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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT B. NEELEY,

APPELLANT

APPELLATE CASE NO. 2023-001259

RECORD ON APPEAL

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7) 2023-GS-32-02229
8 Robert Brandon Neeley,) 2023-GS-32-02230
9) 2023-GS-32-02231
10) 2023-GS-32-02234
11 _____ Defendant.____)

12

13 July 24th-28th, 2023
14 Lexington, South Carolina

15

16 B E F O R E:

17 The Honorable Debra R. McCaslin, Judge; and a Jury

18

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

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22 Ashley E. Wellman, Assistant Solicitor
23 On behalf of the State of South Carolina

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25 David M. Mauldin, Esquire
Jean M. Popowski, Esquire
On behalf of the Defendant

26

27 Stacy S. Johnson, RPR
28 Circuit Court Reporter

29

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16 LEGEND: *Admitted twice

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1 (The following proceedings were held July 24, 2023,
2 beginning at 10:39 AM.)

3 THE COURT: Okay. We're gonna go on the record.
4 I want to first call the case and say what we're doing.

5 MS. MAYES: Yes, Your Honor. This is State versus
6 Robert Neeley. State versus Robert Neeley. As to this
7 particular indictment, 2023-GS-32-02230, the indictment
8 is for criminal sexual conduct first degree.

9 The indictment alleges that on or about October 21,
10 2021, the crime occurred. The warrant, which I will make
11 a Court's exhibit here, the warrant alleges the correct
12 date of October 12, 2021, as do all other warrants in
13 this case, as do all other indictments in this case.

14 This was simply a typographical error, a scrivener's
15 error, where the 1 and 2 were inversed. He has been on
16 notice that October 12th is the incident date in all
17 of the warrants and all of the other indictments in this
18 case. He was arrested the following day on October 13th,
19 so there was never a belief that October 21st would have
20 been the incident date.

21 The State seeks to amend the indictment to properly
22 read October 12, 2021, and, Your Honor, that would be in
23 accordance with the law for scrivener's errors.

24 THE COURT: Any objection?

25 MR. MAULDIN: No, I'll buy that it's a scrivener's

1 error, Your Honor; although it shows how much the grand
2 jury pays attention.

3 THE COURT: All right. So granted.

4 MS. MAYES: I'm gonna pass this up to Your Honor to
5 make that correction of the 2 and the 1 becoming a 1 and
6 a 2.

7 THE COURT: All right. Are we all gonna initial
8 this?

9 MS. MAYES: I can, Your Honor.

10 MR. MAULDIN: It's my understanding the State's not
11 calling Indictment ending 2233, the assault with intent
12 to commit a crime.

13 MS. MAYES: That is correct.

14 MR. MAULDIN: All right.

15 THE COURT: I'd like for you, David, or one of the
16 lawyers to initial that.

17 All right. Remember, I'm old school.

18 MS. MAYES: And we will make Court's exhibits, Your
19 Honor, that indictment and the warrant that's gonna go
20 with it.

21 THE COURT: The indictment and the warrant?

22 MS. MAYES: Yes, Your Honor.

23 THE COURT: Is that Court's Exhibit Number 1?

24 MS. MAYES: It would be, Your Honor.

25 (Court's Exhibit Number 1 was marked for

1 identification.)

2 (Recess taken at 10:42 AM.)

3 (Back on the record at 10:56 AM.)

4 THE COURT: All right. Ladies and gentlemen, we are
5 about to begin the trial of the State of South Carolina
6 versus Robert Brandon Neeley.

7 Solicitor, you can call your case.

8 MS. MAYES: Your Honor, may it please the Court?

9 THE COURT: Yes, ma'am.

10 MS. MAYES: The State of South Carolina calls
11 the following indictments. Indictment Number
12 2023-GS-32-02229, the State of South Carolina versus
13 Robert Brandon Neeley. This indictment is for kidnapping.
14 Indictment Number 2023-GS-32-02230. This indictment
15 is for criminal sexual conduct in the first degree.
16 Indictment Number 2023-GS-32-02231. The State versus
17 Robert Brandon Neeley. This indictment is for burglary
18 in the first degree. Indictment Number 2023-GS-32-02228.
19 The State versus Robert Brandon Neeley. This indictment
20 is for armed robbery. Indictment Number 2023-GS-32-02234.
21 The State versus Robert Brandon Neeley. This indictment
22 is for possession of a weapon during commission of a
23 violent crime.

24 Your Honor, the State is ready for trial in this
25 case. The defendant, Robert Brandon Neeley, is present

1 and seated in the courtroom and represented by counsel.

2 THE COURT: All right. Let me turn to you,
3 Mr. Mauldin. How does your client plead?

4 MR. MAULDIN: Not guilty, Your Honor.

5 THE COURT: Thank you.

6 All right. Ladies and gentlemen of the jury, before
7 we select a jury in this case there are several questions
8 which I will ask you. If you need to answer any of
9 these questions, please stand, and I will call on you
10 individually. Please do not stand and start blurting
11 out an answer. Do not do that. I will call on you
12 individually and I will ask you the questions.

13 Before we begin, I'm gonna let the attorneys for
14 the State introduce themselves and anyone else assisting
15 in the prosecution of this case.

16 MS. MAYES: My name is Suzanne Mayes. I'm a deputy
17 solicitor here in the Eleventh Judicial Circuit. The
18 Solicitor's office here in Lexington County represents
19 the State of South Carolina in criminal prosecutions, and
20 that includes criminal prosecutions of cases brought by
21 law enforcement.

22 Our circuit represents Lexington County, as well as
23 Edgefield County, McCormick County, and Saluda County.
24 Again, I'm Deputy Solicitor Suzanne Mayes.

25 MS. WELLMAN: My name is Ashley Wellman. I'm an

1 assistant solicitor here in the Eleventh Judicial
2 Circuit.

3 MS. MAYES: Also present this week during the course
4 of this trial will be senior paralegal Kaitlyn Clarke and
5 Investigator John Bishop. Also, with the South Carolina
6 Law Enforcement Division, SLED agent April Sykes. Seated
7 in the back of the courtroom is victim advocate, Heather
8 Clamp, and also with the South Carolina Enforcement
9 Division, a SLED victim advocate, Charlene Mooneyham.

10 THE COURT: Thank you, Ms. Mayes.

11 Now let me ask the defense attorneys to introduce
12 themselves and anyone else assisting with the case and
13 your client, please.

14 MR. MAULDIN: Good day. My name's David Mauldin.
15 I'm a lawyer for Mr. Neeley. This is an associate in my
16 office, Jean Popowski. She's an attorney as well. This
17 is my client Robert Brandon Neeley and next to him is my
18 paralegal, Gail Etheridge.

19 THE COURT: Thank you, Mr. Mauldin.

20 All right. Ladies and gentlemen, the attorneys in
21 this case just introduced themselves. Let me ask you has
22 any member of the jury panel ever been represented by any
23 of the attorneys involved in this case?

24 If so, please stand.

25 Is any member of the jury panel related by blood

1 or marriage, know personally or have any religious,
2 political social or business association with any of the
3 attorneys involved in this case or in their law firms or
4 office? If so, please stand.

5 Is any member of the jury panel related by blood
6 or marriage or have a close personal, professional or
7 social relationship to Robert Brandon Neeley of
8 [REDACTED] Shumpert Road, West Columbia? If so, please stand.

9 All right. The following is a list of possible
10 witnesses in this case. I'm gonna go through several
11 of them and I'm gonna stop and I'm gonna ask you if
12 any member of the jury panel is related by blood or
13 marriage, know personally or have any religious,
14 political, social or business association with any of
15 the witnesses in the case.

16 Angie Gunter from Lexington County Communications
17 Center. Melissa Patrick from the Lexington County
18 Communications Center. Glenna Branham. Brenda McMillan.
19 John Walters, the Third. Chief Josh Shumpert from South
20 Congaree police. Larry Walker from South Congaree police.

21 Let me ask the jury panel. Any -- any of the panel
22 know any of the names I just called? If so, please stand.

23 I'm gonna tell you the rest of the names that I call
24 are gonna be SLED, our State Law Enforcement Division.
25 Lieutenant April Sykes. Agent Richard Cullop, and that's

1 C-U-L-L-O-P. Captain Derrick Horton. Dexter Bassard.
2 Dequawn Smith. Tricia Stoner. Theresa Thomas. Madison
3 Willis. Olivia Cartwright. Brian Hudak. Shellie Keisler.
4 Shannon Vincent. Lieutenant Todd Schenk.

5 MS. MAYES: Schnek.

6 THE COURT: Schnek, and it's spelled S-C-H-E-N-K.
7 Harold Owens. Tom Darnell. Richard -- no, it's Rachel
8 Nguyen.

9 MS. MAYES: That would be Rachel Nguyen.

10 THE COURT: Rachel Nguyen. I'm sorry. And it's
11 spelled N-G-U-Y-E-N. Donna Money. Maribeth McCormack.
12 And Courtney Adams. All employed with State Law
13 Enforcement Division.

14 Let me ask the jury panel does anybody know the
15 names that I just called? If so, please stand.

16 MR. MAULDIN: Your Honor, I think two of the names
17 are not employed by SLED. Shellie Keisler and Shannon
18 Vincent. They're registered nurses.

19 THE COURT: Okay. Let me -- I didn't know if they
20 were RN's with SLED. Shellie Keisler, who is a registered
21 nurse, and a Shannon Vincent, a registered nurses.
22 They're not with SLED. They're just registered nurses.

23 Any of the jury panel know those two names? If so,
24 please stand.

25 All right. I'm gonna continue on. Stephen Bair

1 with the Lexington County Sheriff's Department. Tyler
2 Kennedy with the Lexington County Sheriff's Department.
3 Craig Finley with the Lexington County Sheriff's
4 Department. Scott Purdy with the Lexington County
5 Sheriff's Department. Chris Burnett with SLED. Jessie
6 Johnson with SLED. Paula Hare, who's the custodian of
7 records with -- it says LCDC.

8 MS. MAYES: She's Lexington County, Your Honor.

9 THE COURT: Okay. With the Lexington County
10 Sheriff's Department?

11 MS. MAYES: Yes, Your Honor.

12 THE COURT: Candy Kyzer with the Lexington County
13 Sheriff's Department. Margaret Holliman with the
14 Lexington County Sheriff's Department. Dexter Short
15 with the Lexington County Sheriff's Department. Cindy
16 O'Kelley, a custodian of records with Palmetto Citizens.
17 Dewayne Hane, H-A-N-E. Linda Turner. Cierra Neeley.
18 Melanie Martin, Lexington Monitoring Services. And
19 Shannon Dykes with the Lexington County Sheriff's
20 Department and also the U.S. Marshals Office.

21 Let me ask the jury panel. Does any juror know any
22 of the names that I just called? If so, please stand.

23 Yes, sir.

24 MR. MAULDIN: Your Honor, I believe you said Dewayne
25 instead of Dawn.

1 THE COURT: I'm sorry. Dawn Hane. Does anybody
2 know Dawn Hane? D-A-W-N. H-A-N-E.

3 All right. Let the record reflect that there wasn't
4 anybody who stood on any of these witnesses.

5 Is any juror related by blood or marriage to any law
6 enforcement officer, state constable or any other person
7 having authority to enforce the laws of this state, county
8 or city? If so, please stand.

9 (Potential jurors stand.)

10 THE COURT: Yes, sir. Your juror number?

11 POTENTIAL JUROR: 38.

12 THE COURT: Juror Number 38, Mr. Carter?

13 POTENTIAL JUROR: Yes, ma'am.

14 THE COURT: Mr. Carter, can you tell me who you
15 know in law enforcement?

16 POTENTIAL JUROR: My son-in-law is a state trooper
17 down in Georgetown County.

18 THE COURT: All right. Let me ask you. If you were
19 selected as juror, could you be fair and impartial to both
20 the State and the defense?

21 POTENTIAL JUROR: Yes, ma'am.

22 THE COURT: Yes, ma'am. Your juror number?

23 POTENTIAL JUROR: 122.

24 THE COURT: Juror Number 122. Mr. Ingle.

25 Mr. Ingle, could you tell me who you know in law

1 enforcement?

2 POTENTIAL JUROR: Judge Will.

3 THE COURT: Let me ask you, Mr. Ingle, if you were
4 selected as a juror in this case could you be fair and
5 impartial to both the State and the defense?

6 POTENTIAL JUROR: I can.

7 THE COURT: Thank you.

8 Yes, ma'am. Your juror number?

9 POTENTIAL JUROR: 292.

10 THE COURT: Juror Number 292, Ms. Wicker.

11 Ms. Wicker, who do you know in law enforcement?

12 POTENTIAL JUROR: My son. He's a special agent.

13 THE COURT: And let me ask you, Ms. Wicker, if you
14 were selected as a juror in this case could you be fair
15 and impartial to both the State and the defense?

16 POTENTIAL JUROR: Yes, but I believe that if --

17 THE COURT: That okay.

18 POTENTIAL JUROR: That's it. Okay.

19 THE COURT: I think that I'm going to excuse you.

20 That was a hesitation and this case is too important.

21 I'm gonna put Ms. Wicker on the civil docket.

22 Yes, ma'am. Your juror number?

23 POTENTIAL JUROR: 118. 118.

24 THE COURT: 118. That's Ms. Huffstetler.

25 Ms. Huffstetler, who do you know in law enforcement?

1 POTENTIAL JUROR: I have a first cousin, Daniel
2 Smith.

3 THE COURT: And if you were selected as a juror in
4 this case, could you be fair and impartial to both the
5 State and the defense?

6 POTENTIAL JUROR: Absolutely.

7 THE COURT: Thank you.

8 Yes, ma'am. Your juror number?

9 POTENTIAL JUROR: 74.

10 THE COURT: Juror Number 74. Ms. Epperson, a
11 paralegal.

12 Ms. Epperson, who do you know in law enforcement?

13 POTENTIAL JUROR: My aunt is a magistrate judge,
14 her husband is a state trooper and my dad is a retired
15 state trooper.

16 THE COURT: Okay. Let me ask you, if you were
17 selected as a juror in this case could you be fair and
18 impartial to both the State and the defense?

19 POTENTIAL JUROR: Yes, ma'am.

20 THE COURT: I'm keeping you.

21 Next question. Have you, a relative or close
22 friend, now or in the past, ever been a member of a law
23 enforcement agency whether it was Federal, state, county,
24 city or military police? If so, please stand.

25 (Potential jurors stand.)

1 THE COURT: Yes, sir. Your juror number?

2 POTENTIAL JUROR: Number 90.

3 THE COURT: Juror Number 90. That's Mr. Gladden.

4 Mr. Gladden, were you a member of law enforcement?

5 POTENTIAL JUROR: No, ma'am. I was actually a
6 paramedic.

7 THE COURT: Is there a member -- do you have a
8 relative or close friend in law enforcement?

9 POTENTIAL JUROR: Tyler Wolfe from Richland County.

10 THE COURT: Okay. Then let me ask you, if you were
11 selected as a juror in this case could you be fair and
12 impartial to both the State and the defense?

13 POTENTIAL JUROR: Yes, Your Honor.

14 THE COURT: Thank you.

15 Yes, ma'am. Your juror number?

16 POTENTIAL JUROR: 70.

17 THE COURT: Juror Number 70. That's Ms. Dunbar.

18 Ms. Dunbar, were you, a relative or a close friend
19 a member of law enforcement?

20 POTENTIAL JUROR: I have two nephews that are MP's
21 up in Fayetteville.

22 THE COURT: Okay. Let me ask you, Ms. Dunbar, if
23 you were selected as a juror in this case could you be
24 fair and impartial to both the State and the defense?

25 POTENTIAL JUROR: Absolutely.

1 THE COURT: I'm keeping you.

2 POTENTIAL JUROR: Yes. Juror Number 39.

3 THE COURT: Juror Number 39. Mr. Castellano.

4 Mr. Castellano, were you in law enforcement or a
5 close friend or a relative?

6 POTENTIAL JUROR: My brother was a former MP in the
7 National Guard and a former West Columbia police officer.

8 THE COURT: Okay. Let me ask you, if you were
9 selected as a juror could you be fair and impartial to
10 both the State and the defense?

11 POTENTIAL JUROR: Yes, ma'am.

12 THE COURT: I'm keeping you.

13 POTENTIAL JUROR: 141.

14 THE COURT: Juror Number 141. That's Mr. King.

15 Mr. King, was it you, a close friend or relative a
16 member of law enforcement?

17 POTENTIAL JUROR: Relative.

18 THE COURT: Relative. Deputy sheriff and special
19 agent in North Carolina.

20 THE COURT: Okay. If you were selected as a juror
21 in this case, could you please fair and impartial to both
22 the State and the defense?

23 POTENTIAL JUROR: Yes.

24 THE COURT: Thank you.

25 Has any member of the jury panel or an immediate

1 family member ever been investigated for or charged with
2 an offense involving a violent crime including burglary,
3 armed robbery, or sexual assault? If so, please stand.

4 Does any member of the jury panel have any religious
5 or moral beliefs which would prevent them from passing
6 judgment on another person as a member of the jury? If
7 so, please stand.

8 Are you or any of your close friends or relatives
9 currently employed or previously employed in a jail,
10 prison or other detention center? If so, please stand.

11 Have you or any of your close friends or relatives
12 ever been the victim of an act of violence or sexual
13 abuse? If so, please stand.

14 (Potential jurors stand.)

15 Okay. I'm gonna ask you to keep standing because
16 I'm gonna add another question to this.

17 Have you or any of your close friends or relatives
18 ever been the victim of a crime involving a relative or
19 household member? If so, please stand.

20 You-all keep standing for me because I'm gonna add
21 one more question.

22 Have you or any member of your family or any close
23 personal friend ever been affected by drugs or drug
24 abuse? If so, please stand.

25 I'm gonna come down and talk to you-all. I'm gonna

1 ask you to come up.

2 (The following proceedings were held outside the
3 presence of the jury panel.)

4 BAILIFF: 120.

5 THE COURT: Okay.

6 All right. Ms. Humphries, I have two questions.

7 POTENTIAL JUROR: Okay.

8 THE COURT: Was it you or any of your close friends
9 ever been the victim of an act of violence or sexual
10 abuse?

11 POTENTIAL JUROR: No.

12 THE COURT: Or are you or a family member ever been
13 affected by drugs or drug abuse?

14 POTENTIAL JUROR: I have a biological brother that's
15 a recovering drug addict.

16 THE COURT: Okay. Let me ask you, if you were
17 selected to sit on a jury could you be fair and impartial
18 to both the State and the defense?

19 POTENTIAL JUROR: Yes, ma'am.

20 THE COURT: I'm keeping you.

21 BAILIFF: 70.

22 THE COURT: Juror Number 70. Ms. Dunbar, are you
23 here on the drug question or the sexual abuse, violent
24 crime?

25 POTENTIAL JUROR: Both.

1 THE COURT: Both. Okay. Then let me go through
2 the first one. Have you or any of your close friends
3 or relatives been a victim of an act of violence?

4 POTENTIAL JUROR: Me.

5 THE COURT: Let me ask you what kind of crime of
6 violence was it?

7 POTENTIAL JUROR: Two different ones. When I was
8 a child. A grandfather.

9 THE COURT: Got it.

10 POTENTIAL JUROR: And then twenty years ago a
11 partner, so.

12 THE COURT: All right. And what about the drug
13 abuse?

14 POTENTIAL JUROR: Brother-in-law. He's dead now.
15 That's over.

16 THE COURT: Okay. Well, let me ask you this because
17 this is a case that carries an allegation, if you were
18 selected as a juror could you be fair and impartial both
19 the State and the defense?

20 POTENTIAL JUROR: I believe I could.

21 THE COURT: I believe I could is not good enough.
22 I'm gonna move you to the civil.

23 POTENTIAL JUROR: I understand.

24 THE COURT: That will be the next case, okay?

25 POTENTIAL JUROR: All right.

1 THE COURT: Juror Number 120 is civil.

2 POTENTIAL JUROR: No, I'm 70.

3 THE COURT: 70. I'm sorry. I don't know why I had
4 120 on my mind.

5 Thank you.

6 BAILIFF: 187.

7 THE COURT: Ms. Mundy.

8 POTENTIAL JUROR: Yes, ma'am.

9 THE COURT: All right. Are we here on drug or the
10 violence?

11 POTENTIAL JUROR: Violence. My niece in Georgia
12 that I'm very close to was raped a year ago and stalked
13 and her case is going to trial this next month, so
14 they're going through that case right now.

15 THE COURT: Okay. Well, this is a case that has the
16 same allegations. Would you like me to move you to the
17 civil?

18 POTENTIAL JUROR: Please.

19 THE COURT: I'm gonna move Juror Number 187 to the
20 civil docket.

21 POTENTIAL JUROR: Thank you.

22 BAILIFF: 62.

23 THE COURT: Juror Number 62. Mr. Decker.

24 POTENTIAL JUROR: Yes, ma'am. My sister was the
25 youngest victim of a sexual assault in the county about

1 thirty-two years ago.

2 THE COURT: Okay. Would you like me to move you to
3 the civil docket?

4 POTENTIAL JUROR: It's up to you. I just wanted
5 to --

6 THE COURT: Let me ask you this. If you were
7 selected as a juror, could you be fair and impartial to
8 both the State and the defense?

9 POTENTIAL JUROR: I can.

10 THE COURT: I'm gonna keep you.

11 POTENTIAL JUROR: And then my father died of drugs.

12 THE COURT: Okay.

13 POTENTIAL JUROR: I just wanted to make sure --

14 THE COURT: And let me ask you about the drug abuse.

15 POTENTIAL JUROR: He --

16 THE COURT: No, you don't have to tell me. I'm gonna
17 ask you. If you were selected as a juror, could you be
18 fair and impartial to both the State and the defense?

19 POTENTIAL JUROR: Sure.

20 THE COURT: I'm keeping you.

21 POTENTIAL JUROR: I just wanted to make sure you
22 knew about it. That's all.

23 THE COURT: Thank you.

24 BAILIFF: 108.

25 THE COURT: Juror Number 108. Ms. Hidalgo.

1 POTENTIAL JUROR: Yes, ma'am. So my maternal aunt
2 and uncle were both heroin addicts. One had -- my aunt
3 has been incarcerated several times and lost custody of
4 all of her children because of her addiction, so that
5 was kind of a thing that was --

6 THE COURT: Okay. Nothing on the violent crime
7 question?

8 POTENTIAL JUROR: No.

9 THE COURT: All right. Let me ask you, if you were
10 selected as juror in this case could you be fair and
11 impartial to both the State and the defense?

12 POTENTIAL JUROR: Yes, ma'am.

13 THE COURT: Thank you. I'm keeping you.

14 BAILIFF: 155.

15 THE COURT: Ms. Limehouse.

16 POTENTIAL JUROR: Hi. It was -- my younger cousin
17 was involved with a -- she went to court. It was --
18 there were -- I don't know how to explain it. The mom
19 and dad were getting divorced. It was my younger cousin
20 and the mom had said that her dad was sexually abusing
21 my cousin.

22 THE COURT: Okay. Not here on the question of any
23 drugs either?

24 POTENTIAL JUROR: He was doing drugs.

25 THE COURT: Okay. All right. So let me ask you

1 this. If you were selected as a juror, could you be
2 fair and impartial to both the State and the defense?

3 POTENTIAL JUROR: Was the offense involving
4 children?

5 THE COURT: Okay. I'm gonna move you to the civil
6 docket, okay? Tell me your juror number one more time.

7 POTENTIAL JUROR: It was 155.

8 THE COURT: 155 is going to the civil docket.
9 Thank you.

10 BAILIFF: 224.

11 THE COURT: Mr. Roberts.

12 POTENTIAL JUROR: Yes, Your Honor. Victim of an
13 armed robbery and kidnapping.

14 THE COURT: Well, that's allegations here, too, so
15 let me ask if you could be fair and impartial to both the
16 State and the defense?

17 POTENTIAL JUROR: Yes.

18 THE COURT: Okay. I'm gonna keep you.
19 Thank you.

20 BAILIFF: 297.

21 THE COURT: Mr. Yang, what do you want to tell me?

22 POTENTIAL JUROR: So I've been involved with a very
23 close friend and family members with drugs and substance
24 abuse.

25 THE COURT: Okay. Anything on the violent crime

1 question?

2 POTENTIAL JUROR: No, ma'am.

3 THE COURT: Okay. Let me ask you, if you were
4 selected as a juror could you be fair and impartial to
5 both the State and the defense?

6 POTENTIAL JUROR: No.

7 THE COURT: Okay. I'm gonna move you to the civil
8 jury, so stay with us.

9 POTENTIAL JUROR: Okay.

10 THE COURT: Juror Number 297 is gonna be civil.

11 BAILIFF: Number 90.

12 THE COURT: 90. Mr. Gladden.

13 Mr. Gladden, what do you want to tell me? On the
14 violent or the drugs or both?

15 POTENTIAL JUROR: Drugs. So actually I hold a
16 Celebrate Recovery meeting for addicts, not violence.

17 THE COURT: Okay. Good for you.

18 POTENTIAL JUROR: We walk them through sobriety and
19 I'm very familiar with those who go back out and come in.

20 THE COURT: So let me ask you this. If you were
21 selected as a juror, could you be fair and impartial to
22 both the State and the defense?

23 POTENTIAL JUROR: Yes, Your Honor.

24 THE COURT: I'm keeping you.

25 BAILIFF: 283.

1 THE COURT: Juror Number 283.

2 POTENTIAL JUROR: Yes, ma'am. When I was in
3 college, a very close family friend, a best friend and
4 his daughter, was murdered in Florence in college, and
5 they never solved the murder. It was on Dateline NBC
6 news show.

7 THE COURT: Okay. Let me ask you, Mr. Weed, if you
8 were selected as a juror in this case could you be fair
9 and impartial to both the State and the defense?

10 POTENTIAL JUROR: Yes.

11 THE COURT: I'm keeping you.

12 MS. MAYES: What number was that?

13 THE COURT: 283. Mr. Weed.

14 BAILIFF: 47.

15 THE COURT: Okay. What you want to tell me?

16 POTENTIAL JUROR: So my wife was molested as a
17 child and then after all that her mother got into drugs
18 and would not -- she got sent to foster care, so I'm very
19 hard towards that.

20 THE COURT: Okay. So let me ask you, could be you
21 be fair and impartial to both the State and the defense
22 or would you like me to move you to the civil jury?

23 POTENTIAL JUROR: That's fine.

24 THE COURT: Civil jury?

25 POTENTIAL JUROR: Yeah.

1 THE COURT: All right. I'm gonna move Juror
2 Number 47 to the civil docket.

3 BAILIFF: 39.

4 THE COURT: Juror Number 39. Mr. Castellano.

5 POTENTIAL JUROR: Yes, ma'am. I have a brother that
6 has been arrested multiple times for drug possession, but
7 -- I mean, I don't know if any charges have ever come up
8 because we don't necessarily talk like that.

9 THE COURT: Yeah. If you were selected as a juror,
10 could you be fair and impartial to both the State and the
11 defense?

12 POTENTIAL JUROR: Yes, ma'am.

13 THE COURT: I'm keeping you.

14 BAILIFF: 118.

15 THE COURT: Juror Number 118. Ms. Huffstetler.

16 POTENTIAL JUROR: I had a step-dad that was sexually
17 abusive and someone outside of the family as well in the
18 past.

19 THE COURT: All right. So let me ask you if you
20 were selected as a juror, could you be fair and impartial
21 both the State and the defense?

22 POTENTIAL JUROR: Yes, Your Honor.

23 THE COURT: I'm keeping you.

24 BAILIFF: Juror Number 1.

25 POTENTIAL JUROR: I have a cousin who was molested

1 by her grandfather.

2 THE COURT: Okay. Now tell me your juror number
3 again.

4 POTENTIAL JUROR: Number 1.

5 THE COURT: Number 1. All right. Ms. Abbott, if
6 you were selected as a juror could you be fair and
7 impartial to both the State and the defense?

8 POTENTIAL JUROR: Yes, Your Honor.

9 THE COURT: I'm keeping you.

10 BAILIFF: 264.

11 THE COURT: Mr. Szuhay.

12 POTENTIAL JUROR: Yes. My niece by marriage recently
13 accused a man of sexual assault. She's in Jacksonville,
14 Florida. He went to jail and now he's out --

15 THE COURT: Okay.

16 POTENTIAL JUROR: -- and there's a restraining order,
17 and she's involved with drugs, so.

18 THE COURT: So you hit both questions?

19 POTENTIAL JUROR: Yeah.

20 THE COURT: So let me ask you, if were selected as
21 a juror could you be fair and impartial to both the State
22 and the defense?

23 POTENTIAL JUROR: Yes.

24 THE COURT: I'm keeping you.

25 BAILIFF: 286.

1 THE COURT: Mr. Wells.

2 POTENTIAL JUROR: My sister passed away from a drug
3 overdose.

4 THE COURT: Oh, I'm so sorry. Let me ask you, if
5 you were selected as a juror could you be fair and
6 impartial to both the State and the defense?

7 POTENTIAL JUROR: I could.

8 THE COURT: I'm keeping you.

9 BAILIFF: 151.

10 POTENTIAL JUROR: I just wanted to clarify. I
11 wasn't sure on this. My wife before I knew her, she was
12 involved in a domestic violence situation.

13 THE COURT: Okay. That will qualify. Let me ask
14 you, Mr. Lawhead, if you were selected as a juror in this
15 case could you be fair and impartial to both the State
16 and the defense?

17 POTENTIAL JUROR: Absolutely.

18 THE COURT: I'm keeping you.

19 BAILIFF: 231.

20 THE COURT: 231. Mr. Rudd.

21 POTENTIAL JUROR: My niece was recently kidnapped
22 and raped within the last couple of months.

23 THE COURT: Okay. Well, I just want you to know
24 that's allegations in this case. Would you like me to
25 move you to the civil case?

1 POTENTIAL JUROR: I'm okay with either one, Your
2 Honor.

3 THE COURT: Okay. Well, then let me ask you this.
4 If you were selected as a juror, could you be fair and
5 impartial to both the State and the defense?

6 POTENTIAL JUROR: Yes, ma'am.

7 THE COURT: I'm gonna keep you on both. Thank you.

8 BAILIFF: 278.

9 POTENTIAL JUROR: My mom was like a cop before I
10 was born. Like she wasn't like officially a cop, but
11 like she like did ride-alongs and stuff with them before
12 I was born.

13 THE COURT: She was a cop?

14 POTENTIAL JUROR: She wasn't like sworn in. Like I
15 think she was like doing training or something. Like I
16 don't have an official on it.

17 THE COURT: Okay. So was there -- the two questions
18 I had --

19 POTENTIAL JUROR: Those aren't about those. I just
20 didn't think about that until now.

21 THE COURT: You didn't think and wanted to come up
22 and tell me? Okay. Good.

23 POTENTIAL JUROR: I didn't want to be that person
24 that ruined everything.

25 THE COURT: Okay. So let me ask you this. If you

1 were selected as a juror, could you be fair and impartial
2 to both the State and the defense?

3 POTENTIAL JUROR: Yes.

4 THE COURT: Thank you. I'm keeping you.

5 (The following proceedings were held in open court.)

6 THE COURT: Anybody else?

7 All right. Next question. Is any member of the
8 jury panel so morally opposed to drugs or drug use that
9 they could not render a fair and impartial decision in
10 this matter? If so, please stand.

11 Are you or any -- are you or are any of your close
12 friends or relatives presently or in the past a member
13 a member of, a financial supporter of or otherwise
14 involved or connected with any group that promotes
15 stricter enforcement of the laws or the promotion of
16 law enforcement or victims rights? These groups include,
17 but are not limited to, MADD, SADD or any local police
18 or troopers association? If so, please stand.

19 Have you or any of your close friends or relatives
20 ever provided financial or volunteer support for or
21 have been employed by or involved in any way with any
22 organization that promotes prevention of violence or
23 abuse or provides treatment or other services for victims
24 of violence or abuse? If so, please stand.

25 All right. During the course of this trial all of

1 the jurors will be asked to listen carefully to testimony
2 from witnesses, review and consider various exhibits that
3 get admitted as evidence and follow my instructions on
4 the law in this case. Is there any member of the jury
5 panel who feels that they will not be able to listen
6 carefully to the testimony from witnesses, review and
7 consider the various exhibits and follow my instructions
8 on the law in this case? If so, please stand.

9 Has any member of the jury panel been exposed to
10 any kind of news reports regarding this case? If so,
11 please stand.

12 Has any member of the jury panel formed or expressed
13 an opinion about any issue or matter involved in this
14 case? If so, please stand.

15 Is any member of the jury panel aware of any bias
16 or prejudice towards either the State or the defendant
17 in this case? If so, please stand.

18 Does any member of the jury panel know of any reason
19 whatsoever why he or she should not serve as a juror in
20 this case with particular emphasis being placed on your
21 ability to be fair and impartial to both the State and
22 the defendant? If so, please stand.

23 Does the State have any additional questions it
24 would like to have asked?

25 MS. MAYES: One clarification, Your Honor, on the

1 witness list. The witness John Waters. There was a
2 misprint there. He was listed as John Walters, the
3 Third. He is John Waters, the Third. We just wanted
4 to make that clarification.

5 THE COURT: Okay. Let me ask the jury panel. Does
6 anybody know a John Waters, the Third, who's gonna be a
7 witness in this case? If so, please stand.

8 No one stood.

9 All right. Let me ask the defense. Do you have
10 any additional questions you would like to have asked?

11 MR. MAULDIN: No, Your Honor.

12 THE COURT: Well, in that case then I think we're
13 ready to select the jury.

14 Now let me tell the jury panel I don't want anybody
15 getting upset if you don't get picked because it has
16 happened. We are picking two juries I know of, it could
17 be three, but I'm gonna tell you two because when I leave
18 after we pick this jury Judge Hocker -- Judge Hocker is
19 from Laurens and he's a visiting judge here this week.
20 He's gonna try a civil case. He might try one, he might
21 try two. I don't know what Judge Hocker's gonna do, but
22 I definitely know he's got one.

23 So after I pick my jury, you-all stay because Judge
24 Hocker's coming in and you'll have a second chance of
25 getting on the jury.

1 Are we ready?

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

3 THE COURT: Sure.

4 (Proceedings held at the bench; not reported.)

5 THE COURT: All right. They're printing up a list
6 and they're gonna call your juror number. What you will
7 need to do is gather up everything that you brought with
8 you, walk through these double doors and come right up
9 here to this stand, turn around and face the exit, and
10 both sides will decide -- they'll let us know what their
11 vote is. If you get all yea's, you get to come over here
12 with us. They'll say please present or seat the juror
13 or they might say please excuse the juror, that means
14 you go back, but walk through the two double doors, turn
15 around and face the exit sign.

16 Now in civil it's totally different. You won't have
17 to do that. I'll let Judge Hocker explain all that to
18 you.

19 Are we ready?

20 THE CLERK: She had to redo it.

21 THE COURT: Ms. Mayes, Mr. Mauldin, are you okay
22 with two alternates?

23 MS. MAYES: (Nods head.)

24 MR. MAULDIN: (Nods head.)

25 THE CLERK: Okay. When I call your name, if you'll

1 bring your belongings up front and face out to the
2 audience, please.

3 Juror Number 120, Wendi Humphries.

4 (Whereupon, Wendi Humphries, a white female, was
5 called forward.)

6 THE COURT: You know, you always hate to be the
7 first one, but you did a great job.

8 THE CLERK: What say you for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say for the defense?

11 MR. MAULDIN: Please excuse the juror.

12 THE CLERK: If you'll return to your seat, please,
13 ma'am.

14 Juror Number 92, Sheryl Goveas.

15 (Whereupon, Sheryl Goveas, an Asian female, was
16 called forward.)

17 THE CLERK: What say for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say for the defense?

20 MR. MAULDIN: Please seat the juror.

21 THE CLERK: If you'll have a seat in the jury box,
22 please, ma'am.

23 Juror Number 41, Kathryn Chaffin.

24 (Whereupon, Kathryn Chaffin, a white female, was
25 called forward.)

1 THE CLERK: What say you for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say for the defense?

4 MR. MAULDIN: Please seat the juror.

5 THE CLERK: If you'll have a seat in the jury box,
6 please, ma'am.

7 THE CLERK: Juror Number 38, Parker Carter.

8 (Whereupon, Parker Carter, a white male, was called
9 forward.)

10 THE CLERK: What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MR. MAULDIN: Please excuse the juror.

14 THE CLERK: If you'll return to your seat, please,
15 sir.

16 224, Aaron Roberts.

17 (Whereupon, Aaron Roberts, a white male, was called
18 forward.)

19 THE CLERK: What say the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say for the defense?

22 MR. MAULDIN: Please excuse the juror.

23 THE CLERK: If you'll return to your seat, please,
24 sir.

25 141, David King.

1 (Whereupon, David King, a white male, was called
2 forward.)

3 THE CLERK: What say the State?

4 MS. MAYES: Please present the juror.

5 THE CLERK: What say for the defense?

6 MR. MAULDIN: Please excuse the juror.

7 THE CLERK: If you'll return to your seat, please,
8 sir.

9 128, Amaya Johnson-Stuckey.

10 (Whereupon, Amaya Johnson-Stuckey, a black female,
11 was called forward.)

12 THE CLERK: What say the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say for the defense?

15 MR. MAULDIN: Please seat the juror.

16 THE CLERK: If you'll have a seat in the jury box,
17 please, ma'am.

18 113, Rebecca Hook.

19 (Whereupon, Rebecca Hook, a white female, was called
20 forward.)

21 THE CLERK: What say the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What say for the defense?

24 MR. MAULDIN: Please seat the juror.

25 THE CLERK: If you'll have a seat in the jury box,

1 please, ma'am.

2 36, Timothy Canada.

3 (Whereupon, Timothy Canada, a white male, was called
4 forward.)

5 THE CLERK: What say for the State?

6 MS. MAYES: Please present the juror.

7 THE CLERK: What say for the defense?

8 MR. MAULDIN: Please seat the juror.

9 THE CLERK: If you'll have a seat in the jury box,
10 please, sir.

11 73, Ateeyah Elahi-Vassalio.

12 (Whereupon, Ateeyah Elahi-Vassalio, a black female,
13 was called forward.)

14 THE CLERK: What say the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say for the defense?

17 MR. MAULDIN: Please seat the juror.

18 THE CLERK: If you'll have a seat in the jury box,
19 please, ma'am.

20 228, Logan Rock.

21 (Whereupon, Logan Rock, a white male, was called
22 forward.)

23 THE CLERK: What say the State?

24 MS. MAYES: Please present the juror.

25 THE CLERK: What say for the defense?

1 MR. MAULDIN: Please seat the juror.

2 THE CLERK: If you'll have a seat in the jury box,
3 please, sir.

4 Juror 80, George Francis.

5 (Whereupon, George Francis, a white male, was called
6 forward.)

7 THE CLERK: What say for the State?

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say for the defense?

10 MR. MAULDIN: Please excuse the juror.

11 THE CLERK: If you'll return to your seat, please,
12 sir.

13 147, Travis Kyzer.

14 (Whereupon, Travis Kyzer, a white male, was called
15 forward.)

16 THE CLERK: What say for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say the defense?

19 MR. MAULDIN: Please seat the juror.

20 THE CLERK: If you'll have a seat in the jury box,
21 please, sir.

22 263, Mark Szabo.

23 (Whereupon, Mark Szabo, a white male, was called
24 forward.)

25 THE CLERK: What say the State?

1 MS. MAYES: Please present the juror.

2 THE CLERK: What say for the defense?

3 MR. MAULDIN: Please excuse the juror.

4 THE CLERK: If you'll return to your seat, please,
5 sir.

6 138, Presley Kenagy.

7 (Whereupon, Presley Kenagy, a white female, was
8 called forward.)

9 THE CLERK: What say the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say the defence?

12 MR. MAULDIN: Please excuse the juror.

13 THE CLERK: If you'll return to your seat, please,
14 ma'am.

15 156, Karen Linden.

16 (Whereupon, Karen Linden, a white female, was called
17 forward.)

18 THE CLERK: What say the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say the defense?

21 MR. MAULDIN: Please excuse the juror.

22 THE CLERK: If you will return to your seat, please,
23 ma'am.

24 145, Daniel Koon.

25 (Whereupon, Daniel Koon, a white male, was called

1 forward.)

2 THE CLERK: What say the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say the defense?

5 MR. MAULDIN: Please seat the juror.

6 THE CLERK: If you'll have a seat in the jury box,
7 please, sir.

8 157 Thillite Lowman.

9 (Whereupon, Thillite Lowman, a black male, was
10 called forward.)

11 MR. MAULDIN: 157?

12 THE CLERK: 157.

13 What say for the State?

14 MS. MAYES: Please excuse the juror from the trial
15 of this case.

16 THE CLERK: If you'll return to your seat, please,
17 sir.

18 161, Kathyleen Manikowski, a white female, was
19 called forward.)

20 THE CLERK: What say for the State?

21 MS. MAYES: Please present the juror.

22 THE CLERK: What say for the defense?

23 MR. MAULDIN: Please excuse the juror.

24 THE CLERK: If you'll return to your seat, please,
25 ma'am.

1 147, Samuel Korosi.

2 (Whereupon, Samuel Korosi, a black male, was called
3 forward.)

4 THE COURT: What say the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say the defense?

7 MR. MAULDIN: Please seat the juror.

8 THE CLERK: If you'll have a seat in the jury box,
9 please, sir.

10 56, Patricia Cromer.

11 (Whereupon, Patricia Cromer, a white female, was
12 called forward.)

13 THE CLERK: What say the State?

14 MS. MAYES: Please present the juror.

15 THE CLERK: What say the defense?

16 MR. MAULDIN: Please excuse the juror.

17 THE CLERK: If you'll return to your seat, please,
18 ma'am.

19 266, Linden Thomas.

20 (Whereupon, Linden Thomas, a black male, was called
21 forward.)

22 THE CLERK: What say the State?

23 MS. MAYES: Please present the juror.

24 THE CLERK: What say the defense?

25 MR. MAULDIN: Please seat the juror.

1 THE CLERK: If you'll have a seat in the jury box,
2 please, sir.

3 Juror 100, Brenda Hall.

4 (Whereupon, Brenda Hall, a white female, was called
5 forward.)

6 THE CLERK: What say the State?

7 MS. MAYES: Please present the juror.

8 THE CLERK: What say the defense?

9 MR. MAULDIN: Please seat the juror.

10 THE CLERK: Alternates, Your Honor? Pick two
11 alternates?

12 THE COURT: Two alternates, please.

13 THE CLERK: 280, Travis Washington.

14 (Whereupon, Travis Washington, a black male, was
15 called forward.)

16 THE CLERK: What say the State?

17 MS. MAYES: Please excuse the juror from the trial
18 of this case.

19 THE CLERK: If you'll return to your seat, please,
20 sir.

21 262, Anna Summerall.

22 (Whereupon, Anna Summerall, a white female, was
23 called forward.)

24 THE CLERK: What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MR. MAULDIN: Please seat the juror.

3 THE CLERK: If you'll have a seat in the jury box,
4 please, ma'am.

5 278, Savannah Wandover.

6 (Whereupon, Savannah Wandover, a white female, was
7 called forward.)

8 THE CLERK: What say the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. MAULDIN: Please seat the juror.

12 THE CLERK: If you'll have a seat in the jury box,
13 please, ma'am.

14 THE COURT: All right. Can I see the lawyers just
15 for a moment?

16 (Proceedings held at the bench; not reported.)

17 THE COURT: All right. That is the jury for the
18 criminal case. The rest of the jury panel, I'm gonna
19 give you a quick 10-minute break. Remember, you've got
20 to come back or, you know that I'm serious, I'll send
21 somebody to help you get back.

22 Also because when you do come back, I'm not gonna
23 be here, let me thank you for coming. I'm sure hopefully
24 I will get to see you later in the year if you come back
25 for jury duty. Good luck on the civil case.

1 Also for those of you who had -- well, for all of
2 you-all, the good news is that you get a check for
3 showing up today. The bad news is your check's in the
4 mail. They usually don't send it out until after the
5 Friday that the term is over with, but you will get paid
6 for every day that you do appear.

7 Again, thank you very much. I know it's an
8 inconvenience. You-all need to be back in about
9 ten minutes. I'm gonna get my jury going and Judge
10 Hocker will be here and he will select the civil jury.

11 Thank you.

12 (Whereupon, the jury panel exits the courtroom at
13 12:00 PM.)

14 THE COURT: All right. You-all are the jury in
15 this case. I'm gonna tell you we're gonna start the
16 trial of this case Tuesday at 1:00. You need to report
17 at 12:45 to your jury room.

18 Before you leave the bailiff will take you to the
19 jury room so you will know where to report. I'm going to
20 tell you I do not allow note-taking. Your cell phones,
21 you'll have to give them to the bailiff. You're welcome
22 to use them on breaks, but you cannot bring them in this
23 courtroom or in the jury room. I don't want any cell
24 phones in the jury room. You can certainly go out in the
25 hall and use them on break; however, you are not to use

1 your cell phone or any computer or anything else to get
2 any information about this case or anything about court
3 officers or attorneys or anything that you hear in this
4 courtroom.

5 In fact, you are not to talk about this case at all
6 even amongst yourselves. When you go to the jury room,
7 you're not allowed to talk about this case. You do not
8 talk about it until I have read you the law and I tell
9 you you can deliberate.

10 The lawyers in this case have been instructed not
11 to speak to you, so please don't think that they're rude.
12 If they see you, they're gonna turn around and run, and
13 that's by my order, so please don't try to talk to them.

14 Also I know sometimes, you know, everybody gets
15 excited about being on the jury. Don't talk about this
16 case. Don't go home and tell your wife, your husband,
17 your best friend, man, you're not gonna believe this, but
18 I got picked for this jury. Don't do it. You're not
19 allowed to talk about this case.

20 You can certainly let your employer know that you're
21 on jury duty. We have notes that the clerk's office will
22 provide to your employer to let them know where you are.
23 If there's any type of emergency, the bailiff will give
24 you a number that you can give to your family members to
25 call. We will get that phone call to you immediately.

1 But do not talk about this case. Believe it or not,
2 we always find out about it. It's amazing to me, but we
3 -- we certainly find out about it. So don't do it.

4 Also, where's my jury list? I'm not gonna be able
5 to pronounce it.

6 Is it Ateeyah?

7 JUROR: Yes.

8 THE COURT: Will you do me the honor of being my
9 forelady?

10 JUROR: Yes.

11 THE COURT: Thank you. You will be the forelady on
12 this jury.

13 Okay. So I'm gonna let the bailiff take you back.
14 Remember, no talking about the case. No research. If
15 you see anything in the newspaper or on the TV, you're
16 not allow to watch it. Cut it off. Absolutely no
17 research. Don't look up anything you've heard period.

18 And I'll see you Tuesday at 12:45. Remember, if
19 one person's late, we're all late. We can't start unless
20 we have everybody, so please be conscientious of the time,
21 please.

22 All right. Thank you. Follow the bailiff.

23 (Whereupon, the jury was excused for the day at
24 12:04 PM.)

25 THE COURT: All right. Before I get Judge Hocker

1 up here, anything from the State?

2 MS. MAYES: Nothing from the State at this time,
3 Your Honor.

4 THE COURT: Anything from the defense?

5 MR. MAULDIN: We have no motions regarding the jury
6 as well, Your Honor.

7 THE COURT: All right.

8 MR. MAULDIN: And what time do you expect us back
9 for the --

10 THE COURT: What time do you-all want to come back?

11 MS. MAYES: I would say 2:30 because they have a
12 plea.

13 MR. MAULDIN: Okay. 2:30's good.

14 THE COURT: 2:30. All right. We'll be back at 2:30
15 and we'll do motions in this case.

16 Thank you-all.

17 MS. MAYES: Thank you, Your Honor.

18 MR. MAULDIN: Thank you, Your Honor.

19 (Recess taken at 12:05 PM.)

20 (Back on the record at 2:32 PM.)

21 BAILIFF: Keep your seats. Court's back in session.

22 THE COURT: You-all give me just one second to get
23 all my motions together because I read all these last
24 night.

25 All right. Let me just kind of go through these

1 if you don't mind. I've got a little order here in what
2 I've researched.

3 The notice of intent to introduce evidence. This
4 is for the copy of the surveillance photograph and
5 receipt from the Palmetto Citizens Federal Credit Union.

6 I am assuming, Ms. Wellman, this is just a
7 photograph that you-all have at the bank?

8 MS. WELLMAN: Correct, Your Honor.

9 It's a photograph that was taken at the time of the
10 transaction that is at issue here.

11 And also there's a receipt attached to it; is that
12 correct? On that same --

13 THE COURT: There's an authentication that this came
14 from their video.

15 MS. WELLMAN: Correct, Your Honor.

16 THE COURT: Mr. Mauldin, do we have an objection to
17 that?

18 MR. MAULDIN: No, Your Honor.

19 THE COURT: Thank you. That motion is granted.

20 The next is -- while I'm on this, the notice of
21 intent to introduce GPS monitoring records. This too is
22 being sought under the business records and attached to
23 it was the authentication.

24 Any objection to that, Mr. Mauldin?

25 MR. MAULDIN: Well, that's the evidence of flight

1 that we would have an objection against because one of
2 our motions in our filing was that the State should not
3 introduce evidence of flight, and I believe that's why
4 they're introducing it.

5 THE COURT: Well, let me hear why they're
6 introducing it. Is it for flight?

7 MS. WELLMAN: Yes, Your Honor. That document, it's
8 a one-page report that is specifically for flight.

9 THE COURT: Okay. I didn't know if this was for a
10 location showing that he was in a certain location at a
11 certain time, but for flight, then I'm gonna set this
12 aside because I'm gonna get to flight in just a moment.

13 All right. The next was the -- and I've got an
14 amendment to this. It's the State's memorandum or a
15 motion for admission of statement under Rule 803(4).

16 I started out with twelve statements and then I
17 went through them and then I've got -- I got some amended
18 memorandum that added, I think, like two or three more.

19 MS. WELLMAN: There were several more that were
20 added. They were just much more general comments about,
21 you know, that the only medication she takes was a B12
22 vitamin, and I can explain how that's relevant to medical
23 diagnosis and treatment, but also her statement that none
24 of these injuries were present prior to the assault.

25 Those are just the more general statements that I

1 added later. The ones that were included initially
2 were the specific statements, and I'm prepared to address
3 each one of those and how they are pertinent to medical
4 diagnosis and treatment if you wanted to address that
5 now.

6 THE COURT: I do. I want to go through this.

7 All right. Let me hear from you, Mr. Mauldin.

8 MS. POPOWSKI: Your Honor, I'm gonna address that
9 motion.

10 THE COURT: Okay. There's like twenty statements.

11 MS. POPOWSKI: Yes.

12 THE COURT: First it was twelve and then they added
13 eight more to make twenty.

14 MS. POPOWSKI: Yes, Your Honor.

15 Well, I mean, I've heard the -- I've heard the
16 solicitor say she wants to address each one individually.
17 You know, the rule says that -- that these statements can
18 be admitted insofar as they're reasonably pertinent to
19 diagnosis or treatment and we have notes in the discovery
20 from the SANE nurse that indicate that by the time
21 Ms. Branham saw the SANE nurse she had been medically
22 cleared. It says received report from the nurse who says
23 that patient has had a chest x-ray due to rib pain with
24 movement that was negative. Will need wound dressing to
25 skin tears on the left arm, but this will be performed

1 after the forensic exam and the evaluation.

2 It's our position the SANE nurse was no longer
3 medically trying to diagnose or treat anything. In fact,
4 she was there as a forensic examiner to collect evidence
5 for the prosecution. It's our position that they're
6 trying to back-door some hearsay statements in through
7 this, but if she had already been medically cleared and
8 treated these statements were not made for diagnosis and
9 treatment.

10 We can go through each one if you'd like.

11 MS. WELLMAN: I have some materials for the Court,
12 as well as some case law if I may approach?

13 THE COURT: You may.

14 MS. POPOWSKI: Is she gonna give these notes from
15 the nurse?

16 MS. WELLMAN: No.

17 MS. POPOWSKI: Well, I'd like to hand those up
18 because they indicate that the patient had been
19 medically cleared before the SANE nurse.

20 (Court's Exhibit Number 2 was marked for
21 identification.)

22 MS. WELLMAN: Your Honor, this is what I'm marking
23 as Court's Exhibit 2. This is a copy of the SANE exam
24 report just for the Court to follow along and I just
25 have some authority that I provided to the defense

1 specifically for this.

2 Your Honor, all of these statements are still
3 relevant to the -- you know, are pertinent to medical
4 diagnosis and treatment. Whether she had already, you
5 know, seen a triage nurse, that's standard procedure in
6 the hospital. Here when you get to the SANE nurse, this
7 is a much more in-depth head-to-toe examination.

8 I've handed up several cases for Your Honor, but
9 really a review of the entire case law regarding this
10 exception is based on the fact that the patient has a
11 selfish interest in providing true information and
12 also that these are observations and statements which
13 a medical expert uses to decide whether continued
14 treatment, continued diagnosis is necessary, and that is
15 why all of these statements are particularly relevant.

16 Our State law is really pro-admission of these
17 statements. I handed up one case of State v. McFadden,
18 which I also provided to the Court. That is a case that
19 said the statement of the victim to an ER doctor during
20 a SANE exam that she was raped was admissible, and
21 that's exactly what this is because the rule allows for
22 information and statements made regarding past or present
23 symptoms, medical history, pain or sensation or the
24 inception or general character of the cause or external
25 source, so any of those statements that are relevant to

1 medical diagnosis and treatment are admissible.

2 In the McFadden case, that Court ruled a statement
3 that the victim had been raped was relevant to medical
4 diagnosis and treatment, and I did provide the Court with
5 that case.

6 I provided the Court with another case. It's State
7 v. Simmons which specifically said after recent trauma
8 the types of statements made in like a CSC SANE exam can
9 provide the doctor with specific areas to focus on or
10 specific conditions to search for when performing the
11 diagnostic physical exam and are reasonably pertinent
12 to medical diagnosis and treatment. So, again, that's
13 exactly what we have here.

14 Your Honor, for example -- and, again, I can go
15 through each one. He put a gun to my head, but he
16 didn't hit me with it. That explains why the SANE nurse
17 specifically looked at the left side of her head, noted
18 a bruise on her head and took a photograph of it.

19 MS. POPOWSKI: Can -- do I get a chance to respond
20 if we're gonna go through each one individually?

21 THE COURT: I'll let you -- we'll go through them
22 one by one if we've got to and I'll let you respond.

23 Okay. Now if that's -- anything else on Number 1?

24 MS. WELLMAN: Yes, Your Honor. We have specific
25 photographs regarding that bruise. There were

1 discussions about how she obtained the bruise. So there
2 -- which specifically is the general character or cause
3 of that particular injury. SANE exams are very in-depth
4 head-to-toe examinations, and with that statement, that
5 specifically goes to the general cause. So with regards
6 to Number 1, I think that's the issue there.

7 THE COURT: All right. Let me hear from you.

8 MS. POPOWSKI: Your Honor, I'd agree with the State.
9 SANE exams are very thorough exams. When the patient
10 arrives, they have been given background as to why the
11 patient was there. They're going to do a thorough
12 examination no matter what. They're gonna do a full
13 body scan no matter what. So you don't -- you document
14 bruising, but you don't diagnose it or treat it.

15 She's already been medically cleared, so in that
16 treatment -- or in that particular statement, Number 1,
17 there's no treatment involved. The patient wasn't giving
18 this information for the purpose of being treated or
19 diagnosed and they were gonna do a full body scan no
20 matter what and document whatever they could see. That's
21 the purpose of the SANE exam is to collect evidence to
22 come to court. She'd already been medically cleared, so
23 that's the argument as to Number 1.

24 MS. WELLMAN: Your Honor, I would disagree with
25 that. Yes, part of the SANE exam is to collect evidence,

1 but, for example, he choked me twice. I'm jumping ahead
2 to Number 3. On the statement that he choked me twice,
3 that initiates an entirely separate protocol, the
4 strangulation protocol. That protocol -- those specific
5 steps would not be implemented if she -- if the victim
6 had not said that. That is further examination, further
7 testing, that goes specifically to that specific injury.

8 THE COURT: Okay. As to Number 1, I'm gonna let
9 it in. I'm just gonna tell you I think it's reasonably
10 pertinent to the medical diagnosis and treatment and,
11 you know, also there's a -- I'm looking at this SANE
12 report. It even has it notated -- I don't have a page
13 number on this, but showing where there's a bruise on her
14 head that's notated.

15 MS. WELLMAN: Yes, Your Honor.

16 THE COURT: So obviously that led the SANE nurse to
17 look at it. So I'm allowing Number 1.

18 Lets go to Number 2.

19 MS. WELLMAN: Number 2, the statement that he jumped
20 on me and we were fighting, Your Honor, our victim is
21 seventy-four years old. The statement he jumped on me
22 and we were fighting, and I think there's, you know, some
23 other statements there, this -- again, we're back to a
24 head-to-toe detailed examination.

25 When the Court looks at some of the pages on the

1 SANE exam, and we have plenty of photographs to support
2 this, our victim's body was covered in bruising. The
3 fact that she has -- she was having to fight off her
4 attacker, again, that is very pertinent to medical
5 diagnosis and treatment and is the general cause of all
6 of her injuries, head to toe. And that also would go to
7 explain the pain she was feeling in her hand, in her rib
8 area and, again, do we need to look closer, and further
9 diagnosis and treatment.

10 THE COURT: All right. Let me hear from you,
11 Ms. Popowski.

12 MS. POPOWSKI: Again, Your Honor, the statement
13 doesn't need to come in. It's not helpful. They were
14 going to do a full body examination no matter what.
15 That's the purpose of the SANE exam is to collect
16 evidence to come to court in a sexual assault case.
17 This is just simply bolstering the credibility of the
18 witness's statement and inadmissible hearsay.

19 THE COURT: Okay. I'm gonna allow it. I'm also
20 looking at this -- the SANE report. As a matter of fact,
21 it looks like 1, 2, 3, 4, 5, 6, 7, which covers the upper
22 part, the upper back. Also on the back side of this lady
23 there's just a ton of bruises is what it looks like.

24 MS. WELLMAN: Yes, Your Honor.

25 THE COURT: So I think that's reasonable for -- for

1 a full body examination, that they could focus on a full
2 body examination for the bruising, so I'm gonna allow it.

3 Let's go to Number 3.

4 MS. WELLMAN: Your Honor, Number 3 is that he tried
5 to choke me twice. I touched on that a few minutes ago.
6 That is specifically the strangulation protocol. They
7 would not have done that but for the statement that her
8 attacker choked her twice.

9 There are specific examinations of the neck area.
10 They had -- they looked for some possible internal
11 injuries because that's part of the strangulation
12 protocol. There's also some photographs of petechia to
13 this area of her body. The nurse can explain that, but,
14 again, I think that's all the same line that we've been
15 discussing.

16 THE COURT: Same argument, Ms. Popowski?

17 MS. POPOWSKI: Essentially, Your Honor, yes. The
18 same argument. She had been medically cleared. She'd
19 already had x-rays. It had already been determined that
20 she needed to have wound dressings given.

21 And I've had a chance to just briefly look over
22 the case law that was just given to me and it's all
23 distinguishable because in those cases the patient had
24 not been medically cleared before the examination.

25 THE COURT: Okay.

1 MS. POPOWSKI: There's no evidence of that.

2 THE COURT: For the same reasons as 1 and 2, I'm
3 allowing Statement Number 3.

4 MS. WELLMAN: Just for ease, Your Honor, Number 5,
5 that goes specifically back to Number 2 as well, if you
6 just want to go ahead and knock that one out based on
7 your previous ruling.

8 THE COURT: Well, you know, I've looked at that.
9 I mean, how many times are we gonna do a full body
10 examination?

11 MS. WELLMAN: I think, Your Honor, the whole point
12 is that --

13 THE COURT: Because if I look at this, I walked to
14 the door, he came up behind me and grabbed me, he had
15 both his arms around my belly and I turned around and
16 fought him. Well, that's exactly what Number 2 is saying.

17 He kicked my legs out from under me, crashed to the
18 floor, jumped on me, which is exactly what Number 2 is
19 saying. He taped my hands together.

20 Do I have to have Number 2 or do you want Number 5?

21 MS. WELLMAN: Your Honor, I would rather have
22 Number 5. And, specifically, with regards to the taping
23 of her hands, she looked at her wrists, and I think the
24 Court will see that there is some residue still on her
25 wrist that we would argue is residue from the tape, but

1 specifically they looked at her wrists and there's also
2 a skin tear on her wrist that the SANE nurse would say
3 is a shearing force that could have been caused from
4 struggling against tape, so I would rather have Number 5.

5 MS. POPOWSKI: Your Honor, at the risk of
6 overextending this hearsay exception, I would obviously
7 argue for Number 2 --

8 THE COURT: Yes.

9 MS. POPOWSKI: -- because it is more general.
10 Otherwise, you're asking to back door in inadmissible
11 hearsay that bolsters the victim's story. So here --
12 here in this case, Number 2, he jumped on me and we were
13 fighting, if Your Honor has already admitted that and
14 they're saying that that, therefore, justified a full
15 body examination, then I don't think any of the other
16 following statements that they're saying justified a
17 full body examination need to be admitted.

18 MS. WELLMAN: Your Honor, but coming from a
19 standing position to having your legs kicked out from
20 underneath you, that specifically talks about the amount
21 of force with which my victim hit the ground, so that is
22 different.

23 And, further, the tape is an entirely different
24 issue. And, again, there is specific injury to her
25 wrists which could have come from struggling against the

1 tape.

2 THE COURT: All right. I'm gonna take out Number 2
3 because I think it's redundant.

4 MS. WELLMAN: Thank you, Your Honor.

5 THE COURT: And I'm gonna keep Number 5.

6 I'm not real sure I drank two cups of herbal tea and
7 two glasses of water.

8 MS. WELLMAN: Your Honor, I think it just goes to
9 the process for collecting evidence. If you go down
10 further in the exam and it specifically -- let me make
11 sure I get the right number. Number 7, Your Honor.
12 Our SANE nurse will testify that sexually transmitted
13 diseases, specifically gonorrhea and chlamydia, can live
14 in the throat. That is why the fact that she swallowed
15 some of the ejaculate from her attacker, that is why that
16 statement is relevant because that signalled to them you
17 have been exposed to another person's bodily fluids.

18 THE COURT: I understand that, but I'm talking about
19 herbal tea and two glasses of water.

20 MS. WELLMAN: Yes, Your Honor. I'm saying that's
21 where it started, and then the fact that she drank some
22 herbal tea, that just goes to the evidence collection and
23 whether they're going to continue the swabbing.

24 THE COURT: Let me hear from you, Ms. Popowski,
25 about the herbal tea.

1 MS. POPOWSKI: I mean, it's just irrelevant. It's
2 not for the purpose of --

3 THE COURT: I think I agree. I'm marking out
4 Number 4.

5 All right. Now I'm on Number 6.

6 MS. WELLMAN: Your Honor, the statements that he,
7 you know, pulled off my boots, my jeans and my panties
8 and then came on top of me again, Ms. Branham will testify
9 that the defendant forcibly penetrated her vagina with
10 his fingers. The fact that he had complete access to her
11 genitals without any like barrier is relevant to the fact
12 that she did have some bruising to her genitals.

13 THE COURT: Well, I think that's pretty much covered
14 in Number 9.

15 MS. POPOWSKI: And Number 10.

16 THE COURT: And 10. 9 and 10.

17 MS. WELLMAN: Okay. No problem.

18 THE COURT: All right. 9 and 10 will come in.

19 MS. POPOWSKI: Does that mean Number 7 will not?
20 Or, I'm sorry, Number 6.

21 THE COURT: Number 6 I'm marking out.

22 MS. WELLMAN: Okay.

23 THE COURT: Number 7. I think clearly comes in.

24 MS. POPOWSKI: Your Honor, I would disagree because
25 of Number 11 and Number 12.

1 MS. WELLMAN: Your Honor, I included like everywhere
2 where she puts this in the SANE exam just for -- like I
3 didn't want to get into the situation where oh, I put it
4 in here, but I didn't include that part. I'm really
5 looking for Number 7.

6 THE COURT: Well, I'm telling you I think Number 7
7 pretty much explains everything that the nurse would know
8 to do.

9 MS. WELLMAN: Thank you, Your Honor.

10 THE COURT: And I'm taking out 11 and 12.

11 MS. WELLMAN: Okay. You've already excluded
12 Number 4 by the same argument. Are you going to exclude
13 Number 8?

14 MS. POPOWSKI: Your Honor, I know you've rule on
15 Number 7, but just for the record I'd like to put on
16 there that there are lot of extra details in there that
17 are not necessary for medical diagnosis sand treatment
18 and those would be covered by admitting 11 and 12.

19 THE COURT: Okay. So noted for the record.

20 All right. Let me hear in you, Ms. Popowski, on
21 Number 8.

22 MS. POPOWSKI: Your Honor, the SANE nurse doesn't
23 render conclusory opinions about whether or not the
24 assault happened, the jury does. The SANE nurse is there
25 to collect evidence. She doesn't need to know if she

1 showered or brushed her teeth. Even if she didn't do
2 those things, the prosecution would argue that the absence
3 of any evidence, fluid, DNA, et cetera, doesn't indicate
4 that she wasn't assaulted, so we would ask that that not
5 come in.

6 MS. WELLMAN: Your Honor, one, I would argue that
7 there's no prejudicial nature to this. It goes to the
8 thoroughness of the full exam, but also, again, we're
9 back to the steps that she takes through the whole exam.
10 You know, they -- the SANE nurse needs to know did you
11 shower, did you go to the bathroom, did you brush your
12 teeth, have you eaten. The SANE nurse does need to
13 know these things and that goes to the protocol and the
14 specific steps that she followed as the exam continues.
15 It's not any statement about the assault, so I'm not sure
16 what is so, you know, objectionable from the defense.
17 But, again, it just goes to the process and the steps she
18 takes in the exam.

19 THE COURT: Okay. I'm gonna allow it because I'm
20 not real sure if -- I'll be glad to listen to the
21 testimony, but I'm sure that they would do something
22 different knowing that somebody's showered and gargled
23 as far as what kind of treatment or collection that they
24 would do.

25 Now Number 13, 14 and 15 I think we've already

1 covered. Pain and tenderness. We know that she fell.
2 We know that there's a full body examination. Pain and
3 tenderness, that's are part of whole argument.

4 MS. WELLMAN: Your Honor, if you would flip to some
5 of the pages in the SANE exam where we have the diagram.

6 THE COURT: I see the diagrams.

7 MS. WELLMAN: When they're doing the full body
8 examination, they want to know this injury, this injury,
9 this injury, and it's sort of going back to what Your
10 Honor said when we were talking about the gun, whether
11 or not these injuries came from the alleged assault.
12 This is going back to this specific language of the
13 rule, which says sort of the general cause is admissible.
14 You know, they're specifically talking about the bruising
15 to her right breast, the bruising to her chest area and
16 going back to the bruising to the her genitals. She
17 specifically talks about pain in this area and pain in
18 this area, bruising in this area, bruising in that area
19 where she says these injuries were not present prior to
20 the assault.

21 THE COURT: All right. Well, Number 5 pretty much
22 covers the hard fall, the full body examination, the
23 chest x-ray. I'm just trying to see why do we need in
24 patient complains of pain and tenderness.

25 MS. WELLMAN: Well, I think it goes to, one, the

1 extent of the injury. I've got several bruises on me
2 right now. I don't know where they came from. I don't
3 know -- and they're not painful; however, she specifically
4 had bruising that she can tell you the general nature of
5 where they came from, which is allowed by the rule. And
6 it also talks about a symptom of that injury, which is
7 pain and tenderness. So I think that is relevant under
8 the rule by its explicit language.

9 THE COURT: Okay. Let me hear from you,
10 Ms. Popowski.

11 MS. POPOWSKI: I don't understand what the diagnosis
12 or treatment is that's being rendered based on her saying
13 I have tenderness. They've already gotten in statements
14 that talk about a full body examination. We're talking
15 about inadmissible hearsay statements that are meant to
16 bolster the victim's story. The victim is gonna testify
17 in this case, Your Honor. We don't need all of these
18 additional statements to then bolster her testimony.
19 That's the argument.

20 And, Your Honor, I would like to go back to the
21 washing and the stripping and the showering and I just
22 wanted to point out to the Court that they did do oral
23 swabs in this case despite that statement, so I don't
24 think that that statement should come in because it
25 wasn't considered in the medical treatment or diagnosis.

1 They still did oral swabs.

2 MS. WELLMAN: It goes back to the thoroughness
3 of the testing. They do the testing, they look at
4 everything, and it's just hard to explain why the nurse
5 did this without this information. Why is the nurse
6 gonna go and specifically look for bruising to her
7 genitals if there's no evidence that there was trauma
8 and pain to her genitals? It just -- this is a very
9 methodical, very thorough examination. Every single
10 question --

11 THE COURT: I understand. I'm just not gonna let
12 it be repeated a bunch of times. That's all.

13 MS. WELLMAN: And I think -- I'm not asking to
14 repeat it and go line by line. Like I know there's a
15 lot of statements. I think the whole point is when you
16 look at all the injuries to her back, for example, okay,
17 there's a bruise to one of her buttocks, there's a bruise
18 to her back. I think -- there's a bruise to all of her
19 arms. There's skin tears. I think the explicit language
20 of the rule talking about the general source of this
21 particular injury and the symptoms of that injury are
22 relevant. I'm not asking to, say, you know, go back and
23 forth, back and forth, back and forth, back and forth.

24 The point is these are injuries that are documented,
25 thorough head-to-toe examinations. So we get the cause,

1 the general cause, then we also get the symptoms. The
2 general cause is that they came from us fighting. The
3 symptoms are pain. That is explicitly allowed in the
4 rules.

5 We're not gonna go into the full detailed -- I mean,
6 the SANE nurse does say tell me what happened, and we're
7 not looking to do that, but when it relates to a specific
8 identifiable physical injury, the general cause and
9 symptoms are explicitly allowed by the rules, and that's
10 sort of where I'm trying to go with this. I ended up
11 including more just because I didn't want to get into a
12 situation where --

13 THE COURT: Well, I see Number 15 is covered in
14 Number 1.

15 MS. WELLMAN: Yes, Your Honor.

16 THE COURT: So I'm taking out Number 15 if there's
17 no objection, Ms. Popowski.

18 MS. POPOWSKI: No, Your Honor. That was my argument.
19 It was covered in Number 1.

20 THE COURT: And I guess that's where he pulled my
21 shirt off, you're argument is him pulling the shirt off
22 is the source of the bruise causing the SANE nurse to do
23 a chest x-ray?

24 MS. WELLMAN: There's a specific scratch on her
25 chest and she says that's where he pulled the shirt off.

1 THE COURT: Got it.

2 All right. I'm allowing 13 and 14.

3 MS. WELLMAN: Thank you, Your Honor.

4 THE COURT: I'm taking out 15.

5 Now Number 16 seems to be a repeat of Number --

6 MS. WELLMAN: That is a repeat, Your Honor. And,
7 again, I listed it to include --

8 THE COURT: That's okay. I got it.

9 I'm gonna take out Number 16.

10 Any objection, Ms. Popowski?

11 MS. POPOWSKI: No, Your Honor.

12 THE COURT: Okay. Number 17 I'll hear from you on.

13 MS. POPOWSKI: Your Honor, I'd say that that was
14 redundant as well. Occurred while I was fighting him.
15 Earlier, on Number 2, we were fighting.

16 Also, Your Honor, I'd like to point out to the
17 Court --

18 THE COURT: No, Number 2 I've taken out.

19 MS. POPOWSKI: Right. Well -

20 THE COURT: You're talking about Number 5.

21 MS. POPOWSKI: Yes, Your Honor. I apologize.

22 THE COURT: That's okay.

23 MS. POPOWSKI: I'd also like to point out for
24 the Court that just in a quick Google search I found
25 this document on the SLED website, the sexual assault

1 examination protocol. I don't know if they still use
2 this or not, I was gonna ask the SANE nurse, but it's
3 a checklist of everything they're supposed to look at.

4 So this idea that she had to tell them I have a
5 bruise right here for them to check that is not true.
6 I mean, they have to go through a checklist. Ejaculation
7 occurred or -- on the following: Mouth, vagina, anus,
8 body, clothing, bedding. I mean, they have a protocol
9 for collecting the evidence. This is not for the purpose
10 of medical treatment.

11 THE COURT: Well, I mean, I'm just gonna tell you,
12 Ms. Popowski, I appreciate your argument, but, you know,
13 if she can prove a nexus between the information provided
14 by the patient and the diagnosis or treatment, what
15 they're gonna do with it, it's admissible under the rule,
16 803.

17 MS. POPOWSKI: Again, Your Honor, our objection is,
18 is that she had already been treated. She had already
19 been medically treated and cleared.

20 THE COURT: I understand what you're saying, but
21 this is by the SANE nurse, which is a little bit
22 different. This is a thorough examination. It's the
23 rape kit that they do.

24 MS. WELLMAN: Yes, Your Honor.

25 THE COURT: That is just totally different from what

1 you're talking about.

2 MS. WELLMAN: The triage exam that Ms. Popowski is
3 talking about --

4 THE COURT: She was in the ER. This was the ER
5 charge nurse. And she goes to the ER is what it appears
6 to me from what I've read and then they send her to the
7 SANE nurse.

8 MS. WELLMAN: Correct, Your Honor.

9 THE COURT: So it's different. The ER nurse can't
10 clear her -- might clear her to go to the SANE nurse and
11 say hey, she doesn't need surgery or immediate medical
12 attention. What we're gonna do is send her the SANE
13 nurse, who's a step further.

14 MS. POPOWSKI: I understand what Your Honor's
15 saying, but a lot of this deals with bruising, which
16 doesn't need to be diagnosed and treated and wasn't
17 treated in this case.

18 THE COURT: And I understand. I've so noted your
19 objection for the record.

20 MS. POPOWSKI: Thank you.

21 THE COURT: All right. Tell me about the broken
22 nail.

23 MS. WELLMAN: Your Honor, they specifically looked
24 at her hands. She has one nail that was broken. That was
25 examined and photographed and she just says that happened

1 during the assault. It's a physical change to her body
2 and they would have looked. Did it break all the way
3 back? You know, it's just another part of the thorough
4 exam that Your Honor has talked about repeatedly.

5 THE COURT: Okay. I'll be glad to hear from you on
6 it, Ms. Popowski.

7 MS. POPOWSKI: Again, Your Honor, it's inadmissible
8 hearsay. It's bolstering the victim's story. The victim
9 is gonna testify. It was not for the purpose of medical
10 diagnosis or treatment.

11 THE COURT: Okay. I'm gonna allow it.

12 How about -- Number 18 seems like is a repeat from
13 Number 5 also.

14 MS. WELLMAN: I'm fine with that, Your Honor.

15 THE COURT: Number 18 is out.

16 Number 19.

17 MS. WELLMAN: We sort of already talked about the
18 pain and the tenderness and I think Your Honor already
19 ruled that could come in. This is talking about sort of
20 the dating of the pain, age of the injury.

21 THE COURT: Puts a timeline on it.

22 MS. WELLMAN: Timeline. Yes, Your Honor.

23 THE COURT: Ms. Popowski?

24 MS. POPOWSKI: It's just redundant, Your Honor.

25 THE COURT: Got it. I'm gonna allow it.

1 How about B12 vitamins?

2 MS. POPOWSKI: No objection, Your Honor.

3 MS. WELLMAN: Your Honor, I think that's just --

4 THE COURT: I mean, what does that have to do with
5 medical diagnosis?

6 MS. WELLMAN: Your Honor, she is treated. You know,
7 for example, she's given medication for STD treatment.
8 They need to know what other medications you are on to
9 decide can we give you this medication.

10 THE COURT: You have no objection to her being on
11 B12 and allowing that in; is that right, Ms. Popowski?

12 MS. POPOWSKI: Your Honor, again, I'll just renew
13 all of my objections that it's inadmissible hearsay,
14 bolstering of the victim's story. It prevents my client
15 from having a fair trial and due process.

16 THE COURT: I'm taking out Number 20.

17 MS. POPOWSKI: Thank you.

18 THE COURT: Okay. That takes care of all of the
19 statements.

20 So to be clear, and for the record, Number 1 comes
21 in, Number 3 comes in, Number 5, 7, 8, 9, 10, 13, 14, and
22 17 and 19. Those are the statements that are coming in.

23 MS. POPOWSKI: I started listing them at 5. What
24 was --

25 THE COURT: I'm sorry. I'll do them one more time.

1 Number 1, Number 5, Number 7, Number 8, Number 9,
2 Number 10, Number 13, Number 14, Number 17 and Number 19
3 all come in.

4 MS. WELLMAN: Your Honor, I think you skipped
5 Number 3 when you --

6 THE COURT: Yes, Number 3. I'm sorry. Number 3
7 does come in. I think I stated them all. We've been
8 through them.

9 Ms. Popowski, your objection to the ones that I'm
10 letting in is so noted for the record.

11 MS. POPOWSKI: Thank you, Your Honor.

12 THE COURT: And just for my ruling, I find that all
13 the statements the State intends to introduce provide the
14 doctor or the SANE nurse with specific areas to focus on
15 or specific conditions to search for when performing her
16 SANE examination and they are pertinent to the diagnosis
17 and treatment of the victim.

18 Now is that all the -- no, I've got flight.

19 All right. Let me hear from the State on the
20 evidence of flight. I've read some stuff on flight.
21 There's a recent case also, a 2023 case.

22 (Court's Exhibit Number 3 was marked for
23 identification.)

24 MS. WELLMAN: Is that State v. Middleton?

25 THE COURT: I want to make sure that I understand.

1 What I read is you-all want to use evidence of a bench
2 warrant to show that he was in flight?

3 MS. WELLMAN: Not specifically, Your Honor. So the
4 defendant was -- and if I may approach, I have a Court's
5 exhibit, and I have a whole packet for the defense as
6 well.

7 This is Court's Exhibit 3, if I may approach?

8 This is the notice and motion for revocation of bond
9 and the fact that the defendant was served with that.

10 Your Honor, as a condition of his bond for these
11 specific charges, the ones for which he will be on trial,
12 was that he wear a GPS monitor. Subsequently, he was
13 arrested for another offense, an unrelated charge of
14 domestic violence in the third degree. The State is not
15 interested in having the jury hear that at all.

16 THE COURT: No, it's not coming in.

17 MS. WELLMAN: I wanted to make that very, very
18 clear; however, the State did file a motion to revoke
19 his bond based on subsequent arrests. What we want to
20 do is just say he had a court hearing. He had to come
21 to court for these specific charges. We're not going
22 into why. We're not gonna look at if we wanted to revoke
23 his bond or anything like that, but then at 8:36 that
24 morning, less than half an hour before he was supposed
25 to appear for court, the defendant cut off his ankle

1 monitor, he threw it into the woods and then ran to
2 Montana where he was arrested almost two months later
3 after running --

4 THE COURT: Is that after the criminal domestic
5 violence charge?

6 MS. WELLMAN: Yes, Your Honor. Our issue though --
7 and I know there is State v. Middleton, okay? State v.
8 Middleton is very, very different from this case in that
9 they've highlighted some -- three very specific things.
10 One, in State v. Middleton, the defendant in that case
11 didn't even know that there was a -- that a crime had
12 actually been committed. Here, the defendant was facing
13 being taken into custody on these specific charges, okay?
14 So that's the first issue with Middleton, and I did hand
15 up Middleton to the Court.

16 THE COURT: I've read Middleton.

17 MS. WELLMAN: The second issue there, Your Honor,
18 is the Middleton court talks about a difference between
19 action and inaction. In Middleton, the defendant just
20 didn't show up for an interview with law enforcement.

21 THE COURT: Right.

22 MS. WELLMAN: That's inaction. In this particular
23 case, when the defendant was at risk of being taken back
24 into custody on the charges for which we're here for this
25 week, he took action. He cut off that ankle monitor, he

1 threw it into the woods and then he ran completely across
2 the country. He was gone for two months. That is action.
3 That's very, very different from Middleton.

4 And the third thing that they really talked about
5 in Middleton is the chain of inferences that you have
6 to look at, okay? The Middleton court specifically
7 highlighted completely innocent reasons why that defendant
8 just didn't want to come talk to the cops. For example,
9 maybe he didn't want his wife or girlfriend to realize
10 he may or may not have had sex with the victim. In
11 this particular case, there's only one possible logical
12 inference as to why when he's coming to court for these
13 charges and at risk of being taken into custody on these
14 charges he cuts off his ankle monitor. That action right
15 there shows you his intent. He intended to run from
16 prosecution for these charges, which is the typical
17 flight case.

18 Your Honor, every typical flight case talks about
19 running from prosecution. The fact that he cut off his
20 ankle monitor shows his intent. He wanted to run and he
21 wanted to make sure no one found him.

22 THE COURT: Well, in this -- you're telling me he
23 was actively fleeing?

24 MS. WELLMAN: Yes, Your Honor. And he was fleeing
25 being taken into custody --

1 THE COURT: Knowing --

2 MS. WELLMAN: -- on these charges.

3 THE COURT: Knowing he had a motion to revoke his
4 bond for his new charges because of these pending
5 charges?

6 MS. WELLMAN: I think the issue was though we
7 weren't touching the domestic violence. He was already
8 out on bond for those charges. He was served with the
9 State's motion while he was still in custody for those
10 charges.

11 THE COURT: But it was a motion to revoke bond,
12 right?

13 MS. WELLMAN: Correct, Your Honor.

14 THE COURT: Because he had been rearrested for the
15 domestic violence?

16 MS. WELLMAN: But the whole point, Your Honor, is
17 he cut off his ankle monitor and ran from these charges.
18 He was at risk of being taken into custody for these
19 charges and I think you can logically argue -- there's
20 only one way to possibly argue that he intended to flee
21 from this case, and that's why the State is looking to
22 introduce it.

23 We're fine with limiting the testimony. I agree
24 with the Court 100 percent the fact that there was
25 another pending charge is completely irrelevant and it

1 does not belong in this courtroom and in this trial.
2 The fact that he -- we were looking to revoke his bond,
3 I can see that that might be overly prejudicial, but the
4 fact that he ran from a court date for these charges,
5 that is what makes it relevant.

6 And, Your Honor, we did have to get the fugitive
7 task force involved and we would even not go into the
8 fact that he ran from the cops in Montana, but the
9 fugitive task force and the U.S. Marshals Office did
10 have to send out a collateral lead and actually go to
11 Montana to take this defendant into custody on these
12 charges.

13 THE COURT: Let me hear from you, Ms. Popowski or
14 Mr. Mauldin.

15 MR. MAULDIN: Thank you, Your Honor.

16 I have a little packet I'll make a Court's exhibit
17 to this.

18 (Court's Exhibit Number 4 was marked for
19 identification.)

20 MR. MAULDIN: The rest of the information may be
21 found in the clerk file since it involves the warrants
22 and the bond and that sort of thing.

23 Your Honor, this incident, of course, is alleged
24 to have occurred on the evening of October 12th of '21
25 and maybe peeking a little into midnight on the 13th.

1 He was arrested the very next day at his residence and
2 he posted -- that was on the 13th and he posted bond in
3 March. The docket reflects that he hadn't got an attorney
4 and they noticed him to court twice; once on May 12th and
5 once on June 13th. He showed up out on bond to court on
6 those two dates, then after that is when the motion to
7 revoke his bond was filed. He failed to appear for that
8 hearing and a bench warrant was issued.

9 I don't -- the importance of the case to decide is
10 not whether or not inaction versus action, it's a very
11 good distinction of the nexus between the flight and the
12 charges, and in that case I think they speculated maybe
13 he didn't want his wife to find out about it or maybe
14 he didn't want this person to find out, and it wasn't
15 evidence on the record, it was just showing that the
16 State didn't clear and convincingly prove the nexus
17 between the flight and guilt of the charge.

18 Here he's out on bond for the charge, he shows up
19 twice to court. He only doesn't show up when it says
20 that he'll have to be put back in jail and basically just
21 sit in jail until a dispositional date, which I guess now
22 would be -- I forgot when he gets picked up, but around
23 about a year just sitting in jail. I don't think that
24 the nexus goes as to the guilt of the charge, but it's
25 readily conceivable and more likely that he just didn't

1 want to be sitting in jail until the resolution of the
2 charge and since they can't prove that nexus by clear
3 and convincing evidence, I don't think it comes in. The
4 prejudice outweighs the probative value and it violates
5 his right to a fair trial under the Sixth Amendment U.S.,
6 Article 1, Section 14 of South Carolina, and his due
7 process for a fair trial under the Fifth and Fourteenth
8 U.S., and Article 1, Section 3 South Carolina.

9 THE COURT: Well, let me ask you this, Mr. Mauldin.
10 Would you agree with me that he had knowledge that he was
11 being sought by the authorities?

12 MR. MAULDIN: Well, I reckon he would have, but I
13 don't think they have anybody to testify about his actions
14 in Montana, although we do say that they did go up there
15 to pick him up. But then again it's the nexus between
16 whether or not it's because of guilt of the charge versus
17 some other rationale and the other rationale would be
18 sitting in jail waiting for a disposition.

19 THE COURT: Let me ask you this, Ms. Wellman,
20 because there's also a case -- there's a Robinson case.
21 I'm looking at my notes.

22 MS. WELLMAN: I did hand up Robinson to Your Honor.

23 THE COURT: Evidence of flight should be excluded
24 when the flight is clearly linked to a separate offense
25 for which the defendant is not on trial.

1 MS. WELLMAN: Uh-huh.

2 THE COURT: He goes and he picks up a separate
3 offense of domestic violence. That, in and of itself,
4 does a bond revocation, the basis, not these charges.
5 Well, I guess they're pending.

6 MS. WELLMAN: I guess the point, Your Honor, is he
7 didn't run from the DV charge, he ran from these charges
8 specifically.

9 And with Robinson, for example, you know, that case
10 when it's clearly -- the evidence should be excluded only
11 when it is clearly linked to something else entirely
12 separate. In Robinson, the defendant was charged with
13 armed robbery. He heard he was the suspect in another
14 murder case and then he ran after that.

15 THE COURT: Did he get out on bond on the domestic
16 violence?

17 MS. WELLMAN: This defendant? Yes, he did, and then
18 he fled -- he didn't flee until he was gonna have to come
19 to court on these charges.

20 So with Robinson the Court actually --

21 THE COURT: But was there a trial date? Was he
22 running from the trial date or the revocation of bond?

23 MS. WELLMAN: The revocation of bond.

24 But in Robinson, Your Honor, there wasn't a trial
25 date, there wasn't any court date. The fact is that

1 what Robinson said -- and I want to make sure I get
2 this language correct just for the Court. They said
3 the knowledge of another charge might have somewhat
4 attenuated the argument -- or the guilty mind, but not
5 enough to exclude it.

6 They're welcome to argue that he ran from whatever
7 -- for another reason, but there is evidence in Robinson
8 just as there is here that it is clear -- that he was
9 clearly running from the charge for which he is on trial.
10 So the fact that he was aware of another charge, that
11 doesn't necessarily preclude the Court from admitting the
12 evidence. It's still relevant.

13 THE COURT: And these charges are the basis really
14 for the revocation because he had these pending charges
15 and then he goes out and commits another crime?

16 MS. WELLMAN: Yes. And I think had he not cut off
17 his ankle monitor, the argument that it's not evidence of
18 guilty knowledge might be a little stronger, but the fact
19 that he cut off his ankle monitor for these charges. He
20 didn't have an ankle monitor for the other ones. He had
21 an ankle monitor for these charges. That really shows his
22 intent, his intent to flee prosecution and apprehension
23 on these specific charges.

24 THE COURT: Okay. Anything else, Mr. Mauldin?

25 MR. MAULDIN: Well, I really think the legal basis

1 was stated by me very well previously; however, this would
2 open the door for any time somebody gets a bench warrant
3 for a case that that's evidence of flight. There was no
4 trial date as you said. It was not a dispositional
5 hearing. It was a hearing to revoke his bond.

6 Again, I point to Middleton. It's about the nexus.
7 And the Middleton case didn't say oh, well, Middleton
8 could argue to the jury that he didn't want his wife to
9 find out. It said no, that evidence doesn't come in
10 because they hadn't proved it by clear and convincing.
11 It didn't -- it didn't say harmless and he could argue
12 on his own during the defense and X, Y, Z. It said it
13 didn't come in because they didn't prove the nexus that
14 it was clear and convincing that the flight was attributed
15 to the guilt for those charges.

16 MS. WELLMAN: Your Honor, Middleton really doesn't
17 apply to this particular situation. It lays out a
18 framework for discussion of flight evidence, but the
19 situations are so very, very difficult. Middleton almost
20 -- it doesn't get you there and his argument that --

21 THE COURT: Well, I'm not just relying on Middleton.
22 I'm also looking at the Pagan case. I'm also looking at
23 Robinson. Because I've read those cases.

24 MS. WELLMAN: I do think it's relevant. In Robinson,
25 the Court did say that evidence was properly admitted and

1 I think that case is very similar to what we have here.

2 THE COURT: I'm just trying to find the nexus between
3 his flight and the current offense of these charges that
4 he's on trial for right now.

5 MS. WELLMAN: I think the issue is that he cut off
6 the ankle monitor for these -- he was on an ankle monitor
7 for these --

8 THE COURT: These charges.

9 MS. WELLMAN: These charges. Yes.

10 THE COURT: Not the domestic violence?

11 MS. WELLMAN: No, Your Honor. And I do have that
12 here if I may approach?

13 THE COURT: Because that goes to my other motion to
14 -- for you to introduce the GPS. This is for this case.

15 MS. WELLMAN: Yes, Your Honor. May I approach?

16 THE COURT: Yes, you may.

17 (Court's Exhibit Number 5 was marked for
18 identification.)

19 MS. WELLMAN: Your Honor, I'm marking this as
20 Court's 5. This whole packet is the defendant's
21 appearance packet for these charges and I just went
22 ahead and pulled out the order specifying methods and
23 conditions of release. It does specifically say here
24 -- let me make sure I get you the right pages.

25 Yes. Thank you.

1 Down here, defendant must have GPS monitoring prior
2 to his release. So that was specifically a condition of
3 his bond for these charges, and that's just right down at
4 the bottom there.

5 And I think it's highly relevant, Your Honor, that I
6 say again the defendant didn't cut off his ankle monitor
7 until less than half an hour before court for these
8 charges. The argument against letting this evidence might
9 be stronger if he had not cut off his ankle monitor for
10 these charges, but that right there talks about his intent
11 to flee these charges.

12 THE COURT: Okay. Anything else, Mr. Mauldin?

13 MR. MAULDIN: No. I don't think it's ankle monitor
14 specific. Basically a bond in and of itself is an ankle
15 monitor on the defendant if he doesn't show up to any
16 kind of court date, whether it be a rollcall or --

17 THE COURT: No, it's just a condition of bond.

18 MR. MAULDIN: Right, but legally it's an ankle
19 monitor on the defendant because if he doesn't show up to
20 court he gets a bench warrant. This is just something
21 extra. Again, I don't think that it really shows the
22 nexus of the guilt for this charge, that he's guilty of
23 this charge and his flight was indicative of guilt for
24 this charge versus he didn't want to have his bond
25 revoked and sit in jail until a disposition date.

1 MS. WELLMAN: Your Honor, that argument fails. He --

2 THE COURT: Because he left the State.

3 MS. WELLMAN: Because he ran for two months from
4 these specific charges. We're not talking about he just
5 failed to show up for court and got a bench warrant.
6 We're not talking about that at all. We're not saying he
7 forgot to show up for court. We're not saying that he
8 didn't have a ride or he got sick. We're saying he cut
9 off his ankle monitor and ran all the way across the
10 country so he could not be tracked and he wasn't coming
11 back until the U.S. marshals brought him back.

12 THE COURT: And they did?

13 MS. WELLMAN: Yes. Members of the fugitive task
14 force were sent by Sergeant Shannon Dykes and took custody
15 of this defendant in Montana and brought him back.

16 THE COURT: All right. I'm gonna find -- I'm gonna
17 allow it. I'm gonna find that he was on bond. He was on
18 GPS monitoring. Regardless of whether he gets arrested
19 for another crime, he cuts off his ankle bracelet and he
20 leaves the state. And I can only imagine that he had the
21 knowledge that he was being sought by authorities, and I
22 ask his counsel that. By cutting his ankle monitor and
23 jumping bond and leaving the state, I think creates the
24 inference that he had knowledge that he was being sought
25 by the authorities.

1 So looking at the totality of all of it, it makes
2 it a little complicated when I know that he's got another
3 -- he was arrested for another charge and was up for a
4 bond revocation hearing. I think that's another reason
5 why he might have left, but certainly not the only
6 reason. These pending charges are the basis for the
7 revocation hearing and I think that's gonna be a question
8 for the jury to decide, so I'm going to allow it.

9 By that ruling, that means I'm granting the GPS
10 records with the authentication for business records that
11 the State presented.

12 MR. MAULDIN: Well, I'd like to take a look at it
13 because it has the records going back for the whole
14 time he was on bond. Are you just doing the one page
15 where --

16 THE COURT: Did you not get a copy of it,
17 Mr. Mauldin? I'm sorry.

18 MR. MAULDIN: I did, but the copy -- the first page
19 of the copy talks about it being cut off. Yeah, that's
20 what they're showing me now, but this was actually the
21 first of like fifteen or sixteen pages. I didn't -- if
22 they're only doing --

23 THE COURT: I didn't get that.

24 MR. MAULDIN: No?

25 MS. WELLMAN: All of the other pages, Your Honor,

1 relate to the GPS tracking before the relevant date that
2 we're talking about when he actually cut it off.

3 MR. MAULDIN: Right. And if they were gonna put that
4 in, I would have objected to the relevance, but this
5 will be fine as far as compliance with the verification
6 statute. I'm still objecting. I don't think flight
7 should come in.

8 THE COURT: I agree, and so noted on my ruling for
9 flight --

10 MS. WELLMAN: Your Honor, I just want to make sure
11 that --

12 THE COURT: -- but no objection to the records
13 coming in is what he said.

14 MS. WELLMAN: Okay, Your Honor.

15 MR. MAULDIN: The mechanics. The fact --

16 THE COURT: Right.

17 MR. MAULDIN: The mechanics.

18 THE COURT: Right, but to my ruling on flight he's
19 objecting to.

20 MS. WELLMAN: And I just want to make sure I'm clear
21 on the Court's ruling. You're allowing testimony that
22 he was on bond for these charges, required to wear a GPS
23 monitor, that he cut that ankle monitor off --

24 THE COURT: And left the state.

25 MS. WELLMAN: -- and left the state and that he was

1 brought back?

2 THE COURT: I see absolutely no reason to talk
3 about another charge being domestic violence or a bond
4 revocation hearing. Unless somebody opens the door to
5 it, I just don't see the need for that.

6 MS. WELLMAN: And we're not -- I just want to make
7 it clear we're not looking to go there at all.

8 THE COURT: Yeah, I would find it irrelevant and
9 probably prejudicial to the client -- to the defendant,
10 okay?

11 All right. Now is that all of the State's motions?

12 MS. MAYES: No, Your Honor. We do have some
13 additional motions. We have obviously a photo lineup.
14 We're gonna have a Neils v. Biggers hearing that should
15 be fairly brief.

16 THE COURT: Okay.

17 MS. MAYES: We also have the motion that we filed
18 for admission of the res gestae evidence pursuant to
19 State versus McGee, and that has two prongs to it. One,
20 Your Honor, is that this victim was, the State alleges,
21 kidnapped here in Lexington County from inside her home
22 and at that time the defendant acquires a firearm, he
23 directs her to ride with him to an ATM machine here in
24 Lexington County. The State alleges he was in possession
25 of that firearm and then acquired her PIN number, and we

1 have video surveillance establishing that money is then
2 withdrawn from that ATM machine. He has already sexually
3 assaulted her inside her home by means of digital
4 penetration. At that point during the course of the
5 evening, he travels with her -- after acquiring that
6 money, he travels with her still in the car to some
7 area on Princeton Road here in Lexington County. He
8 purchases what we believe to be crack cocaine based on
9 the description of that. The victim sees him smoking
10 this substance. During the course of the evening, he's
11 then gonna travel with the victim still in the car across
12 the county line into Richland County. Once they enter
13 into Richland County, he is ultimately going to go to
14 an abandoned location. We know where that location is.
15 It's called Rabon Road. It's in northeast Richland
16 County. It's a former family residence of the Neeley
17 family, but it's abandoned and it's an abandoned lot.
18 She is then sexually assaulted at that location by
19 fellatio.

20 What is most significant about that sexual assault,
21 Your Honor, is that the victim wipes -- the victim wipes
22 afterwards with a napkin. That napkin contains semen.
23 The semen ultimately is a DNA match to the defendant in
24 this case. I think it's a one in 200 octillion DNA
25 match, so it's certainly relevant to establish the

1 on-going nature of the sexual assault, as well as the
2 identity of the perpetrator.

3 He then still in possession of this firearm returns
4 back to her residence in Lexington County. At that
5 point in time, Your Honor, he is going to make some
6 verbal statements to her directing her not to report the
7 crime, also making the statement that the bullet con --
8 that the gun contains a bullet for him and one for the
9 police. He then leaves her residence in larceny of
10 that firearm. The firearm belonged to her and came
11 from inside her residence. He does leave with it and
12 completes that larceny, as well as the burglary by
13 exiting out the front door of the home.

14 So we have a crime that began in Lexington, was
15 ongoing, continued to Richland, still remained on-going,
16 and then was completed in Lexington. So it certainly
17 fits the classic definition of res gestae under the law
18 and under McGee for an on-going chain of events where all
19 facts are necessary for the jury to understand the full
20 scope of the crime.

21 THE COURT: All right. Let me hear from you,
22 Mr. Mauldin.

23 MR. MAULDIN: All right. Res gestae is kind of
24 funky. It seems to be a wormhole through the rules of
25 evidence by most defense lawyers.

1 THE COURT: I think of it as telling a story so it
2 can make sense.

3 MR. MAULDIN: Well, I think part of the res gestae,
4 especially in McGee, they talked about that one crime
5 or one bad act can't be fully shown without proving the
6 other, and here she talked about ID from the semen.

7 Well, the lady knows him. One, ID, there's a
8 fingerprint. Two, ID, on the car that he used. Three,
9 there's a photo lineup. Three types of ID. So I don't
10 think the semen is necessary for ID. Their allegations
11 are a digital penetration at the home in Lexington.
12 I don't think semen is necessary to prove digital
13 penetration because as far as I know I've never heard of
14 semen coming out of digits, finger digits. So I don't
15 think that the alleged behavior in Richland County is
16 necessary for them to prove the case here, that the case
17 here can't be fully shown without showing Richland County.
18 They don't need semen to prove digital penetration. The
19 ID, they've got all kinds of evidence to show the ID.
20 They don't need semen to do that.

21 So we would object to any mention of any kind of
22 behavior in Richland County and that would include any
23 -- any mention of that behavior in the statements to
24 the SANE nurse as well. That it's not relevant, the
25 prejudice outweighs the probative value, it doesn't fall

1 under 403 or res gestae and it deprives him of the right
2 to a fair trial under the Sixth Amendment U.S., Article 1,
3 section 14 S.C., and due process under the Fifth and
4 Fourteenth Amendment U.S. and Article 1, Section 3
5 South Carolina.

6 MS. MAYES: And if I may respond, Your Honor?

7 THE COURT: Yes.

8 MS. MAYES: Again, we're talking about a full
9 presentation of facts and specifically, as McGee has
10 proposed, when we have an uncharged offense such as what
11 we have in Richland County, if it is so linked together
12 in time and circumstances with the charge that he is on
13 trial for, then one is necessary to prove the other.
14 That is exactly what we have here.

15 So we have a sexual assault that occurs in her home,
16 but then it's on-going. Part of it is gonna happen in
17 Richland and that's the part where the DNA occurs.

18 THE COURT: And then he brings her back home.

19 MS. MAYES: Then he brings her back home. And as
20 the defense alleged, you know, there's other ways to
21 prove identity, we can't control whether or not the
22 defendant testifies in this case. He may not testify.
23 And there are so many factors of this case where the DNA
24 alone is significant and probative to our case outside
25 of other forms of identity. Yeah, she can identify the

1 defendant, but that doesn't mean the defendant committed
2 a crime or that the defendant committed a sexual assault.

3 THE COURT: Right.

4 MS. MAYES: His fingerprints might be on her car,
5 but he did yard work for her. He had been at her home
6 previously to this because he had worked on her lawn, so
7 there are many ways they can explain those fingerprints
8 on the car. We're talking about semen on a napkin from
9 inside her car that is recovered directly related to the
10 sexual assault. That's the only way we can prove a sexual
11 assault in this case. So it is highly probative, Your
12 Honor, in this particular case.

13 MR. MAULDIN: I've got to respond to that, Your
14 Honor. If they are saying that the only way they can
15 prove a sexual assault is semen, then I better not have
16 any kind of CSC with a minor case involving digital
17 penetration without semen. If they say that's the only
18 way they can prove that, that --

19 MS. MAYES: Identity. What we said is that's the
20 only way we can prove identity and the match on that,
21 again, is 1 in 200 octillion on the DNA from the napkin.

22 MR. MAULDIN: And, secondly, McGee, the truck that
23 was the bad act, it was left very near the murder scene
24 and, number two, it showed that he had access to the rod
25 which could have been the murder weapon. That's how that

1 ties in; that they proved the murder by showing he had
2 access to the rod in the back of the truck. I don't
3 think semen proves a digital penetration. And, again,
4 they've got all these other methods of proving ID.

5 MS. MAYES: Again, this is an on-going sexual
6 assault. The evidence will be that he makes it clear he
7 intends to have sex with the victim. She fights him off
8 at her home. He's able to accomplish a sexual battery by
9 means of digital penetration, but it costs her her own
10 health. She was severely beaten. She was seventy-four
11 years of age, Your Honor. She's covered in bruises from
12 head to toe. So she's severely beaten when she fights
13 him with the sexual battery being the digital penetration,
14 but he doesn't stop there. He then insists on completing
15 that sexual assault over the course of the night and
16 ultimately he does so with a gun to her head in Richland
17 County and the gun that he used to commit that crime was
18 her gun he stole from her house in Lexington County. The
19 place where it occurs is inside her vehicle that he has
20 driven from her home in Lexington County. It is the
21 classic definition of res gestae, Your Honor, of McGee.

22 THE COURT: Anything else, Mr. Mauldin?

23 MR. MAULDIN: No, Your Honor.

24 THE COURT: All right. Ms. Mayes, I agree with you.
25 I think it's necessary to present a full presentation

1 of the case. It's intimately connected with the crime
2 that he's charged with, so I'm gonna allow it under the
3 res gestae.

4 All right. Any other motions besides the Neil v.
5 Biggers from the State?

6 MS. MAYES: Your Honor, the second part of the
7 State's res gestae motion that was set forth is that
8 after acquiring the money from the ATM, it's \$200.00, he
9 then is going to purchase drugs on Princeton Road here
10 in Lexington County. He does that with the victim still
11 in the car.

12 THE COURT: Okay.

13 MS. MAYES: She observes him acquire the drugs and
14 consume the drugs, and set forth in our motion the State
15 intends to offer that as well, all res gestae, and it
16 explains not only the motive and intent for taking the
17 money, but ultimately what happened to the money and why
18 it's not recovered during the course of a later search
19 warrant.

20 THE COURT: Mr. Mauldin.

21 MR. MAULDIN: Well, as to the things that happened
22 in Lexington County, far as the kidnapping we have no
23 objection to that. It's the unrelated second CSC over
24 in Richland that we're objecting to.

25 THE COURT: Okay. And so noted for the record.

1 I'm allowing it, Ms. Mayes.

2 MS. MAYES: Your Honor, we're prepared to go forward
3 on the Biggers hearing with Agent April Sykes.

4 THE COURT: Okay. Let me just ask a couple of
5 things before we get there so maybe I can hit some of
6 the defense's pre-trial motions because I didn't hear
7 anything from the State.

8 There's a motion to suppress the 9-1-1 call.

9 MS. MAYES: So, Your Honor, we actually have already
10 made redactions to the 9-1-1 call. We have supplied a
11 copy of that to the defense. It has been redacted so
12 that the only references to the assault itself are in
13 regards to time and place properly admitted under rules
14 of evidence 801(d)(1)(D) as an exception to hearsay
15 regarding time and place, and so that has been properly
16 redacted and we've supplied a copy.

17 THE COURT: Any objection to the redacted copy,
18 Mr. Mauldin?

19 MR. MAULDIN: I'll have to listen to it again. I
20 tried to listen to it this morning and it seemed to be
21 the full one. I might have accidentally -- I'm not very
22 computer savvy, Your Honor, but I clicked on the one in
23 the e-mail and I don't know if it somehow went to my old
24 one or whatever.

25 MS. POPOWSKI: I listened as well. It was the full

1 9-1-1.

2 THE COURT: Okay. Well, we're gonna -- is it short,
3 Ms. Mayes?

4 MS. MAYES: It is, Your Honor. It has been redacted
5 significantly. This would be, I believe, Court's 2 or
6 Court's 3.

7 THE COURT REPORTER: 6.

8 MS. MAYES: Court's 6?

9 THE COURT REPORTER: Yeah, 6.

10 THE COURT: Okay. Let's go ahead and listen to it
11 then.

12 (Court's Exhibit Number 6 was marked for
13 identification.)

14 MS. MAYES: And, of course, beyond that, Your
15 Honor, foundation will be laid as a business record as
16 we ordinarily do with custodians of records with the
17 Lexington County Communications Center.

18 THE COURT: Okay.

19 (Court's Exhibit Number 6 was played.)

20 THE COURT: All right. That's the redacted 9-1-1
21 tape. Is there any objection to that, Mr. Mauldin?

22 MR. MAULDIN: Yes, Your Honor.

23 THE COURT: And the basis for your objection?

24 MR. MAULDIN: It's hearsay for Ms. McMillan.

25 I'd like Your Honor to look at the case of State v.

1 Hendrix, 408 S.C. 525. That's the case where a young
2 lady was attacked and she called her mother right after
3 and told her mother what happened and then she came over
4 to her mother's house and then her mother called 9-1-1
5 and they said the mother's call to 9-1-1 did not come in
6 because it was hearsay. It wasn't excited utterance and
7 it had --

8 THE COURT: Give my the cite on that case.

9 MR. MAULDIN: 408 South Carolina 525.

10 MS. MAYES: And, again, we'll have to see the case
11 if we don't have copies of it supplied by counsel, but
12 there are certainly --

13 MR. MAULDIN: I can make copies in the back.

14 MS. MAYES: -- other exceptions here. We have the
15 business records exception and then the time and place
16 exception would cover anything that would have been
17 stated during the course of the 9-1-1 call.

18 The other thing is that this witness, Brenda
19 McMillan, is going to testify. This is going to be
20 offered and authenticated through her as opposed to a
21 scenario where we would be offering it without the
22 witness.

23 MR. MAULDIN: Well, if she's gonna testify, why do
24 they need to bolster her with this and add cumulative
25 evidence that's hearsay?

1 MS. MAYES: So the admission of 9-1-1 calls is
2 standard in almost every criminal prosecution. It is
3 not bolstering. There are exceptions created exactly for
4 this scenario. Again, business records exception, as
5 well as the time and place exception.

6 MR. MAULDIN: Well, the time and place would be as
7 to Ms. Branham, not to Ms. McMillan.

8 MS. MAYES: Time and place allows Ms. McMillan to
9 testify to anything told to her by the victim regarding
10 time and place of the sexual assault.

11 MR. MAULDIN: Yes, on the stand; not through the
12 9-1-1 is our position.

13 MS. MAYES: It does not preclude it from coming in
14 under a 9-1-1 call.

15 (Pause in proceedings.)

16 MS. MAYES: Okay. I'm looking at the case now.

17 THE COURT: I am, too. They're trying to get it in
18 under -- they talk about present sense. They talk about
19 excited utterance.

20 MS. MAYES: And then clearly, Your Honor, it looks
21 like they are going well beyond time and place and getting
22 into specific details of the assault.

23 THE COURT: Describing the rape itself.

24 MS. MAYES: That's correct, and we have made proper
25 redactions so that we're not dealing with that scenario.

1 We only have time and place. She had noted that she
2 obviously can see that the victim has bruises. She's
3 there with her at the house. She can visualize the
4 injuries because they were pretty much all over her
5 body, but when it comes to the actual assault she only
6 says that it happened last night, so she's able to
7 give --

8 THE COURT: And gives the time of what she thinks
9 happened.

10 MS. MAYES: Yes.

11 THE COURT: I didn't hear any description or
12 anything. She trying to get this in under 801(d)(1)(D).

13 MR. MAULDIN: Well, Your Honor, I would say that
14 this is not a 9-1-1 call that would go out to where they
15 actually need to have an emergency and go out and assist
16 somebody. Obviously the events ended at midnight. This
17 call was made at nine in the morning. The 9-1-1 call
18 wasn't to assess an emergency and address an emergency.
19 This was merely a call made to commence prosecution on
20 the case. And I don't think that 9-1-1 calls should be
21 considered business records exceptions just -- just the
22 way police reports aren't business records.

23 MS. MAYES: The recordings are maintained in the
24 ordinary course of business and it's a common means of
25 admitting them, but beyond that, Your Honor, the

1 importance of the 9-1-1 call is it explains the
2 circumstances of the report to law enforcement and it
3 goes back to where, as I said a few moments ago, when
4 the defendant was exiting the victim's home with the
5 firearm he makes a specific threat to her, and she knows
6 that she is not to report this crime. There was a delay.

7 We are only on Monday, but I can state with
8 confidence that we have not heard the last of the fact
9 that there is a delayed report in this case and that the
10 report to law enforcement is the following morning at
11 approximately 9 AM. I am fully confident that at some
12 point the defense will raise that issue that there is a
13 delayed report and this 9-1-1 is probative and necessary
14 to the State's case because it explains the circumstances
15 under which the 9-1-1 call is ultimately made. The
16 friend comes over to check on Ms. Branham and together
17 the 9-1-1 call is made.

18 THE COURT: Okay. Anything else, Mr. Mauldin?

19 MR. MAULDIN: Again, they have Ms. McMillan coming
20 in to testify. The tape is hearsay. Her testifying is
21 not hearsay is what I'm saying. It's a prior consistent
22 statement.

23 MS. MAYES: Which is a recognized exception to
24 hearsay under 801(d)(1)(D).

25 MR. MAULDIN: Only if there's an allegation of

1 recent fabrication.

2 THE COURT: Okay. So noted -- your argument is
3 so noted for the record. I'm allowing it under
4 801(d)(1)(D) as to time and place. The State has
5 played their redacted 9-1-1 call. I didn't hear any
6 description of what happened, only time and date.

7 MR. MAULDIN: She described it as an attack so
8 something happened.

9 THE COURT: She did say it was an attack, it was
10 not a kidnapping or rape. There's no detail to it. So
11 I'm gonna allow it.

12 All right. Let me go to this motion to suppress
13 text messages. I haven't seen any text messages.
14 I'm kind of in the dark here. I don't know exactly,
15 Mr. Mauldin, what kind of text messages there are. I've
16 got exactly one sentence.

17 MS. MAYES: Your Honor, I will pass up a -- this
18 will be a Court's exhibit as well. I believe we're now
19 on Number 7. This is a redacted version of a text chain
20 between two witnesses who will both be testifying in this
21 case. But, again, it supports or corroborates the events
22 as they occurred.

23 This would be Court's 7.

24 (Court's Exhibit Number 7 was marked for
25 identification.)

1 MS. MAYES: This is a communication. In blue we
2 have Brenda McMillan. That is the friend that called
3 9-1-1. She states I will be there at nine. The victim
4 says thanks, I have not called the police. I hope you
5 will when you come here. She says okay.

6 Again, this corroborates the circumstances under
7 which the 9-1-1 call is made, but it is not hearsay
8 because both witnesses are testifying and authenticating
9 the text message between them.

10 THE COURT: Okay. Any objection if they're both
11 testifying and they're authenticating their own messages,
12 Mr. Mauldin?

13 MR. MAULDIN: Well, when I did the motion it was
14 before this was redacted. There was a lot -- a lot more
15 prejudicial stuff.

16 THE COURT: Right, and I see where it's been
17 redacted.

18 MR. MAULDIN: Because -- and I just want to note
19 for the record just because somebody's testifying doesn't
20 mean another statement they gave is not hearsay because
21 a prior consistent statement made by a witness is
22 considered hearsay unless there is an allegation of
23 recent fabrication. That's in the rule. That's the
24 definition. So just because somebody -- I just wanted
25 it made clear for the Court just because somebody's

1 testifying doesn't mean a statement they made is not
2 hearsay.

3 THE COURT: Okay. Well, she's saying she's gonna
4 be able to authenticate --

5 MR. MAULDIN: But, like I said, no problem with
6 this. The motion was made before I received the redacted
7 version.

8 THE COURT: Okay.

9 All right then. We'll move on from that. Any time
10 you feel like you need to during the trial renew these,
11 please feel free to do so.

12 MR. MAULDIN: Well, I think it's incumbent upon me
13 to do so, Your Honor.

14 Can we have a little five-minute break? We've been
15 going for a while.

16 THE COURT: We can, and then I'm gonna come back
17 with your Number 3, Number 4. Number 5 I've taken care
18 of. I don't know anything about Number 6.

19 MS. MAYES: Well, we may be able to move this along
20 a little bit quicker, Your Honor. As to Number 3, again,
21 that is time and place only. We recognize that.

22 There is nothing coming in other than time and place
23 under 801(d)(1)(D). That is a standalone exception to
24 hearsay. It in no way is affected under the theory of
25 prior consistent statements versus impeachment on prior

1 inconsistent statements. That is a standalone exception
2 to hearsay in criminal sexual conduct cases, we recognize
3 that, and we're only offering time and place as to
4 Number 3.

5 THE COURT: Any objection?

6 MR. MAULDIN: I just don't want it -- again, like
7 the 9-1-1, I don't want any -- something happened to me
8 last night at my house.

9 THE COURT: Okay. There's not gonna be any
10 description?

11 MS. MAYES: So the way it's presented in all of the
12 criminal sexual conduct cases that we prosecute is the
13 witness is posed a question and it's yes or no. Can you
14 tell us whether or not the victim reported a sexual
15 assault? It's yes or no. What is the time or timeframe
16 of the assault that was reported and what is the place
17 or location, and that is it.

18 THE COURT: Any objection, Mr. Mauldin? I'll let
19 you object --

20 MR. MAULDIN: I reckon not. Like some of this is
21 prophylactic, Your Honor.

22 THE COURT: Yeah, and some of it, you know, we might
23 need them to testify.

24 MR. MAULDIN: Right.

25 THE COURT: And you can certainly renew any

1 objections that you have, but I'm allowing that.

2 Number 4, is that the same thing?

3 MS. MAYES: And, Your Honor, I believe Number 4 is
4 premature. This would cover the victim's testimony
5 and it's impossible at this time to say whether or not
6 the door may be opened on redirect to prior consistent
7 statements because we haven't heard the cross-examination.
8 I think we would just have to wait and hear how the
9 testimony went before we could even determine whether or
10 not any prior consistent statements would be admissible.

11 MR. MAULDIN: I'm just not wanting the State during
12 their direct "and that's what you told the cops" and
13 "that's what you told so and so". That's what that
14 motion's for. Obviously if a door is open, then the door
15 is opened.

16 THE COURT: All right. Then we'll wait until we
17 hear the testimony.

18 MR. MAULDIN: But the first part of four is the
19 specific statement that we believe that is not necessary.

20 MS. MAYES: Absolutely not. There's never been any
21 attempt to offer that portion.

22 MR. MAULDIN: And I'm just going off the discovery
23 I received, Your Honor, when I'm making these motions.

24 THE COURT: Right. I understand, Mr. Mauldin. No
25 problem. She says she's not offering that.

1 MR. MAULDIN: Okay. Then that --

2 THE COURT: But if something comes up and you want
3 to object to it during trial, please feel free to.
4 Sometimes it's hard to rule on these motions when we
5 don't have testimony.

6 MR. MAULDIN: And specifically, for the record,
7 that's where alleged victim, Ms. Branham, said the
8 defendant had said to her during the night I'm not
9 going back to jail, which implies there was a previous
10 incarceration of the defendant, which is a bad act, and
11 the State says they're not intending to have her enter
12 such statement by the defendant.

13 THE COURT: Okay. We'll wait and see what the
14 testimony is, which is probably true for Number 6.

15 MS. MAYES: And, Your Honor, that is the defendant's
16 former girlfriend. She has been subpoenaed in this case.
17 We don't know whether or not she's even gonna be offered
18 as a witness. I think it's premature at this point to
19 make that determination.

20 THE COURT: Okay. We're gonna wait and see what
21 happens and we'll take that up, Mr. Mauldin.

22 MR. MAULDIN: All right.

23 THE COURT: And Number 5 is taken care of.

24 Do you want to take quick break and come back and
25 do the Neil Biggers hearing?

1 MR. MAULDIN: And the Jackson Denno.

2 THE COURT: And the Jackson Denno.

3 MS. MAYES: And we don't believe Denno is even
4 necessary, Your Honor. It was a very brief statement.
5 It was self-serving. The State is not offering it.

6 MR. MAULDIN: Well, there we go.

7 THE COURT: Okay. No Jackson v. Denno.

8 Let's take a quick break and we'll come back and
9 do Neil v. Biggers, okay?

10 (Recess taken at 4:08 PM.)

11 (Back on the record at 4:20 PM.)

12 (Court's Exhibit Number 8 and 9 were marked for
13 identification.)

14 THE COURT: Okay. Let's do the Neil v. Biggers
15 hearing.

16 MS. MAYES: The State calls agent April Sykes.

17 (Whereupon, April Sykes was duly sworn, by the
18 Clerk of Court.)

19 THE CLERK: If you'll have a seat up there. If
20 you'll state your name and spell your you last name for
21 the record.

22 THE WITNESS: My name is April Sykes S-Y-K-E-S.

23 APRIL SYKES,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION (In-Camera)

1 BY MS. MAYES:

2 Q. Good afternoon, Agent Sykes. Tell us where you're
3 currently employed.

4 A. I'm a lieutenant with the South Carolina Law
5 Enforcement Division.

6 Q. All right. And before you came to SLED, how many
7 years of experience did you have as law enforcement?

8 A. I have a total of twenty-two years, so whatever eight
9 is minus that. Fourteen.

10 Q. All right. And you've been with the State Law
11 Enforcement Division for how long?

12 A. Almost ten years.

13 Q. All right. Agent Sykes, did you have an opportunity
14 to respond to the residence of Glenna Branham on
15 October 13, 2021?

16 A. Yes, ma'am.

17 Q. And that was for what purpose?

18 A. We had a call for assistance. South Congaree Police
19 Department asked the South Carolina Law Enforcement
20 Division to assist them with a case and to also assist them
21 with crime scene measures.

22 Q. Okay. I'm gonna need you to speak up a little bit
23 louder.

24 So you arrived to the victim's residence. Was she
25 still there at that location?

1 A. Yes, ma'am.

2 Q. Did you have an opportunity to interview her one on
3 one?

4 A. Yes, ma'am.

5 Q. Was she able to provide you a name of her assailant?

6 A. Yes, ma'am.

7 Q. Now how is it that -- based upon your investigation
8 in this case, did she appear to know the name of the
9 assailment?

10 A. She had met the assailment through the Nextdoor app.
11 She had advertised some tea olive trees and the assailment
12 and his girlfriend appeared at her residence. She had met
13 with him multiple times face-to-face prior to the day of
14 the assault.

15 Q. And did that include doing yard work for her?

16 A. I believe he was gonna work on her sprinkler system.

17 Q. Sprinkler system. So based upon your investigation,
18 she had had contact with the alleged perpetrator in this
19 case on one occasion or more than one occasion prior to the
20 assault?

21 A. More than one occasion.

22 Q. And did she know him by name and was able to provide
23 you with that name?

24 A. She did.

25 Q. Now once you were provided with a name, what efforts

1 did you take with the assistance of your Fusion Department
2 to create a photo lineup?

3 A. So our Fusion Department, they have an intel unit that
4 typically does all of our photo lineups for us. So they
5 developed a photo lineup for me, it was brought to my
6 location, and I was able to show it to the victim.

7 Q. All right. And I'm gonna show you what is currently
8 marked as Court's Exhibit 9 and ask you whether or not
9 you're familiar with this document? It's a two-page
10 document. Does Court's Exhibit 9 contain the photo lineup?

11 A. Yes, ma'am.

12 Q. How many individuals are in that lineup?

13 A. Six individuals.

14 Q. All right. And then what is the cover sheet?

15 A. It's the affidavit of photograph identification that
16 SLED uses.

17 Q. All right.

18 MS. MAYES: Court's Exhibit 9, Your Honor, if I may
19 approach the bench.

20 THE COURT: Sure. Thank you.

21 BY MS. MAYES:

22 Q. Now you mentioned the cover sheet that goes with that.
23 Prior to showing a photo lineup to any witness, what are
24 the parameters that you go over with the person who will be
25 viewing the photo lineup?

1 A. So it's my policy and common procedure to always when
2 I sit down with somebody regarding a photo lineup to go
3 over our SLED form, which has multiple parameters on it,
4 verbally and allow them also to sign it, but I also make
5 sure that whoever is looking at these photo lineups know
6 that the person who we're looking for, whether it's a
7 suspect or whatever, may or may not even been on this
8 lineup, that it's for them to look at. We don't do a whole
9 lot of talking. You look at it and you just let us know
10 and if they are on there to what degree of certainty are
11 they that that's the individual.

12 Q. All right. And regarding the six photographs that
13 were included in this photo lineup, let me start by asking
14 you do all of the photos in that photo lineup depict a male
15 of the same race?

16 A. Yes, ma'am.

17 Q. What is that race?

18 A. A white male.

19 Q. In addition to all being of the same race, can you
20 tell us whether or not all of the six photographs depict
21 males with facial hair?

22 A. Yes, ma'am, they do.

23 Q. And beyond that, what is the facial hair and color of
24 hair depicted for each of these individuals?

25 A. Dark in color.

1 Q. Brunette or brown?

2 A. Yes, ma'am.

3 Q. Do all appear consistent with one another?

4 A. Yes, ma'am.

5 Q. Do any of the photographs stand out more than any of
6 the others?

7 A. No, ma'am.

8 Q. Is there anything that would necessarily draw
9 attention to any of the photographs over one of the others?

10 A. No, ma'am.

11 Q. Was the victim in this case ever told that the
12 defendant was definitively in this lineup?

13 A. No, ma'am. In fact, I specified that he may or may
14 not even be in this lineup.

15 Q. At any point in time, Agent Sykes, did you suggest any
16 of these photographs to the victim?

17 A. No, ma'am.

18 Q. Did all of the victims {sic} appear to come from the
19 same source such as the Department of Motor Vehicles and do
20 all have the same or similar background?

21 A. Yes, ma'am.

22 Q. So prior to showing the photo lineup to the victim,
23 was it your understanding that she already knew him by
24 face?

25 A. Yes, ma'am.

1 Q. As well as by name?

2 A. Yes, ma'am.

3 Q. Due to prior interaction?

4 A. Yes, ma'am.

5 Q. Now going over the set of criteria with her, did she
6 agree and initial in any way her understanding that the
7 alleged perpetrator may or may not be included in the photo
8 lineup?

9 A. She did. I explained it verbally and she read it on
10 the affidavit and signed it.

11 Q. Okay. The process of showing the photo lineup to the
12 victim this case, Glenna Branham, how did you go about
13 documenting that?

14 A. Any time we're on-scene or any time I do an interview,
15 I activate my body-worn camera as SLED policy dictates, so
16 my body-worn camera was recording the full interaction.

17 Q. All right. And I'm gonna show you what is Court's
18 Exhibit 8 and I believe you've had an opportunity to review
19 that recording by video --

20 A. Yes, ma'am.

21 Q. -- of you showing her the photo lineup?

22 A. Yes, ma'am.

23 Q. And ultimately an identification from that lineup?

24 A. Yes, ma'am.

25 Q. Is what's depicted in State's 8, being the mini clip,

1 a fair and accurate representation of that entire process
2 that you underwent that day?

3 A. Yes, ma'am.

4 Q. On October 13th?

5 A. Yes, ma'am.

6 MS. MAYES: Your Honor, this would Court's 8 and we
7 ask to publish.

8 Again, this is from the discovery.

9 MR. MAULDIN: Well, the jury's not here.

10 MS. MAYES: There is no objection, Your Honor, to
11 Court's 8.

12 THE COURT: All right.

13 (Court's Exhibit Number 8 was played.)

14 BY MS. MAYES:

15 Q. Agent Sykes, who is this individual located here?

16 A. That's the victim, Glenna Branham.

17 Q. Okay. And what is the location in which you were
18 seated and conducting this interview?

19 A. Her residence and where the incident began.

20 Q. And, again, is this within twenty-four hours of the
21 actual assault?

22 A. Yes, ma'am.

23 (Court's Exhibit 8 continued playing.)

24 Q. All right. Now, Agent Sykes, who is the individual
25 here to the right who is noted to be a witness?

1 A. That was the friend of the victim. Her name is Brenda
2 McMillan.

3 Q. Now does that reflect the entirety of the process of
4 her reviewing the photo lineup?

5 A. Yes, ma'am.

6 Q. As well as filing out all of the criteria contained
7 on the cover sheet that you've already identified there on
8 Court's Exhibit 9?

9 A. Yes, ma'am.

10 Q. And it is noted there on the cover sheet that which
11 photograph was selected from the six?

12 A. Number 3.

13 Q. And when you talk about the selection of Number 3, and
14 I believe it is recorded there in the interview as well,
15 but did you question the witness regarding her level of
16 certainty as to that identification of Photograph Number 3?

17 A. Yes, ma'am.

18 Q. And what, if anything, was her response?

19 A. She said she was 99.9 percent sure.

20 Q. And in addition to that, you indicated that the time
21 differential I believe you noted here on the sheet there
22 at the bottom, what is the time noted here for this
23 identification?

24 A. 12:01 PM on October 13, 2021.

25 Q. So what would be the time difference be between when

1 this identification is made and your understanding of when
2 -- approximately when the defendant would have departed the
3 crime scene following the assault?

4 A. To my understanding, if memory serves, it was shortly
5 before midnight, so within a matter of twelve to fourteen
6 hours.

7 Q. So we're roughly twelve to fourteen hours from the
8 time of the assault?

9 A. Yes, ma'am.

10 Q. And during the course of your investigation, did you
11 also obtain video surveillance from a neighbor in this
12 case?

13 A. Yes, ma'am.

14 Q. And did that video surveillance depict the approximate
15 time that the defendant arrived at the victim's residence
16 at the outset of the crime?

17 A. Yes, ma'am.

18 Q. And what was that approximate time?

19 A. If you'll bear with me, I'll look real quick. I know
20 it was sometime around 8:00 PM in the evening, but to get
21 the specifics I would have to go back through.

22 Q. And you actually prepared a timeline in this case,
23 Agent Sykes?

24 A. I did.

25 Q. That was part of your -- part of your job during the

1 course of this investigation?

2 A. Yes, ma'am.

3 Q. Does 8:11 PM sound accurate?

4 A. Yes, ma'am.

5 Q. So with the time of arrival of approximately 8:11 PM
6 and you've indicated that the time of departure from the
7 scene is somewhere close to midnight, that would be how
8 long of a time period in which the defendant would have had
9 access to the victim?

10 A. Around four hours.

11 Q. And during the course of that four hours based upon
12 your investigation, is it your understanding that they were
13 in the presence -- that the defendant was in the presence
14 of the victim throughout that time?

15 A. Yes, ma'am.

16 Q. Would she have had an opportunity to adequately view
17 him during the course of that four hours?

18 A. Absolutely.

19 Q. And, again, your understanding is that she was already
20 familiar with the suspect in this case?

21 A. Yes, ma'am.

22 Q. By face and name?

23 A. Yes, ma'am.

24 Q. Due to his prior work at her residence?

25 A. Yes, ma'am.

1 MS. MAYES: I beg the Court's indulgence.

2 THE COURT: Take your time.

3 MS. MAYES: Nothing further, Your Honor.

4 THE COURT: Mr. Mauldin.

5 MR. MAULDIN: Thank you, Your Honor.

6 CROSS-EXAMINATION (In-Camera)

7 BY MR. MAULDIN:

8 Q. Which of the photos in that six-pack did she say was
9 a similar photo, but the eyes were wrong?

10 A. I'm sorry, I couldn't hear you.

11 Q. Okay. On the video she said one of the videos was
12 similar, but the eyes were wrong. Which photo in the
13 lineup was that photo?

14 A. I'm not sure.

15 MR. MAULDIN: No further questions, Your Honor.

16 THE COURT: Anything else from the State?

17 MS. MAYES: Nothing else from the State, Your Honor.

18 We would note that under the case law the burden is on
19 the defendant to show that there was some level of
20 suggestiveness -- undue suggestiveness in this particular
21 display of the photo lineup.

22 THE COURT: Thank you. May I let --

23 MR. MAULDIN: We're satisfied with the State's
24 presentation on the record, Your Honor.

25 THE COURT: Okay. May I let the agent down?

1 MS. MAYES: Yes, Your Honor.

2 (Witness excused.)

3 MS. MAYES: We would also request that she be excused.
4 I believe she has some childcare responsibilities.

5 THE COURT: And you may.

6 So you're telling me, Mr. Mauldin, I don't need to
7 rule on the Neil v. Biggers hearing. You're in agreement
8 that --

9 MR. MAULDIN: I think it's all on the record, Your
10 Honor.

11 THE COURT: I think so, too. It was not unduly
12 suggestive.

13 Okay. Is there anything else I need to rule upon?

14 MS. MAYES: Not in terms of a ruling, Your Honor,
15 but I would state for the record that the State has filed
16 a motion for compliance with the rape shield statute under
17 16-3-659. That statute requires notice to the State in
18 advance, as well as a proffer of any type of evidence that
19 would be offered as some type of exception under rape
20 shield. We have received no response and we just want to
21 make sure that there is full compliance with the rape
22 shield statute.

23 THE COURT: Mr. Mauldin.

24 MR. MAULDIN: If the State knows anything in
25 particular, we'd like to hear about it.

1 MS. MAYES: It's a standard motion.

2 MR. MAULDIN: Well, a lot of these are, Your Honor,
3 and we don't have any thing regarding a prior sexual
4 history of the victim as far as I know.

5 THE COURT: Okay. Perfect.

6 MS. MAYES: And, finally, Your Honor, we did provide
7 notice of the defendant's prior record for purposes of
8 impeachment under 609. Again, I believe that's all
9 premature at this time, but just wanted to state for
10 the record that that notice has been provided of our
11 intent to impeach.

12 MR. MAULDIN: We'll take it up if necessary, Your
13 Honor.

14 THE COURT: Right. I agree.

15 MR. MAULDIN: We would make our standard motion
16 for sequestration of the witness save for Ms. Branham,
17 the victim, and I reckon Ms. Sykes because she the
18 investigator, and any of the chain people who are handling
19 the evidence. We have no problem with those.

20 MS. MAYES: That's correct, Your Honor. Our chief
21 or lead investigating officer will be Agent Sykes. We're
22 not sure yet who will be handling the evidence as evidence
23 custodian, but we'll know by tomorrow. But certainly
24 we'll need that person exempt from sequestration.

25 MR. MAULDIN: But all of other ones sequestered.

1 THE COURT: All right. Granted.

2 Anything else?

3 MS. MAYES: Nothing at this time, Your Honor.

4 MR. MAULDIN: No, Your Honor.

5 THE COURT: All right. Then we are adjourned until
6 1:00 on Tuesday where we will do openings and I think we
7 have scheduled three witnesses for that day.

8 MS. MAYES: That is correct, Your Honor. And we
9 will need to complete the SLED serologist's testimony
10 because she will be unavailable after Tuesday.

11 THE COURT: Okay. Anything else from the State?

12 MS. MAYES: Nothing at this time, Your Honor.

13 THE COURT: Anything from the defense?

14 MR. MAULDIN: Nothing from the defendant.

15 THE COURT: All right. We're adjourned. Everybody
16 have a good evening.

17 MS. MAYES: Thank you, Your Honor.

18 (Whereupon, the proceedings were concluded for
19 July 24, 2023, at 4:43 PM.)

20 (The following proceedings were held July 25, 2023,
21 beginning at 1:03 PM.)

22 (State's Exhibit Number 1 through 150 were marked
23 for identification.)

24 BAILIFF: All rise. Court is now in session. The
25 Honorable Judge Debbie McCaslin presiding.

1 THE COURT: Please be seated.

2 Good afternoon, everybody.

3 MS. MAYES: Good afternoon.

4 THE COURT: All right. Are we ready to begin?

5 MS. MAYES: The State is ready to proceed, Your
6 Honor.

7 THE COURT: Is the defense ready?

8 MS. POPOWSKI: Yes, Your Honor.

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

10 (Whereupon, the jury enter the courtroom at 1:06 PM.)

11 THE COURT: Madam Forelady, is the jury ready?

12 FOREPERSON: Yes.

13 THE COURT: Please be seated.

14 All right. I have a morning question and this is
15 gonna be the afternoon question. I'll ask you this every
16 day. Have you talked anyone, has anyone tried to talk to
17 you, have you done any research on this case or have you
18 seen anything on the news, TV or social media? If so,
19 please raise your hand.

20 All right. Let me get the clerk to swear the jury
21 in, please.

22 THE CLERK: If I can get you-all to please stand
23 and raise your right hand.

24 (Whereupon, the jury was duly sworn by the Clerk
25 of Court.)

1 THE CLERK: Please respond by saying I do or I
2 affirm.

3 (Whereupon, the jury responds.)

4 THE CLERK: All jurors are sworn. The jury panel
5 is sworn in.

6 THE COURT: All right. Ladies and gentlemen of the
7 jury, before we begin the actual trial of the case, I
8 thought it might be helpful if I explain to you basically
9 how a trial proceeds. First, the State will make an
10 opening statement. An opening statement is not evidence.
11 It is simply an outline to help you understand what that
12 party expects the evidence will show. The defendant may,
13 if he wishes, present an opening statement, but he does
14 not have to for reasons I will explain.

15 Following the opening statements, you will hear
16 testimony and evidence in the case. This will consist of
17 testimony from State's witnesses, as well as any physical
18 exhibits which will be introduced into evidence.

19 Following the completion of the testimony, the
20 attorneys will, again, have the opportunity to make what
21 is called a closing statement or summarize the case from
22 their respective points of view. Again, these arguments
23 are not evidence.

24 Following the closing statements by the attorneys,
25 I will instruct you on the law of South Carolina as it

1 pertains to the issues that have arisen in the case.

2 When I have completed my instructions to you, you will
3 then be permitted to begin your deliberations in order
4 to reach a verdict.

5 I now want to take a few minutes to tell you
6 something about your duty as jurors and to give you some
7 instructions. At the end of the trial, I will give you
8 more detailed instructions and those instructions will
9 control your deliberations.

10 It will be your duty to decide from the evidence
11 what the facts are. You and you alone are the judges of
12 the facts. You will hear the evidence, decide what the
13 facts are and then apply those facts to the law which I
14 will give to you. That is how you will reach your
15 verdict. In doing so, you must follow the law whether
16 you agree with it or not.

17 The evidence will consist of testimony of witnesses,
18 documents, and other things received into evidence as
19 exhibits, and any facts on which the lawyers agree or
20 which I may instruct you to accept. You should not take
21 anything I may say or do during the trial as indicating
22 what I think of the evidence or what your verdict should
23 be.

24 This is a criminal case brought by the State of
25 South Carolina. The State charges the defendant with

1 burglary first, kidnapping, first degree criminal sexual
2 conduct, armed robbery, and possession of a weapon during
3 a violent crime. The charges against the defendant is
4 contained in the indictments. The indictments are not
5 evidence of anything. It is simply the description of
6 the charges made by the State against the defendant.

7 The defendant has pled not guilty to the charges
8 and is presumed innocent unless and until proven guilty
9 beyond a reasonable doubt. Proven beyond a reasonable
10 doubt is proof that leaves you firmly convinced of the
11 defendant's guilt. A defendant has the right not to
12 testify and never has to prove his innocence or present
13 any evidence. The burden of proof is always upon the
14 State of South Carolina.

15 The following things are not evidence and you must
16 not consider them as evidence in deciding the facts of
17 this case. Statements and arguments of the attorneys,
18 questions and objections of the attorneys, and testimony
19 that I instruct you to disregard.

20 Evidence may be direct or circumstantial. Direct
21 evidence is testimony by a witness about what that
22 witness personally saw, heard or did. Circumstantial
23 evidence is indirect evidence; that is proof of one or
24 more facts from which one can find another fact. You
25 are to consider both direct and circumstantial evidence.

1 The law permits you to give equal weight to both, but
2 it is for you to decide how much weight to give any
3 evidence.

4 There are rules of evidence which control what can
5 be received into evidence. When a lawyer asks a question
6 or offers an exhibit into evidence and the lawyer on the
7 other side thinks that it is not permitted by the rules
8 of evidence, that lawyer may object. If I overrule the
9 objection, the questions may be answered or the exhibit
10 may be received. If I sustain the objection, the
11 questions cannot be answered or the exhibit cannot be
12 received. Whenever I sustain an objection to a question
13 or deny a motion to admit an exhibit into evidence, you
14 must ignore the question or the existence of the exhibit
15 and you must not guess what the answer would have been
16 or what the exhibit would have shown.

17 Sometimes it may be necessary for me to request
18 that you leave the courtroom while I discuss with the
19 attorneys legal questions that come up during the trial.
20 If this occurs, you should not speculate about our
21 discussions or the reason that you were asked to leave
22 the room. This is simply a procedure that the law
23 requires when certain legal issues arise.

24 There also may be occasions where I ask the
25 attorneys to approach the bench so that I can discuss

1 a legal issue with them in private. I will do this as
2 often as possible so you will not be required to leave
3 the courtroom more than is absolutely necessary. Again,
4 if I ask the attorneys to step up to the bench or I ask
5 you to leave the courtroom, please do not think that
6 anybody is trying to hide anything from you or keep any
7 evidence from you. This is simply a procedure used by
8 all lawyers and by all courts to determine and decide
9 legal questions.

10 In deciding the facts of this case, you may have to
11 decide which witnesses to believe and which witnesses not
12 to believe. You may believe everything a witness says,
13 only part of it or none of it. In deciding what to
14 believe, you may consider a number of factors, including
15 the following. The witness's ability to see, hear or
16 know the things testified to, the quality of the witness's
17 memory, the witness's manner while testifying, whether
18 the witness has an interest in the outcome of the case
19 or any motive, bias or prejudice, whether the witness
20 was contradicted by anything the witness said or wrote
21 before the trial or by other evidence, how reasonable
22 was the witness's testimony when considered in the light
23 of other evidence which you believe.

24 Until I advise to you begin your deliberations,
25 you must not discuss this case with anyone, including

1 your fellow jurors, friends, family members and anyone
2 involved in this case. This includes discussions face
3 to face, those by telephone, e-mail, text, blogs, Twitter,
4 Facebook, Google or any other method of communication.

5 You may not use a computer, cell phone or other
6 electronic device with communication capabilities at any
7 time while in the courtroom or during your deliberations.
8 I told you yesterday during your breaks you may use your
9 cell phones, but you may use these during your breaks;
10 however, you may not at any time use these devices to
11 get or send information about the case. This includes
12 information about a party, a witness, an attorney or a
13 court officer, news accounts about the case, research on
14 any topics raised or any topics you may think would be
15 helpful in deciding the case, or any testimony presented
16 by any witness.

17 During the trial do not read, listen to or watch any
18 news reports about the case. This includes anything that
19 may be in the newspapers or on the Internet, radio or
20 television. You must not consider anything you may have
21 read or heard about the case outside of the courtroom
22 whether before or during the trial. After the case is
23 submitted to you, you must discuss it only in the jury
24 room with your fellow jurors.

25 I told you yesterday the attorneys and parties in

1 the case have been advised that they're not to talk to
2 you at all, so please don't try to talk to them. And
3 if you see anybody and they don't speak, they're not
4 unfriendly, they're just following my orders.

5 It is important that you keep an open mind and not
6 decide any issue in this case until all of the evidence
7 has been presented, the parties have made their closing
8 arguments and I have instructed you on the law in this
9 case. It is your sole responsibility to determine the
10 guilt or innocence of the defendant and your verdict
11 must be based solely on the evidence as it is presented
12 to you in this trial and on the law as I instruct you
13 during and at the close of the trial.

14 Madam Forelady, it is your added responsibility to
15 preside in the jury room and be the jury's spokesperson
16 here in court. It will also be your duty to write the
17 verdict, but I will give you further instructions about
18 that at the end of the case.

19 In order to preserve everyone's rights, I will give
20 the parties an opportunity to object to anything I have
21 said.

22 Any exceptions by the State?

23 MS. MAYES: None from the State, Your Honor.

24 THE COURT: Any by the defendant?

25 MS. POPOWSKI: No, Your Honor.

1 THE COURT: We will now begin the trial.

2 Let me turn to the State.

3 MS. WELLMAN: Thank you, Your Honor. May it please
4 the Court?

5 THE COURT: Yes, ma'am.

6 MS. WELLMAN: Good afternoon.

7 Seventy-four years old. That is how old the victim
8 in this case, Ms. Glenna Branham, was when that man right
9 there came to her home, sexually assaulted her, held a
10 gun to her head, robbed her, sexually assaulted her again,
11 forced her from her home and left her beaten, bloody and
12 bruised. Seventy-four.

13 As Judge McCaslin -- we said yesterday, my name's
14 Ashley Wellman from the Eleventh Circuit Solicitor's
15 Office, and I along with Deputy Solicitor Suzanne Mayes
16 represent the State of South Carolina in this trial.

17 The defendant, Robert Neeley, is before the court
18 on one count first degree burglary, one count first
19 degree criminal sexual conduct, armed robbery, kidnapping,
20 possession of a weapon during the commission of a violent
21 crime.

22 Ladies and gentlemen, the evidence that you will
23 hear in this courtroom will prove that that man, the
24 defendant, is guilty.

25 During the trial you're gonna meet Ms. Branham.

1 She is in her seventies. An upstanding member of the
2 community. She lives alone. She spends her days with
3 her best friend going to the gym, helping others. She
4 knits bonnets for cancer patients and delivers Meals on
5 Wheels to people in need. She is also giving. And she
6 is trusting.

7 On the night of October 12th of 2001 {sic}, she
8 was at home having a quiet evening alone getting ready
9 for her next day where she would meet her best friend,
10 Ms. Brenda McMillan, and they were gonna do their normal
11 routine. The gym, Meals on Wheel. At about 8:11 that
12 night after the sun had gone down, the defendant drove
13 in her driveway, got out of his car with a dark duffle
14 bag and walked up to her door. He rang the doorbell
15 and knocked on the door and when Ms. Branham saw him
16 she didn't think anything of it. Because, you see,
17 Ms. Branham had hired the defendant to do some yard
18 work. She had met him several weeks earlier through the
19 Nextdoor app. He had come over, he had done some work
20 in her yard. She had hired him to work on her sprinklers.
21 He had come over several times. She'd gotten to know him,
22 or so she thought, and he'd gotten to know her. He knew
23 she was giving, he knew she was trusting, and knew that
24 she lived alone.

25 He got her to let him into her home and that's when

1 the violence started. He grabbed her, he ripped off her
2 clothes, he sexually assaulted her by digital penetration,
3 demanded money from her, stole her gun and two bullets,
4 forced her into her car to go to the ATM to get cash. He
5 used that cash to buy drugs, which he consumed himself
6 in the car. He then took her to an abandoned house on
7 Rabon Road in the northeast part of Richland County and
8 he forced her to perform oral sex on him.

9 He finally took her home, but he didn't leave until
10 he had threatened her, made her promise not to call the
11 cops, and left with her gun and those two bullets.

12 Ms. Branham sat up all night with her cats terrified
13 and she waited until the sun came up and her friend was
14 available before she asked her friend to call 9-1-1 where
15 she recounted the horrible events of the night before.

16 She then went to the hospital and had every inch of
17 her body photographed, and you will see those photographs.
18 You will see how the defendant left her black and blue.
19 That there were bruises covering her body. The defendant
20 was arrested later that day.

21 As Judge McCaslin mentioned, you will hear two types
22 of evidence in this case. Direct evidence. You will
23 hear Ms. Branham tell you how that gun felt against her
24 head. You will hear Ms. Branham tell you how after the
25 defendant forced her to perform oral sex on him she was

1 able to spit out his seamen into a napkin. You will
2 hear Donna Money, a SLED DNA analyst, tell you that she
3 examined that semen and she will tell you where it came
4 from.

5 There's also some circumstantial evidence in this
6 case such as video, security video, from a neighbor that
7 documents the comings and goings that night. You will
8 also hear that after the defendant posted his bond for
9 these charges he was fitted with an ankle monitor. You
10 will hear how he cut that ankle monitor off several
11 months after his arrest and fled to Montana where he was
12 ultimately arrested.

13 I'm not gonna tell you what the law is right now.
14 Judge McCaslin is the ultimate authority on the law.
15 She will tell you everything you need to know at the end
16 of this trial, including each element of each crime. It
17 is my job and Ms. Mayes's job to prove with the evidence
18 presented in this courtroom that the defendant is guilty
19 beyond a reasonable doubt.

20 What is reasonable doubt? It's not 100 percent
21 certainty. It's not beyond all possible shadow of a
22 doubt. Reasonable doubt is doubt that makes an ordinary
23 person pause. It is our job to take away that pause and
24 we will do that with the evidence presented in this case.

25 The State will meet its burden of proof and we

1 will convince you and prove that the defendant is guilty
2 beyond a reasonable doubt. At the end of this trial I'm
3 confident you will agree with me and we'll ask you to
4 find the defendant guilty.

5 Thank you.

6 THE COURT: Thank you, Ms. Wellman.

7 Mr. Mauldin or Ms. Popowski.

8 MS. POPOWSKI: Thank you, Your Honor.

9 There are a lot of reasons why people may not be
10 truthful about having sex. You-all know this. You-all
11 come in here with your own life experiences. You didn't
12 check your common sense at the door. There are a lot of
13 reasons why people may not be truthful about having sex.
14 They may regret it. They may be embarrassed. Maybe
15 they feel guilty. Maybe they're worried about friends
16 finding out, viewing them differently. Their reputation
17 in the community may change. Maybe they simply just
18 can't live with themselves. They're ashamed. Maybe
19 they're angry because the person they had sex with
20 turned out to not be the person that they thought they
21 were. That they hoped they were. They feel betrayed,
22 they feel taken advantage of, and they want revenge.

23 This week's gonna be uncomfortable. I'm sure
24 you-all have figured that out by now. We are grateful
25 that you're here. We're grateful for your time and your

1 attention because the State is making a lot of really,
2 really awful allegations against my client and I'm asking
3 you-all to not let the State cloud your reason and your
4 judgment with their emotion. We are asking to you listen,
5 pay close attention and ask the hard questions.

6 Brandon, please stand up.

7 Ladies and gentlemen, this is Robert Brandon Neeley,
8 and he's thirty-seven years old, and he stands before you
9 today charged with crimes to which he has pled not guilty.
10 You can sit down.

11 He is presumed innocent. I know you guys have heard
12 that before, right, but I'm gonna say it again because
13 it's really important. Brandon is innocent until the
14 Government proves him guilty.

15 And that is not just a phrase, innocent until proven
16 guilty. It's not just a phrase, it's not just an idea.
17 It's a fundamental right that we as Americans have fought
18 for. We have given blood, sweat and tears to preserve
19 that right and it means that he sits before you today
20 an innocent man and he remains that way throughout this
21 trial.

22 This is the State versus Brandon Neeley. That means
23 that the Government is on trial here today, too, and
24 you-all have a duty. You have a duty to scrutinize their
25 case.

1 As Solicitor Wellman told you, in a criminal trial
2 -- and also the judge, in a criminal trial the State
3 has the burden of proof. They have to prove their case
4 beyond a reasonable doubt. That's not my job, that's not
5 Mr. Mauldin's job, and it certainly is not Mr. Neeley's
6 job.

7 And you might ask well, you know, what's a
8 reasonable doubt? A reasonable doubt is the kind of
9 doubt that would cause a reasonable person to hesitate
10 to act. I'm gonna say that again. A reasonable doubt
11 is the kind of doubt that would cause a reasonable person
12 to act. And that means that the State must provide you
13 all reasonable people with sufficient evidence that leaves
14 you firmly convinced of guilt. With no hesitations.

15 So before you-all came here today and took your
16 oath, you probably have done something that most people
17 do, and I'm not picking on you-all because I've done it,
18 too, okay, but you probably saw a story somewhere about
19 somebody who got arrested, and maybe in the news, maybe
20 on social media, maybe from a friend, and you thought to
21 yourself how in the world could someone do that? You
22 presume the worst. You presume and you believe that
23 that person is guilty. I've done it, too. It is a --
24 it is a flaw in human nature and we all do it, but that
25 flaw in human nature has no place in this courtroom this

1 week because you swore to give Mr. Neeley a fair trial.
2 You swore to hold the Government to their burden. You
3 swore not to make assumptions, but to base your decision
4 on the evidence, and one of the easiest ways to avoid
5 making assumptions is to ask questions. Ask the hard
6 questions.

7 I feel certain that as this trial unfolds you guys
8 are gonna have a lot of questions because the Government's
9 case doesn't make a lot of sense. The story doesn't make
10 a lot of sense and you're gonna have a lot of questions.
11 So as you look at the evidence, question what's been
12 provided to you and recognize those things that don't
13 make sense. Listen closely to the testimony, watch the
14 witness's demeanor. Use your intuition because when
15 you-all got up this morning and you came up to this
16 courthouse, you brought in your unique background and
17 experiences, your unique voices.

18 Please use those when you go back to the deliberation
19 room. Don't be afraid to speak your voice. It doesn't
20 matter what anyone else believes. Once you go back there
21 and you're deliberating, it doesn't matter what anybody
22 else believes. What matters is what you believe beyond
23 a reasonable doubt. And I have faith in you. I have
24 faith that at the end of this trial you will come back
25 and you will find that Mr. Neeley is not guilty.

1 Thank you.

2 THE COURT: Thank you, Ms. Popowski.

3 The State can call their first witness.

4 MS. MAYES: The State calls Melissa Patrick.

5 THE CLERK: Place your left hand on the Bible and
6 raise your right.

7 (Whereupon, Melissa Patrick was duly sworn by the
8 Clerk of Court.)

9 THE CLERK: If you'll have a seat up there. If
10 you'll state your name and spell your last name for the
11 record.

12 THE WITNESS: My name is Melissa Patrick.

13 P-A-T-R-I-C-K.

14 MELISSA PATRICK,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Good afternoon, Ms. Patrick. Tell us a little bit
19 about yourself. Where are you currently employed?

20 A. Lexington County 9-1-1 Communications Center.

21 Q. All right. And what is your job description there?

22 A. I'm training coordinator. I also help out on the
23 floor where we take 9-1-1 calls, nonemergent calls as well,
24 for all Lexington County.

25 Q. All right. And there at the 9-1-1 Communications

1 Center for Lexington County, can you tell us what type of
2 records are maintained in the ordinary course of business?

3 A. 9-1-1 recordings or any recordings in general. Also
4 CAD reports, the documents of the call itself.

5 Q. Okay. And when you say a CAD report, is that the type
6 of documentation that your dispatchers are entering when
7 the call is made?

8 A. Yes, ma'am.

9 Q. And does it include the date and time of calls?

10 A. Yes, ma'am.

11 Q. Does it include the nature of those calls?

12 A. Yes, ma'am.

13 Q. Does it record whether or not any law enforcement
14 units were sent in response to the call?

15 A. Yes, ma'am.

16 Q. And can you tell us whether or not the actual
17 recordings for each of those calls are maintained in their
18 entirety?

19 A. Yes, ma'am.

20 Q. And in this particular case, the State versus Robert
21 Brandon Neeley, can you tell us whether or not the 9-1-1
22 center received a request for a recorded 9-1-1 call?

23 A. Yes, ma'am.

24 Q. And can you tell us whether or not you also received
25 a request for what you call the CAD sheets or those data

1 sheets associated with those calls?

2 A. Yes, ma'am.

3 Q. Do you have those records with you today, Ms. Patrick?

4 A. Yes, ma'am.

5 Q. I'm gonna show you another item, which is marked right
6 now as -- previously Court's Exhibit 6, but now State's
7 Exhibit 6, and ask you whether or not you recognize this
8 item?

9 A. Yes, ma'am.

10 Q. How so?

11 A. It's the 9-1-1 call and it's got my initials and the
12 date.

13 Q. Can you tell us -- you've had an opportunity to listen
14 to this?

15 A. Yes, ma'am.

16 Q. Can you tell us whether or not this is a fair and
17 accurate representation of that original call that was
18 made in this particular case, State versus Robert Brandon
19 Neeley?

20 A. Yes, ma'am.

21 MS. MAYES: Your Honor, at this time we offer
22 State's Exhibit 6.

23 THE COURT: Any objection?

24 MR. MAULDIN: We renew our objections made in
25 pre-trial.

1 THE COURT: And so noted for the record.

2 It's admitted.

3 (State's Exhibit Number 6, a 9-1-1 call, was admitted
4 into evidence.)

5 BY MS. MAYES:

6 Q. And you also indicated, Ms. Patrick, that along with
7 maintaining records there are certain employees who would
8 be considered custodians of those records?

9 A. Yes, ma'am.

10 Q. Are you one of those persons?

11 A. Yes, ma'am.

12 Q. I'm gonna ask you a few questions about the calls.
13 I'm gonna ask you a few questions about the 9-1-1 call in
14 this particular case. Ms. Patrick, what is the date in
15 which the 9-1-1 call was received at your Lexington County
16 Communications Center?

17 A. October 13th of 2021.

18 Q. All right. And what is the time in which that call
19 was received?

20 A. 9:02 AM.

21 Q. Now do you also have any data reflecting the nature of
22 that call?

23 A. Yes, ma'am.

24 Q. What was the nature of the call?

25 A. Sexual assault.

1 Q. And then do you have any data which reflects whether
2 or not law enforcement units were sent out in response to
3 that call?

4 A. Yes, ma'am.

5 Q. What is the address or location in which law
6 enforcement was requested to respond?

7 A. [REDACTED] Congaree Downs Lane.

8 Q. And who was the caller or what was the name of the
9 caller that was recorded?

10 A. Brenda McMillan.

11 Q. And then you indicated that a law enforcement unit did
12 respond?

13 A. Yes, ma'am.

14 Q. What is the time of that initial response of the law
15 enforcement unit?

16 A. 9:17 AM.

17 Q. All right. Does that mean they actually arrived there
18 on-scene at that time?

19 A. Yes, ma'am.

20 Q. And that's gonna be 9:17 AM --

21 A. Yes, ma'am.

22 Q. -- that the first law enforcement unit arrived there
23 at [REDACTED] Congaree Downs Lane?

24 A. Yes, ma'am.

25 MS. MAYES: I beg the Court's indulgence.

1 THE COURT: Take your time.

2 BY MS. MAYES:

3 Q. That address or location there, [REDACTED] Congaree Downs
4 Lane, is that within the jurisdiction of Lexington County?

5 A. It is, but it's in South Congaree.

6 Q. The South Congaree area of Lexington County?

7 A. Yes, ma'am.

8 MS. MAYES: Thank you very much, Ms. Patrick.

9 Nothing further at this time.

10 THE COURT: Mr. Mauldin.

11 MR. MAULDIN: I have no questions for this witness.

12 THE COURT: May this witness be excused?

13 MR. MAULDIN: Yes, Your Honor.

14 MS. MAYES: No objection from the State, Your Honor.

15 THE COURT: Okay. Thank you for coming.

16 (Witness excused.)

17 MS. WELLMAN: Your Honor, at this time the State
18 would call Ms. Brenda McMillan.

19 THE COURT: Okay.

20 (Whereupon, Brenda McMillan was duly sworn by the
21 Clerk of Court.)

22 THE CLERK: If you'll have a seat up there on the
23 stand. If you'll state your name and spell your last
24 name.

25 THE WITNESS: Brenda McMillan. M-c-M-I-L-L-A-N.

1 BRENDA McMILLAN,
2 having been duly sworn, testified as follows:
3 DIRECT EXAMINATION
4 BY MS. WELLMAN:
5 Q. Good afternoon, Ms. McMillan. Just don't forget to
6 speak up for us, okay?
7 THE COURT: You can adjust that microphone. Pull
8 it down. There you go. Perfect.
9 BY MS. WELLMAN:
10 Q. Ms. McMillan, don't tell us your exact address, but do
11 you live in Lexington County?
12 A. Yes.
13 Q. What general area do you live?
14 A. The Gaston area.
15 Q. Okay. How long have you been a resident of Lexington
16 County?
17 A. Almost all my life.
18 Q. Okay. Do you work or are you retired?
19 A. I'm retired from the State government.
20 Q. Okay. And how long did you work for the State
21 government?
22 A. Thirty-two years.
23 Q. What did you do?
24 A. I was a manager over what was called the surveillance
25 utilization review of Medicaid providers.

1 Q. You said Medicaid?

2 A. Medicaid.

3 Q. Do you know a Glenna Branham?

4 A. Yes.

5 Q. Okay. For how long have you known her?

6 A. Approximately five years.

7 Q. Okay. Can you describe your relationship with
8 Ms. Branham?

9 A. She's my best friend.

10 Q. I want to draw your attention to the morning of
11 Wednesday, October 13th of 2021. Did you have plans to
12 see Ms. Branham that morning?

13 A. Yes.

14 Q. Okay. For what purpose?

15 A. To deliver Meals on Wheels.

16 Q. Okay. What exactly -- when you say you deliver Meals
17 on Wheels, can you tell us what you mean by that?

18 A. It's for individuals that qualify for free meals and
19 they don't have transportation or they can't drive.

20 Q. Is this something that -- was this the first time you
21 were doing that or was this a regular occurrence for you
22 guys?

23 A. We've been delivering for about three years.

24 Q. Okay. Do you do it every Wednesday?

25 A. Every -- every Tuesday and about every other

1 Wednesday.

2 Q. Okay. And for -- if you said this, I'm sorry. You
3 said you'd been doing this for about three years; is that
4 right?

5 A. Yes.

6 Q. Okay. For October 13th, were you and Ms. Branham
7 gonna do anything else that day?

8 A. Well, we generally went back to her house after we
9 delivered the meals.

10 Q. Now before you saw Ms. Branham on the morning of
11 October 13th, did you hear from her?

12 A. Yes, she sent me a text.

13 Q. Okay.

14 MS. WELLMAN: May I approach the witness?

15 THE COURT: You may.

16 BY MS. WELLMAN:

17 Q. Ms. McMillan, this is State's Exhibit 7. It's
18 previously been marked as Court's Exhibit 7. If you could
19 take a look at that and tell us if you recognize that.

20 A. Yes, it's the text Glenna sent to me.

21 Q. Okay. On October 13th?

22 A. On October 13th.

23 Q. Okay. And is this a true and accurate copy?

24 A. Yes.

25 Q. Okay. Do you recall about what time you heard from

1 Ms. Branham that morning?

2 A. I generally got to her house by nine, so it must
3 have been like a quarter till nine, somewhere in that
4 neighborhood.

5 Q. Okay. After you received that text message, did you
6 still go over to Ms. Branham's home?

7 A. Yes.

8 Q. And was that the [REDACTED] Congaree Downs home?

9 A. Yes.

10 Q. When you arrived, can you tell the jury how
11 Ms. Branham looked?

12 A. She was bruised and bleeding and she just looked
13 awful.

14 Q. Had you seen Ms. Branham on October 11th?

15 A. Yes.

16 Q. Okay. That would have been a Monday; is that correct?

17 A. Yes.

18 Q. Okay. And for what purpose did you see her on
19 October 11th?

20 A. We went to an exercise class.

21 Q. Okay. What type of exercise class?

22 A. It was called Fit4Life.

23 Q. Okay. And what type of exercise class was it? I
24 mean, were you --

25 A. It was for people 65 and older and so it was geared

1 towards strength training and being able -- balance.

2 Q. Was this is a -- I mean, was there any physical
3 contact or anything like that? I mean, could she have
4 sustained those bruises during that class?

5 A. No.

6 Q. Okay.

7 MS. WELLMAN: May I approach the witness?

8 THE COURT: You may.

9 BY MS. WELLMAN:

10 Q. Ms. Branham -- or excuse me, Ms. McMillan, I'm handing
11 you what's marked as State's Exhibit 10. Do you recognize
12 that?

13 A. Yes.

14 Q. Can you please tell the jury what State's Exhibit 10
15 is?

16 A. It's a clip from a surveillance system of me arriving
17 at her house.

18 Q. On what date?

19 A. On the 11th.

20 Q. Okay. Of October of 2021?

21 A. October 2021.

22 Q. Have you had an opportunity to review this clip?

23 A. Yes.

24 Q. Do you recognize yourself?

25 A. Yes.

1 MS. WELLMAN: Your Honor, the State would move to
2 introduce State's Exhibit 10 and would ask to publish.

3 THE COURT: Any objection?

4 MS. POPOWSKI: No objection, Your Honor.

5 THE COURT: Then it's admitted.

6 (State's Exhibit Number 10, surveillance clip, was
7 admitted into evidence.)

8 BY MS. WELLMAN:

9 Q. Ms. McMillan, do you recognize that vehicle?

10 A. Yes, that's Glenna. That's Glenna's vehicle.

11 Q. Okay. Do you recognize the residence where she's
12 pulling into?

13 A. That's her home.

14 (State's Exhibit Number 10 playing.)

15 Q. And, Ms. McMillan, do you recognize that vehicle?

16 A. Yes, that's my vehicle.

17 Q. Ms. McMillan, do you recognize the person who got out
18 of the car?

19 A. That's me.

20 Q. And what are you doing?

21 A. There had been some tea olives planted there and
22 that's actually a bedroom and they were -- she gave those
23 tea olives away and we had planted some more shrubbery
24 there.

25 Q. Are you talking about the shrubbery at the front

1 section?

2 A. Yes.

3 Q. And talking about those tea olives, were you a part of
4 removing those tea olives?

5 A. Yes.

6 Q. Okay.

7 A. And it was a huge job, so.

8 Q. Okay. And do you have any personal knowledge of what
9 happened to those tea olives?

10 A. She told me that a couple came and got them.

11 Q. And did you help, you know, yourself replant some
12 shrubs?

13 A. Yes.

14 Q. And then thinking about Tuesday of October 12, 2021,
15 did you see Ms. Branham that day?

16 A. Yes.

17 Q. For what reason?

18 A. We delivered Meals on Wheels.

19 Q. Did Ms. Branham have any bruises or injuries that you
20 could see that day?

21 A. No.

22 Q. Ms. McMillan, yes or no, on the morning of
23 October 13, 2021, when you arrived at Ms. Branham's home
24 did Ms. Branham report a sexual assault to you?

25 A. Yes.

1 Q. Okay. Did she tell you when that sexual assault
2 occurred?

3 A. Yes. It started on the night of October the 12th and
4 continued for several hours.

5 Q. Did she tell you where that sexual assault occurred?

6 A. Yes.

7 Q. What did she tell you?

8 A. She told me it occurred in her home and in her
9 vehicle.

10 Q. Ms. McMillan, when you arrived at Ms. Branham's home
11 on the morning of October 13th, what, if anything, did you
12 do?

13 A. She asked me to call the police.

14 Q. Okay. Did you do that?

15 A. I called 9-1-1.

16 Q. Okay.

17 MS. WELLMAN: May I approach the witness?

18 THE COURT: You may.

19 BY MS. WELLMAN:

20 Q. Ms. McMillan, this is what has been marked as State's
21 Exhibit 6. Can you recognize that?

22 A. It's the 9-1-1 call.

23 Q. Okay. Have you had an opportunity to review this
24 9-1-1 call?

25 A. Yes.

1 Q. Is this the 9-1-1 call you made at Ms. Branham's
2 request on October 13th of 2021?

3 A. Yes.

4 Q. Is this a true and accurate copy?

5 A. Yes.

6 Q. Any changes, alterations or deletions?

7 A. No.

8 MS. WELLMAN: Your Honor, the State would move to
9 introduce State's Exhibit 6 in evidence and publish to
10 the jury.

11 THE COURT: I already have it admitted.

12 If you'd like to publish, you may.

13 (State's Exhibit 6 played.)

14 BY MS. WELLMAN:

15 Q. Ms. McMillan, after you made that 9-1-1 call, did you
16 stay with Ms. Branham until law enforcement arrived?

17 A. Yes.

18 Q. Did you attempt to comfort her?

19 A. Yes.

20 Q. You mentioned that Ms. Branham is one of your best
21 friends or your best friend. Did you have an opportunity
22 to see her a few days after the assault?

23 A. Yes.

24 Q. Would that have been October 15th?

25 A. Yes.

1 MS. WELLMAN: May I approach the witness?

2 THE COURT: You may.

3 BY MS. WELLMAN:

4 Q. Ms. McMillan, I'm handing you what has been marked as
5 State's Exhibit 61, 62 -- or, excuse me, 60, 61 and 62. If
6 you could take a look at those and tell me if you recognize
7 them.

8 A. Yes, those are pictures I took of her.

9 Q. Were those the photos you took on October 15th?

10 A. Yes.

11 Q. Okay. Are they fair and accurate depictions of how
12 Ms. Branham looked on October 15th, three days after?

13 A. Yes.

14 Q. And would they help illustrate your testimony to the
15 jury?

16 A. Yes.

17 MS. WELLMAN: The State would move to introduce
18 State's Exhibits 60, 61 and 62.

19 THE COURT: Any objection?

20 MS. POPOWSKI: No objection, Your Honor.

21 THE COURT: They're admitted.

22 (State's Exhibit Number 60, 61 and 62, photographs,
23 were admitted into evidence.)

24 MS. WELLMAN: I would ask to publish.

25 THE COURT: You may.

1 BY MS. WELLMAN:

2 Q. Ms. McMillan, can you tell the jury what we're looking
3 at?

4 A. Those are pictures of -- you can see both of her arms
5 and this was three days later.

6 Q. Okay.

7 A. And she has a really bad cut on her left arm. I
8 don't know if it shows there, but she's got bruises and
9 contusions all over that arm.

10 Q. This cut right here, is that what you're talking
11 about?

12 A. Yes.

13 Q. Okay.

14 A. And her hands are bruised.

15 Q. That was State's Exhibit 61. This is State's
16 Exhibit 62. Is that just another angle?

17 A. Yes.

18 Q. Okay. And that shows that cut a little better,
19 doesn't it?

20 A. Yes.

21 Q. Okay. And here is State's Exhibit 60.

22 A. That's her right arm.

23 Q. And you took that photograph?

24 A. Yes.

25 Q. Okay. Ms. McMillan, did you have an opportunity to

1 again see Ms. Branham on October 18th?

2 A. Yes.

3 Q. Okay.

4 MS. WELLMAN: May I approach the witness?

5 THE COURT: You may.

6 BY MS. WELLMAN:

7 Q. All right. Ms. McMillan, this is State's Exhibit 63,
8 64 and 65. If you could take a minute to look at those and
9 let us know if you recognize those photographs?

10 A. Yes, those are pictures I took on that date.

11 Q. October 18th?

12 A. October 18th.

13 Q. Okay. And are they fair and accurate -- they're
14 photos of what?

15 A. This one is her back and this is like a close-up of
16 the bruise on her back.

17 Q. Okay.

18 A. And then this is her left hand.

19 Q. And these are the photographs you took on October 18th
20 of 2021?

21 A. Yes.

22 Q. And are they fair and accurate depictions of how
23 Ms. Branham looked that day?

24 A. Yes.

25 Q. Will they help illustrate your testimony to the jury?

1 A. Yes.

2 MS. WELLMAN: The State would move to introduce
3 State's 63, 64 and 65 and publish to the jury.

4 THE COURT: Any objection?

5 MS. POPOWSKI: No, Your Honor.

6 THE COURT: They're admitted.

7 (State's Exhibit Number 63, 64 and 65, photographs,
8 were admitted into evidence.)

9 BY MS. WELLMAN:

10 Q. Ms. McMillan, tell the jury what we're seeing there.

11 A. This is of her back and the largest contusion there
12 is like in the middle. I don't know exactly -- is that the
13 lumbar or --

14 Q. Right there?

15 A. Yeah, right there.

16 Q. Okay. And State's Exhibit 64?

17 A. That's a close-up of that bruise.

18 Q. And how did you take these photographs? Was it with
19 your phone?

20 A. With her phone.

21 Q. Her phone. And this is State's Exhibit 65.

22 A. Yes. That's her left hand.

23 MS. WELLMAN: If I could just beg the Court's
24 indulgence for one second.

25 THE COURT: Take your time.

1 MS. WELLMAN: May I approach the witness?

2 THE COURT: You may.

3 BY MS. WELLMAN:

4 Q. Ms. McMillan, this is State's Exhibit 7, which you've
5 already identified as a screen shot of the text message
6 that you received from Ms. Branham on October 13th. Can
7 you see in that screen shot your response or any response
8 that you made?

9 A. I see two responses from me.

10 Q. Okay. Is your response in blue?

11 A. Yes.

12 Q. Okay. And then is --

13 A. Hers is in gray.

14 Q. Okay. Thank you. One final thing, Ms. McMillan, I
15 just want to clarify. You saw --

16 MS. WELLMAN: May I approach?

17 THE COURT: You may.

18 THE COURT: Let me ask, Number 7 is that for ID only
19 or --

20 MS. WELLMAN: At this point yes, Your Honor.

21 THE COURT: Okay. Put ID only.

22 BY MS. WELLMAN:

23 Q. Ms. McMillan, this is State's Exhibit 12. Can you
24 just tell us what that is?

25 A. It's a calendar of October of 2021.

1 Q. Okay. And does that show the Monday, the 11th, the
2 Tuesday, the 12th, and Wednesday, the 13th?

3 A. Yes.

4 Q. And will this just help clarify one thing for the
5 jury?

6 A. Yes.

7 Q. Okay.

8 MS. WELLMAN: Your Honor, this is a blank
9 calendar page which we would like to publish for
10 demonstrative purposes.

11 THE COURT: Any objection?

12 MS. POPOWSKI: No objection, Your Honor.

13 THE COURT: It's admitted. You can publish.

14 (State's Exhibit Number 12, October 2021 calendar
15 page, was admitted into evidence.)

16 BY MS. WELLMAN:

17 Q. Just to clarify, McMillan, if we're looking at Monday,
18 October 11, 2021, did you see Ms. Branham that day?

19 A. Yes.

20 Q. Did she have any of the bruises that we saw on State's
21 Exhibit 60, 61, 62, 63, 64 or 65?

22 A. No.

23 Q. Did you see Ms. Branham on Tuesday October 12th of
24 2021?

25 A. Yes.

1 Q. Did she have any of the bruises that we saw in those
2 photographs, State's Exhibits 60 through 65?

3 A. No.

4 Q. And did you see her on the morning of October 13th?

5 A. Yes.

6 Q. Did she have those bruises?

7 A. Yes.

8 Q. Did she have the cut, the really bad cut on her arm?

9 A. Yes.

10 Q. Did she have that on October 11th of 2021?

11 A. No.

12 Q. Did she have that cut on October 12th of 2021?

13 A. No.

14 MS. WELLMAN: No further questions.

15 THE COURT: Mr. Mauldin? Ms. Popowski?

16 MS. POPOWSKI: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. POPOWSKI:

19 Q. Good afternoon, Ms. McMillan.

20 A. Good afternoon.

21 Q. You testified that Ms. Branham is your best friend?

22 A. Yes.

23 Q. And you guys have known each other for five years?

24 A. Yes.

25 Q. And you're good enough friends that you would call

1 9-1-1 for her?

2 A. Yes.

3 Q. In fact, you probably wished she had called earlier?

4 A. Called who?

5 Q. Anyone.

6 A. She promised she would not call.

7 Q. It's a yes or no question. You probably wish she had
8 called earlier?

9 MS. MAYES: Objection.

10 MS. WELLMAN: Your Honor, she's answered that
11 question. She can answer it however --

12 MS. POPOWSKI: It's a yes or no question.

13 THE COURT: I'm gonna let her answer yes or no.

14 MS. POPOWSKI: Thank you, Your Honor.

15 THE COURT: Go ahead.

16 THE WITNESS: I wish she had called me, yes.

17 BY MS. POPOWSKI:

18 Q. And you called 9-1-1, not Ms. Branham?

19 A. Right.

20 Q. And that was nine hours after Mr. Neeley left her
21 home?

22 A. Yes.

23 Q. But you weren't there for the alleged attack?

24 A. No.

25 Q. And you don't -- you don't know for certain where

1 those bruises came from?

2 A. No.

3 Q. And you don't know what time it happened?

4 A. I know it happened after I left on the 12th.

5 Q. And you don't know my client?

6 A. No.

7 Q. And you've never met him?

8 A. No.

9 Q. You talked about the tea olive trees and how that's
10 a huge job?

11 A. Yes.

12 Q. And that's because they had huge roots?

13 A. Yes.

14 Q. Okay. How long did that take you-all to complete?

15 A. We worked on it I think a couple of hours.

16 Q. Okay. And Ms. Branham must do a lot of yard work?

17 A. She cuts her grass. I would say no, she doesn't do a
18 lot of yard work.

19 Q. That's impressive to cut your own grass in your
20 seventies. They showed you a video of you arriving at the
21 home?

22 A. Yes.

23 Q. What color truck do you have?

24 A. It's a -- it's a real dark burgundy.

25 Q. Okay. And when you arrived on October 13th of 2021,

1 Ms. Branham was not crying when you arrived?

2 A. She -- no.

3 Q. Okay. In fact, she was calm when you arrived?

4 A. No, she --

5 Q. Do you remember when Special Agent Lykes came over?

6 Sykes. I'm sorry.

7 A. Where are they from?

8 Q. Special Agent Sykes.

9 A. Okay. Yes.

10 Q. Do you remember her coming over to the house?

11 A. Yes.

12 Q. Okay. And so on that day, on October 13th of 2021,

13 you stayed there with Ms. Branham --

14 A. Yes.

15 Q. -- while Special Agent Sykes interviewed her?

16 A. Yes.

17 Q. Okay. So that interview lasted about an hour and a
18 half?

19 A. (Nods head.)

20 Q. And you also had plenty of opportunities to talk to
21 law enforcement during that time?

22 A. Yes.

23 Q. Okay. But it was not until last week that you
24 remembered that you had seen Ms. Branham two days before?

25 A. That would have been which day?

1 Q. Last week is when you told the Solicitor's office that
2 you had seen her on October 11th.

3 A. On the 11th. I think I remembered the 11th. It was
4 the 12th I think that I was having the issue with.

5 Q. Yes, ma'am. And that's that -- the first time you let
6 the Solicitor's office know that you had seen her on the
7 12th was Monday morning, yesterday morning?

8 A. Yes.

9 Q. You didn't know that Ms. Branham had given Brandon
10 hundreds of dollars?

11 A. Not -- no, I didn't.

12 Q. Or that he had been to her house alone before?

13 A. I did know that.

14 MS. POPOWSKI: I beg the Court's indulgence.

15 THE COURT: Take your time.

16 MS. POPOWSKI: No further questions, Your Honor.

17 THE COURT: Any redirect, Ms. Wellman?

18 MS. WELLMAN: Yes, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. WELLMAN:

21 Q. Ms. McMillan, talking about the tea olives, when you
22 dug those up, had that been that week or was it several
23 weeks earlier?

24 A. It had been -- it was -- they came and got them within
25 a day or so of us digging them up.

1 Q. But was that several weeks --

2 A. It was before when they came and when -- we dug them
3 up and they came and picked them up before we planted the
4 new shrubbery.

5 Q. Okay. Ms. Popowski asked if you knew that Ms. Branham
6 had given the defendant some money. Did you know that she
7 had hired him to do some yard work?

8 A. She hired him to do some repairs on her irrigation
9 system.

10 Q. Ms. McMillan, you said that Ms. Branham was not calm
11 when you arrived on the morning of October 13th.

12 A. (Nods head.)

13 Q. Can you tell the jury about her demeanor that morning?

14 A. She -- she was very frightened and she was -- would
15 vacillate between being calm and crying and -- and almost
16 being hysterical. And she was so afraid. The fear was one
17 thing. She was afraid that he was going to come back.

18 MS. WELLMAN: Nothing further.

19 MS. POPOWSKI: Just one question, Your Honor.

20 THE COURT: Okay.

21 RE CROSS EXAMINATION

22 BY MS. POPOWSKI:

23 Q. Ms. Branham -- I apologize. Ms. McMillan, Ms. Branham
24 didn't just give money to Brandon for yard work, did she?

25 A. She gave him money for --

1 Q. It's a yes or no question. She didn't just give him
2 money for yard work?

3 MS. WELLMAN: Your Honor, she can answer the
4 question how she would like.

5 THE COURT: She can answer it.

6 Go ahead and let her answer.

7 THE WITNESS: Is it yes or no or I can answer?

8 THE COURT: You can answer. Go ahead.

9 THE WITNESS: She told me that he came back and
10 said he needed money for bail for his girlfriend and
11 would she give him an advance on doing the irrigation
12 work.

13 BY MS. POPOWSKI:

14 Q. But you didn't know any of that until after the police
15 were called?

16 A. That's right.

17 MS. POPOWSKI: No further questions, Your Honor.

18 THE COURT: Okay. May I let the witness be excused?

19 MS. WELLMAN: Yes, Your Honor.

20 THE COURT: You can step down. Thank you for coming.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 MS. MAYES: May we approach, Your Honor?

24 THE COURT: You may.

25 (Proceedings held at the bench; not reported.)

1 THE COURT: Madam Forelady, I'm gonna give you-all
2 a break. We're gonna take a 15-minute break. I try to
3 keep you updated on everything we're doing. I'm gonna
4 tell you we have one more witness for today. It might
5 be a little long, but that will be our last witness, so
6 I anticipate you-all getting home at a decent hour today,
7 okay?

8 So take a break. Please remember you cannot discuss
9 this case even amongst yourselves, okay?

10 (Whereupon, the jury retires to the jury room at
11 2:18 PM.)

12 THE COURT: All right. Fifteen minutes.

13 (Recess taken at 2:19 PM.)

14 (Back on the record at 2:35 PM.)

15 BAILIFF: Stay seated. Court is back in session.

16 THE COURT: Okay. Are we ready to bring the jury in?

17 MS. MAYES: Yes, Your Honor.

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

19 (Whereupon, the jury returns to the jury room at
20 2:42 PM.)

21 THE COURT: Madam Forelady, is the jury ready?

22 FOREPERSON: Yes, Your Honor.

23 THE COURT: Please be seated.

24 You may call your next witness.

25 MS. MAYES: The State calls Agent Rachel Nguyen.

1 (Whereupon, Rachel Nguyen was duly sworn by the
2 Clerk of Court at 2:43 PM.)

3 THE CLERK: If you'll have a seat up there. If
4 you'll state your name and spell your last name for the
5 record.

6 THE WITNESS: My name is Rachel Nguyen. N-G-U-Y-E-N.

7 RACHEL NGUYEN,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. MAYES:

11 Q. Good afternoon. Tell us a little bit about yourself.
12 Where are you currently employed?

13 A. I'm currently employed with the South Carolina Law
14 Enforcement Division, most commonly known as SLED.

15 Q. And how long have you been with the State Law
16 Enforcement Division?

17 A. It will be nine years this coming September.

18 Q. Now when you talk about SLED, let me ask you, is there
19 a crime lab at SLED?

20 A. Yes. The SLED agency has a forensic services
21 laboratory.

22 Q. Okay. I'm gonna ask you to take the microphone and
23 pull it up just a little bit closer to you.

24 A. Okay.

25 Q. And that crime lab at SLED, can you tell us whether or

1 not it serves law enforcement agencies across the state?

2 A. Yes. So SLED serves the entire state. We are an
3 assisting agency, so any time any different county or
4 police department requires our assistance they will call
5 SLED and we will assist in any way that they request.

6 Q. And what do you do? What type of work do you do
7 within the SLED crime lab?

8 A. I'm a forensic scientist within the DNA casework
9 department within the forensic laboratory.

10 Q. All right. Now today we're calling you out of order.
11 I believe you've got a vacation planned after today?

12 A. That's correct.

13 Q. So recognizing that we are calling you, Agent Nguyen,
14 as a witness out of order, let me ask you specifically what
15 type of forensic science you carry out within the SLED
16 crime lab?

17 A. So I have many job duties as a forensic scientist.
18 One of the primary job duties is to do forensic serology.
19 Serology being body fluid identification. Within the DNA
20 department, we do testing for blood, semen and saliva.
21 Another component of my job is evidence processing. So
22 that would be processing items of evidence, trying to
23 collect any potential DNA from either handling an object
24 or wearing an object or an article of clothing.

25 In addition to that, I also participate in what we

1 call directed DNA analysis. So that means that I'm going
2 to perform the first two steps within the DNA analysis
3 process, which are extraction and quantitation.

4 Extraction means to potentially remove any DNA from a
5 swab or a cutting from an item and then that leads you to
6 the quantitation portion, which basically means trying to
7 see if and how much human DNA is present.

8 In addition to those laboratory tasks, I also am in
9 training to be an DNA analyst, so I'm learning the next
10 steps after quantitation.

11 I also provide courtroom testimony on any cases I
12 perform analysis on and I also provide training to any
13 new serologists that are hired within the DNA casework
14 department.

15 Q. So when we talk about serology and your work as a
16 forensic scientist in the field of serology, what can you
17 tell us about your educational background and training that
18 led you to become a serologist?

19 A. So I have two bachelors of science degrees from the
20 University of New Haven; one in biology and one in the
21 forensic science. Upon being employed in the DNA casework
22 department, I underwent an approximately year-long training
23 program under a court-qualified accredited serologist.
24 During this time I was able to observe the different types
25 of testing and collection methods as I previously mentioned

1 for serology and evidence processing. I was also able to
2 perform and essentially practice those techniques. At the
3 end of my training program to test my knowledge and ability
4 to perform these analyses and techniques independently, I
5 underwent a competency testing program.

6 So what that means is I'm going to be tested on
7 different elements. So the first part was a written exam
8 to test my knowledge on everything that I'm performing
9 examinations on. There was an oral exam, a mock case I had
10 to actually physically perform the test of analysis on and
11 then a mock court. I successfully completed all of those
12 components and, therefore, I am able to perform independent
13 casework as pertains to serology and evidence processing.
14 After that, I underwent another approximate year-long
15 training program in what I previously mention as directed
16 DNA analysis, including the extraction and quantitation of
17 samples. That was formatted very similarly to my serology
18 and evidence processing training program. So there's a
19 period of observation, practice and then at the end I
20 underwent another competency testing phase that had the
21 same four components; a written exam, an oral exam, a mock
22 case I had to perform work on and then, finally, a mock
23 court. Once all of those different tests were successfully
24 completed, I was then able to perform independent casework
25 in those areas of testing as well.

1 Q. When you talk about the independent casework, you're
2 talking about within the lab itself?

3 A. Yes. When I say independent casework, I mean that I
4 am able to perform testing or analysis by myself without
5 the observation of a court-qualified more senior analyst.

6 Q. And, Agent Nguyen, how many years have you worked in
7 the SLED crime lab specifically doing serology testing?

8 A. Specifically doing serology, it's been six years.

9 Q. Is it possible for to you estimate how many hundreds
10 of cases you have conducted serology testing on?

11 A. Yes. So serology in combination with evidence
12 processing, I've performed testing on about 900 cases.

13 Q. And can you tell us whether or not your work is
14 subject to supervision?

15 A. Yes. So in terms of supervision, different components
16 of our work, including the results of different tests of
17 analysis, will be reviewed through our review process. So
18 a report will be written to, you know, document the results
19 we have and it will go through a technical review, which
20 means someone will that was not performing testing review
21 the components that were part of the report, and then it
22 will go through an administrative review, which is another
23 individual who is, once again, reviewing the different
24 components to ensure that all proper testing was done and
25 any requests from the outside agency was addressed.

1 Q. Peer review?

2 A. Yes.

3 Q. Now in addition to that supervision and peer review,
4 can you tell us whether or not the South Carolina Law
5 Enforcement Division, SLED, whether or not their crime lab
6 is accredited?

7 A. The SLED crime lab is accredited. We are accredited
8 by the American National Standards Institute National
9 Accreditation Board. It's voluntary, so we do participate
10 voluntarily. We are held to a high set of standards that
11 this accreditation board sets across the nation. The
12 DNA casework department is also found in compliance with
13 the Federal Bureau of Investigation's quality assurance
14 standards. Once again, those are just very strict
15 standards that we have to be meet in order to be a
16 functional testing laboratory.

17 Q. And can you tell us whether or not have you been
18 qualified previously to testify in courts of this state in
19 the field of forensic serology?

20 A. Yes, I've been qualified as an expert in serology
21 within courts of this state.

22 Q. And is it possible for you to estimate how many such
23 times you've been previously qualified as an expert in
24 serology?

25 A. Approximately eleven times.

1 MS. MAYES: Your Honor, at this time the State would
2 offer Agent Rachel Nguyen as an expert in the field of
3 serology and that is to include the DNA quantification.

4 THE COURT: Any objection?

5 MR. MAULDIN: No, Your Honor.

6 THE COURT: All right. Let me tell the jury.

7 Normally witnesses can only testify to what they've
8 seen, they've heard or they did. We have an exception
9 to that rule, which is the expert witness. They're
10 gonna be allowed to give their opinion. You can give
11 the testimony the weight you think it deserves.

12 Please proceed, Ms. Mayes.

13 BY MS. MAYES:

14 Q. Now, Agent Nguyen, in this particular case, the State
15 versus Robert Brandon Neeley, can you tell us whether or
16 not there is a unique SLED lab number associated with this
17 case?

18 A. Yes. The unique SLED lab number is L21-20583.

19 Q. And how do you utilize that SLED lab number in terms
20 of documenting evidence that arrives to you for the purpose
21 of testing or analysis?

22 A. So when evidence is submitted to the SLED laboratory,
23 it will be given a unique SLED lab number. In addition,
24 any items of evidence that are submitted under that lab
25 number will receive their own number. In this case, I

1 received several items of evidence that were identified
2 with this SLED lab number and after performing any evidence
3 processing or body fluid testing, I will label these items
4 with the unique SLED lab number, item number, as well as my
5 initials.

6 MS. MAYES: Your Honor, if I may approach the
7 witness?

8 THE COURT: You may.

9 BY MS. MAYES:

10 Q. I'm gonna show you what is marked State's 53 and ask
11 you whether or not you recognize this item and, if so, how?

12 A. So State's Exhibit 53 is consistent with this case.
13 It has the unique SLED lab number, as I mentioned. In
14 addition, there is another pouch found within this plastic
15 what we call a heat-sealed pouch, and it has evidence tape
16 which has my initials and date from when I sealed it when I
17 was done performing any analysis.

18 Q. And this is State's 53 in which you have identified
19 it.

20 Now for purposes of further identification, let me
21 ask you, you mentioned that heat-sealed pouch. What is a
22 heat-sealed pouch and why is it utilized by your State
23 crime lab?

24 A. So a heat-sealed pouch is what you can see here is
25 essentially a plastic pouch and you can only seal it with

1 heat. So each examiner has what we call a heat sealer,
2 which is what performs that preparation on top. They're
3 also tamper evident, so if anyone were to try to open it,
4 slice it open, it would be evident that it was -- like
5 attempted to be opened with, especially if it's not sealed.

6 Q. Now inside of State's 53, which you have identified,
7 there is an item. What is the item contained within this
8 transparent heat-sealed pouch?

9 A. Do you mean the white pouch?

10 Q. Yes.

11 A. So the white envelope found inside that heat-sealed
12 pouch is what we called a sexual assault evidence
13 collection kit.

14 Q. All right. The sexual assault evidence collection
15 kit, what is that?

16 A. So the DNA department works in collaboration with the
17 toxicology department and we provide the sexual assault
18 collection kits to agencies and also hospitals across the
19 state. Their purpose is to kind of standardize sexual
20 assault collection. Within inside the larger white
21 envelope is a bunch of smaller envelopes with different
22 types of swab collections. They could suggest vaginal
23 swabs, rectal swabs, any areas of interest for any other
24 types of body fluids.

25 Also within a sexual assault kit there is what we

1 call a victim buccal swab. That is essentially what we
2 call a known standard. So the swabs would be rubbed inside
3 the cheek of the victim to get a DNA profile essentially
4 for comparison purposes.

5 Q. Now within SLED and within your crime lab, who was the
6 first person to receive this item, being the sexual assault
7 collection kit? Who was the first person to receive this
8 item for testing?

9 A. Oh, for testing that would be me.

10 Q. And who was the first person to unseal this item?

11 A. I would be the first person to open that item.

12 Q. So that was you as well?

13 A. Yes.

14 Q. Now when it arrived to you, Agent Nguyen, had there
15 been any signs of tampering with the sexual assault
16 evidence collection kit?

17 A. There were no signs of tampering. If there had been,
18 I would have documented it within the case file.

19 Q. So you unsealed it yourself?

20 A. That's correct.

21 MS. MAYES: Your Honor, at this time we would
22 ask that the witness have the opportunity to unseal
23 State's 53 for the purpose of further identification
24 of the contents.

25 THE COURT: Any objection?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: You may.

3 BY MS. MAYES:

4 Q. Now the kit itself, how is the kit itself that we see
5 here in white, how is it also protected from tampering?

6 A. So the kit itself comes with seals. So the outside
7 packaging will have a seal provided for the person,
8 typically a sexual assault nurse examiner, to seal it.
9 There are also seals found within inside to seal the
10 envelopes.

11 Q. So the nurse actually seals it prior to its arrival
12 to you?

13 A. That's correct.

14 Q. And once you receive it, could you tell us whether or
15 not the kit itself had any evidence of tampering prior to
16 you unsealing it?

17 A. There was no evidence of tampering so, therefore, I
18 opened the kit and proceeded with the analysis.

19 MS. MAYES: And, Your Honor, with the Court's
20 permission if may she now unseal the package?

21 THE COURT: She may.

22 There are no objections I assume?

23 MR. MAULDIN: No objection.

24 THE COURT: Go ahead.

25 BY MS. MAYES:

1 Q. And within the kit itself you indicated that there are
2 numerous swabs that are collected by the nurse?

3 A. Yes.

4 Q. And in addition to that, to the numerous swabs, you
5 indicated that there is also what is known as a standard
6 collected from the victim?

7 A. That is correct.

8 Q. And is that what's known as a -- or what's called a
9 known DNA standard?

10 A. That's correct.

11 Q. And I'm gonna ask you to take a look at this envelope
12 and ask you whether or not it would contain such an item?

13 A. Yes. So this envelope would contain the item.
14 This envelope particularly holds all the swabs that are
15 collected during an examination.

16 Q. Okay. And does this envelope within the kit also
17 contain proper sealing?

18 A. Yes, it does. As you can see, there's a red seal
19 that's consistent with the white outer packaging that also
20 had a red seal.

21 Q. And do you see your initials on this envelope as well?

22 A. I do. So I labeled the outer packaging with the
23 unique case number, item number, my initials and the date
24 that I opened the envelope. In addition, when I was done
25 performing my analysis I sealed the envelope so you can

1 also see the yellow SLED evidence tape with my initials as
2 well as the date.

3 Q. Okay.

4 MS. MAYES: And, again, Your Honor, with the Court's
5 permission if she may unseal this envelope from within
6 the collection kit?

7 THE COURT: She may.

8 BY MS. MAYES:

9 Q. So, Agent Nguyen, I'm gonna ask you to take a look at
10 this particular item. We're gonna place all of these items
11 back inside of the kit and I'm gonna ask you to take a look
12 at this one item, the sub item from within State's 53, and
13 ask you whether or not you can identify that item?

14 A. I can identify this item. This is the known standard
15 or victim buccal swabs that I previously mentioned. On the
16 exterior of the packaging, you can see this bright yellow
17 label. I placed that there. It has the unique case
18 number, item number. I also initial and date it when I
19 inventory the kit. Inventory meaning just seeing what
20 type of swabs were collected and then assigning them their
21 own unique item number within the case.

22 Q. And this would be the known DNA swab from the victim?

23 A. That is correct.

24 Q. Now that particular swab is collected from what part
25 of the body?

1 A. It's the interior cheek.

2 Q. And does the swabbing of the interior cheek allow for
3 the collection of cheek cells?

4 A. That's correct. And I should also mention that the
5 swabs are sterile, so ideally it should only have the DNA
6 of one individual.

7 Q. So with the cheek cells ultimately, can a DNA profile
8 be developed from those cells?

9 A. Yes. The goal would be to develop a DNA profile from
10 DNA known standards or buccal swabs.

11 Q. So that you would be able to recognize or identify any
12 evidence containing the DNA of the victim in this case,
13 Glenna Branham?

14 A. Yes. So the goal would be to use it for comparison
15 purposes.

16 Q. Now in addition to all of these items that you have
17 identified within State's 53, let me ask you about this
18 item, also contained within State's 53, and ask you what
19 that is?

20 A. So this plastic pouch contains, if you can see,
21 various tubes. The tubes were what were used within the
22 DNA analysis process. The exterior appears to be labeled
23 with the unique case number, item numbers that are
24 contained within the pouch, as well as the initials and
25 date of the DNA analyst.

1 Q. And you developed those extractions yourself?

2 A. Yes. The handwriting on the tubes is consistent with
3 my handwriting when I performed the DNA analysis.

4 Q. And ultimately the DNA extractions that you collected
5 in this case went to who within your lab?

6 A. It went to Donna Money, who is a DNA analyst.

7 Q. So it went from you directly to the DNA analyst?

8 A. Let me just double confirm. Yes, it was a direct
9 person-to-person transfer to the forensic scientist,
10 Donna Money.

11 Q. Now would you have sealed this item containing the
12 extractions prior to submitting it over to your DNA
13 analyst, Donna Money?

14 A. Prior to transfer it would not be sealed within a
15 pouch like that. Since I'm only doing the first two steps
16 of the DNA analysis process and Donna is doing the second
17 two steps, I would be handing the tubes directly to her.

18 Q. A direct transfer?

19 A. That's correct.

20 Q. And what about the envelope containing the kit?

21 A. At the same time as I'm transferring the tubes, the
22 evidence itself will be transferred to Donna, and that's
23 how it's documented. So it's documented within what we
24 call a chain of custody. A chain of custody will track
25 an item once it's received to the laboratory up until it

1 is returned to the agency. This is documented because
2 each item has a barcode, each individual person who works
3 within the laboratory has a barcode and different locations
4 throughout the laboratory also have bar codes. So upon
5 moving it to a shelf, giving it to another individual, the
6 barcode is scanned to document that transfer.

7 Q. Okay. And there's no one else within that chain of
8 custody between yourself and Agent Money?

9 A. No, it was directly given to Agent Money.

10 Q. Now in addition to receiving items within that sexual
11 assault collection kit to compare for later DNA analysis,
12 I want to ask you if you received any other requests for
13 testing in this case?

14 A. Yes, I received another item that had a testing
15 request on it.

16 Q. Now you spoke earlier about serology and the field of
17 serology, but I'm gonna ask you specifically within the
18 field of serology what types of bodily fluid can be tested
19 for and identified?

20 A. So the DNA department at SLED tests for blood, semen
21 and saliva.

22 Q. Blood, semen and saliva?

23 A. That's correct.

24 Q. All bodily fluids?

25 A. All bodily fluids.

1 Q. Can you tell us whether or not each has own separate
2 type of testing?

3 A. Yes. So we have a presumptive test. Presumptive
4 meaning to indicate the possible presence of a body fluid.
5 Those tests are for saliva, semen and blood. We have
6 confirmation tests that can confirm the presence of a
7 bodily fluid and that is for blood.

8 Q. Okay. And you are trained in testing for each of
9 these bodily fluids?

10 A. That's correct.

11 Q. So you spoke about several items that you have handled
12 so far. That's gonna be the sexual assault collection kit
13 conducted by the nurse, the DNA swab from the victim and,
14 once again, what specific type of quantification did you do
15 on that swab prior to it going to Agent Money?

16 A. I performed the extraction and quantitation of the
17 swab.

18 Q. What, if any, third item did you acquire for the
19 purpose of testing, Agent Nguyen?

20 A. I also received an item that's described as a napkin
21 from garage black trash can.

22 MR. MAULDIN: Your Honor, at this time I'm gonna
23 renew my objections pretrial regarding the res gestae.

24 THE COURT: So noted for the record.

25 BY MS. MAYES:

1 Q. And that's a napkin from garage trash can, correct?

2 A. That's correct.

3 Q. Agent Nguyen, what type of testing was conducted on
4 that napkin that you received?

5 A. So when an agency submits an item of evidence to SLED,
6 they'll give it an analysis request, so the napkin had a
7 request for semen testing.

8 Q. I'm gonna show you what is State's 44 for
9 identification at this time. First, I want to ask you
10 whether or not you recognize your initials on this item?

11 A. Yes. My initials and date are on one of the seals,
12 as well as the front portion of the heat-sealed pouch as
13 I created this item.

14 Q. All right. This, again, is a heat-sealed pouch that
15 contains an item?

16 A. That's correct.

17 Q. And who would have been the first person at SLED to
18 receive this item, the napkin from the garage, for the
19 purpose of testing?

20 A. That would have been me.

21 Q. And when it arrived to you, can you tell us what
22 condition and how it was packaged --

23 A. So --

24 Q. -- when it arrived to your crime lab?

25 A. The napkin or this item?

1 Q. Yes, the napkin itself.

2 A. So the napkin would have been received in a sealed
3 state. I know this because I didn't document any notice
4 of tampering or that it was not sealed or anything that was
5 odd about the item.

6 Q. So it arrived to you sealed and who would have been
7 the first to unseal that item for the purpose of forensic
8 testing?

9 A. I would have unsealed the item.

10 MS. MAYES: Your Honor, with the Court's permission
11 and, again, for identification at this time if she may
12 unseal the envelope containing State's 44?

13 THE COURT: She may.

14 BY MS. MAYES:

15 Q. Okay. So we see two items within here. First, I'm
16 gonna ask you about this particular item. It is in a
17 yellow envelope and this envelope is issued by what agency?

18 A. SLED.

19 Q. Okay. And so you created the -- or you placed it in
20 this item to create what's Item 1.1?

21 A. Yes, I created Item 1.1, I placed it in this envelope
22 and I labeled this envelope.

23 Q. Okay. I'm gonna ask you if you can -- at this time
24 first of all, what, if anything, do you recognize on the
25 outside of this envelope?

1 A. So the envelope flap itself has, once again, the
2 yellow SLED evidence tape with my initials and date from
3 when I sealed it.

4 Q. So it is sealed.

5 MS. MAYES: And, Your Honor, with the Court's
6 permission if she may unseal what is Item 1.1?

7 THE COURT: She may.

8 BY MS. MAYES:

9 Q. And do you recognize the item contained within?

10 A. I do. So found within is a cutting from, as I
11 previously mentioned, the napkin. The cutting is labeled
12 with its sub item number, the 1.1 that I assigned it once
13 I removed it from the original item, the napkin.

14 Q. And I'm gonna show you what is State's 42. Looking
15 here at 42, do you recognize this item and can you tell us
16 whether or not it also contains sealing consistent with
17 SLED protocol?

18 A. Yes. The sealing is consistent with SLED protocol.
19 Once again, it has packaging tape that I also placed SLED
20 evidence tape across, initialed and dated, after I was done
21 processing the item.

22 Ms. MAYES: And, Your Honor, for identification
23 purposes with the Court's permission if she may unseal
24 State's 42?

25 THE COURT: She may.

1 BY MS. MAYES:

2 Q. All right. Now you spoke earlier, Agent Nguyen, about
3 the fact that when the napkin from the garage arrived at
4 SLED that it would have been in a sealed state?

5 A. It would have been, yes.

6 Q. What, if anything, can you tell us about this brown
7 bag and the tape that surrounds it?

8 A. As you can see, there's additional yellow SLED tape,
9 which indicates that a SLED agent may have sealed it and
10 submitted it to the lab for testing.

11 Q. All right. And are you familiar with a SLED agent by
12 the name of Todd Schenk?

13 A. I am. He is the lieutenant over the crime scene unit.

14 Q. He works directly with the crime scene?

15 A. That's correct.

16 Q. And can you tell us whether or not this packaging is
17 consistent with the SLED crime scene protocol?

18 A. It is consistent, and I can identify his initials on
19 the exterior, as well as the seal.

20 Q. All right. And in doing so, can you can you tell us
21 what, if anything, is indicated by the notations?

22 A. So this is labeled on the exterior with the unique
23 case number that it was assigned, the item number, the
24 lieutenant's initials, as well as the description which
25 reads one napkin with suspected semen from garage black

1 trash can. It also has his initials, once again, a time
2 and date.

3 Q. All consistent with the packaging by CSI officer Todd
4 Schenk?

5 A. That's correct.

6 Q. And then within this was this item?

7 A. So that would be the napkin. We process items of
8 evidence within the serology unit on what's called white
9 processing paper and then when we're done processing the
10 item we will wrap it within that white processing paper,
11 if possible, label it with the case number, item number,
12 our initials and the date, so that's what you see here is
13 the white processing paper and inside would be the item.

14 Q. And these initials here belong to who?

15 A. That's my initials.

16 Q. All right. So to follow up, it's going to arrive to
17 you in this state?

18 A. Yes, within the brown paper bag.

19 Q. And here we see white paper. Why is the white paper
20 used to wrap that napkin?

21 A. So we wrap items of evidence within the white paper in
22 the event that any additional testing is ever requested, so
23 it kind of contains any debris that come off or in case an
24 item starts to degrade or come apart, that's just trying to
25 contain it into one area.

1 Q. Al right. So take us through the steps. The napkin
2 arrives to you, you unseal it from its packaging. What is
3 the first thing that you do, Agent Nguyen, in trying to
4 potentially identify the presence of semen on the napkin?

5 A. All items of evidence that comes to the department
6 with semen as an analysis request will be viewed under an
7 alternate light source. So our alternate light source
8 looks like a flashlight. It will emit wavelengths at a
9 particular wavelength in order to fluoresce a biological
10 fluid. So the light I'm using is particular to identify
11 possible of areas of interest for semen.

12 Q. And when you use that fluorescent light source on this
13 napkin, the napkin from the garage and the trash can, what,
14 if anything, did you observe within your lab?

15 A. So any items or staining of interest, I will circle to
16 later test with our presumptive testing for semen.

17 Q. And when have you done that presumptive testing, how
18 do you go about isolating the area that fluoresces or tests
19 positive for later DNA analysis?

20 A. So after the alternate light source is used, there
21 will be areas that I've circled and then those will be
22 tested with our presumptive semen test, which is the acid
23 phosphatase test. I will record any results, whether it
24 be negative or positive. I will also, if able, label the
25 item with the case number, the item number, as well as my

1 initials, and any area that is positive could be forwarded
2 for further analysis. In this case, there was a stain
3 that was positive, which I forwarded for analysis, and I
4 described it as a cutting from the napkin from garage black
5 trash can.

6 Q. All right. So that's the cutting that you previously
7 identified as State's 1.1?

8 A. It is. SLED's 1.1, State's Exhibit 44, is the cutting
9 from the napkin.

10 Q. So the napkin arrives whole, you conduct testing on
11 it, and then based on the results of that testing you
12 created this cutting directly from the napkin?

13 A. That's correct. I'll remove the stain for further
14 analysis and then the napkin itself will be returned to the
15 agency.

16 Q. Agent Nguyen, looking here at State's 44 and your
17 Item 1.1 that you told us that testing was conducted, what
18 type of testing was conducted on this item?

19 A. So as I mentioned, for the semen we use acid
20 phosphatase testing, and that's exactly what it sounds
21 like. It's trying to find the acid phosphatase component
22 that is present within male seminal fluid.

23 Q. And what were the results of that test?

24 A. So for the cutting it was positive for the acid
25 phosphatase test.

1 Q. Indicating what?

2 A. The possible presence of semen.

3 Q. I want to ask you a few more questions about that.

4 When you talk about conducting testing specifically for the
5 presence of semen, you spoke about the acid phosphatase
6 test. What is unique about that testing and its ability to
7 identify any concentrated areas of semen?

8 A. So acid phosphatase is found in very high
9 concentrations within male seminal fluid; however, it is
10 also found in other body fluids, so our test is designed
11 to indicate the possible presence of semen based on the
12 time. So a test will be run for sixty seconds. If it is
13 positive, it is more targeted towards the presence of semen
14 versus another body fluid that may give you a positive
15 result much later after the sixty seconds.

16 Q. Okay. And can you tell us whether or not your report
17 issued from the State crime lab indicated that that
18 cutting -- that area that cut from the napkin was, in
19 fact, presumptively positive for semen?

20 A. The cutting was presumptively positive for semen.

21 Q. Now when we talk about semen, is it one of those
22 bodily fluids like blood or cheek cells where a DNA profile
23 can be developed?

24 A. Yes. Body fluids are very rich in DNA. Specifically,
25 in semen it's found in sperm cells.

1 Q. So once you have done that presumptive testing to
2 identify the presence of semen, what's the next step within
3 the crime lab about trying to determine whether or not
4 identification and a DNA profile can be developed from that
5 semen?

6 A. So once an area or stain of interest is found, it will
7 be forwarded for DNA analysis. As I mentioned, I performed
8 the direct DNA analysis on this item, which would include
9 the extraction and quantitation.

10 Q. All right. We're gonna take a look here at these
11 items that were contained within with SLED 1.1. I'm gonna
12 ask you what are these items?

13 A. So those are two tubes which are consistent with the
14 cutting. So the tubes will contain essentially any DNA
15 that is coming from the cutting during the DNA analysis
16 process.

17 Q. And did these go directly to Agent Money for the
18 purpose of DNA analysis?

19 A. Yes. So they followed the same transfer as the sexual
20 assault kit. They were transferred directly to Donna Money
21 for further analysis.

22 Q. From yourself?

23 A. That's correct.

24 MS. MAYES: State's 44 for identification only at
25 this time, Your Honor. State's 42 for identification

1 only at this time, Your Honor. State's 53 for
2 identification only at this time, Your Honor.

3 THE COURT: Any objection?

4 MR. MAULDIN: I think it's 44 and 43.

5 THE COURT: No, I've got 42, 44 and 53.

6 THE COURT REPORTER: That's correct.

7 MS. MAYES: That's correct.

8 MR. MAULDIN: 42 and 44 are subject to prior
9 objection, Your Honor.

10 THE COURT: So noted for the record.

11 BY MS. MAYES:

12 Q. So with semen being identified or presumptively
13 positive on the napkin itself, the next step would be DNA
14 analysis?

15 A. That's correct.

16 MS. MAYES: Thank you, Agent Nguyen.

17 THE COURT: Mr. Mauldin.

18 MR. MAULDIN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. MAULDIN:

21 Q. Is it common -- I mean, you say you tested the
22 cuttings from the napkin and you got a presumptive semen
23 test and it tested positive for semen; is that right?

24 A. That's correct.

25 Q. Okay. Does sometimes the DNA analyst do a secondary

1 test for the presence of semen?

2 A. No, the DNA analyst will perform the DNA analysis
3 process to potentially develop a DNA profile.

4 Q. All right. And so you talked here about a napkin and
5 a cutting from a napkin and I think you talked about the
6 sexual assault test kit; is that right?

7 A. That's correct.

8 Q. And that kit contained five sub items; is that right?

9 A. It did contain five items which I assigned a sub
10 item to.

11 Q. Okay. And one would be vaginal swabs; is that right?

12 A. Yes. Vaginal swabs, oral swabs, right hand fingernail
13 swab, left hand fingernail swab, and then the victim's
14 buccal swab.

15 Q. And did you do any kind of serology or testing for
16 those?

17 A. No serology was performed on these items. They
18 were prepared for DNA analysis and then I extracted and
19 quantitated these items as well.

20 Q. Okay. And besides the napkin and the -- well, go
21 back to the sexual assault kit. You said something about
22 coordinating with toxicology on sexual assaults?

23 A. No, I mentioned that -- so the sexual assault evidence
24 collection kit contains samples for collection for the DNA
25 department, as well as the toxicology department if it's

1 pertinent to the scenario.

2 Q. And toxicology can determine things -- well, typically
3 it's poison, but it also has things like alcohol and drugs.
4 The toxicology people can determine that; is that right?

5 A. So they do testing for either the presence or absence
6 of blood -- I'm sorry, excuse me, of alcohol, drugs or
7 poisons.

8 Q. Okay. And did you have any materials to forward to
9 that department?

10 A. I would not have received materials for that. Upon
11 being submitted to the agency, they are divided. So if
12 there's an envelope for DNA and an envelope for toxicology,
13 they would be assigned separate item numbers.

14 Q. Well, I didn't know since you said you-all coordinated
15 with them whether or not things had gone through to them?

16 A. No, we just collaborate on the creation of the kits
17 since the kits are disseminated from SLED.

18 Q. So the sexual assault kit would have a toxicology
19 component to it, it just wouldn't go to you?

20 A. It would not come to me.

21 Q. All right. And also in this case I believe you
22 handled an Item 27, swabs from a steering wheel; is that
23 correct?

24 A. That's correct.

25 Q. Did you do any serology testing on that?

1 A. I performed the presumptive acid phosphatase test as
2 I previously mentioned. The result for those swabs were
3 that they were negative.

4 Q. Negative for what?

5 A. The possible presence of semen.

6 Q. What about blood or saliva?

7 A. There was no blood or saliva performed on these swabs.

8 Q. Okay. And you also handled an Item 28, a swab from
9 the front passenger seat; is that correct?

10 A. That's correct.

11 Q. And did you do a serology test on that?

12 A. Yes. I, once again, performed the acid phosphatase
13 test on those swabs.

14 Q. And was it -- you tested for semen only?

15 A. Yes.

16 Q. You did not test for blood or saliva?

17 A. There was no blood or saliva tested on the swabs.

18 Q. Okay. So on the steering wheeling and the passenger
19 seat; is that correct?

20 A. That is correct.

21 Q. Okay. And then there was a -- is it buc-cal swab or
22 bu-ccal swab?

23 A. Buc-cal.

24 Q. There was a separate buccal swab from the victim
25 submitted to you as well, your Item 29, separate from the

1 sexual assault kit?

2 A. That is correct.

3 Q. And did you just use the one from the assault kit and
4 not use the other one?

5 A. Yes. We used the buccal swabs from the sexual assault
6 kit.

7 Q. Okay.

8 MR. MAULDIN: No further questions, Your Honor.

9 THE COURT: Thank you, Mr. Mauldin.

10 Ms. Mayes, any redirect?

11 MS. MAYES: Nothing from the State.

12 At this time, Your Honor, we do ask that -- well, let
13 me just follow up.

14 REDIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. All of those items that he just spoke with you about,
17 the swab from the front seat and the swab from the steering
18 wheel, you would have been in the chain of custody on those
19 items as well?

20 A. That's correct.

21 Q. And you would have been the person who unsealed those
22 items as well?

23 A. Yes. I unsealed the swabs from the steering wheel and
24 the passenger seat; however, I did not open or perform any
25 testing on the Item 29, the other buccal swabs.

1 Q. Because you used the buccal swab that was collected by
2 the nurse during the sexual assault exam?

3 A. That's correct.

4 Q. And so all of those items previously mentioned, you
5 were in the chain of custody and you were the first to
6 unseal those items as well?

7 A. I would be in the chain of custody of all those items
8 and I would be the first person in the chain of custody
9 that may have unsealed them.

10 MS. MAYES: Thank you, Agent Nguyen. Nothing
11 further.

12 MR. MAULDIN: Nothing further, Your Honor, and she
13 can be excused.

14 THE COURT: May I excuse Agent Nguyen?

15 MS. MAYES: Yes, Your Honor.

16 MR. MAULDIN: Yes, Your Honor.

17 (Witness excused.)

18 THE COURT: All right. Ladies and gentlemen of the
19 jury, that is gonna be all of the testimony for today, so
20 I'm gonna let you go early. The plan is to start right
21 at 9:30 in the morning, so I would need everybody in the
22 jury room at 9:15.

23 I'll also remind you -- you-all are gonna get so
24 tired of hearing this -- please do not go home and do any
25 research, talk to anyone about this case at all. If you

1 see anything on the news or in the newspaper, please do
2 not read it, okay? I'm gonna ask you that same question
3 in the morning.

4 I hope you-all have a great evening and I'll see you
5 in the morning.

6 (Whereupon, the jury was excused for the day at
7 3:27 PM.)

8 THE COURT: Anything from the State?

9 MS. MAYES: Nothing from the State, Your Honor.

10 THE COURT: Anything from the defense?

11 MR. MAULDIN: No, Your Honor.

12 THE COURT: All right. We'll start at 9:30 in the
13 morning. I guess we're going to have a full day?

14 MS. MAYES: Yes, Your Honor. We will.

15 THE COURT: Okay.

16 All right. Everybody have a good evening. I'll see
17 you in the morning.

18 Thank you.

19 MR. MAULDIN: Thank you, Your Honor.

20 (Whereupon, the proceedings were concluded for
21 July 25, 2023, at 3:27 PM.)

22 (The following proceedings were held July 26, 2023,
23 beginning at 9:46 AM.)

24 BAILIFF: Please stay seated. Court is now in
25 session. The Honorable Judge Debbie McCaslin presiding.

1 THE COURT: Alright. I guess we've got everybody.

2 Anything from the State before I call the jury in?

3 MS. MAYES: Nothing from the State, Your Honor.

4 THE COURT: Anything from the defense?

5 MR. MAULDIN: No, Your Honor.

6 THE COURT: All right. Let's bring them in.

7 (Whereupon, the jury enter the courtroom at 9:48 AM.)

8 THE COURT: Madam Forelady, is the jury ready?

9 FOREPERSON: Yes, Your Honor.

10 THE COURT: Please be seated.

11 All right. Morning question. Has anybody approached
12 you or have you talked to anyone about this case? Have
13 you done any research on the Internet, read anything in
14 the newspaper or watched anything on the news about this
15 case? If so, please raise your hand.

16 Thank you. We'll proceed.

17 Ms. Mayes, do you want to call your next witness?

18 MS. MAYES: The State calls Glenna Branham.

19 (Whereupon, Glenna Branham was duly sworn by the
20 Clerk of Court.)

21 THE CLERK: If you'll have a seat up there. If
22 you'll state your full name and spell your last for the
23 record.

24 THE WITNESS: My name is Glenna Branham.

25 B-R-A-N-H-A-M.

1 GLENNA BRANHAM,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Okay. Good morning, Ms. Branham.

6 A. Good morning.

7 Q. The first thing I'm gonna ask is you to pull a little
8 bit closer to the microphone.

9 A. I'm not gonna sing. I promise.

10 Q. And I'm gonna move it a little bit closer to you.
11 That way maybe keep it about that far away from you. I
12 know it may feel close, but that way we know that we can
13 hear you throughout your testimony.

14 How old are you this morning and at -- currently,
15 Ms. Branham?

16 A. I'm 75 and 11/12ths.

17 Q. Okay. So you'll have a 76th birthday in the coming
18 months?

19 A. In August.

20 Q. Okay. Going back to the time period of October of
21 2021, how old were you then?

22 A. Seventy-four.

23 Q. Okay. I want to start by asking you a few questions
24 about yourself. Your address in October of 2021, what was
25 your address?

1 A. [REDACTED] Congaree Downs Lane, West Columbia.

2 Q. And I know you said West Columbia, but is there
3 another area of Lexington County that is also part of that
4 community?

5 A. Actually South Congaree, but they don't have their own
6 post office, so that's why it's West Columbia.

7 Q. Okay. And that area of West Columbia, South Congaree,
8 can you tell us whether it's within the jurisdiction of
9 Lexington County?

10 A. Yes, ma'am.

11 Q. And how long were you living at that address?

12 A. Eight years. Do you mean back then?

13 Q. Eight years from now?

14 A. Right.

15 Q. And going back to when you had first purchased that
16 residence and located there, do you recall approximately
17 what year that was?

18 A. 2015. March 23, 2015.

19 Q. Now prior to that, where did you live?

20 A. I lived in Charleston, South Carolina.

21 Q. Okay. And for what reason had you located or
22 relocated to Charleston?

23 A. My elderly parents. I took care of my elderly
24 parents.

25 Q. And so your mother and father were living in

1 Charleston?

2 A. Yes, ma'am.

3 Q. And prior to moving to Charleston to care for them,
4 where had you worked and what county had you worked and
5 resided in?

6 A. I was in -- oh, gosh. I was at Sunoco.

7 Q. And let me -- instead of asking the county, what was
8 the name of the town?

9 A. Hartsville, South Carolina.

10 Q. Sunoco is located in Hartsville?

11 A. Yes, ma'am.

12 Q. And would that be consistent with Darlington County?

13 A. Darlington. I'm sorry. I couldn't remember. Yes,
14 ma'am.

15 Q. So you worked there at Sunoco in Hartsville and then
16 ultimately moved to Charleston to care for your parents?

17 A. Yes, ma'am.

18 Q. And when your parents passed, what, if anything,
19 brought you to Lexington County?

20 A. I have two brothers close by in Lexington and they
21 insisted I come here instead of going out west.

22 Q. Okay. And so you purchased a home at 112 Congaree
23 Downs Lane?

24 A. Yes, ma'am.

25 Q. Now can you tell us whether or not you lived alone at

1 that residence?

2 A. Yes, ma'am.

3 Q. And living alone as a female -- and at this point were
4 you retired and on Social Security?

5 A. Yes, ma'am.

6 Q. Living alone and on Social Security, how do you go
7 about finding help for any odd jobs that you might need
8 around your home?

9 A. Sometimes it's friends telling me and other times
10 people will advertise and I like to give them a chance.

11 Q. Okay. And during this time were you familiar with
12 any social media apps or anything of that nature where you
13 also could find persons who might do yard work or odd jobs
14 around your home?

15 A. Yes, ma'am. There's an app called Nextdoor --

16 Q. Okay.

17 A. -- and when you log onto Nextdoor you actually put in
18 your area so that it can concentrate -- it doesn't have to
19 concentrate there, but it will concentrate there.

20 Q. Okay. So it's called the Nextdoor app?

21 A. Yes, ma'am.

22 Q. And how did you learn about the Nextdoor app?

23 A. My neighbor told me about it.

24 Q. And is it focussed on one particular area or
25 neighborhood? Can it be done that way?

1 A. Yes, ma'am.

2 Q. I want to ask you a few questions about that. I'm
3 gonna show you, Ms. Branham, what is State's 11, 3 and 2,
4 and just ask you, first of all, do you recognize what is
5 depicted in this aerial photograph, State's 11?

6 A. Yes, ma'am. That's my neighborhood.

7 Q. And then do you also recognize what is depicted in
8 State's 2?

9 A. That's my house.

10 Q. What about State's 3?

11 A. That is from the Nextdoor app.

12 Q. And you recognize the way that this Nextdoor app is
13 set up?

14 A. Yes, ma'am.

15 Q. Okay. And is that a fair and accurate depiction of
16 the Nextdoor app as you recall it?

17 A. Yes, ma'am.

18 Q. And do you also see a reference to the defendant in
19 this case, Robert Neeley?

20 A. Yes, ma'am.

21 MS. MAYES: State's 2, 3, 11, Your Honor, for
22 evidence.

23 THE COURT: Any objection?

24 MS. POPOWSKI: No objection, Your Honor.

25 THE COURT: They're admitted.

1 (State's Exhibit Number 2, 3 and 11, photographs,
2 were admitted into evidence.)

3 BY MS. MAYES:

4 Q. All right. So I want to start, Ms. Branham, by asking
5 you here, this whole neighborhood here, are you familiar
6 with many of the neighbors in this area?

7 A. Yes, ma'am.

8 Q. And is this the same neighborhood that you have
9 referenced residing in for eight years?

10 A. Yes, ma'am.

11 Q. And then we see here the 112 Congaree Downs Lane. Is
12 that consistent with your -- the location of your home?

13 A. Yes, ma'am.

14 Q. Now we're gonna take a look at State's 2. What are we
15 looking at here?

16 A. That's my house. [REDACTED] Congaree Downs Lane.

17 Q. And now this is gonna be State's 3.

18 A. That is -- that is from Nextdoor.

19 Q. Okay. That Nextdoor app that you referenced?

20 A. The Nextdoor app.

21 Q. The same app you had had on your phone?

22 A. Yes, ma'am. Well, my computer.

23 Q. Now here we see there is a post from someone. It says
24 "Trellis removal needed. I need someone to remove and haul
25 away a trellis. PM me or DM me with a quote. Located in

1 Red Bank. Thank you." Was that post from you?

2 A. No, ma'am.

3 Q. Okay. But you're familiar with the app and the way
4 that this app works?

5 A. Yes, ma'am.

6 Q. And here we see that it was liked by two people who
7 are called "Neighbors" and is that the common reference to
8 the people who are using this app?

9 A. Yes, ma'am.

10 Q. And we see that two people have responded. One is a
11 Paul Kelly. "I can take care of it for you", and leaves a
12 phone number. And then do you recognize the name in the
13 response -- the second response there?

14 A. Yes, ma'am.

15 Q. And what is that name?

16 A. Robert Neeley.

17 Q. It says "I can't send you a message. I can do it for
18 40 to \$50. Call me at", and there's a phone number, and it
19 says "I can do it any time".

20 Now did there come a point in time, Ms. Branham, when
21 you made a post on the Nextdoor app for something you
22 needed at your residence?

23 A. Yes, ma'am. We -- I had tea olives in front of that
24 -- right where that is. They're already removed in this
25 picture, but I had three tea olives in there and my BFF and

1 I dug up one of them and then we had somebody else help us
2 get the others.

3 Q. Can I stop you right there? You said your BFF. Who
4 were you referring to as your BFF?

5 A. Brenda McMillan.

6 Q. Okay. And that would be Brenda McMillan who testified
7 in this case yesterday afternoon?

8 A. Yes, ma'am.

9 Q. So she is with you when you-all worked on the tea
10 olives?

11 A. Yes, ma'am.

12 Q. So you-all dug them up or attempted to. What happened
13 next?

14 A. I put on Nextdoor app that I had three tea olives for
15 anybody that wanted them.

16 Q. Okay. And when you placed that notice on the Nextdoor
17 app that you had tea olives, did it give information about
18 how to contact you or what your address would be?

19 A. Yes, ma'am.

20 Q. And did you receive any responses?

21 A. Yes, ma'am. I receive a response from Robert Neeley.

22 Q. The same Robert Neeley or appears to be the same
23 Robert Neeley here actively on the Nextdoor app?

24 A. Yes, ma'am.

25 Q. And why is it that you weren't able to get rid of the

1 tea olives yourself or haul them off yourself?

2 A. They're quite large and I don't have a truck. My --
3 Brenda has a truck that we could use, but there was no way
4 that we were gonna be able to put them in the truck.

5 Q. Were they heavy?

6 A. Heavy.

7 Q. And rooted?

8 A. Lots of roots.

9 Q. What happened after your post about the tea olives
10 received a response from Robert Neeley?

11 A. He and his girlfriend Dawn came by and picked up the
12 tea olives.

13 Q. And so I want to talk a little bit about that.
14 Arrangements were made for him to come to your house to
15 retrieve them?

16 A. Yes, ma'am.

17 Q. Now, again, are they located at this point outside the
18 house or inside the house?

19 A. They're outside the house. They're in front of that
20 big bush that you see here.

21 Q. And what type of vehicle did Robert Neeley arrive in?

22 A. He has a red truck much larger than what Brenda has.

23 Q. And who did he arrive with?

24 A. A person named Dawn.

25 Q. And how did you come about being introduced to both

1 Mr. Neeley and this person named Dawn?

2 A. When they got out of the truck, I introduced myself
3 and they introduced themselves.

4 Q. And did he identify this person Dawn as his
5 girlfriend?

6 A. Yes, ma'am.

7 Q. And was this daytime or nighttime, Ms. Branham?

8 A. It was the daytime.

9 Q. And what happened next?

10 A. We got all of those tea olives in the truck and they
11 took off. Oh, wait. I asked him what he did. I have a
12 tendency to talk to people and I asked him what he did
13 and said he liked to work on houses, so I asked him about
14 sprinkler systems.

15 Q. Okay. And what, if any, issues were you having with
16 your irrigation or sprinkler systems?

17 A. My sprinkler systems were -- some of them worked, some
18 of them didn't or they didn't go far enough out to where it
19 hit the grass.

20 Q. And did he indicate that he could do that type of work
21 for you as well?

22 A. Yes, ma'am.

23 Q. And were you willing to hire him for additional work
24 for your sprinkler or irrigation system?

25 A. Yes, ma'am.

1 Q. And did he agree it do so?

2 A. Yes, ma'am.

3 Q. Approximately when or what month was it that he came
4 to the residence with this person named Dawn to retrieve
5 those tea olives?

6 A. It was the end of September. Around September 25th.

7 Q. Okay. And when approximately would you next have had
8 contact with the defendant in this case in regards to your
9 sprinkler or irrigation system?

10 A. I'm -- not exact dates, but it was probably within a
11 week.

12 Q. Okay. And when he came -- did he come back to your
13 residence?

14 A. He came back to my residence with Dawn during the day.

15 Q. Again, with the female that he identified as Dawn?

16 A. Yes, ma'am. Uh-huh.

17 Q. And that was also daytime?

18 A. Yes, ma'am.

19 Q. And was work done on your sprinklers?

20 A. Yes, ma'am.

21 Q. And did you see him come to your residence after that
22 for additional work?

23 A. Yes, ma'am. He had -- he needed to order some parts
24 so -- and he and Dawn -- he and Dawn came back at night to
25 change the heads on some of them in the back so that it

1 would lengthen the spray.

2 Q. Okay. So there were at least two occasions that he
3 came back to the residence again with this individual named
4 Dawn?

5 A. Yes, ma'am.

6 Q. For the purpose of working on these sprinklers?

7 A. Yes, ma'am.

8 Q. And you mentioned that he also needed to order some
9 parts?

10 A. Right. He couldn't complete the job because he had
11 parts that needed to be ordered.

12 Q. All right. Now at this point in time is it still
13 September or do you believe it is October?

14 A. It's -- I would guess it's still September.

15 Q. I'm gonna show you a calendar I believe already in
16 evidence. Looking here at October, prior to Tuesday,
17 October 12th, was there ever a time that Robert Neeley came
18 to your house without Dawn?

19 A. Yes, ma'am. He came one afternoon and needed some
20 money.

21 Q. All right. I want to ask you a few questions about
22 that. And would that have been prior to October 12th?

23 A. Yes, ma'am.

24 Q. But sometime after the sprinkler work had started?

25 A. Yes, ma'am.

1 Q. Was it a daytime visit or a nighttime visit to your
2 home?

3 A. That was a daytime visit.

4 Q. All right. And how were you alerted that he was there
5 looking for you?

6 A. He -- I think he texted me.

7 Q. Okay. And what happened next?

8 A. I went out to the car -- I mean, to the truck to talk
9 to him and --

10 Q. Okay.

11 A. I'm sorry.

12 Q. So he has arrived at your house again in that truck?

13 A. Yes, ma'am.

14 Q. Is it the same truck you had seen him in before?

15 A. Yes, ma'am.

16 Q. At any point did he come inside your residence?

17 A. No, ma'am.

18 Q. So you came outside to speak with him?

19 A. Yes, ma'am.

20 Q. And what did he say?

21 A. He said that he needed some money, and I knew he
22 needed to order some -- I mean, you know, to pay for the
23 parts, so I gave him some money.

24 Q. Okay. Did he give you any other explanation for why
25 he needed money?

1 A. Yes. He said that he needed money for Dawn.

2 Q. Why?

3 A. That she was -- she was -- that they had gone to Tampa
4 and she was in jail for something and he needed money to
5 get her out.

6 Q. Okay.

7 MS. MAYES: And, Your Honor, if I may approach?

8 THE COURT: You may.

9 MS. MAYES: I'm just gonna put that microphone back
10 down.

11 BY MS. MAYES:

12 Q. All right. So he had given you an explanation that
13 Dawn was in jail?

14 A. Uh-huh.

15 Q. And he needed money to help get her out?

16 A. Yes, ma'am.

17 Q. And how did you feel about that request?

18 A. Well, I knew that I owed him money for -- for the --
19 to work on the sprinklers and -- and I'm -- I'm willing to
20 help people and he said he would try to get me the money
21 back in two weeks.

22 Q. Okay. And how much money did he ask for?

23 A. \$300.

24 Q. And at this point in time did you have money inside of
25 your residence?

1 A. I did.

2 Q. Why is that?

3 A. About once a month or once every six weeks I take out
4 money from the ATM and then I have that cash to use during
5 that time.

6 Q. If you need it for some reason?

7 A. Yeah, sometimes you need to run to the grocery store
8 for one item or something, so I carry a little bit -- well,
9 I usually keep it in my house so I have cash available for,
10 you know, small things.

11 Q. And how much money did you provide to Mr. Neeley on
12 that occasion where he arrived and told you that Dawn was
13 in jail and he needed to get her out?

14 A. \$300.

15 Q. And that would have been in cash?

16 A. Yes, ma'am.

17 Q. And, again, at any point in time did he enter your
18 home?

19 A. No, ma'am.

20 Q. And at this point is there still work to be done on
21 the sprinkler or your irrigation system?

22 A. Yes, ma'am.

23 Q. Ms. Branham, I want to move forward to the time period
24 of Monday and Tuesday, October 11th and October 12th of
25 2021. I know you said you are retired and you're living

1 on Social Security, but what is your typical day like on a
2 Tuesday, for example?

3 A. Tuesday morning I'm -- I volunteer to deliver Meals on
4 Wheels.

5 Q. Okay. And the Meals on Wheels program, is that part
6 of the program you were doing with your friend, Brenda
7 McMillan?

8 A. Yes, ma'am. We -- we usually went together.

9 Q. And in addition to Tuesday's, is Wednesday also --
10 what can you tell us about Wednesday?

11 A. Okay. We deliver Meals on Wheels every Tuesday and
12 every other Wednesday.

13 Q. Okay. So there is at least one day a week where you
14 are always delivering the Meals on Wheels and then it's an
15 alternate day for some of the other deliveries?

16 A. Yes, ma'am.

17 Q. And what about a gym class? Were you a part of any
18 type of gym class?

19 A. Yes, ma'am. I -- I was a part of Silver Sneakers.
20 I certainly can't afford to pay for the gym, but thank
21 goodness for Silver Sneakers, and Brenda and I would go
22 Monday, Wednesday and Friday.

23 Q. Okay. So Monday, Wednesday and Friday were normally
24 some type of gym class?

25 A. Yes, ma'am.

1 Q. And is that a gym class specifically for seniors?

2 A. Yes, ma'am. It's for sixty-five and older.

3 Q. And you mentioned that Ms. McMillan was also a part of
4 that with you as well?

5 A. Yes, ma'am.

6 Q. So going back to that Monday, Monday the 11th, do you
7 think you attended the gym class on that day?

8 A. Yes, ma'am.

9 Q. And then on Tuesday do you think you and Ms. McMillan
10 participated in the Meals on Wheels that day?

11 A. Yes, ma'am.

12 Q. And then would you have had plans to also carry out
13 your Meals on Wheels responsibilities on Wednesday?

14 A. Yes, ma'am.

15 Q. And what time of the day are you usually meeting up
16 for your Meals on Wheels?

17 A. Brenda usually comes to my house a few minutes before
18 nine. Sometimes she comes earlier, but usually, you know,
19 five or ten minutes to nine, and then we try to leave at
20 nine to go pick up the meals and then deliver them.

21 Q. Okay. And I know you indicated that you live alone at
22 South Congaree Downs.

23 A. Yes, ma'am.

24 Q. How many cars are usually at your residence?

25 A. Just mine and usually in the garage.

1 Q. So only one vehicle and it's normally kept in the
2 garage?

3 A. Yes, ma'am.

4 Q. And throughout those prior interactions that you would
5 have had with Mr. Neeley, was there ever a male at your
6 residence to help you interact with him?

7 A. No, ma'am.

8 Q. So always only your vehicle?

9 A. Yes, ma'am.

10 Q. And only you to handle the transactions with him?

11 A. Yes, ma'am.

12 Q. And was it apparent to him that you were the sole
13 resident of that location?

14 A. Yes, ma'am.

15 Q. Now on the night of Tuesday, October 12th, after you
16 had completed your Meals on Wheels responsibility that day,
17 what can you tell us about that evening, Ms. Branham?

18 A. Normally at night I crochet and -- and listen to an
19 audio book or I'll read and I also play with my cats, so.

20 Q. Was it a normal night?

21 A. Yes, ma'am.

22 Q. You were having a normal night on Tuesday,
23 October 12th?

24 A. Yes, ma'am.

25 Q. What, if anything, unusual occurred?

1 A. Well, the doorbell rang and it was Robert Neeley.

2 Q. And when you say the doorbell rang, are you referring
3 to the front door?

4 A. Yes, ma'am.

5 Q. So he came directly to the door and rang the doorbell?

6 A. Yes, ma'am.

7 Q. What happened next?

8 A. I was so surprised to see him and I figured that he
9 must have had a fight with his girlfriend and wanted to
10 talk to an old lady, so I let him in the house.

11 Q. So let me ask you about that. Had he indicated to you
12 previously that Dawn was in jail?

13 A. When I gave him the money, yes, but he did not
14 reference her at that time.

15 Q. So you thought he needed something?

16 A. Right. I -- I just made that assumption.

17 Q. Okay.

18 A. I mean, why else would a young man come to my door?

19 Q. So let me ask you this. At that point in time, you
20 had met with him how many previous occasions for the yard
21 work?

22 A. Twice, and then the time when he asked for money, I --
23 that was to be used towards the yard work, so three times
24 total.

25 Q. Okay. So the time that he came with Dawn for the tea

1 olives?

2 A. Right.

3 Q. And the two times that your sprinkler system was
4 worked on?

5 A. Right.

6 Q. And then there was also a time when he asked for
7 money?

8 A. Right.

9 Q. So would that be four?

10 A. That would be four, yes, if you -- right. Sorry.

11 Q. And you said you hear the doorbell ring. You answer
12 it?

13 A. Yes.

14 Q. Do you see any signs of Dawn with him?

15 A. No, ma'am.

16 Q. What is he saying to you?

17 A. I -- I'm sorry, I don't know the verbiage, but I did
18 let him in and invited him to sit down.

19 Q. Was it obvious to you that he wanted to talk with
20 you about something?

21 A. Yes, ma'am.

22 Q. And, again, at this point in time you still had
23 outstanding work to be completed?

24 A. Yes, ma'am.

25 Q. Regarding the sprinklers?

1 A. Yes, ma'am.

2 Q. And some parts that I believe were going to be
3 acquired to complete that job?

4 A. Yes, ma'am.

5 Q. Now when he enters the residence, what happens next?

6 A. I invite him to sit down and I offered him a beer and
7 then we both sat down and started talking.

8 Q. And what happened next?

9 A. He -- he moved from one chair to an ottoman sitting
10 directly in front of me and he started saying things like
11 I'm gonna make you feel good and stuff like this and that's
12 when I realized that he was approaching me towards sex.

13 Q. All right. So let me back up a little bit. You have
14 indicated that there were at least four prior occasions
15 that he had been in your yard?

16 A. Uh-huh.

17 Q. Up until that point in time had you ever had a reason
18 to not trust him?

19 A. No, ma'am.

20 Q. Did you trust him at that point in time?

21 A. Yes, ma'am.

22 Q. To do work on your home?

23 A. Yes, ma'am.

24 Q. As well as to be on your property?

25 A. Yes, ma'am. Well, just outside, uh-huh.

1 Q. Was this -- had you ever seen any indications prior
2 to this that made you feel uncomfortable?

3 A. No, ma'am.

4 Q. Or made you feel unsafe?

5 A. No, ma'am.

6 Q. This was the first time?

7 A. Yes, ma'am.

8 Q. I'm gonna show you some photographs and ask you
9 whether or not you recognize them. State's 51.

10 A. Oh, that's my house.

11 Q. Okay.

12 A. That's the inside of my house.

13 Q. Okay. I'm gonna show you this group together.

14 State's 56, 57, 66, 67, 68, 69, 70, and 71, and if you
15 could just take a look at those and tell us if those are
16 a fair and accurate representation of your home and the
17 interior of your home?

18 A. Now that's in the garage, that's my car, and that's
19 my car, but the others are the house.

20 MS. MAYES: All for evidence at this time, Your Honor.

21 THE COURT: Let me know if you have any objection.

22 MS. POPOWSKI: No objection, Your Honor.

23 THE COURT: They're admitted.

24 (State's Exhibit Number 51, 56, 57, 66, 67, 68, 69,
25 70 and 71, photographs, were admitted into evidence.)

1 BY MS. MAYES:

2 Q. I want to start by showing you what is State's 56.
3 We see here at your residence the front door?

4 A. Yes, ma'am.

5 Q. Looking here at the interior of your residence in
6 State's 56, where would the front door be?

7 A. Do you want me to point?

8 Q. Do you have a pointer?

9 A. Uh-huh. I'm not gonna be in anybody's eyes. That's
10 my front door right there.

11 Q. So this would be the other side of the front door?

12 A. Yes, ma'am.

13 Q. Now I'm gonna show you a photograph of the living room
14 area. This is State's 57. And do you have cats?

15 A. Yes, ma'am. Can't you tell I have a cat house? It's
16 messy.

17 Q. All right. Now, Ms. Branham, looking here at this
18 photograph, when you say that he came inside the residence
19 do you see the locations in which you were seated and he
20 was seated initially?

21 A. Okay. I was seated in this chair here and he was
22 seated in this one.

23 Q. All right.

24 A. And then he moved to the ottoman.

25 Q. And when he moved to the ottoman what, if anything,

1 occurred that made you feel uncomfortable?

2 A. He said he was gonna make me feel good and that's when
3 I realized that that was not appropriate.

4 Q. And what did you do?

5 A. I stood up and said "Out".

6 Q. And can you show us approximately where you were when
7 you stood up and told him to leave?

8 A. I was right in front of this chair and I pointed to
9 the door to get out and then I walked here and told him
10 "Get out".

11 Q. Okay. This area here, would that be the foyer?

12 A. Yes, ma'am.

13 Q. Now when he came to your home, did he have anything
14 with him?

15 A. Yes, ma'am. He was carrying a bag.

16 Q. How would you describe that bag?

17 A. Like a gym bag.

18 Q. What type of color was it?

19 A. It was a dark color.

20 Q. So he had a dark colored gym bag or duffle-type bag?

21 A. Yes, ma'am.

22 Q. Looking here at this photograph, where do you recall
23 that bag being after he had entered?

24 A. It was right -- right here.

25 Q. Ms. Branham, tell us what occurred after you told him

1 to get out.

2 A. I -- I was walking towards the door, he was behind me.
3 He grabbed my shirt and pulled it off and -- and I still
4 was telling him to get out and when I got to about where
5 that corner is, he kicked my legs out from under me and I
6 fell flat on my back. I'm sorry. It knocked the wind out
7 of me and he jumped on me and his knees were here. I'm
8 sorry.

9 Q. Okay. At this point are you standing up or are you on
10 the floor?

11 A. I'm on the -- I'm on the floor and he's on top of me.

12 Q. And what part of or parts of his body were on top of
13 you?

14 A. His knees were on my chest.

15 Q. And what happened next?

16 A. I'm fighting him. I can hardly breathe and I'm
17 fighting him. He's pulling on my hands and he grabs the
18 bag and pulls it over and he has tape in there and he's
19 trying to tape my arms and I'm trying to fight him. He
20 bends these two fingers way back and when it does it hurts
21 so bad that I stop fighting him and he gets the tape around
22 my hands.

23 Q. So I want to ask you a few questions about that. You
24 were seventy-four at this time?

25 A. Yes, ma'am.

1 Q. Is he bigger than you physically?

2 A. Yes, ma'am.

3 Q. Was he stronger than you physically?

4 A. Yes, ma'am.

5 Q. I know you indicated that you were fighting him, but
6 was he able to subdue you?

7 A. Yes, ma'am.

8 Q. How were you attempting to fight back?

9 A. I was -- I was trying -- well, before the tape, I was
10 trying to get my hands away and push him off of me and I
11 was bucking, you know how you can do your back, and I was
12 bucking him. It didn't do any good, but I tried.

13 Q. And his knees were where on your body?

14 A. They're on my chest and I can't take a deep breath.

15 Q. And the bag that had been located here, did you see
16 him access that bag?

17 A. He was on top of me. I didn't see him do it.

18 Q. Did it appear that he was reaching towards the bag?

19 A. Yeah, he reached towards the bag. Yes, ma'am.

20 Q. And what, if anything, happened next?

21 A. He -- after -- after he tied my hands, he pulled out
22 a serrated kitchen knife that was longer than my neck and
23 he held it to my neck and said that we were gonna have
24 intercourse and I told him no, I wasn't, and I -- sorry.
25 I talk with my hands. I was still trying to push him off.

1 Sorry.

2 Q. You used the word "intercourse", Ms. Branham. Those
3 are your words. Was it obvious to you based on what he was
4 saying that he intended to have sex with you?

5 A. Yes, ma'am.

6 Q. And he verbally expressed that?

7 A. Yes, ma'am.

8 Q. And the tape, what color was the tape?

9 A. It was black.

10 Q. Where was the tape placed on your body?

11 A. On -- on -- around my wrists.

12 Q. And as it's placed around your wrists, are your wrists
13 bound together?

14 A. Yes, ma'am. Like this.

15 Q. Did that also affect your ability to fight back?

16 A. Yes, because you have to use both arms and when I
17 moved, I couldn't -- I mean, my chest hurt so bad that I
18 couldn't -- I couldn't really fight him off.

19 Q. When you had fallen to the floor as you described,
20 was there anything to catch your fall?

21 A. No, ma'am. I -- I fell flat and the air went
22 completely out of me.

23 Q. So your legs came out from under you and you landed
24 flat on your back?

25 A. Yes, ma'am.

1 Q. In this area here in the foyer?

2 A. Behind the chairs, the two chairs, yeah, in that
3 foyer. Or it wasn't actually in the foyer, but behind the
4 two chairs there.

5 Q. Now you have indicated that your shirt had been pulled
6 off. Did you have on any type of bra or active wear?

7 A. Yes, ma'am. I had a sports bra on.

8 Q. Okay. And what type of pants did you have on?

9 A. I had blue jeans on.

10 Q. What happened next?

11 A. He -- he said -- he put -- I kept arguing with him.
12 Well, I kept saying "I trusted you, I trusted you", and I
13 kept trying to push him off and I kept bucking and he
14 finally put the knife down and got up and when he did he
15 pulled me boots off and pulled my jeans off. And I'm
16 trying to kick him now. I can't sit up. I can't catch my
17 breath. I wish I could have sat up, but I couldn't sit up
18 and I couldn't catch my breath, so I was trying to kick him
19 as much as I could. After -- after he pulled them off, he
20 jumped back on me, on my chest, and he told me that we were
21 gonna have sex and I said "No, we're not", and he put his
22 hand back and hurt me with his fingers.

23 Q. Okay. I'm -- I'm gonna have to ask you a few
24 questions about that.

25 A. Uh-huh.

1 Q. When you said he hurt me with his fingers, what part
2 or parts of your body did you feel his fingers?

3 A. Inside my vagina.

4 Q. And you indicated that he had pulled your boots off
5 and your pants off and what about your underwear?

6 A. And my underwear. My jeans and underwear.

7 Q. What part or part of his body did you feel against
8 your vagina?

9 A. Just his fingers.

10 Q. And tell us whether or not based on what you were
11 perceiving his finger or fingers went inside your vaginal
12 opening?

13 A. (Nods head.) I didn't want him -- well, first of
14 all, I just couldn't imagine all the germs and -- okay --
15 because obviously he -- he's done this before. He came
16 too prepared.

17 MS. POPOWSKI: Objection, Your Honor.

18 MS. MAYES: I can ask her --

19 MR. MAULDIN: Move to strike.

20 MS. POPOWSKI: Move to strike, Your Honor.

21 THE COURT: I'm gonna strike that portion. I'm
22 gonna ask the jury to please disregard her response.

23 You may ask another question, Ms. Mayes.

24 THE WITNESS: I'm sorry.

25 MS. MAYES: Yes, Your Honor.

1 BY MS. MAYES:

2 Q. Let me ask you this. When you felt something against
3 your vaginal opening, can you tell us whether or not it
4 went inside your vaginal opening?

5 A. Yes, ma'am.

6 Q. You were able to feel that?

7 A. Yes, ma'am.

8 Q. And based upon your perceptions, you believed that to
9 be one finger or more than one finger?

10 A. I -- I thought two for sure. I mean -- yes.

11 Q. And what happened next?

12 A. I'm still trying to get him off of me and he finally
13 says if you give me a hundred dollars, I'll let you go.

14 Q. All right. So at this point he is asking for money?

15 A. Yes, ma'am.

16 Q. And he says if you give him money he'll let you go?

17 A. Yes, ma'am. And he gets up and then I finally get up
18 and I immediately grab my jeans to put on. You know, you
19 can't put on blue jeans when your hands are tied, so anyway
20 I got my blue jeans on and he -- and then he -- and he
21 asked for money and I didn't have it, so I said that we'd
22 have to go to the ATM if he wanted that money.

23 Q. Okay. And were you believing at this point that if
24 you provided the money that he would let you go?

25 A. Yes, ma'am.

- 1 Q. And you indicated that he had a knife?
- 2 A. Yes, ma'am.
- 3 Q. He was holding the knife with what part of his body?
- 4 A. His right hand.
- 5 Q. And he was holding the knife where towards your body?
- 6 A. On my throat.
- 7 Q. And you could visually see the knife?
- 8 A. Yes, ma'am.
- 9 Q. You could feel the knife?
- 10 A. Yes, ma'am.
- 11 Q. And at what point or how were you able to get the
- 12 jeans on with your hands bound?
- 13 A. He actually helped me. I said I've got to get my
- 14 jeans on. I certainly didn't want to be buck naked at the
- 15 ATM.
- 16 Q. And so this was with the understanding that you would
- 17 give him the money --
- 18 A. Yes, ma'am.
- 19 Q. -- that he was demanding?
- 20 A. Yes, ma'am.
- 21 Q. And can you tell us whether or not the tape was
- 22 removed?
- 23 A. Not at that time.
- 24 Q. But at some point prior to going to the bank?
- 25 A. Before we left, he got the tape off.

1 Q. I want to ask you a few questions about that.

2 A. Okay.

3 Q. When he said he needed money and you said that you
4 would have to go to an ATM because you don't have the money
5 at your house --

6 A. Yes.

7 Q. -- where and how would you go about acquiring your
8 debit card in order to access the money?

9 A. We went into my bedroom. I keep my purse in the
10 second drawer of the dresser.

11 Q. I'm gonna show you what is State's 66. Do you
12 recognize what is in this photograph?

13 A. Yes, ma'am. A dresser.

14 Q. Okay. Would this be your bed?

15 A. That's my bed. The second drawer of the dresser is
16 where I keep my purse and I opened that and I pulled the
17 purse out, he grabbed it and dumped everything onto the
18 bed.

19 Q. So your purse and its contents were dumped onto the
20 bed?

21 A. Yes, ma'am. And then --

22 Q. And would that include your wallet that contained your
23 debit card?

24 A. Yes, ma'am. And so I grabbed my wallet and about that
25 time he notices this right here.

1 Q. And what is that?

2 A. That is my gun case with a gun in it.

3 Q. Okay. What type of gun did you have in that gun case?

4 A. It's a Smith and Wesson EZ 9-millimeter.

5 Q. And is that normally where you keep your gun, beside
6 your bed?

7 A. Yes, ma'am.

8 Q. And you said he noticed it?

9 A. Yes, ma'am.

10 Q. What, if anything, did he do after he made that
11 observation? I'm gonna show you State's 65.

12 A. He grabbed it -- he grabbed it and said "How do you
13 open it, how do you open it?", and I didn't -- I didn't
14 tell him, but I did get my -- everything else is left on
15 the bed and I did get my AT -- ATM card. Sorry. He took
16 the case in the other room and I followed him. He opened
17 it and took the gun out. No. No, that's not right. Let
18 me think a minute.

19 Q. Take your time.

20 A. Okay. He took the -- he took the case in the other
21 room and opened it and got the gun. I was still in the
22 bedroom trying to figure out how to get away. He came back
23 in and said give me two bullets. I gave him two bullets
24 because the gun was not loaded.

25 Q. So looking here at State's 66, you said that the gun

1 was unloaded?

2 A. Uh-huh.

3 Q. But where looking at 66 do you keep ammunition for
4 that gun?

5 A. In that second drawer where my purse is.

6 Q. In this drawer here?

7 A. Yes, ma'am.

8 Q. And what did he say about wanting or asking you for
9 ammunition for the gun?

10 A. He wanted two bullets.

11 Q. And were those retrieved from the dresser?

12 A. Yes, ma'am.

13 Q. And placed into the gun?

14 A. I don't know.

15 Q. You gave him the --

16 A. I mean, he had -- he had to have put them in the gun,
17 right?

18 Q. You gave him the bullets that he asked for?

19 A. Yes, ma'am.

20 Q. Were there any clips that went with this gun?

21 A. Yes, ma'am. One -- one went in the clip and one went
22 in the chamber.

23 Q. And did those go with the gun as well?

24 A. Yes, ma'am.

25 Q. And did you physically see him in possession of your

1 gun at this point?

2 A. Yes, ma'am.

3 Q. So he had retrieved it from the gun box and you now
4 see him holding the gun?

5 A. He's got the gun on me. Yes, ma'am.

6 Q. What happened next?

7 A. We -- we go in the kitchen and take the tape off of my
8 wrists.

9 Q. And how did he go about doing that?

10 A. I think -- I think there's a pair of scissors in that
11 top drawer. I think he clipped it and then we ripped it,
12 but, I mean, ripped it off my hands, okay? And then I put
13 my shirt on.

14 Q. What, if anything, did he say about going to the ATM
15 to acquire this money that he's telling you he wants?

16 A. He -- he didn't say what the money was for. He said
17 he -- that if I gave him the money he would let me go.

18 Q. And what, if anything, did he say about how he would
19 get to the ATM?

20 A. He wanted my keys and he drove my car.

21 Q. Would he need a PIN number to access?

22 A. Yes, ma'am.

23 Q. I'm gonna show you what is State's 69 and ask you
24 whether or not you recognize what is in this photo?

25 A. That's my car in my cluttered garage.

1 Q. You normally keep your car there in the garage?

2 A. Most of the time if I'm not -- if I'm not driving and
3 if I'm not going anywhere.

4 Q. Ms. Branham, if you can think back, what, if anything
5 did he say once the ATM or debit card had been retrieved
6 from your wallet and he had asked for your keys? What, if
7 any, directions did he give you?

8 A. Just to get in the car and he had the gun on me so
9 that I would do it.

10 Q. Now at this point you had keys to the car. Who has
11 the keys to your car?

12 A. He does.

13 Q. And it what part of the car does he get into?

14 A. He gets in the -- in the driver's side.

15 Q. On this side?

16 A. Yes, ma'am.

17 Q. And you indicated that he has the gun?

18 A. Yes, ma'am.

19 Q. What part of the car did you get into?

20 A. I got in the passenger side.

21 Q. What happened next?

22 A. He has the gun in his lap pointed at me. His left
23 hand was on the gun and we drive out of the garage and he
24 closes the garage door and we go to the ATM.

25 Q. And what is the ATM that you remember going to?

1 A. It's the one on Main Street in South Congaree.

2 Q. Would that be Palmetto Citizens at that time?

3 A. Yes. I'm sorry. Yes, the name of the bank is
4 Palmetto Citizens.

5 Q. And was money withdrawn there?

6 A. Yes, ma'am. He asked for -- he had the card and he
7 put it in and he asked for my PIN number and he told me --
8 he told me he was gonna take two -- a hundred out and he
9 took -- he took two hundred out.

10 Q. And at this point in time did you provide him with
11 your PIN number?

12 A. Yes, ma'am.

13 Q. And why is that?

14 A. Well, I thought that he was gonna let me go.

15 Q. And he has the gun and it's pointed --

16 A. But he has the gun in his possession pointed at me,
17 so I can't really argue with him. I mean, I could, but I'd
18 be dead.

19 Q. At this point in time would you have given him that
20 money but for him having the weapon and demanding it from
21 you?

22 A. No, ma'am, I would not.

23 Q. And at this point in time do you believe that you were
24 free to leave?

25 A. No, ma'am.

1 Q. Even without the tape, did you believe you were free
2 to leave?

3 A. No, ma'am.

4 Q. And did he remain in possession of that weapon during
5 this entire trip from your garage to the bank?

6 A. Yes, ma'am.

7 Q. And back again?

8 A. Yes, ma'am.

9 Q. Now when you returned back to the garage, what do you
10 remember happening after you pull into the garage?

11 A. He gets out of the car and comes over to the passenger
12 side and I just tell him "Just go, just -- just leave".

13 Q. Okay. So he walks over to where you are?

14 A. Right.

15 Q. And were you in a seatbelt or not in a seatbelt?

16 A. I was in a seatbelt.

17 Q. And why is that?

18 A. Well, we just drove up and he -- and I was not gonna
19 take the seatbelt off because I didn't think he could get
20 my pants off if I had the seatbelt on and I wasn't gonna
21 get out of the car.

22 Q. Okay. And when you say I wasn't gonna get out of the
23 car, would you have felt safe going back into the home at
24 that time with him still there?

25 A. No, ma'am.

1 Q. So you remained seated here. What are you saying to
2 him?

3 A. I'm sorry?

4 Q. What are you saying to him?

5 A. Just leave. Get out. I gave you have the money.
6 Leave.

7 Q. And he had told you that if you provided the money he
8 would --

9 MS. POPOWSKI: Your Honor, objection. She's leading
10 the witness.

11 MS. MAYES: I can rephrase that.

12 THE COURT: Thank you, Ms. Mayes.

13 BY MS. MAYES:

14 Q. What, if anything, had he told you would occur if you
15 did provide the money?

16 A. That he would leave me alone.

17 Q. Did he leave?

18 A. No.

19 Q. What happened next?

20 A. He got back in the car and we drove to Princeton.
21 There's a -- a building on Princeton Street.

22 Q. Okay. So I want to ask you a few questions about
23 that. You say Princeton. Is that an area near South
24 Congaree?

25 A. It's not in South Congaree, but it's near that.

1 Q. All right. I want to take a look real quick at this
2 photograph of your neighborhood. We see there [REDACTED] Congaree
3 Downs Lane, and I can bring this to you to look at with the
4 naked eye if you need to, but are you familiar with what
5 this road is here?

6 A. That's Ramblin Road.

7 Q. I'll show you State's 11.

8 A. No, wait a minute. No, that's Princeton. I'm sorry.
9 Because Ramblin -- yeah, that's Princeton.

10 Q. Okay. So Princeton Road is a road that runs here
11 adjacent to your neighborhood?

12 A. Yes, ma'am.

13 Q. And ultimately where did he drive?

14 A. When you -- when you go -- when you turn from Ramblin
15 Road onto Princeton, you turn left and you go over -- past
16 302 over the railroad tracks and down probably a block or
17 two to -- to where he took me.

18 Q. Okay. I'm gonna show you State's 36 and 72 and
19 ask you whether or not that is a fair and accurate
20 representation of your vehicle and whether or not this
21 is a fair and accurate representation of the place you just
22 referenced at Princeton?

23 A. Yes, ma'am. Yes, ma'am.

24 MS. MAYES: State's 36 and 72 for evidence.

25 THE COURT: Any objection?

1 MS. POPOWSKI: No objection, Your Honor.

2 THE COURT: They're admitted.

3 (State's Exhibit Number 36 and 72, photographs,
4 were admitted into evidence.)

5 BY MS. MAYES:

6 Q. Tell us what you recall happening as he went down
7 Princeton Road.

8 A. When -- when we got down to Princeton, he turned into
9 a house with a bunch of cars parked all over the drive area
10 and there were some people milling around and there was a
11 lady there he called Linda and he says "Linda, get in the
12 back seat and don't let her out of the car", so she did.

13 Q. What happened next?

14 A. And so she got in the back seat, he got out of the
15 car, and -- and I told Linda that he had done some pretty
16 terrible things to me, and he started calling "Brandon,
17 Brandon", and then he gets back in the car, a man goes --
18 wait a minute. He went behind the house where I couldn't
19 see him. He was saying "Brandon". He comes back and gets
20 in the car. A man goes over to one of the cars and then
21 comes back and there is an exchange of money and then these
22 little tiny wafers -- they -- they were not white like
23 this, they were kind of like a wax paper color, and -- and
24 he took three of them and put them on the console.

25 Q. So I want to ask you a few questions about that. When

1 you arrive at this place, does he get out of the vehicle?

2 A. Yes, ma'am.

3 Q. I'm gonna show you what is State's 36 and ask you
4 whether or not this location appears to be the location
5 that you saw that night?

6 A. Yes, ma'am.

7 Q. Now, again, is this a location that you would ever
8 have known or been familiar with prior to that night?

9 A. I mean, I drive by it to go to Brenda's, but -- but I
10 would never drive into it.

11 Q. Okay. And looking here at this residence, can you
12 tell us approximately where the car pulled up?

13 A. There is a blue -- what looks like a blue truck on the
14 left and then a dark colored. We were probably next to
15 that dark colored.

16 Q. But in the drive area?

17 A. In the drive area, uh-huh, and he went behind that
18 building.

19 Q. And when he got out of the car, you said you heard him
20 calling, shouting something. What name was he shouting?

21 A. Brandon.

22 Q. And do you know whether or not that is the middle name
23 of the defendant in this case?

24 A. Yes, ma'am.

25 Q. Robert Brandon Neeley?

1 A. Yes, ma'am.

2 Q. So he's shouting his own name to the people who were
3 outside?

4 A. Yes, ma'am.

5 Q. And you indicated that there was a female there as
6 well?

7 A. Yes, ma'am.

8 Q. Did he appear to know her?

9 A. Yes, ma'am. He called her Linda.

10 Q. He called her Linda and you said he asked her to be
11 seated in the car?

12 A. Yes, ma'am.

13 Q. Where was she seated in the car?

14 A. She sat in the -- behind the -- in the passenger's
15 behind me. I was on the passenger -- I was on the
16 passenger in the front and she was behind me.

17 Q. So looking here at State's 72, she would have been in
18 this seat?

19 A. Yes, ma'am.

20 Q. And you would have been here?

21 A. Yes, ma'am.

22 Q. Now at this point in time, Ms. Branham, did you feel
23 comfortable getting out of the vehicle?

24 A. No, ma'am. In fact, when we drove up I was terrified.

25 Q. Did he seem to be familiar with the people there?

1 A. Yes, ma'am.

2 Q. Including Linda?

3 A. Yes, ma'am.

4 Q. The items that you saw him obtain, did you see him
5 with those items inside your vehicle?

6 A. Yes, ma'am.

7 Q. What happened next?

8 A. He -- he took out a piece of glass tubing and put one
9 in there and lit it.

10 Q. Did you see where he got the glass tube from?

11 A. I'm not sure. I thought it was in his pocket, but I'm
12 not sure.

13 Q. Okay. So let me ask you what type of clothing do you
14 recall Robert Neeley wearing when he was at your residence
15 and when this occurred?

16 A. He -- he had on cargo pants and a shirt.

17 Q. And so the cargo pants, did they have pockets?

18 A. Yes, ma'am.

19 Q. So from somewhere he acquires a glass tube you say?

20 A. Yes, ma'am.

21 Q. And you saw him smoke it?

22 A. Yes, ma'am.

23 Q. Where, if anywhere, did he drive next?

24 A. I'm sorry?

25 Q. Where did he go next?

1 A. We went back to my house, pulled in the garage. I
2 told him to get out. He -- he did not. I told him that --
3 I mean, he said if I gave him money he would let me loose,
4 excuse me, but he did not. So we weren't there very long
5 and -- and I told him to -- to get out and go, to leave,
6 but he would not. He never got out of the car and I never
7 got out of the car. We backed up and left.

8 MS. MAYES: I beg the Court's indulgence.

9 70 and 71 already in evidence.

10 BY MS. MAYES:

11 Q. I'm gonna show you again, Ms. Branham, taking a look
12 here, throughout this time who was seated in the driver's
13 seat?

14 A. Robert Neeley.

15 Q. And who was seated in the passenger seat?

16 A. I was.

17 Q. Does he still have your firearm?

18 A. Yes, ma'am.

19 Q. Is it still visible and present to you once he's back
20 and driving the vehicle again?

21 A. Yes, ma'am. It's in his lap.

22 Q. You said he returned to your garage?

23 A. Yes, ma'am.

24 Q. And, again, were you willing to get out of the
25 vehicle?

1 A. No, ma'am.

2 Q. You told him to leave?

3 A. Yes, ma'am.

4 Q. Did he leave?

5 A. No, ma'am.

6 Q. And were you free to leave at this point?

7 A. No, ma'am.

8 Q. Where does he go next?

9 A. We drive to some place in Richland, North Columbia.

10 I know we took I-26. I don't know where we exited. I
11 don't remember.

12 Q. And he was driving this entire time?

13 A. Yes, ma'am.

14 Q. What Interstate do you remember travelling to get
15 there?

16 A. I-26.

17 Q. Describe the place that you remember him taking you.

18 A. It was an abandoned house and he drove up into the
19 woods next to the house.

20 Q. And you could tell from the appearance of the lot and
21 the home itself that it was abandoned?

22 A. Yes, ma'am. The front door was off or ajar.

23 Q. What, if anything, did he say about that location?

24 A. He said that it was his family's house and his father
25 didn't take care of it.

1 Q. What happened there, Ms. Branham?

2 A. He said that -- that we are going to have sex and I'm
3 telling him no, I am not going to do that, and -- and he's
4 insisting. I don't know the time lapse, but then I said
5 no, you're not. You're not going to -- I am not gonna let
6 you enter me and he -- I -- I yelled and he came across the
7 console and put his hands on me and tried to choke me and
8 my head was against the console and he was lifting up with
9 my skin and -- and I couldn't breathe and I was -- I mean,
10 I thought I'm gonna pass out. I couldn't take a deep
11 breath.

12 Q. What happened next?

13 A. He -- he got on -- he went back to the passenger's --
14 I mean, to the driver's seat and he took off his clothes,
15 the bottom part of his clothes, and -- and said that we
16 were going to have sex and I said no, we're not. He took
17 the gun and put it to my head and pushed it -- now this is
18 a loaded 9-millimeter and he said that -- that we were
19 gonna have sex or he was gonna shoot me and I said shoot
20 me and he -- it surprised him, so he -- he went back to the
21 passenger -- I mean, to the driver's side. He got out and
22 urinated and then he got back in. Now I can't get out. I
23 mean, there's nowhere for me to run and I can't take a
24 breath. There's no way I could get away because he -- he
25 could catch me in two steps.

1 Q. Well, let me ask you this. Does he still have the
2 gun?

3 A. He still has the gun.

4 Q. And you knew that it was loaded?

5 A. Yes, ma'am.

6 Q. You remained seated?

7 A. Yes, ma'am.

8 Q. And what, if anything, did you say to him to try to
9 talk him out of this?

10 A. I -- I -- I was just too terrified, so I -- I don't
11 know what I said except other than he was not going to
12 invade me, okay, then he -- he gets back in the car. He
13 urinates, he gets back in the car. He said we're
14 definitely going to -- he puts the gun to my head again
15 and says that we're going -- he's gonna shoot me or we're
16 gonna have sex and I said just shoot me and -- and he --
17 he sat back down. Now he has no clothes on, lower clothes
18 on, and he said you would rather I shoot you than have sex
19 with me and I said yes. Okay. Now prior to this he has
20 smoked some more of whatever those wafers are. So he gets
21 out of the car again to go to the bathroom and there's
22 another \$50 that has fallen and he gets back -- he puts his
23 clothes on, gets back in the car and we drive to another
24 place in that area and he -- he gets another one of those
25 wafers.

1 Q. Okay. So he drives to another location?

2 A. Yes, ma'am.

3 Q. And had \$50 remaining?

4 A. Uh-huh.

5 Q. And made another purchase?

6 A. Yes, ma'am.

7 Q. Based upon your observations?

8 A. Yes, ma'am.

9 Q. And what happened next?

10 A. There was a lady -- well --

11 Q. Let me --

12 A. He went -- from there we went back to the woods.

13 Q. When you say the woods, are you referring to that
14 location that you had previously described?

15 A. Yes, ma'am. Because he -- he drove in next to it
16 and there's -- I mean, it was all bushes and everything,
17 so -- and I just thought it was woods, so that's what my
18 impression is. We went back to the woods and -- and he
19 said we were definitely going to have sex and I said no and
20 so he takes his clothes off and he's leaning up against the
21 driver's seat and his legs are parted. I won't look at
22 him. At this point -- I'm sorry.

23 Q. Take your time.

24 A. At this point I know that I'll never get out alive.

25 I'll never see another daylight. I'm so sorry. So I start

1 saying the 23rd Psalms and I'm just saying it over and over
2 and over and he's over there.

3 Q. And were you saying the 23rd Psalms -- let me ask you
4 this. When you were saying the 23rd Psalms, were you in
5 fear for your life?

6 A. I am. I know that I'm never going to see daylight
7 again.

8 Q. What happened next?

9 A. He gets -- he gets angry and -- and I'm not looking at
10 him and I'm shaking and I'm scared to death and he grabs
11 both hands on my head and he yanks me across and I yell so
12 my mouth is open and my mouth goes on his penis.

13 Q. Okay. And where were his hands when that occurred,
14 Ms. Branham?

15 A. On my head. He's pushing me down. Pushing me down
16 onto his penis and I'm trying to fight him. I'm trying to
17 get up and I'm trying to push him and -- I'm sorry. And
18 then he takes my hands and he grabs my hand and he puts his
19 hand over his -- his right hand over mine and he starts
20 massaging his penis and my mouth is on top and he finally
21 -- he finally finishes --

22 Q. Okay.

23 A. -- and he tells me to swallow.

24 Q. Okay.

25 A. I'm sorry. I know he's gonna shoot me.

1 Q. And did he still have the gun in his possession?

2 A. I don't know where it is. I'm sorry. I -- I don't
3 know where it is at this time.

4 Q. And where had you last felt the gun, Ms. Branham?

5 A. The last time was when he had it up against my head.
6 I don't know what he did with it after that.

7 Q. When it was against your head, was that -- what degree
8 of force was he using when it was against your head?

9 A. He was pushing me against the window.

10 Q. You could feel the pressure of the gun barrel against
11 your head?

12 A. Yes, ma'am.

13 Q. When this act was completed what, if anything, did you
14 use to wipe with or to spit into?

15 A. It was the one time I didn't clean out my car and
16 there was a napkin that was in the console area and he's --
17 he's not looking at me and I take that and I empty as much
18 that's in my mouth and I'm looking, he's not looking, so I
19 put it back.

20 Q. Okay. So you spit into a napkin?

21 A. Yes, ma'am. I wasn't gonna swallow it.

22 Q. What happened next?

23 A. He -- he drives -- he drives back to my house --

24 Q. Okay.

25 A. -- and I'm just -- I don't believe this. I knew I was

1 dead.

2 Q. When he drove back to your house, can you tell us
3 whether or not the car entered the garage?

4 A. The car goes in the garage and he puts the door down
5 and he tells me he's gonna leave.

6 Q. At this time he says he is going to leave?

7 A. Yes.

8 Q. Did he have your permission -- going back to when you
9 had told him to get out of your home -- going back to when
10 you had told him to get out of your home --

11 A. Uh-huh.

12 Q. -- before the attack that you described, did he ever
13 have permission to be in your home or reenter your home at
14 any point during this time?

15 A. No, ma'am.

16 Q. And your garage area, the curtilage of your home, did
17 he ever have permission to reenter the garage area any of
18 these times?

19 A. No, ma'am.

20 Q. And during this course and time was he always in
21 possession of that firearm?

22 A. Yes, ma'am.

23 Q. When he reentered your home?

24 A. Yes, ma'am.

25 Q. And did you believe you were free to leave at any

1 point during this time?

2 A. No, ma'am.

3 Q. And the garage is entered. You said he still has the
4 firearm?

5 A. Yes, ma'am.

6 Q. Now he tells you he's gonna leave?

7 A. Yes, ma'am.

8 MS. POPOWSKI: Objection, Your Honor. She's leading
9 the witness.

10 THE COURT: Okay. Try not to lead, Ms. Mayes. I
11 understand. Go ahead.

12 BY MS. MAYES:

13 Q. After he makes that statement that he's going to
14 leave, what happens next?

15 A. I actually -- I don't know why, but I trusted that he
16 was gonna leave. I got out of the car. He had already
17 entered my house, he picked up the tape that was on my
18 wrist, he picked up the tape that was on the floor, he
19 picked up his bag and he went to the front door.

20 Q. When you say the front door, can you show us again
21 looking here at State's 2 where you recall him exiting?

22 A. That's the front door.

23 Q. And when he left the front door of your home what, if
24 anything, did he have with him, Ms. Branham?

25 A. He had my gun, he had his bag and he had the -- the

1 beer can and I'm assuming he put the knife and the -- and
2 the tape in the bag.

3 Q. I want to ask you a few questions about that.

4 A. Okay.

5 Q. Going back to this photo, I think you had indicated
6 that the bag was around this area?

7 A. No, ma'am.

8 Q. If you could show us with your pointer.

9 A. That picture doesn't show -- well, by then -- by then
10 -- no. Do you have the one that shows my counter? It's --
11 it's probably --

12 MS. MAYES: I beg the Court's indulgence.

13 THE COURT: Take your time.

14 A. It's -- it's behind the barrel chairs, but it's closer
15 to the counter.

16 Q. Okay. So the bag had been on the floor area?

17 A. Yes, ma'am.

18 Q. Looking here at State's 57, would it be more near the
19 kitchen area?

20 A. Yeah, it's more over here.

21 Q. And what, if anything, would have been in the home at
22 that point in time, Ms. Branham, that you believe he left
23 with?

24 A. He -- he took the tape that was cut off my wrists, he
25 took the ball of tape that was on the floor where he had --

1 where he taped me.

2 Q. So the tape that had been on your wrists?

3 A. Right.

4 Q. You said that there was a ball of tape?

5 A. Yes, ma'am. It was, you know, the thing of duct tape.
6 He picked that up. He picked up the knife and he picked up
7 the can of beer that he had touched.

8 Q. So let me ask you this. When he left out the front
9 door, did he have that bag with him?

10 A. Yes, ma'am.

11 Q. And your firearm?

12 A. Yes, ma'am.

13 Q. When he left out the front door, can you tell us
14 whether or not he had your firearm?

15 A. Yes, ma'am.

16 Q. Did he have permission to take or steal your firearm?

17 A. No, ma'am.

18 Q. After he went out the door, Ms. Branham, what did you
19 do next?

20 A. I immediately locked the door and I hate to say it,
21 but my bladder emptied and I was so scared.

22 Q. The first thing you did was lock the door?

23 A. Yes.

24 Q. And then what did you do next?

25 A. I went into the bathroom and I washed my mouth out

1 with -- with the mouthwash and I brushed my teeth and then
2 I took a shower and I soaped myself royally. I mean, I had
3 bubbles everywhere. Especially on this cut. I wanted that
4 cut clean because I didn't know what -- I mean, I wanted it
5 cleaned.

6 Q. And how, if at all, did you protect yourself?

7 A. Then after I showered, I went in the kitchen and got
8 a serrated butcher knife and I sat up all night with that
9 butcher knife because I figured he would come back.

10 Q. Now what, if anything, Ms. Branham, did he say to you
11 prior to exiting the front door?

12 A. He said he was gonna -- he was kill a cop and kill
13 himself.

14 Q. What did he say about whether or not it was okay to
15 call the police?

16 A. Oh, no. He said do not call the police. He -- he --
17 but he -- he had said that earlier. I just forgot to tell
18 you that.

19 Q. Okay. So this statement "Do not call the police" is
20 made prior to him exiting the doorway?

21 A. Yes, ma'am.

22 MS. MAYES: I beg the Court's indulgence.

23 May we approach?

24 THE COURT: You may.

25 (Proceedings held at the bench; not reported.)

1 THE COURT: Madam Forelady, I'm gonna give you-all
2 a break. We've been here for about an hour and fifteen
3 minutes. I'm gonna tell you this testimony is gonna
4 continue on a little while, so I thought it would be a
5 good breaking point.

6 Let me remind you, you are not to talk about this
7 case even amongst yourselves. Not yet, okay?

8 Let's take a 15-minute break.

9 (Whereupon, the jury retires to the jury room at
10 11:04 AM.)

11 THE COURT: All right, Ms. Branham. I'm gonna tell
12 you, you are still a witness in this case. You are not
13 allowed to talk to anyone about this case whether it be
14 the State prosecution or anyone in this room. If you
15 need to go to the ladies room, I'm gonna let you go to
16 the ladies room, but please return back to the witness
17 stand, okay?

18 MS. MAYES: Your Honor, if Ms. Clamp may escort to
19 her to the restroom.

20 THE COURT: Absolutely. Absolutely.

21 All right. We're in recess for fifteen minutes.

22 (Recess taken at 11:05 AM.)

23 (Back on the record at 11:22 AM.)

24 BAILIFF: Court is back in session. Stay seated.

25 THE COURT: All right. Are we ready to proceed?

1 MS. MAYES: Yes, Your Honor.

2 (Whereupon, the witness returns to the witness
3 stand.)

4 THE COURT: Ms. Branham, you haven't talked to
5 anyone about the case during the break, have you?

6 THE WITNESS: No, ma'am.

7 THE COURT: All right. Let's bring the jury in.

8 (Whereupon, the jury return to the courtroom at
9 11:25 AM.)

10 THE COURT: Madam Forelady, is the jury ready?

11 FOREPERSON: Yes, Your Honor.

12 THE COURT: Thank you. Please be seated.

13 Ms. Branham, I want to remind you that you're still
14 under oath.

15 You may proceed.

16 MS. MAYES: May it please the Court?

17 THE COURT: Yes, ma'am.

18 BY MS. MAYES:

19 Q. I just want to ask you a few more questions,
20 Ms. Branham, about some of the events that occurred. Is
21 it possible for you to estimate the time that Mr. Neeley
22 arrived at your house on October 12th?

23 A. It was dark. It was October. It was dark, so it was
24 -- I think it was around 8:00, 8:30, 9:00. Somewhere in
25 there.

1 Q. So it's dark when he arrived and did it remain dark up
2 until the time that he ultimately returned to your home?

3 A. Yes, ma'am.

4 Q. And then exited out the front door with your firearm?

5 A. Yes, ma'am.

6 Q. Still dark outside?

7 A. Yes, ma'am.

8 Q. I'm gonna show you some photographs and ask you
9 whether or not you recognize what's in the photographs
10 beginning with State's 4, 5 and 8, and if you could just
11 tell us if these photographs are a fair and accurate
12 representation of your clothing on the incident date?

13 A. Yes, ma'am.

14 Q. Now I'm gonna ask you about State's 87, 88, 90, 91,
15 92, 93, 97 and 96. Do you know the person depicted in
16 these photographs?

17 A. That's me.

18 Q. And can you tell us whether or not these photographs
19 are a fair and accurate representation of how you appeared
20 following the events of that night?

21 A. Yes, ma'am.

22 Q. And following what you have described as your
23 interactions with the defendant, Robert Brandon Neeley?

24 A. Yes, ma'am.

25 MS. MAYES: All for evidence at this time, Your

1 Honor.

2 THE COURT: Let me know if there's any objection.

3 MS. POPOWSKI: No objection, Your Honor.

4 THE COURT: They're admitted.

5 (State's Exhibit Number 4, 5, 8, 87, 88, 90, 91, 92,
6 93, 96 and 97, photographs, were admitted into evidence.)

7 BY MS. MAYES:

8 Q. I want to start by asking you, Ms. Branham, if you
9 recognize what is depicted here in this photograph
10 overhead, State's 4?

11 A. That's the shirt I had on that night. That's the one
12 he pulled off me.

13 Q. And looking here at this photograph, can you tell us
14 whether or not this photograph was taken by yourself or by
15 a member of law enforcement?

16 A. Law enforcement.

17 Q. So law enforcement is taking this photograph once they
18 have arrived at your residence?

19 A. Yes, ma'am.

20 Q. And who is the person holding the shirt up?

21 A. I think that's me.

22 Q. And looking there at the photograph, what location
23 on the T-shirt is it that Mr. Neeley grabbed to pull that
24 shirt off of you? Along the collar area?

25 A. Yes, ma'am.

1 Q. And State's 5, do you recognize those items?

2 A. That's my jeans.

3 Q. And State's 8?

4 A. That's my underwear.

5 Q. When you were inside the home, looking here at
6 State's 56 and 57, you described falling, and do you see
7 where in this photograph approximately where it is that
8 you fell?

9 A. (Indicating.)

10 Q. And what was it that caused you to fall, Ms. Branham?

11 A. He kicked my legs out from under me.

12 Q. And what part or parts of your body made contact with
13 the floor surface?

14 A. I fell flat on my back.

15 Q. I'm gonna show you what is State's 87. Ms. Branham,
16 did you have any of these injuries to your back prior to
17 being knocked to the floor and landing on the floor with
18 your back?

19 A. No, ma'am.

20 Q. Ms. Branham, while in this area of the home, after
21 your jeans had been removed and your underwear had been
22 removed, you described the type of contact that occurred.
23 What, if anything, were you doing in response to this?

24 A. I was trying to get him off of me and, of course, my
25 hands are tied, but I'm trying to push him off me and I'm

1 also bucking as much as I can.

2 Q. And your legs, you described that your vaginal opening
3 was entered?

4 A. Uh-huh.

5 Q. What, if anything, you were you doing with your legs?

6 A. I was holding them together and he was trying to pull
7 them apart.

8 Q. Why were you holding your legs together?

9 A. Well, he can't get in me if my legs are together.

10 Q. What, if anything, did the defendant do in response
11 to you holding your legs together?

12 A. He was trying to part them and he couldn't.

13 Q. I'm gonna show you State's 88.

14 A. Uh-huh.

15 Q. What part of your body are we looking at here?

16 A. That's my thighs. Upper thighs.

17 Q. And I'm gonna ask you specifically about this area
18 here on what would be your left thigh and then the right
19 thigh, but along this area here at the top of the left
20 thigh.

21 A. Uh-huh.

22 Q. Based upon your observations that night what, if
23 anything, caused that bruising to your thighs?

24 A. That's where his hands were.

25 Q. And can you tell us whether or not he was using force

1 to open your legs?

2 A. Yes, ma'am.

3 Q. You described that when you're on the floor his knees
4 are located where on your body?

5 A. On my chest.

6 Q. I'm gonna show you what is State's 90. Can you tell
7 us whether or not this is some type of bruising?

8 A. That's -- yes, it is.

9 Q. What, if anything, was located here along this part of
10 your body?

11 A. Mostly his -- his knees.

12 Q. And could you feel that pressure?

13 A. Yes, ma'am.

14 Q. You described the tape. Can you show us now where on
15 your body, your hands, your arms or what locations on your
16 body you recall there being tape?

17 A. It's around the wrists.

18 Q. And how would you describe this tape?

19 A. It's thick duct tape. Black.

20 Q. And you say duct tape, but it appeared to be black?

21 A. Yes, ma'am.

22 Q. Did it appear to be larger than an ordinary strip of
23 tape like scotch tape?

24 A. Oh, yes, ma'am. It's probably (indicating).

25 Q. Was it placed on both of your hands?

1 A. All the way around both of them.

2 Q. I'm gonna show you what is State's 91. Ms. Branham,
3 did you have any of these injuries prior to the night of
4 October 12th?

5 A. No, ma'am.

6 Q. What can you tell us about how these injuries were
7 acquired?

8 A. He was pulling on my hands and my arms trying to get
9 my hands together so he could tape them and -- and actually
10 pulling on the skin and -- and -- and I'm trying to keep
11 him off of me, so his -- his hands are all around.

12 Q. Could you feel his hands on your body?

13 A. Yes, ma'am.

14 Q. And could you tell us whether or not that was with
15 some degree of force?

16 A. A lot of force because we were -- yes, a lot of force.

17 Q. Did that include your upper arms?

18 A. Yes, ma'am.

19 Q. And your forearms?

20 A. Yes, ma'am.

21 Q. And the lower areas of your hands as well?

22 A. Yes, ma'am.

23 Q. Looking here at that particular abrasion, did that
24 exist prior to that night?

25 A. I'm sorry?

1 Q. This abrasion that I'm looking at here in State's 91,
2 can you tell us whether or not you had that abrasion prior
3 to Robert Neeley entering your home?

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

5 Q. And looking here at your lower left wrist area --

6 A. Uh-huh.

7 Q. -- did you have an abrasion or open cut there prior to
8 that night?

9 A. No, ma'am.

10 Q. I'm gonna show you what is State's 92. Which one of
11 your arms is this?

12 A. Left.

13 Q. And would that be that same abrasion that we just took
14 a look at?

15 A. Yes, ma'am.

16 Q. Now looking at 93, which arm is this -- or hand is
17 this? Wrist. Let me correct myself. Which wrist is this?

18 A. That's my left.

19 Q. Looking here at your left wrist, Ms. Branham, do you
20 know what, if anything, was in this location where you
21 received this open wound?

22 A. That's where the tape was.

23 Q. Where this open sore is depicted in State's 93?

24 A. Yes, ma'am.

25 Q. And looking here at 97, did you sustain any broken

1 fingernails during this attack?

2 A. Yes, ma'am.

3 Q. And is that depicted in State's 97?

4 A. Yes, ma'am.

5 Q. Which fingernail is that?

6 A. That's the pinky finger on the right hand.

7 Q. Now looking at your right arm. This is State's 96.

8 Again, where your upper arm is concerned, did you feel any
9 part or parts of his body along your upper arms?

10 A. Yes, ma'am.

11 Q. What part or parts of his body?

12 A. It was his arms or his hands.

13 Q. And can you tell us whether or not some degree of
14 force was being used?

15 A. Yes, ma'am. He was trying to hold me down.

16 Q. And your forearms and your hands, what parts of his
17 body touched your body here?

18 A. Mostly his hands and arms because we were -- I was
19 trying to keep him off of me and he was trying to get my
20 hands together.

21 Q. Did any of these bruises here on your right arm exist
22 prior to Robert Brandon Neeley entering your home on the
23 night of October 12th?

24 A. No, ma'am.

25 Q. Now I know you said that you go to Silver Sneakers and

1 you're part of a seniors class at the gym.

2 A. Uh-huh.

3 Q. Ms. Branham, is there anything that you do there as
4 part of that class at the gym that would cause these
5 injuries?

6 A. No, ma'am.

7 Q. Is there anything that you do with your crochet work
8 that would cause these injuries?

9 A. No, ma'am.

10 Q. Is there any type of activity that goes on with Meals
11 on Wheels that would cause these injuries?

12 A. No, ma'am.

13 Q. I know you indicated that you took a shower following
14 his departure from your home.

15 A. Yes.

16 Q. Even after your shower, what, if anything, did you
17 feel around the area of your wrist where you had had tape?

18 A. I -- I couldn't get the sticky tape off.

19 Q. It still felt sticky to you?

20 A. Yes, ma'am.

21 Q. Looking here, Ms. Branham, what we see here that's
22 white in color, is that a part of your body or is that some
23 foreign matter?

24 A. I think that's foreign matter.

25 Q. And is that where you still felt it sticky even after

1 your shower?

2 A. Yes, ma'am.

3 Q. Ms. Branham, after the assault at your home you've
4 indicated that you went to an ATM machine. I'm gonna show
5 you some photographs, being State's 33, 1 and 54, and ask
6 you whether you're familiar with these items?

7 A. Yes. That's where the ATM is, that's in front of
8 the ATM, and that's the receipt that he took the money out.

9 Q. And you've indicated that after that there was an area
10 that you were taken to somewhere in Richland County?

11 A. Yes, ma'am.

12 Q. That you described as an abandoned lot?

13 A. Yes, ma'am.

14 Q. I'm gonna show you State's 73, 74, 75 and 76 and
15 ask you if these appear to be a fair and an accurate
16 representation of that scene?

17 A. Yes, ma'am. Yes, ma'am.

18 Q. Now I'm gonna show you what is State's 94, 95, 89, 77.

19 A. Yes, ma'am.

20 Q. 78, 79.

21 A. Wait a minute. I didn't see it. Oh, yes. Yes.

22 Q. Are 94, 95 and 89 a fair and accurate representation
23 of how you appeared following the events of that night?

24 A. Yes, ma'am.

25 Q. And 77, 78, 79, 83 and 84, are they a fair and

1 accurate representation of your vehicle, the interior of
2 your vehicle and your garage area?

3 A. Yes, ma'am.

4 MS. MAYES: All for evidence at this time, Your
5 Honor.

6 THE COURT: Let me know if you have any objection,
7 Ms. Popowski.

8 MS. POPOWSKI: Thank you, Your Honor.

9 No objection, Your Honor.

10 THE COURT: They're admitted.

11 (State's Exhibit Number 1, 33, 54, 73, 74, 75, 76,
12 77, 78, 79, 83, 84, 89, 94, and 95, photographs, were
13 admitted into evidence.)

14 BY MS. MAYES:

15 Q. Following the departure from your home, where is the
16 first -- first place that you remember him driving and
17 taking you, Ms. Branham?

18 A. The ATM.

19 Q. Looking here at State's 33, I'm gonna ask you if
20 you're familiar with this location that is depicted?

21 A. Yes, ma'am.

22 Q. How so?

23 A. There's -- that's 302, which is also Main Street,
24 that goes through Congaree, South Congaree, and then the
25 ATM is right there where it says Palmetto Citizens Bank.

1 Q. I'm gonna show you a surveillance photograph, which is
2 State's 1 in evidence.

3 A. That's the ATM that we went to that's on East Main
4 Street.

5 Q. All right. Looking here, Ms. Branham, what is the
6 date depicted for this transaction?

7 A. October 12, 2021.

8 Q. All right. And we see a time being 12:40 -- I'm
9 sorry, 20:40?

10 A. Yeah, 20.

11 Q. And did you grow up in a military family?

12 A. Yes, ma'am.

13 Q. Are you familiar with military time?

14 A. I am.

15 Q. Okay. Would that be consistent with 8:40 PM?

16 A. Yes, ma'am.

17 Q. Can you tell us whether or not you recognize the
18 vehicle depicted --

19 A. I'm sorry. Oh, that's my car.

20 Q. And who is here at the driver's seat?

21 A. That's Mr. Neeley.

22 Q. Making that transaction?

23 A. Yes, ma'am.

24 Q. Do you recognize the defendant, Robert Brandon Neeley,
25 in this courtroom?

1 A. Yes, ma'am.

2 Q. Where is he seated, Ms. Branham?

3 A. He's -- he's sitting over there with the -- on that
4 table. The second one from the left.

5 MS. MAYES: Your Honor, if the record may reflect
6 she has identified the defendant.

7 THE COURT: The record so reflects.

8 BY MS. MAYES:

9 Q. This transaction resulted in how much money being
10 removed from your bank account?

11 A. \$200.00.

12 Q. And, again, how did he acquire the PIN number?

13 A. I -- I gave it to him. He had a gun on me.

14 Q. And are you familiar with what is shown here in
15 State's 54?

16 A. That's the receipt from the -- from the ATM.

17 Q. And ultimately was this recovered by law enforcement
18 after your report to the police?

19 A. Yes, ma'am.

20 Q. Now after going to the ATM you described going to the
21 residence on Princeton Road?

22 A. Uh-huh.

23 Q. And we saw that photograph earlier?

24 A. Uh-huh.

25 Q. You also described a location that you believe was in

1 Richland County. What led you to that belief?

2 A. We drove up I-26. I don't know what exit we took, but
3 it was in the northern part.

4 Q. And he described what about that location? What --

5 A. He said that that was his family home and that his
6 father did not keep -- keep it up.

7 Q. And you believe that you-all travelled an Interstate
8 to get there?

9 A. Yes, ma'am.

10 Q. How long approximately do you believe you were on an
11 Interstate?

12 A. Oh, goodness.

13 Q. Was it a quick trip or a longer trip?

14 A. No, it probably was I would guess fifteen minutes,
15 but I'm guessing. I just hate to guess, but it was -- it
16 wasn't just around the corner.

17 Q. I'm gonna show you what is State's 73. Even with it
18 being dark outside, Ms. Branham, what, if anything, can
19 you tell us about this location and any similarity it has
20 to the location you were taken?

21 A. That looks like where we went. It's an abandoned
22 house.

23 Q. And do you recall there being a wooded area nearby?

24 A. Yes, ma'am.

25 Q. I'm gonna show you what is State's 74.

1 A. That's it.

2 Q. What, if anything, do you recall about the car as he
3 was driving into this wooded area or this area surrounded
4 by brush?

5 A. He -- he backed in and actually rode -- rode over a
6 bush and scraped a bush.

7 Q. You could hear that?

8 A. Yes, ma'am.

9 Q. I'm gonna show you what is 75. Looking here at this
10 tree.

11 A. Uh-huh.

12 Q. And then 76.

13 A. That's it.

14 Q. Does that appear to be consistent with what you heard?

15 A. Yes, ma'am.

16 Q. The car striking this tree as it pulled in?

17 A. Yes, ma'am.

18 Q. While parked at this location, Ms. Branham, you
19 described several things that occurred there.

20 A. Uh-huh.

21 Q. What part or parts of his body touched your upper
22 chest and throat when you said that he choked you?

23 A. His -- his hands -- his palms were on my -- my
24 shoulder bones and his fingers were on my -- my throat
25 pushing up and pushing me back against the headrest.

1 Q. Was he using one hand or both hands?

2 A. Both hands.

3 Q. And how, if at all, did that affect your ability to
4 breathe?

5 A. I -- I couldn't catch a breath.

6 Q. And what, if anything, happened to your glasses when
7 that occurred?

8 A. When he came across to strangle me, my -- his hands
9 hit my glasses and they flew into the back seat.

10 Q. When the defendant was at your home and had acquired
11 your firearm, what, if anything, else did he acquire or
12 take possession of from within your home?

13 A. He took my ATM card --

14 Q. And do you have --

15 A. -- and my gun.

16 Q. Do you have a phone?

17 A. Oh, he took my phone. He turned it off and took my
18 phone.

19 Q. Do you have a cell phone of your own?

20 A. Yes, ma'am.

21 Q. And where was he when he took possession of your cell
22 phone?

23 A. He was in my -- in my living area. The cell phone
24 was on the -- the table between the two barrel chairs, and
25 he took that.

1 Q. And when you last saw your phone it was in whose
2 possession?

3 A. Robert's.

4 Q. And was that prior to leaving your house to go to the
5 ATM?

6 A. Yes, ma'am.

7 Q. When he also had the gun?

8 A. Yes, ma'am.

9 Q. Now looking here at these photographs, State's 94,
10 did you have any of those injuries, any of this redness or
11 these abrasions to your upper chest or neck area prior to
12 that night having contact with Robert Brandon Neeley?

13 A. No, ma'am.

14 Q. Or prior to him placing hands on your throat?

15 A. Yes -- no, ma'am.

16 Q. What part or parts of his hands were along this area
17 where your clavicle is located?

18 A. His -- the palms of his hands.

19 Q. And can you tell us whether or not he was using any
20 degree of force?

21 A. Yes, because I couldn't -- I mean, he was choking off
22 my -- my ability to breathe.

23 Q. And did that extend up into this area here as well?

24 A. Yes, ma'am.

25 Q. The gun. While at this location on Rabon Road or at

1 the abandoned lot that you have described, where was it
2 that you last felt the gun against you?

3 A. He -- he put it against my temple twice and pushed my
4 head up against the -- the window.

5 Q. When the gun was placed against your temple -- again,
6 is this your left temple or right temple?

7 A. The left.

8 Q. Is there any degree of force? What, if anything, can
9 you tell us about that?

10 A. Yes, he was pushing really hard because he was pushing
11 my head up against the -- the passenger's window.

12 Q. Looking here at State's 71, when the gun is against
13 your temple you're seated where?

14 A. I'm in the passenger seat with the seatbelt on.

15 Q. And he's seated where?

16 A. In the -- he's in -- oh, gosh. I don't know if put
17 his -- he was in the driver's area.

18 Q. And which side of your body is facing against the
19 driver's side?

20 A. The left side.

21 Q. Looking here at State's 89, looking here at this
22 photograph, Ms. Branham, where can you show us that you
23 recall feeling the gun against your skin?

24 A. (Indicating.)

25 Q. That bruise or discoloration to the left side of your

1 head, Ms. Branham, did you have that prior to the night of
2 October 12th?

3 A. No. No, ma'am.

4 Q. And, again, looking at this photograph what, if
5 anything, do you recall making contact with your body at
6 that location to cause that injury?

7 A. Only the gun.

8 Q. Looking inside the car, Ms. Branham, we see some type
9 of discoloration here. What is that?

10 A. That's blood from my arm.

11 Q. Looking here at your left arm, laceration here,
12 laceration here and, again, 93 where you indicated tape
13 was removed, what, if anything, was happening regarding
14 your left arm at this point in time?

15 A. The bleeding.

16 Q. You could actively see blood?

17 A. Yes, ma'am.

18 Q. Looking here at State's 77 and 78, the interior of
19 your car. Once the tape had been removed, were you still
20 bleeding?

21 A. Yes.

22 Q. And based upon your knowledge of those injuries, what,
23 if anything, resulted in the blood or what appears to be
24 blood shown here in 78 and 77?

25 A. He -- when he grabbed my head to pull it across to the

1 -- to his side, my -- my arm was caught on the console and
2 my body was on top of it.

3 Q. This would be the console here?

4 A. Yes, ma'am.

5 Q. And what -- let me -- I'm gonna have to ask you this.
6 What is he physically doing to cause your body to make
7 contact with the console in that way?

8 A. He grabbed my head and pulled me over and this arm was
9 caught on the console and -- and he was pushing my face and
10 mouth on his penis.

11 Q. And what part or parts of your body was making contact
12 with the console at that point?

13 A. My -- my left arm where -- where the cuts were.

14 Q. And after that was over, you indicated that you
15 retrieved a napkin --

16 A. Uh-huh.

17 Q. -- from somewhere within your vehicle? Where was
18 that, Ms. Branham?

19 A. That part of the console is a lid and in front of it
20 there's some openings. There's a place where you can --
21 where you could put bottles.

22 Q. Would this be what is depicted in State's 79?

23 A. No, ma'am. It's -- let me see if I can do this
24 without -- it's right in this area. This is open.

25 Q. So the area here?

1 A. Yes, ma'am.

2 Q. And what did you retrieve from that area?

3 A. There was a napkin there.

4 Q. And what did you do with that napkin?

5 A. I spit out everything that was in my mouth that I
6 could after the assault.

7 Q. Ultimately, Ms. Branham, after the defendant left your
8 home, what did you do with that napkin that you had spit
9 into?

10 A. I left everything in the car until the next morning
11 and then when I went out there I found the napkin and I put
12 it in the trash can. I found my glasses in the back seat.
13 They weren't broken, thank God. And I found my phone was
14 in the little shelf on the door of the driver's side.

15 Q. Over on the driver's side?

16 A. Yes, ma'am.

17 Q. And so when he left your home that evening, did you
18 have your phone in your possession?

19 A. No, ma'am.

20 Q. Did you have your glasses in your possession?

21 A. No, ma'am.

22 Q. And it was approximately what time that you were able
23 to retrieve those from the car in your garage?

24 A. Probably around -- oh, gosh. The sun was up, so
25 probably around eight-ish.

1 Q. And I'm gonna show you what is State's 83 --

2 A. Oh, my dirty garage.

3 Q. -- and State's 84. What are we looking at here in the
4 bottom of the trash can in State's 84?

5 A. That's where I put the napkin.

6 Q. Would that be the same napkin that ultimately law
7 enforcement retrieved from your home and from that trash
8 can in the garage?

9 A. Yes, ma'am.

10 Q. State's 42. And where in the vehicle, Ms. Branham,
11 did you ultimately recover your glasses?

12 A. They were in the back seat next to the books. In
13 fact, I think they were on top of the books.

14 Q. And why did you have books in the back of your
15 vehicle?

16 A. I collect books and put them in the laundromats so
17 people can have free books to read.

18 Q. Looking here at 72. Did you recover your glasses from
19 the front of the vehicle or the back of the vehicle?

20 A. The back of the vehicle.

21 Q. I'm gonna show you some additional photographs. These
22 are State's 85 and 86, 82, 80 and 81, and ask you whether
23 or not these are a fair and accurate representation of the
24 inside of your home --

25 A. They are.

1 Q. -- following these events on October 12th?

2 MS. MAYES: For evidence, Your Honor.

3 THE COURT: Let me know if there's any objection.

4 Ms. Mayes, was Number 79 introduced? I have it
5 introduced, but I don't have what it is.

6 MS. POPOWSKI: No objection, Your Honor.

7 MS. MAYES: 79, Your Honor, is the interior console.

8 THE COURT: Thank you.

9 (State's Exhibit Number 80, 81, 82, 85 and 86,
10 photographs, were introduced into evidence.)

11 THE COURT: Okay. Go ahead. I'm sorry.

12 I wanted to make sure I had my records right.

13 BY MS. MAYES:

14 Q. After the defendant left your home, you described
15 taking a shower?

16 A. Uh-huh.

17 Q. What else did you do in your bathroom?

18 A. I had -- I had cleaned out my mouth with mouthwash and
19 brushed my teeth and then I took my shower.

20 Q. Looking here at 81, is that the location in which you
21 took the shower?

22 A. Yes, ma'am. That's my shower from the master bedroom.

23 Q. And looking here at 80.

24 A. That's my sink in the master bathroom.

25 Q. And what is located here?

1 A. That's the cup I used to put mouthwash in and rinse my
2 mouth.

3 Q. Looking at 82, your kitchen counter?

4 A. That's my kitchen counter.

5 Q. What, if anything, is located there on your kitchen
6 counter, Ms. Branham?

7 A. That -- that is the knife, the serrated bread knife,
8 that I held onto all night.

9 Q. And why did you do that?

10 A. Because I was afraid he was gonna come back.

11 Q. You indicated that he told you not to call the police.
12 What, if anything, did you do in response to that
13 statement?

14 A. I didn't call them.

15 Q. And why or why not?

16 A. Because I'm not a liar.

17 Q. And when you -- let me ask you this. When he left
18 your home, did you know where he was going?

19 A. I did not.

20 Q. Or how far away he was?

21 A. I did not.

22 Q. And did you have possession of your firearm?

23 A. No, ma'am.

24 Q. Or your phone?

25 A. No, ma'am.

1 Q. Or your glasses?

2 A. No, ma'am. I didn't -- I didn't get them until the
3 next morning.

4 Q. And what did you do with this knife after he left your
5 residence and you looked the door?

6 A. I -- after I showered, I kept it with me in my hand
7 all night long.

8 Q. And throughout this point in time did you know how far
9 away Robert Neeley may have been from your residence?

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

11 Q. Or how nearby he may still be?

12 A. No idea.

13 Q. I'm gonna show you what is State's 7 and ask you
14 whether or not you recognize this?

15 A. Yes, that is a text that I sent to Brenda.

16 Q. And when you say Brenda, you're referring to Brenda
17 McMillan?

18 A. Yes, ma'am.

19 Q. Who is the -- you're communicating with Brenda?

20 A. Right. That's my text and that's her okay.

21 Q. Okay. So --

22 A. Or her response, I guess.

23 Q. Which one of you is in blue?

24 A. Brenda.

25 Q. Okay. And so you recognize this as a fair and

1 accurate representation of your text communication with
2 Brenda McMillan?

3 A. Yes, ma'am.

4 Q. Now when would this have been in relation to the
5 crime?

6 A. That was the next morning. She was coming to my house
7 to -- because we deliver Meals on Wheels on every other
8 Wednesday.

9 Q. So here we see a screen shot time of 12:40, but --
10 when the photograph was taken.

11 A. Oh, okay.

12 Q. But where the communication is occurring, would that
13 have been prior to Meals on Wheels?

14 A. Yes, ma'am. It would probably be about 8:45. Between
15 8:30 and 8:45.

16 Q. Prior to 9:00 AM?

17 A. Yes, ma'am.

18 Q. On the morning after the assault?

19 A. Yes, ma'am.

20 MS. MAYES: State's 7 for evidence, Your Honor.

21 THE COURT: Any objection? This was ID only.

22 MS. POPOWSKI: No objection, Your Honor.

23 THE COURT: It's in.

24 (State's Exhibit Number 7, a text message, was
25 admitted into evidence.)

1 BY MS. MAYES:

2 Q. So looking here at this text communication, State's 7,
3 in blue it says "OMG, yes. I will be there at nine", and
4 that would be referring to 9 AM or 9 PM?

5 A. 9 AM.

6 Q. And you say -- tell us what your response is to here.

7 A. I said "Thanks", and then I said "Brenda, I have not
8 called the police. Will you please come here and call
9 them?"

10 Q. It says "Brenda, I have not called the police. I
11 hope you will when you come here."?

12 A. Yes, ma'am.

13 Q. And what was her response?

14 A. "Okay".

15 Q. And prior to this had you disclosed to Ms. McMillan
16 that you had been assaulted?

17 A. No, ma'am. I -- not until she arrived.

18 Q. So let me ask you this. When it says "I have not
19 called the police, I hope you will when you come here",
20 what had you told -- how much had you told her had
21 occurred?

22 A. Just that -- that I had been accosted --

23 Q. Okay.

24 A. -- and that was -- that was -- that wasn't on the
25 phone.

1 Q. Okay. And did you know throughout the night as
2 you had the knife that you would be meeting up with
3 Ms. McMillan that next morning for Meals on Wheels?

4 A. Yes, ma'am.

5 Q. And what had been your thoughts as to notification of
6 the police?

7 A. I -- I told Robert I wouldn't call the police, so I
8 was hoping that she would do it for me.

9 Q. Looking here at State's 85 and 86, what are we looking
10 at here?

11 A. Those are the boxes that my gun came in when I
12 purchased the gun.

13 Q. Okay. And who provided the gun box --

14 A. I did.

15 Q. -- including the serial number to law enforcement as
16 depicted in this photograph?

17 A. I did. I keep them. I keep those boxes.

18 Q. I'm gonna show you, Ms. Branham, what is State's 59
19 for ID only at this time, and ask you whether or not you
20 recognize this item?

21 A. Yes, ma'am.

22 Q. The outside of the box?

23 A. Uh-huh.

24 Q. You saw that earlier?

25 A. Uh-huh. That's my gun. It's filthy.

1 Q. And what color is it?

2 A. It's black.

3 Q. Is this the 9-millimeter firearm that you referenced
4 earlier in your testimony?

5 A. Yes, ma'am.

6 Q. I want to show you a few more photographs for
7 identification only at this time. I'm gonna show you what
8 is State's 98 for ID. You described a black gym bag --

9 A. Uh-huh.

10 Q. -- that Robert Brandon Neeley had in his possession?

11 A. Right.

12 Q. I'm gonna show you State's 98 for identification.
13 Can you tell us whether or not you see any item in this
14 photograph consistent with the gym bag you saw?

15 A. Yes, ma'am. There's -- there's a black bag in there
16 in the film -- I mean, in that picture.

17 Q. And is it consistent with the bag you recall seeing?

18 A. I don't -- yes. I don't think that -- I don't know
19 if that is the bag, but it looks like it.

20 Q. Physically consistent --

21 A. Yes, ma'am.

22 Q. -- in size and color?

23 A. Yes, ma'am.

24 Q. You described a knife that Robert Brandon Neeley had
25 in his possession at your home?

1 A. Uh-huh.

2 Q. Did he leave your home with that knife?

3 A. Yes, ma'am.

4 Q. How would you describe that knife?

5 A. It was a serrated kitchen knife.

6 Q. I'm gonna show you what is State's 116 and ask you
7 whether or not you see any items that would be consistent
8 with that description of a serrated kitchen knife?

9 A. Yes, ma'am. There's knives there. I don't know if
10 they're serrated, but there's knives there.

11 Q. You described a glass pipe that you saw Robert Brandon
12 Neeley with.

13 A. Uh-huh.

14 Q. I'm gonna show you what is State's 100 and ask you
15 whether or not any of the items in 100 appear consistent
16 with what you have described?

17 A. Yes, they do. It was -- it's about the length of your
18 finger and it had smooth edges on both sides.

19 Q. And was it transparent or glass?

20 A. It was glass.

21 Q. And can you tell us whether or not that is consistent
22 with what is depicted in State's 100?

23 A. Yes, ma'am.

24 Q. You described black tape that you called duct tape.

25 I'm gonna show you State's 99 and I'm gonna ask you whether

1 or not what is depicted in State's 99 is consistent with
2 the type of tape you recall being used on you?

3 A. Yes, ma'am, it does.

4 Q. In color?

5 A. Yes, ma'am.

6 Q. And in addition to color, in size and width?

7 A. Yes, ma'am.

8 Q. And texture?

9 A. Yes, ma'am.

10 Q. Your neighbors at Congaree Downs, do any of your
11 neighbors have video surveillance?

12 A. Yes, ma'am.

13 Q. And how is it that you know that?

14 A. They're my friends.

15 Q. And who is your neighbor that lives maybe not directly
16 across from you, but across the way from you?

17 A. That's John J. Walters -- Waters. Sorry. Waters.

18 Q. And looking here at State's 11, you're at [REDACTED]?

19 A. Yes, ma'am.

20 Q. Would Mr. Waters be across the street from you?

21 A. Across the street and to the right.

22 Q. This location here? Do you want to show us with your
23 laser?

24 A. Yes, that's right. Oh, you want me to use my laser?

25 I'm sorry. I'm here and he's there.

1 Q. And have you had an opportunity to review video
2 surveillance from that night?

3 A. Yes, ma'am.

4 Q. Recorded by Mr. Waters?

5 A. Yes, ma'am.

6 Q. And do you know whether or not that video surveillance
7 was also provided to law enforcement?

8 A. Yes, ma'am.

9 Q. To SLED in this case?

10 A. Yes, ma'am.

11 Q. Having viewed those clips, can you tell us whether or
12 not it's a fair and accurate representation --

13 A. Yes, ma'am.

14 Q. -- of what is occurring outside your residence?
15 And here looking at 30, does that depict the home of
16 Mr. Waters?

17 A. Yes.

18 Q. State's 14, 21, 22 and 29, do you recognize your
19 initials on any of these clips?

20 A. Yes, ma'am, and the date.

21 Q. Okay.

22 A. Yes, ma'am.

23 Q. Have you viewed each of them?

24 A. Yes, ma'am.

25 Q. And do each of them appear to be a fair and accurate

1 representation of the events as you recall them?

2 A. Yes, ma'am.

3 Q. And I believe one is in its original format and then
4 the other is enhanced?

5 A. Yes, ma'am.

6 Q. And you've viewed all of them?

7 A. Yes, ma'am.

8 Q. Do all of them, again, appear to be fair and accurate
9 representations even the one that has been enhanced with a
10 close-up?

11 A. Yes, ma'am.

12 MS. MAYES: State's 14, 21, 22 and 29 for evidence,
13 as well as 30.

14 THE COURT: Any objection?

15 MS. POPOWSKI: No objection, Your Honor.

16 THE COURT: They're admitted.

17 (State's Exhibit Number 14, 21, 22, 29 and 30,
18 video clips, were admitted into evidence.)

19 (Video clips playing.)

20 BY MS. MAYES:

21 Q. Looking here at 30, you're at [REDACTED] and Mr. Waters is
22 at [REDACTED]?

23 A. Yes, ma'am.

24 Q. All right. Looking here at State's 2, what type of
25 vehicle do you recall Mr. Neeley arriving in on the night

1 of October 12th?

2 A. It was a red truck.

3 Q. Okay. And, again, you indicated when he arrives at
4 your door he is in possession of something. What was that
5 something?

6 A. It -- it was like a gym bag.

7 Q. And whose truck would this be, Ms. Branham?

8 A. That's his truck.

9 Q. And whose driveway?

10 A. That's in my driveway. Yes, ma'am.

11 Q. And, again, is it light outside or dark outside?

12 A. It's dark outside.

13 Q. All right. This individual depicted here on the
14 video, again, was there any other person in the truck that
15 came to your door other than the defendant, Robert Brandon
16 Neeley?

17 A. No, ma'am.

18 Q. And to the best of your knowledge was he alone?

19 A. Yes, ma'am.

20 Q. And can you tell us whether or not he had an item with
21 him at that time?

22 A. He did.

23 Q. Is that consistent with the item we see depicted here
24 in this mini clip?

25 A. Yes, ma'am.

1 Q. And once he approaches your front door, are we able
2 to visualize that?

3 A. Yes, ma'am.

4 Q. What, if anything, is on this videotape is between the
5 driveway and your front door?

6 A. Well, the angle that you have here, there's a bush,
7 and then -- yeah.

8 Q. And did you cut a light on?

9 A. And then I cut a light on, right.

10 Q. When you heard someone at the door?

11 A. Yes, ma'am.

12 THE COURT: What exhibit was that, Ms. Mayes?

13 MS. MAYES: 22, Your Honor.

14 THE COURT: Thank you.

15 BY MS. MAYES:

16 Q. 29 for evidence at this time. Again, you've indicated
17 when he departs your residence he was in possession of what
18 items?

19 A. The gym bag and my gun.

20 Q. And when he had your gun, Ms. Branham, what hand did
21 he have your gun in?

22 A. In his right hand.

23 Q. And your gun is what color?

24 A. Black.

25 Q. Again, was there any individual who left the front

1 door of your home on the night of October 12th other than
2 Robert Brandon Neeley?

3 A. No, ma'am. Nobody.

4 Q. And you've indicated the gun was in which hand?

5 A. The right hand.

6 Q. And the gun would be what color?

7 A. Black.

8 Q. Is that consistent with what you're viewing here in
9 this miniclip?

10 A. Yes, ma'am.

11 Q. And when he left your home, was it still dark outside?

12 A. Yes, ma'am.

13 Q. Now once law enforcement was notified, how did they
14 acquire a description of the defendant?

15 A. The -- the SLED detective had me fill out a sheet of
16 paper about -- of the photos they were -- or the paper they
17 were gonna show me and they showed me a sheet of paper with
18 six faces on it.

19 Q. And you said the SLED detective. Do you recognize
20 Agent April Sykes present in the courtroom?

21 A. Yes, ma'am.

22 Q. And was she at your home that day at as well?

23 A. Yes, ma'am.

24 Q. Were you able to provide law enforcement with the name
25 of the person who assaulted you?

1 A. Yes, ma'am.

2 Q. And what name did you provide them?

3 A. Robert Neeley.

4 Q. I'm gonna show you what is currently Court's 9. Do
5 you recognize this photo lineup?

6 A. Yes, ma'am.

7 Q. And did you participate voluntarily in the photo
8 lineup?

9 A. Yes, ma'am.

10 Q. Is this a fair and accurate representation of that
11 lineup?

12 A. Yes, ma'am.

13 Q. Can you tell us, having looked at the photographs,
14 were you able to successfully identify the defendant from
15 within this photo lineup?

16 A. Yes, ma'am.

17 Q. Which photograph was he?

18 A. Number 3.

19 MS. MAYES: This would be Court's 9 for evidence,
20 Your Honor. State's 9. I'm sorry.

21 THE COURT: Any objection?

22 MS. POPOWSKI: No objection, Your Honor.

23 THE COURT: It's admitted.

24 (State's Exhibit Number 9, a photo lineup, was
25 admitted into evidence.)

1 BY MS. MAYES:

2 Q. You were presented with this photo lineup?

3 A. Yes, ma'am.

4 Q. Do you recognize the defendant, Robert Brandon Neeley,
5 in this photo lineup, Ms. Branham?

6 A. Yes, ma'am.

7 Q. Which number is he?

8 A. Three.

9 Q. Ms. Branham, at any point on the night of October 12th
10 did you consent to having sexual relations with Mr. Neeley?

11 A. At no time.

12 Q. Did you consent to him penetrating your vagina with
13 his fingers inside your residence?

14 A. No, ma'am.

15 Q. Or to the sexual assault that occurred at the
16 abandoned lot?

17 A. No, ma'am.

18 Q. When you told him to get out of your home, did he have
19 permission to be inside your residence at any other point
20 that night?

21 A. No, ma'am.

22 Q. Did he have permission to reenter the garage or
23 curtilage of your home with a gun --

24 A. No. No, ma'am.

25 Q. -- following the return from the ATM machine?

1 A. No, ma'am.

2 Q. Following the return of him purchasing drugs on
3 Princeton Road?

4 A. No, ma'am.

5 Q. Did he have permission to reenter your home with that
6 firearm prior to telling you not to call the police and
7 exiting your home that evening?

8 A. No, ma'am.

9 Q. At any point in time, Ms. Branham, did you believe
10 that you were free to leave?

11 A. No, ma'am.

12 Q. Free to leave his presence?

13 A. No, ma'am.

14 Q. Did he ever give you permission to leave or put away
15 the gun?

16 A. No, ma'am.

17 MS. MAYES: I beg the Court's indulgence.

18 BY MS. MAYES:

19 Q. When you went to a nurse for the sexual assault
20 examination, can you tell us whether or not a swab was
21 taken from you?

22 A. Yes, ma'am.

23 Q. And can you tell us whether or not that swab was taken
24 -- what part of your body was the swab taken from?

25 A. The inside of my mouth.

1 Q. And that was taken directly by the nurse?

2 A. Yes, ma'am.

3 Q. And can you tell us whether or not that was made part
4 of the evidence collection by the nurse herself?

5 A. Yes, ma'am.

6 Q. The napkin that you've talked about that was placed
7 into the trash can, what was on that napkin, Ms. Branham?

8 A. It was the -- the stuff I spit out of my mouth after
9 he had ejaculated in my mouth.

10 MS. MAYES: Nothing further of Ms. Branham at this
11 time, Your Honor.

12 THE COURT: All right. Before we go into cross,
13 can I see the lawyers just for a second?

14 (Proceedings held at the bench; not reported.)

15 THE COURT: All right, Madam Forelady. It's time
16 for cross, but it's gonna go well into you-all's lunch,
17 so I'm gonna let you go to lunch first and then we'll
18 come back, and the defense always has an opportunity to
19 cross, and we'll pick that up then, okay?

20 So let me have everybody back into the jury room at
21 1:45 and we're gonna start promptly at 2:00, okay?

22 FOREPERSON: Yes, ma'am.

23 THE COURT: Remember, you-all are gonna get tired
24 of me saying this. Don't do any research, don't look
25 anything up and certainly do not talk about this case

1 even amongst yourselves.

2 Thank you.

3 FOREPERSON: Thank you.

4 THE COURT: Have a good lunch.

5 (Whereupon, the jury was excused for lunch at
6 12:31 PM.)

7 THE COURT: All right. Ms. Branham, we're gonna
8 break for lunch. Again, I'm gonna instruct you, you
9 can't talk to anyone about this case, including the
10 Solicitor's office or any of the defense lawyers or
11 anybody because you are on the stand in the middle of
12 your testimony and I can't let you talk to anybody, okay?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: That is a court order.

15 THE WITNESS: About the case, but I can talk to my
16 brothers?

17 THE COURT: And not about this case at all, okay?

18 MS. MAYES: And, Your Honor, she has both
19 Ms. Clamp and Ms. Mooneyham here. We do ask that she
20 have permission to have lunch with them or in their
21 presence.

22 THE COURT: She told me her brothers are here.

23 MS. WELLMAN: Yes.

24 THE COURT: She can. I just don't want you-all
25 talking about this case.

1 THE WITNESS: I understand.

2 THE COURT: Okay. Go talk about the weather and
3 all sorts of good stuff, but not about this case.

4 THE WITNESS: Yes.

5 THE COURT: Thank you, Ms. Branham.

6 All right. We're in recess until 2:00.

7 THE COURT: All right. I'll see you-all at 2:00.

8 (Whereupon, a luncheon recess was taken at 12:37 PM.)

9 (Back on the record at 2:12 PM.)

10 BAILIFF: All rise. The Honorable Judge Debbie
11 McCaslin presiding.

12 THE COURT: Please be seated.

13 (Whereupon, the witness re-takes the witness stand.)

14 THE COURT: All right. Let me ask you, Ms. Branham,
15 have you spoken with anyone about this case during lunch?

16 THE WITNESS: No, ma'am.

17 THE COURT: Thank you.

18 Is the State ready to proceed?

19 MS. MAYES: Yes, Your Honor.

20 THE COURT: Defense?

21 MS. POPOWSKI: Yes, Your Honor.

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

23 (Whereupon, the jury returns to the jury room at
24 2:14 PM.)

25 THE COURT: Madam Forelady, is the jury ready?

1 FOREPERSON: Yes, Your Honor.

2 THE COURT: Please be seated.

3 All right, Ms. Popowski.

4 MS. POPOWSKI: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. POPOWSKI:

7 Q. Hi. Good afternoon. Ms. Branham, you've testified
8 today that you met Brandon through the Nextdoor app?

9 A. Yes, ma'am.

10 Q. He came to pick up some olive trees?

11 A. Yes, ma'am.

12 Q. Tea olive trees?

13 A. Tea olive trees.

14 Q. Okay. And you pulled up those tea olive trees?

15 A. My -- my friend and I did.

16 Q. You -- you and Brenda?

17 A. Right, and -- and then it was so much work we enlisted
18 her son to get one of them up.

19 Q. So it was a big job?

20 A. Yes, ma'am.

21 Q. Okay. And they had large roots?

22 A. Yes, ma'am.

23 Q. Okay. And how big do you think the roots were?

24 Fifteen gallons?

25 A. Oh, gosh. We took as much of the dirt off as

1 possible, so probably, yes.

2 Q. Pretty big?

3 A. Pretty big. Yes, ma'am.

4 Q. Well, I heard also that you cut your own grass?

5 A. Yes, ma'am.

6 Q. That's pretty impressive --

7 A. Thank you.

8 Q. -- for a woman in her seventies. You testified that
9 you like to talk and you -- you talked a good deal to
10 Brandon --

11 A. Uh-huh.

12 Q. -- in the short period of time that you knew him?

13 A. Uh-huh.

14 Q. And you know a lot about him?

15 A. (No verbal response.)

16 THE COURT: You have to answer yes or no,
17 Ms. Branham, for the record. You can't do un-huh and
18 unh-unh.

19 THE WITNESS: Yes, ma'am. I'm sorry.

20 BY MS. POPOWSKI:

21 Q. That's okay. I should probably remind you. You have
22 to answer audibly for the court reporter.

23 A. Sorry.

24 Q. But you know -- you know a good deal about him?

25 A. I wouldn't say a good deal. I just know a little bit

1 about him.

2 Q. Okay. You know that he had four sisters?

3 A. I did not know that.

4 Q. You knew that he was angry with his father for not
5 keeping up the family home?

6 A. Yes, ma'am.

7 Q. Okay. And he told you that his dad's HVAC company was
8 next door to the family home?

9 A. He said it was in the area. I don't remember him
10 saying next door.

11 Q. And he told you that his grandmother raised him?

12 A. I don't remember that.

13 Q. You do know that he has a longtime girlfriend, Dawn?

14 A. Yes.

15 Q. Okay. And that she's almost twenty years older than
16 him?

17 A. Yes, ma'am. I knew she was older. Yes, ma'am.

18 Q. Okay. And you knew that he lived around Fish Hatchery
19 Road?

20 A. Yes, ma'am.

21 Q. And you told him some things about you as well? You
22 told him that you'd lived in Texas before?

23 A. Right.

24 Q. And that you'd had some -- I'm sorry. Go ahead and
25 answer.

1 A. Yes, ma'am.

2 Q. And that you had some holly bushes outside the window
3 when you lived there?

4 A. Yes, ma'am.

5 Q. And when the police asked you, you knew exactly how to
6 spell has name?

7 A. Yes, ma'am.

8 Q. So you-all had talked on the phone?

9 A. Mostly text.

10 Q. But you had talked on the phone?

11 A. Yes.

12 Q. Okay. But you weren't able to show law enforcement
13 those calls?

14 A. No, ma'am.

15 Q. Because you erase everything on your phone?

16 A. I -- I purge every night.

17 Q. Okay. And then as you testified, you all texted?

18 A. Yes, ma'am.

19 Q. But there's no record of that?

20 A. No, ma'am.

21 Q. Because the messages were deleted?

22 A. Yes, ma'am.

23 Q. And over the short period of time that you knew him,
24 you gave him hundreds of dollars?

25 A. Yes, ma'am.

1 Q. And you even offered him money that he didn't take?

2 A. I don't remember that.

3 Q. Do you remember when he came over and tried to give
4 you jewelry in return for some of the money?

5 A. Oh, that's correct. Yes, ma'am.

6 Q. All right. And you testified here today that the
7 \$300 was for an advance for the sprinkler parts?

8 A. Uh-huh. Yes, ma'am.

9 Q. But were you aware that those parts only cost \$40?

10 A. No, ma'am. I had no -- no.

11 Q. All right. Well, let's go to the evening of
12 October 12, 2021. He gets there around 8:00?

13 A. Yes, ma'am.

14 Q. And you invite him in?

15 A. Yes, ma'am.

16 Q. To your home?

17 A. Yes, ma'am.

18 Q. At a time where it's dark outside?

19 A. Yes, ma'am.

20 Q. Okay. And you testified earlier that he'd been there
21 before at night?

22 A. But not in the house.

23 Q. Not in the house. Okay. So he comes in?

24 A. (Nods head.) Yes, ma'am.

25 Q. And you offer him a beer?

- 1 A. Yes, ma'am.
- 2 Q. Okay. You offered him a Yuengling?
- 3 A. Yes, ma'am.
- 4 Q. Okay. Who drinks the Michelob Ultra?
- 5 A. My girlfriend.
- 6 Q. Your girlfriend. Okay.
- 7 All right. So he had several of these Yuenglings?
- 8 A. He just has the one. I offered him the one.
- 9 Q. And you're drinking wine?
- 10 A. I'm drinking wine that night. Yes, ma'am.
- 11 Q. Okay. Is it the Kunde wine?
- 12 A. It's Merlot by Bogle.
- 13 Q. Okay. And were you drinking wine when he arrived?
- 14 A. Yes, ma'am.
- 15 Q. And you continued to drink with him when you-all were
- 16 sitting and chatting?
- 17 A. Yes, ma'am.
- 18 Q. Okay. You were -- you were interviewed a lot in this
- 19 case by law enforcement?
- 20 A. Yes, ma'am.
- 21 Q. Okay. You were interviewed first by South Congaree?
- 22 A. Yes, ma'am.
- 23 Q. And then by Special Agent Sykes?
- 24 A. Yes, ma'am.
- 25 Q. And both of those interviews took place at your

1 home --

2 A. Yes, ma'am.

3 Q. -- on October 13, 2021?

4 A. Yes, ma'am.

5 Q. And you were also interviewed then later at the
6 hospital that same day --

7 A. Yes.

8 Q. -- by the SANE nurse?

9 A. Yes, ma'am. Yes.

10 Q. And you did your best to tell the truth?

11 A. Right.

12 Q. And provide them with all the details and you did your
13 best to remember everything you could?

14 A. Right.

15 Q. Okay. You talked to South Congaree for over forty
16 minutes that day?

17 A. I could not remember the times. I'm sorry.

18 Q. Does that sound about right?

19 A. Probably. Yes, ma'am.

20 Q. Okay. And you spoke with Special Agent Sykes for over
21 an hour and a half?

22 A. That's probably correct. Yes.

23 Q. Sound about right?

24 A. Yes.

25 Q. And do you remember telling Special Agent Sykes that

1 he had had at least three beers at your house?

2 A. He had one beer at my house, but about when he left
3 he took two with him because we -- we weren't -- before the
4 attack, we didn't have time to have a full beer.

5 Q. Uh-huh.

6 MS. POPOWSKI: I beg the Court's indulgence.

7 BY MS. POPOWSKI:

8 Q. Okay. So you guys are sitting and you're talking?

9 A. Yes, ma'am.

10 Q. And he's drinking a beer?

11 A. Yes, ma'am.

12 Q. And you're having wine?

13 A. Yes, ma'am.

14 Q. Okay. And you-all talk about some personal things?

15 A. Yes, ma'am.

16 Q. Okay. You talk about how he and Dawn are fighting?

17 A. Yes, ma'am.

18 Q. And you tell him that you have a very important phone
19 call the next day?

20 A. I don't remember saying that, but that's probably true
21 though.

22 Q. Okay. And would you say that you had a few glasses of
23 wine?

24 A. Oh, no. I probably had the -- the wine glass that I
25 use in the winter only holds four ounces and I probably had

1 two sips out of it.

2 Q. Okay. And then you testified here today that you
3 leave --

4 A. Yes.

5 Q. -- in your car?

6 A. Yes, ma'am.

7 Q. And he's driving?

8 A. Yes, ma'am.

9 Q. Okay. And you go to the ATM?

10 A. Yes, ma'am.

11 Q. And, again, he's driving --

12 A. Yes, ma'am.

13 Q. -- your car?

14 A. (Nods head.)

15 Q. Okay. Please answer audibly.

16 A. Yes, ma'am.

17 Q. And he leaves his truck at your house?

18 A. Yes, ma'am.

19 Q. And once you get to the ATM, he uses your bank card?

20 A. Yes, ma'am.

21 Q. You give him your PIN?

22 A. Yes, ma'am.

23 Q. And he takes out \$200.00?

24 A. Yes, ma'am.

25 Q. And you testified earlier that the receipt was

1 recovered by law enforcement?

2 A. Uh-huh. Yes, ma'am.

3 Q. And honestly law enforcement didn't have to do much to
4 recover that receipt because he gave it back to you?

5 A. Right.

6 Q. Because you asked him to?

7 A. Uh-huh. Yes, ma'am.

8 Q. Okay. And he agreed and gave you your receipt back?

9 A. Yes, ma'am.

10 Q. And on the receipt there's a timestamp?

11 A. Yes, ma'am.

12 Q. And also the amount remaining in the account?

13 A. I didn't remember a balance on there, but it's
14 probably on there.

15 Q. Okay. I have no idea which one it is.

16 Number 1? There it is.

17 All right. I'm gonna show you what is State's
18 Exhibit Number 1. It's already in evidence. Is that the
19 receipt?

20 A. Yes, ma'am.

21 Q. Okay. And do you see the available balance on there?

22 A. Not with my glasses. I cannot. You'll have to read
23 it to me.

24 Q. I don't know how to blow this thing up. Hold on.

25 A. Okay. I do see the available balance.

1 Q. Okay. And that available balance is more than \$3,100?

2 A. Yes, ma'am.

3 Q. And Mr. Neeley would have seen that when he retrieved
4 the receipt?

5 A. I don't know if he read it or not.

6 Q. And then he gives you your bank card back?

7 A. He puts it in the console.

8 Q. Okay. In the car?

9 A. In the car.

10 Q. But doesn't take any more money out of the ATM?

11 A. No, ma'am.

12 Q. Despite knowing based on the receipt that you have
13 more than \$3,100 in your bank account?

14 A. Yes, ma'am.

15 Q. Okay. And then you-all return to the house?

16 A. Yes, ma'am.

17 Q. Okay. So we've established that you've given him a
18 lot of money?

19 A. Right. He asked for a hundred and he took out two
20 hundred.

21 Q. But over the course of your relationship with him,
22 you've given him hundreds of dollars?

23 A. I have, yes.

24 Q. Okay. But you didn't know that he smoked crack?

25 A. No, ma'am.

1 Q. Okay. So when you realized that it probably made you
2 angry?

3 A. Yes, ma'am.

4 Q. You don't approve of that?

5 A. No, ma'am.

6 Q. And I would think that you certainly wouldn't have
7 given him money if you thought that was what it was for?

8 A. That is correct.

9 Q. Would you say that you felt a little betrayed?

10 A. Yes, ma'am.

11 Q. You testified today that you went back to the house
12 on two different occasions?

13 A. Yes, ma'am.

14 Q. And we talked earlier about how you were interviewed
15 a lot in this case. You were interviewed by South Congaree
16 and SLED?

17 A. Uh-huh. Yes, ma'am.

18 Q. And the SANE nurse?

19 A. Yes, ma'am.

20 Q. All the day after?

21 A. Yes, ma'am.

22 Q. Okay. And that you did the best you could to provide
23 them with all of the information?

24 A. Yes, ma'am.

25 Q. Okay. But at no time during any of those interviews

1 did you mention returning to your home that evening?

2 A. I do not remember if I did or not. I'm sorry.

3 Q. You didn't -- you don't remember if you told them
4 whether or not you returned to the house?

5 A. Not -- not the number of times that we did that. We
6 did return at the end.

7 Q. Do you remember telling Special Agent Sykes on
8 October 13th of 2021 at your house that you asked him to
9 take you home and he wouldn't?

10 A. Yes, ma'am.

11 Q. And you actually told her that twice?

12 A. I don't remember how many times. I'm sorry.

13 Q. But he did bring you back to the house?

14 A. Yes.

15 Q. On two different occasions?

16 A. Yes, ma'am. Well, and then the final.

17 Q. That's correct. So, again, you've been interviewed
18 a lot in this case?

19 A. Yes, ma'am.

20 Q. And you've gotten a lot of follow-up calls from law
21 enforcement?

22 A. I wouldn't say a lot.

23 Q. I apologize. You've gotten follow-up calls from law
24 enforcement?

25 A. Yes, ma'am.

1 Q. Okay. And one of those calls came February of this
2 year?

3 A. Yes, ma'am.

4 Q. Special Agent Sykes called you?

5 A. Yes, ma'am.

6 Q. And she needed to re-interview you?

7 A. Yes, ma'am.

8 Q. Okay. And that was after viewing the video footage
9 from your neighbor? You may not remember that.

10 A. I don't remember the -- I don't remember her showing
11 me those.

12 Q. No, it was on the phone. It was on the phone, but
13 it was after she had seen it.

14 A. Yes. Oh, I see what you're saying. Yes, ma'am.
15 Yes, ma'am.

16 Q. Okay. And in that phone call that was the first time
17 that you remembered returning to the house?

18 A. Yes, ma'am.

19 Q. Okay. Almost a year and a half later you remember
20 this detail?

21 A. Yes, ma'am.

22 Q. Despite not telling anyone the day after the event?

23 A. Yes, ma'am.

24 Q. And you testified here today that you returned a
25 second time?

1 A. Yes, ma'am.

2 Q. But in the phone call in February with Special Agent
3 Sykes, you only mentioned one time returning to the house?

4 A. I mean, I don't remember, but...

5 Q. Okay. Well, let's talk about what you do remember.

6 A. Okay.

7 Q. Okay. You testified here today that you -- when you
8 did return to the house you sat in the car the whole time?

9 A. Yes, ma'am.

10 Q. And that he wouldn't let you get out of the car?

11 A. That's true.

12 Q. Okay. Have you had an opportunity to review your
13 neighbor's videos?

14 A. Yes, ma'am.

15 Q. Okay. Have you had an opportunity to see on that
16 video where a person clearly walks to the passenger side
17 of the car and gets in?

18 A. He doesn't get in. I mean, I'm on the -- I'm in the
19 passenger and he walks around and I tell him to leave, but
20 I would not get out. I did not get out of the car.

21 Q. At either time?

22 A. At either time. That is correct.

23 Q. Okay. You have a door at the back of your garage,
24 right?

25 A. I do, yes.

1 Q. And you keep it open for your cats?

2 A. I do.

3 Q. And was that door open?

4 A. No, ma'am. It was locked. I lock it usually at dark.

5 Q. But you can unlock it from the inside?

6 A. Yes, ma'am.

7 Q. Okay. And when the garage opened -- and I'll have to
8 think. If you guys left once and you left another time,
9 you left another time, so that's three different times that
10 the garage door opened?

11 A. Okay. When we -- yes, ma'am.

12 Q. Okay. And at no time did you attempt to run out of
13 the garage?

14 A. That is true.

15 Q. Either way?

16 A. That is true.

17 Q. Okay. And you -- you've testified here today at
18 length about your neighbors and how they're your friends?

19 A. Right.

20 Q. And so clearly you have people around you that are
21 close that could have helped you?

22 A. He had a gun, a loaded gun. I could not breathe. I
23 -- there was no way I could run.

24 Q. The question was you had people around you, that
25 surrounded you, that could have helped you?

1 A. They would be willing to, yes, ma'am.

2 Q. Okay. You're familiar with the surroundings --

3 A. Yes, ma'am.

4 Q. -- because you've lived there for -- you said
5 eight years today?

6 A. Eight years. Yes, ma'am.

7 Q. But at the time it was more like five probably?

8 A. Yes, ma'am. Uh-huh.

9 Q. Okay. I want to talk about the bag.

10 A. Okay.

11 Q. You testified today that he came with a bag?

12 A. Yes, ma'am.

13 Q. Again, on October 13th of 2021 you met with Special
14 Agent Sykes?

15 A. Yes, ma'am.

16 Q. And you met with South Congaree?

17 A. Yes, ma'am.

18 Q. And you talked to the SANE nurse?

19 A. Yes, ma'am.

20 Q. And you told no one on that day about a bag?

21 A. Right. There were things I just didn't remember.

22 Q. Well, in fact, you told law enforcement that he had
23 cargo shorts and that that's where he --

24 A. That's what I assumed originally, uh-huh --

25 Q. Okay.

1 A. -- but there was -- there was no way that knife could
2 have come out of cargo shorts.

3 Q. So the first time you told anybody about this bag was
4 about a week later?

5 A. Yes, ma'am. I -- I don't know how many times --
6 how long, but I know there was quite a few things I'd
7 forgotten.

8 Q. But you didn't reach out to the prosecution to tell
9 them about the bag?

10 A. No, ma'am.

11 Q. They called you --

12 A. Yes, ma'am.

13 Q. -- to reiterate --

14 A. I was trying to forget everything.

15 Q. And that was -- well, I'll let that go.

16 You testified today that -- that the tape that you are
17 saying he bound you in that he cut that off before you-all
18 went to the ATM?

19 A. He helped take it off. Yes, ma'am.

20 Q. And the first time you told the prosecution that was
21 last week?

22 A. That -- that may be true.

23 Q. Because you told the SANE nurse at the hospital on
24 October 13, 2021, something different.

25 A. I -- I mean, I was so upset. Who knows? Yes. I was

1 trying to remember as much detail as possible.

2 Q. You testified today about spitting the semen out in a
3 tissue --

4 A. Yes, ma'am.

5 Q. -- and holding it. I'm sorry, did you hold it or did
6 you return it to the console?

7 A. I put it back on the console.

8 Q. Back in the console. Okay. You also testified today
9 that the first thing you did was shower?

10 A. The first thing I did was clean -- was mouthwash and
11 brushed.

12 Q. Okay. But that's not actually what you told Special
13 Agent Sykes on October 13, 2021, at your house.

14 A. Okay.

15 Q. Okay. You told her that you -- you went into the
16 garage and threw away the napkin first before you went to
17 the bathroom.

18 A. See, I don't -- I don't think that's right. I think
19 I went straight to the bathroom.

20 Q. Okay. In any event, you threw the napkin away in a
21 trash can in the garage?

22 A. Yes, ma'am.

23 Q. Filled with kitty liter?

24 A. Yes, ma'am.

25 Q. Okay. And then you showered?

1 A. I -- I thought I showered. I didn't think I touched
2 that until the following day.

3 Q. But you did shower?

4 A. Oh, yes, ma'am.

5 Q. Okay. And you changed clothes?

6 A. Oh, yes, ma'am.

7 Q. And you put your clothes in the laundry basket?

8 A. Yes, ma'am.

9 Q. And that morning you got up, you made two cups of tea?

10 A. Yes, ma'am.

11 Q. You made a snack?

12 A. I think I did, yes.

13 Q. A rice cake with peanut butter and cinnamon?

14 A. Oh, probably. That's my unusual.

15 Q. And so it was more than eight hours later when you
16 texted Brenda with your phone?

17 A. It was -- it was at least eight hours. Yes, ma'am.

18 Q. Okay. And on the phone that was at the house?

19 A. Yes. Yes, ma'am. I found the phone the next day in
20 the car.

21 Q. I'd like to talk about your neighbors again.

22 A. Okay.

23 Q. You have very concerned neighbors?

24 A. I do.

25 Q. I watched the -- the video of your interview with

1 Special Agent Sykes and they were calling a lot that
2 morning?

3 A. Uh-huh.

4 Q. In fact, they were calling repeatedly to check on you?

5 A. Yes.

6 Q. Okay. It's a tight-knit community?

7 A. Yes, ma'am.

8 Q. And there are a lot of people around you -- that live
9 around you --

10 A. Yes, ma'am.

11 Q. -- that would be willing to come to your aid?

12 A. Mostly just the direct neighbors, yes.

13 Q. Okay.

14 A. Uh-huh.

15 Q. So that night after Brandon left, you could have
16 walked to any of those doors of those people you just
17 described for help?

18 A. I was afraid to leave the house.

19 Q. But you could have gone to them and asked them for
20 help?

21 A. I probably could have, but I -- there was no way I was
22 leaving the house. I was too frightened.

23 Q. You had your car keys?

24 A. I don't know if the car keys were in the house or left
25 in the car.

1 Q. So your story here today is that instead of seeking
2 help, going to a neighbor's house --

3 A. That is correct.

4 Q. Okay. Calling anyone?

5 A. I didn't have my phone. I didn't know where it was.

6 Q. You stayed in your bedroom?

7 A. Most of the time, yes.

8 Q. Okay. Armed with a kitchen knife?

9 A. Once I got the knife, it stayed with me until the next
10 morning.

11 Q. Because you didn't want to break a promise --

12 A. Right.

13 Q. -- to someone you claim brutally attacked you?

14 A. Right. I don't -- I don't break promises.

15 Q. But the truth is, is you could have called anybody
16 besides the police?

17 A. All I could think of was -- was not calling the
18 police.

19 Q. You could have called Brenda?

20 A. I -- I would -- well, not until the next morning
21 because I didn't get my phone until the next morning. He
22 left it in the car and I -- I didn't go out there.

23 Q. So we keep kind of coming back to this place where --

24 A. Uh-huh.

25 Q. I'll get there. Hang on. So after Brandon left

1 during that eight or nine-hour period --

2 A. Uh-huh.

3 Q. -- I guess you cleaned up your bed. You said that the
4 contents of your purse were spread out?

5 A. Right. I put everything back in my purse, yes.

6 Q. Okay. All right. Look, we kind of keep getting back
7 to this place where you keep saying that you didn't know
8 you had your phone?

9 A. Right.

10 Q. Okay. Again, you got -- you got interviewed a lot in
11 this case?

12 A. Yes, ma'am.

13 Q. By South Congaree?

14 A. Yes, ma'am.

15 Q. By Special Agent Sykes?

16 A. Yes, ma'am.

17 Q. And by the SANE nurse?

18 A. Yes, ma'am.

19 Q. And all three of those interviews took place the very
20 next day?

21 A. Yes, ma'am.

22 Q. Okay. And the first time you told anyone that you
23 didn't think you had your phone that night was last week?

24 A. That's -- that may be possible. I was so upset and
25 they were asking me to repeat things and it just -- it's

1 too horrible, so I don't -- I mean --

2 Q. You remember talking with Special Agent Sykes?

3 A. Yes, ma'am.

4 Q. For over an hour and a half?

5 A. I mean, I'm assuming that time is correct.

6 Q. A very detailed interview?

7 A. I tried my best.

8 Q. I'm sure you did.

9 A. But I'm --

10 Q. And during that -- during that interview you told her
11 that you begged him to leave your phone?

12 A. I think I probably did, yeah, because that's my only
13 communication.

14 Q. Yes. That's what you said in the interview. You said
15 that's my only communication and that I have an interview
16 -- or I have a phone call with my lawyer tomorrow?

17 A. I don't remember saying that. That's very possible,
18 but I don't remember saying I had a phone call with my
19 lawyer.

20 Q. Okay. And that you told Agent Sykes, and I quote, he
21 says your phone's in the car and he slams the car?

22 A. I don't remember that.

23 Q. Do you remember talking with the SANE nurse on
24 October 13, 2021?

25 A. Yes, ma'am.

1 Q. Okay. At the hospital?

2 A. At the hospital.

3 Q. And you told her the same thing?

4 A. Did I?

5 Q. That he left your phone in your car and that he told
6 you before he left?

7 A. I -- I just don't remember that. I mean, I was so
8 upset that I don't remember that.

9 Q. Okay.

10 A. I'm glad he did.

11 Q. But those were your words?

12 A. Well, and -- and that's very possible, but I know that
13 every time I have to relive this it's -- it's too hard.

14 Q. But based on what you told law enforcement the day
15 after this happened --

16 A. Uh-huh.

17 Q. -- you knew your phone was in your car because he told
18 you --

19 A. Okay. I mean, I don't know.

20 Q. -- despite what you've told this jury this morning?

21 A. I mean, I just don't remember.

22 Q. And you wouldn't have been able to show law
23 enforcement the calls and the texts with Brandon?

24 A. No, ma'am. I would not be able to.

25 Q. Because you -- you had deleted them?

1 A. I purge the phone every night, yes.

2 MS. POPOWSKI: I beg the Court's indulgence.

3 BY MS. POPOWSKI:

4 Q. I apologize. I put up the wrong exhibit. This is
5 State's Exhibit 54 and it is actually the receipt. It
6 shows the same thing, but just to clarify.

7 A. Okay.

8 Q. All right. I'm gonna circle back to something I
9 asked you about earlier, okay? When you were interviewed
10 by Special Agent Sykes --

11 A. Uh-huh.

12 Q. -- I asked you do you remember telling her that --
13 that Brandon had had three beers at your house. Do you --

14 A. I know -- I know that he -- when he came in, I offered
15 him a beer, we didn't have time to drink the whole thing,
16 and when he left he took two beers with him and the can
17 that was opened.

18 Q. Okay. Do you think -- so do you deny telling Special
19 Agent Sykes that he had at least three beers at your house?

20 A. Do I deny that?

21 Q. Yes. Do you deny saying that during the interview?

22 A. I mean, I don't remember the exact words, so I can't
23 confirm or deny that.

24 Q. Okay.

25 A. And you have to remember I'm very upset. I'm having

1 to relive this.

2 Q. I understand. Do you -- we talked -- I asked you if
3 you remembered telling Special Agent Sykes that the first
4 thing you did after he left was go out to the garage and
5 throw away the tissue.

6 A. See, I don't remember that.

7 Q. Did that happen?

8 A. I'm -- the way I remember it is that I did not go into
9 the car until the next morning.

10 Q. Okay. So do you deny telling Special Agent Sykes that
11 the first thing you did was throw away that tissue?

12 A. I don't know if I told her that or not.

13 Q. Do you think that watching the video of that interview
14 could refresh your recollection?

15 A. I'm sure it could, but, like I said, I was so upset
16 that -- going through the whole thing I can't remember
17 exact words.

18 MS. POPOWSKI: Your Honor, I'd like to ask that
19 we allow the witness to view the video outside of the
20 presence of the jury to refresh her recollection.

21 THE COURT: Ms. Mayes?

22 MS. MAYES: Your Honor, I believe the proper format
23 would be to offer the video if that's what the defense
24 intends to do if they want to offer that portion of the
25 video.

1 MS. POPOWSKI: May we approach?

2 THE COURT: Sure.

3 (Proceedings held at the bench; not reported.)

4 THE COURT: Let me just see the lawyers one more
5 second.

6 (Proceedings held at the bench; not reported.)

7 THE COURT: All right. Madam Forelady, ladies and
8 gentlemen of the jury, I'm gonna ask you to step into
9 your jury room just for a brief minute. It's probably
10 gonna be about ten minutes and I'll have you back in.

11 Remember, no talking about the case.

12 (Whereupon, the jury retires to the jury room at
13 2:51 PM.)

14 THE COURT: All right. Just for the record the
15 defense wanted to play out of the presence of the jury
16 a clip to refresh Ms. Branham's memory of what was
17 stated.

18 I'm going to allow them -- I think it's two clips,
19 is that what you told me?

20 MS. POPOWSKI: Two -- two clips. Yes, Your Honor.

21 THE COURT: And the reason we're playing clips is
22 there's no written report; is that correct?

23 MR. MAULDIN: No written statement.

24 THE COURT: No written statement.

25 So I'm gonna allow them to do that.

1 So go ahead, Ms. Popowski.

2 MS. POPOWSKI: Your Honor, I'm not super tech-y.

3 Is it okay if I approach the witness with the
4 computer or do you-all want me to put this up?

5 MS. MAYES: No, we need to see it.

6 MS. POPOWSKI: Okay. How do I do that?

7 THE COURT: Thank you, Kaitlyn, for helping.

8 MS. POPOWSKI: Yes, thank you.

9 MS. MAYES: Judge, we have a further motion at
10 this point. There was a pre-trial motion to exclude
11 any statements beyond time and place. The witness
12 is now being questioned about the full content of
13 statements being made to both Agent Sykes and the SANE
14 nurse. Under 106 they have opened the door to any other
15 thing which is relevant to these disclosures, to her
16 fear and why she's not reporting or what she remembers.
17 Everything in that context under 106 is part of these
18 recorded statements, so I just want that to be clear
19 if we are gonna pursue this any further because that's
20 certainly an area we would now approach on redirect.

21 MR. MAULDIN: Is she talking about 1006?

22 MS. MAYES: No, Rule 106. The rule of completeness.

23 MS. POPOWSKI: All I'm asking the witness at this
24 point is -- is whether or not she remembers being
25 interviewed by a SANE nurse.

1 MS. MAYES: No, there have been specific questions.
2 Did --

3 THE COURT: Right. Did you tell the SANE nurse
4 about -- I forgot what it was, but I remember you saying
5 did you tell the SANE nurse and did you tell the
6 investigator.

7 MS. MAYES: About the phone in the car.

8 THE COURT: That's right. The phone.

9 MS. MAYES: Cutting off the tape and returning home
10 and now statements to Agent Sykes as well when, again,
11 we have multiple statements beyond time and place that
12 are gonna be relevant and probative under 106 and the
13 rule of completeness to explaining her entire thoughts
14 through this course.

15 She's also talking about being terrified inside
16 the house, hearing noises, thinking that she hears the
17 French doors open. All of that is now gonna be relevant
18 if we're gonna explore this, so I just want to make that
19 clear that --

20 THE COURT: You mean all of that is in the
21 statement to the --

22 MS. MAYES: It is all in the statement to the SANE
23 nurse. Yes, Your Honor.

24 THE COURT: I think she's -- I think she's right,
25 Ms. Popowski, if you-all opened the door.

1 MR. MAULDIN: Hold on.

2 (Pause in proceedings.)

3 MS. POPOWSKI: Okay. Your Honor, we would -- we
4 would argue that we don't -- we did not open the door;
5 that this is a prior inconsistent statement. This is
6 not extrinsic evidence that we're trying to introduce.
7 It's not a writing or a recorded statement per the rule
8 and that the rules of evidence still apply and that the
9 rule of completeness does not override the rules of
10 evidence.

11 MS. MAYES: How is it not a recorded statement,
12 Your Honor? We're watching the recording now and I do
13 want to --

14 MS. POPOWSKI: We're talking about the SANE
15 statement.

16 MS. MAYES: And as to the SANE statement, it
17 is recorded verbatim by the SANE nurse as she is
18 interviewing the witness, but the entire context of the
19 statement about the phone was he took me home, I didn't
20 think I'd live, he kept the gun. He said your phone is
21 in the car. Don't call the cops.

22 So they selected one portion of that sentence to
23 question the victim about. The State would be entitled
24 at this point to elicit the entire portion in which she
25 is making that statement.

1 THE COURT: The Court agrees just for the rule of
2 completeness. You can't pick out one part and play it
3 and take it out of context.

4 MS. POPOWSKI: We're not playing anything from the
5 SANE exam. The SANE exam wasn't recorded, Your Honor.
6 It's not a recording and it's not a statement.

7 THE COURT: They're telling me that it is recorded.

8 MS. POPOWSKI: It's not. It is not a written
9 statement.

10 MS. MAYES: It is a document -- it is a document
11 that is created by the SANE nurse. It is recorded in the
12 form of this document. It's a writing made by the SANE
13 nurse and that is what the rule covers. A writing.

14 MS. POPOWSKI: It's not a writing by Mrs. Branham.
15 It's a writing by the SANE nurse.

16 MS. MAYES: That is not what the rule requires.
17 The rule does not require that it be a signed written
18 statement. It's a writing or recorded statement.

19 THE COURT: A writing --

20 MS. MAYES: And here the SANE notes has it in quotes,
21 it's coming directly from the victim. And, again, this
22 was all elicited after we already had pre-trial motions
23 that we were gonna be limited to time and place, but we
24 all understand the way 106 works. And, again, it is --
25 it would be completely unfair for the jury to only hear

1 one portion of this sentence without hearing the remaining
2 content.

3 THE COURT: I agree. So I'm gonna --

4 MS. POPOWSKI: I didn't say that sentence. I
5 didn't -- we didn't -- we didn't question about that
6 sentence. I just said that you've been interviewed by
7 a SANE nurse.

8 THE COURT: My memory I think was she told the SANE
9 nurse that, along with the investigator, that -- you-all
10 correct me if I'm wrong, but that's what I heard.

11 MS. MAYES: Yes, Your Honor. And directly from the
12 report, it was you told the SANE nurse he said your phone
13 is in the car.

14 THE COURT: Have you told the -- yeah, and I just
15 remember that, Ms. Popowski.

16 Let me tell you, if you want to go to there I'm
17 gonna -- I'm gonna -- you're opening the door for them
18 to correct what the whole sentence is, and that's gonna
19 be my ruling under Rule 106, the rule of completeness.

20 MS. WELLMAN: Your Honor --

21 THE COURT: I'm going to take a ten-minute break.
22 You-all talk about it. Let me know what you-all want to
23 do when I get back.

24 Ms. Branham, again, you're on the stand.

25 THE WITNESS: Uh-huh.

1 THE COURT: If you need to go to the ladies room,
2 Heather will take you.

3 THE WITNESS: And I don't talk about it.

4 THE COURT: Don't talk about the case. Thank you.
5 Or if you need to see your brothers.

6 THE WITNESS: Thank you.

7 (Recess taken at 3:02 PM.)

8 (Back on the record at 3:13 PM.)

9 BAILIFF: Stay seated. Court is now in session.

10 THE COURT: Okay. Have you-all had time to talk
11 about it?

12 MS. POPOWSKI: Yes, Your Honor.

13 THE COURT: How would you like to proceed?

14 MS. POPOWSKI: Your Honor, we maintain that we
15 didn't open the door to this, we're not introducing
16 evidence, but we'd still like to refresh the witness's
17 recollection.

18 THE COURT: All right. I'm gonna let you play the
19 tape. I'll hear from the State if you want on your
20 completeness rule. If you want to play the rest of the
21 tape that adds more context to it.

22 MS. MAYES: We understand, Your Honor, and, again,
23 when the witness testifies, being Agent April Sykes, we
24 certainly would take the position then that she would be
25 allowed to put the statement in context under 106 for

1 the rule of completeness.

2 THE COURT: And you may.

3 MS. POPOWSKI: Okay. Here's the first clip.

4 THE COURT: All right, Stacy. We're back on the
5 record.

6 All right. Let's go.

7 (Video clip played.)

8 MS. POPOWSKI: That's the first clip.

9 THE COURT: Okay. Are you talking to Ms. Branham?

10 MS. POPOWSKI: Sure. Are we proffering this outside
11 of the jury?

12 THE COURT: That's what you wanted to do.

13 MS. POPOWSKI: Sure.

14 EXAMINATION (In-Camera)

15 BY MS. POPOWSKI:

16 Q. Ms. Branham, does that refresh your recollection?

17 A. I mean, I obviously said it on there, but as of today,
18 I did not remember saying that.

19 Q. Okay. But on that day, you told Special Agent Sykes
20 that before he left he told that the phone's in your car?

21 A. Yes. I mean, it was obviously said.

22 Q. So you would have known all night that you had your
23 telephone?

24 A. I would -- I would know that, but I don't remember
25 that.

1 Q. And I'll play the next clip.

2 (Video clip played.)

3 Q. Ms. Branham, does that refresh your recollection of
4 what you told --

5 A. I mean, I obviously said that, but I did not remember
6 that today.

7 Q. Okay. Does it refresh your recollection of what you
8 told Special Agent Sykes on that day?

9 A. I mean, it shows it, yes.

10 Q. Okay. And it shows -- it shows that you told her that
11 the first thing you did was dispose of the tissue with the
12 semen?

13 A. Yes. I mean, I just didn't remember that.

14 THE COURT: Okay.

15 All right. May I bring the jury back in?

16 MS. MAYES: Yes, Your Honor.

17 THE COURT: Ms. Popowski?

18 MS. POPOWSKI: Yes, Your Honor.

19 THE COURT: Let's bring them in.

20 (Whereupon, the jury returns to the courtroom at
21 3:20 PM.)

22 THE COURT: Madam Forelady, are we ready?

23 FOREPERSON: Yes, ma'am.

24 THE COURT: All right. Please be seated.

25 All right. Ms. Branham, I'm gonna remind you again

1 you're still under oath.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: It's been a long day.

4 All right. Go ahead, Ms. Popowski.

5 MS. POPOWSKI: Thank you, Your Honor.

6 CONTINUED CROSS-EXAMINATION

7 BY MS. POPOWSKI:

8 Q. Ms. Branham, now that you've had a chance to review
9 the video and refresh your recollection, I'm gonna ask you
10 the questions again. On October 13th of 2021, when you
11 were interviewed by Special Agent Sykes you told her that
12 before you gargled and showered that you went to the garage
13 and threw the napkin away first?

14 A. That's -- that's what the tape shows.

15 Q. And on that day with Special Agent Sykes you also told
16 her that you begged Brandon to leave your phone and that he
17 said your phone is in the car?

18 A. And I saw that on the tape also.

19 Q. Okay. Thank you.

20 I just want to ask you a few more questions about
21 your direct testimony this morning. When you were
22 testifying about the first time you-all were at your home
23 after the beers, you testified that you were in your
24 bedroom with Brandon?

25 A. Yes.

1 Q. And that Brandon left the bedroom?

2 A. With the gun case, yes.

3 Q. Okay. And left you in your bedroom?

4 A. Not for very long, but, yes.

5 Q. Okay. And you have two French doors in your
6 bedroom --

7 A. Yes, ma'am.

8 Q. -- to the outside?

9 A. Yes, ma'am.

10 Q. And you testified that you were trying to figure out
11 how to get away --

12 A. Right.

13 Q. -- when you were alone in the bedroom with the two
14 French doors?

15 A. Yes.

16 Q. At one point you testified that when you-all were in
17 Northeast Columbia that Brandon got out of the car to go
18 to the bathroom?

19 A. Yes, ma'am.

20 Q. And at that point the car's still running?

21 A. I'm not sure.

22 Q. Okay. Ms. Branham, you testified for three hours this
23 morning to a lot of detail and you can remember a lot of
24 detail.

25 A. But not all of them.

1 MS. POPOWSKI: Thank you, Ms. Branham. No further
2 questions.

3 THE COURT: Thank you, Ms. Popowski.
4 Ms. Mayes?

5 MS. MAYES: Yes, Your Honor. May it please the
6 Court?

7 THE COURT: Yes, ma'am.

8 REDIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. So I want to ask you a few questions in follow-up.
11 One of the things that you were asked about by the defense
12 attorney is the fact that during the course of this night
13 after you have gone to the ATM machine the defendant,
14 Robert Neeley, then goes and purchases drugs. Ms. Branham,
15 was that the first time during the night that you felt
16 betrayed?

17 A. I -- no, when he -- he said he wanted a hundred
18 dollars and he took out two hundred --

19 Q. So --

20 A. -- and then that's -- that's when I started thinking
21 that there was gonna be problems.

22 Q. All right. So let me ask you this. When he had first
23 entered your home that night and attacked you, what did you
24 say to him?

25 A. I -- I said I trusted you. I trusted you.

1 Q. What did you mean by that?

2 A. Well, I mean, I -- I really thought that he was a
3 decent guy. I had no idea that he was a predator.

4 Q. When you said that -- when he said that he wanted to
5 have sex with you --

6 A. Uh-huh.

7 Q. -- how did that make you feel?

8 A. Betrayed, yes. I felt like an idiot that I would --
9 that I would trust somebody.

10 Q. And when you're at the ATM machine and he has -- well,
11 let me ask you what, if anything, did he have in his hand
12 when you were at the ATM machine?

13 A. He had his -- he had my gun.

14 Q. And when he had the gun there at the ATM machine,
15 would you have given him the PIN number without that gun?

16 A. Probably -- well, at that time I probably would have
17 because he said that he would take a hundred dollars and
18 leave me alone and I -- and I -- and I thought that that
19 was gonna happen, but then when he took the \$200.00 out I
20 knew I was in trouble.

21 Q. Okay. So, again, even without the gun had you already
22 been physically subdued?

23 A. Yes, ma'am.

24 Q. Okay. Had he already had physical control over you?

25 A. Yes, ma'am.

1 Q. Were you already injured?

2 A. Yes, ma'am.

3 Q. One of the questions you got is when you get back to
4 the house why you didn't run out of the garage door.

5 Ms. Branham, tell us what you were thinking and feeling
6 during that time.

7 A. I was afraid to get out of the car. He -- he could
8 have caught me and if I'm out of the car who knows what he
9 could do to me.

10 Q. And, again, when we talk about having a gun, do you
11 believe that someone has to physically touch you to fire a
12 gun and harm you with that gun?

13 A. No, ma'am.

14 Q. Can someone harm you with a gun from a distance?

15 A. They could definitely harm me. Especially with a
16 9-millimeter.

17 Q. Inside a garage?

18 A. Yes.

19 Q. Or as you were running from a yard?

20 A. As -- as I was running from the yard.

21 Q. Or running to the home of a neighbor?

22 A. Yes, ma'am.

23 Q. Or jumping out of a car at an ATM machine?

24 A. Yes, ma'am.

25 Q. Or jumping out of a car at a drug house?

1 A. Yes, ma'am.

2 Q. And based upon his request for you to retrieve
3 bullets, did you have personal knowledge as to whether
4 that it gun was loaded?

5 A. It was not loaded until I gave him the bullets.

6 Q. And who was it who asked you for those bullets?

7 A. Robert Neeley.

8 Q. And now in addition to him pointing the gun at you
9 what, if any, verbal threats did he make towards you,
10 Ms. Branham?

11 A. I cannot remember his exact words. I'm sorry. I
12 just don't remember that part.

13 Q. Let me ask you this. Were there verbal threats?

14 A. Yes, I think there were.

15 Q. And when the gun was at your head, what, if anything,
16 did he say about using that gun?

17 A. He said if I didn't have sex with him he'd shoot me.

18 Q. Did he tell you don't call the police one time or more
19 than one time?

20 A. More than one time.

21 Q. And how did you respond to that? Let me ask you what,
22 if any, concerns did you have about acting on calling the
23 police after he made that threat?

24 A. I was afraid to call the police.

25 Q. Now one of the things that she asked you about is

1 once you have arrived back home why you did not go to a
2 neighbor's house. What were you thinking or feeling at
3 that point?

4 A. I was scared to get out of the house. I didn't know
5 if he was around the corner, I didn't know if, you know,
6 he went down the hill and could come back. I was afraid
7 to get out of the house. At least with the doors closed I
8 had a chance.

9 Q. And when you say with the doors closed, had you locked
10 the doors?

11 A. All the doors were locked, yes, ma'am.

12 Q. And if he made a statement about your phone being in
13 the car, were you willing at that point to go into the
14 garage and start looking around in the garage?

15 A. I don't think so. I mean, I just don't remember going
16 back into the garage until the next morning. I just don't
17 remember that. I was --

18 Q. What was your mental state at that point?

19 A. I am -- I am so frightened and all I want to do is get
20 his germs off of me.

21 Q. And in addition to your phone, which at that point
22 you've indicated you didn't have physical possession of,
23 your glasses, did you have them at that point either?

24 A. No, ma'am. They were in the -- they were in the back
25 of the car -- in the back seat of the car.

1 Q. When we talk about your mental state or your emotional
2 state, on a scale of one to ten how traumatic of an event
3 was this for you, Ms. Branham?

4 A. Twelve.

5 Q. And even looking back now, your ability to recall the
6 events in the order -- the specific order in which they
7 occurred, what can you tell us about that?

8 A. It's -- some of it's pretty jumbled and I know I've
9 forgotten some of it. It's been almost two years and I'm
10 trying to tell you-all everything I remember today.

11 Q. And when you arrived back home, and you've indicated
12 there were some things you did, you gargled, you took a
13 shower, you got the knife?

14 A. Yes.

15 Q. Did you ever go to sleep that night, Ms. Branham?

16 A. No, ma'am.

17 Q. So you were up approximately how many hours until your
18 friend Brenda arrived?

19 A. I got up at 6:00 Tuesday morning and -- and she
20 arrived at a little bit before nine on Wednesday morning.

21 Q. So you had gotten up the day before on Tuesday morning
22 around 6 AM?

23 A. Yes, ma'am.

24 Q. And had been up all day?

25 A. Yes, ma'am.

1 Q. And then it was that night that you were assaulted?

2 A. Yes, ma'am.

3 Q. And then you remained up all night that night?

4 A. Yes, ma'am.

5 Q. And then around shortly before nine your friend Brenda
6 arrives?

7 A. Yes, ma'am.

8 Q. Do you remember also having law enforcement arrive
9 that you spoke with?

10 A. Yes, ma'am.

11 Q. Do you remember a Sergeant Larry Walker with South
12 Congaree?

13 A. Yes, ma'am.

14 Q. Do you remember Agent Sykes with the State Law
15 Enforcement Division?

16 A. Yes, ma'am.

17 Q. Do you remember other SLED agents also being at your
18 house to process the scene?

19 A. Yes, ma'am. And also Josh -- Josh Shumpert came.

20 Q. Chief Shumpert. And then in addition to speaking with
21 those individuals, where did you have to go next?

22 A. You mean -- I went to the hospital.

23 Q. And was that also part of your treatment and this
24 investigation for you to go to the hospital?

25 A. Yes, ma'am.

1 Q. For what they called a sexual assault examination?

2 A. Yes, ma'am.

3 Q. And were you at the hospital for a short time or was
4 that a long time?

5 A. It was over six hours -- or around six hours.

6 Q. And during that time you were being photographed?

7 A. Yes, ma'am.

8 Q. Physically examined?

9 A. Yes, ma'am.

10 Q. And then in addition to that, was a nurse also asking
11 you questions about the assault?

12 A. Yes, ma'am.

13 Q. So you had to speak with numerous individuals that
14 day?

15 A. Yes, ma'am.

16 Q. Having been up for over twenty-four hours?

17 A. Yes, ma'am.

18 Q. And, again, is the exact order of all of these events
19 ever gonna be exactly straight in your mind?

20 A. Probably not.

21 Q. With that said, I'm gonna ask you about State's
22 Exhibit 25. State's Exhibit 25 is for ID only at this
23 time, but are you familiar with the clip of the vehicle
24 pulling into the garage?

25 A. Yes, ma'am.

1 Q. And during the course of that clip, there is an
2 individual who walks over towards the passenger side of
3 the vehicle?

4 A. Yes, ma'am.

5 Q. Who was that person who walks over to the passenger
6 side of the vehicle?

7 A. That was Robert Neeley.

8 Q. And who was at the passenger side of the vehicle?

9 A. That was myself.

10 Q. And what was he trying to do?

11 A. He wanted me to get out of the car.

12 Q. Were you willing to get out of that car?

13 A. No. I kept telling him just -- just leave, just
14 leave. He had his money and he had my gun, just leave,
15 and he didn't.

16 Q. And he still was not willing to leave?

17 A. No, ma'am.

18 Q. And, Ms. Branham, did that gun to the best of your
19 knowledge remain in his possession from the time he took
20 it from your bedroom until the time he walked out of your
21 front door?

22 A. Yes, ma'am.

23 Q. And did you ever see your gun again until today in
24 this courtroom?

25 A. No, ma'am.

1 Q. Or today at this courthouse?

2 A. I'm sorry. That's not correct. I think -- I think I
3 saw it yesterday.

4 Q. At this courthouse?

5 A. At this courthouse, yes.

6 MS. MAYES: I beg the Court's indulgence.

7 BY MS. MAYES:

8 Q. When were you actually able to go to sleep,
9 Ms. Branham, after this entire event?

10 A. I'm sorry. I'm sorry. Brenda McMillan came and got
11 me and I went to her house and slept in her spare bedroom.

12 MS. MAYES: Thank you. Nothing further.

13 THE COURT: Ms. Popowski?

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

15 THE COURT: I'm gonna let Ms. Branham step down.

16 Ms. Branham, thank you.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 THE COURT: All right. Let me see the lawyers
20 real quick about scheduling.

21 (Proceedings held at the bench; not reported.)

22 THE COURT: Madam Forelady and ladies and gentlemen
23 of the jury, we've got two more witnesses that we're
24 gonna do today.

25 Anybody need a break before we go, Madam Forelady?

1 FOREPERSON: No. No, ma'am.

2 THE COURT: Okay. Call your next witness.

3 MS. WELLMAN: Your Honor, at this time the State
4 would call John J. Waters.

5 (Whereupon, John J. Waters was duly sworn by the
6 Clerk of Court.)

7 THE CLERK: If you'll have seat up there. If you'll
8 state your full name and spell your last name for the
9 record.

10 THE WITNESS: My name is John Waters III. I go by
11 Jay. W-A-T-E-R-S.

12 JOHN J. WATERS III,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. WELLMAN:

16 Q. Good afternoon, Mr. Waters. If you could sort of pull
17 that microphone a little closer to you and just speak up.

18 A. Sorry.

19 Q. That's okay. I want to make sure the jury can hear
20 you.

21 A. Yes, ma'am.

22 Q. Where do you live?

23 A. [REDACTED] Congaree Downs Lane.

24 Q. Are you employed?

25 A. Yes, ma'am.

1 Q. And where do you work?

2 A. I work at USC.

3 Q. What do you do there?

4 A. I work in the HR department. IT work.

5 Q. And how long have you lived in Lexington County?

6 A. I've been here since 2013.

7 Q. Okay. Mr. Waters, do you know a Ms. Glenna Branham?

8 A. I do. Yes, ma'am.

9 Q. All right. Can you tell the jury for how long you
10 have known Ms. Branham?

11 A. I've known her since probably I want to say a year
12 after I moved in she moved in and so whatever the timeline
13 of that would be, but I've known her since she moved in.

14 Q. Okay. I think she said about 2015?

15 A. Uh-huh.

16 Q. And how often would you say you've interacted with
17 Ms. Branham?

18 A. Oh, goodness. Quite a bit. I can't give you an exact
19 number, but I literally would see her just about once a
20 week and speak to her every time I can. She'd always stop
21 and be happy to see me and just bubbly and just enjoys
22 life. Always excited to see me.

23 Q. Is that how you would describe her typical demeanor?

24 A. Yes, it is.

25 Q. And, Mr. Waters, you said that you met Ms. Branham

1 when she moved in?

2 A. (Nods head.)

3 Q. Would you consider yourself neighbors?

4 A. Yes, ma'am.

5 Q. May I approach the witness?

6 THE COURT: You may.

7 BY MS. WELLMAN:

8 Q. Mr. Waters, this is State's Exhibit 30. Can you tell
9 me if you recognize that?

10 A. Yes, ma'am. That's my neighborhood.

11 Q. That's your neighborhood?

12 A. Yes.

13 Q. Is this a fair and accurate representation of your
14 neighborhood?

15 A. Yes, ma'am.

16 Q. Okay.

17 MS. WELLMAN: Is this in?

18 THE COURT: It's already in.

19 MS. WELLMAN: Okay. Thank you.

20 BY MS. WELLMAN:

21 Q. And does this depict your home and Ms. Branham's home?

22 A. Yes, ma'am.

23 Q. Okay. All right. Mr. Waters, you said you lived at
24  Congaree Downs. Is that correctly marked right here?

25 A. Yes, ma'am, it is.

1 Q. And Ms. Branham's home, is that right across the
2 street right there, one down?

3 A. Yes, ma'am.

4 Q. Okay. Thinking back to the evening of October 12,
5 2021, do you recall seeing Ms. Branham that night?

6 A. Yes, I do.

7 Q. Okay. What were you doing when you saw her?

8 A. I was taking my friend home.

9 Q. Okay. Were you in your vehicle?

10 A. Yes, ma'am.

11 Q. Okay. And where did you see Ms. Branham?

12 A. As I was coming to the stop sign at Congaree Downs
13 Lane, I saw her in the passenger seat of her car.

14 Q. And over the -- the six years thinking about then that
15 you had known her, had you come to know what her car looked
16 like?

17 A. Yes, ma'am.

18 Q. And you said that you were at the stop sign on
19 Congaree Downs. Was that the stop sign here?

20 A. Yes, ma'am.

21 Q. Okay. So that would be --

22 A. At Loop Road.

23 Q. Loop Road. Okay. What drew your attention to
24 Ms. Branham?

25 A. So as I was coming to the stop sign, the car that she

1 was -- you know, her car cut me off and caused me to stop
2 suddenly, and then I looked over and that's when I saw
3 Ms. Branham, you know, in the passenger seat.

4 Q. Okay. Is it normal for Ms. Branham to let someone
5 else drive her vehicle?

6 A. No. The only person I could imagine ever driving her
7 vehicle would be her brother.

8 Q. Okay. Were you able to see whether there was anyone
9 in the -- I guess someone would have been in the driver's
10 seat, but were you able to see who was in the driver's
11 seat?

12 A. It was a young white male and that's what I saw.

13 Q. Had you ever seen that male before?

14 A. I had not. No, ma'am.

15 Q. Okay. And you said you could only imagine her
16 brother. Was that her brother in the car?

17 A. Absolutely not. This person was much younger.

18 Q. Okay. Mr. Waters, when you saw Ms. Branham in the
19 passenger seat, what, if anything, stood out to you?

20 A. She looked terrified honestly. I mean, just very --
21 not anything like I've ever seen. Scared I would have to
22 say. Did not look anything like the Glenna I knew.

23 Q. You said you were taking your friend home?

24 A. Uh-huh.

25 Q. Approximately what time would you say that was?

1 A. 11:55.

2 Q. Okay. Mr. Waters, do you have like a dash camera
3 installed in your vehicle?

4 A. Yes, ma'am, I do.

5 Q. Is that camera capable of recording the view outside
6 of your windshield?

7 A. Yes, ma'am. Straight ahead.

8 Q. Is that camera capable of recording?

9 A. Yes, ma'am.

10 Q. And where are those recordings saved?

11 A. They are saved -- well, that camera was saved on like
12 an SD card that's inside of the actual camera unit.

13 Q. So does your camera in the vehicle, is it constantly
14 running or do you have to activate it?

15 A. It's constantly running from the time I turn the car
16 on until it's turned off.

17 Q. Okay. You said the recordings are stored on an SD
18 card. Are they stored for a specific period of time or
19 until you delete them?

20 A. Until the card fills up and then it replaces things
21 on its own.

22 Q. Once those are recordings are saved, do you personally
23 have the ability to change, alter or delete portions of
24 those recordings?

25 A. No.

1 Q. Do you have the ability to view those recordings
2 later?

3 A. Yes.

4 Q. Do you have the ability to like save those or download
5 them?

6 A. Yes, ma'am.

7 Q. Okay. How do you go about doing that?

8 A. So I would take the SD card out of the camera, put it
9 in a computer that would, you know, accept the card and
10 then I would go into, you know, Windows Explorer or File
11 Explorer depending on which operating system, and drag the
12 file out onto the desktop.

13 Q. And that camera, was that installed on October 12,
14 2021?

15 A. Yes, ma'am.

16 Q. The same system you have now?

17 A. Yes, ma'am.

18 Q. Okay. To your knowledge, was that dash cam in your
19 vehicle working properly that day?

20 A. Yes, ma'am, it was.

21 Q. Or I guess that evening?

22 A. Yes, ma'am.

23 Q. Are you aware of whether your dash camera recorded
24 your interaction with Ms. Branham's vehicle on October 12,
25 2021?

1 A. It did. Yes, ma'am.

2 MS. WELLMAN: May I approach the witness?

3 THE COURT: You may.

4 BY MS. WELLMAN:

5 Q. All right, Mr. Waters. This is it State's Exhibit 41.

6 Do you recognize that?

7 A. Yes, ma'am.

8 Q. Please tell the jury what State's Exhibit 41 is.

9 A. This is the dash cam footage from my camera.

10 Q. Have you had an opportunity to review that footage?

11 A. Yes, ma'am.

12 Q. And are those your initials indicating you have?

13 A. Yes, those are my initials.

14 Q. Is this a true and accurate recording of your
15 interaction that evening?

16 A. Yes, ma'am.

17 Q. Any changes, alterations or deletions?

18 A. No, ma'am.

19 MS. WELLMAN: Your Honor, the State would move to
20 introduce State's Exhibit 41 into evidence and would ask
21 to publish it to the jury.

22 MS. POPOWSKI: No objection, Your Honor.

23 THE COURT: All right. It's admitted.

24 (State's Exhibit Number 41, a dash cam video, was
25 admitted into evidence.)

1 BY MS. WELLMAN:

2 Q. While she's getting that set up, let me ask you about
3 that camera again. Does it record straight out of
4 your vehicle?

5 A. Yes, ma'am.

6 Q. Okay.

7 (Video clip playing.)

8 Q. And whose vehicle is that?

9 A. That's Glenna's.

10 Q. Mr. Waters, from that video we can't see into the
11 vehicle, but you said you were able to?

12 A. Yes, ma'am.

13 Q. And how were you able to see in?

14 A. I mean, basically I just looked over. My headlights
15 shined in that direction and I was able to see through my
16 headlights.

17 Q. And, Mr. Waters, on the night of October 12th, did
18 you also have a video surveillance system or video security
19 system installed on your home?

20 A. Yes, ma'am.

21 MS. WELLMAN: And may I approach the witness?

22 THE COURT: Yes, ma'am.

23 BY MS. WELLMAN:

24 Q. Mr. Waters, these are State's Exhibit 15, 16, 17, 18,
25 19, 20, 23, 24, 26, 27 and 28. If you could just look at

1 those and tell me if you recognize them.

2 A. Yes, ma'am, I do. They have my initials.

3 Q. Okay. And you said these have your initials. Can you
4 please tell the jury what these are?

5 A. Those are my recordings from my cameras, my driveway
6 camera and my door camera.

7 Q. And these cameras, you said they have your -- or these
8 videos, they have your initials on them?

9 A. Yes.

10 Q. Are they true and accurate recordings?

11 A. Yes, ma'am.

12 MS. WELLMAN: Your Honor, the exhibits 15 through 20,
13 23, 24, 26, 27 and 28 are just for identification only at
14 this time.

15 THE COURT: Okay.

16 MS. WELLMAN: Nothing further.

17 THE COURT: Ms. Popowski?

18 MS. POPOWSKI: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. POPOWSKI:

21 Q. Good afternoon.

22 A. Hi.

23 Q. So you testified that you've known Ms. Branham since
24 2015?

25 A. Yes, ma'am.

1 Q. And you're her neighbor?

2 A. Yes, ma'am.

3 Q. Had lots of interactions with her?

4 A. Yes, ma'am.

5 Q. She's friendly to the other neighbors in the -- in the
6 neighborhood?

7 A. Yes, ma'am.

8 Q. And would you say that most of you would do just about
9 anything to help her?

10 A. Yes, ma'am.

11 Q. You were probably really concerned when you heard the
12 allegations in this case?

13 A. Yes, ma'am.

14 Q. And you wanted to do everything that you could to help
15 law enforcement?

16 A. Yes, ma'am.

17 Q. And that's -- you offered your footage from your Nest
18 camera?

19 A. (Nods head.)

20 Q. And your drive -- I'm sorry, the dash cam camera?

21 A. (Nods head.)

22 Q. Just to aid in the investigation?

23 A. Yes, ma'am.

24 Q. You wanted to help law enforcement and make sure you
25 told them everything that you remembered?

1 A. Yes, ma'am.

2 Q. Do you remember speaking with law enforcement on
3 October 13th of 2021?

4 A. Yes, ma'am.

5 Q. And that's when you provided them with all of these
6 materials?

7 A. That's correct.

8 Q. Okay. But last week you were re-interviewed by the
9 Solicitor's office; is that correct?

10 A. Yes, ma'am.

11 Q. Okay. And last week was the first time that you told
12 anybody that you saw Ms. Branham in that car?

13 A. No, ma'am.

14 Q. Last week was the last time -- or the first time that
15 you told anyone that you saw her demeanor in the vehicle?

16 A. No, ma'am.

17 Q. And you had an opportunity to watch the videos?

18 A. Yes, ma'am.

19 Q. And -- and I have, too, and there's lots of activity
20 on those vehicles -- or on those videos?

21 A. That's correct.

22 Q. So there's people walking dogs?

23 A. Yes, ma'am.

24 Q. Cars coming and going?

25 A. Yes.

1 MS. POPOWSKI: I beg the Court's indulgence.

2 THE COURT: Take your time.

3 MS. POPOWSKI: No further questions, Your Honor.

4 THE COURT: Okay. Ms. Wellman?

5 MS. WELLMAN: No, Your Honor.

6 THE COURT: May I let Mr. Waters be excused then?

7 MS. MAYES: Yes, Your Honor.

8 THE COURT: Thank you.

9 Mr. Waters, thank you for coming.

10 (Witness excused.)

11 THE COURT: Call your next witness.

12 MS. WELLMAN: Your Honor, at this time the State
13 would call Sergeant Larry Walker.

14 (Whereupon, Larry Walker was duly sworn by the
15 Clerk of Court.)

16 THE CLERK: If you'll have a seat up there. If
17 you'll state your name and spell your last for the record.

18 THE WITNESS: Yes, ma'am. Sergeant Larry Walker,
19 South Congaree Police Department. W-A-L-K-E-R.

20 LARRY WALKER,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. WELLMAN:

24 Q. Sergeant Walker, you said you work at South Congaree
25 Police Department. How long have you been in law

1 enforcement?

2 A. Roughly eighteen years.

3 Q. And how long have you been with South Congaree?

4 A. I just started my third year.

5 Q. Okay. Where were you before that?

6 A. Columbia Police Department.

7 Q. What are your duties and responsibilities?

8 A. Normal patrol, patrolling the area, answering calls,
9 et cetera.

10 Q. Okay. Did you have occasion to become involved
11 in the investigation of a sexual assault that occurred
12 at [REDACTED] Congaree Downs Roads on October 12th of 2021?

13 A. Yes.

14 Q. Is that within the jurisdiction of Lexington County?

15 A. Yes.

16 Q. And how did you come to be involved?

17 A. I was dispatched to the call.

18 Q. Okay. If you could speak up a little bit.

19 A. I was dispatched to the call.

20 Q. Okay. And did you, in fact, go to that residence?

21 A. Yes, ma'am.

22 Q. On what date?

23 A. It was October the 13th at roughly 9:00 in the
24 morning.

25 Q. Okay. When you arrived, did you make contact with the

1 victim, Ms. Glenna Branham?

2 A. Yes, ma'am.

3 Q. Sergeant Walker, yes or no, did Ms. Branham report a
4 sexual assault?

5 A. Yes.

6 Q. Okay. What time or timeframe did Ms. Branham say that
7 sexual assault occurred?

8 A. Between the hours of 8:00 PM on the 12th roughly to
9 roughly around 1:30 on the 13th.

10 Q. Okay. Where did Ms. Branham say that sexual assault
11 occurred?

12 A. At her residence and also in her vehicle when they
13 left.

14 Q. Okay. Sergeant Walker, can you describe Ms. Branham's
15 demeanor?

16 A. She was very, I guess, calm would be the way to say
17 it when she was saying what she was talking to us about.
18 She almost looked -- it wasn't usual for us to see that in
19 a rape victim I would say.

20 Q. Without telling me what Ms. Branham said, did she
21 provide some details about the assault?

22 A. Yes.

23 Q. Okay. Based on that information, what, if anything,
24 did you do?

25 A. She gave me the information, then I went and explored.

1 She said that the vehicle was in the garage that she was
2 in. After looking through the vehicle there was signs of
3 blood in the vehicle. Upon seeing that, I went back inside
4 and questioned her more about things that happened once
5 more evidence was found and obtained by myself.

6 Q. Okay. Did Ms. Branham show you the clothing that she
7 had worn?

8 A. Yes.

9 Q. Okay.

10 MS. WELLMAN: May I approach?

11 THE COURT: You may.

12 BY MS. WELLMAN:

13 Q. Sergeant Walker, these are State's Exhibit 4, 5 and 8.
14 Is that the clothing -- these are already in evidence. Is
15 that the clothing that Ms. Branham said?

16 A. Yes.

17 Q. And would that be the shirt?

18 A. Yes, ma'am.

19 Q. This?

20 A. That would be her underwear that she put in the bag
21 and the jeans that she had on that night.

22 Q. That's the shirt?

23 A. Yes, ma'am.

24 Q. The jeans?

25 A. Yes.

1 Q. Okay. And her underwear?

2 A. Yes, ma'am.

3 Q. Did you -- as you were talking with her, did you
4 observe any bruising or signs of injury?

5 A. Yes.

6 Q. Okay. And are some of that bruising what we see in
7 State's Exhibit 8?

8 A. Yes, ma'am.

9 Q. You also stated that you went out to the vehicle, in
10 the car, and, Sergeant Walker, this is State's Exhibit 69
11 already in evidence. Is that the vehicle that you saw?

12 A. Yes, ma'am.

13 Q. Okay. State's Exhibit 71. That is the interior of
14 that car?

15 A. Yes.

16 Q. State's Exhibit 78. You mentioned you saw blood in
17 the car?

18 A. Yes, ma'am.

19 Q. What we're seeing right here, is that the blood that
20 you were talking about?

21 A. Yes, ma'am.

22 Q. You also stated that you got a little more information
23 and then you went back and collected some evidence; is that
24 correct?

25 A. Yes, ma'am.

1 Q. Here's State's Exhibit 83 already in evidence. Can
2 you tell us what we're looking at?

3 A. That's the inside of Ms. Glenna's garage and the black
4 trash can.

5 Q. Okay. What, if anything, was relevant to you about
6 that trash can?

7 A. When speaking with Ms. Glenna, she stated that the
8 ejaculation that happened during the assault was placed
9 into a napkin that was then thrown into that trash can.

10 Q. State's Exhibit 84, already in evidence, is that the
11 napkin?

12 A. Yes, ma'am. That's the napkin she pointed out to me.

13 MS. WELLMAN: May I approach the witness?

14 THE COURT: You may.

15 BY MS. WELLMAN:

16 Q. I'm gonna hand you those. Sergeant Walker, I'm
17 handing you what has previously been marked and identified
18 as State's Exhibit 42 and it has already been opened. If
19 you could look inside and --

20 A. Yes, ma'am.

21 Q. -- and if you could pull that out for us?

22 A. (Witness complies.)

23 Q. That has a lab number -- well, if I could I beg the
24 Court's indulgence one moment.

25 Sergeant Walker, going back to that napkin, if you

1 could look on the outside of the brown envelope --

2 A. Yes, ma'am.

3 Q. -- I believe that has previously been identified as
4 the napkin found in the black trash can; is that correct?

5 A. Yes, ma'am.

6 Q. Did you personally collect this?

7 A. I did.

8 Q. Okay. What, if anything, did you do with that?

9 A. Photographed it before I took it up and then I
10 grabbed the napkin that's pictured here in a glove in my
11 hand that was already gloved up like it is today, took that
12 napkin and placed it into a glove that wasn't used similar
13 to this, placed it inside and held it and secured it in
14 my vehicle until we were able to hand it over to SLED for
15 chain of custody.

16 Q. Okay. At all times while that napkin was in your
17 possession, was it in your complete care, custody and
18 control?

19 A. Yes, ma'am.

20 Q. And you said you turned that over to SLED?

21 A. Yes, ma'am.

22 Q. Do you recall who you turned it over to?

23 A. I believe it was Investigator Todd with the CSI unit.

24 Q. Would that be Todd Schenk?

25 A. Yes, ma'am.

1 Q. Okay. And you said with CSI, would that be with the
2 State Law Enforcement Division?

3 A. Yes, ma'am.

4 MS. WELLMAN: If I could just have one moment.

5 Sergeant Walker, if you could just return that to
6 the envelope.

7 No further questions.

8 THE COURT: Thank you, Ms. Wellman.

9 Ms. Popowski or Mr. Mauldin?

10 MR. MAULDIN: I'll give her a break, Your Honor.

11 THE COURT: We're happy to have you.

12 MR. MAULDIN: Thank you.

13 CROSS-EXAMINATION

14 BY MR. MAULDIN:

15 Q. Sergeant Walker, when you were shown those clothes
16 by Ms. Branham on October 13th there that morning, they
17 were in a closet in like a laundry bag or a hamper or
18 something?

19 A. I believe it was in a hamper.

20 Q. Okay. Were they there with other clothes?

21 A. Yes, sir.

22 Q. Okay. And when you went to the car, you said you
23 noticed some blood. You noticed some blood on top of the
24 center console; is that right?

25 A. Yes, sir.

1 Q. And you also noticed some blood on the driver's side
2 door panel?

3 A. Yes, sir.

4 Q. Was it you-all that pulled the still from the ATM?

5 A. No, sir. I believe SLED went and pulled that.

6 Q. SLED went and pulled that? Okay. And as part of your
7 investigation, did you review a video for a gas station?

8 A. No, sir.

9 Q. Okay.

10 A. I did not.

11 Q. Okay. Did Chief Shumpert do that?

12 A. I don't know.

13 MR. MAULDIN: All right. No further questions.

14 THE COURT: Anything else, Ms. Wellman?

15 MS. WELLMAN: Nothing further, Your Honor.

16 THE COURT: May I let Sergeant Walker down?

17 MS. WELLMAN: Yes, Your Honor.

18 THE COURT: Thank you, Sergeant.

19 THE WITNESS: Yes, ma'am.

20 (Witness excused.)

21 MS. MAYES: May we approach?

22 THE COURT: Yes.

23 (Proceedings held at the bench; not reported.)

24 THE COURT: All right. Madam Forelady, I'm gonna
25 let the jury go a little bit early, but in view of that

1 we're gonna start a little early tomorrow. I'd like to
2 start at nine. So if everybody -- I'm just trying to
3 make sure that we finish this trial by Friday. If I
4 could have all the jurors at 8:45 in the morning in your
5 jury room, we'll start promptly at nine and try to work
6 hard tomorrow. We might have lunch brought in for you-all
7 so we can keep going, okay?

8 FOREPERSON: Understood.

9 THE COURT: Remember, don't talk about this case
10 when you go home, don't research anything, don't read
11 anything on the news or in the newspaper. Anything you
12 hear, just don't listen to it. You got it?

13 Have a great evening. I'll see you-all early in
14 the morning.

15 FOREPERSON: Yes, ma'am.

16 (Whereupon, the jury was excused for the day at
17 4:06 PM.)

18 THE COURT: Let me ask you, I'm ordering the jury
19 lunch tomorrow. Can we plan to just for -- to get
20 the food here for them, if it's hot or cold, can we
21 plan to stop for lunch at twelve?

22 MS. MAYES: Yes, Your Honor.

23 THE COURT: And plan to start back at about 1:15?

24 MS. MAYES: That works, Your Honor. If we break
25 between 12:00 and 1:15, that should work out perfectly.

1 THE COURT: All right.

2 Okay. Court's adjourned. I'll see you-all in the
3 morning. We'll start promptly at 9:00 AM.

4 (Whereupon, the proceedings were concluded for
5 July 26, 2013, at 4:08 PM.)

6 (The following proceedings were held July 27, 2023,
7 beginning at 9:45 AM.)

8 BAILIFF: All rise. Court is now in session. The
9 Honorable Judge Debbie McCaslin presiding.

10 THE COURT: Please be seated. Sorry I'm a little
11 bit late.

12 Is the State ready?

13 MS. MAYES: The State is ready.

14 THE COURT: Is the defense ready?

15 MR. MAULDIN: Yes.

16 MS. POPOWSKI: Yes, Your Honor.

17 THE COURT: All right. Let's bring the jury in.

18 (Whereupon, the jury enter the courtroom at 9:46 AM.)

19 THE COURT: Madam Forelady, good morning.

20 FOREPERSON: Good morning.

21 THE COURT: Is the jury ready?

22 FOREPERSON: Yes, ma'am.

23 THE COURT: Please be seated.

24 Morning question. Has anyone approached you or
25 have you talked to anyone about this case, read anything,

1 done any research, seen anything on TV, newspaper or the
2 Internet about this case? If so, please raise your hand.

3 Perfect.

4 Ms. Mayes, Ms. Wellman, you can call your next
5 witness.

6 MS. MAYES: May it please the Court, Your Honor?

7 THE COURT: Yes.

8 MS. MAYES: The State calls Agent Todd Schenk.

9 (Whereupon, Todd Schenk was duly sworn by the Clerk
10 of Court.)

11 THE CLERK: If you'll have a seat up there. If
12 you'll state your name and then spell your last name.

13 THE WITNESS: Yes, ma'am. Todd Schenk. S-C-H-E-N-K.

14 TODD SCHENK,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Good morning, Agent. Tell us a little bit about
19 yourself. Where are you employed?

20 A. I'm employed by the South Carolina Law Enforcement
21 Division, commonly referred to as SLED.

22 Q. And how long have you been with the State Law
23 Enforcement Division?

24 A. I hit ten years in November.

25 Q. Okay. During the course of that ten years, what

1 divisions or departments within SLED have you been assigned
2 to?

3 A. I'm a lieutenant in the crime scene investigations
4 unit.

5 Q. And when we talk about crime scene investigations,
6 first I'm gonna ask you for a summary of exactly what that
7 field of criminal investigation involves?

8 A. Yes, ma'am. So the crime scene investigation, the
9 purpose of our job is to assist with local agencies at
10 SLED. We go out and we document scenes, collect evidence,
11 look for clues. Just like you would think in the TV show.
12 It's just we're documenting and examining.

13 Q. Agent, what is your educational background and
14 training that led to you become a CSI investigator for
15 SLED?

16 A. Yes, ma'am. So I graduated with a bus -- or
17 bachelor's of science in business administration from the
18 Citadel in Charleston, the Military School of Charleston.
19 I then got hired at SLED where I started an in-house
20 training program. During that in-house training program,
21 I went to the police academy for three months where you
22 learn to become a police officer, and then the in-house
23 training really started. It consisted of sections or what
24 we call the blocks, which are how to document a scene with
25 photographs, how to diagram a scene, evidence collection,

1 latent print collection, DNA collection. All these
2 different blocks. Each block has practical examinations
3 where you have to physically prove that you know what
4 you're doing and then also a written examination based on
5 reading that you have to do per each section. All while
6 you're doing these blocks, you're also responding to
7 scenes, and with my field training agent, I would respond
8 to a crime scene and get on-the-job training at each
9 scene where I'd have to show competence in each of these
10 different sections. At the end of all the training blocks,
11 we would then go to a mock crime scene, which is you have
12 to show you can follow policies, procedures, you can
13 document the scene properly, you can take through
14 processing the crime scene. You then write your first
15 report. Once that's done, that's graded, then you go to a
16 mock trial, which shows that you can testify, then you have
17 to take an all encompassing test that show you retained all
18 of the information through the year, year and a half of
19 training. Once all that's done, you're deemed competent.

20 I've also been through a 40-hour external bloodstain
21 pattern analysis course, a 40-hour shooting incident
22 reconstruction course, a 2-day forensic photography course,
23 a 3-day intermediate crime scene investigations course, a
24 4-day advanced digital photography, FARO, a 3D scanner
25 course, just to name a few of my external courses on top

1 of the internal training.

2 Q. All right. And, Agent Schenk, you mentioned latent
3 print evidence collection. Have you been specifically
4 trained in the field of collecting latent prints as well?

5 A. I have.

6 Q. And you mentioned DNA evidence collection. Have you
7 been specifically trained in the field of collecting
8 potential bloodstains that may contain a DNA profile?

9 A. Yes.

10 Q. Can you tell us whether or not your educational
11 training and experience is commonly accepted among peers
12 in your field?

13 A. It is.

14 Q. And can you tell us whether the protocols and
15 practices of the SLED CSI division is also accepted among
16 peers in this field?

17 A. It is.

18 Q. Have you been previously qualified as an expert in the
19 field of crime scene investigation?

20 A. I have.

21 Q. And does that include the courts of this state?

22 A. It does.

23 MS. MAYES: Your Honor, at this time the State
24 offers Agent Todd Schenk as an expert in crime scene
25 investigation.

1 THE COURT: Any objection?

2 MR. MAULDIN: I have no objection to him being
3 qualified as an expert in documentation and collection
4 of evidence, but not interpretation.

5 MS. MAYES: I'm sorry. I didn't hear that last
6 word.

7 MR. MAULDIN: But not interpretation of evidence.

8 MS. MAYES: Well, I can lay further foundation.

9 THE COURT: Go ahead, Ms. Mayes.

10 BY MS. MAYES:

11 Q. When we talk about your educational training and
12 experience in crime scene investigation, does that include
13 visualizing any evidence that you see at a scene?

14 A. It does.

15 Q. Does that include visualizing potential bodily fluids
16 such as possible or suspected blood?

17 A. It does.

18 Q. Does that include visualizing suspected prints that
19 may be human latent fingerprints or palmprints?

20 A. It does.

21 Q. And does your training and experience give you the
22 ability to interpret the data or the evidence that you are
23 viewing in order to make the decisions as to whether or not
24 to collect such evidence?

25 A. It does.

1 MS. MAYES: Your Honor, that would include the
2 interpretation of suspected bodily fluids, suspected
3 latent prints and bloodstain evidence.

4 MR. MAULDIN: Can we just approach real quick?

5 THE COURT: Sure.

6 (Proceedings held at the bench; not reported.)

7 THE COURT: All right. So let me ask, Mr. Mauldin,
8 for the record do you have any objection to Agent Schenk
9 -- Schenk --

10 THE WITNESS: Schenk. Yes, ma'am.

11 THE COURT: -- Agent Schenk being an expert in the
12 field of crime scene investigations?

13 MR. MAULDIN: Per our conversation, I have no
14 problem with the documentation and the collection and
15 the further questioning that the solicitor did that he
16 recognized blood to collect and fingerprints to collect
17 and that sort of thing. I have no problem with that.

18 THE COURT: Okay. I'm gonna tell the jury I'm
19 going to qualify Agent Schenk -- is it Agent Schenk or
20 Lieutenant Schenk?

21 THE WITNESS: I'll answer to either, but lieutenant.

22 THE COURT: Either. Okay. Agent Schenk as an
23 expert in crime scene investigation. You can give his
24 testimony the weight you think it deserves.

25 You can go ahead, Ms. Mayes.

1 MS. MAYES: Thank you, Your Honor.

2 May it please the Court?

3 BY MS. MAYES:

4 Q. Lieutenant Schenk, tell us when you first became
5 involved in the investigation of this case, State versus
6 Robert Brandon Neeley, the investigation into a sexual
7 assault at the South Congaree area of Lexington County.

8 A. Yes, ma'am. On October 13, 2021, we received a call
9 for service from our operations desk or our dispatch. I
10 received the call at approximately 10:21 and we responded
11 to [REDACTED] Congaree Downs Lane for the crime scene.

12 Q. And what was your first step upon arrival there at the
13 crime scene?

14 A. So our first step is to meet with investigators,
15 gather any information we can so that we can have a better
16 understanding of what we're walking into and how to process
17 the scene.

18 Q. All right. So when you say that you met with
19 investigators who were already at the scene, let me kind
20 of go back and recount exactly who that would be. In this
21 particular case, there's evidence that a 9-1-1 call was
22 received at 9:02 AM, October 13th. What time was your
23 arrival, Agent?

24 A. We were -- excuse me -- we arrived on-scene at
25 approximately 10:55 AM that morning.

1 Q. And that included yourself and at least one more CSI
2 officer?

3 A. Yes, ma'am.

4 Q. Who do you recall already being present at the
5 residence of Glenna Branham upon your arrival?

6 A. So there was South Congaree police officer Walker
7 and then some of our Midlands agents. I want to say
8 Captain Derrick Horton was out there. There was the lead
9 investigator, I want to April Sykes, out there. But
10 normally the Midlands or the region, we meet with whoever's
11 out there at the time.

12 Q. And was the victim still present at the home as well?

13 A. I don't remember if she was there or she had gone to
14 the hospital at that point.

15 Q. Okay. And you mentioned SLED agent April Sykes,
16 seated here at the State's table, you recall her being the
17 lead investigator in the case as well?

18 A. Yes, ma'am.

19 Q. And so upon arrival you were briefed or received a
20 debriefing from those agents?

21 A. I do.

22 Q. What items can you tell us relating to potential
23 identity of a suspect were you focussed on trying to
24 recover?

25 A. So because this was a sexual assault, I'm looking for

1 fingerprints, blood, DNA. Also any potential semen that
2 may exist within the scene.

3 Q. Okay. Did you become aware while you were at the
4 scene of a napkin that had already been collected as
5 evidence by an officer with the South Congaree Police
6 Department?

7 A. I am.

8 Q. I'm gonna show you these items and ask you whether or
9 not you recognize them. First being State's 43.

10 A. I do.

11 Q. How do you recognize that?

12 A. It has my lab number, my initials and my item number
13 and my item description.

14 Q. All right. And what is your item description of this?

15 A. Item 2, it was the original packaging. It was an
16 unworn glove that was used to collect the napkin.

17 Q. Okay. So upon your arrival at the scene you were made
18 aware of the napkin collected by the South Congaree Police
19 Department and who do you recall within the South Congaree
20 Police Department providing that evidence, being this
21 napkin, directly to you?

22 A. Police Officer Walker.

23 Q. Okay. And can you tell us whether or not that was a
24 direct transfer with no one else in between in the chain of
25 custody?

1 A. Yes. He brought it directly to me at the back of my
2 truck. We did a paper chain of custody and he transferred
3 it to me.

4 Q. All right. And how was it packaged when you received
5 it from him?

6 A. So from recollection he had the napkin in this glove.
7 I then collected them both, separated them out to try to
8 preserve everything that I could on both of them and then
9 sealed them up and collected them there.

10 Q. Okay. And when you say it was in a glove, can you
11 tell us did it appear to be protected within that glove?

12 A. It did.

13 Q. And once you received it, how did you go about
14 actually packaging the napkin to further protect this item
15 of evidence?

16 A. I placed in its own brown paper bag.

17 Q. Okay. I'm gonna show you what is State's 42 currently
18 for identification -- or previously for identification,
19 but I'm gonna ask you how you recognize this item in its
20 packaging?

21 A. It's got my lab number, item number, initials and my
22 item description on the back.

23 Q. All right. Can you state for the record exactly what
24 you noted on the outside of that packaging?

25 A. Yes, ma'am. I have one napkin with suspected semen

1 from garage black trash can.

2 Q. And does it also contain your initials?

3 A. It does.

4 Q. And the date?

5 A. It does.

6 Q. Now how did you go about -- once you placed it in the
7 bag, how did you go about further protecting this item from
8 any type of tampering and securing it as evidence to go to
9 your crime lab?

10 A. So we use the packaging tape to hold -- which is the
11 clear tape, to hold the bag tight, and then we have our
12 evidence tamper-proof yellow tape that just shows if it's
13 been tampered with.

14 Q. And did you properly seal this item?

15 A. I did.

16 Q. Once it was properly sealed, where and how did you
17 submit it?

18 A. It's secured in the back of my truck until I get back
19 to the laboratory. I then enter it into our -- it's called
20 the Beast. It's our online Internet kind of electronic
21 chain of custody keeper. It's submitted through there and
22 then it can get disseminated throughout the lab and tracked
23 as to who it goes to.

24 Q. And did it remain sealed throughout that process of
25 you delivering it and submitting it for further analysis?

1 A. It did.

2 Q. And ultimately to be submitted for serology or DNA
3 analysis?

4 A. It did.

5 Q. Was that the same for your packaging on the glove that
6 originally contained the napkin?

7 A. Yes, ma'am.

8 Q. And then with this being SLED Item 1, State's 42, I'm
9 gonna ask you about State's 44. Once an item is received
10 by serology, can you tell us whether or not you're familiar
11 with the process of creating cuttings?

12 A. Yes, ma'am.

13 Q. And Item 1.1, can you tell us whether or not that
14 would be consistent with a cutting from your Item --
15 State's 42 and Item 1?

16 A. It is.

17 MS. MAYES: Your Honor, all for evidence at this
18 time, being the napkin, State's 42, State's 44, being the
19 cutting, and State's 43, being the glove that originally
20 contained the napkin, all subject to the previous
21 foundation laid by serologist Rachel Nguyen.

22 THE COURT: Any objection?

23 MR. MAULDIN: Subject to the prior objections and
24 res gestae hearing.

25 THE COURT: So noted for the record.

1 (State's Exhibit Number 42, a napkin, State's
2 Exhibit Number 44, a cutting from napkin, and
3 State's Exhibit Number 43, a glove that contained the
4 napkin, were admitted into evidence.)

5 BY MS. MAYES:

6 Q. Now in addition to obtaining this napkin that you were
7 aware containing suspected semen, were you also aware of an
8 ATM transaction that would have occurred during the course
9 of this event?

10 A. Yes, we were made aware of that.

11 Q. I'm gonna show you what is State's 54 in evidence.
12 Was the actual receipt from that transaction recovered as
13 part of your processing of the scene?

14 A. Yes.

15 Q. I'm gonna show you what is State's 82. Was a knife
16 also photographed upon your observations of the victim's
17 kitchen area?

18 A. It was.

19 Q. Looking at 85, were you aware as to whether or not
20 there was a firearm that was reported as stolen or missing
21 as part of this event?

22 A. Yes.

23 Q. Looking here at 86, I believe this is in evidence.

24 THE COURT: It is.

25 Q. All right. 86 already in evidence, looking here,

1 Agent Schenk, is there a unique serial number associated
2 with the firearm that was missing?

3 A. Yes.

4 Q. And can you tell us whether or not SLED agents who
5 were there and present at the scene took action to report
6 that firearm as stolen?

7 A. It did.

8 Q. Can you tell us whether or not that -- how do you
9 go about entering a stolen or missing firearm into a
10 database?

11 A. So what would happen is we would have the serial
12 number, which is on the box. We would give it to our
13 Midlands or our regional agents and then at some point our
14 dispatch is notified and then they would make an NCIC
15 entry.

16 Q. And when we talk about NCIC, is that a nationwide
17 database?

18 A. It is.

19 Q. That could potentially locate the stolen firearm with
20 this serial number --

21 A. Yes.

22 Q. -- if it were to appear in relation to any other
23 incident or crime down the road?

24 A. Yes.

25 Q. Now going back to the ATM receipt, were you made aware

1 as to whether or not there was any mode of transportation
2 to get to the bank for this -- for this ATM withdrawal?

3 A. I was.

4 Q. And what was your understanding as to the vehicle that
5 was used for that?

6 A. It was the victim's vehicle that was located in the
7 garage.

8 Q. Okay. Can you tell us whether or not you were also
9 aware of any alleged sexual assault within the vehicle?

10 A. I was.

11 Q. And as to any locations that the vehicle may have gone
12 that may have resulted in any extraneous evidence being
13 connected to that vehicle?

14 A. Yes. We were told that at some point the vehicle may
15 have gone into a -- kind of a field or wooded area, so we
16 were looking for potential wooded debris or grass around
17 the vehicle.

18 Q. Looking here at State's 73 in evidence and State's 74
19 in evidence, again, you were already aware that the vehicle
20 had -- of the report of the vehicle being in a wooded area?

21 A. I am.

22 Q. And did you have the opportunity to process the
23 vehicle as well as the crime scene?

24 A. Yes.

25 Q. I'm gonna show you some photographs and ask you if

1 you're familiar with them beginning with State's 78. These
2 are all in evidence. If you could look those over. And we
3 spoke briefly a moment ago about that ATM receipt, but I'm
4 gonna show you State's 47 and ask you whether or not you
5 also had an opportunity to actually retrieve the original
6 bank receipt?

7 A. I did.

8 Q. And how do you recognize this packaging?

9 A. It has my lab number, item number, initials and the
10 information I wrote on the back.

11 Q. And what is the information you noted on the back?

12 A. It says bank receipt from kitchen table and it's got
13 my date and initials.

14 Q. Okay. And this would have been recovered from the
15 crime scene consistent with the photograph that we just saw
16 of you holding the ATM receipt?

17 A. Yes.

18 MS. MAYES: 47 for evidence, being the ATM receipt.

19 THE COURT: Any objection?

20 MR. MAULDIN: No, Your Honor.

21 THE COURT: It's admitted.

22 (State's Exhibit Number 47, an ATM receipt, was
23 admitted into evidence.)

24 BY MS. MAYES:

25 Q. Now I'm going to show you some additional photographs,

1 Agent, for your review beginning with State's 108, 109,
2 110, 111, 112, 113, 114, 115 and 144. Can you tell us
3 whether or not you recognize these photos?

4 A. I do.

5 Q. Are all of these photos a fair and accurate
6 representation of your processing of the Toyota Camry that
7 belonged to the victim in this case, Glenna Branham?

8 A. It does.

9 Q. Does that include any latent print evidence?

10 A. It does.

11 Q. And any items you visualized relevant to this case?

12 A. It does.

13 MS. MAYES: Your Honor, all for evidence at this
14 time.

15 THE COURT: Let me know if there's any objection,
16 Mr. Mauldin.

17 MR. MAULDIN: No objection, Your Honor.

18 THE COURT: They're admitted.

19 (State's Exhibit Numbers 108, 109, 110, 111, 112,
20 113, 114, 115 and 144, photographs, were admitted into
21 evidence.)

22 BY MS. MAYES:

23 Q. All right. Agent Schenk, you had noted that a wooded
24 area was known to have been part of the on-going crime
25 scene in this case?

1 A. That's what we were told. Yes, ma'am.

2 Q. That the vehicle had left the South Congaree area,
3 gone to a bank and then ultimately there was a wooded area
4 as well?

5 A. To my understanding, yes.

6 Q. Can you tell us what, if anything, you observed when
7 processing the vehicle, taking a look here at State's 108,
8 consistent with that vehicle having been in the area of
9 woods or heavy brush?

10 A. I did.

11 Q. Looking here at State's 108 and now at -- and, again,
12 at this point you're processing the crime scene there at
13 112 Congaree Downs?

14 A. I am.

15 Q. And where is the car located as you're processing it?

16 A. This is in the garage.

17 Q. In the garage of Ms. Branham?

18 A. It is.

19 Q. Looking here at 109, and you have a laser pointer,
20 if you could tell us what we're looking at here in this
21 photograph?

22 A. Right here there was some form of foliage in the grill
23 of the vehicle.

24 Q. Now, again, that's gonna be the front of the vehicle.
25 We're gonna take a look at the back of the vehicle,

1 being 110. What, if anything, did you observe in this
2 photograph?

3 A. So you can see there's strands of grass off the back
4 in front of the rear passenger wheel well.

5 Q. State's 111. Would that be a close-up of that same
6 location?

7 A. Yes, ma'am.

8 Q. And as you're processing this, do you have another
9 agent with you taking photographs?

10 A. I do.

11 Q. Now looking at the interior of the vehicle, I want to
12 show you State's 112. Looking at State's 112, which seat
13 area would this be?

14 A. This is the driver's seat floorboard.

15 Q. What, if anything, did you indicate regarding any kind
16 of brush or foliage that had made its way into the driver's
17 side area floorboard?

18 A. You can see in the corner here near the center console
19 leaves and foliage -- excuse me -- leaves there and then
20 you can also see the leaves here in the middle of the
21 floorboard.

22 Q. And did you observe anything like that in any of the
23 other floorboard area?

24 A. Not that I recall.

25 Q. So that seemed to be unique to the driver's side area?

1 A. Yes.

2 Q. Now you spoke about latent prints. Can the recovery
3 of latent prints ultimately lead to identification of a
4 suspect?

5 A. Yes.

6 Q. What areas of the vehicle were you interested in
7 viewing or potentially processing for the recovery of
8 latent prints?

9 A. We were looking at the exterior of the doors, of the
10 driver door and the front passenger door.

11 Q. Looking here at State's 113, tell us what we're
12 looking at, Agent, in terms of the various alphabetical
13 markers that you have. Here at the top we have an A and a
14 B and a C and a D and an E.

15 A. So what we're looking at here is this would have
16 been after we've used our black powder. We would have
17 done a visual examination and looked for anything. We
18 would have then used our black powder to try to enhance
19 any fingerprints so that we can document them better and
20 then actually collect them or lift them. How we do that
21 is each -- each fingerprint gets its own scale so that
22 the latent examiner can make a one to one comparison, so
23 they're comparing apples to apples. And then to make it
24 easier to identify, we'll put Marker A, B, C, D or E so
25 that you know exactly which print -- when we say Latent A,

1 you know where it was on the vehicle by looking at this
2 photograph.

3 Q. Once you lay the black powder, what is it that you're
4 looking for that would allow you to then carry out or
5 conduct what you call a lift?

6 A. So what we're looking for is we're looking at ridge
7 flow and minutia, which are different characteristics
8 within the fingerprint, and we're looking to have
9 substantial -- because sometimes you can touch a car
10 and just it smudges and you don't leave a fingerprint.
11 We're not looking for that. We're looking for actual
12 characteristics within the fingerprint to be able to lift
13 it and send to an examiner.

14 Q. And how do you go about lifting a potential
15 fingerprint or latent print from any surface?

16 A. Yes, ma'am. So we use fingerprint tape. It's very
17 sticky clear tape that you just very carefully smooth down
18 on top of the black powder, lift it off at as you peel it
19 back. You'll then put it on a white -- it's almost like a
20 piece of cardboard, but it's a little bit thinner. You
21 place it on there and then you'll document where it came
22 from, time, date and all that and then submit it.

23 Q. I'm gonna show you what is 114, which depicts
24 Marker A, and Marker A that we're looking at here would
25 correlate to what area of the card that we see here in

1 State's 113?

2 A. It's almost the roof of the vehicle. It's just above
3 the driver door window.

4 Q. And what did you see here, Agent, that allowed you to
5 develop a latent print lift?

6 A. So when you look at it, you can see where it appears
7 it's almost a palm and so we're looking -- it's not a
8 normal fingerprint you can see. It's more the shape. So
9 a palm is what we saw.

10 Q. Now in regards to State's 115, this is gonna be D, and
11 D is gonna correlate back as we see in this photograph to
12 where?

13 A. The top middle of the driver door window.

14 Q. So have you noted A is gonna be the roof area above
15 the driver's side door and D is gonna be the window of the
16 driver's side?

17 A. Yes.

18 Q. Would that be interior window or exterior window?

19 A. These were all on the exterior.

20 Q. And looking here at D, what, if anything, did you
21 visualize in this photograph, Agent, which allowed you to
22 develop a latent lift? I'm gonna show you 144, which may
23 be a better photograph.

24 A. It's a little hard to see on the projector, but what
25 we're looking at is in this area there was ridge detail and

1 minutia and so that's what we were trying to document.

2 Q. I'm gonna show you what is State's 50 for
3 identification at this time. And you can open this item
4 to further identify it.

5 A. I beg the Court's indulgence.

6 THE COURT: Take your time.

7 A. These are two latent lifts that I received and
8 collected. One is from Marker A, one is from Marker D.

9 Q. Okay. And that would be the Marker A and Marker D
10 that we just took a look at?

11 A. Yes, ma'am.

12 Q. And these were the actual lifts that you created or
13 took directly from that vehicle?

14 A. It is.

15 Q. And do you recognize your signature or your initials
16 on this item?

17 A. I do.

18 Q. And the date?

19 A. Yes, ma'am.

20 Q. What is the date in which this search was conducted?

21 A. 10-13-21.

22 Q. Okay. So within 24 hours of the alleged event?

23 A. Yes, ma'am.

24 MS. MAYES: Your Honor, at this time we would offer
25 as evidence State's 50, which contains the latent lifts

1 from Marker A and Marker D.

2 THE COURT: Any objection?

3 MR. MAULDIN: No, Your Honor.

4 THE COURT: They're admitted.

5 (State's Exhibit Number 50, latent lift cards, was
6 admitted into evidence.)

7 BY MS. MAYES:

8 Q. Now in addition to processing the vehicle for latent
9 prints, what other types of bodily fluids or potential
10 evidence were you able to visually observe as you were
11 conducting this search of the vehicle?

12 A. We saw suspected blood within the vehicle.

13 Q. I'm gonna show you some photographs already in
14 evidence beginning with State's 78 and State's 77. Can
15 you tell us whether the suspected blood that you observed
16 included this area here of the center console?

17 A. It did.

18 Q. And, again, you're -- you're trained in visualizing
19 suspected blood?

20 A. Yes.

21 Q. Can you tell us whether or not blood can contain a DNA
22 profile?

23 A. It does.

24 Q. And potentially lead to the identification of whoever
25 may have been bleeding at any particular crime scene?

1 A. Yes.

2 Q. And how do you go about preserving and collecting that
3 evidence ultimately for DNA identification?

4 A. We take swabs.

5 Q. I'm gonna show you what is the second part of 77. Did
6 you swab this area for the preservation of this evidence?

7 A. Yes.

8 Q. I'm gonna show you what is State's 52 and ask you
9 whether or not you recognize this item? And if you need
10 to unseal it, just let us know.

11 A. Yes, ma'am, I do.

12 Q. How do you recognize it?

13 A. These have my lab number, initials, item descriptions
14 and then the bag itself has my initials, lab number and
15 everything.

16 Q. Okay. Can you can you tell us whether or not
17 State's 52 contains the swabs from the center console that
18 you have noted here?

19 A. They do.

20 Q. And can you tell us whether or not these items were
21 properly packaged by you following the collection of
22 evidence by swabs?

23 A. They were.

24 Q. And can you tell us whether or not -- what you did
25 with this item once you received it and sealed it?

1 A. So once we sealed it, I would have brought it back to
2 the lab, packaged it in that heat sealed pack that it's in
3 and then submit it so it could be disseminated throughout
4 the lab.

5 Q. And when you say disseminated to crime lab, would that
6 include Agent Donna Money within the DNA division?

7 A. Yes.

8 MS. MAYES: For identification at this time, Your
9 Honor, State's 52.

10 THE COURT: Any objection?

11 MR. MAULDIN: It's for identification.

12 THE COURT: ID. I'm sorry.

13 BY MS. MAYES:

14 Q. Can you tell us whether or not the gun box was also
15 collected as evidence in this case?

16 A. There was one, yes.

17 Q. I'm gonna show you an item and ask you whether or not
18 you recognize the packaging of this item as well?

19 A. I do.

20 Q. How so?

21 A. It has my item description, initials, date on the bag.

22 Q. Okay. And what is the item description?

23 A. The one black NANUK case from next to bed in bedroom
24 -- in back bedroom. Excuse me.

25 Q. Regarding the stolen firearm?

1 A. Yes, ma'am.

2 Q. And can you tell us whether or not it also contains
3 the date and your initials?

4 A. It does.

5 Q. Can you unseal this item for further identification?

6 A. (Witness complies.)

7 Q. All right. Can you tell us whether or not that item
8 appears consistent with the gun box that we see that was
9 photographed here in the overhead in State's 67?

10 A. Yes, ma'am.

11 Q. So this item was also collected as evidence?

12 A. It as.

13 Q. For any potential analysis that may need to be
14 conducted on that item as well?

15 A. Yes.

16 MS. MAYES: For evidence at this time, Your Honor.
17 It is self-identifying.

18 THE COURT: Any objection?

19 MR. MAULDIN: No objection, Your Honor.

20 THE COURT: It's admitted.

21 (State's Exhibit Number 45, gun case, was admitted
22 into evidence.)

23 BY MS. MAYES:

24 Q. Now once the processing was completed of the inside
25 of the victim's vehicle, the outside of the vehicle by the

1 collection of latent prints and photo documentation, what
2 other locations were you involved with in the potential
3 search for evidence related to this event?

4 A. So we went into her residence, but we also went to
5 [REDACTED] -- if I may refer to my notes?

6 Q. Yes.

7 A. I believe it was [REDACTED] Shumpert Road in West Columbia.

8 Q. All right. So I want to ask you a few questions about
9 that.

10 A. Excuse me. I said [REDACTED]. It should be [REDACTED].

11 Q. What time would you estimate you departed the scene of
12 the victim's residence at [REDACTED] Congaree?

13 A. So we cleared the residence at approximately 2:34 in
14 the afternoon.

15 Q. 2:34?

16 A. Yes, ma'am.

17 Q. Now after that search of the victim's residence and
18 her vehicle was completed, you mentioned going to another
19 residence. What was that residence?

20 A. It was [REDACTED] Shumpert Road.

21 Q. And would that have been pursuant to a search warrant?

22 A. It was.

23 Q. And who do you understand to be the resident of that
24 location?

25 A. That would have been Robert Brandon Neeley.

1 Q. The defendant in this case?

2 A. Yes, ma'am.

3 Q. And what time do you have that you would have arrived
4 and began the search of that particular residence?

5 A. We arrived at approximately 5:29 in the afternoon.

6 Q. Also on the 13th?

7 A. Yes, ma'am.

8 Q. So significantly later than the 9-1-1 call?

9 A. Yes, ma'am.

10 Q. Can you tell us whether or not your search of that
11 residence also involved photo documentation?

12 A. It did.

13 Q. And can you tell us when we're talking about a search
14 warrant, are there specific items that must be searched for
15 pursuant to a search warrant?

16 A. Yes.

17 Q. And what, if any, were the items that you were
18 specifically searching for at this residence of the
19 defendant?

20 A. The main thing I remember looking for is we were
21 looking for a bag that -- a bag, duct tape, stolen gun.

22 Q. So the bag, can you tell us what your general
23 understanding of the bag that you were searching for would
24 be?

25 A. My understanding is that there was potential -- or

1 there was a video that showed someone coming in and out of
2 the residence with a bag and so since -- we were looking
3 for the bag that may have transported evidence.

4 Q. Okay. And, again, you're not getting this information
5 directly from the victim, but is SLED already aware of it?

6 A. Yes.

7 Q. So SLED was already aware of the bag?

8 A. Yes.

9 Q. And that is one of the items that you noted in your
10 report?

11 A. It is.

12 Q. That you were specifically searching for?

13 A. Yes.

14 Q. And if you had seen any items consistent with that at
15 the residence, would you have photographed it?

16 A. Yes.

17 Q. Okay. I'm gonna show you what is a collection of
18 photographs. 98 is already for ID, but I'm gonna have
19 you take a look at 98, 116, 100 and 99, all previously
20 marked for identification. I want to ask you about that
21 collection of photos.

22 A. Yes, ma'am.

23 Q. Do you recognize them?

24 A. I do.

25 Q. Are they a fair and accurate representation of the

1 scene that you searched at 320 Shumpert Road?

2 A. It is.

3 Q. Next I want to show you what is 147, 148, 121, 124,
4 125, 126, 122, 120 and 117. Are all of those photos also
5 a fair and accurate representation of what you observed?

6 A. They are.

7 Q. At [REDACTED] Shumpert Road the residence of the defendant?

8 A. Yes.

9 MS. MAYES: All for evidence at this time, Your
10 Honor, including the previous items marked for
11 identification only.

12 THE COURT: That's 98, 99 and 100, right?

13 MS. MAYES: Yes, Your Honor.

14 THE COURT: And 116.

15 Any objection?

16 MR. MAULDIN: Just for review, Your Honor, when
17 they were for ID I wasn't the one who reviewed them.

18 No objection.

19 THE COURT: And they're all admitted.

20 (State's Exhibit Number 98, 99, 100, 116, 117, 120,
21 121, 122, 124, 125, 126, 147 and 148, photographs, were
22 admitted into evidence.)

23 BY MS. MAYES:

24 Q. Do you have a copy of that search warrant with you,
25 Agent Schenk?

1 A. Yes, I do.

2 Q. Including the return to that search warrant?

3 A. Yes, ma'am, I do.

4 Q. And you've indicated this search warrant's gonna be
5 executed at 5:29 PM?

6 A. That's when we arrived on-scene. I believe that's
7 when we started it. On the return, I've got -- no, sorry.
8 That's the wrong one. I can't make out the writing on the
9 return, sorry. But, yes, we arrived on-scene at 5:29 PM.

10 Q. And everything that we're looking at in these
11 photographs would have been part of the search at that
12 time, the search that began at 5:29 on the late afternoon
13 of October 13th?

14 A. Yes, ma'am.

15 Q. All right. Looking here at State's 148, what are we
16 seeing?

17 A. So this is -- this is the front -- it's really the
18 backdoor of the mobile home, but this is the way we gained
19 access to it.

20 Q. And what is -- what are we looking at here in the
21 background, State's 148?

22 A. If you can see the headlights, that is a red Tundra
23 truck.

24 Q. Did your search warrant also include a search of any
25 vehicles that may be on the premises, including the Tundra

1 that the defendant was reported to have driven the night
2 before on the night of October 12th?

3 A. It did.

4 Q. And looking at 147, that would also be the exterior
5 of the residence?

6 A. Yes.

7 Q. Now you mentioned that you were searching for a bag.
8 I'm gonna show you what is State's 98. Looking here at
9 98, can you tell us whether or not there was a black gym
10 or duffle-type bag or dark colored gym or duffle-type bag
11 within that residence?

12 A. Yes.

13 Q. We'll take a look at this. And I realize that the
14 quality here on the overhead may not be the same with the
15 naked eye, so I'm gonna show you the photograph in just a
16 moment, but would this item have been searched?

17 A. Yes.

18 Q. Was there anything that you recall within the bag, any
19 contents of the bag that you recall?

20 A. No.

21 Q. But from -- in terms of the external portion of the
22 bag, how would you describe this bag and what position it
23 is in as we're looking in it?

24 A. So this is laying on the ground. In the photo -- it's
25 hard on the projector, but there's actually a -- I believe

1 there's an Air Jordan emblem on the back, so the part that
2 you would wear that goes against your back would be on the
3 ground and you can see that there's some sort -- there's
4 a strap here that you can kind of see the outline of Air
5 Jordan here, but it was just laying on the ground between
6 the bedroom and the hallway.

7 Q. And you said this would be -- which one would be the
8 bedroom and which one would be the hallway?

9 A. So the carpet is the bedroom. The tile, linoleum,
10 would have been the hallway.

11 Q. And it's laying within the doorway between the bedroom
12 and the hallway?

13 A. Yes.

14 Q. And does it appear to be sitting upright or on its
15 side?

16 A. On its side laying down.

17 Q. So this would be the strap and this would be the bag
18 on its side?

19 A. Yes, ma'am.

20 Q. I'm gonna show you State's 98. Does this allow you to
21 visualize the Air Jordan logo?

22 A. Yes, ma'am, it does.

23 Q. Consistent with a gym or duffle bag?

24 A. Yes, ma'am.

25 Q. Can you tell us whether or not your search included a

1 possible description of a knife, a serrated knife?

2 A. Yes.

3 Q. Can you tell us with whether or not your photographs
4 included any knives that appeared to be consistent with
5 that description looking here at State's 116?

6 A. Yes, ma'am, they did.

7 Q. Was that one knife or more than one knife that would
8 appear to meet that description of a serrated or kitchen
9 knife?

10 A. Multiple.

11 Q. Now looking at State's 100, can you tell us whether or
12 not you were also searching for any paraphernalia that may
13 allow one to smoke or inhale drugs through a pipe or glass
14 pipe?

15 A. Yes.

16 Q. Looking at 100, I'm gonna ask you whether or not any
17 items of that nature were observed within the residence?

18 A. Yes.

19 Q. Was that one item or more than one item?

20 A. Those three pipes were located in that Newport box.
21 We collected all three of them.

22 Q. And, again, the surface, is it generally some type of
23 transparent or glass structure?

24 A. Yes, ma'am.

25 Q. I'm gonna show you what is State's 120 and 117. 117

1 and 120. And can you tell us whether or not suspected
2 drugs were also recovered from the residence?

3 A. They were.

4 Q. Where located here in State's 120?

5 A. If you see this little white rock in this ashtray,
6 that's what we collected.

7 Q. Now was the defendant's vehicle also searched?

8 A. It was.

9 Q. Looking here at 124, 125 and 126, and photo documented
10 as well?

11 A. Yes, ma'am, it was.

12 Q. And then you mentioned a search for tape, specifically
13 black tape. How do you go by documenting any evidence
14 within the home that any person inside the residence may
15 potentially have access at some point in time to such tape?

16 A. We're taking photographs and looking for tape.

17 Q. Okay. Any tape that may meet that description?

18 A. Yes, ma'am.

19 Q. I'm gonna show you what is 122 and 99. Did you see
20 any evidence that someone at that residence at some point
21 in time would have had access to a black duct tape?

22 A. Yes.

23 Q. Show us where in 122 you see evidence of that?

24 A. So on the underpinning here, you can see where it's
25 kind of falling off. There's black duct tape or black tape

1 here and then there was also some on the ground here and
2 you can see where it was -- appeared to used to be.

3 Q. I'm gonna show you State's 99. Would that be a
4 close-up of that same piece we saw previously?

5 A. Yes, ma'am.

6 Q. And this item as well?

7 A. Yes, ma'am.

8 Q. And where do you recall that being in relation to
9 where the defendant's truck was located if you recall?

10 A. It would have been between -- the front door should be
11 this way, so the truck would be down this direction and it
12 was this underpinning here.

13 MS. MAYES: Nothing further of Agent Schenk at this
14 time, Your Honor.

15 THE COURT: Mr. Mauldin.

16 MR. MAULDIN: Unfortunately, Your Honor, I think I
17 need like a 5-minute break or a 2-minute break if you
18 know what I mean.

19 THE COURT: Sure.

20 Madam Forelady, if one goes, we all have to go.

21 All right. I'm gonna let you go to your jury room.
22 Please remember do not talk about the case.

23 FOREPERSON: Yes, ma'am.

24 THE COURT: We'll take 15 minutes.

25 (Whereupon, the jury retires to the jury room at

1 10:38 AM.)

2 THE COURT: Agent, I have to tell you, you're still
3 on the stand so you can't talk to anybody. You're welcome
4 to go to the restroom. Just don't talk to anybody about
5 this case.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: 15 minutes.

8 (Recess taken at 10:39 AM.)

9 (Back on the record at 10:49 AM.)

10 BAILIFF: Court is back in session. Stay seated,
11 please.

12 THE COURT: Are you-all ready?

13 MS. MAYES: A couple of things, Your Honor.

14 So State's 98 is in evidence. It has a defect. It
15 looks like a scratch. Probably when the evidence was
16 packaged up one of the staples probably created that
17 defect. We'd like to replace it here with State's 98
18 without that defect, and I believe there's no objection
19 to that.

20 THE COURT: Okay. We'll amend Exhibit 98.

21 MR. MAULDIN: There is no objection, Your Honor.

22 MS. MAYES: In addition to that, our next witness
23 following Agent Schenk was to be Paula Hare. She is a
24 records custodian from the Lexington County Detention
25 Center to authenticate the major case inked prints of

1 the defendant, Robert Brandon Neeley, that would have
2 been collected pursuant to his booking from October 13,
3 2021. There is a stipulation from the defense regarding
4 those prints, so we will not be calling Agent Hare and
5 they will not object to Agent Darnell referencing the
6 known prints of the defendant.

7 THE COURT: Okay.

8 MR. MAULDIN: Because they were gonna have to redact
9 some things. I just didn't want the jury guessing --

10 THE COURT: Thank you, Mr. Mauldin.

11 MR. MAULDIN: -- so I figured it would be easier to
12 stipulate that they took his -- yeah, that those were his
13 fingerprints they took that day.

14 THE COURT: Okay. I mean, at that point it is what
15 it is.

16 MS. MAYES: Regarding this particular Exhibit 98,
17 Your Honor, we are having trouble with the overhead and
18 the lighting due to the dark nature of this exhibit, so
19 I would ask permission to publish directly to the jury.

20 THE COURT: Sure.

21 MS. MAYES: The State has no further questions, but
22 we would ask to publish it directly to them.

23 THE COURT: Okay.

24 All right. Now let me tell you-all I ordered lunch
25 for the jury so they can have a work lunch and we can

1 keep going. Lunch will be here for them at 12:30, around
2 that time, so I'd like to at least try to break around
3 that time.

4 Also everybody get my jury charges?

5 MR. MAULDIN: Yes, Your Honor.

6 THE COURT: I saw the voluntary, the request for
7 voluntary intoxication.

8 MR. MAULDIN: That's a standard charge, Your Honor.

9 THE COURT: It's coming straight out of the standard
10 book.

11 MS. MAYES: Okay.

12 THE COURT: I've added it.

13 Anything else that I need to work on for the jury
14 charges?

15 MS. MAYES: Not at this time, Your Honor, but we
16 will continue to review them throughout the day and we'll
17 notify the Court appropriately.

18 MR. MAULDIN: I did note that -- I think Suzanne
19 said she wasn't putting the defendant's statement in and
20 you had the section about the defendant's statement.

21 THE COURT: Yeah, it always goes in. I never know
22 what's gonna happen. I'll take it out.

23 MR. MAULDIN: Yes, ma'am.

24 THE COURT: We'll delete that if there's no statement
25 coming in.

1 MR. MAULDIN: For those of us not being brought
2 lunch, how long will the lunch break be?

3 THE COURT: I don't know. I was trying to do like
4 45 minutes. Just right -- even if it's 50 minutes or 55
5 minutes. Just something close that I'd have the jurors
6 here and we could keep going.

7 Is that a problem for anyone?

8 MR. MAULDIN: No, Your Honor.

9 Ms. Mayes?

10 MS. MAYES: How much time, Your Honor? We would
11 need at least an hour.

12 THE COURT: All right. Then 12:30. We'll start
13 right back at 1:30. I want to try to get through as many
14 witnesses as we can today.

15 MS. MAYES: We are confident, Your Honor, that we
16 can rest today.

17 THE COURT: Perfect. I love to hear that.

18 MR. MAULDIN: Close and charge tomorrow?

19 THE COURT: Yeah, I want to be able to let your
20 client know all his rights about testifying --

21 MR. MAULDIN: Yes, ma'am.

22 THE COURT: -- and all that. That's just a standard
23 that I do for everybody.

24 All right. Can I bring the jury in?

25 MS. MAYES: Yes, Your Honor.

1 THE COURT: Okay. Let bring them in.

2 (Whereupon, the jury returns to the courtroom
3 10:59 AM.)

4 THE COURT: Madam Forelady, is the jury ready?

5 FOREPERSON: Yes, ma'am.

6 THE COURT: Please be seated.

7 All right. You may continue.

8 MS. MAYES: Your Honor, regarding State's 98, due
9 to lighting issues with the overhead projector the State
10 requests permission to publish this item directly to the
11 jury.

12 THE COURT: And you may.

13 All right, Ms. Mayes.

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

16 THE COURT: Mr. Mauldin.

17 MR. MAULDIN: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. MAULDIN:

20 Q. Good morning.

21 A. Good morning, sir.

22 Q. According to that pad there, you got there around a
23 little bit before eleven and you left a little after 2:30;
24 is that right?

25 A. Yes, sir.

1 Q. That's roughly about three and a half hours; is that
2 right?

3 A. Yes, that sounds about right.

4 Q. All right. And you talked about processing the car in
5 the garage; is that right?

6 A. Yes, sir, we did.

7 Q. Did you take some swipes from the driver's door
8 interior panel because you thought there was blood there?

9 A. We did.

10 Q. Okay. As well as the center console, you did that as
11 well? And you used what's called an alternate light source
12 in the car; is that right?

13 A. We did.

14 Q. And that's a light that's used to detect bodily
15 fluids?

16 A. It's one of the -- it can detect bodily fluids. It's
17 one of the purposes of it, yes.

18 Q. And that lit up on the steering wheel and the
19 passenger seat?

20 A. It did.

21 Q. And you took swabs from both of those places?

22 A. We did.

23 Q. Did you take any fingerprints or try to get any
24 fingerprints from the passenger side of the vehicle on
25 the outside or the door?

1 A. We did. We did not locate any, but we attempted.

2 Q. How about the garage door opener of the vehicle?

3 A. We did not, no.

4 Q. I was looking at the picture and the seat seemed --
5 the driver's seat seemed to be kind of pulled all the way
6 up, wasn't it?

7 A. I don't recall if --

8 Q. It seems to be very close to the steering wheel in
9 78 and in 70, doesn't it?

10 A. It does, yes, sir.

11 Q. And you took pictures of the house; is that correct?

12 A. We did.

13 Q. And you didn't find any signs of a struggle like
14 furniture being knocked about?

15 A. No, sir, we did not.

16 Q. There in the atrium there's a -- I think there's a box
17 of kitty liter by one of the doors. It was clean, wasn't
18 it?

19 A. I don't recall.

20 Q. Well, that's in one of the State's exhibits. You
21 didn't find any spots of blood inside the house, did you?

22 A. We did not.

23 Q. Like on the floor of the atrium?

24 A. No, sir, we did not.

25 Q. None in the kitchen?

1 A. No, sir.

2 Q. Or on the walls of the house?

3 A. No, sir.

4 Q. None at all?

5 A. (Shakes head.)

6 Q. And part of your investigation for things to look for,
7 you were told the defendant brought beer with him and you
8 had to look for several -- you were looking for cans around
9 the house; is that right?

10 A. We were.

11 Q. Okay. And that's cans plural, right?

12 A. Yes.

13 Q. And you didn't find any?

14 A. We did not.

15 Q. Okay. Did you look in the fridge to see if there was
16 any Yuengling beer in the fridge?

17 A. I believe we did, but I don't recall at this time.

18 Q. You took the gun case into evidence?

19 A. The one from the bedroom, yes, sir, we did.

20 Q. You did. And did you swab that for fingerprints?

21 A. That would have been submitted to our lab and gone
22 straight to our latent print department for them to
23 process.

24 Q. And similar for swiping for potential touch DNA that
25 would have been done there?

1 A. Yes, we would have swabbed it and submitted the swabs.

2 Q. Did you swab it?

3 A. Yes. Well, it would have been me or my partner, but
4 it would have been in my presence, so, yes.

5 Q. Okay. What about Ms. Branham's phone? Did you
6 process that for fingerprints?

7 A. I don't recall.

8 Q. Okay. And did you process that for touch DNA?

9 A. I don't remember if I took the phone in my custody at
10 all.

11 Q. Okay. What about her purse? Did you process that for
12 any kind of evidence?

13 A. We did not.

14 Q. How about any items from her purse?

15 A. No, we did not.

16 Q. How about any kind of scissors from the kitchen?

17 A. We did not.

18 Q. Now the gun is a 9-millimeter Luger I think it said on
19 the box; is that right?

20 A. I'd have to look at the box. I don't remember off the
21 top of my head.

22 Q. Well, 9-millimeter Lugers are usually automatic
23 weapons; is that right?

24 A. Semiautomatic.

25 Q. Semiautomatic. And that means they're not a revolver;

1 is that right?

2 A. Yes, sir, that's true.

3 Q. And they have magazines; is that right?

4 A. They would.

5 Q. And if you were to load bullets into the magazine,
6 you'd have to push them through the top of the magazine
7 kind of like a Pez dispenser?

8 A. That's correct. Yes.

9 Q. And so if you had two bullets and you were loading
10 the gun, you would push two bullets into that like a Pez
11 dispenser, insert the magazine and then, I guess, rack the
12 slide to the one in the chamber if you were to put one in
13 the chamber?

14 A. Yes, sir.

15 Q. Okay. And that's a little bit of a process. I mean,
16 it's not gonna take forever, but, I mean, it will take a
17 little -- it will take a minute?

18 A. It depends on the capabilities of the person loading
19 the firearm.

20 Q. And, of course, the gun would make a noise if you're
21 racking the slide for the most part?

22 A. It depends on the weapon, the environment.

23 Q. Okay. I know you took that receipt in evidence. Were
24 you responsible at all for gathering any of the evidence
25 from the videos from the ATM or pictures from the ATM?

1 A. No.

2 Q. And looking at State's 73, this is a picture of a
3 house in Richland County, did you ever respond to that
4 scene?

5 A. I did not.

6 Q. Okay. Did you take any kind of -- so you wouldn't
7 have taken any kind of -- try to take any kind of tire
8 print evidence from the grass or the field?

9 A. We never responded to that scene, so I have no idea.

10 Q. Okay. So you wouldn't have done that?

11 A. Correct.

12 Q. And you didn't take any impressions from the --

13 Ms. Branham's vehicle as far as tire tracks, did you?

14 A. We did not take known standards of her tires, no.

15 Q. Okay. And did you take any of the brush into evidence
16 to compare against any brush at any other scene or foliage?

17 A. No, sir. We -- that's not a standard test that's done
18 at the SLED lab, so, no, we did not.

19 Q. Okay. All right. And then after you're through with
20 Ms. Branham's house later in the day you responded to
21 Mr. Neeley's residence; is that right?

22 A. Yes, sir, it is.

23 Q. And that's a trailer, right?

24 A. It is. A mobile home trailer.

25 Q. And he was home?

1 A. I want to say he was, yes.

2 Q. Okay. And do you know how many people lived there?

3 A. From my recollection, two.

4 Q. Okay. Did you find any Yuengling cans there?

5 A. I don't remember seeing any, no.

6 Q. Did you find -- you didn't find a gun there?

7 A. No, sir. We would have collected it.

8 Q. And you didn't find two bullets there?

9 A. No, we did not.

10 Q. Okay. You did take a picture of some duct tape,
11 correct?

12 A. We did.

13 Q. Did you take the duct tape into evidence?

14 A. No. Based on the age and where -- in relation to
15 where it was on the mobile home, it didn't appear to have
16 anything to do with the tape that could have been used on
17 the victim.

18 Q. And did you take the bag into evidence?

19 A. We did not.

20 Q. And that was something you stated you were looking
21 for?

22 A. We were looking for the bag and the contents that was
23 in it that matched the description, but just having a black
24 bag in the house that's not an uncommon thing. People have
25 black backpacks, so we weren't -- it's the items within it

1 that we were looking for.

2 Q. Okay. And if the defendant was there or even -- you
3 didn't take pictures of him to document any possible
4 injuries he might have received through hits or kicks or
5 bites or scratches with somebody fighting?

6 A. No, we did not.

7 Q. Okay.

8 MR. MAULDIN: No further questions.

9 THE COURT: Thank you, Mr. Mauldin.

10 Any redirect, Ms. Mayes?

11 MS. MAYES: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. Real quick, Agent, just to clarify, when you spoke of
15 the tape, looking here at State's 99 --

16 A. Yes, ma'am.

17 Q. -- your photo documentation of this item was done for
18 what purpose?

19 A. We were showing that there is tape at the residence or
20 at some point there was. Sorry. Excuse me.

21 Q. That is black and consistent with duct tape?

22 A. Yes, ma'am.

23 Q. Having been present at some point at the residence?

24 A. Yes, ma'am.

25 Q. Now regarding the magazine clips that defense was

1 asking you about, again, inside the victim's home you found
2 the gun box?

3 A. We did.

4 Q. And you searched the gun -- for that gun within that
5 residence to see if it may have been left behind there?

6 A. We did.

7 Q. And the gun was not recovered within the residence?

8 A. It was not.

9 Q. And the magazine clips that would go with that gun,
10 were they recovered inside the residence?

11 A. No.

12 Q. So both the gun itself and the magazine or any clips
13 associated with that magazine were all missing?

14 A. Yes.

15 Q. Now looking within the residence itself of
16 Ms. Branham, I believe the defense was asking you about
17 any overturned furniture. I'm gonna show you what is
18 State's 56, as well as State's 57. If there is contact
19 along this area and behind the chairs, would you
20 necessarily expect overturned furniture and things of that
21 nature?

22 A. No.

23 Q. Looking here at the bloodstains that the defense was
24 asking you about, beginning with 77, and I believe you've
25 indicated that these bloodstains seen here at the console

1 were collected for purposes of DNA analysis?

2 A. Yes.

3 Q. Now the defense also asked you about looking here
4 at 78 whether or not there was also what appeared to be
5 potential blood in the area of the driver's side.

6 A. There was.

7 Q. And I'm gonna give you a chance to view this photo up
8 close as well.

9 A. Yes, ma'am.

10 Q. You were able to visualize that?

11 A. Yes, ma'am.

12 Q. Agent Schenk, I believe at the outset of your
13 testimony you spoke of your training and experience in
14 the field of bloodstains, including blood patterns.

15 A. Yes, ma'am.

16 Q. What is meant in the CSI field by the term
17 "transferred bloodstains" or a transfer bloodstain?

18 A. Yes, ma'am. So a transfer would be -- the easiest
19 way to explain it, if I'm bleeding on my shoulder and I
20 come into contact with the blood that I'm letting out, I
21 have transferred it to my hand or my arm and if I touch
22 something else again, I would have transferred the blood
23 to this new position. So it's just something has come in
24 contact with a bloodletting event or blood source and has
25 placed it on a different object.

1 Q. And can transfer bloodstains occur by third parties?

2 A. Yes.

3 Q. For example, if you were actively bleeding, Agent
4 Schenk, and I touch you, have physical contact with you,
5 struggled with you, can some of your blood end up on me?

6 A. Yes.

7 Q. And once your blood ends up on me and I touch a
8 surface, can I transfer your bloodstain?

9 A. Yes.

10 Q. Looking here at this particular photograph,
11 State's 78, was there evidence of an individual actively
12 bleeding in the console area?

13 A. Yes.

14 Q. Agent Schenk, if there's a struggle taking place
15 between a driver and a passenger who is actively bleeding,
16 can that result in the transfer of blood?

17 A. Yes.

18 Q. And ultimately a transferred bloodstain to the
19 driver's side?

20 A. Yes.

21 MS. MAYES: Nothing further.

22 THE COURT: Mr. Mauldin.

23 MR. MAULDIN: Just a few, Your Honor.

24 RE CROSS EXAMINATION

25 BY MR. MAULDIN:

1 Q. Here on 57, there's that liter box I was talking
2 about, right?

3 A. Yes, sir, I see it.

4 Q. Right there. Undisturbed, no liter on the floor; is
5 that right?

6 A. Yes, sir.

7 Q. Okay. And she talked about you searching the -- the
8 house for firearm evidence recently; is that right?

9 A. Yes, sir.

10 Q. Did you ever find a bullet box with two bullets
11 missing?

12 A. I don't recall finding one. No, sir.

13 Q. And we're talking about the transfer of blood and the
14 transfer of blood, you know, from a person to a surface
15 or from a person to another person and that person could
16 transfer blood to another surface; is that right?

17 A. Which?

18 Q. Well, if somebody is bleeding and somebody touches
19 them and they get blood on them, they could potentially
20 transfer blood to another surface; is that right?

21 A. I'm sorry, sir. I'm not trying to be difficult.

22 Q. Okay. Well, if she -- if a person can transfer blood
23 to, let's say, a center console, they could transfer blood
24 onto another person?

25 A. Yes.

1 Q. Including their clothes?

2 A. Yes.

3 Q. And did you seize any of Mr. Neeley's clothes to
4 determine whether there was any blood transfer there?

5 A. We did not.

6 Q. Okay.

7 MR. MAULDIN: No further questions.

8 THE COURT: Thank you.

9 May I let the lieutenant be excused?

10 MS. MAYES: Yes, Your Honor.

11 THE COURT: Lieutenant, thank you.

12 THE WITNESS: Thank you, ma'am.

13 (Witness excused.)

14 MS. MAYES: Regarding the next potential witness,
15 Your Honor, Sergeant Hare, there has been stipulation
16 for the record.

17 Putting it on the record at this time, both the
18 defense and the State agree to the stipulation regarding
19 the potential testimony of Sergeant Paula Hare.

20 With that stated, the State would call Agent Thomas
21 Darnell.

22 THE COURT: Okay.

23 MR. MAULDIN: Would you like to put it on the
24 record?

25 THE COURT: Yeah, I was gonna say I'd like to tell

1 the jury what a stipulation is. A stipulation is an
2 agreement between the lawyers and they're gonna put the
3 stipulation on the record. I'm gonna tell you to treat
4 it as a true -- as a true fact for you to consider.
5 They've agreed upon it.

6 Can we put the stipulation on the record?

7 MS. MAYES: Yes, Your Honor.

8 That would be -- I beg the Court's indulgence.

9 Both the State and the defense agree to the
10 authentication of the defendant Robert Brandon
11 Neeley's fingerprints, which were collected on
12 October 13, 2021.

13 THE COURT: All right. So the jury understands,
14 they're agreeing to the fingerprints, that they belong
15 to the defendant, Robert Neeley.

16 MS. MAYES: The known -- the known standard of
17 fingerprints.

18 THE COURT: The known standard, okay?

19 Go ahead.

20 (Whereupon, Thomas Edward Darnell was duly sworn
21 by the Clerk of Court.)

22 THE CLERK: If you'll have a seat on the witness
23 stand. If you'll state your name and spell your last
24 name for the record.

25 THE WITNESS: My name is Thomas Edward Darnell.

1 Last name is spelled D-A-R-N-E-L-L.

2 THOMAS EDWARD DARNELL,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Good afternoon, Agent Darnell. Tell us a little bit
7 about yourself. Where are you currently employed?

8 A. I'm currently employed at the State Law Enforcement
9 Division, more commonly referred to as SLED. I am a
10 fingerprint examiner at the forensic services building.

11 Q. All right. And how long have you been in the field
12 of law enforcement?

13 A. Well, I started in 1982 with the Richland County
14 Sheriff's Department. I then started at SLED in 1990 in
15 the crime scene fingerprint department. I actually retired
16 in 2009, kept working. Went actually went back to Richland
17 County for a brief time. I then also later deployed
18 overseas as a forensic contractor. Upon returning from
19 overseas I actually returned to SLED as a fingerprint
20 examiner and I'm still there as of today.

21 Q. And you mentioned the work overseas?

22 A. Yes, ma'am.

23 Q. Did that include Afghanistan?

24 A. Yes, ma'am.

25 Q. Did that also involve the comparison of latent prints

1 over there?

2 A. Yes, it did. It involved processing of evidence and
3 comparing fingerprints to known individuals.

4 Q. To assist the United States military?

5 A. Yes, ma'am.

6 Q. Now how many of your years in law enforcement, Agent
7 Darnell, have been specific to the field of fingerprint
8 analysis -- comparison analysis?

9 A. About forty something years. I guess thirty-four of
10 those years have been directly involved with fingerprint
11 processing or evidence processing and comparing of
12 fingerprints, so about thirty-three, thirty-four years.

13 Q. And, Agent, what is your educational background and
14 training that led you to become a crime scene analyst?

15 A. Well, I graduated from the University of South
16 Carolina where I obtained my bachelor's of science degree
17 in criminal justice. I attend the law enforcement academy
18 at the State Law Enforcement Academy before I started
19 working at Richland County. When I started at SLED, I
20 attended a -- or completed an in-house training program as
21 it relates to crime scenes, fingerprints. Most anything
22 you can think of when it came to crime scenes was included
23 as a part of that in-house training program. Once I
24 completed that, I -- well, first of all, I had to take
25 tests. I had to have a moot court, a number of

1 competency-type examinations that I had to successfully
2 complete. I did that and then I attended a number of
3 courses at our -- our state academy here as it relates to
4 fingerprints and physical evidence. I attended a number
5 of courses in-state and several out-of-state as well and
6 then I had the privilege of attending the FBI academy in
7 Quantico, Virginia, where I studied under various
8 court-qualified examiners there in the area of fingerprint
9 examinations.

10 Q. And is it possible for you to estimate how many times
11 you've been previously qualified in the courts of this
12 state in the field of latent print comparison analysis?

13 A. I don't have an exact number, but I would safely say
14 it's in excess of two hundred times in this state, both
15 state and Federal court.

16 MS. MAYES: Your Honor, at this time the State
17 offers Agent Thomas Darnell as an expert in the field
18 of latent print comparison analysis.

19 THE COURT: Any objection?

20 MR. MAULDIN: No, Your Honor.

21 THE COURT: I'll tell the jury. Agent Darnell is
22 gonna be qualified as a latent print expert. He can
23 offer his opinion and you give the testimony the weight
24 you see fit.

25 Go ahead, Ms. Mayes.

1 BY MS. MAYES:

2 Q. Now when lifted latent prints arrive at your lab,
3 Agent Darnell, how do you go about documenting and matching
4 up which particular print you're analyzing? And I'm gonna
5 show you what is State's 50 and ask you whether or not you
6 recognize this item and what you can tell us about how you
7 individualize each latent print for analysis.

8 A. State's 50 is an envelope containing what I refer to
9 as two latent lift cards, one of which is referred to as my
10 Item 9 and Item 12. Item 9 is identified as coming from
11 Marker A. Item 12 is identified as coming from Marker D.
12 D as in David.

13 Q. All right. So the first thing that you do is take
14 a look at the latent prints that have come to you for
15 comparison?

16 A. Yes, ma'am.

17 Q. Now in addition to that, did you receive other items
18 of evidence in this case that you chemically processed to
19 even try to obtain latent prints?

20 A. I did.

21 Q. I'm gonna ask you about Item 7, being the gun case.
22 It is State's 45. Do you have a pair of gloves with you?

23 A. I don't.

24 Q. Okay. You may be able to use those there.

25 Looking here at State's 45, being the gun case

1 from the victim's home, what, if any, type of chemical
2 processing did you do on this item?

3 A. Well, this item I do see it has my lab number and
4 item number and my initials on it so that that way I can
5 identify it later on in court for example. I processed
6 this item with various techniques that we use on what we
7 refer to as a nonporous surface, and I did that in this
8 case, and the result when I processed it was that there
9 were no prints of value for comparison on that particular
10 item.

11 Q. Okay. So you did attempt to obtain latent prints from
12 this item?

13 A. I did. Yes, ma'am.

14 Q. Now does touching an item always result in leaving a
15 latent print behind?

16 A. No, ma'am.

17 Q. And why or why not?

18 A. Well, we all watch television and we always see
19 fingerprints on television. I can assure you that that's
20 not the way it works. Fingerprints are not always left
21 behind. I sometimes like to refer to a fingerprint as a
22 chance impression. In other words, there's a chance you
23 might leave your print when you touch something. It just
24 depends on how much you might be perspiring, it might
25 depend on how you handle an item, it might depend on the

1 weather, it depends on how dry your hands might be or how
2 moist they might be because mostly what a fingerprint is
3 when you touch something is nothing more than perspiration.
4 That's typically what it is. You've got little tiny pores
5 on your skin where the perspiration will exude from those
6 pores and depending on how much perspiration is coming out
7 of those pores will determine whether or not you leave a
8 print. You can leave a print that might be a partial, it
9 might not be enough to be identified or it could be enough
10 for me to identify. It just depends on each individual
11 print. But to say that you leave a print every time you
12 touch something, that just does not happen.

13 Q. Now in addition to checking that item, being the gun
14 box, for potential latent prints, did you also do any other
15 type of processing?

16 A. Yes, I did.

17 Q. And what was that?

18 A. I was asked to swab the item for what we call touch
19 DNA and -- and let me say that I swabbed it for touch DNA
20 prior to any chemicals being applied to the surface because
21 I don't want to -- I don't want to damage or wipe away, if
22 you will, any DNA that might be present. So I have to swab
23 those areas for DNA prior to any latent or fingerprint
24 processing. So in this case, I did -- I swabbed the handle
25 and the latches on the gun case.

1 Q. Okay.

2 MS. MAYES: I beg the Court's indulgence.

3 BY MS. MAYES:

4 Q. Now in addition to the attempt to obtain latent prints
5 from this gun box, I'm gonna ask you about the receipt, the
6 ATM bank receipt in this case. What, if any, contact did
7 you have with this item?

8 A. The State's 47 is a paper bag that's sealed up and
9 said it contained a bank receipt that was collected by our
10 crime scene agents and this item came to me and the request
11 was for me to attempt to process it for fingerprints, which
12 is what I did.

13 Q. And in that process were you able to recover any
14 prints of value?

15 A. I was not. I was able to develop some areas of
16 prints, but it was just not enough quality. There wasn't
17 enough detail for me to be able to include or exclude
18 anyone.

19 Q. Now looking at that particular item, again, do you
20 always expect to have fingerprints left behind on items
21 such as paper?

22 A. No. No, ma'am. Again, with a receipt, this is a
23 porous item versus the gun case was a nonporous item. This
24 is porous. We process a lot of paper. We process a lot of
25 paper that comes through the laboratory. We get a lot of

1 prints that we can identify, sometimes we don't. In this
2 case, there was just not enough detail there for me to be
3 able to compare it to anyone, so my result was that there
4 was no value for comparison.

5 Q. All right. Now looking here at the overhead, I'm
6 gonna ask you about various latent prints which were
7 lifted by Agent Todd Schenk from the victim's vehicle,
8 being the Toyota Camry, and I want to start with the lifts
9 that are identified as Marker B, C and E. Did you have an
10 opportunity to attempt to identify latent prints suitable
11 for comparison as to each of those markers?

12 A. I did.

13 Q. And what can you tell us about the results regarding
14 B, C and E?

15 A. The results with those reference locations on the card
16 were that the areas of fingerprints was of no value for
17 comparison.

18 Q. All right.

19 A. There was something there, but not enough for me to be
20 able to compare to anyone.

21 Q. Can you expound on that a little bit further when you
22 say that there was something there, but not enough for you
23 to be able to do a comparison analysis? How much ridge
24 detail must be present in order for you to even make an
25 identification of a fingerprint?

1 A. Well, it's -- you know, most -- most often we get
2 very, very partial areas of prints. What we're looking for
3 is -- within the print you've got tiny what we call minutia
4 or points for comparison. We're looking for points within
5 that fingerprint that we can compare, and we have to have
6 sufficient quality. We have to have not necessarily
7 quantity because there's no -- there's no minimum number
8 of points required to effect a comparison, but we have to
9 have sufficient clarity. We have to have enough clarity
10 that we can compare it to anyone and it has to -- it has
11 to fall within -- you know, using our training and our
12 experience, we have to be comfortable that that print was
13 made by a certain individual, so we have to look for that
14 detail. In other words, just -- just a fingerprint itself
15 is not what we're looking at. What we're looking at is
16 what's inside that fingerprint and the detail that makes
17 it unique. We all have fingerprints. There's never been
18 found that two persons have the same fingerprint. You may
19 have the same pattern as the person sitting next to you,
20 but what makes it unique is those tiny points that we look
21 for typically using a magnifier or computer software that
22 we look to find those points for comparison. And once we
23 determine that there's enough there to compare it, then
24 we can go onto the next stage and that is using a known
25 individual to make a comparison to determine if it was made

1 by that person or not.

2 Q. All right. So, Agent Darnell, in your field are all
3 human fingerprints unique?

4 A. Absolutely.

5 Q. And potentially subject to identification?

6 A. Absolutely.

7 Q. So without sufficient ridge detail for B and C and E,
8 can you tell us whether or not you also did a visual
9 inspection of the lifts for D and A to determine if you
10 have enough to work with there?

11 A. I did.

12 Q. I want to start with A. A is the print that is gonna
13 correlate here looking at the crime scene photograph to the
14 roof of the vehicle on the driver's side?

15 A. Yes, ma'am.

16 Q. Having looked at this lift -- and, again, you have the
17 physical lift before you there on the witness stand?

18 A. I do.

19 Q. Having looked at that physical lift, what can you
20 tell us about whether or not this print was suitable for
21 analysis?

22 A. It was. It was suitable for analysis. I had a
23 sufficient amount of clarity. I had a rather large amount
24 of detail that I could look at and there was -- without a
25 doubt there was enough there that I could compare it to an

1 individual.

2 Q. So having been confident that you had enough to
3 compare it with, did you also have a known set of
4 fingerprints belonging to the defendant in this case,
5 Robert Brandon Neeley, taken at the time of his arrest on
6 October 13, 2021?

7 A. I did. I had a fingerprint card, as well as palmprint
8 cards.

9 Q. And does that include both hands?

10 A. Yes, ma'am.

11 Q. Fingers of both hands?

12 A. Yes, ma'am.

13 Q. And the palms of both hands?

14 A. That's correct.

15 Q. Of the defendant Robert Brandon Neeley?

16 A. Yes, ma'am. The card that had his name on it, all of
17 his identifiers, date of birth and so forth and so on.

18 Q. And what can you tell us about the results of your
19 analysis regarding this print that we see here under
20 Marker A?

21 A. Yes, ma'am. And I could -- if I could say this just
22 for clarity, the -- I did not actually use the latent lift
23 card. I used a photograph. There was -- the agent
24 actually photographed that impression that's marked with
25 Marker A. That was photographed using a digital camera and

1 I actually used the photograph itself. I do have the lift
2 of that area, but the photograph was what I worked with at
3 the time.

4 Q. And are you still able to utilize photographs to a
5 degree of scientific certainty?

6 A. Yes, ma'am. And it's my understanding that our crime
7 scene agents, that is pretty much their protocol. Before
8 they actually lift the print, they photograph it first,
9 and that's done for multiple -- for multiple reasons.
10 Sometimes you might go to make the lift -- because I worked
11 crime scenes in years past. If you go to make the lift,
12 it may not lift good. You may get a wrinkle in the tape
13 or you might -- you know, something might happen to it,
14 so that's why they photograph it first as it is on the
15 vehicle, and that's what I actually worked with, was the
16 photograph itself. So that's how they do it. That's how
17 crime scene in our agency does it.

18 Q. Agent, what were the results of your analysis between
19 the lift from the vehicle under Marker A and the known
20 fingerprint or palmprint of Robert Brandon Neeley?

21 A. When I made the comparison between the unknown or the
22 one that's on the vehicle and the known bearing the name
23 Brandon Neeley, I determined that it was his right palm,
24 what I refer to as hypothenar, which the hypothenar is this
25 area of the palm, what I call the blade of the palm. You

1 know, it's called all kind of things, but anyway that's the
2 area that I looked at and I determined --

3 Q. This would be the right -- I'm sorry to interrupt you.

4 A. That's okay.

5 Q. This would be the right palm area?

6 A. That's right. The right palm.

7 Q. And you were able to make that identification to which
8 individual?

9 A. To Robert Brandon Neeley.

10 Q. Now as for Marker D from the exterior driver's side
11 window, I'm gonna show you what is State's 144. Were
12 you also able to compare this latent lift to the known
13 fingerprints of Robert Brandon Neeley?

14 A. I was.

15 Q. And what were the results of that analysis?

16 A. The result was that it was his Number 8 or left middle
17 finger, the middle finger on the left hand. It was his
18 left middle finger that was left behind on that vehicle.

19 Q. And when you say "his", you're referring to who?

20 A. Robert Brandon Neeley.

21 Q. So, again, you were able to make an identification as
22 to this latent print?

23 A. Yes, ma'am.

24 Q. Being the left middle finger?

25 A. That's correct.

1 Q. Now how many points of similarity did you observe or
2 view when making that identification that we see there for
3 Marker D?

4 A. I think I've got -- you know, again, there's no
5 minimum number required, but I think I had in the area of
6 ten or eleven or so, like -- something like that, but a
7 sufficient amount. A sufficient amount of clarity that
8 enabled me to effectively make a comparison and positively
9 identify Robert Neeley.

10 Q. I'm gonna show you what is State's 146 and ask you
11 whether or not you recognize this exhibit?

12 A. I do.

13 Q. How so?

14 A. Well, I actually prepared that. I had my -- we have
15 a photography lab at our agency and he was able to -- he
16 put the -- the words unknown and known at the top for me,
17 but I prepared this as a demonstration and the lines that
18 are there, the red dots that are there, those were put
19 there by me.

20 Q. And does this depict what we're looking at on the
21 overhead being that latent print under Marker D?

22 A. It does.

23 Q. The unknown latent print?

24 A. Right. The unknown -- correct, the unknown that was
25 on the vehicle, and then the known of Mr. Neeley.

1 Q. And is this a fair and accurate representation of your
2 findings including those points of similarity that you've
3 discussed?

4 A. It is.

5 MS. MAYES: Your Honor, this would be 146 for
6 evidence.

7 THE COURT: Any objection?

8 MR. MAULDIN: No, Your Honor.

9 THE COURT: It's admitted.

10 (State's Exhibit Number 146, a fingerprint
11 demonstrative, was admitted into evidence.)

12 MS. MAYES: Your Honor, with your permission if
13 Agent Darnell could step down from the witness stand.

14 THE COURT: Yes, ma'am. Go ahead.

15 THE WITNESS: (Witness complies.)

16 MS. MAYES: And I'm gonna ask you to move over here
17 so that the court reporter can see and hear you.

18 BY MS. MAYES:

19 Q. All right. Looking here -- and I'm gonna ask you to
20 trade places.

21 A. Okay.

22 Q. Looking here, Agent Darnell, can you take us through
23 those points of similarity that you've discussed?

24 A. I can.

25 Q. And, first, let me ask you, this would, of course, be

1 the latent print that is on the overhead because it is
2 unknown --

3 A. That's correct.

4 Q. -- taken from the vehicle, Marker D?

5 A. That's right.

6 Q. And this would be the known print of Robert Brandon
7 Neeley?

8 A. Yes, ma'am. That would be his left middle finger.

9 Basically what I've got here is just a charted --
10 what I refer to as a charted enlargement. It's for
11 demonstration purposes. The print wasn't this large when
12 I looked at it, so we had this enlarged for -- just to be
13 able to demonstrate to the jury sort of kind of what I
14 looked at. Keep in mind, I've been doing this for a long
15 time so I don't expect someone that hasn't been doing it to
16 maybe see it in the same level that I did, but hopefully I
17 can just show some points to you that I looked for.

18 The letters that you see around each print simply
19 corresponds with -- you've got a blue line and you've got
20 a red dot. That red dot that I placed there is actually
21 signifying where one of those points that I've been talking
22 about, some of the detail that I looked for, that red dot
23 represents a point of identification or a characteristic,
24 if you will.

25 And what I've got to do is, first, I look at the print

1 and I say okay, it's got that same looping pattern, so I'm
2 in the right ball park, but just because it has the same
3 looping pattern doesn't mean it's identified. Because
4 loops -- first of all, you've got three basic patterns.
5 You've got whirls, loops and arches, okay? Loops make up
6 about 60 percent or so of all fingerprints that have ever
7 been found, so that's a very common pattern. So -- but
8 once I see that he's got these loops, then I start looking
9 into the fine detail of it to see if I can find the points
10 in the unknown that correspond in the same relationship to
11 each other in the known, which I was able to do that.

12 And I won't be go over all -- I think I've got eleven
13 or so marked here. I won't go over all of them, but I just
14 wanted you to kind of see what I was looking at. Let's
15 start -- let's just start with E. I don't have to start
16 with A. They all -- well, let me back up.

17 The black lines you see, the black lines are those
18 raised portions of skin where those tiny pores are that I
19 talked about. When those pores touch -- touch this car,
20 they use black powder to develop that area. So that black
21 powder actually sticks to the perspiration that might be
22 on that vehicle and that makes those lines appear to be
23 black. That's what that is. In fact, you can even see
24 -- see these little white dots here and the black lines?
25 That's the pore. That's where the perspiration comes from

1 when you touch something. That's what those little white
2 dots are.

3 But let's just start with E, for example. E, the
4 blue line points to a ridge that stops right in the center,
5 we refer to that as the core of the print, and it's -- I'm
6 gonna try to use this pointer without bouncing it around
7 too bad. Right in there, right in the center part of the
8 print, and you can see you've got the same -- if we go
9 over to the known print and you see E, the blue line
10 corresponds with that same point of identification.

11 I can go from Point E, you've got a -- you've got a
12 ridge that continues here, and then I've you've got a
13 dot, a red dot, right -- right there, which is marked by
14 the letter I, and you've got the same thing here. You've
15 got a -- again, you've got E, you've got a ridge that
16 continues. You've got another point right here, which
17 I've marked with the letter I. And I can go -- I can go
18 to any of these points. I can go from J all the way to K.
19 If you go to J, I've got a point marked there. I can count
20 one, two, three, four, five -- six is where K is, where K
21 shows up, and I can go from I -- I'm sorry, from J, I can
22 go one, two, three, four, five, six, and K also appears in
23 the same position.

24 So I look at all of these. I don't look at just
25 those two or three. I look at all of them. And so I

1 determined that all of these points that I've got marked
2 on the unknown and the known they correspond to each other,
3 and that's what makes that print unique. That's what makes
4 that print unique to the individual that I was looking at
5 that I'm comparing it to, and as a result I was able to
6 determine that the left middle finger is what left that
7 impression on that vehicle.

8 Q. And based on your training and experience, can you
9 tell us whether or not that is -- to a reasonable degree of
10 forensic science certainty that that print is identified
11 as belonging to Robert Brandon Neeley?

12 A. I am for certain that that print was made by
13 Mr. Neeley.

14 Q. Thank you. You may return.

15 A. (Witness complies.)

16 MS. MAYES: Nothing else for Agent Darnell at this
17 time, Your Honor.

18 THE COURT: Thank you.

19 Mr. Mauldin.

20 MR. MAULDIN: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. MAULDIN:

23 Q. You mentioned the gun case was a nonporous surface;
24 is that right?

25 A. Yes, sir.

1 Q. And other nonporous surfaces are things like glass,
2 metal?

3 A. That would be correct. Glass, metal would be a
4 nonporous surface.

5 Q. Okay. And if a person was recently involved in a
6 struggle, one would expect that they would be more likely
7 to be perspiring than if they weren't involved in a
8 struggle; is that right? It depends on the person, but
9 fairly much more likely --

10 A. Yeah. I mean, that -- that might be a fair
11 statement, but, again, that's sort of a hypothetical
12 situation. I can't really give you a definitive answer
13 except -- I mean, that's probably a fair statement.

14 Q. Okay.

15 MR. MAULDIN: No further questions.

16 REDIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. And, again, the leaving of fingerprints on any surface
19 is a chance event, correct?

20 A. Absolutely.

21 Q. If I touch this table now, is there a guarantee that
22 my print will be sufficient for you to later identify me?

23 A. There is no guarantee. It just depends on how -- how
24 you touched it and how long you touched it and how much
25 you're perspiring. There are a lot of different variables

1 that come into play. You know, in fact, quite often we --
2 we process lots of evidence in our laboratory, lots of
3 evidence, all kinds, and more often than not we don't get
4 prints of value and quite often we go to court to testify
5 to that, so that -- that happens. That's not uncommon to
6 find that result.

7 MS. MAYES: Thank you.

8 Nothing further, Your Honor. We do ask that he be
9 released.

10 MR. MAULDIN: No objection.

11 THE COURT: Okay. Thank you, Agent Darnell.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 MS. MAYES: The State calls Agent April Sykes.

15 (Whereupon, April Sykes was duly sworn by the Clerk
16 of Court.)

17 THE CLERK: If you'll have a seat up there. If
18 you'll state your name and spell your last name for the
19 record.

20 THE WITNESS: Yes, ma'am. My name is April, and it's
21 Sykes, S-Y-K-E-S.

22 APRIL SYKES,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. Good afternoon, Agent Sykes. What can you tell us
2 about yourself? Where are you currently employed?

3 A. I am employed at the South Carolina Law Enforcement
4 Division, commonly known as SLED. I am a lieutenant in the
5 special victims unit and a forensic interviewer.

6 Q. All right. I'm gonna need you to pull the microphone
7 up a little bit closer to you and speak up a bit more.

8 Now I want to start by asking you how long you have
9 been a member of law enforcement?

10 A. Twenty-one years.

11 Q. And during the course of that twenty-one years, Agent
12 Sykes, what agencies have you worked with that are law
13 enforcement agencies?

14 A. Following my degree I got from the University of South
15 Carolina in criminal justice, I immediately went to work
16 for the West Columbia Police Department. I worked there
17 for about eight years. Back in the day there weren't a lot
18 of female officers, so I did anything from dispatch to
19 patrol. I developed their female violence investigative
20 unit and then I helped expand their victims advocate unit.
21 So I did that for about eight years. While I was working
22 there on nights and weekends, I got my master's in business
23 management from Southern Wesleyan University. I then came
24 to the prosecutor's office to work for the Eleventh
25 Judicial Circuit, which was Saluda, Edgefield, McCormick

1 and Lexington counties. I was an investigator and victim
2 advocate for domestic violence court, major cases and death
3 penalty trials, and then I began my career at SLED about
4 nine years ago as a special agent in the Midlands
5 investigative unit.

6 Q. During the nine years that you have worked with SLED
7 as a field agent, can you tell us whether or not that has
8 included work within what is known as the special victims
9 unit?

10 A. Again, back in the day there weren't a lot of females,
11 so naturally that kind of -- if we had a female officer,
12 it was pretty much me, so I kind of fell into that calling
13 and I found that I really enjoyed it. So from the time I
14 became a patrol officer up until now, I've taken classes
15 pretty much every year. I've always worked cases involving
16 crimes against children, crimes against women, elder
17 abuse. Things of that nature have always kind of been my
18 specialty. I've -- I've worked it all, but that's always
19 been kind of what they called me to do. So if we had a
20 case that came out generally speaking they would call me
21 and ask me to work it.

22 Q. Now, Agent Sykes, within the State Law Enforcement
23 Division or at SLED, the SUV unit, special victims unit,
24 what type of work do they do specifically?

25 A. We do a lot. We do all of the child fatality cases.

1 We assist on some of the child abuse cases that don't
2 result in a fatality and elder abuse cases.

3 Q. All right. And in this particular case involving a
4 victim who was seventy-four years of age at the time of
5 this offense, does that fall within your special victims
6 unit?

7 A. That would be something that we would work, as well
8 as our regional investigative unit.

9 Q. Agent Sykes, what time did you arrive or receive
10 notification of this crime?

11 A. On the morning of October 13, 2021. It was sometime
12 before 11:00. I was actually working another case and my
13 plate was kind of full. My lieutenant called me and asked
14 me if I would be willing to just kind of stop what I was
15 doing and if I could take on one more case and she gave me
16 a little bit of the details, which was only that we had
17 an elderly victim, alleged sexual assault, armed robbery,
18 kidnapping, so I obviously said yes and responded out to
19 the scene where she lived, which is at [REDACTED] Congaree Downs
20 in Lexington County.

21 Q. And do your notes reflect the time that you would have
22 arrived there at the victim's residence?

23 A. We have a sheet that our dispatch keeps up with all of
24 that, but my notes indicates I started my interview with
25 Ms. Branham at 11:11 that morning.

1 Q. Okay. And would you have been the first SLED agent
2 there at the scene?

3 A. I was not. When they -- when a local agency calls us,
4 SLED doesn't just respond anywhere. Our mission statement
5 is that we provide manpower and expertise to other agencies
6 and other law enforcement throughout the state, so we
7 actually have to get a verbal request or a request from a
8 local agency. So we received a request from South Congaree
9 Police Department that they needed help processing a crime
10 scene and that they needed help with the investigation. So
11 when that call came in, our supervisors in the Midlands
12 investigative unit called pretty much all agents who were
13 available that day to respond. So when we got there we had
14 several agents that were kind of coming on-scene at the
15 same time, crime scene was right behind me, and we actually
16 met South Congaree Police Department out in the yard to
17 kind of all brief together on what they had. And at that
18 point they didn't have a whole lot. It was basically, you
19 know, we've got a victim in the house, she hasn't been to
20 the hospital, she hasn't been treated yet, we've got a
21 crime scene, somebody gave us a napkin and, you know, the
22 allegations are that an elderly female has been sexually
23 assaulted, and that's pretty much where they stopped.

24 Q. All right. So you're arriving there 11:11 AM. South
25 Congaree is already at the scene and present?

1 A. Yes, ma'am.

2 Q. Beginning with your initial interaction with the
3 victim, what do you recall about that?

4 A. Typically -- and I'll kind of give you the caveat.
5 Typically when we have a victim of sexual assault, one of
6 the first things that I do is introduce myself. And I like
7 to wait at least one sleep cycle. For anybody that's been
8 involved in a traumatic event, like an officer involved in
9 a shooting or especially a victim of sexual assault, I
10 typically wait a sleep cycle because what that does is that
11 allows you to calm down, it allows your brain to process
12 the trauma so that your memory and your recall is actually
13 enhanced the next day. That's something that we're
14 typically trained to do.

15 MR. MAULDIN: Objection. She's not an expert in
16 memory and recall, Your Honor.

17 MS. MAYES: I can lay a better foundation, Your
18 Honor.

19 THE COURT: I agree. Thank you.

20 BY MS. MAYES:

21 Q. Is it possible for you to estimate how many victims of
22 alleged sexual assault you have interviewed throughout your
23 career?

24 A. I know just children that are alleged victims and
25 witnesses of abuse I've done 175 just with children

1 interviews since I've been with SLED.

2 Q. And when you say interviews, does that include
3 forensic interviews?

4 A. Yes, ma'am, it does.

5 Q. Is there specific training and experience required for
6 you to conduct forensic interviews?

7 A. Yes, ma'am.

8 Q. All right. So let me ask you this way. When you go
9 into an interview with any victim in a sexual assault case,
10 do you approach that expecting a full recitation of events?

11 A. Absolutely not.

12 Q. Do you approach -- can you tell us whether or not you
13 approach your interview asking a victim to give you the
14 exact order of events?

15 A. Absolutely not.

16 Q. And in your experience, why or why not, Agent Sykes?

17 A. Again, anybody who's undergone significant trauma,
18 you know, we look at things like in this case age, the fact
19 that she hadn't slept. Typically, like I said, we try to
20 give somebody a little bit of time, time to sleep, time to
21 rest before we get into all of the details of reliving that
22 specific trauma. However, in this case we didn't have the
23 opportunity to do that because the information I was given
24 is that we had a crime, we had somebody who was a danger to
25 the community out there with a stolen gun who had committed

1 a violent felony, so it was something priority-wise we
2 needed to identify, locate and apprehend who this person
3 was that day. So, unfortunately, we kind of had to push
4 through and get into as much as we could with Ms. Branham
5 that day.

6 Q. All right. And when you're approaching this scenario
7 where a suspect is at large, how do you go about -- how do
8 you go about prioritizing your role as an investigator and
9 what your objectives are?

10 A. So at this point we're trying to determine did a crime
11 occur, where did it occur at, is there evidence out there
12 that we need to go ahead and get, is it time sensitive
13 evidence? For instance, the SD card that was used on the
14 dash cam, he talked about how that would loop over and
15 you would lose that, so we had evidence that we needed to
16 go ahead and do, we needed to ID who this person was, we
17 needed to locate them and apprehend them.

18 Q. All right. So, Agent Sykes, upon your arrival at
19 11:11 AM there at the home of Ms. Branham, can you tell us
20 whether or not pursuant to your investigation you received
21 information that she may have been up all night?

22 A. Yes, I did.

23 Q. And what can you tell us, if anything, about her
24 demeanor?

25 A. She was kind of all over the place. There were times

1 when she would be calm, there were times when she would
2 have to stop talking and she would break down. There were
3 times when she would make comments about being angry with
4 herself for even --

5 Q. Okay. And let me tell you, you can't repeat what she
6 had said to you, but in terms of your observations of her
7 demeanor.

8 A. Embarrassed, frustrated, quiet, shaking, tearful.
9 Just kind of all over the place.

10 Q. Now with all of that in mind, did you have any
11 indications that the suspect was still at the residence
12 or nearby the residence on the morning of October 13th?

13 A. It was my understanding he left in the evening hours
14 sometime like around midnight or there around that time.

15 Q. And did you obtain a name from Ms. Branham of the
16 suspect?

17 A. I did.

18 Q. And what role did, if any, did you play in ultimately
19 working with SLED to create that photo lineup in which she
20 could further assist in identifying the suspect who was at
21 large?

22 A. One of the things I was doing while I was interviewing
23 her, again, this is not typical, but I had a team of people
24 outside who were willing to run down evidence, go get
25 search warrants, do whatever we needed to do, so I was

1 constantly texting them updates and information as I was
2 getting them from Ms. Branham so that they can do things
3 like run intelligence and determine after we got the name
4 where that person may live, their known associates, things
5 of that nature.

6 Q. And ultimately did you assist with the photo lineup?

7 A. I did. So once we had a name, SLED has an
8 intelligence unit that develops photo lineups for us, so
9 someone -- an analyst actually developed that for us,
10 printed it out. We have an affidavit that we always do
11 with our photo lineups and they brought it to me at the
12 scene so that I could present it to Ms. Branham and have
13 her look at it to see if she could identify the suspect.

14 Q. Okay. We're taking a look here at State's 9 already
15 in evidence, but I want to start by asking you when you're
16 showing a photo lineup to any potential witness in a case,
17 what is some of the criteria that you go over with them
18 to prevent any form of suggestion or -- or coaching or
19 anything of that nature, any type of improper influence in
20 that identification?

21 A. So one of the things that -- just in the lineup
22 itself, we try to get individuals who all look similar,
23 that no individual stands out more than the other, and then
24 I always explain to folks that, you know, the person may or
25 may not even be in this lineup, so if you would just look

1 at it. Again, we don't know if they're gonna be in this
2 lineup. Take a look at it. You know, if you see the
3 person who you think had done this, you know, just let me
4 know and if you do see that person, then to what degree of
5 certainty are you sure that that is that person.

6 Q. And, Agent Sykes, regarding this particular photo
7 lineup, can you tell us whether or not you advised
8 Ms. Branham that the person who committed the crime may or
9 may not be in the set of photographs that she is presented
10 with?

11 A. I did. I advised her verbally and then we also went
12 over this form and I let her read it and then I let her
13 sign off on it as well.

14 Q. And here to the left, whose initials are indicating
15 that she understood each of these criteria?

16 A. Ms. Branham's.

17 Q. Now in addition to going over that criteria, I'm gonna
18 ask you the lineup itself, you said this is prepared within
19 the State Law Enforcement Division?

20 A. Yes, ma'am.

21 Q. Were all of the potential suspects in the lineup white
22 males?

23 A. Yes, ma'am.

24 Q. And, again, what is -- the person creating the lineup,
25 how do they go about when they have an individual with

1 certain physical features such as dark hair and a mustache,
2 how do they go about finding the other five photographs to
3 place alongside it?

4 A. Typically they go through the Department of Motor
5 Vehicles and pull drivers license photos to try to get
6 people with similar features.

7 Q. All right. And so in this case five other photographs
8 were selected alongside that of Robert Brandon Neeley?

9 A. Yes, ma'am.

10 Q. And can you tell us whether each of those are a white
11 male?

12 A. Yes, ma'am.

13 Q. And whether each of those also have darker Brunette
14 colored hair?

15 A. Yes, ma'am.

16 Q. And whether each of those also have facial hair?

17 A. Yes, ma'am.

18 Q. Ultimately which photograph did Ms. Branham select as
19 being the perpetrator?

20 A. Number 3.

21 Q. And was that reflected here on the cover sheet as
22 well?

23 A. Yes, ma'am.

24 Q. And can you tell us whose photograph is contained in
25 this photo lineup for Number 3?

1 A. Robert Brandon Neeley, the defendant.

2 Q. Now once you obtained the name and Ms. Branham was
3 able to identify Robert Brandon Neeley from a photo lineup,
4 what is the next step in your investigation?

5 A. After he was identified, the next step would have
6 been to locate him to find out, you know, where he is
7 because, again, we've got somebody with a stolen gun who's
8 alleged to have committed a violent crime, so we would like
9 to locate and go ahead and apprehend him and get him off
10 the street.

11 Q. And what efforts did SLED take in order to find
12 Mr. Neeley and identify a residence, a known residence, for
13 Mr. Neeley, specifically 320 Shumpert Road in Lexington
14 County?

15 A. So we were able to locate him. We have a unit that
16 specializes in apprehensions. Our fugitive unit, they
17 actually sat on the house to monitor until arrest warrants
18 were obtained.

19 Q. All right. And on what date were arrest warrants
20 obtained for Robert Brandon Neeley?

21 A. Later that afternoon. I believe --

22 Q. I'm gonna ask you to refer to your notes as well.

23 A. He was arrested at 5:27 PM that afternoon.

24 Q. All right. So 5:27 PM would have been two minutes
25 prior to the execution of the search warrant there at

1 Shumpert Road, correct?

2 A. That is correct. I Actually met with the judge and
3 the judge signed the search warrants at 5:26 PM and the
4 search warrant was executed at 5:29 PM.

5 Q. All right. And, Agent Sykes, who within the State Law
6 Enforcement Division obtained that search warrant to search
7 not only the defendant's residence at [REDACTED] Shumpert Road,
8 but also the truck located at [REDACTED] Shumpert Road?

9 A. I did.

10 Q. Now at what time -- again, we're looking at 5:29 being
11 the time for the execution of the search warrant. At what
12 time based on your investigation do you now have reliable
13 information that the defendant in this case would have left
14 the home of the victim, Glenna Branham?

15 A. Right around -- or right around midnight that morning.

16 Q. And what evidence did you recover that confirmed that
17 time of departure?

18 A. Video surveillance from the surrounding neighbors.

19 Q. And that time, again, Agent Sykes?

20 A. It's right before midnight. If you'll bear with me,
21 I can give you -- I think it was like a few minutes before
22 midnight on October 12th.

23 Q. October 12th?

24 A. 2021.

25 Q. All right. And you have video surveillance from the

1 neighbor. Do you have notation as to that time?

2 A. Yes, ma'am. Do you want the time we have video
3 surveillance of him pulling out of the --

4 Q. The time of the departure.

5 A. 11:57 PM.

6 Q. 11:57 PM and that's gonna be on the night of
7 October 12th?

8 A. Yes, ma'am.

9 Q. And based upon the observations, again, of the video
10 surveillance from the neighbor, the time of arrival?

11 A. It is -- on video you can see the lights cut off as
12 he's pulling into the victim's driveway at 8:11 PM.

13 Q. 8:11 PM?

14 A. Yes, ma'am. On October 12, 2021.

15 Q. So with the understanding that the time of departure
16 is gonna be 11:57 PM, Agent Sykes, the execution of this
17 search warrant at the defendant's residence is gonna be
18 some seventeen and a half hours later?

19 A. Yes, ma'am.

20 Q. The following day?

21 A. Yes, ma'am.

22 Q. Now when you talk about the steps needed to obtain a
23 search warrant, let me ask you this. Going back to the
24 defendant's residence at 11:11 AM when you first arrived
25 and you received the name Robert Brandon Neeley, do you as

1 a law enforcement officer have authority to leave her house
2 at that point and go directly to this location to begin a
3 search?

4 A. No, ma'am.

5 Q. And what step or steps legally is necessary along that
6 way?

7 A. Legally I have to go meet with a judge and present
8 probable cause, which is basically why I believe that
9 there's any kind of evidence there. I have to describe
10 what we're searching for, what area is gonna be searched
11 and explain why I believe that, and if the judge agrees
12 that there's probable cause, then the judge will sign off
13 on a search warrant and then we can legally execute that
14 search warrant.

15 Q. And is the search warrant a written document --

16 A. Yes, ma'am.

17 Q. -- that must be prepared by yourself as well as other
18 officers?

19 A. Yes, ma'am.

20 Q. And does it require more than one officer to be
21 present with a coordinated response for a search?

22 A. Yes, ma'am.

23 Q. So the search is executed at 5:29 PM?

24 A. Yes, ma'am.

25 Q. Now following the execution of this search warrant at

1 that location, I believe you indicated you were present for
2 that search?

3 A. Yes, ma'am.

4 Q. What was the next step along the way?

5 A. So during the course of my investigation, I developed
6 information that led me to another residence at 3714
7 Princeton Road in Gaston, South Carolina.

8 Q. All right. Princeton Road. I want to ask you a
9 little bit about that. Again, going back to the residence
10 and your contact with Glenna Branham at 11:11 AM, were you
11 able to obtain information from her about some of the
12 events that had occurred?

13 A. Yes, ma'am.

14 Q. And, again, were you expecting a full recitation of
15 events from her?

16 A. No, ma'am.

17 Q. Or a full chronological order of events exactly as
18 they occurred?

19 A. No, ma'am.

20 Q. How, if at all, did you identify this location at
21 Princeton Road as one of the locations that the victim had
22 been taken during the course of this event?

23 A. The victim provided the street name and then I got
24 information through the course of my investigation that led
25 me to this residence, which also the victim had described

1 with multiple cars with an individual by the name of Linda
2 who resided there.

3 Q. All right. So you were aware that there was a
4 location on Princeton Road and that someone named Linda
5 had been present at that location on the night of
6 October 12th?

7 A. Yes, ma'am. And I had also reached out to our --
8 Lexington County has what's called a NET Team, it's a
9 narcotics enforcement team. I don't specialize in the
10 world of narcotics, so there's lot of things that I don't
11 understand or know about it, and I contacted them and gave
12 them the information that I had. They actually went and
13 obtained a search warrant for this residence based on my
14 identification and some other stuff that they had.

15 Q. All right. So I want to ask you a little bit about
16 that. In potentially identifying this location as the --
17 the residence that Ms. Branham had been taken on the night
18 of October 12th, you consulted with the Lexington County
19 narcotics officers?

20 A. Yes, ma'am.

21 Q. And when that search warrant was executed at that
22 location, were you present for that as well?

23 A. Yes, ma'am, I went with them.

24 Q. Agent Sykes, what was the date in which a search
25 warrant was located at this location, being the home at

1 Princeton Road?

2 A. It was that same day. It was October 13, 2021. We
3 executed it at 10:28 PM that evening.

4 Q. All right. So after you had left the defendant's
5 residence at [REDACTED] Shumpert Road, you go to the execution of
6 this search warrant here on Princeton?

7 A. Yes, ma'am.

8 Q. And, again, that's all based on information you had
9 received from the victim in this case, Glenna Branham?

10 A. Yes, ma'am.

11 Q. I'm gonna show you what is State's 149 and ask you
12 whether or not you recognize it?

13 A. I do.

14 Q. How so?

15 A. That is an individual that I identified as Linda
16 Turner and I interview her on-scene where this -- the
17 search warrant was executed.

18 Q. All right. Is 149 a fair and accurate representation
19 of what you recall observing there at that scene?

20 A. Yes, ma'am.

21 MS. MAYES: I believe without objection, Your Honor.

22 MR. MAULDIN: That's correct.

23 THE COURT: It's admitted.

24 (State's Exhibit Number 149, a photograph, was
25 admitted into evidence.)

1 BY MS. MAYES:

2 Q. So looking here at 149, again, the execution of that
3 search warrant by the narcotics officers, can you tell us
4 whether or not that included the inside of that residence?

5 A. It did.

6 Q. Do you have a copy that search warrant with you
7 including its return?

8 A. I do. Yes, ma'am.

9 Q. What, if anything, can you tell us about the execution
10 of that search warrant and whether or not it included the
11 recovery of suspected drugs?

12 A. It did. We recovered suspected drugs and pills, phone
13 and digital scales.

14 Q. Digital scales?

15 A. Yes, ma'am.

16 Q. Are digital scales also commonly used in the sale or
17 transfer of narcotics?

18 A. Yes, ma'am.

19 Q. Looking here at 149 -- and, again, who is actually
20 taking this photograph?

21 A. That's actually from my body cam. My body-worn
22 camera. Any time we execute a search warrant by policy we
23 run our body cam just to document the execution of search
24 warrants and any of our contact with the public.

25 Q. So, Agent Sykes, you're on the other side of this

1 photograph?

2 A. Yes, ma'am. I'm the one -- it's recording from my
3 police vest and my body camera.

4 Q. And based upon your investigation, what did you learn
5 to be the name of this individual?

6 A. Linda Turner.

7 Q. So her first name is Linda?

8 A. Linda. Yes, ma'am.

9 Q. And did you determine whether or not Linda is
10 associated with this residence?

11 A. Yes, ma'am, she is.

12 Q. Now following your work executing the search warrant
13 there at that residence, can you tell us whether or not
14 that missing gun of Glenna Branham was recovered at the
15 defendant's residence at [REDACTED] Shumpert Road?

16 A. It was not.

17 Q. Or inside of his vehicle, the Toyota Tundra, also
18 located at [REDACTED] Shumpert Road?

19 A. It was not.

20 Q. Or inside of this residence, which you've identified
21 as a drug trade home at Princeton?

22 A. It was not.

23 Q. And so ultimately on the front end of this
24 investigation in the initial days and weeks, were you
25 able to recover that stolen firearm of Glenna Branham?

1 A. No. And to be honest, I didn't hold a lot of hope
2 for that because it's not uncommon for drugs or anything
3 of value to get traded or pawned for drugs. Any guns
4 could be pawned or used. So I didn't hold out a lot of
5 hope. One of the things that we did do immediately, we
6 have what's called NCIC, which is the National Crime
7 Information Center. Essentially what that is, is a giant
8 database, so any time a car's stolen or a computer or
9 firearm or something of value that you have a serial
10 number, when it's reported stolen law enforcement can put
11 it in that database so that should anybody come across it
12 at a pawn shop or an officer on a traffic stop come across
13 it, then it will do what's called a hit, which is it will
14 pop up as stolen and they'll notify whoever entered it in.
15 So we did put the firearm in NCIC as stolen.

16 Q. All right. And when you were at the home of
17 Ms. Branham on the morning of October 13th, did you
18 yourself have an opportunity to see that gun box and be
19 familiar or be aware that SLED agents recovered that serial
20 number?

21 A. Yes, ma'am. Ms. Branham had all of that compiled on
22 the table for us when we got there.

23 Q. All right. And can you tell us the date in which this
24 serial number would have been entered into the NCIC to let
25 all law enforcement agencies across this county know that

1 that gun had been reported as stolen?

2 A. That was done immediately. When I was interviewing
3 her, I was texting that information so we could go ahead
4 and get that in NCIC so if there was some chance, you know,
5 that someone ran across it, we could go ahead and get it.

6 Q. Okay. Agent Sykes, on what date was the State Law
7 Enforcement Division made aware that that gun had been
8 recovered by another law enforcement agency?

9 A. I actually got a call on the evening of November 1st
10 of 2022 by Lexington County Sheriff's Department that they
11 had gotten a hit through NCIC for a stolen firearm and they
12 called me and wanted to know what the circumstances were
13 for that.

14 Q. All right. And that date again, Agent Sykes?

15 A. November 1, 2022.

16 Q. So over a year after the crime itself had occurred?

17 A. Yes, ma'am.

18 Q. And, again, through your law enforcement experience,
19 can you tell us whether or not it's common for guns to also
20 be traded for drugs?

21 A. Yes, ma'am. That's pretty common.

22 Q. I'm gonna show you what is State's 59 and ask you
23 whether or not you recognize this item?

24 A. I do. That's the box that the gun is contained in.

25 Q. All right. And can you tell us whether or not you've

1 had an opportunity to examine the gun itself? I'm gonna
2 ask you to do that.

3 A. I actually saw that gun yesterday morning and reviewed
4 it and made sure the serial numbers matched up to confirm.
5 Yes, ma'am. That's the same gun that I saw and the serial
6 numbers matched up with what was reported as Ms. Glenna's
7 gun.

8 Q. And regarding State's 59, what color is that?

9 A. It's black in color.

10 Q. And which law enforcement agency notified the State
11 Law Enforcement Division that it had been recovered?

12 A. Lexington County Sheriff's Department.

13 MS. MAYES: State's 59 for evidence.

14 MR. MAULDIN: No objection.

15 THE COURT: It's admitted.

16 (State's Exhibit Number 59, a handgun, was
17 previously admitted into evidence.)

18 BY MS. MAYES:

19 Q. Agent Sykes, having examined this gun for color and
20 size, can you tell us whether you also reviewed videotape
21 surveillance from the home of Glenna Branham including that
22 time of arrival that you mentioned at 8:11 and that time of
23 departure at 11:57 PM?

24 A. Yes, ma'am.

25 Q. Agent Sykes, having reviewed that video can you tell

1 us what, if any, observations you made?

2 A. On the video around right before midnight you can see
3 a figure walking out of Ms. Branham's house and you can see
4 an object that's small and dark in color and what appears
5 to be being carried in somebody's hand as they're exiting
6 the residence.

7 Q. Now I also want to ask you about the bag in this case.
8 I'm looking for Exhibit 98. Here it is. Now at the time
9 that that search warrant was executed at the defendant's
10 home on Shumpert Road, can you tell us whether or not SLED
11 had knowledge that a bag had been carried by the suspect at
12 some point in time?

13 A. We did.

14 Q. And can you tell us whether or not that included
15 communications directly with the victim, Glenna Branham?

16 A. Yes, ma'am.

17 Q. And can you tell us whether or not Ms. Branham also
18 was undergoing a sexual assault -- what's called a rape kit
19 or a sexual assault exam on the same date of October 13,
20 2021?

21 A. She was. As soon as I was done talking with her,
22 we had our victim advocate come and escort her to the
23 hospital.

24 Q. Okay. So, Agent Sykes, is it possible for to you
25 estimate how many professionals in the field may have had

1 contact with Ms. Branham on October 13th following the
2 assault in order to obtain various bits and pieces that
3 she was able to recount?

4 A. We had a whole team of people, pretty much --

5 Q. I need you to speak up a little louder.

6 A. No, ma'am. We had a whole team of different SLED
7 agents running every corner of the Earth to -- to try to
8 get information.

9 Q. All right. So in addition to yourself speaking with
10 her, there would have also been the SANE nurse?

11 A. Yes, ma'am.

12 Q. Other professionals at the hospital?

13 A. Yes, ma'am.

14 Q. South Congaree police?

15 A. Yes, ma'am.

16 Q. And I believe you mentioned victim advocate, Charlene
17 Mooneyham?

18 A. Yes, ma'am.

19 Q. Again, based upon your knowledge of the investigation,
20 did any of these individuals ask her for a full recitation
21 of events in a chronological order?

22 A. No, ma'am.

23 Q. Would that ever be something you'd do with any victim
24 of a sexual assault?

25 A. No, ma'am.

1 Q. Now before we get to the video surveillance clips that
2 I want to ask you about, I want to ask you about Rabon
3 Road. And during the course of your communications with
4 the victim, was she able to give you the approximate
5 location of areas that she had been taken? I know you
6 mentioned Princeton Road already.

7 A. No, ma'am. I think she was kind of -- she gave a
8 general area. I think it was I-77, but she could not give
9 me an actual address. She gave me a description.

10 Q. And did that description include a wooded area?

11 A. Yes, it did.

12 Q. And can you tell us whether or not that description
13 also included information that it had been a family home
14 of the defendant?

15 A. It did.

16 Q. And with that what did you do?

17 A. So, again, we have a unit that does nothing but run
18 intelligence and so one of the things that we did was based
19 on that one family and acquaintances for Mr. Neeley and one
20 of the addresses that came up with the family member was a
21 Rabon Road address, which was in that area of the state.
22 So I drove out there, I looked at it. It seemed to match
23 the description from what Ms. Branham had given me. It was
24 wooded, it didn't have a door on the house, and she had
25 mentioned something about the brush. And so when I went

1 out, there was a house that didn't have a door on it.
2 There was a path that kind of went into the woods beside
3 the old home and when I went back in there, it was -- it
4 was wooded and it had brush, but when I went back in there
5 one of the things that kind of caught my eye was a tree
6 that looked like it had been recently snapped. You could
7 kind of tell the wood was fresh wood on the inside once a
8 tree is snapped, so it was -- it looked to have been done
9 fresh.

10 Q. And did you photograph that?

11 A. I did.

12 Q. Looking at 73 again, how did you go about confirming
13 that this had been a former residence of Robert Brandon
14 Neeley?

15 A. Our intel unit ran a packet on Mr. Neeley to determine
16 who his family members were and acquaintances and all
17 addresses associated with them.

18 Q. It would have been a former family home?

19 A. Yes.

20 Q. And located in what county?

21 A. Richland County.

22 Q. And in addition to that photograph, I'm gonna take a
23 look here at 75 and 76. Why did you photograph the tree?

24 A. Because, again, she had some sand and foliage and
25 grass and things like that on and around her car and she

1 spoke about being taken there and that it being a wooded
2 area and something kind of catching on her car. So I took
3 a photograph of the damage to a tree that ran -- in that
4 little road that ran beside the house in the wooded area.

5 Q. You were familiar with the scraping of a tree at that
6 location?

7 A. Yes, ma'am.

8 Q. And did that damage appear to be fresh to you?

9 A. It did.

10 Q. And what is the approximate timeframe in which
11 you would have identified Rabon Road and taken these
12 photographs in relation to your investigation?

13 A. I believe it was the next day, but let me confirm.

14 Q. Would it have been within the first week?

15 A. Yes. Absolutely. I believe it was the next day.

16 Q. Now I'm gonna show you some photographs and ask
17 you whether or not you recognize these beginning with
18 State's 34, State's 31, State's 32, State's 35, State's 37,
19 State's 38, State's 40 and State's 39.

20 A. Yes, ma'am.

21 Q. Can you tell us whether all of these are a fair and
22 accurate representation of the various locations that
23 you identified as being pertinent or relevant to this
24 investigation?

25 A. Yes, ma'am.

1 Q. Including the residence overhead at 260 Rabon Road?

2 A. Yes, ma'am.

3 Q. Including the previous -- the residence that you had
4 previously identified at 3714 Princeton Road being the
5 residence where you identified a Linda Turner?

6 A. Yes, ma'am.

7 Q. And a search warrant was executed for drugs?

8 A. Yes, ma'am.

9 Q. Including the Palmetto Citizens Bank?

10 A. Yes, ma'am.

11 Q. And including the residence of the victim?

12 A. Yes, ma'am.

13 MS. MAYES: All for evidence at this time, Your
14 Honor.

15 THE COURT: Let me know if you have any objection.

16 MR. MAULDIN: No objection, Your Honor.

17 THE COURT: They're admitted.

18 (State's Exhibit Number 31, 32, 34, 35, 37, 38,
19 39 and 40, photographs, were admitted into evidence.)

20 BY MS. MAYES:

21 Q. Beginning here with that residence that we just
22 looked at at Rabon Road, we're gonna take a look now at
23 an overhead of that, Agent Sykes. You indicated this is
24 Richland County?

25 A. Yes, ma'am.

1 Q. What, if anything, can you tell us about the
2 surrounding area? And, again, did that home appear to
3 be abandoned when you went there?

4 A. It did.

5 Q. Did there appear to be anyone living within that
6 residence?

7 A. No, ma'am.

8 Q. And the wooded area nearby, did that all appear
9 consistent with an abandoned lot?

10 A. It did.

11 Q. Did you observe any neighbors nearby directly next
12 door or within the line of sight?

13 A. Not within the line of sight. There was one to the
14 left, but they had a fence and a lot of trees and the
15 family -- I did attempt to speak with them, but they all
16 spoke Spanish and...

17 Q. Okay. And this area, can you tell us whether or not
18 it's industrial in nature?

19 A. It is.

20 Q. And looking here at a street view, again, State's 40,
21 would this be the residence?

22 A. It is.

23 Q. And around that residence did there appear to be any
24 neighbors within a direct line of sight?

25 A. No. Particularly the road that -- as you're looking

1 at that, the road that goes beside that house goes back
2 into the woods and it's pretty heavily wooded.

3 Q. Now looking at this overhead, which is State's 37, I
4 want to ask you about the significance of these locations.
5 Again, what would [REDACTED] Congaree Downs Lane be?

6 A. That would be the victim's residence.

7 Q. So that's within Lexington County?

8 A. Yes, ma'am.

9 Q. Palmetto Citizens Bank where the bank withdrawal was
10 made, what can you tell us about the approximate distance
11 between the victim's home and that ATM location?

12 A. It's about 1.8 miles from the victim's house to the
13 ATM.

14 Q. All right. We're gonna take a look here at
15 State's 32. So that driving distance from the victim's
16 residence to the Palmetto Citizens ATM would take
17 approximately how long to reach that 1.8 miles?

18 A. About three minutes.

19 Q. Three to five minutes roughly?

20 A. Uh-huh.

21 Q. Again, at night on a weekday night would you expect
22 heavy travel in that area of South Congaree?

23 A. No.

24 Q. So that would be a fairly short distance from the
25 victim's home and then back again to the victim's home?

1 A. That's correct.

2 Q. And then that area of where you identified Linda
3 Turner was residing, that home that we saw at 3714
4 Princeton Road where the search warrant was executed for
5 drugs, what is the approximate distance between the
6 victim's home and that location?

7 A. About three miles.

8 Q. I'm gonna show you an overhead and ask you to take
9 a look at this. This is State's 35. Again, that would
10 be roughly three miles from the victim's home to 3714
11 Princeton?

12 A. Yes, ma'am.

13 Q. And the approximate driving time or distance for that?

14 A. About seven minutes.

15 Q. So Palmetto Citizens, Congaree Downs and the 3714 all
16 located within Lexington County?

17 A. Yes, ma'am.

18 Q. And then you previously identified that residence of
19 Rabon Road as being within Richland County. What can you
20 tell us, Agent Sykes, about the approximate distance --
21 driving distance and mileage from the victim's home all
22 the way up to that abandoned house?

23 A. It's twenty-five miles about give or take from the
24 victim's home to the place on Rabon Road in Richland
25 County.

1 Q. Looking here at this overhead, State's 38, with the
2 victim's house being located here in Lexington, I believe
3 there are two routes of travel depicted here on this
4 overhead?

5 A. Yes, ma'am.

6 Q. One depicts how many miles?

7 A. It's hard for me to see.

8 Q. Twenty-seven?

9 A. Twenty-seven miles.

10 Q. And the other?

11 A. Twenty-four miles.

12 Q. All right. So one twenty-four, one twenty-seven to
13 reach that area in Richland County?

14 A. Yes, ma'am.

15 Q. All right. And you've indicated that you've had an
16 opportunity to review video surveillance showing both the
17 arrival of the person that Ms. Branham has identified as
18 Robert Brandon Neeley and the departure of the person she
19 has identified as Robert Brandon Neeley?

20 A. Yes, ma'am.

21 Q. In addition to that, did you also have an opportunity
22 to review the video clip of the initial arrival back to the
23 victim's residence after the withdrawal of that money at
24 that Palmetto Citizens ATM?

25 A. Yes, ma'am.

1 Q. So I want to ask you a few questions about those.

2 A. Yes, ma'am.

3 MS. MAYES: May we approach?

4 THE COURT: Sure.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: Madam Forelady, you-all's lunch is here
7 and I want you-all to eat it while it's warm. I don't
8 know what you-all ordered, but some of those sandwiches
9 come warm.

10 Don't talk about the case. Go enjoy your lunch.
11 We're gonna come back here exactly at 1:30. You just
12 let me know when you-all are finished.

13 FOREPERSON: All right. Understood.

14 THE COURT: Thank you.

15 (Whereupon, the jury was excused for lunch at
16 12:36 PM.)

17 THE COURT: And, Agent, they've left you on the
18 stand, so you can't talk to anybody about this case.

19 THE WITNESS: That's fine. I won't have any friends
20 during lunch. That's fine.

21 THE COURT: Go enjoy. Have lunch. We'll be back
22 at 1:30.

23 (Whereupon, a luncheon recess was taken at 12:36 PM.)

24 (Back on the record at 1:35 PM.)

25 BAILIFF: Court is back in session. Please stay

1 seated. The Honorable Judge Debbie McCaslin presiding.

2 THE COURT: All right. Everybody ready?

3 MS. MAYES: Yes, Your Honor.

4 MR. MAULDIN: Yes, Your Honor.

5 THE COURT: Bring them in.

6 (Whereupon, the jury returns to the courtroom at
7 1:38 PM.)

8 THE COURT: All right. Madam Forelady, are we
9 ready?

10 FOREPERSON: Yes, ma'am.

11 THE COURT: Please be seated.

12 I hope you-all enjoyed your lunch.

13 FOREPERSON: Yes, ma'am.

14 THE COURT: Good.

15 All right. We can continue and will that be -- is
16 that you, Mr. Mauldin or Ms. Popowski?

17 MS. MAYES: Judge, the State had not concluded
18 direct examination.

19 THE COURT: That's right.

20 Ms. Mayes. I'm getting ahead of myself.

21 CONTINUED DIRECT EXAMINATION

22 BY MS. MAYES:

23 Q. Now, Agent Sykes, I believe when we broke for lunch
24 you had been in discussion of the various search warrants
25 that were executed in this case?

1 A. Yes, ma'am.

2 Q. And one of those had been the execution of a search
3 warrant at the defendant's residence located at 320
4 Brandon Neeley Road -- or Brandon Neeley's residence at
5 320 Shumpert Road?

6 A. Yes, ma'am.

7 Q. And you had indicated that you were unable to recover
8 the stolen firearm from that location?

9 A. Yes, ma'am.

10 Q. Can you tell us whether or not a cell phone believed
11 to belong to Robert Brandon Neeley was recovered from that
12 location?

13 A. Yes, ma'am.

14 Q. And what was the SLED procedure and protocol that was
15 followed after the recovery of that cell phone to attempt
16 to extract any data from that cell phone?

17 A. I was there when they executed the search warrant.
18 Typically our crime scene takes all evidence with exception
19 of digital items, such as cell phones and computers.
20 That's something that the agent handling the case most
21 often will submit it to computer crimes for analysis, so
22 they handed the phone over to me while I was there at the
23 search warrant, and the phone itself, the face of it was --
24 was damaged and cracked, and in a Hail Mary attempt I took
25 it over to computer crimes. From the outset they didn't

1 think they'd be able to do a lot with it, but I asked them
2 to just try anyway and, unfortunately, they were unable --

3 MR. MAULDIN: Objection. Hearsay.

4 THE WITNESS: Sorry.

5 MS. MAYES: I can --

6 THE COURT: It is hearsay. Rephrase that.

7 BY MS. MAYES:

8 Q. Let me ask you, ultimately the phone that was
9 recovered from that residence, was that phone submitted to
10 your computer crimes division?

11 A. It was.

12 Q. Was your computer crimes division able to develop an
13 extraction to provide to you?

14 MR. MAULDIN: Objection. 803. Hearsay.

15 MS. MAYES: That's not hearsay, Your Honor. It's
16 did she receive an extraction from them or not.

17 THE COURT: I'm gonna allow it. Go ahead. I don't
18 find that to be hearsay.

19 BY MS. MAYES:

20 Q. Were you able to receive a phone extraction of the
21 data from that phone in this case?

22 A. I was not.

23 Q. And that was following your submission of that item to
24 them with a request for potential extraction?

25 A. Yes, ma'am.

1 Q. Now do you always -- let me ask you this. Are you
2 always able to receive extractions when phones are
3 submitted?

4 A. No, not always.

5 Q. Now in addition to that phone that was taken from the
6 residence and -- and your attempt to recover any data from
7 it, let me ask you did you also have an opportunity to
8 review the phone of Glenna Branham, the victim in this
9 case, as well as her friend, Brenda McMillan?

10 A. I did.

11 Q. And can you tell us upon review of the victim's phone
12 did she appear to have any large number of text messages?

13 A. No, she had -- it was completely void of pretty much
14 any communications.

15 Q. Did that include communications with friends and
16 relatives such as Brenda McMillan?

17 A. Yes, ma'am.

18 Q. And then ultimately the text messages that were
19 recovered in this case, looking here at State's 7, this
20 particular communication between Glenna Branham and Brenda
21 McMillan, this was recovered from whose phone?

22 A. I believe it was from Glenna Branham's phone.

23 Q. Well, let me --

24 A. I mean -- I'm sorry. Excuse me. Ms. Brenda
25 McMillan's phone.

1 Q. Okay. So Brenda McMillan had preserved this text
2 message?

3 A. Yes, ma'am.

4 Q. Between she and Ms. Branham?

5 A. Yes, ma'am.

6 Q. Now you mentioned the sexual assault examination that
7 was done on the victim in this case. Can you tell us
8 whether or not swabs were taken during the course of that
9 sexual assault collection that ultimately were submitted
10 to your lab for analysis?

11 A. Yes, ma'am.

12 Q. I'm gonna show you what is State's 53 and ask you
13 whether or not you recognize this item?

14 A. Yes, ma'am.

15 Q. How so?

16 A. That's the sexual assault examination kit that I
17 submitted into SLED evidence for testing.

18 Q. So I want to ask you a few questions about that.

19 A. Yes, ma'am.

20 Q. Once the nurse actually completes the sexual assault
21 examination, can you tell us how the evidence is normally
22 preserved prior to transfer?

23 A. Yes, ma'am. It is sealed and signed and they store
24 it. It's in a locked room. They have a refrigerator
25 that's only accessible by the SANE nurses that work there.

1 And, in fact, for law enforcement to get a copy of this
2 kit, we have to schedule an appointment for them to meet
3 with us and release that to us directly. We have to fill
4 out forms.

5 Q. Do you recognize your signature and the date in which
6 you would have received this item?

7 A. I do.

8 Q. And what is that date?

9 A. November 2, 2021.

10 Q. All right. Agent Sykes, when you received the sexual
11 assault evidence collection kit, can you tell us whether or
12 not it had been properly sealed?

13 A. Yes, it was properly sealed.

14 Q. Did you observe any signs of tampering to that
15 evidence?

16 A. I did not.

17 Q. Did it go directly to you from that refrigerator that
18 you mentioned where you received it?

19 A. Yes, ma'am.

20 Q. Did you observe anyone else attempt to tamper with
21 this item?

22 A. No, ma'am.

23 Q. Upon your receipt of the sealed sexual assault kit,
24 what did you do with it?

25 A. I don't have an evidence locker, so I called the SLED

1 lab and told them I was coming immediately so that it could
2 be stored properly.

3 Q. All right. Did you ever at any point unseal the kit
4 yourself?

5 A. No, ma'am.

6 Q. And would you have submitted it to your State crime
7 lab for further analysis on the same day you received it?

8 A. Yes, ma'am.

9 Q. And throughout that process did you ever witness
10 anyone unseal or tamper with this item?

11 A. No, ma'am.

12 Q. In addition to the sexual assault kit, I'm gonna ask
13 you about comparison analysis. When there is DNA that
14 needs comparison analysis to a suspect in a case, how do
15 you as a law enforcement officer go about obtaining a known
16 DNA standard from a suspect?

17 A. I usually obtain a search warrant to do so.

18 Q. All right. And can you tell us whether or not you
19 obtained a search warrant in this case for a suspect
20 standard for the defendant, Robert Brandon Neeley?

21 A. I did.

22 Q. I'm gonna show you what is State's 58 and ask you
23 whether or not you recognize it?

24 A. I do.

25 Q. What is this item?

1 A. Those are the buccal swabs that I took from Mr. Neeley
2 and submitted into evidence at the SLED laboratory.

3 Q. All right. I'm gonna need you to speak up a little
4 bit louder.

5 A. Okay. Those are the buccal swabs that I took from
6 Mr. Neeley and submitted to the SLED laboratory for
7 analysis.

8 Q. All right. And, Agent Sykes, what is the date in
9 which you obtained these known DNA standards from the
10 defendant, Robert Brandon Neeley?

11 A. November 29, 2022.

12 Q. All right.

13 MS. MAYES: For identification only at this time,
14 Your Honor, would be State's 58.

15 BY MS. MAYES:

16 Q. Now, Agent Sykes, who actually conducted or carried
17 out the collection of these swabs from Robert Brandon
18 Neeley?

19 A. I did.

20 Q. And can you tell us what part or parts of his body
21 were swabbed in order to obtain a DNA sample?

22 A. The inside of his cheeks.

23 Q. The cheek cells inside the mouth?

24 A. Yes, ma'am.

25 Q. And is that standard procedure for the State Law