 THE WITNESS: The e-mail that was
3 provided, which I was copied, if that's the date on
4 the e-mail, then I don't have any reason to
5 disbelieve it. I don't see that e-mail. I
6 provided that information as soon as I had
7 knowledge that Mr. Gill was involved with this
8 case.

9 Mr. Capers' case is not my case, and I
10 don't have information on everybody's cases in the
11 office. As soon as his name came up, I provided
12 the information to Mrs. Williams that I was
13 familiar with his name.

14 BY MS. CAPERS:

15 Q. Okay. And you never provided the
16 information before this date, correct?

17 A. Not to my knowledge.

18 Q. On Jesse Gill?

19 A. To Ms. Williams.

20 Q. To the defense? To us?

21 A. No. I shared it with Ms. Williams
22 which is when she wrote an e-mail to you providing
23 that information. And I have had no contact with
24 you until this morning when you served me the
25 subpoena at 9:20.

SZYMCZYNSKA-SAS - REDIRECT EXAM BY MS. CAPERS

1 Q. Do you know if that -- if that would --
2 request was fulfilled pursuant to a request by the
3 defense? Do you know if we had to ask for that?

4 MS. WILLIAMS: Objection.

5 THE COURT: Sustained, and that's not
6 relevant to this proceeding, Ms. Capers. That's a
7 matter of law that we deal with every day. You
8 know that.

9 Thank you. Move on to something else.

10 MS. CAPERS: I don't have any further
11 questions.

12 THE COURT: Thank you. Recross?

13 MS. WILLIAMS: No, Your Honor.

14 THE COURT: Thank you.

15 You may come down.

16 Do we have any additional witnesses,
17 Ms. Capers?

18 MS. CAPERS: Judge, just one second.

19 THE COURT: Is your last witness the
20 witness that is en route?

21 MS. CAPERS: Yes, sir.

22 THE COURT: Okay. Ladies and
23 gentlemen, no fault of the defendant or defense
24 counsel, the witness has been in travel and had a
25 late start, so I apologize to you for that. Those

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 THE COURT: Bring in the jury.

2 (Jury in, 1:45 p.m.)

3 THE COURT: Thank you, ladies and
4 gentlemen. I hope you had a good lunch and you're
5 ready to continue.

6 Mrs. Capers, does the defendant wish to
7 present any additional witnesses?

8 MS. CAPERS: Yes, sir. Your Honor, we
9 call Jerron Simmons.

10 JERRON SIMMONS,
11 being first duly sworn, testified as follows:

12 THE COURT: Thank you, sir. Take your
13 seat. State your full name for the record when you
14 get comfortable and spell your last name.

15 THE WITNESS: Jerron Simmons,
16 S-I-M-M-O-N-S.

17 DIRECT EXAMINATION

18 BY MS. CAPERS:

19 Q. Hi, Mr. Simmons. How are you?

20 A. I'm doing all right, ma'am.

21 Q. Good. Did we have an opportunity to
22 talk just --

23 A. Yes, ma'am.

24 Q. All right. And is this the first time
25 that I have interviewed you?

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 A. Yes, ma'am.

2 Q. Were you interviewed by anyone else?

3 A. Detective.

4 Q. Investigator?

5 A. Yes, ma'am.

6 Q. Okay. And was that my investigator?

7 A. I believe so, yes, ma'am.

8 Q. Have you ever been contacted by the
9 Solicitor's Office or police or anyone else about
10 La Don?

11 A. No, ma'am.

12 Q. Okay. Can you tell me how you know
13 Aaron Capers and La Don?

14 A. I know Mr. Aaron Capers and La Don by
15 being locked up 18 months, for 12 months being in
16 Berkeley County. I've known La Don as basically a
17 nobody; but Mr. Aaron Capers, he's a good young
18 man, and I'd rather be around him as a good
19 influence, you know.

20 Q. Excellent. Excellent. You, obviously,
21 like Mr. Capers?

22 A. Yes, ma'am.

23 Q. Are you here to tell any lies for him?

24 A. No, ma'am.

25 Q. And you are going to be totally

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 truthful with this Court?

2 A. Yes.

3 Q. And when I say La Don, do you know his
4 real name?

5 A. Jesse Gill.

6 Q. Okay. And where does that name La Don
7 come from?

8 A. He just told us to call him La Don. He
9 never gave us his real name, other than when COs
10 called him by his real name.

11 Q. How old are you, Jerron?

12 A. I'm 18, ma'am.

13 Q. And did you have a prior record before
14 you were incarcerated on this offense?

15 A. No, ma'am.

16 Q. And did anybody in your cell have a
17 prior record?

18 A. No, ma'am.

19 Q. Were all of you the same age?

20 A. I was 18, Aaron is 19, and Bradley
21 Berry is 20.

22 Q. And how old is Jesse Gill?

23 A. Jesse Gill is 43.

24 Q. Forty-three. And does he have a prior
25 record?

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 A. Yes. He's told us a lot about his
2 record.

3 Q. Okay. And what kind of things did he
4 say he's done?

5 THE COURT: Ms. Capers, this is
6 cumulative, and the jury has heard about his
7 record. We don't need to go into that again.
8 Thank you.

9 MS. CAPERS: Thank you.

10 THE COURT: 611(a), you need to move on
11 to something else, please.

12 BY MS. CAPERS:

13 Q. What did he talk to you about in the
14 cell?

15 A. Basically, stuff that he's done on the
16 streets as in killing people or drugs or, you know,
17 basically selling -- selling drugs also. And it's
18 nothing positive. It's everything is just
19 negative. It's never nothing positive that he told
20 us about, you know.

21 Q. Okay. Does he talk to you -- does he
22 threaten you?

23 A. He's threatened us a couple of times,
24 like, if you ever tell on us, your body will be
25 missing on the streets. Like, he's never

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 intimidated me, us being locked up, but me having
2 to go back out on the streets and having to deal
3 with him after my ten-year sentence, I don't feel
4 safe with him being on the street being that he
5 said he's going to have me missing. I don't feel
6 safe with that.

7 Q. Okay. Did you witness the relationship
8 that Aaron had with Mr. Gill?

9 A. I have no idea what they had going on,
10 but I know La Don would always go to Aaron with
11 notes and stuff like that. Aaron has never
12 approached him with any notes or anything like
13 that.

14 After they were done, La Don would rip
15 them up, throw them in the toilet. And he's made a
16 comment of, no face, no case, but he's changed it
17 up and said no paper trace.

18 So, basically, if I had gotten to hold
19 it and know what they were talking about, he's
20 basically wanted to kill me if I have told him --
21 if I had known what they were talking about, but I
22 have no idea.

23 Q. So he had a phrase and then he had a
24 twist on that phrase?

25 A. Yes, ma'am.

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 Q. To let you know that was sort of a
2 threat?

3 A. Yes, ma'am.

4 Q. Okay. And you did witness them writing
5 notes though?

6 A. Yes.

7 Q. And it was always La Don to Aaron?

8 A. Yes. Never Aaron to La Don.

9 Q. Never?

10 A. No, ma'am.

11 Q. Okay. And do you remember anything
12 happening when Aaron went on a legal visit?

13 A. Yes. I realized that when we were up
14 there in Delta pod, he seen Aaron's mother once and
15 said that he wanted to have sex with his mother.

16 I said that that has nothing to do with
17 me, but I look at his mother as my mother being
18 that he's like a brother to me, and you're not
19 going to sit here and talk about her like that.

20 And he's been going through this stuff
21 with the Rule 5, but I've never known if Aaron gave
22 him the say-so to go through his stuff, but he's
23 been through it a couple of times.

24 Q. Okay. And did he do it when Aaron was
25 in the room?

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 A. Never. Ever since -- he'd always do it
2 when Aaron goes on a legal visit. That's about it.

3 Q. Okay.

4 A. He would never do it in front of him.

5 Q. Okay. Do you remember anything else
6 about the legal visits?

7 A. Being strip-searched -- they told
8 Mr. Aaron Capers it came from the captain that he
9 would have to be strip searched, that it's a new
10 rule to be strip-searched, but nobody has been
11 strip-searched, you know.

12 So ever since he came from his legal
13 visit, he's always being strip-searched because of
14 something -- like somebody tells somebody he has
15 something, but he never haves anything, you know.
16 And they were strip-searching him for what reason.

17 Q. They told him this was a new rule?

18 A. It was a new rule, but it's not a new
19 rule. Ever since I come from my legal visit, I've
20 never been strip searched.

21 Q. Did you ever hear -- not anything
22 sexual. Did you ever hear La Don talking about
23 Aaron's family?

24 A. Just the mother. I have never heard
25 anything about any other family besides the mother.

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 He would tell him that his mother is an attorney,
2 this, that, and the other, but never said anything
3 else besides what I said earlier.

4 Q. What did La Don say about unfinished
5 business?

6 MR. ALFARO: Objection; leading.

7 THE COURT: Sustained.

8 BY MS. CAPERS:

9 Q. Do you remember any conversation in
10 particular that La Don had with Aaron?

11 A. Being that La Don said that he had
12 unfinished business is -- basically, he was telling
13 him he don't need you to get into any other
14 trouble, but once this business is done, then
15 you're free to do whatever you got to do.

16 Like, you're not under my hand anymore.
17 You're free to go. So, basically, he's telling him
18 that he got business going on, which I never knew
19 what business. And, obviously, when they got done
20 they basically took him to Charleston County after
21 that.

22 Q. They took Aaron to Charleston County?

23 A. Took Aaron to Charleston County, and
24 about two or three months later, they took me to
25 Charleston County also.

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 Q. Let me -- I forgot to ask you this.
2 When did Aaron and La Don come to the pod together?

3 A. Delta pod?

4 Q. Uh-huh.

5 A. I'm not sure. I have no clue, ma'am.

6 Q. I didn't mean -- did they come in at
7 the same time or --

8 MR. ALFARO: Objection.

9 THE COURT: Sustained. He said he
10 didn't have a clue, under 601, 602.

11 THE WITNESS: They didn't come in --

12 THE COURT: No, sir. No, sir. You
13 can't answer the question. I sustained the
14 question.

15 Ask another question.

16 THE WITNESS: Oh, okay.

17 BY MS. CAPERS:

18 Q. Who was in the pod first?

19 A. Aaron.

20 Q. And then when did La Don come in?

21 A. He came in after the fact, I guess,
22 from the holding cell in the front.

23 Q. How long after the fact?

24 A. Two or three days later.

25 MR. ALFARO: Objection.

SIMMONS - DIRECT EXAM BY MS. CAPERS

1 THE COURT: All right. You can
2 cross-examine. It's okay.

3 BY MS. CAPERS:

4 Q. Do you remember any other conversation
5 that they may have had?

6 A. No, ma'am, not that I know of.

7 Q. Okay. Did you ever hear Aaron talk
8 about harming anyone?

9 A. Never. He's never talked about that,
10 ma'am.

11 Q. Did you hear La Don talking about that?

12 A. He's always have stories about that,
13 killing somebody on the streets or dismantling
14 something. It's always something with La Don.

15 Q. Are you afraid of him?

16 MR. ALFARO: Objection.

17 THE COURT: We've already covered that.

18 MS. CAPERS: Okay.

19 BY MS. CAPERS:

20 Q. Did he promise you anything?

21 A. Yes. He promised me to pay my bond and
22 get me out on an ankle monitor. And I was looking
23 forward to it, but it never happened.

24 Q. Okay.

25 A. And not only that, he promised to tell

SIMMONS - CROSS EXAM BY MR. ALFARO

1 his wife to put money on my books and it never
2 happened. After he's been getting canteen from us
3 daily, and he would tell us he promised that he
4 will do it, but it never happens.

5 Q. And when you say us, who is us?

6 A. That's me, Bradley Berry, and Aaron
7 Capers.

8 Q. All three of you?

9 A. Yes, ma'am.

10 Q. And did you guys ever complain about
11 it?

12 A. I'm like -- I don't complain about it,
13 money is money. You know, it's going to always be
14 in the world.

15 MS. CAPERS: No further questions.

16 THE COURT: Cross-examine.

17 CROSS-EXAMINATION

18 BY MR. ALFARO:

19 Q. Mr. Simmons, that cell that you were in
20 is a 10-by-ten, roughly, cell where you can see
21 anything that goes on inside of it?

22 A. I believe so, yes, sir.

23 Q. And you said that -- multiple times
24 during your testimony about how scary and mean that
25 Jesse Gill was in the cell. I think you said

SIMMONS - CROSS EXAM BY MR. ALFARO

1 something about killing people and things like
2 that?

3 A. (Nodding head)

4 THE COURT: Is that a yes?

5 THE WITNESS: Yes, sir.

6 BY MR. ALFARO:

7 Q. And you also indicated that Aaron
8 Capers and Jesse Gill had some business going on,
9 correct?

10 A. Yes, sir.

11 Q. And you also testified that Aaron
12 Capers and Jesse Gill had been exchanging notes,
13 correct?

14 A. Yes, sir.

15 Q. And you also indicated that -- towards
16 the end of your testimony that you were mad at
17 Jesse Gill about money and other stuff, correct?

18 A. I was mad at the fact that he told me
19 he was going to get me out on bond and it never
20 happened, sir.

21 Q. Okay. But you were mad?

22 A. Yes, sir.

23 Q. And I think you also described that the
24 defendant Aaron Capers was like a brother to you?

25 A. Yes, sir.

HART - DIRECT EXAM BY MS. CAPERS

1 MR. ALFARO: Okay. All right. Thank
2 you. No further questions.

3 THE COURT: Very well. Redirect?

4 MS. CAPERS: None, Your Honor.

5 THE COURT: I'm sorry?

6 MS. CAPERS: None, Your Honor.

7 THE COURT: Thank you. You may come
8 down, sir. Thank you.

9 THE COURT: Any additional witnesses?

10 MS. CAPERS: Yes, sir.

11 THE COURT: Okay.

12 MS. CAPERS: Officer Hart. Officer
13 Hart.

14 JUSTIN HART,

15 being first duly sworn, testified as follows:

16 THE COURT: I would remind you that you
17 are still under oath.

18 THE WITNESS: Yes, sir.

19 DIRECT EXAMINATION

20 BY MS. CAPERS:

21 Q. Officer Hart, we spoke yesterday,
22 correct?

23 A. Correct.

24 Q. And we asked you if you had on a body
25 cam during the search?

HART - DIRECT EXAM BY MS. CAPERS

1 A. That's correct.

2 Q. And you answered no?

3 A. Correct.

4 Q. Okay. Were you, in fact, carrying a
5 camera during the search?

6 A. I worked in a dual capacity that night.
7 I was on the SWAT team to make the initial
8 clearance, and then after that was done, I worked
9 my role as the investigator. I do believe I
10 carried a video camera to do our initial
11 walk-through of the house before we conducted our
12 search.

13 Q. But you had a camera on at that time?

14 A. It was a camcorder.

15 Q. Okay. Excuse me one second.

16 And were DVDs submitted as part of the
17 Rule 5?

18 A. If they were part of the evidence, they
19 would have been submitted.

20 Q. Okay. Did anybody have body cameras
21 on?

22 A. The SWAT team did.

23 Q. And you were with the SWAT team?

24 A. I was with the SWAT team.

25 Q. And there were videos then? Did the

HART - DIRECT EXAM BY MS. CAPERS

1 SWAT -- the SWAT team took videos, correct?

2 A. The body camera would have captured
3 whatever they did.

4 Q. And your camera would have captured
5 whatever you did?

6 A. Not during the initial entry because I
7 did not have a body camera on.

8 Q. You had a video camera. At what point
9 did you put the video camera on?

10 A. I would have been after the house was
11 cleared and secured. During our investigation
12 process we do a video walk-through of the residence
13 to show the condition of the house prior to, and
14 then we do another one showing the condition of the
15 house after the search is conducted.

16 MS. CAPERS: Okay. I would like to
17 have this marked, Your Honor, as Defendant's
18 Exhibit Number 9.

19 THE COURT: Very well.

20 (DFT. EXH. 9, DVD, was marked for
21 identification.)

22 BY MS. CAPERS:

23 Q. I would like to show you this video so
24 you can describe -- if I were to show you this
25 video, can you describe what is happening?

HART - DIRECT EXAM BY MS. CAPERS

1 A. I should be able to if I can recall.

2 Q. Okay.

3 MR. ALFARO: Can we approach?

4 THE COURT: Yes.

5 (Bench conference)

6 THE COURT: I will admit it subject to
7 the objection of the State and to authentication.

8 As I understand the witness once he
9 sees it, he can identify it. And that would -- in
10 that regard, I would ask you if you see that it's
11 not what you thought it was, will you let us know,
12 please?

13 THE WITNESS: I will.

14 BY MS. CAPERS:

15 Q. Officer Hart, while we are waiting for
16 that to come on, will you tell me who was with you?
17 Who was on the SWAT team?

18 A. I can't recall everybody's name. It
19 was a year and a half ago.

20 Q. You can't recall?

21 A. No.

22 Q. You can't recall any of the names?

23 A. It would have been -- a couple of the
24 names, but we've swapped out since then. There are
25 different team members now than there were a year

HART - DIRECT EXAM BY MS. CAPERS

1 and a half ago.

2 Q. Okay. What were the members that you
3 remember?

4 A. It would have been Officer Carlton and
5 now Sergeant Coffee --

6 (Video being played in open court.)

7 THE WITNESS: I do recognize this as
8 the video that I took.

9 BY MS. CAPERS:

10 Q. Okay. I want to play forward a little
11 bit --

12 THE COURT REPORTER: I can't hear you
13 when the video is playing.

14 BY MS. CAPERS:

15 Q. And this is Golding Lane, correct?

16 A. Correct. This is Golding Lane.

17 Q. And this is where you said you found
18 the mask?

19 A. This is the location where the mask was
20 located in the residence. This video wasn't during
21 the conduction of the search. This is just the
22 video to show the condition of the house and the
23 placement of the items prior to our search being
24 conducted.

25 Q. This is before anything happened.

HART - DIRECT EXAM BY MS. CAPERS

1 A. This is before we searched for the
2 articles.

3 Q. Can we stop for a second?

4 (Video stopped)

5 BY MS. CAPERS:

6 Q. Was that you in the mirror?

7 A. Yes. That's me in the reflection.

8 Q. Okay. (Video continued)

9 Stop. (Video stopped)

10 Officer Hart, what bedroom is this?

11 A. I'm not sure who the bedroom actually
12 belongs to. I believe it's one of the children's
13 bedroom.

14 Q. Is it the bedroom you found the mask
15 in? Do we need to go a little bit further for you
16 --

17 A. I would know by the way the closet
18 looks.

19 Q. Okay. (Video playing) You can stop
20 there.

21 A. Yes, that's the room.

22 Q. Okay. That is the room. And you said
23 this was before the search was done. Did you just
24 tell us that?

25 A. I believe this was the one -- because

HART - DIRECT EXAM BY MS. CAPERS

1 we did one prior to and one after the search. I
2 believe this is the one done prior to the search.

3 Q. Okay. But the stuff is already out on
4 the bed, right?

5 A. I don't have any control of the room
6 prior to our entry.

7 Q. Who entered before you?

8 A. The SWAT team did.

9 Q. Okay. Okay. And so do you know if
10 those items were found in the closet?

11 A. No, I don't.

12 Q. You don't know?

13 A. No.

14 Q. Okay. Stop it right there. Back up
15 just a little bit. Can we --

16 (Video stopped)

17 Q. What are you doing -- what are you
18 doing right here?

19 A. I can't tell you. I'm taking video of
20 the residence.

21 Q. Is that your hand right there with the
22 black glove on?

23 A. Yes.

24 Q. Okay. And did you hear the sound of
25 anything dropping?

HART - DIRECT EXAM BY MS. CAPERS

1 A. I don't know if it was dropping or if
2 it was hitting across the ground. I don't know
3 what the sound was from.

4 Q. Back up a little bit more. (Video
5 playing) Stop it for me. (Video stopped)

6 So you just put down your flashlight on
7 that chair?

8 A. Uh-huh.

9 Q. Is that a yes?

10 A. I don't know if I did or not.

11 Q. Was the chair empty when we first
12 started?

13 A. You would have to play it again --

14 Q. Okay. Well --

15 A. For me to make an accurate statement as
16 far as when this video was taken, I would have to
17 see both videos to see which one was the one prior
18 to the search and the one after the search.

19 Q. Okay. You were reaching in that flower
20 pot?

21 A. Yes.

22 Q. Why are you doing that?

23 A. This may have been the one after the
24 initial search. I was looking for anything that
25 might have been missed. That's the only thing I

HART - DIRECT EXAM BY MS. CAPERS

1 can think of. I don't know.

2 Q. Did you find anything in the flower
3 pot?

4 A. No.

5 Q. And you had on black gloves?

6 A. I did.

7 Q. Okay. Back it up for me one more time.

8 THE COURT: Approach, please.

9 (Bench conference)

10 BY MS. CAPERS:

11 Q. And, Officer Hart, were you the officer
12 who also took the DNA swabs from Aaron Capers?

13 A. I am.

14 Q. Okay. Do you recall being in the
15 station with him?

16 A. Correct.

17 MR. ALFARO: Your Honor, can we
18 approach again?

19 THE COURT: I didn't hear, what was the
20 question?

21 MS. CAPERS: I just asked him if he
22 recalled being in the station with Aaron.

23 (Bench conference)

24 THE COURT: Ladies and gentlemen, there
25 is a matter of law I thought we could take care of

1 THE COURT: Very well. And you object
2 to that?

3 MR. ALFARO: Yes, Your Honor.

4 THE COURT: I sustain the objection.
5 The record is covered, you are protected. Further
6 review, I don't think the probative value outweighs
7 the prejudice because, furthermore, that has been
8 challenged as well in the motion to suppress the
9 DNA evidence, and that's where you bring all of
10 that up, and I've already ruled on that and there
11 is a record to support that as well. Thank you.

12 All right. Bring in our jury. Do you
13 have any further questions?

14 MS. CAPERS: No, Your Honor.

15 (Jury in, 2:28 p.m.)

16 THE COURT: All right. Thank you very
17 much. I appreciate your patience.

18 Ms. Capers, the video that we have been
19 talking about, I don't think that particular video
20 that you wanted that we have been discussing, that
21 has not been marked.

22 MS. CAPERS: It has not.

23 THE COURT: Let's put it in the record.
24 It would be for identification only. And that
25 would be Defendant's Exhibit 10.

1 THE COURT REPORTER: Exhibit 10.

2 THE COURT: For ID only.

3 THE COURT REPORTER: Yes,

4 sir.

5 (DFT. EXH. 10, DVD, was marked for
6 identification.)

7 THE COURT: And as I understand it, the
8 objection was to playing a portion -- you wish to
9 play a portion of that for the benefit of the jury;
10 is that correct?

11 MS. CAPERS: That's correct.

12 THE COURT: Very well. I sustained the
13 objection, ladies and gentlemen, and, therefore, as
14 I understand from -- furthermore, that you have no
15 additional questions for this witness.

16 MS. CAPERS: I do not, no.

17 THE COURT: Very well. Do you have any
18 cross-examination?

19 MS. WILLIAMS: Beg the Court's
20 indulgence.

21 MR. ALFARO: No, Your Honor.

22 THE COURT: Very well. You may step
23 down, sir.

24 MR. ALFARO: Thank you.

25 THE COURT: Any additional witnesses?

1 MS. CAPERS: None.

2 THE COURT: Okay. So the defense
3 rests?

4 MS. CAPERS: The defense rests, Your
5 Honor.

6 THE COURT: All right. Do you have any
7 reply testimony, Solicitor?

8 MS. WILLIAMS: Can you give us just a
9 second?

10 THE COURT: Sure.

11 MS. WILLIAMS: State would call
12 Nicholas Powell.

13 THE COURT: I'm sorry.

14 MS. WILLIAMS: That State has one
15 rebuttal witness.

16 THE COURT: You may call him.

17 MS. WILLIAMS: That State would call
18 Nicholas Powell.

19 THE COURT: I would remind you that you
20 are still under oath.

21 NICHOLAS POWELL,
22 having being first duly sworn, testified as
23 follows:

24 THE WITNESS: Yes, Your Honor.

25 DIRECT EXAMINATION

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 BY MS. WILLIAMS:

2 Q. Investigator Powell, there has been a
3 lot of confusion about some of the videos of
4 Golding. You were there for the search of
5 Golding?

6 A. I was.

7 Q. Were you there when the SWAT team was
8 there?

9 A. I was outside the residence while they
10 conducted entry.

11 Q. Okay. And were you there when
12 Investigator Hart did his two videos?

13 A. Correct. I would have been outside
14 waiting for him to conduct the initial video, and
15 upon the completion of the search he would have
16 done another video.

17 Q. The portion of the video, the snippet
18 we just watched, was that the before video or the
19 after?

20 A. Based on the images, that appears to be
21 the after video. Again, based on the fact that the
22 masks themselves being on the bed would indicate
23 that a search would have been done.

24 Q. And are you the one that found the
25 mask?

POWELL - DIRECT EXAM BY MS. WILLIAMS

1 A. I was.

2 Q. And where did you find it?

3 A. That was in the closet in the bedroom
4 in which you observed the mask lying on the bed.

5 Q. Did you put those masks on the bed?
6 Who put them there to photograph them?

7 A. I would have probably been the one to
8 remove them because I observed them initially.
9 There were other investigators present, but I do
10 recall them being removed from the closet and
11 placed onto the bed.

12 Q. What was the one thing about the mask
13 you collected that made you think it was connected
14 -- or whatever -- what are the things about the
15 mask that you collected that made you believe it
16 was one connected to the crime?

17 A. Based on the description provided by
18 me, Investigator Wright had interviewed the victim.
19 Again, the exaggerated buck teeth, the large teeth
20 that were on the mask. And then when I observed
21 the mask in the closet, that was the only one that
22 was no longer on the mannequin head.

23 It was actually off to the side. You
24 couldn't see it initially.

25 MS. WILLIAMS: Okay. Thank you very

1 much.

2 THE COURT: Cross?

3 MS. CAPERS: I don't have any
4 questions, Your Honor. I have no questions.

5 THE COURT: Okay. Thank you.

6 You may come down. Thank you.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: Does that conclude the
9 State's case?

10 MS. WILLIAMS: Yes, it does.

11 THE COURT: Very well. Ladies and
12 gentlemen, you have heard all of the evidence. I
13 need to excuse you now and let you go to your jury
14 room. There are matters of law that I need to take
15 up out of your presence.

16 When we return, you will go through the
17 next two phases. One is, of course, the closing
18 arguments, remarks of the attorneys. And while
19 those remarks will be extremely helpful to you when
20 you begin your deliberations in this case, please
21 remember that their remarks are not evidence and
22 should not be considered evidence in any fashion.

23 Following their remarks, I will give
24 you the instruction on the law. And, of course,
25 that law is what you will take and apply fairly and

CLOSING ARGUMENT - BY MS. WILLIAMS

1 Now, give your attention to the
2 attorneys as they give their closing remarks on
3 behalf of their clients.

4 Solicitor.

5 MS. WILLIAMS: Thank you, Your Honor.
6 May it please the Court. Ms. Capers.

7 She lives alone. Neighbors, two front,
8 two sides, but I robbed her daylight. She's old so
9 knock her off so it looks natural. Make her
10 disappear. I don't care. I need her gone. She's
11 the only witness.

12 There are so many horrible things about
13 this case. One of them is what Mr. Aaron Capers
14 reduces this victim to. She is a grandmother. She
15 is the mother of three. She's a sweet neighbor,
16 and he doesn't care. He has reduced her to an
17 obstacle to his freedom. She is in the way.

18 One of the other things that is just
19 horrible about the case is the flip side, that this
20 sweet lady that lived by all accounts a good life
21 will have this disgusting thing that was done to
22 her permeate her memories for the rest of her life,
23 that this will be the thing that she thinks about.

24 Now, you have been very patient. You
25 have listened to a lot of evidence, and I'm going

CLOSING ARGUMENT - BY MS. WILLIAMS

1 to go through some of that evidence with you; and
2 then Ms. Capers is going to get up and talk to you
3 a little bit; and then I'm going to get back up and
4 talk to you very briefly afterwards.

5 One of the things I want to begin with
6 telling you is, that if I say anything that is
7 contrary to what the judge tells you, refer to him.
8 He's the authority on the law. Every now and then
9 us lawyers get up here and argue, and we may
10 misstate something that the judge says. He is the
11 authority of the law, and I want you to defer to
12 him with regard to those issues.

13 One of the things that lawyers love to
14 talk about is reasonable doubt. We love to talk
15 about what it is, what it isn't, give little folksy
16 tales about what reasonable doubt is. The judge is
17 going to instruct you on that, and it doesn't
18 really matter what folksy tales we come up about
19 for reasonable doubt.

20 I suspect that you will hear that it is
21 not all doubt. We have to meet the burden beyond a
22 reasonable doubt. A doubt that is not all doubt,
23 but leaves you firmly convinced, and I suspect that
24 is what you will hear. So listen to that
25 definition.

CLOSING ARGUMENT - BY MS. WILLIAMS

1 Now as we went through the evidence,
2 and it was very difficult evidence to hear, we went
3 through -- and we have the burden of proving every
4 element of every crime that Aaron Capers is charged
5 with. And I would like to briefly go through with
6 you what those elements are.

7 Aaron Capers is charged, to begin with,
8 with criminal sexual conduct in the first degree.
9 What the State has to prove is that he engaged in a
10 sexual battery with the victim, would be
11 Ms. *Victim*, and any one or more of the following
12 are proven. So it's four.

13 The actor uses aggravated force to
14 accomplish the sexual battery, or the victim
15 submits to the sexual battery by the actor where
16 the victim is also the victim of forcible
17 confinement, robbery, extortion, burglary, house
18 breaking or any other similar offense or act.

19 Now, we are going to talk about what
20 sexual battery and what aggravated force are; but
21 in this case, Ms. *Victim* : opened the door, somebody
22 forced their way in, Mr. Capers, he robbed her, he
23 would not let her leave.

24 She tried to escape once and he
25 forcibly closed the door, picked her up, carried

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1 her back, put her in the closet. So any period of
2 confinement fits the elements of this crime. The
3 robbery fits the element of this crime. The
4 burglary fits the element of this crime.

5 So what is sexual battery? The law
6 defines sexual battery very specifically. It is
7 sexual intercourse, cunnilingus, fellatio, anal
8 intercourse, or any other intrusion, however
9 slight, into any part of a person's body or in any
10 object into the genital or anal openings of another
11 person's body. And it goes on.

12 But in this case, what we have is
13 fellatio, which is oral sex. How do we know this?
14 Because semen was found in *Victim's* mouth
15 and she testified that the assailant, Aaron Capers,
16 put his penis in her mouth and ejaculated.

17 What is aggravated force? Now, we
18 don't have to prove aggravated force if you believe
19 she was burglarized, robbed, or kidnapped.

20 But what is aggravated force? The use
21 of physical force or physical violence of a high
22 and aggravated nature to overcome the victim, but
23 that includes the threat of using a deadly weapon,
24 which would in this case be the knife.

25 Armed robbery. Mr. Capers is also

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1 charged with armed robbery. The actor commits
2 robbery while armed with a pistol, dirk, slingshot,
3 metal knuckles, razor, or other deadly weapon. Or
4 -- and this is important -- while alleging either
5 by action or words, that he was armed while using a
6 representation of a deadly weapon or any object
7 which a person present during the commission of the
8 robbery reasonably believed to be a deadly weapon.

9 So when Victim got on the stand
10 and told you that he kept showing her the knife and
11 that she was afraid that he was going to hurt her
12 with the knife, that is a deadly weapon.

13 At some point during the testimony of
14 Investigator Wright, we heard portions of the
15 transcript from Mitsue's earlier statement where
16 she said she was afraid he was going to kill her.

17 And he said, I'm not going to kill you
18 if you do what I tell you to do. And that fits
19 that portion of the statute.

20 Armed robbery continued; the taking and
21 carrying away of the property must have been done
22 with violence or by putting the owner of the
23 property in fear of violence. We know that he took
24 her property because she testified that he did. He
25 not only took her bills, but he took her change.

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1 But we also know he took her debit card
2 because he's caught using the debit card at the
3 Speedway two hours later. He's on tape using it;
4 we have the transaction records of him using it;
5 his girlfriend says he was there; the person that
6 knows him from all the Thanksgivings from spending
7 time with him says that's him on the tape.

8 What is a deadly weapon? Again, the
9 law defines this as well. Any article, instrument,
10 or substance which is likely to cause death or
11 great bodily harm. Examples of instruments which
12 may be a deadly weapon, a pistol, a shotgun, rifle,
13 dirk, dagger, a knife. In this case, that's what
14 we're talking about.

15 Please note, too, that two pocket
16 knives were found at Old Dominion. *Victim*
17 thinks they are brown. She seems to remember it
18 was brown. The two knives -- the two pocket knives
19 that were found at Aaron Capers' home, one was
20 multicolor and one was silver, but two pocket
21 knives are found.

22 Burglary in the first degree.
23 Mr. Capers is also charged with this. The elements
24 that the State has to prove is that he would have
25 entered the dwelling of *Victim* without

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1 consent and with intent to commit a crime.

2 He pushes his way in and he has a mask
3 on, clearly intending to commit a crime. Because
4 you don't go to someone's house with a mask on
5 unless you're not intending to do something. He
6 was armed with a deadly weapon, the knife.

7 That the actor causes physical injury
8 to anyone not participating in the crime. And,
9 again, these are ors. So 1 Victim had bruises
10 on her arms, her left breast, the sides of her
11 arms, and she had a heart attack. So, clearly, she
12 was injured.

13 The actor used or threatened to use a
14 dangerous object. The actor displayed what
15 appeared to be a knife, pistol, revolver, rifle,
16 shotgun, machine gun, or other firearm. Clearly,
17 here again, we're talking about the knife. And,
18 again, these are ors.

19 The judge will instruct you on this
20 law.

21 Within burglary, one of the important
22 things about it is that you have to intend to
23 commit a crime. And, again, there is ample
24 evidence that Mr. Capers intended to commit a
25 crime. And the law will define that for you. It

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1 may be shown by the act and conduct of the
2 defendant and other circumstances from which you
3 may naturally and reasonably infer intent.

4 And, again, I would think the mask
5 would be pretty important and, also, that he pushed
6 his way in and he attacked her once he was inside.

7 Possession of a weapon during the
8 commission of a violent crime. Mr. Capers
9 committed or attempted to commit a violent crime,
10 kidnapping, burglary, criminal sexual conduct,
11 armed robbery, and he possessed or visibly
12 displayed a knife during the crime.

13 He repeatedly told her he had a knife,
14 pulled it out of his pocket a couple times and
15 showed it her. For someone like "victim" it
16 was enough. It didn't take much to scare her.

17 And, again, you're going to get a
18 definition of a knife and the law will be defined.
19 You will get all these definitions from the judge.

20 Kidnapping, lastly. Kidnapping is not
21 what we ordinarily think about when we watch these
22 crime shows on television. You don't have to grab
23 someone, throw them in the trunk and drive away to
24 kidnap them.

25 Essentially, it is defined by seizing,

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1 confining, inveigling, decoying, abducting or
2 carrying away.

3 So confining someone against their will
4 for a period of time fits the statute for
5 kidnapping.

6 Now, I want to talk a little bit about
7 some of the witnesses that you heard from the
8 witness stand. You are the sole judges of
9 credibility. And the most important asset that you
10 bring to this process is your common sense, your
11 everyday experience in life.

12 You evaluate people every day, and you
13 can tell when people are telling the truth or
14 whether they have something to hide or whether they
15 have a bias. So I would encourage you to use the
16 tools as you evaluate the witnesses you heard on
17 the witness stand.

18 Let's think about *victim*... She
19 was assaulted and very much traumatized by this
20 event. So, fortunately, you were not only able to
21 see her testify, but you were able to hear some of
22 the things that she told detectives closer to the
23 period of time -- closer to the time when she was
24 assaulted.

25 But she does remember the important

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1 things. She remembers the disgusting details of
2 the assault; she remembers the knife. She's a
3 little confused about the time. She testified that
4 it was 2:00 here; she told the detective that it
5 was 2:00; I think she told the nurse it was 12.
6 Understandable, she had just had a heart attack.

7 The forensic evidence matches what she
8 said. Let's think about that for a second. She
9 said she was grabbed by the arms at some point and
10 sort of picked up and taken into the guest bedroom.
11 She had two bruises that the nurse testified looked
12 like grab marks on her arms. She said her breast
13 was grabbed; there is a bruise on her breast.

14 She also says that she -- also, she has
15 grab marks underneath arm, right about here.

16 (Indicating) And she also had a heart attack.
17 Clearly, this woman was under an incredible amount
18 of stress based on her reaction to this event.
19 This definitely happened to *victim*, because
20 the forensic evidence matches what she said.

21 So they swabbed her mouth, semen is
22 found, and it matches Aaron Capers. Separately, a
23 different team of people from the Goose Creek
24 Police Department go into the home, collect the
25 sweatshirt that she says she wiped the semen off of

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1 her mouth with it. And they find semen, sperm, and
2 it matches Mr. Capers.

3 Please note that the people that
4 collect the sweatshirt did not go to either of the
5 search warrants. So Wendy Myers collected the
6 sweatshirt. She was not at Golding. She was
7 not at Old Dominion. So this whole notion that
8 somehow the police are able to extract semen from
9 one location and get it to the victim's mouth is
10 ridiculous.

11 And even if you take the bait on that
12 one and believe that these swabs from her mouth
13 were somehow contaminated, there's no way to
14 explain the sweatshirt because it goes on a
15 completely separate track with different people.

16 Think about what Violet Walsh testified
17 to. Her neighbor comes over screaming hysterically
18 and collapsed on her front steps and hysterically
19 tells her the story. What is the story? It's
20 exactly what she testified to.

21 He took me into the guest bedroom, put
22 his penis in my mouth -- the whole thing. The
23 whole horrible story is told immediately to Violet
24 Walsh.

25 And then, of course, she had a

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1 stress-induced heart attack which is one of the
2 many tragedies of this case, that she had to endure
3 that.

4 Ryland Kowalski; this is the young man
5 that was playing basketball with his friends and he
6 sees an individual dressed in black clothes run to
7 Golding Lane. The home of Aaron Capers' father
8 where his girlfriend picked him up just a couple of
9 hours later. Clearly, he was staying there.

10 What are the chances? What a
11 coincidence that the person dressed in black,
12 *Victim* says the guy was dressed in black,
13 runs to Golding. Now a big deal was made about
14 the fact that they didn't see him go into
15 Golding.

16 They said that they looked away. So
17 they didn't see him open the door. There was also
18 a big deal made about how this person was going
19 door to door. This person sounds frantic, they are
20 running, they are scared.

21 They may have gone door to door, but
22 guess where they wound up? At Aaron Capers' house,
23 and that's an awfully big coincidence.

24 The other thing I want to bring your
25 attention to is the map. When defense called the

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1 officer that did the tracking for the dog, please
2 remember what he told you about the track, because
3 it's very very interesting.

4 So the crime occurs at Isherwood.
5 This is where the street is and this is the back of
6 the house. (Indicating) The track goes from here
7 across here.

8 They say it's the next neighborhood,
9 but it's actually behind the house. So when
10 Mr. Capers -- if he ran here to where the track
11 says, he's got plenty of time to come down here,
12 probably overshoots Old -- Golding Lane, comes
13 out about here where the boys see him and then runs
14 to Golding Lane. (Indicating)

15 Completely consistent with him being at
16 Isherwood, going here, back into the house, and
17 then coming out about here. Probably wished he
18 would have come out about here, but overshoots and
19 then runs to . Golding. (Indicating)

20 And I think he said if he took his
21 time, it would have taken him ten minutes. If he
22 was running, it would been a matter of minutes.

23 Now, you've heard a lot of evidence
24 from the South Carolina Law Enforcement Division.
25 Courtney Thompson was the serologist, and she

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1 talked about semen versus sperm. So in the swabs
2 that were taken from Ms. ~~victim's~~ mouth, there were
3 components of semen. Components of semen.

4 She can't say it's sperm because there
5 was no living sperm in there, but there were
6 components of semen in the swabs. The semen and
7 the sperm are both found on the sweatshirt, and all
8 of those items match the DNA of Aaron Capers.

9 So they also talked a little bit about
10 -- when Katherine Leisy came up, they were talking
11 about the care that is taken with the swabs. And,
12 again, a big deal is made about the fact that
13 Officer Wright puts the swabs in her clipboard and
14 carries them with her.

15 They never leave her custody. She goes
16 to the hospital and takes them back to the station
17 at 8:00 p.m. Then at 1:00 a.m., they do the search
18 warrant of Golding.

19 The fear in DNA degrading over time, if
20 you don't get it tested right away and it degrades
21 over time. The fear is you're not going to be able
22 to find DNA. There's no allegation that Ms. Wright
23 was carrying around another sample with Mr. Capers'
24 DNA.

25 So the fact that they find semen on