

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Marlboro County

Honorable Michael S. Holt, Circuit Court Judge

DERRICK DUPREE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001538

APPENDIX

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		2014-GS-34-00303
		2014-GS-34-00304
		2014-GS-34-00305

STATE OF SOUTH CAROLINA	)	
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DERRICK D. DUPREE	)	
<u>DEFENDANT</u>	)	

October 13-15, 2014
 Bennettsville, South Carolina
VOLUME NO. 01 OF 03

B E F O R E:

THE HONORABLE MICHAEL J. NETTLES, JUDGE; and a jury.

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SANDY WILKES, Marlboro County Sheriff's Office
BRITNEY ENGLISH, Marlboro County Sheriff's Office
WARREN MCCALL, Marlboro County Sheriff's Office
ISAAC BRAND,
PERRY WILLIAMS,
LISA HUNT,
WILBERT HARRINGTON,
RHONDA FIELDS,
VERONA GIBSON,
ASHLEY BELL,
LILY GALLMAN,
RENEE DUPREE,
ROBIN DUPREE,
KIM MANCE,

HATTIE O. GORDON

Circuit Court Reporter

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Voir Dire of the Jury

13

VOIR DIRE OF THE JURY

1
2 THE COURT: Ladies and gentlemen of the jury panel,
3 all of you are qualified. None of you have exercised an
4 exemption. The next series are going to deal with whether
5 or not you can be fair and impartial with regard to the
6 trial of this particular case. The case is the State of
7 South Carolina v. Derrick Dwayne Dupree. He's been
8 charged with kidnapping, burglary first degree, possession
9 of a weapon during the commission of a violent crime and
10 criminal sexual conduct in the first degree.

11 Ladies and gentlemen of the jury, I hold in my hands
12 the indictments, and these are essentially the pieces of
13 paper that starts the criminal process. These papers have
14 absolutely no evidentiary value. As a matter of fact as
15 it stands right now Mr. Dupree is presumed to be just as
16 innocent as me or you. This is just the indictment.
17 That's what he's been accused of. And we're in the
18 process of first selecting a jury for his trial.

19 The first question that I'm going to ask you deals
20 with whether or not anyone is related by blood or
21 marriage; whether you have a close social, business or
22 personal relationship the Derrick Dwayne Dupree. If so,
23 please stand. No response.

24 Ladies and gentlemen of the jury, this case has
25 received some coverage in the media. As a matter of fact

1 there was probably an article in the paper in the Florence
2 Morning News this morning about it. Has anyone read that
3 article, and if so, please stand. All right. Very good.
4 Yes, sir, if you could come forward. I'm specifically
5 asking if anyone has read that article. Has anybody else
6 heard anything, seen anything on t.v. or witnessed any
7 event that deals with these allegations.

8 THE BAILIFF: Edward McKiver, 134. Edward McKiver.

9 THE COURT: Yes, sir. Your full name.

10 JUROR: Edward C. McKiver.

11 THE COURT: Okay. And you take the Florence Morning
12 News?

13 JUROR: Yes, sir.

14 THE COURT: And did you read an article?

15 JUROR: Just before I came in the courthouse. The
16 paper is in the car right now.

17 THE COURT: Okay. What did you -- what did you
18 recall about that article?

19 JUROR: He's charged with burglary second, assault of
20 a 70 year old female while her husband was in the next
21 room.

22 THE COURT: Okay. All right, sir. Clearly you've
23 read that article. If you were called upon to serve on
24 this jury could you set aside the fact that you read that
25 article and the fact that he's been accused of these

Voir Dire of the Jury

15

1 things and listen to the evidence as presented in this
2 case or the lack of evidence, listen to the law as I give
3 it to you and give both the Defendant and the State a fair
4 trial? Could you do that?

5 JUROR: Yes, sir.

6 THE COURT: All right.

7 JUROR: Listen to the information.

8 THE COURT: All right. And, you know, in addition to
9 that in my experience practicing law and as a judge quite
10 often though the newspaper gets it wrong. You understand?

11 JUROR: Yes, sir.

12 THE COURT: And to serve on the jury you will be able
13 to hear all the information or lack of information here in
14 this courtroom. You feel like you could do that, evaluate
15 it and render a verdict that speaks the truth?

16 JUROR: Yes, sir.

17 THE COURT: You're qualified to serve. Thank you.
18 Ladies and gentlemen of the jury panel, pay very close
19 attention as I go through the witnesses who may or may not
20 testify in this case. I'm going to ask you whether or not
21 you're related by blood or marriage, do you have a close
22 social, business or personal relationship with any of
23 these witnesses. Pay very close attention.

24 **LT** John Walters, Marlboro County
25 Sheriff's Office; Tommy Bostick, Marlboro County Sheriff's

1 Office; Susan Alderman, formerly Florence County Sheriff's
2 Office. Now works with the Cheraw Police Department,
3 Jamie Seals, Sheriff's Department; Shawn Feldner,
4 F-E-L-D-N-E-R, Sheriff's Office; Brittany English, now
5 with the Bennettsville Police Department. Formerly with
6 the Sheriff's Department. All right. And I'm just going
7 to ask each of you to stand if it applies to you. Just
8 stand.

9 James Campbell, Sheriff's Department; Charles Lemon,
10 Sheriff's Department; Sandy Wilkes, Sheriff's Department;
11 Warren McCall, Sheriff's Department; Earl Hood, Sheriff's
12 Department; Kirk Schauer, Sheriff's Department; Albert
13 Smith, Marlboro Probation and Parole; Maria Todd who is a
14 registered nurse; Harkik Parekh, who is a medical doctor;
15 Wilbert Harrington, Isaac Brand, Perry Williams, Lisa
16 Hunt, Kimberly Mears, S.L.E.D, State Law Enforcement
17 Division; Gail Heath, Rhonda Fields, Verona Gibson, Ashley
18 Bell, Lily Gallman. The last six of which work for State
19 Law Enforcement Division.

20 Isaac Brand, Marilyn Dupree, Carolyn Dupree, Kadeem
21 Hooks, Zacharia Hughes, Renee Dupree, Kim Mance, Catora
22 Mance, April Brantley Harrington, David Harrington,
23 Wilbert Harrington, Perry Williams, Niana Stalling, Mike
24 Stalling, Larry McCrae.

25 I'm going to ask each of you to come forward and we

Voir Dire of the Jury

17

1 will speak with you one at the time up here. All right.
2 Let's have quiet.

3 THE BAILIFF: Crystal Stokes, Number 200.

4 THE COURT: Juror Number 200, yes, ma'am.

5 JUROR: I work in medicine and I don't know what
6 happened, but I know Miss LT I know the story.

7 THE COURT: Okay. All right. What is your
8 involvement in it? What do you do?

9 JUROR: I'm an L.P.N. I work with patients.

10 THE COURT: Okay. You have had an occasion to learn
11 some of the information?

12 JUROR: Yes, sir.

13 THE COURT: If called upon to serve of this jury
14 could you set that information aside and give both the
15 State and the Defendant a fair and impartial trial?

16 JUROR: No, sir, because I know Miss LT

17 THE COURT: All right. Well, you're excused for
18 purposes of this trial. You can have a seat back out.
19 She's been excused for purposes of this trial.

20 THE BAILIFF: Mary Grady, Number 79.

21 THE COURT: Yes, ma'am. How are you doing?

22 JUROR: David Dupree, he's my brother in law. I'm
23 related to him.

24 THE COURT: David Dupree. What? Is he your brother
25 in law?

1 JUROR: He's married to my sister.

2 THE COURT: All right. I'm going to ask if you can
3 have a -- stand right over there by the table just one
4 moment.

5 JUROR: Yes, sir.

6 THE COURT: Yes, ma'am. You're excused for the
7 purpose of this trial.

8 JUROR: Thank you.

9 THE BAILIFF: Kathy Moody, Number 141.

10 THE COURT: Yes, ma'am.

11 JUROR: I've had business dealings with several
12 people on the list. Some of the officers, Warren McCall,
13 Isaac Brand and then some of the other people like Renee
14 Dupree, Willie Dupree. I have business dealings with
15 them.

16 THE COURT: Okay, well, this is the most important
17 thing. If called upon -- first of all. What is your
18 business dealings?

19 JUROR: It's a Rent A Center. We rent appliances.

20 THE COURT: Okay. So they rent appliances and stuff
21 from your business?

22 JUROR: Um hum.

23 THE COURT: All right.

24 JUROR: They have recently done that.

25 THE COURT: Okay. If called upon to serve on this

Voir Dire of the Jury

19

1 jury could you set aside that relationship and give both
2 the State and the Defendant a fair and impartial trial?

3 JUROR: Yes, sir. I think I could.

4 THE COURT: Okay. And in polite conversation we
5 always qualify what we say, but these are matters that we
6 have to deal in absolutes. If called upon to serve on
7 this jury could you listen to the evidence presented in
8 this case or the lack of evidence and evaluate everybody's
9 testimony equally and determine whether or not you feel
10 it's credible?

11 JUROR: I could.

12 THE COURT: Okay. And there are things that require
13 an absolute answer. Can you do it or can you not? Not I
14 think I can.

15 JUROR: I can.

16 THE COURT: Okay. Very good. And just by virtue of
17 the fact that someone might be renting something from you
18 would that require you to give their testimony any greater
19 weight than anybody? You can evaluate all of them
20 equally; is that correct?

21 JUROR: Yes, sir.

22 THE COURT: All right. You can serve. Thank you.

23 THE BAILIFF: Joanne Evans, Number 65.

24 THE COURT: Ms. Evans, how you doing?

25 JUROR: I'm well.

1 THE COURT: Tell me what your situation is, ma'am.

2 JUROR: I know a few people. I think you said Lottie

3 **LT**

4 THE COURT: That's right.

5 JUROR: My husband grew up with them, and my husband
6 and I are pretty good friends with them. I think he's
7 going through a divorce or something. It's his estranged
8 wife.

9 THE COURT: Right.

10 JUROR: And then Jamie Sellers is a friend of mine
11 and my husband. He's also our computer guy. He comes in
12 and fixes our computer, and we've known him for many
13 years.

14 THE COURT: Okay.

15 JUROR: And Earl Hood.

16 THE COURT: Yes, ma'am.

17 JUROR: We're in like a church group together.

18 THE COURT: Okay. Well, this is the most important
19 question. If called upon to serve on this jury could you
20 set aside those relationships and listen to the evidence
21 that is presented in this case or lack of evidence and
22 listen to the law as I charge you and give both the State
23 and the Defendant an fair and impartial trial?

24 JUROR: I don't think I could.

25 THE COURT: Okay. But with regard to the others you

Voir Dire of the Jury

21

1 feel like you could be fair and impartial.

2 JUROR: I'd rather not be involved in it because of
3 our families.

4 THE COURT: You're saying that because of your
5 personal relationships that you could not evaluate their
6 testimony fairly? Is that what you're saying?

7 JUROR: I believe so. I mean it would be hard. I
8 don't -- I have a personal relationship with them so I
9 don't know for sure if I could be completely fair and
10 impartial.

11 THE COURT: Okay. You're excused for the purposes of
12 this trial. You can have a seat out there. Thank you.
13 Just have a seat. She's excused.

14 THE BAILIFF: Inez Cassidy, Number 34.

15 THE COURT: Yes, ma'am.

16 JUROR: Just listening to the name that were called I
17 am familiar with a lot of those people. Charles Lemon,
18 Earl Hood. A lot of the other witnesses that you called.
19 Kim Mance, all those other guys. People, a lot of those
20 people live in my area, so I have to live with them.

21 THE COURT: Okay. That's not disqualifying just by
22 virtue of the fact that you know them, but the questions
23 if called upon to serve on this jury could you sit and
24 listen to the evidence as presented or lack of evidence
25 and listen to the law as I state it to you and give the

1 State and the Defendant a fair and impartial trial?

2 JUROR: Yes, I do believe I could do that, but I do
3 know these people.

4 THE COURT: By virtue of the fact that you know them
5 can you still listen to what they have to say and evaluate
6 their testimony whether or not it's corroborated by others
7 whether or not it's inconsistent? Can you evaluate it for
8 truthfulness like you would anybody else?

9 JUROR: Yes, I do believe I can.

10 THE COURT: Okay. And, you know, in polite
11 conversation we always qualify what we say with I believe
12 I can. These are matters where we have to deal in
13 absolutes. My question is can you do it?

14 JUROR: Absolutely, I can.

15 THE COURT: Can you listen to the evidence or lack of
16 the evidence, the law as I charge it to you, give both the
17 State and the Defendant a fair and impartial trial?

18 JUROR: I believe that I could. I apologize.

19 MS. JOHNSON LEE: (Inaudible).

20 JUROR: Yes, I did work under him. And I also had
21 ...

22 THE COURT: Okay. All right. Does that put you in a
23 spot where you might feel like you could not be fair and
24 impartial?

25 JUROR: Given what I've done or my stay in

Voir Dire of the Jury

23

1 corrections for the last pretty much 19 years with the
2 State juvenile justice system and then the County, do I
3 feel that I could? To be honest with you, sir, no.

4 THE COURT: All right. Well, that settles that.

5 JUROR: Im just being honest with you.

6 THE COURT: Very good. Thank you. We appreciate
7 that, and you're excused for purposes of this trial.
8 Thank you. You can have a seat out there.

9 THE BAILIFF: Number 20, Janet Bright.

10 THE COURT: Yes, ma'am.

11 JUROR: I just want to let you know that I do know
12 Renee. Renee was at my house a couple of weeks ago, but I
13 don't not anything about this case.

14 THE COURT: Okay.

15 JUROR: The other man that you named I'm not sure if
16 I know him. That's why I'm here to let you know cause I
17 don't ...

18 THE COURT: The defendant?

19 JUROR: Yeah, I don't know if I know him or not cause
20 I could know him by another name.

21 THE COURT: All right.

22 JUROR: So I just wanted to let you know.

23 THE COURT: All right. Well, if called upon to serve
24 on this jury could you set aside the fact that you know
25 some of these witnesses and listen to the evidence ---

1 JUROR: Yes, sir.

2 THE COURT: --- that is presented in this case or
3 lack of evidence, listen to the law and give both the
4 State and the Defendant a fair and impartial trial?

5 JUROR: Yes, sir.

6 THE COURT: You're qualified to serve. Thank you.

7 JUROR: Yes, sir. Thank you.

8 THE COURT: She's qualified to serve.

9 THE BAILIFF: Fifty-six, Darl Douglas.

10 THE COURT: Yes, sir. Who do you know?

11 JUROR: I know Walters and Lemon.

12 MR. REDMOND: They are deputies.

13 THE COURT: All right. Okay, if called upon to serve
14 on this jury could you set aside the fact you know them
15 and ---

16 JUROR: No, sir. I've known them for a long time.

17 THE COURT: Okay. If called upon to evaluate their
18 testimony for truthfulness by virtue of the fact that you
19 know them would you give any greater weight to what they
20 have to say?

21 JUROR: I might do it because I know them.

22 THE COURT: Thank you. How closely do you know them?

23 JUROR: Like I said It's been 20 years.

24 THE COURT: Okay. I guess you deal with them I
25 imagine one weekend a month and two weeks in the summer

Voir Dire of the Jury

25

1 and you feel very, very close to them?

2 JUROR: Yes, sir.

3 THE COURT: All right, sir. Given that I'm going to
4 excuse you for purpose of this trial. I'm going to ask
5 you to have a seat and do not leave the courtroom. Have a
6 seat here in the courtroom. He's excused.

7 THE BAILIFF: Angela Williams, Number 217.

8 THE COURT: Very good. Yes, ma'am, your name and
9 number.

10 JUROR: I know Charles Lemon.

11 THE COURT: Who do you know?

12 JUROR: Charles Lemon.

13 THE COURT: Charles Lemon. How well do you know him?

14 JUROR: That's my cousin.

15 THE COURT: Okay. How close? Is it first cousin?

16 JUROR: Um hum.

17 THE COURT: Okay. All right. I'm going to excuse
18 you for the purpose of this trial.

19 JUROR: Okay.

20 THE COURT: Thank you.

21 THE BAILIFF: Cora Williams, Number 218.

22 THE COURT: Yes, ma'am.

23 JUROR: Charles Lemon is my cousin.

24 THE COURT: Is he your first cousin? You know a lot
25 of times people claim first cousin.

1 JUROR: Well, he's close.

2 THE COURT: You're close?

3 JUROR: Well, maybe like first cousins.

4 THE COURT: Okay. Well, that's very important for us
5 to know that. Is it ---

6 JUROR: My mom and him is first cousins.

7 THE COURT: Well, that makes it second cousins. All
8 right. If called upon to serve on this jury could you set
9 aside that relationship and give both the State and the
10 Defendant a fair and impartial trial?

11 JUROR: Yes, sir.

12 THE COURT: You could? Very good. You're qualified
13 to serve.

14 JUROR: And I know Perry Williams. I went to school
15 with him.

16 THE COURT: All right. If called upon to serve on
17 this jury could you sit that relationship aside and
18 evaluate his testimony just the same as you do other
19 testimony?

20 JUROR: Yes, sir.

21 THE COURT: You're qualified to serve. Thank you.

22 THE BAILIFF: Debbie Owens, Number 152.

23 THE COURT: Yes, ma'am. Your full name.

24 JUROR: Debbie P. Owens.

25 THE COURT: Yes, ma'am. All right. And who do you

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1 know?

2 JUROR: Shawn Feldner. I only wanted to bring it up.
3 Him and his wife and their children rented a house from my
4 husband and I about four years ago. Four or five years
5 ago.

6 THE COURT: Y'all have an ongoing business
7 relationship with him now?

8 JUROR: No, sir. We did attend the same church for a
9 while together a few years back also, but that's all.

10 THE COURT: But it's not the type thing where he
11 comes and eats lunch with you during the day?

12 JUROR: No, sir.

13 THE COURT: If called upon to serve on this jury
14 could you sit and listen to the evidence presented in this
15 case or the lack of evidence, the law as I charge it to
16 you, and give both the State and the Defendant a fair and
17 impartial trial?

18 JUROR: Yes, sir, I believe so.

19 THE COURT: You're qualified to serve. Thank you.
20 All right. Every good. Mr. Redmond, I'm going to ask
21 that you stand right where you are and identify yourself
22 and the members of your office.

23 MR. REDMOND: Thank you, Your Honor. May it please
24 the Court. Ladies and gentlemen, my name is Kernard
25 Redmond. I am a Deputy Solicitor here in the Fourth

1 Circuit which is comprised of Marlboro County, of course,
2 Chesterfield County where I'm headquartered, Dillon and
3 Darlington. I work at the pleasure of our Solicitor, Will
4 Rogers. And I will let Ms. [REDACTED] Lee -- Ms. Johnson Lee
5 introduce herself.

6 MS. JOHNSON LEE: My name is Mary Thomas Johnson Lee.
7 I work here in Marlboro County, and I also work with
8 Chesterfield County. I work for Solicitor William Rogers.

9 THE COURT: All right. Is anyone related by blood or
10 marriage to either of these lawyers? You have a close
11 social, business, personal relationship we them? If so,
12 please stand. Yes, sir. If you could come forward.

13 THE BAILIFF: Number 111, Ronnie Knight.

14 THE COURT: What relationship are you to her?

15 JUROR: Her mother and my mother are sisters.

16 THE COURT: Okay. I think given the nature of this
17 case and the close relationship I'm going to excuse you
18 from the purpose of this trial. Thank you very much. I'm
19 going to ask you to have a seat out there until we get
20 finished. Thank you.

21 Mr. Jones, would you stand where you are, face the
22 jury panel and introduce yourself and the members of your
23 office.

24 MR. JONES: My name is Rick Jones. I'm from
25 Hartsville and I am Deputy Public Defender for the Fourth

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1 Circuit which covers as Mr. Redmond said the four counties
2 in our circuit. I will be trying the case by myself.
3 However, the appointed public defender for Marlboro County
4 is Ms. Julie Wooten.

5 THE COURT: Very good. Anyone related by blood or
6 marriage? You have a close social, business, personal
7 relationship with either of these lawyers? If so, please
8 stand. Yes, sir. If you could come forward.

9 THE BAILIFF: Craig Bradley, Number 18.

10 THE COURT: Yes, sir. Who do you know.

11 JUROR: I had Rick Jones as my lawyer at one time.
12 He helped me get custody of my children.

13 THE COURT: Okay. Do you have an ongoing case with
14 him right now?

15 JUROR: Oh, no, sir.

16 THE COURT: If called upon to serve on this jury
17 could you listen to the evidence presented in this case or
18 the lack of evidence and the law as I charge it to you and
19 give both the State and the Defendant a fair and impartial
20 trial?

21 JUROR: I think I could be fair, but I really like
22 him.

23 THE COURT: All right. You know, really and truly,
24 these are important matters and really the issue is
25 whether or not you could be fair and impartial. And

1 that's going to require that you sit and listen to the
2 evidence and determine whether or not telling -- determine
3 who is telling the truth and what the true facts are. And
4 that's something you're going to have to answer. Could
5 you be fair and impartial.

6 JUROR: I probably couldn't cause when I got the
7 lawyer I got him. He just did the right thing. I just
8 like him.

9 THE COURT: Okay. All right. In view of that we'll
10 just excuse you for purposes of this trial.

11 JUROR: Im sorry about that.

12 THE COURT: That's all right.

13 JUROR: Call me another time.

14 THE COURT: All right. Very good. Good to see you.
15 Has any member of the jury panel formed or expressed an
16 opinion about any issue or matter involved in the case?
17 If so, please stand. Yes, ma'am. You've been excused.
18 You may have a seat. You may just have a seat. We've
19 already dealt with you. We're in good shape. All right.

20 Is any member of the jury panel aware of any bias or
21 privilege towards either the State or the Defendant in
22 this case? If so, please stand. No response.

23 Is any member of the jury panel who has been a member
24 or contributor of any group whose primary concern is the
25 promotion of law enforcement? I think every sheriff's

1 department in South Carolina has a Sheriff's Department
2 Association. They're organizations like Mother Against
3 Drunk Driving, Students Against Drunk Driving. C.A.V.E,
4 Citizens Against Violent Crimes. A number of these type
5 organizations. And my question to you is are you a member
6 of any of those organizations? Do you contribute money to
7 them? And if so, please stand. No response.

8 Does any member of the jury panel know of any reason
9 whatsoever why you could not serve as a juror in this case
10 with particular emphasis being placed on your ability to
11 be fair and impartial to both the State and the Defendant?
12 No response.

13 Any additional questions from the State?

14 MR. REDMOND: None from the State, Your Honor.

15 THE COURT: Any from Defense?

16 MR. JONES: Your Honor, if you could ask -- I would
17 request that you ask Seven and Eight off of my voir dire.

18 THE COURT: Has any member of the jury panel ever
19 been a victim of a violent crime? If so, please stand.
20 Yes, ma'am. If you could come forward.

21 THE BAILIFF: Kathy Moody, Number 141.

22 THE COURT: Yes, ma'am.

23 JUROR: In 1999 my fiance was murdered and we had a
24 trial here at that time.

25 THE COURT: Okay. What was the outcome of that case?

1 JUROR: He was given 12 years. I don't think it
2 would bother me.

3 THE COURT: That's the important thing is -- I know
4 that was a very different situation. But my question to
5 you is could you set that experience aside and give both
6 the State and the Defendant a fair and impartial trial
7 which will require that you listen to the evidence and
8 determine whether the State has proved him guilty beyond a
9 reasonable doubt.

10 JUROR: I don't know.

11 THE COURT: Okay. All right. You think that by
12 virtue of the fact that you know the family member would
13 cause you to lean more towards the State in your
14 evaluation of the evidence?

15 JUROR: I think I might. I mean I'm just being
16 honest.

17 THE COURT: Okay.

18 JUROR: Especially if it was the date rape.

19 THE COURT: All right. Given your situation I'll
20 excuse you for purpose of this trial. Thank you very
21 much. Anything further from the State?

22 MR. REDMOND: Nothing further from the State.

23 THE COURT: Anything further from the Defense?

24 MR. JONES: Nothing further from the Defense.

25 SELECTION OF THE JURY

Selection of the Jury

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1 THE COURT: Okay. Strikes are five and ten; is that
2 correct?

3 MR. REDMOND: Yes, sir.

4 THE COURT: Five and ten.

5 MR. JONES: Your Honor, may I get my client?

6 THE COURT: Yes. Ladies and gentlemen of the jury
7 panel, the Clerk is drawing from the jury panel and doing
8 it in a random fashion. The computer takes just a moment
9 to do that. Bear with us and we'll -- I anticipate that
10 before twelve o'clock noon we'll have the jury selected.
11 The balance of you will be released for the week.

12 MR. JONES: Your Honor, may we approach.

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held off the
15 record, but out of the presence of the jury.)

16 THE COURT: Ladies and gentlemen of the jury panel,
17 we're going to give you about a five minute recess in
18 order to refresh ourselves. We're going to be taking up a
19 legal matter outside of your presence. I'm going to ask
20 the bailiff if -- everyone that's on the jury needs to be
21 out of the courtroom and take this opportunity to use the
22 restroom and refresh yourselves and be back within about
23 ten minutes.

24 I'm going to ask the bailiff to make sure that nobody
25 comes back in until we have concluded our matter.

1 (WHEREUPON, the jury pool was excused from the
2 courtroom.)

3 COLLOQUY

4 THE COURT: Mr. Dupree, I'm going to ask that you
5 stand right where you are. I'm Michael Nettles. I'm a
6 judge for the 12th Judicial Circuit, and I'm going to be
7 holding court here for Marlboro County this week. And I'm
8 going to be presiding over your case. And one of the
9 things that I'm require to do is to ensure that you get a
10 fair trial. Do you understand that?

11 MR. DUPREE: Yes, sir.

12 THE COURT: All right. And I have -- your lawyer in
13 the presence of Mr. Redmond has indicated that there is
14 some concerns with regard to your representation. I'll be
15 glad to hear any concerns that you have in that regard.

16 MR. DUPREE: Yes, sir. Well, technically, I haven't
17 really spoke with my attorney as far as representing my
18 case and the matters in this case. And I did, however,
19 file with you a motion to the Clerk of Court which was
20 sent back because of the attorney that I do have now. And
21 I asked him to file the motion. He refused to file.
22 However, I write the Disciplinary Council of the Supreme
23 Court in reference to my attorney asking that he be
24 removed from the case because of lack of interest that he
25 showed in this case as far as in this case -- I mean I

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1 haven't really spoke to this attorney none, I mean, in
2 reference to this case besides him asking me a question
3 three times as him coming to see me three times. Him
4 asking me a question, the same question, about a statement
5 or confession that I made.

6 I mean, Your Honor, like I said he showed very lack
7 interest in this case, and I feel that he's not in my best
8 interest as far as representation. I mean like I said,
9 however, I did file some motions that was sent back to me
10 which I have a proof of document.

11 THE COURT: All right. Well, let's deal with the
12 issue of representation first and then we'll deal with any
13 motions that you might have. Even though the Clerk of
14 Court might have returned those motions to you I'll be
15 happy to hear those momentarily, but I need to hear from
16 Mr. Jones, and you can have a seat, Mr. Dupree.

17 Have a seat there, and I'm going to ask Mr. Jones to
18 to address the issue about the preparation that you made
19 in this case, whether or not you feel well prepared with
20 regard to trying this case, and what your position is to
21 whether or not you have been disinterested in this case.

22 MR. JONES: Yes, sir. Be glad to. Judge, a little
23 background. I am Mr. Dupree's fourth attorney.
24 Mr. Brandon Steen was the Marlboro County Public Defender
25 that transferred or actually took another job in

1 Lancaster. So Ms. Julie Wooten became his attorney, and
2 he was, up to the time of appointment, but she was
3 assisted by Mr. Matt Swilley who is the Chesterfield
4 County Public Defender. They were relieved back in the
5 summer. I was appointed sometime in July. Shortly after
6 that I began trying to talk to Mr. Dupree. It was
7 considerably more than three times.

8 Mr. Dupree is absolutely correct. I've gotten very
9 little in the way of conversation. Pertinent issues
10 dealing with the case, he has been completely
11 uncooperative as far as trying to assist me with the
12 preparation of this defense. I have -- I spoke to him.
13 The Disciplinary Council, that matter has been addressed
14 and dismissed.

15 He has not cooperated when I have requested
16 information, just conversation, concerning the case. Very
17 uncooperative. At some point in time I made the decision
18 that I had to prepare for the case with or without his
19 assistance. I did not need -- I would very much have
20 liked to have had his cooperation. As far as preparation
21 in the case I have prepared very hard for this case very
22 diligently.

23 I have reviewed all the evidence. Mr. Dupree is
24 totally convinced that the State is hiding evidence from
25 him. I have reviewed all the evidence with the

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1 Solicitor's Office and the Sheriff's Office. I do not
2 share the same concerns that he has concerning the fact
3 that the law enforcement in Marlboro County has not turned
4 over all the evidence..

5 I have worked closely with Mr. Redmond and Ms.
6 Johnson-Lee. I'm prepared, Your Honor. I have been
7 prepared. I told him on numerous occasions that I'm
8 preparing whether or not he's helping me.

9 THE COURT: All right.

10 MR. JONES: So.

11 THE COURT: All right. Mr. Dupree, if you could
12 stand for just one moment. Mr. Dupree, obviously, in the
13 United States of America if you are charged with a crime
14 we -- the Court system does not allow someone to be hauled
15 into Court and face charges without representation.
16 Certainly not with charges of this magnitude.

17 And if you can't afford a lawyer one will be
18 appointed for you. If you're not satisfied with the
19 lawyer that's appointed to you then you can retain your
20 own lawyer have you made an effort to retain your own
21 lawyer?

22 MR. DUPREE: Yes, sir. At the moment I am trying,
23 Your Honor. As far as him saying that I allege he
24 misplaced the indictments ---

25 THE COURT: Now, now, now, no. We're talking about

1 representation now. We're not talking about the motions.
2 Have you tried to -- have you retained a private lawyer?

3 MR. DUPREE: I have spoke to several of them, sir.
4 At the moment, once again, I am trying to retain a paid
5 attorney. Yes, sir.

6 THE COURT: How long has this case been pending, Mr.
7 Redmond?

8 MR. REDMOND: This incident occurred in -- September
9 the 8th of 2013.

10 THE COURT: Okay.

11 MR. REDMOND: It's been in excess of a year.

12 THE COURT: All right. And you've been trying for a
13 year to retain a lawyer?

14 MR. DUPREE: Actually, the only person that I have --
15 I mean that is really financially stable is my fiance, and
16 at the moment -- well, at that time, Your Honor, she was
17 off on sick leave. And she just had a minor in her sleep,
18 and so she has been having some few issues that, yes, Your
19 Honor, she I did try to speak with a paid attorney, yes,
20 sir.

21 THE COURT: Okay. Well, in view of the fact that
22 it's been pending for over a year, you know, that, you
23 know, you had ample opportunity to do that if that's what
24 you wanted to do. As a general rule if you're appointed
25 if you can't afford a lawyer and the Court appoints you

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1 one and is that a competent lawyer that's pretty much what
2 you get. You can't tell the Court which lawyer you want
3 if you're indigent.

4 And you apparently have been through at least three
5 lawyers before Mr. Jones. And I personally have dealt
6 with Mr. Jones for the years that I have been on the bench
7 and he's very qualified. Very competent lawyer. He tells
8 me that he's prepared for this case, and I believe him.

9 My question to you is you've got two choices at this
10 juncture. You can either try the case by yourself. You
11 have an absolute constitutional right to do that by
12 yourself. I can't keep you from doing that. This is your
13 day in court. If you want to try it yourself you can.

14 I would admonish you that that probably not a good
15 idea to do that because I would anticipate that you have
16 not been to law school, have you?

17 MR. DUPREE: Sir?

18 THE COURT: Have you been to law school?

19 MR. DUPREE: No, sir. I feel that I know more about
20 this case to represent myself. I will be willing to
21 represent myself, sir. Yes, sir.

22 THE COURT: All right. Do you want Mr. Jones to
23 assist you in any way or do you want to do it all by
24 yourself?

25 MR. DUPREE: I mean if he can be available to assist

1 me that will be all right. I prefer to represent myself
2 if this case is going to go on. Yes, sir.

3 THE COURT: All right. You understand that Mr. Jones
4 has tried cases -- I'm not sure how old he is.. He looks
5 like he's older than me. How old are you?

6 MR. JONES: Sixty-two, Your Honor.

7 THE COURT: Sixty-two. So you've been doing this for
8 a how long?

9 MR. JONES: One year short of 40.

10 THE COURT: Mr. Dupree, one of the things I think
11 that you need to understand is a lot of times people that
12 get charged with a crime they want to go and hire a paid
13 lawyer, and there are a lot of real good criminal defense
14 lawyers who are paid lawyers. Be the person in a lot of
15 respects the people who do nothing but criminal defense
16 work and those who are in the Public Defender's Office
17 have the most experience.

18 Mr. Jones is a answer good one. I've seen him try
19 cases before. I think that it would be an extreme error
20 in judgment for you to represent yourself. I don't think
21 it's a good idea. I don't think you ought to the that,
22 but once again, you have an absolute right to do that.

23 If you go forward and you represent yourself then
24 you're going to be charged with the responsibility of
25 knowing the substantive law in South Carolina, the

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1 procedural law and the consequences of your decision.
2 You're not -- I can say with absolute certainty that
3 you're not equipped to do that, but at the same time I
4 can't make you use the services of Mr. Jones.

5 And I want you to think hard about this, and I'm
6 going to ask you the question. You want me to discharge
7 Mr. Jones?

8 MR. DUPREE: Yes, sir.

9 THE COURT: All right. And you want to go forward on
10 your own?

11 MR. DUPREE: Yes, sir.

12 THE COURT: All right. What I'm going to require --
13 what I'm going to ask that you do is you have a seat on
14 the front row, and in the event he wants to confer with
15 you he can do that. If he does not want to confer with
16 you he doesn't have to. Does that sound fair with you,
17 Mr. Dupree?

18 MR. DUPREE: Yes, sir.

19 THE COURT: And if you want his services all you have
20 to do is look back there and say, "I need some help." Is
21 that what you want to do?

22 MR. DUPREE: That's fine with me, sir.

23 THE COURT: All right. That's what we will do.

24 MR. JONES: Judge, might I ask one additional thing?

25 THE COURT: Yes.

1 MR. JONES: Ms. Wooten has probably as much knowledge
2 prior to her dismissal in this case as I have. May she
3 be -- may she sit with me as far as assisting Mr. Dupree
4 if he wants to?

5 THE COURT: That's -- Mr. Dupree, do you have an
6 objection to that?

7 MR. DUPREE: No, sir.

8 THE COURT: All right. Do you want them to sit at
9 the table with you or do you want them to sit in the front
10 row?

11 MR. DUPREE: I don't want -- whatever is convenient
12 for them. I guess the table will be fine.

13 THE COURT: Yes, ma'am. If you can have a seat
14 right -- you can sit right in the middle of them where you
15 would have equal access to them. Now, Mr. Dupree, when we
16 start this matter there are some legal matters that are
17 going to have to be taken up. You can ask questions. You
18 can defer to them. Whatever you want to do. It's your
19 call. You understand that.

20 MR. DUPREE: Yes, sir.

21 THE COURT: All right. And once we finish the legal
22 matters, once we select the jury and we start the trial of
23 the case the lawyers typically stand up in summary fashion
24 and give an opening statement. Which kind of sets forth
25 what your position is and what defenses you might have.

1 Do you want to do the opening statement or do you
2 want one of these lawyers to do it?

3 MR. DUPREE: It mean I didn't have too much knowledge
4 of that so I guess one of them could do the opening
5 statement, but you know, yeah, they can do they opening
6 statement.

7 THE COURT: Okay. Very good. And I tell you we'll
8 deal with it piecemeal. They're here to help you and
9 we'll, as we're dealing with the legal matters, you can
10 tell them that you want them to examine them or not. Do
11 you understand that?

12 MR. DUPREE: Yes, sir.

13 THE COURT: Once they start there is only going to be
14 one person. Look at me, Mr. Dupree. Once we start a
15 witness, for instance, and you start asking the questions
16 these lawyers aren't going to be able to do it. There is
17 going to be one person asking one witness questions. You
18 understand that?

19 MR. DUPREE: Yes, sir.

20 THE COURT: All right. So it isn't going to be like
21 you get to ask questions, Mr. Jones get to ask questions
22 and Ms. Wooten. It doesn't work like that. One lawyer,
23 one question per witness. You understand that?

24 MR. DUPREE: Yes, sir.

25 THE COURT: All right.

1 MR. DUPREE: May I say something?

2 THE COURT: Yes.

3 MR. DUPREE: Okay. You said the motions will be
4 heard after we pick the jury?

5 THE COURT: That is correct.

6 MR. DUPREE: As far as the missing documents and the
7 defects in the indictment, right?

8 THE COURT: Absolutely. And I'm going to allow you
9 to present whatever motions you have in that regard. What
10 we're going to do is we're going to draw the jury first.
11 And that is a technical process that's you're probably not
12 very familiar with. These lawyers are here to assist you
13 in that regard. But you make the ultimate decision as to
14 which jurors you pick. You understand that?

15 MR. DUPREE: Yes, sir.

16 THE COURT: All right. Well, have a seat and we'll
17 proceed forward. Are you ready for the jury?

18 MR. REDMOND: Judge, before the jury comes in there
19 is one issue.

20 THE COURT: Hang on just one second.

21 MR. REDMOND: This is one issue related to the jury,
22 and I guess I'll just do it from here. There is a
23 question of 187 who may have I think one of the bailiffs,
24 if I'm not correct -- one of the officers is aware that he
25 actually knows the defendant; that being 187, Derrick

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1 Simmons, has indicated to Deputy Liner that he knows one
2 of the -- he knows the defendant, actually. And he did
3 not disclose that at the time. I don't know why or
4 anything. I was just made aware.

5 THE COURT: Okay. Let's have that juror come in if
6 we could. Just that one juror. Yes, sir. You can come
7 right forward to this microphone right here. How are you
8 doing today?

9 JUROR: I'm doing all right. How about you?

10 THE COURT: All right. What's your full name?

11 JUROR: Derrick Simmons.

12 THE COURT: Mr. Simmons, the bailiff has indicated to
13 me that you have -- after seeing the Defendant, Mr.
14 Derrick Dwayne Dupree, that you know him; is that correct?

15 JUROR: Yes, sir.

16 THE COURT: How well do you know him?

17 JUROR: I been knowing him -- I know his mother and
18 father, too.

19 THE COURT: Okay.

20 JUROR: But when you asked that question I didn't
21 realize who it was until y'all brought him out.

22 THE COURT: Okay. If called upon to serve on this
23 jury could you give both the State and the Defendant a
24 fair and impartial trial?

25 JUROR: Well, I haven't seen him in so long, but when

Selection of the Jury (continued)

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1 I did saw him I forgot about everything that happened.

2 But, yeah, I knew him and I know his mother and I know is
3 father and his sister.

4 THE COURT: Would that put you in a position where it
5 would be difficult for you to be fair and impartial or
6 could you do it?

7 JUROR: It would be difficult.

8 THE COURT: All right. Based on that I'm going to
9 excuse you for purposes of this trial.

10 JUROR: All right.

11 THE COURT: Thank you. All right. We're ready for
12 the balance of the jury panel.

13 (WHEREUPON, the jury pool enters the courtroom at
14 11:44 a.m.)

15 SELECTION OF THE JURY (continued)

16 THE COURT: Madam Clerk, you're recognized. You may
17 call the first juror. Ladies and gentlemen of the jury
18 panel, I'm going to ask if you could when you name is
19 called to come forward in front of this micro phone and
20 face the back of the courtroom. Bring you're belongings
21 with you. Any personal belongings you have with you bring
22 them with you to the front of the courtroom.

23 CLERK OF COURT: Number Eight, Michael R. Armfield,
24 Jr.

25 THE COURT: Strikes are five and ten. Five and ten.

Selection of the Jury (continued)

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1 CLERK OF COURT: Mr. Armfield, if you would come
2 right here in front of the microphone and turn and face
3 the back of the courtroom.

4 MR. REDMOND: Beg the Court's indulgence. Please
5 present Mr. Armfield.

6 CLERK OF COURT: What says the Defendant?

7 MR. JONES: Please swear the juror.

8 CLERK OF COURT: Mr. Armfield, please have a seat in
9 the jury box. 109, Jessica M. King. What says the State?

10 MR. REDMOND: Beg the Court's indulgence. Please
11 present Ms. King.

12 CLERK OF COURT: What says the Defendant?

13 MR. JONES: Swear the juror.

14 CLERK OF COURT: Ms. King, please have a seat in the
15 jury box. Number 168, Yolanda R. Quick. What says the
16 State?

17 MR. REDMOND: Please present Miss Quick.

18 CLERK OF COURT: What says the Defendant?

19 MR. JONES: Please swear the juror.

20 CLERK OF COURT: Ms. Quick, please have a seat in the
21 jury box. Number 162, Donald R. Powers. What says the
22 State?

23 MR. REDMOND: Beg the Court's indulgence. Please
24 present Mr. Powers.

25 CLERK OF COURT: What says the Defendant?

Selection of the Jury (continued)

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1 MR. JONES: Please excuse the juror from the trial of
2 this case.

3 CLERK OF COURT: You may return to your seat. Number
4 82, Eddie Ruth Green. What says the State?

5 MR. REDMOND: Beg the Court's indulgence. Please
6 present Ms. Green.

7 CLERK OF COURT: What says the Defendant?

8 MR. JONES: Please excuse the juror.

9 CLERK OF COURT: Please return to your seat. 184,
10 Meriba C. Scoggins. What says the State?

11 MR. REDMOND: Beg the Court's indulgence. Please
12 present Ms. Scoggins.

13 CLERK OF COURT: What says the Defendant?

14 MR. JONES: Please excuse the juror from the trial of
15 this case.

16 CLERK OF COURT: 95, Rennie Owens Hunsucker. What
17 says the State?

18 MR. REDMOND: Beg the Court's indulgence. Please
19 present Ms. Hunsucker.

20 CLERK OF COURT: What says the Defendant?

21 MR. JONES: Please excuse the juror from the trial of
22 this case.

23 CLERK OF COURT: Please return to your seat, please.
24 Forty-three, Floyd L. Coxe. What says the State?

25 MR. REDMOND: Please present Mr. Coxe.

Selection of the Jury (continued)

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1 CLERK OF COURT: What says the Defendant?

2 MR. JONES: Please excuse this juror from the trial
3 of this case.

4 CLERK OF COURT: Fifty-seven, Karen D. Douglas. What
5 says the State?

6 MR. REDMOND: Please present Ms. Douglas.

7 CLERK OF COURT: What says the Defendant?

8 MR. JONES: Please swear the juror.

9 CLERK OF COURT: Miss Douglas, please have a seat in
10 the jury box. 218, Cora D. Williams. What says the
11 State?

12 MR. REDMOND: Please present Ms. Williams.

13 CLERK OF COURT: What says the Defendant.

14 MR. JONES: Please swear the juror.

15 CLERK OF COURT: Please have a seat in the jury box.
16 155, Shaheim M. Pauling. What says the State?

17 MR. REDMOND: Beg the Court's indulgence. Please
18 excuse Mr. Pauling from this trial.

19 CLERK OF COURT: 148, Katie K. Norris. What says the
20 State?

21 MR. REDMOND: Beg the Court's indulgence. Please
22 present Ms. Norris.

23 CLERK OF COURT: What says the Defendant?

24 MR. JONES: Please swear the juror.

25 CLERK OF COURT: Please have a seat in the jury box.

1 115, Georgia Leviner. What says the State?

2 MR. REDMOND: Beg the Court's indulgence. Please
3 present Miss Leviner. Excuse me.

4 CLERK OF COURT: What says the Defendant.

5 MR. JONES: Please excuse the juror from the trial of
6 this case.

7 CLERK OF COURT: Please return to your seat. Thank
8 you. Number 80, Keith L. Grant. What says the State?

9 MR. REDMOND: Beg the Court's indulgence. Please
10 present Mr. Grant.

11 CLERK OF COURT: What says the Defendant?

12 MR. JONES: Please swear the juror.

13 CLERK OF COURT: Please have a seat in the jury box.
14 Sixty-eight, Joseph Fowler. What says the State?

15 MR. REDMOND: Beg the Court's indulgence. Please
16 present Mr. Fowler.

17 CLERK OF COURT: What says the Defendant?

18 MR. JONES: Please excuse this juror from the trial
19 of this case.

20 CLERK OF COURT: Please return to your seat. Number
21 20, Janet Bright. What says the State?

22 MR. REDMOND: Beg the Court's indulgence. Please
23 excuse Miss Bright from this trial.

24 CLERK OF COURT: Please return do your seat. 116,
25 Curtis Little. What says the State?

Selection of the Jury (continued)

51

1 MR. REDMOND: Beg the Court's indulgence. Please
2 excuse Mr. Little from this trial.

3 CLERK OF COURT: Please return to your seat.
4 Thirteen, Audrey M. Blackmon. What says the State?

5 MR. REDMOND: Beg the Court's indulgence. Please
6 present Miss Blackmon.

7 CLERK OF COURT: What says the Defendant?

8 MR. JONES: Swear the juror.

9 CLERK OF COURT: Have a seat in the jury box, please.
10 128, Brock M. McCollum. What says the State?

11 MR. REDMOND: Beg the Court's indulgence. Please
12 present Mr. McCollum.

13 CLERK OF COURT: What says the Defendant?

14 MR. JONES: Please swear the juror.

15 CLERK OF COURT: Have a seat in the jury box. 151,
16 Charleston Odom. What says the State?

17 MR. REDMOND: Beg the Court's indulgence? Please
18 present Mr. Odom.

19 CLERK OF COURT: What says the Defendant?

20 MR. JONES: Please excuse this juror from the trial
21 of this case.

22 CLERK OF COURT: Please return to your seat. Number
23 11, Linda T. Bethea. What says the State?

24 MR. REDMOND: Beg the Court's indulgence. Please
25 present Miss Bethea.

Selection of the Jury (continued)

52

1 CLERK OF COURT: What says the Defendant?

2 MR. JONES: Please excuse this juror.

3 CLERK OF COURT: Please return to your seat. 110,
4 Charles Kirby. What says the State?

5 MR. REDMOND: Beg the Court's indulgence. Please
6 present Mr. Kirby.

7 CLERK OF COURT: What says the Defendant?

8 MR. JONES: Please excuse this juror from the trial
9 of this case.

10 CLERK OF COURT: Please return to your seat.

11 MR. REDMOND: Madam Clerk, I've got the count at ten
12 and three.

13 THE COURT: It's ten and three. Number 196, Genetta
14 V. Stanton. What says the State?

15 MR. REDMOND: Beg the Court's indulgence. Please
16 present Miss Stanton.

17 CLERK OF COURT: Any cause for challenge from the
18 Defendant?

19 MR. JONES: There is none.

20 CLERK OF COURT: Okay. Please have a seat in the
21 jury box. 174, Carrole Rivers. What says the State?

22 MR. REDMOND: Beg the Court's indulgence. Please
23 present Ms. Rivers.

24 CLERK OF COURT: Any cause for challenge from the
25 Defendant?

Selection of the Jury (continued)

53

1 MR. JONES: There is not.

2 CLERK OF COURT: Please have a seat in the jury box.

3 220, Nannie Williams. What says the State?

4 MR. REDMOND: Beg the Court's indulgence. Please
5 present Ms. Williams.

6 CLERK OF COURT: Any cause for challenge from the
7 Defendant?

8 MR. JONES: There is not.

9 CLERK OF COURT: Have a seat in the jury box, please.
10 37, Larry Chestnut. What says ---

11 MR. REDMOND: I've got 12.

12 MR. JONES: I've got 12, too.

13 CLERK OF COURT: Wait a minute. Yeah. Okay.

14 THE COURT: Two alternates. Strikes are one and two
15 on each alternate.

16 CLERK OF COURT: Okay. This will be the first
17 alternate.

18 MR. JONES: That number was?

19 CLERK OF COURT: Number 37, Larry Chestnut.

20 MR. REDMOND: Beg the Court's indulgence. Please
21 present Mr. Chestnut.

22 CLERK OF COURT: And the Defendant.

23 MR. JONES: Please excuse the juror from the trial of
24 this case.

25 CLERK OF COURT: Please return to your seat. Number

1 100, Frances Jacobs. What says the State?

2 MR. REDMOND: Please present Ms. Jacobs.

3 CLERK OF COURT: What says the Defendant?

4 MR. JONES: Please excuse the juror from the trial of
5 this case.

6 CLERK OF COURT: Please return to your seat. Number
7 145, Travian Munley-Pearson. What says the State?

8 MR. REDMOND: Beg the Court's indulgence. I'm sorry.
9 I hope I'm pronouncing this right. Please present Mr.
10 Munley-Pearson.

11 CLERK OF COURT: Any cause for challenge from the
12 Defendant?

13 MR. JONES: There is not.

14 CLERK OF COURT: Okay. Please have a seat in the
15 jury box. Second alternate, Number 73, George Garner.
16 What says the State?

17 MR. REDMOND: Beg the Court's indulgence. Please
18 present Mr. Garner.

19 CLERK OF COURT: What says the Defendant?

20 MR. JONES: Please excuse Mr. Garner from the trial
21 of this case.

22 CLERK OF COURT: Please return to your Seat. Number
23 152, Debbie Owens. What says the State?

24 MR. REDMOND: Beg the Court's indulgence. Please
25 present Ms. Owens.

Selection of the Jury (continued)

55

1 CLERK OF COURT: What says the Defendant?

2 MR. JONES: Please excuse the juror from the trial of
3 this case.

4 CLERK OF COURT: Please return to your seat. 102,
5 Jeremiah Johnson. What says the State?

6 MR. REDMOND: Beg the Court's indulgence. Please
7 excuse Mr. Johnson from this trial.

8 CLERK OF COURT: Please return to your seat. 74,
9 Kenneth Garner. What says the State?

10 MR. REDMOND: No cause.

11 CLERK OF COURT: Please have a seat in the jury box,
12 Mr. Garner.

13 THE COURT: Any objection from the State with regard
14 to the jury selection process?

15 MR. REDMOND: Beg the Court's indulgence just a
16 moment. No motions, Your Honor.

17 THE COURT: Any objection with regard to the jury
18 selection process from the Defense?

19 MR. JONES: No, sir.

20 THE COURT: All right. Ladies and gentlemen in the
21 balance of the jury panel, we're going to release you for
22 the week. We've got good news. You will be paid
23 handsomely for your services. How many is that, Madam
24 Clerk?

25 CLERK OF COURT: \$10 a day.

1 THE COURT: \$10 a day, and probably \$.10 a mile. At
2 any rate thank you for being here. You've earned a three
3 year exemption. If called upon to serve in this court
4 within the next three years you can exercise an exemption
5 if you elect not to serve. It doesn't apply to federal
6 court, magistrate's court or municipal court. But thank
7 you so much for your time and your attention and you're
8 free to leave for the week.

9 (WHEREUPON, the jury pool is excused from the
10 courtroom at 12:17 p.m.)

11 COLLOQUY

12 THE COURT: Let's get that door if we could. All
13 right. Miss Hunsucker, Rennie Hunsucker, is that you?
14 What is your name? That's right. Let's see. What's your
15 name, the lady that works for McLeod?

16 JUROR: It's Jessica -- it's McDuffie now.

17 THE COURT: That's right. I'm going to ask if you
18 could serve as the forelady of this jury. I'm going to
19 ask that you exchange chairs with this young lady right
20 here.

21 Yes, ma'am, you are going to serve as the forelady of
22 this jury, and you like everyone else when it comes time
23 to deliberate are going to have one voice and one voice.
24 However, you're going to have additional responsibilities
25 in that if there are any questions or concerns that

1 develop throughout the trial of this case I'm going to ask
2 that the jurors communicate those questions or concerns to
3 you. You reduce it to writing and give it to the bailiff.
4 If there is something I can help you with I'll be happy to
5 do so.

6 In addition to that when it comes time to deliberate
7 you're going to be called upon to preside over the
8 proceedings. Essentially, what that means is that you're
9 to ensure that everybody's voice is heard. I'm -- we're
10 going to release y'all for lunch here momentarily.

11 There are a number of things that I want to warn you
12 about. Number One is you haven't heard where these
13 allegations arose, but at some point in time during the
14 trial of this case you're going to hear where these
15 allegations arose. I'm not -- I'm going to ask, order and
16 direct that you not go by and do any independent
17 investigation with regard to any scenes or anything such
18 as that. You need to base your decision on what
19 transpires here in this courtroom.

20 Ladies and gentlemen of the jury, there is not
21 anything in this world that we can't look up on the
22 internet or what my children call, 'The Google'. You can
23 look up anything. There has been some coverage about this
24 case, and there will continue to be throughout the trial
25 of this case. I'm going to ask that you divert your

1 attention from that. If you read the newspaper in the
2 mornings and you see an article about this don't read it.

3 If you happen to be watching the news -- I don't see
4 any news cameras here, but if you happen to be watching
5 the news they might report something about it. I'm going
6 to ask that you divert your attention. Do not pay
7 attention to that because quite often the media gets it
8 wrong.

9 In my years practicing law and I've been on the bench
10 I've been -- participated in the proceedings and what they
11 say in the papers is entirely wrong. Ladies and gentlemen
12 of the jury, you're going to hear straight from the
13 horse's mouth the evidence in this case, and you need to
14 pay attention to what transpires here in this courtroom.

15 Do not do any independent investigation. Don't get
16 on the internet and look up personalities or look up --
17 you can plug names into the internet and do that. Don't
18 do that. You need to base your decision on what
19 transpires here in this courtroom. I'm going to confer
20 was counsel here momentarily. And then the Clerk is going
21 to administer the oath and then we're going to release you
22 for lunch and come back and begin the trial of this case.
23 Counsel, could you approach the bench for just one moment.

24 (WHEREUPON, a bench conference was held off the
25 record in the presence of the jury, but out of the

1 hearing of the jury.)

2 THE COURT: I'm going to ask you to raise your right
3 hand as the Clerk administers the oath.

4 (WHEREUPON, the jury panel was sworn in at
5 12:25 p.m.)

6 THE COURT: Please be seated. Madam Forelady, ladies
7 and gentlemen of the jury, you have taken the oath to
8 serve as the jury in this case, and that's a solemn oath
9 and an awesome responsibility that you have in this case.
10 This is an important case. It's important to the State of
11 South Carolina. It's important to the Defendant. I'm
12 going to ask that you pay very close attention as this
13 trial progresses.

14 In addition to that I'm going to order and instruct
15 and demand that y'all not discuss the case in any way,
16 shape or form until I give you instructions to do so at
17 the conclusion of the case. Don't -- I'm sure that when
18 y'all leave to go to lunch that your coworkers and family
19 members are going to say, 'tell me what's going on on jury
20 duty'. This is one occasion where you don't have to
21 answer your spouse, friends or coworkers cause I'm going
22 to order, instruct and demand that you not talk about it.

23 It might be that that person knows something about
24 the allegations in this case. It might be that they have
25 an opinion about this type litigation. You need to base

1 your decision on what transpires here. Do not discuss the
2 case amongst yourselves or anyone else. Madam Forelady,
3 there will be a time -- there will be times throughout the
4 trial of this case before we start back here at lunch
5 where y'all are gathered in the jury room by yourselves
6 and there will be times when we are taking up legal
7 matters outside of your presence and you're in the jury
8 room, I'm going to ask that you enforce the rule that
9 there will be no discussion about this case.

10 Don't talk about the witnesses. Don't talk about the
11 case in general. Don't talk about the lawyers. Don't say
12 anything about the case. You can talk about Carolina and
13 Clemson football. You can talk about the weather. You
14 can talk about whatever you want to talk about, but do not
15 talk about this case. You need -- before you're allowed
16 to engage in any deliberations you have to hear all the
17 evidence. All of it. And you have to hear the law as I
18 charge it to you. So do not begin discussing this case in
19 any way, shape or form.

20 Anything from the State before we release the jury
21 for lunch?

22 MR. REDMOND: Nothing from the State.

23 THE COURT: Anything from the Defense?

24 MR. DUPREE: No, sir.

25 THE COURT: All right. We're going to ask that y'all

1 be back at 2:30. We're going to be back at 1:30 to attend
2 to some legal matters. Hopefully be back right at 2:30 to
3 begin the trial of this case. I'm going to ask that you
4 be here on time. Do not discuss this case. Everybody
5 remain seated while the jury exits from the courtroom.

6 And the alternates, I'm going to ask you to remain in
7 the same two seats throughout the trial of this case.

8 (WHEREUPON, the jury panel was excused from the
9 courtroom at 12:29 p.m.)

10 THE COURT: Has the jury -- is the door closed?

11 MR. REDMOND: The door is still open, Your Honor.

12 THE COURT: Mr. Dupree, we're going to take a moment
13 to hear your motions, and be glad to hear them at this
14 time. Yes, sir.

15 MR. DUPREE: All right. May I speak with my lawyer,
16 please?

17 THE COURT: Yes, sir. Yes, you may. All right, Mr.
18 Dupree, you may stand, and I'll be glad to hear your
19 motions.

20 MR. DUPREE: Your Honor, I have -- I do have a motion
21 that I was asking before to the State. There are some
22 documents. It's a motion, I filed, Your Honor. I think it
23 was July the 2nd -- 1st 2014 which I presented -- which I
24 was pro se at the time, and I presented -- I submitted to
25 the State requesting the remainder of the evidence that

1 was missing from my documents, my Rule Five and discovery
2 under Brady v. Maryland, whereas I was missing documents
3 that was presented -- that was submitted to S.L.E.D. which
4 I can explain it better by showing y'all than speaking.

5 But, however, like I said I was missing documents
6 that was supposed to be submitted to S.L.E.D. which I
7 never received it. You know, missing documents submitted
8 to S.L.E.D. And so on and so forth.

9 However, Document 12 -- hold on a second, sir. My
10 assistant said it would be best if I just read it. But,
11 however, I have presented this to the State on July the
12 1st 2014 whereas is said, "Please take notice that the
13 Defendant above named hereby requests that the prosecutor
14 for the State of South Carolina produce and make available
15 to the Defense any and all documents.

16 Any and all documents, evidence and other information
17 pursuant to Rule Five South Carolina Rules of Criminal
18 Procedure and all evidence favorable to the Defendant
19 pursuant to the case of Brady v. Maryland, 373 U.S. 83,
20 1963 as what case and trust in the documents set forth
21 therein.

22 Whereas, at the moment -- at this time the Defendant
23 is requesting any and all evidence and any evidence that
24 has not been turned over to the Defendant which the
25 Defendant requests the following:

1 One, medical reports of the Defendant.

2 Two, any and all evidence that Defendant has
3 presented to S.L.E.D. as far as a buccal swab, clothes,
4 etc.

5 Three, all of S.L.E.D. documents Derrick Dupree sent
6 to S.L.E.D. and provided by S.L.E.D.

7 Four, Defendant requests for Items 13, 14 and 12
8 which I received the report back on 13, 14 and 12.
9 However, I still haven't received the document saying when
10 it was submitted to S.L.E.D. and who received it at
11 S.L.E.D.

12 Defendant requests documents and reports on Item
13 Four, letter that was sent and received by S.L.E.D. lab
14 technician on 9/23/2000 -- 9/9/2013 whereas an item was
15 submitted to S.L.E.D, Item Four. It never did indicate
16 where the item was collected from. What evidence --
17 whoever the item -- it never stated where the items was
18 collected from.

19 However, it also said where the item was collected on
20 2012, June 29, 2012, which was a year and a month before
21 the crime even occurred. So I was curious about how they
22 collected a year and a month before the crime occurred and
23 they never indicated, again, where the item was collected
24 from.

25 And, Six, Defendant requests missing pages from South

1. Carolina kit of LT [REDACTED] SOBA, S-O-B-A, the medical
2. examination sexual assault examination protocol at
3. Marlboro Park Hospital, Cases Five of Six and Six of Six,
4. which I was missing as well.

5. A statement of -- and Number Nine, statement
6. presented to give probable cause of the arrest of the
7. Defendant.

8. Ten, Defendant requests all pretrial transcripts from
9. March 6, 2014, transcript June 9th -- and June 25, 2014
10. transcript.

11. However, Your Honor, that's the motion that I
12. submitted to the State.

13. THE COURT: Very good. Let's hear what Mr. Redmond
14. has to say about each of those.

15. MR. REDMOND: May it please the Court, Your Honor,
16. and I'm just go in the order listed. I am in receipt of
17. the defense -- the defendant's motion. Medical reports of
18. the defendant, we don't have them, and we have no
19. intention of getting in that in this case. We do not have
20. any medical reports, if I'm reading this right, on him.
21. Has -- not relevant to the State's case.

22. THE COURT: You don't have any?

23. MR. REDMOND: We don't have any. That's the key
24. thing. We don't have anything. I don't think we ever
25. thought about obtaining them for this purpose. Any and

1 all evidence that was sent to S.L.E.D -- actually. We
2 were in the process with Mr. Jones of going through the
3 specific evidence.

4 Now, to be clear last week -- I think it was last
5 week or week before last, actually, Ms. Johnson Lee and
6 Mr. Jones had actually gone through, met with the -- met
7 at the Sheriff's Department, went through the evidence to
8 make sure that all of the containers were accounted for.

9 Well, today we actually had initiated the process
10 with the court reporter present and with the -- Sandy
11 Wilkes, the evidence custodian, present, opened up some of
12 those items so we could see and actually start premarking
13 some of the exhibits. And we got I think through Number
14 Ten, Exhibit Ten. There are probably in excess of 40
15 exhibits, but we did get to marking through Exhibit Ten
16 through that process.

17 I say that for two reasons. One, because Mr. Jones
18 and I had agreed, obviously, that we were present -- we
19 were in the presence of the custodian when those items
20 were torn open for the purpose of retrieving them. They
21 are currently, I think, in the custody of the court
22 reporter, the ones that were marked because once they are
23 marked they have to go into her custody. I just wanted to
24 make that clear for the record.

25 But, specifically, each of those items is actually in

1 evidence. Now, I think he asked for some of the clothing.
2 There are other items that are actually not marked, but
3 out of an abundance of caution and based on what we were
4 understanding the defendant's concerns were we brought all
5 the evidence that we collected other. So it is actually
6 locked in the courthouse, and if the defendant at some
7 time needs to go through that we obviously ask that the
8 proper safeguards be in place for us to, you know, make
9 that available to him if necessary.

10 But all the evidence is locked here in the
11 courthouse.

12 THE COURT: Is there any evidence that you plan on
13 introducing in your case in chief subject to Rule Five
14 that you have not turned over to the Defendant?

15 MR. REDMOND: Absolutely not, Your Honor.

16 THE COURT: Is there anything that is exculpatory
17 that you have not turned over to the Defendant?

18 MR. REDMOND: Absolutely not, Your Honor. We've
19 turned over all evidence that is in the State's
20 possession. And I would add that we've even turned over
21 officer's personal note which we contend that the rules
22 are constructed at this point in time are not discoverable
23 we gave them those, too.

24 THE COURT: Very good.

25 MR. JONES: Your Honor, I have one thing to add.

1 THE COURT: Yes.

2 MR. JONES: I got Pages Five and Six from the sexual
3 assault examination protocol which was -- I think it was
4 e-mailed to me one day ---

5 MR. REDMOND: It was.

6 MR. JONES: --- last week.

7 MR. REDMOND: Exactly.

8 MR. JONES: He does not have that, but I will turn it
9 over to him right now.

10 MR. REDMOND: And at the time that this was done he
11 didn't have it. So we didn't have it. When we got it we
12 forwarded those two pages to -- i.e. e-mailed those two
13 pages to Mr. Jones.

14 THE COURT: Are you confident that he has all of the
15 evidence that's going to be presented?

16 MR. REDMOND: That is correct, Your Honor.

17 THE COURT: Yes, sir.

18 MR. DUPREE: Your Honor, sir, I can show and prove
19 that I'm missing documents. If my attorney has them in
20 his file then I don't have them. But I can show and prove
21 I am missing documents if you like to see for yourself,
22 sir.

23 THE COURT: Okay. What I'm going to do is I'm going
24 to get you to make a list -- I want you to review it with
25 your lawyer. What Mr. Jones has provided to you and make

1 an itemized list of what you don't have and we'll address
2 that at 1:30. So we will stand at ease until 1:30. We're
3 going to continue your motions at that time. We're going
4 to take a break for lunch. We'll be back at 1:30. Does
5 that sound fair, Mr. Dupree?

6 MR. DUPREE: Yes, sir.

7 THE COURT: All right. See you back at 1:30.

8 MR. REDMOND: Thank you, Your Honor.

9 MR. JONES: Thank you, Your Honor.

10 (WHEREUPON, Court was in recess at 12:43 p.m. and
11 reconvened at 1:30 p.m.)

12 MR. REDMOND: Your Honor, as far as motions, for the
13 court reporter's sake, all of the exhibits are here that
14 we're going to mark. So to avoid confusion if we could
15 have a few minutes. I'm not going to open any more
16 exhibits other than the ones I've referred to in Mr.
17 Jones' presence, but at least we can go ahead and get them
18 marked so we can make sure the order is correct and it
19 won't throw anything off.

20 (WHEREUPON, State's Exhibit Nos. 1 THROUGH 35 were
21 marked for identification only.)

22 THE COURT: All right. Mr. Jones, I think this is
23 going to be a fairly lengthy trial. Of course, we're
24 going to start earlier tomorrow. I appreciate lunch went
25 late. So when we say 1:30 I expect you to be here so we

Colloquy

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1 can get started, all right?

2 MR. JONES: Yes, sir. I apologize, Your Honor.

3 THE COURT: Mr. Dupree, you're recognized.

4 MR. DUPREE: Sir?

5 THE COURT: You had just concluded your discovery
6 motion and Brady motion. We've got those on the record.
7 They indicate to me that they have indeed complied and you
8 have anything more to add?

9 MR. DUPREE: I mean, yes, sir, I do. Like I said I
10 do have some more things I would like to add as far as the
11 other motions as well.

12 THE COURT: Certainly, you will, but as far as the
13 discovery motion they indicate that they have complied
14 with that. Is there any other -- you had an opportunity
15 to review the documents that have been provided to
16 Mr. Jones? Is there any specific document that you can
17 point to that I need to get them to produce for you?

18 MR. DUPREE: Yeah, like I said, sir, I'm missing the
19 S.L.E.D. laboratory report, forensic service request that
20 of Dupree -- of Derrick Dupree which was supposed to have
21 been submitted. Like I said I don't know when it was
22 submitted as far as my evidence, the buccal swab or the 16
23 pages which I guess is Item 12. Like I said I don't even
24 know what is Item 12 which was Item 12. I received that
25 back from ---

1 THE COURT: All right. Let's hear Mr. Redmond see
2 what he has got to say about that particular document.

3 MR. REDMOND: Those are in the box. The letters that
4 he's referring to are actually in the box to be -- they
5 have not been marked yet, but they will be marked. But
6 the letters that the defendant is referring to are
7 actually in the box, Your Honor.

8 As it relates to -- I think his other one was about
9 the chain. We actually had forwarded all of the S.L.E.D.
10 submission records are actually provided to the Defense,
11 but in addition I always request a certified chain of
12 custody in major cases. We did that. I actually
13 forwarded that to Mr. Jones, so they actually have the
14 certified chain.

15 And this actually goes to the question that he had
16 asked earlier before we broke for lunch. There is a
17 signature. It shows who received the evidence and it's
18 signed by the person that actually delivered it.

19 THE COURT: We do have that document?

20 MR. REDMOND: We do have that document.

21 THE COURT: You provided that to Mr. Jones?

22 MR. REDMOND: Yes, sir.

23 THE COURT: All right. You will have an opportunity
24 to review that document.

25 MR. DUPREE: I don't have it.

1 THE COURT: We're going to give it to you is what I'm
2 saying.

3 MR. DUPREE: Oh, okay.

4 THE COURT: Your lawyer, Mr. Jones, will have it, and
5 you will have an opportunity to review it.

6 MR. DUPREE: Okay. Should I go forward with the rest
7 as well?

8 THE COURT: Yes.

9 MR. DUPREE: I did file a motion to dismiss whereas I
10 felt that there was possible misconduct. I want to read
11 it if it's fine with you. "I motion the Court to dismiss
12 Indictment Number 2014-GS-34-0159 which is the burglary
13 first degree. I motioned, I think, to the Court was dated
14 on September the 12th 2014 whereas I put criminal
15 defendant, the above named and undersigned, hereby request
16 that this Court ---

17 THE COURT: Mr. Dupree.

18 MR. DUPREE: Yes.

19 THE COURT: I'm going to ask you to come forward and
20 I'm going to allow you to put your, you know, you can hold
21 that paper and read whatever your motion is, but you are a
22 soft spoken person, and I think, obviously, you've never
23 appeared in a courtroom. You have a tendency to talk
24 quicker when you do that.

25 MR. DUPREE: Yes, sir.

1 THE COURT: You see, the court reporter needs to take
2 down everything for appellate review, so we need to get
3 everything you say down on the record.

4 MR. DUPREE: Okay.

5 THE COURT: And I'm going to ask you if you could --
6 do you feel uncomfortable standing there with your paper
7 like that?

8 MR. DUPREE: No, sir.

9 THE COURT: You can sit it on that bench. What I
10 want you to do is be a little bit closer to me and the
11 court reporter so I can hear everything that you've got to
12 say and get it all on the record. So I'll be glad to hear
13 from you. Yes, sir. You can start off where you left
14 off.

15 MR. DUPREE: The defendant, the above named and
16 undersigned, hereby request that this Court;
17 representative of the State of South Carolina will
18 honorably move accordingly to dismiss Indictment Docket
19 Number 2014-GS-34-0159 as burglary first degree, Code
20 16-11-0311, CDR Code 0079.

21 In Defendant request for dispose of the above
22 indictment the Defendant has within his possession
23 documents and affidavits and declarations that strongly
24 provides ground that will warrant a dismissal, providing
25 that the accuser defendant should have never been charged

1 and indicted with first degree burglary.

2 Whereas, the victim, resident of the home or
3 occupant, was escorted to Marlboro Park Hospital to be
4 treated and question about the incident. The victim was
5 question of incident by Marlboro Park Medical Examiner,
6 Maria Todd, R.N. Victim stated that she answer the door
7 to her home after hearing the doorbell.

8 Then victim stated that she opened the door for the
9 suspect. Said suspect ask to tour the home and meet her
10 husband. Medical examiner -- meet her husband. Medical
11 examiner ask victim did anyone else see suspect. Victim
12 stated that husband saw the suspect, but when she escorted
13 suspect back to front door that's when suspect pull out a
14 knife and assaulted her.

15 Chain of custody shows that the medical examiner
16 finished her document at seven o'clock p.m. Gave it to
17 Investigator Officer Susan Alderman at 7:02 p.m that same
18 date.

19 However, statement from the husband states that he
20 did meet suspect. The victim husband also gave a
21 description of suspect and what the suspect was wearing.
22 But when the victim's husband was asked did he see the
23 assault he stated that he did not see the assault.

24 However, defendant has warrant affidavit, whereas,
25 the investigation officer took the law in her own hand by

1 changing the statements of victim and victim's husband by
2 falsifying a warrant affidavit, fabricating the suspect
3 enter the victim home without permission further showed
4 officer misconduct by entering into the system to be
5 presented in front of grand jury which indicted the
6 defendant.

7 1976 Code 1-3-240 Section 8-1-100, Public Officer
8 failure to comply with the statutory duty constitutes
9 malfeasance in office which is a ground for removal. Rose
10 v. Beasley, (S.C. 1997, 327 SC 197, 489, SE 2d. 625.

11 I declare under penalty of perjury that the foregoing
12 is true and correct. Executed at Darlington, South
13 Carolina, September 11th 2014."

14 THE COURT: Mr. Dupree, what I'm going to do. You've
15 essentially read that motion into the record. It was
16 difficult for the court reporter to keep up with you. So
17 if you don't mind we're going to make that a part of the
18 record. So your motion will be preserved. You have an
19 objection to that?

20 MR. DUPREE: No, sir.

21 THE COURT: All right. Let's give that to the court
22 reporter. That way she can supplement her transcript with
23 what you have read into the record. And you want to
24 summarize what that essentially says and why you've been
25 done wrong with regards to the burglary indictment.

1 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
2 identification and received into evidence.)

3 MR. DUPREE: Yes, sir. Whereas, in the warrant they
4 said that the defendant entered into the home without
5 permission. It was trying to indicate that the defendant
6 was -- the suspect knocked on the door and was told to
7 wait, I guess, outside while the victim go and retrieve a
8 pencil, a paper, a pen or something for him, the
9 defendant suspect to write on.

10 However, they saying that the defendant, when the
11 suspect left the door, which it never showed that she
12 locked they door, they state defendant suspect stepped
13 into the foyer of the front room not nowhere else in the
14 house, but just stayed in the front room and was waiting
15 on the defendant -- I mean the victim to come back. I
16 guess that they're saying that ---

17 THE COURT: So you're essentially saying that there
18 was no forcible entry?

19 MR. DUPREE: Not just no force. From what my
20 understanding is the defendant -- the suspect had
21 permission whereas she stated -- the victim stated that
22 the suspect was taken throughout the house. He was let
23 in. She stated that she let the suspect in. She gave him
24 permission to walk throughout the house to meet her
25 husband and tour the house. And on the way back that's

1 when the attack happened.

2 THE COURT: Okay. I understand what your motion is.

3 Mr. Redmond, you may address that issue.

4 MR. REDMOND: Briefly, Your Honor. Burglary first
5 statute clearly, and it says that if the person enters
6 under false pretenses.

7 THE COURT: Some artifice or trickery?

8 MR. REDMOND: Exactly. That is correct, and that's
9 what I was referring to. And so with that under the
10 burglary first statute we would contend that we would
11 through our evidence show that the defendant did enter
12 under false pretenses under trickery, etc. under the guise
13 of wanting to buy the house. And then the rape happened
14 shortly thereafter.

15 THE COURT: All right. You certainly are going to be
16 given wide latitude to establish any defense that you have
17 and that you maintain that you had -- you or the defendant
18 had permission to be in there then you can tell the jury
19 that. You can explain that to them. But as a matter of
20 law it's a question of fact because the jury needs to
21 determine whether you had permission or not.

22 The law says that you don't have to go up to a house
23 and break down the door or climb in the window or climb
24 down a chimney and break into the place. You don't have
25 to do that. You can do it by artifice. You can do it by

1 trickery. You can do it by false pretenses. But those
2 are indeed more difficult to prove than somebody tearing
3 the door down.

4 MR. DUPREE: I understand, sir. I mean I looked up a
5 few cases. I never understood I never saw that, you know,
6 this was you had to be a burglary by trickery or none of
7 that.

8 THE COURT: Well, the law is very clear in that
9 regard, and so your motion to quash the burglary
10 indictment is denied on that ground. However, Mr. Dupree,
11 you're going to be allowed to assert any defense that you
12 want to. And you're going to be able to explain to the
13 jury any way you see fit if you choose to do so.

14 You don't have to do any of that. But you can
15 explain to them that you're not guilty of burglary because
16 the victim allowed you into the home or whoever you
17 maintain did it.

18 MR. DUPREE: Yes, sir.

19 THE COURT: Okay.

20 MR. DUPREE: May I proceed with the next one?

21 THE COURT: Yes, sir, you may.

22 MR. DUPREE: Okay, well, the next motion I didn't get
23 a chance to draw, but I do remember most of it. Whereas,
24 I was charged with kidnapping. Okay. Whereas, in the
25 C.S.C. that I guess kidnapping came from, whereas, the

1 defendant was -- the suspect said that he held the victim
2 to a sexually assault -- sexually assault her. However,
3 like I said, Your Honor, the victim -- the suspect never
4 did move the victim from Point A to Point B or nowhere
5 about, and ...

6 THE COURT: You're saying the victim never left the
7 house?

8 MR. DUPREE: No, the victim never left the house.
9 The victim -- basically, I'm saying that they charged the
10 defendant two times for one charge, sir.

11 THE COURT: All right. Let's hear what Mr. Redmond
12 has to say about that.

13 MR. REDMOND: Briefly, Your Honor. I think he has --
14 had two different issues. Briefly to connect them.
15 Kidnapping, of course, in South Carolina and I just
16 recently tried a kidnapping case in the house. They were
17 never moved from another room in the house, but they were
18 confined. And that statute allows, and of course, we got
19 a conviction in that case even through there was no
20 carrying away. Did not even leave the room.

21 They were held at weapon point and were not allowed
22 to move. And felt that if they would move they would have
23 been harmed. So kidnapping was allowed because they --
24 their freedom was confined in that situation.

25 As it relates to, if I'm understanding correctly, the

1 charges being somewhere interrelated. Obviously, the
2 elements are totally different, if I'm understanding him
3 right, between C.S.C. and kidnapping. So we would
4 respectfully request that motion be denied.

5 THE COURT: Mr. Dupree, and of course, that's one of
6 things I was trying to explain to you that you've never
7 been to law school. You read some cases, obviously, but
8 the elements of kidnapping do not require that you move
9 the person. You can hold someone against their will.
10 Clearly, those are questions of fact for the jury, and I
11 think it's properly before the jury.

12 However, you are going to be given wide latitude to
13 present any defenses you might have and cross-examine them
14 in regards to the fact that she -- the victim never had
15 been taken out of the house. So you're going to be
16 allowed to do that.

17 MR. DUPREE: Right. And I understand that, and I'm
18 going to move on. But what I was saying is that they
19 charged -- the defendant was charged two times for one
20 charge. That's double jeopardy. What I was explaining I
21 can get -- he was charged with C.S.C. I mean I'm not
22 trying to argue what you're saying. I'm just saying that
23 defendant was charged with C.S.C. for sexually assaulting
24 the victim.

25 THE COURT: You're saying that you can't be charged

1 with criminal sexual conduct and kidnapping?

2 MR. DUPREE: No. I'm saying that I don't understand
3 how they like said I did commit in a case, you know. And
4 they said there was double jeopardy.

5 THE COURT: Well, that -- you have articulated that
6 very well in that you maintain and in your position you
7 can't charge criminal sexual conduct and kidnapping in the
8 same -- arising out of the same set of facts and
9 circumstances? I disagree with you on that. I think the
10 law is clear in that regard.

11 However, the beautiful thing about it is that you
12 have articulated what your objection is. It is on the
13 record, and if I've made a mistake appellate courts can
14 correct me. I'm confident that you can be charged with
15 kidnapping and criminal sexual conduct because. But your
16 argument is preserved on the record for appellate review.
17 Very good. All right. Be glad to hear the next one.

18 MR. DUPREE: My last motion that I request is that I
19 request that all charges be dismissed because of the
20 defective indictment. The indictment has the wrong arrest
21 date, and one of my indictments which is burglary first,
22 docket number seem to be incorrect as well as like I said
23 I move the motion that the Court will dismiss all charges
24 due to a defective indictment.

25 THE COURT: Be glad to hear from you, Mr. Redmond.

1 MR. REDMOND: Thank you, Your Honor. May it please
2 the Court. I think he's referring to on the back of the
3 indictment is says the 12th is the date of arrest. It
4 actually was the 11th that his date of arrest was on, but
5 that is not a substantive part of the indictment. That is
6 just an administrative portion on the back of the
7 indictment. So that would be the first thing.

8 Now, as it relates to the indictment I think that we
9 had mentioned this earlier when Mr. Jones was still
10 counsel for the defendant, is that there were defects on
11 two indictments that through Scribner's error did not
12 mention the name of LT [REDACTED] Blank with a comma
13 there. That was a Scribner's error, however, the South
14 Carolina with an indictment being a notice document the
15 burglary first degree and the possession of a weapon
16 during the commission of a violent -- well, sorry.

17 Burglary in the first degree charge actually does
18 have the name of Ms. LT [REDACTED] on it along with the address.
19 So we would submit and respectfully move to amend the
20 kidnapping and the criminal sexual conduct first degree to
21 include the name of Ms. LT [REDACTED] as the victim in
22 this case. But, again, the defendant, through discovery,
23 through even what he referred to today clearly had notice
24 of the fact that Ms. LT [REDACTED] is the victim.

25 THE COURT: All right. Mr. Dupree, the law in South

1 Carolina is very clear, and this has been litigated over
2 hundreds of years, that in South Carolina the indictment
3 is a notice document which means if a person reads these
4 documents, and I've read them because I've looked at them
5 in the jury selection process, and they are sufficient to
6 put you on notice of what the charges are. You know
7 you're being charged with criminal sexual conduct. You
8 know that you're being charged with burglary. You know
9 that you're being charged with kidnapping and possession
10 of a weapon during the commission of a violent crime and
11 other crimes.

12 But the idea that they have to be done absolute 100
13 percent correct. The test is whether or not you're on
14 notice as to what the charges are. And I've reviewed the
15 indictments, and I'm going to ask the Solicitor's Office
16 to make a copy of those indictments, front and back, to be
17 put -- made a part of the record so the appellate courts
18 can review it.

19 And your motion in regards to correcting that
20 Scribner's error is granted. However, the appellate
21 courts will know what brought us here today. It was an
22 indictment that didn't have the victim's name on it. But
23 I believe that based on the exchange of discovery that
24 he's on notice of what he's being accused of.

25 But you are protected on the record. Might be that

1 I'm wrong. There will be a panel of judges that will
2 decide whether I'm right on wrong. Does that sound fair
3 to you?

4 MR. DUPREE: Yes, sir.

5 JACKSON V. DENNO HEARING

6 THE COURT: All right. Thank you so much. All
7 right. And I understand that there is a statement that is
8 going to be entered -- the State is going to attempt to
9 introduce a statement at this time we're all in agreement
10 that it be appropriate that we conduct a Jackson V. Denno
11 Hearing. And the burden is on you, Mr. Redmond. You're
12 recognized.

13 MR. REDMOND: Thank you, Your Honor. May it please
14 the Court. The State would first call Lieutenant Jamie
15 Seals. And while -- at some point, Your Honor, probably
16 after Ms. Alderman -- Officer Alderman -- Detective
17 Alderman, excuse me, testifies we're to need to play
18 portions of the video to corroborate the testimony.

19 THE COURT: Yes, sir. Please come forward and place
20 your left hand on the Bible and raise your right hand as
21 the Clerk administers the oath.

22 JAMIE SEALS, after being duly sworn, testified
23 as follows:

24 THE COURT: Please have a seat in the witness chair,
25 and I'm going to ask you to pull up real close to the

1 microphone. Speak loud and clearly and slowly so that we
2 can hear everything that you've got to say. Let's start
3 with your full name, please, sir.

4 THE WITNESS: Jamie Seals.

5 THE COURT: Thank you, Investigator Seals. Mr.
6 Redmond, you're recognized.

7 MR. REDMOND: Thank you, Your Honor. May it please
8 the Court.

9 DIRECT EXAMINATION

10 BY MR. REDMOND:

11 Q. By whom are you employed.

12 A. The Marlboro County Sheriff's Office.

13 Q. And in what capacity are you employed?

14 A. I'm a lieutenant. Supervisor over Investigations.

15 Q. And how long have you been in law enforcement?

16 A. Seventeen years.

17 Q. And how long have you been an investigator with the
18 Marlboro County Sheriff's Office?

19 A. Two different times. The most current time since
20 October of 2007.

21 Q. And during that break was there anywhere else you
22 were employed as an investigator?

23 A. Yes. I worked with the State Law Enforcement
24 Division commonly known as S.L.E.D.

25 Q. Okay. Now, let's go directly to the defendant and

1 statements that were given. Of course, were you involved
2 in the investigation of the home invasion, rape and
3 kidnapping of Miss LT [REDACTED]

4 A. Yes, sir, I was.

5 Q. And pursuant to that did you have an opportunity to
6 speak with the defendant on a few occasions?

7 A. I did.

8 Q. And let's go in order of your contact with the
9 defendant. Do you recall the first time that you actually
10 had to talk -- a chance to talk with the defendant in the
11 context with this case?

12 A. Yes, I do.

13 Q. Okay. And when was that?

14 A. If I recall that was on the 10th of September.

15 Q. Okay. And 2013?

16 A. 2013.

17 Q. And at that time was the defendant in custody and
18 brought to the Sheriff's Office or did he come
19 voluntarily?

20 A. He came voluntarily.

21 Q. Okay. And at the time did he admit to being involved
22 in this or did he deny?

23 A. He denied it.

24 Q. Okay. And was he allowed to leave? Was he under
25 arrest at that time?

1 A. No, he wasn't arrested, and he was allowed to leave.

2 Q. Let's move to the next day, the 11th of September,
3 2013. Was the defendant arrested on this charge?

4 A. He was.

5 Q. And, briefly, just the circumstances leading to his
6 arrest. Was there information that you got that lead you
7 to arrest the defendant?

8 A. Yes.

9 Q. Okay. And what was that information?

10 A. We got an A.F.I.S. hit from State Law Enforcement
11 Division based on a fingerprint from the defendant on a
12 piece of evidence.

13 Q. And were there other witnesses that had come talk to
14 talk to you -- y'all on the 10th that had given
15 information about the defendant whereabouts on the date of
16 the incident?

17 A. That is correct.

18 Q. Now, at the time that he was arrested did you attempt
19 to question the defendant?

20 A. Myself along with another investigator, I did, yes,
21 sir.

22 Q. And at that time did he invoke his right to remain
23 silent an request to speak to someone?

24 A. He did.

25 Q. Okay. And at that point was that particular

1 interview terminated?

2 A. It was.

3 Q. And, of course, so with that was he then taken back
4 to the Marlboro County Detention Center?

5 A. That is correct.

6 Q. Did he subsequently, the same day on the 11th,
7 request to come back and speak with you and I believe it
8 was Shawn Feldner?

9 A. That is correct.

10 Q. All right. At that time did he -- was he read his
11 Miranda rights?

12 A. He was.

13 Q. And did he waive his Miranda?

14 A. He did.

15 Q. Did you discuss with him the fact that he had
16 initially refused to sign when you first arrested him?
17 Did you discuss that with him?

18 A. I did.

19 Q. Okay. And did he agree to talk with y'all despite
20 having initially said that he wanted to speak to someone
21 else?

22 A. He did.

23 Q. Okay. Now, at that time did he give what you refer
24 to as a confession or did he continue to deny his
25 involvement?

1 A. He continued to deny his involvement.

2 Q. And in that particular tape were there several
3 references made to, and again, I'm asking this because
4 we're in an in camera hearing.

5 But just for the purpose of this hearing were there
6 several instances where the conversation had issues to do
7 with the Defendant's prior criminal history, to the best
8 of your recollection?

9 A. Yes.

10 Q. Okay. And so, and among other aspects of things, but
11 at that time did he ever admit to being involved in this
12 in any way, shape or form?

13 A. No, he didn't.

14 Q. So at that point then was he returned to the Marlboro
15 County Detention Center?

16 A. Yes, sir.

17 Q. Did he again request to speak with -- and I think you
18 may have been named specifically?

19 A. He did.

20 Q. Okay. Let me show you --

21 MR. REDMOND: With permission to approach the
22 witness, State's Exhibit 22. And let me show it to the
23 defendant. Permission to approach the witness, Your
24 Honor?

25 THE COURT: You may.

1 BY MR. REDMOND:

2 Q. Do you recognize State's 22?

3 A. I do.

4 Q. And can you tell the Court what is State's 22?

5 A. It is a Inmate Request Form that our detention
6 facility uses if an inmate needs to speak with another
7 staff member or somebody at the Sheriff's Office.

8 Q. Okay. And did he, and again, we're putting it in the
9 record for purposes of this hearing, but if you wouldn't
10 mind passing that note up so the Court can review it. And
11 I forget to ask you. Each of these interviews that we're
12 talking about were they recorded?

13 A. They were.

14 Q. Okay. Is your evidence -- is your interview room
15 rigged so that it can be recorded? Both visual and audio
16 recordings?

17 A. It is.

18 Q. Now, at that time on the 16th that you -- after you
19 got that note was he brought back in?

20 A. Yes.

21 Q. Okay. And how did you get that note? You might have
22 said it. I might have just missed it. How did you end up
23 becoming aware of that note?

24 A. The warden, Mr. Earl Hood, called me and notified me
25 that Mr. Dupree wanted to speak with me. I think he also

1 mentioned the sheriff in the letter. And about the same
2 time his was being brought over to our Magistrate's
3 office, which is in the same building, for arraignment on
4 these charges.

5 And they bought the request form with them and after
6 that they brought him down the hallway and I was given the
7 request form.

8 Q. Okay. And was the defendant then brought in for an
9 interview?

10 A. He was.

11 Q. And at the time that you did this interview did you
12 at the very beginning of the interview discuss the fact
13 that he, being the defendant, specifically requested to
14 speak to you?

15 A. Yes, I did.

16 Q. Okay. And at that time did you confirm that he in
17 fact had written this particular request?

18 A. I did. I showed it to him to verified that he did
19 write it and that someone else didn't write it for him.

20 Q. And did he confirm the fact that he had written it
21 and that was in fact his request to speak to you?

22 A. Yes, he did.

23 Q. Okay. Now was he then reread his Miranda rights?

24 A. He was.

25 Q. And did he -- did you do another Miranda Waiver Form?

1 A. Yes.

2 MR. REDMOND: And with the Court's permission I
3 present what's been marked as State's Exhibit 22.

4 BY MR. REDMOND:

5 Q. And could you tell us what State's Exhibit 22
6 represents?

7 A. It is our Miranda form that we use at the Sheriff's
8 Office.

9 Q. And did you go over his Miranda rights with him
10 pursuant to that form?

11 A. I did.

12 Q. And did he sign that form?

13 A. He did.

14 Q. And I forgot to ask you this. Who else was in that
15 interview room with you?

16 A. Investigator Susan Alderman.

17 Q. And is she present here today?

18 A. She is.

19 Q. Now, did the defendant at that time talk with you?

20 A. He did.

21 Q. After -- did he waive his rights?

22 A. He did waive his rights.

23 Q. Okay. And was he threatened or promised or was he in
24 any way coerced into giving this particular statement on
25 the 16th of September?

1 A. Absolutely not.

2 Q. Okay. Now, was there discussion during the time of
3 this where he had requested or asked about seeing his
4 wife? And I guess he was seeing his wife or visiting or
5 phone call related to who he refers to as his wife?

6 A. He mentions wife several times who I assumed he was
7 referring to as his fiancée because he's not married.

8 Q. Okay. And who initiated that particular discussion?

9 A. The defendant.

10 Q. Okay. And, again, and on the tape did you indicate
11 to the defendant that you wanted him to tell the truth and
12 you could not promise him anything?

13 A. Several times.

14 Q. Okay. Did you -- but did you indicate that you
15 would talk with the Sheriff and find out whether or not
16 some of his requests could be granted?

17 A. I did.

18 Q. But did you make it clear to him that you couldn't
19 promise him anything?

20 A. I did.

21 Q. Now, at that time did the defendant change his story
22 from the 10th and the 11th as it relates to his role in
23 the incident.

24 A. He did.

25 Q. Okay. And to summarize, and we'll get into that

1 during the trial. This is just a Jackson v. Denno
2 Hearing, so if you would summarize what did defendant tell
3 you his role was in this incident?

4 A. That he was guilty of it; that he came by the house.
5 Spoke with Miss LT Asked her about buying the house.
6 He admitted to writing a fake name, providing fake
7 information to her; that he had no intentions of making a
8 purchase or renting a house; that he sexually assaulted
9 her and kept her there against her will and then left.

10 Q. Okay. Now, and let me back up just a moment.

11 MR. DUPREE: I object. I object to that, Your Honor.

12 THE COURT: You're going to have to stand up.

13 MR. DUPREE: I object. Your Honor, I did state I
14 said that, but I did make another statement before that
15 statement.

16 THE COURT: Okay. That -- I'll overrule your
17 objection. It's appropriate for him to ask this question.
18 He can give an answer, and then you can ask him about
19 previous statements. And then you're going to have an
20 opportunity to put forth any evidence that you have to
21 support your position.

22 So I hear what you're saying, but that's not grounds
23 for objecting to him asking this particular question. You
24 follow me?

25 MR. DUPREE: Yes, sir.

1 THE COURT: Very good.

2 BY MR. REDMOND:

3 Q. Ironically, I was going to go back to ask you whether
4 or not prior to him telling what you testified to didn't
5 he tell you another story related to him being there but
6 his role being different?

7 A. Yes, he did.

8 Q. And tell us about that?

9 A. From what I recall -- I don't remember each step by
10 step because I knew it was on video. He had named one or
11 two other people who were there to look at the house, and
12 he stayed on the outside. And I just let him go ahead and
13 tell that story before confronting or challenging him
14 about it.

15 Q. Okay. And at some point during the interview, I also
16 forgot to ask you about this, did he ask for Ms. Alderman,
17 Detective Alderman, to leave the room?

18 A. He did.

19 Q. And so at this time was it just you and the defendant
20 in the room while he was telling what happened?

21 A. That is correct.

22 Q. Okay. And while he was telling what really happened?

23 A. Yes.

24 Q. And, again, was that at his request?

25 A. It was.

1 Q. I think you -- and did you offer if he felt more
2 comfortable to have leave, and at some point did you ask
3 her to leave?

4 A. Yes, I did.

5 Q. Okay. Now, again, even though you were in the
6 interview room with him was the entire interview recorded?

7 A. It was.

8 Q. Now, at some point, interestingly, at the end of the
9 interview does the defendant indicate, after you leave the
10 room, that -- does he refer back to the first story that
11 he gave to you on the 16th about being present but not
12 being involved?

13 A. It -- yeah, it appears he does. It appears that he's
14 talking to himself. I felt like it. Just give a story on
15 camera cause he knows it's being recorded.

16 Q. And, again, let me be clear on this. Prior to
17 this -- was this the defendant's fourth time being
18 interviewed ---

19 A. I think that is correct.

20 Q. --- on camera. And he had been advised that he was
21 on camera previously?

22 A. Correct.

23 MR. REDMOND: Beg the Court's indulgence.

24 BY MR. REDMOND:

25 Q. And at the conclusion was he taken back to the

1 Marlboro County Detention Center?

2 A. Yes.

3 Q. And did you advise him that you had talked to the
4 sheriff and that some of his requests couldn't be granted.
5 Visitation, phone call privileges could be granted within
6 the normal course of the policies of the jail?

7 A. Yes, I did.

8 Q. And just to be clear. At any point did you promise
9 or coerce this defendant in any way, shape or form to get
10 him to, for lack of a better term, confess his role in
11 this incident?

12 A. No, I didn't. Absolutely not.

13 Q. I have nothing further. Please answer any questions
14 that the defendant may have.

15 A. Yes, sir.

16 EXAMINATION BY THE COURT

17 THE COURT: Let me ask just a few questions. I think
18 some of the previous statements were ended when he
19 requested to speak with someone was the question. Did he
20 ask for a lawyer or he just wanted to speak with someone?

21 THE WITNESS: One of the -- one of the interviews,
22 Your Honor, I think one of the interviews he requested to
23 speak to an attorney. I don't know if I was in on that
24 one. The one that on the 16th he requested to speak to
25 his wife.

1 MR. REDMOND: And just to be clear, Your Honor, and
2 obviously, I can't testify, but the State would stipulate
3 that based on that interview -- and just to be clear. The
4 only interview that we intend on introducing is the one
5 from the 16. Obviously, the defendant can introduce
6 whatever he wants, but the reason that the interview, the
7 first interview, on the 11th -- there were two on the
8 11th.

9 The reason the interview on the 11th was ended was
10 because he talked about wanting to speak with someone in
11 the context of signing the Miranda Waiver Form. So the
12 officers, which I think you know is commendable on their
13 part, in essence took that to mean that he was requesting
14 an attorney out of an abundance of precaution.

15 THE COURT: All right. Was he provided an attorney?

16 MR. REDMOND: At that time, Your Honor, I don't know.
17 I don't know that he was actually appointed at that
18 particular time. And so that's why they ended the
19 interview, Your Honor. There was no more discussion and
20 that's why it's so important that he actually initiated
21 the contact to speak with him again. Because they even
22 talk about it at the beginning of the tape that it's his
23 request to do it. They had no intention of going back to
24 him.

25 THE COURT: All right. How old is the defendant, do

1 you know?

2 THE WITNESS: Early mid 30s.

3 THE COURT: All right. How long had he been locked
4 up by the time of this statement, and ---

5 THE WITNESS: The 16th statement? The one that we
6 Stop light gun swear introducing?

7 THE COURT: Right.

8 THE WITNESS: Five days. Five or six days.

9 THE COURT: He didn't appear to be intoxicated?

10 THE WITNESS: No, sir.

11 THE COURT: All right. He seemed to be operating at
12 least with average intelligence?

13 THE WITNESS: Oh, yes. Yes, sir.

14 THE COURT: Do you know how far he went in school?

15 THE WITNESS: I think I have it here if I can look on
16 the Miranda Waiver Form. He went to the ninth. He
17 completed the ninth but attended of the tenth.

18 THE COURT: All right.

19 MR. REDMOND: Your Honor, based on that I have a
20 couple of quick follow up questions.

21 FURTHER DIRECT EXAMINATION

22 BY MR. REDMOND:

23 Q. The Court has asked you, and I apologize. I forgot
24 to ask you this. I normally do, but was there any reason
25 that you -- did you believe from your interaction with him

1 did it appear to you that he understood the rights that
2 you were reading to him?

3 A. Yes.

4 Q. Did it appear that understood, based upon your
5 exchange, based upon his actions up to that point, did it
6 appear that he understood that he had the right to -- that
7 he understood his rights and that he knowingly waived his
8 rights?

9 A. Yes.

10 Q. Okay. Was there any question in your mind that he
11 might not understand something related to -- was there any
12 question in your mind that he might not understand
13 something related to the reading of his rights?

14 A. No.

15 Q. Okay. If you felt that he did not understand his
16 rights what would you have done?

17 A. I would have explained them to him again?

18 Q. Okay. And even after explaining the form again if
19 you did not feel he didn't understand his rights and what
20 you were asking what would you have done?

21 A. I would have terminated the interview because he
22 wasn't capable to be interviewed at that time.

23 Q. Was that necessary in this case?

24 A. No.

25 MR. REDMOND: I have nothing further at this time.

1 THE COURT: Mr. Dupree, you're recognized. You can
2 ask questions or your lawyers can or Mr. Jones can.
3 Whichever way you want.

4 MR. DUPREE: Your Honor, I'm asking the questions.

5 CROSS-EXAMINATION

6 BY MR. DUPREE:

7 Q. This happened on that same date which was ---

8 MR. DUPREE: Can I step up, sir?

9 THE COURT: You can.

10 BY MR. DUPREE:

11 Q. You said on the same date. Mr. Seals, if you don't
12 mind do you remember the defendant telling you during that
13 statement that he will be lying if he told you that he
14 committed this crime?

15 A. I don't verbatim what was said. I don't have a
16 transcript in front of me.

17 Q. Well, from my understanding the defendant did tell
18 you after the first statement which he made that ---

19 THE COURT: Now, you can't testify. You can ask him
20 questions. You can testify at a later date and time, call
21 yourself as a witness, and say what your version of it is.
22 This is your opportunity to ask him questions.

23 MR. DUPREE: I do understand that.

24 THE COURT: But you can't say what your version, your
25 recollection was.

1 MR. DUPREE: Yes, sir, I apologize.

2 THE COURT: That's one of the problems -- that's one
3 of the reasons why it's not a good idea to represent
4 yourself. See, that's not going to work very well. It's
5 not allowed. So you can proceed forward with that
6 understanding.

7 MR. DUPREE: Yes, sir.

8 BY MR. DUPREE:

9 Q. But you said you don't recall the defendant telling
10 you that he would be lying if he told you that he
11 committed that crime?

12 A. Well, over the course of three or four interviews I
13 do recall the defendant in different forms saying that.
14 He didn't deny it, but I don't remember exactly on the
15 16th what was said other than just a summary what I was
16 given.

17 Q. But you do have a video statement showing what the
18 defendant said?

19 A. Of course. Yes.

20 Q. And this occurred on the 16th between you and Susan
21 Alderman whereas it was stated that the defendant
22 requested that Miss Susan Alderman leave out of the room?

23 A. Is that a question?

24 Q. Yes, sir.

25 A. What's the question?

1 Q. Did you say that the defendant requested that Ms.
2 Susan Alderman leave out of the room?

3 A. Yes. At some point I offered the defendant -- I
4 said, "Will you feel more comfortable," and the defendant,
5 yourself, said, "Yes, I would feel more comfortable."

6 Q. Did the defendant say right then or it was later
7 after he made some more statements?

8 A. Again, sir, I don't have a transcript. I'd have to
9 watch the video. It's on the video.

10 Q. But the defendant did say that he committed this
11 crime?

12 A. Is that the same question? Yes.

13 MR. DUPREE: No further questions, Your Honor.

14 THE COURT: All right. Any redirect?

15 MR. REDMOND: No redirect, Your Honor.

16 THE COURT: All right. You may step down.

17 THE WITNESS: Your Honor, do you need this stuff?

18 THE COURT: It's in evidence.

19 MR. REDMOND: State would next call Susan Alderman.

20 THE COURT: Yes, ma'am. Please come forward. Put
21 your left hand on the bible and raise your right.

22 SUSAN ALDERMAN, after being duly sworn,
23 testified as follows:

24 CLERK OF COURT: Please be seated and state your full
25 name for the record.

1 THE COURT: If you could pull up real close to that
2 microphone. Speak loudly, clearly and slowly so that we
3 can hear everything that you've got to say. Let's start
4 with your full name.

5 THE WITNESS: Yes, sir. Susan Alderman.

6 DIRECT EXAMINATION

7 BY MR. REDMOND:

8 Q. And by whom are you employed at this time?

9 A. At this time I am employed by the Cheraw Police
10 Department.

11 Q. And in what capacity?

12 A. As a detective.

13 Q. However, and previously had you been employed with the
14 Marlboro County Sheriff's Office?

15 A. Yes, I was.

16 Q. And in what capacity?

17 A. As investigator.

18 Q. And how long were you with the Marlboro County
19 Sheriff's Office?

20 A. I was with the Marlboro County Sheriff's Office nine
21 and a half years.

22 Q. Okay. And how long have you been with the Cheraw
23 Police Department?

24 A. Less than three months.

25 Q. Now, were you an investigator with the Sheriff's

1 Department on the 8th of September 2013?

2 A. Yes, I was.

3 Q. And at that time did you -- were you involved in the
4 investigation of the rape, home invasion, kidnapping of
5 Miss LT

6 A. Yes, I was.

7 Q. And were -- during the course of that investigation
8 did you have the opportunity to actually encounter and be
9 involved in this interview of the defendant?

10 A. Yes.

11 Q. Okay. And on the 16th, direct your attention to the
12 16th, the date that you were there. Now, were you present
13 on the 10th?

14 A. Yes, I was.

15 Q. But at that time was the defendant in custody or
16 anything?

17 A. No, sir.

18 Q. Did he come voluntarily on the 10th?

19 A. Yes, he did.

20 Q. Did he leave on his own?

21 A. Yes, he did.

22 Q. Now, on the 11th were you involved in any of these?

23 A. No, sir.

24 Q. Now, we go straight to the 16th. At that particular
25 time was the defendant -- did the defendant request to

1 speak to law enforcement, and I think Lieutenant Seals was
2 specifically named in that request?

3 A. Yes.

4 Q. And have you seen, I think it's State's Exhibit 23,
5 the note from the jail? Have you seen that before?

6 A. Yes, sir.

7 Q. And did you see that again that day when the
8 defendant was interviewed?

9 A. Yes, I did.

10 Q. And did -- was it discussed whether or not he had
11 written that and whether or not it was his request to
12 initiate conversations with law enforcement?

13 A. Yes, sir.

14 Q. Okay. And based on that discuss was it clear to you
15 that the defendant did want to initiate contact with law
16 enforcement?

17 A. Yes, sir.

18 Q. And once that was established was he read his Miranda
19 rights?

20 A. Yes, he was.

21 Q. And did he fill out a Miranda Waiver Form, which is
22 State's Exhibit 22?

23 A. Yes, sir.

24 Q. And at that particular time did the defendant --
25 well, let me ask you this. Based on your interaction with

1 the defendant did it appear that the defendant understood
2 his rights?

3 A. Yes, he did.

4 Q. Did the defendant appear in any way, shape or form to
5 be under the influence of anything that would have caused
6 him not to understand his rights?

7 A. No, sir.

8 Q. Did the defendant -- was the defendant threatened or
9 coerced in any way, leaned upon, for lack of a better
10 term, unnecessarily in order to give his statement?

11 A. No, sir.

12 Q. Was the defendant willfully able -- did the defendant
13 willfully waive his Miranda rights and give y'all a
14 statement?

15 A. Yes, he did.

16 Q. Now, were you present for, I guess, part of that
17 interview?

18 A. I was.

19 Q. And were you present for the part of the interview --
20 well, did the defendant admit to being present at the
21 scene of Mrs. [REDACTED] house? While you were in there did
22 he admit to actually having gone into Mrs. [REDACTED] house?

23 A. I believe so. I believe so.

24 Q. Now, at that time did he admit to having actually
25 committed any crime like rape or anything against Mrs.

1 LT [REDACTED] will you were in the interview?

2 A. No.

3 Q. Okay. Now, at some point subsequently did he ask you
4 to leave the room?

5 A. Yes.

6 Q. Okay. And earlier in the interview had he been given
7 the opportunity to, you know, if he felt more comfortable
8 talking with Lieutenant Seals was he give the opportunity
9 to have you leave the room?

10 A. Yes.

11 Q. Now, at that time I don't believe you did leave the
12 room or you were not asked to leave the room at that time?

13 A. No, sir.

14 Q. But after he told, I guess, the first story is that
15 when you were subsequently asked to leave the room?

16 A. Yes.

17 Q. And I didn't ask Lieutenant Seals this, but during
18 that exchange, after his first story, had y'all had the
19 chance to talk with other witnesses and develop other
20 evidence that lead to the defendant's arrest?

21 A. Yes, sir.

22 Q. Okay. And he in fact was under arrest at the time
23 you interviewed him on the 16th?

24 A. Yes, sir.

25 Q. And did the defendant -- excuse me. After he gave

1 that first story on the 16th was it made clear from y'all
2 standpoint that y'all did not believe what he was telling
3 you?

4 A. That's correct.

5 Q. Okay. And is that at or near the point when it was
6 made clear to him that there was other evidence that you
7 did not believe what he was telling? Is that the point or
8 near the point when he asked you to leave the room?

9 A. That was near the point.

10 Q. Okay. And, but, prior to you leaving had he been
11 coerced or threatened in order to give his statement?

12 A. No, sir.

13 Q. Okay. And once he left -- I mean once you left the
14 room, now, did you have the opportunity to actually
15 monitor what was going on?

16 A. Yes. We do have a separate monitoring room or they
17 have a separate monitoring area.

18 Q. And even though you weren't a part of the interview
19 taking place were you able to observe what was taking
20 place?

21 A. Yes, I was.

22 Q. So you were able to hear the remaining -- the
23 remainder of the interview with Lieutenant Seals?

24 A. Yes, sir.

25 MR. REDMOND: Beg the Court's indulgence.

1 BY MR. REDMOND:

2 Q. Just to be clear. Did he appear to understand the
3 rights as they were read to him?

4 A. Yes, sir.

5 Q. Did he appear to knowingly waive his rights to an
6 attorney?

7 A. Yes, he did.

8 Q. Was there anything that gave you reason to believe
9 that he did not understand either the rights that he was
10 being read or, you know, the fact that he could have an
11 attorney?

12 A. No.

13 Q. If he did not appear to understand what he was
14 being -- if he did not appear to understand his rights as
15 they were read to him what would you have done? What
16 would y'all have done?

17 A. We would have explained them a little better.

18 Q. And even after further explanation he didn't seem to
19 understand what would you have done?

20 A. Just like Lieutenant Seals said we would have stopped
21 the interview.

22 Q. And was that necessary in this case?

23 A. No, sir.

24 MR. REDMOND: That will be all the questions I would
25 have at this time. Please answer any questions the

1 Defense may have.

2 THE COURT: Cross-examination?

3 MR. DUPREE: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. DUPREE:

6 Q. Ms. Alderman, on that date do you recall Mr. Dupree
7 telling you and Mr. Seals that he made a statement saying
8 that he committed this crime; that he did not?

9 A. I know that I was there during that time, but I can't
10 recall exactly the words on that.

11 Q. You don't recall yourself telling him to just go
12 ahead and tell the truth? Just admit that?

13 A. I recall Lieutenant Seals stating to you to tell the
14 truth on several occasion.

15 Q. But you don't recall?

16 A. I don't recall exactly, you know, verbatim everything
17 that was said.

18 Q. And you said that it didn't appear to you that the
19 defendant could have been lying as far as to ...

20 A. I'm sorry.

21 Q. It didn't appear to you that the defendant could have
22 been, you know, lying or up under some type of a
23 depression or something?

24 A. No, sir. I'm not a doctor. I couldn't tell anything
25 about of that nature whether someone was depressed or

1 anything. No, sir. I can't do that.

2 Q. Okay. You said you don't recall the defendant saying
3 that he would be lying?

4 A. No, sir.

5 MR. DUPREE: No further questions, Your Honor.

6 THE COURT: All right. Any redirect?

7 MR. REDMOND: No redirect, Your Honor.

8 THE COURT: All right. Very good. You may step
9 down.

10 THE WITNESS: Thank you.

11 MR. REDMOND: Actually, just real briefly, Your
12 Honor. Based on the defendant's questioning can I recall
13 Lieutenant Seals for a couple of questions?

14 THE COURT: You may.

15 MR. REDMOND: Lieutenant Seals take the stand.

16 REDIRECT EXAMINATION

17 BY MR. REDMOND:

18 Q. Did the defendant tell you what Mrs. [LT] was
19 wearing?

20 A. Yes.

21 Q. Okay. Had that information been released? In other
22 words was that public knowledge? Was he told what to say
23 or did he voluntarily on his own indicate what she was
24 wearing?

25 A. He voluntarily indicated. It was not public

1 knowledge.

2 Q. And in the note, did you ask him about the note that
3 was left by the defendant at the victim's residence?

4 A. Yes, sir.

5 Q. And did you ---

6 THE COURT: Mr. Redmond, you can ask -- continue on
7 in this. That really goes more towards the merits of
8 whether it's the truth or not. What we're really talking
9 about is voluntariness.

10 MR. REDMOND: I understand, Your Honor. Just out of
11 an abundance of precaution based on some of the questions.
12 That's why I just wanted to clear that up if necessary.
13 But with that, Your Honor, I have no further questions
14 with Lieutenant Seals.

15 THE COURT: You may step down. Do you want to ask
16 him any other questions in that regard?

17 MR. DUPREE: No, sir.

18 COLLOQUY

19 THE COURT: Okay. You may step down. All right.
20 Anything further, Mr. Redmond?

21 MR. REDMOND: Nothing further other than the time for
22 the video and that should take, just from what I'm looking
23 at, approximately, once we get started, approximately 15
24 minutes total.

25 THE COURT: All right. Before we do that if we can

1 have the foreman out here for one moment. Just the
2 foreman.

3 (WHEREUPON, the jury foreperson enters the
4 courtroom.)

5 THE COURT: We are taking care of some legal matters
6 that we've got to take care of, and we anticipated being
7 concluded by now. Let's have order. But we still have
8 probably about 15 or 20 minutes less -- left. We're going
9 to ask that you make yourselves comfortable. If you need
10 some refreshments do that, but we want to let you know
11 that we haven't forgotten about you.

12 And thank you for being here on time. Very good.
13 Thank you.

14 (WHEREUPON, the jury foreperson exits the courtroom.)

15 THE COURT: You may publish the video.

16 MR. REDMOND: Thank you, Your Honor. Your Honor, for
17 the record this is State's Exhibit 24; that being the
18 video.

19 THE COURT: Very good. Mr. Dupree and Mr. Jones, you
20 can stand over here to see the video being played.

21 (WHEREUPON, State's Exhibit 24 was played in open
22 Court.)

23 MR. REDMOND: Your Honor, that's it.

24 THE COURT: Anything further from the State?

25 MR. REDMOND: Nothing further from the State.

1 THE COURT: I'll be glad to hear from the Defense.
2 You may present any witnesses or any arguments that you
3 may have.

4 MR. DUPREE: Yes, sir. It wasn't voluntarily because
5 the video did show that the defendant did ask for an
6 attorney. And at the end the defendant way saying that he
7 did lie. He was lying to the statement he made.

8 THE COURT: All right. Be glad to hear from you, Mr.
9 Redmond.

10 MR. REDMOND: All right. Your Honor, if it pleases
11 the Court. I think, and even with that issue being
12 raised, it was -- and the important thing here relate to
13 this statement is the fact that the defendant requested to
14 speak with law enforcement. He initiated the contact with
15 law enforcement. Upon following up with that they went
16 back through that to make sure that he, one, was
17 initiating it. It was confirmed at least a couple of
18 times on the tape.

19 And, two, that he wanted to go forward and tell, I
20 guess, whatever it was he wanted to tell which, of course,
21 we know ultimately what that was. So with that, Your
22 Honor, he -- number one, he knowingly waived his rights to
23 counsel, the State would contend. Law enforcement did
24 what they needed to do. Followed procedure to make sure
25 that his rights were protected, and again, that's why they

1 confirmed the fact exhaustively at the beginning. He did,
2 you know, he did initiate the contact with us.

3 He did initiate it. He confirmed that he initiated
4 that contact. I think it's even said at some point. We
5 had no plan on coming back out there to talk to you. You
6 asked to talk to us, and that is referred to several
7 times. And so I submit that the State has met its burden
8 at this point for purposes of Jackson v. Denno in showing
9 that the statement was voluntarily.

10 For the purposes of admissibility, obviously, the
11 defendant can argument what he wants as it relates to the
12 sufficiency and weight of the evidence. Here we are only
13 here on the issue of admissibility. We would submit that
14 it is admissible and these, the statement from the 16th,
15 should be allowed in evidence.

16 THE COURT: All right. Mr. Redmond, what do you have
17 to say about the body of law that says once someone asks
18 for a lawyer that it's a bright line rule that you have to
19 be provided a lawyer before you continue interrogation?

20 MR. REDMOND: Except if the defendant actually
21 initiates that contact. Again, when we talk about the
22 arraignment, him going to the arraignment, at that point
23 that indicates that he's eligible. Law enforcement, we
24 don't have, as far as the administrative aspect of it, as
25 Lieutenant Seals said, they had pretty much washed their

1 hands of having any contact with him. He initiated
2 contact with him. And I would submit, and I don't have
3 the case law in front of me, but from past experience I
4 would say the law is equally clear that if a defendant
5 initiates contact with law enforcement, whether they're
6 represented or not, that defendant initiates contact and
7 law enforcement has shown that the defendant is the one
8 that initiated contact then we are able to get at that
9 particular statement.

10 And, again, at that point he had not been assigned.
11 We don't have anything to do with the administrative
12 process how he goes about being assigned an attorney. He
13 goes to the arraignment. Even if he had requested one at
14 that that if subsequently he contacts law enforcement and
15 he indicates that he wants to go forward without an
16 attorney that is absolutely his right.

17 The law is also clear, even if he has an attorney he
18 has the right to waive that if he wants to talk to law
19 enforcement. So we would submit, Your Honor, that law
20 enforcement covered that particular issue at the very
21 beginning, and that's why State's Exhibit Number 23, I
22 think it is, a letter from the jail, is so important to
23 show that he is the one that is requesting to speak with
24 this specific lieutenant, Lieutenant Seals.

25 THE COURT: All right. What do you have to say about

1 the fact that he was concerned. He had been locked up for
2 six days and wanted to see his wife?

3 MR. REDMOND: Your Honor, as it relates to, and
4 again, that was something that he initiated. And, again,
5 in the tape they said, you know, we would follow the
6 proper protocols in order to get that done. As it relates
7 to why he had not seen his wife up to that point I don't
8 know.

9 Now, I can tell the Court now and I could on that
10 issue, I can proffer evidence to the fact that the
11 girlfriend that he's referring to is actually a material
12 witness in the case. And as a result I suspect, and
13 obviously, I would have to put the officers up to
14 corroborate what I'm thinking he's saying, is that she
15 actually was -- they had constructed -- our position is
16 that they had constructed an alibi and that alibi fell
17 apart.

18 She was very important in the falling apart of that
19 alibi at the time that the defendant was arrested. And so
20 with that said, just from a practical standpoint, there
21 may have been, and I'm saying may, there may have been an
22 issue that relates to visitation, but I would also submit
23 that under that situation where you've got possible
24 codefendants. Now, she was not charged, but through her
25 video taped interview it is obviously that she is actually

1 engaged with the defendant in trying to construct an alibi
2 for the dates -- for the times of the event; that being on
3 the 8th of September.

4 So, again, that is just from a practical standpoint
5 why, and if he was denied any kind of privileges there is
6 a practical, and I would submit, a very common sense
7 reason why he would have been denied up to that point
8 given her role in having transported him and actually
9 having communicated with him regarding falsifying an alibi
10 which is clear from the statements.

11 THE COURT: All right. Let me see the waiver of
12 rights.

13 MR. DUPREE: Your Honor, may I speak now?

14 THE COURT: You may. Can y'all move the t.v. so she
15 can see the defendant. See if you can just push it that
16 way. Mr. Dupree, you're recognized.

17 MR. DUPREE: Yes, sir. Your Honor, as far as the
18 alibi statement that he was referring to.

19 THE COURT: We're not talking about the alibi now,
20 but say whatever you want to since he brought it up.
21 Really what we're talking about is the voluntariness of
22 the confession at this point in time.

23 MR. DUPREE: Well, Your Honor, I don't have an
24 question if we're not talking about the alibi since he was
25 speaking on it.

Colloquy

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1 THE COURT: Well, really has nothing to do with
2 anything. The issue is voluntariness. Do you have
3 anything to add in that regard?

4 MR. DUPREE: No, sir.

5 THE COURT: All right. Very good. All right, sir.
6 I understand that the State is only going to offer the
7 statement of the 15th, September the 15th?

8 MR. REDMOND: The 16th, Your Honor.

9 THE COURT: The 16th. It is the 16th, and he wrote a
10 letter on the 15th and it's been published for the record
11 where he is clearly initiating contact with law
12 enforcement. And you're not -- Edwards v. Arizona.
13 United States Supreme Court says that police can speak
14 with a suspect who re-initiates contact after invoking his
15 right to remain silent.

16 And the law goes on to say in Michigan v. Mosley that
17 everything even if the defendant doesn't re-initiate it
18 under certain circumstances the police can re-initiate
19 contact with the suspect. So it's not a complete bar.

20 Under these circumstances it's clear from the tape
21 that he was given his Miranda warnings. I do find as a
22 matter of law that he was under -- in custody at the time
23 and did trigger the Miranda warnings. He was explained
24 the Miranda warnings. He's given his initials indicating
25 that he understood these and he waived them. And given

1 all the facts and circumstances I don't believe that it
2 was involuntary. He's clearly got plenty of sense. He
3 has spoken here on the record.

4 Although he doesn't have a formal education he's
5 drafted a number of motions; that he's clearly read some
6 law in that regard. So I don't think there has been any
7 evidence offered or tendered on behalf of the defendant
8 that he had a problem with regard to lack of education.

9 There has been no evidence tendered that he has a
10 deficient IQ. He was held in detention for a period of
11 six days. He's the one who re-initiated contact with law
12 enforcement. Clearly, he was not under the influence of
13 drugs or alcohol at the time.

14 I find that the statement was made freely,
15 voluntarily and it will be -- the jury will be allowed to
16 hear this statement. However, Mr. Dupree, your lawyer
17 will explain to you that I am making an initial ruling
18 that they get to hear it. But you get to argue to the
19 jury whether or not it was voluntarily.

20 And if the jury is convinced that it was not
21 voluntarily or you were not provided a lawyer or if they
22 engaged in some such misconduct and the jury makes the
23 determination that it's not voluntarily I'm going to
24 charge them that they can disregard it entirely. Do you
25 understand that, Mr. Dupree?

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1 MR. DUPREE: Yes, sir.

2 THE COURT: All right. Mr. Dupree, I wanted to make
3 sure that I have this on the record, and I'm going to ask
4 if you would stand as far as your proceeding forward ex
5 parte at least some hybrid form of representation with the
6 assistance of your lawyers who are seated there with you.

7 Clearly, you are taking the lead in this case. You
8 are representing yourself. You have been given the
9 ability to confer your attorneys who are seat there at the
10 table with you. But in order to do that I need -- you
11 need to understand, number one, that even though you've
12 not been to law school you're going to be hold
13 responsible -- going to be held responsible just as if you
14 knew what the rules of evidence were, the rules of
15 criminal procedure and the substantive rules of law. Do
16 you understand that if you go forward you're going forward
17 at your own peril. Do you understand that?

18 MR. DUPREE: Yes, sir.

19 THE COURT: You're going to be held to the same
20 standard as if you were a lawyer. Do you understand that?

21 MR. DUPREE: Yes, sir.

22 THE COURT: Do you understand that I think that's not
23 in your best interest. You want to do it anyway?

24 MR. DUPREE: Yes, I do understand, but I still want
25 to do it. Yes, sir.

1 THE COURT: And you have, what, a tenth grade
2 education?

3 MR. DUPREE: Yes, sir.

4 THE COURT: Can you read and write?

5 MR. DUPREE: Yes, sir.

6 THE COURT: Have you been reading some law books?

7 MR. DUPREE: Yes, sir.

8 THE COURT: And you feel confident that you can do
9 that?

10 MR. DUPREE: Yes, sir, I do feel confident.

11 THE COURT: All right. I'll allow you to do so under
12 those circumstances, and once again, if you feel
13 uncomfortable about proceeding forward your lawyer is
14 there to help you. Do you understand that?

15 MR. DUPREE: Yes, sir.

16 THE COURT: Do you have any questions of me?

17 MR. DUPREE: No, sir, Your Honor.

18 THE COURT: All right. Very good. Anything further
19 before we bring the jury out?

20 MR. REDMOND: Nothing further other than, Judge, as
21 it relates to some of the evidence. We -- I've kind of
22 laid it out so that we can have it marked, and I didn't
23 know if you want us to just mark them.

24 THE COURT: We're not going to do right now.

25 MR. REDMOND: Yes, sir. And that's what I wanted to

1 find out. The other thing, just to make sure the Court
2 was clear, there are two statements. You heard me refer
3 to one on the 10th. We do did not proffer that simply
4 because there is no -- my understanding in talking with
5 Mr. Jones prior to this is that there is no issue with the
6 one on the 10th because he came in voluntarily and left
7 voluntarily and there was no confession. But I just want
8 to make sure the Court was clear.

9 THE COURT: I'm sure it's very clear. As a matter of
10 fact in my ruling I said -- my ruling pertains to these
11 particular statements. You don't intend to proffer those,
12 the contents of those, however, if the defense -- they're
13 well aware of that, and they've well been provided the
14 substance of those statements. So if they find that they
15 are exculpatory they can tender those as well through the
16 witnesses that you produce or they can do it in their
17 defense.

18 Very good. Anything from Defense, Mr. Dupree, before
19 we bring the jury out?

20 MR. DUPREE: No, sir, Your Honor.

21 THE COURT: All right. And do you want to make the
22 opening statement or you want your lawyer to do it?

23 MR. DUPREE: I think I'm going to make the opening
24 statement, sir.

25 THE COURT: Pardon.

1 MR. DUPREE: I'm going to make the opening statement,
2 sir.

3 THE COURT: All right. Very good.

4 MR. REDMOND: The State is ready, Your Honor.

5 THE COURT: All right. We're ready for the jury

6 (WHEREUPON, the jury panel enters the courtroom at
7 3:12 p.m.)

8 THE COURT: Madam Forelady, ladies and gentlemen of
9 the jury, we are about to begin the trial of the case of
10 the State of South Carolina v. Derrick Dwayne Dupree. He
11 is charged with a number of different offenses first of
12 which is criminal sexual conduct first degree, kidnapping,
13 burglary first degree and possession of a weapon during
14 the commission of a violent crime.

15 As I mentioned to you earlier, the fact that Mr.
16 Dupree has been accused of these crimes is merely an
17 accusation. These indictments that I hold in my hand is
18 just that. They are just pieces of paper that starts the
19 accusation process. Mr. Dupree as he is seated at that
20 table is presumed to be just as innocent as me or you.

21 To these charges, Mr. Dupree has pled not guilty.
22 Anytime in the United States of America when an individual
23 is charged with a crime, they have a right to plead not
24 guilty, and he has done that. When that happens certain
25 constitutional safeguards come into play as an American

1 citizen. First of which is he is presumed to be innocent.
2 That is just like a cloak.

3 A cloak guards him throughout this process. He will
4 be cloaked in that presumption of innocence throughout
5 this trial, and that presumption will follow him into your
6 deliberations. It's only after the State has been able to
7 prove each and every element of these crimes beyond a
8 reasonable doubt that that presumption can be removed. He
9 is presumed to be innocent and that's where we start.
10 That's the frame of reference where we start.

11 The second constitutional safeguard is that the State
12 bears the burden of proof. That's important because you
13 know sometime in some third world countries like East
14 Germany and some Latin America countries you can be
15 accused of a crime, hauled before the court and be
16 required to prove your innocence. Ladies and gentlemen of
17 the jury, in the United States of America that is not the
18 case. We all know that in our everyday life we can be
19 accused of things. In our everyday lives by a family
20 member or friend, and sometimes it's impossible to prove
21 our innocence.

22 In the United States of America an individual accused
23 of a crime is not required to prove himself innocent. The
24 burden rest on the State. The have to prove each and
25 every element of the crime beyond a reasonable doubt.

1 The third constitution safeguard it is just that;
2 they have the highest burden to prove in our judicial
3 system. Many of you have probably served on a civil jury
4 before, where it is only required that the person suing
5 someone in a monetary situation is only required to prove
6 that their version of the facts are more likely true than
7 not by the preponderance of evidence.

8 Imagine, if you will, the scales of justice. If we
9 were here, we were talking about a wreck case, a medical
10 malpractice case, a contract case and the plaintiff were
11 suing someone when the trial starts the lady that we
12 imagine as the scale of justice is blindfolded from all
13 bias and all prejudice. She is holding the scales, and
14 when the trial starts the scales are even.

15 But in a civil case, let's just say a wreck case, the
16 plaintiff who is hurt only has to tip the scales ever so
17 slightly in their favor and they can prevail because in
18 that forum we are only talking about money. But in
19 criminal court we are talking about a very important
20 constitution safeguards versus liberty. Therefore, the
21 State has to prove more than beyond -- more than a
22 preponderance of the evidence. They have to meet the
23 highest burden of our judicial system which is proof
24 beyond a reasonable doubt.

25 It is a real doubt, a substantial doubt. A doubt

1 which would cause a reasonable juror to hesitate to act.
2 I will charge you in greater detail the definition of
3 reasonable doubt. It is the highest burden of proof known
4 in our judicial system. Ladies and gentlemen of the jury,
5 in this particular forum you and I have certain duties to
6 perform. I am the trier of the law. That means that I
7 preside over the case. I determine what evidence you get
8 to hear, and I charge you the law at the conclusion of
9 case to tell you what the substance of the law is.

10 You are judges, too, but you are judges of the facts.
11 You are the ones that will be required to listen to the
12 evidence that comes from this witness stand and determine
13 what the truth is. In every case tried in our judicial
14 system there is a question of the facts. Sometimes in a
15 very rare occasion everyone agrees on the facts but there
16 is a disagreement and an inference to be drawn from the
17 facts. But in every case that is tried there is a
18 question of the facts. You are going to be required to
19 resolve that with your collective wisdom.

20 When you are doing that you necessarily going to be
21 called upon to determine the credibility or believability of
22 the witnesses. When you do that ask yourself what
23 opportunity this witness had to observe, to see, hear or
24 feel the things to which they testified to. Ask yourself
25 whether or not what they said is corroborated or

1 contradicted by other witnesses. Ask yourself whether or
2 not there is any bias or any prejudice.

3 I'll tell you from the very outset, you can believe
4 all of what a witness says, none of what a witness says or
5 a portion thereof. It is completely within your province
6 as jurors to make those type conclusions. Not only do you
7 pay attention to what an individual says but the manner in
8 which they do it. The law says that you can take into
9 consideration the manner in which a person acts on the
10 witness stand. We all know, those of us who have teenage
11 children, sometimes it's as important to listen to what
12 they say, but it's also important to pay attention to how
13 they say it, their demeanor. You are allowed to do that.
14 The law gives you that authority. Use your good common
15 sense and evaluate the credibility and believability of
16 the witnesses.

17 I want to tell you a little bit about how we will
18 proceed in this trial. First of all the State is going to
19 have the opportunity to stand up before you and give an
20 opening statement and tell you what this case is about and
21 maybe talk to you a little about the law and the evidence
22 they have that they are going to present in this case and
23 give you sort of a summary. Pay very close attention as
24 they do that.

25 The defense is going to have the opportunity to give

1 an opening statement as well, but like I mentioned before
2 the defendant need not prove anything. They need not give
3 an opening statement. They need not testify. They need
4 not present any evidence on their behalf. But they will
5 be afforded that opportunity if they choose to do so. I
6 anticipate they probably will. That is completely their
7 decision whether or not to do that.

8 But the State is given the opportunity to do an
9 opening statement first then from the Defense. Then we
10 will proceed to the taking of the evidence in this case
11 most of which is going to come from this witness stand.
12 Other forms of evidence are stipulation of counsel,
13 documentary evidence. Most of it is going to be testimony
14 that comes from this witness stand.

15 These witnesses will get up here, and they are going
16 to take a solemn oath to tell the truth and these lawyers
17 are going to ask them questions. Pay very close attention
18 throughout the process. The State is going to go first
19 with regard to their presentation of evidence and then
20 Defense is going to have an opportunity to present
21 evidence if they choose to do so.

22 If they choose to do so then the State, since they
23 have the burden of proof, they will be given a brief
24 opportunity to present any reply testimony they might
25 have. That's kind of the way this thing is going to

1 operate. Throughout the trial of this case I have always,
2 as a lawyer and as a judge, you will hear the trial lawyer
3 say, "I object. I would like to take up a matter of law
4 outside the presence of the jury." I want to tell you
5 from the beginning what that's all about.

6 See, my job is to determine what evidence you get to
7 hear, and when they object they are objecting pursuant to
8 the rule of evidence and the rules of criminal procedure
9 on whether or not you should hear that type evidence.
10 Quite often those conversations take place outside of your
11 presence because sometimes it requires that I comment on
12 the facts. The law does not allow me to have an opinion
13 about the facts or comment about the facts. So for that
14 very reason those conversations would take place outside
15 of your presence.

16 At the conclusion of the case and after rendering
17 your verdict if there is a particular court of law that
18 you are interested in, if I can remember what we were
19 talking about, I will be happy to share it with you at
20 that time. But until then it would be inappropriate for
21 you to hear those type conversations. Sometimes those
22 will take place outside your ear shot over here beside the
23 bench. Sometimes if it is a complicated matter we will
24 have to take testimony outside of your presence you will
25 retire to the jury room while we do that.

1 After the taking of all of the evidence the lawyers
2 will have an opportunity to present closing arguments.
3 They are very similar in form of opening statements,
4 however, they will be truly argumentative in nature. By
5 that time the evidence will have been presented to you.
6 They can point to the evidence that supports their
7 relative position. What they have to say is not evidence.
8 It just aids in your deliberation process.

9 At the conclusion of that I will charge you law and
10 then I will give you instructions when to begin
11 deliberations. Do not begin deliberations and discussions
12 about any matter that you hear in this courtroom until
13 such time I give you instruction to do so. Do not take
14 notes. Given the nature of the subject matter and length
15 of this case I am going to ask you not to take notes. You
16 need to pay close attention.

17 I will tell you something that is very important,
18 something that you need to pay attention to. You take a
19 solemn oath to do what is right, fair and follow the law
20 in this case, and I am confident you can do that. You are
21 participating in a time tested system and it is an awesome
22 responsibility. I think one of the things that you need
23 to know is that if I make an error with regard to the law,
24 if I let y'all hear evidence that y'all shouldn't hear or
25 vice versa, I let you hear evidence that you should, those

1 legal matters are quite easily corrected.

2 However, if there is an error with regards to the
3 finding of the facts that can't be corrected. That's your
4 responsibility. So you need to pay very close attention.
5 These are important matters. Important matters to the
6 State of South Carolina, and it's important to the
7 Defense. Mr. Redmond, you're recognized.

8 MR. REDMOND: And I would yield to Miss Johnson Lee
9 at this time.

10 MS. JOHNSON LEE: If it please the Court.

11 THE COURT: Yes.

12 OPENING STATEMENT BY MS. JOHNSON LEE

13 MS. JOHNSON LEE: Mr. Dupree, counsel. Good
14 afternoon. We are here today because it was a late
15 afternoon. Sunday, September 18, 2013. Derrick Dupree,
16 who is seated over here, lied his way into the home of an
17 elderly couple over in Wallace, South Carolina and then
18 violently rape the elderly lady that was 76 years old at
19 the time. He had a knife blade jacked against her neck
20 threaten to kill her when he gets done.

21 Derrick Dupree on September 8th violated the sanctity
22 of the home of LT [REDACTED] and Charles Thomas and violated the
23 sanctity of her body, forever changed her life. On that
24 particular day Mr. Thomas, who was 81 years old, was
25 seated in a recliner in the kitchen where they have a

1 television and some chairs. He was in a recliner.

2 Miss LT takes care of Mr. Thomas. He was in a
3 home, but at the time he was there at their home. She was
4 wearing a pinkish red tee shirt which she wears as a
5 nightgown. It was kind of a long nightgown and just
6 relaxing and she heard a knock at the door. She proceeded
7 to go to the door and by the time she got there she saw a
8 young man in her yard. She opens the door to find out
9 what he wants. He is there inquiring about whether she is
10 interested in selling her home or renting her home.

11 Well, of course, she wasn't, but Miss LT did say,
12 "Well, my husband and I are up in age, and it's something
13 we may have to think about down the road." So she allowed
14 him to come into the home and maybe that's an option for
15 the future. Once inside the home at some point she gave
16 him a piece of paper to write down his name and phone
17 number on. And she also realized that she smelled wine on
18 his breath, and at that moment she realized that she had
19 made a terrible mistake.

20 This person, this stranger, she should have never let
21 him into her home. So despite how polite and well spoken
22 he was up to this point. So she began trying to get him
23 to leave the house, and as they make their way back
24 through the house, and it's unclear if she is in front or
25 behind him. She is not 100% certain, but that doesn't

1 matter. What matters is that as they got near to the
2 front door of the home and close to getting him out of the
3 house, and in an instant his entire demeanor changed.

4 In an instant her life changed. In an instant he had
5 a knife blade jammed against her throat, shoved her
6 frontwards over the sofa and raped her. Miss [REDACTED] had
7 the presence of mind to activate her life line. She had
8 the presence of mind to pray out loud for God to save her
9 life because he told her he was going to kill her. Then
10 she thought about it. Something told her to pray for him.
11 So then she began praying out loud for God to work on him.
12 To work on his heart.

13 When he finished what he was doing, he finished
14 raping her, he did say something along the lines of,
15 'lady, I ain't going to kill you', and went out the front
16 door.

17 Now, you are going to hear that initially another
18 individual did get charged with this and made something
19 what amounted to a false confession. But the evidence in
20 this case, everything you are going to see and everything
21 you are going hear in this courtroom this week, is going
22 to prove to you beyond a reasonable doubt that the person
23 who lied to gain access to that home, who held a knife to
24 this lady's throat and violently raped her is none other
25 than Derrick Dupree.

Opening Statement by Mr. Dupree

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1 Now, my name is Mary Johnson Lee. I am Assistant
2 Solicitor, and this is Kennard Redmond, Deputy Solicitor,
3 and LT [REDACTED] our victim, is present seated in the
4 light blue shirt, and she is going to tell you her story.
5 Thank you.

6 THE COURT: Mr. Dupree, you're recognized.

7 OPENING STATEMENT BY MR. DUPREE

8 MR. DUPREE: Good afternoon. Well, as she said there
9 was another suspect that was a held accomplice on this,
10 but I'm going to give you a little brief summary on what
11 took place on that date. On September the 8th, which was
12 the date of the crime, 2013, a suspect was brought into
13 custody for the crime which was Kadeem Lateef Hooks, and
14 he was charged with the crime as well as confessed to the
15 crime. It says spotted by eye witness as well.

16 But however, on September the 10th, a friend, a
17 family related friend, had -- of Kadeem Hooks went to the
18 police department in Marlboro County and gave a voluntary
19 statement stating that he saw the defendant, Derrick
20 Dupree, in the neighborhood. Not where the crime took
21 place, but in the neighborhood. So the defendant find
22 that out through people in the neighborhood which the
23 defendant went to the police department same day which was
24 September the 10th 2013.

25 And him and his fiance the same day giving a

1 statement saying he didn't know anything about the
2 crime, and you know, he wasn't in Wallace where the crime
3 had took place which I didn't indicate where the crime
4 took place at. The crime took place in Wallace, South
5 Carolina, but the defendant stated that he was in
6 Bennettsville, South Carolina which they did -- the police
7 department -- the Sheriff's Department in Bennettsville
8 did, however, call the two witnesses on the defendant's
9 behalf ---

10 MS. JOHNSON LEE: Objection, Your Honor. I
11 apologize. It sounds as though he is giving his testimony
12 at this point instead of just the opening.

13 THE COURT: I'm going to give him some leeway in that
14 regard. Go ahead.

15 MR. DUPREE: Proceed, sir?

16 THE COURT: Yes.

17 MR. DUPREE: Once again, the defendant -- they did
18 call some people on defendant behalf, whereas, they said
19 that the defendant was in Bennettsville, not in Wallace,
20 South Carolina where the defendant was somewhere else
21 celebrating his mother's birthday. However, I'll move on
22 past that.

23 The defendant was able to leave that day, September
24 the 10th and go home. On September the 11th which was the
25 next day, less than 24 hours, the defendant and his

Opening Statement by Mr. Dupree

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1 wife -- his fiance rather, was going by to pick up his
2 grandkids. Whereas, the first suspect grandmother saw the
3 defendant and his wife, and she thought that the defendant
4 was arrested the day before. So what she did at
5 four o'clock that afternoon when she saw the defendant she
6 went to the Sheriff's Department and gave a statement
7 saying that somebody told her that the defendant said that
8 he raped a girl and an older woman.

9 And right after through the statement, I got the
10 statements to show, right after her statement they came
11 and arrested the defendant. But when the defendant did go
12 to the Sheriff's Department, and they told him why he was
13 arrested they said that somehow they had found some
14 fingerprints on a piece of paper that came back from
15 S.L.E.D. which was on September 11th. He was arrested.

16 But they said that, you know, that the fingerprints
17 was received at ten o'clock that morning. Ten o'clock on
18 September the 11th at ten o'clock that morning. And,
19 whereas, they didn't come and arrest the defendant until
20 seven hours later which was kind of odd because you
21 received some fingerprints at ten o'clock that morning and
22 you really want this person why would you come and arrest
23 the person at six o'clock after you done heard a statement
24 from the first suspect's grandma saying he was in the
25 neighborhood.

1 Once again, and said that the defendant said he raped
2 a girl and a woman, I mean which was -- and also said the
3 defendant asked him to hide the knife. The person that
4 his grandmother stated said this did not said this. This
5 is the same person that went to the police on the 10th and
6 that person did not state that at that time.

7 However, he did come back after the defendant arrest
8 and made another statement whereas this time he did stated
9 that. However, on -- by this time the defendant was
10 questioned on the incident and the defendant, however,
11 which I don't mind stating, the defendant has been did
12 time before. Whereas, the defendant D.N.A. is already in
13 the database system in South Carolina.

14 Whereas, the defendant kept asking them, well, when
15 the D.N.A. test come back it will show that, you know, the
16 defendant was innocent. And he was stating this
17 throughout his arrest. However, on October -- the
18 defendant received some additional documents where it
19 showed that he had an unidentified D.N.A. report.

20 Whereas it was showing that it was unidentified, but
21 the first suspect was excluded, whereas, these documents
22 were sent to S.L.E.D. on September the 9th. As you -- as
23 I told you earlier Dupree -- the defendant wasn't a
24 suspect until September 11th. They had no reason to send
25 anything to S.L.E.D, you know, in reference to Dupree.

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1 However, you know, it was just on the first suspect.
2 They just excluded the first suspect. However, they
3 stated that it was an unidentified male individual who
4 D.N.A. they had. But they stated that they don't know if
5 it's a male or female. They go by the request that the
6 State send them which the State told them that it was a
7 male so they said it was an unidentified male individual.

8 But, however, the defendant throughout his time of
9 incarceration being locked up for a year now, he learned a
10 little -- a few about the law -- a few things about the
11 law. He wrote S.L.E.D. himself which I have the documents
12 on, but he wrote S.L.E.D. himself in reference to the
13 D.N.A. to make sure because the State was still telling
14 him that, you know, it was his D.N.A. found in the victim
15 or whatever. On the victim or in the victim house at the
16 crime scene.

17 But he did write to S.L.E.D. and S.L.E.D. did send
18 him a report back which they stated that, you know, we
19 received a sample from you from C.O.D.I.S. a D.N.A.
20 analysis. C.O.D.I.S. is called -- it's a Combined -- it's
21 a Combined Index System -- Database System -- Combined
22 Index Database System where it holds people D.N.A.

23 Whenever they go and be convicted of a crime they
24 take your D.N.A. and send it to S.L.E.D. so whenever you
25 commit a crime or anything and the D.N.A. from that crime

1 scene is submitted to S.L.E.D. S.L.E.D. automatically runs
2 it through the D.N.A. database. The D.N.A. database
3 automatically shows who the victim -- I mean who the
4 suspect who committed the crime.

5 So he wrote S.L.E.D. and S.L.E.D. sent him a request
6 back that, you know, saying that your blood was drawn
7 10/6/2014 when the defendant was serving time for another
8 crime which was submitted -- which the State was submitted
9 to the South Carolina Department of Corrections. Where it
10 was submitted by the South Carolina Department of
11 Corrections to the S.L.E.D.

12 However, like I said, on October the 10th 2013 that's
13 when the defendant received the unidentified report.
14 However, they -- some other evidence was sent to the
15 defendant which I am sure will come out during trial that
16 stated that the defendant D.N.A. was found on a shirt.

17 But, however, that goes back still to an unidentified
18 report. Just like I said it would come out later on in
19 the trial. But it was said that after trying to get the
20 defendant to see that it was his D.N.A. and the defendant
21 was like, well, where is the other evidence and however,
22 because he had an unidentified report. It was later said
23 by the State, Mr. Redmond, that he was waiting on one more
24 document from the S.L.E.D.

25 This was said back in March 6th 2014 when he told

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1 Judge Burch that; that was presiding at that time, he was
2 waiting on one more document from S.L.E.D. which he said
3 he spoke to S.L.E.D. This was on March 6th, and they said
4 -- he said that he was waiting on one more document in
5 reference to Mr. Dupree. This after Dupree stated --
6 well, it was arrested evidence. They never bought this
7 evidence until and about until after Dupree stated, 'where
8 was the rest of the evidence' because they were still
9 saying that, you know, he was the contributor to this
10 D.N.A. that was found at the crime scene.

11 So despite the fact that he had the unidentified
12 report. But on March the 6th he stated that the other
13 document will be ready within a week. That's what he said
14 to S.L.E.D. That's what the D.N.A. analysis [sic] said.
15 But Mr. Dupree didn't receive that document until like May
16 21st which was two months later which was a different
17 document from the same analysis whereas S.L.E.D. analysis
18 would not have had two different documents from the same
19 expert D.N.A. analysis.

20 Whereas, like I said one was updated that it was
21 unidentified which was October the 10th 2013. But like I
22 said eight months later, eight months later, another
23 document comes saying that now it was identified and this
24 was said by the same D.N.A. analysis.

25 Whichas, like I stated that I don't think that the

1 D.N.A. analysis would have made two statements saying
2 unidentified allowing a potential suspect to get away with
3 a crime. Whereas, it is policy for they agency to report
4 anything that is found in their report. That's they
5 policy. That's the policy for S.L.E.D. agencies; that
6 anything that they found -- find in their report they are
7 to put it in their examination. They are to put it in
8 their report.

9 But, once again, like I said, I don't think that she
10 would have jeopardized her job or S.L.E.D. by putting
11 unidentified allow a suspect or a potential suspect to get
12 away with a crime for eight months. But like I said. The
13 other report didn't come in until eight months later where
14 it was saying unidentified.

15 Not just that on that report it -- on that report it
16 still show that, you know, she don't speak about
17 C.O.D.I.S. and she don't speak about the way she ran the
18 D.N.A. at which on the first report she stated that she
19 ran the D.N.A. through C.O.D.I.S., but on the second
20 report she don't state that.

21 I don't know what took place in that. Hoping
22 everything will come out in the trial. But for now -- but
23 now, like I said, on September 11th -- not to forget on
24 September 11th about the fingerprint report that they did
25 say which lead to the defendant's arrest.

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1 And not to forget, I almost forgotted that, they did
2 let the first suspect go on September the 11th with
3 nothing proving his innocence. So it was obvious that
4 either he was framed by whoever the State -- I don't know.
5 I mean I don't understand how you let somebody go who
6 confessed to a crime and said by eyewitness. And I mean,
7 you know, and I have the documents to show that this man
8 did confess to the crime. And it was said that he was
9 spotted by an eyewitness.

10 So once again, I don't know how you would just let
11 him go after all that and arrest another man saying -- I
12 mean with nothing to prove his innocence because no D.N.A.
13 test or nothing came back saying that he was excluded at
14 that time.

15 But like I said at that time -- but like I said
16 September the 11th the report came back, and for y'all not
17 to forget that. September 11th the report came back
18 stating that Mr. Dupree's fingerprint was sent to them on
19 September 11th at ten o'clock. Which, like I said, they
20 never did arrest this man until four o'clock. So,
21 hopefully, like I said, hopefully the truth will come out
22 during trial.

23 THE COURT: Mr. Redmond, you're recognized. You may
24 call your first witness.

25 MS. JOHNSON LEE: Your Honor, the State calls **LT**

1 LT [REDACTED]

2 THE COURT: Ms. LT [REDACTED] if you will come forward.
3 I'm going to ask you to come have a seat up here in the
4 witness stand. Take your time. I'm going to ask you if
5 you could, once you get settled, to place your left hand
6 on the bible and raise your right hand as the Clerk
7 administers the oath.

8 LT [REDACTED] after being duly sworn, testified
9 as follows:

10 THE COURT: Yes, ma'am, you're recognized.

11 MS. JOHNSON LEE: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. JOHNSON LEE:

14 Q. Please state your name for the record, Mrs. LT [REDACTED]

15 A. LT [REDACTED]

16 Q. Okay. Mrs. LT [REDACTED] where do you live at?

17 A. I live at [REDACTED] in Wallace, South
18 Carolina.

19 Q. And is that here in Marlboro County?

20 A. Yes.

21 Q. Okay. Is that near the Wallace schoolhouse?

22 A. Yes.

23 Q. Okay. Mrs. LT [REDACTED] what is your date of birth?

24 A. [REDACTED]

25 Q. Okay. And so how old are you right now?

- 1 A. Seventy-seven.
- 2 Q. Thank you, ma'am. And what's your husband's name?
- 3 A. Charles Edward Thomas.
- 4 Q. How old is Mr. Thomas now?
- 5 A. He's 84, I believe.
- 6 Q. Okay.
- 7 A. I forget.
- 8 Q. How long have you two been married?
- 9 A. Sixty-one years.
- 10 Q. And y'all just had your anniversary recently?
- 11 A. Yes.
- 12 Q. What month was that in?
- 13 A. The 14th.
- 14 Q. Now, Mrs. LT [REDACTED] is your husband at the house now?
- 15 A. No. He's in the hospital right at the time, but
- 16 before that he was in the convalescent center. He has
- 17 Parkinson's and kidney failure and pneumonia.
- 18 Q. Now, back on September 8th of 2014 which was just
- 19 over a year ago, what was his health like back then?
- 20 A. Well, he had -- he had just gotten out of the
- 21 hospital, and we were waiting for a bed, I believe is
- 22 right, for him to go in a nursing home.
- 23 Q. So he was staying at the house with you then?
- 24 A. Yes.
- 25 Q. Okay. And what was your health like then?

1 A. I was -- I'm a diabetic, and I was having ulcers on
2 my feet. Having to stay off of my feet as much as I
3 could.

4 Q. Well, since September 8th of 2013 have you had to
5 have any medical procedures done?

6 A. Yes, I had to have surgery on my Achilles tendon.
7 They did both of them because my feet -- because of my
8 diabetes. And the bones were deforming and that's
9 supposed to keep them from getting any worse, hopefully.

10 Q. And did you come straight home from the hospital or
11 did you go somewhere else?

12 A. No. I went to the convalescent center and stayed
13 where Charles was so I could check on him.

14 Q. Okay. How long did you stay at the convalescent
15 center?

16 A. From -- I had my surgery the first week -- I mean the
17 last week in April, and I stayed until about August the
18 12th or something like that. I can remember the exact
19 date.

20 Q. Now, Miss LT [REDACTED] back on September 08th of 2013 did
21 something happen at your home?

22 A. Yes. Me and my husband were setting the table. I
23 believe this was about 4:00 or five o'clock. I may be
24 wrong about the time, but it was over in the afternoon.
25 And we were sitting watching t.v. and the doorbell rang.

1 And it's unusual for our doorbell to ring because most
2 everybody that knows us comes around the back.

3 And just comes in. But I sat there for a minute, and
4 I got up and just decided to see who it was. And I opened
5 the door and that man sitting right over there was at
6 the -- down at the bottom of my steps. And so I opened
7 the door to see what he wanted, and he said, "Is this
8 house for sale. I thought it looked like nobody was
9 living here. So I thought maybe it was for sale." And I
10 said, "No, it's not for sale. Not at this time anyway,
11 but I don't know about in the future," thinking, you know,
12 I didn't know about my husband's condition.

13 So he said, "Would you mind if I come in and look at
14 it." And I said, "Well, like I said it's not for sale
15 right now." And he said, "I would like to look at it
16 anyway if you don't mind." So I started to say no, but he
17 looked like a nice dressed fellow, and you know, didn't
18 look like he was out to do anybody any harm. So I let him
19 come in.

20 And he started in the living room, and he wanted to
21 go see out where my husband was. And he asked about -- I
22 think he asked -- I don't know how he knew I had a husband
23 out there, but he wanted to go -- he asked about could he
24 talk to my husband about it. And I told him, "Yes, he's
25 out in the den," and so I took him out there. I let -- I

1 proceeded him out there, and he talked to my husband a
2 little bit about, you know, about the house.

3 And he was fixing to go, and he said sure did hope
4 that if we sold it in the future we would get in touch
5 with him. Go I got a pad bad from the refrigerator and a
6 pen. And I gave it to him to write -- I said, you know,
7 "Leave your name and telephone number, and if we ever do
8 I'll call you." And -- but I got leery when we first went
9 out in the den because I thought I smelled wine, cheap
10 wine or something. I don't know much about wine, but it
11 had a sweet smell.

12 And I got kind of nervous then so I was really trying
13 to get him out of there as fast as I could after that, and
14 I told him, I said, "Now, I've got to fix my husband's
15 supper. You've got to go." And so we went back up the
16 hall, and I proceeded him again because I usually try to
17 keep anybody in front of me. But we got up there in the
18 living room, and I don't know how he did it. He started
19 talking about the closet. Was it a coat closet or a big
20 closet, and I told him it was just a coat closet, but I
21 didn't throw nothing in there or anything.

22 And I don't know how he did it, but he managed to
23 grab me around my neck from behind. I don't know how he
24 got behind me. And pushed me over on the couch and
25 proceeded to rape me. And I didn't know what -- I was

1 trying to talk him out of it. I told him my son was a
2 policeman; that he better not do that, you know because he
3 would look for him.

4 And I said, "You're ruining your life. You don't
5 know what you're doing. You're ruining your life. You
6 better leave." But every time I try to talk him out of it
7 he would poke whatever that was in my neck and say, "If
8 you don't shut your D mouth I'm going to kill you." And
9 there my husband was out there in the den, and I knew if
10 he killed me he was going to go out there and kill him,
11 too, because he'd seen him.

12 And so I kept trying to talk him out of it, though,
13 and after that I said, 'you're fixing to die because he's
14 going to cut your throat after h e finishes raping you and
15 maybe your husband's, too'. And I said, "You better
16 pray," and I started praying. And then I started praying
17 then. I guess the Lord put it in my mind. Pray for him.
18 And so I started praying for him.

19 And I don't know if that touched him in any way or
20 not, but I prayed for him cause I could see it wasn't
21 anything else doing any good. And so while I was praying
22 it came to my mind that I had on my alert button. I
23 always have it down in my blouse. And I reached down in
24 there without him knowing and pushed the button. I
25 thought maybe they will get here in time to save Charles

1 if not me.

2 So, of course, it started answering in the den. I
3 don't know if he noticed it or not. Evidently not. I
4 heard it, and I kind of think maybe he did cause he quit
5 all of a sudden and left and said, "Lady, I'm not going to
6 kill you." And left out the door and across the yard.
7 And I shut the door and went in there so I could answer --
8 they ask if you need help, and I went in there and told
9 them what happened.

10 Q. Miss LT [REDACTED] what were you wearing that day?

11 A. It's a long tee shirt like thing, but I usually use
12 them as gowns when I'm lounging around at the house.

13 Q. Now, what color would you call the one you had on?

14 A. It was red.

15 Q. Now, Miss LT [REDACTED] you had done a drawing. It's kind
16 of a rough sketch of for me of the inside of your house.

17 MS. JOHNSON LEE: If I can get the pre-marked for
18 State's Exhibit 14. I'm going to show it to Mr. Dupree.
19 And we've blown it up, of course. Permission to approach?

20 THE COURT: Yes.

21 BY MS. JOHNSON LEE:

22 Q. I'm going to kind of stand back here. Do you
23 recognize that, Miss LT [REDACTED]

24 A. Yes.

25 Q. Okay. And is that blown up copy of the drawing you

1 made?

2 A. Yes.

3 Q. Okay.

4 MS. JOHNSON LEE: Judge, could I have her stand up if
5 she's able to and kind of turn that drawing to the jury
6 just for a moment?

7 THE COURT: Yes.

8 BY MS. JOHNSON LEE:

9 Q. Can you turn it on around. Okay, Miss LT [REDACTED] could
10 you please explain to the jury what all is in that
11 drawing?

12 A. This is a bedroom. This is a bedroom and this is a
13 dining room. This is the living room. This is the door
14 he rang the doorbell on. And when he came in we proceeded
15 down the hall. And out here is my kitchen, and out there
16 is where we were sitting watching t.v. And he -- we came
17 in, and I was standing here and he was standing there.

18 Q. Okay. And I you've actually got the area off the
19 kitchen marked as the den also, right?

20 A. Yes. This is a den so we don't use it much cause we
21 didn't get up and down the steps.

22 Q. Okay. So the den area that you're referring to where
23 your husband was seated at is there with the kitchen?

24 A. Yes, right here by the back door.

25 Q. And where was your husband seated?

1 A. Right here.

2 Q. And where did you get the piece of paper for Mr.

3 Dupree to write that note?

4 A. It was over here on the refrigerator.

5 Q. And where was the Lifeline intercom at?

6 A. Right at the end of these cabinets. These are
7 cabinets right here, and it was right there.

8 Q. Now, where is the sofa at where you said that the
9 rape took place?

10 A. It's back here inside the living room. It's a
11 loveseat, actually. The sofa was here and the loveseat
12 was right here.

13 Q. It was over the love seat?

14 A. Yes, right by the front door.

15 Q. Thank you, ma'am. You can sit down.

16 MS. JOHNSON LEE: At this time I move to put Exhibit
17 Number 14 in evidence?

18 THE COURT: Any objection from the Defense?

19 MR. DUPREE: No, sir.

20 THE COURT: All right. It's into evidence without
21 objection from the Defense.

22 (WHEREUPON, State's Exhibit No. 14 was admitted into
23 evidence.)

24 BY MS. JOHNSON LEE:

25 Q. Okay. Miss LT did you have any injuries,

1 physical injuries, anywhere on your body that could be
2 seen?

3 A. Yeah, I had a place on my neck. I don't know how bad
4 it was. I have never actually looked at it, but they saw
5 it at the hospital.

6 Q. Okay. Did you ever look in the mirror?

7 A. No, I never looked at it. I was so tired by the time
8 I got home.

9 Q. And you were taken to the hospital; is that correct?

10 A. Yes.

11 Q. Okay. Now, before you went to the hospital did you
12 do anything with the gown that you were wearing?

13 A. I gave it to the detectives.

14 Q. Okay. Do you remember which detectives you gave it
15 to?

16 A. I think the lady took it. I'm not sure.

17 Q. You're looking at Susan Alderman. Is this the lady?

18 A. I think so.

19 Q. Okay. Now ---

20 A. I'm not sure about that. Everything is kind of
21 blurry at that point because people were coming from
22 everywhere.

23 Q. Okay. But you did give it to the detective? You're
24 shaking your head yes?

25 A. Yes.

1 Q. Did you give it to anybody else first and then get it
2 back and give it to her?

3 A. No.

4 Q. Okay. So it went straight from you to the
5 detectives?

6 A. Um hum.

7 Q. Thank you, ma'am. All right. The note that the
8 defendant wrote on, what did you do with the note?

9 A. I kept it. I gave it to them once they got there
10 cause the Sheriff's Department ...

11 Q. Okay. You gave the note to somebody from the
12 Sheriff's Department?

13 A. Yes.

14 Q. Thank you, ma'am. All right. Now, did you put on
15 other clothing, obviously, when you went to the hospital,
16 but what about underwear? Were you wearing any underwear
17 at the time of the rape?

18 A. No, I wasn't. Of course, I wasn't going to be going
19 anywhere, and I was -- we were really almost ready to go
20 to bed except we hadn't eaten anything yet. And -- but I
21 did think to go and put something on in case there was
22 evidence.

23 Q. Okay. So you put something on before you went to the
24 hospital?

25 A. Yes.

1 Q. And you put those on after the rape?

2 A. Yes.

3 Q. Okay. Now, when you went to the hospital was a rape
4 exam performed on you?

5 A. Yes, it was.

6 Q. Okay. And during that exam they did various things
7 to you? Took swabs? Thing of that nature?

8 A. Yes.

9 Q. And were your underwear turned over to somebody there
10 at the hospital?

11 A. Yes.

12 Q. Okay. Miss LT did you know Derrick Dupree?

13 A. No. I never seen him before, but I know him now.

14 Q. Okay. Can you point -- do you see that person in the
15 courtroom?

16 A. Yes, I do. He's the one that keeps calling himself
17 the defendant.

18 Q. Okay. The man that did the open argument; that is
19 him?

20 A. Yes.

21 Q. Okay. Thank you, ma'am. Now, after you went to the
22 hospital did you at some point sit down with a S.L.E.D.
23 artist and do what is called a composite drawing?

24 A. Yes, I did.

25 Q. Okay. And where was that done at?

1 A. The Sheriff's Office.

2 Q. And that's where you went after the hospital?

3 A. Yes.

4 Q. Now. After the S.L.E.D. artist finished the drawing
5 did you indicate to the artist, yeah, that's exact right.
6 That's the exact drawing?

7 A. No. I told him I had done as well as I could. They
8 take different components and put them together, and I had
9 done as good as I could. I told her it still didn't look
10 exactly like him. I couldn't put my finger on what it
11 was, but it just lacked a little something.

12 Q. Okay.

13 A. But it was close.

14 Q. The rape itself, and I hate to even have to ask you
15 this question, but at no point in time did you ever
16 consent to that happening?

17 A. No. I've been married 61 years, and I've never been
18 with anyone else but my husband. So it was terrible.

19 MS. JOHNSON LEE: Beg the Court's indulgence:

20 BY MS. JOHNSON LEE:

21 Q. Miss LT [REDACTED] I'm not going to ask you anything else,
22 okay. If you don't mind answering any questions the other
23 side has and when they're done you can go to your seat.

24 A. I'll do the best I can.

25 THE COURT: Defense is recognized. You may

1 cross-examine. I'm going to ask you to stand right there
2 and do that.

3 CROSS-EXAMINATION

4 BY MR. DUPREE:

5 Q. Good afternoon Miss LT [REDACTED] Mrs. LT [REDACTED] I'm not
6 here to say that the crime didn't happen or, you know,
7 that didn't happen to you. I'm just here, you know,
8 stating the facts and the truth. However, you did say ---

9 A. I can't understand him.

10 THE COURT: Okay, listen. Speak slowly and loudly.

11 BY MR. DUPREE:

12 Q. I said I'm not here to state that the crime didn't
13 happen or you weren't sexually assaulted. I'm just here
14 to state the facts and truth and find out the facts and
15 truth. However, you did state that you did see the
16 defendant. At that time you didn't recognize the
17 defendant at that time?

18 A. Yes, I did. I do. It's you.

19 Q. What I'm saying is did you identified the defendant
20 to the police at the time of the crime?

21 A. After they had arrested you I did. Yes.

22 Q. So?

23 A. And I have given them the picture. I guess it went
24 by.

25 Q. Well, I'm -- I wasn't aware of that. You did

1 identify the defendant. I notice on the statement that
2 you made on the 16th you stated, whereas, I have reviewed
3 it a couple -- about a week ago that you state that you
4 wasn't -- when you asked about the other suspect in the
5 crime where they asked do you think after the State, which
6 was Jamie Seals and Susan Alderman spoke with you, you
7 asked them did -- do you think that the other suspect
8 could have been with the defendant, Derrick Dupree, at
9 that time.

10 What I'm asking was you aware of, cause you're saying
11 that you're aware of the defendant at that time, but you
12 did not state to the State until after the fact, which I
13 was never ---

14 A. I don't understand the question.

15 Q. What I'm asking you is you stated that -- that you
16 did state about the second -- the first suspect they had
17 arrested. You asked the State in a statement you made on
18 September the 16th you asked him?

19 MS. JOHNSON LEE: Objection, Your Honor. He needs to
20 ask a question instead of making a statements to Miss

21 LT [REDACTED]

22 THE COURT: Mr. Dupree, one of the things -- what you
23 need to do is ask her the question. And if it contradicts
24 any other statement you've read you can ask her about
25 that. Ask her in the first instance what you want her to

1 answer.

2 MR. DUPREE: Okay.

3 THE COURT: Without talking about any kind of
4 statement. Just ask her the information that you have
5 read, and if she says something different than what is in
6 the statement then you can bring up the other statement.
7 Just asks her the question in the first instance.

8 MR. DUPREE: Okay.

9 BY MR. DUPREE:

10 Q. Miss LT [REDACTED] did you ask the State about the first
11 suspect?

12 A. Did I ask them what?

13 Q. Did you ask them was the other suspect with the other
14 defendant or the other suspect at the time of the crime?

15 A. I don't remember that. No, I don't remember asking
16 them anything about it.

17 Q. So you don't remember asking them that?

18 A. No.

19 Q. Okay. And you said that you did -- you said that you
20 did identified the defendant at the time and no photo
21 lineup. And did they offer you a photo lineup of the
22 defendant or the other two suspects they had?

23 A. It's been so long, and I had so much on my mind. I
24 think they brought a picture up there. I'm not certain of
25 that, but I think they did. Yes, matter of fact I

1 remember now that they did bring picture.

2 Q. Okay. They did bring a picture. Miss LT [REDACTED] on the
3 other statement that you made I want to ask you a question
4 that you said you were praying for the defendant? I
5 remember on several other occasions you said that as you
6 were praying you said that the defendant asked for you to
7 pray for him, too. I was just curious to know why your
8 statement kind of changed up a little bit cause you didn't
9 state that recently that the defendant asked for you to
10 pray for him, too. I was curious?

11 A. Are you asking me did I pray for you?

12 Q. No. Did -- when you -- you said that you prayed for
13 the defendant. When you said that you were praying for
14 the suspect I said other -- there are several other
15 statements you made you said that the suspect asked for
16 you to pray for him, too. I'm asking you ---

17 A. No. I didn't say that he asked me to pray for him.
18 I think the Lord told me to. It was the only thing I
19 could think to do cause you wouldn't listen.

20 Q. Maybe you're misunderstanding what I'm saying. I
21 said that you stated in other statements, several other
22 statements, that as you were praying for the defendant the
23 defendant -- you said the defendant, the suspect, said --
24 asked you would you pray for him as well as he was
25 sexually assaulting you?

LT - Cross by Mr. Dupree

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1 A. I think you're mistaken. I didn't say that.

2 Q. So you don't recall saying that?

3 A. No.

4 MS. JOHNSON LEE: Objection. Asked and answered.

5 BY MR. DUPREE:

6 Q. Like I said, Miss LT I'm not here to dispute
7 what happened at the crime. I'm just here to get the
8 truth and the fact and I'm not going to question you?

9 A. Don't talk to me. Ask me a question.

10 MR. DUPREE: No further questions, Your Honor, sir.

11 THE COURT: Very good. Any redirect?

12 MS. JOHNSON LEE: Just one brief question.

13 REDIRECT EXAMINATION

14 BY MS. JOHNSON LEE:

15 Q. Before the day of the rape had you ever seen Derrick
16 Dupree before that day?

17 A. No, I had not.

18 Q. Thank you.

19 MS. JOHNSON LEE: No further questions.

20 THE COURT: All right. You may step down.

21 MR. REDMOND: State would next call John Walters:

22 JOHN WALTERS, after being duly sworn, testified
23 as follows:

24 CLERK OF COURT: Please be seated and state your full
25 name for the Court.

1 THE COURT: Yes, sir. Please come forward and have a
2 seat in the witness chair. Pull up real close to that
3 microphone and speak slowly, clear and slowly so we can
4 hear everything you've got to say. Let's start with your
5 full name, please, sir.

6 THE WITNESS: John Wilson Walters.

7 THE COURT: Very good. Mr. Redmond.

8 MR. REDMOND: May it please the Court, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. REDMOND:

11 Q. Sergeant Walters, by whom are you employed, sir?

12 A. Excuse me.

13 Q. By whom are you employed?

14 A. With the Marlboro County Sheriff's Office.

15 Q. And how long have you been employed with the
16 Sheriff's Office in Marlboro County?

17 A. I've been in law enforcement about 16, 17 years.

18 Q. All right. And on the 8th of September 2013 did you
19 respond [REDACTED] here in Marlboro County?

20 A. That is correct.

21 Q. And could you tell us at the time you were dispatched
22 just tell us how you ended up becoming involved in this
23 particular case?

24 A. I was dispatched to the residence there on 9/8/2013
25 around about 1710.

1 Q. And is 1710 for those of us who haven't been in the
2 military or law enforcement is that about 5:10 in the
3 afternoon?

4 A. That is correct.

5 Q. Okay. You can continue.

6 A. And when I got there and out to the residence I
7 pulled up to the residence. The squad was somewhere near
8 by.

9 Q. Now, let me stop you right there. When you say, 'the
10 squad,' what do you -- are you referring to the rescue
11 squad?

12 A. Marlboro Rescue Squad; that is correct.

13 Q. All right.

14 A. Once I pulled into the yard there were family members
15 there, and the squad come directly up behind me so we
16 didn't know what was really going on at that time. So I
17 just escorted the squad to the back of the house, and when
18 we walked in that's where the victim was in the back of
19 the house which is the living room area or dining area and
20 the kitchen.

21 And then the rescue squad wanted to assist her in
22 checking her vitals, making sure she was okay. She was
23 very hysterical on what had happened as far as the
24 situation. I tried to talk with her at some point myself,
25 and she was so upset she didn't know much of what to say

1 or how to handle things.

2 And the squad got her to sit down. They got to
3 talking to her and checking her vitals. In the meantime
4 while they had a little break I would try to ask her what
5 had happened, sort of give me the details on what was
6 going on and what had happened.

7 She finally told me that she was in the living -- she
8 was in there with her husband in the dining area.
9 Somebody knocked on the door. She walks to the door and
10 asks who was it, and she pulled the door to and there was
11 a -- appeared to be a black male standing there. And she
12 asked what you want, and he said, "I'm interested in
13 buying your house. You want to sell your house. I would
14 like to buy it."

15 In the meantime he stated -- he said, "Do you have a
16 piece of paper or anything I can write my name and number
17 on." So she walks back, I guess, into the kitchen area or
18 goes somewhere to get a piece of paper or notepad or
19 something. She walks back and when she was going back he
20 had somewhere stepped in the house. He was in the house
21 once she left to go get the piece of pad.

22 And she come back and he was in the house. He was
23 standing there in front of the doorway inside the house.
24 And I would ask her what had happened at that point, and
25 she would get upset and the squad was trying to take care

1 of, you know, trying to assess their things.

2 Q. And let me do this because you refreshed something
3 that I wanted to show you which is actually the State's
4 Exhibit Number One.

5 MR. REDMOND: Permission to approach the witness,
6 Your Honor?

7 THE COURT: You may.

8 BY MR. REDMOND:

9 Q. State's Exhibit Number One, is that the note you are
10 referring to?

11 A. That's correct.

12 Q. And on the front of the note what is indicated on
13 the -- when I say, 'the front of the note' is there a name
14 written on the front of the note?

15 A. That is correct.

16 Q. And what is that name?

17 A. Dwayne Stranton or Stanton.

18 Q. Okay. And what's the number if you can make out the
19 number that's written down?

20 A. It's 537-9389.

21 Q. Okay. And on the back is there any writing on the
22 back of that note?

23 A. That is correct.

24 Q. Okay. Now, who did the writings on the back of the
25 note if you recall?

1 A. I did it.

2 Q. Now, could you explain the circumstances that I guess
3 lead to you writing on that particular information --
4 information on the back of the note?

5 A. Yeah, at that time I didn't have a chance to go back
6 out and get my pad. I had escorted the squad in there, so
7 I was trying to get some information from her as quickly
8 as I could so we could set up a perimeter. And that note
9 was handed to me which at that time she didn't say that
10 that was the note that he had wrote his name on until
11 after I done touched it.

12 And then after I got to asking her questions about
13 what kind of person he was she stated that he was a black
14 male wearing a tee shirt, a sort of a white tee shirt, or
15 gray jogging pants or gray pants. Probably about 200
16 pounds maybe. I asked her what was his age, and she said
17 I can -- somewhere around 30 or 40ish. What kind of hair
18 he had had, and she said, "fade." Did he have a short
19 hair cut. Short hair cut.

20 So in the meantime I was scribbling it on which
21 appeared to be part of the evidence.

22 Q. Now, in fact, and I guess you being in law
23 enforcement, are your prints in a database where I guess
24 somebody can pull them up and compare your prints?

25 A. That is correct.

1 Q. Okay. That would confirm you in fact touched that
2 note?

3 A. That is correct.

4 Q. And, now, once you got the note who did you hand that
5 note to?

6 A. At that time I went to Investigator Alderman, Susan
7 Alderman, which was an investigator at the time. I told
8 Miss Alderman, I said, "I got some evidence in hand that
9 was given to me, and I touched the evidence." And she
10 said at that time, "Well, give it to me, and I'll place it
11 in evidence." She secured it at that time. I went back
12 into the house to assist the family and assist the rescue
13 squad in reference to trying to get her out and get her to
14 the hospital.

15 Q. Okay. And did you end up going to the hospital, I
16 guess, following the squad or leading the squad?

17 A. That's correct. I went -- Investigator Alderman
18 asked me would I assist them her going -- me going to
19 hospital with her, and I told her I would she said at this
20 time got to the scene. I started processing the scene and
21 take over the scene.

22 I went to the hospital and assisted her to make sure
23 nothing would happen to her undergarments or anything like
24 that and just assist the nurses and all and make sure that
25 they couldn't be contaminated.

1 Q. And let me ask you.

2 MR. REDMOND: And, actually, at this time, Your
3 Honor, I'd like to -- the State would like to move into
4 evidence Exhibit One, State's Exhibit One, in evidence?

5 THE COURT: Any objection from the Defense?

6 MR. DUPREE: No, sir.

7 THE COURT: All right. It's into evidence without
8 objection from the Defense. The number of that is State's
9 Exhibit?

10 MR. REDMOND: One.

11 THE COURT: State's Exhibit One is in evidence.

12 (WHEREUPON, State's Exhibit No. 1 was admitted into
13 evidence.)

14 BY MR. REDMOND:

15 Q. And once you, I guess -- once you finished your
16 duties at the hospital was that the extent of your role in
17 this particular case?

18 A. That is correct. Susan, Lieutenant -- I mean
19 Investigator Alderman, she responded to the hospital at
20 that time. And she took over from there. She advised me
21 to try to get the report done as quick as possible so she
22 could go from there.

23 Q. All right.

24 MR. REDMOND: Beg the Court's indulgence.

25 BY MR. REDMOND:

1 Q. That will be all the questions I have. Please answer
2 any questions the Defendant may be?

3 THE COURT: Any questions from the Defense?

4 MR. DUPREE: Yes, sir, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. DUPREE:

7 Q. Mr. Walters, sir, you did say that you did touch the
8 evidence?

9 A. That is correct.

10 Q. And if I'm not observe correct when you touched the
11 evidence as officer or what not, when you touched that
12 evidence that made the evidence contaminated, right?

13 A. I got my print on them; that is correct.

14 Q. Okay. I'm not saying -- I'm not saying that, you
15 know, I don't want the evidence, you know, presented at
16 trial. I'm fine with that, but what I'm saying is by it
17 being contaminated evidence is -- can it still be used?
18 Is that evidence still --

19 MR. REDMOND: Your Honor, I'm going to object.

20 THE COURT: Sustained. Sustained. You can ask what
21 happened, who touched it, that sort of thing, but you've
22 got to ask a question. He's not -- he doesn't make the
23 determination of whether or not it's admissible. I did
24 and have, so you can ask him any questions you want.

25 BY MR. DUPREE:

1 Q. Like I said when you did touch the evidence, you
2 know, once you touched it it was contaminated, and
3 therefore, really wasn't supposed to be used?

4 MR. REDMOND: Your Honor, I'm going to object.

5 THE COURT: Sustained. That's not correct. You need
6 to, rather than make a statement, you need to ask him
7 questions.

8 MR. DUPREE: Yes, sir. That was -- no further
9 questions, Your Honor.

10 THE COURT: All right. Very good. Any redirect?

11 MR. REDMOND: No redirect, Your Honor.

12 THE COURT: You may step down. Madam Forelady,
13 ladies and gentlemen of the jury, we are going to take
14 about a five minute recess. Once again do not discuss the
15 case and everyone remain seated while the jury exits the
16 courtroom.

17 (WHEREUPON, the jury panel was excused from the
18 courtroom at 4:20 p.m.)

19 THE COURT: We'll stand at ease for five minutes and
20 get our next witness ready.

21 (WHEREUPON, Court was in recess at 4:20 p.m. and
22 reconvened at 4:30 p.m.)

23 MR. REDMOND: Your Honor, at the rate we're going the
24 S.L.E.D. analyst, the fingerprint analyst, is here. We've
25 got one, two, three, four, five witnesses but they're

1 fairly short witnesses leading up to the fingerprint
2 analyst. So at that point we were prepared to end for the
3 day and then pick up tomorrow morning.

4 THE COURT: Very good. All right. We're ready?
5 Anything from the Defense, Mr. Dupree?

6 MR. DUPREE: No, sir.

7 THE COURT: All right. We're ready for the jury.

8 (WHEREUPON, the jury panel enters the courtroom at
9 4:30 p.m.)

10 THE COURT: All right. State, you're recognized.
11 You may call your next witness.

12 MS. JOHNSON LEE: Thank you, Your Honor. The State
13 calls Maria Todd.

14 THE COURT: Ms. Todd, if you would please come
15 forward. I'm going to ask if you could to stand in front
16 of the Clerk and place your left hand on the bible and
17 raise your right hand as the Clerk administers the oath.

18 MARIA TODD, after being duly sworn, testified as
19 follows:

20 THE COURT: Please come forward and have a seat in
21 the witness chair. Im going to ask if you could to watch
22 your step. Have a seat in the witness chair. Pull up
23 real close to that microphone. Speak loudly and clearly
24 and slowly so that everybody can hear what you've got to
25 say. Let's start with your full name, please, ma'am.

1 THE WITNESS: Maria Todd.

2 THE COURT: Thank you. Yes, ma'am, you're
3 recognized.

4 MS. JOHNSON LEE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. JOHNSON LEE:

7 Q. Ms. Todd, which county do you reside in?

8 A. Marlboro County.

9 Q. Okay. What is your occupation?

10 A. I'm a registered nurse.

11 Q. Where do you work at?

12 A. Marlboro Park Hospital.

13 Q. How long have you been a registered nurse?

14 A. Thirty-five years.

15 Q. And how many of those years have been working at
16 Marlboro Park Hospital?

17 A. Going on 31 years.

18 Q. Have you ever testified in court before today?

19 A. No, ma'am.

20 Q. Now during your 30 years as a registered nurse have
21 you had occasion to participate in rape or sexual assault
22 exams?

23 A. Yes, ma'am.

24 Q. Okay. Approximately, how many of those exams have
25 you participated in?

1 A. Going on 15 to 20 times.

2 Q. Okay. Is that total times?

3 A. You're talking about examination, right?

4 Q. Yes, ma'am.

5 A. Yes.

6 Q. Okay. What is the purpose of a C.S.C. kit or a
7 criminal sexual assault kit?

8 A. There is a protocol that we follow when a patient
9 presents to the emergency room for an alleged sexual
10 assault, and we follow it from -- about six pages of it.
11 We follow it scrupulously usually from Page One to Page
12 Six. And the major policy that we have as far as the
13 procedure, you know, when we follow it is that once you do
14 the examination of the patient you never leave the room.
15 You never lose sight of the entire equipment from the time
16 you start until you give it to or you hand it over to law
17 enforcement.

18 Q. Okay. So it stays with you? There is no chance of
19 somebody else putting fake D.N.A. in there?

20 A. There is no way. No, ma'am.

21 Q. Okay. Now, as part of the sexual assault kit you do
22 swabs on the victim's body?

23 A. Yes, ma'am.

24 Q. Okay. Now, the particular case that you're here for
25 today, Miss LT have you had a chance to go

1 back and review your report from that day?

2 A. Yes, ma'am.

3 Q. Okay. Now, on that particular day, September 8th of
4 2013, did you do swabs on Miss LT

5 A. Yes, ma'am.

6 Q. Okay. And what kind of swabs did you do on her?

7 A. I'd have to look at the record.

8 MS. JOHNSON LEE: Beg the Court's indulgence.

9 THE WITNESS: I just need the chart.

10 BY MS. JOHNSON LEE:

11 Q. All right. Let me show you what's been marked as
12 State's Exhibit 11. Let me show it to the Defendant
13 first.

14 MS. JOHNSON LEE: Your Honor, the Defendant has had
15 an opportunity to look at State's Exhibit 11. I'm handing
16 it to the witness.

17 THE COURT: Very good.

18 BY MS. JOHNSON LEE:

19 Q. Do you recognize that document?

20 A. Yes, ma'am.

21 Q. Okay. What is that?

22 A. This is the Sexual Assault Evidence Collection Kit.
23 This is the paperwork that comes with the box.

24 Q. Okay.

25 A. This is my handwriting.

1 MS. JOHNSON LEE: Beg the Court's indulgence.

2 BY MS. JOHNSON LEE:

3 Q. All right. Now, for the record and just to help
4 everybody understand there is actually a box that comes to
5 the hospital for you to use; is that correct?

6 A. Yes, ma'am. It's provided by S.L.E.D.

7 Q. S.L.E.D. is the State Law Enforcement Division?

8 A. Yes, for all hospitals.

9 Q. Okay. And contained inside of that box is what?

10 A. The original paperwork comes in triplicate, and then
11 envelopes with the Q Tips in it, the slides, the labels,
12 the seals.

13 Q. Okay. It's basically a complete kit to do a rape
14 exam?

15 A. Yes, ma'am.

16 Q. And then what do you do with all of the swabs and
17 what not after you finish examining the victim?

18 A. Put them back in the envelope after they've dried
19 out. When I do the procedure it requires that at least
20 one to two hours of dedicated examination in the room.

21 After I collect everything, after they have dried out
22 and everything, put it back in the label envelopes. Put
23 it all back in the box with one of the -- I forget. The
24 white paper or the yellow paper. And I seal it and then I
25 initial everything and then when I come out of the

1 examination room I hand it to the designated person that
2 is supposed to receive the box ---

3 Q. Okay.

4 A. --- for safe keeping.

5 Q. Okay. Let's back up just a moment. That particular
6 document that you have, the C.S.C. Kit Protocol, how many
7 pages is that document?

8 A. Six.

9 Q. Six pages. And then there are copies of what els
10 attached to that that you're looking at right now?

11 A. Copies.

12 Q. Is that a copy of the outside of the box?

13 A. Yes, ma'am.

14 Q. Now, looking at that document does it show who
15 actually did the exam?

16 A. It would show on the chain of custody. That's my
17 signature right there. That's me.

18 Q. So that means you did the exam in this case?

19 A. Um hum. Yes, ma'am.

20 Q. Did a doctor also sign off on that?

21 A. He will do the last part. The last part of the
22 examine is for him just to do the pelvic exam, the
23 internal exam, because I'm not allowed to do that, but
24 it's only a piece of the entire packet.

25 Q. Okay. And I believe when we spoke last week you said

1 in this case you did do the internal exam and the swabs;
2 is that correct?

3 A. I'm doing the Q Tip collection, whatever, but the
4 doctor has to do the exam from top to bottom. He has to
5 do his medical exam part.

6 Q. Okay. But as far as the collection of the swabs for
7 the kit you did that?

8 A. Yes, I did all that.

9 Q. Okay. So everything that went back in this rape kit
10 you did it?

11 A. Yes, I did.

12 Q. Okay. Now, that particular document who else signed
13 it besides you and the doctor?

14 A. That's it.

15 Q. Did law enforcement have to sign it?

16 A. Just that they received -- the last part of it I
17 think says -- this part right here Susan signed it.

18 Q. Would that be Susan Alderman?

19 A. It says that she -- it says, "Signature of officer
20 receiving the evidence."

21 Q. Okay. Is that Susan Alderman?

22 A. Susan Alderman.

23 Q. Okay. All right. So you turned the sealed rape kit
24 over to Susan Alderman?

25 A. Um hum.

1 Q. You need to say yes or no?

2 A. I'm sorry. Yes, ma'am.

3 Q. Thank you. And you also gave her a copy of that
4 report that you're looking at?

5 A. Yes, ma'am.

6 Q. Okay.

7 A. One is inside the box, one for her, and then one for
8 our file at the hospital.

9 Q. Okay. In looking at that report what particular
10 things did you do in this case as far as the collection of
11 evidence?

12 A. Prior to the actual collection of evidence like body
13 fluids and stuff, and actually the first two to three
14 pages is all about the interview of the patient. In their
15 own words I have to write down exactly what they said, and
16 then I have to do a clinical observation of their
17 demeanor, their physical appearance, you know, anything
18 that I could look at by pure observation.

19 Q. All right. What was Miss [REDACTED] demeanor on
20 that night?

21 A. She was very upset but very alert and was able to
22 provide me with information.

23 Q. Now, how long has she been at the hospital by the
24 time you did the rape kit?

25 A. I'd say one and a half to two hour, maybe.

1 Q. And when you went in to begin the exam what was she
2 wearing? Do you recall?

3 A. Just -- I think a house dress if I'm not mistaken.. I
4 can't recall.

5 Q. Did you collect any clothing from her?

6 A. Yes, ma'am. That would be the first thing is that --
7 I mean part of the collection of the evidence.

8 Q. Okay. And what items did you have her remove from
9 her body and give to you?

10 A. I remember it was the underwear.

11 Q. Okay. So you received the underwear as part of the
12 rape kit?

13 A. Yes, but they don't come in the box. It goes in a
14 separate bag.

15 Q. A separate bag?

16 A. Yes.

17 Q. And did you bag those underwear in that separate bag?

18 A. We have a procedure in collect clothing. We actually
19 put a -- like a -- the bag that comes in has a piece of
20 paper that comes inside of it. We have to put it on the
21 floor. The patient has to stand on top of it while
22 they're taking off their clothes. And then they step off
23 the paper and then I have to fold the paper just like so a
24 certain way and then put it in the bag and seal that, too.
25 That also goes, you know, as evidence.

1 Q. So if anything else off of those underwear while she
2 was removing them it would be collected inside that paper?

3 A. Yes, ma'am.

4 Q. Okay. Thank you, ma'am. Please continue. What else
5 did you notice about Miss [REDACTED] You collected
6 the underwear. You noticed her demeanor. What did she
7 tell you?

8 A. On the interview part of it, was that ---

9 Q. Yes, ma'am. What did she tell you happened to her?

10 A. Well, I basically introduced myself and I told her I
11 said, "In your own words tell me why you're here, what
12 happened." And she told me that she was I think watching
13 t.v. with her husband in the den, and then there was a
14 knock on the door and there was this black man at the door
15 saying something about that he was there to check out the
16 house; that if she wanted -- that if they wanted to sell
17 the house that, you know -- that they can call him or let
18 him know about it and all that stuff.

19 And she said that before she knew it he bent her over
20 a sofa, the back of a sofa, and sexually assaulted her.
21 She showed me a small wound right on the right side of her
22 neck where he put a knife against her neck. I actually
23 had that in my notes where I examined the side of her
24 neck.

25 Q. Let me show you?

1 MS. JOHNSON LEE: I'd like to have this marked for
2 identification as State's Exhibit 36.

3 (WHEREUPON, State's Exhibit No. 36 was marked for
4 identification only.)

5 MS. JOHNSON LEE: I'm going to show this to the
6 Defendant.

7 BY MS. JOHNSON LEE:

8 Q. All right. Nurse Todd, I'm going to show you what
9 has been marked for identification as State's Exhibit 36.
10 Do you recognize this?

11 A. Yes, ma'am.

12 Q. Okay. Were you there when this picture was taken?

13 A. Yes, ma'am.

14 Q. Okay. And who took this photograph?

15 A. Susan.

16 Q. Susan Alderman?

17 A. Um hum.

18 Q. Okay, you need to say yes or no?

19 A. Yes, ma'am.

20 Q. Was that taken at the hospital?

21 A. Yes, ma'am.

22 Q. At Marlboro Park Hospital?

23 A. At Marlboro Park.

24 Q. Were you there when the picture was taken?

25 A. Yes, ma'am.

1 Q. Does that photograph accurately depict what you saw
2 as the injury to the victim on the night of September the
3 8th 2013?

4 A. Yes, ma'am.

5 MS. JOHNSON LEE: At this time I would like to move
6 Number 36 into evidence for the State?

7 THE COURT: Any objection from Defense?

8 MR. DUPREE: No, sir.

9 THE COURT: It's into evidence. That is known as
10 State's Exhibit?

11 MS. JOHNSON LEE: State's Exhibit 36.

12 THE COURT: Thirty-six is into evidence.

13 (WHEREUPON, State's Exhibit No. 36 was admitted into
14 evidence.)

15 BY MS. JOHNSON LEE:

16 Q. And, Nurse Todd?

17 MS. JOHNSON LEE: If you don't mind can I have her
18 step down, Your Honor?

19 THE COURT: You may.

20 BY MS. JOHNSON LEE:

21 Q. Okay. If you will step down and please show the jury
22 what injury the victim pointed out to you as being caused
23 in the assault?

24 A. Right here. Basically, a knife was in the throat,
25 holding her from behind.

1 Q. Okay. Like a scratch mark; that's where from the
2 knife that was held against her neck? Thank you, ma'am.
3 Okay. If you turn over to I believe it's Page Five of Six
4 of your report. Okay. Can you tell us what slides,
5 swabs, etc. you took from LT [REDACTED] be looking at that
6 report?

7 A. This is a check off sheet, basically, so that we
8 won't miss anything. So we go by steps. We go by boom,
9 boom, boom, boom, you know, like I've done this. I've
10 done this. I've done this. Right here, though, for some
11 reason I just marked no, that I did not collect, but
12 everything else cause -- that was collected.

13 Q. Okay. So if it says no, you didn't do it; if it
14 doesn't have anything you did do it?

15 A. Um hum.

16 Q. Please say yes or no.

17 A. Yes, ma'am.

18 Q. Then please tell us which things you did collect?

19 A. According to my list I did a fingernail scraping, the
20 known D.N.A. buccal swab, combed the vaginal hair, comb
21 and pick hair, rectal swab, rectal swab smear. It was
22 suspected that bodily fluid which is if there is any way
23 the patient can recollect if they got bit or licked or any
24 time where some of the mucus from the body would be
25 contact with their skin I would swab it. Either hair or

1 ear or whatever.

2 Q. Okay.

3 A. Also collected urine and took digital pictures.

4 Q. Okay. And is one of the digital pictures one that
5 you were just shown?

6 A. Yes, ma'am.

7 Q. Now, did you take that or did Susan Alderman take
8 that in your presence?

9 A. September ...

10 Q. To the best of your recollection?

11 A. The best of my recollection I remember seeing a big
12 black camera that Susan was holding.

13 Q. But one of you took the photographs?

14 A. If I did I cannot tell you.

15 Q. Okay?

16 A. So I -- it would be in the original files in the
17 hospital.

18 Q. Okay?

19 MS. JOHNSON LEE: Beg the Court's indulgence.

20 BY MS. JOHNSON LEE:

21 Q. When you collected the underwear you stated you
22 sealed them up to go to State Law Enforcement Division but
23 you turned them over to Investigator Alderman first?

24 A. Yes, ma'am.

25 Q. Okay. How did you seal it up?

1 A. In the box they have this seal, the red seal
2 provided, and I have to seal it. Do we have the original
3 box so I can like demonstrate?

4 Q. Well, let me show you this. This is an item that has
5 already been to S.L.E.D. and come back. And for the
6 record, Your Honor, this is State's Exhibit Seven for
7 identification.

8 THE COURT: Any objection from Defense?

9 MR. DUPREE: No, sir.

10 BY MS. JOHNSON LEE:

11 Q. Let me hand you State's Exhibit Seven for
12 identification. This is the S.L.E.D. packet, but inside
13 that looks like another packet. Do you recognize that?

14 A. Yes, ma'am. It's my handwriting.

15 Q. Okay. And what is that on the original packet inside
16 the S.L.E.D. packet?

17 A. It says, 'underwear'.

18 Q. Okay. And is that your handwriting inside there?

19 A. Yes, that's my handwriting.

20 Q. Okay. Is that your -- did you write some initials or
21 something on there?

22 A. Basically, the same. A sample collected and I marked
23 yes.

24 Q. Okay. And so that would be the underwear you
25 collected from the victim?

1 A. Yes, ma'am. The procedure that I described earlier.

2 Q. At this time I would move to have Number Seven put
3 into evidence?

4 THE COURT: Any objection from the Defense,
5 Mr. Dupree?

6 MR. DUPREE: No, sir.

7 THE COURT: Into evidence.

8 (WHEREUPON, State's Exhibit No. 7 was admitted into
9 evidence.)

10 BY MS. JOHNSON LEE:

11 Q. Okay. I also have Exhibit Ten which was a C.S.C.
12 kit. I think items were put back in here from S.L.E.D.

13 MS. JOHNSON LEE: This was opened, Your Honor, in the
14 presence of -- I'm not sure if it was Mr. Jones when he
15 was as the attorney for Mr. Dupree. It's been opened.

16 BY MS. JOHNSON LEE:

17 Q. The Defendant is asking about the item numbers, Your
18 Honor, so we are removing them from the packet so he can
19 see what the item numbers are. They, for the record,
20 contain State's Exhibit Ten are Item 3.1, 3.5, 3.4, 3.3,
21 3.2, and 3.6.

22 THE COURT: Very good. You may proceed.

23 BY MS. JOHNSON LEE:

24 Q. Going to hand this now to Ms. Todd. Nurse Todd, if
25 you will look at the items contained inside that exhibit.

1 Do you recognize those items?

2 A. Yes, ma'am, all of them bear my signature ---

3 Q. Okay. So those are all items ---

4 A. --- and my handwriting.

5 Q. --- that you collected during the rape kit?

6 A. Yes, ma'am.

7 Q. And that is your signature on each one of those?

8 A. Yes, ma'am.

9 Q. Okay.

10 MS. JOHNSON LEE: At this time I would move to have
11 Number Ten placed in evidence for the State.

12 THE COURT: Any objection from Defense?

13 MR. DUPREE: No, sir.

14 THE COURT: It's into evidence, State's Exhibit Ten.
15 (WHEREUPON, State's Exhibit No. 10 was admitted into
16 evidence.)

17 THE COURT: Without objection from the Defense.

18 MS. JOHNSON LEE: Beg the Court's indulgence.

19 BY MS. JOHNSON LEE:

20 Q. The report that you prepared, again, that's Number
21 11. You said that your signature is on that report,
22 correct?

23 A. Yes, ma'am.

24 Q. Okay. And you said doctor signed it?

25 A. Yes, ma'am.

1 Q. And you turned that over to Susan Alderman with the
2 rape kit?

3 A. Yes, ma'am.

4 Q. Okay. Now, you said that you sealed the rape kit?

5 A. Yes, ma'am.

6 Q. Okay. How did you seal it?

7 A. Can I have the envelope for just a minute, please,
8 ma'am?

9 Q. Certainly. Now, you described the box?

10 A. Yes, ma'am. The box contains two sheets of this red
11 labels, and these are the labels I used to seal
12 everything. And they would guide you. The kits contain
13 like a guide for you to where to put exactly right to
14 connect the part of the lid in here. So you have to put
15 it right in the middle and make sure that the signature,
16 your initials is right dissecting both lines.

17 Y'all see that? And that goes through with all the
18 boxes and all the envelopes and everything else that needs
19 to be sealed.

20 Q. Okay. On the report is there a photograph of the
21 outside of that box or photocopy?

22 A. This would show up the in bottom part of the kit.
23 When I hand it to them after I've sealed it I hand it over
24 I sign the first line like, okay, Susan, here's -- it's
25 yours now. And then I heave a big sigh of relief.

1 Q. Okay. And on Item 11 is that an actual photograph of
2 the outside of the box after it's been sealed?

3 A. Yes, ma'am.

4 Q. Okay.

5 A. This is where we sign off when we hand it off.

6 Q. Thank you, ma'am?

7 MS. JOHNSON LEE: Your Honor, at this time I would
8 move to put Number 11 into evidence?

9 THE COURT: Any Objection from Defense?

10 MR. DUPREE: No, sir.

11 THE COURT: Eleven is in evidence.

12 (WHEREUPON, State's Exhibit No. 11 was admitted into
13 evidence.)

14 MS. JOHNSON LEE: Beg the Court's indulgence. I know
15 we're going out of order. We were initially going to
16 pre-mark the vaginal swabs, 3.2, and the rectal swabs,
17 3.3, as State's Exhibit 12. Those are actually contained
18 within what's in evidence as State's Exhibit Ten. So we
19 would substitute something later for Number 12, but right
20 now there will be no Number 12.

21 THE COURT: Very good.

22 BY MS. JOHNSON LEE:

23 Q. Nurse Todd, thank you so much. Please answer any
24 questions Mr. Dupree has.

25 THE COURT: Mr. Dupree, you're recognized.

1 MR. DUPREE: I only have a few questions.

2 CROSS-EXAMINATION

3 BY MR. DUPREE:

4 Q. Ms. Todd, you said that you did take the swab from
5 the victim?

6 A. Can you repeat that, sir. I can barely hear you.

7 Q. You said that you did take the swabs from the victim?

8 A. Take the swabs of?

9 Q. For the sexual -- C.S.C. kit. You did conduct the
10 swab -- the examination on the swabs?

11 A. Yes, sir, from start to end.

12 Q. I was trying to understand cause I may have misheard
13 what you were saying. You stated that you put those
14 aside. Did you indicate on any of your reports that you
15 took swabs?

16 A. Sir, every envelope in that kit has my signature in
17 it. That means that that collected each of those
18 specimens.

19 Q. Yeah, but I'm saying did you indicate that in any of
20 your reports that you did that?

21 A. Yes, sir.

22 Q. Okay. I'm kind of confused here. Tell me ---

23 A. Are you asking me about because there was no check on
24 the yes column? Is that what you're asking me?

25 Q. Yes. Can you tell me what report you did?

1 A. All I can say is that I cannot explain why I did not
2 that. Yes, check the yes column of it. But the fact that
3 I have the envelopes with my signature on it would be just
4 as good, too.

5 Q. Well, I'm not saying you didn't do it. I'm just
6 wondering why it wasn't in my reports as I was
7 investigating I was -- and I heard you say that you
8 conducted testing. And I was looking to see where you had
9 done that. I hadn't seen where you done that, so I was
10 just curious to know why it wasn't done?

11 A. I'm not understanding.

12 Q. You said that you forgot to put it in your report?

13 A. I cannot explain why I didn't check it. Is that what
14 the bone of contention is?

15 Q. Yes, ma'am.

16 A. That I did not check it?

17 Q. Yes, ma'am.

18 A. Yes, sir. I cannot explain, sir, why it was not
19 checked, but the whole point is I got the entire kit with
20 my signature on each and every one of the specimens. So
21 even if I did not sign the yes column like you're asking
22 me the point is I collected every one of those specimens
23 with my signature on each and every one of them.

24 Q. I was just wondering, you know, the importance, how
25 important it is to do, you know, the checking so that

1 everybody have a clear understanding on what was ---

2 MS. JOHNSON LEE: Objection, Your Honor. He's
3 testifying.

4 THE COURT: I'll allow him some leeway.

5 BY MR. DUPREE:

6 Q. I was just curious to know why you didn't put it in
7 you record or report.

8 MR. DUPREE: No further question, Your Honor.

9 THE COURT: All right. Any redirect?

10 MS. JOHNSON LEE: No, Your Honor. We ask that the
11 witness be excused.

12 THE COURT: You're free to leave, and you may call
13 your next witness.

14 MR. REDMOND: Thank you. The State would next call
15 Tommy Bostic.

16 THE COURT: If you could place your left hand on the
17 bible and raise your right hand as the Clerk administers
18 the oath.

19 TOMMY BOSTIC, after being duly sworn, testified
20 as follows:

21 THE COURT: Sir, please come around. We're going to
22 ask you to watch your step. Have a seat in the witness
23 chair. Pull up real close to that microphone. Speak
24 loudly, clearly and slowly in order that we can hear
25 everything you have got to say. Start with your full

1 name, please, sir.

2 THE WITNESS: Tommy Bostic.

3 THE COURT: Very good.

4 DIRECT EXAMINATION

5 BY MR. REDMOND:

6 Q. And, Deputy Bostic, by whom are you employed, sir?

7 A. Beg your pardon?

8 Q. By whom are you employed, sir?

9 A. Marlboro County Sheriff's Office.

10 Q. And how long have you been employed we the Sheriff's
11 Office?

12 A. Twenty-five, 26 years.

13 Q. All right. And in this particular case were you
14 asked to take certain evidence to S.L.E.D.?

15 A. Yes, sir.

16 Q. Okay. And just to get directly to the point I'll
17 start with State's Exhibit Number One, but I'm going to
18 actually show you?

19 MR. REDMOND: Beg the Court's indulgence.

20 BY MR. REDMOND:

21 Q. State One that's in evidence, but I'm going to show
22 you what is packaged as Item -- that's listed as Item One.
23 Is that one of the items, that being the note that you
24 were asked to take to S.L.E.D. on the 9th of
25 September 2013?

1 A. Yes, sir.

2 Q. Okay. And let me show you -- at this time I'm going
3 to mark --

4 MR. REDMOND: Beg the Court's indulgence. She's not
5 had the chance to mark this. This is going to be Item 17.

6 (WHEREUPON, State's Exhibit Nos. 17 AND 18 were
7 previously marked for identification only.)

8 THE COURT: I'm going to show you what has been
9 marked as State's Exhibits 17 and 18 for I.D. purposes at
10 this point. Those particular items, that being writings
11 from both Kadeem Hooks, that being Exhibit 17 and Exhibit
12 18 being a writing purported to be from the Defendant, Mr.
13 Dupree.

14 Were those items taken to you by -- taken by you to
15 S.L.E.D. on the 9th of September and on the 24th of
16 September 2013?

17 A. Yes, sir.

18 Q. Okay. All right. Thank you. You can sit them right
19 there. Now, I'm going to show you State's Exhibit Number
20 Five.

21 MR. REDMOND: With permission to approach the
22 witness. This is going to be marked as State's Exhibit
23 Number Five. And, Your Honor, I apologize. I had not
24 actually shown the Defendant these. May I approach the
25 witness, Your Honor?

1 THE COURT: You may.

2 BY MR. REDMOND:

3 Q. This is State's Exhibit Number Five; that being a
4 nightgown. Did you take that particular box to S.L.E.D.?

5 A. Yes, sir.

6 Q. And just to be clear some of those items are opened
7 as Miss Johnson Lee indicated earlier to premark some of
8 the exhibits, but were all of these items sealed at the
9 time that you took them to Columbia?

10 A. Yes, sir.

11 Q. To S.L.E.D. All right. Let me show you what has
12 been marked as State's Exhibit Number Three. This is also
13 opened. Excuse me, State's Exhibit Number Ten, but I'm
14 actually handing you also the container it was placed in.
15 Do you recognize the container that State's Exhibit Number
16 Ten was placed in?

17 A. Yes, sir.

18 Q. All right.

19 A. My signature is here.

20 Q. Okay. Now, let me show you what's been marked
21 State's Exhibit Number Seven. This is still sealed. And
22 based on your records do you recognize that exhibit?

23 A. Yes, sir.

24 Q. And is that one of the items you took to S.L.E.D.?

25 A. Yes, sir.

1 Q. Okay. Now, finally, let me show you what's marked
2 as -- it has not been marked. Excuse me, but it's going
3 to be marked as State's Exhibit Number 19. State's
4 Exhibit 19.

5 (WHEREUPON, State's Exhibit No. 19 was previously
6 marked for identification only.)

7 BY MR. REDMOND:

8 Q. Okay.

9 MR. REDMOND: Permission to approach the witness,
10 Your Honor?

11 THE COURT: You may.

12 BY MR. REDMOND:

13 Q. It's marked as State's Exhibit 19. And does that
14 purport to be the buccal swab from the Defendant, Derrick
15 Dupree?

16 A. Beg your pardon?

17 Q. Does that purport to be the container with the buccal
18 swab, the swab from Derrick Dupree, the defendant?

19 A. Yes, sir.

20 Q. And what that taken to S.L.E.D. on the 14th of
21 November 2013?

22 A. That is correct.

23 Q. Now, let me just ask you -- and thank you, sir.
24 Thank you. Let me ask you about the protocol. Where did
25 you on the dates that we've indicate with these exhibits

1 where did you pick those items of evidence up?

2 A. They were received from the evidence custodian, Ms.
3 Wilkes.

4 Q. Okay. And is that Sandy Wilkes?

5 A. Sandy Wilkes.

6 Q. And when you take the evidence, all the evidence,
7 some of which has been opened for Court purposes, but at
8 the time you took it were all of those items sealed?

9 A. Yes, sir.

10 Q. All right. And did you in any way tamper or do
11 anything we those seals?

12 A. No, sir.

13 Q. All right. And what did you do once you took them
14 out to evidence locker at the -- with the supervision of
15 Ms. Wilkes, what did you then do with each of those items
16 that we've gone through?

17 A. I secure them in the patrol vehicle, either the trunk
18 or the rear of the SUV, and then I transported them to
19 S.L.E.D. headquarters on Broad River Road and logged them
20 in and waited for one of the technicians to call me back
21 at which time they returned them to me.

22 Q. And, actually, I forget to mention one; that being --
23 this is going to actually be marked. I'm sorry. This is
24 going to be marked State's Exhibit Number 18.

25 COURT REPORTER: It's already marked.

1 MR. REDMOND: Beg the court's indulgence.

2 BY MR. REDMOND:

3 Q. I've already asked you about that. My mistake. I'm
4 sorry. Now, when you get to S.L.E.D. tell the ladies and
5 gentlemen of the jury what's the procedure for delivering
6 evidence to S.L.E.D.

7 A. Okay. When you walk in that's reception next, and
8 you sign a log and how many cases you have. And they will
9 take your name and ask you to sit in the lobby until they
10 are ready for you to go back into the offices where the
11 technicians that receive the evidence are.

12 Q. Okay. And is that what happened in this particular
13 case?

14 A. That's right. We go sit in the lobby, and there is a
15 call that Marlboro County can come back and they tell you
16 which room to go to.

17 Q. Okay. And at that point once you deliver it to that
18 technician is that the normal operating procedure for
19 taking evidence to S.L.E.D.?

20 A. Yes, sir.

21 Q. And, again, did you follow that procedure?

22 A. Yes, sir.

23 Q. And at that point did you return to Marlboro County?

24 A. Yes, sir.

25 Q. And is that the extent of your role in this

1 particular case?

2 A. Yes, sir.

3 Q. All right?

4 MR. REDMOND: I have no further questions at this
5 time.

6 THE COURT: Any questions, Mr. Dupree?

7 MR. DUPREE: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. DUPREE:

10 Q. Mr. Bostic, can you tell me what was contained -- I
11 think it was Item 12?

12 A. Beg your pardon?

13 Q. The item that you took on the 24th, 9/24; what can
14 you tell me what it consisted of?

15 A. What was your question about it?

16 Q. I said can you tell me what Item 12 was consist of?

17 A. Okay. Item 12 was a sealed enveloping containing a
18 handwriting standard described as handwritten letter from
19 Derrick Dupree for comparison.

20 Q. But you didn't know what that -- what was inside the
21 envelope?

22 A. No, sir, it was sealed.

23 Q. Okay. Thank you, sir.

24 MR. DUPREE: No further questions, Your Honor.

25 THE COURT: Any redirect? You may step down. Thank

1 you, sir.

2 MR. REDMOND: State would next call Kirk Schauer.

3 THE COURT: Mr. Schauer, if you would come forward.
4 Please place your left hand on the bible and raise your
5 right hand as the Clerk administers the oath.

6 KIRK SCHAUER, after being duly sworn, testified
7 as follows:

8 THE COURT: Sit in the witness chair right there.
9 Pull up real close to the microphone. Speak loudly and
10 clearly and slowly in order that we can hear everything
11 that you've got to say. Let's start with your full name,
12 please.

13 THE WITNESS: My name is Kirk M. Schauer.

14 THE COURT: Very good.

15 MR. REDMOND: And, Your Honor, before we begin if we
16 could briefly mark what's going to be State's 16. State's
17 Exhibit 16.

18 (WHEREUPON, State's Exhibit No. 16 was previously
19 marked for identification only.)

20 DIRECT EXAMINATION

21 BY MR. REDMOND:

22 Q. I'm going to be real short with my questions, sir.
23 Mr. Schauer, are you -- have you taken training in or been
24 trained to take fingerprints from people?

25 A. Yes, sir, I have.

1 Q. And in fact, have you actually done fingerprints and
2 done fingerprint cards for people?

3 A. Yes, sir.

4 Q. And let me ask you this. When you take a
5 fingerprint -- if you do a fingerprint card on me, for
6 instance, is there a system that you have to scan that
7 into a system called A.F.I.S. or I think it's through Live
8 Scan where you can scan that particular fingerprint card
9 into a database?

10 A. Yes, sir.

11 Q. And are you familiar and have you utilized that
12 system?

13 A. Yes, sir.

14 Q. I'm going to show you what's been marked as State's
15 Exhibit 16. And if you would take a look at that. Do you
16 recognize that particular?

17 A. Yes, I do.

18 Q. All right. Is that the fingerprint card from Kadeem
19 Hooks?

20 A. Yes, it is.

21 Q. And is that your -- did you take those fingerprints
22 from Kadeem Hooks?

23 A. Yes, I did.

24 Q. Okay. And when you took those fingerprint cards from
25 Kadeem Hooks were they then Live Scanned per procedure?

1 A. Yes, sir.

2 Q. And when it's done by Live Scan, I think, does that
3 then put it into a system called A.F.I.S.?

4 A. Yes, sir.

5 Q. Okay.

6 MR. REDMOND: Beg the Court's indulgence. And at
7 this point we would move State's 16 into evidence?

8 THE COURT: Any objection from Defense?

9 MR. DUPREE: No, sir.

10 THE COURT: Into evidence. State's Exhibit 16 is
11 into evidence.

12 (WHEREUPON, State's Exhibit No. 16 was admitted into
13 evidence.)

14 MR. REDMOND: That would be all the questions I have,
15 Your Honor.

16 THE COURT: Any cross-examination?

17 MR. DUPREE: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. DUPREE:

20 Q. You said that you did take the hand prints of Mr.
21 Hooks, sir?

22 A. Yes, I did.

23 Q. And at that time when you took the hand prints of --
24 you said you submitted the what was a scan and went
25 straight to S.L.E.D. A.F.I.S., correct?

1 A. Yes, sir.

2 Q. Okay. What date that was, sir?

3 A. 9-9-2013.

4 Q. When you sent that scan do you know how many -- was
5 it developed the left, right or both prints?

6 A. Both hands.

7 Q. Both hands were sent there, sir.

8 MR. DUPREE: No further questions, Your Honor.

9 THE COURT: All right. Any redirect?

10 MR. REDMOND: No, sir.

11 THE COURT: You may step down. Call your next
12 witness.

13 MR. REDMOND: Thank you, Your Honor. The State would
14 next call Albert Smith.

15 THE COURT: Mr. Smith, if you would please come
16 forward. Please your left hand on the bible and raise
17 your right as the Clerk administers the oath.

18 ALBERT SMITH, after being duly sworn, testified
19 as follows:

20 THE COURT: If you would have a seat in the witness
21 chair. Watch your step. Pull real close to that
22 microphone. Speak loudly, clearly and slowly in order
23 that we can hear everything that you've got to say, and
24 let's start with your full name?

25 THE WITNESS: Albert Smith.

1 THE COURT: All right, Mr. Smith. Very good.

2 MR. REDMOND: Thank you, Your Honor. If it please
3 the Court, this is going to be State's Exhibit 15. If we
4 can take just a minute to mark it.

5 (WHEREUPON, State's Exhibit No. 15 was previously
6 marked for identification only.)

7 DIRECT EXAMINATION

8 BY MR. REDMOND:

9 Q. Mr. Smith, are you trained in taking fingerprints?

10 A. Yes, sir, I am.

11 Q. And in fact did you -- do you also have access to I
12 think it's called Live Scan when the prints are taken and
13 scanned into A.F.I.S.?

14 A. Yes, sir.

15 Q. Okay. And I didn't ask you this, but how long have
16 you been doing that?

17 A. Approximately 18 years.

18 Q. Okay. And so you have had the opportunity to take
19 many sets of fingerprints?

20 A. Yes, sir.

21 Q. Okay. And did you in fact take fingerprints of --
22 well, let me ask you. Do you know the defendant?

23 A. Yes, sir, I do.

24 Q. And did have you the opportunity to take fingerprints
25 from the defendant?

1 A. Yes, sir.

2 Q. Okay. And when you took those prints were they then
3 scanned into -- were they Live Scanned into A.F.I.S.?

4 A. Yes, sir, they were.

5 Q. Let me show you --

6 MR. REDMOND: With permission to approach the
7 witness. Court's permission to approach the witness?

8 THE COURT: You may.

9 BY MR. REDMOND:

10 Q. Let me ask you this. Did you in fact again take
11 prints from the defendant?

12 A. Yes, I did.

13 Q. And that fingerprint card, State's Exhibit 15, did
14 you in fact take that particular card from the defendant?

15 A. Yes, sir, I did.

16 Q. And those -- so in other words are those the
17 defendant's prints that were taken per your procedures?

18 A. Yes, sir, they are.

19 Q. And when you took those prints were that Live Scanned
20 into the A.F.I.S. system?

21 A. Yes, sir. They were.

22 Q. Please answer any questions that the Defendant may
23 have.

24 THE COURT: Mr. Dupree, you are recognized.

25 MR. REDMOND: And I apologize, your Honor. I failed

1 to move Item 15, State's Exhibit 15, into evidence.

2 THE COURT: Any objection to State's Exhibit 15, Mr.
3 Dupree?

4 MR. DUPREE: Yes, sir. I would like to talk to my
5 assistant for a second, sir.

6 THE COURT: All right.

7 MR. DUPREE: I did have a question. Do you want to
8 know the reason I object or should I ask him a question
9 fist?

10 THE COURT: Well, you need to tell me -- if you
11 object to the introduction of the evidence you need to
12 tell me what your objection is.

13 MR. DUPREE: The date, sir. The date on it was
14 2/1/2012 which is February 1st 2012. Your Honor, sir, I
15 was still in prison 2012. I had no dealings or
16 involvement with Albert Smith at that time. Sir, he
17 didn't become my probation officer until after I was
18 released which was March the 1st 2012, Your Honor.

19 THE COURT: All right. That goes more towards the
20 weight rather than the admissibility. And I'm going to
21 allow you to point that out. You can ask him any
22 questions about the date and if it was or was not you.
23 Very good.

24 MR. DUPREE: Sir.

25 THE COURT: So it's into evidence without objection.

1 MR. REDMOND: Thank you, Your Honor.

2 THE COURT: I mean over objection. I'm sorry. Over
3 objection.

4 (WHEREUPON, State's Exhibit No. 15 was admitted into
5 evidence.)

6 MR. DUPREE: Your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. DUPREE:

10 Q. Like I said I saw in the report that it said you took
11 my prints on February the 1st 2012?

12 A. Yes, sir. That's what the card says.

13 Q. Okay. Once again, Mr. Smith, if you was my probation
14 officer, which you were my probation officer back in 2012.
15 Mr. Smith, I didn't -- do you know the exact date which I
16 got on record now? The exact date that I was released
17 from prison?

18 A. We have you entering our system as February the 1st
19 of 2012?

20 Q. So you have -- you do have me in your system February
21 the 1st of 2012?

22 A. Yes, sir.

23 Q. Okay. Like I said, Mr. Smith, in my report I'm just
24 curious I wasn't released like I said until March 2012 --
25 I guess I could find and hand you the report for an

1 exhibit. But like I said it's in the report?

2 MR. DUPREE: Is it all right, Your Honor, if I use
3 one for an exhibit, Your Honor?

4 THE COURT: Well you need to ask him questions. If
5 you want to introduce any evidence if it's admissible you
6 can tender it to him.

7 MR. DUPREE: Well, like I said, Your Honor, no
8 further questions.

9 BY MR. DUPREE:

10 Q. I mean you said that he received my evidence --
11 Mr. Smith received my fingerprints on February 1st 2012.

12 A. Yes, sir.

13 MR. DUPREE: And no further questions, Your Honor.

14 THE COURT: All right. Very good. Any redirect?

15 MR. REDMOND: No redirect, Your Honor.

16 THE COURT: Okay. You may step down. You may call
17 your next witness.

18 MR. REDMOND: Your Honor, the last witness for the
19 day would be Kimberly Mears from the State Law Enforcement
20 Division.

21 THE COURT: All right. Yes, ma'am, please come
22 forward, and I'm going to ask if you could to place your
23 left hand of the bible and raise your right hand while the
24 Clerk administers the oath.

25 KIMBERLY MEARS, after being duly sworn,

1 testified as follows:

2 THE COURT: Yes, ma'am, please come around. I'm
3 going to ask if you could to have a seat in the witness
4 chair. Pull up real close to that microphone. Speak
5 loudly, clearly and slowly so that we can hear everything
6 that you've got to say. Let's start with your full name,
7 please, ma'am.

8 THE WITNESS: My name is Kimberly Mears.

9 THE COURT: Thank you, Ms. Mears.

10 DIRECT EXAMINATION

11 BY MR. REDMOND:

12 Q. Ms. Mears, by whom are you employed?

13 A. The South Carolina Law enforcement Division which is
14 commonly known as S.L.E.D.

15 Q. And how long have you been employed with S.L.E.D.

16 A. I've been with the agency since 2007, and with the
17 Latent Print Department since 2011.

18 Q. Okay. And let's talk about I guess your educational
19 background. Could you give us your educational
20 background?

21 A. I have a Bachelor's of Science degree in biology from
22 Winthrop University.

23 Q. Okay. And training, let's talk about the training
24 that you went through specifically as it relates to latent
25 print.

1 A. I ---

2 Q. And any certifications as well?

3 A. Well, once I transferred to the Latent Print
4 Department I completed their inhouse training program. I
5 was also accepted in the Latent Print Examiner Training
6 Program that was sponsored by the National Institute of
7 Justice which was a ten week program out of state that
8 included courses that covered all aspects of fingerprint
9 work. And I am now a certified latent print examiner
10 through the International Association for Identification.

11 Q. And, again, how long have you been doing prints? I
12 think you said since 2011?

13 A. Yes, sir.

14 Q. Now, at this time -- oh, I didn't ask you this. How
15 many latent prints, if you can estimate, how many latent
16 prints examinations have you done since then?

17 A. It would be in the thousands.

18 Q. All right. And have you been qualified as an expert
19 to testify regarding latent print analysis?

20 A. Yes, I have.

21 Q. And how many times?

22 A. Just once.

23 Q. But you have been qualified?

24 A. Yes, sir.

25 MR. REDMOND: Now, with that said, Your Honor, at

1 this point I would move that Ms. Mears be qualified as an
2 expert in the field of latent print analysis.

3 THE COURT: All right. Mr. Dupree, any questions of
4 this witness concerning her qualifications as an expert?

5 MR. DUPREE: No, sir.

6 THE COURT: All right. Madam Forelady and ladies and
7 gentlemen of the jury, ordinarily when a witness
8 testifies, a lay witness, they can only testify as to
9 things they saw, heard and felt. There is an exception to
10 that rule when a person is qualified as an expert in some
11 art or science. And if I make the determination that
12 based on their education that they are to be qualified as
13 an expert then they can render their opinion within that
14 field of study.

15 Just by virtue of the fact that their an expert
16 doesn't mean that you have to believe their opinion. You
17 need to evaluate that like you would any other evidence.
18 And just by virtue of the fact that they're an expert
19 doesn't mean that you have to believe it even if it's
20 uncontradicted.

21 You need to evaluate it like you would any other
22 evidence. She is qualified as an expert to testify in the
23 field of latent fingerprints.

24 MR. REDMOND: Thank you, Your Honor. May it please
25 the Court.

1 BY MR. REDMOND:

2 Q. Ms. Mears, can you explain for us -- we hear the term
3 latent print analysis and what not. Can you tell the
4 ladies and gentlemen of the jury what that is?

5 A. Well, if you look at the palm side of your hand or
6 your fingertips you have tiny little raised lines on your
7 skin, and that is what we call ridges. Those ridged form
8 different designs and pattern types on your skin, and
9 that's what makes up your fingerprint. If you -- well,
10 those ridges are lines with pores that exudes sweat
11 throughout the day. As you touch your face or eat certain
12 foods moisture and oils accumulate on those ridges. So
13 when you touch a surface the moisture is transferred to
14 that surface corresponding to the ridges on your skin.

15 That is what we call a latent print because you can't
16 see it. It needs some form of development or processing
17 to make it seen. We also have what are called known
18 prints where ink or as I discussed live skin with ink is
19 placed on the skin and if you touch paper that's an inked
20 representation of those ridges.

21 So fingerprint comparison are comparing the known or
22 the inked prints to the latent or unknown prints.

23 Q. And -- excuse me. And what process do you go through
24 for the testing?

25 A. For the comparisons?

1 Q. Yes, for the comparisons.

2 A. We have a methodology we call A.C.E.V. which stands
3 for Analysis Comparison Evaluation and Verification.

4 Q. Okay. Now, let me just ask you a question. You may
5 have answered it. If you did I apologize. But if I touch
6 something does that mean I'm going to leave my print on
7 it?

8 A. Not necessarily.

9 Q. Okay. And can you explain that to the ladies and
10 gentlemen of the jury?

11 A. It being a comparison quality fingerprint is a chance
12 event. That can depend on the surface you're touching.
13 It can depend on the environment you're in or it can
14 depend on the person leaving the print themselves.

15 Q. Now, did you as a part of your duties have an
16 opportunity to examine a note regarding this particular
17 case with Miss [REDACTED] as the victim?

18 A. Yes, I did.

19 Q. Okay?

20 MR. REDMOND: Your Honor, if the Court would indulge
21 me for one moment. State's Exhibit One is already in
22 evidence. I going to show the Defendant State's Two and
23 Three. Permission to approach the witness?

24 THE COURT: Yes, sir.

25 BY MR. REDMOND:

1 Q. I'm going to show you what is in evidence as State's
2 One but also State's Two and Three for identification
3 purposes at this point. Do you recognize those particular
4 exhibits?

5 A. I do.

6 Q. And let me first ask you when you receive those
7 exhibits were they packaged in accordance with S.L.E.D.
8 standard operating procedures?

9 A. Yes. We have what is called seal tape. It's a
10 tamper evident, real thin tape that we have to initial and
11 date any time we seal a package. And it was -- this item
12 was sealed when I received it.

13 Q. And just to be clear to the jury if it's not sealed
14 properly do you test it? If something comes into you that
15 is not sealed properly what is your protocol?

16 A. It kind of depends on the situation. If it is
17 sealed, they just forget to date it, but it is sealed we
18 will still analyze it.

19 If it's not sealed at all we will then contact the
20 submitting agency and the evidence log in department who
21 is the initial point of contact when evidence comes to
22 S.L.E.D. and we go from there.

23 Q. But, again, your notes, obviously, you've had
24 thousands of them since then. But do your notes reflect
25 any problems with the sealing in this particular case?

1 A. No, they don't.

2 Q. And if you recall correctly you do have a vivid
3 memory of what occurred in this particular case?

4 A. Well, this Item One is the note, and that was -- I
5 received it from Gail heath who's a questioned documents
6 examiner, and the request was to process this piece of
7 paper for fingerprints and compare any fingerprints of
8 value.

9 Q. Okay. Now, and did you do that?

10 A. I did, yes.

11 Q. Now, and could you then -- once you did that take us
12 through the steps that you took regarding your analysis?

13 A. This piece of paper was processed with a chemical we
14 call enhydrin. It reacts with the amino acids in your
15 sweat and it turns prints purple. So I then analyze the
16 paper after treating it with enhydrin for any prints that
17 were of value which is of comparison quality.

18 I then, cause enhydrin will eventually fade, I sent
19 this item over to our photography department to get all
20 the prints photographed. I then got the photographs back
21 and compared them with an initial subject. It was not
22 that person. So then the prints were entered into
23 A.F.I.S. which is the Automated Fingerprint Identification
24 System.

25 Q. And at the time that you did that and when you

1 entered into that system could you tell us, and I'll just
2 ask you. Were you able to get any hits off of it?

3 A. Yes, I was.

4 Q. Okay. And let me ask you this. When you got your
5 hits from the A.F.I.S. system were you able to identify
6 whose prints matched?

7 A. Yes, I was.

8 Q. And could you tell the ladies and gentlemen of the
9 jury who that individual was?

10 A. They were matched to a fingerprint card bearing the
11 name Derrick Dupree.

12 Q. Okay. And excuse me. Once you made that assessment,
13 and what date was that that you were able to make that
14 determination?

15 A. Well, actually, I have two different dates. My first
16 report was September 11, 2013, and then the second one was
17 September 13th 2013.

18 MR. REDMOND: Beg the Court's indulgence.

19 BY MR. REDMOND:

20 Q. And could you tell the ladies and gentlemen of the
21 jury what your findings were in each report starting with
22 the report from September 11th.

23 A. There were three prints that were of comparison
24 quality that were entered into A.F.I.S. There was only
25 one potential hit at that point that I then compared and

1 verified and got the identification. I then informed
2 Investigator Alderman of the identification. She at that
3 point wanted just this report. So then the rest of the
4 prints were not compared at that time.

5 Then in the September 13th report I have the
6 remaining prints there were developed that were determined
7 to be not value. I also have a print that was identified
8 to John Walters. And the other print that was identified
9 to the card bearing the name Derrick Dupree.

10 Q. Now, let me --

11 MR. REDMOND: And with the Court's permission if you
12 would indulge me. I need to mark State's Exhibit 20, and
13 this going to be State's -- actually. Beg the Court's
14 indulgence.

15 (WHEREUPON, State's Exhibit No. 12 was previously
16 marked for identification only.)

17 MR. REDMOND: Permission to show the Defendant
18 State's Exhibit 12. Permission to approach the witness,
19 Your Honor?

20 THE COURT: You may.

21 BY MR. REDMOND:

22 Q. I'm going to show you what's been marked as State's
23 Exhibit 12 and State's 13. If you could take a minute to
24 review those, and let me know if you recognize those
25 particular exhibits?

1 A. I'm sorry. Did you say 13?

2 Q. I'm sorry.

3 A. This is 20.

4 Q. I said 12 and 20. Excuse me?

5 A. State's Exhibit 12 is my -- the second report dated
6 September 13th 2013, and State's Exhibit 20 is the -- my
7 initial report dated September 11th 2013. That was faxed
8 to Investigator Alderman.

9 Q. Let me ask you about this.

10 MR. REDMOND: Well, first, I would move to introduce
11 State's 12 and 20 in evidence before I ask you this next
12 question. We would move State's 12 and 20 into evidence
13 at this time.

14 THE COURT: All right. Any objection from Defense?

15 MR. DUPREE: No, sir.

16 THE COURT: All right. Twelve and 20 are into
17 evidence without objection from the Defense.

18 (WHEREUPON, State's Exhibit Nos. 12 and 20 were
19 admitted into evidence.)

20 MR. REDMOND: Thank you.

21 BY MR. REDMOND:

22 Q. Now, let's talk about the 11th and the fax cover
23 sheet that's on top of Exhibit -- excuse me. Exhibit, I
24 think that's Exhibit 20. What date was that done again?

25 A. September 11th 2013.

1 Q. Okay, and you sent a fax. Could you tell the ladies
2 and gentlemen of the jury the purpose for you, I guess,
3 contacting Marlboro County Sheriff's Office on the 11th?

4 A. This case was considered to be a rush case and was
5 notified to me through my chain of command. In those
6 situations when we reach any kind of conclusion,
7 especially identifications, we notify the investigating
8 agency of any identification or conclusion that was
9 reached. So I contacted Investigator Alderman to let her
10 know that we had reached an identification.

11 So she wanted this report faxed to her in the
12 interest of time because it was going to take me a few
13 days to go through all of the prints and get my full
14 report ready.

15 Q. All right. And then on the 13th were you able to
16 follow up with a report on the 13th of September?

17 A. Yes, sir.

18 Q. That's being State's 12?

19 A. Yes, sir.

20 Q. And interestingly in State's 12 does it have, I
21 guess, a finding of a print from John Walters?

22 A. Yes, it did.

23 Q. Now, let me ask you a couple of questions based on
24 some questions the Defendant had. The fact that John
25 Walters touched the note did that in any way contaminate

1 your ability to identify the fingerprint belonging to the
2 defendant?

3 A. No, it did not.

4 Q. Okay. And could you explain why there might be two
5 prints on one piece of paper that don't necessarily
6 contaminate the sample?

7 A. Well, for example, this piece of paper, if it touch
8 it right here my print is right here. If someone were to
9 go behind me and touch it down here our prints are nowhere
10 near each other and don't overlap and don't interfere.

11 Q. And, again, to be clear, did the fact that John
12 Walters' print was on the note have any affect whatsoever
13 on your ability to identified the defendant's print?

14 A. No, it did not.

15 Q. Now?

16 MR. REDMOND: If I didn't do it already, Your Honor,
17 I would move State's Two and Three into evidence at this
18 time.

19 THE COURT: Any objection to State's Exhibits Two and
20 Three?

21 MR. DUPREE: No, sir.

22 THE COURT: Two and three are into evidence without
23 objection from Defense.

24 (WHEREUPON, State's Exhibit Nos. 2 and 3 were
25 admitted into evidence.)

1 MR. REDMOND: All right. Getting towards the
2 conclusion here, Miss Mears. Did you prepare a chart for
3 Court today regarding what you've testified to?

4 A. Yes, I did.

5 Q. Okay. And could you -- could I take a look at that.
6 I hadn't had the chance to talk with you since you got
7 here?

8 MR. REDMOND: So if the Court would indulge me just
9 for the sake of marking. This is going to be State's
10 Exhibit 13, Your Honor.

11 (WHEREUPON, State's Exhibit No. 13 was previously
12 marked for identification only.)

13 THE COURT: Any objection from Defense regarding
14 State's Exhibit 13?

15 MR. DUPREE: No, sir.

16 THE COURT: State's Exhibit 13 is into evidence
17 without objection from Defense.

18 (WHEREUPON, State Exhibit No. 13 was admitted into
19 evidence.)

20 MR. REDMOND: And, Your Honor, I apologize for the
21 delay. We didn't have a chance to pre-mark exhibits and
22 we just didn't have a chance to today.

23 BY MR. REDMOND:

24 Q. All right. Now, I believe this is in evidence, so if
25 you would I'm going to ask to step down if you would, Ms.

1 Mears. And since your back is going to be to Madam Court
2 Reporter if you can speak as loudly and clearly. I get
3 you to stand about right here. And if you speak loudly
4 and clearly maybe we can stand here at the side. Matter
5 of fact we can switch sides. That would be better. Now,
6 please what this is?

7 A. This is, basically, a chart of enlargement at what I
8 looked at, what the actual evidence was, to help y'all
9 understand what I've been talking about. What the inked
10 fingerprint looks like, what the latent fingerprint look
11 like and how I went about comparing the two.

12 Q. And, again, could you I guess when you're talking
13 about it, could you just restate the significance?

14 A. Okay. The latent print is the unknown print that I
15 developed on the note. And I realize it looks kind of
16 confusing, but this is -- there are overlapped
17 fingerprints. We're concerned with this fingerprint down
18 the center here. This is the inked fingerprint that was
19 the known print that was the Live Scan from the
20 fingerprint card.

21 Q. And the number, what are the significance of the
22 numbers?

23 A. They don't mean anything. They just are -- they show
24 what point corresponds with what between the latent and
25 the inked. And the line is just further pointing out what

1 ridge characteristic or what point I'm referring to.

2 Q. And, again, this is to illustrate -- and, again, were
3 you able to determine a match to the defendant's card to
4 the note that was submitted?

5 A. Yes.

6 Q. Okay. Thank you.

7 MR. REDMOND: Beg the Court's indulgence.

8 THE COURT: Yes.

9 MR. REDMOND: Your Honor, I might of not heard it,
10 but I think we moved it into evidence. I don't know if it
11 has already been moved into evidence.

12 THE COURT: It has been moved into evidence.

13 MR. REDMOND: Thank you, Your Honor.

14 THE COURT: Exhibit is in evidence.

15 MR. REDMOND: Beg the Court's indulgence.

16 BY MR. REDMOND:

17 Q. That is all the questions we have. Please answer any
18 questions the Defendant may have.

19 THE COURT: Mr. Dupree, you're recognized.

20 MR. DUPREE: Well, Your Honor, I do have some
21 questions. You know, I just received these documents when
22 I was asking for earlier about when it was sent, when the
23 fingerprints of -- everything was sent to S.L.E.D. as far
24 as that and what not. I'm having a little difficulty in
25 trying to figure everything out.

1 MR. REDMOND: And, Your Honor, just based on that
2 comment I'd like the Court, again, just out of an
3 abundance of precaution, we have provided those to the
4 Defense weeks ago once I got the certified chain of
5 custody that he's referring to.

6 So the State adhered to its obligation to the
7 Defense. I don't want the jury to think the Defendant is
8 mischaracterizing us and turning something over to him in
9 the last minute.

10 THE COURT: All right. Let's cut out the
11 editorializing. You may proceed.

12 CROSS-EXAMINATION

13 BY MR. DUPREE:

14 Q. Ms. Kimberly Mears?

15 A. Yes.

16 Q. Well, the question that I already had and got myself
17 when I was investigating the law. You said that the
18 S.L.E.D. A.F.I.S. system is something that holds
19 somebody's fingerprint, correct?

20 A. Yes, it is a fingerprint database.

21 Q. Okay. Do you need how long that this database
22 contains someone's fingerprint or does a fingerprint have
23 to be submitted every other month? Year? Something like
24 that?

25 A. My department doesn't maintain the database. That's

1 the S.L.E.D. Records Department, and we don't -- I don't
2 have anything to do with maintenance of the database?

3 Q. Okay. But did you -- you said you still -- you did
4 -- 'one sealed envelope containing known fingerprint and
5 palm print card identified as two known fingerprint cards
6 bearing the name Derrick Dupree received from S.L.E.D.

7 A.F.I.S. on 9/11/13 -- 11/14'?

8 A. I'm sorry. What was your question?

9 Q. Right here it says, 'time submitted by Warren McCall
10 of the Marlboro County Sheriff's Department. He
11 submitted -- I guess he submitted this document?

12 THE COURT: Mr. Dupree.

13 MR. DUPREE: Yes, sir.

14 THE COURT: Rather than making observations about
15 that document sit there and read it. And if you want to
16 ask her a question about anything she's testified to ask
17 her a question rather than comment on the document.

18 MR. DUPREE: Like I said I just received this
19 evidence.

20 THE COURT: Okay. Well, sit there and read it and
21 then ask her a question if you've got one.

22 BY MR. DUPREE:

23 Q. Did you receive a sealed envelope containing
24 fingerprints, palm prints known as Derrick Dupree on
25 9/11/2013?

1 A. The fingerprint cards were received from S.L.E.D.

2 A.F.I.S. database. I put them in an envelope once I was
3 done with my comparison.

4 Q. You put them in an envelope once you were done?

5 A. Yes.

6 Q. Okay. You did say that -- that you -- what day did
7 you say that you found Item Seven?

8 A. Item Seven?

9 Q. Item 17. Excuse me.

10 A. Item 17. I'm confused. I'm sorry.

11 Q. On your 9/11/2013 report you said you found one print
12 of Derrick Dupree on -- can you explain to me when that --
13 what time it was?

14 A. Okay. Item 1.7.

15 THE COURT: Mr. Dupree, I'm going to ask you to
16 rephrase the question. I assume the question is about
17 Item 1.7; is that correct?

18 MR. DUPREE: Yes, sir.

19 THE COURT: All right. Ask her the question about
20 1.7.

21 BY MR. DUPREE:

22 Q. Can you tell me exactly from your report -- I'm
23 saying that you said that -- I'm asking you what date did
24 you find the print on Item 1.7?

25 A. Okay. Item 1.7 is the fingerprint that was developed

1 on the note, and I developed that on September 10th 2013.

2 Q. September the 10th 2013. And you said you reported
3 it to Ms. Susan Alderman on what date?

4 A. September 11th 2013.

5 Q. On September the 11th; that's when you reported it?

6 A. Yes.

7 Q. But you did say you was -- she was in a rush that you
8 filed it on the 10th, but you didn't report it until the
9 11th. But you said that she was -- I heard you say
10 earlier that she was kind of busy putting a rush on the
11 case and stuff like that. And that's why you went on and
12 turned it in from the first print instead of turning it in
13 for both of them that you were supposed to have found
14 on -- I forgot what date, but I was wondering -- like I
15 said I'm just receiving the document.

16 The question -- that report -- but you said that you
17 did receive -- I mean you did found it on the 10th, but
18 you didn't turn it other until the 11th?

19 A. I developed the print on the 10th. It was then
20 entered into S.L.E.D. A.F.I.S. for searching, and it's not
21 like you see on t.v. where you get the print back in ten
22 minutes. It takes a while to search the system. So I did
23 not receive the results of the search until the 11th which
24 is when I then reported out on the results.

25 Q. Well, can you tell me what time you -- that -- can

1 you tell me what time you received the report?

2 A. I do not have any times listed.

3 Q. But if I'm correct y'all do keep a time track on
4 everything, correct? And I'm sure you should have that
5 in your file as far as the time. What time you received
6 it, what time you completed your documents, if I'm not
7 mistaken?

8 A. The time I received the note would be listed on the
9 chain of custody which I do not have the certified chain
10 with me. And the time that I then transferred the
11 evidence when I was finished with my analysis that would
12 also be logged on the chain of custody. Any times of when
13 I was processing or actually looking at the notes are not
14 recorded.

15 Q. But I'm trying to find the name so I can ---

16 MR. REDMOND: Page Seven.

17 MR. DUPREE: Page Seven.

18 MR. REDMOND: At the bottom.

19 MR. DUPREE: The chain of custody, and you said that
20 you did -- okay, your report time said you received it,
21 the known print at 1328 which is 1:28 p.m. or a.m.

22 A. I'm sorry. I don't know what you're looking at.

23 Q. I'm looking at the sheet, the chain of custody sheet,
24 where you said you received the print, the known print,
25 you verified the print of Derrick Dupree A.F.I.S. on the

1 9/11 of 2013. I was asking you what time did your receive
2 that print, and you said you didn't have a time.

3 But I'm trying to tell you that if I'm looking at it
4 correctly the time said it was 1328. Can you tell me what
5 time that is?

6 A. 1328 would be -- it's military time for 1:28.

7 Q. 1:28?

8 A. And as I said the time is recorded on our chain of
9 custody which is a computer electronic system, and I do
10 not have the certified chain printed out with me.

11 Q. Okay. And you said you did -- you sent them earlier
12 because she asked for them in advance because of the case.
13 Can you repeat -- I misunderstood what you were saying.
14 You said that they were putting a rush on the case.
15 That's why you sent this Item 1.7 first instead of sending
16 Items 1.2 and 1.3 and 1.4, and 1.6 at the same time cause
17 if I'm looking at this correctly Item One -- but I'm
18 having trouble with these papers. But, anyway, Ms. Mears,
19 you said that you did contact her by phone first?

20 A. Yes, I did.

21 Q. Can you -- do you recall what time it was when you
22 contacted her?

23 A. The time would be recorded on our electronic program.
24 I do not have the time with me.

25 Q. Okay. And how did -- you say you did send her the

1 first copy? Did you tell her -- when you called her did
2 you tell her right then what the print was of? Who the
3 print name, print bearer, anything like that?

4 A. Yes, in confirmed the hit from A.F.I.S. I then had
5 it verified by a second qualified latent prints examiner
6 as our department protocol indicates. And I made a phone
7 call to Investigator Alderman with the name that the print
8 was identified to.

9 Q. That, naturally, would have been after 1:00 if you
10 would have done all that then. I mean if you finish your
11 report at 1:23, 1:33, something like that, I'm saying
12 quite naturally if you did that after the fact then you
13 would have had to call her later on after 1:28, correct?

14 A. I do not recall what time I called her.

15 Q. And you said why -- the main reason why haven't --
16 you mailed that or how did you sent it to her?

17 A. I faxed her a copy of it, of my report.

18 Q. You faxed her a copy?

19 A. Yes.

20 Q. A fax -- y'all fax machine don't hold like the time
21 and stuff like y'all?

22 A. This, the cover sheet of the fax, says 1332 which
23 was -- would be 1:32. I assume is that -- I assume it's
24 set correctly. I do not know for sure.

25 Q. I'm going to ask you one more question because it was

1 said that the defendant fingerprint was -- prints bearing
2 his name was sent on February of -- 1st of 2012 to
3 S.L.E.D. -- were scanned to S.L.E.D. February 1st 2014,
4 which February 1st -- it said that it was sent by the
5 probation office here in Bennettsville, Marlboro County,
6 where the defendant was released from prison.

7 But at that time when she said that he took these
8 prints and entered them in S.L.E.D. A.F.I.S. -- well.
9 When he print them and scanned them and sent them to be
10 entered into S.L.E.D. A.F.I.S. I guess at that time the
11 defendant was still incarcerated so ---

12 MR. REDMOND: Your Honor, I'm going to object.

13 THE COURT: I'll sustain the objection. Essentially,
14 what you're doing is testifying, and I think you said it
15 at least three or four times that you were in jail when
16 those -- they allege they took the fingerprints. I think
17 that's been made clear several times.

18 Of course, she has no way of knowing that, so if you
19 have a question for her of what she did you can ask her.

20 MR. DUPREE: Okay. Your Honor, I was just trying to
21 get some understanding on how the prints was at S.L.E.D.

22 BY MR. DUPREE:

23 Q. Anyway, Ms. Mears, I was just wondering how y'all
24 have prints of the known defendant, on Derrick Dupree,
25 where like I said it was two known -- and another

1 question. Can you tell me why there was two known prints
2 of Derrick Dupree and not just -- not two known prints of
3 the first suspect and Mr. John Walters? Or do you not
4 know?

5 A. For John Walters he, being that he is an officer,
6 they only have one card on file. And the reason I had two
7 cards bearing the name Derrick Dupree is one was not of
8 very good quality so I had to pull out another one where
9 the prints were of comparison quality. That's why I had
10 two.

11 Q. Okay. So, basically, what --

12 MR. DUPREE: I have no further questions at this
13 time, Your Honor.

14 THE COURT: All right. Any redirect?

15 MR. REDMOND: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. REDMOND:

18 Q. If I may, since the Defendant has been asking
19 questions about the certified chain I'm going to approach
20 the witness. Page Seven, could you identified that
21 particular document, and let me know when you've had a
22 chance to review it?

23 A. This is what is called the verified -- I've been
24 saying certified. Chain of custody that has to be
25 reviewed by everyone in the chain before it can be made

1 available for Court.

2 Q. And let me turn your attention to Page Seven. I
3 think there are 33 pages total, but we're not going to get
4 into all of that. Page Seven, based on what the defendant
5 was asking you, and there is a highlighted portion at
6 1328. I think the defendant had asked you about that. Do
7 you see that particular time?

8 A. Yes, I do.

9 Q. And could you tell us, now that you've had a chance
10 to look at the certified chain, what is the significance
11 of that particular highlighted portion that's the defense
12 was questioning you about?

13 A. There is really not any significance. This -- it's
14 talking about Item 1.7 which is the impression on the note
15 which was identified. And on 9/11/13 at 1328 it's showing
16 that was the date and time that I received evidence back
17 from the second examiner who did the verification that I
18 spoke about earlier.

19 Q. And so at 1328 is received back by you. Again, you
20 testified but say again what time did you send that fax to
21 the Marlboro County Sheriff's Office?

22 A. The cover sheet says 1332.

23 Q. 1332, four minutes later?

24 A. Um hum.

25 MR. REDMOND: Nothing further, Your Honor.

1 THE COURT: You may step down. Any further witnesses
2 for today?

3 MR. REDMOND: No further witnesses for today, Your
4 Honor.

5 THE COURT: Very good. You may step down and you're
6 free to leave. Any objection to this witness being
7 excused? From the State?

8 MR. REDMOND: No, Your Honor.

9 THE COURT: Any from Defense?

10 MR. DUPREE: No, sir.

11 COLLOQUY

12 THE COURT: Very good. Madam Forelady, ladies and
13 gentlemen of the jury, y'all have worked hard today.
14 Thank you for that. We're going to start at nine o'clock,
15 nine o'clock sharp. And we will be ready to roll then. I
16 apologize about the delay, but we had some legal matters
17 that took longer than we anticipated. Thank you for your
18 patience.

19 I've watched each of you today, and you've been
20 paying very close attention. For that I'm appreciative.
21 Do not discuss the case with anyone else. Do not do any
22 independent investigation. Do not look up anything on the
23 internet. Do not put anything on social media about your
24 participation in this procedure. Social media and this
25 Court have nothing in common. Do not do anything on

1 social media with regard to this case.

2 And, once again, there is a chance that some of this
3 will be reported in the news media. I don't know what the
4 news reporters looks like. They very well could have been
5 here today, and sometimes they will write a little piece
6 about what has transpired on today's date. But do not
7 look at that.

8 If there is anything on the news divert your
9 attention on that. You need to base your decision on what
10 transpired in this courtroom. Everybody else remain
11 seated as the jury exits this courtroom. See you back at
12 nine o'clock. Nine o'clock sharp.

13 (WHEREUPON, the jury panel was excused from the
14 courtroom at 6:04 p.m.)

15 THE COURT: All right. Is there anything from the
16 State before we recess for the evening?

17 MR. REDMOND: Nothing from the State.

18 THE COURT: Anything by the Defense, Mr. Dupree?

19 MR. DUPREE: No, sir.

20 THE COURT: Mr. Jones?

21 MR. JONES: No, sir.

22 THE COURT: All right. How many more witnesses do
23 you have?

24 MR. REDMOND: Your Honor, it looks like at the rate
25 we're going we've got -- let's see. We've gone through

1 seven, if my count is correct. I think I've got 20, so
2 we've got about 13 more witnesses. Some of these
3 witnesses are going to be fact witnesses for specific
4 times. So I think we're right at our time of finishing
5 our case by sometime Wednesday morning at the rate we're
6 going.

7 THE COURT: All right. Very good. Anything from the
8 State before we recess for the evening?

9 MR. REDMOND: Nothing further, Your Honor.

10 THE COURT: Anything from the Defense?

11 MR. DUPREE: No, sir.

12 THE COURT: All right. I'm going to ask Mr. Dupree
13 if Mr. Jones and you and the State can take just a few
14 moments and get some stickers. I'm not -- I want -- the
15 court reporter can head on home, but if you can let them
16 borrow some stickers and they want to premark some things.
17 That will work out well. All right. Let's do that.

18 MR. REDMOND: Thank you, Your Honor.

19 (WHEREUPON, State's Exhibit Nos. 37 THROUGH 42 were
20 marked for identification only.)

21 END OF TRANSCRIPT OF RECORD
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HATTIE O. GORDON, Court Reporter

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSION
COUNTY OF MARLBORO	)	2014-GS-34-00159
		2014-GS-34-00303
		2014-GS-34-00304
		2014-GS-34-00305

STATE OF SOUTH CAROLINA	)	
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DERRICK D. DUPREE	)	
DEFENDANT	)	

October 13-15, 2014
 Bennettsville, South Carolina
VOLUME NO. 02 OF 03

B E F O R E:

THE HONORABLE MICHAEL J. NETTLES, JUDGE; and a jury.

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

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 Attorney for the Defendant

JOHN WALTERS,
 MARIA TODD,
 KIRK SCHAUER,

A P P E A R A N C E S (continued):

ALBERT SMITH, Probation Agent
KIMBERLY MEARS,
TOMMY BOSTIC,
SUSAN ALDERMAN, Cheraw Police Department
EARL HOOD, Marlboro County Detention Center
JAMIE SEALS, Marlboro County Sheriff's Office
SANDY WILKES, Marlboro County Sheriff's Office
BRITNEY ENGLISH, Marlboro County Sheriff's Office
WARREN MCCALL, Marlboro County Sheriff's Office
ISAAC BRAND,
PERRY WILLIAMS,
LISA HUNT,
WILBERT HARRINGTON,
RHONDA FIELDS,
VERONA GIBSON,
ASHLEY BELL,
LILY GALLMAN,
RENEE DUPREE,
ROBIN DUPREE,
KIM MANCE,

HATTIE O. GORDON

Circuit Court Reporter

COLLOQUY

1
2 THE COURT: Anything from the State before we
3 proceed?

4 MR. REDMOND: No, Your Honor.

5 THE COURT: Anything from the Defense?

6 MR. DUPREE: No, sir.

7 THE COURT: All right. We're ready for the jury.

8 (WHEREUPON, the jury panel enters the courtroom at
9 11:05 a.m.)

10 THE COURT: Madam forelady, ladies and gentlemen of
11 the jury, y'all look well rested and ready to receive
12 testimony. Please pay very close attention. Once again
13 this is a very important case, and I need you to take you
14 responsibilities as jurors very seriously and pay very
15 close attention. You're recognized.

16 MS. JOHNSON LEE: Thank you, Your Honor. State calls
17 Susan Alderman.

18 SUSAN ALDERMAN, after being duly sworn,
19 testified as follows:

20 THE COURT: Yes, ma'am. Please come forward and have
21 a seat in the witness chair. Pull up real close to that
22 microphone. Speak loudly, clearly and slowly in order
23 that we can hear everything that you've got to say.

24 THE WITNESS: Yes, sir.

25 THE COURT: Let's start with you full name.

1 THE WITNESS: Susan Alderman.

2 THE COURT: Very good.

3 DIRECT EXAMINATION

4 BY MS. JOHNSON LEE:

5 Q. Where are you employed?

6 A. With the Cheraw Police Department.

7 Q. What is your job right now with the Cheraw Police
8 Department?

9 A. Detective.

10 Q. And how long have you been a detective at Cheraw P.D?

11 A. A week and a half.

12 Q. Okay. And prior to your employment with the Cheraw
13 Police Department where were you employed?

14 A. I was employed with the Marlboro County Sheriff's
15 Office.

16 Q. And what was your last position with the Marlboro
17 County Sheriff's Office?

18 A. Investigator.

19 Q. And how long were you employed with the Sheriff's
20 Office?

21 A. Nine and a half years.

22 Q. Okay. Now, on September 8th of 2013 where were you
23 employed?

24 A. I was employed with the Marlboro County Sheriff's
25 Office.

1 Q. Okay. And what types of investigations did you
2 participate in back on that day?

3 A. On that date I was working a criminal sexual conduct
4 investigation. Also a home invasion, and a kidnapping.

5 Q. Now, was that all related to the case that we're here
6 for today?

7 A. Yes.

8 Q. Now, about what time did a call in for that case?

9 A. The call came in somewhere around 5:00, 5:30.

10 Q. Is that a.m. or p.m.

11 A. P.m.

12 Q. Okay. And how did you get the call?

13 A. I was actually contacted by 911. They called me to
14 let me know that there was a call that came in that I
15 would possibly be called out for it.

16 Q. Do you know how the call came to 911?

17 A. It was called in through Lifeline.

18 Q. Okay. Now, did you respond immediately to the
19 incident location?

20 A. Yes, I did.

21 Q. And where was that?

22 A. That was on [REDACTED], [REDACTED], I believe. [REDACTED]
23 Road in Wallace.

24 Q. Thank you. Is that in Marlboro County?

25 A. Yes, it is.

1 Q. Okay. When you got there were there any other deputy
2 sheriffs there?

3 A. Sergeant John Walters.

4 Q. Was any other persons there?

5 A. There was squad personnel.

6 Q. Now, what did you see when you arrived?

7 A. When I arrived I saw a lot of people were there, and
8 I'm assuming they were family members of Miss LT [REDACTED]

9 [REDACTED] Also the squad members were there. Sergeant
10 Walters -- excuse me. It was a little chaotic when I
11 first arrived.

12 Q. And this was the residence of Miss LT [REDACTED]

13 A. Yes, it was.

14 Q. And her husband?

15 A. Yes, ma'am.

16 Q. Did you see her husband there?

17 A. Yes, ma'am.

18 Q. Where was he at?

19 A. He was in the den in a recliner.

20 Q. Now, when you got there what was Miss LT [REDACTED] wearing?

21 A. She was wearing a sort of a house gown, house coat.

22 Q. Okay, did she give anything to you yourself when you
23 were there?

24 A. Yes, she did.

25 Q. What did she give you?

1 A. She gave me a dark pink nightgown, tee shirt, that
2 she said she had been wearing when the attack occurred.

3 Q. Okay. Do you know if she had given that to anybody
4 else prior to giving it to you?

5 A. No.

6 Q. Okay. And what did you do when Miss [LT] gave you
7 that gown or that long tee shirt?

8 A. I laid it out on the back of the sofa that I could
9 examine it and I took photographs of it. Then at that
10 point I bagged it up. I put it in an evidence bag and
11 secured it in my vehicle.

12 Q. Okay. Now, were you wearing gloves when you took
13 that tee shirt into your possession?

14 A. I was.

15 Q. Were you wearing gloves the entire time you were at
16 the residence?

17 A. I was.

18 Q. Okay. And is that standard operating procedure for
19 an investigator?

20 A. Yes, it is.

21 Q. And when you bagged that gown and sealed it up was
22 that done in the standard operating procedure?

23 A. It was.

24 Q. And you said you secured it in your truck?

25 A. Yes.

1 Q. Did anybody else have access to your vehicle?

2 A. No.

3 Q. Was it locked?

4 A. Yes, it was.

5 Q. Now, did you receive any evidence in the home from
6 anybody else?

7 A. Yes, I did.

8 Q. What was that?

9 A. That was a hand written note. A piece of paper from
10 Sergeant Walters.

11 Q. Would that be John Walters?

12 A. Yes.

13 Q. And did you talk to Miss LT [REDACTED] about that piece of
14 paper?

15 A. Yes, I did.

16 Q. And what did Miss LT [REDACTED] tell you about it?

17 A. She stated that the person that came into her home
18 wrote their name and phone number on that piece of paper.

19 Q. Okay. Now, was Sergeant Walters wearing gloves when
20 he handed you the note?

21 A. No, he was not.

22 Q. Were you wearing gloves when you took the note from
23 him?

24 A. Yes, I was.

25 Q. Now, was there other writing on the note as well?

1 A. Yes, ma'am. There was some notes on the back of the
2 piece of paper.

3 Q. Did you determine where those other notes came from?

4 A. At that time, no, but later on Sergeant Walters told
5 me that he had written on the back of it; that he had
6 written the notes on the back.

7 Q. And what did you do with the note when you received
8 it?

9 A. It placed it in a paper envelope and secured it in my
10 vehicle.

11 Q. And was that also done by standard operating
12 procedure?

13 A. Yes, it was.

14 Q. Okay. Did you take photographs at the residence?

15 A. Yes, I did.

16 Q. Okay. Did you respond to the hospital at some point
17 in time?

18 A. Yes, I did.

19 Q. What did you see when you responded to the hospital?

20 A. Miss LT [REDACTED] There were also some family
21 members with her at that time.

22 Q. Did you or were you present when the rape exam was
23 performed at the hospital?

24 A. Yes, I was.

25 Q. Who was present in the room during the exam?

1 A. It was myself, Nurse Maria Todd, Miss. LT [REDACTED]
2 and two family members.

3 Q. And were you present in the room throughout the
4 entire rape exam being performed?

5 A. Yes.

6 Q. Now, there is an item that was put into evidence
7 yesterday. It's Number 11 for the State.

8 MS. JOHNSON LEE: Permission to approach the witness?

9 THE COURT: Sure.

10 BY MS. JOHNSON LEE:

11 Q. I'm going to hand you State's Exhibit 11. Will you
12 look at that document and see if you recognize it.

13 A. Yes, I do.

14 Q. Okay. And what is that?

15 A. These are photocopies of the box that contained the
16 sexual assault kit.

17 Q. And in addition to the photos in the box what else is
18 contained in Exhibit 11?

19 A. There is also a form from the hospital that has all
20 of Miss LT [REDACTED] information and also the protocol form
21 that was also included in the kit.

22 Q. Okay. And were you present when that entire form was
23 filled out?

24 A. Yes, ma'am.

25 Q. And were you present when all the things there are

1 listed as being performed were done?

2 A. Yes, ma'am.

3 Q. Okay. Now. I believe you brought with you today
4 from -- that you obtained from somebody this box?

5 A. Yes.

6 Q. I'd like to have this marked for identification as
7 State's Number 43.

8 (WHEREUPON, State's Exhibit No. 43 was marked for
9 identification only.)

10 MS. JOHNSON LEE: Showing this to the Defendant.
11 Approaching the witness.

12 BY MS. JOHNSON LEE:

13 Q. I'm going to hand you what's been marked for
14 identification as State's Exhibit 43. Did you bring that
15 with you this morning?

16 A. I did not bring it with me this morning. The
17 evidence custodian for the Sheriff's Office, Sandy Wilkes,
18 brought this to me.

19 Q. Okay. Did she bring it here to the court house?

20 A. Yes, she did.

21 Q. And did she give it to you here at the court house
22 there morning?

23 A. Yes, she did.

24 Q. Now, can you please tell us what that box is?

25 A. This is actually the Sexual Assault Evidence

1 Collection Kit.

2 Q. Okay. Now, it looks like the seal has been broken on
3 that box; is that correct?

4 A. That is correct.

5 Q. Now. At some point in time at the hospital did you
6 receive that box sealed up?

7 A. I did.

8 Q. Okay. Now, were you present when the items were
9 placed into the box prior to it being sealed?

10 A. I was.

11 Q. And once the box was sealed -- well, let me ask you
12 this. Who actually sealed that box up?

13 A. That would have been Nurse Maria Todd.

14 Q. Now, were there any markings on that box to indicate
15 that Maria Todd first had possession of that box?

16 A. Yes, there is a chain of custody and also her
17 initials are on the box as far as the evidence tape that
18 seals the box and she's the one who fills out all the
19 information on it.

20 Q. So at the time it was sealed she placed her initials
21 on the actual seal?

22 A. Yes.

23 Q. Okay. Now, does the box show or indicate what time
24 you received it from Nurse Todd?

25 A. Yes, I received the box at 2102 which would have been

1 11:02 p.m.

2 Q. And was that on September 8th?

3 A. That is correct.

4 Q. Did you also sign the back of that box?

5 A. I did.

6 Q. And does that box indicate what you did with it?

7 A. Yes. At approximately 2230 I placed this box in the
8 evidence locker at Marlboro County Sheriff's Office.

9 Q. And was the handling of the box from the time you
10 were present for the rape kit until the time you took that
11 sealed box to the Sheriff's Office was all of that done in
12 accordance with standard operating procedures?

13 A. Yes, it was.

14 MS. JOHNSON LEE: At this time I would move to admit
15 State's 43 into evidence for the State.

16 THE COURT: Any objection from Defense?

17 MR. DUPREE: No, sir.

18 THE COURT: All right. It's in evidence known as?

19 MS. JOHNSON LEE: State's Exhibit 43.

20 THE COURT: Forty-three is in evidence.

21 (WHEREUPON, State's Exhibit No. 43 was admitted into
22 evidence.)

23 BY MS. JOHNSON LEE:

24 Q. Now, at the time the exam was being performed did you
25 take any photographs?

1 A. Yes, I did.

2 Q. How many photographs do you recall taking at the
3 exam?

4 A. I took three photographs.

5 Q. And what were those of?

6 A. Those were of Miss LT [REDACTED]

7 Q. Okay. I'm going to show you what's in evidence as
8 State's Exhibit 36. Is this one of the photographs that
9 you took of Miss LT [REDACTED]

10 A. Yes, it is.

11 Q. Okay. And, now, what is depicted in that photograph?

12 A. That photograph is showing the markings on
13 Miss LT [REDACTED] neck that appear to be scratches or a cut.

14 Q. Did Miss LT [REDACTED] indicate to you how that mark got on
15 her neck?

16 A. She stated that she believes it was from the knife or
17 the weapon that was held to her neck during the attack.

18 Q. Thank you, ma'am. Now, after the rape exam was
19 completed at the hospital did Miss LT [REDACTED] go to the
20 Marlboro County Sheriff's Office?

21 A. Yes, she did.

22 Q. And what was the purpose in doing that?

23 A. We contacted S.L.E.D. forensic artists to come and
24 attempt to get us some type of drawing for us to identify
25 the attacker.

1 Q. Okay. And did Miss [LT] actually sit down with a
2 sketch artist from S.L.E.D.

3 A. She did.

4 Q. Okay.

5 MS. JOHNSON LEE: Were looking for what's been marked
6 for identification as State's Nine. Okay. I'm
7 approaching the witness with what has been marked for
8 identification as State's Exhibit Nine.

9 BY MS. JOHNSON LEE:

10 Q. Do you recognize that item?

11 A. Yes, ma'am.

12 Q. What is that?

13 A. This was the completed drawing from the forensic
14 artist.

15 Q. Now, about what time of night were y'all at the
16 Sheriff's Office having this sketch being done?

17 A. This would have been after eleven o'clock after we
18 left the hospital, and it was possible after midnight when
19 the drawing was done.

20 Q. And the actual first call came in some time between
21 5:00 and 5:30 p.m.

22 A. Yes, ma'am. That is correct.

23 Q. Now, were you present throughout the time that
24 Miss [LT] was working with the sketch artist?

25 A. I was.

1 Q. And when this sketch was finally completed did you
2 hear give any indication to the sketch artist that that
3 was 100 percent accurate?

4 A. She did not say it was 100 percent accurate.

5 Q. What did Miss LT say?

6 A. She stated something to the effect that there was
7 something a little off about it.

8 Q. Okay. At this time I would move to have Number Nine
9 placed in evidence for the State, Your Honor. That would
10 be the sketch.

11 THE COURT: Any objection?

12 MR. DUPREE: No, sir.

13 THE COURT: All right. This sketch is in evidence.
14 (WHEREUPON, State's Exhibit No. 9 was admitted into
15 evidence.)

16

17 BY MS. JOHNSON LEE:

18 Q. After the sketch was completed did you take a
19 statement from Miss LT

20 A. I did.

21 Q. And that was done at the Sheriff's Office?

22 A. Yes, it was.

23 Q. Okay. And as far as that rape is concerned has she
24 been consistent with her story about being raped?

25 A. Yes, she has.

1 Q. At any point in time did she ever indicate that this
2 was anything consensual?

3 A. No, she did not.

4 Q. Now, back up just a moment. You said you took the
5 nightgown into custody from Miss LT I'm going to
6 pull what has been marked for identification as State's
7 Number Five. I'm going to hand it to you what has been
8 marked for identification as State's Exhibit Five.

9 MS. JOHNSON LEE: I'll ask if the Defendant wants to
10 look at it. We're going to have to pull it out. It's the
11 gown. Does the Defendant prior to it being pulled out?

12 MR. DUPREE: No, sir. I don't have not problem with
13 it.

14 THE COURT: Okay. Very good.

15 BY MS. JOHNSON LEE:

16 Q. If you could please remove that item from the box.

17 A. Do we have any gloves?

18 MS. JOHNSON LEE: Thank you, Madam Court Reporter.

19 BY MS. JOHNSON LEE:

20 Q. And this item has already been to S.L.E.D. and been
21 examined; is that correct?

22 A. That is correct.

23 Q. And this is after being returned from S.L.E.D. after
24 completing their examination?

25 A. Yes.

1 Q. Okay. Other than having been, obviously, some things
2 done to it at S.L.E.D, otherwise, does this appear to be
3 the same gown that you received from Miss [REDACTED] on
4 September 8th 2013?

5 A. Yes, it does.

6 MS. JOHNSON LEE: Your Honor, at this time I would
7 move to have Item Five put into evidence for the State?

8 THE COURT: Any objection from the Defense?

9 MR. DUPREE: No, sir.

10 THE COURT: It's in evidence. That's entered as
11 State's Exhibit Number?

12 MS. JOHNSON LEE: Five.

13 THE COURT: State's Exhibit Five in evidence.

14 (WHEREUPON, State's Exhibit No. 5 was admitted into
15 evidence.)

16 BY MS. JOHNSON LEE:

17 Q. All right. At the hospital, as part of the rape kit,
18 did you also receive any type of clothing from the victim?

19 A. Yes.

20 Q. And what was that?

21 A. That was would be her underwear.

22 Q. Okay. I'm going to pull Item Seven. That item has
23 gone to S.L.E.D; that is correct?

24 A. That is correct.

25 Q. And is that a S.L.E.D. Evidence Bag that it's now

1 sealed in?

2 A. It is.

3 Q. Okay. Is there anything in that S.L.E.D. pouch that
4 you recognize?

5 A. Yes, the bag that contains the underwear is the bag
6 that is in the -- that was in the sexual assault kit.

7 Q. And you were present when that item was bagged and
8 put in the kit?

9 A. Yes, I was.

10 Q. At any point in time did you see those underwear go
11 anywhere other than from LT [REDACTED] to Marie Todd to
12 that box?

13 A. No.

14 Q. Okay. Thank you. And I believe Item Seven is
15 already in evidence. All right. You took some
16 photographs at the residence; is that correct.

17 A. That is correct.

18 Q. I'm going to show you what's been marked for
19 identification as State's Exhibit 37. Do you recognize
20 this?

21 A. Yes, I do.

22 Q. Is this a blown up copy of the photo you took at the
23 residence?

24 A. It is.

25 Q. Was this photo taken on September 8th 2013?

1 A. It was.

2 Q. Is this an accurate depiction of the scene as you saw
3 it that night?

4 A. Yes, it is.

5 Q. And what does this depict?

6 A. That is the living room of Miss LT [REDACTED] and
7 it's also where the attack occurred.

8 Q. Okay?

9 MS. JOHNSON LEE: At this time I would move to have
10 Number 37 put into evidence for the State.

11 THE COURT: Any objection from the Defense?

12 MR. DUPREE: No, sir.

13 THE COURT: It's into evidence.

14 (WHEREUPON, State's Exhibit No. 37 was admitted into
15 evidence.)

16 MS. JOHNSON LEE: If I could have the witness come
17 down just to point out to the jury exactly what Miss
18 LT [REDACTED] told her.

19 BY MS. JOHNSON LEE:

20 Q. Point out to the jury using this what Miss LT [REDACTED]
21 told; you. Stand back a little bit.

22 A. This is the front door that Miss LT [REDACTED] told
23 about yesterday in her statement where she said that the
24 subject -- the defendant came to her door and rang the
25 doorbell. She opened the door. She stated that he came

1 down the hallway. They came down the hallway. They went
2 to get the note. They came back through after they got
3 the piece of paper, and the door was closed. There is a
4 closet over here behind the door that she stated that
5 he tried to turn her attention to.

6 And this is the love seat where the incident
7 occurred. This is also the nightgown that she handed to
8 me. You can see that on the back of the couch where I
9 laid it out to be photographed. But this is where the
10 incident occurred.

11 Q. Now, if you could be specific, tell the jury what
12 Miss [LT] told you the incident was?

13 A. She stated that he bent her over the couch and he
14 proceeded to rape her.

15 Q. Thank you.

16 MR. REDMOND: Beg the Court's indulgence.

17 MS. JOHNSON LEE: Okay. There is a disk which is
18 marked for identification as Number 35 for the State.
19 These are some of the photographs that are contained on
20 that disk. The other one is the one that is already
21 marked. I'm going to show these photographs that are
22 contained on that disk to the Defendant.

23 MR. REDMOND: And, Your Honor, if I may, to save time
24 since -- rather than waste time bringing a t.v. and
25 rigging them up and all like that I put the exhibit

1 numbers on the back, and if we can at the appropriate time
2 during the break, if the court reporter is okay with it,
3 we can then have them actually marked with the court
4 reporter's seal. But there are numbers already on there,
5 and I did that just to save time rather bringing that over
6 here and rigging that up.

7 THE COURT: Are you offering them into evidence?
8 What are you doing?

9 MR. REDMOND: Sir?

10 THE COURT: Are you offering these into evidence?

11 MR. REDMOND: Yes, sir.

12 THE COURT: Okay.

13 (WHEREUPON, State's Exhibit Nos. 44 THROUGH 52 were
14 marked for identification only.)

15 BY MS. JOHNSON LEE:

16 Q. Okay. I'm going to hand the witness and have her
17 identify numbers on the backs of these photographs. If
18 you could state the number on the back of these
19 photographs and then state what the photograph depicts?

20 A. This is Number 45. This is a photograph of the front
21 door leading into Miss LT [REDACTED] residence.

22 This is Number 44. This is a photograph of the front
23 of the home of Miss LT [REDACTED]

24 This is Number 48. This is a photograph of the den
25 area going into the den area of Miss LT [REDACTED]

1 residence.

2 Number 46 is a photograph of the loveseat in the
3 living room where the attack occurred.

4 Number 47 is a photograph of the hallway leading into
5 the den of Miss LT [REDACTED] residence.

6 Number 49 is a photograph of the den and Mr. Thomas
7 as he sat in his recliner.

8 Number 50 is a photograph of Melvin McQueen's
9 residence where we located a piece of evidence.

10 Number 51 is a photograph of the tee shirt that the
11 defendant was wearing the night that the incident
12 occurred.

13 Number 52 is another photograph of the tee shirt that
14 the defendant was wearing the night the incident occurred.

15 Q. Okay?

16 MS. JOHNSON LEE: At this time I would move -- let me
17 back up just a moment.

18 BY MS. JOHNSON LEE:

19 Q. Are all of these photographs taken by you?

20 A. No.

21 Q. Who took some of these photographs?

22 A. Some of the photographs were taken by Lieutenant
23 Jamie Seals.

24 Q. Okay. And would those be the ones at Melvin
25 McQueen's house?

1 A. That is correct.

2 Q. So that would be Numbers 50, 51 and 52?

3 A. That's correct.

4 Q. Okay. Were Items 45 through 49 taken by you?

5 A. Yes.

6 Q. Okay. And, Items 45 through 49, are those accurate
7 depictions of the scene as you photographed it?

8 A. Yes.

9 Q. Okay.

10 MS. JOHNSON LEE: At this time I would move to put 45
11 through 49 in -- excuse me. 44 through 49 into evidence?

12 THE COURT: Any objection from Defense?

13 MR. DUPREE: No, sir.

14 THE COURT: They're into evidence.

15 (WHEREUPON, State's Exhibit Nos. 44 through 49 were
16 admitted into evidence.)

17 MR. REDMOND: Beg the Court's indulgence.

18 THE COURT: They're into evidence, State's Exhibit 44
19 through 49.

20 MS. JOHNSON LEE: Thank you, Your Honor.

21 BY MS. JOHNSON LEE:

22 Q. And then the photographs that were taken ---

23 THE COURT: Did you mark them? Are they marked?

24 BY MS. JOHNSON LEE:

25 Q. By Jamie Seals ---

1 THE COURT: Well, hang on. Let the court reporter --
2 she can't mark them and ---

3 MS. JOHNSON LEE: Yes, Your Honor.

4 THE WITNESS: Seals, S-E-A-L-S.

5 THE COURT: Hang on just a moment. Let her. Very
6 good. All right.

7 BY MS. JOHNSON LEE:

8 Q. With respect to the three photographs that were taken
9 by Jamie Seals, 50, 51 and 52, which were taken at Melvin
10 McQueen's house, were you present when these photographs
11 were taken?

12 A. Yes, I was.

13 Q. And are they a true and accurate depiction of the
14 scene on that day?

15 A. Yes.

16 Q. Okay.

17 MS. JOHNSON LEE: At this time I would move to put
18 50, 51 and 52 into evidence for the State. Your Honor, at
19 this time I would move to put 50, 51 and 52 into evidence
20 for the State, the three taken by Jamie Seals, the witness
21 has identified she was present for, and she states they're
22 true and accurate depictions of the scene as it appeared
23 on that day.

24 THE COURT: You moving those into evidence?

25 MS. JOHNSON LEE: Yes, Your Honor.

1 THE COURT: All right. Any objection from Defense?

2 MR. DUPREE: No, sir.

3 THE COURT: All right. They're into evidence.

4 MS. JOHNSON LEE: Thank you, Your Honor.

5 (WHEREUPON, State's Exhibit Nos. 50 through 52 were
6 admitted into evidence.)

7 BY MS. JOHNSON LEE:

8 Q. All right. Now, let's go back to the other
9 photographs that you took. First, starting with Number
10 49. You said -- you testified that this was a photo of
11 Mr. Thomas in the home?

12 A. Yes.

13 Q. And he is seated?

14 A. Yes.

15 Q. And where is that at?

16 A. That is in the den.

17 Q. That's in the den. Now, when you say, 'the den' is
18 that a separate den or is that in the kitchen part of the
19 house?

20 A. It's in the kitchen part. Where Mr. Thomas was
21 sitting there was a door to the outside, and if you look
22 back towards the other end of the room is where the
23 kitchen was located.

24 Q. Okay. And Number 47 you indicated the hall going
25 doing towards the kitchen area?

1 A. Yes.

2 Q. Where the kitchen/den is at?

3 A. Yes.

4 Q. Okay. Number 46 I believe you testified is looking
5 into the living room from the front door area; is that
6 correct?

7 A. That is correct.

8 Q. And that loveseat with the pinkish, reddish shirt
9 there that is the loveseat where the rape occurred?

10 A. Yes.

11 Q. Number 48 I believe you testified this is the kitchen
12 area? The den area also?

13 A. Yes.

14 Q. And is that the refrigerator in the background?

15 A. That is correct.

16 Q. Did she indicate to you where she got the paper for
17 the defendant to write the note?

18 A. She stated it was on the refrigerator. It had a
19 little magnet on the back and it was stuck to the
20 refrigerator.

21 Q. Thank you, ma'am. Number 45 I believe you testified
22 is looking into the front door into the living room where
23 the attack occurred; is that correct?

24 A. That is correct.

25 Q. And, lastly, Number 44. This is a photograph of the

1 front of the residence?

2 A. That is correct.

3 Q. Okay. Officer Alderman, initially was another
4 suspect developed during the investigation by the Marlboro
5 County Sheriff's Office?

6 A. Yes.

7 Q. Who was the initial suspect?

8 A. Kadeem Lateef Hooks.

9 Q. Did you participate in any interviews with Kadeem
10 Hooks?

11 A. Yes, I did.

12 Q. What date and time were those interviews or was that
13 interview?

14 A. That interview was on September 9th 2013.

15 Q. And this is the day after the rape?

16 A. Yes.

17 Q. Okay. Now, were you part of the -- did you actually
18 develop him as a suspect yourself?

19 A. No, I did not.

20 Q. But once he was developed as a suspect you did
21 participate in an interview with him?

22 A. I did.

23 Q. Who was present for your interview with Kadeem Hooks?

24 A. It was myself and Investigator Shawn Feldner.

25 Q. Okay. Without saying anything that Kadeem said did

1 he admit any involvement in the rape to you?

2 A. No.

3 Q. Okay. And that interview continued after you
4 continued to stopped for some reason; is that correct?

5 A. That is correct.

6 Q. And what was the reason that you stopped the
7 interview?

8 A. We had been in there for a few hours, at least two
9 hours. We had been out all night so we had taken a break.
10 Myself and Investigator Feldner had taken a break and had
11 actually gotten something to eat and gave Mr. Hooks
12 something to eat.

13 Q. Okay. And so after Mr. Hooks ate who took up the
14 interview at that point for the Sheriff's Office?

15 A. Lieutenant Jamie Seals.

16 Q. Okay. Were you present in the room for the remainder
17 of that interview?

18 A. No, I was not.

19 Q. At some point in time, obviously, Mr. Dupree became a
20 suspect?

21 A. That is correct.

22 Q. How did that occur?

23 A. That occurred through the note that Miss LT [REDACTED] had
24 given to me. We had sent that to S.L.E.D. to be processed
25 for any potential evidence and a fingerprint was taken

1 . from that note.

2 Q. And did you receive information from S.L.E.D.
3 concerning the fingerprint on the note?

4 A. Yes, I did.

5 Q. What was the information you received?

6 A. The information that I received was that Mr. Dupree
7 was the -- it was his fingerprint.

8 Q. And on what date did you receive that information
9 from S.L.E.D?

10 A. That would have been September 10th.

11 Q. Okay. The day after the interview with Kadeem?

12 A. That is correct.

13 Q. Okay. Now, prior to your getting that call from
14 S.L.E.D. identifying the prints belong to Derrick Dupree
15 had you had any involvement with Derrick Dupree?

16 A. Yes.

17 Q. And tell the jury about that?

18 A. On -- it was on that same date, the 10th. Mr. Dupree
19 along with his fiance came to our office and wanted to
20 give a statement because he stated that he had heard that
21 his name had been brought up in our investigation as a
22 potential suspect. And he wanted to give us his alibi on
23 where he was on that day.

24 Q. Now, had you yourself heard the name Derrick Dupree
25 related to this case before my showed up at the Sheriff's

1 Office?

2 A. No, I had not.

3 Q. Okay. So this was a surprise?

4 A. Yes.

5 Q. To you?

6 A. Yes, it was.

7 Q. Okay. Now, since then have you found out that
8 somebody else may have made the Sheriff -- some people at
9 the Sheriff's Office aware his name might be a suspect?

10 A. Yes.

11 Q. But you did not know that at the time he came in?

12 A. No, I did not.

13 Q. Did you talk to Derrick Dupree then?

14 A. Yes, I did.

15 Q. And when you talked to him was it done on video?

16 A. Yes, it was.

17 Q. And was he a suspect at all to you during that
18 interview?

19 A. No, he was not.

20 Q. So he wasn't given any Miranda rights?

21 A. No, he wasn't.

22 Q. He was not a suspect?

23 A. No, he was not.

24 Q. Did he admit to any involvement in this case?

25 A. No, he did not.

1 Q. Okay. Did you interview the other person or persons
2 that he brought with him?

3 A. I did.

4 Q. Did they indicate at that time that he had any
5 involvement in this case?

6 A. They did not.

7 Q. And that was on the 10th?

8 A. Yes.

9 Q. And then the next day, on the 11th, you receive a
10 phone call that Derrick Dupree's fingerprint is on the
11 note?

12 A. That is correct.

13 Q. Okay. Once the Sheriff's Office received the
14 information that Derrick Dupree's fingerprint was on the
15 note what happened?

16 A. When -- I'm sorry. Could you repeat that?

17 Q. Once the Sheriff's Office received the information
18 from S.L.E.D. that it was Derrick Dupree's fingerprint on
19 the note from the victim's home and not that of Kadeem
20 Hooks what did you guys do at that point?

21 A. At that point we -- of course, we had to talk with
22 the Solicitor's Office. We talked with Solicitor William
23 Rogers in reference to Mr. Hooks as far as getting him
24 released. We also -- I got notification from S.L.E.D. in
25 writing that Mr. Dupree's fingerprint was on that note.

1 She actually -- Miss Mears had faxed me a copy of that. I
2 then proceeded to get a criminal history done on Mr.
3 Dupree. I also did the affidavit for my warrants. I
4 obtained those warrants and at that point we proceeded to
5 find Mr. Dupree to arrest him.

6 Q. And was he charged with C.S.C. first, burglary first,
7 kidnapping and possession of a weapon during the
8 commission of a violent crime?

9 A. He was.

10 Q. And you obtained those arrest warrants?

11 A. I did.

12 Q. Okay. Now, when he was first arrested did you
13 participate in an interview with Derrick Dupree?

14 A. I did not.

15 Q. Okay. Now, at some subsequent point did you
16 participate in an interview with Derrick Dupree.

17 A. I did.

18 Q. And do you recall when that was?

19 A. That would have been September 16th.

20 Q. Okay. And why was he interviewed at that time?

21 A. At his request.

22 Q. Okay. And who else was present for the interview?

23 A. Lieutenant Jamie Seals.

24 Q. All right. Now, did you receive any other evidence
25 during the investigation of this case?

1 A. Yes.

2 Q. Okay. What else did you receive during the
3 investigation of the case?

4 A. We received statements, of course, but we had the
5 sexual assault kit. We had swabs from Mr. Dupree for his
6 D.N.A. We also received -- we had a knife. I had a knife
7 that I received from Lieutenant Seals.

8 Q. Okay, now, the knife, whose residence did it come
9 from?

10 A. That came from Kadeem Hooks.

11 Q. So that was turned over to you before or after Mr.
12 Dupree's arrest?

13 A. I'm -- I can't recall that.

14 Q. Okay. I'm hand you what's marked for identification
15 as State's Exhibit 25. Do you recognize that item
16 contained inside that S.L.E.D. packet?

17 A. Yes, ma'am.

18 Q. Okay. Does it have your writing on it?

19 A. Yes.

20 Q. Okay. Hold up just a moment. Can you tell what that
21 item is contained any the packet?

22 A. It was a knife. It's been a while so I don't
23 remember exactly what it looked like.

24 Q. But that knife was turned over to you from Lieutenant
25 Seals?

1 A. Yes.

2 Q. And was the purpose just to put it in evidence?

3 A. Yes.

4 Q. Okay. And did you in fact put that knife in
5 evidence?

6 A. I did.

7 Q. And did you ever open it up and touch it or do
8 anything to it?

9 A. No, I did not.

10 Q. Was it already wrapped up or anything when you
11 received it from Lieutenant Seals?

12 A. Yes.

13 Q. Okay. And you never tried to open it up?

14 A. No.

15 MS. JOHNSON LEE: At this time I move to put the
16 knife into evidence, Your Honor.

17 THE COURT: Any Objection from Defense?

18 MR. DUPREE: No, sir.

19 THE COURT: Into evidence.

20 MS. JOHNSON LEE: State's Exhibit 25.

21 (WHEREUPON, State's Exhibit No. 25 was admitted into
22 evidence.)

23 BY MS. JOHNSON LEE:

24 Q. Okay. After Derrick Dupree was arrested at some
25 point did you do a -- obtain a search warrant to execute

1 on his residence?

2 A. I did.

3 Q. Okay. And did you seize anything at the execution of
4 the search warrant at his residence?

5 A. Yes.

6 Q. Okay. Did you seize any writings from his residence?

7 A. I did.

8 Q. Okay. What were those writings of?

9 A. They appeared to be letters that were written to Kim
10 Hooks, Kim Mance from Mr. Dupree.

11 Q. Okay. Was Kim Mance his fiancee?

12 A. That is correct.

13 Q. Now, do you know for a fact that Derrick Dupree
14 actually wrote those letters himself?

15 A. No, I do not.

16 Q. Okay. What did you do with the letters?

17 A. I took them into evidence. I placed them in a bag
18 and placed them in our evidence locker.

19 Q. Okay. Was were those then sent to S.L.E.D.?

20 A. They were.

21 Q. Okay. And you actually placed those in some kind of
22 envelope to seal them up prior to them going to S.L.E.D.

23 A. Yes.

24 Q. Did you write anything on those letters?

25 A. No, I did not.

1 Q. Okay. Did anybody write anything on those letters or
2 attempt to change or add or remove anything from those
3 letters?

4 A. No, ma'am.

5 Q. Okay?

6 MS. JOHNSON LEE: Beg the Court's indulgence.

7 BY MS. JOHNSON LEE:

8 Q. Detectives Alderman, that's all the questions I'm
9 going to cover with you. Answer anything Mr. Dupree has.
10 Thank you.

11 A. Thank you.

12 THE COURT: Mr. Dupree, you're recognized.

13 CROSS-EXAMINATION

14 BY MR. DUPREE:

15 Q. Miss Alderman, you did say that you spoke with the
16 victim of the incident?

17 A. Yes, I did.

18 Q. And you say that you first spoke with her on what
19 day?

20 A. That would have been -- in went into -- I spoke with
21 her on 9/8, the date of the incident, and also 9/9 and
22 also several other times since that time.

23 Q. Okay. On 9/8 can you tell me where you spoke with
24 the victim at?

25 A. I spoke with her at her home.

1 Q. Okay. I remember that you -- I recall you saying
2 that you did take the victim to the Marlboro County
3 Sheriff's Department. On what date that was?

4 A. I did not take her to the Marlboro County Sheriff's
5 Office. She met us at the Marlboro County Sheriff's
6 Office.

7 Q. Okay. And what date was that?

8 A. That would have been on 9/8 also.

9 Q. 9/8.

10 A. Of 2013.

11 Q. Okay. I remember you stating that you did have an
12 interview with her as far as questioning her about the
13 incident?

14 A. I did.

15 Q. And that was on 9/8 2013?

16 A. I did. That was at the hospital.

17 Q. Okay. I'm speaking about the Sheriff's Department.
18 I recall you saying that you spoke with her at the
19 Sheriff's Department?

20 A. I did.

21 Q. And that was on 9/8, correct?

22 A. That was 9/8 also into 9/9 because of the time of
23 day.

24 Q. Okay. And, by chance, if you spoke with her then I'm
25 quite sure you took a statement?

1 A. Yes, I did.

2 Q. Okay. I'm having trouble. I didn't receive those
3 statements. Were those statements turned over to the ...

4 A. The statements were taken at the hospital and they
5 were ---

6 Q. I'm talking about the statement at the Sheriff's
7 Department. I'm bypassing the hospital.

8 A. Okay.

9 Q. I'm talking about the Sheriff's Department.

10 A. Well, the statements were in my Rule Five. When I
11 turned my Rule Five over to the Solicitor's Office my
12 statements were in there. They were not written
13 statements. They were video statements. So the Sheriff's
14 Office or the Solicitor Office had that.

15 Q. Well, I'm -- like I said I'm having trouble cause I
16 didn't receive those statement. So it's kind of hard for
17 me to question you on what was said at the time.

18 THE COURT: Mr. Dupree.

19 MR. DUPREE: Yes, sir.

20 THE COURT: You need to ask her questions. You
21 really can't testify as to what you do or don't have at
22 this juncture. You need to ask her questions.

23 BY MR. DUPREE:

24 Q. Well, Miss Alderman, do you recall any questions that
25 you asked her at that time?

1 A. I asked her what happened.

2 Q. And what, as far as, can you give me a summary on
3 what she said?

4 A. She stated that a black male entered her home and
5 raped her.

6 Q. Did you -- okay. Y'all did say she did a sketch. So
7 you never did ask she did she have any physical
8 identification of the person?

9 A. Yes. We got a description. We got a brief
10 description of the person who entered her home, and that
11 was what we based our investigation on at that time.

12 Q. Well, I'm going to move a little further. How about
13 when you -- when the first suspect was arrested, can you
14 tell me about what time he was arrested?

15 A. Not exactly. I don't have that in front of me. I
16 couldn't tell you exactly what time, but it was the next
17 day.

18 Q. If I'm correct -- if it's correct -- I'm just asking
19 you. Do you think it could have been maybe around 3:00,
20 midnight that morning on the 8th at midnight,
21 three o'clock in the morning, midnight rather?

22 A. No, it could not have been midnight cause we were at
23 the Sheriff's Office with Miss [REDACTED] I was at the
24 Sheriff's Office with Miss [REDACTED]

25 Q. So you would say -- I'm guessing you would say about

1 six o'clock that morning the next day?

2 A. If I recall correctly we were at the Sheriff's Office
3 at six o'clock in the morning with Mr. Hooks beginning the
4 interview with him.

5 Q. Miss Alderman, at that time did y'all conduct a
6 lineup, a photo lineup, to ensure, you know, the victim --
7 the suspect wasn't or was the suspect?

8 A. No, we did not do a lineup.

9 Q. Y'all did not do a lineup?

10 A. No, we did not.

11 Q. So at that time did the victim ever identify the
12 first suspect?

13 A. No.

14 Q. Okay. How about -- you did say that you wasn't aware
15 of the second suspect which was Dupree, correct?

16 A. That is correct.

17 Q. And you say you hadn't spoke with nobody in reference
18 to Derrick Dupree or that name or anything of that nature?

19 A. Prior to, no, sir.

20 Q. Okay. Do you recall 9/10/2013 at four o'clock p.m.
21 at the Marlboro County Sheriff's Office speaking with --
22 9/10/2013 at four o'clock 08, 4:08 p.m, Marlboro County
23 Sheriff's Office, speaking with Wilbert L. Harrington?

24 A. I did.

25 Q. Okay. In his statement he did speak about Derrick

1 Dupree, correct?

2 A. I believe so, yes.

3 Q. So earlier you just said that you didn't speak with
4 nobody in reference to Dupree. If I'm correct can you
5 tell me what time did Dupree and his fiance come to the
6 Sheriff's Department on 9/10/2013?

7 A. No, I couldn't tell you exactly. I don't have my
8 notes or any notes in front of me on that.

9 Q. But was it well after four o'clock after you spoke
10 with Wilbert L. Harrington?

11 A. I'm assuming, yes. I can't say for sure.

12 Q. But my point is you said earlier that you didn't
13 speak with nobody at that time?

14 A. At that time. At the time ---

15 Q. That mentioned Dupree's name?

16 A. I'm not sure exactly what time I spoke with
17 Mr. Harrington. I don't have anything in front of me that
18 could tell me that. I don't have anything to be able to
19 tell you what time I spoke with Mr. Harrington.

20 MR. DUPREE: Pardon myself, Your Honor. Your Honor
21 if you please may I approach the witness ---

22 THE COURT: You may.

23 MR. DUPREE: --- to ask a question, please, about the
24 handwriting?

25 THE COURT: Yes, you may.

1 MS. JOHNSON LEE: May I see what he's going to show
2 the witness?

3 THE COURT: You may.

4 MR. DUPREE: Oh, I'm sorry.

5 BY MR. DUPREE:

6 Q. Can you tell me what the top name on that say?

7 A. That's Alderman. That's my name.

8 Q. All right. And that's your handwriting, correct?

9 A. That is correct.

10 Q. Can you tell me the date on that?

11 A. It's 9/10/2013.

12 Q. And the name or the state -- the witness?

13 A. Wilbert Lee Harrington, Jr.

14 Q. All right. Thank you.

15 MR. DUPREE: Your Honor, may I ask that this be
16 entered into the exhibit, sir?

17 THE COURT: Any objection from the State?

18 MS. JOHNSON LEE: None whatsoever.

19 THE COURT: It's in evidence. That will be
20 Defendant's Exhibit One; is that correct.

21 COURT REPORTER: Two.

22 THE COURT: Defendant's Exhibit Two. All right.
23 It's into evidence.

24 BY MR. DUPREE:

25 Q. Ms. Alderman, you said that ---

1 THE COURT: Just one second.

2 MR. DUPREE: Okay.

3 THE COURT: Wait for her.

4 (WHEREUPON, Defendant's Exhibit No. 2 was marked for
5 identification and received into evidence.)

6 THE COURT: Mr. Dupree, you're recognized.

7 MR. DUPREE: All right.

8 BY MR. DUPREE:

9 Q. Okay. Miss Alderman, you said that -- okay. Let me
10 catch up. Okay. And you did spoke with at a later time
11 that day through?

12 A. I'm sorry. What was that?

13 Q. Do you recall speaking with me at at later time that
14 day?

15 A. Yes.

16 Q. Was it later that day or before?

17 A. It would have been later in the day.

18 MR. DUPREE: Pardon me, Your Honor.

19 BY MR. DUPREE:

20 Q. Miss Alderman, at this time when you spoke with
21 Dupree was he at this time a suspect?

22 A. No, he was not.

23 Q. He was not. Can you give me a brief summary what you
24 collect from the date -- on this day what was said in your
25 interview with Mr. Dupree?

1 A. Can I give a brief summary?

2 Q. Yes, ma'am.

3 A. On the 10th?

4 Q. Yes, ma'am.

5 A. Is that correct?

6 Q. Yes, ma'am.

7 A. I recall Mr. Dupree coming to the Sheriff's Office
8 and advising us that he had information that someone had
9 stated that he was the one that attacked Miss LT And
10 he gave us an alibi as to where he was that day.

11 Q. Hold on. Back up for a second. You said that
12 someone said that -- you said that Dupree stated that
13 someone said that he attacked Miss LT correct?

14 A. Yes. If I recall correctly you told me to give you a
15 brief summary, and that was what I was doing.

16 Q. Okay. But I was just correct -- I was just stopping
17 you for a brief second to ask a question. Go ahead?

18 A. I'm sorry.

19 Q. Proceed with your brief summary.

20 A. All right. And we -- he brought several people up to
21 the office with him to try to give an alibi as to where he
22 was.

23 Q. Is that all?

24 A. That's -- I don't have anything in front of me, so I
25 can't recall exactly.

1 Q. Okay. You said that the defendant -- well, suspect.
2 Derrick Dupree on -- you said he brought several people to
3 the office?

4 A. There were several people that came up there. Yes.
5 There were -- I know that he came with his fiance, and
6 there were some other people that were brought.

7 Q. Did Dupree -- I'm asking did Dupree -- you said, and
8 I want the ladies and gentlemen of the jury to understand.
9 You said -- did you said that Dupree brought them there;
10 is that correct?

11 A. I don't know that you brought them there. I just
12 know that they came at the same time you did.

13 Q. Miss Alderman, I'm asking you. You is an
14 investigator, and how long you said you been investigating
15 in Marlboro County?

16 A. I was with the Sheriff's Office for nine and a half
17 years.

18 Q. And you mean to tell me your memory is not accurate.
19 You can't remember what you investigated so?

20 A. I remember what I investigated, sir, but you have to
21 recall, too, that this has been over a year ago and that I
22 have also had several other cases since that one.

23 Q. Miss Alderman, what I'm asking you; you said that --
24 now you're saying that you don't know what the suspect --
25 I mean the Defendant, Derrick Dupree, brought several

1 other people or was several other people called in his
2 behalf? Do you recall speaking to Derrick Dupree with, if
3 I'm not mistaken, Seinfeld and Jamie Seals outside of the
4 Marlboro County Sheriff's Department that night on 9/10?

5 A. I'm sorry. What was that?

6 Q. Do you recall speaking to Dupree and his fiance with
7 you yourself, Seinfeld and Jamie Seals outside of the
8 Marlboro County Sheriff's Department on 9/10/2013 that --
9 later after his first statement.

10 A. Speaking to them outside after?

11 Q. Basically, I'm asking you do you recall him, you,
12 yourself, Seinfeld asking Mr. Dupree did he have anybody
13 that would give a testimony saying or alibi ---

14 A. I don't recall that.

15 Q. --- where are he was at?

16 A. I don't recall that.

17 Q. You don't recall. So you don't recall Mr. Dupree
18 giving you a phone number, his stepfather's phone number,
19 to call -- to be called to the Marlboro County Sheriff's
20 Department to give a statement on where he was that day?

21 A. No, sir, I do not recall that.

22 Q. Okay. But was -- you did say some people did come to
23 the Marlboro County Sheriff's Department on 9/10/2013 to
24 give a statement, an alibi, as far as in favor of the
25 suspect?

1 A. There were people that came and gave a statement.

2 Yes.

3 Q. Did you have to speak to any of those people,

4 Ms. Alderman?

5 A. I'm sorry.

6 Q. I said did you by chance happen to speak with any of
7 those people?

8 A. I believe I was involved in those interviews.

9 Q. Can you tell me what was said in those interviews in
10 reference to Dupree whereabouts on 9/8/2013, the time of
11 the incident?

12 A. I'm sorry. Could you repeat that?

13 Q. I said can you tell me on those statements -- can you
14 give me a brief summary, rather, of what you heard from
15 the defendant/suspect alibi to where was he the day of the
16 incident, 9/8/2013? What do you recall them saying?

17 A. There was a ---

18 MS. JOHNSON LEE: Objection, Your Honor. He's asking
19 for hearsay.

20 THE COURT: Sustained.

21 MR. DUPREE: I can proceed, sir?

22 THE COURT: Yes, but you can't ask that question. It
23 calls for hearsay. You can move on.

24 BY MR. DUPREE:

25 Q. Miss Alderman, do you recall speaking to Miss Renee

1 Dupree?

2 A. Yes, I recall speaking to someone by that name.

3 Q. Do you by chance -- can you remember anything that
4 she said on the day that you spoke to her?

5 A. No, sir.

6 MS. JOHNSON LEE: Objection. That would be hearsay
7 anyway.

8 THE COURT: Sustained.

9 BY MR. DUPREE:

10 Q. I'm going to move forward, Miss Alderman. You said
11 the next day after you spoke with Dupree and several other
12 witnesses who stated that the defendant was somewhere else
13 at the time of the incident you said that the next day you
14 did receive fingerprints of the suspect, correct?

15 A. I received notification from S.L.E.D. that there was
16 a hit on the fingerprint that was found on the note.

17 Q. And what day was this?

18 A. I keep wanting to say the 10th, but I believe it was
19 the 11th.

20 Q. Do you recall what time you received the hits on the
21 print?

22 A. What time I received the call? I don't recall. I
23 don't remember the exact time.

24 Q. But you said you don't know if it was on the 10th or
25 11th, correct? That's what you just said, correct?

1 A. No. I said I want to say the 10th, but I believe it
2 was the 11th.

3 Q. I mean I could -- if I'm not mistaken if it was the
4 10th you would have arrested Dupree on the 10th, correct?

5 A. Yes. If I had had it on the 10th I would have ---

6 Q. So we know it wasn't the 10th?

7 A. True.

8 Q. Okay. So it had to be the 11th then?

9 A. Well, I don't have papers in front of me with the
10 exact dates like you do. So I can't say for sure.

11 MR. DUPREE: Your Honor. Your Honor, sir, I received
12 this information kind of late yesterday which I was like
13 to show the witness.

14 THE COURT: You can show her.

15 BY MR. DUPREE:

16 Q. I have here with me verification from -- provided by
17 Sharon Hunt from the S.L.E.D. Department which is the
18 chain of custody on the reports on Kimberly Mears and a
19 couple other ones. What I'm trying to indicate is -- show
20 Miss Alderman is the dates that her prints should have had
21 arrived as far as that was notify of Derrick Dupree.

22 Whereas, it was said that Miss Mears said that she
23 faxed the prints at 1:28 on 10/11/13. Whereas, like I
24 said I received the information kind of late so it was
25 hard for my to question Mr. Mears.

1 MS. JOHNSON LEE: Objection, Your Honor.

2 THE COURT: Just ask her a question. If you want to
3 ask her a question about the date ask her.

4 BY MR. DUPREE:

5 Q. Okay. Miss Alderman, at this time which I have a
6 couple of dates. At this time I'm going to show you a
7 date of Miss Mears on 9/11/13, 1328. Can you tell me what
8 is beside that?

9 A. 9/11/2013, 1328, Container A, Forensic Scientist,
10 Kimberly D. Mears.

11 Q. Okay. Okay. And I'm going to go to the next cause
12 it was said that she sent you another fingerprint on
13 9/13/2013, correct?

14 A. She sent me a fingerprint? I'm sorry. I don't
15 understand what you're saying.

16 Q. Okay. You -- once again, you are -- you was an
17 investigator over this case, correct?

18 A. Yes.

19 Q. So all the evidence that was sent was sent directly
20 to you, right? Correct?

21 A. The information from it was sent to me.

22 Q. Okay. Well, that's what I'm asking. Okay. So you
23 did receive another print from Miss Kimberly Mears on
24 9/13/2013, correct?

25 A. I received another report.

1 Q. Okay, another report. That verified the prints of
2 Derrick Dupree and a couple more others, correct?
3 Including John Walters, correct?

4 A. That is correct.

5 Q. All right. On 9/13/2013 can you show me the date and
6 what is beside that?

7 A. Okay. 9/13/2013, at 9:54, Container A, Forensic
8 Scientist, Kimberly D. Mears.

9 Q. Okay. You said -- I said 9/13/2013. Can you show me
10 the report at ten -- well, thank you for that one, too,
11 but give me the one on 9/13 and 10:18. Can you explain to
12 me what's beside that?

13 A. It says, "Latent prints. Latent evidence return
14 holding."

15 Q. Okay. It said latent print, correct?

16 A. Um hum.

17 Q. So, basically, if I'm not judging it wrong from my
18 understanding, from my investigation, what I'm saying that
19 on 9/11/13 at 1:28 it didn't say beside that which it said
20 A as container, custody of -- for custody of forensic
21 technician. It did not say latent print, correct?

22 A. No.

23 Q. Okay. And on 9/13 -- 13, 1018, it did say latent
24 print, correct?

25 A. That is correct.

1 MR. DUPREE: Your Honor, I would like to have this
2 entered if it's okay?

3 THE COURT: Any objection to the chain of custody
4 being put into evidence?

5 MS. JOHNSON LEE: No, and, Your Honor, I actually
6 have the entire certified chain of custody from the State
7 Law Enforcement Division. I have no objection if he puts
8 this entire certified chain into evidence.

9 THE COURT: Is that's what you want?

10 MR. DUPREE: No, sir. I put the whole thing in
11 there.

12 THE COURT: Okay. Let's do that. Defendant's Three.

13 BY MR. DUPREE:

14 Q. Miss Alderman, what I showed you about ---

15 COURT REPORTER: Hold on.

16 MR. DUPREE: Oh, I'm sorry.

17 (WHEREUPON, Defendant's Exhibit No. 3 was marked for
18 identification and received into evidence.)

19 BY MR. DUPREE:

20 Q. Miss Alderman, what I showed you just now with the
21 verification for the chain of custody and things like that
22 did -- so you did say that you received a print on that
23 day on ten -- 9/11/2013.

24 A. I received a report from Kimberly Mears.

25 Q. Okay. Like I said Miss Mears at the time said the

1 report came at 1:30. Miss Alderman, can you tell me what
2 time was the defendant/suspect, Derrick Dupree, arrested
3 at that day?

4 A. Sir, I don't have my notes in front of me to tell you
5 exact times.

6 Q. I'm going to move on to the next question.

7 Miss Alderman, do you recall speaking to -- I have here
8 Carolyn Lily?

9 A. Carolyn Lily?

10 Q. Yes, ma'am.

11 A. Yes, I vaguely remember speaking with Miss Lily.

12 Q. Do you recall what day it was?

13 A. No, I don't.

14 Q. You don't recall speaking to her on 9/11/2013 at
15 3:40 p.m.?

16 A. Well, if you have the piece of paper in front of you
17 that says that then, yes. That was the day I spoke with
18 her.

19 Q. Okay. Do you remember anything that was said to her?

20 MS. JOHNSON LEE: Objection.

21 THE COURT: Sustained. That would be hearsay.

22 MR. DUPREE: Your Honor, may I show the witness this,
23 please, sir?

24 THE COURT: You may. Show it to opposing counsel
25 first.

1 BY MR. DUPREE:

2 Q. Miss Alderman, is that your name, madam?

3 A. That's my name.

4 Q. Okay.

5 MR. DUPREE: Your Honor, at this time I'd ask that
6 she read this for the jury.

7 MS. JOHNSON LEE: Objection. It's hearsay from a
8 person who has not testified yet.

9 THE COURT: All right. Sustained. You can't do
10 that. It's hearsay. You can call the person who wrote it
11 if you wanted to.

12 MR. DUPREE: Okay. Thank you, Your Honor.

13 BY MR. DUPREE:

14 Q. Miss Alderman, you said you didn't speak to Dupree
15 the day of his arrest?

16 A. I don't recall speaking with Mr. Dupree. I did not
17 participate in those interviews.

18 Q. Okay. Do you remember what day you spoke with
19 Mr. Dupree?

20 A. On 9/16 and also on 9/10 of 2013.

21 Q. Okay. And on 9/16/2013 do you recall anything that
22 was said in that meeting?

23 A. Do I recall anything that was said in what meeting?

24 Q. On 9/16/2013, ma'am?

25 A. Meeting with who?

1 Q. Mr. Dupree. I was asking about Mr. Dupree?

2 A. Do I recall? I recall some of it, yes. Not exact
3 words, but I do recall a conversation.

4 Q. And do you recall taking statements as well, correct?

5 A. I recall being in there, yes, during an interview
6 with Mr. Dupree.

7 Q. Beg your pardon, ma'am. Miss Alderman, do you
8 recall -- at this meeting do you recall Mr. Dupree --
9 well, first and foremost, can you tell me what this
10 meeting was about?

11 A. On 9/16 we received a -- well, we received
12 notification that Mr. Dupree wanted to talk with us; that
13 he wanted to give us a statement.

14 Q. Okay. Do you recall on that day when in your
15 interview Mr. Dupree giving a statement? Do you remember
16 Mr. Dupree at the beginning of his statement asking that
17 he have his visits and his phone privileges and a bond set
18 in reference to this statement, madam?

19 A. I remember you asking to speak to your wife or
20 your -- you referred to her as your wife or fiancé.

21 Q. You're saying -- and who are you referring to when
22 you say, 'you'?

23 A. You. Mr. Dupree.

24 Q. All right. Mr. Dupree, okay. And you said that he
25 asked to speak to his wife and ...

1 A. You asked -- Mr. Dupree asked if he could speak with
2 his wife. If he can have a phone call with his wife.

3 Q. And this was in reference to his statement that he
4 was about to give, correct?

5 A. I have no idea what the reason was to talk with her.

6 Q. Okay. Miss Alderman, I have statements here that you
7 took down. Okay. Do you recall that day Mr. Dupree
8 stated he walked down the street on that day?

9 A. I don't recall exactly what you're talking about. I
10 mean I know I took notes during the interview, but I'm not
11 sure what you're asking.

12 MR. DUPREE: Your Honor, could I ask that this be
13 entered into -- I don't want to -- I'm going to ask that
14 it be entered as an exhibit?

15 THE COURT: And that document is what?

16 MR. DUPREE: A statement from Derrick Dupree on 9/16.

17 THE COURT: All right. Any objection?

18 MS. JOHNSON LEE: I need to see it, Your Honor.

19 MR. REDMOND: Beg the Court's indulgence, Your Honor.

20 MS. JOHNSON LEE: No objection, Your Honor.

21 THE COURT: All right. That is nominated as
22 Defendant's Exhibit Number?

23 COURT REPORTER: Four.

24 THE COURT: Defendant's Exhibit Number Four is in
25 evidence. Hold on, Mr. Dupree, and let her mark that and

1 get it squared away before we start talking.

2 (WHEREUPON, Defendant's Exhibit No. 4 was marked for
3 identification and received into evidence.)

4 BY MR. DUPREE:

5 Q. Miss Alderman, you did say that you were the
6 investigator over this case, correct?

7 A. Yes.

8 Q. Do you recall receiving a report on September the
9 23rd 2014?

10 A. I received ---

11 Q. Thirteen?

12 A. I'm sorry.

13 Q. Do you recall receiving a report from S.L.E.D. on
14 September the 23rd 2013?

15 A. I received a lot of reports from S.L.E.D. on this
16 case. I -- I'm not sure which report you're referring to.

17 MR. DUPREE: May I show her the report, Your Honor?

18 THE COURT: Yes.

19 BY MR. DUPREE:

20 A. Okay.

21 MR. DUPREE: Your Honor, may I ask that she read this
22 report for the ladies and gentlemen of the jury?

23 MR. REDMOND: Your Honor, we saw some writing.

24 THE COURT: Take a look at it and see if you object
25 to it.

1 MS. JOHNSON LEE: This copy has notes written on it
2 by the Defendant. We have a clean copy of the exact same
3 thing. We have no problem putting it into evidence.

4 THE COURT: Very good. And you can allow -- it's
5 into evidence. Allow her to mark that as Defendant's
6 Exhibit. You can allow her to publish the document.

7 (WHEREUPON, Defendant's Exhibit No. 5 was marked for
8 identification and received into evidence.)

9 THE COURT: All right. Mr. Dupree, you're
10 recognized.

11 MR. DUPREE: Can she read it, sir?

12 THE COURT: Yes, she can read it.

13 BY MR. DUPREE:

14 Q. Can you read this for the ladies and gentlemen,
15 Miss Alderman?

16 A. Yes. "September 23rd 2013 Investigator Susan
17 Alderman, Marlboro County Sheriff's Office -- excuse me
18 just one second. Marlboro County Sheriff's Department,
19 P.O. Box 577, Bennettsville, South Carolina. Agency Case
20 Number 2013-004852. S.L.E.D. Case Number L13-11600.

21 Dear Investigator Susan Alderman. The short tandem
22 repeat S.T.R. P.C.R. D.N.A. profile developed from the
23 semen found on Item 2.1 was compared to the combined
24 D.N.A. Index System, C.O.D.I.S. The profile matches the
25 S.T.R. P.C.R. D.N.A. profiled developed from D.N.A.

1 database of offender, Derrick Dupree. South Carolina
2 S.I.D. Number S.C. 01325451. This information is provided
3 for investigative purposes only. If the suspect is
4 charged an additional biological specimen must be
5 submitted for court purposes. The search was conducted by
6 Lieutenant Rhonda F. Fields, South Carolina Law
7 Enforcement Division."

8 MR. DUPREE: Your Honor, may I show this to the jury,
9 please?

10 THE COURT: You may. You can just publish it. You
11 can't editorialize about it. It's been read into
12 evidence, and they can look at it.

13 BY MR. DUPREE:

14 Q. Miss Alderman, you did read that report. You said it
15 was conducted by Lieutenant Ronald [sic] Fields, correct?

16 A. That is correct.

17 Q. And on that report it did say a D.N.A. analysis or no
18 type of forensic technician did it -- forensic scientist
19 did it?

20 A. I'm sorry?

21 Q. I said on that report you just read Lieutenant Ronald
22 Fields, he did -- it indicates what type of scientist he
23 was. A D.N.A. analysis or any type of forensic scientist?
24 The report that you just read of Ronald -- Lieutenant
25 Ronald Fields?

1 A. Rhonda Fields?

2 Q. Ronald Fields? Lieutenant Ronald Fields?

3 A. I'll look, but I didn't see anything to indicate
4 that, no, but that was just a report.

5 Q. That was a report that was said the D.N.A. was found
6 for Derrick Dupree, right?

7 A. Um hum.

8 Q. It was more than just a report.

9 A. Okay.

10 MR. DUPREE: Pardon myself, Your Honor.

11 BY MR. DUPREE:

12 THE COURT: Madam Forelady, ladies and gentlemen of
13 the jury, we're going to take a recess. We've been going
14 about an hour and a half. Im going to ask that you return
15 to the jury room, refresh yourselves and do not discuss
16 the case. Everyone remain seated while the jury exits the
17 courtroom.

18 (WHEREUPON, the jury panel was excused from the
19 courtroom at 10:45 a.m.)

20 THE COURT: We'll stand at ease for five minutes
21 pass.

22 (WHEREUPON, Court was in recess at 10:32 a.m. and
23 reconvened at 10:45 a.m.)

24 THE COURT: Anything from the State before we bring
25 the jury out?

1 MS. JOHNSON LEE: No, Your Honor.

2 THE COURT: Mr. Dupree, anything from you before we
3 bring the jury out?

4 MR. DUPREE: No, sir.

5 THE COURT: We're ready for the jury.

6 (WHEREUPON, the jury panel enters the courtroom at
7 10:46 a.m.)

8 THE COURT: Mr. Dupree, you're recognized.

9 MR. DUPREE: Yes, sir.

10 BY MR. DUPREE:

11 Q. Miss Alderman, I have a report here that was
12 submitted on September the 10th 2013. Do you recall
13 receiving that report, Miss Alderman?

14 A. I'm sorry. What was that?

15 Q. I have a report here dated September the 10th 2013
16 from serology. Do you recall receiving that report?

17 A. Sir, like I explained earlier I have received several
18 reports, so I can't distinguish one from the other just
19 because of the date.

20 MR. DUPREE: Your Honor, may I present it to the
21 witness, Your Honor?

22 THE COURT: Yes. Might counsel approach the bench
23 for a moment.

24 (WHEREUPON, a bench conference was held off the
25 record in the presence of the jury, but out of the

1 hearing of the jury.)

2 MR. DUPREE: Pardon myself, Your Honor.

3 THE COURT: If he wants to mark them in evidence he
4 can.

5 MR. REDMOND: That's fine.

6 THE COURT: Just look at what he's got. If you agree
7 we'll put it in evidence. Mr. Redmond.

8 MR. REDMOND: Yes, sir.

9 THE COURT: I think he handed you like three
10 documents. Look at them and see if you object to them.

11 MR. REDMOND: Yes, sir. One of them we got the
12 second page. We don't have the first page. So I'm trying
13 to figure out what document.

14 THE COURT: Well, it doesn't matter. He can put in
15 whatever amount he wants -- whatever part he wants.

16 MR. REDMOND: Yes, sir.

17 THE COURT: If you object to them object to them. If
18 not then you can put them in.

19 MR. REDMOND: We're not going to object to them, Your
20 Honor.

21 THE COURT: Okay. Well, let's mark those ones that
22 he wants to put in. Of course, some of those the entire
23 document is already in evidence.

24 MR. REDMOND: Yes, sir.

25 THE COURT: And if he wants these in evidence he can

1 put them in evidence.

2 MR. REDMOND: And we don't have a problem with them
3 at all. One of them is already marked. We found the one
4 that he was looking for, the first page. It's already
5 marked State's First, but if he wants to mark it as a
6 Defense exhibit we have no objection whatsoever.

7 THE COURT: You mark them however you want to mark
8 them. Show them to the court reporter.

9 MR. DUPREE: All right. Thank you, sir.

10 COURT REPORTER: This one is already marked. It
11 can't be marked again. Unless you have another copy.

12 THE COURT: That's already in evidence. You can
13 refer to it in that respect.

14 BY MR. DUPREE:

15 Q. Miss Alderman, I'm going to refer you back ---

16 THE COURT: All right. Hang on. She's got to mark
17 these documents.

18 (WHEREUPON, Defendant's Exhibit No. 6 was marked for
19 identification and received into evidence.)

20 THE COURT: All right. Mr. Dupree, you're
21 recognized.

22 BY MR. DUPREE:

23 Q. Miss Alderman, I'm going to refer you back to first
24 Mr. Kadeem Hooks whereas you was the investigator over
25 that case. Did you do the warrants on Mr. Kadeem Hooks,

1 madam?

2 A. Yes, I did.

3 Q. Can you -- do you remember the date that you made on
4 the warrant -- on the affidavit as the investigator?

5 A. I don't recall the exact wording. No.

6 Q. Okay.

7 MR. DUPREE: Your Honor, may I?

8 THE COURT: You may.

9 BY MR. DUPREE:

10 Q. May I have you read this, please, madam?

11 A. What would you like for me to read?

12 Q. The statement will be fine?

13 A. The affidavit?

14 Q. The affidavit.

15 A. Okay. "On September 8th 2013 the defendant did enter
16 the residence of the victim, [REDACTED] without
17 permission and held a knife to victim's neck while
18 sexually assaulting the victim. This incident occurred at
19 [REDACTED] in Wallace, South Carolina, in Marlboro
20 County and constitutes the crime of kidnapping. Probable
21 cause based on investigation by the Marlboro County
22 Sheriff's Office and statements from witnesses and
23 defendant."

24 Q. Can you read that last part again a little louder,
25 the P.C. part?

1 A. "Probable cause based on investigation by the
2 Marlboro County Sheriff's Office and statements from
3 witnesses and the defendant."

4 Q. And by chance who was this warrant served on?

5 A. Kadeem Lateef Hooks.

6 Q. Okay.

7 MR. DUPREE: Your Honor, I ask that this be entered
8 as an exhibit?

9 THE COURT: Any objection?

10 MS. JOHNSON LEE: No, Your Honor.

11 THE COURT: It's -- let's allow her to mark it and
12 not say anything until she tells you it's time to go.
13 Defendant seven.

14 (WHEREUPON, Defendant's Exhibit No. 7 was marked for
15 identification and received into evidence.)

16 BY MR. DUPREE:

17 Q. Miss Alderman, I just have one more question. On
18 9/11 did you -- do you recall receiving a photograph
19 report from Florence Police Department?

20 A. A what?

21 Q. A photographic report from the Florence Police
22 Department?

23 A. I'm not sure what you're talking about.

24 MS. JOHNSON LEE: Objection, Your Honor. A matter of
25 law.

1 THE COURT: All right. You may approach the bench.
2 (WHEREUPON, a bench conference was held off the
3 record in the presence of the jury, but out of the
4 hearing of the jury.)

5 THE COURT: You may call your next witness. Any
6 redirect?

7 MS. JOHNSON LEE: Yes, Your Honor. I just have a few
8 questions.

9 REDIRECT EXAMINATION

10 BY MS. JOHNSON LEE:

11 Q. All right. Agent Alderman, you kept referring to Mr.
12 Dupree. Are you referring to anyone other than the
13 defendant who was asking you the questions?

14 A. No.

15 Q. Okay. All right. Now, he brought up some issues and
16 I want to address those. Okay, let's go to Exhibit Number
17 24. This was a video from September 16th. Were you
18 present at the time of the September 16th videotaped
19 interview with Derrick Dupree?

20 A. Yes, I was.

21 Q. And this is the one where Jamie Seals was also
22 present?

23 A. That is correct.

24 Q. And Officer Seals will get into that. Also Exhibit
25 Number 19; this is -- let me show you after I show the

1 Defendant.

2 MS. JOHNSON LEE: I'm going to show you what has been
3 marked for identification as State's Exhibit Number 19
4 purporting to be a buccal swab. Do you recognize the
5 envelope contained inside that S.L.E.D. sealed envelope?

6 A. Yes.

7 Q. Okay. And what is that?

8 A. This is the envelope that I placed the swabs that I
9 obtained from Mr. Dupree.

10 Q. Okay. Now, Mr. Dupree introduced into evidence a
11 C.O.D.I.S. report dated September 23rd 2013. It's
12 Defendant's Exhibit Five showing that S.L.E.D. got a
13 C.O.D.I.S. hit on some D.N.A. that was in the system; is
14 that correct?

15 A. That is correct.

16 Q. And this is what the Defendant has put into evidence.
17 After that did your participate in a hearing regarding the
18 collection of a buccal swab from the defendant?

19 A. Yes.

20 MS. JOHNSON LEE: Let me show this to the Defendant.
21 Have these marked for identification as State's 53 and 54,
22 Madam Court Reporter.

23 (WHEREUPON, State's Exhibit No. 53 AND 54 were marked
24 for identification only.)

25 BY MS. JOHNSON LEE:

1 Q. All right. I'm going to show you what's been marked
2 for identification as State's Exhibit 53. Can you scroll
3 through those documents and tell me what the top section
4 of those documents are.

5 A. The top document is the motion for collection of
6 suspect standards.

7 Q. And is that seeking a buccal swab from the defendant?

8 A. Yes.

9 Q. And buccal swab is a swab of the mouth?

10 A. That is correct.

11 Q. To obtain D.N.A.?

12 A. Yes.

13 Q. Okay. And is there also an order signed by Judge
14 Burch attached to that?

15 A. Yes.

16 Q. And has the defendant also signed that order?

17 A. He did.

18 Q. And what is the date of the order?

19 A. The date of the order.

20 Q. What day did the judge sign it? On the back page.

21 A. It was the 9th day of October 2013.

22 Q. October 9th. And what was the day that you signed
23 the affidavit with the motion?

24 A. It's the 9th day of October 2013.

25 Q. Okay. So to C.O.D.I.S. hit came back in September,

1 and after the C.O.D.I.S. hit a motion was then filed to
2 get additional D.N.A. sample from the defendant; is that
3 correct?

4 A. That is correct.

5 MS. JOHNSON LEE: At this time I would move to have
6 53 put into evidence for the State.

7 THE COURT: Any objection from Defense?

8 MR. DUPREE: I would like to ask one more question in
9 reference to that buccal swab.

10 THE COURT: No. You're -- this is redirect, and you
11 can't ask any more questions pursuant to the rules of
12 procedure. The question is whether you object to this
13 document.

14 MR. DUPREE: Your Honor, I do because I don't have
15 the report to that document, and I you couldn't question
16 the person on the D.N.A. analysis about that document. If
17 it was sent to S.L.E.D. I don't have the report to the
18 document, sir.

19 THE COURT: Okay. Objection overruled.

20 MS. JOHNSON LEE: Thank you, Your Honor. That's
21 State's 53.

22 (WHEREUPON, State's Exhibit No. 53 was admitted into
23 evidence.)

24 BY MS. JOHNSON LEE:

25 Q. And as a result of the consent order signed by the

1 defendant and Judge Burch did you then go obtain a swab
2 from the Defendant, Derrick Dupree?

3 A. Yes, I did.

4 Q. Can you look at that and tell us what day you
5 obtained that swab?

6 A. The swab was collected on 11/6/2013 at 4:21 p.m.

7 Q. Okay. And you obtained that swab just by swabbing
8 the inside of his mouth?

9 A. That is correct.

10 Q. And then what did you do with that swab as soon as
11 you obtained it?

12 A. As -- I let it air dry for a few minutes, and then I
13 placed it in this envelope. I sealed it up with evidence
14 tape, and I took it straight from the jail to the
15 Sheriff's Office and placed it in evidence.

16 Q. Okay. And at any point in time did that swab leave
17 your possession before going into that sealed envelope?

18 A. No.

19 Q. Did you touch it or do anything to it to contaminate
20 that swab before it went into that envelope?

21 A. No.

22 Q. Did anybody else touch it or do anything to
23 contaminate that swab before it went into that envelope?

24 A. No.

25 Q. And did anybody else have possession of that envelope

1 before you carried it and put it in the evidence locker?

2 A. No, they did not.

3 Q. Okay. Thank you.

4 MS. JOHNSON LEE: At this time I would move to have
5 Number 19 put in evidence for the State?

6 THE COURT: Any objection?

7 MR. DUPREE: Sir, once again, I do cause I don't have
8 the report to that document.

9 THE COURT: Okay. Objection is overruled. It was
10 established previously that the State has complied with
11 Rule Five and Brady.

12 (WHEREUPON, State's Exhibit No. 19 was admitted into
13 evidence.)

14 BY MS. JOHNSON LEE:

15 Q. And just briefly. Since you were questioned about
16 the interview on the 16th did the Sheriff's Office receive
17 a form indicating that the defendant wanted to come over
18 and talk to you guys?

19 A. Yes.

20 Q. Okay. And I'm -- Jamie Seals will testify in a
21 little bit. Did he also sign a Miranda form waiving any
22 Miranda rights and speak with you and Lieutenant Seals?

23 A. Yes.

24 Q. Thank you. Now, did you document every conversation
25 you had with anybody in written notes?

1 A. Yes.

2 Q. Okay. So if you forget anything would there be some
3 documentation somewhere in the Rule Five of your written
4 notes?

5 A. Yes.

6 Q. Okay.

7 MS. JOHNSON LEE: That's all I have on redirect.

8 THE COURT: All right. You may step down.

9 THE WITNESS: Thank you.

10 THE COURT: You may call your next witness.

11 MS. JOHNSON LEE: Earl Hood.

12 THE COURT: Mr. Hood, place your left hand on the
13 bible and raise your right hand as the Clerk administers
14 the oath.

15 EARL HOOD, after being duly sworn, testified as
16 follows:

17 THE COURT: Yes, sir. Have a seat here in the
18 witness chair and I'm going to ask that you pull up real
19 close to that microphone. Speak loudly, clearly and
20 slowly.

21 THE WITNESS: Okay.

22 THE COURT: So we can hear everything that you've got
23 to say. And let's start with your full name, please, sir.

24 THE WITNESS: My name is Earl Hood.

25 THE COURT: Thank you, Mr. Hood.

DIRECT EXAMINATION

1
2 BY MS. JOHNSON LEE:

3 Q. Where are you employed?

4 A. Marlboro County Detention Center.

5 Q. And what is your job?

6 A. The jail administrator.

7 Q. And how long have you been doing that?

8 A. Twenty-seven years.

9 Q. Okay. Are there occasions when inmates at the jail
10 want to speak to maybe an investigator from a local law
11 enforcement agency?

12 A. Yes, ma'am.

13 Q. What is your procedure that they follow when they
14 want to make such a request?

15 A. Well, they get a request form from the officer and
16 then they bring it and turn it in to me. And then I make
17 contact with the person that they want to talk to.

18 Q. Okay. And do you also fax it?

19 A. Yes, ma'am.

20 Q. I'm showing you what has been marked for
21 identification as State's Exhibit 22.

22 MS. JOHNSON LEE: Approaching the witness.

23 BY MS. JOHNSON LEE:

24 Q. And ask if you recognize that?

25 A. Yes, ma'am.

- 1 Q. What is that item?
- 2 A. That's a request form from the inmate to me.
- 3 Q. And which inmate is that?
- 4 A. Derrick Dupree.
- 5 Q. And what date is that request dated?
- 6 A. 9/15/13.
- 7 Q. Now, when you receive a request like that what do you
- 8 do? Or more specifically when you received that request
- 9 what did you do?
- 10 A. When I received that request he requested to talk to
- 11 the Sheriff and to Jamie Seals and also to talk to me. So
- 12 I brought him up and talked with him at that time.
- 13 Q. Okay. And what is your understanding of what Derrick
- 14 Dupree wanted to do?
- 15 A. Well, with me we talked about his housing arrangement
- 16 where he was housed at. And he wanted to talk to the
- 17 Sheriff about pleading. He wanted to go ahead and get it
- 18 over with according to what the request wanted to do.
- 19 Q. All right. Did he write that request?
- 20 A. Yes, ma'am.
- 21 Q. Okay. And did you fax that to anybody?
- 22 A. I did not fax this one. I called Jamie Seals. They
- 23 were going over to the magistrate's office, and I sent it
- 24 other there to his office.
- 25 Q. Okay, so you sent it over there?

1 A. Yes, ma'am.

2 Q. Okay?

3 MS. JOHNSON LEE: At this time I would move to have
4 Exhibit Number 22 for the State put into evidence.

5 THE COURT: Any objection?

6 MR. DUPREE: No, sir.

7 THE COURT: Exhibit Number 22 is in evidence.

8 (WHEREUPON, State's Exhibit No. 22 was admitted into
9 evidence.)

10 BY MS. JOHNSON LEE:

11 Q. And just a couple of last questions. Now, where it
12 says, 'staff response' you wrote, 'talk to inmate'?

13 A. Yes, ma'am.

14 Q. And is that your signature at the bottom?

15 A. Yes, ma'am.

16 Q. And you dated it September 16th 2013?

17 A. Yes, ma'am.

18 Q. And is September 16th the date he went over to the
19 Sheriff's Office?

20 A. Yes, ma'am.

21 Q. Okay. Thank you. No further questions. Answer any
22 questions Mr. Dupree has.

23 THE COURT: Any questions, Mr. Dupree?

24 MR. DUPREE: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. DUPREE:

2 Q. Mr. Earl Hood, at that time that the defendant was
3 arrested do you remember what unit he was placed in?

4 A. In A Pod.

5 Q. Can you tell me what -- is that a lock down unit?

6 A. That is lock down, yes, sir.

7 Q. Basically, what I'm asking you did you have
8 indication that Dupree wasn't allowed to use the phone or
9 speak with anybody or visit anybody, correct?

10 A. I cannot remember if they denied him phone calls at
11 the time. He was -- any time that we have a serious crime
12 like this we put them in A Pod for -- to find out what
13 their mental state is, what's going on with him before we
14 put them in population.

15 Q. Okay. Do you recall Mr. Seals or someone calling you
16 from the Sheriff's Department on the 16th asking you to
17 give the defendant his privileges back?

18 A. No.

19 Q. Mr. Hood, you spoke to the defendant again around
20 November the 23rd, if I'm correct. Did you happen to
21 mention anything about the D.N.A. -- anything about the
22 D.N.A. results to the defendant at the time?

23 A. Not to my knowledge. I talked to the defendant
24 several times and on numerous things, but I don't know --
25 remember D.N.A.

1 Q. On this occasion the defendant was escorted to the
2 infirmary, the County Jail Infirmary, by Officer Bias or
3 Corporal Bias whereas you had entered the infirmary the
4 defendant asked you about calling his wife that day. Do
5 you remember him asking you for a phone call to speak with
6 his fiance?

7 A. No, sir, I don't remember at this time.

8 Q. Okay. You don't recall. So, sir, you don't recall
9 telling the defendant that his D.N.A. at that time was
10 found all over the victim?

11 A. No, sir.

12 Q. You don't recall saying that?

13 A. No, sir.

14 MR. DUPREE: No further questions, Your Honor.

15 THE COURT: All right. Any redirect?

16 MS. JOHNSON LEE: No, Your Honor.

17 THE COURT: You may step down. You can call your
18 next witness.

19 MR. REDMOND: Next we call Lieutenant Jamie Seals.

20 THE COURT: Mr. Seals, please come forward and place
21 your left hand on the bible and raise your right hand as
22 the Clerk administers the oath.

23 JAMIE SEALS, after being duly sworn, testified
24 as follows:

25 THE COURT: Sir, have a seat in the witness chair.

1 Pull up real close to that microphone. Speak loudly,
2 clearly and slowly in order that we can hear everything
3 that you've got to say.

4 THE WITNESS: Yes, sir.

5 MS. JOHNSON LEE: Judge, may I go ahead and begin to
6 move the television over to this area or do you want us to
7 wait until we're going to use it?

8 THE COURT: We're going to do that momentarily.
9 Let's conclude with this witness.

10 MR. REDMOND: Thank you, Your Honor. May it please
11 the Court.

12 DIRECT EXAMINATION

13 BY MR. REDMOND:

14 Q. Lieutenant Seals, by whom are you employed?

15 A. The Marlboro County Sheriff's Office.

16 Q. And in what capacity are you employed there?

17 A. I'm a lieutenant over investigations. I supervise
18 investigations.

19 Q. And how long have you been in law enforcement?

20 A. A total of about 17 years.

21 Q. And could you tell us where you've worked during your
22 time in the law enforcement?

23 A. I started my career in 1997 with Probation and
24 Parole. I've worked at the State Law Enforcement Division
25 commonly known as S.L.E.D. for a few years. I've been

1 back with the Sheriff's Office now since 2007.

2 Q. Okay. And we'll talk about your S.L.E.D. experience
3 based on some questions that were asked earlier. Let's
4 get directly into the particular case. Were you called to
5 an incident at [REDACTED] on September 8th 2013?

6 A. Yes, I was. I was called through 911 dispatch and
7 the deputies on scene.

8 Q. Okay. And could you tell us -- well, did you respond
9 to the scene?

10 A. No, I didn't respond to the scene that day. I was in
11 Bennettsville. I began calling other investigators
12 giving them assignments and trying to kind of so per say
13 quarterback the situation and figure out where we need to
14 go and what we need to do with personnel.

15 Q. All right. Now, after that point could you tell us
16 what your role was in the investigation?

17 A. Well, I obviously supervise the investigation, but I
18 was part of interviews. I was part of helping prepare
19 search warrants, helping prepare affidavits for arrest
20 warrants. Part of witness and defendant interviews, and
21 what just background investigation on other parts of the
22 case.

23 Q. Now, at some point was -- as a part of your
24 investigation, specifically on or about the 9th, was
25 Kadeem Hooks brought in as -- well, let me ask you this.

1 At some point was Kadeem Hooks actually brought in and
2 questioned regarding the incident against Miss LT

3 A. Yes, he was.

4 Q. And at the time that he was interviewed were you
5 involved in that interview?

6 A. I was.

7 Q. And without saying what he said did you talk -- well,
8 let me ask you this. How did the interview first start?
9 Not saying what was said, but who was present initially
10 when Mr. Hooks was being interviewed?

11 A. The first part of the interview was Investigator
12 Shawn Feldner and Investigator Susan Alderman who is
13 present in the courtroom.

14 Q. Okay. And at some point did you then interview
15 Kadeem Hooks?

16 A. I did.

17 Q. Okay. Now, after that interview, and again without
18 getting into any hearsay, after that interview was he
19 arrested for this particular incident?

20 A. He was.

21 Q. Okay. And subsequently was he released from that?

22 A. He was.

23 Q. And we'll get to that. Now, at the time the decision
24 was made to arrest him was it based on questions that you
25 had asked Mr. Hooks?

1 A. It was.

2 Q. Okay. Now, could you explain how -- I guess tactics
3 you use? What questions, referring to what you said, not
4 with anything Mr. Hooks said, that looking back on it from
5 your experience as an investigator led to the information
6 that you got that led to Mr. Hooks' initial arrest?

7 A. Yes. After reviewing the video it was evident to me
8 that I had asked him several questions that he did not
9 know the answer to, but I had gave him, without knowing at
10 the time, I had gave him the information that comes from
11 the answers.

12 He had somewhat of a rapport with me from a previous
13 case and was more relaxed with me than other interviewers.
14 At the time I had been up -- we had all be up 28, 29 hours
15 straight, and my interview technique that day was not as
16 professional as it usually is.

17 Q. And, in essence, I guess to paraphrase did you
18 volunteer information that Mr. Hooks then seized upon and
19 basically gave you back what he thought you wanted to
20 hear?

21 A. He did. And several times I asked questions during
22 the interview that he was incorrect on the answer. I have
23 some specific examples I have in mind.

24 Q. Okay. And, again, without getting into hearsay, do
25 you recall what that specific questions you asked him were

1 that lead to now what we know as a false answer?

2 A. Yes. One for example was I asked if he knew the
3 victim's children and their age.

4 Q. Okay. And did he ever -- to your recollection was he
5 ever able to volunteer on his own any information to
6 corroborate him being there once you got a chance to
7 complete your entire investigation?

8 A. No. I don't recall any incident during the interview
9 where he provided the information himself.

10 Q. Okay. Now, but Mr. Hooks was arrested initially.
11 Did the investigation stop at that point? Even though
12 y'all had Mr. Hooks under arrest basically what you were
13 so gracious in admitting were mistakes on your part, which
14 happens, but did the investigation start -- you got this
15 confession -- this statement.

16 Let me back up for a minute. Would you characterize
17 Mr. Hooks as, without getting into specific hearsay, but
18 would you characterize what he told you as a confession?

19 A. The statement he gave was not a confession in the
20 sense that I consider a confession.

21 Q. And let me ask you a little bit more specifically.

22 Was it a confession related to actually raping Miss LT

23

24 A. No. It was a confession that put him near the
25 residence and at the residence.

1 Q. Okay.

2 A. It wasn't anything else in specifics. It wasn't
3 anything about a rape or a kidnapping or a sexual assault.

4 Q. Okay. And, again, after developing further evidence
5 as it relates to inside the house what -- based on what he
6 told you, again without getting into specific hearsay, but
7 based on your investigation with the defendant, and
8 specifically based on information from Miss [REDACTED]
9 were you able to determine that Kadeem Hooks was ever
10 inside that house?

11 A. No.

12 Q. Okay. And, of course, did this information come to
13 light after the fact that this interview that you had done
14 on the 9th?

15 A. It did.

16 Q. Now -- but the investigation continued despite this
17 statement you got from Hooks?

18 A. Yes, I did.

19 Q. Well, could you tell us what steps -- well, after --

20 MR. REDMOND: May I approach the witness, Your Honor,
21 briefly? Thank you.

22 BY MR. REDMOND:

23 Q. I'm going to show you what's marked as State's 25?

24 And I don't recall if that's already in evidence. So out
25 of an abundance of precaution I'm going to go through the

1 process. It is already in.

2 Is that the -- is that a knife that you retrieved?

3 A. Yes, I assume so. We retrieved a knife with a
4 consent to search of his home.

5 Q. Okay. And where did you get that knife? After
6 talking to Kadeem where did you get that knife?

7 A. He accompanied us to his residence and allowed us to
8 search his bedroom. It was found inside his bedroom.

9 Q. And I didn't ask you this, but let me go back a
10 minute. And I didn't ask this and it's my fault. Did you
11 observe the initial part of the interview with Kadeem
12 Hooks?

13 A. I did between Shawn Feldner and Susan Alderman.

14 Q. And if my memory is correct was it about an hour and
15 45? An hour and 50 minutes? Somewhere between an hour
16 and 45 and an hour and 50 minutes with them?

17 A. That sounds accurate.

18 Q. Okay. And during that time did he ever give any
19 information to, again, without getting into specifics of
20 what was said, but did he ever give any information at
21 that time that would have led to him being arrested?

22 A. No.

23 Q. Okay. So for an hour 40, an hour and 50 minutes he
24 gave no information, but then once you got in there; you
25 have a rapport with him, then did he start getting

1 information and then giving it back to you?

2 A. He did. His demeanor completely changed when I
3 walked in the room because he knew I was a familiar face.
4 His body language changed. His facial expression changed,
5 and he looked like the weight of the world was off of him.

6 Q. And just to be clear, and again, you graciously
7 indicated -- have you in fact indicated the tactic that
8 night as it relates to Mr. Hooks was a mistake?

9 A. It was.

10 Q. Okay. And we appreciate that and your honesty. Now,
11 you get the knife, and I believe it's testimony already,
12 you turned that knife in. I think you turned that knife
13 in and it ended up in the evidence locker; is that
14 correct?

15 A. That is correct.

16 Q. All right. And did you get any writing samples from
17 Mr. Hooks as well?

18 A. Yes, I had a writing sample from a prior case.

19 Q. Oh. All right. And did you use that? Was that send
20 to S.L.E.D, and I think it's already in evidence, as it
21 relates to the writing from Kadeem Hooks?

22 A. That is correct.

23 Q. Now, investigation still continued. Tell me what
24 happened next. You got Mr. Hooks in custody on those
25 charges; kidnapping, burglary first degree, criminal

1 sexual conduct and possession of weapon during a violent
2 crimes. But what happened -- what developed in Mr. Hooks'
3 status changing and him being released?

4 A. Well, the first thing was, as Mr. Redmond said, we
5 continued the investigation, and we were -- we had talked
6 to several witnesses. Witnesses who had put Mr. Hooks in
7 the area, in the neighborhood, near the time of the
8 incident.

9 We were able to gain some surveillance video from the
10 store near the victim's home, and we kept trying to narrow
11 down a timeline. And between the Lifeline call and the
12 time of the -- he was on video at the store right there
13 near the victim's home, there was a time period of five or
14 more minutes where we could not close.

15 And we knew -- we felt confident at that point that
16 we were working towards that we just could not figure out
17 why this timeline was there even though he had said that
18 he was at the house. We couldn't figure out how he could
19 be from the time difference.

20 And then as the investigation went on it wasn't
21 shortly long after that we got the information from
22 S.L.E.D. about an A.F.I.S. hit with the defendant, Mr.
23 Dupree's, fingerprint on the note that was obtained as
24 evidence from the crime scene.

25 Q. And once you got that information regarding A.F.I.S.

1 hit and the fingerprint what took place then?

2 A. Oh, immediately we contacted Solicitor Will Rogers
3 and we made -- we took steps to have Mr. Hooks released
4 immediately. During the process of having him released we
5 continued the investigation and began to do intel,
6 background, photographs, rap sheets and start to prepare
7 affidavits for the arrest of the Defendant, Mr. Dupree.

8 Q. And just to be clear go back a minute. You mentioned
9 that there were witnesses with information. Do you recall
10 I think a Wilbert Harrington coming in?

11 A. I do. I don't think I spoke to Mr. Harrington, but I
12 do remember him coming in.

13 Q. Okay. And I think you also remember Isaac Brand
14 coming in?

15 A. I remember him.

16 Q. And do you remember Perry Williams? Are you aware
17 that he also came in?

18 A. I'm aware, yes.

19 Q. All right. Now, when -- with these people coming I
20 and with the information that you had was there any point
21 that the defendant himself voluntarily came to the
22 Sheriff's Office I believe on the 10th?

23 A. He did. Him and his fiance.

24 Q. Now, let me ask you this. If you can recall, and if
25 you can't that's fine, but do you remember whether or not

1 the defendant came before or after Wilbert Harrington and
2 Perry Williams had come?

3 A. I don't recall.

4 Q. Okay.

5 A. I don't remember.

6 Q. And that's fine. Tell us about on the 10th, tell us
7 about the defendant. Did he admit to anything at that
8 time?

9 A. No, he did not.

10 Q. And did he, I guess, give you information regarding
11 an alibi and whatever -- and if you remember what he said
12 please let us know what he said on the 10th regarding his
13 role or lack thereof in this case?

14 A. I don't remember verbatim what he said, but for a
15 summary he told us that him and his fiance had been in
16 Bennettsville. And they had been I think I'm pretty sure
17 to his mother's residence and they were watching a
18 football game. And I think had drink a little bit.

19 And I don't remember exactly what he said the rest of
20 the day, but it's all on video.

21 Q. Exactly. Now, on the 10th -- and did you also talk
22 -- well, are you aware that Kim Mance also came in on the
23 10th, I guess the person known as his fiance, wife, but I
24 think it's fiance?

25 A. Yes, I'm aware she did come in.

1 Q. And are you aware she gave any statements of any
2 kind?

3 A. I think she did give a statement.

4 Q. Okay. Now, at that point was the defendant arrested?

5 A. No, he was not.

6 Q. Because that was the 10th. Now, we move on to the
7 11th. You get the A.F.I.S. hit?

8 A. Um hum.

9 Q. Okay. And you've explained the circumstances leading
10 to the arrest of the defendant. Now, at the time that he
11 was arrested on the 11th what did -- was he interviewed
12 and did he continue to deny -- I believe he was
13 interviewed later on in the evening if I'm not mistaken.
14 And did he continue to deny his role in this incident?

15 A. He did continue to deny it.

16 Q. Now, we move on to the 15th, and I'm going to show
17 you -- it's already in evidence I believe, State's 22.

18 MR. REDMOND: Permission to approach the witness?

19 THE COURT: Yes, sir.

20 MR. REDMOND: And I apologize. It's already in
21 evidence.

22 BY MR. REDMOND:

23 Q. State's 22, this is a letter that you received from
24 Mr. Hood. Could you explain how you came to be in
25 possession of that particular note?

1 A. I received it on the 16th. Mr. Hood called and told
2 me that Mr. Dupree would like to speak to me or the
3 Sheriff or one of the investigators. And I got it. It's
4 got a handwritten note on the top corner that I received
5 it at 10:30, my initials, and he was being brought over
6 from what I remember after reviewing the video for an
7 arraignment that day. And they brought the request form
8 and handed it to me when they brought him over.

9 Q. Okay. Did you at any point before getting that
10 letter did you ever ask for Mr. Dupree to be -- to talk
11 with you again after the 11th?

12 A. Absolutely not.

13 Q. Okay. So did Mr. Dupree initiate contact with you to
14 interview him regarding this?

15 A. He did.

16 Q. And since this is in evidence could you publish what
17 that letter says, what that document say.

18 A. The header on it, 'Marlboro County Sheriff's Office
19 Detention Facility Inmate Request Form', and the top left
20 hand corner has my handwritten script that says, 'Received
21 9/16/13 at 10:30 a.m. Lieutenant Jamie Seals'. Name,
22 Derrick Dupree is in handwritten script. Date is 9/15/13.
23 Arresting agency is left blank. Unit and room number is
24 A2. And says, 'general reason for request'. It has check
25 plea. Specific information concerning item checked, and

1 this is in his handwritten script, 'yes, sir. Will you
2 please notify Chief Fred Knight or Jamie Seals or whoever
3 my request concerns. I am ready to confess to the truth
4 because I am ready to put this mess behind me, and I'm
5 hoping it will make it this Court term, but I hope to
6 speak with either of them. They said when I'm ready to
7 just let someone know to call them. I would like to see
8 them A.S.A.P.

9 Also would like to see Warden Earl Hood A.S.A.P.
10 concerning other issue'. And then it has a place for
11 staff response, and it says, 'talked with inmate', and I
12 imagine a staff member at the detention center did that.

13 At the bottom it says, 'referred to warden. Date
14 9/15/13' I guess is when the inmate prepared it, and staff
15 signature is Earl Hood's signature it appears, and that
16 was on 9/16/13.

17 Q. Okay. Now, and when you got that was the defendant
18 brought to the Sheriff's Office to the video interview
19 room?

20 A. He was.

21 Q. Okay. And was this -- on the 16th was this statement
22 interviewed?

23 A. Yes.

24 Q. Okay. I'm going to -- I'm showing you what's been
25 marked as State's a 23 and 24 at this time.

1 MR. REDMOND: Permission to approach the witness,
2 Your Honor?

3 BY MR. REDMOND:

4 Q. State's Exhibit -- I believe that's 23 I said. What
5 is that?

6 A. This is our basic Miranda form with the Marlboro
7 County Sheriff's Office.

8 Q. Okay. And what is the significance of that
9 particular form?

10 A. Well, this is the Miranda rights, and any defendant
11 that's in custody we review their rights with them to make
12 sure they understand them. If they want to waive their
13 rights and give a statement without a lawyer present this
14 is the form we use. Just like the normal Miranda rights
15 you heard of all your life.

16 Q. Okay. Did you in fact read those rights to the
17 defendant?

18 A. I did.

19 Q. And is it marked in the appropriate places, and did
20 the defendant sign in the appropriate place that he wanted
21 to waive his rights?

22 A. He did.

23 Q. And did he appear to understand his rights?

24 A. Yes, he did.

25 MR. REDMOND: At any time did y'all coerce or

1 threaten or in any way force him to give this statement?

2 A. Absolutely not.

3 Q. All right. And did the defendant seem to understand
4 his rights and did he knowingly waive those rights and
5 agree to speak with you?

6 A. Yes, he did.

7 Q. And, again, who initiated contact that led to the
8 statement on the 16th?

9 A. Mr. Dupree, the defendant.

10 Q. Okay. Now, State's -- I think that's 24, is that a
11 copy of the interview that was conducted on the 16th with
12 the defendant?

13 A. Yes, it appears to be.

14 MR. REDMOND: And, Your Honor, the State would move
15 into evidence at this time State's 23 and 24?

16 THE COURT: Any objection from the Defense?

17 MR. DUPREE: No, sir.

18 THE COURT: They're into evidence, 23 and 24.

19 (WHEREUPON, State's Exhibit Nos. 23 and 24 were
20 admitted into evidence.)

21 MR. REDMOND: Thank you, Your Honor.

22 BY MR. REDMOND:

23 Q. Now, we'll see the video in a little while, but I do
24 want to ask you about the context on that statement.

25 Could you tell us at the beginning of that statement on

1 the 16th did the defendant admit that he had actually
2 committed the rape against Miss LT

3 A. He did not.

4 Q. Okay. And could you tell us -- and, again, we'll
5 play the tape, but could you summarize the first part of
6 that interview what was taking place? Now, let me ask you
7 this before you answer that. Were both you and Susan
8 Alderman both present at the time of this particular
9 statement?

10 A. Yes, we both were. The first part. The first part
11 of the interview we were.

12 Q. So talking about the first part of the statement. He
13 doesn't admit to actually having raped LT
14 Could you tell the ladies and gentlemen of the jury a
15 summary of what he told you the first part of the
16 interview?

17 A. He told us that, from what I recall -- I don't have
18 the transcript in front of me, obviously. He told me that
19 him and a couple other individuals came to the house and
20 they were asking about the house and he stayed outside.
21 And we just let him continue to tell that story.
22 Obviously, there were particular details that he give
23 which you will see on the video.

24 Q. Okay. Now, at some point during the interview did
25 he -- at the beginning of the interview did you offer of

1 have Ms. Alderman leave if he felt uncomfortable
2 discussing it?

3 A. Yes, I did.

4 Q. Okay. And at that point did he ask her to leave
5 again?

6 A. At some point after that he did.

7 Q. Okay. And after that he asked her to leave?

8 A. Um hum.

9 Q. Okay. At the point that he asked her to leave did --
10 was there any further discussion that led toward more
11 information from the defendant regarding his role in this
12 incident?

13 A. Yes, there was.

14 Q. Okay. And could you tell us about that?

15 A. We just continued to interview him, challenge him on
16 his story that he had gave in the first part of the
17 interview. And you will see in the video as the interview
18 goes on that he admits to his role, and he admits to going
19 inside the home. He admits to asking her about buying the
20 home on false pretenses. He admits to giving a name that
21 is not his name, providing that.

22 The name he gave was Dwayne Stanton that he wrote.
23 His middle name is Dwayne which is interesting. He admits
24 to raping Miss LT He admits to bending her over her
25 loveseat. He admits to seeing her husband. And you will

1 see on the video that this interview is completely
2 different than other interviews.

3 And he give us a lot of information. He give us
4 information about a couple of things that only he would
5 know that was never released to the public.

6 Q. And let me highlight what you just said. There were
7 a couple of things that were never released to the public.
8 Does he indicate -- did you ask him what color the gown
9 was and do you recall what his response was?

10 A. Yes, I did ask him, and he said red or pink.

11 Q. Okay. And, again, did you volunteer that information
12 or he gave you that information?

13 A. Him gave it to me.

14 Q. As it relates to the name on the note was that
15 something that had been released or was that information
16 given to the defendant prior to him -- you talking with
17 him about that?

18 A. No. That had not been released.

19 Q. Okay. And did he tell you accurately what was on the
20 note?

21 A. Yes.

22 Q. Whose name was on the note?

23 A. Yes.

24 Q. And, again, what is his middle name?

25 A. Dwayne.

1 Q. Okay. And the name on the note, the first name?

2 A. Dwayne Stanton.

3 Q. Thank you. Now, and we get --

4 MR. REDMOND: And, Your Honor, the rest we'll see on
5 the tape.

6 BY MR. REDMOND:

7 Q. So you get this confession from the defendant. After
8 you got the information from the defendant, after you got
9 this statement, his confession, did you walk out of the
10 room at some point near the end of the interview?

11 A. I did.

12 Q. And have you had a chance to review the interview --
13 the video?

14 A. Yes, I have.

15 Q. All right. And do you recall in summary after you
16 leave something interesting happened as it relates to the
17 defendant talking to himself. Do you remember what that
18 was?

19 A. Yep. After I leave the room the video is still
20 playing. We normally do that. And he begins, it appears,
21 talking to himself but loud enough that it's recorded.
22 And he's already been advised that it's recorded on video.
23 And he basically -- in other words, you will see in the
24 video for yourself that he's saying, "I didn't do this.
25 The other guy did it. I just want to see my wife. I

1 didn't do it." You will see for yourself.

2 Q. All right. Now, after the interview did you then go
3 and were you able to get -- well, let me ask you this.
4 Did he tell you what he did with the shirt that he had on
5 at the time of this rape?

6 A. Yes, he did.

7 Q. All right. And do you recall where he told you the
8 shirt was?

9 A. He put it in the trash can next to Melvin McQueen's
10 house.

11 Q. All right?

12 A. Which is right in the same neighborhood.

13 Q. And did you, based on what he told you, did you go to
14 Melvin McQueen's house and check the particular trash can?

15 A. Yes, I did.

16 Q. And could you tell the ladies and gentlemen of the
17 jury what you found?

18 A. We found a white tee shirt as described by the
19 suspect, Mr. Dupree.

20 MR. REDMOND: And permission to approach the witness,
21 Your Honor. I think the Defendant has already been shown
22 these, but just out of an abundance of precaution. I don't
23 think they've been admitted yet, but if I can approach the
24 witness, Your Honor. Oh, and I forgot to move them into
25 evidence. Just for the record that is State's Exhibits

1 50, 51 and 52.

2 (WHEREUPON, State's Exhibit Nos. 50, 51 and 52 were
3 admitted into evidence.)

4 BY MR. REDMOND:

5 Q. And I think 52 is on top. So could you just look at
6 those pictures and tell us if you recognize them?

7 A. Yes, I do recognize them.

8 Q. And if I could briefly have you step down and --
9 because there is another exhibit that I want to show you
10 while you're down here?

11 MR. REDMOND: With the Court's permission. Oh, and I
12 forgot to move those into evidence, 50, 51, and 52.

13 MR. DUPREE: They're already in evidence.

14 BY MR. REDMOND:

15 Q. If you could stand about ---

16 THE COURT: Fifty, 51 and 52; is that correct?

17 MR. REDMOND: That is correct, Your Honor.

18 THE COURT: They're in evidence.

19 MR. REDMOND: Thank you, Your Honor.

20 BY MR. REDMOND:

21 Q. We're going to switch sides so that you will be
22 facing Madam Court Reporter. I've already got a big mouth
23 so she can hear me. But just so she can hear and make out
24 what you're saying if you will go through each exhibit and
25 show the ladies and gentlemen of the jury the significance

1 of each picture?

2 A. : This is the residence of Melvin McQueen where -- and
3 if you can see in this corner right here you see a trash
4 can laid over? This is an up close shot of the trash can
5 that's laid over in the first picture. And the tee shirt
6 is being pulled out by Investigator Susan Alderman and I'm
7 taking a photograph of it.

8 And here is the tee shirt just laid out so you can,
9 the jury or whoever, would examine it and get a better
10 view of it laid on the trash can itself.

11 Q. And while you're up I'm going to show you what has
12 been marked as State's 39, and let me ask you this before
13 I publish this. Let me show it to Mr. Dupree. Before we
14 publish this ---

15 THE COURT: All right. Apparently, there are some
16 State's exhibits on the defense table. We need to put
17 those back with the other evidence so we can keep
18 everything straight.

19 MR. REDMOND: May it please the Court, Your Honor.

20 THE COURT: Yes.

21 MR. REDMOND: Before I publish this did you and I sit
22 down and -- you did it, actually. I sat there and
23 watched, but did you actually go on Google Earth and get
24 an over shot, an aerial photograph of the area in question
25 out in Wallace?

1 A. Yes, I did.

2 Q. Okay. And were you able to, I guess, go through with
3 each location that was pertinent to the investigation such
4 as where the defendant was staying at the time, Miss
5 LT house, and certain other, I guess, pertinent areas
6 in the investigation? Were you able to I guess label
7 those on this document that you prepared.

8 A. Yes, I did.

9 Q. And was it prepared based on your investigation?

10 A. Yes.

11 Q. Okay. Now, State's Exhibit Number 39, is this -- if
12 I can have you look at State's 39. Is that an accurate
13 enlarged copy of what we printed out a few days ago?

14 A. Yes, it is.

15 Q. Okay.

16 MR. REDMOND: Your Honor, with that I'd move to enter
17 State's 39 into evidence.

18 THE COURT: Any objection?

19 MR. DUPREE: No, sir.

20 THE COURT: State's 39 is into evidence.

21 MR. REDMOND: Permission to publish, Your Honor.

22 (WHEREUPON, State's Exhibit No. 39 was admitted into
23 evidence.)

24 BY MR. REDMOND:

25 Q. Now, again, this is the enlarged map you prepared.

1 We've been talking about different areas. Could you tell
2 us what this represents? What is State's 39?

3 A. This is Highway 177 in Wallace and Highway Nine if
4 you're familiar with Marlboro County, the Wallace area.
5 This is Highway Nine. It comes down and intersects with
6 it right here. This is the area of the -- this is the
7 area of the furniture store, the Wallace Fire Department
8 and the Wallace Water Company area.

9 This is the top of the house of Mr. Melvin McQueen.
10 The trash can where the shirt was found. This is the
11 residence of Mr. Perry Williams who is a witness that you
12 will hear later in the case. The defendant, Mr. Dupree,
13 was seen right here in this area, and you will hear I
14 guess testimony from people about that.

15 This is the vehicle of his girlfriend that picked him
16 up during the investigation. Another witness later in the
17 case was staying at this residence and saw. The other
18 witness was standing here at some other point during the
19 investigation. And this is the residence of Miss LT
20 This is the crime scene, and it's not as far away as it
21 looks on here. There is just a few streets in this area.

22 If you're from Wallace you would understand. There
23 are just a few streets and you end up back in this
24 neighborhood.

25 Q. So would it be fair to say this is all pretty much in

1 the same general area of Wallace, South Carolina?

2 A. Yes, it's very close together.

3 Q. Thank you. You may have a seat, Lieutenant.

4 MR. REDMOND: And out of an abundance of precaution

5 State's 25. I don't know if it's in evidence. It is?

6 Okay.

7 BY MR. REDMOND:

8 Q. Now, Defendant's Five, and I purposely asked you
9 about your background because you have indicated that you
10 were a S.L.E.D. agent?

11 A. Correct.

12 Q. And as such are you familiar with the, I guess, the
13 protocol especially as it relates to some of the
14 information that might come from the S.L.E.D. lab?

15 A. Correct.

16 Q. Okay.

17 MR. REDMOND: If I might approach with Defendant's
18 Five.

19 BY MR. REDMOND:

20 Q. And, again, this is an exhibit; an exhibit introduced
21 by the defendant. Tell us, based on your experience as an
22 investigator and even at S.L.E.D, from an investigatory
23 standpoint -- I'm not going to ask you any technical,
24 scientific questions, but from an investigatory standpoint
25 what is the significance of Defendant's Exhibit Five?

1 A. It was probably the most significant piece of
2 evidence in this case.

3 Q. Okay. And could you explain why you indicated that?

4 A. Because it was what we call a C.O.D.I.S. hit. It's
5 the Combined D.N.A. Indexing System where the State Law
6 Enforcement Division got a D.N.A. hit for the Defendant,
7 Mr. Dupree, on evidence submitted from the victim.

8 Q. Okay. And once you get a hit like that do you then
9 follow up, and in this case was it followed up where we
10 got the Schmerber and his buccal swab and was submitted to
11 S.L.E.D. to confirm the findings from the 23rd of
12 September?

13 A. We did.

14 Q. Okay. And, again, that's a Defense exhibit. So from
15 that standpoint as it relates to whether or not you had
16 the right person; that being the Defendant, Derrick
17 Dupree, was Defense Exhibit Five as you say the most
18 situation piece of evidence that y'all had had?

19 A. That is correct.

20 MR. REDMOND: Beg the Court's indulgence.

21 BY MR. REDMOND:

22 Q. And just to be clear since Mr. Hooks' name has come
23 up here. Did that confirm the decision to release Mr.
24 Kadeem Hooks?

25 A. Yes. He was released already.

1 Q. He was released already, but did that in essence
2 reaffirm the fact that y'all had done the right thing in
3 releasing Mr. Hooks? And in fact you had the right person
4 in custody?

5 A. Certainly.

6 MR. REDMOND: Beg the Court's indulgence. That will
7 be all the questions I have. Please answer any
8 questions -- oh, let me back up. And from an
9 administrative standpoint I do want to play the tape at
10 this point of the interview with certain brief redactions
11 that we've agreed on with the Defense.

12 We'll need just a moment to pull the t.v, get it
13 plugged up, and it shouldn't take too long. Not more than
14 five minutes on do that. And then we can go straight into
15 playing the tape unless the Court wants to have
16 cross-examination first. But we're prepared either way
17 whatever the Court's pleasure?

18 THE COURT: All right. Let's go -- how long is the
19 tape?

20 MR. REDMOND: It's going to be -- I'm drawing a
21 blank. It's in excess of an hour. I want to say an hour
22 and 16 minutes total, hour and 19, somewhere in that
23 range.

24 THE COURT: All right. Let go ahead with
25 cross-examination. We'll break for lunch. Probably do

1 that after lunch.

2 MR. REDMOND: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. DUPREE:

5 Q. Mr. Seals, I notice you said that you did speak --
6 you did spoke with Kadeem Hooks in reference to this
7 incident on 9/8/2013? You said that you spoke with
8 Mr. Hooks on 9/9/2013 at the Marlboro County Sheriff's
9 Department?

10 A. You asking -- I did speak with him. Yes, sir.

11 Q. And you said that Mr. Hooks did not confess or did
12 confess?

13 A. As I said before he gave a statement. I would not
14 consider it a confession, but a statement that put him at
15 the residence.

16 Q. Okay. But -- and we do have that statement. It was
17 videoed, correct?

18 A. Yes, it was videoed as I stated earlier.

19 Q. Okay.

20 MR. DUPREE: Your Honor, I'm asking that be entered
21 into the ...

22 MR. REDMOND: Yes, sir, we have no objection.

23 THE COURT: They have stipulated that portion of the
24 tape is going to be plaid. We have entered into an
25 agreement. Y'all have agreed that that portion of Mr.

1 Hooks' statement is going to be plaid. It's not going to
2 be plaid right now. What you need to do is complete your
3 cross-examination and then we will play it.

4 MR. DUPREE: Yes, sir.

5 BY MR. DUPREE:

6 Q. Mr. Seals, you -- Mr. Hooks never told you that he
7 raped Miss LT He never told you that he had
8 sexual conduct with Miss LT

9 A. He never told us that he raped her. Could you define
10 what you mean by sexual contact?

11 Q. Did he tell you, like I asked, did he tell you in any
12 of his video statements and during this video statement
13 that he raped Miss LT whereas -- well, did you
14 ask him did he rape Miss LT Did you ask him
15 did he bend her over the chair and sexually assault her?

16 A. I don't have a transcript in front of me. I don't
17 remember exactly what words I asked him. I don't remember
18 if I asked him did he rape her or -- I recall him saying
19 that he had rubbed up against her, but you will see it on
20 the video for yourself.

21 Q. That's kind of odd. You remember things earlier
22 pretty well. Now you don't remember asking the suspect
23 did he rape or bend a victim over. I don't?

24 A. Is that a question?

25 Q. Yes, sir.

1 A. What's the question? Could you repeat it, please?

2 Q. You don't recall asking him that question?

3 A. I don't recall asking if he raped her in those terms,
4 but as I said for the jury you will see it on the video
5 for yourself.

6 Q. Mr. Seals, you said -- I notice in another one of
7 your video statements that you stated that when y'all
8 arrested Mr. Dupree on 9/11/2013 when you -- I recall
9 correct you spoke with Mr. Dupree on 9/11/2013 his arrest
10 I'm asking you a question, sir?

11 A. Yes, I did speak with you on 9/11/2013.

12 Q. Okay. Do you remember telling the defendant how
13 his arrest came about?

14 A. I remember telling him that there was an A.F.I.S. hit
15 on a fingerprint.

16 Q. Okay. Do you remember telling him about his -- you
17 had an expert witness handwriting analysis saying that it
18 was his handwriting as well?

19 A. I remember mentioning handwriting analysis and expert
20 witnesses. How it could be used in trial and how it could
21 be used against you. I do remember mentioning that.

22 Q. I'm asking you do remember telling Mr. Dupree the
23 expert -- that you had a document -- that you had a
24 document in your possession saying that an expert witness
25 said that it was Dupree handwriting?

1 A. I don't recall verbatim what was said in the
2 interview that's why we don't make as close notes in the
3 interview, but that's why we don't make as close a notes
4 cause they are all videoed for your viewing, and you will
5 see exactly what was said.

6 Q. So you don't recall asking the defendant did he want
7 to see the documents or the handwriting or the latent
8 print?

9 A. I do recall during one of the interviews asking you
10 if you would like to see the S.L.E.D. report for the
11 A.F.I.S. hit, and I think I did provide that.

12 Q. Do you recall what time on that statement -- do you
13 know what time you said you received it, the hits on the
14 print?

15 A. No, our video -- it's audio, video and time stamped.
16 We can see that on the video what time if I said it.

17 Q. I'm just asking. So you don't remember saying that
18 the hit came back at ten o'clock that morning?

19 A. No. Again, I don't remember what time it was. It
20 would be on the video.

21 Q. I'm -- and you say that Mr. Hooks -- Mr. Hooks was
22 released on what day?

23 A. I don't recall saying what date he was released, but
24 if I think about it I guess he was released probably on
25 the 11th. I don't have his release report in front of me.

1 Q. I mean so you say you think he was released on the
2 11th?

3 A. I don't have anything in front of my. We got your
4 D.N.A. hit off of C.O.D.I.S. off the victim. The date he
5 was released wasn't a concern of mine at that point.

6 MR. DUPREE: Excuse me, Your Honor.

7 BY MR. DUPREE:

8 Q. At this time, Mr. Seals, did Mr. Kadeem Hooks, when
9 he was released, was there any reports excluding him from
10 this crime? Any forensic reports? Any type of reports
11 saying that Mr. Hooks didn't commit this crime?

12 A. I don't have all of those S.L.E.D. D.N.A. report in
13 front of me. I think there was a S.L.E.D. D.N.A. report
14 that excluded him as a contributor to the D.N.A.

15 Q. What I'm saying is was it any way between the
16 incident and the release date of Kadeem Hooks?

17 A. I don't have that in front of me. This is a
18 C.O.D.I.S. hit on you, the defendant, and if there had
19 been a mixture profile of your D.N.A. we would have got a
20 different report saying that there was a mixture. But
21 this wasn't. This was a positive match to you, sir.

22 MR. DUPREE: Please, Your Honor.

23 THE COURT: Yeah.

24 MR. REDMOND: If I could see what he's got. Beg the
25 Court's indulgence. I just need to read this. That's

1 fine. I don't have any objection to it.

2 BY MR. DUPREE:

3 Q. Mr. Seals, this is a news report when Kadeem Hooks
4 was released. If you don't mind I'm asking you to just
5 read it if you don't mind?

6 A. Okay.

7 MR. REDMOND: Your Honor, I'm just going to ask if
8 he, since it's not in evidence, and I don't have a problem
9 with him using it, I guess, to perfect portions to
10 establish the date that Kadeem Hooks was released. But
11 the rest of it, Your Honor, just out of an abundance of
12 precaution, I would object to the rest of it without being
13 properly authenticated. But I don't have a problem as it
14 relates to specifically showing when Mr. Hooks was
15 released.

16 MR. DUPREE: I'm not asking for it to be entered into
17 evidence. I'm just asking him to read it, sir.

18 THE COURT: I'm going to allow him to read.

19 THE WITNESS: Read the whole thing, Your Honor?

20 THE COURT: Read the whole thing.

21 THE WITNESS: The title of the article -- I don't
22 know who it is published by. It says, 'S.C. Now'. That
23 would be Florence Morning News, TV 13. Says, "Marlboro
24 County officials charge second man and dismiss charges
25 against first one with Wallace attack ---

1 BY MR. DUPREE:

2 Q. Can you tell me the date on it?

3 A. Yes. I'm got a date stamped report. It's posted
4 Thursday, September 12th 2013 at 10:10 a.m.

5 Says, "Second Wallace man has been arrested in the
6 Sunday attack on an elderly [REDACTED] couple, and
7 charges against the person that was initially arrested
8 have been dropped. Derrick Dupree, 31, of [REDACTED] is
9 charged with first degree burglary, kidnapping, first
10 degree criminal sexual conduct and use of a weapon during
11 a violent crime according to a release issued by the
12 Marlboro County Sheriff's Office.

13 Solicitor Will Rogers dismissed all charges
14 previously filed against Kadeem Hooks in the [REDACTED]
15 incident according to the release, and in the interest of
16 justice Hooks has been released from custody after the
17 arrest of Dupree as it is apparent that he was not
18 involved in the crime.

19 With that said the investigation will still continue
20 to make certain no stone is left unturned according to the
21 release issued Wednesday night. Hooks' Monday arrest was
22 based on eye witness and his own confession according to
23 the release. The Sheriff's Office continuing
24 investigation turned up additional evidence that affected
25 the investigator's timeline of the incident.

1 The new evidence and the witnesses that came forward
2 were reviewed in detail and considered strongly. The next
3 day the M.C.S. received the evidence results from S.L.E.D.
4 that confirmed Dupree was the suspect according to the
5 release.

6 Dupree as a lengthy record and has served prison time
7 recently. Dupree also lives near Highway 177 in Wallace.
8 That is not far from the crime scene. There is no
9 indication that Dupree knows the victim according to the
10 release.

11 In this incident the 70 plus year old wife responded
12 to a knock at the door. The attacker tricked and
13 distracted the victim long enough to step inside the
14 residence. Once inside the investigation shows that he
15 assaulted the victim at knife point while her elderly
16 husband sat in the other room according to the release.

17 When the attacker was distracted the wife was able to
18 use her Life Alert system to scare him away and alert 911
19 to the couple's predicament. This has been an exhausting
20 and complicated case that we have spent day and night on."

21 Q. That will be it. That's good. I just wanted to hear
22 the date that he ---

23 MR. REDMOND: Your Honor, the State withdraws any
24 objection we have if he wants to introduce it.

25 THE COURT: You've asked him to read the thing.

1 MR. DUPREE: That's it. That's all I asked him.
2 That's what he was referring to that he read. I don't ask
3 that it be entered into evidence. If they want it entered
4 I don't mind.

5 THE COURT: Okay. I think -- has he finished reading
6 it?

7 THE WITNESS: No, sir.

8 MR. DUPREE: Well, I just wanted, well, just to show
9 -- like I said I just ask that he read it just showing the
10 date and, basically, that, you know, the defendant did
11 confess, and it was?

12 THE WITNESS: It was the day it was published.

13 MR. DUPREE: Exactly. And that Defendant did
14 confess.

15 THE COURT: What is the State's position.

16 MR. REDMOND: If he wants to introduce it, Judge, the
17 whole thing I have no objection if he wants to introduce
18 it.

19 MR. DUPREE: Like I said, again, Your Honor, I told
20 you from the beginning that I didn't care about the -- I
21 didn't have to -- he said that he would object to that.
22 Now he's saying he will rule that it be. Your Honor, once
23 again, I don't care. It's up to them.

24 MR. REDMOND: Your Honor, and actually, based on what
25 was in there I only had a second to read it. And based on

1 what I read there were issues, quite frankly, ordinarily,
2 would not be admissible. He's endeavored himself to have
3 all that put out there in evidence. I have no objection
4 to that, and I withdraw my objection.

5 THE COURT: Okay.

6 MR. REDMOND: If he seeks to introduce it.

7 THE COURT: Well, he's not seeking to introduce it.
8 Proceed.

9 BY MR. DUPREE:

10 Q. All right. Once again, so he was released on the
11 12th, and at that time can you -- this is an exhibit, the
12 buccal swab.

13 A. Are you asking me a question?

14 MR. REDMOND: Beg the Court's indulgence.

15 MR. DUPREE: This is Exhibit 41, Your Honor. I was
16 asking Mr. Seals was there any evidence, anything, that
17 excluded Mr. Hooks at the time of September the 11th?

18 BY MR. DUPREE:

19 Q. Any time between September the 8th and September the
20 12th, where the newsletter was dated September the 12th,
21 was there anything indicating that Kadeem Hooks was not
22 the perpetrator, the suspect, to the crime? You stated
23 that you wasn't sure, but it wasn't a report back by that
24 time or anything at that time?

25 A. I can answer that. I think I can clear up the issue

1 you have about the news report on the 12th. He was
2 released on the 11th, as far as I remember. We report our
3 press releases after the next arrest was made, and they
4 publish that on the 12th which shows the 12th. Now, as
5 far as if you're asking if there was any report that
6 excluded him before your arrest on the 11th; is that your
7 question?

8 Q. Yes.

9 A. Yes. This report excluded him because it positively
10 identifies you as the suspect.

11 Q. Okay. What's the date on this report?

12 A. September 23rd. Well ---

13 Q. Hold on.

14 A. A.F.I.S. hit.

15 Q. So the A.F.I.S. hit excluded ---

16 A. A.F.I.S. hit.

17 Q. But was there anything excluding Kadeem Hooks as far
18 as saying his D.N.A. or anything wasn't at this house?

19 A. Not before you were arrested.

20 Q. Okay. There wasn't nothing?

21 A. Just an A.F.I.S. hit from you on the note. The
22 fingerprint on the note.

23 Q. I'm going to move to the 16th. Mr. Seals, I'm
24 starting with -- well, no, I'm going back to the 11th. On
25 the 11th you did tell Mr. Dupree on certain things that

1 happened at the crime on that day, correct? You did
2 basically -- I'm asking did you tell Mr. Dupree that --
3 ask Mr. Dupree or tell -- ask Mr. Dupree did he write any
4 name or a fake name on a piece of paper at the crime?

5 A. During the interview on the 11th. Is that -- when I
6 interviewed you on the 11th?

7 Q. Yes, sir.

8 A. Yes. I asked you several things about it, and ask I
9 said I don't have the transcript in front of me. Not to
10 be vague. It's all on video. It's very evident on the
11 video.

12 Q. So by this time the defendant did have a little
13 indication on -- well, a little insight on what took place
14 at the incident, at the crime, correct?

15 A. Yeah, you had a lot of insight because you were
16 arrested at that time.

17 Q. Well, I'm asking by you stating what took place at
18 the crime that gave the defendant at that time some of
19 what happened at the crime, correct?

20 A. Well, the affidavit on the warrant gave general
21 information. Besides that there wasn't a lot more given
22 to you.

23 Q. Okay. Mr. Hooks was arrested and placed into the
24 Marlboro County Detention Center, right? Correct?

25 A. Yes.

1 Q. And Mr. Dupree on September the 11th, right after,
2 was placed as well in the Marlboro County Detention
3 Center, correct?

4 A. You were arrested later that day on the 11th; that is
5 correct.

6 Q. So there is no indication or possibility that Mr.
7 Dupree could of have had learned through words of Mr.
8 Hooks what took place at the crime?

9 A. Is it what now?

10 Q. Is there any -- do you think that there is any
11 indication by both suspects being in the County that
12 Mr. Dupree could have had learned what took place at the
13 crime from Kadeem Hooks?

14 A. I'm almost certain that he had been released before
15 you were brought in.

16 Q. Okay.

17 A. But to answer your question I have no indication that
18 you two discussed it.

19 Q. So there was no indication that he could have been
20 talking to no other witnesses or no other people n the
21 detention facility about the crime?

22 A. Are you saying that you talked to Mr. Hooks and you
23 confessed base off of his information?

24 Q. I did not say that. I did not say that. I'm was
25 asking you a question. I asked you was there any

1 information do you believe that he could have relaid any
2 of the information from any other people in the county
3 jail?

4 A. I don't have any indication of that.

5 Q. All right. Mr, I notice you said, which is not much,
6 but I noticed you said that when you first arrested the
7 Defendant, Derrick Dupree, you asked Mr. Dupree how do he
8 spell his middle name. Do he spell his middle name with a
9 'D'. Do you recall asking the defendant that?

10 A. I remember asking him when I was filling out the
11 Miranda form, and I remember us going over that in the
12 very beginning of the interview. We'll see on the
13 interview, but I don't recall how you spell it or how I
14 spell it, but I'm sure I corrected that with you on the
15 form.

16 Q. Well, I just asked that cause I notice that you said
17 defendant's middle name was put on the paper that was
18 taken from the incident which was -- but, anyway, like I
19 said you don't recall asking him how he spell his middle
20 name?

21 A. I recall asking you that when I was filling out your
22 Miranda form on video.

23 MR. DUPREE: Pardon myself, Your Honor.

24 THE COURT: I'm sorry. What did you say?

25 MR. DUPREE: I'm going to ask to confer with the

1 assistant.

2 THE COURT: Yes.

3 BY MR. DUPREE:

4 Q. Can you read the name, Dwayne -- spell the name,
5 Dwayne, on there for me, please?

6 A. D-W-A-Y-N-E.

7 Q. All right. I'm going to ask you to read my
8 identification which was dated back in 2003 or '04. I'm
9 going to ask you to read my name on that one?

10 A. This is apparently from Marlboro County Detention
11 Center Booking Report that an officer filled out,
12 D-E-W-A-Y-N-E.

13 Q. So which they asked the defendant how to spell his
14 middle name? What I'm asking is --

15 A. A lot of people try to hide themselves.

16 Q. But the middle -- the names are different as far as
17 spelling, correct?

18 A. That 2013 spelling of your handwriting is different
19 from the 2003 spelling of your name by an officer, you're
20 correct.

21 Q. Mr. Seals, you stated that you did receive some
22 evidence, a tee shirt, that was under the defendant from
23 Melvin Brown's house, correct?

24 A. I collected a tee shirt found in the trash can of
25 Melvin -- his last name, McQueen, I think is his name.

1 Q. Melvin McQueen's house?

2 A. I received a tee shirt from there; and the way I
3 found the tee shirt is because you told me where you
4 discarded it.

5 Q. And what day was this that the defendant told you
6 that?

7 A. On the 16th as far as on the video. We'll see it on
8 the video cause I don't have a transcript in front of me.

9 Q. So the 16th; that would be after the defendant's
10 arrest again, correct?

11 A. You were arrested later, so the 16th would be
12 accurate.

13 Q. Was this evidence presented or sent to S.L.E.D. for
14 any examination, sir?

15 A. I don't have the report. I'm not sure or not. If you
16 know I can answer it if it wasn't sent.

17 Q. I just asked you was it sent to S.L.E.D. for any
18 examination?

19 A. I don't have the report, so I'm not sure.

20 Q. But you're the one collected the evidence, correct?

21 A. I did, and I placed it in the evidence locker at the
22 Marlboro County Sheriff's Office.

23 Q. So you don't -- so how would you not know the
24 evidence that was sent to S.L.E.D. for any forensic
25 examination?

1 A. Because I supervise all the investigative cases that
2 come through. We don't send every piece of evidence.
3 Most of the time when we get a key piece of evidence like
4 your D.N.A. on the victim a lot of the other evidence
5 don't need to be tested.

6 Q. So there is really no clear indication saying that
7 was Dupree's shirt other than what you're saying he said
8 it was his shirt?

9 A. Other than you telling me that it was in a trash can
10 in an area four or five miles away from your home in an
11 obscure area.

12 Q. Was any of Dupree's evidence sent to S.L.E.D.?

13 A. Was any evidence from you sent to S.L.E.D? Is that
14 what you're asking.

15 Q. Yes. Any evidence collected from Dupree sent to
16 S.L.E.D?

17 A. Your buccal swab was matched to the victim.

18 Q. Anything else, sir?

19 A. I'm not sure without looking at the report, sir.

20 Q. Well, I notice you conducted a search warrant from
21 the Marlboro County Detention Center where you took some
22 clothes from Dupree. Do you -- was them clothes sent to
23 S.L.E.D. for any forensic examination, sir?

24 A. Again, I would have to look at the search warrant and
25 return and I guess look at the certified chain of evidence

1 to see if it was sent. I don't recall.

2 MR. DUPREE: Pardon myself, Your Honor.

3 BY MR. DUPREE:

4 Q. Well, sir, I'm -- I guess I came to a better
5 understanding because the evidence wasn't with you at
6 trial so I guess that evidence wasn't sent to S.L.E.D. for
7 any examination, correct?

8 A. If it's not here I assume so.

9 Q. All right.

10 MR. DUPREE: No further questions, Your Honor.

11 THE COURT: All right. Any redirect?

12 MR. REDMOND: Briefly, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. REDMOND:

15 Q. Just one issue I want to address?

16 MR. REDMOND: Permission to approach which is already
17 in evidence as State's 23. If I may approach the witness.

18 BY MR. REDMOND:

19 Q. This the Miranda Waiver Form?

20 A. It is.

21 Q. And since there were some -- for some reason a big
22 deal made about whether -- how the name was spelled. How
23 was the name spelled on the Miranda Waiver Form?

24 A. In my handwritten script I asked him, as you will see
25 on the video, I asked him to spell it, his name, and it is

1 D-E-W-A-Y-N-E.

2 Q. And let me approach with what is State's Exhibit
3 Number One, the note. How is Dwayne spelled on the note?

4 A. It is spelled exactly as it is on the Miranda,
5 D-E-W-A-Y-N-E.

6 Q. And, lastly, State's Exhibit Number 20; that being
7 the first latent print report from the 11th of September.
8 That's already in evidence. You were asked a bunch of
9 questions about at what point was Kadeem being excluded.
10 Was Kadeem Hooks, based on what's in evidence, were his
11 prints and the defendant's prints tested against this
12 note?

13 A. Yes.

14 Q. And were Kadeem Hooks' print identified as being on
15 this note?

16 A. No.

17 Q. Were the defendant's prints, Derrick Dupree,
18 identified on being on this note, State's One?

19 A. Yes.

20 Q. Be all the questions I have.

21 COLLOQUY

22 MR. REDMOND: I did fail to publish these items at
23 the time they were introduced. I would ask leave of the
24 Court to publish these items to the jury at this time?

25 THE COURT: You may. You may step down, Mr. Seals.

1 pursuant to agreement of counsel, Mr. Dupree, Mr. Redmond.

2 MR. REDMOND: Yes, sir.

3 THE COURT: We've agreed that were going to play the
4 relevant portions of each statement, Mr. Hooks' and Mr.
5 Dupree's after lunch, and we will reconvene and 1:30.
6 1:30 sharp. I want to ask everybody to remain seated as
7 the jury exits the courtroom. However, I'm going to ask
8 and admonish you not to discuss the case amongst
9 yourselves or with anyone else. Everyone else remain
10 seated as the jury exits the courtroom.

11 (WHEREUPON, the jury panel was excused from the
12 courtroom at 12:20 p.m.)

13 THE COURT: Mr. Redmond, we're going to -- Mr.
14 Dupree, y'all have agreed and you've requested and he's
15 agreed to play the relevant portions of Mr. Hooks'
16 interview. Not the entire three hours, but the few parts
17 where he confesses to it. And that's what you have
18 stipulated to, correct?

19 MR. DUPREE: Yes, sir.

20 THE COURT: All right. And the relevant portions of
21 his statement is going to be plaid, and we'll start that
22 at the conclusion. We'll go with Mr. Hooks first and then
23 Mr. Dupree.

24 MR. REDMOND: Yes, sir. Thank you.

25 THE COURT: All right. And how many more witnesses

1 do you anticipate?

2 MR. REDMOND: After that we've got -- beg the Court's
3 indulgence. I've got my witness list. Actually, Your
4 Honor, and what I did to try to speed it up we've got one,
5 two, three, four, five, six, seven. However, three of
6 those seven are actually chain of custody witnesses which
7 based on what is in evidence we'll regroup and see if we
8 need to call all of those individuals.

9 So three of them are chain. The other ones are fact
10 witnesses. They're not investigatory witnesses, so it
11 should not be as long.

12 THE COURT: Very good. We'll reconvene at 1:30
13 sharp.

14 MR. REDMOND: Thank you, Your Honor.

15 THE COURT: Make sure that Mr. Dupree is back here at
16 1:30 sharp.

17 (WHEREUPON, Court is in recess at 12:22 p.m. and
18 reconvenes at 1:35 p.m.)

19 THE COURT: Anything before we bring the jury out,
20 from the State?

21 MR. REDMOND: Your Honor, rather than go through the
22 portions that had to be redacted what we've done is just
23 the pertinent parts of it, and I was explaining that to
24 Mr. Dupree. The pertinent parts from the first Hooks
25 statement, and then, obviously, his statement. But we're

1 not going to play them in their entirety. I think I was
2 telling Mr. Martin that the total, just from doing a quick
3 little math addition, probably about an hour and a half,
4 hour and 45 minutes total.

5 THE COURT: Mr. Dupree, do you have anything you
6 would like to add?

7 MR. DUPREE: No, sir.

8 THE COURT: Very good. We're ready for the jury.

9 (WHEREUPON, the jury panel enters the courtroom at
10 1:35 p.m.)

11 THE COURT: Madam Forelady, ladies and gentlemen of
12 the jury, the parties have stipulated and agreed to play
13 these relevant portions of the interviews. Pay very close
14 attention. I know that y'all have eaten lunch, and
15 sometimes we have a tendency to fade in the afternoon.
16 I'll remind you. These are important matters. Pay
17 attention. These are important matters. Very good.

18 MR. REDMOND: Your Honor, if it please the Court at
19 this time the State would now play, first, the portion of
20 Mr. Hooks' statement. The pertinent portions of Mr.
21 Hooks' statement. We will play certain parts of it. Then
22 we will skip to the pertinent parts per agreement of the
23 parties.

24 THE COURT: Very good.

25 MR. REDMOND: This next tape, State's Exhibit 54, for

1 the record.

2 (WHEREUPON, State's Exhibit 54, video, plaid for the
3 jury in open Court.)

4 MR. REDMOND: And, Your Honor, that concludes Kadeem
5 Hooks' interview. For the record we were trying to get
6 started. We have not marked that exhibit, but that will
7 actually be I believe State's Exhibit 54. And we just ask
8 that it be marked and admitted into evidence.

9 THE COURT: State's Exhibit 54 in evidence, any
10 objection?

11 MR. DUPREE: No, sir.

12 (WHEREUPON, State's Exhibit No. 54 was marked for
13 identification and received into evidence.)

14 MR. REDMOND: I just want to make the Court aware of
15 this next, and again, I'm a lawyer not a mathematician,
16 but by my math it's approximately 50 minutes total to be
17 plaid off the tape from the defendant. This next tape is
18 State's Exhibit 24 for the record.

19 THE COURT: I'm going to ask, Madam Forelady, that
20 y'all get up and stretch while they're getting it ready.
21 Okay. We'll stand at ease for five minutes. Everybody
22 remain seated while the jury exits the courtroom. Again,
23 do not discuss the case.

24 (WHEREUPON, the jury panel was excused from the
25 courtroom at 1:56 p.m.)

1 (WHEREUPON, Court was in recess at 1:56 p.m. and
2 reconvenes at 2:34 p.m.)

3 THE COURT: All right. We're ready for the jury.

4 (WHEREUPON, the jury panel enters the courtroom at
5 2:35 p.m.)

6 THE COURT: All right. You may proceed.

7 MR. REDMOND: Thank you, Your Honor. May it please
8 the Court. For the record at this time now we would be
9 moving on to Exhibit 24 which is the September 16th 2013
10 statement of the defendant, but we are playing pre-agreed
11 excerpts from the particular statement.

12 THE COURT: Very good. (WHEREUPON, State's Exhibit
13 24, video, plaid for the jury in open Court.)

14 MR. REDMOND: Your Honor, for some reason it keeps
15 stopping, so we're going to reboot it and start again.

16 THE COURT: Okay.

17 MR. REDMOND: Your Honor, we're still having a
18 problem with the video. We've already seen it, so I would
19 propose to just go forward rather than waste any more
20 time, unless there is some objection to that?

21 THE COURT: Any objection?

22 MR. DUPREE: No, sir, Your Honor.

23 THE COURT: Very good. Proceed forward in that
24 fashion.

25 (WHEREUPON, State's Exhibit 24, video, plaid for the

1 jury in open Court.)

2 MR. REDMOND: And, Your Honor, that would conclude
3 the playing.

4 THE COURT: Call your next witness.

5 MR. REDMOND: Thank you, Your Honor. If it please
6 the Court. The State would next call Sandy Wilkes.

7 THE COURT: Put your left hand on the bible and raise
8 your right hand as the administers the oath.

9 SANDY WILKES, after being duly sworn, testified
10 as follows:

11 THE COURT: Please come forward. I'm going to ask
12 you to have a seat in the witness chair. Pull up real
13 close to that microphone. Speak loudly, clearly and
14 slowly in order that we can hear everything that you've
15 got to say. Let's start with your full name.

16 THE WITNESS: My full name is Sandy T. Wilkes.

17 DIRECT EXAMINATION

18 BY MR. REDMOND:

19 Q. And, Ms. Wilkes, by whom are you employed?

20 MR. REDMOND: If it please the Court. I apologize,
21 Your Honor.

22 THE COURT: Go ahead.

23 THE WITNESS: Marlboro County Sheriff's Office.

24 BY MR. REDMOND:

25 Q. And how long have you worked with Marlboro County

1 Sheriff's Office?

2 A. About six years.

3 Q. Okay. and in what capacity do you work with the
4 Marlboro County Sheriff's Office?

5 A. I'm the evidence custodian.

6 Q. Okay. And what does your job entail? As evidence
7 custodian what are your duties?

8 A. I take the evidence and log it in and keep it in the
9 evidence locker until it's needed for trial.

10 Q. Okay. And based on the fact that it is an evidence
11 locker is there limited access to that locker?

12 A. Yes, sir, it is.

13 Q. And who are all the people with access?

14 A. Myself and Captain Billy Cheeks.

15 Q. And in this particular case were there several items
16 of evidence that you logged in that were received?

17 A. Yes, sir.

18 Q. Okay. And, specifically, we've gone through. So if
19 you need me to show you something I will, but I'm just
20 going to go through some of the exhibits that we've
21 already gone through to save time. Did you receive into
22 evidence a note that was I guess collected from the scene
23 of this incident?

24 A. Yes, I did.

25 Q. Okay. Did you collect a gown?

1 A. Yes, I did.

2 Q. A criminal sexual conduct kit that had swabs in it
3 from the hospital?

4 A. Yes, I did.

5 Q. Was there a pair of underwear?

6 A. Yes, sir.

7 Q. Excuse me. Belonging to the victim, Miss LT

8 A. Yes.

9 Q. Was there a buccal swab that was logged into evidence
10 from Kadeem Hooks?

11 A. Yes.

12 Q. Was there a buccal swab logged in -- that was logged
13 in from the Defendant, Derrick Dupree?

14 A. Yes.

15 Q. Okay. A knife that was collected from the residence
16 of Kadeem Hooks?

17 A. Yes.

18 Q. And two -- I guess two writings. One from Kadeem
19 Hooks that was actually I guess procured by Jamie Seals?

20 A. Yes.

21 Q. And, finally, some writing that were secured from the
22 residence of the Defendant, Derrick Dupree?

23 A. Yes.

24 MR. REDMOND: And, for the record, I didn't list the
25 exhibit numbers. I was referring to in order Exhibits

1 One, Five -- Exhibits One, Three, Five, Seven, 16, and 19
2 and then I went back to 17, 18 and 25 being the knife.

3 BY MR. REDMOND:

4 Q. So, now, were each of those items I just discussed
5 with you handled in accordance with the policies that you
6 operate under as the evidence custodian?

7 A. Yes.

8 Q. Okay. And with those particular items, and with the
9 exception of -- I'll just go through the ones that Tommy
10 Bostic took to S.L.E.D.

11 When you, first from a procedural standpoint, when
12 you deliver evidence for a deputy to take to S.L.E.D. just
13 briefly explain how that works?

14 A. I have to take the evidence, log it into our lab,
15 which is the S.L.E.D. computer system. They give it to
16 Mr. Tommy. He signs the evidence sheet, and then he takes
17 the evidence actually to S.L.E.D.

18 Q. Okay. And with all of the exhibits that I had
19 listed, with the exception of the buccal swab from Kadeem
20 Hooks and the knife, did Tommy McCall deliver the rest of
21 the exhibits to S.L.E.D? Did you give them to him to take
22 to S.L.E.D?

23 A. You mean Warren McCall?

24 Q. Let me rephrase. As it relates to the note, the
25 gown, the criminal sexual conduct kit, the underwear, the

1 defendant's buccal swab, Kadeem Hooks' writings and the
2 defendant's writings, were those items given to Tommy
3 Bostic to take to S.L.E.D?

4 A. Yes, they were.

5 Q. Okay. And, Warran McCall, did he take the buccal
6 swab from Kadeem Hooks and the knife that was procured
7 from the residence of Kadeem Hooks did Warran McCall take
8 those items?

9 A. Yes, he did.

10 Q. Okay. And did you deliver -- did you both receive
11 and deliver the items for transport to S.L.E.D. in
12 accordance with the policies so far as the Marlboro County
13 Sheriff's Office?

14 A. I did.

15 Q. That will be all the questions I have. Please answer
16 any questions the Defendant may have.

17 THE COURT: Any questions?

18 MR. DUPREE: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. DUPREE:

21 Q. Miss Wilkes, your memory got to be better than the
22 rest of them here, so I'm going to ask you. You said that
23 you do remember having the defendant's buccal swab
24 received from the State? Did you hear me?

25 A. You're a little blurry back there. Say it one more

1 time.

2 Q. I'm sorry. Did you -- you did say that you received
3 the defendant's buccal swab?

4 A. Buccal swab, yes, sir.

5 Q. Since your memory have to be a little good since that
6 was last year sometime, so you remember exactly what date?

7 A. No, I do not. It's on the evidence sheet.

8 Q. Okay. Then you said you gave it to Tommy Bostic?

9 A. Yes, sir.

10 Q. And you don't know what date that you give it to
11 Tommy Bostic?

12 A. I don't have the sheet in front of me. I can't tell
13 you the exact date and time.

14 Q. But you do have that on your report though?

15 A. Yes, sir. The time and the date is on the evidence
16 sheet.

17 Q. Okay. When you gave it to Tommy Bostic that's when
18 it was sent to S.L.E.D?

19 A. Yes, sir. That is when he transported it to S.L.E.D.

20 Q. And you do have a sheet that when you received it?

21 A. Yes, sir.

22 Q. You received it?

23 A. Yes, sir.

24 MR. DUPREE: I'm going to ask that that sheet be
25 present sometime, I guess, tomorrow. Your Honor, I'm

1 asking that that sheet be present?

2 MR. REDMOND: Which sheet is he referring to?

3 MR. DUPREE: Buccal swab of Derrick Dupree.

4 MR. REDMOND: The one that -- are you talking about

5 ---

6 THE COURT: All right. We need to.

7 MR. REDMOND: Your Honor, I'm just trying to figure
8 out exactly what he needs so that we can resolve it.

9 THE COURT: What is the ...

10 MR. DUPREE: Like I said, Your Honor, I'm only asking
11 that the defense sheet make present her notes or report.
12 That's all I'm asking due to the fact that I don't have
13 them. I mean I'm just asking that they be present.

14 THE COURT: Do you have any kind of sheet?

15 THE WITNESS: I have an evidence sheet.

16 THE COURT: You do?

17 THE WITNESS: Where Mr. Tommy signed for it when he
18 took it to S.L.E.D. and where he brought it back from
19 S.L.E.D.

20 THE COURT: All right. I'm going to ask you to give
21 that -- do you have that?

22 MR. REDMOND: Yes, sir. Your Honor he actually --
23 just for the record we have supplied all of this in
24 discovery.

25 THE COURT: Rule Five and Brady. Give it to him and

1 he can talk to her about it if he wants to.

2 MR. DUPREE: Your Honor, the only thing this shows is
3 where it was ---

4 THE COURT: You don't need to tell me what it says.

5 MR. DUPREE: No. I'm speaking to you, sir.

6 THE COURT: I know. What I'm saying is the document
7 speaks for itself. If you want to ask her any questions
8 about it that will be fine.

9 MR. DUPREE: May I approach the witness?

10 THE COURT: Yes.

11 BY MR. DUPREE:

12 Q. Miss Wilkes, honestly, this doesn't show where the
13 buccal swab was sent to S.L.E.D. or received, however, if
14 you would like to read it for the jury -- the ladies and
15 gentlemen of the jury to better understand because,
16 obviously, they're still not turning over what I'm asking
17 for which is when it was sent to S.L.E.D. ---

18 THE COURT: All right. You need to ask a question
19 not only making statements.

20 THE WITNESS: Okay. This particular sheet shows
21 where it was put in the evidence locker and I received it
22 on this date. See where it went in the evidence locker?
23 That's my signature.

24 Q. Okay.

25 A. On this day at that time.

1 Q. And that was 11/12/13 when you received it?

2 A. That's when it was put into -- it was put into the
3 evidence log by Miss Susan Alderman on the 11/6 at five
4 o'clock. I took it out of the evidence locker at 11/12.

5 Q. Okay. But does that paper indicate or show anywhere
6 where you gave it to Tommy Bostic?

7 A. No. This one does not. No.

8 Q. Okay. That's what I was asking you earlier about
9 your reports and you did say that you do have them,
10 through, right?

11 A. Yes.

12 Q. And you did say that you received a report back from
13 S.L.E.D?

14 A. From S.L.E.D.

15 Q. Okay. That's what I was asking for when I was ---

16 A. Which is in your Rule Five, the report.

17 Q. No, I don't have that in my Rule Five. That's what I
18 was asking for.

19 MR. REDMOND: Your Honor ---

20 THE WITNESS: There is a difference between an
21 evidence log and the S.L.E.D. report.

22 Q. Ma'am, I was just asking that. What you had as a
23 report that it be present. I don't have it. I'm just
24 asking that since you ---

25 A. It should be in the Rule Five.

1 Q. I'm not asking you that.

2 THE COURT: All right. She's not really in the
3 position to produce documents. You can -- you made the
4 Rule Five. The State has indicated that they have
5 complied with it. She's not responsible for providing
6 documents ---

7 MR. DUPREE: But, Your Honor ---

8 THE COURT: Listen to me. For providing documents.
9 If it's necessary you feel that you don't have any
10 documents you need to make a motion and we will have a
11 discussion outside the presence of the jury to discuss any
12 documents that may or may not have been provided to you.
13 But she -- it's not her obligation to provide documents to
14 you. You can ask her questions.

15 BY MR. DUPREE:

16 Q. Well, I mean I did motion that they be present. I
17 thought that every person ---

18 THE COURT: One again, if you want to have a
19 discussion about the documents, what you do and don't
20 have, we'll do that outside the presence of the jury.
21 What you need to do now is ask her any questions that you
22 want to ask.

23 MR. DUPREE: There will be no further questions, but
24 I would like that we have that motion.

25 THE COURT: All right. We will do that momentarily.

1 All right. Any redirect?

2 MR. REDMOND: Briefly, Your Honor. I think there is
3 an exhibit -- beg the Court's indulgence. Here it is,
4 Defense Exhibit Number Three. It's actually the last
5 page. If I may approach the witness, Your Honor?

6 THE COURT: You may.

7 REDIRECT EXAMINATION

8 BY MR. REDMOND:

9 Q. Could you tell me what item 16 is, I believe?

10 A. It's Mr. Tommy Bostic from the Marlboro County
11 Sheriff's Office took a several pieces of evidence to
12 S.L.E.D. to be tested. It's the chain of custody.

13 Q. Okay. And specifically --

14 MR. REDMOND: If I may approach the witness.

15 THE COURT: Yes.

16 BY MR. REDMOND:

17 Q. In the little gray highlighted area what does it
18 indicate Item 16 to be?

19 A. Item 16 is one sealed -- heat sealed pouch containing
20 buccal swab described as D.N.A. swab from Derrick Dupree.

21 Q. And what date was it sent to S.L.E.D.?

22 A. 11/14/2013 at 10:55.

23 Q. And was it signed by Tommy Bostic?

24 A. Yes, it was.

25 MR. REDMOND: No further questions, Your Honor.

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1 THE COURT: All right.

2 MR. DUPREE: Can I see the report, Your Honor?

3 THE COURT: Yes, you can see the report. Very good.
4 You may step down.

5 MR. REDMOND: Thank you, Your Honor.

6 COLLOQUY

7 THE COURT: All right. Madam Forelady, ladies and
8 gentlemen of the jury, I understand that we've requested a
9 restroom break, so we are going to stand at ease for about
10 five minute. Everybody else remain seated as the jury
11 exits the courtroom. Do not discuss the case.

12 (WHEREUPON, the jury panel was excused from the
13 courtroom at 3:47 p.m.)

14 THE COURT: All right. Mr. Dupree, you're
15 recognized.

16 MR. DUPREE: Sir?

17 THE COURT: I'll be glad to hear anything that -- any
18 concerns that you have about documents, but of course, you
19 aren't a lawyer. You've never been through this before,
20 but I need to explain to you that through the production
21 of documents is really not the responsibility of a given
22 witness. That's the responsibility of the Solicitor's
23 Office to do that.

24 We had a motion at the very beginning of the trial
25 where they indicated they provided to you all the

1 necessary documents that are relevant to this case
2 pursuant to Rule Five and Brady Motion. And given Mr.
3 Redmond's reference to the chain of custody document I
4 think that's probably what you were looking for. Is that
5 what you ---

6 MR. DUPREE: Yes, sir. I apologize, Your Honor. I
7 did receive -- maybe i overlooked it.

8 THE COURT: All right. That's not a problem. Is
9 there anything else that you want to ask me about?

10 MR. DUPREE: No, sir, not at the time.

11 THE COURT: Okay. Very good. Thank you. We'll
12 stand at ease for five minutes while they refresh
13 themselves and we will be ready to go.

14 How many more witnesses do you have?

15 MR. REDMOND: Two more chain witnesses that should
16 actually be shorter, and then we've got four fact
17 witnesses just to certain vantage points. So we shouldn't
18 be too much longer past five o'clock if at all that.

19 THE COURT: Very good.

20 MR. REDMOND: Thank you, Your Honor.

21 (WHEREUPON, Court was in recess at 3:50 p.m. and
22 reconvenes at 3:55 p.m.)

23 THE COURT: All right. We're ready for the jury.

24 MR. DUPREE: Your Honor, I said ask may I have a five
25 minute conference to ask my lawyer something?

1 THE COURT: Well, you can take just a moment to do
2 that. We need to plow forward, but you can ask him
3 something real quick. Take a moment and talk to your
4 attorney.

5 MR. DUPREE: Your Honor, my assistants -- Your Honor,
6 I'm trying to keep from getting upset here and making a
7 scene I'm going to ask that he be removed from this table,
8 whatever, sir. I feel he's not helping. He's not
9 assisting and furthermore, I wouldn't need his assistance
10 if he gone get an attitude. Like I said I'm trying not to
11 get into that.

12 THE COURT: All right. We'll let him stay right
13 there. You don't have to confer with him. We're ready to
14 proceed.

15 (WHEREUPON, the jury panel enters the courtroom at
16 3:57 p.m.)

17 THE COURT: You may call your next witness.

18 MR. REDMOND: Thank you, Your Honor. May it please
19 the Court. The State would next call Britney English.

20 THE COURT: Yes, sir. If you could, please, come
21 forward and put your left hand on the bible and raise your
22 right hand as the Clerk administers the oath.

23 BRITNEY ENGLISH, after being duly sworn,
24 testified as follows:

25 THE COURT: Please come forward and have a seat in

1 the witness chair. We're going to ask you to pull up real
2 close to that microphone. Speak loudly, clearly and
3 slowly in order that we can hear everything that you've
4 got to say. Let's start with your full name, please, sir.

5 THE WITNESS: My name is Britney English.

6 DIRECT EXAMINATION

7 BY MR. REDMOND:

8 Q. By whom are you employed, sir?

9 A. Bennettsville Police Department.

10 Q. And in what capacity are you employed with
11 Bennettsville P.D..

12 A. Patrol.

13 Q. And previously did you work with the Marlboro County
14 Sheriff's Office?

15 A. Yes, sir, I did.

16 Q. And were you an investigator with them?

17 A. Yes, sir.

18 Q. And let me direct your attention to the -- I guess
19 the investigation involving the Defendant, Derrick Dupree.
20 Did you collect a buccal swab from Kadeem Hooks on the 9th
21 of September 2013?

22 A. Yes, sir.

23 Q. Let me show you what's in evidence as State's Exhibit
24 Number 41.

25 MR. REDMOND: If I may approach the witness, Your

1 Honor?

2 THE COURT: Yes.

3 BY MR. REDMOND:

4 Q. And, again, is that the item you took, the buccal
5 swab, from Der -- excuse me. From Kadeem Hook on the 9th
6 of September 2013?

7 A. Yes, sir. It's my handwriting. That's the way that
8 I would consistently collect evidence.

9 Q. Okay. And in your role as an investigator did you
10 collect evidence such as doing buccal swabs and the like?

11 A. Yes, sir.

12 Q. All right. And once you collected that was it
13 properly stored, sealed and delivered to the evidence
14 custodian pursuant to the Marlboro County Sheriff's Office
15 procedures for evidence?

16 A. Yes, sir, it was.

17 Q. Okay. And at that point I guess you actually, it
18 appears, delivered it to evidence on or about 12:18 on the
19 9th of September. Does that sound correct?

20 A. Yes, sir.

21 MR. REDMOND: Beg the Court's indulgence. Oh, at
22 this point I would move, if there is no objection, to
23 introduce the buccal swab of Kadeem Hooks into evidence at
24 this time?

25 THE COURT: Any objection?

1 MR. DUPREE: No, sir.

2 THE COURT: All right. It's in evidence. That will
3 be State's 41.

4 (WHEREUPON, State's Exhibit No. 41 was admitted into
5 evidence.)

6 MR. REDMOND: And that would be all the questions
7 that I have.

8 THE COURT: Do you have any questions of this
9 witness?

10 MR. DUPREE: No, sir.

11 THE COURT: Very good. You may step down.

12 MR. REDMOND: State would next call Warren McCall.

13 THE COURT: Yes, sir. Please come forward. I ask if
14 you would place your left hand on the bible and raise your
15 right hand as the Clerk administers the oath.

16 WARREN MCCALL, after being duly sworn, testified
17 as follows:

18 THE COURT: Come around and have a seat in the
19 witness chair. Watch your step. Pull up real close to
20 that microphone. Speak loudly, clearly and slowly in
21 order that we can hear everything that you've got to say,
22 and let's start with your full name.

23 THE WITNESS: Warren McCall.

24 DIRECT EXAMINATION

25 BY MR. REDMOND:

1 Q. And I guess I could say Deputy McCall. By whom are
2 you employed?

3 A. The Marlboro County Sheriff's Office.

4 Q. And how long have you been so employed?

5 A. Fifteen years.

6 Q. All right. And in that role were you asked to
7 deliver evidence to S.L.E.D. specifically on the 11th of
8 September 2013?

9 A. Yes.

10 MR. REDMOND: And if I may approach with State's 25;
11 that being the knife that is already in evidence.

12 BY MR. REDMOND:

13 Q. And to the best of your recollection is that the item
14 that you delivered to S.L.E.D. on the 11th of
15 September 2013?

16 A. Yes.

17 Q. And if I may approach one more time with what's in
18 evidence as Defense Exhibit Number Three. I'm going to
19 direct your attention to Page 26, and specifically, Item
20 Eight. Is Item Eight the knife that we've referred to as
21 State's 25?

22 A. Yes.

23 Q. And is that your signature reflected that you were
24 the one that delivered it to S.L.E.D.?

25 A. Yes.

1 Q. And pursuant to the policies of the Marlboro County
2 Sheriff's Office when you delivered it to S.L.E.D. was it
3 deposited within the normal course of business that you I
4 guess handle evidence like that?

5 A. Yes.

6 Q. Okay.

7 MR. REDMOND: Beg the Court's indulgence.

8 BY MR. REDMOND:

9 Q. And was the extent of your role in this case?

10 A. Yes.

11 Q. Please answer any questions the Defendant may have?

12 THE COURT: Do you have any questions of this
13 witness?

14 MR. DUPREE: No, sir.

15 THE COURT: Very good. You may step down. Thank
16 you, sir.

17 MR. REDMOND: Thank you, Your Honor. Yes, ma'am, you
18 may call your next witness.

19 MS. JOHNSON LEE: Thank you, Your Honor. State calls
20 Isaac Brand.

21 THE COURT: Please come forward, and I'm going to ask
22 you to place your left hand on the bible and raise your
23 hand as the Clerk administers the oath.

24 ISAAC BRAND, after being duly sworn, testified
25 as follows:

1 THE COURT: Come on over on this side. Come around
2 and have a seat in the witness chair right there. Pull up
3 real close to that microphone. Speak loudly, clearly and
4 slowly in order that we can hear everything that you've
5 got to say. And let's start with your full name, please,
6 sir.

7 THE WITNESS: My name is Isaac Brand.

8 THE COURT: Isaac Brand?

9 THE WITNESS: Yes, sir.

10 THE COURT: Very good.

11 DIRECT EXAMINATION

12 BY MS. JOHNSON LEE:

13 Q. Isaac, where do you live at?

14 A. 16 1/2 Amelia Street.

15 Q. Amelia Street?

16 A. Yes, ma'am.

17 Q. Thank you. Do you know the Defendant, Derrick
18 Dupree?

19 A. Yes, ma'am.

20 Q. How long have you known Derrick?

21 A. Ever since he was a baby.

22 Q. On Sunday, September 8, 2013, do you recall whether
23 or not you saw Derrick Dupree own that particular day?

24 A. Yes, ma'am.

25 Q. Where was that at?

- 1 A. To my house.
- 2 Q. Okay. Were y'all having something special at your
3 house?
- 4 A. No. It was his mother's birthday.
- 5 Q. His mother's birthday?
- 6 A. Yes.
- 7 Q. Were y'all having a party?
- 8 A. Something like a party.
- 9 Q. About what time was Derrick Dupree at your house?
- 10 A. Probably got there something like -- probably at
11 12:30 or 1:00, and he stayed to something like 3:00.
- 12 Q. Okay. What happened around 3:00?
- 13 A. He just left. Me and my old lady watched the
14 football game. He just left.
- 15 Q. Okay. Who was with him when he left?
- 16 A. Him and his girlfriend.
- 17 Q. Do you know her name?
- 18 A. It can't think of it.
- 19 Q. Kim?
- 20 A. Kim, yeah, Kim.
- 21 Q. Okay. Now, when Derrick was at your house at the
22 party for his mother did you see him eat or drink
23 anything?
- 24 A. Yeah, he drunk a couple of beers. I saw him swallow
25 a couple shots of liquor or something like that.

1 Q. Okay. Thank you, Isaac. Please answer any questions
2 that Mr. Dupree has?

3 THE COURT: Mr. Dupree, do you have any questions?

4 MR. DUPREE: Yes, sir. I just have one or two
5 questions.

6 CROSS-EXAMINATION

7 BY MR. DUPREE:

8 Q. Mr. Brand, you said you seen the defendant that day,
9 and he left around 3:30 that day?

10 A. Something like that.

11 Q. All right. Did -- I notice -- did you see the
12 defendant again later on that day when he was speaking to
13 his brother and his brother's girlfriend a little later
14 that day?

15 A. I don't remember that.

16 Q. Oh, okay.

17 MR. DUPREE: Not further questions, Your Honor.

18 THE COURT: Any redirect?

19 MS. JOHNSON LEE: No, Your Honor.

20 THE COURT: You may step down. Call your next
21 witness.

22 MS. JOHNSON LEE: Thank you, Your Honor. The State
23 calls Perry Williams.

24 THE COURT: Yes, sir. Please come around and place
25 your left hand on the bible and raise your right hand as

1 the Clerk administers the oath.

2 PERRY WILLIAMS, after being duly sworn,
3 testified as follows:

4 THE COURT: Please come around and have a seat in the
5 this witness chair over here. Watch your step. Have a
6 seat in that witness chair. Get close up to that
7 microphone. I'm going to ask that you speak loudly,
8 clearly and slowly in order that we can hear everything
9 that you've got to say. And let's start with your full
10 name, please, sir.

11 THE WITNESS: Perry Williams.

12 THE COURT: Say that again.

13 THE WITNESS: Perry Williams.

14 THE COURT: Perry Williams. Very good. I'm going to
15 ask that you speak up real loudly so everybody can hear
16 you.

17 DIRECT EXAMINATION

18 BY MS. JOHNSON LEE:

19 Q. Perry, where do you live?

20 A. I stay in Wallace off of Highway 177.

21 Q. What's your address there?

22 A. 4021 Highway 177.

23 Q. Do you know Derrick Dupree?

24 A. I met him. I really don't know him like that.

25 Q. You know who he is when you see him?

- 1 A. Yes, ma'am.
- 2 Q. Okay. Do you know Kadeem Hooks when you see him?
- 3 A. Yes, ma'am.
- 4 Q. Going back to September 8th of 2013, do you recall
- 5 seeing Derrick Dupree on that day?
- 6 A. Yes, ma'am.
- 7 Q. Do you remember approximately what time of day it
- 8 was?
- 9 A. I know it was in the late afternoon.
- 10 Q. In the late afternoon. What were you doing at the
- 11 time?
- 12 A. I was in the house watching the football game.
- 13 Q. Okay. Where was Derrick Dupree when you saw him?
- 14 A. He was standing out by my house.
- 15 Q. Okay. Standing where?
- 16 A. As I looked out the window he was standing there. He
- 17 was to the left to my window in the road part.
- 18 Q. Okay. Is this a dirt road or a paved road?
- 19 A. Dirt road.
- 20 Q. And he was just standing there?
- 21 A. Yes, ma'am.
- 22 Q. Was he where you could see out your window?
- 23 A. Yes, ma'am.
- 24 Q. And about how long did you see him standing there?
- 25 A. About four or five minutes.

1 Q. Did you see him leave?

2 A. Well, I came outside to feed my dogs and I spoke to
3 him. He spoke to me.

4 Q. When y'all spoke to each other what was said?

5 A. I just spoke to him.

6 Q. Okay. Just basically said hey?

7 A. Yes, ma'am.

8 Q. Okay. Did you see anybody come pick him up?

9 A. I think his girlfriend.

10 Q. And you know her name?

11 A. Kim.

12 Q. Okay. Do you recall what she was driving when she
13 picked him up?

14 A. It was a Buick.

15 Q. A Buick, okay. Now, did she come down that same dirt
16 road?

17 A. Yes, ma'am.

18 Q. Okay.

19 MS. JOHNSON LEE: Permission to approach?

20 THE COURT: Yes.

21 BY MS. JOHNSON LEE:

22 Q. I'm going to show you what's in evidence as State's
23 Exhibit 39.

24 MS. JOHNSON LEE: Could I have the witness step down?

25 THE COURT: Yes, you may.

1 BY MS. JOHNSON LEE:

2 Q. In you would come down here and stand to the side
3 where we can see it good. All right. Do you see up here
4 at the top where there is a pin that says, 'Wilbert
5 Washington observe Dupree? Kim Manse' vehicle, Perry
6 Williams' residence'. Can you show the jury where the
7 road that goes by your house that you're referring to? I
8 know there are a lot of trees there. Can you point it
9 out?

10 Okay. Let me ask you this. The little -- right
11 here, do you see this little road coming right here?

12 A. Yes, ma'am.

13 Q. Do you know whose house that is that is behind yours?
14 Who lives behind you? Whose backyard backs up to your
15 house?

16 A. Somebody stay in front of me from the road. Don't
17 nobody stay in the back of me.

18 Q. Okay. Who stays in front of your from the road?

19 A. Melvin.

20 Q. Melvin?

21 A. McQueen.

22 Q. Melvin McQueen. Okay. Turn and face the jury if you
23 don't mind. Melvin McQueen. And what road does Melvin
24 McQueen face?

25 A. Highway 177.

1 Q. Okay. So would this be Highway 177 here?

2 A. Yes, ma'am.

3 Q. Okay. Now, if Melvin McQueen lives behind you or in
4 front of you facing Highway 177 would this be the road
5 that cuts around by your house? All right. If this is
6 Highway 177 and if your residence is right back here would
7 the dirt road that cuts through the trees be the one that
8 come by ---

9 A. Yes, ma'am.

10 Q. By Melvin' house and up by your house?

11 A. Yes, ma'am.

12 Q. Okay. And if your house was over here in the trees
13 where was Derrick Dupree standing in relation to this
14 roadway?

15 A. He was standing right there in front of my window.

16 Q. You can point to it on here if you can. Kind of in
17 the middle of the road or the side of the road?

18 A. He was standing in the road.

19 Q. Okay. And the vehicle that Kim drove when she came
20 to pick him up did it come this way off of 177 or did it
21 come this way off of this other road?

22 A. 177.

23 Q. It came off of 177. Okay. Did you see where that
24 vehicle went to?

25 A. Ma'am?

1 Q. Did you see where that vehicle went to?

2 A. No, ma'am.

3 Q. All right. Thank you. You can have a seat. Now, at
4 some point did somebody from the Marlboro County Sheriff's
5 Office come and talk to you about a case that they were
6 working on -- regarding an incident that occurred on
7 September 8th?

8 A. No, ma'am.

9 Q. Okay. Did somebody from the Sheriff's Office at some
10 point come to you and give you a description of someone to
11 see if you knew that person?

12 A. No, ma'am.

13 Q. Okay. Do you recall talking to Britney English of
14 the Marlboro County Sheriff's Office at any point?

15 A. I talked to him that day the crime had happened, yes,
16 ma'am.

17 Q. Okay. About what time of day did you talk to Britney
18 English?

19 A. It was probably about 6:00, 7:30.

20 Q. Okay. And this is after or before you saw Derrick
21 Dupree on your roadway?

22 A. After.

23 Q. Okay. Now, what did Britney English ask you?

24 A. He just asked me did I know anybody who fit the
25 description of his height and weight and whatever.

- 1 Q. Okay. But a particular height and weight?
- 2 A. Yes, ma'am.
- 3 Q. Okay. Did you gave a name?
- 4 A. Yes, ma'am.
- 5 Q. What name did you give Britney English?
- 6 A. Kadeem Hooks.
- 7 Q. Did you know what crime had been committed at the
- 8 time?
- 9 A. No, ma'am.
- 10 Q. Now, at some point later did you find out what crime
- 11 had been committed?
- 12 A. Yes, ma'am.
- 13 Q. Did you at some point share the information about
- 14 Derrick Dupree being on the road by your house?
- 15 A. No, ma'am.
- 16 Q. Okay. Did you ever go talk to somebody in law
- 17 enforcement of the Sheriff's Office and say, "Derrick
- 18 Dupree was standing in the road by my house?"
- 19 A. Yes, ma'am.
- 20 Q. Okay. Do you remember who you told that to at the
- 21 Sheriff's Office?
- 22 A. I think it was Fred Knight.
- 23 Q. Okay. Did you also go and talk to Britney English
- 24 again?
- 25 A. Yes, ma'am. He was there.

1 Q. Okay. And do you know if you talked to Susan
2 Alderman?

3 A. Yes, ma'am.

4 Q. Okay. Now, did you go on one occasion or two
5 occasions to the Sheriff's Office?

6 A. Two.

7 Q. Okay. Now, on both of these occasions did you give
8 that same information?

9 A. Yes, ma'am.

10 Q. All right. At this point in time answer any
11 questions Mr. Dupree has for you. Thank you, sir.

12 THE COURT: Mr. Dupree, any questions?

13 MR. DUPREE: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. DUPREE:

16 Q. Mr. Williams, Mr. Perry Williams, you said that you
17 spoke to Britney English on the date of the incident?

18 A. Yes, sir.

19 Q. You said that he was -- presented to you a paper? A
20 description of ---

21 A. No, he asked me do I know anybody who fit his
22 description, his height and size, and I said Kadeem Hooks.

23 Q. He asked you who fit who description, his?

24 A. Yeah, his description.

25 Q. Why did you say Kadeem Hooks?

1 A. That's the only person I know who fit the
2 description.

3 Q. All right. Mr. Williams, do you have a conviction on
4 record?

5 A. Yes, I do.

6 Q. Before I get into that let me ask you how close are
7 you and Kadeem Hooks?

8 A. It's an old time friend.

9 Q. Old time friend. Y'all not somewhat related, are
10 you?

11 A. No, sir.

12 Q. But y'all hang together on a regular?

13 A. No, not like that.

14 Q. Not like that?

15 A. No, sir.

16 Q. Do Kadeem stop by your house and ever come to your
17 house and y'all hang out under the tree or something like
18 that in that area?

19 A. Not on a daily basis.

20 Q. Not on a daily basis. How well do you know the
21 Defendant, Mr. Dupree?

22 A. Not long.

23 Q. Do that defendant come to your house and be with you
24 on a daily basis?

25 A. No.

1 Q. Have he ever came to your house and been with you on
2 occasion?

3 A. Not much. Probably one or two times.

4 Q. Okay. Mostly -- what I'm trying to get at is most of
5 the time that day you saw Mr. Dupree can you tell me where
6 you saw Mr. Dupree at?

7 A. Just saw you driving past when I saw you.

8 Q. Did Dupree have somebody in that area that he may
9 have been around on a daily basis or somewhere sometime
10 come through?

11 A. My cousin.

12 Q. I didn't hear you.

13 A. My cousin.

14 Q. What is his name?

15 A. Well, I call him Big Head. I this his name is
16 Calvin.

17 Q. Calvin. Now, I'm going to ask you -- get into
18 convictions. You said that you have a convictions on
19 record?

20 A. Yes, I do.

21 Q. I'm going to ask that you give me just a good bit --
22 a few of your convictions?

23 A. I got convicted -- my first conviction was in 2000 in
24 Cheraw, South Carolina for possession of crack.

25 Q. Was that the only one, sir?

1 A. No, it wasn't.

2 Q. Just give me just a few of them or some of your
3 convictions?

4 A. I had one more for -- it was a controlled substance
5 buy in 2011.

6 Q. Them was the only two convictions you had?

7 A. Yes, sir. And misdemeanor trespassing.

8 MR. DUPREE: No further questions, Your Honor.

9 THE COURT: Any redirect?

10 MS. JOHNSON LEE: Just a couple of questions.

11 REDIRECT EXAMINATION

12 BY MS. JOHNSON LEE:

13 Q. Do your convictions have anything to do with this
14 case?

15 A. No, ma'am.

16 Q. All right. Thank you?

17 MS. JOHNSON LEE: I have no further questions.

18 THE COURT: You may step down. You may call your
19 next witness.

20 MS. JOHNSON LEE: Lisa Hunt.

21 THE COURT: Yes, ma'am. Please come forward. I'm
22 going to ask you to stand in front of the Clerk, place
23 your left hand on the bible and raise your right hand as
24 the Clerk administers the oath.

25 LISA HUNT, after being duly sworn, testified as

1 follows:

2 THE COURT: Please come around. Watch your step.
3 Have a seat in that witness chair. Pull up real close to
4 that microphone. Speak loudly, clearly and slowly in
5 order that we can hear everything that you've got to say.
6 Let's start with your full name, please, ma'am.

7 THE WITNESS: Lisa Hunt.

8 THE COURT: Let's pull up a little closer to that
9 microphone. Very good. Speak loudly.

10 THE WITNESS: Lisa Hunt.

11 THE COURT: There you go.

12 DIRECT EXAMINATION

13 BY MS. JOHNSON LEE:

14 Q. Lisa, where do you live at?

15 A. I live 1617 Hickory Road in Bennettsville.

16 Q. Okay. Do you know Perry Williams who just left out
17 of here?

18 A. Yes, ma'am.

19 Q. How do you know him?

20 A. He's my brother.

21 Q. Okay. The house where he resides have you been to
22 that home before?

23 A. Yes, ma'am. That's my mother's residence.

24 Q. That's your mom's residence. What is her name?

25 A. Miss Betty Jean Williams.

1 Q. And how old is Miss Betty Jean?

2 A. Seventy-six.

3 Q. Seventy-six?

4 A. Um hum.

5 Q. Now, on September 8th of 2013 did anybody reside with
6 your mother besides your brother, Perry?

7 A. No, ma'am.

8 Q. Okay. Going back to September 8th -- and let me ask
9 you first. Do you know the Defendant, Derrick Dupree?

10 A. Not really.

11 Q. Do you know his name or would you have known his name
12 before today?

13 A. Just Derrick.

14 Q. Okay. Now, going back to September 8th 2013, which
15 was a Sunday, do you recall where you were at that
16 particular day?

17 A. No, ma'am.

18 Q. Okay. And then what about the next couple of days,
19 Monday or Tuesday? Did something happen on one of those
20 days that comes to mind?

21 A. On Monday. Monday evening.

22 Q. And so, Monday, that would have been September the
23 9th 2013?

24 A. Yes, ma'am.

25 Q. All right. What happened on that date that stands

1 out in your mind?

2 A. That day I was down at my mother's house. I was
3 sitting there and talking to her.

4 Q. Okay. Stop right there. Did you have a car over at
5 the house?

6 A. No, ma'am.

7 Q. Would anybody have known you were at that house if
8 they hadn't seen you walking in?

9 A. No, ma'am.

10 Q. Okay. All right. About what time were you at your
11 mom's house?

12 A. Between 4:00 and 4:30.

13 Q. Okay. And what happened between 4:00 and 4:30?

14 A. I was standing at the window at my mother's residence
15 and I seen Kim's four door car, gold Buick, going down the
16 road. So I said, "Mom, that looks like Kim's car." And
17 so the car started slowing down. Then I looked at the
18 back kitchen window I had seen Kim car down to Wilbert's
19 house.

20 So I looked out the kitchen window and I seen Kim got
21 out the car. She went on the porch and a little girl had
22 came outside. So I went and sat back down with my mother.
23 About five minutes later here go Kim daughter, Kim and
24 Derrick walking up to my mother's house.

25 Q. Were they invited in?

1 A. No, ma'am.

2 Q. Were -- did your mother appeared shocked to see these
3 three people just walking into her house?

4 A. Yes, ma'am.

5 Q. Were you shocked that these three people just came
6 walking inside?

7 A. Yes, ma'am.

8 Q. What did you say when they just came walking into the
9 house?

10 A. When they got there Catora came -- she had came --
11 she said, "Tell Kim what Derrick had did." So I had told
12 her. I had told her that ---

13 MR. DUPREE: Your Honor, may I object, Your Honor,
14 for relevance.

15 THE COURT: I'll sustain the objection for other
16 reasons.

17 BY MS. JOHNSON LEE:

18 Q. Don't say anything that Catora or Kim said in the
19 house?

20 A. Yes, ma'am.

21 Q. Okay. All right. So Catora said something inside
22 the house?

23 A. Yes, ma'am.

24 Q. Did you respond to her?

25 A. Yes, ma'am.

1 Q. What did you say?

2 A. I said, "Well, I found out that Derrick was the one
3 that raped that old lady."

4 Q. You said, "Derrick was the one that raped that old
5 lady?"

6 A. Um hum.

7 Q. Okay. Did anybody else say anything? Without saying
8 what they said, did anybody else say anything at that
9 point?

10 A. No, ma'am.

11 Q. Okay. At any point in time did you ask these three
12 individuals to leave the house?

13 A. Yes, ma'am, I did.

14 Q. Did they live when you first asked them to leave?

15 A. No, ma'am.

16 Q. Did Derrick say anything inside the residence?

17 A. Yes, ma'am.

18 Q. What did Derrick say?

19 A. Derrick said, "What I look like raping that old lady.
20 I did not rape that old lady".

21 Q. How many times did you and your mother ask them to
22 leave the home?

23 A. Four times.

24 Q. Okay. And how long was it before they finally left
25 the home after repeatedly being asked to go?

1 A. It was about 15 or 20 minutes.

2 Q. Okay. And without saying what anybody said at this
3 time were conversations going on with Kim and Catora?

4 A. Just with Kim.

5 Q. Just ask Kim. And Kim would be Derrick Dupree's
6 girlfriend?

7 A. Yes, ma'am.

8 Q. At the time that they were at the house do you have
9 any knowledge where your brother, Perry, was at?

10 A. He was at the police department.

11 Q. Okay. Would that be at the Marlboro County Sheriff's
12 Office?

13 A. Yes, ma'am.

14 Q. Okay. All right. So do you know if anybody else was
15 with you brother, Perry, at the Sheriff's Office giving
16 statements at that time?

17 A. Wilbert.

18 Q. Wilbert. And what is Wilbert's last name?

19 A. Harrington.

20 Q. And who is he in relation to you?

21 A. That's my nephew.

22 Q. Your brother and your nephew were at the Sheriff's
23 Office giving statements. Without saying what they were
24 going to tell what's your understanding why they were
25 there? Was it about this case?

1 A. Yes, ma'am.

2 Q. Okay. So they're there to give statements on this
3 case, and Derrick, his girlfriend and her daughter just
4 walk into your mother's house unannounced?

5 A. Yes, ma'am.

6 Q. And, again, no car or anything at the house where
7 anybody would know that you were there with your 76 year
8 old mother?

9 A. Yes, ma'am.

10 Q. And if you weren't there she would have been alone?

11 A. Yes, ma'am.

12 MR. REDMOND: Beg the Court's indulgence.

13 BY MS. JOHNSON LEE:

14 Q. Just one last question. Did you ever tell Derrick,
15 his girlfriend or her daughter that your brother and
16 nephew were at the Sheriff's Office?

17 A. No, ma'am.

18 Q. Did they indicate, without saying what they said, did
19 they indicate that they were aware that your brother and
20 nephew were either going to the Sheriff's Office or were
21 at the Sheriff's Office?

22 A. No, ma'am.

23 Q. Thank you, ma'am. Answer any questions Mr. Dupree
24 has.

25 THE COURT: Mr. Dupree, do you have any questions?

1 MR. DUPREE: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. DUPREE:

4 Q. Miss Hunt, you said what day it was that the
5 defendant and his wife and I guess daughter walked into
6 your mother's house unannounced?

7 A. It was September the 10th I think. That following
8 Monday.

9 Q. So that wasn't Monday. That was Tuesday, correct?

10 A. No, sir.

11 Q. On September 10th was on a Tuesday?

12 A. Well, I really can't remember what the date was, but
13 I know it was that Monday.

14 Q. And you said that the defendant and his wife did walk
15 into your mother's house unannounced. Can you -- like, I
16 don't know. I'm trying to understand what are you saying
17 by they walked into your mother's house unannounced. Can
18 you explain to me what you mean by they walked into your
19 mother's house? What reason would they have to walk into
20 your mother's house unannounced?

21 A. What reason?

22 Q. Yeah.

23 A. I mean you just came straight on in there without my
24 momma saying, 'just come on in'.

25 Q. I mean was there any -- any rumor at that time

1 floating around at your mother's house with Catora, which
2 is Kim's daughter, was there any rumor? Was Catora at
3 your mother's house earlier that day?

4 A. Not that I know of.

5 Q. So you can't remember if she was there earlier that
6 day talking to Perry?

7 A. I don't know cause I wasn't there.

8 Q. So can you tell me who informed Catora Mance which is
9 Kim's daughter that -- which is the nephew or cousin -- I
10 think nephew that your brother, Perry, and Wilbert
11 Harrington was going to the Sheriff's Department in
12 Bennettsville to state that they saw Derrick Dupree that
13 day. Do you know who gave Catora Mance that idea -- that
14 information?

15 A. No, sir, I don't.

16 Q. So you don't know how she could have had received
17 that information?

18 A. No, sir, I don't.

19 Q. But you did say that Derrick and -- when they came
20 into your mother's house what was said?

21 A. Catora asked me to tell -- to tell that, you know,
22 what you had did.

23 Q. Repeat that again, ma'am.

24 A. Catora asked me to tell Kim to -- what you had did.

25 Q. So she told you to tell Kim what I had did?

1 A. Um hum.

2 Q. So did you tell Kim what I had done?

3 A. I told Kim that I found out that you was the one that
4 raped that old lady.

5 Q. Can you tell me how you found that out?

6 A. My nephew, Wilbert, had called me and told me about
7 it.

8 Q. Okay. So for Dupree to come to your house
9 unannounced for no reason; have he ever come to your
10 mother's house unannounced?

11 A. Excuse me. Repeat that question again.

12 Q. First, I'm asking has Dupree every come to your
13 mother's house unannounced?

14 A. No.

15 Q. And you said Perry is your brother. So Perry stay at
16 this house, too, correct?

17 A. Yes, he does.

18 Q. What reason would Dupree come to your mother's house
19 unannounced if it wasn't a statement made that was related
20 to Mr. Dupree? Because you just said you did tell Catora
21 Mance that you heard that Mr. Dupree the one who raped
22 that woman -- I mean the victim?

23 A. Well, we found out that, you know, that, you know,
24 you was the one that did it.

25 Q. You said that the defendant was the one. How did you

1 find out? What did you find out? Tell you tell me,
2 explain to me what did you find out?

3 A. All I know was my nephew had called and told me about
4 it.

5 Q. Say that again?

6 A. All I know is my nephew, Wilbert, had called me and
7 told me about it.

8 Q. Can you tell me, if you can remember, what he had
9 said?

10 A. He had told me that you had told him that you had
11 ejaculated inside that lady.

12 Q. And he did indicate that it was that lady?

13 A. Yes. Yes.

14 Q. And he told you this -- was this supposed to be
15 before the 10th or on the 10th?

16 A. Excuse me. Repeat that again.

17 Q. I'm saying that he told you that, I'm guessing, he
18 told you this on the 10th or before the 10th?

19 A. I don't remember the date, but I remember that Sunday
20 he had called and told me about it.

21 Q. Okay. And -- cause I was curious. Mr. Wilbert
22 Harrington didn't say that at that time. So, but, anyway,
23 Miss, do you know Kadeem Hooks?

24 A. Yes, I do.

25 Q. Do you know him well?

- 1 A. Not that well.
- 2 Q. Can you repeat that, please?
- 3 A. Not that well.
- 4 Q. Do he -- do Kadeem Hooks hang around any of your
5 family members? Brother? Cousins? Nephews?
- 6 A. Yes, he hangs around with my brother, Perry.
- 7 Q. He do hang around with your brother, Perry?
- 8 A. Yes.
- 9 Q. Do they hang around often? Are they very close?
- 10 A. Not that close, but he do come around a little often.
- 11 Q. He do come around a little often?
- 12 A. Yes.
- 13 Q. Miss Hunt, and you said that you do know this
14 defendant, Derrick, but not that well?
- 15 A. No, sir. Yes, sir. I don't know you.
- 16 Q. Is it possible that throughout the little bit that
17 you know about the defendant that you could of have maybe
18 gained some type of animosity against the defendant or
19 anything like that?
- 20 A. No, sir.
- 21 Q. It's no way you that could of have gained any type of
22 animosity against the defendant?
- 23 A. No, sir.
- 24 Q. Can I ask you a question? Do you know a guy by the
25 name of Mike?

1 A. Yes, I do.

2 Q. Can you tell me how you know Mike? What type of
3 relationship or relation you have with Mike?

4 A. He's a friend of the family.

5 Q. He's a friend of the family. Do -- I'm asking like
6 do -- is he a friend of the family or friend of you?

7 A. He's a friend of me and my family.

8 Q. Okay. Do you recall -- let me question you a
9 question. Where do this guy, Mike, work?

10 A. He works for the County.

11 Q. He works for the County?

12 A. Marlboro County.

13 Q. Can you tell me what he do?

14 A. No, I can't.

15 Q. Well, he -- is it -- he transfer -- transports
16 inmates to do community service or something like that?

17 A. Yes, sir.

18 Q. Did you see the defendant with this guy, Mike,
19 before?

20 A. No, I didn't.

21 Q. You've never seen the defendant with this guy, Mike,
22 before?

23 A. No, sir.

24 Q. Have you ever approached this defendant, Mr. Derrick
25 Dupree? Have you ever approached this defendant and asked

1 him did he tell Mike -- did he tell your friend, Mike,
2 that you were jumping in cars and messing with other guys?
3 Have you ever approached this defendant and asked him this
4 question?

5 A. No, sir.

6 Q. You never approached the defendant and asked him that
7 question?

8 A. No, sir.

9 Q. And you have no reason to have any type of animosity
10 to the defendant to, I guess, assume something or make an
11 assumption or something up? But you have no animosity
12 toward the defendant?

13 A. No, sir.

14 MR. DUPREE: No further questions, Your Honor.

15 THE COURT: Any redirect?

16 MS. JOHNSON LEE: No, Your Honor.

17 THE COURT: You may step down. You may call your
18 next witness.

19 MR. REDMOND: The State would next call Wilbert
20 Harrington.

21 THE COURT: Yes, sir. Please come forward and place
22 your left hand on the bible and raise your right hand as
23 the Clerk administers the oath.

24 WILBERT HARRINGTON, after being duly sworn,
25 testified as follows:

1 THE COURT: Come around and have a seat in the
2 witness chair. Watch your step. Have a seat in the
3 witness chair. Pull up close to that microphone. Speak
4 loudly, clearly and slowly in order that we can hear
5 everything that you've got to say, and let's start with
6 your full name.

7 THE WITNESS: My name is Wilbert Lee Harrington, Jr.

8 MR. REDMOND: May it please the Court, Your Honor.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION

11 BY MR. REDMOND:

12 Q. Mr. Harrington, where do you reside at this time.

13 A. I'm in Rockingham.

14 Q. Okay. Rockingham, North Carolina?

15 A. Yeah.

16 Q. And are you related to Perry Williams and Lisa Hunt?

17 A. Yeah, my aunt and my uncle.

18 Q. And, Kadeem Hooks, is he your cousin?

19 A. Yeah.

20 Q. Okay?

21 A. I'm related to him down the line.

22 Q. Okay. Down the line. I was going to ask you.

23 First? Second?

24 A. Third. Like third or something like that.

25 Q. Just to make sure that's clear. Now, is your uncle

1 nicknamed Cocker?

2 A. Cocker?

3 Q. Yes.

4 A. I call him Cocky.

5 Q. Cocky. Yeah, Cocky.

6 A. Yeah, we say Cocky.

7 Q. Okay. All right. And let me ask you this. Do you
8 know the Defendant, Derrick Dupree?

9 A. Yes.

10 Q. Okay. And how long had you known the defendant prior
11 to September 8th 2013?

12 A. A couple of weeks. Close to a month. Just that I
13 didn't really know him.

14 Q. Okay. And if I could get you to speak up. Your kind
15 of soft spoken.

16 A. I didn't really know him like that.

17 Q. Okay. Now, on the 8th of September 2013 -- and I
18 didn't ask you this. Where were you on the 8th of
19 September 2013? Where were you at when you first saw the
20 defendant?

21 A. I was at my cousin them house, and it was around like
22 4:00. Something around 4:00 or 5:00 when I seen him. I
23 saw him coming across the bushes, tall bushes. It was
24 supposed to be a path. Path right beside the bushes, but
25 he didn't walk in the path. He walked in the bushes. So

1 I know something was wrong then. I never saw anybody walk
2 through the bushes like that.

3 Q. Okay. So let me be clear on this. So the bushes, he
4 didn't walk on the dirt path or anything. He walked
5 through some bushes?

6 A. Through the bushes. Everybody walks on the path.
7 You can see it cut out, but he didn't. He walk through
8 the bushes. Everybody and anybody don't walk that way.

9 Q. All right. And do you recall when you -- when you
10 saw him do you recall how -- how would you describe him
11 when you saw him?

12 A. He was kind of like sweaty like he was kind of like
13 sweaty.

14 Q. All right. Now, tell me -- well, before I get into
15 what y'all did that day did you -- let's go forward a
16 little bit as it relates to you talking to law
17 enforcement. At some point did you talk to law
18 enforcement I think around the 10th of September and tell
19 them what you're about to testify to?

20 A. Yes, sir.

21 Q. And how did it come about that you ended up going to
22 the Sheriff's Office?

23 A. Well, my aunt, Lisa, and my aunt [sic], Perry, so he
24 told me, "I think he did it. You think he did it?" I
25 said, "Yeah, he told me that he raped somebody. He didn't

1 stop. He just ejaculated all in her." He said, "They're
2 going to get my D.N.A. and all that stuff." So that next
3 day I heard somebody got raped, and he told me a story
4 like that. I just decided I think he did it, too. So I
5 called the police.

6 Q. Okay. And we'll get into that in a little bit more
7 detail. So, now -- so, you had talked with law
8 enforcement? You went down. Did you go down to the
9 Sheriff's Office ---

10 A. Yes, sir.

11 Q. --- and gave a statement?

12 A. Yes. They came and got me and I told them the story
13 he told me.

14 Q. All right, was Perry with you at the time?

15 A. Yeah.

16 Q. And if I could get you to speak louder and try to
17 keep your voice up. I think you're naturally ---

18 A. Yeah, he came down there with me.

19 Q. Okay. Now, let's go back to the 8th of September
20 2013. And let's pick it up at the point that you saw him
21 walking through the high bushes. From that point tell us
22 what -- I guess what the defendant did and what you
23 observed the defendant doing at that time?

24 A. I seen him through the bushes. He came it where we
25 were, me and my cousins were, sitting on the porch. And

1 he asked for a cigarette. He asked for a cigarette. So I
2 told him I was fin to walk to my cousin Mary's house. And
3 we walked down the dirt road. Went to her house and, he
4 went inside on got on the phone, used my cousin's phone.
5 I was standing outside when I was looking through the
6 window looking at him calling his girlfriend, you know, my
7 cousin, Kim.

8 And he came back out the house and he went inside my
9 cousin's trash can, and then he told me he did something
10 real stupid, you know. I said, "What you did, man."

11 Q. All right. Now, and when he said he did something
12 real stupid, and I need you and if you could talk a little
13 slower and as loud as you can. Tell the jury exactly what
14 the defendant told you at that time?

15 A. He said, "I did something stupid, man. I did
16 something real stupid." I said, "What you did." He said,
17 "I messed with the girl, man, this woman. He said the
18 girl or the woman. And said, "I messed with the girl and
19 woman, man. And she told me to stop, I did just, you
20 know, N-U-T-T-E-D all in her and ---

21 Q. Did you say, and just to be clear so everybody is
22 clear. And I appreciate the fact that you don't want to
23 curse, but did you say, '-N-U-T-T-E-D' in her?

24 A. Yeah, he said, "Nuttled all in her." That's what he
25 told me just like that.

1 Q. Now, did he say at that time that he had -- that this
2 was Miss [REDACTED] and elderly lady, or did he say ---

3 A. He said, "That girl named Kiara." He took about
4 three or four minutes to pause and thought about it and he
5 said, "The girl named Kiara." I said, "Kiara from
6 Cheraw." He said, "Yeah." He said, "What about the
7 D.N.A." I said, "I don't know. I don't know what you
8 did, man." And the next day I heard somebody got raped
9 for real. I said ...

10 Q. All right. I'm going to ask you to repeat that from
11 the beginning. Your voice was trailing off in the end.
12 It's not your fault. The acoustics in here are horrible.
13 If you could slow down and repeat what you just told us?

14 A. I told them -- he told me he said he did something
15 real stupid. He said, "I did something stupid, man." And
16 he said for the third time, "I did something real stupid."
17 And I told him what he did, and he said -- he paused up
18 and said, "I met this girl or woman, but I just nutted all
19 in her." I was like, you know, I felt strange.

20 And I said, "Who," and he said, "In all about three
21 or four minutes. The girl named Kiara." I said, "Who?
22 The girl named Kiara from Cheraw," and he said, "Yeah."
23 And he said, "What about the D.N.A? You think they're
24 going to get my D.N.A, man." He had a smile and a grin on
25 his face. And then he walked away.

1 Then he went by my grandma's house and he stood by my
2 grandma's window. Then my Uncle Perry, he said, "He's
3 standing by the window."

4 Q. Okay. Now, let me ask you this just for full
5 disclosure. You have a criminal record, don't you?

6 A. Yeah.

7 Q. All right. And were you I guess arrested and
8 incarcerated for drugs a few years ago?

9 A. About four years ago.

10 Q. Okay. And I see you've got on what looks like a work
11 outfit. Are you working and gainfully employed?

12 A. Yeah, working on houses. Fixing houses.

13 Q. All right. Does that conviction that you had a few
14 years ago have anything to do with you telling the truth
15 about what you saw and heard from the defendant?

16 A. I'm just telling the truth what he told me.

17 Q. And could you repeat that?

18 A. I'm just telling the truth what he told me.

19 MR. REDMOND: Beg the Court's indulgence.

20 BY MR. REDMOND:

21 Q. If I could just ask you to step down real briefly.
22 This State Exhibit Number 39, if you could step down. And
23 I want you to stand right next to -- if I can ask you to
24 take a look at that, now. This is an aerial view, but do
25 you see how it's marked as it relates to different places.

1 And I want you to turn to the side so the jurors can
2 actually see. All right. Now, when we see Perry
3 Williams' residence and we see where you observed Dupree.
4 And it says, 'Washington' but it should say Harrington
5 where you observed Dupree. Whose house is that where it
6 says, 'Williams'?

7 A. The field.

8 Q. Okay. And, the field, show me if you can the field
9 that you were referring to that he was walking in? And if
10 you could speak a little bit louder.

11 A. Like to the right. All the way to the right in the
12 bushes where the path is down.

13 Q. And, again, is that a path people commonly go
14 through?

15 A. Yes, commonly go through.

16 Q. But the bushes, do people normally go through those
17 high bushes?

18 A. That was the first time I see somebody go through the
19 bushes.

20 Q. Okay. And where Perry Williams lives who else lives
21 there?

22 A. Perry and his grandma. Hie grandma, Perry and her
23 other son, older son.

24 Q. You can have a seat. And just to be clear. Is there
25 any doubt in your mind that the defendant told you what he

1 had done?

2 A. Yes, sir, he told me.

3 Q. And once you heard about what had happened to
4 Miss **LT** did you then contact law enforcement based
5 upon what the defendant had told you?

6 A. Not that day, but the next day.

7 Q. Okay.

8 A. The next day I heard about it and seen it on the
9 news, and my uncle and my aunt told me. They pushed me up
10 to, you know, contact the police or something. So I said
11 I might as well go on and contact them. I think he did
12 it, too.

13 Q. Okay. Let me get you to speak up. One more time?

14 A. He told me the story like the day before, but I got
15 on the phone and called the police and told the police.

16 Q. All right. And, again, did you actually go down
17 there and give a statement outlining what you actually
18 saw?

19 A. Yes, sir, I told them.

20 MR. REDMOND: Beg the Court's indulgence.

21 BY MR. REDMOND:

22 Q. Please answer any questions the Defendant may have.

23 THE COURT: Mr. Dupree, you're recognized.

24 MR. REDMOND: Your Honor, I forget to ask one thing
25 based on the tape, and I apologize.

1 BY MR. REDMOND:

2 Q. Did you have any role whatsoever -- we heard other
3 testimony -- other evidence earlier, and just to be clear
4 did you have anything at all to do with this rape and home
5 invasion against Miss LT [REDACTED]

6 A. No, sir.

7 Q. Okay. Please answer any questions.

8 THE COURT: Mr. Dupree.

9 CROSS-EXAMINATION

10 BY MR. DUPREE:

11 Q. Mr. Williams, you said that your Aunt Lisa pushed you
12 up to go and say that the defendant committed a crime or
13 you believed that the defendant committed a crime?

14 A. Well, she, like I said, she told me and my uncle told
15 me. So I decided to get on the phone and call the police.
16 But you did told me all that the date before you did it.

17 Q. Okay.

18 MR. REDMOND: If I can get him to repeat again. It's
19 hard to hear from here. The acoustics.

20 THE COURT: Speak up. Speak up so the gentlemen in
21 the front row can hear you.

22 THE WITNESS: Yeah, I did talk to them. She talked
23 to them and my uncle, Perry, had talked to me about it.
24 And I got on the phone and called the police.

25 BY MR. DUPREE:

1 Q. Okay. So you never did you ever call your Aunt Lisa,
2 Miss Hunt, and tell whoever -- call her by phone and tell
3 her that you believe the defendant, Derrick Dupree, did
4 commit a crime on 8th -- on 9/8/2013?

5 A. Yes, I did.

6 Q. You did?

7 A. I said I think he did it, too.

8 Q. I'm sure -- I was asking you not when she stated
9 that, you know, you believe that she did it. I said did
10 you call her before she told you to go and say that the
11 defendant did it? Did you call any time before then and
12 tell her that you think that Derrick Dupree committed the
13 crime?

14 A. Well, I that -- about six o'clock I talked to her.

15 Q. Where was she when you talked to her?

16 A. She was gone. I don't know where she was. To her
17 grandma house or she was home. I was in Rockingham. I
18 couldn't say where she was.

19 Q. But you talked to her by phone?

20 A. Yeah, on my phone.

21 Q. And what did you tell her when you spoke to her by
22 phone?

23 A. What did I tell her?

24 Q. Yes, sir.

25 A. Like I told you I told her that I think he did it,

1 to. Only thing I knew.

2 Q. You keep saying that you saying that you think he did
3 it, too. Did you -- I'm saying she did already know the
4 defendant?

5 A. She told me to get on the phone and call the police,
6 too.

7 Q. Well, I'm asking you?

8 A. That's the only part I know. I don't know nothing
9 else.

10 Q. Okay. So you don't recall calling her and telling
11 her that -- before she even knew about the crime you never
12 called her and told her that Derrick Dupree committed this
13 crime?

14 A. Yeah, I told her what all you told me.

15 Q. Okay.

16 A. You raped somebody, and that's what I told them the
17 same thing what you told me. The same thing what you told
18 me.

19 Q. Okay. And that's when her ---

20 A. I got on the phone and called the police and told
21 them.

22 Q. Okay.

23 A. I told them what you told me. I told them all that
24 out your mouth.

25 Q. Okay.

1 MR. REDMOND: Could he repeat that one more time?

2 THE WITNESS: What you told me out your mouth.

3 BY MR. DUPREE:

4 Q. Okay. I understand you want to repeat, but did the
5 defendant tell you that he raped Miss LT [REDACTED]

6 A. Who?

7 Q. Did the defendant tell you that he raped Miss LT [REDACTED]
8 [REDACTED] or an older woman or anything of that nature?

9 Where you just told what the defendant told you; that he
10 said he was with a girl here from Cheraw and somewhat.

11 And that he messed around with her and somewhat he left
12 some D.N.A. up in her. Is that what you told the police?

13 A. Yeah, you told me that. You told me the girl and the
14 woman.

15 Q. So he told you a girl -- he told you a girl and a
16 woman?

17 A. Yeah.

18 Q. Earlier you just said a girl, and now he told you a
19 girl and a woman?

20 A. You said a girl and a woman.

21 Q. That's what you said? Okay.

22 A. You did say a girl or a woman at one time. You said
23 a girl or a woman at the same time. Girl or woman; that's
24 what you told me. I remember the girl ---

25 Q. But what ---

1 A. She told me to stop, but I ain't stop. Nutted all in
2 her, and I'm telling you what you told me. And about the
3 D.N.A; that came out of Derrick Dupree's mouth. That's
4 what you told me.

5 Q. What I'm saying is I'm referring to a Kiara?

6 A. Cheraw -- I said, "Kiara from Cheraw," and you said,
7 "Yeah --

8 Q. That's all I'm asking. I was just trying to get a
9 further understanding, sir, cause I through maybe I know
10 they interviewed you again on the 12th. And it sounded
11 like your statement had sort of like changed on the 12th
12 where you said that the defendant said he raped two
13 people. He raped two women.

14 I don't understand like you saying now that he was
15 with a girl or a woman named Kiara from Cheraw, but after
16 the defendant was arrested they -- I understand that they
17 interviewed you again on the 12th which was the day after
18 the defendant's arrest which you stated in the video
19 statement that the defendant told you that he raped a
20 woman and a girl.

21 I was -- can you explain why your statement is
22 changing?

23 A. I said the woman. I didn't say the girl. I don't
24 know about a girl. I don't know if you mess with her or
25 not.

1 Q. Do you recall going to the Sheriff's Office on to
2 12th?

3 A. I went back down there. I came -- I went down there.
4 They had questioned me about the same thing back over what
5 you told me.

6 Q. And you don't remember saying that the defendant said
7 that he raped two people?

8 A. I don't remember that. I said one. I didn't say two
9 people. You told me you messed with somebody named Kiara.
10 You didn't say no names. You just said Kiara, and that
11 was the only thing I remember.

12 Q. And you said that the defendant -- you believe the
13 defendant or you say you saw the defendant that day. So
14 you say that the defendant was -- was he -- you said that
15 he was hiding something in his pocket or something like
16 that?

17 A. Yeah. Derrick Dupree told me you had something in
18 your pocket; that your girlfriend said -- after you begin
19 to take a walk you went and walked back by my
20 grandmother's house. I seen you go through the side, and
21 you went by the field by my grandma's basketball court.

22 You put something down there trying to hide
23 something. That's when I walked on in and I ain't see
24 nothing else. That's when my Uncle Perry said he seen you
25 out the window.

1 Q. Okay.

2 A. And I left and went to Rockingham. I don't know if
3 you went back and got it, what you hid right in front of
4 my grandma's basketball court. And I didn't see that
5 part.

6 Q. So the defendant never asked you to help him hide
7 nothing or anything like that?

8 A. No.

9 Q. So you never gave a statement to somebody?

10 A. Yeah, I talked to -- that was Fred Knight. Had me in
11 a room, and I told him. I ain't going to sit here and
12 lie. I told him in that room that you had tried to hid
13 something. So they can't say I ain't told them. I sure
14 did told them that you tried to hide something.

15 Q. No. What I'm asking is did the defendant ever ask
16 you to help him hide something?

17 A. No.

18 Q. Okay. I was asking you did you ever will anybody
19 else that the defendant asked you to help him hide
20 something?

21 A. Yeah, I told the people.

22 Q. I'm asking you you're saying, no, you didn't? Did
23 the defendant didn't ask you that, but you're saying that
24 you told the people that the defendant. I'm asking you
25 have you ever told anybody that the defendant asked you to

1 help him hide anything?

2 A. I don't know about the helping part. The only thing
3 I know with my own eyes is what I seen. I don't know
4 about anybody else.

5 Q. Okay.

6 A. I seen Derrick Dupree hiding something.

7 Q. Who is Caroline Lily?

8 A. Who?

9 Q. Mrs. Carolyn Lily.

10 A. Oh, That's Kadeem Hooks' grandma.

11 Q. That's Kadeem Hooks' grandmother. Do you recall any
12 time speaking to Miss Lily?

13 A. Miss Lily?

14 Q. Yes.

15 A. I don't think so.

16 Q. You don't recall speaking to her?

17 A. Caroline Lily?

18 Q. Yes, sir.

19 A. Carolina Lily, I think I talked to her. I think
20 about four or five days ago I talked to her.

21 Q. No. I'm saying around the time of the incident or
22 any time between the crime and you going to the police
23 department did you have any type of dealings or speakings
24 with Miss Lily at that time?

25 A. I think I did talk to her that day. I don't remember

1 like been so much going on in my head what you told me.
2 You had me screwed up that day. I think I did talk to
3 her on the phone that same day that you did that, too.
4 That's the same day I talked to her on that Sunday when it
5 happened. I know I did talk to her.

6 Q. And do you remember what you said to Miss Lily?

7 A. No. I forgot now. I ain't thought about that one.

8 Q. So you never said that -- you never told Miss Lily
9 that Derrick Dupree, Kim's boyfriend, asked you to help
10 him hide a knife?

11 A. No, I didn't say that.

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

13 THE COURT: Any redirect?

14 MR. REDMOND: No, sir.

15 THE COURT: All right. You may step down. You may
16 call your next witness.

17 COLLOQUY

18 MR. REDMOND: Your Honor, at this point and the
19 timing is good because my remaining witnesses are S.L.E.D.
20 agents, and they will be coming in from Columbia. They
21 will be here at 8:30 in the morning. So we can start
22 promptly at 9:00, and at that point the State anticipates,
23 barring an unforeseen disasters, that we will be able to
24 complete our case before lunchtime tomorrow, the State's
25 portion.

1 THE COURT: Very good. All right. You may -- you're
2 free to leave. Thank you, sir. Madam Forelady, ladies
3 and gentlemen of the jury, we're going to recess until
4 nine o'clock in the morning, nine o'clock sharp. Once
5 again, I think there was probably a reporter here today.
6 Do not read any articles concerning this matter. You've
7 heard the evidence as its come from the witness stand.
8 You don't need to ready anybody else's perception of that.
9 You need to rely on what you heard here in this courtroom.

10 Do not do any independent investigation. Don't put
11 anything on social media. Do not discuss the case amongst
12 yourselves or with anyone else. We will see you bright
13 and early at nine o'clock. Nine o'clock sharp in the
14 morning.

15 (WHEREUPON, the jury panel was excused from the
16 courtroom at 4:57 p.m.)

17 THE COURT: Mr. Dupree?

18 MR. DUPREE: Yes, sir.

19 THE COURT: I'm going to ask if you could to stand up
20 for just one moment. Mr. Dupree, probably before lunch
21 tomorrow the State will rest, and you will have the
22 opportunity to put forth your defense. One of the things
23 that you are going to have to make a decision on is
24 whether or not you are going to take the witness stand. I
25 want to talk to you about that decision.

1 And I want to explain to you certain of your rights.
2 You're going -- if you don't understand anything that I
3 say please let me know and I'll explain it to you in more
4 detail. Do you understand what I'm saying?

5 MR. DUPREE: Yes, sir.

6 THE COURT: All right. We will soon reach the stage
7 of the trial where you can present your defense. You have
8 the right to claim the protections given to you by the
9 Fifth Amendment to the Constitution of the United States.
10 This amendment states in relate part no person shall be
11 compelled in any criminal case to be a witness against
12 himself. This means that you cannot be required to
13 testify in this case.

14 MR. DUPREE: Yes, sir.

15 THE COURT: You have the right to testify on your own
16 behalf, however, no one can make you testify. This is a
17 personal right. No one can waive this right except you.
18 If you decided to testify you will e subject to the same
19 rules that govern other witnesses. You can be examined
20 and cross-examined on any relevant issue in this case.

21 In addition, if you have any convictions involving
22 dishonesty or fault statements or for crimes punishable by
23 imprison of more than one year, this Court determines that
24 the probative value of permitting this evidence outweighs
25 its prejudicial effect to you the Solicitor will be able

1 to introduce your record to attack your credibility.

2 If you decide to testify this decision on your part
3 must be freely, voluntarily and intelligently made with
4 knowledge of the protections given to you by the Fifth
5 Amendment and the consequences of your decision to
6 testify.

7 If you decide not to testify I will instruct the
8 jurors that they cannot give the fact that you did not
9 testify any consideration whatsoever, and there is to be
10 absolutely not prejudice to you because you did not
11 testify. It is left entirely up to you whether or not to
12 testify. You may talk with your attorneys, your family
13 members, friends or anyone else, but the final decision
14 will be left entirely up to you. Do you understand what
15 I've explained to you?

16 MR. DUPREE: Yes, sir.

17 THE COURT: All right. Do you have any questions
18 about what I've explained to you?

19 MR. DUPREE: Yes, I do. I want to know during the
20 cross examination I know that I will be cross-examination
21 by the State. I was wondering who will cross-examine me
22 as far as -- being that I'm pro se or I will only be
23 cross-examination by the State?

24 THE COURT: Just by the State. We won't let Mr.
25 Jones cross-examination.

1 MR. DUPREE: Your say you won't?

2 THE COURT: No, he won't be allowed to cross-examine.

3 He represents you or is assisting you in that regard.

4 MR. DUPREE: Well, I'm just making sure, but yes, I
5 will testify tomorrow. Yes, sir.

6 THE COURT: All right. And do y'all know which one
7 is going to cross-examination? We'll let him know that,
8 too.

9 MR. REDMOND: I'll cross-examine him, Your Honor.

10 THE COURT: All right. Mr. Redmond will
11 cross-examine you and ask you questions.

12 MR. DUPREE: All right.

13 MR. REDMOND: And, Your Honor, for the record he does
14 have a 2003 -- remind you, he's already eluded to it
15 somewhat, but he has a distribution of -- I think a
16 distribution of crack conviction on his record. So I
17 think he received a ten year sentence for that.

18 But he does have a 2003 conviction. However, since
19 the sentence ended within the ten year framework the State
20 would contend that that is impeachable evidence to be
21 utilized by the State should he testify or when he
22 testifies.

23 THE COURT: What do you have to say about that, Mr.
24 Dupree?

25 MR. DUPREE: To be honest, I heard somewhat, but I

1 misunderstood the last part.

2 THE COURT: He's saying that he is going to be able
3 to bring up your drug record, your criminal record.

4 MR. DUPREE: Yes, sir.

5 THE COURT: Happened in 2003, and he's saying that
6 you were still incarcerated on that sentence which would
7 put it within the ten year mark; is that correct?

8 MR. DUPREE: Put it in the ten year mark?

9 THE COURT: Yes. You were released from jail in --
10 what day were you released from jail?

11 MR. DUPREE: March 1st 2012.

12 THE COURT: Yes.

13 MR. DUPREE: I heard him say something about
14 impeachment.

15 THE COURT: Right. That means that he is going to be
16 able to ask you that, but you were released from jail in
17 2012?

18 MR. REDMOND: Yes, sir, Your Honor, and that's when
19 he was then put on parole here. I think he was on parole
20 Supervision. He had community supervision, and then he
21 violated, but I'm not getting into the violation. I think
22 he got 181 days on the violation. But he did ---

23 THE COURT: But you're saying as an officer of the
24 Court he was either on parole or incarcerated during than
25 10 year period?

1 MR. REDMOND: That is correct, Your Honor. And I do
2 have his criminal history, and I actually think he eluded
3 to that in his questioning of Albert Smith. I actually
4 saw it a second ago as it related to the authentication of
5 the fingerprint card. He eluded to the fact that wasn't I
6 incarcerated on several of his questions with regard to
7 the fact that he was incarcerated during that time. So I
8 don't think there is going to be any dispute between the
9 parties that he was incarcerated at some point within the
10 last ten years from today.

11 THE COURT: All right. I'm going to ask that you
12 provide documentation that would seem to indicate that he
13 was incarcerated.

14 MR. REDMOND: Yes, sir.

15 THE COURT: That falls within the ten year period.
16 And I'll make a decision before he decides to take the
17 stand as to whether or not you will be able to do that.

18 MR. REDMOND: Thank you.

19 MR. DUPREE: Yes, sir. I would like to ask that if
20 he do that can he get the exact date that I was released.
21 If not I was going to try myself to come up with that
22 information. Maybe the rehabilitation center could have
23 have my records as well cause I was working there up under
24 my probation supervision.

25 Further, I wanted the exact date I was released so I

1 could introduce that as well.

2 THE COURT: All right. You're certainly capable of
3 doing that. Your lawyer can assist you in that regard.

4 MR. DUPREE: Thank you, sir.

5 MR. REDMOND: Thank you, Your Honor.

6 THE COURT: Well, let me ask you this question, Mr.
7 Dupree. Do you intend on testifying?

8 MR. DUPREE: Yes, I am testifying.

9 THE COURT: You will testify?

10 MR. DUPREE: Yes, sir.

11 THE COURT: Very good. But you understand the rights
12 that I've explained to you? I've gone over in great
13 detail, you understood those rights?

14 MR. DUPREE: Yes, sir?

15 THE COURT: After considering all that I've explained
16 to you you've decided to take the stand?

17 MR. DUPREE: I do, sir.

18 THE COURT: Very good. All right. We'll stand at
19 ease until nine o'clock in the morning. Nine o'clock
20 sharp. Let's have the defendant in here at nine o'clock.

21 END OF TRANSCRIPT OF RECORD

22

23

24

25

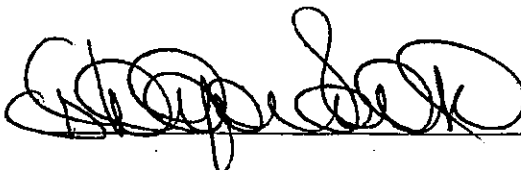
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF MARLBORO)

I, HATTIE O. GORDON, Official Court Reporter for the
4th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of General Sessions for
Marlboro County, South Carolina, on the 14th day of
October, 2014.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto.

February 28, 2015

A handwritten signature in black ink, appearing to read 'Hattie O. Gordon', is written over a horizontal line.

HATTIE O. GORDON, Court Reporter

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSION
COUNTY OF MARLBORO	)	2014-GS-34-00159
		2014-GS-34-00303
		2014-GS-34-00304
		2014-GS-34-00305

STATE OF SOUTH CAROLINA	)	
PLAINTIFF	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
DERRICK D. DUPREE	)	
DEFENDANT	)	

October 13-15, 2014
 Bennettsville, South Carolina
VOLUME NO. 03 OF 03

B E F O R E:

THE HONORABLE MICHAEL J. NETTLES, JUDGE; and a jury.

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

KERNARD E. REDMOND, DEPUTY SOLICITOR
 Attorney for the State

MARY THOMAS JOHNSON LEE, DEPUTY SOLICITOR
 Attorney for the State

RICHARD JONES, PUBLIC DEFENDER
 Attorney for the Defendant

JOHN WALTERS,
 MARIA TODD,
 KIRK SCHAUER,

A P P E A R A N C E S (continued):

ALBERT SMITH, Probation Agent
KIMBERLY MEARS,
TOMMY BOSTIC,
SUSAN ALDERMAN, Cheraw Police Department
EARL HOOD, Marlboro County Detention Center
JAMIE SEALS, Marlboro County Sheriff's Office
SANDY WILKES, Marlboro County Sheriff's Office
BRITNEY ENGLISH, Marlboro County Sheriff's Office
WARREN MCCALL, Marlboro County Sheriff's Office
ISAAC BRAND,
PERRY WILLIAMS,
LISA HUNT,
WILBERT HARRINGTON,
RHONDA FIELDS,
VERONA GIBSON,
ASHLEY BELL,
LILY GALLMAN,
RENEE DUPREE,
ROBIN DUPREE,
KIM MANCE,

HATTIE O. GORDON

Circuit Court Reporter

Colloquy

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COLLOQUY

1
2 THE COURT: Anything from the State before we
3 proceed?

4 MS. JOHNSON LEE: No, Your Honor.

5 THE COURT: Anything from the Defense?

6 MR. DUPREE: Yes, sir. Your Honor, I did have some
7 requests as far as the video statement being viewed at the
8 end -- at the close.

9 THE COURT: All right. What are your questions?

10 MR. DUPREE: Like I said I had wanted a few videos
11 the State entered at the close.

12 THE COURT: What exactly do you want?

13 MR. DUPREE: I think September 11th of Derrick Dupree
14 when he was arrested and March video testimony that was
15 plaid on September the 8th, I think. And.

16 THE COURT: What you want is to be able to show those
17 in your closing argument?

18 MR. DUPREE: Yes, sir.

19 THE COURT: Okay. That -- we'll deal with that at
20 the appropriate time. We need to get through the
21 testimony first, but remind me ---

22 MR. DUPREE: Yes, sir.

23 THE COURT: --- before closing arguments and we will
24 make arrangements for them.

25 MR. DUPREE: Yes, sir.

1 THE COURT: All right. Are we ready for the jury?

2 MR. REDMOND: Yes, sir.

3 (WHEREUPON, the jury panel enters the courtroom at
4 9:06 a.m.)

5 THE COURT: All right. Madam Forelady, ladies and
6 gentlemen of the jury, thank you for being here and thank
7 you for being here on time. Mr. Redmond, you're
8 recognized.

9 MR. REDMOND: Thank you, Your Honor. May it please
10 the Court. The State would next call Lieutenant Rhonda
11 Fields.

12 THE COURT: Yes, ma'am. Please come forward. I'm
13 going to ask that you place your left hand on the bible
14 and raise your right hand as the Clerk administers the
15 oath.

16 RHONDA FIELDS, after being duly sworn, testified
17 as follows:

18 THE COURT: Yes, ma'am, please come forward. I'm
19 going to ask if you could to have a seat here in the
20 witness chair. Watch your step. Pull up real close to
21 that microphone. Speak loudly, clearly and slowly in
22 order that we can hear everything that you've got to say.
23 And let's start with your full name, please, ma'am.

24 THE WITNESS: My name is Rhonda Fields.

25 THE COURT: Thank you, Miss Fields.

1 MR. REDMOND: And, Your Honor, just so the record is
2 clear, based on questions that the defendant asked in
3 cross-examination, and also in light of the exhibit, the
4 C.O.D.I.S. hit, Ms. Fields was not originally on the
5 State's witness list. But since he did introduce this
6 document and asked questions regarding it she was added to
7 our list. And she had already been under subpoena. So we
8 would just make the Court aware of that for the
9 appropriate reasons.

10 THE COURT: Very good. You may proceed.

11 MR. REDMOND: Thank you, Your Honor.

12 DIRECT EXAMINATION.

13 BY MR. REDMOND:

14 Q. Lieutenant Fields, by whom are you employed?

15 A. The South Carolina Law Enforcement Division.

16 Q. And in what capacity are you employed with S.L.E.D.?

17 A. Im the lieutenant of the D.N.A. Database Unit.

18 Q. Okay. And we'll explain what that is in just a
19 minute. Let's talk about your educational and your
20 employment background?

21 A. Okay. I received my Bachelor of Science from Clemson
22 University in biochemistry in 1998. I've since undergone
23 extensive inhouse training at S.L.E.D. under a qualified
24 D.N.A. analyst. And I attend annual conferences and
25 workshops to keep me abreast of current technology as it

1 relates to D.N.A.

2 Q. Okay. How long have you been at S.L.E.D?

3 A. I've been at S.L.E.D. approximately 15 and a half
4 years.

5 Q. Okay. Now, you had mentioned the database, the
6 lieutenant over the D.N.A. database. Could you explain to
7 the ladies and gentlemen of the jury what that is?

8 A. Okay. The D.N.A. -- there are basically two D.N.A.
9 departments at S.L.E.D. There is the D.N.A. Case Work
10 Department, and there is D.N.A. Database Unit. The D.N.A.
11 Database Unit, basically, our main functions are to
12 receive known standards from individuals throughout the
13 State, to develop a D.N.A. profile from those individuals,
14 enter those individuals in a computerized database of
15 D.N.A. profiles and perform searches of D.N.A. profiles
16 developed against evidence samples against the D.N.A.
17 profile developed from the known sources of D.N.A.

18 Q. So this is a national or international database that
19 you work from?

20 A. Well, we basically maintain the D.N.A. profiles for
21 this state, but we also upload those profiles to the
22 national level. And so they are searched against D.N.A.
23 profiles nationwide as well.

24 Q. Okay. Now, as it relates to investigations is that
25 system, and I think it's referred to as C.O.D.I.S., is

1 that used in aid of investigations that may be ongoing by
2 law enforcement agencies?

3 A. It is. That's its main function.

4 Q. Okay. Could you explain in the context of an
5 investigation how would that database -- how would it work
6 in order to aid in an investigation?

7 A. Okay. As I explained earlier there are two D.N.A.
8 departments at S.L.E.D. There is the D.N.A. Case Work
9 Department so a case work analyst would receive evidence
10 from a case. They would develop a D.N.A. profile from the
11 evidence in the case.

12 They would then take the resulting profile, enter it
13 into our database and it would be subjected to the weekly
14 searches that we perform the -- in hopes of if it's an
15 unsolved case hitting against a known profile in the
16 system so it could provide and investigative lead for the
17 investigating agency.

18 Q. Okay. Now, let me direct your attention to this
19 particular case?

20 MR. REDMOND: If I may approach the witness with
21 what's been actually admitted as Defense Exhibit Number
22 Five.

23 BY MR. REDMOND:

24 Q. Do you recognize that copy that I just handed you?

25 A. I do.

1 Q. And could you explain to the jury what is Defense
2 Exhibit Number Five?

3 A. Okay. This is the result of a letter we generate in
4 the event of a database hit. It basically lets the
5 investigative agency know that a D.N.A. profile developed
6 from an item of evidence that they submitted hit against a
7 known individual. And we go -- we release the
8 individual's information in the letter so they can then, I
9 guess, proceed and -- I'm sorry.

10 So they can then go find that individual and see if
11 they were -- interrogate them or whatever they do so with
12 them so that they can then go interview that individual
13 for ...

14 Q. Okay. Now, I believe the letter is dated the 23rd of
15 September, I believe; is that correct?

16 A. That is.

17 Q. Now, in your involvement in this particular case did
18 you run a database -- well, let me ask you this. When a
19 sample is received, say from a rape kit, is that sample
20 then put into the profile for the person who -- in other
21 words if someone was raped and if there was -- I guess
22 there was a rape kit done and there was D.N.A. gotten,
23 would the profile for the D.N.A. received from the rape
24 victim be entered into the database?

25 A. It would.

1 Q. Okay. And is that what the database is searching
2 for, a match for the profile from say semen that might be
3 in that particular profile?

4 A. Right. Yes.

5 Q. And would that aide in identifying a suspect or
6 further investigative purposes?

7 A. It would, yes.

8 Q. Did that happen in this particular case?

9 A. It did.

10 Q. And who did it identify as being the giver of the
11 sample in the database?

12 A. The D.N.A. profile developed from the semen found on
13 Item 2.1 it matched Derrick Dupree.

14 Q. Okay. It matched Derrick Dupree. Now, did you wait
15 until the 23rd when the letter was generated to notify law
16 enforcement or did you notify them at some point
17 previously?

18 A. Honestly, I'm not sure. I do maintain that
19 documentation in the narrative section of our system, but
20 I did not print the narrative section of our computer
21 program.

22 Q. Now, and do you recall what day you actually got the
23 C.O.D.I.S. hit on?

24 A. I do. It was on, I believe, September 13th.

25 Q. Okay. And as part of your operating procedure when

1 you get a hit, say on the 13th, what's your standard --
2 and I understand your work with thousands of cases so it
3 may be hard for you to remember a specific case, but as a
4 general rule your standard operating procedure what do you
5 do once a profile match shows up on C.O.D.I.S.?

6 A. We have a protocol that we have to follow once a hit
7 returns from the database. We have to go through a
8 confirmation process. Basically, the samples that are
9 submitted to you they do not have a chain of custody,
10 first of all, so they are not court admissible and that is
11 why another standard is later submitted, and that is
12 covered in here as well.

13 But we do want to make sure that there was no error
14 during the original analysis. So we will reanalyze that
15 sample to make sure that we develop the same profile from
16 the confirmation process as originally developed just to
17 make sure there is no mix up on our end.

18 And then if that -- if the reanalysis profile matches
19 the original profile we will then submit the fingerprint
20 that were collected that were obtained during the
21 collection process. Usually, we get our samples from
22 different agencies throughout the state, and they will get
23 a fingerprint, a thumb print, on that database card that
24 is submitted to our lab.

25 We then take the fingerprint that was collected

1 during or that was provided during the collection process.
2 We submit it to our Latent Prints Department where a
3 qualified latent print examiner then compares the profile
4 on the collection card against tin print cards that are
5 available in A.F.I.S. And so if the prints match the
6 information that is collected on the collection card then
7 we consider that sample confirmed. Meaning the person
8 that was collected that profile must have originated from
9 the individual that whose prints were contained on the
10 collection card.

11 And the profile match -- the profile from the
12 reanalysis matches the original profile in the database.

13 Q. In other words, they -- even after the C.O.D.I.S. hit
14 is there a confirmation process to make sure that there is
15 in fact a match from the D.N.A. from the defendant or any
16 other suspect?

17 A. Right. Right. Right. There is, and then again, our
18 letter, once we finish the confirmation process, our
19 letter undergoes a review process as well. So once the
20 letter gets reviewed we issue the letter to the
21 investigative agency. They will then go out and collect
22 another sample from the individual that, with a chain of
23 custody attached, and submit it to the case work analyst
24 for reanalysis.

25 So it's another check and balance. A completely

1 different sample is collect and submitted to the D.N.A.
2 Case Work Department.

3 Q. Okay. So to, I guess, condense it, there is a
4 confirmation process even before the C.O.D.I.S. letter is
5 sent on the 23rd of September?

6 A. Yes, sir.

7 Q. And what you just indicated is even after that.
8 There is a separate process that will be handled in the
9 D.N.A. Department to confirm what has already been
10 indicated in C.O.D.I.S.?

11 A. That is correct.

12 Q. And, again, just to be clear, the C.O.D.I.S. hit
13 indicated on your 23 September 2013 letter indicates who
14 as the provider of the sample taken from the victim in
15 this case, Miss LT

16 A. I'm sorry.

17 Q. Who was it that the C.O.D.I.S. hit showed up on?

18 A. Item 2.1 matched Derrick Dupree.

19 Q. Thank you. That will be all the questions I have.
20 Please answer any questions that the Defendant may have.

21 THE COURT: Mr. Dupree, you're recognized.

22 CROSS-EXAMINATION

23 BY MR. DUPREE:

24 Q. Lieutenant Fields, madam, you said there was hit on
25 September the 13th?

1 A. Right. The hit returned on September 13th.

2 Q. And you turned it in on the September 23rd?

3 A. I'm sorry.

4 Q. You turned it in on the September 23rd?

5 A. Right, the letter was issued on September 23rd.

6 Q. I'm curious to know are you allowed to conduct
7 these -- are you a forensic scientist or anything like
8 that?

9 A. I am. Yes, I am.

10 Q. So you are allowed to conduct these examinations?

11 A. Yes, sir.

12 Q. Miss, who might you have received this -- well, I
13 can't say that, but were you aware that this test was
14 redone again?

15 A. I was, yes.

16 Q. By who are you aware it was done by?

17 A. Lily Gallman would have received the standard post
18 the letter, post letter.

19 Q. Do you know that Miss Gallman conducted the same
20 examination as you did?

21 A. No.

22 Q. Okay. Do you --

23 MR. DUPREE: Well, I'm -- Your Honor, may I approach
24 the witness, please?

25 THE COURT: Yes.

1 MR. REDMOND: Your Honor, if that the document -- I
2 need to see that because we've got Miss Gallman here.

3 THE COURT: Just show him the document. We don't
4 have any discussions in between on it.

5 MR. REDMOND: Your Honor, we have no objection if he
6 wishes to introduce this exhibit.

7 THE COURT: Very good.

8 (WHEREUPON, Defendant's Exhibit No. 6 was marked for
9 identification only.)

10 BY MR. DUPREE:

11 Q. Miss Fields, I'm going to have you read this. This
12 is a report from the D.N.A. analyst, Miss Lily Gallman,
13 that of -- excuse me?

14 A. Sure.

15 Q. Ma'am, I'm going to have you read this report as I
16 said cause she stated that she conducted the same tests as
17 you did as far as the C.O.D.I.S. D.N.A. being put in the
18 system, C.O.D.I.S.?

19 A. Okay. Which part did you want me to read?

20 Q. Read -- well, if you don't mind I'm going to ask you
21 to do the date.

22 A. Okay.

23 Q. And then you can just go to and read the rest of this
24 if you don't mind.

25 A. Okay. I can clarify. You asked if she performed the

1 same C.O.D.I.S. examination. She would have performed a
2 D.N.A. comparison once she received the second standard.
3 So she would have performed the second D.N.A. comparison,
4 but it wouldn't have been a C.O.D.I.S. evaluation.

5 Q. Why? I'm just saying on her report it stated that
6 she entered the D.N.A. into C.O.D.I.S.

7 A. Right.

8 Q. I mean -- well, that she entered the item, Item 2.1,
9 where the D.N.A. was the same item that you entered into
10 C.O.D.I.S. She saying that she entered the same item in
11 C.O.D.I.S. I'm just asking you to read it if you don't
12 mind?

13 A. Okay.

14 Q. And then the date.

15 A. She would have entered the D.N.A. profile from Item
16 2.1. I didn't enter the profile from Item 2.1 in that the
17 database ---

18 Q. Oh, you didn't do that?

19 A. No, I didn't actually enter -- the D.N.A. case work
20 analyst enters the D.N.A. that results from evidence
21 samples. I just enter the profiles -- well, me -- my
22 department are responsible for entering profiles from
23 known individuals -- known standards from individuals, but
24 I didn't enter the profiles from Item 2.1.

25 Q. But on your statement it says that you -- it says

1 that, "The short tandem repeat S.T.R. P.C.R. D.N.A.
2 profile developed from the semen found on Item 2.1 was
3 compared to the combined D.N.A. Index System, which is the
4 C.O.D.I.S. The profile matches the S.T.R. P.C.R. D.N.A.
5 profile developed from D.N.A. database. Offender, Derrick
6 Dupree, South Carolina SID Number on -- this information
7 provided for investigation purposes only. If the suspect
8 is charge an additional biological specimen must be
9 submitted for court purposes. The search was conducted by
10 Lieutenant Rhonda Fields." Once again, it says that you
11 conducted the search?

12 A. Right. Yes, we performed the weekly search, but we
13 do not enter the profiles from -- that result from the
14 analysis of evidence samples to the case work analyst.

15 Q. Can you explain the search? What you mean by the
16 search cause I'm kind of confused of what you're saying by
17 the search because I'm thinking you conducted this test?
18 I mean I'm thinking that you entered the items, Item 2.1,
19 into C.O.D.I.S.

20 A. Okay. I'm sure I can explain. Like I said, the case
21 work D.N.A. analyst they develop the D.N.A. profiles from
22 the evidence samples.

23 Q. Who is the D.N.A. analysis cause you keep saying the
24 D.N.A. profile analysis?

25 MR. REDMOND: Your Honor, unless he's asking any

1 questions -- I hate to object. If he's asking any
2 questions where he is showing her things on there ---

3 THE COURT: What is your objection?

4 MR. REDMOND: The fact that he ---

5 THE COURT: Your objection, what's the grounds for
6 them?

7 MR. REDMOND: My grounds for the objection is that as
8 it relates to the proximity to the witness based on the
9 question at this point.

10 THE COURT: All right. Well, he can stand right
11 there. Go ahead.

12 MR. REDMOND: Yes, sir.

13 BY MR. DUPREE:

14 Q. You keep saying the D.N.A. profile analysis or
15 something like that. Can you tell me who that is?

16 A. Sure. Like I said there are two separate D.N.A.
17 departments at S.L.E.D. One is the Case Work Department.
18 So evidence collected from crime scenes are submitted to
19 the D.N.A. Case Work Department. They will perform D.N.A.
20 analysis on these evidence items, and any resulting D.N.A.
21 profiles that are C.O.D.I.S. eligible the actual case work
22 analyst enters those profiles into C.O.D.I.S.

23 Our department performs the search of the profiles,
24 the evidence profiles, against known standards of
25 profiles, and we report out any resulting matching. So I

1 was just reporting the resulting match from Item 2.1 being
2 entered into C.O.D.I.S.

3 Q. That's what I'm saying. I'm saying who entered Item
4 2.1 into C.O.D.I.S. is what I'm asking you?

5 A. Oh, Lily Gallman was the case work analyst for that.

6 Q. Okay. So how would your name be on the report saying
7 that the Item 2.1 was entered into C.O.D.I.S. I mean if
8 Lily Gallman conducted this test then why would your name
9 be on the report as far as case if your name is on the
10 report they saying that you conducted this test.

11 If it says, "Information is provided for
12 investigation purposes only. This search was conducted by
13 Lieutenant Rhonda Fields." So if you're saying the search
14 from my understanding you're saying that you conducted
15 this search. You conducted this search to Item 2.1 that
16 was found into C.O.D.I.S. from my understanding. I'm just
17 going by what the document say?

18 A. Right.

19 Q. But you say ---

20 A. Right. Our department performed this search. The
21 actual profile was entered by case work analyst.

22 Q. Okay. Well, I'm going to ask you just to read the
23 one that she did if you don't mind?

24 A. Sure. Sure.

25 Q. And the date cause you say your date was September

1 the 23rd, and you filed it on September the 13th. You
2 said earlier that you filed it on September the 13th?

3 A. Right. The match didn't return until September 13th.

4 Q. Right. That's what you said. You found your match on
5 September 13th, and you filed your report on
6 September 23rd?

7 A. That is correct.

8 Q. After you had examined it a few more times just to
9 make sure?

10 A. Yes.

11 Q. Okay. Can you read this report and let me know the
12 date?

13 A. Okay. This report went out October 10th 2013. And
14 that's all you want me to read?

15 Q. That's all, yes. Yes.

16 A. Okay. And all of the results ---

17 Q. Yes, ma'am?

18 A. Okay. In this examination?

19 Q. Yes.

20 A. Okay. "Examinations D.N.A. analysis was performed on
21 the items above using short tandem repeat and P.C.R.

22 D.N.A. analysis. The results of the analysis is shown in
23 the following tables." It says in the results section it
24 says, "Semen was identified on Items 2.1, 3.2 and 5.1.

25 The D.N.A. profile developed from the semen on Items 2.1,

1 3.1, 3.2 and 5.1 is ---

2 THE COURT: Yes, ma'am. Quite often when we read
3 things we have a tendency to read them fast, but she has
4 to write it all down.

5 THE WITNESS: Okay.

6 THE COURT: So let's slow down just a little bit.

7 THE WITNESS: Okay. "Is from an unidentified male
8 individual. The D.N.A. profile ---

9 BY MR. DUPREE:

10 Q. Hold on. Can you start over again, if you don't
11 mind?

12 A. Sure.

13 Q. If you would start from this line right here if you
14 don't mind? Start at the results section.

15 A. All right. I'll start at the results sections.

16 "Semen was identified on Item 2.1, 3.2 and 5.1. The
17 D.N.A. profile developed from the semen on Items 2.1, 3.2
18 and 5.1 is from an unidentified male individual."

19 Q. Hold on. When she say, 'unidentified male
20 individual' mean that she did a search on this, and there
21 was an unidentified mail individual, correct?

22 A. No. What she means by that is when this case was
23 originally submitted the D.N.A. profile -- the person
24 whose -- I'm sorry. Let me start over. When she analyzed
25 the samples there were not any known standards submit to

1 the case that matches the D.N.A. profile developed from
2 these items. The profile from Derrick Dupree had not been
3 submitted at the time. And no other known standard
4 submitted with this case matched that profile. That's why
5 she entered the profile into C.O.D.I.S. in the hopes of
6 solving the case. And hoping that the D.N.A. profile
7 matched an individual."

8 Q. Oh, so now -- but she did -- now, you're saying that
9 she did enter it into C.O.D.I.S.

10 A. Right.

11 Q. Okay. Then keep reading where you left off at.

12 A. All right. "The D.N.A. profile developed from the
13 semen on Item 2.1 has been entered into C.O.D.I.S, the
14 Combined D.N.A. Index System. Kadeem Hooks is excluded as
15 a contributor to these items."

16 Q. Okay right. That was the end of that report as far
17 as after she said she entered it into C.O.D.I.S. and she
18 said that Kadeem Hooks was excluded from that process,
19 right? That result?

20 A. Right.

21 Q. Okay. I understand that she's saying that he was
22 excluded meaning that the D.N.A. that was found after the
23 thing was entered into C.O.D.I.S. he was excluded?

24 A. Right.

25 Q. Okay. Now, did she state after she stated that did

1 she state or indicate in her report any way after that who
2 the D.N.A. was found from after it was entered in
3 C.O.D.I.S.?

4 A. She did not say in this report, no. I issued this
5 letter and I guess on the date she issued this report she
6 still had not received the other standard that is normally
7 collected as a result of the letter at the time to perform
8 her comparison because she doesn't actually do the
9 C.O.D.I.S. comparison. Like I said that's the
10 responsibility of my department. She just compares the
11 D.N.A. profile received from known individuals submitted
12 specifically for comparison in this case.

13 Q. I'm going to ask. Please repeat that again?

14 A. Okay. She does not really involved in the C.O.D.I.S.
15 Our department issues all the C.O.D.I.S. hit letters,
16 anything related to C.O.D.I.S. The Case Work Unit only do
17 the D.N.A. comparison.

18 Q. What is the C.O.D.I.S. hit letter?

19 A. Okay. That's this. This is a C.O.D.I.S. hit letter.
20 I'm sorry. This is notifying the investigating agent that
21 an item was matched to an individual and that they may
22 want to pursue this individual in their investigation.

23 Q. Cause I'm still -- you're confusing me. I might be
24 misunderstanding what you're saying, but you saying I'm --
25 earlier I'm hearing that you said that you didn't do the

1 comparison, but now I'm hearing that you're saying that
2 your department did the comparison?

3 A. Right. We evaluate the C.O.D.I.S. matches that
4 result from the database searches.

5 Q. What I'm asking who entered Item 2.1 into C.O.D.I.S?

6 A. Lily Gallman would have entered the D.N.A. profile
7 that resulted from the analysis of the evidence.

8 Q. Okay. So she would have ---

9 MR. REDMOND: Your Honor, I'm going to object at this
10 point. That's about the fourth or fifth time this same
11 question has been asked.

12 THE COURT: I'll sustain. You need -- that's been
13 asked and answered.

14 MR. DUPREE: Sir, I'm trying to get her to explain
15 who did the report on Item 2.1, sir.

16 THE COURT: And you've asked her that and she's
17 answered that.

18 MR. DUPREE: Okay.

19 BY MR. DUPREE:

20 Q. Well, once again, you said that Lily Gallman did the
21 report on Item 2.1 -- I mean so she was the one that --
22 I'm going to go on, but I'm not going to ask the same
23 question. But she was the one that entered the item into
24 C.O.D.I.S., correct?

25 A. That's correct. She would have entered the items

1 into C.O.D.I.S.

2 Q. And her results would have come back right then and
3 there?

4 A. No. No. She just enters it. She just enters it,
5 and she saves the profile in C.O.D.I.S. We perform weekly
6 searches and what -- so basically, she enters the profile.
7 We perform the search, and we report out any confirmed
8 matches to the information -- investigating agencies. But
9 she would not have evaluated any C.O.D.I.S. matches unless
10 we needed her input on that.

11 MR. DUPREE: I have no further questions, Your Honor.

12 THE COURT: All right. Any redirect?

13 MR. REDMOND: Just briefly, Your Honor. Actually,
14 State's 42 which has already been marked and that's what
15 the witness has been asked questions about, let me show --
16 I think I've already shown the defendant a copy, but I'll
17 show him again. Beg the Court's indulgence.

18 BY MR. REDMOND:

19 Q. Let me show you what has been marked State's 42.

20 MR. REDMOND: May I approach the witness, Your Honor?

21 THE COURT: You may.

22 BY MR. REDMOND:

23 Q. And you didn't prepare that, but since you were asked
24 questions about it for purposes of redirect I would ask
25 you to identify. Is that the same report from the 10th of

1 October by Ms. Gallman?

2 A. It is.

3 Q. Okay.

4 MR. REDMOND: State would move at this time to
5 introduce State's 42 based on the fact that it was asked
6 about in cross-examination. And I have shown a copy to
7 the defendant.

8 THE COURT: Any objection from Defense?

9 MR. DUPREE: No, sir.

10 THE COURT: All right. It's into evidence.

11 (WHEREUPON, State's Exhibit No. 42 was admitted into
12 evidence.)

13 MR. REDMOND: And I'll be brief. Miss Gallman is
14 here so I'm not going to get too deep.

15 REDIRECT EXAMINATION

16 BY MR. REDMOND:

17 Q. But let me ask you this since you were asked
18 questions about it. In that report does it indicate that
19 the sample of Kadeem Hooks was at S.L.E.D. at the same
20 time the samples from the victim were? In other words at
21 the time of the report on the 10th of October did Miss
22 Gallman, according to that report, have a sample from the
23 rape kit from Miss [LT] and did she also have a buccal
24 swab from Kadeem Hooks to compare it to?

25 A. She did.

1 Q. Did she find a match at that time to Kadeem Hooks?

2 A. Not for -- no, not for -- I haven't read the whole --
3 all of her results, but Item 2.1.

4 Q. Okay?

5 A. She did not.

6 Q. She did not find a match with Item 2.1? And does it
7 indicate in that report what Item 2.1 is so the jury will
8 understand and won't be confused.

9 A. Item 2.1 is the cuttings from the nightgown.

10 Q. Cuttings from the nightgown did not match Kadeem
11 Hooks?

12 A. Did not match Kadeem Hooks.

13 MR. REDMOND: No further questions, Your Honor.

14 THE COURT: You may step down. Any objection to this
15 witness being excused?

16 MR. REDMOND: None from the State.

17 THE COURT: You're free to leave. Thank you.

18 MR. REDMOND: State would next call Ms. Verona
19 Gibson.

20 VERONA GIBSON, after being duly sworn, testified
21 as follows:

22 THE COURT: Yes, ma'am. Have a seat in the witness
23 chair. Pull up real close to that microphone. Speak
24 loudly, clearly, and slowly in order that we can hear
25 everything that you've got to say. Let's start with your

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1 full name.

2 THE WITNESS: Verona Gibson.

3 DIRECT EXAMINATION

4 BY MR. REDMOND:

5 Q. Ms. Gibson, by whom are you employed?

6 A. I am also employed by S.L.E.D. or the South Carolina
7 Law Enforcement Division.

8 Q. Okay. Now, could you give us your educational
9 background and your experience with S.L.E.D.?

10 A. I have an associate's degree. Associate's of Science
11 degree from Tri-County Technical College. I also have an
12 associate's degree in criminal justice and a certificate
13 in forensics from Greenville Technical College. I've been
14 with S.L.E.D. for approximately six and a half years. I
15 went through an inhouse training program under court
16 qualified evidence processing technicians.

17 I was certified as competent to perform the job
18 before I was allowed to touch evidence samples.

19 Q. And any trainings or certifications that you have to
20 go through?

21 A. Every year we have to prove that we're still
22 proficient to do our jobs. There are also several courses
23 that I've taken through the Department of Justice to keep
24 up with advances in D.N.A. and evidence processing.

25 Q. And how many times have you testified in Court as an

1 expert witness in the field of evidence processing?

2 A. More than ten.

3 MR. REDMOND: Your Honor, the State would move at
4 this time to have Miss Gibson qualified in the field of
5 evidence processing?

6 THE COURT: Madam Forelady, ladies and gentlemen of
7 the jury, ordinarily an individual can't testify and
8 render opinions in this courtroom. However, there is an
9 exception to that if they are qualified because of
10 education or experience in a certain field. And if I
11 qualify an expert in that fields they can render their
12 opinions.

13 Just By virtue of the fact that they're experts does
14 not mean that you have to believe their testimony. You
15 evaluate it like you would any other testimony. I will
16 charge you in greater detail how to evaluate expert
17 witnesses in my charge to you in regards to the law.

18 Mr. Dupree, do you have any query with regard to her
19 qualifications?

20 MR. DUPREE: Sir, I don't understand what you mean.

21 THE COURT: All right. Do you have any questions
22 about whether or not she's qualified as an expert? Do you
23 have any questions about her education or her experience
24 in this area?

25 MR. DUPREE: No, sir.

1 THE COURT: All right. She is indeed qualified as an
2 expert in evidence handling.

3 BY MR. REDMOND:

4 Q. And I'm going to start off --

5 MR. REDMOND: If I may approach the witness with
6 State's Exhibits 31 and 32 that are mark. Not in evidence
7 at this time.

8 BY MR. REDMOND:

9 Q. Do you recognize those two documents?

10 A. Yes, sir. These are copies of the report generated
11 based on my work.

12 Q. Okay. Great. And we'll go into those in a little
13 while, but I just wanted to go ahead and give them to you
14 so you can identify them. Now, in this particular case --
15 before we get into your specific work in this case, could
16 you tell the ladies and gentlemen of the jury what it is
17 you do and how you go about doing your job?

18 A. Sure. Evidence processing is a department within the
19 D.N.A. or section within the D.N.A. Department. We get
20 larger pieces of evidence such as clothing, guns, car
21 parts and we process those in the hopes of finding bodily
22 fluids or what we call touch D.N.A. or ownership.

23 Blood, semen, saliva, urine occasionally are usually
24 the body fluids that we are looking for, and then we may
25 also process for the touch or the ownership.

1 Q. Now, in this particular case were items submitted to
2 you for your examination?

3 A. Yes, sir, they were.

4 Q. And I'll go through a list of things to begin with,
5 and then we'll discuss them in more detail. Were you --
6 was a gown submitted to you ---

7 A. Yes, sir.

8 Q. --- in this case? Were there underwear submitted to
9 you?

10 A. There was.

11 Q. And, subsequently, was there a knife submitted to
12 you?

13 A. Yes, sir.

14 Q. All right. And when, just in general, let's say you
15 find something on the gown that has some scientific and
16 forensic significance possible, what do you do?

17 A. That item, depending on -- like a gown, so we would
18 cut the section out, test it presumptively positive and
19 that would be packaged in a coin envelope which is the
20 small manilla envelope. Seal it with tape. My initials
21 and the date would go on that seal. Then it would be
22 packaged in a heat sealed pouch and forwarded to the net
23 person that needed to process the evidence.

24 Q. Okay. And I'm going to show you what's been marked,
25 and for the record these items as I've indicated

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1 previously several had been opened previously for Court
2 purposes. So I'm just going to hand you first State's
3 Exhibit Number Five, that being the gown that's already in
4 evidence and from the packaging, of course, it being open
5 from the time you received it was it properly packaged to
6 the best of your recollection?

7 A. Yes, sir, it was.

8 Q. And I'm going show you State's Exhibits Six, Seven
9 and Eight. I'll just put them all here. And just from
10 looking at those could you tell the ladies and gentlemen
11 of the jury what each item represents?

12 A. This is the box that contained the nightgown. I can
13 tell this because any initials and the date that I sealed
14 the package back up are here. Our agency gives a unique
15 lab number to every case that comes in our building.

16 This is that lab number and the time number for the
17 gown. I also wrote the return. This is Item Number Five.
18 My initials and the date that I sealed the package are on
19 the bottom.

20 MR. REDMOND: And for the record I think that's
21 State's Exhibit Number Seven.

22 THE WITNESS: It is, yes, sir. Also you can tell
23 where I wrote the item number, my initials, the lab number
24 and the date that I processed the item on through the
25 back.

1 BY MR. REDMOND:

2 Q. Now, I'm going to -- right now I'm going to ask you,
3 those two exhibits, did you find I guess get scientific or
4 forensic, for lack of a better term, possible forensic
5 evidence that you then either cut or took swabs from and
6 forwarded for further testing?

7 A. Yes, sir, I did.

8 Q. Okay. And could you explain? I think that's going
9 to be referring to State's Six and Eight, I believe as far
10 as the cuttings.

11 A. The cuttings, yes, sir.

12 Q. The cuttings?

13 A. State's Exhibit Number Six is Item 2.1 which is a
14 cutting taken from the nightgown. It tested positive for
15 the possible presence of semen. So that was forward to
16 our D.N.A. Department. I also collected debris which
17 could possibly be hair, fibers, dirt. That kind of stuff.

18 State's Exhibit Number Eight is our Item 5.1 which is
19 a cutting taken from the pair of underwear and that also
20 tested positive for the possible presence of semen.

21 Q. Now, I am going to now show you -- thank you so much.
22 I'm going to show you State's 25 which is already in
23 evidence and State's 26.

24 MR. REDMOND: But before I do that, Your Honor, I
25 need to put I think State's Six and Eight, the cuttings,

1 into evidence. They have been marked but not admitted.

2 THE COURT: Any objection from Defense?

3 MR. DUPREE: No, sir.

4 THE COURT: They're in evidence.

5 (WHEREUPON, State's Exhibit Nos. 6 and 8 were
6 admitted into evidence.)

7 BY MR. REDMOND:

8 Q. I am now going to show you what's been marked --
9 well, which is actually in evidence as State's 25 and show
10 you what's been marked as State's 26. State's 25, the
11 knife, did you have the opportunity to conduct testing on
12 that particular item?

13 A. I did, yes, sir.

14 Q. And with that particular item did you -- were there
15 any findings with that or with that swab -- let me ask you
16 this. Tell us what you did. I think the best way to ask
17 you is tell us what did you do regarding the knife?

18 A. The knife was processed for possible blood which was
19 negative. Then the handle of the knife was swabbed for
20 touch D.N.A. We're trying to collect skin cells from the
21 person that handled the handle of that knife.

22 Q. And let me be clear, and since you've been qualified
23 as an expert. You tested for blood, the knife. So the
24 swab you took was from the handle not from the blade?

25 A. That is correct. Yes, sir.

1 Q. And the blade of the knife was actually negative for
2 blood?

3 A. That is correct.

4 Q. And according to your records was that knife procured
5 I guess -- and it may not be in your records, but was that
6 knife procured from the residence of Kadeem Hooks based on
7 your records? And if your records don't reflect that
8 that's fine.

9 A. No, sir, they don't.

10 Q. Okay. But wherever that knife was collected from
11 it's not indicative that it actually -- there was nothing
12 indicative of blood being on that particular knife?

13 A. It tested negative for our testing something for the
14 possible presence of blood.

15 Q. Okay. Thank you. And, again, the swab you took was
16 from the handle?

17 A. That is correct.

18 Q. Okay. And that would be State's exhibit number?

19 A. Twenty-six.

20 Q. Twenty-six. Okay. And what did you do with those
21 particular -- with the -- State's 26 in particular once
22 you took the swab what did you do with that?

23 A. It was packaged in the envelope. Packaged in the
24 heat sealed package and I believe I returned that to our
25 Evidence Control Department to be forwarded to the person

1 who needed to process it next.

2 MR. REDMOND: And, Your Honor, at this time State's
3 26 we move into Evidence?

4 THE COURT: Any objection from Defense, Mr. Dupree?

5 MR. DUPREE: No, sir.

6 THE COURT: All right. It's into evidence.

7 (WHEREUPON, State's Exhibit No. 26 was admitted into
8 evidence.)

9 MR. REDMOND: All right. If I may approach the
10 witness.

11 BY MR. REDMOND:

12 Q. Now, to conclude, did you generate reports, I think
13 two reports, regarding what you just testified to?

14 A. Two reports were generated based on my work.

15 Q. Yes?

16 A. I do not generate those reports. They are signed by
17 either a forensic serologist or a D.N.A. analyst.

18 Q. Okay.

19 A. It's policy in our laboratory.

20 Q. And is that quality control?

21 A. Yes, sir, it is.

22 Q. Okay. In other words a peer review quality control
23 process?

24 A. Actually, we get an extra step in evidence
25 processing. Our report is written by someone which is a

1 forensic serologist or D.N.A. analyst which is an extra
2 step of quality control. But that report must still go
3 through two review processes before it's issued.

4 MR. REDMOND: And, Your Honor, I would move to have,
5 and I forget the exhibit number. Move to have two reports
6 entered into evidence at this time?

7 THE COURT: Any objection from Defense.

8 MR. DUPREE: No, sir.

9 THE COURT: They're into evidence.

10 COURT REPORTER: What are their numbers?

11 THE WITNESS: Thirty and 31.

12 (WHEREUPON, State's Exhibit Nos. 30 and 31 were
13 admitted into evidence.)

14 MR. REDMOND: And with that, Your Honor, I have no
15 further questions of Miss Gibson.

16 BY MR. REDMOND:

17 Q. Please answer any questions the Defendant may have.

18 THE COURT: Any questions, Mr. Dupree?

19 MR. DUPREE: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. DUPREE:

22 Q. Miss Gibson I have right here the chain of custody
23 where all the evidence as you were saying after it left
24 you and went to the D.N.A. analysis [sic]?

25 A. Yes, sir.

1 Q. And that was submitted to you. Do you by chance know
2 the D.N.A. analysis?

3 A. Who the D.N.A. analyst is?

4 Q. Analyst, yes, ma'am?

5 A. Yes, sir. That would be Lily Gallman.

6 Q. Oh, like I said this is the chain of custody showing
7 everybody hand that -- all D.N.A. went through, correct?

8 A. It would actually have the name of every person who
9 touched the item. Yes, sir.

10 Q. Okay.

11 MR. DUPREE: If you don't mind, Your Honor, may I
12 present this?

13 THE COURT: You may.

14 BY MR. DUPREE:

15 Q. If you don't mind, Miss Gallman -- I mean Miss
16 Gibson, these are all the items that you have collected
17 and presented to Miss Gallman which is two pages. I'm
18 going to ask that you read the items, if you don't mind.
19 The time, the date and everything, if you don't mind?

20 A. 2.1 is the heat sealed pouch or a heat sealed pouch
21 containing the cutting from the nightgown. You want me to
22 read what now? The dates and times?

23 Q. Yes, ma'am. The date you received it and then ---

24 COURT REPORTER: Speak up.

25 BY MR. DUPREE:

1 Q. Oh, the date you -- yes, ma'am. The date you
2 received it and then go on to all the chain of custody
3 whose hands this item went through?

4 THE COURT: Mr. Dupree.

5 MR. DUPREE: Yes, sir.

6 THE COURT: In document is evidence.

7 MR. REDMOND: It is in evidence.

8 THE COURT: All right. Of course, the jury will be
9 able to read that, and you're going to be able to refer to
10 that. If there's a specific question that you have of
11 this witness you might want to ask her, but all that is
12 already in evidence. It really makes no sense of reading
13 that to the jury because they're going to have that piece
14 of paper.

15 So is there anything particularly significant about
16 that document that you want to ask her about?

17 MR. DUPREE: Yes, sir, there is. I want to know on
18 that document was there -- this item submitted to
19 Lieutenant Rhonda Fields' department, D.N.A. Department
20 that Lieutenant Rhonda Fields said that the item ---

21 THE COURT: That would be a good question. Ask her
22 that.

23 BY MR. DUPREE:

24 Q. Do -- is there anywhere on the report, the chain of
25 custody report, that Item 2.1 was submitted to Lieutenant

1 Rhonda Fields at any time, ma'am, by Miss Lily Gallman?

2 A. No, sir. The Item 2.1 never went to Rhonda Fields.
3 The item itself never went to Miss Rhonda Fields.

4 Q. So the search went to Miss Rhonda Fields. The
5 item -- help me to understand what went to Miss Rhonda
6 fields?

7 A. A D.N.A. report is generated -- a D.N.A. profile is
8 generated from an item by the analyst. That is entered
9 into a computer system. That profile that went into the
10 computer system was searched against a whole big computer
11 database of other D.N.A. profiles that have been entered
12 by the state level and the national level.

13 Rhonda Fields compared the hit which would be the
14 profile that Lily Gallman entered as Item 2.1 with what
15 the database says was a match.

16 Q. So can you tell me since you seem to know about this
17 who found the hit on Item 2.1?

18 A. The computer database identified the hit. Rhonda
19 Fields ---

20 Q. Office?

21 A. Well, her employees would be corroborated that hit.
22 They would have said, "This is the report we got back from
23 the computer system." We double check it and they send
24 out their letter.

25 Q. Okay. Now, wouldn't her name still be entered in

1 this chain of custody stating that?

2 A. No. Because she never had physical custody of Item
3 2.1.

4 Q. Okay. That's understandable. Miss Lily Gallman did?

5 A. Correct. Yes, sir.

6 Q. So wouldn't her report have stated in her report who
7 the hit was found from? Cause if she's the one who is
8 going to report this then she's the one who put this in
9 her report cause it was obvious that Lieutenant Rhonda
10 Fields couldn't have reported that as it was said earlier.

11 She wasn't going to be entered -- well, I mean for
12 that, but at my request she was brought forth. So what
13 I'm asking would Miss Lily Gallman would have been the one
14 who would have entered that or put that in her report that
15 she found this hit?

16 A. No. Because Lily Gallman did not find the hit. That
17 would have been through Rhonda Fields' department that the
18 hit was found. That's the reason she issued the letter
19 saying that there was a hit. Then Lily would have had
20 gotten a standard from the agency that is investigating
21 the case from the suspect that was identified in the hit
22 letter. And then Lily would have compared the profile
23 from that standard to the evidence.

24 Q. So I'm not understanding. If she wasn't the one who
25 would have reported this hit, and if Lieutenant Rhonda

1 Fields wouldn't have been present here and this document
2 that she gave wouldn't have been present then how would
3 they have known that D.N.A. was found from the defendant
4 if Miss Lily Gallman wasn't the one who did report this
5 hit that was found in C.O.D.I.S.

6 A. I'm not sure I understand.

7 MR. REDMOND: Your Honor, I don't understand that
8 question. If I may object. He can rephrase.

9 THE COURT: Well, it's not important that you
10 understand the question. It's important that she does.

11 MR. REDMOND: Yes, sir.

12 THE COURT: And I'll ask you that rephrase the
13 question. However, I do believe that its been asked
14 several times. Ask it again.

15 BY MR. DUPREE:

16 Q. What I'm asking, madam, once again, is Miss Gallman
17 the one that -- did Miss Gallman by chance knew of the
18 hit?

19 A. I do not know what Miss Gallman knew.

20 MR. DUPREE: No further questions, Your Honor.

21 THE COURT: All right. Very good. Any redirect?

22 MR. REDMOND: No redirect.

23 THE COURT: You may step down.

24 MS. JOHNSON LEE: Ashley Bell.

25 THE COURT: Yes, ma'am. Please come forward. Ask if

1 you could to place your left hand on the bible and raise
2 your right hand as the Clerk administers the oath.

3 ASHLEY BELL, after being duly sworn, testified
4 as follows:

5 THE COURT: Yes, ma'am. Please come forward. I'm
6 going to ask if you could to please have a seat in the
7 witness chair. Watch your step. Pull up real close to
8 that microphone. Speak loudly, clearly and slowly in
9 order that we can hear everything that you've got to say.
10 And let's start with your full name, please, ma'am.

11 THE WITNESS: My name is Ashley Bell.

12 DIRECT EXAMINATION

13 BY MS. JOHNSON LEE:

14 Q. Where are you employed?

15 A. At the South Carolina Law Enforcement Division more
16 commonly referred to as S.L.E.D.

17 Q. And what is your job at S.L.E.D.?

18 A. I am a forensic serologist.

19 Q. And how long have you been a forensic serologist at
20 S.L.E.D.?

21 A. Approximately two and a half years.

22 Q. Okay. Now, as far as forensic serologist what types
23 of examinations do you do at S.L.E.D.?

24 A. Forensic serology is the identification of body
25 fluids such as blood, semen and saliva. We also examine

1 hair enter other materials.

2 Q. Now, approximately how many examinations have you
3 performed during your two and a half years at S.L.E.D.?

4 A. Hundreds. Approximately hundreds.

5 Q. And where did you go to school?

6 A. I attended Washington and Lee University.

7 Q. What type of degrees do you have?

8 A. A Bachelor of science degree in biochemistry.

9 Q. Do you have any other types of training in the area
10 of forensic serology?

11 A. Yes, ma'am, I do.

12 Q. What is that?

13 A. I underwent extensive inhouse training at S.L.E.D.
14 That was composed of taking numerous courses. For
15 example, like hair coarse, with West Virginia University.
16 I also took a graduate level course through the University
17 of Florida in biological evidence and serology. I've also
18 taken numerous classes through DNA.gov, the National
19 Institute of Justice on evidence handling and laboratory
20 safety.

21 The other half of my inhouse training was conducted
22 under a court qualified D.N.A. analyst and forensic
23 process techniques. I wen through a period of observation
24 where I watched those experts do case work. After a
25 certain amount of time I was given mock samples. They're

1 called training samples. They're mock samples that I use
2 to allow me the ability to be able to handle actual case
3 work.

4 I successfully completed my mock samples, and I began
5 doing supervised case work. That is were I get to handle
6 the cases under that court qualified analyst. They're
7 watching every step of me do the process that I do.
8 Lastly, I was deemed competent as an forensic serologist
9 by undergoing a series of tests. There is a written exam,
10 an oral exam, a laboratory exam, as well as a mock course.
11 I was deemed competent the area of forensic serology.

12 Q. Now, you said you performed hundreds of exams at
13 S.L.E.D.?

14 A. Yes, ma'am.

15 Q. And is that ones you have done by yourself as well as
16 working under someone training you?

17 A. That is correct.

18 Q. Okay. This is your first time actually testifying in
19 Court, is that correct?

20 A. Yes, ma'am, it is.

21 Q. Okay.

22 MS. JOHNSON LEE: Your Honor, we would offer this
23 witness, Ashley Bell, as an expert in the field of
24 forensic serology.

25 THE COURT: All right. Any questions with regards to

1 her qualifications?

2 MR. DUPREE: No, sir, Your Honor.

3 THE COURT: All right. She is indeed qualified as an
4 expert in serology. The field that you're tendering her
5 is what again?

6 MS. JOHNSON LEE: Forensic serology.

7 THE COURT: Forensic serology, and she will be
8 allowed to render her opinion in that area.

9 MS. JOHNSON LEE: Thank you, Your Honor.

10 BY MS. JOHNSON LEE:

11 Q. Ms. Bell, did you receive any evidence in the case
12 that we're here for today regarding the Defendant, Derrick
13 Dupree? The victim, LT [REDACTED]

14 A. Yes, ma'am, I did.

15 Q. Okay. Did you render any type of report as a result
16 of the work you did on this case?

17 A. Yes, ma'am, I did.

18 Q. Okay.

19 MS. JOHNSON LEE: Before any further questions
20 permission to approach the witness?

21 THE COURT: Yes.

22 MS. JOHNSON LEE: I'm going to hand you what's
23 actually been marked by the Defendant as Exhibit Number
24 Six. Is that the report that you rendered?

25 A. It does appear to be a copy of my report.

1 Q. Okay. Now, do you know when you received evidence in
2 this particular case?

3 A. Yes, ma'am, I do.

4 Q. Okay. Can you tell the jury?

5 A. Yes, ma'am. May I please refer to my chain of
6 custody?

7 THE COURT: You may.

8 BY MS. JOHNSON LEE:

9 Q. And if you don't mind not only telling them when but
10 what you received.

11 A. Okay. On September the 9th 2013 I received Item 2.1
12 which is the cutting from a nightgown, and I received it
13 directly from Forensic Technician Verona Gibson.

14 Q. Okay. Did you receive any other evidence in this
15 case?

16 A. Yes, ma'am, I did.

17 Q. Okay. And what was that and what was the date
18 received?

19 A. I received Item 3 which was a sexual assault
20 collection kit. I received that on September the 9th 2013
21 from Forensic Technician Amy Stevens.

22 Q. Okay. And what was contained in the sexual assault
23 collection kit?

24 A. A sexual assault collection kit contains the standard
25 items that are used to collect evidence of a sexual

1 assault. It contains mirrors, combs for pubic hair
2 combing, swabs and a debris collection sheet.

3 Q. Okay. And including the swabs are those swabs from
4 both vaginal and rectal swabs?

5 A. In this case, yes, ma'am. There were vaginal and
6 rectal swabs.

7 Q. Okay. And also included in that kit is there a swab
8 from the victim, a buccal swab?

9 A. Yes, ma'am, there is.

10 Q. Okay. Did you receive other evidence in this case?

11 A. Yes, ma'am, I did.

12 Q. Okay. What was that and what was the date you
13 received it?

14 A. I received Item 5.1 which was a cutting from
15 underwear from the sexual assault collection kit. I
16 received it on September the 9th 2013 from Forensic
17 Technician Verona Gibson.

18 Q. Now, when you received the Item 2.1, which was the
19 cutting from the nightgown, and Item 5.1, which was the
20 cutting from the underwear, how were those packaged?

21 A. Those are packaged inside a heat sealed pouch that
22 Verona Gibson sealed, signed and dated. And within that
23 heat sealed pouch was a coin envelope that she placed the
24 actual sample in. And that coin envelope was sealed with
25 a piece of tape with their initials and the date.

1 Q. Now, is that considered a tamper resistant or a
2 tamper evident package? Meaning that if someone had tried
3 to open it before you got it you would know it?

4 A. Correct.

5 Q. And looking back do you recall whether or not either
6 of those samples had been opened by anyone other than
7 yourself?

8 A. No, ma'am. I would have stopped my processing if any
9 seals were not intact.

10 Q. All right. And the sexual assault kit, Item 3, the
11 sexual assault collection kit, was it open at the time you
12 received it?

13 A. No, ma'am, it was not.

14 Q. Okay. So the seals were still intact on that item?

15 A. The actual sexual assault kit had its own seal that
16 was unbroken, signed and dated by I presumed the sexual
17 assault nurse. That was placed inside the heat sealed
18 pouch and signed and dated.

19 Q. Did you open that item?

20 A. Yes, ma'am, I did.

21 Q. Okay. Now, what type of examination did you perform
22 on any of these items that we've referenced?

23 A. I performed semen testing on all of the items
24 submitted.

25 Q. Okay. And what were your results?

1 A. For all of the items or for?

2 Q. Well, did you find semen on any of these items?

3 A. Yes, ma'am. Semen was indicated on several of the
4 items. That I had to test.

5 Q. Okay. Please tell the jury which items had semen
6 indicated on them?

7 A. Item 2.1, cutting from the nightgown, semen was
8 indicated. On Item 3.2, vaginal swabs from the sexual
9 assault collection kit, semen was indicated. Item 3.3,
10 rectal swabs from the sexual assault evidence collection
11 kit, semen was indicated. And on Item 5.1, cuttings from
12 the underwear, semen was indicated.

13 Q. Now, as a forensic serologist do you do any further
14 testing to determine whether or not that is semen, and if
15 so who did it come from?

16 A. My process involves a test that we use. It's a card
17 test. We make a cutting of the sample. We place that
18 sample into a tube. It sits and soaks for a little while
19 in water, and then we take the liquid of that sample and
20 drop it into a test well on a card.

21 The card can be read in terms of results similar to a
22 pregnancy test. When I place the sample in the well if
23 the protein from the semen, P30, that is found in very
24 high concentrations, if that is present in that sample
25 three lines will appear to indicate that that sample is

1 positive. So semen is indicated.

2 If semen is not indicated only two lines will appear,
3 and I have to say no semen indicated.

4 Q. And, so again, semen was indicated on the cuttings
5 from the nightgown, the underwear and the swabs that were
6 vaginal swabs and rectal swabs; is that correct?

7 A. That is correct.

8 Q. Okay. Now, what did you do with all of those items
9 once you completed your examination?

10 A. I would have made cutting that I submitted for D.N.A,
11 analysis. Those cuttings are placed into tubes. Those
12 tubes are placed into a heat sealed pouch. It is sealed,
13 label it with my initials and the date.

14 And then that packaging, if it is a sexual assault
15 kit, it is placed back with the sexual assault kit which
16 is then placed back in its original heat sealed pouch. I
17 seal that heat sealed pouch, sign it and date it.

18 If I -- the cuttings from the nightgown and the
19 cutting from the underwear I would have done the same
20 thing. Take the small cutting to forward for D.N.A.
21 analysis. Place it into a tube. Place it into a very
22 small heat sealed pouch that I seal, initial and date.

23 And I place that back into the heat sealed pouch that
24 that cutting came from. Seal that, initial and date it.

25 Q. And, again, those heat sealed packages, those are

1 tamper evident or tamper resistant; is that correct?

2 A. Correct. We seal those to ensure that we are able to
3 tell if its been tampered with.

4 Q. And the report that you made of your findings that
5 you have just testified to that is the report that's in
6 front of you already put in evidence as Defendant's
7 Exhibit Six; is that correct? That is your report?

8 A. Yes, ma'am.

9 Q. And that report does contain the findings as you
10 testified to?

11 A. Yes, ma'am.

12 Q. Thank you, Miss Bell. No further questions. Please
13 answer any questions that the Defendant has.

14 THE COURT: Mr. Dupree?

15 MR. DUPREE: Yes, sir. I only have one question.

16 CROSS-EXAMINATION

17 BY MR. DUPREE:

18 Q. Miss Bell, I just have one question, ma'am. On Item
19 3.3, was any semen indicated on Item 3.3?

20 A. On Item 3.3, the rectal swab, semen was indicated.

21 Q. Okay. Thank you.

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

23 THE COURT: Any redirect?

24 MS. JOHNSON LEE: No, Your Honor.

25 THE COURT: You may step down. You are free to

1 leave. You may call your next witness.

2 MR. REDMOND: Thank you, Your Honor. May it please
3 the Court. The State next calls Lily Gallman.

4 THE COURT: Yes, ma'am. Place your left hand on the
5 bible and raise your right hand as the Clerk administers
6 the oath.

7 LILY GALLMAN, after being duly sworn, testified
8 as follows:

9 THE COURT: Have a seat in the witness chair. Pull
10 up real close to that microphone. Speak loudly, clearly
11 and slowing in order that we can hear everything that
12 you've got to say. Let's start with your full name,
13 please, ma'am.

14 THE WITNESS: My name is Lily Smalls Gallman.

15 DIRECT EXAMINATION

16 BY MR. REDMOND:

17 Q. And, Ms. Gallman, by whom are you employed? I think
18 we already know.

19 A. This is me. I'm sorry.

20 Q. By whom are you employed?

21 A. I'm employed with the South Carolina Law Enforcement
22 Division as a forensic D.N.A. analyst.

23 Q. And how long have you been employed with S.L.E.D.?

24 A. This January will be 25 years.

25 Q. Okay. And how long have you been a forensic D.N.A.

1 analyst?

2 A. I was hired as a D.N.A. analyst?

3 Q. Okay. So 25 years of experience, so let's get into
4 your educational background if you could. Could you
5 briefly tell us about that?

6 A. I have a degree in biology from the University of
7 South Carolina. Once I received my degree I continued to
8 work there in the area of molecular genetics. I begin
9 working with the South Carolina Law Enforcement Division
10 in January of 1990.

11 Since that time since all of my work was in
12 academemia I was trained in the area of forensic D.N.A.
13 analysis by attending the F.B.I. D.N.A. typing schools.
14 I've also taken advanced courses in genetics and
15 statistics. And I've also been trained by court qualified
16 serologist in the area of serology.

17 Q. Okay. And with all that experience I'm going to ask
18 you this way, have you ever testified as an expert in
19 Court before?

20 A. Yes, I have.

21 Q. And have you had it been -- can you estimate how many
22 time you've testified as an expert in the field of D.N.A.
23 analysis?

24 A. Approximately 60.

25 MR. REDMOND: And, Your Honor, at this time I would

1 move to have Miss Gallman qualified as an expert witness
2 in the field of D.N.A. analysis?

3 MR. DUPREE: No objection, Your Honor.

4 THE COURT: All right. Very good. She is indeed
5 qualified as an expert in D.N.A. analysis, and she's
6 allowed to render her opinion in that area.

7 MR. REDMOND: And if the Court would indulge me.
8 State's 34. May I approach the witness, Your Honor?

9 THE COURT: Yes.

10 BY MR. REDMOND:

11 Q. Take a look at State's 40 and 42, and just tell us
12 whether or not those represent true copies of your D.N.A.
13 report?

14 A. Yes, they are. Yes. I issued two reports in this
15 particular case. This is the original, and this is the
16 supplemental. The supplemental was issued because I
17 received an additional evidence in the case after this
18 report had already gone out. So this is a supplemental
19 report.

20 Q. Okay. Now, let me ask you this. And let's not --
21 no, we're not going to be totally educated on D.N.A, but
22 could you in a layman's terms fashion explain to the jury
23 exactly what D.N.A. is and the significance of D.N.A.

24 A. Okay. D.N.A. is considered to be the blueprint of
25 the body. Everyone's D.N.A. is unique except for

1 identical twins because they have the same D.N.A. You get
2 part of your D.N.A. from your mother, and part from your
3 father. And what we do in D.N.A. case working part of
4 S.L.E.D. is we will receive evidence for the purpose of
5 identification. I develop a D.N.A. profile from the
6 evidence, and if there is a standard or a known sample
7 that's admitted I compare those together and determine
8 whether they match or do not match.

9 Q. Okay. Now, could you explain the testing procedure
10 in general or briefly could you explain it?

11 A. The testing is basically the same, but some
12 differences in what type evidence you receive. The
13 process for extracting D.N.A. from blood is a little
14 different from when you're trying to extract D.N.A. from
15 semen. But, basically, in the end it's all the same
16 because what you want to do is extract the D.N.A. from
17 those items.

18 I would, as Miss Bell stated, I place the cuttings in
19 a tube. Those cuttings I add a solution to it that breaks
20 open the cells, be it skin cells or semen. In semen the
21 sperm cells. Break them open and release the D.N.A. and I
22 purify that D.N.A. and then take it on to develop the
23 D.N.A. profile.

24 Q. Now, did you actually do D.N.A. testing and I'm refer
25 to both the exhibit number in the record and to your

1 number, I guess the S.L.E.D. numbers? Exhibit Ten is
2 already in evidence. Was that -- did you have a chance to
3 examine the buccal swab from Miss LT [REDACTED] a vaginal
4 swab; that being Item 3.2 and a rectal swab, that being
5 Item 3.3 in relation to this case?

6 A. Yes, I did.

7 Q. And I didn't say. I think Miss LT [REDACTED] buccal swab
8 was Item 3.6 in your records; is that correct?

9 A. Yes, that is correct.

10 Q. And did you also have the opportunity to examine Item
11 41; that being a buccal swab? Well, Exhibit 41 for the
12 State, but Item 9 in your records; that being a buccal
13 swab from Kadeem Hooks?

14 A. Yes, sir.

15 Q. Okay. And let's stop right -- well, let me move on.
16 Item 2.1 for y'all is Exhibit Six for the State. Is that
17 the gown? Did you have a chance to examine that?

18 A. Yes, I did.

19 Q. And Exhibit Eight for the State, which is Item 5.1 on
20 your report, is that a cutting from the underwear. Did
21 you also have the chance to examine those?

22 A. Yes, I did.

23 Q. Okay. Now, let's talk about those particular
24 exhibits which I think are related to your October 10th
25 report, State's 42, I believe it is. Did you conduct

1 analysis on those particular items?

2 A. Yes.

3 Q. And let he back up for just a moment because we've
4 had testimony about C.O.D.I.S. So that the jury
5 understands exactly how that works let's take the items
6 that you received from the victim; that being Item 3.6.
7 3.2, and 3.3. Tell us what you did with those items as it
8 relates to it being placed in the C.O.D.I.S. database?
9 Could you explain that to the jury, please?

10 A. Okay. All of the items that I received, the cuttings
11 or swabs, that I received I develop a D.N.A. profile from
12 them. When you have sample like vaginal swabs are coming
13 from a victim you will -- like I said the possess is a
14 little different because what you want to do is try to
15 separate the epithelial cells that are the victims' from
16 the sperm cells.

17 We wash the sperm cells as well as you can, but on
18 occasion you do get mixtures from the victim and the
19 subject in the particular case. And in this particular
20 case and Items 3.2 -- let me make sure. Item 3.2 which
21 was the vaginal swab and Item 3.3, a rectal swabs, I had a
22 mixture from the victim and the subject, but there was
23 semen identified on those items.

24 So what you can do is subtract the victim's profile
25 from that particular item and look at what you're getting

1 from the subject in the particular case. And I was able
2 to do that?

3 Q. Okay. So when you do that, once you develop a
4 profile, is that entered into a database where your
5 C.O.D.I.S. Department can actually do cross checking
6 around the country and the state to see if there is a
7 match?

8 A. Once we're able to develop a D.N.A. profile from the
9 evidence we enter that profile into the C.O.D.I.S.
10 database. That's as far as I go at that point. I enter
11 it into the C.O.D.I.S. that goes into the computer. Put
12 the information in, and that's the end of my job.

13 The C.O.D.I.S. database side's job is that profile
14 that I entered they upload it for a search to the national
15 database and wait to see if a hit comes back. If the hit
16 comes back then they proceed like Lieutenant Fields stated
17 earlier.

18 Q. And, now, let's move on. The C.O.D.I.S -- and thank
19 you for explaining that for us. Now, let's move to the
20 particular testing you did related to the case. If I'm
21 not mistaken on October 10th report did you actually at
22 the time you did testing did you have a sample from Kadeem
23 Hooks to compare?

24 A. Yes, sir, I did.

25 Q. And on October 10th did any of your findings in that

1 report match Kadeem Hooks in this particular case?

2 A. No, it did not.

3 Q. Okay. And in fact I believe items have been entered.
4 If I state it wrong please correct me. I think Items 3.1
5 3.2, 2.1 -- excuse me. The cuttings from the gown; 3.2,
6 the vaginal swab, and 5.1, the cutting from the underwear.
7 He was specifically excluded if I read your report
8 correctly?

9 A. Yes, he was.

10 Q. So to be clear was Kadeem Hooks specifically excluded
11 from being the provider of that sample?

12 A. Yes, he was.

13 Q. Thank you. And I think Item 42 -- I think that's
14 Exhibit 42 is already in evidence. So at that particular
15 time did you actually have a sample, a buccal swab sample,
16 of the defendant to be able to compare it?

17 A. No, I did not.

18 Q. Did you subsequently get a buccal swab sample from
19 the defendant to be able to compare?

20 A. Yes, I did.

21 Q. Now, let's move on to your report from, I believe, it
22 was May of 2014. Were you able to compare the defendant's
23 buccal swab to the exhibits and the items that have been
24 previously submitted?

25 A. Yes, I did.

1 Q. And could you tell the ladies and gentlemen of the
2 jury what the results of your analysis were?

3 A. Okay. I'm going to read from the results section of
4 my report.

5 Q. Yes, ma'am, that's fine.

6 MR. REDMOND: And, Your Honor, at this time I hadn't
7 moved it into evidence, but for the record I'd like to
8 move State's Exhibit, I believe that's 40, into evidence?

9 THE COURT: Any objection from the Defense?

10 MR. DUPREE: No, sir.

11 THE COURT: Forty is into evidence.

12 (WHEREUPON, State's Exhibit No. 40 was admitted into
13 evidence.)

14 BY MR. REDMOND:

15 Q. Mind and please publish your findings.

16 A. Okay. I'm reading from the results section of my
17 report. The first paragraph reads as follows, "Semen was
18 identified on Items 2.1, 3.2 and 5.1. The D.N.A. profile
19 developed from the semen found on Items 2.1, 3.2 and 5.1
20 matches the D.N.A. profile of Derrick Dupree."

21 And we are require to give a statistical value to go
22 along with that, with a match, and it further states that,
23 "the probability of random selecting an unrelated
24 individual having the D.N.A. profile matching the semen on
25 these item is approximately one and 130 quadrillion."