

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TAMAR JAVEELL NANCE,

APPELLANT

APPELLATE CASE NO. 2023-000172

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

State's Exhibits #1, #2, #3 – clips from body cam at the apartment; State's Exhibit #6 – surveillance video from CK Mart June 23, 2021; State's Exhibit #7 – Audio of 911 call; State's Exhibit #10 – Video of July 5, 2021, interview; State's Exhibit #70 – Photo of Appellant at CK Mart; State's Exhibit #81 - #90 – Photos of car; State's Exhibit #99 – surveillance video from ATM; State's Exhibit #107 – footage from body cam June 30, 2021; State's Exhibit #128 – surveillance video from ATM

1 sexual assault evidence collection examinations you've
2 conducted throughout your career as a nurse professional?

3 A Yes. So I conduct both children and adult sexual
4 assaults, so I've conducted over a thousand, at least.

5 Q Okay. And when we talk about the actual evidence
6 collection, the items that you're using, the swabs, the
7 envelopes, is there a specific kit or format for those, for
8 that type of evidence to be collected?

9 A Yes. There is specific kits that we get from SLED, and
10 those are, the protocol tells you what to collect, where to
11 collect it, and that sort of thing.

12 Q Alright. And can you tell us whether or not those
13 protocols and procedures were followed on June 23rd, 2021, for
14 the sexual assault examination for D.K.?

15 A Yes, they were.

16 Q And can you tell us whether or not your educational
17 training and clinical experience regarding the documentation of
18 physical findings, whether or not that protocol was followed
19 during the examination of D.K.?

20 A Yes. The protocol was followed.

21 Q And have you testified previously as an expert in the
22 Courts of any state in the field of sexual assault nurse
23 examination?

24 A Yes. I've been qualified at least three times in this
25 state.

1 Q And does that include Circuit Court?

2 A Yes.

3 Q And does that include this jurisdiction being Lexington
4 and Saluda Counties?

5 A Yes, it does.

6 MS. MAYES: Your Honor, at this time the State offers
7 Brigitte DeGuzman as an expert in the field of sexual assault
8 nurse examination.

9 THE COURT: Ms. Mauldin, any objection?

10 MS. MAULDIN: No, Your Honor.

11 THE COURT: Alright. Mr. Foreman, ladies and
12 gentlemen of the jury, let me just tell you normally a person
13 cannot give opinion testimony. Normally when a person
14 testifies, they testify to something either they saw, heard,
15 said, or smelled. However, we have an exception when someone
16 is qualified because of education or experience they are
17 permitted to give their opinion in certain areas if they're
18 qualified as an expert. Now, qualifying Ms. DeGuzman as a
19 sexual assault nurse examiner and she's going to be able to
20 give her opinion testimony in that area. That does not mean
21 you must accept the opinion, but it is evidence for you to use
22 in any way you see fit. Go ahead, Ms. Mayes.

23 MS. MAYES: Yes, Your Honor.

24 Q I'm going to start by showing you what is State's 149 and
25 ask you whether or not you recognize this envelope?

1 A Yes.

2 Q And how so?

3 A It's the DNA evidence collection kit and also my signature
4 is at the top showing that I sealed it and I placed it in the
5 refrigerator.

6 Q Alright. And when you say you sealed it, can you tell us
7 exactly what you mean by that?

8 A There, right here, it seals itself and then I also put an
9 evidence collection tape over that and then I put my initials
10 over that to show that I am the one that sealed that.

11 Q Okay. Where you place your initials over the seal, if the
12 seal had been broken, would that be visible to anyone handling
13 this item?

14 A Yes.

15 Q As well as to you?

16 A Correct.

17 Q And at the time that you packaged the contents and sealed
18 it, had anyone else handled this item?

19 A No.

20 Q And then you sealed it and initialed it. And what can you
21 tell us about who it was released to at the Columbia Police
22 Department?

23 A It was released to Officer Fisher by Rita Anderson.

24 Q Okay. Now, prior to it being handed over to Officer
25 Fisher by Rita Anderson, had you in fact sealed it?

1 A Yes.

2 Q That includes all of the contents?

3 A Correct.

4 Q As well as the exterior packaging?

5 A Correct.

6 MS. MAYES: For identification at this time, Your
7 Honor, State's 149.

8 THE COURT: Any objection?

9 MS. MAULDIN: No, Your Honor.

10 THE COURT: It's admitted.

11 (Whereupon an envelope was submitted as State's Exhibit
12 149 for identification only.)

13 THE COURT: Did you say ID only?

14 MS. MAYES: It is, Your Honor.

15 THE COURT: Okay. It's admitted as ID only.

16 Q The items that you collected during the examination, those
17 items that end up going into the envelope that you sealed, they
18 are collected for what purpose?

19 A For evidence collection.

20 Q And to go to what agency for further forensic analysis?

21 A We give it to the proper jurisdiction and then they send
22 it to SLED.

23 Q Okay. I want to ask you specifically about your
24 examination, and I want to go back to your notes. You
25 indicated that there is a protocol form?

1 A Yes, ma'am.

2 Q Do you have a copy of the protocol form with you?

3 A Yes, ma'am.

4 Q And does it relate the actual examination that you
5 conducted; does it relate your findings regarding your
6 examination on D.K. ?

7 A Yes.

8 Q I want to start looking at the front of your protocol
9 form.

10 A Okay.

11 Q What can you tell us about the time that D.K.
12 arrived at the hospital and which hospital was this?

13 A She arrived June 23rd, 2021, at 7:17 am. She arrived at
14 Baptist Parkridge Hospital Emergency Department.

15 Q And that time again was 7:17?

16 A Yes, ma'am.

17 Q And what can you tell us about her age?

18 A She is 74, or she was 74 at the time of the exam.

19 Q And upon your arrival, what's the first thing you do in
20 going about your examination?

21 A Well, after checking in with the physician who saw her to
22 make sure that she's medically cleared, I talk to the patient,
23 and I introduce myself. I let the patient or victim know what
24 to expect, I go through, I generally go through the process of
25 what I'm going to collect, you know, I'm going to take

1 photographs of any injuries. Post the exam, I, you know, say
2 we might collect blood or urine and then I also get consents
3 for the exam itself. So I basically give her a general idea of
4 what to expect.

5 Q And can you tell us what if anything you noted about her
6 demeanor?

7 A She, she was alert and oriented, she engaged easily with
8 me meaning that she answered the questions very, fairly
9 readily. She was tearful at times during the exam, but she was
10 able to complete the exam.

11 Q And can you tell us whether or not you need certain
12 information regarding the history of the assault for purposes
13 of your own medical diagnosis and treatment?

14 A Yes. So during the assault history, typically the
15 patient, or she told me, you know, what happened and based on
16 what happened I can focus on those areas of what was penetrated
17 or if she were injured in any way, I can look at those areas,
18 photograph it, collect evidence where she was penetrated or if
19 she feels there was any bodily fluids, I would collect that,
20 those type of things.

21 Q And is that type of information necessary for your medical
22 diagnosis and treatment?

23 A Yes. So if she, you know, had any injuries, I know the
24 doctor is supposed to medically clear her, but sometimes after
25 an assault history or after I go through my exam, they may

1 notice some other injuries, but also after the exam, we'll have
2 to treat that prophylactically with any antibiotics just in
3 case there was vaginal penetration, oral penetration, we want
4 to go ahead and treat that to prevent any sexually transmitted
5 infection.

6 Q Okay. Now, what can you tell us about the time or time
7 frame that was reported to you for this sexual assault?

8 A So she estimated that the assault happened around 5:30,
9 but you know, she also indicated that she recalled that he left
10 around 5:39, and so she estimated he was there maybe about 30
11 minutes. And so she gave a time frame around 5:30.

12 Q Alright. And do you have notes regarding specifically the
13 time or time frame?

14 A Yes.

15 Q And are your notes to the best of your ability directly
16 from what Ms. D.K. stated to you?

17 A Yes, ma'am.

18 Q What if anything did she say to you regarding the time or
19 time frame? If you could refer directly to your notes.

20 A Okay. So date and time of the assault, I documented June
21 23rd, 2021, 5:30 am. As for the description of the assault she
22 did say she was unsure of the precise time of the sexual
23 assault, but the time he left was at 5:30 in the morning, 5:39
24 in the morning.

25 Q Alright. 5:39 am?

1 A Yes, ma'am.

2 Q And she indicated to you that's when the intruder left?

3 A Correct.

4 Q And did she report to you anything regarding the place of
5 the assault?

6 A She said in her apartment.

7 Q Now, you mentioned that for purposes of medical diagnosis
8 and treatment you also ascertained information regarding any
9 part or parts of the body that may have received injury?

10 A Correct.

11 Q Do you ascertain whether or not the patient is
12 experiencing any pain?

13 A Yes.

14 Q And is that necessary for you to know for purposes of your
15 treatment?

16 A It is.

17 Q And what if anything was reported to you regarding
18 location of pain?

19 A One of the questions is, is the patient complaining of
20 anal, genital injury, pain or bleeding, and she said yes.
21 Under the description, I put patient has generalized vaginal
22 pain and burning with urination. Patient states she noticed
23 blood on the toilet tissue when she wiped after urinating at
24 the hospital.

25 Q Alright. So knowing that there may be bleeding

1 and pain vaginally, how do you go about treating that?

2 A So during my exam of course I'll examine that area,
3 depending on the extent of the injury, there may be other
4 treatment or no treatment, but if there was some pain there,
5 again, I want to go back to the prophylactic treatment if it
6 was penetrated there.

7 Q And knowing or having part of the history being a vaginal
8 injury, can you tell us whether or not it's necessary for
9 medical diagnosis and treatment to know the mechanism of that
10 injury?

11 A Yes. So depending on the injury and the mechanism of
12 injury, so if there was penile penetration, I would exam down
13 there to see what type of injuries and if it was a blunt force
14 trauma injury versus, you know, a penetrating injury, that sort
15 of thing.

16 Q Alright. I'm going to refer you to page 3 of your report
17 and ask you whether for medical diagnosis and treatment you
18 asked specifically what type of contact occurred?

19 A Repeat that one more time.

20 Q Whether or not you asked what type of contact occurred ---

21 A Yes.

22 Q --- for purposes of your medical diagnosis and treatment?

23 A Yes. I ask, there's a section there for contact method,
24 and here we specifically ask what was penetrated and how it
25 was, what area was penetrated and how it was penetrated. So

1 I'm going to ask was there penetration of the vagina by the
2 penis, she said yes, by the finger, she said yes, and then for
3 description she put, and his hand penetrated her vagina.

4 Q So she reported to you that there had been penetration by
5 the penis?

6 A Yes.

7 Q And in her words, hand?

8 A Yes.

9 Q And that word, hand, can you tell us whether or not that's
10 in quotations?

11 A It is.

12 Q Does that indicate that that came directly from the
13 victim?

14 A Yes.

15 Q And then how do you go about trying to assess the injuries
16 and further document any injuries that may be present during
17 that genital exam?

18 A So I examine the vaginal area, basically, I examine it
19 closely. And I also take photographs to document any injuries.
20 So I visualize the areas, all the different landmarks, document
21 that, and both written and by photographs.

22 Q Alright. And is there a place on the protocol form
23 that you use where you actually note any genital
24 findings?

25 A Yes. There is an area that I do that.

1 Q Can you tell us whether or not you did observe physical
2 injury to the vaginal area of D.K. ?

3 A Yes, I did.

4 Q And is that noted in your exam?

5 A Yes, ma'am.

6 Q I'm going to ask you to take a look at this diagram and
7 ask you whether or not it is similar in nature to the diagram
8 that you utilized in conducting her examination and on your
9 protocol form?

10 A (Nonverbal response).

11 Q State's 131, you're familiar with what is depicted in this
12 diagram?

13 A Yes, ma'am.

14 Q Is this similar to the diagram that you utilized in
15 notating any injuries you observed in Ms. D.K. ?

16 A Yes, ma'am.

17 Q And for purposes of this proceeding, would you be able to
18 accurately depict those findings on State's 131?

19 A Yes.

20 MS. MAYES: Your Honor, State's 131 for evidence,
21 that will be utilized by the witness.

22 THE COURT: Any objection?

23 MS. MAULDIN: No, Your Honor.

24 THE COURT: It's admitted.

25 MS. MAYES: I apologize, Your Honor, that's 151.

1 THE COURT: 150, okay. 150 admitted.

2 MS. MAYES: 151.

3 THE COURT: 151, admitted.

4 (Whereupon a diagram was submitted as State's 151 for
5 identification and entered into evidence.)

6 MS. MAYES: And Your Honor, with your permission, if
7 the nurse may step down?

8 THE COURT: Yes.

9 Q I'm going to ask you if you can, to step around and you'll
10 just need to keep your voice up for the Court reporter. Now,
11 looking specifically at the diagram that you utilized to notate
12 injury. Can you tell us what we're looking at here and where
13 you first observed any evidence of injury?

14 A Okay. So basically, this is a diagram of the vagina, and
15 these are the areas that I examined. Based on my notes here
16 and my documentation, she did sustain injuries. She had a
17 laceration at her fossa navicularis which means right here.
18 Typically, that's where the penis would enter.

19 Q And let me stop you there and ask you to notate here on
20 State's 151 exactly as you did on the protocol form and noting
21 that particular injury?

22 A (Nonverbal response).

23 Q Alright. Now, you've indicated that this is, your words
24 were what type of injury?

25 A It was a laceration to her fossa navicularis.

1 Q Alright. Can you tell us whether or not a laceration or
2 injury there is consistent with blunt force trauma?

3 A It is consistent with blunt force trauma.

4 Q And can you tell us whether or not that would include
5 forced penetration?

6 A That would include forced penetration.

7 Q What else did you observe?

8 A I also observed an abrasion or superficial tear with dark
9 red bruising and scattered petechiae below the clitoral hood
10 into the right of both urethral opening. So the urethral
11 opening would be right here. So there was an abrasion and
12 superficial tear which is a little bit worse than an abrasion,
13 but not quite a laceration with bruising and let's see, that
14 was to the right of the urethral opening. So that is this area
15 right here, this is the urethra, so around this area there was
16 the tear, bruising, petechiae which is bleeding under the skin,
17 and it was also, there's a small amount of bright red blood
18 observed at the site. So there was a small amount of blood and
19 there was tenderness. So when I palpated in or spread her
20 labia, examined her, she, there was some tenderness there.

21 Q You mentioned the presence of blood. What if anything did
22 you note about the appearance of that blood?

23 A So bright red blood indicates that it's fresh, it's not
24 old. In my opinion, it probably could have been just from the
25 mucosal membrane or it's close to the urethra opening, so some

1 of the blunt force trauma could have caused a small amount of
2 bleeding.

3 Q And what if anything is significant about the presence of
4 bright red blood in a patient who is 74?

5 A Like I said, it's fresh, it's not old blood, it can't be
6 anything from a menstrual period if she's, you know, 74, the
7 skin could have been more pliable because she's older there's
8 not as much estrogen, so it's easily abraseable [sic] with the
9 injury.

10 Q And again, the petechiae, tell us what is meant by that
11 medical term petechia.

12 A So it's like capillaries under your mucosa or sometimes
13 under the skin. If there's enough blunt force trauma or if
14 there's friction, it can cause petechiae which are like little,
15 small red dots or sometimes they're purple red dots.

16 Q Can you tell us whether or not these findings, being the
17 abrasion or superficial tear along with the petechiae and the
18 presence of the bright red blood, can you tell us whether or
19 not that is consistent with blunt force injury?

20 A That is consistent with blunt force injury.

21 Q And would that include forced penetration?

22 A Yes.

23 Q What if anything else did you find?

24 A I also observed redness and scattered petechiae
25 to the left of the urethra opening, so it's the same

1 area, but just the opposite side over here.

2 Q And when you say redness, was that apparent to you with
3 the naked eye?

4 A Yes.

5 Q And you mentioned scattered petechiae, again, what do you
6 mean by that?

7 A Just broken blood vessels under the skin.

8 Q And can you tell us whether or not that observation that
9 you noted here on the opposite side, it's consistent with blunt
10 force injury?

11 A Yes, ma'am.

12 Q And would that include forced penetration?

13 A Yes, ma'am.

14 Q Now, was this, were you able to conduct a speculum exam on
15 this patient?

16 A No. So normally, speculum exams I insert an instrument in
17 there so I can look on the inside, but she was in too much pain
18 for me, for her to tolerate it. So anytime, if it's too
19 painful, I don't, of course, I don't insert, you know, I take
20 it back out. And I tell them in advance if it's too painful,
21 let me know and I'll take it out. So no, I was not able to
22 conduct the speculum exam due to the pain.

23 Q Thank you. You may return. Now, the actual process of
24 collecting evidence from the body take us through that entire
25 process, tell us what is contained on this, first of all,

1 looking here at State's 149 for ID. We see the SLED logo, does
2 this, where is this housed, where did you find this envelope?

3 A In our SANE office, we have it in a cabinet.

4 Q Okay. And that's there at Prisma Hospital?

5 A Yes, ma'am.

6 Q And the contents of this envelope, what all is included
7 within the contents of this envelope?

8 A So in the envelope itself are smaller envelopes that are
9 labeled, specifically labeled, and then in those envelopes
10 there are Q tips. So each label, so for example, there's one
11 for vaginal. So for each envelope you would collect that
12 evidence in that specific area that is specified at the top.
13 So if it says oral, then, you know, you would collect the
14 evidence from the oral cavity if he or she were orally
15 assaulted. I'm going to go through this and let you know what
16 envelopes are included.

17 MS. MAYES: And Your Honor, with permission, this is
18 for ID only, but if the witness may break the seal in order to
19 identify the contents therein.

20 THE COURT: Any objection?

21 MS. MAULDIN: No, Your Honor.

22 THE COURT: Go right ahead.

23 A Okay. So there's another envelope within this large
24 envelope and it has the DNA lists, the envelope, the different
25 envelopes that I would have within here. So for example,

1 there's the buckle swabs which is for her DNA, and I swabbed
2 the inside of her mouth for that.

3 Q Alright. So I need to stop you right there.

4 A Okay.

5 Q And you mentioned that you actually take a DNA standard
6 from the victim herself, D.K. ?

7 A Correct.

8 Q And do you see that particular standard?

9 A Yes, I do.

10 Q Okay. And is that, how do you go about collecting that
11 standard? Let me ask you that.

12 A So I asked her to open her mouth and I swabbed the inside
13 of her cheeks on both sides. And then I placed it back in the
14 envelope.

15 Q And is the envelope properly sealed after collecting that
16 DNA standard from Ms. D.K. ?

17 A Yes.

18 Q And that's in the form of a buckle swab?

19 A This is a buckle swab, yes.

20 Q Alright. And then what swabs did you collect from the
21 body?

22 A I collected vaginal swabs, I collected from her anterior
23 thighs, I collected perianal swabs, I collected from her mons
24 pubis.

25 Q I want to ask you about that. There is a swab

1 that you collect that, pursuant to the protocol is entitled
2 mons pubis?

3 A (Nonverbal response).

4 Q Alright. I'm going to show you what is State's 145 in
5 evidence and ask you if you can show us what you are, what area
6 you are swabbing in order to collect the mons pubis swab.

7 A So the mons pubis would be in this area here.

8 Q Alright. Now the vaginal swab, can you tell us how you go
9 about collecting the vaginal swab?

10 A If I insert the vaginal swabs, I go into the vaginal
11 folds, and I insert the swabs and I swirl it around.

12 Q Okay. And can you tell us whether or not that would have
13 been done in this particular case?

14 A Yes, it was.

15 Q Alright. So you're collecting the vaginal swab directly
16 from inside the vagina?

17 A Yes. But I also go outside the mons pubis and then also
18 the labia majora which is the outside as well. I did her
19 anterior thighs; I think I mentioned those.

20 Q And each of these are separate swabs that you noted,
21 specifically vaginal swab, the mons pubis and then the one
22 including the thighs?

23 A Yes, those are separate.

24 Q Are each of these swabs individually packaged?

25 A Yes, they are.

1 Q Are you properly sealing each individual package?

2 A Yes, I am.

3 Q After its collection?

4 A Yes.

5 Q Are you wearing gloves during the course of this
6 collection?

7 A Yes. And I change them between each evidence collection.

8 Q Can you tell us whether or not there is an envelope for
9 fingernail scrapings?

10 A There is, but I did not collect that.

11 Q And what if any notation did you make as to why or why not
12 you decided to collect the fingernail swab, fingernail
13 clippings?

14 A The patient indicated that she denied scratching the
15 suspect, and she also states her hands were, she confidently
16 denies scratching him. And she states her hands were on the
17 pillows that were placed over her face.

18 Q Now, is it also a part of the protocol to determine if
19 there had been any other contact within the last seven days?

20 A Yes.

21 Q Of a sexual nature?

22 A Yes.

23 Q And what if anything was part of your report in that
24 regard?

25 A She denied any contact within the last seven days.

1 Q Other than this event?

2 A Correct.

3 Q Now, once you package all the individual envelopes, they
4 go where?

5 A So once they're sealed in the larger envelope, I secure
6 them at the SANE office, it's behind a locked closet or storage
7 area, and then it's placed in a refrigerator which is also
8 locked.

9 Q And does the kit or envelope remain sealed throughout this
10 process?

11 A Yes, it does.

12 Q Did anyone else handle or tamper with any of your swab
13 collections prior to you sealing them, sealing the envelope and
14 placing it for safe keeping?

15 A No.

16 MS. MAYES: And Your Honor, if we may keep each of
17 the individual envelopes within State's 149?

18 THE COURT: Yes, ma'am.

19 Q You indicated the officer who retrieved the sealed kit
20 from Prisma Hospital was who?

21 A Fisher, Investigator Fisher.

22 MS. MAYES: Thank you, nothing further.

23 THE COURT: Thank you, Ms. Mayes. Ms.
24 Mauldin?

25 MS. MAULDIN: Thank you, Your Honor.

CROSS EXAMINATION

1

2 BY MS. MAULDIN:

3 Q Good afternoon, nurse DeGuzman.

4 A Hello.

5 Q So the arrival time is listed at 7:17, is that right?

6 A 7:17.

7 Q Is that what time Ms. **D.K.** arrived at the hospital or
8 the time the exam began?

9 A She arrived at the hospital.

10 Q What time did the exam begin?

11 A My first contact with her was at 9:46 and it's completed
12 at 10:25, so in between that time.

13 Q Okay. Was her daughter present throughout the exam?

14 A During the collection of history, it says daughter, Kelly,
15 remained for patient comfort and emotional support. And then
16 during the medical exam, there was, Kayla was, the daughter
17 Kelly was there.18 Q Okay. You mentioned Kayla, that was an advocate with the
19 hospital?20 A Correct. Or with sexual trauma services, not the
21 hospital, but ---

22 Q Okay.

23 A --- yes.

24 Q And your report refers to a scant amount of blood, is that
25 the word you used?

1 A Yes.

2 Q Okay. And scant means not much?

3 A Correct.

4 Q And this was not any sort of injury that required surgery
5 to repair?

6 A No.

7 Q Didn't require any kind of sutures or anything of that
8 nature?

9 A No.

10 Q And Ms. D.K. did not have to be admitted to the
11 hospital for any sort of treatment?

12 A Not that I'm aware of, no.

13 Q Thank you.

14 MS. MAULDIN: No further questions, Your Honor.

15 THE COURT: Thank you, Ms. Mauldin. Ms. Mayes?

16 MS. MAYES: Your Honor, we ask that she be released.

17 THE COURT: Yes, ma'am. Thank you so much. You may
18 be excused. Alright. Let me give the jury a quick break. Mr.
19 Foreman, y'all go stretch your legs for about 15 minutes. No
20 talking amongst yourselves about this case.

21 MR. FOREMAN: Yes, ma'am.

22 THE COURT: Thank you.

23 (Jurors exiting Courtroom.)

24 (Off the record.)

25 THE COURT: Ms. Mayes, let me ask you, how

1 many more witness we got?

2 MS. MAYES: On case to rest, our case by lunchtime
3 tomorrow, we have two witnesses, two more witnesses this
4 afternoon. If we need a third witness, we can call a third
5 witness.

6 THE COURT: No. I think two will be plenty. I want
7 to give everybody time to get, because the weather's really bad
8 outside, if y'all don't know it. And I'd like to at least get
9 people home at a decent hour. We got two more experts?

10 MS. MAYES: We have one, Your Honor, who is law
11 enforcement and then one who is an expert.

12 THE COURT: Long?

13 MS. MAYES: We can get it done by 4:30.

14 THE COURT: Perfect. Y'all ready to bring the jury
15 in?

16 MS. MAYES: Yes, Your Honor.

17 MS. MAULDIN: Yes, Judge.

18 THE COURT: Let's bring them in.

19 (Jury entering Courtroom.)

20 THE COURT: Oh, let me tell you. We've got some
21 charges that we're emailing to y'all. He's going to email them
22 now.

23 LAW CLERK: And the verdict form as well.

24 THE COURT: And the verdict form. Y'all look at them
25 and then we'll have a charge meeting and I'm open to just about

1 anything, we'll talk about it. Alright. Mr. Foreman, jury
2 ready?

3 MR. FOREMAN: Yes, ma'am.

4 THE COURT: Okay. We've got, we're going to do two
5 more witnesses. I'm trying to keep y'all updated here and see
6 if I can't get you out of here at 4:30, the weather's kind of
7 bad, okay? Alright. Ms. Mayes, you can call your next
8 witness.

9 MS. TAYLOR: State calls Investigator James Fisher.

10 CLERK: Please raise your right hand and place your
11 left hand on the Bible. Do you swear or affirm your testimony
12 you give the Court is the truth, the whole truth, and nothing
13 but the truth so help you God?

14 INVESTIGATOR FISHER: I do.

15 CLERK: Thank you. Would you please have a seat in
16 the witness box. State your full name and spell your last for
17 the record.

18 INVESTIGATOR FISHER: Investigator James Fisher,
19 Columbia Police Department.

20 DIRECT EXAMINATION

21 BY MS. TAYLOR:

22 Q Good afternoon, Investigator Fisher.

23 A Good afternoon.

24 Q Tell me a little bit about yourself. Your education,
25 training to become a law enforcement officer.

1 A I graduated Spring Valley High School in 1993, started
2 with the Columbia Police Department in 1999. I'm currently
3 assigned to the criminal investigation division.

4 Q Would that include the special victims unit as well?

5 A Yes, ma'am.

6 Q Okay. What types of cases do you usually work in the
7 special victims unit?

8 A Sexual assault, violent crimes, crimes involving children,
9 and the elderly individuals.

10 Q And in June of 2021, were you in that same role as you are
11 today, in the special victims unit?

12 A Yes, I was.

13 Q And you are an investigator?

14 A Yes.

15 Q At any point in June of 2021 did you become involved in an
16 investigation of Tamar Nance?

17 A Yes. On Tuesday, June 29th I went to Richland, the SANE
18 nurses office to pick up the SANE kit. When I pick up the
19 kits, the first thing I do is I make sure that they have the
20 right name and case number, and make sure they're not tampered
21 with and once I pick them up from there, they're sent straight
22 to our property room, and I log them in.

23 Q Okay. When you picked up the rape kit for this case, was
24 it sealed with evidence tape?

25 A Yes, it was.

1 Q Was there any indication that this package had been
2 tampered with?

3 A No.

4 Q And what is the purpose, just to clarify, of that evidence
5 tape on that package?

6 A Just to ensure all the contents in there are preserved the
7 way the SANE nurse collected them, and they're in that same
8 condition when I take it to the department.

9 Q Okay. And just to clarify as well, what did you say that
10 you did with the kit after you picked it up from the hospital?

11 A I took it straight to the property room.

12 Q If the package had appeared to be tampered with in any
13 way, would you have noted that?

14 A Absolutely.

15 Q What would you have done if it had been tampered with?

16 A I would have had the SANE nurse check it, make sure
17 everything inside is still intact and she would repackage it
18 and reseal it.

19 Q So was there any indication of that in this case?

20 A No, no.

21 Q Showing you for identification purposes State's 149. Do
22 you recognize this?

23 A Yes, I do.

24 Q Okay. And what is that?

25 A This is the SANE exam on case number 15595, it's

1 got the victim's name on it, the investigator's name. This is
2 what I fill out and turn it into the department.

3 Q Okay. And flipping over to the other side, and would that
4 case number be associated with Tamar Nance?

5 A Yes, ma'am.

6 Q As with Detective Ortiz or Williamson at the time as the
7 investigator assigned to the case?

8 A That's correct.

9 Q Okay. And on the side of the package, does it indicate
10 anywhere on there that, when you picked up the kit from the
11 hospital to take it to the evidence room?

12 A Yes. It's dated and time stamped right here, that's when
13 the SANE nurse turned it over to me, that's where I signed for
14 it, and this is where I dropped it off at the department and
15 they signed for it.

16 Q Okay. And what is the time that you picked it up from the
17 hospital from that nurse?

18 A Yes, ma'am. I picked it up at 8:36 and dropped it off to
19 the property room by 9:00.

20 Q And was that on June 29th, you said?

21 A Yes.

22 Q Of 2021?

23 A 2021, sorry.

24 Q Okay. So you dropped it off at the evidence room on that
25 same day?

1 A Yes. It's located at 715 Bluff Road, and it takes about
2 20 minutes depending on traffic conditions at that time of day.

3 Q Okay. And Investigator Fisher, does the package remain
4 sealed after you tag it into evidence in the evidence room?

5 A Yes, ma'am.

6 Q Okay.

7 MS. TAYLOR: Nothing further at this time.

8 THE COURT: Thank you. Ms. Mauldin?

9 MS. MAULDIN: No questions, Your Honor.

10 THE COURT: Okay. Well then my I let Agent Fisher go
11 then?

12 MS. MAYES: Yes, Your Honor, so he can return to
13 duty.

14 THE COURT: Thank you.

15 INVESTIGATOR FISHER: Thank you, Your Honor.

16 THE COURT: Have a good day.

17 MS. TAYLOR: State calls Courtney Thompson.

18 CLERK: Please raise your right hand, place your left
19 on the Bible. Do you swear the testimony you give the Court is
20 the truth, the whole truth, and nothing but the truth so help
21 you God?

22 MS. THOMPSON: I do.

23 CLERK: Thank you. Would you please have a seat in
24 the witness box. State your full name and spell your last for
25 the record.

1 MS. THOMPSON: My name is Courtney Thompson, T-h-o-m-
2 p-s-o-n.

3 DIRECT EXAMINATION

4 BY MS. TAYLOR:

5 Q Good afternoon, Ms. Thompson. Please tell us a little bit
6 about yourself and your education and training in your current
7 role.

8 A Sure. So I have a bachelor's in science in forensic
9 science and biology from Southern Wesleyan University. And I
10 am currently employed at the South Carolina Law Enforcement
11 Division, which is more commonly referred to as SLED in the
12 forensic services laboratory. I am a forensic scientist in the
13 DNA laboratory, and I have been there for the past 10 years.
14 And for 8 and a half of those years I was a forensic
15 serologist, and then recently I moved into a scientist for
16 genianalyst [sic] position. I currently still fulfill my roles
17 in serology and I'm training to complete my DNA analyst
18 training as well as continuing my previous job duties at this
19 time.

20 Q What types of work would be included in the field of
21 forensic serology?

22 A So forensic serology is known as the identification of
23 bodily fluids for DNA analysis, and the bodily fluids that are
24 of most importance to DNA analysis are generally fluids like
25 blood, semen, and saliva. The reason why these body fluids are

1 important are because they're excellent sources of DNA. And
2 forensic serology is part of trying to identify bodily fluids
3 that may be a good source for DNA analysis as well as
4 attempting to isolate different types of DNA that may be left
5 behind by other people. This could be something like hair, or
6 it could be something like skin cells that are shed from
7 touching an item or wearing something.

8 Q What types of training did you receive in the field of
9 serology?

10 A So my training took place for about 13 months. I was
11 trained under a senior evidence processing technician and then
12 a senior DNA analyst. Both of these people taught me how to
13 appropriately handle evidence, perform the examinations that
14 are part of my job scope, maintaining the chain of custody and
15 preparing reports on the conclusions of anything that I was
16 able to identify or observe, and then additionally, testifying
17 in Court as necessary. Before I was able to do any of my job
18 duties on my own, I had to take a series of tests to deem, to
19 be deemed competent in all of the areas that I perform
20 examination in. So I had to take a written exam, an oral exam.
21 I performed testing on a mock case, and I also did a mock
22 trial, all passed successfully before I was allowed to touch
23 any type of evidence and case work on my own.

24 Q Is it possible to say how many cases that you have
25 performed this type of work on?

1 A It's, I don't have an exact number, but I would say at
2 this point, probably thousands of cases.

3 Q And is your work in this field peer reviewed?

4 A Yes. Any reports that are issued from myself or anybody
5 else, actually, in the forensic services laboratory has gone
6 through a two-step review program. So it first gets a
7 technical review which is a very in depth look at what was
8 performed and ensuring the report in conclusion is accurate,
9 and then it goes through an administrative review which is one
10 more check to make sure that we're sending out a quality report
11 before it's released for other people to read and glean
12 information from.

13 Q Have you ever testified as an expert before, and if so,
14 how many times?

15 A I have testified as an expert in forensic serology before.
16 Approximately 55 times now.

17 Q And in what area did you testify as an expert?

18 A I was deemed an expert in forensic serology.

19 Q And what types of cases did you testify as an expert?

20 A I have testified on sexual assault cases, homicides, arson
21 cases, robberies, and assaults. And many other violent crimes
22 as well.

23 Q Did you prepare documents for this case in that field?

24 A Yes. I do have documentation which covers my involvement
25 in this case.

1 Q And in the field of forensic serology, what types of
2 materials do you use in that process?

3 A The process of forensic serology is one that is very hands
4 on, and so I'm submitted typically whole items of evidence to
5 look at. And so when I refer to a whole item, I'm talking
6 about something that might be a weapon such as a gun, a knife,
7 a bat. It could be clothing; it could be pretty much anything
8 that we think a potential source of DNA may be left behind that
9 could be collected. And I am essentially looking to try to
10 collect it and preserve the DNA that may have been left behind.
11 And so based on the case scenario that I'm provided with as
12 well as instructions from the agency that submitted those
13 items, I do my best to look for the DNA and collect DNA that
14 they feel is probative to a particular case.

15 Q And would that type of work involve rape kits and the
16 swabs and evidence collected in those investigations?

17 A That's correct. Handling sexual assault kits is a routine
18 part of my job as a forensic serologist.

19 Q So would the purpose of your work be prepping these items
20 for DNA analysis?

21 A Yes. The general idea is that I will prep the, I will
22 prepare the samples for a DNA analyst and if necessary, I will
23 work to identify bodily fluids that might aid the DNA analyst
24 in choosing how to proceed with their part of the laboratory
25 analysis.

1 Q So the scientific method and principles that you rely on,
2 are those heavily relied on in your field?

3 A Yes. Everything that is performed at SLED is generally
4 accepted within the forensic science community.

5 MS. TAYLOR: Your Honor, at this time the State
6 offers Ms. Courtney Thompson as an expert in forensic serology.

7 THE COURT: Any objection?

8 MR. STORY: No objection.

9 THE COURT: Alright. I'm going to tell the jury that
10 the Court's going to qualify Ms. Thompson as a forensic
11 serology, she'll be an expert. You give her testimony the
12 weight you see fit, it's up to you. Go ahead.

13 Q Now, Ms. Thompson, what types of body fluids can be
14 tested, or identified I should say through serology testing?

15 A The main types of testing that SLED can perform analysis
16 on are blood, semen, and saliva.

17 Q And what was your involvement or initial involvement in
18 this case?

19 A This case was submitted to the forensic services
20 laboratory with an urgency. And so in order to aid the DNA
21 analyst that was assigned to this case, I took the sexual
22 assault kit into my custody and I opened it up from its state,
23 sealed state that it was submitted in, and then I inventoried
24 all of the items that were collected because it is sealed up in
25 such a way that until the seal is broken and I open up

1 everything, I can't see what has been collected at the hospital
2 by hospital staff, and so I went through and gave each of the
3 envelopes that were within the larger packet a new item. It
4 follows the original items, so in this case, this sexual
5 assault kit was item 1, and so everything that came out of that
6 got what we call a sub-item. So for instance item 1.1 was the
7 vaginal swabs within the kit. So I went through and did that
8 for each of the items that were collected inside of the sexual
9 assault kit. And then after I finished my inventory, I
10 basically did a visual examination of the swabs and I cut off
11 of each of the swabs a portion and put it into a sterile tube
12 so that when the DNA analyst was ready to perform her part of
13 the work, it would already be set up and ready to go. And it
14 just expedites that process and makes it easier for them when
15 there is urgency to a particular case. And so I did that for
16 each of the items that I inventoried inside the sexual assault
17 kit.

18 Q And in this case, what were the items that you identified,
19 that you inventoried in the rape kit?

20 A Right. So I previously mentioned item 1.1 was vaginal
21 swabs, item 1.2 are rectal swabs, item 1.3, suspected body
22 fluid swab from the mons pubis, item 1.4 was the miscellaneous
23 collection swabs from the bilateral anterior thighs, item 1.5
24 was the pubic hair combings, and item 1.6 was the victim buckle
25 swabs. And when I say buckle swabs, I simply refer to the

1 swabs that were collected to be a known standard for comparison
2 purposes from the victim herself.

3 Q Now, I'm showing you what's been marked as State's Exhibit
4 149 for identification purposes. Can you identify that?

5 A I can identify this. It has the correct SLED lab number
6 which is a unique case number that's given to every case that's
7 submitted to the forensic services laboratory. And then there
8 is a seal up here that I placed onto the kit when I was done
9 with my portion which contains the date and my initials.

10 Q And when you, so this is the rape kit as you perceived it,
11 is that correct?

12 A Yes. This is how it was with it being sealed at the top.

13 Q And can you take out the individual envelopes and
14 identified each one as the items that you inventoried from that
15 rape kit?

16 A Alright. This is item 1.1, the vaginal swabs, it has the
17 correct lab number, item number, and my initials on the label
18 that I created. SLED item 1.2 which is, are the rectal swabs.
19 This is SLED item 1.3, the suspected body fluid swab.
20 This is SLED item 1.4, the miscellaneous collection
21 swabs and it's from the interior thighs. And then item 1.5,
22 the pubic hair combings, and then item 1.6, the victim's buckle
23 swab.

24 Q Now, were you the first to unseal these items when you
25 inventoried them?

1 A Yes. They were previously in a sealed state whenever I
2 opened them up, they had been sealed with this red tape, and it
3 had not been disturbed or tampered with in any way. If it had
4 been, I would not have continued on with my work, I would have
5 stopped and that is the policy of SLED to not continue any
6 evidence that may be compromised or tampered with.

7 Q Now, at any point did you do any follow up testing on the
8 items?

9 A Yes, I did. At a later time which was in November of
10 2022, I performed a serological testing on some of the swabs
11 that came from inside the kit. The items that I performed
12 semen screening on was item 1.1, the vaginal swabs, item 1.2,
13 the rectal swabs, item 1.3, the suspected body fluid swab, and
14 1.4, the miscellaneous collection swabs.

15 Q And were you able to identify the presence of semen on
16 those certain evidence items?

17 A Yes. For item 1.1, the vaginal swabs, my result is that
18 examinations for components of semen p30 and spermatozoa were
19 positive, semen identified.

20 Q And for the jury, explain spermatozoa.

21 A Spermatozoa is the male sperm cells, so this is the cell
22 that is found in male seminal fluid and it's what contains the
23 DNA that is necessary in order to develop a DNA profile from a
24 bodily fluid like semen.

25 Q And were semen and spermatozoa found on numerous swabs?

1 A Yes.

2 Q Just for clarification.

3 A Yes. I found, I was able to identify spermatozoa on some
4 of the other items as well.

5 Q Now, I'm showing you State's 92, 93, and 94. Can you
6 identify those, do you recognize those?

7 A Yes. These are a copy of some of the photos that I took
8 of the sperm cells that I visualized on some of the swabs from
9 the sexual assault kit.

10 Q And are those all fair and accurate depictions of the
11 photos that you took during your examination?

12 A Yes, they are.

13 MS. TAYLOR: Your Honor, at this time State offers 92,
14 93, and 94.

15 THE COURT: Any objection, Mr. Story?

16 MR. STORY: No objection, Your Honor.

17 THE COURT: They're admitted.

18 (Whereupon photos were submitted as State Exhibits 92, 93,
19 and 94 for identification and entered into evidence.)

20 MS. TAYLOR: Permission to publish?

21 THE COURT: Yes, ma'am.

22 Q Ms. Thompson, looking at State's 92, can you tell me what
23 we're looking at there?

24 A Yes. State's 92 is a photograph from a sperm search that
25 I did on SLED item 1.3, that item, 1.3 is the suspected body

1 fluid swab, and essentially, what I was able to do was I took a
2 small portion of the sample that I tested and this sample came
3 directly from the swab, I cut the swab, 1.3 that was submitted
4 and I was able to take a small amount of the sample and kind of
5 turn it into a liquid and I placed that liquid onto a glass
6 slide and dried it. And then there are stains that can be used
7 that will help me visualize a sperm cell under a microscope.
8 And so those stains were added to help visualization and then
9 those slides that I created were put onto a microscope, and
10 then I do a visual exam of the entire stain and then any sperm
11 cells are essentially, well, some of them are captured, I don't
12 take a picture of all of them because sometimes there's many of
13 them. And so I take a picture to basically visually represent
14 that I did in fact find sperm cells which is required, are part
15 of the requirement for finding, you know, DNA in a piece of
16 evidence.

17 Q And sperm cells are identified in this slide?

18 A Yes. The sperm cell ---

19 Q I apologize. There's a laser there if you can...

20 A I can try it. Okay. I got it. So this right here, this
21 small oval, that is in fact a sperm cell. It meets the
22 morphological requirements. So when I say morphological, I
23 just mean the shape. It meets the shape criteria necessary to
24 actually be counted as a sperm cell. The reason why is one,
25 like I said, it's an oval shape, two, it has this white portion

1 up here, that's called the acrosomal cap, and it's part of the
2 sperm cells. And then the middle part right here that's red,
3 the reason why it's important is because the stain that adheres
4 to that actually adheres to the nuclear DNA that's found within
5 that sperm cell. And that's what I use in order to say that I
6 positively identified a sperm cell. And as you can see, it
7 stands out from the rest of the material on the slide, it's
8 very unique and very different.

9 Q Looking now at State's 93. Will you also explain to me
10 what we're looking at here?

11 A This is a photo of the sperm cell that I found on SLED's
12 item 1.1 which is the vaginal swabs. So again, it's right
13 here, this one, the color might be just a little bit different,
14 but it still meets all the criteria necessary to be considered
15 a sperm cell. And on my examination documentation this was not
16 also the only sperm cell that I found, it's just the one that I
17 took a picture of.

18 Q Looking at State's 94. Explain what we're looking at in
19 this slide?

20 A This picture is also from SLED item 1.3, which is again,
21 this is body fluid swab, and it's just another representation
22 of an ideal looking sperm head. And I know that it might not
23 meet the, I guess, what people think a sperm might always look
24 like, but sometimes the tails of a sperm cell will break off,
25 generally pretty quickly, and so it's not unusual at all for us

1 to find a sperm head but not a tale attached to it. And so
2 these are still a great depiction of a reference of sperm
3 itself present on an evidentiary item.

4 Q Now, Ms. Thompson, in addition to your visual exam, is
5 there a chemical test to identify the presence of semen?

6 A Yes, there is. The chemical test that is performed from
7 the result that I got earlier for the vaginal swabs,
8 examinations for component semen, p30, that is the chemical
9 test that is performed in addition to the microscopic
10 examination. The test is, again, I take a very small sample
11 off of the swab that was collected, the swabs that were
12 collected and I tried to basically remove potential semen that
13 might be there. And this test tests for the component p30, it
14 is something that is found in very high concentrations in male
15 seminal fluid. And so when I performed that test, basically, I
16 just check it and after so many minutes, it kind of reads
17 similarly looking to a pregnancy test where a certain number of
18 lines indicates a positive result, and a certain number of
19 lines indicates a negative result. And so after this test was
20 performed, it did in fact have a positive result to it.

21 Q And just for clarification, which swabs were positive for
22 semen?

23 A Item 1.1, the vaginal swabs were positive for p30 and
24 spermatozoa and so that was the one that semen was identified
25 on.

1 Q You said the vaginal swab, and any others?

2 A No. Those were the only ones that were positive as far as
3 semen identified.

4 Q And any other positive results for spermatozoa?

5 A Yes. Items 1.3, the examination for a component of semen,
6 p30 was negative, but spermatozoa was identified. And that was
7 same for item 1.4, the miscellaneous collection swabs from the
8 thighs.

9 Q So that would be, the previous one would be the mons pubis
10 collection?

11 A Yes, that's correct. The mons pubis.

12 Q And you previously discussed how you were the first to
13 unseal these items, is that correct?

14 A That's correct. I picked up this item in a sealed state
15 from our evidence control department which is the department at
16 the forensic services laboratory that is responsible for the
17 intake of evidentiary items. And when I received it in my
18 custody, it was in a sealed state and had it not been in a
19 sealed state, I would not have proceeded with any type of
20 analysis per our policy.

21 Q And from there, what are your chain of custody procedures?

22 A So after I was done with my portion of testing and
23 preparation in this case, I resealed this entire case as once
24 you're done, it needs to stay in a sealed state to maintain the
25 integrity of the evidence and to make sure nothing is lost. So

1 I sealed it back up and then I personally escorted it to a
2 location within the DNA department that is secure and only DNA
3 personnel have access to. In the chain of custody it's
4 referred to as prepped for DNA. It is then retrieved by the
5 DNA analyst, Ryan Dewane, and placed into her custody after she
6 retrieves it from that area.

7 MS. TAYLOR: And Your Honor, at this time, State
8 moves to admit 149 in evidence.

9 THE COURT: Any objections?

10 MR. STORY: No objection, Your Honor.

11 THE COURT: It's admitted.

12 (Whereupon a photo was submitted as State's Exhibit 149
13 for identification and entered into evidence.)

14 MS. TAYLOR: No further questions at this time, Your
15 Honor.

16 THE COURT: Mr. Story?

17 CROSS EXAMINATION

18 BY MR. STORY:

19 Q Good afternoon, Ms. Thompson.

20 A Good afternoon.

21 Q Briefly, you said that you often test for blood, semen,
22 and saliva, correct?

23 A That is correct.

24 Q Because those are rich sources of DNA?

25 A Yes, that's correct.

1 Q But you did not perform a blood or saliva test, is that
2 correct?

3 A Yes, that's correct. I did not perform an examination of
4 either of those types of bodily fluids, and that is dependent
5 upon what the agency that submitted the case, what they are
6 desiring testing for as well as my own decisions with what
7 transpired as far as the information I received about the case
8 itself.

9 Q So in this case, the agency didn't ask you to test for
10 this?

11 A I'm going to refer to what was brought in whenever it was
12 submitted. The documentation, it was submitted with the
13 general sexual assault request that is a request that is at the
14 lab that we could put on kits and essentially it does kind of
15 fall to the, it does kind of fall to the casework personnel to
16 make decisions sometimes on what they think might be the best
17 way forward with analysis and so in this particular case, semen
18 screening was determined to go forward first. When semen is
19 the suspected body fluid, that is the first test that we
20 perform. It doesn't, we don't do, typically, don't do blood or
21 saliva testing if semen is the suspected body fluid because it
22 affects the DNA analysis portion of the exam and what types of
23 choices the DNA analyst may make.

24 MR. STORY: Beg the Court's indulgence. No further
25 questions.

1 MS. TAYLOR: Briefly, Your Honor.

2 THE COURT: Yes, ma'am.

3 REDIRECT EXAMINATION

4 BY MS. TAYLOR:

5 Q Ms. Thompson, were you aware that the purpose of the exam
6 was to identify semen or sperm following a sexual assault?

7 A Yes. And like I said before, when semen isn't the
8 suspected body fluid, that is the one that is chosen for
9 examination, that's actually a departmental policy. And like I
10 said, it informs the DNA analyst later on what types of
11 decisions they need to make for their portion of analysis.

12 Q And so semen was the suspected body fluid in this case, is
13 that the test that you conducted?

14 A That's correct, that's what I did.

15 MS. TAYLOR: No further questions.

16 THE COURT: Alright. May I excuse this witness?

17 MS. TAYLOR: Yes, Your Honor.

18 THE COURT: Thank you, you're excused.

19 MS. THOMPSON: Thank you, Your Honor.

20 THE COURT: Can we rest for the day?

21 MS. MAYES: Yes, Your Honor. We'd leave that to the
22 Court's discretion.

23 THE COURT: Mr. Foreman, ladies and gentlemen of the
24 jury, don't talk about this case tonight. Don't watch anything
25 on tv, read anything, do any research, look up anybody that

1 you've seen testify during this trial. And I hope y'all have a
2 good evening, be careful going home because it is really nasty
3 out there, it's raining. We're going to start at 9:30 in the
4 morning. Same drill, 9:15, jury room. I hope y'all have a
5 good evening, thank you.

6 (Jury exiting Courtroom.)

7 (Whereupon the trial will resume the next morning at 9:30
8 am.)

9 January 26, 2023

10 THE COURT: Alright. The State ready?

11 MS. MAYES: The State is ready, Your Honor.

12 THE COURT: Ms. Mauldin?

13 MS. MAULDIN: Yes, Your Honor.

14 THE COURT: Let's bring the jury in.

15 (Jury entering Courtroom.)

16 THE COURT: Mr. Foreman, the jury ready?

17 MR. FOREMAN: Yes, ma'am.

18 THE COURT: Please be seated. Alright. Let me ask
19 my morning question. Have you talked to anyone about this
20 case, has anyone tried to talk to you about this case, have you
21 done any research, have you read anything, listened to
22 anything, researched anything on social media? If so, please
23 raise your hand. Perfect. Alright. The State can call their
24 next witness.

25 MS. MAYES: The State calls Donna Martin.

1 CLERK: Please raise your right hand and place your
2 left on the Bible. Do you swear or affirm the testimony you
3 give the Court is the truth, the whole truth, and nothing but
4 the truth so help you God?

5 MS. MARTIN: Yes.

6 CLERK: Thank you. Would you please have a seat in
7 the witness box. State your full name and spell your last for
8 the record.

9 MS. MARTIN: Donna Martin, M-a-r-t-i-n.

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q Good morning. Tell us ---

13 A Good morning.

14 Q --- a little bit about yourself. Where are you employed?

15 A I'm employed with Columbia Police Department, in evidence
16 and property unit.

17 Q Okay. And tell us what your job description is there at
18 the Columbia Police Department.

19 A I am the supervisor of that division. I make sure and
20 maintain all evidence that comes in is logged properly, stored
21 properly, and anytime it's signed out for Court or anytime it
22 goes out to SLED, make sure everything is in place and intact.

23 Q Alright. And can you tell us what the evidence procedures
24 are for the Columbia Police Department regarding the submission
25 of evidence?

1 A It depends. Any time officer brings something at night,
2 they put it in the locker, we retrieve it from the locker, we
3 stamp date it with the time and date and the initial whoever
4 got it out the locker. Or sometimes during our operation
5 hours, the officer brings hers, the investigator brings her,
6 and we stamp date it and whomever we got it from, and that's
7 how we log it in our system and put it up on the shelf.

8 Q Okay. Can tell us whether those procedures were followed
9 for all evidence in this case including the submission of the
10 sexual assault kit which is State's 149?

11 A Yes.

12 Q And including the submission of the suspect's cell phone
13 which is State's 140?

14 A Yes.

15 Q Was there ever any evidence of tampering?

16 A No.

17 Q And did all evidence remain sealed there at the Columbia
18 Police Department prior to submission to the State Law
19 Enforcement Division?

20 A Yes.

21 Q Or to the Secret Service for extraction of the cell phone?

22 A Yes.

23 Q And who all had access, a key for the evidence room?

24 A Myself, my other, three other employees.

25 Q So only evidence technicians can access evidence?

1 A That's correct.

2 MS. MAYES: Nothing further, Your Honor.

3 THE COURT: Ms. Mauldin?

4 MS. MAULDIN: Nothing for this witness, Your Honor.

5 THE COURT: May I excuse Ms. Martin?

6 MS. MAYES: Yes, Your Honor. She is, she will remain
7 in the Courtroom.

8 THE COURT: Okay. Thank you.

9 MS. MARTIN: Thank you.

10 MS. MAYES: The State calls Tyson Hass, Agent Tyson
11 Hass.

12 CLERK: Please raise your right hand and place your
13 left on the Bible. Do you swear or affirm the testimony you
14 give the Court will be the truth, the whole truth, and nothing
15 but the truth so help you God?

16 AGENT HASS: I do.

17 CLERK: Thank you. Would you please have a seat in
18 the witness box. State your full name and spell your last for
19 record.

20 AGENT HASS: My name is Tyson Hass, and my last name
21 is spelled H-a-s-s.

22 **DIRECT EXAMINATION**

23 BY MS. MAYES:

24 Q Good morning. Tell us a little bit about yourself. Where
25 are you currently employed?

1 A I am currently employed at the South Carolina Law
2 Enforcement Division in the special victims unit.

3 Q Alright. And how long have you been with SLED?

4 A Since May of last year, 2022.

5 Q Now, prior to joining the State Law Enforcement Division,
6 what law enforcement agency did you work for?

7 A I worked for the Columbia Police Department for 12 years.

8 Q And what type of work did you do for the Columbia Police
9 Department?

10 A When I left employment at the Columbia Police Department,
11 I was the supervising investigative Sargent of the special
12 victims unit.

13 Q Alright. And how long did you work as an investigator for
14 the City of Columbia Police Department?

15 A Since 2016 is when I became an investigator with the
16 Columbia Police Department.

17 Q Alright. And Agent Hass, how many years of law
18 enforcement go you have from beginning until present?

19 A We'll be in my 13th year.

20 Q Okay. Now, while you were with the City of Columbia
21 Police Department, you mentioned that you were the supervisor
22 of the SVU unit?

23 A Yes, ma'am.

24 Q And were you acting in that capacity back in June of 2021?

25 A I was.

1 Q What can you tell us about your initial involvement in
2 this investigation involving an elderly victim and a sexual
3 assault?

4 A I received a phone call from our patrol in reference to
5 this incident. I was told that there was an elderly female who
6 had been sexually assaulted after an unknown suspect broke into
7 her apartment, and that her debit card had been stolen. I was
8 also told that the suspect gave identifying information about
9 the victim and threatened that if she called the police he
10 would return. So at that point, I dispatched one of my
11 investigators, Investigator Ortiz at the hospital to be with
12 the victim who was being transported and also sent an
13 investigator to the crime scene, and then I also responded to
14 the scene as well.

15 Q Alright. And upon your response to the scene, what action
16 did you take in regards to trying to, attempting to canvas that
17 nearby neighborhood?

18 A After the completion of, like, the analysis of the scene,
19 I kind of walked around the surrounding complex, see if I could
20 locate any exterior cameras that may have captured any portion
21 of this event, and just see if there were any sorts of activity
22 around there or anything that could have captured this. And I
23 didn't notate any external camera in the area.

24 Q Alright. Agent Hass, we're going to take a look here at
25 State's 121, already in evidence. And you should have a laser

1 up there with you as well. Looking here at the building, can
2 you tell us whether an attempt was made to obtain any potential
3 video surveillance from around building ■?

4 A It wasn't, I didn't see any cameras at that location.

5 Q Now, this particular apartment complex known as Water's
6 Edge, or Crossbow Apartments, does the actual management for
7 this apartment complex maintain video surveillance in the
8 parking lot area?

9 A They do not.

10 Q Or around the premises?

11 A They do not.

12 Q Now, what can you tell us about the general area
13 surrounding this apartment complex including this area that
14 we're looking at here in the background of 121?

15 A Yes, ma'am. So when I was walking around looking for
16 external cameras, there's a, like a pond or a small lake behind
17 that building. There's a walking trail around it, there's
18 several walking trails around that area that are known, people
19 frequent that area.

20 Q Can you tell us whether or not there are any obstructions
21 between the walking trail and building ■?

22 A No, there's no restrictive access, you can just walk
23 through there.

24 Q I'm going to show you what is State's 64 and ask you to
25 take a look at this.

1 A Yes, ma'am.

2 Q Looking here at this overview, we see, what do we see
3 right here?

4 A That's the Water's Edge Apartment Complex.

5 Q Alright. And can you show us here where that walking
6 trail is in relation to the apartment complex?

7 A If you can see, this is that lake that I'm kind of talking
8 about, and then along here is this walking trail that kind of
9 goes all the way around it people frequently use for exercise,
10 I guess.

11 Q And I'm going to ask you whether or not there are any
12 parking areas located around or near that walking trail as
13 well?

14 A There are. There's multiple businesses around that area
15 as you can see from the photograph, there's also like an
16 elementary school over there, and then of course, there are
17 other apartment complexes in the area.

18 Q So in this particular case, was it ever determined where
19 the suspect vehicle had originally been parked prior to the
20 intruder entering the apartment?

21 A No, ma'am, it wasn't.

22 Q Now, what information if any did you have concerning the
23 time or time frame of the assault?

24 A At 5:39 is when the victim reported to the SANE nurse that
25 she remembered the suspect leaving her apartment.

1 Q And with that information that the intruder left at 5:39,
2 what can you tell us about this area and any action you took to
3 try and determine if a suspect vehicle may have been in the
4 area?

5 A We recovered a Statewide Security Camera box that was at
6 the intersection of Crossbow Drive and Columbiana Drive which
7 is down on, over here. So we searched that area around that
8 time of 5:39, I located a Chevy Malibu at that intersection at
9 5:49, so it would have been 10 minutes after the victim had
10 reported the suspect left.

11 Q And were you the person who actually first identified the
12 suspect vehicle on that Statewide video surveillance?

13 A Yes, ma'am, I was.

14 Q I'm going to show you what is State's 27, already in
15 evidence. Is this the photograph that you're referring to?

16 A Yes, ma'am, it is. That's the intersection of Crossbow
17 and Columbiana Drive.

18 Q Now, once it was determined that, let me ask you this.
19 Were you able to determine a make and model of the vehicle?

20 A I was. It was a Chevy Malibu.

21 Q Alright. And what if anything else had you observed about
22 the vehicle on video surveillance that caught your attention?

23 A From this angle what I observed was that the windows
24 appeared, they're the same shape, and they appear to be tented
25 which was consistent with the suspect vehicle.

1 Q And can you also tell us what if anything you observed
2 about the tag or license plate?

3 A It appeared to be a paper tag.

4 Q And what action did you take to try and trace Chevy
5 Malibus with paper tags?

6 A So I submitted what's called an RFI which is a request for
7 information to the SLED fusion center. After I determined it
8 was a Chevy Malibu, I requested any information that they may
9 have on any Chevy Malibus that were the year 2000 and up for,
10 any that had been registered on a 45 day tag for the prior
11 three months in Richland County. So I was just trying to get
12 some ownership information to help determine who the potential
13 owner of the vehicle was.

14 Q And ultimately did you become aware of the video
15 surveillance at the CK Mart for the morning of June 23rd?

16 A I did, ma'am.

17 Q Okay. We're going to look at here, State's 134, in
18 evidence. Were you involved in obtaining the banking records
19 of, and reviewing the banking, TD Bank records of the victim as
20 well?

21 A Yes, ma'am, I was.

22 Q What was significant if anything about that time frame in
23 relation to the TD Bank records?

24 A There were three transactions just prior to that
25 At 6:28, 6:30, and 6:32 just down the street on Broad

1 River Road at 3102 and a half at the ATM, just prior to 6:35
2 so...

3 Q Now, is part of your work as an investigator for the City
4 of Columbia Police Department, does that also include knowledge
5 of financial crimes?

6 A Yes, ma'am.

7 Q And have you had an opportunity in regards to this case to
8 study the TD Bank records for D.K.?

9 A Yes, ma'am, I have.

10 Q Alright. I'm going to ask you a few questions about that.
11 Looking at State's 26, already in evidence. Looking here at
12 this entry here, what if anything is significant about the
13 location of 1265 Lake Murray Boulevard?

14 A There appeared to be attempted activity at that location
15 prior to those, the activity at Broad River Road, and this
16 occurred at 2:59 am.

17 Q And what is the time of the last attempted activity at
18 that 1265 Lake Murray Boulevard area?

19 A 3:01 in the morning.

20 Q Alright. Now, you indicated that that is attempted
21 activity, what do you mean by that?

22 A It, I learned that those were not actual withdrawals, they
23 were attempted but they were rejected, and that was confirmed
24 through reject codes.

25 Q What are we looking at here with the AF, the A,

1 DE and that?

2 A Those are all the reject codes that I was referring to.

3 Q So these were attempted withdrawals that were not actually
4 completed?

5 A That's correct.

6 Q And what can you tell us about the reason for a reject
7 code?

8 A One of the many reasons I learned for the reject code is
9 that it could be from an incorrect pin.

10 Q And then at 4:58, there are four items showing at 4:58.
11 Are there reject codes for these items?

12 A Yes, ma'am. All four of them had reject codes.

13 Q And what are these?

14 A They appear to be some sort of activity with Uber, but we
15 were never able to determine any further information.

16 Q Some type of attempted activity for Uber?

17 A Yes, ma'am.

18 Q But the card used was not granted?

19 A Correct. And that was confirmed through the reject codes.

20 Q And again, the reject code could be someone incorrectly
21 using a pin?

22 A That's correct.

23 Q And then ultimately, 6:28, 6:30, and 6:32 were the
24 transactions you've already spoken of, the ones that occur on
25 Broad River Road. Do these have reject codes?

1 A They do not.

2 Q And again, you've viewed that video surveillance from
3 Broad River Road?

4 A I have.

5 Q Okay. And does it appear that cash is withdrawn during
6 all of those transactions?

7 A Yes, ma'am, it does.

8 Q Now, was there an attempt by law enforcement to obtain
9 video regarding the Lake Murray Boulevard transactions?

10 A There was.

11 Q Was that particular video preserved at the time of the
12 request?

13 A It was, by the time we had tried to request it, it was
14 already not preserved, so it was gone.

15 Q All of that information in mind, is there an estimated
16 time frame for how long the intruder may have had access to the
17 home of Ms. D.K. based upon your investigation?

18 A Well, she reported that he had, because she remembered him
19 leave at 5:39 and in order to access her card, he would have
20 had to have it and that of course occurred as earlier as 2:58,
21 so...

22 Q Now, when we look at the actual photos from the scene, and
23 you indicated that you were at the scene, does that include
24 examination of the outside area as well?

25 A Yes, ma'am, it did.

1 Q I'm going to ask you specifically about the patio area,
2 this being State's 53, and then this being State's 54. That
3 bar, if the bar is up, is that something that is visible to
4 someone on the outside of the unit?

5 A Yes, ma'am, it's, as you can see, you're kind of, if
6 you're outside of the apartment and this is the patio area, you
7 can clearly see that bar there when it's in the locked position
8 it's down, and if it's unlocked it would be up. So there's
9 kind of a screen door, the glass sliding door, that bar, and
10 then on the inside of that would be the blinds.

11 Q And would that hold true for any apartment complex that is
12 on the ground, any apartment unit on the ground floor level?

13 A Yes, ma'am.

14 Q It could be visible to someone on the outside whether the
15 bar is up or down?

16 A Yes, ma'am.

17 Q Now, moving forward to that video surveillance from the CK
18 Mart, looking here at State's 134. Did you have an opportunity
19 to examine the clothing of the suspect who had originally been
20 depicted on the morning of June 23rd?

21 A Yes, ma'am, I have.

22 Q Looking here at a closer view, State's 70. Were you
23 present for the execution of the search warrant on the Chevy
24 Malibu there on July 1st?

25 A Yes, ma'am, I was.

1 Q Conducted by CSI Investigator, Amber Hynes?

2 A Yes, ma'am, I was.

3 Q Looking here at State's 133, where was this photograph
4 taken?

5 A This was in the warehouse, the secured warehouse at 715
6 Bluff Road which is the Columbia Police Department Annex.

7 Q What if anything can you tell us about your observations
8 of the windows of this car in relation to the Chevy, what you
9 testified was a Chevy Malibu you observed at 5:49 am at
10 Columbiana and Crossbow?

11 A They appear to be the same shape and also tented.

12 Q Were you present for the retrieval of items from within
13 the Chevy Malibu there at your Columbia Police Department?

14 A Yes, ma'am, I was.

15 Q What clothing items do you recall being recovered,
16 specifically regarding any type of pants?

17 A There were green distressed jeans, or I'm sorry, not
18 green, distressed blue jeans that had been located in the trunk
19 of the vehicle. They had, like, when I say distressed, they
20 had like tears in the front and inner black lining.

21 Q And what type of clothing above the waist?

22 A There was also a black Adidas hoodie with white stripes
23 that was located in the backseat of the vehicle.

24 MS. MAYES: Permission to break the seal, Your Honor?

25 THE COURT: Any objection?

1 MS. MAULDIN: No, Your Honor.

2 THE COURT: Go ahead, Ms. Mayes.

3 Q I'm going to show you what is State's 141 for
4 identification, and State's 142. If you can take a look at
5 those and tell us whether or not you can identify these items,
6 and if so, how?

7 A Yes. They appear to be packaged from that search warrant.

8 Q And if you could examine the items within.

9 THE COURT: What number is this, Ms. Mayes?

10 MS. MAYES: Your Honor, this is 142.

11 THE COURT: Thank you.

12 A You want me to stand up and...

13 Q Do you recognize 142?

14 A I do.

15 Q And is this the jeans that you have described retrieved
16 from the vehicle?

17 A Yes, they are.

18 MS. MAYES: 142 for evidence, Your Honor.

19 THE COURT: Any objection?

20 MS. MAULDIN: Subject to my prior motion, Your Honor.

21 THE COURT: Okay. They're admitted and noted.

22 (Whereupon a pair of jeans were submitted as State's
23 Exhibit 142 for identification and entered into evidence.)

24 Q And State's 141?

25 A This appears to be that black Adidas hoodie.

1 MS. MAYES: And State's 141 for evidence as well,
2 Your Honor.

3 MS. MAULDIN: Subject to my prior motion, Your Honor.

4 THE COURT: So noted, and it's submitted.

5 (Whereupon a black hoodie was submitted as State's Exhibit
6 141 identification and entered into evidence.)

7 Q Now, in addition, can you tell us whether or not you were
8 also involved in submitting the phone that had been seized in
9 this case for the purpose, for any other law enforcement
10 purpose?

11 A Yes, I was.

12 Q I'm going to show you what is State's 140, and ask you
13 whether or not you recognize this item?

14 A I do.

15 Q How so?

16 A It appears to be the packaging from the phone that
17 Investigator Ortiz and I had.

18 Q Okay. And can you tell us whether or not you were
19 involved in removing this item from the evidence room?

20 A Yes, I was with Investigator Ortiz when it was.

21 Q Okay. I want to go first to August of 2022 and ask you
22 whether or not this item was removed from the evidence room?

23 A Yes, it was.

24 Q And who were you with when it was removed?

25 A Investigator Ortiz.

1 Q Okay. And where did you first go with the phone?

2 A To get the search warrant signed.

3 Q Okay. And was that search warrant signed?

4 A It was.

5 Q Was that in Lexington County?

6 A It was.

7 Q And was the phone with you at that time?

8 A Yes, it was.

9 Q And where did you go after the search warrant was signed?

10 A To the office of Mike Phipps.

11 Q And Agent Phipps, can you tell us whether or not he then
12 took possession of the phone from you?

13 A He did.

14 Q Did you or Detective Ortiz open the packaging or access
15 the phone in any way prior to submission to Agent Phipps?

16 A We did not.

17 Q At any point in time, did you or Agent Ortiz manipulate or
18 handle or utilize the phone?

19 A We did not.

20 Q And following that extraction, can you tell us whether or
21 not the phone was retrieved at a later time again from the
22 Columbia Police Department?

23 A It was.

24 Q And who retrieved the phone on that date?

25 A I did.

1 Q And was this November, 2022?

2 A It was.

3 Q Again, for what purpose?

4 A To execute a search warrant on it.

5 Q Okay. And ultimately, was the phone submitted to Agent

6 Mike Phipps ---

7 A It was.

8 Q --- for a follow up phone extraction?

9 A Yes, ma'am, it was.

10 Q And can you tell us whether or not you accessed the phone

11 or utilized the phone in any way prior to its submission to

12 Agent Phipps?

13 A No, ma'am, I did not.

14 Q And did it remain in your custody that entire time prior

15 to its submission to Agent Phipps?

16 A Yes, ma'am, it did.

17 Q Now, I want to ask you specifically about what is known as

18 suspect standards in this case. What is meant by the term DNA

19 swab or a suspect standard?

20 A Basically, it's a swab of a suspect so that it can be

21 directly compared to, like, a SANE kit.

22 Q Alright. To, in other words, to, you were aware that the

23 victim had a sexual assault examination?

24 A I did, I was aware.

25 Q Were you aware the evidence had been collected

1 and submitted to the State Law Enforcement Division following
2 that examination?

3 A Yes, ma'am, I was.

4 Q And ultimately, I'm going to show you this item and ask
5 you whether or not you recognize it?

6 A Yes, ma'am, I do.

7 Q Okay. And do you see a date on the envelope?

8 A November 8th of 2022.

9 Q And whose initials?

10 A Those are my initials.

11 Q What role if any did you play in obtaining DNA standards
12 or swabs from the Defendant in this case, Tamar Nance?

13 A I took the swabs from him.

14 Q Okay. So let me ask you this. Did, was this pursuant to
15 a search warrant?

16 A It was pursuant to a search warrant.

17 Q Okay. When you are collecting the swabs, are you, are you
18 wearing gloves?

19 A I was wearing gloves.

20 Q Okay. Is anyone else handling the item after the
21 collection?

22 A Not after.

23 Q Okay. What can you tell us about the actual process, how
24 do you collect a DNA standard?

25 A You basically take the swab, it looks like

1 a long Q tip, and you stick it in whoever you're getting the
2 swab from his mouth and rub the inside of his cheek and then
3 you do the same thing on the other side with the other swab.
4 You then let it air dry, put it in the envelope and seal it.

5 Q Okay. So the DNA is coming from cheek cells?

6 A The cheek cells on the inside of whoever you're doing the
7 swab on.

8 Q Okay. And following the collection of the cheek swabs
9 from Tamar Nance, what did you do with the item?

10 A I delivered them to the SLED lab.

11 Q Okay. And how, did you, who actually sealed the item
12 after you collected the swabs from Mr. Nance?

13 A I sealed them in the presence of Mr. Nance.

14 Q Okay. And we see here some tape. What is the purpose of
15 this tape that is on the outside of the envelope?

16 A It's just a tamper proof tape so if anybody opened it or
17 tampers with it, it will show that that's happened.

18 Q And is that the same tape that has your initials on it?

19 A It is.

20 Q And did you properly seal and secure this package with
21 evidence tape after you collected the sample from Mr. Nance?

22 A I did.

23 Q And how soon after the collection did you deliver it to
24 the State Law Enforcement Division for DNA analysis?

25 A I took it straight there afterwards.

1 Q So it went straight to SLED?

2 A It went straight to SLED lab.

3 Q And did it remain sealed that entire time?

4 A It did.

5 MS. MAYES: This would be State's 152 for
6 identification at this time, Your Honor.

7 THE COURT: Any objection?

8 MS. MAULDIN: Subject to my prior motion.

9 THE COURT: Okay. ID only.

10 (Whereupon an envelope was submitted as State's 152 for
11 identification only at this time.)

12 MS. MAYES: Beg the Court's indulgence.

13 THE COURT: Take your time.

14 MS. MAYES: Nothing further of Sargent Hass at this
15 time.

16 THE COURT: Ms. Mauldin?

17 MS. MAULDIN: Thank you, Your Honor.

18 **CROSS EXAMINATION**

19 BY MS. MAULDIN:

20 Q Good morning, Agent Hass.

21 A Good morning, ma'am.

22 Q Okay. You checked for surveillance video at that
23 apartment building, correct?

24 A Correct.

25 Q You also dispatched officers to sort of disperse

1 throughout the apartment complex and look for anybody that
2 might have seen or heard anything, right?

3 A Correct, or like Ring doorbell cams.

4 Q Well, the camera footage, but also whether anybody had
5 personally seen or heard anything unusual going on that night,
6 right?

7 A Yes, ma'am.

8 Q And none of those officers were able to find anybody that
9 had seen or heard anything, right?

10 A That's correct.

11 Q Okay.

12 MS. MAULDIN: No further questions, Your Honor.

13 THE COURT: Thank you. Any redirect?

14 MS. MAYES: Nothing from the State, Your
15 Honor.

16 THE COURT: May I excuse Agent Hass?

17 MS. MAYES: Yes, Your Honor, and now that he's
18 testified, we ask that he remain in the Courtroom.

19 THE COURT: They want you to remain here.

20 AGENT HASS: Yes, ma'am.

21 THE COURT: Okay. You're excused.

22 AGENT HASS: Thank you, Your Honor.

23 MS. MAYES: The State calls Ryan Dewane.

24 CLERK: Please raise your right hand, put your left
25 on the Bible. Do you swear or affirm the testimony you give

1 the Court is the truth, the whole truth, and nothing but the
2 truth so help you God?

3 MS. DEWANE: I do.

4 CLERK: Thank you. Would you please have a seat in
5 the jury box. State your full name and spell your last for the
6 record.

7 MS. DEWANE: Ryan Dewane, D-e-w-a-n-e.

8 DIRECT EXAMINATION

9 BY MS. MAYES:

10 Q Good morning. What can you tell us about yourself?

11 A I am a forensic scientist assigned to the DNA department
12 for the Washington State Patrol in Vancouver, Washington.

13 Q Alright. And how long have you been with the Washington
14 State Patrol on the other side of the country?

15 A A little over a year.

16 Q Now, prior to joining the Washington State Patrol Lab,
17 where did you work as a forensic scientist?

18 A I was a forensic scientist in the DNA casework department
19 at the South Carolina Law Enforcement Division.

20 Q And how long were you with the SLED crime lab?

21 A Approximately 6 years.

22 Q And what type of work did you do there?

23 A I was a forensic scientist, so I would receive evidence
24 from agencies from across the state. I would attempt to
25 develop DNA profiles from that evidence and compare it to the

1 DNA profiles of individuals associated with the case. I then
2 would write a report of my findings and testify in Court when
3 needed.

4 Q Okay. Agent Dewane, what can you tell us about your
5 educational background and training that led you to become a
6 DNA analyst?

7 A I have a bachelor of science degree, pre-professional from
8 Appalachian State University in Boone, North Carolina. I also
9 have two minors in chemistry and English. I also have my
10 Master of Science degree in biological sciences from Clemson
11 University in Clemson, South Carolina. Upon being hired at
12 SLED, I underwent an extensive training program, this training
13 program included practice samples, training samples, mock
14 cases, written exams in DNA and serology. A report writing
15 exam, a mock Court exam and a competency test.

16 Q And Agent Dewane what can you tell us about your
17 experience actually conducting DNA analysis, actually working
18 in the lab? Is it possible for you to estimate how many times
19 you've worked on a DNA sample for the purpose of comparison?

20 A I have worked approximately over 500 cases. As far as
21 individual samples, it's within, it's in the thousands.

22 Q And does that include developing DNA profiles from items
23 such as a sexual assault evidence kit?

24 A Yes.

25 Q Items such as vaginal swabs?

1 A Yes.

2 Q Items such as collection of swabs from the body?

3 A That is correct.

4 Q And does that also include developing DNA profiles from
5 suspect standards or DNA swabs?

6 A Yes, that is correct.

7 Q Now, Agent Dewane, is it possible for you to estimate how
8 many times you've testified previously as an expert in the
9 Courts of this state?

10 A Yes. Approximately 13 times.

11 Q And that has been as an expert in the field of DNA
12 analysis?

13 A Yes, that is correct.

14 MS. MAYES: Your Honor, at this time the State offers
15 Agent Dewane as an expert in the field of DNA analysis.

16 THE COURT: Any objection?

17 MS MAULDIN: No, Your Honor.

18 THE COURT: Alright. I'm going to remind the jury,
19 this witness is going to be an expert in DNA analysis due to
20 her education and experience. And she's going to be allowed to
21 give opinion testimony in that area. But it's for you to
22 decide what evidence to give her testimony. Thank you. Go
23 ahead, Ms. Mayes.

24 MS. MAYES: Yes, Your Honor.

25 Q Now, I'm going to show you an item which is in

1 evidence, this is State's 149 --

2 MS. MAYES: -- I believe this item is in evidence, we
3 may need to confirm that.

4 THE COURT: I have it in evidence.

5 Q And could you take a look at that item and tell us whether
6 or not you recognize it?

7 A Yes, I do recognize this item. It is the sexual assault
8 evidence collection kit collected from D.K. .

9 Q Alright. Now, Agent Dewane, we've already heard testimony
10 previously in this case regarding serology. Can you tell us
11 whether or not you were also involved in the analysis of the
12 vaginal swabs from that sexual assault kit?

13 A Yes, I performed DNA analysis on the vaginal swabs.

14 Q And can you tell us whether or not that included the DNA
15 standard or buckle swab from the victim, D.K. ?

16 A Yes. I developed a profile from the buckle swabs from
17 D.K. .

18 Q As well as swabs, bilateral swabs from the thigh area?

19 A Yes, that is correct.

20 Q And what is known as the mons pubis or the area above the
21 vagina?

22 A Yes, that is correct.

23 Q Were you able to develop a DNA profile for each of these
24 items?

25 A Yes, I was.

1 Q Based upon your work, Agent Ryan, Agent Dewane, can you
2 tell us whether or not the DNA profile that you developed for
3 D.K. [REDACTED] was suitable for comparison analysis?

4 A Yes, the DNA profile developed is suitable for use as a
5 known standard.

6 Q Alright. Can you tell us whether or not the DNA profile
7 developed from the vaginal swab, again, is suitable for
8 comparison analysis?

9 A Yes, a DNA profile suitable for comparison was developed
10 from the sperm fraction.

11 Q Alright. And you mentioned the sperm fraction, so I want
12 to make a note about that. What do you mean in that regard?

13 A Whenever we have an item where we suspect that semen or
14 spermatozoa cells may be present, we will actually split that
15 item, or that sample into two parts. One part is called the
16 non-sperm fraction and the other part is called the sperm
17 fraction. We expect the non-sperm fraction to contain skin
18 cells or any DNA that may not be attributable to sperm, whereas
19 the sperm fraction, we expect that, the cells or DNA to be
20 present to these sperm cells. Because it is a manual process
21 of us just splitting the sample in two, there can be what's
22 called carry over where there may be skin cells and sperm
23 fraction as well and vice versa where there may be some sperm
24 cells in the non-sperm fraction.

25 Q Alright. So based upon your analysis, sperm was present?

1 A I don't have the serology report in front of me. If it is
2 called a sperm fraction, if that profile is developed, that
3 does not necessarily confirm the presence of sperm.

4 Q Okay. And again, the serology report you indicated was
5 the actual serology testing was conducted by another analyst,
6 correct?

7 A That is correct.

8 Q In this case, that would be Courtney Thompson?

9 A Yes, that is correct.

10 Q And who has previously testified. Now, regarding the
11 sperm fraction, again, were you able to develop a DNA profile?

12 A Yes, I was.

13 Q And from the mons pubis swabs, again, were you able to
14 develop a DNA profile?

15 A Yes, a DNA profile suitable for comparison was developed
16 from the sperm fraction.

17 Q Who was the first person, Agent Dewane, to actually unseal
18 the evidence after it was first prepped by Courtney Thompson?

19 A That would be myself.

20 Q And would anyone else have unsealed that evidence to
21 handle it or conduct testing other than the serologist who
22 prepped it and then yourself as you are unsealing it?

23 A No.

24 Q And following your work with these items, can you tell us
25 whether or not you would have resealed the packaging?

1 A Yes, after my testing, I seal the items.

2 Q And is all of that consistent with SLED procedure and
3 protocol?

4 A Yes, it is.

5 Q Now, did you also receive a standard on an individual --
6 give me a moment. On an individual, name is Felton Bailey?

7 A Yes, I did.

8 Q And can you tell us whether or not you were able to
9 develop a DNA profile for Mr. Felton Bailey?

10 A Yes. The DNA profile developed is suitable for use as a
11 known standard.

12 Q And were you able to conduct an examination regarding, or
13 comparison analysis regarding this particular standard?

14 A Yes, I was.

15 Q Okay. We're looking here at 75. So it's standard was
16 collected and submitted to the State Law Enforcement Division.
17 Were you able to compare it against the DNA profile that you've
18 already told us about was developed by you?

19 A Yes, I was.

20 Q Can you tell us what your finding was?

21 A For the vaginal swabs, Felton Bailey is excluded as a
22 contributor.

23 Q Was he excluded regarding all evidence submitted in this
24 case?

25 A Yes, he was.

1 Q Now, the actual suspect standard for Tamar Nance that was
2 collected November 8th, 2022, which analyst at SLED actually
3 processed this to potentially develop a DNA profile?

4 A That is Agent Donna Money.

5 Q Okay.

6 MS. MAYES: Thank you, nothing further.

7 THE COURT: Ms. Mauldin?

8 **CROSS EXAMINATION**

9 BY MS. MAULDIN:

10 Q Good morning, Agent Dewane.

11 A Good morning.

12 Q Your analysis of the DNA samples can't tell you anything
13 about how the samples were deposited, right?

14 A That is correct.

15 Q So they can't tell you anything about the activity that
16 was happening at the time of the deposit?

17 A That is correct.

18 MS. MAULDIN: Thank you, Your Honor. No further
19 questions.

20 THE COURT: Okay. My I excuse Ms. Dewane?

21 MS. MAYES: Yes, Your Honor, and we ask that she be
22 released to return to Washington.

23 THE COURT: You can step down. Thank you. You're
24 excused.

25 MS. DEWANE: Thank you.

1 MS. MAYES: State calls Agent Donna Money.

2 CLERK: Please raise your right hand and place your
3 left on the Bible. Do you swear or affirm the testimony you
4 give the Court is the truth, the whole truth, and nothing but
5 the truth so help you God?

6 AGENT MONEY: I do.

7 CLERK: Thank you. Would you please have a seat in
8 the witness box. Would you please state your name and spell
9 your last for the record.

10 AGENT MONEY: Donna Money, M-o-n-e-y.

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q Agent Money, what can you tell us about yourself? Where
14 are you currently employed?

15 A I am currently employed at the South Carolina Law
16 Enforcement Division, forensic services lab as a forensic
17 scientist in the DNA case work department.

18 Q Alright. And I may need you to pull the microphone just a
19 little bit closer to you. And how long have you been with the
20 State Law Enforcement Division?

21 A Just over 10 years.

22 Q And what type of work have you done there at the state
23 crime lab throughout those 10 years?

24 A For the 10 years, I have been a forensic scientist in the
25 DNA case work department known as a DNA analyst which is a

1 individual who performs DNA analysis on submitted evidence
2 items and known standards.

3 Q Alright. What can you tell us about your educational
4 background and training that led you to become a DNA analyst?

5 A I received a bachelors in science degree in forensic
6 science from the Pennsylvania State University in 2011. I
7 started my employment at SLED in 2012 where I underwent a year
8 and a half long training program under a qualified analyst
9 within the DNA casework department. This training program
10 included but was not limited to performing several hundred
11 practice samples and training samples. Undergoing a competency
12 which included written, oral, and practical components, and a
13 mock Courtroom testimony.

14 Q Can you tell us, is it possible to estimate how much work
15 you have done within the DNA department that includes
16 comparison analysis?

17 A I've issued over a thousand reports during my time at SLED
18 and have analyzed several thousand samples.

19 Q And can you tell us, Agent Money, does that include the
20 analysis of DNA from sexual assault evidence collection kits?

21 A Yes.

22 Q Does that include vaginal swabs?

23 A Yes.

24 Q Does that include swabs from other area of the body?

25 A Yes.

1 Q And does that also include developing DNA profiles from
2 suspect standards or buckle swabs?

3 A Yes.

4 Q Have you testified previously in Courts of this state
5 regarding your DNA findings?

6 A Yes.

7 Q And the statistical calculation associated with those DNA
8 findings?

9 A Yes.

10 Q How many such times would you estimate you have previously
11 testified as an expert in the field of DNA analysis?

12 A Over 40.

13 MS. MAYES: Your Honor, at this time, the State does
14 offer Agent Money as an expert in the field of DNA analysis.

15 THE COURT: Any objection?

16 MS. MAULDIN: No, Your Honor.

17 THE COURT: I'm going to tell the jury, Agent Money
18 is going to be qualified as an expert in DNA analysis, please
19 give her testimony the weight you think it's worth. Ms. Mayes?

20 Q I'm going to show you an item which is currently marked
21 for ID, this is State's 152. And I'm going to ask you whether
22 or not you recognize this item. And if you need to unseal that
23 item --

24 MS. MAYES: -- Your Honor, we would ask for the
25 Court's permission to do so.

1 THE COURT: Any objection?

2 MS. MAULDIN: No, Your Honor.

3 THE COURT: Go right ahead.

4 A I recognize this item as item 5 from SLED lab number
5 L2110607, I identified it with the SLED bar code that is
6 affixed to the outside of a self-sealed patch whenever evidence
7 is submitted to SLED. My initials and date across the seal
8 that I made when I was finished analyzing this item is present
9 at the bottom. And then on the item itself, I have handwritten
10 the SLED lab number, the item number, and my initials as well.
11 And then my initials and the date when I sealed the item when I
12 was finished analyzing it.

13 Q Agent Money, what is that item?

14 A SLED item 5 is buckle swabs from Tamar Nance.

15 Q And do you recognize your initials on that item?

16 A Yes.

17 Q Did anyone else handle that item for the purpose of
18 unsealing it prior to its submission to the State Law
19 Enforcement Division by Agent Tyson Hass of SLED?

20 A I'm not exactly sure what you're asking.

21 Q Who was the first person to unseal this item following its
22 submission?

23 A I was the first person to enter this self-sealed pouch.

24 Q And was there any evidence of tampering or prior breakage
25 of the seal?

1 A No. If that was the case, then the item would not have
2 been analyzed.

3 Q So upon its submission to the State Law Enforcement
4 Division, you are the first person to unseal it?

5 A Yes.

6 Q And did anyone else handle that item after you unsealed it
7 prior to your analysis?

8 A No, I was the only person involved in the analysis.

9 Q Okay. Can you --

10 MS. MAYES: At this time, Your Honor, the State would
11 offer State's 152 as evidence.

12 THE COURT: Any objection?

13 MS. MAULDIN: Subject to my prior motion, Your Honor.

14 THE COURT: Okay. So noted and admitted.

15 (Whereupon envelope was submitted as State's Exhibit 152
16 and entered into evidence.)

17 Q Looking here at State's 152, do you have with you a copy
18 of the report that you issued in this particular case?

19 A I do.

20 Q And what is the lab number associated with this case
21 involving the submission of that swab for Tamar Nance and the
22 comparison to the sexual assault evidence collection kit of
23 D.K. [REDACTED]?

24 A The lab number is L21-10607.

25 Q And can you tell us whether or not you were

1 Able to develop a DNA profile for the suspect standard or
2 buckle swab of Tamar Nance?

3 A I was able to develop a DNA profile from that item and it
4 was suitable for comparison.

5 Q Now, when you say suitable for comparison, what do you
6 mean by that?

7 A It means that a full profile was developed for that
8 individual and then that profile can then be compared to any
9 profiles developed from evidence submitted in that same case.

10 Q I want to take you specifically to the vaginal swabs that
11 were submitted in this case. And what item number do you have
12 for those swabs?

13 A The vaginal swabs were SLED items 1.1.

14 Q And do you see those here within this kit?

15 A Yes. This is SLED item 1.1, the vaginal swabs.

16 Q Okay. And what is item 1.3?

17 A SLED item 1.3 was evidence collected in the suspected body
18 fluid swab envelope with the additional description of swab
19 collected from mons pubis.

20 Q Regarding these two items, 1.1 and 1.3, were you able to
21 compare the DNA profiles that were developed by Agent Dewane
22 from these samples to the DNA profile that you developed for
23 Tamar Nance?

24 A Yes.

25 Q What if anything can you tell us regarding

1 the vaginal swabs and the results of your comparison analysis?

2 A May I refer to my report?

3 Q Yes, please.

4 A For SLED item 1.1, a DNA profile suitable for comparison
5 was developed from ---

6 Q Okay. I need you to go slower for the benefit of the
7 Court reporter.

8 A My apologies. A DNA profile suitable for comparison was
9 developed from the sperm fraction. The proposition set for
10 this item is as follows. The DNA profile was interpreted as a
11 mixture originating from two individuals, [D.K.] is
12 contributing to the mixture. And then the two possible
13 explanations for the profile are as follows, [D.K.] and
14 Tamar Nance contributed to the mixture or [D.K.] and
15 unidentified, unrelated individual contributed to the mixture.
16 The DNA profile is approximately 100 octillion times more
17 likely if [D.K.] and Tamar Nance contributed to the
18 mixture than if [D.K.] and an unidentified, unrelated
19 individual contributed to the mixture.

20 Q And so why is, and just if you can explain this in
21 layperson's terms, why is [D.K.]'s DNA also present on
22 her vaginal swab?

23 A It is expected that when swabs are collected directly off
24 of a person's body, that that person's DNA would be present.

25 Q Okay. For example, if you use a Q tip in your ear?

1 A I would expect that person's DNA to be present on that
2 swab.

3 Q Okay. So this particular swab had D.K. [REDACTED]'s own
4 DNA?

5 A Yes.

6 Q And then your finding was that the likelihood that it is
7 Tamar Nance and D.K. [REDACTED] as opposed to D.K. [REDACTED] and
8 another unknown, unidentified person is what statistical
9 calculation of that finding?

10 A The DNA profile is approximately 100 octillion times more
11 likely.

12 Q 100 octillion times more likely to be Tamar Nance and
13 D.K. [REDACTED] than another unknown, identified person?

14 A It's 100 octillion times more likely for this DNA profile
15 to exist if it's D.K. [REDACTED] and Tamar Nance versus D.K. [REDACTED]
16 [REDACTED] and an unidentified, unrelated person.

17 Q What is 100 octillion?

18 A 1 octillion is 1 with 28 zeros, so ---

19 Q How, how many zeros?

20 A 28.

21 Q Okay. So 1 octillion has 28 zeros?

22 A Yes.

23 Q Please continue. So 1 octillion has 28 zeros.

24 A I actually mis-spoke, it's 27.

25 Q Okay. 27 zeros. Okay. So it would be 100 times that?

1 A So 100 octillion is 29 zeros.

2 Q Now, were you also able to compare the DNA profile that
3 you developed from the buckle swabs of Tamar Nance to the DNA
4 profile that had been developed from the sperm fraction of the
5 mons pubis swabs?

6 A Yes.

7 Q And what was your finding in that regard?

8 A For SLED item 1.3 which was the suspected body fluid swabs
9 from the mons pubis, a DNA profile suitable for comparison was
10 developed from the sperm fraction. The proposition set for
11 this item is as follows, the DNA profile was interpreted as
12 single source ---

13 Q And let me stop you right there. What is meant by that
14 term, single source?

15 A It is a DNA profile originating from one individual.

16 Q Okay. So there is only one DNA profile present?

17 A Yes.

18 Q Okay. Were you able to develop or calculate statistics
19 regarding Tamar Nance?

20 A Yes. So the two possible explanations for the profile are
21 that Tamar Nance contributed to the DNA profile or an
22 unidentified, unrelated individual contributed to the DNA
23 profile. The DNA profile is approximately 82 octillion times
24 more likely if Tamar Nance contributed the profile than if an
25 unidentified, unrelated individual contributed the profile.

1 Q So there's only one contributor?

2 A Yes.

3 Q And it's 82 octillion times more likely to be Tamar Nance
4 than another unknown, unidentified individual?

5 A The DNA profile is 82 octillion times more likely if it is
6 Tamar Nance than if it is unidentified, unrelated individual.

7 MS. MAYES: Beg the Court's indulgence.

8 THE COURT: Take your time.

9 Q What can you tell us about, is there also an internal
10 scale that SLED uses in assessing these kind of numbers when
11 we're talking about 100 octillion and 82 octillion numbers that
12 high?

13 A Yes. We utilize what is called a verbal scale for
14 providing a verbal weight for these numbers.

15 Q And what can you tell us about the scale in association
16 with these numbers being 82 octillion and 100 octillion?

17 A 100 octillion and 82 octillion would fall under very
18 strong support.

19 Q And is that the highest your scale goes?

20 A Yes.

21 Q Now, when we're talking about evidence such as a
22 sexual assault kit and evidence such as vaginal swabs,
23 when you're determining within your lab whether the
24 evaluation of other evidence is needed, what can you tell us in
25 that regard regarding whether or not in a sexual assault the

1 kit or the swabs from the kit would be considered the best
2 evidence?

3 A In sexual assault cases, the sexual assault evidence
4 collection kit which is comprised of various sets of swabs and
5 bags to collect that evidence is considered the most intimate,
6 the most probative type of evidence in the case because these
7 are swabs and other items collected directly off of a person's
8 body shortly after an alleged assault. The, this along with
9 any clothing that was in close contact, say a pair of underwear
10 or an undershirt, something like that is considered the best
11 evidence to start with.

12 Q Okay. More of, in terms of your evaluation within the lab
13 of more significance than clothing items or bedding?

14 A Yes.

15 Q Okay. Now, with that said, let me ask you. In the lab,
16 what role do you play?

17 A I am a DNA analyst in the DNA casework department.

18 Q Okay. Are you also familiar with the serology work done
19 in this case?

20 A Yes.

21 Q Okay. And are you familiar with the finding of semen and
22 spermatozoa by the serologist, Courtney Thompson?

23 A Yes.

24 MS. MAYES: Nothing further.

25 THE COURT: Ms. Mauldin?

1 MS. MAULDIN: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MS. MAULDIN:

4 Q Good morning, Agent Money.

5 A Good morning.

6 Q Your findings can't tell you anything about the activity
7 that led to the content of the sample that was analyzed?

8 A No.

9 Q And your findings can't tell you anything about the
10 probability that the person contributed to the DNA?

11 A I don't know exactly what your question is asking.

12 Q In other words, from what I understand, your language has
13 to be very specific in your findings ---

14 A Yes.

15 Q --- right? And so you're not saying that the probability
16 that it is a person, could you restate your findings for
17 section 1.1 and 1.3?

18 A The statistics ---

19 Q Yes.

20 A --- on these items? It refers to the DNA profile itself.

21 Q Right.

22 A So for item 1.1, the DNA profile is approximately 100
23 octillion times more likely if D.K. [REDACTED] and Tamar Nance
24 contributed to the mixture than if D.K. [REDACTED] and an
25 unidentified, unrelated individual.

1 Q And also your finding for 1.3?

2 A For 1.3, the DNA profile is approximately 82 octillion
3 times more likely if Tamar Nance contributed the profile than
4 if an unidentified, unrelated individual contributed the
5 profile.

6 Q Thank you.

7 MS MAULDIN: Your Honor, beg the Court's indulgence.
8 No further questions, Your Honor.

9 THE COURT: Ms. Mayes?

10 MS. MAYES: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. MAYES:

13 Q So to follow up on that. The vaginal swab as you
14 indicated has Ms. D.K.'s own DNA on it?

15 A Yes.

16 Q But you also found DNA consistent with Tamar Nance or an
17 individual 100 times more likely to be Tamar Nance than another
18 unknown, unidentified person?

19 A There's foreign DNA detected on the sample, and when
20 comparing the known stain from Tamar Nance to the profile
21 developed from the vaginal swabs, the DNA profile developed is
22 100 octillion times more likely to occur to exist if D.K.
23 and Tamar Nance contributed to the mixture than if it
24 was D.K. and an unidentified, unrelated person.

25 Q Alright. And as to this swab, the mons pubis

1 swab, how many contributors did you have?

2 A It was single source, meaning one person.

3 Q And in this case, your finding was 82 octillion times more
4 likely to be Tamar Nance than another unknown, unidentified
5 person?

6 A The DNA profile is 82 octillion times more likely to exist
7 to occur if Tamar Nance contributed the profile than if an
8 unidentified, unrelated individual contributed the profile.

9 Q Thank you, Agent Money.

10 MS. MAYES: Nothing further.

11 MS. MAULDIN: Your Honor, I beg the Court's
12 indulgence.

13 THE COURT: Sure.

14 MS. MAULDIN: No further questions, Your Honor.

15 THE COURT: May I excuse Agent Money?

16 MS. MAYES: Yes, Your Honor.

17 THE COURT: Agent Money, thank you so much. I'm
18 going to let the jury take a quick little break. Mr. Foreman?

19 MR. FOREMAN: Yes, ma'am?

20 THE COURT: No discussing this case amongst
21 yourselves just yet. I'm going to give y'all a 15-minute
22 break, go stretch and get something to drink.

23 MR. FOREMAN: Thank you.

24 (Jury exiting the Courtroom.)

25 THE COURT: We're going to take a quick

1 break. Anything from the State?

2 MS. MAYES: Nothing from the State, your Honor.

3 THE COURT: Anything from the Defense?

4 MS. MAULDIN: No, Your Honor.

5 THE COURT: How many more witnesses we got, Ms.

6 Mayes?

7 MS. MAYES: At least one and then two short ones.

8 THE COURT: Okay. Great.

9 (Off the record.)

10 THE COURT: Ms. Mayes, y'all ready?

11 MS. MAYES: We are, Your Honor.

12 THE COURT: Let's bring the jury in.

13 (Jury entering Courtroom.)

14 THE COURT: Mr. Foreman, jury ready?

15 MR. FOREMAN: Yes, ma'am.

16 THE COURT: Okay. Please be seated.

17 MS. MAYES: Your Honor, may we approach?

18 THE COURT: You may.

19 (Off the record.)

20 THE COURT: Mr. Foreman and ladies and gentlemen of
21 the jury, the next witness, the name is Hope Mizzell. So let
22 me ask the jury, does anybody know or have any type of
23 relationship whether social or professional with a Hope
24 Mizzell? If so, please raise your hand. Okay. Call your
25 witness.

1 MS. MAYES: The State calls Hope Mizzell.

2 CLERK: Please raise your right hand and place your
3 left on the Bible. Do you swear or affirm the testimony you
4 give the Court is the truth, the whole truth, and nothing but
5 the truth so help you God?

6 MS. MIZZELL: Yes, I do.

7 CLERK: Thank you. Would you please have a seat in
8 the witness box. State your full name and spell your last for
9 the record.

10 MS. MIZZELL: My name is Hope Mizzell, last spelling,
11 M-i-z-z-e-l-l. I work as a South Carolina State Climatologist.

12 **DIRECT EXAMINATION**

13 BY MS. MAYES:

14 Q Alright. Tell us a little bit about yourself.

15 A You want me to stand?

16 Q Yes.

17 A Okay. Yes. I serve as the South Carolina State
18 Climatologist. I served in that position since 2003, the
19 Office of State Climatology is located within the Department of
20 Natural Resources.

21 THE COURT: Can I have her sit down?

22 MS. MAYES: Yes, Your Honor.

23 THE COURT: Please take a seat. Didn't want to do
24 that to you.

25 Q You indicated you work with the State Climatology

1 Office. Can you tell us whether or not your office maintains
2 records regarding sunset and sunrise time?

3 A Yes, we do.

4 Q And are such records maintained and accessible through the
5 ordinary course of business?

6 A They are, the, most records now, of course, are archived
7 electronically.

8 Q Alright. Can you tell us whether or not you have such
9 records in relation to the date of June 23rd, 2021?

10 A Yes, we do.

11 Q What can you tell us regarding the sunrise time according
12 to your records for the date of June 23rd, 2021?

13 A Sunrise on the date of June 23rd, 2001, is at 6:14 am.

14 Q Thank you.

15 MS. MAYES: Nothing further.

16 THE COURT: Ms. Mauldin?

17 MS. MAULDIN: Nothing for this witness, Your Honor.

18 THE COURT: May I excuse Ms. Mizzell?

19 MS. MAYES: Your Honor, my, my understanding is that
20 the witness, I just need to clarify the date, my understand is
21 there may have been a misunderstanding there.

22 THE COURT: Okay.

23 BY MS. MAYES:

24 Q What date are you referring to?

25 A Did I say the wrong date? June 23rd, 2021 ---

1 Q Okay.

2 A --- 6:14 am.

3 Q Thank you.

4 MS. MAYES: Nothing further.

5 THE COURT: Alright. Ms. Mizzell, you can be excused

6 ---

7 MS. MIZZELL: Okay.

8 THE COURT: --- thank you.

9 MS. TAYLOR: State calls Mason Frier.

10 CLERK: Would you please raise your right hand and
11 place your left on the Bible. Do you swear or affirm the
12 testimony you give the Court is the truth, the whole truth, and
13 nothing but the truth so help you God?

14 MR. FRIER: I do.

15 CLERK: Thank you. Would you please have a seat in
16 the witness box. State your full name and spell your last for
17 the record.

18 MR. FRIER: My name is Mason Frier, last name's F-r-
19 i-e-r.

20 **DIRECT EXAMINATION**

21 BY MS. TAYLOR:

22 Q Good morning.

23 A Good morning.

24 Q Investigator Frier, tell me a little bit about yourself
25 and where you're currently employed.

1 A My name is Mason Frier. Currently employed with the City
2 of Columbia Police Department in the violent crimes against
3 person section which is located within the investigation
4 section of the Columbia Police Department.

5 Q What types of crimes do you investigate in the violent
6 crimes unit?

7 A We investigate a wide range of crimes including homicide,
8 nonfatal shootings, armed robberies, assaults with a serious or
9 moderate bodily injury.

10 Q And tell me a little bit about your background and
11 training to become a law enforcement officer.

12 A I graduated from the Criminal Justice Academy in South
13 Carolina in 2015, past that, I've done multiple trainings in
14 regards to child sexual abuse, homicide, crime scene management
15 and major incident management.

16 Q In June of 2021 where were you employed?

17 A I was employed with the City of Columbia Police
18 Department.

19 Q And what were your job responsibilities at that time ---

20 A I ---

21 Q --- were you on a crime unit at that time or a different
22 unit?

23 A No, I was not. I was assigned to the special victims unit
24 within the Columbia Police Department.

25 Q And what types of crimes did the special victims

1 unit investigate?

2 A We investigate rapes, we investigate domestic violence,
3 elderly abuse, child abuse, and child sexual exploitation.

4 Q At any point in June of 2021 did you become involved in
5 the investigation of Tamar Nance?

6 A I did.

7 Q And in what capacity?

8 A Initially, I aided and drafted a search warrant to TD
9 Bank, and subsequent to that, I was involved by taking
10 possession of a phone subsequent to an interview.

11 Q Okay. And was this phone seized incident to arrest?

12 A Yes, it was.

13 Q Okay. And go over the, is that standard protocol when
14 someone is arrested to search, search their person for any
15 items?

16 A Yes, it is.

17 Q And what's the purpose of that?

18 A To safeguard potential destruction of evidence and also to
19 ensure that the person has no weapons on them subsequent to
20 arrest.

21 Q So would that also be to ensure officer safety as well?

22 A Yes, ma'am.

23 Q Okay. Now, you said that you did seize a phone from Tamar
24 Nance's person?

25 A Yes, ma'am.

1 Q Incident to his arrest?

2 A Yes, ma'am.

3 Q Okay. And was this also pursuant to standard booking
4 procedures?

5 A Yes, ma'am.

6 Q And arrest protocol?

7 A Yes, ma'am.

8 Q Okay. Now, I'm showing you what's been marked as State's
9 Exhibit 10. I'm going to hand it to you and ask if you
10 recognize this?

11 A I do.

12 Q And what is that?

13 A That is a video from an interview where I went into the
14 interview room to search Mr. Nance after arrest.

15 Q And you have reviewed this prior to Court today?

16 A Yes, I have.

17 Q And is it the same as you recall it when you seized that
18 phone incident to arrest?

19 A Yes. And it has my initials and a date where I initialed
20 it.

21 MS. TAYLOR: At this time, Your Honor, State moves to
22 offer Exhibit 10 into evidence.

23 THE COURT: Any objection?

24 MS. MAULDIN: Subject to my prior motion, Your Honor.

25 THE COURT: I understand.

1 MS. TAYLOR: Your Honor, permission to publish?

2 THE COURT: Yes, ma'am. And it's admitted.

3 (Whereupon a CD was submitted as State's Exhibit 10 for
4 identification and entered into evidence.)

5 MS. TAYLOR: Beg the Court's indulgence.

6 THE COURT: Take your time.

7 Q Investigator Frier, while we're figuring the laptop out, I
8 want to go ahead and show you what's been previously a Court
9 Exhibit 39. I'm showing you now what's State's Exhibit 39, I'm
10 going to hand this to you and ask if you recognize this?

11 A yes, I do recognize it.

12 Q Okay. And what is that?

13 A That is a photo of me inside the interview room taking
14 possession of Mr. Nance's cell phone.

15 Q Okay. And is that photo how you recall that search
16 incident arrest occurring?

17 A Yes, ma'am.

18 MS. TAYLOR: At this time, Your Honor, State moves to
19 admit 39.

20 THE COURT: Any objection?

21 MS. MAULDIN: Subject to my prior motion, Your Honor.

22 THE COURT: It's admitted.

23 (Whereupon a photo was submitted as State's Exhibit 39 for
24 identification and entered into evidence.)

25 MS. TAYLOR: Permission to publish?

1 THE COURT: Yes, ma'am.

2 Q Investigator Frier, there may be a laser pointer up there.
3 Can you just point out where you are in this still shot from
4 that video?

5 A Yes, ma'am. That's me right there.

6 Q And can you point to the Defendant?

7 A Mr. Nance is located right there.

8 Q And can you point out the phone that you seized incident
9 to arrest?

10 A Yes, ma'am. It's right there.

11 Q Okay.

12 (Video from CD being played.)

13 Q Now, Investigator Frier, after you seized that phone, what
14 did you do next?

15 A Upon seizure of that phone, I took it and went back to
16 Sargent Hass' officer where everybody else was located and
17 transferred possession to Investigator Ortiz where it was
18 packaged for tagging into evidence.

19 Q And is that because Detective Ortiz was the lead
20 investigator on this case?

21 A Yes, ma'am.

22 Q When you were transferring custody of that phone to
23 Detective Ortiz, did you utilize that phone at all?

24 A No.

25 Q Did, did you turn it on at all?

1 A No.

2 Q Or manipulate it in any way?

3 A No.

4 Q Alright. I'm showing you what's been marked as State's
5 Exhibit 140, can you, do you recognize that? Can you identify
6 that?

7 A Yes. This is the packaging that the, was, the phone that
8 I took custody of was placed in.

9 Q Okay. And how do, how do you recognize that?

10 A Based upon the date, also the, the Defendant's information
11 along with the contents which are located on the back here.

12 Q Okay.

13 A It's a black and gray phone case with the phone.

14 MS. TAYLOR: Your Honor, at this time, State moves to
15 admit 140.

16 THE COURT: I already have it admitted.

17 MS. TAYLOR: I believe previously it was ID only.
18 Maybe I'm mistaken.

19 THE COURT: Okay. Well, they tell me ID only, so any
20 objection?

21 MS. MAULDIN: Subject to my prior motion, Your Honor.

22 THE COURT: Okay. It's admitted.

23 (Whereupon a still shot was submitted as State's Exhibit
24 140 for identification and entered into evidence.)

25 Q And you said that you'd transferred custody of

1 that phone to Detective Ortiz?

2 A Yes, ma'am.

3 Q And there was no manipulation or turning on of the phone
4 in any way?

5 A No, ma'am.

6 Q Any evidence of tampering while you were in possession of
7 this phone?

8 A No, ma'am.

9 MS. TAYLOR: Beg the Court's indulgence. No further
10 questions.

11 THE COURT: Ms. Mauldin?

12 MS. MAULDIN: None for this witness, Your Honor.

13 THE COURT: May I -- anything else?

14 MS. TAYLOR: Nothing further. He can step down and
15 return to duty.

16 THE COURT: Alright. Investigator Frier, I'll send
17 you back.

18 INVESTIGATOR FRIER: Thank you, Your Honor.

19 THE COURT: Thank you.

20 MS. MAYES: The State calls Agent Mike Phipps.

21 CLERK: Please raise your right hand and place your
22 left on the Bible. Do you swear or affirm the testimony you
23 give the Court is the truth, the whole truth, and nothing but
24 the truth so help you God?

25 AGENT PHIPPS: I do.

1 CLERK: Thank you. Would you please have a seat in
2 the witness box. State your full name and spell your last for
3 the record.

4 AGENT PHIPPS: Michael Phipps, P-h-i-p-p-s.

5 MS. MAYES: Beg the Court's indulgence.

6 THE COURT: Take your time.

7 DIRECT EXAMINATION

8 BY MS. MAYES:

9 Q Agent Phipps, tell us a little bit about yourself.

10 A I'm employed with the Lexington County Sheriff's
11 Department in our forensic services unit. I'm currently
12 assigned the duty of forensic technology examiner. A portion
13 of those duties is being a full-time task force officer with
14 the secret services cyber fraud task force.

15 Q Alright. How long have you been part of the secret
16 service task force?

17 A Since 2010.

18 Q And Agent Phipps, tell us a little bit about your
19 educational background and training prior to that.

20 A Prior to that, I was crime scene investigator for the
21 sheriff's department for about 14 years. Attended extensive
22 training in all aspects of crime scene, evidence collection,
23 documentation.

24 Q And are you still an active member of the Lexington County
25 Sheriff's Department?

1 A I am.

2 Q And that's in addition to your work as part of the secret
3 service task force?

4 A Yes, ma'am.

5 Q And how much of your work with the secret service task
6 force has involved analyzing and extracting digital evidence?

7 A Pretty much, currently, that's all I do. I'm full time, I
8 sit in the lab and my only job duties are to examine electronic
9 devices to extract evidence that is to be used in criminal
10 investigations.

11 Q Does that include computer?

12 A It does.

13 Q Does that include cell phones?

14 A Yes, ma'am.

15 Q Agent Phipps, tell us a little bit about your specific
16 training in the field of extracting information including
17 images from mobile cell devices.

18 A I've had, my first training involving digital evidence
19 dates back to 2002. Obviously, since I've become full time,
20 I've had a lot more courses. The total is over 800 hours of
21 instruction in different aspects of digital forensics.

22 Q Alright. And specifically, regarding extractions, what if
23 any certifications do you have in that regard?

24 A Two certifications through Cellebrite which is the, the
25 vender that supplies the hardware that we utilize. Cellebrite

1 certified operator, and a Cellebrite certified physical
2 analyst.

3 Q And can you tell us, Agent Phipps, where and through what
4 agencies you have received specific training in recovering
5 digital evidence from cell phone devices?

6 A Through the National White Collar Crime Center and also
7 through the National Computer Forensic Institute in Hoover,
8 Alabama.

9 Q Alright. Agent Phipps, is it possible for you to estimate
10 how many times you have testified as an expert in courts of
11 this state regarding digital evidence?

12 A More than 20 times so far.

13 Q And does that include the extraction of digital evidence
14 from cell phones?

15 A Yes, ma'am.

16 Q And how common or uncommon is extracting evidence from
17 cell phones in modern criminal investigations?

18 A It's almost a guarantee in every case.

19 Q Alright.

20 MS. MAYES: Your Honor, at this time, the State
21 offers Agent Mike Phipps as an expert in the field of digital
22 phone extraction and evidence analysis.

23 THE COURT: Okay. Any objection?

24 MR. STORY: No objection, Your Honor.

25 THE COURT: Alright. I'm going to tell

1 jury, I've already instructed you on expert witnesses, and
2 Agent Phipps is going to be qualified as an expert in this
3 field which is cellular and digital extractions and evidence.
4 Go ahead, Ms. Mayes.

5 Q I'm going to show you what is State's 140.

6 MS. MAYES: And if I understand, this is now in
7 evidence?

8 THE COURT: Yes, ma'am.

9 Q State's 140, and if you could, Agent Phipps, take a
10 look at this and tell us what it is and how you recognize it.

11 A I do. It's an evidence packaging from the Columbia Police
12 Department. It has a label that I produced when it was intaked
13 [sic] into our lab.

14 Q And what if any specific characteristics are unique to
15 this phone? What type of phone is this?

16 A Looking at the packaging, it's just described as an
17 android phone, but I have my own individual notes that relate
18 to the evidence number P21-2578.

19 Q Alright. And can you tell us whether or not this phone
20 was properly sealed and packaged upon its arrival to you?

21 A It was.

22 Q And I believe you first received this phone in August of
23 2022?

24 A Yes, ma'am.

25 Q And then again in November of 2022?

1 A Yes, ma'am.

2 Q Were you able to successfully extract the phone on both
3 occasions?

4 A We did.

5 Q Now, the Cellebrite software that you indicated was
6 utilized in these extractions, how frequently is that software
7 updated?

8 A Usually monthly.

9 Q And can it be possible to obtain potentially new
10 information from a phone even through an extraction done a
11 month later?

12 A That's possible, yes.

13 Q However, in this particular case, did both extractions in
14 August and November appear to be consistent in their finding?

15 A They were.

16 Q Alright. I'm going to ask you if you can unseal 140.

17 MS. MAYES: And Your Honor, with the Court's
18 permission.

19 THE COURT: Any objection?

20 MR. STORY: No, Your Honor.

21 THE COURT: Okay. Go ahead.

22 Q And Agent Phipps, did this phone come with a unique case?

23 A It did, yes, ma'am.

24 Q And were you able to successfully extract evidence from
25 that phone?

1 A We were. We were able to get a full file system, and an,
2 what we call advanced logical which is an android backup what
3 you would get if you backed up your own phone for the purpose
4 of restoring it. And then we also separately extracted the SIM
5 card that was in the phone.

6 MS. MAYES: Beg the Court's indulgence.

7 THE COURT: Take your time.

8 Q For ID, I'm going to have you take a look at this and ask
9 you whether or not you recognize it?

10 A Yes, ma'am, I do recognize that.

11 Q And how so?

12 A It has my initials, both when I originally created it and
13 when I reviewed it most recently.

14 Q Okay. And can you tell us from what date this extraction
15 originates?

16 A My extraction was November 10th of 2022. I created the
17 disc November 14th, the actual date it was extracted on the
18 10th.

19 Q Okay. And does this cd contain the full extraction that
20 you just indicated was conducted on this phone?

21 A It does.

22 Q Now, I'm going to show you various other items and ask you
23 a few questions about them.

24 MS. MAYES: And Your Honor, that was 101 for ID only
25 by agreement of the State and the Defense by ---

1 THE COURT: But it's for ID only?

2 MS. MAYES: ID only, that would be the full
3 extraction.

4 THE COURT: Okay. Thank you.

5 (Whereupon full phone extraction submitted for State' Exhibit
6 101 for identification.)

7 Q I'm going to show you what is State's 96.

8 A Yes, ma'am.

9 Q And State's 95 and ask you whether or not you recognize
10 those items?

11 A Yes, ma'am, I do.

12 Q How so?

13 A The, State's 96 is a summary page that's generated by
14 Cellebrite when we export the data, and it has a summary of the
15 device that's being examined, the date and time the examination
16 occurred and where the extractions were, the date and times the
17 extractions were made.

18 Q Alright. And what about State's 154?

19 THE COURT: You need to tell me what 95 was.

20 A Okay. 95 is a individual user account from the phone, so
21 the software identifies various accounts you may have
22 associated with your phone, and this specifically identifies
23 one of those accounts.

24 Q State's 154?

25 A Same thing, a user account on the phone.

1 Q Were all of these items, State's 154, 96, and 95 developed
2 pursuant to your extraction?

3 A Yes, ma'am, they were.

4 Q And do they contain user identification information?

5 A They do.

6 MS. MAYES: This would be all for evidence, Your
7 Honor.

8 THE COURT: Okay. That's 95, 10 - no, 95, 154, and
9 96. Any objection?

10 MR. STORY: None, Your Honor.

11 THE COURT: Thank you.

12 (Whereupon account info from extraction were submitted as
13 State's Exhibits 95, 96, and 154 for identification and entered
14 into evidence.)

15 Q We'll start by looking here at 96. What can you tell us,
16 Agent Phipps, about the manufacturer of this phone?

17 A You can see there under source extraction and then
18 advanced logical several lines down, it says selected
19 manufacturer, Motorola, selected devise is a an XP2117-1 Moto G
20 power, 2021.

21 Q Alright. And then I also want to ask you specifically
22 about what is indicated here for examiner name?

23 A It has my name.

24 Q I want to ask you also about time zones associated with
25 this particular phone. What if anything can you tell us about

1 the work you do to associate any findings on the phone with
2 eastern standard time?

3 A A lot of phones will record their data and UTC which is
4 sort of a universal time, computer time. Because your phone is
5 connected to a cell or network, it physically knows where it is
6 geographically, so it knows what time offset it needs to apply.
7 So being in South Carolina during the summertime, it would be
8 eastern daylight savings, which is UTC minus 4, so the software
9 automatically applies that offset to give you the correct local
10 time.

11 Q Okay. So in June of 2024, what you refer to as the UTC
12 time or Greenwich time would be minus 4 from eastern standard
13 time?

14 A Plus 4, you subtract 4 from UTC to derive local time.

15 Q And did you do that associate, that correct correlation
16 for the time zone for the purposes of this extraction?

17 A We did.

18 Q And so is, can you tell us whether or not the evidence we
19 are looking at today is all consistent with eastern standard
20 time?

21 A It is.

22 Q Now, looking here at State's 95. What if anything did you
23 find on the phone indicating a username?

24 A There were quite a few entries for the username listed
25 there, but tamarnance25@gmail.com.

1 Q Alright. And can you tell us whether or not this phone
2 also required a password?

3 A It does not.

4 Q And can you tell us whether or not this phone is an
5 android?

6 A It is.

7 Q Again, the username associated with this, if you could
8 state that for the record?

9 A The username is what I just spelled out, the
10 tamarnance25@gmail.com.

11 Q Would that be consistent with tamarnance25@gmail.com?

12 A Yes, ma'am.

13 Q Now, looking here at State's 154.

14 A Again, it's a user account using the same user name
15 associated with the Google account that the phone was linked
16 to.

17 Q Alright. And when we talk about a Google account, let me
18 just ask you, is, what is a gmail account?

19 A Android is owned by Google, the operating system, so by
20 default when you start up an android device and initiate it, it
21 asks you to establish a gmail account. Some people don't ever
22 use that gmail for actual mail, but there is a gmail account
23 associated with the phone so that Google knows, you know, who
24 you are.

25 Q And is that a standard feature of androids?

1 A It is.

2 Q And specifically the creation of user accounts, is that
3 also standard with the androids?

4 A It is, I mean, any time you add a banking app or social
5 media app or anything, of course, those create user credentials
6 on your phone, user name password and those are extracted by
7 Cellebrite as account information.

8 Q Alright. Agent Phipps, did you find any other user
9 accounts associated with this phone other than the one you have
10 identified as tamarnance25@gmail.com?

11 A There were other derivatives, variations, plays on names
12 and passwords. In some instances, an account where he used a
13 password would be the username for another account, but there
14 were no other accounts that appeared to be any other user than
15 Mr. Tamar Nance.

16 Q Through the process of the phone extraction and your
17 review, are you able to recover deleted data from a phone?
18 Does your software have that capability?

19 A It does sometimes.

20 Q Can you tell us whether or not you were able to recover
21 data from this phone that included images?

22 A We were.

23 Q Can you tell us whether or not that included images that
24 may have been previously deleted?

25 A It, they, it did.

1 Q I'm going to show you some items and ask you whether or
2 not you recognize them. This is State's 41, State's 43,
3 State's 42, Court's 40 to be marked as State's 40?

4 A I do recognize the four images.

5 Q Okay. State's 45, State's 47, State's 46, and State's 44?

6 A Yes, ma'am, I recognize those.

7 Q How do you recognize those items, Agent Phipps?

8 A The State's 41, 43, 42, and 40 are images that were
9 recovered from the phone itself through the reporting that I
10 put out. The other four images, State's 44, 46, 47, and 45 are
11 images, the same four images, but they have been lightened.

12 Q And can you tell us through your work with digital
13 evidence, whether or not your training and experience includes
14 the ability to recover images through this method?

15 A It does.

16 Q How so?

17 A I've had training specific to evidentiary digital
18 photography through courses conducted at Quantico, the FBI
19 Academy.

20 Q Alright. And was your work in this case regarding
21 exhibits 44, 46, 47, and 45 all consistent with that training?

22 A They were.

23 Q And other than that procedure, have these images been
24 altered or tampered with by you or any other agent?

25 A They have not.

1 Q And other than yourself, was any other agent involved in
2 this phone extraction?

3 A They were not.

4 MS. MAYES: This would be State's 40, 42, 43, 41, 44,
5 46, 47, and 45, all for evidence at this time.

6 THE COURT: Any objection?

7 MR. STORY: Beg the Court's indulgence. No
8 objection.

9 THE COURT: They're admitted.

10 (Whereupon photos were submitted as State's Exhibits 40,
11 41, 42, 43, 44, 45, 46, and 47 for identification and entered
12 into evidence.)

13 MS. MAYES: Your Honor, I would just re-label these
14 images.

15 THE COURT: I have three for ID only, three of them.

16 MS. MAYES: Your Honor, 42 I am changing to reflect
17 that it is in evidence, 43 as well, 41 as well.

18 THE COURT: And I have 45, 46, and 47 as ID only.

19 MS. MAYES: That is correct, Your Honor, and I am
20 changing the label.

21 THE COURT: Okay. Thank you.

22 Q Now, Agent Phipps, when you first did the phone
23 extraction, what effort if any did you make to examine images
24 in this case?

25 A Well, the affidavit obviously gave the date and

1 time or approximate time of the incident. And as a course of
2 examining data like this, we're going to look at the phone's
3 timeline and try to identify any events or information during
4 that period of time, and that's what I did.

5 Q Alright. And when you referenced the affidavit, you're
6 referring to what?

7 A The search warrant that was given to me.

8 Q Right. And did you have search warrants for both of the
9 extractions conducted in this case?

10 A I did.

11 Q And with that search warrant, did you have information
12 regarding the incident date in this case being June 23rd, 2021?

13 A Yes, ma'am.

14 Q And were you also aware that the incident occurred during
15 the early morning hours of that date?

16 A I was.

17 Q And you mentioned developing a timeline in association
18 with images, what effort did you undertake to potentially
19 retrieve images within that time frame of June 23rd, 2021 in
20 the early morning hours?

21 A With like in large data set, we'll sort it based on a date
22 and time reference. In discovering four images that fell
23 within that period of time, I was able to extract those images
24 from the, from the phone.

25 MS. MAYES: And Your Honor, with the Court's

1 permission, if Agent Phipps may step down?

2 THE COURT: He may.

3 Q Agent Phipps, I want to begin with State's 40, and ask you
4 what we're looking at here?

5 A This is a photograph from the phone. If I had a little
6 better exhibit. The date and time that's referenced on this
7 image is not accurate from when it was taken.

8 Q We're going to look at the second page.

9 A Okay.

10 Q So when, whenever a camera or cell phone takes an image,
11 there's a field called meta data which is data about the image.
12 It can be anything from, you know, the orientation image was
13 taken, the camera, make and model, even geo location if that's
14 turned on as far as tagging a photo. In this instance this
15 image was identified as having been taken with a Motorola
16 camera, specifically a Moto G Power 2021 which is consistent
17 with the phone platform that the image was recovered from. It
18 gives you a pixel resolution that shows you the orientation
19 that the image was taken from. And in this instance, there's
20 a, a capture date and time of June 23rd, 2021, at 3:43 am in
21 the morning.

22 Q Alright. So I'm going to stop you right there. The meta
23 data that you referred to, is that what you're looking at here?

24 A That's correct.

25 Q Alright. And again, capture time, what can you

1 tell us about capture time and what does it mean in terms of
2 digital evidence?

3 A When it's presented in a meta data field like it is here,
4 it's literally the time that the photo was taken, the button
5 was pushed, the camera recorded the image.

6 Q Now, how does the capture time when the photo is actually
7 taken differ from what we're seeing up here which says June
8 30th?

9 A The dates and times that are referenced up here are what
10 the operating system records, so when you open a file on your
11 computer, you close it down, it could potentially change those
12 access and modified times. So they really have no correlation
13 to when the image was taken, it was just showing that something
14 occurred with the image after it was originally taken.

15 Q Alright. And so for this particular image, the capture
16 time would be June 23rd, 2021, and that would be 3:44, 3:43 am?

17 A Yes, ma'am.

18 Q Now, again, as it pertains to the image, has your
19 extraction been done to correlate with eastern standard time
20 for these particular images?

21 A It has. In the instance of meta data, that's already
22 baked into the meta data because the phone knows where it was
23 geographically when the image was taken. So there's actually
24 no conversion required for that.

25 Q Alright. Now, we see within the time frame

1 of the photograph, we actually see it down to the second, so
2 that would be 3:43:44?

3 A Yes, ma'am.

4 Q Based upon your analysis of these images and your
5 extraction, did you find this to be part of a series of
6 photographs?

7 A Yes. All four images were taken in a period of time that
8 was just over one minute.

9 Q And within that minute of time, which photograph was the
10 first to be taken?

11 A The image we're looking at here is the first one.

12 Q Okay. Now, we see that this particular photograph is face
13 forward, are you familiar with on cell phones the mechanism to
14 take a selfie for example?

15 A Sure. Most cameras have front facing and rear facing
16 cameras.

17 Q If someone had previously taken a selfie on a previous
18 date or early in the day and had not changed that feature or
19 that face forward mode, what would happen the next time they
20 potentially used the phone?

21 A It's possible it could retain that same orientation; it
22 just depends on the make and model of the phone and what
23 happens to be in use.

24 Q And did, in the next series of photographs,
25 did they indicate that they were in the same face

1 forward position for the camera or were they from a different
2 positioning?

3 A It appeared to be the rear facing camera for the remaining
4 three.

5 Q Next I'm going to show you State's 42, and ask you whether
6 or not you recognize this image?

7 A I do.

8 Q How so?

9 A Again, it's one of the images that's taken in a series of
10 four within a minute time period on the date of the incident
11 being June 23rd, 2021 at 3:44 am.

12 Q Alright. Looking here at State's 42 to publish this
13 particular image. I realize this is very dark on the overhead,
14 so we will publish to the jury directly at a later point. You
15 could look at the capture time on this image being State's 42.
16 What is the capture time for this image?

17 A June 23rd, 2021, at 3:44 and 52 seconds in the morning.

18 Q And you've indicated that this one is from a different
19 position, it's no longer face forward?

20 A That's correct.

21 Q And the next image in the series. Looking now at State's
22 43, if you'd just tell us the capture time for this image and
23 when it was took?

24 A Capture time for this image, again, is June 23rd
25 2021, at 3:44 and 59 seconds am. And it's a photograph

1 of a South Carolina driver's license.

2 Q Agent Phipps, were you able to make out a name for that
3 driver's license?

4 A Yes. It belonged to a Ms. D.K.

5 Q And does that driver's license also contain a date of
6 birth?

7 A It does. I'm having a problem reading it from this image
8 though.

9 Q Next, I'm going to show you what is State's 41, and ask
10 you whether or not you recognize this item?

11 A Again, a photo from that same series, it's a Social
12 Security card.

13 Q And whose name is on that Social Security card?

14 A A D.K.

15 Q Alright. And if you could show us whether or not the
16 capture time was also recovered for this particular image?

17 A Again, June 23rd, 2021 at 3:43 and 59 seconds in the
18 morning.

19 Q So these are the four images that were recovered all
20 within one minute of each other?

21 A That's correct.

22 Q Now, Agent Phipps, what if any indication did you have as
23 to whether these four photographs had actually been deleted
24 from the phone?

25 A They had been. Whenever you take a photograph

1 with your phone or camera, there's a default app those images
2 are stored in, the DCIM folder. In this instance, the software
3 we use gives us the path referenced here where the data is
4 being pulled from. And in this instance, these images were
5 recovered from a photo/files/trash files folder path. So this
6 is a folder structure that is associated with Google photos.
7 So when you take a photo on your cell phone and you have a
8 Google account, you have that account linked to your photo
9 files, it uploads those photos in your Google account to save
10 them. So this is a database that transfers the image from a
11 standard default path for the purpose of uploading them to
12 Google and then they get deleted from that path, hence the, the
13 trash file folder path within it.

14 Q And Agent Phipps, based upon your examination of all of
15 the data and the file path information associated with these
16 images, do you have an opinion as to whether all four had been
17 deleted?

18 A They had been because we weren't able to recover them from
19 where you would expect to find the image had it been just taken
20 with the camera and not deleted. And then supporting that, the
21 fact that they're in a trash folder for Google photos is just
22 more evidence that they had been removed. And the only way we
23 were able to recover them is we were lucky enough to get them
24 before they were completely deleted from the phone.

25 Q Alright. Now, is the deletion of photos such as

1 this, does that require user activity?

2 A It does.

3 Q What do you mean by that?

4 A Well, obviously, your photo album, anything you take goes
5 into it and then you have to physically go in there and select
6 it and delete it to get rid of it from that album. And these
7 photos were not in that album.

8 Q Okay. Now, your software has the capability to recover
9 even deleted images?

10 A It does.

11 Q Now, once you discovered these photographs including
12 personal information regarding driver's license and Social
13 Security card in the name of D.K. [REDACTED], what if any action
14 did you take to compare that or confirm the identity of the
15 victim in this case?

16 A Well, obviously, the affidavit told me who the victim was
17 and I recognized it, there was evidence of the victim's
18 identifier documents on this phone. And additionally, the
19 images appear very dark, so I was, you know, unsure if there
20 was more additional data that you could see deeper into that
21 image into the dark shadow areas.

22 Q And I'm going to refer back to State's 42, in evidence.
23 Is this one of the images that you referenced being very dark
24 in nature?

25 A That's right.

1 Q What effort if any, Agent Phipps, did you undertake to
2 potentially determine what may be located in the background of
3 that photograph?

4 A We exported the images, I imported them into Photoshop and
5 used a lightening process just to expose those images a little
6 further so that you could see shadow detail.

7 MS. MAYES: And Your Honor, with the Court's
8 permission, if we may publish to the jury images, State's
9 Exhibit 43, and 42.

10 THE COURT: Yes, ma'am, go ahead.

11 MS. MAYES: As well as 41, Your Honor.

12 THE COURT: Yes, ma'am. Go ahead.

13 (Jury viewing photos.)

14 Q And through your education and training regarding digital
15 evidence, Agent Phipps, what if any next steps did you take in
16 trying to make further identifications regarding those images
17 taken in the early morning hours of June 23rd?

18 A As I stated, we exported the images, pulled them into
19 Photoshop, lightened them. At that point it was obvious that
20 there was significant detail to be seen in the shadow areas and
21 it appeared that there may be some things that may have
22 correlated to the location where they were taken. And at that
23 point, I contacted the solicitor's office in reference to
24 obtaining photos of the crime scene to see if any of those
25 matched what I was seeing in the images.

1 Q Now, does the process that you've described, does it
2 change the content of the image in any way?

3 A It does not. It just brings any detail that's in the
4 shadow area and makes it more visible, it expands that dynamic
5 range in the image.

6 Q And can you tell us whether or not you were able to
7 complete that process with State's 46?

8 A I was.

9 Q State's 47?

10 A Yes, ma'am.

11 Q And State's 45?

12 A Yes, ma'am.

13 Q In doing so, did it make the background of these images
14 more visible to you?

15 A It did.

16 Q And as a result, what if any photographs did you request
17 pursuant to this investigation and examine further?

18 A Crime scene photos that were taken at the time of the
19 incident.

20 Q Let me show you what is State's 48, already in evidence
21 and ask you if you're familiar with this item?

22 A Yes, ma'am. That's one of the images that I received.

23 Q Agent Phipps, were you able to make a comparison between
24 what is depicted in State's 48 being the living room area of
25 the home of D.K. and what is depicted in State's 45?

1 A I could. In State's 48, there's a coffee table there with
2 a wood top with a wrought iron base to it, I believe that's the
3 best image to show it. In this instance, there's, appearing,
4 you can see just a little bit of the brown wood top and you can
5 see what appears to be a wrought iron leg to some type of
6 table. And it was consistent with the shape of the wrought
7 iron that I was seeing here on the corner.

8 Q Alright. Now, Agent Phipps, can you tell us in this
9 particular photograph, were you also able to make out details
10 regarding the clothing of this individual depicted in the
11 image?

12 A Yes. It appeared to be blue jeans, the blue jeans
13 appeared to have some tears, or something associated with them,
14 and then, of course, the individual's wearing some type of
15 cloth on their hands.

16 Q Would that be consistent with gloves, or a sock placed
17 over the hand?

18 A Yes, ma'am.

19 Q And regarding the jeans, could you tell us whether or not,
20 where you indicated there was tearing or a rip in the jeans,
21 that there appeared to be some type of material inset with that
22 clothing item?

23 A In another image, it is more obvious, it's not quite as
24 obvious there.

25 Q Now, we're going to take a look at State's 47

1 and ask you what if anything you were able to discern from the
2 background of that image?

3 A It's hard to see from the overhead, specifically, you have
4 the area of torn jeans that's much more obvious, again the wood
5 top to the table and in the actual printed image there, you can
6 see more of what appears to be a wrought iron base to the
7 table.

8 Q Alright. And does there also appear to be some type of
9 plaid item visible in the photograph as well?

10 A It does.

11 Q Next, I want to show you what is State's 46.

12 A This is a little bit better image depicting a wood top, a
13 wrought iron leg to some type of furniture, the torn jeans, and
14 in this area right here, something that appears to be inset
15 that's reflective or white in color.

16 Q And can you make out a color or general color for the
17 footwear?

18 A Again, it's a little dim on the overhead, but it appears
19 to be some type of brown leather material on the foot, right
20 foot.

21 MS. MAYES: Your Honor, with the Court's permission,
22 if we could publish 47, 45, and 46 directly to the jury?

23 THE COURT: Yes, ma'am.

24 (Jury viewing photos.)

25 Q I want to ask you also about the rug. Did there

1 appear to be a unique coloration to the rug?

2 A It has sort of a marble pattern to it, yes, ma'am.

3 Q And can you tell us whether or not you were able to
4 visualize that in the photograph as well that you were able to
5 recover from the phone?

6 A Yes. It appeared that the carpet and the photos that we
7 recovered was not an even tonal color, it had some variation to
8 it.

9 Q And based upon your examination of the crime scene photos
10 including what we're looking at here being State's 48 being the
11 living room of D.K. [REDACTED], were you able to identify what
12 was present in the background of these photographs?

13 A Yes. There was a table that appeared consistent with a
14 table that I was seeing in the crime scene photos that were
15 supplied to me.

16 Q Thank you, Agent Phipps, you may return. Now, Agent
17 Phipps, in addition to your examination of the crime scene
18 photos and comparing those to the images recovered, the deleted
19 images recovered from this phone, were you also able to
20 identify photographs that depicted clothing?

21 A Yes. I was shown some clothing images.

22 Q I'm going to refer you directly to State's 134, this
23 particular still image acquired on June 23rd, 2021,
24 at 6:35 am?

25 A Yes, ma'am.

1 Q So roughly less than three hours from the time of the, the
2 capture time of the images?

3 A That's correct.

4 Q Can you tell us whether or not the clothing depicted in
5 State's 70 appears consistent with the clothing that you were
6 able to discern from those photographs?

7 A It does appear similar in the size and shape of the tears
8 in the jeans and then a dark material underlining those.

9 Q Alright. And again, I realize that the overhead is not
10 ideal. I'm going to show you this with the, give you a chance
11 to look at it with the naked eye, this would be State's 70.

12 Can you tell us whether or not the clothing including the
13 footwear and color of the footwear also appear consistent with
14 what you observed in the images?

15 A It does.

16 Q Alright. And looking here at State's 86, are you familiar
17 with this item?

18 A Yes, ma'am.

19 Q Can you tell us whether or not what we're looking at here
20 including this unique pattern also appears consistent?

21 A It does. The size, shape, dispersion of the tears or
22 holes, the fading on the jeans and the whiter specks in the
23 dark background of the holes are consistent.

24 Q And then you're also familiar with item 87?

25 A Yes, ma'am.

1 Q Looking at the photo recovered from the phone, the fourth
2 photo recovered from the phone that you indicated was the first
3 photo taken in the series, State's 44. Were you able to
4 determine if there was some type of hoodie in this photograph?

5 A It appears the individual's wearing a mask and then
6 additionally a hoodie pulled up over the top of it.

7 Q And can you show us where you are making that observation?

8 A So there's an outline of a hood right through that area
9 there that's more obvious on the printed image. Again, as to
10 State's 70, video surveillance footage, does the hoodie appear
11 to be up or down in this photograph?

12 A Up.

13 MS. MAYES: And Your Honor, with the Court's
14 permission to publish 44 as well as 70 depicting shoes.

15 THE COURT: Yes, ma'am. Go ahead.

16 MS. MAYES: That is all from Agent Phipps at this
17 time, Your Honor.

18 THE COURT: Thank you, Ms. Mayes. Ms. Mauldin or Mr.
19 Story?

20 MR. STORY: No questions of this witness, Your Honor.

21 THE COURT: Okay. Thank you. May I excuse Agent
22 Phipps?

23 MS. MAYES: Yes, Your Honor.

24 THE COURT: Agent Phipps, thank you so much. You are
25 excused.

1 AGENT PHIPPS: Thank you, Your Honor.

2 MS. MAYES: Your Honor, at this time the State will
3 rest.

4 THE COURT: Okay. Can I see the lawyers just for a
5 moment?

6 (Off the record.)

7 THE COURT: Alright. Mr. Foreman and ladies and
8 gentlemen of the jury, I'm going to let you go to lunch.
9 There's some matters that I need to take up with the lawyers,
10 so I'm going to ask you to come back at 2:00. Be in the jury
11 room at a quarter till, please, okay? And remember, no talking
12 about this case amongst yourself or with anybody else. Enjoy
13 lunch.

14 (Jury exiting Courtroom.)

15 THE COURT: Alright. Let me ask, any motions?

16 MS. MAULDIN: Your Honor, I have a motion.

17 THE COURT: Yes, ma'am, I'll be glad to hear you.

18 MS. MAULDIN: Your Honor, at this point, I would
19 renew all my prior objections and motion and I would move for a
20 directed verdict based on the prior objections and motions and
21 taking the evidence as a whole in the light most favorable to
22 the State. And there is insufficient evidence to submit the
23 case to the finder of fact.

24 THE COURT: Alright. Ms. Mayes?

25 MS. MAYES: Yes, Your Honor, the State would

1 just say briefly, we have met every element of every offense
2 through multiple witnesses including the forensic evidence.

3 THE COURT: I think there's plenty to go to the jury
4 and I do believe that you touched on every element and that
5 will be the jury's decision. So I'll deny your motion, but I
6 certainly renew all your prior objections for the record.

7 MS. MAULDIN: Thank you, Your Honor.

8 THE COURT: Alright. Mr. Nance, I'm going to get the
9 clerk to swear you in because I need to talk to you.

10 CLERK: Please raise your right hand. Do you swear or
11 affirm the testimony you give the Court is the truth, the whole
12 truth, and nothing but the truth so help you God?

13 MR. NANCE: Yes, ma'am.

14 CLERK: Thank you.

15 THE COURT: Alright. Put your hand down. Alright.
16 Mr. Nance, at this time, I'm going to explain to you certain
17 rights that you have. If you do not understand anything I say,
18 please let me know. If you want me to explain anything in more
19 detail, please let me know, do you understand?

20 MR. NANCE: Yes, ma'am.

21 THE COURT: We have now reached the stage of the
22 trial where you may present your defense. You have the right
23 to claim the protections given to you by the 5th Amendment to
24 the Constitution of the United States. This Amendment states
25 in part, no person shall be compelled in any criminal case to

1 be a witness against himself. This means that you cannot be
2 required to testify in this case. You have the right to
3 testify on your own behalf, however, no one can make you
4 testify, this is a personal right and no one can waive this
5 right except for you. If you decide to testify, you will be
6 subject to the same rules that govern other witnesses and you
7 may be examined and cross examined on any relevant issue in the
8 case. In addition, if you have any convictions involving
9 dishonesty or false statement or for crimes punishable by
10 imprisonment for more than one year, and this Court determines
11 that the probative value of admitting this evidence outweighs
12 its prejudicial affect to you, the solicitor will be able to
13 introduce your record to attack your credibility. If you
14 decide to testify, the decision on your part must be freely,
15 voluntarily, and intelligently made with the knowledge of the
16 protections given to you by the 5th Amendment and the
17 consequences of your decision to testify. If you decide not to
18 testify, I will instruct the jurors that they cannot give the
19 fact that you did not testify any consideration whatsoever and
20 that there is to be absolutely no prejudice to you because you
21 did not testify. It is left entirely up to you whether or not
22 you testify. You may talk with your attorney, your family and
23 friends or anyone else, but the final decision will be left
24 entirely up to you. Do you understand what I've explained to
25 you?

1 MR. NANCE: Yes, ma'am.

2 THE COURT: Do you have any questions about what I've
3 explained to you?

4 MR. NANCE: No, ma'am.

5 THE COURT: Have you discussed with your lawyer
6 whether you should or should not testify?

7 MR. NANCE: No, ma'am, not yet.

8 THE COURT: Okay. I'm going to give you time to talk
9 to your lawyer, we've got time. We're going to have lunch.
10 Ms. Mauldin, Mr. Story, y'all are going to talk to him about
11 the consequences should he decide to testify or not to testify.
12 I see he has family members, if he needs to talk with them, I'm
13 going to give him that opportunity to decide whether he wants
14 to testify or not.

15 MS. MAULDIN: Thank you, Your Honor.

16 THE COURT: So I'm going to let the deputy know as
17 long as you make your security, he is allowed to talk to his
18 family members so he can decide whether it's in his best
19 interest.

20 MR. NANCE: Yes, ma'am. Can I give them a hug one
21 time?

22 THE COURT: Excuse me?

23 MR. NANCE: May I give them a hug, please?

24 THE COURT: I'm going to leave that up to the deputy,
25 I got to keep the Courtroom secure for everybody. I just have

1 to follow the rules, and sometimes they tell me I make the
2 rules, but I don't think I do. I follow his rules for security
3 purposes. So I'm going to give you til lunchtime and he can
4 answer me when we get back as to whether he chooses to testify
5 or not, it's a big decision.

6 MS. MAULDIN: Thank you, Your Honor.

7 MR. NANCE: Thank you.

8 MS. MAYES: Your Honor, regarding prior record, there
9 are multiple convictions including a felony drug conviction,
10 but the only conviction that the State seeks for impeachment is
11 the 2017 conviction for financial transaction card fraud, a
12 crime of dishonesty and credibility would be essential in this
13 case.

14 THE COURT: Alright. You understand that Ms. Mauldin
15 and Mr. Story?

16 MS. MAULDIN: Yes, Judge.

17 THE COURT: Please explain that to him because I'm
18 telling you, Mr. Nance, they've put you on notice, if you take
19 the stand, they're going to bring up your financial transaction
20 credit card fraud case that you were convicted of. But your
21 lawyers will speak to you about that.

22 MS. MAULDIN: Thank you, Judge.

23 THE COURT: Alright. Let's come back at 2:00 and
24 we'll see where we're going. Thank you. Court's adjourned for
25 right now.

1 (Off the record.)

2 THE COURT: Alright. Everybody ready to proceed, the
3 State?

4 MS. MAYES: Yes, Your Honor.

5 THE COURT: The Defense?

6 MS. MAUDLIN: Yes, Your Honor.

7 THE COURT: Mr. Nance, let me ask you, have you had
8 the opportunity to speak with your family, your lawyers?

9 MR. NANCE: Yes, ma'am, I think.

10 THE COURT: You need any more time?

11 MR. NANCE: No, it's fine. I'm pretty sure I'm
12 confident and I'm ready.

13 THE COURT: Okay. Then let me ask you, do you want
14 to testify in your case?

15 MR. NANCE: I would like to speak on my behalf.

16 THE COURT: Okay. Does that mean you'd like to
17 testify, that means taking the witness stand and presenting a
18 defense?

19 MR. NANCE: Yes, ma'am. Speak on my behalf, right?
20 Yes, ma'am.

21 THE COURT: Alright. Let me ask you, Ms. Mauldin,
22 does that mean that he wants to testify?

23 MS. MAULDIN: Yes, Your Honor, we have discussed this
24 with him today and several other days in the past. He
25 understands that if he takes the witness stand that he will be

1 answering questions from me and from the solicitor. I think
2 that he is just trying to convey that he wants to tell his side
3 of the story.

4 THE COURT: Okay. You know that he can always talk
5 to me any other time, you know. But in order to talk right now
6 in the middle of the trial, you'd have to take the stand, you
7 understand, Mr. Nance?

8 MR. NANCE: Yes, ma'am.

9 THE COURT: And you understand that Ms. Mayes or Ms.
10 Young, the prosecutor, you'll have to answer their questions
11 also?

12 MR. NANCE: Yes, ma'am.

13 THE COURT: Okay. Then let's proceed. Are we ready
14 Ms. Mauldin?

15 MS. MAULDIN: Yes, Your Honor.

16 THE COURT: Ms. Mayes?

17 MS. MAYES: Yes, Your Honor, we would just ask that
18 regarding as we mentioned previously that 2017 conviction or
19 crime of dishonesty being the FTC fraud. State's position is
20 that its probative value outweighs any prejudicial affect given
21 that credibility would be essential in this case. We just
22 request a finding from the Court in that regard.

23 THE COURT: Okay. Let me hear from you Ms. Mauldin,
24 on that charge.

25 MS. MAULDIN: Your Honor, I think that one comes in.

1 THE COURT: Okay. I do, too. The Court rules that
2 it's coming in. I want you to understand that, Mr. Nance, that
3 when you take the stand, the State has the right to question
4 you about your previous conviction. Just talking about one, do
5 you understand?

6 MR. NANCE: Yes, ma'am. Is it okay that I speak?

7 THE COURT: You might want to talk to your lawyer
8 first.

9 MR. NANCE: Yes, ma'am. I'm sorry.

10 THE COURT: It's okay.

11 MS. MAULDIN: Your Honor, may we have maybe another
12 five minutes or so?

13 THE COURT: Absolutely.

14 MS. MAYES: The State has no objection.

15 MR. NANCE: Thank you, Your Honor.

16 MS. MAULDIN: Thank you, Judge.

17 THE COURT: Absolutely. I mean, it's an important
18 decision, there's no doubt about it. And it has to be his
19 decision, Mr. Nance, your decision.

20 MR. NANCE: Yes, ma'am.

21 THE COURT: You can seek advice from others, but it
22 needs to be your decision. I need to be satisfied that your
23 decision whether to testify or not to testify has been freely
24 made, voluntarily made, and intelligently made ---

25 MR. NANCE: Yes, ma'am.

1 THE COURT: --- okay? Take time and talk to your
2 lawyers.

3 MS. MAULDIN: Thank you, Judge.

4 (Off the record.)

5 THE COURT: Okay. Mr. Nance, have you had enough
6 time to speak with your lawyer?

7 MR. NANCE: Yes, ma'am. And I apologize about that.

8 THE COURT: No, no, you don't need to apologize. Let
9 me tell you, this is an important day, this is your trial, you
10 get one shot at it, so it's an important decision. So let me
11 ask you, have you discussed with your lawyers whether you
12 should testify or not to testify?

13 MR. NANCE: Yes, ma'am.

14 THE COURT: Okay. Do you wish to talk to your
15 lawyers anymore?

16 MR. NANCE: No, ma'am. I came down to a decision.

17 THE COURT: Okay. Are you going to testify or not?

18 MR. NANCE: No, ma'am, I'm not.

19 THE COURT: Okay. You sure?

20 MR. NANCE: I just, I'm going to man up.

21 THE COURT: Okay. And you're making this freely and
22 voluntarily? This is your decision.

23 MR. NANCE: It's my decision.

24 THE COURT: Freely and voluntarily?

25 MR. NANCE: Yes, ma'am, that's my decision.

1 THE COURT: Alright. So let me turn to you, Ms.
2 Mauldin, does that mean, are y'all going to put up a defense,
3 you have any other witnesses?

4 MS. MAULDIN: No, we don't, Your Honor, we would just
5 rest in front of the jury.

6 THE COURT: Okay. Well, then this is what I'm going
7 to do. I'm going to bring the jury in, I'm going to let you
8 rest, and I'm going to send them all back out. And then I'm
9 going to tell y'all, we're going to do closings and charging in
10 the morning. As a matter of fact, once you rest, I'm probably
11 just going to tell them I'm going to let them go. Report,
12 everybody okay with 9:30 in the morning? Because I have a 9 am
13 roster meeting.

14 MS. MAYES: Yes, Your Honor.

15 MS. MAULDIN: Sounds good.

16 THE COURT: Alright. We'll start back at 9:30 in the
17 morning and we'll start with closings. I don't want anybody
18 going anywhere after I dismiss them because I need to talk
19 about jury charges. Okay. Alright. You ready for me to bring
20 the jury in?

21 MS. MAYES: The State is ready, Your Honor.

22 MS. MAULDIN: Yes, Your Honor.

23 THE COURT: Let's bring them in.

24 (Jury entering Courtroom.)

25 THE COURT: Alright. Mr. Foreman, jury ready?

1 MR. FOREMAN: Yes, ma'am.

2 THE COURT: Alright. Please be seated. Right
3 before lunch the State rested, and I'm going to remind
4 the jury that the Defendant may, if he wishes, present a
5 defense, but he does not have to. So with that said,
6 let me turn to Ms. Mauldin. Ms. Mauldin, does
7 Mr. Nance wish to present a defense in this
8 case?

9 MS. MAULDIN: No, Your Honor. The Defense rests.
10 And I renew all my prior motions and objections.

11 THE COURT: And so noted for the record. Anything
12 else from the State?

13 MS. MAYES: Nothing from the State, Your Honor.

14 THE COURT: Okay. Alright. Ladies and gentlemen,
15 I'm going tell you there's some legal matters that I have to
16 take up with the lawyers, and probably will take the rest of
17 the afternoon. This is the plan, I need you back in the
18 jury room at 9:15, we will start promptly at 9:30, and we
19 will start with closing arguments. You're almost there,
20 whatever you do, please do not discuss this case with anyone.
21 And do not go on the internet, read anything about it, do any
22 research or look up anybody or any, about any testimony that
23 you've heard in this Courtroom. It's imperative that
24 your decision be made with the evidence that you've heard in
25 this Courtroom and only in this Courtroom, okay. With that, I

1 hope you have a good evening, and I will see y'all in the
2 morning, okay. Thank you. Alternates as well, yes.

3 (Jury exiting the Courtroom.)

4 THE COURT: Alright. For the record, do we need to
5 be on the record for the jury charges?

6 MS. MAYES: Not at this time, Your Honor.

7 THE COURT: Okay. Alright. Lisa, we don't need to
8 be on the record. We're going to talk about jury charges.
9 Unless any other lawyers have anything else they want to put on
10 the record?

11 MS. MAULDIN: No, Your Honor.

12 THE COURT: Okay.

13 (Whereupon the trial will resume the next morning at 9:30
14 am.)

15 January 27, 2023

16 THE COURT: Good morning. Please be seated, stay
17 seated. Alright. Let me ask the State and the Defense, y'all
18 ready?

19 MS. MAYES: The State is ready, Your Honor.

20 MS. MAULDIN: Yes, Judge.

21 THE COURT: Alright. Let me ask, did you look over
22 the corrections on the jury charges?

23 MS. MAULDIN: Yes, Judge, they look good to me.

24 THE COURT: Ms. Mayes?

25 MS. MAYES: The State has no objection, Your Honor.

1 THE COURT: Okay. So y'all ready for closings?

2 MS. MAYES: Yes, Your Honor.

3 THE COURT: Alright. Then I'm going to get the jury
4 brought in.

5 (Jury entering the Courtroom.)

6 THE COURT: And let me go ahead and ask the State, do
7 we have a blank computer to send back to the jury room?

8 MS. MAYES: We'll have one available, Your Honor.

9 THE COURT: Okay. Good morning.

10 JURORS: Good morning.

11 THE COURT: Mr. Foreman, the jury ready?

12 MR. FOREMAN: Yes, ma'am.

13 THE COURT: Alright. Please be seated. Let me ask
14 my morning question. Has anyone tried to contact you, or have
15 you talked to anyone about this case or have done any research,
16 social media, read or heard anything about this case? If so,
17 please raise your hand. Perfect. Alright. We're going to go
18 on to closing arguments. Ms. Mayes?

19 MS. MAYES: May it please the Court?

20 THE COURT: Yes, ma'am.

21 (Closing arguments from the State.)

22 MS. MAYES: Good morning.

23 JURORS: Good morning.

24 MS. MAYES: Time will always reveal the truth. No
25 matter what effort he took to conceal it or to delete the

1 evidence, time will always reveal the truth. And that is what
2 has brought up here today. Now, your job, as the Judge will
3 instruct you in just a short while, is to consider all of the
4 evidence in this case and how the evidence fits together. And
5 she's going to instruct you about the different types of
6 evidence that are out there, that are recognized under South
7 Carolina law, both have equal value under our law as ?? Points
8 of evidence. This is direct evidence and circumstantial
9 evidence. But this isn't a case that relies solely on
10 circumstantial evidence where there are pieces of the chain
11 that fit together to prove someone's guilt. This is a case
12 with direct evidence, physical evidence that led to the arrest
13 of Tamar Nance for these crimes, these unspeakable crimes.
14 When we talk about physical evidence, obviously, DNA, in this
15 case DNA, that is in dispute because of the science behind it
16 and the numbers associated with the DNA findings in this case.
17 But there is direct evidence where he himself placed him at the
18 crime scene through those photographs. So in this case, it's
19 the evidence that lights the path, the evidence leads the way,
20 leads the way to the truth about what happened to D.K.
21 [REDACTED]. So let's talk a little moment about that. D.K.
22 [REDACTED], 76 years old, this morning Ms. D.K. should be out
23 for a morning walk, getting in her steps, which is her routine.
24 Or she should be sitting at her kitchen table at 9:30, drinking
25 her morning coffee, yet here she is in a Courtroom, a Courtroom

1 full of strangers, 14 strangers and her assailant. And yet
2 it's absolutely necessary for the proof in this case, proof
3 beyond a reasonable doubt, and proof that will ensure justice.
4 What the evidence has revealed is a type of violence that is
5 unthinkable and difficult to comprehend. But let's call it
6 what it is, call it what it is, it's rape. At times you've
7 heard testimony that is difficult to listen to, but even more
8 difficult is to speak, to speak out loud. Yet D.K. [REDACTED]
9 was able to do that. You've seen the physical evidence in this
10 case of those injuries and I'm not going to show you that
11 again, you don't need to see that again, that was horrible to
12 observe, but again, it's part of the proof in this case. What
13 the Judge will charge you are elements that are required in
14 this case to prove the guilt of Tamar Nance beyond a reasonable
15 doubt. Now, let's take a look at the investigation in this
16 case, the investigation conducted by the special victims unit,
17 the Columbia Police Department. What a difficult job they
18 have, those SVU investigators, and you heard from three of
19 them, Detective Ortiz, James Fisher, the investigator, he went
20 and picked up that rape kit from the hospital, ensured that it
21 was properly secured, and then delivered it to his evidence
22 room. And then Sargent Haas, now with the State Law
23 Enforcement Division, also in the special victim's unit
24 formally with the Columbia Police Department. What a difficult
25 job they have, a job that requires the deepest dedication, a

1 sworn duty to protect all citizens of our community and the
2 most vulnerable members of our community, our children, our
3 elderly. And throughout it all they ensured that this was a
4 fair and thorough investigation. Now, when I say fair
5 Detective Ortiz talked about how when Tamar Nance was located
6 on June 30th, in those initial stages in this investigation at
7 the CK Mart. She had gone and viewed that video, they already
8 knew they were looking for this white Chevy Malibu, not just a
9 white Chevy Malibu, but a white Chevy Malibu with paper tags
10 and distinct characteristics, that discoloration and the damage
11 along the right side and the right rear panel. And when she
12 went to retrieve that video, Mr. Abdul tells her, I know this
13 guy, he's a frequent customer, I see him all the time. So she
14 gives him a call and says, hey, if you see him again, please,
15 let me know, call me. And it's only a couple of hours later
16 she gets that call from Mr. Abdul, he's here, he's back, she
17 radioed the west region to go ahead and have someone out there
18 to detain that vehicle, and they get there, and it's Tamar
19 Nance, alone in the car, the driver. Detective Ortiz arrives,
20 she advises him of his rights, and he admits to her, yeah, I, I
21 went to the ATM, and he tells her that story about how he had
22 gone to the CK Mart and some random guy says, hey, I'll pay you
23 \$10.00 if you take me to the CK, if you take me to the ATM
24 machine, and he tells her that story. Well, she already knows
25 it's bogus, she's watched the video, she's seen in the video

1 that it's the driver, Tamar Nance, handing the money over to
2 the passenger, and they never determined who he was. But you
3 know, that guy is at the CK Mart minding his own business,
4 Tamar Nance seeks him out because he knows he needs a strange
5 face, a face that's not his to be captured on that ATM, he's
6 already thinking ahead in that regard. So he picks up this guy
7 at the CK Mart and takes him to the ATM machine. He does the
8 transaction, he pays him the \$10.00, and he get back out of the
9 CK Mart and he goes in and buys a beer with the money, it was
10 that simple. And then what do we see Tamar Nance doing in that
11 car, holding up that big stack of cash, that fresh cash, those
12 stiff dollar bills that have just come from the ATM machine.
13 Knowing that, Detective Ortiz still to ensure a fair and
14 thorough investigation, she releases him. They want more
15 evidence. And so they seize that car. And they can't just
16 search the car right there at the CK Mart, the law requires
17 that the vehicle be properly seized and that they obtain a
18 search warrant, and that's what they did. That vehicle was
19 towed from the CK Mart to the City of Columbia Police
20 Department where it was maintained in a secure location and
21 then as you heard from CSI Investigator, Amber Hynes, the next
22 day that search warrant is obtained from a Judge, and she
23 processes that vehicle for evidence, and that's where they find
24 clothing that absolutely and indisputably links Tamar Nance to
25 that video. To the video where he was seen handing the money

1 over to the passenger, video where he was seen holding that
2 large sum of cash. And then a search of the vehicle that
3 reveals the clothing worn in that video, and those receipts
4 showing those cash transactions the day after the crime. You
5 know, you heard Detective Ortiz talk about how she wasn't able
6 to really even go into much detail with Ms. D.K. on that
7 first day. She was shaken, she was at the hospital, still in
8 shock. And so she waited until the next day to really sit down
9 with Ms. D.K. and start going through some of the things
10 that happened, and she talked about how much pain she was in,
11 and how difficult it was for her to even walk. That was on
12 June 24th, the day after the crime. When Detective Ortiz is
13 meeting with D.K. and she's in pain, Tamar Nance is
14 in Charlotte at the mall spending hundreds of dollars, hundreds
15 of dollars that he had stolen from her after he raped her.
16 That's further evidence found in that vehicle pursuant to that
17 search warrant. They knew at this point there was probable
18 cause to arrest Tamar Nance, and they did so on July 5th. And
19 after being advised fully of his Miranda rights, waiving those
20 Miranda rights, he continued to deny to Detective Ortiz that he
21 knew anything about this crime, I've never been there he said,
22 I don't know what apartments you're talking about, I've never
23 even been there, I didn't touch no lady, continues to deny it.
24 There we see the passenger receive they money from Mr. Nance,
25 and there we see the money. When we look at the timeline that

1 law enforcement developed in this case, again, the evidence
2 lights the path. We know from Ms. D.K. that at 5:39 she had
3 looked at the phone when she felt sure that he had left. First
4 she laid in the bed because he had threatened her, what would
5 happen if she called the police, I'll be back. She already
6 knows he knows where she lives, he's told her already that he
7 knows her identity, that he's seen her Social Security card,
8 and that he knows how much money she has in the bank. She
9 can't understand how he knows these things, but she doesn't
10 know that he's already been in her living room for who knows
11 how long, that he's already been through her belongings and it
12 was only when the TD Bank records were recovered and it was
13 determined that there had been an attempt somewhere around 2:58
14 am over at Lake Murray to use her card. He had already left
15 with the card, but he couldn't use it because he was getting
16 those, we know from the records, he's getting those reject
17 codes. He still doesn't have the right pin number. We know
18 that at some point there was an attempt to utilize an uber,
19 again, always thinking ahead, just like he got the guy at the
20 ATM to be the one to actually go up to the ATM so that it
21 wouldn't be his face on camera. He's attempted around 4 am to
22 get an uber, again, so a vehicle can't be traced if it's seen
23 on camera at the ATM because he doesn't have anybody else who
24 can go to the ATM at this point. But he did make that uber
25 transaction either, because he still didn't have the pin

1 number. He's getting reject codes. But we know he goes back;
2 we know that he's in her house at 3:44 am when those four
3 photos were taken over the course of the night. We know that
4 he got her driver's license and her Social Security number. '
5 From there it's very common for people to use a Social Security
6 number or a date of birth as a pin. We know he has access to
7 her purse, and everything in her purse, any little notes that
8 she might have written in there regarding her bank account, her
9 money, that pin number. But when he came back, we know he came
10 back with the intent to rape her because when he goes in her
11 room he's already got lubricant, that's the first thing that
12 she felt when he pulled her nightgown up was him putting some
13 type of lubricant on her. And then what he did, the first
14 thing he did, he puts lubricant on her, and he attempts to put
15 his hand, as she said, his fist, in her, then he has
16 intercourse with her, that's the reason he came back. Yeah, he
17 wanted the pin number, but he could have left as soon as he got
18 that driver's license, and he could have just walked right back
19 out that same sliding glass door he came in, but he didn't.
20 And we know that was premeditated. We know that it was around
21 5:39 that she hears him, believes that he's left. It's 5:49,
22 10 minutes later that his vehicle, that white Chevy Malibu is
23 going to be seen at the intersection adjacent to her
24 neighborhood. And from there, law enforcement is able to track
25 that car, follow that car using the Statewide Security System's

1 video surveillance, he's going to leave the Harbison area and
2 end up on Broad River Road. Broad River and St. Andrews Road
3 at an intersection at 6:02 am. And within 15 minutes, within
4 of being seen at Crossbow and Columbiana, it's now entering the
5 CK Mart on Broad River Road. Just a couple of blocks away from
6 that ATM machine. It's going to enter the CK Mart and from
7 there he is going to pick up a passenger and go straight to the
8 ATM a couple blocks away. 6:28 am, 6:30, and 6:32 are those
9 withdrawals from the ATM machine, there again, it's not his
10 face that's going to be seen on the camera and he knows that,
11 he's made sure of that. 6:34, he turns back to the CK Mart and
12 that's the video we just saw. He's going to hand something
13 over to the passenger. And then he's going to be seen holding
14 that bid stack of money and then he departs. And while all of
15 this is going on, he's at the ATM, he's looking at his money
16 and he's leaving, what's going on back at Crossbow. Ms.

17 **D.K.** is sitting there on her couch being comforted by her
18 neighbor and meeting with Sargent Arrowood. And you saw those
19 body cam clips directly from Sargent Arrowood as this is
20 happening. You heard her describe exactly what happened while
21 she was sitting there on that couch trying to relay this to the
22 officers is at the same moment that he goes on Broad River Road
23 stealing the money.

24 (Video from CD being played.)

25 MS. MAYES: And as she said, as she wakes up,

1 he's already in the room, she thought it was a dream, who
2 wouldn't, who wouldn't in that situation. How long, how many
3 minutes did it take her that it wasn't a dream, and this is
4 real. He's already standing over that bed, then he's going to
5 pull her nightgown up, he's going to put those pillows over her
6 face, first pillow over her face and say don't look at me,
7 don't scream, and she complied with every demand because she
8 wanted to live, she wanted to be here. As she told you, she
9 thought he was going to kill her, pulls her nightgown up, he
10 puts the lubricant on her that he's already somehow acquired
11 and brought into that bedroom with the intent in his mind that
12 he's going to rape her, or put his hand in her or whatever it
13 was he initially intended to do when he put the lubricant on
14 her and then she feels as she described, she believes not just
15 fingers, but his hand in her, I think she used the word, fist.
16 And she's telling him that it hurts, but yet she's keeping that
17 pillow over her face doing everything she can to comply with
18 his demand, she not make a sound. And then she feels him have
19 intercourse with her, he takes his hands and puts them on her
20 and leads her into the bathroom and tells her to urinate.
21 Maybe he's thinking that that would get rid of the evidence,
22 but it didn't. And tells her to clean herself and she does,
23 the entire time not looking at him, she told you she wasn't
24 free to leave, it's her own house, she shouldn't have to leave
25 her own house. Under the law, she doesn't have to fight, she

1 doesn't have to leave her own house, he's in the commission of
2 a burglary and he's in the commission of a rape. But if she
3 had thought for one moment that she could leave, she would have
4 done so, she could not because she wanted to survive. She did
5 the right thing, don't doubt that for a moment, she did the
6 right thing, it got her through it alive. He takes her back to
7 the bed and it's not over, he rapes her again, he has
8 intercourse with her and before he leaves out he tells her,
9 don't call the police what she took to be a threat that is
10 absolutely credible because he knows where she lives and he
11 knows who she is. He's seen her belongings, he's even seen her
12 bank account, and he tells her that, don't call the police or
13 I'll be back. And then he makes that statement to her to
14 double lock her doors. You know, how easy is it, you go
15 through your routine everyday and you think, I've done this, I
16 cut out the lights, set the alarm, locked the door. And you
17 think you've done it, but just one slip, just one slip and that
18 night she didn't lock that door, that bar wasn't down, that
19 door wasn't locked. And anybody on the outside of those
20 apartments looking into the apartments, any ground floor
21 apartment, step by step by step, unit by unit would easily see
22 the one that didn't have the bar down, and that's all it took.
23 And as she's waiting on her neighbor to come to the door, that
24 door that's locked as that front door was. And you heard on
25 the 911 call her neighbor, Theresa, runs down with 911 on the

1 phone, knocks on the door, announces herself, and only then
2 does **D.K.** let her in. She's already realized that her wallet
3 is out and that her purse is not how she left it, and she knows
4 now that he's gotten her bank card, it's not in her wallet.
5 What she doesn't know is that he sat on her couch, that he went
6 through things, and that he photographed her belongings. What
7 we know from that phone extraction, and make no mistake that's
8 the phone of Tamar Nance, we know that he had that phone in his
9 pocket when it was removed at the Columbia Police Department
10 pursuant to his arrest on July 5th. When that officer comes in
11 to retrieve that phone pursuant to their booking policies and
12 procedures, he says what do you have in your pocket, just my
13 phone. That is Tamar Nance's phone, but we also know it
14 because it's in his name, there's no mistaking that. We know
15 like most people who take selfies to post on social media or
16 for whatever reason, when you take a selfie, it's in the
17 forward facing camera position. He probably most likely thinks
18 he's going to just photograph her Social Security card and her
19 driver's license so that he's got that pin number readily
20 available if he were to ever need it again in the future
21 because he's already got her card. But what he doesn't realize
22 is that camera is still in the face forward position. So this
23 first photo in the series was a mistake Tamar Nance made. It's
24 June, this is a mask that fully covers his face except the
25 eyes, and the hoodie is up. We know that next photograph of

1 her Social Security card wearing a garment, these jeans as he
2 sits on her couch, there's no mistaking that clothing, the same
3 pants that we see him wearing at the CK Mart on that video less
4 than an hour after he has left her home. No mistaking that is
5 her living room and her coffee table, and again, her driver's
6 license, that 1946 is her pin number. The gloves, those same
7 pants, physical evidence, direct evidence, unmistakable
8 evidence. It doesn't just stop there. Take a look first at
9 what we know about the DNA evidence, the vaginal swabs. As you
10 heard from Brigitte DeGuzman, the sexual assault nurse
11 examiner, the vaginal swabs are actually collected from inside
12 the vagina. That is how she's picking up not only the DNA of
13 the assailant, but also D.K. [REDACTED]'s own DNA just as if any
14 of us were to use a Q-tip on our ear, it would pick up our own
15 DNA. And so first those vaginal swabs go to Serology whereas
16 you heard from the Serologist, Courtney Thompson, she was able
17 to identify semen and spermatozoa and also microscopically view
18 the sperm cells. So there is no mistaking that the DNA profile
19 that's developed from the assailant is from the sexual assault.
20 And from there after that DNA profile is developed from the
21 seminal fluid and they know they have the DNA profile for the
22 assailant, a search warrant is obtained for the DNA standards
23 of Tamar Nance. And we know that law enforcement followed
24 every procedure in securing those DNA swabs immediately after
25 they were collected directly from his person, they were

1 properly sealed, and they remained sealed. And they only went
2 to one person, only one person handled those DNA swabs and it's
3 the person who unsealed that envelope and that is the forensic
4 scientist, the DNA analyst that you heard from yesterday, Donna
5 Money. She is the first to unseal the packaging of Tamar
6 Nance's buckle swab and she was able to confirm they were
7 properly packaged and properly sealed. She unseals that
8 envelope, and from his buckle swab, she's able to develop a DNA
9 profile. She then takes that DNA profile in her crime lab to
10 compare it to the DNA profile that came from the semen and the
11 spermatozoa from the vaginal swab. And the results are one
12 hundred octillion times more likely to be Tamar Nance and
13 D.K. than any other unidentified unrelated person in
14 this world. But let's talk about those numbers. A hundred
15 octillion, more zeros than the forensic scientist can even keep
16 up with, 27 zeros for 1 octillion. This is a hundred
17 octillion, the current world population, 7.9 billion, this is
18 way more astronomically high than every person currently in
19 this world. There's no mistaking whose DNA that is. The next
20 set of swabs are what's known as the mons pubis swabs, swabs
21 along the top area of the vaginal opening. Again, Courtney
22 Thompson, the Serologist testified spermatozoa was identified
23 and she showed you photos recognizing that. It's not just
24 based on the microscopic examination; it's also based on her
25 chemical testing which confirmed the presence of spermatozoa.

1 And again, DNA profile developed directly from the seminal
2 fluid of the assailant is matched by Donna Money in that crime
3 lab to the DNA swab taken from Tamar Nance, 82 octillion times
4 more likely if it's Tamar Nance than any other unidentified
5 person in this world, unmistakable evidence. I want to talk
6 briefly about the law. In a little while, very shortly I will
7 sit down, you will hear from Defense counsel in this case and
8 then Your Honor will charge you on it. And she's going to
9 charge you on what the law of South Carolina requires to prove
10 these crimes. But I say to you, the law is actually quite
11 simple. First, we're going to look at the crime of burglary.
12 Burglary is exactly what you think it is. Burglary is entering
13 the home of another without consent. Here we know that Tamar
14 Nance entered the dwelling of D.K. without consent,
15 as she slept and with the intent to commit a crime in the
16 dwelling. Now, the crime that can typically be committed can
17 be anything varied. It can be theft, larceny, harming another,
18 sexual assault, any of those things, but what we know is that
19 in this case, Tamar Nance entered her home with the intent to
20 commit a crime therein, and therein lies the criminal. And
21 that while in the dwelling causes physical injury to a person
22 or enters the home into the nighttime, in the nighttime. Now,
23 you know, during the course of the trial you heard from 25
24 witnesses, and you may have wondered to yourself why in the
25 world are we hearing this, why is this necessary, why do I have

1 to hear all these people talk about how we packaged the
2 evidence and how the evidence remained secure. Again, it's all
3 necessary in the proof of this case, and the proof of a
4 thorough State's investigation. But you heard yesterday from a
5 witness, from the State Climatology Office who came in and
6 testified that sunrise on June 23rd, 2021, in the Irmo area was
7 6:14 am. And you may have wondered what in the world is that,
8 why are we listening to this, that's because the State has the
9 burden of proof. One of the things that is proof of burglary
10 is that the home is entered in the nighttime. So we know that
11 these crimes occurred before sunrise, so again, that element
12 has been met, that he entered the home during the nighttime.
13 Now, again, we only have to prove one of these, I submit the
14 State has proven both of these. There was physical injury to
15 D.K. And beyond that, there is proof beyond a
16 reasonable doubt that he entered in the nighttime, and it needs
17 to only be one thing. This crime of burglary in the first
18 degree has been proven beyond a reasonable doubt. Next, we're
19 going to look at the crime of kidnaping. So under South
20 Carolina law, kidnaping does not require that someone be placed
21 in a trunk and driven away like you might have seen on tv or in
22 some kind of mafia movie or something. That is not what
23 kidnaping requires in South Carolina. Kidnaping is whoever
24 shall unlawfully cease, confine inveigle any other person. And
25 it's the confining of D.K. that meets the crime of

1 kidnapping. She is held, basically, hostage within her own
2 home. She's not free to leave, she can't even leave that bed,
3 she can't even make a move. And then she's taken from one room
4 to another and back to that bed against her will and under his
5 control. That is the confinement, that is the seizure, that's
6 the kidnapping under our law by any means whatsoever and without
7 authority of law. So this crime is actually very simple under
8 South Carolina law, and there's no doubt that when he's in her
9 home, when he's confining her, when he's holding her against
10 his will she is not free to leave. And finally, the crime as I
11 said earlier, let's call it what it is, and what it is rape.
12 But in South Carolina it has the name criminal sexual conduct
13 in the first degree. Criminal sexual conduct under South
14 Carolina law is when one engages in sexual battery with the
15 victim and any one or more of the following approvements [sic].
16 So what do we mean by sexual battery. The Judge is going to
17 charge you on exactly what the definition of sexual battery is.
18 Under South Carolina law if any intrusion, however slight,
19 again, any intrusion however slight of the body and that
20 includes the vaginal opening. So any penetration, however
21 slight of the vagina. That can be with a finger, that can be
22 with a penis, that could be whether that's intercourse or
23 whether that's him using his finger, that is the sexual
24 battery. And again, we know that occurred because of the
25 unmistakable DNA evidence and then the physical injuries that

1 you saw to [D.K.]. And you don't need to see that
2 photo again, that diagram again, but we know she had clear
3 lacerations visible to that nurse. We know that she had an
4 abrasion that was separate from that, we know that she had
5 petechia, bruising under the skin, in three different areas of
6 her vaginal opening. As the nurse testified, all consistent
7 with blunt force injury, all consistent with forced
8 penetration. That is sexual battery beyond a reasonable doubt.
9 Then it's the use of aggravated force to accomplish the sexual
10 battery, again, that's holding someone down under the threat of
11 harm to them personally. And Ms. [D.K.] testified it was a
12 threat of her life or sexual battery that occurs under any of
13 these circumstances including forcible confinement, kidnaping,
14 burglary, or any other similar offense or act. And we know
15 that the rape of [D.K.] happened during the course of
16 this burglary. Again, proof beyond a reasonable doubt. Now,
17 there's one more charge that will be before you, the charge of
18 financial transaction card theft. And you may say why, why did
19 the State bother to bring that charge which seems so minor in
20 comparison to everything else. Because he did it, because he
21 did that to her, and because despite everything she had already
22 gone through, the burglary of her home, the confinement and
23 threat of her own life being taken from her as she tells him,
24 please, don't kill me, don't suffocate me as she pleads with
25 him and then he rapes her. He's going to finish by stealing

1 the money in her account, all of the money in her account, her
2 Social Security money. That's why you have that charge before
3 you. One of the things that the Judge will charge you is about
4 reasonable doubt. And I ask, please, when you're listening to
5 that charge on reasonable doubt, consider that it's your job as
6 a jury to listen to all of the evidence. And part of the
7 charge that I submit is most applicable is the part that will
8 say if you were firmly convinced, firmly convinced that the
9 Defendant is guilty of the crime charged, you must find him
10 guilty. That is the law, that is the law that you as jurors
11 are sworn to uphold. A crime of this nature cannot, cannot be
12 tolerated in our community, will not be tolerated in our
13 community. Throughout it all, one thing stands like I said, he
14 did it, he did this crime. And now it is your job to evaluate
15 this evidence, and to render a verdict that speaks the truth
16 about the evidence before you and ensures justice, the correct
17 verdict in this case is guilty as charged. Thank you.

18 THE COURT: Thank you, Ms. Mayes. Ms. Mauldin, you
19 doing closings?

20 MS. MAULDIN: Yes, Your Honor. And Your Honor, may
21 it please the Court?

22 THE COURT: Yes, ma'am.

23 (Closing arguments from the Defense.)

24 MS. MAULDIN: Good morning.

25 JURORS: Good morning.

1 MS. MAULDIN: There's more than meets the eye here.
2 You heard from Ms. D.K. There are a lot of things that
3 just don't add up. The State's theory is that someone broke
4 into Ms. D.K.'s apartment, they took just an ATM card with
5 the hope that it would work. They left, tried to use it, came
6 back, broke in again, got her birth date on the hope that that
7 would work and that that would be the pin, took nothing else
8 from her home either time. And in the course of that, by the
9 way, sexually assaulted her as well. Left with only the ATM
10 card and only her birth date with the hope that that would work
11 and the hope that that would be the right pin on the chance
12 that that would work, and it actually did. There's more going
13 on than that. You've heard a lot of testimony, you've seen a
14 lot of exhibits this week, you haven't heard about anyone
15 seeing or hearing anything unusual going on that night, nobody
16 heard or saw anybody sneaking around. It was the early morning
17 hours and so maybe there weren't as many people out, but
18 certainly, when it's quiet it would be easier to hear someone
19 trying to break in a sliding glass door or get into Ms.
20 D.K.'s apartment. You heard nothing to that effect. She's
21 a woman in her 70's, living alone from New York who just
22 happens to forget to secure her door on the one time that
23 someone tries to get in. There was no evidence of any kind of
24 damage to the door, any marks on the door, anything to indicate
25 that someone tried to get into her door that night without her

1 consent. There was no allegation of any kind of weapons in the
2 case, although, she did make an unusual statement about a
3 knife. She said that she visualized a knife and she visualized
4 someone stabbing her with a knife. You've heard about her
5 injuries and yes, they were described as blunt force trauma,
6 but certainly, injuries can occur during consensual sex as
7 well. You heard about a tear; you heard about some bruising.
8 You also heard the nurse talk about how at her age, her skin
9 was more fragile and more likely to sustain an injury than a
10 younger person would be. She was certainly not admitted to the
11 hospital, she had no sutures, no additional treatment. You
12 heard that the day after this happened that the investigator
13 believed that she was in pain by the way she was walking.
14 However, on the day of the incident, she was able to walk
15 around to demonstrate in her apartment where different things
16 were and talked to the police and was able to leave her
17 apartment without having to go on a stretcher to the emergency
18 room, she was okay that day. You heard nothing about location
19 data, you've heard about Mr. Nance's cell phone that the police
20 took, you've heard absolutely nothing about any attempt to
21 obtain any triangulation data to try and figure out where that
22 cell phone was at different times. You've heard nothing about
23 GPS location from his phone. In this case, the police assume
24 that Ms. **D.K.** was a victim. They didn't get a formal
25 statement from her until the following day, more than 24 hours

1 after she claimed that this happened. They didn't go through
2 any of her phone records to find out what she was doing that
3 night and what was going on with her. Additionally, they made
4 some big mistakes in the case. They brought the charges in the
5 wrong county and tried to play that off as, well, you know,
6 that's not a significant thing. But they went before a
7 magistrate and swore that they had probable cause that a charge
8 had happened in Richland County, and they were wrong. And it
9 took them four months to figure that out. You heard about a
10 boot print; you've heard that there were multiple officers that
11 came to Ms. D.K. s apartment that day. You heard that there
12 were four forensic officers they didn't have the plaster that
13 they needed to make a cast. They didn't bother to ask around
14 and see if any other agency might have had something that would
15 work. This week, they brought in DNA analyst all the way from
16 Washington State, but at the time, the police didn't even
17 bother to try and get plaster to make a cast of a boot that
18 might have given a more definitive answer about who did this
19 and what was going on. Again, they claim that they had enough
20 probable cause to arrest a person, a person that they at the
21 time believed had committed a violent burglary and a rape, and
22 that they had enough reason to make an arrest, but they didn't
23 bother to do that until several days later after Mr. Nance came
24 to the police station and denied it, and they arrested him in
25 there. You heard them this week trying to prove things that

1 just didn't matter. There were experts on hanging blinds and
2 how it would be totally abnormal for anybody's blinds to be
3 disturbed in the slightest unless something had gone on. About
4 how it would be completely abnormal for a sliding screen door
5 to be anything other than pushed all the way open or all the
6 way closed. You've heard about the money that they were able
7 to see through a windshield in this car on a surveillance video
8 being described as crisp and fresh from an ATM. Why
9 exaggerate, why make those claims. They said that they could
10 see a handprint in dust that was mysteriously on the headboard
11 of Ms. D.K.'s bed that somehow left no DNA and no
12 fingerprint and so, they seem to try to imply that the person
13 must have been wearing gloves when this all happened. And then
14 you heard from Ms. D.K. talking about how the person had
15 penetrated her with his penis and made her go to the bathroom,
16 made her use a wipe and then came back and again had
17 unprotected sex with her. Does that sound like a person that
18 would wear gloves, is that someone who is always thinking ahead
19 as the solicitor characterized it. I'd ask you also to
20 consider his behavior. When Officer Wells saw Mr. Nance at the
21 CK Mart, he testified that when he told Mr. Nance what they
22 were there for, that it was a burglary then Mr. Nance appeared
23 surprised. He cooperated completely with officers that night,
24 he talked to them in the back of the car. He complied, he
25 didn't try and run that day once he heard what they were

1 investigating. He had been told that it was burglary and a
2 sexual assault, and even then several days later he came to the
3 police station. He didn't try and leave the state, he didn't
4 run, he didn't resist, he came in and he talked and he told
5 them he didn't do it. You've seen him this week, he's been
6 completely cooperative. You've heard about the DNA and the
7 claim that it was his DNA. The DNA analyst did not say that it
8 was a match. She talked about likelihood ratios and
9 probabilities and that is something different from saying that
10 the DNA is his. She did not say that it was a match. I'd like
11 to thank you for listening to all of the testimony this week.
12 I know it's been a long week. Judge McCaslin is going to tell
13 you that your decision can't be based on any kind of sympathy,
14 passion, or prejudice because the parties in this case are very
15 different from each other. I would ask you to be aware of any
16 sympathy, passion, or prejudice that you might have towards
17 them. Please consider Ms. **D.K.**'s testimony with a careful
18 mind and please don't give her testimony any more weight based
19 on her age, her gender, or her race than you would for Mr.
20 Nance based on his gender, his age, and his race. Judge
21 McCaslin also is going to instruct you on the burden of proof
22 and reasonable doubt. In any criminal case, the State bears
23 the burden of proving the case beyond a reasonable doubt. That
24 means that they would have to leave you firmly convinced of
25 Tamar Nance's guilt if you were to convict him. And I submit

1 that when you consider all of the evidence and all of the
2 testimony in this case, you'll find that they have not met
3 their very heavy burden of proving him guilty of the
4 allegations in this case. Thank you, Your Honor.

5 THE COURT: Thank you, Ms. Mauldin. Alright. Mr.
6 Foreman and ladies and gentlemen of the jury, it's probably
7 going to take me about 45 minutes to charge the law. Would
8 y'all like a break before I begin?

9 JURY: (Nonverbal response).

10 THE COURT: Okay. If one wants to go, you all have
11 to go, that's the way it works. Okay. Let me give y'all a 15-
12 minute break and we'll come back and I'll charge the law. I've
13 also ordered lunch for y'all today. Okay. Don't talk about
14 the case just yet.

15 (Jury exiting Courtroom.)

16 THE COURT: Anything from the State?

17 MS. MAYES: Nothing from the State, Your Honor.

18 THE COURT: Anything from the Defense?

19 MS. MAULDIN: No, Your Honor.

20 THE COURT: Okay. Let's take a quick break right
21 quick then.

22 (Off the record.)

23 THE COURT: Alright. The State ready?

24 MS. MAYES: Yes, Your Honor.

25 THE COURT: Ms. Mauldin, y'all ready?

1 MS. MAULDIN: Yes, ma'am.

2 THE COURT: Alright. Let's bring the jury in.

3 (Jury entering Courtroom.)

4 THE COURT: Alright. Mr. Foreman, jury ready?

5 MR. FOREMAN: Yes, ma'am.

6 (Jury charge.)

7 THE COURT: Please be seated. Alright. Ladies and
8 gentlemen, I am now going to charge you on the law applicable
9 to this case. You must consider the charge as a whole and not
10 focus on some portions to the exclusion of others. The
11 indictments charged the Defendant with criminal sexual conduct
12 in the first degree, burglary in the first degree, kidnaping
13 and financial transaction card theft. I remind you that the
14 fact the Defendant was arrested, charged, and indicted in this
15 case is not evidence in this case and cannot be considered by
16 you as evidence of guilt in this case, nor does it create any
17 presumption or inference of guilt. These documents are simply
18 the formal written instruments which contain the charges made
19 against the Defendant. These are the formal documents by which
20 this case is brought into this Court. The Defendant has pled
21 not guilty to these indictments and that plea puts the burden
22 on the State to prove him guilty. A person charged with
23 committing a criminal offense in South Carolina is never
24 required to prove himself innocent. I charge you that it is an
25 important rule of the law that a Defendant in a criminal trial,

1 no matter what the seriousness of the charge may be will always
2 be presumed to be innocent of the crime for which the
3 indictment was issued unless guilt has been proven by evidence
4 satisfying you of the guilt beyond a reasonable doubt. This
5 presumption of innocence does not end when you begin your
6 deliberations, but it accompanies the Defendant throughout the
7 trial unless you reach a verdict of guilt based on the evidence
8 satisfying you of that guilt beyond a reasonable doubt. The
9 presumption of innocence is like a robe of righteousness placed
10 about the shoulders of the Defendant which remains with the
11 Defendant unless it has been stripped from the Defendant by
12 evidence satisfying you of the Defendant's guilt beyond a
13 reasonable doubt. The presumption of innocence is not a mere
14 legal theory, it is not just a legal phrase, it is a
15 substantial right to which every Defendant is entitled to
16 unless you the jury are satisfied from the evidence of the
17 Defendant's guilt beyond a reasonable doubt. The State has a
18 burden of proving the Defendant guilty beyond a reasonable
19 doubt. Some of you may have served as jurors in civil cases
20 where you were told that it is only necessary to prove that a
21 fact is more likely true than not true, such as the greater
22 weight, what we call the preponderance of the evidence. In
23 criminal cases, the State's proof must be more powerful than
24 that, it must be beyond a reasonable doubt. Proof beyond a
25 reasonable doubt is proof that leaves you firmly convinced of

1 the Defendant's guilt. There are very few things in this world
2 that we know with absolute certainty, and in criminal cases,
3 the law does not require proof that overcomes every possible
4 doubt. If based on your consideration of the evidence, you are
5 firmly convinced that the Defendant is guilty of the crime
6 charged, you must find him guilty. If on the other hand, you
7 think that there is a real possibility that the Defendant is
8 not guilty, you must give the Defendant the benefit of the
9 doubt and find him not guilty. I remind you that during this
10 trial, you and I have certain duties to perform. As a trial
11 Judge, it is my responsibility to preside over the case and I
12 also have the duty to rule on the admissibility of evidence
13 offered during this trial. You are to consider only the
14 competent evidence before you. If there was any testimony
15 ordered stricken from the record in this case, you must
16 disregard that testimony. You are to consider only the
17 testimony which has been presented from this witness stand and
18 exhibits which have been made part of the record in this case,
19 and any stipulations of counsel. And in this case, we did have
20 a stipulation, there was a video that was redacted by agreement
21 of both the State and the Defense. And you are to consider
22 only the content that you observed and the accompanying
23 testimony, not the fact that the video had been edited. I read
24 that to you right before they played that video. I have the
25 additional duty to charge you the law in this case. As the

1 presiding Judge, I am the sole Judge of the law of this case,
2 and it is your duty as jurors to accept and apply the law as I
3 now state it to you. If you already have an idea as to what
4 the law is or what the law ought to be, and it does not agree
5 with what I now tell you the law is, you must abandon this idea
6 because you are sworn to accept the law and apply the law
7 exactly as I state it to you. And every case tried in this
8 Court before a jury, the jury becomes the sole and exclusive
9 judge of the facts in a case. A trial Judge cannot state,
10 comment on, or make any statement to a trial jury about the
11 facts in a case. Since you, the jury, are the sole judge of
12 the facts in this case, you are not to infer from what I have
13 said during the progress of this trial in ruling upon the
14 admissibility of evidence or otherwise, or anything that I say
15 now during the course of this instruction to you that I have
16 any opinion about the facts in this case. The law does not
17 allow me to have an opinion about the facts in this case. This
18 is a matter solely for you, the jury to determine. As jurors,
19 it is your duty to determine the effect, value and weight of
20 the evidence presented during this trial. Now, there are two
21 types of evidence which are generally presented during a trial.
22 Direct evidence and circumstantial evidence. Direct evidence
23 directly proves the existence of a fact and does not require
24 deduction. Circumstantial evidence is proof of a chain of
25 facts and circumstances indicating the existence of a fact.

1 Crimes may be proven by circumstantial evidence. The law makes
2 no distinction between the weight or value to be given to
3 either direct or circumstantial evidence. However, to the
4 extent the State relies on circumstantial evidence, the
5 circumstances must be consistent with each other when taken
6 together, point conclusively to the guilt of the accused beyond
7 a reasonable doubt. If these circumstances merely portray the
8 Defendant's behavior as suspicious, the proof has failed. The
9 State has a burden of proving the Defendant guilty beyond a
10 reasonable doubt. This burden rests with the State regardless
11 of whether the State relies on direct evidence, circumstantial
12 evidence, or some combination of the two. Criminal intent is a
13 state of mind which operates jointly with an act or a mission
14 in the commission of a crime. Criminal intent is a mental
15 state of conscious wrongdoing. Criminal intent includes those
16 consequences which represent the very purpose for which an act
17 is done or are known to be substantially certain to the result
18 regardless of one's desire. Intent may be shown by acts and
19 conduct of the Defendant and other circumstances from which you
20 may naturally and reasonably infer intent. Criminal intent
21 must be proven by the State beyond a reasonable doubt. You
22 must also determine the credibility of witnesses who have
23 testified in this case and the evidence presented. Credibility
24 simply means believability. It becomes your duty as jurors to
25 analyze and to evaluate the witnesses and the evidence and

1 determine the credibility of the witnesses and the evidence.
2 In determining the credibility of witnesses who have testified
3 in this case, you may believe one witness over several
4 witnesses, or several witnesses over one witness. You may
5 believe a part of the testimony of a witness and reject the
6 remaining part of the testimony of that same witness. You may
7 believe the testimony of a witness in its entirety or reject
8 the testimony of a witness in its entirety. You may consider
9 whether any witness has exhibited to you any interest by
10 prejudice or other motive in the case. You may also consider
11 the appearance and manner of a witness while on the witness
12 stand. In this case we had expert witnesses. The rules of
13 evidence ordinarily do not permit witnesses to testify to
14 opinions or conclusions. An exception to this rule exists for
15 witnesses we call expert witnesses. A witness who by education
16 and experience has become an expert in some art, science,
17 profession, or calling may state an opinion as to the relevant
18 and material matter in which the witness claims to be an expert
19 and may also state the reasons for the opinion. You should
20 consider any expert opinion received in evidence in this case
21 like any other evidence, give it the weight you think it
22 deserves. If you decide the opinion of an expert witness is
23 not based on sufficient education and experience, or if you
24 conclude that the reasons give in support of the opinion are
25 not sound, or that the opinion is outweighed by other evidence,

1 you may disregard the opinion entirely. An expert witness'
2 testimony is to be given no greater weight than that of any
3 other witness simply because the witness is an expert.
4 Further, you are not required to accept an expert's opinion
5 even though it is not contradicted. A statement alleged to
6 have been made by the Defendant has been admitted into evidence
7 in this case. While the Court has determined that the
8 statement is admissible, I instruct you make the ultimate
9 decision of whether or not the Defendant made the statement.
10 If the Defendant did make the statement, you must determine
11 whether the statement was made by the Defendant voluntarily and
12 of his own freewill, this means that the statement was not
13 caused by pressure, force, fear, threats, coercion, or
14 intimidation, or by hope or a promise of leniency or a reward
15 of any kind. In determining whether the statement was
16 voluntary, you should consider both the characteristics of the
17 Defendant and the details of the questioning. Some factors you
18 must consider are the age of the Defendant, the Defendant's
19 education or lack thereof, the Defendant's mental ability or
20 capacity, the Defendant's IQ or intelligence, the Defendant's
21 background, and environment. The place and length of
22 detention, the nature of the questioning, the advice or lack
23 thereof to the Defendant of his Constitutional Rights
24 including but not limited to the right to remain silent, that
25 any statement could be used against him in the Court of law.

1 The right to have a lawyer present, that if he could not afford
2 a lawyer, one would be appointed to represent him without any
3 cost, and that he could stop making a statement at any time.
4 You must carefully consider all of the surrounding
5 circumstances before you give any weight to an alleged
6 statement. The State has the burden of proving beyond a
7 reasonable doubt that the alleged statement was voluntary. If
8 you determine it was, you may give the statement any further
9 consideration that you deem proper. You must decide what
10 weight, if any, should be given to the alleged statement. If
11 you determine the alleged statement was not the free and
12 voluntary statement of the Defendant, you should not consider
13 the statement at all. The Defendant in this case is charged
14 with criminal sexual conduct in the first degree. A person is
15 guilty of criminal sexual conduct in the first degree if the
16 actor engages in sexual battery with the victim and if either
17 of the following circumstances are proven. The actor uses
18 aggravated force to accomplish sexual battery, or the victim
19 submits to sexual battery by the actor under circumstances
20 where the victim is also the victim of forcible confinement,
21 kidnaping, robbery, extortion, burglary, house breaking, or any
22 other similar events or act. The first element the State must
23 prove beyond a reasonable doubt is that the Defendant engaged
24 in sexual battery with the victim. Sexual battery is sexual
25 intercourse, cunnilingus, fellatio, anal intercourse, or any

1 intrusion however slight of any part of a person's body or any
2 object into the genital or anal openings of another person's
3 body except when such intrusion is accomplished for medically
4 recognized treatment or diagnostic purposes. If you find the
5 State has not proven beyond a reasonable doubt that sexual
6 battery occurred, you must stop deliberating and find the
7 Defendant not guilty of this charge. If you find that sexual
8 battery did occur, you must then decide whether the State has
9 proven beyond a reasonable doubt one or both of the following
10 circumstances; the Defendant used aggravated force to
11 accomplish sexual battery, aggravated force means the Defendant
12 used physical force or physical violence of a high and
13 aggravated nature to overcome the victim or includes the threat
14 of the use of a deadly weapon, or the victim submitted to
15 sexual battery by the Defendant under circumstances where the
16 victim was also the victim of forcible confinement, kidnaping,
17 robbery, extortion, burglary, house breaking, or any other
18 similar offense or act. You do not have to find that both of
19 these circumstances were present at the time of the sexual
20 battery. It is sufficient if you find a sexual battery and one
21 of the two circumstances. The State is required to prove
22 beyond a reasonable doubt a sexual battery and at least one of
23 the two circumstances. The Defendant is also charged with
24 first degree burglary. A person is guilty of burglary in the
25 first degree if the person enters a dwelling without consent

1 and with intent to commit a crime in the dwelling and meets an
2 aggravating circumstance. Under the statute, the State must
3 prove those four elements in order to establish burglary in the
4 first degree. The State must prove each element beyond a
5 reasonable doubt. If the State fails to prove any single
6 element, you cannot find the Defendant guilty of first-degree
7 burglary. The State must show that there was an entering, that
8 is the Defendant actually went inside the dwelling or some part
9 of it. No force need be used to gain entry, literally, entry
10 is the act of going into the place. But the word has a broader
11 significance in the law of burglary. For an entry may be
12 accomplished by merely putting through a portion of the body
13 into the dwelling. The place entered must be a dwelling, a
14 dwelling house is any house, apartment, building in which there
15 sleeps a proprietor, a tenant, watchman, clerk, laborer, or
16 person who lodges there with the view to the protection of
17 property. The entry must have been without consent. Enters a
18 dwelling without consent means to enter without the consent of
19 the person in lawful possession. There must have been an
20 intent to commit a crime, any crime, a felony, or misdemeanor,
21 whether or not that crime was actually committed, the mere
22 entry into a dwelling without consent is not sufficient to
23 constitute first degree burglary. There must have been an
24 intent to commit a crime once inside. Further, it is not
25 sufficient that the intent to commit a crime was formulated

1 after entry. To convict the Defendant of first-degree burglary
2 you must find that at the time the Defendant entered the
3 dwelling, the Defendant intended to commit a crime once they're
4 in. The Defendant's actions after entering the dwelling can be
5 evidence used to intent. It is no defense that the intent was
6 abandoned after the entry because the entering with intent to
7 commit a crime completes the offense of burglary. If you find
8 the Defendant entered a dwelling without consent and with the
9 intent to commit a crime therein, you must then find the
10 presence of at least one of the following aggravating
11 circumstances in order to convict of first-degree burglary.
12 Only one of these circumstances needs to be present. The
13 aggravating circumstances are; when entering or while in the
14 dwelling or fleeing the scene, the Defendant either caused
15 physical injury to any person who is not a participant in the
16 crime or the entering or remaining occurred in the nighttime.
17 The Defendant is charged with kidnaping. Kidnaping is defined
18 as follows; whoever shall unlawfully seize, confine, or kidnap
19 any other person by any means whatsoever without authority of
20 law is guilty of a felony. The State must prove beyond a
21 reasonable doubt the elements of kidnaping, that the Defendant
22 did unlawfully seize, confine, or kidnap any other person by
23 any means whatsoever without authority of law. Kidnaping is
24 the intentional taking of a person and compelling him or her to
25 be detained against their will. It is the willful and unlawful

1 seizing of a person against their will with the intent to cause
2 him or her to be confined, imprisoned, or detained. The
3 essence of the offense of kidnaping is the unlawful secret
4 holding or imprisonment of a person. An essential element of
5 the offense of kidnaping is that the taking or detention of the
6 person kidnaped is without lawful authority. Kidnaping means
7 the carrying away of a person by unlawful force or by fraud and
8 against his or her will, or his or her seizure and detention
9 for the purpose of carrying him or her away. The gravamen of
10 the offense of kidnaping is some form of compulsion, but the
11 requisite force or compulsion need not consist of the use of
12 actual physical force or violence or of expressed threats.
13 Kidnaping is a continuing offense. The offense commences when
14 one is wrongfully deprived of freedom and continues until
15 freedom is restored. Kidnaping is a mens rea offense. Mens
16 rea is a Latin term meaning a guilty mind. The mens rea
17 required for the crime of kidnaping is knowledge. The State
18 must prove beyond a reasonable doubt the mens rea or knowledge
19 before you can convict the Defendant of the offense of
20 kidnaping. A person is said to act knowingly if he or she is
21 aware that a result is practically certain to follow from their
22 conduct, whatever their desire may be as to that result.
23 Sorry, I got to have a little bit of water. Finally, the
24 Defendant has been charged with financial transaction card
25 theft. A person is guilty of financial transaction card theft

1 when he, there's three parts. First, takes, obtains, or
2 withholds a financial transaction card or number from the
3 person, possession, custody, or control of another without the
4 card holder's consent and with the intent to use it, or who
5 with knowledge that it has been so taken, obtained, or withheld
6 receives the financial transaction card or number with intent
7 to use it, sell it, or transfer it to a person other than the
8 issuer or the card holder. Second, he or she receives a
9 financial transaction card or number that he knows to have been
10 lost, mislaid, or delivered under a mistake as to the identity
11 or address of the card holder and who retains possession with
12 intent to use it, sell it, or transfer it to a person other
13 than the issuer or the card holder. Or, number three, is not
14 the issuer and sells a financial transaction card or number or
15 buys a financial transaction card or number from a person other
16 than the issuer. Issuer means the business organization or
17 financial institution or its duly authorized agent which issues
18 a financial transaction card. The State is required to prove
19 beyond a reasonable doubt at least one of these three
20 circumstances. I remind you that the fact that the Defendant
21 elected not to testify is not a factor to be considered by you
22 in any way in your deliberations and in your consideration on
23 the question of whether the Defendant is guilty or not guilty.
24 It must not be considered in any manner whatsoever against him.
25 The accused has the right to remain silent and the assertion of

1 that right cannot be considered by you in your deliberations.
2 Under your oath you are to reach no inference and draw no
3 conclusion whatsoever from the fact that the Defendant elected
4 not to testify. His decision not to testify should not even be
5 discussed in the jury room. It is not to enter your minds in
6 making your decisions. The State has the entire burden of
7 proof, and the accused has no burden at all to prove anything.
8 A verdict in this case cannot be based upon sympathy, passion,
9 prejudice, or emotion, or some other consideration not found in
10 the evidence. Let me say something about your deliberations.
11 Deliberation is defined as a careful consideration weighing up
12 with a view to decision. The genius of our jury system is that
13 it allows 12 good men and women from 12 different backgrounds,
14 life experiences, and perspectives to consider the evidence,
15 talk about it, and ultimately reach a verdict. We call them
16 deliberations for a reason. You are to consider the evidence
17 in this case carefully and deliberately, and discuss it in a
18 calm, thorough, and courteous manner. Listen to the views of
19 all your fellow jurors, consider other people's points and
20 points of view and talk through and discuss the evidence and
21 remember if you were doing something deliberately, you are not
22 in a big hurry and you should not be in a hurry here. This
23 case is very important to both sides, and this is their only
24 day in Court. When you retire to the jury room you should
25 discuss the case with your fellow jurors to reach an agreement

1 if you can do so. Your verdict must be unanimous. Each of you
2 must decide the case for yourself, but you should do so only
3 after you have impartially considered all the evidence,
4 discussed it fully with the other jurors and listen to the
5 views of your fellow jurors. Do not be afraid to change your
6 opinion if the discussions persuade you that you should, but do
7 not come to a decision simply because the other jurors think it
8 is right. It is important that you attempt to reach a
9 unanimous verdict, but of course, only if each of you can do so
10 after having made your own decision. Do not change an honest
11 belief about the weight and effect of the evidence simply to
12 reach a verdict. In other words, do not change your opinion
13 solely for the sake of reaching a unanimous verdict. There are
14 two possible verdicts for each charge which you may find in
15 this case. There is no significance whatsoever in the order in
16 which I state these possible verdicts. It is simply that one
17 must be stated first. Ladies and gentlemen, again, your
18 verdict must be a unanimous one as to each charge. Mr.
19 Foreman, when the jury agrees on the verdict, you will initial
20 on the line next to the verdict on the verdict form for the
21 charge and sign your name as foreperson, then inform the
22 bailiff that you have reached a verdict. At that time, we will
23 receive you back into the Courtroom. I'm going ask that you
24 return to the jury room, but do not begin deliberations until
25 you are told by the clerk or the bailiff to do so. There's

1 some matters that I've got to discuss with the lawyers before
2 you begin your deliberations. All this evidence that's been
3 admitted, we need to get it together and bring back to the jury
4 room. I am also making sure that you have a computer should
5 you choose to watch any videos. I will tell you, Mr. Foreman,
6 in the event during your deliberation, there is a split in the
7 vote, the Court does not at any time want to be informed of the
8 actual split by number, if it even exists, okay? I ordered
9 lunch, let us, I'm going to let everybody go back. The two
10 alternates are not allowed to stay when deliberations begin,
11 but I'm not going to excuse you, I want you to stay around for
12 a little bit, believe it or not, we've had to use alternates
13 before. So I'll let you know when you can be excused, but when
14 deliberations begin, I'll ask the bailiff to make sure that the
15 alternates are removed from the room and then please come in
16 and inform me. At this time, I'm going to let you go back to
17 your jury room. Again, no talking about this case even amongst
18 yourselves. Thank you. And Mr. Foreman, at any time, if
19 there's any questions, must be in writing and signed by any of
20 the jurors.

21 MR. FOREMAN: Yes, ma'am.

22 THE COURT: And then give it to the bailiff.

23 MR. FOREMAN: Yes, ma'am.

24 THE COURT: Thank you.

25 (Jury exiting the Courtroom.)

1 THE COURT: Alright. Let me ask the lawyers, any
2 objections to the charges?

3 MS. MAYES: Your Honor, may we approach off the
4 record at this time?

5 THE COURT: You may.

6 (Off the record.)

7 THE COURT: Alright. So let me ask for the record,
8 any objection to the jury charge?

9 MS. MAYES: None from the State, Your Honor.

10 MS. MAULDIN: No, Your Honor.

11 THE COURT: Alright.

12 (Off the record.)

13 THE COURT: I didn't expect a note this quick.
14 Alright. They've got two questions. Do we need gloves for
15 evidence?

16 MS. MAYES: We can provide them, Your Honor. We had
17 a box in the Courtroom, and we can certainly provide those,
18 yes.

19 THE COURT: The next question is can we get a copy of
20 the charges with the requirements for guilt.

21 MS. MAYES: We leave that in your discretion, Judge.

22 THE COURT: Let me tell you, I usually, if there's
23 anyone who objects, I do not send them back. I don't mind
24 sending them back, my only issue is that I make 12 copies, so I
25 don't have just one person telling the rest of the jurors what

1 the law is, they can read it for themselves. Now, if there's
2 no objection from the Defense, I don't mind making them copies
3 and sending it back. Ms. Mauldin?

4 MS. MAULDIN: No objection to that, Your Honor.

5 THE COURT: Alright. Then I'm going to make them. I
6 am putting here on this note, I'm going to let them know we
7 will supply gloves and will send 12 copies, one for each juror
8 of the jury instructions. Does that suit everybody?

9 MS. MAYES: Yes, it does, Your Honor.

10 MS. MAULDIN: Yes, ma'am.

11 MS. TAYLOR: Your Honor, I have the gloves here, if I
12 may approach?

13 THE COURT: Okay. Thank you. Alright. Enjoy your
14 lunch, sounds like they're going to busy for a while.

15 (Off the record.)

16 THE COURT: Alright. Two more questions. Alright.
17 These are the questions: Is the DNA result available via
18 evidence? Did we have anything in about DNA?

19 MS. MAYES: We do not, Your Honor. The report is not
20 in evidence, but testimony is the evidence.

21 THE COURT: Okay. So we only have testimony. I'm
22 going to have to bring them back in here ---

23 MS. MAYES: Okay.

24 THE COURT: --- and tell them that.

25 MS. MAYES: Okay.

1 THE COURT: And then, is the flip chart, and I'm
2 assuming, Ms. Mayes, they're talking about your ---

3 MS. MAYES: Yes.

4 THE COURT: --- flip chart available for reference
5 from the Courtroom.

6 MS. MAYES: And ---

7 THE COURT: Which is a no.

8 MS. MAYES: Right. And we, I think get that at every
9 trial.

10 THE COURT: Yeah. They like the old flip chart.

11 MS. MAYES: They do.

12 THE COURT: So I'm going to bring them back in here.

13 MS. MAYES: Alright.

14 THE COURT: The only thing I can offer them is the --
15 -

16 MS. MAYES: Testimony.

17 THE COURT: --- testimony on the DNA. And the flip
18 chart is not evidence. Let's bring them in.

19 (Jury entering Courtroom.)

20 THE COURT: Alright. Please be seated. Alright.
21 Got your note. First question, is the DNA result available via
22 evidence? Yes. You can listen to the testimony which we will
23 be glad to play back for you. We will leave you in this
24 Courtroom alone except for the Court reporter who will play
25 back that testimony if y'all want to hear it. The second

1 question is the flip chart available for reference from the
2 Courtroom. The answer is no, it is not evidence. So Mr.
3 Foreman, you want to confer with the jury to see if y'all want
4 to listen to the DNA ---

5 MR. FOREMAN: Yes, ma'am.

6 THE COURT: --- testimony right quick, let me know
7 and I'm going to make arrangements to have everybody out of
8 here. The Court reporter will play it back for you. I can
9 tell you you can tell her when to stop. I don't know what
10 y'all are looking for, but at any point that you want her to
11 stop, she will stop. You cannot talk to her about this case
12 and she's not going to talk to you about this case. Please do
13 not talk amongst yourselves while you're listening in here in
14 front of her, okay? Y'all want to listen to it?

15 JURY: Yes, ma'am.

16 THE COURT: Okay. Lisa, you got all, you
17 know where to go? I might could tell you what day and what
18 witness.

19 (Off the record.)

20 BAILIFF: Keep your seats, come to order.

21 THE COURT: Alright. We have a verdict, y'all ready?

22 MS. MAYES: The State is ready, Your Honor.

23 MS. MAULDIN: Yes, Your Honor.

24 THE COURT: Let's bring the jury in. Y'all can be
25 seated. Let me thank my two alternates for staying.

1 (Whereupon the jury came into open Court with the
2 verdict.)

3 THE COURT: Alright, Mr. Foreman, let me ask you, has
4 the jury reached a verdict?

5 MR. FOREMAN: Yes, Your Honor.

6 THE COURT: And is it unanimous?

7 MR. FOREMAN: Yes, Your Honor.

8 THE COURT: Okay. Please be seated. If you would
9 pass the verdict form to the bailiff. I'm going to ask the
10 clerk to publish the verdict. Mr. Nance, I'll ask you to
11 stand, please, while the clerk reads the verdict.

12 THE CLERK: Your Honor, in the State of South
13 Carolina versus Tamar Nance, we the jury unanimously find the
14 Defendant guilty of first-degree burglary, guilty on criminal
15 sexual conduct, first degree. The jury finds him guilty of
16 kidnaping, and guilty of financial transaction card theft.

17 THE CLERK: Mr. Foreman was this your verdict?

18 MR. FOREMAN: Yes, ma'am.

19 THE COURT: Would you like the jury poled?

20 MS. MAULDIN: Yes, Your Honor.

21 THE COURT: If you'd pole the jury, please, madame
22 clerk.

23 THE CLERK: Juror number 82, was this your verdict
24 and is this still your verdict?

25 JUROR 82: Yes, ma'am.

1 THE CLERK: Juror number 121, was this your verdict
2 and is this still your verdict?

3 JUROR 121: Yes, ma'am.

4 THE CLERK: Juror number 179, was this your verdict
5 and is this still your verdict?

6 JUROR 179: Yes, ma'am.

7 THE CLERK: Juror number 103, was this your verdict
8 and is this still your verdict?

9 JUROR 103: Yes, ma'am.

10 THE CLERK: Juror number 157, was this your verdict
11 and is this still your verdict? I'm sorry, number 96, was this
12 your verdict and is this still your verdict?

13 JUROR 96: Yes, ma'am.

14 THE CLERK: Juror number 212, was this your verdict
15 and is this still your verdict?

16 JUROR 212: Yes, ma'am.

17 THE CLERK: Juror number 23, was this your verdict
18 and is this still your verdict?

19 JUROR 23: Yes, ma'am.

20 THE CLERK: Juror number 101, was this your verdict
21 and is this still your verdict?

22 JUROR 101: Yes.

23 THE CLERK: Juror number 35, was this your verdict
24 and is this still your verdict?

25 JUROR 35: Yes, ma'am.

1 THE CLERK: Juror number 106, was this your verdict
2 and is this still your verdict?

3 JUROR 106: Yes, ma'am.

4 THE CLERK: Juror number 41, was this your verdict
5 and is this still your verdict?

6 JUROR 41: Yes, ma'am.

7 THE CLERK: And juror number 28, was this your
8 verdict and is this still your verdict?

9 JUROR 28: Yes, ma'am.

10 THE CLERK: Thank you. The jury's been poled, Your
11 Honor.

12 THE COURT: Thank you. Anything else from the State?

13 MS. MAYES: Nothing from the State, Your Honor.

14 THE COURT: Anything else from the Defense?

15 MS. MAULDIN: Your Honor, I would renew all my prior
16 objections and motions, including my directed verdict motion.
17 And I would move for a new trial based the prior motions and
18 objections and that a reasonable jury would not have found Mr.
19 Nance guilty beyond a reasonable doubt.

20 THE COURT: Okay. Your motion to dismiss is denied,
21 request for a new trial is denied, however, everything is
22 preserved, all your objections for the record. Anything else
23 Ms. Mauldin?

24 MS. MAULDIN: No, Your Honor.

25 THE COURT: Alright. Let me tell the lawyers,

1 I'm going to give you about 10 minutes for sentencing. I'm
2 going to excuse the jury, let them go back to the jury room.
3 Anybody have any objections to, the alternates stayed here
4 throughout, that if I let them join with the jury and I excuse .
5 them all together?

6 MS. MAYES: Post verdict, no objection, Your Honor.

7 THE COURT: Post verdict, the verdict's been read.

8 MS. MAULDIN: None, Your Honor.

9 THE COURT: I'm going to let, if the two jurors would
10 like to come back, I'll talk to you and excuse you. Mr.
11 Foreman, ladies and gentlemen of the jury, thank you so much
12 for your service. I'm going to ask you to go to the jury room
13 and I'll be back in just a moment to excuse you.

14 MR. FOREMAN: Yes, ma'am.

15 (Jury exiting.)

16 (Off the record.)

17 THE COURT: Alright. The State ready?

18 MS. MAYES: Yes, Your Honor.

19 THE COURT: Ms. Mauldin, you ready?

20 MS. MAULDIN: Yes, Your Honor.

21 THE COURT: Okay. I need sentencing sheets. Thank
22 you. Alright. Ms. Mayes, I'll give you the opportunity to
23 tell the Court about sentencing.

24 MS. MAYES: May it please the Court?

25 THE COURT: Yes, ma'am.

1 MS. MAYES: Your Honor, regarding Tamar Nance. When
2 we first came into this case, our concerns for whether to limit
3 our presentation of the facts solely this case, or would we
4 potentially present for the evidence regarding another pending
5 charge in Richland County with almost identical circumstances
6 where he came into the home of a 25-year-old female as she was
7 sleeping in her room, he came in through the sliding glass door
8 in her apartment complex. Ultimately, through discussions with
9 counsel, Defense counsel, we agreed not to present that
10 evidence during our case in chief. That was solely to procure
11 the position of the State in this case on appeal and we believe
12 that we have done so. However, in terms of sentencing,
13 although we know that that pending charge will not be part of
14 the sentencing, it does directly relate to this investigation,
15 so we will be addressing that as well.

16 THE COURT: Okay.

17 MS. MAYES: Your Honor, Tamar Nance has been
18 convicted for criminal sexual conduct first degree, kidnaping,
19 burglary first degree and FTC card theft regarding these crimes
20 in Lexington County in June of 2021. Tamar Nance is 32 years
21 old. Your Honor, the original conviction record dates back to
22 2012, also out of Lexington County, possession with intent to
23 distribute crack cocaine first degree. He did receive a
24 youthful offender act sentence at that time not to exceed six
25 years, he received two years probation. Certainly, there were

1 attempts to rehabilitate Mr. Nance during that period of time,
2 however, it did result in a violation of probation and a
3 revocation of that youthful offender act sentence. We do see
4 according to his record that in 2014, he was committed to R and
5 E as a result of that violation of probation. Next, Your
6 Honor, there is an arrest from 2015 in Richland County that is
7 burglary, first degree, this is extremely concerning. This was
8 ultimately pled in 2017 as a trespassing, however, again, this
9 is out of Richland County, the facts of that case were that a
10 63-year-old female victim who was in her room, in her bed,
11 observed that her window screen was being removed, she
12 screamed, and the Defendant ran away. And that was a ground
13 floor apartment at the Bent Tree Apartments. Again, a 63-year-
14 old female victim in her home as he is attempting entry into
15 that home. Next, Your Honor, a financial transaction card
16 fraud, this is out of 2017, all from Richland County. 2017,
17 assault and battery, third degree, also out of Richland County.
18 2019, entering a premises after warning, Richland County.
19 2019, possession of controlled substance, that appears to be
20 out of Nashville, Tennessee. 2019, a simple possession of
21 marijuana out of North Carolina, that did result in 12 months
22 of probation. 2021, Richland County, unlawful weapon and
23 again, possession of marijuana. And then most concerning, Your
24 Honor, going back to what I previously addressed just six
25 months before this crime in January of 2021, he ends up charged

1 with these pending cases, all out of Richland County, burglary,
2 first degree, assault with intent to commit CSC, first degree,
3 and kidnaping. This was a 25-year-old female victim, Your
4 Honor, she resided at Broad River Trace Apartments, I spoke
5 with her yesterday, she indicated she was in her room sleeping
6 in the middle of the night, she wakes up and he is in her room.
7 He had a condom, he placed his hand over her mouth, he made a
8 statement to you, I won't do anything to you if you let me
9 leave as she is, as she reports that he had jumped on top of
10 her, holding her down with his hand over her mouth and as she
11 resists, he runs away, but he drops the condom wrapper beside
12 her bed. That condom wrapper ultimately went into the CODIS
13 database, they developed a DNA profile. It's the CODIS hit,
14 the DNA database hit from this case that matched that case.
15 And that was a crucial part of this investigating, ultimately
16 resulting in the Columbia Police Department charging him in
17 that case as well, in Richland County once they got that DNA
18 database hit.

19 THE COURT: So let me just make sure I'm clear. He
20 committed that crime before the crime here in Lexington?

21 MS. MAYES: Correct, Your Honor.

22 THE COURT: He just hadn't been caught?

23 MS. MAYES: Correct, Your Honor.

24 THE COURT: And he didn't get caught until
25 Lexington picked him up and CODI hit, and then Richland

1 County arrested him on those charges?

2 MS. MAULDIN: Your Honor, I would have to object to
3 that categoric relation. He has been charged in Richland
4 County; he has not been determined to be guilty on that ---

5 THE COURT: Right.

6 MS. MAULDIN: --- he's still innocent of those
7 charges.

8 THE COURT: I understand that. But the only reason
9 they arrested him, I guess caught not a bad word, I mean, the
10 wrong word to use, but it's because of CODIS in Lexington?

11 MS. MAYES: Your Honor, the warrant alleging the
12 Richland County case actually sets forth that it was the CODIS
13 DNA hit and that the Defendant has been arrested on our charges
14 out of Lexington County.

15 THE COURT: Okay. I just want to make sure he wasn't
16 out on bond or something like that.

17 MS. MAYES: He was not, Judge. He was not actually
18 arrested on those charges until after he was ultimately
19 arrested on our charges. But SLED had access to the DNA from
20 that condom wrapper, he had actually been in CODIS since I
21 believe 2012. I believe internally they had made a match and
22 were aware of that match, however, once the vaginal swab or
23 item 1.3 from our case, again, hit on Tamar Nance, they then
24 sent out this matching memorandum to law enforcement advising
25 them that he was a hit on both the vaginal swab from our case

1 or item 1.3 being the mons pubis swabs as well as the condom
2 wrapper in the Columbia Police Department's unsolved case. And
3 ultimately, he is arrested and pending charges on that as well.
4 Again, we know that that is not something that the Court will
5 take into account regarding his sentencing, but his sentencing
6 in this case is based solely on this crime. But with that
7 said, Your Honor, Ms. **D.K.**, 76 years of age now, 74 at the
8 time, again, an identical MO, she is a ground floor apartment,
9 the assailant enters through the sliding glass door, and she is
10 sexually assaulted after she wakes up and finds him standing
11 over her bed. Truly, Your Honor, one of the most horrendous
12 crimes here in Lexington County that, that we've seen in quite
13 some time. It is very, very rare, thankfully, thankfully, we
14 can say as prosecutors and law enforcement, it is very, very
15 rare to have a home invasion committed by a stranger that
16 results in a sexual assault. And we've done everything that we
17 can to continue to keep our community safe and prosecute such
18 crimes to the fullest extent of the law. But we ask, Your
19 Honor, on behalf of law enforcement, on behalf of the State
20 that Tamar Nance never gets a chance to do this again. Never,
21 ever be out on the street again breaking anyone else's home and
22 that no other female ever has to come into this Courtroom and
23 have to go through what Ms. **D.K.** has had to go through this
24 week to ensure justice. And that is our plea, Your Honor. I'm
25 also going to defer at this time to Sargent Haas and Detective

1 Ortiz, they're going to address the Court as well. And
2 certainly, Ms. D.K.

3 SARGENT HAAS: Good afternoon, Your Honor.

4 THE COURT: Good afternoon.

5 SARGENT HAAS: I've been doing this job for 13 years
6 and over the course of that 13 years, the vast majority of that
7 has been in investigative capacity. And during that time, the
8 vast majority of that time has been investigating cases
9 involving the most venerable population. I don't know if we
10 get any more venerable than this case. The amount of passion
11 and urgency that came from this investigation was a genuine
12 fear that this guy was going to strike again. And not only
13 after we apprehended him and continued our investigation and
14 found him connected to other things did we see that and how
15 truly dangerous he was. This predatory behavior it's extremely
16 concerning, it was extremely concerning and that's what drove
17 our passion, not only for Ms. D.K., but because we were
18 genuinely terrified that we were going to have another one of
19 these incidences. So I respectfully and humbly ask that you
20 consider giving him the max sentence so that we don't have to
21 be in this situation again, Your Honor.

22 THE COURT: Thank you.

23 SARGENT HAAS: Thank you.

24 MS. D.K.: Thank you, Your Honor.

25 THE COURT: Thank you, Ms. D.K. for being here.

1 MS. D.K. : You're welcome. For the past 18 months
2 it's been very, very difficult for me. My life completely
3 changed that morning. In the 18 months I spent trying to
4 forget that night or that morning, and yet, at the same time
5 needing to remember the aspects of that morning because I knew
6 I was going to be here to testify. So it was a bit of a roller
7 coaster ride to say the least. Everything changed that night,
8 it changed profoundly that night, emotionally, physically,
9 financially. I never was able to go back to my home, I
10 relocated. It's been, it's so, it's so difficult to try to put
11 it all together, just that one human being changed my life,
12 just changed it. And I lost 18 months of that life, not that I
13 expect the good Lord to take me too soon, but 18 months at my
14 age is 18 months. I guess the one thing that I really wanted
15 to say that's very important to me is that I would never, ever
16 want any other woman to go through this, and I truly believe
17 that the Defendant would have escalated the next time and
18 perhaps the next time it would not be just a sexual assault,
19 but it might be murder. And so I ask under the laws of South
20 Carolina, Your Honor, that you please, please sentence this man
21 to the maximum that you're allowed to do. And I thank you for
22 allowing me to speak.

23 THE COURT: Absolutely, Ms. D.K. y. Thank you.

24 MS. D.K. : You're welcome.

25 MS. MAYES: Thank you, Your Honor.

1 THE COURT: Thank you. Ms. Mauldin?

2 MS. MAULDIN: Thank you, Your Honor. Your Honor, I
3 would ask the Court not to consider the Richland County crime
4 at all that is ---

5 THE COURT: And I am not.

6 MS. MAULDIN: --- a case that is still pending.
7 Okay.

8 THE COURT: I am not, and I'm not considering it in
9 my sentence. I'll just tell you I was curious to know is if he
10 was out on bond at the time.

11 MS. MAULDIN: Thank you, Your Honor.

12 THE COURT: I am not considering it in my sentence.

13 MS. MAULDIN: I heard the word committed and I just
14 wanted to make sure there was no confusion about that point,
15 that that case is still pending.

16 THE COURT: Right. That's for some other Judge to
17 decide.

18 MS. MAULDIN: Your Honor, certainly the jury has made
19 their decision and we understand that these are very serious
20 charges. I will say that there is another side to Mr. Nance.
21 He's 32, he was born in Newberry, he also had family in
22 Columbia, and he grew up kind of between Newberry and Columbia.
23 He grew up in the care of his grandmother and his mother.
24 They're the two ladies that have been here all week that are
25 sitting on the bench behind you, and they care about him very,

1 very much. Your Honor, before this he worked in a warehouse
2 for the Kraft Heinz Company, he had been there for about a
3 year. He also did other temporary work once the pandemic began
4 and it was harder for him to find jobs working in other
5 warehouse jobs that he was able to find. He's done some work
6 briefly with an uncle pressing t-shirts and working at
7 different concert venues. He also was doing what you heard
8 about in this case, driving people around and trying to support
9 his family the best he could. He has two children, one 9-year-
10 old and one child who is almost 1 who was born while he's been
11 locked up waiting to go to Court on this case. Your Honor, the
12 mother of that child was here earlier in the week, wasn't able
13 to stay for the full week. She's in the military, she serves
14 for the National Guard, she's active duty. They have been
15 together three years by the time this happened, and they have
16 their child together. Your Honor, his family paints a very
17 different picture of him than what you've heard about in the
18 allegations this week. To them, he is a loving brother, he's
19 one of nine children, he has another brother who has down
20 syndrome and is autistic. And different members of his family
21 have told us that it was a lot of Tamar's responsibility to
22 take care of that brother and that's what he did, and the
23 family relied on him in that way. So we'd ask the Court to
24 consider that although you've certainly heard some terrible
25 things this week, there are some, some certainly very good

1 things about him, too. I've asked him not to address the Court
2 out of concern for appeal, I'd ask the Court not to consider
3 that as any sign of disrespect or lack of interest in this,
4 that's certainly not the case. We're just looking ahead
5 towards that. I've let his family know that they may address
6 the Court if they would like to. And if they want to say
7 anything I'd ask you to hear from them, too.

8 THE COURT: I've noticed his family here all week, it
9 looks like his mom and his grandmom. I'd be glad to hear from
10 them if they would like to address the Court, they don't have
11 to, but I'd like to hear from them.

12 MS. MAULDIN: Your Honor, this is his grandmother,
13 Ms. Benson.

14 MS. BENSON: Do I stand?

15 THE COURT: Let Ms. Benson come around.

16 MS. BENSON: Hi, Judge.

17 THE COURT: Hello, Ms. Benson. I've noticed you've
18 been here all week faithfully.

19 MS. BENSON: I just want to say I love him so much.
20 I just love him so much. And he's been, I, he's a good boy, I
21 just don't understand.

22 THE COURT: Thank you, Ms. Benson, for coming.

23 MS. MAULDIN: Your Honor, this is his mother, Mrs.
24 Vessels.

25 MS. VESSELS: Hi, Judge, how are you?

1 THE COURT: Hello, how are you? I've noticed you've
2 been here all week, too.

3 MS. VESSELS: Yes, ma'am, and it hasn't been easy.
4 This is my first born. Just give me a second. This is my
5 first born. I do rely on him a whole lot. Especially, with
6 my, my youngest that has autism. He's very good, and he's like
7 awesome with his baby brother, well, he's not a baby, he's a
8 baby brother then, but he's a grown man, but still, he's more
9 like a child. TJ takes plenty of time with him when he was at
10 home. He does work hard, he loves his children, he's got two
11 beautiful boys. Also, he helped raise a child that wasn't,
12 isn't his. With that being said, I'm asking that he does not
13 get this max time or whatever time that is significant time
14 that y'all are considering because he's not this monster that
15 everyone trying to, the jury and the victim, I'm sorry that
16 whatever happened to her happened, I apologize that she had to,
17 if she went through this, I, I'm pretty sure that, you know,
18 somewhere in her heart she can forgive if this is true. From
19 what I was told throughout this whole process that my son
20 didn't commit it, and I believe in him, I trust him. Did he do
21 anything wrong, some things like the transaction, the card, I
22 understand he would need consequences and repercussions behind
23 that. I'm stumbling over my words it's because I'm nervous and
24 scared and I'm hurting inside, it really hurts because that's
25 not my son. That's not his character, that's not who he is, he

1 is a wonderful person, he is good to society. He has, he has
2 always been helpful, not just at home, in the church, he's even
3 given back to the community. I'm just asking you to be mercy
4 on him and tell y'all thank y'all, I appreciate your
5 assistance, y'all have been great. Thank you for representing
6 my son, you did all that you can do, and I appreciate you. I
7 don't have no hatred in my heart at all, I put it all in God's
8 hands, He has the last say so. And I just want to tell thank
9 you job, you know, you have to do your job and I appreciate
10 you, and I'm just asking you to be merciful.

11 THE COURT: Okay. Thank you, thank you for coming.

12 MS. MAULDIN: Your Honor, we understand that you have
13 to impose 15 years at least on the burg first and anytime he
14 does is going to be 85 percent time. We're asking the Court to
15 consider the mandatory minimum and if not that, any mercy that
16 the Court can give. As you heard, his family's absolutely
17 heartbroken about this. So we, we ask the Court to consider
18 that.

19 THE COURT: Thank you. Anything else?

20 MS. MAULDIN: No, Your Honor.

21 THE COURT: Anything else from the State?

22 MS. MAYES: Nothing from the State, Your Honor.

23 (Sentence of the Court.)

24 THE COURT: Alright. Let me tell you, Mr. Nance,
25 three of these charges are the most serious charges that this

1 State has, they are strikes. Burglary, first degree carries
2 zero to 30, and I know your lawyer has told you this, it's
3 violent, it's most serious and it's a strike. Criminal sexual
4 conduct is also violent and one of our most serious, it carries
5 zero to 30, and it's a strike. The burglary is 15 to 30, I
6 apologize, there's a mandatory minimum of 15 I must give you,
7 15 to life, life. Kidnaping is zero to 30, it too is violent
8 and most serious. Three strikes can get you a life sentence.
9 I just want you to know that in this one instance, you managed
10 to hit the big three, all three of them. Strikes, violent,
11 most serious. One carries 15 to life, the other two carry up
12 to 30 years. The financial transaction credit card theft
13 carries zero to five years. You know, let me thank the City of
14 Columbia as well as the Lexington County Sheriff's Department
15 and also SLED who pieced this case together. I think you did
16 an excellent job, excellent, and in a timely fashion. I also
17 have the jury that's sitting in the back, and I want to thank
18 them for their time and dedication to this case. It was a long
19 trial, it took us all week, and I want to thank them again for
20 them being attentive, paying attention, and for their service.
21 I also want to commend both the lawyers. I'm going to tell
22 you, I even told the jury, this case has had great lawyers,
23 professional, they've done a good job and good advocates for
24 their clients, respectively. To Ms. D.K., I am so sorry
25 this happened to you, but I'm going to tell you most victims

1 don't make it to my Courtroom. They either get scared to
2 testify or they don't survive to be here. So I want to thank
3 you for having the strength and the courage to come and testify
4 and see this trial through to its end. I've watched you
5 throughout this trial and I don't know how you've managed to
6 keep your composure, but you have when I don't think many
7 could. You are what I call a true survivor. You're not a
8 victim. I hope this trial brings you some kind of closer, but
9 more importantly, I want you to know that the Defendant has
10 been held accountable for his actions or will be. I'm going to
11 tell you, Mr. Nance, I've got the responsibility of imposing a
12 sentence which is sufficient but not greater than necessary to
13 reflect the seriousness of this offense or all these offenses
14 to promote respect for the law, to provide just punishment, to
15 afford adequate deterrence to criminal conduct and to protect
16 the citizens of Lexington County from further crimes by you. I
17 listened to the facts of this case, you entered her home in the
18 nighttime, this woman woke up with you standing next to her
19 bed, you were in her home going through all her stuff, left,
20 came back, I don't know why you came back but only to rape her
21 not once, but twice. Put a pillow over her head, you know, I
22 am absolutely certain that Ms. D.K. felt like she wasn't
23 going to survive the night. And on top of that, there is
24 something to be said about a stranger rape that bothers me.
25 I've done a lot of rape cases and all of them, every single one

1 of them's important. But I'm going to tell you, a stranger
2 rape tells me something else about you, Mr. Nance, it tells me
3 that not only do I think you're dangerous, but you're, you are
4 a predator, there is no doubt about it in this Court's mind.
5 The words I think that I'm not real sure that I'm going to
6 forget anytime soon is make sure you double lock your doors and
7 windows next time. I've thought about those words for three
8 days, Ms. [REDACTED] will think about them for the rest of her
9 life. And you know, don't call the police or I'll be back.
10 That's nothing but to instill fear and intimidation into her. I
11 think the jury hit the nail right on the head. Ms. [REDACTED], I
12 hope that you started a new life, I hope you don't think about
13 this anymore, don't let it control you. Alright. Mr. Nance,
14 I'm going to tell you, this is a harsh sentence, but I'm going
15 to tell you it fits the crime. Sentence of the Court, and when
16 I sentence, I don't need anybody crying, yelling, if you are, I
17 need you leave now because I don't put up with that. The
18 sentence of the Court on burglary, first degree, Mr. Nance, you
19 are to be committed to the State Department of Corrections for
20 a period of 30 years. On the criminal sexual conduct, first
21 degree, you are to be committed to the State Department of
22 Corrections for a period of 25 years. On the kidnaping, you
23 are to be committed to the State Department of Corrections for
24 a period of 15 years. And on the financial transaction credit
25 card theft, sentence of the Court four years. These sentences

1 are going to run consecutive. That is a seventy-four-year
2 sentence. Court's adjourned.

3 (Whereupon proceedings were concluded at 4:17 pm.)
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1 CERTIFICATE OF REPORTER
2
34 STATE OF SOUTH CAROLINA)
5)
6 COUNTY OF LEXINGTON)
78 I, the undersigned Lisa G. Amick, Official Court Reporter
9 for the Eleventh Judicial Circuit of the State of South
10 Carolina, do hereby certify that the foregoing is a true,
11 accurate, and complete transcript of record of all proceedings
12 had and evidence introduced in the trial of the captioned case,
13 relative to appeal, in the County of Lexington, South Carolina,
14 on the 23rd, 24th, 25th, 26th, and 27th days of January 2023.15 I do further certify that I am neither of kin, counsel,
16 nor interest to any party hereto.17 April 4th, 2023
1819 _____
20 Court Reporter21 My commission expires: June 30th, 2025
22
23
24
25

WITNESSES

Columbia Police Department

Damaris Ortiz

Law Enforcement Case #: 210015595

LSM

ARREST WARRANT NUMBER

2021A4021603176

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: 8.8.22**VERDICT**

GUILTY

Foreperson of Petit Jury
Date: 1/27/23**DOCKET NO. 2022GS3202762****The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS**AUGUST TERM 2022****THE STATE**

vs.

Tamar J. Nance**CDR #: 0079****Indictment for****Burglary - First Degree****§ 16-11-0311****S.R. Hubbard III, SOLICITOR**

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
Burglary - First Degree

§ 16-11-0311

At a Court of General Sessions, convened on August 2022, the Grand Jurors of Lexington County present upon their oath:

That **Tamar J. Nance** did in Lexington County, South Carolina on or about June 23, 2021, knowingly and willfully enter a dwelling, to wit: [REDACTED], being the dwelling of **D.K. [REDACTED]**, without consent to enter and with the intent to commit a crime therein, being the crime of theft and/or criminal sexual conduct, and the entering of the dwelling or remaining occurred in the nighttime, in violation of § 16-11-311 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

SCANNED 08082022

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE# 2022 - GS - 32 - 02762Tamar Javeell NanceAW#: 2021A4021603176

AKA:

Date of Offense: 6/23/2021Race: Black Sex: M Age: 32S.C. Code §: 16-11-0311DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0079Address: [REDACTED]City, State, Zip: Columbia, SC 29210-6717

SENTENCE SHEET

DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Burglary / Burglary (After June 20, 1985) - First degreeIn violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

64191

Solicitor [REDACTED] SC Bar # [REDACTED] Defendant [REDACTED] Attorney for Defendant [REDACTED] SC Bar # [REDACTED]WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 30 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Pardon and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2022-45-32-02763☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 02765
days/months 02764☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Tamar Javeell Nance INDICTMENT/CASE# 2022 - GS - 32 - 02762

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$_____ plus 20% fee: _____ \$_____

Payment Terms: _____ ☐ Set by SCOPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$_____ Beginning _____ \$_____

§14-1-206 (Assessments) (07.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-285 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
	\$
\$100	\$112
\$100	\$
\$12	\$
\$25	\$
\$25	\$75
\$150	\$
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$
\$500	\$
TBD	\$
TOTAL	\$18.12

Clerk of Court/Deputy Clerk:
Court Reporter:

(Signature)
(Signature)

Presiding Judge:
 Judge Code:
 Sentence Date:

(Signature)
 2769
 11/22/23

WITNESSES

Columbia Police Department

Damaris Ortiz

Law Enforcement Case #: 210015595

LSM

ARREST WARRANT NUMBER

2021A4021603177

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date:**VERDICT**

GUILTY

Foreperson of Petit Jury
Date: 1/27/23**DOCKET NO. 2022GS3202763****The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS**AUGUST TERM 2022****THE STATE**

vs.

Tamar J. Nance**CDR #: 0160****Indictment for**

Criminal Sexual Conduct - First Degree

§ 16-03-0852

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Criminal Sexual Conduct - First Degree
 § 16-03-0652

At a Court of General Sessions, convened on August 2022, the Grand Jurors of Lexington County present upon their oath:

That **Tamar J. Nance**, did in Lexington County, South Carolina on or about June 23, 2021, willfully and unlawfully commit the offense of criminal sexual conduct in the first degree by engaging in sexual battery with the victim, **D. K. [REDACTED]**, under any one or more of the following circumstances: the actor used aggravated force to accomplish the sexual battery and/or the victim submitted to the sexual battery under circumstances of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking or any other similar offense or act, furthermore, the aforesaid act of sexual battery includes but is not limited to digital intrusion of the genital opening and/or sexual intercourse, in violation of Section 16-3-652, S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Suzanne Mayes
 DEPUTY SOLICITOR

SCANNED 08052022

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2022 - GS - 32 - 02763Tamar Javeell Nance

AKA:

Race: Black Sex: M Age: 32DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29210-6717DL# [REDACTED] SID# [REDACTED]AW#: 2021A4021603177Date of Offense: 6/23/2021S.C. Code §: 16-03-0652CDR Code #: 0160

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Sex / Criminal sexual conduct - First degreeIn violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives
 Presentment to Grand Jury. (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

 Solicitor 64191 SC Bar # [REDACTED] Defendant [REDACTED] Attorney for Defendant [REDACTED] SC Bar # [REDACTED]
 WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

 for a determinate term of 25 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

 The sentence shall run
☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2022-05-32-02762
" " " 02763
02764
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Tamar Javeell Nance INDICTMENT/CASE# 2022 - GS - 32 - 02763

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCOPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$100
§56-5-2995 (DUI Assessment)	\$12	\$12
§56-1-285 (DUI Breath Test)	\$25	\$25
§14-1-212 (Law Enforce. Funding)	\$25	\$25
§14-1-213 (Drug Court Surcharge)	\$150	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$41
§50-21-114 (BUI Breath Test Fee)	\$50	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$40/ea
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$125.12

Clerk of Court/Deputy Clerk: [Signature]
Court Reporter: [Signature]Presiding Judge: Debra McClinton
Judge Code: 27169
Sentence Date: 1/27/23

WITNESSES

Columbia Police Department

Damaris Ortiz

Law Enforcement Case #: 210015595

LSM

ARREST WARRANT NUMBER

2021A4021603179

ACTION OF GRAND JURY

TRUE BILLForeperson of Grand Jury
Date: 8.8.22

VERDICT

GUILTY

Foreperson of Petit Jury
Date: 1/27/23

DOCKET NO. 2022GS3202764

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2022

THE STATE

vs.

Tamar J. Nance

CDR #: 0095

Indictment for

Kidnapping

§ 16-03-0910

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 Kidnapping
 § 16-03-0910

At a Court of General Sessions, convened on August 2022, the Grand Jurors of Lexington County present upon their oath:

That **Tamar J. Nance** did in Lexington County, South Carolina on or about June 23, 2021, knowingly, willfully, and unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away another person, being the victim, **D.K. [REDACTED]**, by any means whatsoever without authority of law, and without her consent, to wit: did physically confine the victim and place pillow(s) over her face, while in the commission of a burglary of her residence, in violation of § 16-3-910 of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Suzanne Mayo

 DEPUTY SOLICITOR

SCANNED 08092022

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE# 2022 - GS - 32 - 02764Tamar Javeell Nance

AKA:

AW#: 2021A4021603179Race: Black Sex: M Age: 32Date of Offense: 6/23/2021DOB: [REDACTED] SS#: [REDACTED]S.C. Code §: 16-03-0910Address: [REDACTED]CDR Code #: 0095City, State, Zip: Columbia SC 29210-6717

SENTENCE SHEET

DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Kidnapping / KidnappingIn violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

64191

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 15 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2022-GS-32-02764☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP. 02764
days/months 02765☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Tamar Javeil Nance INDICTMENT/CASE# 2022 - GS - 32 - 02764

SPECIAL CONDITIONS:

☐ PTUP after 1 months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$100
§56-5-2995 (DUI Assessment)	\$12	\$12
§56-1-286 (DUI Breath Test)	\$25	\$25
§14-1-212 (Law Enforce. Funding)	\$25	\$25
§14-1-213 (Drug Court Surcharge)	\$150	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$41
§50-21-114 (BUI Breath Test Fee)	\$50	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$40/ea
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$75.00

Clerk of Court/Deputy Clerk:
Court Reporter:

[Signature]
US - Amice

Presiding Judge:
 Judge Code:
 Sentence Date:

Debra McCalister
2769
1/27/23

WITNESSES

Columbia Police Department

Damaris Ortiz

Law Enforcement Case #: 210015595

LSM

ARREST WARRANT NUMBER

2021A4021603178

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date: 8.8.22**VERDICT**

GUILTY

Foreperson of Petit Jury
Date: 1/27/23**DOCKET NO. 2022GS3202765****The State of South Carolina**
County of Lexington**COURT OF GENERAL SESSIONS****AUGUST TERM 2022****THE STATE**

vs.

Tamar J. Nance**CDR #: 0348****Indictment for****Financial Transaction Card Theft****§ 16-14-0020****S.R. Hubbard III, SOLICITOR**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 FTC Theft

§ 16-14-0020

At a Court of General Sessions, convened on August 2022, the Grand Jurors of Lexington County present upon their oath:

That **Tamar J. Nance** did in Lexington County, South Carolina on or about June 23, 2021 willfully and knowingly, take, obtain, or withhold a financial transaction card from the person, possession, custody, or control of another without the cardholder's consent and with the intent to use it; or who, with knowledge that it has been so taken, obtained, or withheld, did receive the financial transaction card or number with intent to use it, sell it, or transfer it to a person other than the issuer or the cardholder, to wit: did unlawfully take, obtain, or withhold a TD Bank card from the person, possession, custody or control of one **D.K.**, without her consent, and with the intent to use it and/or transfer it to a person other than the cardholder (the cardholder being **D.K.**), in violation of § 16-14-20, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Suzan . Maya
 DEPUTY SOLICITOR

SCANNED 08091022

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE# 2022 - GS - 32 - 02765Tamar Javeell NanceA/W#: 2021A4021603178

AKA:

Date of Offense: 6/23/2021Race: BlackSex: MAge: 32S.C. Code §: 16-14-0020DOB: [REDACTED]SS#: [REDACTED]CDR Code #: 0348Address: [REDACTED]City, State, Zip: Columbia SC 29210-6717

SENTENCE SHEET

DL# [REDACTED]SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: FinanTC / Financial Transaction Card TheftIn violation of § 16-14-0020 of the S.C. Code of Laws, bearing CDR Code # 0348
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

64191

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 4 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2022-05-32-02765
02763
02764☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Tamar Javeell Nance INDICTMENT/CASE# 2022 - G 32 -02765

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below.

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly prts. of \$ _____ Beginning _____ \$ _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$25
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$150

Clerk of Court/Deputy Clerk: Lisa Amick
Court Reporter: Lisa AmickPresiding Judge: Dena McCaslin
Judge Code: 2169
Sentence Date: 1/27/23

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Sep 07 2023

SC Court of Appeals



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of September, 2023.

RECEIVED

Sep 07 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TAMAR JAVEELL NANCE,

APPELLANT

APPELLATE CASE NO. 2023-000172

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 7th day of September, 2023.



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