

# VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Appeal from Charleston County

Stephanie P. McDonald, Circuit Court Judge

---

HAROLD ORR,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213681

---

APPENDIX

---

**RECEIVED**

AUG 21 2013

**S.C. Supreme Court**

KATHRINE H. HUDGINS  
Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ASHLEIGH R WILSON  
Assistant Attorney General  
P. O. Box 11549  
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

## INDEX

|                                                           |     |
|-----------------------------------------------------------|-----|
| INDEX .....                                               | i   |
| TRIAL TRANSCRIPT .....                                    | 1   |
| INDICTMENTS AND SENTENCING SHEETS.....                    | 570 |
| APPLICATION FOR POST-CONVICTION RELIEF .....              | 576 |
| AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF ..... | 582 |
| RETURN .....                                              | 583 |
| POST-CONVICTION RELIEF HEARING TRANSCRIPT .....           | 588 |
| ORDER OF DISMISSAL .....                                  | 608 |

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON ) COURT OF GENERAL SESSIONS  
04-GS-10-2737/04-GS-10-2739

ORIGINAL

STATE OF SOUTH CAROLINA, )  
PLAINTIFF. )  
vs. ) TRANSCRIPT OF RECORD  
HAROLD ORR, III, )  
DEFENDANT. )

APRIL 21-23, 2008  
CHARLESTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. FEW, JUDGE.

A P P E A R A N C E S:

DEBBIE HERRING-LASH, ESQUIRE,  
KRIS NEELY, ESQUIRE,  
Attorneys for the State.

RODNEY DAVIS, ESQUIRE,  
BENJAMIN LEWIS, ESQUIRE,  
Attorneys for the Defendant.

VIVIAN H. CROSS  
OFFICIAL COURT REPORTER

## I-N-D-E-X

APRIL 21, 2008 (DAY 1 OF TRIAL)

|                                          | <u>PAGE</u> |
|------------------------------------------|-------------|
| COLLOQUY                                 | 3           |
| VOIR DIRE                                | 11          |
| JURY SELECTION                           | 67          |
| DEFENSE MOTION TO SEQUESTER              | 87          |
| JURY SWORN/JUDGE'S OPENING STATEMENTS    | 90          |
| STATE'S OPENING-MS. HERRING-LASH         | 96          |
| DEFENSE'S OPENING-MR. DAVIS              | 100         |
| <u>MINOR</u>                             |             |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 107         |
| CROSS EXAMINATION BY MR. DAVIS           | 129         |
| REDIRECT EXAMINATION BY MS. HERRING-LASH | 147         |
| <u>ROSIE ZENO:</u>                       |             |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 151         |
| CROSS EXAMINATION BY MR. DAVIS           | 155         |
| COLLOQUY                                 | 157         |

## I-N-D-E-X

APRIL 22, 2008 (DAY 2 OF TRIAL)

|                                          |             |
|------------------------------------------|-------------|
| <u>OFFICER AUSTIN ROGERS</u>             | <u>PAGE</u> |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 159         |
| CROSS EXAMINATION BY MR. DAVIS           | 168         |
| REDIRECT EXAMINATION BY MS. HERRING-LASH | 190         |
| <u>SHEILA SHEPPARD</u>                   |             |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 192         |
| CROSS EXAMINATION BY MR. DAVIS           | 212         |
| REDIRECT EXAMINATION BY MS. HERRING-LASH | 249         |
| RECROSS EXAMINATION BY MR. DAVIS         | 255         |
| <u>OFFICER SCOTT WYANT</u>               |             |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 256         |
| CROSS EXAMINATION BY MR. DAVIS           | 261         |



## I-N-D-E-X (CONT.)

|                                          |     |
|------------------------------------------|-----|
| <u>OFFICER MICHAEL RINGLEY</u>           |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 263 |
| <br>                                     |     |
| <u>CHARLES HARDIN</u>                    |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 266 |
| CROSS EXAMINATION BY MR. DAVIS           | 270 |
| <br>                                     |     |
| <u>WILLIAM O'BRIEN</u>                   |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 277 |
| CROSS EXAMINATION BY MR. DAVIS           | 280 |
| <br>                                     |     |
| <u>PAULA A. DAVIS</u>                    |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 282 |
| CROSS EXAMINATION BY MR. DAVIS           | 285 |
| <br>                                     |     |
| <u>AMANDA FAULKNER</u>                   |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 287 |
| <br>                                     |     |
| <u>ALLEN E. WILLIAMS</u>                 |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 290 |
| CROSS EXAMINATION BY MR. DAVIS           | 292 |
| <br>                                     |     |
| <u>DR. SARA SCHUH</u>                    |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 295 |
| CROSS EXAMINATION BY MR. DAVIS           | 310 |
| REDIRECT EXAMINATION BY MS. HERRING-LASH | 319 |
| <br>                                     |     |
| <u>ROBIN TAYLOR</u>                      |     |
| DIRECT EXAMINATION BY MS. HERRING-LASH   | 320 |
| CROSS EXAMINATION BY MR. DAVIS           | 375 |

## I-N-D-E-X

APRIL 23, 2009 (DAY 3 OF TRIAL)OFFICER ALMA LOWERY

|                                   |     |
|-----------------------------------|-----|
| DIRECT EXAMINATION BY MR. NEELY   | 409 |
| CROSS EXAMINATION BY MR. DAVIS    | 425 |
| REDIRECT EXAMINATION BY MR. NEELY | 432 |
| RECROSS EXAMINATION BY MR. DAVIS  | 434 |

JULIE M. KOWALEWSKI

|                                        |     |
|----------------------------------------|-----|
| DIRECT EXAMINATION BY MS. HERRING-LASH | 434 |
| CROSS EXAMINATION BY MR. DAVIS         | 459 |
| DIRECT EXAMINATION BY MS. HERRING-LASH | 477 |
| CROSS EXAMINATION BY MR. DAVIS         | 484 |

LASHANDA SIMMONS

|                                 |     |
|---------------------------------|-----|
| DIRECT EXAMINATION BY MR. NEELY | 485 |
|---------------------------------|-----|

SABRINA ANDERSON

|                                 |     |
|---------------------------------|-----|
| DIRECT EXAMINATION BY MR. NEELY | 493 |
|---------------------------------|-----|

|                                       |     |
|---------------------------------------|-----|
| CLOSING ARGUMENTS BY MS. HERRING-LASH | 509 |
| CLOSING ARGUMENTS BY MR. DAVIS        | 527 |
| JURY CHARGE                           | 541 |
| VERDICT                               | 552 |
| CERTIFICATE                           | 566 |

---

E X H I B I T S

| <u>STATE'S EXHIBITS</u> | <u>IDENTIFICATION</u> | <u>ENTERED</u> |
|-------------------------|-----------------------|----------------|
| 1 PHOTO                 | 3                     | 113            |
| 2 PHOTO                 | 3                     | 117            |
| 3 PHOTO                 | 3                     | 117            |
| 4 DNA REPORT 2:50:14 PM | 3                     | 363            |
| 5 DNA REPORT 2:50:03 PM | 3                     | 363            |
| 6 DNA REPORT 5:21:07 PM | 3                     | 447            |
| 7 DNA REPORT 4:06:46 PM | 3                     | 447            |
| 8 TABLE ONE             | 3                     | 447            |
| 9 VICTIM UNDERWEAR      | 3                     | 306            |
| 10 ASA KIT              | 3                     | 327            |
| 11 SUSPECT KIT TO BODE  | 3                     | 356            |
| 12 DNA KIT TO BODE      | 3                     | 445            |
| 13 DNA KIT TO BODE      | 3                     | 445            |
| 14 VICTIM GREEN SHORTS  | 3                     | 115            |
| 15 VICTIM BLUE SHIRT    | 3                     | 115            |
| 16 CUTTING FROM TOWEL   | 3                     | 459            |
| 17 SLED REPORT          | 3                     |                |
| 18 CUTTING/PANTIES      | 358                   | 359            |
| 19 BAG                  |                       | 445            |

P R O C E E D I N G S

(APRIL 21, 2008 - 2:00 P.M.)

(CASE NO.: 04-GS-10-2737/2739)

(DAY 1 OF TRIAL)

(NOTE: PRIOR TO THE COMMENCEMENT OF TRIAL, STATE'S  
EXHIBITS ONE THROUGH SEVENTEEN WERE MARKED FOR  
IDENTIFICATION.)

THE COURT: GOOD MORNING -- GOOD AFTERNOON, I MEAN; BE  
SEATED.

(WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
CONFERENCE, OFF THE RECORD.)

(WHEREUPON, COURT RESUMED.)

THE COURT: OKAY, UH, I AM LOOKING AT A MOTION TO  
SUPPRESS A 9-1-1 TAPE. DO YOU INTEND TO USE A 9-1-1 TAPE IN  
OPENING STATEMENT?

MS. HERRING-LASH: NO, YOUR HONOR.

THE COURT: OKAY, WE'LL TAKE THAT UP LATER. OKAY---

MS. HERRING-LASH: AND I DON'T EXPECT TO USE IT AT ALL.

THE COURT: ALL RIGHT, WE WON'T TAKE IT UP AT ALL  
UNLESS SHE CHANGES HER MIND.

MR. DAVIS: AND JUDGE, UH, FOR A LITTLE BACKGROUND FOR  
THE -- FOR THE -- FOR YOUR HONOR, THIS IS ACTUALLY A -- A  
RETRIAL.

UM -- MS. HERRING-LASH AND MYSELF -- AS SECOND CHAIR --  
BACK IN NOVEMBER '06, UM, THIS WAS A TWO-AND-A-HALF DAY, I

1 BELIEVE, TRIAL. UH -- HUNG JURY -- MISTRIAL. AND NOW IT'S  
2 BEING RETRIED AGAIN.

3 AND I JUST WANTED YOUR HONOR TO BE AWARE OF THAT. WE  
4 WILL DO OUR BEST -- AS WE DID THEN -- TO AVOID SOME ISSUES  
5 THAT I'LL MAKE YOU AWARE OF NOW.

6 CERTAINLY -- WE DISCUSSED PREVIOUSLY -- IN CASE THERE'S  
7 ANYTHING THAT A WITNESS WOULD SAY, THAT OBVIOUSLY WE HAVE A  
8 TRANSCRIPT HERE. UM -- WE HAD DISCUSSED THAT, YOU KNOW,  
9 THAT THEY HAD TESTIFIED AT A PREVIOUS PROCEEDING, UH, RATHER  
10 THAN GETTING INTO THE FACT THAT THIS IS A SECOND TRIAL.

11 UM -- IF THAT WOULD BE, UH, AMENABLE TO THE COURT, THEN  
12 THAT'S THE WAY MS. HERRING-LASH AND MYSELF WOULD DEAL WITH  
13 IT IF THE ISSUE CAME UP.

14 UM -- SHE HAS INDICATED TO ME SHE DOESN'T INTEND TO USE  
15 THE 9-1-1 TAPE.

16 SHE'S INDICATED TO ME SHE DOES NOT INTEND TO USE ANY  
17 LYLE EVIDENCE. UM -- I DIDN'T PUBLISH ON THAT. THIS IS  
18 SOMETHING WE'VE AGREED TO AT -- LAST TIME AS WELL.

19 UM -- SHE HAS PROVIDED ME WITH MOTIONS AS FAR AS, UM,  
20 RAPE SHIELD AND OTHER, UH, SEXUAL ASSAULTS. WE DO NOT  
21 INTEND TO GET INTO THAT AT ALL, UH, FOR YOUR HONOR'S  
22 BENEFIT.

23 UM -- SO I THINK DEFINITELY LAST TIME THERE WAS A  
24 STATEMENT THAT THE STATE SOUGHT TO INTRODUCE AND WE HAD THE  
25 DENNO HEARING ON IT. IT'S MY UNDERSTANDING THAT THEY DO NOT

1 INTEND TO -- TO INTRODUCE THAT THIS TIME. SO, THEREFORE, WE  
2 DO NOT HAVE THAT ISSUE.

3 MS. HERRING-LASH: THAT'S RIGHT, YOUR HONOR. AND AS  
4 FAR AS THE RAPE SHIELD AND PRIOR SEXUAL ASSAULTS, THERE ARE  
5 NONE THAT I KNOW OF. I JUST DID THAT IN CASE THE DEFENSE  
6 TRIED -- IT WAS GONNA BRING ANYTHING UP.

7 THE ONLY PRIOR SEXUAL ASSAULTS WERE BETWEEN THESE TWO  
8 INDIVIDUALS, BUT IN ANOTHER JURISDICTION, AND WERE NOT  
9 SIMILAR ENOUGH TO FALL UNDER THE COMMON SCHEME I THINK.

10 BUT, IF THE DOOR IS OPENED, YOU KNOW---

11 THE COURT: BETWEEN THE SAME TWO PEOPLE?

12 MS. HERRING-LASH: YES, YOUR HONOR.

13 MR. DAVIS: IT'S -- IT'S ALLEGATIONS, JUDGE. I DON'T  
14 BELIEVE THERE'S---

15 MS. HERRING-LASH: NO, THERE'S NO CONVICTIONS.

16 MR. DAVIS: ---THERE'S NO ARRESTS. NO -- NO  
17 CONVICTIONS.

18 MS. HERRING-LASH: IT WAS JUST DIFFERENT SEXUAL  
19 BATTERIES.

20 THE COURT: OKAY.

21 MS. HERRING-LASH: AND THE ONLY OTHER THING, YOUR  
22 HONOR, FROM THE, UM, JURY QUALIFICATIONS THIS MORNING, THERE  
23 WAS ONE JUROR -- NUMBER ONE-0-THREE -- THAT WE DID NOT HAVE  
24 A RAP SHEET ON.

25 I DID -- HE -- HE APPROACHED AND SAID HE HAD BEEN

STATE VERSUS HAROLD ORR, III  
COLLOQUY

1 CONVICTED OF FAILURE TO STOP FOR A BLUE LIGHT. AND I DID  
2 HAVE SOMEBODY RUN THAT, AND HE HAS BEEN CONVICTED OF FAILURE  
3 TO STOP FOR A BLUE LIGHT. I HAVE NO IDEA IF HE'S IN OUR  
4 PANEL OR NOT. HE WAS ONE OF THREE.

5 THE COURT: HE'S NOT IN OUR PANEL.

6 MR. DAVIS: HE'S NOT IN OUR PANEL.

7 THE COURT: WILL YOU JUST MAKE SURE THEY GO AHEAD AND  
8 EXCUSE HIM? OR, LET HIM KNOW HE'S EXCUSED?

9 CLERK: WE'LL DO IT.

10 THE COURT: WHAT ABOUT THAT MS. WRIGHT?

11 CLERK: WE'RE TRYING TO -- STILL TRYING TO GET IT FROM  
12 FEDERAL.

13 THE COURT: IS SHE IN MY PANEL?

14 CLERK: SHE'S NOT IN OURS TODAY.

15 THE COURT: OKAY. ALL RIGHT, ANYTHING ELSE?

16 MR. DAVIS: JUDGE, IF -- IF I MAY, ONE THING AT THIS  
17 POINT.

18 UM -- I'M NOT SURE I'VE TRIED A CASE BEFORE YOU OR NOT.  
19 MY CLIENT IS CURRENTLY OUT OF JAIL. HAS SPENT ABOUT  
20 FIFTY-FIVE DAYS IN JAIL ON THIS.

21 UM -- LIKE I SAID, THIS WAS A TRIAL BACK IN NOVEMBER OF  
22 '06. AT THE END OF THAT TRIAL, JUDGE CHILDS, UM, AMENDED  
23 SOME CONDITIONS OF THE BOND BUT ALLOWED HIM TO REMAIN OUT ON  
24 A THIRTY THOUSAND P-R BOND -- PERSONAL RECOGNIZANCE BOND.

25 I'M NOT SURE YOUR POSITION ABOUT, UH, WHETHER YOU'D

1 BE -- YOU WANT TO PUT HIM IN CUSTODY OR NOT.

2 OBVIOUSLY I WOULD ARGUE THAT'S NOT NECESSARY. HE SAT  
3 THROUGH THE ENTIRETY OF THE LAST TRIAL THAT'S A MISTRIAL.  
4 THAT'S BEEN A YEAR-AND-A-HALF AGO ALMOST.

5 HE'S HERE TODAY, HE'LL BE HERE TOMORROW. I EXPECT  
6 WE'LL PROBABLY FINISH TOMORROW. I'D ASK YOU JUST TO ALLOW  
7 THIS, UH -- THIS BOND TO REMAIN IN EFFECT. I CAN PROVIDE  
8 YOU A COPY IF YOU WISH.

9 BUT CERTAINLY, UH, HIS -- HIS GIRLFRIEND'S IN THE  
10 HALLWAY AND WE JUST HOPE THAT HE'D NOT BE PUT IN CUSTODY  
11 TONIGHT.

12 I THINK WE'LL FINISH THE TRIAL TOMORROW, AND HE'S SHOWN  
13 HIS WILLINGNESS TO APPEAR FOR COURT.

14 THE COURT: WHAT'S THE STATE'S RESPONSE?

15 MS. HERRING-LASH: WELL, YOUR HONOR, NORMALLY WE DON'T  
16 OBJECT AS LONG AS THE BONDSMAN AGREES TO STAY ON THE BOND.  
17 BUT IN THIS CASE HE HAS NO BONDSMAN.

18 BUT, UH, MR. DAVIS IS CORRECT, THERE HAS NEVER BEEN AN  
19 ISSUE WITH HIM SHOWING UP TO ANY PROCEEDING THAT WAS -- THAT  
20 WE HAVE CALLED, SO I -- I WOULDN'T OBJECT AT THIS POINT.

21 THE COURT: OKAY. MR. ORR, UM, I -- I'LL -- I WILL,  
22 UM -- WELL, LET -- LET ME ASK YOU TWO LAWYERS -- OR, ALL YOU  
23 LAWYERS ONE QUESTION.

24 IS THERE ANYTHING ELSE THAT I MIGHT NEED TO KNOW ABOUT  
25 IN ORDER TO PROPERLY ASSESS WHETHER OR NOT TO ALLOW HIM TO



1 STAY ON BOND? ANYTHING ELSE I NEED TO KNOW?

2 MS. HERRING-LASH: THERE IS NOTHING THAT I HAVE BEEN  
3 MADE AWARE OF IN -- IN THESE YEARS THAT HE HAS VIOLATED HIS  
4 BOND AT ALL.

5 THE COURT: OKAY.

6 MS. HERRING-LASH: THAT WOULD BE THE ONLY THING THERE.

7 THE COURT: ALL RIGHT, I WILL ALLOW YOU TO STAY OUT ON  
8 BOND THAT YOU CURRENTLY HAVE, UM, DURING THE TRIAL.

9 BUT I WANT TO MAKE SURE YOU UNDERSTAND THAT, FOR  
10 WHATEVER REASON -- IF YOU HAVE AN AUTOMOBILE ACCIDENT, YOU  
11 GET KIDNAPPED, YOU CHOOSE NOT TO SHOW UP FOR WHATEVER  
12 REASON -- IF YOU'RE NOT HERE, WE'RE GOING FORWARD. DO YOU  
13 UNDERSTAND?

14 MR. ORR: YES, SIR.

15 THE COURT: ALL RIGHT. DO YOU HAVE ANY QUESTIONS ABOUT  
16 THAT?

17 MR. ORR: NO, SIR.

18 THE COURT: SO WHEN WE -- WHEN I SET A TIME TO RETURN  
19 IN THE MORNING, YOU NEED TO BE HERE WELL IN ADVANCE OF THAT.  
20 AND, UH, WE WILL NOT HOLD UP THE TRIAL JUST IN CASE YOU'RE  
21 NOT HERE, WHAT -- NO MATTER WHAT THE REASON IS; OKAY?

22 MR. ORR: YES, SIR.

23 THE COURT: ALL RIGHT. UM -- AND WHAT THAT MEANS,  
24 OF COURSE, IS THAT -- IS THAT, UH, IF YOU -- WE'LL GO --  
25 FIN- -- WE'LL FINISH THE TRIAL. THE JURY WILL BE ABLE TO

1 LOOK OUT AND SEE THAT YOU'RE NOT HERE -- IF YOU'RE NOT  
2 HERE -- AND THEY, UH, MIGHT DRAW ADVERSE INFERENCES FROM  
3 THAT AS TO WHAT -- WHAT -- WHAT YOUR THOUGHTS ARE AND ALL.  
4 WHAT YOUR MINDSET IS, WHY YOU WEREN'T HERE. AND IF YOU'RE  
5 CONVICTED, THEN WE'LL ISSUE A WARRANT FOR YOUR ARREST.

6 MR. ORR: (NOD.)

7 THE COURT: OKAY. UM -- IS THE JURY PANEL DOWN THERE  
8 AND READY TO COME UP?

9 CLERK: YES, SIR.

10 THE COURT: LET'S GO AHEAD AND SEND THEM UP.

11 CLERK: ALL RIGHT.

12 MS. HERRING-LASH: YOUR HONOR, ONE OTHER THING FOR  
13 YOUR -- JUST FOR YOUR INFORMATION. THERE WILL BE ONE  
14 WITNESS THAT WE'LL CALL THE LATTER PART OF THIS AFTERNOON  
15 THAT WILL BE, UM, BY TELEPHONE CONFERENCE.

16 SHE IS A CHAIN WITNESS THAT HAS MOVED TO, I THINK,  
17 OHIO. AND, UM, HER TESTIMONY WOULD BE ABOUT TWO OR THREE  
18 MINUTES LONG. AND RATHER -- SHE HAS AGREED TO BE STANDBY AT  
19 HER PHONE AND YOU CAN SWEAR HER IN.

20 SHE HAS THE SUSPECT KIT ENVELOPE -- COPY OF IT -- SHE  
21 USED, UM, TO SAY THAT SHE, UM, DREW HIS BLOOD.

22 AND I THINK MR. DAVIS HAS -- HAS NO PROBLEM WITH THAT.

23 WE DID IT LAST TIME BECAUSE SHE HAD ALREADY MOVED.

24 MR. DAVIS: JUDGE, THE LAST TIME THERE WERE WAS NO  
25 QUESTION ABOUT IT. I DON'T EXPECT THERE'LL BE ANY THIS

1 TIME. IT'S SIMPLY A -- A LINK IN THE CHAIN.

2 WE TALKED A LOT THAT AND WE HAVE NO OPPOSITION TO IT  
3 BEING HANDLED THAT WAY.

4 THE COURT: ALL RIGHT. ANYTHING ELSE WE NEED TO  
5 DISCUSS RIGHT NOW?

6 MS. HERRING-LASH: JUST THE, UH -- FOUR OF THE LAY  
7 WITNESSES ARE IN THIS ROOM OFF HERE, YOUR HONOR. WHEN YOU  
8 CALL THEIR NAMES, WOULD YOU LIKE THEM TO WALK AROUND AND  
9 STAND---

10 THE COURT: I'D KIND OF LIKE THEM TO BE IN HERE, UH,  
11 IF -- IF POSSIBLE. HOW MANY PEOPLE IN THE PANEL?

12 CLERK: FORTY-SIX.

13 THE COURT: SO THAT'S GONNA TAKE UP THE WHOLE  
14 COURTROOM?

15 CLERK: UH -- THERE SHOULD BE SOME ROOM FOR A FEW.  
16 IT -- IT'S HARD TO SAY.

17 MS. HERRING-LASH: THERE'S -- THERE'S -- THEY COULD SIT  
18 IN THESE CHAIRS OVER HERE---

19 THE COURT: YEAH.

20 MS. HERRING-LASH: ---IF YOU WANT ME TO BRING THEM IN  
21 NOW.

22 THE COURT: THAT'D BE FINE; LET'S DO THAT.

23 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
24 CONFERENCE/BRING WITNESSES IN THE COURTROOM, OFF THE  
25 RECORD.)

1 (WHEREUPON, COURT RESUMED.)

2 MR. DAVIS: JUDGE, AS TO THE, UH -- AS TO THE STATE'S,  
3 UH, VOIR DIRE, UM, IT'S VERY SIMILAR TO MINE. I DON'T HAVE  
4 ANY OBJECTION TO -- TO -- TO THEIR, UH, NINE QUESTIONS.

5 AND I THINK I HAVE -- AND I'VE LAID 'EM ON THE, UH --  
6 ON THE BENCH FOR YOUR HONOR.

7 UM -- I HAVE TWELVE. THEY'RE -- SOME OF THEM ARE VERY  
8 SIMILAR. UM -- THE THING IS, WE WOULD HAVE NO OBJECTION TO  
9 THE ONES THEY'VE REQUESTED.

10 AND I -- I WOULD JUST REQUEST THAT MY CLIENT -- THAT  
11 THE -- THE -- THE JURY JUST BE INFORMED, IF THEY WISH TO  
12 STAND AND NOT RESPOND IN FRONT OF THE PANEL THEY COULD COME  
13 UP AND SPEAK IN PRIVATE. BECAUSE SOME OF THESE, OBVIOUSLY,  
14 THEY MIGHT BE JUST A LITTLE BIT -- SOME OF THESE MIGHT BE  
15 QUITE PERSONAL IN NATURE.

16 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
17 CONFERENCE, OFF THE RECORD.)

18 (WHEREUPON, COURT RESUMED.)

19 (WHEREUPON, JURY PANEL ENTERED THE COURTROOM AT  
20 2:07 P.M.)

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
22 CONFERENCE IN THE PRESENCE OF THE JURY PANEL AS THEY ENTERED  
23 THE COURTROOM, BUT OUTSIDE THE HEARING OF THE JURY PANEL AS  
24 THEY ENTERED THE COURTROOM, OFF THE RECORD.)

25 (WHEREUPON, COURT RESUMED.)

STATE VERSUS HAROLD ORR, III  
VOIR DIRE

1 THE COURT: GOOD AFTERNOON, LADIES AND GENTLEMEN. LET  
2 ME, UH, INTRODUCE MYSELF TO YOU AGAIN. I'M JOHN FEW, AND  
3 I'M FROM GREENVILLE. AGAIN, IT'S A VERY GREAT PLEASURE FOR  
4 ME TO BE DOWN HERE IN CHARLESTON WITH YOU-ALL THIS WEEK.

5 WE ARE READY TO SELECT A JURY IN THE CASE OF THE STATE  
6 OF SOUTH CAROLINA VERSUS HAROLD ORR, III. UH -- MR. ORR HAS  
7 BEEN INDICTED IN TWO INDICTMENTS.

8 THE FIRST OF THESE INDICTMENTS IS 2004-GS-10-2737. AND  
9 IN THAT INDICTMENT FOR CRIMINAL SEXUAL CONDUCT WITH A MINOR  
10 IN THE FIRST DEGREE, IT IS ALLEGED THAT HAROLD ORR THE  
11 THIRD, DATE OF BIRTH [REDACTED], DID IN CHARLESTON  
12 COUNTY, BETWEEN NOVEMBER 2003 AND NOVEMBER 25<sup>TH</sup> 2003, ENGAGE  
13 IN SEXUAL BATTERY UPON ONE MINOR [REDACTED] DATE OF BIRTH  
14 [REDACTED] [REDACTED], TO WIT CUNNILINGUS. THIS IS IN VIOLATION  
15 OF SECTION 16-3-655 OF THE SOUTH CAROLINA CODE OF LAWS.

16 IN INDICTMENT NUMBER 2004-GS-10-2739, MR. ORR HAS BEEN  
17 INDICTED FOR LEWD ACT UPON A MINOR. AND IN THAT INDICTMENT  
18 IT IS ALLEGED THAT HAROLD ORR THE THIRD, BEING OVER THE AGE  
19 OF FOURTEEN YEARS, DID, IN CHARLESTON COUNTY, BETWEEN  
20 NOVEMBER 2003 AND NOVEMBER 25<sup>TH</sup> 2003, LEWDLY COMMIT OR  
21 ATTEMPT A LEWD AND LASCIVIOUS ACT UPON OR WITH THE BODY OF  
22 [REDACTED] [REDACTED] A CHILD UNDER THE AGE OF SIXTEEN YEARS, WITH  
23 THE INTENT OF AROUSING, APPEALING TO, OR -- AND -- AND  
24 GRATIFYING THE LUST, PASSIONS, AND SEXUAL DESIRES OF HIMSELF  
25 OR SUCH CHILD. THIS IN VIOLATION OF SECTION 16-15-140 OF

1 THE SOUTH CAROLINA CODE OF LAWS.

2 NOW, LADIES AND GENTLEMEN, IN JUST A MOMENT WE'RE GOING  
3 TO GO THROUGH A SERIES OF QUESTIONS, UH, THAT ARE SIMILAR IN  
4 FORMAT TO THOSE THAT I ASKED YOU DOWNSTAIRS. BEFORE I DO  
5 THAT, THOUGH, I WANT TO TELL YOU SOMETHING ABOUT THE  
6 INDICTMENT. UH -- THE -- THE TWO INDICTMENTS.

7 FOR THOSE OF YOU WHO ARE SELECTED TO SERVE ON THE JURY,  
8 I'LL GIVE YOU MORE DETAILED INSTRUCTIONS ABOUT THE IN- --  
9 ABOUT THE INDICTMENTS IN A FEW MINUTES. BUT, I WANT EACH OF  
10 YOU TO UNDERSTAND NOW THAT THE INDICTMENTS THAT I HAVE JUST  
11 READ TO YOU ARE NOT IN ANY SENSE EVIDENCE OF THE ALLEGATIONS  
12 THAT ARE CONTAINED WITHIN THOSE INDICTMENTS.

13 THE INDICTMENTS ARE SIMPLY THE FORMAL DOCUMENTS THAT  
14 CONTAIN THE ALLEGATIONS THAT HAVE BEEN MADE AGAINST THE  
15 DEFENDANT, AND THE INDICTMENTS SERVE TO PROCESS THE CASE AND  
16 BRING IT INTO THIS COURT FOR TRIAL.

17 THE DEFENDANT HAS PLEAD NOT GUILTY TO BOTH OF THESE  
18 INDICTMENTS, AND THE PLEA OF NOT GUILTY CASTS THE BURDEN ON  
19 THE STATE TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE  
20 DOUBT.

21 AND FOR THOSE OF YOU WHO ARE SELECTED TO SERVE ON THE  
22 JURY IN THIS CASE, THAT WILL BE YOUR JOB -- TO DETERMINE  
23 WHETHER OR NOT THE STATE HAS MET THAT BURDEN OF PROOF.

24 NOW, AS I SAID, WE'RE ABOUT TO GO THROUGH A SERIES OF  
25 QUESTIONS AND ANSWERS, UH, THAT ARE SIMILAR IN FORMAT TO

1 THOSE THAT WE -- THAT I ASKED YOU THIS MORNING DOWNSTAIRS.

2 PLEASE LISTEN VERY CAREFULLY TO EACH OF THESE QUESTIONS  
3 THAT I ASK YOU. IF YOU HAVE ANY INFORMATION THAT IS  
4 RESPONSIVE TO A QUESTION THAT I ASK, THEN I WOULD LIKE FOR  
5 YOU TO STAND AND TELL ME YOUR NAME, AND THEN TELL ME YOUR  
6 INFORMATION.

7 NOW, JUST AS I TOLD YOU, UH, DOWNSTAIRS -- EARLIER  
8 TODAY -- IF YOU HAVE ANY REASON WHY YOU DON'T WANT TO STAND  
9 AND GIVE YOUR INFORMATION OUT LOUD, IN FRONT OF THE OTHER  
10 MEMBERS OF THE JURY PANEL, THEN YOU CAN JUST LET ME KNOW  
11 THAT YOU WOULD LIKE TO SPEAK TO ME PRIVATELY AND I'LL GET  
12 YOU DOWN FRONT AND YOU CAN SPEAK PRIVATELY WITH ME AND WITH  
13 THE ATTORNEYS.

14 I WILL REMIND YOU THAT YOU'RE STILL UNDER OATH FROM THE  
15 OATH THAT YOU WERE GIVEN DOWNSTAIRS, AND WE'LL START WITH  
16 HAVING THE LAWYERS INTRODUCE THEMSELVES.

17 MS. HERRING-LASH, WOULD YOU PLEASE INTRODUCE YOURSELF  
18 AND YOUR CO-COUNSEL TO THE JURY?

19 (WHEREUPON, DEBRA HERRING-LASH, KRISTIAN NEELY, AND  
20 JESSICA BALDWIN STOOD AND PRESENTED THEMSELVES TO THE JURY.)

21 MS. HERRING-LASH: THANK YOU, YOUR HONOR. MY NAME IS  
22 DEBBIE HERRING-LASH; I'M ASSISTANT SOLICITOR IN THE  
23 CHARLESTON COUNTY SOLICITOR'S OFFICE.

24 SITTING WITH ME WILL BE KRISTIAN NEELY, ALSO AN  
25 ASSISTANT SOLICITOR IN OUR OFFICE.

1 AND ASSISTING US IS JESSICA BALDWIN, A PARALEGAL IN OUR  
2 OFFICE.

3 THE COURT: AND WHAT WAS, UH, JESSICA'S LAST NAME,  
4 PLEASE?

5 MS. HERRING-LASH: BALDWIN, YOUR HONOR..

6 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
7 IS RELATED BY BLOOD OR BY MARRIAGE TO DEBRA HERRING-LASH OR  
8 TO KRISTIAN NEELY OR TO JESSICA BALDWIN, OR DO YOU KNOW ANY  
9 OF THE THREE OF THEM IN ANY WAY? IF SO, PLEASE STAND.

10 (NO RESPONSE FROM THE JURY PANEL.)

11 THE COURT: NOW, AS MS. HERRING-LASH SAID, SHE IS AN  
12 EMPLOYEE, AND SO IS MR. NEELY, AND SO IS MS. BALDWIN, OF THE  
13 SOLICITOR'S OFFICE HERE IN -- IN THE NINTH CIRCUIT.

14 YOUR SOLICITOR IS SCARLETT WILSON; SHE IS -- HAS THE  
15 RESPONSIBILITY OF PROSECUTING CRIMINAL CASES BOTH HERE IN  
16 CHARLESTON COUNTY AND ALSO IN BERKELEY COUNTY, AND SHE  
17 EMPLOYS A STAFF OF LAWYERS AND NON-LAWYERS TO ASSIST HER IN  
18 DOING THAT.

19 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS RELATED BY  
20 BLOOD OR MARRIAGE TO SOLICITOR SCARLET WILSON OR TO ANYONE  
21 WHO WORKS FOR HER, OR DO YOU KNOW SOLICITOR WILSON OR ANYONE  
22 WHO WORKS FOR HER? IF SO, PLEASE STAND.

23 (NO RESPONSE FROM THE JURY PANEL.)

24 THE COURT: MR. DAVIS, WOULD YOU PLEASE INTRODUCE  
25 YOURSELF AND YOUR CO-COUNSEL AND YOUR CLIENT TO THE JURY?



STATE VERSUS HAROLD ORR, III  
VOIR DIRE

1 (WHEREUPON, RODNEY D. DAVIS, BENJAMIN LEWIS AND  
2 HAROLD ORR, III STOOD AND PRESENTED THEMSELVES TO THE JURY.)

3 MR. DAVIS: YES, YOUR HONOR. MY NAME IS RODNEY DAVIS,  
4 AND I'M PRIVILEGED IN REPRESENTING HAROLD ORR.

5 HELPING ME ON THIS CASE IS BEN LEWIS, ALSO OF OUR  
6 OFFICE. WE WORKS FOR THE NINTH CIRCUIT PUBLIC DEFENDER'S  
7 OFFICE, WHICH IS HERE IN CHARLESTON AND BERKELEY COUNTY.

8 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
9 IS RELATED BY BLOOD OR MARRIAGE TO MR. DAVIS, TO MR. LEWIS,  
10 OR TO MR. ORR, OR DO YOU KNOW EITHER OF THE THREE GENTLEMEN  
11 IN ANY WAY? IF SO, PLEASE STAND.

12 (NO RESPONSE FROM THE JURY PANEL.)

13 THE COURT: AND AS MR. DAVIS MENTIONED, UH, HE AND  
14 MR. LEWIS ARE EMPLOYEES OF THE PUBLIC DEFENDER'S OFFICE.

15 IS THERE ANY MEMBER OF THE JURY PANEL WHO IS RELATED BY  
16 BLOOD OR MARRIAGE OR -- TO, OR DO YOU KNOW ANYONE WHO WORKS  
17 FOR THE PUBLIC DEFENDER'S OFFICE HERE IN CHARLESTON COUNTY?  
18 IF SO, PLEASE STAND.

19 (NO RESPONSE FROM THE JURY PANEL.)

20 THE COURT: ALL RIGHT NOW, LADIES AND GENTLEMEN, I'M  
21 GOING TO READ YOU A LIST OF POTENTIAL WITNESSES. AND THEN  
22 AFTER I HAVE READ YOU THAT LIST OF WITNESSES, I'M GONNA ASK  
23 YOU WHETHER YOU KNOW OR ARE RELATED TO ANY OF THESE  
24 POTENTIAL WITNESSES.

25 IF THE WITNESS IS IN THE COURTROOM, WHEN I CALL YOUR

1 NAME, WOULD YOU PLEASE STAND AND FACE THE JURY?

2 [REDACTED]

3 (WHEREUPON, [REDACTED] STOOD AND PRESENTED HERSELF  
4 TO THE JURY PANEL.)

5 (NO RESPONSE FROM THE JURY PANEL.)

6 THE COURT: THANK YOU, MA'AM. LASHANDA SIMMONS?

7 (WHEREUPON, LASHANDA SIMMONS STOOD AND PRESENTED  
8 HERSELF TO THE JURY PANEL.)

9 (NO RESPONSE FROM THE JURY PANEL.)

10 THE COURT: SHELIA SHEPPARD?

11 (WHEREUPON, SHELIA SHEPPARD STOOD AND PRESENTED HERSELF  
12 TO THE JURY PANEL.)

13 (NO RESPONSE FROM THE JURY PANEL.)

14 THE COURT: THANK YOU, MA'AM. SABRINA ANDERSON?

15 (WHEREUPON, SABRINA ANDERSON STOOD AND PRESENTED  
16 HERSELF TO THE JURY.)

17 (NO RESPONSE FROM THE JURY PANEL.)

18 THE COURT: THANK YOU. AUSTIN ROGERS WITH THE NORTH  
19 CHARLESTON POLICE DEPARTMENT?

20 (NO RESPONSE FROM THE JURY PANEL.)

21 THE COURT: ALMA LOWERY, NORTH CHARLESTON POLICE  
22 DEPARTMENT?

23 (NO RESPONSE FROM THE JURY PANEL.)

24 THE COURT: CHARLES HARDIN, NORTH CHARLESTON POLICE  
25 DEPARTMENT?

1 (NO RESPONSE FROM THE JURY PANEL.)

2 THE COURT: SCOTT WYANT -- DID I PRONOUNCE THAT  
3 CORRECTLY?

4 MS. HERRING-LASH: YES, YOUR HONOR.

5 THE COURT: UH -- ALSO WITH NORTH CHARLESTON POLICE  
6 DEPARTMENT.

7 (NO RESPONSE FROM THE JURY PANEL.)

8 THE COURT: UH -- MIKE RINGLEY, CHARLESTON COUNTY  
9 SHERIFF'S DEPARTMENT?

10 (NO RESPONSE FROM THE JURY PANEL.)

11 THE COURT: ROSIE ZENO; A REGISTERED NURSE?

12 (NO RESPONSE FROM THE JURY PANEL.)

13 THE COURT: DOCTOR SARA SCHUH, MEDICAL UNIVERSITY OF  
14 SOUTH CAROLINA?

15 (NO RESPONSE FROM THE JURY PANEL.)

16 THE COURT: ROBIN TAYLOR FROM THE STATE LAW ENFORCEMENT  
17 DIVISION?

18 (NO RESPONSE FROM THE JURY PANEL.)

19 THE COURT: JULIE KOWALEWSKI -- I DON'T KNOW WHAT  
20 B-O-D-E IS.

21 MS. HERRING-LASH: IT'S BODE LABORATORIES.

22 THE COURT: BODE LABORATORIES.

23 (NO RESPONSE FROM THE JURY PANEL.)

24 THE COURT: PAULA DAVIS, NORTH CHARLESTON POLICE  
25 DEPARTMENT?

1 (NO RESPONSE FROM THE JURY PANEL.)

2 THE COURT: WILLIAM O'BRIEN, NORTH CHARLESTON POLICE  
3 DEPARTMENT?

4 (NO RESPONSE FROM THE JURY PANEL.)

5 THE COURT: AND JOHN REYNOLDS, NORTH CHARLESTON POLICE  
6 DEPARTMENT?

7 (NO RESPONSE FROM THE JURY PANEL.)

8 THE COURT: ANY ADDITIONAL WITNESSES?

9 MS. HERRING-LASH: NO, YOUR HONOR.

10 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
11 IS RELATED BY BLOOD OR BY MARRIAGE TO ANY OF THESE POTENTIAL  
12 WITNESSES, OR DO YOU KNOW ANY THEM IN ANY WAY? IF SO,  
13 PLEASE STAND.

14 (NO RESPONSE FROM THE JURY PANEL.)

15 MS. HERRING-LASH: YOUR HONOR, THERE IS ONE ADDITIONAL  
16 WITNESS -- AMANDA FAULKNER.

17 THE COURT: AMANDA FAULKNER?

18 MS. HERRING-LASH: WITH THE CHARLESTON COUNTY  
19 SOLICITOR'S OFFICE.

20 THE COURT: AMANDA FAULKNER IS WITH THE CHARLESTON  
21 COUNTY SOLICITOR'S OFFICE. IS THERE ANY MEMBER OF THE  
22 JURY PANEL---

23 (WHEREUPON, AMANDA FAULKNER STOOD AND PRESENTED HERSELF  
24 TO THE JURY PANEL.)

25 THE COURT: ---ALL RIGHT, THAT'S MS. FAULKNER. ANY

STATE VERSUS HAROLD ORR, III  
VOIR DIRE

1 MEMBER OF THE JURY PANEL WHO IS RELATED BY BLOOD OR MARRIAGE  
2 TO MS. FAULKNER, OR DO YOU KNOW HER IN ANY WAY? IF SO,  
3 PLEASE STAND.

4 (NO RESPONSE FROM THE JURY PANEL.)

5 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL OR  
6 ANY MEMBER OF YOUR IMMEDIATE FAMILY WHO IS NOW OR WHO HAS  
7 EVER BEEN AN EMPLOYEE OF ANY LAW ENFORCEMENT AGENCY OR  
8 POLICE DEPARTMENT, WHETHER THAT BE FEDERAL, STATE, CITY,  
9 COUNTY, OR MILITARY POLICE? IF SO, PLEASE STAND.

10 MR. BAXLEY: COULD YOU REPEAT THAT AGAIN, SIR?

11 THE COURT: IS THERE ANY -- DO ANY OF YOU OR ANY  
12 MEMBERS OF YOUR IMMEDIATE FAMILY -- NOW OR IN THE PAST --  
13 HAVE ANYONE WHO EVER WORKED FOR A POLICE DEPARTMENT, SUCH AS  
14 A FEDERAL, COUNTY, CITY, STATE, OR MILITARY POLICE  
15 DEPARTMENT? IF SO, PLEASE STAND.

16 MR. BAXLEY: MY DAUGHTER'S HUSBAND WORKS---

17 THE COURT: WELL HOLD ON JUST ONE SECOND, PLEASE. YOU  
18 CAN REMAIN STANDING. ALL RIGHT, SIR, TELL ME YOUR NAME.

19 MR. BAXLEY: MY NAME IS JIMMY BAXLEY.

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
21 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
22 HEARING OF THE JURY PANEL, OFF THE RECORD.)

23 (WHEREUPON, COURT RESUMED.)

24 MR. BAXLEY: MY NUMBER IS THREE-0-TWO.

25 THE COURT: ALL RIGHT, MR. BAXLEY?

1 MR. BAXLEY: YES, SIR.

2 THE COURT: TELL ME, PLEASE.

3 MR. BAXLEY: UH -- MY DAUGHTER, HER HUSBAND WORKED FOR  
4 THE NORTH CHARLESTON POLICE DEPARTMENT AT ONE TIME.

5 THE COURT: WHAT -- WHAT'S YOUR DAUGHTER'S NAME?

6 MR. BAXLEY: TAMERA---

7 THE COURT: TAMERA?

8 MR. BAXLEY: ---TAMERA HENRY.

9 THE COURT: TAMERA HENRY; AND HER HUSBAND?

10 MR. BAXLEY: HENRY -- MICHAEL HENRY.

11 THE COURT: MICHAEL HENRY. WHAT -- WHEN DO YOU THINK  
12 IS THE LAST TIME MR. HENRY WORKED FOR THE NORTH CHARLESTON  
13 POLICE DEPARTMENT?

14 MR. BAXLEY: CAN I GUESS? MAYBE -- MAYBE TEN YEARS,  
15 AND DON'T HOLD ME TO A FACT THING.

16 THE COURT: OKAY.

17 MR. BAXLEY: HIS DAD IS, UH, BUTCH HENRY FROM, UH,  
18 BERKELEY COUNTY SHERIFF'S DEPARTMENT.

19 THE COURT: ALL RIGHT, SIR. UM -- WHERE IS YOUR -- IS  
20 HE STILL YOUR SON-IN-LAW?

21 MR. BAXLEY: YES, SIR.

22 THE COURT: AND WHERE DOES HE LIVE NOW?

23 MR. BAXLEY: THEY LIVES (SIC) IN MONCK'S CORNER.

24 THE COURT: IS HE STILL IN LAW ENFORCEMENT?

25 MR. BAXLEY: NO, SIR.

1 THE COURT: ALL RIGHT. THANK YOU, MR. BAXLEY.

2 MR. BAXLEY: YES, SIR.

3 THE COURT: YES, SIR?

4 MR. JOHNSON: UH -- EDWARD JOHNSON. MY UNCLE, ALLISON  
5 JOHNSON, UH, WAS IN THE F-B-I AND RETIRED ABOUT FIFTEEN  
6 YEARS AGO.

7 THE COURT: ALL RIGHT, THANK YOU. YES, SIR?

8 MR. DAVIS: JUDGE, COULD I HAVE THAT JUROR NUMBER,  
9 PLEASE?

10 MR. JOHNSON: ONE-FIFTY-ONE.

11 THE COURT: YES, SIR?

12 MR. CAMPAGNA: YES, SIR. MY NUMBER'S FORTY-ONE. MY  
13 NAME IS DONALD CAMPAGNA, AND I WENT THROUGH THE RANKS AND,  
14 UH, FINISHED MY CAREER AS THE POLICE CHIEF IN GEORGETOWN.

15 THE COURT: HOW LONG HAS IT BEEN SINCE YOU WERE IN --  
16 ARE YOU RETIRED NOW, SIR?

17 MR. CAMPAGNA: YES, SIR. I DID TEN YEARS AND GOT OUT.

18 THE COURT: OKAY. SO YOU ARE -- YOU, UM -- THE LAST  
19 PLACE THAT YOU WORKED WAS THE -- AS POLICE CHIEF IN  
20 GEORGETOWN?

21 MR. CAMPAGNA: YES, SIR.

22 THE COURT: THE CITY OF GEORGETOWN?

23 MR. CAMPAGNA: YES, SIR.

24 THE COURT: ALL RIGHT, SIR. DID YOU EVER WORK IN  
25 CHARLESTON COUNTY IN LAW ENFORCEMENT?

1 MR. CAMPAGNA: NO, SIR.

2 THE COURT: ALL RIGHT. MR. CAMPAGNA?

3 MR. CAMPAGNA: YES, SIR.

4 THE COURT: ALL RIGHT, THANK YOU. YES, MA'AM?

5 MS. BUSTOS: UH -- I'M NUMBER THIRTY-EIGHT, AND I'M

6 KATHY BUSTOS. MY HUSBAND, JOE BUSTOS, WAS ON THE CHARLESTON

7 CITY POLICE DEPARTMENT IN 1995. JUST A SHORT TIME AFTER, HE

8 RETIRED THOUGHT.

9 THE COURT: ALL RIGHT, THANK YOU.

10 MS. BUSTOS: THANK YOU -- THANK YOU.

11 THE COURT: THANK YOU. YES, MA'AM?

12 MS. SIMS: OKAY, I'M ANISSA SIMS, UH, TWO-FORTY-FOUR.

13 MY FIRST COUSIN IS A POLICE OFFICER FOR THE CITY.

14 THE COURT: WHERE?

15 MS. SIMS: THE CITY.

16 THE COURT: FOR CHARLESTON CITY?

17 MS. SIMS: YES.

18 THE COURT: AND THAT'S THE CITY OF CHARLESTON---

19 MS. SIMS: THE CITY OF CHARLESTON.

20 THE COURT: ---NOT NORTH CHARLESTON?

21 MS. SIMS: YEAH, THE CITY OF CHARLESTON.

22 THE COURT: ALL RIGHT; THANK YOU, MS. SIMS.

23 MS. SIMS: UH-HUH.

24 THE COURT: YES, SIR?

25 MR. WILLIAMS: UH -- TWO-EIGHTY-THREE. UH -- MY FIRST



1 COUSIN IS A---

2 THE COURT: WHAT'S YOUR NAME?

3 MR. WILLIAMS: MARSHALL WILLIAMS.

4 THE COURT: OKAY.

5 MR. WILLIAMS: AND MY FIRST COUSIN IS A, UM, STATE  
6 TROOPER CURRENTLY.

7 THE COURT: AND WHERE IS HIS -- WHERE IS HE BASED OUT  
8 OF?

9 MR. WILLIAMS: I'M THINKING, UM, COLLETON COUNTY. AND,  
10 YOU KNOW, IT'S A STATEWIDE DEAL.

11 THE COURT: YES, SIR; THANK YOU. YOU CAN BE SEATED.  
12 YES, MA'AM?

13 MS. MITCHELL: ONE-NINETY-ONE, TONIA MITCHELL. MY  
14 FIRST COUSIN WORKS AT THE CHARLESTON COUNTY JAILHOUSE.

15 THE COURT: AT THE JAIL?

16 MS. MITCHELL: YES.

17 THE COURT: ALL RIGHT; THANK YOU, MS. MITCHELL.  
18 YES, SIR?

19 MR. ZIMMERMAN: DAVID ZIMMERMAN, TWO-NINETY-EIGHT. MY  
20 BROTHER WAS A M-P OF THE UNITED STATES AIR FORCE IN 1972.

21 THE COURT: ALL RIGHT; THANK YOU, MR. ZIMMERMAN.

22 (NO FURTHER RESPONSE FROM THE JURY PANEL.)

23 THE COURT: LADIES AND GENTLEMEN, THIS -- IN THIS CASE  
24 THE DEFENDANT IS ALLEGED TO BE THE STEP-GRANDFATHER OF THE  
25 VICTIM. AND FROM THE -- YOU CAN TELL THE GENERAL NATURE OF

1 THE ALLEGATIONS THAT HAVE BEEN MADE AGAINST THE DEFENDANT  
2 FROM THE INDICTMENTS THAT I JUST READ TO YOU.

3 IS THERE ANY MEMBER OF THE JURY PANEL OR ANY MEMBER OF  
4 YOUR IMMEDIATE FAMILY WHO HAS EVER BEEN INVOLVED IN ANY TYPE  
5 OF CASE OR SITUATION THAT YOU THINK MIGHT BE SIMILAR TO THE  
6 CASE OR SITUATION THAT WE'RE DEALING WITH HERE?

7 SPECIFICALLY, IS THERE ANY MEMBER OF THE JURY PANEL OR  
8 ANY MEMBER OF YOUR IMMEDIATE FAMILY WHO HAS EVER BEEN  
9 INVOLVED IN ANY TYPE OF SEXUAL ASSAULT OR SEXUALLY VIOLENT,  
10 UH, CASE?

11 UM -- THERE ARE SEVERAL WAYS IN WHICH YOU MIGHT HAVE  
12 BEEN INVOLVED. YOU MIGHT HAVE BEEN INVOLVED AS A WITNESS;  
13 YOU MIGHT POSSIBLY HAVE BEEN INVOLVED IN THE INVESTIGATION  
14 OF SUCH A CASE. YOU OR A FAMILY MEMBER MIGHT HAVE BEEN, UH,  
15 A -- A VICTIM OF SUCH A -- OF SUCH A, UH -- A CRIME AS THIS.  
16 OR, YOU MIGHT POSSIBLY HAVE BEEN ACCUSED OF SUCH A CRIME AS  
17 THIS.

18 IS THERE ANY MEMBER OF THE JURY PANEL WHO HAS EVER BEEN  
19 INVOLVED IN A CASE THAT YOU THINK IS SIMILAR TO THIS OR THAT  
20 IS A SEXUALLY VIOLENT OFFENSE OR A SEXUAL ASSAULT CASE IN  
21 ANY OF THE WAYS THAT I MENTIONED OR IN ANY OTHER WAY?

22 UH -- IF SO, PLEASE STAND. AND LET ME REMIND YOU, OF  
23 COURSE, THAT YOU MAY JUST, UH -- YOU MAY TELL ME THAT YOU  
24 WOULD LIKE TO SPEAK TO ME PRIVATELY AND, UH -- AND I'LL GET  
25 YOU DOWN FRONT AND YOU CAN -- YOU CAN SPEAK TO ME PRIVATELY

1 ABOUT YOUR SITUATION.

2 BUT, EACH PERSON WHO IS GOING TO ANSWER THE QUESTION, I  
3 WOULD LIKE FOR YOU TO GO AHEAD AND STAND AT THIS TIME.

4 ALL RIGHT, UH, MR. CAMPAGNA?

5 MR. CAMPAGNA: YES, SIR; I'VE WORKED SIMILAR CASES.

6 THE COURT: SIR?

7 MR. CAMPAGNA: I HAVE INVESTIGATED SIMILAR CASES.

8 THE COURT: ALL RIGHT.

9 MR. CAMPAGNA: AND THERE WAS ASSAULT IN MY FAMILY --  
10 NOT MY FAMILY, BUT IN MY FAMILY.

11 THE COURT: OKAY. NOW, AS FAR AS THE CASES THAT YOU  
12 INVESTIGATED IN YOUR OFFICIAL ROLE AS A POLICE OFFICER,  
13 UM -- UH, ANYTHING UNIQUE OR -- OR THAT STRIKES YOU ABOUT  
14 ANY OF THOSE INVESTIGATIONS THAT YOU FEEL YOU NEED TO TELL  
15 US ABOUT?

16 MR. CAMPAGNA: NO, SIR.

17 THE COURT: NOW, UM, I'M GONNA ASK YOU SOME OF THE  
18 DETAILS ABOUT THE INCIDENT THAT OCCURRED WITHIN YOUR FAMILY.  
19 WOULD YOU LIKE TO SPEAK TO ME PRIVATELY ABOUT THAT OR YOU  
20 WANT TO TELL ME NOW?

21 MR. CAMPAGNA: MAY I APPROACH THE BENCH?

22 THE COURT: YOU WANT TO SPEAK TO ME PRIVATELY?

23 MR. CAMPAGNA: YEAH.

24 THE COURT: SIR?

25 MR. CAMPAGNA: MAY I APPROACH THE BENCH?

1 THE COURT: YOU MAY; JUST ONE MOMENT, PLEASE. ALL

2 RIGHT, UH -- YES, MA'AM?

3 MS. JENKINS: NUMBER ONE-FORTY-SEVEN, I'D LIKE TO SPEAK  
4 WITH YOU PRIVATELY.

5 THE COURT: ALL RIGHT -- ALL RIGHT, ONE-FORTY-SEVEN.

6 YES, SIR, UM, MR. WILLIAMS?

7 MR. WILLIAMS: A VICTIM -- ENOUGH SAID.

8 THE COURT: ALL RIGHT, WELL I'M GONNA HAVE TO ASK YOU  
9 SOME FOLLOW-UP QUESTIONS. WOULD YOU LIKE TO SPEAK TO ME  
10 PRIVATELY ABOUT THAT?

11 MR. WILLIAMS: YES.

12 THE COURT: YES, MA'AM?

13 MS. MITCHELL: ONE-NINETY-ONE.

14 THE COURT: ALL RIGHT; MS. MITCHELL?

15 MS. MITCHELL: YES.

16 THE COURT: OKAY. DO YOU WANT TO TELL ME ABOUT IT NOW?

17 MS. MITCHELL: YES. MY UNCLE WAS ACCUSED OF THE SAME  
18 CHARGE AND INDICTED.

19 THE COURT: HE WAS INDICTED FOR THE -- FOR THE SAME  
20 TYPE OF CHARGE?

21 MS. MITCHELL: YES.

22 THE COURT: HOW LONG AGO DID THAT HAPPEN?

23 MS. MITCHELL: ABOUT TEN YEARS AGO.

24 THE COURT: WAS IT HERE IN CHARLESTON COUNTY?

25 MS. MITCHELL: YES.

1           THE COURT: DO YOU RECALL ANY OF THE PEOPLE WHO WERE  
2 INVOLVED IN THE INVESTIGATION OF THE -- OF THE CASE OR IN  
3 THE TRIAL OF THE CASE?

4           MS. MITCHELL: I KNOW THE FAMILIES.

5           THE COURT: ALL RIGHT; BUT NOW AS (SIC) TERMS OF -- IN  
6 TERMS OF WHO THE LAW ENFORCEMENT PEOPLE WERE OR WHO THE  
7 LAWYERS WERE, DO YOU REMEMBER ANY OF THAT?

8           MS. MITCHELL: NO, SIR.

9           THE COURT: WERE YOU INVOLVED PERSONALLY IN THE CASE AS  
10 A WITNESS OR IN ANY OTHER WAY, OR DID YOU JUST HEAR ABOUT  
11 THE CASE?

12          MS. MITCHELL: JUST HEAR ABOUT IT.

13          THE COURT: YOU JUST HEARD ABOUT IT?

14          MS. MITCHELL: YES, SIR.

15          THE COURT: ALL RIGHT. UM -- WAS THE ALLEGED VICTIM A  
16 MEMBER OF YOUR FAMILY ALSO?

17          MS. MITCHELL: YES.

18          THE COURT: AND HOW WAS THAT VICTIM RELATED TO YOUR  
19 UNCLE?

20          MS. MITCHELL: NIECE.

21          THE COURT: NIECE. OKAY, AND HOW IS THAT VICTIM  
22 RELATED TO YOU?

23          MS. MITCHELL: COUSIN.

24          THE COURT: COUSIN. WHAT WAS THE OUTCOME OF THE CASE,  
25 MS. MITCHELL?

1 MS. MITCHELL: HE WAS PLACED IN JAIL. HE JUST RECENTLY  
2 GOT OUT.

3 THE COURT: HE WAS CONVICTED AND WENT TO JAIL?

4 MS. MITCHELL: YES.

5 THE COURT: OKAY. IS THERE ANYTHING ABOUT, UH, YOUR  
6 INVOLVEMENT IN THAT SITUATION, YOUR FAMILY'S IN- -- UH,  
7 DEALING WITH THE SITUATION, UH, OR YOUR -- YOUR UNCLE OR  
8 YOUR -- OR YOUR COUSIN'S INVOLVEMENT -- IS THERE ANYTHING  
9 ABOUT THAT CASE THAT WOULD INTERFERE IN ANY WAY WITH EITHER  
10 YOUR WILLINGNESS OR YOUR ABILITY TO GIVE BOTH THE STATE AND  
11 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

12 MS. MITCHELL: NO.

13 THE COURT: ALL RIGHT; THANK YOU, MS. MITCHELL. UH --  
14 ALL RIGHT, YOU TWO CAN BE SEATED AND I'LL -- I'LL GET  
15 YOU-ALL BACK IN JUST ONE -- YOU TOO -- IN JUST ONE SECOND.  
16 YES, MA'AM?

17 MS. CROMWELL: NUMBER FIFTY-NINE.

18 THE COURT: DO YOU WANT TO SPEAK TO ME PRIVATELY?

19 MS. CROMWELL: NO, UM---

20 THE COURT: TELL ME YOUR NAME THEN, PLEASE, MA'AM.

21 MS. CROMWELL: PANDORA CROMWELL.

22 THE COURT: MS. CROMWELL?

23 MS. CROMWELL: YES.

24 THE COURT: OKAY.

25 MS. CROMWELL: MY, UM, BROTHER-IN-LAW SEXUAL (SIC)

1        ASSAULTED MY NEPHEW. AND AS A RESULT OF THAT, HE TURNED TO  
2        DRUGS AND ALCOHOL AND IN 2003 HE GOT KILLED. SO...

3        THE COURT: ALL RIGHT NOW, YOU SAY YOUR BROTHER-IN-LAW  
4        ASSAULTED YOUR NEPHEW?

5        MS. CROMWELL: UH-HUH.

6        THE COURT: AND WAS IT THEN -- DID YOU MEAN THEN THAT  
7        IT WAS YOUR NEPHEW WHO TURNED TO DRUGS AND ALCOHOL?

8        MS. CROMWELL: YES.

9        THE COURT: OKAY. AND -- AND HE -- IS YOUR NEPHEW THE  
10       ONE WHO WAS KILLED?

11       MS. CROMWELL: YES.

12       THE COURT: WAS THERE EVER A CRIMINAL INVESTIGATION OR  
13       A PROSECUTION THAT AROSE OUT OF WHAT YOU'VE JUST TOLD ME  
14       ABOUT?

15       MS. CROMWELL: UH -- YES, IT WAS. HE WAS---

16       THE COURT: YOUR BROTHER- ---

17       MS. CROMWELL: ---MY BROTHER-IN-LAW, HE WASN'T  
18       SENTENCED. I DON'T KNOW WHAT HAPPENED, BUT HE WASN'T  
19       SENTENCED OR ANYTHING FOR IT.

20       THE COURT: HE WAS NOT SENTENCED?

21       MS. CROMWELL: (NOD.)

22       THE COURT: WOULD -- OTHER THAN IT BEING WITHIN YOUR  
23       FAMILY AND YOU, OF COURSE, KNOWING THEM, WERE YOU PERSONALLY  
24       INVOLVED AS A WITNESS OR IN ANY OTHER WAY WITH THE CASE?

25       MS. CROMWELL: NO.

1 THE COURT: YOU JUST HEARD ABOUT IT?

2 MS. CROMWELL: WELL, WE HAD SUSPECTED IT, SO -- ME AND  
3 MY SISTER, WE HAD SUSPECTED IT, BUT, UM...

4 THE COURT: HOW LONG AGO DID IT OCCUR?

5 MS. CROMWELL: LIKE SEVEN YEARS?

6 THE COURT: SEVEN YEARS?

7 MS. CROMWELL: FIVE -- ABOUT FIVE YEARS.

8 THE COURT: FIVE YEARS. AND WHERE IS YOUR  
9 BROTHER-IN-LAW NOW?

10 MS. CROMWELL: HE'S -- HE'S AT HOME.

11 THE COURT: HERE IN CHARLESTON COUNTY?

12 MS. CROMWELL: YES.

13 THE COURT: DO YOU SEE HIM OFTEN?

14 MS. CROMWELL: NO, THAT SEPARATED THE FAMILY, SO I  
15 DON'T SEE HIM OFTEN.

16 THE COURT: ALL RIGHT. WOULD YOUR INVOLVEMENT IN THAT  
17 CASE, OR THE FACT THAT YOUR FAMILY IN- -- WAS INVOLVED IN  
18 THAT SITUATION, WOULD THAT INTERFERE IN ANY WAY WITH EITHER  
19 YOUR WILLINGNESS OR YOUR ABILITY TO GIVE BOTH THE STATE AND  
20 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

21 MS. CROMWELL: NO.

22 THE COURT: ALL RIGHT, MS. CROMWELL, THANK YOU. YOU  
23 CAN BE SEATED. YES, MA'AM?

24 MS. MERILICE: I AM JUROR NUMBER ONE-EIGHTY-EIGHT,  
25 CLAUDETTE MERILICE.



1 THE COURT: WHAT WAS YOUR LAST NAME?

2 MS. MERILICE: MERILICE.

3 THE COURT: MERILICE?

4 MS. MERILICE: UH-HUH.

5 THE COURT: OKAY. WOULD YOU LIKE TO SPEAK TO ME  
6 PRIVATELY, MA'AM, OR WOULD YOU LIKE TO TELL ME ABOUT IT NOW?

7 MS. MERILICE: IN PRIVATE.

8 (NO FURTHER RESPONSE FROM THE JURY PANEL.)

9 THE COURT: ALL RIGHT. LET ME ASK ANOTHER QUESTION OR  
10 TWO, AND THEN THOSE WHO WOULD LIKE TO SPEAK TO ME PRIVATELY,  
11 I'LL GET YOU DOWN HERE IN JUST A MOMENT.

12 IS THERE ANY MEMBER OF THE -- OF THE JURY PANEL OR ANY  
13 MEMBER OF YOUR IMMEDIATE -- IMMEDIATE FAMILY WHO HAS EVER BEEN  
14 INVOLVED IN ANY OF THE WAYS THAT I JUST DESCRIBED OR IN SOME  
15 OTHER WAY WITH ANY TYPE OF VIOLENT CRIME THAT WAS NOT OF A  
16 SEXUAL NATURE?

17 AGAIN, YOU MIGHT HAVE BEEN A WITNESS, AN  
18 INVESTIGATOR -- INVOLVED IN THE INVESTIGATION. YOU MIGHT  
19 HAVE BEEN ACCUSED OF -- OF A VIOLENT CRIME, OR THE VICTIM  
20 OF -- OF A VIOLENT CRIME.

21 BUT IF YOU -- IF YOU OR ANY MEMBER OF YOUR IMMEDIATE  
22 FAMILY HAVE EVER BEEN INVOLVED IN ANY WAY IN ANY TYPE OF  
23 VIOLENT CRIME OR IN THE PROSECUTION OF A VIOLENT CRIME, IN  
24 ANY OF THE WAYS THAT I MENTIONED OR OTHERWISE, PLEASE STAND.  
25 UNLESS YOU'VE ALREADY TOLD ME ABOUT IT, PLEASE STAND.

1 OKAY, MS. MERILICE?

2 MS. MERILICE: YES, SIR.

3 THE COURT: OKAY, AND I'LL SPEAK TO YOU ABOUT THAT IN  
4 JUST A FEW MINUTES. YES, MA'AM?

5 MS. MOLUF: I'M JOSEPHINE MOLUF. MY HUSBAND, UM --  
6 HUSBAND (SIC) WAS MURDERED IN CHARLESTON COUNTY -- JOSEY  
7 MOLUF. IT'S BEFORE WE WERE MARRIED---

8 COURT REPORTER: I DIDN'T -- I DIDN'T HEAR HER, YOUR  
9 HONOR.

10 THE COURT: AND YOU WHAT?

11 MS. MOLUF: ---I DID NOT KNOW, UH, JOSEY MOLUF AT THAT  
12 TIME. I MARRIED MY HUSBAND SINCE HE -- HE WAS KILLED.

13 BUT I DID KNOW THAT HIS AUNT -- OR, MY HUSBAND'S  
14 COUSIN, BETTY ANN TURNER, GOES TO TRY TO KEEP ONE OF THE,  
15 UH, MEN THAT SHOT HER FATHER IN JAIL.

16 THE COURT: GOES TO THE PAROLE HEARINGS?

17 MS. MOLUF: YES, AND I BELIEVE JUST RECENTLY SOMEONE  
18 WAS, UH -- UH, WAS TRYING -- THEY WERE TRYING TO GET HIM  
19 BACK IN JAIL, BUT HE'S OUT ON PAROLE.

20 SO THAT'S ALL I REALLY KNOW ABOUT THAT CASE.

21 THE COURT: OKAY. UM -- MA'AM, DO YOU BELIEVE THAT,  
22 UH, YOUR FAMILY'S INVOLVEMENT IN THAT -- IN THAT SITUATION,  
23 OR WHAT YOU'VE -- HAVE HEARD, OR WHAT YOU KNOW ABOUT IT, DO  
24 YOU BELIEVE ANY OF THAT WOULD INTERFERE IN ANY WAY WITH  
25 EITHER YOUR WILLINGNESS OR YOUR ABILITY TO GIVE BOTH THE

1 STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

2 MS. MOLUF: I DON'T BELIEVE SO, NO.

3 THE COURT: ALL RIGHT, THANK YOU. YOU CAN BE SEATED.

4 (NO FURTHER RESPONSE FROM THE JURY PANEL.)

5 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL OR  
6 ANY MEMBER OF YOUR IMMEDIATE FAMILY WHO HAS EVER BEEN  
7 INVOLVED IN ANY WAY THAT YOU'RE AWARE OF WITH ANY TYPE OF  
8 ORGANIZATION OR GROUP THAT IS CHARGED WITH THE  
9 RESPONSIBILITY OF -- OF INVESTIGATING OR IN -- IN ANY WAY  
10 BEING INVOLVED WITH SEXUAL ASSAULT VICTIMS OR WITH CHILD  
11 ABUSE VICTIMS OR ANY TYPE OF, UM -- OF PROSECUTION OF FAMILY  
12 ISSUES SUCH AS THE -- I'M GONNA LIST A FEW OF THE  
13 ORGANIZATIONS THAT MIGHT -- THAT MIGHT HAVE BEEN -- THAT  
14 MIGHT FIT THAT DESCRIPTION.

15 THE SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES OR THE  
16 SOUTH CAROLINA DEPARTMENT OF YOUTH SERVICES. UH -- ANY TYPE  
17 OF VICTIMS' ORGANIZATIONS, SUCH AS CITIZENS AGAINST VIOLENT  
18 CRIME, CITIZENS AGAINST RAPE.

19 I'M JUST LISTING SOME EXAMPLES OF ORGANIZATIONS THAT  
20 MIGHT -- THAT WOULD FIT THE DESCRIPTION.

21 IS THERE ANY MEMBER OF THE JURY PANEL OR ANY MEMBER OF  
22 YOUR IMMEDIATE FAMILY WHO HAS EVER BEEN INVOLVED IN ANY OF  
23 THOSE ORGANIZATIONS OR IN ANY OF THE SITUATIONS THAT THOSE  
24 ORGANIZATIONS HAVE BEEN INVOLVED IN?

25 IF SO, PLEASE STAND.

1 (NO RESPONSE FROM THE JURY PANEL.)

2 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
3 BELONGS TO ANY ORGANIZATIONS THAT HAVE AS THEIR PURPOSE THE,  
4 UH, INVESTIGATION OF CRIMES; THE, UH -- UH, ATTENTION TO  
5 PENALTIES TO CRIMES; UM, TAKING CARE OF -- OF ALLEGED  
6 VICTIMS OF CRIME?

7 AND SOME OF THOSE ORGANIZATIONS WOULD INCLUDE MOTHERS  
8 AGAINST DRUNK DRIVING, CITIZENS ADVOCATING DECENCY AND  
9 RETURN TO ETHICS, PA- -- PARENTS EMPOWERED TO SAVE TEENS,  
10 CITIZENS AGAINST VIOLENT CRIME, AND ALSO PEOPLE AGAINST RAPE  
11 OR -- OR FROM DARKNESS TO LIGHT. THOSE ARE JUST EXAMPLES.

12 IF YOU'VE EVER BEEN INVOLVED AS A MEMBER OR AS A  
13 VOLUNTEER OR AS A CONTRIBUTOR IN ANY OF THOSE ORGANIZATIONS  
14 OR OTHERS SIMILAR TO IT, PLEASE STAND.

15 TELL ME YOUR NAME, MA'AM.

16 MS. CHAKERIS: ANGIE CHAKERIS, THREE-0-SEVEN.

17 THE COURT: OKAY.

18 MS. CHAKERIS: AS A MEMBER OF THE JUNIOR LEAGUE, I  
19 VOLUNTEERED AT THE LOWCOUNTRY CHILDREN'S CENTER, WHICH IS  
20 AGAINST CHILD ABUSE, AND PLAYED WITH THE CHILDREN WHILE THEY  
21 WERE WAITING ON THEIR APPOINTMENTS.

22 THE COURT: DO YOU DO THAT, UH, EVEN NOW, MA'AM?

23 MS. CHAKERIS: I DO NOT.

24 THE COURT: HOW LONG HAS IT BEEN SINCE YOU WERE  
25 INVOLVED IN THAT VOLUNTEER WORK?

1 MS. CHAKERIS: I WOULD SAY FOUR YEARS AGO, AND I DID IT  
2 FOR A YEAR. I'M STILL INVOLVED IN THE JUNIOR LEAGUE, BUT  
3 NOT VOLUNTEERING AT THAT SPECIFIC PLACE.

4 THE COURT: ALL RIGHT, THANK YOU. YES, MA'AM?

5 MS. GILPIN: LISA GILPIN, ONE-0-FOUR. I'VE JUST MADE  
6 DONATIONS TO THE MOTHERS AGAINST DRUNK DRIVING.

7 THE COURT: OKAY. YES, SIR?

8 MR. JOHNSON: EDWARD JOHNSON, ONE-FIFTY-ONE. I AM ON  
9 THE BOARD OF THE BOYS AND GIRLS CLUB OF CHARLESTON, AND WE  
10 WORK WITH, UH, KIDS WHO HAVE BEEN SEXUALLY ABUSED.

11 THE COURT: NOW, THE -- THE BOYS AND GIRLS CLUB WORKS  
12 WITH THESE CHILDREN?

13 MR. JOHNSON: RIGHT.

14 THE COURT: AND IN YOUR INVOLVEMENT WITH THE BOYS AND  
15 GIRLS CLUB, DO YOU HAVE DIRECT CONTACT WITH CHILDREN WHO  
16 HAVE BEEN ABUSED?

17 MR. JOHNSON: UH -- YES, BUT NOT IN -- JUST BECAUSE OF  
18 BEING WITH THEM. BUT I DON'T COUNSEL WITH THEM, I'M JUST ON  
19 THE BOARD AND I WORK, UH, THERE---

20 THE COURT: ALL RIGHT.

21 MR. JOHNSON: ---VOLUNTEERING.

22 THE COURT: OKAY.

23 MR. JOHNSON: I DON'T WORK WITH THE ACTUAL ABUSED ONES  
24 IN COUNSELING.

25 THE COURT: YOU -- ALL RIGHT, YOU DON'T WORK WITH THE

1 AC-- -- WITH THE ABUSED CHILDREN, OR YOU DON'T WORK WITH---

2 MR. JOHNSON: I WORK---

3 THE COURT: WAIT A MINUTE, LET ME FINISH MY QUESTION.

4 YOU DON'T WORK WITH THE ABUSED CHILDREN OR YOU DON'T WORK  
5 WITH THEM RELATED TO THEIR ABUSE?

6 MR. JOHNSON: RELATED TO THEIR ABUSE.

7 THE COURT: OKAY, SO YOU SEE 'EM, YOU PLAY WITH 'EM---

8 MR. JOHNSON: RIGHT.

9 THE COURT: ---BUT YOU ARE NOT ONE OF THE COUNSELORS  
10 AND YOU DON'T ACTUALLY GET INTO TALKING ABOUT WHAT SOME OF  
11 THEIR SITUATIONS ARE.

12 MR. JOHNSON: EXACTLY..

13 THE COURT: OKAY. NOW, MR., UM -- ALL RIGHT, THANK  
14 YOU. YES, MA'AM?

15 MS. FORDHAM: NINETY, KHALILA FORDHAM. UM -- I'VE---

16 THE COURT: YOU'RE NUMBER NINETY?

17 MS. FORDHAM: YES.

18 THE COURT: OKAY.

19 MS. FORDHAM: AS OF RIGHT NOW, I HAVEN'T BEGUN WORKING,  
20 BUT, UM, THIS COMING YEAR I'LL BE WORKING AT DEVEREUX  
21 TREATMENT CENTER IN ATLANTA, GEORGIA, AND I'LL BE WORKING  
22 WITH LOTS OF CHILDREN WHO HAVE BEEN SEXUALLY AND PHYSICALLY  
23 ABUSED.

24 THE COURT: OKAY. UM -- DO YOU HAVE ANY TYPE OF  
25 TRAINING FOR THAT WORK?

1 MS. FORDHAM: YES.

2 THE COURT: AND WHAT IS THAT TRAINING?

3 MS. FORDHAM: AS OF RIGHT NOW, I'M STUDYING TO BE A  
4 CLINICAL PSYCHOLOGIST.

5 THE COURT: AND WHERE ARE YOU STUDYING?

6 MS. FORDHAM: ATLANTA, GEORGIA.

7 THE COURT: OKAY. YOU LIVE HERE IN CHARLESTON COUNTY  
8 THOUGH?

9 MS. FORDHAM: YES. THAT'S JUST WHERE I GO TO SCHOOL.  
10 THIS IS MY PERMANENT RESIDENCE.

11 THE COURT: OKAY. WHAT -- WHAT SCHOOL DO YOU GO TO?

12 MS. FORDHAM: ARGOSY UNIVERSITY.

13 THE COURT: ALL RIGHT. THANK YOU, MS. FORDHAM. YES,  
14 SIR?

15 MR. CARPENTER: NUMBER FORTY-FOUR, RONALD CARPENTER,  
16 AND I'M ON THE BOARD AT WINDWOOD FARMS HERE IN CHARLESTON  
17 COUNTY.

18 THE COURT: TELL ME A LITTLE BIT ABOUT WINDWOOD FARMS.

19 MR. CARPENTER: WINDWOOD FARMS IS KIND OF A PLACE, UH -  
20 - IT'S A -- IT'S A PRIVATE, UH -- WELL, I SHOULDN'T SAY A  
21 COMPANY, BUT A PRIVATE INSTITUTION, UH, AS FAR AS WHERE WE  
22 BRING IN, UH, YOUNG ABUSED CHILDREN. UH -- BOYS BETWEEN SAY  
23 SIX AND FIFTEEN, WHO ARE USUALLY THERE FOR ABOUT A YEAR.  
24 UH -- AND WE'RE TRYING TO GET THEM TO REUNITE BACK EITHER  
25 INTO THEIR FAMILIES OR INTO FOSTER HOMES.

1 THE COURT: AND, UH, IN YOUR CAPACITY AS A MEMBER OF  
2 THE BOARD, DO YOU WORK DIRECTLY WITH THESE CHILDREN?

3 MR. CARPENTER: NO, I DO NOT.

4 THE COURT: ALL RIGHT, THANK YOU MR. CARPENTER. NOW  
5 FOR THOSE OF YOU WHO JUST ANSWERED THE QUESTION ABOUT YOUR  
6 INVOLVEMENT WITH THE ORGANIZATIONS THAT DEAL WITH VICTIMS,  
7 UH, WOULD YOUR INVOLVEMENT WITH THOSE ORGANIZATIONS OR THE  
8 WORK THAT YOU JUST DESCRIBED TO ME, WOULD THAT INTERFERE IN  
9 ANY WAY WITH EITHER YOUR WILLINGNESS OR YOUR ABILITY TO GIVE  
10 BOTH THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?  
11 MS. CHAKERIS?

12 MS. CHAKERIS: I DON'T BELIEVE SO.

13 THE COURT: ALL RIGHT. MS. GILPIN?

14 MS. GILPIN: NO.

15 THE COURT: MA'AM?

16 MS. GILPIN: NO.

17 THE COURT: UH -- MR. JOHNSON?

18 MR. JOHNSON: NO.

19 THE COURT: MS. FORDHAM?

20 MS. FORDHAM: NO.

21 THE COURT: MR. CARPENTER?

22 MR. CARPENTER: NO.

23 (NO FURTHER RESPONSE FROM THE JURY PANEL.)

24 THE COURT: ALL RIGHT, LET ME SEE MR. CAMPAGNA; UH,

25 MS. JENKINS; MR. WILLIAMS; AND MS. MERILICE. AND IF YOU-ALL



1 WILL LINE UP ONE AT A TIME, I'LL SPEAK TO YOU ONE AT A TIME.

2 UM -- AND IF ANYBODY ELSE HAS THOUGHT OF ANYTHING THAT  
3 YOU NEED TO TELL ME, UH, AND YOU WANT TO SPEAK -- OR  
4 ANYTHING AT ALL YOU WANT TO SPEAK TO ME PRIVATELY ABOUT,  
5 THEN JUST COME AND GET IN THIS LINE AND I'LL SPEAK TO YOU  
6 ONE AT A TIME.

7 LET ME SEE THE LAWYERS DOWN HERE PLEASE. HOLD ON JUST  
8 ONE SECOND -- LET'S MOVE THIS TABLE OUT OF THE WAY.

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
10 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
11 HEARING OF THE JURY PANEL, OFF THE RECORD.)

12 (WHEREUPON, COURT RESUMED.)

13 (WHEREUPON, THE FOLLOWING JURORS APPROACHED THE BENCH  
14 AND CONVERSED IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE  
15 THE HEARING OF THE JURY PANEL. COUNSEL WAS ALSO PRESENT AT  
16 THE BENCH.)

17 (WHEREUPON, DONALD C. CAMPAGNA, JUROR NUMBER 41, CAME  
18 FORWARD.)

19 THE COURT: ALL RIGHT, MR. CAMPAGNA. TELL US ABOUT THE  
20 SITUATION THAT OCCURRED WITHIN YOUR FAMILY.

21 MR. CAMPAGNA: MY YOUNGEST SISTER WAS ROOMING WITH  
22 THREE OTHER GIRLS. AND THE GIRLS LEFT EARLY AND DOROTHY WAS  
23 IN THE SHOWER. WHEN SHE CAME OUT OF THE SHOWER THERE WAS A  
24 MAN WHO HAD COME INTO THE HOUSE. SHE WAS JUST OUT OF THE  
25 SHOWER AND HE HAD ATTEMPTED TO ASSAULT HER. FORTUNATELY,

1 SHE FOUGHT HIM OFF AND GOT AWAY FROM HIM.

2 THE COURT: HOW LONG AGO DID THAT HAPPEN?

3 MR. CAMPAGNA: TWENTY-FIVE YEARS.

4 THE COURT: UH -- UH, WOULD THE FACT THAT YOU AND YOUR  
5 FAMILY HAD THAT HAPPEN, WOULD THAT INTERFERE WITH EITHER  
6 YOUR WILLINGNESS OR YOUR ABILITY TO GIVE BOTH THE STATE---

7 MR. CAMPAGNA: ABSOLUTELY NOT.

8 THE COURT: ---ALL RIGHT. YOU -- YOU ANTICIPATED MY  
9 QUESTION, BUT I NEED TO FINISH IT SO THE RECORD WILL BE  
10 CLEAR.

11 BUT, UH, WOULD THAT INTERFERE IN ANY WAY WITH EITHER  
12 YOUR WILLINGNESS OR YOUR ABILITY TO GIVE BOTH THE STATE AND  
13 THE DEFENDANT A FAIR AND IMPARTIAL TRIAL?

14 MR. CAMPAGNA: NO, SIR.

15 THE COURT: ALL RIGHT. NOW, MR. ORR ACTUALLY LIVES IN  
16 GEORGETOWN COUNTY AND HAS LIVED THERE FOR A WHILE. HE  
17 PROBABLY LIVED THERE WHEN YOU WERE CHIEF OF POLICE. UM --  
18 YOU LIVED AT PAWLEY'S ISLAND, WHICH OF COURSE I GUESS IS NOT  
19 IN THE CITY OF GEORGETOWN. BUT, UM, DID YOU KNOW MR. ORR OR  
20 KNOW ANY OF THE ORRS FROM UP THERE? OR ANYTHING ABOUT THAT  
21 FAMILY OR ANYTHING ABOUT THIS CASE OR THAT NAME?

22 MR. CAMPAGNA: NO, SIR.

23 THE COURT: ALL RIGHT, THANK YOU. YOU CAN RETURN TO  
24 YOUR SEAT.

25 (WHEREUPON, DONALD C. CAMPAGNA, JUROR NUMBER 41,

1       RETURNED TO HIS SEAT.)

2           BAILIFF:  MS. JENKINS, ONE-FORTY-SEVEN.

3           (WHEREUPON, DOROTHY B. JENKINS, JUROR NUMBER 147, CAME  
4       FORWARD.)

5           THE COURT:  HOW ARE YOU, MS. JENKINS?

6           MS. JENKINS:  FINE, THANK YOU.

7           THE COURT:  COME IN A LITTLE BIT CLOSER.  OKAY, NOW  
8       TELL ME.

9           MS. JENKINS:  SEVERAL YEARS AGO MY OLDEST SON, HE WAS  
10       ACCUSED OF RAPING A DEAF MUTE AND HE WAS EXONERATED.  BUT WE  
11       NEVER FOUND OUT WHAT REALLY HAPPENED TO HER.  AND WE KNOW  
12       SHE WASN'T TRUTHFUL, BUT WE NEVER FOUND OUT WHAT REALLY  
13       HAPPENED TO HER.

14          THE COURT:  OKAY.  DID YOUR -- AND THIS IS YOUR SON?

15          MS. JENKINS:  UH-HUH.

16          THE COURT:  DID HE ACTUALLY GET ARRESTED AND CHARGED?

17          MS. JENKINS:  HE GOT ARRESTED BUT INNOCENT.  AND HE WAS  
18       EXONERATED.

19          THE COURT:  DID IT GO TO A JURY TRIAL?

20          MS. JENKINS:  HE WAS INNOCENT.  I THINK IT WAS LIKE TEN  
21       YEARS AGO.

22          THE COURT:  TEN YEARS AGO?  SO HE WAS ACTUALLY TRIED  
23       FOR IT AND THE JURY FOUND HIM NOT GUILTY?  OR DID THE STATE  
24       JUST DISMISS THE CHARGE?

25          MS. JENKINS:  I THINK THEY DISMISSED IT.

1 THE COURT: THEY DISMISSED IT BEFORE IT WENT TO TRIAL?

2 MS. JENKINS: I THINK SOMEBODY ELSE DID IT; I'M NOT  
3 REALLY SURE WHAT THEY DID.

4 THE COURT: OKAY; WAS THAT HERE IN CHARLESTON?

5 MS. JENKINS: YES.

6 THE COURT: DO YOU, UM -- WOULD YOU HAVE BEEN UP THERE  
7 IN THE COURTHOUSE FOR THAT?

8 MS. JENKINS: I DON'T KNOW IF I WAS IN A COURTROOM.

9 THE COURT: IS THERE ANYTHING ABOUT THAT ACCUSATION  
10 THAT WAS MADE AGAINST YOUR SON OR ANYTHING THAT YOU JUST  
11 TOLD ME THAT WOULD INTERFERE IN ANY WAY WITH EITHER YOUR  
12 WILLINGNESS OR YOUR ABILITY TO GIVE BOTH THE STATE AND THE  
13 DEFENDANT A FAIR AND IMPARTIAL TRIAL IN THIS CASE?

14 MS. JENKINS: NO.

15 THE COURT: OKAY, THANK YOU. YOU CAN RETURN TO YOUR  
16 SEAT.

17 MS. JENKINS: THANK YOU.

18 (WHEREUPON, DOROTHY B. JENKINS, JUROR NUMBER 147,  
19 RETURNED TO HER SEAT.)

20 THE COURT: MR. WILLIAMS.

21 BAILIFF: MARSHALL WILLIAMS, TWO-EIGHTY-THREE.

22 (WHEREUPON, MARSHALL L. WILLIAMS, JUROR NUMBER 283,  
23 CAME FORWARD.)

24 THE COURT: MARSHALL WILLIAMS; HI. ALL RIGHT, TELL ME.

25 MR. WILLIAMS: I WAS THE VICTIM ABOUT TWELVE YEARS AGO.

1 I KNOW WHAT HAPPENED TO ME WAS QUITE A WHILE AGO, BUT STILL  
2 I DON'T KNOW IF I COULD BE FAIR.

3 THE COURT: I JUST HATE THE FACT THAT IT HAPPENED.  
4 THAT'S A DIFFICULT THING TO TALK ABOUT---

5 MR. WILLIAMS: YEAH, I DON'T WANT TO TALK ABOUT IT, NO.

6 THE COURT: I KNOW. ALL RIGHT, WELL LET'S SEE IF WE  
7 CAN -- LET'S SEE.

8 YOU -- YOU MENTIONED THAT YOU'RE NOT SURE YOU COULD BE  
9 FAIR.

10 MR. WILLIAMS: YEAH, BECAUSE I MEAN---

11 THE COURT: WAIT A MINUTE; WE UNDERSTAND -- WE  
12 UNDERSTAND. AS A JUROR YOU WOULD BE ASKED TO SET ASIDE  
13 ANYTHING THAT MIGHT HAVE HAPPENED TO YOU DURING THE PAST,  
14 AND ANYTHING IN ANY OTHER CASES. AND THEN COME IN HERE,  
15 LISTEN CAREFULLY TO THE TESTIMONY AND THE EVIDENCE THAT  
16 WOULD BE PRESENTED BEFORE YOU. AND THEN, WHEN IT COMES TIME  
17 TO DO SO, TO RENDER A VERDICT THAT'S BASED SOLELY ON THE  
18 TESTIMONY AND THE EVIDENCE IN THIS CASE, NOT BASED ON  
19 ANYTHING ELSE.

20 MR. WILLIAMS: I UNDERSTAND THAT.

21 THE COURT: WE -- WE REALIZE THAT SOME PEOPLE CAN'T DO  
22 THAT BECAUSE OF THE EXPERIENCES THAT THEY'VE HAD HAVE MADE  
23 SUCH AN IMPRESSION ON THEM OR WHATEVER.

24 NOW, SO I'M JUST GONNA ASK YOU, WITHOUT GETTING INTO  
25 DETAILS, DO YOU THINK YOU WOULD BE ABLE TO SET ASIDE---

1           MR. WILLIAMS: I'D LIKE TO THINK THAT I CAN. I MEAN,  
2 IN ALL HONESTY -- HONESTLY, I THINK THAT I COULD. BUT I  
3 MEAN, I CAN'T PROMISE YOU THAT SOMETHING MIGHT TRIGGER  
4 SOMETHING. I'D LIKE TO THINK THAT I CAN. I'D LIKE TO THINK  
5 I'M A PERSON WHO COULD DIFFERENTIATE BETWEEN THE TWO, BUT --  
6 I CAN'T PROMISE YOU.

7           THE COURT: ALL RIGHT. WELL, WE'RE NOT EXPECT -- WE  
8 DON'T EXPECT YOU TO PROMISE US. BUT WHAT I NEED -- WHAT I  
9 NEED TO DO IS I NEED TO DETERMINE WHETHER OR NOT YOU'RE  
10 GOING TO BE ABLE TO SET ASIDE WHAT HAPPENED TO YOU AND BE  
11 ABLE TO FOLLOW MY INSTRUCTIONS ON THE LAW AND -- AND FULFILL  
12 THE RESPONSIBILITY THAT I JUST EXPLAINED TO YOU.

13          MR. WILLIAMS: I THINK THAT I WOULD. I'M INTELLIGENT  
14 ENOUGH TO DO SO. I THINK SO.

15          THE COURT: OKAY. WELL, I'M GONNA -- I'M GOING TO --  
16 LET ME ASK YOU A FEW QUESTIONS ABOUT WHAT HAPPENED, IS THAT  
17 OKAY?

18          MR. WILLIAMS: OKAY.

19          THE COURT: UM -- DID YOU KNOW THE PERSON WITH WHOM  
20 THIS HAPPENED?

21          MR. WILLIAMS: IT WAS A -- NOT A FAMILY MEMBER, BUT  
22 A -- THE CHOIR -- CHURCH CHOIR GUY. I DON'T GO TO CHURCH  
23 ANYMORE EITHER.

24          THE COURT: ALL RIGHT. DO YOU -- DO YOU, UH -- DO YOU  
25 STILL SEE THE PERSON AROUND?

1           MR. WILLIAMS: ABSOLUTELY NOT, NO. I HAVEN'T SEEN HIM  
2 SINCE.

3           THE COURT: DID YOU---

4           MR. WILLIAMS: OTHERWISE I'D OF PROBABLY BROUGHT UP  
5 CHARGES OR SOMETHING. I JUST DON'T HAVE ENOUGH TIME TO GET  
6 INTO IT RIGHT NOW.

7           THE COURT: ALL RIGHT; SO WERE THERE ANY CHARGES EVER  
8 BROUGHT AGAINST HIM?

9           MR. WILLIAMS: NO.

10          THE COURT: LET ME GET YOU TO STEP BACK JUST A SECOND,  
11 BUT DON'T TAKE YOUR SEAT BECAUSE I MIGHT HAVE SOME MORE  
12 QUESTIONS TO ASK YOU.

13          MR. WILLIAMS: OKAY; IS IT POSSIBLE THAT I COULD USE  
14 THE BATHROOM?

15          THE COURT: HOW ABOUT JUST WAIT? IN ONE MINUTE I'LL  
16 LET YOU USE THE BATHROOM, OKAY?

17          MR. WILLIAMS: OKAY, THANK YOU.

18          (WHEREUPON, JUROR STEPPED BACK AWAY FROM THE BENCH.  
19 THE FOLLOWING THEN TOOK PLACE IN THE PRESENCE OF THE JURY  
20 PANEL BUT OUTSIDE THE HEARING OF THE JURY PANEL.)

21          THE COURT: ALL RIGHT, UM, WHAT DO YOU-ALL THINK ABOUT  
22 THAT GUY? I MEAN, I WOULDN'T WANT TO ASK HIM TOO MANY MORE  
23 FOLLOW-UP QUESTIONS ABOUT THE SPECIFICS OF WHAT HAPPENED TO  
24 HIM AND -- AND EVERYTHING.

25          BUT, YOU KNOW, FIRST HE SAID HE DIDN'T THINK HE COULD

1 BE FAIR, AND THEN HE SAID HE CAN. IT'S A CLOSE CALL, AND I  
2 DON'T WANT TO PUT HIM THROUGH HAVING TO EXPLAIN IT ALL IF  
3 YOU-ALL CAN CONSENT TO HIS BEING EXCUSED.

4 MR. DAVIS: I WOULD ASK FOR THAT.

5 THE COURT: EXCUSE ME?

6 MR. DAVIS: I WOULD CERTAINLY ASK FOR THAT, JUDGE. I  
7 THINK HE TRIED TO ANSWER YOU HONESTLY, BUT I DON'T THINK  
8 HE'S IN A POSITION TO BE ABLE TO TELL YOU ONE HUNDRED  
9 PERCENT. I DON'T THINK HE'S IN A POSITION TO BE FAIR AND  
10 IMPARTIAL.

11 MS. HERRING-LASH: I HAVE TO AGREE. AND THINGS IN  
12 TESTIMONY COULD COME UP.

13 THE COURT: OKAY. SO YOU-ALL CONSENT TO REMOVE HIM  
14 FROM THE PANEL?

15 MR. DAVIS: (NOD.)

16 MS. HERRING-LASH: (NOD.)

17 THE COURT: OKAY. MR. WILLIAMS, COME UP HERE FOR A  
18 SECOND PLEASE.

19 (WHEREUPON, MARSHALL L. WILLIAMS, JUROR NUMBER 283,  
20 CAME FORWARD. THE FOLLOWING THEN TOOK PLACE IN THE PRESENCE  
21 OF THE JURY PANEL BUT OUTSIDE THE HEARING OF THE JURY  
22 PANEL.)

23 MR. WILLIAMS: YES SIR?

24 THE COURT: I'M GOING TO GO AHEAD AND REMOVE -- COME UP  
25 A LITTLE CLOSER -- I'M GOING TO GO AHEAD AND REMOVE YOU FROM



1 THE PANEL IN THIS CASE. UM -- SO YOU'RE FREE TO GO.

2 BUT CALL BACK TONIGHT AFTER SIX O'CLOCK FOR  
3 INSTRUCTIONS ABOUT WHAT THE JURY PANEL SHOULD DO TOMORROW.

4 MR. WILLIAMS: ALL RIGHT.

5 THE COURT: ALL RIGHT, SIR; AND YOU CAN GO TO THE  
6 RESTROOM ON YOUR WAY OUT.

7 MR. WILLIAMS: ALL RIGHT. THANK YOU SO MUCH.

8 THE COURT: THANK YOU; APPRECIATE IT.

9 (WHEREUPON, MARSHALL L. WILLIAMS, JUROR NUMBER 283, WAS  
10 EXCUSED FROM JURY SERVICE ON THIS CASE AND LEFT THE  
11 COURTROOM.)

12 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
13 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
14 HEARING OF THE JURY PANEL, OFF THE RECORD.)

15 (WHEREUPON, COURT RESUMED.)

16 BAILIFF: MS. MERILICE, ONE-EIGHTY-EIGHT.

17 (WHEREUPON, CLAUDETTE M. MERILICE, JUROR NUMBER 188,  
18 CAME FORWARD.)

19 THE COURT: ALL RIGHT, MS. -- TELL ME HOW YOU PRONOUNCE  
20 YOUR NAME.

21 MS. MERILICE: MERILICE.

22 THE COURT: MERILICE? OKAY; ALL RIGHT, UM, TELL ME  
23 WHAT YOU WANTED TO TELL ME.

24 MS. MERILICE: ALL RIGHT.

25 THE COURT: WHY DON'T YOU STEP UP HERE JUST A LITTLE

1 BIT CLOSER SO SHE CAN HEAR YOU A LITTLE BETTER.

2 MS. MERILICE: I WAS A VICTIM. AND IT -- THERE WASN'T  
3 ANY CHARGES OR ANYTHING.

4 THE COURT: OKAY; WERE YOU -- WERE YOU A LOT YOUNGER  
5 THAN YOU ARE NOW?

6 MS. MERILICE: (NOD.)

7 THE COURT: HOW OLD -- HOW OLD WERE YOU?

8 MS. MERILICE: I WAS ABOUT SEVEN.

9 THE COURT: OKAY; AND DO YOU REMEMBER IT PRETTY WELL?

10 MS. MERILICE: YES.

11 THE COURT: WAS IT A FAMILY MEMBER WHO DID THIS TO YOU?

12 MS. MERILICE: UH-HUH. )

13 THE COURT: OKAY; AND, UM, HOW WAS THE PERSON RELATED  
14 TO YOU?

15 MS. MERILICE: MY BROTHER.

16 THE COURT: YOUR BROTHER.

17 COURT REPORTER: I'M SORRY?

18 THE COURT: HER BROTHER. UM -- DO YOU BELIEVE THAT YOU  
19 WOULD BE ABLE TO, UM, SET ASIDE YOUR MEMORIES OF WHAT  
20 HAPPENED AND FEELINGS ABOUT WHAT HAPPENED AND BE A FAIR AND  
21 IMPARTIAL JUROR IN THIS CASE? OR DO YOU THINK IT WOULD --  
22 IT WOULD AFFECT YOU---

23 MS. MERILICE: (NOD.)

24 THE COURT: ---IT WOULDN'T AFFECT YOUR IMPARTIALITY?

25 MS. MERILICE: IT WOULDN'T.

1 THE COURT: YOU DON'T THINK IT WOULD AFFECT YOU?

2 MS. MERILICE: NO, IT WOULDN'T. AND I WOULD TAKE

3 EVERYONE'S SIDE AND---

4 COURT REPORTER: I -- I CAN'T HEAR HER, YOUR HONOR.

5 THE COURT: ALL RIGHT. OKAY, UM -- LET ME -- MAKE SURE

6 I AM GONNA REPEAT BACK WHAT YOU'VE SAID.

7 BUT SHE SAID THAT IT -- SHE WOULD BE ABLE TO SET ASIDE

8 AND EVALUATE WHAT EVERYBODY SAYS UP AT THE STAND, AND, UH --

9 AND I FORGOT THE LAST THING.

10 UM -- WHAT DID SHE SAY? WHAT'S THE LAST THING?

11 MS. MERILICE: AND NOT PUT MYSELF---

12 THE COURT: AND NOT PUT -- NOT PUT YOURSELF IN HER

13 PLACE?

14 MS. MERILICE: UH-HUH.

15 THE COURT: OKAY. ALL RIGHT, WELL I'M GOING TO HAVE TO

16 ASK YOU SOME MORE QUESTIONS ABOUT WHAT HAPPENED; IS THAT

17 OKAY?

18 MS. MERILICE: UH-HUH.

19 THE COURT: ALL RIGHT; UM -- UH, OVER WHAT PERIOD OF

20 TIME DID THIS OCCUR? HOW LONG DID IT LAST?

21 MS. MERILICE: IT LASTED FOR ABOUT FIVE YEARS.

22 THE COURT: FIVE YEARS?

23 MS. MERILICE: UH-HUH.

24 THE COURT: OKAY, YOU MENTIONED THE AGE OF SEVEN. DID

25 IT START AT AGE SEVEN OR DID IT END AT SEVEN?

1 MS. MERILICE: STARTED.

2 THE COURT: STARTED AT SEVEN, ENDED WHEN YOU WERE ABOUT  
3 TWELVE?

4 MS. MERILICE: UH-HUH.

5 THE COURT: OKAY. HOW MUCH OLDER IS YOUR BROTHER THAN  
6 YOU?

7 MS. MERILICE: HE IS -- RIGHT NOW I'M NINETEEN, HE'S  
8 TWENTY-SIX. SO ABOUT SEVEN YEARS.

9 THE COURT: SEVEN YEARS?

10 MS. MERILICE: UH-HUH.

11 THE COURT: UM -- AND, UH -- AND I APOLOGIZE FOR HAVING  
12 TO ASK YOU THESE QUESTIONS, BUT WHAT TYPES OF THINGS DID HE  
13 DO?

14 MS. MERILICE: UH -- TOUCHING AND ACTUAL INTERCOURSE.

15 THE COURT: ALL RIGHT, INTERCOURSE?

16 MS. MERILICE: UH-HUH.

17 THE COURT: OKAY. ALL RIGHT, AND YOU SAID THERE WAS  
18 NEVER ANY PROSECUTION FOR IT?

19 MS. MERILICE: (NEGATIVE NOD.)

20 THE COURT: ALL RIGHT. UM -- WAS THERE ANYTHING -- DID  
21 ANYBODY -- DID YOU EVER TELL ANYBODY ELSE IN YOUR FAMILY  
22 ABOUT IT?

23 MS. MERILICE: ONE, LAST YEAR THAT I CONFIDED IT TO A  
24 FRIEND. AND ACTUALLY A SCHOOL COUNSELOR ABOUT IT 'CAUSE SHE  
25 WANTED TO SAY, AT THAT POINT IN TIME IN SCHOOL, THAT

STATE VERSUS HAROLD ORR, III  
VOIR DIRE

1 SOMETHING WAS GOING ON. AND I DON'T KNOW IF SHE FELT THAT  
2 SOMETHING WAS BOTHERING ME. WE TALKED AND I TOLD HER.

3 AND FROM THEN ME AND HER HAD A MEETING WITH MY MOM. MY  
4 MOM FOUND OUT, AND THAT'S HOW IT ENDED RIGHT THERE.

5 AND FROM THERE THE SCHOOL -- THE COUNSELOR ACTUALLY --  
6 SAID SHE WAS OBLIGATED TO ACTUALLY CALL THE POLICE AND TELL  
7 THE POLICE. AND THEY CAME UP THERE AND QUESTIONED ME ABOUT  
8 IT.

9 THE COURT: THEY DIDN'T EVER FILE CHARGES AGAINST HIM?

10 MS. MERILICE: HUH-UH.

11 THE COURT: OKAY; NOW, AFTER TELLING ME ABOUT IT, DO  
12 YOU STILL FEEL AS THOUGH, UH, THIS EXPERIENCE WOULD -- WOULD  
13 NOT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

14 MS. MERILICE: NO, IT WON'T.

15 THE COURT: YOU DON'T THINK IT WILL AFFECT YOU?

16 MS. MERILICE: HUH-UH.

17 THE COURT: OKAY. UM -- DO YOU STILL SEE YOUR BROTHER  
18 A LOT?

19 MS. MERILICE: NO.

20 THE COURT: DOES HE LIVE IN CHARLESTON?

21 MS. MERILICE: YES.

22 THE COURT: OKAY. LET ME ASK YOU TO STEP RIGHT OVER  
23 THERE BETWEEN THOSE TWO LAWYERS' TABLES, AND LET ME SPEAK TO  
24 THE LAWYERS FOR JUST A SECOND. AND THEN I'LL GET YOU BACK  
25 HERE IN JUST A SECOND.

1 MS. MERILICE: OKAY.

2 THE COURT: ALL RIGHT, THANK YOU.

3 (WHEREUPON, JUROR STEPPED BACK AWAY FROM THE BENCH.

4 THE FOLLOWING THEN TOOK PLACE IN THE PRESENCE OF THE JURY  
5 PANEL BUT OUTSIDE THE HEARING OF THE JURY PANEL.)

6 THE COURT: ALL RIGHT, ANY -- ANY FOLLOW-UP QUESTIONS  
7 THAT YOU-ALL WOULD, UM, SUGGEST I ASK?

8 MR. DAVIS: NO.

9 MS. HERRING-LASH: SHE DID STAND A SECOND TIME---

10 THE COURT: YEAH; OKAY, I'LL ASK HER ABOUT THAT.

11 MS. HERRING-LASH: ---SHE STOOD A SECOND TIME WITH THE  
12 QUESTION ABOUT VIOLENT CRIME I THINK.

13 THE COURT: ALL RIGHT, ANY MOTIONS?

14 MR. DAVIS: I DON'T THINK SO, JUDGE.

15 MS. HERRING-LASH: (NOD.)

16 THE COURT: OKAY. MS. MERILICE, LET ME ASK YOU A  
17 COUPLE MORE QUESTIONS PLEASE.

18 (WHEREUPON, CLAUDETTE M. MERILICE, JUROR NUMBER 188,  
19 CAME FORWARD. THE FOLLOWING THEN TOOK PLACE IN THE PRESENCE  
20 OF THE JURY PANEL BUT OUTSIDE THE HEARING OF THE JURY  
21 PANEL.)

22 THE COURT: YOU ALSO STOOD UP WHEN I ASKED THE QUESTION  
23 ABOUT VIOLENT CRIMES. IS THAT A SEPARATE INCIDENT OR WAS  
24 THAT THE SAME?

25 MS. MERILICE: SEPARATE.

1 THE COURT: ALL RIGHT; WELL, TELL ME ABOUT THAT ONE.

2 MS. MERILICE: UM -- MY BROTHER WAS IN JAIL ON A COUPLE  
3 CHARGES, ONE INCLUDING MURDER.

4 THE COURT: THE SAME BROTHER?

5 MS. MERILICE: NO.

6 THE COURT: A DIFFERENT BROTHER?

7 MS. MERILICE: UH-HUH.

8 THE COURT: OKAY; NOW, WAS HE CONVICTED OF A MURDER?

9 MS. MERILICE: NO.

10 THE COURT: JUST CHARGED?

11 MS. MERILICE: WELL, THEY WERE TRYING TO CHARGE HIM.

12 THE COURT: OKAY, HE NEVER WAS CHARGED?

13 MS. MERILICE: HUH-UH.

14 THE COURT: AND IS HE -- DOES HE FACE THAT CHARGE NOW?

15 MS. MERILICE: HUH-UH.

16 THE COURT: IT'S BEEN DISMISSED?

17 MS. MERILICE: (NOD.)

18 THE COURT: OKAY. IS THAT IT?

19 MS. MERILICE: THAT'S IT.

20 THE COURT: OKAY, THANK YOU.

21 (WHEREUPON, CLAUDETTE M. MERILICE, JUROR NUMBER 188,  
22 RETURNED TO HER SEAT.)

23 BAILIFF: MR. THOMAS, NUM- -- NUMBER TWO-SIXTY-FOUR.

24 (WHEREUPON, JEFFREY O. THOMAS, JUROR NUMBER 264, CAME  
25 FORWARD.)

1 THE COURT: DO YOU WANT TO JUST MOVE A LITTLE CLOSER,  
2 MR. THOMAS?

3 MR. THOMAS: (INAUDIBLE.)

4 COURT REPORTER: I CAN'T HEAR HIM.

5 THE COURT: OKAY; YOU NEED TO SPEAK UP JUST A LITTLE  
6 BIT---

7 MR. THOMAS: OKAY.

8 THE COURT: ---SO SHE CAN HEAR YOU.

9 MR. THOMAS: OKAY. ME PERSONALLY, I'VE NEVER BEEN  
10 ACCOSTED, BUT I HAVE TWO CLOSE FRIENDS WHO HAVE BEEN.

11 ONE, UM -- THE FIRST ONE WAS A GUY IN THE NEIGHBORHOOD  
12 SEXUALLY ASSAULTED AND MOLESTED, UH, HIS BROTHER AND ANOTHER  
13 NEIGHBOR AS WE WERE GROWING UP.

14 AND THEN RECENTLY, TWO LITTLE, UH -- TWO, UH -- UH,  
15 CHURCH SISTERS. THEY WERE ASSAULTED BY ANOTHER MEMBER  
16 RECENTLY.

17 THE COURT: MEMBER OF THE CHURCH?

18 MR. THOMAS: YEAH.

19 THE COURT: OKAY; NOW THE ONE, UM, THAT OCCURRED WHEN  
20 YOU WERE GROWING UP, DID YOU -- DID YOU KNOW ABOUT IT AT THE  
21 TIME?

22 MR. THOMAS: YES.

23 THE COURT: SO AS IT WAS GOING ON, YOU KNEW ABOUT IT?

24 MR. THOMAS: I HEARD, UM -- I FOUND OUT ABOUT IT FROM  
25 MY FAMILY. AND WHENEVER HE CALLED THE POLICE HE TOLD ME



1 ABOUT IT LIKE THE NEXT DAY WHAT HAPPENED.

2 THE COURT: OKAY. AND THE ONE THAT YOU JUST LEARNED  
3 ABOUT, UM -- UH, HOW WELL DO YOU -- THIS IS A FEMALE VICTIM?

4 MR. THOMAS: YEAH, IT'S TWO FEMALE VICTIMS.

5 THE COURT: TWO MALE -- TWO FEMALE VICTIMS. HOW WELL  
6 DO YOU KNOW THESE VICTIMS?

7 MR. THOMAS: I BEEN KNOWING THEM EVER SINCE -- THEY'RE  
8 THE SAME AGE AS MY BROTHER, SO I'VE KNOWN THEM ALL MY LIFE.

9 THE COURT: OKAY -- ALL RIGHT, BUT YOU'RE NOT RELATED  
10 TO THEM?

11 MR. THOMAS: NO, I'M NOT.

12 THE COURT: ALL RIGHT, WOULD EITHER -- WOULD EITHER OF  
13 THOSE SITUATIONS, AND THE FACT THAT -- FACT THAT YOU WERE  
14 FRIENDS WITH THE VICTIMS IN THOSE CASES, WOULD THOSE  
15 INTERFERE IN ANY WAY WITH EITHER YOUR WILLINGNESS OR YOUR  
16 ABILITY TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND  
17 IMPARTIAL TRIAL?

18 MR. THOMAS: I THINK IT WOULD BECAUSE---

19 THE COURT: YOU THINK IT WOULD?

20 MR. THOMAS: ---BECAUSE WHEN I LOOK AT THE VICTIM I  
21 WOULD THINK ABOUT MY TWO, UH -- MY BROTHER'S TWO FRIENDS.

22 THE COURT: OKAY. ALL RIGHT, YOU THINK IT WOULD. ALL  
23 RIGHT.

24 MR. THOMAS: THEY'RE THE SAME AGE, OKAY?

25 THE COURT: ALL RIGHT. OKAY, THANK YOU VERY MUCH. YOU

1 CAN RETURN TO YOUR SEAT.

2 MR. THOMAS: OKAY.

3 (WHEREUPON, JEFFERY O. THOMAS, JUROR NUMBER 264,  
4 RETURNED TO HIS SEAT.)

5 THE COURT: TAKE HIM OUT -- TAKE HIM OUT. TAKING HIM  
6 OUT, UH, I ASSUME THERE'S AGREEMENT?

7 MS. HERRING-LASH: YES, SIR.

8 MR. DAVIS: (NOD.)

9 (WHEREUPON, JEFFERY O. THOMAS, JUROR NUMBER 264, WAS  
10 EXCUSED FROM JURY SERVICE ON THIS CASE.)

11 THE COURT: OKAY, THERE'S A COUPLE MORE QUESTIONS I  
12 NEED TO ASK. ANYTHING ELSE YOU WANT ME TO FOLLOW UP ON AT  
13 THIS POINT?

14 MS. HERRING-LASH: I DON'T.

15 MR. DAVIS: NO, SIR

16 THE COURT: OKAY, THANK YOU.

17 (WHEREUPON, ATTORNEYS RETURNED TO THEIR TABLES AND  
18 AUDIO TO ENTIRE JURY PANEL RESUMED.)

19 THE COURT: A COUPLE OF MORE QUESTIONS, LADIES AND  
20 GENTLEMEN.

21 IS THERE ANY MEMBER OF THE JURY PANEL, UH, WHO HAS EVER  
22 RECEIVED ANY SPECIAL TRAINING OR EDUCATION IN THE SUBJECT OF  
23 SEXUAL ASSAULT OR SEXUAL ABUSE? IF SO, PLEASE STAND.

24 ALL RIGHT, MR. CAMPAGNA, TELL ME VERY BRIEFLY ABOUT IT,  
25 SIR.

1 MR. CAMPAGNA: UH -- I ATTENDED THE, UH -- AN INSTITUTE  
2 OF THE UNIVERSITY OF SOUTHERN CALIFORNIA. THE SUBJECT WAS  
3 HANDLING THE OFFENDERS AND PROSECUTING.

4 THE COURT: ALL RIGHT; THANK YOU. AND TELL ME YOUR  
5 NAME AGAIN, PLEASE MA'AM?

6 MS. FORDHAM: KHALILA FORDHAM.

7 THE COURT: ALL RIGHT, AND YOU'VE ALREADY REFERRED TO  
8 THE FACT THAT YOU'RE IN SCHOOL IN ATLANTA.

9 MS. FORDHAM: YES.

10 THE COURT: AND IS THERE ANYTHING OTHER THAN THAT?

11 MS. FORDHAM: NO.

12 THE COURT: AND WHAT'S THE SPECIFIC DEGREE THAT YOU'RE  
13 AFTER -- THAT YOU ARE PURSUING?

14 MS. FORDHAM: PSY-DEE (PHONETIC/SIC).

15 THE COURT: PSY-DEE?

16 MS. FORDHAM: YES, SIR.

17 THE COURT: TELL ME WHAT THAT IS.

18 MS. FORDHAM: DOCTOR OF PSYCHOLOGY.

19 THE COURT: MA'AM?

20 MS. FORDHAM: DOCTOR OF PSYCHOLOGY.

21 THE COURT: OKAY. ALL RIGHT; THANK YOU, MS. FORDHAM.

22 (NO FURTHER RESPONSE FROM THE JURY PANEL.)

23 THE COURT: IS THERE ANY MEMBER OF THE, UH, JURY PANEL  
24 OR ANY MEMBER OF YOUR IMMEDIATE FAMILY -- OTHER THAN THOSE  
25 SITUATIONS THAT YOU MIGHT HAVE ALREADY TOLD ME ABOUT -- WHO

1 HAS EVER BEEN OR WHO IS NOW BEING PROSECUTED BY THE NINTH  
2 CIRCUIT SOLICITOR'S OFFICE HERE IN CHARLESTON COUNTY OR IN  
3 BERKELEY COUNTY? IF SO, PLEASE STAND.

4 (NO RESPONSE FROM THE JURY PANEL.)

5 THE COURT: ALL RIGHT NOW, THIS QUESTION IS GOING TO  
6 CALL FOR A LOT OF ANSWERS. WE'LL TRY TO GO THROUGH IT AS  
7 QUICKLY AS POSSIBLE.

8 I NEED TO KNOW EACH OF YOU WHO HAS ANY MINOR CHILDREN  
9 AND THEIR AGES. SO IF YOU HAVE MINOR CHILDREN, I WOULD LIKE  
10 FOR YOU TO STAND AND WE'LL REAL -- REAL QUICKLY GO DOWN THE  
11 ROW. AND GIVE YOUR NAMES, AND THEN AS TO EACH MINOR CHILD,  
12 TELL ME THEIR AGE AND THEIR SEX.

13 OKAY, UM, YOU'RE MS. CHAKERIS?

14 MS. CHAKERIS: YES.

15 THE COURT: JUST TELL ME THE AGES OF YOUR CHILDREN AND  
16 THEIR SEX.

17 MS. CHAKERIS: AN EIGHT-YEAR-OLD GIRL AND A FIVE-YEAR-  
18 OLD BOY.

19 THE COURT: ALL RIGHT, THANK YOU. UM -- TELL ME YOUR  
20 NAME, PLEASE.

21 MS. GILPIN: LISA GILPIN.

22 THE COURT: TELL -- ALL RIGHT.

23 MS. GILPIN: UM -- UH, AN EIGHT-YEAR-OLD GIRL; AND A  
24 TWELVE-YEAR-OLD BOY.

25 THE COURT: THANK YOU VERY MUCH, MS. GILPIN. YES,

1 MA'AM?

2 MS. MITCHELL: TONIA MITCHELL; FIFTEEN-YEAR-OLD,  
3 FOUR-YEAR-OLD, AND SIX MONTHS TWINS.

4 THE COURT: AND THEY ARE?

5 MS. MITCHELL: SIX MONTHS OLD.

6 THE COURT: ARE THEY BOYS OR GIRLS?

7 MS. MITCHELL: THREE BOYS, ONE GIRL.

8 THE COURT: OKAY, THANK YOU VERY MUCH. YES, MA'AM?

9 MS. MOLUF: JOSEPHINE MOLUF; I HAVE A DAUGHTER,  
10 SIXTEEN---

11 THE COURT: ALL RIGHT.

12 MS. MOLUF: ---AND A SON; UM -- THEY'RE TWINS; THREE-  
13 YEAR-OLD TWINS.

14 THE COURT: OKAY, THANK YOU. ALL RIGHT, UH, YES, SIR?  
15 IN THE ORANGE STRIPES.

16 MR. KEREKES: UH -- I -- I HAVE -- I HAVE A SON AND  
17 DAUGHTER, FIFTEEN.

18 THE COURT: WHAT'S YOUR NAME?

19 MR. KEREKES: JOE KEREKES, ONE-FIFTY-SIX.

20 THE COURT: ONE-FIFTY-SIX; JOE?

21 MR. KEREKES: KEREKES.

22 THE COURT: KEREKES; ALL RIGHT, THANK YOU.

23 MR. ZIMMERMAN: JACOB ZIMMERMAN, TWO YOUNG GIRLS. I  
24 HAVE A DAUGHTER WHO'S EIGHT AND A DAUGHTER WHO'S SIX.

25 THE COURT: ALL RIGHT; THANK YOU, MR. ZIMMERMAN. YES,

1 SIR, IN THE BLACK SHIRT?

2 MR. SETZER: THOMAS SETZER, TWO-FORTY. UM -- I HAVE A  
3 SON WHO'S SIXTEEN AND A DAUGHTER WHO'S FOURTEEN.

4 THE COURT: ALL RIGHT, THANK YOU. YES, SIR?

5 MR. POWELL: UH -- CLEMENT POWELL, TWO FIFTEEN; I HAVE  
6 A DAUGHTER, UH, FIFTEEN.

7 THE COURT: YOUR -- YOUR LAST NAME IS POWELL?

8 MR. POWELL: POWELL.

9 THE COURT: ALL RIGHT, THANK YOU. OKAY; YES, SIR?

10 MR. BRYANT: DEAMONTA BRYANT, NUMBER THIRTY-THREE. I  
11 HAVE A SON THAT'S THIRTEEN MONTHS.

12 THE COURT: ALL RIGHT, MR. BRYANT; THANK YOU.

13 MR. BAIN: CHRIS BAIN, NUMBER TEN. I HAVE A DAUGHTER  
14 WHO'S EIGHT AND A DAUGHTER WHO'S TEN.

15 THE COURT: THANK YOU VERY MUCH.

16 MS. JENNINGS: DENISE JENNINGS, NUMBER ONE-FORTY-NINE.  
17 UM -- ALL BOYS; I HAVE FIFTEEN, THIRTEEN, AND SIX.

18 THE COURT: OKAY.

19 MR. BROWN: LEE BROWN, NUMBER THIRTY-ONE. I HAVE A  
20 SON, THIRTEEN.

21 THE COURT: A SON, THIRTEEN; ALL RIGHT, THANK YOU.

22 (NO FURTHER RESPONSE FROM THE JURY PANEL.)

23 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
24 HAS ANY PARTICULAR INTEREST IN THE OUTCOME OF THIS CASE? IF  
25 SO, PLEASE STAND.

1 (NO RESPONSE FROM THE JURY PANEL.)

2 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
3 HAS FORMED OR EXPRESSED ANY OPINION AS TO THE GUILT OR  
4 INNOCENCE OF THIS DEFENDANT? IS SO, PLEASE STAND.

5 (NO RESPONSE FROM THE JURY PANEL.)

6 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL WHO  
7 HAS ANY BIAS OR PREJUDICE EITHER TOWARDS OR AGAINST THE  
8 STATE OR THE DEFENDANT IN CONNECTION WITH THIS CASE? IF SO,  
9 PLEASE STAND.

10 (NO RESPONSE FROM THE JURY PANEL.)

11 THE COURT: IS THERE ANY MEMBER OF THE JURY PANEL --  
12 THINKING ABOUT THE NATURE OF THIS CASE, UH, AND ANYTHING  
13 ELSE THAT YOU MAY HAVE LEARNED ABOUT IT DURING, UH, THESE  
14 QUESTIONS AND ANSWERS -- IS THERE ANY MEMBER OF THE JURY  
15 PANEL WHO HAS ANY REASON WHY YOU COULD NOT GIVE BOTH THE  
16 STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL? IF SO,  
17 PLEASE STAND.

18 (NO RESPONSE FROM THE JURY PANEL.)

19 THE COURT: ANY ADDITIONAL VOIR DIRE FROM THE STATE?

20 MS. HERRING-LASH: NO, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. DAVIS: MAY WE APPROACH, YOUR HONOR?

23 THE COURT: YOU MAY.

24 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
25 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE

1 HEARING OF THE JURY PANEL, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 THE COURT: MS., UH, CHAKERIS?

4 MS. CHAKERIS: UH-HUH?

5 THE COURT: LET ME ASK YOU A COUPLE OF QUESTIONS,  
6 PLEASE. WOULD YOU MIND COMING DOWN FRONT?

7 MS. CHAKERIS: NO.

8 (WHEREUPON, ANGELA CHAKERIS, JUROR NUMBER 307  
9 APPROACHED THE BENCH AND CONVERSED IN THE PRESENCE OF THE  
10 JURY PANEL BUT OUTSIDE THE HEARING OF THE JURY PANEL.  
11 COUNSEL WAS ALSO PRESENT AT THE BENCH.)

12 THE COURT: UM -- WHAT WE WANTED TO ASK YOU ABOUT, YOUR  
13 WORK AT THE CHILDREN'S CENTER.

14 MS. CHAKERIS: RIGHT?

15 THE COURT: UM -- THE REASON THAT WE BROUGHT YOU UP IS  
16 BECAUSE THE TIMING OF YOUR WORK THERE ROUGHLY COINCIDES WITH  
17 THE TIME OF THESE ALLEGED EVENTS.

18 MS. CHAKERIS: OKAY.

19 THE COURT: SO, UM -- UH, YOU -- YOU WILL RECALL THAT  
20 THE DEFENDANT'S NAME IS ORR?

21 MS. HERRING-LASH: HAROLD.

22 THE COURT: HAROLD?

23 MS. HERRING-LASH: HAROLD ORR.

24 THE COURT: HAROLD ORR. AND THE VICTIM IS?

25 MS. HERRING-LASH: MINOR



1 THE COURT: MINOR

2 COURT REPORTER: I'M -- I'M SORRY?

3 MS. CHAKERIS: IS HE RELATED TO JOHNNY ORR?

4 THE COURT: UM...

5 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

6 CONFERENCE IN THE PRESENCE OF MS. CHAKERIS AND THE JURY

7 PANEL BUT OUTSIDE THE HEARING OF MS. CHAKERIS AND THE JURY

8 PANEL, OFF THE RECORD.)

9 (WHEREUPON, COURT RESUMED.)

10 THE COURT: NOT THAT WE KNOW OF. CAN I ASK, DO YOU

11 RECALL WORKING WITH SOMEONE NAMED JOHNNY ORR?

12 MS. CHAKERIS: NO, NOT EXACTLY I DON'T.

13 THE COURT: WHAT WAS IT THAT MADE YOU THINK OF JOHNNY

14 ORR?

15 MS. CHAKERIS: BECAUSE HIS LAST NAME WAS ORR, SO I

16 WONDERED IF THERE WAS A CONNECTION THERE.

17 THE COURT: HOW DO YOU KNOW JOHNNY ORR?

18 MS. CHAKERIS: HE USED TO WORK AT CHARLESTON PLACE AND

19 THEY HELPED US, CERTAINLY.

20 THE COURT: OKAY -- ALL RIGHT. ALL RIGHT, UM, IS THERE

21 ANYTHING ABOUT WHAT WE'VE DISCUSSED ABOUT THIS CASE THAT

22 STRUCK YOU AS FAMILIAR?

23 MS. CHAKERIS: NO, NOT FAMILIAR FROM -- I WAS A BIT,

24 UH -- I JUST WAS OVERWHELMED WITH IT. BUT I THINK I'M SMART

25 ENOUGH TO GIVE BOTH AN UNBIASED SAY SO.

1 THE COURT: ALL RIGHT.

2 MS. CHAKERIS: I WILL BE HONEST, I WAS CAUGHT BY  
3 SURPRISE.

4 THE COURT: ALL RIGHT; THANK YOU VERY MUCH.

5 MS. CHAKERIS: OKAY.

6 (WHEREUPON, ANGELA CHAKERIS, JUROR NUMBER 307, RETURNED  
7 TO HER SEAT.)

8 MR. DAVIS: JUDGE, CO-COUNSEL SAID HE DOES HAVE A  
9 RELATIVE JOHN. HE'S CHECKING NOW.

10 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
11 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
12 HEARING OF THE JURY PANEL, OFF THE RECORD.)

13 (WHEREUPON, COURT RESUMED.)

14 MR. DAVIS: NO.

15 THE COURT: ANYTHING FURTHER? ANY ADDITIONAL VOIR  
16 DIRE?

17 MR. DAVIS: NO, THANK YOU.

18 (WHEREUPON, COUNSEL RETURNED TO THEIR TABLES AND AUDIO  
19 TO ENTIRE JURY PANEL RESUMED.)

20 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE ARE  
21 READY TO STRIKE THE JURY.

22 NOW, I WANT TO JUST TAKE A MOMENT TO, UH, TALK TO YOU  
23 ABOUT HOW WE GO ABOUT DOING THIS. BECAUSE, LATER IN THE  
24 WEEK SOME OF YOU MAY BE IN JUDGE JEFFERSON'S COURTROOM OR IN  
25 JUDGE YOUNG'S COURTROOM AND YOU MAY SEE THAT IN CIVIL COURT

STATE VERSUS HAROLD ORR, III  
VOIR DIRE

1 THE STRIKING OF THE JURY IS DONE IN -- IN A COMPLETELY  
2 DIFFERENT WAY THAN WE'RE GONNA DO IT HERE IN THE COURT OF  
3 GENERAL SESSIONS.

4 UH -- THE CLERK HAS THIS, UH, BARREL UP HERE AND EACH  
5 OF YOU IS REPRESENTED IN THAT BARREL BY A LITTLE SHEET OF  
6 PAPER WITH YOUR NAME WRITTEN ON IT. AND HE'S GONNA ROLL IT  
7 OVER AND RANDOMLY SELECT, ONE AT A TIME, YOUR NAMES OUT AND  
8 CALL YOUR NAMES ONE AT A TIME.

9 WHEN YOUR NAME IS CALLED, I NEED FOR YOU TO WALK UP  
10 HERE TO THE CENTER OF THE COURTROOM -- RIGHT HERE WHERE THIS  
11 PODIUM IS -- AND TURN AROUND AND FACE THE ATTORNEYS.

12 WE'LL FIRST HEAR FROM THE SOLICITOR, WHO WILL ASK  
13 EITHER THAT YOU BE EXCUSED -- IN WHICH CASE YOU CAN RETURN  
14 TO YOUR SEAT -- OR THAT YOU BE PRESENTED TO THE DEFENSE.

15 IF YOU'RE THEN PRESENTED TO THE DEFENSE, WE'LL HEAR  
16 FROM MR. DAVIS WHO WILL ASK -- WHO WILL -- WHO WILL EITHER  
17 ASK THAT YOU BE EXCUSED OR THAT YOU BE SEATED ON THE JURY.

18 AND WE'LL CONTINUE WITH THAT PROCESS UNTIL WE HAVE A  
19 JURY AND AT LEAST ONE ALTERNATE.

20 NOW, WHEN YOU'RE IN CIVIL COURT, IT'S DONE DIFFERENTLY.  
21 WE'LL HAVE A SHEET WITH TWENTY NAMES UP HERE AND EACH SIDE  
22 GETS, UH, SEVERAL STRIKES. AND YOU'LL NEVER EVEN KNOW  
23 WHETHER YOU'RE ON THAT SHEET UNLESS YOUR NAME IS EVENTUALLY  
24 CALLED, UH, TO GET ONTO THE JURY.

25 BUT, UH, THAT'S THE WAY WE'RE GONNA DO IT HERE, AND

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 THE -- AND WE'RE -- WE'RE LOOKING AT FIVE AND TEN. CORRECT?

2 MS. HERRING-LASH: YES, YOUR HONOR.

3 THE COURT: ALL RIGHT. ARE YOU-ALL READY TO STRIKE?

4 MS. HERRING-LASH: THE STATE'S READY, YOUR HONOR.

5 MR. DAVIS: YES, YOUR HONOR.

6 CLERK: YES, LADIES AND GENTLEMEN, LIKE THE JUDGE SAID,  
7 IF I CALL YOUR NAME, IF YOU'LL PLEASE BRING YOUR BELONGINGS,  
8 COME UP TO THE PODIUM, AND TURN AND FACE THE PARTIES.

9 JUROR NUMBER FORTY-NINE, JENNIFER CHESNEY.

10 (WHEREUPON, JENNIFER F. CHESNEY, JUROR NUMBER 49, CAME  
11 FORWARD.)

12 CLERK: WHAT SAY YOU FOR THE STATE?

13 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
14 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
15 HEARING OF THE JURY PANEL, OFF THE RECORD.)

16 (WHEREUPON, COURT RESUMED.)

17 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

18 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

19 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
20 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
21 HEARING OF THE JURY PANEL, OFF THE RECORD.)

22 (WHEREUPON, COURT RESUMED.)

23 MR. DAVIS: PLEASE SEAT MRS. CHESNEY.

24 CLERK: MS. CHESNEY, PLEASE HAVE A SEAT IN THE JURY  
25 BOX; YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 (WHEREUPON, JENNIFER F. CHESNEY, JUROR NUMBER 49, WAS  
2 SEATED IN THE JURY BOX.)

3 CLERK: JUROR NUMBER TWO-FORTY-FOUR, ANISSA SIMS.

4 (WHEREUPON, ANISSA N. SIMS, JUROR NUMBER 244, CAME  
5 FORWARD.)

6 CLERK: WHAT SAY YOU FOR THE STATE?

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
8 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
9 HEARING OF THE JURY PANEL, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

12 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

13 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
14 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
15 HEARING OF THE JURY PANEL, OFF THE RECORD.)

16 (WHEREUPON, COURT RESUMED.)

17 MR. DAVIS: PLEASE EXCUSE MS. SIMS -- SIMS FROM THIS  
18 CASE.

19 CLERK: MS. SIMS, PLEASE HAVE A SEAT BACK IN THE  
20 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

21 (WHEREUPON, ANISSA N. SIMS, JUROR NUMBER 244, RETURNED  
22 TO HER SEAT.)

23 CLERK: JUROR NUMBER TWO-NINETY-EIGHT, DAVID ZIMMERMAN.

24 (WHEREUPON, DAVID L. ZIMMERMAN, JUROR NUMBER 298, CAME  
25 FORWARD.)

1 CLERK: WHAT SAY YOU FOR THE STATE?

2 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
3 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
4 HEARING OF THE JURY PANEL, OFF THE RECORD.)

5 (WHEREUPON, COURT RESUMED.)

6 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

7 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
9 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
10 HEARING OF THE JURY PANEL, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 MR. DAVIS: PLEASE SEAT MR. ZIMMERMAN.

13 CLERK: MR. ZIMMERMAN, PLEASE HAVE A SEAT IN THE JURY  
14 BOX; YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

15 (WHEREUPON, DAVID L. ZIMMERMAN, JUROR NUMBER 298, WAS  
16 SEATED IN THE JURY BOX.)

17 CLERK: JUROR NUMBER ONE-FIFTY-ONE, EDWARD JOHNSON.

18 (WHEREUPON, EDWARD G. JOHNSON, III, JUROR NUMBER 151,  
19 CAME FORWARD.)

20 CLERK: WHAT SAY YOU FOR THE STATE?

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
22 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
23 HEARING OF THE JURY PANEL, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

2 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
3 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
4 HEARING OF THE JURY PANEL, OFF THE RECORD.)

5 (WHEREUPON, COURT RESUMED.)

6 MR. DAVIS: PLEASE EXCUSE MR. JOHNSON FROM THIS CASE.

7 CLERK: MR. JOHNSON, PLEASE HAVE A SEAT BACK IN THE  
8 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

9 (WHEREUPON, EDWARD G. JOHNSON, III, JUROR NUMBER 151,  
10 RETURNED TO HIS SEAT.)

11 CLERK: JUROR NUMBER THIRTY-EIGHT, KATHRYN BUSTOS.

12 (WHEREUPON, KATHRYN C. BUSTOS, JUROR NUMBER 38, CAME  
13 FORWARD.)

14 CLERK: WHAT SAY YOU FOR THE STATE?

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
16 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
17 HEARING OF THE JURY PANEL, OFF THE RECORD.)

18 (WHEREUPON, COURT RESUMED.)

19 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

20 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
22 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
23 HEARING OF THE JURY PANEL, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 MR. DAVIS: PLEASE SEAT MRS. BUSTOS.

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1           CLERK: MS. BUSTOS, PLEASE HAVE A SEAT IN THE JURY BOX;  
2           YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.  
3           (WHEREUPON, KATHRYN C. BUSTOS, JUROR NUMBER 38, WAS  
4           SEATED IN THE JURY BOX.)  
5           CLERK: JUROR NUMBER ONE-0-FOUR, LISA GILPIN.  
6           (WHEREUPON, LISA R. GILPIN, JUROR NUMBER 104, CAME  
7           FORWARD.)  
8           CLERK: WHAT SAY YOU FOR THE STATE?  
9           (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
10          CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
11          HEARING OF THE JURY PANEL, OFF THE RECORD.)  
12          (WHEREUPON, COURT RESUMED.)  
13          MS. HERRING-LASH: PLEASE PRESENT THE JUROR.  
14          CLERK: WHAT SAY YOU FOR THE DEFENDANT?  
15          (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
16          CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
17          HEARING OF THE JURY PANEL, OFF THE RECORD.)  
18          (WHEREUPON, COURT RESUMED.)  
19          MR. DAVIS: PLEASE EXCUSE MRS. GILPIN.  
20          CLERK: MS. GILPIN, PLEASE HAVE A SEAT BACK IN THE  
21          AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.  
22          (WHEREUPON, LISA R. GILPIN, JUROR NUMBER 104, RETURNED  
23          TO HER SEAT.)  
24          CLERK: THAT'S THREE STRIKES FOR THE DEFENDANT. JUROR  
25          NUMBER TWO-0-EIGHT, BRYON PATRICK.



STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 (WHEREUPON, BRYON PATRICK, JUROR NUMBER 208, CAME  
2 FORWARD.)

3 CLERK: WHAT SAY YOU FOR THE STATE?

4 MS. HERRING-LASH: PLEASE EXCUSE THIS JUROR.

5 CLERK: MR. PATRICK, PLEASE HAVE A SEAT BACK IN THE  
6 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

7 (WHEREUPON, BYRON PATRICK, JUROR NUMBER 208, RETURNED  
8 TO HIS SEAT.)

9 CLERK: JUROR NUMBER THIRTY-ONE, LEE BROWN.

10 (WHEREUPON, LEE BROWN, JUROR NUMBER 31, CAME FORWARD.)

11 CLERK: WHAT SAY YOU FOR THE STATE?

12 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
13 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
14 HEARING OF THE JURY PANEL, OFF THE RECORD.)

15 (WHEREUPON, COURT RESUMED.)

16 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

17 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

18 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
19 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
20 HEARING OF THE JURY PANEL, OFF THE RECORD.)

21 (WHEREUPON, COURT RESUMED.)

22 MR. DAVIS: PLEASE SEAT MR. BROWN.

23 CLERK: MR. BROWN, PLEASE HAVE A SEAT IN THE JURY BOX;  
24 YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

25 (WHEREUPON, LEE BROWN, JUROR NUMBER 31, WAS SEATED IN

1 THE JURY BOX.)

2 CLERK: JUROR NUMBER TWO-FORTY-TWO, ROSE SHEPPARD.

3 (WHEREUPON, ROSE M. SHEPPARD, JUROR NUMBER 242, CAME  
4 FORWARD.)

5 CLERK: WHAT SAY YOU FOR THE STATE?

6 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
7 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
8 HEARING OF THE JURY PANEL, OFF THE RECORD.)

9 (WHEREUPON, COURT RESUMED.)

10 MS. HERRING-LASH: PLEASE PRESENT THIS JUROR.

11 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

12 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
13 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
14 HEARING OF THE JURY PANEL, OFF THE RECORD.)

15 (WHEREUPON, COURT RESUMED.)

16 MR. DAVIS: PLEASE SEAT MRS. SHEPPARD.

17 CLERK: MS. SHEPPARD, PLEASE HAVE A SEAT IN THE JURY  
18 BOX; YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

19 (WHEREUPON, ROSE M. SHEPPARD, JUROR NUMBER 242, WAS  
20 SEATED IN THE JURY BOX.)

21 CLERK: JUROR NUMBER TWO-SEVENTY-EIGHT, KIMBERLY  
22 WEINBACH.

23 (WHEREUPON, KIMBERLY M. WEINBACH, JUROR NUMBER 278,  
24 CAME FORWARD.)

25 CLERK: WHAT SAY YOU FOR THE STATE?

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
2 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
3 HEARING OF THE JURY PANEL, OFF THE RECORD.)

4 (WHEREUPON, COURT RESUMED.)

5 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

6 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
8 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
9 HEARING OF THE JURY PANEL, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 MR. DAVIS: PLEASE SEAT MRS. WEINBACH.

12 CLERK: MS. WEINBACH, PLEASE HAVE A SEAT IN THE JURY  
13 BOX; YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

14 (WHEREUPON, KIMBERLY M. WEINBACH, JUROR NUMBER 278, WAS  
15 SEATED IN THE JURY BOX.)

16 CLERK: JUROR NUMBER THIRTY-THREE, DEAMONTA BRYANT.

17 (WHEREUPON, DEAMONTA J. BRYANT, JUROR NUMBER 33, CAME  
18 FORWARD.)

19 CLERK: WHAT SAY YOU FOR THE STATE?

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
21 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
22 HEARING OF THE JURY PANEL, OFF THE RECORD.)

23 (WHEREUPON, COURT RESUMED.)

24 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

25 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

1 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
2 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
3 HEARING OF THE JURY PANEL, OFF THE RECORD.)

4 (WHEREUPON, COURT RESUMED.)

5 MR. DAVIS: PLEASE SEAT MR. BRYANT.

6 CLERK: MR. BRYANT, PLEASE HAVE A SEAT IN THE JURY BOX;  
7 YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

8 (WHEREUPON, DEAMONTA J. BRYANT, JUROR NUMBER 33, WAS  
9 SEATED IN THE JURY BOX.)

10 CLERK: JUROR NUMBER ONE-SIXTY-SEVEN, ALLISON LAROCHE.

11 (WHEREUPON, ALLISON N. LAROCHE, JUROR NUMBER 167, CAME  
12 FORWARD.)

13 CLERK: WHAT SAY YOU FOR THE STATE?

14 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
15 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
16 HEARING OF THE JURY PANEL, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

19 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
21 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
22 HEARING OF THE JURY PANEL, OFF THE RECORD.)

23 (WHEREUPON, COURT RESUMED.)

24 MR. DAVIS: PLEASE SEAT MS. LAROCHE.

25 CLERK: MS. LAROCHE, PLEASE HAVE A SEAT IN THE JURY

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 BOX; YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

2 (WHEREUPON, ALLISON N. LAROCHE, JUROR NUMBER 167, WAS  
3 SEATED IN THE JURY BOX.)

4 CLERK: JUROR NUMBER ONE-FORTY-SEVEN, DOROTHY JENKINS.

5 (WHEREUPON, DOROTHY B. JENKINS, JUROR NUMBER 147, CAME  
6 FORWARD.)

7 CLERK: WHAT SAY YOU FOR THE STATE?

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
9 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
10 HEARING OF THE JURY PANEL, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 MS. HERRING-LASH: PLEASE EXCUSE THE JUROR.

13 CLERK: MS. JENKINS, PLEASE HAVE A SEAT BACK IN THE  
14 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

15 (WHEREUPON, DOROTHY B. JENKINS, JUROR NUMBER 147,  
16 RETURNED TO HER SEAT.)

17 CLERK: JUROR NUMBER FIFTY-NINE, PANDORA CROMWELL.

18 (WHEREUPON, PANDORA O. CROMWELL, JUROR NUMBER 59, CAME  
19 FORWARD.)

20 CLERK: WHAT SAY YOU FOR THE STATE?

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
22 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
23 HEARING OF THE JURY PANEL, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

1 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

2 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
3 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
4 HEARING OF THE JURY PANEL, OFF THE RECORD.)

5 (WHEREUPON, COURT RESUMED.)

6 MR. DAVIS: PLEASE EXCUSE MS. CROMWELL FROM THIS TRIAL.

7 CLERK: MS. CROMWELL, PLEASE HAVE A SEAT BACK IN THE  
8 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

9 (WHEREUPON, PANDORA O. CROMWELL, JUROR NUMBER 59,  
10 RETURNED TO HER SEAT.)

11 CLERK: JUROR NUMBER THREE HUNDRED, JACOB ZIMMERMAN.

12 (WHEREUPON, JACOB C. ZIMMERMAN, JUROR NUMBER 300, CAME  
13 FORWARD.)

14 CLERK: WHAT SAY YOU FOR THE STATE?

15 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
16 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
17 HEARING OF THE JURY PANEL, OFF THE RECORD.)

18 (WHEREUPON, COURT RESUMED.)

19 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

20 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
22 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
23 HEARING OF THE JURY PANEL, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 MR. DAVIS: PLEASE EXCUSE MR. ZIMMERMAN FROM THIS CASE.

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1           CLERK: MR. ZIMMERMAN, PLEASE HAVE A SEAT BACK IN THE  
2 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

3           (WHEREUPON, JACOB C. ZIMMERMAN, JUROR NUMBER 300,  
4 RETURNED TO HIS SEAT.)

5           CLERK: JUROR NUMBER ONE-EIGHTY-NINE, JANETTE  
6 MIDDLETON.

7           (WHEREUPON, JANETTE MIDDLETON, JUROR NUMBER 189, CAME  
8 FORWARD.)

9           CLERK: WHAT SAY YOU FOR THE STATE?

10          (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
11 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
12 HEARING OF THE JURY PANEL, OFF THE RECORD.)

13          (WHEREUPON, COURT RESUMED.)

14          MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

15          CLERK: WHAT SAY YOU FOR THE DEFENDANT?

16          (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
17 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
18 HEARING OF THE JURY PANEL, OFF THE RECORD.)

19          (WHEREUPON, COURT RESUMED.)

20          MR. DAVIS: PLEASE SEAT MS. MIDDLETON.

21          CLERK: MS. MIDDLETON, PLEASE HAVE A SEAT IN THE JURY  
22 BOX; YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

23          (WHEREUPON, JANETTE MIDDLETON, JUROR NUMBER 189, WAS  
24 SEATED IN THE JURY BOX.)

25          CLERK: JUROR NUMBER ONE-NINETY-TWO, JOSEPHINE MOLUF.

1 (WHEREUPON, JOSEPHINE S. MOLUF, JUROR NUMBER 192, CAME  
2 FORWARD.)

3 CLERK: WHAT SAY YOU FOR THE STATE?

4 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
5 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
6 HEARING OF THE JURY PANEL, OFF THE RECORD.)

7 (WHEREUPON, COURT RESUMED.)

8 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

9 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

10 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
11 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
12 HEARING OF THE JURY PANEL, OFF THE RECORD.)

13 (WHEREUPON, COURT RESUMED.)

14 MR. DAVIS: PLEASE EXCUSE MS. MOLUF FROM THIS CASE.

15 CLERK: MS. MOLUF, PLEASE HAVE A SEAT BACK IN THE  
16 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

17 (WHEREUPON, JOSEPHINE S. MOLUF, JUROR NUMBER 192,  
18 RETURNED TO HER SEAT.)

19 CLERK: THAT'S SIX STRIKES FOR THE DEFENDANT. JUROR  
20 NUMBER ONE-FORTY-NINE, DENISE JENNINGS.

21 (WHEREUPON, DENISE H. JENNINGS, JUROR NUMBER 149, CAME  
22 FORWARD.)

23 CLERK: WHAT SAY YOU FOR THE STATE?

24 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
25 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE



1 HEARING OF THE JURY PANEL, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

4 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

5 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
6 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
7 HEARING OF THE JURY PANEL, OFF THE RECORD.)

8 (WHEREUPON, COURT RESUMED.)

9 MR. DAVIS: PLEASE EXCUSE MRS. JENNINGS FROM THIS CASE.

10 CLERK: MS. JENNINGS, PLEASE HAVE A SEAT BACK IN THE  
11 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

12 (WHEREUPON, DENISE H. JENNINGS, JUROR NUMBER 149,  
13 RETURNED TO HER SEAT.)

14 CLERK: JUROR NUMBER TWO-FORTY-FIVE, ERICA SINGLETON.

15 (WHEREUPON, ERICA SINGLETON, JUROR NUMBER 245, CAME  
16 FORWARD.)

17 CLERK: WHAT SAY YOU FOR THE STATE?

18 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
19 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
20 HEARING OF THE JURY PANEL, OFF THE RECORD.)

21 (WHEREUPON, COURT RESUMED.)

22 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

23 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

24 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
25 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE

1 HEARING OF THE JURY PANEL, OFF THE RECORD.)

2 (WHEREUPON, COURT RESUMED.)

3 MR. DAVIS: PLEASE SEAT MS. SINGLETON.

4 CLERK: MS. SINGLETON, PLEASE HAVE A SEAT IN THE JURY  
5 BOX; YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

6 (WHEREUPON, ERICA SINGLETON, JUROR NUMBER 245, WAS  
7 SEATED IN THE JURY BOX.)

8 CLERK: JUROR NUMBER TWO-FORTY-EIGHT, RANDAL SITTON.

9 (WHEREUPON, RANDAL S. SITTON, JUROR NUMBER 248, CAME  
10 FORWARD.)

11 CLERK: WHAT SAY YOU FOR THE STATE?

12 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
13 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
14 HEARING OF THE JURY PANEL, OFF THE RECORD.)

15 (WHEREUPON, COURT RESUMED.)

16 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

17 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

18 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
19 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
20 HEARING OF THE JURY PANEL, OFF THE RECORD.)

21 (WHEREUPON, COURT RESUMED.)

22 MR. DAVIS: PLEASE SEAT MR. SITTON.

23 CLERK: MR. SITTON, PLEASE HAVE A SEAT IN THE JURY BOX;  
24 YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

25 (WHEREUPON, RANDAL S. SITTON, JUROR NUMBER 248, WAS

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 SEATED IN THE JURY BOX.)

2 CLERK: JUROR NUMBER ONE-NINETY-ONE, TONIA MITCHELL --

3 ONE, NINE, ONE.

4 (WHEREUPON, TONIA B. MITCHELL, JUROR NUMBER 191, CAME

5 FORWARD.)

6 CLERK: WHAT SAY YOU FOR THE STATE?

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

8 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE

9 HEARING OF THE JURY PANEL, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 MS. HERRING-LASH: PLEASE EXCUSE THE JUROR.

12 CLERK: MS. MITCHELL, PLEASE HAVE A SEAT BACK IN THE

13 AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

14 (WHEREUPON, TONIA B. MITCHELL, JUROR NUMBER 191,

15 RETURNED TO HER SEAT.)

16 CLERK: THAT'S THREE STRIKES FOR THE STATE. JUROR

17 NUMBER ONE-EIGHTY-EIGHT, CLAUDETTE MERILICE.

18 (WHEREUPON, CLAUDETTE M. MERILICE, JUROR NUMBER 188,

19 CAME FORWARD.)

20 CLERK: WHAT SAY YOU FOR THE STATE?

21 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

22 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE

23 HEARING OF THE JURY PANEL, OFF THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

1           CLERK: WHAT SAY YOU FOR THE DEFENDANT?

2           (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
3           CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
4           HEARING OF THE JURY PANEL, OFF THE RECORD.)

5           (WHEREUPON, COURT RESUMED.)

6           MR. DAVIS: PLEASE EXCUSE MS. MERILICE FROM THIS CASE.

7           CLERK: MS. MERILICE, PLEASE HAVE A SEAT BACK IN THE  
8           AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

9           (WHEREUPON, CLAUDETTE M. MERILICE, JUROR NUMBER 188,  
10          RETURNED TO HER SEAT.)

11          CLERK: EIGHT STRIKES FOR THE DEFENSE. JUROR NUMBER  
12          TWO-FORTY, THOMAS SETZER.

13          (WHEREUPON, THOMAS A. SETZER, JR., JUROR NUMBER 240,  
14          CAME FORWARD.)

15          CLERK: WHAT SAY YOU FOR THE STATE?

16          (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
17          CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
18          HEARING OF THE JURY PANEL, OFF THE RECORD.)

19          (WHEREUPON, COURT RESUMED.)

20          MS. HERRING-LASH: PLEASE EXCUSE THE JUROR.

21          CLERK: MR. SETZER, PLEASE HAVE A SEAT BACK IN THE  
22          AUDIENCE; YOU'VE BEEN EXCUSED FROM THE TRIAL OF THIS CASE.

23          (WHEREUPON, THOMAS A. SETZER, JR., JUROR NUMBER 240,  
24          RETURNED TO HIS SEAT.)

25          CLERK: THAT'S FOUR STRIKES FOR THE STATE. JUROR

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 NUMBER FIFTY-EIGHT, GINA CREECH.

2 (WHEREUPON, GINA R. CREECH, JUROR NUMBER 58, CAME  
3 FORWARD.)

4 CLERK: WHAT SAY YOU FOR THE STATE?

5 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
6 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
7 HEARING OF THE JURY PANEL, OFF THE RECORD.)

8 (WHEREUPON, COURT RESUMED.)

9 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

10 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

11 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
12 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
13 HEARING OF THE JURY PANEL, OFF THE RECORD.)

14 (WHEREUPON, COURT RESUMED.)

15 MR. DAVIS: PLEASE SEAT, UH, MRS. CREECH.

16 CLERK: MS. CREECH, PLEASE HAVE A SEAT IN THE JURY BOX;  
17 YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

18 (WHEREUPON, GINA R. CREECH, JUROR NUMBER 58, WAS SEATED  
19 IN THE JURY BOX.)

20 CLERK: ONE ALTERNATE, YOUR HONOR?

21 THE COURT: UH-HUH.

22 CLERK: NOW PICKING FOR ALTERNATE; THE STRIKES ARE ONE  
23 AND TWO.

24 JUROR NUMBER FIFTY-SEVEN, WILLIAM COOPER.

25 (WHEREUPON, WILLIAM D. COOPER, JUROR NUMBER 57, CAME

1 FORWARD.)

2 CLERK: WHAT SAY YOU FOR THE STATE?

3 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
4 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
5 HEARING OF THE JURY PANEL, OFF THE RECORD.)

6 (WHEREUPON, COURT RESUMED.)

7 MS. HERRING-LASH: PLEASE PRESENT THE JUROR.

8 CLERK: WHAT SAY YOU FOR THE DEFENDANT?

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
10 CONFERENCE IN THE PRESENCE OF THE JURY PANEL BUT OUTSIDE THE  
11 HEARING OF THE JURY PANEL, OFF THE RECORD.)

12 (WHEREUPON, COURT RESUMED.)

13 MR. DAVIS: PLEASE SEAT MR. COOPER.

14 CLERK: MR. COOPER, PLEASE HAVE A SEAT IN THE JURY BOX;  
15 YOU'VE BEEN SELECTED AS A JUROR IN THIS CASE.

16 (WHEREUPON, WILLIAM D. COOPER, JUROR NUMBER 57, WAS  
17 SEATED IN THE JURY BOX.)

18 CLERK: YOUR HONOR, THE JURY'S BEEN SELECTED AND  
19 THEY'RE SEATED.

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
21 CONFERENCE IN THE PRESENCE OF THE JURY AND THE JURY PANEL  
22 BUT OUTSIDE THE HEARING OF THE JURY AND THE JURY PANEL, OFF  
23 THE RECORD.)

24 (WHEREUPON, COURT RESUMED.)

25 THE COURT: ANY EXCEPTION TO THE COMPOSITION OR TO THE

STATE VERSUS HAROLD ORR, III  
JURY SELECTION

1 MANNER OF SELECTION OF THE JURY?

2 MS. HERRING-LASH: NOT FROM THE STATE, YOUR HONOR.

3 MR. DAVIS: YOUR HONOR, IF I MAY -- COULD JUST HAVE  
4 JUST ONE MOMENT?

5 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
6 CONFERENCE IN THE PRESENCE OF THE JURY AND THE JURY PANEL  
7 BUT OUTSIDE THE HEARING OF THE JURY AND THE JURY PANEL, OFF  
8 THE RECORD.)

9 (WHEREUPON, COURT RESUMED.)

10 MR. DAVIS: NOTHING FURTHER; THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT, WE'RE GONNA TAKE A BREAK IN JUST  
12 A MOMENT. UH -- AND WHEN WE DO, UH, THOSE OF YOU WHO WERE  
13 NOT SELECTED TO SERVE ON THIS JURY ARE FREE TO GO FOR THE  
14 DAY. PLEASE CALL BACK TONIGHT AFTER SIX O'CLOCK FOR  
15 INSTRUCTIONS AS TO WHAT YOU NEED TO DO TOMORROW.

16 UH -- THOSE OF YOU WHO ARE SELECTED TO SERVE ON THIS  
17 JURY, WHEN WE COME BACK OUT HERE I'M GONNA TAKE A FEW  
18 MINUTES TO SPEAK TO YOU ABOUT YOUR RESPONSIBILITIES AS  
19 JURORS AND WHAT SOME OF THE RULES AND -- THAT WILL GOVERN  
20 YOUR SERVICE ARE.

21 AND ONE OF THE THINGS THAT I WILL TALK TO YOU ABOUT IS  
22 TO TELL YOU THAT YOU MAY NOT DISCUSS THIS CASE IN ANY MANNER  
23 UNTIL I HAVE GIVEN YOU PERMISSION TO BEGIN WITH YOUR  
24 DELIBERATIONS.

25 SO WHEN YOU GO BACK INTO THE JURY ROOM NOW FOR YOUR

STATE VERSUS HAROLD ORR, III  
DEFENSE MOTION TO SEQUESTER

1 BREAK, UH, BEGIN TO GET TO KNOW EACH OTHER, BUT DO NOT  
2 DISCUSS ANY ASPECT OF THIS CASE.

3 AND WHEN YOU COME BACK OUT HERE, I'LL SPEAK TO YOU IN  
4 MORE DETAIL, AND THEN WE WILL HAVE OPENING STATEMENTS.

5 SO I'M GONNA SEND YOU BACK INTO THE JURY ROOM NOW.

6 AND YOU-ALL ARE FREE TO GO.

7 (WHEREUPON, JURY LEFT THE COURTROOM, AND BALANCE OF THE  
8 JURY PANEL RELEASED AT 3:44 P.M.)

9 THE COURT: DO YOU-ALL NEED TO DISCUSS ANYTHING RIGHT  
10 NOW BEFORE WE BREAK?

11 MS. HERRING-LASH: I DON'T.

12 MR. DAVIS: I DON'T BELIEVE SO JUDGE; THANK YOU.

13 THE COURT: ALL RIGHT, WE'LL TAKE ABOUT A TEN-MINUTE  
14 BREAK.

15 (WHEREUPON, COURT RECESSED AT 3:45 P.M.)

16 (WHEREUPON, COURT RESUMED AT 3:56 P.M.)

17 THE COURT: BRING IN THE JURY.

18 MR. DAVIS: JUDGE, IF I MAY, FIRST, I'D ASK THAT THE --  
19 THE WITNESSES BE SEQUESTERED. THE FACTUAL WITNESSES. OF  
20 COURSE, THEY WERE IN HERE FOR THE VOIR DIRE, BUT I'D ASK AT  
21 THIS TIME THEY BE SEQUESTERED.

22 COURT REPORTER: I'M SORRY -- I'M SORRY, JUDGE, I  
23 DIDN'T HEAR HIM.

24 MR. DAVIS: I'D ASK THAT THE WITNESSES BE SEQUESTERED.  
25 CLEARLY, THEY WERE IN HERE FOR VOIR DIRE SO THEY COULD BE



STATE VERSUS HAROLD ORR, III  
DEFENSE MOTION TO SEQUESTER

1 IDENTIFIED, BUT AT THIS POINT I'D ASK THAT THEY BE  
2 SEQUESTERED.

3 THE COURT: WELL, YOU'LL NEED TO -- YOU'LL NEED TO GIVE  
4 ME SOME BASIS, UM, FOR -- FOR SEQUESTERING THE JURY -- OR,  
5 THE WITNESSES.

6 MR. DAVIS: JUDGE, THE -- THE ALLEGATION -- THE VICTIM  
7 AT THE TIME OF THE ALLEGED EVENT WAS ELEVEN-YEARS-OLD.

8 THE -- THERE IS ANOTHER WITNESS WHO'S A FAMILY MEMBER.  
9 THE -- MY CLIENT'S WIFE, UM, WHO WAS AT THE RESIDENCE AT THE  
10 TIME. SHE IS A CRUCIAL WITNESS TO THIS CASE.

11 I WOULD BE CONCERNED ABOUT A, UH, YOUNG GIRL TESTIFYING  
12 AND THE GRANDMOTHER BEING PRESENT DURING THAT TO FILL ANY  
13 GAPS OR TO -- TO PATTERN HER TESTIMONY TO FOLLOW THAT OF  
14 THE -- OF THE YOUNGER CHILD. I'M CONCERNED ABOUT THAT AS A  
15 FACTUAL MATTER.

16 UH -- CERTAINLY THEY HAD A TRIAL PREVIOUSLY. UH --  
17 THEIR TESTIMONY IS CERTAINLY CLEAR AS -- AS TO THAT. I'D  
18 HATE FOR THERE TO BE ANY BLEEDING OF THE TESTIMONY FROM HER  
19 PRESENCE HERE IN THE COURTROOM.

20 MS. HERRING-LASH: YOUR HONOR, IF -- IF IT HELPS ANY,  
21 WE, UM -- THE VICTIM DOES NOT WANT ANY OF HER FAMILY MEMBERS  
22 IN HERE WHEN SHE TESTIFIES. SO, I WAS GOING TO ASK THEM TO  
23 LEAVE WHEN IT'S TIME FOR HER TO TESTIFY ANYWAY. SHE'D  
24 RATHER THEM NOT BE IN HERE.

25 THE COURT: WELL, I -- I DON'T -- I DON'T THINK THAT

1 YOU HAVE, UM -- THAT YOU'VE SHOWN ANY BASIS FOR SEQUESTERING  
2 THE WITNESSES. PARTICULARLY, REALLY, IN LIGHT OF THIS BEING  
3 A RETRIAL.

4 THE, UH -- THE DANGER OF THEIR COMPARING THEIR  
5 TESTIMONY, UH, TO THE TESTIMONY OF PREVIOUS -- PREVIOUS  
6 WITNESSES IS, UH -- IS -- IT IS, UH, NOT AS HIGH, BECAUSE  
7 THEY COULD ALREADY HAVE DONE THAT BY READING THE, UH,  
8 TRANSCRIPT OF THE PREVIOUS WITNESS'S TESTIMONY.

9 BUT, UM -- BUT I -- I -- I -- I FAVOR THE COURTROOM  
10 BEING OPEN TO THE WITNESSES AND, UM, OUR, UM -- I THINK OUR  
11 LAW DOES. AND OUR COURTS HAVE BEEN CLEAR THAT THE MERE  
12 OPPORTUNITY TO COMPARE THE TESTIMONY OF ONE WITNESS TO  
13 ANOTHER IS NOT A -- A BASIS FOR, UH, SEQUESTERING WITNESSES.

14 SO I'M GOING TO DENY THAT REQUEST. ANYTHING FURTHER?

15 MS. HERRING-LASH: NO, YOUR HONOR.

16 MR. DAVIS: NO, YOUR HONOR; THANK YOU.

17 THE COURT: ALL RIGHT, BRING IN THE JURY. YOU-ALL  
18 REMAIN SEATED WHEN THE JURY COMES IN.

19 MR. DAVIS: OKAY, THANK YOU JUDGE; I'M SORRY.

20 (WHEREUPON, JURY ENTERED THE COURTROOM AT 4:01 P.M.)

21 BAILIFF: JURORS ARE ALL PRESENT, YOUR HONOR.

22 THE COURT: SWEAR THE JURY, PLEASE.

23 CLERK: PLEASE HAVE THE DEFENDANT STAND. LADIES AND  
24 GENTLEMEN OF THE JURY, IF YOU'LL PLEASE STAND AND RAISE YOUR  
25 RIGHT HAND?

STATE VERSUS HAROLD ORR, III  
JURY SWORN/JUDGE OPENING STATEMENTS

1 IF YOU'LL PLEASE REPLY TO ME VERBALLY AFTER I'VE GIVEN  
2 YOU THIS OATH?

3 (WHEREUPON, JURY WAS JOINTLY DULY SWORN AND ALL  
4 ANSWERED AFFIRMATIVELY.)

5 CLERK: THANK YOU, BE SEATED.

6 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE ARE NOW  
7 READY TO BEGIN WITH THE TRIAL IN THIS CASE. UH -- AND THIS  
8 IS -- THIS IS THE STATE VERSUS HAROLD ORR, III.

9 MR. ORR HAS BEEN INDICTED IN TWO INDICTMENTS, THE FIRST  
10 OF WHICH IS 2004-GS-10-2737.

11 UH -- THAT INDICTMENT IS FOR CRIMINAL SEXUAL CONDUCT  
12 WITH A MINOR IN THE FIRST DEGREE. AND IN THAT INDICTMENT,  
13 IT IS ALLEGED THAT HAROLD ORR THE THIRD, DATE OF BIRTH  
14 [REDACTED] [REDACTED] [REDACTED], DID IN CHARLESTON COUNTY, BETWEEN NOVEMBER  
15 2003 AND NOVEMBER 25<sup>TH</sup> 2003, ENGAGE IN SEXUAL BATTERY UPON  
16 ONE MINOR [REDACTED] DATE OF BIRTH [REDACTED] [REDACTED] TO WIT  
17 CUNNILINGUS. THIS IS IN VIOLATION OF SECTION 16-3-655 OF  
18 THE SOUTH CAROLINA CODE OF LAW.

19 AND ALSO, IN INDICTMENT NUMBER 2004-GS-10-2739, MR. ORR  
20 HAS BEEN INDICTED FOR LEWD ACT ON A MINOR. AND IN THAT  
21 INDICTMENT IT IS ALLEGED THAT HAROLD ORR THE THIRD, BEING  
22 OVER THE AGE OF FOURTEEN YEARS, DID, IN CHARLESTON COUNTY,  
23 BETWEEN NOVEMBER 2003 AND NOVEMBER 25<sup>TH</sup> 2003, LEWDLY COMMIT  
24 OR ATTEMPT A LEWD AND LASCIVIOUS ACT UPON OR WITH THE BODY  
25 OF MINOR [REDACTED] A CHILD UNDER THE AGE OF SIXTEEN YEARS,

STATE VERSUS HAROLD ORR, III  
JURY SWORN/JUDGE OPENING STATEMENTS

1 WITH THE INTENT OF AROUSING, APPEALING TO, AND GRATIFYING  
2 THE LUST, PASSIONS, AND SEXUAL DESIRES OF HIMSELF AND SUCH  
3 CHILD. THIS IN -- I SHOULD SAY, OR SUCH CHILD. THIS IN  
4 VIOLATION OF SECTION 16-15-140 OF THE SOUTH CAROLINA CODE  
5 OF LAWS.

6 NOW, LADIES AND GENTLEMEN, AS I TOLD YOU DURING JURY  
7 SELECTION, UH, AND I WANT TO TELL YOU AGAIN NOW, THE  
8 INDICTMENTS THAT I'VE JUST READ TO YOU ARE NOT IN ANY SENSE  
9 EVIDENCE OF THE ALLEGATIONS THAT HAVE BEEN -- THAT ARE  
10 CONTAINED WITHIN THESE INDICTMENTS.

11 THE INDICTMENTS ARE SIMPLY THE FORMAL DOCUMENTS THAT  
12 CONTAIN THE ALLEGATIONS THAT HAVE BEEN MADE AGAINST THE  
13 DEFENDANT, AND THE INDICTMENTS SERVE TO PROCESS THESE CASES  
14 AND BRING 'EM INTO THIS COURT FOR TRIAL.

15 THE DEFENDANT HAS PLEAD NOT GUILTY TO EACH OF THESE TWO  
16 INDICTMENTS, AND THE PLEA OF NOT GUILTY CASTS THE BURDEN ON  
17 THE STATE TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE  
18 DOUBT.

19 AND THAT WILL BE YOUR JOB LADIES AND GENTLEMEN, TO  
20 DETERMINE WHETHER OR NOT THE STATE HAS MET THAT BURDEN OF  
21 PROOF.

22 NOW, LADIES AND GENTLEMEN, IT IS A VERY IMPORTANT RULE  
23 OF LAW IN OUR COUNTRY THAT A DEFENDANT IN A CRIMINAL TRIAL  
24 WILL ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIMES WITH  
25 WHICH HE HAS BEEN CHARGED UNLESS AND UNTIL HIS GUILT HAS

STATE VERSUS HAROLD ORR, III  
JURY SWORN/JUDGE OPENING STATEMENTS

1 BEEN PROVEN BY EVIDENCE THAT SATISFIES YOU OF THAT GUILT  
2 BEYOND A REASONABLE DOUBT. THIS, OF COURSE, IS WHAT WE  
3 REFER TO AS THE PRESUMPTION OF INNOCENCE.

4 BUT, THE PRESUMPTION OF INNOCENCE IS NOT JUST A LEGAL  
5 PHRASE THAT WE USE, IT'S NOT JUST A LEGAL THEORY. IT IS A  
6 SUBSTANTIAL, CONSTITUTIONAL RIGHT TO WHICH EVERY DEFENDANT  
7 IS ENTITLED.

8 THE PRESUMPTION OF INNOCENCE ACCOMPANIES A DEFENDANT  
9 FROM THE TIME HE IS CHARGED AND THROUGHOUT THE TRIAL AND  
10 INTO THE JURY ROOM UNTIL YOU REACH A VERDICT OF GUILT THAT'S  
11 BASED ON EVIDENCE THAT HAS SATISFIED YOU OF THAT GUILT  
12 BEYOND A REASONABLE DOUBT.

13 THE TRIAL OF THIS CASE, JUST LIKE ANY OTHER CASE, CAN  
14 BE DIVIDED UP INTO FIVE BASIC PHASES.

15 WE'LL START IN JUST A MOMENT WITH THE FIRST PHASE,  
16 WHICH IS THE OPENING STATEMENTS, WHEN THE LAWYERS WILL TELL  
17 YOU WHAT THIS CASE IS ABOUT. THEY'LL TELL YOU WHAT THE  
18 ISSUES ARE IN THE CASE AND HOW EACH SIDE STANDS ON THOSE  
19 ISSUES. AND THEY WILL ALSO GO OVER FOR YOU SOME OF THE  
20 EVIDENCE THAT YOU CAN EXPECT TO SEE THAT WILL RELATE TO  
21 THOSE ISSUES.

22 AFTER THE OPENING STATEMENTS, LATER THIS AFTERNOON,  
23 WE'LL BEGIN WITH THE EVIDENTIARY PHASE, OR THE SECOND PHASE,  
24 WHEN WITNESSES WILL COME HERE TO THIS WITNESS STAND. YOU  
25 WILL HEAR THEIR TESTIMONY, AND THERE WILL ALSO BE OTHER

STATE VERSUS HAROLD ORR, III  
JURY SWORN/JUDGE OPENING STATEMENTS

1 DOCUMENTS OR OTHER EXHIBITS THAT WILL COME -- THAT WILL  
2 BECOME PART OF THE BASIS ON WHICH YOU WILL MAKE YOUR  
3 DECISION AS TO WHETHER OR NOT THE STATE HAS MET ITS BURDEN  
4 OF PROOF.

5 AND AFTER ALL THE EVIDENCE HAS BEEN PRESENTED -- WHICH  
6 WILL, OBVIOUSLY, AT LEAST BE TODAY; PROBABLY WILL TAKE ALL  
7 OF TOMORROW, I WOULD IMAGINE -- UH, BUT AFTER ALL OF THE  
8 EVIDENCE HAS BEEN PRESENTED, WE WILL ENTER THE THIRD PHASE,  
9 WHICH IS THE CLOSING ARGUMENTS. WHEN THE LAWYERS WILL STAND  
10 BEFORE YOU AGAIN AND THIS TIME THEY WILL ARGUE TO YOU AS TO  
11 WHETHER OR NOT THE STATE HAS MET ITS BURDEN OF PROOF.

12 AND THEN THE FOURTH PHASE OF THE TRIAL IS WHEN I WILL  
13 GIVE YOU THE JURY CHARGE OR WHEN I WILL EXPLAIN TO YOU WHAT  
14 THE LAW IS THAT IS APPLICABLE IN THIS CASE.

15 AND THEN THE FIFTH PHASE IS WHEN YOU WILL GO BACK INTO  
16 THE JURY ROOM AND YOU WILL DELIBERATE.

17 NOW, I'VE ALREADY TOLD YOU THAT YOU MAY NOT DISCUSS  
18 THIS CASE UNTIL I HAVE GIVEN YOU PERMISSION TO BEGIN YOUR  
19 DELIBERATION. SO, WHEN YOU'RE BACK IN THE JURY ROOM, WHEN  
20 YOU'RE AT LUNCH, WHEN YOU'RE AT HOME, IF -- IF -- YOU JUST  
21 MAY NOT DISCUSS THE CASE.

22 NOW, IT -- IT -- IT'S INEVITABLE, WHEN YOU GO HOME  
23 ESPECIALLY, THAT SOMEBODY IS GONNA SAY TO YOU, OH COME ON,  
24 JUST TELL ME WHAT THE CASE IS ABOUT. TELL ME WHAT THE  
25 ALLEGATIONS ARE. WHAT'S HE CHARGED WITH? JUST -- YOU CAN'T

STATE VERSUS HAROLD ORR, III  
JURY SWORN/JUDGE OPENING STATEMENTS

1 TALK ABOUT THE CASE. IT'S A VERY IMPORTANT RULE, DO NOT  
2 DISCUSS THE CASE.

3 NOW, AFTER THE CASE IS OVER, YOU CAN TALK ABOUT IT WITH  
4 ANYBODY YOU CHOOSE TO. YOU DON'T HAVE TO, BUT YOU MAY.

5 UH -- IT'S ALSO VERY IMPORTANT THAT YOU NOT BEGIN TO  
6 MAKE UP YOUR MIND ABOUT WHETHER OR NOT THE STATE HAS MET ITS  
7 BURDEN OF PROOF UNTIL YOU'VE BEEN THROUGH ALL FIVE OF THE  
8 PHASES THAT I HAVE JUST DESCRIBED TO YOU. ONLY THEN ARE YOU  
9 IN THE RIGHT POSITION TO MAKE UP YOUR MIND AS TO WHETHER OR  
10 NOT THE STATE HAS MET ITS BURDEN OF PROOF.

11 NOW, LADIES AND GENTLEMEN, AS MEMBERS OF THE JURY, YOU  
12 ARE THE EXCLUSIVE JUDGES OF THE FACTS IN THIS CASE. AND I  
13 AM NOT PERMITTED TO INDICATE TO YOU HOW I MIGHT FEEL ABOUT  
14 THE FACTS.

15 SO, IF I SAY ANYTHING OR IF I DO ANYTHING DURING THE  
16 COURSE OF THIS TRIAL THAT MIGHT LEAD YOU TO BELIEVE THAT I  
17 HAVE AN OPINION ABOUT THE FACTS, THEN YOU SHOULD DISREGARD  
18 THAT.

19 BUT ON THE OTHER HAND, I AM THE EXCLUSIVE JUDGE OF THE  
20 LAW. SO IF YOU HAVE SOME IDEA AS TO WHAT THE LAW IS OR WHAT  
21 THE LAW SHOULD BE, AND IF THAT DIFFERS FROM WHAT I WILL TELL  
22 YOU THE LAW IS, THEN YOU ARE OBLIGATED, UNDER THE OATH THAT  
23 YOU HAVE JUST TAKEN AS JURORS, TO SET YOUR NOTION OF THE LAW  
24 ASIDE AND TO ACCEPT AND APPLY THE LAW PRECISELY AS I WILL  
25 EXPLAIN IT TO YOU.

STATE VERSUS HAROLD ORR, III  
JURY SWORN/JUDGE OPENING STATEMENTS

1           NOW, ONE OTHER ROLE THAT I PLAY IS TO DECIDE ON THE  
2           ADMISSIBILITY OF EVIDENCE. AND FROM TIME TO TIME I EXPECT  
3           THAT THE LAWYERS WILL BE MAKING OBJECTIONS WHEN EVIDENCE IS  
4           OFFERED THAT THEY BELIEVE DOES NOT COMPLY WITH OUR RULES OF  
5           EVIDENCE.

6           WHEN A LAWYER MAKES AN OBJECTION, THAT IS NOT AN  
7           ATTEMPT ON THE PART OF THE LAWYER TO HIDE ANYTHING FROM  
8           YOU-ALL. THAT'S THE WAY OUR SYSTEM WORKS. AND WHEN AN  
9           OBJECTION IS MADE, THEN IT BECOMES MY RESPONSIBILITY TO RULE  
10          ON THE OBJECTION.

11          IF I SUSTAIN THE OBJECTION, THAT MEANS I BELIEVE THE  
12          EVIDENCE IS NOT ADMISSIBLE AND I WILL NOT ALLOW IT IN FOR  
13          YOU TO CONSIDER.

14          IF I OVERRULE THE OBJECTION, THAT MEANS I BELIEVE THE  
15          EVIDENCE IS ADMISSIBLE AND I WILL ALLOW IT IN, AND YOU CAN  
16          CONSIDER IT.

17          NOW, MOST OF THE TIME I'LL BE ABLE TO DO THAT JUST AS  
18          I'M SITTING HERE. YOU'LL HEAR THE LAWYERS SAY, OBJECTION.  
19          THEY MIGHT THEN SAY BRIEFLY THE GROUNDS FOR THEIR OBJECTION,  
20          AND THEN YOU'LL HEAR ME SAY EITHER SUSTAINED OR OVERRULED.

21          SOMETIMES I MIGHT HAVE TO ASK THE LAWYERS TO STEP UP TO  
22          THE BENCH SO THAT I CAN BRIEFLY DISCUSS THE EVIDENCE  
23          QUESTION WITH THEM BEFORE I RULE.

24          I MIGHT EVEN HAVE TO ASK YOU FOLKS TO GO BACK INTO THE  
25          JURY ROOM SO THAT WE CAN OPENLY DISCUSS THE EVIDENCE



1 QUESTION.

2 SOMETIMES I ACTUALLY HAVE TO LISTEN TO THE TESTIMONY  
3 BEFORE I CAN DECIDE WHETHER OR NOT YOU CAN LISTEN TO IT.

4 MS. HERRING-LASH?

5 MS. HERRING-LASH: THANK YOU, IF IT PLEASE THE COURT --  
6 COUNSEL.

7 IT IS THANKSGIVING WEEK OF 2003. TUESDAY BEFORE  
8 THANKSGIVING OF THAT YEAR -- WHICH WAS THE 25<sup>TH</sup> OF  
9 NOVEMBER -- SHEILA SHEPPARD, AT THAT TIME, LIVED IN NORTH  
10 CHARLESTON.

11 SHE WAS GOING TO HAVE THREE OF HER GRANDS COME AND STAY  
12 FROM THAT TUESDAY THROUGH THANKSGIVING, BECAUSE THEIR  
13 MOTHER -- LASHANDA SHEPPARD -- HAD TO GO TO PAWLEY'S ISLAND  
14 TO WORK AT AN OLD JOB THAT SHE HAD HAD.

15 UM -- MINOR THE VICTIM IN THIS CASE, IS ONE OF  
16 THOSE GRANDCHILDREN. SHE WAS NINE-YEARS-OLD AT THAT TIME.

17 THE OTHER GRAND -- THERE WERE TWO OTHER GRANDCHILDREN  
18 THAT CAME OVER -- KYLA (PHONETIC) AND PARIS -- THAT WERE  
19 YOUNGER THAN MINOR PARIS BEING PRETTY MUCH STILL A  
20 TODDLER.

21 THEY WERE PICKED UP AFTER SCHOOL BY SABRINA ANDERSON,  
22 ANOTHER, UM -- AN AUNT. ANOTHER DAUGHTER OF MS. SHEPPARD'S.

23 THEY WERE DROPPED OFF AFTER SCHOOL. THEY PLAYED,  
24 GRANDMOTHER BROUGHT 'EM IN, GAVE 'EM A SHOWER -- EXCUSE ME,  
25 A BATH. CHANGED THEIR CLOTHES, WAS FEEDING THEM.

1 MR. ORR, AT THAT POINT IN TIME, WAS MARRIED TO

2 MS. SHEPPARD AND THEIR STEP-GRANDFATHER.

3 HE CAME HOME, SAID THAT A FRIEND OF HIS MOTHER'S HAD  
4 DIED AND HE NEEDED TO GO BACK OUT. HE LEFT AND WENT BACK  
5 OUT.

6 MS. SHEPPARD GOT THE KIDS READY FOR BED. SHE SETTLED  
7 DOWN IN HER BEDROOM WITH KYLA, WATCHING MARTIN ON TV.

8 [REDACTED] DIDN'T LIKE -- OR, DIDN'T WANT TO WATCH TV.

9 SHE WANTED TO WATCH A MOVIE -- A -- A VIDEOTAPE OF A MOVIE.  
10 SO SHE LAID DOWN ON THE COUCH IN THE BEDROOM -- EXCUSE ME,  
11 LIVING ROOM. SHE LAID DOWN THERE.

12 AS LUCK WOULD HAVE IT, MS. SHEPPARD FELL ASLEEP WITH  
13 HER OTHER GRANDDAUGHTER AND [REDACTED] FELL ASLEEP.

14 SOME TIME AFTER THEY FELL ASLEEP, MR. ORR ARRIVES BACK  
15 HOME. [REDACTED] KNOWS WHEN HE'S ARRIVED, SHE FEELS, UM, HIM  
16 SIT DOWN ON THE COUCH NEAR HER.

17 MS. SHEPPARD WAKES UP A LITTLE BIT BEFORE NINE -- SOME  
18 TIME AROUND THERE -- AND REALIZES SHE DIDN'T HEAR THE  
19 TODDLER RUNNING AROUND -- DIDN'T HEAR PARIS. SO, SHE GETS  
20 UP.

21 NOW, THIS IS A RELATIVELY SMALL, UM, SINGLE-WIDE,  
22 TWO-BEDROOM TRAILER.

23 SHE WALKS FROM HER BEDROOM -- WHICH IS AT THE BACK OF  
24 THE TRAILER -- THROUGH THE KITCHEN, INTO THE LIVING ROOM.

25 AND WHAT SHE SEES STILL SHOCKS HER TO THIS DAY. SHE

STATE VERSUS HAROLD ORR, III  
STATE'S OPENING-MS. HERRING-LASH

1 SEES MR. ORR LAYING KIND OF IN FRONT OF [REDACTED] ON THE  
2 COUCH, WITH HIS HEAD BETWEEN HER LEGS, LICKING HER ON HER  
3 VAGINAL AREA.

4 SHE BEGINS TO SCREAM, SHE HITS HIM WITH THE PHONE. AT  
5 THE SAME TIME SHE'S DIALING A -- A -- SABRINA, HER OTHER  
6 DAUGHTER WHO SHE HAS ON THE SPEED-DIAL, AND SAYS, CALL THE  
7 POLICE, CALL THE POLICE.

8 HE LEAVES, SHE TALKS TO [REDACTED] SHE EXAMINES [REDACTED]  
9 THE POLICE ARRIVE FOUR TO FIVE MINUTES LATER. THEY TALK,  
10 WITH [REDACTED] THEY TALK WITH MS. SHEPPARD.

11 UH -- HE ARRIVES BACK, THEY PUT HIM IN THE POLICE CAR.

12 THEY TAKE DESTINY TO THE DOCTOR THAT NIGHT FOR THE  
13 DOCTOR TO DO AN EXAM TO GATHER EVIDENCE, TO TAKE HER CLOTHES  
14 AND HER UNDERWEAR INTO EVIDENCE TO BE SENT TO THE STATE LAW  
15 ENFORCEMENT DIVISION.

16 SUB- -- AFTER THAT, MR. ORR WAS CHARGED WITH CRIMINAL  
17 SEXUAL CONDUCT WITH A MINOR.

18 AND THAT CHARGE -- CRIMINAL SEXUAL CONDUCT WITH A  
19 MINOR -- A PERSON IS GUILTY OF CRIMINAL SEXUAL CONDUCT WITH  
20 A MINOR IN THE FIRST DEGREE IF THE ACTOR ENGAGES IN A SEXUAL  
21 BATTERY WITH A VICTIM WHO IS LESS THAN ELEVEN YEARS OF AGE.  
22 [REDACTED] WAS NINE AT THE TIME.

23 AND I WILL EXPLAIN WHAT A SEXUAL BATTERY IS IN A  
24 MOMENT, BUT I WOULD LIKE TO POINT OUT ONE THING. WHEN YOU  
25 HEAR THE TERM CRIMINAL SEXUAL CONDUCT, VERY OFTEN YOU

1 ENVISION SOME KIND OF FORCE OR COERCION. BUT, WHEN IT IS  
2 INFLECTED UPON A MINOR -- A YOUNG CHILD -- THERE'S NO  
3 ELEMENT OF FORCE OR COERCION IN THAT STATUTE. THE ELEMENT  
4 IS JUST THAT THE BATTERY WAS COMMITTED BY THE DEFENDANT AND  
5 THE VICTIM IS LESS THAN ELEVEN. FORCE DOESN'T MATTER.

6 NOW, A SEXUAL BATTERY IS DEFINED AS, SEXUAL  
7 INTERCOURSE, CUNNILINGUS, FELLATIO, ANAL INTERCOURSE, OR ANY  
8 INTRUSION, HOWEVER SLIGHT, OF ANY PART OF A PERSON'S BODY OR  
9 ANY OBJECT INTO THE GENITAL OR ANAL OPENINGS OF ANOTHER'S  
10 BODY, EXCEPT WHEN SUCH INTRUSION IS ACCOMPLISHED FOR  
11 MEDICALLY RECOGNIZED TREATMENT OR DIAGNOSTIC PURPOSES.

12 WHAT WE ARE DEALING WITH IN THIS CASE IS LEGALLY  
13 KNOWN AS CUNNILINGUS. THE DEFINITION IS, THE ORAL CONTACT  
14 WITH THE VAGINAL AREA, WHICH I DESCRIBED TO YOU IS WHAT  
15 MS. SHEPPARD SAW THE DEFENDANT -- MR. ORR -- DOING. LICKING  
16 THE VAGINAL AREA OF MINOR

17 LEWD ACT UPON A MINOR IS, IT IS UNLAWFUL FOR A PERSON  
18 OVER THE AGE OF FOURTEEN TO WILLEFULLY AND LEWDLY COMMIT OR  
19 ATTEMPT A LEWD OR LASCIVIOUS ACT UPON OR WITH THE BODY OR  
20 ITS PARTS OF A CHILD UNDER THE AGE OF SIXTEEN WITH THE  
21 INTENT OF AROUSING, APPEALING TO, OR GRATIFYING THE LUST OR  
22 PASSIONS OR SEXUAL DESIRES OF SUCH PERSON OR THE CHILD.

23 THIS IS WHAT YOU WOULD OFTEN THINK OF AS CHILD  
24 MOLESTATION -- RUBBING OR TOUCHING OR SOMEHOW SEXUALLY  
25 GRATIFYING OR HAVING A CHILD SEXUALLY GRATIFY YOU. IT'S

1 CHILD MOLESTATION.

2 AFTER MR. ORR WAS CHARGED WITH THESE CRIMES, SAMPLES  
3 WERE TAKEN OF HIS BLOOD TO GO, FOR COMPARATIVE PURPOSES, TO  
4 THE STATE LAW ENFORCEMENT DIVISION.

5 YOU WILL HEAR FROM THE FORENSIC SCIENTIST. THEY WILL  
6 EXPLAIN TO YOU THE MEANINGS OF THEIR FINDINGS. MALE D-N-A  
7 THAT WAS FOUND IN HER PANTIES AND SALIVA THAT WAS INDICATED  
8 FROM INSIDE OF HER -- THE CROTCH OF HER PANTIES.

9 WE ALL UNDERSTAND THAT THIS IS A VERY DIFFICULT TOPIC  
10 FOR ANY OF US TO TALK ABOUT AND TO LISTEN TO.

11 IT WILL BE ESPECIALLY DIFFICULT FOR MINOR IT HAS  
12 BEEN A LONG TIME AND SHE HAS TRIED TO PUT A LOT OF THIS OUT  
13 OF HER MIND AND -- AND DOES NOT WANT TO TALK ABOUT IT EVER  
14 AGAIN. SHE WILL BE REQUIRED TO DO THE BEST THAT SHE CAN TO  
15 EXPLAIN TO YOU WHAT SHE HAD HAPPEN TO HER.

16 MS. SHEPPARD, THE ONE THING SHE DOES REMEMBER IS WHAT  
17 SHE SAW. SHE WILL EXPLAIN THAT TO YOU.

18 AFTER YOU HAVE HEARD ALL OF THE EVIDENCE, WE WILL ASK  
19 THAT YOU FIND MR. ORR GUILTY OF WHAT HE DID, WHAT THE  
20 EVIDENCE SHOWS, AND WHAT MS. SHEPPARD SAW.

21 THANK YOU.

22 THE COURT: MR. DAVIS?

23 MR. DAVIS: THANK YOU, YOUR HONOR.

24 MS. SHEPPARD IS GONNA BE VERY IMPORTANT IN THIS CASE.  
25 SHE'S ALSO MRS. ORR. TESTIMONY WILL COME OUT THAT SHE IS,

1 AND HAS BEEN, MARRIED TO MR. ORR, UH, SINCE ABOUT 1995. AND  
2 SHE'LL TELL YOU WHAT SHE THINKS SHE SAW.

3 THIS IS A CASE ABOUT ASSUMPTIONS VERSUS ACTUAL PROOF.  
4 NOW, ASSUMPTIONS ARE FINE IF YOU'RE PLAYING A BOARD GAME, OR  
5 EVEN FOR THE POLICE TO -- TO MAKE ASSUMPTIONS IN THEIR  
6 INVESTIGATION.

7 BUT, ONCE WE GET TO THIS STAGE -- THE JUDGE HAS ALREADY  
8 TOLD YOU SOME ABOUT IT. IN GENERAL IS -- ANYBODY IN AMERICA  
9 WOULD RELY ON -- IS YOU CAN'T FIND A VERDICT ON ASSUMPTIONS.

10 NOW, THERE IS A PRESUMPTION THAT WHEN YOU TOOK YOUR  
11 OATH YOU'RE GONNA HOLD ON TO. HE'S PRESUMED INNOCENT.  
12 RIGHT NOW SITTING THERE, AS YOU LOOK AT HIM, HE DIDN'T DO  
13 THIS -- HE DIDN'T DO THIS.

14 NOW, THE STATE CLAIMS THEY'RE GONNA BRING WITNESSES IN  
15 AND THEY'RE GONNA GIVE YOU EVIDENCE SHOWING THAT, IN FACT,  
16 IT DID HAPPEN. WELL, THEY HAVE TO CONVINCE YOU BEYOND A  
17 REASONABLE DOUBT.

18 I'M HAROLD'S LAWYER. THE JUDGE IS GONNA TELL YOU WHAT  
19 THE LAW IS AT THE END OF THE TRIAL. NOT WHAT YOU THINK IT  
20 MIGHT BE, BUT WHAT IT IS. PLEASE PAY ATTENTION TO THAT.

21 BUT, IT'S VERY IMPORTANT THAT YOU DECIDE THIS CASE  
22 BASED ON WHAT IS PROVEN FROM THAT WITNESS STAND RIGHT THERE,  
23 AND FROM WHATEVER EVIDENCE YOU TAKE BACK TO THE JURY ROOM.  
24 THAT'S ALL YOU CAN CONSIDER AND THAT'S ALL YOU NEED TO  
25 CONSIDER TO COME TO THE RIGHT CONCLUSION IN THIS CASE, WHICH

1 IS, HE'S NOT GUILTY.

2 IT'S ASSUMPTIONS VERSUS PROOF.

3 VERY QUICKLY, AS YOU PREPARE TO LISTEN TO ALL THIS  
4 TESTIMONY, I'M GONNA BREAK IT DOWN INTO THREE AREAS FOR YOU.

5 WE'RE GONNA HAVE SOME SUPPOSED EYEWITNESSES; WE'RE  
6 GONNA HAVE THE POLICE; AND THEN WE'RE GONNA HAVE SOME  
7 EXPERTS.

8 STILL THE POLICE, RIGHT OFF THE BAT, THEY DON'T DO MUCH  
9 OF ANYTHING IN THIS CASE. I'M JUST GONNA TELL YOU THAT  
10 RIGHT UP FRONT. THEY DON'T DO A WHOLE LOT OF INVESTIGATION.

11 HERE'S WHAT THEY DO. THEY LISTEN TO **MINOR** WITH  
12 MRS. ORR -- MS. SHEPPARD -- RIGHT THERE WITH HER. THEY TAKE  
13 MS. SHEPPARD -- HER STATEMENT -- AND THEY RUN WITH IT.  
14 THAT'S IT. THAT'S THE INVESTIGATION. OKAY?

15 THEY COLLECTED SOME THINGS THAT GOT SENT ON. WE'LL  
16 TALK ABOUT THAT IN A SECOND. WE'LL TALK ABOUT EXPERTS.

17 BUT, THAT'S BASICALLY WHAT THE POLICE DID -- TALKED TO  
18 **MINOR**. BUT MORE, GRANDMA, WHAT DO YOU THINK YOU SAW?  
19 WHAT WAS THE ASSUMPTION YOU MADE?

20 YOU NEED TO UNDERSTAND ALSO -- I THINK YOU'RE GONNA  
21 HEAR -- THAT MRS. ORR WILL TELL YOU -- SHE'S AN ADMITTED  
22 LIAR. ADMITTEDLY, A LIAR.

23 YOU GET TO A- -- YOU GET TO DECIDE. NOT ASSUME, BUT  
24 YOU GET TO DECIDE AT THE END OF THE CASE WHO'S BELIEVABLE  
25 AND WHO'S NOT. WHO HAS BIAS, WHO'S -- WHO'S TRUTHFUL OR

1 NOT. AND, WHETHER IT'S ACTUAL PROOF THAT THEY ACTUALLY SAW  
2 WHAT THEY SAW OR WHETHER THEY ASSUME THEY SAW WHAT THEY SAW.

3 SO, SUPPOSED EYEWITNESSES. YOU NEED TO DECIDE WHETHER  
4 THAT'S BELIEVABLE OR NOT.

5 AND THEN FINALLY, SOME EXPERTS -- SOME FORENSIC  
6 EVIDENCE.

7 NOW I'M GONNA ASK YOU TO DO ONE THING THAT'S VERY  
8 NORMAL. I'M GONNA ASK YOU TO USE YOUR GOOD COMMON SENSE.  
9 THAT'S VERY NORMAL.

10 I'M GONNA ASK YOU TO DO SOMETHING THAT YOU MIGHT NOT  
11 FIND NORMAL. DON'T JUMP TO CONCLUSIONS. THE JUDGE HAS  
12 ALREADY TOLD YOU ABOUT IT A MOMENT AGO. WAIT 'TIL YOU HEAR  
13 EVERYTHING.

14 THE STATE PRESENTED WHAT THEY BELIEVE THE EVIDENCE  
15 SHOWS, BUT THERE'S JUST MORE TO IT, AND IT DOESN'T SHOW WHAT  
16 THEY CLAIM.

17 YOU'LL HEAR ABOUT THE FACT THAT HAROLD, UM, MOVED DOWN  
18 HERE FROM HIS HOME, FROM HIS FAMILY, TO BE WITH SHEILA,  
19 WHERE ALL HER FAMILY AND FRIENDS ARE. HE DID THAT  
20 VOLUNTARILY, QUITE SOME TIME AGO.

21 AND YOU'RE GONNA HEAR MINOR TALK ABOUT WHAT A GREAT  
22 RELATIONSHIP SHE HAD WITH HIM.

23 REMEMBER, ALL OF SHEILA'S FRIENDS AND FAMILY ARE HERE.  
24 WHEN SHE ASSUMES THINGS, SHE HAS JUST WOKEN UP FROM A SLEEP.  
25 IT'S A DARK ROOM, SHE HAS BAD EYESIGHT, AND -- HAROLD, CAN



STATE VERSUS HAROLD ORR, III  
DEFENSE'S OPENING-MR. DAVIS

1 YOU STAND UP FOR A SECOND AND JUST TURN AROUND FOR ME FOR A  
2 SECOND?

3 (DEFENDANT STANDS.)

4 MR. DAVIS: CAN YOU TURN AROUND FOR ME?

5 (DEFENDANT TURNS AROUND.)

6 MR. DAVIS: BIG OLD BACK THERE ON HAROLD, AND SHE'S  
7 GONNA CLAIM THAT SHE SEES WHAT'S GOING ON ON THE OTHER SIDE  
8 OF HIM?

9 THANK YOU, HAROLD, YOU CAN HAVE A SEAT.

10 (DEFENDANT SITS.)

11 MR. DAVIS: SHE COULDN'T SEE. AND THERE WAS NOTHING  
12 GOING ON ANYWAY.

13 ASSUMPTIONS VERSUS PROOF -- ASSUMPTION VERSUS PROOF.  
14 THE SOLICITOR'S ALREADY TOLD YOU, SHE ASSUMED SOMETHING AND  
15 STARTED BEATING HIM OVER THE HEAD WITH THE PHONE. HE GOES  
16 RUNNING OUT. YOU'RE GONNA HEAR, HE COMES BACK.

17 HE COMES BACK, WALKS PAST -- YOU WILL SEE EXACTLY HOW  
18 MANY -- PAST POLICE CARS. THIS IS NIGHTTIME, LIGHTS ARE  
19 GOING. HE WALKS BACK IN THAT HOUSE, IMMEDIATELY UNDER  
20 ARREST BECAUSE THEY TOOK SHEILA'S STATEMENT AND THAT'S IT.

21 NOW, VERY BRIEFLY, WHEN YOU LISTEN TO WHAT THE EXPERTS  
22 HAVE TO SAY, FIRST OF ALL, EXPERT DOESN'T MAKE THEIR  
23 TESTIMONIES ANY MORE OR LESS IMPORTANT THAN ANYBODY ELSE  
24 THAT HAS SOMETHING TO SAY. THEY JUST HAPPEN TO BE SCHOOLED  
25 IN A PARTICULAR AREA A LITTLE BIT MORE THAN -- THAN THE REST

1 OF US.

2 YOU'RE GONNA HEAR FROM THE DOCTOR THAT EXAMINED

3 **MINOR** YOU'RE GONNA HEAR THE DOCTOR SAY THE EXAM WAS  
4 NORMAL -- YOU'RE GONNA HEAR THAT.

5 YOU'RE GONNA HEAR THAT, BEFORE ANY EXAM WAS DONE,  
6 SHEILA HAS **MINOR** URINATE, WIPES WITH A TOWEL FROM THE  
7 HOUSE..

8 NOT ONLY THAT, SHE REACHES DOWN AND CHECKS THE VAGINAL  
9 AREA BEFORE IT EVER -- SHE EVER GETS TO A DOCTOR. YOU'RE  
10 GONNA HEAR ALL THAT.

11 THESE EXPERTS WERE NOT ON SCENE. THEY GET EVIDENCE  
12 SOME TIME LATER AND TAKE A LOOK AT IT.

13 THEY KNOW WHAT IS ACCUSED TO HAVE HAPPENED HERE. THEY  
14 KNOW THE ASSUMPTIONS THAT HAVE BEEN MADE. BUT, THEY HAVE NO  
15 ACTUAL KNOWLEDGE OF WHAT HAPPENED. THEY CANNOT TELL YOU  
16 THAT ANYTHING THAT THEY TESTED IS HAROLD'S. LET ME REPEAT  
17 THAT. THEY CANNOT TELL YOU THAT ANYTHING THEY TESTED IS  
18 HAROLD'S.

19 AND, EVEN THOUGH THEY ARE EXPERTS, THIS IS NOT SPECIAL  
20 EVIDENCE. IT'S NOT OUR T-V SHOWS THAT WE LOVE TO WATCH  
21 MAYBE, THIS IS REAL LIFE.

22 THEY CAN TELL US A LOT, BUT... THE LAST THING I'M  
23 GONNA LEAVE YOU WITH IS -- DESPITE THE FACT THE SOLICITOR  
24 SAID IT, THAT EXPERT'S GONNA TELL YOU THAT SHE CANNOT BE  
25 SURE THAT IT WAS SALIVA.

STATE VERSUS HAROLD ORR, III  
DEFENSE'S OPENING-MR. DAVIS

1           WAIT AND LISTEN TO IT.  THERE ARE A LOT OF THINGS HERE  
2           THAT I DON'T KNOW I CAN WRAP UP FOR YOU -- TIE UP THE LOOSE  
3           ENDS.  BUT THAT'S NOT YOUR JOB EITHER.

4 THE BOTTOM LINE IS THIS. THE STATE CLAIMS ITS PROOF IS  
5 GONNA SHOW YOU BEYOND A REASONABLE DOUBT THAT HAROLD'S  
6 GUILTY. I SAY OTHERWISE -- HE DIDN'T DO IT. AND WHEN YOU  
7 LISTEN AND REALLY PAY ATTENTION TO THE WITNESSES THAT WERE  
8 THERE THAT NIGHT AND WHAT THEY SAW AND COULD HAVE SEEN OR  
9 NOT, I THINK YOU'LL HAVE A NEW APPRECIATION ABOUT WHAT  
10 HAPPENED.

11           ONCE YOU HEAR THE EXPERTS TESTIFY AND WHAT THEY CAN AND  
12       CANNOT SAY FOR CERTAIN -- IT'S A NICE, NEAT PACKAGE THE  
13       STATE PRESENTED TO YOU. BUT IT'S NOT ABOUT WHAT THE  
14       SOLICITOR OR I SAY, IT'S ABOUT WHAT THE EVIDENCE IS.

15 I APPRECIATE YOUR TIME AND PATIENCE. PAY ATTENTION TO  
16 THE EVIDENCE. THANK YOU.

17 MS. HERRING-LASH: THE STATE WOULD CALL MINOR

18 (WHEREUPON, WITNESS CAME FORWARD.)

19 CLERK: PLEASE STEP AROUND. STAND RIGHT THERE, PUT  
20 YOUR LEFT HAND ON THE BIBLE; I'LL HAVE TO SWEAR YOU IN.

21 (WHEREUPON, [REDACTED] WAS DULY SWORN AND TESTIFIED  
22 AS FOLLOWS:)

23 CLERK: SPEAK INTO THIS MIC. AND SAY YOUR FULL NAME AND  
24 SPELL YOUR LAST NAME.

25 MS.   MINOR   F-L-O-Y-D.

MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

1 MINOR DIRECT EXAMINATION BY MS. HERRING-LASH:

2 Q MINOR HOW OLD ARE YOU NOW?

3 A THIRTEEN.

4 Q WHEN IS YOUR BIRTHDAY?

5 A

6 Q WHAT YEAR?

7 A

8 Q

9 A (NOD.)

10 Q AND WHERE DO YOU LIVE, MINOR

11 A I LIVE IN THE BACK OF ASHLEY PHOSPHATE.

12 Q AND WHERE DO YOU GO TO SCHOOL?

13 A (INDISCERNIBLE) MIDDLE.

14 Q AND WHAT GRADE ARE YOU IN?

15 A SEVENTH..

16 Q PARDON ME?

17 A SEVENTH.

18 Q SEVENTH GRADE?

19 A (NOD.)

20 Q AND WHAT DO YOU LIKE TO DO IN SCHOOL, MINOR

21 A I LIKE MATH.

22 Q YOU DO?

23 A (NOD.)

24 Q WHAT DO YOU LIKE TO DO FOR FUN WHEN YOU'RE NOT IN  
25 SCHOOL?

[REDACTED]

DIRECT EXAMINATION BY MS. HERRING-LASH

- 1 A GO ON THE COMPUTER, TALK ON THE PHONE, AND GO OUTSIDE.
- 2 Q TALK ON THE PHONE AND GO OUTSIDE?
- 3 A (NOD.)
- 4 Q AND, [REDACTED] UM, WHO ALL DO YOU LIVE WITH?
- 5 A MY MAMA AND MY STEP-DADDY, MY SISTERS AND BROTHER.
- 6 Q TELL US WHO YOUR SISTERS AND BROTHER ARE AND WHAT THEIR
- 7 AGES ARE.
- 8 A KYLA, PARIS, AND DANTE (PHONETIC). DANTE IS FIVE --
- 9 NO, FOUR; PARIS IS FIVE; AND KYLA IS ELEVEN.
- 10 Q AND DO YOU HAVE OTHER FAMILY THAT LIVES IN THE AREA?
- 11 A YES.
- 12 Q WHO?
- 13 A MY AUNTIE THAT I GOT TOO.
- 14 Q AND WHAT'S HER NAME?
- 15 A SABRINA ANDERSON.
- 16 Q DO YOU SEE HER A LOT?
- 17 A UH-HUH.
- 18 Q EVERY DAY?
- 19 A KIND OF.
- 20 Q AND WHAT ABOUT YOUR GRANDMOTHER?
- 21 A YES.
- 22 Q WHERE DOES SHE LIVE?
- 23 A I'M NOT EXACTLY REALLY SURE OF THAT. BUT IT'S AROUND
- 24 THE, UM, PARK CIRCLE.
- 25 Q IT'S IN NORTH CHARLESTON?

- 1 A UH-HUH.
- 2 Q AND DO YOU SEE YOUR GRANDMOTHER PRETTY OFTEN?
- 3 A YES, MA'AM.
- 4 Q DO YOU STAY WITH YOUR GRANDMOTHER SOMETIME?
- 5 A NOT ANYMORE.
- 6 Q DID YOU USED TO?
- 7 A UH-HUH.
- 8 Q NOW, MINOR HAVE YOU LIVED IN CHARLESTON ALL YOUR  
9 LIFE?
- 10 A HUH-UH.
- 11 Q WHERE DID YOU LIVE BEFORE CHARLESTON?
- 12 A GEORGETOWN.
- 13 Q AND WHO DID YOU LIVE WITH WHEN YOU LIVED IN GEORGETOWN?
- 14 A UM -- WELL, AT FIRST WE LIVED WITH MY GRANDMA WHEN I  
15 WAS BORN AND THEN WE MOVED TO GEORGETOWN.
- 16 Q AND THEN WHAT?
- 17 A AND THEN WE MOVED TO GEORGETOWN.
- 18 Q WHERE DID YOU LIVE WITH YOUR GRANDMOTHER WHEN YOU WERE  
19 BORN?
- 20 A IT WAS IN A HOUSE, AND THEN WE MOVED INTO A TRAILER  
21 WHEN I GOT OLDER.
- 22 Q AND WHO ALL LIVED IN THE TRAILER AND THE HOUSE?
- 23 A THE HOUSE, IT WAS ME, MY AUNT -- NO, ME, MY LITTLE  
24 SISTER KYLA, MY GRANDMA, MY, UM, MY GRANDPA, MY AUNTIE, MY  
25 TWO UNCLES UNTIL THEY LEFT TO GO TO JAIL.

MINOR

STATE VERSUS HAROLD ORR, III  
DIRECT EXAMINATION BY MS. HERRING-LASH

- 1 Q AND WHO IS YOUR GRANDPA?
- 2 A HAROLD.
- 3 Q DO YOU SEE HAROLD IN THE COURTROOM?
- 4 A YES, MA'AM.
- 5 Q COULD YOU TELL US WHAT HE HAS ON?
- 6 A A TIE AND A SUIT.
- 7 MS. HERRING-LASH: UM -- LET THE RECORD REFLECT THAT
- 8 THAT'S THE DEFENDANT.
- 9 MR. DAVIS: AND THAT HE'S STANDING, YOUR HONOR.
- 10 Q UM -- AND HAROLD IS YOUR GRANDFATHER?
- 11 A YES, MA'AM.
- 12 Q HOW LONG HAVE YOU KNOWN HAROLD?
- 13 A EVER SINCE I WAS BORN.
- 14 Q HE WAS IN THE HOME, LIVING, WHEN YOU WERE BORN?
- 15 A UH-HUH.
- 16 Q NOW, AT SOME POINT IN TIME, DID YOU AND YOUR MOTHER AND
- 17 YOUR, UM, SIBLINGS MOVE TO CHARLESTON?
- 18 A YES, MA'AM.
- 19 Q AND DID YOUR GRANDMOTHER EVENTUALLY ALSO MOVE TO
- 20 CHARLESTON?
- 21 A YES, MA'AM.
- 22 Q WITH WHO?
- 23 A MY GRANDFATHER.
- 24 Q WHEN THEY MOVED TO CHARLESTON, DID YOU CONTINUE TO
- 25 VISIT THEM?

MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

1 A UH-HUH.

2 Q DESTINY, I WANT YOU TO THINK BACK TO THANKSGIVING OF  
3 2003. DO YOU REMEMBER THAT?

4 A THE WEEK OF THANKSGIVING?

5 Q UH-HUH.

6 A UH-HUH.

7 THE COURT: MS. LASH (SIC), HOLD ON JUST ONE SECOND.

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
9 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
10 HEARING OF THE JURY, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 THE COURT: OKAY, LET ME SEE THE LAWYERS FOR A SECOND,  
13 PLEASE.

14 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
15 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
16 HEARING OF THE JURY, OFF THE RECORD.)

17 (WHEREUPON, COURT RESUMED.)

18 Q MINOR BEFORE WE GO ON, I WANT TO EXPLAIN TO YOU,  
19 THIS LADY HAS TO WRITE DOWN YOUR ANSWERS. SO, YOU NEED TO  
20 SAY THE WORD YES OR NO, AND NOT JUST SHAKE YOUR HEAD.

21 A YES, MA'AM.

22 Q NOW, MINOR YOU RE- -- DO YOU REMEMBER THE WEEK---

23 A YES.

24 Q ---THE WEEK OF THANKSGIVING OF 2003?

25 A YES, MA'AM.



MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

- 1 Q DO YOU, UM -- WHAT CAN YOU TELL US ABOUT WHERE YOU WERE  
2 STAYING AND WHY?
- 3 A WE WENT TO MY GRANDMA (SIC) HOUSE AFTER SCHOOL BECAUSE  
4 MY GRAND- -- MY MAMA HAD TO GO OVER TO HER OLD JOB IN MYRTLE  
5 BEACH TO WORK FOR THANKSGIVING.
- 6 Q TO WORK FOR THANKSGIVING?
- 7 A TO -- TO HELP THEM OUT AND GET EXTRA MONEY.
- 8 Q EXTRA WHAT?
- 9 A MONEY.
- 10 Q AND WHO TOOK YOU TO YOUR GRANDMOTHER'S HOUSE?
- 11 A MY AUNTIE.
- 12 Q WHAT'S HER NAME?
- 13 A SABRINA.
- 14 Q AND WHO ALL WENT?
- 15 A ME; MY SISTER, PARIS; AND OTHER LITTLE SISTER, KYLA.
- 16 Q AND WHAT DID YOU-ALL DO WHEN YOU GOT THERE?
- 17 A PLAYED.
- 18 Q WHAT -- DO YOU REMEMBER WHAT YOU PLAYED OR WHERE YOU  
19 PLAYED?
- 20 A WE PLAYED IN THE BACK. AND I DON'T REMEMBER WHAT WE  
21 PLAYED, BUT WE DID PLAY AND WATCHED SOME KIDS PLAYING JUMP  
22 ROPE.
- 23 MS. HERRING-LASH: MAY I APPROACH THE WITNESS, YOUR  
24 HONOR?
- 25 THE COURT: YOU MAY.

MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

1 Q I SHOW YOU WHAT'S BEEN MARKED AS STATE'S EXHIBIT NUMBER  
2 ONE. DO YOU RECOGNIZE THIS?

3 A YES, MA'AM.

4 Q AND WHAT IS THAT?

5 A THE TRAILER THAT MY GRANDMOTHER USED TO LIVE IN.

6 Q CAN YOU TRY TO TALK INTO THAT A LITTLE BIT LOUDER?

7 A OKAY. SAY IT AGAIN?

8 Q UH-HUH.

9 A THE TRAILER THAT MY GRANDMOTHER USED TO LIVE IN.

10 MS.. HERRING-LASH: YOUR HONOR, AT THIS TIME WE WOULD  
11 MOVE STATE'S EXHIBIT NUMBER ONE INTO EVIDENCE.

12 THE COURT: ANY OBJECTION TO STATE'S NUMBER ONE?

13 MR. DAVIS: NO, YOUR HONOR.

14 THE COURT: IT'S ADMITTED.

15 (WHEREUPON, STATE'S EXHIBIT NUMBER 1 WAS ADMITTED INTO  
16 EVIDENCE.)

17 Q I THINK IT WILL COME UP ON THE BOARD BEHIND YOU,

18 MINOR JUST SO YOU CAN IDEN- -- IDENTIFY IT FOR THE JURY.

19 DO YOU WANT TO TURN -- CAN YOU SEE IT IF YOU TURN AROUND?

20 A YES, MA'AM.

21 Q OKAY. WHERE WERE YOU-ALL PLAYING?

22 A IN THE BACK -- (POINTING) IN THE BACK OVER THERE.

23 Q I'M GONNA SHOW YOU THIS. IF YOU PUSH THIS RIGHT HERE,  
24 IT WILL POINT. THAT FIRST ARROW.

25 A (POINTING) RIGHT THERE.

MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

1 Q AFTER THAT PLAY, WHAT DID YOU DO?

2 A WE WENT IN THE HOUSE TO WASH OFF.

3 Q AND WHEN YOU SAY WASH OFF, WHAT DO YOU MEAN?

4 A YOU KNOW, WE TOOK A SHOWER AND -- WELL, WE TOOK A BATH.

5 Q HOW DO YOU REMEMBER THAT YOU TOOK A BATH INSTEAD OF A  
6 SHOWER?

7 A 'CAUSE WE ALWAYS PLAY IN THE JACUZZI. IT'S LIKE A  
8 JACUZZI TUB.

9 Q OKAY; YOUR GRANDMOTHER HAD A JACUZZI TUB?

10 A (NOD.)

11 Q AND AFTER YOU BATHED, DID YOU PUT ON CLEAN CLOTHES OR  
12 DID YOU PUT ON -- WHAT DID YOU DO?

13 A PUT ON CLEAN CLOTHES.

14 Q DO YOU REMEMBER WHAT CLOTHES YOU PUT ON?

15 A YES; IT WAS A PAIR OF CLEAN PANTS AND ONE OF MY GRANDMA  
16 (SIC) SHIRTS.

17 MS. HERRING-LASH: YOUR HONOR, MAY I APPROACH THE  
18 WITNESS?

19 THE COURT: YOU MAY.

20 Q MINOR I'M GONNA SHOW YOU WHAT HAS BEEN MARKED AS  
21 STATE'S EXHIBIT NUMBER FOURTEEN, AND STATE'S EXHIBIT NUMBER  
22 FIFTEEN. DO YOU RECOGNIZE THESE?

23 A YES, MA'AM.

24 Q AND WHAT ARE THEY?

25 A THE PANTS I WORE AFTER I GOT OUT OF THE BATHTUB, AND MY

MINOR

1 GRANDMA'S SHIRT.

2 Q OKAY.

3 MS. HERRING-LASH: YOUR HONOR, AT THIS TIME THE STATE  
4 WOULD OFFER INTO EVIDENCE EXHIBIT NUMBER FOURTEEN AND  
5 FIFTEEN.

6 MR. DAVIS: NO OBJECTION, YOUR HONOR.

7 THE COURT: ALL RIGHT, THEY'RE ADMITTED.

8 (WHEREUPON, STATE'S EXHIBIT NUMBER 14 WAS ADMITTED INTO  
9 EVIDENCE.)

10 (WHEREUPON, STATE'S EXHIBIT NUMBER 15 WAS ADMITTED INTO  
11 EVIDENCE.)

12 Q AND THESE ARE THE PANTS THAT YOU HAD ON?

13 A YES, MA'AM.

14 Q NOW, MINOR AFTER YOU TOOK A BATH AND PUT ON YOUR  
15 CLOTHES, WHAT DID YOU DO?

16 A WE -- WE WENT TO GO EAT, AND THEN WE WATCHED -- I  
17 WENT -- AFTER WE WENT TO EAT, I HAD TO IRON MY GRANDPA'S  
18 SHIRT.

19 Q OKAY. UM -- DID HE COME HOME AT SOME TIME?

20 A UH-HUH.

21 Q AND WHY DO YOU IRON HIS SHIRT?

22 A HE HAD TO GO SOMEWHERE.

23 Q AND WERE YOU GONNA IRON -- YOU WERE IRONING HIS SHIRT?

24 A (NOD.)

25 Q WHAT HAPPENED WHEN YOU IRONED HIS SHIRT?

MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

1 A I BURNED IT.

2 Q UM -- DO YOU KNOW WHY YOU BURNED IT?

3 A I DIDN'T -- I DIDN'T KNOW HOW TO IRON THAT KIND.

4 Q THE FABRIC?

5 A YES, MA'AM.

6 Q NOW, DID YOUR GRANDPA LEAVE?

7 A I DON'T REMEMBER IF HE LIKE LEFT TO GO TO WHERE HE WAS  
8 GONNA GO, BUT HE DID LEFT (SIC).

9 Q OKAY. HE -- YOU JUST KNOW HE LEFT?

10 A UH-HUH.

11 Q AND WHAT DID YOU-ALL DO WHEN HE LEFT?

12 A WE SET (SIC) DOWN AND STARTED TO WATCH A MOVIE.

13 Q AND DO YOU REMEMBER WHERE YOU WERE WATCHING THE MOVIE?

14 A IN THE LIVING ROOM.

15 Q OKAY; DO YOU REMEMBER WHERE IN THE LIVING ROOM?

16 A IT WAS ON MY BIG -- THE BIG COUCH.

17 MS. HERRING-LASH: YOUR HONOR, MAY I APPROACH THE  
18 WITNESS?

19 THE COURT: ALL RIGHT.

20 Q MINOR I'M GONNA SHOW YOU WHAT HAS BEEN MARKED---

21 THE COURT: YOU-ALL -- YOU-ALL ARE USED TO HAVING  
22 JUDGES GIVE YOU PERMISSION TO APPROACH THE WITNESS, BUT I  
23 DON'T REQUIRE THAT.

24 MS. HERRING-LASH: OKAY.

25 THE COURT: YOU CAN -- YOU'RE -- THE COURTROOM'S YOURS

MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

1 WHEN YOU'RE STANDING.

2 MS. HERRING-LASH: THANK YOU, YOUR HONOR.

3 Q MINOR I'M GONNA SHOW YOU WHAT HAS BEEN MARKED  
4 STATE'S EXHIBIT NUMBER TWO AND THREE. WHAT ARE THOSE  
5 PICTURES OF?

6 A THE INSIDE OF THE TRAILER.

7 Q NOW, ARE THOSE PICTURES EXACTLY THE WAY IT LOOKED WHEN  
8 YOUR GRANDMOTHER LIVED THERE?

9 A NO, MA'AM; IT WAS CLEANER.

10 Q IT WAS CLEANER? BUT AS FAR AS THE LAYOUT IS IT THE  
11 SAME?

12 A UH-HUH -- YES, MA'AM.

13 MS. HERRING-LASH: AT THIS POINT WE WOULD OFFER INTO  
14 EVIDENCE STATE'S EXHIBIT NUMBER TWO AND THREE.

15 MR. DAVIS: NO OBJECTION, YOUR HONOR.

16 THE COURT: THEY'RE ADMITTED.

17 (WHEREUPON, STATE'S EXHIBIT NUMBER 2 WAS ADMITTED INTO  
18 EVIDENCE.)

19 (WHEREUPON, STATE'S EXHIBIT NUMBER 3 WAS ADMITTED INTO  
20 EVIDENCE.)

21 Q I SHOW YOU STATE'S EXHIBIT NUMBER TWO -- BEHIND YOU.  
22 DO YOU SEE THE COUCH IN THAT PICTURE, MINOR

23 A YES, MA'AM.

24 Q CAN YOU POINT TO IT WITH THAT POINTER?

25 A (WITNESS POINTS AT COUCH.)

MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

- 1 Q AND WHERE WAS THE T-V WHEN YOUR GRANDMOTHER LIVED  
2 THERE?
- 3 A IT WAS OVER HERE (POINTING).
- 4 Q AND YOU WERE WATCHING WHAT? DO YOU REMEMBER?
- 5 A IT WAS EITHER (INCOMPREHENSIBLE), JUSTICE, AND -- OR  
6 SHACK.
- 7 Q OKAY; IT -- WAS IT A MOVIE THOUGH?
- 8 A UH-HUH.
- 9 Q NOW, WHERE WAS YOUR GRANDMOTHER?
- 10 A SHE WAS IN HER ROOM.
- 11 Q AND CAN YOU SHOW US WHERE HER ROOM WAS?
- 12 A (POINTING.)
- 13 Q RIGHT BEHIND THE REFRIGERATOR YOU'RE POINTING?
- 14 A UH-HUH.
- 15 Q AND TELL ME WHAT HAPPENED WHEN YOU WERE WATCHING THE  
16 VIDEO.
- 17 A UM -- MY LITTLE SISTER, SHE WENT TO SLEEP. AND THEN MY  
18 OTHER SISTER, SHE DIDN'T WANTED (SIC) TO WATCH A MOVIE, SO  
19 SHE WENT IN MY GRANNY ROOM (SIC) TO WATCH MARTIN.  
20 AND THEN I FELL ASLEEP.
- 21 Q AND WHEN YOU FELL ASLEEP, WHERE WERE YOU SLEEPING?
- 22 A ON THE COUCH.
- 23 Q CAN YOU SHOW US WHAT POSITION YOU WERE IN? LIKE WHERE  
24 YOUR HEAD -- WHICH WAY YOUR HEAD WAS POINTING?
- 25 A (POINTING) IT WAS THIS WAY.

MINOR

1 Q YOU WERE AT THAT END?

2 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
3 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
4 HEARING OF THE JURY, OFF THE RECORD.)

5 (WHEREUPON, COURT RESUMED.)

6 Q IS THAT -- CAN YOU SEE THE COUCH IN THAT PICTURE?

7 A YES.

8 Q OKAY. AND SO YOUR HEAD WAS?

9 A THIS WAY.

10 Q RIGHT THERE TOWARDS THE FRONT?

11 A UH-HUH.

12 Q CAN YOU SHOW THE JURY WHERE THE FRONT DOOR IS?

13 A (POINTING.)

14 Q SO IT'S OPEN IN THAT PICTURE, IS THAT CORRECT?

15 A YES, MA'AM.

16 Q AND WHAT IS THAT BEHIND THE FRONT DOOR? JUST SO  
17 THAT -- SO THE JURY CAN UNDERSTAND THE LAYOUT?

18 A IT WAS OUR BEDROOM.

19 Q CAN YOU POINT TO THAT?

20 A (POINTING.)

21 Q BUT YOU WEREN'T SLEEPING IN YOUR BEDROOM?

22 A NO, MA'AM.

23 Q ALL RIGHT. SO, AFTER YOU FELL ASLEEP WHAT HAPPENED?

24 A UM -- MY GRANDPA CAME IN.

25 Q HOW DO YOU KNOW HE CAME IN?



MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

- 1 A HE SET (SIC) DOWN AND YOU COULD-A HEAR THE DOOR.
- 2 Q PARDON ME?
- 3 A YOU COULD-A HEAR THE DOOR SHUT WHEN HE CAME AND SET
- 4 (SIC) DOWN.
- 5 Q AND WHERE DID HE SIT?
- 6 A RIGHT THERE (POINTING).
- 7 Q AND HOW DO YOU KNOW HE SAT DOWN?
- 8 A 'CAUSE WHEN HE -- WHEN HE SET (SIC) DOWN, IT WAS A
- 9 MOVEMENT.
- 10 Q AND TELL US WHAT HAPPENED THEN.
- 11 A THE, UH -- HE TOOK MY PANTS OFF AND HE WAS LICKING MY
- 12 PRIVATE PART.
- 13 Q NOW, WHAT PANTS DID HE TAKE OFF?
- 14 A MY SHORTS THAT WAS GREEN.
- 15 Q AND WHAT HAPPENED TO THEM WHEN HE TOOK THEM OFF?
- 16 A I DON'T KNOW.
- 17 Q AND WHAT ABOUT -- DID YOU HAVE ON ANY PANTIES?
- 18 A YES, MA'AM.
- 19 Q AND WHAT HAPPENED TO YOUR PANTIES?
- 20 A HE MOVED IT TO THE SIDE.
- 21 Q HOW DID HE MOVE IT TO THE SIDE?
- 22 A WITH HIS HAND -- HIS FINGERS.
- 23 Q WHAT?
- 24 A HIS FINGERS.
- 25 Q AND HOW DO YOU KNOW THAT, MINOR

- 1 A BECAUSE I FELT IT WHEN HE MOVED IT.
- 2 Q AND THEN -- YOU TOLD US WHERE YOUR HEAD WAS. WHAT
- 3 POSITION WERE YOU LAYING IN WHEN THAT HAPPENED?
- 4 A MY -- ONE OF MY LEGS WAS UP ON THE TOP OF THE COUCH
- 5 AND THE OTHER WAS ON THE -- LIKE TURNED OFF THE -- THE
- 6 CHAIR.
- 7 Q HOW DID THEY GET IN THAT POSITION?
- 8 A HE MOVED IT THAT WAY.
- 9 Q MINOR I WANT TO SHOW YOU A FIGURE. IF YOU CAN
- 10 EXPLAIN TO THE JURY HOW YOUR LEGS WERE? IF YOU WANT TO...
- 11 A (DEMONSTRATING.)
- 12 Q AND WHAT IS THE ONE THAT YOU'RE DEMONSTRATING, KIND OF
- 13 HOLDING UP IN THE AIR?
- 14 A THE LEG THAT WAS ON THE COUCH.
- 15 Q THAT WAS WHERE ON THE COUCH?
- 16 A THE LEG THAT WAS ON THE COUCH -- THE TOP.
- 17 Q WHAT DO YOU MEAN BY THE TOP?
- 18 A ON LIKE THE---
- 19 MS. HERRING-LASH: CAN WE GO BACK TO THE OTHER ONE?
- 20 A (POINTING) THE BACK OF THE COUCH.
- 21 Q WHERE -- ARE YOU POINTING TO THE BACK OF THE COUCH?
- 22 A UH-HUH.
- 23 Q AND SO ONE LEG WAS UP THERE?
- 24 A YES, MA'AM.
- 25 Q AND WHERE WAS YOUR GRANDFATHER?

- 1 A ON THE OTHER SIDE.
- 2 Q WHAT DO YOU MEAN BY OTHER SIDE?
- 3 A (POINTING) RIGHT THERE.
- 4 Q AND WHAT POSITION WAS HE IN?
- 5 A HE WAS -- (DEMONSTRATING) HE WAS TURNED LIKE THAT
- 6 KIND OF.
- 7 Q CAN YOU HOLD IT UP WHERE THEY...
- 8 A (DEMONSTRATING.)
- 9 Q AND WHAT WAS HE DOING?
- 10 A HE WAS LICKING MY PRIVATE PART.
- 11 Q AND WHAT DID YOU DO ABOUT THAT?
- 12 A I DIDN'T DO ANYTHING.
- 13 Q YOU WERE AWAKE?
- 14 A YES, MA'AM.
- 15 Q AND ARE YOU SURE THAT'S WHAT WAS HAPPENING?
- 16 A YES, MA'AM.
- 17 Q WHAT HAPPENED WHILE THAT WAS GOING ON?
- 18 A MY GRANDMA CAME INTO THE ROOM.
- 19 Q WHAT HAPPENED WHEN SHE CAME IN?
- 20 A SHE WALKED TO THE -- WENT -- LIKE RIGHT HERE
- 21 (POINTING). AND SHE SAW.
- 22 Q WHAT DID SHE DO WHEN SHE SAW?
- 23 A SHE TOOK THE TELE-- -- THE CORDLESS PHONE AND STARTED
- 24 BAMMING HIM ON THE HEAD.
- 25 Q WHAT KIND OF PHONE?

[REDACTED] MINOR

DIRECT EXAMINATION BY MS. HERRING-LASH

1 A THE CORDLESS -- CORDLESS PHONE.

2 Q ARE YOU SAYING CORDLESS?

3 A YEAH, CORDLESS.

4 Q WHAT DID SHE DO WITH THAT PHONE?

5 A SHE WAS BAMMING HIM ON THE TOP OF HIS HEAD.

6 Q WAS SHE SAYING STUFF?

7 A YES.

8 Q WAS -- WAS -- WHAT WAS HER VOICE LIKE?

9 A SHE WAS ANGRY. YOU COULD TELL, 'CAUSE HE WAS -- SHE  
10 WAS YELLING.

11 Q SHE WAS YELLING?

12 A (NOD.)

13 Q WHAT DID YOU DO?

14 A I MOVED TO THE, UH -- WHERE THE OPENING OF THE DOOR  
15 WAS. IT WAS IN OUR ROOM.

16 Q TO THE OPENING OF THE FRONT DOOR?

17 A THE OPENING OF OUR ROOM.

18 Q OKAY.

19 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
20 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
21 HEARING OF THE JURY, OFF THE RECORD.)

22 (WHEREUPON, COURT RESUMED.)

23 Q WHERE? CAN YOU SEE IT IN THAT PICTURE?

24 A UH-HUH (POINTING).

25 Q YOU MOVED TO THERE?

MINOR

- 1 A YES, MA'AM.
- 2 Q AND WHERE DID YOUR GRANDPA GO?
- 3 A HE -- AT FIRST HE WAS LIKE STILL THERE. AND THEN HE
- 4 LEFT AFTERWARDS.
- 5 Q AND WHAT DID YOUR GRANDMOTHER DO?
- 6 A SHE CAME TO ME AND SHE ASKED ME WHAT HAPPENED.
- 7 Q ASKED YOU WHAT?
- 8 A WHAT HAPPENED.
- 9 Q WHERE WERE YOU WHEN SHE ASKED YOU WHAT HAPPENED?
- 10 A AT FIRST I WAS AT THE FRONT DOOR -- THE DOOR PART OF
- 11 OUR ROOM. AND THEN SHE MOVED ME INTO THE, UM -- THE BEDROOM
- 12 AND, UM, SET (SIC) ME ON THE BED.
- 13 Q AND WHEN SHE SAT YOU ON THE BED WHAT DID SHE DO?
- 14 A SHE KEPT ASKING ME QUESTIONS. AND THEN AFTER SHE ASKED
- 15 ME AND I TOLD HER, SHE LIKE LOOKED DOWN MY PANTIES TO SEE
- 16 WHAT WAS WHAT.
- 17 Q AND DID SHE -- YOU SAID SHE LOOKED DOWN YOUR PANTIES?
- 18 A SHE LOOKED DOWN 'EM.
- 19 Q DID SHE TOUCH YOUR BODY AT ALL? I MEAN, INSIDE OF YOUR
- 20 PANTIES?
- 21 A NO, SHE JUST LIKE -- YOU KNOW HOW IT'S -- IT'S STILL
- 22 ON? IT'S JUST SHE TOUCHED IT TO SEE IF IT WAS WET.
- 23 Q AND WHAT HAPPENED AFTER THAT?
- 24 A THEN LIKE A COUPLE OF MINUTES AFTERWARD THE POLICE
- 25 CAME.

1 Q AND DO YOU REMEMBER WHAT POLICE CAME? WHAT THEY LOOKED  
2 LIKE?

3 A NO. I KNOW IT WAS A LADY AND A BUNCH OF -- IT WAS A  
4 COUPLE OF LIKE -- I -- I CAN SAY IT WAS FIVE 'EM (SIC), BUT  
5 IT PROBABLY WAS MORE.

6 Q DID ANY OF THEM TALK WITH YOU?

7 A YES, MA'AM.

8 Q AND DID THEY ASK YOU WHAT HAD HAPPENED?

9 A YES, MA'AM.

10 Q WHERE WERE YOU WHEN THEY WERE TALKING WITH YOU?

11 A AT FIRST I WAS AT THE LITTLE -- IT'S LIKE A BAR-ISH  
12 THING.

13 Q IS THAT -- CAN WE SEE THAT IN THE PICTURE?

14 A UH-HUH.

15 Q CAN YOU---

16 A I WAS RIGHT THERE (POINTING).

17 Q AND YOU SAID AT FIRST YOU WERE THERE. WHERE WERE YOU  
18 THAT -- AFTER THAT?

19 A UM -- CAN YOU SHOW ME THE OTHER PICTURE? (AFTER  
20 PICTURE CHANGED -- POINTING) OVER ON THE OTHER SIDE.

21 Q OKAY. IS THAT A -- IS THAT A TABLE OVER THERE? OR,  
22 WAS YOURS A TABLE?

23 A IT WASN'T -- IT WASN'T A TABLE OVER THERE.

24 Q IT WASN'T A TABLE WHEN YOU-ALL LIVED THERE. AND DID  
25 YOU TELL THE POLICE OFFICER WHAT HAD HAPPENED?

MINOR

- 1 A YES, MA'AM.
- 2 Q NOW, WHEN YOU WERE TALKING TO THE POLICE OFFICER, WAS
- 3 YOUR GRANDMOTHER THERE?
- 4 A YES, MA'AM.
- 5 Q AND WAS SHE TALKING TO THE POLICE OFFICER TOO?
- 6 A NO, SHE WAS JUST SITTING ON THE SIDE OF ME AND SHE WAS
- 7 RUBBING MY BACK SAYING THAT I HAD TO TALK.
- 8 Q WAS SHE TELLING YOU WHAT TO SAY?
- 9 A NO, MA'AM.
- 10 Q UM -- AND AFTER YOU TALKED TO THE POLICE OFFICERS WHAT
- 11 DID YOU DO?
- 12 A MY AUNTIE CAME WHEN -- WHEN I WAS OVER THERE AND THEN
- 13 WE -- AND THEN AFTER THE POLICE OFFICERS, HE CAME BACK
- 14 DURING THEN WHEN THEY WAS TALKING TO US.
- 15 THEY ESCORTED HIM OUT THE DOOR AND ARREST (SIC) HIM.
- 16 AFTER THAT, THEY CAME -- UM, SOME OF THEM CAME BACK IN
- 17 AND SOME OF THEM STAYED OUT.
- 18 AND THEN WE WAS WAITING FOR THE AMBULANCE.
- 19 Q OKAY, WHEN YOU SAID HE CAME BACK, WHO WERE YOU TALKING
- 20 ABOUT?
- 21 A MY GRANDPA.
- 22 Q AND WHEN HE CAME BACK, WHERE WERE YOU?
- 23 A I WAS (POINTING) OVER HERE STILL.
- 24 Q DID YOU SEE HIM?
- 25 A YES, MA'AM.

MINOR

- 1 Q AND YOU SAID YOU WERE WAITING FOR THE AMBULANCE?
- 2 A UH-HUH.
- 3 Q AND DID IT COME?
- 4 A NO, MA'AM.
- 5 Q SO WHAT HAPPENED?
- 6 A THE POLICE LADY HAD TOOK US.
- 7 Q WHERE DID SHE TAKE YOU?
- 8 A TO THE, UM -- THE HOSPITAL.
- 9 Q AND WHAT HAPPENED AT THE HOSPITAL?
- 10 A THE PEOPLE -- AFTERWARD I SAW (SIC), I WAS SUPPOSED TO
- 11 GET A SHOT. AND THEN WE WENT UPSTAIRS TO THE EXAMINING
- 12 ROOM.
- 13 Q AND YOU REMEMBER THE SHOT?
- 14 A YES, MA'AM.
- 15 Q WHAT ELSE HAPPENED WHEN YOU WENT TO THE EXAMINING ROOM?
- 16 A UM -- MY MOM -- AFTER I STAY, ASKED ME ABOUT DID I
- 17 WANTED (SIC) MY MAMA TO COME? AND THEN I WAS LIKE, NO. AND
- 18 THEN I SAID YEAH, 'CAUSE I DIDN'T KNOW WHAT WAS GONNA
- 19 HAPPEN.
- 20 Q AND DID YOUR MAMA COME IN THERE?
- 21 A YES, MA'AM.
- 22 Q SO, NOW YOUR MOTHER HADN'T ARRIVED AT THE TRAILER, HAD
- 23 SHE?
- 24 A NO, MA'AM.
- 25 Q AT THE HOSPITAL?



1 A UH-HUH.

2 Q DID THEY EXAMINE YOU?

3 A YES, MA'AM.

4 Q AFTER THE EXAMINATION -- WELL, WHO WAS WITH YOU DURING  
5 THE EXAMINATION?

6 A MY MAMA.

7 Q AND AFTER THE EXAMINATION, WHAT DID YOU-ALL DO?

8 A WE WENT HOME.

9 Q WERE YOU THERE FOR A LONG TIME?

10 A FOR A WHILE.

11 Q AND WHAT HAPPENED WHEN YOU GOT HOME?

12 A WE WAS JUST SITTING THERE AND EVERYBODY WAS LIKE LET'S  
13 JUST GET SOME SLEEP. SO EVERYBODY WENT TO SLEEP.

14 Q NOW, MINOR UM, HAVE YOU TALKED TO YOUR GRANDMOTHER  
15 OR YOUR MOM OR YOUR AUNT A LOT ABOUT THIS?

16 A NO, MA'AM.

17 Q IS IT SOMETHING YOU LIKE TO TALK ABOUT?

18 A NO.

19 MS. HERRING-LASH: COURT'S INDULGENCE FOR ONE MOMENT.

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
21 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
22 HEARING OF THE JURY, OFF THE RECORD.)

23 (WHEREUPON, COURT RESUMED.)

24 Q MINOR THOSE ARE ALL THE QUESTIONS I HAVE. NOW YOU  
25 NEED TO ANSWER ANY THAT MR. DAVIS HAS. YOU NEED TO STAY

1       THERE.

2       A     OKAY.

3       MINOR       CROSS-EXAMINATION BY MR. DAVIS:

4       Q     GOOD AFTERNOON; CAN I CALL YOU MINOR

5       A     YES.

6       Q     OKAY.  UM -- I THINK YOU TOLD MS. HERRING (SIC) THAT  
7       YOU'RE THIRTEEN NOW?

8       A     YES.

9       Q     IS THAT RIGHT?  OKAY.  WE'RE TALKING ABOUT STUFF THAT  
10      HAD HAPPENED BACK THANKSGIVING A FEW YEARS AGO.  YOU WERE  
11      NINE BACK THEN?

12      A     YES.

13      Q     IS THAT RIGHT?  YOU'VE GROWN UP SOME SINCE THEN,  
14      CORRECT?

15      A     YES.

16      Q     YOU'VE GOTTEN TALLER, YOU'VE GOTTEN BIGGER A LITTLE  
17      BIT?

18      A     YES.

19      Q     OKAY.  UM -- I WANT TO TALK TO YOU A LITTLE BIT ABOUT  
20      WHAT YOU JUST WENT OVER, ALL RIGHT?

21      A     UH-HUH.

22      Q     YOU HAD BEEN IN THE HOUSE.  I THINK IT WAS YOUR TWO  
23      SISTERS THERE WITH YOU, RIGHT?

24      A     YES, SIR.

25      Q     AND YOUR GRANDMOTHER AND YOUR GRANDFATHER, RIGHT?

MINOR

- 1 A YES, SIR.
- 2 Q AND THAT'S SHEILA AND HAROLD, RIGHT?
- 3 A YES, SIR.
- 4 Q OKAY. AND AT SOME POINT THAT DAY, YOU AND YOUR SISTERS
- 5 ARE OUT PLAYING FOR A WHILE, RIGHT?
- 6 A UH-HUH.
- 7 Q THAT'S A YES?
- 8 A YES.
- 9 Q OKAY. AND THEN YOU ALL COME IN AND YOU AND YOUR
- 10 SISTERS TAKE A BATH TOGETHER, RIGHT?
- 11 A YES, SIR.
- 12 Q NOW YOU DIDN'T LIVE THERE, YOU WERE JUST VISITING FOR A
- 13 FEW DAYS; RIGHT?
- 14 A YES, SIR.
- 15 Q MEANING YOU -- YOU WERE VISITING, RIGHT?
- 16 A UH-HUH.
- 17 Q OKAY. YOU HAD, UM -- YOU AND YOUR SISTERS HAD PACKED
- 18 SOME CLOTHES AND STUFF TO BRING WITH YOU, RIGHT?
- 19 A NO, WE USUALLY HAVE CLOTHES AT MY GRANDMA'S HOUSE.
- 20 Q SO YOU USE THE CLOTHES AND -- AND STUFF THAT'S ALREADY
- 21 THERE AT THE HOUSE, RIGHT?
- 22 A YES, SIR.
- 23 Q OKAY. THE CLOTHES THAT YOU SAW A LITTLE BIT AGO, THAT
- 24 YOU -- YOU HAD ON, DID YOU WEAR (SIC) THOSE WITH YOU OR DID
- 25 YOU HAVE THOSE THERE AT THE HOUSE AFTER THE BATH?

[REDACTED]

- 1 A I HAD THOSE AT THE HOUSE ALREADY.
- 2 Q OKAY. AND, UM -- NOW, IT WAS JUST YOU AND YOUR SISTERS
- 3 TAKING THE BATH TOGETHER, RIGHT?
- 4 A YES, SIR.
- 5 Q OKAY. UM -- YOU WOULD HAVE USED TOWELS AND STUFF
- 6 THAT -- THAT SHEILA AND HAROLD -- GRANDMA AND GRANDPA HAD
- 7 THERE FOR YOU, RIGHT?
- 8 A THEY'D WASH IT AND STUFF LIKE THAT.
- 9 Q RIGHT; TO WASH AND DRY OFF YOU WOULD HAVE USED THEIR
- 10 TOWELS?
- 11 A UH-HUH.
- 12 Q OKAY. AND THEN ONCE YOU GOT, UH, WASHED UP, THEN
- 13 YOU-ALL STARTED WATCHING SOME T-V SHOWS AND STUFF, RIGHT?
- 14 A YES, SIR.
- 15 Q BUT YOU WATCHED A -- LIKE A MOVIE ON -- ON VIDEO OR
- 16 WHATEVER, RIGHT?
- 17 A TAPE.
- 18 Q ON TAPE, OKAY. AND ONE SISTER DIDN'T WANT TO WATCH
- 19 THAT. WENT INTO WHAT WOULD BE YOU-ALL'S ROOM WHEN YOU'RE
- 20 STAYING THERE?
- 21 A NO. ONE OF MY SISTER (SIC) -- KYLA -- SHE WENT TO MY
- 22 GRANDMOTHER'S ROOM TO WATCH MARTIN.
- 23 Q OKAY, RIGHT. ONE GOES IN WITH YOUR GRANDMA TO KIND OF
- 24 TAKE A LITTLE NAP, RIGHT?
- 25 A YES.

MINOR

1 Q ANOTHER SISTER GOES INTO A DIFFERENT ROOM THOUGH,  
2 RIGHT?

3 A NO, SHE WAS STILL IN THERE FOR A SECOND AND THEN  
4 SHE'S -- LIKE WHEN SHE'S SLEEPY, SHE'LL CLIMB DOWN AND  
5 SHE'LL JUST GO SOMEWHERE.

6 Q OKAY. SO SHE DIDN'T GO WATCH SOMETHING, SHE JUST WENT  
7 SOMEWHERE ELSE ALSO? SHE WASN'T IN YOUR -- THE LIVING ROOM  
8 WITH YOU?

9 A HUH-UH.

10 Q AND SHE WASN'T IN THE BEDROOM WITH YOUR GRANDMA AND  
11 YOUR OTHER SISTER?

12 A HUH-UH.

13 Q RIGHT, SHE WAS SOMEWHERE ELSE?

14 A (NO RESPONSE.)

15 Q CORRECT?

16 A YES, SIR.

17 Q OKAY. UM -- AND THEN, WHILE YOU'RE WATCHING THIS TAPE,  
18 AT SOME POINT, UM -- NOW, DID YOU DOZE OFF WHILE YOU WERE  
19 WATCHING THIS TAPE?

20 A YES, SIR.

21 Q OKAY, SO YOU WERE WATCHING ONE THAT'S ONE OF YOUR  
22 FAVORITES. YOU'D WATCHED IT PROBABLY SEVERAL TIMES BEFORE?

23 A YES.

24 Q RIGHT? AND YOU'RE WATCHING IT AGAIN AND YOU DOZE OFF A  
25 LITTLE BIT. YOU'RE LAID OUT ON THE COUCH, RIGHT?

MINOR

- 1 A YES, SIR.
- 2 Q THAT'S THE SAME COUCH THAT WAS IN THERE WHEN YOU-ALL
- 3 WERE THERE?
- 4 A I DON'T REMEMBER THAT COUCH; IT WAS DIFFERENT.
- 5 Q OKAY. 'CAUSE THESE PICTURES YOU'RE LOOKING AT NOW,
- 6 THEY WEREN'T TAKEN BACK THEN, RIGHT?
- 7 A HUH-UH.
- 8 Q THIS IS FROM -- SOMEONE ELSE IS LIVING THERE NOW,
- 9 RIGHT?
- 10 A OH, YES, SIR.
- 11 Q YEAH. WELL, YOU KNOW, UH, GRANDMA ISN'T LIVING THERE
- 12 ANYMORE, RIGHT?
- 13 A NO, SIR.
- 14 Q AND THAT STUFF YOU SAW IN THERE -- LIKE YOU SAID, IT'S
- 15 MUCH MESSIER THAN WHEN YOUR GRANDMA LIVED THERE, RIGHT?
- 16 A YES, SIR.
- 17 Q OKAY. UM -- BUT NOW, WHEN YOU WERE SMALLER -- WHEN YOU
- 18 WERE NINE, WHEN YOU -- YOU DIDN'T STRETCH ALL ACROSS THE
- 19 COUCH, DID YOU?
- 20 A HUH-UH.
- 21 Q YOU HAD YOUR HEAD, PROBABLY, ON ONE OF THE ARMS OF IT?
- 22 IS THAT RIGHT?
- 23 A YES.
- 24 Q AND YOU WERE LAYING DOWN AND YOUR FEET WERE LAYING ON
- 25 THE COUCH, RIGHT?

MINOR

- 1 A YES, SIR.
- 2 Q BUT THEY DIDN'T REACH TO THE OTHER ARM OF THE COUCH,  
3 DID THEY?
- 4 A NO, SIR.
- 5 Q OKAY. AND YOU'RE KIND OF LAYING THERE, AND YOU'RE KIND  
6 OF LOOKING, WHAT, TO YOUR RIGHT TO WATCH T-V?
- 7 A UH-HUH..
- 8 Q OKAY. AND SO YOU DOZE OFF AT SOME POINT. BUT THEN YOU  
9 KNOW THAT GRANDPA WAS IN THE HOUSE, 'CAUSE HE SITS DOWN AND  
10 YOU KIND-A FEEL THE---
- 11 A UH-HUH.
- 12 Q ---THE COUCH MOVE?
- 13 A YES, SIR.
- 14 Q HE SITS DOWN AT YOUR FEET, RIGHT?
- 15 A UH-HUH.
- 16 Q OKAY. AND THEN IT'S NOT LONG AFTER THAT THAT GRANDMA  
17 COMES OUT OF HER BEDROOM, RIGHT?
- 18 A YES, SIR.
- 19 Q SHE WAS LOOKING FOR SOMEBODY?
- 20 A SHE WAS LOOKING FOR MY SISTER, PARIS, THE ONE WHO RUNS  
21 AROUND.
- 22 Q I'M SORRY, SAY THAT AGAIN?
- 23 A PARIS, THE ONE WHO RUNS AROUND.
- 24 Q OKAY. OKAY, SO THE -- THESE ARE YOUNGER SISTERS?
- 25 A YES, SIR.

MINOR

- 1 Q OKAY. AND SO YOU WERE NINE AND THEY WERE EVEN YOUNGER  
2 THAN THAT, RIGHT?  
3 A YES, SIR.  
4 Q AND, YOU KNOW, KIDS ARE -- THEY RUN AROUND ALL THE  
5 TIME, RIGHT?  
6 A YES, SIR.  
7 Q AND YOU'RE NOT REAL SURE WHERE GRANDPA IS WHEN YOU  
8 STARTED WATCHING THE TAPE, RIGHT?  
9 A UH-HUH.  
10 Q RIGHT?  
11 A YES, SIR.  
12 Q OKAY, THANK YOU. AND GRANDMA GOES IN AND FALLS  
13 ASLEEP?  
14 A YES, SIR.  
15 Q AND SO SHE WAKES UP AND SHE DOESN'T KNOW WHERE THE --  
16 YOUR SISTER, PARIS, IS?  
17 A YES, SIR.  
18 Q SO SHE COMES IN LOOKING FOR HER, RIGHT?  
19 A YES, SIR.  
20 Q YOU KNOW WHERE SHE WAS, DON'T YOU?  
21 A YES, SIR.  
22 Q PARIS WAS IN THE BEDROOM WITH GRANDMA.  
23 A NO, PARIS WAS IN THE OTHER ROOM, ON---  
24 Q I'M SORRY, I'M STARTING TO GET YOUR SISTERS MIXED UP.  
25 THERE WAS A SISTER IN THE BEDROOM WITH YOUR GRANDMOTHER,



MINOR

- 1 RIGHT?
- 2 A YES, KYLA.
- 3 Q AND SHE WAS LAYING ON THE FLOOR AND YOUR GRANDMA DIDN'T
- 4 SEE HER, DID SHE?
- 5 A UM -- I DON'T KNOW IF SHE SAW HER OR NOT.
- 6 Q OKAY -- OKAY. BUT THEN WHEN GRANDMA COMES IN, THIS IS
- 7 AT NIGHTTIME, RIGHT?
- 8 A YES, SIR.
- 9 Q AND WHEN SHE COMES OUT OF HER BEDROOM, THERE IS A
- 10 KITCHEN RIGHT THERE, RIGHT?
- 11 A YES, SIR.
- 12 Q AND THERE WAS A LITTLE LIKE A -- A STOVE LIGHT OR
- 13 WHATEVER ON, IS THAT RIGHT?
- 14 A I THINK THERE WAS.
- 15 Q YEAH. AND SO THAT WOULD HAVE BEEN IN -- ON THE
- 16 OPPOSITE SIDE OF THE BAR FROM THE COUCH, RIGHT?
- 17 A YES, SIR.
- 18 Q AND, OF COURSE, THE T-V WAS ON?
- 19 A YES, SIR.
- 20 Q NOTHING -- NOTHING ELSE ON. YOU -- YOU WERE DOZING OFF
- 21 WATCHING T-V AND THERE WASN'T ANY OTHER LIGHTS ON, WERE
- 22 THERE?
- 23 A IT -- NO, THERE WASN'T NO LIGHTS.
- 24 Q OKAY. SO SHE -- AND YOUR GRANDMA, UM, WEARS GLASSES
- 25 SOMETIMES, RIGHT?

MINOR

1 A YES, SIR.

2 Q OKAY. SO SHE COMES IN, AND BOY SHE GETS ANGRY AND  
3 STARTS YELLING, RIGHT? AND STARTS HITTING GRANDPA OVER THE  
4 HEAD WITH THE PHONE?

5 A NO; SHE WALKED OVER, TURNED THE LIGHTS ON, AND SHE SAW  
6 WHAT SHE SAW. AND THEN SHE STARTED HITTING HIM.

7 Q OKAY; AND YELLING AND WHATEVER?

8 A YES, SIR.

9 Q RIGHT? GRANDPA PRETTY MUCH LOOKS TODAY LIKE HE DID  
10 BACK THEN?

11 A YES, SIR.

12 Q BIG GUY, BIG SHOULDERS?

13 A YES, SIR.

14 Q UH -- BALD HEAD?

15 A BALDHEADED; YES, SIR.

16 Q YEAH, OKAY. UM -- AND SHE WAS WHACKING HIM ON THE HEAD  
17 WITH A PHONE, RIGHT?

18 A YES, SIR.

19 Q YELLING AT HIM?

20 A YES, SIR.

21 Q HE -- I THINK YOU SAID HE STAYED THERE FOR A SECOND AND  
22 THEN ULTIMATELY GETS OUT OF THERE? HE GOES OUT THE FRONT  
23 DOOR, RIGHT?

24 A YES, SIR.

25 Q OKAY, LET ME JUMP AHEAD FOR A SECOND. A LITTLE BIT

MINOR

- 1     LATER THE POLICE GET THERE, RIGHT?
- 2     A     YES, SIR.
- 3     Q     AND A LITTLE BIT AFTER THE POLICE GET THERE, GRANDPA
- 4     COMES BACK IN, RIGHT?
- 5     A     YES, SIR.
- 6     Q     OKAY. NOW, AFTER GRANDMA BANGS HIM OVER THE HEAD AND
- 7     HE LEAVES, SHE TAKES YOU INTO THE ROOM THAT YOU NORMALLY
- 8     WOULD SLEEP IN; IS THAT RIGHT?
- 9     A     YES, SIR.
- 10    Q     OKAY. AND SHE'S REAL CONCERNED THAT SOMETHING HAPPENED
- 11    TO YOU?
- 12    A     YES, SIR.
- 13    Q     SHE'S REAL CONCERNED THAT GRANDPA DID SOMETHING TO YOU?
- 14    A     YES, SIR.
- 15    Q     YOU'RE NOT REALLY WANTING TO SAY MUCH TO HER?
- 16    A     NO, NOT AT FIRST.
- 17    Q     OKAY. SHE -- AND -- AND HELP -- HELP THESE FOLKS OVER
- 18    HERE UNDERSTAND THIS. SHE CHECKED YOUR PANTIES TO SEE IF
- 19    THEY WERE WET?
- 20    A     SHE TAPPED -- LIKE YOU KNOW HOW YOU TAKE YOUR HAND AND
- 21    RUB IT? YEAH.
- 22    Q     OKAY. MINOR I'M SORRY. ON THE INSIDE OR OUTSIDE OF
- 23    YOUR PANTIES?
- 24    A     OUTSIDE---
- 25    Q     OUTSIDE OF---

MINOR

- 1 A ---SHE DIDN'T GO IN.
- 2 Q ---YOUR PANTIES. AND SHE -- SHE CALLED SOMEBODY PRETTY
- 3 SOON -- RIGHT AROUND THAT TIME, IS THAT RIGHT?
- 4 A SHE CALLED, UH -- SHE CALLED MY AUNTIE WHEN HE WAS --
- 5 SHE WAS BANGING HIM ON THE HEAD.
- 6 Q OKAY. AND SOMEHOW THE POLICE GET THERE NOT LONG AFTER
- 7 THAT, RIGHT?
- 8 A YES, SIR.
- 9 Q BUT BEFORE THEY GOT THERE, IT WAS JUST YOU AND YOUR
- 10 GRANDMA IN THAT BEDROOM, RIGHT?
- 11 A YES, SIR.
- 12 Q OKAY. NOW, THERE WAS A LADY POLICE OFFICER THAT CAME
- 13 AND TALKED TO YOU---
- 14 A YES, SIR.
- 15 Q ---RIGHT? NOW, BEFORE THAT LADY OFFICER WAS THERE,
- 16 THERE WERE SOME OTHER MALE OFFICERS THERE AS WELL, RIGHT?
- 17 A YES, SIR.
- 18 Q OKAY. UM -- BUT THEY WAITED FOR A LADY OFFICER TO COME
- 19 TALK TO YOU?
- 20 A UH-HUH.
- 21 Q AND YOU TALKED TO HER, I THINK YOU SAID, AT FIRST THERE
- 22 AT THE BAR AREA, AND THEN YOU MOVED OVER A LITTLE AWAY FROM
- 23 IT; IS THAT RIGHT?
- 24 A YES, SIR.
- 25 Q NOW, THE WHOLE TIME YOU'RE TALKING TO THE LADY OFFICER,

MINOR

1 YOUR GRANDMA'S THERE WITH YOU---

2 A YES, SIR.

3 Q ---RIGHT? AND I THINK YOU SAID SOMETHING LIKE SHE WAS  
4 RUBBING YOUR BACK AND -- AND TELLING YOU TO TALK TO THE  
5 LADY---

6 A YES, SIR.

7 Q ---IS THAT RIGHT? OKAY. UM -- NOW, YOU'RE NINE YEARS  
8 OLD. THE POLICE DIDN'T HAVE YOU WRITE ANYTHING ON PAPER OR  
9 ANYTHING, DID THEY?

10 A NO, SIR.

11 Q THEY DIDN'T SHOW ANYTHING THAT THEY ASKED YOU TO SIGN  
12 OR ANYTHING, DID THEY?

13 A NO, SIR.

14 Q THEY JUST TALKED TO YOU A LITTLE BIT, IS THAT RIGHT?

15 A YES, SIR.

16 Q AND WHILE THE POLICE WERE THERE, THE -- GRANDPA COMES  
17 BACK IN AND ONE OF THE OFFICERS PUTS HIM IN CUSTODY AND  
18 TAKES HIM OUT OF THE HOUSE; IS THAT RIGHT?

19 A YES, SIR.

20 Q OKAY. AND THEN A LITTLE BIT LATER, UM, YOU GO TO THE  
21 HOSPITAL; RIGHT?

22 A YES, SIR.

23 Q AND NOW, WHO -- WHO TOOK YOU TO THE HOSPITAL?

24 A UM -- IT WAS THE LADY, UM, OFFICER.

25 Q OKAY -- OKAY. UM -- IN A POLICE CAR, WITH THE LIGHTS

MINOR

1 ON IT AND EVERYTHING?

2 A NO, IT WASN'T NO LIGHTS ON.

3 Q I'M SORRY; NOT THAT THEY WERE TURNED ON, BUT WERE --

4 WAS IT A POLICE CAR -- BLACK AND WHITE -- WITH THE---

5 A UH-HUH.

6 Q ---WITH LIGHTS ON IT?

7 A YES.

8 Q OKAY. NOW, WHEN YOU GET TO THE HOSPITAL -- YOU CAME

9 DOWN HERE TO M-U-S-C? DO YOU REMEMBER? IS THAT RIGHT?

10 A I -- YEAH.

11 Q OKAY. AND YOU HAD GONE IN AND THERE WAS A DOCTOR IN

12 THERE, RIGHT?

13 A YES, SIR.

14 Q AND YOUR MOM WENT IN WITH YOU?

15 A MY MAMA WASN'T RIGHT THERE -- IN THERE YET. IT LIKE

16 TOOK A WHILE FOR THEM TO GO -- GET TO ME. AND THEN LIKE BY

17 THE TIME THEY CAME TO GET ME, MY MAMA WAS THERE.

18 Q OKAY. YEAH, I'LL -- I'LL BE BETTER AT ASKING

19 QUESTIONS. WHEN YOU ACTUALLY WENT BACK TO THE EXAM ROOM---

20 A YES, SIR.

21 Q ---OKAY? YOU WENT IN, YOUR MOM WENT IN WITH YOU?

22 A YES, SIR.

23 Q THE DOCTOR WAS THERE?

24 A YES, SIR.

25 Q AND THERE WAS ANOTHER LADY THERE LIKE A -- A ADVOCATE?

MINOR

- 1 DO YOU REMEMBER THAT?
- 2 A I DON'T KNOW WHAT'S A ADVOCATE. (SIC)
- 3 Q OKAY. DO YOU REMEMBER -- LET ME ASK -- ASK IT THIS
- 4 WAY. YOU MET -- DO YOU REMEMBER ANOTHER PERSON BEING IN
- 5 THERE WITH YOU FOR A LITTLE WHILE?
- 6 A NO.
- 7 Q YOU DON'T REMEMBER THAT?
- 8 A (NOD.)
- 9 Q OKAY. THIS HAS BEEN ALMOST FIVE YEARS AGO, RIGHT?
- 10 A YEAH, I THINK SO.
- 11 Q OKAY. UH -- NOW, DO YOU REMEMBER AT SOME POINT -- AND
- 12 YOU HELP THE JURORS UNDERSTAND THIS -- YOU HAD TO GO TO THE
- 13 BATHROOM AT SOME POINT, RIGHT?
- 14 A YES, SIR.
- 15 Q YOU HAD TO URINATE AT SOME POINT?
- 16 A YES, SIR.
- 17 Q AND THEY TOLD YOU THAT'S OKAY TO DO THAT, BUT THEY
- 18 GAVE YOU A CLOTH TO WIPE WITH; IS THAT RIGHT?
- 19 A THE OFFICER SAID TO USE A CLOTH.
- 20 Q OKAY, THE LADY OFFICER?
- 21 A UH-HUH. I DON'T KNOW IF IT WAS -- I DON'T REMEMBER
- 22 IF IT WAS THE LADY OR THE MEN, BUT ONE OF THEM GAVE ME A
- 23 CLOTH.
- 24 Q THIS WAS AT THE HOUSE?
- 25 A UH-HUH.

1 Q AT THE TRAILER, I MEAN?

2 A YES, SIR.

3 Q OKAY. AND SO, YOU -- YOU KNOW, YOU HAD TO GO TO THE  
4 BATHROOM. THEY SAID THAT'S OKAY, BUT WHEN YOU DO, HERE'S  
5 A CLOTH AND -- AND WIPE WITH IT, AND THEN GIVE IT BACK  
6 TO US?

7 A HE WAS LIKE, YOU SHOULD, UM, USE A CLOTH. AND THEN MY  
8 GRANDMA WENT TO GET THE CLOTH.

9 Q GRANDMA GAVE YOU THE CLOTH; IT WAS ONE OF HERS?

10 A I THINK SO.

11 Q LIKE -- LIKE A WASHRAG OR SOMETHING?

12 A YES, SIR.

13 Q OKAY. AND YOU DID THAT?

14 A YES, SIR.

15 Q AND YOU GAVE -- YOU ENDED UP GIVING THAT BACK TO THE  
16 POLICE?

17 A YES, SIR.

18 Q OKAY. (AFTER A PAUSE) JUST A FEW MORE QUESTIONS,

19 MINOR UM -- GRANDMA WAS PRETTY UPSET ABOUT THIS WHOLE  
20 NIGHT, WASN'T SHE?

21 A YES, SIR.

22 Q AND I THINK YOU'VE ALREADY TALKED ABOUT YOUR AUNT AND  
23 YOUR MOM, RIGHT? UM -- YOU HAD -- YOU HAD AN AUNT THAT WAS  
24 LIVING HERE THAT YOUR GRANDMA CALLED, RIGHT?

25 A YES, SIR.



MINOR

- 1 Q ABOUT THE TIME SHE'S HITTING GRANDPA WITH THE PHONE,  
2 RIGHT?
- 3 A YES, SIR.
- 4 Q AND THEN, OF COURSE, YOUR MOM SHOWS UP AT THE HOSPITAL,  
5 RIGHT?
- 6 A NO; MY -- NOT BACK WHEN SHE WAS HITTING HIM ON THE  
7 THING.
- 8 Q NO, IT'S LATER; I'M SORRY. I ASKED THAT REAL -- LATER,  
9 AT THE HOSPITAL---
- 10 A OH.
- 11 Q ---YOUR MOM SHOWS UP; RIGHT?
- 12 A YES, SIR.
- 13 Q OKAY. SHE WAS PRETTY UPSET AS WELL?
- 14 A YES, SIR.
- 15 Q UM -- AGAIN, THIS WAS ABOUT, YOU KNOW, FOUR YEARS AGO  
16 OR SO. AND, UH, YOU'VE -- YOU'VE TALKED TO, UH, MS. DEBBIE  
17 HERE BEFORE, HAVEN'T YOU?
- 18 A YES, SIR.
- 19 Q UM -- SHE'S SHOWN YOU THESE PICTURES BEFORE, RIGHT?
- 20 A YES, SIR.
- 21 Q AND YOU'VE TALKED TO HER SEVERAL TIMES PREPARING FOR --  
22 FOR TALKING TO THESE FOLKS HERE TODAY, RIGHT?
- 23 A YES, SIR.
- 24 Q YOU'VE PROBABLY SEEN THAT DOLL BEFORE, RIGHT?
- 25 A YES, SIR.

1 Q UM -- AND YOU'VE USED IT TO EXPLAIN TO MS. DEBBIE ABOUT  
2 WHAT POSITIONS PEOPLE WERE IN AND THAT KIND OF THING, RIGHT?

3 A YES, SIR.

4 Q UM -- AND YOU'VE HAD THE CHANCE, UM, PREVIOUS, AT --  
5 AT A PRIOR PROCEEDING, TO -- TO TESTIFY ABOUT THIS; RIGHT?

6 A YES, SIR.

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
8 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
9 HEARING OF THE JURY, OFF THE RECORD.)

10 (WHEREUPON, COURT RESUMED.)

11 MR. DAVIS: YOUR HONOR, IF I COULD HAVE JUST ONE  
12 MOMENT, PLEASE?

13 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
14 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
15 HEARING OF THE JURY, OFF THE RECORD.)

16 (WHEREUPON, COURT RESUMED.)

17 Q MINOR JUST A COUPLE OTHER QUESTIONS AND I'LL BE  
18 DONE, OKAY?

19 UM -- I THINK I HEARD YOU SAY EARLIER ABOUT -- SOMETHING  
20 ABOUT PANTS? WHEN YOU WERE WATCHING THE TAPE, YOU DIDN'T  
21 HAVE LONG PANTS ON, DID YOU?

22 A NO, SIR.

23 Q OKAY. YOU PUT SOME ON LATER WHEN YOU WERE LEAVING TO  
24 GO TO THE HOSPITAL, RIGHT?

25 A YES, SIR.

- 1 Q OKAY. BUT NOW -- OKAY, SO JUST THAT LITTLE TEE SHIRT,  
2 THE GREEN SHORTS, AND THE PANTIES?
- 3 A YEAH, I HAD -- THAT'S WHEN I WAS LAYING DOWN. AND THEN  
4 WHEN WE WAS LEAVING, I HAD JUST PUT SOME PINK SHORTS -- I  
5 THINK IT WAS PINK LONG PANTS OR SWEATS OR SOMETHING LIKE  
6 THAT ON.
- 7 Q OKAY. BUT WHEN YOU WERE IN THE HOUSE WATCHING THE  
8 TAPE, TEE SHIRT, THE GREEN SHORTS, AND PANTIES. AND THAT  
9 WAS IT?
- 10 A YES, SIR.
- 11 Q OKAY. UM -- (AFTER PAUSE) I'M GONNA ASK YOU IF YOU  
12 REMEMBER, OKAY?
- 13 A OKAY.
- 14 Q WHEN -- WHEN THE LADY POLICE OFFICER ARRIVED, YOU  
15 WEREN'T SAYING A WHOLE LOT. BUT GRANDMA WAS THERE TO HELP  
16 YOU?
- 17 A SHE WAS ENCOURAGING ME.
- 18 Q I'M SORRY, I DIDN'T HEAR WHAT YOU SAID.
- 19 A SHE WAS ENCOURAGING ME.
- 20 Q ENCOURAGING YOU? TO -- TO DO WHAT?
- 21 A TO GO AHEAD AND TELL HER THE TRUTH.
- 22 Q OKAY. DID SHE TELL YOU WHAT WOULD HAPPEN IF YOU TALKED  
23 TO THE POLICE?
- 24 A NO.
- 25 Q OKAY, DID SHE TELL YOU WHAT WOULD HAPPEN IF YOU DIDN'T

MINOR

REDIRECT EXAMINATION BY MS. HERRING-LASH

1 TALK TO THE POLICE?

2 A NO. SHE WAS JUST SAYING IF YOU GO AHEAD AND TELL THEM,  
3 THEN ALL THIS STUFF WILL -- LIKE, SHE WAS SITTING THERE, SHE  
4 WAS RUBBING MY BACK. AND SHE WAS LIKE, MINOR IF YOU  
5 DON'T TELL HER THEN THIS IS GONNA HAUNT YOU -- OR SOMETHING  
6 LIKE THAT.

7 Q DO YOU REMEMBER HER TELLING YOU THAT IF YOU TALKED IT  
8 WOULD ALL BE OVER? DOES THAT SOUND FAMILIAR?

9 A YES.

10 Q AND YOU WANTED IT ALL TO BE OVER?

11 A YES.

12 Q MINOR THANK YOU. I DON'T HAVE ANY OTHER QUESTIONS.

13 MINOR REDIRECT EXAMINATION BY MS. HERRING-LASH:

14 Q MINOR WHEN, UM -- YOU SAID YOUR GRANDMOTHER WAS  
15 ENCOURAGING YOU TO TELL THE TRUTH?

16 A YES, MA'AM.

17 Q DID SHE TELL YOU WHAT SHE WANTED YOU TO SAY TO THE  
18 POLICE OFFICER?

19 A NO, SHE WAS JUST RUBBING MY BACK, TELLING ME IF I  
20 DON'T SAY IT THEN ALL THIS WILL SIT HERE AND HAUNT YOU  
21 ON YOUR BACK. AND SHE SAID, GO AHEAD AND JUST TELL THE  
22 TRUTH.

23 Q AND DID YOU WANT -- WHAT DID YOU WANT TO BE OVER?

24 A I WANTED ALL OF THIS STUFF THAT HAPPENED TO JUST GO  
25 AWAY.

- 1 Q LIKE WHAT STUFF?
- 2 A MY GRANDPA DOING THE STUFF THAT HE WAS DOING.
- 3 Q AND SO THAT'S WHAT YOU WANTED TO BE OVER? WHAT YOUR
- 4 GRANDPA DID?
- 5 A YES, MA'AM.
- 6 Q AND WHEN YOUR GRANDMOTHER WAS, UM, SPEAKING WITH YOU,
- 7 DID SHE EVER TELL YOU WHAT TO SAY? LIKE WHEN YOU WERE IN
- 8 THE BEDROOM?
- 9 A NO, MA'AM. 'CAUSE BY THE TIME THE POLICE CAME, I WAS
- 10 ALREADY -- LIKE I WAS TELLING HER WHAT HAPPENED.
- 11 Q WERE YOU UPSET ALSO?
- 12 A I WASN'T UPSET, I WAS SAD.
- 13 Q YOU WERE SAD? WHY WERE YOU SAD?
- 14 A 'CAUSE HE'S LIKE THE ONLY MAN FIGURE IN THE HOUSE.
- 15 Q AND WHAT MADE IT SAD THOUGH?
- 16 A THAT HE WAS MY GRANDPA AND HE DID ANYTHING WITH ME.
- 17 Q AND, MINOR JUST TO CLARIFY, WHEN YOU WERE SHOWING
- 18 THE JURY WHERE YOUR LEG WAS---
- 19 A YES, MA'AM?
- 20 Q ---CAN YOU SHOW US AGAIN? YOU SAID IT WAS ON THE BACK
- 21 OF THE COUCH?
- 22 A IT WAS ON THE -- THE HEAD -- THE HEAD BACK OF THE
- 23 COUCH. LIKE ONE WAS -- IF I WAS SITTING, ONE WAS LIKE THAT
- 24 (DEMONSTRATING). AND THEN THE OTHER WAS OFF THE COUCH.
- 25 Q AND WHERE WAS YOUR GRANDFATHER?

MINOR

RE-CROSS EXAMINATION BY MR. DAVIS

1 A HE WAS ON THE -- LIKE THIS (DEMONSTRATING).

2 Q AND WHAT PART OF HIM WAS TOUCHING YOU?

3 A AT FIRST IT WAS HIS HAND THAT HAD SCRATCHED ME WHEN HE  
4 WAS PULLING HIS, UM -- MY PANTIES OVER. AND THEN IT WAS HIS  
5 TONGUE.

6 Q HIS WHAT?

7 A HIS TONGUE.

8 Q SO WHERE -- IF IT'S -- WHERE WAS HIS TONGUE TOUCHING  
9 YOU? CAN YOU POINT OVER THERE? I KNOW YOU TOLD US, BUT CAN  
10 YOU POINT OVER THERE?

11 A (DEMONSTRATING.)

12 Q SO HIS HEAD WAS THERE?

13 A HIS -- YES, UH-HUH.

14 Q AND HIS BODY WAS ON THE OTHER END, I GUESS, OF THE  
15 COUCH?

16 A YES, MA'AM.

17 Q OKAY. WAS HIS BODY LAYING ON TOP OF YOU?

18 A NO, MA'AM.

19 Q THOSE ARE ALL THE QUESTIONS I HAVE, MINOR

20 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
21 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
22 HEARING OF THE JURY, OFF THE RECORD.)

23 (WHEREUPON, COURT RESUMED.)

24 MR. DAVIS: JUST BRIEFLY, JUDGE.

25 MINOR RE-CROSS-EXAMINATION BY MR. DAVIS:

MINOR

1 Q I KNOW IT'S BEEN SEVERAL YEARS. CAN YOU -- WOULD --

2 WOULD IT BE FAIR TO SAY IT WAS PROBABLY TEN OR FIFTEEN

3 MINUTES FOR THE POLICE TO GET THERE? IS THAT FAIR?

4 A I REALLY CAN'T SAY.

5 Q WOULD YOU -- WOULD YOU REMEMBER WHETHER IT WAS MORE OR

6 LESS THAN A HALF HOUR?

7 A NO, IT WASN'T -- IT -- PROBABLY LESS THAN A HALF HOUR.

8 Q OKAY. AND BEFORE THEY GOT THERE, AFTER YOUR

9 GRANDFATHER LEFT THE HOUSE, THE ONLY PEOPLE IN THE HOUSE

10 WERE YOU, YOUR TWO SISTERS, AND YOUR GRANDMOTHER?

11 A YES, SIR.

12 Q BUT, IN FACT, IT WAS YOU AND YOUR GRANDMA IN A ROOM BY

13 YOURSELVES FOR A GOOD PORTION OF TIME BEFORE THE POLICE GOT

14 THERE, RIGHT?

15 A IT WAS ME, MY GRANDMA, AND MY LITTLE SISTER.

16 Q OKAY, AND SHE WAS HOW OLD AT THE TIME?

17 A SHE WAS FOUR OR FIVE.

18 Q IF YOU WERE NINE, SHE WAS?

19 A FOUR -- SHE WAS LIKE FOUR OR THREE, ONE OF THE TWO.

20 Q REALLY?

21 A YES.

22 Q OKAY. THANK YOU, MINOR

23 MR. DAVIS: THANK YOU, YOUR HONOR.

24 THE COURT: YOU CAN STEP DOWN, MA'AM.

25 (WHEREUPON, WITNESS STEPPED DOWN.)

1 MS. HERRING-LASH: YOUR HONOR, MAY WE APPROACH?

2 THE COURT: (NOD.)

3 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
4 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
5 HEARING OF THE JURY, OFF THE RECORD.)

6 (WHEREUPON, COURT RESUMED.)

7 THE COURT: ALL RIGHT, UH, LADIES AND GENTLEMEN, WE'RE  
8 GONNA HEAR ONE MORE WITNESS TODAY.

9 UH -- THIS IS A WITNESS WHO IS NOT HERE. UH -- SOMEONE  
10 WHO IS OUT OF STATE AND COULD NOT BE HERE FOR THE TRIAL.

11 UH -- THE PARTIES HAVE AGREED TO ALLOW THIS WITNESS TO  
12 TESTIFY BY TELEPHONE. AND SO, YOU SEE THIS TELEPHONE THAT  
13 IS UP HERE ON THIS, UH, CART.

14 UH -- WE'RE GONNA CALL THE WITNESS, WHO IS SUPPOSEDLY  
15 ON STANDBY NEXT TO HER TELEPHONE. AND HER TESTIMONY WILL BE  
16 JUST A FEW MINUTES I'M TOLD. AND THEN WE WILL, UH, BREAK  
17 FOR THE DAY.

18 NOW, OR- -- ORDINARILY, OF COURSE, WITNESSES TESTIFY  
19 LIVE AND YOU ARE ABLE TO OBSERVE THEM AS THEY TESTIFY. YOUR  
20 RESPONSIBILITY TO OBSERVE AND TO, UH, JUDGE THE CREDIBILITY  
21 OF EACH WITNESS IS JUST THE SAME WITH THIS WITNESS WHO  
22 TESTIFIES OVER THE PHONE AS IT IS, UH, FOR THOSE WITNESSES  
23 WHO TESTIFY LIVE.

24 SO PLEASE LISTEN VERY CAREFULLY TO THE WITNESS'S  
25 TESTIMONY. AND I WILL ALSO BE LISTENING.



STATE VERSUS HAROLD ORR, III  
ROSIE ZENO, DIRECT EXAMINATION BY MS. HERRING-LASH

1           UM -- I DON'T ANTICIPATE THERE'LL BE ANY PROBLEM WITH  
2           YOU BEING ABLE TO HEAR, BUT IF ANY OF YOU ARE HAVING TROUBLE  
3           HEARING, JUST SIGNAL -- SIGNAL ME BY RAISING YOUR HAND OR IN  
4           SOME OTHER WAY AND WE'LL TRY AND TAKE CARE OF IT.

5           (WHEREUPON, TELEPHONE DIALED TO REACH ROSIE ZENO AT  
6           5:12 P.M.)

7           MS. ZENO: HELLO?

8           CLERK: YES, MS. ZENO?

9           MS. ZENO: YES.

10          CLERK: YEAH, THIS IS, UH, CHARLESTON COUNTY, UH,  
11          COURTHOUSE CALLING, IN THE TRIAL OF, UH, THE STATE VERSUS  
12          HAROLD ORR.

13          MS. ZENO: YES.

14          CLERK: YOU'RE AWARE OF THAT?

15          MS. ZENO: (NO RESPONSE.)

16          CLERK: ARE YOU THERE?

17          MS. ZENO: YES, I'M THERE. CAN YOU HEAR ME?

18          CLERK: YES; THIS IS MS. ZENO THEN? RIGHT?

19          MS. ZENO: YES, THIS IS.

20          CLERK: OKAY, I'M GONNA SWEAR YOU IN.

21          MS. ZENO: OKAY.

22          (WHEREUPON, ROSIE ZENO WAS DULY SWORN AND TESTIFIED AS  
23          FOLLOWS:)

24          CLERK: PLEASE SAY YOUR FULL NAME AND SPELL YOUR LAST  
25          NAME.

STATE VERSUS HAROLD ORR, III  
ROSIE ZENO, DIRECT EXAMINATION BY MS. HERRING-LASH

1 MS. ZENO: MY NAME IS ROSIE ZENO, Z-E-N-O.

2 ROSIE ZENO, DIRECT EXAMINATION BY MS. HERRING-LASH:

3 Q MS. ZENO, THIS IS DEBBIE HERRING-LASH. CAN YOU HEAR  
4 ME?

5 A YES, I CAN HEAR YOU.

6 THE COURT: CAN YOU ALL HEAR THE WITNESS?

7 THE JURY IN UNISON: YES/AFFIRMATIVE NODS.

8 THE COURT: OKAY, YOU CAN PROCEED.

9 Q MS. ZENO, WHERE DO YOU LIVE NOW?

10 A I LIVE IN COLUMBUS, OHIO.

11 Q AND HOW LONG HAVE YOU LIVED THERE?

12 A I MOVED HERE IN JUNE OF 2006.

13 Q DID YOU LIVE IN CHARLESTON PRIOR TO THAT?

14 A YES, I DID.

15 Q AND WHEN YOU WERE IN CHARLESTON, WHERE DID YOU WORK?

16 A I WORKED FOR THE CAROLINA MEDICAL ASSESSMENT CENTER.

17 Q AND WHAT WERE YOUR DUTIES THERE?

18 A I WAS A FORENSIC NURSE/EXAMINER THERE. AND MY DUTIES

19 INCLUDED, UM, EXAMINING CHILDREN AND ADULTS WHO REPORTED

20 TO BE VICTIMS OF A CRIME, SUCH AS DOMESTIC VIOLENCE OR

21 SEXUAL ASSAULT. AND I EXAMINED AND COLLECTED FORENSIC FROM

22 THEM.

23 I ALSO COLLECTED EVIDENCE FROM PERSONS WHO PRESENTED

24 TO OUR CENTER AS SUSPECTS OF A CRIME.

25 Q AND DO YOU HAVE BEFORE YOU A STATE OF SOUTH CAROLINA

STATE VERSUS HAROLD ORR, III  
ROSIE ZENO, DIRECT EXAMINATION BY MS. HERRING-LASH

1 LAW ENFORCEMENT DIVISION SUSPECT COLLECTION KIT ENVELOPE?

2 A YES, I DO.

3 Q AND, UM, DO YOU HAVE THE SUSPECT'S NAME ON THAT

4 ENVELOPE?

5 A I DO.

6 Q AND WHAT IS THAT?

7 A HAROLD ORR.

8 Q AND DO YOU HAVE A DATE THAT YOU HAD THIS ENVELOPE?

9 A YES; IT'S MARCH 7<sup>TH</sup>, 2005.

10 Q AND WHAT TIME?

11 A ELEVEN-FIFTY A.M.

12 Q AND WHAT -- IS THIS A, UM, KIT THAT YOU USE WHEN YOU

13 COLLECT SUSPECT EVIDENCE?

14 A YES.

15 Q AND DID YOU COLLECT EVIDENCE FROM MR. ORR AT 11:50 A.M.

16 ON THREE-SEVEN-0-FIVE?

17 A YES, I DID.

18 Q AND WHAT WOULD THAT EVIDENCE HAVE BEEN?

19 A UM -- OUR PROTOCOL IS TO COLLECT HEAD HAIR, PUBIC HAIR,

20 AND BLOOD.

21 Q AND DID YOU DO THAT WITH MR. ORR?

22 A YES, I DID.

23 Q AND WHAT DID YOU DO WITH THE BLOOD AFTER YOU COLLECTED

24 IT?

25 I PACKAGED AND SEALED IT IN THIS ENVELOPE -- THE

1 EVIDENCE KIT ENVELOPE. AND THEN I CAN TELL BY LOOKING AT

2 THIS THAT I THEN SECURED IT IN THE REFRIGERATOR.

3 Q WAS THAT, UM, REFRIGERATOR SECURE?

4 A YES, IT IS; IT'S LOCKED.

5 Q AND WHAT TIME DID YOU SECURE IT IN THE REFRIGERATOR?

6 A AT TWELVE P.M. ON THAT SAME DAY, MARCH 7<sup>TH</sup> 2005.

7 Q SO ABOUT TEN MINUTES LATER?

8 A YES.

9 Q THOSE ARE ALL THE QUESTIONS I HAVE, UM, MS. ZENO. YOU  
10 NEED TO ANSWER ANY THAT THE DEFENSE MAY HAVE. THANK YOU.

11 A THANK YOU.

12 ROSIE ZENO, CROSS-EXAMINATION BY MR. DAVIS:

13 Q MS. ZENO, THIS IS RODNEY DAVIS. CAN YOU HEAR ME?

14 A YES, I CAN.

15 Q JUST BRIEFLY FOR THE JURY, UM, YOU DID NO FURTHER  
16 INVESTIGATION ON THIS CASE?

17 A I'M SORRY, CAN YOU REPEAT THAT?

18 Q YOU -- YOU DID NO FURTHER INVESTIGATION ON THIS CASE?

19 A NO, I DID NOT.

20 Q YOU DID NO TESTING ON WHAT YOU, UH, RETRIEVED?

21 A NO, I DID NOT.

22 Q AND IT WAS BY COURT ORDER THAT YOU RETRIEVED THE ITEMS  
23 YOU JUST INDICATED?

24 A YES.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A

1 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
2 HEARING OF THE JURY, OFF THE RECORD.)

3 (WHEREUPON, COURT RESUMED.)

4 Q THANK YOU, MS. ZENO, NO OTHER QUESTIONS.

5 A THANK YOU.

6 CLERK: MS. ZENO, THAT CONCLUDES YOUR TESTIMONY; THANK  
7 YOU.

8 MS. ZENO: THANK YOU, SIR.

9 (WHEREUPON, PHONE HUNG UP AT 5:17 P.M.)

10 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, WE WILL  
11 BREAK NOW FOR THE DAY.

12 UH -- PLEASE REMEMBER MY INSTRUCTIONS THAT YOU MAY NOT  
13 DISCUSS THIS CASE WITH ANYONE.

14 YOU-ALL ENJOY YOUR EVENING, AND WE WILL START BACK  
15 TOMORROW MORNING AT NINE-THIRTY.

16 SO PLEASE BE IN THIS JURY ROOM THAT YOU WERE IN, UH,  
17 DURING YOUR BREAKS AFTER WE SELECTED YOU FOR THE JURY, AND  
18 NOT IN THE JURY ASSEMBLY ROOM. COME ALL THE WAY UP TO THE  
19 THIRD FLOOR.

20 WE'LL SEE YOU ALL AT NINE-THIRTY.

21 (WHEREUPON, JURY LEFT THE COURTROOM AT 5:17 P.M.)

22 BAILIFF: JUDGE, ONE OF THE -- ONE OF THE, UH, JURORS  
23 NEED TO ASK YOU A QUESTION.

24 THE COURT: ALL RIGHT, SIR.

25 BAILIFF: COME IN, SIR. TELL HIM WHO YOU ARE.

1 MR. SITTON: UH -- MY NAME IS RANDY SITTON, I'M, UH,  
2 JUROR TWO-FORTY-EIGHT.

3 AND, UH, I NEED -- I WOULD LIKE TO FIND OUT IF THE  
4 DOCTOR WHO, UH, EXAMINED, UH, [REDACTED] THAT NIGHT IS GOING TO  
5 BE TESTIFYING, BECAUSE I MAY KNOW HIM.

6 THE COURT: ALL RIGHT, WHO IS IT THAT YOU THINK YOU  
7 KNOW?

8 MR. SITTON: UH -- HIS NAME IS DOCTOR JOE DOBSON. HE  
9 IS THE, UH, PEDIA- -- HEAD PEDIATRIC E-R DOCTOR. AND IF --  
10 IF IT IS NOT GOING TO BE HIM, IT'S OKAY. BUT I DON'T WANT  
11 IT TO BE ANY COMPLICATIONS.

12 THE COURT: UH -- THERE'S NO INDICATION THAT I HAVE  
13 THAT DOCTOR JOE DOBSON'S GONNA TESTIFY.

14 MR. SITTON: OKAY.

15 THE COURT: HE'S NOT ON THE WITNESS LIST.

16 MR. SITTON: OKAY.

17 THE COURT: ARE THERE OTHERS THAT YOU KNOW OVER THERE?

18 MR. SITTON: NO, SIR.

19 THE COURT: OKAY. ALL RIGHT---

20 MR. SITTON: THANK YOU.

21 THE COURT: ---THANK YOU VERY MUCH.

22 (WHEREUPON, RANDAL S. SITTON, JUROR NUMBER 248, LEFT  
23 THE COURTROOM.)

24 THE COURT: ANYTHING FURTHER FOR TODAY?

25 MS. HERRING-LASH: NO, YOUR HONOR.

1 MR. DAVIS: NO, YOUR HONOR.

2 THE COURT: OKAY. ALL RIGHT THEN, I WILL, UH, SEE YOU  
3 ALL IN THE MORNING AT NINE-THIRTY.

4 MS. HERRING-LASH: NINE-THIRTY?

5 THE COURT: YES, MA'AM.

6 (WHEREUPON, THE COURT RECESSED DAY 1 OF TRIAL AT  
7 5:19 P.M. ON APRIL 21, 2008.)

8

9

10

11

12

13

14 (BALANCE OF PAGE INTENTIONALLY BLANK.)

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

(APRIL 22, 2008 - 9:37 A.M.)

(DAY TWO OF TRIAL)

THE COURT: GO AHEAD AND BRING IN THE JURY.

(WHEREUPON, JURY ENTERED THE COURTROOM AT 9:38 A.M.)

BAILIFF: THE JURY IS SEATED, YOUR HONOR.

THE COURT: GOOD MORNING.

JURY IN UNISON: GOOD MORNING.

THE COURT: CALL YOUR NEXT WITNESS.

(WITNESS FORWARD.)

MS. HERRING-LASH: THE STATE WOULD CALL OFFICER  
AUSTIN ROGERS.

OFFICER AUSTIN ROGERS, HAVING  
BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: THANK YOU. PLEASE HAVE A SEAT. FOR THE  
RECORD, IF YOU WOULD, PLEASE STATE YOUR NAME, SPELLING  
YOUR LAST NAME.

THE WITNESS: MY NAME IS AUSTIN ROGERS. MY LAST NAME  
IS SPELLED R-O-G-E-R-S.

DIRECT EXAMINATION BY MS. HERRING-LASH:

Q OFFICER ROGERS, WHERE WERE YOU EMPLOYED IN  
NOVEMBER OF 2003?

A WITH THE NORTH CHARLESTON POLICE DEPARTMENT.

Q AND ARE YOU STILL WITH THE NORTH CHARLESTON POLICE  
DEPARTMENT?



OFFICER ROGERS -- DIRECT BY MS. HERRING-LASH

160

1 A NO, MA'AM, I'M NOT.

2 Q AND ARE YOU IN TRAINING IN COLUMBIA AT THIS POINT?

3 A YES, MA'AM.

4 Q AND DO YOU HAVE TO GET BACK THERE THIS MORNING?

5 A AH, YES, MA'AM.

6 Q UM, WHAT WERE YOUR DUTIES IN 2003 AT THE NORTH  
7 CHARLESTON POLICE DEPARTMENT?

8 A AT THAT TIME, I WAS ASSIGNED TO A PATROL DIVISION.  
9 MY JOB WAS TO ANSWER CALLS FOR SERVICE, INVESTIGATE  
10 SUSPICIOUS ACTIVITY, AND SOME TRAFFIC INTERDICTION AS  
11 WELL.

12 Q AT THAT POINT IN TIME, HOW LONG HAD YOU BEEN  
13 WORKING AS AN OFFICER?

14 A I BELIEVE AROUND 14 MONTHS TOTAL AT THAT TIME.

15 Q AND DID YOU GET A CALL THAT EVENING -- WELL, LET  
16 ME -- WHAT WAS THE DATE OF THE CALL?

17 A AH, THE 25TH OF NOVEMBER, 2003.

18 Q AND WHAT WAS THE TIME?

19 A APPROXIMATELY 8:55 P.M.

20 Q AND WAS IT REGARDING THIS CASE?

21 A YES, MA'AM, IT WAS.

22 Q AND WHAT DID YOU DO AFTER RECEIVING THAT CALL?

23 A I ADVISED MY DISPATCH THAT I WAS IN ROUTE TO THAT  
24 LOCATION, AND I ARRIVED AT THE SCENE SHORTLY AFTER.

25 Q WHAT TIME DID YOU ARRIVE AT THE SCENE?

1           A   APPROXIMATELY 8:59 P.M.

2           Q   SO, ABOUT FOUR OR FIVE MINUTES LATER?

3           A   YES, MA'AM.

4           Q   AND WHEN YOU GOT THERE, WHAT KIND OF CALL WERE  
5 YOU -- WERE YOU RESPONDING TO? WHAT HAD COME ---

6           A   I WAS INFORMED THAT IT WAS SOME KIND OF A SEXUAL  
7 ASSAULT ON A MINOR, AND -- THAT'S WHAT I WAS ADVISED BY MY  
8 DISPATCHER.

9           Q   WHAT DID YOU DO WHEN YOU GOT THERE?

10          A   I APPROACHED THE FRONT DOOR AND KNOCKED ON IT AND  
11 I WAS MET BY THE COMPLAINANT OR THE WITNESS, MRS. ORR, WHO  
12 STARTED TO TELL ME ABOUT WHAT HAPPENED THAT NIGHT, WHY SHE  
13 CALLED THE POLICE.

14          Q   WHAT WAS HER DEMEANOR WHEN YOU GOT THERE?

15          A   WHEN I GOT THERE, HER DEMEANOR WAS VERY EXCITED,  
16 VERY ANIMATED. SHE WAS OBVIOUSLY UPSET TO ME. SHE WAS  
17 TRYING TO MAKE IT CLEAR TO ME THAT SHE SAW SOMETHING, BUT  
18 SHE COULDN'T -- TO ME SHE COULDN'T QUITE GET IT OUT FAST  
19 ENOUGH. UM, BUT SHE APPEARED VERY UPSET, VERY BOTHERED.  
20 AND WHEN I WAS THERE, SHE WAS TRYING TO RELAY ALL THAT TO  
21 ME AT ONE TIME. SO, THAT'S WHAT SHE WAS DOING.

22          Q   WERE YOU HAVING A HARD TIME IN THE BEGINNING,  
23 ACTUALLY -- I GUESS, WERE YOU TRYING TO TAKE NOTES WHEN  
24 SHE WAS TALKING LIKE THAT?

25          A   INITIALLY WHEN I RESPONDED, I TOOK IT ALL IN -- I

OFFICER ROGERS -- DIRECT BY MS. HERRING-LASH

162

1 DIDN'T -- I WASN'T WRITING ANYTHING AT FIRST. WHEN I GOT  
2 THERE, SHE STARTED TELLING ME WHAT HAPPENED. AND I ALSO  
3 KNEW THAT THERE WAS AN -- AN ALLEGED SUSPECT THERE. AT  
4 THAT POINT WHEN I FIRST ARRIVED, MY MAIN CONCERN WAS WHERE  
5 THIS PERSON WAS AT, OR MR. ORR WAS AT. IF HE WAS STILL IN  
6 THE HOUSE OR IF HE -- I HAD NOT YET LEARNED THAT HE HAD  
7 FLED THE RESIDENCE, SO MY MAIN CONCERN WAS THE SCENE  
8 SAFETY. I WAS TRYING TO FIND OUT FROM HER, WHERE IS HE  
9 AT, WHERE IS HE AT. IF HE HAD FLED THE SCENE, I COULD  
10 POSSIBLY RELAY THAT TO THE OTHER OFFICERS IN ROUTE. SO,  
11 MY FIRST PRIORITY, I WAS PRIORITIZING MY TASKS, TO MAKE  
12 SURE THE SCENE WAS SAFE, FIRST. TRY TO CALM MRS. ORR DOWN  
13 AND THEN GET SOME MORE INFORMATION ABOUT THE INCIDENT.  
14 THAT'S WHAT I DID.

15 Q AND LET ME SHOW YOU WHAT HAS BEEN PREVIOUSLY  
16 MARKED AS STATE'S EXHIBIT -- OR ENTERED AS STATE'S EXHIBIT  
17 NO. 1. DO YOU RECOGNIZE THIS?

18 A AH, YES, MA'AM, I DO.

19 Q AND WHAT IS THAT?

20 A THAT IS THE RESIDENCE THAT I WENT TO THAT NIGHT.

21 Q AND -- AND THE DOOR YOU ENTERED, YOU SEE ON THIS  
22 PICTURE?

23 A IT'S KIND OF BLURRY. CAN I STEP DOWN THERE?

24 Q YEAH. AND I'LL SHOW YOU THIS -- YOU CAN -- IF YOU  
25 PRESS THIS, YOU CAN -- THAT ONE.

1           A    OKAY.  THIS IS THE FRONT DOOR THAT I APPROACHED  
2   RIGHT HERE.

3           Q    AND MS. SHEPPARD MET YOU AT THE DOOR?

4           A    YES, MA'AM.

5           Q    OR MS. ORR?

6           A    YES, MA'AM.

7           Q    AND DID SHE EXPLAIN TO YOU WHAT HAD HAPPENED?

8           A    UM, AFTER---

9           Q    YOU MAY TAKE YOUR SEAT.

10          A    OKAY.

11          MR. DAVIS:  YOUR HONOR, I OBJECT.  THIS IS HEARSAY.

12          MS. HERRING-LASH:  I JUST SAID DID SHE---

13          BY MS. HERRING-LASH:

14          Q    WITHOUT SAYING WHAT SHE SAID, DID SHE EXPLAIN TO  
15   YOU WHAT HAD HAPPENED?

16          A    YES, MA'AM, SHE DID.

17          Q    AND DID YOU SEE THE, UM, VICTIM OF THE ALLEGED  
18   ASSAULT?

19          A    I DID.

20          Q    AND WHAT WAS THAT RELATION TO MS. ORR?

21          A    I BELIEVE IT WAS HER GRANDDAUGHTER.

22          Q    AND WHERE WAS, UM, THE VICTIM AT THAT POINT IN  
23   TIME?

24          A    UM, AT THAT POINT IN TIME, I BELIEVE SHE WAS  
25   SITTING ON A COUCH WHEN I ENTERED THE RESIDENCE.

OFFICER ROGERS -- DIRECT BY MS. HERRING-LASH

164

1 Q LET ME SHOW YOU WHAT HAS BEEN ENTERED AS STATE'S  
2 EXHIBIT NO. 2; DO YOU RECOGNIZE THAT?

3 A YES, MA'AM.

4 Q AND DO YOU SEE THE COUCH ON WHICH SHE WAS SITTING?

5 A YES, MA'AM.

6 Q CAN YOU JUST POINT IT OUT REAL BRIEFLY?

7 A IN THIS AREA RIGHT HERE IS WHERE SHE WAS SITTING  
8 WHEN I WALKED IN.

9 Q AND WHAT DID YOU DO WHEN YOU WALKED IN AFTER JUST  
10 -- DID YOU NOTICE HER AT FIRST?

11 A WHEN I WALKED IN, I NOTICED THAT SHE WAS SITTING  
12 THERE ON THE COUCH AND -- I'M SORRY -- MS. SHEPPARD WAS  
13 TELLING ME MORE ABOUT THE INCIDENT AS I WALKED IN THE  
14 RESIDENCE.

15 Q AND WHAT DID YOU DO AS FAR AS OTHER OFFICERS?

16 A UM, I REQUESTED ANOTHER OFFICER TO HELP ME WITH  
17 THIS INCIDENT. ONE, I STILL CONSIDERED THE SCENE KIND OF  
18 VOLATILE. I DIDN'T KNOW WHERE MR. ORR WAS AT THE TIME,  
19 WHETHER OR NOT HE COULD COME BACK, OR WHAT HIS INTENTIONS  
20 WERE IF HE WERE TO COME BACK, SO I REQUESTED ANOTHER  
21 OFFICER. AND, ALSO, I NOTIFIED MY SUPERVISOR. THAT'S ONE  
22 OF THOSE CALLS THAT YOU NOTIFY YOUR SUPERVISOR ABOUT. AND  
23 I ALSO ADVISED HIM OF THE INCIDENT, AND I BELIEVE HE  
24 ADVISED THAT HE WAS ON HIS WAY, TOO, TO THE RESIDENCE.

25 Q IF YOU WANT TO SIT BACK DOWN, YOU CAN SPEAK IN THE

1 MICROPHONE, THAT WOULD BE HELPFUL.

2 A OKAY. I'M SORRY.

3 Q DID YOU REQUEST A FEMALE OFFICER?

4 A YES, I DID.

5 Q AND WHY WAS THAT?

6 A IT WAS APPARENT THAT SOME KIND OF INTERVIEW HAD TO  
7 BE DONE WITH THE VICTIM, WHO WAS A -- A YOUNG FEMALE. AND  
8 I TRY TO PRESERVE SOME DIGNITY THERE. USUALLY IT -- I  
9 WANTED HER TO BE MORE COMFORTABLE WITH WHOEVER SHE WAS  
10 TALKING TO IN TERMS OF A LAW ENFORCEMENT OFFICER. I  
11 REQUESTED OFFICER ALMA LOWERY. SHE'S A FEMALE OFFICER AND  
12 SHE HAS -- AT THE TIME, SHE WAS A LOT MORE EXPERIENCED  
13 THAN I WAS, ALSO. SO, I CALLED HER FOR HER ASSISTANCE,  
14 FOR HER TO INTERVIEW THE VICTIM AS TO WHAT HAPPENED WHILE  
15 I JUST KIND OF STOOD BY AND TOOK NOTES OF WHAT SHE SAID.

16 Q AND HOW WAS THE VICTIM ACTING WHEN YOU ARRIVED?

17 A WHEN I ARRIVED AND ENTERED THE RESIDENCE AND GOT  
18 AN IDEA OF WHAT HAPPENED AFTER MS. SHEPPARD HAD CALMED  
19 DOWN A LITTLE BIT, AND I LEARNED THAT MR. ORR HAD LEFT.  
20 THE VICTIM SEEMED SULLEN, KIND OF RESERVED. SHE WASN'T  
21 SAYING ANYTHING. SHE HAD A BLANK LOOK ON HER FACE. AND  
22 -- I -- THAT WAS ANOTHER CUE TO ME THAT MAYBE I SHOULD GET  
23 ANOTHER OFFICER, A FEMALE OFFICER TO HELP ME OUT WITH  
24 THAT, BECAUSE SHE SEEMED KIND OF CLOSED OFF. I DIDN'T  
25 KNOW IF ME BEING A MALE HAD ANYTHING TO DO WITH THAT,

1 BUT -- SHE JUST APPEARED AH -- QUIET AND TO HERSELF.

2 Q AND DID OFFICER LOWERY ARRIVE?

3 A YES, SHE DID.

4 Q NOW, DID YOU STAY IN THE RESIDENCE UNTIL SHE GOT  
5 THERE?

6 A UNTIL SHE GOT THERE, I DID.

7 Q AND WERE YOU IN THE RESIDENCE WHEN SHE WAS  
8 SPEAKING WITH THE VICTIM?

9 A YES, I WAS.

10 Q [REDACTED]

11 A YES, I WAS.

12 Q AND DID YOU OVERHEAR THEIR CONVERSATION?

13 A I DID. I STOOD SLIGHTLY OFF TO THE SIDE WHILE  
14 OFFICER LOWERY SPOKE TO [REDACTED] AND AS SHE WAS ASKING  
15 QUESTIONS, I WOULD WRITE THE BEST I COULD ON A LITTLE  
16 FIELD NOTEPAD FOR THE REPORT TAKING. SO, AS SHE ASKED A  
17 QUESTION, SHE WOULD ANSWER IT. AND I WOULD WRITE DOWN  
18 WHAT THOSE ANSWERS WERE.

19 Q AND NO ONE, AT THAT POINT IN TIME, HAD [REDACTED]  
20 WRITE ANYTHING, YOU -- THEY -- SHE WAS JUST QUESTIONED AND  
21 YOU WROTE DOWN WHAT HER RESPONSE WAS?

22 A THAT'S CORRECT. I WAS THE ONE DOING THE WRITING  
23 AT THAT TIME.

24 Q AND WHILE THAT WAS GOING ON, WHAT HAPPENED?

25 A WHILE OFFICER LOWERY WAS SPEAKING TO THE VICTIM,

1 THIS WENT ON FOR A FEW MINUTES, I HEARD SOMEONE OPENING UP  
2 THE FRONT DOOR. I TURNED AND I OBSERVED MR. ORR, THE  
3 DEFENDANT, WALKING IN THE RESIDENCE. AND ABOUT A SECOND  
4 AFTER THAT REGISTERED, I TURNED TO THE VICTIM AND MS.  
5 SHEPPARD AND I SAID, IS THAT HIM. AND THEY BOTH SHOOK  
6 THEIR HEAD AND SAID, YES, THAT'S HIM. AND THEN AT THAT  
7 POINT, I APPROACHED MR. ORR, WHO AFTER -- I DON'T KNOW IF  
8 I CAN SAY WHAT HE SAID TO ME --

9 Q NO. THAT'S HEARSAY.

10 A OKAY. I APPROACHED HIM AND I ADVISED HIM THAT HE  
11 WAS UNDER INVESTIGATIVE DETENTION, TO TURN AROUND AND  
12 PLACE HIS HANDS BEHIND HIS BACK, AND I APPLIED SOME  
13 HANDCUFFS AND HANDCUFFED HIM. AND THEN I ESCORTED HIM OUT  
14 TO MY PATROL VEHICLE. HE WAS SECURED IN THE BACK SEAT OF  
15 MY PATROL VEHICLE. AND THERE, I JUST GOT HIS NAME AND  
16 DATE OF BIRTH, THAT KIND OF THING.

17 Q AND DID YOU STAY WITH HIM THE REST OF THE EVENING?

18 A YES, I DID.

19 Q SO, YOU DID NOT GO BACK INTO THE RESIDENCE AFTER  
20 YOU ESCORTED HIM OUT?

21 A FROM THE POINT, WHEN I PUT HIM IN THE CAR, MY  
22 POSITION WAS WITH HIM. I DID NOT GO BACK INSIDE THE  
23 RESIDENCE.

24 Q GOING BACK TO MRS. SHEPPARD OR MRS. ORR, YOU SAID  
25 SHE WAS VERY EXCITED AND UPSET WHEN YOU FIRST CAME IN?



OFFICER ROGERS -- DIRECT BY MS. HERRING-LASH

168.

1           A   YES, MA'AM.

2           Q   WAS SHE ABLE TO CALM DOWN AND TALK WITH OFFICER  
3   RILEY -- LOWERY, I'M SORRY?

4           A   YES.  I BELIEVE ONCE THE SCENE BECAME A LITTLE BIT  
5   MORE STABLE, WHEN ANOTHER OFFICER WAS ON THE SCENE, MRS.  
6   SHEPPARD STARTED CALMING DOWN A LITTLE AND KIND OF RE --  
7   REITERATED WHAT HAPPENED.  SHE WAS -- I'M NOT GOING TO SAY  
8   WHAT SHE SAID, BUT SHE EXPLAINED TO ME HOW SHE LEARNED OF  
9   THE INCIDENT.  WHAT SHE WAS DOING PRIOR TO WHEN SHE  
10  OBSERVED IT, AND THEN WHAT SHE DID AFTER SHE SAW WHAT HAD  
11  HAPPENED UP TO WHEN SHE CALLED THE POLICE OR DIALED 9-1-1,  
12  SO THAT'S WHEN I STARTED GETTING THE BETTER PICTURE AS TO  
13  WHAT SHE HAD SEEN AND WHY SHE HAD CALLED THE POLICE.

14          Q   AND DID OTHER FAMILY MEMBERS ALSO ARRIVE WHILE YOU  
15  WERE THERE?

16          A   THEY DID.  SHORTLY AFTER I PLACED MR. ORR IN THE  
17  BACKSEAT OF MY PATROL VEHICLE, SOME OTHER CARS STARTED  
18  COMING UP.  AND I SOON LEARNED THAT THOSE WERE OTHER  
19  CONCERNED FAMILY MEMBERS INQUIRING ABOUT MINOR

20          MS. HERRING-LASH:  THE COURT'S INDULGENCE FOR ONE  
21  MOMENT.  (PAUSE)  THOSE ARE ALL THE QUESTIONS I HAVE,  
22  OFFICER ROGERS.

23          THE WITNESS:  THANK YOU.

24          CROSS EXAMINATION BY MR. DAVIS:

25          Q   JUST SO WE GET THE SEQUENCE OF EVENTS RIGHT,

1 OFFICER ROGERS, IT WAS DURING -- A DISCUSSION BETWEEN  
2 MINOR HER GRANDMOTHER, AND OFFICER LOWERY, WHO IS A  
3 FEMALE OFFICER, RIGHT?

4 A THAT'S CORRECT.

5 Q OKAY. THOSE THREE ARE IN REAL CLOSE PROXIMITY,  
6 YOU'RE NEARBY, KIND OF OVERHEARING WHAT'S GOING ON?

7 A UM, THAT'S CORRECT.

8 Q AND IT'S DURING THAT TIMEFRAME THAT HAROLD WALKED  
9 IN THE FRONT DOOR?

10 A YES.

11 Q OKAY. AND THEN, I THINK YOU SAID, ONCE THAT  
12 HAPPENED, YOU REALIZED -- CONFIRMED WHO IT WAS---

13 A UH-HUH.

14 Q ---PUT HIM IN INVESTIGATIVE DETENTION, TOOK HIM TO  
15 YOUR PATROL UNIT THAT WAS OUTSIDE--

16 A YES, SIR.

17 Q RIGHT -- YOU SECURED HIM AND STAYED WITH HIM UNTIL  
18 SOME POINT YOU TOOK HIM TO THE COUNTY JAIL?

19 A THAT'S CORRECT.

20 Q SO, ULTIMATELY YOU WRITE A REPORT BASED ON THIS  
21 INCIDENT, RIGHT?

22 A THAT'S CORRECT.

23 Q THAT REPORT WOULD HAVE BEEN INFORMATION YOU  
24 GATHERED IN THE TIMEFRAME YOU WERE IN THERE AS THE SOLE  
25 INITIAL RESPONDING OFFICER, RIGHT?

OFFICER ROGERS -- CROSS BY MR. DAVIS

170

1 A THAT'S RIGHT.

2 Q AND, ALSO, THOUGH, BASED ON INFORMATION THAT  
3 OFFICER LOWERY WOULD HAVE TOLD YOU THAT OCCURRED AFTER YOU  
4 LEFT WITH HAROLD?

5 A YES.

6 Q RIGHT. OKAY. AND TO BE CLEAR, THOUGH, THE FOLKS  
7 THAT OFFICER LOWERY WAS SPEAKING TO WAS [REDACTED] AND HER  
8 GRANDMOTHER?

9 A I BELIEVE IT WAS JUST [REDACTED] BUT THE GRANDMA WAS  
10 ---

11 Q SHE'S RIGHT THERE?

12 A STANDING RIGHT THERE, YEAH. BUT IT WAS JUST  
13 BETWEEN HER AND [REDACTED]

14 Q OKAY.

15 A FROM WHAT I SAW.

16 Q OKAY. YOU'VE -- YOU ALREADY INDICATED THAT YOU  
17 CERTAINLY AGREED THAT YOU CALLED OFFICER LOWERY. YOU ALSO  
18 INDICATED YOU CALLED YOUR SUPERVISOR, AND THAT IS -- IS  
19 THAT OFFICER WILLIAMS -- OR WAS?

20 A NO. NO. I BELIVE AT THE TIME IT WAS SGT. NATHAN,  
21 WHO IS NOW A CAPTAIN, BUT AH---

22 Q OKAY.

23 A -- AT THE TIME IT WAS SGT. NATHAN.

24 Q AND WOULD HE -- HE WOULD RESPOND TO THE SCENE?

25 A AH, YES, SIR.

1 Q OKAY. LET ME ASK IT -- LET ME LET YOU TELL THE  
2 JURY; YOU'RE THERE, OFFICER LOWERY SHOWS UP; SGT. NATHAN,  
3 HE SHOWS UP; WHAT OTHER OFFICERS WOULD HAVE SHOWN UP TO  
4 THE SCENE?

5 A I LEARNED THAT TWO DETECTIVES WERE IN ROUTE AS  
6 WELL, AND THAT WAS NOT UNCOMMON FOR CALLS LIKE THIS. YOU  
7 USUALLY GET A DETECTIVE OR TWO IN ROUTE, TO KIND OF DO THE  
8 -- ANY KIND OF FOLLOW-UP INVESTIGATION. I DID NOT REMAIN  
9 ON THE SCENE, THOUGH, UNTIL THOSE TWO DETECTIVES GOT  
10 THERE.

11 Q YOU -- THEY WOULD HAVE BEEN THE SAME AGENCY,  
12 THOUGH, THE NORTH CHARLESTON POLICE DEPARTMENT, RIGHT?

13 A THAT'S CORRECT.

14 Q DO YOU KNOW THE TWO DETECTIVES THAT WERE SENT TO  
15 RESPOND?

16 A I BELIEVE -- GIVE ME ONE MOMENT TO REFER TO MY  
17 REPORT HERE -- DETECTIVES WILLIAMS AND ELMORE OF NORTH  
18 CHARLESTON POLICE DEPARTMENT, I WAS ADVISED THAT THEY WERE  
19 IN ROUTE TO THAT LOCATION.

20 Q YOU -- YOU HAD WORKED WITH THEM FOR SOME TIME,  
21 RIGHT?

22 A ELMORE, YES, ON SOME LIMITED PATROL DUTY. UM,  
23 DETECTIVE WILLIAMS WAS A HIGHER RANK AND -- UM, ALONG SIDE  
24 HIM, I HAD NOT WORKED WITH HIM, BUT I -- I KNOW WHO HE IS,  
25 SIR.

OFFICER ROGERS -- CROSS BY MR. DAVIS

172

1 Q AND, BASICALLY, YOU'RE JUST TELLING THE JURY THAT  
2 YOU -- YOU LEFT THE SCENE BEFORE THOSE TWO OFFICERS --  
3 THOSE TWO DETECTIVES ARRIVED, RIGHT?

4 A YES, I DID.

5 Q OKAY. BOTH ELMORE AND DETECTIVE WILLIAMS ARE BOTH  
6 MALE OFFICERS, CORRECT?

7 A THAT'S CORRECT.

8 Q OKAY. UM, WHEN -- BEFORE YOU LEFT THE SCENE,  
9 CERTAINLY YOU WERE THERE IN YOUR ISSUED PATROL UNIT,  
10 CORRECT -- POLICE CAR?

11 A YES, SIR.

12 Q IT'S GOT THE LIGHTS ON TOP, GOT THE DECALS ON THE  
13 SIDE, CORRECT?

14 A THAT'S CORRECT.

15 Q OFFICER LOWERY, SHE WOULD HAVE ARRIVED IN A  
16 SIMILAR VEHICLE?

17 A YES.

18 Q A SEPARATE VEHICLE?

19 A A SEPARATE VEHICLE, BUT SIMILAR, YES.

20 Q OKAY. WERE YOU THERE WHEN SGT. NATHAN ARRIVED?

21 A I BELIEVE SO, YES.

22 Q WOULD HE HAVE BEEN IN A MARKED UNIT OR A PLAIN  
23 UNIT, DO YOU RECALL?

24 A I BELIEVE -- I DON'T RECALL, BUT I'M PRETTY SURE  
25 HE WAS IN AN UNMARKED UNIT.

1 Q OKAY.

2 A IF HE -- I TAKE THAT BACK. I'M SORRY. WE CALL  
3 THEM SLICK TOPS. IT'S A MARKED UNIT WITHOUT A LIGHT BAR  
4 ON TOP.

5 Q OKAY. SO, IT'S GOT THE DECALS, IT DOESN'T HAVE  
6 THE LIGHTS ON TOP?

7 A YES, SIR.

8 Q OKAY. AND THESE CARS WOULD HAVE BEEN PARKED LIKE  
9 ON THE STREET, OUT IN FRONT OF THE TRAILER?

10 A UM, I BELIEVE SO, CLOSE TO THE TRAILERS. KIND OF  
11 A CLOSE OFF -- THERE IS NOT MUCH SHOULDER ON EITHER SIDE  
12 OF THE ROAD.

13 Q RIGHT. AND THERE'S NOT REALLY A DRIVE WAY THERE  
14 FOR YOU TO PULL INTO?

15 A NO, SIR.

16 Q THIS WAS AT NIGHT, CORRECT?

17 A THAT'S CORRECT.

18 Q DO YOU RECALL -- WOULD -- WOULD YOU RECALL IF ANY  
19 OF THE UNITS HAD THEIR LIGHTS FLASHING WHEN YOU WERE OUT  
20 THERE?

21 A UM, I DIDN'T HAVE MINE ON BECAUSE OF MY CLOSE  
22 PROXIMITY. AND I DON'T RECALL ANY OTHER OFFICERS HAVING  
23 THEIR LIGHTS ON.

24 Q OKAY.

25 A SO.

1 Q BUT WHEN THEY ARRIVED, YOU WOULD HAVE BEEN INSIDE,  
2 IS THAT ACCURATE?

3 A BEEN INSIDE, BUT ALSO THE NATURE OF THE CALL,  
4 AND -- THAT THE -- THAT THE DEFENDANT HAD LEFT THE SCENE.  
5 AND USUALLY, THE RESPONSE WITH LIGHTS AND SIRENS WOULD  
6 FURTHER -- IT WOULD CAUSE -- I'M NOT SAYING IT CAUSED,  
7 BUT, UM, WHEN RESPONDING TO AN INCIDENT LIKE THAT, YOU  
8 DON'T WANT TO TIP OFF THE SUSPECT ANYMORE THAN YOU WOULD  
9 HAVE JUST BY PULLING UP. YOU DON'T GO IN THERE WITH  
10 LIGHTS AND SIRENS BLAZING, SO.

11 Q BUT -- BUT YOU KNOW YOU DIDN'T ARRIVE WITH LIGHTS  
12 ON. BUT SINCE YOU WERE INSIDE, YOU DON'T KNOW ABOUT THE  
13 OTHER OFFICERS?

14 A I DON'T KNOW IF THEY CAME IN WITH LIGHTS.

15 Q OKAY. WHEN YOU WENT TO THE DOOR TO GO INSIDE, YOU  
16 WENT AND RANG THE DOORBELL, KNOCKED ON THE DOOR TO BE  
17 ALLOWED INSIDE?

18 A I BELIEVE I KNOCKED, BUT MS. SHEPPARD KIND OF MET  
19 ME AT THE DOOR ANYWAY. SHE KNEW I WAS THERE.

20 Q OKAY. YOU IDENTIFIED YOURSELF?

21 A YES, YES, I DID.

22 Q AND, I MEAN, OF COURSE, YOU -- BEEN IN FULL POLICE  
23 UNIFORM, RIGHT?

24 A THAT'S CORRECT.

25 Q YOU WOULD HAVE HAD YOUR UNIFORM, WOULD HAVE HAD --

- 1 WEAR YOUR BADGE, RIGHT?
- 2 A THAT'S CORRECT.
- 3 Q SERVICE WEAPON?
- 4 A YES.
- 5 Q REVOLVER OR SOME TYPE OF PISTOL, CORRECT?
- 6 A THAT'S CORRECT.
- 7 Q SOME TYPE OF RADIO TO COMMUNICATE?
- 8 A UH-HUH.
- 9 Q AND I BELIEVE YOU USED THAT WHILE YOU WERE THERE,
- 10 IS THAT RIGHT?
- 11 A YES, I DID.
- 12 Q OKAY. UM, AND SO, THEY -- THEY WERE CLEAR ABOUT
- 13 WHO YOU WERE AND WHY YOU WERE THERE? NO DOUBT YOU WERE A
- 14 POLICE OFFICER DOING AN INVESTIGATION?
- 15 A THAT'S CORRECT.
- 16 Q OKAY. AND MINOR DO YOU RECALL IF SHE WAS NINE
- 17 BACK IN -- ON NOVEMBER 25TH WHEN YOU ARRIVED, DO YOU
- 18 RECALL THAT SHE WAS A SMALL CHILD; DO YOU RECALL THE AGE?
- 19 A YEAH. I RECALL THE AGE.
- 20 Q OKAY. SHE WAS A LITTLE GIRL AT THE TIME, RIGHT?
- 21 A YES.
- 22 Q AND THAT'S ONE OF THE REASONS, PROBABLY, THAT --
- 23 THAT HER GRANDMOTHER WAS RIGHT THERE WITH HER WHEN OFFICER
- 24 LOWERY WAS TALKING TO HER?
- 25 A I BELIEVE SO, YES.



OFFICER ROGERS -- CROSS BY MR. DAVIS

176

1 Q OKAY. NOW, YOU'VE ALREADY SAID WHEN YOU CAME IN,  
2 UM, MRS. ORR -- SHEILA WAS -- WAS VERY EXCITED?

3 A UH-HUH.

4 Q RIGHT?

5 A THAT'S CORRECT.

6 Q TALKING QUICKLY, TALKING FAST, YOU NEEDED TO CALM  
7 HER DOWN, RIGHT?

8 A THAT'S CORRECT.

9 Q YOU KNOW WHAT DISPATCH HAS TOLD YOU THE  
10 ACCUSATIONS ARE THAT YOU'RE RESPONDING TO, RIGHT?

11 A UM---

12 Q SEXUAL ASSAULT?

13 A JUST WHAT THE CALL -- HOW THE CALL CAME IN IS WHAT  
14 I GOT ON THE RADIO.

15 Q I MEAN, YOU'RE DRIVING AROUND. YOU HEAR ON THE  
16 RADIO, HEY, GO TO THIS PARTICULAR RESIDENCE BECAUSE I  
17 BELIEVE WE'VE -- WE'VE GOT A REPORT OF A SEXUAL ASSAULT?

18 A THAT'S CORRECT.

19 Q OKAY. YOU DIDN'T KNOW THESE FOLKS?

20 A NO, SIR. NOT UP UNTIL THIS INCIDENT.

21 Q OKAY. YOU DIDN'T KNOW THAT MY CLIENT, HAROLD, AND  
22 SHEILA HAD RECENTLY MOVED BACK TO NORTH CHARLESTON FROM  
23 PAWLEY'S ISLAND?

24 A I DIDN'T KNOW THAT.

25 Q OKAY. YOU DIDN'T KNOW THAT JUST BEFORE HE LEFT

1 THE RESIDENCE, SHE HAD BEEN HITTING HIM OVER THE HEAD WITH  
2 THE TELEPHONE? SHE DIDN'T TELL YOU THAT?

3 A THAT WASN'T RELAY THAT TO ME -- THAT WASN'T  
4 RELAYED TO ME. I'M SORRY.

5 Q YOU DON'T -- YOU DIDN'T KNOW AT THE TIME THAT  
6 WHILE SHE WAS DOING THAT, SHE WAS YELLING AND SAYING  
7 WHATEVER TO HIM BEFORE HE RAN OUT?

8 A NO. I -- I WASN'T INFORMED OF THAT.

9 Q YOU WEREN'T AWARE WHILE YOU'RE -- DURING YOUR  
10 INVESTIGATION, THAT -- THAT SHEILA HAD TOUCHED OR EXAMINED  
11 MINOR VAGINAL AREA?

12 A I WAS NOT AWARE OF THAT, NO.

13 Q AND YOU DIDN'T KNOW THAT THEY HAD SPENT SOME TIME  
14 IN A BEDROOM, JUST THE TWO OF THEM BY THEMSELVES, BEFORE  
15 YOU ARRIVED?

16 A NO, I DID NOT.

17 Q YOU DID NOT KNOW THAT SHEILA HAD CALLED A RELATIVE  
18 TO MAKE THE CALL TO THE POLICE?

19 A UM, I WASN'T AWARE THAT -- WHO CALLED THE POLICE  
20 AT THE TIME. I JUST KNOW THEY WERE CALLED.

21 Q DID YOU REMAIN ON THE SCENE TO SEE WHEN MINOR  
22 WAS TAKEN FOR -- FOR A MEDICAL EXAMINATION, TAKEN TO THE  
23 HOSPITAL?

24 A NO, I LEFT PRIOR TO THAT.

25 Q OKAY. SO, YOU HAVE NO PERSONAL KNOWLEDGE WHO TOOK

1 HER TO THE HOSPITAL?

2 .A I'M SORRY, SAY THAT AGAIN.

3 Q YOU HAVE NO PERSONAL KNOWLEDGE AS TO WHO TOOK HER  
4 TO THE HOSPITAL?

5 A WHO TOOK HER -- NO. I JUST KNOW THAT SHE WOULD --  
6 SHE WOULD HAVE BEEN TAKEN.

7 MR. DAVIS: OFFICER ROGERS AND JUDGE, IF YOU COULD  
8 GIVE ME JUST ONE MOMENT. (PAUSE). JUDGE, I BELIEVE WE  
9 HAVE A MATTER OF LAW THAT WE NEED TO TAKE UP, UM,  
10 IN-CAMERA.

11 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, I'M  
12 GOING TO ASK YOU TO STEP BACK INTO THE JURY ROOM FOR JUST  
13 A FEW MINUTES, PLEASE.

14 (WHEREUPON, JURY LEFT THE COURTROOM AT 10:02 A.M.)

15 MR. DAVIS: YOUR HONOR, WE -- WE GAVE YOU SOME  
16 INFORMATION PRETRIAL THAT THIS WAS, IN FACT, A RE-TRIAL.  
17 AND INDICATED THAT WHILE LAST TIME THERE WAS SOME ALLEGED  
18 STATEMENTS BY MY CLIENT, THAT THE STATE WAS NOT SEEKING TO  
19 INTRODUCE IN THIS TRIAL, AND THEREFORE THERE WAS NO NEED  
20 FOR A DENNO HEARING.

21 DURING DIRECT EXAMINATION -- AND I KNOW THAT --  
22 THAT THE SOLICITOR TALKED TO THE OFFICER, AND WE'RE TRYING  
23 TO MAKE SURE WE HAD THINGS APPROPRIATELY ALONG THOSE  
24 LINES. THE OFFICER, I THINK, APPROPRIATELY COMMENTED MY  
25 CLIENT CAME BACK IN, WASN'T SURE IF HE COULD SAY WHAT HE

1 SAID. AND MS. HERRING-LASH SAID THAT'S HEARSAY, YOU DON'T  
2 GO THERE, AND JUST KEPT ON WITH DIRECT EXAMINATION.

3 THERE IS A COMMENT MADE AT THAT POINT, THOUGH, AND  
4 I DO NOT BELIEVE IT HAS -- CERTAINLY, WAS NOT THE SUBJECT  
5 OF OUR DENNO HEARING BECAUSE IT OCCURS PRIOR TO CUSTODY  
6 AND PRIOR -- NO INTERROGATION. I -- I WOULD LIKE NOW THAT  
7 IT'S KIND OF BEEN DISCUSSED IN FRONT OF THE JURY, ASK THE  
8 OFFICER ABOUT IT, BUT I DON'T WANT TO OPEN UP PANDORA'S  
9 BOX AND GET INTO -- INTO THE THINGS WE ARE TRYING TO AVOID  
10 IN THIS TRIAL.

11 I'M LOOKING ON -- IN OUR TRANSCRIPTS ON PAGE 27 OF  
12 VOLUME I, THIS IS OFFICER ROGERS' TESTIMONY -- I BELIEVE  
13 THIS IS ACTUALLY DURING THE DENNO HEARING -- "BUT I LOOKED  
14 AT MINOR AND MRS. ORR, AND I SAID, IS THAT HIM, IS THAT  
15 THE ONE YOU CALLED THE POLICE ON? AND THEY BOTH SHOOK  
16 THEIR HEAD YES, GAVE A VERBAL YES. AND AT THAT TIME, I  
17 STOOD UP AND INFORMED THE DEFENDANT TO TURN, PLACE HIS  
18 HANDS BEHIND HIS BACK, HE WAS UNDER INVESTIGATIVE  
19 DETENTION. AND HE SAID HE JUST WANTED TO STRAIGHTEN  
20 THINGS OUT. HE DIDN'T DO ANYTHING."

21 THERE ARE OTHER STATEMENTS ALLEGEDLY MADE AT THE  
22 CAR, ONCE HE'S IN CUSTODY IN CUFFS IN THE CAR, AFTER  
23 MIRANDA. I DO NOT INTEND TO GET INTO THAT. I DON'T  
24 BELIEVE THE STATE INTENDS TO GET INTO THAT. BUT, AGAIN,  
25 IN AN ABUNDANCE OF CAUTION, I WOULD LIKE TO ENTER INTO

OFFICER ROGERS -- CROSS BY MR. DAVIS

180

1 QUESTIONING TO THAT PARTICULAR STATEMENT, BECAUSE I  
2 BELIEVE IT DOESN'T IMPLICATE ANY OF THOSE ISSUES, NOR DOES  
3 IT GET INTO AREAS THAT WE INTENDED NOT TO.

4 THE COURT: AND THE STATEMENT -- REPEAT THE STATEMENT  
5 THAT HE -- THAT YOU WANT TO HAVE HIM TESTIFY TO?

6 MR. DAVIS: HE SAID "HE JUST WANTED TO STRAIGHTEN  
7 THINGS OUT, THAT HE DIDN'T DO ANYTHING."

8 THE COURT: YOU WANT TO ASK THE OFFICER WHAT THE  
9 DEFENDANT SAID IN ORDER TO ELICIT THE RESPONSE THAT HE  
10 SAID, "I JUST WANT TO STRAIGHTEN THINGS OUT. I DIDN'T DO  
11 ANYTHING"?

12 MR. DAVIS: YES, YOUR HONOR.

13 THE COURT: OKAY.

14 MS. HERRING-LASH: YOUR HONOR, IT'S THE STATE'S  
15 POSITION THAT THAT WOULD BE HEARSAY. IT'S NOT A STATEMENT  
16 OFFERED AGAINST A PARTY, IT'S JUST A STATEMENT THAT HE  
17 MADE TO THE OFFICER, WHICH IS HEARSAY. IT'S MADE OUT OF  
18 COURT AND IT'S BEING OFFERED FOR THE TRUTH OF THE MATTER.

19 THE COURT: ANY RESPONSE?

20 MR. DAVIS: JUDGE, I -- I THINK THE EASIEST RESPONSE  
21 TO THAT -- I DON'T KNOW IF YOU NEED IN-CAMERA TESTIMONY TO  
22 THIS -- I THINK THE EASIEST RESPONSE TO THAT WOULD BE IT'S  
23 EXCITED UTTERANCE. HE'S -- HE'S COMING BACK IN --  
24 CERTAINLY, OUR -- OUR POSITION IS HE DIDN'T DO ANYTHING  
25 WRONG. HE -- WHEN HE IS STARTLED BY HIS WIFE COMING OUT,

1 ACCUSING HIM OF WHO KNOWS WHAT, SHE HASN'T TESTIFIED YET.  
2 HIT HIM OVER THE HEAD WITH A PHONE. YELLED AND SCREAMED  
3 AT HIM. HE WALKS OUT OF THE HOUSE. HE WALKS AWAY TO COOL  
4 OFF, LET HER COOL OFF. HE COMES BACK. THERE'S POLICE  
5 CARS ON THE SCENE, MAYBE LIGHTS ON, MAYBE NOT. HE WALKS  
6 PAST AT LEAST THREE POLICE CARS, WALKS IN. AN OFFICER  
7 GOES TO ARREST HIM. HE IS STARTLED BY THAT AND SAYS, "I  
8 WANT TO STRAIGHTEN THINGS OUT. I DIDN'T DO ANYTHING."

9 IT IS A STATEMENT RELATING TO A STARTLING EVENT OR  
10 CONDITION MADE WHILE THE DECLARANT IS UNDER THE STRESS OR  
11 EXCITEMENT CAUSED BY THE EVENT OR CONDITION. WHY ARE  
12 THESE POLICE AT MY HOUSE. WHY ARE YOU PUTTING ME IN  
13 INVESTIGATIVE DETENTION. I DIDN'T DO ANYTHING. I WANT TO  
14 STRAIGHTEN THIS OUT. SO, IT WOULD BE AN EXCEPTION TO  
15 HEARSAY.

16 THE COURT: IF HE DIDN'T DO ANYTHING WRONG, THEN THE  
17 STARTLING EVENT CAN'T BE THE CRIME, OF COURSE. IT HAS TO  
18 BE THE ARREST.

19 MR. DAVIS: CERTAINLY.

20 MS. HERRING-LASH: YOUR HONOR, IF I MAY FOR ONE  
21 MOMENT. IF -- IF HIS POSITION IS THAT THE STARTLING EVENT  
22 WAS THAT HE WALKS BACK IN AND DOESN'T KNOW THAT THESE  
23 ALLEGATIONS HAVE BEEN MADE AND THAT HE'S ABOUT TO BE  
24 ARRESTED, THEN I THINK THE OTHER STATEMENT HE MADE IS --  
25 WAS "I DIDN'T LICK HER OR ANYTHING" -- AND IF HE DIDN'T

OFFICER ROGERS -- CROSS BY MR. DAVIS

182

1 KNOW WHAT THE ALLEGATIONS WERE, THEN I THINK THAT OTHER  
2 STATEMENT ABOUT NOT LICKING HER WOULD ALSO BE RELEVANT AT  
3 THIS POINT. IT WAS MADE PRIOR TO QUESTIONING IF -- IF HIS  
4 POSITION IS HE'S WALKING IN THERE NOT -- AND BEING  
5 STARTLED BY THE OFFICER --

6 THE COURT: WELL, THE ADMISSIBILITY OF THAT STATEMENT  
7 -- SO -- SO AFTER -- AT SOME POINT AFTER HE SAID, "I  
8 DIDN'T DO ANYTHING WRONG", HE SAID, "I DIDN'T LICK HER"?

9 MS. HERRING-LASH: "I DIDN'T LICK HER OR ANYTHING."

10 MR. DAVIS: THEN WE GET INTO ALL THE MIRANDA AND THE  
11 WHOLE DENNO ISSUE, AND THAT'S WHY I ASKED FOR THIS  
12 IN-CAMERA. AND I UNDERSTAND THE STATE'S ARGUMENT, BUT  
13 THAT'S A -- THAT'S LATER --

14 THE COURT: WELL, BUT MIRANDA WOULD BE THE ONLY THING  
15 THAT WOULD KEEP THAT STATEMENT OUT. IF -- IF HE -- IF IT  
16 WAS INVOLUNTARY STATEMENT, AND I WERE TO -- I ASSUME THAT  
17 WHOEVER TRIED THIS CASE BEFORE, RULED THAT THIS -- THAT  
18 THE STATEMENT HAD BEEN VOLUNTARILY GIVEN AND ALLOWED INTO  
19 EVIDENCE?

20 MS. HERRING-LASH: YES, YOUR HONOR. BECAUSE IT WAS  
21 NOT IN RESPONSE TO INTERROGATION. THE ARGUMENT WAS FROM  
22 THE DEFENSE, WELL, HE HAD ALREADY BEEN ACCUSED -- HE  
23 ALREADY KNEW THIS BECAUSE THE WIFE HAD ACCUSED HIM OF  
24 THIS, SO HE WAS JUST TRYING TO CLEAR IT UP. BUT THE  
25 ARGUMENT NOW SEEMS TO BE THAT HE WAS STARTLED BY THE FACT

1 THAT HE WAS BEING ACCUSED OF ANYTHING AND PLACED UNDER  
2 DETENTION.

3 MR. DAVIS: I CAN PURSE THAT A LITTLE MORE FINELY,  
4 JUDGE. ACCUSATIONS ARE ONE THING. TO BE ARRESTED WITHOUT  
5 A FULL INVESTIGATION IS -- IS STARTLING. I'M BACK -- I'M  
6 HERE TO TALK TO YOU AND BEFORE I EVEN GET A CHANCE TO SAY  
7 ANYTHING, YOU'RE PUTTING CUFFS ON ME AND TAKING ME TO THE  
8 CAR. DON'T I GET TO SAY MY SIDE OF THE STORY.

9 THE COURT: I DON'T -- I DON'T THINK THAT IT  
10 QUALIFIES AS A STARTLING EVENT -- I MEAN, I DON'T THINK IT  
11 QUALIFIES AS AN EXCITED UTTERANCE. BECAUSE I'M SITTING  
12 HERE TRYING TO FIGURE OUT WHY -- HOW IT WOULD BE THAT IF  
13 THAT -- IF THAT WERE TRUE, THEN EVERY SELF-SERVING  
14 STATEMENT MADE BY A DEFENDANT AT OR NEAR THE TIME OF AN  
15 ARREST OR A CRIME THEY CLAIM THEY DIDN'T COMMIT WOULD  
16 QUALIFY FOR ADMISSION UNDER THE EXCITED UTTERANCE  
17 EXCEPTION.

18 AND IF THAT WERE TRUE, THERE WOULDN'T BE SO MANY  
19 CASES OUT THERE TELLING US HOW YOU CAN'T INTRODUCE  
20 SELF-SERVING HEARSAY STATEMENTS MADE BY A DEFENDANT AT THE  
21 TIME OF ARREST.

22 MR. DAVIS: I UNDERSTAND, JUDGE. THE DIFFERENCE I  
23 WOULD SAY HERE IS, HE'S REINSERTED HIMSELF TO THE SCENE.  
24 HE HAS COME BACK TO THE LOCATION. HE WALKS PAST POLICE  
25 CARS AND COMES BACK INTO THE RESIDENCE. THAT'S THE NORMAL



1 SITUATION YOU HAVE WHEN AN ALLEGED SUSPECT -- FOR EXAMPLE,  
2 A ROBBERY AND YOU PUT OUT AN A.P.B. AND A BOLO AND THEY --  
3 THEY SEE SOMEONE MATCHING THE DESCRIPTION RUNNING ALONG  
4 THE STREET. AND USUALLY -- THERE IS A TAKE DOWN. WHY DID  
5 YOU ARREST ME? I DIDN'T DO ANYTHING WRONG, RUNNING FROM  
6 THE COPS AND MAKE THAT SELF-SERVING STATEMENT. HERE, MY  
7 CLIENT HAS COME BACK TO HIS RESIDENCE, PAST THE POLICE  
8 CARS. WALKS IN, WHAT'S GOING ON, YOU KNOW, THE POLICE ARE  
9 HERE. COMES BACK IN, THERE'S AN INVESTIGATION. LET'S SEE  
10 WHAT'S GOING ON HERE.

11 BEFORE -- BEFORE HE CAN SAY ANYTHING, WE'RE -- HE'S  
12 TAKEN BACK OUTSIDE. WAIT. WAIT. I WANT TO STRAIGHTEN  
13 THINGS OUT. I DIDN'T DO ANYTHING, AREN'T YOU GOING TO  
14 HEAR FROM ME BEFORE YOU MAKE THIS DETERMINATION, AREN'T  
15 YOU GOING TO HEAR FROM ME BEFORE YOU MAKE AN ARREST. I  
16 THINK THAT -- YOU NEED A FACTUAL SITUATION TO -- MAKES  
17 THIS A LITTLE DIFFERENT THAN THE LINE OF CASES, CERTAINLY,  
18 YOUR HONOR, IS DISCUSSING.

19 THE COURT: I SUSTAIN THE OBJECTION.

20 MR. DAVIS: THEN, JUDGE, I'M CONCERNED ABOUT THE FACT  
21 -- ABOUT THE WAY THE OFFICER ANSWERED. I DIDN'T MAKE AN  
22 OBJECTION. HE ASKED -- AND I STATED WHAT HE SAID, AND THE  
23 SOLICITOR SAID, NO, THAT'S HEARSAY. AND, SO, THE JURY IS  
24 LEFT WITH THE IMPRESSION THAT THERE WAS SOMETHING SAID.  
25 THE STATE ISN'T ALLOWING AN OFFICER TO SAY IT. AND NOW I

1 -- WELL, WHILE WE DON'T HAVE TO PROVE ANYTHING, MY CLIENT  
2 DOESN'T HAVE TO TESTIFY AND WE'LL MAKE THAT DECISION AT  
3 THE END OF THE TRIAL, THE JURY KNOWS THERE WAS SOMETHING  
4 SAID. AND I UNDERSTAND YOUR RULING. BUT IF I CAN'T GET  
5 INTO IT, THEN I'M NOT SURE HOW WE DEAL WITH THAT. I MEAN,  
6 IT'S -- THEY DON'T KNOW WHAT WAS SAID, BUT THEY KNOW THIS  
7 OFFICER HEARD MY CLIENT SAY SOMETHING.

8 THE COURT: WELL, WOULD YOU LIKE FOR ME TO  
9 SPECIFICALLY ADDRESS THAT WITH THE JURY, AND REMIND THEM  
10 OF THE DEFENDANT'S RIGHT TO REMAIN SILENT, AND MAKE --  
11 JUST MAKE IT VERY CLEAR TO THEM THAT WHATEVER IT IS THAT  
12 WAS SAID, IS NOT A MATTER FOR THEIR CONCERN?

13 MR. DAVIS: AND HERE'S THE BIND I'M IN NOW, JUDGE.  
14 WE HAVE BEEN -- WE'VE HANDLED TRAINING WITH APPELLATE  
15 DEFENSE -- AND MY BIND IS IF IT GOES UNCOMMENTED ON, I  
16 THINK I'M IN A BIND. BUT IF IT'S COMMENTED ON, THEN WE'RE  
17 DRAWING ATTENTION TO IT. UM, THAT'S -- THAT'S THE  
18 PREDICAMENT I'M IN. IF YOU WOULD GIVE ME JUST A MOMENT,  
19 JUDGE?

20 THE COURT: CERTAINLY. (PAUSE). WELL, LET ME JUST  
21 SAY THIS: IF SOMETHING IS TO BE SAID BY ME TO THE JURY, I  
22 DON'T REALLY THINK THAT NOW IS THE RIGHT TIME TO DO IT  
23 BECAUSE YOU FOLKS MAY CHANGE YOUR STRATEGY LATER IN THE  
24 TRIAL. SHE MAY DECIDE SHE WANTS TO INTRODUCE THE  
25 DEFENDANT'S STATEMENT. YOU MAY TRY IT THROUGH HIS

1 TESTIMONY OR IN SOME OTHER WAY. AND IF I TELL THEM NOW  
2 THAT THEY CAN'T HEAR WHAT WAS SAID, AND THEN LATER ON  
3 ALLOW IT INTO EVIDENCE, THEN THAT'S GOING TO CREATE MORE  
4 CONFUSION. SO, IF ANYTHING IS TO BE SAID, IT SEEMS TO BE  
5 AS THOUGH THE BEST TIME TO SAY IT WOULD BE DURING THE JURY  
6 CHARGE RATHER THAN RIGHT NOW.

7 HOWEVER, I'M GIVING YOU A CHANCE NOW TO SPEAK TO  
8 YOUR CLIENT AND TO MAKE ANY REQUESTS YOU WOULD LIKE AS TO  
9 HOW I CAN DEAL WITH THE PROBLEM THAT YOU PERCEIVE HAS  
10 DEVELOPED. ALL RIGHT. AND WHILE YOU DO THAT, I'M GOING  
11 TO TAKE A SHORT BREAK AND STEP OFF THE BENCH FOR ABOUT  
12 THREE MINUTES AND BE RIGHT BACK.

13 MR. DAVIS: THANK YOU VERY MUCH.

14 (WHEREUPON, COURT RECESSED AT 10:16 A.M.)

15 (WHEREUPON, COURT RESUMED AT 10:19 A.M.)

16 THE COURT: ALL RIGHT, MR. DAVIS. DO YOU HAVE A  
17 REQUEST TO MAKE?

18 MR. DAVIS: JUDGE, I UNDERSTAND YOUR POSITION ABOUT  
19 -- SINCE WE'RE SO EARLY IN THE TRIAL AND BOTH SIDES ARE  
20 UNSURE OF THE COMPLETE STRATEGY UNTIL THE CASE UNFOLDS,  
21 I'M NOT ADDRESSING IT AT THIS VERY POINT. HOWEVER, AS --  
22 AS WE WERE DISCUSSING WITH MY CLIENT, WITH HAROLD HERE, IF  
23 THE TESTIMONY HAD GONE THE WAY, I BELIEVE, BOTH SIDES HAD  
24 ANTICIPATED, NO STATEMENTS WOULD HAVE BEEN EVEN  
25 REFERENCED. CERTAINLY THAT WOULD HAVE FACTORED INTO OUR

1 DECISION WHETHER HAROLD WOULD TESTIFY AND EXPLAIN THINGS  
2 FULLY; OR SINCE NO STATEMENTS WERE EVER MADE, HE DOESN'T  
3 HAVE TO TESTIFY AND NOT SAY ANYTHING AT ALL. BUT WE'RE --  
4 WE'RE KIND OF IN BETWEEN THE TWO. WHILE NO STATEMENTS  
5 HAVE COME OUT, AND NOR WILL THEY, I UNDERSTAND, BASED ON  
6 YOUR HONOR'S RULING AT THIS POINT AT LEAST, THE JURY KNOWS  
7 SOMETHING WAS SAID.

8 JUDGE, I BELIEVE I HAVE TO, OUT OF AN ABUNDANCE OF  
9 CAUTION ON BEHALF OF MY CLIENT --

10 THE COURT: ALL RIGHT. HOW ABOUT IF I -- I'M JUST  
11 THROWING OUT IDEAS -- AND I WAS NOT RULING A MINUTE AGO.  
12 I WAS JUST SAYING THAT I THINK IT'S A GOOD IDEA TO WAIT.  
13 BUT -- BUT I CAN SAY SOMETHING ALONG THE LINES THAT --  
14 THAT I'M CONCERNED ABOUT A STATEMENT THAT THE OFFICER MADE  
15 REFERENCING SOMETHING THE DEFENDANT MAY HAVE SAID. AND I  
16 DON'T WANT YOU ALL TO DRAW ANY INFERENCES FROM STATEMENTS  
17 THAT MIGHT HAVE BEEN MADE, THAT ARE NOT INTRODUCED INTO  
18 EVIDENCE. AT THIS POINT IN TIME, I DON'T KNOW IF ANY  
19 EVIDENCE REGARDING A STATEMENT LIKE THAT IS COMING INTO  
20 EVIDENCE OR NOT. BUT I JUST WANT TO TAKE THIS OPPORTUNITY  
21 TO MAKE IT CLEAR TO YOU THAT YOU CANNOT DRAW ANY  
22 INFERENCES FROM THE FACT THAT THE DEFENDANT MAY HAVE SAID  
23 SOMETHING WHEN THAT STATEMENT IS NOT INTRODUCED INTO  
24 EVIDENCE. I DON'T KNOW. THAT -- WHAT DO YOU WANT ME TO  
25 DO? I MEAN, YOU JUST NEED TO BE SPECIFIC. I'M READY --

1 IT'S TIME FOR US TO MOVE ON. BE SPECIFIC.

2 MR. DAVIS: HERE'S WHAT --

3 THE COURT: HAVE A SPECIFIC REQUEST AND THEN I WILL  
4 LET YOU KNOW WHETHER OR NOT I NEED TO HEAR ANY ARGUMENT  
5 ABOUT IT.

6 MR. DAVIS: I -- I BELIEVE I HAVE TO ASK YOU TO  
7 CONSIDER A MISTRIAL AT THIS POINT. I DON'T BELIEVE THAT  
8 IN --

9 THE COURT: IS THAT A MOTION FOR A MISTRIAL?

10 MR. DAVIS: THAT IS. JUST BRIEFLY, FOR THE RECORD?

11 THE COURT: SURE.

12 MR. DAVIS: WHILE I -- WHILE I DON'T DISAGREE WITH  
13 YOUR STATEMENT AS TO THE PROPOSED JURY INSTRUCTION THAT  
14 YOU JUST INDICATED, I DON'T BELIEVE THAT WOULD CURE -- IN  
15 FACT, I BELIEVE THAT WOULD BRING MORE ATTENTION TO THE  
16 ISSUE. AND WHILE THE INSTRUCTION IS CLEAR, THE JURY IS  
17 LEFT TO WONDER WHAT WAS SAID. I UNDERSTAND YOUR HONOR'S  
18 RULING. AND I APPRECIATE YOUR LETTING ME FILL THE RECORD  
19 . THERE.

20 IN THE ABSENCE OF A MISTRIAL, JUDGE, WHILE I  
21 BELIEVE THE JURY INSTRUCTION IS WORDED APPROPRIATELY, I  
22 WILL TAKE THE POSITION THAT -- I WOULD ASK THE COURT --  
23 JUST ONE SECOND (PAUSE). THANK YOU, YOUR HONOR. I WOULD  
24 ASK YOU TO NOT GIVE THE INSTRUCTION AT THIS POINT. I  
25 THINK WHILE IT'S -- IT WILL DRAW TOO MUCH ATTENTION.

1 THE COURT: OKAY. I WON'T THEN. BRING IN THE JURY.

2 MR. DAVIS: THANK YOU, YOUR HONOR.

3 (WHEREUPON, JURY ENTERED THE COURTROOM AT 10:24 A.M.)

4 MR. DAVIS: THANK YOU, YOUR HONOR.

5 BY MR. DAVIS:

6 Q OFFICER ROGERS, JUST A FEW MORE QUESTIONS.

7 A YES, SIR.

8 Q WE TALKED ABOUT THE OFFICERS THAT ARRIVED ON SCENE  
9 BOTH BEFORE AND AFTER YOU LEFT, ARE YOU AWARE OF WHETHER  
10 ANY -- WHAT'S REFERRED TO AS ANY CRIME SCENE INVESTIGATIVE  
11 OFFICERS WERE DISPATCHED TO THIS SCENE?

12 A I WOULDN'T -- I DON'T RECALL IF I WAS MADE AWARE  
13 OF THAT, BUT I ANTICIPATED THAT WAS THE STANDARD PROTOCOL  
14 FOR SOMETHING LIKE THAT, BUT I WASN'T FORMALLY TOLD THAT  
15 THEY WERE IN ROUTE.

16 Q OKAY. SO, LET ME PARAPHRASE WHAT YOU'RE SAYING.  
17 WHILE IT WOULD BE NORMAL IN A CASE LIKE THIS FOR THAT TO  
18 HAPPEN, IN THIS CASE YOU'RE NOT SURE WHETHER IT DID OR  
19 NOT?

20 A I DON'T KNOW IF IT DID OR NOT. THAT'S CORRECT.

21 Q YOU PERSONALLY DID NOT COLLECT ANY PHYSICAL  
22 EVIDENCE, ANY ITEMS FROM THE HOUSE?

23 A THAT'S CORRECT.

24 Q SO, IF THAT HAPPENED, THAT WOULD BE EITHER WHILE  
25 YOU'RE OUTSIDE OR AFTER YOU LEFT THE SCENE?

1 A IF THAT HAPPENED, CORRECT, YEAH.

2 Q OKAY. FINALLY, OFFICER ROGERS, JUST SO I WILL BE  
3 CLEAR ON THIS: WHEN YOU LEFT THE SCENE WITH HAROLD,  
4 **MINOR** WAS STILL AT THE TRAILER, RIGHT?

5 A THAT'S CORRECT.

6 Q SO, SHEILA, HER GRANDMOTHER, WAS STILL IN THERE  
7 WITH HER, RIGHT?

8 A THAT'S CORRECT.

9 Q OFFICER LOWERY, THE FEMALE OFFICER, WAS STILL IN  
10 THERE, CORRECT?

11 A CORRECT.

12 Q SGT. NATHAN WOULD HAVE BEEN IN THERE, CORRECT?

13 A THAT'S CORRECT.

14 Q THE MALE OFFICER?

15 A YES.

16 Q AND IT'S YOUR RECOLLECTION THAT DETECTIVE ELMORE  
17 AND DETECTIVE WILLIAMS WERE ON THEIR WAY?

18 A CORRECT.

19 Q BOTH MALE OFFICERS?

20 A CORRECT.

21 Q OKAY. THANK YOU, OFFICER ROGERS. I APPRECIATE  
22 IT.

23 MR. DAVIS: NO OTHER QUESTIONS.

24 REDIRECT EXAMINATION BY MS. HERRING-LASH:

25 Q JUST A FEW FOLLOW-UP QUESTIONS, OFFICER ROGERS.

1 YOU TOLD MR. DAVIS THAT OFFICER LOWERY WAS SPEAKING TO

2 [REDACTED]

3 A THAT'S CORRECT.

4 Q DO YOU REMEMBER IF THE GRANDMOTHER WAS MAKING  
5 PHONE CALLS TO FAMILY MEMBERS OR WHAT EXACTLY SHE WAS  
6 DOING?

7 A WHAT I RECALL IS THE GRANDMOTHER KIND OF STANDING  
8 OFF TO THE SIDE WHILE [REDACTED] WAS BEING ASKED QUESTIONS BY  
9 OFFICER LOWERY. AS FAR AS MAKING PHONE CALLS, I DON'T  
10 RECALL THAT.

11 Q BUT SHE WAS STANDING OFF TO THE SIDE TO YOUR  
12 RECOLLECTION?

13 A YES.

14 Q WOULD IT, UM, KNOWING THE ATMOSPHERE WHEN YOU  
15 ARRIVED THERE---

16 A UH-HUH.

17 Q -- AND WHAT MS. SHEPPARD TOLD YOU, WOULD IT  
18 SURPRISE YOU IF SHE HAD HIT MR. ORR WITH THE PHONE?

19 A IF SHE HAD TOLD ME, I DON'T THINK THAT WOULD HAVE  
20 SURPRISED ME.

21 Q AND, ONCE AGAIN, YOU ARRIVED HOW LONG AFTER THE  
22 CALL?

23 A APPROXIMATELY FOUR MINUTES.

24 MS. HERRING-LASH: THOSE ARE ALL THE QUESTIONS I  
25 HAVE.



OFFICER ROGERS -- REDIRECT BY MS. HERRING-LASH  
192

1 MR. DAVIS: NOTHING FURTHER.

2 THE COURT: ALL RIGHT, SIR. YOU CAN STEP DOWN.

3 MS. HERRING-LASH: YOUR HONOR, WE WOULD ASK IF MR. --  
4 IF OFFICER ROGERS COULD BE EXCUSED. HE HAS TO GET BACK  
5 TO---

6 THE COURT: ALL RIGHT. HE MAY BE EXCUSED.

7 THE WITNESS: THANK YOU.

8 (WITNESS EXCUSED.)

9 MS. HERRING-LASH: THE STATE WOULD CALL SHEILA  
10 SHEPPARD.

11 (WITNESS FORWARD.)

12 SHEILA SHEPPARD, HAVING BEEN  
13 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 CLERK: THANK YOU, MA'AM. PLEASE HAVE A SEAT. FOR  
15 THE RECORD, PLEASE STATE YOUR NAME, SPELLING YOUR LAST  
16 NAME.

17 THE WITNESS: SHEILA SHEPPARD, S-H-E-P-P-A-R-D.

18 DIRECT EXAMINATION BY MS. HERRING-LASH:

19 Q MS. SHEPPARD, WHERE DO YOU LIVE NOW?

20 A I LIVE IN NORTH CHARLESTON. [REDACTED]

21 Q HOW LONG HAVE YOU LIVED THERE?

22 A I HAVE LIVED THERE ABOUT 17 MONTHS.

23 Q AND WHERE -- OR DO YOU WORK?

24 A YES, MA'AM, I DO.

25 Q WHERE DO YOU WORK?

1 A COUNTRY INN SUITES IN NORTH CHARLESTON.

2 Q WHAT DO YOU DO THERE?

3 A I'M A HOUSEKEEPING SUPERVISOR.

4 Q WHAT ARE YOUR DUTIES AS A SUPERVISOR?

5 A I SUPERVISE A TEAM OF SEVEN OR EIGHT. I MAKE  
6 THEIR SCHEDULES. I DO ORDERING FOR MY DEPARTMENT.

7 Q DO YOU HAVE CHILDREN?

8 A YES, MA'AM, I DO.

9 Q WHAT ARE THEIR AGES AND GENDERS?

10 A I HAVE A DAUGHTER THAT IS 29. I HAVE A DAUGHTER  
11 THAT IS 28. A SON IS 26 AND A SON THAT IS 25.

12 Q AND WHO ARE YOUR DAUGHTERS?

13 A LASHANDA SIMMONS AND SABRINA ANDERSON.

14 Q AND DO EITHER OF THEM HAVE CHILDREN?

15 A LASHANDA SIMMONS.

16 Q AND WHO ARE HER CHILDREN?

17 A MINOR KAILAH D [REDACTED], PARIS S [REDACTED] AND  
18 DANTE' G [REDACTED].

19 Q WAS MINOR YOUR FIRST GRANDCHILD?

20 A YES, SHE WAS.

21 Q AND WHERE DID SHE LIVE WHEN SHE WAS BORN?

22 A SHE LIVES AT PAWLEY'S ISLAND.

23 Q AND WHO DID SHE LIVE WITH?

24 A SHE LIVES WITH ME AND MR. HAROLD ORR AND LASHANDA.

25 Q AND DID SABRINA ALSO LIVE THERE?

1           A    YES, SHE DID.

2           Q    ARE YOU CLOSE TO YOUR GRANDCHILDREN?

3           A    YES, MA'AM, I AM.

4           Q    DO YOU PROVIDE SOME CARETAKING DUTIES FOR THEM?

5           A    I DID WHEN THEY WERE SMALLER.  NOW THEY'RE BIGGER,

6   THEY REALLY DON'T NEED GRANNIE AS MUCH AS THEY DID THEN.

7           Q    AND THEY LIVED, I GUESS YOU SAID, AT PAWLEY'S

8   ISLAND WITH YOU FOR A WHILE?

9           A    YES, MA'AM, THEY DID..

10          Q    DID THEY MOVE TO CHARLESTON AT SOME POINT?

11          A    YES.  I THINK [REDACTED] WERE AROUND MAYBE ELEVEN,

12   TEN OR ELEVEN WHEN THEY MOVED TO CHARLESTON.

13          Q    NOW, DO YOU KNOW WHAT YEAR THAT WAS?

14          A    I CAN'T REMEMBER.

15          Q    DO YOU REMEMBER [REDACTED] BIRTHDAY?

16          A    [REDACTED].

17          Q    AND DO YOU REMEMBER THE DATE OF THE EVENT THAT

18   WE'RE HERE REGARDING?

19          A    NOVEMBER 23, '03.

20          Q    NOW, SHE WAS BORN IN [REDACTED].  IN '03, SHE WOULDN'T

21   HAVE BEEN TEN YET, WOULD SHE?

22          A    NO, MA'AM.  SHE WOULD HAVE BEEN NINE, GOING ON

23   TEN.

24          Q    OKAY.  SO, WAS SHE ALREADY LIVING IN NORTH

25   CHARLESTON?

- 1 A AT THE TIME OF THE INCIDENT?
- 2 Q YES.
- 3 A YES.
- 4 Q SO, SHE WOULD HAVE MOVED HERE BEFORE SHE WAS TEN
- 5 OR ELEVEN?
- 6 A YES.
- 7 Q UM, DID YOU, AT SOME POINT, MOVE TO NORTH
- 8 CHARLESTON ALSO?
- 9 A YES, MA'AM, I DID.
- 10 Q WHEN WAS THAT?
- 11 A OCTOBER '03.
- 12 Q AND WHO DID YOU MOVE TO CHARLESTON WITH?
- 13 A MR. HAROLD ORR.
- 14 Q AND WHERE DID Y'ALL LIVE?
- 15 A [REDACTED] [REDACTED], NORTH CHARLESTON.
- 16 Q AND YOU TWO LIVED THERE ALONE?
- 17 A YES, MA'AM.
- 18 Q DID THE KIDS VISIT?
- 19 A YES, MA'AM.
- 20 Q NOW, CALLING YOUR ATTENTION BACK TO THAT DAY
- 21 AROUND THANKSGIVING OF 2003; DID YOUR GRANDKIDS COME OVER?
- 22 A YES, MA'AM, THEY DID.
- 23 Q WHICH ONES CAME?
- 24 A [REDACTED] MINOR KAILAH AND PARIS.
- 25 Q AND WHY WERE THEY COMING OVER?

1           A   IT WAS THANKSGIVING.  AND THEIR MOM WORKED AT  
2   PAWLEY'S ISLAND AT THE COUNTRY -- CARRIAGE HOUSE CLUB, AND  
3   THEY WERE SHORT OF HELP.  SO, IT WAS COMING AROUND THE  
4   HOLIDAYS AND SHE WANTED TO MAKE SOME EXTRA MONEY FOR THE  
5   KIDS, SO SHE WENT TO WORK.

6           Q   SO, DID SHE -- HAD USED TO WORK THERE A LONG  
7   TIME---

8           A   YES.  SHE WORKED THERE BEFORE SHE MOVED TO  
9   CHARLESTON.

10          Q   AND SHE WENT BACK TO HELP THEM OUT?

11          A   YES, MA'AM.

12          Q   WHO BROUGHT THE KIDS TO YOUR HOME?

13          A   MY OTHER DAUGHTER, SABRINA ANDERSON.

14          Q   AND WHAT DID THEY DO WHEN THEY GOT THERE?

15          A   WELL, THEY WERE JUST WINDING DOWN FROM A DAY AT  
16   SCHOOL.  AND WE JUST -- WAS JUST, YOU KNOW, RELAXING,  
17   HAVING DINNER, WATCHING TV, JUST NORMAL THINGS I WOULD DO  
18   WITH THEM.

19          Q   DO YOU RECALL IF THEY BATHED?

20          A   YES, MA'AM, THEY DID.

21          Q   HOW DO YOU RECALL THAT?

22          A   BECAUSE I MAKE SURE THEY ALWAYS TAKE BATHES.

23          Q   DO THEY LIKE GETTING IN YOUR BATHTUB?

24          A   YES, MA'AM.  I HAD THIS BIG GARDEN TUB THAT SITS  
25   OUT, LIKE, IN THE MIDDLE OF THE FLOOR.  AND THEY THOUGHT

1 THAT WAS THEIR PLAY TOY, THEIR PLAY HOUSE.

2 Q AND NOW WAS MR. ORR -- ORR HOME THAT EVENING?

3 A HE CAME IN MAYBE AN HOUR OR SO AFTER THEY GOT  
4 THERE.

5 Q AND DID HE STAY?

6 A FOR A LITTLE WHILE.

7 Q AND DID HE LEAVE AFTER THAT?

8 A YES, MA'AM, HE DID.

9 Q DO YOU KNOW WHERE HE WAS GOING?

10 A NO, MA'AM, I DON'T.

11 Q DID -- WHAT DID Y'ALL DO AFTER HE LEFT?

12 A WE WENT TO -- WELL, IT COME AROUND 8:00 OR  
13 WHATEVER, SO WE ALL DECIDED WE WAS GOING TO GO IN MY ROOM  
14 AND WE WAS GOING TO WATCH SOME TV. VINOR DIDN'T WANT TO  
15 GO IN MY ROOM BECAUSE SHE DON'T WANT TO LOOK AT WHAT WE'RE  
16 LOOKING AT. SO, SHE GOT HER VIDEOTAPE AND SHE WENT TO THE  
17 LIVING ROOM. ME AND KAILAH STAYED IN MY BEDROOM. AND  
18 PARIS, THE LITTLE ONE, SHE WAS JUST BACK AND FORTH.

19 Q HOW LITTLE WAS SHE, ABOUT---

20 A SHE WAS LITTLE -- PROBABLY A LITTLE OVER ONE, IF  
21 SHE WAS JUST AT ONE.

22 Q SO, SHE WAS LIKE A TODDLER?

23 A YES, MA'AM.

24 Q AND DO YOU KNOW IF, WHILE YOU WERE LAYING THERE,  
25 YOU FELL ASLEEP?

1           A   YES, MA'AM, I DID.

2           Q   NOW, HAD YOU GONE IN THERE TO GO TO BED FOR THE  
3   NIGHT?

4           A   NO, MA'AM, I DIDN'T.  BECAUSE THEY WERE STILL  
5   AWAKE.  WE -- WE ALL WERE STILL AWAKE.  AND WITH THE  
6   LITTLE BABY RUNNING AROUND, YOU KNOW.  YOU DON'T REALLY  
7   WANT TO GO TO SLEEP WITH A TODDLER RUNNING AROUND.

8           Q   BUT YOU DID?

9           A   YES, MA'AM, I DID.

10          Q   AND DO YOU KNOW -- DO YOU HAVE ANY IDEA HOW LONG  
11   YOU WERE ASLEEP?

12          A   NO, MA'AM, I DON'T.

13          Q   AND WHAT HAPPENED WHEN YOU WOKE UP?

14          A   I JUST WOKED UP -- JUST WOKED UP, AND I GOT UP.  
15   AND I WAS LIKE, OKAY, KAILAH IS STILL HERE IN THE BED WITH  
16   ME.  LET ME GO FIND MY OTHER TWO.  SO, I CAME OUT OF MY  
17   BEDROOM, UP INTO THE LIVING ROOM.  THERE WAS MINOR ON  
18   THE COUCH WITH MR. ORR.  PARIS WAS IN THE GRANDKID'S  
19   BEDROOM BY HERSELF.

20          Q   AND LET ME SHOW YOU WHAT HAS BEEN MARKED AS  
21   STATE'S EXHIBIT NO. 2; DO YOU RECOGNIZE THAT?

22          A   YES.  THIS IS THE TRAILER THAT WE LIVED IN.

23          Q   WOULD YOU TURN AROUND TO THE BACK, IF YOU PUSH  
24   THIS -- DO YOU SEE THIS BUTTON RIGHT HERE?  YOU CAN PUSH  
25   THAT, AND MAKE IT LIKE THE -- THE TOP ONE.

1 A OKAY.

2 Q WHERE WAS YOUR BEDROOM?

3 A IT WAS BACK HERE.

4 Q AND THAT'S WHERE YOU WERE ASLEEP?

5 A YES, MA'AM.

6 Q AND WHERE IS THE COUCH?

7 A THE COUCH IS RIGHT HERE.

8 Q AND WHERE WAS MINOR

9 A MINOR WAS RIGHT HERE ON THE COUCH.

10 Q AND WHERE WAS -- YOU SAID -- WHAT DID YOU SEE WHEN

11 YOU CAME OUT?

12 A I SAW MINOR LAYING ON THIS COUCH, HEAD DOWN

13 HERE, MR. ORR BETWEEN HER LEGS HAVING ORAL SEX WITH HER.

14 Q NOW, LET'S GO BACK, WHAT WAS MINOR POSITION ON

15 THE COUCH?

16 A HER HEAD WAS LIKE -- THIS -- THIS IS A DOOR --

17 A DOOR -- ANOTHER DOOR, THE MAIN DOOR --

18 Q WHAT---

19 A ---IS NOT ON THIS PICTURE HERE.

20 Q OKAY. WE'LL SHOW YOU WHAT HAS BEEN MARKED AS

21 STATE'S EXHIBIT NO. 3.

22 A OKAY. MINOR WOULD HAVE BEEN RIGHT HERE ON --

23 THIS IS THE FRONT DOOR, SO HER HEAD WOULD HAVE BEEN RIGHT

24 HERE ON THIS COUCH.

25 Q AND WHAT POSITION WAS SHE IN?



1           A   HER HEAD LAID BACK, AND HER LEGS WERE UP. ONE LEG  
2   WAS BACK ON THE CHAIR AND ONE WAS OPEN DOWN TO THE SIDE.

3           Q   AND IF WE CAN GO BACK TO THE NEXT PICTURE. WHERE  
4   WERE YOU WHEN YOU SAW THIS?

5           A   WELL, I WAS -- THIS IS MY ROOM BACK HERE. SO, I  
6   HAD TO COME THROUGH THIS LITTLE CUT, LIKE, THIS HERE. AND  
7   THERE'S A COFFEE TABLE HERE, BUT -- THIS IS NOT MY STUFF.

8           Q   RIGHT.

9           A   SO, THE COFFEE TABLE IS A LITTLE SMALLER THAN  
10   THIS. SO, I HAD TO COME FROM MY ROOM, UP TO THE LITTLE  
11   CORNER HERE, AND UP TO MY COFFEE TABLE RIGHT ABOUT HERE.  
12   AND THAT'S WHERE I HAD SEEN MR. ORR AND MINOR RIGHT HERE  
13   ON THE COUCH.

14          Q   AND DO YOU REMEMBER WHAT THE LIGHTING WAS LIKE?

15          A   ME, I'M AFRAID OF THE DARK, SO I NEVER HAVE A  
16   TOTALLY DARK HOUSE. SO, THIS KITCHEN LIGHT RIGHT HERE HAD  
17   TO BEEN ON, OR THERE'S A STOVE -- THERE IS A LIGHT HERE ON  
18   THE STOVE WOULD HAVE TO BEEN ON.

19          Q   YOU DON'T SPECIFICALLY REMEMBER, BUT YOU KNOW YOU  
20   ALWAYS LEAVE IT ON?

21          A   I ALWAYS LEAVE A LIGHT ON.

22          Q   NOW, UM, MS. ORR, I -- OR MS. SHEPPARD, I'M SORRY,  
23   I WOULD ASK YOU TO COME DOWN---

24          MS. HERRING-LASH: YOUR HONOR, MAY THE WITNESS COME  
25   DOWN AND DEMONSTRATE?

1 THE COURT: CERTAINLY.

2 MS. HERRING-LASH:

3 Q WOULD YOU COME DOWN AND WE WILL -- COME DOWN HERE  
4 PLEASE -- IS THIS A LOT SMALLER THAN YOUR COUCH?

5 A YES, MA'AM.

6 Q BUT WE WILL TRY -- I WILL HAVE -- YOU CAN POSITION  
7 ME AS YOU SAW MINOR

8 A OKAY.

9 Q AND I'D ASK MS. FAULKNER TO COME. NOW, LET'S SAY  
10 THIS IS THE -- THE FRONT DOOR.

11 A OVER HERE?

12 Q RIGHT. SO, MINOR HEAD WOULD BE THIS WAY, IS  
13 THAT CORRECT?

14 A RIGHT.

15 Q AND WHERE WERE YOU WALKING?

16 A SO, SHE WOULD HAVE TO COME FROM MY BEDROOM -- JUST  
17 LIKE A LITTLE SLUMP RIGHT HERE, JUST LIKE THAT. AND  
18 MINOR WOULD HAVE BEEN LAYING HERE WITH HER HEAD DOWN. I  
19 DON'T WANT TO HURT YOU.

20 Q OKAY.

21 A THIS ONE RIGHT HERE. THIS ONE DOWN, THIS OVER THE  
22 COUCH---

23 Q OKAY. AND NOW JUST HAVE HER -- YOU TELL ME---

24 A IMAGINE ME COME IN -- BUT SEE, THEY NOT KNOW  
25 WHAT'S GOING ON. I'M HERE. AND RIGHT HERE, AS SOON AS I

1 GOT THERE, THAT'S WHEN.

2 Q AND WHAT DID YOU DO WHEN YOU GOT THERE?

3 A WHEN I GOT THERE---

4 Q YOU CAN TAKE YOUR SEAT. WHAT DID YOU DO?

5 A AT THAT POINT, THAT'S WHEN I LOOKED TO THE LEFT --  
6 YOU KNOW, I'M GOING INTO THE SECOND BEDROOM TO FIND OUT  
7 WHERE IS MY OTHER TWO GRANDS. SO, WHEN I GOT THERE TO THAT  
8 POINT, I LOOKED TO THE LEFT. AND I SAID, HAROLD, WHAT IN  
9 THE HELL ARE YOU DOING?

10 Q THEN WHAT DID YOU DO?

11 A AND THAT'S WHEN I JUST WENT INTO A SHOCK BECAUSE  
12 -- I GRABBED THE TELEPHONE BECAUSE I KNEW, HEY---

13 Q WHERE WAS THE TELEPHONE?

14 A THE TELEPHONE WAS HERE. THIS WAS A LITTLE STAND  
15 HERE. AND I HAD A CORDLESS PHONE THAT SITS THERE ON THE  
16 CHARGER.

17 Q AND WHAT DID YOU DO WITH THE PHONE?

18 A I TOOK THE PHONE, I WAS TRYING TO CALL THE COPS  
19 AND TRYING TO -- KEEP HIM THERE. AND SOMETHING IN BETWEEN  
20 TRYING THE PHONE AND GETTING IN AN ARGUMENT WITH HIM, I  
21 CONKED HIM ONE TIME WITH THE PHONE.

22 Q AND WHAT HAPPENED WHEN YOU CONKED HIM WITH THE  
23 PHONE?

24 A WHEN I CONKED HIM WITH THE PHONE, HE JUMPED UP --  
25 I ALREADY CAUGHT HIM. HE JUMPED UP, AND HE PUT -- PULLED

1 HIS PANTS UP OR WHATEVER HE DID, AND HE RAN OUT THE DOOR.

2 Q WHAT DID YOU DO WITH THE PHONE?

3 A THE PHONE, I PUT THE BATTERY BACK IN THE PHONE AND  
4 I CALLED SABRINA BECAUSE I DIDN'T KNOW WHERE HE WAS, WHAT  
5 HIS INTENTION WAS, BUT I HAD TO BEEN THERE FOR [REDACTED] AND  
6 FOR MYSELF.

7 Q AND WHAT DID YOU -- DID -- WANT SABRINA TO DO?

8 A CALL THE COPS.

9 Q IS THAT WHAT YOU TOLD HER, CALL THE---

10 A YEAH. CALL THE COPS.

11 Q AND, NOW, ABOUT HOW LONG WAS IT, DO YOU HAVE ANY  
12 RECOLLECTION, FROM WHEN YOU SAW HIM AND HE LEFT?

13 A OH, MAYBE, FOUR OR FIVE MINUTES. I'M NOT GOING TO  
14 BE CERTAIN.

15 Q WERE YOU PRETTY UPSET?

16 A YES, MA'AM.

17 Q DID YOU HAVE ANY REASON TO BELIEVE ANYTHING LIKE  
18 THIS ---

19 A NEVER. WHEN I -- CAN I BE BRIEF -- CAN I SPEAK?

20 Q YES.

21 A WHEN I FIRST MET MR. ORR, MR. ORR WAS A KIND  
22 PERSON, VERY KIND. HE TOOK INTO ME AND MY CHILDREN, FINE,  
23 YOU KNOW, REAL FINE. I WAS COMFORTABLE WITH THAT, VERY  
24 COMFORTABLE. WHEN [REDACTED] WAS BORN, HE WAS THERE. HE WAS  
25 THERE WITH ME. HE WAS THERE WITH [REDACTED] HE WAS THERE

1 WITH MY KIDS. HE WAS THERE. BUT THAT NIGHT, NOVEMBER  
2 23RD, THAT WAS -- I JUST COULDN'T BELIEVE IT. UNTIL THIS  
3 DAY, I STILL CANNOT BELIEVE IT. SOMEBODY WHO WAS SO CLOSE  
4 TO US WOULD TURN AROUND AND DO SOMETHING LIKE THIS.

5 Q WHAT DID MINOR DO?

6 A WHAT CAN SHE DO? SHE WAS A CHILD, WHAT CAN SHE  
7 DO?

8 Q NO, I MEAN, AFTER YOU SAW THAT, WHAT -- WHAT DID  
9 SHE DO?

10 A I TOOK MINOR INTO THE ROOM.

11 Q WHICH ROOM DID YOU TAKE HER IN?

12 A IN THE BEDROOM. I ALWAYS HAD A ROOM FOR THE  
13 GRANDKIDS.

14 Q NOW, DO WE NEED THAT OTHER PICTURE TO SHOW YOU  
15 THEIR BEDROOM?

16 A YES, MA'AM.

17 Q WHERE IS THEIR BEDROOM?

18 A IT WOULD BE RIGHT BEHIND THIS FRONT DOOR, THAT  
19 LITTLE DOOR RIGHT THERE WOULD BE THEIR BEDROOM.

20 Q OKAY. AND WHO WAS IN THAT BEDROOM?

21 A JUST MINOR

22 Q WAS PARIS IN THERE?

23 A PARIS WAS SLEEPING IN THERE, YES.

24 Q AND WAS SHE IN THE BED?

25 A YES.

1 Q COULD SHE GET IN THE BED BY HERSELF?

2 A I DON'T THINK -- MAYBE SHE COULD BECAUSE SHE WAS  
3 ONE AND RUNNING REAL FAST. SHE MAY COULD HAVE CLIMBED UP  
4 THERE.

5 Q WHEN YOU TOOK [REDACTED] IN THE BEDROOM, WHAT DID YOU  
6 DO?

7 A I SAT [REDACTED] ON THE SIDE OF HER BED. AND I SAID  
8 [REDACTED] GRANNIE DONE WALKED UP ON SOMETHING. AND I WANT  
9 TO KNOW AND I WANT YOU TO TELL ME HAS THIS BEEN GOING ON.  
10 AND SHE LOOKED AT ME AND SAID, YES, GRANNIE.

11 Q SO, SHE TOLD YOU WHAT HAPPENED THAT NIGHT?

12 A YES, MA'AM.

13 Q NOW, DID YOU CHECK HER IN ANY WAY?

14 A YES, MA'AM, I DID. BECAUSE I DON'T KNOW -- FROM  
15 THE TIME I SAW HIM WITH HER, I DON'T KNOW WHAT HAPPENED.  
16 I DID NOT KNOW WHAT HAPPENED BETWEEN THAT TIME WHEN I SAW  
17 AND, YOU KNOW, BEFORE I SAW IT. I DIDN'T KNOW WHAT  
18 HAPPENED.

19 Q SO, YOU DIDN'T KNOW WHAT HAD HAPPENED BEFORE YOU  
20 WALKED IN?

21 A EXACTLY.

22 Q SO, YOU -- WHAT -- HOW DID YOU GO ABOUT CHECKING  
23 HER?

24 A I JUST TOOK HER PANTIES, BECAUSE SHE SAID SHE --  
25 SHE SAID SHE HAD TO USE THE BATHROOM. AND SHE WAS

SHEILA SHEPPARD -- DIRECT BY MS. HERRING-LASH  
206

1 BURNING. SHE SAID, I'M BURNING, GRANNIE, I'M BURNING.  
2 SO, AT THAT POINT, THAT'S WHAT I'M GOING TO DO. I'M GOING  
3 TO CHECK. I WANT TO KNOW IF THIS MAN PENETRATED YOU OR  
4 WHATEVER. THAT WAS MY FIRST CONCERN WHEN SHE TOLD ME SHE  
5 WAS BURNING.

6 Q AND DID YOU PULL HER PANTS DOWN OR WHAT DID YOU  
7 DO?

8 A I JUST TOOK HER -- THE LEGS OF HER PANTS AND I  
9 PULLED IT OVER TO THE SIDE. WHAT I WAS LOOKING FOR, MAYBE  
10 WAS SEMEN OR SOMETHING, SOMETHING TO LET ME KNOW IF  
11 ANYTHING ELSE HAD HAPPENED BEFORE I CAME OUT OF THAT ROOM.

12 Q AND DID YOU FIND ANYTHING?

13 A NO, MA'AM, I DON'T -- YOU KNOW, NO, I DIDN'T.

14 Q AND WHAT MADE YOU COME OUT OF THAT ROOM?

15 A WHEN THE COPS CAME.

16 Q AND DO YOU REMEMBER WHAT HAPPENED WHEN THE COPS  
17 CAME?

18 A WHEN THE COPS CAME, WE WERE JUST -- I WAS TALKING  
19 TO THE COPS, LETTING HIM KNOW WHAT HAPPENED -- WHAT I SAW  
20 HAPPEN; WHAT WAS GOING ON, TALKING WITH THE COPS. AND  
21 ABOUT MAYBE TEN OR FIFTEEN -- I'M NOT SURE -- MR. ORR CAME  
22 BACK.

23 Q NOW, WAS THERE MORE THAN ONE COP THERE?

24 A YES, MA'AM.

25 Q THERE WAS -- DO YOU REMEMBER IF THEY WERE MEN,

1 WOMEN?

2 A I KNOW IT WAS A LADY COP THERE, A BLACK LADY COP  
3 WAS THERE. THE COP JUST TESTIFIED WAS THERE. AND THERE  
4 WAS MAYBE TWO OR THREE OTHER COPS.

5 Q AND WHO WAS TALKING TO MINOR

6 A THE LADY COP.

7 Q AND WHERE WERE SHE AND MINOR

8 A THIS -- RIGHT HERE IS A LITTLE BAR AREA, THEY WAS  
9 SITTING RIGHT THERE.

10 Q AND WERE YOU LISTENING?

11 A A LITTLE BIT, BUT I WAS STILL CONCERNED ABOUT  
12 LASHANDA GETTING HOME. HAS ANYBODY CALLED HER TO GET HOME  
13 TO LET HER KNOW WHAT'S GOING ON WITH HER DAUGHTER. I  
14 CALLED MY BEST FRIEND. WE NEEDED SUPPORT. WE NEEDED SOME  
15 -- SOME SUPPORT.

16 Q NOW, DID YOU WANT MINOR TO TELL THE OFFICERS  
17 WHAT HAPPENED?

18 A OF COURSE.

19 Q AND DID YOU TRY TO CONSOLE HER, GET HER TO TELL  
20 THEM WHAT HAPPENED?

21 A I TOLD MINOR JUST LIKE HOW YOU TELL ME, YOU  
22 TELL IT TO THE OFFICERS.

23 Q AND YOU SAID MR. ORR CAME IN?

24 A HE CAME IN.

25 Q DID THEY TAKE HIM RIGHT OUT?



1 A YES, MA'AM.

2 Q AND DID YOU ALL EVENTUALLY GO TO THE HOSPITAL?

3 A YES, MA'AM, WE DID.

4 Q AND HOW DID YOU GET THERE?

5 A WELL, THE OFFICER -- THE LADY OFFICER TOOK ME AND

6 MINOR SHANDA CAME A LITTLE LATER WITH HER KIDS' FATHER.

7 AND MY GIRLFRIEND AND SABRINA CAME AFTER -- THEY FOLLOWED

8 THE COP CAR BEHIND US THERE.

9 Q AND DO YOU KNOW WHAT HOSPITAL Y'ALL WENT TO?

10 A WE WENT TO THE MEDICAL UNIVERSITY.

11 Q AND DID THEY EXAMINE MINOR THERE?

12 A YES, MA'AM, THEY DID.

13 Q NOW, DID YOU GO IN THE ROOM WITH HER FOR THE

14 EXAMINATION?

15 A NO, MA'AM, I DIDN'T.

16 Q WHO WENT WITH HER?

17 A I DON'T THINK NONE OF US DID.

18 Q DO YOU KNOW IF HER MOTHER EVENTUALLY GOT THERE?

19 A I THINK LATER ON THEY TOOK HER BACK THERE. I'M

20 NOT SURE.

21 Q OKAY. LATER ON, THEY TOOK THE MOTHER BACK THERE?

22 A RIGHT.

23 Q UM, WHAT DID Y'ALL DO WHEN YOU LEFT?

24 A THE HOSPITAL, WE WENT BACK TO MY HOUSE AND FELL

25 ASLEEP.

1 Q WERE YOU THERE FOR A LONG TIME?

2 A YES, MA'AM.

3 Q AND, NOW, DO YOU REMEMBER WHILE AT THE HOSPITAL,  
4 IF OTHER OFFICERS ARRIVED TO TALK TO PEOPLE?

5 A I TALKED TO ONE OFFICER WHEN I FIRST GOT THERE.

6 Q DID YOU GIVE THEM A STATEMENT?

7 A HE WROTE A STATEMENT FOR ME. HE WAS ASKING ME  
8 QUESTIONS AND HE WROTE THE STATEMENT FOR ME.

9 Q AFTER THAT NIGHT, DID YOU HAVE ANY OTHER DEALINGS  
10 WITH ANY OF THE OFFICERS?

11 A NO, MA'AM, I HAVEN'T.

12 Q GOING BACK TO MINOR WHEN YOU, UM, SAW THIS AND  
13 TALKED TO HER IN THE BEDROOM, WHAT WAS HER DEMEANOR LIKE,  
14 HOW WAS SHE ACTING?

15 A SHE WAS -- SHE WAS NERVOUS. AND -- AND I WANT TO  
16 SAY SHE WAS KIND OF HAPPY IN ONE WAY. BECAUSE WHEN SHE  
17 LOOKED AT ME SHE SAID, THANK YOU, GRANNIE, I'M FREE. SO,  
18 THAT MAKES ME THINK THAT --

19 MR. DAVIS: OBJECTION, YOUR HONOR. HEARSAY.

20 THE COURT: SUSTAINED.

21 BY MS. HERRING-LASH:

22 Q JUST UM -- DID SHE APPEAR UPSET, OR NOT UPSET?

23 A SHE WAS UPSET.

24 Q NOW, DID -- HAVE YOU, SINCE THEN SPOKEN -- AND I'M  
25 NOT ASKING YOU WHAT SHE SAID -- BUT HAVE YOU SPOKEN TO

1 [REDACTED] ABOUT THIS?

2 A NO. NO. BECAUSE [REDACTED] HAS BEEN THROUGH A LOT.  
3 SHE'S ONLY 13 YEARS OLD. WE WANT HER TO, YOU KNOW, GO  
4 AHEAD ON AND PUT THINGS, YOU KNOW, IT'S TIME TO PUT THINGS  
5 BEHIND YOU AND LET'S MOVE FORWARD.

6 Q UM, RIGHT AFTER IT HAPPENED, DID SHE TALK TO YOU  
7 ABOUT IT SOME?

8 A [REDACTED] AFTER IT HAPPENED TO HER, SHE DIDN'T  
9 REALLY SHUT DOWN. SHE TALKS ABOUT IT. SHE WENT TO  
10 SCHOOL. SHE TALKS ABOUT IT.

11 Q BUT NOT ANYMORE?

12 A NO. SHE DON'T REALLY BRING IT UP.

13 MS. HERRING-LASH: THE COURT'S INDULGENCE FOR ONE  
14 MOMENT. (PAUSE.)

15 BY MS. HERRING-LASH:

16 Q JUST SOME CLARIFICATION ABOUT WHEN WE WERE SHOWING  
17 THE JURY THE POSITION HE WAS IN, I KNOW THIS IS NOT AS BIG  
18 AS YOUR COUCH?

19 A RIGHT.

20 Q WAS MR. ORR SITTING UP?

21 A HE WAS LIKE ON HIS KNEES. ONE KNEE ON THE COUCH  
22 AND MAYBE ONE KIND OF SLINGING OFF THE COUCH.

23 Q WAS HE COVERING UP [REDACTED] BODY?

24 A NO.

25 Q SO, YOU COULD SEE [REDACTED]

1 A YES.

2 Q AND YOU GOT TO RIGHT -- YOU SAID TO BESIDE?

3 A RIGHT.

4 Q WHEN YOU SAW THIS?

5 A RIGHT. IT WAS NOT HIS BACK THERE. I CAME UP,  
6 WHERE I SEEN WHAT I SAW.

7 MS. HERRING-LASH: THOSE ARE ALL THE QUESTIONS I  
8 HAVE, MS. SHEPPARD.

9 MR. DAVIS: MAY WE APPROACH, JUDGE?

10 THE COURT: YOU MAY.

11 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
12 CONFERENCE IN THE PRESENCE OF THE JURY, BUT OUTSIDE THE  
13 HEARING OF THE JURY, OFF THE RECORD.)

14 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, LET ME  
15 TAKE A MOMENT TO -- TO EXPLAIN PERHAPS A LITTLE MORE  
16 CLEARLY SOMETHING THAT I TOLD YOU IN MY OPENING REMARKS.  
17 WHEN I RULE ON THE ADMISSIBILITY OF EVIDENCE, WHEN AN  
18 OBJECTION IS MADE, AND THEN IF I SUSTAIN THE OBJECTION,  
19 THAT MEANS THAT THE -- THAT THE EVIDENCE THAT IS SOUGHT TO  
20 BE BROUGHT OUT IS NOT ADMISSIBLE.

21 NOW, SOMETIMES IN THE COURSE OF QUESTIONS AND  
22 ANSWERS, AN OBJECTION IS MADE, AND THE ANSWER ALREADY  
23 HAS -- HAS COME OUT OR MAYBE THE ANSWER COMES OUT  
24 SIMULTANEOUSLY AND I'M -- I'M SITTING HERE THINKING ABOUT  
25 THE OBJECTION BECAUSE SOMETIMES IT TAKES ME A MOMENT TO

1 THINK THROUGH THE ISSUES REGARDING THE OBJECTION BEFORE I  
2 RULE. AND THERE ARE MANY TIMES WHEN -- BECAUSE OF THAT  
3 REASON, OR SOME OTHER REASON, THE ANSWER EITHER ALREADY  
4 HAS COME OUT OR IT DOES COMES OUT. SOME OF YOU MAY HAVE  
5 HEARD IT, SOME OF YOU MAY NOT.

6 I JUST WANT TO REMIND YOU, THAT WHEN I SUSTAIN THE  
7 OBJECTION, THAT MEANS THE EVIDENCE IS NOT ADMISSIBLE. SO,  
8 IF YOU HEAR SOMETHING THAT IS IN RESPONSE TO A QUESTION  
9 WHERE I HAVE SUSTAINED THE OBJECTION, THEN YOU SHOULD NOT  
10 CONSIDER THAT BECAUSE I HAVE RULED THAT IT IS  
11 INADMISSIBLE. IS THAT SUFFICIENT?

12 MR. DAVIS: THANK YOU, YOUR HONOR.

13 MS. HERRING-LASH: THANK YOU.

14 MR. DAVIS: MAY IT PLEASE THE COURT, YOUR HONOR?

15 THE COURT: CERTAINLY.

16 CROSS EXAMINATION BY MR. DAVIS:

17 Q CAN YOU PLEASE REINTRODUCE YOURSELF TO THE JURY?

18 A SHEILA SHEPPARD.

19 Q YOUR MAIDEN NAME IS SIMMONS, IS IT NOT?

20 A YES, IT IS.

21 Q YOU WERE MARRIED TO LEWIS SHEPPARD, JR., WHEN YOU  
22 WERE 17 YEARS OLD, RIGHT?

23 A YES.

24 Q I'M SORRY?

25 A YES.

1 Q OKAY. AND YOU STILL USE HIS LAST NAME?

2 A YES.

3 Q YOU'RE NOT DIVORCED FROM HIM, ARE YOU?

4 A NO, I'M NOT.

5 Q OKAY. AND YET, IN 1995, FEBRUARY 16TH OF 1995,

6 YOU MARRIED HAROLD ORR?

7 A YES.

8 Q YOU'RE STILL MARRIED TO HAROLD ORR?

9 A YES.

10 Q YOU KNOW THAT'S ILLEGAL TO REMARRY IF YOU'RE NOT  
11 DIVORCED?

12 A YES.

13 Q YOU DID IT ANYWAY?

14 A YES.

15 Q AND WHEN THE MARRIAGE LICENSE, THE CERTIFICATE TO  
16 MARRY HAROLD BACK IN 1995, THERE'S A PLACE WHERE THEY ASK  
17 YOU ON THE FORM, NUMBER OF THIS MARRIAGE, FIRST, SECOND,  
18 ET CETERA?

19 A UH-HUH.

20 Q AND YOU INDICATED YOUR MARRIAGE TO HAROLD WAS THE  
21 FIRST ONE, DIDN'T YOU?

22 A YES.

23 Q SO, YOU'RE MRS. ORR, CORRECT?

24 A YES.

25 Q YOU NOT ONLY LIED ABOUT IT BEING YOUR FIRST

1 MARRIAGE, YOU ALSO LIED TO HAROLD ABOUT HOW MANY KIDS YOU  
2 HAD, RIGHT?

3 A IF THAT'S WHAT HE TOLD YOU.

4 Q NO. I'M ASKING YOU, MA'AM. YOU HAD---

5 A NO, I DID NOT.

6 Q I'M ASKING YOU, MA'AM, YOU HAVE FOUR KIDS, DON'T  
7 YOU?

8 A NO, I DID NOT.

9 Q I'M ASKING YOU, MA'AM, YOU HAVE FOUR KIDS, DON'T  
10 YOU?

11 A YES, I DO.

12 Q YOU TOLD HIM YOU HAD TWO WHEN YOU MARRIED HIM BACK  
13 IN FEBRUARY OF 1995?

14 A THAT'S WHAT HE TOLD YOU.

15 Q AFTER ABOUT EIGHT YEARS OF MARRIAGE TO HAROLD,  
16 Y'ALL MOVED FROM -- WHAT UP IN THE PAWLEY'S ISLAND AREA,  
17 BACK TO NORTH CHARLESTON, RIGHT?

18 A YES.

19 Q HALLOWEEN OF 2003, RIGHT?

20 A YES.

21 Q THIS IS WHERE YOU'RE FROM?

22 A YES, I AM.

23 Q THIS IS WHERE YOUR FAMILY LIVES?

24 A YES.

25 Q THIS IS WHERE YOUR FRIENDS ARE?

1 A YES.

2 Q IT'S NOT THAT WAY FOR HAROLD, HE WAS BORN UP  
3 THERE?

4 A YES.

5 Q HE LIVED UP THERE?

6 A YES.

7 Q HAD A GOOD JOB UP THERE FOR ABOUT A DECADE BEFORE  
8 Y'ALL MOVED BACK HERE, RIGHT?

9 A YES.

10 Q OKAY. HALLOWEEN, 2003, YOU MOVE BACK HERE. A  
11 MONTH LATER, THIS SUPPOSEDLY HAPPENS?

12 A YES, IT DID.

13 Q AND SINCE TWO THOUSAND AND -- NOVEMBER OF 2003,  
14 YOU HAVEN'T GOTTEN AROUND TO DIVORCING HAROLD?

15 A NO.

16 Q LET'S SEE ABOUT SOMETHING ELSE THAT ISN'T  
17 ACCURATE. YOU DID NOT CALL THE POLICE?

18 A NO, I DID NOT.

19 Q BUT YOU TOLD THE POLICE YOU HAD CALLED THEM?

20 A NO, I DID NOT.

21 Q YOU DIDN'T TELL OFFICER ROGERS THAT YOU CALLED THE  
22 POLICE?

23 A MY DAUGHTER CALLED THE POLICE.

24 Q A VERY SIMPLE QUESTION, MA'AM. YOU DIDN'T TELL  
25 OFFICER ROGERS THAT YOU CALLED THE POLICE?



1           A   I MAY HAVE.   I CAN'T REMEMBER, BUT MY DAUGHTER  
2   CALLED THE POLICE.

3           Q   NOW, WHEN THE POLICE ARRIVED THERE -- WHEN OFFICER  
4   ROGERS ARRIVED AND OFFICER LOWERY, YOU KNEW WHAT THEY WERE  
5   THERE TO INVESTIGATE, RIGHT?

6           A   YES.

7           Q   AND YOU KNEW THAT IT WAS VERY IMPORTANT THAT THEY  
8   KNEW EXACTLY WHAT HAPPENED, RIGHT?

9           A   YES.

10          Q   AND EXACTLY WHAT YOU SAW AND EXACTLY WHAT YOU HAD  
11   DONE, RIGHT?

12          A   YES.

13          Q   BUT YOU DIDN'T ONCE TELL THEM YOU HIT HAROLD OVER  
14   THE HEAD WITH THE PHONE?

15          A   YES, I DID.

16          Q   DID YOU TELL THAT TO OFFICER ROGERS OR TO  
17   DETECTIVE WILLIAMS?

18          A   THE COP THAT TOOK MY STATEMENT AT THE HOSPITAL.

19          Q   DETECTIVE WILLIAMS. YOU GAVE A STATEMENT TO HIM,  
20   RIGHT?

21          A   YES, I DID.

22          Q   HE WROTE IT FOR YOU, IS THAT RIGHT?

23          A   YES, HE DID.

24          Q   AND YOU KNEW THAT, AT THE HOSPITAL, IT WAS  
25   IMPORTANT THAT YOU TELL HIM EVERYTHING THAT HAPPENED,

1 RIGHT?

2 A YES.

3 Q AND YOU KNEW IT WAS IMPORTANT TO TELL HIM  
4 EVERYTHING THAT YOU HAD SEEN, RIGHT?

5 A YES.

6 Q AND HE PROBABLY ASKED YOU QUESTIONS BACK AND FORTH  
7 TO GET THE INFORMATION OUT OF YOU, RIGHT?

8 A YES.

9 Q AND THEN HE PROBABLY SUMMARIZED IT IN WRITING,  
10 RIGHT?

11 A PROBABLY. I DON'T HAVE -- I HAVE NO IDEA. I KNOW  
12 WHAT I SAID TO HIM HE WROTE DOWN.

13 Q BUT YOU HAVE NO IDEA WHAT HE WROTE DOWN?

14 A WHAT I SAID TO HIM, IS WHAT HE WROTE DOWN. I  
15 MEAN, I CAN'T SIT HERE AND GIVE YOU THE WHOLE STATEMENT.

16 Q I UNDERSTAND. YOU DON'T HAVE TO BECAUSE IT WAS  
17 WRITTEN DOWN, RIGHT?

18 A RIGHT.

19 Q AND AFTERWARD, TO MAKE SURE THAT DETECTIVE  
20 WILLIAMS GOT IT RIGHT, HE WOULD LET YOU LOOK AT IT, RIGHT?

21 A RIGHT.

22 Q AND HE SAID READ OVER THIS, RIGHT?

23 A RIGHT.

24 Q AND HE PROBABLY ASKED YOU IS THERE ANYTHING I NEED  
25 TO CORRECT IN THAT STATEMENT, RIGHT?

1           A   HE PROBABLY DID.   I DON'T RECALL.

2           Q   AND HE PROBABLY WOULD HAVE ASKED YOU, IS THERE  
3   ANYTHING THAT I NEED TO ADD IN THERE THAT I MISSED, RIGHT?

4           A   HE PROBABLY DID.

5           Q   IN THE END, THOUGH, YOU HAD A CHANCE TO MAKE  
6   WHATEVER CORRECTIONS YOU WANTED, HE WOULD HAVE ASKED YOU  
7   TO SIGN IT, RIGHT?

8           A   YES.

9           Q   MRS. ORR, I'M GOING TO HAND YOU WHAT'S BEEN MARKED  
10   AS DEFENDANT'S EXHIBIT NO. 1 FOR IDENTIFICATION.  HERE'S  
11   ALL I WANT YOU TO DO:  TAKE A LOOK AT IT AND I'M GOING TO  
12   HAVE ONE QUESTION FOR YOU, CAN YOU RECOGNIZE IT?  OKAY.  
13   THEN WE'LL GO FROM THERE.  ALL RIGHT?

14          A   OKAY.

15          Q   DO YOU RECOGNIZE WHAT THAT IS?

16          A   YES, SIR, I DO.

17          Q   OKAY.  THAT'S THE STATEMENT THAT DETECTIVE  
18   WILLIAMS TOOK FROM YOU, CORRECT?

19          A   YES.

20          Q   OKAY.  AND, IN FACT, IT HAS HIS SIGNATURE AT THE  
21   BOTTOM AND YOUR SIGNATURE AT THE BOTTOM, DOES IT NOT?

22          A   YES.

23          Q   OKAY.  NOW, I WANT YOU TO TAKE AS MUCH TIME AS YOU  
24   NEED TO ANSWER THIS QUESTION.  NOWHERE IN THAT STATEMENT  
25   DOES IT TALK ABOUT YOU HITTING HAROLD OVER THE HEAD WITH

1 THE PHONE, DOES IT? TAKE YOUR TIME.

2 A NO, SIR, IT DOESN'T.

3 Q LET'S GO BACK UP TO THE TRAILER. WHEN YOU'RE  
4 TALKING TO THE POLICE, YOU NEVER ONCE TOLD THE POLICE THAT  
5 YOU HAD EXAMINED MINOR

6 A NO, I DID NOT.

7 Q YOU DIDN'T TELL HER -- YOU DIDN'T TELL EITHER THE  
8 FEMALE OFFICER OR ANY OF THE MALE OFFICERS THAT WERE ON  
9 THE SCENE, THAT YOU HAD PUT YOUR HAND DOWN IN HER VAGINAL  
10 AREA, DID YOU?

11 A NO, I DID NOT.

12 Q YOU WENT WITH MINOR DOWN TO MUSC, RIGHT?

13 A YES, I DID.

14 Q AND YOU KNEW WHY SHE WAS BEING TAKEN DOWN THERE,  
15 RIGHT, SHE WAS GOING TO BE EXAMINED DOWN THERE?

16 A YES, I DID.

17 Q BY DOCTORS?

18 A YES.

19 Q YOU DIDN'T TELL ANYBODY AT MUSC THAT YOU HAD  
20 EXAMINED MINOR DID YOU?

21 A I DIDN'T -- YOU SAID EXAMINED. IT'S A DIFFERENCE  
22 BETWEEN EXAMINING AND JUST LOOKING DOWN THERE. I'M NOT A  
23 DOCTOR. I MEAN, I CAN'T EXAMINE HER. I PULLED HER PANTS  
24 TO THE SIDE TO SEE WHAT WAS GOING ON.

25 Q I'LL ASK YOU AGAIN: YOU DIDN'T TELL ANYBODY AT

1 MUSC THAT YOU HAD EXAMINED HER?

2 A NO, I DID NOT.

3 Q OKAY. YOU DIDN'T TELL ANY OF THE PERSONNEL AT

4 MUSC THAT YOU HAD TOUCHED HER VAGINAL AREA, DID YOU?

5 A NO, I DID NOT.

6 Q BUT, IN FACT, YOU DID TOUCH **MINOR** IN HER VAGINAL  
7 AREA, AND IT WAS BEFORE THE POLICE GOT THERE, RIGHT?

8 A IF YOU SAY TOUCHING HER VAGINAL -- I DIDN'T TOUCH  
9 HER VAGINAL AREA. I PULLED HER PANTIES BACK FROM ONE SIDE  
10 TO THE OTHER. THAT DIDN'T TOUCH HER VAGINAL AREA AT ALL.  
11 IT MIGHT HAVE TOUCHED HER PANTIES.

12 Q YOU DON'T REMEMBER, DO YOU?

13 A NO.

14 Q WHILE **MINOR** WAS AT THE TRAILER, SHE HAD TO GO  
15 URINATE, RIGHT?

16 A YES.

17 Q AND YOU GAVE HER SOME TYPE OF A TOWEL OR RAG TO  
18 WIPE HERSELF AFTER SHE URINATED, RIGHT?

19 A BECAUSE SHE WAS BURNING. SO, WHAT I DID --

20 Q MA'AM, FORGIVE ME, I'M ASKING YOU A DIRECT  
21 QUESTION.

22 A YES, I DID.

23 Q THAT WOULD HAVE BEEN ONE THAT YOU OWNED THAT WAS  
24 AT YOUR TRAILER, RIGHT?

25 A YES.

1 Q AND THEN WHEN SHE USED IT TO WIPE, YOU BROUGHT IT  
2 BACK AND GAVE IT TO THE OFFICER, RIGHT?

3 A YES.

4 Q NOW, A COUPLE OF TIMES ALREADY YOU HAVE TALKED  
5 ABOUT MINOR SAYING THAT SHE WAS BURNING, RIGHT?

6 A YES.

7 Q THAT'S IMPORTANT, DON'T YOU THINK?

8 A YES.

9 Q OKAY. I WANT YOU TO TAKE AS LONG AS YOU NEED, AND  
10 YOU TELL ME WHERE YOU TOLD DETECTIVE WILLIAMS THAT THE  
11 NIGHT THIS SUPPOSEDLY HAPPENED, THAT SHE WAS BURNING AND  
12 NEEDED TO URINATE, IN THAT STATEMENT?

13 A ACTUALLY, I TOLD OFFICER LOWERY BECAUSE SHE WAS  
14 THERE WHEN I GAVE MINOR THE TOWEL.

15 Q AGAIN, MA'AM, IF YOU'LL PLEASE ANSWER MY QUESTION.

16 A NO, I DID NOT.

17 Q YOU DID NOT TELL DETECTIVE WILLIAMS THAT, CORRECT?

18 A NO, I DID NOT.

19 Q YOU'RE CLAIMING YOU TOLD OFFICER LOWERY WHILE SHE  
20 WAS IN THE TRAILER, RIGHT?

21 A YES.

22 Q SO, YOU TALKED TO DETECTIVE LOWERY ABOUT WHAT  
23 HAPPENED, RIGHT -- I'M SORRY, OFFICER LOWERY, RIGHT?

24 A YES.

25 Q YOU TALKED TO DETECTIVE WILLIAMS ABOUT WHAT

1 HAPPENED, YOU GAVE THAT WRITTEN STATEMENT, RIGHT?

2 A YES.

3 Q AND YOU HAVE TALKED TO MS. HERRING-LASH AND PEOPLE  
4 FROM THE SOLICITOR'S OFFICER, RIGHT?

5 A YES.

6 Q SEVERAL TIMES?

7 A YES.

8 Q YOU TESTIFIED IN A PRIOR PROCEEDING ABOUT WHAT  
9 HAPPENED, RIGHT?

10 A YES.

11 Q AND YOU NEVER, UNTIL TODAY, UNDER OATH, MENTIONED  
12 THAT SHE WAS BURNING?

13 A I CAN'T REMEMBER.

14 Q IN ALL THIS TIME UNTIL TODAY, YOU NEVER MENTIONED  
15 THAT YOU HAD WALKED UP RIGHT BESIDE THE COUCH WHEN YOU SAW  
16 WHAT WAS GOING ON, HAVE YOU?

17 A YES, I HAVE.

18 Q DO YOU REMEMBER TESTIFYING IN A PRIOR PROCEEDING?

19 A YES, I CAN---

20 Q DO YOU REMEMBER TESTIFYING ABOUT HAROLD -- HAROLD  
21 BEING WITH HIS BACK TO YOU, LEANING OVER MINOR DO YOU  
22 REMEMBER TALKING ABOUT THAT?

23 A NO, I DON'T REMEMBER THAT.

24 Q YOU DON'T REMEMBER THAT. YOU HAD BEEN SLEEPING IN  
25 THE BEDROOM -- YOU FELL ASLEEP WITH ONE OF YOUR

1 GRANDDAUGHTERS, RIGHT?

2 A YES.

3 Q THIS WAS AFTER DARK IN NOVEMBER, RIGHT?

4 A YES.

5 Q YOU WOKE UP AND YOU WERE WORRIED ABOUT WHERE ONE  
6 OF YOUR GRANDDAUGHTERS MIGHT HAVE RUN OFF TO, RIGHT?

7 A YES.

8 Q SO, YOU COME IN THROUGH THE KITCHEN AREA, LOOKING  
9 FOR ONE OF YOUR GRANDDAUGHTERS?

10 A ACTUALLY I WAS LOOKING FOR THE BOTH OF THEM.

11 Q OKAY. ONE, IT TURNS OUT, WAS ASLEEP ON THE FLOOR  
12 BY YOUR BED, RIGHT?

13 A NOT -- NEITHER WAS ASLEEP ON MY FLOOR BY MY BED.

14 Q ONE --

15 A KAILAH WAS IN MY BED. PARIS WAS IN THE SECOND  
16 ROOM IN HER BED AND MINOR WAS ON THE COUCH.

17 Q OKAY. SO, YOU'RE LOOKING FOR THE ONE THAT'S IN  
18 THE BED WITH YOU, IS THAT RIGHT?

19 A NO. THAT ONE WAS ALREADY IN THE BED WITH ME.

20 Q OKAY. YOU WEAR GLASSES, DON'T YOU?

21 A READING GLASSES.

22 Q READING GLASSES -- AND YOU CAME IN AND THE LIGHT  
23 ON THE STOVE WAS ON, RIGHT?

24 A YES.

25 Q AND THE TV WAS ON, RIGHT?



1           A   YES.

2           Q   AND THAT WAS ALL THE LIGHTS THAT WERE ON IN THAT  
3   HOUSE?

4           A   YES.

5           Q   SO, EVEN THOUGH YOU'RE SCARED OF THE DARK, YOU  
6   DIDN'T TURN ANY LIGHTS ON?

7           A   I DIDN'T HAVE TO.  THERE WERE LIGHTS ON.  THE  
8   KITCHEN LIGHT AND THE STOVE LIGHT.

9           Q   I'M GOING TO ASK IT AGAIN, THEN.  THE STOVE LIGHT  
10   WAS ON, CORRECT?

11          A   YES.

12          Q   AND THE TV WAS ON, CORRECT?

13          A   YES.

14          Q   NO OTHER LIGHTS WERE ON?

15          A   IF YOU SAY SO.

16          Q   WELL, AGAIN, MAYBE YOU DON'T REMEMBER TESTIFYING  
17   IN A PREVIOUS PROCEEDING, DO YOU?

18          A   SOME THINGS, YES.

19          Q   DO YOU NOT -- DO YOU NOT RECALL BEING ASKED, "WHAT  
20   KIND OF LIGHTS WERE ON WHEN YOU WALKED IN THE AREA?"  AND  
21   YOU SAID, "THE KITCHEN LIGHT OR THE STOVE, I BELIEVE, WAS  
22   ON".

23          A   YES.

24          Q   DO YOU RECALL THAT?

25          A   YES.

1 Q QUESTION: "WERE THERE ANY LIGHTS ON IN THE LIVING  
2 ROOM? WELL, THE TV LIGHT WAS ON"---

3 A THE LIVING ROOM DOESN'T HAVE A CEILING LIGHT, SO,  
4 NO, IT WAS NOT ON.

5 Q I'LL ASK IT AGAIN. DO YOU REMEMBER BEING ASKED  
6 WERE THERE ANY LIGHTS ON IN THE LIVING ROOM, AND YOU  
7 ANSWERED, "WELL, THE TV LIGHT WAS ON"; DO YOU REMEMBER  
8 THAT?

9 A YES.

10 Q OKAY. AND DO YOU RECALL, YOU NEVER MENTIONED ANY  
11 OTHER LIGHTS BEING ON BESIDES THOSE TWO?

12 A RIGHT.

13 Q SO, YOU DID NOT TURN ON THE KITCHEN LIGHT?

14 A NO.

15 Q THANK YOU.

16 MR. DAVIS: YOUR HONOR, MAY WE APPROACH FOR A MOMENT?

17 THE COURT: YES.

18 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
19 CONFERENCE IN THE PRESENCE OF THE JURY, BUT OUTSIDE THE  
20 HEARING OF THE JURY, OFF THE RECORD.)

21 THE COURT: THIS IS A GOOD TIME FOR A LITTLE BREAK.  
22 SO, I'M GOING TO SEND YOU FOLKS BACK IN THE JURY ROOM.  
23 AND WHILE YOU'RE BACK THERE, WE'RE GOING TO TAKE UP A  
24 MATTER OF LAW, AND THEN WE'LL HAVE YOU BACK OUT HERE  
25 SHORTLY.

1 (WHEREUPON, JURY LEFT THE COURTROOM AT 11:12 A.M.)

2 THE COURT: ALL RIGHT, MR. DAVIS.

3 MR. DAVIS: YES, YOUR HONOR. JUDGE, I HAD SIMPLY  
4 APPROACHED THE BENCH, THERE IS A MATTER OF QUITE BLUNT  
5 QUESTIONING THAT I WAS INTENDING TO -- TO GO INTO. OUR  
6 INVESTIGATION HAS REVEALED THAT THERE -- THERE HAVE BEEN  
7 MUTUAL ALLEGATIONS OF INFIDELITY BY MS. SHEILA ORR AGAINST  
8 HAROLD, AND VICE VERSA, BY HAROLD AGAINST SHEILA, THAT  
9 THIS WAS AN ISSUE IN THEIR MARRIAGE.

10 I WOULD INTEND TO ASK BRIEF -- JUST A BRIEF  
11 QUESTION OR TWO THAT, IN FACT, THAT WAS THE STATUS OF THE  
12 MARRIAGE, THAT THERE WAS A DISTRUST ISSUE AND THERE WAS  
13 MUTUAL CONCERN OF INFIDELITY. THAT'S THE EXTENT THAT I  
14 WOULD INTEND TO GO. AGAIN, THE PARTIES ARE FAMILIAR WITH  
15 THIS BECAUSE THEY TRIED IT BEFORE. THERE IS A --

16 THE COURT: WHY DON'T YOU -- WHY DON'T YOU -- IT'S --  
17 IT'S -- YOU'RE TRYING TO -- YOU'RE TRYING TO INTRODUCE  
18 EVIDENCE OF BOTH INFIDELITY AND ACCUSATIONS OF INFIDELITY  
19 IN ORDER TO SHOW BIAS OF THIS WITNESS?

20 MR. DAVIS: JUST ACCUSATIONS, JUDGE. WE HAVE NO  
21 ACTUAL PROOF OF THAT. SO, THE FACT THAT --

22 THE COURT: ALL RIGHT. WELL, IT'S POSSIBLE THAT SOME  
23 SUCH EVIDENCE COULD BE ADMISSIBLE AS RELEVANT TO BIAS.  
24 BUT IT'S POSSIBLE THAT IT WOULD BE SO REMOTE AS TO HAVE NO  
25 -- NO -- ESSENTIALLY VERY LITTLE PROBATIVE VALUE. SO, I

1 THINK PROBABLY I NEED TO LISTEN TO YOU GO THROUGH THE  
2 QUESTIONS AND ANSWERS NOW, AND THEN I'LL SEE.

3 MR. DAVIS: THANK YOU, JUDGE.

4 BY MR. DAVIS:

5 Q DURING YOUR MARRIAGE TO HAROLD WHILE Y'ALL WERE  
6 LIVING TOGETHER -- BECAUSE YOU'RE STILL MARRIED -- BUT  
7 WHILE YOU'RE LIVING TOGETHER, YOU HAD CONCERNS ABOUT HIM  
8 BEING UNFAITHFUL TO YOU, CORRECT?

9 A YES.

10 Q AND YOU ACCUSED HIM OF THAT, CORRECT?

11 A YES.

12 Q HAROLD HAD CONCERNS ABOUT YOU BEING UNFAITHFUL TO  
13 HIM, RIGHT?

14 A IF HE DID, HE NEVER TOLD ME. IF HE DID, HE NEVER  
15 TOLD ME.

16 MR. DAVIS: YOUR HONOR, IF I COULD HAVE A MOMENT?

17 THE COURT: YES.

18 BY MR. DAVIS:

19 Q MA'AM, YOU REMEMBER TESTIFYING AT A PRIOR  
20 PROCEEDING, CORRECT?

21 A YES.

22 Q AND YOU WERE UNDER OATH AT THAT TIME, CORRECT?

23 A YES.

24 Q DO YOU REMEMBER BEING ASKED, "THERE MAY HAVE BEEN  
25 TIMES WHEN HE ACCUSED YOU OF CHEATING?", AND YOU

1 RESPONDED, "YES."

2 A YES, HE HAVE.

3 Q AND YOU WERE ASKED "PROBABLY MORE THAN ONCE"? AND  
4 YOU SAID "YES".

5 A YES. JUST BECAUSE HE ACCUSED ME OF DOING IT, THAT  
6 DIDN'T MEAN I DID IT.

7 Q I UNDERSTAND, MA'AM.

8 A OKAY.

9 Q I'M ASKING ABOUT ACCUSATIONS.

10 A OKAY. THAT'S RIGHT. THAT'S ACCUSATIONS. THAT'S  
11 WHAT HE'S TELLING YOU.

12 Q AND THAT'S WHAT I'M ASKING YOU ABOUT, MA'AM. HE  
13 ACCUSED YOU OF IT?

14 A RIGHT.

15 Q CORRECT. MULTIPLE TIMES, CORRECT?

16 A THAT'S WHAT HE TOLD YOU, YES. HAROLD HAS NEVER  
17 ONCE CAME TO ME ABOUT A CHEATING SITUATION, NEVER ONCE.  
18 SO, ALL OF A SUDDEN NOW, I WAS CHEATING, AN ACCUSATION OF  
19 CHEATING. NEVER ONCE IN THE YEARS WE'VE BEEN TOGETHER,  
20 ACCUSED ME OF CHEATING UNTIL NOW.

21 Q DO YOU REMEMBER THAT YOU TESTIFIED PREVIOUSLY, DO  
22 YOU REMEMBER THAT IT WOULD HAVE BEEN BACK IN NOVEMBER OF  
23 2006?

24 A YES.

25 Q OKAY. SO, I'M GOING TO SHOW YOU THE FRONT OF THIS

1       LARGE BOOK HERE THAT SAYS NOVEMBER 13, 2006.

2           A   UH-HUH.

3           Q   TRANSCRIPT OF RECORD, CORRECT?   OKAY.

4           A   YES.

5           Q   OKAY.   NOW, I'M GOING TO OPEN UP HERE TO THE --  
6   JUDGE, MAY I STEP AROUND HERE?

7           THE COURT:   YES.

8           MR. DAVIS:   THANK YOU.

9           BY MR. DAVIS:

10          Q   OKAY.   WE'RE LOOKING AT SHEILA SHEPPARD, RIGHT?

11          A   RIGHT, UH-HUH.

12          Q   IT SAY CROSS EXAMINATION BY MRS. BARKER -- DO YOU  
13   REMEMBER IT WAS A FEMALE ATTORNEY THAT WAS TALKING TO YOU  
14   LAST TIME?

15          A   YES, UH-HUH.

16          Q   PAGE 171.   ALL RIGHT.   I'M GOING TO GO TO 171.  
17   IT HAS YOUR NAME THERE, WITNESS SHEPPARD ON LINE 15,  
18   RIGHT?

19          A   RIGHT.

20          Q   OKAY.   AND THEN IT SAYS CROSS EXAMINATION BY MRS.  
21   BARKER ON LINE 17; RIGHT?

22          A   UH-HUH.

23          Q   AND IT CONTINUES ON, ONE, TWO, THREE, FOUR, ON THE  
24   FIFTH PAGE---

25          A   UH-HUH.

1 Q OKAY. YOUR NAME AT THE TOP, SHEILA SHEPPARD,  
2 CROSS BY MRS. BARKER ON PAGE 176, RIGHT?

3 A UH-HUH.

4 Q AND DOWN HERE ON LINE 21---

5 A UH-HUH.

6 Q IT SAYS, THE QUESTION: "AND THERE MAY HAVE BEEN  
7 TIMES WHEN HE ACCUSED YOU OF CHEATING?" AND THE ANSWER,  
8 YOU SAID, "YES".

9 A YES.

10 Q OKAY. SO, YOU'VE TESTIFIED PREVIOUSLY THAT HE DID  
11 OUT LOUD ACCUSE YOU OF IT, RIGHT?

12 A YES. YES.

13 Q OKAY. THEN THE NEXT QUESTION: "PROBABLY MORE  
14 THAN ONCE" HE -- "PROBABLY MORE THAN ONCE" IS WHAT IT  
15 SAYS, RIGHT?

16 A RIGHT. RIGHT.

17 Q AND YOU AGAIN ANSWERED "YES"?

18 A YES.

19 Q SO, THAT MEANS PROBABLY MORE THAN ONCE HE VERBALLY  
20 ACCUSED YOU OF CHEATING, RIGHT?

21 A RIGHT, UH-HUH.

22 Q NEXT PAGE, QUESTION: "MULTIPLE TIMES?" AND  
23 AGAIN, YOU RESPONDED, "YES"; IS THAT RIGHT?

24 A YES.

25 Q QUESTION: "BECAUSE HE WAS REALLY WORRIED ABOUT

1 YOU CHEATING?" ANSWER: "HE SURE WAS"; DO YOU RECALL  
2 THAT?

3 A NOT REALLY, BUT --

4 Q BUT THAT'S WHAT THIS SAYS, RIGHT?

5 A RIGHT.

6 Q QUESTION: "BECAUSE HE THOUGHT YOU WERE CHEATING  
7 ON HIM?" ANSWER: "RIGHT."

8 A RIGHT.

9 Q SO, JUST SO I'LL UNDERSTAND, IS THIS, WHAT I JUST  
10 SHOWED YOU, IS THAT ACCURATE, OR DID HE NEVER ACCUSE YOU  
11 OF IT?

12 A HE NEVER ACCUSED ME OF CHEATING. I MEAN, HE HAD  
13 HIS ASSUMPTION, BUT HE NEVER BROUGHT IT TO ME.

14 MR. DAVIS: JUDGE, I WOULD ASK THE COURT TO GIVE THAT  
15 LINE OF QUESTIONING, LIKE I DID, FOR IMPEACHMENT.

16 THE COURT: WELL, YOU -- YOU'RE TRYING TO ESTABLISH  
17 THAT SOME ACCUSATION OF CHEATING BY THE DEFENDANT AGAINST  
18 THIS WITNESS, IS CONNECTED CLOSELY ENOUGH IN TIME OR  
19 WHATEVER TO THE ACCUSATION THAT SHE MADE AGAINST HIM TO  
20 SHOW BIAS?

21 MR. DAVIS: YES, JUDGE.

22 THE COURT: ALL RIGHT. NOW, AS SHE'S SITTING RIGHT  
23 HERE, SHE DENIES THAT SHE -- THAT HE EVER MADE AN  
24 ACCUSATION AGAINST CHEATING, SO SHE DENIES THE EXISTENCE  
25 OF ANY BIAS. THERE'S NO -- IN ASKING HER QUESTIONS, IF



1 SHE ANSWERS IT IN FRONT OF THE JURY THE SAME WAY SHE  
2 ANSWERS THEM NOW, YOU'RE GOING TO ELICIT NO EVIDENCE OF  
3 BIAS. AND, SO, YOU'VE GOT AN INCONSISTENT STATEMENT,  
4 THOUGH, THAT -- THAT SHE MADE AT SOME POINT IN THE PAST.

5 NOW, IN ORDER FOR YOU TO INTRODUCE AN INCONSISTENT  
6 STATEMENT, IT HAS TO BE ON A SUBJECT THAT IS MATERIAL TO  
7 THE LAWSUIT. AND -- AND, UM, WHETHER OR NOT THE DEFENDANT  
8 EVER MADE AN ACCUSATION OF INFIDELITY AGAINST HIS WIFE AT  
9 SOME POINT IN THE PAST, IS NOT MATERIAL TO THIS LAWSUIT,  
10 TO THIS PROSECUTION. IT RELATES ONLY TO IT IN -- IN THE  
11 SENSE OF POSSIBLY SHOWING BIAS, AND UM -- SO, I DON'T  
12 THINK I'M GOING TO ALLOW IT.

13 AND YOU -- YOU -- YOU'RE GETTING TO THE  
14 INCONSISTENT STATEMENT ONLY THROUGH THE QUESTIONS THAT  
15 RELATE TO BIAS. AND THERE IS -- THERE IS NO EVIDENCE OF  
16 BIAS. UM, AND THEN IT -- IT -- YOU KNOW, IN EVERY -- IN  
17 EVERY RELATIONSHIP BETWEEN PEOPLE, BETWEEN A HUSBAND AND  
18 WIFE, THERE ARE GOING TO BE NUMEROUS EVENTS IN THE PAST  
19 THAT COULD SHOW ANIMOSITY OR SOMETHING ELSE BETWEEN THE  
20 HUSBAND AND THE WIFE. THAT DOES NOT MAKE EACH ONE OF  
21 THOSE INCIDENTS RELEVANT AND ADMISSIBLE IN -- IN A TRIAL  
22 LIKE THIS.

23 SO, UM, THE WAY YOU -- I MEAN, YOUR INITIAL GOAL IS  
24 TO PROVE BIAS. AND SHE IS -- AS I HAVE HEARD HER  
25 TESTIMONY TODAY, THERE IS NO EVIDENCE OF BIAS. THEN YOU

1 HAVE THAT PRIOR INCONSISTENT STATEMENT THAT WOULD PERHAPS  
2 SHOW BIAS, ALTHOUGH EVEN WITH THE QUESTIONS AND ANSWERS  
3 THAT YOU READ, I DIDN'T HEAR ANYTHING THAT CONNECTS THOSE  
4 ALLEGATIONS IN TIME OR IN ANY OTHER WAY, TO THE EVENT OR  
5 SERIES OF EVENTS THAT OCCURRED IN NOVEMBER OF 2003, THAT  
6 WOULD ACTUALLY SHOW A BIAS -- YOU KNOW, SHOW A MOTIVE --  
7 REALLY, THIS IS MORE LIKE -- REALLY THIS IS MORE LIKE  
8 MOTIVE. BECAUSE, UM, YOU'RE NOT -- YOU'RE NOT OFFERING IT  
9 TO SHOW THAT AS SHE SITS HERE TODAY, SHE IS BIASED, AND  
10 THEREFORE, WILL TESTIFY UNFAVORABLE. YOU'RE OFFERING IT  
11 TO SHOW THAT SHE HAD A MOTIVE FOR MAKING A FALSE  
12 ACCUSATION AGAINST THE DEFENDANT IN NOVEMBER OF 2003,  
13 RIGHT?

14 MR. DAVIS: CORRECT.

15 THE COURT: ALL RIGHT. SO, I DIDN'T HEAR ANYTHING,  
16 AND PERHAPS YOU CAN POINT OUT WHAT I MISSED, OR PERHAPS  
17 YOU CAN ELICIT FURTHER TESTIMONY, BUT I DIDN'T HEAR  
18 ANYTHING IN WHAT YOU JUST PRESENTED TO CONNECT THE  
19 ALLEGATIONS OF INFIDELITY TO THE EVENTS THAT OCCURRED IN  
20 NOVEMBER OF 2003, SO THAT THERE WOULD BE SOME TIMELY  
21 MOTIVE FOR THAT ACCUSATION. IN OTHER WORDS, HAD SHE --  
22 YOU KNOW, IF HE HAD JUST SAID TO HER TWENTY MINUTES  
23 BEFORE, YOU KNOW, I KNOW YOU'VE BEEN HAVING AN AFFAIR AND  
24 I'M GOING TO GET YOU FOR IT, OR SOMETHING LIKE IT, YOU  
25 KNOW, THAT WOULD -- THAT WOULD -- THAT WOULD HAVE A

1 SUFFICIENT NEXUS FOR ME TO UNDERSTAND ITS RELEVANCE AND  
2 UNDERSTAND ITS PROBATIVE VALUE.

3 BUT AS IT STANDS RIGHT NOW, I'M GOING TO -- I'M  
4 GOING TO EXCLUDE IT UNLESS YOU CAN POINT OUT TO ME WHAT I  
5 HAVE MISSED.

6 MR. DAVIS: JUDGE, TO BE CLEAR, THERE -- THERE IS  
7 NOTHING IN THE RECORD AS TO ACTUAL -- THE -- SPECIFIC  
8 CLOSE PROXIMITY IN TIME. THERE'S -- THERE'S NOTHING IN  
9 THIS RECORD OR THE PRIOR RECORD TO THAT. UM, THE PRIOR  
10 RECORD JUST SEEMED TO INDICATE THAT THERE HAD BEEN TIMES,  
11 MULTIPLE TIMES, REALLY WORRIED ABOUT HIM CHEATING -- OR HE  
12 WAS REALLY WORRIED ABOUT HER CHEATING. IT WAS VAGUE AS TO  
13 TIME FRAME. SO, I WANT TO MAKE THAT CLEAR -- BLESS YOU.

14 BUT, JUDGE, I WOULD MAKE AN INITIAL ARGUMENT AS TO  
15 THE ADMISSIBILITY, BECAUSE OF THE QUESTION AND ANSWER IN  
16 CAMERA, CERTAINLY I -- YOU'RE RIGHT, MORE PROBABLY MOTIVE  
17 THAN BIAS. I MAY HAVE MISPHRASED IT -- UM, AND ASKED  
18 QUESTIONS WHICH WE ALREADY HAD THE ANSWERS TO.

19 SURPRISINGLY, I GET DIFFERENT ANSWERS. NOW, IT IS  
20 IMPEACHMENT, IT GOES TO THE CREDIBILITY.

21 THE COURT: IN ORDER FOR YOU -- IN ORDER FOR YOU TO  
22 PRESENT EVIDENCE OF A PRIOR INCONSISTENT STATEMENT, IT HAS  
23 TO RELATE TO SOMETHING THAT IS MATERIAL TO THE LAWSUIT.  
24 FOR EXAMPLE, IF SHE MADE A PRIOR INCONSISTENT STATEMENT  
25 REGARDING WHERE THEY WERE POSITIONED ON THE COUCH WHEN SHE

1 WALKED IN THE ROOM, OR HOW FAR ACROSS THE ROOM SHE WALKED  
2 BEFORE SHE SAID WHATEVER IT IS THAT SHE SAID, UM, YOU  
3 KNOW, THAT IS MATERIAL. THAT IS CLEARLY RELATED TO THIS  
4 -- THIS CASE. IT IS MATERIAL TO THIS CASE AND YOU CAN  
5 INTRODUCE EVIDENCE OF IT.

6 BUT WHEN YOU'RE -- YOU'RE TALKING ABOUT SOMETHING  
7 THAT WHERE -- WHERE YOU HAD YET TO CONVINCE ME OR SHOW ME  
8 THAT THIS ACCUSATION OF INFIDELITY HAD ANYTHING TO DO WITH  
9 WHAT HAPPENED ON THAT NIGHT OR IN THOSE SERIES OF DAYS IN  
10 NOVEMBER OF 2003, I'M NOT GOING TO LET YOU PUT IN EVIDENCE  
11 OF PRIOR INCONSISTENT STATEMENTS BECAUSE IT'S NOT MATERIAL  
12 TO THE -- TO THE LITIGATION.

13 AND, SO, FOR THAT REASON, I'M ABOUT TO SUSTAIN THE  
14 OBJECTION UNLESS YOU SHOW ME THAT THERE IS A TIMELY NEXUS  
15 BETWEEN THE ACCUSATIONS OF INFIDELITY AND WHAT HAPPENED IN  
16 NOVEMBER OF 2003.

17 MR. DAVIS: TWO THINGS TO THAT, YOUR HONOR, UM --  
18 ACTUALLY, YOUR HONOR, JUST ONE MOMENT.

19 THE COURT: LET ME TAKE A SHORT BREAK WHILE YOU  
20 DISCUSS THAT.

21 MR. DAVIS: YES, SIR. YES, SIR.

22 (WHEREUPON, THE COURT RECESSED AT 11:26 A.M.)

23 (WHEREUPON, THE COURT RESUMED AT 11:35 A.M.)

24 THE COURT: ALL RIGHT. WELL, UM, YOU ARE FREE TO ASK  
25 THIS OR ANY OTHER WITNESS ANY QUESTION YOU WANT TO THAT IS

1 DESIGNED TO ELICIT EVIDENCE OF BIAS, OR AS WE -- AS WE  
2 JUST REFRAMED THE QUESTION -- MOTIVE, WITH CERTAIN  
3 LIMITATIONS.

4 FIRST OF ALL, IF YOU ARE GOING TO ASK ABOUT A  
5 SPECIFIC EVENT, YOU HAVE TO HAVE A REASONABLE, GOOD FAITH  
6 BASIS FOR BELIEF THAT THERE IS -- THAT THAT EVENT  
7 OCCURRED. SO, IF YOU WANT TO COME UP HERE AND ASK HER,  
8 UM, ABOUT -- AND AGAIN, BACK TO THAT NEXUS BETWEEN THE  
9 TIMING OF THE ACCUSATION AND THE TIMING OF WHAT ALLEGEDLY  
10 HAPPENED HERE, IF YOU WANT TO ASK SOMETHING THAT IS LIKE  
11 THAT, AND YOU HAVE GOT A GOOD FAITH BASIS FOR ASKING IT,  
12 THEN FINE.

13 BUT IF SHE DENIES IT, THEN YOU ARE STUCK WITH HER  
14 ANSWER UNLESS IT RELATES IN A MATERIAL WAY TO THE CASE.  
15 YOU CANNOT INTRODUCE EXTRINSIC EVIDENCE OF A PRIOR  
16 INCONSISTENT STATEMENT, RELATING TO A COLLATERAL MATTER,  
17 UNLESS IT IS MATERIAL. IF IT IS A COLLATERAL MATTER, YOU  
18 CAN'T INTRODUCE EXTRINSIC EVIDENCE. SO, YOU WOULD THEN  
19 NOT BE ABLE TO INTRODUCE THE COLLOQUY THAT YOU JUST  
20 REFERENCED IN THE TRANSCRIPT OF THE PREVIOUS TRIAL.

21 NOW, I DON'T KNOW IF THERE IS A SOUTH CAROLINA  
22 COURT -- CASE DIRECTLY ON POINT, BUT THAT IS A -- THAT IS  
23 ONE OF THOSE POINTS OF LAW THAT SO MUCH IN THE CATEGORY OF  
24 BLACK LETTER THAT YOU CAN'T FIND A CASE THAT SAYS IT.  
25 HOWEVER, IT WAS RECENTLY STATED AGAIN BY THE 8TH CIRCUIT

1 IN THE UNITED STATES VS. ROULETTE, 75 F. 3D 418.

2 SO, ANYWAY, THAT'S WHERE WE STAND---

3 MR. DAVIS: JUDGE, I ASK YOU--

4 THE COURT: AND I'M READY TO BRING IN THE JURY.

5 MR. DAVIS: I ASK YOU TO CONSIDER ONE OTHER THING.

6 CERTAINLY, WE'VE BEEN RELYING ON 613, WHICH IS PRIOR  
7 INCONSISTENT STATEMENT OF A WITNESS. I WOULD REFER THE  
8 COURT TO 608 (C), I WOULD ARGUE THAT TRUMPS.

9 IT SAYS "BIAS, PREJUDICE OR ANY MOTIVE TO  
10 MISREPRESENT MAY BE SHOWN TO IMPEACH THE WITNESS EITHER BY  
11 EXAMINATION OF THE WITNESS OR BY EVIDENCE OTHERWISE  
12 ADDUCED."

13 THE COURT: TRUE. NO DOUBT ABOUT IT. BUT WE JUST  
14 SPENT 15 MINUTES FOR YOU TO TRY TO SHOW SOME EVIDENCE OF  
15 BIAS AND YOU FAILED TO DO IT. SO -- AND THEN -- THE ONLY  
16 THING THAT YOU WERE LEFT WITH AT THE END OF THAT EXERCISE  
17 WAS A PRIOR INCONSISTENT STATEMENT THAT I'VE EXCLUDED FOR  
18 THE REASONS THAT I JUST EXPLAINED.

19 MR. DAVIS: THANK YOU, JUDGE.

20 THE COURT: DEFINITELY, IF YOU HAVE EVIDENCE OF BIAS  
21 OR EVIDENCE OF MOTIVE THAT SHE MIGHT HAVE HAD FOR MAKING A  
22 FALSE ACCUSATION IN NOVEMBER OF '03, I'M ALL OVER  
23 LISTENING TO IT AND LETTING THE JURY LISTEN TO IT, BUT I  
24 HAVEN'T HEARD IT YET.

25 MR. DAVIS: THANK YOU, JUDGE.

1 THE COURT: OKAY. ARE YOU READY TO PROCEED?

2 MR. DAVIS: YES, YOUR HONOR.

3 THE COURT: ARE YOU FINISHED WITH YOUR CROSS  
4 EXAMINATION?

5 MR. DAVIS: I'M NOT, SIR.

6 THE COURT: ALL RIGHT. BRING IN THE JURY.

7 (WHEREUPON, JURY ENTERED THE COURTROOM AT 11:39 A.M.)

8 MR. DAVIS: MAY IT PLEASE THE COURT -- JUDGE, FORGIVE  
9 ME. I MAY HAVE LEFT AN EXHIBIT WITH THE WITNESS. THANK  
10 YOU.

11 BY MR. DAVIS:

12 Q MRS. ORR, I HAVE A FEW MORE QUESTIONS FOR YOU.

13 YOU DEMONSTRATED A LITTLE BIT AGO THE POSITION OF MINOR  
14 AND HAROLD -- AND HAROLD AND WHERE YOU WERE, RIGHT?

15 A YES.

16 Q ON THIS BENCH THAT IS STILL SITTING HERE, RIGHT?

17 A YES.

18 Q AND, I BELIEVE YOU DEMONSTRATED THAT MINOR 1 HAD  
19 HER HEAD DOWN HERE NEAR ONE -- IN THE ARM OF THE COUCH,  
20 RIGHT?

21 A YES.

22 Q AND I THINK YOU PUT HER RIGHT LEG UP OVER THE BACK  
23 OF THE COUCH, RIGHT?

24 A YES.

25 Q AND HER LEFT FOOT DOWN TOWARDS THE GROUND, RIGHT?

1           A   YES.

2           Q   AT -- SHE WAS IN COURT -- WE WERE ALL IN COURT  
3   YESTERDAY, RIGHT?

4           A   YES.

5           Q   AND SHE'S -- SHE'S 12 NOW?

6           A   THIRTEEN.

7           Q   THIRTEEN NOW.   OKAY.   SO, SHE WAS SMALLER BACK  
8   THEN, RIGHT?

9           A   YES.

10          Q   SHE COULDN'T STRETCH OUT AND REACH ALL ACROSS THE  
11   COUCH YOU HAD IN YOUR PLACE, COULD SHE?

12          A   YES.   THAT'S -- THAT'S NOT -- I MEAN, THE COUCH IS  
13   BIGGER THAN THAT.

14          Q   I -- I -- I SAID THAT IN A BAD WAY.   WHEN SHE  
15   FULLY STRETCHED OUT, SHE WOULDN'T REACH THE OTHER END,  
16   RIGHT?

17          A   NO.

18          Q   THE COUCH IS LONGER THAN SHE WAS?

19          A   RIGHT.

20          Q   OKAY.   WE'VE ALREADY TALKED ABOUT THE OFFICERS  
21   THAT WERE ON THE SCENE.   THERE WAS A FEMALE OFFICER THAT  
22   Y'ALL TALKED TO, RIGHT?

23          A   YES.

24          Q   AND DID YOU SEE THE MALE OFFICER WHO TESTIFIED  
25   JUST A LITTLE BIT AGO?



1 A YES.

2 Q HE WAS THE FIRST ONE TO GET THERE, RIGHT?

3 A YES.

4 Q HE WAS THE FIRST ONE YOU TALKED TO ABOUT WHAT  
5 HAPPENED?

6 A YES.

7 Q OKAY. UM, AND AGAIN, YOU MADE IT CLEAR WHO YOU  
8 WERE ACCUSING OF DOING THIS, RIGHT?

9 A YES.

10 Q YOU'RE ACCUSING HAROLD OF DOING THIS, RIGHT?

11 A YES.

12 Q YOUR HUSBAND?

13 A YES.

14 Q SO, THAT WASN'T THE ISSUE. THE ISSUE WAS WHAT  
15 HAPPENED, RIGHT?

16 A YES.

17 Q WHAT YOU SAW, RIGHT?

18 A RIGHT.

19 Q AND HOW IT HAPPENED, THAT WAS VERY IMPORTANT?

20 A YES.

21 Q AND YOU KNEW WHETHER YOU WERE TALKING TO OFFICER  
22 LOWERY, OR OFFICER ROGERS OR DETECTIVE WILLIAMS, IT WAS  
23 REALLY IMPORTANT TO EXPLAIN WHAT HAPPENED, RIGHT?

24 A YES.

25 Q OKAY.

1 MS. HERRING-LASH: YOUR HONOR, MAY WE APPROACH?

2 (WHEREUPON, THE PROCEEDINGS WERE INTERRUPTED FOR A  
3 BENCH CONFERENCE IN THE PRESENCE OF THE JURY, BUT OUTSIDE  
4 THE HEARING OF THE JURY, OFF THE RECORD.)

5 BY MR. DAVIS:

6 Q I'M GOING TO SHOW YOU A COUPLE OF THINGS, ONE OF  
7 THEM YOU HAVE ALREADY SEEN.

8 MR. DAVIS: JUDGE, CAN I STEP AROUND AGAIN, BESIDE  
9 THE WITNESS?

10 THE COURT: UH-HUH.

11 MR. DAVIS: THANK YOU, YOUR HONOR.

12 BY MR. DAVIS:

13 Q I'M GOING TO SHOW YOU WHAT YOU'VE ALREADY -- YOU  
14 WERE ALREADY LOOKING AT A WHILE AGO, WHICH IS DEFENDANT'S  
15 EXHIBIT NO. 1, OKAY?

16 A UH-HUH.

17 Q I'M GOING TO SHOW YOU A NEW DOCUMENT -- NOW,  
18 THAT -- THAT YOU RECOGNIZE, CORRECT, NUMBER ONE?

19 A RIGHT.

20 Q THAT'S THE STATEMENT THAT DETECTIVE WILLIAMS WROTE  
21 FOR YOU, RIGHT?

22 A RIGHT.

23 Q OKAY. AND IT'S GOT YOUR SIGNATURE DOWN AT THE  
24 BOTTOM?

25 A RIGHT.

1 Q SHEILA ORR?

2 A RIGHT.

3 Q RIGHT. OKAY. I'M GOING TO SHOW YOU -- AND I'M  
4 GOING TO STEP RIGHT OVER HERE TO GIVE YOU A SECOND -- I'M  
5 GOING TO SHOW YOU WHAT HAS BEEN MARKED AS NUMBER 2.

6 A OKAY.

7 Q OKAY. AGAIN, WE'RE GOING TO START OUT WITH THE  
8 SAME QUESTIONING WE STARTED OUT WITH. SIMPLY TAKE YOUR  
9 TIME AND LOOK AT THIS, I HAVE ONE QUESTION FOR YOU TO  
10 START OUT.

11 A OKAY.

12 Q CAN YOU RECOGNIZE WHAT THIS IS, YES OR NO, AND  
13 THEN WE'LL GO FROM THERE. OKAY? OKAY. YOU HAD A CHANCE  
14 TO LOOK AT THAT. DO YOU RECOGNIZE WHAT THAT IS?

15 A NO, NOT REALLY.

16 Q OKAY. WELL, --

17 A I -- NOT REALLY.

18 Q OKAY. DO YOU NEED SOME MORE TIME TO LOOK AT IT?

19 A THIS MAY HAVE, BUT I DON'T REMEMBER.

20 Q OKAY. SO, YOU'RE NOT SURE IF YOU RECALL THAT OR  
21 NOT?

22 A NO, NO, NOT REALLY.

23 Q OKAY. LET ME STEP BACK OVER THERE AND ASK YOU

24 --

25 A I KNOW THAT ONE.

1 Q OKAY. AND LET ME JUST TELL THE JURY -- YOU'RE  
2 POINTING AT YOUR STATEMENT, YOU'RE -- YOU'RE SURE ABOUT  
3 THAT ONE, THIS ONE -- NO. 2 YOU'RE NOT SURE ABOUT?

4 A I'M NOT SURE ABOUT THAT.

5 Q OKAY. FAIR ENOUGH. OKAY. LET'S DEAL WITH THE  
6 ONE THAT YOU DO KNOW ABOUT, OKAY. YOU'RE SURE ABOUT THIS  
7 ONE. AGAIN, WE'RE TALKING ABOUT NO. 1, OKAY?

8 A UH-HUH.

9 Q ALL RIGHT. WE'RE LOOKING AT THE SECOND PAGE HERE.  
10 AND THIS IS THE ONE THAT DETECTIVE WILLIAMS TOOK, RIGHT?

11 A RIGHT.

12 Q OKAY. WE'RE GOING TO START A FEW LINES DOWN. IT  
13 SAYS, "I GOT OUT OF BED TO SEE WHAT WAS GOING ON", RIGHT?

14 A UH-HUH.

15 Q I NEED YOU TO ANSWER YES OR NO. I'M SORRY.

16 A YES.

17 Q OKAY. THANK YOU. "I WALKED THROUGH THE KITCHEN  
18 TOWARDS THE LIVING ROOM", RIGHT?

19 A RIGHT.

20 Q "I GOT BY THE BAR AREA", RIGHT?

21 A RIGHT.

22 Q "I SAW MINOR ON THE COUCH WITH HER LEGS SPREAD",  
23 RIGHT?

24 A RIGHT.

25 Q "HAROLD HAD HIS TONGUE IN HER VAGINA COMMITTING

1 ORAL SEX ON HER", RIGHT?

2 A YES.

3 Q "I WENT BERSERK AND ASKED HIM WHAT THE HELL WAS HE  
4 DOING?"

5 A YES.

6 Q "HE SAID, NOTHING, I WAS JUST WATCHING TV."  
7 THAT'S WHAT IT SAYS?

8 A I DON'T REMEMBER HIM SAYING THAT.

9 Q I'M SORRY?

10 A I DON'T REMEMBER HIM SAYING THAT.

11 Q BUT THAT'S WHAT IT SAYS HERE ON THIS?

12 A YES. YES.

13 Q AND THIS -- THESE TWO PAGES ARE WHAT YOU TOLD  
14 DETECTIVE WILLIAMS?

15 A YES.

16 Q OKAY. SO THIS, IT SAYS WHEN YOU'RE AT THE BAR  
17 AREA, YOU SAW WHAT HAROLD WAS DOING?

18 A I WAS COMING TOWARDS THE LIVING ROOM -- YES.  
19 THERE IS A BAR AREA RIGHT---

20 Q SO, THAT DOESN'T SAY WHEN YOU WERE UP BESIDE THEM,  
21 DOES IT?

22 A NO, IT DOES NOT.

23 Q OKAY. THAT'S SEVERAL MORE STEPS TO GET UP BESIDE  
24 THE COUCH, RIGHT?

25 A NOT -- YEAH, YOU COULD SAY MAYBE ONE OR TWO.

1 Q AND YET -- DETECTIVE WILLIAMS ISN'T THE ONLY  
2 OFFICER YOU SPOKE TO, IS IT?

3 A THE FIRST ONE THAT CAME TO THE DOOR.

4 Q WHICH WAS OFFICER ROGERS, WHO WE SAW JUST A LITTLE  
5 BIT AGO, RIGHT?

6 A RIGHT.

7 Q OKAY. DID YOU TELL OFFICER ROGERS THAT YOU WALKED  
8 THROUGH THE DOOR AND OBSERVED THE SUBJECT ON THE COUCH  
9 WITH THE VICTIM, YOU TOLD HIM THAT, RIGHT?

10 A I DON'T RECALL TELLING HIM THAT I WALKED THROUGH  
11 THE DOOR.

12 Q WELL, THE DOOR FROM YOUR BEDROOM, RIGHT?

13 MS. HERRING-LASH: YOUR HONOR, I WOULD OBJECT TO  
14 THIS.

15 THE WITNESS: NO.

16 THE COURT: MA'AM?

17 MS. HERRING-LASH: I WOULD OBJECT. THIS WITNESS SAID  
18 SHE DID NOT HAVE ANY KNOWLEDGE OF THIS PAPER HE'S READING  
19 FROM.

20 MR. DAVIS: JUDGE, I THINK THE TESTIMONY WAS SHE  
21 DOESN'T REMEMBER.

22 THE COURT: SHE DOESN'T REMEMBER.

23 MR. DAVIS: I BELIEVE THAT WAS THE TESTIMONY. I  
24 DON'T THINK -- I THINK SHE EQUIVOCATED.

25 THE COURT: AND WHAT IS THAT PIECE OF PAPER? LET ME

1 SEE.

2 MR. DAVIS: YES, JUDGE. THIS IS DEFENSE NO. 2.

3 THE COURT: I SUSTAIN THE OBJECTION.

4 BY MR. DAVIS:

5 Q DO YOU REMEMBER TELLING OFFICER ROGERS THAT HAROLD  
6 HAD HIS HEAD BETWEEN [REDACTED] LEGS PERFORMING ORAL SEX ON  
7 HER?

8 A YES.

9 Q DO YOU REMEMBER TELLING OFFICER ROGERS THAT HAROLD  
10 WAS HOLDING [REDACTED] LEGS BACK OVER HER HEAD?

11 A NO, I DID NOT TELL HIM THAT.

12 Q SO, IT WOULD SURPRISE YOU --

13 MS. HERRING-LASH: YOUR HONOR, I THINK YOU HAD RULED  
14 THAT HE COULD NOT GO INTO THIS.

15 THE COURT: MA'AM?

16 MS. HERRING-LASH: I THINK THAT YOU HAD RULED THAT HE  
17 COULD NOT GO INTO THIS.

18 THE COURT: WELL, HE CAN -- HE CAN ASK HER QUESTIONS  
19 ABOUT PRIOR STATEMENTS. BUT HE, BASED ON THE DOCUMENT HE  
20 HOLDS IN HIS HAND, CANNOT OFFER ANY EXTRINSIC EVIDENCE OF  
21 IT, NOR CAN HE SUGGEST TO THE JURY BY HOLDING THAT  
22 DOCUMENT IN HIS HAND, THAT HE HAS EXTRINSIC EVIDENCE OF  
23 IT.

24 BY MR. DAVIS:

25 Q DID YOU TELL OFFICER ROGERS THAT YOU SCREAMED AT

1 HAROLD, TELLING HIM TO GET OFF OF HER?

2 A NO, I DID NOT.

3 Q DID YOU DO THAT, THOUGH?

4 A DID I SCREAM?

5 Q YEAH.

6 A I ASKED HIM---

7 Q DID YOU YELL AT HIM, GET OFF OF HER?

8 A NO, I DID NOT.

9 Q YOU JUST BEAT HIM OVER THE HEAD WITH THE PHONE  
10 WITHOUT SAYING ANYTHING TO HIM?

11 A HE KNOW WHY I BEAT HIM OVER HIS HEAD WITH THE  
12 PHONE.

13 Q I'M ASKING IF YOU SAID ANYTHING TO HIM WHILE  
14 YOU'RE DOING THAT?

15 A I ASKED HIM WHAT THE HELL HE WAS DOING.

16 Q OKAY. SOMETHING ELSE THAT DOESN'T SEEM TO MATCH  
17 UP. YOU SAID EARLIER TODAY TO THESE FOLKS, THAT I BELIEVE  
18 YOU SAID THAT HAROLD WAS PULLING HIS PANTS UP, IS THAT  
19 CORRECT?

20 A WHEN I SAW HAROLD -- YES -- WELL, ZIPPING IT UP,  
21 YOU KNOW, IT WAS UP, WITH ZIPPING IT.

22 Q THAT WOULD BE REALLY IMPORTANT IF THERE WAS ANY  
23 TYPE OF PENETRATION, RIGHT? YOU KNOW THAT, RIGHT?

24 A YOU HAVE TO REPEAT THAT QUESTION.

25 Q THAT WOULD BE IMPORTANT IF YOU THINK YOU SAW



1 HAROLD PENETRATING MINOR WITH HIS PENIS, THAT WOULD BE  
2 IMPORTANT, RIGHT?

3 A YES.

4 Q THAT WOULD BE DIFFERENT THAN JUST THINKING YOU SAW  
5 HIM LICK HER, RIGHT?

6 A YES.

7 Q AND, SO, IF HE HAD HIS PANTS DOWN AND UNZIPPED,  
8 THAT WOULD BE VERY IMPORTANT, RIGHT?

9 A YES.

10 Q THE POLICE OUGHT TO KNOW THAT, RIGHT?

11 A YES.

12 Q AND THE DOCTOR OUGHT TO KNOW THAT, RIGHT?

13 A YES.

14 Q BECAUSE HE MIGHT HAVE HAD SOME EVIDENCE OF THAT,  
15 AND MIGHT HAVE TO DO---

16 MS. HERRING-LASH: YOUR HONOR, MAY WE APPROACH?

17 THE COURT: YES.

18 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
19 CONFERENCE IN THE PRESENCE OF THE JURY, BUT OUTSIDE THE  
20 HEARING OF THE JURY, OFF THE RECORD.)

21 BY MR. DAVIS:

22 Q YOU HAVE EXHIBIT NO. 1 IN FRONT OF YOU, RIGHT?

23 A YES.

24 Q OKAY. AND THAT'S WHEN YOU'RE TALKING TO A  
25 DETECTIVE FROM NORTH CHARLESTON POLICE DEPARTMENT, RIGHT?

1 A YES.

2 Q AND MY QUESTION IS, THERE'S NO WHERE IN THERE THAT  
3 YOU TOLD DETECTIVE WILLIAMS THAT HAROLD WAS ZIPPING UP?

4 A NO, IT'S NOT.

5 Q NOR DID YOU TELL ANY OF THE OFFICERS ON THE SCENE?

6 A NO, I DID NOT.

7 Q NOR DID YOU TELL ANYONE AT MUSC?

8 A NO, I DID NOT.

9 MR. DAVIS: JUDGE, IF I COULD HAVE JUST ONE MOMENT.

10 (PAUSE). JUDGE, I DON'T HAVING ANYTHING ELSE. THANK YOU.

11 REDIRECT EXAMINATION BY MS. HERRING-LASH:

12 Q JUST TO START OFF WITH, MR. DAVIS ASKED YOU ABOUT  
13 MR. LEWIS SHEPPARD?

14 A YES.

15 Q HOW LONG HAS IT BEEN SINCE YOU HAVE SEEN MR. LEWIS  
16 SHEPPARD?

17 A OH, MY YOUNGEST BOY IS 26. IT HAD TO HAVE BEEN  
18 ABOUT 23 OR 22 YEARS.

19 Q DID YOU EVER ATTEMPT TO LOCATE HIM THROUGH THE  
20 PAPER?

21 A YES, MA'AM, I HAVE.

22 Q AND COULD YOU EVER LOCATE HIM?

23 A NO, MA'AM, I DID NOT.

24 Q NOW, YOU ARE, AT THIS POINT IN TIME, I GUESS,  
25 SINCE NOVEMBER OF 2003, ANGRY AT HAROLD SHEPPARD, --

1 EXCUSE ME -- HAROLD ORR, IS THAT TRUE?

2 A YES, MA'AM.

3 Q DID YOU FORCE HAROLD ORR TO MOVE DOWN TO  
4 CHARLESTON?

5 A NO, MA'AM, I DID NOT.

6 Q Y'ALL CAME HERE AS A COUPLE?

7 A YES, MA'AM, WE DID.

8 Q HAD HE NOT WANTED TO COME, WHAT WAS HIS OPTIONS?

9 A HE COULD HAVE STAYED WHERE HE BEEN.

10 Q IF YOU WOULD HAVE WANTED TO COME WITHOUT HIM, WHAT  
11 WOULD YOU HAVE DONE?

12 A I HAVE FAMILY HERE. I HAVE FRIENDS. I WOULD HAVE  
13 MADE IT BY MYSELF.

14 Q AND WHEN YOU WERE TALKING WITH OFFICER ROGERS,  
15 WERE YOU UPSET?

16 A YES, MA'AM, I WAS.

17 Q AND WAS HITTING MR. ORR OVER -- OVER THE HEAD WITH  
18 THE PHONE, WAS THAT ANYTHING -- DID THAT HAVE ANYTHING TO  
19 DO WITH WHAT HAROLD HAD DONE?

20 A YES, MA'AM. THAT WAS JUST MY PHYSICAL REACTION AT  
21 THAT TIME WHEN I WALKED UP AND SEE WHAT WAS GOING ON.

22 Q WAS IT SOMETHING THAT YOU FELT YOU HAD TO TELL THE  
23 POLICE?

24 A YES -- NO, NOT REALLY. BECAUSE ONCE I HIT HIM --  
25 WITH THE PHONE, I KNOW THAT DIDN'T REALLY HURT HIM. I

1 HE -- I BELIEVE HE JUST GET UP AND RUN BECAUSE HE GOT  
2 CAUGHT.

3 MR. DAVIS: OBJECTION, YOUR HONOR. IT CALLS FOR  
4 SPECULATION.

5 THE COURT: SUSTAINED.

6 BY MS. HERRING-LASH:

7 Q DO YOU WEAR GLASSES?

8 A JUST FOR READING.

9 Q DO YOU WEAR GLASSES TO SEE? LIKE, CAN YOU SEE THE  
10 PEOPLE IN THE COURTROOM?

11 A I CAN SEE EVERYBODY FINE.

12 Q AND -- LET'S LOOKS AT COURT'S EXHIBIT NO. 2. WHEN  
13 YOU WERE ASKED ABOUT THE LIGHTING, WHAT LIGHTS DID YOU SAY  
14 THAT YOU THOUGHT WERE ON?

15 A IT WOULD BE -- SEE THESE LITTLE BULBS RIGHT HERE?

16 Q RIGHT.

17 A THESE ARE LIGHTS. THAT'S A BIG LIGHT THERE. AND  
18 RIGHT ON THE STOVE, IT SEEMS LIKE EVERYBODY'S STOVE HAS A  
19 LITTLE LIGHT AND EXHAUST FAN, THOSE LIGHTS WERE -- HAD  
20 BEEN ON.

21 Q NOW, ARE THOSE LIGHTS IN THE LIVING ROOM?

22 A IT'S IN THE KITCHEN.

23 Q SO --

24 A SO, THE KITCHEN, YOU SEE, IS REAL CLOSE TO THE  
25 LIVING ROOM.

1 Q SO, YOU'RE STILL NOT SAYING THERE ARE ANY LIGHTS  
2 ON IN THE LIVING ROOM?

3 A RIGHT. THERE -- THERE WAS NO PLACE WHERE YOU  
4 COULD TURN LIGHTS ON IN THE LIVING ROOM. YOU WOULD HAVE  
5 TO HAVE A LAMP TO PLUG IN AND THEN TURN ON.

6 Q BUT -- BUT THOSE ARE THE KITCHEN LIGHTS?

7 A YES, MA'AM.

8 Q AND WAS THE TV LIGHT ON ALSO?

9 A YES, MA'AM.

10 Q NOW, LET'S LOOK BACK AT THIS PICTURE. WHERE IS  
11 THE BAR AREA IN THIS LIVING ROOM?

12 A THIS GRAY THING RIGHT HERE.

13 Q SO, THAT'S THE BAR---

14 A ---AND IT GOES ALL THE WAY TO HERE. SO, IT'S A  
15 KIND OF PRETTY LONG BAR.

16 Q AND YOU WERE WHERE WHEN YOU SAW THIS HAPPEN?

17 A I HAD ALREADY COME THROUGH FROM MY BEDROOM, COME  
18 THROUGH HERE, RIGHT THROUGH HERE. JUST LIKE I SAID, THAT  
19 TABLE IS WIDER THAN IT IS -- SO, IT'S NOT THAT FAR FROM  
20 RIGHT THERE TO THERE.

21 Q SO, YOU WERE RIGHT AROUND THAT AREA?

22 A YES, MA'AM.

23 Q AND WHEN YOU WERE AT THE MEDICAL UNIVERSITY, DID  
24 YOU EVER GET TO GO IN AND SPEAK WITH THE DOCTOR?

25 A NO, MA'AM.

1 Q YOU NEVER GOT TO GO IN AND TALK TO THEM?

2 A NO, MA'AM.

3 Q NOW, WHEN YOU WERE AT THE MEDICAL UNIVERSITY --

4 MR. DAVIS ASKED YOU IF YOU TOLD ANYONE AT THE MEDICAL

5 UNIVERSITY ABOUT EXAMINING MINOR YOU, IN FACT, GAVE A

6 STATEMENT AT THE MEDICAL UNIVERSITY, I THINK. DO YOU

7 STILL HAVE YOUR COPY OF IT?

8 A YES, MA'AM.

9 Q AND, IN FACT, YOU TOLD OFFICER WILLIAMS ABOUT  
10 THAT, DIDN'T YOU?

11 A YES, MA'AM.

12 Q AND MR. DAVIS ASKED YOU ABOUT WHO CALLED -- ABOUT  
13 IF YOU TOLD THE POLICE WHO CALLED THE COPS?

14 A SABRINA.

15 Q AND DID YOU TELL OFFICER WILLIAMS THAT YOUR  
16 DAUGHTER CALLED THE COPS?

17 A I DON'T REMEMBER.

18 Q WOULD YOU -- DO YOU HAVE YOUR STATEMENT UP THERE?

19 A YES, MA'AM.

20 Q WOULD YOU READ THE LAST PART TO YOURSELF -- NOT  
21 OUT LOUD.

22 A OKAY.

23 Q BUT WOULD IT REFRESH YOUR MEMORY IF YOU READ OVER  
24 THE LAST PART OF THAT STATEMENT? WOULD IT -- MS.

25 SHEPPARD, WOULD IT REFRESH YOUR MEMORY IF YOU READ OVER

1 IT?

2 A YES, MA'AM.

3 Q THE LAST PART OF THE STATEMENT.

4 A YES, MA'AM. I REMEMBER.

5 Q WHERE IT STARTS WITH "HAROLD".

6 A YES, MA'AM.

7 Q NOW, WHAT, IN FACT, DID YOU TELL OFFICER WILLIAMS?

8 A WELL, THE -- THE STRUGGLE WITH THE PHONE. AND  
9 ONCE THE PHONE WAS -- STRUGGLE WAS -- WHEN I HIT HIM, THE  
10 BATTERIES CAME OUT OF THE PHONE. WHEN I GOT THE BATTERIES  
11 BACK IN, I HAD THEIR NUMBERS LIKE ON A SPEED CALL, ONE FOR  
12 SHANDA, TWO FOR SAM. I HIT THE BUTTON. BECAUSE -- NO  
13 INTENTION (PH) WHAT HE WAS GOING TO DO.

14 Q WHO WAS THE STRUGGLE WITH OVER THE PHONE?

15 A MR. ORR.

16 Q AND YOU EXPLAINED THAT BRIEFLY, I GUESS, TO  
17 OFFICER WILLIAMS?

18 A YES.

19 Q AND, IN FACT, SAID THAT YOUR DAUGHTER CALLED --  
20 ENDED UP CALLING THE POLICE?

21 A YES.

22 Q AND, ONCE AGAIN, MS. ORR, AT THIS POINT IN TIME,  
23 YOU'RE PRETTY ANGRY?

24 A YES, MA'AM.

25 MS. HERRING-LASH: THAT'S ALL THE QUESTIONS I HAVE.

1 MR. DAVIS: JUST BRIEFLY, JUDGE.

2 RECROSS EXAMINATION BY MR. DAVIS:

3 Q JUST SO WE'RE CLEAR ABOUT THAT IN YOUR STATEMENT.  
4 YOU DID TELL DETECTIVE WILLIAMS WHO CALLED THE POLICE,  
5 RIGHT?

6 A YES.

7 Q BUT YOU DID NOT TELL DETECTIVE WILLIAMS THAT YOU  
8 HIT HAROLD WITH THE PHONE, YOU JUST SAID SOMETHING ABOUT  
9 STRUGGLING OVER THE PHONE, RIGHT?

10 A YES.

11 Q AND TO BE CLEAR ABOUT THE LIGHTING, YOU POINTED  
12 OUT TO THE -- YOU'RE RIGHT -- THE LITTLE LIGHT EVERYBODY  
13 HAS OVER THE STOVE?

14 A RIGHT.

15 Q THAT WAS ON?

16 A RIGHT.

17 Q YOU POINTED TO SOME LIGHTS THAT ARE HANGING FROM  
18 THE CEILING?

19 A RIGHT.

20 Q ARE YOU TELLING THIS JURY THOSE WERE ON OR NOT?

21 A THIS LIGHT -- OR SHE TOOK IT DOWN -- THAT LIGHT  
22 WAS ON. IT'S JUST A LITTLE SMALL LIGHT THAT GOES OVER THE  
23 BAR AREA.

24 Q IT'S HANGING OVER THE BAR AND GOING BACK TOWARDS  
25 YOUR BEDROOM?



1           A NO, IT'S NOT. IT'S JUST RIGHT THERE, NOW, ON THE  
2 BAR.

3           Q AND POINTING DOWN ON TO THE BAR?

4           A RIGHT.

5           Q BUT NOW THE LAST TIME, IN A PRIOR PROCEEDING WHEN  
6 YOU TESTIFIED, YOU JUST SAID TV AND THE STOVE LIGHT,  
7 RIGHT?

8           A PROBABLY. I DON'T REMEMBER.

9           MR. DAVIS: JUDGE, THAT'S ALL I HAVE. THANK YOU.

10          THE COURT: ALL RIGHT. MA'AM, YOU CAN STEP DOWN.

11          (WITNESS STEPPED DOWN.)

12          MS. HERRING-LASH: THE STATE WOULD CALL SCOTT WYANT.

13          (WITNESS FORWARD..)

14                                           OFFICER SCOTT WYANT, HAVING BEEN  
15 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16          CLERK: THANK YOU, SIR. PLEASE HAVE A SEAT. FOR THE  
17 RECORD, IF YOU WOULD, PLEASE STATE YOUR NAME, SPELLING  
18 YOUR LAST NAME.

19          THE WITNESS: SCOTT CAMERON WYANT, W-Y-A-N-T.

20          DIRECT EXAMINATION BY MS. HERRING-LASH:

21          Q OFFICER WYANT, WHERE ARE YOU EMPLOYED?

22          A THE CITY OF NORTH CHARLESTON POLICE DEPARTMENT.

23          Q AND WHAT ARE YOUR DUTIES THERE?

24          A I'M A FORENSIC INVESTIGATOR FOR THE DEPARTMENT.

25          Q AND ARE YOU IN THE CRIME SCENE ---

1 A YES, MA'AM.

2 Q ---INVESTIGATION DIVISION? AND AS PART OF YOUR  
3 DUTIES AS A CRIME SCENE OFFICER, DO YOU PICK UP EVIDENCE,  
4 SECURE IT AND BRING IT TO THE STATION?

5 A THAT'S CORRECT.

6 Q AND I WANT TO CALL YOUR ATTENTION TO THE CASE THAT  
7 WE'RE HERE ABOUT. FIRST OF ALL TO START WITH, THE SEXUAL  
8 ASSAULT KIT. DO YOU HAVE YOUR PAPER WORK WITH YOU?

9 A NO, I DO NOT.

10 Q DO YOU FILL OUT CHAIN OF CUSTODY PAPER WORK?

11 A THAT'S CORRECT. I DO.

12 Q AND DID YOU FILL IT OUT IN THIS CASE?

13 A YES, MA'AM, I DID.

14 Q AND WHAT IS THE FIRST PIECE OF EVIDENCE THAT YOU  
15 PICKED UP?

16 A AH, AN ASA KIT OR -- OTHERWISE KNOWN AS AN ADULT  
17 SEXUAL ASSAULT KIT.

18 Q AND WHERE DID YOU GET THAT EVIDENCE?

19 A I GOT IT FROM MUSC WOMEN'S HEALTH CLINIC ---

20 Q NOW, ARE YOU SURE YOU GOT IT FROM MUSC?

21 A I'M SORRY. YOU'RE CORRECT. THAT'S WHERE I  
22 NORMALLY PICK THEM UP. BUT IN THIS INSTANCE, I ACTUALLY  
23 GOT IT FROM MIKE RINGLEY, WHO HAD PICKED IT UP FROM THE  
24 WOMEN'S HEALTH CLINIC.

25 Q OKAY. WHO IS MIKE RINGLEY?

OFFICER WYANT -- DIRECT BY MS. HERRING-LASH

258

1           A   HE IS A -- HE IS A SERGEANT WITH CHARLESTON  
2   COUNTY.  HE WAS WITH THEIR CRIME SCENE UNIT.  AND WE  
3   FREQUENTLY GO TO MUSC WOMEN'S HEALTH CLINIC, USUALLY ONCE  
4   A WEEK, TO PICK UP THE SEXUAL ASSAULT KITS AND TAKE THEM  
5   BACK TO OUR STATION AND LOG THEM IN.  AND IN THIS  
6   INSTANCE, MIKE HAD RECEIVED A KIT AND DISCOVERED THAT THE  
7   KIT HAD ACTUALLY BELONGED TO NORTH CHARLESTON, TO US.

8           Q   AND WHAT DID YOU DO WITH THAT KIT WHEN MR. RINGLEY  
9   GAVE IT TO YOU?

10          A   I SIGNED FOR IT FROM MIKE RINGLEY.  AND I, AH,  
11   STARTED A CHAIN OF CUSTODY ON IT AND LOGGED IT INTO OUR  
12   PROPERTY ROOM.

13          Q   AND WHO DID YOU LOG IT IN WITH?

14          A   I LOGGED IT IN -- WE HAVE AN EVIDENCE  
15   REFRIGERATOR.  AND I LOGGED IT IN THERE AND MR. HARDIN WAS  
16   IN CHARGE OF THE PROPERTY ROOM AT THE TIME.

17          Q   AND WOULD THAT BE THE LAST CONTACT THAT YOU HAD  
18   WITH THE ASA KIT IN THIS CASE?

19          A   OTHER THAN TYPING UP THE SLED FORM FOR IT TO GO UP  
20   TO SLED TO BE EXAMINED, YES, MA'AM.

21          Q   LET ME SHOW YOU WHAT HAS BEEN MARKED AS STATE'S  
22   EXHIBIT NO. 11.  DO YOU RECOGNIZE WHAT THAT IS?

23          A   YES, MA'AM, I DO.

24          Q   WHAT IS THAT?

25          A   THIS IS A SUSPECT EVIDENCE COLLECTION KIT ON

1 HAROLD ORR.

2 Q AND WHAT DID YOU DO WITH THAT KIT?

3 A I, AH, I RECEIVED IT FROM -- FROM THE FORENSIC  
4 NURSE. AND I SIGNED FOR IT FROM HER. I TOOK IT BACK TO  
5 THE -- OUR EVIDENCE ROOM AND LOGGED IT IN THE  
6 REFRIGERATOR.

7 Q DO YOU KNOW WHO THAT NURSE WAS?

8 A NURSE ZENO.

9 Q AND WHEN YOU -- WHEN YOU TOOK IT FROM NURSE ZENO  
10 AND TOOK IT TO THE REFRIGERATOR, DID YOU OPEN IT IN ANY  
11 WAY?

12 A NO, MA'AM. I NEVER OPENED IT.

13 Q DID YOU OPEN THE ASA KIT?

14 A NO. THEY'RE SEALED AND WE NEVER OPEN THEM.

15 Q SO, YOU JUST SIMPLY SECURED THEM INTO---

16 A THE EVIDENCE REFRIGERATOR, YES.

17 Q AND WHO DID YOU SIGN THE -- THE SUSPECT'S KIT IN  
18 WITH, DO YOU KNOW THE CHAIN OF CUSTODY?

19 A YES, MA'AM. IN THIS CASE, I SIGNED THE SUSPECT  
20 KIT OVER TO BRANDI PAULSON, WHO WAS THE EVIDENCE CUSTODIAN  
21 AT THE TIME.

22 Q AND WHAT WOULD SHE HAVE DONE WITH IT?

23 A WELL, OF COURSE, IT GOES IN THE REFRIGERATOR. AND  
24 IT STAYS THERE. SHE LOGS IT IN OUR COMPUTER AND MAKES --  
25 AND DOCUMENTS THAT THE EVIDENCE IS IN THERE.

OFFICER WYANT -- DIRECT BY MS. HERRING-LASH

260

1 Q AND WHAT ELSE DOES SHE -- IS THAT ALL SHE DOES  
2 WITH IT?

3 A NO. ONCE -- ONCE THE SUSPECT KIT COMES IN, LIKE I  
4 SAID, I TYPE THE SLED FORMS FOR IT TO GO UP. THE ASA KIT  
5 HAS TO GO UP TO SLED TO BE COMPARED TO THE SUSPECT KIT, SO  
6 I TYPE UP THE SLED FORM FOR BOTH OF THEM TO GO UP THERE  
7 AND BE TESTED AGAINST EACH OTHER. AND ONCE I TURN IN THAT  
8 FORM TO BRANDI, OR MR. HARDIN, WHOEVER, THEY ACTUALLY --  
9 USUALLY ON FRIDAYS TAKE THE EVIDENCE UP TO SLED TO BE  
10 EXAMINED.

11 Q AND WHAT DOES TAKING THE EVIDENCE TO SLED ENTAIL?

12 A ONCE THEY GET THE SLED FORM, THEY ACTUALLY TAKE  
13 THE EVIDENCE AND PUT IT IN A -- A COOLER TO KEEP IT, YOU  
14 KNOW, COOL ON THE TRIP UP TO COLUMBIA. THEY TAKE IT UP TO  
15 SLED, WHICH IS -- HAS THEIR OWN EVIDENCE INTAKE. AND THEY  
16 SIGN IT INTO THERE. AND IT GOES IMMEDIATELY INTO A  
17 REFRIGERATOR THERE UNTIL THE SEROLOGY CAN TEST IT, CAN  
18 EXAMINE IT.

19 Q AND DO THEY HAVE ANY OCCASION TO OPEN THIS OR DO  
20 THEY TURN IT INTO SLED AS YOU TURNED IT IN?

21 A NO. THEY DON'T -- THEY HAVE NO REASON TO EVER  
22 OPEN IT. THEY -- THEY JUST TAKE IT UP TO SLED JUST AS IT  
23 IS. AND SLED SIGNS FOR IT AND GIVES THEM A RECEIPT.

24 MS. HERRING-LASH: THOSE ARE ALL THE QUESTIONS I  
25 HAVE, OFFICER WYANT.

1 MR. DAVIS: JUST BRIEFLY, YOUR HONOR.

2 CROSS EXAMINATION BY MR. DAVIS:

3 Q GOOD AFTERNOON.

4 A HOW ARE YOU?

5 Q UM, YOU DON'T KNOW WHERE -- IT'S OFFICER RINGLEY,  
6 IS THAT RIGHT?

7 A YES. SERGEANT RINGLEY.

8 Q SERGEANT WITH WHAT AGENCY?

9 A CHARLESTON COUNTY SHERIFF'S OFFICE.

10 Q ALL RIGHT. SO, HE'S A SERGEANT WITH A -- HE'S A  
11 DEPUTY SHERIFF, RIGHT?

12 A YES, SIR. THAT'S CORRECT.

13 Q HE'S NOT WITH NORTH CHARLESTON POLICE DEPARTMENT?

14 A NOT ANY LONGER. HE USED TO BE WITH US.

15 Q BACK THEN, WAS HE WITH NORTH CHARLESTON OR THE  
16 COUNTY?

17 A WITH CHARLESTON COUNTY.

18 Q AND SOMEHOW HE GOT SOME EVIDENCE THAT WAS SUPPOSED  
19 TO BE NORTH CHARLESTON'S?

20 A THAT'S CORRECT.

21 Q AND YOU PICKED IT UP PERSONALLY FROM HIM?

22 A YES, SIR. THAT'S CORRECT.

23 Q UM, AND THEN YOU ALSO PICKED UP THE OTHER ITEM WE  
24 WERE TALKING ABOUT FROM MS. ZENO?

25 A YES, SIR.

1 Q DIRECTLY FROM HER?

2 A DIRECTLY FROM HER.

3 Q AND THEN, I BELIEVE YOU TESTIFIED ON BOTH OF  
4 THOSE, YOU TAKE THEM TO THE NORTH CHARLESTON EVIDENCE, AND  
5 THEY ARE PUT IN A REFRIGERATOR AND KEPT THERE FOR SOME  
6 TIME?

7 A THAT'S CORRECT.

8 Q AFTER YOU HAVE DONE THAT PART -- YOU TALKED TO THE  
9 JURORS ABOUT WHAT USUALLY HAPPENS -- BUT YOU DON'T KNOW IF  
10 ON THESE TWO ITEMS, WHAT HAPPENED AFTER YOU SUBMITTED IT  
11 TO THE EVIDENCE DEPARTMENT AT NORTH CHARLESTON POLICE  
12 DEPARTMENT?

13 A THAT'S CORRECT, OTHER THAN TYPING THE SLED FORMS  
14 REQUESTING---

15 Q YOU DID THE FORM AND YOU KNOW WHAT GENERALLY  
16 HAPPENS AFTER THAT, BUT YOU DIDN'T HAVE ANY PART IN THAT?

17 A THAT'S CORRECT.

18 Q SO, WHILE THERE WOULD BE NO REASON FOR ANYONE  
19 BEFORE OR AFTER YOU TO OPEN IT, YOU CAN ONLY SAY WHEN YOU  
20 HAD IT, YOU DIDN'T OPEN IT, RIGHT?

21 A THAT'S CORRECT.

22 MR. DAVIS: OKAY. THANK YOU, OFFICER. I APPRECIATE  
23 IT.

24 MS. HERRING-LASH: THAT'S ALL THE QUESTIONS I HAVE.

25 THE COURT: YOU CAN STEP DOWN, SIR.

1 THE WITNESS: THANK YOU.

2 (WITNESS STEPPED DOWN.)

3 MS. HERRING-LASH: THE STATE WOULD CALL OFFICER MIKE  
4 RINGLEY.

5 (WITNESS FORWARD.)

6 OFFICER MICHAEL B. RINGLEY, HAVING  
7 BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 CLERK: THANK YOU. PLEASE HAVE A SEAT. FOR THE  
9 RECORD, IF YOU WOULD, PLEASE STATE YOUR NAME, SPELLING  
10 YOUR LAST NAME.

11 THE WITNESS: MICHAEL B. RINGLEY, R-I-N-G-L-E-Y.

12 DIRECT EXAMINATION BY MS. HERRING-LASH:

13 Q AND IS -- IS IT SGT. RINGLEY?

14 A YES, IT IS.

15 Q SGT. RINGLEY, WHERE ARE YOU EMPLOYED NOW?

16 A THE CHARLESTON COUNTY SHERIFF'S OFFICE.

17 Q AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

18 A CLOSE TO 20 YEARS.

19 Q AND WHAT ARE YOUR DUTIES THERE?

20 A MY DUTIES AS -- AT THIS TIME ARE I'M THE  
21 SUPERVISOR OF THE COMMUNITY SERVICES UNIT, WHICH INCLUDES  
22 THE SCHOOL RESOURCE OFFICER PROGRAM, THE DARE PROGRAM, THE  
23 EXPLORERS AND COMMUNITY LIAISON.

24 Q BACK IN 2003, WHAT WERE YOU DOING?

25 A I WAS WORKING IN THE CRIME SCENE UNIT AT THE



OFFICER RINGLEY -- DIRECT BY MS. HERRING-LASH  
264

1 CHARLESTON COUNTY SHERIFF'S OFFICE.

2 Q AND IN THAT CAPACITY, DID YOU COLLECT EVIDENCE  
3 FROM HOSPITALS AND WHATEVER?

4 A YES, MA'AM, I DID.

5 Q AND CALLING YOUR ATTENTION TO THIS CASE, DO YOU  
6 REMEMBER WHAT HAPPENED IN THIS PARTICULAR CASE?

7 A IN THIS CASE, I WAS CALLED TO THE MEDICAL  
8 UNIVERSITY OF SOUTH CAROLINA TO PICK UP A SEXUAL ASSAULT  
9 COLLECTION KIT THAT IS NORMALLY STORED IN THE REFRIGERATOR  
10 AT THE HOSPITAL.

11 Q AND DID YOU PICK IT UP?

12 A YES, MA'AM, I DID.

13 Q AND DO YOU REMEMBER THE DATE AND TIME?

14 A I DON'T REMEMBER THE TIME RIGHT OFF HAND, BUT THE  
15 DATE WAS FEBRUARY 10, 2004.

16 Q AND WHO GAVE THAT TO YOU?

17 A MS. FAYE LEBUFF (PH).

18 Q AND DID SHE -- WHERE DID SHE RECEIVE IT FROM?

19 A SHE RECEIVED IT FROM THE REFRIGERATOR THERE AT THE  
20 HOSPITAL.

21 Q AND WHEN YOU RECEIVED IT, WAS IT IN TACT?

22 A YES, MA'AM.

23 Q AND WHAT DID YOU DISCOVER AFTER RECEIVING THAT  
24 KIT?

25 A WE WERE TRYING TO DETERMINE WHICH CASE THE KIT WAS

1     ASSIGNED TO, BEING THAT CHARLESTON COUNTY IS A BIG COUNTY  
2     AND THAT WE DO HAVE FACILITIES TO STORE THE KIT.  I  
3     COLLECTED THE KIT FROM HER AND SIGNED FOR THE KIT.  AT THE  
4     TIME, I WAS UNABLE TO ASSOCIATE IT WITH ONE OF OUR CASES,  
5     SO WE WENT AHEAD AND TOOK IT INTO OUR POSSESSION.  AND  
6     THEN WE FURTHER INVESTIGATED AND FOUND OUT THAT THIS  
7     SEXUAL ASSAULT COLLECTION KIT AND ASSOCIATED EVIDENCE  
8     ACTUALLY BELONGED TO A NORTH CHARLESTON POLICE DEPARTMENT  
9     CASE.

10           Q   AND WHAT DID YOU DO WHEN YOU FOUND THAT OUT?

11           A   WHEN I FOUND THAT OUT, I NOTIFIED THEIR CRIME  
12     SCENE UNIT, SPECIFICALLY INVESTIGATOR SCOTT WYANT, AND  
13     MADE ARRANGEMENTS TO TRANSFER THAT CASE TO HIM.

14           Q   AND DID YOU GIVE IT TO HIM JUST AS YOU HAD  
15     RECEIVED IT, STILL LOCKED IN THE BOX?

16           A   IT WAS STILL---

17           Q   OR SEALED IN THE BOX?

18           A   --SEALED IN THE BOX, YES, MA'AM.

19           MS. HERRING-LASH:  THOSE ARE ALL THE QUESTIONS I  
20     HAVE.

21           MR. DAVIS:  NO QUESTIONS.

22           THE COURT:  YOU CAN STEP DOWN, SIR.

23           THE WITNESS:  THANK YOU.

24           (WITNESS STEPPED DOWN.)

25           MS. HERRING-LASH:  THE STATE WOULD CALL CHARLES

OFFICER RINGLEY -- DIRECT BY MS. HERRING-LASH  
266

1 HARDIN.

2 (WITNESS FORWARD.)

3 OFFICER CHARLES HARDIN, HAVING  
4 BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 CLERK: THANK YOU, SIR. PLEASE HAVE A SEAT. FOR THE  
6 RECORD, PLEASE STATE YOUR NAME, SPELLING YOUR LAST NAME.

7 THE COURT: LET ME SEE Y'ALL ONE SECOND PLEASE.

8 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
9 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
10 HEARING OF THE JURY, OFF THE RECORD.)

11 DIRECT EXAMINATION BY MS. HERRING-LASH:

12 Q MR. HARDIN, WHERE ARE YOU EMPLOYED NOW?

13 A I'M RETIRED.

14 Q AND WHERE DID YOU RETIRE FROM?

15 A NORTH CHARLESTON POLICE DEPARTMENT.

16 Q HOW LONG DID YOU WORK THERE?

17 A APPROXIMATELY TEN YEARS.

18 Q AND WHAT POSITION DID YOU HOLD THERE?

19 A I WAS THE EVIDENCE CUSTODIAN.

20 Q AND IN THAT CAPACITY, DID YOU RECEIVE EVIDENCE?

21 A YES, I DID.

22 Q AND DID YOU RECEIVE EVIDENCE IN THIS CASE?

23 A YES, I DID.

24 Q AND WHO DID YOU RECEIVE IT FROM?

25 A UM---

1 Q LET'S START WITH THE ASA KIT, WHO DID YOU RECEIVE  
2 THAT FROM?

3 A SCOTT WYANT.

4 Q AND WHAT DID YOU DO WITH IT?

5 A AH, IT'S AN ITEM, LIKE, UM, ASA KIT, AH, IT'S LEFT  
6 IN THE REFRIGERATOR. THE ONLY WAY YOU CAN GET INTO IT IS  
7 WITH A LOCK. UM, THE CLOTHING WAS TAKEN AND PLACED IN A  
8 BOX INSIDE THE EVIDENCE ROOM.

9 Q AND DID YOU HAVE OCCASIONS TO TAKE EVIDENCE TO  
10 SLED?

11 A YES, I DID.

12 Q AND DID YOU TAKE THIS EVIDENCE TO SLED?

13 A I HAVE A BLANK FORM HERE AND I DON'T HAVE -- I --  
14 I WAS LOOKING THROUGH THE PAPER WORK EARLIER, AND I DON'T  
15 HAVE THE FORM THAT SHOWS THAT I TOOK THE EVIDENCE UP  
16 THERE.

17 Q PERHAPS, IT'S CUT OFF -- WOULD YOU LOOK AT YOUR  
18 NORTH CHARLESTON CHAIN OF CUSTODY SHEET, WHERE YOU SIGNED?

19 A YES.

20 Q AND DOES THAT SAY REFRIGERATOR AND THEN SLED?

21 A YES, IT DOES.

22 Q WOULD THAT MEAN YOU WOULD HAVE TAKEN IT TO SLED?

23 A NO, MA'AM. IT -- IT WOULDN'T MEAN THAT I TOOK IT  
24 TO SLED. IT JUST MEANT THAT IT WAS IN THE REFRIGERATOR.  
25 THE NEXT POINT OF DESIGNATION WOULD BE SLED.

1 Q AND DO YOU HAVE THE -- THE SECOND SHEET OF THAT,  
2 WHERE IT'S -- WHERE IT ALSO SAYS SLED?

3 A I HAVE A FORM, AH, A SLED LABORATORY -- BUT IT'S  
4 AN INVENTORY FORM, BUT IT'S NOT FILLED -- IT HAS ASA KIT  
5 ON IT, BUT I DON'T HAVE ONE WITH MY NAME ON IT.

6 Q LET ME SHOW YOU WHAT -- THE SLED FORM. DO YOU SEE  
7 WHERE ON THAT ONE, WHERE YOUR NAME IS ON THE OTHER FORM?

8 A YES, I DO.

9 Q AND WHAT DOES THAT SAY? DOES THAT REFRESH YOUR  
10 MEMORY AS TO WHEN YOU TOOK THIS TO SLED?

11 A YES.

12 Q WHEN DID YOU TAKE IT TO SLED?

13 A 2/18/2004 IS THE DATE ON THIS.

14 Q AND WHAT DO YOU DO WHEN YOU TAKE EVIDENCE LIKE  
15 THAT TO SLED?

16 A I KEEP CUSTODY OF THE EVIDENCE. IN SLED, THEY  
17 HAVE GOT DROP BOXES. THE ADMINISTRATIVE PEOPLE THERE, THE  
18 TECHNICIANS ASSIGN NUMBERS TO IT. AND I DROP IT IN A --  
19 IN A DROP BOX.

20 Q AND WHO WAS THE TECHNICIAN THAT YOU DROPPED THAT  
21 OFF WITH?

22 A I DON'T REMEMBER.

23 Q COULD -- COULD YOU READ ON THE FORM TO REFRESH  
24 YOUR MEMORY AS TO WHO YOU DROPPED IT OFF WITH?

25 A YEAH, BY MS. BUTLER.

1 Q AND DO YOU ACTUALLY WITNESS HER SEALING THE KIT  
2 AND THEN YOU DROP IT IN THE BOX?

3 A YES, MA'AM.

4 Q SO, SHE DOESN'T -- YOU DO THE SEALING AND YOU DROP  
5 IT IN THE BOX -- OR SHE DOES THE SEALING AND YOU DROP IT  
6 IN THE BOX?

7 A AH, YES. SHE SEALS THEM AND DROPS IT IN THE BOX.

8 Q SO, SHE DOES NOT DO ANYTHING ELSE WITH THAT  
9 EVIDENCE?

10 A NO, MA'AM.

11 Q AND WHEN YOU -- YOU DROP IT IN THE LOCKED BOX?

12 A YES, MA'AM.

13 Q NOW, DID YOU HAVE OCCASION TO DEAL WITH ANY OTHER  
14 EVIDENCE IN THIS CASE?

15 A IF YOU'D JUST EXCUSE ME FOR A MOMENT. I'M GOING  
16 TO REFRESH MY MEMORY. ON 11/25, DETECTIVE REYNOLDS TURNED  
17 IN A WHITE WASH CLOTH TO ME AND, UM, I RECEIVED IT IN THE  
18 DROP BOX AND STORED IT IN THE EVIDENCE ROOM.

19 Q AND THAT'S -- YOU STORED IT IN THAT EVIDENCE ROOM?

20 A YES, MA'AM.

21 Q AND WHEN YOU SAID YOU RECEIVED IT IN A DROP BOX,  
22 WHAT IS THAT?

23 A A DROP BOX IS SORT OF LIKE A MAIL BOX OR THEY --  
24 THE WAY THE EVIDENCE ROOM WAS CONSTRUCTED WHEN I WAS  
25 THERE, THE FRONT WALL IS CONCRETE AND STEEL. THERE'S

1 LEVERS AND DOORS THAT YOU CAN -- THE OFFICERS CAN PULL  
2 OPEN, DROP EVIDENCE IN. AND IT'S IMPOSSIBLE TO -- TO  
3 REACH IN THERE AND GET IT AFTER THE DOOR IS CLOSED.

4 ANOTHER METHOD WE HAD WAS A -- A STEEL BOX SIMILAR  
5 TO A -- A MAIL BOX, A STANDARD MAIL BOX. AND, AH, IT WAS  
6 ALSO LOCKED WITH A BAND OF STEEL AROUND IT. AND YOU COULD  
7 OPEN IT UP, DROP EVIDENCE IN AND CLOSE IT AND -- AND I WAS  
8 THE ONLY ONE THAT HAD THE KEY TO IT.

9 Q AND -- AND YOU TOOK THAT WASH CLOTH AND PUT IT  
10 INTO THE EVIDENCE?

11 A YES, MA'AM.

12 Q AND IS THAT THE ONLY CONTACT THAT YOU HAD WITH ANY  
13 OF THE EVIDENCE IN THIS CASE?

14 A AH, THE ONLY OTHER, AH, TWO ITEMS -- SCOTT WYANT  
15 TURNED IN, OTHER THAN THE ASA KIT, HE ALSO TURNED IN A  
16 CLOTHING BAG WITH SWEAT PANTS, A SHIRT, A, AH, SKIRT AND A  
17 DEBRIS KIT.

18 Q BUT YOU DID NOT HANDLE THAT AS FAR AS TAKING THAT  
19 TO SLED?

20 A NO, MA'AM.

21 MS. HERRING-LASH: THOSE ARE ALL THE QUESTIONS I  
22 HAVE, MR. HARDIN.

23 CROSS EXAMINATION BY MR. DAVIS:

24 Q GOOD AFTERNOON, MR. HARDIN.

25 A GOOD AFTERNOON.

1 Q I WANT TO MAKE SURE I SUMMARIZE THIS RIGHT. YOU  
2 GET AN ASA KIT, WHICH IS A -- A VICTIM RAPE KIT TURNED  
3 INTO YOU, IS THAT RIGHT?

4 A YES -- YES, SIR.

5 Q AND THAT'S FROM OFFICER WYANT, RIGHT?

6 A YES, SIR.

7 Q AND HE ALSO TURNS IN SOME ITEMS OF CLOTHING, IS  
8 THAT RIGHT?

9 A THAT'S CORRECT.

10 Q AND THEN OFFICE REYNOLDS TURNED IN A WASH CLOTH,  
11 RIGHT?

12 A THAT'S CORRECT.

13 Q THAT'S THE ENTIRETY OF THE EVIDENCE THAT YOU  
14 RECEIVED IN THIS CASE?

15 A ALL THAT I REMEMBER.

16 Q OKAY. UM, NOW THE ASA KIT, WHAT'S -- WHAT'S  
17 INCLUDED IN THAT? CAN YOU TELL THE JURY?

18 A WELL, CRIME SCENE COULD PROBABLY RELATE TO THAT  
19 MORE THAN I -- I COULD, BECAUSE I DON'T HAVE ANY REASON TO  
20 OPEN AN ASA KIT. I DON'T HAVE ANY REASON TO -- TO, AH, TO  
21 USE ANYTHING IN A RAPE KIT, SO, AH, I DON'T OPEN THEM.

22 Q CAN YOU JUST TELL THE JURY WHAT IT LOOKS LIKE WHEN  
23 YOU GET IT? WHAT -- WHAT DO THEY -- WHAT IS IT YOU GET  
24 WHEN THEY -- WHEN YOU SAY YOU GOT AN ASA KIT?

25 A UM, AS OFFICER WYANT STATED EARLIER, THE ASA KIT



1 NORMALLY CONTAINS LIQUIDS OR MUCUS OF SOME TYPE. IT'S  
2 PLACED IN A REFRIGERATOR. AND IT'S CONTAINED IN A SEALED  
3 BOX.

4 Q AND, SO, AGAIN, YOU CAN -- BECAUSE OF YOUR YEARS  
5 OF EXPERIENCE, YOU CAN ASSUME WHAT WAS IN THE BOX. WHEN  
6 YOU GET IT, IT IS A BOX THAT IS SEALED, IS THAT ACCURATE?

7 A THAT'S CORRECT.

8 Q IT'S NOT A CLEAR BOX THAT YOU CAN LOOK INTO AND  
9 SEE WHAT'S IN THERE?

10 A NO, SIR.

11 Q OKAY. JUST SO THE JURY WILL UNDERSTAND, OFFICER  
12 WYANT BRINGS YOU THIS -- WHAT IS IT, PROBABLY FOUR INCHES  
13 BY FOUR INCHES OR SOMETHING, OR BIGGER THAN THAT?

14 A PROBABLY ABOUT EIGHT -- MAYBE FOUR INCHES HIGH,  
15 EIGHT INCHES LONG.

16 Q OKAY. SO, A LITTLE RECTANGULAR BOX SEALED UP AND  
17 HE BRINGS IT UP TO YOU. BECAUSE YOU KNOW THERE IS  
18 POSSIBLY, PROBABLY SOME BIOLOGICAL MATERIAL IN THERE, YOU  
19 PUT IT IN THE REFRIGERATOR, RIGHT?

20 A THAT'S CORRECT.

21 Q OKAY. BECAUSE, AGAIN, AS -- AS EVIDENCE  
22 CUSTODIAN, BEFORE YOU RETIRED FROM NORTH CHARLESTON, YOUR  
23 JOB IS TO RECEIVE AND MAINTAIN EVIDENCE, RIGHT?

24 A YES, SIR.

25 Q OKAY. AND, SO, YOU PUT THAT IN THE REFRIGERATOR,

1 THE REFRIGERATOR IS LOCKED AND YOU'RE THE ONE WITH THE  
2 KEY, RIGHT?

3 A YES, SIR.

4 Q THE CLOTHING AND THE WASH CLOTH, I THINK YOU SAID  
5 THOSE ARE PUT IN LOCKERS THAT ARE ALSO IN THE SECURED  
6 AREA, IS THAT RIGHT?

7 A YES, SIR.

8 Q AND AGAIN, IT'S A SECURED AREA BECAUSE YOU'RE  
9 TALKING ABOUT -- IT'S A BIG MAIL BOX LIKE YOU DROP MAIL  
10 OFF TO THE POST OFFICE, THAT KIND OF A BIG MAIL BOX TYPE  
11 THING, RIGHT?

12 A OR A LEVER UP TOP. IT COULD HAVE BEEN OTHERWISE,  
13 THAT MAIL BOX OR THE LEVER UP, WHERE THEY COULD DROP  
14 CLOTHES ---

15 Q JUST SO THE JURY WILL UNDERSTAND, YOU'RE NOT  
16 TALKING ABOUT ONE OF THE RESIDENTIAL, LITTLE MAIL BOXES  
17 THAT, MAYBE, WE GET OUR MAIL IN?

18 A NO, SIR.

19 Q YOU'RE TALKING ABOUT A BIG THING THAT'S UP AGAINST  
20 THE WALL, THAT'S SECURE. THEY DROP IT IN THERE AND THEN  
21 YOU GET IT LATER, RIGHT?

22 A YES, SIR.

23 Q AND THAT WHOLE AREA BEHIND THAT WALL IS SECURE,  
24 LOCKED -- BACK AT THE TIME YOU WORKED THERE, YOU WERE THE  
25 ONLY ONE WITH A KEY?

1           A   WELL, I -- I IMAGINE THE CHIEF HAD ACCESS TO THE  
2   KEY.  BUT AS FAR AS I KNOW, I'M THE ONLY ONE THAT HAD A  
3   KEY TO THE EVIDENCE ROOM.

4           Q   OKAY.  AND THE ONLY ADDITIONAL -- TELL ME IF I'M  
5   WRONG ON THIS -- THE ONLY ADDITIONAL THING YOU DID WITH  
6   ANY OF THIS EVIDENCE WOULD HAVE BEEN WHEN -- YOU TOOK THE  
7   ASA KIT TO SLED, IS THAT RIGHT?

8           A   YES, SIR.

9           Q   OKAY.  YOU DIDN'T TOUCH OR TEST OR DO ANYTHING  
10  WITH ANY OF THE OTHER EVIDENCE?

11          A   NO, SIR.

12          MR. DAVIS:  THANK YOU, OFFICER HARDIN.  NO OTHER  
13  QUESTIONS.

14               (WITNESS STEPPED DOWN.)

15          MS. HERRING-LASH:  OFFICER WILLIAM O'BRIEN.

16          THE COURT:  LET'S -- CAN WE CALL OFFICER O'BRIEN  
17  AFTER LUNCH?

18          MS. HERRING-LASH:  YES.

19          THE COURT:  ALL RIGHT.  WE'RE GOING TO TAKE A LUNCH  
20  BREAK.  IT'S 12:30.  PLEASE BE BACK IN THE JURY ROOM AT  
21  2:00.  WE'LL SEE YOU AT THAT TIME.

22               (WHEREUPON, THE JURY LEFT THE COURTROOM AT 12:26  
23  P.M.)

24          THE COURT:  ALL RIGHT.  WE'LL SEE Y'ALL AT 2:00.

25          MR. DAVIS:  THANK YOU, YOUR HONOR.

1 MS. HERRING-LASH: THANK YOU, YOUR HONOR.

2 (WHEREUPON, COURT RECESSED AT 12:27 P.M.)

3 (WHEREUPON, COURT RESUMED AT 2:04 P.M.)

4 THE COURT: LET ME SEE Y'ALL FOR A SECOND. WE'RE  
5 WAITING ON ONE MORE JUROR. LET'S TALK A LITTLE  
6 SCHEDULING.

7 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
8 CONFERENCE OFF THE RECORD.)

9 THE COURT: BRING THEM IN.

10 (WHEREUPON, JURY ENTERED THE COURTROOM AT 2:05 P.M.)

11 THE COURT: NOW, LADIES AND GENTLEMEN, WHEN WE WERE  
12 BREAKING FOR LUNCH, A COUPLE OF YOU MENTIONED TO ME IN THE  
13 HALL VERY QUICKLY THAT YOU WOULD LIKE TO KNOW ABOUT THE  
14 POSSIBILITY OF TAKING NOTES. YOU ARE PERMITTED TO TAKE  
15 NOTES IF YOU WOULD LIKE TO DO THAT. BUT LET ME -- LET ME  
16 TALK TO YOU ABOUT SOME THINGS YOU DIDN'T THINK ABOUT.

17 FIRST OF ALL, ONE OF THE THINGS THAT IS VERY  
18 IMPORTANT AS JURORS IN LISTENING TO THE TESTIMONY, IS NOT  
19 ONLY HEARING WHAT IS SAID, BUT SEEING THE WITNESSES AS  
20 THEY'RE SAYING IT. AND, SO, IF YOU'RE TAKING NOTES, THAT  
21 RAISES THE POSSIBILITY THAT YOUR ATTENTION CAN BE  
22 DISTRACTED AWAY FROM THE WITNESSES' PHYSICAL APPEARANCE  
23 AND FACIAL EXPRESSIONS AND THINGS OF THAT NATURE THAT  
24 WOULD GIVE YOU SOME ASSISTANCE IN JUDGING THE CREDIBILITY  
25 OF THE WITNESSES.

1           AND IF -- IF YOU'RE GOING TO TAKE NOTES, YOU JUST  
2   HAVE TO ENSURE THAT YOU ARE NOT LETTING THE TAKING OF  
3   NOTES DISTRACT YOU AWAY FROM OBSERVING AND LISTENING TO  
4   THE WITNESSES.

5           NOW, IF YOU DO TAKE NOTES, AND WE HAVE SOME NOTE  
6   PADS HERE FOR THOSE OF YOU WHO WANT TO USE THEM, BUT IF  
7   YOU DO TAKE NOTES, YOU ALSO HAVE TO UNDERSTAND THAT THOSE  
8   NOTES ARE EXCLUSIVELY FOR YOUR OWN PURPOSE. YOU CANNOT  
9   SHARE THOSE NOTES. YOU CANNOT SHARE THE CONTENTS OF THOSE  
10  NOTES WITH ANY OTHER JUROR, EVEN DURING DELIBERATION.

11          EACH JUROR HAS A DIFFERENT WAY -- EACH PERSON HAS A  
12  DIFFERENT WAY THEY LIKE TO GO ABOUT REMEMBERING THINGS.  
13  SOME PEOPLE LIKE TO USE NOTES, SOME PEOPLE DON'T LIKE TO  
14  USE NOTES.

15          IF, DURING THE COURSE OF YOUR DELIBERATION, ONE  
16  JUROR'S RECOLLECTION OF THE TESTIMONY THEY HEARD REFLECTED  
17  IN SOME NOTES, WERE TO BECOME THE TOPIC OF CONVERSATION,  
18  THEN THAT JUROR'S WAY OF REMEMBERING THINGS MIGHT ASSUME  
19  SORT OF AN UNNATURAL PROMINENCE IN YOUR DELIBERATION. SO,  
20  IF YOU'RE GOING TO USE -- TAKE NOTES, THEN YOU JUST HAVE  
21  TO REMEMBER THOSE TWO THINGS.

22          NOW, WITH THAT IN MIND, IS THERE ANYBODY WHO WANTS  
23  TO TAKE NOTES? ALL RIGHT. I SEE ONE -- HAND A PAD AND A  
24  PEN TO THAT JUROR. ANYBODY ELSE? OKAY.

25          ALL RIGHT, YOU MAY CALL YOUR NEXT WITNESS.

1 MS. HERRING-LASH: THE STATE WOULD CALL OFFICER  
2 WILLIAM O'BRIEN.

3 (WITNESS FORWARD.)

4 WILLIAM O'BRIEN, HAVING BEEN  
5 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 CLERK: THANK YOU. FOR THE RECORD, IF YOU WOULD,  
7 PLEASE STATE YOUR NAME, SPELLING YOUR LAST NAME.

8 THE WITNESS: WILLIAM O'BRIEN, O'B-R-I-E-N.

9 DIRECT EXAMINATION BY MS. HERRING-LASH:

10 Q OFFICER O'BRIEN, WHERE ARE YOU EMPLOYED?

11 A THE CITY OF NORTH CHARLESTON POLICE DEPARTMENT.

12 Q AND WHAT ARE YOUR DUTIES THERE?

13 A I'M THE SUPERVISOR OF THE PROPERTY AND EVIDENCE  
14 ROOM.

15 Q AND IN THAT CAPACITY, DID YOU DELIVER EVIDENCE IN  
16 THIS CASE TO SLED?

17 A YES, I DID.

18 Q WOULD IT REFRESH YOUR MEMORY FOR ME TO SHOW YOU  
19 YOUR CHAIN?

20 A JUST FOR THE DATE.

21 Q I THINK THE DATE IS ON THIS PAGE. AND WHAT  
22 EVIDENCE DID YOU DELIVER TO SLED?

23 A I DELIVERED AN ADULT SEXUAL ASSAULT KIT, CLOTHING  
24 -- I'M SORRY -- AN ADULT SEXUAL ASSAULT KIT WAS THE ONLY  
25 ITEM ON THE CHAIN THAT WAS TAKEN TO SLED.

1 Q NOW, YOU JUST DELIVERED WHAT IS ITEM 3 OF THAT  
2 KIT?

3 A ONE POINT THREE.

4 Q AND IF YOU LOOK AT THE TOP, DOES IT HAVE WHAT  
5 THREE IS IN PARENTHESIS?

6 A THREE IS A DEBRIS COLLECTION KIT.

7 Q NO. I MEAN, IF YOU LOOK AT THE TOP LINE?

8 A IT HAS A ONE -- THE ASA KIT, ONE, TWO, THREE.

9 Q AND WHAT IS THREE?

10 A CUTTINGS FROM PANTIES.

11 Q SO, THE CUTTINGS FROM THE PANTIES, ONE, PART THREE  
12 IS WHAT YOU TOOK?

13 A UH-HUH. YES, MA'AM.

14 Q AND WHEN DID YOU TAKE THIS?

15 A THIS WAS TAKEN TO SLED ON DECEMBER 8, 2006.

16 Q AND WHO DID YOU GIVE IT TO?

17 A IT LOOKS LIKE CORONDA WILLIAMS WAS THE CLERK AT  
18 SLED THAT ACCEPTED IT.

19 Q AND HOW DOES THAT WORK WHEN YOU TAKE IT?

20 A WE RETRIEVE FROM THE EVIDENCE ROOM AND, UM, TAKE  
21 IT TO SLED. IT STAYS IN MY POSSESSION UNTIL IT GETS TO  
22 SLED. IT IS HANDED OVER TO THE SLED TECHNICIAN. AND SHE  
23 SIGNS THE RECEIPT FOR IT AND I SIGN THE RECEIPT FOR IT.  
24 AND IT'S TURNED OVER TO THEM FOR ANALYSIS.

25 Q AND DO YOU PUT IT IN SOME KIND OF BOX WHILE YOU'RE

1 THERE?

2 A WE, SOMETIMES, PUT THEM IN CONTAINERS. SOMETIMES  
3 THEY GO IN THE CONTAINER THAT THEY ARE ALREADY IN. IT  
4 DEPENDS ON EACH PARTICULAR CASE. I BELIEVE IN THIS CASE,  
5 THIS HAD ALREADY BEEN THROUGH SLED, SO IT WAS IN A  
6 SEPARATE PACKAGE THAT WAS INITIALED BY MYSELF.

7 Q AND WHAT YOU TOOK WAS THE CUTTING FROM THE  
8 PANTIES?

9 A YES, MA'AM.

10 Q NOW, I'LL SHOW YOU YOUR OTHER THING -- AND YOU MAY  
11 HAVE TO LOOK AT THE FRONT TO TELL WHAT YOU TOOK. WHAT DID  
12 YOU TAKE TO SLED ON THAT DATE?

13 A THAT WAS ON A SEPARATE DATE. THIS WAS ON 12/8 OF  
14 '06. AND IT WAS A WHITE WASH RAG, AH, THAT JUST DESCRIBES  
15 WHAT IT WAS. IT WAS -- IT WAS A WHITE WASH RAG -- WASH  
16 CLOTH ACCORDING TO THE EVIDENCE CHAIN.

17 Q OKAY. NOW, YOU -- I'LL HAND YOU BACK YOUR OTHER  
18 SHEET. YOU SAID IT WAS A DIFFERENT DATE, 12/8/06. WELL,  
19 WHAT DATE IS THE FIRST EVIDENCE YOU TOOK?

20 A THAT'S 12/8 ALSO. I THOUGHT IT---

21 Q SO, IT'S THE SAME?

22 A YES, MA'AM. IT WAS THE SAME DAY.

23 Q AND YOU TURNED THAT INTO SLED, TO THE SAME PERSON?

24 A YES. IF THEY SIGNED THE RECEIPT FOR IT. I WOULD  
25 HAVE TO SEE THE SLED RECEIPT FOR IT. WE TAKE SO MUCH



OFFICER O'BRIEN -- DIRECT BY MS. HERRING-LASH  
280

1 EVIDENCE TO SLED EVERY WEEK, THAT IT'S---

2 Q RIGHT. AND I JUST SHOWED YOU THE RECEIPT OF  
3 EVIDENCE THAT YOU -- OF EVIDENCE THAT YOU TOOK ON 12/4,  
4 I'M SORRY. AND WHO WAS THAT TO?

5 A CORONDA WILLIAMS.

6 MS. HERRING-LASH: OKAY. THOSE ARE ALL THE QUESTIONS  
7 I HAVE.

8 CROSS EXAMINATION BY MR. DAVIS:

9 Q OFFICER O'BRIEN, THIS -- WHEN YOU SAY YOU TOOK IT  
10 TO SLED, YOU WERE TAKING IT FROM THE EVIDENCE ROOM AT  
11 NORTH CHARLESTON POLICE DEPARTMENT, RIGHT?

12 A CORRECT.

13 Q TO SOUTH CAROLINA LAW ENFORCEMENT DIVISION UP IN  
14 COLUMBIA, RIGHT?

15 A CORRECT.

16 Q YOU WOULD HAVE DRIVEN THESE ITEMS UP THERE?

17 A YES.

18 Q IT'S NOT UNCOMMON YOU'RE DELIVERING ITEMS FROM ALL  
19 KINDS OF CASES ON ONE TRIP, IS THAT FAIR ENOUGH?

20 A THAT'S CORRECT.

21 Q OKAY. BUT ON DECEMBER 8, 2006, A SEXUAL ASSAULT  
22 KIT, WHICH WAS THE CUTTING FROM A PAIR OF PANTIES AND THE  
23 WHITE WASH RAG?

24 A CORRECT.

25 Q THOSE WERE THE TWO ITEMS IN THIS CASE YOU TOOK?

1 A CORRECT. THAT'S WHAT THE CHAIN STATES, YES.

2 Q OKAY. NOW, WE HEARD FORMER OFFICER HARDIN TESTIFY  
3 JUST A LITTLE BIT AGO. THAT'S THE JOB THAT YOU DO NOW,  
4 RIGHT?

5 A OH, NO. HE WAS AN EVIDENCE TECHNICIAN. I'M  
6 ACTUALLY THE SUPERVISOR IN THE EVIDENCE ROOM.

7 Q OKAY. SO, YOU'RE HIGHER UP OVER THAT?

8 A YES.

9 Q OKAY. AND NOW HE TALKED ABOUT SECURE LOCKERS AND  
10 A DROP BOX AND REFRIGERATORS, IS THAT---

11 A YES.

12 Q --THAT IS STILL WHERE YOU WORK, RIGHT?

13 A UH-HUH.

14 Q OKAY. THESE ITEMS WOULD HAVE COME FROM WHAT  
15 LOCATION?

16 A THEY WOULD HAVE COME FROM THE EVIDENCE ROOM  
17 ITSELF. I CAN'T SAY THE EXACT LOCATION THEY CAME FROM. I  
18 DON'T RECALL WHERE THEY WERE BROUGHT TO BE PREPARED FROM.

19 Q OKAY. SO, YOU'RE NOT SURE WHETHER IT WAS FROM A  
20 LOCKER OR FROM A REFRIGERATOR, YOU'RE NOT SURE?

21 A NO. I'M NOT POSITIVE ON THESE TWO ITEMS.

22 Q OKAY.

23 A THOSE TWO ITEMS THOUGH, HOWEVER, WOULD NOT BE  
24 ITEMS THAT WOULD REQUIRE REFRIGERATION ACCORDING TO THE  
25 CHAIN.

1 Q OKAY. SO, BASICALLY, ON THE PAPER WORK YOU LOOKED  
2 AT, THESE WERE NOT ---

3 A I WOULD NOT ASSUME THAT THOSE WOULD -- WOULD  
4 REQUIRE REFRIGERATION, SO THEY WERE PROBABLY IN AN  
5 EVIDENCE AREA.

6 Q OKAY. A SECURED LOCKER?

7 A YES. A SECURED, ALARMED, LOCKER.

8 MR. DAVIS: THANK YOU VERY MUCH.

9 THE WITNESS: YOU'RE WELCOME.

10 MS. HERRING-LASH: THAT'S ALL, YOUR HONOR. THE STATE  
11 WOULD CALL ---

12 THE COURT: YOU CAN STEP DOWN.

13 (WITNESS STEPPED DOWN.)

14 MS. HERRING-LASH: -- PAULA DAVIS.

15 (WITNESS FORWARD.)

16 PAULA DAVIS, HAVING BEEN FIRST  
17 DULY SWORN, TESTIFIED AS FOLLOWS:

18 CLERK: THANK YOU, MA'AM. PLEASE HAVE A SEAT. FOR  
19 THE RECORD, IF YOU WOULD, PLEASE STATE YOUR NAME, SPELLING  
20 YOUR LAST NAME.

21 THE WITNESS: PAULA A. DAVIS, D-A-V-I-S.

22 DIRECT EXAMINATION BY MS. HERRING-LASH:

23 Q WHERE DO YOU WORK, MS. DAVIS?

24 A THE CITY OF NORTH CHARLESTON POLICE DEPARTMENT.

25 Q AND WHAT DO YOU DO THERE?

1           A   I'M AN EVIDENCE CUSTODIAN OR TECHNICIAN, HOWEVER  
2   YOU WANT TO SAY IT.

3           Q   AND DO YOU REMEMBER HANDLING SOME EVIDENCE IN THIS  
4   CASE?

5           A   AH, YES.   UH-HUH.

6           Q   AND DO YOU REMEMBER WHAT YOU DID AT FIRST -- WHEN  
7   YOU FIRST CAME INTO CONTACT WITH THE EVIDENCE?

8           A   UM, CAN I SEE THE CHAIN, PLEASE?

9           Q   UH-HUH.   I'LL SHOW YOU THE -- THE CHAIN FOR THE  
10   ASA KIT.

11          A   OKAY.

12          Q   AND WHAT DID YOU FIRST DO WITH IT?

13          A   UM, FOR THE ASA KIT, THE CLOTHING BAGS AND THE  
14   DEBRIS COLLECTION KIT, I SIGNED THEM OUT ON 11/08/06 TO  
15   FAULKNER---

16          Q   UH-HUH.

17          A   ---THE SOLICITOR'S OFFICE.

18          Q   AND WHEN DID YOU NEXT HAVE CONTACT WITH IT?

19          A   ON -- LET'S SEE -- IT LOOKS LIKE SHE BROUGHT THEM  
20   BACK -- ACTUALLY I DON'T HAVE A DATE THERE.

21          Q   I DON'T THINK YOU HAVE A DATE ON THAT.

22          A   YEAH.

23          Q   SHE SIGNED IT BACK IN TO YOU?

24          A   YES, SHE DID.

25          Q   AND DID YOU HAVE ANYTHING ELSE TO DO WITH IT?

1           A   UM, SHE ONLY SIGNED IN THE -- LET'S SEE -- LIKE  
2   THE ASA KIT --

3           Q   UH-HUH.

4           A   -- CUTTINGS FROM THE PANTIES.

5           Q   OH, AND--

6           A   AND THE OTHER -- YEAH -- TWO WERE KEPT.

7           Q   THE CUTTING FROM THE PANTIES?

8           A   UH-HUH.

9           Q   AND THEN DID YOU HAVE ANYTHING ELSE TO DO WITH THE  
10   CUTTING FROM THE PANTIES?

11          A   NO, MA'AM.

12          Q   DID ---

13          A   WELL, ACTUALLY ON THE -- IT LOOKS LIKE WHEN IT WAS  
14   SIGNED BACK IN, IT WAS SIGNED BACK OUT AGAIN ON THE 8TH OF  
15   THIS MONTH TO AMANDA.

16          Q   RIGHT. BACK TO MS. FAULKNER?

17          A   BACK -- UH-HUH.

18          Q   AND IN THE MEANTIME, IT WENT TO SOUTH CAROLINA LAW  
19   ENFORCEMENT?

20          A   RIGHT.

21          Q   AND I WILL SHOW YOU THE OTHER PIECE OF EVIDENCE, A  
22   WHITE WASH CLOTH.

23          A   OKAY.

24          Q   AND WHAT DID YOU DO WITH THAT?

25          A   WELL, ON 11/8/06, IT WAS SIGNED OUT ALSO TO MS.

1 FAULKNER. AND SIGNED BACK IN, IT LOOKS LIKE -- I THINK  
2 SHE DID IT ON THE SAME DATE, BECAUSE I DON'T HAVE A DATE  
3 THERE.

4 Q AND DID IT ALSO GO TO SLED AFTER THAT?

5 A UM, YES. SGT. O'BRIEN TOOK IT ON 12/8/06.

6 Q AND THEN DID YOU HAVE ANYTHING ELSE TO DO WITH IT  
7 AFTER THAT?

8 A YES, MA'AM. IT WAS SIGNED BACK OUT TO MS.  
9 FAULKNER ON APRIL 3RD OF THIS YEAR.

10 MS. HERRING-LASH: THOSE ARE ALL THE QUESTIONS I  
11 HAVE.

12 THE WITNESS: OKAY.

13 CROSS EXAMINATION BY MR. DAVIS:

14 Q DO YOU RECALL -- OR DO YOU NEED TO LOOK AT THE  
15 PAPER WORK AGAIN -- DO YOU RECALL THE DATE THAT YOU  
16 ORIGINALLY SIGNED OUT THE ASA KIT TO MS. FAULKNER? DO YOU  
17 RECALL?

18 A I WOULD HAVE TO LOOK AT THE PAPER WORK AGAIN.

19 Q OKAY.

20 MR. DAVIS: JUDGE, MAY I STEP AROUND HERE?

21 THE COURT: CERTAINLY.

22 BY MR. DAVIS:

23 Q I'M GOING TO SHOW YOU WHAT YOU WERE JUST LOOKING  
24 AT, IF YOU CAN SHOW ME WHERE IT'S AT HERE.

25 A HERE.

1 Q OKAY.

2 A ALL THE ITEMS WERE SIGNED OUT.

3 Q AND THE DATE HERE, SO THE JURY WILL KNOW?

4 A IT'S NOVEMBER 8, 2006.

5 Q OKAY. AND THAT'S WHEN MS. FAULKNER WOULD HAVE  
6 PICKED IT UP -- SHE WORKS FOR THE SOLICITOR'S OFFICE --

7 A YES.

8 Q -- WOULD HAVE PICKED IT UP FROM YOU?

9 A UH-HUH, ALL THREE ITEMS.

10 Q OKAY. WHICH IS THE SA KIT, A CLOTHING BAG WITH  
11 SWEAT PANTS, SHORTS AND A SHIRT?

12 A SHIRT, UH-HUH.

13 Q AND THEN DEBRIS COLLECTION KIT?

14 A THAT'S CORRECT.

15 Q SO, THOSE ARE THE THREE ITEMS ON NOVEMBER 8, 2006,  
16 RIGHT?

17 A THAT'S CORRECT.

18 Q AND I THINK THE SOLICITOR ASKED YOU, YOU -- OTHER  
19 THAN GIVING THEM TO HER, YOU HAD NO OTHER ADDITIONAL  
20 CONTACT WITH THAT?

21 A NO, SIR.

22 Q OKAY. AND THEN AT SOME POINT, YOU GET THAT BACK  
23 AFTER IT'S GONE TO SLED, IS THAT RIGHT?

24 A YES. WHENEVER THE PERSON THAT TAKES IT -- OR IF  
25 WE GO, WE'LL BRING IT BACK ALSO.

1 Q OKAY. AND IN THIS CASE, WAS IT MS. FAULKNER OR  
2 MR. O'BRIEN THAT TOOK IT, DO YOU RECALL?

3 A IT WAS MY SUPERVISOR, WILLIAM O'BRIEN, YES, SIR.

4 MR. DAVIS: OKAY. ALL RIGHT. THANK YOU, MS. DAVIS.  
5 NO FURTHER QUESTIONS.

6 MS. HERRING-LASH: NO OTHER QUESTIONS, YOUR HONOR.

7 THE COURT: YOU MAY STEP DOWN.

8 (WITNESS STEPPED DOWN.)

9 MS. HERRING-LASH: THE STATE WOULD CALL AMANDA  
10 FAULKNER.

11 (WITNESS FORWARD.)

12 AMANDA FAULKNER, HAVING BEEN  
13 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 CLERK: FOR THE RECORD, PLEASE STATE YOUR NAME,  
15 SPELLING YOUR LAST NAME.

16 THE WITNESS: AMANDA FAULKNER, F-A-U-L-K-N-E-R.

17 DIRECT EXAMINATION BY MS. HERRING-LASH:

18 Q MS. FAULKNER, WHERE ARE YOU EMPLOYED?

19 A AT THE SOLICITOR'S OFFICE.

20 Q AND WHAT ARE YOUR DUTIES?

21 A I'M AN INVESTIGATOR. AND I WILL INTERVIEW  
22 VICTIMS, WITNESSES, GET CASES READY FOR COURT.

23 Q AND AS PART OF YOUR DUTIES WITH THIS CASE, DID YOU  
24 PICK EVIDENCE UP FOR COURT PROCEEDINGS FROM THE NORTH  
25 CHARLESTON POLICE DEPARTMENT?



1 A I DID.

2 Q I SHOW YOU THE CHAIN OF CUSTODY ON THE ASA KIT.

3 A OKAY.

4 Q AND DID YOU SIGN THAT OUT FROM THE NORTH

5 CHARLESTON POLICE DEPARTMENT?

6 A I DID.

7 Q AND WHEN WAS THAT?

8 A NOVEMBER 8TH OF '06.

9 Q AND DID YOU SIGN BACK IN THERE A -- PART OF THAT  
10 EVIDENCE?

11 A I DID.

12 Q AND WHAT WAS THAT?

13 A THAT WAS THE CUTTING FROM THE PANTIES.

14 Q AND THAT'S THE -- THE CUT -- THE PART WHERE

15 THERE'S NO -- THERE'S NO DATE ON THERE?

16 A CORRECT.

17 Q DID YOU SIGN IT BACK OUT AT A LATER DATE?

18 A YES.

19 Q AND WHEN WAS THAT?

20 A UM--

21 Q IT MIGHT BE ON THE NEXT --

22 A I SIGNED IT OUT ON 4/3/08.

23 Q AND THAT WAS FOR THIS COURT HEARING?

24 A YES.

25 Q I WANT TO SHOW YOU WHAT -- YOUR OTHER CHAIN, AND

1 WHAT IS THAT FOR?

2 A THIS IS FOR THE WHITE CLOTH.

3 Q AND WHEN DID YOU SIGN THAT OUT?

4 A 11/8/06.

5 Q AND DID YOU SIGN IT BACK IN?

6 A I DID.

7 Q AND WHILE YOU HAD BOTH OF THESE TWO ITEMS, WHERE

8 -- WHEN YOU HAD CUSTODY OF THEM, WHERE WERE THEY KEPT?

9 A OH, IN OUR EVIDENCE ROOM.

10 Q AND THAT'S AT THE SOLICITOR'S OFFICE?

11 A YES.

12 Q AND DID YOU SIGN THEM BACK OUT AGAIN?

13 A FROM HERE?

14 Q FROM THE NORTH CHARLESTON POLICE DEPARTMENT?

15 A AFTER APRIL 8TH --

16 Q NO. FOR -- APRIL 8TH WAS THE NEXT TIME?

17 A YEAH.

18 Q FOR THE WASH CLOTH?

19 A YEAH.

20 Q AND THAT WAS FOR THIS COURT HEARING?

21 A YES.

22 MS. HERRING-LASH: THAT'S ALL THE QUESTIONS I HAVE.

23 MR. DAVIS: NO QUESTIONS, YOUR HONOR.

24 THE COURT: YOU CAN STEP DOWN.

25 (WITNESS STEPPED DOWN.)

AMANDA FAULKNER -- DIRECT BY MS. HERRING-LASH  
290

1 MS. HERRING-LASH: THE STATE WOULD CALL OFFICER --  
2 DETECTIVE WILLIAMS.

3 (WITNESS FORWARD.)

4 OFFICER ALLEN E. WILLIAMS, HAVING  
5 BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 CLERK: PLEASE STATE YOUR FULL NAME AND SPELL YOUR  
7 LAST NAME.

8 THE WITNESS: ALLEN E. WILLIAMS, W-I-L-L-I-A-M-S.

9 DIRECT EXAMINATION BY MS. HERRING-LASH:

10 Q WHERE ARE YOU EMPLOYED, DETECTIVE WILLIAMS?

11 A I'M A SERGEANT WITH THE NORTH CHARLESTON POLICE  
12 DEPARTMENT.

13 Q AND HOW LONG HAVE YOU BEEN THERE?

14 A TWELVE YEARS.

15 Q AND DID YOU HAVE AN OCCASION TO WORK ON THIS CASE?

16 A I DID.

17 Q AND WHAT DID YOU DO?

18 A I WAS, AH, CONTACTED BY THE PATROL DIVISION ON THE  
19 25TH OF NOVEMBER TO RESPOND TO ST. JOHN'S AVENUE IN  
20 REFERENCE TO A SEXUAL ASSAULT OF A MINOR.

21 Q WHAT YEAR WAS THAT, DO YOU REMEMBER?

22 A IT WOULD BE 2003.

23 Q AND DID YOU ACTUALLY RESPOND TO ST. JOHN'S?

24 A I DID. I WENT TO THE ADDRESS AND SPOKE WITH THE  
25 OFFICERS THAT WERE ON THE SCENE. AND THEY ADVISED ME THAT

1 A WITNESS AND THE VICTIM HAD GONE TO MUSC HOSPITAL, AND I  
2 SUBSEQUENTLY WENT DOWN THERE.

3 Q SO, BY THE TIME YOU GOT TO THE, UM, ADDRESS, THE  
4 -- THEY HAD BEEN TRANSPORTED TO THE HOSPITAL?

5 A THAT IS CORRECT.

6 Q AND THEN DID YOU GO TO THE HOSPITAL?

7 A I DID.

8 Q AND WHAT DID YOU DO WHEN YOU GOT TO THE HOSPITAL?

9 A I WENT TO THE HOSPITAL AND WENT TO THE PEDIATRIC  
10 EMERGENCY ROOM AT MUSC AND SPOKE TO A WITNESS, MS. SHEILA  
11 ORR, AND TOOK A WRITTEN STATEMENT FROM HER.

12 Q WHAT WAS MS. ORR'S DEemeanOR WHEN YOU GOT THERE?

13 A SHOCK, ANGER, VERY UPSET.

14 Q AND DID SHE GIVE YOU A STATEMENT?

15 A SHE DID.

16 Q NOW, DID YOU, AT ANY TIME WHILE YOU WERE THERE,  
17 TALK WITH OR MEET WITH THE VICTIM, MINOR

18 A I DIDN'T. SHE WAS BEING EXAMINED BY A PHYSICIAN  
19 IN THE EMERGENCY -- IN THE PEDIATRIC EMERGENCY ROOM. AND,  
20 AH, I KNOW FROM EXPERIENCE, THAT THOSE KINDS OF  
21 EXAMINATIONS TAKE A CONSIDERABLE AMOUNT OF TIME.

22 Q AND, SO, YOU LEFT BEFORE SHE WOULD HAVE FINISHED  
23 HER EXAM?

24 A YES.

25 Q AND GOING BACK TO THE RESIDENCE, WHEN YOU GOT TO

1 THE RESIDENCE, DO YOU REMEMBER WHAT OFFICER WAS THERE?

2 A AH, OUTSIDE, THERE WAS OFFICER LOWERY AND THERE  
3 WAS NUMEROUS OTHER OFFICERS THERE.

4 Q THE -- OFFICER ROGERS WAS NO LONGER THERE?

5 A I DON'T BELIEVE HE WAS.

6 Q AND WHAT YOU DID, BASICALLY, WAS TAKE A STATEMENT  
7 FROM MS. ORR?

8 A THAT'S CORRECT.

9 MS. HERRING-LASH: THAT'S ALL THE QUESTIONS I HAVE.

10 MR. DAVIS: JUST BRIEFLY, DETECTIVE.

11 CROSS EXAMINATION BY MR. DAVIS:

12 Q I'M GOING TO ASK YOU, TO THE BEST OF YOUR  
13 RECOLLECTION WHEN YOU ARRIVED AT THE SCENE -- YOU SAID YOU  
14 TALKED TO THE OTHER OFFICERS AND THEN QUICKLY -- I DON'T  
15 WANT TO USE THE WRONG TERM. BUT SOON THEREAFTER, YOU  
16 REALIZED THAT YOU NEEDED TO BE DOWN AT MUSC TO SEE WHAT  
17 WAS GOING ON, IS THAT ACCURATE?

18 A I WOULD SAY THAT IS AN ACCURATE STATEMENT.

19 Q THERE WERE OTHER OFFICERS AT THE TRAILER ALREADY?

20 A CORRECT.

21 Q TELL ME, IF YOU CAN, WE THINK THAT OFFICER ROGERS  
22 HAD ALREADY LEFT. YOU DON'T RECALL HIM BEING THERE?

23 A I DON'T REMEMBER SPEAKING TO HIM.

24 Q OKAY. YOU DO REMEMBER OFFICER LOWERY, WHO IS A  
25 FEMALE, UNIFORMED OFFICER, SHE WAS THERE, CORRECT?

1           A   CORRECT.

2           Q   WOULD SGT. -- I BELIEVE SGT. NATHAN, WOULD HE HAVE  
3   BEEN ON THE SCENE?

4           A   HE MAY HAVE BEEN. HE WAS THE STREET SUPERVISOR  
5   THAT EVENING.

6           Q   OKAY. YOU'RE NOT SURE WHETHER YOU WOULD HAVE  
7   SPOKEN TO HIM OR NOT?

8           A   NO. I SPOKE TO OFFICER LOWERY AND MADE MY  
9   DECISION ABOUT WHERE I NEEDED TO GO AFTER SPEAKING WITH  
10   HER.

11          Q   BUT YOU -- YOU DO RECALL THAT THERE WERE, I THINK  
12   YOU SAID, NUMEROUS OTHER OFFICERS ON THE SCENE?

13          A   YEAH. THERE WERE SEVERAL MARKED POLICE UNITS ON  
14   THE SCENE..

15          Q   OKAY. UM, SO THE JURY WILL KNOW THAT, STICKERS ON  
16   THE SIDE, PROBABLY ---

17          A   YEAH. YOUR STANDARD -- YOUR STANDARD EVERY DAY  
18   POLICE CAR THAT YOU SEE EVERY DAY.

19          Q   UM, WOULD YOU HAVE RIDDEN ALONG WITH DETECTIVE OR  
20   WOULD HE HAVE RIDDEN SEPARATE?

21          A   AH, HE DROVE WITH ME IN MY UNMARKED POLICE  
22   CRUISER.

23          Q   OKAY. AND SO THEN HE WOULD HAVE GONE WITH YOU TO  
24   MUSC?

25          A   HE DID.

1 Q OKAY. IT WOULD HAVE BEEN SGT. NATHAN THAT WOULD  
2 HAVE BEEN KIND OF IN CONTROL OF THAT SCENE?

3 A YEAH. AS THE STREET SUPERVISOR, HE WOULD HAVE  
4 BEEN IN CONTROL OF THE SCENE UNTIL EITHER AN INVESTIGATOR  
5 SUPERVISOR TOOK -- TOOK IT OVER, OR -- OR SOME OTHER  
6 HIGHER OFFICIAL RELIEVED HIM OF IT.

7 Q YOU DIDN'T ACTUALLY GO IN THE RESIDENCE?

8 A NO, I DIDN'T. AFTER SPEAKING WITH OFFICER LOWERY,  
9 I DETERMINED THE BEST COURSE OF ACTION WAS TO GO DOWN AND  
10 INTERVIEW THE WITNESS.

11 Q FAIR ENOUGH. SO, YOU'RE NOT SURE WHAT OFFICER  
12 WOULD HAVE BEEN INSIDE?

13 A NO. I CAN'T TESTIFY TO THAT.

14 MR. DAVIS: THANK YOU VERY MUCH, DETECTIVE. NO OTHER  
15 QUESTIONS.

16 MS. HERRING-LASH: NO OTHER QUESTIONS.

17 THE COURT: YOU CAN STEP DOWN.

18 THE WITNESS: THANK YOU.

19 (WITNESS STEPPED DOWN.)

20 MS. HERRING-LASH: THE STATE WOULD CALL DR. SARA  
21 SCHUH.

22 (WITNESS FORWARD.)

23 DR. SARA SCHUH, HAVING BEEN FIRST  
24 DULY SWORN, TESTIFIED AS FOLLOWS:

25 CLERK: IF YOU'LL PLEASE STATE YOUR FULL NAME AND

1 SPELL YOUR LAST NAME.

2 THE WITNESS: SARA ELIZABETH SCHUH, S-C-H-U-H.

3 DIRECT EXAMINATION BY MS. HERRING-LASH:

4 Q DR. SCHUH, WHERE DO YOU WORK?

5 A AT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA,  
6 PARTIALLY RETIRED.

7 Q WHEN DID YOU RETIRE?

8 A ABOUT A YEAR AND A HALF AGO.

9 Q HOW LONG HAD YOU WORKED THERE?

10 A SINCE 1969.

11 Q AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

12 A I GRADUATED FROM COLLEGE, FROM VASSAR COLLEGE IN  
13 NEW YORK. AND THEN WENT TO MEDICAL SCHOOL AT COLUMBIA  
14 UNIVERSITY, COLLEGE OF PHYSICIANS AND SURGEONS. AND  
15 COMPLETED MY MEDICAL SCHOOL EDUCATION IN 1961 WITH A -- A  
16 DOCTOR'S DEGREE. AND THEN I TRAINED IN PEDIATRICS AT ST.  
17 LUKE'S HOSPITAL IN NEW YORK CITY, WHICH IS NOW ST. LUKE'S  
18 ROOSEVELT HOSPITAL CENTER.

19 AND FOLLOWING THAT, I WORKED FOR TWO YEARS IN THE  
20 FULTON COUNTY HEALTH DEPARTMENT IN ATLANTA, GA. AND THEN  
21 I RETURNED TO COLUMBIA UNIVERSITY AND RECEIVED A DEGREE, A  
22 MASTERS DEGREE IN PUBLIC HEALTH IN 1968.

23 Q AND DURING YOUR CAREER, HAVE YOU CONCENTRATED IN  
24 ANY SPECIAL -- IN ANY SPECIALIZED AREA?

25 A IN ABOUT 1979 AND EARLY 1980, I BEGAN AN INTEREST



1 IN THE CARE OF CHILDREN WHEN THERE WERE ALLEGATIONS OF  
2 ABUSE AND NEGLECT, AND SPECIFICALLY -- OR MORE  
3 PARTICULARLY IN SEXUAL ABUSE.

4 Q WHAT KIND OF TRAINING HAVE YOU HAD IN THAT AREA,  
5 IF YOU WANT TO SUMMARIZE IT?

6 A WELL, THERE WERE NO -- THERE WERE NO, LIKE, IF --  
7 YOU CAN BE BOARD CERTIFIED IN GENERAL PEDIATRICS. AND  
8 THERE WILL BE A BOARD IN CHILD ABUSE OR CHILD NEGLECT, BUT  
9 THERE WAS NOT ANY SPECIALIZED TRAINING OR FELLOWSHIP IN  
10 CHILD ABUSE AND CHILD NEGLECT WHEN I STARTED DOING THIS  
11 WORK. AND SO THE WORK -- THE EDUCATION CAME FROM READING  
12 A GREAT DEAL, FROM TALKING TO OTHER PEOPLE WHO WERE DOING  
13 THE SAME KIND OF WORK, AND FOR ATTENDING -- FROM ATTENDING  
14 LOCAL AND NATIONAL MEETINGS, AT WHICH CHILD ABUSE AND  
15 CHILD NEGLECT AND SEXUAL ABUSE WERE ALL THE FOCUS OF THOSE  
16 MEETINGS.

17 Q AND HAVE YOU CONCENTRATED IN THAT AREA EVER SINCE?

18 A PRETTY MUCH, YES.

19 Q AND DO YOU DO TRAINING YOURSELF?

20 A WELL, I DON'T DO SO MUCH NOW AS I DID. BUT, YES,  
21 I HAVE TRAINED RESIDENTS IN PEDIATRICS AND IN A NUMBER OF  
22 OTHER MEDICAL SPECIALTIES. AND IN DENTISTRY TO SOME  
23 EXTENT, NOT FOR SEXUAL ABUSE, BUT FOR PHYSICAL ABUSE. AND  
24 SOCIAL WORKERS. AND I'VE ALSO HAD SOME EDUCATIONAL  
25 INTERACTION WITH MENTAL HEALTH AND OTHER PEOPLE IN

1 DISCIPLINES WORKING WITH ALLEGATIONS OF ABUSE AND NEGLECT,  
2 LAW ENFORCEMENT AND A -- AND A FEW OTHERS, I GUESS.

3 Q HOW MANY SEXUAL ASSAULT ON MINORS -- SEXUAL  
4 ASSAULT EXAMS ON MINORS DO YOU THINK YOU HAVE COMPLETED?

5 A UM, SOMEWHERE BETWEEN 5,000 AND 7,000, I THINK.

6 Q AND HAVE YOU BEEN QUALIFIED AS AN EXPERT IN COURT  
7 IN THE AREA OF PEDIATRICS AND CHILD SEXUAL ABUSE?

8 A YES, I HAVE.

9 Q HOW MANY TIMES AND WHAT COURTS?

10 A UM, IN MANY OF THE COUNTY COURTS IN SOUTH  
11 CAROLINA. IN -- IN NORTH CAROLINA AND GEORGIA AND  
12 VIRGINIA, I BELIEVE. AND IN THE -- IN SOME FEDERAL COURTS  
13 AS WELL.

14 MS. HERRING-LASH: YOUR HONOR, AT THIS TIME, WE WOULD  
15 OFFER DR. SCHUH AS AN EXPERT IN PEDIATRIC AND CHILD SEXUAL  
16 ABUSE EXAMINATIONS.

17 MR. DAVIS: CLEARLY THE DOCTOR IS AN EXPERT, YOUR  
18 HONOR.

19 THE COURT: ALL RIGHT. SHE'S -- I'LL QUALIFY --  
20 QUALIFY HER AS AN EXPERT IN THAT SUBJECT.

21 BY MS. HERRING-LASH:

22 Q DR. SCHUH, BACK IN NOVEMBER OF 2003, AT THAT POINT  
23 IN TIME, YOU WERE WORKING AT THE MEDICAL UNIVERSITY?

24 A YES, I WAS.

25 Q AND WERE YOU ON-CALL SO-TO-SPEAK?

1 A YES.

2 Q WHAT TIME DID YOU SEE OR DID YOU GET -- DID YOU  
3 SEE MINOR [REDACTED]

4 A I SAW MINOR [REDACTED] AT 11:50 AT NIGHT.

5 Q AND WHERE DID YOU SEE HER?

6 A I SAW HER IN THE MEDICAL UNIVERSITY HOSPITAL. AND  
7 SHE WOULD HAVE BEEN ADMITTED THROUGH OUR PEDIATRIC  
8 EMERGENCY ROOM. AND THEN THERE'S A SPECIAL AREA IN THE  
9 HOSPITAL, AT THAT TIME, WHERE WE TOOK PATIENTS -- EXCUSE  
10 ME -- FOR SEXUAL ASSAULT EXAMINATIONS. AND IT WAS ON THE  
11 SECOND FLOOR, AWAY FROM THE NOISE AND CONFUSION OF THE  
12 EMERGENCY ROOM, WHERE THERE WAS MORE PRIVACY AND WHERE WE  
13 HAD SPECIAL EQUIPMENT FOR DOING SEXUAL ASSAULT  
14 EXAMINATIONS..

15 Q SO, SHE WOULD HAVE BEEN THERE A WHILE BEFORE YOU  
16 ACTUALLY SAW HER?

17 A YES, SHE WOULD.

18 Q AND DID YOU PERFORM A SEXUAL ASSAULT EXAMINATION  
19 ON HER?.

20 A YES, I DID.

21 Q DO YOU KNOW WHO WAS PRESENT WHEN YOU PERFORMED  
22 THIS EXAMINATION?

23 A HER MOTHER, I BELIEVE, WAS PRESENT. AND A  
24 REPRESENTATIVE FROM PEOPLE AGAINST RAPE. THEY PROVIDE AN  
25 ASSISTANT FOR US IN DOING OUR SEXUAL ASSAULT EXAMINATIONS,

1 WHO CAN HELP US WITH SOME OF THE PAPER WORK AND CAN ALSO  
2 BE THERE TO CALM OR COMFORT THE PATIENT AND THE FAMILY IF  
3 THEY SEEM TO NEED IT.

4 Q NOW, BEFORE WE GET INTO THE EXAM THAT YOU  
5 PERFORMED THAT EVENING, ARE THERE SEVERAL KINDS OF EXAMS,  
6 ACUTE AND NON-ACUTE, WOULD THAT BE YOUR WAY OF WORDING IT?

7 A YES, THERE -- THERE WOULD BE.

8 Q WHAT IS THE DIFFERENCE?

9 A WELL, IF -- IF YOU SEE, UM, A -- AN ADULT OR A  
10 CHILD WHO IS A VICTIM OF SEXUAL ASSAULT, YOUR FIRST  
11 OBLIGATION IS TO TAKE CARE OF THE PATIENT. AND THEN YOUR  
12 SECOND OBLIGATION IS TO PROVIDE EVIDENCE TO LAW  
13 ENFORCEMENT IF IT'S POSSIBLE TO COLLECT EVIDENCE, OTHER  
14 THAN THE HISTORY AND PHYSICAL EXAMINATION. AND THAT  
15 WOULD, OF COURSE, INCLUDE DNA TYPE EVIDENCE THAT IS SO  
16 COMMONLY TALKED ABOUT TODAY.

17 AND YOU KNOW FROM LARGE STUDIES THAT HAVE BEEN DONE  
18 ON CHILDREN AND ADULTS, IT IS VERY UNLIKELY THAT THERE  
19 WILL BE ANY KIND OF EVIDENCE SUCH AS DNA FOR MORE THAN 72  
20 HOURS. AND IN CHILDREN, REALLY, MORE THAN 24 HOURS AFTER  
21 AN -- AN ALLEGED ASSAULT OCCURS. AND SO THE STATE HAS  
22 DEVELOPED TWO SEPARATE SETS OF PAPER WORK AND EQUIPMENT  
23 FOR DOING THESE EXAMINATIONS.

24 AND AN ACUTE EXAM WOULD BE ONE IN WHICH YOU THINK  
25 THERE'S A CHANCE THAT YOU MIGHT GET SOME TYPE OF DNA OR

1 OTHER BODY FLUID TYPE OF EVIDENCE FROM THE PATIENT OR THE  
2 PATIENT'S CLOTHING, OR BED SHEETS OR WHATEVER THE -- THE  
3 -- YOU MAY HAVE THAT -- THAT MIGHT HAVE COME INTO CONTACT  
4 WITH IT. AND, SO, AN ACUTE EXAM WOULD BE ONE WITHIN 72  
5 HOURS, AND USUALLY IN CHILDREN, WITHIN 24 HOURS.

6 Q AND WHEN YOU HAVE A CHILD, YOU MAKE THE  
7 DETERMINATION OF WHETHER TO DO THE ACUTE OR UNACUTE BASED  
8 ON THE TIME FRAME?

9 A YES, THAT'S TRUE.

10 Q AND IF THE ALLEGATION THAT YOU HAVE TOLD IS NOT --  
11 OR DOES NOT INCLUDE ANY KIND OF PENILE PENETRATION OR  
12 EVIDENCE OF ANY CONTACT WITH SEMEN, YOU STILL DO THE SWABS  
13 JUST AS A MATTER OF PROTOCOL, DON'T YOU?

14 A YES, THAT'S TRUE BECAUSE THERE MAY BE OTHER BODY  
15 FLUIDS SUCH AS SALIVA OR TEARS EVEN, OR THERE MAY BE BITS  
16 OF HAIR OR, UM, SKIN FROM UNDER THE -- OR BLOOD FROM UNDER  
17 THE FINGERNAILS IF -- IF THE VICTIM HAS SCRATCHED THE  
18 ALLEGED PERPETRATOR. SO, WE ALWAYS DO THOSE EXAMS IF IT'S  
19 -- IF IT'S ACUTE.

20 Q AND WHEN YOU'RE DOING THE EXAM, WHAT IS THE FIRST  
21 STEP AS FAR AS -- DO YOU GATHER A HISTORY FIRST, OR DO YOU  
22 START OFF WITH THE EXAM?

23 A USUALLY, THERE ARE SOME EXCEPTIONS, I GUESS, BUT  
24 NORMALLY YOU WOULD TALK TO THE VICTIM OR ANY -- ANYONE WHO  
25 BROUGHT THE VICTIM IF THE CHILD IS UNABLE TO GIVE A CLEAR

1 HISTORY. AND YOU WOULD TAKE THE HISTORY FIRST.

2 Q AND DID -- DID YOU TALK -- DID YOU GET A HISTORY  
3 FROM MINOR

4 A YES, I DID.

5 Q NOW, WOULD YOU PLEASE GIVE US ONLY THE MEDICALLY  
6 PERTINENT PART OF THE HISTORY?

7 A MINOR -- MINOR TOLD ME THAT AN ADULT MALE HAD  
8 PUT HIS MOUTH AND HIS HANDS ON HER PRIVATES. AND THAT HER  
9 PANTIES WERE WET AFTER THAT. AND, UM, THAT IT HAD  
10 HAPPENED A FEW HOURS BEFORE.

11 Q AND DID -- DO NOT SAY WHAT SHE SAID, BUT DID SHE  
12 SAY "ADULT MALE" OR DID SHE IDENTIFY THE PERSON?

13 A SHE IDENTIFIED THE PERSON.

14 Q NOW, DID YOU ALSO GET SOME HISTORY FROM HER AS TO  
15 IF SHE HAD SHOWERED, BATHED, URINATED?

16 A YES, I DID.

17 Q AND WAS THERE ANY PERTINENT THING THAT SHE HAD  
18 DONE THAT MAY EFFECT ANY -- ANY EVIDENCE COLLECTION?

19 A YES. SHE HAD URINATED AT HOME. AND, UM, ALSO IN  
20 THE HOSPITAL FOR THE COLLECTION -- AS PART OF OUR EVIDENCE  
21 COLLECTION SYSTEM.

22 Q SO, SHE HAD URINATED TWICE BEFORE YOU WERE ABLE TO  
23 ---

24 A EXAMINE HER.

25 Q DO YOUR---

1 A YES.

2 Q AFTER GATHERING THE HISTORY, DID YOU THEN PERFORM  
3 A PHYSICAL EXAM?

4 A YES, I DID.

5 Q BEFORE WE GET TO THE PHYSICAL EXAM, ON YOUR CHART,  
6 DO YOU MAKE NOTE OF HOW THE VICTIM OR HOW THEIR -- WHAT  
7 THEIR Demeanor IS?

8 A YES.

9 Q AND WHAT WAS [REDACTED] Demeanor?

10 A SHE WAS VERY CALM AND VERY COOPERATIVE.

11 Q AND DID -- DID YOU FIRST DO A PHYSICAL EXAM?

12 A YES. AFTER I TOOK THE HISTORY, YES.

13 Q AND WHAT DOES THE PHYSICAL EXAM ENTAIL?

14 A THE PHYSICAL EXAM ENTAILS THE CHILD UM --  
15 DISROBING OR TAKING OFF THEIR CLOTHES. AND IN THIS CASE,  
16 IT INVOLVED -- OR TAKING THE CLOTHES AS PART OF THE  
17 EVIDENCE COLLECTION SYSTEM. AND THE CHILD IS GIVEN A  
18 HOSPITAL GOWN AND A SHEET TO BE COVERED WITH. AND THEN  
19 THE EXAMINATION IS USUALLY DONE, AS ANY DOCTOR WOULD DO IN  
20 MOST OFFICES, WHICH IS YOU SORT OF START AT THE TOP AND GO  
21 DOWN WITH AN EXAMINATION OF THE HEAD, EYES, EARS, NOSE  
22 THROAT, CHEST AND TUMMY, AND THEN -- BEFORE YOU DO THE  
23 GENITAL EXAM. AND IN THE CASE OF ANY ABUSE RELATED  
24 EXAMINATION, A CAREFUL EXAMINATION IS MADE OF THE SKIN TO  
25 SEE IF THERE ARE ANY BRUISES OR SCRATCHES OR ANYTHING THAT

1 MIGHT HAVE BEEN A -- A PART OF AN ASSAULT.

2 Q AND WAS [REDACTED] 'S PHYSICAL EXAM NORMAL?

3 A IT WAS PRETTY NORMAL EXCEPT IN TERMS OF -- SHE HAD  
4 A GOOD NUMBER OF MOSQUITO BITES, I BELIEVE. BUT  
5 OTHERWISE, HER EXAM WAS NORMAL.

6 Q AND AFTER THE PHYSICAL EXAM, DID YOU DO A GENITAL  
7 EXAM?

8 A YES, I DID.

9 Q AND WHAT DOES THE -- DOING THE GENITAL EXAM  
10 ENTAIL?

11 A WELL, UM, IN A -- IN A CHILD THE GENITAL EXAM  
12 INVOLVES A VERY CAREFUL LOOKING AT ALL OF HER PRIVATE  
13 PARTS AND THE AREA AROUND HER RECTUM. AND IN DOING THAT,  
14 WE USE AN INSTRUMENT CALLED A COLPOSCOPE. AND A  
15 COLPOSCOPE IS AN INSTRUMENT WITH A BRIGHT LIGHT AND A  
16 MAGNIFYING LENS, AND THE CAPABILITY OF TAKING PHOTOGRAPHS  
17 TO DOCUMENT WHAT YOU SEE. AND IN CHILDREN, WE USUALLY DO  
18 NOT INSERT ANYTHING INTO THE VAGINA, LIKE A SPECULUM SUCH  
19 AS AN ADULT -- YOU WOULD USE IN AN ADULT EXAM FOR OBVIOUS  
20 REASONS. THE OPENING IS SMALL AND IT WOULD BE BOTH SCARY  
21 AND PAINFUL. IF THERE IS EVIDENCE OF BLEEDING, OBVIOUSLY,  
22 OR ANYTHING LIKE THAT, A MORE DETAILED EXAMINATION IS  
23 DONE.

24 BUT IN THE ABSENCE OF A HISTORY OF SEVERE TRAUMA OR  
25 EVIDENCE OF BLEEDING OR SOMETHING LIKE THAT -- USUALLY, WE



1 MIGHT PUT A COTTON SWAB IN THE VAGINA TO COLLECT EVIDENCE.  
2 THAT WILL GO IN EASILY IN MOST LITTLE GIRLS. BUT WE WOULD  
3 NOT DO A SPECULUM EXAM LIKE YOU WOULD CONSIDER IF -- IF AN  
4 ADULT WOMAN WAS GOING THROUGH AN EXAM. AND---

5 Q AND ---

6 A AND THAT'S PRETTY MUCH WHAT WE DO.

7 Q AND IN -- FOR MINOR EXAM, WHAT DID YOU FIND?

8 A MINOR EXAM SHOWED THAT THERE WAS NO -- THAT  
9 SHE HAD SOME PUBIC HAIR, SO SHE WAS BEGINNING TO MATURE.  
10 SHE HAD A LITTLE TINY BIT OF VAGINAL DISCHARGE, WHICH IS  
11 NORMAL FOR GIRLS WHO ARE BEGINNING TO MATURE. AND SHE HAD  
12 NO BIG BRUISES OR ANYTHING LIKE THAT. BUT SHE DID HAVE A  
13 VERY SMALL AREA NEAR THE HYMEN, BUT NOT ON IT, IN WHAT'S  
14 CALLED THE POSTERIOR PART OF THE VULVA, THE FOSSA. SHE  
15 HAD A LITTLE TWO MILLIMETER SCRAPING LESION, WHICH IS  
16 CALLED AN ABRASION.

17 Q AND DID SHE HAVE ANY DAMAGE TO HER VAGINAL AREA AS  
18 FAR AS HER CLITORIS OR ANYTHING LIKE THAT?

19 A NO. SHE HAD NO OTHER DAMAGE OTHER THAN THAT  
20 LITTLE ABRASION.

21 Q AND IN THE HISTORY THAT YOU HAVE TOLD US SHE GAVE  
22 YOU, WAS ORAL CONTACT?

23 A YES, IT WAS ---

24 Q WOULD YOU---

25 A AND -- AND HAND.

1 Q IN YOUR AREA OF EXPERTISE AND IN EXAMINING  
2 CHILDREN, IF THE HISTORY IS ORAL CONTACT, DO YOU NORMALLY  
3 FIND A NORMAL EXAM, I GUESS?

4 A YES. IF SOMEONE LICKS OR -- LICKS THE VAGINAL  
5 AREA OR EVEN SUCKS ON IT WITHOUT A LOT OF FORCE, YOU  
6 REALLY WILL NOT SEE ANYTHING IF YOU SEE THEM AN HOUR OR A  
7 COUPLE OF HOURS LATER. IF IT WAS A LITTLE RED IN THE  
8 BEGINNING, IT VERY OFTEN IS FADED BY THE TIME YOU SEE THE  
9 EXAMINATION.

10 Q AND THE -- ON THE EXAM, YOU SAW A SMALL ABRASION  
11 ON THE OUTER---

12 A YES. IT WAS IN THE PINK PART OF HER GENITALIA,  
13 BUT IT WAS NOT ON THE HYMEN, WHICH IS THE OPENING -- THE  
14 TISSUE SURROUNDING THE VAGINA ITSELF.

15 Q AND HER ANAL EXAM WAS RELATIVELY NORMAL?

16 A YES, IT WAS.

17 Q NOW, AFTER HER EXAM, DID YOU THEN DO COLLECTION OF  
18 EVIDENCE?

19 A YES, WE DID.

20 Q AND HOW DID YOU GO ABOUT DOING THAT?

21 A WELL, WE FIRST TAKE THE CLOTHING AND THE CLOTHING  
22 IS SET ASIDE. AND THE -- IN THIS CASE, BECAUSE THERE WAS  
23 A HISTORY THAT THE PANTIES HAD BEEN WET, AND IT WAS A  
24 POSSIBILITY THAT THAT MIGHT HAVE CONTAINED SOME TYPE OF  
25 EVIDENCE, THE PANTIES WERE SEPARATED -- KEPT SEPARATE FROM

1 THE OUTER CLOTHING. AND THEY WERE PLACED IN A SMALL  
2 EVIDENCE BAG, WHICH COMES IN A KIT THAT IS PROVIDED BY THE  
3 STATE. AND THEN I SEALED THEM AND INITIALED THEM IN THE  
4 BAG.

5 Q OKAY. DR. SCHUH, I WANT TO SHOW YOU WHAT HAS BEEN  
6 MARKED AS STATE'S EXHIBIT NO. 9. AND DO YOU RECOGNIZE  
7 THAT BY YOUR SIGNATURE?

8 A YES.

9 Q WHAT IS THAT?

10 A THAT'S MY SIGNATURE. IT'S -- IT SAYS "MINOR"  
11 [REDACTED] COLLECTED BY SCHUH. DATE 11/26/03 AT 1:00 A.M."  
12 AND THEN THE OUTER SEAL IS INITIALED.

13 Q AND THAT WOULD BE WHAT?

14 A THIS WOULD BE THE -- IT'S UNDERWEAR.

15 Q SO, THAT'S THE ---

16 A THAT WOULD BE HER PANTIES.

17 MS. HERRING-LASH: YOUR HONOR, AT THIS POINT, THE  
18 STATE WOULD OFFER INTO EVIDENCE, LIKE I SAID, PREVIOUSLY  
19 MARKED AS STATE'S EXHIBIT NO. 9.

20 MR. DAVIS: JUDGE, IF I COULD JUST HAVE ONE SECOND  
21 PLEASE. (PAUSE.) NO OBJECTION, YOUR HONOR.

22 THE COURT: IT'S ADMITTED.

23 (STATE'S EXHIBIT NO. 9 RECEIVED INTO EVIDENCE.)

24 BY MS. HERRING-LASH:

25 Q NOW, DR. SCHUH, BESIDES THE UNDERWEAR, YOU ALSO DO

1 SWABS?

2 A YES, I DID.

3 Q DID SWABS?

4 A YES, I DID.

5 Q AND DO YOU PLACE THOSE IN THE -- WELL, I GUESS  
6 WHAT YOU HAVE, YOU'RE WORKING WITH A BOX?

7 A YES, IT IS.

8 Q AND IT WAS IN THE BOX, DO YOU HAVE SEPARATE  
9 ENVELOPES?

10 A YES. THE BOX COMES FROM SLED TO THE HOSPITAL AND  
11 IT IS MAINTAINED BY THE HOSPITAL UNTIL WE OPEN IT. AND IT  
12 IS SEALED. AND THEN WE CUT OR BREAK THE SEAL AND OPEN THE  
13 BOX. AND INSIDE THE BOX, THERE ARE -- I DON'T REMEMBER  
14 THE EXACT NUMBER, BUT MAYBE TEN SMALL ENVELOPES, WHICH ARE  
15 THERE FOR US TO PLACE SWABS IN IF WE TAKE SWABS. OR IF WE  
16 SHOULD FIND FRAGMENTS OF TISSUE OR HAIR, OR ANYTHING WE  
17 THINK MIGHT NEED TO BE EVALUATED BY AN EVIDENCE TECHNICIAN  
18 OR TECHNOLOGIST.

19 Q AND DID YOU DO THAT IN THIS CASE?

20 A YES, I DID.

21 Q AND AFTER YOU DID -- I GUESS YOU SWABBED HER  
22 VAGINAL AREA?

23 A YES. VULVA AREA.

24 Q VULVA AREA?

25 A WHICH IS OUTSIDE OF THE VAGINA. TECHNICALLY THE

1 VAGINA IS ONLY THE INTERIOR CANAL. AND THE OUTER PART  
2 WOULD BE CALLED THE VULVA.

3 Q AND ONCE YOU DID ALL THE SWABS, WHAT DID YOU DO  
4 WITH THESE SWABS?

5 A THEY WERE DRIED AND THEN PLACED IN THE INDIVIDUAL  
6 ENVELOPES THAT ARE PROVIDED FOR COLLECTION. AND THE  
7 ENVELOPES COME MARKED AS -- THAT THEY'RE FOR HAIR OR --  
8 PUBIC HAIR OR VAGINAL SECRETIONS OR WHATEVER. AND THEY  
9 WERE PLACED IN THE APPROPRIATE ENVELOPES AND -- AND CLOSED  
10 AND SEALED AND LABELED.

11 Q AND THEN YOU PUT THEM -- I GUESS YOU PROBABLY  
12 ALREADY SAID -- YOU PUT THEM IN THE BOX?

13 A AND THEN THEY GO BACK IN THE BOX. AND WHEN WE'VE  
14 COMPLETED EVERYTHING WE NEED TO DO, WE HAVE RED EVIDENCE  
15 SEALS AND THEY ARE PLACED ON THE BOX. AND THE BOX IS  
16 SEALED ON TWO SIDES, AND INITIALED AND DATED BY ME IN THIS  
17 CASE.

18 Q AND, DR. SCHUH, I WANT TO SHOW YOU A FORM THAT  
19 YOU, PERHAPS, CAN IDENTIFY THIS -- CAN YOU IDENTIFY THAT  
20 FORM?

21 A YES. ONCE WE HAVE THE BOX COMPLETED AND SEALED,  
22 IT'S PLACED IN A LOCKED EVIDENCE REFRIGERATOR AT THE  
23 HOSPITAL. AND ON THE OUTSIDE OF THE HOSPITAL -- OF THE  
24 REFRIGERATOR, WE KEEP A LOG. AND THE LOG INCLUDES WHAT  
25 BOXES WE'RE PUTTING IN THE REFRIGERATOR, AND WHEN THEY

1 WERE PUT IN, AND WHO PUT THEM IN. AND THEN WHEN LAW  
2 ENFORCEMENT COMES TO PICK THEM UP, THEY ARE SIGNED OUT IN  
3 THE SAME WAY.

4 Q AND DOES THAT REFLECT YOU SIGNING IN THIS KIT?

5 A PROBABLY.

6 Q LET ME SHOW YOU THE LINE.

7 A I WAS GOING TO SAY, WHAT LINE IS IT ON?

8 Q I KNOW IT'S REAL SMALL. I'LL SHOW IT TO YOU.

9 A OKAY. OKAY. OH, YES. IT -- WE MUST HAVE BEEN  
10 GETTING TO THE BOTTOM OF THE PAGE, BUT IT IS SIGNED IN BY  
11 ME.

12 Q WHAT WAS THE DATE?

13 A AND THE DATE WAS 11/26/03.

14 Q AND WHAT TIME?

15 A AT 2:30 IN THE MORNING. SO, WHEN I FIRST BEGAN  
16 SEEING HER, IT WAS VERY, VERY LATE AT NIGHT, CLOSE TO  
17 MIDNIGHT. BUT WHEN I COMPLETED THE EXAM, THE DATE WAS THE  
18 FOLLOWING DATE.

19 Q BECAUSE IT WAS LIKE EARLY, EARLY MORNING?

20 A 2:30 IN THE MORNING.

21 Q AND YOU SIGNED THAT IN. AND THEN IS IT LOCKED  
22 THEN?

23 A UM, THE LOG IS NOT LOCKED---

24 Q NO, BUT THE BOX---

25 A BUT THE BOX IS LOCKED IN A REFRIGERATOR, WHICH IS

1 LOCKED. AND THE KEY IS MAINTAINED BY THE EVIDENCE -- OUR  
2 EVIDENCE NURSE.

3 Q AND THAT LOG GOES ON -- WE HAVE HAD THESE  
4 WITNESSES TESTIFY ---

5 A OKAY.

6 Q BUT WE TOOK IT OUT -- YOU DON'T HAVE -- BUT IT  
7 GOES ON---

8 A BUT, YES, RIGHT. BUT I THINK IT DOES HAVE WHO  
9 ACTUALLY TOOK IT OUT OF HERE PROBABLY. FAYE LEBUFF (PH),  
10 WHO IS OUR EVIDENCE NURSE, HAS SIGNED IT OUT.

11 Q AND THEN TO MIKE RINGLEY?

12 A TO MIKE RINGLEY, YES.

13 MS. HERRING-LASH: THE COURT'S INDULGENCE FOR ONE  
14 MOMENT. (PAUSE.) DR. SCHUH, THAT'S ALL THE QUESTIONS I  
15 HAVE.

16 CROSS EXAMINATION BY MR. DAVIS:

17 Q HELLO, DOCTOR.

18 A HOW DO YOU DO?

19 Q ALL RIGHT. THANK YOU. JUST A FEW QUESTIONS ABOUT  
20 WHAT YOU'VE TESTIFIED TO. WHEN YOU BEGAN THE EXAMINATION,  
21 YOU KNEW WHAT THE ALLEGATIONS WERE, CORRECT?

22 A YES.

23 Q AND THAT -- WHILE YOU DO AN OVERALL EXAMINATION,  
24 THAT CERTAINLY CAN GUIDE YOU IN WHAT YOU MAY OR MAY NOT BE  
25 LOOKING FOR, IS THAT ACCURATE?

1 A IT SHOULD, YES.

2 Q UM, AND YOU'VE -- YOU'VE SAID EARLIER -- I'M NOT  
3 GOING TO BE SPECIFIC -- BUT THIS IS WHAT YOU'VE DONE  
4 BASICALLY FOR YOUR LIFE IS THESE TYPES OF EXAMINATIONS  
5 DEALING WITH -- WITH CHILDREN THAT ARE IN THESE  
6 CIRCUMSTANCES, IS THAT ACCURATE?

7 A I ALSO DEAL WITH CHILDREN IN OTHER -- NORMAL  
8 CHILDREN IN OTHER PARTS OF PEDIATRICS AS WELL, YES. BUT  
9 FOR A LONG TIME, I HAVE DONE A LOT OF THESE EXAMS.

10 Q I BELIEVE YOU SAID THAT WHEN YOU WERE WITH  
11 MINOR HER MOTHER WAS ALSO IN THE EXAMINATION ROOM WITH  
12 YOU, CORRECT?

13 A YES.

14 Q THERE WAS SOMEONE FROM PEOPLE AGAINST RAPE, THAT  
15 WAS THERE, AN ADVOCATE?

16 A RIGHT.

17 Q IS THAT FAIR ENOUGH?

18 A YES.

19 Q AND WHO WAS THAT, CAN YOU REMIND THE JURY?

20 A I DON'T REALLY REMEMBER WHO IT WAS.

21 Q WAS IT A MAN OR WOMAN -- PROBABLY A WOMAN?

22 A IT WAS A WOMAN, I BELIEVE, YES.

23 Q OKAY. OKAY. AND THIS IS A -- CORRECT ME IF I'M  
24 WRONG -- A SPECIALIZED EXAM THAT ALLOWS YOU TO DO THESE  
25 TYPES OF EXAMS?



1           A   YES.  IT HAS A LITTLE BIT OF EQUIPMENT, WHICH IS  
2   USED FOR OTHER PURPOSES IN OTHER PARTS OF THE HOSPITAL.  
3   BUT IN -- IN THIS CASE, THE ROOM IS EQUIPPED WITH THE  
4   COLPOSCOPE, FOR THE SPECIFIC PURPOSE OF DOING THESE EXAMS  
5   IN A QUIET AREA.

6           Q   AND THAT'S THE -- THAT'S THE MAGNIFYING MACHINE  
7   THAT YOU WERE TALKING ABOUT ---

8           A   YES.

9           Q   -- OR INSTRUMENT YOU WERE TALKING ABOUT?

10          A   RIGHT.

11          Q   OKAY.  AND WHILE THE FOUR OF YOU WERE IN THERE FOR  
12   THIS EXAM, I THINK, YOU SAID THAT MINOR WAS CALM AND  
13   COOPERATIVE WITH YOU ABOUT THIS?

14          A   YES.

15          Q   OKAY.  YOU DID A -- BASICALLY A HEAD TO TOE  
16   EXAMINATION?

17          A   PRETTY MUCH, YES.

18          Q   THE MOST NOTED THING THERE WAS THE MOSQUITO BITES,  
19   RIGHT?

20          A   ON HER GENERAL EXAMINATION, YES.

21          Q   RIGHT.  OTHER THAN THAT, SHE SEEMED VERY NORMAL?

22          A   PRETTY HEALTHY.

23          Q   OKAY.  SPECIFICALLY, THOUGH, WHEN WE GET TO THE  
24   GENITAL EXAM, ULTIMATELY, IT'S A NORMAL EXAM, IS IT NOT?

25          A   SHE HAD AN INJURY, BUT IT WAS NOT A LARGE INJURY.

1 Q AND YOU'RE TALKING ABOUT A TWO MILLIMETER SCRATCH,  
2 IS THAT WHAT YOU'RE TALKING ABOUT?

3 A YES. IT'S A VERY SMALL, BUT CLEARLY ABNORMAL  
4 AREA.

5 Q OKAY. SUCH A SCRATCH COULD HAVE MANY CAUSES,  
6 COULD IT NOT?

7 A YES, IT COULD.

8 Q DO YOU RECALL THAT MINOR WAS NINE WHEN YOU WERE  
9 EXAMINING HER?

10 A YES.

11 Q SUCH AN INJURY POSSIBLY COULD BE FROM PLAYFUL  
12 ACTIVITIES OF A NINE-YEAR-OLD, IS THAT POSSIBLE?

13 A POSSIBLE, BUT YOU USUALLY DON'T TRY TO HURT  
14 YOURSELF IN PLAYFUL ACTIVITY.

15 Q I UNDERSTAND. BUT WHEN WE'RE TALKING A TWO  
16 MILLIMETER SCRATCH, WE'RE TALKING VERY MINUTE, ARE WE NOT?

17 A IT'S POSSIBLE THAT MINOR OR SOMEONE ELSE COULD  
18 HAVE DONE IT WITH A FINGER NAIL.

19 Q SHE COULD HAVE---

20 A IT'S POSSIBLE.

21 Q ---IN -- IN ITCHING, SCRATCHED AND LEFT THIS SMALL  
22 INJURY, THAT'S POSSIBLE?

23 A ANYONE WHO TOUCHED HER WITH HANDS OR FINGERS COULD  
24 HAVE INJURED HER.

25 Q BUT IT'S -- IT'S NOT NECESSARILY WHAT WE WOULD

1 THINK OF AS A -- IT WOULDN'T HAVE TO BE CAUSED BY A  
2 SCRATCH, BY A FINGER NAIL, BY A HUMAN FINGER NAIL?

3 A IT WOULDN'T HAVE TO BE CAUSED BY A FINGER NAIL.  
4 IT COULD HAVE BEEN CAUSED BY SOMETHING ELSE ROUGH OR  
5 SHARP.

6 Q OTHER THAN THAT, DO -- YOU ALSO NOTICE SOME  
7 VAGINAL DISCHARGE -- BUT I THINK YOU HAVE ALREADY TOLD THE  
8 JURY, THAT FROM HER AGE AND HER DEVELOPMENT, WELL, THAT IS  
9 NOT UNUSUAL?

10 A THAT'S NORMAL.

11 Q AND SO THAT EVERYONE WILL UNDERSTAND, WE ARE  
12 TALKING ABOUT SOME WETNESS, IS THAT ACCURATE?

13 A UM---

14 Q SOME MUCUS TYPE DISCHARGE?

15 A WELL, THE TECHNICAL TERM FOR IT -- MEDICAL TERM  
16 FOR IT IS LEUKORRHEA, BUT IT'S THE KIND OF SCANT, WHITE  
17 DISCHARGE THAT IS COMMON BETWEEN PERIODS IN WOMEN, WHO ARE  
18 MATURE. AND IN YOUNG GIRLS AS THEY MATURE FOR SEVERAL  
19 MONTHS, AND SOMETIMES A YEAR OR SO BEFORE THEY START THEIR  
20 MENSTRUAL PERIODS.

21 Q AND YOU COLLECTED -- WE'VE ALREADY HEARD ABOUT IT  
22 -- YOU COLLECTED PANTIES FOR A NUMBER OF REASONS: ONE,  
23 BEING THAT THERE WAS SOME WETNESS THAT YOU WERE WANTING TO  
24 MAKE SURE YOU PRESERVED, CORRECT?

25 A YES. THEY WERE NOT WET AT THE TIME THAT I SAW

1 HER, BUT THE HISTORY IS THAT THEY HAD BEEN WET.

2 Q OKAY.

3 A AND I DID CHECK WITH HER TO BE SURE THAT SHE HAD  
4 NOT CHANGED HER CLOTHING BEFORE SHE CAME TO THE HOSPITAL,  
5 AND SHE HAD NOT.

6 Q ALONG THAT LINE, THOUGH, YOU DO KNOW -- YOU KNEW  
7 THAT SHE HAD URINATED TWICE?

8 A RIGHT.

9 Q THAT NIGHT -- NOT WHILE WEARING THE PANTIES IN THE  
10 SENSE THAT SHE DIDN'T HAVE ON WHEN SHE URINATED, BUT IT  
11 WAS THE SAME PANTIES SHE HAD ON ALL EVENING, CORRECT?

12 A AS FAR AS I KNOW, YES.

13 Q SO, SHE HAD URINATED TWICE AND YOU ALSO TALKED  
14 ABOUT THIS VAGINAL DISCHARGE, CORRECT?

15 A YES.

16 Q OKAY. YOU WERE AWARE THAT WHEN SHE URINATED AT  
17 HOME, SHE HAD USED A CLOTH TO WIPE AFTER SHE URINATED?

18 A I WAS NOT AWARE UNTIL SOME TIME LATER.

19 Q OKAY. AS AN EXPERT, CLEARLY, IT'S IMPORTANT THAT  
20 THAT HAPPENED, CORRECT?

21 A YES.

22 Q TO BE FAIR, IT COULD HAVE EITHER CONTAMINATED OR  
23 DE-CONTAMINATED WHATEVER WAS TOUCHED?

24 A YES, IT COULD HAVE -- IT COULD HAVE EITHER LEFT  
25 SOMETHING ON HER, OR IT COULD HAVE WIPED OFF ANY EVIDENCE

1. THAT MIGHT HAVE BEEN THERE.

2. Q JUST AS THE -- KNOWING THE FACT THAT SHE URINATED  
3. TWICE, MIGHT HAVE REMOVED EVIDENCE, IT'S POSSIBLE?

4. A IT CERTAINLY MIGHT HAVE.

5. Q AND, SO, THE FACT THAT AFTER ONE TIME WHEN SHE  
6. URINATED, SHE WIPED WITH ANOTHER OBJECT, LIKE YOU JUST  
7. SAID, IT COULD HAVE REMOVED EVIDENCE, POSSIBLY?

8. A YES.

9. Q IT COULD HAVE ADDED SOME EVIDENCE POSSIBLY?

10. A IT'S POSSIBLE.

11. Q I'M GOING TO JUMP AROUND A LITTLE BIT. YOU  
12. TESTIFIED JUST A MOMENT AGO THIS BEGAN -- FORGIVE ME -- IT  
13. WAS BEFORE MIDNIGHT OR CLOSE TO MIDNIGHT, IS THAT  
14. ACCURATE?

15. A YES.

16. Q 11:00 SOMETHING OR ANOTHER. DO YOU RECALL EXACTLY  
17. WHEN YOU FIRST SAW---

18. A 11:50.

19. Q 11:50. AND THEN IT RAN PAST MIDNIGHT. WHEN DID  
20. Y'ALL FINISH UP APPROXIMATELY?

21. A I SIGNED THE EVIDENCE KIT IN AT 2:30 IN THE  
22. MORNING.

23. Q EVEN THOUGH YOU KNEW WHAT THE SPECIFIC ALLEGATIONS  
24. WERE HERE, YOU COMPLETED A THOROUGH PHYSICAL AND GENITAL  
25. EXAM, CORRECT?

1           A I DIDN'T DO THE TYPE OF EXAM I WOULD DO ON AN  
2 ADULT PATIENT. BUT I DID DO A FAIRLY COMPREHENSIVE EXAM.

3           Q AND YOU EXPLAINED SOME OF THE LIMITATIONS EARLIER  
4 BECAUSE OF BEING A SMALL CHILD, CERTAIN THINGS YOU DIDN'T  
5 DO?

6           A RIGHT.

7           Q BUT, FOR EXAMPLE, YOU -- YOU TOOK SWABS THAT YOU  
8 WOULD NORMALLY TAKE IN A SITUATION WHERE THERE -- YOU  
9 MIGHT EXPECT TO FIND SEMEN, BUT IN THIS CASE, THAT WAS NOT  
10 THE ALLEGATION, IS THAT FAIR ENOUGH?

11          A SEMEN OR SALIVA OR SOMETIMES OTHER THINGS. IF  
12 THEY HAD USED ANY OTHER TYPE OF LUBRICANT, FOR EXAMPLE,  
13 WHICH WE DIDN'T HAVE AN ALLEGATION IN THIS CASE.

14          Q SOME -- SOME TYPE OF OTHER SUBSTANCE---

15          A YES.

16          Q -- AS A LUBRICANT. BUT YOU DID TAKE VAGINAL SWABS  
17 AND---

18          A YES.

19          Q -- AND COLLECTED THEM, CORRECT?

20          A YES.

21          Q IN CASE THERE WAS ANY EVIDENCE THERE?

22          A IN CASE ANYTHING, I GUESS YOU COULD SAY, LEAKED  
23 INTO THE VAGINA OR WENT INTO THE VAGINA.

24          Q THE -- YOU ALSO IN DOING THE -- A FULL EXAM HERE,  
25 AND I DON'T MEAN -- I'LL PICK A BETTER WORD -- A FULL BODY

1 EXAM?

2 A YES.

3 Q UM, YOU ALSO DID -- YOU EXAMINED THE RECTUM,  
4 CORRECT?

5 A YES.

6 Q AND DO YOU RECALL IF THERE WAS ---

7 A THERE WAS A LITTLE TINY BIT OF STOOL AROUND THE  
8 EDGE OF THE RECTUM.

9 Q NOW, I THINK WE'RE ALMOST DONE. THE ONLY THING I  
10 WANT TO GET AT LASTLY IS THE -- THE INSTRUMENT THAT -- THE  
11 MAGNIFYING INSTRUMENT THAT WAS USED -- I THINK YOU SAID  
12 THAT IT HAD THE CAPABILITY OF -- OF TAKING PHOTOGRAPHS,  
13 BUT YOU DIDN'T IN THIS CASE, IS THAT ACCURATE?

14 A OH, I DON'T -- I NORMALLY WOULD HAVE, AND I  
15 TRUTHFULLY DON'T RECALL WHETHER I DID OR NOT. THERE IS A  
16 SPOT HERE WHERE IT SHOULD SAY, SOMEWHERE. I DON'T RECALL  
17 WHETHER I DID OR NOT TAKE THE EXAM -- TAKE THE PHOTOS. I  
18 BELIEVE I PROBABLY DID, BUT I DON'T HAVE THEM TODAY -- OH,  
19 I BEG YOUR PARDON. I DID CHECK ON THE FORM AND I KNEW IT  
20 WAS HERE SOMEWHERE. I JUST HADN'T SEEN THE FORM IN A  
21 WHILE, SO. BUT I DID -- I ACTUALLY DID TAKE PHOTOGRAPHS,  
22 YES.

23 Q OKAY. IF I CAN SUMMARIZE -- AND I THINK I'M DONE  
24 -- THE NOTABLE OBSERVATIONS WOULD HAVE BEEN A TWO  
25 MILLIMETER SCRATCH, CORRECT?

1 A YES.

2 Q OF UNKNOWN ORIGIN?

3 A YES.

4 Q AND JUST SO -- SO EVERYONE WILL KNOW METRIC -- IT  
5 IS SIGNIFICANTLY SMALLER THAN AN EIGHTH OF AN INCH?

6 A IT'S ABOUT AN EIGHTH OF AN INCH.

7 Q THANK YOU, DOCTOR. I DIDN'T MEAN TO MISREPRESENT  
8 THERE. THANK YOU. THE MOSQUITO BITES?

9 A RIGHT.

10 Q A SMALL AMOUNT OF STOOL NEAR THE ANUS?

11 A YES.

12 Q VAGINAL DISCHARGE?

13 A YES.

14 Q OTHERWISE NORMAL?

15 A YES.

16 MR. DAVIS: THANK YOU VERY MUCH, DOCTOR. NO OTHER  
17 QUESTIONS.

18 MS. HERRING-LASH: JUST A FEW QUESTIONS, DR. SCHUH.

19 REDIRECT EXAMINATION BY MS. HERRING-LASH:

20 Q THE ABRASION THAT YOU DESCRIBED, COULD THAT HAVE  
21 CAUSED BURNING WHEN MINOR URINATED?

22 A IT MIGHT HAVE.

23 Q AND WERE YOU GIVEN ANY HISTORY OF ANY FOREIGN  
24 LUBRICANT THAT WAS USED OR ANY LUBRICANT?

25 A NO. I WAS TOLD THAT IT WAS ONLY SALIVA.



DR. SCHUH -- REDIRECT BY MS. HERRING-LASH

320

1 Q AND, NOW, YOU PACKAGED THE SWABS, BUT YOU DO NOT  
2 DECIDE WHAT TESTING SLED DOES, DO YOU?

3 A NO, MA'AM.

4 Q AND YOU DON'T KNOW WHAT THEY TEST THE SWABS FOR  
5 ONCE -- ONCE YOU SEAL IT?

6 A I MAKE AN ASSUMPTION THAT THEY'RE LOOKING FOR  
7 EVIDENCE THAT THERE IS EITHER SEMEN, DNA, SALIVA OR OTHER  
8 BODY FLUIDS. AND IF I HAVE A HISTORY OF OTHER CHEMICALS,  
9 I WOULD GIVE IT TO THEM, BUT I DON'T KNOW SPECIFICALLY  
10 WHAT TESTS THEY DO.

11 MS. HERRING-LASH: OKAY. THAT'S ALL THE QUESTIONS I  
12 HAVE. YOUR HONOR, MAY DR. SCHUH BE EXCUSED?

13 THE COURT: YOU MAY BE EXCUSED, DR. SCHUH.

14 THE WITNESS: THANK YOU, YOUR HONOR.

15 (WITNESS EXCUSED.)

16 MS. HERRING-LASH: THE STATE WOULD CALL ROBIN TAYLOR.

17 (WITNESS FORWARD.)

18 ROBIN TAYLOR, HAVING BEEN FIRST  
19 DULY SWORN, TESTIFIED AS FOLLOWS:

20 CLERK: IF YOU WOULD PLEASE STATE YOUR FULL NAME AND  
21 SPELL YOUR LAST NAME.

22 THE WITNESS: MY NAME IS ROBIN A. TAYLOR,  
23 T-A-Y-L-O-R.

24 DIRECT EXAMINATION BY MS. HERRING-LASH:

25 Q MS. TAYLOR, WHAT IS YOUR OCCUPATION?

1           A   I'M A FORENSIC DNA ANALYST AT SOUTH CAROLINA LAW  
2   ENFORCEMENT DIVISION. WE'RE COMMONLY KNOWN AS SLED.

3           Q   HOW LONG HAVE YOU BEEN THERE?

4           A   THIS PAST MARCH WAS 18 YEARS.

5           Q   AND WHAT DO YOU DO AT SLED?

6           A   AS A FORENSIC DNA ANALYST, IT IS MY DUTY TO  
7   RECEIVE EVIDENCE FROM OUTSIDE AGENCIES AROUND THE STATE.  
8   AND EXAMINE THOSE ITEMS FOR BODY FLUIDS SUCH AS BLOOD,  
9   SEMEN OR SALIVA. ALONG WITH THAT EVIDENCE, I ALSO RECEIVE  
10   KNOWN STANDARDS FROM INDIVIDUALS POTENTIALLY INVOLVED IN  
11   CRIMES, AND PERFORM ANALYSIS -- DNA ANALYSIS ON BOTH THE  
12   EVIDENCE AND THE KNOWN STANDARDS TO MAKE A COMPARISON, TO  
13   DETERMINE WHETHER OR NOT THERE IS A MATCH. AND WHEN  
14   NECESSARY, REPORT MY FINDINGS IN A COURT OF LAW.

15          Q   CAN YOU EXPLAIN TO THE JURY WHAT YOU MEAN BY KNOWN  
16   STANDARDS? THAT MAY BE A TERM THEY'RE NOT FAMILIAR WITH.

17          A   A KNOWN STANDARD IS SIMPLY EITHER A BLOOD SAMPLE  
18   OR WHAT WE CALL A BUCCAL SWAB, WHICH IS A SWAB RUBBED ON  
19   THE INSIDE OF THE CHEEK, TO COLLECT SKIN CELLS. IT IS  
20   COLLECTED FROM A PERSON. AND IT'S PRESENTED TO ME AS  
21   KNOWN TO BE FROM THAT PERSON SO THAT I CAN KNOW THAT  
22   THAT'S THEIR DNA PROFILE THAT I'M LOOKING AT WHEN I'M  
23   MAKING MY COMPARISON TO UNKNOWN PROFILES THAT ARE  
24   DEVELOPED FROM EVIDENCE.

25          Q   AND YOU HAVE MENTIONED DNA, JUST BRIEFLY, AS IN

1 LAYMEN OF TERMS AS YOU CAN EXPLAIN IT FOR ME AND THE JURY,  
2 WHAT IS DNA?

3 A DNA STANDS FOR DEOXYRIBONUCLEIC ACID, BUT THAT'S  
4 NOT AS IMPORTANT AS WHAT IT DOES. IT CARRIES GENETIC  
5 INFORMATION FROM ONE GENERATION TO THE NEXT. YOU GET HALF  
6 OF YOUR DNA FROM YOUR MOM AND HALF OF YOUR DNA FROM YOUR  
7 FATHER. IN FORENSICS, WE DON'T TEST ALL OF ANYONE'S DNA.  
8 WE TARGET PORTIONS OF DNA THAT ARE KNOWN TO BE HIGHLY  
9 VARIABLE FROM PERSON TO PERSON. BECAUSE MOST OF OUR DNA  
10 IS ACTUALLY THE SAME. IT'S WHAT MAKES US HUMAN. IT'S  
11 WHAT GIVES YOU TWO ARMS AND TWO LEGS AND MAKES US APPEAR  
12 BASICALLY THE SAME.

13 BUT THERE ARE PORTIONS OF OUR DNA, LIKE I SAID,  
14 THAT ARE HIGHLY VARIABLE. AND NO TWO PEOPLE'S DNA IS  
15 EXACTLY ALIKE EXCEPT IN THE CASE OF IDENTICAL TWINS.

16 Q NOW, WHAT IS YOUR EDUCATIONAL BACKGROUND TO DO THE  
17 DUTIES YOU HAVE EXPLAINED TO US AND TO WORK WITH DNA?

18 A WELL, I HAVE A BACHELORS OF SCIENCE DEGREE IN  
19 MEDICAL TECHNOLOGY FROM THE UNIVERSITY OF SOUTH CAROLINA.  
20 I GRADUATED FROM BAPTIST MEDICAL CENTER, SCHOOL OF MEDICAL  
21 TECHNOLOGY IN COLUMBIA. I'M BOARD CERTIFIED BY THE  
22 AMERICAN SOCIETY OF CLINICAL PATHOLOGISTS. AND I'VE  
23 WORKED IN CLINICAL LABORATORIES IN BOTH COLUMBIA AND  
24 GREENVILLE FOR APPROXIMATELY TWO AND A HALF YEARS PRIOR TO  
25 JOINING SLED.

1 AS I SAID, I HAVE BEEN AT SLED OVER 18 YEARS NOW,  
2 DURING WHICH TIME I HAVE COMPLETED INTENSIVE TRAINING  
3 PROGRAMS IN THE FIELDS OF FORENSIC SEROLOGY, WHICH IS BODY  
4 FLUID ANALYSIS. FORENSIC RFLP DNA ANALYSIS. AND THEN,  
5 AGAIN, A NEWER TECHNOLOGY FORENSIC PCR DNA ANALYSIS.

6 Q AND ARE YOU CERTIFIED BY SLED TO PERFORM DNA  
7 ANALYSIS AND SEROLOGY ANALYSIS?

8 A I AM.

9 MS. HERRING-LASH: YOUR HONOR, AT THIS TIME, I WOULD  
10 OFFER ROBIN TAYLOR AS AN EXPERT IN FORENSIC DNA AND  
11 SEROLOGY.

12 MR. DAVIS: SHE IS CLEARLY AN EXPERT, YOUR HONOR.

13 THE COURT: ALL RIGHT. I'LL QUALIFY HER AS AN EXPERT  
14 IN THAT SUBJECT.

15 BY MS. HERRING-LASH:

16 Q ROBIN -- OR MS. TAYLOR, DID YOU RECEIVE EVIDENCE  
17 IN THE CASE -- IN THIS CASE FROM THE NORTH CHARLESTON  
18 POLICE DEPARTMENT?

19 A YES, I DID.

20 Q WHAT DID YOU RECEIVE?

21 A I RECEIVED A SEXUAL ASSAULT EVIDENCE COLLECTION  
22 KIT FROM [REDACTED] WHICH INCLUDED SEVERAL DIFFERENT  
23 ITEMS, INCLUDING HER KNOWN BLOOD STANDARD; SOME VAGINAL  
24 AND ORAL SWABS; SOME SWABS THAT WERE LABELED MISCELLANEOUS  
25 BODY FLUIDS; FINGERNAIL SCRAPINGS; AND SOME PANTIES. AND

1 I ALSO RECEIVED A SUSPECT EVIDENCE COLLECTION KIT FROM MR.  
2 HAROLD ORR, III, INCLUDING SOME HAIR STANDARDS AND A KNOWN  
3 BLOOD STANDARD.

4 Q AND WHEN DID YOU RECEIVE THE KIT OF MINOR

5 A I BELIEVE IT WAS RECEIVED BY SLED ABOUT FEBRUARY  
6 12TH OF '04. AND, YOUR HONOR, I NEED TO REFER TO NOTES TO  
7 KNOW THE EXACT DATES THAT I RECEIVED IT. LET'S SEE, THE  
8 SEXUAL ASSAULT KIT ACTUALLY CAME INTO MY POSSESSION ON OR  
9 ABOUT MARCH 21ST OF 2005.

10 Q AND BEFORE IT CAME INTO YOUR POSSESSION, WHAT  
11 WOULD HAVE HAPPENED TO IT AT SLED?

12 A WELL, AS PER OUR POLICY, WHEN A SEXUAL ASSAULT KIT  
13 INITIALLY COMES IN, IF A KNOWN STANDARD FROM A SUSPECT IS  
14 NOT ALSO SUBMITTED, IT MAY NOT BE ASSIGNED INITIALLY TO AN  
15 ANALYST SIMPLY BECAUSE YOU CAN'T LOOK AT SOMEONE AND KNOW  
16 THEIR DNA PROFILE. WE NEED A KNOWN DNA STANDARD TO MAKE  
17 THIS COMPARISON, FOR THE INFORMATION TO BE VALUABLE. AND  
18 IN THIS CASE, IT WAS NOT ASSIGNED. THE BLOOD STANDARD WAS  
19 PRESERVED AND IT WAS STORED AT SLED UNTIL WHICH TIME WE  
20 RECEIVED THE KNOWN SUSPECT KIT FROM MR. ORR. AND, AT THAT  
21 TIME, THE CASE WAS ASSIGNED TO ME.

22 AND THE EVIDENCE WAS TRANSPORTED BY OUR TECHNICIANS  
23 INTO A SECURE REFRIGERATOR, THAT HAS AN AREA ASSIGNED TO  
24 ME, WHERE I CAN RETRIEVE THE EVIDENCE AND TAKE IT INTO MY  
25 CUSTODY.

1 Q AND DO YOU HAVE THE CHAIN OF CUSTODY AS TO WHAT  
2 HAPPENED WITH THIS KIT FROM THE TIME THE OFFICER DELIVERED  
3 IT?

4 A I DO.

5 Q AND THE OFFICER THAT DELIVERED THIS WAS CHARLES  
6 HARDIN?

7 A YES, ACCORDING TO -- TO THE CHAIN OF CUSTODY, IT  
8 WAS DELIVERED BY MR. CHARLES HARDIN.

9 Q AND THEN YOU WERE THE FIRST PERSON AT SLED THAT  
10 DID THIS KIND OF TESTING ON IT AFTER MR. HARDIN HAD  
11 DELIVERED IT?

12 A THAT'S CORRECT. IT HAD SIMPLY BEEN PRESERVED AND  
13 STORED UNTIL IT CAME INTO MY CUSTODY FOR ANALYSIS  
14 PURPOSES.

15 Q AND WHAT WE'RE TALKING ABOUT NOW IS SIMPLY THE --  
16 THE SEXUAL ASSAULT KIT FROM THE CHILD, MINOR

17 A THAT'S CORRECT.

18 Q AND AS FAR AS PRESERVING, THAT WOULD BE HER BLOOD  
19 THAT WOULD BE --

20 A EXACTLY. WHEN BLOOD COMES TO US IN LIQUID FORM,  
21 IT NEEDS TO BE PRESERVED AS -- IT'S NOT STABLE IN THAT  
22 FORM. WE NEED TO DRY IT. SO, THE BLOOD STANDARD IS  
23 POURED ON TO A SAMPLE AT -- AT THE TIME IT MIGHT HAVE BEEN  
24 A COTTON CLOTH OR IT MIGHT HAVE BEEN FILTER PAPER -- I  
25 THINK ALONG ABOUT THAT TIME WE WERE CHANGING OVER -- BUT

1 EITHER WAY, THE SAMPLE IS LABELED AND DRIED AND PRESERVED.  
2 AND NO ANALYSIS IS DONE. IT'S JUST A MATTER OF MAKING  
3 SURE THAT THE DNA STAYS STABLE FOR LATER ANALYSIS.

4 Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS STATE'S  
5 EXHIBIT NO. 10, DO YOU RECOGNIZE THIS?

6 A I DO.

7 Q WHAT IS THAT?

8 A THIS IS THE DNA PORTION OF THE EVIDENCE FROM A  
9 SEXUAL ASSAULT KIT. AND WHAT YOU SEE HERE IS A HEAT  
10 SEALED POUCH AND THIS IS CREATED WHEN EVIDENCE COMES INTO  
11 SLED, SIMPLY TO PACKAGE IT FOR TRANSPORT FROM ONE  
12 DEPARTMENT TO ANOTHER. AT THIS POINT IN TIME, THIS WAS  
13 HOW WE LABELED -- OUR COMPUTER SYSTEM GENERATED THIS  
14 LABEL. THIS IS THE SLED LABORATORY NUMBER L041807. AND  
15 AT THE TIME, AGAIN, ALSO WE USED WHAT WE CALLED AN "E"  
16 NUMBER TO DESIGNATE THIS SPECIFIC POUCH AND ITS CONTENTS.

17 AND IT COMES TO ME -- WELL, THE INITIAL -- THE  
18 INITIAL SUBMITTING OFFICER OBSERVES OUR EVIDENCE  
19 TECHNICIAN PLACING THIS INTO THE HEAT SEALED POUCH AND  
20 SEALING IT. AND THEN HE MUST INITIAL THAT HE IS AWARE OF  
21 WHAT IS IN THIS AND THAT IT WAS PROPERLY SEALED.

22 THEN OUR TECHNICIAN, IN STABILIZING THE KIT, OPENED  
23 IT HERE. AND, AGAIN, THE ENTIRE PURPOSE OF THE WAY THIS  
24 WORKS IS SO THAT I CAN SEE EXACTLY HOW MANY TIMES IT HAS  
25 BEEN GONE INTO AND IF THAT MAKES SENSE WHEN I -- WHEN I

1 GET THE EVIDENCE AND START MY ANALYSIS.

2 AND I SEE OUR TECHNICIAN'S INITIALS AND THE DATE  
3 THAT SHE OPENED THIS POUCH, STABILIZED THE BLOOD, THEN  
4 REPLACED IT AND PUT IT BACK IN THE POUCH.

5 AND THEN OVER HERE ARE TWO CUTS ALONG THIS SIDE --  
6 THIS SIDE WHERE I ACCESSED THE EVIDENCE MYSELF AND THOSE  
7 ARE MY INITIALS AND THE DATES THAT I ACCESSED IT.

8 AND I RECOGNIZE THIS. THE CASE NUMBER IS WRITTEN  
9 ON THE INSIDE ENVELOPE. AND THERE WAS A SEAL THAT WAS  
10 BROKEN BY OUR TECHNICIAN IN ORDER TO ACCESS THE BLOOD.  
11 AGAIN, WHEN I RECEIVED IT, EVERYTHING APPEARED TO BE  
12 COMPLETELY NORMAL.

13 MS. HERRING-LASH: YOUR HONOR, AT THIS TIME, THE  
14 STATE WOULD OFFER INTO EVIDENCE WHAT HAS BEEN PREVIOUSLY  
15 MARKED AS STATE'S EXHIBIT NO. 10.

16 MR. DAVIS: NO OBJECTION, YOUR HONOR.

17 THE COURT: ALL RIGHT. IT'S ADMITTED.

18 (STATE'S EXHIBIT NO. 10 RECEIVED INTO EVIDENCE.)

19 BY MS. HERRING-LASH:

20 Q I SHOW YOU, MS. TAYLOR, WHAT HAS BEEN PREVIOUSLY  
21 MARKED AS STATE'S EXHIBIT NO. 9; AND WHAT IS THAT?

22 A THE SEXUAL ASSAULT KIT -- THE ENTIRE PURPOSE OF  
23 THE KIT ITSELF IS TO STANDARDIZE THE COLLECTION OF SEXUAL  
24 ASSAULT EVIDENCE, SO THAT NO MATTER WHETHER I GET A KIT  
25 FROM GREENVILLE OR CHARLESTON OR CONWAY, OR WHEREVER IT



1 COMES FROM, THEY USE OUR KIT. AND THIS IS PART OF IT.  
2 THIS IS PROVIDED WITHIN A KIT. IT'S A BAG FOR THE PANTIES  
3 THAT THE VICTIM HAD ON AND IT IS LABELED UNDERWEAR. THIS  
4 ONE IS LABELED WITH **MINOR** **[REDACTED]** NAME, DR. SCHUH'S  
5 NAME.

6 AND, AGAIN, IT WAS ALSO SEALED ON INITIAL INTAKE AT  
7 SLED. AND THESE VARIOUS CUTS REPRESENT ACCESS TO THE  
8 EVIDENCE DURING THE TIME THAT IT WAS --

9 Q LIKE, I GUESS, THE FIRST IS CH, WOULD THAT HAVE  
10 BEEN -- I THINK YOU SAID A WHILE AGO -- CHARLES HARDIN  
11 DELIVERED THIS?

12 A YES.

13 Q HE WOULD HAVE --

14 A AND I FAILED TO POINT OUT ON THE PREVIOUS ONE, HE  
15 ALSO SIGNS HERE AS THE SUBMITTING OFFICER AND DATES. AND,  
16 AGAIN, YOU SEE THE CASE NUMBER THAT IS ASSOCIATED WITH  
17 THIS CASE AND A DIFFERENT E NUMBER FROM THE ONE PREVIOUSLY  
18 BECAUSE THIS IS A SEPARATE CONTAINER. IT'S A COMPUTER  
19 THING SO THAT I CAN LOOK AT AN E NUMBER OR COULD AT THIS  
20 TIME -- OUR SYSTEM HAS ACTUALLY CHANGED SINCE THEN. BUT,  
21 AGAIN, I EXAMINE IT FOR ANY POTENTIAL PROBLEMS THAT ARE  
22 OUT OF THE ORDINARY, BUT I DID NOT FIND ANYTHING OUT OF  
23 THE ORDINARY IN THIS CASE.

24 Q NOW, WHEN YOU HAD THAT -- THOSE UNDERWEAR IN YOUR  
25 POSSESSION, DID YOU MAKE CUTTINGS FROM THEM OR DID YOU --

1           A   I DID. I EXAMINED THEM AND MADE A CUTTING FROM  
2   THE CROTCH OF THE PANTIES. I DIDN'T NEED TO HAVE, FOR DNA  
3   TESTING, THE ENTIRE PAIR OF PANTIES. I'M GOING TO TARGET  
4   ANY POTENTIAL AREAS OF INTEREST. AND I MADE A CUTTING  
5   FROM THE CROTCH OF THE PANTIES TO PURSUE FURTHER TESTING  
6   ON THAT AREA.

7           Q   AND WHAT DID YOU DO WITH THE CUTTING FROM THAT  
8   AREA?

9           A   WELL, I INITIALLY PERFORMED DNA TESTING ON A SMALL  
10  PORTION OF THE CUTTING FROM THE CROTCH. AGAIN, I'M MAKING  
11  A SMALLER CUTTING AND PLACING IT INTO A TUBE AND  
12  EXTRACTING THE DNA OFF OF -- WHAT WOULD -- WHAT WOULD BE  
13  THE SUBSTRATE. THE SUBSTRATE IS THE PAIR OF PANTIES, THE  
14  CLOTH OF THE PANTIES. AND I PERFORMED DNA ANALYSIS ON  
15  THAT.

16          Q   AND, NOW, BEFORE YOU DO ANY KIND OF ANALYSIS, YOU  
17  HAVE TO HAVE, ALSO, THE SUSPECT KIT, IS THAT -- IS THAT  
18  ACCURATE?

19          A   THAT'S CORRECT.

20          Q   OKAY. I WANT TO SHOW YOU WHAT HAS BEEN PREVIOUSLY  
21  MARKED AS STATE'S EXHIBIT NO. 11, AND SEE IF YOU CAN  
22  RECOGNIZE THAT.

23          A   I EXPLAINED TO YOU A MOMENT AGO THAT THE ADULT  
24  SEXUAL ASSAULT KIT OR THE SEXUAL ASSAULT KIT IS A  
25  STANDARDIZED METHOD FOR PEOPLE TO COLLECT EVIDENCE IN CSC

ROBIN TAYLOR -- DIRECT BY MS. HERRING-LASH

330

1 OR SEXUAL ASSAULTS. THE SUSPECT KIT IS THE SAME. IT'S A  
2 SEPARATE KIT PROVIDED BY SLED, IN AN ENVELOPE, THAT ALLOWS  
3 FOR PROPER COLLECTION OF A KNOWN STANDARD AND GIVES PEOPLE  
4 A PLACE TO NOTE THE CHAIN OF CUSTODY AND IT COMES TO US  
5 SEALED.

6 AND THIS IS A SUSPECT KIT INDICATED TO ME THAT WAS  
7 COLLECTED FROM HAROLD ORR ON MARCH 7TH OF '05 AT 11:50  
8 A.M --

9 Q AND IS -- WHO IS THE PERSON THAT---

10 MR. DAVIS: OBJECTION, YOUR HONOR, HEARSAY.

11 Q WHO IS THE PERSON --

12 MR. DAVIS: TO THAT QUESTION.

13 BY MS. HERRING-LASH:

14 Q WAS IT DELIVERED TO SLED?

15 A YES, IT WAS.

16 Q AND DO YOU HAVE A CHAIN OF CUSTODY---

17 THE COURT: YOU WERE OBJECTING TO THE QUESTION SHE  
18 WAS IN THE PROCESS OF ASKING?

19 MR. DAVIS: YES, YOUR HONOR.

20 THE COURT: ALL RIGHT.

21 BY MS. HERRING-LASH:

22 Q AND DO YOU HAVE A CHAIN OF CUSTODY AS TO WHAT  
23 HAPPENED TO THE SUSPECT KIT AT SLED?

24 A YES, I DO.

25 Q AND WHEN YOU -- YOU HAVE THE KIT RIGHT THERE, IS

1 THAT -- THE ENVELOPE?

2 A I DO.

3 Q AND DO YOU SEE THAT IT HAS BEEN SEALED? THAT  
4 THERE ARE INITIALS WHERE IT WAS SEALED?

5 A YES. IT WAS SEALED WITH EVIDENCE TAPE PROVIDED  
6 WITH THE KIT.

7 Q AND WHAT WOULD HAPPEN AFTER IT WAS SEALED?

8 A THE LOCAL AGENCY WOULD TRANSPORT IT TO SLED FOR  
9 ANALYSIS.

10 Q AND WHEN THE LOCAL AGENT GETS THERE, IS THAT WHEN  
11 THEY INITIAL AND SEAL IT INTO THE -- INTO THE HEAT SEALED  
12 POUCH?

13 A YES. IT WOULD BE SEALED WITH THIS TAPE PRIOR -- I  
14 MEAN, AT COLLECTION. AND NORMAL PROCEDURE IS WHEN IT  
15 COMES INTO SLED, THIS ENVELOPE IS PLACED INTO THE HEAT  
16 SEALED POUCH AS I DESCRIBED EARLIER.

17 Q AND WAS THERE -- DID THE OFFICER WHO DELIVERED IT,  
18 INITIAL IT?

19 A THERE ARE INITIALS ACROSS THE TOP HERE WHERE IT --  
20 THE OFFICER DELIVERING IT INITIALED, YES.

21 Q AND THAT WAS -- IT WAS SEALED?

22 A YES.

23 MS. HERRING-LASH: YOUR HONOR, MAY WE APPROACH?

24 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH  
25 CONFERENCE IN THE PRESENCE OF THE JURY, BUT OUTSIDE THE

1 HEARING OF THE JURY, OFF THE RECORD.)

2 BY MS. HERRING-LASH:

3 Q AND CAN YOU TELL, BY LOOKING AT THAT, THE  
4 OFFICER'S NAME WHO DELIVERED THAT TO SLED AND INITIALED  
5 THE SEALED PACKAGE?

6 MR. DAVIS: JUDGE, I'M GOING TO OBJECT AS TO HEARSAY  
7 AND LACK OF PERSONAL KNOWLEDGE.

8 THE COURT: WELL, IT'S A YES OR NO QUESTION, SO LET'S  
9 LET HER ANSWER THAT QUESTION YES OR NO.

10 BY MS. HERRING-LASH:

11 Q IS THERE A SIGNATURE ON THERE BY AN OFFICER?

12 A YES, THERE IS.

13 Q AND CAN YOU READ THAT SIGNATURE?

14 MR. DAVIS: OBJECTION, YOUR HONOR, THAT WOULD BE  
15 HEARSAY.

16 THE COURT: YES OR NO?

17 THE WITNESS: YES, SIR. I CAN READ IT.

18 THE COURT: OVERRULED AS TO THE YES OR NO QUESTION  
19 SHE JUST ASKED.

20 BY MS. HERRING-LASH:

21 Q AND WHO IS THAT OFFICER?

22 MR. DAVIS: OBJECTION, YOUR HONOR, HEARSAY.

23 THE COURT: LET ME SEE -- LET ME SEE THE DOCUMENT,  
24 THE EXHIBIT. ALL RIGHT. LET ME SEE YOU ALL.

25 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A BENCH

1 CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE THE  
2 HEARING OF THE JURY, OFF THE RECORD.)

3 THE COURT: ALL RIGHT, LADIES AND GENTLEMEN, I'M  
4 GOING TO LET YOU STEP -- OR ASK YOU TO STEP OUT OF THE  
5 COURTROOM FOR JUST A FEW MINUTES AND I'LL HAVE YOU BACK IN  
6 HERE AS SOON AS I CAN.

7 (WHEREUPON, JURY LEFT THE COURTROOM AT 3:21 P.M.)

8 THE COURT: ALL RIGHT. THE QUESTION THAT YOU HAVE  
9 ASKED HER WILL CALL FOR HER TO SAY THAT MS. PAULSON IS THE  
10 PERSON WHO DELIVERED THAT EXHIBIT TO THE SLED LAB WHERE  
11 SHE PICKED IT UP?

12 MS. HERRING-LASH: YES, YOUR HONOR. AND SHE HAS THIS  
13 --

14 THE COURT: AND THERE IS -- THERE IS, AT THIS POINT,  
15 NO OTHER EVIDENCE THAT MS. PAULSON DID THAT?

16 MS. HERRING-LASH: THERE IS THE OTHER CHAIN AT SLED  
17 SAYING THAT MS. PAULSON --

18 THE COURT: WELL, ISN'T THAT EXHIBIT ADMITTED INTO  
19 EVIDENCE AT THIS POINT?

20 MS. HERRING-LASH: WHICH EXHIBIT?

21 THE COURT: THE ONE THAT SAYS THAT MS. PAULSON---

22 MS. HERRING-LASH: NOT AT THIS POINT.

23 THE COURT: THAT EXHIBIT HAS NOT BEEN ADMITTED?

24 MS. HERRING-LASH: NO. THE ONE THAT HAS BEEN  
25 ADMITTED, MR. HARDIN TOOK TO SLED. THE OTHER EVIDENCE

1 THAT WE HAVE ABOUT MS. PAULSON IS SHE HAS SIGNED THAT --  
2 THAT SHE TOOK IT.

3 THE COURT: ALL RIGHT. ASK HER -- ASK HER THE  
4 QUESTION THAT YOU WANT TO ASK HER. LET ME HEAR HER  
5 ANSWER.

6 BY MS. HERRING-LASH:

7 Q I'M HANDING YOU BACK WHAT HAS BEEN PREVIOUSLY  
8 MARKED AS STATE'S EXHIBIT NO. 11. CAN YOU READ THAT  
9 OFFICER'S NOTE?

10 A YES, I CAN READ IT.

11 Q AND WHAT IS IT?

12 A IT APPEARS TO BE B. PAULSON.

13 Q AND DO YOU ALSO HAVE YOUR CHAIN OF CUSTODY THAT  
14 SHOWS YOU -- THAT HAS TYPED OUT WHAT SHE DELIVERED AND  
15 WHEN? TO HELP YOU OUT, I THINK IT STARTS ON PAGE TEN OF  
16 14, IF YOU HAVE THE SAME CHAIN THAT I DO.

17 A MINE -- IT -- ONE SEALED CONTAINER FROM THE  
18 SUSPECT, RECEIVED FROM BRANDY PAULSON.

19 Q AND IT SAYS IT WAS SEALED AT THE TIME?

20 A YEAH. IT SAYS SEALED ITEM.

21 Q AND IT WAS PLACED WHERE?

22 A IT WAS PLACED INTO THE DNA BOX, WHICH WAS A SECURE  
23 CONTAINER AND EVIDENCE LOG-IN AT THE TIME THAT THIS CASE  
24 CAME IN.

25 Q AND THEN, WHAT HAPPENED TO IT AFTER THAT?

1       A IT WAS PICKED UP FROM THIS BOX, WHICH AGAIN, IS A  
2 SECURE ---

3       THE COURT: I DON'T -- I'M SORRY FOR INTERRUPTING  
4 YOU, BUT -- AND I HOPE I'M NOT MISSING SOMETHING. BUT I  
5 HAVEN'T HEARD HER TESTIFY AS TO ANY OUT OF COURT  
6 STATEMENTS SO FAR.

7       MR. DAVIS: JUDGE, THE STATEMENT IS THE SIGNATURE ON  
8 THE ITEM. FOR HER TO READ THAT OFF, THAT'S READING A  
9 STATEMENT THAT HAS BEEN SIGNED -- MADE OUT OF COURT---

10       THE COURT: A SIGNATURE -- NOW, A SIGNATURE -- THE  
11 SIGNATURE ITSELF IS NOT HEARSAY. IT'S NOT A -- IT IS NOT  
12 AN ASSERTION OF FACT.

13       MR. DAVIS: I WOULD ARGUE IT IS, JUDGE. IT'S AN  
14 ASSERTION I HAD IT, I SEALED IT, BY INITIALLING IT -- BY  
15 SIGNING MY NAME, ACTUALLY, IN THIS CASE -- INITIALLING IT.  
16 IT'S ASSERTING I HELD IT, I -- I DID SOMETHING WITH THIS  
17 ITEM OF EVIDENCE AND I'M PASSING IT ALONG.

18       MS. HERRING-LASH: WELL, YOUR HONOR, WHAT I'M  
19 REFERRING TO IS SOUTH CAROLINA VS. HORTON, WHICH IS 598 SE  
20 2ND 279. AND WHEN YOU READ -- THIS CASE EXPLAINS CHAIN OF  
21 CUSTODY.

22       AND BASICALLY IT SAYS "THE COMPLETE CHAIN OF  
23 CUSTODY MUST BE ESTABLISHED AS FAR AS PRACTICAL, PLACING  
24 POSSESSION FROM THE TIME THE SPECIMEN IS GIVEN UNTIL THE  
25 FINAL CUSTODIAN. PROOF OF THE CHAIN OF CUSTODY NEED NOT



1. NEGATE ALL POSSIBILITY OF TAMPERING, BUT MUST ESTABLISH A  
2. COMPLETE CHAIN AS FAR AS PRACTICAL. IN APPLYING THIS  
3. RULE, OUR SUPREME COURT HAS FOUND EVIDENCE INADMISSIBLE  
4. ONLY WHEN THERE IS A MISSING LINK IN THE CHAIN OF  
5. POSSESSION BECAUSE THE IDENTITY OF THOSE WHO HANDLED THE  
6. SPECIMEN WAS NOT ESTABLISHED AS FAR AS PRACTICAL."

7. "ON THE OTHER HAND WHERE THE IDENTITY OF THE PERSON  
8. HANDLING THE SPECIMEN IS ESTABLISHED, THE SUPREME COURT  
9. HAS FOUND THAT THE EVIDENCE REGARDING THE CARE ONLY GOES  
10. TO THE WEIGHT OF THE SPECIMEN AS CREDIBLE EVIDENCE, AND  
11. NOT TO THE ADMISSIBILITY."

12. AND I DON'T -- I DON'T KNOW HOW THE STATE COULD  
13. EVER ESTABLISH THE LINK OR THE IDENTITY OF A PERSON IN THE  
14. CHAIN THAT -- WITHOUT SOMEONE EXPLAINING WHO THAT PERSON  
15. WAS AND WHAT THEY DID.

16. MS. PAULSON HAS RECENTLY BROKEN HER ANKLE IN  
17. SEVERAL PLACES AND IS BED RIDDEN. SHE IS AT HOME. SHE  
18. CAN'T SHOWER BY HERSELF. SHE COULD NOT -- COULD NOT BE  
19. ABLE TO GET HERE. WE WOULD HAVE TO GET A WHEELCHAIR FOR  
20. HER. I AM ---

21. THE COURT: WE'RE -- WE'RE MIXING THE ISSUE A LITTLE  
22. BIT. AND WE'LL GET AROUND TO THE QUESTION OF WHETHER IT  
23. IS COMPLETE LATER. BUT RIGHT NOW, YOU HAVE -- WHAT WAS --  
24. WHAT WAS THE EVIDENCE THAT THE -- THE EXHIBIT THAT WAS  
25. GIVEN TO MS. PAULSON?

1 MS. HERRING-LASH: THE EVIDENCE THAT SHE TOOK IT  
2 FROM, I THINK, LET ME GET THE RIGHT PIECE OF EVIDENCE --  
3 THERE IS A SLED LABORATORY SHEET THAT SHE TOOK IT TO SLED.  
4 AND THE EVIDENCE THAT SHE TOOK IT THERE, MS. TAYLOR HAS,  
5 IT SAYS ON "MARCH 18, 2005, THE FOLLOWING ITEMS RECEIVED  
6 FROM BRANDY PAULSON OF THE NORTH CHARLESTON POLICE  
7 DEPARTMENT, DEPARTMENT ITEM TWO"---

8 THE COURT: ON THE OTHER END OF IT, WHO GAVE IT TO  
9 MS. PAULSON?

10 MS. HERRING-LASH: SHE TOOK IT FROM THE, I THINK THAT  
11 SCOTT WYANT TESTIFIED THAT HE CHECKED IT IN TO NORTH  
12 CHARLESTON. AND I ASKED HIM ABOUT MS. PAULSON AND WHAT  
13 HER DUTIES WERE. AND HE EXPLAINED WHAT SHE WOULD HAVE  
14 DONE. AND SHE IS THE ONE WHO TOOK IT -- SHE JUST TOOK IT  
15 FROM THE REFRIGERATOR -- NO PERSON ACTUALLY -- SHE WAS IN  
16 CHARGE OF THE REFRIGERATOR, I THINK, IS WHAT MR. WYANT  
17 TALKED ABOUT. SHE TOOK IT FROM THE REFRIGERATOR AND  
18 CARRIED IT TO SLED.

19 NOW, I HAVE -- I CAN CALL HER AND WE CAN GO OVER  
20 THIS. SHE HAS HER DOCUMENTATION AT HOME. SHE JUST CAN'T  
21 GET HERE BECAUSE OF HER INJURY. THAT IS WHY I ASKED MR.  
22 WYANT ABOUT TURNING IT INTO HER, AND WHAT HER DUTIES WOULD  
23 HAVE BEEN AS FAR AS TAKING IT TO SLED.

24 THE COURT: OKAY. I STILL DON'T THINK THAT THERE IS  
25 ANY -- I DON'T SEE ANY HEARSAY HERE. ASK HER, AGAIN, THE

1 QUESTION -- THE ONE QUESTION THAT YOU THINK YOU'RE HAVING  
2 TROUBLE WITH AND LET'S HEAR -- LET ME HEAR HER ANSWER.

3 BY MS. HERRING-LASH:

4 Q WHO -- DO YOU HAVE INFORMATION TELLING YOU FROM  
5 YOUR OFFICIAL DOCUMENTS AT SLED, WHO DELIVERED THIS  
6 SUSPECT KIT AND WHAT CONDITION IT WAS IN?

7 A I DO. IT WAS A SEALED ITEM DELIVERED BY BRANDY  
8 PAULSON.

9 Q AND ON WHAT DAY?

10 THE COURT: ALL RIGHT.

11 Q ON WHAT DAY?

12 A MARCH 18, 2005.

13 THE COURT: LET ME SEE IT AGAIN, PLEASE. LET ME SEE  
14 THE EXHIBIT.

15 MS. HERRING-LASH: WELL, THERE ARE TWO.

16 THE COURT: OKAY. THAT IS ONE.

17 MS. HERRING-LASH: AND THIS IS THE SLED DOCUMENT,  
18 WHICH JUST FOLLOWS THE EVIDENCE.

19 THE COURT: ARE YOU FAMILIAR WITH MS. PAULSON'S  
20 SIGNATURE?

21 THE WITNESS: NO, SIR. I SAID IT WAS LEGIBLE. I  
22 COULD READ IT.

23 THE COURT: BUT ARE YOU FAMILIAR WITH IT OTHER THAN  
24 YOUR WORK IN THIS PARTICULAR THIS CASE?

25 THE WITNESS: NO, SIR.

1 MS. HERRING-LASH: I THINK WHEN MR. WYANT WAS ON THE  
2 STAND, HE DID TESTIFY THAT BRANDY PAULSON TOOK THIS TO  
3 SLED.

4 THE COURT: SO, THE QUESTION THAT YOU'RE ASKING HER,  
5 IS WHO IS THE PERSON WHO TOOK THIS TO SLED?

6 MS. HERRING-LASH: OR IS THAT PERSON IDENTIFIED IN  
7 HER PAPER WORK, AND HOW ARE THEY IDENTIFIED, AND WHAT DOES  
8 THE PAPER WORK IDENTIFY THAT THEY TRANSPORTED.

9 I THINK, YOUR HONOR, THAT THE HORTON CASE KIND OF  
10 GOES -- PROBABLY THE SAME ISSUE.

11 THE COURT: IT DOESN'T TALK ABOUT THE HEARSAY,  
12 THOUGH.

13 MS. HERRING-LASH: NO. IT TALKS ABOUT THAT NO --  
14 THERE WAS NO TESTIMONY AS TO HOW THE PLASTIC CONTAINER --

15 THE COURT: THAT'S -- THAT'S A SEPARATE QUESTION.  
16 THAT COMES UP LATER. RIGHT NOW, THE OBJECTION IS HEARSAY  
17 AS TO THE QUESTION.

18 NOW, WHO -- WHO HAS TESTIFIED AS TO WHAT IT IS --  
19 WHAT IT MEANS THAT MS. PAULSON SIGNED THE -- THE EVIDENCE  
20 BAG THERE?

21 MS. HERRING-LASH: I THINK MS. TAYLOR DID. THAT WHEN  
22 IT WAS -- I THINK SHE TESTIFIED THAT WHEN THIS SIGNATURE  
23 WAS HERE ON 3/18/05, IT WAS SEALED. MR. WYANT TESTIFIED  
24 THAT BRANDY PAULSON CARRIED IT TO SLED. I THINK -- MR.  
25 DAVIS, I THINK, THEN ASKED HIM, BUT YOU DON'T KNOW WHAT

1 SHE DID WITH IT OR HOW SHE GOT IT THERE. SO, I HAD ASKED  
2 HIM, WHEN HE WAS LOOKING AT HIS PAPER WORK, IF BRANDY  
3 PAULSON WAS THE ONE WHO--TURNED IT INTO HIM, AND WHAT SHE  
4 WOULD HAVE DONE. AND HE HAD THE FORM WHERE BRANDY PAULSON  
5 TAKES IT TO SLED.

6 THE COURT: SO, YOUR POSITION IS THAT -- THAT -- THE  
7 WRITING ON THE EXTERIOR OF THAT EVIDENCE BAG IS A  
8 STATEMENT THAT -- THAT SAYS, I SEALED THIS AND I DELIVERED  
9 IT TO SLED?

10 MR. DAVIS: YES, YOUR HONOR.

11 THE COURT: AND DO YOU AGREE WITH THAT?

12 MS. HERRING-LASH: NO, YOUR HONOR.

13 THE COURT: WELL, WHAT IS -- WHAT IS THE SIGNIFICANCE  
14 OF THE WRITING THEN?

15 MS. HERRING-LASH: THE SIGNIFICANCE OF IT IS JUST TO  
16 SHOW THAT IT HAS BEEN SEALED, THAT THIS ITEM WAS SEALED.  
17 AND WE -- WRITING THE DATE ACROSS IT JUST HELPS TO SHOW  
18 THAT THIS IS THE DAY THAT IT WAS SEALED. I -- I THINK IT  
19 ALL -- AND I KNOW THAT I'M GOING TO GET BACK TO THE OTHER  
20 ISSUE -- BUT MY THINKING IS IN ALL CASES WHERE THERE IS  
21 SOMEONE IN THE CHAIN THAT IS NOT ABLE TO BE AVAILABLE,  
22 SOMEBODY IS ALWAYS REQUIRED TO LOOK AT THE CHAIN OF  
23 CUSTODY, AND IDENTIFY WHO THAT PERSON WAS AND WHAT THEY  
24 DID FROM -- FROM THE BUSINESS RECORDS OF WHATEVER AGENCY,  
25 IF THAT WERE NOT THE CASE, THEN THERE WAS NEVER -- WE --

1 EVIDENCE COULD NEVER BE ADMITTED UNLESS THERE WAS A  
2 COMPLETE CHAIN IN EVERY CASE, AND WE KNOW THAT THAT IS NOT  
3 THE LAW.

4 MR. DAVIS: JUDGE, RESPECTFULLY, THERE IS ANOTHER  
5 WAY.

6 THE COURT: WELL, I MEAN, THIS IS NOT A CHAIN OF  
7 CUSTODY QUESTION.

8 MR. DAVIS: NOT YET.

9 THE COURT: THIS IS A HEARSAY QUESTION.

10 MR. DAVIS: EXACTLY.

11 MS. HERRING-LASH: BUT IF -- IF---

12 THE COURT: BUT IT'S IMPORTANT TO UNDERSTAND THE  
13 CONTEXT IN WHICH THE SIGNATURE WAS PLACED ON THE BAG, AND  
14 THE INITIALS AND THE DATE WERE PLACED ON THE BAG. AND IF  
15 SOMEBODY EXPLAINS OR HAS EXPLAINED THAT -- THAT THIS IS  
16 THE PROCEDURE THAT IS FOLLOWED TO -- TO PLACE THAT  
17 SIGNATURE -- SIGNATURE ON A BAG AND INITIALS OVER A SEAL  
18 TO INDICATE WHO MADE THE SEAL, WHEN THE SEAL WAS MADE, AND  
19 -- I'M ASSUMING THAT YOU -- IF YOU HAD THE SIGNATURE ON  
20 THE BAG AND THE SEAL WAS PLACED ON LATER, IT WOULD DEFACE  
21 THE SIGNATURE OR DEFACE THE INITIALS. THAT'S THE REASON  
22 IT IS DONE THAT WAY.

23 THAT PROCEDURE BEING EXPLAINED, UM, THEN TURNS THE  
24 -- TO ME, IT TAKES THE -- THE SIGNATURE IS NOT SO MUCH A  
25 STATEMENT, "I DID THIS", AS IT IS A, UM -- AN EVENT THAT

1 SHE CAN LOOK AT, AND SHE CAN SAY THE PERSON WHO DID THIS  
2 SIGNED, BECAUSE THIS IS OUR -- THIS IS OUR PROCEDURE.

3 AND I DON'T THINK -- I DON'T THINK THAT THERE IS,  
4 THEREFORE, AN OUT OF COURT STATEMENT OFFERED TO PROVE ITS  
5 TRUTH. IT IS AN OUT OF COURT ACT THAT IS TESTIFIED TO AND  
6 EXPLAINED BY SEVERAL DIFFERENT WITNESSES, INCLUDING THE  
7 WITNESS WHO GAVE THE PACKAGE TO MS. PAULSON AND INCLUDING  
8 THE WITNESS WHO RECEIVED IT AND OPENED IT.

9 SO, IN MY OPINION, THE -- THE SEQUENCE OF EVENTS  
10 THAT WE ARE DISCUSSING IS NOT HEARSAY. AND, SO, THE  
11 HEARSAY OBJECTION IS OVERRULED.

12 MR. DAVIS: JUDGE, I -- JUST SUGGEST ON THAT, A  
13 STATEMENT, ORAL OR WRITTEN ASSERTION -- AND WE WOULD  
14 ARGUE, OF COURSE, THAT THEY ARE ASSERTING THAT ON A  
15 PARTICULAR DATE, I SIGNED THIS -- IT'S NOT SIMPLY EVIDENCE  
16 OF -- IF THE TRUTH OF THE DATE AND THE SEALING ARE NOT  
17 IMPORTANT, THEY WOULDN'T DO IT. THE -- THE ASSERTION THAT  
18 I DID IT ON -- I SEALED IT ON THAT DATE, THEREFORE, IT'S  
19 UNTAMPERED WITH, THAT WRITTEN ASSERTION, WE WOULD ARGUE,  
20 MAKES IT HEARSAY. AND THEREFORE, THIS WITNESS TESTIFYING  
21 TO IT, UM, WOULD BE INAPPROPRIATE. I UNDERSTAND THE  
22 COURT'S RULING.

23 THE COURT: OKAY.

24 MR. DAVIS: I WOULD MAKE AN ALTERNATIVE ARGUMENT,  
25 THEN, THAT THIS WITNESS LACKS PERSONAL KNOWLEDGE TO

1 TESTIFY. SIMPLY BY HANDING A DOCUMENT TO HER AND HAVING  
2 HER READ THE NAME AND DATE THAT IS ON THERE, UNLESS SHE  
3 CAN SAY I HAVE PERSONAL KNOWLEDGE OF THAT SIGNATURE OR I  
4 HAVE PERSONAL KNOWLEDGE BECAUSE I SAW THIS INDIVIDUAL DO  
5 THAT, THEN -- THEN IT IS A -- IT'S TESTIMONY THAT SHE  
6 SHOULD NOT BE ALLOWED TO MAKE BECAUSE SHE LACKS PERSONAL  
7 KNOWLEDGE OF THAT EVENT.

8 THE COURT: OKAY.

9 MS. HERRING-LASH: AND I THINK HER EXPLANATION, YOUR  
10 HONOR, AS TO WHY IT'S DONE, IT -- SLED HAS ALWAYS, UP TO  
11 THIS POINT, RELIED ON THIS SIGNATURE WITH A SEAL THROUGH  
12 IT, TO SHOW THEM WHEN THEY RECEIVE EVIDENCE, THAT IN FACT,  
13 IT WAS SEALED WHEN THE PERSON BROUGHT IT AND IT HAS NOT  
14 BEEN TAMPERED WITH. THAT HAS BEEN THEIR PROCEDURE FOR IT.

15 MR. DAVIS: JUDGE, THAT'S OBSERVATIONS. SHE CAN SAY  
16 WHEN I GOT IT, IT WAS IN FACT, SEALED. THERE WAS NO  
17 OPENINGS IN IT, NO PUNCTURES IN IT, NO BROKEN SEAL. I  
18 MEAN, THOSE ARE OBSERVATIONS. BUT AS TO WHO DID WHAT  
19 WHEN, WHO SEALED IT WHEN, WHO AND WHEN, SHE WOULD LACK  
20 PERSONAL KNOWLEDGE AT THIS POINT. NOW, IF THERE IS  
21 FURTHER TESTIMONY, SO BE IT. BUT AT THIS POINT, SHE WOULD  
22 LACK PERSONAL KNOWLEDGE TO TESTIFY ABOUT IT.

23 THE COURT: SHE -- SHE CAN TESTIFY, I THINK, BASED ON  
24 HER PERSONAL KNOWLEDGE AS TO WHAT SHE SEES ON THAT PAGE  
25 AND WHAT SHE SEES ON THAT -- ON THAT EVIDENCE BAG. BUT I



1 DON'T -- I DON'T -- IF YOU'RE GOING TO ASK HER -- IF  
2 YOU'RE GOING TO HAND IT TO HER AND SAY, TELL ME WHAT  
3 HAPPENED. AND SHE'S GOING TO SAY, WELL, MS. PAULSON  
4 RECEIVED THIS BAG OUT OF THE EVIDENCE LOCKER, AND SHE  
5 SEALED IT AND SIGNED IT AND BROUGHT IT TO THE SLED LAB.  
6 WELL, THAT'S -- THAT'S -- THAT WOULD GO BEYOND HER OWN  
7 PERSONAL KNOWLEDGE. SHE CAN TESTIFY AS TO WHAT SHE SEES  
8 AND UNDERSTANDS FROM THE SURFACE OF THAT EVIDENCE BAG.

9 MS. HERRING-LASH: AND I THINK THAT'S WHAT I ASKED  
10 HER, IF SHE SEES A SIGNATURE AND WHEN IT WAS DELIVERED,  
11 AND IF IT WAS THE SEALING OFFICER AND WAS THE -- SEALED ON  
12 WHAT DATE. AND THEN WHAT HAPPENED WITH IT AT SLED AFTER  
13 THAT. I THINK THAT'S ALL THAT I'VE ASKED HER.

14 THE COURT: ALL RIGHT. I'M READY FOR THE JURY.  
15 WE'RE GOING TO TAKE A SHORT BREAK OF ABOUT THREE MINUTES  
16 AND THEN WE'LL COME BACK.

17 (WHEREUPON, COURT RECESSED AT 3:43 P.M.)

18 (WHEREUPON, COURT RESUMED AT 3:46 P.M.)

19 THE COURT: ALL RIGHT.

20 MS. HERRING-LASH: YOUR HONOR?

21 THE COURT: YES, MA'AM.

22 MS. HERRING-LASH: PERHAPS I SHOULD LEAVE WELL ENOUGH  
23 ALONE BUT ---

24 THE COURT: MA'AM?

25 MS. HERRING-LASH: PERHAPS I SHOULD LEAVE WELL ENOUGH

1 ALONE, BUT I DID WANT TO READ SOMETHING THAT I THOUGHT  
2 WOULD -- I THINK THAT AS FAR AS THE HEARSAY, THAT THIS  
3 WOULD BE A HEARSAY EXCEPTION BECAUSE IT'S RECORDED ON  
4 REGULAR CONDUCTED ACTIVITY AT SLED. THEY HAVE BEEN DOING  
5 THIS FORM AND THIS IS HOW THEY RECORD IT. AND SHE IS  
6 SOMEONE THAT ---

7 THE COURT: WELL, THAT -- THAT MAY BE TRUE, BUT YOU  
8 -- AND I'M NOT SAYING WHETHER I WILL RULE ONE WAY OR THE  
9 OTHER, BUT YOU DO HAVE A LITTLE ADDITIONAL FOUNDATION TO  
10 LAY BEFORE YOU PROFFER IT UNDER 803-6, WHICH I ASSUME YOU  
11 WILL NOW UNDERTAKE TO LAY?

12 MS. HERRING-LASH: I WILL.

13 THE COURT: ALL RIGHT. BRING THE JURY IN.

14 (WHEREUPON, JURY ENTERED THE COURTROOM AT 3:46 P.M.)

15 BY MS. HERRING-LASH:

16 Q MS. TAYLOR, WE WERE TALKING ABOUT THIS -- FIRST  
17 LET'S START WITH THIS DOCUMENT. AND IS THIS A -- A SHEET  
18 OR A PLASTIC BAG, I GUESS, THAT SLED USES?

19 A YES. I RECEIVE MOST ALL OF MY EVIDENCE IN -- IN  
20 THOSE TYPE BAGS.

21 Q AND ALSO ON THE COVER IS A SOUTH CAROLINA LAW  
22 ENFORCEMENT DIVISION EVIDENCE STICKER? IS THAT WHAT YOU  
23 WOULD CALL IT?

24 A IT'S A PRE-PRINTED LABEL THAT'S ON THESE BAGS.

25 Q AND DOES SLED USE THAT TO PREVENT OR TO HELP YOU

1 KEEP UP WITH WHETHER EVIDENCE HAS BEEN TAMPERED WITH AS  
2 FAR AS THE HEAT SEALINGS?

3 A YES, WE DO.

4 Q AND ARE THERE -- WHEN A RESPONDING OFFICER COMES,  
5 DO THEY INITIAL WHEN A BAG IS SEALED?

6 A YES. THAT IS THE PROCEDURE WHEN SUBMITTING  
7 EVIDENCE AT SLED, TO PLACE IT INTO THE BAG AND INITIAL THE  
8 SEAL.

9 Q AND DO THEY INITIAL ACROSS WHERE THE SEAL IS?

10 A YES. IN FACT, WE DO THE SAME WHEN WE GO INTO IT.  
11 YOU SEAL -- I MEAN, YOU INITIAL AND THEY -- ACROSS THE  
12 SEAL.

13 Q AND WHAT IS THE PURPOSE OF INITIALING ACROSS THAT  
14 SEAL?

15 A SO THAT IF SOMEONE WERE TO TRY TO SLICE INTO THAT  
16 BAG AT THAT SEAL, IT WOULD BE VERY DIFFICULT TO COMPLETELY  
17 MATCH IT AND THEIR INITIALS WOULD BE BROKEN.

18 Q SO, WHEN YOU LOOK AT A PIECE OF EVIDENCE THAT YOU  
19 GET, YOU LOOK TO SEE IF THE INITIALS ARE THERE?

20 A YES.

21 Q AND IF IT'S STILL SEALED -- DO YOU ALSO LOOK TO  
22 COMPARE THE INITIALS WITH THE NAME OF THE PERSON WHO HAS  
23 ADMITTED THE EVIDENCE, OR THE SEALING OFFICER, I GUESS I  
24 SHOULD SAY?

25 A YES, I DO. THAT BAG HAS BOTH THE SIGNATURE AND

1 INITIALS. PLUS I HAVE ADDITIONAL PAPER WORK THAT  
2 INDICATES THE SUBMITTING OFFICER AS WELL.

3 Q AND -- WE'LL GET TO THAT PAPER WORK IN A MOMENT.  
4 BUT YOU -- WHEN YOU GET THE EVIDENCE, YOU USE BOTH OF  
5 THOSE TWO -- THE SEAL, THE INITIALS, AND THE SIGNATURE TO  
6 SHOW YOU THAT THIS PERSON SIGNED IT AND THAT'S THEIR  
7 INITIALS?

8 A YES.

9 Q AND THAT SHOWS YOU THAT NO ONE HAS TAMPERED WITH  
10 THAT SINCE IT WAS SEALED?

11 A THAT, AND THE LACK OF ANY OTHER APPARENT OPENINGS  
12 IN THE BAG.

13 Q NOW, YOU HAVE OTHER PAPER WORK THAT IS KEPT IN  
14 OR -- IS RECORDS THAT ARE KEPT BY SLED TO SHOW HOW  
15 EVIDENCE ARRIVED AND TRAVELED THROUGH SLED, IS THAT TRUE?

16 A YES, WE DO.

17 Q AND IS THAT SOMETHING THAT IS REGULARLY KEPT IN  
18 YOUR BUSINESS ACTIVITIES AT SLED?

19 A YES. EVIDENCE DOES NOT CHANGE HANDS WITHOUT THE  
20 NOTATION IN OUR COMPUTER SYSTEM OF THAT EVENT.

21 Q AND DO YOU USE THOSE REPORTS TO HELP YOU KEEP  
22 TRACK OF EVIDENCE THAT IS THERE?

23 A YES, I DO.

24 Q AND DO YOU DO THAT IN THE REGULAR COURSE OF YOUR  
25 BUSINESS ACTIVITY?

1           A   YES.

2           Q   AND DO YOU HAVE THE REPORTS THAT ARE PRODUCED BY  
3   SLED WITH YOU ON THIS PIECE OF EVIDENCE THAT WE ARE  
4   TALKING ABOUT?

5           A   I DO.  I HAVE AN OFFICIAL CHAIN OF CUSTODY  
6   GENERATED -- MAINTAINED AND GENERATED BY OUR COMPUTER  
7   SYSTEM.

8           Q   AND YOU ALSO HAVE THE, I GUESS, THE SLED LAW  
9   ENFORCEMENT INVENTORY SHEET WHERE -- THAT IS KEPT TO SHOW  
10  WHO BRINGS THE EVIDENCE?

11          A   YES.

12          Q   YOURS IS THE YELLOW FORM?

13          A   IT WAS AT THE TIME.

14          Q   AND BOTH OF THESE FORMS YOU USE TO IDENTIFY  
15  EVIDENCE TRAVELING THROUGH AND ARRIVING AT SLED?

16          A   THAT'S CORRECT.

17          Q   AND STARTING WITH THE SEALED ENVELOPE THAT YOU  
18  HAVE, IS THE SEALING OFFICER'S SIGNATURE ON THERE?

19          A   ARE YOU REFERRING TO THIS ITEM?

20          Q   YES.

21          A   YES.  THERE APPEARS TO BE A SIGNATURE.

22          Q   AND WHAT IS THAT?

23          A   IT READS "B. PAULSON".

24          Q   AND WHAT ---

25          MR. DAVIS:  THE SAME OBJECTION, YOUR HONOR.

1 THE COURT: OVERRULED.

2 MR. DAVIS: THANK YOU.

3 BY MS. HERRING-LASH:

4 Q AND THE SEALED SIGNATURE, DOES THAT -- DOES --  
5 INITIALS MATCH THAT SIGNATURE?

6 A THE INITIALS ACROSS THE SEAL APPEAR TO BE "BCP" OR  
7 "BLP", I'M NOT TOTALLY SURE ABOUT THAT -- AND THEN THE  
8 DATE, 3/18/05.

9 Q NOW, CAN YOU ALSO REFER TO THE DOCUMENT THAT --  
10 THAT SLED PRODUCES, YOUR SOUTH CAROLINA EVIDENCE, I GUESS,  
11 CHAIN OF CUSTODY FORM?

12 A YES.

13 Q AND DOES IT SAY ON THERE -- AND YOU USE THIS FORM  
14 EVERY DAY, I GUESS, OF YOUR -- LOOKING FOR EVIDENCE, WHERE  
15 IT IS---

16 A WE DO TO REFER TO WHERE EVIDENCE MIGHT HAVE BEEN  
17 PRIOR TO OUR HANDLING, AND JUST TO MAKE SURE EVERYTHING IS  
18 IN ORDER.

19 Q AND HOW IT GOT THERE?

20 A CORRECT.

21 Q AND DO YOU HAVE YOUR -- YOUR CHAIN OF CUSTODY  
22 FORM ON THIS PIECE OF EVIDENCE, THE SUSPECT?

23 A I DO. ITEM 2. ONE SEALED ITEM CONTAINING THE  
24 SUSPECT KIT.

25 Q AND WHEN WAS THAT DELIVERED TO SLED AND BY WHO?

1 MR. DAVIS: THE SAME OBJECTION, YOUR HONOR.

2 THE COURT: OVERRULED.

3 BY MS. HERRING-LASH:

4 Q OKAY.

5 A IT'S INDICATED THAT IT WAS RECEIVED MARCH 18,  
6 2005.

7 Q AND FROM THAT, YOU WOULD HAVE THEN RECEIVED THIS  
8 EVIDENCE YOURSELF TO DO SOME ANALYSIS WITH?

9 A CORRECT. IT WAS TRANSPORTED, AGAIN, TO MY SECURE  
10 AREA.

11 Q AND THE PERSON WHO TRANSPORTED IT THERE, WHERE  
12 WOULD THEY -- WHERE DID THEY PUT IT?

13 A IT -- WE HAVE A SECURE REFRIGERATOR LOCATED IN THE  
14 DNA DEPARTMENT. AND EACH ANALYST HAS THEIR OWN AREA OF  
15 THAT REFRIGERATOR. AND WHEN YOU'RE READY TO START WORKING  
16 ON A CASE OR TO TAKE CUSTODY OF EVIDENCE, YOU JUST GO INTO  
17 THAT REFRIGERATOR AND ACTUALLY DO THAT. AND THEN MOVE IT  
18 INTO ANOTHER BOX THAT IS MINE ALONE WHERE I -- I STORE MY  
19 EVIDENCE.

20 Q AND DO YOU KNOW MS. STUTS?

21 A THAT IS STEPHANIE STUTS. IN FACT, SHE IS NOW  
22 STEPHANIE STANLEY. SHE'S GOTTEN MARRIED. AT THE TIME, SHE  
23 WAS A TECHNICIAN IN OUR DNA LABORATORY.

24 Q AND SHE PUT THIS IN THE DNA REFRIGERATOR?

25 MR. DAVIS: THE SAME OBJECTION, YOUR HONOR. SHE

1 LACKS PERSONAL KNOWLEDGE WITHOUT A FOUNDATION.

2 THE COURT: NOW, YOU'RE INTO A DIFFERENT -- A  
3 DIFFERENT SERIES OF EVENTS, CORRECT?

4 MS. HERRING-LASH: YES, YOUR HONOR.

5 THE COURT: THEN I DON'T KNOW WHAT DOCUMENT YOU ARE  
6 REFERRING TO OR SHE IS.

7 MS. HERRING-LASH: SHE IS REFERRING TO THE SAME  
8 DOCUMENT THAT WE WERE JUST TALKING ABOUT, JUST THE NEXT  
9 LINE, THE SOUTH CAROLINA STATE LAW ENFORCEMENT OFFICIAL  
10 CHAIN OF CUSTODY DOCUMENT THAT SHE GOES BY TO SHOW WHERE  
11 HER EVIDENCE IS. IT'S THE SAME DOCUMENT WE WERE JUST  
12 TALKING ABOUT.

13 THE COURT: LET ME SEE IT PLEASE. ALL RIGHT. NOW,  
14 THE OBJECTION AS TO HEARSAY, THEN, -- THIS IS -- THIS IS A  
15 DIFFERENT SITUATION THAN THE ONE WE WERE DISCUSSING  
16 BEFORE.

17 MS. HERRING-LASH: YES.

18 THE COURT: YOU -- YOU -- ALL RIGHT. IT IS HEARSAY,  
19 THIS STATEMENT. YOU'RE OFFERING IT UNDER 803-6?

20 MS. HERRING-LASH: YES, YOUR HONOR.

21 THE COURT: ALL RIGHT. ANY RESPONSE TO THAT?

22 MR. DAVIS: JUDGE, I'M NOT SURE THE FOUNDATION IS ---

23 THE COURT: LET'S -- I'M GOING TO TAKE ANOTHER SHORT  
24 BREAK, AND I'M GOING TO ASK YOU FOLKS TO STEP BACK INTO  
25 THE JURY ROOM FOR JUST A MOMENT.



1 (WHEREUPON, JURY LEFT THE COURTROOM AT 3:56 P.M.)

2 THE COURT: OKAY. NOW, TELL ME WHAT IT IS THAT YOU  
3 BELIEVE IS LACKING IN THE FOUNDATION TO HAVE THIS  
4 STATEMENT -- SO, HERE'S -- HERE'S -- TO SORT OF BRING THE  
5 ISSUE -- YOU'RE NOT OFFERING THE DOCUMENT INTO EVIDENCE,  
6 AT LEAST NOT AT THIS POINT?

7 MS. HERRING-LASH: NO.

8 THE COURT: SHE IS TESTIFYING BASED ON WHAT SHE SEES  
9 IN THE DOCUMENT. SO, IF IT IS A HEARSAY DOCUMENT THAT IS  
10 INADMISSIBLE -- THAT IS INADMISSIBLE, THEN SHE WOULD NOT  
11 BE ABLE TO TESTIFY AS TO WHAT SHE SEES. BUT IF THE -- IF  
12 THE STATEMENT IS EITHER NOT HEARSAY, OR IF THE STATEMENT  
13 FITS INTO SOME HEARSAY EXCEPTION, THEN THERE WOULD BE NO  
14 -- THEN YOUR OBJECTION AS TO HER TESTIMONY WOULD BE  
15 OVERRULED.

16 SO, THE STATE'S RESPONSE TO YOUR OBJECTION IS, THIS  
17 STATEMENT THAT FORMS THE BASIS OF HER TESTIMONY, IS  
18 ADMISSIBLE UNDER RULE 803-6, WHICH IS THE BUSINESS RECORDS  
19 EXCEPTION. AND SO MY QUESTION TO YOU IS, WHAT IS THE  
20 ELEMENT OF THE FOUNDATION FOR THE ADMISSION OF THIS  
21 STATEMENT UNDER RULE 803-6 THAT YOU BELIEVE IS LACKING?  
22 SHE HAS TESTIFIED -- THIS WITNESS HAS TESTIFIED ABOUT THE  
23 GENERAL PROCEDURES AND PREPARATION OF THE DOCUMENT. SHE  
24 HAS BASICALLY TESTIFIED THAT IT IS THE PROCEDURES OF SLED  
25 THAT THIS DOCUMENT BE PREPARED AT OR ABOUT THE TIME THAT

1 THE EVENT OCCURS. SHE HAS TESTIFIED AS TO WHO -- WHO DOES  
2 IT. IT IS -- IT'S AN EMPLOYEE WITHOUT REFERRING  
3 SPECIFICALLY TO THAT NAME. SHE HAS TESTIFIED THAT IT IS  
4 DONE BY A PERSON WHO WORKS IN THE LAB AT SLED, WHOSE  
5 RESPONSIBILITIES INCLUDE THE PREPARATION OF THIS DOCUMENT.  
6 SHE HAS TESTIFIED THAT THIS IS THE REGULAR COURSE OF  
7 BUSINESS FOR SLED AND THE LAB AT SLED TO PREPARE THESE  
8 DOCUMENTS. SHE HAS TESTIFIED THAT MS. STUTS HERE HAS THE  
9 RESPONSIBILITY FOR DOING THIS. AND THAT -- AND THE ONLY  
10 REMAINING ELEMENT THEN WOULD BE WHETHER OR NOT I FIND IT  
11 TO BE A TRUSTWORTHY---

12 MR. DAVIS: JUDGE---

13 THE COURT: A TRUSTWORTHY -- WHETHER I FIND ANYTHING  
14 THAT LACKS TRUSTWORTHINESS IN IT.

15 MR. DAVIS: AND I'LL MAKE IT VERY CLEAR. THIS IS A  
16 CONTINUATION OF THE SAME DOCUMENT THAT SHE TESTIFIED ALL  
17 THAT TO -- I CANNOT GIVE YOU AN ELEMENT -- FORGIVE ME ---

18 THE COURT: THAT'S OKAY. THAT'S FINE. ALL RIGHT. I  
19 THINK THE FOUNDATION HAS BEEN LAID. AND THAT HER -- HER  
20 TESTIMONY ABOUT WHAT MS. SHUTS OR HER -- WHATEVER HER NEW  
21 NAME IS -- STUTS -- OR HER KNEW NAME.

22 MR. DAVIS: SO, IT'LL SIMPLY BE A RENEWAL OF THE OLD  
23 OBJECTION. I SIMPLY THOUGHT WE WERE MOVING ON TO A  
24 DIFFERENT DOCUMENT. I APOLOGIZE, YOUR HONOR.

25 MS. HERRING-LASH: IT IS THE SAME DOCUMENT, YOUR

ROBIN TAYLOR -- DIRECT BY MS. HERRING-LASH

354

1 HONOR, ---

2 THE COURT: IT'S THE SAME DOCUMENT. ALL RIGHT. BUT,  
3 NOW, WHEN WE WERE DEALING WITH MS. PAULSON, WE WERE  
4 TALKING -- AT LEAST PRIMARILY, WE WERE TALKING ABOUT THE  
5 SIGNATURES AND THE NOTATIONS THAT WERE MADE ON THE  
6 EVIDENCE BAG. NOW -- AND THAT WAS THE BASIS OF WHAT SHE  
7 WAS SAYING MS. PAULSON DID.

8 NOW, SHE DOESN'T -- SHE'S NOT AS FAMILIAR WITH THE  
9 DUTIES OF MS. PAULSON BECAUSE MS. PAULSON WORKS FOR THE  
10 NORTH CHARLESTON POLICE DEPARTMENT, RIGHT?

11 MS. HERRING-LASH: YES, YOUR HONOR.

12 THE COURT: SO -- SO, WHAT SHE WAS SAYING ABOUT MS.  
13 PAULSON IS DIFFERENT IN -- IN ITS EVIDENTIARY CHARACTER  
14 FROM WHAT MS. STUTS DID OR DIDN'T DO. MS. STUTS DOES WORK  
15 FOR DHEC, CORRECT? 1

16 MS. HERRING-LASH: SLED.

17 THE COURT: I'M SORRY. SLED, CORRECT?

18 THE WITNESS: YES.

19 THE COURT: OKAY. I'M SORRY IF I DEMOTED YOU FROM  
20 SLED TO DHEC.

21 THE WITNESS: NO. I THINK THEY PAY BETTER.

22 THE COURT: ALL RIGHT. SO, I OVERRULE THE OBJECTION.  
23 BRING IN THE JURY.

24 MR. DAVIS: THANK YOU, YOUR HONOR.

25 (WHEREUPON, JURY ENTERED THE COURTROOM AT 4:01

1 P.M.)

2 MS. HERRING-LASH: YOUR HONOR.

3 THE COURT: OKAY.

4 BY MS. HERRING-LASH:

5 Q MS. TAYLOR, WE WERE TALKING ABOUT WHAT HAPPENED  
6 WITH THE SUSPECT KIT AFTER IT GOT TO THE STATE -- SOUTH  
7 CAROLINA STATE LAW ENFORCEMENT DIVISION. AND YOU WERE  
8 SAYING THAT ACCORDING TO YOUR OFFICIAL DOCUMENTATION THAT  
9 MS. STEPHANIE -- AND WHAT IS HER NEW NAME?

10 A STANLEY.

11 Q STANLEY, WOULD HAVE PLACED IT IN A DNA  
12 REFRIGERATOR?

13 A THAT IS CORRECT.

14 Q WOULD SHE HAVE HAD ANY -- WOULD SHE HAVE PERFORMED  
15 ANY ANALYSIS?

16 A NO.

17 Q AND FROM THAT REFRIGERATOR, YOU TOOK CUSTODY?

18 A I DID.

19 Q AND, SO, AT THIS POINT IN TIME, YOU HAVE CUSTODY  
20 NOW OF THE SUSPECT KIT, THE VICTIM KIT AND THE UNDERWEAR?

21 A THAT IS CORRECT.

22 MS. HERRING-LASH: YOUR HONOR, AT THIS TIME, WE WOULD  
23 OFFER STATE'S EXHIBIT NO. 11 INTO EVIDENCE.

24 MR. DAVIS: YOUR HONOR, CAN I HAVE JUST A MOMENT?

25 THE COURT: YES.

ROBIN TAYLOR -- DIRECT BY MS. HERRING-LASH

356

1 MR. DAVIS: YOUR HONOR, NO NEW OBJECTIONS TO THIS.

2 THE COURT: NOW, THE OBJECTIONS THAT YOU MADE BEFORE  
3 WERE NOT TO THE INTRODUCTION OF THE -- OF THE EVIDENCE, IT  
4 WAS TO THE TESTIMONY OF THE ONE WITNESS. SO, IF THERE ARE  
5 NO OBJECTIONS AT ALL TO THE INTRODUCTION OF THIS EXHIBIT  
6 -- IF YOU OBJECT TO THE INTEGRITY OF THE CHAIN OF CUSTODY,  
7 THEN I OVERRULE THAT OBJECTION.

8 MR. DAVIS: THANK YOU, YOUR HONOR.

9 (STATE'S EXHIBIT NO. 11 RECEIVED INTO EVIDENCE.)

10 BY MS. HERRING-LASH:

11 Q SO, MS. TAYLOR, AT THIS POINT IN TIME, YOU HAVE --  
12 GOING BACK TO WHEN YOU WERE DOING THIS ANALYSIS, YOU HAVE  
13 IN YOUR CUSTODY THE SUSPECT KIT, THE VICTIM KIT AND THE  
14 UNDERWEAR?

15 A THAT IS CORRECT.

16 Q AND YOU HAVE ALREADY TESTIFIED THAT YOU MADE A  
17 CUTTING OF THE UNDERWEAR?

18 A YES, I DID.

19 THE COURT: DO YOU WANT THAT OPENED?

20 MS. HERRING-LASH: YES, YOUR HONOR. YOUR HONOR, FOR  
21 THE RECORD, -- LET THE RECORD REFLECT THAT I AM NOW  
22 CUTTING OPEN A SEALED ENVELOPE THAT WAS SEALED BY SGT.  
23 WILLIAM O'BRIEN, WHO HAS PREVIOUSLY TESTIFIED. HE  
24 TESTIFIED THAT HE INITIALLED THIS BAG AND IT WAS SEALED.  
25 AND WE ARE CUTTING IT OPEN NOW SO THAT THIS WITNESS MAY

1 IDENTIFY WHAT IS INSIDE OF THIS SEALED BAG.

2 BY MS. HERRING-LASH:

3 Q BEFORE I DO THAT, MS. TAYLOR, THOUGH, DO YOU --  
4 DID YOU ALSO TAKE -- INITIAL THIS BAG WHEN IT WAS SEALED?

5 A YES, I DID.

6 Q AND WHAT DATE DID YOU INITIAL IT?

7 A JANUARY 18, 2007. AND IT LOOKS LIKE I HAD DONE  
8 THE SAME ON THE 17TH OF JANUARY 2007 WHEN I RE-OPENED AND  
9 RE-INITIALED -- RESEALED AND RE-INITIALED ON THE 18TH.

10 Q AND YOU CAN READ ON THE BACK OF THE BAG WHAT IT  
11 CONTAINS, IS THAT RIGHT?

12 A THAT -- THE INNER BAG THAT'S INSIDE IT CONTAINS  
13 CUTTING FROM PANTIES.

14 Q AND IT'S DIFFICULT, AS IT'S SEALED, TO READ  
15 EVERYTHING THAT'S IN HERE?

16 A YES.

17 MS. HERRING-LASH: LET THE -- LET THE RECORD REFLECT  
18 THAT NOW I'M CUTTING IT OPEN SO THAT SHE CAN SEE THEM.

19 BY MS. HERRING-LASH:

20 Q FIRST, I WILL SHOW YOU WHAT HAS BEEN MARKED  
21 STATE'S EXHIBIT NO. 10, AND CAN YOU IDENTIFY WHAT THAT IS?

22 A AS I'VE SAID BEFORE, I DIDN'T NEED TO ANALYZE, NOR  
23 HAVE AT MY IMMEDIATE DISPOSAL, THE ENTIRE PAIR OF PANTIES,  
24 SO I CUT A CUTTING FROM THE CROTCH OF THE PANTIES. AND I  
25 PLACED THAT CUTTING INTO THIS COIN ENVELOPE -- YOU CAN SEE

ROBIN TAYLOR -- DIRECT BY MS. HERRING-LASH

358

1 WHERE IT SAYS "SEROLOGY--SLASH--DNA". WE'VE USED THESE  
2 ENVELOPES FOR MY ENTIRE CAREER AT SLED. AND I LABELED  
3 WITH -- THIS IS MY HANDWRITING -- L 041807, WHICH IS THE  
4 CASE IDENTIFIER FOR THIS -- THIS CASE. AND ITEM 1.13.1,  
5 WHICH IS THE ITEM IDENTIFIER -- ITEM NUMBER FOR THE  
6 CUTTING FROM THE PANTIES. AND THEN I MADE A NOTATION OF  
7 THE BODY FLUID OF INTEREST. AND, AT THE TIME, I WAS  
8 PREPARING THIS ENVELOPE, I SEALED IT UP WITH SLED EVIDENCE  
9 TAPE.

10 THIS -- SHOULD I -- I THEN PLACED THIS CUTTING INTO  
11 YET ANOTHER SMALL HEAT SEALED CONTAINER FOR PREPARATION  
12 FOR SOME ADDITIONAL TESTING. THIS IS THE, AGAIN, ONE OF  
13 NOW FAMILIAR HEAT SEALED BAGS. AND THIS IS ONE THAT I  
14 ACTUALLY SEALED. I PREPARED THIS BAG. I PRINTED THIS  
15 LABEL AND SIGNED IT MYSELF AS THE SEALING OFFICER. THIS  
16 IS THE INITIAL SEAL DONE ON 10/12/05 AND MY INITIALS. AND  
17 I MADE IT VERY CLEAR WHAT WAS CONTAINED INSIDE HERE.

18 MS. HERRING-LASH: AT THIS POINT IN TIME -- I THINK  
19 WE HAVE TO GET A NEW -- IT IS CUTTING FROM PANTIES. THIS  
20 IS A DIFFERENT -- THIS IS A SMALLER CUTTING. IT WAS IN  
21 THE BIG BAG WITH OTHER THINGS. AND THAT CONTAINS  
22 SOMETHING ELSE. YOUR HONOR, I APOLOGIZE. WE COULDN'T GET  
23 TO THIS TO MARK IT UNTIL WE OPENED IT.

24 (STATE'S EXHIBIT NO. 18 MARKED FOR IDENTIFICATION.)

25 MS. HERRING-LASH: I WOULD NOW OFFER INTO EVIDENCE

1 STATE'S EXHIBIT NO. 18.

2 MR. DAVIS: YOUR HONOR, IF I COULD HAVE JUST ONE  
3 MOMENT. (PAUSE.) NO OBJECTION, YOUR HONOR.

4 MS. HERRING-LASH: YOUR HONOR, AT THIS TIME WE WOULD  
5 OFFER 18 INTO EVIDENCE.

6 THE COURT: 18 IS ADMITTED.

7 (STATE'S EXHIBIT NO. 18 RECEIVED INTO EVIDENCE.)

8 BY MS. HERRING-LASH:

9 Q NOW, MS. TAYLOR, TO GET TO WHAT YOU ACTUALLY DID  
10 IN THIS CASE, DO YOU BEGIN BY ANALYZING THE SWABS FOR THE  
11 PRESENCE OF SEMEN?

12 A YES. THAT IS PROBABLY A 99.9 SEXUAL ASSAULT --  
13 PERCENT OF SEXUAL ASSAULT CASES IS GOING TO BE YOUR  
14 INITIAL TESTING BECAUSE SEMEN IS MOST OFTEN THE BODY FLUID  
15 OF INTEREST. AND IT'S PRETTY MUCH GOING TO BE AN ACCEPTED  
16 PROCEDURE TO FIRST SEE IF THAT BODY FLUID DOES EXIST.

17 AND THEN I EXAMINED THE VAGINAL SWABS, THE ORAL  
18 SWABS FOR THE PRESENCE OF SEMEN AND DID NOT IDENTIFY ANY  
19 SEMEN.

20 Q AND AFTER YOU DID THAT, WHAT DID YOU DO?

21 A WELL, WE REQUIRE THE LOCAL AGENCY TO SUBMIT AN  
22 INCIDENT REPORT -- A COPY OF THEIR INCIDENT REPORT. PLUS,  
23 AS PART OF THE SEXUAL ASSAULT COLLECTION PROCEDURE, WE  
24 HAVE A FORM THAT WE SUPPLY WITH THE KIT, THAT WE ASK THE  
25 COLLECTOR TO FILL OUT AND PROVIDE US WITH. AND ALL OF



1 THIS JUST PROVIDES US WITH INFORMATION SO THAT YOU'RE NOT  
2 TESTING BLINDLY. CERTAINLY, SOMETIMES WE NEED GUIDANCE AS  
3 TO WHAT POTENTIALLY IS SUSPECTED IN A CASE IN DIRECTING OR  
4 TESTING.

5 AND AFTER READING THOSE DOCUMENTS, I WAS -- I FELT  
6 THAT I NEEDED TO LOOK FOR SALIVA -- FOR THE PRESENCE OF  
7 SALIVA. I --

8 Q DID YOU DO DNA TESTING BEFORE YOU DID THE SALIVA?

9 A YES. AND THAT'S WHAT I WAS ABOUT TO GET TO. IT'S  
10 VERY IMPORTANT, WHEN AT ALL POSSIBLE, TO GET A DNA PROFILE  
11 THAT LINKS A VICTIM AND A SUSPECT. THAT'S THE BOTTOM  
12 LINE. THAT'S THE GOAL. BUT IN CERTAIN INSTANCES, ONE HAS  
13 TO BE CAREFUL. WHEN I'M SITTING AT MY HOOD, WHERE I'M  
14 PROCESSING THIS EVIDENCE, AND I'VE ASSIMILATED THE  
15 INFORMATION THAT I HAVE, I HAVE TO MAKE VERY CAREFUL  
16 JUDGEMENTS ABOUT THE DIRECTION OF MY TESTING AT THAT POINT  
17 IN TIME. I AM RESPONSIBLE FOR THAT. AND I NEED TO BE  
18 VERY CAREFUL.

19 AND IN SOME INSTANCES, AND SALIVA BEING ONE OF  
20 THOSE INSTANCES, THERE VERY WELL MAY BE A LIMITED SAMPLE  
21 FOR ME TO WORK WITH AND GET A DNA PROFILE, SO I HAVE TO  
22 USE MY BEST JUDGEMENT. AND IT'S NOT LIKE BLOOD WHERE I  
23 CAN SEE A BLOOD STAIN AND GENERALLY HAVE AN IDEA OF HOW  
24 MUCH I MAY OR MAY NOT HAVE. BOTH SEMEN AND SALIVA ARE  
25 BODY FLUIDS SUCH THAT I REALLY DON'T KNOW JUST BY LOOKING.

1           SO, IN ALMOST EVERY INSTANCE, I'M GOING TO -- WHEN  
2   SALIVA IS SUSPECTED, I'M GOING TO DO MY DNA TESTING FIRST,  
3   BECAUSE I DON'T WANT TO CONSUME ANY POTENTIAL SAMPLE THAT  
4   MIGHT YIELD THE DNA PROFILE IN MY TESTING FOR BODY FLUID.  
5   BECAUSE IT -- IT TAKES SOME AMOUNT OF THIS BODY FLUID TO  
6   GET THIS SEROLOGICAL RESULT OR THIS BODY FLUID  
7   IDENTIFICATION RESULT. AND I DON'T WANT TO USE IT UP JUST  
8   DOING THAT WHEN, IN MY MIND, ALMOST ALWAYS A DNA PROFILE  
9   WILL BE MORE VALUABLE.

10           SO, I DID A DNA -- DID DNA ANALYSIS ON THESE ITEMS  
11   FIRST. AND INITIALLY I ---

12           Q AND I GUESS -- LET ME KIND OF PARAPHRASE WHAT YOU  
13   SAID TO, UM, MAYBE ASSIST THE JURY. WHAT YOU DESCRIBED IS  
14   YOU MADE A DECISION THAT RATHER THAN INITIALLY---

15           MR. DAVIS: I'M GOING TO OBJECT, YOUR HONOR. THIS  
16   WOULD BE LEADING.

17           BY MS. HERRING-LASH:

18           Q DID YOU DECIDE TO TEST FOR SALIVA OR NOT?

19           A ONLY LATER ON. I DID GO BACK AFTER LOOKING AT MY  
20   DNA RESULTS. UM, I DID DETERMINE LATER ON THAT I NEEDED  
21   TO AT LEAST BACK TRACK AND TRY AND SEE IF I COULD IDENTIFY  
22   SALIVA AND I DID---

23           Q BUT INITIALLY, YOU WERE -- I THINK YOU MENTIONED  
24   YOU WERE AFRAID THAT IT MAY CONSUME THE SAMPLE THAT YOU  
25   TESTED---

1           A CORRECT. I NEEDED TO SAVE A SAMPLE FOR DNA. A  
2 SALIVA SAMPLE IS NOT GOING TO BE -- IT'S POSSIBLY NOT  
3 GOING TO BE RICH IN DNA. THERE MAY ONLY BE A FEW CELLS.  
4 IT'S HARD FOR ME TO KNOW. SO, I HAVE TO MAKE THAT  
5 JUDGEMENT, UM, EARLY ON AT THE -- AT THE BEGINNING, TO GO  
6 AND DO THE DNA. AND I DIDN'T WANT TO CONSUME ANY  
7 POTENTIAL DNA BY DOING -- TESTING FOR SALIVA. THE -- MY  
8 FEELING WAS THE DNA PROFILE ITSELF WOULD BE SIGNIFICANT.

9           Q AND DID YOU GET -- TO START OFF WITH, IT'S A  
10 COMPARATIVE ANALYSIS?

11          A YES, IT IS. I'M -- I'M -- AS I STATED BEFORE, I'M  
12 GOING TO RUN A DNA ANALYSIS ON THE UNKNOWN STAIN FROM THE  
13 PANTIES. AND I DID ALSO TEST THE VAGINAL SWABS AND THE  
14 MISCELLANEOUS BODY FLUIDS AS WELL. AND, UM ---

15          Q AND DID YOU DEVELOP A DNA PROFILE FOR [REDACTED] [REDACTED]  
16 [REDACTED] FROM HER BLOOD?

17          A I DID. THE KNOWN STANDARDS, I RAN BOTH [REDACTED] [REDACTED]  
18 [REDACTED] AND HAROLD ORR'S KNOWN BODY FLUID STANDARDS -- OR  
19 KNOWN DNA STANDARDS, AS I'VE DISCUSSED EARLIER, TO MAKE A  
20 COMPARISON BETWEEN THE EVIDENCE AND THE KNOWN STANDARDS.

21          Q AND THEN AFTER YOU HAVE THE KNOWN STANDARDS, YOU  
22 RUN THE STANDARD THAT YOU GOT FROM THE CUTTING OF THE  
23 PANTIES TO COMPARE?

24          A RIGHT. THAT WOULD BE CONSIDERED AN UNKNOWN STAIN.

25          Q AND DID YOU GET -- I'M GOING TO SHOW YOU WHAT HAS

1 BEEN MARKED AS STATE'S EXHIBIT NO. 4 AND 5, AND I GUESS --  
2 DO YOU REFER TO THAT AS YOUR WORK PRODUCT FROM THIS  
3 ANALYSIS?

4 A YES. THESE PIECES OF PAPER---

5 MS. HERRING-LASH: YOUR HONOR, AT THIS POINT IN TIME,  
6 THE STATE WOULD OFFER INTO EVIDENCE FOUR AND FIVE.

7 MR. DAVIS: NO OBJECTION, YOUR HONOR.

8 THE COURT: ALL RIGHT. THEY'RE ADMITTED.

9 (STATE'S EXHIBITS NOS. 4 & 5 RECEIVED INTO EVIDENCE.)

10 BY MS. HERRING-LASH:

11 Q THEY'LL BE BEHIND YOU SO THE JURY CAN OBSERVE THEM  
12 BETTER.

13 A THESE PIECES OF PAPER ARE CALLED  
14 ELECTROPHEROGRAMS. AND WHAT THIS IS, IS SIMPLY THE FINAL  
15 PRODUCT THAT I LOOK AT WHEN MAKING THE COMPARISON AS TO  
16 WHETHER OR NOT I HAVE A MATCH. THESE ARE -- WHAT YOU'RE  
17 SEEING ON THE SCREEN IS REPRESENTATIONS OF WHAT I HAVE IN  
18 MY MIND. YOU CAN SEE -- I HAVE -- IF I MAY USE A POINTER  
19 -- YOU SEE HERE THE IDENTIFYING INFORMATION FOR THE  
20 SAMPLE, L04-1807. IT IDENTIFIES THE CASE. AND THIS 1.4  
21 IDENTIFIES THE ITEM NUMBER THAT THIS IS. AND THAT IS THE  
22 KNOWN BLOOD STANDARD FROM MINOR

23 NOW, IF I MIGHT EXPLAIN WHAT THEY'RE LOOKING AT  
24 JUST A LITTLE BIT AND I'LL KEEP THIS VERY GENERAL. WHAT  
25 YOU'RE LOOKING AT IS DIFFERENT LOCATIONS ON HER DNA.

ROBIN TAYLOR -- DIRECT BY MS. HERRING-LASH

364

1 RIGHT HERE IS ONE LOCATION, AND ONE AT THIS -- ONE OF  
2 THESE CAME FROM HER MOTHER AND ONE CAME FROM HER FATHER.  
3 I DON'T KNOW WHICH WITHOUT HAVING BETTER KNOWN STANDARDS  
4 TO LOOK AT.

5 BUT IN INSTANCES WHERE YOU SEE ONE PEAK, THEY BOTH  
6 GAVE HER THE SAME NUMBER. HERE IS A LOCATION CALLED  
7 AMELOGENIN. AND WHAT THAT IS, IS JUST THE SEX TYPING OF  
8 THE SAMPLE. IN A FEMALE, YOU WOULD ONLY SEE X. IN A  
9 MALE, YOU'LL SEE X AND Y.

10 THIS PP SIMPLY STANDS FOR PROFILER PLUS. AND  
11 THAT'S JUST A -- THE MANUFACTURER'S NAME FOR THE KIT THAT  
12 I USE TO GENERATE THIS PROFILE. IT DOESN'T NECESSARILY  
13 MEAN ANYTHING IMPORTANT RIGHT HERE.

14 WHAT THESE PEAKS DOWN HERE ARE -- ARE A KNOWN  
15 CONTROL THAT IS PLACED IN WITH EVERY SINGLE SAMPLE THAT'S  
16 RUN. IT'S SIMPLY TO LET ME KNOW THAT THE SYSTEM IS  
17 WORKING PROPERLY. THESE PEAKS MUST BE AT A SPECIFIC POINT  
18 IN EVERY SAMPLE. IT'S JUST, AGAIN, ANOTHER CONTROL TO  
19 MAKE ME -- SO THAT I KNOW THAT MY SYSTEM IS WORKING AS IT  
20 SHOULD.

21 THIS IS ONE LOCATION, THIS IS ANOTHER, ANOTHER.  
22 AND EACH ONE OF THESE IS A SEPARATE LOCATION THAT WE LOOK  
23 AT. AND THERE IS ACTUALLY ANOTHER KIT CALLED PROFILER  
24 THAT GENERATES A SEPARATE SHEET THAT WOULD COMPLETE THE  
25 ENTIRE PROFILE THAT WOULD BE PRESENTED IN CHART FORM ON MY

1 REPORT.

2 NOW, THIS IS L04-1807, THE SAME CASE. ITEM NUMBER  
3 1.13.1. AND, AGAIN, IT'S THE PROFILER PLUS PORTION OF THE  
4 PROFILE. THESE ARE THE SAME LOCATIONS FROM SHEET TO  
5 SHEET. IT'S, YOU KNOW, THE SAME KIT WITH THE SAME  
6 LOCATIONS. AND ALL I'M DOING, WHEN I'M DETERMINING  
7 WHETHER OR NOT THERE'S A MATCH -- DID I DO THAT?

8 Q YOU MAY HAVE.

9 A I'M SORRY. I'M LOOKING HERE AND I'M SEEING 15 17  
10 ON THE KNOWN STANDARD. AND THEN I'M LOOKING HERE ON THE  
11 UNKNOWN AND I'M SEEING 15 17.

12 Q WHAT YOU'RE POINTING TO NOW IS THE CUTTING FROM  
13 THE PANTIES?

14 A THIS IS THE CUTTING FROM THE PANTIES. I  
15 APOLOGIZE. THAT'S 1.13.1, WHICH IS THE CUTTING FROM THE  
16 PANTIES.

17 NOW, WHEN I LOOK AT THIS, I HAVE A STRONG  
18 INDICATION OF WHAT THE MAJORITY OF MY PROFILE IS WITHOUT  
19 EVEN LOOKING AT THESE NUMBERS. IF YOU'LL LOOK HERE AT THE  
20 SEX TYPING, I SEE A LARGE PEAK FOR X. AND THEN HERE FOR  
21 THE Y, I SEE A SMALL PEAK. OKAY. WHEN I LOOK ACROSS THE  
22 ENTIRE REST OF THE PROFILE, JUST THIS PORTION OF THE  
23 PROFILE, I DON'T SEE ANYTHING THAT APPEARS TO BE FOREIGN  
24 TO [REDACTED] BUT THAT IS FOREIGN TO [REDACTED]  
25 SHE COULD -- SHE COULD NOT HAVE CONTRIBUTED THIS Y.

1 Q THAT'S BECAUSE ONLY A MALE---

2 A ONLY A MALE WILL HAVE THIS Y CHROMOSOME.

3 NOW, IN THE SECOND PORTION OF THE PROFILE, THERE WERE A  
4 COUPLE OF VERY SMALL PEAKS THAT WERE FOREIGN TO HER, BUT  
5 THEY WEREN'T ENOUGH INFORMATION FOR ME TO SAY, OH, THIS IS  
6 A MATCH OR -- EVEN TO -- TO REALLY OFFER MUCH OF ANY  
7 INTERPRETATION.

8 I DID NOTE ON MY REPORT THAT THE MINOR CONTRIBUTOR  
9 TO THIS MIXTURE IS A MALE INDIVIDUAL, HOWEVER, THE PROFILE  
10 IS TOO WEAK FOR FURTHER COMPARISON. BUT I DO NOTE THAT I  
11 HAVE A LITTLE BIT OF MALE DNA HERE.

12 Q SO, WHAT DID YOU DECIDE TO DO AFTER FINDING OUT  
13 THAT YOU HAD THAT SMALL AMOUNT OF MALE DNA FROM THE  
14 CUTTING?

15 A WELL, AT THIS POINT, I KNOW THAT THERE IS ANOTHER  
16 OPTION AVAILABLE AS -- AS FAR AS DNA TESTING GOES. IT --  
17 IT'S NOT IMPORTANT TO YOU REALLY, BUT THIS IS STR TYPING  
18 -- STR DNA TYPING. BUT THERE IS ANOTHER TYPE OF DNA  
19 ANALYSIS THAT IS CALLED Y STR'S. WHEREBY, THIS Y IS  
20 TARGETED AND TYPED. AND I KNEW THAT THIS TYPE OF TESTING  
21 WAS AVAILABLE, BUT WE DON'T DO IT YET AT SLED. ACTUALLY  
22 AT THIS CURRENT TIME, WE'RE WORKING ON STARTING THAT UP.  
23 BUT WHAT I DID WAS MAKE MY CALL TO THE PROSECUTOR AND LET  
24 HER KNOW, YOU KNOW, WHAT MY RESULTS WERE, AND THAT THIS  
25 TYPING WAS AVAILABLE. AND IT'S MY DUTY TO MAKE HER KNOW,

1 YOU KNOW, MAKE HER AWARE THAT THIS IS AVAILABLE AND IS AN  
2 OPTION AND I DID DO THAT.

3 Q SO, WHEN YOU'RE LOOKING AT THAT, THERE'S NOT  
4 ENOUGH THERE FOR YOU TO DEVELOP THE MALE PROFILE, YOU JUST  
5 KNOW THERE'S A MALE THERE?

6 A THAT'S CORRECT. I HAVE AN INDICATION THAT I HAVE  
7 A SMALL AMOUNT OF MALE DNA PRESENT. BUT MY HANDS ARE  
8 TIED. AT THIS POINT, I CAN'T REALLY GET ANY MORE USABLE  
9 INFORMATION OUT OF THIS PROFILE. I KNOW THAT MINOR  
10 COULD NOT HAVE CONTRIBUTED THAT Y. I KNOW THAT THERE'S  
11 MALE DNA PRESENT.

12 Q SO, AT THAT POINT IN TIME WHEN YOU -- OR WE MAKE A  
13 DECISION FOR YOU TO SEND IT TO ANOTHER LAB, DID YOU THEN  
14 PACKAGE IT TO GO TO THAT OTHER LAB?

15 A I DID. WE -- I BELIEVE THE FINAL DECISION IS LEFT  
16 TO YOUR AGENCY. BUT IT WAS SENT TO THE BODE TECHNOLOGY  
17 GROUP, WHICH IS A COMMERCIAL LABORATORY. AND I FOLLOWED  
18 THEIR REQUIREMENTS AND PROCEDURES FOR FILLING OUT PAPER  
19 WORK AND PACKAGING UP. THEY ASK FOR A BIT OF INFORMATION  
20 ABOUT MY PRIOR ANALYSIS, HOW MUCH DNA THAT I'VE INDICATED  
21 THAT I HAVE -- BECAUSE WE DO HAVE TO QUANTITATE THE DNA  
22 PRIOR TO RUNNING IT. THEY ASK FOR, YOU KNOW, PAPER WORK  
23 TO BE FILLED OUT AND SAMPLES TO BE PACKAGED A CERTAIN WAY.  
24 AND I VERY CAREFULLY PACKAGED THOSE ITEMS UP AND SENT THEM  
25 OFF TO BODE TECHNOLOGY GROUP.



1 Q I'M GOING TO SHOW YOU WHAT HAS BEEN MARKED FOR  
2 EVIDENCE AS STATE'S EXHIBIT NO. 12 AND 13.

3 (STATE'S EXHIBIT NO. 19 MARKED FOR IDENTIFICATION.)

4 I'LL SHOW YOU WHAT HAS BEEN MARKED NOW AS STATE'S  
5 EXHIBIT NO. 19 -- I SHOW YOU WHAT HAS BEEN MARKED NOW AS  
6 STATE'S EXHIBIT NO. 19. IT CAME OUT OF THE BAG THAT WE  
7 CUT OPEN A MOMENT AGO. AND CAN YOU -- WHAT ARE THOSE  
8 THREE BAGS?

9 A WELL, REMEMBER, WHEN WE'RE -- WHEN I'M REQUESTING  
10 Y STR TESTING, WHICH IS THE EXACT THING THAT I ASKED BODE  
11 TO DO ON THIS, I DON'T NEED TO KNOW ANYTHING ABOUT  
12 **MINOR** PROFILE, PER SE, WE'RE GOING AFTER THE MALE  
13 PORTION THAT WE SEE INDICATED IN THE PANTY. SO, WHAT I  
14 DID WAS PACKAGE UP EACH THING INDIVIDUALLY THAT THEY  
15 NEEDED IN ORDER TO PERFORM THEIR TESTING. AND YOU CAN SEE  
16 YOU'RE -- THAT'S S STANDARD OR SUSPECT STANDARD. THIS IS  
17 A PORTION OF THE KNOWN STANDARD FROM HAROLD ORR. AND I  
18 WOULD NOT SEND HIM EVERYTHING I HAD -- SEND THEM  
19 EVERYTHING I HAD SIMPLY BECAUSE IT'S NOT NECESSARY.

20 BUT YOU CAN SEE, I PUT OUR CASE IDENTIFYING  
21 INFORMATION ON IT. I SEALED IT AS PER OUR PROCEDURES.  
22 AND THERE ARE SOME OTHER IDENTIFYING STICKERS ON HERE THAT  
23 WERE AT -- AT THE BODE LABORATORY BY THE ANALYSIS THERE.

24 NOW, THIS ONE, IT SAYS "EXTRACTS" ON IT. WHAT THIS  
25 IS, IS THE ORIGINAL -- AND THEY'RE VERY TINY TUBES.

1     THEY'RE THE ITEMS THAT I RAN -- THESE -- THIS IS THE  
2     ACTUAL DNA THAT I HAD LEFT THAT WAS NOT USED. AND I'M NOT  
3     SURE, BUT IT'S MY UNDERSTANDING THAT THEY MAY BE ABLE TO  
4     USE THIS WITHOUT STARTING A NEW PROCEDURE IF EVERYTHING  
5     WORKS PROPERLY. AND I WAS -- I WAS ABLE TO PUT ALL THOSE  
6     EXTRACTS IN TOGETHER. I HAVE SOME PLASTIC SEALANT AROUND  
7     EACH TUBE. THEY'RE INDIVIDUALLY LABELED. AND I WROTE IN  
8     SOME DETAIL HERE WHAT WAS CONTAINED IN THIS SMALL BAG,  
9     WHICH IS ALSO HEAT SEALED AND INITIALED.

10         THE FINAL BAG WAS THE BAG I HELD UP EARLIER THAT  
11     CONTAINED A CUTTING FROM THE PANTIES IN CASE THEY NEEDED  
12     TO DO A NEW EXTRACTION. I WAS SENDING THEM BOTH THE  
13     EVIDENCE I HAD ALREADY -- THE DNA I HAD ALREADY EXTRACTED  
14     AND THE EVIDENCE ITSELF, AS WELL AS -- IF THAT WERE  
15     NECESSARY FOR HER TESTING.

16         Q     AND YOU PACKAGED THOSE UP AND SENT THEM TO BODE  
17     LABORATORY?

18         A     BODE, YES. I PACKAGED THIS UP ALONG WITH THE  
19     REQUIRED PAPER WORK BY THE LABORATORY.

20         Q     AND WHAT DID -- HOW DID YOU GET IT TO BODE  
21     LABORATORY?

22         A     I WANT TO SAY -- I'M SORRY -- IT'S MOST OFTEN  
23     FEDERAL EXPRESSED, BUT I'M NOT -- YES. I USED FEDERAL  
24     EXPRESS TO OVERNIGHT THE SAMPLES.

25         Q     IS THAT COMMONLY WHAT YOU DO?

1           A YES, IT IS. THEY ARE SEALED. I -- I NEED TO  
2 EMPHASIZE THAT. THOSE HAVE HEAT SEALS ON THEM AS WELL.  
3 AND WHILE I DON'T KNOW THE EXACT LABORATORY PROCEDURES  
4 THAT ARE PRESENT AT BODE, I KNOW THAT AT ANY OPERATING  
5 LABORATORY HANDLING EVIDENCE, THEY ARE GOING TO LOOK FOR,  
6 YOU KNOW, ANY ODDITY. AND THAT'S WHY I'M VERY CAREFUL TO  
7 AT LEAST USE OUR OWN PROCEDURES FOR SEALING THESE ITEMS UP  
8 AND FEDERAL EXPRESS PICKS UP FROM SLED EVERY DAY. AND I  
9 SENT IT OVERNIGHT.

10           Q AND WAS THAT -- DID YOU GET -- RECEIVE THOSE  
11 ARTICLES BACK FROM BODE AT SOME POINT?

12           A YES, I DID. ONCE THEY'RE TESTING IS COMPLETE,  
13 THEY SEND IT BACK TO US.

14           Q NOW, YOU MENTIONED A WHILE AGO, THAT SUBSEQUENT TO  
15 THIS TESTING, YOU DID ALSO TEST FOR SALIVA?

16           A YES, I DID. IT -- AFTER SOME DISCUSSION AND  
17 FURTHER THOUGHT, I DID SUBJECT WHAT I HAD LEFT FROM THESE  
18 ITEMS, TO TESTING FOR SALIVA. AND I -- ON THE CUTTING  
19 FROM THE PANTIES, I DID -- IT IS RECORDED AS ONE ITEM, BUT  
20 I WAS TRYING TO JUST BE THOROUGH. AND I MADE A CUTTING  
21 FROM AROUND MY ORIGINAL DNA CUTTING, I CUT JUST ADJACENT  
22 TO THAT, ENLARGING THAT APPARENT SAMPLE. AND THEN I DID  
23 ANOTHER CUTTING JUST A LITTLE BIT AWAY FROM IT, JUST TO  
24 TRY, AGAIN, TO COVER MY BASES. AND BOTH OF THOSE -- WERE  
25 VERY STRONGLY REACTED TO THE INDICATION OF SALIVA.

1 Q NOW, I WANT TO -- THIS IS YOUR CUTTING FROM YOUR  
2 PANTIES. WOULD THAT BE THE CUTTING THAT YOU USED IN THE  
3 TESTING FOR SALIVA?

4 A YES, IT WOULD. IT'S ITEM 1.13.1.

5 Q AND CAN YOU SHOW THAT TO THE JURY?

6 A I CAN. DO YOU HAVE A PAIR OF GLOVES?

7 Q GLOVES.

8 A FOR HANDLING.

9 MR. DAVIS: YOUR HONOR, MAY I BEG THE COURT'S  
10 INDULGENCE AS TO THE EXHIBIT NUMBER THAT WE'RE LOOKING AT  
11 NOW?

12 MS. HERRING-LASH: IT IS 18.

13 MR. DAVIS: THANK YOU.

14 BY MS. HERRING-LASH:

15 Q AND HERE ARE SOME GLOVES. AND I'LL GIVE YOU THIS  
16 LITTLE BAG THAT HAS THE EXHIBIT NUMBER.

17 A I'M REFERRING TO STATE'S EXHIBIT 18. IT'S SLED'S  
18 ITEM NUMBER 1.13.1. AND PLEASE UNDERSTAND, I HAVE BEEN IN  
19 THE LABORATORY FIELD FOR 25 YEARS, IT GOES AGAINST  
20 EVERYTHING IN ME TO HANDLE ANY KIND OF EVIDENCE WITHOUT  
21 GLOVES. YOUR HONOR, MAY I STEP DOWN TO SHOW THE JURY THE  
22 ITEM?

23 THE COURT: ALL RIGHT.

24 BY MS. HERRING-LASH:

25 Q I GUESS IF YOU WOULD START BY EXPLAINING TO THEM

1 YOUR ORIGINAL CUTTING THAT YOU MADE FOR THE DNA, AND THE  
2 SUBSEQUENT CUTTINGS YOU MADE FOR THE SALIVA.

3 A IT MAY BE A LITTLE BIT DIFFICULT TO TELL BECAUSE  
4 OF THE COLORING. BUT INITIALLY I MADE A PRETTY GENEROUS  
5 CUTTING HERE IN DOING MY DNA TESTING. AGAIN, SALIVA IS  
6 NOT NECESSARILY A DNA RICH BODY FLUID. WHILE WE DO HAVE  
7 SOME SUCCESS WITH IT, IT -- I'M TRYING TO COVER MY BASES  
8 HERE WHEN I MAKE THIS INITIAL CUTTING. THAT'S ACTUALLY --  
9 IF THAT WERE A BLOOD STAIN, IT WOULD BE NOWHERE NEAR THAT  
10 BIG. IT WOULD BE VERY SMALL. AND I DID DNA TESTING RIGHT  
11 HERE IN THE MIDDLE OF THE CROTCH AREA.

12 NOW, WHEN I WENT BACK LATER TO DO THE SALIVA  
13 TESTING, I ENLARGED THAT SOMEWHAT. I CUT ADJACENT ON WHAT  
14 -- IN FACT, IF I'M NOT MISTAKEN, I CUT AROUND THE  
15 PERIMETER OF MY ORIGINAL CUTTING JUST TO TRY AND CATCH  
16 THE -- THE SAME BASIC AREA.

17 AND THEN THERE'S ANOTHER CUTTING JUST A LITTLE BIT  
18 AWAY FROM THAT AREA, HERE. THESE -- THERE'S A LITTLE  
19 STRIP OF CLOTH HERE IN BETWEEN. I JUST WANTED TO MAKE IT  
20 A LITTLE BIT FARTHER AWAY JUST TO SEE. AGAIN, BOTH ITEMS  
21 TESTED STRONGLY POSITIVE FOR AMYLASE, WHICH IS A DIGESTIVE  
22 FLUID PRESENT IN SALIVA.

23 Q DO YOU WANT TO SIT DOWN? NOW, WHEN YOU DO THE  
24 TESTING FOR SALIVA, I GUESS, AS OPPOSED TO SOME FLUIDS  
25 THAT YOU MAY TEST, THERE IS NOT WHAT YOU, IN YOUR FIELD,

1 CALL A CONFIRMATORY TEST, IS THAT TRUE?

2 A WELL, THE TESTING FOR AMYLASE IS USED THROUGHOUT  
3 OUR FIELD NATION WIDE FOR THE INDICATION OF SALIVA. IT'S  
4 MERELY AN ENZYME, LIKE I SAID, A DIGESTIVE ENZYME THAT IS  
5 PRESENT IN HIGH AMOUNTS IN SALIVA. AND IT'S USED INDUSTRY  
6 WIDE AS A -- AS A STRONG INDICATION OF THE PRESENCE OF  
7 SALIVA. BUT, NO, THERE'S NOT SOMETHING THAT SAYS -- I  
8 MEAN, MY REPORT SAYS SALIVA INDICATED. BUT AGAIN, THERE'S  
9 NOT ANYTHING ELSE AVAILABLE AT THIS POINT IN TIME.

10 Q AND SO YOU TESTED FOR SOMETHING CALLED AMYLASE?

11 A YES, I DID.

12 Q AND DO YOU HAVE SOME KIND OF -- WHEN YOU GET THAT  
13 RESULT, DO YOU HAVE A STRONG RESULT, WEAK RESULT, WHAT  
14 KIND OF RESULT DID YOU GET?

15 A AMYLASE IS NOT ONE OF MY FAVORITE TESTS TO DO. I  
16 HAVE TO ACTUALLY SPIT IN A TUBE TO DO MY KNOWN CONTROL.  
17 AND THEN I DO A VERY BIG DILUTION OF MY OWN SALIVA AND  
18 THEN COMPARE IT. I -- I PUT IT ON THE PLATE ALONG WITH --  
19 ALONG WITH UNKNOWN SAMPLES. AND I COMPARE THE REACTION OF  
20 THE UNKNOWN SAMPLES TO WHAT I KNOW TO BE SALIVA. AND,  
21 YES, THERE ARE -- THERE ARE VARYING DEGREES OF REACTIONS  
22 BASED ON -- AND IT'S GENERALLY DEPENDING ON HOW MUCH WOULD  
23 BE THERE. AND BOTH OF THESE CUTTINGS GAVE A -- GAVE A  
24 STRONG REACTION.

25 Q AND THAT WOULD BE THE END OF YOUR TESTING WITH THE

1 PANTIES NOW THAT YOU HAVE TESTED FOR DNA AND THE SALIVA?

2 A THAT'S CORRECT.

3 Q I'M GOING TO SHOW YOU WHAT HAS BEEN MARKED AS  
4 STATE'S EXHIBIT NO. 16. THIS IS THE BAG THAT WE CUT OPEN  
5 A MOMENT AGO AND THESE ARE THE TWO ITEMS THAT WERE IN  
6 THERE. AND I DON'T -- DOES THAT BAG IDENTIFY FOR YOU WHAT  
7 THAT ITEM IS?

8 A YES.

9 Q AND WHAT IS THAT?

10 A WELL, FIRST I WOULD LIKE TO EXPLAIN. THIS BAG MAY  
11 LOOK A LITTLE DIFFERENT TO YOU THAN THE PREVIOUS ONE  
12 SIMPLY BECAUSE OUR COMPUTER SYSTEM CHANGED. AND NOW ALL  
13 YOU'LL SEE ON OUR EVIDENCE ITEMS IS THE CASE IDENTIFIER.  
14 AND IT HAS THE AGENCY ON THERE AND THEN CONTAINER NUMBER  
15 A. YOU HAVE TO REFER TO THE COMPUTER TO KNOW WHAT IS SAID  
16 TO BE IN CONTAINER NUMBER A. BUT AGAIN, THE LABELS LOOK A  
17 LITTLE DIFFERENT NOW. BUT THE OVERALL SYSTEM HAS NOT  
18 CHANGED ONE BIT. WE STILL INITIAL AND SEAL -- OR SEAL AND  
19 THEN INITIAL AND DATE.

20 WHAT WAS CONTAINED IN CONTAINER NUMBER A WAS THE  
21 CUTTING OF -- I APOLOGIZE -- A WHITE TERI CLOTH TOWEL THAT  
22 WAS SUBMITTED TO ME FOR TESTING. AND THERE'S AN AREA THAT  
23 I CUT FROM IT IN ORDER TO COMPLETE THAT TESTING. AND, UM,  
24 I INDICATED THAT I WAS LOOKING FOR THE PRESENCE OF SALIVA  
25 ON THIS WHITE TERI CLOTH TOWEL.

1 Q AND DID YOU FIND ANY?

2 A NO. SALIVA WAS NOT INDICATED. I ALSO, JUST AS A  
3 MATTER OF ROUTINE, TESTED THIS ITEM FOR THE PRESENCE OF  
4 SEMEN, AND NO SEMEN WAS PRESENT.

5 Q AND WAS THAT THE END OF YOUR TESTING IN THIS CASE?

6 A YES, IT WAS.

7 MS. HERRING-LASH: THOSE ARE ALL THE QUESTIONS I  
8 HAVE, MS. TAYLOR. IF YOU'LL ANSWER ANY QUESTIONS MR.  
9 DAVIS MAY HAVE.

10 CROSS EXAMINATION BY MR. DAVIS:

11 Q ALL RIGHT. I'LL JUST JUMP RIGHT IN. BEFORE YOU  
12 RECEIVE ANY SAMPLES IN ANY CASE, YOU KNOW WHAT PROTOCOL  
13 SHOULD BE FOLLOWED, BUT YOU CAN'T TELL THIS JURY EXACTLY  
14 WHERE, IN NORTH CHARLESTON, STORES ANY OF THESE ITEMS?

15 A NO. I HAVE NO KNOWLEDGE OF EVIDENCE PRIOR TO ITS  
16 RECEPTION AT SLED.

17 Q YOU GET THEM IN THESE SEALED BAGS, OPEN THEM, AND  
18 THEN DO WHATEVER IS NECESSARY IN A PARTICULAR CASE?

19 A YES.

20 Q AND LET ME SUMMARIZE AND SEE IF I'M RIGHT. IN  
21 THIS CASE, YOU WOULD HAVE RECEIVED SOME SWABS FOR TESTING,  
22 CORRECT?

23 A SWABS FROM THE SEXUAL ASSAULT KIT, YES.

24 Q YOU WOULD HAVE RECEIVED, UM, PANTIES THAT YOU MADE  
25 CUTTINGS ON AND DID TESTING, CORRECT?



1 A CORRECT.

2 Q AND YOU WOULD HAVE RECEIVED THIS CLOTH TOWEL THAT  
3 YOU JUST TALKED ABOUT?

4 A YES.

5 Q THOSE ARE THE THREE ITEMS THAT YOU PROCESSED IN  
6 THIS CASE?

7 A WELL, AS WELL AS THE KNOWN STANDARD FROM THE KNOWN  
8 KIT FROM MR. ORR.

9 Q FAIR ENOUGH.

10 A YES, I'M SORRY.

11 Q YOU WOULD HAVE GOTTEN -- IN ADDITION TO THAT, YOU  
12 WOULD HAVE GOTTEN SOME BLOOD FROM HAROLD TO PREPARE THE --  
13 THE DNA PROFILE? THAT'S WHAT YOU'RE TALKING ABOUT WHEN  
14 YOU SAY STANDARD?

15 A RIGHT.

16 Q YOU WANT TO KNOW WHAT HIS CODE LOOKS LIKE?

17 A THE KNOWN STANDARD, YES.

18 Q OKAY. AND YOU WOULD HAVE GOTTEN ONE FROM MINOR  
19 AS WELL?

20 A THAT'S CORRECT. THAT'S PART OF THE SEXUAL KIT --  
21 SEXUAL ASSAULT PROTOCOL.

22 Q IF YOU'LL LET ME -- I'D LIKE TO -- I KNOW DNA,  
23 LONG NAME, IS IT FAIR TO DESCRIBE THAT AS A PARTICULAR  
24 GENETIC CODE FOR EACH INDIVIDUAL? CAN I -- I REFER TO IT  
25 THAT WAY?

1 A I BELIEVE SO, YES.

2 Q OKAY. SO, IF YOU DON'T MIND, AS WE TALK ABOUT IT,  
3 THAT'S WHERE I'M GOING TO GO, JUST IN LAYMEN'S TERMS --  
4 IT'S A PARTICULAR GENETIC CODE THAT IDENTIFIES AN  
5 INDIVIDUAL, IS THAT FAIR?

6 A YES. WE'RE LOOKING AT -- I'M MORE COMMONLY USED  
7 TO CALLING IT JUST A PROFILE, A DNA PROFILE, BUT YES.

8 Q SO, THE SAME THING, IF YOU SAY PROFILE AND I SAY  
9 CODE, WE'RE TALKING ABOUT THE SAME THING. FAIR ENOUGH.  
10 CORRECT ME IF I MISSTATE ANYTHING WHILE I'M TALKING TODAY.  
11 THAT WILL BE EASIER FOR ME, I THINK, TO TALK ABOUT THIS.  
12 SO, YOU GET THE GENETIC CODE FOR HAROLD THAT'S SUBMITTED  
13 TO YOU, YOU GET ONE FROM MINOR THAT IS SUBMITTED TO YOU?

14 A UH-HUH.

15 Q AND THEN SWABS, PANTIES, TOWEL?

16 A YES.

17 Q AND THAT WOULD COVER EVERYTHING, RIGHT?

18 A THAT COVERS THE EVIDENCE AND THE KNOWN STANDARDS,  
19 YES.

20 Q OKAY. LET'S DEAL WITH THOSE REAL QUICK. AS TO  
21 SWABS, YOU TESTED THEM FOR SEMEN -- THERE WAS A VAGINAL  
22 SWAB AND AN ORAL SWAB, RIGHT?

23 A THAT'S CORRECT.

24 Q NO SEMEN FOUND?

25 A THAT'S CORRECT.

1 Q YOU DIDN'T TEST THEM FOR THE DNA CODE OR FOR  
2 SALVIA?

3 A NO -- WELL, I DID TEST THE VAGINAL SWAB FOR DNA,  
4 YES, I DID.

5 Q OKAY. AND THE RESULTS OF THAT TESTING?

6 A THE VAGINAL SWAB ON -- BOTH -- ITEM 1.6 THE  
7 VAGINAL SWAB, AND ITEM 1.9 THE MISCELLANEOUS BODY FLUIDS,  
8 I DID NOT GET A DNA -- ANY DNA PROFILE FOREIGN TO **MINOR**  
9 **IT** IT WOULD HAVE LOOKED JUST LIKE HER KNOWN STANDARD.

10 Q OKAY. SO, AS TO THE VAGINAL SWAB, WHATEVER WAS ON  
11 THERE, WAS DESTINY'S?

12 A WHATEVER I DETECTED WAS DESTINY'S, YES.

13 Q OKAY. AFTER THE -- AND TESTS FOR SEMEN IS EITHER  
14 POSITIVE OR NEGATIVE, IT'S EITHER PRESENT OR NOT, IS THAT  
15 FAIR ENOUGH?

16 A WELL, I HAVE TO ADMIT THAT SOMETIMES THEY ARE  
17 INCONCLUSIVES THAT WE MAY PURSUE FURTHER TESTING OR TAKE  
18 ON TO DNA JUST TO TRY AND CONFIRM THE PRESENCE OR ABSENCE  
19 OF FOREIGN DNA.

20 Q AND I DIDN'T ASK THAT VERY ARTFULLY, IT'S A YES OR  
21 NO, IT'S A POSITIVE OR NEGATIVE TEST, AS OPPOSED TO DNA  
22 YOU'RE GETTING A SEQUENCE, YOU'RE GETTING---

23 A THAT'S CORRECT.

24 Q OKAY. SO, AFTER YOU TESTED FOR SEMEN AND  
25 ATTEMPTED -- LET ME STRIKE THAT. AFTER YOU TESTED FOR

1 SEMEN, A NEGATIVE RESULT, THEN YOU DID THE DNA CODE AND IT  
2 WAS TO [REDACTED]

3 A THE DNA PROFILES THAT I GOT FROM THOSE TWO ITEMS,  
4 YES, THERE WAS NOTHING FOREIGN TO [REDACTED]

5 Q YOU DIDN'T DO ANY MORE TESTING ON THE SWABS AFTER  
6 THAT?

7 A NO, I DID NOT.

8 Q OKAY. AT -- AT SOME TIME LATER, YOU TESTED THE  
9 CLOTH TOWEL, CORRECT?

10 A CORRECT.

11 Q WHEN DID YOU DO TESTING ON THE TOWEL?

12 A I GENERATED THAT REPORT ON JANUARY 22, 2007. I  
13 DON'T KNOW THE EXACT DATE I DID THE TESTING WITHOUT  
14 REFERRING TO MY CASE FILE, BUT IT WAS SOMETIME JUST PRIOR  
15 TO THAT.

16 Q OKAY. SO, THE END OF '06, BEGINNING OF '07, IS  
17 THAT FAIR?

18 A YES.

19 Q OKAY. THAT WAS TESTED AGAIN FOR SEMEN, A NEGATIVE  
20 RESULT, CORRECT?

21 A THE WASH CLOTH WAS TESTED FOR SEMEN AT THAT POINT  
22 IN TIME WITH A NEGATIVE RESULT.

23 Q THE TOWEL WAS TESTED FOR SALIVA, A NEGATIVE  
24 RESULT?

25 A THAT IS CORRECT.

1 Q THE TOWEL WAS NOT TESTED TO DEVELOP ANY TYPE OF  
2 DNA PROFILE?

3 A NO, SIR.

4 Q YOU COULD HAVE ATTEMPTED THAT?

5 A I COULD HAVE. WITHOUT THE INDICATION OF ANY BODY  
6 FLUID PRESENT AND WITH -- I LABELED IT A WASH CLOTH, SO  
7 I'M ASSUMING IT WAS ABOUT THE NORMAL SIZE OF A WASH CLOTH.  
8 I HAD NO REAL GUIDANCE -- AND EVEN MY CUTTING, IF IT'S  
9 NEGATIVE, I REALLY DON'T KNOW WHERE TO GO SPECIFICALLY  
10 WITHOUT -- ESPECIALLY WHEN IT'S A WASH CLOTH. IT IS  
11 SOMEWHAT DIFFERENT FROM SOME OTHER ITEMS OF CLOTHING  
12 WHERE, YOU KNOW, NORMAL LOGIC WOULD LEAD YOU TO A CERTAIN  
13 AREA TO TEST. BUT A WASH CLOTH, EVEN A CUTTING THIS SIZE,  
14 THAT'S HUNDREDS OF DNA TESTS POTENTIALLY.

15 SO, NO, I DIDN'T -- I DIDN'T DO ANY FURTHER  
16 TESTING. ONCE THE TESTING FOR THE BODY FLUIDS, THE SEMEN  
17 LINE WAS NEGATIVE, I STOPPED WITH THAT.

18 Q AND JUST FOR THE RECORD, YOU HELD YOUR HANDS  
19 TOGETHER MAKING A CIRCLE, WHAT, APPROXIMATELY THREE INCHES  
20 IN DIAMETER?

21 A I WASN'T REALLY PAYING ATTENTION.

22 Q WELL, IS THAT ABOUT RIGHT?

23 A FOR WHAT, THOUGH, THE CUTTING?

24 Q YOU JUST ---

25 A I MEAN, I'M TALKING ABOUT THE SIZE OF A NORMAL

1 WASH CLOTH. AND THEN I MADE SOME SORT OF -- I TARGETED AN  
2 AREA AND MADE A CUTTING.

3 Q AND YOU SAID---

4 A I DON'T KNOW HOW BIG IT WAS.

5 Q OKAY. WELL, I WANT YOU TO HOLD IT UP SO WE CAN  
6 TELL THE COURT REPORTER HOW BIG IT IS.

7 A OH, YOU WANT THE CUTTING?

8 Q NO. NO. I WANT YOU -- YOU DEMONSTRATED RIGHT  
9 THERE THAT IN THIS APPROXIMATE SIZE, THERE WOULD BE  
10 HUNDREDS OF DNA TESTS---

11 A YEAH. I MEAN, IN AN AREA EVEN THIS SIZE, THERE'S  
12 POTENTIALLY HUNDREDS OF DNA TESTS.

13 Q OKAY. YOU'RE PUTTING YOUR THUMBS AND FINGERS  
14 TOGETHER CREATING A CIRCLE THAT IS ABOUT TWO, TWO AND A  
15 HALF INCHES IN DIAMETER?

16 A I APOLOGIZE. YES, I DO -- I USE MY HANDS WHEN I'M  
17 TALKING.

18 Q WELL, I JUST NEED IT FOR THE RECORD. THANK YOU.  
19 I'M SURE THE JURY MAY HAVE SEEN YOU. I NEED IT FOR THE  
20 RECORD. THANK YOU. UM, AND YOU SAID, YOU KNOW, CLEARLY  
21 ON A WASH CLOTH -- THE NORMAL WASH CLOTH, THAT -- YOU  
22 DON'T KNOW WHERE IN THAT WHOLE CLOTH TO LOOK AT, AND  
23 THERE'S NO TARGET LOCATION, IS THAT RIGHT?

24 A NOT NECESSARILY.

25 Q BUT IN THIS CASE, THERE WAS NOT A TARGET

1 LOCATION---

2 A NO.

3 Q -- ON THAT TOWEL?

4 A NO.

5 Q UNLIKE -- YOU SAID THAT YOU RECEIVED THE -- A COPY  
6 OF THE INCIDENT REPORT AND A COPY OF THE MEDICAL HISTORY  
7 THAT GAVE YOU AN INDICATION ON THE PANTIES WHERE TO FOCUS  
8 ON, IS THAT ACCURATE?

9 A THAT'S CORRECT.

10 Q AND YOU'VE ALREADY SHOWED THE JURY -- WHAT YOU  
11 HELD UP TO THEM JUST A MOMENT AGO, THAT'S THE CUTTING THAT  
12 YOU TOOK FROM THE CROTCH AREA OF THE PANTIES, IS THAT  
13 CORRECT?

14 A YES.

15 Q AND FROM THAT, YOU POINTED OUT TO THE JURY PLACES  
16 WHERE YOU HAD ACTUALLY CUT OUT CLOTH TO DO YOUR TESTING,  
17 CORRECT?

18 A YES.

19 Q AND THE -- THE ENTIRETY OF THE -- BASICALLY, YOUR  
20 CUTTING WAS THE ENTIRETY OF THE CROTCH AREA, IS THAT  
21 ACCURATE?

22 A FOR THE DNA TESTING, IT WAS SOMEWHAT SMALLER, MY  
23 INITIAL CUTTING. AND THEN I DID TAKE SOME FURTHER  
24 CUTTINGS -- IT ENDED UP BEING A RELATIVELY LARGE AREA  
25 BETWEEN THE DNA TESTING AND THE SALIVA TESTING.

1 Q AND LET ME BACK UP ONE SECOND -- BEFORE THAT, THE  
2 ITEM YOU WERE HOLDING, APPROXIMATELY THREE TO FOUR INCHES  
3 LONG, IT'S THE UNDERNEATH -- THE CROTCH -- THE ENTIRE  
4 CROTCH AREA OF THE PANTIES THAT YOU ORIGINALLY TOOK, IS  
5 THAT ACCURATE?

6 A YES.

7 Q OKAY. AND THEN FROM THAT, YOU TOOK SMALLER AREAS  
8 IN THERE TO TEST?

9 A THAT'S CORRECT.

10 Q OKAY. NOW, YOU -- YOU DID THAT NOT NECESSARILY,  
11 AS WE WERE JUST TALKING A MOMENT AGO -- NOT NECESSARILY  
12 BECAUSE YOU, WITH YOUR EYES SPOTTED AN AREA, YOU WERE  
13 MAKING AN EDUCATED, EXPERIENCED GUESS AT PLACES TO CUT  
14 FROM, UNLIKE A BLOOD STAIN WHERE YOU CAN SEE THE STAIN,  
15 YOU DIDN'T ACTUALLY SEE THE STAIN ON THE PANTIES, IS THAT  
16 ACCURATE?

17 A THAT'S CORRECT. JUST BASED ON THE INFORMATION I  
18 HAD BEEN GIVEN IN THE CASE AND LOGIC AND, AGAIN,  
19 EXPERIENCE, YES, I MADE A DETERMINATION OF WHERE I WAS  
20 GOING TO INITIALLY TARGET MY TESTING.

21 Q AND YOU HAD HOPED THAT THAT TESTING WOULD RESULT  
22 IN ITS DNA PROFILE?

23 A WELL, THAT'S THE INITIAL -- YEAH, THAT'S THE POINT  
24 OF DOING THE TESTING, IS TO TRY AND GET A PROFILE THAT'S  
25 FOREIGN TO THE VICTIM.



1 Q THAT WOULD BE BEST BECAUSE THAT'S GOING TO BE THE  
2 MOST SPECIFIC IDENTIFIER, IS THAT ACCURATE?

3 A TO GET AN ENTIRE PROFILE IS A VERY STRONG  
4 IDENTIFIER INDEED.

5 Q UNFORTUNATELY, IN THIS CASE, WHEN YOU DID THE DNA  
6 TESTING, AS YOU SHOWED US THE PICTURES -- THE CHARTS A BIT  
7 AGO, THE SIGNIFICANT THING YOU SAW WAS THERE WAS A Y  
8 CHROMOSOME?

9 A THERE WAS AN INDICATION OF MALE DNA PRESENT, YES.

10 Q WHICH IS THE Y CHROMOSOME?

11 A RIGHT.

12 Q OKAY. AT THE SLED LAB AT THAT TIME, THAT WAS AS  
13 FAR IN TRYING TO PROFILE IT AS YOU COULD GO, I THINK YOU  
14 SAID, CORRECT?

15 A THAT'S CORRECT.

16 Q AND THAT'S WHEN IT WAS SENT OFF TO BODE LAB FOR  
17 ADDITIONAL DNA PROFILING?

18 A YES. I SENT IT FOR Y STR TESTING.

19 Q IF THAT HAD BEEN MY DNA ON THOSE PANTIES, AND YOU  
20 -- I -- I COULD HAVE CONTRIBUTED THE Y CHROMOSOME, IS THAT  
21 ACCURATE, FROM THE INFORMATION YOU HAVE?

22 A BEING A MALE, YES.

23 Q ANY MALE?

24 A THERE, AGAIN, I WOULD LIKE TO REITERATE THAT ON  
25 ANOTHER PORTION OF THE PROFILE, I DID SEE SOME OTHER SMALL

1     PIECE THAT I WAS UNABLE TO USE FOR ANY IDENTIFYING OR  
2     MATCHED PURPOSES. BUT THE Y CHROMOSOME ITSELF CAN BE  
3     CONTRIBUTED BY ANY MALE.

4           Q   YOU CAN'T TELL THE JURY WHETHER IT WAS A YOUNG MAN  
5     OR AN OLD MAN?

6           A   NO.

7           Q   AN AFRICAN AMERICAN OR A CAUCASIAN?

8           A   NO.

9           Q   AND, SO, THE JURY WILL UNDERSTAND, UM, I -- I  
10    DON'T WANT TO OVERSTATE IT -- DNA IS FOUND IN MANY CELLS  
11    OF THE BODY OR ANY CELLS OF THE BODY?

12          A   IT'S FOUNDED IN NUCLEATED CELLS OF THE BODY. AND  
13    I APOLOGIZE FOR LEAVING IT OFF OF MY EXPLANATION OF DNA.  
14    IT'S ACTUALLY COMMONLY THOUGHT THAT IT'S FOUND IN RED  
15    BLOOD CELLS, BUT THAT'S NOT CORRECT. RED BLOOD CELLS  
16    DON'T HAVE A DNA -- DON'T HAVE A NUCLEUS. IT'S MOST OFTEN  
17    WE'RE GETTING DNA FROM SKIN CELLS, SPERM CELLS, AND WHITE  
18    BLOOD CELLS.

19          Q   HAIR?

20          A   THE ROOTS FROM HAIRS, YES.

21          Q   SALIVA?

22          A   SKIN CELLS THAT ARE SHED NATURALLY IN THE MOUTH  
23    WITH SALIVA, YES.

24          Q   SWEAT?

25          A   SWEAT POTENTIALLY. YES, WE TEST ITEMS OF CLOTHING

1 FOR OWNERSHIP USING WHAT WE WOULD CALL SWEAT, AS WELL AS A  
2 MIXTURE OF SKIN CELLS FROM A -- YOU KNOW, CLOTHING RUBBING  
3 AGAINST SKIN.

4 Q IN THE LAB, PRISTINE CONDITIONS, AND THE RISK OF  
5 CONTAMINATION IS VERY MUCH AN ISSUE TO YOU?

6 A IT IS AN ISSUE AGAINST WHICH WE TAKE PRECAUTIONS,  
7 YES.

8 Q THAT'S WHY WE HAVE ALL THESE SEALED PLASTIC  
9 ENVELOPES OVER HERE, CORRECT?

10 A UM, YEAH, THAT'S PART OF THE REASON.

11 Q PART OF THE REASON---

12 A THE INTEGRITY OF THE EVIDENCE AS WELL AS KEEPING  
13 EVIDENCE APART FROM EACH OTHER.

14 Q VERY CLEAN CONDITIONS AT THE LAB?

15 A YES.

16 Q YOU WEAR GLOVES AS YOU DID WHEN YOU HANDLE ANY  
17 EVIDENCE, CORRECT?

18 A YES. FOR VARIOUS REASONS, TO PROTECT BOTH MYSELF  
19 FROM ANY CONTAMINATES CONTAINED IN OTHER PEOPLE'S BODY  
20 FLUIDS, AS WELL AS TO PROTECT THE EVIDENCE FROM CROSS  
21 CONTAMINATION.

22 Q IN THE REAL WORLD, THAT'S THE -- CROSS  
23 CONTAMINATION OR TRANSFER HAPPENS EASILY BECAUSE PEOPLE  
24 DON'T -- AREN'T CONCERNED ABOUT IT SO MUCH?

25 A IT HAPPENS EASILY. HOWEVER, IT IS NOT AS COMMONLY

1     DONE AS SOMEONE MIGHT HAVE THOUGHT -- MIGHT THINK IN  
2     DETECTIBLE LEVELS.

3           Q   THERE ARE TWO TYPES OF TRANSFER, DRY TRANSFER AND  
4     WET TRANSFER, RIGHT?

5           A   GENERALLY SPEAKING, YES, I GUESS -- I THINK THAT  
6     WOULD COVER IT.

7           Q   AND, BASICALLY, WE'RE TALKING WHETHER -- WHETHER  
8     SOMETHING HAS MOISTURE IN IT OR NOT WHEN IT'S TOUCHING  
9     SOMETHING ELSE, THAT'S A WET TRANSFER?

10          A   RIGHT.

11          Q   THAT'S AN EASIER WAY, A BETTER WAY, THAT DNA CAN  
12     BE TRANSFERRED -- A WET TRANSFER?

13          A   WELL, IF YOU HAVE WET BLOOD, IT'S MORE EASILY  
14     GOING TO TRANSFER TO ANOTHER SURFACE THAN IF IT WERE DRY.  
15     IN A CASE IF YOU'RE TALKING ABOUT SALIVA, AGAIN, YOU HAVE  
16     FEWER -- LESS DNA IN SALIVA, SO THE OPPORTUNITY FOR EASY  
17     TRANSFER MIGHT BE LESSONED SOMEWHAT. BUT ANY TIME A WET  
18     SAMPLE IS PRESSED AGAINST A DRY SAMPLE, THE DRY IS GOING  
19     TO ABSORB, AT LEAST SOMEWHAT, POTENTIALLY SOME OF THE  
20     STAIN.

21          Q   IF I HAD A CUT ON MY FINGER, AND TOUCHED SOMEONE  
22     ELSE IN SOME AREA, A MOIST EYEBALL, ANOTHER CUT, MOUTH,  
23     ANY OPEN, WET PLACE, THERE'S THE INCREASED CHANCE OF SOME  
24     TYPE OF TRANSFER, AS OPPOSED TO A DRY TRANSFER?

25          A   THAT'S A BIOLOGICAL -- POTENTIALLY A BIOLOGICAL

1 DISEASE TRANSFER, AN OPEN WOUND TO AN OPEN WOUND OR MUCUS  
2 AREA.

3 Q WELL, A BIOLOGICAL DISEASE, DNA IS GOING TO  
4 TRANSFER, CORRECT?

5 A YES, IF BLOOD -- IF YOUR CUT IS BLOODY AND YOU  
6 TOUCH SOMETHING WITH IT, YOUR DNA VERY WELL MAY END UP ON  
7 THAT ITEM.

8 Q HYPOTHETICALLY, IF I TAKE A SHOWER, COME OUT, DRY  
9 OFF WITH THE TOWEL, AND THE TOWEL IS STILL WET AND MY  
10 SPOUSE IS A FEMALE, THEN USES THAT SAME TOWEL, THERE COULD  
11 BE TRANSFER OF NUCLEATED CELLS OF MINE TO HER?

12 A THAT POSSIBILITY EXISTS, BUT I REALLY BELIEVE YOU  
13 WOULD HAVE A HARD TIME FINDING IT -- FINDING THAT DNA ON  
14 HER BODY FROM A TOWEL THAT WAS MERELY USED TO BE DRIED  
15 OFF. NOW, IF IT'S A BLOODY -- A WET BLOODY TOWEL AND SHE  
16 RUBS IT ON HER BODY---

17 Q IT WOULD DEPEND -- IT WOULD DEPEND ON THE  
18 SUBSTANCE, IT WOULD DEPEND ON HOW MUCH DNA WAS PRESENT,  
19 CORRECT?

20 A CERTAINLY. I MEAN, THAT IS PRESENTED AS DRYING  
21 OFF AFTER A SHOWER.

22 Q RIGHT. NOW, THE REPORT FROM JANUARY 22, 2007,  
23 WHERE YOU INDICATED SALIVA ON THE CUTTING -- THE  
24 ADDITIONAL CUTTING FROM THE PANTIES, IT'S NOT A TEST FOR  
25 SALIVA, IT'S A TEST FOR AMYLASE, RIGHT?

1 A YES. AMYLASE IS A -- AGAIN, A ---

2 Q HOLD ON. HOLD ON. IT'S NOT A TEST FOR SALIVA,  
3 IT'S A TEST FOR AMYLASE, RIGHT?

4 A IT'S AN INDICATION OF THE PRESENCE OF SALIVA.

5 Q I'M GOING TO -- PLEASE ANSWER MY QUESTION. IT'S A  
6 TEST FOR AMYLASE, IS IT NOT, THAT'S THE ---

7 A YES.

8 Q -- RESPONSE YOU GET, YES OR NO TO AMYLASE?

9 A YES. IT IS A TEST FOR AMYLASE.

10 Q OKAY. NOW, AMYLASE IS A DIGESTIVE ENZYME,  
11 CORRECT?

12 A YES.

13 Q NOW, BECAUSE IT'S A DIGESTIVE ENZYME, IT'S IN OUR  
14 SALIVA?

15 A CORRECT.

16 Q SO, THAT'S WHY YOU CAN SAY THAT SALIVA IS  
17 INDICATED ON YOUR REPORT?

18 A CORRECT.

19 Q NOW, AMYLASE IS NOT ONLY FOUND IN SALIVA?

20 A NO. IT'S FOUND IN HIGH AMOUNTS IN SALIVA. THAT'S  
21 WHY IT'S USED.

22 Q AGAIN, MA'AM, I'M -- PLEASE ANSWER MY QUESTIONS.  
23 AMYLASE IS NOT FOUND ONLY IN SALIVA?

24 A THAT'S CORRECT.

25 Q OKAY. IT'S FOUND IN SWEAT?

1 A IN TRACE AMOUNTS.

2 Q IT'S FOUND IN SEMEN?

3 A POSSIBLY, IT'S BEEN A WHILE SINCE I READ THAT. I  
4 DON'T RECALL.

5 Q IT'S FOUND IN VAGINAL SECRETIONS?

6 A IN VERY SMALL AMOUNTS.

7 Q IT'S FOUND IN FECES?

8 A IT IS FOUND IN FECES.

9 Q NOW, IS THIS A TUBULAR TEST OR A BLOTTING TEST  
10 THAT YOU DID?

11 A I'M NOT SURE HOW TO ANSWER THAT. I TOOK A CUTTING  
12 -- THE CUTTINGS THAT I INDICATED TO YOU FROM THE PANTIES,  
13 I PLACED THEM IN A TUBE. AND I PLACED THE LIQUIDS IN THAT  
14 TUBE TO LIFT OUT THE SUBSTANCES THAT ARE PLACED ON THE  
15 PANTIES. AND THEN I TEST THAT LIQUID.

16 Q AND YOU GET A -- A CHEMICAL REACTION THAT -- THAT  
17 INDICATES WHETHER AMYLASE IS THERE OR NOT, IS THAT  
18 CORRECT?

19 A YES.

20 Q OKAY. IT TURNS COLOR TO INDICATE THAT?

21 A IT ACTUALLY CLEARS AN AREA OF COLOR. IT'S ---

22 Q IT---

23 A ---IT CLEARS IT OF STARCH. WE DIE THE STARCH AND  
24 ANY AREA THAT DOESN'T CONTAIN STARCH APPEARS CLEAR. IT'S  
25 -- IT'S ON A PLATE.

1 Q IT STARTS THE OTHER WAY, IT IS A COLOR AND THEN IF  
2 IT IS -- IF AMYLASE IS PRESENT, THEN IT BECOMES CLEAR, IS  
3 THAT ACCURATE?

4 A WELL, THE -- THE PLATE IS INCUBATED OVERNIGHT  
5 TO ALLOW THIS -- THE AMYLASE THAT IS PRESENT IN THE SAMPLE  
6 TO DIGEST THE STARCH THAT I HAVE ADDED TO THE AREA AROUND  
7 IT. AND I CAN'T INITIALLY SEE ANY COLOR. I ADD IODINE TO  
8 REACT WITH THE STARCH. AND IODINE TURNS THE STARCH A  
9 DARK, DEEP BLUE. AND ANY AREA AROUND THE SAMPLE WHERE THE  
10 STARCH HAS BEEN DIGESTED AND USED UP BY THE AMYLASE IS  
11 CLEAR. SO, WHAT I DO IS I LOOK AT THIS CLEARING AREA.  
12 AGAIN, I'M COMPARING IT TO MY KNOWN OWN SALIVA VS. THE  
13 UNKNOWNNS THAT I HAVE ON THE PLATE. AND IF THEY ARE AT OR  
14 GREATER THAN MY OWN KNOWN SALIVA, I REPORT IT AS SALIVA  
15 INDICATED.

16 Q I BELIEVE THE SOLICITOR ASKED YOU ABOUT HER -- YOU  
17 COMMENTED THIS WAS A STRONG REACTION TO AMYLASE?

18 A IT WAS A STRONG INDICATION -- YES, THE REACTION  
19 WAS GREATER THAN MY KNOWN SALIVA THAT I PLATED.

20 Q OKAY. SIMILAR TO WHEN YOU TESTED THINGS AGAINST  
21 MINOR AND HAROLD THAT YOU ALREADY KNEW, YOU TESTED THIS  
22 AGAINST YOUR SPIT?

23 A YES. THAT'S A CONTROL. WE -- WITH ALMOST  
24 EVERYTHING YOU DO, ESPECIALLY IN THE FIELD OF SEROLOGY,  
25 YOU NEED TO PROVE THAT YOUR REACTION IS WORKING---



1 Q NOW -- I'M SORRY. GO AHEAD. I'M SORRY.

2 A IF I HAVE A PLATE OF NEGATIVE SAMPLES, BUT I HAVE  
3 NOTHING ON THERE THAT I KNOW TO BE POSITIVE, I DON'T KNOW  
4 IF MY REACTION WORKED CORRECTLY. WHAT I'M DOING IS  
5 PROVIDING KNOWLEDGE BOTH THAT MY REACTION WORKED AND SOME  
6 INDICATOR OF KNOWN SALIVA, HOW MUCH I -- CLEARING I SHOULD  
7 EXPECT TO SEE.

8 Q THERE'S NO STANDARD AMOUNT OF AMYLASE IN SALIVA?

9 A NO. IT CAN VARY -- IT CAN VARY FROM PERSON TO  
10 PERSON. MINE USUALLY STAYS PRETTY -- I MEAN, YOU'RE  
11 CAREFUL. YOU DON'T COLLECT YOUR OWN SALIVA RIGHT AFTER  
12 EATING. YOU WANT TO NOT HAVE JUST CHEWED GUM. YOU KNOW,  
13 WE KNOW THE STANDARDS -- AND IF I HAVE, I'M GOING TO ASK  
14 SOMEBODY ELSE FOR A SAMPLE. BUT, NO, WE DON'T HAVE A -- I  
15 DILUTE MY SALIVA ONE TO TWO HUNDRED AND FIFTY BEFORE I  
16 EVEN PUT IT ON THE PLATE. SO, I'M NOT -- YOU KNOW, I'M  
17 DOING A DILUTED SAMPLE, BUT I'M DOING A SAMPLE THAT IS  
18 STRONG ENOUGH TO GIVE A REACTION. I HAVE BEEN DOING THIS  
19 REACTION, AGAIN, FOR 18 YEARS. AND I KNOW PRETTY MUCH  
20 WHAT TO LOOK FOR AND TO EXPECT. AND I'M COMPARING UNKNOWN  
21 SAMPLES TO A KNOWN SAMPLE OF SALIVA TO GET AN INDICATION  
22 OF THE PRESENCE OF AMYLASE.

23 Q YOU JUST MENTIONED CHEWING GUM COULD AFFECT THE  
24 LEVELS OF AMYLASE IN SALIVA, CORRECT?

25 A YEAH. FOR MY KNOWN STANDARD, I'M GOING TO CONTROL

1 WHAT MY PLATE -- WHAT I PUT ON MY PLATE.

2 Q OKAY. ANYONE CHEWING GUM COULD AFFECT THE LEVELS  
3 OF AMYLASE IN THEIR SALIVA?

4 A TO SOME DEGREE, IT'S POSSIBLE, YES.

5 Q EATING COULD AFFECT THE LEVELS OF AMYLASE IN YOUR  
6 SALIVA?

7 A I GUESS.

8 Q THERE HAVE BEEN STUDIES ABOUT ALCOHOL AFFECTING  
9 THE LEVELS OF AMYLASE IN SALIVA?

10 A I'M NOT FAMILIAR WITH THAT STUDY, BUT I'LL TAKE  
11 YOUR WORD FOR IT.

12 Q THAT WOULD AFFECT IN YOUR EXPERIENCE, AS AN  
13 EXPERT, THAT WOULD -- ALCOHOL CONSUMPTION COULD AFFECT  
14 LEVELS OF AMYLASE IN YOUR SALIVA?

15 A BUT I DON'T HAVE EXPERIENCE WITH THAT PARTICULAR  
16 STATEMENT.

17 Q OKAY.

18 A I'M NOT -- I'VE NOT READ THAT ARTICLE, WHATEVER  
19 YOU'RE REFERRING TO, NOR HAVE I -- I'M NOT OFTEN AWARE OF  
20 WHAT SOMEONE MAY HAVE BEEN DOING PRIOR TO MY TESTING FOR  
21 AMYLASE. I CAN ONLY BE AWARE OF WHAT I WAS DOING AND I  
22 CAN CONTROL THAT.

23 Q SO, ULTIMATELY, YOUR EXPERT OPINION ON THE AMYLASE  
24 TESTING, IS THAT IN THE PANTIES, ON THE SECOND AND THIRD  
25 CUTTINGS, THERE WAS AMYLASE ENZYME, CORRECT -- A STRONG

1 REACTION?

2 A I HAD A STRONG REACTION FOR AMYLASE. AND MY  
3 OPINION IS IT CAME FROM SALIVA.

4 Q BUT YOU CAN ALSO TELL THIS JURY, AGAIN, IT CAN  
5 COME FROM FECES?

6 A YES. IT HAD BEEN KNOWN TO COME FROM FECES.

7 Q WELL, THAT'S PART OF YOUR DIGESTIVE TRACK, RIGHT?

8 A RIGHT.

9 Q PERSPIRATION, CORRECT?

10 A CORRECT.

11 Q SEMEN AND VAGINAL SECRETIONS?

12 A THE REASON THAT AMYLASE IS USED AS AN INDICATION  
13 FOR SALIVA IS BECAUSE IT IS PRESENT IN HIGHER AMOUNTS IN  
14 SALIVA THAN THESE OTHER BODY FLUIDS. AND THAT IS THE  
15 REASON THAT I SAID SALIVA INDICATED. THAT, I MEAN, AGAIN,  
16 IT'S BEEN USED SINCE I'VE BEEN IN THIS FIELD AND IT'S USED  
17 NATION WIDE AS AN INDICATOR OF THE PRESENCE OF SALIVA..

18 Q AND YOU COMPARED IT AGAINST A STANDARD, WHICH WAS  
19 YOUR SPIT, CORRECT?

20 A YES.

21 Q YOU DIDN'T COMPARE IT TO THE FECES OF ANYONE?

22 A NO.

23 Q AND YET, ANATOMICALLY, FECES COMES OUT OF THE  
24 RECTUM, WHICH IS THE VERY END OF THE DIGESTIVE TRACK,  
25 CORRECT?

1           A    THAT IS -- THAT'S CORRECT.   AND YOU ALSO NEED TO  
2   TAKE INTO ACCOUNT MY JUDGEMENT IN MAKING THIS CALL ON THIS  
3   TEST BECAUSE I SAW NO INDICATION -- NOW, AGAIN, I SAW NO  
4   INDICATION OF FECAL CONTAMINATION ON THE PANTIES.   I HAVE  
5   WITH -- I HAVE WITHHELD DOING AMYLASE TESTING BEFORE WHEN  
6   THERE WAS REASON TO BELIEVE I WASN'T GOING TO GET A TRUE  
7   RESULT.   NOW, AGAIN, I CAN'T -- I DIDN'T EXAMINE THESE  
8   PANTIES WITH A MICROSCOPE.   I DIDN'T -- THAT WOULD HAVE  
9   BEEN OF NO VALUE.   I'M TELLING YOU BASED ON THE JUDGEMENT  
10   I MADE LOOKING AT THESE ITEMS, I MADE TWO DIFFERENT  
11   CUTTINGS FOR AMYLASE AND BOTH TESTED EQUALLY POSITIVE.

12           Q    THE INCIDENT REPORT AND MEDICAL HISTORY ALLEGED  
13   LICKING, AND YOU KNEW THAT BEFORE YOU TESTED, CORRECT?

14           A    OF COURSE, I DID.   THAT HELPS ME TO DO -- DIRECT  
15   MY TESTING.   IT DOES NOT PREJUDICE MY RESULTS.   IT DOES  
16   NOT CHANGE MY RESULTS.

17           MR. DAVIS:   CAN I HAVE JUST A MOMENT, YOUR HONOR?  
18   (PAUSE)   THANK YOU, MS. TAYLOR.   I HAVE NO OTHER  
19   QUESTIONS.

20           MS. HERRING-LASH:   JUST AS A FOLLOW-UP.

21           REDIRECT EXAMINATION BY MS. HERRING-LASH:

22           Q    TO START OFF WITH, WE WILL TALK ABOUT THE SALIVA  
23   TESTING.   YOU SAID AMYLASE IS FOUND IN TRACE AMOUNTS IN  
24   OTHER BODY FLUIDS?

25           A    YES.   IT'S NOT -- IT'S NOT IN THE QUANTITIES THAT

1 IT'S FOUND IN SALIVA.

2 Q AND THAT'S WHY, IN YOUR FIELD, YOU USE AMYLASE TO  
3 IDENTIFY OR INDICATE SALIVA?

4 A THAT'S CORRECT. THAT'S THE REASON IT'S USED.

5 Q DO YOU USE AMYLASE TO INDICATE IF VAGINAL FLUID IS  
6 PRESENT?

7 A NO, MA'AM.

8 Q OR SWEAT?

9 A NO, MA'AM.

10 Q OR FECES?

11 A NO, MA'AM.

12 Q SO, YOU ONLY USE IT TO INDICATE SALIVA?

13 A THAT'S CORRECT.

14 Q NOW, JUST TO CLARIFY FOR THE JURY, WHEN YOU WERE  
15 TALKING ABOUT SPITTING IN SOMETHING AS A CONTROL, YOU'RE  
16 MAKING SURE THAT THE TEST YOU'RE USING IS WORKING, IS  
17 THAT---

18 A YES. IN ANY LABORATORY SETTING, BE IT CLINICAL OR  
19 FORENSIC, WHEN YOU RUN TESTS, YOU NEED TO KNOW THAT YOUR  
20 TEST IS WORKING. AND A LOT OF THEM YOU NEED A POSITIVE  
21 AND SOMETIMES YOU NEED A NEGATIVE CONTROL AS WELL. AGAIN,  
22 IF I HAD A PLATE FULL OF NEGATIVE SAMPLES, I DON'T KNOW  
23 THAT SOMETHING DIDN'T GO WRONG WITH MY TEST. I NEED TO  
24 KNOW. AND THE BEST WAY TO KNOW IS TO USE MY OWN ACTUAL  
25 SALIVA.

1 Q BUT YOU DON'T SPIT INTO THE CONTAINER WHERE --  
2 THAT YOU'RE DOING THE TEST?

3 A NO. AND I PROBABLY NEEDED TO CLARIFY THAT A  
4 LITTLE BIT. I JUST TAKE A LITTLE TUBE -- AND IN FACT, I  
5 WALK TO A DIFFERENT AREA OF THE LABORATORY FOR BOTH  
6 AESTHETIC REASONS AND TO KEEP MY SAMPLE SEPARATE FROM  
7 EVERYTHING ELSE. I COLLECT THAT SAMPLE AND THEN CLOSE THE  
8 TUBE AND HANDLE IT LIKE I WOULD ANY OTHER SAMPLE WITHIN  
9 THE LABORATORY.

10 Q AND YOU HAD MENTIONED THAT WHEN YOU RAN THE  
11 PROFILE -- THE DNA PROFILE ON THE CUTTING FROM THE  
12 PANTIES, THAT -- THERE WERE OTHER LITTLE BUMPS, BUT THEY  
13 WEREN'T ENOUGH FOR YOU TO---

14 A THERE WAS SOME OTHER SMALL PEAKS IN THE PORTION OF  
15 THE PROFILE THAT I -- YOU DIDN'T SEE ON THE SCREEN, THE  
16 COFILER KIT. THERE WERE SOME OTHER VERY SMALL PEAKS, BUT  
17 THEY WERE -- TWO PEAKS AT A PROFILE IS NOT ENOUGH FOR US  
18 TO SAY THERE IS A MATCH OR ANYTHING. IT IS NOT ENOUGH  
19 INFORMATION TO DO ANYTHING REALLY WITH.

20 Q AND DO YOU REMEMBER AT THIS POINT IN TIME WHAT  
21 THOSE PEAKS WERE?

22 A I CAN REFER TO MY CHARTS. THE RESULTS OF THE TWO  
23 KITS THAT I RAN ARE REFLECTED IN A CHART, NUMERICALLY YOU  
24 SEE THOSE NUMBERS. AND ON THE CUTTING FROM THE PANTIES,  
25 IN COFILER, WHICH AGAIN, WAS -- YOU DIDN'T SEE THAT

1 ELECTROPHEROGRAM. IN THE LOCATION TPOX -- T-P-O-X, THERE  
2 WAS A TEN PEAK THAT WAS FOREIGN TO MINOR SHE --  
3 SHE HAS A NINE AND AN ELEVEN. AND THERE WAS A TEN THAT  
4 SHOWED UP.

5 AND THEN RIGHT NEXT TO IT ON ANOTHER LOCATION  
6 CALLED CSF 1 P O, MINOR HAS ONLY AN ELEVEN AT THAT PEAK  
7 -- AT THAT LOCATION. AND I SAW A SMALL INDICATION OF A 12  
8 PEAK THERE.

9 Q NOW, WHEN YOU SAW THOSE PEAKS, WOULD YOU HAVE  
10 LOOKED AT THE DEFENDANT'S PROFILE TO SEE IF HE HAD THOSE?

11 A YES. I MEAN, NATURALLY, THAT'S PART OF MY  
12 INTERPRETATION, PRACTICE.

13 Q AND WHAT DID YOU FIND WHEN YOU LOOKED AT THAT?

14 A WELL, I FOUND THAT NEITHER ONE OF THOSE PEAKS ARE  
15 FOREIGN TO MR. ORR. BUT, AGAIN, I HAVE TO SAY THAT THAT  
16 IS NOT ENOUGH INFORMATION FOR ME TO SAY THAT THEY WERE  
17 HIM. I CAN ONLY -- I HAVE TO BE VERY CAUTIOUS  
18 SCIENTIFICALLY THERE, OR I WOULD HAVE WRITTEN IT IN MY  
19 REPORT. ANYTHING THAT I DON'T WRITE -- I'M NOT WILLING TO  
20 PUT INTO WRITING, I'M NOT WILLING TO SAY HERE. I'M JUST  
21 SAYING THERE WAS A SMALL INDICATION OF SOME PEAKS THAT  
22 WERE FOREIGN TO HER.

23 Q AND THEY WERE NOT FOREIGN TO HIM, BUT NOT ENOUGH  
24 FOR YOU TO---

25 A EXACTLY. HE -- YOU KNOW, THEY ARE NOT FOREIGN TO

1 HIM. BUT, AGAIN, I -- I DON'T WANT TO EVEN GIVE AN  
2 INDICATION OF A MATCH. THAT'S---

3 Q NOW, TO GO BACK AND TALK ABOUT THE TRANSFER FOR  
4 JUST A MOMENT. THEY -- WHAT YOU SAID WAS IT IS NOT AS  
5 COMMON IN EVERY DAY LIFE, OR IT'S NOT IN TECHNICAL LEVELS,  
6 WHAT DOES THAT MEAN WHEN YOU SAY TRANSFER IN TECHNICAL  
7 LEVELS? I MAY---

8 A DETECTIBLE LEVELS. I APOLOGIZE---

9 Q I MAY HAVE --

10 A -- FOR NOT BEING CLEAR ON THAT.

11 Q WHAT DOES THAT MEAN?

12 A IN PRACTICAL TERMS, I DON'T -- I HAVE -- THERE'S  
13 EVIDENCE IN OUR LABORATORY ALMOST AT ANY GIVEN TIME, IT'S  
14 SEALED UP UNLESS SOMEONE IS ACTUALLY WORKING ON IT UNDER  
15 THEIR HOOD. BUT I DON'T WALK PAST THERE AND EXPECT TO GET  
16 THAT DNA ON ME. I DON'T -- I DON'T THINK THAT IF MY  
17 HUSBAND AND MYSELF HAD OUR CLOTHES IN THE SAME DIRTY  
18 CLOTHES CONTAINER, THAT IF I PULL OUT MY CLOTHING, I'M  
19 GOING TO FIND HIS DNA, IT'S -- IN A DETECTIBLE AMOUNT  
20 WHERE, YOU KNOW, TESTING WOULD FIND IT.

21 THERE'S POSSIBILITIES -- YOU HAVE THE REALM OF  
22 POSSIBILITY AND IT'S POSSIBLE TO GET DNA PROFILE -- A DNA  
23 PROFILE FROM A VERY FEW NUMBER OF CELLS. BUT THE  
24 PRACTICAL AND THE REAL WORLD TELLS ME, AND MY EXPERIENCE  
25 TELLS ME, THAT IT TAKES A LITTLE BIT MORE OF AN



ROBIN TAYLOR -- REDIRECT BY MS. HERRING-LASH  
400

1 INTENTIONAL ACT OR AN INTENTIONAL CONTACT BETWEEN TWO  
2 ITEMS FOR A REALISTIC AMOUNT OF TRANSFER TO OCCUR. AGAIN,  
3 YOU'RE JUST DEALING WITH THE REALM OF PROBABILITY VS.  
4 POSSIBILITY.

5 Q AND, IN FACT, AT SLED DO YOU OFTEN GET KITS AND  
6 CLOTHING AND OTHER ITEMS WHERE YOU'RE NOT ABLE TO DEVELOP  
7 ANY PROFILES WHEN THERE'S A HISTORY OF CONTACT?

8 A WE ARE ASKED TO DO -- AS A MATTER OF FACT, QUITE  
9 OFTEN, WHAT'S CALLED INERTIA TESTING, WHEREBY WE'RE TRYING  
10 TO ACTUALLY PLACE CLOTHING ON PEOPLE. AND SOMETIMES IT'S  
11 QUITE SUCCESSFUL AND OTHER TIMES WE DON'T GET ANYTHING AT  
12 ALL. YOU KNOW, IF SOME -- IF AN ITEM DOESN'T APPEAR TO BE  
13 ESPECIALLY DIRTY, WE VERY WELL MAY NOT GET ANYTHING. IT'S  
14 NOT AN ABSOLUTE EVEN IF SOMEBODY HAS WORN AN ITEM OF  
15 CLOTHING, IT'S NOT AN ABSOLUTE THAT I'M GOING TO BE ABLE  
16 TO GET THEIR DNA. THESE THINGS JUST DON'T -- IT DOESN'T  
17 GET ON THE CLOTHING AND GROW ITSELF. IT HAS TO BE A  
18 TRANSFER. AND, AGAIN, IT'S NOT A 100 PERCENT TYPE OF  
19 SITUATION WHERE I'M ACTUALLY GOING TO BE ABLE TO PUT  
20 CLOTHING ON A PERSON.

21 MS. HERRING-LASH: THE COURT'S INDULGENCE FOR ONE  
22 MOMENT.

23 THE COURT: OKAY.

24 BY MS. HERRING-LASH:

25 Q YOU HAVE TESTIFIED EARLIER THAT YOU DO NOT USE

1 AMYLASE -- AM I PRONOUNCING THAT CORRECTLY?

2 A AMYLASE.

3 Q AMYLASE -- THE TEST INDICATES SWEAT, VAGINAL  
4 FLUIDS, FECES, WHY NOT?

5 A WELL, BECAUSE THAT'S -- WELL, NUMBER ONE, THERE  
6 ARE NO TESTS AVAILABLE TO INDICATE THE PRESENCE OF VAGINAL  
7 FLUID OR SWEAT OR EVEN FECES THAT I KNOW OF. BUT ANY TIME  
8 A TEST HAS BEEN DEVELOPED TO INDICATE THE PRESENCE OF A  
9 BODY FLUID, IT'S BECAUSE IT'S PRESENT AT HIGHER LEVELS IN  
10 THAT BODY FLUID. FOR SEMEN, WE USE P 30, WHICH IS A  
11 PROTEIN FOUND IN HIGH AMOUNTS IN THE BODY FLUID SEMEN.  
12 AND THAT'S WHY THAT TEST IS USED.

13 AGAIN, AS LONG AS I HAVE BEEN IN FORENSICS, AMYLASE  
14 HAS BEEN USED AS AN INDICATOR OF THE PRESENCE OF SALIVA.

15 MS. HERRING-LASH: THAT'S ALL THE QUESTION I HAVE,  
16 MS. TAYLOR.

17 MR. DAVIS: JUST BRIEFLY, YOUR HONOR.

18 RECROSS EXAMINATION BY MR. DAVIS:

19 Q WOULD YOU INDICATE THAT -- YOU INDICATED THAT IN  
20 YOUR STANDARD, YOU DILUTED YOUR SALIVA TO WHAT RATE?

21 A ONE TO TWO HUNDRED AND FIFTY.

22 Q AND YOU JUST SAID THAT YOU'RE NOT AWARE OF  
23 SPECIFIC TESTS FOR VAGINAL FLUIDS, CORRECT?

24 A THAT'S CORRECT.

25 Q YOU'RE NOT AWARE OF ANY SPECIFIC TESTS FOR FECES?

1           A    THAT'S CORRECT.

2           Q    AND THERE WAS A THIRD ONE -- FORGIVE ME---

3           A    SWEAT.

4           Q    SWEAT. THANK YOU. AND I THINK THE MAJOR REASON  
5   THERE, CORRECT ME IF I'M WRONG, IS THAT YOU INDICATE THAT  
6   -- LET ME STRIKE THAT. A POSITIVE REACTION FOR AMYLASE,  
7   YOU DETERMINE TO BE SALIVA BECAUSE AMYLASE IS IN HIGH  
8   CONCENTRATIONS IN SALIVA, IS THAT ACCURATE?

9           A    I DIDN'T MAKE THAT DETERMINATION. I'M NOT EXACTLY  
10   SURE I UNDERSTAND YOUR QUESTION. THAT TEST WAS IN PLACE  
11   WHEN I CAME INTO THE FIELD.

12          Q    IF YOU DO A TEST FOR AMYLASE, AND IT IS A STRONG  
13   REACTION, YOU DEEM THAT TO BE SALIVA BECAUSE YOU KNOW THAT  
14   AMYLASE IS IN HIGH CONCENTRATION IN SALIVA?

15          A    THAT IS OUR PROTOCOL, YES.

16          Q    ARE YOU AWARE OF WHAT THE LEVELS OF AMYLASE IS IN  
17   URINE PER UNIT LITER?

18          A    NO, I'M NOT. I HAD TO KNOW THOSE TYPES OF THINGS  
19   IN ORDER TO BE CERTIFIED FOR THIS TESTING, BUT THAT WAS A  
20   WHILE BACK. AND, FRANKLY, I DIDN'T MEMORIZE THEM NOR DO I  
21   NEED TO KNOW THEM EVERYDAY IN MY ANALYSIS. AND I  
22   APOLOGIZE, BUT, NO, I DON'T KNOW THOSE CONCENTRATIONS OFF  
23   THE TOP OF MY HEAD.

24          Q    WOULD YOU KNOW WHAT THE CONCENTRATION IS IN SALIVA  
25   SINCE WE'RE DEALING WITH THAT?

1           A   NO.  I APOLOGIZE I DON'T.

2           Q   SO, WHEN YOU SAY THAT IN OTHER SECRETIONS OF THE  
3   BODY, AMYLASE IS IN LOWER LEVELS, YOU CAN'T TELL THIS JURY  
4   HOW MUCH LOWER LEVELS?

5           A   NOT IN CONCENTRATIONS.  I CAN ONLY GO BY PRIOR  
6   SCIENTIFIC -- PEOPLE WHO PUT THESE TESTS IN PLACE BASED ON  
7   THOSE CONCENTRATIONS.  I -- AND AGAIN, AT ONE TIME, I DID  
8   KNOW THOSE, AND I JUST DON'T HAVE THEM MEMORIZED NOW.

9           Q   SO, YOU WOULD NOT BE ABLE TO TELL THE JURY IN WHAT  
10  CONCENTRATIONS AMYLASE WOULD OCCUR IN FECES?

11          A   NOT OFF THE TOP OF MY HEAD.  NO, I'M SORRY.

12          Q   YOU CANNOT TODAY TELL THE JURY THAT FECES WOULD  
13  HAVE BEEN A MUCH LOWER REACTION THAN SALIVA?  YOU CANNOT  
14  SAY THAT?

15          A   I KNOW THAT AMYLASE IS NOT USED AS AN INDICATOR AS  
16  THE PRESENCE -- FOR THE PRESENCE OF FECES.  I KNOW THAT  
17  IT'S USED AS AN INDICATOR FOR THE PRESENCE OF SALIVA.

18          Q   TWO QUESTIONS:  FIRST OF ALL, YOU HAVE ALREADY  
19  SAID THERE IS NO TEST FOR FECES, RIGHT, THAT YOU KNOW OF?

20          A   THAT I KNOW OF.

21          Q   NOW, PLEASE ANSWER MY QUESTION.  YOU CAN NOT TELL  
22  THIS JURY THAT THE AMOUNTS OF AMYLASE PRESENT WERE SALIVA,  
23  NOT FECES, BECAUSE YOU DON'T KNOW THE CONCENTRATION  
24  LEVELS?

25          A   I DON'T KNOW THE NORMAL CONCENTRATION OF AMYLASE

1 IN FECAL MATERIAL. AND I DON'T RECALL THE NORMAL  
2 CONCENTRATION OF AMYLASE IN -- IN SALIVA. I KNOW---

3 Q SO -- SO THE STRENGTH REACTION YOU GOT---

4 MS. HERRING-LASH: I WOULD ASK THAT HE ALLOW HER TO  
5 FINISH ANSWERING THE QUESTION.

6 MR. DAVIS: OKAY. IF SHE WASN'T, JUDGE, I APOLOGIZE.

7 A I WAS SIMPLY GOING TO SAY, I KNOW VERY WELL THE  
8 PROTOCOL THAT WE HAVE TO TEST FOR THE PRESENCE OF AMYLASE,  
9 I MEAN, TEST FOR THE PRESENCE OF SALIVA. AND THAT IS  
10 AMYLASE TESTING AND THAT IS WHAT I PERFORMED.

11 BY MR. DAVIS:

12 Q WHEN YOU SAY THAT, YOU MEAN THAT SLED HAS A  
13 CERTAIN STANDARD AND CERTAIN PROCEDURES THAT YOU PRACTICED  
14 WHEN DOING THIS TESTING?

15 A EVERY SCIENTIFIC LABORATORY MUST HAVE PROCEDURES  
16 IN PLACE FOR PERFORMING THE TEST THAT THEY PERFORMED IN  
17 THAT LABORATORY.

18 Q SO, IF SLED SAYS IF YOU TEST FOR AMYLASE AND IT  
19 COMES BACK IN AN AMOUNT REACTION LIKE YOU GOT, YOU LABEL  
20 IT SPIT?

21 A ACTUALLY, OUR PROCEDURES WERE INITIALLY BASED ON  
22 THE FBI'S PROCEDURES AND THEY ARE PRETTY MUCH STANDARD  
23 NATION WIDE. I -- I KNOW---

24 Q PLEASE. I'M ASKING YOU IF SLED TELLS YOU THAT IF  
25 YOU TEST IT, AND IT COMES BACK IN THESE LEVELS, YOU LABEL

1 IT SALIVA? THAT'S MY QUESTION.

2 A SLED GIVES ME GUIDELINES, YES, IN REPORTING MY  
3 RESULTS. AND I DID ADHERE TO OUR GUIDELINES IN REPORTING  
4 THESE RESULTS.

5 Q THERE IS NO FORENSIC TEST FOR FECES?

6 A NOT TO MY KNOWLEDGE.

7 Q SO, YOU WOULDN'T HAVE THOUGHT TO COMPARE THE  
8 LEVELS OF AMYLASE TO A FECES SAMPLE?

9 A IF I HAVE MADE A VISUAL OBSERVATION OF FECAL  
10 CONTAMINATION, I WOULD HAVE PAID ATTENTION TO THAT. IT  
11 WOULD HAVE BEEN -- ANY TIME YOU'RE SITTING THERE HOLDING  
12 AN ITEM OF EVIDENCE, YOU'RE GOING TO MAKE THESE  
13 OBSERVATIONS. YOU'RE GOING TO MAKE COMMENT ABOUT THAT AND  
14 USE THAT IN YOUR INTERPRETATION. I DID NOT MAKE ANY  
15 VISUAL OBSERVATION OF FECAL CONTAMINATION AND I REPORTED  
16 MY RESULTS.

17 Q YOU CANNOT TELL THIS JURY THAT THERE WASN'T SOME  
18 FECAL CONTAMINATION ON THOSE PANTIES?

19 A I CAN'T TELL THEM THAT THERE WAS ABSOLUTELY NO  
20 FECAL CELLS PRESENT. I CAN TELL YOU THAT IT DID NOT  
21 APPEAR TO BE FECAL---

22 Q YOU DIDN'T OBSERVE IT?

23 A I DID NOT OBSERVE WHAT WOULD INDICATE TO ME THE  
24 PRESENCE OF FECES, ANY VISUAL INDICATION OF THE PRESENCE  
25 OF FECES.

1           MR. DAVIS:  THANK YOU.  I HAVE NO OTHER QUESTIONS.

2           MS. HERRING-LASH:  NO QUESTIONS, YOUR HONOR.

3           THE COURT:  ALL RIGHT, MA'AM, YOU CAN COME DOWN.

4           (WITNESS STEPPED DOWN.)

5           MS. HERRING-LASH:  YOUR HONOR, MAY WE APPROACH JUST  
6  TO DISCUSS THE SCHEDULE?

7           THE COURT:  YOU MAY.

8           (WHEREUPON, THE PROCEEDINGS WERE INTERRUPTED FOR A  
9  BENCH CONFERENCE IN THE PRESENCE OF THE JURY, BUT OUTSIDE  
10 THE HEARING OF THE JURY, OFF THE RECORD.)

11          THE COURT:  ALL RIGHT, LADIES AND GENTLEMEN, I'M  
12 GOING TO BREAK HERE FOR THE DAY.  AND I WOULD LIKE FOR YOU  
13 ALL TO BE BACK IN YOUR JURY ROOM TOMORROW MORNING AT 9:30  
14 AND WE WILL TRY TO GET STARTED AS CLOSE TO THAT TIME AS WE  
15 CAN.  SO, HAVE A NICE NIGHT.  AND REMEMBER, THAT YOU MAY  
16 NOT DISCUSS THIS CASE.  AND I WILL SEE YOU TOMORROW  
17 MORNING AT 9:30.

18          (WHEREUPON, THE JURY LEFT THE COURTROOM AT 5:23  
19 P.M.)

20          THE COURT:  ALL RIGHT.  FROM A -- YOU DISCUSSED JUST  
21 NOW TWO WITNESSES YOU PLANNED TO CALL.  YOU HAVE ALREADY  
22 TOLD ME YOU HAVE A FEW OTHER MEMBERS OF THE FAMILY.

23          MS. HERRING-LASH:  YES, YOUR HONOR.

24          THE COURT:  OVERALL, HOW LONG DO YOU THINK IT WILL  
25 TAKE TOMORROW TO COMPLETE YOUR CASE?

1 MS. HERRING-LASH: I WOULD THINK THAT THE BODE  
2 LABORATORY PERSON WOULD BE AT LEAST AN HOUR. THE OTHER  
3 OFFICER 35 MINUTES -- I DON'T -- I CAN'T ANTICIPATE THE  
4 CROSS. I DON'T KNOW. I THINK THE DIRECT WILL BE LESS  
5 THAN 20 MINUTES, MAYBE 15. THE FAMILY MEMBERS SHOULD BE  
6 VERY SHORT.

7 THE COURT: SO, WE'RE LOOKING AT ABOUT -- YOU THINK  
8 ABOUT TWO HOURS OF TESTIMONY TOMORROW?

9 MS. HERRING-LASH: UNLESS MR. DAVIS THINKS HE'S GOING  
10 TO BE LONGER ON CROSS.

11 THE COURT: OKAY. ALL RIGHT.

12 MR. DAVIS: I THINK THAT'S PRETTY FAIR, JUDGE.

13 THE COURT: DO YOU ANTICIPATE PUTTING UP A LENGTHY  
14 CASE TOMORROW?

15 MR. DAVIS: NO, JUDGE. AT THE MOST, IT WILL BE MY  
16 CLIENT AND -- AT MOST, IT WILL BE MY CLIENT.

17 THE COURT: OKAY. IS THERE ANOTHER CASE THAT IS  
18 READY TO BE TRIED?

19 MR. WILLIAMS: JUDGE, I HAVE THE NEXT CASE UP. IF I  
20 CAN APPROACH?

21 THE COURT: ALL RIGHT.

22 (WHEREUPON, A BENCH CONFERENCE WAS HELD BETWEEN MR.  
23 WILLIAMS AND THE COURT.)

24 THE COURT: ALL RIGHT. ANYTHING FURTHER FOR TODAY?

25 MR. DAVIS: NO, YOUR HONOR.



1           **THE COURT:** OKAY. WE WILL SEE Y'ALL TOMORROW, 9:30.  
2 IF YOU HAVE ANY SPECIAL REQUESTS FOR CHARGE, I WOULD LIKE  
3 TO KNOW WHAT THOSE ARE RIGHT NOW. YES. CAN Y'ALL COME UP  
4 HERE AND DISCUSS WITH HER THE EXHIBITS?

5           (WHEREUPON, THE COURT RECESSED DAY 2 OF TRIAL AT 5:27  
6 P.M..)

7

---

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

P R O C E E D I N G S

(APRIL 23, 2008 9:30 A.M.)

(DAY THREE OF TRIAL)

1 THE COURT: BE SEATED PLEASE. GOOD MORNING. ALL  
2 RIGHT. I THINK WE ARE STILL MISSING A COUPLE JURORS, BUT  
3 ARE YOU ALL OTHERWISE READY TO PROCEED?

4 MS. HERRING-LASH: YES, YOUR HONOR.

5 MR. DAVIS: YES, YOUR HONOR.

6 THE COURT: OKAY. (PAUSE.) BRING IN THE JURY,  
7 PLEASE.

8 (WHEREUPON, JURY ENTERED THE COURTROOM AT 9:36  
9 A.M.)

10 BAILIFF: THE JURY IS SEATED, YOUR HONOR.

11 THE COURT: GOOD MORNING.

12 JURY IN UNISON: GOOD MORNING.

13 THE COURT: YOU CAN PROCEED.

14 MR. NEELY: THE STATE CALLS ALMA LOWERY.

15 (WITNESS FORWARD.)

16 ALMA LOWERY, HAVING BEEN FIRST  
17 DULY SWORN, TESTIFIED AS FOLLOWS:

18 CLERK: THANK YOU, MA'AM. PLEASE HAVE A SEAT. FOR  
19 THE RECORD, IF YOU WOULD, PLEASE STATE YOUR NAME AND SPELL  
20 YOUR LAST NAME FOR US.

21 THE WITNESS: ALMA LOWERY, L-O-W-E-R-Y.

22 DIRECT EXAMINATION BY MR. NEELY:

OFFICER LOWERY -- DIRECT BY MR. NEELY

410

1 Q OFFICER LOWERY?

2 A OFFICER LOWERY.

3 Q I'VE BEEN SAYING IT WRONG ALL THIS TIME. FORGIVE  
4 ME. OFFICER, WILL YOU TELL THE COURT WHAT YOUR CURRENT  
5 JOB IS?

6 A I AM A POLICE OFFICER WITH THE NORTH CHARLESTON  
7 POLICE DEPARTMENT.

8 Q HOW LONG HAVE YOU BEEN THERE?

9 A TWELVE -- COMING ON 12 YEARS. COMING UP TO 12  
10 YEARS.

11 Q AND WHAT'S YOUR CURRENT TITLE?

12 A I AM A PATROL OFFICER.

13 Q AND YOU HAVE BEEN DOING THAT FOR 12 YEARS?

14 A APPROXIMATELY TEN YEARS. I'VE HAD OTHER THINGS  
15 THAT I'VE DONE.

16 Q OKAY. WILL YOU TELL THE JURY WHAT THAT ACTUALLY  
17 ENTAILS?

18 A PATROL IS, UM, PATROLLING THE COMMUNITY, AREA  
19 BUSINESSES, ANSWERING CALLS, JUST BEING VISIBLE IN THE  
20 COMMUNITY, COMBATING CRIME.

21 Q AND WERE YOU ASSIGNED TO THAT POSITION IN 2003?

22 A IN 2003, I WAS.

23 Q IN NOVEMBER OF THAT YEAR?

24 A YES, YES, SIR.

25 Q AND I NOTICED YOU ARE WEARING LIKE A UNIFORM.

1 ARE YOU IN THE SERVICE ALSO?

2 A I'M ALSO IN THE AIR FORCE RESERVES ON ACTIVE DUTY  
3 AT THIS TIME.

4 Q OKAY. WELL, LET'S TALK ABOUT NOVEMBER OF '03.  
5 WHAT AREA WERE YOU ASSIGNED TO AT THAT TIME?

6 A I WAS ASSIGNED TO WHAT WE CALL THE SOUTH AREA,  
7 WHICH IS SPRUILL AVENUE, DURANT, DORCHESTER, AT THAT TIME.

8 Q IS THAT IN CHARLESTON COUNTY?

9 A IT'S IN THE CITY OF NORTH CHARLESTON, PRETTY MUCH  
10 AROUND THE OLD NAVY SHIPYARD.

11 Q BUT THAT'S -- THAT'S A PART OF CHARLESTON COUNTY?

12 A YES, SIR.

13 Q OKAY. LET ME ASK YOU, DID YOU EVER RECEIVE A CALL  
14 ABOUT A CASE CONCERNING A GIRL NAME MINOR

15 A YES, I DID.

16 Q WILL YOU TELL US WHO CALLED YOU CONCERNING---

17 A THAT LT. NATHAN CALLED AND ASKED COULD I RESPOND  
18 TO THE INCIDENT LOCATION.

19 Q DID YOU HAVE ANY IDEA WHAT TYPE OF -- I GUESS WHAT  
20 WAS GOING ON AND WHAT YOU WERE RESPONDING TO?

21 A YES. WE USED CODE THINGS AND WE -- AND  
22 TERMINOLOGY. AND IT WAS LIKE A CODE FIVE, WHICH WE DON'T  
23 -- THAT'S HOW WE DO IT IN CASE ANYBODY PICKS UP ON THE  
24 RADIO -- AND I KNEW THAT IT INVOLVED A SEXUAL ASSAULT OF  
25 SOME TYPE.

OFFICER LOWERY -- DIRECT BY MR. NEELY

412

1 Q NOW, LET ME ASK THIS, DID YOU AT THAT POINT ASK  
2 WHY YOU WERE CALLED OUT?

3 A YES, TO INTERVIEW [REDACTED] IN REFERENCE TO WHAT I  
4 JUST STATED.

5 Q OKAY. AT SOME POINT, DID YOU ARRIVE AT THE  
6 LOCATION?

7 A YES. I WOULD SAY WITHIN THREE MINUTES BECAUSE I  
8 WAS ALREADY OUT PATROLLING IN -- IN THE LOCAL AREA.

9 Q I'M GOING TO SHOW YOU WHAT IS MARKED -- WHAT IS  
10 ENTERED AS STATE'S EXHIBIT 1, AND ASK YOU IF YOU CAN  
11 IDENTIFY THIS?

12 A YES. THIS IS THE RESIDENCE THAT I RESPONDED TO  
13 WHERE [REDACTED] WAS, I GUESS, VISITING AT HER GRANDMOTHER'S  
14 HOUSE.

15 Q OKAY. AND I'M GOING TO SHOW YOU STATE'S EXHIBIT  
16 2, AND ASK DOES THIS PLACE LOOK FAMILIAR?

17 A YES. THIS IS THE LIVING ROOM AND THE KITCHEN AREA  
18 OF THE MOBILE HOME.

19 Q OKAY. AND WHAT ABOUT STATE'S EXHIBIT 3?

20 A STATE'S EXHIBIT NO. 3 IS THE AREA WHERE THE TWO  
21 BAR STOOLS ARE, THAT [REDACTED] -- WHERE I INTERVIEWED

22 [REDACTED]

23 Q OKAY.. NOW, WAS THE PLACE IN THAT CONDITION WHEN  
24 YOU WERE THERE?

25 A NO, IT WAS NOT. IT WAS VERY NEAT.

1 Q OKAY. WILL YOU LOOK AT THAT AND TELL ME WHERE YOU  
2 ACTUALLY DID THE INTERVIEW WITH [REDACTED]

3 A WHERE THE TWO BAR STOOLS ARE LOCATED, [REDACTED] WAS  
4 SITTING IN ONE AND I WAS SITTING IN THE OTHER ONE.

5 Q AND IF YOU COULD, JUST FOR THE JURY, POINT THAT  
6 OUT ON THE SCREEN. AND I'LL GIVE YOU THIS AND YOU CAN HIT  
7 THE RED BUTTON AT THE TOP, TO INDICATE WHERE THE INTERVIEW  
8 ACTUALLY OCCURRED.

9 A THESE TWO BAR STOOLS.

10 Q AND WERE THEY IN THAT AREA BACK IN '03?

11 A YES, SIR.

12 Q OKAY. LET ME ASK THIS: DO YOU REMEMBER A SOFA  
13 BEING IN THE TRAILER?

14 A THAT WAS IN THE LIVING ROOM.

15 Q IN THE LIVING ROOM. ARE YOU ABLE TO IDENTIFY THAT  
16 FROM THAT PICTURE?

17 A YES, -- WELL -- I WAS TRYING--

18 Q IF YOU'RE NOT, WE CAN SHOW YOU THE OTHER ONES.

19 A SURE. GO BACK TO THE OTHER ONE PLEASE. IT WAS  
20 HERE UP IN THAT AREA. I THINK THAT WAS THE COUCH RIGHT  
21 HERE.

22 Q AND YOU'RE LOOKING NOW AT STATE'S EXHIBIT NO. 2.  
23 OKAY. AND THAT'S WHERE THE SOFA WAS AT THAT TIME?

24 A YES.

25 Q I WANT TO TALK TO YOU JUST FOR A FEW MOMENTS ABOUT

OFFICER LOWERY -- DIRECT BY MR. NEELY

414

1 THE ACTUAL INTERVIEW OR CONVERSATION THAT YOU HAD WITH  
2 [REDACTED] BEFORE I DO THAT, YOU INDICATED THAT THAT  
3 OCCURRED IN -- WHERE THE BAR STOOLS WERE, IS THAT CORRECT?

4 A THE INTERVIEW DID.

5 Q AND WAS THAT IN THE KITCHEN?

6 A YES, SIR.

7 Q WHEN YOU TALKED TO [REDACTED] WAS ANYONE ELSE  
8 PRESENT?

9 A THE RESPONDING OFFICER, WHO IS OFFICER ROGERS, HE  
10 WAS PRESENT.

11 Q OKAY. WHAT ABOUT THE GRANDMOTHER?

12 A THE GRANDMOTHER WAS PRESENT, BUT SHE WAS IN THE  
13 LIVING ROOM AREA.

14 Q WAS SHE A PART OF THAT CONVERSATION?

15 A SHE WAS NOT A PART OF THE CONVERSATION, NO. IT  
16 WAS OFFICER ROGERS. I WAS THE ONLY ONE THAT WAS ACTUALLY  
17 SPEAKING AND INTERVIEWING, BUT HE WAS PRESENT FOR THAT.

18 Q DO YOU REMEMBER WHAT SHE DOING, SHE BEING THE  
19 GRANDMOTHER?

20 A THE GRANDMOTHER WAS JUST SITTING DOWN, AS BEST  
21 THAT I CAN REMEMBER.

22 Q OKAY. AND THIS HAS BEEN A WHILE, SO I MEAN, YOU  
23 -- YOU ARE TRYING TO GO OFF YOUR MEMORY WHAT HAPPENED AND  
24 WHAT YOU RECALL?

25 A YES, WELL, I'M 99 PERCENT SURE THAT SHE WAS, YOU

1 KNOW, JUST SITTING THERE LISTENING. SHE DID NOT SPEAK. I  
2 KNOW THAT FOR A FACT.

3 Q OKAY. I WANT TO -- BEFORE WE GO ANY FURTHER -- TO  
4 SHOW YOU AGAIN, STATE'S EXHIBIT NO. 3. AND YOU INDICATED  
5 THAT THE CONVERSATION OCCURRED WHERE THOSE BAR STOOLS ARE?

6 A YES, SIR.

7 Q OKAY. WILL YOU TELL ME WHERE OFFICER ROGERS WOULD  
8 HAVE BEEN DURING THAT CONVERSATION?

9 A OFFICER ROGERS WAS STANDING RIGHT HERE IN VERY  
10 CLOSE PROXIMITY.

11 Q WAS HE ON THE OTHER SIDE OF THE BAR STOOLS -- I  
12 MEAN, THE -- THE BAR OR STILL INSIDE THE KITCHEN?

13 A PRETTY MUCH RIGHT HERE AT THE END.

14 Q WOULD IT BE RELEVANT TO SAY IT'S A SMALL SPACE?

15 A IT'S A VERY SMALL SPACE.

16 Q OKAY. UM, DURING THAT TIME, WOULD YOU SAY -- OR  
17 WILL YOU TELL THE JURY WHETHER OR NOT THE GRANDMOTHER WAS  
18 COACHING OR TRYING TO ENCOURAGE [REDACTED] TO SAY ANYTHING?

19 A NO, SHE WAS NOT TRYING TO COACH OR ENCOURAGE HER  
20 TO SAY ANYTHING AT ALL.

21 Q WAS SHE SPEAKING OVER [REDACTED] IN ANY WAY?

22 A NO ONE WAS SPEAKING WITH [REDACTED] BUT MYSELF.

23 Q WHEN YOU -- I'M SORRY?

24 A I WAS THE ONLY ONE THAT WAS TALKING TO [REDACTED]  
25 THROUGHOUT THE INTERVIEW.



1 Q WHEN YOU WERE TALKING TO HER AT THE BEGINNING, DID  
2 YOU HAVE TO WARM HER UP?

3 A YES, I DID.

4 Q AND WILL YOU TELL THE JURY ABOUT THAT?

5 A WELL, SHE IS A CHILD AND SHE DID NOT KNOW ME. AND  
6 EVEN THOUGH I'M A POLICE OFFICER, I WANTED HER TO, YOU  
7 KNOW, FEEL COMFORTABLE TALKING WITH ME, ESPECIALLY ON THIS  
8 SENSITIVE ISSUE. AND I WANTED HER TO, YOU KNOW, JUST OPEN  
9 UP TO ME AND JUST -- BECAUSE THERE WERE QUESTIONS I NEEDED  
10 TO ASK.

11 Q AND DID SHE?

12 A SHE DID EVENTUALLY..

13 Q DID SHE EVENTUALLY TELL YOU ABOUT THE ASSAULT?

14 A YES, SHE DID.

15 Q DID SHE TELL YOU WHERE IT HAPPENED?

16 A YES, SHE DID.

17 Q DID SHE TELL YOU WHEN IT HAPPENED?

18 A YES, SHE DID.

19 Q WHAT WAS HER DEMEANOR AT THE TIME?

20 A MINOR WAS -- SHE WAS VERY FRIGHTENED. AND SHE  
21 WAS NERVOUS AND SHE WAS SHAKING A LITTLE BIT.

22 Q BUT SHE WAS ABLE TO ARTICULATE WHAT SHE RECALLED  
23 AND WHAT ACTUALLY HAPPENED?

24 A SHE WAS ABLE TO ARTICULATE ONCE I WAS ABLE TO, UM,  
25 GAIN HER TRUST.

1 Q I WANT TO TALK A MOMENT NOW ABOUT THE ROLES OF THE  
2 TWO OFFICERS, YOU AND OFFICER ROGERS. YOU TESTIFIED  
3 EARLIER THAT YOU WERE THERE TO CONDUCT AN INTERVIEW, AM I  
4 CORRECT IN THAT?

5 A YES, SIR.

6 Q WHAT WAS HIS ROLE?

7 A HE WAS THE -- WHAT WE CALL THE RESPONDING OFFICER.  
8 HE WAS THE FIRST OFFICER ON THE SCENE. I, ALONG WITH  
9 OTHERS, WERE WHAT WE CALL ASSISTANT OFFICERS, SO HE HAD  
10 THE LEAD ROLE AS FAR AS BEING THERE FIRST.

11 Q WHAT DID HE DO DURING THE INTERVIEW?

12 A HE DIDN'T -- HE DID NOT SPEAK AT ALL WITH MINOR  
13 I WAS THE SOLE INTERVIEWER. HE JUST STOOD THERE AND  
14 LISTENED TO THE CONVERSATION.

15 Q DID YOU SEE HIM DOING ANYTHING OTHER THAN  
16 LISTENING?

17 A HE HAD HIS NOTEPAD OUT, WHICH WE HAD NOTEPADS, AND  
18 HE WAS JOTTING NOTES DOWN AT THE TIME OR WRITING ON THE  
19 PAPER, AND, UM, WHILE I WAS INTERVIEWING HER.

20 Q SO, HE TOOK THE NOTES AND YOU ASKED THE QUESTIONS?

21 A YES.

22 Q OKAY. WOULD THE FACT THAT YOU, BEING A -- YOU,  
23 BEING A FEMALE AND HE BEING A MALE, HAVE ANYTHING TO DO  
24 WITH WHY HE WAS THE ONE TAKING THE NOTES AND YOU WERE  
25 ASKING THE QUESTIONS IN RELATION TO MINOR

OFFICER LOWERY -- DIRECT BY MR. NEELY

418

1           A   WELL, I THINK THAT THE LIEUTENANT FELT MORE  
2   COMFORTABLE WITH ME AS A FEMALE, COMING TO INTERVIEW HER.  
3   EVEN THOUGH WE'VE HAD MALES THAT ARE QUALIFIED, TOO, TO  
4   INTERVIEW.  SO, I WAS A FEMALE THAT WAS AT, YOU KNOW, ON  
5   SHIFT THAT DUTY -- ON -- ON DUTY THAT PARTICULAR DAY OR  
6   NIGHT.

7           Q   FROM WHAT YOU COULD TELL, WAS HE TAKING DOWN WHAT  
8   WAS SAID?

9           A   YES, HE WAS TAKING DOWN EXACTLY WHAT WAS SAID.

10          Q   WAS HE CLOSE ENOUGH TO HEAR WHAT WAS HAPPENING?

11          A   OH, HE WAS RIGHT THERE.

12          Q   NOW, DID YOU WRITE A REPORT IN THIS?

13          A   NO, I DID NOT.

14          Q   WHY NOT?

15          A   WELL, BECAUSE HE WAS THE RESPONDING OFFICER AND I  
16   READ HIS REPORT.  AND I DID CONCUR WITH IT.  HOWEVER,  
17   THINKING BACK, MAYBE I SHOULD HAVE DONE WHAT WE CALL A  
18   SUPPLEMENTAL REPORT AS -- AS OPPOSED TO HAVING TAKEN THE  
19   EVIDENCE.

20          Q   OKAY.  AND I'M GLAD YOU MENTIONED THAT BECAUSE  
21   WE'RE GOING TO TALK ABOUT THE EVIDENCE IN JUST A MOMENT.  
22   BUT BEFORE I DO THAT, DID YOU, AT ANY TIME, TALK TO THE  
23   GRANDMOTHER SEPARATELY?

24          A   I DID.  I THINK IT WAS PROBABLY WHEN I FIRST  
25   ARRIVED THERE, BUT, UM -- ONCE I STARTED THE INTERVIEW, MY

1 CONCENTRATION WAS ON MINOR

2 Q OKAY. I'M GOING TO SHOW YOU STATE'S EXHIBIT 16,  
3 AND ASK THAT YOU LOOK AT THAT. AND BEFORE WE TALK ABOUT  
4 THAT, I WANT TO ASK YOU SOME BASIC QUESTIONS. AT ANY  
5 POINT DURING THE INTERVIEW OR DURING YOUR TALK WITH  
6 MINOR DID SHE ASK YOU ANYTHING OR MAKE ANY TYPE OF  
7 REQUEST?

8 MR. DAVIS: OBJECTION, YOUR HONOR, HEARSAY.

9 MR. NEELY: YOUR HONOR, I DIDN'T ASK HER WHAT SHE  
10 SAID. I ASKED DID SHE MAKE ANY TYPE OF REQUEST.

11 THE COURT: OKAY.

12 MR. DAVIS: WITHDRAWN AS TO THAT--

13 THE COURT: SIR?

14 MR. DAVIS: WITHDRAWN AS TO THAT POINT.

15 THE COURT: OKAY.

16 BY MR. NEELY:

17 Q DID SHE MAKE ANY REQUEST OF YOU?

18 A YES. AFTER THE INTERVIEW, SHE TOLD ME THAT SHE  
19 HAD---

20 MR. DAVIS: OBJECTION, YOUR HONOR.

21 THE COURT: WAIT A MINUTE NOW. HE -- HE JUST WANTED  
22 TO KNOW, YES OR NO.

23 THE WITNESS: OH, I'M SORRY.

24 THE COURT: SO, HE'LL ASK YOU A FOLLOW-UP QUESTION.

25 THE WITNESS: OKAY. I'M SORRY. YES.

1 BY MR. NEELY:

2 Q YES, YOU DID?

3 A YES.

4 Q AT ANY POINT DID YOU, I GUESS IN RESPONSE TO HER  
5 REQUEST, GET AN ARTICLE OF CLOTHING OR CLOTH?

6 A YES.

7 Q WILL YOU TELL THE JURY ABOUT THAT?

8 A [REDACTED] INFORMED ME THAT SHE HAD---

9 MR. DAVIS: OBJECTION, YOUR HONOR.

10 THE COURT: SUSTAINED. YOU ASKED HER WHAT SHE DID  
11 AND SHE RESPONDED BY SAYING WHAT SOMEBODY ELSE SAID. YOU  
12 ASKED HER WHAT SHE DID. JUST TELL HIM WHAT YOU DID.

13 THE WITNESS: I REQUESTED THAT [REDACTED] BE GIVEN A  
14 WASH CLOTH IN ORDER TO WIPE HERSELF WHEN SHE USED THE  
15 RESTROOM BECAUSE SHE HAD TO URINATE.

16 BY MR. NEELY:

17 Q DO YOU KNOW WHERE THAT WASH CLOTH CAME FROM?

18 A I BELIEVE IT WAS LIKE A -- A LINEN CLOSET.

19 Q DID YOU SEE IT COME OUT OF THE CLOSET?

20 A I DID NOT SEE IT COME OUT OF THE CLOSET.

21 Q DID YOU SEE IT BEFORE YOU GAVE IT TO [REDACTED]

22 A YES, I DID.

23 Q DID IT APPEAR TO BE CLEAN?

24 A IT WAS CLEAN.

25 Q WHAT WAS THE PURPOSE OF YOU MAKING SURE SHE HAD A

1 WASH CLOTH?

2 A BECAUSE I WANTED TO MAKE SURE IF THERE WAS ANY  
3 EVIDENCE THAT IT WAS PRESERVED.

4 Q DID YOU RECEIVE THE WASH CLOTH BACK?

5 A YES, I DID.

6 Q WHEN YOU LOOKED AT STATE'S EXHIBIT 16 -- YOU CAN  
7 OPEN IT UP AT THIS POINT -- AND TELL ME WHETHER OR NOT YOU  
8 CAN IDENTIFY WHAT'S IN THERE.

9 A OKAY. WELL, YOU KNOW, IF I'M GOING TO BE OPENING  
10 THIS, I NEED GLOVES ALSO.

11 Q AND I'M GOING TO GET YOU SOME.

12 A THANK YOU.

13 Q YOU'RE WELCOME.

14 A IT'S THE WASH CLOTH, THE TERI WHITE WASH CLOTH.

15 Q SO, THAT IS THE CLOTH THAT YOU USED THAT NIGHT  
16 THAT YOU GOT BACK FROM---

17 A YES, SIR.

18 Q -- MINOR

19 A YES, SIR.

20 Q WHEN YOU GOT THAT CLOTH BACK, WHAT DID YOU DO WITH  
21 IT?

22 A I PLACED IT IN THIS BAG, WHICH IS A LITTLE BAGGIE.  
23 AND I -- EVENTUALLY TRANSFERRED IT OVER TO ONE OF OUR  
24 FORENSIC INVESTIGATORS.

25 Q DO YOU REMEMBER WHICH INVESTIGATOR YOU GAVE IT TO?

1           A   IT WAS OFFICER REYNOLDS.

2           Q   DO YOU REMEMBER WHAT HE DID WITH IT?

3           A   HE -- WE DID THE CHAIN OF CUSTODY.  HE TOOK  
4   POSSESSION OF IT AND EVENTUALLY PUT IT IN THE BROWN BAG,  
5   WHICH IS THIS BAG HERE.

6           Q   WHAT WAS -- WHAT WAS THE CONDITION OF IT WHEN YOU  
7   GAVE IT TO HIM?

8           A   WHAT DO YOU MEAN, WHAT WAS---

9           Q   THE CONDITION OF THE CLOTH, HOW WAS IT PACKAGED  
10  AND HOW WAS IT WHEN YOU EVENTUALLY GAVE IT TO HIM?

11          A   WELL, WHEN I TOOK IT FROM HER, IT WAS PLACED IN  
12  THE BAGGIE AND SEALED, YOU KNOW, WITH THE LITTLE ZIPLOC.  
13  AND THIS IS THE WAY IT WAS HANDED OVER WITH THE CHAIN OF  
14  CUSTODY SHEET.

15          Q   OKAY.  DO YOU REMEMBER WHAT DAY YOU GAVE THAT TO  
16  HIM?

17          A   THE 25TH -- I KNOW IT WAS RIGHT BEFORE -- IT WAS  
18  IN NOVEMBER.  IT WAS RIGHT BEFORE THANKSGIVING.  I THINK  
19  IT WAS THE 25TH.

20          MR. NEELY:  JUDGE, AT THIS TIME, WE WOULD INTRODUCE  
21  STATE'S EXHIBIT 16.

22          MR. DAVIS:  JUDGE, THEY HAVEN'T COMPLETED THE  
23  FOUNDATION ON THE CHAIN.

24          THE COURT:  ALL RIGHT.  16 IS THE -- TELL ME WHAT IT  
25  IS.

1 MR. NEELY: THAT IS THE WASH CLOTH, THE ACTUAL CLOTH  
2 THEY GOT THAT NIGHT THAT SHE COLLECTED.

3 THE COURT: HAVE YOU -- DO YOU BELIEVE YOU HAVE  
4 AUTHENTICATED IT OTHER THAN THROUGH ITS CHAIN OF CUSTODY?

5 MR. NEELY: YES, YOUR HONOR.

6 THE COURT: AND HOW IS THAT?

7 MR. NEELY: SHE HAS IDENTIFIED THAT SHE WAS THE ONE  
8 THAT ACTUALLY GAVE IT TO THE -- THE VICTIM IN THIS CASE.  
9 SHE IS THE ONE WHO ACTUALLY PACKAGED IT FROM HER. AND SHE  
10 THEN TESTIFIED THAT SHE GAVE IT TO THE EVIDENCE CUSTODIAN,  
11 WHO LOGS IT IN.

12 THE COURT: ALL RIGHT. I'LL TAKE THE -- I'LL TAKE  
13 THAT UNDER ADVISEMENT AND WE WILL DISCUSS IT AT THE NEXT  
14 BREAK.

15 MR. NEELY: OKAY.

16 BY MR. NEELY:

17 Q OFFICER LOWERY, LET'S TALK ABOUT THE -- ANYTHING  
18 ELSE HAPPENING LATER THAT NIGHT. BEFORE YOU FINISHED THE  
19 INTERVIEW -- BEFORE -- BEFORE WE STARTED ABOUT THE WASH  
20 CLOTH, WE WERE TALKING ABOUT THE INTERVIEW. WILL YOU TELL  
21 US WHETHER OR NOT YOU QUESTIONED MINOR AT ANY POINT  
22 WITHOUT OFFICER REYNOLDS BEING PRESENT -- NOT REYNOLDS --  
23 OFFICER ROGERS BEING PRESENT?

24 A NO, I DID NOT.

25 Q AT SOME POINT, DID THE SUSPECT RETURN TO THE HOME?



OFFICER LOWERY -- DIRECT BY MR. NEELY

424

1           A   YES, HE DID.

2           Q   AND WILL YOU TELL THE JURY WHAT HAPPENED AT THAT  
3   TIME?

4           A   WHEN HE CAME INTO THE RESIDENCE, I SAW A CHANGE IN  
5   MINOR   SHE GOT A LITTLE NERVOUS.  AND I THINK THE  
6   GRANDMOTHER IDENTIFIED MR. ORR AS BEING THE SUSPECT.  AND  
7   HE WAS ESCORTED OUT OF THE MOBILE HOME BY OFFICER ROGERS.

8           Q   NOW, YOU SAID SOMETHING ABOUT MINOR'S DEMEANOR  
9   CHANGING, WILL YOU BE A LITTLE MORE SPECIFIC ABOUT IT?

10          A   SHE STARTED SHAKING AGAIN.  AND, UM, -- ONCE HE  
11   WAS IDENTIFIED, WE THOUGHT IT WAS IN THE BEST INTEREST TO  
12   REMOVE HIM FROM THE RESIDENCE.

13          Q   WAS OFFICER ROGERS IN THE RESIDENCE WHEN THE  
14   SUSPECT CAME IN?

15          A   YES, HE WAS.

16          Q   DID HE TAKE THE SUSPECT OUT?

17          A   YES, HE DID.

18          Q   WERE THERE ANY OTHER QUESTIONS BETWEEN YOU AND  
19   MINOR   AFTER THEY LEFT CONCERNING THIS INCIDENT?

20          A   NO, NO, SIR.

21          Q   OKAY.  DO YOU REMEMBER OR RECALL ANYONE ELSE  
22   COMING TO THE RESIDENCE WHILE YOU WERE THERE?

23          A   THERE WAS AN OFFICER, TERISON OR TILLSON (PH), AND  
24   LIKE I SAID, OFFICER ROGERS.  HE WAS THE RESPONDING  
25   OFFICER.  AND LT. NATHAN WAS THERE FOR A PERIOD OF TIME.

1 Q DID ANY FAMILY MEMBERS OR FRIENDS OR OTHER  
2 RELATIVES SHOW UP?

3 A THERE WAS AN AUNTIE THAT SHOWED UP, A SISTER -- OR  
4 AUNT TO [REDACTED] IS WHAT I UNDERSTAND. SHE WAS---

5 Q WERE THERE ANY OTHER MALE RELATIVES THERE?

6 A I DIDN'T -- I DON'T RECALL ANY MALE RELATIVES  
7 BEING THERE.

8 MR. NEELY: I BEG THE COURT'S INDULGENCE. (PAUSE.)  
9 OFFICER, THAT'S ALL THE QUESTIONS I HAVE AT THIS TIME.

10 CROSS EXAMINATION BY MR. DAVIS:

11 Q OKAY. OFFICER LOWERY, THIS WAS LATE NOVEMBER,  
12 2005, IS THAT RIGHT?

13 A I THINK IT WAS 2003.

14 Q I'M SORRY. I'M SO SORRY. I MISSPOKE. I  
15 APOLOGIZE. LATE NOVEMBER 2003, IS THAT ACCURATE?

16 A YES, SIR.

17 Q I APOLOGIZE. AND IT WAS AFTER DARK?

18 A YES, SIR.

19 Q AND WHEN YOU ARRIVED, YOU SPOKE -- YOU SAW MS.  
20 SHEILA ORR AND [REDACTED] IS THAT RIGHT?

21 A YES, SIR.

22 Q [REDACTED] WAS WEARING A T-SHIRT AND SOME SHORTS, IS  
23 THAT RIGHT?

24 A I DON'T QUITE REMEMBER, BUT I THOUGHT IT WAS  
25 SOMETHING JOGGING -- SOME SWEAT --

OFFICER LOWERY -- CROSS BY MR. DAVIS

426

1 Q OKAY.

2 A -- MATERIAL ---

3 Q OKAY. NOW, WHEN YOU ARRIVED, THERE WERE ALREADY  
4 OTHER OFFICERS ON THE SCENE -- I THINK YOU -- OF COURSE,  
5 YOU TALKED ABOUT OFFICER ROGERS, RIGHT, HE WAS THERE?

6 A YES, SIR.

7 Q OKAY. LT. NATHAN, HE WAS ALREADY THERE?

8 A YES, SIR.

9 Q HE WOULD BE THE RANKING OFFICER OF THE FOLKS WHO  
10 WERE THERE, IS THAT ACCURATE?

11 A THAT'S CORRECT.

12 Q SUPER---

13 A SUPERVISOR.

14 Q SUPERVISOR. AND I THINK YOU JUST MENTIONED  
15 OFFICER TILLSON---

16 A TILLSON.

17 Q IS THAT RIGHT -- A MALE OFFICER?

18 A YES, SIR.

19 Q ALSO NORTH CHARLESTON POLICE DEPARTMENT?

20 A YES, SIR.

21 Q YOU KNOW DETECTIVE WILLIAMS AND DETECTIVE ELMORE,  
22 CORRECT?

23 A YES.

24 Q YOU SPOKE WITH MINOR YOU'VE ALREADY LOOKED AT  
25 THE PICTURES, NEAR THE BAR AREA, IS THAT FAIR TO SAY?

1           A   IT WAS AT THE BAR AREA.

2           Q   OKAY.  AT THE BAR AREA.  AND IT WAS YOU, THESE  
3 OTHER OFFICERS, THE GRANDMOTHER AND [REDACTED] IN THE HOUSE?

4           A   DO YOU MEAN INITIALLY OR DURING---

5           Q   DURING THE INTERVIEW?

6           A   DURING THE INTERVIEW, THERE WERE ONLY THREE  
7 PEOPLE.  THERE WAS OFFICER ROGERS, THE GRANDMOTHER AND  
8 MYSELF.

9           Q   OKAY.  OKAY.  AND YOU TALKED ABOUT WHERE MRS. ORR  
10 WAS DURING THE INTERVIEW WITH [REDACTED] AND YOU'RE TELLING  
11 THE JURY TODAY THAT SHE WAS SITTING IN THE LIVING ROOM?

12          A   YES, SIR.

13          Q   OKAY.  DO YOU REMEMBER TESTIFYING IN A PRIOR  
14 PROCEEDING IN THIS MATTER?

15          A   YES, I DO.

16          Q   AND YOU ASKED ABOUT THE AREA WHERE YOU DID THE  
17 INTERVIEW THEN, RIGHT?

18          A   YES.

19          Q   AND DO YOU REMEMBER DESCRIBING THE BAR AS BEING A  
20 DIVIDER BETWEEN THE LIVING ROOM AND THE KITCHEN?

21          A   YES.

22          Q   OKAY.  AND DO YOU REMEMBER BEING ASKED, "WHEN YOU  
23 WERE INTERVIEWING [REDACTED] HER GRANDMOTHER WAS WITH HER  
24 THE WHOLE TIME?"

25          A   WELL, I DON'T KNOW IF I SAID "WHOLE TIME", BUT SHE

OFFICER LOWERY -- CROSS BY MR. DAVIS

428

1 WAS ---

2 Q MA'AM, I'M JUST -- I'M SORRY. DO YOU REMEMBER  
3 BEING ASKED THAT QUESTION PREVIOUSLY?

4 A NO, I DO NOT.

5 Q OKAY. DO YOU RECALL THAT -- THAT YOU WOULD HAVE  
6 SAID THAT "HER GRANDMOTHER WAS IN THE AREA, YOU KNOW,  
7 BECAUSE THIS IS AN OPEN AREA, BUT NOT JUST RIGHT THERE";  
8 DOES THAT SOUND ABOUT RIGHT?

9 A THAT SOUNDS RIGHT.

10 Q OKAY. AND THEN I THINK YOU WERE ASKED EARLIER BY  
11 MR. NEELY ABOUT WHAT OFFICER ROGERS WAS DOING WHILE YOU  
12 WERE INTERVIEWING MINOR IS THAT RIGHT?

13 A YES, SIR.

14 Q AND TODAY YOU SAID THAT HE HAD HIS NOTEPAD OUT AND  
15 HE WAS TAKING NOTES, RIGHT?

16 A YES, SIR.

17 Q DO YOU REMEMBER TESTIFYING AT A PRIOR PROCEEDING  
18 ABOUT THIS MATTER?

19 A YES, SIR.

20 Q AND THAT WOULD HAVE BEEN UNDER OATH, AS WELL BACK  
21 THEN, LIKE IT IS TODAY, RIGHT?

22 A YES.

23 Q OKAY. AND YOU WERE ASKED BACK THEN -- TALKING  
24 ABOUT OFFICER ROGERS -- "IS HE TAKING NOTES OF YOUR  
25 CONVERSATION" AND YOU ANSWERED "I'M NOT SURE"; DO YOU

1 RECALL THAT?

2 A YES.

3 Q NOW, CLEARLY YOU'VE ALREADY TOLD THE JURY THAT  
4 EVEN THOUGH YOU WERE THE SOLE ONE RESPONSIBLE FOR  
5 INTERVIEWING [REDACTED] YOU DIDN'T WRITE AN INDIVIDUAL -- I  
6 THINK YOU REFERRED TO IT AS A SUPPLEMENTAL REPORT, YOU DID  
7 NOT DO THAT IN THIS CASE?

8 A THAT'S CORRECT.

9 Q OKAY. NOR DID YOU SUBMIT TO LT. NATHAN OR THE  
10 SOLICITOR'S OFFICE ANY NOTES THAT YOU TOOK?

11 A NO, BECAUSE I DIDN'T TAKE ANY NOTES.

12 Q OKAY. NOR DID YOU USE A WRITTEN STATEMENT FORM  
13 THAT NORTH CHARLESTON POLICE DEPARTMENT HAS TO WRITE  
14 OUT A WRITTEN STATEMENT FOR [REDACTED] TO SIGN, YOU DIDN'T DO  
15 THAT, DID YOU?

16 A USUALLY THE DETECTIVES WILL COME IN AND DO THOSE.

17 Q YOU DIDN'T, THOUGH?

18 A NO, SIR.

19 Q AND YOU DIDN'T -- YOU NEVER HAD ANY OCCASION TO  
20 INTERVIEW HAROLD?

21 A NO, SIR.

22 Q BASED ON YOUR TESTIMONY TODAY, IS IT FAIR TO  
23 SUMMARIZE THAT YOU PRIMARILY TALKED TO [REDACTED] BUT DID  
24 ALSO SPEAK WITH SHEILA SOME?

25 A I SPOKE WITH HER AT THE BEGINNING, BUT WHEN I

1     STARTED INTERVIEWING, THAT WAS MY CONCENTRATION.

2           Q   YOU WERE NOT MADE AWARE OF THE FACT THAT SHEILA  
3     HAD BEAT HAROLD OVER THE HEAD WITH A PHONE CAUSING HIM TO  
4     LEAVE THE RESIDENCE, YOU DIDN'T KNOW THAT?

5           A   I DON'T RECALL -- I DON'T RECALL.

6           Q   YOU DIDN'T KNOW THAT SHEILA HAD SPENT HOWEVER LONG  
7     IT TOOK THE POLICE TO ARRIVE, IN A BEDROOM WITH MINOR  
8     ALONE, SHE DIDN'T TELL YOU THAT?

9           A   THAT WAS NOT TOLD TO ME.

10          Q   SHE DIDN'T TELL YOU THAT SHE HAD EXAMINED MINOR  
11     AND TOUCHED DOWN BY HER PANTIES? SHEILA DIDN'T TELL YOU  
12     THAT?

13          A   NO, SHE DID NOT.

14          Q   YOU TALKED ABOUT THE WASH CLOTH THAT YOU  
15     COLLECTED -- UM, REMIND US AGAIN, FORGIVE ME -- YOU'RE  
16     WITH WHAT POLICE UNIT, WITH NORTH CHARLESTON POLICE  
17     DEPARTMENT?

18          A   I'M WITH NORTH CHARLESTON POLICE PATROL.

19          Q   PATROL. OKAY. SO, YOU'RE WHAT WE THINK -- WE  
20     SEE, UNIFORMED OFFICER IN THE MARKED UNIT, DRIVING IN OUR  
21     NEIGHBORHOODS, PATROLLING, CORRECT?

22          A   THAT'S PART OF WHAT WE DO.

23          Q   OKAY. YOU'RE NOT WITH THE CRIME SCENE DEPARTMENT  
24     WITH -- AT NORTH CHARLESTON?

25          A   NOT SPECIFICALLY.

1 Q WELL, DO YOU -- ARE YOU -- EITHER YOU'RE PART OF  
2 THE CRIME SCENE UNIT OR YOU'RE NOT. I JUST WANT THE JURY  
3 TO BE CLEAR.

4 A WELL, I'M NOT WITH THE CRIME SCENE DEPARTMENT  
5 ITSELF.

6 Q OKAY. NOW, YOU DID TALK ABOUT COLLECTING SOME  
7 EVIDENCE IN THIS CASE AND GIVING IT TO ANOTHER OFFICER, IS  
8 THAT CORRECT?

9 A YES.

10 Q YOU DON'T WORK FOR THE CRIME SCENE UNIT WITH NORTH  
11 CHARLESTON, RIGHT?

12 A CORRECT.

13 Q YOU DON'T WORK FOR SOUTH CAROLINA LAW ENFORCEMENT  
14 DIVISION?

15 A CORRECT.

16 Q OKAY. BUT BECAUSE YOU WERE ON THE SCENE -- YOU  
17 WERE ONE OF THE FIRST OFFICERS THERE, YOU TOOK THIS RAG  
18 AND, I THINK, PUT IT IN A -- LIKE A ZIPLOC BAG, RIGHT?

19 A RIGHT.

20 Q AND GAVE IT TO ANOTHER OFFICER, IS THAT RIGHT?

21 A THAT'S CORRECT.

22 Q AND THEN AFTER THAT, THAT'S ALL YOU HAD TO DO WITH  
23 IT, RIGHT?

24 A WELL, I GAVE IT -- BUT, YOU KNOW, WE DON'T JUST  
25 GIVE -- YOU KNOW, WE HAVE TO GO THROUGH THE CHAIN OF



1 CUSTODY, YOU KNOW. SO, IN THAT WAY, IT WAS GIVEN IN  
2 THAT---

3 Q YOU DIDN'T CARRY IT ANY FURTHER THAN THAT, THOUGH,  
4 DID YOU?

5 A NO, I DID NOT.

6 Q OKAY. SO, ONCE YOU TURNED IT OVER, IT WAS  
7 LITERALLY OUT OF YOUR HANDS, RIGHT?

8 A THAT'S CORRECT.

9 Q OKAY. DO YOU RECALL WHEN YOU TESTIFIED AT A PRIOR  
10 PROCEEDING, THAT YOU HAD TO BE REMINDED ABOUT COLLECTING  
11 THAT WASH CLOTH?

12 A YES.

13 MR. DAVIS: OFFICER LOWERY AND JUDGE, IF YOU WOULD  
14 GIVE ME JUST ONE SECOND. (PAUSE.) THANK YOU, OFFICER.  
15 NO OTHER QUESTIONS.

16 MR. NEELY: BRIEFLY, JUDGE.

17 REDIRECT EXAMINATION BY MR. NEELY:

18 Q OFFICER, I JUST HAVE A FEW FOLLOW-UP QUESTIONS. I  
19 WANT TO -- I WANT YOU -- TO GO BACK TO WHAT MR. DAVIS  
20 ASKED YOU ABOUT IN AS FAR AS THE PRIOR PROCEEDING AND  
21 WHETHER OR NOT YOU RECALL WHETHER DETECTIVE ROGERS WAS  
22 TAKING NOTES. I'M GOING TO SHOW YOU THIS AND ASK THAT YOU  
23 READ THIS OVER. AND I THINK HERE HE ASKED YOU LINE 8, AND  
24 IF YOU CAN JUST READ THIS TO YOURSELF, FROM 8 TO ABOUT  
25 LINE 19.

1 A OKAY.

2 Q OKAY. SO, YOU ADMIT THAT AT THAT POINT, YOU  
3 DIDN'T KNOW FOR SURE THAT HE WAS TAKING NOTES?

4 A FROM WHAT I CAN REMEMBER, IS THAT HE HAD THE PAD  
5 OUT. AND AT THAT TIME, WHENEVER I WOULD LOOK UP, I SAW  
6 HIM SCRIBBLING. SO, YOU KNOW, I KNOW -- BEING OFFICERS,  
7 THAT HE WAS TAKING NOTES. BUT LIKE I SAID, MY  
8 CONCENTRATION WAS REALLY ON MINOR

9 Q AND EVEN AT THAT POINT WHEN YOU TESTIFIED EARLIER,  
10 YOU DID KNOW THAT HE WAS LISTENING TO WHAT WAS BEING SAID?

11 A HE WAS DEFINITELY LISTENING.

12 Q AND YOU TESTIFIED TO THAT EARLIER?

13 A YES, SIR.

14 Q THANK YOU. HE ALSO MENTIONED YOUR ABILITY TO --  
15 HE ALSO MENTIONED YOUR ABILITY TO RECOVER THE EVIDENCE  
16 FROM THE SCENE, IN THIS CASE A WASH CLOTH. DID YOU  
17 PACKAGE IT YOURSELF?

18 A I PACKAGED IT, AT THE TIME, IN THIS BAG, WHICH DID  
19 NOT LEAVE MY HANDS UNTIL IT WAS PERSONALLY HANDED OVER TO  
20 OFFICER REYNOLDS WITH THE CUSTODY SHEET -- CHAIN OF  
21 CUSTODY SHEET.

22 Q AND BEFORE YOU HANDED IT TO OFFICER REYNOLDS, DID  
23 ANY OTHER MALE OR ANYONE ELSE TOUCH IT?

24 A NO ONE.

25 MR. NEELY: NO FURTHER QUESTIONS, JUDGE.

1 RECROSS EXAMINATION BY MR. DAVIS:

2 Q YOU HAD NO KNOWLEDGE OF HOW MANY MALES LIVED IN  
3 THAT HOUSE WHEN YOU RESPONDED TO THE SCENE?

4 A NO, SIR.

5 MR. DAVIS: OKAY. THANK YOU, OFFICER.

6 MR. NEELY: NO QUESTIONS.

7 THE COURT: YOU CAN STEP DOWN, MA'AM.

8 THE WITNESS: THANK YOU.

9 (WITNESS STEPPED DOWN.)

10 MS. HERRING-LASH: THE STATE WOULD CALL JULIE  
11 KOWALEWSKI.

12 JULIE MARIE KOWALEWSKI, HAVING  
13 BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 CLERK: PLEASE HAVE A SEAT. FOR THE RECORD, IF YOU  
15 WOULD, PLEASE STATE YOUR NAME, SPELLING YOUR LAST NAME.

16 THE WITNESS: IT'S JULIE MARIE KOWALEWSKI. AND  
17 THAT'S SPELLED K-O-W-A-L-E-W-S-K-I.

18 DIRECT EXAMINATION BY MS. HERRING-LASH:

19 Q MS. KOWALEWSKI? IS -- IS THAT CORRECT?

20 A YES, THAT'S CORRECT.

21 Q I MAY JUST CALL YOU JULIE. WHERE ARE YOU EMPLOYED  
22 AND WHAT ARE YOUR JOB RESPONSIBILITIES?

23 A I'M EMPLOYED AT BODE TECHNOLOGY. AND I AM A  
24 SENIOR DNA ANALYST THERE. AND I PERFORM DNA TESTING ON  
25 FORENSIC EVIDENCE SAMPLES. I ALSO DO TECHNICAL REVIEW ON

1 CASE WORK.

2 Q AND HAVE YOU HAD ANY PREVIOUS EMPLOYMENT PRIOR TO  
3 BODE?

4 A YES. PRIOR TO BODE, I WORKED AT ORCHID CELLMARK,  
5 WHICH IS ANOTHER PRIVATE LABORATORY --

6 COURT REPORTER: I'M SORRY, WORKED AT WHERE?

7 A ORCHID CELLMARK, AND THAT'S ANOTHER PRIVATE  
8 LABORATORY. AND THERE I WAS A FORENSIC TECHNICIAN AND I  
9 DID SEROLOGICAL TESTING ON FORENSIC SAMPLES.

10 Q COULD YOU SPELL THE PLACE OF YOUR LAST EMPLOYMENT  
11 FOR THE COURT REPORTER?

12 A YES. IT'S O-R-C-H-I-D AND THEN C-E-L-L-M-A-R-K.

13 Q AND BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND?

14 A I HAVE A BACHELORS DEGREE IN BIOLOGY, WITH A MINOR  
15 IN CHEMISTRY FROM TALSON UNIVERSITY.

16 Q AND HAVE YOU MET THE COURSE REQUIREMENTS BY THE  
17 NATIONAL STANDARDS ADOPTED BY THE FBI?

18 A YES. I HAVE HAD COURSE WORK IN MOLECULAR BIOLOGY,  
19 BIOCHEMISTRY, GENETICS AND STATISTICS.

20 Q AND ANY CONTINUING EDUCATION RELEVANT TO DNA THAT  
21 YOU HAVE RECEIVED?

22 A YES. EACH YEAR I AM REQUIRED TO ATTEND A  
23 CONFERENCE PERTAINING TO THE ADVANCEMENTS IN DNA. I ALSO  
24 PERIODICALLY READ GENERAL ARTICLES.

25 Q DO YOU BELONG TO ANY PROFESSIONAL ORGANIZATIONS?

1           A   YES.  I AM A MEMBER OF THE AMERICAN ACADEMY OF  
2   FORENSIC SCIENTISTS.

3           Q   APPROXIMATELY HOW MANY DNA SAMPLES HAVE YOU  
4   PROCESSED?

5           A   THOUSANDS.

6           Q   AND HAVE YOU TESTIFIED IN COURT BEFORE AS AN  
7   EXPERT DNA ANALYST?

8           A   YES, I HAVE.

9           MS. HERRING-LASH:  YOUR HONOR, AT THIS POINT, WE  
10   WOULD OFFER MS. KOWALEWSKI IN -- AS AN EXPERT IN DNA  
11   ANALYSIS.

12          MR. DAVIS:  WE CONCUR, YOUR HONOR.

13          THE COURT:  ALL RIGHT.  SHE'S AN EXPERT -- I QUALIFY  
14   HER AS AN EXPERT IN THAT FIELD.

15          BY MS. HERRING-LASH:

16          Q   IS YOUR LABORATORY CERTIFIED TO PERFORM DNA  
17   ANALYSIS?

18          A   YES, WE ARE.  WE ARE ACCREDITED BY ASCLD LAB,  
19   WHICH IS THE AMERICAN SOCIETY OF CRIME LAB DIRECTORS  
20   ACCREDITATION BOARD.  WE ARE ALSO ACCREDITED BY FQS, WHICH  
21   IS FORENSIC QUALITY SERVICES.  AND WE HOLD A CERTIFICATION  
22   FROM THE NEW YORK STATE DEPARTMENT OF HEALTH.

23          Q   AND JUST FOR THE JURY'S KNOWLEDGE, WHERE IS YOUR  
24   LABORATORY LOCATED?  WHERE DO YOU WORK?

25          A   AT THE TIME OF THIS CASE, IT WAS IN SPRINGFIELD,

1 VIRGINIA. HOWEVER, OUR LABORATORY HAS MOVED TO WORTON,  
2 VIRGINIA.

3 Q AND, I THINK, YESTERDAY THE JURY HEARD FROM THE  
4 DNA PERSON FROM THE STATE LABORATORY, THE STATE LAB. AND  
5 DO YOU DO A DIFFERENT KIND OF DNA TESTING?

6 A WE PERFORM THAT PARTICULAR DNA TESTING, TOO.  
7 HOWEVER, WE DO DO OTHER TYPES OF DNA TESTING, ONE BEING Y  
8 STR TESTING, WHICH WAS MENTIONED YESTERDAY.

9 Q AND Y STR TESTING, IS THAT WHEN WE'RE TALKING  
10 ABOUT TESTING A CHROMOSOME?

11 A YES. WE ARE LOOKING AT THE MALE CHROMOSOME.

12 Q EXPLAIN TO THE JURY WHAT THE CHROMOSOME IS?

13 A CHROMOSOMES ARE HIGHLY COMPACTED SEGMENTS OF DNA  
14 FOUND IN THE NUCLEUS OF THE CELL. EACH PERSON IS GOING TO  
15 HAVE 23 PAIRS OF CHROMOSOMES. YOU'RE GOING TO INHERIT ONE  
16 SET OF CHROMOSOMES FROM YOUR MOTHER AND YOU'RE GOING TO  
17 INHERIT YOUR OTHER SET OF CHROMOSOMES FROM YOUR FATHER.  
18 OF THOSE 23 PAIRS OF CHROMOSOMES, THERE IS ONE SET KNOWN  
19 AS THE SEX CHROMOSOMES. AND MALES WILL HAVE AN X AND A Y  
20 CHROMOSOME. AND FEMALES WILL HAVE TWO X CHROMOSOMES..

21 Q AND THE MALE IS THE ONLY ONE THAT WOULD HAVE THE Y  
22 CHROMOSOME, IS THAT CORRECT?

23 A THAT IS CORRECT.

24 Q WHAT KIND -- WELL, LET ME ASK YOU THIS: DID YOU  
25 RECEIVE EVIDENCE IN THIS CASE?

1 A YES, I DID.

2 Q AND WHAT KIND OF DNA TESTING DID YOU DO?

3 A I PERFORMED Y STR TESTING.

4 Q AND JUST EXPLAIN VERY BRIEFLY TO THEM -- BECAUSE  
5 THEY HEARD YESTERDAY WHAT THE OTHER TESTING WAS -- WHAT  
6 THE Y DETAILS?

7 A Y STR TESTING, OR STR ANALYSIS OF THE Y CHROMOSOME  
8 IS WHEN WE ARE TARGETING SPECIFIC LOCATIONS ON THAT Y  
9 CHROMOSOME AND WE ARE MAKING MANY MANY COPIES OF THOSE  
10 LOCATIONS SO THAT WE'RE ABLE TO DETECT THEM. AND ONCE WE  
11 HAVE ENOUGH DNA TO DETECT, WE'RE ABLE TO GENERATE A  
12 PROFILE. AND WITH THAT PROFILE, WE ARE ABLE TO COMPARE IT  
13 TO A KNOWN STANDARD PROFILE.

14 Q AND, SO, YOU ARE -- IS THE FACT THAT YOU'RE  
15 TESTING THE Y CHROMOSOME CHANGE, I GUESS -- WELL, LET ME  
16 ASK YOU THIS -- WOULD THAT HAVE AN EFFECT ON THE FATHER OR  
17 THE BROTHER, WOULD THAT BE THE SAME KIND OF PROFILE?

18 A WELL, A LOT OF STR'S ARE PATERNALLY INHERITED.  
19 SO, WHAT THAT MEANS IS THAT A GIVEN MALE IS GOING TO HAVE  
20 THE SAME Y STR PROFILE AS HIS FATHER AND HIS SONS. SO,  
21 IT'S NOT A UNIQUE IDENTIFIER, WHEREAS WITH REGULAR STR'S,  
22 THEY ARE UNIQUE IDENTIFIERS.

23 Q SO, YOU'RE LOOKING AT JUST THE IDENTIFIERS ON ONE  
24 CHROMOSOME?

25 A ON THE Y CHROMOSOME.

1 Q AND YOU'RE -- SO YOUR NUMBERS VARY GREATLY FROM  
2 THAT ON REGULAR DNA TESTING, IS THAT CORRECT?

3 A THAT IS CORRECT. BECAUSE WITH REGULAR DNA  
4 TESTING, THE LOCATIONS THAT YOU'RE LOOKING AT ARE ON ALL  
5 DIFFERENT CHROMOSOMES, AND THEY'RE INHERITED INDEPENDENTLY  
6 OF ONE ANOTHER. AND SO YOU'RE ABLE TO TAKE THE FREQUENCY  
7 OF THOSE LOCATIONS AND MULTIPLY THEM TOGETHER, TO GET A  
8 VERY VERY LARGE NUMBER, OFTEN IN THE QUADRILLIONS.  
9 HOWEVER, WITH REGULAR -- OR -- I'M SORRY -- Y STR TESTING,  
10 SINCE THEY'RE ALL ON THE SAME CHROMOSOME, THEY ARE NOT  
11 INHERITED INDEPENDENTLY OF ONE ANOTHER.

12 SO, INSTEAD YOU HAVE TO DO A DIFFERENT TYPE OF  
13 STATISTIC. AND THE STATISTIC THAT WE DO IS THAT WE ENTER  
14 THAT PROFILE THAT WE OBTAIN TO A DATA BASE. THAT DATA  
15 BASE IS GOING TO BE A COMPILATION OF RANDOM Y STR PROFILES  
16 FROM DIFFERENT MALES ACROSS THE COUNTRY.

17 Q SO, IN THIS CASE, DID YOU RECEIVE EVIDENCE FROM  
18 ROBIN TAYLOR TO DO ADDITIONAL TESTING?

19 A YES, I DID.

20 Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS STATE'S  
21 EXHIBIT NO. 13 AND 12 AND 19. AND WHAT ARE -- AND WHEN  
22 YOU HOLD -- WHEN YOU DESCRIBE WHAT ONE IS, WOULD YOU  
23 PLEASE SAY THE NUMBER THAT YOU ARE LOOKING AT FOR THE  
24 COURT REPORTER?

25 A OKAY. THIS FIRST PACKAGE IS WHAT WAS LABELED AS



1 THE STANDARD FROM HAROLD ORR. AND I -- THERE IS QUITE A  
2 FEW NUMBERS ON HERE. I'M NOT SURE WHICH ONE YOU -- DO YOU  
3 WANT ME TO ---

4 Q NO. THE RED.

5 A OH, THE RED.

6 Q THE RED. I'M SORRY.

7 A IT'S STATE'S EXHIBIT 12.

8 Q AND JUST GO THROUGH THEM ALL AND THEN I'LL ASK YOU  
9 ABOUT IT.

10 A THIS ONE IS THE -- WHAT WOULD HAVE CONTAINED THE  
11 CUTTING FROM THE PANTIES.

12 Q AND LET THE RECORD REFLECT THAT WE HAVE REMOVED  
13 WHAT WAS IN THAT ENVELOPE AND IT IS NOW ADMITTED AS  
14 STATE'S EXHIBIT NO. 18, A CUTTING FROM THE PANTIES. BUT  
15 WHEN YOU RECEIVED IT, THE CUTTING FROM THE PANTIES WERE IN  
16 THE BAG?

17 A THAT'S CORRECT. AND THEN THE NEXT EXHIBIT IS  
18 GOING TO BE WHAT WAS CALLED -- IT'S EXHIBIT 13. I'M  
19 SORRY. IT'S EXTRACTS AND REAGENTELANKS.

20 Q AND WHAT CONDITION DO YOU --

21 COURT REPORTER: I'M SORRY?

22 BY MS. HERRING-LASH:

23 Q WHAT -- WHAT -- REAGENTELANKS, IS THAT WHAT YOU  
24 SAID?

25 A EXTRACTS AND REAGENTELANKS.

1 Q CAN YOU SPELL THAT?

2 A E-X-T-R-A-C-T-S AND REAGENTELANKS,  
3 R-E-A-G-E-N-T-E-L-A-N-K-S.

4 Q AND HOW DID YOU RECEIVE THOSE?

5 A I RECEIVED THEM -- WELL BODE RECEIVED THEM VIA FED  
6 EX.

7 Q AND DO YOU RECEIVE -- DOES YOUR ORGANIZATION  
8 RECEIVE MOST OF THE EVIDENCE, I GUESS, FROM OTHER PLACES  
9 BY FED EX OR SOME TYPE OF OVERNIGHT EXPRESS CARRIER?

10 A BECAUSE WE ARE A PRIVATE LABORATORY, WE RECEIVE  
11 EVIDENCE FROM ALL OVER THE COUNTRY, SO WE RECEIVE IT FROM  
12 FED EX, DHL. WE ALSO HAVE -- PEOPLE DO BRING IT IN BY  
13 HAND.

14 Q AND IS YOUR ORGANIZATION, I GUESS, SET UP TO  
15 RECEIVE A FED EX AND THEN PROCESS IT ON TO YOU?

16 A YES, IT IS. WE HAVE EVIDENCE CUSTODIANS THAT ARE  
17 EQUIPPED TO RECEIVE THIS TYPE OF EVIDENCE.

18 Q AND THEY PROCESS IT ON TO YOU?

19 A THEY DO.

20 Q AND DO YOU KNOW IF THERE WAS A -- A PERSON WHO  
21 ACTUALLY, I GUESS, RECEIVED THE -- THE FED EX ENVELOPE AND  
22 GAVE IT TO YOU?

23 A YES. I CAN REFER TO MY INTERNAL CHAIN OF CUSTODY.  
24 ACCORDING TO MY CHAIN OF CUSTODY, A RICHARD---

25 MR. DAVIS: YOUR HONOR, I'M GOING TO OBJECT TO THIS.

MS. KOWALEWSKI -- DIRECT BY MS. HERRING-LASH  
442

1 IT IS A SIMILAR ISSUE TO YESTERDAY. I BELIEVE IT IS  
2 HEARSAY UNTIL THE FOUNDATION IS LAID FOR THIS DOCUMENT.

3 BY MS. HERRING-LASH:

4 Q ARE YOU REFERRING TO YOUR -- A DOCUMENT THAT BODE  
5 USES TO TRACE EVIDENCE ONCE IT ARRIVES AT YOUR LABORATORY?

6 A THAT IS CORRECT.

7 Q AND DO YOU USE THIS IN YOUR REGULAR COURSE OF  
8 BUSINESS AT BODE?

9 A YES. IT IS PART OF OUR STANDARD OPERATING  
10 PROCEDURES.

11 Q AND DO YOU ROUTINELY -- I THINK I HAVE ALREADY  
12 ASKED YOU -- DO YOU ROUTINELY GET THIS KIND OF EVIDENCE  
13 THROUGH FED EX?

14 A YES. AND FOR EVERY PIECE OF EVIDENCE THAT COMES  
15 THROUGH BODE, A CHAIN OF CUSTODY IS ADMINISTERED.

16 Q AND DO YOU ACTUALLY IN YOUR POSSESSION HAVE  
17 PICTURES OF HOW IT APPEARED WHEN IT ARRIVED AND ALL  
18 THROUGHOUT ITS STAY THERE, THE PICTURES OF WHAT HAPPENED  
19 TO IT?

20 A I DO. THE EVIDENCE CUSTODIAN TOOK THEIR PICTURES  
21 OF HOW THE EVIDENCE WAS RECEIVED AND ONCE -- HOW THEY  
22 RECEIVED IT. AND ONCE THEY WERE FINISHED ENTERING THE  
23 EVIDENCE INTO OUR COMPUTER SYSTEM, THEN I TOOK MY OWN  
24 PICTURES OF THE EVIDENCE.

25 Q AND IS THAT SOMETHING THAT -- IS THAT FORM THAT

1 YOU ARE REFERRING TO, YOUR EVIDENCE CUSTODIAL SHEET,  
2 SOMETHING THAT IS KEPT IN YOUR NORMAL COURSE OF BUSINESS?

3 A YES, IT IS.

4 Q AND DO YOU REFER TO THAT WITH EVERY PIECE OF  
5 EVIDENCE TO KEEP -- SO THAT YOU KNOW WHO TRANSPORTED IT TO  
6 YOU, I GUESS IF YOU DON'T REMEMBER EVENTS SPECIFICALLY?

7 A YES. THIS IS A LOG THAT SHOWS EXACTLY FROM THE  
8 TIME IT ENTERED THE DOOR, YOU KNOW, UNTIL THE TIME IT  
9 LEAVES BACK THROUGH THE DOOR, WHO HAS MAINTAINED -- WHOSE  
10 CUSTODY THE EVIDENCE WAS IN AT THAT TIME.

11 Q DID ANYONE ELSE AT BODE PERFORM ANY KIND OF  
12 ANALYSIS ON THIS MATERIAL?

13 A I'M GOING TO HAVE TO CHECK MY NOTES REALLY  
14 QUICKLY. (PAUSE) A REBECCA THOMAS, SHE DID A -- AS PART  
15 OF THE DNA, SHE DID A -- WHAT'S KNOWN AS A QUANTIZATION  
16 STEP FOR ME.

17 Q DOES THAT HAVE ANYTHING TO DO WITH YOUR HANDLING  
18 OF THE EVIDENCE?

19 A NO, IT DOES NOT.

20 Q IT'S MORE THE STATISTICAL?

21 A WHAT IT IS, IT'S A PART OF THE EXTRACT, SO SHE  
22 WOULDN'T HAVE ACTUALLY HANDLED THE EVIDENCE ITSELF.

23 Q SHE WOULD HAVE BEEN LOOKING AT YOUR PAPERWORK, I  
24 GUESS?

25 A WELL, SHE WOULD NOT -- THIS -- THIS IS CONSIDERED

1 THE EVIDENCE. AND SO SHE PERFORMED A PROCEDURE KNOWN AS  
2 QUANTIZATION. AND -- HOWEVER, SHE WOULD NOT HAVE HAD  
3 CUSTODY OF THE ACTUAL EVIDENCE.

4 MS. HERRING-LASH: AT THIS TIME, YOUR HONOR, I WOULD  
5 -- ASK HER TO EXPLAIN WHO HAS RECEIVED THIS. I THINK WE  
6 HAVE LAID A FOUNDATION, THAT THIS IS A BUSINESS RECORD FOR  
7 BODE, HER CHAIN OF CUSTODY FORM.

8 THE COURT: LET ME TAKE A LOOK AT THE FORM, PLEASE.  
9 ANY OBJECTION, MR. DAVIS?

10 MR. DAVIS: JUDGE, I WOULD JUST -- I'M MAKING THE  
11 OBJECTION AS TO HEARSAY. AND THEY HAVE CERTAINLY  
12 PRESENTED MORE QUESTIONS. I WOULD ARGUE IT'S HEARSAY.

13 THE COURT: I THINK SHE LAID THE FOUNDATION FOR THE  
14 USE OF THAT DOCUMENT AS THE BASIS FOR HER TESTIMONY UNDER  
15 803-6, AND SO I OVERRULE THE OBJECTION.

16 MR. DAVIS: THANK YOU, YOUR HONOR.

17 BY MS. HERRING-LASH:

18 Q AND WHAT DATE AND TIME DID THIS EVIDENCE ARRIVE AT  
19 YOUR -- AT YOUR LABORATORY?

20 A ACCORDING TO THE CHAIN OF CUSTODY, IT ARRIVED ON  
21 OCTOBER 13, 2005 AT 9:40 A.M. FROM FED EX.

22 Q AND FED EX DELIVERED IT TO WHO?

23 A IT WAS DELIVERED TO RICHARD ANTON (PH).

24 Q AND DID RICHARD ANTON DO ANY TESTING ON THAT  
25 EVIDENCE?

1           A   NO, HE DID NOT.

2           Q   AND WHO DID HE RELEASE IT TO?

3           A   HE RELEASED IT TO JOANNE DEPOCIO.

4           Q   AND WHAT WOULD JOANNE DEPOCIO HAVE DONE?

5           A   JOANNE DEPOCIO IS ONE OF OUR EVIDENCE CUSTODIANS,  
6   AND SO SHE WOULD HAVE BEEN DOCUMENTING AND TAKING  
7   PHOTOGRAPHS OF WHAT WAS RECEIVED.

8           Q   AND THEN WHO DID SHE GIVE IT TO?

9           A   AND THEN SHE PASSED THAT EVIDENCE ON TO ME.

10          Q   SO, YOU'RE THE FIRST PERSON THAT HAD ANY -- DID  
11   ANY WORK ON THAT?

12          A   YES, THAT IS CORRECT.

13          MS. HERRING-LASH:  AT THIS POINT, YOUR HONOR, WE  
14   WOULD MOVE STATE'S EXHIBIT -- WE WOULD OFFER TO MOVE  
15   STATE'S EXHIBITS 13, 19 AND 12 INTO EVIDENCE.

16          MR. DAVIS:  NO OBJECTION, YOUR HONOR.

17          THE COURT:  ALL RIGHT.  THEY'RE ADMITTED.

18          (STATE'S EXHIBITS NOS. 12, 13 AND 19 RECEIVED INTO  
19   EVIDENCE.)

20          BY MS. HERRING-LASH:

21          Q   AFTER YOU RECEIVED THIS MATERIAL, WHAT DID YOU DO?

22          A   WELL, LET ME BACK UP A LITTLE BIT.  PRIOR TO ME  
23   ACTUALLY EXAMINING THE EVIDENCE, ROBIN TAYLOR HAD  
24   SUBMITTED SOME DOCUMENTS TO HELP ME -- GUIDE ME WITH MY  
25   ANALYSIS.  SO, I WAS ABLE TO LOOK AT THOSE DOCUMENTS TO

MS. KOWALEWSKI -- DIRECT BY MS. HERRING-LASH  
446

1 DETERMINE WHAT TYPE OF ANALYSIS THAT I WAS GOING TO  
2 PERFORM ON THIS CASE.

3 Q AND WHAT DID YOU LOOK AT AND WHAT DID YOU  
4 DETERMINE?

5 A IF YOU REMEMBER FROM YESTERDAY, ROBIN TAYLOR HAD  
6 SOME PROFILES THAT WERE ON BOARD, SO THOSE WERE A PART OF  
7 WHAT SHE HAD SENT.

8 Q AND DID YOU LOOK AT THOSE?

9 A I DID LOOK AT THOSE.

10 Q AND THEN WHAT DID YOU DO WITH WHAT YOU HAD?

11 A FROM THOSE PROFILES, I WAS ABLE TO SEE IN ONE OF  
12 THEM THAT THERE WAS A Y PEAK AT THE SEX DETERMINING  
13 REGION. AND SO FROM THERE, I KNEW THAT THERE WAS A LITTLE  
14 BIT OF MALE DNA PRESENT.

15 Q AND DID YOU DEVELOP A DNA PROFILE FROM THAT Y  
16 CHROMOSOME THAT YOU HAD?

17 A I DID.

18 Q I WOULD SHOW YOU WHAT HAS BEEN MARKED AS STATE'S  
19 EXHIBITS 6, 7, AND 8. I'M SHOWING YOU FIRST WHAT HAS  
20 BEEN MARKED AS STATE'S EXHIBIT NO. 6, WHAT IS THAT?

21 A IT IS A -- WAS THE PROFILES THAT I GENERATED.

22 Q AND STATE'S EXHIBIT NO. 7?

23 A THIS IS ANOTHER PROFILE THAT I GENERATED AND THIS  
24 IS FROM THE EXTRACT OF THE PANTIES.

25 Q WAS THE FIRST ONE FROM THE STANDARD?

1           A   THIS -- YEAH, I'M SORRY.  THE FIRST ONE IS THE  
2   PROFILE THAT I GENERATED FROM THE STANDARD.

3           Q   AND WHEN WE SAY STANDARD, WE ARE TALKING ABOUT  
4   STATE'S EXHIBIT NO. 12, WHICH IS THE STANDARD FROM HAROLD  
5   ORR?

6           A   YES, THAT IS CORRECT.

7           Q   AND STATE'S -- I'M SHOWING YOU NOW WHAT IS STATE'S  
8   EXHIBIT NO. 8, AND WHAT IS THAT?

9           A   THIS IS A SUMMARY OF MY CHARTS IN A CHART FORMAT.

10          MS. HERRING-LASH:  YOUR HONOR, AT THIS POINT, WE  
11   WOULD MOVE STATE'S EXHIBITS 6, 7 AND 8 -- EXCUSE ME -- LET  
12   ME MAKE SURE I'VE GOT THE RIGHT NUMBERS -- 6, 7 AND 8 INTO  
13   EVIDENCE.

14          MR. DAVIS:  NO OBJECTION, YOUR HONOR.

15          THE COURT:  THEY'RE ADMITTED.

16          (STATE'S EXHIBITS NOS. 6, 7 AND 8 RECEIVED INTO  
17   EVIDENCE.)

18          BY MS. HERRING-LASH:

19          Q   I'M GOING TO PUT IT ON THE BOARD SO THAT THE JURY  
20   CAN SEE THE PROFILE THAT YOU'RE REFERRING TO -- THE -- AND  
21   I THINK THE CLICKER IS UP THERE.  IF YOU WOULD START BY  
22   EXPLAINING TO THEM WHAT IT IS AND -- LIKE, WHETHER YOU'RE  
23   EXPLAINING THE STANDARD OR THE EXTRACT.

24          A   OKAY.  IF YOU LOOK ON YOUR RIGHT, THIS IS GOING TO  
25   BE THE EXTRACT FROM THE PANTIES AND THIS IS GOING TO BE



MS. KOWALEWSKI -- DIRECT BY MS. HERRING-LASH  
448

1 THE KNOWN STANDARD FROM HAROLD ORR. AND I -- I KNOW THAT  
2 ROBIN EXPLAINED A LITTLE BIT ABOUT THIS YESTERDAY, BUT  
3 JUST TO REFRESH, THIS TOP NUMBER RIGHT HERE, THIS IS GOING  
4 TO BE YOUR RESULTS. AND THIS BOTTOM NUMBER RIGHT HERE,  
5 THIS IS JUST SHOWING THE INTENSITY OF A PEAK HEIGHT. SO,  
6 THE NUMBER THAT WE'RE REALLY LOOKING AT IS THIS FIRST  
7 NUMBER RIGHT HERE. AND WHEN I DO MY COMPARISON, I LOOK AT  
8 EACH OF THE LOCATIONS. AND THIS IS A LOCATION AND THIS IS  
9 A LOCATION AND THIS IS A LOCATION.

10 AND SO I'M GOING TO TAKE THIS FIRST LOCATION AND  
11 I'M GOING TO SEE IF IT MATCHES TO THIS LOCATION RIGHT  
12 HERE. AND AS YOU CAN SEE, THAT BOTH OF THESE ARE AN  
13 ELEVEN, SO THEY ARE A MATCH AT THAT LOCATION. SO, I'M  
14 GOING TO GO THROUGH THAT WITH EACH OF THE DIFFERENT  
15 LOCATIONS TO SEE IF IT IS A MATCH.

16 NOW, ONE THING THAT I WOULD POINT OUT, IS AT THIS  
17 LOCATION RIGHT HERE, I DID NOT GET A RESULT.

18 Q AND THAT -- THE ONE ON THE -- THE -- MY RIGHT,  
19 THAT IS THE EXTRACT FROM THE PANTIES?

20 A YES. THAT IS CORRECT. THAT IS THE EXTRACT FROM  
21 THE PANTIES.

22 Q AND THE ONE ON THE LEFT IS THE STANDARD FOR MR.  
23 ORR?

24 A YES, THAT IS CORRECT.

25 Q AND GO -- I'M SORRY. I INTERRUPTED YOU.

1           A   SO, IF WE CAN SEE HERE, IT IS IMPORTANT TO POINT  
2   OUT THAT SINCE WE'RE DOING STR TESTING -- Y STR TESTING,  
3   THAT ONLY MALES ARE GOING TO GENERATE A PROFILE. IF THERE  
4   WAS -- IF THIS WAS A FEMALE, THEN WE WOULDN'T SEE ANY KIND  
5   OF THESE PEAKS PRESENT.

6           Q   IF IT WERE A FEMALE, YOU -- WOULD THIS BE A BLANK?

7           A   IT WOULD BE -- WE WOULD NOT SEE ANY PEAKS PRESENT.  
8   THERE WOULD BE NOTHING PRESENT BECAUSE FEMALES DO NOT HAVE  
9   THAT Y CHROMOSOME.

10          Q   AND WHEN YOU LOOK AT IT, IT'S THE -- THE -- IT'S  
11   THE ONLY PLACE THAT YOU DON'T SEE A PEAK ON THE EXTRACT,  
12   IS THE ONE LOCATION 13?

13          A   IT'S RIGHT HERE, THIS LOCATION, YES.

14          Q   AND IT'S NOT THAT THERE IS SOMETHING -- THERE'S  
15   JUST NOTHING THERE.

16          A   YES.

17          Q   WHY---

18          A   THERE IS NOTHING THERE.

19          Q   WHY WOULD THE PEAKS ON THE STANDARD BE HIGHER IN  
20   SOME LOCATIONS THAN THE PEAKS ON THE EXTRACT?

21          A   WELL, STANDARDS, IN GENERAL, ARE ALWAYS GOING TO  
22   YIELD A HIGHER RESULT BECAUSE YOU'RE TAKING -- A STANDARD  
23   IS GOING TO BE BLOOD OR IT'S GOING TO BE A FUCEL SWAB,  
24   SOMETHING THAT CONTAINS A HIGH AMOUNT OF DNA, SO YOU  
25   EXPECT TO SEE A LOT OF DNA IN YOUR KNOWN STANDARD.

MS. KOWALEWSKI -- DIRECT BY MS. HERRING-LASH  
450

1 Q AND IN YOUR WORK WITH, I GUESS, WHAT WE'RE  
2 REFERRING TO AS REGULAR DNA AND Y DNA, WHEN YOU HAVE A --  
3 AN EXTRACT FROM SAY A FEMALE'S PANTIES---

4 A UH-HUH.

5 Q -- DO YOU ALSO RUN INTO THE PRESENCE OF FEMALE  
6 MASKING SOME OF THE MALE DNA?

7 A YES. ONE OF THE MAIN REASONS THAT WE DO Y STR  
8 TESTING IS THAT OFTEN IN SEXUAL ASSAULT CASES, THAT THERE  
9 IS SO MUCH FEMALE DNA PRESENT, THAT IT WILL MASK OR  
10 OVERWHELM THE MALE DNA THAT IS PRESENT, SO THAT YOU MAY  
11 ONLY SEE A LITTLE BIT OF THAT MALE DNA OR YOU MAY NOT EVEN  
12 SEE IT AT ALL. AND, SO, THAT'S WHY WE THEN GO TO Y STR  
13 TESTING.

14 Q AND FROM THESE TWO, DID YOU DEVELOP A -- I GUESS A  
15 TABLE TO PRONOUNCE YOUR RESULTS?

16 A I DID.

17 Q I'M GOING TO SHOW YOU THAT. CAN YOU EXPLAIN TO  
18 THE JURY THE SIGNIFICANCE OF THIS, WHAT IT MEANS?

19 A OKAY. THIS FIRST -- THIS FIRST COLUMN RIGHT HERE,  
20 THESE ARE JUST GOING TO BE THE LOCATIONS THAT I TESTED.  
21 OKAY. AND SO THIS FIRST COLUMN RIGHT HERE, THIS IS GOING  
22 TO BE THE EXTRACT FROM THE PANTIES AND THE RESULTS THAT I  
23 GOT AT EACH OF THESE LOCATIONS.

24 THIS THIRD COLUMN RIGHT HERE, THIS IS -- THIS WAS  
25 SENT FROM ROBIN TAYLOR AND IT WAS A DILUTION OF THIS

1 SAMPLE, AND I DID NOT TEST IT.

2 THIS COLUMN RIGHT HERE IS THE REAGENTELANKS FOR THE  
3 EXTRACT OF THE PANTIES.

4 Q WHAT DOES THAT MEAN?

5 A A REAGENTELANKS IS SIMPLY A CONTROL THAT MOST  
6 LABORATORIES WILL RUN WITH THEIR SAMPLES. AND WHAT IT IS,  
7 IS THAT ONCE YOU PUT YOUR EVIDENCE SAMPLE INTO A TUBE, YOU  
8 WILL CREATE ANOTHER BLANK TUBE. AND EVERYTHING THAT YOU  
9 DO TO THAT EVIDENCE SAMPLE, YOU ARE GOING TO DO TO THAT  
10 REAGENTELANKS TOO. AND WHAT IT BASICALLY DOES, IT'S GOING  
11 TO SHOW YOU IF CONTAMINATION IS PRESENT. AND SO THE FACT  
12 THAT WE DID NOT GET A PROFILE RIGHT HERE IS GOOD, BECAUSE  
13 THAT MEANS THAT THERE IS NO CONTAMINATION PRESENT IN THE  
14 SAMPLE.

15 Q BECAUSE IF YOU WOULD HAVE GOT SOMETHING THERE,  
16 THAT WOULD MEAN THAT THERE WAS SOMETHING ELSE---

17 A YES. THAT CONTAMINATION COULD HAVE HAPPENED. SO  
18 THIS -- THIS COLUMN RIGHT HERE, THIS IS GOING TO BE THE  
19 KNOWN STANDARD OF HAROLD ORR, THESE ARE MY RESULTS. AND  
20 THEN THIS IS JUST A DILUTION OF THE KNOWN STANDARD, WHICH  
21 I DID NOT TEST. AND THEN THIS IS THE REAGENTELANKS FOR  
22 THE KNOWN STANDARD, ALSO, WHICH DID NOT YIELD ANYTHING.

23 Q AND WHEN YOU COMPARED THE KNOWN STANDARD FROM  
24 HAROLD ORR -- THE FIRST COLUMN---

25 A SO, THIS IS THE KNOWN STANDARD -- I'M SORRY --

1 THIS IS THE EXTRACT FROM THE PANTIES AND THIS IS GOING TO  
2 BE THE KNOWN STANDARD. AND WE CAN SEE AT EACH LOCATION  
3 THAT IT IS A MATCH. AND SO THE ONLY ONE IS RIGHT DOWN  
4 HERE, AND WE DID NOT GET A RESULT. BUT ALL THE OTHER  
5 LOCATIONS, IT MATCHES.

6 Q THE FACT THAT YOU DID NOT GET A RESULT, DOES THAT  
7 MEAN THAT IT WAS DIFFERENT FROM HAROLD ORR?

8 A NO, IT DOES NOT MEAN THAT. IT JUST MEANS THAT WE  
9 DID NOT GET A RESULT AT THAT LOCATION, AND THAT COULD BE  
10 FOR SEVERAL REASONS. WE JUST MIGHT NOT HAVE HAD ENOUGH  
11 MALE DNA PRESENT. IT COULD HAVE BEEN DEGRADED. I DON'T  
12 KNOW HOW THESE SAMPLES WERE STORED. I CAN'T SAY AS TO WHY  
13 I DIDN'T GET A RESULT AT THAT LOCATION.

14 Q HE WAS NOT EXCLUDED?

15 A NO, HE IS NOT EXCLUDED.

16 Q WHAT DO YOU -- DO YOU CALL THIS A MATCH?

17 A YES. THE PROFILE -- THE PARTIAL PROFILE THAT WE  
18 DID OBTAIN MATCHES THE PROFILE FROM HAROLD ORR.

19 Q AND JUST GOING BACK TO WHAT YOU SAID ABOUT IT  
20 COULD BE A DEGRADING SAMPLE, OR JUST NOT ENOUGH THERE,  
21 DOES THAT HAPPEN OFTEN THAT THE -- NOT THE STANDARD, BUT  
22 THE SAMPLE HAS BEEN SOMEHOW DEGRADED OR JUST ISN'T STRONG  
23 ENOUGH TO GET A MATCH OF EVERY LOCATION?

24 A YES. AND AS I MENTIONED BEFORE, I HAVE TESTED  
25 THOUSANDS AND THOUSANDS OF SAMPLES, AND THIS IS QUITE

1 ROUTINE.

2 Q AND AFTER YOU GET YOUR MATCH, DO YOU THEN DO SOME  
3 KIND OF STATISTICAL ANALYSIS?

4 A YES. SINCE IT IS A MATCH, I'M GOING TO ENTER A  
5 PROFILE RIGHT HERE, EXCEPT FOR THIS LOCATION, INTO A DATA  
6 BASE. AND I'M GOING TO SEE HOW MANY TIMES IT MATCHES IN  
7 THAT DATA BASE.

8 Q AND WHAT WAS YOUR RESULT?

9 A I'M GOING TO READ MY RESULTS AND CONCLUSIONS FROM  
10 MY REPORT. "BASED ON THE Y STR DATA, HAROLD ORR CANNOT BE  
11 EXCLUDED AS THE SOURCE OF THE MALE DNA OBTAINED". AND I  
12 HAVE MY NUMBER, BUT IT'S THE -- IT'S FROM THE PANTIES.  
13 THE NUMBER OF OBSERVATIONS OF THIS Y STR PROFILE IN THE  
14 DATA BASES ARE AS FOLLOWS -- SO THE TOTAL NUMBER OF  
15 OBSERVATIONS THAT WE SAW WERE THREE IN 4,004. THIS IS  
16 ALSO BROKEN DOWN INTO ETHNICITY. SO, IN THE CAUCASIAN  
17 DATA BASE, IT LISTED TWO TIMES OUT OF 1,311 MALES. IN THE  
18 ASIAN DATA BASE, IT WAS SEEN ZERO TIMES IN 325 MALES. IN  
19 THE -- I'M SORRY -- THE HISPANIC DATA BASE, IT WAS SEEN  
20 ZERO TIMES IN 894 MALES. IN THE AFRICAN AMERICAN DATA  
21 BASE, IT WAS SEEN ONE TIME IN 1,108 MALES. AND IN THE  
22 NATIVE AMERICAN DATA BASE, IT WAS SEEN ZERO TIMES IN 366  
23 MALES.

24 Q AND IN LAYMEN'S TERMS, I GUESS, WHAT DOES IT SAY  
25 TO YOU THAT IN THE TOTAL POPULATION, THAT THIS PROFILE --

1 AND WHEN YOU'RE TALKING ABOUT THIS PROFILE, YOU'RE TALKING  
2 ABOUT, I GUESS, ALL THE ONES THAT SHOWED UP?

3 A THAT'S CORRECT. BECAUSE WE DID NOT GET A RESULT  
4 AT THE DYS 392 LOCATION, THAT WAS NOT ENTERED INTO THE  
5 DATA BASE. SO, OUT OF THE 4,004 MALES THAT ARE IN THE  
6 DATA BASE, IT'S SHOWING THAT ONLY THREE PEOPLE WERE A  
7 MATCH TO THAT EXACT PROFILE.

8 Q AND OUT OF THE AFRICAN AMERICAN DATA BASE, IT WAS  
9 ONE IN 1,008?

10 A 1,108.

11 Q 1,108. OKAY. AND OUT OF THAT THREE IN THE TOTAL  
12 POPULATION, HAROLD ORR WAS A MATCH?

13 A YES, THAT IS CORRECT.

14 Q AND OUT OF THE ONE IN THE 1,108 AFRICAN AMERICAN  
15 POPULATION, HE WAS A MATCH?

16 A YES, THAT IS CORRECT.

17 MS. HERRING-LASH: THE COURT'S INDULGENCE FOR A  
18 MOMENT. (PAUSE.) THAT'S ALL THE QUESTIONS I HAVE.

19 THE COURT: LADIES AND GENTLEMEN, WE ARE GOING TO  
20 TAKE A SHORT BREAK BEFORE WE HAVE CROSS EXAMINATION, SO  
21 I'M GOING TO LET YOU GO BACK TO YOUR JURY ROOM FOR JUST A  
22 FEW MINUTES.

23 (WHEREUPON, JURY LEFT THE COURTROOM AT 10:43 A.M.)

24 THE COURT: ALL RIGHT, NOW, GOING BACK TO THE EXHIBIT  
25 AS TO WHICH YOU OBJECTED TO ITS CHAIN OF CUSTODY, WHAT WAS

1 THE -- WHAT IS THE ELEMENT OF THE CHAIN THAT YOU CONTEND  
2 IS LACKING?

3 MR. DAVIS: OFFICER REYNOLDS.

4 THE COURT: OFFICER REYNOLDS. ALL RIGHT. REFRESH MY  
5 RECOLLECTION ON WHO OFFICER REYNOLDS IS.

6 MR. DAVIS: HE HAS NOT TESTIFIED. HE HAS NOT BEEN IN  
7 THE COURTROOM SO THAT'S WHY YOU DON'T REMEMBER, JUDGE.  
8 BUT OFFICER LOWERY TESTIFIED THAT SHE COLLECTED THE WASH  
9 CLOTH AND PUT IT IN THE ZIPLOC BAGGIE AND GAVE IT TO  
10 OFFICER REYNOLDS. AT SOME POINT, IT ENDS UP AT NORTH  
11 CHARLESTON EVIDENCE. BUT AGAIN, THAT'S -- THAT'S THE  
12 MISSING LINK. WHAT HAPPENED TO IT FROM THE TRAILER TO  
13 NORTH CHARLESTON POLICE DEPARTMENT, THE PERSON THAT KNOWS  
14 THAT IS OFFICER REYNOLDS. OFFICER REYNOLDS HAS NOT  
15 TESTIFIED. AND, THEREFORE, BEFORE THEY CAN ADMIT IT, WE  
16 THINK THEY HAVE A MISSING LINK IN THAT CHAIN.

17 MR. NEELY: YOUR HONOR, OUR RESPONSE IS THAT THE LINK  
18 IS NOT MISSING. THE OFFICER HAS ALREADY TESTIFIED THAT  
19 SHE IS THE ONE THAT PACKAGED IT, SHE IS THE ONE THAT GIVES  
20 IT TO OFFICER REYNOLDS. AND THEN WE HAD -- HARDIN  
21 TESTIFIED AS TO THE FACT THAT HE'S THE ONE THAT RECEIVED  
22 IT. HE WENT OVER THE PAPER WORK AND TALKED ABOUT HOW HE  
23 GOT IT FROM REYNOLDS, AND REYNOLDS IS THE ONE WHO ACTUALLY  
24 CHECKED IT IN.

25 AND THEN HARDIN SAYS HE GIVES IT TO O'BRIEN



MS. KOWALEWSKI -- DIRECT BY MS. HERRING-LASH  
456

1 WHICH -- THEN HE MAKES SURE IT GETS TO SLED. SO, EACH OF  
2 THE STEPS ARE COVERED. THE ONLY OFFICER THAT WAS NOT IN  
3 COURT, AS MR. DAVIS SAID, WAS REYNOLDS, BUT I DON'T THINK  
4 HIS TESTIMONY IS NECESSARY. I THINK THE OFFICERS BEFORE  
5 AND AFTER WERE ABLE TO CORROBORATE WHAT HE DID.

6 THE COURT: WAS THE TESTIMONY THAT -- WHO WAS IT THAT  
7 GAVE IT TO REYNOLDS?

8 MR. NEELY: THE OFFICER HERE, OFFICER LOWERY, THE  
9 FIRST OFFICER TODAY.

10 THE COURT: NOW, THERE'S SO MANY OF THE ITEMS, I WANT  
11 TO MAKE SURE I HAVE IT STRAIGHT AS TO WHAT HAPPENED WITH  
12 WHICH ITEM.

13 MR. NEELY: YES, YOUR HONOR.

14 THE COURT: WHAT WAS THAT OFFICER'S TESTIMONY AS TO  
15 HOW SHE PACKAGED IT?

16 MR. NEELY: SHE SAYS SHE PACKAGED IT IN THAT CLEAR  
17 PLASTIC BAG. AND THEN SHE GIVES IT TO OFFICER REYNOLDS.

18 THE COURT: WAS IT SEALED?

19 MR. NEELY: IT WAS. IT WAS, YOU KNOW, LIKE A ZIPLOC  
20 BAG -- IT WASN'T SEALED --

21 THE COURT: OH, ZIPLOC BAG. IT'S NOT -- IT'S NOT  
22 LIKE A TAMPER PROOF HEAT SEAL AS IN---

23 MR. NEELY: THAT -- THAT IS CORRECT, JUDGE.

24 THE COURT: NOW, WHAT IS THE PERIOD OF TIME  
25 BETWEEN -- THAT OFFICER REYNOLDS HAD THE---

1           MR. NEELY: SHE TESTIFIED THAT SHE GIVES IT TO HIM ON  
2 THE 25TH. AND I BELIEVE HARDIN TESTIFIES THAT REYNOLDS  
3 WOULD HAVE RECEIVED IT ON THAT SAME DAY, AND IT GOES INTO  
4 EVIDENCE SHORTLY AFTER THAT.

5           THE COURT: OKAY.

6           MR. NEELY: SHE CLARIFIED IN TESTIMONY THAT SHE HEARD  
7 THAT HARDIN ACTUALLY GOT IT OUT OF A LOCK BOX ON THE 26TH,  
8 WHERE IT WOULD HAVE BEEN PUT IN ON THE 25TH BY REYNOLDS.

9           AND THAT WOULD HAVE BEEN THE SAME DAY THAT OFFICER  
10 LOWERY TESTIFIES THAT SHE ACTUALLY TURNED IT OVER TO  
11 EVIDENCE.

12          THE COURT: THIS WAS THE WASH CLOTH THAT WAS -- THAT  
13 THE VICTIM USED TO KIND OF CLEAN UP WITH?

14          MR. NEELY: YES, YOUR HONOR. SO, BASICALLY, WE JUST  
15 ARGUE THAT IT MAY BE CONSIDERED -- WE THINK IT IS NOT  
16 MISSING. AND IF THAT'S THE CASE, I THINK CASE LAW WILL  
17 SAY THAT IT WOULD THEN GO TO THE WEIGHT OF THE EVIDENCE  
18 AND WHETHER OR NOT THE JURY BELIEVES THE STEPS THAT WE  
19 HAVE PRESENTED, BUT IT SHOULD BE ADMITTED.

20          THE COURT: ALL RIGHT.. WE WILL TAKE A SHORT BREAK.

21          (WHEREUPON, THE COURT RECESSED AT 10:48 A.M.)

22          (WHEREUPON, THE COURT RESUMED AT 10:55 A.M.)

23          THE COURT: ALL RIGHT. ANYTHING FURTHER REGARDING  
24 THE CHAIN OF CUSTODY OF THE -- STATE'S EXHIBIT 16 WE'RE  
25 TALKING ABOUT?

1 MR. DAVIS: IT IS 16, YOUR HONOR.

2 THE COURT: ANYTHING FURTHER REGARDING THE CHAIN OF  
3 CUSTODY OF THAT ITEM?

4 MR. NEELY: YOUR HONOR, WE JUST SAY -- AS WE SAID  
5 EARLIER -- WE BELIEVE IT IS A WEAK LINK AT BEST, NOT  
6 MISSING, AND SO WE THINK IT SHOULD BE ADMITTED. AND UNDER  
7 STATE V. HORTON, WE THINK THAT'S ADMISSIBLE.

8 MR. DAVIS: NO ADDITIONAL ARGUMENT. THANK YOU.

9 THE COURT: ALL RIGHT. I -- I BELIEVE THE CHAIN OF  
10 CUSTODY HAS BEEN PROPERLY -- HAS BEEN SUFFICIENTLY LAID  
11 AND I ADMIT THE -- I ADMIT STATE'S EXHIBIT 16.

12 THE -- THE -- WHAT'S MISSING IS A SPECIFIC ACCOUNT  
13 OF WHAT HAPPENED TO STATE'S EXHIBIT 16 BETWEEN THE TIME --  
14 WHO -- WHAT WAS HIS NAME?

15 MR. DAVIS: IT WAS OFFICER---

16 MS. HERRING-LASH: REYNOLDS.

17 THE COURT: REYNOLDS. REYNOLDS RECEIVED IT FROM THE  
18 PERSON AT THE SCENE.

19 MR. DAVIS: OFFICER LOWERY.

20 THE COURT: AND THEN -- AND THEN LATER THE SAME DAY  
21 DELIVERED IT IN THE SAME BAG TO THE EVIDENCE LOCKER. SO,  
22 DURING THE COURSE OF -- OF SEVERAL HOURS, AT MOST, PERIOD  
23 OF TIME, THERE IS NO TESTIMONY AS WHAT SPECIFICALLY WAS  
24 DONE BY THIS ONE WITNESS WITH THAT ONE ITEM IN THAT SAME  
25 BAG.

1           MR. DAVIS: JUDGE, THE ONLY THING I WOULD ADD TO THAT  
2 IS, IN FACT, IT WAS -- I THINK THE TESTIMONY OF OFFICER  
3 LOWERY WAS TO THE FACT THAT ZIPLOC BAG WAS PUT INTO A  
4 BROWN BAG, SO IT WAS TRANSFERRED TO A DIFFERENT---

5           MS. HERRING-LASH: A DIFFERENT BAG, BUT THE BAG WAS  
6 WITHIN THAT BAG.

7           THE COURT: WHO TRANSFERRED -- WHO TRANSFERRED IT TO  
8 A DIFFERENT BAG?

9           MS. HERRING-LASH: REYNOLDS IN THE PRESENCE OF  
10 LOWERY.

11          THE COURT: AND SO LOWERY TESTIFIED AS TO THE  
12 TRANSFER?

13          MR. DAVIS: YES, JUDGE. I BELIEVE SHE DID.

14          THE COURT: ALL RIGHT. I OVERRULE THE OBJECTION AND  
15 I ADMIT THE ITEM. BRING IN THE JURY.

16                (STATE'S EXHIBIT NO. 16 RECEIVED INTO EVIDENCE.)

17                (WHEREUPON, JURY ENTERED THE COURTROOM AT 11:05 A.M.)

18          BAILIFF: ALL JURORS ARE PRESENT, YOUR HONOR.

19          THE COURT: CROSS EXAMINATION.

20          MR. DAVIS: THANK YOU, YOUR HONOR.

21          CROSS EXAMINATION BY MR. DAVIS:

22          Q ALL RIGHT. MY TURN TO TAKE A STAB AT IT,  
23 KOWALEWSKI?

24          A CLOSE ENOUGH.

25          Q CLOSE ENOUGH. ALL RIGHT. FORGIVE ME. I'M GOING

1 TO START OUT WITH A TERM THAT YOU HAVE USED IN TALKING  
2 WITH THE JURY, YOU -- YOU DETERMINED THIS TO BE A MATCH?

3 A YES. THAT IS CORRECT.

4 Q BUT WHAT -- WHAT THAT REALLY MEANS IS YOU'RE  
5 SAYING -- LET ME ASK IT A DIFFERENT WAY. YOU CANNOT TELL  
6 THE JURY THAT IT'S A 100 PERCENT MATCH?

7 A WELL, YOU'RE ASKING THAT IN KIND OF AN INTERESTING  
8 MANNER. I CAN'T SAY -- WELL, WHAT I CAN SAY IS THAT THE  
9 PROFILE THAT I GOT IS A MATCH. BUT I CANNOT SAY THAT IT  
10 IS HAROLD ORR BECAUSE IT -- BECAUSE OTHER MALES IN HIS  
11 PATERNAL LINE CANNOT BE EXCLUDED LIKE HIS FATHER. AND,  
12 YOU KNOW, IF HE HAS ANY SONS, FOR EXAMPLE.

13 Q BUT MORE IMPORTANTLY, YOU CAN'T SAY THAT BECAUSE  
14 YOU'RE MISSING A SPOT?

15 A WHAT I CAN SAY IS THE PROFILE THAT I HAVE IS A  
16 MATCH, THE PARTIAL PROFILE THAT I DID OBTAIN IS A MATCH,  
17 REGARDLESS OF THAT LOCATION.

18 Q WELL, THERE'S ONE MISSING SPOT. YOU LOOKED AT --  
19 YOU TRY TO LOOK AT 12 AND YOU COULD ONLY SEE 11, IS THAT  
20 RIGHT?

21 A YES, THAT IS CORRECT.

22 Q OKAY. THAT'S -- THAT'S 12 SPOTS ON THE Y  
23 CHROMOSOME, RIGHT?

24 A YES, THAT IS CORRECT.

25 Q AND THE Y CHROMOSOME IS THE MALE CHROMOSOME,

1 RIGHT?

2 A THAT IS ALSO CORRECT.

3 Q AND THOSE 12 SPOTS, THAT'S WHAT YOU'RE TARGETING  
4 IN DOING YOUR TESTING, CORRECT?

5 A I'M LOOKING AT THOSE 12 LOCATIONS ON THE Y  
6 CHROMOSOME, YES.

7 Q NOW, THERE'S MAYBE 50 TO 100 OF THOSE SPOTS ON  
8 CHROMOSOMES, IS THAT FAIR, SOMEWHERE IN THAT RANGE?

9 A IF YOU'RE TALKING ABOUT GENES, THERE ARE ABOUT 50  
10 TO 170 GENES ON THE Y CHROMOSOME.

11 Q OKAY. AND, AGAIN, ON YOUR TESTING, YOU'RE  
12 TARGETING 12?

13 A WE'RE LOOKING AT 12 LOCATIONS ON A Y CHROMOSOME.

14 Q OKAY. IS IT FAIR THAT THERE IS ABOUT 50,000 OR SO  
15 GENES IN A BODY?

16 A IT'S -- THERE'S AROUND THAT NUMBER, 30 TO 50,000,  
17 SOMETHING LIKE THAT.

18 Q OKAY. SO, THIS -- THESE 12 LOCATIONS YOU'RE  
19 LOOKING AT -- CAN I USE LAYMEN'S TERMS TO SAY THAT IT  
20 CREATES A SEQUENCE THAT YOU'RE TRYING TO MATCH UP WITH  
21 ANOTHER SEQUENCE? CAN I SAY THAT?

22 A UM, A SEQUENCE TO MATCH UP WITH ANOTHER SEQUENCE?

23 Q MEANING YOU WERE -- YOU WERE -- IT WAS SUBMITTED  
24 TO YOU SAMPLES THAT SLED AGENT TAYLOR HAD ALREADY  
25 OBTAINED, SHE SUBMITTED SOME SAMPLES TO YOU, CORRECT?

1           A    SHE SUBMITTED EXTRACTS TO ME.

2           Q    EXTRACTS.  AND ALSO A KNOWN STANDARD FROM HAROLD,  
3   RIGHT?

4           A    YES.  SHE ALSO DID -- WELL, WE HAVE TWO.  WE HAVE  
5   THE ACTUAL PHYSICAL STANDARD THAT SHE SUBMITTED FROM HIM.  
6   AND THEN SHE ALSO SUBMITTED THE EXTRACT THAT SHE HAD TAKEN  
7   FROM HAROLD ORR.

8           Q    OKAY.  SO, THEN, YOU'RE GOING TO SEE IF YOU --  
9   YOU'RE GOING TO LOOK AT BOTH OF THEM AND COMPARE THEM,  
10  CORRECT?

11          A    WELL, YOU'RE JUST TALKING ABOUT THE STANDARDS.  
12  I'M LOOKING---

13          Q    THE EXTRACT FROM THE PANTIES?

14          A    YES.

15          Q    AND THEN HAROLD'S STANDARD?

16          A    YES.  THERE'S ALSO THE EXTRACT FROM HAROLD'S  
17  STANDARD.  BUT I JUST WANT TO MAKE IT CLEAR THAT IN  
18  ADDITION, YOU KNOW, ROBIN TAYLOR HAD ALSO SENT, YOU KNOW,  
19  THE PHYSICAL CARD TO -- YOU KNOW, IN ADDITION TO THE  
20  EXTRACT.  SO, I JUST WANT TO MAKE SURE THAT THOSE---

21          Q    I UNDERSTAND.  I UNDERSTAND.  AND I DON'T MEAN TO  
22  MISREPRESENT IT AT ALL.  BUT ULTIMATELY WHAT YOU'RE DOING  
23  IS YOU'RE CREATING THIS -- YOU SHOWED THE TABLE AT THE END  
24  UP THERE A MOMENT AGO -- YOU'RE CREATING THIS SEQUENCE  
25  FROM THE PANTIES AND FROM HAROLD AND YOU'RE GOING TO

1 COMPARE THE TWO? ULTIMATELY, THAT'S WHAT HAPPENS, RIGHT?

2 A YES. I HAVE RESULTS FROM THE PANTIES. AND I HAVE  
3 RESULTS FROM THE STANDARD OF HAROLD ORR, AND THEY ARE  
4 BEING COMPARED.

5 Q AND SO YOU'RE GOING DOWN TO SEE IF ON THE 12  
6 LOCATIONS WHETHER THEY MATCH OR DON'T MATCH?

7 A YES. THAT IS ALSO CORRECT.

8 Q AND YOU -- YOU WERE ABLE TO SEE 11 OF THE 12,  
9 CORRECT?

10 A YES, THAT IS ALSO CORRECT.

11 Q AND THOSE 11 YOU SAY MATCH?

12 A YES. THEY DO MATCH.

13 Q BUT HAD THE 12TH NOT, THEN IT WOULDN'T BE A MATCH?

14 A IT ONLY TAKES ONE LOCATION NOT TO MATCH FOR IT TO  
15 BE AN EXCLUSION.

16 Q SO, HAD YOU BEEN ABLE TO SEE THAT ONE OTHER  
17 LOCATION AND IT WASN'T MATCHING, THEN HE'S OUT?

18 A YES. IF IT -- IF IT WAS PRESENT, NUMBER ONE. AND  
19 IF IT DID NOT MATCH, WE DO NOT KNOW THE RESULTS OF THAT  
20 LOCATION, THOUGH, SO WE CANNOT MAKE A STATEMENT AS TO THAT  
21 LOCATION.

22 Q SO, FROM WHAT YOU SAW THERE'S A MATCH, BUT YOU  
23 DIDN'T SEE EVERYTHING?

24 A YES. WE WERE MISSING ONE LOCATION. WE DID NOT  
25 GET A RESULT AT ONE OF THOSE LOCATIONS. THAT IS CORRECT.



1 Q SO, THE MORE ACCURATE STATEMENT IS THE PARTIAL  
2 PROFILE THAT MATCHED, CANNOT EXCLUDE HAROLD?

3 A THAT IS CORRECT. HE CANNOT BE EXCLUDED.

4 Q FROM THE PART THAT YOU COULD SEE?

5 A YES. THAT IS CORRECT.

6 Q OKAY. NOW, YOU TALKED ABOUT THE DATA BASE THAT  
7 YOU USE AND THE -- I THINK IT WAS A QUANTITATION STEP THAT  
8 ANOTHER MEMBER OF THE LAB DID, IS THAT RIGHT?

9 A WELL, THOSE ARE TWO SEPARATE THINGS, THE DATA BASE  
10 AND THE QUANTITATION.

11 Q OKAY. THE DATA BASE IS THESE NUMBERS THAT YOU  
12 TOLD THE JURY ABOUT EARLIER, THE FREQUENCY NUMBERS, IS  
13 THAT ACCURATE?

14 A YES.

15 Q OKAY. NOW, THAT GIVES YOU, AS THE EXPERT, AN IDEA  
16 OF THE ODDS OF THIS SEQUENCE SHOWING UP IN A PARTICULAR  
17 GROUP?

18 A THAT DATA BASE IS MEANT TO SHOW HOW MANY TIMES IN  
19 A RANDOM POPULATION COULD THAT SHOW UP.

20 Q BUT, FOR EXAMPLE, THE RANDOM POPULATION WAS ONLY  
21 THREE HUNDRED AND SOMETHING PEOPLE?

22 A WELL, WHEN YOU BREAK IT DOWN INTO ETHNICITY, I WAS  
23 LOOKING AT -- WELL, WE LOOK -- YOU CAN BREAK IT DOWN INTO  
24 ETHNICITY, OR YOU CAN LOOK AT IT AS A WHOLE.

25 Q OKAY. BUT EVEN AS A WHOLE, WE'RE TALKING 4,000

1 SAMPLES, RIGHT?

2 A YES, THAT IS CORRECT.

3 Q OKAY. SO, IT'S -- IT'S A STATISTICAL ASSUMPTION,  
4 CORRECT?

5 A WELL, IT'S SHOWING HOW MANY -- WELL, WE HAVE HOW  
6 MANY PEOPLE ARE IN THE DATA BASE AND THEN IT'S JUST  
7 SHOWING HOW MANY TIMES IT MATCHES IN THE DATA BASE.

8 Q BUT IT'S FAIR TO SAY, THAT YOUR DATA BASE IS  
9 LIMITED IN THIS CASE TO 4,000?

10 A IT IS LIMITED TO 4,000 PEOPLE AND IT HAS BEEN  
11 VALIDATED IN THE SCIENTIFIC COMMUNITY THOUGH.

12 Q AND IT IS SHOWING HOW OFTEN A SEQUENCE OCCURS IN  
13 THAT GROUP?

14 A IT'S SHOWING -- YES, HOW OFTEN THAT PROFILE IS  
15 SEEN IN THE DATA BASE.

16 Q AND THE PROFILE IS THE -- THE ---

17 A IT'S THE RESULTS---

18 Q ---LOCATIONS YOU'RE LOOKING AT?

19 A YES. THE RESULTS THAT WE OBTAINED AT THOSE  
20 LOCATIONS.

21 Q SO, AGAIN, IT'S A STATISTICAL PROBABILITY, RIGHT?

22 A UM, I'M JUST SHOWING HOW MANY TIMES IT'S SEEN IN  
23 THE DATA BASE. IT'S NOT REALLY A STATISTICAL PROBABILITY.

24 Q BUT THE -- YOU'VE ALREADY SAID THE Y CHROMOSOME IS  
25 NOT A UNIQUE IDENTIFIER IN THE SENSE THAT ALL MALES HAVE A

1 Y CHROMOSOME, RIGHT?

2 A YES, THAT IS CORRECT.

3 Q OKAY. AND I THINK YOU HAVE ALREADY TOLD THE JURY  
4 ABOUT, IN THIS CASE, WHEN YOU WERE LOOKING AT ANYTHING  
5 THAT WAS SENT FROM THE PANTIES, THERE WAS A VERY LARGE  
6 AMOUNT OF FEMALE AND A LITTLE BIT OF MALE, IS THAT  
7 ACCURATE?

8 A WELL, I NEVER EXAMINED THE PANTIES. I ONLY HAD --  
9 I ONLY EXAMINED THE EXTRACT FROM THE PANTIES. WHAT I WAS  
10 LOOKING AT WAS THE PROFILE THAT ROBIN HAD SENT TO ME AND  
11 THAT'S WHERE I COULD SEE THAT THERE WAS A HIGH AMOUNT OF  
12 FEMALE DNA AND JUST A LITTLE BIT OF THAT MALE DNA PRESENT.

13 Q OKAY. AND, AGAIN, I APOLOGIZE, YOU'RE NOT LOOKING  
14 AT PANTIES, YOU'RE LOOKING AT WHAT ROBIN SENT TO YOU FROM  
15 HER TESTING, CORRECT?

16 A YES. YES. THAT IS CORRECT.

17 Q OKAY. AND IT'S -- I'M SORRY -- THAT'S AGENT ROBIN  
18 TAYLOR FROM SOUTH CAROLINA LAW ENFORCEMENT DIVISION?

19 A ROBIN TAYLOR. I DON'T KNOW IF IT'S AGENT OR --

20 Q OKAY. SINCE THE Y CHROMOSOME, ANY MALE HAS THAT,  
21 THAT IN NO WAY CAN TELL YOU THE AGE OF THE Y CHROMOSOME  
22 DONOR?

23 A I DO NOT KNOW. I CANNOT TELL THE AGE OF THE DONOR  
24 FROM THE Y STR PROFILE.

25 Q YOU CANNOT TELL THE RACE FROM THAT?

- 1 A NO. I CANNOT TELL THE RACE.
- 2 Q YOU HAVE -- YOU CANNOT TELL FROM WHAT CELL IN THE  
3 BODY THAT Y CAME FROM?
- 4 A NO, I CANNOT.
- 5 Q YOU CAN'T TELL IF IT'S HAIR?
- 6 A NO, I CANNOT.
- 7 Q OR SKIN CELLS?
- 8 A NO, I CANNOT.
- 9 Q OR SALIVA?
- 10 A I DID NOT TEST -- THERE IS A TEST FOR SALIVA, BUT  
11 I DID NOT TEST FOR SALIVA.
- 12 Q SO, WHAT YOU DID, YOU CAN'T TELL THAT?
- 13 A NO.
- 14 Q YOU CAN'T TELL WHETHER IT WAS SEMEN?
- 15 A AGAIN, THERE IS A TEST FOR SEMEN, BUT THAT IS NOT  
16 WHAT I TESTED FOR, SO I CANNOT TELL IF IT IS SEMEN.
- 17 Q WELL, LET ME GET A LITTLE MORE ARTFUL ON THE  
18 QUESTION. THE FACT THAT YOU GET A Y CHROMOSOME -- JUST  
19 THE FACT THAT YOU HAVE THE Y, YOU DON'T KNOW THAT'S A  
20 SEMEN CELL Y?
- 21 A I'M ASSUMING YOU MEAN Y STR PROFILE?
- 22 Q I'M SORRY. YES.
- 23 A I CANNOT TELL, YOU KNOW, IF IT CAME FROM A SEMEN  
24 -- CAME FROM SEMEN.
- 25 Q OR -- OR -- OKAY. OR FECES?

1 A NO, I CANNOT TELL IF IT CAME FROM FECES.

2 Q OKAY. SO, ALL YOU CAN TELL THE JURY IS YOU KNOW  
3 THAT IT WAS A Y CHROMOSOME, AND THEREFORE IT'S MALE --  
4 I'LL FINISH. THERE'S MORE TO IT I KNOW. BUT YOU CAN TELL  
5 THE JURY IT IS A Y CHROMOSOME, RIGHT?

6 A WELL, THAT IT CAME FROM A Y CHROMOSOME. IT IS NOT  
7 A Y CHROMOSOME.

8 Q I'M SORRY. IT CAME -- DEPOSITIVE FROM Y  
9 CHROMOSOME. Y CHROMOSOMES COME FROM MALES, CORRECT?

10 A YES, THAT IS CORRECT.

11 Q AND FROM WHAT YOU COULD SEE, THERE WAS A MATCH?

12 A YES, THAT IS CORRECT.

13 Q OKAY. NOW, IS IT FAIR TO SAY THAT SINCE YOU'RE  
14 ONLY LOOKING AT 12 LOCATIONS ON A Y CHROMOSOME, THAT A  
15 REGULAR -- I'M USING LAYMEN'S TERMS -- THAT A REGULAR DNA  
16 TESTING WOULD BE MORE PRECISE?

17 A YES. WHENEVER POSSIBLE, YOU'RE ALWAYS GOING TO  
18 WANT TO TRY REGULAR STR TESTING FIRST SINCE THEY ARE A  
19 UNIQUE IDENTIFIER.

20 Q IS IT FAIR TO SAY ONE OF THE REASONS IT'S A UNIQUE  
21 IDENTIFIER, IS THE SEQUENCE IS LONGER, YOU'RE LOOKING AT  
22 MORE SPOTS?

23 A WELL, NO, NOT REALLY.

24 Q OKAY.

25 A THE REASON WHY IT IS A UNIQUE IDENTIFIER IS THAT

1 BECAUSE THE LOCATIONS THAT WE'RE LOOKING AT, THEY'RE GOING  
2 TO BE ON DIFFERENT CHROMOSOMES. YOU KNOW, AS I MENTIONED  
3 BEFORE, THAT THERE'S 23 CHROMOSOMES IN THE BODY. SO, THE  
4 LOCATIONS THAT WE'RE LOOKING AT ARE GOING TO FALL ON  
5 DIFFERENT LOCATIONS ON DIFFERENT CHROMOSOMES. SO, BECAUSE  
6 OF THAT, THEY ARE INHERITED INDEPENDENTLY OF ONE ANOTHER.  
7 AND BECAUSE OF THAT, WE CAN MULTIPLE THE FREQUENCY OF THAT  
8 RESULT AT THAT LOCATION WITH THE FREQUENCY OF THE RESULT  
9 AT THE NEXT LOCATION, AND THAT'S HOW YOU COME UP WITH  
10 THESE LARGE NUMBERS THAT YOU'VE PROBABLY HEARD ABOUT  
11 BEFORE, LIKE USUALLY IN THE QUADRILLIONS OR---

12 Q THE ODDS ARE A LOT BETTER WITH REGULAR DNA?

13 A I DON'T KNOW IF I WOULD USE THE WORD "ODDS", BUT  
14 YOU CAN SAY SOMEBODY IS THE SOURCE OF THE DNA.

15 Q OKAY. WELL, THE STATISTICS -- IS THAT BETTER THAN  
16 ODDS -- THE STATISTICS ARE MUCH MORE PRECISE?

17 A THEY ARE MUCH MORE PROBATIVE, YES.

18 Q OKAY. YOU WERE NOT ASKED, NOR DID YOU DO, REGULAR  
19 DNA TESTING ON ANY SAMPLES THAT YOU RECEIVED?

20 A NO, I DID NOT.

21 Q OKAY. WE TALKED A LITTLE BIT ABOUT CONTROLLED  
22 HANDLING OF THE EVIDENCE. CLEARLY, THAT'S ONE OF THE MOST  
23 IMPORTANT THINGS WHEN YOU RECEIVE THESE PACKAGES INTO YOUR  
24 LAB, CORRECT?

25 A YES. WE TAKE A LOT OF PRECAUTIONS WHEN WE ARE

1 HANDLING EVIDENCE.

2 Q YOU'VE ALREADY TALKED ABOUT THE LOG YOU'VE LOOKED  
3 AT, AS TO -- RECORD WHO TOUCHES IT AND WHEN THEY TOUCH IT  
4 AND ALL THAT, CORRECT?

5 A YES. THAT IS CORRECT.

6 Q AND YOU WOULD ALWAYS WEAR GLOVES WHEN YOU WERE  
7 EXAMINING OR TESTING ITEMS SUBMITTED TO YOU, CORRECT?

8 A ALWAYS. I WOULD ALWAYS WEAR GLOVES WHENEVER I  
9 EVEN ENTER THE LABORATORY.

10 Q I THINK YOU ALREADY SAID THIS DURING CROSS  
11 EXAMINATION, BUT YOU DON'T KNOW PRIOR TO THE TIME YOU  
12 RECEIVED ANYTHING ON THIS CASE OR ANY OTHER CASE, HOW IT'S  
13 BEEN STORED?

14 A NO, I DO NOT. WELL ---

15 Q YOU DON'T -- GO AHEAD.

16 A UNLESS IT'S BEEN DOCUMENTED OR SUBMITTED BY THE  
17 SUBMITTING AGENCY, THEY MIGHT SAY IN THEIR NOTES HOW  
18 SOMETHING MIGHT HAVE BEEN SUBMITTED, SO -- OR, I'M SORRY,  
19 STORED.

20 Q BUT YOU DIDN'T COME TO NORTH CHARLESTON POLICE  
21 DEPARTMENT AND RETRIEVE THESE ITEMS?

22 A NO, I DID NOT.

23 Q AND YOU DON'T KNOW EVEN WHERE THEY WERE STORED AT  
24 NORTH CHARLESTON POLICE DEPARTMENT?

25 A NO, I DO NOT.

1 Q YOU CONTROL IT FROM THE TIME THAT IT ARRIVES AT  
2 YOUR LABORATORY UNTIL THE TIME YOU WOULD PACKAGE IT AND  
3 SEND IT ON TO SOMEONE ELSE?

4 A YES. THAT IS ALSO CORRECT.

5 Q THE CONCERN THERE IS CONTAMINATION, CORRECT --  
6 CONTROLLING THE STORAGE AND THE HANDLING OF THE EVIDENCE,  
7 THE MAJOR CONCERN IS CONTAMINATION?

8 A WELL, THE REASON WHY WE KEEP A CHAIN OF CUSTODY IS  
9 NOT -- I MEAN, IS TO SHOW WHO HAD POSSESSION OF IT AND TO  
10 SHOW THE INTEGRITY OF IT.

11 Q I'M SORRY, NOT THE CHAIN OF CUSTODY. WHY YOU WEAR  
12 GLOVES---

13 A OH, WHY I WEAR GLOVES?

14 Q YES.

15 A YEAH. I DO NOT WANT TO CONTAMINATE THE EVIDENCE  
16 WITH MY DNA AND I DO NOT WANT ANYTHING THAT'S ON THE  
17 EVIDENCE TO BE TOUCHING ME AS WELL.

18 Q YOU TESTIFIED AT A PRIOR PROCEEDING IN THIS  
19 MATTER, DO YOU RECALL?

20 A YES, I DO.

21 Q CHECKING MY RECOLLECTION, TO DO YOUR TESTING, YOU  
22 CREATED MANY COPIES -- I THINK THAT'S THE PCR PART OF  
23 THIS, IS THAT ACCURATE?

24 A YES. IT IS CALLED PCR.

25 Q AND, BASICALLY, IN LAYMEN'S TERMS AGAIN, IF I'M



1 NOT OVER SIMPLIFYING IT, FROM THE EXTRACTS YOU GOT, YOU  
2 COPIED OR REPLICATED THAT SEVERAL TIMES SO YOU HAD ENOUGH  
3 TO DO YOUR EXAMINATION?

4 A YES, THAT IS CORRECT.

5 Q AND, AGAIN, IT'S THAT PROCESS WHERE YOU WOULD BE  
6 VERY CONCERNED ABOUT ANY CROSS CONTAMINATION?

7 A YES, IT IS.

8 Q YOU WERE NOT -- YOU DID NOT RECEIVE A CLOTH TO  
9 HAVE ANY TESTING DONE IN THIS CASE?

10 A WELL, I RECEIVED UNDERWEAR, WHICH I GUESS IS  
11 TECHNICALLY CLOTH---

12 Q A WASH CLOTH. I'M SORRY.

13 A I DID NOT RECEIVE A WASH CLOTH.

14 Q YOU DID NOT RECEIVE SWABS TO BE TESTED?

15 A I DID NOT RECEIVE SWABS.

16 Q THE EXTRACTS THAT YOU RECEIVED FOR TESTING WERE  
17 FROM ROBIN TAYLOR, CORRECT?

18 A THAT IS ALSO CORRECT.

19 Q AND THE STANDARDS, WHICH ARE BASICALLY KNOWN  
20 RESULTS, WERE ALSO SUBMITTED TO YOU BY ROBIN TAYLOR?

21 A YES, THEY WERE.

22 Q ALL RIGHT. YOU'VE BEEN QUALIFIED AS AN EXPERT  
23 ALREADY, AND I'D LIKE TO ASK A FEW HYPOTHETICALS AND I  
24 THINK WE'RE DONE. ALL RIGHT.

25 A OKAY.

1 Q YOU'RE -- YOU'RE FAMILIAR WITH THE TERM "TRANSFER"  
2 IN THE SENSE OF CONTAMINATION?

3 A I -- YES.

4 Q THAT WOULD BE WHEN SOME EVIDENCE FROM ONE PERSON  
5 IS TRANSFERRED OVER TO ANOTHER ITEM, THAT'S WHAT YOU'RE  
6 TRYING TO GUARD AGAINST BY WEARING GLOVES AND BEING IN A  
7 CLEAN ENVIRONMENT AT THE LAB, CORRECT?

8 A YES. THAT -- IT WOULD BE A FORM FOR--

9 Q THAT'S AN EXAMPLE---

10 A YES. THAT WOULD BE AN EXAMPLE.

11 Q OKAY. ALL RIGHT. HYPOTHETICALLY, IF I BATHED OR  
12 SHOWERED AND THEN SPOUSE/FRIEND/FEMALE, AFTER I HAD USED A  
13 TOWEL TO DRY OFF, SHE THEN USED THAT TOWEL TO DRY OFF, IT  
14 IS POSSIBLE TO TRANSFER DNA THAT WAY?

15 A YOU'RE TALKING ABOUT WHAT IS KNOWN AS TOUCH DNA---

16 Q I NEED YOU TO -- IS IT POSSIBLE FOR THAT TO HAPPEN  
17 IN A HYPOTHETICAL SITUATION? IN YOUR EXPERT OPINION, IS  
18 THAT POSSIBLE?

19 A WELL, WITHOUT GOING INTO WHAT TOUCH DNA IS, IN MY  
20 EXPERT OPINION, I WOULD HAVE TO SAY THAT IT COULD HAPPEN,  
21 BUT THAT WOULD BE VERY HIGHLY UNLIKELY.

22 Q OKAY. IN YOUR EXPERT OPINION, IF I WERE TO HIT,  
23 PUNCH SOMEONE, AND THEN TOUCH ANOTHER ITEM OR SOME OTHER  
24 PERSON, IT IS POSSIBLE FOR TRANSFER OF DNA TO OCCUR, THAT  
25 IS POSSIBLE HYPOTHETICALLY?

1           A   ARE YOU TALKING -- IS THE PERSON BLOODY? I MEAN,  
2   ARE YOU TALKING ---

3           Q   IF -- IS THERE A WAY THAT THAT COULD HAPPEN? IF I  
4   WERE HITTING AND BEATING ANOTHER HUMAN BEING AND THEN  
5   TOUCHED SOME OTHER ITEM OR SOME OTHER THING, IT IS  
6   HYPOTHETICALLY POSSIBLE TO TRANSFER DNA?

7           A   IF I UNDERSTAND THIS CORRECTLY, IF YOU'RE BEATING  
8   OR HITTING SOMEBODY, THERE'S A GOOD CHANCE THAT YOU COULD  
9   BE DRAWING BLOOD. AND BLOOD IS A VERY, YOU KNOW, HIGH  
10   SOURCE OF DNA, YOU'LL HAVE A LOT OF CELLS OF DNA PRESENT,  
11   SO IT WOULD BE VERY LIKELY TO TRANSFER, YOU KNOW, BLOOD.  
12   BUT IF YOU HIT SOMEBODY, YOU KNOW, AND YOU'RE JUST -- YOU  
13   DIDN'T DRAW BLOOD, THEN YOU TOUCH SOMETHING ELSE? IS THAT  
14   WHAT YOU'RE---

15          Q   SOMEONE OR SOMETHING ELSE?

16          A   IT WOULD BE LESS LIKELY---

17          Q   HYPOTHETICALLY---

18          A   HYPOTHETICALLY, IT COULD HAPPEN, BUT I THINK IT  
19   WOULD BE UNLIKELY AGAIN.

20          Q   IT WOULD DEPEND ON WHAT CELLS YOU -- IF I'M THE  
21   ONE BEATING SOMEONE, WHAT CELLS I GOT ON MYSELF WOULD  
22   TRANSFER, IT WOULD DEPEND?

23          A   IT WOULD DEPEND GREATLY IF THERE WERE BLOOD CELLS  
24   OR IF THERE WERE SKIN CELLS. AND IT WOULD DEPEND ON, YOU  
25   KNOW, HOW HARD YOU HIT THEM. IF YOU JUST GAVE THEM JUST A

1 LITTLE BABY SLAP, OR IF YOU WERE ROUGHING THEM UP, IT  
2 DEPENDS ON HOW MANY CELLS ARE BEING SLOUGHED OFF OF THE  
3 SKIN.

4 Q BECAUSE---

5 A SO---

6 Q -- CLEARLY, IS IT FAIR TO SAY THAT WET TRANSFER IS  
7 MORE LIKELY THAN DRY TRANSFER, IS THAT CORRECT?

8 A I MEAN, I THINK IT WOULD HAVE TO DEPEND ON THE  
9 SITUATION. I DON'T, I MEAN, BUT HYPOTHETICALLY, MAYBE.

10 Q AND, AGAIN, THOUGH, WE'RE TALKING -- DNA OCCURS IN  
11 ANY NUCLEATED CELL, CORRECT?

12 A EXCEPT FOR RED BLOOD CELLS.

13 Q EXCEPT FOR RED BLOOD CELLS. DEAD SKIN -- OR OUR  
14 SKIN CELLS, LIVE OR DEAD, SKIN CELLS?

15 A YOU WILL HAVE DNA IN YOUR SKIN CELLS.

16 Q AND HAIR FOLLICLES?

17 A YES, YOU WILL IN HAIR FOLLICLES.

18 Q IN SPIT?

19 A YOU SHOULD HAVE DNA CELLS IN YOUR SALIVA.

20 Q TEARS?

21 A YOU COULD HAVE THEM IN YOUR TEARS.

22 Q SWEAT?

23 A YES. YOU COULD HAVE THEM IN YOUR SWEAT.

24 Q UM, VAGINAL DISCHARGE?

25 A YES.

1 Q FECES?

2 A IT COULD BE IN FECES.

3 Q I WILL GO BACK NOW BRIEFLY TO -- YOU WERE TALKING  
4 ABOUT CHAIN OF CUSTODY A LITTLE BIT. AT THE LAB -- AT  
5 YOUR PRIVATE LAB WHERE YOU DO ALL KINDS OF GENETIC  
6 TESTING, YOU'RE WELL AWARE THAT THE HANDLING OR  
7 MISHANDLING OF EVIDENCE IS CRUCIAL, CORRECT?

8 A IT'S VERY CRUCIAL.

9 MR. DAVIS: YOUR HONOR, IF I COULD HAVE JUST ONE  
10 MOMENT. (PAUSE.)

11 BY MR. DAVIS:

12 Q JUST BRIEFLY. BACK TO SPECIFIC TESTS THAT YOU DID  
13 IN THIS CASE, IF YOU WERE COMPARING 12 LOCATIONS --  
14 ATTEMPTING TO COMPARE 12 LOCATIONS, CORRECT?

15 A YES, THAT IS CORRECT.

16 Q AND YOU'RE ONLY ABLE TO OBSERVE 11 OF THE 12?

17 A THAT IS ALSO CORRECT.

18 Q ONE NON-MATCH WOULD HAVE EXCLUDED HAROLD, CORRECT?

19 A IT ONLY TAKES ONE MATCH TO EXCLUDE -- OR ONE  
20 NON-MATCH -- SORRY -- TO EXCLUDE.

21 Q AND SO WHILE YOU'RE CALLING IT A MATCH, IN YOUR  
22 EXPERT OPINION, YOU CANNOT TELL THIS JURY THAT IT IS  
23 HAROLD'S?

24 A WHAT I'M SAYING IS THE 11 LOCATIONS THAT I HAVE  
25 ARE A MATCH. BUT I CANNOT SAY FOR CERTAIN, BECAUSE OF THE

1 TYPE OF TESTING THAT I DID, AND THAT IT COULD MATCH OTHER  
2 MALE PATERNAL RELATIVES, THAT I CANNOT SAY IT IS HAROLD  
3 ORR.

4 MR. DAVIS: THANK YOU. NO OTHER QUESTIONS.

5 MS. HERRING-LASH: JUST A FEW QUESTIONS, I THINK.

6 REDIRECT EXAMINATION BY MS. HERRING-LASH:

7 Q TO START OFF WITH, AS FAR AS REGULAR DNA TESTING,  
8 THAT IS WHAT ROBIN TAYLOR ATTEMPTED TO DO WITH CUTTING  
9 FROM THE UNDERWEAR, IS THAT CORRECT?

10 A YES---

11 MR. DAVIS: LACKS PERSONAL KNOWLEDGE, YOUR HONOR, I  
12 BELIEVE.

13 BY MS. HERRING-LASH:

14 Q DID YOU RECEIVE INFORMATION FROM ROBIN TAYLOR?

15 A YES, I DID.

16 MR. DAVIS: THEN THAT WOULD BE HEARSAY, YOUR HONOR.

17 THE COURT: I DON'T KNOW WHAT QUESTION YOU'RE GETTING  
18 AROUND TO. Y'ALL COME UP HERE JUST A SECOND.

19 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
20 BENCH CONFERENCE IN THE PRESENCE OF THE JURY BUT OUTSIDE  
21 THE HEARING OF THE JURY, OFF THE RECORD.)

22 THE COURT: ALL RIGHT. I OVERRULE THE OBJECTION. I  
23 DON'T BELIEVE THE EVIDENCE IS OFFERED TO PROVE THE TRUTH  
24 OF THE MATTER ASSERTED.

25 BY MS. HERRING-LASH:

1 Q RECORD DNA IS WHAT ROBIN TAYLOR ATTEMPTED TO DO  
2 BEFORE SENDING IT TO YOU?

3 A YES, THAT IS CORRECT.

4 Q AND IN YOUR LABORATORY, DO YOU OFTEN -- SINCE YOU  
5 DO Y STR TESTING, DO YOU OFTEN GET SAMPLES LIKE THIS WHERE  
6 A LAB HAS ATTEMPTED TO DO REGULAR DNA AND THEY HAVE TO  
7 SEND IT TO YOUR LAB WHICH DOES A DIFFERENT TYPE OF  
8 TESTING?

9 A YES. Y STR TESTING IS A NEWER TECHNOLOGY THAN  
10 REGULAR STR TESTING. AND SO THAT'S WHY A LOT OF THE LABS  
11 ACROSS THE COUNTRY WILL SEND SAMPLES TO US FOR Y STR  
12 TESTING.

13 Q AND JUST A -- IF YOU KNOW THIS, AS FAR AS WEARING  
14 GLOVES, LAB TECHNICIANS OR FORENSIC ANALYSTS HAVE WORN  
15 GLOVES BEFORE DNA WAS EVER -- IS PART OF THE PROCEDURE, IS  
16 THAT CORRECT?

17 A THIS WAS BEFORE PROBABLY I WAS EVEN BORN. BUT,  
18 YOU KNOW, YOU ALSO, AS AN ANALYST, WANT TO PROTECT  
19 YOURSELF FROM WHATEVER YOU'RE TOUCHING. YOU DON'T KNOW  
20 WHAT THIS EVIDENCE CONTAINS. AND YOU DON'T WANT IT TO BE  
21 IN CONTACT WITH YOU.

22 Q SO, THERE ARE REASONS TO WEAR GLOVES IN THE LAB?

23 A THERE ARE, YES.

24 Q NOW, GOING BACK TO THE TRANSFERENCE, WHAT IS TOUCH  
25 DNA?

1           A   TOUCH DNA IS WHAT IT SOUNDS LIKE.  IT'S -- IF YOU  
2   TOUCH SOMETHING, THE DNA THAT YOU ARE DEPOSITING ON THAT  
3   OBJECT.

4           Q   AND TELL ME ABOUT THE WORK THAT YOU DO WITH DNA  
5   AND HOW LIKELY THAT IS TO OCCUR AS FAR AS TOUCH DNA?

6           A   I HAVE, LIKE I SAID, DONE THOUSANDS OF SAMPLES AND  
7   I HAVE DONE A LOT OF WORK ON TOUCH DNA, TOO, SAMPLES.  AND  
8   THERE'S KIND OF TOUCH DNA.  FOR EXAMPLE, WHAT I'M WEARING  
9   TODAY, THE BACK OF MY, YOU KNOW, MY SUIT AND MY SHIRT, IF  
10   YOU TRY TO TEST THAT FOR DNA, YOU COULD.  AND THERE'S VERY  
11   WELL A CHANCE THAT YOU COULD GET A PROFILE BECAUSE IT'S  
12   BEEN RUBBING UP AGAINST MY NECK, YOU KNOW, SINCE 6:00 THIS  
13   MORNING.

14           SO, ANOTHER TYPE, IF I WERE TO TAKE -- TOUCH THIS  
15   CUP, ALL I DID WAS PICK IT UP AND TOUCH IT.  NOW, BECAUSE,  
16   YOU KNOW, I JUST PICKED IT UP FOR A BRIEF SECOND AND  
17   TOUCHED IT, ONLY A FEW AMOUNTS OF, YOU KNOW, CELLS ARE  
18   GOING TO BE DEPOSITED ON THAT CUP.  AND IN ORDER FOR YOU  
19   TO BE ABLE TO DETECT A DNA PROFILE, YOU NEED TO HAVE A  
20   CERTAIN NUMBER OF CELLS PRESENT TO, YOU KNOW, EVEN BE ABLE  
21   TO DETECT IT.

22           Q   AND TO GO BACK OVER BRIEFLY THE HYPOTHETICALS THAT  
23   MR. DAVIS POSED TO YOU, I THINK HE SAID IF YOU WIPE OFF  
24   WITH A TOWEL, AND THEN SOMEONE ELSE TOUCHES THAT TOWEL,  
25   COULD THE DNA ON THE PERSON WHO WIPED OFF WITH THE TOWEL



1 GET ON THE OTHER PERSON, AND YOU SAID THAT IT WAS  
2 POSSIBLE?

3 A I DID SAY THAT IT WAS POSSIBLE, BUT I ALSO SAID  
4 THAT IT WAS PROBABLY UNLIKELY.

5 Q IN SCIENCE, IS IT ALL -- HOW OFTEN DO YOU EVER SAY  
6 THAT IS IMPOSSIBLE?

7 A I MEAN, WE REALLY NEVER, EVER SAY THAT SOMETHING  
8 IS IMPOSSIBLE BECAUSE SOMETHING ALWAYS COULD HAPPEN.

9 Q NOW, LET ME TAKE YOU -- BECAUSE HE STOPPED AT ONE  
10 PERSON WIPING AND ANOTHER PERSON TOUCHING. BUT LET'S GO A  
11 THIRD STEP, IF THE PERSON WHO TOUCHED THE TOWEL AFTER --  
12 PERSON A WIPED OFF WITH IT AND PERSON B TOUCHES IT, AND  
13 THEN DOES THE LIKELIHOOD OF IT BEING TRANSFERRED TO  
14 ANOTHER ARTICLE OR ANOTHER PERSON, DOES THAT LIKELIHOOD OF  
15 THE TRANSFERENCE DECREASE WITH EACH STEP?

16 A OH, MOST DEFINITELY.

17 Q SO, IF SOMEONE WIPED OFF WITH A TOWEL, THEIR  
18 SPOUSE TOOK THAT TOWEL AND GAVE IT TO ANOTHER PERSON TO  
19 WIPE, AND THEN IT WAS LATER FOUND ON AN ARTICLE OF  
20 CLOTHING FROM THAT OTHER PERSON, YOU'RE GOING LIKE FOUR  
21 STEPS PROBABLY OUT?

22 A THAT'S A LOT OF TRANSFERS. AND AS I SAID BEFORE,  
23 YOU KNOW, WHILE THE PERSON WHO'S DRYING OFF WITH THAT  
24 TOWEL, THEY'RE PROBABLY, ACTUALLY, YOU KNOW, RUBBING SOME  
25 SKIN CELLS OFF BECAUSE YOU'RE USING THAT AS KIND OF AN

1 ABRASIVE.

2 BUT THEN IF YOU HAVE ANOTHER PERSON THAT'S TOUCHING  
3 IT TO ANOTHER PERSON THAT'S TOUCHING IT, YOU HAVE ALL  
4 THESE TRANSFERS. AND THE LIKELIHOOD OF YOU TRANSFERRING,  
5 YOU KNOW, ALL THAT FROM ONE PERSON TO ANOTHER PERSON, WITH  
6 EACH TRANSFER -- EACH TRANSFERENCE, YOU'RE DECREASING THE  
7 LIKELIHOOD THAT YOU WOULD BE GETTING THAT ORIGINAL  
8 TOUCHER, YOU KNOW, THAT PROFILE.

9 Q AND PUT INTO THE MIX, IF THE TOWEL HAS BEEN  
10 LAUNDERED -- LAUNDERED SINCE IT WAS USED LAST, WHAT'S THAT  
11 DO TO IT?

12 A I MEAN -- SO, IT WOULD DEPEND. I MEAN, I WOULD  
13 THINK A LOT OF WHAT WAS ON THE TOWEL WOULD HYPOTHETICALLY  
14 PROBABLY BE WASHED OFF IF IT WAS SKIN CELLS, IF IT HAD --  
15 YOU KNOW, IN THE LAUNDRY PROCESS.

16 Q AND LET'S GO TO THE OTHER HYPOTHETICAL ABOUT  
17 HITTING A PERSON. LET'S SAY THAT PERSON A USES AN  
18 OBJECT---

19 A OKAY.

20 Q -- THAT THEY HAVE IN THEIR HAND TO HIT SOMEONE.  
21 AND THEN WE'RE TRYING TO SAY THAT THE -- LET'S SAY PERSON  
22 B IS THE ONE THAT GOT HIT. B'S DNA GOT ON THE OBJECT THAT  
23 A HIT THEM WITH.

24 A OKAY.

25 Q THEN A GETS B'S DNA ON THEM FROM THE OBJECT.

1 THAT'S -- THAT'S A DOUBLE TRANSFERENCE THERE.

2 A OKAY.

3 Q THEN TOUCHES ANOTHER PERSON AND THEN THAT PERSON'S  
4 CLOTHES.

5 A OKAY.

6 Q WHAT -- I MEAN, IS -- EVERY TIME ONE OF THOSE  
7 STEPS IN THE PROCESS DECREASES THE AMOUNT OR THE  
8 LIKELIHOOD?

9 A I MIGHT BE A LITTLE CONFUSED WITH THAT--

10 Q I KNOW.

11 A SIX PEOPLE OR FOUR PEOPLE TRANSFERRING TO WHATEVER  
12 ---

13 Q THREE PEOPLE AND AN OBJECT AND CLOTHES.

14 A OKAY. SO, I MEAN, LIKE I SAID BEFORE, EVERY TIME  
15 YOU'RE TALKING ABOUT YOUR DNA BEING TRANSFERRED TO  
16 SOMETHING, AND THEN THAT PERSON'S DNA FROM THAT OBJECT  
17 BEING TRANSFERRED TO SOMETHING ELSE, IT IS GOING TO  
18 DECREASE BECAUSE ONCE SOMEONE TOUCHES SOMETHING, AND THEN  
19 SOMEONE ELSE TOUCHES IT, NOT ALL OF THOSE CELLS THAT WERE  
20 ON THAT OBJECT ARE GOING TO BE TRANSFERRED TO THAT PERSON  
21 AND THAT OBJECT. AND CHANCES ARE IF IT'S TOUCH DNA TO  
22 START WITH, THERE'S GOING TO BE A LOW NUMBER OF CELLS TO  
23 START WITH.

24 Q BECAUSE IT'S -- JUST A TOUCH WOULD ORIGINALLY HAVE  
25 A LOW AMOUNT?

1 A YES.

2 Q THEN EACH TIME THE AMOUNT WOULD DECREASE?

3 A IT SHOULD BECAUSE YOU'RE NOT PICKING UP EVERY  
4 SINGLE CELL THAT, YOU KNOW, THAT FIRST PERSON DEPOSITED ON  
5 THAT OBJECT.

6 Q AND IF, FOR SOME REASON, IT WOULD -- YOU WOULD  
7 ALSO GET THE PERSON THAT WAS DOING THE TRANSFERENCE DNA  
8 YOU WOULD THINK?

9 A SO, I -- I WOULD ASSUME THAT -- I THINK I  
10 UNDERSTAND YOU CORRECTLY. THAT -- I WOULD ASSUME THAT YOU  
11 WOULD -- YOU KNOW, THERE'S ALL THAT DNA ON THAT ONE  
12 OBJECT. YOU'RE JUST NOT GOING TO PICK OUT ONE PERSON'S  
13 CELLS TO DETECT. IT WOULD BE WHOEVER IS IN THAT AREA.

14 Q AND JUST TOUCH DNA, THOUGH, IS STILL VERY UNLIKELY  
15 TO TRANSFER IF IT'S JUST TOUCH?

16 A IT IS. AND IT WOULD ALSO DEPEND ON THE TYPE OF  
17 TOUCH, LIKE THIS, I WOULD NOT EXPECT A LOT OF DNA. BUT IF  
18 I SAT HERE AND STARTED RUBBING MY HAND UP AND DOWN THIS  
19 NOTEPAD, THEN I WOULD EXPECT, YOU KNOW, MORE DNA TO BE ON  
20 THIS NOTEBOOK THAN WOULD BE ON THIS CUP.

21 Q AND JUST ONE LAST QUESTION, DOES VAGINAL DISCHARGE  
22 HAVE A Y CHROMOSOME?

23 A NO, IT SHOULDN'T UNLESS THERE WAS COPULATION.

24 Q RIGHT.

25 A BUT THERE SHOULDN'T TECHNICALLY, IF THERE HASN'T

1 BEEN COPULATION.

2 Q AND YOU MEAN BY THAT, THERE WOULD -- THERE WAS  
3 SEMEN MIXED IN WITH THAT?

4 A YES. YES. THEN THERE SHOULD NOT BE A Y  
5 CHROMOSOME PRESENT IN THAT.

6 Q AND WOULD FEMALE FECES HAVE A Y CHROMOSOME?

7 A AGAIN, AS LONG AS THERE WAS NOT SEXUAL CONTACT,  
8 THEN IT SHOULDN'T -- FECES FROM A FEMALE SHOULD NOT HAVE  
9 THAT Y CHROMOSOME.

10 MS. HERRING-LASH: THAT'S ALL THE QUESTIONS I HAVE.

11 RECROSS EXAMINATION BY MR. DAVIS:

12 Q JUST A BROAD QUESTION MAYBE I SHOULD HAVE STARTED  
13 WITH. WHEN WE'RE TALKING ABOUT CHROMOSOMES OR DNA OR  
14 CELLS OF THE BODY, THESE ARE MICROSCOPIC?

15 A OH, YES. THEY ARE MICROSCOPIC.

16 Q YOU USE INSTRUMENTS TO BE ABLE TO SEE AND TEST  
17 THAT YOUR NAKED EYE WOULD NOT BE ABLE TO OBSERVE, IS THAT  
18 ACCURATE?

19 A IT DEPENDS ON THE SUBSTANCE I'M LOOKING AT. FOR  
20 EXAMPLE, A BLOOD STAIN, USUALLY I CAN DETERMINE WHERE THAT  
21 IS ON AN OBJECT VISUALLY. BUT FOR SEMEN STAINS OR SALIVA  
22 STAINS OR TOUCH, THEN NO, I WOULD NOT BE ABLE TO VISUALLY  
23 SEE WHAT I'M LOOKING AT.

24 Q IN THIS CASE WHEN YOU'RE LOOKING AT THE 12  
25 LOCATIONS ON A Y CHROMOSOME, THAT'S MICROSCOPIC?

1 A THAT IS MICROSCOPIC, YES.

2 MR. DAVIS: THANK YOU. NO OTHER QUESTIONS.

3 THE COURT: ALL RIGHT, MA'AM. YOU CAN STEP DOWN.

4 MS. HERRING-LASH: YOUR HONOR, MAY THIS WITNESS BE  
5 EXCUSED?

6 THE COURT: SHE MAY BE.

7 (WITNESS EXCUSED.)

8 MS. HERRING-LASH: I MEANT TO LEAVE THE COURT -- TO  
9 LEAVE.

10 MR. NEELY: THE STATE CALLS LASHANDA SIMMONS.

11 (WITNESS FORWARD.)

12 LASHANDA SIMMONS, HAVING BEEN  
13 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 CLERK: THANK YOU, MA'AM. PLEASE HAVE A SEAT. FOR  
15 THE RECORD, IF YOU WOULD, PLEASE STATE YOUR NAME, SPELLING  
16 YOUR LAST NAME.

17 THE WITNESS: LASHANDA SIMMONS, S-I-M-M-O-N-S.

18 DIRECT EXAMINATION BY MR. NEELY:

19 Q MS. SIMMONS, WILL YOU TELL THE JURY WHERE YOU  
20 LIVE?

21 A [REDACTED] BOULEVARD APARTMENT [REDACTED]

22 Q AND WHERE DO YOU CURRENTLY WORK?

23 A AT THE OTHER MOTHER DAYCARE.

24 Q DO YOU HAVE ANY CHILDREN?

25 A YES.

1 Q WILL YOU TELL THE JURY THEIR NAMES?

2 A [REDACTED] MINOR KAILAH D [REDACTED], PARIS S [REDACTED] AND  
3 DANTE' G [REDACTED].

4 Q AND JUST SO WE'RE CLEAR, [REDACTED] MINOR IS THE  
5 YOUNG LADY WE'VE BEEN TALKING ABOUT THIS WEEK?

6 A YES.

7 Q WILL YOU TELL THE JURY WHAT YOUR MOTHER'S NAME IS?

8 A SHEILA SHEPPARD.

9 Q AND DO YOU KNOW THE DEFENDANT IN THIS CASE, MR.

10 ORR?

11 A YES, I DO.

12 Q HOW DO YOU KNOW HIM?

13 A HE WAS MARRIED -- WELL, HE'S MARRIED TO MY MOTHER.

14 Q WHEN DID YOU FIRST MEET HIM?

15 A IN 1993.

16 Q DID YOU EVER LIVE WITH -- WELL, BEFORE I ASK THAT

17 -- DID HE EVER LIVE WITH YOUR MOTHER?

18 A YES, THEY DID LIVE TOGETHER.

19 Q AND WHERE DID THEY LIVE TOGETHER?

20 A IN PAWLEY'S ISLAND, SOUTH CAROLINA.

21 Q DID YOU EVER LIVE WITH THEM?

22 A YES.

23 Q HOW LONG DID YOU STAY WITH THEM?

24 A UM, FROM '94 UNTIL 2000 -- I THINK 2000.

25 Q OKAY. SO, SOMETIME IN THE EARLY 2000'S, YOU'RE

1 NOT QUITE SURE?

2 A UH-HUH.

3 Q LET ME ASK YOU THIS, UM, DID YOU EVER MOVE OUT OF  
4 THAT, THE PLACE THAT Y'ALL WERE LIVING?

5 A YES, I DID.

6 Q AND WERE YOU STILL -- WHERE DID YOU MOVE TO?

7 A TO GEORGETOWN.

8 Q AND AT ANY POINT, DID YOU MOVE TO NORTH  
9 CHARLESTON?

10 A YES.

11 Q AND WHEN DID YOU DO THAT?

12 A I MOVED TO NORTH CAROLINA IN MARCH OF 2003.

13 Q WELL, LET ME ASK -- DID YOU EVER VISIT YOUR MOTHER  
14 AND MR. ORR WHEN THEY WERE LIVING IN PAWLEY'S ISLAND AND  
15 GEORGETOWN?

16 A YES.

17 Q HOW OFTEN?

18 A VERY OFTEN. JUST ABOUT EVERY DAY.

19 Q AND AFTER YOU MOVED BACK HERE, WERE THEY STILL  
20 LIVING THERE?

21 A YES.

22 Q AND DID YOU GET A CHANCE TO VISIT THEM THEN?

23 A YES.

24 Q HOW FAR DID Y'ALL LIVE APART WHEN Y'ALL WERE IN  
25 GEORGETOWN AND PAWLEY'S ISLAND?



1           A   ABOUT 15 MINUTES, IF THAT.

2           Q   AND OVER THE TIME THEY WERE LIVING TOGETHER, DID  
3   YOU HAVE A CHANCE TO, KIND OF, VIEW THEIR RELATIONSHIP?

4           A   YES.

5           Q   DID YOU SEE THEM LIVING IN THE HOUSE TOGETHER?

6           A   YES.

7           Q   HOW WOULD YOU DESCRIBE THEIR RELATIONSHIP?

8           A   THEY HAD A NORMAL RELATIONSHIP. THEY HAD THEIR  
9   GOOD DAYS, THEIR BAD DAYS, BUT...

10          Q   BUT I WANT TO ASK YOU SOME QUESTIONS ABOUT  
11   THANKSGIVING OF '03, DO YOU REMEMBER THAT TIME?

12          A   YES, I DO.

13          Q   WILL YOU TELL THE JURY HOW YOU'RE ABLE TO REMEMBER  
14   THAT?

15          A   I WAS CALLED BY THE CHEF TO COME IN TO HELP HIM AT  
16   THE CARRIAGE HOUSE. AND I ASKED MY MOM TO KEEP MINOR  
17   KAILAH AND PARIS, AND SHE SAID SHE WOULD. MINOR AND  
18   KAILAH WENT TO SCHOOL THAT MORNING. DONTÉ' WENT WITH HIS  
19   DAD AND PARIS WAS WITH MY COUSIN, SHIRRESE. MY SISTER  
20   PICKED THEM UP AFTER SCHOOL AND TOOK THEM TO MY MOM'S  
21   HOUSE.

22          Q   NOW, LET ME ASK -- JUST SO THAT WE ARE ALL CLEAR.  
23   YOU WERE LIVING WHERE IN 2003, THANKSGIVING?

24          A   I WAS STAYING HERE IN CHARLESTON.

25          Q   IN CHARLESTON?

1           A   YES.

2           Q   AND IF I'M CORRECT, YOU SAID YOU WERE ASKED TO GO  
3   AND WORK SOMEWHERE?

4           A   YES.

5           Q   WHERE IS THAT?

6           A   AT THE CARRIAGE HOUSE ON PAWLEY'S ISLAND, SOUTH  
7   CAROLINA.

8           Q   OKAY. AND DID YOU COMMIT TO DOING THAT?

9           A   YES, I DID.

10          Q   AND YOU WENT?

11          A   YES, I DID.

12          Q   AND YOUR CHILDREN WERE WHERE?

13          A   HERE WITH MY MOM.

14          Q   OKAY. IS THAT SOMETHING YOU NORMALLY DO, AS FAR  
15   AS GOING TO WORK WITH THEM?

16          A   WHEN -- WHEN I LIVED AT PAWLEY'S ISLAND, SHE WOULD  
17   ALWAYS KEEP THEM, EITHER HER OR HAROLD.

18          Q   WELL, LET ME ASK THIS, AS FAR AS WORKING AT  
19   PAWLEY'S ISLAND, YOU KNOW, WAS THAT YOUR JOB OR WERE YOU  
20   JUST THERE FOR A SMALL AMOUNT OF TIME?

21          A   WELL, AT THE TIME IT WAS NOT MY JOB, I WAS NOT  
22   WORKING. BUT I WOULD GO AND HELP THEM IF THEY NEEDED MY  
23   HELP.

24          Q   DID YOU EVER GET A CALL WHILE YOU WERE WORKING  
25   THERE?

1           A    YES, I DID.

2           Q    WILL YOU TELL THE JURY ABOUT THAT?

3           A    AFTER I GOT OFF -- I DIDN'T GET ANY SERVICE ON MY  
4   CELL PHONE IN THE RESTAURANT.  AND I GOT OFF.  DAMION, MY  
5   MIDDLE DAUGHTER'S FATHER CALLED ME AND TOLD ME THAT I  
6   NEEDED TO RETURN BACK TO CHARLESTON BECAUSE SOMETHING  
7   HAPPENED TO MINOR

8           Q    DID YOU DO THAT?

9           A    YES, I DID.

10          Q    HOW DID YOU GET BACK TO CHARLESTON?

11          A    DAMION BROUGHT ME BACK TO CHARLESTON.

12          Q    AND WHEN YOU GOT BACK TO CHARLESTON, WHERE DID YOU  
13   GO?

14          A    STRAIGHT TO MUSC.

15          Q    WHAT HAPPENED WHEN YOU GOT THERE?

16          A    MY MOM AND MY SISTER -- WELL, MY SISTER WAS IN THE  
17   WAITING ROOM WITH MY AUNT, VIVIAN.  MY MOM WAS IN THE BACK  
18   WITH MINOR  THEY LET HER COME OUT AND I WENT IN THE  
19   BACK WITH MINOR

20          Q    OKAY.  AND WHEN YOU WERE IN THE BACK WITH MINOR  
21   WAS THAT DURING ANY TYPE OF EXAMINATION?

22          A    AT THAT TIME, NO, THEY WERE NOT EXAMINING HER.  
23   THEY WERE JUST SPEAKING WITH HER.

24          Q    DO YOU KNOW HOW LONG YOU WOULD HAVE STAYED BACK  
25   THERE?

1           A   WE WERE BACK THERE UNTIL MID MORNING THE NEXT  
2   NIGHT -- IT WAS A LONG PERIOD OF TIME.

3           Q   OKAY. LET ME ASK -- DID YOU QUESTION MINOR  
4   ABOUT WHAT HAPPENED THAT NIGHT?

5           A   IN THE HOSPITAL I DID.

6           Q   YOU DID?

7           A   YES, I DID.

8           Q   DID YOU HEAR HER TELLING THE DOCTOR WHAT HAPPENED?

9           A   YES, I DID.

10          Q   SINCE THEN HAS THIS BEEN AN ISSUE THAT YOU ALL  
11   DISCUSSED?

12          A   NOT OFTEN, NOT ANYMORE.

13          Q   AND YOU SAY NOT ANYMORE, WHY NOT?

14          A   BECAUSE MINOR IS NOW TO THE POINT WHERE SHE'S  
15   READY TO GET ON WITH HER LIFE. SHE HAS THINGS TO LOOK  
16   FORWARD TO BESIDES, YOU KNOW, KEEP DWELLING ON WHAT  
17   HAPPENED TO HER. BECAUSE THAT IS NOT SOMETHING I WANT  
18   HER TO---

19          MR. DAVIS: YOUR HONOR, I'M GOING TO OBJECT TO THE  
20   RELEVANCY OF THIS.

21          THE COURT: SUSTAINED.

22          BY MR. NEELY:

23          Q   WILL YOU TELL THE JURY IF YOUR CONVERSATIONS WITH  
24   HER CONTINUED AFTER THE INCIDENT HAPPENED?

25          A   NO.

1 Q DID YOU TALK TO YOUR MOTHER ABOUT THIS?

2 A YES.

3 Q DID THAT CONVERSATION HAPPEN IN THE PRESENCE OF

4 MINDR

5 A NO.

6 Q JUST A FEW MORE QUESTIONS. DO -- WHEN YOU TOLD ME  
7 EARLIER ABOUT HAROLD, YOU KNOWING HAROLD, DID YOU KNOW HIS  
8 FAMILY?

9 A YES.

10 Q WHERE DID -- WELL, DID YOU EVER INTERACT WITH THEM  
11 OR MEET THEM?

12 A YES, I MET THEM.

13 Q WHERE WAS THAT?

14 A EITHER AT THEIR HOUSE OR MY MOM'S HOUSE.

15 Q TELL ME THIS: IN CHARLESTON, DOES HE HAVE ANY  
16 RELATIVES THAT YOU KNOW OF?

17 A NO.

18 Q SO, HE PRETTY MUCH WAS HERE WITH YOU GUYS?

19 A YES.

20 MR. NEELY: THANK YOU.

21 MR. DAVIS: NO QUESTIONS, YOUR HONOR.

22 THE COURT: ALL RIGHT, MA'AM, YOU CAN COME DOWN.

23 (WITNESS STEPPED DOWN.)

24 MR. NEELY: THE STATE CALLS SABRINA ANDERSON.

25 (WITNESS FORWARD).

1 . SABRINA ANDERSON, HAVING BEEN  
2 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:  
3 CLERK: THANK YOU. PLEASE HAVE A SEAT. FOR THE  
4 RECORD, IF YOU WOULD, PLEASE STATE YOUR NAME, SPELLING  
5 YOUR LAST NAME.  
6 THE WITNESS: SABRINA ANDERSON, A-N-D-E-R-S-O-N.  
7 DIRECT EXAMINATION BY MR. NEELY:  
8 Q MS. ANDERSON, ARE YOU RELATED TO MINOR  
9 A YES.  
10 Q WILL YOU TELL THE JURY HOW?  
11 A I'M HER AUNT.  
12 Q AND WILL YOU TELL US HOW CLOSE YOU GUYS ARE?  
13 A VERY CLOSE. I SEE HER EVERY DAY, UM, I TALK TO  
14 HER EVERY DAY. I USUALLY HELP HER WITH HER HOMEWORK AND  
15 ANY AFTER-SCHOOL ACTIVITIES, ANYTHING LIKE THAT.  
16 Q WHERE DO YOU LIVE NOW?  
17 A IN NORTH CHARLESTON.  
18 Q BACK IN 2003, DID YOU LIVE IN GOOSE CREEK?  
19 A UH-HUH. YES.  
20 Q LET ME ASK HOW LONG HAVE YOU KNOWN -- OR DO YOU  
21 KNOW THE DEFENDANT IN THIS CASE?  
22 A I HAVE KNOWN HIM SINCE 1992, I BELIEVE.  
23 Q DID YOU HAVE THE OPPORTUNITY TO SEE THE  
24 RELATIONSHIP BETWEEN HER -- I'M SORRY -- HIM, BEING MR.  
25 ORR, AND MINOR

1 A YES.

2 Q HOW DID THAT APPEAR?

3 A IT WAS NORMAL. THEY WERE PRETTY MUCH INSEPARABLE.  
4 THEY DID EVERYTHING TOGETHER. SHE USED TO FOLLOW HIM  
5 AROUND EVERYWHERE HE WENT. EVERYTHING FROM GOING TO, YOU  
6 KNOW, PARKS, ALLIGATOR FARMS, STUFF LIKE THAT. THEY DID  
7 EVERYTHING TOGETHER.

8 Q NOW, I WANT TO ASK, DO YOU RECALL THE THANKSGIVING  
9 OF 2003?

10 A YES.

11 Q SPECIFICALLY, NOVEMBER 25TH?

12 A UH-HUH.

13 Q WAS ANYTHING GOING ON WITH [REDACTED] AND HER  
14 SIBLINGS AT THAT POINT THAT YOU WERE INVOLVED WITH?

15 A I HAD TO PICK [REDACTED] AND HER SISTER, KAILAH, UP  
16 FROM SCHOOL, TO TAKE THEM TO MY MOTHER'S HOUSE.

17 Q DID YOU DROP THEM OFF OR DID YOU GO INSIDE TO MAKE  
18 SURE THEY GOT IN OR WHAT?

19 A I JUST DROPPED THEM OFF. THE WAY THE HOUSE IS, IT  
20 HAD A CAR PORT RIGHT AT THE FRONT DOOR, YOU COULD JUST  
21 DRIVE OFF -- RIGHT THERE AT THE DOOR, SO I JUST DROPPED  
22 THEM OFF AND LEFT.

23 Q AND WHERE DID YOU GO ONCE YOU LEFT?

24 A I WENT HOME.

25 Q OKAY. AND I ASSUME THEY WENT INSIDE?

1 A UH-HUH.

2 Q AT SOME POINT LATER IN THE EVENING, DID YOU GET A  
3 PHONE CALL?

4 A YES, I DID.

5 Q DO YOU REMEMBER ABOUT WHAT TIME THAT WAS?

6 A I DO NOT REMEMBER THE EXACT TIME, BUT IT WAS IN  
7 THE EVENING. IT WAS DARK OUTSIDE.

8 Q IT WAS DARK?

9 A UH-HUH.

10 Q WHO WAS ON THE PHONE?

11 A MY MOTHER.

12 Q CAN YOU TELL THE JURY WHAT HER DEMEANOR WAS WHEN  
13 YOU WERE TALKING TO HER?

14 A SHE WAS SCREAMING. SHE WAS YELLING IN THE PHONE.  
15 PRETTY MUCH HYSTERICAL, JUST YELLING. TELLING ME TO CALL  
16 THE POLICE.

17 Q DID SHE TELL YOU WHY?

18 MR. DAVIS: OBJECTION, YOUR HONOR.

19 THE WITNESS: YES, SHE DID.

20 MR. NEELY: YOUR HONOR, I WOULD ARGUE---

21 MR. DAVIS: NOT FOR THAT.

22 THE COURT: OVERRULED.

23 MR. DAVIS: NOT FOR THAT. I APOLOGIZE.

24 BY MR. NEELY:

25 Q GO AHEAD.



1 A YES, SHE DID TELL ME.

2 Q COULD YOU HEAR ANYTHING IN THE BACKGROUND?

3 A IT WAS YELLING. I HEARD HAROLD YELLING. HE WAS  
4 SAYING SOMETHING TO HER, BUT SHE WAS YELLING IN THE PHONE  
5 TO ME, TELLING ME JUST TO CALL THE POLICE.

6 Q OKAY. AND JUST SO THAT I'M CLEAR, YOU SAID THAT  
7 SHE WAS CRYING AND YELLING?

8 A SHE WAS YELLING. SHE WAS SCREAMING.

9 Q WOULD YOU SAY THAT SHE WAS UPSET?

10 A YES.

11 Q AND DID SHE ASK YOU TO CALL THE POLICE?

12 A YES, SHE DID.

13 Q DID YOU HEAR ANYTHING SPECIFIC IN THE BACKGROUND?

14 MR. DAVIS: OBJECTION, YOUR HONOR, HEARSAY.

15 THE COURT: OVERRULED. IF IT'S -- IT'S A QUESTION  
16 THAT ASKS FOR A YES OR NO ANSWER. SO, THE HEARSAY  
17 OBJECTION IS OVERRULED.

18 MR. DAVIS: THANK YOU, JUDGE.

19 THE WITNESS: CAN YOU REPEAT THE QUESTION?

20 BY MR. NEELY:

21 Q DID YOU HEAR ANYTHING SPECIFIC IN THE BACKGROUND?

22 A IT WAS JUST YELLING.

23 Q COULD YOU HEAR ONE VOICE OR TWO?

24 A I HEARD TWO.

25 Q AT SOME POINT WAS THE PHONE DISCONNECTED?

1 A YES.

2 Q WHAT DID YOU DO?

3 A I CALLED BACK. NO ONE ANSWERED. THE PHONE JUST  
4 RANG.

5 Q SO, YOUR NEXT STEP WAS WHAT?

6 A I CALLED THE POLICE.

7 Q DID YOU GO TO THE RESIDENCE?

8 A YES, I DID.

9 Q WHAT HAPPENED WHEN YOU GOT THERE?

10 A WHEN I GOT THERE -- I HAD TO CATCH A RIDE. I  
11 DIDN'T HAVE A RIDE THERE. MID WAY DOWN THE ROAD, THEY HAD  
12 TO JUST PRETTY MUCH STOP. IT WAS POLICE CARS IN THE ROAD.  
13 YOU HAD TO KIND OF RUN DOWN THE ROAD TO GET TO THE  
14 TRAILER. WHEN I GOT IN THERE, I WENT STRAIGHT TO MINOR

15 Q SO, YOU DID SEE HER THERE?

16 A UH-HUH.

17 Q WHAT DID YOU DO WHEN YOU GOT THERE, WITH HER?

18 A I ASKED HER IF SHE WAS OKAY. I HUGGED HER. I  
19 HELD HER.

20 Q DID YOU QUESTION HER ABOUT THE SPECIFICS OF THE  
21 INCIDENT?

22 A NO, NOT AT THAT TIME.

23 Q DID YOU QUESTION YOUR MOTHER ABOUT THE SPECIFICS  
24 OF THE INCIDENT?

25 A WHEN I WAS ABLE TO TALK TO HER, IT WAS LATER ON